

Weissenberger's
OHIO EVIDENCE

Treatise

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Weissenberger's **OHIO EVIDENCE**

Treatise

GLEN WEISSENBERGER

*Dean and Professor of Law
DePaul University College of Law*

With Assistance From

BRENDA N. DUNLAP, J.D. MARK E. ELSENER, J.D.

BARBARA J. MCFARLAND, J.D.

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FOREWORD

One of the identifiable characteristics of this age is a contagious proclivity to resort to the adjudicative process for the resolution of both private disputes and public controversies. It has even been said that litigation is the new secular religion and that trial lawyers are its priests.

This regrettable overreliance upon litigation as a means of terminating controversies has at least been accompanied by a studied effort on the part of the organized bar to reformulate the rules under which lawsuits are tried and to case them in forms which are rationally-based and understandable.

Borrowing the prudence of the United States Supreme Court, the courts of last resort in most jurisdictions, including Ohio, have recently adopted their own evidence codes. These occupy what heretofore were enormous vacua in learning and uniformity. Indeed, in the pre-code era, the rules under which evidence was admitted and excluded varied from judge to judge. The common law of evidence was spotty and cases were litigated largely in accordance with the diverse customs and prejudices of the various judges and the lawyers who regularly practiced before them. Misconceptions were commonplace. Notable among them was the so-called "Philadelphia Exception" under which any hearsay was admissible so long as the statement was made in the presence of the party against whom it was offered.

Modern evidence codes have gone a long way to eliminate the errors and abuses with which the prior system was rife. But, much progress remains to be made.

Professor Weissenberger's Treatise on Ohio Evidence is remarkable for its rationality and simplicity. The author shapes the hard rules of evidence into working tools for the consummate artisan who understands their purpose and scope.

This Treatise enables the trial bar of Ohio to challenge the judiciary to apply the Ohio Rules of Evidence with reasoned fairness. If the lawyers trying cases in the courts of this state will make use of Professor Weissenberger's fine work, their clients will be its ultimate beneficiaries.

John A. Lloyd, Jr.
Cincinnati, Ohio

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- 804.42 Foundational requirements
- 804.43 Rationale

Rule 804(B)(5) Hearsay exceptions—Statement by deceased or incompetent person

- § 804.51 Statement by a deceased or incompetent person—In general—Rationale

Rule 804(B)(6) Hearsay Exceptions—Forfeiture by Wrongdoing

- § 804.61 Forfeiture by Wrongdoing—In General—Rationale.

Chapter 805. Hearsay Within Hearsay

- § 805.1 Hearsay within hearsay
- 805.2 Multiple hearsay exceeding two levels