

Index

ABBREVIATIONS

Judicial notice of meaning, § 35:18

ACCIDENTS

Aircraft accidents, Warsaw Convention, § 67:22

Care duties. See Evidence, this index

Death, accident vs suicide presumption, § 31:13

Evidence of other accidents
generally, § 41:2
absence of, § 41:3

ACKNOWLEDGEMENT

Authentication of acknowledged documents, § 60:14

ADDICTS

Competency of addict to testify, § 43:8
Jurors, drug use, § 16:33

ADMIRALTY CASES

Damages, § 67:18

ADMISSIBILITY OF EVIDENCE

Evidence, this index

ADMISSIONS

Discovery, this index
Evidence, this index

AFFIDAVITS

Hearsay rules, § 57:10
Summary judgment, § 6:2

AGENTS

Admission by agent of party opponent as evidence, § 33:4
Attorney-client privilege, agency, § 55:11
Managing agents, depositions, § 5:20

AGE OF PERSON

Opinion evidence, § 53:9
Proof of, § 65:3

AIRCRAFT ACCIDENTS

Warsaw Convention, § 67:22

ALCOHOL

Competency of addict to testify, § 43:8
Judicial notice of intoxicating liquors facts, § 35:16
Jurors, alcohol use, § 16:33
Proof of intoxication, § 65:6
Province of court and jury as to intoxication, § 12:17
Witness impeachment, intoxication, § 47:9

AMOUNT

Determination, province of court and jury, § 12:8
Fee award, lodestar method of calculating, § 72:4

ANCIENT DOCUMENTS

Authentication, § 60:24
Statements in, hearsay rules, § 58:28

ANTITRUST LAW

Sherman Act, § 64:31, 67:12

APPEALS

Civil contempt sanction, stay pending appeal, § 69:14
Jury instructions, appellate review, § 23:18
Preserving the record, § 9:35
Prior convictions to impeach, effect of appeal, § 50:5
Proceedings upon remand, law of the case, § 9:12

ARREST

Unlawful arrest liability, § 64:5

ASSOCIATIONS

Self-incrimination, privilege against, § 56:4

ATTORNEY FEE AWARDS

Generally, § 72:1 et seq.

American Rule

generally, § 72:1 et seq.

assessment of attorney's fees,
§ 72:2

diversity cases, § 72:3

Exceptions to American Rule,
below

lodestar method of calculating
attorney's fees; reduction of fee
award, § 72:4

reduction of fee award, § 72:4

Assessment of, § 72:2

Bad faith litigation, § 72:8

Checklist of exceptions to American
Rule, § 72:6

Checklist of federal statutes and rules
that provide for recovery of
attorney's fees, § 72:7

Common-fund exception to American
Rule, § 72:12

Contractual exceptions to American
Rule, § 72:11

Copyright infringement, § 67:15

Diversity cases, American Rule, § 72:3

Equal Access to Justice Act awards,
§ 72:10

Ethics in Government Act awards,
§ 72:9

Exceptions to American Rule

generally, § 72:5 et seq.

bad faith litigation exception, § 72:8

checklist of exceptions, § 72:6

checklist of federal statutes and
rules that provide for recovery of
attorney's fees, § 72:7

common-fund exception, § 72:12

contractual, § 72:11

Equal Access to Justice Act awards,
§ 72:10

Ethics in Government Act awards,
§ 72:9

federal statutes and rules that
provide for recovery of attorney's
fees, checklist, § 72:7

inherent court power, bad faith liti-
gation exception, § 72:8

private attorney general exception,
§ 72:13

ATTORNEY FEE AWARDS

—Cont'd

Federal statutes and rules that provide
for recovery of attorney's fees,
checklist, § 72:7

Inherent court power, bad faith litiga-
tion exception, § 72:8

Lodestar method of calculating fee,
§ 72:4

Private attorney general exception to
American Rule, § 72:13

Reduction of fee award, § 72:4

ATTORNEYS AT LAW

Counsel, this index

AUTHENTICATION

Evidence, this index

AUTHORITY

Agent of party opponent, admissions
by, § 33:4

Province of court and jury, § 12:12

AUTOPSY REPORT

Hearsay rules, § 58:17

BALLISTICS

Expert opinions, § 54:25

BAPTISMAL CERTIFICATES

Hearsay rules, § 58:24

BEHAVIOR

Judicial notice of behavior facts,
§ 35:19

BENCH TRIAL

Generally, § 13:1 et seq.

See also Jury Trial, this index

Evidence admissibility issues, § 13:3

Findings

generally, § 13:4

partial findings, § 13:5

Magistrate Judge, Trial Before, this
index

Master, Trial Before, this index

Mistrial, this index

Procedure, § 13:2

BEST-EVIDENCE RULE

Documentary Evidence, this index

INDEX

BIAS AND PREJUDICE

Final argument appeals to sympathy,
prejudice, or passion, § 22:12
Jury Trial, this index
Witness impeachment, § 47:7

BIFURCATED TRIALS

Generally, § 9:8
Order of proof, § 19:7

BIRTH

Proof of, § 65:3

BOOKS

Self-incrimination, privilege against,
§ 56:6

BOUNDARIES

Reputation concerning, hearsay rules,
§ 58:34, 58:37

BRIBERY

Jurors, § 16:36
Witnesses, § 42:5

BURDEN OF PROOF

Proof of Facts, this index

CAMERAS AND TECHNOLOGICAL EQUIPMENT IN COURTROOM

Generally, § 9:31 et seq.
Best-evidence rule, computer graphics,
§ 61:13
Broadcasting, § 9:32
Closed-circuit television, testifying by,
§ 9:33
Computer graphics, § 61:13
Final argument, visual aids use, § 22:4
Limiting evidence that is not admissible
against other parties, § 9:34
Other parties, limiting evidence that is
not admissible against, § 9:34
Taking pictures, § 9:32
Telephone, testifying by, § 9:33
Televising the proceedings, § 9:32
Testifying by telephone or closed-
circuit television, § 9:33
Visual aids use in final argument,
§ 22:4

CAPACITY

Competency, this index

CAPACITY—Cont'd

Parol and extrinsic evidence as to
capacity of the parties, § 63:12

CARE DUTY

Evidence, this index

CENSUS REPORTS

Hearsay rules, § 58:31

CERTIFIED COPIES

Documentary Evidence, this index

CHARACTER EVIDENCE

Generally, § 48:1 et seq.
Crimes, evidence of other, § 48:5
Cross-examining a character witness,
§ 48:4
Hearsay rules, reputation as to, § 58:35
Impeachment, § 47:5
Method of proving character and repu-
tation, § 48:3
Other crimes, wrongs, or acts, § 48:5
Persons, province of court and jury as to
character of, § 12:11
Relevance of alleged victim's past
sexual behavior or alleged sexual
predisposition in sex-offense cases,
§ 48:6
Reputation as to, hearsay rules, § 58:35
Sex-offense cases, relevance of alleged
victim's past sexual behavior or
alleged sexual predisposition, § 48:6
Similar acts in civil cases involving
sexual assault or child molestation,
§ 48:7
Victim's past sexual behavior or alleged
sexual predisposition in sex-offense
cases, relevance, § 48:6
Wrongs, evidence of other, § 48:5

CHECKS AND NOTES

Authentication, § 60:15

CHILDREN

Competency to testify, § 43:6
Hearsay rules, spontaneous declaration
of child, § 58:3
Juvenile adjudications as prior convic-
tion, § 50:7
Province of court and jury, § 12:15

CHILDREN—Cont'd

Spontaneous declaration of child,
§ 58:3

CHOICE OF LAW

Conflict of Laws, this index
Diversity Cases, this index
Law of the Case, this index
State Law in Federal Courts, this index

CHURCH RECORDS

Authentication, § 60:23

CITIES

Judicial notice of facts about, § 35:13

COLLATERAL EVIDENCE

Parol and extrinsic evidence, § 63:9

COLLATERAL SOURCE RULE

Damages, § 66:9

COMITY DOCTRINE

Generally, § 4:8
International law, § 4:9

COMMERCIAL PAPER

Authentication, § 60:15

COMMERCIAL PUBLICATIONS

Hearsay rules, § 58:29

COMMON LAW

Federal, § 1:8

COMPETENCY

Evidence, this index
Jurors, mental competence, § 16:37
Opinions as to competency, § 53:8
Witnesses, this index

COMPLETENESS, RULE OF

Documentary evidence, § 60:3
Use of discovery fruits at trial, § 36:8

COMPROMISE

Settlement, this index

COMPUTERS

Admissibility of computerized records,
e-mail, and other electronic records,
§ 61:12
Authentication, § 60:20
Discovery of electronically stored information, § 5:17

COMPUTERS—Cont'd

E-mail

admissibility, § 61:12
authentication, § 60:20
best-evidence rule, § 61:12

Records, computerized, admissibility,
§ 61:12

Reenactments, computer-generated as
evidence, § 38:7

CONDITIONS

Evidence, conditional admission, § 27:6
Presumption of continuance of a condition, § 31:20

CONDUCT

Maintaining Proper Conduct in the
Courtroom, this index
Party, presumptions and inferences
based upon conduct of, § 32:1
Province of court and jury, § 12:18

CONFERENCES

Bench conferences, § 9:23
Discovery planning, § 5:10
Jury instructions, § 23:5

CONFIDENTIALITY

Corporations, this index
Duty of lawyer to preserve, § 55:9
Privacy, this index
Privilege, this index

CONFLICT OF INTEREST

Disqualification of opposing counsel
for, § 9:30

CONFLICT OF LAWS

Generally, § 4:1 et seq.
Applicable law of conflicts of laws,
§ 4:4
Characterization of conflicts of laws,
§ 4:3
Checklist, § 4:13
Choice of laws in diversity actions,
§ 4:2
Comity doctrine
generally, § 4:8
international comity, § 4:9
Constitutional limitations on the forum
of a cause of action, § 4:10

INDEX

CONFLICT OF LAWS—Cont'd

Diversity actions, choice of laws in, § 4:2
Doctrine of renvoi, § 4:4
Enforcement of foreign rights, § 4:5
Foreign rights, recognition and enforcement of
 generally, § 4:5
 limits on recognition, § 4:6
Forum of a cause of action,
 constitutional limitations on, § 4:10
Forum state's public policy, § 4:12
Full faith and credit doctrine, § 4:7
International law, comity doctrine, § 4:9
Public policy of forum state, § 4:12
Recognition of foreign rights
 generally, § 4:5
 limits on recognition, § 4:6
Supremacy of federal laws, § 4:11

CONSPIRACY

Section 1983 claims, § 64:8

CONSTITUTIONAL LAW

Federal Court Procedure, this index

CONSTRUCTION OF LANGUAGE

Province of court and jury, § 12:22

CONTEMPT

Generally, § 69:1
Acts which may constitute criminal contempt, checklist, § 69:4
Appeal of civil contempt sanction stay pending, § 69:14
Burden of proving criminal contempt, § 69:9
Checklist of acts which may constitute criminal contempt, § 69:4
Civil and criminal contempt distinguished, § 69:2
Civil contempt sanction, stay pending appeal, § 69:14
Counsel, contempt by, § 11:15
Direct and indirect contempt, § 69:3
False answers as contempt, § 69:6
Jury trial in contempt proceedings, § 69:10
Magistrate judges' powers, § 14:7
Notice and hearing rights
 generally, § 69:8

CONTEMPT—Cont'd

Notice and hearing rights—Cont'd
 different judge, right to, § 69:11
Power
 magistrate judge, § 14:7
 trial judge, § 69:1
Procedure in criminal contempt, § 69:7
Punishment for contempt
 generally, § 69:13
 See also Sanctions, this index
Record in contempt proceedings, § 69:12
Refusal to testify as, § 69:5
Rule 11 violations. See Sanctions, this index
Stay of civil contempt sanction pending appeal, § 69:14
Subpoena, contempt for failure to obey, § 21:11
Testimony, refusal to give as contempt, § 69:5
Trial judges' powers, § 69:1

CONTINUANCES

Generally, § 8:1 *et seq.*
Absence of a party, § 8:3
Absence of a witness, § 8:6
Absence of counsel, § 8:4
Absence of documents or papers, § 8:7
Admissions by adverse party to avoid, § 8:8
Amendment in pleading, continuance because of, § 8:9
Continuance because of amendment in pleading, § 8:9
Counsel, absence of, § 8:4
Documents, absence of, § 8:7
Hearing on motion for, § 8:1, 8:10
Order on motion for, § 8:10
Papers, absence of, § 8:7
Party, absence of, § 8:3
Pleading, continuance because of amendment in, § 8:9
Surprise, § 8:5
Trial, § 8:1
Unpreparedness of a party, § 8:2
Witness absence of, § 8:6

CONTRACT LAW

Burden of proving breach, § 20:9

CONTRACT LAW—Cont’d

Damages for breach
 generally, § 67:1
 lost profits, § 67:3
 Existence and formation, province of
 court and jury, § 12:23
 Federal court procedure, contract
 actions, § 64:20
 Government contract breach claim,
 § 64:25
 Lost profits for breach of contract,
 § 67:3
 Parol and Extrinsic Evidence, this index
 Tortious interference with contracts or
 business expectancy, § 64:26

CONTROLLING THE CONDUCT OF THE TRIAL

Generally, § 9:21 *et seq.*
 Assaulting a judge, juror, or witness,
 § 9:26
 Bench conferences, § 9:23
 Cameras and Technological Equipment
 in Courtroom, this index
 Conflict of interest, disqualification of
 opposing counsel for, § 9:30
 Contempt, § 11:15
 Counsel conduct. See Counsel, this
 index
 Court orders, obstruction of, § 9:28
 Deadlines, failure to obey, § 9:21
 Disciplinary responsibilities of judge,
 § 10:27
 Disqualification of opposing counsel for
 conflict of interest, § 9:30
 Dress code enforcement, § 10:8
 Duty of judge to preserve order, § 10:7
 Extrajudicial statements, gag orders
 limiting, § 9:29
 Failure to obey deadlines, § 9:21
 Gag orders limiting extrajudicial state-
 ments, § 9:29
 Harassing a judge, juror, or witness,
 § 9:26
 Judge or juror, influencing, assaulting,
 or harassing a, § 9:26
 Limiting number of witnesses, § 9:25
 Limiting time for presentation of case,
 § 9:24

CONTROLLING THE CONDUCT OF THE TRIAL—Cont’d

Maintaining Proper Conduct in the
 Courtroom, this index
 Obstruction of court orders, § 9:28
 Order in the court, duty of judge to
 preserve, § 10:7
 Presentation of case, limiting time for,
 § 9:24
 Pretrial orders, § 9:21
 Pretrial publicity, effect on voir dire,
 § 16:15
 Sidebars during jury trials, § 9:23
 Stipulations, use to control the trial,
 § 34:2
 Taking testimony, § 9:22
 Voir dire, pretrial publicity affecting,
 § 16:15
 Witnesses
 influencing, assaulting, or harassing,
 § 9:26
 limiting number of, § 9:25

CONVICTIONS

Hearsay rules, § 58:36
 Prior convictions to impeach
 Witnesses, this index

COPYRIGHT

Damages, this index

CORONER’S VERDICTS

Hearsay rules, § 58:16

CORPORATIONS

Attorney-client privilege
 confidential communications to
 house counsel, § 55:19
 shareholders applicability, § 55:18
 Confidential communications by
 corporate officers and employees,
 § 55:17
 Confidential communications to house
 counsel, § 55:19
 House counsel, confidential com-
 munications to, § 55:19
 Records of, parol and extrinsic evi-
 dence, § 63:4
 Self-incrimination, privilege against,
 § 56:4

INDEX

COSTS AND FEES

Attorney Fee Awards, this index

Sanctions, this index

COUNSEL

Generally, § 11:1 *et seq.*

Ability of counsel to bind client,
§ 11:18

Absence of counsel, continuance, § 8:4

Admission to practice law, § 11:2

Agency, attorney-client privilege,
§ 55:11

Appointment, trial before magistrate
judge, § 14:10

Attorney-client privilege
generally, § 55:8 *et seq.*

See also Privilege, this index

Attorney Fee Awards, this index

Bench conferences, § 9:23

Candor toward the court, § 11:12

Checklists

grounds for discipline

Generally, § 11:3

federal courts, § 11:4

suggested rules of conduct for
attorneys, § 11:8

Client's confidences, duty of lawyer to
preserve, § 55:9

Coaching a witness, § 9:42

Common interest, attorney-client privi-
lege, § 55:11

Conduct

generally, § 11:1 *et seq.*

Controlling the Conduct of the
Trial, this index

Maintaining Proper Conduct in the
Courtroom, this index

objections to improper conduct,
§ 28:2

Confidentiality, duty of, § 11:10, 55:9

Conflict of interest, disqualification of
opposing counsel for, § 9:30

Contempt, this index

Continuance, absence of counsel, § 8:4

Controlling the Conduct of the Trial,
this index

Corporate house counsel, communica-
tions to, § 55:19

Court's docketing system, duty to moni-
tor, § 11:6

COUNSEL—Cont'd

Deadlines, failure to obey, § 9:21

Deadlocked jury, dealing with
generally, § 24:14

Allen charge, § 24:16

urging agreement, § 24:16

Dealings with those other than clients,
§ 11:13

Deposition, protective order to shield
attorney from, § 5:19

Diligence duty, § 11:20

Disciplinary responsibilities of judge,
§ 10:27

Discipline, checklist of grounds for
generally, § 11:3
federal courts, § 11:4

Disqualification of opposing counsel for
conflict of interest, § 9:30

Duty of confidentiality, § 11:10, 55:9

Duty of diligence, § 11:20

Duty to disclose name of the client,
§ 55:14

Duty to monitor court's docketing
system, § 11:6

Duty to preserve confidences and
secrets, § 55:9

Ethical duties impacting trial, § 11:1

Ex parte communications about pending
proceedings, § 10:24

Extrajudicial statements, gag orders
limiting, § 9:29

Failure to obey deadlines, § 9:21

Fairness to opposing party and counsel,
§ 11:11

Final Argument, this index

Frivolous claim prohibition against
asserting a, § 11:7

Gag orders limiting extrajudicial state-
ments, § 9:29

Immunity for defamatory acts at trial,
§ 11:19

Independent professional judgment,
§ 11:9

Investigation of juror misconduct,
§ 16:27

Joint defense, attorney-client privilege,
§ 55:11

Judge's conduct toward, § 10:15

Judge's disciplinary responsibilities,
§ 10:27

COUNSEL—Cont’d

Juror misconduct, duty to investigate, § 16:27

Jury, reading law to, § 9:16

Magistrate judge, trial before, appointment of counsel, § 14:10

Maintaining Proper Conduct in the Courtroom, this index

Misconduct of juror, duty to investigate, § 16:27

Name of the client, duty to disclose, § 55:14

Non-citizens, dealings with, § 11:13

Objections to improper conduct, § 28:2

Opening Statements, this index

Opposing counsel

 fairness to, § 11:11

 final argument comments about, § 22:8

Privilege, this index

Prohibition against asserting a frivolous claim, § 11:7

Protective order to shield attorney from deposition, § 5:19

Publicity about pending civil action, release of, § 11:14

Reading law to the jury, § 9:16

Release of publicity about pending civil action, § 11:14

Right to object to improper evidence and conduct, § 28:2

Rules of Professional Conduct, § 11:5

Rule 11 violations. See Sanctions, this index

Sanctions, this index

Secrets of clients, duty of lawyer to preserve, § 55:9

Sidebars during jury trials, § 9:23

Suggested rules of conduct for attorneys, checklist, § 11:8

Tax advice, attorney-client privilege, § 55:12

Trial

 ethical duties impacting, § 11:1

 presence at, § 9:14

 seating at, § 9:3

Unauthorized practice, § 11:2

Vouching for witness, § 11:17, 22:10

Withdrawal of attorney, § 11:21

Witness, attorney as, § 11:16

COUNSEL—Cont’d

Witness coaching, § 9:42

COUNTERCLAIM

Dismissal motion, § 7:7

COURTROOMS

Cameras and Technological Equipment in Courtroom, this index

Controlling conduct of persons near the courtroom, § 9:43

Controlling the Conduct of the Trial, this index

Dress code, judicial enforcement, § 10:8

Maintaining Proper Conduct in the Courtroom, this index

Open court principle, § 9:2

COURTS

Judges, this index

Jurisdiction, this index

CREDIBILITY

Province of court and jury, § 12:4

CRIMINAL LAW

Attorney-client privilege, crime-fraud exception, § 55:13

Character evidence, other crimes, wrongs, or acts, § 48:5

Civil proceedings, stay in favor of parallel criminal proceedings, § 9:7

Contempt, criminal

 burden of proof, § 69:9

 checklist of acts which may constitute, § 69:4

 civil contempt compared, § 69:2

 jury trial in contempt proceedings, § 69:10

 procedure in, § 69:7

Conviction, judgment of, hearsay rules, § 58:36

Judgment of previous conviction, hearsay rules, § 58:36

Perjury, this index

Prior convictions to impeach. See Witnesses, this index

RICO violation, § 64:17

Self-incrimination. See Privilege, this index

INDEX

CRIMINAL LAW—Cont'd

State hazardous waste rules, criminal enforcement of, § 64:16
Stay of civil proceedings in favor of parallel criminal proceedings, § 9:7

CROSS-CLAIM

Dismissal motion, § 7:7

CROSS-EXAMINATION

Witnesses, this index

CUSTOM AND USAGE

Evidence, admissibility determinations, § 27:12

DAMAGES

Generally, § 66:1 *et seq.*
Admiralty cases, § 67:18
Aggravation of preexisting injury, § 67:9
Aircraft accidents, Warsaw Convention, § 67:22
Antitrust cases, § 67:12
Attorney Fee Awards, this index
Breach of contract
 generally, § 67:1
 lost profits, § 67:3
Certainty of damages, § 66:4
Collateral source rule, § 66:9
Common carrier, liability of
 generally, § 67:21
 employee injuries, § 67:16
Compensatory damages, § 66:5
Copyright infringement
 generally, § 67:13
 attorney fee awards, § 67:15
 willful infringement, § 67:14
Day-in-the-Life videotapes, § 38:8
Death on the High Seas Act, § 67:19
Effect of income taxes in awarding damages, § 67:8
Federal Tort Claims Act, § 67:20
Foreseeability of damages, § 66:3
Future earnings, reducing to present value, § 67:7
Future effects of injury, § 67:6
General versus special damages, § 66:2
Government liability for lost profits for breach of contract, § 67:3

DAMAGES—Cont'd

Hearsay rules, pain and suffering statements, § 58:9
Income taxes, effect in awards, § 67:8
Liability for aggravation of preexisting injury, § 67:9
Liability of common carriers
 generally, § 67:21
 employee injuries, § 67:16
Liquidated damages, § 67:2
Loss of consortium, § 66:11
Lost profits for breach of contract, § 67:3
Mitigation, § 66:8
Nominal, § 66:6
Pain and suffering statements, hearsay rules, § 58:9
Patent infringement
 generally, § 67:13
 willful infringement, § 67:14
Personal injury cases
 generally, § 67:4
 aggravation of preexisting injury, § 67:9
 common carrier employee injuries, § 67:16
 future effects, § 67:6
Personal property, § 67:10
Photographs, videos, etc., § 38:8
Preexisting injury liability for aggravation of, § 67:9
Present value, reducing future earnings to, § 67:7
Punitive damages, § 66:7
Real estate, § 67:11
Reducing future earnings to present value, § 67:7
Restitution as a remedy, § 66:10
Sanctions, this index
Seaman's act, § 67:17
Warsaw Convention, § 67:22

DATA COMPILATIONS

Ancient, authentication, § 60:24
Electronically Stored Information, this index

DEATH

Accidental death vs suicide presumption, § 31:13

DEATH—Cont'd

Proof of, § 65:4

Seven year's absence, presumption of death, § 31:14

DEATH ON THE HIGH SEAS ACT

Damages, § 67:19

DECLARATORY JUDGMENTS

Generally, § 26:10

DEEDS

Hearsay rules

generally, § 58:26

statements in, § 58:27

DEFAMATION

Federal court claims, § 64:22

Privilege, trial participants

generally, § 9:5

counsel's privilege, § 11:19

DEFAULT

Judgment, this index

DEMONSTRATIONS

Evidence, this index

DEPOSITIONS

Discovery, this index

Use of Discovery Fruits at Trial, this index

DESIGN STATEMENTS

Hearsay rules, § 58:8

DIAGRAMS

Real vs demonstrative evidence, § 29:6

DISCLOSURE

Counsel, duty to disclose name of the client, § 55:14

DISCOVERY

Generally, § 5:1 et seq.

Admissions

generally, § 33:5 et seq.
requests for

Generally, § 33:5

subject matter of, § 33:6

subject matter of request for admission, § 33:6

subject matter of requests for, § 33:6

DISCOVERY—Cont'd

Admissions—Cont'd

withdrawal of admission, § 33:7

Adverse party's deposition use to impeach, § 36:6

Compel discovery motions

generally, § 5:15

sanctions, § 5:16

Conference, discovery plan, § 5:10

Depositions

impeachment use

Generally, § 36:4

adverse party's deposition,
§ 36:6

foundation, § 36:5

nonparty's deposition, § 36:7

protective order to shield attorney from, § 5:19

substantive evidence use, § 36:3

Disclosures, signing, § 5:11

Electronically stored information,
§ 5:17

Enforcement

motion for sanctions, § 5:16

procedure for obtaining court order,
§ 5:14

Expert disclosures, § 5:4, 54:9

Foreign tribunal, procedures for
discovery of material for proceeding
before, § 5:18

Inadvertent production, § 5:8

Initial disclosures, § 5:3

Interviews of witnesses, § 42:6

Judges, independent investigations by,
§ 10:21

Managing agents, Rule 30(b)(6) depositions, § 5:20

Methods of discovery, § 5:6

Modern discovery practice, § 5:1

Motions for protective orders, § 5:13

Motions to compel discovery

generally, § 5:15

sanctions motion, § 5:16

Nonparty's deposition, use to impeach,
§ 36:7

Objections, signing, § 5:11

Order to enforce discovery, § 5:14

Plan of discovery, § 5:10

Pretrial disclosures, § 5:5

INDEX

DISCOVERY—Cont'd

Privilege, this index

Procedure

discovery of material for proceeding
before a foreign tribunal, § 5:18

obtaining court order to enforce
discovery, § 5:14

Production and Protection of Evidence,
this index

Protecting trial preparation materials,
§ 5:8

Protective orders

motions for, § 5:13

shield attorney from deposition,
§ 5:19

Requests, signing, § 5:11

Requests for admissions

generally, § 33:5

subject matter of, § 33:6

Responses, signing, § 5:11

Rule 30(b)(6) depositions, § 5:20

Scope of discovery, § 5:2

Self-incrimination privilege. See Privi-
lege, this index

Signing documents, § 5:11

Statement of party or other person,
§ 5:9

Subject matter of requests for admis-
sions, § 33:6

Subpoenas Ad Testificandum and

Duces Tecum, this index

Substantive evidence depositions as,
§ 36:3

Summary judgment motions, additional
time to conduct discovery, § 6:6

Supplementing disclosures and
discovery responses, § 5:12

Timing, sequence, and limits on
discovery, § 5:7

Trial preparation materials, protecting,
§ 5:8

Withdrawal of admission, § 33:7

Witnesses, interview rights, § 42:6

Work product privilege, § 5:8

Written admission of party, best-evi-
dence rule, § 61:8

DISCRIMINATION

Federal Court Procedure, this index

Jury Trial, this index

DISMISSAL

Counterclaim and cross-claim, motion,
§ 7:7

Involuntary dismissal motion, § 7:6

Motion to dismiss, conversion to
motion for summary judgment, § 6:5

Settlement, dismissal after, § 7:11

Third-party claim dismissal motion,
§ 7:7

Voluntary dismissal motion, § 7:5

DIVERSITY CASES

See also State Law in Federal Courts,
this index

Attorney fee awards, § 72:3

Choice of law, § 4:2

Erie v. Tompkins, § 3:1

Federal court, removal of state action
to, § 2:7

Jury instructions, § 23:13

Removal of state action to federal court,
§ 2:7

State and federal judicial systems
compared, § 2:5

State's long-arm jurisdiction use in,
§ 2:8

DNA-IDENTIFICATION EVIDENCE

Admissibility, § 54:24

DOCTORS

Medical Testimony, this index

Privilege, physician-patient, § 55:22

DOCUMENTARY EVIDENCE

Generally, § 60:1 et seq.

Acknowledged documents, § 60:14

Acts of Congress, documents presumed
under to be authentic, § 60:16

Admitting documents in evidence, pro-
cedure, § 60:2

Alteration of document, effect of,
§ 60:28

Ancient documents

authentication, § 60:24

statements in, hearsay rules, § 58:28

Authentication

generally, § 60:4 et seq.

documents presumed under acts of
Congress to be authentic, § 60:16

DOCUMENTARY EVIDENCE**—Cont'd****Authentication—Cont'd**

effect of alteration of document,
§ 60:28

excuse of authentication, § 60:4

expert opinions as to questioned
documents, § 54:22

handwriting, proof of, § 62:1 et seq.

proof of authenticity, § 60:5

proof of handwriting, § 62:1 et seq.
questioned documents, expert
opinions as to, § 54:22

seal, domestic public documents
under, § 60:6

when authentication excused, § 60:4

Best-evidence rule

generally, § 61:1 et seq.

computer graphics, § 61:13

computerized records, § 61:12

copies as primary or secondary evi-
dence, § 61:10

duplicates

Generally, § 61:4

other evidence of contents,
§ 61:5

electronic records, § 61:12

e-mail, § 61:12

functions of judge and jury, § 61:9

law and fact questions, § 61:9

nature of secondary evidence to be
used, § 61:11

original evidence

Generally, § 61:2

original is not required, § 61:3

primary or secondary evidence, cop-
ies as, § 61:10

public records, secondary evidence
of, § 61:6

scope of rule

original, Not required, § 61:3

secondary evidence of public
records, § 61:6

Situations calling for the 8220origi-
nal8221

Generally, § 61:2

summaries, § 61:7

testimony of party, § 61:8

written admission of party, § 61:8

DOCUMENTARY EVIDENCE**—Cont'd**

Certified copies of public records,
§ 60:10

Certified records of regularly conducted
activity

domestic records, § 60:17

foreign records, § 60:9

Checks and notes, § 60:15

Church records, § 60:23

Commercial paper, § 60:15

Computer graphics, § 61:13

Computerized records, § 61:12

Congress, documents presumed
authentic under acts of, § 60:16

Copies as primary or secondary evi-
dence, § 61:10

Data compilations, ancient, § 60:24

Documents presumed under acts of
Congress to be authentic, § 60:16

Domestic public documents

generally, § 60:7

sealed, § 60:6

Domestic records of regularly
conducted activity, certified, § 60:17

Duplicates, best-evidence rule

generally, § 61:4

other evidence of contents, § 61:5

Electronic records, best-evidence rule,
§ 61:12

E-mail, this index

Excuse of authentication, § 60:4

Expert opinions as to questioned docu-
ments, § 54:22

Facsimile mail, § 60:20

Family bible, § 60:23

Foreign public documents, § 60:8

Foreign records of regularly conducted
activity, certified, § 60:9

Handwriting, proof of, § 62:1 et seq.

Maps, § 60:21

Mortality tables, § 60:27

Nature of secondary evidence to be
used, § 61:11

Negotiable instruments, § 60:15

Newspapers, § 60:12

Notes and checks, § 60:15

Offering documents in evidence, proce-
dure, § 60:2

INDEX

DOCUMENTARY EVIDENCE

—Cont'd

Official publications, § 60:11
Parol and Extrinsic Evidence, this index
Patents, § 60:26
Periodicals, § 60:12
Plats, § 60:21
Primary or secondary evidence, copies as, § 61:10
Private writings, § 60:22
Procedure in offering and admitting documents in evidence, § 60:2
Processes, § 60:25
Production and Protection of Evidence, this index
Proof of authenticity, § 60:5
Proof of handwriting, § 62:1 et seq.
Public documents
 domestic
 Generally, § 60:7
 sealed, § 60:6
 foreign, § 60:8
Public records
 generally, § 60:18
 best-evidence rule, § 61:6
 certified copies of, § 60:10
 secondary evidence of, § 61:6
Questioned documents, expert opinions as to, § 54:22
Regularly conducted activity, certified
 domestic records of, § 60:17
 foreign records of, § 60:9
Sealed domestic public documents, § 60:6
Secondary evidence of public records, § 61:6
Summaries, best-evidence rule, § 61:7
Surveys, § 60:21
Systems, § 60:25
Telegrams, facsimile, and electronic mail, § 60:20
Testimony of party, best-evidence rule, § 61:8
Trade inscriptions, § 60:13
When authentication excused, § 60:4
Witnessed documents, § 60:19
Written admission of party, best-evidence rule, § 61:8

DOMICILE

Presumptions about, § 31:18

DRESS CODE

Courtroom, judicial enforcement, § 10:8

DRUGS

Competency of addict to testify, § 43:8
Jurors, drug use, § 16:33

DUCES TECUM

Subpoenas Ad Testificandum and Duces Tecum, this index

ECONOMICS

Judicial notice of economic facts, § 35:15

ELECTRONICALLY STORED INFORMATION (ESI)

Admissibility of computerized records, e-mail, and other electronic records, § 61:12
Authentication, § 60:20
Best-evidence rule, § 61:12
Discovery, § 5:17
E-Mail, this index

E-MAIL

See also Electronically Stored Information, this index
Admissibility, § 61:12
Authentication, § 60:20
Best-evidence rule, § 61:12

EMOTIONAL CONDITIONS

Hearsay rules, emotional condition then existing, § 58:5

EMOTIONAL DISTRESS

Intentional infliction, damages, § 67:5

EMPLOYEES

Admissions by employee of party opponent as evidence, § 33:4
Confidential communications by corporate officers and employees, § 55:17
Damages
 employees of common carriers, § 67:16
 seaman's act, § 67:17
ERISA claims, § 64:15

EMPLOYEES—Cont’d

First Amendment, retaliation claim, § 64:30
 Future earnings, reducing to present value, § 67:7
 Jones Act claims, § 64:34
 Maintenance and cure claim, § 64:34
 Present value, reducing future earnings to, § 67:7
 Retaliation claims
 generally, § 64:29
 First Amendment, § 64:30
 Seaman’s act claims, § 67:17

EQUITABLE ESTOPPEL

Generally, § 26:16

ERIE DOCTRINE

State Law in Federal Courts, this index

ERROR

Cumulative error, § 9:46
 Harmless error, § 9:45
 Jury instructions, § 23:11, 23:14
 Plain error, § 9:47

EVIDENCE

Generally, § 27:1 et seq.
 Abbreviations facts, judicial notice, § 35:18
 Accidents, other accidents or injuries
 generally, § 41:2
 absence of proof of, § 41:3
 Acknowledged documents, authentication, § 60:14
 Activities regularly conducted, records of, hearsay rules
 generally, § 58:12
 absence of entry in record, § 58:13
 Acts, province of court and jury, § 12:18
 Adjudicative vs legislative facts, judicial notice, § 35:3
 Admissibility determinations
 generally, § 27:1 et seq.
 authentication issues
 Generally, § 27:4
 telephone conversations, § 27:11
 bench trial proffers, § 13:3

EVIDENCE—Cont’d

Admissibility determinations—Cont’d
 braces, crutches, and similar devices, § 29:12
 circumstantial evidence, § 30:1
 competency, § 27:2
 compromise, § 32:5
 compromise and offers to compromise, § 32:5
 computerized records, § 61:12
 conditional admission of evidence, § 27:6
 cross-examination, introducing evidence during, § 19:3
 curative admissibility doctrine of, § 27:10
 custom and usage evidence, § 27:12
 deferred admission of evidence, § 27:6
 design manual, manufacturer’s, § 41:7
 diagrams, real vs demonstrative evidence, § 29:6
 discretion of court, § 27:5
 DNA-identification evidence, § 54:24
 doctrine of curative admissibility, § 27:10
 documents, best-evidence rule
 Generally, § 61:4
 other evidence of contents, § 61:5
 drawings, real vs demonstrative evidence, § 29:6
 electronic records, § 61:12
 e-mail, § 61:12
 evidence to rebut a judicially noticed fact, § 35:9
 exclusion of relevant evidence, § 27:8
 Expert Witnesses, this index
 fact stipulated, admissibility of evidence as to, § 34:6
 formal exception to inadmissible evidence, need for, § 28:11
 inadmissible evidence, motion to strike, § 28:10
 in limine motion grant, formal objection after, § 28:4

INDEX

EVIDENCE—Cont'd

Admissibility determinations—Cont'd
 introducing evidence during cross-examination, § 19:3
 judicially noticed fact, evidence to rebut a, § 35:9
 manufacturer's design and safety manual, § 41:7
 maps, and diagrams, real vs demonstrative evidence, § 29:6
 motion to strike inadmissible evidence, § 28:10
 need for formal exception to inadmissible evidence, § 28:11
 negative evidence, § 27:9
 objections to evidence, below offers to compromise, § 32:5
 Opinions, this index
 Parol and Extrinsic Evidence, this index
 physical and mental examinations, § 27:13
 prior convictions to impeach
 dishonesty, crimes involving, § 50:3
 felonies, § 50:2
 relevancy of evidence
 Generally, § 27:3
 exclusion of relevant evidence, § 27:8
 relevant evidence, exclusion of, § 27:8
 restricting use of admitted evidence, § 27:7
 safety manual, manufacturer's, § 41:7
 sound recordings, § 29:5
 static models and cases, § 29:8
 stipulated fact, admissibility of evidence as to, § 34:6
 strike motions, § 28:10
 telephone conversations, authentication of, § 27:11
 usage and custom evidence, § 27:12
 view, admissibility as evidence, § 39:4
Admissions by party opponent
 generally, § 33:1 *et seq.*
 adoptive admission, § 33:2
 adoptive admissions, § 33:2

EVIDENCE—Cont'd

Admissions by party opponent—Cont'd
 agent, § 33:4
 destruction of evidence as, § 32:10
 disposal of property, § 32:9
 employee, § 33:4
 failure to reply to a written statement as an admission, § 33:12
 judicial admissions, § 33:8
 others authorized by party opponent to make a statement, § 33:3
 payment of medical and similar expenses, inferences, § 32:8
 plea discussions, *nolo contendere*, and withdrawn plea of guilty, § 33:9
 rebuttability of admissions, § 33:10
 silence of a party as an admission, § 33:11
 spoliation, § 32:10
 statement, failure to reply to a written statement as an admission, § 33:12
 suppression of evidence as, § 32:10
 written statement, failure to reply to a written statement as an admission, § 33:12
Adoptive admission by party opponent, § 33:2
Affidavits, hearsay rules, § 57:10
Agent of party opponent admissions by, § 33:4
Age of person opinions, § 53:9
Amount and value, province of court and jury, § 12:8
Analyst' certificate, hearsay rules, § 58:18
Ancient documents
 authentication, § 60:24
 statements in, hearsay rules, § 58:28
Argument on objections to evidence, § 28:7
Ascertaining a fact that is judicially noticed, § 35:5
Authentication
 generally, § 27:4
 See also Documentary Evidence, this index
 admissibility determinations, § 27:4
 e-mail, § 60:20

EVIDENCE—Cont'd

Authentication—Cont'd

- photographs, videos, etc., § 38:2
- telephone conversations, § 27:11
- voice identification, § 53:5

Authority issues, province of court and jury, § 12:12

Autopsy report, hearsay rules, § 58:17

Baptismal certificates, hearsay rules, § 58:24

Behavior facts, judicial notice, § 35:19

Bench trial, admissibility of evidence issues, § 13:3

Best-evidence rule. See Documentary Evidence, this index

Blackboards, real vs demonstrative evidence, § 29:7

Boundaries, reputation concerning, hearsay rules

- generally, § 58:34
- judgment as to, § 58:37

Braces, crutches, and similar devices, real vs demonstrative evidence, § 29:12

Burden of proof. See Proof of Facts, this index

Business customs and practices facts, judicial notice, § 35:21

Cameras and Technological Equipment in Courtroom, this index

Care duty

- generally, § 41:1 et seq.
- design and safety manual of manufacturer, admissibility, § 41:7
- habits, proof of, § 41:5
- manufacturer's design and safety manual, admissibility, § 41:7
- other accidents or injuries
 - Generally, § 41:2
 - absence of proof of, § 41:3
 - other acts of negligence, § 41:4
 - proof of habits and routine practice, § 41:5
 - routine practice, proof of, § 41:5
 - safety rules, codes, etc. that establish standards of care, § 41:6

Census reports, hearsay rules, § 58:31

Certified copies of public records, authentication, § 60:10

EVIDENCE—Cont'd

Certified records of regularly conducted activity

- domestic records, § 60:17
- foreign records, § 60:9

Character and conditions of things, province of court and jury, § 12:7

Character Evidence, this index

Charts, real vs demonstrative evidence, § 29:7

Checklist of facts judicially noticed, § 35:22

Checks and notes, authentication, § 60:15

Chemist certificate of, hearsay rules, § 58:18

Church records, authentication, § 60:23

Circumstantial evidence

- admissibility, § 30:1
- instructing jurors as to, § 30:2

Cities, judicial notice of facts about, § 35:13

Comment by judge, § 10:23

Commercial paper, authentication, § 60:15

Commercial publications, hearsay rules, § 58:29

Common objections

- to evidence, § 28:13
- to form of question, § 28:14

Competency, admissibility determinations, § 27:2

Competency of witnesses. See Witnesses, this index

Competency opinions, § 53:8

Completeness, rule of

- documentary evidence, § 60:3
- use of depositions and interrogatories at trial, § 36:8

Computer-generated reenactments, § 38:7

Computer graphics, best-evidence rule, § 61:13

Computerized records, best-evidence rule, § 61:12

Conditional admission of evidence, § 27:6

Conduct, province of court and jury, § 12:18

Conduct evidence impeachment, § 47:5

INDEX

EVIDENCE—Cont'd

Conduct of a party, presumptions and inferences based upon, § 32:1

Construction of language, province of court and jury, § 12:22

Contract existence and formation, province of court and jury, § 12:23

Conviction judgment, hearsay rules, § 58:36

Copies as primary or secondary evidence, § 61:10

Coroner's verdict, hearsay rules, § 58:16

Corporate records, parol and extrinsic evidence, § 63:4

Courtroom demonstrations, § 37:4

Credibility of evidence, province of court and jury, § 12:4

Crimes, prior convictions to impeach dishonesty, crimes involving, § 50:3 felonies, § 50:2

Criminal convictions. See Witnesses, this index

Cross-examination

 See also Witnesses, this index introducing evidence during, § 19:3

Curative admissibility doctrine of, § 27:10

Custom and usage evidence, admissibility determinations, § 27:12

Customs of business facts, judicial notice, § 35:21

Data compilations, ancient, authentication, § 60:24

Day-in-the-Life videotapes, § 38:8

Deeds, hearsay rules

 generally, § 58:26

 statements in, § 58:27

Deferred admission of evidence, § 27:6

Demonstrative evidence

 generally, § 29:1 et seq.

 Experiments, demonstrations, and tests, below

 marks, etc. on, § 29:9

 Real vs demonstrative evidence, below

Designation of evidence, summary judgment, § 6:2

Design manual of manufacturer, admissibility, § 41:7

EVIDENCE—Cont'd

Design statements, hearsay rules, § 58:8

Destruction of evidence as admission, § 32:10

Diagnosis, statements made for purposes of

 generally, § 40:5

Diagrams, real vs demonstrative evidence, § 29:6

Discretionary vs mandatory judicial notice, § 35:4

Discretion of the court to admit evidence, § 27:5

Displaying personal injuries to the jury, § 29:10

Disposal of property as admission, § 32:9

DNA-identification evidence, § 54:24

Doctrine of curative admissibility, § 27:10

Documentary Evidence, this index

Documents filed in a court, judicial notice of facts concerning, § 35:11

Domestic public documents

 generally, § 60:7

 seal, § 60:6

Domestic records of regularly conducted activity, certified, § 60:17

Drawings, real vs demonstrative evidence, § 29:6

Duplicates of documents, best-evidence rule

 generally, § 61:4

 other evidence of contents, § 61:5

Economic facts, judicial notice, § 35:15

Electronic records, § 61:12

E-mail

 authentication, § 60:20

 best-evidence rule, § 61:12

Emotional condition then existing, hearsay rules, § 58:5

Employee of party opponent admissions by, § 33:4

Examination of witnesses. See Witnesses, this index

Excited utterance, § 58:4

Exclusion of relevant evidence, § 27:8

Exhibits, filing under seal, § 9:20

Existence of a warranty, province of court and jury, § 12:25

EVIDENCE—Cont'd

Existing mental, emotional, or physical condition, hearsay rules, § 58:5

Experiments, demonstrations, and illustrative aids
generally, § 37:1 *et seq.*

Experiments, demonstrations, and tests
computer-generated reenactments, § 38:7
courtroom demonstrations, § 37:4
jurors, experiments by, § 24:10
operating models, § 37:5
person conducting the experiment, § 37:2
Photographs, videos, etc., below
Real vs demonstrative evidence, below
reenactments, computer-generated, § 38:7
subject matter of an experiment or demonstration, § 37:3

Expert Witnesses, this index

Extrinsic evidence. See Parol and Extrinsic Evidence, this index

Facsimile mail, authentication, § 60:20

Fact, stipulated, admissibility of evidence as to, § 34:6

Failure to reply to a written statement as an admission, § 33:12

Family bibles
authentication, § 60:23
hearsay rules, § 58:25

Family history reputation, hearsay rules
generally, § 58:33
judgment as to, § 58:37

Federal official records statute, § 58:15

Federal Rules of Evidence, this index

Filing exhibits under seal, § 9:20

Final argument, visual aids use, § 22:4

Fingerprints, § 54:23

Foreign public documents, § 60:8

Foreign records of regularly conducted activity, § 60:9

Foundation for admission of exhibit, § 29:3

General history, reputation concerning
generally, § 58:34
judgment as to, § 58:37

Geographical facts, judicial notice, § 35:13

EVIDENCE—Cont'd

Government, judicial notice of facts
about, § 35:12

Guilty plea as admission, § 33:9

Habits, proof of, § 41:5

Handwriting, proof of, § 62:1 *et seq.*

Hearing argument on objections to evidence, § 28:7

Hearsay Rules, this index

Historical facts, judicial notice, § 35:15

Human health, habits, and behavior facts, judicial notice, § 35:19

Hypnosis, witnesses competency, § 43:9

Identification, voice, § 53:5

Identity, DNA-identification evidence, § 54:24

Illustrative evidence
generally, § 29:1 *et seq.*

Impeachment of witnesses. See Witnesses, this index

Inadmissible evidence, motion to strike, § 28:10

Inferences, this index

Injuries, other accidents or
generally, § 41:2
absence of proof of, § 41:3

In Limine Motions, this index

Inspector, certificate of, hearsay rules, § 58:18

Intention, province of court and jury, § 12:14

Intent statements, hearsay rules, § 58:6

Intoxicating liquors facts, judicial notice, § 35:16

Intoxication evidence, province of court and jury, § 12:17

Judgment of previous conviction, hearsay rules, § 58:36

Judicial admissions, § 33:8

Judicial notice
abbreviations facts, § 35:18
adjudicative vs legislative facts, § 35:3
admissibility of evidence to rebut a judicially noticed fact, § 35:9
ascertaining a fact that is judicially noticed, § 35:5
behavior facts, § 35:19

INDEX

EVIDENCE—Cont'd

Judicial notice—Cont'd

- business customs and practices facts, § 35:21
- checklist of facts judicially noticed, § 35:24
- cities, facts about, § 35:13
- customs of business facts, § 35:21
- discretionary vs mandatory, § 35:4
- documents filed in a court, facts concerning, § 35:11
- economic facts, § 35:15
- facts that are judicially noticed, § 35:2
- geographical facts, § 35:13
- government, facts about, § 35:12
- hearing on, § 35:7
- historical facts, § 35:15
- human health, habits, and behavior facts, § 35:19
- intoxicating liquors facts, § 35:16
- language facts, § 35:18
- laws, judicial notice of, § 35:10
- legislative vs adjudicative facts, § 35:3
- making a record of facts judicially noticed, § 35:6
- mandatory vs discretionary, § 35:4
- method of ascertaining fact that is judicially noticed, § 35:5
- natural phenomena and time facts, § 35:20
- opportunity to be heard, § 35:7
- population, § 35:14
- practices of business facts, § 35:21
- rebuttal of judicially noticed fact, § 35:9
- record of facts judicially noticed, § 35:6
- scientific facts, § 35:17
- statistical facts, § 35:17
- time of taking, § 35:8
- towns, facts about, § 35:13
- villages, facts about, § 35:13

Jurors

- experiments by, § 24:10
- items taken into jury room, § 24:2
- reception of evidence out of court, § 16:35

EVIDENCE—Cont'd

Jurors—Cont'd

- request to review during deliberations, § 24:12
- Knowledge statements, hearsay rules, § 58:6
- Language facts, judicial notice, § 35:18
- Laws, judicial notice of, § 35:10
- Learned treatises use to cross-examine experts
 - generally, § 54:15
 - hearsay rules, § 58:32
- Legislative vs adjudicative facts, judicial notice, § 35:3
- Liabilities, province of court and jury, § 12:20
- Life expectancy tables, hearsay rules, § 58:30
- Limiting evidence in opening statements, § 18:3
- Limiting evidence that is not admissible against other parties, § 9:34
- Mandatory vs discretionary judicial notice, § 35:4
- Manufacturer's design and safety manual, admissibility, § 41:7
- Maps
 - authentication, § 60:21
 - real vs demonstrative evidence, § 29:6
- Market reports, hearsay rules, § 58:29
- Marks, etc. on demonstrative evidence, § 29:9
- Marriage certificates, hearsay rules, § 58:24
- Medical Testimony, this index
- Mental condition then existing, § 58:5
- Mental feeling statements, § 58:7
- Mental state statements
 - hearsay rules, § 58:6
 - province of court and jury, § 12:14
- Method of ascertaining fact that is judicially noticed, § 35:5
- Models, § 37:5
- Mortality tables
 - authentication, § 60:27
 - hearsay rules, § 58:30
- Motion pictures, § 38:6
- Motions, evidence on, § 7:3

EVIDENCE—Cont'd

Motive

province of court and jury, § 12:14
statements of, hearsay rules, § 58:8

Natural phenomena and time facts,
judicial notice, § 35:20

Necessity, province of court and jury,
§ 12:10

Need to object

generally, § 28:3
formal exceptions, § 28:11
in limine motion grant, formal
objection after, § 28:4

Negative evidence, admissibility of,
§ 27:9

Negotiable instruments, authentication,
§ 60:15

Newspapers, authentication, § 60:12

Nolo contendere plea as admission,
§ 33:9

Notes and checks, authentication,
§ 60:15

Objections to evidence

generally, § 28:1 *et seq.*

Admissibility determinations, above
argument on, § 28:7

common objections
to evidence, § 28:13
to form of question, § 28:14

competency of witnesses

Generally, § 43:2
time for objecting, § 43:3

formal exception to inadmissible
evidence, need for, § 28:11

grounds for statement of, § 28:6

hearing argument on, § 28:7

hearsay evidence

Generally, § 57:7
weight of hearsay admitted
without objection, § 57:8

inadmissible evidence, motion to
strike, § 28:10

motion to strike inadmissible evi-
dence, § 28:10

Need to object, above
offer of proof on, § 28:12

right to object, § 28:2

ruling on the objection, § 28:8

statement of grounds for, § 28:6

EVIDENCE—Cont'd

Objections to evidence—Cont'd

strike motions, § 28:10
timeliness of the objection, § 28:5
waiver of objection, § 28:9

Objects, photographs of, § 38:3

Occurrence, province of court and jury,
§ 12:19

Offer of proof on objection to evidence,
§ 28:12

Official publications, authentication,
§ 60:11

Opening statement and limiting evi-
dence, § 18:3

Operating models, § 37:5

Opinions, this index

Other accidents or injuries

generally, § 41:2
absence of proof of, § 41:3

Other acts of negligence, § 41:4

Other parties, limiting evidence that is
not admissible against, § 9:34

Others authorized by party opponent to
make a statement, admissions by
party opponent, § 33:3

Pain and suffering statements, hearsay
rules, § 58:9

Patents, authentication, § 60:26

Payment of medical and similar
expenses as admissions as, § 32:8

Performance, province of court and
jury, § 12:19

Periodicals, authentication, § 60:12

Personal injuries, displaying to the jury,
§ 29:10

Personal knowledge. See Witnesses,
this index

Personal property value opinions

expert opinions, § 54:20
nonexpert opinions, § 53:7

Personal reputation, hearsay rules

generally, § 58:33
judgment as to, § 58:37

Photographs, videos, etc.

generally, § 38:1 *et seq.*
authentication of photographs,
§ 38:2

computer-generated reenactments,
§ 38:7

Day-in-the-Life videotapes, § 38:8

INDEX

EVIDENCE—Cont'd

Photographs, videos, etc.—Cont'd
 motion pictures, § 38:6
 objects, photographs of, § 38:3
 persons, photographs of, § 38:4
 posed photographs, § 38:5
 premises, photographs of, § 38:3
 Real vs demonstrative evidence,
 below
 reenactments, computer-generated,
 § 38:7
 videotapes, § 38:6
Physical and mental examinations,
 admissibility determinations, § 27:13
Physical condition
 province of court and jury, § 12:13
 then existing, hearsay rules, § 58:5
Physical or mental condition
 nonexpert opinions, § 53:4
Plan statements, hearsay rules, § 58:8
Plats, authentication, § 60:21
Plea discussions as admissions, § 33:9
Police reports, hearsay rules
 generally, § 58:20
 absence of public record of entry,
 § 58:22
Polls, hearsay rules, § 58:38
Population, judicial notice, § 35:14
Posed photographs, § 38:5
Practices of business facts, judicial
 notice, § 35:21
Premises, photographs of, § 38:3
Preponderance of the evidence, prov-
 ince of court and jury, § 12:5
Present sense impression, hearsay rules,
 § 58:2
Preserving the record, § 9:35
Presumptions, this index
Prima facie case
 generally, § 20:3
 See also Proof of Facts, this index
Primary or secondary evidence, copies
 as, § 61:10
Prior inconsistent statements
 generally, § 49:1 et seq.
 See also Witnesses, this index
 extrinsic evidence of statement,
 § 49:5

EVIDENCE—Cont'd

Prior statements. See Witnesses, this
 index
Private writings
 authentication, § 60:22
 parol and extrinsic evidence, § 63:3
Privilege, this index
Processes, authentication, § 60:25
Production and Protection of Evidence,
 this index
Product liability cases, expert
 testimony, § 54:26
Proof
 See also Proof of Facts, this index
 offer of on objection to evidence,
 § 28:12
Property interest documents, hearsay
 rules
 generally, § 58:26
 statements in, § 58:27
Property rights and ownership evidence,
 province of court and jury, § 12:21
Province of court and jury
 inferences, § 12:6
 presumptions, § 12:6
Province of Court and Jury, this index
Public chemist certificate of, hearsay
 rules, § 58:18
Public documents, authentication
 domestic
 Generally, § 60:7
 seal, § 60:6
 foreign, § 60:8
Public records
 authentication, § 60:18
 best-evidence rule, § 61:6
 certified copies of, § 60:10
 hearsay rules, § 58:14
 parol and extrinsic evidence, § 63:5
 secondary evidence of, § 61:6
Questioned documents, expert wit-
 nesses, § 54:22
Questions of law and fact
 generally, § 12:1
 mixed questions of law and fact,
 § 12:3
Real and demonstrative evidence
 generally, § 29:1 et seq.

EVIDENCE—Cont'd

Real vs demonstrative evidence
admissibility of maps, drawings,
and diagrams, § 29:6
blackboards, § 29:7
braces, crutches, and similar
devices, § 29:12
charts, § 29:7
computer-generated reenactments,
§ 38:7
diagrams, § 29:6
displaying personal injuries to the
jury, § 29:10
drawings, § 29:6
maps, § 29:6
marks, etc. on demonstrative evi-
dence, § 29:9
personal injuries, displaying to the
jury, § 29:10
Photographs, videos, etc., above
reenactments, computer-generated,
§ 38:7
skeletons, bones, etc, § 29:11
sound recordings, § 29:5
static models and cases, § 29:8
tangible articles in same condition,
§ 29:4
use of real evidence, § 29:2
Reasonableness, province of court and
jury, § 12:9
Rebuttability of admissions, § 33:10
Rebuttal of judicially noticed fact,
§ 35:9
Records of regularly conducted activity,
hearsay rules
generally, § 58:12
absence of entry in record, § 58:13
Reenactments, computer-generated,
§ 38:7
Refreshing recollection
See also Witnesses, this index
hearsay rules, § 58:11
Regularly conducted activity, certified
domestic records of, § 60:17
foreign records of, § 60:9
Regularly conducted activity, records
of, hearsay rules
generally, § 58:12
absence of entry in record, § 58:13

EVIDENCE—Cont'd

Relevancy of evidence
generally, § 27:3
exclusion of relevant evidence,
§ 27:8
victim's past sexual behavior,
§ 48:6
Religious organizations records,
§ 58:23
Reputation as to character, § 58:35
Reputation concerning boundaries or
general history
generally, § 58:34
judgment as to, § 58:37
Reputation concerning personal or fam-
ily history
generally, § 58:33
judgment as to, § 58:37
Reputation Evidence, this index
Res gestae rule, § 57:11
Restricting use of admitted evidence,
§ 27:7
Rights, province of court and jury,
§ 12:20
Right to object to improper evidence
generally, § 28:2
need to object
Generally, § 28:3
in limine motion grant, formal
objection after, § 28:4
Routine practice, proof of, § 41:5
Rule of completeness
documentary evidence, § 60:3
use of depositions and interrogato-
ries at trial, § 36:8
Ruling on objections to evidence,
§ 28:8
Safety manual of manufacturer, admis-
sibility, § 41:7
Safety rules, codes, etc. that establish
standards of care, § 41:6
Sanity
opinions as to, § 53:8
province of court and jury, § 12:16
Scientific facts, § 35:17
Seal, filing exhibits under, § 9:20
Secondary evidence, § 61:11
Secondary or primary evidence, copies
as, § 61:10

INDEX

EVIDENCE—Cont'd

Services value opinions
expert, § 54:19
nonexpert, § 53:7
Silence of a party as an admission,
§ 33:11
Skeletons, bones, etc, § 29:11
Slip-and-fall cases, expert opinions,
§ 54:27
Sound recordings, § 29:5
Speed opinions
expert, § 54:17
nonexpert, § 53:6
Spoliation of Evidence, this index
Spontaneous declaration
generally, § 58:2
child declarant, § 58:3
Standard of care. Care duty, above
Statement, failure to reply to a written
statement as an admission, § 33:12
Statement of grounds for objection to
evidence, § 28:6
Statements made for purposes of medi-
cal diagnosis or treatment, § 40:5
State of mind statements, hearsay rules,
§ 58:6
Static models and cases, § 29:8
Statistical facts
hearsay rules, § 58:39
judicial notice, § 35:17
Status of persons, province of court and
jury, § 12:11
Stocks and bonds value, expert
opinions, § 54:21
Subject matter of an experiment or
demonstration, § 37:3
Substantial evidence, finality of verdict
supported by, § 25:15
Summaries, best-evidence rule, § 61:7
Summary judgment, designation of evi-
dence, § 6:2
Summing up by judge, § 10:23
Suppression of evidence as admission,
§ 32:10
Surveys
authentication, § 60:21
hearsay rules, § 58:38
Systems, authentication, § 60:25
Tangible articles in same condition,
§ 29:4

EVIDENCE—Cont'd

Telegrams, facsimile, and electronic
mail, authentication, § 60:20
Telephone conversations
authentication of, § 27:11
direct examination, § 44:13
Testimony. See Witnesses, this index
Tests
Experiments, demonstrations, and
tests, above
Real vs demonstrative evidence,
above
Then existing mental, emotional, or
physical condition, hearsay rules,
§ 58:5
Towns, judicial notice of facts about,
§ 35:13
Trade inscriptions, authentication,
§ 60:13
Transcribing the testimony, § 9:37
Treatises use to cross-examine experts
generally, § 54:15
hearsay rules, § 58:32
Treatment, statements made for
purposes of
generally, § 40:5
Usage and custom evidence, admissibil-
ity determinations, § 27:12
Use of Discovery Fruits at Trial, this
index
Use of real evidence, § 29:2
Value
personal property value opinions
expert, § 54:20
nonexpert, § 53:7
province of court and jury, value
and amount, § 12:8
services value opinions
expert, § 54:19
nonexpert, § 53:7
stocks and bonds value opinions,
§ 54:21
Verdict supported by substantial evi-
dence, finality of, § 25:15
Victim's past sexual behavior or alleged
sexual predisposition in sex-offense
cases, relevance, § 48:6
Videos. Photographs, videos, etc.,
above

EVIDENCE—Cont’d

View of premises
 generally, § 39:1 et seq.
 admissibility of the view as evidence, § 39:4
 conduct of the view, § 39:3
 requesting a view, § 39:2
 Villages, judicial notice, facts about, § 35:13
 Visual aids use in final argument, § 22:4
 Vital statistics records
 generally, § 58:21
 absence of public record of entry, § 58:22
 Voice identification, § 53:5
 Waiver of objections to evidence, § 28:9
 Weather reports, hearsay rules, § 58:19
 Weight of evidence, province of court and jury, § 12:4
 Weight of hearsay admitted without objection, § 57:8
 Withdrawn plea of guilty as admission, § 33:9
 Witnessed documents, authentication, § 60:19
 Witnesses, this index
 Writings, this index
 Written statement, failure to reply to as admission, § 33:12

EXAMINATION OF WITNESSES

Witnesses, this index

EXCESSIVE OR DEADLY FORCE USE

Government officer liability, § 64:6

EXCITED UTTERANCE

Hearsay rules, § 58:4

EXPERIMENTS

Evidence, this index

EXPERT WITNESSES

Generally, § 54:1 et seq.
 Admissibility of opinions
 generally, § 52:1
 checklist of basic requirements, § 54:2

EXPERT WITNESSES—Cont’d

Admissibility of opinions—Cont’d
 determining admissibility of opinion, § 54:8
 Advance determination of admissibility of opinion, § 54:8
 Ballistics, § 54:25
 Basis for opinion
 checklist of requirements, § 54:2
 disclosure of facts or data underlying opinion, § 54:12
 medical expert, § 40:6
 Checklist
 mechanics available to assist court and jury with scientific evidence, § 54:3
 of requirements, § 54:2
 Compelling an expert to testify, § 54:5
 Court-appointed experts, § 54:4
 Court’s inherent power to disqualify experts, § 54:7
 Cross-examining the expert
 generally, § 54:14
 learned treatise use
 Generally, § 54:15
 hearsay rules, § 58:32
 Daubert qualification standards, § 54:13
 Determining admissibility of opinion, § 54:8
 Disclosure expert witnesses, § 54:9
 DNA-identification evidence, admissibility, § 54:24
 Facts distinguished from opinions, § 52:2
 Facts or data underlying opinion, disclosure of, § 54:12
 Federal Rules of Evidence, this index
 Fingerprints, § 54:23
 Foundation for the expert’s opinion, § 54:11
 Handwriting proof opinion, § 62:3
 How incident occurred, § 54:18
 Kuhmo qualification standards, § 54:13
 Learned treatise use to cross-examine
 generally, § 54:15
 hearsay rules, § 58:32
 Matters about which an expert may testify, § 54:10

INDEX

EXPERT WITNESSES—Cont'd

Mechanics available to assist court and jury with scientific evidence, checklist, § 54:3
Medical opinion, basis for, § 40:6
Medical Testimony, this index
Need for expert testimony in cases involving medical issues, § 40:2
Nonexpert opinions. See Opinions, this index
Personal property, valuation of, § 54:20
Product liability cases, § 54:26
Qualifications
 generally, § 54:6 *et seq.*
 checklist of basic requirements, § 54:2
 court's inherent power to disqualify experts, § 54:7
 Daubert standards, § 54:13
 determining admissibility of opinion, § 54:8
 Kuhmo standards, § 54:13
 medical witnesses, § 40:3
 real estate expert, § 68:4
Questioned documents, § 54:22
Reconstruction testimony, § 54:18
Scientific evidence, checklist of mechanics available to assist court and jury, § 54:3
Scope of matters about which an expert may testify, § 54:10
Services, valuation, § 54:19
Slip-and-fall cases, § 54:27
Speed opinions, § 54:17
Stocks and bonds, valuation, § 54:21
Treatise use to cross-examine generally, § 54:15
 hearsay rules, § 58:32
Ultimate issue, opinions concerning, § 52:3
Use of expert testimony, § 54:1
Valuation, this index
Weight to be given expert testimony, § 54:16

EXTRINSIC EVIDENCE

Parol and Extrinsic Evidence, this index

FACSIMILE MAIL

Authentication, § 60:20

FACTS

Law and fact questions. See Province of Court and Jury, this index
Proof of Facts, this index

FALSE CLAIMS ACT

Federal court claim, § 64:32

FALSE IMPRISONMENT

Federal court claims, § 64:23

FAMILY

Bibles
 authentication, § 60:23
 hearsay rules, § 58:25
History reputation, hearsay rules
 generally, § 58:33
 judgment as to, § 58:37

FEDERAL COURT PROCEDURE

Generally, § 1:1 *et seq.*
Administrative remedies, failure of arrestee to exhaust, § 64:12
Applicability of foreign law, § 1:7
Applicable state law, determining generally, § 3:2
Attorney fee awards, checklist of federal statutes and rules that provide, § 72:7
Beneficiaries of government programs, protecting, § 64:9
Certification of state-law question to state court, § 3:3
Civil actions
 generally, § 64:1 *et seq.*
 laws governing, § 1:1
Common law, federal, § 1:8
Conflict of Laws, this index
Conspiracy, Section 1983 claims, § 64:8
Constitutional law
 First Amendment
 political discrimination in violation of the, § 64:10
 retaliation claim against employer, § 64:30
 forum of a cause of action, constitutional limitations on, § 4:10
 invalidity of statutory laws, claims of, § 64:21

**FEDERAL COURT PROCEDURE
—Cont'd**

Constitutional law—Cont'd
 limitations on the forum of a cause of action, § 4:10
 political discrimination in violation of the First Amendment, § 64:10
 retaliation claim against employer, § 64:30
 Section 1983 claims, below
 statutory laws, claims of invalidity of, § 64:21
 supremacy of federal laws, § 4:11
Contract actions, § 64:20
Contract breach by government, § 64:25
Counsel discipline, checklist of grounds for, § 11:4
Criminal enforcement of state hazardous waste rules, § 64:16
Defamation claims, § 64:22
Determining applicable foreign law, § 1:7
Determining applicable state law generally, § 3:2
Discipline of counsel, checklist of grounds for, § 11:4
Diversity actions, choice of laws in, § 4:2
Employee Retirement Income Security Act claims, § 64:15
Employer, retaliation claim against generally, § 64:29
 First Amendment, § 64:30
Erie v. Tompkins, state law issues, § 3:1
Essential functions of federal court, procedures available to protect its essential functions, checklist, § 10:2
Excessive or deadly force use, government officer liability, § 64:6
Failure of arrestee to exhaust administrative remedies, § 64:12
Failure to knock-and-announce, government officer liability, § 64:7
False Claims Act claim, § 64:32
False imprisonment claims, § 64:23
Federal common law, § 1:8
Federal Rules of Civil Procedure, this index

**FEDERAL COURT PROCEDURE
—Cont'd**

Federal Rules of Evidence, this index
First Amendment
 political discrimination in violation of the, § 64:10
 retaliation claim against employer, § 64:30
Foreign law, applicability of, § 1:7
Fraud claims, § 64:27
Government contract breach, § 64:25
Government officer liability
 generally, § 64:4 et seq.
 excessive or deadly force use, § 64:6
 failure to knock-and-announce, § 64:7
 unlawful arrest, § 64:5
 unreasonable search, § 64:4
Government programs, protecting the beneficiaries of, § 64:9
Harassment claims, § 64:28
Injunction, permanent, § 64:18
Intentional infliction of emotional distress claims
 generally, § 64:24
 damages, § 67:5
Invalidity of statutory laws, claims of, § 64:21
Jones Act claim, § 64:34
Jurisdiction, § 2:1
Laws governing civil actions, § 1:1
Legal civil actions, § 64:1 et seq.
Local rules of court, § 1:9
Maintenance and cure claim, § 64:34
Matters governed by federal law, checklist, § 3:5
Matters governed by state law, checklist, § 3:6
Municipal liability, Section 1983 claims, § 64:2
Negligence actions, § 64:19
Patent infringement
 damages, § 67:13
 proof of claim of, § 64:14
 willful infringement, § 67:14
Permanent injunction, § 64:18
Political discrimination in violation of the First Amendment, § 64:10

INDEX

FEDERAL COURT PROCEDURE —Cont'd

Procedures available to federal court to protect its essential functions, checklist, § 10:2

Proof of claim

- patent infringement, § 64:14
- trademark infringement, § 64:13

Protecting the beneficiaries of government programs, § 64:9

Qualified immunity, Section 1983 claims, § 64:3

Race discrimination claim, § 64:11

Renvoi, conflict of laws, § 4:4

Res judicata, applicability of state law on, § 3:4

Retaliation claim against employer

- generally, § 64:29
- First Amendment, § 64:30

RICO violation claim, § 64:17

Rule 11 violations. See Sanctions, this index

Section 1983 claims

- generally, § 64:1 et seq.
- conspiracy, § 64:8
- municipal liability, § 64:2
- qualified immunity, § 64:3

Securities Exchange Act claim, § 64:33

Sherman Act claims

- generally, § 64:31
- damages, § 67:12

State hazardous waste rules, criminal enforcement of, § 64:16

State law questions

- generally, § 3:1 et seq.
- See also State and Federal Judicial Systems Compared, this index; State Law in Federal Courts, this index
- certification to state court, § 3:3

Statutory laws, claims of invalidity of, § 64:21

Supremacy of federal laws, § 4:11

Tortious interference with contracts or business expectancy, § 64:26

Trademark infringement

- proof of claim of, § 64:13

Tribal laws, § 1:10

United States Code, § 1:3

United States Constitution, § 1:2

FEDERAL COURT PROCEDURE —Cont'd

Unlawful arrest, § 64:5

Unreasonable search, § 64:4

FEDERAL OFFICIAL RECORDS STATUTE

Hearsay rules, § 58:15

FEDERAL RULES OF CIVIL PROCEDURE

Generally, § 1:4

Federal court procedure, § 1:4

FEDERAL RULES OF EVIDENCE

Generally, § 1:5

Applicability, § 1:6

Opinion evidence, § 52:4

FEDERAL TORT CLAIMS ACT

Damages, § 67:20

FEES AND COSTS

Allowance of in judgment, § 26:6

Attorney Fee Awards, this index

Judgment, allowance of, § 26:6

Right to notice and hearing before imposing as sanctions, § 72:15

FELONS

Competency to testify, § 43:5

Prior convictions to impeach, § 50:2

FINAL ARGUMENT

Generally, § 22:1 et seq.

Applicable law comments, § 22:11

Comments about liability insurance, § 22:13

Comments about opposing party, counsel, or witness, § 22:8

Comments on adverse party's failure to call witness, § 22:9

Comments on the applicable law, § 22:11

Comments on witness credibility, § 22:10

Conduct during, § 22:7

Court's control of final arguments, § 22:3

Failure to call witness, comment on, § 22:9

Golden rule argument, § 22:14

Improper conduct during, § 22:7

FINAL ARGUMENT—Cont'd

Liability insurance comments, § 22:13
Missing-witness rule, § 22:9
Opposing party or counsel, comments about, § 22:8
Right to make final argument, § 22:2
Right to open and close arguments, § 22:6
Sympathy, appeals to, § 22:12
Time allowed for, § 22:5
Visual aids use, § 22:4
Vouching for witness, § 11:17, 22:10
Witness, comment on adverse party's failure to call, § 22:9
Witness, comments about, § 22:8
Witness credibility comments, § 22:10

FINGERPRINTS

Expert witnesses, § 54:23

FOREIGN COUNTRY

Subpoena of person in, § 21:13

FOREIGN LAW

Applicability of, § 1:7
Law of the case determinations, § 9:11
Presumptions, § 31:9
Recognition and enforcement of generally, § 4:5
limits on recognition, § 4:6

FOREIGN PUBLIC DOCUMENTS

Authentication, § 60:8

FOREIGN RECORDS

Regularly conducted activity, authentication, § 60:9

FOREIGN TRIBUNAL

Discovery of material for proceeding before, § 5:18

FOUNDATION

Expert's opinion, § 54:11
Witness impeachment. See Witnesses, this index

FRAUD

Attorney-client privilege, crime-fraud exception, § 55:13
Court, fraud upon, § 26:14
Federal court claims, § 64:27

FULL FAITH AND CREDIT DOCTRINE

Conflict of laws, § 4:7

GEOGRAPHICAL FACTS

Judicial notice, § 35:13

GIFTS

Presumptions about, § 31:22

GOLDEN RULE ARGUMENT

Generally, § 22:14

GOVERNING LAW

Conflict of Laws, this index
Law of the Case, this index
Res Judicata, this index
State Law in Federal Courts, this index

HABEAS CORPUS AD TESTIFICANDUM

Generally, § 21:14

HABIT

Judicial notice of human health and habits, § 35:19

HANDWRITING

Proof of, § 62:1 et seq.

HARASSMENT

Federal court claims, § 64:28

HEALTH

Judicial notice of human health and habits, § 35:19

HEARINGS

Contempt hearing, right to generally, § 69:8
different judge, hearing before, § 69:11
Continuances, § 8:1
Judicial notice, hearing on, § 35:7
Objections to evidence, hearing on, § 28:7
Objections to instructions, hearing on, § 23:9
Sanctions, right to notice and hearing before imposing, § 72:15

HEARSAY RULES

Generally, § 57:1 et seq.

INDEX

HEARSAY RULES—Cont'd

Activities regularly conducted, records of
 generally, § 58:12
 absence of entry in record, § 58:13
Acts, verbal, having independent legal significance, § 57:4
Affidavits, § 57:10
Analyst, certificate of, § 58:18
Ancient documents, statements in, § 58:28
Appraiser's value of property based in part on hearsay, § 68:8
Attacking credibility of declarant, § 57:9
Autopsy report, § 58:17
Availability of declarant immaterial
 generally, § 58:1 et seq.
 activities regularly conducted, records of
 Generally, § 58:12
 absence of entry in record, § 58:13
 analyst, certificate of, § 58:18
 ancient documents, statements in, § 58:28
 autopsy report, § 58:17
 baptismal certificates, § 58:24
 boundaries, reputation concerning
 Generally, § 58:34
 judgment as to, § 58:37
 census reports, § 58:31
 certificate of public chemist, inspector, or analyst, § 58:18
 character, reputation as to, § 58:35
 chemist, certificate of, § 58:18
 child's spontaneous declaration, § 58:3
 commercial publications, § 58:29
 conviction judgment, § 58:36
 coroner's verdict, § 58:16
 deeds
 Generally, § 58:26
 statements in, § 58:27
 design statements, § 58:8
 emotional condition then existing, § 58:5
 exceptions to hearsay rule, § 58:1
 excited utterance, § 58:4

HEARSAY RULES—Cont'd

Availability of declarant immaterial
 —Cont'd
 existing mental, emotional, or physical condition, § 58:5
 family bibles, § 58:25
 family history reputation
 Generally, § 58:33
 judgment as to, § 58:37
 federal official records statute, § 58:15
 general history, reputation concerning
 Generally, § 58:34
 judgment as to, § 58:37
 inspector, certificate of, § 58:18
 intent statements, § 58:6
 judgment as to personal, family, or general history or boundaries, § 58:37
 judgment of previous conviction, § 58:36
 knowledge statements, § 58:6
 learned treatises, § 58:32
 life expectancy tables, § 58:30
 market reports, § 58:29
 marriage certificates, § 58:24
 mental condition then existing, § 58:5
 mental feeling statements, § 58:7
 mental state statements, § 58:6
 mortality tables, § 58:30
 motive statements, § 58:8
 pain and suffering statements, § 58:9
 personal reputation
 Generally, § 58:33
 judgment as to, § 58:37
 physical condition then existing, § 58:5
 plan statements, § 58:8
 police reports
 Generally, § 58:20
 absence of public record of entry, § 58:22
 polls, § 58:38
 present sense impression, § 58:2
 property interest documents
 Generally, § 58:26

HEARSAY RULES—Cont'd

Availability of declarant immaterial

—Cont'd

property interest documents

—Cont'd

statements in, § 58:27

public chemist, certificate of,
§ 58:18

public records and reports, § 58:14

recorded recollection, § 58:11
activity

Generally, § 58:12

absence of entry in record,
§ 58:13religious organizations records,
§ 58:23

reputation as to character, § 58:35

reputation concerning boundaries or
general history

Generally, § 58:34

judgment as to, § 58:37

reputation concerning personal or
family history

Generally, § 58:33

judgment as to, § 58:37

residual hearsay exceptions, § 58:40

spontaneous declaration

Generally, § 58:2

child declarant, § 58:3

state of mind statements, § 58:6

statistical studies, § 58:39

surveys, § 58:38

then existing mental, emotional, or
physical condition, § 58:5

verdict of coroner, § 58:16

vital statistics records

Generally, § 58:21

absence of public record of
entry, § 58:22

weather reports, § 58:19

Availability of declarant material

generally, § 59:1 et seq.

belief of imminent death, statement
under, § 59:3

family history statement, § 59:5

forfeiture of exception by wrongdoing, § 59:6

former testimony, § 59:2

HEARSAY RULES—Cont'd

Availability of declarant material

—Cont'd

interest, statement against, § 59:4

personal history statement, § 59:5

testimony formerly taken, § 59:2

Baptismal certificates, § 58:24

Belief of imminent death, statement
under, § 59:3Boundaries, reputation concerning
generally, § 58:34

judgment as to, § 58:37

Census reports, § 58:31

Certificate of public chemist, inspector,
or analyst, § 58:18

Character, reputation as to, § 58:35

Chemist, certificate of, § 58:18

Child declarant, spontaneous declara-
tion, § 58:3

Commercial publications, § 58:29

Conduct as hearsay, § 57:6

Conviction judgment, § 58:36

Coroner's verdict, § 58:16

Credibility of declarant, attacking and
supporting, § 57:9

Deeds

generally, § 58:26

statements in, § 58:27

Definitions, § 57:2

Double hearsay, § 57:5

Emotional condition then existing,
§ 58:5

Exceptions to hearsay rule

generally, § 57:3

availability of declarant immaterial,
§ 58:1

Excited utterance, § 58:4

Existing mental, emotional, or physical
condition, § 58:5

Family bibles, § 58:25

Family history reputation, availability
of declarant immaterial

generally, § 58:33

judgment as to, § 58:37

Family history statement, availability of
declarant material, § 59:5

Federal official records statute, § 58:15

Forfeiture of exception by wrongdoing,
§ 59:6

INDEX

HEARSAY RULES—Cont'd

Former testimony, § 59:2
General history, reputation concerning
 generally, § 58:34
 judgment as to, § 58:37
Hearsay within hearsay, § 57:5
Inapplicability of the hearsay rule,
 § 57:3
Independent legal significance, verbal
 acts having, § 57:4
Inspector, certificate of, § 58:18
Intent statements, § 58:6
Interest, statement against, § 59:4
Judgment as to personal, family, or gen-
 eral history or boundaries, § 58:37
Judgment of previous conviction,
 § 58:36
Knowledge statements, § 58:6
Learned treatises, § 58:32
Life expectancy tables, § 58:30
Market reports, § 58:29
Marriage certificates, § 58:24
Mental condition then existing, § 58:5
Mental feeling statements, § 58:7
Mental state statements, § 58:6
Mortality tables, § 58:30
Motive statements, § 58:8
Necessity for objection to hearsay evi-
 dence
 generally, § 57:7
 weight of hearsay admitted without
 objection, § 57:8
Objection to hearsay evidence, neces-
 sity for
 generally, § 57:7
 weight of hearsay admitted without
 objection, § 57:8
Pain and suffering statements, § 58:9
Personal history statement, § 59:5
Personal reputation
 generally, § 58:33
 judgment as to, § 58:37
Physical condition then existing, § 58:5
Police reports
 generally, § 58:20
 absence of public record of entry,
 § 58:22
Polls, § 58:38
Present sense impression, § 58:2

HEARSAY RULES—Cont'd

Prior inconsistent statements, hearsay
 exception, § 49:2
Property interest documents
 generally, § 58:26
 statements in, § 58:27
Public chemist, certificate of, § 58:18
Public records and reports, § 58:14
Recorded recollection, § 58:11
Records of regularly conducted activity
 generally, § 58:12
 absence of entry in record, § 58:13
Refreshing recollection. See Witnesses,
 this index
Regularly conducted activity, records of
 generally, § 58:12
 absence of entry in record, § 58:13
Religious organizations records,
 § 58:23
Reputation as to character, § 58:35
Reputation concerning boundaries or
 general history
 generally, § 58:34
 judgment as to, § 58:37
Reputation concerning personal or fam-
 ily history
 generally, § 58:33
 judgment as to, § 58:37
Res gestae rule, § 57:11
Residual hearsay exceptions, § 58:40
Spontaneous declaration
 generally, § 58:2
 child declarant, § 58:3
Statements for purposes of medical
 diagnosis or treatment, § 58:10
State of mind statements, § 58:6
Statistical studies, § 58:39
Supporting credibility of declarant,
 § 57:9
Surveys, § 58:38
Testimony formerly taken, § 59:2
Then existing mental, emotional, or
 physical condition, § 58:5
Valuation of real estate, § 68:8
Verbal acts having independent legal
 significance, § 57:4
Verdict of coroner, § 58:16
Vital statistics records
 generally, § 58:21

HEARSAY RULES—Cont'd

Vital statistics records—Cont'd
 absence of public record of entry,
 § 58:22
 Weather reports, § 58:19
 Weight of hearsay admitted without
 objection, § 57:8
 Writing use to assist the witness.
 Refreshing recollection, above
 Wrongdoing, forfeiture of exception by,
 § 59:6

HISTORY

Judicial notice of historical facts,
 § 35:15

HOSPITALS

Medical Testimony, this index

HYPNOSIS

Witness competency, § 43:9

IDENTITY

Attorney-client privilege, duty to dis-
 close name of the client, § 55:14
 DNA-identification evidence, § 54:24
 Parol and extrinsic evidence, identity of
 the parties, § 63:12
 Voice identification, § 53:5

IMMUNITY

Counsel immunity for defamatory acts
 at trial, § 11:19
 Judges, § 10:26
 Qualified immunity, Section 1983
 claims, § 64:3

IMPEACHMENT

Witnesses, this index

IN CAMERA PROCEEDINGS

Generally, § 9:4

INFANTS

Children, this index

INFERENCES

See also Presumptions, this index
 Admissibility of compromise and offers
 to compromise, § 32:5
 Adverse inference from assertion of
 self-incrimination privilege, § 56:10
 Attempts to corrupt, influence, or harm
 witness, juror, or judge, § 32:11

INFERENCES—Cont'd

Compromise and offers to compromise,
 admissibility of, § 32:5
 Conduct of a party, presumptions and
 inferences based upon, § 32:1
 Destruction of evidence, § 32:10
 Disposal of property as an admission,
 § 32:9
 Evidence, failure to produce, § 32:3
 Evidence of settlement by other
 defendant, § 32:6
 Failure of party to testify, § 32:4
 Failure to call a witness, § 32:2
 Failure to produce evidence, § 32:3
 Inference as presumption, § 31:4
 Juror or judge, attempts to corrupt,
 influence, or harm, § 32:11
 Offers to compromise, admissibility of,
 § 32:5
 Other defendant, settlement by, § 32:6
 Party's failure to testify, § 32:4
 Payment of medical and similar
 expenses, § 32:8
 Presumption, inference as, § 31:4
 Proof of Facts, this index
 Province of court and jury, § 12:6
 Self-incrimination, privilege against,
 adverse inference from assertion of,
 § 56:10
 Settlement by other defendant, § 32:6
 Spoliation, § 32:10
 Subsequent remedial measures, § 32:7
 Suppression of evidence, § 32:10
 Witness
 attempts to corrupt, influence, or
 harm, § 32:11
 failure to call a, § 32:2

INFORMANTS

Retaliating against, § 42:4

INJUNCTIONS

Federal court procedure, § 64:18

INJURIES

Personal Injuries, this index

IN LIMINE MOTIONS

Generally, § 7:4
 Formal objections after granting of,
 § 28:4

INDEX

IN LIMINE MOTIONS—Cont'd
Grant, formal objection after, § 28:4

INSTRUCTIONS

Jury Trial, this index

INSURANCE

Final argument comments, § 22:13
Voir dire, insurance questions
generally, § 16:17

INTENTION

Emotional distress claims, intentional
infliction of
generally, § 64:24
damages, § 67:5
Hearsay rules, intent statements, § 58:6
Province of court and jury, § 12:14

INTEREST (CONFLICTING)

Attorney-client privilege, joint defense,
common interest and agency excep-
tions, § 55:11
Cause challenges, financial Interest,
§ 17:19
Common interest, attorney-client privi-
lege, § 55:11
Joint defense, common interest and
agency exceptions, attorney-client
privilege, § 55:11
Property interest documents, hearsay
rules
generally, § 58:26
statements in, § 58:27
Witness impeachment, § 47:7

INTEREST (MONEY)

Prejudgment, allowance of, § 26:8

INTERPRETERS

Generally, § 42:13

INTERROGATORIES

Discovery, this index
Use of Discovery Fruits at Trial, this
index

INTOXICATION

Alcohol, this index

INVESTIGATION

Judges, independent investigations by,
§ 10:21

JONES ACT

Federal court claim, § 64:34

JUDGES

Generally, § 10:1 et seq.
Adjudicative responsibilities, § 10:3
Admissibility determinations, discre-
tion, § 27:5
Appointment of a technical advisor,
§ 10:29
Assaulting a judge
generally, § 9:26
inferences drawn from attempts,
§ 32:11
Attorney fees, inherent court power to
award, § 72:8
Bench conferences, § 9:23
Bench Trial, this index
Calling of witness by
generally, § 10:18
interrogation by, § 10:19
Comment by judge, § 10:23
Communications with jurors during
deliberations, § 24:11
Conduct, judicial, § 10:1 et seq.
Conduct toward counsel, § 10:15
Conduct toward the parties, § 10:12
Conduct toward the witnesses
generally, § 10:13
control of examination
Generally, § 10:16
checklist, § 10:17
perjury admonishments, § 10:14
Contempt
See also Contempt, this index
different judge, right to, § 69:11
Controlling the Conduct of the Trial,
this index
Counsel, conduct toward, § 10:15
Deadlocked jury, dealing with
generally, § 24:14
Allen charge, § 24:16
urging agreement, § 24:16
Deliberations, communications with
jurors during, § 24:11
Demeanor of the judge, § 10:5
Diction and voice of judge, § 10:9
Direct and indirect contempt, § 69:3
Disciplinary responsibilities, § 10:27

JUDGES—Cont'd

Discretion of court
 evidence admissibility determinations, § 27:5
 sanctions, § 72:14
 Disqualification of, § 10:28
 Dress code enforcement, § 10:8
 Duty to expedite the trial, § 10:4
 Duty to preserve order, § 10:7
 Duty to warn about privilege against self-incrimination, § 56:2
 Essential functions of federal court, checklist, § 10:2
 Evidence, judicial admissions as, § 33:8
 Examinations of witnesses, court control
 cross-examination, § 45:9
 direct examination, § 44:1
 Exclusion of improper testimony on court's own motion, § 10:20
 Ex parte communications about pending proceedings, § 10:24
 Expedition of trial, judge's right and duty, § 10:4
 Expert witnesses, court-appointed, § 54:4
 Family member, influencing judge by injuring, § 9:27
 Federal courts, procedures available to protect essential functions, checklist, § 10:2
 Fraud upon the court, § 26:14
 Harassing a judge
 generally, § 9:26
 inferences drawn from attempts, § 32:11
 Immunity, § 10:26
 Improper testimony, exclusion on court's own motion, § 10:20
 In camera proceedings, § 9:4
 Independent investigations by, § 10:21
 Influencing a judge
 generally, § 9:26
 inferences drawn from attempts, § 32:11
 injuring family member, § 9:27
 Inherent court power to award attorney fees, § 72:8
 Instructions. See Jury Trial, this index

JUDGES—Cont'd

Interrogation of witnesses by the judge, § 10:19
 Juror misconduct, duty to investigate, § 16:27
 Jurors, court's right to excuse, § 16:24
 Jury deliberations, communications with jurors during, § 24:11
 Limiting time for presentation of case, § 9:24
 Magistrate Judge, Trial Before, this index
 Maintaining Proper Conduct in the Courtroom, this index
 Master, Trial Before, this index
 Matters of law remarks, § 10:11
 Misconduct of juror, duty to investigate, § 16:27
 Notice, judicial. See Evidence, this index
 Offensive language, controlling, § 9:44
 Open court principle, § 9:2
 Parties, conduct towards, § 10:12
 Persons near the courtroom, controlling the conduct of, § 9:43
 Power of court to punish contempt, § 69:1
 Presence of the judge, § 10:6
 Presentation of case, limiting time for, § 9:24
 Preservation of order, § 10:7
 Pretrial orders, control of the proceedings by, § 9:21
 Procedures available to federal court to protect its essential functions, checklist, § 10:2
 Remarks of the judge
 matters of law, § 10:11
 testimony and rulings, § 10:10
 Right to expedite the trial, § 10:4
 Sanctions, discretion of trial judge to impose, § 72:14
 Self-incrimination, privilege against, duty of court to warn witness, § 56:2
 Settlement, judge urging, § 10:25
 Sidebars during jury trials, § 9:23
 Sua sponte exclusion of improper testimony, § 10:20
 Summing up by judge, § 10:23

INDEX

JUDGES—Cont'd

Technical advisor appointments,
§ 10:29
Testimony and rulings, remarks of the
judge, § 10:10
Verdict, judicial comments about
verdict, § 25:14
Voice and diction of judge, § 10:9
Voir dire examination, discretion of
court, § 16:13
Witness, judge as, § 10:22
Witnesses, calling by
generally, § 10:18
interrogation by, § 10:19
Witnesses, conduct towards
generally, § 10:13
perjury admonishments, § 10:14
Witness examinations, court control
cross-examination, § 45:9
direct examination, § 44:1

JUDGMENT

Generally, § 26:1 *et seq.*
Allowance of fees and costs, § 26:6
Allowance of prejudgment interest,
§ 26:8
Alter or amend judgment motion,
§ 26:11
Amount of judgment, § 26:5
Boundaries judgments, hearsay rules,
§ 58:37
Declaratory judgments, § 26:10
Default, § 26:4
Determining right to JMOL, § 71:3
Entry of default, § 26:4
Entry of judgment, § 26:2
Equitable estoppel, § 26:16
Family history or boundaries judg-
ments, hearsay rules, § 58:37
Finality of judgment, § 26:15
Fraud upon the court, § 26:14
General history judgments, hearsay
rules, § 58:37
Hearsay rules, judgment as to personal,
family, or general history or bounda-
ries, § 58:37
Interest, prejudgment, allowance of,
§ 26:8
Matter of law (JMOL)
generally, § 71:1

JUDGMENT—Cont'd

Matter of law (JMOL)—Cont'd
determining right to, § 71:3
motion practice, § 71:2
new trial, time for losing party to
file motion for, § 71:7
orders
denying JMOL, § 71:6
granting JMOL, § 71:5
renewal of motion after trial
Generally, § 71:4
orders, § 71:5, 71:6
right to, determining, § 71:3
time for losing party to file motion,
§ 71:7
Motion to alter or amend judgment,
§ 26:11
New trial
generally, § 26:12
New trial, time for filing, § 71:7
Offer of judgment, § 26:7
Personal history or boundaries judg-
ments, hearsay rules, § 58:37
Prejudgment interest, allowance of,
§ 26:8
Previous conviction, hearsay rules,
§ 58:36
Relief from judgment or order, § 26:13
Remittitur, § 26:9
Res judicata, § 3:4, 26:15
Specific acts, judgment for, § 26:3
Vesting title, § 26:3

JUDICIAL NOTICE

Evidence, this index

JURISDICTION

Abstention doctrines, § 2:11
Burden of proof
personal jurisdiction, § 20:7
subject matter jurisdiction, § 20:6
Change of venue, § 2:9
Constitutional limitations on the forum
of a cause of action, § 4:10
Diversity Cases, this index
Domicile presumptions, § 31:18
Federal court, removal of state action
to, § 2:7
Federal question jurisdiction, § 2:4
Forum non conveniens, § 2:10

JURISDICTION—Cont'd

Magistrate judges, § 14:2
 Personal jurisdiction
 burden of proof, § 20:7
 state and federal judicial systems compared, § 2:8
 Presumptions about domicile, § 31:18
 Removal of state action to federal court, § 2:7
 State and federal systems compared, § 2:2 **et seq.**
 Subject matter jurisdiction
 burden of proof, § 20:6
 state and federal judicial systems compared, § 2:3
 Supplemental jurisdiction, § 2:6
 Venue
 generally, § 2:9
 constitutional limitations on, § 4:10

JURY TRIAL

Generally, § 16:1 **et seq.**
 See also Bench Trial, this index
 Acceptance of favors by jurors, § 16:36
 Accounts of trial, juror's reading or hearing, § 16:34
 Additional instruction during deliberations, § 24:13
 Advising counsel as to proposed instructions, § 23:6
 Advisory jury, § 16:4
 Alcohol use by jurors, § 16:33
 Allen charge, deadlocked jury, § 24:16
 Alternate jurors
 discharging juror during deliberations, § 24:9
 selection, § 16:21
 Amending verdicts, § 25:12
 Arrival at verdict, rules governing, § 24:17
 Asking for division of jurors during deliberations, § 24:15
 Assaulting a juror
 generally, § 9:26
 inferences drawn from attempts, § 32:11
 Assignment of error for erroneous instruction, § 23:11, 23:14
 Attention to proceedings, § 16:38

JURY TRIAL—Cont'd

Authority issues, province of court and jury, § 12:12
 Beginning of case instructions, § 23:3
 Bench conferences, § 9:23
 Bias and prejudice
 generally, § 16:14
 cause challenges, § 17:11 **et seq.**
 religious prejudice, cause challenges, § 17:20
 social relationship, § 17:12
 Books, use in jury deliberations, § 24:4
 Bribery of jurors, § 16:36
 Business relationship, cause challenges, § 17:14
 Cameras and Technological Equipment in Courtroom, this index
 Cause challenges
 generally, § 17:8 **et seq.**
 bias and prejudice, § 17:11
 business relationship, § 17:14
 connection with insurance company, § 17:17
 facts, previous knowledge of, § 17:16
 familial relationship, § 17:13
 financial interest, § 17:19
 insurance company connections, § 17:17
 preconceived opinions, § 17:18
 previous knowledge of the facts, § 17:16
 procedure, § 17:9
 professional relationships, § 17:15
 religious prejudice, § 17:20
 ruling on challenges for cause, § 17:10
 social relationship, § 17:12
 Challenges
 generally, § 17:1 **et seq.**
 business relationship, § 17:14
 Cause challenges, above
 connection with insurance company, cause challenges, § 17:17
 facts, previous knowledge of, cause challenges, § 17:16
 familial relationship, cause challenges, § 17:13
 financial interest, cause challenges, § 17:19

INDEX

JURY TRIAL—Cont'd

Challenges—Cont'd

- gender based peremptory challenges, § 17:4
- insurance company connections, cause challenges, § 17:17
- number of peremptory challenges, § 17:2
- order of exercising challenges, § 16:23
- Peremptory challenges, below preconceived opinions, cause challenges, § 17:18
- previous knowledge of the facts, cause challenges, § 17:16
- procedure on cause challenges, § 17:9
- professional relationships, cause challenges, § 17:15
- race based peremptory challenges, § 17:3
- religious prejudice, cause challenges, § 17:20
- right of the court to excuse jurors, § 16:24
- ruling on challenges for cause, § 17:10
- voir dire challenges during, § 16:22

Chance, verdict by, § 24:20

Character of persons, province of court and jury, § 12:11

Circumstantial evidence, instructing jurors as to, § 30:2

Comments by judge to jury about verdict, § 25:14

Communications with jurors

- after the trial, § 24:22
- during deliberations, § 24:11

Compromise verdicts, § 24:19

Conduct of a jury trial, § 16:26

Conferences, instructions, § 23:5

Connection with insurance company, cause challenges, § 17:17

Consent, trial by, § 16:4

Construction of language, province of court and jury, § 12:23

Construction of language evidence, province of court and jury, § 12:22

Contempt proceeding, right to jury, § 69:10

JURY TRIAL—Cont'd

Controlling the Conduct of the Trial, this index

Correcting erroneous instructions, § 23:11

Counsel, advising as to proposed instructions, § 23:6

Court's right to excuse jurors, § 16:24

Dealing with deadlocked jury

- generally, § 24:14
- Allen charge, § 24:16
- urging agreement, § 24:16

Deliberations

- generally, § 24:1 et seq.
- additional instruction during, § 24:13
- amending verdicts, § 25:12
- arrival at verdict, rules governing, § 24:17
- asking for division of jurors, § 24:15
- books, use in jury deliberations, § 24:4
- chance or lot, verdict by, § 24:20
- comments by judge to jury about verdict, § 25:14
- communications with jurors after trial, § 24:22
- communications with jurors during trial, § 24:11
- compromise verdicts, § 24:19

Dealing with deadlocked jury, above

dictionaries, use in jury deliberations, § 24:4

discharging juror during deliberations, § 24:9

division of jurors, request for, § 24:15

eavesdropping during deliberations, § 24:8

evidence, request to review, § 24:12

experiments by jurors, § 24:10

finality of verdict supported by substantial evidence, § 25:15

foreman, selecting, § 24:5

hours of deliberation, § 24:21

impeachment of verdict, § 25:13

inconsistent general verdicts, § 25:4

items taken into jury room, § 24:2

JURY TRIAL—Cont'd**Deliberations—Cont'd**

- judicial comments about verdict, § 25:14
- jury room, items taken into, § 24:2
- majority verdicts, § 25:2
- polling the jurors, § 25:11
- post-trial communications with jurors, § 24:22
- presence of others in jury room during, § 24:7
- quotient verdicts, § 24:18
- request for division of jurors, § 24:15
- request to review evidence, § 24:12
- revising verdicts, § 25:12
- rules governing arrival at verdict, § 24:17
- selecting the foreman, § 24:5
- separation of jury during, § 24:6
- substantial evidence, finality of a verdict supported by, § 25:15
- taking jury instructions to the jury deliberations, § 24:3
- unanimous verdicts, § 25:2
- using dictionaries or other books in jury deliberations, § 24:4

Demand for jury, § 16:2**Dictionaries, use in jury deliberations, § 24:4****Discharging a juror**

- during deliberations, § 24:9
- during trial, § 16:32

Discharging jury, inability to arrive at verdict, § 70:3**Discretion of court in voir dire examination, § 16:13****Dismissal of juror for tardiness, § 16:29****Displaying personal injuries to the jury, § 29:10****Diversity cases, instructions in, § 23:13****Division of jurors, request for during deliberations, § 24:15****Double recovery verdicts, § 25:8****Dress code, judge's enforcement, § 10:8****Drug use jurors, § 16:33****Duties evidence, province of court and jury, § 12:20****Duty of judge to preserve order, § 10:7****JURY TRIAL—Cont'd****Duty to investigate juror misconduct**

- generally, § 16:27
- personal liability of juror for, § 16:30

Eavesdropping during deliberations, § 24:8**Effect of pretrial publicity on voir dire, § 16:15****Element-specific unanimity instruction need for, § 23:15****Erroneous instructions**

- assignment of error for, § 23:11, 23:14
- correcting, § 23:11

Evidence

- jury room, items taken into, § 24:2
- reception out of court by juror, § 16:35
- request to review during deliberations, § 24:12

Exclusion of witnesses

- generally, § 42:9
- violations of the rule, § 42:11
- witnesses subject to rule, § 42:10

Expedition of trial, judge's right and duty, § 10:4**Experiments by jurors, § 24:10****Extrajudicial statements, gag orders limiting, § 9:29****Facts, previous knowledge of, cause challenges, § 17:16****Failure to divulge pertinent information, § 16:20****Familial relationship, cause challenges, § 17:13****Favors acceptance of by jurors, § 16:36****Final Argument, this index****Finality of a verdict supported by substantial evidence, § 25:15****Financial Interest, cause challenges, § 17:19****Foreman, selecting, § 24:5****Gag orders limiting extrajudicial statements, § 9:29****General principles relating to instructions, § 23:2****General verdicts. See Verdict, this index Handbooks, juror, § 16:9**

INDEX

JURY TRIAL—Cont'd

Harassing a juror
 generally, § 9:26
 inferences drawn from attempts, § 32:11

Hearing accounts of trial by juror, § 16:34

Hearing objections to instructions, § 23:9

Hours of deliberation, § 24:21

Hypothetical questions during voir dire, § 16:16

Impaneling the jury, § 16:10

Impartiality, § 16:11

Impeachment of verdict, § 25:13

Improper conduct. Misconduct of juror, below

Inability of jury to arrive at verdict, discharge for, § 70:3

Influencing a juror
 generally, § 9:26
 inferences drawn from attempts, § 32:11

Instructions
 generally, § 23:1
 additional instruction during deliberations, § 24:13
 advising counsel as to proposed instructions, § 23:6
 Allen charge, deadlocked jury, § 24:16
 appellate review of jury instructions, § 23:18
 assignment of error for erroneous instruction, § 23:11, 23:14
 beginning of case, § 23:3
 circumstantial evidence, instructing jurors as to, § 30:2
 conferences, § 23:5
 correcting erroneous instructions, § 23:11
 counsel, advising as to proposed instructions, § 23:6
 deadlocked jury, Allen charge, § 24:16
 deliberations, additional instruction during, § 24:13
 diversity cases, § 23:13
 element-specific unanimity instruction need for, § 23:15

JURY TRIAL—Cont'd

Instructions—Cont'd

 Erroneous instructions, above

 general principles relating to, § 23:2

 hearing objections to, § 23:9

 missing-witness instruction, § 23:16

 need for element-specific unanimity instruction, § 23:15

 number of, § 23:10

 Objections to instructions, below

 prior inconsistent statements, instructions as to, § 49:8

 proposed instructions, advising counsel as to, § 23:6

 requests for, § 23:4

 spoliation, § 23:17

 supplemental jury instructions, § 23:12

 taking jury instructions to the jury deliberations, § 24:3

 timeliness of objection, § 23:8

 unanimity instruction, element-specific, need for, § 23:15

Insurance questions
 final argument comments, § 22:13

Interpreters, § 42:13

Invading the province of jury, § 12:2

Judgment, this index

Judicial comments about verdict, § 25:14

Jury room
 items taken into, § 24:2

 presence of others during deliberations, § 24:7

Law and fact questions. See Province of Court and Jury, this index

Law questions during voir dire, § 16:18

Liabilities evidence, province of court and jury, § 12:20

Lot, verdict by, § 24:20

Maintaining Proper Conduct in the Courtroom, this index

Majority verdicts, § 25:2

Mental competence of the juror, § 16:37

Mental state evidence, province of court and jury, § 12:14

Misconduct of juror
 duty to investigate, § 16:27

 personal liability of juror for, § 16:30

JURY TRIAL—Cont’d

Missing-witness instruction, § 23:16
 Mistrial, this index
 Mixed questions of law and fact, § 12:3
 Motive evidence, province of court and jury, § 12:14
 Necessity evidence, province of court and jury, § 12:10
 Need for element-specific unanimity instruction, § 23:15
 New trial, § 26:12
 Note taking by jurors, § 16:39
 Number of instructions, § 23:10
 Number of jurors and their verdict, § 16:5
 Objections to instructions
 generally, § 23:7
 assignment of error for erroneous instruction, § 23:11, 23:14
 correcting erroneous instructions, § 23:11
 Erroneous instructions, above hearing objections to instructions, § 23:9
 timeliness of objection, § 23:8
 Occurrence evidence, province of court and jury, § 12:19
 Opening Statements, this index
 Order in the court, duty of judge to preserve, § 10:7
 Order of exercising challenges, § 16:23
 Order of proof. See Proof of Facts, this index
 Peremptory challenges
 generally, § 17:1
 gender based peremptory challenges, § 17:4
 number of peremptory challenges, § 17:2
 race based peremptory challenges, § 17:3
 Performance evidence, province of court and jury, § 12:19
 Perjury, juror, § 16:19
 Personal injuries, displaying to the jury, § 29:10
 Personal liability of juror for misconduct, § 16:30
 Pertinent information, failure to divulge, § 16:20

JURY TRIAL—Cont’d

Physical condition evidence, province of court and jury, § 12:13
 Polling the jurors, § 25:11
 Post-trial communications with jurors, § 24:22
 Preconceived opinions, cause challenges, § 17:18
 Prejudice. Bias and prejudice, above
 Preponderance of the evidence, province of court and jury, § 12:5
 Presence of others in jury room during deliberations, § 24:7
 Pretrial publicity, effect on voir dire, § 16:15
 Previous knowledge of the facts, cause challenges, § 17:16
 Prior inconsistent statements, instructions as to, § 49:8
 Procedure, cause challenges, § 17:9
 Procedures in selecting the jury, § 16:6
 Professional relationships, cause challenges, § 17:15
 Proof of Facts, this index
 Property rights and ownership, province of court and jury, § 12:21
 Proposed instructions, advising counsel as to, § 23:6
 Province of Court and Jury, this index
 Qualifications for jury service, § 16:7
 Questions by jurors, § 16:40
 Questions of law and fact. See Province of Court and Jury, this index
 Quotient verdicts, § 24:18
 Race discrimination
 generally, § 16:8
 peremptory challenges, race based, § 17:3
 questioning about racial bias, § 16:14
 Reading accounts of trial by juror, § 16:34
 Reception of evidence out of court by juror, § 16:35
 Religious prejudice, cause challenges, § 17:20
 Rendition and recording of the verdict, § 25:9
 Request for division of jurors during deliberations, § 24:15

INDEX

JURY TRIAL—Cont'd

Requests for instructions, § 23:4
Revising verdicts, § 25:12
Right of the court to excuse jurors, § 16:24
Rights evidence, province of court and jury, § 12:20
Right to a jury trial
 generally, § 16:1
 contempt proceeding, § 69:10
 waiver, § 16:3
Rules governing arrival at verdict, § 24:17
Sanity evidence, province of court and jury, § 12:16
Sealed verdicts, § 25:10
Selecting the foreman, § 24:5
Selection of jury
 generally, § 16:6 et seq.
 alternate jurors, § 16:21
 bias and prejudice questions
 Generally, § 16:14
 cause challenges, § 17:11
 Cause challenges, above
 discrimination because of sex or race
 Generally, § 16:8
 peremptory challenges, race based, § 17:3
 questioning about racial bias, § 16:14
 duty of jurors to answer truthfully, § 16:19
 effect of pretrial publicity on voir dire, § 16:15
 failure to divulge pertinent information, § 16:20
 hypothetical questions, § 16:16
 impaneling the jury, § 16:10
 impartiality, § 16:11
 insurance questions, § 17:17
 law questions, § 16:18
 mental competence of the juror, § 16:37
 order of exercising challenges, § 16:23
 Peremptory challenges, above
 pertinent information, failure to divulge, § 16:20
 procedures, § 16:6

JURY TRIAL—Cont'd

Selection of jury—Cont'd
 qualifications for jury service, § 16:7
 questioning about racial bias, § 16:14
 race discrimination
 Generally, § 16:8
 peremptory challenges, race based, § 17:3
 questioning about racial bias, § 16:14
 right of the court to excuse jurors, § 16:24
 sex discrimination
 Generally, § 16:8
 peremptory challenges, gender based, § 17:4
 swearing the jury, § 16:25
 Voir dire, below
 withholding pertinent information, § 16:20
Separation of jury during deliberations, § 24:6
Sequestration of jury during trial, § 16:31
Sex discrimination
 generally, § 16:8
 peremptory challenges, gender based, § 17:4
Sidebars during jury trials, § 9:23
Social prejudice, cause challenges, § 17:12
Special verdicts. See Verdict, this index
Spoliation instruction, § 23:17
Status of persons, province of court and jury, § 12:11
Substantial evidence, finality of a verdict supported by, § 25:15
Supplemental jury instructions, § 23:12
Swearing the jury, § 16:25
Taking jury instructions to the jury room, § 24:3
Taking of notes by jurors, § 16:39
Tampering, § 16:28
Tardiness, dismissal of juror for, § 16:29
Timeliness of objection, § 23:8
Trial by consent, § 16:4
Truthfulness duty of jurors, § 16:19

JURY TRIAL—Cont'd

Unanimity instruction, element-specific, need for, § 23:15

Unanimous verdicts, § 25:2

Using dictionaries or other books in jury deliberations, § 24:4

Value and amount evidence, province of court and jury, § 12:8

Verdict

See also Verdict, this index

Deliberations, above

discharge for inability of jury to arrive at, § 70:3

Voir dire

generally, § 16:12

bias and prejudice questions

Generally, § 16:14

cause challenges, § 17:11

Cause challenges, above

discretion of court, § 16:13

duty of jurors to answer truthfully, § 16:19

failure to divulge pertinent information, § 16:20

hypothetical questions, § 16:16

insurance questions, § 16:17

law questions, § 16:18

Peremptory challenges, above

pertinent information, failure to

divulge, § 16:20

questioning about racial bias,

§ 16:14

truthfulness duty of jurors, § 16:19

withholding pertinent information,

§ 16:20

Waiver of right to jury trial, § 16:3

Withdrawing demand for a jury, § 16:2

Withholding pertinent information, § 16:20

Witnesses, this index

JUSTICES

Disqualification of, § 10:28

JUVENILES

Children, this index

KNOCK-AND-ANNOUNCE RULE

Government officer liability, § 64:7

KNOWLEDGE

Hearsay rules, knowledge statements, § 58:6

Juror cause challenges, previous knowledge of facts, § 17:16

Personal knowledge. See Witnesses, this index

Presumption, knowledge of law, § 31:17

Statements, hearsay rules, § 58:6

LANGUAGE

Judicial notice of facts about, § 35:18

LAW AND FACT QUESTIONS

Province of Court and Jury, this index

LAW OF THE CASE

Generally, § 9:9 et seq.

Determination of foreign law, § 9:11

Determining applicable law, § 9:10

Proceedings upon remand, § 9:12

Remand, proceedings upon, § 9:12

Res judicata, § 3:4, 26:15

Stare decisis, § 9:10

LEGITIMACY

Presumption, § 31:16

LIABILITIES

Province of court and jury, § 12:20

LIFE EXPECTANCY TABLES

Hearsay rules, § 58:30

MAGISTRATE JUDGE, TRIAL BEFORE

Generally, § 14:1 et seq.

Appointment

generally, § 14:1, 15:7

temporary assignments, § 14:9

Appointment of counsel, § 14:10

Assignment of additional duties, § 14:8

Consent of parties, § 14:5

Contempt powers, § 14:7

Counsel appointment of, § 14:10

Determination of designated pretrial matters, § 14:4

Disqualification of, § 10:28

District court's evaluation of a magistrate judge's report, § 14:11

Duties, § 14:2

INDEX

MAGISTRATE JUDGE, TRIAL BEFORE—Cont'd

Jurisdiction, § 14:2

Master

See also Master, Trial Before, this index

magistrate judge serving as, § 14:6

Powers, § 14:2

Pretrial matters, § 14:4

Proceedings, § 14:3

Report of magistrate judge, district court's evaluation of, § 14:11

Temporary assignments, § 14:9

Verification function, § 14:10

MAIL

Delivery presumption, § 31:21

E-Mail, this index

Facsimile mail, § 60:20

MAINTAINING PROPER CONDUCT IN THE COURTROOM

Generally, § 9:41 et seq.

Coaching a witness, § 9:42

Contempt by counsel, § 11:15

Controlling offensive language, § 9:44

Controlling the conduct of persons near the courtroom, § 9:43

Controlling the Conduct of the Trial, this index

Counsel conduct. See Counsel, this index

Disciplinary responsibilities of judge, § 10:27

Dress code enforcement, § 10:8

Duty of judge to preserve order, § 10:7

Misconduct of spectators, § 9:41

Misconduct of spectators and others, § 9:41

Order in the court, duty of judge to preserve, § 10:7

Persons near the courtroom, controlling the conduct of, § 9:43

Spectator misconduct, § 9:41

Witness coaching, § 9:42

MAPS

Authentication, § 60:21

Real vs demonstrative evidence, § 29:6

MARKET REPORTS

Hearsay rules, § 58:29

MARRIAGE

Hearsay rules, marriage certificates, § 58:24

Privilege, marital

generally, § 55:5 et seq.

See also Privilege, this index

Proof of, § 65:5

Validity of marriage presumption, § 31:15

MASTER, TRIAL BEFORE

Generally, § 15:1

Action on the master's order, report, or recommendations, § 15:5

Appointment

generally, § 15:1

magistrate judge appointment, § 15:7

order, § 15:2

Compensation, § 15:6

Magistrate judge

See also Magistrate Judge, Trial Before, this index

appointment, § 15:7

serving as, § 14:6

Order appointing, § 15:2

Powers of, § 15:3

Reports, § 15:4

MEDICAL TESTIMONY

Generally, § 40:1 et seq.

Basis for opinion testimony of medical expert, § 40:6

Cross-examining the doctor, § 40:7

Diagnosis, statements made for purposes of

generally, § 40:5

Direct examination of a physician or surgeon, § 40:4

Doctor, cross-examination of, § 40:7

Expert Witnesses, this index

Need for expert testimony in cases involving medical issues, § 40:2

Opinion testimony of medical expert, basis for, § 40:6

Qualifications required of expert medical witness, § 40:3

Testimony of treating physician, § 40:8

MEDICAL TESTIMONY—Cont'd

Treating physician testimony, § 40:8
Treatment, statements made for purposes of generally, § 40:5

MENTAL STATE

See also Competency, this index; Sanity, this index
Admissibility determinations, mental examinations, § 27:13
Competency to testify of mentally handicapped witness, § 43:7
Hearsay rules
 mental condition then existing, § 58:5
 mental feeling statements, § 58:7
 state of mind statements, § 58:6
Impeachment of mentally handicapped witness, § 47:10
Juror competence, § 16:37
Opinions as to mental state, § 53:3
Province of court and jury, § 12:14
Sanity opinions, § 53:8

MISSING-WITNESS RULE

Final argument, § 22:9
Instruction, § 23:16

MISTRIAL

Generally, § 70:1 et seq.
Discharge for inability of jury to arrive at verdict, § 70:3
Grounds for declaring, § 70:2
Inability of jury to arrive at verdict, discharge for, § 70:3
Jury, discharge for inability of arrive at verdict, § 70:3
Nature of a mistrial, § 70:1
Verdict, discharge for inability of jury to arrive at, § 70:3

MORTALITY TABLES

Authentication, § 60:27
Hearsay rules, § 58:30

MOTION PRACTICE

Generally, § 7:1 et seq.
Alter or amend judgment, § 26:11
Amendment of pleading motion, § 7:9
Amendment of pretrial order, § 7:10
Computation of time, § 7:8

MOTION PRACTICE—Cont'd

Continuances, this index
Counterclaim dismissal, § 7:7
Cross-claim dismissal, § 7:7
Discovery, motions to compel generally, § 5:15
 sanctions motion, § 5:16
Dismissal motion, conversion to motion for summary judgment, § 6:5
Evidence on motions, § 7:3
Hearing on motions, § 8:10
Inadmissible evidence, motion to strike, § 28:10
In Limine Motions, this index
Involuntary dismissal, § 7:6
Judgment, motion to alter or amend, § 26:11
Judgment as matter of law generally, § 71:2
 renewal of motion after trial
 Generally, § 71:4
 order denying, § 71:6
 order granting, § 71:5
New trial, time for losing party to file motion for after JMOL, § 71:7
Orders, this index
Pleading, motion to amend or supplement pleading, § 7:9
Pretrial order, motion to amend, § 7:10
Reconsideration motion, § 7:12
Sanctions resulting from failure to comply with a court discovery order, § 5:16
Strike motions, inadmissible evidence, § 28:10
Subpoena-related motion, transferring, § 21:10
Summary Judgment, this index
Supplementation of pleading motion, § 7:9
Third-party claim dismissal, § 7:7
Time, computation of, § 7:8
Transferring subpoena-related motion, § 21:10
Voluntary dismissal, § 7:5

MOTIVE
Hearsay rules, § 58:8
Province of court and jury, § 12:14

INDEX

MUNICIPAL LIABILITY

Section 1983 claims, § 64:2

NATURAL PHENOMENA

Judicial notice of facts, § 35:20

NECESSITY

Province of court and jury, § 12:10

NEGLIGENCE

Burden of proving, § 20:8

Care duties. See Evidence, this index

Care duty. See Evidence, this index

Federal court procedure, negligence actions, § 64:19

Other accidents or injuries evidence generally, § 41:2

absence of proof of, § 41:3

Other acts of negligence, § 41:4

Slip-and-fall cases, expert opinions, § 54:27

NEGOTIABLE INSTRUMENTS

Authentication, § 60:15

NEWSPAPERS

Authentication, § 60:12

NONJURY TRIAL

Bench Trial, this index

NOTES AND CHECKS

Authentication, § 60:15

NURSES

Medical Testimony, this index

OBJECTIONS

Common objections to form of question, § 28:14

Conduct, improper, right to object to, § 28:2

Evidence, objections to. See Evidence, this index

Formal objections after in limine motion grant, § 28:4

Form of question, common objections, § 28:14

In limine motion grant, formal objection after, § 28:4

OCCUPATION

Impeachment, occupation of witness, § 47:6

OCCURRENCE

Province of court and jury, § 12:19

OFFER OF JUDGMENT

Generally, § 26:7

OFFICERS

Confidential communications by corporate officers and employees, § 55:17

Public officers, presumptions re, § 31:8

OFFICIAL PUBLICATIONS

Authentication, § 60:11

OPEN COURT PRINCIPLE

Generally, § 9:2

OPENING STATEMENTS

Generally, § 18:1 et seq.

Limiting evidence, opening statement and, § 18:3

Nature of the opening statement, § 18:1

Right to make, § 18:2

OPINIONS

Generally, § 52:1 et seq.

Admissibility, § 52:1

Age of person, § 53:9

Checklist of matters on which a nonexpert may state an opinion, § 53:10

Competency, § 53:8

Examining the nonexpert witness regarding an opinion, § 53:2

Expert opinions

generally, § 52:1 et seq.

See also Expert Witnesses, this index

Facts distinguished from opinions, § 52:2

Handwriting proof

expert opinion, § 62:3

nonexpert opinion, § 62:2

Identification, voice, § 53:5

Mental state, § 53:3

Nonexpert opinions

generally, § 53:1 et seq.

age of person, § 53:9

checklist of matters on which a nonexpert may state an opinion, § 53:10

competency, § 53:8

OPINIONS—Cont’d

Nonexpert opinions—Cont’d

- examining the nonexpert witness, § 53:2
 - handwriting, § 62:2
 - mental state, § 53:3
 - personal property, value of, § 53:7
 - physical or mental condition, § 53:4
 - sanity, § 53:8
 - services, value of, § 53:7
 - speed, § 53:6
 - state of mind, § 53:3
 - value of personal property and service, § 53:7
 - voice identification, § 53:5
- Personal property valuation**
- expert opinions, § 54:20
 - nonexpert opinions, § 53:7
- Physical or mental condition, nonexpert opinions, § 53:4**
- Prior inconsistent expressions of opinion, § 49:6**
- Sanity, § 53:8**
- Services valuation**
- expert opinions, § 54:19
 - nonexpert opinions, § 53:7
- Speed**
- expert opinions, § 54:17
 - nonexpert opinions, § 53:6
- State of mind, § 53:3**
- Stocks and bonds valuation, § 54:21**
- Ultimate issue, opinions concerning, § 52:3**
- Valuation, this index**
- Value of personal property**
- expert opinions, § 54:20
 - nonexpert opinions, § 53:7
- Value of services**
- expert opinions, § 54:19
 - nonexpert opinions, § 53:7
- Value of stocks and bonds, § 54:21**
- Voice identification, § 53:5**

ORDERS

- Amendment of pretrial order, § 7:10
- Continuance, order on motion for, § 8:10
- Discovery, order to enforce
 - generally, § 5:14
 - sanctions, § 5:16

ORDERS—Cont’d

- Extrajudicial statements, gag orders limiting, § 9:29
- Gag orders, § 9:29
- Judgment as matter of law motions
 - order denying, § 71:6
 - order granting, § 71:5
- Master, order appointing, § 15:2
- Master, trial before
 - action on master’s order, § 15:5
 - appointment order, § 15:2
- Motion Practice, this index
- Obstruction of court orders, § 9:28
- Pretrial orders
 - amendment of, § 7:10
 - control of proceedings by, § 9:21
- Protective orders, § 5:13, 5:19
- Reconsideration motion, § 7:12
- Relief from judgment or order, § 26:13

PAIN AND SUFFERING

- Statements re, hearsay rules, § 58:9

PAPERS

- Continuance, absence of documents or papers, § 8:7

PAROL AND EXTRINSIC EVIDENCE

- Generally, § 63:1 et seq.
- Capacity of the parties, § 63:12
- Collateral evidence, § 63:9
- Construction of instrument
 - generally, § 63:14
 - evidence admissible, § 63:15
- Corporate records, § 63:4
- Date, § 63:11
- Definitions, § 63:1
- Exceptions to the rule, § 63:7
- Identity of the parties, § 63:12
- Incomplete contract or writing, § 63:10
- Instrument, construction of
 - generally, § 63:14
 - evidence admissible, § 63:15
- Mode of performance or payment, showing, § 63:13
- Modifications, § 63:8
- Performance or payment, showing time, place, and mode of, § 63:13
- Persons affected by the rule, § 63:6

INDEX

PAROL AND EXTRINSIC EVIDENCE—Cont'd

Place of performance or payment,
showing, § 63:13
Private writings, § 63:3
Public records and documents, § 63:5
Relationship of the parties, § 63:12
Scope of rule, § 63:2
Showing time, place, and mode of per-
formance or payment, § 63:13
Subject matter, § 63:11
Subsequent parol agreements, § 63:8
Time of performance or payment,
showing, § 63:13
Types of writings affected by the rule,
§ 63:2
Writings affected by the rule, § 63:2

PARTIES

Ability of counsel to bind, § 11:18
Admissions. See Evidence, this index
Appearance of litigant in shackles,
§ 9:17
Conduct at trial
generally, § 9:15
presumptions and inferences based
upon, § 32:1
Continuances
admissions by party to avoid, § 8:8
unpreparedness of a party, § 8:2
Direct examination of hostile party,
§ 44:10
Disciplinary responsibilities of judge,
§ 10:27
Discovery of statements of, § 5:9
Extrajudicial statements, gag orders
limiting, § 9:29
Failure to testify, inferences drawn
from, § 32:4
Final argument comments about oppos-
ing parties, § 22:8
Gag orders limiting extrajudicial state-
ments, § 9:29
Hostile party, direct examination,
§ 44:10
Indigent parties, presence of counsel,
§ 9:14
Inferences
conduct of party, § 32:1
failure of party to testify, § 32:4

PARTIES—Cont'd

Judge's conduct towards, § 10:12
Judge's disciplinary responsibilities as
to, § 10:27
Opposing party, final argument com-
ments about, § 22:8
Physical and mental examinations evi-
dence, admissibility, § 27:13
Presumptions based upon conduct of a
party, § 32:1
Pro se litigants, § 9:18
Shackles, litigant's appearance in,
§ 9:17
Subpoenas Ad Testificandum and
Duces Tecum, this index
Third-party claim, dismissal motion,
§ 7:7
Trial
right to be present at, § 9:13
seating at, § 9:3
Unpreparedness of a party, continuance,
§ 8:2

PASSION

Final argument appeals to, § 22:12

PATENTS

Authentication, § 60:26
Infringement
generally, § 64:14
damages, § 67:13
willful infringement, § 67:14

PERFORMANCE

Province of court and jury, § 12:19

PERIODICALS

Authentication, § 60:12

PERJURY

Generally, § 42:15
Admonishments, § 10:14
Cautioning a witness, § 44:11
Juror, § 16:19
Prior convictions to impeach, § 50:3
Subornation of perjury, § 42:16

PERSONAL INJURIES

Aggravation of preexisting injury,
§ 67:9
Damages, this index

PERSONAL INJURIES—Cont'd

Displaying personal injuries to the jury, § 29:10

Evidence of other injuries
generally, § 41:2
absence of other injuries, § 41:3

PERSONAL KNOWLEDGE

Witnesses, this index

PERSONAL PROPERTY

Damages, § 67:10

Value opinions
expert, § 54:20
nonexpert, § 53:7

PERSONAL REPUTATION

Hearsay rules
generally, § 58:33
judgment as to, § 58:37

PERSONAL SERVICES

Value opinions
expert, § 54:19
nonexpert, § 53:7

PHOTOGRAPHS

Evidence, this index

PHYSICAL CONDITIONS

Hearsay rules, physical condition then existing, § 58:5
Province of court and jury, § 12:13

**PHYSICAL EXAMINATIONS
EVIDENCE**

Admissibility determinations, § 27:13

PLAN STATEMENTS

Hearsay rules, § 58:8

PLATS

Authentication, § 60:21

PLEADING

Amendment in pleading, continuance because of, § 8:9
Motion to amend or supplement pleading, § 7:9

POLICE REPORTS

Hearsay rules
generally, § 58:20

POLICE REPORTS—Cont'd

Hearsay rules—Cont'd
absence of public record of entry, § 58:22

POLLS

Hearsay rules, § 58:38

POPULATION

Judicial notice of facts about, § 35:14

PRACTICES OF BUSINESS FACTS

Judicial notice, § 35:21

PREJUDICE

Bias and Prejudice, this index

PRESENT SENSE IMPRESSION

Hearsay rules, § 58:2

PRESUMPTIONS

Generally, § 31:1 et seq.
Accidental death vs suicide, § 31:13
Applicability of state law as to presumptions, § 31:6
Attorney-client privilege, burden of proving, § 55:20
Burden of disproving a presumed fact, § 31:3
Burden of proving existence of privilege, § 55:20
Checklist, presumptions about people, § 31:11
Conduct of a party, presumptions and inferences based upon, § 32:1
Continuance of a condition, § 31:20
Death after seven years' absence, § 31:14
Delivery of letter, § 31:21
Establishing presumed fact, procedure, § 31:5
Foreign laws, § 31:9
Gifts, presumptions about, § 31:22
Inferences as
generally, § 31:4
Inferences on inferences as
See also Inferences, this index
Irrebuttable presumptions, § 31:2
Knowledge of law, § 31:17
Law and fact questions, § 12:6
Legitimacy, § 31:16
Nature of presumptions, § 31:1

INDEX

PRESUMPTIONS—Cont'd

People, checklist of presumptions about, § 31:11
Possession and ownership of property, § 31:19
Presumptions about domicile, § 31:18
Procedure in establishing presumed fact, § 31:5
Proof of Facts, this index
Province of court and jury, § 12:6
Public officers, acts, and proceedings, § 31:8
Regularity, § 31:7
Res ipsa loquitur, § 31:10
Sanity, § 31:12
State law as to presumptions, applicability of, § 31:6
Suicide vs accidental death, § 31:13
Validity of marriage, § 31:15

PRIMA FACIE CASE

Generally, § 20:3
See also Proof of Facts, this index

PRIOR CONVICTIONS TO IMPEACH

See also Evidence, this index
Dishonesty, crimes involving, § 50:3
Effect of appeal, § 50:5
Felonies, § 50:2
Manner of proof, § 50:4

PRIOR OPINIONS

Generally, § 49:6

PRIOR STATEMENTS

Inconsistent
generally, § 49:1 et seq.
See also Witnesses, this index
extrinsic evidence of statement, § 49:5
hearsay exception, § 49:2
jury instructions as to, § 49:8

PRIVACY

Counsel's duty of confidentiality, § 11:10
Filings made with the court, privacy protection for, § 9:40
Privilege, this index

PRIVATE WRITINGS

Authentication, § 60:22
Parol and extrinsic evidence, § 63:3

PRIVILEGE

Generally, § 55:1 et seq.
Associations, privilege against self-incrimination, § 56:4
Attorney-client privilege
generally, § 55:8 et seq.
burden of proving attorney-client privilege, § 55:20
confidential communications to house counsel, § 55:19
corporate shareholders, applicability to, § 55:18
crime-fraud exception to attorney-client privilege, § 55:13
duty of lawyer to preserve client's confidences and secrets, § 55:9
duty to disclose name of the client, § 55:14
existence of privilege, § 55:10
joint defense, common interest and agency exceptions, § 55:11
name of the client, duty to disclose, § 55:14
privilege logs, § 55:16
tax advice, § 55:12
termination of the attorney-client privilege, § 55:21
work product privilege
Generally, § 55:15
discovery, § 5:8
Bank-examination privilege, § 55:27
Books, privilege against self-incrimination, § 56:6
Burden of proving attorney-client privilege, § 55:20
Claiming privilege, § 55:2
Communications to journalist privilege, § 55:25
Confidential communications by corporate officers and employees, § 55:17
Corporations
self-incrimination, privilege against, § 56:4

PRIVILEGE—Cont'd

Corporations—Cont'd
 shareholders, applicability of
 attorney-client privilege to,
 § 55:18
 Crime-fraud exception to attorney-client
 privilege, § 55:13
 Defamation privilege for trial
 participants
 generally, § 9:5
 counsel's privilege, § 11:19
 Deliberative-process privilege, § 55:28
 Determination on existence of a privi-
 lege, § 55:4
 Discovery, this index
 Documents, privilege against self-in-
 crimination, privilege against, § 56:6
 Exceptions
 attorney-client privilege, crime-
 fraud exception, § 55:13
 marital privilege, § 55:7
 self-incrimination, privilege against,
 § 56:9
 Existence of a privilege, determination
 and ruling, § 55:4
 Existence of privilege
 attorney-client privilege, § 55:10
 marital relationship, § 55:6
 self-incrimination, privilege against,
 § 56:8
 Extent of privilege against self-incrimi-
 nation, § 56:3
 Husband and wife. Marital privilege,
 below
 Investigatory privilege, § 55:29
 Invoking the privilege against self-in-
 crimination, § 56:7
 Joint defense, common interest and
 agency exceptions, attorney-client
 privilege, § 55:11
 Journalist communications privilege,
 § 55:25
 Law enforcement privilege, § 55:29
 Loss of privilege against self-incrimina-
 tion, § 56:9
 Marital privilege
 generally, § 55:5 et seq.
 exceptions, § 55:7
 existence of a marital relationship,
 § 55:6

PRIVILEGE—Cont'd

Motions for protective orders, § 5:13
 Nature of privileges, § 55:1
 Official information, § 55:26
 Physician-patient privilege, § 55:22
 Privilege logs, § 55:16
 Protective orders, motions for, § 5:13
 Psychotherapist-patient privilege,
 § 55:23
 Public accountant-client privilege,
 § 55:24
 Records required by law, privilege
 against self-incrimination, § 56:5
 Rulings on existence of a privilege
 generally, § 55:4
 self-incrimination, § 56:8
 Secrets of state, § 55:26
 Self-incrimination, privilege against
 generally, § 56:1 et seq.
 adverse inference as consequence of
 asserting privilege against self-
 incrimination, § 56:10
 associations, § 56:4
 books, § 56:6
 consequence of asserting privilege
 against self-incrimination,
 § 56:10
 corporations, § 56:4
 documents, § 56:6
 duty of court to warn witness,
 § 56:2
 duty of court to warn witness of
 privilege, § 56:2
 existence of privilege against self-
 incrimination, § 56:8
 extent of privilege against self-in-
 crimination, § 56:3
 invoking the privilege against self-
 incrimination, § 56:7
 loss of privilege, § 56:9
 procedure, § 56:7
 records required by law, § 56:5
 ruling upon existence of privilege
 against self-incrimination, § 56:8
 witness, duty of court to warn,
 § 56:2
 Tax advice, attorney-client privilege,
 § 55:12
 Termination of the attorney-client privi-
 lege, § 55:21

INDEX

PRIVILEGE—Cont'd

Testimony that tends to incriminate,
§ 56:1
Trial participants, defamation privilege
generally, § 9:5
counsel's privilege, § 11:19
Waiving privilege, § 55:3
Work product privilege
generally, § 55:15
discovery, § 5:8

PROCESSES

Authentication, § 60:25

PRODUCTION AND PROTECTION OF EVIDENCE

Generally, § 9:35 et seq.
Court Clerk, records kept by the, § 9:36
Court records
lost or destroyed, § 9:38
public's right to access, § 9:39
Filings made with the court, privacy
protection for, § 9:40
Lost or destroyed court records, § 9:38
Preserving the record, § 9:35
Privacy protection for filings made with
the court, § 9:40
Public's right to access court records,
§ 9:39
Records kept by the Court Clerk, § 9:36
Transcribing the testimony, § 9:37

PRODUCT LIABILITY CASES

Expert testimony, § 54:26

PROOF OF FACTS

Generally, § 19:1 et seq., 65:1 et seq.
Absence of other accidents or injuries,
§ 41:3
Accidental death vs suicide presumption,
§ 31:13
Adjudicative vs legislative facts,
judicial notice, § 35:3
Age, § 65:3
Amount and value, law and fact ques-
tions, § 12:8
Ascertaining a fact that is judicially
noticed, § 35:5
Authenticity of documentary evidence,
§ 60:5

PROOF OF FACTS—Cont'd

Authority, law and fact questions,
§ 12:12
Behavior facts, judicial notice, § 35:19
Best-evidence rule applicability, law
and fact questions, § 61:9
Bifurcated trials, order of proof, § 19:7
Birth, § 65:3
Breach of contract, burden of proving,
§ 20:9
Burden of going forward, § 20:2
Burden of persuasion, § 20:2
Burden of proof
generally, § 20:1 et seq.
breach of contract, burden of prov-
ing, § 20:9
burden of disproving a presumed
fact, § 31:3
criminal contempt, § 69:9
defendant's burden, § 20:5
disproving a presumed fact, § 31:3
going forward burden, § 20:2
negligence, burden of proving,
§ 20:8
party having burden, § 20:4
personal jurisdiction, § 20:7
persuasion burden, § 20:2
presumed fact, burden of disprov-
ing, § 31:3
presumed fact, disproving, § 31:3
prima facie case, § 20:3
subject matter jurisdiction, § 20:6
Business customs and practices facts,
judicial notice, § 35:21
Character and conditions of things, law
and fact questions, § 12:7
Character and reputation, method of
proving, § 48:3
Character of persons, law and fact ques-
tions, § 12:11
Checklist of facts judicially noticed,
§ 35:24
Cities, judicial notice of facts about,
§ 35:13
Conduct, law and fact questions,
§ 12:18
Conduct of a party, presumptions and
inferences based upon, § 32:1
Construction of language, law and fact
questions, § 12:22

PROOF OF FACTS—Cont’d

Continuance of a condition, presumption of, § 31:20
 Convictions, prior
 generally, § 50:1
 manner of proof, § 50:4
 Credibility of evidence, law and fact questions, § 12:4
 Credibility of hearsay declarant, § 57:9
 Credibility of witnesses, law and fact questions, § 12:4
 Criminal contempt, burden of proof, § 69:9
 Cross-examination, introducing evidence during, § 19:3
 Customs of business facts, judicial notice, § 35:21
 Death
 generally, § 65:4
 presumptive after seven years’ absence, § 31:14
 Defendant’s burden, § 20:5
 Delivery of letter presumptions, § 31:21
 Disproving a presumed fact, burden of proof, § 31:3
 Documentary evidence, authenticity of, § 60:5
 Documents filed in a court, judicial notice of facts concerning, § 35:11
 Domicile presumptions, § 31:18
 Duties, law and fact questions, § 12:20
 Economic facts, judicial notice, § 35:15
 Establishing presumed fact, procedure, § 31:5
 Evidence objection, offer of proof on, § 28:12
 Excuse proof of facts, use of stipulations to, § 34:3
 Existence of a privilege, § 55:4
 Failure to call a witness, inference, § 32:2
 Failure to produce evidence, inference, § 32:3
 Geographical facts, judicial notice, § 35:13
 Gifts, presumptions about, § 31:22
 Government, judicial notice of facts about, § 35:12
 Habits, proof of, § 41:5
 Handwriting, proof of, § 62:1 et seq.

PROOF OF FACTS—Cont’d

Hearsay declarant credibility, § 57:9
 Historical facts, judicial notice, § 35:15
 Human health, habits, and behavior facts, judicial notice, § 35:19
 Infants, law and fact questions, § 12:15
 Inferences, this index
 Intention, law and fact questions, § 12:14
 Intoxication
 generally, § 65:6
 judicial notice, § 35:16
 law and fact questions, § 12:17
 Introducing evidence during cross-examination, § 19:3
 Irrebuttable presumptions, § 31:2
 Judicial notice. See Evidence, this index
 Knowledge of law presumption, § 31:17
 Language facts, judicial notice, § 35:18
 Laws, judicial notice of, § 35:10
 Legislative vs adjudicative facts, judicial notice, § 35:3
 Legitimacy presumption, § 31:16
 Liabilities, law and fact questions, § 12:20
 Manner of proof of prior conviction, § 50:4
 Marriage
 generally, § 65:5
 presumptive validity, § 31:15
 Mental state, law and fact questions, § 12:14
 Method of ascertaining fact that is judicially noticed, § 35:5
 Methods of proving facts, § 65:2
 Motive, law and fact questions, § 12:14
 Natural phenomena and time facts, judicial notice, § 35:20
 Necessity, law and fact questions, § 12:10
 Negligence, burden of proving, § 20:8
 Objections to evidence, offer of proof on, § 28:12
 Occurrence, law and fact questions, § 12:19
 Offer of proof, evidence objection, offer on, § 28:12
 Order of proof
 generally, § 19:1 et seq.

INDEX

PROOF OF FACTS—Cont'd

Order of proof—Cont'd
 bifurcated trials, § 19:7
 cross-examination, introducing evidence during, § 19:3
 introducing evidence during cross-examination, § 19:3
 rebuttal testimony, § 19:4
 reopening case, § 19:6
 right to open and close, § 19:2
 surrebuttal testimony, § 19:5
Other accidents or injuries, absence of, § 41:3
Party having burden of proof, § 20:4
Party's failure to testify, inferences, § 32:4
Patent infringement
 generally, § 64:14
 damages, § 67:13
 willful infringement, § 67:14
Payment of medical and similar expenses, inferences, § 32:8
Performance, law and fact questions, § 12:19
Personal jurisdiction, burden of proof, § 20:7
Physical condition, law and fact questions, § 12:13
Population, judicial notice, § 35:14
Possession and ownership of property presumption, § 31:19
Preponderance of evidence, law and fact questions, § 12:5
Presumed fact, burden of disproving, § 31:3
Presumptions, this index
Prima facie case, § 20:3
Prior conviction
 generally, § 50:1
 manner of proof, § 50:4
Privilege, existence of, § 55:4
Procedure for establishing presumed fact, § 31:5
Proffer responding to evidence objection, § 28:12
Property rights and ownership, law and fact questions, § 12:21
Reasonableness, law and fact questions, § 12:9

PROOF OF FACTS—Cont'd

Rebuttal of judicially noticed fact, § 35:9
Rebuttal testimony, order of proof, § 19:4
Reopening case, § 19:6
Rights, law and fact questions, § 12:20
Routine practice, proof of, § 41:5
Sanity presumption, § 31:12
Scientific and statistical facts, judicial notice, § 35:17
Status of persons, law and fact questions, § 12:11
Stipulations, use to excuse, § 34:3
Subject matter jurisdiction, burden of proof, § 20:6
Subsequent remedial measures inferences, § 32:7
Suicide vs accidental death presumption, § 31:13
Surrebuttal testimony, order of proof, § 19:5
Towns, judicial notice of facts about, § 35:13
Trademark infringement, § 64:13
Validity of marriage presumption, § 31:15
Valuation, this index
Villages, judicial notice, facts about, § 35:13
Warranty, existence of, law and fact questions, § 12:25
Weight, § 65:7
Weight of evidence, law and fact questions, § 12:4
Witnesses, inferences drawn from failure to call, § 32:2
Writings, best-evidence rule applicability, law and fact questions, § 61:9

PROPERTY

Deeds, hearsay rules
 generally, § 58:26
 statements in, § 58:27
Disposal of property, inferences, § 32:9
Inferences, disposal of property as, § 32:9
Possession and ownership presumptions, § 31:19

PROPERTY—Cont'd

Province of court and jury as to property rights and ownership, § 12:21
Valuation, this index

PROTECTION OF TESTIMONY

Production and Protection of Evidence, this index

PROVINCE OF COURT AND JURY

Generally, § 12:1 *et seq.*
Acts, § 12:18
Amount and value, § 12:8
Authority, § 12:12
Bench Trial, this index
Best-evidence rule applicability, § 61:9
Character and conditions of things, § 12:7
Character of persons, § 12:11
Conduct, § 12:18
Construction of language, § 12:22
Credibility of evidence, § 12:4
Credibility of witnesses, § 12:4
Duties, § 12:20
Existence of a warranty, § 12:25
Fact and law questions
 generally, § 12:1
 mixed questions of law and fact, § 12:3
Implied contract, § 12:24
Infants, § 12:15
Inferences, § 12:6
Intention, § 12:14
Intoxication, § 12:17
Invading the province of jury, § 12:2
Jury Trial, this index
Law and fact questions
 generally, § 12:1
 mixed questions of law and fact, § 12:3
Liabilities, § 12:20
Mental state, § 12:14
Motive, § 12:14
Necessity, § 12:10
Occurrence, § 12:19
Performance, § 12:19
Physical condition, § 12:13
Preponderance of the evidence, § 12:5
Presumptions, § 12:6
Property rights and ownership, § 12:21

PROVINCE OF COURT AND JURY—Cont'd

Questions of law and fact
 generally, § 12:1
 mixed questions of law and fact, § 12:3
Reasonableness, § 12:9
Rights, § 12:20
Status of persons, § 12:11
Value and amount, § 12:8
Warranty, existence of, § 12:25
Weight of evidence, § 12:4
Witness credibility, § 12:4
Writings, best-evidence rule applicability, § 61:9

PUBLIC DOCUMENTS

Authentication
 domestic
 Generally, § 60:7
 seal, § 60:6
 foreign, § 60:8

PUBLIC OFFICERS

Acts, and proceedings of, presumptions, § 31:8

PUBLIC POLICY

Conflict of laws, public policy of forum state as guide, § 4:12

PUBLIC RECORDS

Authentication
 generally, § 60:18
 certified copies, § 60:10
 seal, domestic public documents under, § 60:6
Best-evidence rule, § 61:6
Foreign public documents, § 60:8
Hearsay rules, § 58:14
Parol and extrinsic evidence, § 63:5
Secondary evidence of, § 61:6
Vital statistics record, absence of entry in, § 58:22

QUALIFIED IMMUNITY

Section 1983 claims, § 64:3

QUESTIONS OF LAW AND FACT

Province of Court and Jury, this index

INDEX

RACE DISCRIMINATION

Federal Court Procedure, this index

Jury Trial, this index

REAL ESTATE

Damages, § 67:11

Valuation, this index

REASONABLENESS

Province of court and jury, § 12:9

RECORDS, TRIAL

Preserving the record, § 9:35

REFRESHING RECOLLECTION

Witnesses, this index

REGULARITY

Presumption, § 31:7

REGULARLY CONDUCTED ACTIVITY

Domestic records of, § 60:17

Foreign records of, § 60:9

RELEVANCY OF EVIDENCE

Evidence, this index

RELIGION

Hearsay rules, religious organizations
records, § 58:23

Impeachment, religious beliefs or
opinions, § 47:8

Juror challenge, religious prejudice,
§ 17:20

REMITTITUR

Judgment, § 26:9

RENOI DOCTRINE

Conflict of laws, § 4:4

REPUTATION

Evidence, this index

Hearsay Rules, this index

RES GESTAE

Hearsay rules, § 57:11

RESIDENCE

Impeachment, residence of witness,
§ 47:6

RES IPSA LOQUITUR

Presumptions, § 31:10

RES JUDICATA

Generally, § 3:4, 26:15

See also Law of the Case, this index

RESTITUTION

Generally, § 66:10

RETALIATION

Witness, victim, or informant, retaliat-
ing against, § 42:4

RICO VIOLATIONS

Federal court claim, § 64:17

RULE OF COMPLETENESS

Completeness, Rule of, this index

RULE 11 VIOLATIONS

Sanctions, this index

RULINGS

Orders, this index

SANCTIONS

Generally, § 72:14 et seq.

Appeal of civil contempt sanction stay
pending, § 69:14

Assessment of costs against attorneys
for vexatiously multiplying proceed-
ings, § 72:17

Civil contempt sanction stay pending
appeal, § 69:14

Contempt, punishment for, § 69:13

Determining the amount to be awarded
under Rule 11, § 72:19

Discretion of trial judge to impose,
§ 72:14

Fees and costs awards

assessment against attorneys for
vexatiously multiplying proceed-
ings, § 72:17

right to notice and hearing before
imposing, § 72:15

Notice and hearing before imposing
fees and costs, right to, § 72:15

Punishment for contempt, § 69:13

Rule 11 violations

generally, § 72:18

determining the amount to be
awarded under, § 72:19

Spoliation of evidence, § 72:16

Stay of civil contempt sanction pending
appeal, § 69:14

SANCTIONS—Cont’d

Vexatiously multiplying proceedings,
assessment of costs against attorneys
for, § 72:17

SANITY

See also Mental States, this index
Opinion evidences, § 53:8
Presumption, § 31:12
Province of court and jury, § 12:16

SCIENCE

Judicial notice of scientific facts,
§ 35:17

SEAMAN’S ACT

Damages, § 67:17

SEARCH AND SEIZURE

Unreasonable search, § 64:4

SECURITIES EXCHANGE ACT

Federal court claims, § 64:33

SELF-INCRIMINATION

Privilege, this index

SETTLEMENT

Dismissal after, § 7:11
Inferences
offers to compromise, § 32:5
other defendant, settlement by,
§ 32:6
Judge urging, § 10:25
Offer of judgment, § 26:7
Valuation of real estate, unaccepted
settlements as proof, § 68:7

SHERMAN ACT

Generally, § 64:31
Damages, § 67:12

SLIP-AND-FALL CASES

Expert opinions, § 54:27

SPOILIATION OF EVIDENCE

Admissions, § 32:10
Inferences, § 32:10
Jury instruction, § 23:17
Sanctions, § 72:16

SPONTANEOUS DECLARATION

Child declarant, § 58:3
Hearsay rules, § 58:2

STARE DECISIS

Law of the case, § 9:10

**STATE AND FEDERAL JUDICIAL
SYSTEMS COMPARED**

Generally, § 2:1 *et seq.*
Abstention doctrine, § 2:11
Change of venue, § 2:9
Diversity of citizenship jurisdiction,
§ 2:5, 2:8
Dual federal-state system, § 2:1
Federal question jurisdiction, § 2:4
Forum non conveniens, § 2:10
Jurisdiction, this index
Personal jurisdiction, § 2:8
Presumptions, applicability of state law
as to, § 31:6
Removal of state action to federal court,
§ 2:7
State’s long-arm jurisdiction, use to
obtain personal jurisdiction, § 2:8
Subject matter jurisdiction, § 2:3
Supplemental jurisdiction, § 2:6
Supremacy of federal laws, § 4:11
Venue, § 2:9

**STATE LAW IN FEDERAL
COURTS**

Generally, § 3:1 *et seq.*
Applicable state law, determining
generally, § 3:2
Certification of state-law question to
state court, § 3:3
Conflict of Laws, this index
Constitutional limitations on the forum
of a cause of action, § 4:10
Determining applicable state law
generally, § 3:2
Diversity Cases, this index
Erie v. Tompkins, § 3:1
Matters governed by federal law,
checklist, § 3:5
Matters governed by state law,
checklist, § 3:6
Presumptions, applicability of state law
as to, § 31:6
Renvoi, conflict of laws, § 4:4
Res judicata in federal courts,
applicability of state law on, § 3:4
Supremacy of federal laws, § 4:11

INDEX

STATISTICS

Hearsay rules, statistical studies,
§ 58:39
Judicial notice of statistical facts,
§ 35:17

STATUS OF PERSONS

Province of court and jury, § 12:11

STAY

Criminal proceedings, stay of civil
proceedings in favor, § 9:7

STIPULATIONS

Generally, § 34:1
Admissibility of evidence as to stipu-
lated fact, § 34:6
Construction of stipulations, § 34:4
Enforcement of stipulations, § 34:4
Excuse proof of facts, use of stipula-
tions to, § 34:3
Fact stipulated admissibility of evidence
as to, § 34:6
Nature of the stipulation, § 34:1
Proof of fact, use of stipulations to
excuse, § 34:3
Relief from stipulations, § 34:5
Trial, use of stipulations to control,
§ 34:2
Use of stipulations to control the trial,
§ 34:2
Use of stipulations to excuse proof of
facts, § 34:3

STOCKS AND BONDS

Value opinions, § 54:21

SUBPOENAS AD

TESTIFICANDUM AND DUCES TECUM

Generally, § 21:1 *et seq.*
Compensation of witnesses, § 21:12
Compliance, place of, § 21:6
Contempt for failure to obey, § 21:11
Duties in responding to a subpoena,
§ 21:9
Failure to obey, contempt for, § 21:11
Foreign country, subpoena of person in,
§ 21:13
Form of the subpoena, § 21:2
Habeas corpus ad testificandum,
§ 21:14

SUBPOENAS AD

TESTIFICANDUM AND DUCES TECUM—Cont'd

Issuance, § 21:3
Modifying a subpoena, § 21:8
Motion, subpoena-related, transferring,
§ 21:10
Notice to other parties before service,
§ 21:4
Obedience, contempt for failure of,
§ 21:11
Place of compliance, § 21:6
Protection of persons subject to
subpoenas, § 21:7
Quashing a subpoena, § 21:8
Responding duties, § 21:9
Service
 generally, § 21:5
 notice to other parties before, § 21:4
Transferring subpoena-related motion,
§ 21:10
Witnesses, compensation of, § 21:12

SUBSEQUENT REMEDIAL MEASURES

Inferences, § 32:7

SUICIDE

Presumptions, suicide vs accidental
death, § 31:13

SUMMARIES

Best-evidence rule, § 61:7

SUMMARY JUDGMENT

Generally, § 6:1 *et seq.*
Actions court may take in deciding
motion, § 6:4
Additional time to conduct discovery
and respond to summary judgment,
§ 6:6
Converting motion to dismiss to motion
for summary judgment, § 6:5
Deciding motion, actions court may
take in, § 6:4
Deciding summary judgment, procedure
for, § 6:3
Designation of evidence, § 6:2
Discovery, additional time to conduct,
§ 6:6

SUMMARY JUDGMENT—Cont’d

Dismissal motion, conversion to motion for summary judgment, § 6:5
 Motion to dismiss, conversion to motion for summary judgment, § 6:5
 Procedure for deciding summary judgment, § 6:3
 Response to summary judgment, additional time for, § 6:6

SURPRISE

Continuances, § 8:5

SURVEYS

Authentication, § 60:21
 Hearsay rules, § 58:38

SYMPATHY

Final argument appeals to, § 22:12

SYSTEMS

Authentication, § 60:25

TAXATION

Attorney-client privilege, tax advice, § 55:12
 Damages awards, § 67:8

TECHNOLOGY

Cameras and Technological Equipment in Courtroom, this index

TELEGRAMS, FACSIMILE, AND ELECTRONIC MAIL

Authentication, § 60:20

TELEPHONE CONVERSATIONS

Authentication of, § 27:11
 Direct examination, § 44:13

TESTIMONY

Witnesses, this index

TESTS

Evidence, this index

THE UNITED STATES CODE

Federal court procedure, § 1:3

THIRD-PARTY CLAIM

Dismissal motion, § 7:7

TITLE

Judgment vesting, § 26:3

TOWNS

Judicial notice of facts about, § 35:13

TRADE INSCRIPTIONS

Authentication, § 60:13

TRADEMARKS

Proof of claim of trademark infringement, § 64:13

TRIAL

Generally, § 9:1 et seq.
 Absence of judge during, § 9:6
 Appearance of litigant in shackles, § 9:17
 Bench conferences, § 9:23
 Bench Trial, this index
 Bifurcation
 generally, § 9:8
 order of proof, § 19:7
 Cameras and Technological Equipment in Courtroom, this index
 Conduct
 generally, § 9:1, 9:15
 Controlling the Conduct of the Trial, this index
 Maintaining Proper Conduct in the Courtroom, this index
 Continuances, § 8:1
 Criminal proceedings, stay of civil proceedings in favor, § 9:7
 Deadlines, failure to obey, § 9:21
 Death of judge during, § 9:6
 Defamation privilege
 generally, § 9:5
 counsel, § 11:19
 Disability of judge during, § 9:6
 Dress code enforcement, § 10:8
 Duty of judge to preserve order, § 10:7
 Error, this index
 Evidence, this index
 Exclusion of the public, § 9:19
 Exclusion of witnesses
 generally, § 42:9
 violations of the rule, § 42:11
 witnesses subject to rule, § 42:10
 Exhibits, filing under seal, § 9:20
 Expedition of trial, judge’s right and duty, § 10:4
 Failure to obey deadlines, § 9:21
 Filing exhibits under seal, § 9:20

INDEX

TRIAL—Cont'd

Final Argument, this index
In camera proceedings, § 9:4
Indigent parties, presence of counsel, § 9:14
Instructions. See Jury Trial, this index
Interpreters, § 42:13
Judges, this index
Judgment, this index
Jury Trial, § 9:16
Law of the Case, this index
Limiting time for presentation of case, § 9:24
Litigant's appearance i shackles, § 9:17
Magistrate Judge, Trial Before, this index
Maintaining Proper Conduct in the Courtroom, this index
Master, Trial Before, this index
Mistakes made in the trial
 generally, § 9:45 et seq.
 See also Error, this index
Mistrial, this index
New trial, § 26:12
Open court principle, § 9:2
Opening Statements, this index
Order in the court, duty of judge to preserve, § 10:7
Order of proof. See Proof of Facts, this index
Parties, right to be present at trial, § 9:13
Presence of counsel, indigent party, § 9:14
Presences of parties, § 9:13
Presentation of case, limiting time for, § 9:24
Preserving the record, § 9:35
Privilege extended to trial participants for defamation
 generally, § 9:5
 counsel's privilege, § 11:19
Production and Protection of Evidence, this index
Proof of Facts, this index
Pro se litigants, § 9:18
Public access, § 9:19
Reading law to the jury, § 9:16
Seal, filing exhibits under, § 9:20

TRIAL—Cont'd

Seating of counsel, parties, and witnesses, § 9:3
Separation of witnesses, § 42:9
Shackles, litigant's appearance in, § 9:17
Sidebars during jury trials, § 9:23
Stay of proceedings in favor of parallel criminal proceedings, § 9:7
Stipulations, use to control, § 34:2
Transcribing the testimony, § 9:37
Use of Discovery Fruits at Trial, this index
Witnesses, this index

TRIBAL LAWS

Federal court procedure, § 1:10

USAGE AND CUSTOM EVIDENCE

Admissibility determinations, § 27:12

USE OF DISCOVERY FRUITS AT TRIAL

Generally, § 36:1 et seq.
Adverse party's deposition use to impeach, § 36:6
Best-evidence rule, written admission of party, § 61:8
Foundation, § 36:5
Impeachment, use of deposition for
 generally, § 36:4
 adverse party's deposition, § 36:6
 foundation, § 36:5
 nonparty's deposition, § 36:7
Nonparty's deposition use to impeach, § 36:7
Party interrogatories, § 36:9
Perpetuating testimony, § 36:2
Rule of completeness, § 36:8
Substantive evidence, depositions as, § 36:3
Testimony of party, best-evidence rule, § 61:8
Written admission of party, best-evidence rule, § 61:8

VALUATION

Appraiser's value of property based in part on hearsay, § 68:8
Future earnings, reducing to present value, § 67:7

VALUATION—Cont'd

Hearsay, appraiser's value of property based in part on, § 68:8

Personal property value opinions
expert, § 54:20
nonexpert, § 53:7

Present value, reducing future earnings to, § 67:7

Province of court and jury, § 12:8

Real estate
generally, § 68:1 et seq.
admissibility of unaccepted offers or condemnation settlements as proof of value, § 68:7
appraiser's value based in part on hearsay, § 68:8
comparables, § 68:6
condemnation settlements as proof of value, § 68:7
cost of subject property, § 68:5
hearsay, appraiser's value based in part on, § 68:8
nonexpert opinions, § 68:2
owner's opinion, § 68:3
qualification of a real estate expert, § 68:4
sales of comparable property, § 68:6
unaccepted settlements as proof of value, § 68:7

Reducing future earnings to present value, § 67:7

Services value opinions
expert, § 54:19
nonexpert, § 53:7

Stocks and bonds value opinions, § 54:21

Unaccepted settlements as proof of value of real estate, § 68:7

VERDICT

Generally, § 25:1

Amending verdicts, § 25:12

Answers
special verdicts, reconciling inconsistencies among, § 25:6
written questions, general verdict accompanied by, § 25:7

Arrival at verdict, rules governing, § 24:17

Chance, verdict reached by, § 24:20

VERDICT—Cont'd

Comments by judge to jury about verdict, § 25:14

Compromise verdicts, § 24:19

Coroner's verdict, hearsay rules, § 58:16

Discharge for inability of jury to arrive at verdict, § 70:3

Double recovery, § 25:8

Finality of a verdict supported by substantial evidence, § 25:15

General verdicts
generally, § 25:3
accompanied by answers to written questions, § 25:7
inconsistent general verdicts, § 25:4

Hearsay rules, coroner's verdict, § 58:16

Impeachment of verdict, § 25:13

Inability of jury to arrive at verdict, discharge for, § 70:3

Inconsistencies among answers to special verdicts, reconciling, § 25:6

Inconsistent general verdicts, § 25:4

Judgment, this index

Judicial comments about verdict, § 25:14

Jury, discharge for inability of arrive at verdict, § 70:3

Lot, verdict by, § 24:20

Majority verdicts, § 25:2

Number of jurors and their verdict, § 16:5

Polling the jurors, § 25:11

Quotient verdicts, § 24:18

Reconciling inconsistencies among answers to special verdict, § 25:6

Rendition and recording of the verdict, § 25:9

Revising verdicts, § 25:12

Rules governing arrival at verdict, § 24:17

Sealed verdicts, § 25:10

Special verdicts
generally, § 25:5
reconciling inconsistencies among answers, § 25:6

Substantial evidence, finality of verdict supported by, § 25:15

Unanimous verdicts, § 25:2

INDEX

VERDICT—Cont'd

Written questions, general verdict
accompanied by answers to, § 25:7

VICTIMS

Relevance of alleged victim's past
sexual behavior or alleged sexual
predisposition in sex-offense cases,
§ 48:6

Retaliating against, § 42:4

VIDEOS

Damages

Day-in-the-Life videotapes, § 38:8
photographs, videos, etc., § 38:8

Evidence, this index

VIEW OF PREMISES

Evidence, this index

VILLAGES

Judicial notice, facts about, § 35:13

VITAL STATISTICS RECORDS

Hearsay rules

generally, § 58:21
absence of public record of entry,
§ 58:22

WARRANTY

Existence of, province of court and jury,
§ 12:25

Province of court and jury
existence of, § 12:25

WARSAW CONVENTION

Aircraft accidents, § 67:22

WEATHER REPORTS

Hearsay rules, § 58:19

WEIGHT

Proof of, § 65:7

WITNESSED DOCUMENTS

Authentication, § 60:19

WITNESSES

Generally, § 42:1 et seq.

Accuracy of witness, testing, § 45:4

Addict, competency to testify, § 43:8

Address of witness, right to bring out on
cross-examination, § 45:7

Admissibility of opinions, § 52:1

WITNESSES—Cont'd

Adverse party's deposition use to
impeach, § 36:6

Annulment, effect on prior convictions
to impeach, § 50:5

Answer refusals, cross-examination,
§ 45:11

Answer requirements, direct examina-
tion, § 44:7

Answer responsiveness

generally, § 44:8
addressing unresponsive answers,
§ 44:9

Appeal, effect on prior convictions to
impeach, § 50:5

Assaulting a witness

generally, § 9:26
inferences drawn from attempts,
§ 32:11

Attorney as witness, § 11:16

Best-evidence rule, testimony of party,
§ 61:8

Best recollection, belief, impression,
etc, § 44:12

Bribery, § 42:5

Calling by judge

generally, § 10:18
interrogation by judge, § 10:19

Cautioning a witness about perjury,
§ 44:11

Character Evidence, this index

Character witness, cross-examining,
§ 48:4

Children, competency to testify, § 43:6

Closed-circuit television, testifying by,
§ 9:33, 44:13

Coaching a witness, § 9:42

Collateral issues, impeachment on,
§ 47:2

Comment on witness credibility in final
argument, § 22:10

Competency of witnesses

generally, § 43:1 et seq.
addict, § 43:8
child to testify, § 43:6
determining competency, § 43:4
drug addict, § 43:8
felons, § 43:5
hypnosis and competency, § 43:9

WITNESSES—Cont'd

Competency of witnesses—Cont'd
 mentally handicapped person,
 § 43:7
 narcotics addict, § 43:8
 objections
 Generally, § 43:2
 time for objecting, § 43:3
 personal knowledge, § 42:2
 physically handicapped person,
 § 43:7
 time for objecting to competency,
 § 43:3
 Conduct evidence, impeachment, § 47:5
 Confer with witness on the stand,
 § 42:7
 Confrontation rights in civil cases,
 § 42:17
 Contempt
 false answers as, § 69:6
 refusal to testify as, § 69:5
 Content of question
 direct examination, § 44:3
 redirect examination, § 46:2
 Continuances, absence of a witness,
 § 8:6
 Correcting testimony, redirect examina-
 tion, § 46:4
 Counsel vouching for, § 11:17, 22:10
 Credibility
 cross-examination, § 45:3
 final argument comments, § 22:10
 province of court and jury, § 12:4
 Criminal convictions. Prior convictions
 to impeach, below
 Cross-examination
 generally, § 45:1 et seq.
 accuracy of witness, testing, § 45:4
 address of witness, right to bring
 out, § 45:7
 answer refusals, § 45:11
 character witness, § 48:4
 court control, § 45:9
 credibility matters, § 45:3
 degrading questions, § 45:8
 denial of cross-examination, § 45:10
 doctors, § 40:7
 effect of refusal to answer, § 45:11
 embarrassing questions, § 45:8

WITNESSES—Cont'd

Cross-examination—Cont'd
 expert witnesses
 Generally, § 54:14
 treatise use
 Generally, § 54:15
 hearsay rules, § 58:32
 form of question, § 45:5
 humiliating questions, § 45:8
 introducing evidence during, § 19:3
 knowledge of witness, testing,
 § 45:4
 leading questions, § 45:6
 matters affecting the witness's cred-
 ibility, § 45:3
 personal knowledge, § 45:4
 physicians, § 40:7
 Prior inconsistent statements, below
 refusal to answer, § 45:11
 right to cross-examine, § 45:1
 scope of cross-examination, § 45:2
 strategies of cross-examination,
 § 45:5
 testing the witness's knowledge or
 accuracy, § 45:4
 Degrading questions, § 45:8
 Denial of cross-examination, § 45:10
 Deposition use to impeach
 generally, § 36:4
 adverse party's deposition, § 36:6
 foundation, § 36:5
 nonparty's deposition, § 36:7
 Determining competency of witness,
 § 43:4
 Determining inconsistency, prior incon-
 sistent statements, § 49:4
 Diagnosis, statements made for
 purposes of
 generally, § 40:5
 Direct examination
 generally, § 44:1 et seq.
 addressing unresponsive answers,
 § 44:9
 answer requirements, § 44:7
 answer responsiveness
 Generally, § 44:8
 addressing unresponsive
 answers, § 44:9

INDEX

WITNESSES—Cont'd

Direct examination—Cont'd

best recollection, belief, impression,
etc, § 44:12

cautioning a witness about perjury,
§ 44:11

closed-circuit television examina-
tion, § 44:13

content of question, § 44:3

court control, § 44:1

doctor, § 40:7

firsthand knowledge, § 44:2

form of question, § 44:3

hostile party or witness, § 44:10

impression, best, § 44:12

leading questions

Generally, § 44:5

checklist of permissible uses,
§ 44:6

narrative statements, § 44:4

own witness impeachment, § 47:3

party, hostile, § 44:10

perjury caution, § 44:11

physician or surgeon, § 40:4

question form and content, § 44:3

recollection, best, § 44:12

Redirect examination, below

Refreshing recollection, below

requirements of the witness's
answer, § 44:7

responsiveness of the answer

Generally, § 44:8

addressing unresponsive
answers, § 44:9

telephonic examination, § 44:13

unresponsive answers, addressing,
§ 44:9

volunteered statements, § 44:9

Dishonesty crimes, prior convictions to
impeach, § 50:3

Drug addict, competency to testify,
§ 43:8

Effect of refusal to answer, § 45:11

Embarrassing questions, § 45:8

Exclusion of improper testimony on
court's own motion, § 10:20

Exclusion of witnesses

generally, § 42:9

violations of the rule, § 42:11

WITNESSES—Cont'd

Exclusion of witnesses—Cont'd

witnesses subject to rule, § 42:10

Expert Witnesses, this index

Explaining testimony, redirect examina-
tion, § 46:4

Extenuating circumstances, effect on
prior convictions to impeach, § 50:5

Extrinsic evidence of prior inconsistent
statements, § 49:5

Failure to call a witness

comment on in final argument,
§ 22:9

inferences, § 32:2

False answers as contempt, § 69:6

False in part testimony, impeachment,
§ 47:11

False statement crimes, prior convic-
tions to impeach, § 50:3

Felons

competency to testify, § 43:5

prior convictions to impeach, § 50:2

Final argument comments on testimony

generally, § 22:8

credibility, § 22:10

failure to call a witness, § 22:9

missing-witness rule, § 22:9

vouching for witness, § 11:17,
22:10

Firsthand knowledge. Personal knowl-
edge, below

Form of question

cross-examination, § 45:5

direct examination, § 44:3

objections to, § 28:14

redirect examination, § 46:2

Foundation

impeachment

Generally, § 47:4

deposition use, § 36:5

prior inconsistent statements,
§ 49:3, 49:4

Harassing a witness

generally, § 9:26

inferences drawn from attempts,
§ 32:11

influencing or assaulting, § 42:3

Hearsay Rules, this index

WITNESSES—Cont'd

Hostile party, direct examination, § 44:10

How incident occurred, expert opinion, § 54:18

Humiliating questions, cross-examination, § 45:8

Hypnosis, § 43:9

Impeachment

- generally, § 47:1 et seq.
- Character Evidence, this index
- collateral issues, § 47:2
- conduct evidence, § 47:5
- deposition use
 - Generally, § 36:4
 - adverse party's deposition, § 36:6
 - foundation, § 36:5
 - nonparty's deposition, § 36:7
- false in part testimony, § 47:11
- foundation, § 47:4
- interest, § 47:7
- intoxication of witness at time of event, § 47:9
- laying the foundation for, § 47:4
- manner of proving prior conviction, § 50:4
- mentally impaired witness, § 47:10
- occupation of witness, § 47:6
- own witness, § 47:3
- Prior convictions to impeach, below
- Prior inconsistent statements, below
- Redirect examination, below
- religious beliefs or opinions, § 47:8
- Reputation Evidence, this index
- residence of witness, § 47:6
- testimony false in part, § 47:11

Improper testimony, exclusion on court's own motion, § 10:20

Inconsistencies in a witness's testimony, § 42:18

Infant's evidence, province of court and jury, § 12:15

Inferences

- failure to call a witness, § 32:2
- party's failure to testify, § 32:4

Influencing a witness

- generally, § 9:26, 42:3

WITNESSES—Cont'd

Influencing a witness—Cont'd

- inferences drawn from attempts, § 32:11

Informant, retaliating against, § 42:4

Interest impeachment, § 47:7

Interpreters, § 42:13

Interrogation by the judge, § 10:19

Interview rights, § 42:6

Intoxication of witness at time of event, impeachment, § 47:9

Introducing evidence during cross-examination, § 19:3

Judge as witness, § 10:22

Judge's calling of

- generally, § 10:18
- interrogation by, § 10:19

Judge's conduct towards

- generally, § 10:13
- perjury admonishments, § 10:14

Judge's control of examination

- generally, § 10:16
- checklist, § 10:17

Juror as witness, § 16:41

Juvenile adjudications, prior convictions to impeach, § 50:7

Knowledge of witness, testing on cross, § 45:4

Leading questions

- cross-examination, § 45:6
- direct examination
 - Generally, § 44:5
 - checklist of permissible uses, § 44:6

Liability of witnesses, § 42:14

Manner of proving prior conviction to impeach, § 50:4

Medical Testimony, this index

Memoranda use to assist the witness.

- Refreshing recollection, below

Memory

- refreshing on redirect examination, § 46:3
- Refreshing recollection, below

Mentally handicapped person, competency to testify, § 43:7

Mentally impaired witness, impeachment, § 47:10

Mental state of witness, province of court and jury, § 12:14

INDEX

WITNESSES—Cont'd

Mental state opinions, § 53:3
Missing-witness rule
 final argument comment, § 22:9
 instruction, § 23:16
Narcotics addict, competency to testify, § 43:8
Narrative statements, § 44:4
Nonparty's deposition use to impeach, § 36:7
Objections
 competency of witnesses
 Generally, § 43:2
 time for objecting, § 43:3
 form of question, § 28:14
Occupation of witness impeachment, § 47:6
Opinion, prior expression of, § 49:6
Own witness impeachment, § 47:3
Pardon or parole, effect on prior convictions to impeach, § 50:5
Parties as
 failure to testify, inferences, § 32:4
 hostile party, direct examination, § 44:10
Past recollection recorded, § 51:4
Perjury, this index
Perpetuation of testimony, use of depositions and interrogatories to, § 36:2
Personal knowledge
 competency determinations, § 42:2
 cross-examination, § 45:4
 direct examination, § 44:2
Physically handicapped person, competency to testify, § 43:7
Physician, direct examination, § 40:4
Preparation, § 42:1
Present recollection refreshed, § 51:2
Prior consistent statements
 explanation right, § 49:7
 right to explain, § 49:7
Prior convictions to impeach
 admissible crimes, § 50:2, 50:3
 annulment as affecting, § 50:5
 appeal as affecting, § 50:5
 dishonesty crimes, § 50:3
 effect of pardon, annulment, parole, appeal, reversal, and extenuating circumstances, § 50:5

WITNESSES—Cont'd

Prior convictions to impeach—Cont'd
 extenuating circumstances as affecting, § 50:5
 false statement crimes, § 50:3
 felonies, § 50:2
 juvenile adjudications, § 50:7
 manner of proving prior conviction, § 50:4
 pardon as affecting, § 50:5
 parole as affecting, § 50:5
 perjury, § 50:3
 proof of prior conviction
 Generally, § 50:1
 manner of proof, § 50:4
 reversal as affecting, § 50:5
 time limit, § 50:6
Prior inconsistent statements
 generally, § 49:1
 determining inconsistency, § 49:4
 extrinsic evidence of statement, § 49:5
 foundation, § 49:3, 49:4
 hearsay exception, § 49:2
 instructions as to a prior inconsistent statement, § 49:8
 opinion, prior expression of, § 49:6
 prior expressions of opinion, § 49:6
Privilege, this index
Production and Protection of Evidence, this index
Province of court and jury
 credibility of witnesses, § 12:4
Question form and content
 direct examination, § 44:3
 redirect examination, § 46:2
Rebuttal testimony, § 19:4
Recalcitrant Witnesses, § 42:19
Recollection, § 44:12
Reconstruction testimony, expert opinion, § 54:18
Recross-examination, § 46:6
Redirect examination
 generally, § 46:1 et seq.
 content of question, § 46:2
 correcting testimony, § 46:4
 explaining testimony, § 46:4
 form of question, § 46:2
 memory, refreshing, § 46:3

WITNESSES—Cont'd

Redirect examination—Cont'd
 prior consistent statements, § 49:7
 question form and content, § 46:2
 recross-examination, § 46:6
 refreshing the witness's memory, § 46:3
 rehabilitating a witness, § 46:5
 Refreshing recollection
 generally, § 51:1
 adverse party use of writing, § 51:3
 hearsay rules, § 58:11
 past recollection recorded, § 51:4
 present recollection refreshed, § 51:2
 redirect examination, § 46:3
 use of writing by adverse party, § 51:3
 use to assist the witness, § 51:1
 Refreshing the witness's memory on redirect examination, § 46:3
 Refusal to answer, cross-examination question, § 45:11
 Refusal to testify as contempt, § 69:5
 Rehabilitating a witness on redirect, § 46:5
 Religious beliefs or opinions
 impeachment, § 47:8
 impeachment of witnesses, § 47:8
 Reputation Evidence, this index
 Res gestae rule, § 57:11
 Residence of witness, cross-examination re
 generally, § 45:7
 impeachment, § 47:6
 Responsiveness of the answer
 generally, § 44:8
 addressing unresponsive answers, § 44:9
 Restraint of a witness, § 42:8
 Retaliating against a witness, victim, or an informant, § 42:4
 Reversal, effect on prior convictions to impeach, § 50:5
 Right to confer with witness on the stand, § 42:7
 Right to interview witnesses, § 42:6
 Sanity, province of court and jury, § 12:16
 Scope of cross-examination, § 45:2

WITNESSES—Cont'd

Selection, § 42:1
 Self-incrimination. See Privilege, this index
 Separation of witnesses, § 42:9
 Statements made for purposes of medical diagnosis or treatment
 generally, § 40:5
 State of mind opinions, § 53:3
 Strategies of cross-examination, § 45:5
 Sua sponte exclusion of improper testimony, § 10:20
 Subornation of perjury, § 42:16
 Subpoenas Ad Testificandum and Duces Tecum, this index
 Surgeon, direct examination, § 40:4
 Surrebuttal testimony, § 19:5
 Swearing of witnesses, § 42:12
 Taking testimony, § 9:22
 Telephonic examination
 generally, § 9:33
 direct examination, § 44:13
 Testifying by telephone or closed-circuit television, § 9:33
 Testing the witness's knowledge or accuracy, § 45:4
 Time for objecting to competency, § 43:3
 Time limit, prior convictions to impeach, § 50:6
 Treating physician testimony, § 40:8
 Treatment, statements made for purposes of
 generally, § 40:5
 Trial seating of, § 9:3
 Use of deposition to impeach
 generally, § 36:4
 adverse party's deposition, § 36:6
 foundation, § 36:5
 nonparty's deposition, § 36:7
 Victim, retaliating against, § 42:4
 Vouching for, § 11:17, 22:10
 Witnesses subject to exclusion rule, § 42:10
 Writing use to assist the witness.
 Refreshing recollection, above

WRITINGS

Adverse party use of writing, refreshing recollection, § 51:3

INDEX

WRITINGS—Cont'd

Affidavits, hearsay rules, § 57:10

Authentication of handwriting, § 62:1
et seq.

Documentary Evidence, this index

Handwriting authentication, § 62:1 et
seq.

Incomplete contract or writing, § 63:10

Parol and Extrinsic Evidence, this index

Parol and extrinsic evidence rules,
§ 63:2

Private writings

authentication, § 60:22

parol and extrinsic evidence, § 63:3

WRITINGS—Cont'd

Refreshing recollection

adverse party use of writing, § 51:3

Refreshing recollection. See Witnesses,
this index

Rule of completeness

documentary evidence, § 60:3

use of depositions and interrogato-
ries at trial, § 36:8

Statement, written, failure to reply to as
admission, § 33:12

Statement, written, failure to reply to as
an admission, § 33:12

Witness, use to assist. See Witnesses,
this index