

Index

ABSENCE

Attendance, this index

ADMISSIBILITY

Social media, § 21:46

ADMISSIONS

Requests for Admission, this index

AGE

Deponent, § 3:29

AGREEMENTS

Insurance Agreements, this index

Oath, agreement to waive, § 5:14

Stipulations, this index

AMENDMENT

Change, this index

AMERICAN DATA PRIVACY AND PROTECTION ACT

Electronic discovery, § 21:108

ANSWERS TO INTERROGATORIES

Generally, § 11:23 to 11:26

APPEAL AND REVIEW

Depositions pending appeal, § 3:20 to 3:23

Deposition use, review standards, § 9:22

Failure to make discovery, § 16:2

Physical and mental examinations, § 14:19

Rulings of trial courts related to discovery, review of, § 2:3

Stipulations pending appeal, § 3:5

ARCHIVES

Internet related information, sources of data, § 21:21, 21:37

ARTIFICIAL INTELLIGENCE

Generally, § 23:1

Cost, § 23:3

Large language models, § 23:2

Using AI, § 23:4

AT ISSUE DOCTRINE

Generally, § 2:22

ATTENDANCE

Generally, § 6:27, 6:28

ATTENDANCE—Cont'd

- Absent witnesses, § 9:12, 9:13
- Compelling attendance, depositions upon written questions, § 7:10
- Court use of depositions, § 9:5, 9:13
- Deceased witnesses, § 9:12
- Deponent's absence in foreign country, § 3:31
- Failure to attend deposition, § 16:12
- Non-party witnesses, attendance at oral examination, § 6:18 to 6:21
- Physical or mental examination, persons present at, § 14:14
- Public attendance at depositions, § 6:28
- Subpoenas, failure to attend or to serve, § 6:45

ATTORNEYS

- Attorney-client privilege, § 2:22, 2:27
- Critical evidence, duty to preserve, § 2:5
- Ethics and Professionalism, this index
- At issue doctrine, § 2:22
- Judges, contact with, § 22:12
- Malpractice and requests for admission, § 15:33
- Opposing counsel
 - depositions upon oral examination, § 6:4
 - protective orders, § 2:59
 - stipulations regarding discovery procedure, § 5:17
- Oral examination, manner of, § 6:29 to 6:40
- Party, attorney as, § 22:11
- Stipulations, § 5:17, 5:18
- Supplementing responses to document production, attorney's duty, § 12:24
- Witness, attorney as, § 22:19
- Work Product Doctrine, this index

AUDIO-VISUAL DEPOSITIONS

- Generally, § 10:1 to 10:3
- Transcript and submission requirements, § 10:3
- Use and editing, § 10:2

AUDIT TRAILS

- Sources of data, § 21:14

AUTHENTICATION

- Documentary evidence, § 15:10
- Social media, § 21:46

BACKUP SERVICES

- Internet related information, sources of data, § 21:36

BLOGS

- Internet related information, sources of data, § 21:27

BRING YOUR OWN DEVICE

- Sources of data, § 21:24

INDEX

BUSINESS RECORDS

Interrogatories, § 11:27

BYOD

Electronic discovery, § 21:84

CACHE FILES

Internet related information, sources of data, § 21:31

CERTIFICATION OF RECORD

Depositions upon oral examination, § 6:44

CHANGE

Depositions upon oral examination, changes in testimony, § 6:43

Protective order modification, § 2:62

Stipulations, amended responses, § 5:5

CHILDREN

Age of deponent, § 3:29

CHILDREN'S ONLINE PRIVACY PROTECTION ACT OF 1998

Electronic discovery, § 21:107

CLASS ACTIONS

Attorneys' ethics and professional conduct, § 22:7

COMPARISON WITH FEDERAL RULES

Generally, § 2:68

COMPELLING DISCOVERY

Failure to Make Discovery, this index

COMPETENCE OF COUNSEL

Ethics and professionalism, § 22:25

COMPETENCY OF EVIDENCE

Depositions, § 3:27

COMPLETION OF DEPOSITION

Generally, § 9:28

COMPUTER LOGS

Sources of data, § 21:14

COMPUTERS

Electronic Discovery, this index

Production of computerized information, § 12:19

Sources of data, § 21:19

CONFIDENTIAL INFORMATION

Privileged Information, this index

Protective Orders, this index

CONVERSATIONS

Attorneys' advice regarding speaking to other parties, § 22:18

COOKIES

Internet related information, sources of data, § 21:29

COSTS

Expert testimony, § 2:40
Failure to make discovery, § 16:7, 16:11
Perpetuating testimony, § 3:34
Protective orders, § 2:61
Requests for admission, § 15:30

COUNSEL

Attorneys, this index

COURT CONTROL

Stipulations, § 5:7, 5:8

COURT ORDERS

Orders of Court, this index

COURT USE OF DEPOSITIONS

Generally, § 9:1 to 9:28
Admissibility objections, § 9:24
Attendance, § 9:5, 9:13
Completion and return of deposition, § 9:28
Deceased witnesses, § 9:12
Defects in notice, § 9:25
Depositions, § 9:1 to 9:28
Disqualification of officer, § 9:26
Errors and irregularities, § 9:25 to 9:28
Exceptional circumstances, § 9:17
Exhibits to depositions, § 9:23
Impeachment, § 9:9
Motions, § 9:3
Non-party depositions as substantive evidence, § 9:11 to 9:17
Notice
 defects, § 9:25
 of deposition, § 9:7
Objections to use of depositions, § 9:24 to 9:28
Officer, disqualification of, § 9:26
Parties present at deposition, § 9:5
Part of deposition, § 9:19
Physical and mental examinations, § 14:16
Professional witnesses, § 9:16
Requests for admission, § 15:27
Return of deposition, § 9:28
Review standards, § 9:22
Rules of evidence, § 9:2
Subpoena unable to be served, § 9:15
Substitution of parties, § 9:20

INDEX

COURT USE OF DEPOSITIONS—Cont'd

Witnesses

- absent, § 9:13
- deceased, § 9:12
- physically incapable of returning, § 9:14
- professional, § 9:16
- unable to be served with subpoena, § 9:15

COURT USE OF INTERROGATORIES

- Generally, § 11:28, 11:29

CRIMINAL PROCEEDINGS

- Privileged information, parallel civil and criminal proceedings, § 2:21

CRITICAL EVIDENCE

- Duty to preserve, § 2:5

CROSS-EXAMINATION

- Oral examination, § 6:34
- Written questions, § 7:16

CUSTODY OR CONTROL

- Physical and mental examinations, § 14:5
- Production of documents and things, § 12:11

DATA RETRIEVAL

- Electronic Discovery, this index

DECEASED WITNESSES

- Court use of depositions, § 9:12

DECEIT

- Ethics and professionalism, untruthful discovery, § 22:21

DELAY

- Depositions, failure or delay of justice, § 3:19

DELETED FILES

- Recoverable data, § 21:58

DEPOSITIONS

- Generally, § 3:1 to 3:35
- Absence of deponent from country, § 3:31
- Age of deponent, § 3:29
- Attendance
 - absence of deponent from country, § 3:31
 - failure to attend, § 16:12
- Audio-Visual Depositions, this index
- Competency of evidence, § 3:27
- Cost of perpetuating testimony, § 3:34
- Court order
 - depositions pending appeal, § 3:22
 - pretrial depositions, § 3:16, 3:18, 3:19

DEPOSITIONS—Cont'd

- Court Use of Depositions, this index
- Discretion of court, § 3:2
- Documents, production of, § 3:8
- Failure or delay of justice, § 3:19
- Failure to attend, § 16:12
- Federal rules, § 3:35, 6:46
- Future litigation, § 3:25
- High ranking official, not taken, § 2:60
- Materiality and competency of evidence, § 3:27
- Medical condition of deponent, § 3:30
- Mental examinations, § 3:8
- Motions
 - motion pending appeal, § 3:21
 - motion to terminate or limit oral examination, § 6:39
- Notice, § 3:17
- Number of depositions, § 8:1
- Oral examination. Depositions upon Oral Examination, this index
- Partial depositions, § 9:19
- Pending appeal, § 3:20 to 3:23
- Perpetuation of evidence, § 3:6, 3:19, 3:28 to 3:34
- Persons Before Whom Depositions May Be Taken, this index
- Petitions, § 3:11 to 3:17, 3:24 to 3:31
- Physical examinations, § 3:8
- Potential witness or party, § 3:32
- Service, § 3:17
- Stipulations, § 3:5, 3:35, 5:9 to 5:21
- Taking and using deposition, § 3:23
- Teleconferencing, § 6:40
- Telephone depositions, § 5:11, 6:40
- Venue, § 3:3
- Verification, § 3:15
- Video conferencing, § 6:40
- Written examination. Depositions upon Written Questions, this index

DEPOSITIONS UPON ORAL EXAMINATION

- Generally, § 6:1 to 6:46
- Advantages and disadvantages of, § 6:2
- Attendance at depositions, § 6:27, 6:28
- Attendance of non-party witnesses, § 6:18 to 6:21
- Beginning examination, § 6:32
- Certification and filing of record, § 6:44
- Changes in testimony, § 6:43
- Counsel, consultation with, § 6:36
- Court leave, when required, § 6:12
- Cross-examination, § 6:34
- Direct examination, § 6:33
- Disadvantages and advantages of, § 6:2

INDEX

DEPOSITIONS UPON ORAL EXAMINATION—Cont'd

- Documents, production of, § 6:22 to 6:24
- Employees of organization, § 6:8
- Federal rules, comparison with, § 6:46
- Improper conduct, § 6:35
- Instructions not to answer, § 6:38
- Manner of examination, § 6:29 to 6:40
- Motion to terminate or limit examination, § 6:39
- Notice of examination, § 6:13 to 6:17
- Oaths, § 6:30
- Objections, § 6:17, 6:20, 6:37
- Officers of organization, § 6:9
- Opposing counsel, § 6:4
- Organizations, § 6:5 to 6:9
- Persons whose deposition may be taken, § 6:3, 6:4
- Place of examination, § 6:25, 6:26
- Production of documents by deponent, § 6:24
- Protective orders, § 6:26
- Public attendance, § 6:28
- Record, § 6:31, 6:41 to 6:44
- Sequence of depositions, § 6:11
- Submission of transcript to deponent, § 6:42, 6:43
- Subpoena, failure to attend or to serve, § 6:45
- Telephone depositions, § 6:40
- Time
 - notice of examination, § 6:14
 - when depositions may be taken, § 6:10 to 6:12
- Witnesses, compelling attendance of, § 6:18 to 6:21
- Written questions. Depositions upon Written Questions, this index

DEPOSITIONS UPON WRITTEN QUESTIONS

- Generally, § 7:1 to 7:26
- Advantages, § 7:2
- Attendance, compelling, § 7:10
- Conduct of deposition, § 7:21 to 7:23
- Cross questions, § 7:16
- Disadvantages, § 7:2
- Failure to respond to written discovery, § 16:12
- Federal rules, comparison, § 7:26
- Historical background, § 7:3
- Interrogatories and depositions distinguished, § 7:4
- Leave of court, § 7:9
- Notice of taking deposition
 - generally, § 7:8 to 7:13
 - delivery of, § 7:22
- Objections to questions, § 7:18 to 7:20
- Officers of court, § 7:22, 7:23
- Oral examination. Depositions upon Oral Examination, this index

DEPOSITIONS UPON WRITTEN QUESTIONS—Cont'd

- Previewing questions, § 7:21
- Protective orders, § 7:5
- Questions and objections, § 7:14 to 7:20
- Redirect questions, § 7:17
- Service, § 7:24, 7:25
 - notice of taking deposition, § 7:13
 - written objections, § 7:19
- Time for serving notice, § 7:12
- Waiver of objections, § 7:20
- Witnesses, previewing questions with, § 7:21

DESTRUCTION OF EVIDENCE

- Spoliation of Evidence, this index

DIRECT EXAMINATION

- Depositions, § 6:33

DISASTER RECOVERY

- Sources of data, § 21:22

DISCOVERY PROVISIONS

- Generally, § 2:1 to 2:68

DISCRETION OF COURT

- Depositions, § 3:2

DISHONESTY

- Ethics and professionalism, untruthful discovery, § 22:21

DISPOSITION OF DISCOVERY MATERIAL

- Generally, § 18:1

DISQUALIFICATION

- Qualifications, this index

DOCUMENTARY EVIDENCE

- Generally, § 3:8
- Authentication and requests for admission, § 15:10
- Business records, § 11:27
- Discovery, § 2:29, 2:30
- Interrogatories, § 11:6, 11:11
- Oral examination, § 6:22 to 6:24
- Production of Documents and Things, this index
- Spoliation, § 20:3, 20:10
- Stipulations regarding discovery procedure, § 5:24

DUAL PURPOSE DOCTRINE

- Generally, § 2:20

DUTY TO PRESERVE

- Social media, § 21:40

INDEX

EDITING

Audio-visual depositions, § 10:2

ELECTRONIC DATA INTERCHANGE

Sources of data, § 21:16

ELECTRONIC DISCOVERY

Generally, § 21:85

Generally, § 21:1 to 21:120

Accessibility, cost shifting, § 21:117

Admissions requests, § 21:101

American Data Privacy and Protection Act, § 21:108

Avoidance, cost shifting, § 21:118

Awarding costs, cost shifting, § 21:120

Best practices and rules, § 21:3

Children's Online Privacy Protection Act of 1998, § 21:107

Collecting documents, § 21:82

Competence of counsel, § 22:25

Cost shifting

generally, § 21:116 to 21:120

accessibility, § 21:117

avoidance, § 21:118

awarding costs, § 21:120

resistance, § 21:118

undue burden, § 21:119

Databases, requests to produce, § 21:99

Destruction or spoliation of electronically stored information

generally, § 20:2, 21:72 to 21:74

Developing a records management program, § 21:68

Discovery of electronically stored information, generally, § 2:41, 21:85 to 21:101

Discovery plan, § 21:92

Disposition of electronically stored information, § 21:71

Electronically stored information, generally, § 21:2

E-mail, § 21:47

Email, requests to produce, § 21:98

Employee-owned mobile devices, § 21:84

Encrypted applications, § 21:56

Encryption, § 21:64

EU-U.S. Data Privacy Framework, § 21:109

Expert assistance, § 21:93

Form of production, § 21:86

Google Meet and Google Chat, § 21:55

Identity verification, § 21:65

iMessage, § 21:54

Inadvertent production, § 21:112 to 21:115

Inspect, requests to, § 21:100

Interrogatories, § 21:94

ELECTRONIC DISCOVERY—Cont'd

- Keyword searches, § 21:87
- Litigation holds
 - compared, § 21:67
 - preservation and litigation holds, § 21:75 to 21:84
- Metadata, preservation and litigation holds, § 21:83
- Mobile devices, employee-owned, § 21:84
- Passwords, § 21:63
- Predictive coding, § 21:89
- Preservation and litigation holds, generally, § 20:2, 21:75 to 21:84
- Preservation letters, generally, § 21:80
- Privileges, § 21:110 to 21:115
- Producing and exchanging electronically stored information, § 21:82
- Production of documents and things, § 21:95 to 21:99
- Programs for records management
 - elements, § 21:69
- Programs for records management, generally, § 21:66 to 21:71
- Protecting electronically stored information, § 21:102 to 21:109
- Records management, generally, § 21:66 to 21:71
- Requests for admissions, § 21:101
- Requests to inspect, § 21:100
- Requests to produce, § 21:95 to 21:99
- Resistance, cost shifting, § 21:118
- Review of documents, § 21:73, 21:82
- Sanctions, § 21:5
 - destruction or spoliation of electronically stored information, above
- Slack, § 21:50
- Snapchat, § 21:49
- Social media, § 21:39
- Software, updating, § 21:62
- Software for records management, § 21:70
- Spoliation. Destruction or spoliation of electronically stored information, above
- Statutes protecting electronically stored information
 - generally, § 21:102 to 21:109
 - American Data Privacy and Protection Act, § 21:108
 - Computer Fraud and Abuse Act, § 21:105
 - Electronic Communications Privacy Act, § 21:103
 - European Data Protection Directive, § 21:106
 - EU-U.S. Data Privacy Framework, § 21:109
 - Federal Wiretap Act, § 21:102
 - Stored Communications and Transactional Records Act, § 21:104
- Technology assisted review, § 21:88
- Text messages, § 21:48
- Twitter (now known as X), § 21:51
- Types of electronically stored information
 - generally, § 21:90
 - messaging, § 21:91

INDEX

ELECTRONIC DISCOVERY—Cont'd

Undue burden, cost shifting, § 21:119

Viber, § 21:53

Virginia Rules, generally, § 21:4

WhatsApp, § 21:52

EMAIL

Electronic discovery, § 21:47

Requests to produce, § 21:98

Web-based e-mail accounts, internet related information, sources of data, § 21:35

EMBEDDED DATA

Sources of data, § 21:13

EMOTICONS

Social media, § 21:44

EMPLOYEE MONITORING SOFTWARE

Internet related information, sources of data, § 21:33

EMPLOYEES

Attorney ethics with regard to employees of adverse parties, § 22:8, 22:9

Depositions upon oral examination, § 6:8

Monitoring software, internet related information, sources of data, § 21:33

ENCRYPTION

Electronic discovery, § 21:64

ENTERPRISE INTRANETS

Sources of data, § 21:18

ENTRY UPON LAND FOR INSPECTION

Production of Documents and Things and Entry for Inspection, this index

ERRORS

Court use of depositions, § 9:25 to 9:28

Ethics and professionalism, inadvertent production, § 22:15

Waiver, inadvertent disclosure, § 2:16

ETHICS AND PROFESSIONALISM

Generally, § 22:1 to 22:25

Claims without merit, § 22:20

Class actions, § 22:7

Competence, § 22:25

Discovery, untruthfulness in, § 22:21

Employees as adverse parties, § 22:8, 22:9

Ex parte contact, § 22:2 to 22:13

Expert witnesses, § 22:23

Friending, § 22:24

Inadvertent production, § 22:15

Intentional unauthorized receipt or transmission of information, § 22:16

Investigators, applicability to, § 22:5

Judges, contact with, § 22:12

ETHICS AND PROFESSIONALISM—Cont'd

- Knowledge of representation, § 22:3
- Law, contacts authorized by, § 22:13
- Limitations and restrictions on ex parte contacts, § 22:4, 22:6
- Meritless claims, § 22:20
- Metadata, receipt of unauthorized or inadvertently produced material, § 22:17
- Obstructive tactics of attorneys, § 22:22
- Party, attorney as, § 22:11
- Receipt of unauthorized or inadvertently produced material, § 22:14 to 22:17
- Social networking, § 22:24
- Speaking to other party, advice regarding, § 22:18
- Spoliation of evidence, § 20:11
- Unauthorized receipt or transmission of information, § 22:16
- Unrepresented persons, § 22:10
- Untruthfulness in discovery, § 22:21
- Witnesses
 - attorney as, § 22:19
 - conduct toward witnesses and other unrepresented persons, § 22:10
 - expert, § 22:23

EU-U.S. DATA PRIVACY FRAMEWORK

- Statutes protecting electronically stored information, electronic discovery, § 21:109

EXAMINER

- Physical and Mental Examinations, this index

EXHIBITS

- Court use of depositions, § 9:23

EX PARTE CONTACT

- Attorneys' ethics and professional conduct, § 22:2 to 22:13

EXPENSES

- Costs, this index

EXPERT ASSISTANCE

- Electronic discovery, § 21:93

EXPERT WITNESSES

- Generally, § 2:37 to 2:40
- Attorneys' ethics and professional conduct, § 22:23
- Cost of testimony, § 2:40
- Court use of depositions, professional witnesses, § 9:16
- Interrogatories, § 11:9

EXTENSIONS OF TIME

- Stipulations, § 5:8

FAILURE TO ANSWER

- Stipulations, refusal to answer, § 5:18

INDEX

FAILURE TO ATTEND

Attendance, this index

FAILURE TO COMPLY

Orders of court, § 16:8 to 16:10

FAILURE TO MAKE DISCOVERY

Generally, § 16:1 to 16:14

Appellate review, § 16:2

Appropriate court to compel discovery or impose sanctions, § 16:3

Compliance with court order, § 16:8 to 16:10

Costs of proof for failure to admit, § 16:11

Court order, failure to comply with, § 16:8 to 16:10

Deposition, failure to attend, § 16:12

Disputes over discovery, § 16:4

Expenses, § 16:7

Failure to admit, § 16:11

Failure to respond, § 16:12

Motions to compel discovery or disclosure, § 16:5 to 16:7

Physical or mental examination, § 16:10

Pretrial conferences and pretrial orders, § 16:14

Procedure for motions, § 16:5

Resolution of discovery disputes, § 16:4

Supplementing discovery responses, § 16:13

Trial court, § 16:2

Written discovery, failure to respond to, § 16:12

FAILURE TO RESPOND

Requests for admission, § 15:23

Written discovery, failure to respond to, § 16:12

FAILURE TO SUPPLEMENT

Discovery responses, supplemental information, § 16:13

FEDERAL RULES

Depositions, § 3:35, 6:46

Oral examination, § 6:46

Persons before whom depositions may be taken, § 4:6

Stipulations, § 5:27

FEES AND EXPENSES

Costs, this index

FIDUCIARY

Waiver, § 2:18

FILING

Physical and mental examinations, § 14:16

Production of documents and things, § 12:16

FOREIGN COUNTRY

Deponent's absence in, § 3:31

FRIENDING

Ethics and professionalism, § 22:24

FUTURE

Costs, perpetuating testimony, § 3:34

Depositions, § 3:25

Foreseeability, spoliation of evidence, § 20:4

Perpetuation and Preservation of Evidence, this index

GOOD CAUSE STANDARD

Generally, § 2:45

Physical and mental examinations, § 14:9

GPS

Sources of data, § 21:17

HARD DRIVES

Sources of data, § 21:7

HEALTH

Medical Matters, this index

HISTORY FILES

Internet related information, sources of data, § 21:32

HONESTY

Ethics and professionalism, untruthful discovery, § 22:21

IMESSAGE

Electronic discovery, § 21:54

IMPEACHMENT

Court use of depositions, § 9:9

Work product doctrine, § 2:36

INADVERTENT BEHAVIOR

Electronic discovery, inadvertent production, § 21:112

Ethics and professionalism, inadvertent production, § 22:15

Protection, inadvertent protection, § 2:23

Waiver, inadvertent disclosure, § 2:16

INADVERTENT PRODUCTION

Electronic discovery, § 21:112 to 21:115

INFANTS

Age of deponent, § 3:29

INFORMATION STORED IN PERIPHERALS

Recoverable data, § 21:59

INSTRUCTIONS

Oral examination, instructions not to answer, § 6:38

Stipulations, instructions to client, § 5:18

INDEX

INSURANCE AGREEMENTS

Generally, § 2:9

Interrogatories, § 11:12

INTANGIBLE INFORMATION

Generally, § 2:32

INTENTION OF ATTORNEY

Unauthorized receipt or transmission of information, § 22:16

INTERROGATORIES

Generally, § 11:1 to 11:29

Advantages and disadvantages of, § 11:2

Answering, § 11:23 to 11:26

Business records, producing, § 11:27

Comparison with other discovery devices, § 11:3 to 11:6

Depositions, distinguished from interrogatories, § 7:4

Documents, identification of, § 11:11

Electronic discovery, § 21:94

Expert witnesses, § 11:9

Form of interrogatories, § 11:17

Identification of facts, § 11:10

Identification of persons having knowledge, § 11:8

Insurance agreements, § 11:12

Knowledge, persons having knowledge, § 11:8

Number of interrogatories, § 11:15

Objections, § 11:21

Opinions and contentions, § 11:13, 11:14

Persons to whom directed, § 11:18

Persons who may answer, § 11:23

Propounding interrogatories, § 11:7 to 11:19

Protective orders, § 11:22

Responding to interrogatories, § 11:20 to 11:27

Scope of interrogatories

documents, § 11:11

expert witnesses, § 11:9

facts, § 11:10

factual opinions and contentions, § 11:13

insurance agreements, § 11:12

legal opinions and contentions, § 11:14

persons having knowledge, § 11:8

Service

generally, § 11:19

answers, § 11:25

time to serve, § 11:16

Stipulations regarding discovery procedure, § 5:23

Supplementing and amending answers to interrogatories, § 11:26

Time

answering, § 11:24

INTERROGATORIES—Cont’d

Time—Cont’d

service, § 11:16

Trial use of interrogatories, § 11:28, 11:29

INVESTIGATORS

Ethics and professionalism, § 22:5

JUDGES

Attorneys’ contact with, § 22:12

Involvement in discovery, § 2:2

Limitations on scope of discovery, § 2:24

JURY TRIAL

Spoliation of evidence, sanctions, § 20:9

KNOWLEDGE

Ethics and professionalism, knowledge of representation, § 22:3

Interrogatories, persons having knowledge, § 11:8

LAZY DISCOVERY OBJECTION

Generally, § 2:19

LEAVE OF COURT

Oral examination, depositions on, § 6:12

Written questions, depositions on, § 7:9

LEGAL AUTHORITY

Spoliation of evidence, § 20:3 to 20:7

MALPRACTICE

Requests for admission, § 15:33

MATERIALITY OF EVIDENCE

Before action or pending appeal, § 3:27

Depositions, § 3:27

MEDICAL MATTERS

Deponent’s medical condition, § 3:30

Failure to make discovery, § 16:10

Patient’s access to own medical records, § 14:17

Physical and Mental Examinations, this index

MENTAL EXAMINATIONS

Physical and Mental Examinations, this index

MERITLESS CLAIMS

Attorneys’ ethics and professional conduct, § 22:20

METADATA

Sources of data, § 21:13

MINORS

Age of deponent, § 3:29

INDEX

MIRROR FILES

Sources of data, § 21:11

MIRROR SITES

Internet related information, sources of data, § 21:34

MODIFICATION

Change, this index

MOTIONS

Compelling discovery or disclosure, § 16:5 to 16:7

Court use of depositions, § 9:3

Depositions

 motion pending appeal, § 3:21

 motion to terminate or limit oral examination, § 6:39

Physical and mental examinations, § 14:6 to 14:11

NON-PARTIES

Attendance at oral examination, § 6:18 to 6:21

Depositions as substantive evidence, § 9:11 to 9:17

Production of documents, § 12:25, 13:1 to 13:8

NONTEXTUAL MATERIAL

Discovery of, recoverable data, § 21:61

NOTICE

Court Use of Depositions, this index

Depositions

 generally, § 3:17

 upon oral examination, § 6:13 to 6:17

 upon written questions, § 7:8 to 7:13, 7:22

Physical and mental examinations, notice to all parties, § 14:10

NUMBER OF DEPOSITIONS

Generally, § 8:1

NUMBER OF REQUESTS

Admission, requests for, § 15:7

Production of documents and things, § 12:14

OATHS

Depositions upon oral examination, § 6:30

Stipulation regarding waiver during discovery procedure, § 5:14

OBJECTIONS

Court use of depositions, § 9:24 to 9:28

Depositions upon oral examination, § 6:17, 6:20, 6:37

Depositions upon written questions, § 7:14 to 7:20

Interrogatories, § 11:21

“Lazy discovery objection,” § 2:19

Production of documents, § 12:20

Qualifications of officer taking depositions, objections to, § 4:2

Requests for admission, § 15:22

OBJECTIONS—Cont'd

Stipulations, § 5:16, 5:17

Waiver, § 2:19, 7:20

OBSTRUCTIVE TACTICS OF ATTORNEYS

Ethics and professionalism, § 22:22

OFFICERS

Depositions upon oral examination, § 6:9

Depositions upon written questions, § 7:22, 7:23

Persons before Whom Depositions May be Taken, this index

OPINIONS

Expert witnesses, this index

Interrogatories, § 11:13, 11:14

OPPOSING COUNSEL

Attorneys, this index

ORAL EXAMINATION

Depositions upon Oral Examination, this index

ORDERS OF COURT

Generally, § 3:16, 3:18, 3:19

Failure to comply, § 16:8 to 16:10

Pending appeal, § 3:22

Physical and mental examinations, § 14:6 to 14:11

Pretrial conferences and pretrial orders, § 16:14

Protective Orders, this index

ORGANIZATIONS

Depositions upon oral examination, § 6:5 to 6:9

PARTIAL DEPOSITIONS

Court use, § 9:19

PARTIES TO ACTIONS

Attorney as party, § 22:11

Attorneys' advice regarding speaking to other parties, § 22:18

Deposition of potential witness or party, § 3:32

Non-Party Witnesses, this index

PASSWORDS

Electronic discovery, § 21:63

PATIENTS

Medical Matters, this index

Records, § 14:17

PENDING APPEALS

Depositions, § 3:20 to 3:23

Stipulations, § 3:5

INDEX

PERPETUATION AND PRESERVATION OF EVIDENCE

- Costs of perpetuating testimony, § 3:34
- Depositions, § 3:6, 3:19, 3:28 to 3:34
- Duty to preserve critical evidence, § 2:5
- Protective Orders, this index

PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN

- Generally, § 4:1 to 4:6
- Federal rules, comparison with, § 4:6
- In foreign countries, § 4:5
- Objections to qualifications of officer, § 4:2
- Officer, objections to qualifications of, § 4:2
- United States, persons within, § 4:4
- Within Virginia, § 4:3

PETITIONS

- Depositions, § 3:11 to 3:17, 3:24 to 3:31

PHYSICAL AND MENTAL EXAMINATIONS

- Generally, § 14:1 to 14:19, 16:10
- Access of patient to own medical records, § 14:17
- Appellate review, § 14:19
- Contents, filing, and use at trial, § 14:16
- Custody or control, § 14:5
- Depositions, § 3:8
- Examiner
 - liability of examiner, § 14:15
 - selection and qualifications of, § 14:11
- Failure to make discovery, § 16:10
- Filing, § 14:16
- Liability of examiner, § 14:15
- Manner and conditions of examination, § 14:7
- Medical records, patient's access, § 14:17
- Motion and order, § 14:6 to 14:11
- Multiple examinations, § 14:13
- Notice to all parties, § 14:10
- Persons present at examination, § 14:14
- Persons subject to examination, § 14:4, 14:5
- Purpose and construction, § 14:2
- Report, § 14:16, 14:17
- Sanctions
 - examinations, § 14:18
- Scope of examination permitted, § 14:12
- Stipulations regarding discovery procedure, § 5:25
- Types of examination permitted, § 14:12

PLACE OF ORAL EXAMINATION

- Generally, § 6:25, 6:26

PLEADINGS

Requests for admission, § 15:4

POTENTIAL WITNESS OR PARTY

Depositions, § 3:32

PRESENCE

Attendance, this index

PRESERVATION OF EVIDENCE

Perpetuation and Preservation of Evidence, this index

PRETRIAL CONFERENCES

Failure to make discovery, § 16:14

Requests for admission, § 15:31

PREVIEWING

Depositions upon written questions, § 7:21

PRIVILEGED INFORMATION

Generally, § 2:11 to 2:23

Attorney-client privilege, § 2:22, 2:27

Criminal proceedings, § 2:21

Document review, § 21:111

Electronic discovery, § 21:110 to 21:115

Fiduciary, waiver of privilege, § 2:18

Inadvertent production

generally, § 21:112 to 21:115

Inadvertent protection, § 2:23

Waiver, § 2:13 to 2:22

Work product doctrine, attorney-client privilege distinguished, § 2:27

PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY FOR INSPECTION

Generally, § 2:29, 2:30

Generally, § 6:22 to 6:24, 12:1 to 12:25, 13:1 to 13:8

Actions in which available, § 12:8

Comparisons to other discovery tools, § 11:6, 12:3 to 12:7

Computerized information

generally, § 12:19

Custody or control, § 12:11

Duty to supplement responses, § 12:24

Electronic discovery, § 21:95 to 21:100

Enforcement of subpoena, § 13:8

Ethics and professionalism, receipt of unauthorized or inadvertently produced material, § 22:14 to 22:17

Filing, § 12:16, 12:23

Form, § 12:15

Government officials, subpoenaing, § 13:7

Health records, scope of subpoenas, § 13:4

Manner of production, § 12:18

INDEX

PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY FOR INSPECTION—Cont'd

- Non-parties, § 12:25, 13:1 to 13:8
- Number of requests, § 12:14
- Objections, § 12:20, 13:6
- Persons to whom requests may be directed, § 12:9
- Persons who may issue subpoenas, § 13:2
- Protective orders, § 2:58, 12:21
- Records, requiring production of, § 2:58
- Requests for production
 - generally, § 12:8 to 12:11
 - making requests, § 12:12 to 12:16
 - responding to requests, § 12:17 to 12:19
- Responses
 - generally, § 12:17 to 12:19
 - non-parties, production from, § 13:5, 13:6
 - supplementing, § 12:24
 - timing, § 12:22
- Rule 4:2, § 12:4
- Rule 4:5(b)(5), § 12:5
- Rule 4:8, § 12:6
- Rule 4:11, § 12:7
- Scope, § 12:10, 13:3, 13:4
- Service and filing, § 12:16, 12:23
- Spoliation, § 20:3, 20:10
- Supplementing responses, § 12:24
- Time
 - making request, § 12:13
 - responding to request, § 12:22

PRODUCTION OF DOCUMENTS BY DEPONENT

- Depositions upon oral examination, § 6:24

PROFESSIONAL CONDUCT OF ATTORNEYS

- Ethics and Professionalism, this index

PROFESSIONAL WITNESSES

- Court use, § 9:16
- Expert Witnesses, this index

PROGRAM FILES

- Sources of data, § 21:12

PROPORTIONALITY

- Generally, § 2:10

PROPOUNDING INTERROGATORIES

- Generally, § 11:7 to 11:19

PROTECTION

- Electronically stored information and information systems, § 21:62, 21:102 to 21:109
- Perpetuation and Preservation of Evidence, this index
- Protective Orders, this index
- Work product doctrine. claiming under protection, § 2:33

PROTECTIVE ORDERS

- Generally, § 2:42 to 2:62
- Blanket protective order, § 2:56
- Conditions on discovery, § 2:50
- Confidential information, § 2:55
- Costs and expenses, § 2:61
- Deposing opposing counsel, § 2:59
- Deposition, high ranking official not taken, § 2:60
- Depositions upon oral examination, § 6:26
- Depositions upon written questions, § 7:5
- Determining whether to issue, § 2:47
- Discovery, § 2:42 to 2:62
- Document production, § 2:58, 12:21
- Exclusions from depositions, § 2:53
- Interrogatories, § 11:22
- Limiting scope, § 2:52
- Method of discovery, § 2:51
- Modification of protective order, § 2:62
- Obtaining, § 2:43 to 2:47
- Opposing counsel, deposing, § 2:59
- Order that disclosure or discovery not be had, § 2:49
- Procedures for obtaining, § 2:43 to 2:47
- Production of documents and things, § 2:58, 12:21
- Records, requiring production of, § 2:58
- Scope, limiting, § 2:52
- Sealing disposition, § 2:54
- Simultaneous filing of specified information, § 2:57
- Stipulations regarding discovery procedure, § 5:4
- Terms and conditions on discovery, § 2:50
- Time for obtaining, § 2:44
- Trade secrets, § 2:55

PUBLIC ATTENDANCE

- Attendance, this index

PUBLIC DATABASES

- Internet related information, sources of data, § 21:28

PUBLIC OFFICERS AND EMPLOYEES

- Discovery, production from non-parties, § 13:7

QUALIFICATIONS

- Court use of depositions, disqualification of officer, § 9:26

INDEX

QUALIFICATIONS—Cont'd

- Objections to qualifications of officer taking depositions, § 4:2
- Physical and mental examinations, selection and qualifications of examiner, § 14:11

READING TRANSCRIPT

- Waiver of reading, § 5:19

RECORD OR REPORT

- Depositions upon oral examination, § 6:31, 6:41 to 6:44
- Physical and mental examinations, § 14:16, 14:17
- Production of documents and things, § 2:58
- Protective orders, § 2:58

RECOVERABLE DATA

- Generally, § 21:57 to 21:61
- Deleted files, § 21:58
- Information stored in peripherals, § 21:59
- Nontextual material, discovery of, § 21:61
- Source code escrows, § 21:60

REDIRECT QUESTIONS

- Depositions upon written questions, § 7:17

REMOVABLE MEDIA

- Sources of data, § 21:8

REPORT

- Record or Report, this index

REQUESTS FOR ADMISSIONS

- Generally, § 15:1 to 15:35
- Actions in which requests for admission may be used, § 15:5
- Dangers of requests for admission, § 15:32 to 15:35
- Disadvantages to using requests for admission, § 15:11
- Discipline, § 15:34
- Discovery or pleadings, § 15:4
- Document authentication, § 15:10
- Effect of admissions, § 15:25 to 15:29
- Electronic discovery, § 21:101
- Expenses, § 15:29, 15:30
- Failure to admit, § 15:29, 15:30
- Failure to respond, § 15:23
- Form of requests, § 15:9
- Interrogatories distinguished, § 11:5
- Legal issues in scope of requests for admission, § 15:15
- Malpractice, § 15:33
- Number of requests, § 15:7
- Objection to requests for admission, § 15:22
- Pleadings, § 15:4
- Pretrial conferences, § 15:31

REQUESTS FOR ADMISSIONS—Cont'd

Procedures for making requests for admission

form of requests, § 15:9

number of requests, § 15:7

service, § 15:8

timing, § 15:6

Purpose of requests for admission, § 15:3

Responding to requests for admission

generally, § 15:16 to 15:24

admission, § 15:17

admitting part-denying part, § 15:19

denial, § 15:18

extension of time to respond, § 15:21

failure to respond, § 15:23

lack of information, § 15:20

objection, § 15:22

supplementing response, § 15:24

Sanctions, § 15:35

Scope of requests for admission

generally, § 15:12

crucial or ultimate facts, § 15:14

legal issues, § 15:15

opinions, § 15:13

Service, § 15:8

Stipulations regarding discovery procedure, § 5:26

Summary judgment, § 15:26

Timing for requests, § 15:6

Trial use, § 15:27

Use in other proceedings, § 15:28

Use of requests for admission, § 15:2, 15:5 to 15:15

When requests for admission may be used, § 15:5

REQUESTS FOR PRODUCTION

Production of Documents and Things, this index

RESOLUTION OF DISCOVERY DISPUTES

Generally, § 16:4

RESPONDING

Interrogatories, responding to interrogatories, § 11:20 to 11:27

Requests for Admission, this index

RETURN OF DEPOSITION

Court use, § 9:28

RULES, PROCEDURAL

Generally, § 1:4

Depositions, § 3:35

Federal Rules, this index

Oral examination, § 6:46

INDEX

RULES, PROCEDURAL—Cont'd

- Persons before whom depositions may be taken, § 4:6
- Production of Documents and Things, this index
- Stipulations, § 5:13
- Use of depositions in court, § 9:2

SANCTIONS

- Electronically stored information. Electronic Discovery, this index
- Electronic discovery, § 21:5
- Failure to Make Discovery, this index
- Physical and mental examinations, § 14:18
- Requests for admission, § 15:35
- Spoliation of evidence
 - generally, § 20:6 to 20:11
 - electronically stored information. Electronic Discovery, this index

SEAL

- Protective orders, § 2:54

SECRET INFORMATION

- Confidential Information, this index

SEQUENCE AND TIMING OF DISCOVERY

- Generally, § 2:63

SEQUENCE OF DEPOSITIONS

- Oral examination, depositions upon, § 6:11

SERVICE OF NOTICES OR DOCUMENTS

- Generally, § 2:65

SERVICE OF PROCESS

- Generally, § 3:17
- Depositions upon Written Questions, this index
- Interrogatories, this index
- Production of documents and things, § 12:16, 12:23
- Subpoenas, this index

SIGNATURES

- Raising signature defects, § 2:67

SIGNING OF DISCOVERY REQUESTS, RESPONSES, AND OBJECTIONS

- Generally, § 2:66
- Raising signature defects, § 2:67

SLACK

- Electronic discovery, § 21:50

SMART PHONES

- Electronic discovery, employee-owned mobile devices, § 21:84
- Sources of data, § 21:20

SNAPCHAT

- Electronic discovery, § 21:49

SOCIAL MEDIA

- Admissibility, § 21:46
- Authentication, § 21:46
- Discoverability, § 21:42
- Duty to preserve, § 21:40
- Electronic discovery, § 21:39
- Emojis, § 21:44
- Emoticons, § 21:44
- Ethics, § 21:41
- Privacy issues, § 21:43

SOCIAL NETWORKING

- Ethics and professionalism, § 22:24

SOFTWARE

- Electronic discovery, records management, § 21:70

SOURCE CODE ESCROWS

- Recoverable data, § 21:60

SOURCES OF DATA

- Generally, § 21:6 to 21:38
- Archives, internet related information, § 21:21, 21:37
- Artificial intelligence, § 21:38
- Audit trails, § 21:14
- Backup services, internet related information, § 21:36
- Blogs, internet related information, § 21:27
- Bring your own device, § 21:24
- Cache files, internet related information, § 21:31
- Computer logs, § 21:14
- Computers, § 21:19
- Control lists, access, § 21:15
- Cookies, internet related information, § 21:29
- Disaster recovery, § 21:22
- Electronic data, § 21:16
- Embedded data, § 21:13
- Employee monitoring software, internet related information, § 21:33
- Enterprise intranets, § 21:18
- Files, temporary, § 21:9
- GPS, § 21:17
- Hard drives, § 21:7
- History files, internet related information, § 21:32
- Internet related information
 - generally, § 21:26 to 21:37
 - archives, § 21:37
 - backup services, § 21:36
 - blogs, § 21:27
 - cache files, § 21:31
 - cookies, § 21:29

INDEX

SOURCES OF DATA—Cont'd

- Internet related information—Cont'd
 - employee monitoring software, § 21:33
 - history files, § 21:32
 - mirror sites, § 21:34
 - public databases, § 21:28
 - web-based e-mail accounts, § 21:35
 - website log files, § 21:30
- Logs, computer, § 21:14
- Metadata, § 21:13
- Mirror files, § 21:11
- Mirror sites, internet related information, § 21:34
- Program files, § 21:12
- Public databases, internet related information, § 21:28
- Removable media, § 21:8
- Smart phones, § 21:20
- Swap files, § 21:10
- Tablets, § 21:20
- Vendors, § 21:23
- Wearable technology, § 21:25
- Web-based e-mail accounts, internet related information, § 21:35
- Website log files, internet related information, § 21:30

SPEAKING TO OTHER PARTIES

- Attorneys' advice regarding speaking to other party, § 22:18

SPOLIATION OF EVIDENCE

- Generally, § 20:1 to 20:12
- Competing interests, balancing of, § 20:5
- Document destruction, § 20:3
- Document retention, § 20:10
- Electronically stored information. Electronic Discovery, this index
- Ethical considerations, § 20:11
- Future litigation, foreseeability, § 20:4
- Guidelines, § 20:12
- Jury trial, sanctions, § 20:9
- Legal authority, § 20:3 to 20:7
- Practical considerations, § 20:12
- Production of documents and things, § 20:3, 20:10
- Sanctions
 - generally, § 20:8 to 20:11
 - application of, § 20:6
 - electronically stored information. Electronic Discovery, this index
 - jury trial, § 20:9
 - when not applied, § 20:7

STIPULATIONS

- Generally, § 5:1 to 5:27
- Abuse, reduction of, § 5:3

STIPULATIONS—Cont'd

- Before action, § 3:5
- Admission requests, § 5:26
- Agreements
 - opposing attorney's objection benefits all, § 5:17
- Amending responses, § 5:5
- Appellate review pending, § 3:5
- Attorneys, § 5:17, 5:18
- Civil procedure rules, § 5:13
- Court control, § 5:7, 5:8
- Depositions, § 3:5, 3:35, 5:9 to 5:21
- Documents, production of, § 5:24
- Evidentiary objections preserved until trial, § 5:16
- Examinations, mental and physical, § 5:25
- Excluding persons from deposition, § 5:10
- Extensions of time, § 5:8
- Federal rules, comparison with, § 5:27
- Form of stipulation, § 5:2
- Instructions to client, § 5:18
- Interrogatories, § 5:23
- Mental and physical examinations, § 5:25
- Oath, agreement to waive, § 5:14
- Objections, § 5:16, 5:17
- Pending appeal, § 3:5
- Physical and mental examinations, § 5:25
- Procedures, other, § 5:22 to 5:26
- Protective orders, § 5:4
- Refusal of client to answer, § 5:18
- Relief from stipulation, § 5:6
- Requests for admission, § 5:26
- Responses, supplementing and amending, § 5:5
- Rules of civil procedure, § 5:13
- Telephone depositions, § 5:11
- Time extensions, § 5:8
- Transcripts
 - waiver of reading, § 5:19
 - waiver of signature, § 5:20, 5:21
 - withdrawn questions, § 5:15
- Virginia rules of civil procedure, § 5:13
- Waiver
 - oath, § 5:14
 - reading transcript, § 5:19
 - signature, § 5:20, 5:21
- Withdrawn questions omitted from transcript, § 5:15

SUBMISSION OF TRANSCRIPT TO DEPONENT

- Generally, § 6:42, 6:43

INDEX

SUBPOENAS

- Court use of depositions, subpoenas unable to be served, § 9:15
- Failure to attend or to serve, § 6:45
- Unable to be served, § 9:15

SUBSTITUTION OF PARTIES

- Court use of depositions, § 9:20

SUMMARY JUDGMENT

- Requests for admission, § 15:26

SUPPLEMENTAL INFORMATION

- Attorneys' duty, supplementing responses to document production, § 12:24
- Failure to supplement discovery responses, § 16:13
- Interrogatories, § 11:26

SUPPLEMENTATION OF RESPONSES

- Generally, § 2:64

SWAP FILES

- Sources of data, § 21:10

SWEARING WITNESSES

- Oaths, this index

TABLETS

- Sources of data, § 21:20

TELECONFERENCING

- Depositions, § 6:40

TELEPHONE DEPOSITIONS

- Generally, § 5:11, 6:40

TEMPORARY FILES

- Sources of data, § 21:9

TEXT MESSAGES

- Electronic discovery, § 21:48

TIME

- Depositions upon Oral Examination, this index
- Depositions upon written questions, time for serving notice, § 7:12
- Interrogatories, this index
- Production of Documents and Things, this index
- Protective orders, § 2:44, 2:57
- Requests for admission, § 15:6
- Stipulations, time extensions, § 5:8

TRADE SECRETS

- Protective orders, § 2:55

TRANSCRIPTS

- Audio-visual depositions, § 10:3
- Oral examination, § 6:42, 6:43

TRANSCRIPTS—Cont'd

Stipulations, this index

TRIAL COURT USE

Court Use of Depositions, this index

Interrogatories, § 11:28, 11:29

TRUTH

Ethics and professionalism, untruthful discovery, § 22:21

TWITTER (NOW KNOWN AS X)

Electronic discovery, § 21:51

UNAUTHORIZED RECEIPT OF INFORMATION

Ethics and professionalism, § 22:16

UNITED STATES

Absence of deponent in foreign country, § 3:31

Federal Rules, this index

Persons within United States as persons before whom depositions may be taken,
§ 4:4

UNREPRESENTED PERSONS

Ethics and professionalism, § 22:10

UNTRUTHFUL DISCOVERY

Ethics and professionalism, § 22:21

VENDORS

Sources of data, § 21:23

VENUE

Depositions, § 3:3

VERIFICATION

Depositions, § 3:15

VIBER

Electronic discovery, § 21:53

VIDEO

Audio-Visual Depositions, this index

VIDEO CONFERENCING

Depositions, § 6:40

WAIVER

Generally, § 2:13

Attorney-client privilege and At issue doctrine, § 2:22

Disclosure, waiver of privilege, § 2:15, 2:16

Discovery, § 2:13 to 2:22

Dual purpose doctrine, § 2:20

Fiduciary, § 2:18

Inadvertent disclosure, § 2:16

“Lazy discovery objection,” § 2:19

INDEX

WAIVER—Cont'd

- Objections, § 2:19, 7:20
- Parallel civil and criminal proceedings, § 2:21
- Privileged material, § 2:13 to 2:22
- Reading transcript, § 5:19
- Stipulations regarding discovery procedure, § 5:14, 5:21
- Witness recollections, § 2:17
- Work product doctrine, § 2:35

WEARABLE TECHNOLOGY

- Sources of data, § 21:25

WEB-BASED E-MAIL ACCOUNTS

- Internet related information, sources of data, § 21:35

WEBSITE LOG FILES

- Internet related information, sources of data, § 21:30

WHATSAPP

- Electronic discovery, § 21:52

WITHDRAWN QUESTIONS

- Stipulations, omission from transcript, § 5:15

WORK PRODUCT DOCTRINE

- Generally, § 2:25 to 2:36
- Distinction between work product doctrine and attorney-client privilege, § 2:27
- Documents or tangible items, discovery of, generally, § 2:29, 2:30
- Exclusions from work product doctrine, § 2:34
- Impeachment, information for use in, § 2:36
- Non-tangible information, § 2:32
- Opinion work product, § 2:31
- Origin and purpose of doctrine, § 2:25
- Persons who may claim protection under, § 2:33
- Rule 4:1(b)(3), protection provided by, § 2:28
- Waiver, § 2:35
- Witness statements, § 2:30

WRITTEN QUESTIONS

- Depositions upon Written Questions, this index