

3 California Evidence (5th), Presentation at Trial

I. PREPARATION FOR TRIAL

A. [§1] Manuals and Other Practice Works.

B. [§2] Particular Steps.

II. BASIC EVIDENTIARY RIGHTS

A. Party's Right To Present Evidence.

1. [§3] Civil Cases.

2. Criminal Cases.

(a) [§4] General Rule.

(b) Right to Compulsory Process.

(1) [§5] Nature of Right.

(2) Right To Discover Privileged or Protected Material.

(aa) [§6] In Camera Review.

(bb) [§7] Limitations on Right.

(3) [§8] Validity of Precluding Testimony as Discovery Sanction.

(c) Impermissible Intimidation of Defense Witness.

(1) [§9] Causing Witness To Claim Privilege.

(2) [§10] Harmless or Reversible Error.

(d) [§11] Defendant's Right To Testify.

B. Party's Right to Confrontation.

1. Civil Cases.

(a) [§12] General Rule: Witness Examined in Party's Presence.

(b) [§13] Exception: Exclusion of Testimony of Child Witness From Dependency Hearing.

2. Criminal Cases.

(a) [§14] General Right to Confrontation.

(b) [§15] Private Consultation by Judge Prohibited.

(c) Extent of Right to Face-to-Face Confrontation.

(1) [§16] When Required.

(2) [§17] Exception: Denial of Right Necessary To Further Important Public Policy.

(3) [§18] Exception: No Interference With Effective Cross-Examination.

(d) [§19] Limited Communication by Witness.

(e) [§20] No Confrontation Right for Discovery.

3. Relationship Between Hearsay Rule and Right To Confrontation in Criminal Cases.

(a) [§21] Former Law.

(b) Confrontation Clause Restricts Admissibility of Testimonial Hearsay.

(1) [§22] Rule of Crawford Case.

(2) [§23] Statements.

(3) [§24] Forensic Evidence.

(c) Where Crawford Does Not Require Exclusion of Evidence.

(1) Nontestimonial Statements.

(aa) [§25] Statements Made During Emergency.

- (bb) [§26] Statements to Persons Who Were Not Involved in Law Enforcement.
- (cc) [§27] Records and Official Documents.
- (dd) [§28] Forensic Evidence.
- (2) [§29] Limited Exception Where Defendant Forfeits Objection by Wrongdoing.
- (3) [§30] Dying Declarations.
- (4) [§31] Proceedings Other Than Criminal Prosecutions.
- (5) [§32] Adequate Opportunity To Cross-Examine.
- (6) [§33] Additional Circumstances.

III. PROCEDURE AT TRIAL

A. [§34] In General.

B. Opening Statements.

1. [§35] Civil Cases.
2. [§36] Criminal Cases.

C. [§37] Oath of Witness.

D. Interpreters and Translators.

1. In General.
 - (a) [§38] Interpreters.
 - (b) [§39] Translator of Writings.
 - (c) [§40] Procedure.
2. [§41] Interpreter for Witness.
3. [§42] Interpreter for Deaf or Hearing Impaired Person.
4. Interpreter for Defendant in Criminal Case.
 - (a) [§43] In General.
 - (b) Right to Separate Interpreter.
 - (1) [§44] Improper Borrowing.
 - (2) [§45] Single Interpreter for Several Defendants.
 - (3) [§46] Waiver of Right.
 - (c) [§47] Reversible Error.
 - (d) [§48] Failure To Administer Oath.
 - (e) [§49] Challenge to Accuracy of Information.
5. [§50] Interpreter for Party in Civil Case.
6. [§51] Interpreter Where Protective Order Is Granted or Sought.

E. [§52] Assistance for Hearing-Impaired.

F. [§53] Kinds of Examination.

G. [§54] Practice Suggestions.

IV. POWERS AND FUNCTIONS OF TRIAL JUDGE

A. [§55] In General.

B. Order of Proof.

1. Civil Cases.
 - (a) [§56] In General.
 - (b) [§57] Special Rules of Practice.
2. [§58] Criminal Cases.

C. [§59] Determination of Questions of Law.

D. Determination of Preliminary Facts.

1. In General.
 - (a) [§60] Nature of Problem and Code Solution.
 - (b) [§61] Preliminary Fact and Proffered Evidence.
 - (c) Hearing Outside Jury's Presence.
 - (1) [§62] Ordinary Cases: Judge's Discretion.
 - (2) [§63] Mandatory Hearing Outside Jury's Presence.
2. Facts Redetermined by Jury.
 - (a) In General.
 - (1) [§64] Rule, Theory, and Procedure.
 - (2) [§65] Instructing Jury.
 - (b) [§66] Relevancy.
 - (c) [§67] Prior Acts.
 - (d) [§68] Knowledge of Witness.
 - (e) [§69] Authenticity of Writing.
 - (f) [§70] Identity of Hearsay Declarant.
3. Facts Finally Determined by Judge.
 - (a) In General.
 - (1) [§71] Rule, Theory, and Procedure.
 - (2) [§72] Preliminary Fact Also in Issue.
 - (b) [§73] Competency of Witness.
 - (c) [§74] Privilege of Witness.
 - (d) [§75] Hearsay.
 - (e) [§76] Validity of Prior Conviction.
 - (f) [§77] Other Situations.

E. [§78] Inherent Power To Preclude Evidence.

F. Restriction of Cumulative Evidence.

1. [§79] Nature of Power.
2. [§80] Limitations on Power.

G. [§81] Limitations on Number of Experts.

H. Restriction of Rebuttal Evidence.

1. [§82] Civil Cases.
2. Criminal Cases.
 - (a) [§83] Improper Rebuttal by Prosecution.
 - (b) [§84] Proper Rebuttal by Prosecution.

I. Exclusion of Witnesses.

1. [§85] Discretion To Exclude.
2. [§86] Sanctions for Disobeying Exclusion Order.
3. [§87] Discretion To Allow Witness To Remain.

J. Examination of Witnesses.

1. Judge's Control Over Counsel's Examination.
 - (a) [§88] Order of Examination.
 - (b) [§89] Mode of Interrogation.
 - (c) [§90] Reexamination and Recall.
 - (d) [§91] Attorney's Consultation With Defendant.
2. Examination by Judge.
 - (a) [§92] In General.

- (b) [§93] Illustrations.
- (c) [§94] Improper Suggestion of Partisanship.
- 3. [§95] Judge's Power To Call New Witnesses.
- 4. [§96] Court Trial of Infraction.
- 5. Questioning by Jurors.
 - (a) [§97] Questions Submitted by Jurors.
 - (b) [§98] Direct Questioning Is Improper.

K. [§99] Instructions to Jury.

V. DETERMINATION OF CREDIBILITY AND WEIGHT

A. [§100] Role of Jury.

B. Sufficiency of One Witness.

- 1. [§101] General Rule and Illustrations.
- 2. When Testimony May Be Disregarded.
 - (a) [§102] In General.
 - (b) [§103] Inherent Improbability.
 - (c) [§104] Interest of Witness.
 - (d) [§105] Other Circumstances.
 - (e) [§106] Manner of Testifying.
 - (f) [§107] Opinion Unsupported by Facts.
- 3. Statutory Requirements of Corroboration.
 - (a) Testimony of Accomplice.
 - (1) [§108] Statutory Rule.
 - (2) Who Are Accomplices.
 - (aa) [§109] In General.
 - (bb) [§110] Wrongdoers Who Are Not Accomplices.
 - (cc) [§111] Minor Victims.
 - (dd) [§112] Distinction: Mere Presence at Scene.
 - (ee) [§113] Distinction: Feigned Accomplice.
 - (3) Procedure in Determining Issue.
 - (aa) [§114] In General.
 - (bb) [§115] Roles of Judge and Jury.
 - (4) Nature of Corroboration Required.
 - (aa) [§116] In General.
 - (bb) [§117] Sufficient Corroboration.
 - (cc) [§118] Use of Accomplice's Testimony.
 - (5) [§119] Extrajudicial Statement as Testimony.
 - (b) [§120] Testimony of In-Custody Informant.
 - (c) [§121] Treason, Solicitation, False Pretenses, and Perjury.

C. Evidence Viewed With Distrust.

- 1. [§122] Testimony of Accomplice.
- 2. [§123] Testimony of In-Custody Informant.
- 3. Witness False in Part.
 - (a) [§124] Nature of Instruction.
 - (b) [§125] Testimony of Single Witness.
 - (c) [§126] Rejection Is Not Substitute for Affirmative Evidence.
- 4. [§127] Oral Admissions.

5. [§128] Weaker Evidence Offered.

D. Evidence Suppressed in Civil Cases.

1. [§129] Adverse Inference Permissible.

2. [§130] Illustrations of Proper Inference.

3. Tort Action for Spoliation of Evidence.

(a) Intentional.

(1) [§131] Spoliation by Party to Action.

(2) [§132] Spoliation by Third Party.

(b) [§133] Negligent.

4. [§134] Justifiable Failure To Produce.

E. Evidence Suppressed in Criminal Cases.

1. Suppression by Prosecution.

(a) [§135] General Duty To Disclose.

(b) [§136] Reversible Error.

(c) [§137] Not Reversible Error.

2. Destruction of Physical Evidence.

(a) Duty To Preserve Evidence.

(1) [§138] Former California Law.

(2) [§139] Federal Law.

(3) [§140] Current California Law.

(4) [§141] Illustrations.

(b) [§142] Authorized Destruction.

(c) [§143] Duty To Advise of Destruction.

3. Making Witness Unavailable.

(a) [§144] Standards of Materiality.

(b) [§145] Applicable Standard in California.

4. [§146] Justifiable Failure To Produce.

5. [§147] Failure To Gather Evidence.

6. Raising Suppression Issue.

(a) [§148] Defendant's Obligations.

(b) [§149] Procedure for Raising Issue.

7. [§150] No Sanction Other Than Suppression of Related Evidence.

8. [§151] Suppression by Defendant.

F. Sufficiency of Circumstantial Evidence.

1. Civil Cases.

(a) [§152] Test of Sufficiency.

(b) [§153] Conflicting Inferences.

(c) Inference Based on Inference.

(1) [§154] General Rule of Admissibility.

(2) [§155] Exception: Remote or Conjectural Inference.

2. Criminal Cases.

(a) Cautionary Instruction Required.

(1) [§156] Nature and Purpose.

(2) [§157] Failure To Instruct.

(b) [§158] Exceptions and Distinctions.

(c) Review on Appeal.

- (1) [§159] Affirmance on Substantial Evidence.
- (2) [§160] Reversal Where Evidence Is Not Substantial.

VI. INTRODUCTION OF DOCUMENTARY AND DEMONSTRATIVE EVIDENCE

A. Documentary Evidence.

1. Foundation by Authentication.
 - (a) [§161] In General.
 - (b) [§162] Tape Recording.
2. [§163] Offer in Evidence.
3. [§164] Production by Witness on Stand.
4. [§165] Request To Seal Documents.

B. [§166] Demonstrative Evidence.

VII. INTRODUCTION OF DISCOVERY MATERIAL

A. Depositions.

1. How Deposition May Be Used.
 - (a) [§167] Deposition of Ordinary Witness.
 - (b) [§168] Deposition of Physician or Expert.
 - (c) [§169] Special Circumstances.
 - (d) [§170] Extent of Admissibility.
 - (e) [§171] Substitution and Subsequent Proceedings.
2. Procedure for Introducing Deposition.
 - (a) [§172] Reading Questions and Answers.
 - (b) [§173] Ruling on Objections.
 - (c) [§174] Introduction of Part of Deposition.
3. Objections and Grounds of Exclusion.
 - (a) [§175] Advance Objections.
 - (b) [§176] Objections at Trial.

B. [§177] Answers to Interrogatories.

VIII. ORAL EXAMINATION

A. [§178] Specific Answers or Narration.

B. Form of Questions.

1. Leading Question.
 - (a) [§179] Nature and Rule of Exclusion.
 - (b) [§180] Exception: Cross-Examination.
 - (c) [§181] Discretionary Exceptions and Nonprejudicial Error.
2. [§182] Argumentative Questions.
3. [§183] Repetitive Questions.
4. [§184] Uncertain or Unintelligible Questions.
5. [§185] Omnibus or Compound Questions.
6. [§186] Question Assuming Fact in Issue.

C. Form of Answers.

1. Opinion or Conclusion of Witness.
 - (a) [§187] Exclusionary Rule and Exceptions.
 - (b) [§188] Best Recollection or Thought.
2. [§189] Nonresponsive Answer.

IX. DIRECT EXAMINATION: SPECIAL PROBLEMS

A. [§190] Examination of Witness on Writing.

B. Use of Memorandum by Witness.

1. Refreshing Recollection by Writing.
 - (a) [§191] Nature of Rule.
 - (b) [§192] Any Writing.
 - (c) [§193] Production, Inspection, and Cross-Examination.
 - (d) [§194] Introduction by Adverse Party.
2. Past Recollection Recorded.
 - (a) [§195] Nature of Rule.
 - (b) Foundation.
 - (1) [§196] In General.
 - (2) [§197] Timeliness of Recording.
 - (3) [§198] Recording by Witness or Another.
 - (4) [§199] Testimony by Witness to Truth of Facts.
 - (5) [§200] Authenticity of Recording.
 - (c) [§201] Reading by Witness and Introduction by Adverse Party.
3. [§202] Notes Obtained by Illegal Recording.

C. Examination of Expert Witness.

1. Qualification of Witness.
 - (a) In General.
 - (1) [§203] Laying Foundation.
 - (2) [§204] Determination and Review.
 - (b) Doctor in Malpractice Case.
 - (1) [§205] Familiarity With Local Practice.
 - (2) Experience in Special Field.
 - (aa) [§206] Cases Holding Doctor Qualified.
 - (bb) [§207] Cases Holding Doctor Not Qualified.
2. Form of Questioning.
 - (a) Hypothetical Questions.
 - (1) [§208] In General.
 - (2) [§209] Objecting to Hypothetical Questions.
 - (3) [§210] Question Based on Previous Testimony.
 - (b) [§211] Testimony From X-Ray or Photograph.
 - (c) [§212] Direct Question on Facts Observed.
3. Answer and Basis for Opinion.
 - (a) [§213] Right To Give Reasons.
 - (b) [§214] Basis Stated Before Opinion.
 - (c) [§215] Opinion Based on Improper Matter.

D. Examination as If Under Cross-Examination.

1. Adverse Witness.
 - (a) [§216] Rule and Theory.
 - (b) Scope of Statute.
 - (1) [§217] Adverse Party.
 - (2) [§218] Witness Identified With Adverse Party.
 - (c) Procedure.
 - (1) [§219] Time and Manner of Calling.
 - (2) [§220] Examination and Cross-Examination.

- (d) [§221] Effect of Evidence.
- 2. [§222] Person Relied on by Expert.
- 3. [§223] Hearsay Declarant.

E. Examination of Minor Witness.

- 1. Criminal Cases.
 - (a) [§224] Legislative Findings and Intent.
 - (b) [§225] Protections During Trial or Hearing.
 - (c) Presence of Support Person or Other Representative.
 - (1) [§226] In General.
 - (2) [§227] Support Person Who Is Witness.
 - (d) Televised Testimony.
 - (1) [§228] Former Law: Unauthorized.
 - (2) Statutory Authorization.
 - (aa) [§229] Rule and Legislative Intent.
 - (bb) [§230] Motion, Hearing, and Order.
 - (cc) [§231] Taking of Testimony.
- 2. [§232] Child Custody Termination and Dependency Proceedings.

F. Other Special Circumstances for Examining Witnesses.

- 1. [§233] Adult Prosecuting Witness in Case Involving Sex Crime.
- 2. Examination of Disabled Person.
 - (a) [§234] In General.
 - (b) [§235] Testimony by Closed-Circuit Television.

X. CROSS-EXAMINATION

A. In General.

- 1. [§236] Nature and Purposes.
- 2. Effects of Denial or Undue Restriction.
 - (a) Denial or Restriction by Court.
 - (1) [§237] Civil Cases.
 - (2) Criminal Cases.
 - (aa) [§238] In General.
 - (bb) [§239] Where Foreign Language Is Involved.
 - (b) Refusal or Failure of Witness To Answer.
 - (1) [§240] Refusal.
 - (2) [§241] Unavailability of Witness.
- 3. [§242] Discretion of Judge To Limit.

B. To Elicit Facts: Scope of Direct.

- 1. Restrictive Rule.
 - (a) [§243] Nature of Rule.
 - (b) [§244] Illustrations.
- 2. Where Criminal Defendant Testifies.
 - (a) [§245] Nature of Rule.
 - (b) [§246] Illustrations.
- 3. Rule Relaxed Where Subjects Are Opened Up.
 - (a) [§247] Civil Cases.
 - (b) Criminal Cases.
 - (1) [§248] Nature of Rule.

(2) [§249] Illustrations.

C. To Test Credibility: Wide Latitude.

1. [§250] In General.
2. Civil Cases.
 - (a) [§251] Rule Allowing Otherwise Inadmissible Evidence.
 - (b) [§252] Rule Held Inapplicable.
3. Criminal Cases.
 - (a) [§253] In General.
 - (b) [§254] Cross-Examination of Prosecuting Witness in Case Involving Sex Crime.

D. Cross-Examination of Defendant's Character Witness.

1. [§255] In General.
2. [§256] Character Trait Involved.
3. Reputation Witness.
 - (a) [§257] Limiting Rule.
 - (b) Permissible Questions.
 - (1) [§258] "Have You Heard."
 - (2) [§259] "Would Your Opinion Have Changed."
 - (c) [§260] Improper Questions.
4. [§261] Opinion Witness.

E. Cross-Examination of Expert Witness.

1. [§262] In General.
2. [§263] Qualifications and Court Appointment.
3. [§264] Compensation.
4. Bases and Reasons for Opinion.
 - (a) [§265] In General.
 - (b) Books or Other Publications.
 - (1) [§266] Nature of Problem.
 - (2) [§267] Rules Governing Use.

F. Redirect and Recross-Examination.

1. [§268] Redirect Examination.
2. [§269] Recross-Examination.

XI. IMPEACHMENT

A. In General.

1. [§270] Methods of Impeachment.
2. [§271] Grounds.
3. [§272] Limitations.

B. Capacity To Observe, Recollect, and Communicate.

1. Incompetency.
 - (a) [§273] In General.
 - (b) [§274] Expert Opinion.
 - (c) [§275] No Psychiatric Examination in Sexual Assault Case.
2. [§276] Poor Memory.
3. [§277] Intoxication.
4. [§278] Narcotic Addiction.

C. Bias or Other Improper Motive.

1. In General.
 - (a) [§279] Ground of Impeachment.
 - (b) [§280] Abolition of Foundation Requirement.
2. [§281] Fear or Susceptibility to Pressure.
3. [§282] Financial Interest in Outcome.
4. Benefits Received or Contemplated.
 - (a) [§283] General Rule of Admissibility.
 - (b) [§284] Discretionary Exclusion of Settlement.
5. Personal or Other Relationship.
 - (a) [§285] In General.
 - (b) [§286] Where Evidence of Group Relationship Is Improper.
 - (c) [§287] Where Evidence of Group Relationship Is Proper.
6. [§288] Declarations or Acts of Friendship.
7. [§289] Hostility Toward Adverse Party.
8. [§290] Bias Against Racial Group.
9. [§291] Corrupt Activities in Case.

D. Bad Character.

1. Admissibility of Character Traits.
 - (a) [§292] Honesty or Veracity.
 - (b) [§293] Other Traits.
 - (c) [§294] Distinction: Narcotic Addiction.
 - (d) Distinction: Address and Occupation.
 - (1) [§295] Alford Rule of Admissibility.
 - (2) [§296] Where Disclosure Is Not Required.
2. Methods of Proving Character Traits.
 - (a) Specific Acts.
 - (1) General Rule.
 - (aa) [§297] Civil Action.
 - (bb) [§298] Criminal Action.
 - (2) [§299] Prior Nonsexual Conduct of Rape Victim.
 - (b) Reputation.
 - (1) [§300] Reputation in Community.
 - (2) [§301] Reputation in Group.
 - (3) [§302] Foundation and Impeachment.
 - (c) [§303] Opinion.

E. Conviction of a Felony.

1. In General.
 - (a) [§304] Nature of Rule.
 - (b) [§305] Exceptions: Pardon or Dismissal.
2. [§306] Felony.
3. Conviction.
 - (a) [§307] Necessity of Conviction.
 - (b) Proof by Cross-Examination.
 - (1) [§308] In General: Impeaching Question.
 - (2) [§309] Requirement of Good Faith.
 - (3) [§310] Inquiry Into Circumstances.

- (c) [§311] Proof by Record of Judgment.
- (d) [§312] Constitutionally Defective Conviction.
- 4. Discretionary Exclusion.
 - (a) Before Proposition 8.
 - (1) [§313] Beagle Case: Discretion Required.
 - (2) [§314] Expansion of Beagle Rule.
 - (b) After Proposition 8.
 - (1) Establishment of Moral Turpitude Test.
 - (aa) [§315] Castro Case.
 - (bb) [§316] Subsequent Cases.
 - (2) Application of Moral Turpitude Test.
 - (aa) [§317] Castro Case.
 - (bb) [§318] Moral Turpitude Found.
 - (cc) [§319] Moral Turpitude Not Found.
 - (dd) [§320] Test Is Not Applicable in Civil Cases.
 - (3) Balancing Probative Value and Prejudicial Effect.
 - (aa) [§321] Showing on Record.
 - (bb) [§322] Illustrations of Proper Balancing.
 - (4) [§323] Timing of Decision To Exclude or Admit Conviction.
 - (5) [§324] Preserving Right To Review.
 - (6) [§325] Effect of Error.
- 5. [§326] Extension of Rule to Misconduct Not Resulting in Conviction.

F. Inconsistent Statements.

- 1. [§327] General Rule.
- 2. Nature of Statement.
 - (a) [§328] Prior Statements.
 - (b) [§329] Subsequent Statements.
 - (c) Statements Obtained in Violation of Miranda Rule.
 - (1) Use of Statements.
 - (aa) [§330] General Rule of Admissibility.
 - (bb) [§331] Former California Law Abrogated.
 - (cc) [§332] Impeachment Use Is Permissible Even Where Misconduct Is Deliberate.
 - (2) Use of Defendant's Silence After Miranda Warnings.
 - (aa) [§333] General Rule Against Use of Silence.
 - (bb) [§334] Exceptions.
 - (cc) [§335] Effect of Error.
 - (3) [§336] Use of Defendant's Prearrest Silence.
 - (d) [§337] Statements Obtained in Violation of Right to Counsel.
 - (e) [§338] Testimony at Suppression Hearing.
- 3. Inconsistency.
 - (a) [§339] Inconsistency in Effect.
 - (b) Conduct: Prior Silence on Matter.
 - (1) [§340] In General.
 - (2) [§341] Witness's Failure To Report to Police.
 - (c) [§342] Inconsistent Opinion.

4. Abolition of Foundation Requirements.
 - (a) Oral Statements.
 - (1) [§343] Former Law.
 - (2) [§344] Evidence Code.
 - (b) [§345] Written Statements.
5. Proof.
 - (a) [§346] Cross-Examination.
 - (b) [§347] Extrinsic Evidence.
 - (c) [§348] Where Witness Admits Making Statement.
 - (d) [§349] Where Witness Has No Recollection.
 - (e) [§350] Inapplicability of Corpus Delicti Rule.

G. [§351] Contradictory Evidence on Relevant Matter.

H. Impeachment on Collateral Matter.

1. In General.
 - (a) [§352] Former Exclusionary Rule.
 - (b) [§353] Evidence Code.
2. What Are Not Collateral Matters.
 - (a) [§354] Independently Provable Matters.
 - (b) Matters Affecting Credibility.
 - (1) [§355] Bias, Interest, or Other Improper Motive.
 - (2) [§356] Other Grounds.
3. What Constitutes Collateral Impeachment.
 - (a) [§357] Cross-Examination.
 - (b) [§358] Rebuttal Witnesses.
4. Collateral Impeachment Degrading Character.
 - (a) [§359] Theory of Exclusion.
 - (b) [§360] Illustrations: Civil Cases.
 - (c) Illustrations: Criminal Cases.
 - (1) [§361] Ordinary Witness.
 - (2) [§362] Defendant.
5. Where Witness "Opens The Gates."
 - (a) [§363] General Principles.
 - (b) [§364] Curative Admissibility: Criminal Cases.
 - (c) [§365] Curative Admissibility: Civil Cases.

I. Impeachment of Party's Own Witness.

1. [§366] Former Rule Limiting Impeachment.
2. [§367] Rule of Unlimited Impeachment.

J. Impeachment of Hearsay Declarant.

1. [§368] Nature of Problem.
2. [§369] Impeachment Without Opportunity To Answer.
3. [§370] Prior Inconsistent Statement Is Not Evidence.

K. Rehabilitation of Impeached Witness.

1. [§371] In General.
2. [§372] Contradiction of Bias or Interest.
3. [§373] Good Character.
4. [§374] Medical or Psychiatric Condition.

5. Prior Consistent Statement.
 - (a) [§375] Where Charge Is Improper Motive.
 - (b) [§376] Where Charge Is Recent Fabrication.
 - (c) [§377] Where Prior Inconsistent Statement Is Introduced.

XII. OBJECTIONS TO INADMISSIBLE EVIDENCE

A. Requirement of Proper Objection.

1. [§378] Right To Object and Practice.
2. Objection by Motion in Limine.
 - (a) [§379] Purpose of Motion.
 - (b) [§380] Scope of Motion.
 - (c) [§381] Procedure.
 - (d) [§382] Necessity of Further Objection at Trial.
3. Waiver.
 - (a) [§383] Failure To Object.
 - (b) [§384] Insufficient or Belated Objection.
 - (c) [§385] Other Acts Constituting Waiver or Estoppel.
 - (d) [§386] Conduct Not Constituting Waiver or Estoppel.
4. General Objection.
 - (a) [§387] Insufficient.
 - (b) [§388] Sufficient.
5. Specific Objection.
 - (a) [§389] Necessity and Form.
 - (b) Defective Specific Objections.
 - (1) Objection on Wrong Ground.
 - (aa) [§390] Civil Cases.
 - (bb) [§391] Criminal Cases.
 - (2) [§392] Objection of No Foundation Laid.
6. [§393] Objection to Line of Questions.

B. Other Requirements.

1. [§394] Request for Limiting Instruction.
2. Motion To Strike.
 - (a) [§395] Nature of Requirement and Form of Motion.
 - (b) [§396] Bad Question: Motion Is Insufficient and Unnecessary.
 - (c) [§397] Bad Answer: Motion Is Necessary.
3. [§398] Assignment of Misconduct.

C. Effect of Court's Failure To Rule.

1. Objection.
 - (a) [§399] Ruling Expressly Reserved.
 - (b) [§400] Admission Subject to Motion To Strike.
 - (c) [§401] Ruling Neglected.
2. [§402] Motion To Strike.
3. [§403] Motion in Limine.

D. [§404] Exclusion on Court's Own Motion.

E. Use of Evidence Admitted Without Proper Objection.

1. Sufficient To Sustain Judgment.
 - (a) [§405] General Principle.

- (b) [§406] Hearsay.
- (c) [§407] Other Illustrations.
- 2. Insufficient Despite Failure To Object.
 - (a) [§408] Irrelevant Matter.
 - (b) [§409] Fundamental Error.
 - (c) [§410] Supervening Change in Law.
 - (d) [§411] Incompetency of Counsel.
 - (e) [§412] Extrinsic Evidence Violating Parol Evidence Rule.

XIII. EXCLUSION OF ADMISSIBLE EVIDENCE: OFFER OF PROOF

A. Necessity of Offer.

- 1. [§413] Preservation of Issue for Appeal.
- 2. [§414] Form of Offer.

B. Where Offer Is Unnecessary.

- 1. [§415] Question Clearly Disclosing Admissibility.
- 2. [§416] Judge's Ruling Making Offer Futile.
- 3. [§417] Cross-Examination.