

Table of Contents

CHAPTER 1 TEXAS RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

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

ARTICLE II. JUDICIAL NOTICE

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

ARTICLE III. PRESUMPTIONS

ARTICLE IV. RELEVANCE AND ITS LIMITS

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

ARTICLE V. PRIVILEGES

Rule 501	Privileges in General.....	17
Rule 502	Required Reports Privileged by Statute.....	17
Rule 503	Lawyer-Client Privilege.....	18
Rule 504	Spousal Privileges	20

Rule 505	Privilege for Communications to a Clergy Member.....	22
Rule 506	Political Vote Privilege	23
Rule 507	Trade Secrets Privilege	23
Rule 508	Informer’s Identity Privilege	23
Rule 509	Physician-Patient Privilege.....	25
Rule 510	Mental Health Information Privilege in Civil Cases	28
Rule 511	Waiver by Voluntary Disclosure.....	31
Rule 512	Privileged Matter Disclosed Under Compulsion or Without Opportunity to Claim Privilege	32
Rule 513	Comment On or Inference From a Privilege Claim; Instruction	32

ARTICLE VI. WITNESSES

Rule 601	Competency to Testify in General; “Dead Man’s Rule”	33
Rule 602	Need for Personal Knowledge	34
Rule 603	Oath or Affirmation to Testify Truthfully	34
Rule 604	Interpreter.....	34
Rule 605	Judge’s Competency as a Witness	34
Rule 606	Juror’s Competency as a Witness.....	34
Rule 607	Who May Impeach a Witness	35
Rule 608	A Witness’s Character for Truthfulness or Untruthfulness.....	35
Rule 609	Impeachment by Evidence of a Criminal Conviction	35
Rule 610	Religious Beliefs or Opinions.....	37
Rule 611	Mode and Order of Examining Witnesses and Presenting Evidence	37
Rule 612	Writing Used to Refresh a Witness’s Memory	37
Rule 613	Witness’s Prior Statement and Bias or Interest.....	38
Rule 614	Excluding Witnesses	39
Rule 615	Producing a Witness’s Statement in Criminal Cases.....	40

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 701	Opinion Testimony by Lay Witnesses	41
Rule 702	Testimony by Expert Witnesses.....	42
Rule 703	Bases of an Expert’s Opinion Testimony	42
Rule 704	Opinion on an Ultimate Issue.....	42
Rule 705	Disclosing the Underlying Facts or Data and Examining an Expert About Them.....	42
Rule 706	Audit in Civil Cases	43

ARTICLE VIII. HEARSAY

Rule 801	Definitions That Apply to This Article; Exclusions from Hearsay	43
Rule 802	The Rule Against Hearsay.....	45
Rule 803	Exceptions to the Rule Against Hearsay—Regardless of Whether the Declarant Is Available as a Witness	45
Rule 804	Exceptions to the Rule Against Hearsay—When the Declarant Is Unavailable as a Witness	50

TABLE OF CONTENTS

Rule 805	Hearsay Within Hearsay	51
Rule 806	Attacking and Supporting the Declarant’s Credibility	52

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

Rule 901	Authenticating or Identifying Evidence.....	52
Rule 902	Evidence That Is Self-Authenticating	53
Rule 903	Subscribing Witness’s Testimony	56

ARTICLE X. CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

Rule 1001	Definitions That Apply to This Article.....	57
Rule 1002	Requirement of the Original	57
Rule 1003	Admissibility of Duplicates.....	57
Rule 1004	Admissibility of Other Evidence of Contents.....	57
Rule 1005	Copies of Public Records to Prove Content.....	58
Rule 1006	Summaries to Prove Content	58
Rule 1007	Testimony or Statement of a Party to Prove Content	58
Rule 1008	Functions of the Court and Jury	58
Rule 1009	Translating a Foreign Language Document.....	59

CHAPTER 2 SELECTED CONSTITUTIONAL PROVISIONS

CONSTITUTION OF THE UNITED STATES

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

CONSTITUTION OF THE STATE OF TEXAS 1876

ARTICLE I BILL OF RIGHTS

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

CHAPTER 3 SELECTED STATUTES

ALCOHOLIC BEVERAGE CODE

TITLE 4 REGULATORY AND PENAL PROVISIONS

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

BUSINESS AND COMMERCE CODE

TITLE 1 UNIFORM COMMERCIAL CODE

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

TITLE 2 COMPETITION AND TRADE PRACTICES

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

TITLE 10 USE OF TELECOMMUNICATIONS

§ 322.013	Admissibility in Evidence	90
-----------	---------------------------------	----

CIVIL PRACTICE AND REMEDIES CODE

TITLE 2 TRIAL, JUDGMENT, AND APPEAL

§ 5.001	Rule of Decision.....	90
§ 11.051	Motion for Order Determining Plaintiff a Vexatious Litigant and Requesting Security	90
§ 11.053	Hearing	90
§ 16.065	Acknowledgment of Claim.....	90
§ 18.001	Affidavit Concerning Cost and Necessity of Services.....	91
§ 18.002	Form of Affidavit.....	92
§ 18.061	Communications of Sympathy	95
§ 21.002	Interpreters for Deaf Persons	96
§ 21.003	Qualifications	96
§ 21.005	Oath.....	96
§ 22.021	Definitions.....	96
§ 22.022	Purpose	98
§ 22.023	Privilege	98
§ 22.024	Limited Disclosure Generally	99
§ 22.025	Notice	100
§ 22.026	Publication of Privileged Information	100
§ 22.027	News Media Recordings	100
§ 27.003	Motion to Dismiss	100
§ 27.0075	Effect of Ruling	101
§ 28.004	Withholding Disclosure Prohibited	101
§ 30.006	Certain Law Enforcement Agency Records Not Subject to Discovery.....	101
§ 33.013	Amount of Liability.....	102
§ 38.004	Judicial Notice	103

TABLE OF CONTENTS

TITLE 4 LIABILITY IN TORT

§ 71.005	Evidence Relating to Marital Status.....	103
§ 72.053	Failure to Comply With Regulations or Standards	103
§ 72.054	Liability for Employee Negligence in Operating Commercial Motor Vehicle.....	104
§ 72.055	Admissibility of Visual Depictions of Collision	107
§ 73.061	Admissibility of Evidence of Correction, Clarification, or Retraction	107
§ 74.106	Effect of Disclosure	108
§ 74.351	Expert Report	108
§ 74.401	Qualifications of Expert Witness in Suit Against Physician	112
§ 74.402	Qualifications of Expert Witness in Suit Against Health Care Provider	114
§ 74.403	Qualifications of Expert Witness on Causation in Health Care Liability Claim	115
§ 81.008	Admission of Evidence	116
§ 95A.0001	Evidence of Failure to Forbid Handguns	117

TITLE 5 GOVERNMENTAL LIABILITY

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

TITLE 6 MISCELLANEOUS PROVISIONS

§ 125.004	Evidence.....	118
§ 125.044	Findings.....	119
§ 129C.001	Definition.....	120
§ 129C.002	Certain Provisions Unenforceable	121
§ 132.001	Unsworn Declaration	121
§ 134A.001	Short Title.....	122
§ 134A.002	Definitions.....	122
§ 134A.006	Preservation of Secrecy	123
§ 144.007	Limitation on Certain Lawsuits	124
§ 148.003	Liability for Causing Exposure to Pandemic Disease	124
§ 150A.001	Definitions.....	126
§ 150A.002	Sermons Privileged From Disclosure to Governmental Unit	127

TITLE 7 ALTERNATE METHODS OF DISPUTE RESOLUTION

§ 154.053	Standards and Duties of Impartial Third Parties	127
§ 154.073	Confidentiality of Certain Records and Communications.....	127
§ 172.206	Confidentiality.....	128

ELECTION CODE

TITLE 1 INTRODUCTORY PROVISIONS

§ 1.019	Required Evidence or Testimony	129
---------	--------------------------------------	-----

TITLE 14 ELECTION CONTESTS

§ 221.009 Compelling Voter to Reveal Vote 129

ESTATES CODE

TITLE 2 ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

§ 54.051 Applicability of Certain Rules Relating to Witnesses and Evidence..... 129
 § 202.151 Evidence in Proceeding to Declare Heirship 130
 § 203.001 Recorded Statement of Facts as Prima Facie Evidence of Heirship 130
 § 204.051 Order for Genetic Testing 131
 § 204.101 Results of Genetic Testing; Admissibility..... 131
 § 204.102 Presumption Regarding Results of Genetic Testing; Rebuttal 131
 § 204.152 Presumption; Rebuttal..... 131

TITLE 3 GUARDIANSHIP AND RELATED PROCEDURES

§ 1101.003 Affidavit Containing Contact Information of Certain Persons..... 131

FAMILY CODE

TITLE 1 THE MARRIAGE RELATIONSHIP

§ 6.704 Testimony of Husband or Wife 132
 § 6.705 Testimony by Marriage Counselor 132

TITLE 1-A COLLABORATIVE FAMILY LAW

§ 15.114 Privilege Against Disclosure of Collaborative Family Law Communication 132
 § 15.115 Limits of Privilege..... 133

TITLE 2 THE CHILD IN RELATION TO THE FAMILY

§ 33.002 Parental Notice 135
 § 33.003 Judicial Approval 137

TITLE 3 JUVENILE JUSTICE CODE

§ 51.095 Admissibility of a Statement of a Child..... 138
 § 51.13 Effect of Adjudication or Disposition..... 141
 § 54.01 Detention Hearing 142
 § 54.012 Remote Conduct of Detention Hearing..... 142
 § 54.02 Waiver of Jurisdiction and Discretionary Transfer to Criminal Court..... 143
 § 54.03 Adjudication Hearing..... 144
 § 54.031 Hearsay Statement of Certain Abuse Victims 146

TABLE OF CONTENTS

§ 54.04	Disposition Hearing.....	147
§ 54.05	Hearing to Modify Disposition.....	147
§ 54.11	Release or Transfer Hearing.....	147
§ 55.45	Standards of Care; Notice of Release or Furlough.....	148
§ 61.055	Conduct of Enforcement Hearing.....	148
§ 61.102	Right to be Informed of Proceeding.....	148
 TITLE 3a TRUANCY COURT PROCEEDINGS		
§ 65.101	Adjudication Hearing; Judgment.....	149
§ 65.259	Conduct of Enforcement Hearing.....	150
 TITLE 4 PROTECTIVE ORDERS AND FAMILY VIOLENCE		
§ 84.006	Hearsay Statement of Child Victim of Family Violence...	150
§ 93.001	Definitions.....	150
§ 93.002	Confidential Communications.....	151
§ 93.003	Privileged Communications.....	151
§ 93.004	Exceptions.....	151
 TITLE 5 THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP		
§ 104.001	Rules of Evidence.....	152
§ 104.002	Prerecorded Statement of Child.....	152
§ 104.003	Prerecorded Videotaped Testimony of Child.....	152
§ 104.004	Remote Televised Broadcast of Testimony of Child.....	153
§ 104.005	Substitution for In-Court Testimony of Child.....	153
§ 104.006	Hearsay Statement of Child Abuse Victim.....	153
§ 104.007	Video Testimony of Certain Professionals.....	154
§ 107.007	Attorney Work Product and Testimony.....	154
§ 107.111	Child Custody Evaluator Access to Investigative Records of Department; Offense.....	155
§ 107.112	Communications and Recordkeeping of Child Custody Evaluator.....	155
§ 107.114	Introduction and Provision of Child Custody Evaluation Report.....	155
§ 153.0071	Alternate Dispute Resolution Procedures.....	156
§ 153.6083	Communications and Recordkeeping of Parenting Facilitator.....	156
§ 153.701	Definitions.....	157
§ 153.707	Expedited Hearing.....	157
§ 159.316	Special Rules of Evidence and Procedure.....	158
§ 160.204	Presumption of Paternity.....	159
§ 160.423	Admissibility of Certificate.....	160
§ 160.504	Report of Genetic Testing.....	160
§ 160.505	Genetic Testing Results; Rebuttal.....	160
§ 160.621	Admissibility of Results of Genetic Testing; Expenses...	161
§ 160.622	Consequences of Declining Genetic Testing.....	162
§ 231.104	Assignment of Right to Support.....	162
§ 261.101	Persons Required to Report; Time to Report.....	162

§ 261.202	Privileged Communication	163
§ 264.167	Attorney–Client Privilege	164
§ 264.193	Privileged Communication	164
§ 264.408	Use of Information and Records; Confidentiality and Ownership	164
§ 264.511	Use of Information and Records; Confidentiality	165

FINANCE CODE

TITLE 3 FINANCIAL INSTITUTIONS AND BUSINESSES

§ 31.305	Civil Discovery	165
§ 31.306	Investigative Information	165
§ 35.206	Evidence	166
§ 36.214	Subpoena	166
§ 59.009	Compliance Review Committee	166
§ 66.355	Receipt of Items as Evidence in Receivership Proceeding; Certification	167
§ 96.354	Civil Discovery	168
§ 119.102	Production and Admissibility of Items of Savings Bank in Judicial Proceeding	168
§ 154.412	Seizure of Prepaid Funeral Accounts and Records	169
§ 185.204	Confidentiality of Subpoenaed Records	169
§ 185.205	Evidence	170
§ 186.214	Subpoena	170
§ 186.225	Records Admitted	171

**TITLE 4 REGULATION OF INTEREST, LOANS, AND FINANCED
TRANSACTIONS**

§ 371.206	Confidentiality	172
-----------	-----------------------	-----

GOVERNMENT CODE

TITLE 2 JUDICIAL BRANCH

§ 57.001	Definitions	172
§ 57.002	Appointment of Interpreter; Payment of Interpreted Costs	173
§ 81.072	General Disciplinary and Disability Procedures	174
§ 157.001	Definitions	174

TITLE 3 LEGISLATIVE BRANCH

§ 325.0195	Records Protected From Disclosure	175
------------	---	-----

TITLE 4 EXECUTIVE BRANCH

§ 411.14031	Access to Criminal History Record Information: Public Utility Commission of Texas	175
§ 414.008	Privileged Information	176
§ 420.003	Definitions	177

TABLE OF CONTENTS

§ 420.031	Evidence Collection Protocol; Kits	179
§ 420.032	Photo Documentation Required for Child Victims in Certain Counties	179
§ 420.071	Confidential Communications and Records; Privilege ...	180
§ 420.072	Disclosure of Confidential Communication or Record....	181
§ 420.073	Consent for Release of Certain Confidential Information	182
§ 420.074	Disclosure of Privileged Communications or Other Information in Criminal Proceeding.....	183
§ 523.0363	Communication and Confidentiality	183
§ 544.0259	Subpoenas	184
§ 546.0702	Mortality Review System	185
§ 546.0705	Use and Publication Restrictions; Confidentiality	185

TITLE 5 OPEN GOVERNMENT; ETHICS

§ 552.163	Exception: Confidentiality Of Certain Attorney General Settlement Negotiations.	186
-----------	---	-----

TITLE 6 PUBLIC OFFICERS AND EMPLOYEES

§ 602.002	Oath Made in Texas	187
-----------	--------------------------	-----

TITLE 7 INTERGOVERNMENTAL RELATIONS

§ 774.002	Duty to Exchange Information	189
-----------	------------------------------------	-----

TITLE 10 GENERAL GOVERNMENT

§ 2009.054	Confidentiality of Certain Records and Communications	189
§ 2051.152	Definitions	190
§ 2051.153	Applicability	191
§ 2051.154	Legal Material in Official Electronic Record.....	191
§ 2051.155	Authentication of Official Electronic Record.....	191
§ 2051.156	Effect of Authentication	191

TITLE 12 SECURITIES ACT

§ 4001.154	Certified Copies of Certain Documents or Instruments as Evidence	192
------------	---	-----

HEALTH AND SAFETY CODE

TITLE 2 HEALTH

§ 34.009	Confidentiality; Privilege	192
§ 34.010	Subpoena and Discovery	194
§ 81.046	Confidentiality	194
§ 86.013	Information on Supplemental Breast Cancer Screening ..	197
§ 98.109	Confidentiality; Privilege	197
§ 98.110	Disclosure Among Certain Agencies.....	198

§ 98.111	Civil Action.....	198
§ 108.013	Confidentiality and General Access to Data.....	198
§ 161.031	Medical Committee Defined.....	199
§ 161.0315	Authority of Governing Body to Form Committee to Evaluate Medical and Health Care Services.....	199
§ 161.032	Records and Proceedings Confidential.....	201
§ 166.054	Reporting Requirements Regarding Ethics or Medical Committee Processes.	202
§ 171.105	Hearing.....	202

TITLE 4 HEALTH FACILITIES

§ 241.151	Definitions	203
§ 241.153	Disclosure Without Written Authorization	203
§ 241.184	Confidentiality; Privilege.....	203
§ 242.017	Admissibility of Certain Evidence in Civil Actions	204
§ 242.049	Quality Improvement.....	205
§ 242.849	Use of Tape or Recording by Agency or Court	206
§ 260A.010	Privileged Communications	207

TITLE 6 FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES

§ 481.160	Disposition of Excess Quantities	207
-----------	--	-----

TITLE 7 MENTAL HEALTH AND INTELLECTUAL DISABILITY

§ 552.102	Summary Report.....	208
§ 555.057	Communication and Confidentiality	209
§ 574.031	General Provisions Relating to Hearing.....	209
§ 611.001	Definitions.....	210
§ 611.002	Confidentiality of Information and Prohibition Against Disclosure	210
§ 611.003	Persons Who May Claim Privilege of Confidentiality	211
§ 611.006	Authorized Disclosure of Confidential Information in Judicial or Administrative Proceeding.....	211
§ 614.017	Exchange of Information	212

TITLE 8 DEATH AND DISPOSITION OF THE BODY

§ 672.009	Use of Information and Records; Confidentiality.....	214
§ 674.008	Immunity From Subpoena and Discovery	215

TITLE 9 SAFETY

§ 755.046	Affidavit of Orders	215
§ 773.091	Confidential Communications	215
§ 773.092	Exceptions	216
§ 773.095	Records and Proceedings Confidential.....	218
§ 775.114	Insurance.....	219
§ 784.003	Confidentiality.....	219

TABLE OF CONTENTS

TITLE 10 HEALTH AND SAFETY OF ANIMALS

§ 821.023 Hearing; Order of Disposition or Return of Animal 220

TITLE 11 CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATORS

§ 841.061 Trial..... 220
§ 841.1462 Privilege for Personal Information That Identifies
Victim 221

**TITLE 13 ENVIRONMENTAL, HEALTH, AND SAFETY AUDIT PRIVILEGE
ACT**

§ 1101.001 Short Title 221
§ 1101.002 Purpose; Circumvention by Rule Prohibited 221
§ 1101.003 Definitions 221
§ 1101.004 Applicability 223
§ 1101.005 Relationship to Other Recognized Privileges 223
§ 1101.051 Audit Report..... 223
§ 1101.052 Period For Completion of Audit 224
§ 1101.053 Continuation of Audit Begun Before Acquisition
Closing Date..... 224
§ 1101.101 Scope of Privilege 225
§ 1101.102 Nonprivileged Materials 225
§ 1101.103 Exception: Waiver..... 226
§ 1101.104 Exception: Disclosure Required By Court or
Administrative Hearings Official..... 227
§ 1101.105 Review of Privileged Documents By Governmental
Authority..... 228

HUMAN RESOURCES CODE

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

§ 32.062 Admissibility of Certain Evidence Relating to Nursing
Institutions 229

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

§ 161.111 Confidentiality and Disclosure of Information 230

TITLE 12 JUVENILE JUSTICE SERVICES AND FACILITIES

§ 221.003 Rules Concerning Mental Health Screening Instrument
and Risk and Needs Assessment Instrument;
Admissibility of Statements..... 231
§ 243.006 Commitment Records 232
§ 261.056 Communication and Confidentiality 232

INSURANCE CODE

TITLE 4 REGULATION OF SOLVENCY

§ 401.058 Confidentiality of Reports and Related Information 232

TITLE 5 PROTECTION OF CONSUMER INTERESTS

§ 562.251 Acceptance of Assurance..... 233
 § 562.252 Effect of Assurance..... 233
 § 751.207 Confidentiality of Examination Report Information..... 233
 § 751.251 No Waiver 234
 § 751.252 Authority of Commissioner..... 234

TITLE 6 ORGANIZATION OF INSURERS AND RELATED ENTITIES

§ 823.011 Confidentiality of Information 235
 § 830.008 Confidentiality..... 236
 § 830.011 Privilege and Confidentiality Not Waived 238
 § 831.0009 Confidentiality 238
 § 831.0011 Privilege and Confidentiality Not Waived..... 240
 § 964.070 Confidentiality..... 240

TITLE 7 LIFE INSURANCE AND ANNUITIES

§ 1111A.020 Confidentiality 241
 § 1111A.022 Life Settlement Antifraud Initiatives 242

TITLE 8 HEALTH INSURANCE AND OTHER HEALTH COVERAGES

§ 1301.0051 Exclusive Provider Benefit Plans: Quality Improvement and Utilization Management 242

TITLE 10 PROPERTY AND CASUALTY INSURANCE

§ 2054.008 Investigation Files..... 243
 § 2301.057 Certain Documents Not Part of Form 243

LABOR CODE

TITLE 4 EMPLOYMENT SERVICES AND UNEMPLOYMENT

§ 213.007 Collateral Estoppel Doctrine Inapplicable..... 243

TITLE 5 WORKERS' COMPENSATION

§ 409.005 Report of Injury; Modified Duty Program Notice; Administrative Violation 244
 § 410.304 Consideration of Appeals Panel Decision..... 244
 § 410.306 Evidence..... 244
 § 410.307 Substantial Change of Condition..... 245
 § 411.035 Use of Injury Report 245

TABLE OF CONTENTS

LOCAL GOVERNMENT CODE

TITLE 2 ORGANIZATION OF MUNICIPAL GOVERNMENT

§ 52.011	Type A General-Law Municipality	246
§ 53.006	Printed Code as Evidence	246

TITLE 11 PUBLIC SAFETY

§ 351.258	Meetings and Records; Confidentiality	247
§ 352.018	Effect on Civil Actions	247

NATURAL RESOURCES CODE

TITLE 3 OIL AND GAS

§ 89.049	Plugging or Replugging of Orphaned Well By Oil And Gas Lessee or Mineral Estate Owner	248
§ 115.043	Certificate as Evidence	248

OCCUPATIONS CODE

TITLE 3 HEALTH PROFESSIONS

§ 159.001	Definitions	249
§ 159.002	Confidential Communications	249
§ 159.003	Exceptions to Confidentiality in Court or Administrative Proceedings	250
§ 160.002	Report of Medical Peer Review	252
§ 160.003	Report by Certain Practitioners	252
§ 160.004	Report Regarding Certain Impaired Physicians	253
§ 160.005	Report Confidential; Communication Not Privileged.....	253
§ 160.006	Board Confidentiality	254
§ 160.007	Confidentiality Relating to Medical Peer Review Committee	255
§ 160.008	Use of Certain Confidential Information	256
§ 160.009	Compliance With Subpoena	257
§ 160.051	Definitions	257
§ 160.052	Report From Insurer or Physician	257
§ 160.053	Contents of Report; Additional Information.....	258
§ 160.054	Report Not Evidence	258
§ 164.002	Board Disposition of Complaints, Contested Cases, and Other Matters	259
§ 164.007	Administrative Hearings; Confidentiality Issues	259
§ 164.0071	Hearings on Certain Complaints.....	259
§ 167.010	Confidentiality.....	260
§ 201.206	Confidentiality of Complaints, Investigation Files, and Other Information	260
§ 201.401	Definition of Patient	261
§ 201.402	Patient Confidentiality	261
§ 201.403	Exceptions to Confidentiality for Administrative	

	Procedure	262
§ 201.404	Exceptions to Confidentiality for Other Circumstances..	263
§ 202.401	Definitions	264
§ 202.402	Scope of Privilege	264
§ 202.403	Claim of Privilege	265
§ 202.404	Exceptions to Privilege and Confidentiality in Certain Proceedings	265
§ 202.405	Other Exceptions to Privilege and Confidentiality Requirements.....	267
§ 202.407	Disclosure of Released Information	268
§ 206.157	Confidentiality of Investigative Information	268
§ 258.101	Definitions	268
§ 258.102	Scope of Privilege	268
§ 258.103	Holder of Privilege	269
§ 258.105	Exception to Privilege for Certain Proceedings	269
§ 258.108	Limit on Disclosure	270
§ 258.109	Request for Dental Record: Timing; Exception	270
§ 258.208	Confidentiality; Privilege.....	270
§ 258.209	Subpoena and Discovery	271
§ 301.466	Confidentiality.....	271
§ 303.006	Confidentiality of Peer Review Proceedings.....	272
§ 303.007	Disclosure of Information	273
§ 351.2045	Confidentiality of Complaints, Adverse Reports, Investigation Files, and Other Information.....	274
§ 564.003	Disclosure of Certain Information.....	275
§ 601.273	Access to Complaint Information.....	276
§ 601.275	Confidentiality of Investigative Information	277
§ 602.1525	Subpoenas; Confidentiality of Information.....	277
§ 603.2041	Subpoenas; Confidentiality of Information.....	278
§ 604.176	Permitted Disclosure of Investigative Information	279
 TITLE 4 PROFESSIONS RELATED TO ANIMAL HEALTH		
§ 801.207	Confidentiality.....	280
§ 801.353	Confidentiality; Waiver	281
 TITLE 5 REGULATION OF FINANCIAL AND LEGAL SERVICES		
§ 901.161	Privilege for Certain Information	282
 TITLE 6 REGULATION OF ENGINEERING, ARCHITECTURE, LAND SURVEYING, AND RELATED PRACTICES		
§ 1001.212	Confidentiality of Certain Information Related to Application.....	283
§ 1002.260	Confidentiality of Certain Information	283

TABLE OF CONTENTS

TITLE 7 PRACTICES AND PROFESSIONS RELATED TO REAL PROPERTY AND HOUSING

§ 1201.601 Action Against Retailer or Manufacturer: Holder of Debt Instrument 283

TITLE 14 REGULATION OF MOTOR VEHICLES AND TRANSPORTATION

§ 2308.458 Hearing 284

PARKS AND WILDLIFE CODE

TITLE 2 PARKS AND WILDLIFE DEPARTMENT

§ 12.117 Justice Court to Provide Affidavits Certifying Certain Convictions and Other Information..... 285

PENAL CODE

TITLE 1 INTRODUCTORY PROVISIONS

§ 2.05 Presumption 285

TITLE 7 OFFENSES AGAINST PROPERTY

§ 31.03 Theft..... 287

TITLE 10 OFFENSES AGAINST PUBLIC HEALTH, SAFETY, AND MORALS

§ 46.12 Maps as Evidence of Location or Area..... 287

TITLE 11 ORGANIZED CRIME

§ 71.029 Maps as Evidence of Location or Area 288

TAX CODE

TITLE 1 PROPERTY TAX CODE

§ 22.01 Rendition Generally 288
§ 22.07 Inspection of Property 289
§ 42.23 Scope of Review 290

TRANSPORTATION CODE

TITLE 2 GENERAL PROVISIONS RELATING TO CARRIERS

§ 5.003 Liability of Carrier of Household Goods..... 291

TITLE 6 ROADWAYS

§ 250.001 Restriction on Fences in Certain Municipalities..... 291
§ 284.0702 Prima Facie Evidence; Defense 292

TITLE 7 VEHICLES AND TRAFFIC

§ 545.414	Riding in Open Beds; Offense	292
§ 550.065	Release of Certain Information Relating to Collisions...	292
§ 550.066	Admissibility of Certain Collision Report Information...	295
§ 601.005	Evidence in Civil Suit	296
§ 621.007	Evidence of Violation	296
§ 724.001	Definitions	296
§ 724.061	Admissibility of Refusal of Person to Submit to Taking of Specimen	297
§ 724.062	Admissibility of Refusal of Request for Additional Test..	297
§ 724.063	Admissibility of Alcohol Concentration or Presence of Substance	297
§ 724.064	Admissibility in Criminal Proceeding of Specimen Analysis	297

UTILITIES CODE

TITLE 2 PUBLIC REGULATORY ACT

§ 15.034	Confidentiality of Enforcement Information.....	298
§ 38.081	Evidence in Actions for Damages Caused by Wildfire	298

WATER CODE

TITLE 2 WATER ADMINISTRATION

§ 7.071	Inadmissibility	298
§ 12.052	Dam Safety.....	299

CODE OF CRIMINAL PROCEDURE

TITLE 1 CODE OF CRIMINAL PROCEDURE

Art. 1.17	Religious Belief	300
Art. 7B.004	Hearsay Statement of Child Victim	300
Art. 11.071	Procedure in Death Penalty Case.....	300
Art. 11.073	Procedure Related to Certain Scientific Evidence.....	300
Art. 11.0731	Procedures Related to Certain Previously Tested Evidence	301
Art. 17.028	Bail Decision	302
Art. 18A.205	Certain Evidence Not Admissible	302
Art. 18A.351	Disclosure or Use of Intercepted Communications....	303
Art. 18A.352	Disclosure Under Oath.....	303
Art. 18A.353	Privileged Communications	303
Art. 18A.354	Disclosure or Use of Incidentally Intercepted Communications	303
Art. 18A.355	Notice and Disclosure of Interception Application, Interception Order, and Intercepted Communications	304
Art. 18A.356	Notice of Interception Required.....	304

TABLE OF CONTENTS

Art. 18A.357	Communications Received in Evidence	305
Art. 18A.453	Sealing and Custody of Recordings.....	305
Art. 18A.454	Destruction of Recordings	306
Art. 18A.455	Prerequisite For Use or Disclosure of Recording in Certain Proceedings	306
Art. 18B.326	Certain Evidence Not Admissible.....	306
Art. 27.02	Defendant’s Pleadings.....	306
Art. 27.14	Plea of Guilty or Nolo Contendere in Misdemeanor ..	307
Art. 27.18	Plea or Waiver of Rights by Videoconference.....	308
Art. 28.01	Pre-Trial	309
Art. 29.13	Continuance after Trial is Begun	310
Art. 36.01	Order of Proceeding in Trial.....	310
Art. 36.02	Testimony at Any Time	311
Art. 36.03	Invocation of Rule	311
Art. 36.05	Not to Hear Testimony.....	311
Art. 36.06	Instructed by the Court.....	312
Art. 36.07	Order of Argument	312
Art. 36.08	Number of Arguments	312
Art. 37.07	Verdict Must be General; Separate Hearing on Proper Punishment	312
Art. 37.071	Procedure in Capital Case.....	315
Art. 37.072	Procedure in Repeat Sex Offender Capital Case.....	316
Art. 38.01	Texas Forensic Science Commission.....	317
Art. 38.05	Judge Shall Not Discuss Evidence.....	320
Art. 38.071	Testimony of Child Who is Victim of Offense.....	320
Art. 38.072	Hearsay Statement of Certain Abuse Victims.....	328
Art. 38.073	Testimony of Inmate Witnesses	329
Art. 38.074	Testimony of Child in Prosecution of Offense	329
Art. 38.075	Corroboration of Certain Testimony Required.....	331
Art. 38.08	Defendant May Testify	331
Art. 38.10	Exceptions to the Spousal Adverse Testimony Privilege.....	331
Art. 38.101	Communications by Drug Abusers.....	332
Art. 38.11	Journalist’s Qualified Testimonial Privilege in Criminal Proceedings	332
Art. 38.111	News Media Recordings	338
Art. 38.12	Religious Opinion.....	338
Art. 38.20	Photograph and Live Lineup Identification Procedures	338
Art. 38.21	Statement	339
Art. 38.22	When Statements May be Used.....	339
Art. 38.23	Evidence Not to be Used.....	343
Art. 38.24	Statements Obtained by Investigative Hypnosis.....	343
Art. 38.27	Evidence of Handwriting	344
Art. 38.30	Interpreter.....	344
Art. 38.31	Interpreters for Deaf Persons	345
Art. 38.32	Presumption of Death.....	346
Art. 38.34	Photographic Evidence in Theft Cases	347
Art. 38.35	Forensic Analysis of Evidence; Admissibility	347

Art. 38.36	Evidence in Prosecutions for Murder.....	349
Art. 38.37	Evidence of Extraneous Offenses or Acts	349
Art. 38.371	Evidence in Prosecutions of Certain Offenses Involving Family Violence.....	352
Art. 38.372	Evidence of Victim’s Past Sexual Behavior	352
Art. 38.38	Evidence Relating to Retaining Attorney	353
Art. 38.41	Certificate of Analysis.....	354
Art. 38.42	Chain of Custody Affidavit	355
Art. 38.435	Prohibited Use of Evidence from Forensic Medical Examination Performed on Victim of Sexual Assault Or Other Sex Offense; Placement Under Seal	357
Art. 38.44	Admissibility of Electronically Preserved Document .	357
Art. 38.46	Evidence in Prosecutions For Stalking.....	358
Art. 38.471	Evidence in Prosecution for Exploitation of Child, Elderly Individual, or Disabled Individual.....	358
Art. 38.48	Evidence in Prosecution for Tampering With Witness or Prospective Witness Involving Family Violence	358
Art. 38.49	Forfeiture by Wrongdoing	359
Art. 38.51	Evidence in Prosecution For Organized Retail Theft	360
Art. 39.01	In Examining Trial	360
Art. 39.026	Depositions of Medicaid or Medicare Recipients or Caregivers	361
Art. 39.12	Predicate to Read or Publish Deposition.....	361
Art. 39.14	Discovery	362
Art. 42.09	Commencement of Sentence; Status During Appeal; Pen Packet.....	366
Art. 42A.111	Dismissal and Discharge	368
Art. 46B.007	Admissibility of Statements and Certain Other Evidence	368
Art. 46B.008	Rules of Evidence.....	368
Art. 46B.086	Court-Ordered Medications.....	369
Art. 46C.052	Effect of Failure to Give Notice	370
Art. 56A.155	Discovery of Statement.....	370
Art. 56A.156	Inspection of Statement by Court; Disclosure of Contents.....	370
Art. 56A.157	Consideration of Statement by Court	370
Art. 56A.158	Defendant Response to Statement.....	371

CHAPTER 4 SELECTED RULES OF COURT

TEXAS RULES OF CIVIL PROCEDURE

TABLE OF CONTENTS

PART II RULES OF PRACTICE IN DISTRICT AND COUNTY COURTS

Rule 93	Certain Pleas to be Verified.....	374
Rule 172	Audit	376
Rule 173.5	Communications Privileged	376
Rule 176	Subpoenas	376
Rule 181	Party as Witness	377
Rule 183	Interpreters.....	377
Rule 192	Permissible Discovery: Forms and Scope; Work Product; Protective Orders; Definitions.....	377
Rule 193	Written Discovery: Response; Objection; Assertion of Privilege; Supplementation and Amendment; Failure to Timely Respond; Presumption of Authenticity.....	383
Rule 194	Required Disclosures in Suits Not Governed by the Family Code	389
Rule 194a	Requests for Disclosure in Suits Governed by the Family Code	393
Rule 195	Discovery Regarding Testifying Expert Witnesses in Suits Not Governed by the Family Code	395
Rule 195a	Discovery Regarding Testifying Experts in Suits Governed by the Family Code	398
Rule 196	Requests for Production and Inspection to Parties; Requests and Motions for Entry Upon Property.....	401
Rule 197	Interrogatories to Parties	405
Rule 198	Requests for Admissions	406
Rule 199	Depositions Upon Oral Examination	408
Rule 200	Depositions Upon Written Questions	413
Rule 201	Discovery in Other States and Foreign Countries for Use in Texas Proceedings; Discovery in Texas for Use in Proceedings in Other States and Foreign Countries	415
Rule 202	Depositions Before Suit or to Investigate Claims	418
Rule 203	Signing, Certification and Use of Oral and Written Depositions.....	420
Rule 204	Physical and Mental Examinations.....	424
Rule 205	Discovery From Nonparties.....	425
Rule 264	Videotape Trial.....	427
Rule 265	Order of Proceedings on Trial by Jury	427
Rule 266	Open and Close—Admission.....	428
Rule 267	Witnesses Placed Under Rule	428
Rule 269	Argument	429
Rule 270	Additional Testimony.....	430
Rule 281	Papers Taken to Jury Room	430
Rule 284	Judge to Caution Jury	430
Rule 327	For Jury Misconduct	431

PART V RULES OF PRACTICE IN JUSTICE COURTS

Rule 500 General Rules 431
 Rule 510 Eviction Cases..... 432

TEXAS RULES OF APPELLATE PROCEDURE

SECTION TWO APPEALS FROM TRIAL COURT JUDGMENTS AND ORDERS

Rule 21 New Trials in Criminal Cases 432
 Rule 33 Preservation of Appellate Complaints 434
 Rule 44 Reversible Error 436

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

Rule 1.05 Confidentiality of Information 437
 Rule 3.03 Candor Toward the Tribunal 439

TEXAS RULES OF DISCIPLINARY PROCEDURE

Rule 2.16 Confidentiality 440
 Rule 17.08 Privilege..... 441

CODE OF JUDICIAL CONDUCT

Canon 2 Avoiding Impropriety and the Appearance of Impropriety
 in All of the Judge’s Activities 441

CHAPTER 5 EVIDENCE RULES WITH AUTHORS’ COMMENTARY

ARTICLE I GENERAL PROVISIONS

Rule 101 Title, Scope, and Applicability of the Rules; Definitions . 445
 Rule 102 Purpose..... 448
 Rule 103 Rulings on Evidence 449
 Rule 104 Preliminary Questions..... 456
 Rule 105 Evidence That Is Not Admissible Against Other Parties
 or for Other Purposes 459
 Rule 106 Remainder of or Related Writings or Recorded
 Statements 462
 Rule 107 Rule of Optional Completeness 464

ARTICLE II JUDICIAL NOTICE

Rule 201 Judicial Notice of Adjudicative Facts 466
 Rule 202 Judicial Notice of Other States’ Law 471
 Rule 203 Determining Foreign Law 474
 Rule 204 Judicial Notice of Texas Municipal and County
 Ordinances, Texas Register Contents, and Published
 Agency Rules..... 476

TABLE OF CONTENTS

ARTICLE III PRESUMPTIONS

Rule 301 [No Rules Adopted at This Time]..... 477

ARTICLE IV RELEVANCE AND ITS LIMITS

Rule 401 Test for Relevant Evidence..... 478
Rule 402 General Admissibility of Relevant Evidence 485
Rule 403 Excluding Relevant Evidence for Prejudice,
Confusion, or Other Reasons 489
Rule 404(a) Character Evidence 494
Rule 404(b) Crimes, Wrongs, or Other Acts 502
Rule 405 Methods of Proving Character 516
Rule 406 Habit; Routine Practice..... 520
Rule 407 Subsequent Remedial Measures; Notification of
Defect 523
Rule 408 Compromise Offers and Negotiations 527
Rule 409 Offers to Pay Medical and Similar Expenses 532
Rule 410 Pleas, Plea Discussions, and Related Statements 533
Rule 411 Liability Insurance..... 536
Rule 412 Evidence of Previous Sexual Conduct in Criminal
Cases 538

ARTICLE V PRIVILEGES

Rule 501 Privileges in General 543
Rule 502 Required Reports Privileged by Statute 547
Rule 503 Lawyer-Client Privilege 548
Rule 504 Spousal Privileges..... 558
Rule 505 Privilege for Communications to a Clergy Member 564
Rule 506 Political Vote Privilege..... 566
Rule 507 Trade Secrets Privilege 566
Rule 508 Informer’s Identity Privilege 568
Rule 509 Physician-Patient Privilege 571
Rule 510 Mental Health Information Privilege in Civil Cases 579
Rule 511 Waiver by Voluntary Disclosure 585
Rule 512 Privileged Matter Disclosed Under Compulsion or
Without Opportunity to Claim Privilege..... 589
Rule 513 Comment On or Inference From a Privilege Claim;
Instruction 590

ARTICLE VI WITNESSES

Rule 601 Competency to Testify in General; “Dead Man’s Rule”... 592
Rule 602 Need for Personal Knowledge..... 597
Rule 603 Oath or Affirmation to Testify Truthfully..... 598
Rule 604 Interpreter 600
Rule 605 Judge’s Competency as a Witness 601
Rule 606 Juror’s Competency as a Witness 602
Rule 607 Who May Impeach a Witness 605

Rule 608	A Witness’s Character for Truthfulness or Untruthfulness	611
Rule 609	Impeachment by Evidence of a Criminal Conviction	616
Rule 610	Religious Beliefs or Opinions	621
Rule 611	Mode and Order of Examining Witnesses and Presenting Evidence	622
Rule 612	Writing Used to Refresh a Witness’s Memory.....	631
Rule 613	Witness’s Prior Statement and Bias or Interest	634
Rule 614	Excluding Witnesses	641
Rule 615	Producing a Witness’s Statement in Criminal Cases.....	643

ARTICLE VII OPINIONS AND EXPERT TESTIMONY

Rule 701	Opinion Testimony by Lay Witnesses	647
Rule 702	Testimony by Expert Witnesses	650
Rule 703	Bases of an Expert’s Opinion Testimony.....	661
Rule 704	Opinion on an Ultimate Issue	664
Rule 705	Disclosing the Underlying Facts or Data and Examining an Expert About Them	666
Rule 706	Audit in Civil Cases.....	670

ARTICLE VIII HEARSAY

Rule 801	Definitions That Apply to This Article; Exclusions from Hearsay	671
Rule 801(a)–(d)	Definition of Hearsay	673
Rule 801(e)(1)	A Declarant Witness’s Prior Statement	682
Rule 801(e)(2)	An Opposing Party’s Statement	687
Rule 801(e)(3)	A Deponent’s Statement.....	692
Rule 802	The Rule Against Hearsay	694
Rule 803	Exceptions to the Rule Against Hearsay—Regardless of Whether the Declarant Is Available as a Witness	703
Rule 803(1)	Present Sense Impression.....	708
Rule 803(2)	Excited Utterance.....	710
Rule 803(3)	Then-Existing Mental, Emotional, or Physical Condition	714
Rule 803(4)	Statement Made for Medical Diagnosis or Treatment	718
Rule 803(5)	Recorded Recollection	722
Rule 803(6), (7)	Records of a Regularly Conducted Activity	723
Rule 803(8)–(10)	Public Records.....	729
Rule 803(18)	Statements in Learned Treatises, Periodicals, or Pamphlets.....	735
Rule 803(24)	Statement Against Interest.....	736
Rule 804	Exceptions to the Rule Against Hearsay—When the Declarant Is Unavailable as a Witness	740
Rule 804(a)	Criteria for Being Unavailable	743
Rule 804(b)(1)	Former Testimony	744

TABLE OF CONTENTS

Rule 804(b)(2)	Statement Under the Belief of Imminent Death	747
Rule 804(b)(3)	Statement of Personal or Family History	749
Rule 805	Hearsay Within Hearsay.....	749
Rule 806	Attacking and Supporting the Declarant's Credibility.....	750

ARTICLE IX AUTHENTICATION AND IDENTIFICATION

Rule 901	Authenticating or Identifying Evidence	751
Rule 902	Evidence That Is Self-Authenticating.....	758
Rule 903	Subscribing Witness's Testimony	764

ARTICLE X CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

Rule 1001	Definitions That Apply to This Article.....	765
Rule 1002	Requirement of the Original.....	767
Rule 1003	Admissibility of Duplicates	770
Rule 1004	Admissibility of Other Evidence of Contents	771
Rule 1005	Copies of Public Records to Prove Content	774
Rule 1006	Summaries to Prove Content.....	775
Rule 1007	Testimony or Statement of a Party to Prove Content...	777
Rule 1008	Functions of the Court and Jury	778
Rule 1009	Translating a Foreign Language Document	780

CHAPTER 6 COMMON OBJECTIONS AND RESPONSES

OBJECTIONS TO FORM OF QUESTION

OBJ 1	Ambiguous question (Rule 611(a))	785
OBJ 2	Argumentative question (Rule 611(a)).....	786
OBJ 3	Asked and answered (Rules 403, 611(a)).....	786
OBJ 4	Assumes facts not in evidence (Rule 611(a)).....	786
OBJ 5	Compound question (Rule 611(a)).....	787
OBJ 6	Confusing (Rule 611(a))	787
OBJ 7	Harassing the witness (Rule 611(a)).....	787
OBJ 8	Leading question (direct examination) (Rule 611(c)).....	788
OBJ 9	Leading question (cross-examination) (Rule 611(c)).....	789
OBJ 10	Narrative testimony, calls for (Rule 611(a)).....	789
OBJ 11	Repetitious question (Rules 403, 611(a))	789
OBJ 12	Unintelligible question (Rule 611(a))	790

OBJECTIONS TO ADMISSIBILITY

OBJ 13	Authentication insufficient (Rules 901, 902).....	790
OBJ 14	Best evidence not being offered (Rules 1001, 1002).....	791
OBJ 15	Bolstering (Rules 608, 613)	792
OBJ 16	Chain of custody not established (real evidence) (Rule 901)	793
OBJ 17	Character evidence at penalty phase	794

OBJ 18	Character evidence in form of opinion testimony (Rule 405)	795
OBJ 19	Character evidence inadmissible (Rule 404(a))	795
OBJ 20	Character evidence, specific acts inadmissible (Rule 405) ..	796
OBJ 21	Character witness not qualified to testify in the form of reputation or opinion (Rule 405)	797
OBJ 22	Compromise of or offer to compromise a civil claim (Rule 408)	798
OBJ 23	Conclusion of law, expert witness (Rules 702, 704)	799
OBJ 24	Conclusion of law, lay witness (Rules 701, 704)	800
OBJ 25	Confrontation clause: face-to-face confrontation	801
OBJ 26	Confrontation clause: hearsay	802
OBJ 27	Cross-examination, beyond scope of direct (Rule 611(b)) ..	804
OBJ 28	Cumulative (Rule 403)	804
OBJ 29	Dead Man's Rule renders witness incompetent (Rule 601(b))	805
OBJ 30	Expert lacks sufficient basis for opinion (Rules 702, 703, 705(a), (c))	806
OBJ 31	Expert not qualified (Rule 702)	806
OBJ 32	Expert opinion based solely on hearsay not reasonably relied upon (Rule 703)	807
OBJ 33	Expert opinion is speculative, conjectural (Rules 702, 705(c))	808
OBJ 34	Expert opinion not reliable, relevant and helpful (Rule 702)	808
OBJ 35	Habit evidence not admissible (Rule 406)	810
OBJ 36	Hearsay (Rules 801, 802)	811
OBJ 37	Identification insufficient (Rules 901, 902)	812
OBJ 38	Impeachment of own witness (Rule 607)	813
OBJ 39	Impeachment of own witness with prior inconsistent statement (Rules 403, 607)	814
OBJ 40	Impeachment on collateral matter (Rules 403, 607)	814
OBJ 41	Impeachment, prior conduct inadmissible (Rule 608)	815
OBJ 42	Impeachment, prior conviction inadmissible (Rule 609) ..	816
OBJ 43	Insurance (Rule 411)	817
OBJ 44	Irrelevant (Not probative or immaterial) (Rules 401, 402)	818
OBJ 45	Judge as witness (Rule 605)	818
OBJ 46	Judge, questions by	819
OBJ 47	Juror as witness at trial (Rule 606(a))	819
OBJ 48	Juror as witness to impeach verdict (Rule 606(b))	819
OBJ 49	Lay opinion testimony (Rule 701)	820
OBJ 50	Medical, hospital, or similar expenses, payment of (Rule 409)	821
OBJ 51	Nonresponsive answer (Rule 611)	821
OBJ 52	Notice of intent to offer evidence of other misconduct (Rule 404(b)(2))	822
OBJ 53	Other accidents (Rules 401–403)	823
OBJ 54	Other claims by plaintiff (Rules 401–403)	824

TABLE OF CONTENTS

OBJ 55	Other contracts or transactions involving a party (Rules 401–403).....	824
OBJ 56	Other crimes or misconduct (Rule 404(b))	825
OBJ 57	Other crimes or misconduct not adequately proved (Rules 104(b), 404(b))	826
OBJ 58	Other crimes or misconduct offered for an undisputed point (Rules 403, 404(b))	827
OBJ 59	Personal knowledge lacking (Rule 602)	827
OBJ 60	Photograph, motion picture, videotape, or sound recording not authenticated (Rule 901).....	828
OBJ 61	Photographs inflammatory and unfairly prejudicial (Rule 403)	829
OBJ 62	Pleas and plea bargaining, offered in civil cases (Rule 410)	830
OBJ 63	Pleas and plea bargaining, offered in criminal cases (Rule 410)	830
OBJ 64	Prejudicial value outweighs probative value (Rule 403)...	831
OBJ 65	Previous sexual conduct of sexual assault victim (Rule 412)	832
OBJ 66	Prior consistent statement not admissible to rehabilitate (Rules 613, 801)	833
OBJ 67	Prior inconsistent statement; extrinsic evidence inadmissible (Rule 613).....	834
OBJ 68	Prior inconsistent statement; lack of foundation (Rule 613(a))	834
OBJ 69	Privilege, comment on or adverse inference from invocation (Rule 513)	835
OBJ 70	Privileged (Rules 501–513)	835
OBJ 71	Privileged attorney-client communication (Rule 503).....	836
OBJ 72	Privileged because witness is spouse (Rule 504(b))	837
OBJ 73	Privileged clergy-communicant communication (Rule 505)	838
OBJ 74	Privileged marital communication (Rule 504(a))	838
OBJ 75	Privileged mental health communication (Rule 510)	839
OBJ 76	Privileged physician-patient communication (Rule 509)...	840
OBJ 77	Religious belief or opinion (Rule 610).....	841
OBJ 78	Sale of other property (Rules 401–403).....	841
OBJ 79	Scientific evidence not reliable and relevant (Rule 702)...	842
OBJ 80	Subsequent remedial measure (Rule 407).....	842
OBJ 81	The Rule, witness testifying in violation of (Rule 614)	843
OBJ 82	Truthfulness of another’s testimony (Rules 608, 701, 702)	844
OBJ 83	Victim impact or character evidence (Rules 401–403)	844
OBJ 84	Witness is incompetent (Rule 601).....	845
OBJ 85	Witness is fantasizing, has been manipulated (Rules 607–608, 702)	846

CHAPTER 7 CHECKLISTS AND OTHER PRACTICAL GUIDES

CHECKLISTS AND OTHER PRACTICAL GUIDES

CKL 1	Credibility of Child Victim—Evidence Concerning Fantasizing or Manipulation (Rules 607–608, 702)	849
CKL 2	Dead Man’s Rule (Rule 601(b)).....	855
CKL 3	Expert Testimony— <i>Kelly</i> Test for Admissibility of Scientific Evidence (Rule 702)	855
CKL 4	Expert Testimony— <i>Robinson</i> Test for Admissibility of Scientific Evidence (Rule 702)	856
CKL 5	Expert Testimony—Summary of Reliability Factors.....	857
CKL 6	Foundation for Business Record (Rule 803(6))	858
CKL 7	Foundation for Impeaching Witness With Prior Inconsistent Statement (Rule 613).....	858
CKL 8	Foundation for Offering an Exhibit (Rules 401, 402).....	859
CKL 9	Foundation for Public Record or Report (Rule 803(8)).....	859
CKL 10	Foundation for Recorded Recollection (Rule 803(5)).....	860
CKL 11	Foundation for Summary of Voluminous Writings (Rule 1006).....	860
CKL 12	Impeachment by Convictions—Factors for Balancing Probative Value Against Prejudice (Rule 609)	860
CKL 13	Juror Note-Taking—Procedural Safeguards (Rule 611) ...	861
CKL 14	Methods of Impeachment.....	861
CKL 15	Mitigation of Punitive Damages—Admissible and Inadmissible Evidence (Rules 401–403)	861
CKL 16	Requirements for Authentication of Business Records by Affidavit (Rule 902(10)).....	862

Table of Laws and Rules

Table of Cases

Index