

Index

ABSENCE OR PRESENCE

- Hearing, absence from, hearsay, § 804.1.5
- Public record or entry, hearsay, § 803.10
- Regularly conducted activity, records of, hearsay, § 803.7

ABUSE OF DISCRETION

- Admissibility of evidence, § 103.8

ACCOUNTANT-CLIENT PRIVILEGE

- Information to which privilege applies, § 501.5.3
- Persons entitled to invoke, § 501.5.4
- Professionals to whom privilege applies, § 501.5.2
- Rationale of privilege, § 501.5.1
- Waiver, § 501.5.5

ACKNOWLEDGED DOCUMENTS

- Self-authentication, § 902.9

ADJUDICATIVE FACTS

- Judicial Notice, this index

ADMISSIBILITY

- Duplicates, this index
- Objections, irrelevant questions, Rules 401, 402

ADMISSIONS BY PARTY-OPPONENT

- Hearsay, this index

ADOPTIVE ADMISSIONS

- Hearsay, § 801.12

AGENTS

- Admissions, hearsay, § 801.14

AMBIGUOUS QUESTIONS

- Generally, § 611.6.11

ANCIENT DOCUMENTS

- Authenticating or identifying evidence, § 901.9
- Hearsay, § 803.16

ANIMATED RECONSTRUCTIONS

- Relevant evidence, § 401.4

APPEAL AND REVIEW

- Admissibility of evidence, abuse of discretion, § 103.8
- Subsequent remedial measures, evidentiary decisions, § 407.6
- Witnesses, impeachment, pendency of appeal, § 609.10

APPLICABILITY OF RULES

- Contempt proceedings, § 1101.5
- Domestic relations proceedings, § 1101.8
- Grand jury proceedings, § 1101.3
- Miscellaneous proceedings, § 1101.4
- Preliminary examinations and evidence rules, 1101.6
- Preliminary questions regarding admissibility, § 1101.2
- Rationale of rule, § 1101.1

ARGUMENTATIVE QUESTIONS

- Generally, Rule 611, § 611.6.3

ARREST

- Warrants, rules of evidence, nonapplicability, § 101.1

ASKED AND ANSWERED QUESTIONS

- Generally, § 611.6.4

ASSUMING FACTS NOT IN EVIDENCE

- Witnesses, Rule 611, § 611.6.5

ATTORNEY WORK PRODUCT DOCTRINE

- Criminal cases, required disclosure, § 501.3.5
- Documents prepared in anticipation of litigation, § 501.3.3
- Expert witnesses, discovery, § 501.3.4
- Rationale of doctrine, § 501.3.1
- Substantial need, what constitutes, § 501.3.2

ATTORNEY-CLIENT PRIVILEGE

- Communications to which privilege applies, § 501.2.2
- Compelled assertion of privilege, § 501.2.5
- Exceptions to privilege, § 501.2.4
- Freedom of information act proceedings, § 501.2.7
- Persons entitled to invoke privilege, §§ 501.2.3, 501.2.6
- Rationale of privilege, § 501.2.1
- Waiver, § 501.2.6

AUTHENTICATING OR IDENTIFYING EVIDENCE

- Ancient documents, § 901.9
- Data compilations, § 901.9
- Handwriting
 - comparison by trier of fact or expert witness, § 901.4
 - distinctive characteristics, § 901.5
 - nonexpert opinion, § 901.3
- Methods provided by statute or rule, § 901.11
- Process or system, § 901.10
- Public records or reports, § 901.8
- Rationale of rule, § 901.1
- Telephone conversations, Rule 901, § 901.7
- Testimony of witness with knowledge, § 901.2
- Voice identification, Rule 901, § 901.6

INDEX

AUTHENTICATION OR IDENTIFICATION

- Hearsay, § **801.9**
- Informer, privilege, § **501.7.2**
- Self-Authentication, this index

BAIL

- Rules of evidence, nonapplicability, § **101.1**

BAPTISM RECORDS

- Hearsay, § **803.12**

BELIEF OF IMPENDING DEATH

- Hearsay, statement under belief, § **804.4**

BIAS

- Impeachment of witnesses, § **607.6**

BOUNDARIES

- Reputation, hearsay, § **803.20**

BURDEN OF PROOF

- Presumptions, role in determining, § **301.1**

BUSINESS RECORDS

- Hearsay, **Rule 803**, §§ **803.6**, **803.7**

CALLING OF WITNESSES BY COURT

- Witnesses, this index

CASE EVALUATION PANELS

- Insurance and mediation process, relevancy, § **411.4**

“CATCH-ALL” EXCEPTION

- Hearsay, §§ **803.24**, **804.10**

CERTIFICATION AND CERTIFICATES

- Self-authentication, non-existence of papers, § **902.18**

CHARACTER EVIDENCE

- Generally, **Rule 608**, § **404.5**
- Criminal cases. Not admissible to prove conduct, below
- Hearsay, reputation, § **803.21**
- Methods of proving
 - generally, **Rule 405**
 - opinion evidence, operation of rule as to, § **405.3**
 - rationale of rule, § **405.1**
 - reputation evidence, operation of rule regarding, § **405.2**
 - specific acts evidence, **Rule 405**, § **405.4**
- Not admissible to prove conduct
 - criminal cases
 - putting accused character in issue, § **404.2**
 - sexual conduct, crimes involving, § **404.4**
 - victim’s character, putting in issue, § **404.3**
 - other acts rule, **Rule 404**, § **404.6**

CHARACTER EVIDENCE—Cont'd

- Not admissible to prove conduct—Cont'd
 - prosecution's intent and rationale regarding 404(b)(1) evidence, notice, § 404.8
 - rationale of rule, § 404.1
 - third parties, other crimes, wrongs or acts, admissibility, § 404.7
- Opinion evidence, operation of rule as to, § 405.3
- Other acts rule, **Rule 404**, § 404.6
- Prosecution's intent and rationale regarding 404(b)(1) evidence, notice, § 404.8
- Rationale of rule, § 608.1
- Reputation evidence, operation of rule regarding, § 405.2
- Specific instances of conduct, **608.3**
- Third parties, other crimes, wrongs or acts, admissibility, § 404.7
- Witnesses, § 608.2

CHECKLISTS

- Authentication and identification methods, **Rules 901, 902**
- Character evidence and rebuttal, foundation, **Rules 404(a), 405**
- Evidence, generally, **Ch. 3**

CHILDREN AND MINORS

- Competency, § 601.2
- Custody of Children, this index
- Impeachment, juvenile adjudication, § 609.9
- Juvenile proceedings, § 1101.7
- Sexual act, statement about. Hearsay, this index

CLERGY-PENITENT PRIVILEGE

- Minister, priest, or duly accredited Christian science practitioner, § 501.8.2
- Penitent entitled to invoke privilege, § 501.8.3
- Persons who may invoke privilege, § 501.8.4
- Rationale of privilege, § 501.8.1
- Waiver, § 501.8.4

CO-CONSPIRATORS' STATEMENTS

- Hearsay, § 801.15

COMMERCIAL PAPER

- Self-authentication, § 902.10

COMMERCIAL PUBLICATIONS

- Hearsay, § 803.17

COMMON LAW

- Presumptions, § 301.1

COMPETENCY

- Witnesses, this index

COMPOUND QUESTIONS

- Generally, **Rule 611**, § 611.6.6

INDEX

COMPROMISE OFFERS AND NEGOTIATIONS

- Challenging rulings on admissibility, § 408.4
- Other uses of rule, § 408.3
- Rationale of rule, § 408.1
- Third parties, settlements with, § 408.2

COMPUTER RECORDS

- Authenticating or identifying evidence, process or system, § 901.10

CONCLUSIONS

- Judicial notice, § 201.3

CONCLUSIVE PRESUMPTIONS

- Generally, § 301.1

CONFESSIONS

- Hearing, presence of jury, § 104.4

CONFIDENTIALITY

- Substance abuse treatment records, § 32

CONFRONTATION CLAUSE

- Hearsay, § 802.4

CONFUSION OF ISSUES

- Relevant evidence exclusion, Rule 403, § 403.4

CONSTITUTION OF MICHIGAN

- Generally, Ch. 5
- Public records, self-authentication, 902.20

CONTEMPT

- Applicability of rules, contempt proceedings, § 1101.5
- Summary proceedings, rules of evidence, nonapplicability, § 101.1

CONTRADICTION

- Impeachment of witnesses, § 607.3

CONVEYANCES

- Self-authentication, § 902.19

COURT AND JURY FUNCTIONS

- Operation of rule, § 1008.2
- Rationale of rule, § 1008.1

COURT RULES

- Generally, Chs. 1, 5

COURTS

- Judicial proceeding records, self-authentication, § 902.14
- Matters relating to, judicial notice, § 201.4

CRIMES AND OFFENSES

- Arrest warrants, rules of evidence, nonapplicability, § 101.1
- Attorney work product doctrine, required disclosures in criminal cases, § 501.3.5

CRIMES AND OFFENSES—Cont'd

- Character Evidence, this index
- Confessions, hearing, presence of jury, § 104.4
- Joint defendant cases, limited admissibility, § 105.3
- Parole and Probation, this index
- Presumptions
 - examples of criminal presumptions, § 302.3
 - rational connection test, § 302.2
 - rationale of rule, § 302.1
- Sex Offenses, this index
- Warrants, arrest, rules of evidence, nonapplicability, § 101.1

CROSS-EXAMINATION

- Expert witnesses, § 703.4
- Scope, Rule 611, § 611.4

CUMULATIVE EVIDENCE

- Exclusion of relevant evidence, Rule 403, § 403.5

CUSTODY OF CHILDREN

- In camera hearings, applicability of rules of evidence, § 101.1

CUSTOMS AND USAGES

- Judicial notice, § 201.4

DATA COMPILATIONS

- Authenticating or identifying evidence, § 901.9

DEAD MAN'S STATUTE

- Generally, § 601.3

DEATH

- Hearsay, unavailability, § 804.1.4

DECREES

- Judgments and Decrees, this index

DEEDS

- Self-authentication, statutory procedures, § 902.19

DEFINITIONS

- Rules of evidence, Rule 101

DEMONSTRATIVE EVIDENCE

- Generally, § 401.3

DEPOSITIONS

- Hearsay, this index
- Objections, § 103.6
- Refreshing memory of witnesses, § 612.6

DISCLOSURE

- Substance abuse treatment records, § 33

INDEX

DISCOVERY

Depositions, this index

DOMESTIC RELATIONS

Proceedings, applicability of rules, § 1101.8

DOUBLE HEARSAY

Hearsay, this index

DUPLICATES

Admissibility of duplicates

operation of rule, § 1003.2

rationale of rule, § 1003.1

Defined, writings, recordings and photographs, § 1001.5

Operation of rule, § 1003.2

Rationale of rule, § 1003.1

DYING DECLARATIONS

Hearsay, § 804.4

ELECTIONS

Voters privilege, § 501.13

EMOTIONAL CONDITION

Hearsay, this index

EXAMINATIONS

Applicability of evidence rules to preliminary examinations, 1101.6

EXCEPTIONS

Hearsay, this index

EXCLUSION OF WITNESSES

Witnesses, this index

EXPERT WITNESSES

Bases of expert

cross-examination of experts, § 703.4

dichotomy between FRE 703 and MRE 70s, § 703.2

operation of rule, § 703.3

rationale of rule, § 703.1

Court-appointed experts

operation of rule, § 706.2

rationale of rule, § 706.1

Determining whether proffered witness is expert, Rule 702, § 702.2

Disclosure of facts or data underlying expert opinion

hypothetical questions, § 705.3

operation of rule, § 705.2

rationale of rule, § 705.1

Hypothetical questions, disclosure of facts or data underlying expert opinion,
§ 705.3

Land values, persons with interest in property as expert as to, § 702.7

EXPERT WITNESSES—Cont'd

- Learned treatises, use for impeachment
 - calling learned treatises to attention of expert, § 707.5
 - operation of rule, § 707.2
 - rationale of rule, § 707.1
 - reading into evidence, § 707.4
 - what constitutes learned treatise, § 707.3
- Opinion on ultimate issue
 - operation of rule, § 704.2
 - rationale of rule, **Rule 704**, § 704.1
- Permissible uses of expert testimony, § 702.3
- Rationale of rule, § 702.1
- “Reliable principles and methods,” **Rule 702**, § 702.5
- Scientific evidence, admissibility of, § 702.6
- Ultimate issue. Opinion on ultimate issue, above
- When experts must or may be used, § 702.4

EXTRADITION

- Rules of evidence, nonapplicability, § 101.1

FAMILY RECORDS

- Hearsay, § 803.13

FEDERAL RULES OF EVIDENCE

- Generally, **Ch. 6**
- Rejected and superseded rules, **Ch. 7**

FOREIGN AFFIDAVITS

- Authentication, § 902.13

FOREIGN JUDICIAL RECORDS

- Self-authentication, § 902.15

FOREIGN PUBLIC DOCUMENTS

- Self-authentication, § 902.4

FORMER TESTIMONY

- Hearsay, § 804.3

FREEDOM OF INFORMATION ACT

- Attorney-client privilege, § 501.2.7

GENERAL ADMISSIBILITY OF RELEVANT EVIDENCE

- Rationale of rule, § 402.1

GENERAL HISTORY

- Reputation, hearsay, § 803.20

GEOGRAPHICAL FACTS

- Judicial notice, § 201.4

GOVERNMENT DELIBERATIVE PROCESS

- Privilege, § 501.14

INDEX

GRAND JURY

- Proceedings, applicability of rules, § 1101.3
- Rules of evidence, nonapplicability, § 101.1

HABIT OR ROUTINE PRACTICE

- Individual, habit of, § 406.2
- Organization, routine practice of, § 406.3
- Proof, § 406.4
- Rationale of rule, § 406.1

HANDWRITING

- Authentication or Identification, this index

HARMLESS ERROR

- Depositions, § 103.6
- Hearsay, § 802.3

HEARSAY

- Absence from hearing, unavailability because of, § 804.1.5
- Absence of entry in records of regularly conducted activity, § 803.7
- Absence of public record or entry, § 803.10
- Admissions by party-opponent
 - Generally, § 801.10
 - adoptive admissions, § 801.12
 - agent admissions, § 801.14
 - co-conspirators, statements of, § 801.15
 - party's own statements, § 801.11
 - spokesperson statements, § 801.13
- Adoptive admissions, § 801.12
- Agent admissions, § 801.14
- Ancient documents, § 803.16
- Attacking and supporting the declarant
 - operation of rule, § 806.2
 - rationale of rule, § 806.1
- Belief of impending death, statement under, § 804.4
- Boundaries or general history, reputation, § 803.20
- “Catch-all” exception, §§ 803.24, 804.10
- Character, reputation, § 803.21
- Child's statement about a sexual act
 - excusable delay, what constitutes, § 803A.4
 - notice provisions, § 803A.5
 - proceedings other than criminal and delinquency proceedings, § 803A.6
 - rationale of rule, § 803A.1
 - spontaneous statement, what constitutes, § 803A.7
 - tender years, what constitutes, § 803A.2
 - testimony given by declarant, what constitutes, § 803A.3
- Co-conspirators, statements of, § 801.15
- Confrontation clause, § 802.4
- Death, illness or infirmity, unavailability because of, § 804.1.4

HEARSAY—Cont'd

Definitions

Generally, **Rule 801, § 801.5**
at trial or hearing, defined, **§ 801.4**
declarant, defined, **§ 801.3**
rationale of rule, **§ 801.1**
statement, defined, **§ 801.2**

Depositions

Generally, **§§ 804.7, 804.8**
expert testimony, **§ 803.18**

Double or multiple hearsay

each level examined separately, **§ 805.3**
operation of rule, **§ 805.2**
prejudice, confusion or waste of time, exclusion for, **Rule 403, § 805.5**
rationale of rule, **§ 805.1**
relevant portion of each level must qualify under exception, **§ 805.4**

Dying declarations, **§ 804.4**

Exception, residual, **Rule 807**

Exceptions

absence of entry in records of regularly conducted activity, **§ 803.7**
absence of public record or entry, **§ 803.10**
ancient documents, **§ 803.16**
“Catch-all” exception, **§ 803.24**
deposition testimony of expert, **§ 803.18**
family records, **§ 803.13**
judgment as to personal, family or general history or boundaries, **§ 803.23**
judgment as to previous conviction, **§ 803.22**
market reports and commercial publications, **§ 803.17**
marriage, baptismal and similar certificates, **§ 803.12**
medical treatment or diagnosis, statements made for purposes of, **§ 803.4**
present sense impression, **§ 803.1**
property, records of documents affecting interest in, **§ 803.14**
property, statements in documents affecting interest in, **§ 803.15**
public records and reports, **Rule 803, §§ 803.8, 803.10**
rationale of rule, **§ 803.0**
recorded recollection, **Rule 803, § 803.5**
regularly conducted activity, records of, **Rule 803, §§ 803.6, 803.7**
religious organizations, records of, **§ 803.11**
vital statistics, records of, **§ 803.9**

Exceptions; declarant unavailable as witness

absence from hearing, unavailability because of, **§ 804.1.5**
belief of impending death, statement under, **§ 804.4**
“Catch-all” exception, **§ 804.10**
death, illness or infirmity, unavailability because of, **§ 804.1.4**
depositions, **§§ 804.7, 804.8**
former testimony, **§ 804.3**
interest, statement against, **§ 804.5**

INDEX

HEARSAY—Cont'd

- Exceptions; declarant unavailable as witness—Cont'd
 - memory, unavailability because of lack of, § 804.1.3
 - motion practice, § 804.8
 - operation of rule, § 804.2
 - opponent, statement by declarant made unavailable by, § 804.9
 - personal or family history, statement of, § 804.6
 - privilege, unavailability because of, § 804.1.1
 - rationale of rule, § 804.0
 - refusal to testify, unavailability because of, § 804.1.2
 - unavailability, defined, § 804.1
- Exceptions; regardless of whether declarant is available as witness
 - Excited utterances, below
 - Mental, emotional or physical condition, then-existing, below
 - Reputation, below
- Excited utterances
 - Generally, § 803.2
 - “Spontaneously, before there has been time to contrive, fabricate or misrepresent,” what constitutes, § 803.2.2
 - “Startling” event or condition, what constitutes, § 803.2.1
 - statement relating to circumstances of startling event, what constitutes, § 803.2.3
 - written “excited utterances,” § 803.2.4
- Exclusions from hearsay, definitions, **Rule 801**
- Excusable delay, child’s statement about a sexual act, § 803A.4
- Family history. Personal or family history, below
- Family records, § 803.13
- Former testimony, § 804.3
- Harmless error, § 802.3
- Identification, statements of, § 801.9
- Interest, statement against, § 804.5
- Judgment as to personal, family or general history or boundaries, § 803.23
- Judgment as to previous conviction, § 803.22
- Market reports and commercial publications, § 803.17
- Marriage, baptismal and similar certificates, § 803.12
- Medical treatment or diagnosis, statements made for purposes of, § 803.4
- Memory, unavailability because of lack of, § 804.1.3
- Mental, emotional or physical condition, then-existing
 - Generally, § 803.3
 - mental or emotional condition, statement of, § 803.3.2
 - physical condition, statement of, § 803.3.1
- Multiple hearsay. Double or multiple hearsay, above
- Notice, child’s statement about a sexual act, § 803A.5
- Operation of rule, § 802.2
- Personal or family history
 - reputation, § 803.19
 - statement of, § 804.6
- Present sense impression, § 803.1

HEARSAY—Cont'd

- Prior consistent statements, § 801.8
- Prior inconsistent statements, § 801.7
- Privilege, unavailability because of, § 804.1.1
- Property, records of documents affecting interest in, § 803.14
- Property, statements in documents affecting interest in, § 803.15
- Public records and reports, **Rule 803**, §§ 803.8, 803.10
- Rationale of rule, § 802.1
- Recorded recollection, **Rule 803**, § 803.5
- Refusal to testify, unavailability because of, § 804.1.2
- Regularly conducted activity, records of, **Rule 803**, §§ 803.6, 803.7
- Religious organizations, records of, § 803.11
- Reputation
 - boundaries or general history, § 803.20
 - character, § 803.21
 - personal or family history, § 803.19
- Residual exception, **Rule 807**
- Sexual acts. Child's statement about sexual act, above
- Spokesperson statements, § 801.13
- Statements that are not hearsay
 - Generally, § 801.6
 - identification, statements of, § 801.9
 - prior consistent statements, § 801.8
 - prior inconsistent statements, § 801.7
- Tender years, child's statement about a sexual act, § 803A.2
- Vital statistics, records of, § 803.9
- Written "excited utterances," § 803.2.4

HISTORICAL FACTS

- Judicial notice, § 201.4

HYPNOSIS

- Refreshing recollection, § 612.5

HYPOTHETICAL QUESTIONS

- Expert witnesses, § 705.3

IDENTIFICATION

- Authentication or Identification, this index

ILLNESS OR INFIRMITY

- Hearsay, unavailability, § 804.1.4

IMPEACHMENT OF WITNESSES

- Appeal pending, conviction of crime, § 609.10
- Bias, § 607.6
- Collateral matters, prior statements, § 613.7
- Consistent statements, use as substantive evidence, § 613.5
- Contradiction, § 607.3
- Criminal conviction
 - appeal, pendency, § 609.10

INDEX

IMPEACHMENT OF WITNESSES—Cont'd

Criminal conviction—Cont'd

“Containing an element of dishonesty or false statement” or “an element of theft,” § 609.4

determining probative value and prejudicial effect in criminal cases, § 609.5

dishonesty or false statements, crimes containing elements of, § 609.2

juvenile adjudication, § 609.9

method and burden of proof, § 609.11

operation of rule, § 609.8

preserving issues related to impeachment by conviction, § 609.6

rationale of rule, § 609.1

theft, crimes containing elements of, § 609.3

time limit rule, **Rule 609**, § 609.7

Dishonesty or false statements, crimes containing elements of, § 609.2

Illegally obtained evidence, use of to impeach, § 613.6

Inconsistent statements. Prior statements, below

Juvenile adjudications, § 609.9

Lack of testimonial capacity, § 607.5

Prior statement

collateral matters, § 613.7

consistent statements, use as substantive evidence, § 613.5

illegally obtained evidence, use of to impeach, § 613.6

inconsistent statements

Generally, § 613.2

rehabilitation, § 613.4

substantive evidence, § 613.3

rationale of rule, § 613.1

rehabilitation, inconsistent statements, § 613.4

Prior statements

who may impeach, § 607.4

Rehabilitation, inconsistent statements, § 613.4

Theft, crimes containing elements of, § 609.3

Time limit, conviction of crime, **Rule 609**, § 609.7

Who may impeach a witness

bias, § 607.6

contradiction, § 607.3

lack of testimonial capacity, § 607.5

operation of rule, § 607.2

prior inconsistent statements, § 607.4

rationale of rule, § 607.1

INFERENCES

Judicial notice, § 201.3

INFORMERS PRIVILEGE

Qualified nature of privilege, § 501.7.3

Rationale of privilege, § 501.7.1

Waiver, § 501.7.4

What is privileged under rule, § 501.7.2

INSURANCE

Liability Insurance, this index

INTEREST, STATEMENT AGAINST

Hearsay, § 804.5

INTERPRETER

Operation of rule, § 604.2

Rationale of rule, § 604.1

Selection, § 604.3

INVESTIGATORS PRIVILEGE

Cases arising under statute, § 501.10.2

Rationale of privilege, § 501.10.1

IRRELEVANT QUESTIONS

Admissibility, objections, **Rules 401, 402**

JOURNALIST PRIVILEGE

Communications to which privilege applies, § 501.9.4

Confidential and nonconfidential information possessed by journalist, § 501.9.3

Proceedings to which privilege applies, § 501.9.5

Publications to which privilege applies, § 501.9.6

Qualified nature of constitutional privilege, § 501.9.2

Rationale of privilege, § 501.9.1

JUDGMENTS AND DECREES

Personal, family or general history or boundaries, hearsay, § 803.23

Previous convictions, hearsay, § 803.22

Self-authentication, statutory procedures, § 902.17

JUDICIAL NOTICE

Adjudicative facts

cases where courts have judicially noticed facts, § 201.4
defined, § 201.2

facts not judicially noticed, examples, § 201.5

facts not subject to reasonable dispute, § 201.3

legislative facts distinguished, § 201.2

rationale of rule, § 201.1

Law

operation of rule, § 202.2

rationale of rule, § 202.1

timing of taking judicial notice, § 202.3

JUDICIAL PROCEEDING RECORDS

Self-authentication, § 902.14

JURY

Common knowledge of jurors, judicial notice, § 201.3

JUVENILE COURTS

Proceedings, § 1101.7

Rules of evidence, nonapplicability, § 101.1

INDEX

LEADING QUESTIONS

Interrogation and presentation, mode and order of, **Rule 611, § 611.5**

LIABILITY INSURANCE

Case evaluation panels, § **411.4**

Rationale of rule, § **411.1**

Relevancy

case evaluation panels, § **411.4**

insurance for other purposes, introduction, § **411.2**

operation of rule, § **411.3**

LIMITED ADMISSIBILITY

Generally, **Rule 105**

Joint defendant cases, applicability, § **105.3**

Limiting instructions, § **105.2**

Rationale of rule, § **105.1**

MAINTENANCE AND REPAIRS

Remedial repairs, timing, evidence, § **407.4**

MARITAL PRIVILEGE

Communications privilege, § **501.6.4**

Persons who may assert, § **501.6.5**

Rationale of privilege, § **501.6.1**

Scope of privilege, § **501.6.2**

Spousal immunity privilege, § **501.6.3**

Waiver, § **501.6.5**

MARKET REPORTS

Hearsay, § **803.17**

MARRIAGE RECORDS AND CERTIFICATES

Hearsay, § **803.12**

MEDICAL EXPENSES, OFFERS TO PAY

Operation of rule, § **409.2**

Rational of rule, § **409.1**

MEDICAL TREATMENT OR DIAGNOSIS

Hearsay, statements made for purposes of treatment or diagnosis, § **803.4**

MEMORY

Hearsay, unavailability, § **804.1.3**

MENTAL CONDITION

Hearsay, this index

MINORS

Children and Minors, this index

MISLEADING JURY

Confusion of issues, **Rule 403, § 403.4**

Defined, relevant evidence exclusion, § **403.4**

MISQUOTING WITNESS

Generally, **Rule 611, § 611.6.7**

MOTION IN LIMINE

Defined, § **103.5**

MOTOR VEHICLES

Judicial notice, § **201.4**

MOVIES

Relevant evidence, § **401.4**

MULTIPLE HEARSAY

Hearsay, this index

NARRATIVE RESPONSE

Questions calling for narrative, **Rule 611, § 611.6.8**

NEGOTIATIONS

Compromise Offers and Negotiations, this index

NEWSPAPERS

Self-authentication, § **902.7**

NOLO CONTENDERE

Subsequent litigation, use of plea, § **410.3**

NON-RESPONSIVE ANSWERS

Generally, **Rule 611, § 611.6.9**

NOTICE

Hearsay, child's statement about a sexual act, § **803A.5**

Prosecutions intent and rationale regarding 404(b)(1) evidence, § **404.8**

OBJECTIONS

Generally, **Ch. 2**

Witnesses, § **611.6.1**

OFFER OF PROOF

Generally, § **103.4**

OFFICIAL PUBLICATIONS

Self-authentication, § **902.6**

OTHER EVIDENCE OF CONTENT

Collateral matters, § **1004.5**

Original in possession of opponent, § **1004.4**

Original lost or destroyed, § **1004.2**

Original not obtainable by available process, § **1004.3**

Rationale of rule, § **1004.1**

PAROLE AND PROBATION

Officers and records, privileges, § **501.15**

Rules of evidence, nonapplicability, § **101.1**

INDEX

PERIODICALS

Self-authentication, § 902.7

PERMISSIVE PRESUMPTIONS

Generally, § 301.1

PERSONAL OR FAMILY HISTORY

Hearsay, this index

PHOTOGRAPHS

Writings, Recordings and Photographs, this index

PHYSICAL CONDITION

Hearsay, this index

PHYSICIAN-PATIENT PRIVILEGE

Exceptions to rule, § 501.4.1.5

Information protected against disclosure by privilege, § 501.4.1.2

Miscellaneous provisions under public health code, § 501.4.3

Persons that may assert privilege, § 501.4.1.3

Procedure for asserting, § 501.4.1.6

Rationale of privilege, § 501.4.1.1

Waiver, § 501.4.1.4

PLAIN ERROR

Defined, § 103.2

PLEAS, PLEA DISCUSSIONS AND RELATED STATEMENTS

Nolo contendere pleas, use of in subsequent litigation, § 410.3

Perjury exception, § 410.4

Plea discussion, what constitutes, § 410.2

Rationale of rule, § 410.1

POLITICAL VOTES

Privilege, § 501.13

PRELIMINARY EXAMINATIONS

Applicability of evidence rules, 1101.6

PRELIMINARY QUESTIONS

Generally, Rule 104

Admissibility, 1101.4

Admissibility generally, § 104.2

Hearing of jury, § 104.4

Rationale of rule, § 104.1

Relevancy conditioned on fact, § 104.3

Testimony by accused, § 104.5

Weight and credibility, § 104.6

PRESENT SENSE IMPRESSION

Hearsay, § 803.1

PRESUMPTIONS

Case law examples, § 301.4

PRESUMPTIONS—Cont'd

- Case law history, § 301.2
- Common law presumptions, § 301.1
- Conclusive presumptions, § 301.1
- Crimes and Offenses, this index
- Non-jury cases, trial court disregard of improperly admitted evidence, § 103.7
- Permissive presumptions, § 301.1
- Rationale of rule, § 301.1
- Rebuttable presumptions, § 301.1
- Refusal to recognize presumptions, case examples, § 301.5
- Statutory presumptions, generally, § 301.3

PRIOR STATEMENTS

- Hearsay, §§ 801.7, 801.8
- Impeachment of Witnesses, this index

PRIVILEGES

- Generally, Rule 501, § 104.2
- Accountant-Client Privilege, this index
- Attorney-Client Privilege, this index
- Clergy-Penitent Privilege, this index
- Government deliberative process privilege, § 501.14
- Hearsay, unavailability because of privilege, § 804.1.1
- Informers Privilege, this index
- Investigators Privilege, this index
- Journalist Privilege, this index
- Marital Privilege, this index
- Miscellaneous statutory privileges, § 501.15
- Physician-Patient Privilege, this index
- Political votes, § 501.13
- Probation officers and records, § 501.15
- Psychiatrist or Psychologist-Patient Privilege, this index
- Rationale of rule, § 501.1
- Self-critical analysis privilege, § 501.16
- Social Worker Privilege, this index
- Teacher-Student Privilege, this index
- Voters privilege, § 501.13
- Waiver
 - accountant-client privilege, § 501.5.5
 - clergy-penitent privilege, § 501.8.4
 - informers privilege, § 501.7.4
 - marital privilege, § 501.6.5
 - physician-patient privilege, § 501.4.1.4
 - privilege, refreshing recollection, § 612.7
 - psychiatrist or psychologist-patient privilege, § 501.4.2.4
 - social worker privilege, § 501.11.4

PROBATION

- Parole and Probation, this index

INDEX

PRODUCTS LIABILITY

Subsequent remedial measures, relevancy, § 407.3

PSYCHIATRIST OR PSYCHOLOGIST-PATIENT PRIVILEGE

Assertion, procedure for evaluating, § 501.4.2.6

Exceptions to privilege, § 501.4.2.5

Information protected against disclosure, § 501.4.2.2

Miscellaneous provisions under public health code, § 501.4.3

Persons that may assert privilege, § 501.4.2.3

Rationale of rule, § 501.4.2.1

Waiver, § 501.4.2.4

Warnings, duty to warn third persons, 501.4.2.7

PUBLIC RECORDS

Authenticating or identifying evidence, § 901.8

Hearsay, Rule 803, §§ 803.8, 803.10

PUBLIC RECORDS, COPIES

Operation of rule, § 1005.2

Rationale of rule, § 1005.1

Reasonable diligence defined, § 1005.3

PURPOSE OF RULES

Generally, Rule 102

Operation of rule, § 102.2

Rationale of rule, § 102.1

RAPE-SHIELD STATUTE

Generally, § 404.4

REAL PROPERTY

Experts in land value, persons with interest as, § 702.7

Hearsay, records of or statements in documents affecting interest in property,
§§ 803.14, 803.15

REASONABLE DILIGENCE

Defined, public records, § 1005.3

REBUTTAL

Generally, § 611.2.4

RECORDED RECOLLECTION

Hearsay, Rule 803, § 803.5

RECORDS

Writings, Recordings and Photographs, this index

REFRESH WITNESS

Before or during testimony, § 612.3

Depositions, § 612.6

Hearings other than trials, § 612.6

Hypnosis, use of to refresh recollection, § 612.5

Operation of rule, §§ 612.3, 612.4

REFRESH WITNESS—Cont'd

Privilege, waiver by refreshing recollection, § 612.7

Rationale of rule, § 612.1

Refreshing recollection, meaning, § 612.2

REFUSAL TO TESTIFY

Hearsay, unavailability, § 804.1.2

REGULARLY CONDUCTED ACTIVITY

Hearsay, records, Rule 803, §§ 803.6, 803.7

REJECTED FEDERAL RULES OF EVIDENCE

Generally, Ch. 7

RELEVANCY

Compromise and Settlement, this index

Confusion of issues, Rule 403, § 403.4

Cumulative evidence, Rule 403, § 403.5

Exclusion of relevant evidence

confusion of issues, Rule 403, § 403.4

cumulative evidence, § 403.5

misleading jury, defined, § 403.4

objections and responses, Rule 403, § 403.6

preservation of objections to exclusion or admission, § 403.6

rationale of rule, § 403.1

substantially outweighed, Rule 403, § 403.2

undue delay, Rule 403, § 403.5

unfair prejudice, defined, § 403.3

waste of time, § 403.5

Habit or Routine Practice, this index

Liability Insurance, this index

Medical Expenses, Payment, this index

Misleading jury, defined, § 403.4

Objections to exclusion or admission, preserving, § 403.6

Pleas, Plea Discussions and Related Statements, this index

Preservation of objections to exclusion or admission, § 403.6

Probation value, § 403.7

Subsequent Remedial Measures, this index

Substantially outweighed, Rule 403, § 403.2

Undue delay, Rule 403, § 403.5

Unfair prejudice, defined, § 403.3

Waste of time, § 403.5

RELIGION

Hearsay, records of religious organizations, § 803.11

REOPENING OF PROOFS

Generally, § 611.2.5

REPUTATION

Character Evidence, this index

INDEX

RES IPSA LOQUITUR

Generally, § 301.4

RESIDUAL EXCEPTION

Hearsay, **Rule 807**

REVIEW

Appeal and Review, this index

REVOCAATION

Substance abuse treatment records, § 33

ROUTINE

Habit or Routine Practice, this index

RULINGS ON EVIDENCE

Generally, **Rule 103**

Admissibility of evidence, abuse of discretion, appellate review, § 103.8

Depositions, objections, § 103.6

Failure to object or move to strike, consequences, § 103.3

Jury cases, evidence rulings in, § 103.5

Non-jury cases, errors in admitting evidence, § 103.7

Offer of proof, § 103.4

Plain error, defined, § 103.2

Rationale of rule, § 103.1

Substantial right, defined, § 103.2

SCIENTIFIC LAWS

Judicial notice, § 201.4

SCIENTIFIC TESTS

Authenticating or identifying evidence, process or system, § 901.10

SCOPE OF RULES

Nonapplicability of rules, § 101.1

Rationale of rule, § 101.1

SEALED DOCUMENTS AND INSTRUMENTS

Self-Authentication, this index

SEARCH AND SEIZURES

Warrants, rules of evidence, nonapplicability, § 101.1

SECURITIES

Self-authentication, § 902.10

SELF-AUTHENTICATION

Acknowledged documents, § 902.9

Commercial paper, § 902.10

Conveyances and other recorded documents, § 902.19

Domestic public documents

not under seal, § 902.3

under seal, § 902.2

Foreign affidavits, § 902.13

SELF-AUTHENTICATION—Cont'd

- Foreign judicial records, copies, § 902.15
- Foreign public documents, § 902.4
- Judicial proceeding records, § 902.14
- Newspapers, § 902.7
- Official publications, § 902.6
- Orders, judgments and decrees, § 902.17
- Periodicals, § 902.7
- Presumptions created by law, § 902.11
- Public records, certified copies, § 902.5
- Rationale of rule, § 902.1
- Regularly conducted activity, certified records of, § 902.21
- Seals, domestic public documents
 - not under seal, § 902.3
 - under seal, § 902.2
- Securities, § 902.10
- State constitution and laws, § 902.20
- Statutory procedures for authenticating public records
 - Generally, § 902.12
 - conveyances and other recorded documents, § 902.19
 - foreign affidavits, § 902.13
 - foreign judicial records, copies, § 902.15
 - judicial proceeding records, § 902.14
 - orders, judgments and decrees, § 902.17
 - other methods of proof permitted, § 902.16
 - papers, non-existence, certificate, § 902.18
 - state constitution and laws, § 902.20
- Trade inscriptions, § 902.8

SELF-CRITICAL ANALYSIS

- Privilege, § 501.16

SETTLEMENT

- Compromise and Settlement, this index

SEXUAL OFFENSES

- Hearsay, this index
- Rape-shield statute, § 404.4

SMALL CLAIMS

- Rules of evidence, nonapplicability, § 101.1

SOCIAL WORKER PRIVILEGE

- Exceptions to privilege, § 501.11.5
- Information protected, § 501.11.2
- Persons that may assert privilege, § 501.11.3
- Procedure for asserting, § 501.11.6
- Rationale of privilege, § 501.11.1
- Waiver, § 501.11.4

INDEX

SPECIFIC INSTANCES, CHARACTER, PROOF

Generally, § 405.4

SPECULATION

Questions calling for speculation, **Rule 611, § 611.6.10**

STATUTES

Generally, **Ch. 5**

Presumptions, § 301.3

Rules of evidence, § 101.3

Self-authentication, public records, § 902.20

SUBSCRIBING WITNESS

Rationale of rule, § 903.1

Use of documents requiring authentication for purposes other than establishing validity, § 903.2

SUBSEQUENT REMEDIAL MEASURES

Product liability cases, § 407.3

Relevancy

non-parties, remedial measures taken by, § 407.2

permissible uses of evidence relating to, § 407.5

product liability cases, § 407.3

rationale of rule, § 407.1

review of evidentiary decisions, § 407.6

Repairs, timing, § 407.4

Review of evidentiary decisions, § 407.6

SUBSTANTIALLY OUTWEIGHED

Exclusion of relevant evidence, **Rule 403, § 403.2**

SUMMARIES TO PROVE CONTENT

Other requirements, § 1006.4

Rationale of rule, § 1006.1

Reasonable time and place for copying or examining defined, § 1006.3

Threshold requirement of admissibility, § 1006.2

SUPERSEDED FEDERAL RULES OF EVIDENCE

Generally, **Ch. 7**

SUPREME COURT

Rule making power under constitution, 101.1

SURREBUTTAL

Generally, § 611.2.4

TEACHER-STUDENT PRIVILEGE

Cases relating to privilege, § 501.12.2

Rationale of privilege, § 501.12.1

TELEPHONE CALLS AND CONVERSATIONS

Authenticating or identifying evidence, **Rule 901, § 901.7**

TENDER YEARS

Child's statement about a sexual act, hearsay, § 803A.2

TEST FOR RELEVANT EVIDENCE

Animated reconstructions, § 401.4

Definition of relevant evidence

animated reconstructions, § 401.4

demonstrative evidence, § 401.3

examples of relevant evidence, § 401.5

meaning of relevant evidence, § 401.2

movies, § 401.4

photographs, § 401.4

rationale of rule, § 401.1

videotapes, § 401.4

Demonstrative evidence, § 401.3

Movies, § 401.4

Objections and responses, Rules 401, 402, § 403.6

Photographs, § 401.4

Videotapes, § 401.4

TESTIMONY OR WRITTEN ADMISSION OF PARTY

Operation of rule, § 1007.2

Rationale of rule, § 1007.1

THIRD PARTIES

Other crimes, wrongs, or acts, admissibility, § 404.7

TITLE OF RULES

Operation of rule, § 1102.2

Rationale of rule, § 1102.1

TRADE INSCRIPTIONS

Self-authentication, § 902.8

ULTIMATE ISSUE

Expert Witnesses, this index

UNDUE DELAY

Exclusion of relevant evidence, Rule 403, § 403.5

UNFAIR PREJUDICE

Defined, relevant evidence excluded, § 403.3

VAGUE QUESTIONS

Generally, Rule 611, § 611.6.11

VICTIM OF CRIME

Putting character of victim in issue, § 404.3

VIDEOTAPES

Relevant evidence, § 401.4

VITAL RECORDS

Hearsay, § 803.9

INDEX

VOICE IDENTIFICATION

Authenticating or identifying evidence, **Rule 901, § 901.6**

VOTERS PRIVILEGE

Generally, § **501.13**

WAIVER

Privileges, this index

WASTE OF TIME

Relevant evidence, exclusion, § **403.5**

WITNESSES

Argumentative questions, **Rule 611, § 611.6.3**

Asked and answered questions, § **611.6.4**

Assuming facts not in evidence, **Rule 611, § 611.6.5**

Calling or examining witness

operation of rule, § **614.2 et seq., § 614.3, § 614.4**

rationale of rule, § **614.1**

Character Evidence, this index

Children and Minors, this index

Collateral matters, prior statements, § **613.7**

Competency of juror as witness

inquiry into validity of verdict, § **606.2**

parties believing that juror is interested witness, remedy, § **606.3**

rationale of rule, § **606.1**

Competency to testify

children and minors, § **601.2**

dead mans statute, § **601.3**

rationale of rule, § **601.1**

Compound questions, **Rule 611, § 611.6.6**

Consistent prior statements, use as substantive evidence, § **613.5**

Control over mode and order of evidence, § **611.3**

Cross-Examination, this index

Dead man's statute, § **601.3**

Defendant's denials, affirmative defenses and counterclaims, § **611.2.3**

Examining witnesses and presenting evidence, mode and order of

argumentative questions, **Rule 611, § 611.6.3**

asked and answered questions, § **611.6.4**

assuming facts not in evidence, **Rule 611, § 611.6.5**

compound questions, **Rule 611, § 611.6.6**

control over mode and order of evidence, § **611.3**

cross-examination, scope, **Rule 611, § 611.4**

defendant's denials, affirmative defenses and counterclaims, § **611.2.3**

lack of foundation and voir dire of witnesses, § **611.6.2**

leading questions, **Rule 611, § 611.5**

misquoting witness, **Rule 611, § 611.6.7**

narrative response, questions calling for, **Rule 611, § 611.6.8**

non-responsive answers, **Rule 611, § 611.6.9**

WITNESSES—Cont'd

- Examining witnesses and presenting evidence, mode and order of—Cont'd
 - objections, § **611.6.1**
 - order of presentation of evidence at trial, § **611.2.1**
 - plaintiff/prosecutors case in chief, § **611.2.2**
 - rationale of rule, § **611.1**
 - rebuttal and surrebuttal, § **611.2.4**
 - reopening of proofs, § **611.2.5**
 - speculation or recollection, questions calling for, **Rule 611**, § **611.6.10**
 - vague or ambiguous questions, **Rule 611**, § **611.6.11**
- Excluding witnesses
 - limits of rule, § **615.2**
 - operation of rule, § **615.3**
 - rationale of rule, § **615.1**
 - witnesses who may not be excluded, § **615.4**
- Expert Witnesses, this index
- Impeachment of Witnesses, this index
- Judge's competency as witness
 - parties believing judge is interested witness, remedies, § **605.2**
 - rationale of rule, § **605.1**
- Lack of foundation and voir dire of witnesses, § **611.6.2**
- Lay witnesses, opinion testimony
 - helpful opinion testimony, § **701.3**
 - rational perception of witness, § **701.2**
 - rationale of rule, § **701.1**
- Leading questions, **Rule 611**, § **611.5**
- Misquoting witness, **Rule 611**, § **611.6.7**
- Narrative response, questions calling for, **Rule 611**, § **611.6.8**
- Need for personal knowledge
 - establishment of personal knowledge, § **602.2**
 - operation of rule, example, § **602.3**
 - rationale of rule, § **602.1**
- Non-responsive answers, **Rule 611**, § **611.6.9**
- Oath or affirmation to testify truthfully
 - failure to make, objection, § **603.2**
 - rationale of rule, § **603.1**
- Objections, § **611.6.1**
- Order of presentation of evidence at trial, § **611.2.1**
- Plaintiff/prosecutor's case in chief, § **611.2.2**
- Qualification, § **104.2**
- Rebuttal and surrebuttal, § **611.2.4**
- Refreshing Memory, this index
- Religious beliefs or opinions
 - constitutional and statute provisions, § **610.2**
 - operation of rule, § **610.3**
 - rationale of rule, § **610.1**
- Reopening of proofs, § **611.2.5**

INDEX

WITNESSES—Cont'd

- Speculation or recollection, questions calling for, **Rule 611, § 611.6.10**
- Uniform Act to secure attendance of witness from without state, § **151**
- Vague or ambiguous questions, **Rule 611, § 611.6.11**

WORDS AND PHRASES

- Abuse of discretion, admissibility of evidence, § **103.8**
- Duplicate, writings, recordings and photographs, § **1001.5**
- Misleading jury, relevant evidence exclusion, § **403.4**
- Motion in limine, § **103.5**
- Photographs, § **1001.3**
- Plain error, § **103.2**
- Reasonable diligence, public records, § **1005.3**
- Reasonable time and place, copying or examination of documents, § **1006.3**
- Relevant evidence, § **401.1 et seq.**
- Substantial right, § **103.2**
- Substantially outweighed, relevant evidence excluded, § **403.2**
- Unfair prejudice, relevant evidence excluded, § **403.3**
- Writings and recordings, § **1001.2**

WORK PRODUCT

- Attorney Work Product Doctrine, this index

WRITINGS, RECORDINGS AND PHOTOGRAPHS

- Authentication or Identification, this index
- Baptism records, § **803.12**
- Duplicate, defined, § **1001.5**
- Excited utterances, hearsay, § **803.2.4**
- Judicial notice, § **201.4**
- Non-existence of papers, certificate, self-authentication, § **902.18**
- Originals, defined, § **1001.4**
- Photographs defined, § **1001.3**
- Public Records, this index
- Rationale of rule, § **1001.1**
- Relevant evidence, § **401.4**
- Remainder of or related writings or recorded statements
 - operation of rule, § **106.4**
 - other writings, § **106.3**
 - rationale of rule, § **106.1**
 - requirement of a writing, § **106.2**
- Requirement of the original
 - harmless error in admitting or excluding evidence, § **1002.4**
 - operation of rule, § **1002.2**
 - rationale of rule, § **1002.1**
 - recordings and photographs, § **1002.3**
- Vital records, § **803.9**
- Writings and recordings defined, § **1001.2**

X-RAYS

- Authenticating or identifying evidence, process or system, § **901.10**