

Contents

Tribute to Judge Myron Bright	ix
Preface	xi
Introduction	1
Addressing Juror by Name	3
Ambiguous	6
Argumentative (“Badgering”)	9
Assuming Facts Not in Evidence (“Misleading”)	12
Authentication or Identification Lacking	15
Bad Acts Inadmissible	22
Best Evidence Rule Violated	29
Bolstering Before Impeachment	33
Business Record Not Established	37
Character Inadmissible	43
Coconspirator Statement Inadmissible	50
Collateral Matter	54
Competency Not Established	57
Computer Graphics Evidence Inadmissible	61
Computer Records Inadmissible	67
Convictions of Crime Inadmissible	73
Cross-Examination Exceeds Scope of Direct	74
Dead Man’s Statute Violated	75
Exhibit Foundation Lacking: Physical Evidence . . .	79
Expert Testimony Improper	85
Foundation Lacking: Personal Knowledge	106

Habit, Routine Practice Improper	109
Harassment	114
Hearsay	117
Hearsay Exceptions: Declarant's Availability	
Immaterial	126
Rule 803(1) Present Sense Impression	127
Rule 803(2) Excited Utterance	129
Rule 803(3) Then-Existing Mental, Emotional, or Physical Condition	131
Rule 803(5) Recorded Recollection	134
Rule 803(6) Records of a Regularly Conducted Activity	135
Rule 803(8) Public Records	136
Rule 803(18) Statements in Learned Treatises, Periodicals, or Pamphlets	138
Hearsay Exceptions: Declarant Unavailable	141
Rule 804(b) and Crawford.	142
Rule 804(b)(1) Former Testimony	144
Rule 804(b)(3) Statement Against Interest	146
Rule 807	149
Hypothetical Question Improper	153
Immaterial/Irrelevant	159
Impeachment Improper	162
Judicial Notice Improper	168
Judicial Questioning Improper	172
Leading	176
Liability Insurance Improper	180

Limited Admissibility	183
Misconduct of Counsel	189
Misleadingly Dissimilar	192
Multiple or Compound Question	195
Narrative	197
Offers of Compromise	200
Opinion Rule Violated: Expert Witness	204
Opinion Rule Violated: Lay Witness	210
Original Writings Rule	216
Other Acts Evidence	217
Parol Evidence Rule Violated	218
Polygraph Inadmissible	222
Prejudicial	225
Prior Conviction Inadmissible	229
Prior Inconsistent Statement	234
Privileged	240
Qualifications	246
Rape Cases, Prior Conduct	249
Refreshing Recollection	253
Rehabilitation Improper	256
Relevancy Lacking	260
Religion	262
Remedial Measures	265
Repetitive	268
Reputation Evidence Improper	272
Safety Measures	275

Scientific Evidence and the <i>Daubert</i> and <i>Kumho Tire</i> Cases	276
Scope of Examination	286
Self-Serving	292
Sequestration Rule Violated	296
The Contents of the Order	296
Persons Exempted from the Order.	298
Conduct Violative of the Order.	299
Sanctions for Violations.	300
Settlement Negotiations	302
Speculative	303
Stipulated	306
Summaries Inadmissible	310
Tainted Evidence	314
Unresponsive	316
Vague	319
Witness Lying	321
Appendix 1: Making the Record	325
Appendix 2: Judge Bright's Ten Commandments of Objections.	331
Appendix 3: Objections to Opening Statement and Closing Argument	335
Appendix 4: The Federal Rules of Evidence	337