

# PREFACE

This handbook has been designed as a compact, one volume guide to the law of evidence in Washington.

To make the handbook more useful as a courtroom tool, the Evidence Rules themselves are reproduced in Chapter 1. The rules are then supplemented, in Chapters 2, 3, and 4, with the actual text of virtually all constitutional provisions, statutes, and rules of court that affect the admissibility of evidence.

The authors' commentary on the rules is found in Chapter 5. Although the commentary is condensed from the authors' four volume treatise on evidence (Washington Practice, Volumes 5-5C), the commentary has also been revised for a more practice oriented approach. Instead of presenting just the black letter rules and interpretations, the commentary emphasizes, for the opponent, the phrasing of objections that are effective in having evidence excluded. For the proponent, the commentary emphasizes counterarguments that are effective in having the evidence admitted.

Chapter 7 contains a wealth of checklists and other practical guides, while Chapter 8 contains a quick reference summary of common objections and responses thereto.

Everything—rules, statutes, commentary, checklists, objections, and responses—is tied together by a master index at the back of the handbook.

This edition of the handbook covers case law through approximately March 15, 2025 (565 P.3d). Statutes are current through the end of the most recent Legislative session. In order to keep the handbook as current as possible, it is revised annually.

Noteworthy developments in this edition of the handbook include:

- The discussion of judicial notice in connection with ER 201 has been updated to reflect statutory amendments and recent case law. § 201:5 now includes a discussion of Washington courts' acknowledgement of implicit racial bias under specific circumstances.
- The courts continued to grapple with character evidence under ER 404, with several cases addressing prior misconduct, common scheme or plan, and motive.
- Counselor, social worker, and therapist privilege is now addressed at § 501:35.

- In a rape case, Division 1 determined that a summary of joint counseling sessions purportedly produced for a separate family law proceeding did not support a determination in the criminal matter that the statutory privilege protecting communications between marriage therapist and patient had been waived. *See* § 501:35.
- Division 1 also addressed the trial court's imposition and enforcement of time limits on witness examination and testimony. *See* § 611:1.
- The discussion of testimony by telephone or electronic/remote means has been updated to reflect recent amendments to Civil Rule 43. *See* §§ 611:5 and 1200:26.
- Artificial Intelligence (AI) evidence is now discussed at new § 901:16A.

The response of the profession to the handbook has been gratifying, as has been the response from the courts. We thank those who have taken the time to comment on the handbook. Over the years, the four volume evidence treatise and this handbook have incorporated numerous suggestions from readers, for which we are most appreciative.

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