TABLE OF CONTENTS

			PAGE		
CHAPT	ER 1 – TH	IE PARALEGAL'S ROLE IN TRIAL	1–1		
1.1	INTRO	INTRODUCTION			
1.2	PREPA	RATION FOR TRIAL	1–1		
1.3	TRIAL F	PREPARATION CHECKLIST	1–3		
	1.3.1	CASE MANAGEMENT CONFERENCE	1–3		
	1.3.2	SETTLEMENT PROCEDURES	1–4		
	1.3.3	NOTICE OF TRIAL	1–4		
	1.3.4	MOTION FOR CONTINUANCE OF TRIAL	1–5		
		1.3.4.1 MOTION FOR PREFERENCE	1–7		
	1.3.5	FINAL DISCOVERY	1–7		
	1.3.6	PRETRIAL MOTIONS	1–8		
	1.3.7	EVIDENCE	1–8		
	1.3.8	WITNESSES AND RECORDS NEEDED AT TRIAL	1–8		
	1.3.9	EXHIBITS	1–10		
	1.3.10	DEMONSTRATIVE EVIDENCE	1–11		
	1.3.11	NOTEBOOK FOR FINAL STATUS CONFERENCE	1–12		
	1.3.12	WITNESS FOLDER	1–12		
1.4	STATE\	WIDE AND LOCAL RULES OF COURT	1–13		
	1.4.1	EXPEDITED JURY TRIALS ACT	1–13		
1.5	IMPOR ⁻	TANCE OF DEVELOPING A CASE THEME	1–13		
1.6	GATHE	RING EVIDENCE	1–14		
1.7	COMPE	ELLING ATTENDANCE OF WITNESSES	1–16		

	1.8	OBTAINI	NG DOCUM	IENTS AND RECORDS	.1–18
	1.9	RETAINI	NG EXPER	T WITNESSES	.1–25
	1.10	PREPAR	ING WITNE	SSES TO TESTIFY	.1–28
		1.10.1	HOSTILE (OR RELUCTANT WITNESSES	.1–33
		1.10.2	PREPARIN	IG EXPERTS	.1–33
		1.10.3	WITNESS	FOLDER	.1–34
	1.11	TRIAL N	ОТЕВООК		.1–35
	1.12	TRIAL BI	RIEF		.1–37
	1.13	TRIAL BI	RIEFCASE		.1–37
	1.14	COURT	REPORTER	S	.1–38
<u>C</u>	HAPTE	R 2 – RIG	HT TO JUR	Y TRIAL	2–1
	2.1	INTROD	UCTION		2–1
	2.2	SOURCE	S OF RIGH	T TO JURY TRIAL	2–1
		2.2.1		N: SMALL CLAIMS ACTIONS AND AIMS APPEALS	2–2
		2.2.2		R: THE UNITED STATES CONSTITUTION F APPLY	2–2
	2.3	WHAT C	ONSTITUTE	S JURY TRIAL	2–2
		2.3.1	JURY DEF	INED	2–2
		2.3.2	STIPULAT	ION TO FEWER THAN 12	2–3
			2.3.2.1	STIPULATION IN CHAMBERS	2–3
			2.3.2.2	QUESTIONABLE NEED FOR CLIENT CONSENT	2–3
		2.3.3	RIGHT TO	JURY IN PARTICULAR CASES	2–4
	2.4	THE FUN	NCTION OF	A JURY – TRIER OF FACT	2–4
		2.4.1	MATFRIAI	ALLEGATIONS	2-5

		2.4.2	PROCED	URAL QUESTIONS	2–5
		2.4.3	ISSUES (OF LAW	2–6
		2.4.4		GARDING FACTUAL ISSUES INVOLVING CT INTERPRETATION	2–6
	2.5	CASES I	N WHICH	A PARTY MAY DEMAND A JURY TRIAL	2–7
		2.5.1	GENERA	L RULE – LAW VS. EQUITY DISTINCTION	2–7
		2.5.2	ACTIONS	OF A SIMILAR NATURE	. 2–10
		2.5.3	SMALL C	LAIMS ACTIONS	. 2–10
		2.5.4	APPEAR	LEGAL AND EQUITABLE ACTIONS IN THE SAME CAUSE OF ACTION OR RATE PLEADINGS	. 2–10
		2.5.5	USE OF A	ADVISORY JURIES	. 2–12
	2.6	HOW TO	SECURE	A TRIAL BY JURY	. 2–12
		2.6.1		EP: FILE AND SERVE A DEMAND Y TRIAL	. 2–12
			2.6.1.1	FORM OF DEMAND	. 2–13
			2.6.1.2	NO NEED TO RENEW DEMAND FOR RETRIAL	. 2–13
		2.6.2	SECOND	STEP: DEPOSIT JURY FEES	. 2–13
		2.6.3	HOW TO	DEPOSIT JURY FEES	. 2–14
		2.6.4	NO REFL	IND OF JURY FEES	. 2–15
	2.7	WAIVER	OF JURY	TRIALS	. 2–16
		2.7.1	STATUTO	DRY BASES FOR WAIVING A JURY	. 2–16
		2.7.2	RELIEF F	ROM WAIVER	. 2–17
<u>Cl</u>	HAPTE	:R 3 – CH/	ALLENGIN	G THE JUDGE	3–1
	3.1	CHALLE	NGING TH	E JUDGE – CCP § 170.6	3–1
	3.2	CHALLE	NGING TH	E JUDGE – CCP § 170.1	3–4

3.3	PROCEDURE BY PARTY TO DISQUALIFY JUDGE – CCP § 170.33				
CHAPT CONFE	ER 4 – FII RENCE, <i>I</i>	NAL STATU AND MOTIC	S CONFERENCE, CHAMBERS NS IN LIMINE	4–1	
4.1					
4.2	GENEF	RAL CONSIE	DERATIONS	4–1	
	4.2.1	GOVERN	IING RULES	4–1	
		4.2.1.1	LOCAL COURT RULES	4–1	
		4.2.1.2	LOCAL COURT POLICIES	4–2	
		4.2.1.3	LOCAL LOCAL RULES	4–2	
		4.2.1.4	FAST TRACK RULES	4–2	
	4.2.2		AL STATUS CONFERENCE VS. CHAMBERS CONFERENCE	4–3	
		4.2.2.1	IMPACT OF DIRECT CALENDAR VS. MASTER CALENDAR	4–3	
	4.2.3		E OF THE FINAL STATUS	4–4	
4.3		-	ARALEGALS TO CONSIDER IN EFINAL STATUS CONFERENCE	4–5	
	4.3.1		TS PARTICULAR TO THE GAL'S JOB IN THE COURTROOM	4–5	
	4.3.2	-	ED MATTERS AT THE FINAL STATUS ENCE/IN-CHAMBERS CONFERENCE	4–7	
	4.3.3	_	SUBJECTS THAT MIGHT BE RAISED N-CHAMBERS CONFERENCE	4–8	
	4.3.4	OTHER N	MATTERS TO CONSIDER	4–10	
		4.3.4.1	DISQUALIFICATION OF JUDGE	4–10	
		4.3.4.2	REMOTE OR IN PERSON TRIAL	4–10	
		4343	SHORT STATEMENT OF THE CASE	4_12	

		4.3.4.4	WITNESS	LISTS	4–12
		4.3.4.5	SCHEDUL	ING ISSUES	4–14
		4.3.4.6	EXHIBIT N	UMBERING	4–14
		4.3.4.7	SIZE OF T	HE JURY POOL	4–15
		4.3.4.8		BY WHICH THE JUDGE ECT THE JURY	4–15
		4.3.4.9		XHIBITS DURING STATEMENT	4–16
		4.3.4.10	HANDLING	EXHIBITS DURING TRIAL	4–16
		4.3.4.11	RETURN (OF EXHIBITS AFTER TRIAL	4–16
		4.3.4.12		CRETS AND NTIAL EXHIBITS	4–17
		4.3.4.13	DISCOVER	RY MATERIALS	4–18
			4.3.4.13.1	INTERROGATORIES	4–18
			4.3.4.13.2	REQUESTS FOR ADMISSIONS	4–18
			4.3.4.13.3	DEPOSITIONS	4–18
		4.3.4.14	STIPULAT	IONS AND ADMISSIONS	4–22
		4.3.4.15	EVIDENTIA	ARY OBJECTIONS	4–23
		4.3.4.16	SETTLEM	ENT POSSIBILITIES	4–25
4.4	JURY M	ATTERS			4–25
	4.4.1			URY TRIAL HAS BEEN ED	4–25
	4.4.2			HER THE ATTORNEY JURY TRIAL	4–25
	4.4.3	INITIAL DE	ETAILS		4–26
	4.4.4	VOIR DIRE	≣		4–26

	4.4.5		NT TO BE READ TO PROSPECTIVE	4–26
	4.4.6	JUROR EX	CUSES	4–27
	4.4.7	ORDER O	F EXAMINATION	4–27
	4.4.8	PEREMPT	ORY CHALLENGES TO JURORS	4–27
	4.4.9	PEREMPT	ORY CHALLENGES TO ALTERNATES	4–27
	4.4.10	JURY INS	TRUCTIONS AND VERDICT FORMS	4–27
	4.4.11	PRE-INST	RUCTIONS	4–28
4.5	MOTION	S IN LIMINE	=	4–29
	4.5.1	EXAMPLE	S OF IN LIMINE MOTIONS	4–30
		4.5.1.1	PLAINTIFFS' MOTIONS	4–31
		4.5.1.2	DEFENDANT'S MOTIONS	4–31
		4.5.1.3	OTHER MOTIONS IN LIMINE	4–32
	4.5.2	IMPROPE	R USES OF MOTIONS IN LIMINE	4–34
		4.5.2.1	MOTIONS SEEKING DECLARATION OF EXISTING LAW	4–34
		4.5.2.2	MOTIONS REGARDING JURY SELECTION	4–35
		4.5.2.3	PREMATURE MOTIONS IN LIMINE	4–35
		4.5.2.4	MOTIONS TO REQUIRE COUNSEL TO ANNOUNCE WHICH WITNESSES THEY WILL CALL THE FOLLOWING DAY	4–35
		4.5.2.5	MOTIONS TO PROHIBIT COUNSEL FROM SHOWING EXHIBITS TO THE JUF WITHOUT FIRST SHOWING THEM TO ALL COUNSEL AND THE COURT	
	4.5.3		TO PREVENT EVIDENCE ON OF ACTION	4–35
	4.5.4		JRES REGARDING MOTIONS	4–36

4.6	OTHER MOTIONS				
	4.6.1		S TO EXCLUDE WITNESSES DURTROOM	4–37	
	4.6.2	MOTIONS	S TO EXCLUDE SPECTATORS	4–39	
	4.6.3	_	MOTIONS AT FINAL STATUS ENCE	4–41	
4.7	OTHER	R COURT DE	ETAILS	4–42	
CHAPTI	ER 5 – JU	IRY SELECT	<u> </u>	5–1	
5.1	JURY F	POOL		5–1	
5.2	VOIR D	VOIR DIRE			
	5.2.1	CHALLEN	NGES FOR CAUSE	5–6	
	5.2.2	PEREMP	TORY CHALLENGES	5–7	
		5.2.2.1	LIMITATIONS ON PEREMPTORY CHALLENGES	5–8	
		5.2.2.2	PROHIBITION AGAINST BIAS-BASED PEREMPTORY CHALLENGES IN CRIMINAL JURY TRIALS	5–9	
	5.2.3	REPLACI	NG JURORS DURING VOIR DIRE	5–10	
<u>CHAPTI</u>	ER 6 – OF	PENING STA	ATEMENT	6–1	
6.1	IMPOR	TANCE OF	OPENING STATEMENT	6–1	
6.2	THE RO	OLE OF THE	PARALEGAL	6–1	
6.3	MINI O	PENING STA	ATEMENT	6–2	
6.4	WHEN	THERE ARE	MULTIPLE PARTIES	6–3	
6.5			ANTS RESERVE THEIR OPENING	6–3	
	6.5.1	MULTIPL	E DEFENDANTS	6–3	
	6.5.2	SURPRIS	SE EVIDENCE	6–3	
6.6	PREPA	RING OPEN	IING STATEMENT	6–4	

6.6.1		BEFORE THE ATTORNEY PUTS TOGETHER THE OPENING STATEMENT					
	6.6.1.1	CONSIDE	R YOUR AUDIENCE	6–4			
	6.6.1.2		FACTS AND GET THEM	6–4			
	6.6.1.3		SH A THEME FOR THE	6–5			
	6.6.1.4	ESTABLIS	SH THE KEY FACTS	6–6			
	6.6.1.5	IDENTIFY	THE PLAYERS	6–6			
	6.6.1.6	PREPARE	E AN OUTLINE	6–6			
	6.6.1.7	TYPES O	TYPES OF INTRODUCTIONS				
	6.6.1.8	DAMAGE	DAMAGES				
	6.6.1.9	OTHER T	6–9				
		6.6.1.9.1	USE SIMPLE WORDS	6–9			
		6.6.1.9.2	DEPOSITIONS	6–9			
		6.6.1.9.3	EXPERTS	6–10			
		6.6.1.9.4	ADVERSE WITNESSES	6–10			
		6.6.1.9.5	YOUR CASE'S WEAK POINTS	6–10			
		6.6.1.9.6	BURDENS OF PROOF	6–10			
		6.6.1.9.7	INTERPRETERS	6–10			
		6.6.1.9.8	GUARDIANS, ETC	6–11			
		6.6.1.9.9	VIEWS, EXPERIMENTS, ETC	6–11			
	6.6.1.10	GRAPHIC	S	6–11			
6.6.2	YOUR JO		THE OPENING	6 12			

CHAPTI	ER 7 – JU	IRY MANAG	EMENT DURING TRIAL	7–1			
7.1	INTROI	DUCTION		7–1			
7.2	COURT	r'S POWER	TO CONTROL JUROR CONDUCT	7–1			
7.3	EXPLA	NATIONS A	ND ADMONITIONS	7–2			
7.4	PRE-IN	RE-INSTRUCTING THE JURY					
7.5	ACCES	S TO EVIDI	ENCE DURING TRIAL	7–3			
7.6	JUROR	RS' NOTES		7–4			
7.7.	JUROR	MISCOND	UCT DURING TRIAL	7–4			
	7.7.1	DISCUS	SING CASE	7–4			
	7.7.2	INATTEN	ITIVE JURORS	7–6			
	7.7.3	OTHER E	EXAMPLES OF JUROR MISCONDUCT	7–7			
CHAPTI CIRCUN	ER 8 – IN ISTANTI	TRODUCTION IN TR	ON TO EVIDENCE – DIRECT VS. CE	8–1			
8.1	INTROI	DUCTION		8–1			
	8.1.1	CIVIL AN	D CRIMINAL	8–1			
8.2	WHAT	IS EVIDENC	CE	8–1			
8.3	DIREC	T VS. CIRCI	JMSTANTIAL EVIDENCE	8–1			
8.4	PARTIC	CULAR KINI	OS OF CIRCUMSTANTIAL EVIDENCE	8–3			
	8.4.1	HABIT AI	ND CUSTOM	8–3			
	8.4.2	CHARAC	TER EVIDENCE	8–4			
		8.4.2.1	GENERAL RULE – CHARACTER EVIDENCE INADMISSIBLE TO PROVE CONDUCT	8–5			
		8.4.2.2	APPLICATION	8–5			
		8.4.2.3	WHEN CHARACTER ITSELF IS AT ISSUE	8–6			

		8.4.2.4	TO PROVI	ECONDUCT ADMISSIBLE E KNOWLEDGE, NOTICE, ETC	8–6
			8.4.2.4.1	ABSENCE OF MISTAKE	8–6
			8.4.2.4.2	INTENT	8–6
			8.4.2.4.3	MOTIVE	8–7
			8.4.2.4.4	KNOWLEDGE	8–7
			8.4.2.4.5	PLAN OR MODUS OPERANDI	8–7
			8.4.2.4.6	IDENTITY	8–8
		8.4.2.5		ON IN SEXUAL HARASSMENT AULT CASES	8–8
		8.4.2.6		ON RE OTHER CRIMES	8–9
		8.4.2.7	ADMISSIB	OR REPUTATION EVIDENCE LE WHERE CREDIBILITY	8–9
		8.4.2.8		NCE OF PAST ACTS CT EXAMINATION)	8–9
		8.4.2.9	PRIOR FE	LONY CONVICTIONS	8–10
		8.4.2.10	TYPES OF	CHARACTER EVIDENCE	8–10
			8.4.2.10.1	ON DIRECT EXAMINATION	8–10
			8.4.2.10.2	ON CROSS-EXAMINATION	8–11
CHAPTE	<u> ER 9 – EVI</u>	DENCE – R	ELEVANCE	AND FOUNDATION	9–1
9.1	RELEVA	NCE			9–1
	9.1.1	RELATION	TO SOME	MATTER AT ISSUE	9–1
		9.1.1.1	WITNESS	CREDIBILITY	9–2
	9.1.2	MUST HAV	VE PROBAT	TIVE VALUE	9–2
9.2	FOUNDA	ATION			9–3

9.2.1	TESTIMONY			
	9.2.1.1	COMPETENCE	9–4	
	9.2.1.2	PERSONAL KNOWLEDGE	9–5	
	9.2.1.3	OTHER CHALLENGES TO COMPETENCY	9–6	
9.2.2	WRITING	SS	9–6	
	9.2.2.1	PROVING THE CONTENT OF A WRITING (FORMERLY THE BEST EVIDENCE RULE)	9–10	
9.2.3	MATERIA	AL OBJECTS	9–11	
	9.2.3.1	AUTHENTICATION REQUIREMENT	9–12	
	9.2.3.2	CHAIN OF CUSTODY TESTIMONY	9–13	
9.2.4	DEMONSTRATIVE EVIDENCE			
	9.2.4.1	GRAPHIC ILLUSTRATIONS	9–15	
	9.2.4.2	WITNESSES WHO TESTIFY MAY PROVIDE DEMONSTRATIONS	9–15	
	9.2.4.3	MODELS	9–15	
	9.2.4.4	EXPERIMENTS	9–16	
	9.2.4.5	ACCIDENT RECONSTRUCTION	9–16	
	9.2.4.6	COMPUTER SIMULATIONS	9–16	
9.2.5	AUDIO O	R VISUAL RECORDINGS	9–16	
	9.2.5.1	REQUIREMENTS FOR ADMISSIBILITY.	9–18	
	9.2.5.2	VIDEOTAPES OF EXPERT WITNESS DEPOSITIONS	9–19	
9.2.6	SCIENTI	FIC EVIDENCE	9–19	
	9.2.6.1	FOUNDATIONAL REQUIREMENT – THE KELLY RULE	9–20	
	9.2.6.2	RELIABILITY	9–21	

		9.2.6.3	GENERAL	ACCEPTANCE	9–21
		9.2.6.4	QUALIFIE	D EXPERT TESTIMONY	9–22
		9.2.6.5	PROPER S	SCIENTIFIC PROCEDURES	9–22
		9.2.6.6		S OF SCIENTIFIC EVIDENCE D AND NOT ADMITTED	9–22
	9.2.7	DISCOVER	RY DOCUM	ENTS	9–23
		9.2.7.1	DEPOSITI	ONS	9–24
			9.2.7.1.1	PREPARATION FOR USE OF DEPOSITION TESTIMONY	. 9–26
		9.2.7.2	ANSWERS	S TO INTERROGATORIES	9–26
		9.2.7.3		S TO REQUESTS FOR ONS	9–27
CHAPTE	R 10 – EV	<u> IDENCE – H</u>	HEARSAY		10–1
10.1	HEARSAY VS. NONHEARSAY				10–1
	10.1.1	STATEME	NT		10–1
	10.1.2	MADE BY	OUT-OF-C	DURT DECLARANT	10–2
	10.1.3	OUT-OF-C	OURT STA	TEMENT	10–2
	10.1.4	OFFERED	FOR ITS T	RUTH	10–2
	10.1.5			OR STATEMENTS OF L.SIGNIFICANCE	10–3
	10.1.6			RED TO SHOW EFFECT	10–4
	10.1.7			RED TO PROVE	10–5
	10.1.8			RED AS CIRCUMSTANTIAL E OF MIND	10–6
	10.1.9			INFORMATION THAT IS	10–6
	10.1.10	MULTIPLE	LAYERS C	OF HEARSAY	10–7

10.2			TERS RE ADMISSIBILITY OF E	10–7
	10.2.1	UNAVAILA	ABILITY OF THE DECLARANT	10–7
	10.2.2	MULTIPLE	HEARSAY	10–9
	10.2.3		G PARTY'S RIGHT TO CHALLENGE NT'S CREDIBILITY	10–9
		10.2.3.1	OTHER METHODS OF CHALLENGING THE DECLARANT	. 10–10
	10.2.4		SCRETION TO EXCLUDE FOR TRUSTWORTHINESS	. 10–10
	10.2.5	_	GARDING RIGHT OF NTATION	. 10–10
	10.2.6		INFORMATION RELIED ON BY N FORMING OPINION	. 10–10
10.3	HEARSA	Y EXCEPT	IONS	. 10–11
	10.3.1	ADMISSIC	N OF PARTY	. 10–11
		10.3.1.1	EXPRESS ADMISSIONS	. 10–11
		10.3.1.2	ADOPTIVE ADMISSIONS	. 10–11
		10.3.1.3	AUTHORIZED ADMISSIONS	. 10–12
		10.3.1.4	CO-CONSPIRATOR ADMISSIONS	. 10–13
		10.3.1.5	VICARIOUS ADMISSIONS RE LIABILITY, OBLIGATION OR DUTY	. 10–13
		10.3.1.6	VICARIOUS ADMISSIONS RE PROPERTY INTERESTS (ADMISSIONS BY PREDECESSOR IN INTEREST)	. 10–14
		10.3.1.7	JUDICIAL ADMISSIONS	. 10–14
	10.3.2	DECLARA	TION AGAINST INTEREST	. 10–15
		10.3.2.1	UNAVAILABLE AS A WITNESS	. 10–15
		10.3.2.2	PERSONAL KNOWLEDGE	. 10–16

	10.3.2.3	STATEMENT AGAINST INTEREST WHEN MADE	10–16
10.3.3	PRIOR S	TATEMENTS OF WITNESSES	10–17
	10.3.3.1	PRIOR INCONSISTENT STATEMENTS	10–17
	10.3.3.2	PRIOR CONSISTENT STATEMENT	10–17
	10.3.3.3	PAST RECOLLECTION RECORDED	10–19
	10.3.3.4	PRIOR IDENTIFICATION	10–20
10.3.4	FORMER	TESTIMONY	10–21
	10.3.4.1	GENERAL PRINCIPLES	10–22
	10.3.4.2	FORMER TESTIMONY OFFERED AGAINST PARTY TO FORMER PROCEEDING	10–22
		10.3.4.2.1 UNAVAILABLE TO TESTIFY	10–23
		10.3.4.2.2 OPPORTUNITY TO CROSS-EXAMINE	10–23
	10.3.4.3	FORMER TESTIMONY OFFERED AG A PERSON WHO WAS NOT A PARTY TO THE FORMER PROCEEDING	,
10.3.5	SPONTA	NEOUS STATEMENTS	10–26
10.3.6		PORANEOUS DECLARATIONS ING CONDUCT (VERBAL ACT)	10–28
10.3.7	DYING DI	ECLARATIONS	10–28
10.3.8		ENTS OF MENTAL OR PHYSICAL	10–29
	10.3.8.1	STATEMENT OF DECLARANT'S THEN-EXISTING MENTAL OR PHYSICAL STATE	10–30
	10.3.8.2	STATEMENT OF DECLARANT'S PREVIOUSLY EXISTING MENTAL OR PHYSICAL STATE	10–31

10.3.9	STATEMENTS CONCERNING DECLARANT'S WILL				
10.3.10	BUSINESS	S RECORDS		10–32	
	10.3.10.1	WHAT IS A	BUSINESS	10–32	
	10.3.10.2		IS CAN CONSTITUTE A RECORD	10–32	
	10.3.10.3	SCOPE OF	ADMISSIBILITY	10–33	
	10.3.10.4		DATIONAL REQUIREMENTS		
		10.3.10.4.1	PREPARED IN "REGULAR COURSE OF BUSINESS".		
		10.3.10.4.2	TIMING – WHEN PREPARED	10–35	
		10.3.10.4.3	IDENTITY AND MODE OF PREPARATION	10–36	
		10.3.10.4.4	TRUSTWORTHINESS	10–36	
	10.3.10.5	TO PROVE	OF BUSINESS RECORD EN THE ACT, CONDITION, OR NOT EXIST OR OCCUR		
10.3.11	OFFICIAL	RECORDS A	ND WRITINGS	10–37	
	10.3.11.1	GENERAL F	PRINCIPLES	10–37	
	10.3.11.2		PLOYEE'S RECORD OF ITION OR EVENT	10–38	
		10.3.11.2.1	THE NATURE OF A "PUBLIC (OFFICIAL) RECORD"	10–39	
		10.3.11.2.2	AUTHENTICATING OFFICIAL RECORDS	10–40	
		10.3.11.2.3	TIMING OF THE CREATION OF THE OFFICIAL RECORD	10–40	
		10.3.11.2.4	TRUSTWORTHINESS	10–41	

	10.3.11.3		PLOYEE'S STATEMENT CE OF PUBLIC RECORD	10–41
	10.3.11.4	RECORDS (OF VITAL STATISTICS	10–41
	10.3.11.5		RECORD OF PRESUMED	10–42
	10.3.11.6		MPLOYEE RECORD OF ERSON STATUS	10–42
10.3.12	JUDGMEN	ITS		10–42
	10.3.12.1	FELONY CO	ONVICTIONS	10–42
	10.3.12.2		AGAINST PERSON O INDEMNITY	10–42
	10.3.12.3		ESTABLISHING THIRD ABILITY	10–43
10.3.13	OTHER H	EARSAY EXC	EPTIONS	10–43
	10.3.13.1	OTHER REL	LIABLE WRITINGS	10–43
		10.3.13.1.1	RECITALS IN "ANCIENT WRITINGS"	. 10–43
		10.3.13.1.2	COMMERCIAL LISTS AND THE LIKE	. 10–43
		10.3.13.1.3	PUBLICATIONS RE FACTS OF GENERAL NOTORIETY AND INTEREST	•
		10.3.13.1.4	RECITALS IN "DISPOSITIV INSTRUMENTS" (DEEDS, WILLS, ETC.)	_
	10.3.13.2		TORY HEARSAY	10–45
	10.3.13.3	CONCERNI	ON AND STATEMENTS NG COMMUNITY HISTORY ERTY INTERESTS	10–45
	10.3.13.4		ON AND STATEMENTS NG CHARACTER	10–46

		10.3.13.5	DECEDENT'S STATEMENTS OFFERED IN ACTION AGAINST ESTATE	
<u>CHAPTE</u>	:R 11 – EV	/IDENCE –	PRIVILEGES	11–1
11.1	GENERA	AL PRINCIP	LES CONCERNING PRIVILEGES	11–1
11.2	TYPES (OF PRIVILE	GES	11–1
	11.2.1	SELF-INC	RIMINATION PRIVILEGE	11–3
	11.2.2	ATTORNE	Y-CLIENT PRIVILEGE	11–3
	11.2.3	SPOUSAL	PRIVILEGE	11–3
	11.2.4	PHYSICIA	N-PATIENT PRIVILEGE	11–4
		11.2.4.1	COMMUNICATION WITH HEALTH CARE ADVOCATE	11–5
	11.2.5	MEDICAL	BOARD PROCEEDINGS	11–5
	11.2.6	CLERGY-	PENITENT PRIVILEGE	11–5
	11.2.7	TRADE SE	ECRETS	11–5
	11.2.8		RECORDS AND INFORMATION E	11–5
	11.2.9		E INVOLVING MEDIATION AND ENT NEGOTIATIONS	11–6
	11.2.10	TAX RETU	JRNS	11–7
	11.2.11	ATTORNE	Y WORK PRODUCT PROTECTION	11–7
	11.2.12	PUBLIC P	OLICY EXCEPTIONS	11–8
11.3	ASSERT	ING AND W	/AIVING PRIVILEGES	11–8
			DISCRETIONARY EXCLUSION	12–1
12.1.	GENER	AL CONSID	ERATIONS	12–1
	12.1.1.	THE RULE		12–1
	12 1 2	LIMITS ON	N DISCRETION	12–1

		12.1.2.1	BALANCING TEST REQUIRED	12–1
		12.1.2.2	ISSUES CONSIDERED	12–2
12.2	PARTIC	ULAR GRO	UNDS	12–2
	12.2.1	UNDUE P	REJUDICE	12–2
		12.2.1.1	DAMAGING NOT ENOUGH	12–3
		12.2.1.2	LIKELY TO INFLAME JURY	12–3
		12.2.1.3	APPLICATION	12–3
	12.2.2	UNDULY	TIME CONSUMING	12–5
	12.2.3	CONFUSI	NG OR MISLEADING EVIDENCE	12–6
12.3	SECTIO	N 352 AND	THE PARALEGAL	12–7
CHAPTE	ER 13 – E\	/IDENCE –	JUDICIAL NOTICE	13–1
13.1	CONCE	PT OF JUD	ICIAL NOTICE	13–1
13.2	MANDA	TORY AND	OPTIONAL JUDICIAL NOTICE	13–2
	13.2.1	MANDAT	ORY JUDICIAL NOTICE	13–2
	13.2.2	DISCRET	IONARY JUDICIAL NOTICE	13–3
13.3		_	HAVING A COURT TAKE	13–7
CHAPTE	R 14 – DI	RECT EXA	MINATION	14–1
14.1	INTROD	UCTION		14–1
14.2	ARRANG	GING FOR	WITNESS AVAILABILITY	14–1
14.3	PREPAR	RING WITNI	ESSES TO TESTIFY	14–2
	14.3.1	INTERPR	ETERS	14–5
	14.3.2	CHILDRE	N	14–6
	14.3.3	ELDERLY	AND INFIRM PERSONS	14–6
	14.3.4		DO IF YOU SUSPECT	14–6

14.4	DIRECT	EXAMINAT	TION	14–6	
	14.4.1	GENERA	L DESCRIPTION	14–6	
	14.4.2	FORM OF	QUESTIONS	14–7	
		14.4.2.1	LEADING QUESTIONS	14–7	
			14.4.2.1.1 GENERALLY IMPROPER	14–7	
			14.4.2.1.2 WHEN PERMISSIBLE	14–8	
		14.4.2.2	COMPOUND QUESTIONS	14–9	
		14.4.2.3	QUESTIONS CALLING FOR NARRATIVE TESTIMONY	14–9	
	14.4.3		NG QUESTIONS FOR DIRECT	14–10	
CHAPTE	R 15 – C	ROSS-EXAI	MINATION	15–1	
15.1	GENERAL COMMENTS				
15.2	SCOPE	OF PERMIS	SSIBLE CROSS-EXAMINATION	15–1	
	15.2.1		EXAMINATION OF CHARACTER SES	15–2	
	15.2.2		EXAMINATION OF EXPERT SES	15–2	
15.3	FORM (OF QUESTIC	ONS	15–3	
	15.3.1	LEADING	QUESTIONS	15–3	
	15.3.2	IMPROPE	ER QUESTIONS	15–3	
		15.3.2.1	ARGUMENTATIVE QUESTIONS	15–3	
		15.3.2.2	ASSUMING A FACT NOT IN EVIDENCE	15–3	
		15.3.2.3	MISSTATES EVIDENCE	15–4	
		15.3.2.4	CONCLUSORY	15–4	
		15.3.2.5	CUMULATIVE	15–4	

		15.3.2.6	COMPOUND	15–4
		15.3.2.7	HARASSING	15–4
		15.3.2.8	QUESTIONS LACKING GOOD FAITH BASIS	15–4
15.4	OBJEC [*]	TIVES OF C	ROSS-EXAMINATION	15–4
15.5	HOW T	O PREPARE	FOR CROSS-EXAMINATION	15–8
15.6			ENTS, OR CANONS, OF CROSS-	15–11
15.7			CROSS-EXAMINATION OF YOUR	15–15
CHAPTE	R 16 – 0	PINION TES	STIMONY	16–1
16.1	LAY OP	INION TEST	ΓΙΜΟΝΥ	16–1
16.2	EXPER ³	T OPINION	TESTIMONY	16–3
CHAPTE	ER 17 – M	IOTIONS DU	JRING TRIAL	17–1
17.1	MOTIOI	NS		17–1
17.2	MOTIO	N FOR MIST	RIAL	17–1
	17.2.1	JURY DE	ADLOCKED	17–2
	17.2.2	ATTORNE	EY MISCONDUCT	17–2
	17.2.3	JUDICIAL	MISCONDUCT	17–3
	17.2.4	JUROR M	IISCONDUCT	17–4
	17.2.5	PROCED	URAL CONSIDERATIONS	17–5
17.3	MOTIOI	N FOR NON	SUIT	17–5
	17.3.1	FUNCTIO	N	17–5
	17.3.2	TIMING C	OF MOTION	17–6
	17.3.3	GROUND	S	17–6
	17.3.4	APPLICA ⁻	TION	17–6

17.4	MOTIOI	N FOR DIRECTED VERDICT	17–8
	17.4.1	FUNCTION	17–8
	17.4.2	TIMING OF MOTION	17–9
	17.4.3	STANDARDS GOVERNING RULING	17–9
	17.4.4	ORDER GRANTING DIRECTED VERDICT	17–10
	17.4.5	EXPEDITED JURY TRIALS	17–11
17.5		N FOR JUDGMENT AFTER JURY DISCHARGED UT RENDERING A VERDICT	17–11
	17.5.1	IN GENERAL	17–11
	17.5.2	TIME LIMITS	17–11
	17.5.3	GOVERNING STANDARD	17–11
17.6		N TO AMEND PLEADINGS TO CONFORM TO	17–11
	17.6.1	FACTORS CONSIDERED	17–12
17.7	MOTIOI	N FOR TERMINATING SANCTION	17–13
CHAPT	ER 18 – C	LOSING ARGUMENT	18–1
18.1	GENER	AL CONSIDERATIONS	18–1
18.2	ROLE C	OF THE PARALEGAL	18–2
	18.2.1	PREPARING FOR CLOSING ARGUMENT	18–2
	18.2.2	USE OF THEMES DURING CLOSING ARGUMENT	18–3
	18.2.3	USE OF JURY INSTRUCTIONS IN FINAL ARGUMENT	18–3
18.3	PROPE	R VS. IMPROPER CLOSING ARGUMENT	18–4
	18.3.1	SCOPE OF PERMISSIBLE ARGUMENT	18–4
	18.3.2	LIMITATIONS – IMPROPER ARGUMENT	18–5
18.4	OTHER	CONSIDERATIONS AND ISSUES	18–6

Cl	HAPTE	:R 19 – JL	JRY INSTRI	UCTIONS	19–1	
	19.1 GENERAL CONSIDERATIONS					
		19.1.1	FUNCTIO	N OF JURY INSTRUCTIONS	19–1	
		19.1.2	PARTIES	RIGHT TO JURY INSTRUCTIONS	19–2	
			19.1.2.1	COUNSEL'S RESPONSIBILITY TO SUBMIT PROPOSED INSTRUCTIONS	19–2	
	19.2	PROPE	R VS. IMPR	OPER JURY INSTRUCTIONS	19–2	
		19.2.1	THE GEN PROPER	ERAL REQUIREMENTS FOR INSTRUCTIONS	19–2	
		19.2.2	SOURCE	S OF PROPER INSTRUCTIONS	19–3	
			19.2.2.1	CACI	19–3	
			19.2.2.2	BAJI	19–6	
			19.2.2.3	STATUTES	19–8	
			19.2.2.4	APPELLATE COURT OPINIONS	19–9	
			19.2.2.5	INSTRUCTIONS GIVEN IN SIMILAR CASES	19–10	
			19.2.2.6	FORM BOOKS	19–10	
			19.2.2.7	TREATISES AND DICTIONARIES	19–10	
		19.2.3	IMPROPE	ER INSTRUCTIONS	19–10	
	19.3	PROCE	DURAL REG	QUIREMENTS	19–13	
		19.3.1	TIME REC	QUIREMENTS	19–13	
		19.3.2	FORMAT	REQUIREMENTS	19–14	
		19.3.3	REQUES ⁷	TING CACI INSTRUCTIONS	19–14	
		19.3.4	REQUES ¹	TING BAJI INSTRUCTIONS	19–15	
	19.4	PREPAR	RING JURY	INSTRUCTIONS	19–16	
		19 4 1	BASIC DE	FINITIONS	19_16	

	19.4.2	CONTENT	19–17
	19.4.3	FORMAT	19–17
	19.4.4	LANGUAGE	19–19
	19.4.5	ORGANIZATION	19–20
	19.4.6	QUANTITY	19–20
	19.4.7	COPIES	19–20
	19.4.8	PREPARING FINAL "SANITIZED" SET OF INSTRUCTIONS	19–21
CHAPTE	:R 20 – Jl	JRY DELIBERATIONS	20–1
20.1	GENER	AL CONSIDERATIONS	20–1
	20.1.1	PERSONS PERMITTED IN THE JURY ROOM	20–2
	20.1.2	SELECTION OF PRESIDING JUROR	20–2
	20.1.3	JURORS' DUTY TO DELIBERATE	20–2
	20.1.4	LENGTH OF DELIBERATION	20–3
	20.1.5	SECRECY OF DELIBERATIONS	20–3
	20.1.6	JUROR MEALS	20–3
20.2		RS ALLOWED IN JURY ROOM DURING RATIONS	20–4
	20.2.1	COURT DISCRETION	20–4
20.3		REQUESTS FOR ADDITIONAL INFORMATION DELIBERATIONS	20–6
20.4	DEADL	OCKED JURIES	20–6
20.5	JUROR	MISCONDUCT DURING DELIBERATIONS	20–8
CHAPTE	R 21 – N	ONJURY TRIALS	21–1
21.1	INTROE	DUCTION	21–1
21 2	PRINCII	PAL DIFFERENCES FROM JURY TRIAL	21_1

	21.2.1	ROLE OF	THE TRIAL BRIEF	21–1
	21.2.2	ORDER C	F PROCEEDINGS	21–2
	21.2.3	JUDGE'S	ROLE AS TRIER OF FACT	21–3
	21.2.4	AVAILABI	LITY OF A MOTION FOR JUDGMENT	21–5
CHAPTE	R 22 – VI	ERDICTS, J	UDGMENTS AND COSTS	22–1
22.1	INTROD	UCTION		22–1
22.2	VERDIC	TS		22–1
	22.2.1	GENERAL	VERDICT	22–1
	22.2.2	SPECIAL	VERDICT	22–1
		22.2.2.1	PUNITIVE DAMAGES	22–3
	22.2.3		_ VERDICT WITH SPECIAL GATORIES	22–3
22.3	JUDGMI	ENTS		22–4
	22.3.1	ENTRY O	F JUDGMENT	22–6
	22.3.2		NT FOR OR AGAINST FEWER THAN TIES PERMITTED	22–7
	22.3.3	ENTRY O	F JUDGMENT NUNC PRO TUNC	22–7
22.4	COSTS.			22–8
	22.4.1	GENERAL	CONSIDERATIONS	22–8
	22.4.2	ALLOWAE	BLE COSTS	22–10
	22.4.3		ONS ON COSTS TO PREVAILING	22–11
	22.4.4	ITEMS NO	OT ALLOWABLE	22–13
	22.4.5	UNUSUAL	_ COSTS	22–14
		22.4.5.1	EXAMPLES OF UNUSUAL COSTS	22_14

			22.4.5.2	THAT HAVE NOT BEEN ALLOWED	22–15	
		22.4.6		NALTIES FOR REJECTION OF 3 OFFER	22–15	
		22.4.7	ATTORNE	Y FEES AS COSTS	22–17	
		22.4.8		JRAL REQUIREMENTS FOR S PREJUDGMENT COSTS	22–18	
			22.4.8.1	EXCEPTION FOR DEFAULT CASES	22–18	
			22.4.8.2	TIME LIMITS WITHIN WHICH TO CLAIM COSTS	22–18	
			22.4.8.3	DISPUTING COSTS	22–19	
		22.4.9	PROCEDU	JRE FOR CLAIMING ATTORNEY FEES	22–20	
			22.4.9.1	STATUTORY ATTORNEY FEES	22–20	
			22.4.9.2	ATTORNEY FEES AUTHORIZED BY LAW	22–21	
			22.4.9.3	CONTRACTUAL ATTORNEY FEES	22–21	
	22.5	PREJUD	GMENT INT	TEREST	22–21	
		22.5.1		ED CLAIMS, I.E., CLAIMS THAT ARE	22–21	
		22.5.2	CONTRAC	CT CLAIMS THAT ARE NOT CERTAIN	22–22	
		22.5.3	TORT CLA	AIMS THAT ARE NOT CERTAIN	22–22	
		22.5.4	CLAIMS T	HAT ARE CERTAIN	22–22	
		22.5.5	PROCEDU	JRAL CONSIDERATIONS	22–23	
CHAPTER 23 – EXPEDITED JURY TRIALS						
	23.1	INTROD	TRODUCTION			
	23.2 PROCEDURES FOR VOLUNTARY EXPEDITED JURY TRIALS				23–2	
		23.2.1	PRETRIAL	EXCHANGE	23–4	

	23.2.2	SUPPLEMENTAL EXCHANGE	23–5
	23.2.3	MOTIONS IN LIMINE	23–5
	23.2.4	PRECLUSIONARY EFFECT	23–5
	23.2.5	PRETRIAL CONFERENCE	23–6
	23.2.6	JURY SELECTION	23–7
	23.2.7	RELAXED EVIDENTIARY RULES	23–7
	23.2.8	SUBPOENAS AND NOTICES TO APPEAR	23–8
	23.2.9	JURY DELIBERATIONS	23–8
	23.2.10	VERDICT	23–8
	23.2.11	POST-TRIAL MOTIONS	23–8
	23.2.12	OTHER POST-TRIAL MOTIONS	23–9
23.3		DURES FOR MANDATORY EXPEDITED	23–9
	23.3.1	SIMILARITY OF RULES FOR VOLUNTARY EXPEDITED JURY TRIALS RULES IN GENERAL	23–10
	23.3.2	PRETRIAL PROCEDURES	23–10
	23.3.3	CASE MANAGEMENT	23–10
	23.3.4	SPECIFIC SIMILARITIES AND DIFFERENCES BETWEEN VOLUNTARY AND MANDATORY EXPEDITED JURY TRIALS	23–10
	23.4.5	COSTS AND ATTORNEY'S FEES	23–11

APPENDIX – LIST OF FORMS
TABLE OF AUTHORITIES
INDEX