

EVIDENCE

Brock C. Akers

CHAPTER 1 — DIGEST

Scope of Coverage

A

1. Abandoned Pleadings
2. Absence of Similar Accidents
3. Absence of Mistake
4. Absence of Record
5. Absence of Witness
6. Accident
7. Accident Reconstruction Expert
8. Accident Reports
9. Acknowledged Documents
10. Actual Cash Value
11. Administrative Code
12. Admissibility
13. Admissibility, Limited
14. Admissibility, Evidence, Preliminary Questions
15. Admissions
16. Admissions, Judicial
17. Admissions, Request for
18. Admissions, Vicarious
19. Admissions of Agents
20. Admissions of Duplicates, Notice
21. Admissions of Party-Opponent
22. Adoption
23. Adverse or Pecuniary Interest
24. Adverse Parties
25. Advocate-Witness Rule
26. Affidavits
27. Affidavits, Notice
28. Affirmations
29. Agency Rules
30. Agents
31. Alcohol Consumption
32. Alcohol Testing
33. Alcoholism
34. Alterations of Documents
35. Alternative Designs
36. Ambiguous Question
37. Amendments
38. Anatomic Charts
39. Ancestry
40. Ancient Documents
41. Answer Not Responsive
42. Appeal and Review
43. Appearance, Distinctive
44. Application of Rules

45. Appraisals
46. Argumentative Question
47. Artist Sketch
48. Asked and Answered, Objection
49. Assault and Battery
50. Asserted Matter
51. Assuming Facts Not in Evidence
52. Attorney as Witness
53. Attorney-Client Privilege
54. Attorneys
55. Attorney's Fees
56. Attorney Work Product Privilege
57. Audiotapes
58. Audit
59. Authentication
60. Autopsy Report
61. Aviation Accident Investigation

B

1. Baptism
2. Basis of Opinion Testimony
3. Best Evidence Rule
4. Bias and Prejudice
5. Bibles
6. Birth
7. Birth Certificate
8. Blackboard
9. Blood Relationship
10. Blood Tests
11. Bolstering
12. Books, Papers, Records, etc.
13. Boundaries, Land
14. Breath Tests
15. Building Codes
16. Burial and Funeral Expenses
17. Business and Commerce, Routine Practice
18. Business Records

C

1. Care, Presumption of
2. Care, Standard of
3. Cash Value
4. Certificates and Certification
5. Certified Documents
6. Certified Public Accountants
7. Chain of Custody
8. Change of Venue

9. Changes in Property
 10. Character
 11. Charts
 12. Child as Witness
 13. Child Molestation
 14. Child's Statements (Custody Case)
 15. Chiropractor
 16. Christian Science Practitioner
 17. Circumstantial Evidence
 18. Citation of the Rules
 19. City Ordinances
 20. Clergy-Penitent Privilege
 21. Co-Conspirator's Statements
 22. Codeine
 23. Codes and Standards
 24. Collateral Matters (Examination of Witnesses)
 25. Collateral Sources
 26. Comment on a Privilege Claimed
 27. Commercial Paper
 28. Commercial Publications
 29. Commodity Credit Corporation
 30. Companionship and Society, Loss of
 31. Company Routine
 32. Comparison of Handwriting
 33. Compensation of Court-Appointed Experts
 34. Competency of Witnesses
 35. Complaints of Pain
 36. Completeness, Optional
 37. Completeness of Evidence
 38. Compliance With Government Standards
 39. Compound Question
 40. Compromise, Offers of
 41. Computer Animation
 42. Computer Graphics
 43. Computer Records
 44. Concealment
 45. Conclusive Proof (Versus Raising Fact Issue)
 46. Conditional Relevancy
 47. Conduct
 48. Confessions
 49. Confidential and Privileged Information
 50. Conflict of Interest
 51. Conflicting Evidence
 52. Confrontation Clause
 53. Confusion, Exclusion of Relevant Evidence
 54. Congress
 55. Conscious Pain and Suffering (Before Death)
 56. Consent to Release Medical Information
 57. Conservators and Guardians
 58. Consistent Prior Statement
 59. Consortium, Loss of
 60. Conspiracy
 61. Construction of Rules
 62. Contents
 63. Contradictory Evidence, Lack of
 64. Contribution of Prior Injury
 65. Control
 66. Conversations, Overheard
 67. Conversations, Recorded
 68. Conversations, Telephone
 69. Conviction, Notice of Use
 70. Conviction of Crime
 71. Copies
 72. Coroner
 73. Corporations, Routine Practice
 74. Cost of Repair
 75. Counter-Affidavit
 76. Course of Business
 77. Course of Dealing
 78. Course of Performance
 79. Court-Appointed Experts
 80. Court-Martial
 81. Courtroom Writings, Drawings, and Sketches
 82. Credibility
 83. Crimes, Impeachment
 84. Crimes and Offenses
 85. Criminal Records
 86. Cross-Examination
 87. Crypts
 88. Cumulative Evidence
 89. Custody Case, Child's Statements
 90. Custom
- D**
1. Damages
 2. Damages, Punitive
 3. *Daubert* Analysis of Expert Testimony
 4. "Day in the Life" Films
 5. Dead Man's Rule
 6. Dealing, Course of
 7. Death, Statement Under Impending
 8. Death Certificates
 9. Decedent's Income
 10. Declarant
 11. Declarant, Unavailability of
 12. Declaration Against Interest
 13. Deeds and Conveyances
 14. Defect, Notification of
 15. Definitions
 16. Delay, Exclusion of Relevant Evidence
 17. Deliberative Process Privilege
 18. Demonstrations
 19. Demonstrative Evidence
 20. Depositions
 21. Destruction of Documents/Evidence
 22. Diagrams
 23. Diary

24. Direct Examination
25. Directories
26. Disability
27. Disclosure, Privileges
28. Discovery, Use of
29. Distinctive Characteristics
30. Divorce
31. DNA (Deoxyribonucleic Acid) Evidence
32. DNA Testing
33. Doctor-Patient Privilege
34. Documentary Evidence
35. Documentary Presumptions
36. Documents
37. Documents, Proof Against Opposing Party
38. Domestic Public Documents
39. Drawings
40. Drug Abuse
41. Drug Testing
42. Duplicate Original
43. Duplicates
44. Dying Declaration

E

1. Earning Capacity, Loss of
2. Economist
3. Elections, Privileges
4. Electronic Recordings
5. Electronic Transmissions
6. Email, Admissibility of
7. Email, Spoliation of
8. Embarrassment of Witness
9. Emotional Condition, Statement of
10. Employees
11. Engineer
12. Engravings
13. Enlargements
14. Epidemiology
15. Errors
16. Evidence, Admissibility, Preliminary Questions
17. Evidence, Contradictory, Lack of
18. Evidence, Destruction of
19. Evidence, Expert
20. Evidence, Relevancy
21. Evidence Taken to Jury Room
22. Excited Utterances
23. Exclusion of Evidence
24. Exclusion of Relevant Evidence
25. Exclusion of Witnesses
26. Executive Privilege
27. Exemplar
28. Exemplary Damages
29. Exhibition of Injury
30. Exhibits
31. Existing Mental, Emotional, or Physical Condition

32. Expenses
33. Experiments
34. Expert Evidence
35. Expert Opinions
36. Expert Witnesses
37. Experts, Court-Appointed
38. Extra-Hazardous Crossing
39. Extraneous Offenses
40. Extrinsic Evidence
41. Eyewitness, Competency of

F

1. Facebook
2. Fact Witnesses
3. Facts and Law
4. Failure to Call Witness
5. Failure to Guard Against Defect
6. Fair Market Value
7. False Positives
8. Family History
9. Family Portraits
10. Family Relationship (Effect on Damages)
11. Federal Official Records Statute
12. Fifth Amendment Privilege
13. Financial Records
14. Flight and Concealment
15. Foreign Documents
16. Foreign Laws, Proof of (Federal)
17. Foreign Laws, Proof of (State)
18. Forfeiture by Wrongdoing
19. Former Testimony
20. Foundations
21. Funeral and Burial Expenses
22. Future Medical Condition

G

1. Gag Orders
2. Genealogy
3. General Accounting Office
4. Gestures
5. Governmental Privilege
6. Government Standards
7. Grand Jury
8. Graphs
9. Gross Negligence
10. Guardian and Ward
11. Guilty Plea

H

1. Habit
2. Handwriting
3. Handwriting Exemplar
4. Handwriting Expert
5. Harassment

6. Harmless Error
7. Hearsay
8. Hearsay, Statements Which are Not
9. Hearsay Exceptions
10. Hearsay Within Hearsay
11. Helmets
12. Highway Department Accident Investigation Report
13. Historical Events
14. History, Family and Personal
15. History, Medical
16. Hospital Expenses
17. Hospital Peer Review Committee Records
18. Hospital Records
19. Hostile Witness
20. Hypnosis
21. Hypothetical Questions

I

1. Identification
2. Identity
3. Immigration Records
4. Immunities
5. Impeachment
6. Improvements
7. Income of Decedent
8. Income Tax Returns
9. Incrimination, Privilege Against
10. Independent Medical Examination
11. Industry Standards
12. Inferences
13. Inflation
14. Informed Consent
15. Informer Identity Privilege
16. Injuries
17. Insane Persons as Witnesses
18. Inscriptions
19. Instructions to the Jury
20. Insurance
21. Intent
22. Intentional Injury
23. Interested Witness (Interest in Litigation)
24. Interior Department
25. Internal Revenue Service
26. Interpreter
27. Interrogatory Answers
28. Intoxication
29. Intrinsic Value
30. Irrelevant Evidence

J

1. Journalist's Privilege
2. Judge, Comment on the Evidence
3. Judge as Witness
4. Judgments

5. Judicial Admission
6. Judicial Bias
7. Judicial Notice
8. Judicial Notice—Adjudicative Facts
9. Judicial Notice—Administrative Code
10. Judicial Notice—Attorney's Fees
11. Judicial Notice—Census Data
12. Judicial Notice—City Ordinances
13. Judicial Notice—Court's Own Records
14. Judicial Notice—Dictionaries
15. Judicial Notice—Federal Register
16. Judicial Notice—Geographic Boundaries
17. Judicial Notice—Health Risks of Smoking
18. Judicial Notice—Law of Foreign Country
19. Judicial Notice—Newspaper Reports
20. Judicial Notice—Proceedings in Other Courts
21. Judicial Notice—Published State Court Dispositions
22. Judicial Notice—Rules of Agency
23. Juror, Competency as Witness
24. Jurors, Questioning Witnesses
25. Jury View
26. Juvenile Court Records

K

1. Knowledge, Lack of Personal
2. Knowledge as Proof of Character

L

1. Labels
2. Lack of Contradictory Evidence
3. Lack of Personal Knowledge
4. Land Boundaries
5. Law and Facts
6. Laws of Foreign Nations
7. Lawyers as Witnesses
8. Lay Opinions
9. Lay Witnesses
10. Leading Questions
11. Learned Treatises
12. Legal Malpractice
13. Legislative Intent
14. Legitimacy
15. Letters
16. Liability Insurance
17. Lie Detector Tests
18. Life Expectancy Tables
19. Limine, Motion in
20. Limitation of Actions (Impeachment)
21. Limited Admissibility
22. Limiting Instruction
23. Litigation Expenses
24. Loss of Consortium
25. Loss of Evidence
26. Loss of Memory

27. Lost or Destroyed Documents
28. Lost Profits
29. Lost Wages

M

1. Magistrates
2. Magnetic Impulse
3. Malice
4. Manufacturer's Notification of Defect
5. Maps
6. Marijuana
7. Marital Privileges
8. Market Reports
9. Market Value
10. Marriage
11. Mary Carter Agreements
12. Materiality
13. Matter Asserted
14. Mechanical Recording
15. Mechanical Transmissions
16. Medical Affidavits
17. Medical Care and Treatment
18. Medical Examination, Independent
19. Medical Expenses
20. Medical Expert
21. Medical History
22. Medical Illustration
23. Medical Malpractice
24. Medical Models
25. Medical Opinion
26. Medical Peer Review Committee Records
27. Medical Records
28. Memoranda
29. Memory Loss
30. Mental Anguish
31. Mental Capacity
32. Mental Condition
33. Mental Health Information—Privilege
34. Mental Suffering
35. Mentally Deficient and Ill Persons
36. Meteorology
37. Mind, State of
38. Minor as Witness
39. Miscellaneous Rules
40. Misleading, Exclusion of Relevant Evidence
41. Mistake, Absence of
42. Models
43. Moral Turpitude
44. Morphine
45. Mortality Tables
46. Motion in Limine
47. Motion Pictures
48. Motive
49. Movies

N

1. Narrative Answer
2. Needless Presentation of Evidence
3. Negligence
4. Net Worth
5. Newspapers
6. *Nolo Contendere* Plea
7. Nonresponsive Answer
8. Nontaxability of Recovery
9. Notarized Documents
10. Notes and Personal Papers
11. Notice, Judicial
12. Notice, Manufacturer's
13. Notice, Usage of Trade
14. Notice of Injury and Claim for Compensation
15. Notice of Retraction of Waiver
16. Notices Required by the Evidence Rules
17. Notification of Defect
18. Nurse
19. Nursing Services Rendered by Spouse

O

1. Oath
2. Objections
3. Offenses
4. Offers of Compromise
5. Offers of Evidence
6. Offers of Proof
7. Official Publication
8. Official Records, Federal Statute
9. Official Records and Reports
10. Official Seals
11. Opinion on Ultimate Issue
12. Opinions, Expert
13. Opinions, Lay
14. Opinions as to Truthfulness
15. Opportunity
16. Opposing Parties
17. Optional Completeness Rule
18. Order of Witnesses
19. Organizations
20. Origin
21. Original, Definition
22. Originals, Notice
23. Other Form of Data Compilation
24. Other Hearsay Exceptions, Notice
25. Other Wrongs or Acts
26. Overhead Presentation (Overhead Projector)
27. Overheard Conversations
28. Owner's Opinion of Property Value
29. Ownership

P

1. Pain, Complaints of
2. Pamphlets
3. Papers, Books, and Records
4. Parent-Child Privilege
5. Parol Evidence Rule
6. Past Recollection Recorded
7. Pattern
8. Paternity
9. PCR (Polymerase Chain Reaction) Techniques
10. Performance, Course of
11. Periodicals
12. Personal History
13. Personal Injuries
14. Personal Knowledge
15. Personal Notes and Records
16. Personal Property Damage
17. Personnel Records
18. Photocopies
19. Photographing
20. Photographs
21. Photostating
22. Physical Condition
23. Physical Evidence
24. Physical Incapacity
25. Physical Manifestations of Injury
26. Physicians and Surgeons
27. Plain Error
28. Plan
29. Plan Drawing
30. Plats
31. Plea of Guilty
32. Pleadings
33. Pleadings, Abandoned
34. Pleadings, Admissions
35. Police Officer as Expert
36. Police Officer's Report and Notes
37. Political Subdivisions
38. Polls, Public Opinion
39. Polygraph Tests
40. Poppy Seeds
41. Popular Name Laws
42. Portraits
43. Post-Accident Changes
44. Post Office Department
45. Poster Pad Drawings
46. Practice, Customs
47. Predicate
48. Prejudice, Exclusion of Relevant Evidence
49. Preliminary Questions, Evidence, Admissibility
50. Preparation
51. Preponderance of the Evidence
52. Present Recollection Refreshed
53. Present Sense Impression
54. Preserving Error on Evidence Ruling
55. Presumption of Care
56. Presumptions
57. Printing
58. Prior Accidents
59. Prior Convictions, Impeachment
60. Prior Convictions, "Removing the Sting"
61. Prior Consistent Statements
62. Prior Inconsistent Statements
63. Prior Injury
64. Prior Pleadings
65. Prior Remedial Measures
66. Prior Testimony
67. Prior Wrongs or Acts
68. Private Investigation Report
69. Privilege Against Self-Incrimination
70. Privileged Information
71. Privileges
72. Probate
73. Probative Value
74. Process or System
75. Product Improvement
76. Product Liability
77. Production, Request for
78. Professional Negligence
79. Prognosis, Medical Condition
80. Proof, Conclusive
81. Proof of Contents
82. Proof of Documents Against Opposing Party
83. Proof of Lack of Record
84. Proof of Will
85. Property Value, Owner's Opinion of
86. Protective Orders
87. Proximate Cause
88. Psychiatrist, Expert Testimony of
89. Psychological Stress Evaluation (PSE)
90. Psychotherapist-Patient Privilege
91. Public Health Service
92. Public Officers and Employees, Privileges
93. Public Opinion Polls
94. Public Records and Reports
95. Publications
96. Punitive Damages
97. Purpose of Rules

Q

1. Question, Calling for Speculative Answer
2. Question, Form and Responsiveness
3. Questions, Objections
4. Questions of Law and Fact

R

1. Rape Shield Law
2. Reaction Time
3. Rebuttal Evidence
4. Recall Bulletins
5. Recollection Recorded
6. Recorded Conversations
7. Recorded Statement
8. Recordings
9. Records, Books, Papers, etc.
10. Records, Proof By Affidavit
11. Records, Statute, Official Federal
12. Records and Recordation
13. Redirect Examination
14. Refreshing Memory
15. Refusal to Testify
16. Rehabilitation of Witnesses
17. Related Writings
18. Relationship by Blood
19. Relevancy, Conditional
20. Relevancy of Evidence
21. Religious Beliefs or Opinions
22. Remainder of Writing or Statement
23. Remarriage (Wrongful Death Case)
24. Remedial Measures
25. Renewing Objections
26. Repairs
27. Repairs, Cost of
28. Repetitious
29. Repetitive Questions
30. Reports
31. Reports, Public Records
32. Reputation
33. Request for Admissions
34. Request for Production
35. Required Notices Under the Rules
36. *Res Gestae*
37. *Res Ipsa Loquitur*
38. Residual Exception to Hearsay Rule
39. *Respondeat Superior*
40. RFLP (Restriction Fragment Length Polymorphism) Analysis
41. Rings
42. Routine
43. Rule of Optional Completeness
44. Rule of Witness Exclusion, The
45. Seals
46. Search and Seizure
47. Secrecy
48. Securities and Exchange Commission
49. Selective Service
50. Self-Authenticated Records
51. Self-Authentication
52. Self-Critical Analysis Privilege
53. Self-Incrimination
54. Servants
55. Settlement
56. Sexual Assault
57. Signatures
58. Signs
59. Silence as an Admission
60. Similar Accidents
61. Similar Accidents, Lack of
62. Similar Events
63. Slide Presentations
64. Social Networking
65. Social Scientists, Application of *Daubert* to
66. Society and Companionship, Loss of
67. Sole Cause
68. Sound Recordings
69. Sound Spectrograms
70. Specimens, Handwriting
71. Speculative Answer
72. Spoliation of Evidence
73. Spousal Privileges
74. Standard of Care
75. Standard of Proof
76. Standard of Review
77. Standards, Government
78. Standards, Industry
79. State Law
80. State of Mind
81. Statement, Meaning of for Hearsay Purposes
82. Statements, Confessions
83. Statements Against Interest
84. Statements by Child in Custody Case
85. Statements by Counsel
86. Statements for Purposes of Medical Diagnosis or Treatment
87. Statements Under Impending Death
88. Station in Life
89. Statistical Charts
90. Statistics
91. Stipulations
92. Strict Liability
93. Subscribing Witness
94. Subsequent Remedial Measures
95. Substance
96. Sufficiency

S

1. Safety Standards
2. Scheme
3. Scientific Evidence
4. Scintilla
5. Scope of Employment
6. Scope of Rules

59. Summaries, Notice
60. Summaries of Testimony
61. Summaries of Voluminous Records
62. Superseded Pleading as Admission
63. Surrebuttal Evidence
64. Surveillance Films
65. Surveys and Interviews
66. System or Process

T

1. Tags
2. Tape Recordings
3. Tax Returns
4. Taxability of Recovery
5. Telephone Conversations
6. Television Recordings
7. Testamentary Capacity
8. Testimony, Form of
9. Testimony, Personal Knowledge
10. Testimony, Refusal
11. Testimony, Summaries of
12. Testimony From Another Hearing or Proceeding
13. Tests
14. Then-Existing Mental, Emotional, or Physical Condition
15. Thermograms
16. The Rule
17. Time
18. Time, Waste of, Exclusion of Relevant Evidence
19. Tombstones
20. Trade, Usage of
21. Trade, Usage of, Notice
22. Trade Inscriptions
23. Trade Secrets
24. Trade Standards
25. Traits
26. Translator
27. Treasury Department
28. Treatises
29. Treatises, Learned
30. Trial Aids
31. Trial Exhibits
32. Trustworthiness
33. Truth of Matter Asserted
34. Truth Serum
35. Truthfulness, Opinions as to
36. Typewriting

U

1. Ultimate Issue
2. Unavailability of Witness
3. Undesignated Witness
4. Undue Delay
5. Unfair Prejudice

6. Unresponsive Answer
7. Urine Test Results
8. Urns
9. Usage of Trade
10. Usage of Trade, Notice
11. Use of Discovery

V

1. Value of Property, Proof of
2. Venue, Change of
3. Veteran's Administration Benefits
4. Vicarious Admissions
5. Videotape Depositions
6. Videotapes
7. View by Jury
8. Violence
9. Visual Aids
10. Vital Statistics
11. Voice Identification
12. Voiceprints
13. Voir Dire, Witness
14. Voluminous Records

W

1. Waiver of Privilege
2. War Assets Administration
3. Waste of Time, Exclusion of Relevant Evidence
4. Weather Bureau
5. Weather Reports/Records
6. Weight of Evidence
7. Witness, Attorney as
8. Witness, Before and After
9. Witness, Bias and Prejudice
10. Witness, Character
11. Witness, Competency
12. Witness, Credibility
13. Witness, Examination of
14. Witness, Exclusion
15. Witness, Expert
16. Witness, Harassment
17. Witness, Impeachment
18. Witness, Interested
19. Witness, Interrogation by Court
20. Witness, Lay
21. Witness, Leading Questions
22. Witness, Offering
23. Witness, Qualifications
24. Witness, Questions
25. Witness, Rehabilitation
26. Witness, Unavailability of
27. Witness Sketches and Drawings
28. Witness Voir Dire
29. Witnesses, Order of
30. Words and Phrases

- | | |
|------------------------------------|-----------|
| 31. Work Product | X |
| 32. Writing Used to Refresh Memory | 1. X-Rays |
| 33. Writings | |
| 34. Written Depositions | |
| 35. Written Instruments | |

CHAPTER 2 — LAW

A. STATUTES OF LIMITATIONS BY STATE

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|-------------------------|-------------------|--------------------|--------------------|
| 1. Alabama | 14. Illinois | 27. Montana | 40. Rhode Island |
| 2. Alaska | 15. Indiana | 28. Nebraska | 41. South Carolina |
| 3. Arizona | 16. Iowa | 29. Nevada | 42. South Dakota |
| 4. Arkansas | 17. Kansas | 30. New Hampshire | 43. Tennessee |
| 5. California | 18. Kentucky | 31. New Jersey | 44. Texas |
| 6. Colorado | 19. Louisiana | 32. New Mexico | 45. Utah |
| 7. Connecticut | 20. Maine | 33. New York | 46. Vermont |
| 8. Delaware | 21. Maryland | 34. North Carolina | 47. Virginia |
| 9. District of Columbia | 22. Massachusetts | 35. North Dakota | 48. Washington |
| 10. Florida | 23. Michigan | 36. Ohio | 49. West Virginia |
| 11. Georgia | 24. Minnesota | 37. Oklahoma | 50. Wisconsin |
| 12. Hawaii | 25. Mississippi | 38. Oregon | 51. Wyoming |
| 13. Idaho | 26. Missouri | 39. Pennsylvania | |

B. BUSINESS RECORDS

Scope of Coverage

1. Federal Rule 803(6). Hearsay Exceptions: Records of Regularly Conducted Activity
 - a. General Discussion
 - b. Records May Be Entered by Certification
 - c. Personal Knowledge Requirement
 - d. Computer Records
 - e. Medical Records
 - f. Hospital Laboratory Records
 - g. Proof by Affidavit
 - h. Personnel Records
 - i. Highway Department Automobile Accident File
 - j. Multiple Hearsay
 - k. Proving Absence of Record

C. CHARTS, DIAGRAMS, AND TRIAL AIDS

1. General Discussion
2. General Aids
3. Charts to Jury Room
4. “Day in the Life” Films
5. Models
6. X-rays
7. Objections Checklist

D. COMPETENCY OF WITNESSES

Federal Rule 601. General Rule of Competency

1. General Discussion
2. Mental Capacity
3. Children
4. Dead Man’s Rule



E. CONFRONTATION CLAUSE

1. General Discussion
2. Recent Case Law

F. CUSTOM AND PRACTICE

Federal Rule 406. Habit; Routine Practice

1. General Discussion
2. Number of Instances
3. Trade Standards
4. Conformity to Custom or Habit

G. DEPOSITIONS AND DISCOVERY EVIDENCE

1. Depositions
2. Answers to Interrogatories
3. Responses to Requests for Admissions
4. Responses to Requests for Production

H. EXAMINATION OF WITNESSES

1. Offering the Witness
 - a. Qualifications of the Witness. Fed. R. Evid. 104(a)
 - b. Competency. Fed. R. Evid. 601
 - c. Personal Knowledge. Fed. R. Evid. 602
 - d. Relevancy of Testimony. Fed. R. Evid. 104(b), 401, 402
 - e. Limited Admissibility. Fed. R. Evid. 105
 - f. Hearsay. Fed. R. Evid. 801-807
 - g. Objections to Witness or Testimony Offered
2. Direct Examination
 - a. Leading Questions—General Rule. Fed. R. Evid. 611(c)
 - b. Leading Questions—Hostile Witness. Fed. R. Evid. 611(c)
 - c. Leading Questions—Adverse Party or Witness Identified With Adverse Party. Fed. R. Evid. 611(c)
 - d. Leading Questions—Court’s Discretion. Fed. R. Evid. 611(a), 611(e)
 - e. Lay Opinion Testimony. Fed. R. Evid. 701
 - f. Interest or Bias. Fed. R. Evid. 104(e)
 - g. Credibility. Fed. R. Evid. 104(e), 607
 - h. Refreshing a Witness’s Memory. Fed. R. Evid. 612
 - i. Hypothetical Questions. Fed. R. Evid. 703
 - j. Nonresponsive Answers
 - k. Impeachment of Own Witness. Fed. R. Evid. 607
 - l. Repetitious Question/Question Asked and Answered
 - m. Narrative Evidence
 - n. Explanation of Answer
 - o. “Yes” or “No” Answer
 - p. Confusing/Misleading/Ambiguous and Unintelligible Question
 - q. Confusing/Misleading/Ambiguous and Unintelligible Answer
 - r. Assuming Facts Not in Evidence
 - s. Argumentative Question
 - t. Inadmissible Hearsay. Fed. R. Evid. 801-807
 - u. Voir Dire Examination of Witness
 - v. Question Calling for Speculative Answer
3. Cross-Examination
 - a. Scope of Cross-Examination. Fed. R. Evid. 611(b)
 - b. Leading Questions—General Rule. Fed. R. Evid. 611(c)
 - c. Lay Opinion Testimony. Fed. R. Evid. 701
 - d. Interest or Bias. Fed. R. Evid. 104(e)

- e. Credibility. Fed. R. Evid. 104(e), 607
 - f. Hypothetical Questions. Fed. R. Evid. 703
 - g. Nonresponsive Answers
 - h. Impeachment of Own Witness. Fed. R. Evid. 607
 - i. Repetitious Questions/Question Asked and Answered
 - j. Explanation of Answer
 - k. “Yes” or “No” Answer
 - l. Confusing/Misleading/Ambiguous and Unintelligible Question
 - m. Confusing/Misleading/Ambiguous and Unintelligible Answer
 - n. Assuming Facts Not in Evidence
 - o. Harassing the Witness. Fed. R. Evid. 611(a)
 - p. Argumentative Question
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6. Arson Expert
7. Attorney
8. Aviation Expert
9. Automotive Design Engineer
10. Bank Expert
11. Biomechanics Expert
12. Certified Public Accountant
13. Chemical Engineer
14. Chemist
15. Chiropractor
16. Coroner
17. Credibility Expert
18. Design Engineer
19. Economist
20. Engineer
21. Farmer
22. Fire Expert
23. Fire Inspector
24. Fire Marshall
25. General Contractor
26. Geotechnical Expert
27. Grief Expert
28. Handwriting Expert
29. Heart Attack Causation Expert
30. HGN (Horizontal Gaze Nystagmus) Test Expert
31. Human Factors Engineering (or Ergonomics) Expert
32. Insurance Adjuster
33. Internist
34. Jewelry Designer
35. Media Expert
36. Mechanic (Auto)
37. Mechanical Engineer
38. Medical Examiner
39. Medical Malpractice Expert
40. Nurse
41. Orthopedic Surgeon
42. Osteopath
43. Pharmacist
44. Plant Pathologist
45. Podiatrist

46. Police Officer
47. Professor of Finance
48. Psychiatrist
49. Psychologist
50. Radiologist
51. Real Estate Agent
52. Safety Engineer
53. Statistician
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