

EVIDENCE

CASES AND MATERIALS

UPDATED TENTH EDITION

JON R. WALTZ

ROGER C. PARK

FOUNDATION PRESS

CASES AND MATERIALS

EVIDENCE

UPDATED TENTH EDITION

by

JON R. WALTZ

Late Edna B. and Ednyfed H. Williams Professor of Law
and Lecturer in Medical Jurisprudence Emeritus
Northwestern University

ROGER C. PARK

James Edgar Hervey Professor of Law
University of California, Hastings College of Law

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To the memory of

Jon R. Waltz

1929–2004

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PREFACE TO THE UPDATED TENTH EDITION

I am sad to note the passing of Jon Waltz, the senior author of our casebook. Jon died on January 9, 2004. Jon's wit and keen intelligence gladdened the lives of those who knew him, and his gifts added greatly to the value of the book. This edition is dedicated to him.

The purpose of this Updated Tenth Edition is to take account of the changes brought by *Crawford v. Washington*, 541 U.S. 36 (2004). This edition includes the *Crawford* case and lower court cases that interpret *Crawford*'s concept of "testimonial" evidence. New material on forfeiture of objections has also been added. The Confrontation Clause cases decided between *Ohio v. Roberts* and *Crawford* have been replaced by a note describing them.

We thought that the *Crawford* upheaval justified a revision of the main volume, as opposed to a Supplement. Many instructors will want to discuss the impact of *Crawford* on cases that are encountered elsewhere in the book. Opportunities to do so arise not only in the hearsay chapter, but also in the chapters on expert testimony, on impeachment and rehabilitation, and on writings. Having the case and its sequelae in the main volume makes it more likely that students will have the material handy in every class.

Fortunately, the *Crawford*-related material fills the same space as the material that it replaced, so page numbers before and after the new material remain the same. For example, the *Daubert* case starts on p. 867 in both the Tenth Edition and in this Updated Tenth Edition. We hope that this feature will reduce the need to change page numbers in syllabi and class notes.

We have profited from the comments of many users of this casebook. We are grateful for their communications and have often been influenced by their suggestions. Though many have contributed, we owe special thanks to Richard Friedman, Norman Garland, Paul McKaskle, Richard Marcus, and Fred Moss. We have retained the questions from Judge Bernard Jefferson's CALIFORNIA EVIDENCE BENCHBOOK that were printed in earlier editions, and wish to note our debt to that work.

As in other editions, footnotes and citations to authority have been eliminated from cases and text without special notation.

ROGER C. PARK

May 1, 2005

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TABLE OF CASES

Principal cases are in bold type. Non-principal cases are in roman type. References are to Pages.

- Abel, United States v.**, 469 U.S. 45, 105 S.Ct. 465, 83 L.Ed.2d 450 (1984), **566**
- Adams v. The New York Central Railroad Co.**, Docket No. 724,072 (1961), **248**, 253
- Adkins v. Brett**, 184 Cal. 252, 193 P. 251 (Cal.1920), **210**
- Ando v. Woodberry**, 203 N.Y.S.2d 74, 168 N.E.2d 520 (N.Y.1960), **479**, 483
- Ashe v. Swenson**, 397 U.S. 436, 90 S.Ct. 1189, 25 L.Ed.2d 469 (1970), 427
- Atkinson v. Hall**, 556 A.2d 651 (Me.1989), **781**
- Baker v. State**, 35 Md.App. 593, 371 A.2d 699 (Md.App.1977), **242**
- Ballou v. Henri Studios, Inc.**, 656 F.2d 1147 (5th Cir.1981), **91**
- Barrett, United States v.**, 539 F.2d 244 (1st Cir.1976), **201**
- Beasley, United States v.**, 809 F.2d 1273 (7th Cir.1987), **411**
- Beech Aircraft Corp. v. Rainey**, 488 U.S. 153, 109 S.Ct. 439, 102 L.Ed.2d 445 (1988), **277**
- Bethune v. State**, 821 S.W.2d 222 (Tex.App.-Hous. (14 Dist.) 1991), 964
- Big Mack Trucking Co., Inc. v. Dickerson**, 497 S.W.2d 283 (Tex.1973), **172**
- Bourjaily v. United States**, 483 U.S. 171, 107 S.Ct. 2775, 97 L.Ed.2d 144 (1987), 321
- Brackeen, United States v.**, 969 F.2d 827 (9th Cir.1992), **533**
- Brown, United States v.**, 548 F.2d 1194 (5th Cir.1977), **129**
- Brown, United States v.**, 299 F.3d 1252 (11th Cir.2002), **839**
- Bulthuis v. Rexall Corp.**, 789 F.2d 1315 (9th Cir.1985), 235
- Carlson, State v.**, 311 Or. 201, 808 P.2d 1002 (Or.1991), **164**
- Carrillo, United States v.**, 981 F.2d 772 (5th Cir.1993), **406**
- Cassidy, State v.**, 3 Conn.App. 374, 489 A.2d 386 (Conn.App.1985), 432, **440**
- Castro, People v.**, 144 Misc.2d 956, 545 N.Y.S.2d 985 (N.Y.Sup.1989), 952
- Chambers v. Mississippi**, 410 U.S. 284, 93 S.Ct. 1038, 35 L.Ed.2d 297 (1973), **352**
- Chapple, State v.**, 135 Ariz. 281, 660 P.2d 1208 (Ariz.1983), **935**
- City of (see name of city)**
- Clark v. State**, 332 Md. 77, 629 A.2d 1239 (Md.1993), 365
- Clark v. State**, 261 S.W.2d 339 (Tex.Crim. App.1953), **589**
- Cleghorn v. New York Cent. & H. River R. Co.**, 56 N.Y. 44 (N.Y.1874), **384**
- Cole v. Cole**, 74 N.C.App. 247, 328 S.E.2d 446 (N.C.App.1985), 964
- Coles v. Harsch**, 129 Or. 11, 276 P. 248 (Or.1929), **549**
- Collins, People v.**, 68 Cal.2d 319, 66 Cal. Rptr. 497, 438 P.2d 33 (Cal.1968), **368**, 375, 377
- Collins, State ex rel. v. Superior Court**, 132 Ariz. 180, 644 P.2d 1266 (Ariz.1982), **709**
- Commonwealth v. ——— (see opposing party)**
- Cook v. Hoppin**, 783 F.2d 684 (7th Cir.1986), 236
- Copelin, United States v.**, 996 F.2d 379 (D.C.Cir.1993), **502**
- Cortrim Mfg. Co. v. Smith**, 570 S.W.2d 854 (Tenn.1978), 818
- Crawford v. Washington**, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed.2d 177 (2004), **323**
- Creighton v. Elgin**, 387 Ill. 592, 56 N.E.2d 825 (Ill.1944), 53
- Cromer, United States v.**, 389 F.3d 662 (6th Cir.2004), **339**
- Cunningham, United States v.**, 103 F.3d 553 (7th Cir.1996), **418**
- Daubert v. Merrell Dow Pharmaceuticals, Inc.**, 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 469 (1993), **867**
- Davidson v. Prince**, 813 P.2d 1225 (Utah App.1991), **477**
- DeNoyer, United States v.**, 811 F.2d 436 (8th Cir.1987), 236
- Dent, United States v.**, 984 F.2d 1453 (7th Cir.1993), **307**
- DiDomenico, United States v.**, 78 F.3d 294 (7th Cir.1996), **178**
- Dockins, United States v.**, 986 F.2d 888 (5th Cir.1993), **695**
- Doerr, United States v.**, 886 F.2d 944 (7th Cir.1989), **180**
- Dowling v. United States**, 493 U.S. 342, 110 S.Ct. 668, 107 L.Ed.2d 708 (1990), 427
- Drake, United States v.**, 932 F.2d 861 (10th Cir.1991), **516**
- Dravec, Commonwealth v.**, 424 Pa. 582, 227 A.2d 904 (Pa.1967), 164

- Duncan, United States v.**, 919 F.2d 981 (5th Cir.1990), **261**
- Dyer v. MacDougall**, 201 F.2d 265 (2nd Cir.1952), **764**
- Ellis v. State**, 643 P.2d 330 (Okla.Crim.App. 1982), **946**
- English, State v.**, 201 N.C. 295, 159 S.E. 318 (N.C.1931), **98**
- Enskat, People v.**, 20 Cal.App.3d Supp. 1, 98 Cal.Rptr. 646 (Cal.App.Super.1971), **692**
- Estate of Murdoc**, 32 Muc. 352 (1983), **103**
- Farber, Matter of**, 78 N.J. 259, 394 A.2d 330 (N.J.1978), **645**
- First State Bank of Denton v. Maryland Cas. Co.**, 918 F.2d 38 (5th Cir.1990), **697**
- Fun-Damental Too, Ltd. v. Gemmy Industries Corp.**, 111 F.3d 993 (2nd Cir. 1997), **110**
- Gardeley, People v.**, 59 Cal.Rptr.2d 356, 927 P.2d 713 (Cal.1996), **846**
- G.M. McKelvey Co. v. General Cas. Co. of America**, 166 Ohio St. 401, 142 N.E.2d 854, 2 O.O.2d 345 (Ohio 1957), **200**
- Goldberg, United States v.**, 105 F.3d 770 (1st Cir.1997), **179**
- Government of Virgin Islands v. Knight**, 989 F.2d 619 (3rd Cir.1993), **799**
- Grady, United States v.**, 544 F.2d 598 (2nd Cir.1976), **290**
- Grand Jury, In re**, 103 F.3d 1140 (3rd Cir.1997), **637**
- Grand Jury Proceedings, In re**, 5 F.Supp.2d 21 (D.D.C.1998), **671**
- Green v. Bock Laundry Mach. Co.**, 490 U.S. 504, 109 S.Ct. 1981, 104 L.Ed.2d 557 (1989), **537**
- Green v. Georgia**, 442 U.S. 95, 99 S.Ct. 2150, 60 L.Ed.2d 738 (1979), **355**
- Hahnemann University Hosp. v. Duddinick**, 292 N.J.Super. 11, 678 A.2d 266 (N.J.Super.A.D.1996), **267**
- Halloran v. Virginia Chemicals Inc.**, 393 N.Y.S.2d 341, 361 N.E.2d 991 (N.Y.1977), **435**
- Hernandez, United States v.**, 750 F.2d 1256 (5th Cir.1985), **112**
- Herzig v. Swift & Co.**, 146 F.2d 444 (2nd Cir.1945), **689**
- Higgins v. Los Angeles Gas & Elec. Co.**, 159 Cal. 651, 115 P. 313 (Cal.1911), **751**
- Hill v. Skinner**, 81 Ohio App. 375, 79 N.E.2d 787, 37 O.O. 213 (Ohio App. 9 Dist.1947), **700**
- Hogan, United States v.**, 771 F.2d 82 (5th Cir.1985), **494**
- Hogan, United States v.**, 763 F.2d 697 (5th Cir.1985), **494**
- Holden, Commonwealth v.**, 390 Pa. 221, 134 A.2d 868 (Pa.1957), **797**
- Hoosier, United States v.**, 542 F.2d 687 (6th Cir.1976), **161**
- Horn, United States v.**, 185 F.Supp.2d 530 (D.Md.2002), **917**
- Huddleston v. United States**, 485 U.S. 681, 108 S.Ct. 1496, 99 L.Ed.2d 771 (1988), **422, 428**
- Idaho v. Wright**, 497 U.S. 805, 110 S.Ct. 3139, 111 L.Ed.2d 638 (1990), **311, 321**
- Inadi, United States v.**, 475 U.S. 387, 106 S.Ct. 1121, 89 L.Ed.2d 390 (1986), **320**
- Ingram v. McCuiston**, 261 N.C. 392, 134 S.E.2d 705 (N.C.1964), **818, 832**
- In re (see name of party)**
- Iron Shell, United States v.**, 633 F.2d 77 (8th Cir.1980), **236**
- Iron Thunder, United States v.**, 714 F.2d 765 (8th Cir.1983), **236**
- Jaffee v. Redmond**, 518 U.S. 1, 116 S.Ct. 1923, 135 L.Ed.2d 337 (1996), **606**
- Jaramillo-Suarez, United States v.**, 950 F.2d 1378 (9th Cir.1991), **125**
- Johnson v. Elk Lake School Dist.**, 283 F.3d 138 (3rd Cir.2002), **453**
- Johnson v. Lutz**, 253 N.Y. 124, 170 N.E. 517 (N.Y.1930), **255**
- Johnson v. Misericordia Community Hospital**, 97 Wis.2d 521, 294 N.W.2d 501 (Wis.App.1980), **108**
- Jones, State v.**, 311 Md. 23, 532 A.2d 169 (Md.1987), **154**
- Kammer v. Young**, 73 Md.App. 565, 535 A.2d 936 (Md.App.1988), **379**
- Kearley, Regina v.**, 2 App.Cas. 228 (HL 1992), **119**
- Keegan v. Green Giant Co.**, 150 Me. 283, 110 A.2d 599 (Me.1954), **697**
- Key v. State**, 2005 WL 467167 (Tex.2005), **348**
- Knapp v. State**, 168 Ind. 153, 79 N.E. 1076 (Ind.1907), **79**
- Knapp, Commonwealth v.**, VII American State Trials 395, 515-516 (1830), **119**
- Kristiansen, United States v.**, 901 F.2d 1463 (8th Cir.1990), **853**
- Kumho Tire Co., Ltd. v. Carmichael**, 526 U.S. 137, 119 S.Ct. 1167, 143 L.Ed.2d 238 (1999), **875**
- Lawrence, State v.**, 120 Utah 323, 234 P.2d 600 (Utah 1951), **739**
- Legille v. Dann**, 544 F.2d 1 (D.C.Cir.1976), **774**
- Lewis v. Baker**, 526 F.2d 470 (2nd Cir. 1975), **272**
- Lilley v. Dow Chemical**, 611 F.Supp. 1267 (E.D.N.Y.1985), **821**
- Lilly v. Virginia**, 527 U.S. 116, 119 S.Ct. 1887, 144 L.Ed.2d 117 (1999), **322**
- Lindsey, In re**, 148 F.3d 1100 (D.C.Cir.1998), **671**
- Lindstrom, United States v.**, 698 F.2d 1154 (11th Cir.1983), **541**

- Lira v. Albert Einstein Medical Center**, 384 Pa.Super. 503, 559 A.2d 550 (Pa.Super.1989), **152**
- Lloyd v. American Export Lines, Inc.**, 580 F.2d 1179 (3rd Cir.1978), **194**
- Luce v. United States**, 469 U.S. 38, 105 S.Ct. 460, 83 L.Ed.2d 443 (1984), **537**, **540**
- Mahlandt v. Wild Canid Survival & Research Center, Inc.**, 588 F.2d 626 (8th Cir.1978), **168**
- Matter of** (see name of party)
- McCray v. Illinois**, 386 U.S. 300, 87 S.Ct. 1056, 18 L.Ed.2d 62 (1967), **676**
- Meeks v. State v.**, 277 Kan. 609, 88 P.3d 789 (Kan.2004), **359**
- Menendez v. Superior Court**, 11 Cal. Rptr.2d 92, 834 P.2d 786 (Cal.1992), **620**
- Meyers v. United States**, 171 F.2d 800 (D.C.Cir.1948), **690**
- Mezzanatto, United States v.**, 513 U.S. 196, 115 S.Ct. 797, 130 L.Ed.2d 697 (1995), **484**
- Michelson v. United States**, 335 U.S. 469, 69 S.Ct. 213, 93 L.Ed. 168 (1948), **387**
- Morgan v. Foretich**, 846 F.2d 941 (4th Cir. 1988), **236**
- Mountain, People v.**, 495 N.Y.S.2d 944, 486 N.E.2d 802 (N.Y.1985), **378**
- Mutual Life Ins. Co. of New York v. Hillmon**, 145 U.S. 285, 12 S.Ct. 909, 36 L.Ed. 706 (1892), **215**
- Nick, United States v.**, 604 F.2d 1199 (9th Cir.1979), **236**
- Nixon, United States v.**, 418 U.S. 683, 94 S.Ct. 3090, 41 L.Ed.2d 1039 (1974), **663**
- Oates, United States v.**, 560 F.2d 45 (2nd Cir.1977), **282**
- O'Bannon v. Azar**, 435 So.2d 1144 (La.App. 4 Cir.1983), **964**
- Odom, State v.**, 116 N.J. 65, 560 A.2d 1198 (N.J.1989), **821**
- O'Gee v. Dobbs Houses, Inc.**, 570 F.2d 1084 (2nd Cir.1978), **235**
- Ohio v. Roberts**, 448 U.S. 56, 100 S.Ct. 2531, 65 L.Ed.2d 597 (1980), **315**, **320**
- Ohler v. United States**, 529 U.S. 753, 120 S.Ct. 1851, 146 L.Ed.2d 826 (2000), **540**
- Old Chief v. United States**, 519 U.S. 172, 117 S.Ct. 644, 136 L.Ed.2d 574 (1997), **81**
- Olden v. Kentucky**, 488 U.S. 227, 109 S.Ct. 480, 102 L.Ed.2d 513 (1988), **444**
- Oswalt, State v.**, 62 Wash.2d 118, 381 P.2d 617 (Wash.1963), **499**
- Owens, United States v.**, 484 U.S. 554, 108 S.Ct. 838, 98 L.Ed.2d 951 (1988), **239**
- Owens, United States v.**, 21 M.J. 117 (CMA 1985), **506**
- Palmer v. Hoffman**, 318 U.S. 109, 63 S.Ct. 477, 87 L.Ed. 645 (1943), **270**
- People v.** (see opposing party)
- Perrin v. Anderson**, 784 F.2d 1040 (10th Cir.1986), **428**
- Pheaster, United States v.**, 544 F.2d 353 (9th Cir.1976), **222**
- Piccinonna, United States v.**, 885 F.2d 1529 (11th Cir.1989), **907**
- Platero, United States v.**, 72 F.3d 806 (10th Cir.1995), **447**
- Pollard, United States v.**, 790 F.2d 1309 (7th Cir.1986), **237**
- Porter, State v.**, 241 Conn. 57, 698 A.2d 739 (Conn.1997), **895**
- Potamkin Cadillac Corp. v. B.R.I. Coverage Corp.**, 38 F.3d 627 (2nd Cir.1994), **269**
- Prink v. Rockefeller Center Inc.**, 422 N.Y.S.2d 911, 398 N.E.2d 517 (N.Y.1979), **603**
- Reed v. McCord**, 160 N.Y. 330, 54 N.E. 737 (N.Y.1899), **160**
- Regina v.** (see opposing party)
- Renville, United States v.**, 779 F.2d 430 (8th Cir.1985), **236**
- Reynolds, United States v.**, 345 U.S. 1, 73 S.Ct. 528, 97 L.Ed. 727 (1953), **656**
- Ries Biologicals, Inc. v. Bank of Sante Fe**, 780 F.2d 888 (10th Cir.1986), **109**
- Rock v. Arkansas**, 483 U.S. 44, 107 S.Ct. 2704, 97 L.Ed.2d 37 (1987), **719**
- Roder, People v.**, 189 Cal.Rptr. 501, 658 P.2d 1302 (Cal.1983), **784**
- Roviaro v. United States**, 353 U.S. 53, 77 S.Ct. 623, 1 L.Ed.2d 639 (1957), **671**
- Saada, United States v.**, 212 F.3d 210 (3rd Cir.2000), **519**
- Sabel v. Mead Johnson & Co.**, 737 F.Supp. 135 (D.Mass.1990), **176**
- Saelee, United States v.**, 162 F.Supp.2d 1097 (D.Alaska 2001), **887**, **895**
- Salerno, United States v.**, 505 U.S. 317, 112 S.Ct. 2503, 120 L.Ed.2d 255 (1992), **194**
- Sanders, United States v.**, 964 F.2d 295 (4th Cir.1992), **524**
- San Francisco, City and County of v. Superior Court**, 37 Cal.2d 227, 231 P.2d 26 (Cal.1951), **586**
- Scheffer, United States v.**, 523 U.S. 303, 118 S.Ct. 1261, 140 L.Ed.2d 413 (1998), **912**
- Scop, United States v.**, 846 F.2d 135 (2nd Cir.1988), **827**
- Scotland County v. Hill**, 112 U.S. 183, 5 S.Ct. 93, 28 L.Ed. 692 (1884), **57**
- Sealed Case, In re**, 148 F.3d 1073 (D.C.Cir. 1998), **671**
- Sealed Case, In re**, 121 F.3d 729 (D.C.Cir. 1997), **671**
- Shaw, United States v.**, 824 F.2d 601 (8th Cir.1987), **236**
- Shepard v. United States**, 290 U.S. 96, 54 S.Ct. 22, 78 L.Ed. 196 (1933), **218**
- Sherrod v. Berry**, 856 F.2d 802 (7th Cir. 1988), **80**
- Silver v. New York Cent. R. Co.**, 329 Mass. 14, 105 N.E.2d 923 (Mass.1952), **123**

- Simon v. Kennebunkport**, 417 A.2d 982 (Me.1980), **463**
- Sirico v. Cotto**, 67 Misc.2d 636, 324 N.Y.S.2d 483 (N.Y.City Civ.Ct.1971), **686**
- Slooman, *United States v.*, 909 F.2d 176 (6th Cir.1990), 529
- Smith v. Rapid Transit, Inc.**, 317 Mass. 469, 58 N.E.2d 754 (Mass.1945), **762**
- Soles v. State**, 97 Fla. 61, 119 So. 791 (Fla.1929), **139**
- Stanley Co. of America v. Hercules Powder Co., 16 N.J. 295, 108 A.2d 616 (N.J.1954), 818
- State v. _____* (see opposing party)
- State ex rel. v. _____* (see opposing party and relator)
- Stroud v. Cook**, 931 F.Supp. 733 (D.Nev. 1996), **292**
- Stumpf v. State Farm Mutual, 252 Md. 696, 251 A.2d 362 (Md.1969), 817
- Subramaniam v Public Prosecutor**, 100 Solicitor's Journal 566 (Privy Council 1956), **106**
- Superior Court, In and For Maricopa County, State ex rel. Collins v.**, 132 Ariz. 180, 644 P.2d 1266 (Ariz.1982), **709**
- Tanner v. United States**, 483 U.S. 107, 107 S.Ct. 2739, 97 L.Ed.2d 90 (1987), **728**
- Tome v. United States**, 513 U.S. 150, 115 S.Ct. 696, 130 L.Ed.2d 574 (1995), **555**
- Trammel v. United States**, 445 U.S. 40, 100 S.Ct. 906, 63 L.Ed.2d 186 (1980), **628**
- Tran Trong Cuong, United States v.**, 18 F.3d 1132 (4th Cir.1994), **842**
- Travelers Fire Ins. Co. v. Wright**, 322 P.2d 417 (Okla.1958), **188**
- Truck Ins. Exchange v. Michling**, 364 S.W.2d 172 (Tex.1963), **149**
- Tucker v. State**, 82 Nev. 127, 412 P.2d 970 (Nev.1966), **421**
- Tuer v. McDonald**, 347 Md. 507, 701 A.2d 1101 (Md.1997), **467**
- Turbyfill v. International Harvester Co.**, 486 F.Supp. 232 (E.D.Mich.1980), **305**
- Union Paint & Varnish Co. v. Dean*, 48 R.I. 288, 137 A. 469 (R.I.1927), 75
- United States v. _____** (see opposing party)
- Upjohn Co. v. United States**, 449 U.S. 383, 101 S.Ct. 677, 66 L.Ed.2d 584 (1981), **580**
- Varcoe v. Lee**, 180 Cal. 338, 181 P. 223 (Cal.1919), **735**
- Vigneau, United States v.**, 187 F.3d 70 (1st Cir.1999), **257**
- Vinyard v. Vinyard Funeral Home, Inc.**, 435 S.W.2d 392 (Mo.App.1968), **107**
- Webster Groves, City of v. Quick**, 323 S.W.2d 386 (Mo.App.1959), **131**
- Welter v. Bowman Dairy Co., 318 Ill.App. 305, 47 N.E.2d 739 (Ill.App. 1 Dist.1943), 235
- White v. Illinois*, 502 U.S. 346, 112 S.Ct. 736, 116 L.Ed.2d 848 (1992), 321
- Williams v. Alexander**, 309 N.Y. 283, 129 N.E.2d 417 (N.Y.1955), **263**
- Williamson v. United States**, 512 U.S. 594, 114 S.Ct. 2431, 129 L.Ed.2d 476 (1994), **206**
- Wong, United States v.**, 703 F.2d 65 (3rd Cir.1983), **531**
- Woodruff, United States v.**, 383 F.Supp. 696 (E.D.Pa.1974), **577**
- Wright v. Tatham*, 112 E.R. 488 (KBD 1837), 119
- Yates v. Bair Transport, Inc.**, 249 F.Supp. 681 (S.D.N.Y.1965), **275**
- Zenni, United States v.**, 492 F.Supp. 464 (E.D.Ky.1980), **114, 119**
- Zippo Mfg. Co. v. Rogers Imports, Inc.**, 216 F.Supp. 670 (S.D.N.Y.1963), **228**
- Zolin, United States v.**, 491 U.S. 554, 109 S.Ct. 2619, 105 L.Ed.2d 469 (1989), **597**

TABLE OF FEDERAL EVIDENCE RULES

FEDERAL RULES OF EVIDENCE	This Work
Rule	Page
Art. IX.....	34
Arts. IX–X.....	33
Art. X.....	35
103.....	37
103.....	50
103(a).....	51
103(a)(1).....	43
103(a)(2).....	51
103(b).....	51
103(b).....	53
103(c).....	54
104.....	145
104(b).....	457
105.....	40
105.....	215
201.....	744
201(b)(2).....	36
301–302.....	777
301–302.....	793
401.....	66
401.....	94
402.....	67
402.....	94
403.....	65
403.....	67
403.....	68
403.....	69
403.....	94
404.....	432
404–405.....	64
404(b).....	529
405.....	402
405.....	432
405(a).....	69
406.....	435
407.....	69
407.....	470
407.....	476
408.....	68
410.....	483
410.....	484
411.....	66
412.....	69
412.....	432
412.....	447
501.....	586
601–606.....	733
602.....	22
602.....	68
602.....	131
606(b).....	61
607.....	499
608.....	62
608.....	66
608.....	541
608(b).....	69
608(b).....	515

FEDERAL RULES OF EVIDENCE	This Work
Rule	Page
608(b).....	523
609.....	66
611.....	62
611.....	64
611.....	67
611.....	499
611(a).....	62
611(a).....	63
611(a).....	64
611(a).....	65
611(a).....	67
611(a).....	68
611(a).....	69
611(a).....	70
611(a)(3).....	66
611(b).....	65
611(c).....	12
611(c).....	13
611(c).....	28
611(c).....	67
612.....	253
613.....	66
613.....	551
613(b).....	66
701.....	65
701.....	68
703.....	21
703.....	68
703.....	235
703.....	852
705.....	21
705.....	22
801–804.....	66
801(a).....	121
801(b).....	103
801(b)(1).....	194
801(c).....	103
801(d)(1).....	242
801(d)(1).....	565
801(d)(1)(B).....	62
801(d)(2)(E).....	321
802.....	103
803(1).....	159
803(2).....	159
803(3).....	228
803(3).....	234
803(4).....	234
803(4).....	235
803(4).....	236
803(4).....	237
803(5).....	23
803(5).....	253
803(6).....	25
803(6)–(7).....	267
803(16).....	315
803(18).....	32
803(18).....	298
803(21).....	432
803(22).....	192

FEDERAL RULES OF EVIDENCE		FEDERAL RULES OF EVIDENCE	
Rule	This Work Page	Rule	This Work Page
803(22)	296	804(b)(5)	312
803(24)	236	804(b)(5)	313
803(24)	312	804(b)(6)	364
803(24)	313	805	261
803(24)	314	806	571
804(b)(1)	192	807	312
804(b)(1)	193	807	321
804(b)(2)	141	901	30
804(b)(3)	207	901—902	63
804(b)(3)	208	901—903	699
804(b)(3)	210	1001—1008	63
804(b)(3)	313	1001—1008	694

TABLE OF CALIFORNIA EVIDENCE CODE SECTIONS

WEST'S ANNOTATED CALIFORNIA EVIDENCE CODE		WEST'S ANNOTATED CALIFORNIA EVIDENCE CODE	
Sec.	This Work Page	Sec.	This Work Page
110.....	777	1027.....	627
115.....	777	1028.....	627
210.....	94	1030—1034.....	636
225.....	121	1040.....	671
350.....	94	1041—1042.....	683
351.....	94	1050.....	637
352.....	94	1060.....	637
352.....	411	1070.....	637
355.....	215	1100—1104.....	432
403.....	145	1103.....	411
405.....	145	1103.....	432
450—460.....	744	1103.....	447
500—502.....	777	1105.....	435
520—522.....	777	1151.....	476
550.....	777	1153.....	483
600—607.....	777	1200.....	103
620—624.....	777	1201.....	261
630—645.....	777	1202.....	571
646.....	793	1230.....	210
660.....	777	1235—1236.....	565
662—668.....	777	1237.....	253
700—704.....	733	1238.....	242
702.....	131	1240.....	159
721.....	298	1242.....	141
764.....	499	1250.....	228
767.....	499	1261.....	708
769.....	551	1261.....	709
770.....	551	1270—1272.....	267
771.....	253	1290—1292.....	192
776.....	499	1300.....	483
782.....	411	1300—1302.....	296
785.....	499	1301.....	296
786.....	541	1301.....	297
787.....	523	1324.....	432
791.....	565	1341.....	298
911—913.....	586	1360.....	299
915—919.....	586	1370.....	299
970—973.....	634	1400—1402.....	699
980—982.....	634	1410—1421.....	699
984—987.....	634	1500—1510.....	694
1010—1017.....	627	1530.....	694
1014.....	624	1550.....	694
1024.....	627		

*

SUMMARY OF CONTENTS

PREFACE TO THE UPDATED TENTH EDITION	v
TABLE OF CASES	xvii
TABLE OF FEDERAL EVIDENCE RULES	xxi
TABLE OF CALIFORNIA EVIDENCE CODE SECTIONS	xxiii
CHAPTER I Making the Record; Trial Objections	1
CHAPTER II An Introduction to Relevance	71
Part	
A. Relevance to What?	72
B. Relevance and Inference	77
C. Probative Value versus Prejudicial Effect	81
CHAPTER III The Hearsay Rule	96
Part	
A. Rationale and Meaning: Definitions	97
B. Exceptions and Exemptions	137
1. Dying Declarations	137
2. Spontaneous and Contemporaneous Exclamations	146
3. Admissions	160
4. Former Testimony	188
5. Declarations Against Interest	200
6. State of Mind	210
7. Medical Diagnosis or Treatment	234
8. Prior Identification	237
9. Past Recollection Recorded	242
10. Business and Public Records	254
11. Miscellaneous Exceptions	292
C. The Future of Hearsay	304
CHAPTER IV Forfeiture of Objections	358
CHAPTER V A Return to Relevance	367
Part	
A. Probabilistic Evidence	368
B. Character and Habit	384
1. Character in Issue	384
2. Character as Circumstantial Evidence	387
C. Similar Happenings	463
CHAPTER VI Impeachment and Rehabilitation; Cross-Examination	485
A. The Rule Against Impeaching One's Own Witness and Other Forensic Problems	486

Part	
B. Methods of Impeachment	499
1. Impeachment by Contradiction	499
2. Character of the Witness	506
3. Psychiatric Condition	541
4. Prior Statements to Impeach or Rehabilitate	549
5. Bias	566
CHAPTER VII Confidentiality and Confidential Communi- cation	573
Part	
A. The Attorney–Client Privilege	574
B. Physician–Patient and Psychotherapist–Patient Privileges	603
C. The Marital Privileges	628
D. Miscellaneous Privileges	634
CHAPTER VIII Governmental Privileges	656
CHAPTER IX Writings	685
Part	
A. The Best Evidence Rule	686
B. Authentication	694
CHAPTER X Competency of Witnesses	700
CHAPTER XI Judicial Notice	734
Part	
A. Adjudicative Facts	735
B. Legislative Facts	745
C. Jury Notice	748
CHAPTER XII The Burden of Proof and Presumptions	757
Part	
A. Civil Cases	758
B. Criminal Cases	784
CHAPTER XIII Opinion, Expertise and Experts; Scientific and Demonstrative Evidence	794
Part	
A. Opinion, Expertise and Experts	795
B. Scientific and Demonstrative Evidence	862
APPENDICES	993
INDEX	1369

TABLE OF CONTENTS

PREFACE TO THE UPDATED TENTH EDITION	v
TABLE OF CASES	xvii
TABLE OF FEDERAL EVIDENCE RULES	xxi
TABLE OF CALIFORNIA EVIDENCE CODE SECTIONS	xxiii
CHAPTER I Making the Record; Trial Objections	1
CHAPTER II An Introduction to Relevance	71
Part	
A. Relevance to What?	72
<i>The Judgment of Solomon</i>	72
<i>Hart and McNaughton, Evidence and Inference in the Law</i>	72
<i>James, Relevancy, Probability and the Law</i>	74
B. Relevance and Inference	77
<i>Morgan, Basic Problems of Evidence</i>	77
<i>McCormick's Handbook on the Law of Evidence</i>	78
<i>Knapp v. State</i>	79
C. Probative Value versus Prejudicial Effect	81
<i>Old Chief v. United States</i>	81
<i>Ballou v. Henri Studios, Inc.</i>	91
CHAPTER III The Hearsay Rule	96
Part	
A. Rationale and Meaning: Definitions	97
<i>State v. English</i>	98
<i>Tribe, Triangulating Hearsay</i>	100
<i>Park, Two Definitions of Hearsay</i>	102
<i>McCormick's Handbook on the Law of Evidence</i>	103
<i>Estate of Murdock</i>	103
<i>Subramaniam v. Public Prosecutor</i>	106
<i>Vinyard v. Vinyard Funeral Home, Inc.</i>	107
<i>Johnson v. Misericordia Community Hospital</i>	108
<i>Ries Biologicals, Inc. v. Bank of Santa Fe</i>	109
<i>Strahorn, A Reconsideration of the Hearsay Rule and Admissions</i>	110
<i>Fun-Damental Too, Ltd. v. Gemmy Industries Corp.</i>	110
<i>United States v. Hernandez</i>	112
<i>United States v. Zenni</i>	114
Note	119
<i>Commonwealth v. Knapp</i>	119
<i>Morton, The Rothschilds</i>	120
<i>McCormick, The Borderland of Hearsay</i>	121
<i>Silver v. New York Central Railroad</i>	123
<i>Morgan, Basic Problems of Evidence</i>	125
<i>United States v. Jaramillo-Suarez</i>	125
<i>United States v. Rhodes</i>	127
<i>Lilly, An Introduction to the Law of Evidence</i>	128
<i>United States v. Brown</i>	129

Part	
<i>City of Webster Groves v. Quick</i>	131
<i>Morgan, Hearsay and Non-Hearsay</i>	132
<i>Parrot May Have the Answer to a Killing</i>	133
<i>Morgan, Evidence Exam, Summer Term, 1946, Harvard Law School</i>	133
B. Exceptions and Exemptions	137
1. Dying Declarations	137
<i>Cairns, Law and the Social Sciences</i>	137
<i>King John</i>	138
<i>The Bedside of Lope De Vega</i>	138
<i>Stephen's Account</i>	138
<i>Soles v. State</i>	139
<i>Kaplan, Of Mabrus and Zorgs—An Essay in Honor of David Louisell</i>	141
2. Spontaneous and Contemporaneous Exclamations	146
<i>Hutchins & Slesinger, Some Observations on the Law of Evidence</i>	146
<i>Truck Insurance Exchange v. Michling</i>	149
<i>Lira v. Albert Einstein Medical Center</i>	152
<i>State v. Jones</i>	154
3. Admissions	160
<i>Reed v. McCord</i>	160
Note	161
<i>United States v. Hoosier</i>	161
<i>La Buy, Jury Instructions in Federal Criminal Cases</i>	163
<i>The Gospel According to Luke</i>	163
<i>Stephen Birmingham, "Our Crowd"</i>	163
<i>Admission by Silence—Another View</i>	164
<i>State v. Carlson</i>	164
<i>La Buy, Jury Instructions in Federal Criminal Cases</i>	168
<i>Mahlandt v. Wild Canid Survival & Research Center, Inc.</i>	168
<i>Big Mack Trucking Co., Inc. v. Dickerson</i>	172
<i>Sabel v. Mead Johnson & Co.</i>	176
<i>United States v. DiDomenico</i>	178
<i>United States v. Goldberg</i>	179
<i>United States v. Doerr</i>	180
<i>Bourjaily v. United States</i>	183
4. Former Testimony	188
<i>Travelers Fire Insurance Co. v. Wright</i>	188
Note—Issue Preclusion	192
Note on the Concept of Predecessor in Interest	193
<i>United States v. Salerno</i>	194
5. Declarations Against Interest	200
<i>G.M. McKelvey Co. v. General Casualty Co. of America</i>	200
<i>United States v. Barrett</i>	201
<i>Williamson v. United States</i>	206
6. State of Mind	210
<i>Adkins v. Brett</i>	210
<i>Mutual Life Insurance Co. of New York v. Hillmon</i>	215
<i>Shepard v. United States</i>	218
<i>United States v. Pheaster</i>	222
<i>Zippo Manufacturing Co. v. Rogers Imports, Inc.</i>	228
7. Medical Diagnosis or Treatment	234
<i>Emerging Problems Under the Federal Rules of Evidence</i>	234