

**S259522**

**IN THE  
SUPREME COURT OF CALIFORNIA**

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**RAUL BERROTERAN II,**  
*Petitioner,*

*v.*

**THE SUPERIOR COURT OF  
LOS ANGELES COUNTY,**  
*Respondent.*

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**FORD MOTOR COMPANY,**  
*Real Party in Interest.*

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AFTER A DECISION BY THE COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION ONE  
CASE NO. B296639

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**MOTION FOR JUDICIAL NOTICE  
EXHIBITS 1 – 6  
VOLUME 14 OF 14, PAGES 3322-3537 OF 3537  
[FILED CONCURRENTLY WITH  
REAL PARTY IN INTEREST'S OPENING BRIEF ON THE MERITS]**

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**FORD MOTOR COMPANY**

AMENDED IN SENATE FEBRUARY 24, 1965

AMENDED IN SENATE FEBRUARY 18, 1965

SENATE BILL

No. 110

Introduced by Senator Cobey  
(Coauthor: Assemblyman Song)

January 14, 1965

REFERRED TO COMMITTEE ON JUDICIARY

*An act to establish an Evidence Code, thereby consolidating and revising the law relating to evidence; amending various sections of the Business and Professions Code, Civil Code, Code of Civil Procedure, Corporations Code, Government Code, Health and Safety Code, Labor Code, Penal Code, and Public Utilities Code to make them consistent therewith; adding Sections 164.5, 3544, 3545, 3546, 3547, and 3548 to the Civil Code; adding Sections 631.7 and 1908.5 to the Code of Civil Procedure; and repealing legislation inconsistent therewith.*

*The people of the State of California do enact as follows:*

1 SECTION 1. The Evidence Code is enacted, to read:

2  
3 EVIDENCE CODE

4  
5 DIVISION 1. PRELIMINARY PROVISIONS AND  
6 CONSTRUCTION

7  
8 1. This code shall be known as the Evidence Code.

9 2. The rule of the common law, that statutes in derogation  
10 thereof are to be strictly construed, has no application to this  
11 code. This code establishes the law of this state respecting the  
12 subject to which it relates, and its provisions are to be liber-  
13 ally construed with a view to effecting its objects and promot-  
14 ing justice.

15 3. If any provision or clause of this code or application  
16 thereof to any person or circumstances is held invalid, such  
17 invalidity shall not affect other provisions or applications of  
18 the code which can be given effect without the invalid provi-  
19 sion or application, and to this end the provisions of this code  
20 are declared to be severable.

MJN 3323

1 4. Unless the provision or context otherwise requires, these  
2 preliminary provisions and rules of construction shall govern  
3 the construction of this code.

4 5. Division, chapter, article, and section headings do not  
5 in any manner affect the scope, meaning, or intent of the pro-  
6 visions of this code.

7 6. Whenever any reference is made to any portion of this  
8 code or of any other statute, such reference shall apply to all  
9 amendments and additions heretofore or hereafter made.

10 7. Unless otherwise expressly stated:

11 (a) "Division" means a division of this code.

12 (b) "Chapter" means a chapter of the division in which  
13 that term occurs.

14 (c) "Article" means an article of the chapter in which that  
15 term occurs.

16 (d) "Section" means a section of this code.

17 (e) "Subdivision" means a subdivision of the section in  
18 which that term occurs.

19 (f) "Paragraph" means a paragraph of the subdivision in  
20 which that term occurs.

21 8. The present tense includes the past and future tenses;  
22 and the future, the present.

23 9. The masculine gender includes the feminine and neuter.

24 10. The singular number includes the plural; and the plu-  
25 ral, the singular.

26 11. "Shall" is mandatory and "may" is permissive.

27 12. (a) This code shall become operative on January 1,  
28 1967, and shall govern proceedings in actions brought on or  
29 after that date and, except as provided in subdivision (b),  
30 further proceedings in actions pending on that date.

31 (b) Subject to subdivision (c), a trial commenced before  
32 January 1, 1967, shall not be governed by this code. For the  
33 purpose of this subdivision:

34 (1) A trial is commenced when the first witness is sworn or  
35 the first exhibit is admitted into evidence and is terminated  
36 when the issue upon which such evidence is received is sub-  
37 mitted to the trier of fact. A new trial, or a separate trial of a  
38 different issue, commenced on or after January 1, 1967, shall be  
39 governed by this code.

40 (2) If an appeal is taken from a ruling made at a trial  
41 commenced before January 1, 1967, the appellate court shall  
42 apply the law applicable at the time of the commencement of  
43 the trial.

44 (c) The provisions of Division 8 (commencing with Section  
45 900) relating to privileges shall govern any claim of privilege  
46 made after December 31, 1966.

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## DIVISION 2. WORDS AND PHRASES DEFINED

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100. Unless the provision or context otherwise requires,  
these definitions govern the construction of this code.

1 105. "Action" includes a civil action and a criminal action.

2 110. "Burden of producing evidence" means the obligation  
3 of a party to introduce evidence sufficient to avoid a ruling  
4 against him on the issue.

5 115. "Burden of proof" means the obligation of a party to  
6 meet the requirement of a rule of law that he establish by  
7 evidence a requisite degree of belief concerning a fact in the  
8 mind of the trier of fact or the court. The burden of proof may  
9 require a party to raise a reasonable doubt concerning the  
10 existence or nonexistence of a fact or that he establish the  
11 existence or nonexistence of a fact by a preponderance of the  
12 evidence, by clear and convincing proof, or by proof beyond  
13 a reasonable doubt.

14 Except as otherwise provided by law, the burden of proof  
15 requires proof by a preponderance of the evidence.

16 120. "Civil action" includes all actions and proceedings  
17 other than a criminal action.

18 120. "Civil action" includes civil proceedings.

19 125. "Conduct" includes all active and passive behavior,  
20 both verbal and nonverbal.

21 130. "Criminal action" includes criminal proceedings.

22 135. "Declarant" is a person who makes a statement.

23 140. "Evidence" means testimony, writings, material ob-  
24 jects, or other things presented to the senses that are offered  
25 to prove the existence or nonexistence of a fact.

26 145. "The hearing" means the hearing at which a question  
27 under this code arises, and not some earlier or later hearing.

28 150. "Hearsay evidence" is defined in Section 1200.

29 160. "Law" includes constitutional, statutory, and de-  
30 cisional law.

31 165. "Oath" includes affirmation or declaration under pen-  
32 alty of perjury.

33 170. "Perceive" means to acquire knowledge through one's  
34 senses.

35 175. "Person" includes a natural person, firm, association,  
36 organization, partnership, business trust, corporation, or public  
37 entity.

38 180. "Personal property" includes money, goods, chattels,  
39 things in action, and evidences of debt.

40 185. "Property" includes both real and personal property.

41 190. "Proof" is the establishment by evidence of a requi-  
42 site degree of belief concerning a fact in the mind of the trier  
43 of fact or the court.

44 195. "Public employee" means an officer, agent, or em-  
45 ployee of a public entity.

46 200. "Public entity" includes a nation, state, county, city  
47 and county, city, district, public authority, public agency, or  
48 any other political subdivision or public corporation, whether  
49 foreign or domestic.

50 205. "Real property" includes lands, tenements, and her-  
51 editaments.

1 210. "Relevant evidence" means evidence, including evi-  
 2 dence relevant to the credibility of a witness or hearsay declar-  
 3 ant, having any tendency in reason to prove or disprove any  
 4 disputed fact that is of consequence to the determination of the  
 5 action.

6 220. "State" means the State of California, unless applied  
 7 to the different parts of the United States. In the latter case,  
 8 it includes any state, district, commonwealth, territory, or  
 9 insular possession of the United States.

10 225. "Statement" means (a) a *oral or written* verbal ex-  
 11 pression or (b) nonverbal conduct of a person intended by him  
 12 as a substitute for a *oral or written* verbal expression.

13 230. "Statute" includes a treaty and a constitutional pro-  
 14 vision.

15 235. "Trier of fact" includes (a) the jury and (b) the  
 16 court when the court is trying an issue of fact other than one  
 17 relating to the admissibility of evidence.

18 240. (a) Except as otherwise provided in subdivision (b),  
 19 "unavailable as a witness" means that the declarant is:

20 (1) Exempted or precluded on the ground of privilege from  
 21 testifying concerning the matter to which his statement is  
 22 relevant;

23 (2) Disqualified from testifying to the matter;

24 (3) Dead or unable to attend or to testify at the hearing be-  
 25 cause of then existing physical or mental illness or infirmity;

26 (4) Absent from the hearing and the court is unable to  
 27 compel his attendance by its process; or

28 (5) Absent from the hearing and the proponent of his state-  
 29 ment has exercised reasonable diligence but has been unable  
 30 to procure his attendance by the court's process.

31 (b) A declarant is not unavailable as a witness if the ex-  
 32 emption, preclusion, disqualification, death, inability, or ab-  
 33 sence of the declarant was brought about by the procurement  
 34 or wrongdoing of the proponent of his statement for the pur-  
 35 pose of preventing the declarant from attending or testifying.

36 245. "Verbal" includes both *oral and written* words.

37 250. "Writing" means handwriting, typewriting, printing,  
 38 photostating, photographing, and every other means of re-  
 39 cording upon any tangible thing any form of communication  
 40 or representation, including letters, words, pictures, sounds,  
 41 or symbols, or combinations thereof.

## 42 DIVISION 3. GENERAL PROVISIONS

### 44 CHAPTER 1. APPLICABILITY OF CODE

45 300. Except as otherwise provided by statute, this code ap-  
 46 plies in every action before the Supreme Court or a district  
 47 court of appeal, superior court, municipal court, or justice  
 48 court, including proceedings *in such actions* conducted by a  
 49 referee, court commissioner, or similar officer, but does not  
 50 apply in grand jury proceedings.  
 51  
 52

CHAPTER 2. PROVINCE OF COURT AND JURY

310. (a) All questions of law (including but not limited to questions concerning the construction of statutes and other writings, the admissibility of evidence, and other rules of evidence) are to be decided by the court. Determination of issues of fact preliminary to the admission of evidence are to be decided by the court as provided in Article 2 (commencing with Section 400) of Chapter 4.

311. (a) Determination of the law of a public entity is a question

(b) Determination of the law of a foreign nation or a public entity in a foreign nation is a question of law to be determined in the manner provided in Division 4 (commencing with Section 450).

(b)

311. If the law of a foreign nation or a state other than this state, or a public entity in a foreign nation or a state other than this state, is applicable and the court is unable to determine it such law cannot be determined, the court may, as the ends of justice require, either:

(1)

(a) Apply the law of this state if the court can do so consistently with the Constitution of the United States and the Constitution of this state; or

(2)

(b) Dismiss the action without prejudice or, in the case of a reviewing court, remand the case to the trial court with directions to dismiss the action without prejudice.

312. Except as otherwise provided by law, where the trial is by jury:

(a) All questions of fact are to be decided by the jury.

(b) Subject to the control of the court, the jury is to determine the effect and value of the evidence addressed to it, including the credibility of witnesses and hearsay declarants.

CHAPTER 3. ORDER OF PROOF

320. Except as otherwise provided by law, the court in its discretion shall regulate the order of proof.

CHAPTER 4. ADMITTING AND EXCLUDING EVIDENCE

Article 1. General Provisions

350. No evidence is admissible except relevant evidence.

351. Except as otherwise provided by statute, all relevant evidence is admissible.

352. The court in its discretion may exclude evidence if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of

1 time or (b) create substantial danger of undue prejudice, of  
2 confusing the issues, or of misleading the jury.

3 353. A verdict or finding shall not be set aside, nor shall  
4 the judgment or decision based thereon be reversed, by reason  
5 of the erroneous admission of evidence unless:

6 (a) There appears of record an objection to or a motion to  
7 exclude or to strike the evidence that was timely made and so  
8 stated as to make clear the specific ground of the objection or  
9 motion; and

10 (b) The court which passes upon the effect of the error or  
11 errors is of the opinion that the admitted evidence should  
12 have been excluded on the ground stated and that the error  
13 or errors complained of resulted in a miscarriage of justice.

14 354. A verdict or finding shall not be set aside, nor shall  
15 the judgment or decision based thereon be reversed, by reason  
16 of the erroneous exclusion of evidence unless the court which  
17 passes upon the effect of the error or errors is of the opinion  
18 that the error or errors complained of resulted in a miscarriage  
19 of justice and it appears of record that:

20 (a) The substance, purpose, and relevance of the excluded  
21 evidence was made known to the court by the questions asked,  
22 an offer of proof, or by any other means;

23 (b) The rulings of the court made compliance with subdi-  
24 vision (a) futile; or

25 (c) The evidence was sought by questions asked during  
26 cross-examination.

27 355. When evidence is admissible as to one party or for  
28 one purpose and is inadmissible as to another party or for  
29 another purpose, the court upon request shall restrict the evi-  
30 dence to its proper scope and instruct the jury accordingly.

31 356. Where part of an act, declaration, conversation, or  
32 writing is given in evidence by one party, the whole on the  
33 same subject may be inquired into by an adverse party; when  
34 a letter is read, the answer may be given; and when a detached  
35 act, declaration, conversation, or writing is given in evidence,  
36 any other act, declaration, conversation, or writing which is  
37 necessary to make it understood may also be given in evidence.

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## 39 Article 2. Preliminary Determinations on Admissibility 40 of Evidence

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42 400. As used in this article, "preliminary fact" means a  
43 fact upon the existence or nonexistence of which depends the  
44 admissibility or inadmissibility of evidence. The phrase "the  
45 admissibility or inadmissibility of evidence" includes the  
46 qualification or disqualification of a person to be a witness and  
47 the existence or nonexistence of a privilege.

48 401. As used in this article, "proffered evidence" means  
49 evidence, the admissibility or inadmissibility of which is de-  
50 pendent upon the existence or nonexistence of a preliminary  
51 fact.

1 402. (a) When the existence of a preliminary fact is dis-  
2 puted, its existence or nonexistence shall be determined as pro-  
3 vided in this article.

4 (b) The court may hear and determine the question of the  
5 admissibility of evidence out of the presence or hearing of the  
6 jury; but in a criminal action, the court shall hear and deter-  
7 mine the question of the admissibility of a confession or admis-  
8 sion of the defendant out of the presence and hearing of the  
9 jury.

10 (c) A ruling on the admissibility of evidence implies what-  
11 ever finding of fact is prerequisite thereto; a separate or  
12 formal finding is unnecessary unless required by statute.

13 403. (a) The proponent of the proffered evidence has the  
14 burden of producing evidence as to the existence of the pre-  
15 liminary fact, and the proffered evidence is inadmissible unless  
16 the court finds that there is evidence sufficient to sustain a  
17 finding of the existence of the preliminary fact, when:

18 (1) The relevance of the proffered evidence depends on the  
19 existence of the preliminary fact;

20 (2) The preliminary fact is the personal knowledge of a  
21 witness concerning the subject matter of his testimony;

22 (3) The preliminary fact is the authenticity of a writing; or

23 (4) The proffered evidence is of a statement or other con-  
24 duct of a particular person and the preliminary fact is whether  
25 that person made the statement or so conducted himself.

26 (b) Subject to Section 702, the court may admit condition-  
27 ally the proffered evidence under this section, subject to evi-  
28 dence of the preliminary fact being supplied later in the  
29 course of the trial.

30 (c) If the court admits the proffered evidence under this  
31 section, the court:

32 (1) May, and on request shall, instruct the jury to deter-  
33 mine whether the preliminary fact exists and to disregard the  
34 proffered evidence unless the jury finds that the preliminary  
35 fact does exist.

36 (2) Shall instruct the jury to disregard the proffered evi-  
37 dence if the court subsequently determines that a jury could  
38 not reasonably find that the preliminary fact exists.

39 404. Whenever the proffered evidence is claimed to be  
40 privileged under Section 940, the person claiming the privilege  
41 has the burden of showing that the proffered evidence might  
42 tend to incriminate him; and the proffered evidence is inadmis-  
43 sible unless it clearly appears to the court that the proffered  
44 evidence cannot possibly have a tendency to incriminate the  
45 person claiming the privilege.

46 405. With respect to preliminary fact determinations not  
47 governed by Section 403 or 404:

48 (a) When the existence of a preliminary fact is disputed,  
49 the court shall indicate which party has the burden of produc-  
50 ing evidence and the burden of proof on the issue as implied  
51 by the rule of law under which the question arises. The court  
52 shall determine the existence or nonexistence of the prelimi-



1 nary fact and shall admit or exclude the proffered evidence  
2 as required by the rule of law under which the question arises.

3 (b) If a preliminary fact is also a fact in issue in the action:

4 (1) The jury shall not be informed of the court's determina-  
5 tion as to the existence or nonexistence of the preliminary fact.

6 (2) If the proffered evidence is admitted, the jury shall not  
7 be instructed to disregard the evidence if its determination of  
8 the fact differs from the court's determination of the pre-  
9 liminary fact.

10 406. This article does not limit the right of a party to in-  
11 troduce before the trier of fact evidence relevant to weight  
12 or credibility.

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14 CHAPTER 5. WEIGHT OF EVIDENCE GENERALLY

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16 410. As used in this chapter, "direct evidence" means evi-  
17 dence that directly proves a fact, without an inference or pre-  
18 sumption, and which in itself, if true, conclusively establishes  
19 that fact.

20 411. Except where additional evidence is required by stat-  
21 ute, the direct evidence of one witness who is entitled to full  
22 credit is sufficient for proof of any fact.

23 412. If weaker and less satisfactory evidence is offered  
24 when it was within the power of the party to produce stronger  
25 and more satisfactory evidence, the evidence offered should  
26 be viewed with distrust.

27 413. In determining what inferences to draw from the evi-  
28 dence or facts in the case against a party, the trier of fact  
29 may consider, among other things, the party's failure to ex-  
30 plain or to deny by his testimony such evidence or facts in  
31 the case against him, or his wilful suppression of evidence  
32 relating thereto, if such be the case.

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34 DIVISION 4. JUDICIAL NOTICE

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36 450. Judicial notice may not be taken of any matter un-  
37 less authorized or required by law.

38 451. Judicial notice shall be taken of:

39 (a) The decisional, constitutional, and public statutory law  
40 of this state and of the United States and the provisions of any  
41 charter described in Section 7 $\frac{1}{2}$  or 8 of Article XI of the  
42 California Constitution.

43 (b) Any matter made a subject of judicial notice by Section  
44 11383, 11384, or 18576 of the Government Code or by Section  
45 307 of Title 44 of the United States Code.

46 (c) Rules of professional conduct for members of the bar  
47 adopted pursuant to Section 6076 of the Business and Pro-  
48 fessions Code and rules of practice and procedure for the  
49 courts of this state adopted by the Judicial Council.

50 (d) Rules of pleading, practice, and procedure prescribed  
51 by the United States Supreme Court, such as the Rules of the  
52 United States Supreme Court, the Federal Rules of Civil Pro-

1 cedure, the Federal Rules of Criminal Procedure, the Admi-  
2 ralty Rules, the Rules of the Court of Claims, the Rules of the  
3 Customs Court, and the General Orders and Forms in Bank-  
4 ruptcy.

5 (e) The true signification of all English words and phrases  
6 and of all legal expressions.

7 (f) Facts and propositions of generalized knowledge that  
8 are so universally known that they cannot reasonably be the  
9 subject of dispute.

10 452. Judicial notice may be taken of the following matters  
11 to the extent that they are not embraced within Section 451:

12 (a) ~~Resolutions~~ *The decisional, constitutional, and statutory*  
13 *law of any state of the United States and the resolutions and*  
14 *private acts of the Congress of the United States and of the*  
15 *Legislature of this state and the decisional, constitutional, and*  
16 *statutory law of any other state. this state.*

17 (b) Regulations and legislative enactments issued by or  
18 under the authority of the United States or any public entity  
19 in the United States.

20 (c) Official acts of the legislative, executive, and judicial  
21 departments of the United States and of any state of the  
22 United States.

23 (d) Records of (1) any court of this state or (2) any court  
24 of record of the United States or of any state of the United  
25 States.

26 (e) Rules of court of (1) any court of this State or (2) any  
27 court of record of the United States or of any state of the  
28 United States.

29 (f) The law of foreign nations and public entities in foreign  
30 nations.

31 (g) ~~Specific facts~~ *Facts* and propositions that are of such  
32 common knowledge within the territorial jurisdiction of the  
33 court that they cannot reasonably be the subject of dispute.

34 (h) ~~Specific facts~~ *Facts* and propositions that are not rea-  
35 sonably subject to dispute and are capable of immediate and  
36 accurate determination by resort to sources of reasonably  
37 indisputable accuracy.

38 453. ~~Judicial notice shall be taken~~ *The trial court shall take*  
39 *judicial notice* of any matter specified in Section 452 if a party  
40 requests it and:

41 (a) Gives each adverse party sufficient notice of the request,  
42 through the pleadings or otherwise, to enable such adverse  
43 party to prepare to meet the request; and

44 (b) Furnishes the court with sufficient information to en-  
45 able it to take judicial notice of the matter.

46 454. In determining the propriety of taking judicial notice  
47 of a matter, or the tenor thereof:

48 (a) Any source of pertinent information, including the ad-  
49 vice of persons learned in the subject matter, may be consulted  
50 or used, whether or not furnished by a party.

51 (b) Exclusionary rules of evidence do not apply except for  
52 Section 352 and the rules of privilege.

1 455. With respect to any matter specified in Section 452  
2 or in subdivision (f) of Section 451 that is of substantial con-  
3 sequence to the determination of the action:

4 (a) If the *trial* court has been requested to take or has  
5 taken or proposes to take judicial notice of such matter, the  
6 court shall afford each party reasonable opportunity, before  
7 the jury is instructed or before the cause is submitted for  
8 decision by the court, to present to the court information rele-  
9 vant to (1) the propriety of taking judicial notice of the mat-  
10 ter and (2) the tenor of the matter to be noticed.

11 (b) If the *trial* court resorts to any source of information  
12 not received in open court, including the advice of persons  
13 learned in the subject matter, such information and its source  
14 shall be made a part of the record in the action and the court  
15 shall afford each party reasonable opportunity to meet such  
16 information before judicial notice of the matter may be taken.

17 456. If the *trial* court denies a request to take judicial  
18 notice of any matter, the court shall at the earliest practicable  
19 time so advise the parties and indicate for the record that it  
20 has denied the request.

21 457. If a matter judicially noticed is a matter which would  
22 otherwise have been for determination by the jury, the *trial*  
23 court may, and upon request shall, instruct the jury to accept  
24 as a fact the matter so noticed.

25 458. The failure or refusal of the trial court to take ju-  
26 dicial notice of a matter, or to instruct the jury with respect  
27 to the matter, does not preclude the trial court in subsequent  
28 proceedings in the action from taking judicial notice of the  
29 matter in accordance with the procedure specified in this di-  
30 vision.

31 459. (a) The reviewing court shall take judicial notice of  
32 (1) each matter properly noticed by the trial court and (2)  
33 each matter that the trial court was required to notice under  
34 Section 451 or 453. The reviewing court may take judicial no-  
35 tice of any matter specified in Section 452. The reviewing  
36 court may take judicial notice of a matter in a tenor different  
37 from that noticed by the trial court.

38 (b) In determining the propriety of taking judicial notice  
39 of a matter, or the tenor thereof, the reviewing court has the  
40 same power as the trial court under Section 454.

41 (c) When taking judicial notice under this section of a  
42 matter specified in Section 452 or in subdivision (f) of Section  
43 451 that is of substantial consequence to the determination of  
44 the action, the reviewing court shall comply with the provi-  
45 sions of subdivision (a) of Section 455 if the matter was not  
46 theretofore judicially noticed in the action.

47 (d) In determining the propriety of taking judicial notice  
48 of a matter specified in Section 452 or in subdivision (f) of  
49 Section 451 that is of substantial consequence to the determi-  
50 nation of the action, or the tenor thereof, if the reviewing court  
51 resorts to any source of information not received in open court  
52 or not included in the record of the action, including the

1 advice of persons learned in the subject matter, the reviewing  
2 court shall afford each party reasonable opportunity to meet  
3 such information before judicial notice of the matter may be  
4 taken.

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DIVISION 5. BURDEN OF PROOF; BURDEN OF  
PRODUCING EVIDENCE; PRESUMPTIONS  
AND INFERENCES

10

CHAPTER 1. BURDEN OF PROOF

11

Article 1. General

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500. Except as otherwise provided by law, a party has the  
burden of proof as to each fact the existence, or nonexistence  
of which is essential to the claim for relief or defense that he  
is asserting.

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501. Insofar as any statute, except Section 522, assigns the  
burden of proof in a criminal action, such statute is subject  
to Penal Code Section 1096.

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Article 2. Burden of Proof on Specific Issues

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520. The party claiming that a person is guilty of crime or  
wrongdoing has the burden of proof on that issue.

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521. The party claiming that a person did not exercise a  
requisite degree of care has the burden of proof on that issue.

522. The party claiming that any person, including him-  
self, is or was insane has the burden of proof on that issue.

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CHAPTER 2. BURDEN OF PRODUCING EVIDENCE

550. The burden of producing evidence as to a particular  
fact is initially on the party with the burden of proof. There-  
after, the burden of producing evidence as to a particular fact  
is on the party who would suffer a finding against him on that  
fact in the absence of further evidence.

550. (a) The burden of producing evidence as to a par-  
ticular fact is on the party against whom a finding on that  
fact would be required in the absence of further evidence.

(b) The burden of producing evidence as to a particular  
fact is initially on the party with the burden of proof.

## CHAPTER 3. PRESUMPTIONS AND INFERENCES

## Article 1. General

1  
2  
3  
4  
5 600. (a) Subject to Section 607, a presumption is an as-  
6 sumption of fact that the law requires to be made from another  
7 fact or group of facts found or otherwise established in the  
8 action. A presumption is not evidence.

9 (b) An inference is a deduction of fact that may logically  
10 and reasonably be drawn from another fact or group of facts  
11 found or otherwise established in the action.

12 601. A presumption is either conclusive or rebuttable.  
13 Every rebuttable presumption is either (a) a presumption  
14 affecting the burden of producing evidence or (b) a presump-  
15 tion affecting the burden of proof.

16 602. A statute providing that a fact or group of facts is  
17 prima facie evidence of another fact establishes a rebuttable  
18 presumption.

19 603. A presumption affecting the burden of producing evi-  
20 dence is a presumption established to implement no public  
21 policy other than to facilitate the determination of the par-  
22 ticular action in which the presumption is applied.

23 604. Subject to Section 607, the effect of a presumption  
24 affecting the burden of producing evidence is to require the  
25 trier of fact to assume the existence of the presumed fact un-  
26 less and until evidence is introduced which would support a  
27 finding of its nonexistence, in which case the trier of fact shall  
28 determine the existence or nonexistence of the presumed fact  
29 from the evidence and without regard to the presumption.  
30 Nothing in this section shall be construed to prevent the draw-  
31 ing of any inference that may be appropriate.

32 605. A presumption affecting the burden of proof is a pre-  
33 sumption established to implement some public policy other  
34 than to facilitate the determination of the particular action in  
35 which the presumption is applied, such as the policy in favor  
36 of the legitimacy of children, the validity of marriage, the  
37 stability of titles to property, or the security of those who  
38 entrust themselves or their property to the administration of  
39 others.

40 606. Subject to Section 607, the effect of a presumption  
41 affecting the burden of proof is to impose upon the party  
42 against whom it operates the burden of proof as to the non-  
43 existence of the presumed fact.

44 607. When a rebuttable presumption operates in a criminal  
45 action to establish an element of the crime with which the  
46 defendant is charged, neither the burden of producing evi-  
47 dence nor the burden of proof is imposed upon the defendant;  
48 but, if the trier of fact finds that the facts that give rise to  
49 the presumption have been proved beyond a reasonable doubt,  
50 the trier of fact may but is not required to find that the  
51 presumed fact has also been proved beyond a reasonable doubt.

Article 2. Conclusive Presumptions

620. The presumptions established by this article, and all other presumptions declared by law to be conclusive, are conclusive presumptions.

621. Notwithstanding any other provision of law, the issue of a wife cohabiting with her husband, who is not impotent, is conclusively presumed to be legitimate.

622. The facts recited in a written instrument are conclusively presumed to be true as between the parties thereto, or their successors in interest; but this rule does not apply to the recital of a consideration.

623. Whenever a party has, by his own statement or conduct, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he is not, in any litigation arising out of such statement or conduct, permitted to contradict it.

624. A tenant is not permitted to deny the title of his landlord at the time of the commencement of the relation.

Article 3. Presumptions Affecting the Burden  
of Producing Evidence

630. The presumptions established by this article, and all other rebuttable presumptions established by law that fall within the criteria of Section 603, are presumptions affecting the burden of producing evidence.

631. Money delivered by one to another is presumed to have been due to the latter.

632. A thing delivered by one to another is presumed to have belonged to the latter.

633. An obligation delivered up to the debtor is presumed to have been paid.

634. A person in possession of an order on himself for the payment of money, or delivery of a thing, is presumed to have paid the money or delivered the thing accordingly.

635. An obligation possessed by the creditor is presumed not to have been paid.

636. The payment of earlier rent or installments is presumed from a receipt for later rent or installments.

637. The things which a person possesses are presumed to be owned by him.

638. A person who exercises acts of ownership over property is presumed to be the owner of it.

639. A judgment, when not conclusive, is presumed to correctly determine or set forth the rights of the parties, but there is no presumption that the facts essential to the judgment have been correctly determined.

640. A writing is presumed to have been truly dated.

641. A letter correctly addressed and properly mailed is presumed to have been received in the ordinary course of mail.

1 642. A trustee or other person, whose duty it was to convey  
2 real property to a particular person, is presumed to have  
3 actually conveyed to him when such presumption is necessary  
4 to perfect title of such person or his successor in interest.

5 643. A deed or will or other writing purporting to create,  
6 terminate, or affect an interest in real or personal property is  
7 presumed to be authentic if it:

8 (a) Is at least 30 years old;

9 (b) Is in such condition as to create no suspicion concern-  
10 ing its authenticity;

11 (c) Was kept, or if found was found, in a place where  
12 such writing, if authentic, would be likely to be kept or  
13 found; and

14 (d) Has been generally acted upon as authentic by persons  
15 having an interest in the matter.

16 644. A book, purporting to be printed or published by  
17 public authority, is presumed to have been so printed or  
18 published.

19 645. A book, purporting to contain reports of cases ad-  
20 judged in the tribunals of the state or nation where the book  
21 is published, is presumed to contain correct reports of such  
22 cases.

23  
24 Article 4. Presumptions Affecting the Burden of Proof  
25

26 660. The presumptions established by this article, and all  
27 other rebuttable presumptions established by law that fall  
28 within the criteria of Section 605, are presumptions affecting  
29 the burden of proof.

30 661. A child of a woman who is or has been married, born  
31 during the marriage or within 300 days after the dissolution  
32 thereof, is presumed to be a legitimate child of that marriage.  
33 This presumption may be disputed only by the people of the  
34 State of California in a criminal action brought under Section  
35 270 of the Penal Code or by the husband or wife, or the de-  
36 scendant of one or both of them. In a civil action, this presump-  
37 tion may be rebutted only by clear and convincing proof.

38 662. The owner of the legal title to property is presumed  
39 to be the owner of the full beneficial title. This presumption  
40 may be rebutted only by clear and convincing proof.

41 663. A ceremonial marriage is presumed to be valid.

42 664. It is presumed that official duty has been regularly  
43 performed. *This presumption does not apply on an issue as to*  
44 *the lawfulness of an arrest if it is established that the arrest*  
45 *was made without a warrant.*

46 665. ~~An arrest without a warrant is presumed to be un-~~  
47 ~~lawful.~~

48 666. Any court of this State or the United States, or any  
49 court of general jurisdiction in any other state or nation, or  
50 any judge of such a court, acting as such, is presumed to have

1 acted in the lawful exercise of its jurisdiction. This presump-  
2 tion applies only when the act of the court or judge is under  
3 collateral attack.

4 667. A person not heard from in seven years is presumed  
5 to be dead.

6 DIVISION 6. WITNESSES

7  
8 CHAPTER 1. COMPETENCY  
9

10 700. Except as otherwise provided by statute, every person  
11 is qualified to be a witness and no person is disqualified to  
12 testify to any matter.

13 701. A person is disqualified to be a witness if he is:

14 (a) Incapable of expressing himself concerning the matter  
15 so as to be understood, either directly or through interpreta-  
16 tion by one who can understand him; or

17 (b) Incapable of understanding the duty of a witness to tell  
18 the truth.

19 702. (a) Subject to Section 801, the testimony of a witness  
20 concerning a particular matter is inadmissible unless he has  
21 personal knowledge of the matter. Against the objection of  
22 a party, such personal knowledge must be shown before the  
23 witness may testify concerning the matter.

24 (b) A witness' personal knowledge of a matter may be  
25 shown by any otherwise admissible evidence, including his  
26 own testimony.

27 703. (a) Before the judge presiding at the trial of an  
28 action may be called to testify in that trial as a witness, he  
29 shall, in proceedings held out of the presence and hearing of  
30 the jury, inform the parties of the information he has con-  
31 cerning any fact or matter about which he will be called to  
32 testify.

33 (b) Against the objection of a party, the judge presiding  
34 at the trial of an action may not testify in that trial as a  
35 witness. Upon such objection, the judge shall declare a mistrial  
36 and order the action assigned for trial before another judge.

37 (c) The calling of the judge presiding at a trial to testify in  
38 that trial as a witness shall be deemed a consent to the granting  
39 of a motion for mistrial, and an objection to such calling of a  
40 judge shall be deemed a motion for mistrial.

41 (d) In the absence of objection by a party, the judge  
42 presiding at the trial of an action may testify in that trial as  
43 a witness.

44 704. (a) Before a juror sworn and impaneled in the trial  
45 of an action may be called to testify before the jury in that  
46 trial as a witness, he shall, in proceedings conducted by the  
47 court out of the presence and hearing of the remaining jurors,  
48 inform the parties of the information he has concerning any  
49 fact or matter about which he will be called to testify.

50 (b) Against the objection of a party, a juror sworn and im-  
51 paneled in the trial of an action may not testify before the



1 jury in that trial as a witness. Upon such objection, the court  
 2 shall declare a mistrial and order the action assigned for trial  
 3 before another jury.

4 (c) The calling of a juror to testify before the jury as a  
 5 witness shall be deemed a consent to the granting of a motion  
 6 for mistrial, and an objection to such calling of a juror shall  
 7 be deemed a motion for mistrial.

8 (d) In the absence of objection by a party, a juror sworn  
 9 and impaneled in the trial of an action may be compelled to  
 10 testify in that trial as a witness.

11  
 12 CHAPTER 2. OATH AND CONFRONTATION  
 13

14 710. Every witness before testifying shall take an oath  
 15 or make an affirmation or declaration in the form provided  
 16 by Chapter 3 (commencing with Section 2093) of Title 6 of  
 17 Part IV of the Code of Civil Procedure, by law.

18 711. At the trial of an action, a witness can be heard  
 19 only in the presence and subject to the examination of all  
 20 the parties to the action, if they choose to attend and examine.

21  
 22 CHAPTER 3. EXPERT WITNESSES  
 23

24 Article 1. Expert Witnesses Generally  
 25

26 720. (a) A person is qualified to testify as an expert if he  
 27 has special knowledge, skill, experience, training, or education  
 28 sufficient to qualify him as an expert on the subject to which  
 29 his testimony relates. Against the objection of a party, such  
 30 special knowledge, skill, experience, training, or education  
 31 must be shown before the witness may testify as an expert.

32 (b) A witness' special knowledge, skill, experience, training,  
 33 or education may be shown by any otherwise admissible evi-  
 34 dence, including his own testimony.

35 721. (a) Subject to subdivision (b), a witness testifying  
 36 as an expert may be cross-examined to the same extent as  
 37 any other witness and, in addition, may be fully cross-exam-  
 38 ined as to (1) his qualifications, (2) the subject to which his  
 39 expert testimony relates, and (3) the matter upon which his  
 40 opinion is based and the reasons for his opinion.

41 (b) If a witness testifying as an expert testifies in the form  
 42 of an opinion, he may not be cross-examined in regard to the  
 43 content or tenor of any scientific, technical, or professional  
 44 text, treatise, journal, or similar publication unless:

45 (1) The witness referred to, considered, or relied upon such  
 46 publication in arriving at or forming his opinion; or

47 (2) Such publication has been admitted in evidence.

48 722. (a) The fact of the appointment of an expert witness  
 49 by the court may be revealed to the trier of fact.

50 (b) The compensation and expenses paid or to be paid to  
 51 an expert witness by the party calling him is a proper subject

1 of inquiry by any adverse party as relevant to the credibility of  
2 the witness and the weight of his testimony.

3 723. The court may, at any time before or during the trial  
4 of an action, limit the number of expert witnesses to be called  
5 by any party.

6  
7 Article 2. Appointment of Expert Witness by Court  
8

9 730. When it appears to the court, at any time before or  
10 during the trial of an action, that expert evidence is or may  
11 be required by the court or by any party to the action, the  
12 court on its own motion or on motion of any party may ap-  
13 point one or more experts to investigate, to render a report  
14 as may be ordered by the court, and to testify as an expert at  
15 the trial of the action relative to the fact or matter as to which  
16 such expert evidence is or may be required. The court may  
17 fix the compensation for such services, if any, rendered by any  
18 person appointed under this section, in addition to any service  
19 as a witness, at such amount as seems reasonable to the court.

20 731. (a) In all criminal actions and juvenile court pro-  
21 ceedings, the compensation fixed under Section 730 shall be  
22 a charge against the county in which such action or proceeding  
23 is pending and shall be paid out of the treasury of such county  
24 on order of the court.

25 ~~(b) In any county in which the procedure prescribed in this~~  
26 ~~subdivision has been authorized by the board of supervisors,~~

27 *(b) In any county in which the board of supervisors so pro-*  
28 *vides, the compensation fixed under Section 730 for medical ex-*  
29 *perts in civil actions in such county shall be a charge against*  
30 *and paid out of the treasury of such county on order of the*  
31 *court.*

32 (c) Except as otherwise provided in this section, in all  
33 civil actions, the compensation fixed under Section 730 shall,  
34 in the first instance, be apportioned and charged to the several  
35 parties in such proportion as the court may determine and  
36 may thereafter be taxed and allowed in like manner as other  
37 costs.

38 732. Any expert appointed by the court under Section 730  
39 may be called and examined by the court or by any party to  
40 the action. When such witness is called and examined by the  
41 court, the parties have the same right as is expressed in Section  
42 775 to cross-examine the witness and to object to the questions  
43 asked and the evidence adduced.

44 733. Nothing contained in this article shall be deemed or  
45 construed to prevent any party to any action from producing  
46 other expert evidence on the same fact or matter mentioned  
47 in Section 730; but, where other expert witnesses are called  
48 by a party to the action, their fees shall be paid by the party  
49 calling them and only ordinary witness fees shall be taxed  
50 as costs in the action.

## CHAPTER 4. INTERPRETERS AND TRANSLATORS

1  
2

3 750. A person who serves as an interpreter or translator  
4 in any action is subject to all the rules of law relating to  
5 witnesses.

6 751. (a) An interpreter shall take an oath that he will  
7 make a true interpretation to the witness in a language that  
8 the witness understands and that he will make a true inter-  
9 pretation of the witness' answers to questions to counsel, court,  
10 or jury, in the English language, with his best skill and judg-  
11 ment.

12 (b) A translator shall take an oath that he will make a  
13 true translation in the English language of any writing he  
14 is to decipher or translate.

15 752. (a) When a witness is incapable of hearing or under-  
16 standing the English language or is incapable of expressing  
17 himself in the English language so as to be understood directly  
18 by counsel, court, and jury, an interpreter whom he can under-  
19 stand and who can understand him shall be sworn to interpret  
20 for him.

21 (b) The interpreter may be appointed and compensated as  
22 provided in Article 2 (commencing with Section 730) of  
23 Chapter 3.

24 753. (a) When the written characters in a writing offered  
25 in evidence are incapable of being deciphered or understood  
26 directly, a translator who can decipher the characters or un-  
27 derstand the language shall be sworn to decipher or trans-  
28 late the writing.

29 (b) The translator may be appointed and compensated as  
30 provided in Article 2 (commencing with Section 730) of  
31 Chapter 3.

32 754. (a) As used in this section, "deaf person" means a  
33 person with a hearing loss so great as to prevent his under-  
34 standing language spoken in a normal tone.

35 (b) In any criminal action where the defendant is a deaf  
36 person, all of the proceedings of the trial shall be interpreted  
37 to him in a language that he understands by a qualified inter-  
38 preter appointed by the court.

39 (c) In any action where the mental condition of a deaf  
40 person is being considered and where such person may be  
41 committed to a mental institution, all of the court proceedings  
42 pertaining to him shall be interpreted to him in a language  
43 that he understands by a qualified interpreter appointed by  
44 the court.

45 (d) Interpreters appointed under this section shall be paid  
46 for their services a reasonable sum to be determined by the  
47 court, which shall be a charge against the county in which  
48 such action is pending and shall be paid out of the treasury  
49 of such county on order of the court.

CHAPTER 5. METHOD AND SCOPE OF EXAMINATION

Article 1. Definitions

760. "Direct examination" is the first examination of a witness upon a matter that is not within the scope of a previous examination of the witness.

761. "Cross-examination" is the examination of a witness by a party other than the direct examiner upon a matter that is within the scope of the direct examination of the witness.

762. "Redirect examination" is an examination of a witness by the direct examiner subsequent to the cross-examination of the witness.

763. "Re-cross-examination" is an examination of a witness by a cross-examiner subsequent to a redirect examination of the witness.

764. A "leading question" is a question that suggests to the witness the answer that the examining party desires.

Article 2. Examination of Witnesses

765. The court shall exercise reasonable control over the mode of interrogation of a witness so as (a) to make such interrogation as rapid, as distinct, and as effective for the ascertainment of the truth, as may be, and (b) to protect the witness from undue harassment or embarrassment.

766. A witness must give responsive answers to questions, and answers that are not responsive shall be stricken on motion of any party.

767. Except under special circumstances where the interests of justice otherwise require:

(a) A leading question may not be asked of a witness on direct or redirect examination.

(b) A leading question may be asked of a witness on cross-examination or re-cross-examination.

768. (a) In examining a witness concerning a writing, it is not necessary to show, read, or disclose to him any part of the writing.

(b) If a writing is shown to a witness, all parties to the action must be given an opportunity to inspect it before any question concerning it may be asked of the witness.

769. In examining a witness concerning a statement or other conduct by him that is inconsistent with any part of his testimony at the hearing, it is not necessary to disclose to him any information concerning the statement or other conduct.

770. Unless the interests of justice otherwise require, extrinsic evidence of a statement made by a witness that is inconsistent with any part of his testimony at the hearing shall be excluded unless:

(a) The witness was so examined while testifying as to give him an opportunity to explain or to deny the statement; or

1 (b) The witness has not been excused from giving further  
2 testimony in the action.

3 771. (a) Subject to subdivision (c), if a witness, either  
4 while testifying or prior thereto, uses a writing to refresh his  
5 memory with respect to any matter about which he testifies,  
6 such writing must be produced at the hearing at the request of  
7 an adverse party and, unless the writing is so produced, the  
8 testimony of the witness concerning such matter shall be  
9 stricken.

10 (b) If the writing is produced at the hearing, the adverse  
11 party may, if he chooses, inspect the writing, cross-examine  
12 the witness concerning it, and introduce it in evidence.

13 (c) Production of the writing is excused, and the testimony  
14 of the witness shall not be stricken, if the writing:

15 (1) Is not in the possession or control of the witness or the  
16 party who produced his testimony concerning the matter; and

17 (2) Was not reasonably procurable by such party through  
18 the use of the court's process or other available means.

19 772. (a) The examination of a witness shall proceed in  
20 the following phases: direct examination, cross-examination,  
21 redirect examination, re-cross-examination, and continuing  
22 thereafter by redirect and re-cross-examination.

23 (b) Unless for good cause the court otherwise directs, each  
24 phase of the examination of a witness must be concluded be-  
25 fore the succeeding phase begins.

26 (c) Subject to subdivision (d), a party may, in the dis-  
27 cretion of the court, interrupt his cross-examination, redirect  
28 examination, or re-cross-examination of a witness, in order to  
29 examine the witness upon a matter not within the scope of a  
30 previous examination of the witness.

31 (d) If the witness is the defendant in a criminal action, the  
32 witness may not, without his consent, be examined under  
33 direct examination by another party.

34 773. (a) A witness examined by one party may be cross-  
35 examined upon any matter within the scope of the direct ex-  
36 amination by each other party to the action in such order as  
37 the court directs.

38 (b) The cross-examination of a witness by any party whose  
39 interest is not adverse to the party calling him is subject to  
40 the same rules that are applicable to the direct examination.

41 774. A witness once examined cannot be reexamined as  
42 to the same matter without leave of the court, but he may be  
43 reexamined as to any new matter upon which he has been  
44 examined by another party to the action. Leave may be granted  
45 or withheld in the court's discretion.

46 775. The court on its own motion may call witnesses and  
47 interrogate them the same as if they had been produced by a  
48 party to the action, and the parties may object to the questions  
49 asked and the evidence adduced the same as if such witnesses  
50 were called and examined by an adverse party. Such witnesses  
51 may be cross-examined by all parties to the action in such  
52 order as the court directs.

1 776. (a) A party to the record of any civil action, or a  
2 person identified with such a party, may be called and examined  
3 as if under cross-examination by any adverse party at any  
4 time during the presentation of evidence by the party calling  
5 the witness.

6 (b) A witness examined by a party under this section may  
7 be cross-examined by all other parties to the action in such  
8 order as the court directs; but the witness may be examined  
9 only as if under redirect examination by:

10 (1) In the case of a witness who is a party, his own counsel  
11 and counsel for a party who is not adverse to the witness.

12 (2) In the case of a witness who is not a party, counsel for  
13 the party with whom the witness is identified and counsel for  
14 a party who is not adverse to the party with whom the witness  
15 is identified.

16 (c) For the purpose of this section, parties represented by  
17 the same counsel are deemed to be a single party.

18 (d) For the purpose of this section, a person is identified  
19 with a party if he is:

20 (1) A person for whose immediate benefit the action is  
21 prosecuted or defended by the party.

22 (2) A director, officer, superintendent, member, agent, em-  
23 ployee, or managing agent of the party or of a person specified  
24 in paragraph (1), or any public employee of a public entity  
25 when such public entity is the party.

26 (3) A person who was in any of the relationships specified  
27 in paragraph (2) at the time of the act or omission giving rise  
28 to the cause of action.

29 (4) A person who was in any of the relationships specified  
30 in paragraph (2) at the time he obtained knowledge of the  
31 matter concerning which he is sought to be examined under  
32 this section.

33 777. (a) Subject to subdivisions (b) and (c), the court  
34 may exclude from the courtroom any witness not at the time  
35 under examination so that such witness cannot hear the testi-  
36 mony of other witnesses.

37 (b) A party to the action cannot be excluded under this  
38 section.

39 (c) If a person other than a natural person is a party to  
40 the action, an officer or employee designated by its attorney  
41 is entitled to be present.

42 778. After a witness has been excused from giving further  
43 testimony in the action, he cannot be recalled without leave of  
44 the court. Leave may be granted or withheld in the court's  
45 discretion.

46 CHAPTER 6. CREDIBILITY OF WITNESSES

47  
48 Article 1. Credibility Generally

49  
50 780. Except as otherwise provided by statute, the court  
51 or jury may consider in determining the credibility of a wit-  
52 ness any matter that has any tendency in reason to prove or

1 disprove the truthfulness of his testimony at the hearing, in-  
2 cluding but not limited to any of the following:

- 3 (a) His demeanor while testifying and the manner in which  
4 he testifies.  
5 (b) The character of his testimony.  
6 (c) The extent of his capacity to perceive, to recollect, or  
7 to communicate any matter about which he testifies.  
8 (d) The extent of his opportunity to perceive any matter  
9 about which he testifies.  
10 (e) His character for honesty or veracity or their opposites.  
11 (f) The existence or nonexistence of a bias, interest, or other  
12 motive.  
13 (g) A statement previously made by him that is consistent  
14 with his testimony at the hearing.  
15 (h) A statement made by him that is inconsistent with any  
16 part of his testimony at the hearing.  
17 (i) The existence or nonexistence of any fact testified to  
18 by him.  
19 (j) His attitude toward the action in which he testifies or  
20 toward the giving of testimony.  
21 (k) His admission of untruthfulness.

22  
23 Article 2. Attacking or Supporting Credibility

24  
25 785. The credibility of a witness may be attacked or sup-  
26 ported by any party, including the party calling him.

27 786. Evidence of traits of his character other than honesty  
28 or veracity, or their opposites, is inadmissible to attack or  
29 support the credibility of a witness.

30 787. Subject to Section 788, evidence of specific instances  
31 of his conduct relevant only as tending to prove a trait of his  
32 character is inadmissible to attack or support the credibility  
33 of a witness.

34 788. (a) Subject to subdivision (b), evidence of a witness'  
35 conviction of a felony is admissible for the purpose of attack-  
36 ing his credibility if the court, in proceedings held out of the  
37 presence and hearing of the jury, finds that:

38 (1) An essential element of the crime is dishonesty or false  
39 statement; and

40 (2) The witness has admitted his conviction of the crime  
41 or the party attacking the credibility of the witness has pro-  
42 duced competent evidence of the conviction.

43 (b) Evidence of a witness' conviction of a felony is inad-  
44 missible for the purpose of attacking his credibility if:

45 788. For the purpose of attacking the credibility of a wit-  
46 ness, it may be shown by the examination of the witness or by  
47 the record of the judgment that he has been convicted of a  
48 felony unless:

49 (1)

50 (a) A pardon based on his innocence has been granted to  
51 the witness by the jurisdiction in which he was convicted.

52 (2)

1 (b) A certificate of rehabilitation and pardon has been  
2 granted to the witness under the provisions of Chapter 3.5  
3 (commencing with Section 4852.01) of Title 6 of Part 3 of  
4 the Penal Code.

5 ~~(3)~~

6 (c) The accusatory pleading against the witness has been  
7 dismissed under the provisions of Penal Code Section 1203.4.

8 ~~(4)~~

9 (d) The conviction was under the laws of another jurisdic-  
10 tion and the witness has been relieved of the penalties and  
11 disabilities arising from the conviction pursuant to a procedure  
12 substantially equivalent to that referred to in paragraph (2)  
13 or ~~(3)~~ subdivision (b) or (c).

14 ~~(5)~~ A period of more than 10 years has elapsed since the  
15 date of his release from confinement, or the expiration of the  
16 period of his parole, probation, or sentence, whichever is the  
17 later date.

18 789. Evidence of his religious belief or lack thereof is in-  
19 admissible to attack or support the credibility of a witness.

20 790. Evidence of the good character of a witness is inad-  
21 missible to support his credibility unless evidence of his bad  
22 character has been admitted for the purpose of attacking his  
23 credibility.

24 791. Evidence of a statement previously made by a wit-  
25 ness that is consistent with his testimony at the hearing is  
26 inadmissible to support his credibility unless it is offered  
27 after:

28 (a) Evidence of a statement made by him that is incon-  
29 sistent with any part of his testimony at the hearing has been  
30 admitted for the purpose of attacking his credibility, and the  
31 statement was made before the alleged inconsistent state-  
32 ment; or

33 (b) An express or implied charge has been made that his  
34 testimony at the hearing is recently fabricated or is influenced  
35 by bias or other improper motive, and the statement was made  
36 before the bias, motive for fabrication, or other improper  
37 motive is alleged to have arisen.

38  
39 DIVISION 7. OPINION TESTIMONY AND  
40 SCIENTIFIC EVIDENCE

41  
42 CHAPTER 1. EXPERT AND OTHER OPINION TESTIMONY

43  
44 Article 1. Expert and Other Opinion Testimony Generally

45  
46 800. If a witness is not testifying as an expert, his testi-  
47 mony in the form of an opinion is limited to such an opinion  
48 as is permitted by law, including but not limited to an opinion  
49 that is:

50 (a) Rationally based on the perception of the witness; and

51 (b) Helpful to a clear understanding of his testimony.



1 801. If a witness is testifying as an expert, his testimony  
2 in the form of an opinion is limited to such an opinion as is:  
3 (a) Related to a subject that is sufficiently beyond common  
4 experience that the opinion of an expert would assist the trier  
5 of fact; and

6 (b) Based on matter (including his special knowledge, skill,  
7 experience, training, and education) perceived by or person-  
8 ally known to the witness or made known to him at or before  
9 the hearing, whether or not admissible, that is of a type that  
10 reasonably may be relied upon by an expert in forming an  
11 opinion upon the subject to which his testimony relates, unless  
12 an expert is precluded by law from using such matter as a  
13 basis for his opinion.

14 802. A witness testifying in the form of an opinion may  
15 state on direct examination the reasons for his opinion and  
16 the matter (including, in the case of an expert, his special  
17 knowledge, skill, experience, training, and education) upon  
18 which it is based, unless he is precluded by law from using such  
19 reasons or matter as a basis for his opinion. The court in its  
20 discretion may require that a witness before testifying in the  
21 form of an opinion be first examined concerning the matter  
22 upon which his opinion is based.

23 803. The court may, and upon objection shall, exclude  
24 testimony in the form of an opinion that is based in whole or  
25 in significant part on matter that is not a proper basis for  
26 such an opinion. In such case, the witness may, if there remains  
27 a proper basis for his opinion, then state his opinion after  
28 excluding from consideration the matter determined to be  
29 improper.

30 804. (a) If a witness testifying as an expert testifies that  
31 his opinion is based in whole or in part upon the opinion or  
32 statement of another person, such other person may be called  
33 and examined by any adverse party as if under cross-exam-  
34 ination concerning the opinion or statement.

35 (b) This section is not applicable if the person upon whose  
36 opinion or statement the expert witness has relied is (1) a  
37 party, (2) a person identified with a party within the meaning  
38 of subdivision (d) of Section 776, or (3) a witness who has  
39 testified in the action concerning the subject matter of the  
40 opinion or statement upon which the expert witness has relied.

41 (c) Nothing in this section makes admissible an expert  
42 opinion that is inadmissible because it is based in whole or in  
43 part on the opinion or statement of another person.

44 (d) An expert opinion otherwise admissible is not made  
45 inadmissible by this section because it is based on the opinion  
46 or statement of a person who is unavailable for examination  
47 pursuant to this section.

48 805. Testimony in the form of an opinion that is otherwise  
49 admissible is not objectionable because it embraces the ultimate  
50 issue to be decided by the trier of fact.

## 1 Article 2. Opinion Testimony on Particular Subjects

2  
3 870. A witness may state his opinion as to the sanity of a  
4 person when:

5 (a) The witness is an intimate acquaintance of the person  
6 whose sanity is in question;

7 (b) The witness was a subscribing witness to a writing, the  
8 validity of which is in dispute, signed by the person whose  
9 sanity is in question and the opinion relates to the sanity of  
10 such person at the time the writing was signed; or

11 (c) The witness is qualified under Section 800 or 801 to  
12 testify in the form of an opinion.  
13

14 CHAPTER 2. BLOOD TESTS TO DETERMINE PATERNITY  
15

16 890. This chapter may be cited as the Uniform Act on  
17 Blood Tests to Determine Paternity.

18 891. This act shall be so interpreted and construed as to  
19 effectuate its general purpose to make uniform the law of  
20 those states which enact it.

21 892. In a civil action in which paternity is a relevant fact,  
22 the court may upon its own initiative or upon suggestion made  
23 by or on behalf of any person whose blood is involved, and  
24 shall upon motion of any party to the action made at a time so  
25 as not to delay the proceedings unduly, order the mother,  
26 child, and alleged father to submit to blood tests. If any party  
27 refuses to submit to such tests, the court may resolve the ques-  
28 tion of paternity against such party or enforce its order if the  
29 rights of others and the interests of justice so require.

30 893. The tests shall be made by experts qualified as exam-  
31 iners of blood types who shall be appointed by the court. The  
32 experts shall be called by the court as witnesses to testify to  
33 their findings and shall be subject to cross-examination by the  
34 parties. Any party or person at whose suggestion the tests have  
35 been ordered may demand that other experts, qualified as  
36 examiners of blood types, perform independent tests under  
37 order of the court, the results of which may be offered in evi-  
38 dence. The number and qualifications of such experts shall be  
39 determined by the court.

40 894. The compensation of each expert witness appointed  
41 by the court shall be fixed at a reasonable amount. It shall be  
42 paid as the court shall order. The court may order that it be  
43 paid by the parties in such proportions and at such times as it  
44 shall prescribe, or that the proportion of any party be paid by  
45 the county, and that, after payment by the parties or the  
46 county or both, all or part or none of it be taxed as costs in  
47 the action.

48 895. If the court finds that the conclusions of all the ex-  
49 perts, as disclosed by the evidence based upon the tests, are  
50 that the alleged father is not the father of the child, the ques-  
51 tion of paternity shall be resolved accordingly. If the experts

CHAPTER 2. APPLICABILITY OF DIVISION

910. Except as otherwise provided by statute, the provisions of this division apply in all proceedings. The provisions of any statute making rules of evidence inapplicable in particular proceedings, or limiting the applicability of rules of evidence in particular proceedings, do not make this division inapplicable to such proceedings.

CHAPTER 3. GENERAL PROVISIONS RELATING TO PRIVILEGES

911. Except as otherwise provided by statute:

(a) No person has a privilege to refuse to be a witness.

(b) No person has a privilege to refuse to disclose any matter or to refuse to produce any writing, object, or other thing.

(c) No person has a privilege that another shall not be a witness or shall not disclose any matter or shall not produce any writing, object, or other thing.

912. (a) Except as otherwise provided in this section, the right of any person to claim a privilege provided by Section 954 (lawyer-client privilege), 980 (privilege for confidential marital communications), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1033 (privilege of penitent), or 1034 (privilege of clergyman) is waived with respect to a communication protected by such privilege if any holder of the privilege, without coercion, has disclosed a significant part of the communication or has consented to such disclosure made by anyone. Consent to disclosure is manifested by any statement or other conduct of the holder of the privilege indicating his consent to the disclosure, including his failure to claim-the privilege in any proceeding in which he has the legal standing and opportunity to claim the privilege.

(b) Where two or more persons are joint holders of a privilege provided by Section 954 (lawyer-client privilege), 994 (physician-patient privilege), or 1014 (psychotherapist-patient privilege), a waiver of the right of a particular joint holder of the privilege to claim the privilege does not affect the right of another joint holder to claim the privilege. In the case of the privilege provided by Section 980 (privilege for confidential marital communications), a waiver of the right of one spouse to claim the privilege does not affect the right of the other spouse to claim the privilege.

(c) A disclosure that is itself privileged ~~under this division~~ is not a waiver of any privilege.

(d) A disclosure in confidence of a communication that is protected by a privilege provided by Section 954 (lawyer-client privilege), 994 (physician-patient privilege), or 1014 (psychotherapist-patient privilege), when such disclosure is reasonably necessary for the accomplishment of the purpose for which the lawyer, physician, or psychotherapist was consulted, is not a waiver of the privilege.

1 913. (a) If in the instant proceeding or on a prior occasion  
2 a privilege is or was exercised not to testify with respect to  
3 any matter, or to refuse to disclose or to prevent another from  
4 disclosing any matter, neither the presiding officer nor counsel  
5 may comment thereon, no presumption shall arise because of  
6 the exercise of the privilege, and the trier of fact may not  
7 draw any inference therefrom as to the credibility of the  
8 witness or as to any matter at issue in the proceeding.

9 (b) The court, at the request of a party who may be ad-  
10 versely affected because an unfavorable inference may be  
11 drawn by the jury because a privilege has been exercised, shall  
12 instruct the jury that no presumption arises because of the  
13 exercise of the privilege and that the jury may not draw any  
14 inference therefrom as to the credibility of the witness or as  
15 to any matter at issue in the proceeding.

16 914. (a) The presiding officer shall determine a claim of  
17 privilege in any proceeding in the same manner as a court de-  
18 termines such a claim under Article 2 (commencing with Sec-  
19 tion 400) of Chapter 4 of Division 3.

20 (b) No person may be held in contempt for failure to dis-  
21 close information claimed to be privileged unless he has failed  
22 to comply with an order of a court that he disclose such in-  
23 formation. This subdivision does not apply to any govern-  
24 mental agency that has constitutional contempt power, nor  
25 does it apply to hearings and investigations of the Industrial  
26 Accident Commission, nor does it impliedly repeal Chapter 4  
27 (commencing with Section 9400) of Part 1 of Division 2 of  
28 Title 2 of the Government Code. If no other statutory pro-  
29 cedure is applicable, the procedure prescribed by Section 1991  
30 of the Code of Civil Procedure shall be followed in seeking an  
31 order of a court that the person disclose the information  
32 claimed to be privileged.

33 915. (a) Subject to subdivision (b), the presiding officer  
34 may not require disclosure of information claimed to be privi-  
35 leged under this division in order to rule on the claim of  
36 privilege.

37 (b) When a court is ruling on a claim of privilege under  
38 Article 9 (commencing with Section 1040) of Chapter 4 (offi-  
39 cial information and identity of informer) or under Section  
40 1060 (trade secret) and is unable to do so without requiring  
41 disclosure of the information claimed to be privileged, the court  
42 may require the person from whom disclosure is sought or the  
43 person authorized to claim the privilege, or both, to disclose  
44 the information in chambers out of the presence and hearing  
45 of all persons except the person authorized to claim the privi-  
46 lege and such other persons as the person authorized to claim  
47 the privilege is willing to have present. If the judge deter-  
48 mines that the information is privileged, neither he nor any  
49 other person may ever disclose, without the consent of a per-  
50 son authorized to permit disclosure, what was disclosed in the  
51 course of the proceedings in chambers.

1 916. (a) The presiding officer, on his own motion or on the  
2 motion of any party, shall exclude information that is sub-  
3 ject to a claim of privilege under this division if:

4 (1) The person from whom the information is sought is not  
5 a person authorized to claim the privilege; and

6 (2) There is no party to the proceeding who is a person au-  
7 thorized to claim the privilege.

8 (b) The presiding officer may not exclude information  
9 under this section if:

10 (1) He is otherwise instructed by a person authorized to  
11 permit disclosure; or

12 (2) The proponent of the evidence establishes that there is  
13 no person authorized to claim the privilege in existence.

14 917. Whenever a privilege is claimed on the ground that  
15 the matter sought to be disclosed is a communication made in  
16 confidence in the course of the lawyer-client, physician-patient,  
17 psychotherapist-patient, clergyman-penitent, or husband-wife  
18 relationship, the communication is presumed to have been  
19 made in confidence and the opponent of the claim of privilege  
20 has the burden of proof to establish that the communication  
21 was not confidential.

22 918. A party may predicate error on a ruling disallowing  
23 a claim of privilege only if he is the holder of the privilege,  
24 except that a party may predicate error on a ruling disallow-  
25 ing a claim of privilege by his spouse under Section 970 or 971.

26 919. Evidence of a statement or other disclosure of privi-  
27 leged information is inadmissible against a holder of the  
28 privilege if:

29 (a) A person authorized to claim the privilege claimed it  
30 but nevertheless disclosure erroneously was required to be  
31 made; or

32 (b) The presiding officer did not exclude the privileged in-  
33 formation as required by Section 916.

34 920. Nothing in this division shall be construed to repeal  
35 by implication any other statute relating to privileges.

36  
37 CHAPTER 4. PARTICULAR PRIVILEGES  
38

39 Article 1. Privilege of Defendant in Criminal Case  
40

41 930. To the extent that such privilege exists under the Con-  
42 stitution of the United States or the State of California, a  
43 defendant in a criminal case has a privilege not to be called  
44 as a witness and not to testify.  
45

46 Article 2. Privilege Against Self-incrimination  
47

48 940. To the extent that such privilege exists under the  
49 Constitution of the United States or the State of California,  
50 a person has a privilege to refuse to disclose any matter that  
51 may tend to incriminate him.

## Article 3. Lawyer-client Privilege

1  
2  
3 950. As used in this article, "lawyer" means a person au-  
4 thorized, or reasonably believed by the client to be authorized,  
5 to practice law in any state or nation.

6 951. As used in this article, "client" means a person who,  
7 directly or through an authorized representative, consults a  
8 lawyer for the purpose of retaining the lawyer or securing  
9 legal service or advice from him in his professional capacity,  
10 and includes an incompetent (a) who himself so consults the  
11 lawyer or (b) whose guardian or conservator so consults the  
12 lawyer in behalf of the incompetent.

13 952. As used in this article, "confidential communication  
14 between client and lawyer" means information transmitted be-  
15 tween a client and his lawyer in the course of that relationship  
16 and in confidence by a means which, so far as the client is  
17 aware, discloses the information to no third persons other  
18 than those who are present to further the interest of the client  
19 in the consultation or those to whom disclosure is reasonably  
20 necessary for the transmission of the information or the ac-  
21 complishment of the purpose for which the lawyer is consul-  
22 ted, and includes advice given by the lawyer in the course  
23 of that relationship.

24 953. As used in this article, "holder of the privilege"  
25 means:

26 (a) The client when he has no guardian or conservator.

27 (b) A guardian or conservator of the client when the client  
28 has a guardian or conservator.

29 (c) The personal representative of the client if the client is  
30 dead.

31 (d) A successor, assign, trustee in dissolution, or any simi-  
32 lar representative of a firm, association, organization, partner-  
33 ship, business trust, corporation, or public entity that is no  
34 longer in existence.

35 954. Subject to Section 912 and except as otherwise pro-  
36 vided in this article, the client, whether or not a party, has  
37 a privilege to refuse to disclose, and to prevent another from  
38 disclosing, a confidential communication between client and  
39 lawyer if the privilege is claimed by:

40 (a) The holder of the privilege;

41 (b) A person who is authorized to claim the privilege by the  
42 holder of the privilege; or

43 (c) The person who was the lawyer at the time of the confi-  
44 dential communication, but such person may not claim the  
45 privilege if there is no holder of the privilege in existence or  
46 if he is otherwise instructed by a person authorized to permit  
47 disclosure.

48 955. The lawyer who received or made a communication  
49 subject to the privilege under this article shall claim the priv-  
50 ilege whenever he is present when the communication is sought  
51 to be disclosed and is authorized to claim the privilege under  
52 subdivision (c) of Section 954.

1 956. There is no privilege under this article if the services  
2 of the lawyer were sought or obtained to enable or aid anyone  
3 to commit or plan to commit a crime or a fraud.

4 957. There is no privilege under this article as to a commu-  
5 nication relevant to an issue between parties all of whom  
6 claim through a deceased client, regardless of whether the  
7 claims are by testate or intestate succession or by inter vivos  
8 transaction.

9 958. There is no privilege under this article as to a commu-  
10 nication relevant to an issue of breach, by the lawyer or by the  
11 client, of a duty arising out of the lawyer-client relationship.

12 959. There is no privilege under this article as to a com-  
13 munication relevant to an issue concerning the intention or  
14 competence of a client executing an attested document of  
15 which the lawyer is an attesting witness, or concerning the  
16 execution or attestation of such a document.

17 960. There is no privilege under this article as to a commu-  
18 nication relevant to an issue concerning the intention of a  
19 client, now deceased, with respect to a deed of conveyance,  
20 will, or other writing, executed by the client, purporting to  
21 affect an interest in property.

22 961. There is no privilege under this article as to a commu-  
23 nication relevant to an issue concerning the validity of a deed  
24 of conveyance, will, or other writing, executed by a client, now  
25 deceased, purporting to affect an interest in property.

26 962. Where two or more clients have retained or consulted  
27 a lawyer upon a matter of common interest, none of them may  
28 claim a privilege under this article as to a communication  
29 made in the course of that relationship when such communi-  
30 cation is offered in a civil proceeding between such clients.

31  
32 Article 4. Privilege Not to Testify Against Spouse

33  
34 970. Except as otherwise provided by statute, a married  
35 person has a privilege not to testify against his spouse in  
36 any proceeding.

37 971. Except as otherwise provided by statute, a married  
38 person whose spouse is a party to a proceeding has a privilege  
39 not to be called as a witness by an adverse party to that pro-  
40 ceeding without the prior express consent of the spouse having  
41 the privilege under this section unless the party calling the  
42 spouse does so in good faith without knowledge of the marital  
43 relationship.

44 972. A married person does not have a privilege under  
45 this article in:

46 (a) A proceeding brought by or on behalf of one spouse  
47 against the other spouse.

48 (b) A proceeding to commit or otherwise place his spouse  
49 or his spouse's property, or both, under the control of another  
50 because of the spouse's alleged mental or physical condition.

1 (c) A proceeding brought by or on behalf of a spouse to  
2 establish his competence.

3 (d) A proceeding under the Juvenile Court Law, Chapter  
4 2 (commencing with Section 500) of Part 1 of Division 2 of  
5 the Welfare and Institutions Code.

6 (e) A criminal proceeding in which one spouse is charged  
7 with:

8 (1) A crime against the person or property of the other  
9 spouse or of a child of either, whether committed before or  
10 during marriage.

11 (2) A crime against the person or property of a third  
12 person committed in the course of committing a crime against  
13 the person or property of the other spouse, whether committed  
14 before or during marriage.

15 (3) Bigamy or adultery.

16 (4) A crime defined by Section 270 or 270a of the Penal  
17 Code.

18 973. (a) Unless erroneously compelled to do so, a married  
19 person who testifies in a proceeding to which his spouse is a  
20 party, or who testifies against his spouse in any proceeding,  
21 does not have a privilege under this article in the proceeding  
22 in which such testimony is given.

23 (b) There is no privilege under this article in a civil pro-  
24 ceeding brought or defended by a married person for the im-  
25 mediate benefit of his spouse or of himself and his spouse.

#### 26 Article 5. Privilege for Confidential Marital 27 Communications 28

29 980. Subject to Section 912 and except as otherwise pro-  
30 vided in this article, a spouse (or his guardian or conservator  
31 when he has a guardian or conservator), whether or not a  
32 party, has a privilege during the marital relationship and  
33 afterwards to refuse to disclose, and to prevent another from  
34 disclosing, a communication if he claims the privilege and  
35 the communication was made in confidence between him and  
36 the other spouse while they were husband and wife.

37 981. There is no privilege under this article if the com-  
38 munication was made, in whole or in part, to enable or aid  
39 anyone to commit or plan to commit a crime or a fraud.

40 982. There is no privilege under this article in a proceed-  
41 ing to commit either spouse or otherwise place him or his  
42 property, or both, under the control of another because of his  
43 alleged mental or physical condition.

44 983. There is no privilege under this article in a proceed-  
45 ing brought by or on behalf of either spouse to establish his  
46 competence.

47 984. There is no privilege under this article in:

48 (a) A proceeding brought by or on behalf of one spouse  
49 against the other spouse.  
50



1 (b) A proceeding between a surviving spouse and a person  
2 who claims through the deceased spouse, regardless of whether  
3 such claim is by testate or intestate succession or by inter  
4 vivos transaction.

5 985. There is no privilege under this article in a criminal  
6 proceeding in which one spouse is charged with:

7 (a) A crime committed at any time against the person or  
8 property of the other spouse or of a child of either.

9 (b) A crime committed at any time against the person or  
10 property of a third person committed in the course of com-  
11 mitting a crime against the person or property of the other  
12 spouse.

13 (c) Bigamy or adultery.

14 (d) A crime defined by Section 270 or 270a of the Penal  
15 Code.

16 986. There is no privilege under this article in a proceed-  
17 ing under the Juvenile Court Law, Chapter 2 (commencing  
18 with Section 500) of Part 1 of Division 2 of the Welfare and  
19 Institutions Code.

20 987. There is no privilege under this article in a criminal  
21 proceeding in which the communication is offered in evidence  
22 by a defendant who is one of the spouses between whom the  
23 communication was made.

24

#### 25 Article 6. Physician-Patient Privilege

26

27 990. As used in this article, "physician" means a person  
28 authorized, or reasonably believed by the patient to be author-  
29 ized, to practice medicine in any state or nation.

30 991. As used in this article, "patient" means a person  
31 who consults a physician or submits to an examination by a  
32 physician for the purpose of securing a diagnosis or preven-  
33 tive, palliative, or curative treatment of his physical or mental  
34 or emotional condition.

35 992. As used in this article, "confidential communication  
36 between patient and physician" means information, including  
37 information obtained by an examination of the patient, trans-  
38 mitted between a patient and his physician in the course of  
39 that relationship and in confidence by a means which, so far  
40 as the patient is aware, discloses the information to no third  
41 persons other than those who are present to further the in-  
42 terest of the patient in the consultation or those to whom dis-  
43 closure is reasonably necessary for the transmission of the  
44 information or the accomplishment of the purpose for which  
45 the physician is consulted, and includes advice given by the  
46 physician in the course of that relationship.

47 993. As used in this article, "holder of the privilege"  
48 means:

49 (a) The patient when he has no guardian or conservator.

1 (b) A guardian or conservator of the patient when the pa-  
2 tient has a guardian or conservator.

3 (c) The personal representative of the patient if the patient  
4 is dead.

5 994. Subject to Section 912 and except as otherwise pro-  
6 vided in this article, the patient, whether or not a party, has  
7 a privilege to refuse to disclose, and to prevent another from  
8 disclosing, a confidential communication between patient and  
9 physician if the privilege is claimed by:

10 (a) The holder of the privilege;

11 (b) A person who is authorized to claim the privilege by  
12 the holder of the privilege; or

13 (c) The person who was the physician at the time of the  
14 confidential communication, but such person may not claim  
15 the privilege if there is no holder of the privilege in existence  
16 or if he is otherwise instructed by a person authorized to per-  
17 mit disclosure.

18 995. The physician who received or made a communication  
19 subject to the privilege under this article shall claim the privi-  
20 lege whenever he is present when the communication is sought  
21 to be disclosed and is authorized to claim the privilege under  
22 subdivision (c) of Section 994.

23 996. There is no privilege under this article as to a com-  
24 munication relevant to an issue concerning the condition of  
25 the patient if such issue has been tendered by:

26 (a) The patient;

27 (b) Any party claiming through or under the patient;

28 (c) Any party claiming as a beneficiary of the patient  
29 through a contract to which the patient is or was a party; or

30 (d) The plaintiff in an action brought under Section 376  
31 or 377 of the Code of Civil Procedure for damages for the  
32 injury or death of the patient.

33 997. There is no privilege under this article if the services  
34 of the physician were sought or obtained to enable or aid any-  
35 one to commit or plan to commit a crime or a tort or to escape  
36 detection or apprehension after the commission of a crime or  
37 a tort.

38 998. There is no privilege under this article in a criminal  
39 proceeding or in a disciplinary proceeding.

40 999. There is no privilege under this article in a proceed-  
41 ing to recover damages on account of conduct of the patient  
42 which constitutes a crime.

43 1000. There is no privilege under this article as to a com-  
44 munication relevant to an issue between parties all of whom  
45 claim through a deceased patient, regardless of whether the  
46 claims are by testate or intestate succession or by inter vivos  
47 transaction.

48 1001. There is no privilege under this article as to a com-  
49 munication relevant to an issue of breach, by the physician or  
50 by the patient, of a duty arising out of the physician-patient  
51 relationship.

1 1002. There is no privilege under this article as to a com-  
2 munication relevant to an issue concerning the intention of  
3 a patient, now deceased, with respect to a deed of conveyance,  
4 will, or other writing, executed by the patient, purporting to  
5 affect an interest in property.

6 1003. There is no privilege under this article as to a com-  
7 munication relevant to an issue concerning the validity of a  
8 deed of conveyance, will, or other writing, executed by a  
9 patient, now deceased, purporting to affect an interest in  
10 property.

11 1004. There is no privilege under this article in a proceed-  
12 ing to commit the patient or otherwise place him or his prop-  
13 erty, or both, under the control of another because of his  
14 alleged mental or physical condition.

15 1005. There is no privilege under this article in a proceed-  
16 ing brought by or on behalf of the patient to establish his  
17 competence.

18 1006. There is no privilege under this article as to infor-  
19 mation that the physician or the patient is required to report  
20 to a public employee, or as to information required to be  
21 recorded in a public office, if such report or record is open to  
22 public inspection.

23 *1007. There is no privilege under this article in a proceed-*  
24 *ing brought by a public entity to determine whether a right,*  
25 *authority, license, or privilege (including the right or privilege*  
26 *to be employed by the public entity or to hold a public office)*  
27 *should be revoked, suspended, terminated, limited, or condi-*  
28 *tioned.*

29  
30 Article 7. Psychotherapist-patient Privilege

31  
32 1010. As used in this article, "psychotherapist" means:

33 (a) A person authorized, or reasonably believed by the pa-  
34 tient to be authorized, to practice medicine in any state or  
35 nation who devotes, or is reasonably believed by the patient  
36 to devote, a substantial portion of his time to the practice of  
37 psychiatry; or

38 (b) A person certified as a psychologist under Chapter 6.6  
39 (commencing with Section 2900) of Division 2 of the Business  
40 and Professions Code.

41 1011. As used in this article, "patient" means a person  
42 who consults a psychotherapist or submits to an examination  
43 by a psychotherapist for the purpose of securing a diagnosis  
44 or preventive, palliative, or curative treatment of his mental  
45 or emotional condition *or who submits to an examination of his*  
46 *mental or emotional condition for the purpose of scientific*  
47 *research on mental or emotional problems.*

48 1012. As used in this article, "confidential communication  
49 between patient and psychotherapist" means information, in-  
50 cluding information obtained by an examination of the pa-  
51 tient, transmitted between a patient and his psychotherapist

1 in the course of that relationship and in confidence by a means  
2 which, so far as the patient is aware, discloses the information  
3 to no third persons other than those who are present to fur-  
4 ther the interest of the patient in the consultation or *examina-*  
5 *tion* or those to whom disclosure is reasonably necessary for  
6 the transmission of the information or the accomplishment of  
7 the purpose for which the psychotherapist is consulted of the  
8 *consultation or examination*, and includes advice given by the  
9 psychotherapist in the course of that relationship.

10 1013. As used in this article, "holder of the privilege"  
11 means:

12 (a) The patient when he has no guardian or conservator.

13 (b) A guardian or conservator of the patient when the pa-  
14 tient has a guardian or conservator.

15 (c) The personal representative of the patient if the pa-  
16 tient is dead.

17 1014. Subject to Section 912 and except as otherwise pro-  
18 vided in this article, the patient, whether or not a party, has  
19 a privilege to refuse to disclose, and to prevent another from  
20 disclosing, a confidential communication between patient and  
21 psychotherapist if the privilege is claimed by:

22 (a) The holder of the privilege;

23 (b) A person who is authorized to claim the privilege by  
24 the holder of the privilege; or

25 (c) The person who was the psychotherapist at the time of  
26 the confidential communication, but such person may not claim  
27 the privilege if there is no holder of the privilege in existence  
28 or if he is otherwise instructed by a person authorized to per-  
29 mit disclosure.

30 1015. The psychotherapist who received or made a commu-  
31 nication subject to the privilege under this article shall claim  
32 the privilege whenever he is present when the communication  
33 is sought to be disclosed and is authorized to claim the privi-  
34 lege under subdivision (c) of Section 1014.

35 1016. There is no privilege under this article as to a com-  
36 munication relevant to an issue concerning the mental or  
37 emotional condition of the patient if such issue has been ten-  
38 dered by:

39 (a) The patient;

40 (b) Any party claiming through or under the patient;

41 (c) Any party claiming as a beneficiary of the patient  
42 through a contract to which the patient is or was a party; or

43 (d) The plaintiff in an action brought under Section 376  
44 or 377 of the Code of Civil Procedure for damages for the  
45 injury or death of the patient.

46 1017. There is no privilege under this article if the psy-  
47 chotherapist is appointed by order of a court to examine the  
48 patient, but this exception does not apply where the psycho-  
49 therapist is appointed by order of the court upon the request  
50 of the lawyer for the defendant in a criminal proceeding in  
51 order to provide the lawyer with information needed so that  
52 he may advise the defendant whether to enter a plea based on

1 insanity or to present a defense based on his mental or emo-  
2 tional condition.

3 1018. There is no privilege under this article if the services  
4 of the psychotherapist were sought or obtained to enable or  
5 aid anyone to commit or plan to commit a crime or a tort or  
6 to escape detection or apprehension after the commission of  
7 a crime or a tort.

8 1019. There is no privilege under this article as to a com-  
9 munication relevant to an issue between parties all of whom  
10 claim through a deceased patient, regardless of whether the  
11 claims are by testate or intestate succession or by inter vivos  
12 transaction.

13 1020. There is no privilege under this article as to a com-  
14 munication relevant to an issue of breach, by the psychothera-  
15 pist or by the patient, of a duty arising out of the psycho-  
16 therapist-patient relationship.

17 1021. There is no privilege under this article as to a com-  
18 munication relevant to an issue concerning the intention of a  
19 patient, now deceased, with respect to a deed of conveyance,  
20 will, or other writing, executed by the patient, purporting to  
21 affect an interest in property.

22 1022. There is no privilege under this article as to a com-  
23 munication relevant to an issue concerning the validity of a  
24 deed of conveyance, will, or other writing, executed by a pa-  
25 tient, now deceased, purporting to affect an interest in  
26 property.

27 1023. There is no privilege under this article in a pro-  
28 ceeding under Chapter 6 (commencing with Section 1367) of  
29 Title 10 of Part 2 of the Penal Code initiated at the request  
30 of the defendant in a criminal action to determine his sanity.

31 1024. There is no privilege under this article if the psycho-  
32 therapist has reasonable cause to believe that the patient is in  
33 such mental or emotional condition as to be dangerous to him-  
34 self or to the person or property of another and that disclosure  
35 of the communication is necessary to prevent the threatened  
36 danger.

37 1025. There is no privilege under this article in a proceed-  
38 ing brought by or on behalf of the patient to establish his  
39 competence.

40 1026. There is no privilege under this article as to informa-  
41 tion that the psychotherapist or the patient is required to  
42 report to a public employee or as to information required to  
43 be recorded in a public office, if such report or record is open  
44 to public inspection.

45  
46 Article 8. Clergyman-Penitent Privileges

47  
48 1030. As used in this article, "clergyman" means a priest,  
49 minister, or similar functionary of a church or of a religious  
50 denomination or religious organization.

51 1031. As used in this article, "penitent" means a person  
52 who has made a penitential communication to a clergyman.

1 1032. As used in this article, "penitential communication"  
2 means a communication made in confidence, in the presence of  
3 no third person so far as the penitent is aware, to a clergyman  
4 who, in the course of the discipline or practice of his church,  
5 denomination, or organization, is authorized or accustomed to  
6 hear such communications and has a duty to keep them secret.

7 1033. Subject to Section 912, a penitent, whether or not  
8 a party, has a privilege to refuse to disclose, and to prevent  
9 another from disclosing, a penitential communication if he  
10 claims the privilege.

11 1034. Subject to Section 912, a clergyman, whether or not  
12 a party, has a privilege to refuse to disclose a penitential  
13 communication if he claims the privilege.

14

#### 15 Article 9. Official Information and Identity of Informer

16

17 1040. (a) As used in this section, "official information"  
18 means information acquired in confidence by a public employee  
19 in the course of his duty and not open, or officially disclosed,  
20 to the public prior to the time the claim of privilege is made.

21 (b) A public entity has a privilege to refuse to disclose of-  
22 ficial information, and to prevent another from disclosing such  
23 information, if the privilege is claimed by a person authorized  
24 by the public entity to do so and:

25 (1) Disclosure is forbidden by an act of the Congress of  
26 the United States or a statute of this state; or

27 (2) Disclosure of the information is against the public in-  
28 terest because there is a necessity for preserving the confi-  
29 dentiality of the information that outweighs the necessity for  
30 disclosure in the interest of justice; but no privilege may be  
31 claimed under this paragraph if any person authorized to do  
32 so has consented that the information be disclosed in the pro-  
33 ceeding. In determining whether disclosure of the information  
34 is against the public interest, the interest of the public entity  
35 as a party in the outcome of the proceeding may not be con-  
36 sidered.

37 1041. (a) Except as provided in this section, a public en-  
38 tity has a privilege to refuse to disclose the identity of a per-  
39 son who has furnished information as provided in subdivision

40 (b) purporting to disclose a violation of a law of the United  
41 States or of this state or a public entity in this state, and  
42 to prevent another from disclosing such identity, if the privi-  
43 lege is claimed by a person authorized by the public entity to  
44 do so and:

45 (1) Disclosure is forbidden by an act of the Congress of  
46 the United States or a statute of this state; or

47 (2) Disclosure of the identity of the informer is against  
48 the public interest because there is a necessity for preserving  
49 the confidentiality of his identity that outweighs the neces-  
50 sity for disclosure in the interest of justice; but no privilege  
51 may be claimed under this paragraph if any person authorized  
52 to do so has consented that the identity of the informer be

1 disclosed in the proceeding. In determining whether disclosure  
2 of the identity of the informer is against the public interest,  
3 the interest of the public entity as a party in the outcome of  
4 the proceeding may not be considered.

5 (b) This section applies only if the information is furnished  
6 in confidence by the informer to:

7 (1) A law enforcement officer;

8 (2) A representative of an administrative agency charged  
9 with the administration or enforcement of the law alleged to  
10 be violated; or

11 (3) Any person for the purpose of transmittal to a person  
12 listed in paragraph (1) or (2).

13 (c) There is no privilege under this section to prevent the  
14 informer from disclosing his identity.

15 1042. (a) Except where disclosure is forbidden by an Act  
16 of the Congress of the United States, if a claim of privilege  
17 under this article by the State or a public entity in this State  
18 is sustained in a criminal proceeding ~~or in a disciplinary pro-~~  
19 ~~ceeding~~, the presiding officer shall make such order or finding  
20 of fact adverse to the public entity bringing the proceeding as  
21 is required by law upon any issue in the proceeding to which  
22 the privileged information is material.

23 (b) Notwithstanding subdivision (a), where a search is  
24 made pursuant to a warrant valid on its face, the public entity  
25 bringing a criminal proceeding ~~or a disciplinary proceeding~~  
26 is not required to reveal to the defendant official information  
27 or the identity of an informer in order to establish the legality  
28 of the search or the admissibility of any evidence obtained as  
29 a result of it.

30 Article 10. Political Vote

31

32 1050. If he claims the privilege, a person has a privilege  
33 to refuse to disclose the tenor of his vote at a public election  
34 where the voting is by secret ballot unless he voted illegally or  
35 he previously made an unprivileged disclosure of the tenor  
36 of his vote.

37 Article 11. Trade Secret

38

39 1060. If he or his agent or employee claims the privilege,  
40 the owner of a trade secret has a privilege to refuse to disclose  
41 the secret, and to prevent another from disclosing it, if the  
42 allowance of the privilege will not tend to conceal fraud or  
43 otherwise work injustice.

44

45 CHAPTER 5. IMMUNITY OF NEWSMAN FROM CITATION  
46 FOR CONTEMPT

47

48 1070. As used in this chapter, "newsman" means a person  
49 directly engaged in the procurement of news for publication,  
50 or in the publication of news, by news media.

51 1071. As used in this chapter, "news media" means news-  
52 papers, press associations, wire services, radio, and television.

1 1072. A newsman may not be adjudged in contempt for  
 2 refusing to disclose the source of news procured for publica-  
 3 tion and published by news media, unless the source has been  
 4 disclosed previously or the disclosure of the source is required  
 5 in the public interest or otherwise required to prevent injustice.

6 1073. The procedure specified in subdivisions (a) and (b)  
 7 of Section 914 and in subdivisions (a) and (b) of Section 915  
 8 applies to the determination of a newsman's claim for protec-  
 9 tion under Section 1072.

10 1070. A publisher, editor, reporter, or other person con-  
 11 nected with or employed upon a newspaper, or by a press as-  
 12 sociation or wire service, cannot be adjudged in contempt by  
 13 a court, the Legislature, or any administrative body, for re-  
 14 fusing to disclose the source of any information procured for  
 15 publication and published in a newspaper.

16 Nor can a radio or television news reporter or other person  
 17 connected with or employed by a radio or television station  
 18 be so adjudged in contempt for refusing to disclose the source  
 19 of any information procured for and used for news or news  
 20 commentary purposes on radio or television.

## 21 22 DIVISION 9. EVIDENCE AFFECTED OR EXCLUDED 23 BY EXTRINSIC POLICIES

### 24 25 CHAPTER 1. EVIDENCE OF CHARACTER, HABIT, OR CUSTOM

26  
27 1100. Except as otherwise provided by statute, any other-  
 28 wise admissible evidence (including evidence in the form of  
 29 an opinion, evidence of reputation, and evidence of specific  
 30 instances of such person's conduct) is admissible to prove a  
 31 person's character or a trait of his character.

32 1101. (a) Except as provided in this section and in Sec-  
 33 tions 1102 and 1103, evidence of a person's character or a  
 34 trait of his character (whether in the form of an opinion, evi-  
 35 dence of reputation, or evidence of specific instances of his  
 36 conduct) is inadmissible when offered to prove his conduct  
 37 on a specified occasion.

38 (b) Nothing in this section prohibits the admission of evi-  
 39 dence that a person committed a crime, civil wrong, or other  
 40 act when relevant to prove some fact (such as motive, oppor-  
 41 tunity, intent, preparation, plan, knowledge, identity, or ab-  
 42 sence of mistake or accident) other than his disposition to  
 43 commit such acts.

44 (c) Nothing in this section affects the admissibility of evi-  
 45 dence offered to support or attack the credibility of a witness.

46 1102. In a criminal action, evidence of the defendant's  
 47 character or a trait of his character in the form of an opinion  
 48 or evidence of his reputation is not made inadmissible by Sec-  
 49 tion 1101 if such evidence is:

50 (a) Offered by the defendant to prove his conduct in con-  
 51 formity with such character or trait of character.



1 (b) Offered by the prosecution to rebut evidence adduced  
2 by the defendant under subdivision (a).

3 1103. In a criminal action, evidence of the character or a  
4 trait of character (in the form of an opinion, evidence of repu-  
5 tation, or evidence of specific instances of conduct) of the vic-  
6 tim of the crime for which the defendant is being prosecuted  
7 is not made inadmissible by Section 1101 if such evidence is:

8 (a) Offered by the defendant to prove conduct of the victim  
9 in conformity with such character or trait of character.

10 (b) Offered by the prosecution to rebut evidence adduced  
11 by the defendant under subdivision (a).

12 1104. Except as provided in Sections 1102 and 1103, evi-  
13 dence of a trait of a person's character with respect to care  
14 or skill is inadmissible to prove the quality of his conduct on  
15 a specified occasion.

16 1105. Any otherwise admissible evidence of habit or custom  
17 is admissible to prove conduct on a specified occasion in con-  
18 formity with the habit or custom.

19  
20 CHAPTER 2. OTHER EVIDENCE AFFECTED OR EXCLUDED BY  
21 EXTRINSIC POLICIES  
22

23 ~~1150. Except as otherwise provided by law, upon an in-~~  
24 ~~1150. (a) Upon an inquiry as to the validity of a verdict,~~  
25 any otherwise admissible evidence may be received as to state-  
26 ments made, or conduct, conditions, or events occurring, either  
27 within or without the jury room, of such a character as is likely  
28 to have influenced the verdict improperly. No evidence is ad-  
29 missible to show the effect of such statement, conduct, condi-  
30 tion, or event upon a juror either in influencing him to assent  
31 to or dissent from the verdict or concerning the mental pro-  
32 cesses by which it was determined.

33 (b) *Nothing in this code affects the law relating to the com-*  
34 *petence of a juror to give evidence to impeach or support a*  
35 *verdict.*

36 1151. When, after the occurrence of an event, remedial or  
37 precautionary measures are taken, which, if taken previously,  
38 would have tended to make the event less likely to occur, evi-  
39 dence of such subsequent measures is inadmissible to prove  
40 negligence or culpable conduct in connection with the event.

41 1152. (a) Evidence that a person has, in compromise or  
42 from humanitarian motives, furnished or offered or promised  
43 to furnish money or any other thing, act, or service to another  
44 who has sustained or claims to have sustained loss or damage,  
45 as well as any conduct or statements made in negotiation  
46 thereof, is inadmissible to prove his liability for the loss or  
47 damage or any part of it.

48 (b) This section does not affect the admissibility of evi-  
49 dence of:

50 (1) Partial satisfaction of an asserted claim or demand  
51 without questioning its validity when such evidence is offered  
52 to prove the validity of the claim; or

1 (2) A debtor's payment or promise to pay all or a part of  
2 his pre-existing debt when such evidence is offered to prove  
3 the creation of a new duty on his part or a revival of his pre-  
4 existing duty.

5 1153. Evidence of a plea of guilty, later withdrawn, or of  
6 an offer to plead guilty to the crime charged or to any other  
7 crime, made by the defendant in a criminal action is inadmis-  
8 sible in any action or in any proceeding of any nature, includ-  
9 ing proceedings before agencies, commissions, boards, and  
10 tribunals.

11 1154. Evidence that a person has accepted or offered or  
12 promised to accept a sum of money or any other thing, act,  
13 or service in satisfaction of a claim, as well as any conduct  
14 or statements made in negotiation thereof, is inadmissible to  
15 prove the invalidity of the claim or any part of it.

16 1155. Evidence that a person was, at the time a harm was  
17 suffered by another, insured wholly or partially against loss  
18 arising from liability for that harm is inadmissible to prove  
19 negligence or other wrongdoing.

20 1156. (a) In-hospital medical staff committees of a li-  
21 censed hospital may engage in research and medical study for  
22 the purpose of reducing morbidity or mortality, and may  
23 make findings and recommendations relating to such purpose.  
24 Except as provided in subdivision (b), the written records  
25 of interviews, reports, statements, or memoranda of such in-  
26 hospital medical staff committees relating to such medical  
27 studies are subject to Sections 2016 to 2036, inclusive, of the  
28 Code of Civil Procedure (relating to discovery proceedings)  
29 but, subject to subdivisions (c) and (d), shall not be admitted  
30 as evidence in any action or before any administrative body,  
31 agency, or person.

32 (b) The disclosure, with or without the consent of the pa-  
33 tient, of information concerning him to such in-hospital medi-  
34 cal staff committee does not make unprivileged any informa-  
35 tion that would otherwise be privileged under Section 994 or  
36 1014; but, notwithstanding Sections 994 and 1014, such in-  
37 formation is subject to discovery under subdivision (a) except  
38 that the identity of any patient may not be discovered under  
39 subdivision (a) unless the patient consents to such disclosure.

40 (c) This section does not affect the admissibility in evidence  
41 of the original medical records of any patient.

42 (d) This section does not exclude evidence which is relevant  
43 evidence in a criminal action.

44

## 45 DIVISION 10. HEARSAY EVIDENCE

46

### 47 CHAPTER 1. GENERAL PROVISIONS

48

49 1200. (a) "Hearsay evidence" is evidence of a statement  
50 that was made other than by a witness while testifying at the  
51 hearing and that is offered to prove the truth of the matter  
52 stated.

1 action to which he is a party in either his individual or repre-  
2 sentative capacity, regardless of whether the statement was  
3 made in his individual or representative capacity.

4 1221. Evidence of a statement offered against a party is not  
5 made inadmissible by the hearsay rule if the statement is one  
6 of which the party, with knowledge of the content thereof, has  
7 by words or other conduct manifested his adoption or his belief  
8 in its truth.

9 1222. Evidence of a statement offered against a party is not  
made inadmissible by the hearsay rule if:

11 (a) The statement was made by a person authorized by the  
12 party to make a statement or statements for him concerning  
13 the subject matter of the statement; and

14 (b) The evidence is offered either after admission of evi-  
15 dence sufficient to sustain a finding of such authority or, in  
16 the court's discretion as to the order of proof, subject to the  
17 admission of such evidence.

18 1223. Evidence of a statement offered against a party is not  
made inadmissible by the hearsay rule if:

19 (a) The statement was made by the declarant while partici-  
20 pating in a conspiracy to commit a crime or civil wrong and in  
21 furtherance of the objective of that conspiracy;

22 (b) The statement was made prior to or during the time  
23 that the party was participating in that conspiracy; and

24 (c) The evidence is offered either after admission of evi-  
25 dence sufficient to sustain a finding of the facts specified in  
26 subdivisions (a) and (b) or, in the court's discretion as to the  
27 order of proof, subject to the admission of such evidence.

28 1224. When the liability, obligation, or duty of a party to  
29 a civil action is based in whole or in part upon the liability,  
30 obligation, or duty of the declarant, or when the claim or right  
31 asserted by a party to a civil action is barred or diminished by  
32 a breach of duty by the declarant, evidence of a statement  
33 made by the declarant is as admissible against the party as it  
34 would be if offered against the declarant in an action involving  
35 that liability, obligation, duty, or breach of duty.

36 1225. When a right, title, or interest in any property or  
37 claim asserted by a party to a civil action requires a determina-  
38 tion that a right, title, or interest exists or existed in the de-  
39 clarant, evidence of a statement made by the declarant during  
40 the time the party now claims the declarant was the holder  
41 of the right, title, or interest is as admissible against the party  
42 as it would be if offered against the declarant in an action  
43 involving that right, title, or interest.

44 1226. Evidence of a statement by a minor child is not made  
45 inadmissible by the hearsay rule if offered against the plaintiff  
46 in an action brought under Section 376 of the Code of Civil  
47 Procedure for injury to such minor child.

48 1227. Evidence of a statement by the deceased is not made  
49 inadmissible by the hearsay rule if offered against the plaintiff  
50 in an action *for wrongful death* brought under Section 377 of  
51 the Code of Civil Procedure.  
52

1 Article 2. Declarations Against Interest

2  
3 1230. Evidence of a statement by a declarant having suffi-  
4 cient knowledge of the subject is not made inadmissible by the  
5 hearsay rule if the statement, when made, was so far contrary  
6 to the declarant's pecuniary or proprietary interest, or so far  
7 subjected him to the risk of civil or criminal liability, or so far  
8 tended to render invalid a claim by him against another, or  
9 created such a risk of making him an object of hatred, ridicule,  
10 or social disgrace in the community, that a reasonable man in  
11 his position would not have made the statement unless he be-  
12 lieved it to be true.

13  
14 Article 3. *Prior Statements of Witnesses*

15  
16 1235. Evidence of a statement made by a witness is not  
17 made inadmissible by the hearsay rule if the statement is in-  
18 consistent with his testimony at the hearing and is offered in  
19 compliance with Section 770.

20 1236. Evidence of a statement previously made by a wit-  
21 ness is not made inadmissible by the hearsay rule if the state-  
22 ment is consistent with his testimony at the hearing and is  
23 offered in compliance with Section 791.

24 1237. (a) Evidence of a statement previously made by a  
25 witness is not made inadmissible by the hearsay rule if the  
26 statement would have been admissible if made by him while  
27 testifying, the statement concerns a matter as to which the  
28 witness has insufficient present recollection to enable him to  
29 testify fully and accurately, and the statement is contained  
30 in a writing which:

31 (1) Was made at a time when the fact recorded in the writ-  
32 ing actually occurred or was fresh in the witness' memory;

33 (2) Was made (i) by the witness himself or under his di-  
34 rection or (ii) by some other person for the purpose of record-  
35 ing the witness' statement at the time it was made;

36 (3) Is offered after the witness testifies that the statement  
37 he made was a true statement of such fact; and

38 (4) Is offered after the writing is authenticated as an accu-  
39 rate record of the statement.

40 (b) The writing may be read into evidence, but the writing  
41 itself may not be received in evidence unless offered by an  
42 adverse party.

43 1238. Evidence of a statement previously made by a wit-  
44 ness is not made inadmissible by the hearsay rule if the state-  
45 ment would have been admissible if made by him while  
46 testifying and:

47 (a) The statement is an identification of a party or another  
48 as a person who participated in a crime or other occurrence;

49 (b) The statement was made at a time when the crime or  
50 other occurrence was fresh in the witness' memory; and

1 (c) The evidence of the statement is offered after the wit-  
 2 ness testifies that he made the identification and that it was a  
 3 true reflection of his opinion at that time.

4  
 5 Article 4. Spontaneous, Contemporaneous,  
 6 and Dying Declarations  
 7

8 1240. Evidence of a statement is not made inadmissible by  
 9 the hearsay rule if the statement:

10 (a) Purports to narrate, describe, or explain an act, condi-  
 11 tion, or event perceived by the declarant; and

12 (b) Was made spontaneously while the declarant was under  
 13 the stress of excitement caused by such perception.

14 1241. Evidence of a statement is not made inadmissible by  
 15 the hearsay rule if the statement:

16 (a) Purports to qualify or explain conduct of the declar-  
 17 ant; and

18 (b) Was made while the declarant was engaged in such  
 19 conduct.

20 1242. Evidence of a statement made by a dying person  
 21 respecting the cause and circumstances of his death is not made  
 22 inadmissible by the hearsay rule if the statement was made  
 23 upon his personal knowledge and under a sense of immediately  
 24 impending death.

25  
 26 Article 5. Statements of Mental or Physical State  
 27

28 1250. (a) Subject to Section 1252, evidence of a statement  
 29 of the declarant's then existing state of mind, emotion, or  
 30 physical sensation (including a statement of intent, plan, mo-  
 31 tive, design, mental feeling, pain, or bodily health) is not made  
 32 inadmissible by the hearsay rule when:

33 (1) The evidence is offered to prove the declarant's state  
 34 of mind, emotion, or physical sensation at that time or at any  
 35 other time when it is itself an issue in the action; or

36 (2) The evidence is offered to prove or explain acts or con-  
 37 duct of the declarant.

38 (b) This section does not make admissible evidence of a  
 39 statement of memory or belief to prove the fact remembered or  
 40 believed.

41 1251. Subject to Section 1252, evidence of a statement of  
 42 the declarant's state of mind, emotion, or physical sensation  
 43 (including a statement of intent, plan, motive, design, mental  
 44 feeling, pain, or bodily health) at a time prior to the statement  
 45 is not made inadmissible by the hearsay rule if:

46 (a) The declarant is unavailable as a witness; and

47 (b) The evidence is offered to prove such prior state of  
 48 mind, emotion, or physical sensation when it is itself an issue  
 49 in the action and the evidence is not offered to prove any fact  
 50 other than such state of mind, emotion, or physical sensation.

1 1252. Evidence of a statement is inadmissible under this  
2 article if the statement was made under circumstances such as  
3 to indicate its lack of trustworthiness.

4  
5 Article 6. Statements Relating to Wills and to Claims  
6 Against Estates  
7

8 1260. (a) Evidence of a statement made by a declarant  
9 who is unavailable as a witness that he has or has not made a  
10 will, or has or has not revoked his will, or that identifies his  
11 will, is not made inadmissible by the hearsay rule.

12 (b) Evidence of a statement is inadmissible under this sec-  
13 tion if the statement was made under circumstances such as to  
14 indicate its lack of trustworthiness.

15 1261. (a) Evidence of a statement is not made inadmissible  
16 by the hearsay rule when offered in an action upon a claim  
17 or demand against the estate of the declarant if the statement  
18 was made upon the personal knowledge of the declarant at a  
19 time when the matter had been recently perceived by him and  
20 while his recollection was clear.

21 (b) Evidence of a statement is inadmissible under this sec-  
22 tion if the statement was made under circumstances such as  
23 to indicate its lack of trustworthiness.

24  
25 Article 7. Business Records  
26

27 1270. As used in this article, "a business" includes every  
28 kind of business, governmental activity, profession, occupation,  
29 calling, or operation of institutions, whether carried on for  
30 profit or not.

31 1271. Evidence of a writing made as a record of an act,  
32 condition, or event is not made inadmissible by the hearsay  
33 rule when offered to prove the act, condition, or event if:

34 (a) The writing was made in the regular course of a busi-  
35 ness;

36 (b) The writing was made at or near the time of the act,  
37 condition, or event;

38 (c) The custodian or other qualified witness testifies to its  
39 identity and the mode of its preparation; and

40 (d) The sources of information and method and time of  
41 preparation were such as to indicate its trustworthiness.

42 1272. Evidence of the absence from the records of a busi-  
43 ness of a record of an asserted act, condition, or event is not  
44 made inadmissible by the hearsay rule when offered to prove  
45 the nonoccurrence of the act or event, or the nonexistence of  
46 the condition, if:

47 (a) It was the regular course of that business to make rec-  
48 ords of all such acts, conditions, or events at or near the time  
49 of the act, condition, or event and to preserve them; and

50 (b) The sources of information and method and time of  
51 preparation of the records of that business were such that the  
52 absence of a record of an act, condition, or event is a trust-

1 worthy indication that the act or event did not occur or the  
2 condition did not exist.

3

4 Article 8. Official Records and Other Official Writings

5

6 1280. Evidence of a writing made as a record of an act,  
7 condition, or event is not made inadmissible by the hearsay  
8 rule when offered to prove the act, condition, or event if:

9 (a) The writing was made by and within the scope of duty  
10 of a public employee;

11 (b) The writing was made at or near the time of the act,  
12 condition, or event; and

13 (c) The sources of information and method and time of  
14 preparation were such as to indicate its trustworthiness.

15 1281. Evidence of a writing made as a record of a birth,  
16 fetal death, death, or marriage is not made inadmissible  
17 by the hearsay rule if the maker was required by law to file  
18 the writing in a designated public office and the writing was  
19 made and filed as required by law.

20 1282. A written finding of presumed death made by an  
21 employee of the United States authorized to make such finding  
22 pursuant to the Federal Missing Persons Act (56 Stats. 143,  
23 1092, and P.L. 408, Ch. 371, 2d Sess. 78th Cong.; 50 U.S.C.  
24 App. 1001-1016), as enacted or as heretofore or hereafter  
25 amended, shall be received in any court, office, or other place  
26 in this state as evidence of the death of the person therein  
27 found to be dead and of the date, circumstances, and place  
28 of his disappearance.

29 1283. An official written report or record that a person is  
30 missing, missing in action, interned in a foreign country,  
31 captured by a hostile force, beleaguered by a hostile force,  
32 besieged by a hostile force, or detained in a foreign country  
33 against his will, or is dead or is alive, made by an employee  
34 of the United States authorized by any law of the United  
35 States to make such report or record shall be received in any  
36 court, office, or other place in this state as evidence that such  
37 person is missing, missing in action, interned in a foreign  
38 country, captured by a hostile force, beleaguered by a hostile  
39 force, besieged by a hostile force, or detained in a foreign  
40 country against his will, or is dead or is alive.

41 1284. Evidence of a writing made by the public employee  
42 who is the official custodian of the records in a public office,  
43 reciting diligent search and failure to find a record, is not  
44 made inadmissible by the hearsay rule when offered to prove  
45 the absence of a record in that office.

46

47

48 Article 9. Former Testimony

49

50 1290. As used in this article, "former testimony" means  
51 testimony given under oath in:

52 (a) Another action or in a former hearing or trial of the  
same action;

1 (b) A proceeding to determine a controversy conducted by  
2 or under the supervision of an agency that has the power to  
3 determine such a controversy and is an agency of the United  
4 States or a public entity in the United States;

5 (c) A deposition taken in compliance with law in another  
6 action; or

7 (d) An arbitration proceeding if the evidence of such  
8 former testimony is a verbatim transcript thereof.

9 1291. (a) Evidence of former testimony is not made inad-  
10 missible by the hearsay rule if the declarant is unavailable as  
11 a witness and:

12 (1) The former testimony is offered against a person who  
13 offered it in evidence in his own behalf on the former occasion  
14 or against the successor in interest of such person; or

15 (2) The party against whom the former testimony is offered  
16 was a party to the action or proceeding in which the testimony  
17 was given and had the right and opportunity to cross-examine  
18 the declarant with an interest and motive similar to that which  
19 he has at the hearing.

20 (b) The admissibility of former testimony under this section  
21 is subject to the same limitations and objections as though the  
22 declarant were testifying at the hearing, except that former  
23 testimony offered under this section is not subject to:

24 (1) Objections to the form of the question which were not  
25 made at the time the former testimony was given.

26 (2) Objections based on competency or privilege which did  
27 not exist at the time the former testimony was given.

28 1292. (a) Evidence of former testimony is not made inad-  
29 missible by the hearsay rule if:

30 (1) The declarant is unavailable as a witness;

31 (2) The former testimony is offered in a civil action or  
32 against the prosecution in a criminal action; and

33 (3) The issue is such that the party to the action or pro-  
34 ceeding in which the former testimony was given had the  
35 right and opportunity to cross-examine the declarant with an  
36 interest and motive similar to that which the party against  
37 whom the testimony is offered has at the hearing.

38 (b) The admissibility of former testimony under this section  
39 is subject to the same limitations and objections as though the  
40 declarant were testifying at the hearing, except that former  
41 testimony offered under this section is not subject to objections  
42 based on competency or privilege which did not exist at the  
43 time the former testimony was given.

44  
45 Article 10. Judgments

46  
47 1300. Evidence of a final judgment adjudging a person  
48 guilty of a crime punishable as a felony is not made inad-  
49 missible by the hearsay rule when offered in a civil action to



1 prove any fact essential to the judgment unless the judgment  
2 was based on a plea of nolo contendere.

3 1301. Evidence of a final judgment is not made inadmis-  
4 sible by the hearsay rule when offered by the judgment debtor  
5 to prove any fact which was essential to the judgment in an  
6 action in which he seeks to:

7 (a) Recover partial or total indemnity or exoneration for  
8 money paid or liability incurred because of the judgment;

9 (b) Enforce a warranty to protect the judgment debtor  
10 against the liability determined by the judgment; or

11 (c) Recover damages for breach of warranty substantially  
12 the same as the warranty determined by the judgment to have  
13 been breached.

14 1302. When the liability, obligation, or duty of a third  
15 person is in issue in a civil action, evidence of a final judg-  
16 ment against that person is not made inadmissible by the  
17 hearsay rule when offered to prove such liability, obligation,  
18 or duty.

#### 19 Article 11. Family History

20  
21 1310. (a) Subject to subdivision (b), evidence of a state-  
22 ment by a declarant who is unavailable as a witness concerning  
23 his own birth, marriage, divorce, legitimacy, relationship by  
24 blood or marriage, race, ancestry, or other similar fact of his  
25 family history is not made inadmissible by the hearsay rule,  
26 even though the declarant had no means of acquiring personal  
27 knowledge of the matter declared.

28 (b) Evidence of a statement is inadmissible under this sec-  
29 tion if the statement was made under circumstances such as to  
30 indicate its lack of trustworthiness.

31 1311. (a) Subject to subdivision (b), evidence of a state-  
32 ment concerning the birth, marriage, divorce, death, legiti-  
33 macy, race, ancestry, relationship by blood or marriage, or  
34 other similar fact of the family history of a person other  
35 than the declarant is not made inadmissible by the hearsay  
36 rule if the declarant is unavailable as a witness and:

37 (1) The declarant was related to the other by blood or  
38 marriage; or

39 (2) The declarant was otherwise so intimately associated  
40 with the other's family as to be likely to have had accurate  
41 information concerning the matter declared and made the  
42 statement (i) upon information received from the other or  
43 from a person related by blood or marriage to the other or  
44 (ii) upon repute in the other's family.

45 (b) Evidence of a statement is inadmissible under this sec-  
46 tion if the statement was made under circumstances such as to  
47 indicate its lack of trustworthiness.

48 1312. Evidence of entries in family bibles or other family  
49 books or charts, engravings on rings, family portraits, engrav-  
50 ings on urns, crypts, or tombstones, and the like, is not made  
51 inadmissible by the hearsay rule when offered to prove the

1 birth, marriage, divorce, death, legitimacy, race, ancestry, re-  
2 lationship by blood or marriage, or other similar fact of the  
3 family history of a member of the family by blood or marriage.

4 1313. Evidence of reputation among members of a family  
5 is not made inadmissible by the hearsay rule if the reputation  
6 concerns the birth, marriage, divorce, death, legitimacy, race,  
7 ancestry, relationship by blood or marriage, or other similar  
8 fact of the family history of a member of the family by blood  
9 or marriage.

10 1314. Evidence of reputation in a community concerning  
11 the date or fact of birth, marriage, divorce, or death of a per-  
12 son resident in the community at the time of the reputation  
13 is not made inadmissible by the hearsay rule.

14 1315. Evidence of a statement concerning a person's birth,  
15 marriage, divorce, death, legitimacy, race, ancestry, relation-  
16 ship by blood or marriage, or other similar fact of family his-  
17 tory *which is contained in a writing made as a record of a*  
18 *church, religious denomination, or religious society* is not made  
19 inadmissible by the hearsay rule if:

20 (a) The statement is contained in a writing made as a  
21 record of an act, condition, or event that would be admissible  
22 as evidence of such act, condition, or event under Section 1271;  
23 *and*

24 (b) The statement is of a kind customarily recorded in con-  
25 nection with the act, condition, or event recorded in the writ-  
26 *ing; and ing*

27 ~~(c) The writing was made as a record of a church, religious~~  
28 ~~denomination, or religious society.~~

29 1316. Evidence of a statement concerning a person's birth,  
30 marriage, divorce, death, legitimacy, race, ancestry, relation-  
31 ship by blood or marriage, or other similar fact of family  
32 history is not made inadmissible by the hearsay rule if the  
33 statement is contained in a certificate that the maker thereof  
34 performed a marriage or other ceremony or administered a  
35 sacrament and:

36 (a) The maker was a clergyman, civil officer, or other person  
37 authorized to perform the acts reported in the certificate by  
38 law or by the rules, regulations, or requirements of a church,  
39 religious denomination, or religious society; and

40 (b) The certificate was issued by the maker at the time  
41 and place of the ceremony or sacrament or within a reasonable  
42 time thereafter.

43  
44 Article 12. Reputation and Statements Concerning  
45 Community History, Property Interests,  
46 and Character  
47

48 1320. Evidence of reputation in a community is not made  
49 inadmissible by the hearsay rule if the reputation concerns an  
50 event of general history of the community or of the state or  
51 nation of which the community is a part and the event was  
52 of importance to the community.

1 1321. Evidence of reputation in a community is not made  
2 inadmissible by the hearsay rule if the reputation concerns the  
3 interest of the public in property in the community and the  
4 reputation arose before controversy.

5 1322. Evidence of reputation in a community is not made  
6 inadmissible by the hearsay rule if the reputation concerns  
7 boundaries of, or customs affecting, land in the community and  
8 the reputation arose before controversy.

9 1323. Evidence of a statement concerning the boundary of  
10 land is not made inadmissible by the hearsay rule if the de-  
11 clarant is unavailable as a witness and had sufficient knowledge  
12 of the subject, but evidence of a statement is not admissible  
13 under this section if the statement was made under circum-  
14 stances such as to indicate its lack of trustworthiness.

15 1324. Evidence of a person's general reputation with ref-  
16 erence to his character or a trait of his character at a relevant  
17 time in the community in which he then resided or in a group  
18 with which he then habitually associated is not made inadmis-  
19 sible by the hearsay rule.

20

#### 21 Article 13. Dispositive Instruments and Ancient Writings

22

23 1330. Evidence of a statement contained in a deed of con-  
24 veyance or a will or other writing purporting to affect an  
25 interest in real or personal property is not made inadmissible  
26 by the hearsay rule if:

27 (a) The matter stated was relevant to the purpose of the  
28 writing;

29 (b) The matter stated would be relevant to an issue as to  
30 an interest in the property; and

31 (c) The dealings with the property since the statement was  
32 made have not been inconsistent with the truth of the state-  
33 ment.

34 1331. Evidence of a statement is not made inadmissible by  
35 the hearsay rule if the statement is contained in a writing  
36 more than 30 years old and the statement has been since  
37 generally acted upon as true by persons having an interest in  
38 the matter.

39

#### 40 Article 14. Commercial, Scientific, and 41 Similar Publications

42

43 1340. Evidence of a statement, other than an opinion, con-  
44 tained in a tabulation, list, directory, register, or other pub-  
45 lished compilation is not made inadmissible by the hearsay  
46 rule if the compilation is generally used and relied upon as  
47 accurate in the course of a business as defined in Section 1270.

48 1341. Historical works, books of science or art, and pub-  
49 lished maps or charts, made by persons indifferent between  
50 the parties, are not made inadmissible by the hearsay rule  
51 when offered to prove facts of general notoriety and interest.

DIVISION 11. WRITINGS

CHAPTER 1. AUTHENTICATION AND PROOF OF WRITINGS

Article 1. Requirement of Authentication

1400. Authentication of a writing means (a) the introduction of evidence sufficient to sustain a finding that it is the writing that the proponent of the evidence claims it is or (b) the establishment of such facts by any other means provided by law.

1401. (a) Authentication of a writing is required before it may be received in evidence.

(b) Authentication of a writing is required before secondary evidence of its content may be received in evidence.

1402. The party producing a writing as genuine which has been altered, or appears to have been altered, after its execution, in a part material to the question in dispute, must account for the alteration or appearance thereof. He may show that the alteration was made by another, without his concurrence, or was made with the consent of the parties affected by it, or otherwise properly or innocently made, or that the alteration did not change the meaning or language of the instrument. If he does that, he may give the writing in evidence, but not otherwise.

Article 2. Means of Authenticating and Proving Writings

1410. Nothing in this article shall be construed to limit the means by which a writing may be authenticated or proved.

1411. Except as provided by statute, the testimony of a subscribing witness is not required to authenticate a writing.

1412. If the testimony of a subscribing witness is required by statute to authenticate a writing and the subscribing witness denies or does not recollect the execution of the writing, the writing may be authenticated by other evidence.

1413. A writing may be authenticated by anyone who saw the writing *made or* executed, including a subscribing witness.

1414. A writing may be authenticated by evidence that:

(a) The party against whom it is offered has at any time admitted its authenticity; or

(b) The writing has been acted upon as authentic by the party against whom it is offered.

1415. A writing may be authenticated by evidence of the genuineness of the handwriting of the maker.

1416. A witness who is not otherwise qualified to testify as an expert may state his opinion whether a writing is in the handwriting of a supposed writer if the court finds that he has personal knowledge of the handwriting of the supposed writer. Such personal knowledge may be acquired from:

(a) Having seen the supposed writer write;

1 (b) Having seen a writing purporting to be in the hand-  
 2 writing of the supposed writer and upon which the supposed  
 3 writer has acted or been charged;

4 (c) Having received letters in the due course of mail pur-  
 5 porting to be from the supposed writer in response to letters  
 6 duly addressed and mailed by him to the supposed writer; or

7 (d) Any other means of obtaining personal knowledge of  
 8 the handwriting of the supposed writer.

9 1417. The genuineness of handwriting, or the lack thereof,  
 10 may be proved by a comparison made by the trier of fact with  
 11 handwriting (a) which the court finds was admitted or treated  
 12 as genuine by the party against whom the evidence is offered  
 13 or (b) otherwise proved to be genuine to the satisfaction of the  
 14 court.

15 1418. The genuineness of writing, or the lack thereof, may  
 16 be proved by a comparison made by an expert witness with  
 17 writing (a) which the court finds was admitted or treated as  
 18 genuine by the party against whom the evidence is offered or  
 19 (b) otherwise proved to be genuine to the satisfaction of the  
 20 court.

21 1419. Where a writing whose genuineness is sought to be  
 22 proved is more than 30 years old, the comparison under Sec-  
 23 tion 1417 or 1418 may be made with writing purporting to be  
 24 genuine, and generally respected and acted upon as such, by  
 25 persons having an interest in knowing whether it is genuine.

26 1420. A writing may be authenticated by evidence that  
 27 the writing was received in response to a communication sent  
 28 to the person who is claimed by the proponent of the evidence  
 29 to be the author of the writing.

30 1421. A writing may be authenticated by evidence that the  
 31 writing refers to or states facts *matters* that are unlikely to be  
 32 known to anyone other than the person who is claimed by the  
 33 proponent of the evidence to be the author of the writing.

34  
 35 Article 3. Presumptions Affecting Acknowledged  
 36 Writings and Official Writings

37  
 38 1450. The presumptions established by this article are pre-  
 39 sumptions affecting the burden of producing evidence.

40 1451. A certificate of the acknowledgment of a writing  
 41 other than a will, or a certificate of the proof of such a writing,  
 42 is prima facie evidence of the facts recited in the certificate  
 43 and the genuineness of the signature of each person by whom  
 44 the writing purports to have been signed if the certificate meets  
 45 the requirements of Article 3 (commencing with Section 1180)  
 46 of Chapter 4, Title 4, Part 4, Division 2 of the Civil Code.

47 1452. A seal is presumed to be genuine and its use author-  
 48 ized if it purports to be the seal of:

49 (a) The United States or a department, agency, or public  
 50 employee of the United States.

51 (b) A public entity in the United States or a department,  
 52 agency, or public employee of such public entity.

1 (c) A nation recognized by the executive power of the  
2 United States or a department, agency, or officer of such  
3 nation.

4 (d) A public entity in a nation recognized by the executive  
5 power of the United States or a department, agency, or officer  
6 of such public entity.

7 (e) A court of admiralty or maritime jurisdiction.

8 (f) A notary public within any state of the United States.

9 1453. A signature is presumed to be genuine and author-  
10 ized if it purports to be the signature, affixed in his official  
11 capacity, of:

12 (a) A public employee of the United States.

13 (b) A public employee of any public entity in the United  
14 States.

15 (c) A notary public within any state of the United States.

16 1454. A signature is presumed to be genuine and author-  
17 ized if it purports to be the signature, affixed in his official  
18 capacity, of an officer, or deputy of an officer, of a nation or  
19 public entity in a nation recognized by the executive power of  
20 the United States and the writing to which the signature is  
21 affixed is accompanied by a final statement certifying the genu-  
22 ineness of the signature and the official position of (a) the  
23 person who executed the writing or (b) any foreign official  
24 who has certified either the genuineness of the signature and  
25 official position of the person executing the writing or the  
26 genuineness of the signature and official position of another  
27 foreign official who has executed a similar certificate in a chain  
28 of such certificates beginning with a certificate of the genuine-  
29 ness of the signature and official position of the person execut-  
30 ing the writing. The final statement may be made only by a  
31 secretary of an embassy or legation, consul general, consul,  
32 vice consul, consular agent, or other officer in the foreign serv-  
33 ice of the United States stationed in the nation, authenticated  
34 by the seal of his office.

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CHAPTER 2. SECONDARY EVIDENCE OF WRITINGS

Article 1. Best Evidence Rule

1500. Except as otherwise provided by statute, no evidence  
other than the writing itself is admissible to prove the con-  
tent of a writing. This section shall be known and may be  
cited as the best evidence rule.

1501. A copy of a writing is not made inadmissible by the  
best evidence rule if the writing is lost or has been destroyed  
without fraudulent intent on the part of the proponent of the  
evidence.

1502. A copy of a writing is not made inadmissible by the  
best evidence rule if the writing was not reasonably procur-  
able by the proponent by use of the court's process or by other  
available means.

1 1503. (a) A copy of a writing is not made inadmissible by  
2 the best evidence rule if, at a time when the writing was under  
3 the control of the opponent, the opponent was expressly or  
4 impliedly notified, by the pleadings or otherwise, that the  
5 writing would be needed at the hearing, and on request at the  
6 hearing the opponent has failed to produce the writing. In a  
7 criminal action, the request at the hearing to produce the  
8 writing may not be made in the presence of the jury.

9 (b) Though a writing requested by one party is produced  
10 by another, and is thereupon inspected by the party calling  
11 for it, the party calling for the writing is not obliged to intro-  
12 duce it as evidence in the action.

13 1504. A copy of a writing is not made inadmissible by the  
14 best evidence rule if the writing is not closely related to the  
15 controlling issues and it would be inexpedient to require its  
16 production.

17 1505. If the proponent does not have in his possession or  
18 under his control a copy of a writing described in Section  
19 1501, 1502, 1503, or 1504, other secondary evidence of the con-  
20 tent of the writing is not made inadmissible by the best evi-  
21 dence rule. This section does not apply to a writing that is also  
22 described in Section 1506 or 1507.

23 1506. A copy of a writing is not made inadmissible by the  
24 best evidence rule if the writing is a record or other writing  
25 that is in the custody of a public entity.

26 1507. A copy of a writing is not made inadmissible by the  
27 best evidence rule if the writing has been recorded in the pub-  
28 lic records and the record or an attested or a certified copy  
29 thereof is made evidence of the writing by statute.

30 1508. If the proponent does not have in his possession a  
31 copy of a writing described in Section 1506 or 1507 and could  
32 not in the exercise of reasonable diligence have obtained a  
33 copy, other secondary evidence of the content of the writing  
34 is not made inadmissible by the best evidence rule.

35 1509. Secondary evidence, whether written or oral, of the  
36 content of a writing is not made inadmissible by the best evi-  
37 dence rule if the writing consists of numerous accounts or  
38 other writings that cannot be examined in court without great  
39 loss of time, and the evidence sought from them is only the  
40 general result of the whole; but the court in its discretion  
41 may require that such accounts or other writings be produced  
42 for inspection by the adverse party.

43 1510. A copy of a writing is not made inadmissible by the  
44 best evidence rule if the writing has been produced at the  
45 hearing and made available for inspection by the adverse party.

46  
47 Article 2. Official Writings and Recorded Writings

48  
49 1530. (a) A purported copy of a writing that is in the  
50 custody of a public entity, or of an entry in such a writing, is  
51 prima facie evidence of the *existence and content* of such writ-  
52 ing or entry if:

1 (1) The copy purports to be published by the authority of  
2 the nation or state, or public entity therein, in which the writ-  
3 ing is kept;

4 (2) The office in which the writing is kept is within the  
5 United States or within the Panama Canal Zone, the Trust  
6 Territory of the Pacific Islands, or the Ryukyu Islands, and  
7 the copy is attested or certified as a correct copy of the writing  
8 or entry by a public employee, or a deputy of a public em-  
9 ployee, having the legal custody of the writing; or

10 (3) The office in which the writing is kept is not within  
11 the United States or any other place described in paragraph  
12 (2) and the copy is attested as a correct copy of the writing  
13 or entry by a person having authority to make the attestation.  
14 The attestation must be accompanied by a final statement  
15 certifying the genuineness of the signature and the official posi-  
16 tion of (i) the person who attested the copy as a correct copy  
17 or (ii) any foreign official who has certified either the genui-  
18 ness of the signature and official position of the person attest-  
19 ing the copy or the genuineness of the signature and official  
20 position of another foreign official who has executed a similar  
21 certificate in a chain of such certificates beginning with a cer-  
22 tificate of the genuineness of the signature and official position  
23 of the person attesting the copy. The final statement may be  
24 made only by a secretary of an embassy or legation, consul  
25 general, consul, vice consul, consular agent, or other officer in  
26 the foreign service of the United States stationed in the nation  
27 in which the writing is kept, authenticated by the seal of his  
28 office.

29 (b) The presumptions established by this section are pre-  
30 sumptions affecting the burden of producing evidence.

31 1531. For the purpose of evidence, whenever a copy of a  
32 writing is attested or certified, the attestation or certificate  
33 must state in substance that the copy is a correct copy of the  
34 original, or of a specified part thereof, as the case may be.

35 1532. (a) The official record of a writing is prima facie  
36 evidence of the *existence and* content of the original recorded  
37 writing if:

38 (1) The record is in fact a record of (1) an offic<sup>e</sup> of a public  
39 entity; and

40 (2) A statute authorized such a writing to be recorded in  
41 that office.

42 (b) The presumption established by this section is a pre-  
43 sumption affecting the burden of producing evidence.

### 44 Article 3. Photographic Copies of Writings

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46  
47 1550. A photostatic, microfilm, microcard, miniature photo-  
48 graphic or other photographic copy or reproduction, or an en-  
49 largement thereof, of a writing is as admissible as the writing  
50 itself if such copy or reproduction was made and preserved as  
51 a part of the records of a business (as defined by Section



1 1270) in the regular course of such business. The introduction  
2 of such copy, reproduction, or enlargement does not preclude  
3 admission of the original writing if it is still in existence.

4 1551. A print, whether enlarged or not, from a photo-  
5 graphic film (including a photographic plate, microphoto-  
6 graphic film, photostatic negative, or similar reproduction)  
7 of an original writing destroyed or lost after such film was  
8 taken is as admissible as the original writing itself if, at the  
9 time of the taking of such film, the person under whose di-  
10 rection and control it was taken attached thereto, or to the  
11 sealed container in which it was placed and has been kept, or  
12 incorporated in the film, a certification complying with the  
13 provisions of Section 1531 and stating the date on which, and  
14 the fact that, it was so taken under his direction and control.

#### 15 Article 4. Hospital Records

16  
17  
18 1560. (a) As used in this article, "hospital" means a hos-  
19 pital located in this State that is operated by a public entity  
20 or any licensed hospital located in this State.

21 (b) Except as provided in Section 1564, when a subpoena  
22 duces tecum is served upon the custodian of records or other  
23 qualified witness from a hospital in an action in which the  
24 hospital is neither a party nor the place where any cause  
25 of action is alleged to have arisen and such subpoena requires  
26 the production of all or any part of the records of the hospital  
27 relating to the care or treatment of a patient in such hospital,  
28 it is sufficient compliance therewith if the custodian or other  
29 officer of the hospital, within five days after the receipt of  
30 such subpoena, delivers by mail or otherwise a true and correct  
31 copy (which may be a photographic or microphotographic re-  
32 production) of all the records described in such subpoena to the  
33 clerk of court or to the court if there be no clerk or to such  
34 other person as described in subdivision (a) of Section 2018  
35 of the Code of Civil Procedure, together with the affidavit de-  
36 scribed in Section 1561.

37 (c) The copy of the records shall be separately enclosed in  
38 an inner envelope or wrapper, sealed, with the title and num-  
39 ber of the action, name of witness, and date of subpoena clearly  
40 inscribed thereon; the sealed envelope or wrapper shall then  
41 be enclosed in an outer envelope or wrapper, sealed, directed  
42 as follows:

43 (1) If the subpoena directs attendance in court, to the clerk  
44 of such court, or to the judge thereof if there be no clerk.

45 (2) If the subpoena directs attendance at a deposition or  
46 other hearing, to the officer before whom the deposition is to  
47 be taken, at the place designated in the subpoena for the taking  
48 of the deposition or at his place of business.

49 (3) In other cases, to the officer, body, or tribunal conduct-  
50 ing the hearing, at a like address.

51 (d) Unless the parties to the proceeding otherwise agree,  
52 or unless the sealed envelope or wrapper is returned to a

1 witness who is to appear personally, the copy of the records  
2 shall remain sealed and shall be opened only at the time of  
3 trial, deposition, or other hearing, upon the direction of the  
4 judge, officer, body, or tribunal conducting the proceeding, in  
5 the presence of all parties who have appeared in person or  
6 by counsel at such trial, deposition, or hearing. Records which  
7 are not introduced in evidence or required as part of the  
8 record shall be returned to the person or entity from whom  
9 received.

10 1561. (a) The records shall be accompanied by the affi-  
11 davit of the custodian or other qualified witness, stating in  
12 substance each of the following:

13 (1) That the affiant is the duly authorized custodian of the  
14 records and has authority to certify the records.

15 (2) That the copy is a true copy of all the records described  
16 in the subpoena.

17 (3) That the records were prepared by the personnel of  
18 the hospital, staff physicians, or persons acting under the  
19 control of either, in the ordinary course of hospital business  
20 at or near the time of the act, condition, or event.

21 (b) If the hospital has none of the records described, or  
22 only part thereof, the custodian shall so state in the affidavit,  
23 and deliver the affidavit and such records as are available in  
24 the manner provided in Section 1560.

25 1562. The copy of the records is admissible in evidence to  
26 the same extent as though the original thereof were offered  
27 and the custodian had been present and testified to the matters  
28 stated in the affidavit. The affidavit is admissible in evidence  
29 and the matters stated therein pursuant to Section 1561 are  
30 presumed true. When more than one person has knowledge of  
31 the facts, more than one affidavit may be made. The presump-  
32 tion established by this section is a presumption affecting the  
33 burden of producing evidence.

34 1563. This article shall not be interpreted to require tender  
35 or payment of more than one witness and mileage fee or other  
36 charge unless there is an agreement to the contrary.

37 1564. The personal attendance of the custodian or other  
38 qualified witness and the production of the original records is  
39 required if the subpoena duces tecum contains a clause which  
40 reads:

41 “The personal attendance of the custodian or other qualified  
42 witness and the production of the original records is required  
43 by this subpoena. The procedure authorized pursuant to sub-  
44 division (b) of Section 1560, and Sections 1561 and 1562, of  
45 the Evidence Code will not be deemed sufficient compliance  
46 with this subpoena.”

47 1565. If more than one subpoena duces tecum is served  
48 upon the custodian of records or other qualified witness from  
49 a hospital and the personal attendance of the custodian or  
50 other qualified witness is required pursuant to Section 1564,  
51 the witness shall be deemed to be the witness of the party serv-  
52 ing the first such subpoena duces tecum.

1 1566. This article applies in any proceeding in which testi-  
2 mony can be compelled.

3  
4 CHAPTER 3. OFFICIAL WRITINGS AFFECTING PROPERTY

5  
6 1600. The official record of a document purporting to  
7 establish or affect an interest in property is prima facie evi-  
8 dence of the *existence and* content of the original recorded  
9 document and its execution and delivery by each person by  
10 whom it purports to have been executed if:

11 (a) The record is in fact a record of an office of a public en-  
12 tity; and

13 (b) A statute authorized such a document to be recorded in  
14 that office.

15 1601. (a) Subject to subdivisions (b) and (c), when in  
16 any action it is desired to prove the contents of the official  
17 record of any writing lost or destroyed by conflagration or  
18 other public calamity, after proof of such loss or destruction,  
19 the following may, without further proof, be admitted in evi-  
20 dence to prove the contents of such record:

21 (1) Any abstract of title made and issued and certified as  
22 correct prior to such loss or destruction, and purporting to  
23 have been prepared and made in the ordinary course of busi-  
24 ness by any person engaged in the business of preparing and  
25 making abstracts of title prior to such loss or destruction; or

26 (2) Any abstract of title, or of any instrument affecting  
27 title, made, issued, and certified as correct by any person en-  
28 gaged in the business of insuring titles or issuing abstracts of  
29 title to real estate, whether the same was made, issued, or  
30 certified before or after such loss or destruction and whether  
31 the same was made from the original records or from abstract  
32 and notes, or either, taken from such records in the preparation  
33 and upkeeping of its plant in the ordinary course of its  
34 business.

35 (b) No proof of the loss of the original writing is required  
36 other than the fact that the original is not known to the party  
37 desiring to prove its contents to be in existence.

38 (c) Any party desiring to use evidence admissible under  
39 this section shall give reasonable notice in writing to all other  
40 parties to the action who have appeared therein, of his inten-  
41 tion to use such evidence at the trial of the action, and shall  
42 give all such other parties a reasonable opportunity to inspect  
43 the evidence, and also the abstracts, memoranda, or notes from  
44 which it was compiled, and to take copies thereof.

45 1602. If a patent for mineral lands within this state  
46 issued or granted by the United States of America, contains a  
47 statement of the date of the location of a claim or claims upon  
48 which the granting or issuance of such patent is based, such  
49 statement is prima facie evidence of the date of such location.

50 1603. A deed of conveyance of real property, purporting  
51 to have been executed by a proper officer in pursuance of

1 (b) Every restriction or prohibition, whether by way of  
 2 covenant, condition upon use or occupation, or upon transfer  
 3 of title to real property, which restriction or prohibition di-  
 4 rectly or indirectly limits the acquisition, use or occupation of  
 5 such property because of the acquirer's, user's, or occupier's  
 6 race, color, religion, ancestry, or national origin is void.

7 (c) In any action to declare that a restriction or prohibition  
 8 specified in subdivision (a) or (b) of this section is void, the  
 9 court takes judicial notice of the recorded instrument or in-  
 10 struments containing such prohibitions or restrictions in the  
 11 same manner that it takes judicial notice of the matters listed  
 12 in Section 452 of the Evidence Code.

13 SEC. 6. Section 164.5 is added to the Civil Code, to read:

14 164.5 The presumption that property acquired during mar-  
 15 riage is community property does not apply to any property  
 16 to which legal or equitable title is held by a person at the time  
 17 of his death if the marriage during which the property was  
 18 acquired was terminated by divorce more than four years  
 19 prior to such death.

20 SEC. 7. Section 193 of the Civil Code is repealed.

21 SEC. 8. Section 194 of the Civil Code is repealed.

22 SEC. 9. Section 195 of the Civil Code is repealed.

23 SEC. 10. Section 3544 is added to the Civil Code, to read:

24 3544. A person intends the ordinary consequences of his  
 25 voluntary act.

26 SEC. 11. Section 3545 is added to the Civil Code, to read:

27 3545. Private transactions are fair and regular.

28 SEC. 12. Section 3546 is added to the Civil Code, to read:

29 3546. Things happen according to the ordinary course of  
 30 nature and the ordinary habits of life.

31 SEC. 13. Section 3547 is added to the Civil Code, to read:

32 3547. A thing continues to exist as long as is usual with  
 33 things of that nature.

34 SEC. 14. Section 3548 is added to the Civil Code, to read:

35 3548. The law has been obeyed.

36 SEC. 15. Section 1 of the Code of Civil Procedure is  
 37 amended to read:

38 1. This act shall be known as the Code of Civil Procedure,  
 39 and is divided into four parts, as follows:

40 Part I. Of Courts of Justice.

41 II. Of Civil Actions.

42 III. Of Special Proceedings of a Civil Nature.

43 IV. Miscellaneous Provisions.

44 SEC. 16. Section 117g of the Code of Civil Procedure is  
 45 amended to read:

46 117g. No attorney at law or other person than the plaintiff  
 47 and defendant shall take any part in the filing or the prosecu-  
 48 tion or defense of such litigation in the small claims court.  
 49 The plaintiff and defendant shall have the right to offer evi-  
 50 dence in their behalf by witnesses appearing at such hearing,

1 or at any other time. The presence of the plaintiff or defend-  
2 ant, whether individual or corporate, at the hearing shall not  
3 be required to permit the proof of the items of an account but  
4 such proof shall be in accordance with the provisions of Sec-  
5 tions 1270 and 1271 of the Evidence Code. The judge or justice  
6 may also informally make any investigation of the controversy  
7 between the parties either in or out of court and give judg-  
8 ment and make such orders as to time of payment or otherwise  
9 as may, by him, be deemed to be right and just. The provisions  
10 of Section 579 of the Code of Civil Procedure are hereby made  
11 applicable to small claims court actions.

12 SEC. 17. Section 125 of the Code of Civil Procedure is  
13 amended to read:

14 125. In an action for divorce or seduction, the court may  
15 direct the trial of any issue of fact joined therein to be private,  
16 and may exclude all persons except the officers of the court, the  
17 parties, their witnesses, and counsel. Nothing in this section  
18 prevents the exclusion of a witness pursuant to Evidence Code  
19 Section 777.

20 SEC. 18. Section 153 of the Code of Civil Procedure is  
21 amended to read:

22 153. Except as otherwise expressly provided by law, the  
23 seal of a court need not be affixed to any proceeding therein,  
24 or to any document, except:

- 25 1. To a writ;
- 26 2. To a summons;
- 27 3. To a warrant of arrest;
- 28 4. To the certificate of probate of a will or of the appoint-  
29 ment of an executor, administrator, or guardian.

30 SEC. 19. Section 433 of the Code of Civil Procedure is  
31 amended to read:

32 433. When any of the matters enumerated in Section 430  
33 do not appear upon the face of the complaint, the objection  
34 may be taken by answer; except that when the ground of  
35 demurrer is that there is another action or proceeding pending  
36 between the same parties for the same cause and the court  
37 may take judicial notice of the other action or proceeding  
38 under Division 4 (commencing with Section 450) of the Evi-  
39 dence Code, an affidavit may be filed with the demurrer for  
40 the sole purpose of establishing such fact or invoking such  
41 notice.

42 SEC. 20. Section 631.7 is added to the Code of Civil Pro-  
43 cedure, to read:

44 631.7. Ordinarily, unless the court otherwise directs, the  
45 trial of a civil action tried by the court without a jury shall  
46 proceed in the order specified in Section 607.

47 SEC. 21. Section 1256.2 of the Code of Civil Procedure is  
48 repealed.

49 SEC. 22. Section 1747 of the Code of Civil Procedure is  
50 amended to read:

1 1747. Notwithstanding the provisions of Section 124 of the  
 2 Code of Civil Procedure, all superior court hearings or con-  
 3 ferences in proceedings under this chapter shall be held in  
 4 private and the court shall exclude all persons except the offi-  
 5 cers of the court, the parties, their counsel and witnesses. Con-  
 6 ferences may be held with each party and his counsel sep-  
 7 arately and in the discretion of the judge, commissioner or  
 8 counselor conducting the conference or hearing, counsel for  
 9 one party may be excluded when the adverse party is present.  
 10 All communications, verbal or written, from parties to the  
 11 judge, commissioner or counselor in a proceeding under this  
 12 chapter shall be deemed to be official information within the  
 13 meaning of Section 1040 of the Evidence Code.

14 The files of the conciliation court shall be closed. The peti-  
 15 tion, supporting affidavit, reconciliation agreement and any  
 16 court order made in the matter may be opened to inspection  
 17 by any party or his counsel upon the written authority of the  
 18 judge of the conciliation court.

19 SEC. 23. The heading of Part IV of the Code of Civil Pro-  
 20 cedure is amended to read:

21  
 22 PART IV. MISCELLANEOUS PROVISIONS

23  
 24 SEC. 24. Section 1823 of the Code of Civil Procedure is re-  
 25 pealed.

26 SEC. 25. Section 1824 of the Code of Civil Procedure is re-  
 27 pealed.

28 SEC. 26. Section 1825 of the Code of Civil Procedure is re-  
 29 pealed.

30 SEC. 27. Section 1826 of the Code of Civil Procedure is re-  
 31 pealed.

32 SEC. 28. Section 1827 of the Code of Civil Procedure is re-  
 33 pealed.

34 SEC. 29. Section 1828 of the Code of Civil Procedure is re-  
 35 pealed.

36 SEC. 30. Section 1829 of the Code of Civil Procedure is re-  
 37 pealed.

38 SEC. 31. Section 1830 of the Code of Civil Procedure is re-  
 39 pealed.

40 SEC. 32. Section 1831 of the Code of Civil Procedure is re-  
 41 pealed.

42 SEC. 33. Section 1832 of the Code of Civil Procedure is re-  
 43 pealed.

44 SEC. 34. Section 1833 of the Code of Civil Procedure is re-  
 45 pealed.

46 SEC. 35. Section 1834 of the Code of Civil Procedure is re-  
 47 pealed.

48 SEC. 36. Section 1836 of the Code of Civil Procedure is re-  
 49 pealed.

50 SEC. 37. Section 1837 of the Code of Civil Procedure is re-  
 51 pealed.

- 1     SEC. 38. Section 1838 of the Code of Civil Procedure is re-  
2     pealed.  
3     SEC. 39. Section 1839 of the Code of Civil Procedure is re-  
4     pealed.  
5     SEC. 40. Section 1844 of the Code of Civil Procedure is re-  
6     pealed.  
7     SEC. 41. Section 1845 of the Code of Civil Procedure is re-  
8     pealed.  
9     SEC. 42. Section 1845.5 of the Code of Civil Procedure is  
10    repealed.  
11    SEC. 43. Section 1846 of the Code of Civil Procedure is re-  
12    pealed.  
13    SEC. 44. Section 1847 of the Code of Civil Procedure is re-  
14    pealed.  
15    SEC. 45. Section 1848 of the Code of Civil Procedure is re-  
16    pealed.  
17    SEC. 46. Section 1849 of the Code of Civil Procedure is re-  
18    pealed.  
19    SEC. 47. Section 1850 of the Code of Civil Procedure is re-  
20    pealed.  
21    SEC. 48. Section 1851 of the Code of Civil Procedure is re-  
22    pealed.  
23    SEC. 49. Section 1852 of the Code of Civil Procedure is re-  
24    pealed.  
25    SEC. 50. Section 1853 of the Code of Civil Procedure is re-  
26    pealed.  
27    SEC. 51. Section 1854 of the Code of Civil Procedure is re-  
28    pealed.  
29    SEC. 52. Section 1855 of the Code of Civil Procedure is re-  
30    pealed.  
31    SEC. 53. Section 1855a of the Code of Civil Procedure is  
32    repealed.  
33    SEC. 54. Section 1863 of the Code of Civil Procedure is re-  
34    pealed.  
35    SEC. 55. Section 1867 of the Code of Civil Procedure is re-  
36    pealed.  
37    SEC. 56. Section 1868 of the Code of Civil Procedure is re-  
38    pealed.  
39    SEC. 57. Section 1869 of the Code of Civil Procedure is re-  
40    pealed.  
41    SEC. 58. Section 1870 of the Code of Civil Procedure is re-  
42    pealed.  
43    SEC. 59. Section 1871 of the Code of Civil Procedure is re-  
44    pealed.  
45    SEC. 60. Section 1872 of the Code of Civil Procedure is re-  
46    pealed.  
47    SEC. 61. Section 1875 of the Code of Civil Procedure is re-  
48    pealed.  
49    SEC. 62. Section 1879 of the Code of Civil Procedure is re-  
50    pealed.

- 1        SEC. 63. Section 1880 of the Code of Civil Procedure is re-  
2        pealed.
- 3        SEC. 64. Section 1881 of the Code of Civil Procedure is re-  
4        pealed.
- 5        SEC. 65. Section 1883 of the Code of Civil Procedure is re-  
6        pealed.
- 7        SEC. 66. Section 1884 of the Code of Civil Procedure is re-  
8        pealed.
- 9        SEC. 67. Section 1885 of the Code of Civil Procedure is re-  
10        pealed.
- 11       SEC. 68. Section 1893 of the Code of Civil Procedure is  
12       amended to read:
- 13       1893. Every public officer having the custody of a public  
14       writing, which a citizen has a right to inspect, is bound to give  
15       him, on demand, a certified copy of it, on payment of the legal  
16       fees therefor.
- 17       SEC. 69. Section 1901 of the Code of Civil Procedure is re-  
18       pealed.
- 19       SEC. 70. Section 1903 of the Code of Civil Procedure is re-  
20       pealed.
- 21       SEC. 71. Section 1905 of the Code of Civil Procedure is re-  
22       pealed.
- 23       SEC. 72. Section 1906 of the Code of Civil Procedure is re-  
24       pealed.
- 25       SEC. 73. Section 1907 of the Code of Civil Procedure is re-  
26       pealed.
- 27       SEC. 74. Section 1908.5 is added to the Code of Civil Pro-  
28       cedure, to read:
- 29       1908.5. When a judgment or order of a court is conclusive,  
30       the judgment or order must be alleged in the pleadings if  
31       there be an opportunity to do so; if there be no such oppor-  
32       tunity, the judgment or order may be used as evidence.
- 33       SEC. 75. Section 1918 of the Code of Civil Procedure is re-  
34       pealed.
- 35       SEC. 76. Section 1919 of the Code of Civil Procedure is re-  
36       pealed.
- 37       SEC. 77. Section 1919a of the Code of Civil Procedure is  
38       repealed.
- 39       SEC. 78. Section 1919b of the Code of Civil Procedure is  
40       repealed.
- 41       SEC. 79. Section 1920 of the Code of Civil Procedure is re-  
42       pealed.
- 43       SEC. 80. Section 1920a of the Code of Civil Procedure is  
44       repealed.
- 45       SEC. 81. Section 1920b of the Code of Civil Procedure is  
46       repealed.
- 47       SEC. 82. Section 1921 of the Code of Civil Procedure is re-  
48       pealed.
- 49       SEC. 83. Section 1922 of the Code of Civil Procedure is re-  
50       pealed.
- 51       SEC. 84. Section 1923 of the Code of Civil Procedure is re-  
52       pealed.



- 1     SEC. 85. Section 1924 of the Code of Civil Procedure is re-  
2     pealed.
- 3     SEC. 86. Section 1925 of the Code of Civil Procedure is re-  
4     pealed.
- 5     SEC. 87. Section 1926 of the Code of Civil Procedure is re-  
6     pealed.
- 7     SEC. 88. Section 1927 of the Code of Civil Procedure is re-  
8     pealed.
- 9     SEC. 89. Section 1927.5 of the Code of Civil Procedure is  
10    repealed.
- 11    SEC. 90. Section 1928 of the Code of Civil Procedure is re-  
12    pealed.
- 13    SEC. 91. Article 2.1 (commencing with Section 1928.1) of  
14    Chapter 3 of Title 2 of Part IV of the Code of Civil Procedure  
15    is repealed.
- 16    SEC. 92. Section 1936 of the Code of Civil Procedure is re-  
17    pealed.
- 18    SEC. 93. Section 1936.1 of the Code of Civil Procedure is  
19    repealed.
- 20    SEC. 94. Section 1937 of the Code of Civil Procedure is re-  
21    pealed.
- 22    SEC. 95. Section 1938 of the Code of Civil Procedure is re-  
23    pealed.
- 24    SEC. 96. Section 1939 of the Code of Civil Procedure is re-  
25    pealed.
- 26    SEC. 97. Section 1940 of the Code of Civil Procedure is re-  
27    pealed.
- 28    SEC. 98. Section 1941 of the Code of Civil Procedure is re-  
29    pealed.
- 30    SEC. 99. Section 1942 of the Code of Civil Procedure is re-  
31    pealed.
- 32    SEC. 100. Section 1943 of the Code of Civil Procedure is  
33    repealed.
- 34    SEC. 101. Section 1944 of the Code of Civil Procedure is  
35    repealed.
- 36    SEC. 102. Section 1945 of the Code of Civil Procedure is  
37    repealed.
- 38    SEC. 103. Section 1946 of the Code of Civil Procedure is  
39    repealed.
- 40    SEC. 104. Section 1947 of the Code of Civil Procedure is  
41    repealed.
- 42    SEC. 105. Section 1948 of the Code of Civil Procedure is  
43    repealed.
- 44    SEC. 106. Section 1951 of the Code of Civil Procedure is  
45    repealed.
- 46    SEC. 107. Article 5 (commencing with Section 1953e) of  
47    Chapter 3 of Title 2 of Part IV of the Code of Civil Procedure  
48    is repealed.
- 49    SEC. 108. Article 6 (commencing with Section 1953i) of  
50    Chapter 3 of Title 2 of Part IV of the Code of Civil Procedure  
51    is repealed.

1 SEC. 109. Chapter 4 (consisting of Section 1954) of Title  
2 2 of Part IV of the Code of Civil Procedure is repealed.

3 SEC. 110. Chapter 5 (commencing with Section 1957) of  
4 Title 2 of Part IV of the Code of Civil Procedure is repealed.

5 SEC. 111. Section 1967 of the Code of Civil Procedure is  
6 repealed.

7 SEC. 112. Section 1968 of the Code of Civil Procedure is  
8 repealed.

9 SEC. 113. Section 1973 of the Code of Civil Procedure is  
10 repealed.

11 SEC. 114. Section 1974 of the Code of Civil Procedure is  
12 amended to read :

13 1974. No person is liable upon a representation as to the  
14 credit of a third person, unless such representation, or some  
15 memorandum thereof, be in writing, and either subscribed  
16 by or in the handwriting of the party to be held liable.

17 SEC. 115. Chapter 7 (consisting of Section 1978) of Title  
18 2 of Part IV of the Code of Civil Procedure is repealed.

19 SEC. 116. Chapter 8 (commencing with Section 1980.1) of  
20 Title 2 of Part IV of the Code of Civil Procedure is repealed.

21 SEC. 117. Chapter 1 (commencing with Section 1981) of  
22 Title 3 of Part IV of the Code of Civil Procedure is repealed.

23 SEC. 118. Section 1998 of the Code of Civil Procedure is  
24 repealed.

25 SEC. 119. Section 1998.1 of the Code of Civil Procedure is  
26 repealed.

27 SEC. 120. Section 1998.2 of the Code of Civil Procedure is  
28 repealed.

29 SEC. 121. Section 1998.3 of the Code of Civil Procedure is  
30 repealed.

31 SEC. 122. Section 1998.4 of the Code of Civil Procedure is  
32 repealed.

33 SEC. 123. Section 1998.5 of the Code of Civil Procedure is  
34 repealed.

35 SEC. 124. Section 2009 of the Code of Civil Procedure is  
36 amended to read :

37 2009. An affidavit may be used to verify a pleading or a  
38 paper in a special proceeding, to prove the service of a sum-  
39 mons, notice, or other paper in an action or special proceed-  
40 ing, to obtain a provisional remedy, the examination of a wit-  
41 ness, or a stay of proceedings, and in uncontested proceedings  
42 to establish a record of birth, or upon a motion, and in any  
43 other case expressly permitted by statute.

44 SEC. 125. Section 2016 of the Code of Civil Procedure is  
45 amended to read :

46 2016. (a) Any party may take the testimony of any per-  
47 son, including a party, by deposition upon oral examination or  
48 written interrogatories for the purpose of discovery or for use  
49 as evidence in the action or for both purposes. Such depositions  
50 may be taken in an action at any time after the service of the  
51 summons or in a special proceeding after the service of the  
52 petition or after the appearance of the defendant or respond-

1 ent. After commencement of the action or proceedings, the  
2 deposition may be taken without leave of court, except that  
3 leave of court, granted with or without notice, and for good  
4 cause shown, must be obtained if the notice of the taking of  
5 the deposition is served by the plaintiff within 20 days after  
6 service of the summons or petition on, or appearance of, the  
7 defendant or respondent. The attendance of witnesses or the  
8 production of books, documents, or other things at depositions  
9 may be compelled by the use of subpoena as provided in Chap-  
10 ter 2 (commencing with Section 1985), Title 3, Part 4 of this  
11 code.

12 (b) Unless otherwise ordered by the court as provided by  
13 subdivision (b) or (d) of Section 2019 of this code, the depo-  
14 nent may be examined regarding any matter, not privileged,  
15 which is relevant to the subject matter involved in the pend-  
16 ing action, whether it relates to the claim or defense of the  
17 examining party, or to the claim or defense of any other  
18 party, including the existence, description, nature, custody,  
19 condition and location of any books, documents, or other tangi-  
20 ble things and the identity and location of persons having  
21 knowledge of relevant facts. It is not ground for objection  
22 that the testimony will be inadmissible at the trial if the testi-  
23 mony sought appears reasonably calculated to lead to the dis-  
24 covery of admissible evidence. All matters which are privi-  
25 leged against disclosure upon the trial under the law of this  
26 state are privileged against disclosure through any discovery  
27 procedure. This article shall not be construed to change the  
28 law of this state with respect to the existence of any privilege,  
29 whether provided for by statute or by judicial decision.

30 The work product of an attorney shall not be discoverable  
31 unless the court determines that denial of discovery will un-  
32 fairly prejudice the party seeking discovery in preparing his  
33 claim or defense or will result in an injustice, and any writ-  
34 ing that reflects an attorney's impressions, conclusions, opin-  
35 ions, or legal research or theories shall not be discoverable un-  
36 der any circumstances.

37 (c) Examination and cross-examination of deponents may  
38 proceed as permitted at the trial.

39 (d) At the trial or upon the hearing of a motion or an  
40 interlocutory proceeding, any part or all of a deposition, so far  
41 as admissible under the rules of evidence, may be used against  
42 any party who was present or represented at the taking of  
43 the deposition or who had due notice thereof, in accordance  
44 with any one of the following provisions:

45 (1) Any deposition may be used by any party for the pur-  
46 pose of contradicting or impeaching the testimony of deponent  
47 as a witness.

48 (2) The deposition of a party to the record of any civil  
49 action or proceeding or of a person for whose immediate bene-  
50 fit said action or proceeding is prosecuted or defended, or of  
51 anyone who at the time of taking the deposition was an officer,  
52 director, superintendent, member, agent, employee, or manag-

1 ing agent of any such party or person may be used by an  
2 adverse party for any purpose.

3 (3) The deposition of a witness, whether or not a party,  
4 may be used by any party for any purpose if the court finds:  
5 (i) that the witness is unavailable as a witness within the  
6 meaning of Section 240 of the Evidence Code or (ii) upon  
7 application and notice, that such exceptional circumstances  
8 exist as to make it desirable, in the interest of justice and  
9 with due regard to the importance of presenting the testimony  
10 of witnesses orally in open court, to allow the deposition to be  
11 used.

12 (4) Subject to the requirements of this section, a party may  
13 offer in evidence all or any part of a deposition, and if such  
14 party introduces only part of such deposition, any party may  
15 introduce any other parts.

16 Substitution of parties does not affect the right to use dep-  
17 ositions previously taken; and, when an action in any court  
18 of the United States or of any state has been dismissed and  
19 another action involving the same subject matter is afterward  
20 brought between the same parties or their representatives or  
21 successors in interest, all depositions lawfully taken and duly  
22 filed in the former action may be used in the latter as if orig-  
23 inally taken therefor.

24 (e) Subject to the provisions of subdivision (c) of Section  
25 2021 of this code, objection may be made at the trial or hear-  
26 ing to receiving in evidence any deposition or part thereof for  
27 any reason which would require the exclusion of the evidence  
28 if the witness were then present and testifying.

29 (f) A party shall not be deemed to make a person his own  
30 witness for any purpose by taking his deposition. Except where  
31 the deposition is used under the provisions of paragraph (2)  
32 of subdivision (d) of this section, the introduction in evidence  
33 of the deposition or any part thereof for any purpose other  
34 than that of contradicting or impeaching the deponent, or for  
35 explaining or clarifying portions of the said deposition offered  
36 by an adverse party, makes the deponent the witness of the  
37 party introducing the deposition, as to the portions of the  
38 deposition introduced by said party. At the trial or hearing  
39 any party may rebut any relevant evidence contained in a  
40 deposition whether introduced by him or by another party.

41 (g) It is the policy of this state (i) to preserve the rights  
42 of attorneys to prepare cases for trial with that degree of  
43 privacy necessary to encourage them to prepare their cases  
44 thoroughly and to investigate not only the favorable but the  
45 unfavorable aspects of such cases and (ii) to prevent an at-  
46 torney from taking undue advantage of his adversary's in-  
47 dustry or efforts.

48 SEC. 126. Article 6 (commencing with Section 2042) of  
49 Chapter 3 of Title 3 of Part IV of the Code of Civil Procedure  
50 is repealed.

51 SEC. 127. Title 4 (consisting of Section 2061) of Part IV  
52 of the Code of Civil Procedure is repealed.

1 SEC. 128. Section 2065 of the Code of Civil Procedure is  
2 repealed.

3 SEC. 129. Section 2066 of the Code of Civil Procedure is  
4 repealed.

5 SEC. 130. Section 2078 of the Code of Civil Procedure is  
6 repealed.

7 SEC. 131. Section 2079 of the Code of Civil Procedure is  
8 repealed.

9 SEC. 132. Chapter 4 (commencing with Section 2101) of  
10 Title 6 of Part IV of the Code of Civil Procedure is repealed.

11 SEC. 133. Section 6602 of the Corporations Code is  
12 amended to read:

13 6602. In any action or proceeding, the court takes judicial  
14 notice, in the same manner that it takes judicial notice of the  
15 matters listed in Section 452 of the Evidence Code, of the  
16 official acts affecting corporations of the legislative, executive,  
17 and judicial departments of the state or place under the  
18 laws of which the corporation purports to be incorporated.

19 SEC. 134. Section 25310 of the Corporations Code is  
20 amended to read:

21 25310. The commissioner shall adopt a seal bearing the  
22 inscription: "Commissioner of Corporations, State of Califor-  
23 nia." The seal shall be affixed to all writs, orders, permits, and  
24 certificates issued by him, and to such other instruments as he  
25 directs.

26 SEC. 135. Section 11513 of the Government Code is  
27 amended to read:

28 11513. (a) Oral evidence shall be taken only on oath or  
29 affirmation.

30 (b) Each party shall have these rights: to call and examine  
31 witnesses; to introduce exhibits; to cross-examine opposing  
32 witnesses on any matter relevant to the issues even though  
33 that matter was not covered in the direct examination; to  
34 impeach any witness regardless of which party first called him  
35 to testify; and to rebut the evidence against him. If respond-  
36 ent does not testify in his own behalf he may be called and  
37 examined as if under cross-examination.

38 (c) The hearing need not be conducted according to techni-  
39 cal rules relating to evidence and witnesses. Any relevant  
40 evidence shall be admitted if it is the sort of evidence on which  
41 responsible persons are accustomed to rely in the conduct of  
42 serious affairs, regardless of the existence of any common law  
43 or statutory rule which might make improper the admission  
44 of such evidence over objection in civil actions. Hearsay evi-  
45 dence may be used for the purpose of supplementing or ex-  
46 plaining other evidence but shall not be sufficient in itself to  
47 support a finding unless it would be admissible over objection  
48 in civil actions. The rules of privilege shall be effective to the  
49 extent that they are otherwise required by statute to be recog-  
50 nized at the hearing, and irrelevant and unduly repetitious  
51 evidence shall be excluded.

1 SEC. 136. Section 19580 of the Government Code is  
2 amended to read:

3 19580. Either by deposition or at the hearing the employee  
4 may be examined and may examine or cause any person to be  
5 examined under Section 776 of the Evidence Code.

6 SEC. 137. Section 3197 of the Health and Safety Code is  
7 amended to read:

8 3197. In any prosecution for a violation of any provision of  
9 this article, or any rule or regulation of the board made pur-  
10 suant to this article, or in any quarantine proceeding author-  
11 ized by this article, or in any habeas corpus or other proceed-  
12 ing in which the legality of such quarantine is questioned,  
13 any physician, health officer, spouse, or other person shall be  
14 competent and may be required to testify against any person  
15 against whom such prosecution or other proceeding was insti-  
16 tuted, and the privileges provided by Sections 970, 971, 980,  
17 994, and 1014 of the Evidence Code are not applicable to or  
18 in any such prosecution or proceeding.

19 SEC. 137.5. Section 5708 of the Labor Code is amended to  
20 read:

21 5708. (a) All hearing and investigations before the com-  
22 mission, panel, a commissioner, or a referee, are governed by  
23 this division and by the rules of practice and procedure  
24 adopted by the commission. In the conduct thereof they shall  
25 not be bound by the common law or statutory rules of evidence  
26 and procedure, but may make inquiry in the manner, through  
27 oral testimony and records, which is best calculated to ascertain  
28 the substantial rights of the parties and carry out justly the  
29 spirit and provisions of this division. All oral testimony, ob-  
30 jections, and rulings shall be taken down in shorthand by a  
31 competent phonographic reporter.

32 (b) Except as provided in subdivision (c), the Evidence  
33 Code does not apply to the hearings and investigations de-  
34 scribed in subdivision (a).

35 (c) The rules of privilege provided by Division 8 (com-  
36 mencing with Section 900) of the Evidence Code shall be  
37 recognized in such hearings and investigations to the extent  
38 they are required by Division 8 to be recognized, but subdivi-  
39 sion (b) of Section 914 of the Evidence Code does not apply  
40 in such hearings and investigations.

41 SEC. 138. Section 270e of the Penal Code is amended to  
42 read:

43 270e. No other evidence shall be required to prove mar-  
44 riage of husband and wife, or that a person is the lawful  
45 father or mother of a child or children, than is or shall be re-  
46 quired to prove such facts in a civil action. In all prosecu-  
47 tions under either Section 270a or 270 of this code, Sections  
48 970, 971, and 980 of the Evidence Code do not apply, and both  
49 husband and wife shall be competent to testify to any and all  
50 relevant matters, including the fact of marriage and the par-  
51 entage of a child or children. Proof of the abandonment and  
52 nonsupport of a wife, or of the omission to furnish necessary

1 food, clothing, shelter, or of medical attendance for a child or  
2 children is prima facie evidence that such abandonment and  
3 nonsupport or omission to furnish necessary food, clothing,  
4 shelter or medical attendance is wilful. In any prosecution  
5 under Section 270, it shall be competent for the people to prove  
6 nonaccess of husband to wife or any other fact establishing  
7 nonpaternity of a husband. In any prosecution pursuant to  
8 Section 270, the final establishment of paternity or nonpater-  
9 nity in another proceeding shall be admissible as evidence of  
10 paternity or nonpaternity.

11 SEC. 139. Section 686 of the Penal Code is amended to  
12 read:

13 686. In a criminal action the defendant is entitled:

14 1. To a speedy and public trial.

15 2. To be allowed counsel as in civil actions, or to appear and  
16 defend in person and with counsel.

17 3. To produce witnesses on his behalf and to be confronted  
18 with the witnesses against him, in the presence of the court,  
19 except that:

20 (a) Hearsay evidence may be admitted to the extent that it  
21 is otherwise admissible in a criminal action under the law of  
22 this state.

23 (b) The deposition of a witness taken in the action may be  
24 read to the extent that it is otherwise admissible under the  
25 law of this state.

26 SEC. 140. Section 688 of the Penal Code is amended to  
27 read:

28 688. No person charged with a public offense may be  
29 subjected, before conviction, to any more restraint than is  
30 necessary for his detention to answer the charge.

31 SEC. 141. Section 939.6 of the Penal Code is amended to  
32 read:

33 939.6. (a) Subject to subdivision (b), in the investigation  
34 of a charge, the grand jury shall receive no other evidence  
35 than such as is:

36 (1) Given by witnesses produced and sworn before the  
37 grand jury;

38 (2) Furnished by writings, material objects, or other things  
39 presented to the senses; or

40 (3) Contained in a deposition that is admissible under sub-  
41 division 3 of Section 686

42 (b) The grand jury shall receive none but evidence that  
43 would be admissible over objection at the trial of a criminal  
44 action, but the fact that evidence which would have been ex-  
45 cluded at trial was received by the grand jury does not render  
46 the indictment void where sufficient competent evidence to sup-  
47 port the indictment was received by the grand jury.

48 SEC. 142. Section 961 of the Penal Code is amended to  
49 read:

1 961. Neither presumptions of law, nor matters of which  
2 judicial notice is authorized or required to be taken, need be  
3 stated in an accusatory pleading.

4 SEC. 143. Section 963 of the Penal Code is amended to  
5 read:

6 963. In pleading a private statute, or an ordinance of a  
7 county or a municipal corporation, or a right derived there-  
8 from, it is sufficient to refer to the statute or ordinance by its  
9 title and the day of its passage, and the court must thereupon  
10 take judicial notice thereof in the same manner that it takes  
11 judicial notice of matters listed in Section 452 of the Evidence  
12 Code.

13 SEC. 144. Section 1120 of the Penal Code is amended to  
14 read:

15 1120. If a juror has any personal knowledge respecting a  
16 fact in controversy in a cause, he must declare the same in  
17 open court during the trial. If, during the retirement of the  
18 jury, a juror declare a fact which could be evidence in the  
19 cause, as of his own knowledge, the jury must return into  
20 court. In either of these cases, the juror making the statement  
21 must be sworn as a witness and examined in the presence of  
22 the parties in order that the court may determine whether  
23 good cause exists for his discharge as a juror.

24 SEC. 145. Section 1322 of the Penal Code is repealed.

25 SEC. 146. Section 1323 of the Penal Code is repealed.

26 SEC. 147. Section 1323.5 of the Penal Code is repealed.

27 SEC. 148. Section 1345 of the Penal Code is amended to  
28 read:

29 1345. The deposition, or a certified copy thereof, may be  
30 read in evidence by either party on the trial if the court finds  
31 that the witness is unavailable as a witness within the meaning  
32 of Section 240 of the Evidence Code. The same objections may  
33 be taken to a question or answer contained in the deposition  
34 as if the witness had been examined orally in court.

35 SEC. 149. Section 1362 of the Penal Code is amended to  
36 read:

37 1362. The depositions taken under the commission may be  
38 read in evidence by either party on the trial if the court finds  
39 that the witness is unavailable as a witness within the meaning  
40 of Section 240 of the Evidence Code. The same objections may  
41 be taken to a question in the interrogatories or to an answer  
42 in the deposition as if the witness had been examined orally in  
43 court.

44 SEC. 150. Section 306 of the Public Utilities Code is  
45 amended to read:

46 306. The office of the commission shall be in the City and  
47 County of San Francisco. The office shall always be open, legal  
48 holidays and nonjudicial days excepted. The commission shall  
49 hold its sessions at least once in each calendar month in the  
50 City and County of San Francisco. The commission may also  
51 meet at such other times and in such other places as may be



1 expedient and necessary for the proper performance of its  
2 duties, and for that purpose may rent quarters or offices.  
3 Except for the commission's deliberative conferences, the ses-  
4 sions and meetings of the commission shall be open and public  
5 and all persons shall be permitted to attend.

6 The commission shall have a seal, bearing the inscription  
7 "Public Utilities Commission State of California." The seal  
8 shall be affixed to all writs and authentications of copies of  
9 records and to such other instruments as the commission shall  
10 direct.

11 The commission may procure all necessary books, maps,  
12 charts, stationery, instruments, office furniture, apparatus, and  
13 appliances.

14 SEC. 151. Sections 2 to 150 of this act shall become opera-  
15 tive on January 1, 1967.

AMENDED IN SENATE MARCH 23, 1965  
AMENDED IN SENATE FEBRUARY 24, 1965  
AMENDED IN SENATE FEBRUARY 18, 1965

SENATE BILL

No. 110

Introduced by Senator Cobey  
(Coauthor: Assemblyman Song)

January 14, 1965

REFERRED TO COMMITTEE ON JUDICIARY

*An act to establish an Evidence Code, thereby consolidating and revising the law relating to evidence; amending various sections of the Business and Professions Code, Civil Code, Code of Civil Procedure, Corporations Code, Government Code, Health and Safety Code, Labor Code, Penal Code, and Public Utilities Code to make them consistent therewith; adding Sections 164.5, 3544, 3545, 3546, 3547, and 3548 to the Civil Code; adding Sections 631.7 and 1908.5 to the Code of Civil Procedure; and repealing legislation inconsistent therewith.*

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known as the Cobey-Song  
2 Evidence Act.

3 ~~SECTION 1.~~

4 SEC. 2. The Evidence Code is enacted, to read:

5

6

### EVIDENCE CODE

7

8

#### DIVISION 1. PRELIMINARY PROVISIONS AND CONSTRUCTION

9

10

11 1. This code shall be known as the Evidence Code.

12

13

14 2. The rule of the common law, that statutes in derogation  
15 thereof are to be strictly construed, has no application to this  
16 code. This code establishes the law of this state respecting the  
17 subject to which it relates, and its provisions are to be liberally construed with a view to effecting its objects and promoting justice.

MJN 3395

- 1     3. If any provision or clause of this code or application  
2 thereof to any person or circumstances is held invalid, such  
3 invalidity shall not affect other provisions or applications of  
4 the code which can be given effect without the invalid provi-  
5 sion or application, and to this end the provisions of this code  
6 are declared to be severable.
- 7     4. Unless the provision or context otherwise requires, these  
8 preliminary provisions and rules of construction shall govern  
9 the construction of this code.
- 10    5. Division, chapter, article, and section headings do not  
11 in any manner affect the scope, meaning, or intent of the pro-  
12 visions of this code.
- 13    6. Whenever any reference is made to any portion of this  
14 code or of any other statute, such reference shall apply to all  
15 amendments and additions heretofore or hereafter made.
- 16    7. Unless otherwise expressly stated:
- 17     (a) "Division" means a division of this code.
- 18     (b) "Chapter" means a chapter of the division in which  
19 that term occurs.
- 20     (c) "Article" means an article of the chapter in which that  
21 term occurs.
- 22     (d) "Section" means a section of this code.
- 23     (e) "Subdivision" means a subdivision of the section in  
24 which that term occurs.
- 25     (f) "Paragraph" means a paragraph of the subdivision in  
26 which that term occurs.
- 27    8. The present tense includes the past and future tenses;  
28 and the future, the present.
- 29    9. The masculine gender includes the feminine and neuter.
- 30    10. The singular number includes the plural; and the plu-  
31 ral, the singular.
- 32    11. "Shall" is mandatory and "may" is permissive.
- 33    12. (a) This code shall become operative on January 1,  
34 1967, and shall govern proceedings in actions brought on or  
35 after that date and, except as provided in subdivision (b),  
36 further proceedings in actions pending on that date.
- 37     (b) Subject to subdivision (c), a trial commenced before  
38 January 1, 1967, shall not be governed by this code. For the  
39 purpose of this subdivision:
- 40     (1) A trial is commenced when the first witness is sworn or  
41 the first exhibit is admitted into evidence and is terminated  
42 when the issue upon which such evidence is received is sub-  
43 mitted to the trier of fact. A new trial, or a separate trial of a  
44 different issue, commenced on or after January 1, 1967, shall be  
45 governed by this code.
- 46     (2) If an appeal is taken from a ruling made at a trial  
47 commenced before January 1, 1967, the appellate court shall  
48 apply the law applicable at the time of the commencement of  
49 the trial.
- 50     (c) The provisions of Division 8 (commencing with Section  
51 900) relating to privileges shall govern any claim of privilege  
52 made after December 31, 1966.

## 1 DIVISION 2. WORDS AND PHRASES DEFINED

2  
3 100. Unless the provision or context otherwise requires,  
4 these definitions govern the construction of this code.

5 105. "Action" includes a civil action and a criminal action.

6 110. "Burden of producing evidence" means the obligation  
7 of a party to introduce evidence sufficient to avoid a ruling  
8 against him on the issue.

9 115. "Burden of proof" means the obligation of a party to  
10 establish by evidence a requisite degree of belief concerning a  
11 fact in the mind of the trier of fact or the court. The burden  
12 of proof may require a party to raise a reasonable doubt con-  
13 cerning the existence or nonexistence of a fact or that he estab-  
14 lish the existence or nonexistence of a fact by a preponderance  
15 of the evidence, by clear and convincing proof, or by proof  
16 beyond a reasonable doubt.

17 Except as otherwise provided by law, the burden of proof  
18 requires proof by a preponderance of the evidence.

19 120. "Civil action" includes civil proceedings.

20 125. "Conduct" includes all active and passive behavior,  
21 both verbal and nonverbal.

22 130. "Criminal action" includes criminal proceedings.

23 135. "Declarant" is a person who makes a statement.

24 140. "Evidence" means testimony, writings, material ob-  
25 jects, or other things presented to the senses that are offered  
26 to prove the existence or nonexistence of a fact.

27 145. "The hearing" means the hearing at which a question  
28 under this code arises, and not some earlier or later hearing.

29 150. "Hearsay evidence" is defined in Section 1200.

30 160. "Law" includes constitutional, statutory, and de-  
31 cisional law.

32 165. "Oath" includes affirmation or declaration under pen-  
33 alty of perjury.

34 170. "Perceive" means to acquire knowledge through one's  
35 senses.

36 175. "Person" includes a natural person, firm, association,  
37 organization, partnership, business trust, corporation, or public  
38 entity.

39 180. "Personal property" includes money, goods, chattels,  
40 things in action, and evidences of debt.

41 185. "Property" includes both real and personal property.

42 190. "Proof" is the establishment by evidence of a requi-  
43 site degree of belief concerning a fact in the mind of the trier  
44 of fact or the court.

45 195. "Public employee" means an officer, agent, or em-  
46 ployee of a public entity.

47 200. "Public entity" includes a nation, state, county, city  
48 and county, city, district, public authority, public agency, or  
49 any other political subdivision or public corporation, whether  
50 foreign or domestic.

51 205. "Real property" includes lands, tenements, and her-  
52 editaments.

- 1 210. "Relevant evidence" means evidence, including evi-  
 2 dence relevant to the credibility of a witness or hearsay declar-  
 3 ant, having any tendency in reason to prove or disprove any  
 4 disputed fact that is of consequence to the determination of the  
 5 action.
- 6 220. "State" means the State of California, unless applied  
 7 to the different parts of the United States. In the latter case,  
 8 it includes any state, district, commonwealth, territory, or  
 9 insular possession of the United States.
- 10 225. "Statement" means (a) oral or written verbal ex-  
 11 pression or (b) nonverbal conduct of a person intended by him  
 12 as a substitute for oral or written verbal expression.
- 13 230. "Statute" includes a treaty and a constitutional pro-  
 14 vision.
- 15 235. "Trier of fact" includes (a) the jury and (b) the  
 16 court when the court is trying an issue of fact other than one  
 17 relating to the admissibility of evidence.
- 18 240. (a) Except as otherwise provided in subdivision (b),  
 19 "unavailable as a witness" means that the declarant is:  
 20 (1) Exempted or precluded on the ground of privilege from  
 21 testifying concerning the matter to which his statement is  
 22 relevant;  
 23 (2) Disqualified from testifying to the matter;  
 24 (3) Dead or unable to attend or to testify at the hearing be-  
 25 cause of then existing physical or mental illness or infirmity;  
 26 (4) Absent from the hearing and the court is unable to  
 27 compel his attendance by its process; or  
 28 (5) Absent from the hearing and the proponent of his state-  
 29 ment has exercised reasonable diligence but has been unable  
 30 to procure his attendance by the court's process.
- 31 (b) A declarant is not unavailable as a witness if the ex-  
 32 emption, preclusion, disqualification, death, inability, or ab-  
 33 sence of the declarant was brought about by the procurement  
 34 or wrongdoing of the proponent of his statement for the pur-  
 35 pose of preventing the declarant from attending or testifying.
- 36 250. "Writing" means handwriting, typewriting, printing,  
 37 photostating, photographing, and every other means of re-  
 38 cording upon any tangible thing any form of communication  
 39 or representation, including letters, words, pictures, sounds,  
 40 or symbols, or combinations thereof.

### 41 DIVISION 3. GENERAL PROVISIONS

#### 42 CHAPTER 1. APPLICABILITY OF CODE

- 43  
 44  
 45  
 46 300. Except as otherwise provided by statute, this code ap-  
 47 plies in every action before the Supreme Court or a district  
 48 court of appeal, superior court, municipal court, or justice  
 49 court, including proceedings in such actions conducted by a  
 50 referee, court commissioner, or similar officer, but does not  
 51 apply in grand jury proceedings.

CHAPTER 2. PROVINCE OF COURT AND JURY

310. (a) All questions of law (including but not limited to questions concerning the construction of statutes and other writings, the admissibility of evidence, and other rules of evidence) are to be decided by the court. Determination of issues of fact preliminary to the admission of evidence are to be decided by the court as provided in Article 2 (commencing with Section 400) of Chapter 4.

(b) Determination of the law of an organization of nations or of the law of a foreign nation or a public entity in a foreign nation is a question of law to be determined in the manner provided in Division 4 (commencing with Section 450).

311. If the law of an organization of nations, a foreign nation or a state other than this state, or a public entity in a foreign nation or a state other than this state, is applicable and such law cannot be determined, the court may, as the ends of justice require, either:

(a) Apply the law of this state if the court can do so consistently with the Constitution of the United States and the Constitution of this state; or

(b) Dismiss the action without prejudice or, in the case of a reviewing court, remand the case to the trial court with directions to dismiss the action without prejudice.

312. Except as otherwise provided by law, where the trial is by jury:

(a) All questions of fact are to be decided by the jury.

(b) Subject to the control of the court, the jury is to determine the effect and value of the evidence addressed to it, including the credibility of witnesses and hearsay declarants.

CHAPTER 3. ORDER OF PROOF

320. Except as otherwise provided by law, the court in its discretion shall regulate the order of proof.

CHAPTER 4. ADMITTING AND EXCLUDING EVIDENCE

Article 1. General Provisions

350. No evidence is admissible except relevant evidence.

351. Except as otherwise provided by statute, all relevant evidence is admissible.

352. The court in its discretion may exclude evidence if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury.

353. A verdict or finding shall not be set aside, nor shall the judgment or decision based thereon be reversed, by reason of the erroneous admission of evidence unless:

1 (a) There appears of record an objection to or a motion to  
 2 exclude or to strike the evidence that was timely made and so  
 3 stated as to make clear the specific ground of the objection or  
 4 motion; and

5 (b) The court which passes upon the effect of the error or  
 6 errors is of the opinion that the admitted evidence should  
 7 have been excluded on the ground stated and that the error  
 8 or errors complained of resulted in a miscarriage of justice.

9 354. A verdict or finding shall not be set aside, nor shall  
 10 the judgment or decision based thereon be reversed, by reason  
 11 of the erroneous exclusion of evidence unless the court which  
 12 passes upon the effect of the error or errors is of the opinion  
 13 that the error or errors complained of resulted in a miscarriage  
 14 of justice and it appears of record that:

15 (a) The substance, purpose, and relevance of the excluded  
 16 evidence was made known to the court by the questions asked,  
 17 an offer of proof, or by any other means;

18 (b) The rulings of the court made compliance with subdivi-  
 19 sion (a) futile; or

20 (c) The evidence was sought by questions asked during  
 21 cross-examination or *re-cross-examination*.

22 355. When evidence is admissible as to one party or for  
 23 one purpose and is inadmissible as to another party or for  
 24 another purpose, the court upon request shall restrict the evi-  
 25 dence to its proper scope and instruct the jury accordingly.

26 356. Where part of an act, declaration, conversation, or  
 27 writing is given in evidence by one party, the whole on the  
 28 same subject may be inquired into by an adverse party; when  
 29 a letter is read, the answer may be given; and when a detached  
 30 act, declaration, conversation, or writing is given in evidence,  
 31 any other act, declaration, conversation, or writing which is  
 32 necessary to make it understood may also be given in evidence.

33

## 34 Article 2. Preliminary Determinations on Admissibility 35 of Evidence

36

37 400. As used in this article, "preliminary fact" means a  
 38 fact upon the existence or nonexistence of which depends the  
 39 admissibility or inadmissibility of evidence. The phrase "the  
 40 admissibility or inadmissibility of evidence" includes the  
 41 qualification or disqualification of a person to be a witness and  
 42 the existence or nonexistence of a privilege.

43 401. As used in this article, "proffered evidence" means  
 44 evidence, the admissibility or inadmissibility of which is de-  
 45 pendent upon the existence or nonexistence of a preliminary  
 46 fact.

47 402. (a) When the existence of a preliminary fact is dis-  
 48 puted, its existence or nonexistence shall be determined as pro-  
 49 vided in this article.

50 (b) The court may hear and determine the question of the  
 51 admissibility of evidence out of the presence or hearing of the  
 52 jury; but in a criminal action, the court shall hear and deter-

1 mine the question of the admissibility of a confession or admis-  
2 sion of the defendant out of the presence and hearing of the  
3 jury *if any party so requests* .

4 (c) A ruling on the admissibility of evidence implies what-  
5 ever finding of fact is prerequisite thereto; a separate or  
6 formal finding is unnecessary unless required by statute.

7 403. (a) The proponent of the proffered evidence has the  
8 burden of producing evidence as to the existence of the pre-  
9 liminary fact, and the proffered evidence is inadmissible unless  
10 the court finds that there is evidence sufficient to sustain a  
11 finding of the existence of the preliminary fact, when:

12 (1) The relevance of the proffered evidence depends on the  
13 existence of the preliminary fact;

14 (2) The preliminary fact is the personal knowledge of a  
15 witness concerning the subject matter of his testimony;

16 (3) The preliminary fact is the authenticity of a writing; or

17 (4) The proffered evidence is of a statement or other con-  
18 duct of a particular person and the preliminary fact is whether  
19 that person made the statement or so conducted himself.

20 (b) Subject to Section 702, the court may admit condition-  
21 ally the proffered evidence under this section, subject to evi-  
22 dence of the preliminary fact being supplied later in the  
23 course of the trial.

24 (c) If the court admits the proffered evidence under this  
25 section, the court:

26 (1) May, and on request shall, instruct the jury to deter-  
27 mine whether the preliminary fact exists and to disregard the  
28 proffered evidence unless the jury finds that the preliminary  
29 fact does exist.

30 (2) Shall instruct the jury to disregard the proffered evi-  
31 dence if the court subsequently determines that a jury could  
32 not reasonably find that the preliminary fact exists.

33 404. Whenever the proffered evidence is claimed to be  
34 privileged under Section 940, the person claiming the privilege  
35 has the burden of showing that the proffered evidence might  
36 tend to incriminate him; and the proffered evidence is inadmis-  
37 sible unless it clearly appears to the court that the proffered  
38 evidence cannot possibly have a tendency to incriminate the  
39 person claiming the privilege.

40 405. With respect to preliminary fact determinations not  
41 governed by Section 403 or 404:

42 (a) When the existence of a preliminary fact is disputed,  
43 the court shall indicate which party has the burden of produc-  
44 ing evidence and the burden of proof on the issue as implied  
45 by the rule of law under which the question arises. The court  
46 shall determine the existence or nonexistence of the prelimi-  
47 nary fact and shall admit or exclude the proffered evidence  
48 as required by the rule of law under which the question arises.

49 (b) If a preliminary fact is also a fact in issue in the action:

50 (1) The jury shall not be informed of the court's determina-  
51 tion as to the existence or nonexistence of the preliminary fact.



1 (e) The true signification of all English words and phrases  
2 and of all legal expressions.

3 (f) Facts and propositions of generalized knowledge that  
4 are so universally known that they cannot reasonably be the  
5 subject of dispute.

6 452. Judicial notice may be taken of the following matters  
7 to the extent that they are not embraced within Section 451:

8 (a) The decisional, constitutional, and statutory law of any  
9 state of the United States and the resolutions and private acts  
10 of the Congress of the United States and of the Legislature of  
11 this state.

12 (b) Regulations and legislative enactments issued by or  
13 under the authority of the United States or any public entity  
14 in the United States.

15 (c) Official acts of the legislative, executive, and judicial  
16 departments of the United States and of any state of the  
17 United States.

18 (d) Records of (1) any court of this state or (2) any court  
19 of record of the United States or of any state of the United  
20 States.

21 (e) Rules of court of (1) any court of this State or (2) any  
22 court of record of the United States or of any state of the  
23 United States.

24 (f) The law of an organization of nations and of foreign  
25 nations and public entities in foreign nations.

26 (g) Facts and propositions that are of such common knowl-  
27 edge within the territorial jurisdiction of the court that they  
28 cannot reasonably be the subject of dispute.

29 (h) Facts and propositions that are not reasonably subject  
30 to dispute and are capable of immediate and accurate determi-  
31 nation by resort to sources of reasonably indisputable accuracy.

32 453. The trial court shall take judicial notice of any matter  
33 specified in Section 452 if a party requests it and:

34 (a) Gives each adverse party sufficient notice of the request,  
35 through the pleadings or otherwise, to enable such adverse  
36 party to prepare to meet the request; and

37 (b) Furnishes the court with sufficient information to en-  
38 able it to take judicial notice of the matter.

39 454. (a) In determining the propriety of taking judicial  
40 notice of a matter, or the tenor thereof:

41 ~~(a)~~ (1) Any source of pertinent information, including the  
42 advice of persons learned in the subject matter, may be con-  
43 sulted or used, whether or not furnished by a party.

44 ~~(b)~~ (2) Exclusionary rules of evidence do not apply except  
45 for Section 352 and the rules of privilege.

46 (b) *Where the subject of judicial notice is the law of an*  
47 *organization of nations, a foreign nation, or a public entity in*  
48 *a foreign nation and the court resorts to the advice of persons*  
49 *learned in the subject matter, such advice, if not received in*  
50 *open court, shall be in writing.*

1 455. With respect to any matter specified in Section 452  
2 or in subdivision (f) of Section 451 that is of substantial con-  
3 sequence to the determination of the action:

4 (a) If the trial court has been requested to take or has  
5 taken or proposes to take judicial notice of such matter, the  
6 court shall afford each party reasonable opportunity, before  
7 the jury is instructed or before the cause is submitted for  
8 decision by the court, to present to the court information rele-  
9 vant to (1) the propriety of taking judicial notice of the mat-  
10 ter and (2) the tenor of the matter to be noticed.

11 (b) If the trial court resorts to any source of information  
12 not received in open court, including the advice of persons  
13 learned in the subject matter, such information and its source  
14 shall be made a part of the record in the action and the court  
15 shall afford each party reasonable opportunity to meet such  
16 information before judicial notice of the matter may be taken.

17 456. If the trial court denies a request to take judicial  
18 notice of any matter, the court shall at the earliest practicable  
19 time so advise the parties and indicate for the record that it  
20 has denied the request.

21 457. If a matter judicially noticed is a matter which would  
22 otherwise have been for determination by the jury, the trial  
23 court may, and upon request shall, instruct the jury to accept  
24 as a fact the matter so noticed.

25 458. The failure or refusal of the trial court to take ju-  
26 dicial notice of a matter, or to instruct the jury with respect  
27 to the matter, does not preclude the trial court in subsequent  
28 proceedings in the action from taking judicial notice of the  
29 matter in accordance with the procedure specified in this di-  
30 vision.

31 459. (a) The reviewing court shall take judicial notice of  
32 (1) each matter properly noticed by the trial court and (2)  
33 each matter that the trial court was required to notice under  
34 Section 451 or 453. The reviewing court may take judicial no-  
35 tice of any matter specified in Section 452. The reviewing  
36 court may take judicial notice of a matter in a tenor different  
37 from that noticed by the trial court.

38 (b) In determining the propriety of taking judicial notice  
39 of a matter, or the tenor thereof, the reviewing court has the  
40 same power as the trial court under Section 454.

41 (c) When taking judicial notice under this section of a  
42 matter specified in Section 452 or in subdivision (f) of Section  
43 451 that is of substantial consequence to the determination of  
44 the action, the reviewing court shall comply with the provi-  
45 sions of subdivision (a) of Section 455 if the matter was not  
46 theretofore judicially noticed in the action.

47 (d) In determining the propriety of taking judicial notice  
48 of a matter specified in Section 452 or in subdivision (f) of  
49 Section 451 that is of substantial consequence to the determi-  
50 nation of the action, or the tenor thereof, if the reviewing court  
51 resorts to any source of information not received in open court  
52 or not included in the record of the action, including the

1 advice of persons learned in the subject matter, the reviewing  
2 court shall afford each party reasonable opportunity to meet  
3 such information before judicial notice of the matter may be  
4 taken.

5 460. *Where the advice of persons learned in the subject*  
6 *matter is required in order to enable the court to take judicial*  
7 *notice of a matter, the court on its own motion or on motion*  
8 *of any party may appoint one or more such persons to pro-*  
9 *vide such advice. If the court determines to appoint such a*  
10 *person, he shall be appointed and compensated in the manner*  
11 *provided in Article 2 (commencing with Section 730) of*  
12 *Chapter 3 of Division 6.*

13  
14 DIVISION 5. BURDEN OF PROOF; BURDEN OF  
15 PRODUCING EVIDENCE; PRESUMPTIONS  
16 AND INFERENCES

17  
18 CHAPTER 1. BURDEN OF PROOF

19  
20 Article 1. General

21  
22 500. Except as otherwise provided by law, a party has the  
23 burden of proof as to each fact the existence or nonexistence  
24 of which is essential to the claim for relief or defense that he  
25 is asserting.

26 501. Insofar as any statute, except Section 522, assigns the  
27 burden of proof in a criminal action, such statute is subject  
28 to Penal Code Section 1096.

29 502. The court on all proper occasions shall instruct the  
30 jury as to which party bears the burden of proof on each issue  
31 and as to whether that burden requires that a party raise a  
32 reasonable doubt concerning the existence or nonexistence of  
33 a fact or that he establish the existence or nonexistence of a  
34 fact by a preponderance of the evidence, by clear and convinc-  
35 ing proof, or by proof beyond a reasonable doubt.

36  
37 Article 2. Burden of Proof on Specific Issues

38  
39 520. The party claiming that a person is guilty of crime or  
40 wrongdoing has the burden of proof on that issue.

41 521. The party claiming that a person did not exercise a  
42 requisite degree of care has the burden of proof on that issue.

43 522. The party claiming that any person, including him-  
44 self, is or was insane has the burden of proof on that issue.

45  
46 CHAPTER 2. BURDEN OF PRODUCING EVIDENCE

47  
48 550. (a) The burden of producing evidence as to a par-  
49 ticular fact is on the party against whom a finding on that  
50 fact would be required in the absence of further evidence.

1 (b) The burden of producing evidence as to a particular  
 2 fact is initially on the party with the burden of proof *as to*  
 3 *that fact*.

4  
 5 CHAPTER 3. PRESUMPTIONS AND INFERENCES

6  
 7 Article 1. General

8  
 9 600. (a) ~~Subject to Section 607, a~~ A presumption is an  
 10 assumption of fact that the law requires to be made from  
 11 another fact or group of facts found or otherwise established  
 12 in the action. A presumption is not evidence.

13 (b) An inference is a deduction of fact that may logically  
 14 and reasonably be drawn from another fact or group of facts  
 15 found or otherwise established in the action.

16 601. A presumption is either conclusive or rebuttable.  
 17 Every rebuttable presumption is either (a) a presumption  
 18 affecting the burden of producing evidence or (b) a presump-  
 19 tion affecting the burden of proof.

20 602. A statute providing that a fact or group of facts is  
 21 prima facie evidence of another fact establishes a rebuttable  
 22 presumption.

23 603. A presumption affecting the burden of producing evi-  
 24 dence is a presumption established to implement no public  
 25 policy other than to facilitate the determination of the par-  
 26 ticular action in which the presumption is applied.

27 604. ~~Subject to Section 607, the~~ *The* effect of a presump-  
 28 tion affecting the burden of producing evidence is to require  
 29 the trier of fact to assume the existence of the presumed fact  
 30 unless and until evidence is introduced which would support a  
 31 finding of its nonexistence, in which case the trier of fact shall  
 32 determine the existence or nonexistence of the presumed fact  
 33 from the evidence and without regard to the presumption.  
 34 Nothing in this section shall be construed to prevent the draw-  
 35 ing of any inference that may be appropriate.

36 605. A presumption affecting the burden of proof is a pre-  
 37 sumption established to implement some public policy other  
 38 than to facilitate the determination of the particular action in  
 39 which the presumption is applied, such as the policy in favor  
 40 of the legitimacy of children, the validity of marriage, the  
 41 stability of titles to property, or the security of those who  
 42 entrust themselves or their property to the administration of  
 43 others.

44 606. ~~Subject to Section 607, the~~ *The* effect of a presump-  
 45 tion affecting the burden of proof is to impose upon the party  
 46 against whom it operates the burden of proof as to the non-  
 47 existence of the presumed fact.

48 607. ~~When a rebuttable presumption operates in a criminal~~  
 49 ~~action to establish an element of the crime with which the~~  
 50 ~~defendant is charged, neither the burden of producing evi-~~  
 51 ~~dence nor the burden of proof is imposed upon the defendant;~~  
 52 ~~but, if the trier of fact finds that the facts that give rise to~~

1 the presumption have been proved beyond a reasonable doubt,  
2 the trier of fact may but is not required to find that the  
3 presumed fact has also been proved beyond a reasonable doubt.

4 607. *When a presumption affecting the burden of proof*  
5 *operates in a criminal action to establish presumptively any*  
6 *fact that is essential to the defendant's guilt, the presumption*  
7 *operates only if the facts that give rise to the presumption*  
8 *have been found or otherwise established beyond a reasonable*  
9 *doubt and, in such case, the defendant need only raise a rea-*  
10 *sonable doubt as to the existence of the presumed fact.*  
11

## 12 Article 2. Conclusive Presumptions

13  
14 620. The presumptions established by this article, and all  
15 other presumptions declared by law to be conclusive, are con-  
16 clusive presumptions.

17 621. Notwithstanding any other provision of law, the issue  
18 of a wife cohabiting with her husband, who is not impotent,  
19 is conclusively presumed to be legitimate.

20 622. The facts recited in a written instrument are conclu-  
21 sively presumed to be true as between the parties thereto, or  
22 their successors in interest; but this rule does not apply to the  
23 recital of a consideration.

24 623. Whenever a party has, by his own statement or con-  
25 duct, intentionally and deliberately led another to believe a  
26 particular thing true and to act upon such belief, he is not, in  
27 any litigation arising out of such statement or conduct, per-  
28 mitted to contradict it.

29 624. A tenant is not permitted to deny the title of his  
30 landlord at the time of the commencement of the relation.

## 31 Article 3. Presumptions Affecting the Burden 32 of Producing Evidence

33  
34  
35 630. The presumptions established by this article, and all  
36 other rebuttable presumptions established by law that fall  
37 within the criteria of Section 603, are presumptions affecting  
38 the burden of producing evidence.

39 631. Money delivered by one to another is presumed to  
40 have been due to the latter.

41 632. A thing delivered by one to another is presumed to  
42 have belonged to the latter.

43 633. An obligation delivered up to the debtor is presumed  
44 to have been paid.

45 634. A person in possession of an order on himself for the  
46 payment of money, or delivery of a thing, is presumed to have  
47 paid the money or delivered the thing accordingly.

48 635. An obligation possessed by the creditor is presumed  
49 not to have been paid.

50 636. The payment of earlier rent or installments is pre-  
51 sumed from a receipt for later rent or installments<sup>ts</sup>

- 1 637. The things which a person possesses are presumed to  
2 be owned by him.
- 3 638. A person who exercises acts of ownership over prop-  
4 erty is presumed to be the owner of it.
- 5 639. A judgment, when not conclusive, is presumed to cor-  
6 rectly determine or set forth the rights of the parties, but  
7 there is no presumption that the facts essential to the judg-  
8 ment have been correctly determined.
- 9 640. A writing is presumed to have been truly dated.
- 10 641. A letter correctly addressed and properly mailed is  
11 presumed to have been received in the ordinary course of mail.
- 12 642. A trustee or other person, whose duty it was to convey  
13 real property to a particular person, is presumed to have  
14 actually conveyed to him when such presumption is necessary  
15 to perfect title of such person or his successor in interest.
- 16 643. A deed or will or other writing purporting to create,  
17 terminate, or affect an interest in real or personal property is  
18 presumed to be authentic if it:
- 19 (a) Is at least 30 years old;
- 20 (b) Is in such condition as to create no suspicion concern-  
21 ing its authenticity;
- 22 (c) Was kept, or if found was found, in a place where  
23 such writing, if authentic, would be likely to be kept or  
24 found; and
- 25 (d) Has been generally acted upon as authentic by persons  
26 having an interest in the matter.
- 27 644. A book, purporting to be printed or published by  
28 public authority, is presumed to have been so printed or  
29 published.
- 30 645. A book, purporting to contain reports of cases ad-  
31 judged in the tribunals of the state or nation where the book  
32 is published, is presumed to contain correct reports of such  
33 cases.

34  
35 Article 4. Presumptions Affecting the Burden of Proof

- 36  
37 660. The presumptions established by this article, and all  
38 other rebuttable presumptions established by law that fall  
39 within the criteria of Section 605, are presumptions affecting  
40 the burden of proof.
- 41 661. A child of a woman who is or has been married, born  
42 during the marriage or within 300 days after the dissolution  
43 thereof, is presumed to be a legitimate child of that marriage.  
44 This presumption may be disputed only by the people of the  
45 State of California in a criminal action brought under Section  
46 270 of the Penal Code or by the husband or wife, or the de-  
47 scendant of one or both of them. In a civil action, this presump-  
48 tion may be rebutted only by clear and convincing proof.
- 49 662. The owner of the legal title to property is presumed  
50 to be the owner of the full beneficial title. This presumption  
51 may be rebutted only by clear and convincing proof.
- 52 663. A ceremonial marriage is presumed to be valid.

1 664. It is presumed that official duty has been regularly  
2 performed. This presumption does not apply on an issue as to  
3 the lawfulness of an arrest if it is *found or otherwise* estab-  
4 lished that the arrest was made without a warrant.

5 665. *A person is presumed to intend the ordinary conse-*  
6 *quences of his voluntary act. This presumption is inapplicable*  
7 *in a criminal action to establish the specific intent of the*  
8 *defendant where specific intent is an element of the crime*  
9 *charged.*

10 666. Any court of this State or the United States, or any  
11 court of general jurisdiction in any other state or nation, or  
12 any judge of such a court, acting as such, is presumed to have  
13 acted in the lawful exercise of its jurisdiction. This presump-  
14 tion applies only when the act of the court or judge is under  
15 collateral attack.

16 667. A person not heard from in seven years is presumed  
17 to be dead.

18 668. *An unlawful intent is presumed from the doing of an*  
19 *unlawful act. This presumption is inapplicable in a criminal*  
20 *action to establish the specific intent of the defendant where*  
21 *specific intent is an element of the crime charged.*

22  
23 DIVISION 6. WITNESSES

24  
25 CHAPTER 1. COMPETENCY

26  
27 700. Except as otherwise provided by statute, every person  
28 is qualified to be a witness and no person is disqualified to  
29 testify to any matter.

30 701. A person is disqualified to be a witness if he is:

31 (a) Incapable of expressing himself concerning the matter  
32 so as to be understood, either directly or through interpreta-  
33 tion by one who can understand him; or

34 (b) Incapable of understanding the duty of a witness to tell  
35 the truth.

36 702. (a) Subject to Section 801, the testimony of a witness  
37 concerning a particular matter is inadmissible unless he has  
38 personal knowledge of the matter. Against the objection of  
39 a party, such personal knowledge must be shown before the  
40 witness may testify concerning the matter.

41 (b) A witness' personal knowledge of a matter may be  
42 shown by any otherwise admissible evidence, including his  
43 own testimony.

44 703. (a) Before the judge presiding at the trial of an  
45 action may be called to testify in that trial as a witness, he  
46 shall, in proceedings held out of the presence and hearing of  
47 the jury, inform the parties of the information he has con-  
48 cerning any fact or matter about which he will be called to  
49 testify.

50 (b) Against the objection of a party, the judge presiding  
51 at the trial of an action may not testify in that trial as a

1 witness. Upon such objection, the judge shall declare a mistrial  
2 and order the action assigned for trial before another judge.

3 (c) The calling of the judge presiding at a trial to testify in  
4 that trial as a witness shall be deemed a consent to the granting  
5 of a motion for mistrial, and an objection to such calling of a  
6 judge shall be deemed a motion for mistrial.

7 (d) In the absence of objection by a party, the judge  
8 presiding at the trial of an action may testify in that trial as  
9 a witness.

10 704. (a) Before a juror sworn and impaneled in the trial  
11 of an action may be called to testify before the jury in that  
12 trial as a witness, he shall, in proceedings conducted by the  
13 court out of the presence and hearing of the remaining jurors,  
14 inform the parties of the information he has concerning any  
15 fact or matter about which he will be called to testify.

16 (b) Against the objection of a party, a juror sworn and im-  
17 paneled in the trial of an action may not testify before the  
18 jury in that trial as a witness. Upon such objection, the court  
19 shall declare a mistrial and order the action assigned for trial  
20 before another jury.

21 (c) The calling of a juror to testify before the jury as a  
22 witness shall be deemed a consent to the granting of a motion  
23 for mistrial, and an objection to such calling of a juror shall  
24 be deemed a motion for mistrial.

25 (d) In the absence of objection by a party, a juror sworn  
26 and impaneled in the trial of an action may be compelled to  
27 testify in that trial as a witness.

28

29

## CHAPTER 2. OATH AND CONFRONTATION

30

31 710. Every witness before testifying shall take an oath  
32 or make an affirmation or declaration in the form provided  
33 by law.

34 711. At the trial of an action, a witness can be heard  
35 only in the presence and subject to the examination of all  
36 the parties to the action, if they choose to attend and examine.

37

38

## CHAPTER 3. EXPERT WITNESSES

39

40

### Article 1. Expert Witnesses Generally

41

42 720. (a) A person is qualified to testify as an expert if he  
43 has special knowledge, skill, experience, training, or education  
44 sufficient to qualify him as an expert on the subject to which  
45 his testimony relates. Against the objection of a party, such  
46 special knowledge, skill, experience, training, or education  
47 must be shown before the witness may testify as an expert.

48 (b) A witness' special knowledge, skill, experience, train-  
49 ing, or education may be shown by any otherwise admissible  
50 evidence, including his own testimony.

51 721. (a) Subject to subdivision (b), a witness testifying  
52 as an expert may be cross-examined to the same extent as



1 any other witness and, in addition, may be fully cross-exam-  
2 ined as to (1) his qualifications, (2) the subject to which his  
3 expert testimony relates, and (3) the matter upon which his  
4 opinion is based and the reasons for his opinion.

5 (b) If a witness testifying as an expert testifies in the form  
6 of an opinion, he may not be cross-examined in regard to the  
7 content or tenor of any scientific, technical, or professional  
8 text, treatise, journal, or similar publication unless:

9 (1) The witness referred to, considered, or relied upon such  
10 publication in arriving at or forming his opinion; or

11 (2) Such publication has been admitted in evidence.

12 722. (a) The fact of the appointment of an expert witness  
13 by the court may be revealed to the trier of fact.

14 (b) The compensation and expenses paid or to be paid to  
15 an expert witness by the party calling him is a proper subject  
16 of inquiry by any adverse party as relevant to the credibility of  
17 the witness and the weight of his testimony.

18 723. The court may, at any time before or during the trial  
19 of an action, limit the number of expert witnesses to be called  
20 by any party.

21  
22 Article 2. Appointment of Expert Witness by Court  
23

24 730. When it appears to the court, at any time before or  
25 during the trial of an action, that expert evidence is or may  
26 be required by the court or by any party to the action, the  
27 court on its own motion or on motion of any party may ap-  
28 point one or more experts to investigate, to render a report  
29 as may be ordered by the court, and to testify as an expert at  
30 the trial of the action relative to the fact or matter as to which  
31 such expert evidence is or may be required. The court may  
32 fix the compensation for such services, if any, rendered by any  
33 person appointed under this section, in addition to any service  
34 as a witness, at such amount as seems reasonable to the court.

35 731. (a) In all criminal actions and juvenile court pro-  
36 ceedings, the compensation fixed under Section 730 shall be  
37 a charge against the county in which such action or proceeding  
38 is pending and shall be paid out of the treasury of such county  
39 on order of the court.

40 (b) In any county in which the board of supervisors so pro-  
41 vides, the compensation fixed under Section 730 for medical ex-  
42 perts in civil actions in such county shall be a charge against  
43 and paid out of the treasury of such county on order of the  
44 court.

45 (c) Except as otherwise provided in this section, in all  
46 civil actions, the compensation fixed under Section 730 shall,  
47 in the first instance, be apportioned and charged to the several  
48 parties in such proportion as the court may determine and  
49 may thereafter be taxed and allowed in like manner as other  
50 costs.

1 732. Any expert appointed by the court under Section 730  
2 may be called and examined by the court or by any party to  
3 the action. When such witness is called and examined by the  
4 court, the parties have the same right as is expressed in Section  
5 775 to cross-examine the witness and to object to the questions  
6 asked and the evidence adduced.

7 733. Nothing contained in this article shall be deemed or  
8 construed to prevent any party to any action from producing  
9 other expert evidence on the same fact or matter mentioned  
10 in Section 730; but, where other expert witnesses are called  
11 by a party to the action, their fees shall be paid by the party  
12 calling them and only ordinary witness fees shall be taxed  
13 as costs in the action.

#### 14 CHAPTER 4. INTERPRETERS AND TRANSLATORS

15  
16  
17 750. A person who serves as an interpreter or translator  
18 in any action is subject to all the rules of law relating to  
19 witnesses.

20 751. (a) An interpreter shall take an oath that he will  
21 make a true interpretation to the witness in a language that  
22 the witness understands and that he will make a true inter-  
23 pretation of the witness' answers to questions to counsel, court,  
24 or jury, in the English language, with his best skill and judg-  
25 ment.

26 (b) A translator shall take an oath that he will make a  
27 true translation in the English language of any writing he  
28 is to decipher or translate.

29 752. (a) When a witness is incapable of hearing or under-  
30 standing the English language or is incapable of expressing  
31 himself in the English language so as to be understood directly  
32 by counsel, court, and jury, an interpreter whom he can under-  
33 stand and who can understand him shall be sworn to interpret  
34 for him.

35 (b) The interpreter may be appointed and compensated as  
36 provided in Article 2 (commencing with Section 730) of  
37 Chapter 3.

38 753. (a) When the written characters in a writing offered  
39 in evidence are incapable of being deciphered or understood  
40 directly, a translator who can decipher the characters or un-  
41 derstand the language shall be sworn to decipher or trans-  
42 late the writing.

43 (b) The translator may be appointed and compensated as  
44 provided in Article 2 (commencing with Section 730) of  
45 Chapter 3.

46 754. (a) As used in this section, "deaf person" means a  
47 person with a hearing loss so great as to prevent his under-  
48 standing language spoken in a normal tone.

49 (b) In any criminal action where the defendant is a deaf  
50 person, all of the proceedings of the trial shall be interpreted  
51 to him in a language that he understands by a qualified inter-  
52 preter appointed by the court.

1 (c) In any action where the mental condition of a deaf  
2 person is being considered and where such person may be  
3 committed to a mental institution, all of the court proceedings  
4 pertaining to him shall be interpreted to him in a language  
5 that he understands by a qualified interpreter appointed by  
6 the court.

7 (d) Interpreters appointed under this section shall be paid  
8 for their services a reasonable sum to be determined by the  
9 court, which shall be a charge against the county in which  
10 such action is pending and shall be paid out of the treasury  
11 of such county on order of the court.

12  
13 CHAPTER 5. METHOD AND SCOPE OF EXAMINATION

14  
15 Article 1. Definitions

16  
17 760. "Direct examination" is the first examination of a  
18 witness upon a matter that is not within the scope of a previ-  
19 ous examination of the witness.

20 761. "Cross-examination" is the examination of a witness  
21 by a party other than the direct examiner upon a matter that  
22 is within the scope of the direct examination of the witness.

23 762. "Redirect examination" is an examination of a wit-  
24 ness by the direct examiner subsequent to the cross-examina-  
25 tion of the witness.

26 763. "Re-cross-examination" is an examination of a witness  
27 by a cross-examiner subsequent to a redirect examination of  
28 the witness.

29 764. A "leading question" is a question that suggests to  
30 the witness the answer that the examining party desires.

31  
32 Article 2. Examination of Witnesses

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34 765. The court shall exercise reasonable control over the  
35 mode of interrogation of a witness so as (a) to make such in-  
36 terrogation as rapid, as distinct, and as effective for the as-  
37 certainment of the truth, as may be, and (b) to protect the  
38 witness from undue harassment or embarrassment.

39 766. A witness must give responsive answers to questions,  
40 and answers that are not responsive shall be stricken on motion  
41 of any party.

42 767. Except under special circumstances where the inter-  
43 ests of justice otherwise require:

44 (a) A leading question may not be asked of a witness on  
45 direct or redirect examination.

46 (b) A leading question may be asked of a witness on cross-  
47 examination or re-cross-examination.

48 768. (a) In examining a witness concerning a writing, it  
49 is not necessary to show, read, or disclose to him any part  
50 of the writing.

1 (b) If a writing is shown to a witness, all parties to the  
2 action must be given an opportunity to inspect it before any  
3 question concerning it may be asked of the witness.

4 769. In examining a witness concerning a statement or  
5 other conduct by him that is inconsistent with any part of his  
6 testimony at the hearing, it is not necessary to disclose to him  
7 any information concerning the statement or other conduct.

8 770. Unless the interests of justice otherwise require, ex-  
9 trinsic evidence of a statement made by a witness that is incon-  
10 sistent with any part of his testimony at the hearing shall be  
11 excluded unless:

12 (a) The witness was so examined while testifying as to give  
13 him an opportunity to explain or to deny the statement; or

14 (b) The witness has not been excused from giving further  
15 testimony in the action.

16 771. (a) Subject to subdivision (c), if a witness, either  
17 while testifying or prior thereto, uses a writing to refresh his  
18 memory with respect to any matter about which he testifies,  
19 such writing must be produced at the hearing at the request of  
20 an adverse party and, unless the writing is so produced, the  
21 testimony of the witness concerning such matter shall be  
22 stricken.

23 (b) If the writing is produced at the hearing, the adverse  
24 party may, if he chooses, inspect the writing, cross-examine  
25 the witness concerning it, and introduce ~~it in evidence in evi-~~  
26 *dence such portion of it as may be pertinent to the testimony*  
27 *of the witness.*

28 (c) Production of the writing is excused, and the testimony  
29 of the witness shall not be stricken, if the writing:

30 (1) Is not in the possession or control of the witness or the  
31 party who produced his testimony concerning the matter; and

32 (2) Was not reasonably procurable by such party through  
33 the use of the court's process or other available means.

34 772. (a) The examination of a witness shall proceed in  
35 the following phases: direct examination, cross-examination,  
36 redirect examination, re-cross-examination, and continuing  
37 thereafter by redirect and re-cross-examination.

38 (b) Unless for good cause the court otherwise directs, each  
39 phase of the examination of a witness must be concluded be-  
40 fore the succeeding phase begins.

41 (c) Subject to subdivision (d), a party may, in the dis-  
42 cretion of the court, interrupt his cross-examination, redirect  
43 examination, or re-cross-examination of a witness, in order to  
44 examine the witness upon a matter not within the scope of a  
45 previous examination of the witness.

46 (d) If the witness is the defendant in a criminal action, the  
47 witness may not, without his consent, be examined under  
48 direct examination by another party.

49 773. (a) A witness examined by one party may be cross-  
50 examined upon any matter within the scope of the direct ex-  
51 amination by each other party to the action in such order as  
52 the court directs.

1 (b) The cross-examination of a witness by any party whose  
2 interest is not adverse to the party calling him is subject to  
3 the same rules that are applicable to the direct examination.

4 774. A witness once examined cannot be reexamined as  
5 to the same matter without leave of the court, but he may be  
6 reexamined as to any new matter upon which he has been  
7 examined by another party to the action. Leave may be granted  
8 or withheld in the court's discretion.

9 775. The court, on its own motion *or on the motion of any*  
10 *party*, may call witnesses and interrogate them the same as if  
11 they had been produced by a party to the action, and the  
12 parties may object to the questions asked and the evidence  
13 adduced the same as if such witnesses were called and exam-  
14 ined by an adverse party. Such witnesses may be cross-  
15 examined by all parties to the action in such order as the  
16 court directs.

17 776. (a) A party to the record of any civil action, or a  
18 person identified with such a party, may be called and examined  
19 as if under cross-examination by any adverse party at any  
20 time during the presentation of evidence by the party calling  
21 the witness.

22 (b) A witness examined by a party under this section may  
23 be cross-examined by all other parties to the action in such  
24 order as the court directs; but the witness may be examined  
25 only as if under redirect examination by:

26 (1) In the case of a witness who is a party, his own counsel  
27 and counsel for a party who is not adverse to the witness.

28 (2) In the case of a witness who is not a party, counsel for  
29 the party with whom the witness is identified and counsel for  
30 a party who is not adverse to the party with whom the witness  
31 is identified.

32 (c) For the purpose of this section, parties represented by  
33 the same counsel are deemed to be a single party.

34 (d) For the purpose of this section, a person is identified  
35 with a party if he is:

36 (1) A person for whose immediate benefit the action is  
37 prosecuted or defended by the party.

38 (2) A director, officer, superintendent, member, agent, em-  
39 ployee, or managing agent of the party or of a person specified  
40 in paragraph (1), or any public employee of a public entity  
41 when such public entity is the party.

42 (3) A person who was in any of the relationships specified  
43 in paragraph (2) at the time of the act or omission giving rise  
44 to the cause of action.

45 (4) A person who was in any of the relationships specified  
46 in paragraph (2) at the time he obtained knowledge of the  
47 matter concerning which he is sought to be examined under  
48 this section.

49 777. (a) Subject to subdivisions (b) and (c), the court  
50 may exclude from the courtroom any witness not at the time  
51 under examination so that such witness cannot hear the testi-  
52 mony of other witnesses.

1 (b) A party to the action cannot be excluded under this  
2 section.

3 (c) If a person other than a natural person is a party to  
4 the action, an officer or employee designated by its attorney  
5 is entitled to be present.

6 778. After a witness has been excused from giving further  
7 testimony in the action, he cannot be recalled without leave of  
8 the court. Leave may be granted or withheld in the court's  
9 discretion.

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## 11 CHAPTER 6. CREDIBILITY OF WITNESSES

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### 14 Article 1. Credibility Generally

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780. Except as otherwise provided by statute, the court or jury may consider in determining the credibility of a witness any matter that has any tendency in reason to prove or disprove the truthfulness of his testimony at the hearing, including but not limited to any of the following:

(a) His demeanor while testifying and the manner in which he testifies.

(b) The character of his testimony.

(c) The extent of his capacity to perceive, to recollect, or to communicate any matter about which he testifies.

(d) The extent of his opportunity to perceive any matter about which he testifies.

(e) His character for honesty or veracity or their opposites.

(f) The existence or nonexistence of a bias, interest, or other motive.

(g) A statement previously made by him that is consistent with his testimony at the hearing.

(h) A statement made by him that is inconsistent with any part of his testimony at the hearing.

(i) The existence or nonexistence of any fact testified to by him.

(j) His attitude toward the action in which he testifies or toward the giving of testimony.

(k) His admission of untruthfulness.

### 40 Article 2. Attacking or Supporting Credibility

42 785. The credibility of a witness may be attacked or supported by any party, including the party calling him.

44 786. Evidence of traits of his character other than honesty or veracity, or their opposites, is inadmissible to attack or support the credibility of a witness.

47 787. Subject to Section 788, evidence of specific instances of his conduct relevant only as tending to prove a trait of his character is inadmissible to attack or support the credibility of a witness.

51 788. For the purpose of attacking the credibility of a witness, it may be shown by the examination of the witness or by

1 the record of the judgment that he has been convicted of a  
2 felony unless:

3 (a) A pardon based on his innocence has been granted to  
4 the witness by the jurisdiction in which he was convicted.

5 (b) A certificate of rehabilitation and pardon has been  
6 granted to the witness under the provisions of Chapter 3.5  
7 (commencing with Section 4852.01) of Title 6 of Part 3 of  
8 the Penal Code.

9 (c) The accusatory pleading against the witness has been  
10 dismissed under the provisions of Penal Code Section 1203.4.

11 (d) The conviction was under the laws of another jurisdic-  
12 tion and the witness has been relieved of the penalties and  
13 disabilities arising from the conviction pursuant to a procedure  
14 substantially equivalent to that referred to in subdivision (b)  
15 or (c).

16 789. Evidence of his religious belief or lack thereof is in-  
17 admissible to attack or support the credibility of a witness.

18 790. Evidence of the good character of a witness is inad-  
19 missible to support his credibility unless evidence of his bad  
20 character has been admitted for the purpose of attacking his  
21 credibility.

22 791. Evidence of a statement previously made by a wit-  
23 ness that is consistent with his testimony at the hearing is  
24 inadmissible to support his credibility unless it is offered  
25 after:

26 (a) Evidence of a statement made by him that is incon-  
27 sistent with any part of his testimony at the hearing has been  
28 admitted for the purpose of attacking his credibility, and the  
29 statement was made before the alleged inconsistent state-  
30 ment; or

31 (b) An express or implied charge has been made that his  
32 testimony at the hearing is recently fabricated or is influenced  
33 by bias or other improper motive, and the statement was made  
34 before the bias, motive for fabrication, or other improper  
35 motive is alleged to have arisen.

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37 DIVISION 7. OPINION TESTIMONY AND  
38 SCIENTIFIC EVIDENCE

39  
40 CHAPTER 1. EXPERT AND OTHER OPINION TESTIMONY

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42 Article 1. Expert and Other Opinion Testimony Generally

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44 800. If a witness is not testifying as an expert, his testi-  
45 mony in the form of an opinion is limited to such an opinion  
46 as is permitted by law, including but not limited to an opinion  
47 that is:

- 48 (a) Rationally based on the perception of the witness; and  
49 (b) Helpful to a clear understanding of his testimony.

1 801. If a witness is testifying as an expert, his testimony  
2 in the form of an opinion is limited to such an opinion as is:  
3 (a) Related to a subject that is sufficiently beyond common  
4 experience that the opinion of an expert would assist the trier  
5 of fact; and

6 (b) Based on matter (including his special knowledge, skill,  
7 experience, training, and education) perceived by or person-  
8 ally known to the witness or made known to him at or before  
9 the hearing, whether or not admissible, that is of a type that  
10 reasonably may be relied upon by an expert in forming an  
11 opinion upon the subject to which his testimony relates, unless  
12 an expert is precluded by law from using such matter as a  
13 basis for his opinion.

14 802. A witness testifying in the form of an opinion may  
15 state on direct examination the reasons for his opinion and  
16 the matter (including, in the case of an expert, his special  
17 knowledge, skill, experience, training, and education) upon  
18 which it is based, unless he is precluded by law from using such  
19 reasons or matter as a basis for his opinion. The court in its  
20 discretion may require that a witness before testifying in the  
21 form of an opinion be first examined concerning the matter  
22 upon which his opinion is based.

23 803. The court may, and upon objection shall, exclude  
24 testimony in the form of an opinion that is based in whole or  
25 in significant part on matter that is not a proper basis for  
26 such an opinion. In such case, the witness may, if there remains  
27 a proper basis for his opinion, then state his opinion after  
28 excluding from consideration the matter determined to be  
29 improper.

30 804. (a) If a witness testifying as an expert testifies that  
31 his opinion is based in whole or in part upon the opinion or  
32 statement of another person, such other person may be called  
33 and examined by any adverse party as if under cross-exam-  
34 ination concerning the opinion or statement.

35 (b) This section is not applicable if the person upon whose  
36 opinion or statement the expert witness has relied is (1) a  
37 party, (2) a person identified with a party within the meaning  
38 of subdivision (d) of Section 776, or (3) a witness who has  
39 testified in the action concerning the subject matter of the  
40 opinion or statement upon which the expert witness has relied.

41 (c) Nothing in this section makes admissible an expert  
42 opinion that is inadmissible because it is based in whole or in  
43 part on the opinion or statement of another person.

44 (d) An expert opinion otherwise admissible is not made  
45 inadmissible by this section because it is based on the opinion  
46 or statement of a person who is unavailable for examination  
47 pursuant to this section.

48 805. Testimony in the form of an opinion that is otherwise  
49 admissible is not objectionable because it embraces the ultimate  
50 issue to be decided by the trier of fact.



1 Article 2. Opinion Testimony on Particular Subjects

2  
3 870. A witness may state his opinion as to the sanity of a  
4 person when :

5 (a) The witness is an intimate acquaintance of the person  
6 whose sanity is in question ;

7 (b) The witness was a subscribing witness to a writing, the  
8 validity of which is in dispute, signed by the person whose  
9 sanity is in question and the opinion relates to the sanity of  
10 such person at the time the writing was signed ; or

11 (c) The witness is qualified under Section 800 or 801 to  
12 testify in the form of an opinion.

13  
14 CHAPTER 2. BLOOD TESTS TO DETERMINE PATERNITY

15  
16 890. This chapter may be cited as the Uniform Act on  
17 Blood Tests to Determine Paternity.

18 891. This act shall be so interpreted and construed as to  
19 effectuate its general purpose to make uniform the law of  
20 those states which enact it.

21 892. In a civil action in which paternity is a relevant fact,  
22 the court may upon its own initiative or upon suggestion made  
23 by or on behalf of any person whose blood is involved, and  
24 shall upon motion of any party to the action made at a time so  
25 as not to delay the proceedings unduly, order the mother,  
26 child, and alleged father to submit to blood tests. If any party  
27 refuses to submit to such tests, the court may resolve the ques-  
28 tion of paternity against such party or enforce its order if the  
29 rights of others and the interests of justice so require.

30 893. The tests shall be made by experts qualified as exam-  
31 iners of blood types who shall be appointed by the court. The  
32 experts shall be called by the court as witnesses to testify to  
33 their findings and shall be subject to cross-examination by the  
34 parties. Any party or person at whose suggestion the tests have  
35 been ordered may demand that other experts, qualified as  
36 examiners of blood types, perform independent tests under  
37 order of the court, the results of which may be offered in evi-  
38 dence. The number and qualifications of such experts shall be  
39 determined by the court.

40 894. The compensation of each expert witness appointed  
41 by the court shall be fixed at a reasonable amount. It shall be  
42 paid as the court shall order. The court may order that it be  
43 paid by the parties in such proportions and at such times as it  
44 shall prescribe, or that the proportion of any party be paid by  
45 the county, and that, after payment by the parties or the  
46 county or both, all or part or none of it be taxed as costs in  
47 the action.

48 895. If the court finds that the conclusions of all the ex-  
49 perts, as disclosed by the evidence based upon the tests, are  
50 that the alleged father is not the father of the child, the ques-  
51 tion of paternity shall be resolved accordingly. If the experts

1 disagree in their findings or conclusions, the question shall be  
2 submitted upon all the evidence.

3 896. This chapter applies to criminal actions subject to the  
4 following limitations and provisions:

5 (a) An order for the tests shall be made only upon applica-  
6 tion of a party or on the court's initiative.

7 (b) The compensation of the experts shall be paid by the  
8 county under order of court.

9 (c) The court may direct a verdict of acquittal upon the  
10 conclusions of all the experts under the provisions of Section  
11 895; otherwise, the case shall be submitted for determination  
12 upon all the evidence.

13 897. Nothing contained in this chapter shall be deemed  
14 or construed to prevent any party to any action from pro-  
15 ducing other expert evidence on the matter covered by this  
16 chapter; but, where other expert witnesses are called by a  
17 party to the action, their fees shall be paid by the party  
18 calling them and only ordinary witness fees shall be taxed  
19 as costs in the action.

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## DIVISION 8. PRIVILEGES

22

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### CHAPTER 1. DEFINITIONS

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900. Unless the provision or context otherwise requires,  
the definitions in this chapter govern the construction of this  
division. They do not govern the construction of any other  
division.

901. "Proceeding" means any action, hearing, investiga-  
tion, inquest, or inquiry (whether conducted by a court, ad-  
ministrative agency, hearing officer, arbitrator, legislative body,  
or any other person authorized by law) in which, pursuant to  
law, testimony can be compelled to be given.

902. "Civil proceeding" means any proceeding except a  
criminal proceeding.

903. "Criminal proceeding" means:

(a) A criminal action; and

(b) A proceeding pursuant to Article 3 (commencing with  
Section 3060) of Chapter 7 of Division 4 of Title 1 of the  
Government Code to determine whether a public officer should  
be removed from office for wilful or corrupt misconduct in  
office.

905. "Presiding officer" means the person authorized to  
rule on a claim of privilege in the proceeding in which the  
claim is made.

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### CHAPTER 2. APPLICABILITY OF DIVISION

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910. Except as otherwise provided by statute, the provi-  
sions of this division apply in all proceedings. The provisions  
of any statute making rules of evidence inapplicable in par-  
ticular proceedings, or limiting the applicability of rules of

1 draw any inference therefrom as to the credibility of the  
2 witness or as to any matter at issue in the proceeding.

3 (b) The court, at the request of a party who may be ad-  
4 versely affected because an unfavorable inference may be  
5 drawn by the jury because a privilege has been exercised, shall  
6 instruct the jury that no presumption arises because of the  
7 exercise of the privilege and that the jury may not draw any  
8 inference therefrom as to the credibility of the witness or as  
9 to any matter at issue in the proceeding.

10 914. (a) The presiding officer shall determine a claim of  
11 privilege in any proceeding in the same manner as a court de-  
12 termines such a claim under Article 2 (commencing with Sec-  
13 tion 400) of Chapter 4 of Division 3.

14 (b) No person may be held in contempt for failure to dis-  
15 close information claimed to be privileged unless he has failed  
16 to comply with an order of a court that he disclose such in-  
17 formation. This subdivision does not apply to any govern-  
18 mental agency that has constitutional contempt power, nor  
19 does it apply to hearings and investigations of the Industrial  
20 Accident Commission, nor does it impliedly repeal Chapter 4  
21 (commencing with Section 9400) of Part 1 of Division 2 of  
22 Title 2 of the Government Code. If no other statutory pro-  
23 cedure is applicable, the procedure prescribed by Section 1991  
24 of the Code of Civil Procedure shall be followed in seeking an  
25 order of a court that the person disclose the information  
26 claimed to be privileged.

27 915. (a) Subject to subdivision (b), the presiding officer  
28 may not require disclosure of information claimed to be privi-  
29 leged under this division in order to rule on the claim of  
30 privilege.

31 (b) When a court is ruling on a claim of privilege under  
32 Article 9 (commencing with Section 1040) of Chapter 4 (offi-  
33 cial information and identity of informer) or under Section  
34 1060 (trade secret) and is unable to do so without requiring  
35 disclosure of the information claimed to be privileged, the court  
36 may require the person from whom disclosure is sought or the  
37 person authorized to claim the privilege, or both, to disclose  
38 the information in chambers out of the presence and hearing  
39 of all persons except the person authorized to claim the privi-  
40 lege and such other persons as the person authorized to claim  
41 the privilege is willing to have present. If the judge deter-  
42 mines that the information is privileged, neither he nor any  
43 other person may ever disclose, without the consent of a per-  
44 son authorized to permit disclosure, what was disclosed in the  
45 course of the proceedings in chambers.

46 916. (a) The presiding officer, on his own motion or on the  
47 motion of any party, shall exclude information that is sub-  
48 ject to a claim of privilege under this division if:

49 (1) The person from whom the information is sought is not  
50 a person authorized to claim the privilege; and

51 (2) There is no party to the proceeding who is a person au-  
52 thorized to claim the privilege.

1 (b) The presiding officer may not exclude information  
2 under this section if:

3 (1) He is otherwise instructed by a person authorized to  
4 permit disclosure; or

5 (2) The proponent of the evidence establishes that there is  
6 no person authorized to claim the privilege in existence.

7 917. Whenever a privilege is claimed on the ground that  
8 the matter sought to be disclosed is a communication made in  
9 confidence in the course of the lawyer-client, physician-patient,  
10 psychotherapist-patient, clergyman-penitent, or husband-wife  
11 relationship, the communication is presumed to have been  
12 made in confidence and the opponent of the claim of privilege  
13 has the burden of proof to establish that the communication  
14 was not confidential.

15 918. A party may predicate error on a ruling disallowing  
16 a claim of privilege only if he is the holder of the privilege,  
17 except that a party may predicate error on a ruling disallow-  
18 ing a claim of privilege by his spouse under Section 970 or 971.

19 919. Evidence of a statement or other disclosure of privi-  
20 leged information is inadmissible against a holder of the  
21 privilege if:

22 (a) A person authorized to claim the privilege claimed it  
23 but nevertheless disclosure erroneously was required to be  
24 made; or

25 (b) The presiding officer did not exclude the privileged in-  
26 formation as required by Section 916.

27 920. Nothing in this division shall be construed to repeal  
28 by implication any other statute relating to privileges.

29  
30 CHAPTER 4. PARTICULAR PRIVILEGES

31  
32 Article 1. Privilege of Defendant in Criminal Case

33  
34 930. To the extent that such privilege exists under the Con-  
35 stitution of the United States or the State of California, a  
36 defendant in a criminal case has a privilege not to be called  
37 as a witness and not to testify.

38  
39 Article 2. Privilege Against Self-incrimination

40  
41 940. To the extent that such privilege exists under the  
42 Constitution of the United States or the State of California,  
43 a person has a privilege to refuse to disclose any matter that  
44 may tend to incriminate him.

45  
46 Article 3. Lawyer-client Privilege

47  
48 950. As used in this article, "lawyer" means a person au-  
49 thorized, or reasonably believed by the client to be authorized,  
50 to practice law in any state or nation.

51 951. As used in this article, "client" means a person who.  
52 directly or through an authorized representative

1 lawyer for the purpose of retaining the lawyer or securing  
2 legal service or advice from him in his professional capacity,  
3 and includes an incompetent (a) who himself so consults the  
4 lawyer or (b) whose guardian or conservator so consults the  
5 lawyer in behalf of the incompetent.

6 952. As used in this article, "confidential communication  
7 between client and lawyer" means information transmitted be-  
8 tween a client and his lawyer in the course of that relationship  
9 and in confidence by a means which, so far as the client is  
10 aware, discloses the information to no third person other  
11 than those who are present to further the interest of the client  
12 in the consultation or those to whom disclosure is reasonably  
13 necessary for the transmission of the information or the ac-  
14 complishment of the purpose for which the lawyer is con-  
15 sulted, and includes advice given by the lawyer in the course  
16 of that relationship.

17 953. As used in this article, "holder of the privilege"  
18 means:

19 (a) The client when he has no guardian or conservator.

20 (b) A guardian or conservator of the client when the client  
21 has a guardian or conservator.

22 (c) The personal representative of the client if the client is  
23 dead.

24 (d) A successor, assign, trustee in dissolution, or any simil-  
25 lar representative of a firm, association, organization, partner-  
26 ship, business trust, corporation, or public entity that is no  
27 longer in existence.

28 954. Subject to Section 912 and except as otherwise pro-  
29 vided in this article, the client, whether or not a party, has  
30 a privilege to refuse to disclose, and to prevent another from  
31 disclosing, a confidential communication between client and  
32 lawyer if the privilege is claimed by:

33 (a) The holder of the privilege;

34 (b) A person who is authorized to claim the privilege by the  
35 holder of the privilege; or

36 (c) The person who was the lawyer at the time of the confi-  
37 dential communication, but such person may not claim the  
38 privilege if there is no holder of the privilege in existence or  
39 if he is otherwise instructed by a person authorized to permit  
40 disclosure.

41 955. The lawyer who received or made a communication  
42 subject to the privilege under this article shall claim the priv-  
43 ilege whenever he is present when the communication is sought  
44 to be disclosed and is authorized to claim the privilege under  
45 subdivision, (c) of Section 954.

46 956. There is no privilege under this article if the services  
47 of the lawyer were sought or obtained to enable or aid anyone  
48 to commit or plan to commit a crime or a fraud.

49 957. There is no privilege under this article as to a commu-  
50 nication relevant to an issue between parties all of whom  
51 claim through a deceased client, regardless of whether the

1 claims are by testate or intestate succession or by inter vivos  
2 transaction.

3 958. There is no privilege under this article as to a commu-  
4 nication relevant to an issue of breach, by the lawyer or by the  
5 client, of a duty arising out of the lawyer-client relationship.

6 959. There is no privilege under this article as to a com-  
7 munication relevant to an issue concerning the intention or  
8 competence of a client executing an attested document of  
9 which the lawyer is an attesting witness, or concerning the  
10 execution or attestation of such a document.

11 960. There is no privilege under this article as to a commu-  
12 nication relevant to an issue concerning the intention of a  
13 client, now deceased, with respect to a deed of conveyance,  
14 will, or other writing, executed by the client, purporting to  
15 affect an interest in property.

16 961. There is no privilege under this article as to a commu-  
17 nication relevant to an issue concerning the validity of a deed  
18 of conveyance, will, or other writing, executed by a client, now  
19 deceased, purporting to affect an interest in property.

20 962. Where two or more clients have retained or consulted  
21 a lawyer upon a matter of common interest, none of them may  
22 claim a privilege under this article as to a communication  
23 made in the course of that relationship when such communi-  
24 cation is offered in a civil proceeding between such clients.

25

#### 26 Article 4. Privilege Not to Testify Against Spouse

27

28 970. Except as otherwise provided by statute, a married  
29 person has a privilege not to testify against his spouse in  
30 any proceeding.

31 971. Except as otherwise provided by statute, a married  
32 person whose spouse is a party to a proceeding has a privilege  
33 not to be called as a witness by an adverse party to that pro-  
34 ceeding without the prior express consent of the spouse having  
35 the privilege under this section unless the party calling the  
36 spouse does so in good faith without knowledge of the marital  
37 relationship.

38 972. A married person does not have a privilege under  
39 this article in:

40 (a) A proceeding brought by or on behalf of one spouse  
41 against the other spouse.

42 (b) A proceeding to commit or otherwise place his spouse  
43 or his spouse's property, or both, under the control of another  
44 because of the spouse's alleged mental or physical condition.

45 (c) A proceeding brought by or on behalf of a spouse to  
46 establish his competence.

47 (d) A proceeding under the Juvenile Court Law, Chapter  
48 2 (commencing with Section 500) of Part 1 of Division 2 of  
49 the Welfare and Institutions Code.

50 (e) A criminal proceeding in which one spouse is charged  
51 with:

1 (1) A crime against the person or property of the other  
2 spouse or of a child of either, whether committed before or  
3 during marriage.

4 (2) A crime against the person or property of a third  
5 person committed in the course of committing a crime against  
6 the person or property of the other spouse, whether committed  
7 before or during marriage.

8 (3) Bigamy or adultery.

9 (4) A crime defined by Section 270 or 270a of the Penal  
10 Code.

11 973. (a) Unless erroneously compelled to do so, a married  
12 person who testifies in a proceeding to which his spouse is a  
13 party, or who testifies against his spouse in any proceeding,  
14 does not have a privilege under this article in the proceeding  
15 in which such testimony is given.

16 (b) There is no privilege under this article in a civil pro-  
17 ceeding brought or defended by a married person for the im-  
18 mediate benefit of his spouse or of himself and his spouse.

19

20 Article 5. Privilege for Confidential Marital  
21 Communications  
22

23 980. Subject to Section 912 and except as otherwise pro-  
24 vided in this article, a spouse (or his guardian or conservator  
25 when he has a guardian or conservator), whether or not a  
26 party, has a privilege during the marital relationship and  
27 afterwards to refuse to disclose, and to prevent another from  
28 disclosing, a communication if he claims the privilege and  
29 the communication was made in confidence between him and  
30 the other spouse while they were husband and wife.

31 981. There is no privilege under this article if the com-  
32 munication was made, in whole or in part, to enable or aid  
33 anyone to commit or plan to commit a crime or a fraud.

34 982. There is no privilege under this article in a proceed-  
35 ing to commit either spouse or otherwise place him or his  
36 property, or both, under the control of another because of his  
37 alleged mental or physical condition.

38 983. There is no privilege under this article in a proceed-  
39 ing brought by or on behalf of either spouse to establish his  
40 competence.

41 984. There is no privilege under this article in:

42 (a) A proceeding brought by or on behalf of one spouse  
43 against the other spouse.

44 (b) A proceeding between a surviving spouse and a person  
45 who claims through the deceased spouse, regardless of whether  
46 such claim is by testate or intestate succession or by inter  
47 vivos transaction.

48 985. There is no privilege under this article in a criminal  
49 proceeding in which one spouse is charged with:

50 (a) A crime committed at any time against the person or  
51 property of the other spouse or of a child of either.

1 (b) A crime committed at any time against the person or  
2 property of a third person committed in the course of com-  
3 mitting a crime against the person or property of the other  
4 spouse.

5 (c) Bigamy or adultery.

6 (d) A crime defined by Section 270 or 270a of the Penal  
7 Code.

8 986. There is no privilege under this article in a proceed-  
9 ing under the Juvenile Court Law, Chapter 2 (commencing  
10 with Section 500) of Part 1 of Division 2 of the Welfare and  
11 Institutions Code.

12 987. There is no privilege under this article in a criminal  
13 proceeding in which the communication is offered in evidence  
14 by a defendant who is one of the spouses between whom the  
15 communication was made.

#### 16 Article 6. Physician-Patient Privilege

17  
18  
19 990. As used in this article, "physician" means a person  
20 authorized, or reasonably believed by the patient to be author-  
21 ized, to practice medicine in any state or nation.

22 991. As used in this article, "patient" means a person  
23 who consults a physician or submits to an examination by a  
24 physician for the purpose of securing a diagnosis or preven-  
25 tive, palliative, or curative treatment of his physical or mental  
26 or emotional condition.

27 992. As used in this article, "confidential communication  
28 between patient and physician" means information, including  
29 information obtained by an examination of the patient, trans-  
30 mitted between a patient and his physician in the course of  
31 that relationship and in confidence by a means which, so far  
32 as the patient is aware, discloses the information to no third  
33 persons other than those who are present to further the in-  
34 terest of the patient in the consultation or those to whom dis-  
35 closure is reasonably necessary for the transmission of the  
36 information or the accomplishment of the purpose for which  
37 the physician is consulted, and includes advice given by the  
38 physician in the course of that relationship.

39 993. As used in this article, "holder of the privilege"  
40 means:

41 (a) The patient when he has no guardian or conservator.

42 (b) A guardian or conservator of the patient when the pa-  
43 tient has a guardian or conservator.

44 (c) The personal representative of the patient if the patient  
45 is dead.

46 994. Subject to Section 912 and except as otherwise pro-  
47 vided in this article, the patient, whether or not a party, has  
48 a privilege to refuse to disclose, and to prevent another from  
49 disclosing, a confidential communication between patient and  
50 physician if the privilege is claimed by:

51 (a) The holder of the privilege;



1 (b) A person who is authorized to claim the privilege by  
2 the holder of the privilege; or

3 (c) The person who was the physician at the time of the  
4 confidential communication, but such person may not claim  
5 the privilege if there is no holder of the privilege in existence  
6 or if he is otherwise instructed by a person authorized to per-  
7 mit disclosure.

8 995. The physician who received or made a communication  
9 subject to the privilege under this article shall claim the privi-  
10 lege whenever he is present when the communication is sought  
11 to be disclosed and is authorized to claim the privilege under  
12 subdivision (c) of Section 994.

13 996. There is no privilege under this article as to a com-  
14 munication relevant to an issue concerning the condition of  
15 the patient if such issue has been tendered by :

16 (a) The patient;

17 (b) Any party claiming through or under the patient;

18 (c) Any party claiming as a beneficiary of the patient  
19 through a contract to which the patient is or was a party; or

20 (d) The plaintiff in an action brought under Section 376  
21 or 377 of the Code of Civil Procedure for damages for the  
22 injury or death of the patient.

23 997. There is no privilege under this article if the services  
24 of the physician were sought or obtained to enable or aid any-  
25 one to commit or plan to commit a crime or a tort or to escape  
26 detection or apprehension after the commission of a crime or  
27 a tort.

28 998. There is no privilege under this article in a criminal  
29 proceeding.

30 999. There is no privilege under this article in a proceed-  
31 ing to recover damages on account of conduct of the patient  
32 which constitutes a crime.

33 1000. There is no privilege under this article as to a com-  
34 munication relevant to an issue between parties all of whom  
35 claim through a deceased patient, regardless of whether the  
36 claims are by testate or intestate succession or by inter vivos  
37 transaction.

38 1001. There is no privilege under this article as to a com-  
39 munication relevant to an issue of breach, by the physician or  
40 by the patient, of a duty arising out of the physician-patient  
41 relationship.

42 1002. There is no privilege under this article as to a com-  
43 munication relevant to an issue concerning the intention of  
44 a patient, now deceased, with respect to a deed of conveyance,  
45 will, or other writing, executed by the patient, purporting to  
46 affect an interest in property.

47 1003. There is no privilege under this article as to a com-  
48 munication relevant to an issue concerning the validity of a  
49 deed of conveyance, will, or other writing, executed by a  
50 patient, now deceased, purporting to affect an interest in  
51 property.

1 1004. There is no privilege under this article in a proceed-  
2 ing to commit the patient or otherwise place him or his prop-  
3 erty, or both, under the control of another because of his  
4 alleged mental or physical condition.

5 1005. There is no privilege under this article in a proceed-  
6 ing brought by or on behalf of the patient to establish his  
7 competence.

8 1006. There is no privilege under this article as to infor-  
9 mation that the physician or the patient is required to report  
10 to a public employee, or as to information required to be  
11 recorded in a public office, if such report or record is open to  
12 public inspection.

13 1007. There is no privilege under this article in a proceed-  
14 ing brought by a public entity to determine whether a right,  
15 authority, license, or privilege (including the right or privilege  
16 to be employed by the public entity or to hold a public office)  
17 should be revoked, suspended, terminated, limited, or condi-  
18 tioned.

19  
20 Article 7. Psychotherapist-patient Privilege  
21

22 1010. As used in this article, "psychotherapist" means:

23 (a) A person authorized, or reasonably believed by the pa-  
24 tient to be authorized, to practice medicine in any state or  
25 nation who devotes, or is reasonably believed by the patient  
26 to devote, a substantial portion of his time to the practice of  
27 psychiatry; or

28 (b) A person certified as a psychologist under Chapter 6.6  
29 (commencing with Section 2900) of Division 2 of the Business  
30 and Professions Code.

31 1011. As used in this article, "patient" means a person  
32 who consults a psychotherapist or submits to an examination  
33 by a psychotherapist for the purpose of securing a diagnosis  
34 or preventive, palliative, or curative treatment of his mental  
35 or emotional condition or who submits to an examination of his  
36 mental or emotional condition for the purpose of scientific  
37 research on mental or emotional problems.

38 1012. As used in this article, "confidential communication  
39 between patient and psychotherapist" means information, in-  
40 cluding information obtained by an examination of the pa-  
41 tient, transmitted between a patient and his psychotherapist  
42 in the course of that relationship and in confidence by a means  
43 which, so far as the patient is aware, discloses the information  
44 to no third persons other than those who are present to fur-  
45 ther the interest of the patient in the consultation or examina-  
46 tion or those to whom disclosure is reasonably necessary for  
47 the transmission of the information or the accomplishment of  
48 the purpose of the consultation or examination, and includes  
49 advice given by the psychotherapist in the course of that  
50 relationship.

1 1013. As used in this article, "holder of the privilege"  
2 means:

3 (a) The patient when he has no guardian or conservator.

4 (b) A guardian or conservator of the patient when the pa-  
5 tient has a guardian or conservator.

6 (c) The personal representative of the patient if the pa-  
7 tient is dead.

8 1014. Subject to Section 912 and except as otherwise pro-  
9 vided in this article, the patient, whether or not a party, has  
10 a privilege to refuse to disclose, and to prevent another from  
11 disclosing, a confidential communication between patient and  
12 psychotherapist if the privilege is claimed by:

13 (a) The holder of the privilege;

14 (b) A person who is authorized to claim the privilege by  
15 the holder of the privilege; or

16 (c) The person who was the psychotherapist at the time of  
17 the confidential communication, but such person may not claim  
18 the privilege if there is no holder of the privilege in existence  
19 or if he is otherwise instructed by a person authorized to per-  
20 mit disclosure.

21 1015. The psychotherapist who received or made a commu-  
22 nication subject to the privilege under this article shall claim  
23 the privilege whenever he is present when the communication  
24 is sought to be disclosed and is authorized to claim the privi-  
25 lege under subdivision (c) of Section 1014.

26 1016. There is no privilege under this article as to a com-  
27 munication relevant to an issue concerning the mental or  
28 emotional condition of the patient if such issue has been ten-  
29 dered by:

30 (a) The patient;

31 (b) Any party claiming through or under the patient;

32 (c) Any party claiming as a beneficiary of the patient  
33 through a contract to which the patient is or was a party; or

34 (d) The plaintiff in an action brought under Section 376  
35 or 377 of the Code of Civil Procedure for damages for the  
36 injury or death of the patient.

37 1017. There is no privilege under this article if the psy-  
38 chotherapist is appointed by order of a court to examine the  
39 patient, but this exception does not apply where the psycho-  
40 therapist is appointed by order of the court upon the request  
41 of the lawyer for the defendant in a criminal proceeding in  
42 order to provide the lawyer with information needed so that  
43 he may advise the defendant whether to enter a plea based on  
44 insanity or to present a defense based on his mental or emo-  
45 tional condition.

46 1018. There is no privilege under this article if the services  
47 of the psychotherapist were sought or obtained to enable or  
48 aid anyone to commit or plan to commit a crime or a tort or  
49 to escape detection or apprehension after the commission of  
50 a crime or a tort.

51 1019. There is no privilege under this article as to a com-  
52 munication relevant to an issue between parties all of whom

1 claim through a deceased patient, regardless of whether the  
2 claims are by testate or intestate succession or by inter vivos  
3 transaction.

4 1020. There is no privilege under this article as to a com-  
5 munication relevant to an issue of breach, by the psychothera-  
6 pist or by the patient, of a duty arising out of the psycho-  
7 therapist-patient relationship.

8 1021. There is no privilege under this article as to a com-  
9 munication relevant to an issue concerning the intention of a  
10 patient, now deceased, with respect to a deed of conveyance,  
11 will, or other writing, executed by the patient, purporting to  
12 affect an interest in property.

13 1022. There is no privilege under this article as to a com-  
14 munication relevant to an issue concerning the validity of a  
15 deed of conveyance, will, or other writing, executed by a pa-  
16 tient, now deceased, purporting to affect an interest in  
17 property.

18 1023. There is no privilege under this article in a pro-  
19 ceeding under Chapter 6 (commencing with Section 1367) of  
20 Title 10 of Part 2 of the Penal Code initiated at the request  
21 of the defendant in a criminal action to determine his sanity.

22 1024. There is no privilege under this article if the psycho-  
23 therapist has reasonable cause to believe that the patient is in  
24 such mental or emotional condition as to be dangerous to him-  
25 self or to the person or property of another and that disclosure  
26 of the communication is necessary to prevent the threatened  
27 danger.

28 1025. There is no privilege under this article in a proceed-  
29 ing brought by or on behalf of the patient to establish his  
30 competence.

31 1026. There is no privilege under this article as to informa-  
32 tion that the psychotherapist or the patient is required to  
33 report to a public employee or as to information required to  
34 be recorded in a public office, if such report or record is open  
35 to public inspection.

36  
37 Article 8. Clergyman-Penitent Privileges  
38

39 1030. As used in this article, "clergyman" means a priest,  
40 minister, *religious practitioner*, or similar functionary of a  
41 church or of a religious denomination or religious organization.

42 1031. As used in this article, "penitent" means a person  
43 who has made a penitential communication to a clergyman.

44 1032. As used in this article, "penitential communication"  
45 means a communication made in confidence, in the presence of  
46 no third person so far as the penitent is aware, to a clergyman  
47 who, in the course of the discipline or practice of his church,  
48 denomination, or organization, is authorized or accustomed to  
49 hear such communications and has a duty to keep them secret.

50 1033. Subject to Section 912, a penitent, whether or not  
51 a party, has a privilege to refuse to disclose, and to prevent

1 another from disclosing, a penitential communication if he  
2 claims the privilege.

3 1034. Subject to Section 912, a clergyman, whether or not  
4 a party, has a privilege to refuse to disclose a penitential  
5 communication if he claims the privilege.

6

7 Article 9. Official Information and Identity of Informer

8

9 1040. (a) As used in this section, "official information"  
10 means information acquired in confidence by a public employee  
11 in the course of his duty and not open, or officially disclosed,  
12 to the public prior to the time the claim of privilege is made.

13 (b) A public entity has a privilege to refuse to disclose of-  
14 ficial information, and to prevent another from disclosing such  
15 information, if the privilege is claimed by a person authorized  
16 by the public entity to do so and:

17 (1) Disclosure is forbidden by an act of the Congress of  
18 the United States or a statute of this state; or

19 (2) Disclosure of the information is against the public in-  
20 terest because there is a necessity for preserving the confi-  
21 dentiality of the information that outweighs the necessity for  
22 disclosure in the interest of justice; but no privilege may be  
23 claimed under this paragraph if any person authorized to do  
24 so has consented that the information be disclosed in the pro-  
25 ceeding. In determining whether disclosure of the information  
26 is against the public interest, the interest of the public entity  
27 as a party in the outcome of the proceeding may not be con-  
28 sidered.

29 1041. (a) Except as provided in this section, a public en-  
30 tity has a privilege to refuse to disclose the identity of a per-  
31 son who has furnished information as provided in subdivision

32 (b) purporting to disclose a violation of a law of the United  
33 States or of this state or a public entity in this state, and  
34 to prevent another from disclosing such identity, if the privi-  
35 lege is claimed by a person authorized by the public entity to  
36 do so and:

37 (1) Disclosure is forbidden by an act of the Congress of  
38 the United States or a statute of this state; or

39 (2) Disclosure of the identity of the informer is against  
40 the public interest because there is a necessity for preserving  
41 the confidentiality of his identity that outweighs the neces-  
42 sity for disclosure in the interest of justice; but no privilege  
43 may be claimed under this paragraph if any person authorized  
44 to do so has consented that the identity of the informer be  
45 disclosed in the proceeding. In determining whether disclosure  
46 of the identity of the informer is against the public interest,  
47 the interest of the public entity as a party in the outcome of  
48 the proceeding may not be considered.

49 (b) This section applies only if the information is furnished  
50 in confidence by the informer to:

51 (1) A law enforcement officer;

1 (2) A representative of an administrative agency charged  
2 with the administration or enforcement of the law alleged to  
3 be violated; or

4 (3) Any person for the purpose of transmittal to a person  
5 listed in paragraph (1) or (2).

6 (c) There is no privilege under this section to prevent the  
7 informer from disclosing his identity.

8 1042. (a) Except where disclosure is forbidden by an Act  
9 of the Congress of the United States, if a claim of privilege  
10 under this article by the State or a public entity in this State  
11 is sustained in a criminal proceeding, the presiding officer  
12 shall make such order or finding of fact adverse to the public  
13 entity bringing the proceeding as is required by law upon any  
14 issue in the proceeding to which the privileged information  
15 is material.

16 (b) Notwithstanding subdivision (a), where a search is  
17 made pursuant to a warrant valid on its face, the public entity  
18 bringing a criminal proceeding is not required to reveal to the  
19 defendant official information or the identity of an informer  
20 in order to establish the legality of the search or the admissi-  
21 bility of any evidence obtained as a result of it.

22  
23 Article 10. Political Vote  
24

25 1050. If he claims the privilege, a person has a privilege  
26 to refuse to disclose the tenor of his vote at a public election  
27 where the voting is by secret ballot unless he voted illegally or  
28 he previously made an unprivileged disclosure of the tenor  
29 of his vote.

30 Article 11. Trade Secret  
31

32 1060. If he or his agent or employee claims the privilege,  
33 the owner of a trade secret has a privilege to refuse to disclose  
34 the secret, and to prevent another from disclosing it, if the  
35 allowance of the privilege will not tend to conceal fraud or  
36 otherwise work injustice.

37  
38 CHAPTER 5. IMMUNITY OF NEWSMAN FROM CITATION  
39 FOR CONTEMPT  
40

41 1070. A publisher, editor, reporter, or other person con-  
42 nected with or employed upon a newspaper, or by a press as-  
43 sociation or wire service, cannot be adjudged in contempt by  
44 a court, the Legislature, or any administrative body, for re-  
45 fusing to disclose the source of any information procured for  
46 publication and published in a newspaper.

47 Nor can a radio or television news reporter or other person  
48 connected with or employed by a radio or television station  
49 be so adjudged in contempt for refusing to disclose the source  
50 of any information procured for and used for news or news  
51 commentary purposes on radio or television.

1 DIVISION 9. EVIDENCE AFFECTED OR EXCLUDED  
2 BY EXTRINSIC POLICIES  
3

4 CHAPTER 1. EVIDENCE OF CHARACTER, HABIT, OR CUSTOM  
5

6 1100. Except as otherwise provided by statute, any other-  
7 wise admissible evidence (including evidence in the form of  
8 an opinion, evidence of reputation, and evidence of specific  
9 instances of such person's conduct) is admissible to prove a  
10 person's character or a trait of his character.

11 1101. (a) Except as provided in this section and in Sec-  
12 tions 1102 and 1103, evidence of a person's character or a  
13 trait of his character (whether in the form of an opinion, evi-  
14 dence of reputation, or evidence of specific instances of his  
15 conduct) is inadmissible when offered to prove his conduct  
16 on a specified occasion.

17 (b) Nothing in this section prohibits the admission of evi-  
18 dence that a person committed a crime, civil wrong, or other  
19 act when relevant to prove some fact (such as motive, oppor-  
20 tunity, intent, preparation, plan, knowledge, identity, or ab-  
21 sence of mistake or accident) other than his disposition to  
22 commit such acts.

23 (c) Nothing in this section affects the admissibility of evi-  
24 dence offered to support or attack the credibility of a witness.

25 1102. In a criminal action, evidence of the defendant's  
26 character or a trait of his character in the form of an opinion  
27 or evidence of his reputation is not made inadmissible by Sec-  
28 tion 1101 if such evidence is:

29 (a) Offered by the defendant to prove his conduct in con-  
30 formity with such character or trait of character.

31 (b) Offered by the prosecution to rebut evidence adduced  
32 by the defendant under subdivision (a).

33 1103. In a criminal action, evidence of the character or a  
34 trait of character (in the form of an opinion, evidence of repu-  
35 tation, or evidence of specific instances of conduct) of the vic-  
36 tim of the crime for which the defendant is being prosecuted  
37 is not made inadmissible by Section 1101 if such evidence is:

38 (a) Offered by the defendant to prove conduct of the victim  
39 in conformity with such character or trait of character.

40 (b) Offered by the prosecution to rebut evidence adduced  
41 by the defendant under subdivision (a).

42 1104. Except as provided in Sections 1102 and 1103, evi-  
43 dence of a trait of a person's character with respect to care  
44 or skill is inadmissible to prove the quality of his conduct on  
45 a specified occasion.

46 1105. Any otherwise admissible evidence of habit or custom  
47 is admissible to prove conduct on a specified occasion in con-  
48 formity with the habit or custom.

1 CHAPTER 2. OTHER EVIDENCE AFFECTED OR EXCLUDED BY  
2 EXTRINSIC POLICIES  
3

4 1150. (a) Upon an inquiry as to the validity of a verdict,  
5 any otherwise admissible evidence may be received as to state-  
6 ments made, or conduct, conditions, or events occurring, either  
7 within or without the jury room, of such a character as is likely  
8 to have influenced the verdict improperly. No evidence is ad-  
9 missible to show the effect of such statement, conduct, condi-  
10 tion, or event upon a juror either in influencing him to assent  
11 to or dissent from the verdict or concerning the mental pro-  
12 cesses by which it was determined.

13 (b) Nothing in this code affects the law relating to the com-  
14 petence of a juror to give evidence to impeach or support a  
15 verdict.

16 1151. When, after the occurrence of an event, remedial or  
17 precautionary measures are taken, which, if taken previously,  
18 would have tended to make the event less likely to occur, evi-  
19 dence of such subsequent measures is inadmissible to prove  
20 negligence or culpable conduct in connection with the event.

21 1152. (a) Evidence that a person has, in compromise or  
22 from humanitarian motives, furnished or offered or promised  
23 to furnish money or any other thing, act, or service to another  
24 who has sustained or claims to have sustained loss or damage,  
25 as well as any conduct or statements made in negotiation  
26 thereof, is inadmissible to prove his liability for the loss or  
27 damage or any part of it.

28 (b) This section does not affect the admissibility of evi-  
29 dence of:

30 (1) Partial satisfaction of an asserted claim or demand  
31 without questioning its validity when such evidence is offered  
32 to prove the validity of the claim; or

33 (2) A debtor's payment or promise to pay all or a part of  
34 his pre-existing debt when such evidence is offered to prove  
35 the creation of a new duty on his part or a revival of his pre-  
36 existing duty.

37 1153. Evidence of a plea of guilty, later withdrawn, or of  
38 an offer to plead guilty to the crime charged or to any other  
39 crime, made by the defendant in a criminal action is inadmis-  
40 sible in any action or in any proceeding of any nature, includ-  
41 ing proceedings before agencies, commissions, boards, and  
42 tribunals.

43 1154. Evidence that a person has accepted or offered or  
44 promised to accept a sum of money or any other thing, act,  
45 or service in satisfaction of a claim, as well as any conduct  
46 or statements made in negotiation thereof, is inadmissible to  
47 prove the invalidity of the claim or any part of it.

48 1155. Evidence that a person was, at the time a harm was  
49 suffered by another, insured wholly or partially against loss  
50 arising from liability for that harm is inadmissible to prove  
51 negligence or other wrongdoing.



1 1156. (a) In-hospital medical staff committees of a li-  
2 censed hospital may engage in research and medical study for  
3 the purpose of reducing morbidity or mortality, and may  
4 make findings and recommendations relating to such purpose.  
5 Except as provided in subdivision (b), the written records  
6 of interviews, reports, statements, or memoranda of such in-  
7 hospital medical staff committees relating to such medical  
8 studies are subject to Sections 2016 to 2036, inclusive, of the  
9 Code of Civil Procedure (relating to discovery proceedings)  
10 but, subject to subdivisions (c) and (d), shall not be admitted  
11 as evidence in any action or before any administrative body,  
12 agency, or person.

13 (b) The disclosure, with or without the consent of the pa-  
14 tient, of information concerning him to such in-hospital medi-  
15 cal staff committee does not make unprivileged any informa-  
16 tion that would otherwise be privileged under Section 994 or  
17 1014; but, notwithstanding Sections 994 and 1014, such in-  
18 formation is subject to discovery under subdivision (a) except  
19 that the identity of any patient may not be discovered under  
20 subdivision (a) unless the patient consents to such disclosure.

21 (c) This section does not affect the admissibility in evidence  
22 of the original medical records of any patient.

23 (d) This section does not exclude evidence which is relevant  
24 evidence in a criminal action.

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## DIVISION 10. HEARSAY EVIDENCE

### CHAPTER 1. GENERAL PROVISIONS

30 1200. (a) "Hearsay evidence" is evidence of a statement  
31 that was made other than by a witness while testifying at the  
32 hearing and that is offered to prove the truth of the matter  
33 stated.

34 (b) Except as provided by law, hearsay evidence is inad-  
35 missible.

36 (c) This section shall be known and may be cited as the  
37 hearsay rule.

38 1201. A statement within the scope of an exception to the  
39 hearsay rule is not inadmissible on the ground that the evi-  
40 dence is hearsay evidence if the hearsay evidence of such state-  
41 ment consists of one or more statements each of which meets  
42 the requirements of an exception to the hearsay rule.

43 1202. Evidence of a statement or other conduct by a de-  
44 clarant that is inconsistent with a statement by such declarant  
45 received in evidence as hearsay evidence is not inadmissible  
46 for the purpose of attacking the credibility of the declarant  
47 though he is not given and has not had an opportunity to  
48 explain or to deny such inconsistent statement or other con-  
49 duct. Any other evidence offered to attack or support the  
50 credibility of the declarant is admissible if it would have been  
51 admissible had the declarant been a witness at the hearing.  
52 For the purposes of this section, the deponent of a deposition

1 taken in the action in which it is offered shall be deemed to  
2 be a hearsay declarant.

3 1203. (a) The declarant of a statement that is admitted as  
4 hearsay evidence may be called and examined by any adverse  
5 party as if under cross-examination concerning the statement.

6 (b) This section is not applicable if the declarant is (1) a  
7 party, (2) a person identified with a party within the meaning  
8 of subdivision (d) of Section 776, or (3) a witness who has  
9 testified in the action concerning the subject matter of the  
10 statement.

11 (c) This section is not applicable if the statement is one  
12 described in Article 1 (commencing with Section 1220), Ar-  
13 ticle 3 (commencing with Section 1235), or Article 10 (com-  
14 mencing with Section 1300) of Chapter 2 of this division.

15 (d) A statement that is otherwise admissible as hearsay evi-  
16 dence is not made inadmissible by this section because the de-  
17 clarant who made the statement is unavailable for examination  
18 pursuant to this section.

19 1204. A statement that is otherwise admissible as hearsay  
20 evidence is inadmissible against the defendant in a criminal  
21 action if the statement was made, either by the defendant or  
22 by another, under such circumstances that it is inadmissible  
23 against the defendant under the Constitution of the United  
24 States or the State of California.

25 1205. Nothing in this division shall be construed to repeal  
26 by implication any other statute relating to hearsay evidence.

27  
28 CHAPTER 2. EXCEPTIONS TO THE HEARSAY RULE

29  
30 Article 1. Confessions and Admissions

31  
32 1220. Evidence of a statement is not made inadmissible  
33 by the hearsay rule when offered against the declarant in an  
34 action to which he is a party in either his individual or repre-  
35 sentative capacity, regardless of whether the statement was  
36 made in his individual or representative capacity.

37 1221. Evidence of a statement offered against a party is not  
38 made inadmissible by the hearsay rule if the statement is one  
39 of which the party, with knowledge of the content thereof, has  
40 by words or other conduct manifested his adoption or his belief  
41 in its truth.

42 1222. Evidence of a statement offered against a party is not  
43 made inadmissible by the hearsay rule if:

44 (a) The statement was made by a person authorized by the  
45 party to make a statement or statements for him concerning  
46 the subject matter of the statement; and

47 (b) The evidence is offered either after admission of evi-  
48 dence sufficient to sustain a finding of such authority or, in  
49 the court's discretion as to the order of proof, subject to the  
50 admission of such evidence.

1 1223. Evidence of a statement offered against a party is not  
2 made inadmissible by the hearsay rule if:

3 (a) The statement was made by the declarant while partic-  
4 ipating in a conspiracy to commit a crime or civil wrong and in  
5 furtherance of the objective of that conspiracy;

6 (b) The statement was made prior to or during the time  
7 that the party was participating in that conspiracy; and

8 (c) The evidence is offered either after admission of evi-  
9 dence sufficient to sustain a finding of the facts specified in  
10 subdivisions (a) and (b) or, in the court's discretion as to the  
11 order of proof, subject to the admission of such evidence.

12 1224. When the liability, obligation, or duty of a party to  
13 a civil action is based in whole or in part upon the liability,  
14 obligation, or duty of the declarant, or when the claim or right  
15 asserted by a party to a civil action is barred or diminished by  
16 a breach of duty by the declarant, evidence of a statement  
17 made by the declarant is as admissible against the party as it  
18 would be if offered against the declarant in an action involving  
19 that liability, obligation, duty, or breach of duty.

20 1225. When a right, title, or interest in any property or  
21 claim asserted by a party to a civil action requires a determina-  
22 tion that a right, title, or interest exists or existed in the de-  
23 clarant, evidence of a statement made by the declarant during  
24 the time the party now claims the declarant was the holder  
25 of the right, title, or interest is as admissible against the party  
26 as it would be if offered against the declarant in an action  
27 involving that right, title, or interest.

28 1226. Evidence of a statement by a minor child is not made  
29 inadmissible by the hearsay rule if offered against the plaintiff  
30 in an action brought under Section 376 of the Code of Civil  
31 Procedure for injury to such minor child.

32 1227. Evidence of a statement by the deceased is not made  
33 inadmissible by the hearsay rule if offered against the plaintiff  
34 in an action for wrongful death brought under Section 377 of  
35 the Code of Civil Procedure.

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## Article 2. Declarations Against Interest

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1230. Evidence of a statement by a declarant having suffi-  
cient knowledge of the subject is not made inadmissible by the  
hearsay rule if *the declarant is unavailable as a witness and*  
the statement, when made, was so far contrary to the de-  
clarant's pecuniary or proprietary interest, or so far subjected  
him to the risk of civil or criminal liability, or so far tended  
to render invalid a claim by him against another, or created  
such a risk of making him an object of hatred, ridicule, or  
social disgrace in the community, that a reasonable man in  
his position would not have made the statement unless he be-  
lieved it to be true.

Article 3. Prior Statements of Witnesses

1235. Evidence of a statement made by a witness is not made inadmissible by the hearsay rule if the statement is inconsistent with his testimony at the hearing and is offered in compliance with Section 770.

1236. Evidence of a statement previously made by a witness is not made inadmissible by the hearsay rule if the statement is consistent with his testimony at the hearing and is offered in compliance with Section 791.

1237. (a) Evidence of a statement previously made by a witness is not made inadmissible by the hearsay rule if the statement would have been admissible if made by him while testifying, the statement concerns a matter as to which the witness has insufficient present recollection to enable him to testify fully and accurately, and the statement is contained in a writing which:

(1) Was made at a time when the fact recorded in the writing actually occurred or was fresh in the witness' memory;

(2) Was made (i) by the witness himself or under his direction or (ii) by some other person for the purpose of recording the witness' statement at the time it was made;

(3) Is offered after the witness testifies that the statement he made was a true statement of such fact; and

(4) Is offered after the writing is authenticated as an accurate record of the statement.

(b) The writing may be read into evidence, but the writing itself may not be received in evidence unless offered by an adverse party.

1238. Evidence of a statement previously made by a witness is not made inadmissible by the hearsay rule if the statement would have been admissible if made by him while testifying and:

(a) The statement is an identification of a party or another as a person who participated in a crime or other occurrence;

(b) The statement was made at a time when the crime or other occurrence was fresh in the witness' memory; and

(c) The evidence of the statement is offered after the witness testifies that he made the identification and that it was a true reflection of his opinion at that time.

Article 4. Spontaneous, Contemporaneous,  
and Dying Declarations

1240. Evidence of a statement is not made inadmissible by the hearsay rule if the statement:

(a) Purports to narrate, describe, or explain an act, condition, or event perceived by the declarant; and

(b) Was made spontaneously while the declarant was under the stress of excitement caused by such perception.

1 1241. Evidence of a statement is not made inadmissible by  
2 the hearsay rule if the statement:

3 (a) ~~Purports to qualify or explain~~ *Is offered to explain,*  
4 *qualify, or make understandable* conduct of the declarant; and

5 (b) Was made while the declarant was engaged in such  
6 conduct.

7 1242. Evidence of a statement made by a dying person  
8 respecting the cause and circumstances of his death is not made  
9 inadmissible by the hearsay rule if the statement was made  
10 upon his personal knowledge and under a sense of immediately  
11 impending death.

12

13 Article 5. Statements of Mental or Physical State

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15 1250. (a) Subject to Section 1252, evidence of a statement  
16 of the declarant's then existing state of mind, emotion, or  
17 physical sensation (including a statement of intent, plan, mo-  
18 tive, design, mental feeling, pain, or bodily health) is not made  
19 inadmissible by the hearsay rule when:

20 (1) The evidence is offered to prove the declarant's state  
21 of mind, emotion, or physical sensation at that time or at any  
22 other time when it is itself an issue in the action; or

23 (2) The evidence is offered to prove or explain acts or con-  
24 duct of the declarant.

25 (b) This section does not make admissible evidence of a  
26 statement of memory or belief to prove the fact remembered or  
27 believed.

28 1251. Subject to Section 1252, evidence of a statement of  
29 the declarant's state of mind, emotion, or physical sensation  
30 (including a statement of intent, plan, motive, design, mental  
31 feeling, pain, or bodily health) at a time prior to the statement  
32 is not made inadmissible by the hearsay rule if:

33 (a) The declarant is unavailable as a witness; and

34 (b) The evidence is offered to prove such prior state of  
35 mind, emotion, or physical sensation when it is itself an issue  
36 in the action and the evidence is not offered to prove any fact  
37 other than such state of mind, emotion, or physical sensation.

38 1252. Evidence of a statement is inadmissible under this  
39 article if the statement was made under circumstances such as  
40 to indicate its lack of trustworthiness.

41

42 Article 6. Statements Relating to Wills and to Claims  
43 Against Estates

44

45 1260. (a) Evidence of a statement made by a declarant  
46 who is unavailable as a witness that he has or has not made a  
47 will, or has or has not revoked his will, or that identifies his  
48 will, is not made inadmissible by the hearsay rule.

49 (b) Evidence of a statement is inadmissible under this sec-  
50 tion if the statement was made under circumstances such as to  
51 indicate its lack of trustworthiness.

1 1261. (a) Evidence of a statement is not made inadmissible  
2 by the hearsay rule when offered in an action upon a claim  
3 or demand against the estate of the declarant if the statement  
4 was made upon the personal knowledge of the declarant at a  
5 time when the matter had been recently perceived by him and  
6 while his recollection was clear.

7 (b) Evidence of a statement is inadmissible under this sec-  
8 tion if the statement was made under circumstances such as  
9 to indicate its lack of trustworthiness.

10  
11 Article 7. Business Records

12  
13 1270. As used in this article, "a business" includes every  
14 kind of business, governmental activity, profession, occupation,  
15 calling, or operation of institutions, whether carried on for  
16 profit or not.

17 1271. Evidence of a writing made as a record of an act,  
18 condition, or event is not made inadmissible by the hearsay  
19 rule when offered to prove the act, condition, or event if:

20 (a) The writing was made in the regular course of a busi-  
21 ness;

22 (b) The writing was made at or near the time of the act,  
23 condition, or event;

24 (c) The custodian or other qualified witness testifies to its  
25 identity and the mode of its preparation; and

26 (d) The sources of information and method and time of  
27 preparation were such as to indicate its trustworthiness.

28 1272. Evidence of the absence from the records of a busi-  
29 ness of a record of an asserted act, condition, or event is not  
30 made inadmissible by the hearsay rule when offered to prove  
31 the nonoccurrence of the act or event, or the nonexistence of  
32 the condition, if:

33 (a) It was the regular course of that business to make rec-  
34 ords of all such acts, conditions, or events at or near the time  
35 of the act, condition, or event and to preserve them; and

36 (b) The sources of information and method and time of  
37 preparation of the records of that business were such that the  
38 absence of a record of an act, condition, or event is a trust-  
39 worthy indication that the act or event did not occur or the  
40 condition did not exist.

41  
42 Article 8. Official Records and Other Official Writings

43  
44 1280. Evidence of a writing made as a record of an act,  
45 condition, or event is not made inadmissible by the hearsay  
46 rule when offered to prove the act, condition, or event if:

47 (a) The writing was made by and within the scope of duty  
48 of a public employee;

49 (b) The writing was made at or near the time of the act,  
50 condition, or event; and

51 (c) The sources of information and method and time of  
52 preparation were such as to indicate its trustworthiness

1 1281. Evidence of a writing made as a record of a birth,  
2 fetal death, death, or marriage is not made inadmissible  
3 by the hearsay rule if the maker was required by law to file  
4 the writing in a designated public office and the writing was  
5 made and filed as required by law.

6 1282. A written finding of presumed death made by an  
7 employee of the United States authorized to make such finding  
8 pursuant to the Federal Missing Persons Act (56 Stats. 143,  
9 1092, and P.L. 408, Ch. 371, 2d Sess. 78th Cong.; 50 U.S.C.  
10 App. 1001-1016), as enacted or as heretofore or hereafter  
11 amended, shall be received in any court, office, or other place  
12 in this state as evidence of the death of the person therein  
13 found to be dead and of the date, circumstances, and place  
14 of his disappearance.

15 1283. An official written report or record that a person is  
16 missing, missing in action, interned in a foreign country,  
17 captured by a hostile force, beleaguered by a hostile force,  
18 besieged by a hostile force, or detained in a foreign country  
19 against his will, or is dead or is alive, made by an employee  
20 of the United States authorized by any law of the United  
21 States to make such report or record shall be received in any  
22 court, office, or other place in this state as evidence that such  
23 person is missing, missing in action, interned in a foreign  
24 country, captured by a hostile force, beleaguered by a hostile  
25 force, besieged by a hostile force, or detained in a foreign  
26 country against his will, or is dead or is alive.

27 1284. Evidence of a writing made by the public employee  
28 who is the official custodian of the records in a public office,  
29 reciting diligent search and failure to find a record, is not  
30 made inadmissible by the hearsay rule when offered to prove  
31 the absence of a record in that office.

32

### 33 Article 9. Former Testimony

34

35 1290. As used in this article, "former testimony" means  
36 testimony given under oath in:

37 (a) Another action or in a former hearing or trial of the  
38 same action;

39 (b) A proceeding to determine a controversy conducted by  
40 or under the supervision of an agency that has the power to  
41 determine such a controversy and is an agency of the United  
42 States or a public entity in the United States;

43 (c) A deposition taken in compliance with law in another  
44 action; or

45 (d) An arbitration proceeding if the evidence of such  
46 former testimony is a verbatim transcript thereof.

47 1291. (a) Evidence of former testimony is not made inad-  
48 missible by the hearsay rule if the declarant is unavailable as  
49 a witness and:

50 (1) The former testimony is offered against a person who  
51 offered it in evidence in his own behalf on the former occasion  
52 or against the successor in interest of such person; or

1 (2) The party against whom the former testimony is offered  
 2 was a party to the action or proceeding in which the testimony  
 3 was given and had the right and opportunity to cross-examine  
 4 the declarant with an interest and motive similar to that which  
 5 he has at the hearing.

6 (b) The admissibility of former testimony under this section  
 7 is subject to the same limitations and objections as though the  
 8 declarant were testifying at the hearing, except that former  
 9 testimony offered under this section is not subject to:

10 (1) Objections to the form of the question which were not  
 11 made at the time the former testimony was given.

12 (2) Objections based on competency or privilege which did  
 13 not exist at the time the former testimony was given.

14 1292. (a) Evidence of former testimony is not made inad-  
 15 missible by the hearsay rule if:

16 (1) The declarant is unavailable as a witness;

17 (2) The former testimony is offered in a civil action ~~or~~  
 18 ~~against the prosecution in a criminal action~~; and

19 (3) The issue is such that the party to the action or pro-  
 20 ceeding in which the former testimony was given had the  
 21 right and opportunity to cross-examine the declarant with an  
 22 interest and motive similar to that which the party against  
 23 whom the testimony is offered has at the hearing.

24 (b) The admissibility of former testimony under this section  
 25 is subject to the same limitations and objections as though the  
 26 declarant were testifying at the hearing, except that former  
 27 testimony offered under this section is not subject to objections  
 28 based on competency or privilege which did not exist at the  
 29 time the former testimony was given.

30  
 31 Article 10. Judgments  
 32

33 1300. Evidence of a final judgment adjudging a person  
 34 guilty of a crime punishable as a felony is not made inad-  
 35 missible by the hearsay rule when offered in a civil action to  
 36 prove any fact essential to the judgment unless the judgment  
 37 was based on a plea of nolo contendere.

38 1301. Evidence of a final judgment is not made inadmis-  
 39 sible by the hearsay rule when offered by the judgment debtor  
 40 to prove any fact which was essential to the judgment in an  
 41 action in which he seeks to:

42 (a) Recover partial or total indemnity or exoneration for  
 43 money paid or liability incurred because of the judgment;

44 (b) Enforce a warranty to protect the judgment debtor  
 45 against the liability determined by the judgment; or

46 (c) Recover damages for breach of warranty substantially  
 47 the same as the warranty determined by the judgment to have  
 48 been breached.

49 1302. When the liability, obligation, or duty of a third  
 50 person is in issue in a civil action, evidence of a final judg-  
 51 ment against that person is not made inadmissible by the



1 hearsay rule when offered to prove such liability, obligation,  
2 or duty.

3 Article 11. Family History

4  
5 1310. (a) Subject to subdivision (b), evidence of a state-  
6 ment by a declarant who is unavailable as a witness concerning  
7 his own birth, marriage, divorce, legitimacy, relationship by  
8 blood or marriage, race, ancestry, or other similar fact of his  
9 family history is not made inadmissible by the hearsay rule,  
10 even though the declarant had no means of acquiring personal  
11 knowledge of the matter declared.

12 (b) Evidence of a statement is inadmissible under this sec-  
13 tion if the statement was made under circumstances such as to  
14 indicate its lack of trustworthiness.

15 1311. (a) Subject to subdivision (b), evidence of a state-  
16 ment concerning the birth, marriage, divorce, death, legiti-  
17 macy, race, ancestry, relationship by blood or marriage, or  
18 other similar fact of the family history of a person other  
19 than the declarant is not made inadmissible by the hearsay  
20 rule if the declarant is unavailable as a witness and:

21 (1) The declarant was related to the other by blood or  
22 marriage; or

23 (2) The declarant was otherwise so intimately associated  
24 with the other's family as to be likely to have had accurate  
25 information concerning the matter declared and made the  
26 statement (i) upon information received from the other or  
27 from a person related by blood or marriage to the other or  
28 (ii) upon repute in the other's family.

29 (b) Evidence of a statement is inadmissible under this sec-  
30 tion if the statement was made under circumstances such as to  
31 indicate its lack of trustworthiness.

32 1312. Evidence of entries in family bibles or other family  
33 books or charts, engravings on rings, family portraits, engrav-  
34 ings on urns, crypts, or tombstones, and the like, is not made  
35 inadmissible by the hearsay rule when offered to prove the  
36 birth, marriage, divorce, death, legitimacy, race, ancestry, re-  
37 lationship by blood or marriage, or other similar fact of the  
38 family history of a member of the family by blood or marriage.

39 1313. Evidence of reputation among members of a family  
40 is not made inadmissible by the hearsay rule if the reputation  
41 concerns the birth, marriage, divorce, death, legitimacy, race,  
42 ancestry, relationship by blood or marriage, or other similar  
43 fact of the family history of a member of the family by blood  
44 or marriage.

45 1314. Evidence of reputation in a community concerning  
46 the date or fact of birth, marriage, divorce, or death of a per-  
47 son resident in the community at the time of the reputation  
48 is not made inadmissible by the hearsay rule.

49 1315. Evidence of a statement concerning a person's birth,  
50 marriage, divorce, death, legitimacy, race, ancestry, relation-  
51 ship by blood or marriage, or other similar fact of family his-  
52 tory which is contained in a writing made as a record of a

1 Article 13. Dispositive Instruments and Ancient Writings

2  
3 1330. Evidence of a statement contained in a deed of con-  
4 veyance or a will or other writing purporting to affect an  
5 interest in real or personal property is not made inadmissible  
6 by the hearsay rule if:

7 (a) The matter stated was relevant to the purpose of the  
8 writing;

9 (b) The matter stated would be relevant to an issue as to  
10 an interest in the property; and

11 (c) The dealings with the property since the statement was  
12 made have not been inconsistent with the truth of the state-  
13 ment.

14 1331. Evidence of a statement is not made inadmissible by  
15 the hearsay rule if the statement is contained in a writing  
16 more than 30 years old and the statement has been since  
17 generally acted upon as true by persons having an interest in  
18 the matter.

19

20 Article 14. Commercial, Scientific, and  
21 Similar Publications

22

23 1340. Evidence of a statement, other than an opinion, con-  
24 tained in a tabulation, list, directory, register, or other pub-  
25 lished compilation is not made inadmissible by the hearsay  
26 rule if the compilation is generally used and relied upon as  
27 accurate in the course of a business as defined in Section 1270.

28 1341. Historical works, books of science or art, and pub-  
29 lished maps or charts, made by persons indifferent between  
30 the parties, are not made inadmissible by the hearsay rule  
31 when offered to prove facts of general notoriety and interest.

32

33 DIVISION 11. WRITINGS

34

35 CHAPTER 1. AUTHENTICATION AND PROOF OF WRITINGS

36

37 Article 1. Requirement of Authentication

38

39 1400. Authentication of a writing means (a) the introduc-  
40 tion of evidence sufficient to sustain a finding that it is the  
41 writing that the proponent of the evidence claims it is or (b)  
42 the establishment of such facts by any other means provided  
43 by law.

44 1401. (a) Authentication of a writing is required before  
45 it may be received in evidence.

46 (b) Authentication of a writing is required before second-  
47 ary evidence of its content may be received in evidence.

48 1402. The party producing a writing as genuine which  
49 has been altered, or appears to have been altered, after its  
50 execution, in a part material to the question in dispute, must  
51 account for the alteration or appearance thereof. He may  
52 show that the alteration was made by another, without his

1 concurrence, or was made with the consent of the parties af-  
2 fected by it, or otherwise properly or innocently made, or  
3 that the alteration did not change the meaning or language  
4 of the instrument. If he does that, he may give the writing  
5 in evidence, but not otherwise.

6

7 Article 2. Means of Authenticating and Proving Writings

8

9 1410. Nothing in this article shall be construed to limit  
10 the means by which a writing may be authenticated or proved.

11 1411. Except as provided by statute, the testimony of a  
12 subscribing witness is not required to authenticate a writing.

13 1412. If the testimony of a subscribing witness is required  
14 by statute to authenticate a writing and the subscribing wit-  
15 ness denies or does not recollect the execution of the writing,  
16 the writing may be authenticated by other evidence.

17 1413. A writing may be authenticated by anyone who saw  
18 the writing made or executed, including a subscribing witness.

19 1414. A writing may be authenticated by evidence that:

20 (a) The party against whom it is offered has at any time  
21 admitted its authenticity; or

22 (b) The writing has been acted upon as authentic by the  
23 party against whom it is offered.

24 1415. A writing may be authenticated by evidence of the  
25 genuineness of the handwriting of the maker.

26 1416. A witness who is not otherwise qualified to testify as  
27 an expert may state his opinion whether a writing is in the  
28 handwriting of a supposed writer if the court finds that he  
29 has personal knowledge of the handwriting of the supposed  
30 writer. Such personal knowledge may be acquired from:

31 (a) Having seen the supposed writer write;

32 (b) Having seen a writing purporting to be in the hand-  
33 writing of the supposed writer and upon which the supposed  
34 writer has acted or been charged;

35 (c) Having received letters in the due course of mail pur-  
36 porting to be from the supposed writer in response to letters  
37 duly addressed and mailed by him to the supposed writer; or

38 (d) Any other means of obtaining personal knowledge of  
39 the handwriting of the supposed writer.

40 1417. The genuineness of handwriting, or the lack thereof,  
41 may be proved by a comparison made by the trier of fact with  
42 handwriting (a) which the court finds was admitted or treated  
43 as genuine by the party against whom the evidence is offered  
44 or (b) otherwise proved to be genuine to the satisfaction of the  
45 court.

46 1418. The genuineness of writing, or the lack thereof, may  
47 be proved by a comparison made by an expert witness with  
48 writing (a) which the court finds was admitted or treated as  
49 genuine by the party against whom the evidence is offered or

50 (b) otherwise proved to be genuine to the satisfaction of the  
51 court.

1 affixed is accompanied by a final statement certifying the genuineness of the signature and the official position of (a) the person who executed the writing or (b) any foreign official who has certified either the genuineness of the signature and official position of the person executing the writing or the genuineness of the signature and official position of another foreign official who has executed a similar certificate in a chain of such certificates beginning with a certificate of the genuineness of the signature and official position of the person executing the writing. The final statement may be made only by a secretary of an embassy or legation, consul general, consul, vice consul, consular agent, or other officer in the foreign service of the United States stationed in the nation, authenticated by the seal of his office.

## CHAPTER 2. SECONDARY EVIDENCE OF WRITINGS

### Article 1. Best Evidence Rule

1500. Except as otherwise provided by statute, no evidence other than the writing itself is admissible to prove the content of a writing. This section shall be known and may be cited as the best evidence rule.

1501. A copy of a writing is not made inadmissible by the best evidence rule if the writing is lost or has been destroyed without fraudulent intent on the part of the proponent of the evidence.

1502. A copy of a writing is not made inadmissible by the best evidence rule if the writing was not reasonably procurable by the proponent by use of the court's process or by other available means.

1503. (a) A copy of a writing is not made inadmissible by the best evidence rule if, at a time when the writing was under the control of the opponent, the opponent was expressly or impliedly notified, by the pleadings or otherwise, that the writing would be needed at the hearing, and on request at the hearing the opponent has failed to produce the writing. In a criminal action, the request at the hearing to produce the writing may not be made in the presence of the jury.

(b) Though a writing requested by one party is produced by another, and is thereupon inspected by the party calling for it, the party calling for the writing is not obliged to introduce it as evidence in the action.

1504. A copy of a writing is not made inadmissible by the best evidence rule if the writing is not closely related to the controlling issues and it would be inexpedient to require its production.

1505. If the proponent does not have in his possession or under his control a copy of a writing described in Section 1501, 1502, 1503, or 1504, other secondary evidence of the content of the writing is not made inadmissible by the best evi-

1 dence rule. This section does not apply to a writing that is also  
2 described in Section 1506 or 1507.

3 1506. A copy of a writing is not made inadmissible by the  
4 best evidence rule if the writing is a record or other writing  
5 that is in the custody of a public entity.

6 1507. A copy of a writing is not made inadmissible by the  
7 best evidence rule if the writing has been recorded in the pub-  
8 lic records and the record or an attested or a certified copy  
9 thereof is made evidence of the writing by statute.

10 1508. If the proponent does not have in his possession a  
11 copy of a writing described in Section 1506 or 1507 and could  
12 not in the exercise of reasonable diligence have obtained a  
13 copy, other secondary evidence of the content of the writing  
14 is not made inadmissible by the best evidence rule.

15 1509. Secondary evidence, whether written or oral, of the  
16 content of a writing is not made inadmissible by the best evi-  
17 dence rule if the writing consists of numerous accounts or  
18 other writings that cannot be examined in court without great  
19 loss of time, and the evidence sought from them is only the  
20 general result of the whole; but the court in its discretion  
21 may require that such accounts or other writings be produced  
22 for inspection by the adverse party.

23 1510. A copy of a writing is not made inadmissible by the  
24 best evidence rule if the writing has been produced at the  
25 hearing and made available for inspection by the adverse party.

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## 27 Article 2. Official Writings and Recorded Writings

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29 1530. (a) A purported copy of a writing in the custody  
30 of a public entity, or of an entry in such a writing, is prima  
31 facie evidence of the existence and content of such writing  
32 or entry if:

33 (1) The copy purports to be published by the authority of  
34 the nation or state, or public entity therein, in which the writ-  
35 ing is kept;

36 (2) The office in which the writing is kept is within the  
37 United States or within the Panama Canal Zone, the Trust  
38 Territory of the Pacific Islands, or the Ryukyu Islands, and  
39 the copy is attested or certified as a correct copy of the writing  
40 or entry by a public employee, or a deputy of a public em-  
41 ployee, having the legal custody of the writing; or

42 (3) The office in which the writing is kept is not within  
43 the United States or any other place described in paragraph  
44 (2) and the copy is attested as a correct copy of the writing  
45 or entry by a person having authority to make the attestation.  
46 The attestation must be accompanied by a final statement  
47 certifying the genuineness of the signature and the official posi-  
48 tion of (i) the person who attested the copy as a correct copy  
49 or (ii) any foreign official who has certified either the genuine-  
50 ness of the signature and official position of the person attest-  
51 ing the copy or the genuineness of the signature and official  
52 position of another foreign official who has executed a similar

1 certificate in a chain of such certificates beginning with a cer-  
2 tificate of the genuineness of the signature and official position  
3 of the person attesting the copy. The final statement may be  
4 made only by a secretary of an embassy or legation, consul  
5 general, consul, vice consul, consular agent, or other officer in  
6 the foreign service of the United States stationed in the nation  
7 in which the writing is kept, authenticated by the seal of his  
8 office.

9 (b) The presumptions established by this section are pre-  
10 sumptions affecting the burden of producing evidence.

11 1531. For the purpose of evidence, whenever a copy of a  
12 writing is attested or certified, the attestation or certificate  
13 must state in substance that the copy is a correct copy of the  
14 original, or of a specified part thereof, as the case may be.

15 1532. (a) The official record of a writing is prima facie  
16 evidence of the existence and content of the original recorded  
17 writing if :

18 (1) The record is in fact a record of an office of a public  
19 entity; and

20 (2) A statute authorized such a writing to be recorded in  
21 that office.

22 (b) The presumption established by this section is a pre-  
23 sumption affecting the burden of producing evidence.

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### Article 3. Photographic Copies of Writings

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1550. A photostatic, microfilm, microcard, miniature photo-  
graphic or other photographic copy or reproduction, or an en-  
largement thereof, of a writing is as admissible as the writing  
itself if such copy or reproduction was made and preserved as  
a part of the records of a business (as defined by Section  
1270) in the regular course of such business. The introduction  
of such copy, reproduction, or enlargement does not preclude  
admission of the original writing if it is still in existence.

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### Article 4. Hospital Records

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1560. (a) As used in this article, "hospital" means a hos-  
pital located in this State that is operated by a public entity  
or any licensed hospital located in this state.

1 (b) Except as provided in Section 1564, when a subpoena  
2 duces tecum is served upon the custodian of records or other  
3 qualified witness from a hospital in an action in which the  
4 hospital is neither a party nor the place where any cause  
5 of action is alleged to have arisen and such subpoena requires  
6 the production of all or any part of the records of the hospital  
7 relating to the care or treatment of a patient in such hospital,  
8 it is sufficient compliance therewith if the custodian or other  
9 officer of the hospital, within five days after the receipt of  
10 such subpoena, delivers by mail or otherwise a true and correct  
11 copy (which may be a photographic or microphotographic re-  
12 production) of all the records described in such subpoena to the  
13 clerk of court or to the court if there be no clerk or to such  
14 other person as described in subdivision (a) of Section 2018  
15 of the Code of Civil Procedure, together with the affidavit de-  
16 scribed in Section 1561.

17 (c) The copy of the records shall be separately enclosed in  
18 an inner envelope or wrapper, sealed, with the title and num-  
19 ber of the action, name of witness, and date of subpoena clearly  
20 inscribed thereon; the sealed envelope or wrapper shall then  
21 be enclosed in an outer envelope or wrapper, sealed, directed  
22 as follows:

23 (1) If the subpoena directs attendance in court, to the clerk  
24 of such court, or to the judge thereof if there be no clerk.

25 (2) If the subpoena directs attendance at a deposition or  
26 other hearing, to the officer before whom the deposition is to  
27 be taken, at the place designated in the subpoena for the taking  
28 of the deposition or at his place of business.

29 (3) In other cases, to the officer, body, or tribunal conduct-  
30 ing the hearing, at a like address.

31 (d) Unless the parties to the proceeding otherwise agree,  
32 or unless the sealed envelope or wrapper is returned to a  
33 witness who is to appear personally, the copy of the records  
34 shall remain sealed and shall be opened only at the time of  
35 trial, deposition, or other hearing, upon the direction of the  
36 judge, officer, body, or tribunal conducting the proceeding, in  
37 the presence of all parties who have appeared in person or  
38 by counsel at such trial, deposition, or hearing. Records which  
39 are not introduced in evidence or required as part of the  
40 record shall be returned to the person or entity from whom  
41 received.

42 1561. (a) The records shall be accompanied by the affi-  
43 davit of the custodian or other qualified witness, stating in  
44 substance each of the following:

45 (1) That the affiant is the duly authorized custodian of the  
46 records and has authority to certify the records.

47 (2) That the copy is a true copy of all the records described  
48 in the subpoena.

49 (3) That the records were prepared by the personnel of  
50 the hospital, staff physicians, or persons acting under the  
51 control of either, in the ordinary course of hospital business  
52 at or near the time of the act, condition, or event.

1 (b) If the hospital has none of the records described, or  
2 only part thereof, the custodian shall so state in the affidavit,  
3 and deliver the affidavit and such records as are available in  
4 the manner provided in Section 1560.

5 1562. The copy of the records is admissible in evidence to  
6 the same extent as though the original thereof were offered  
7 and the custodian had been present and testified to the matters  
8 stated in the affidavit. The affidavit is admissible ~~in evidence~~  
9 ~~and as evidence of~~ the matters stated therein pursuant to Sec-  
10 tion 1561 ~~and the matters so stated~~ are presumed true. When  
11 more than one person has knowledge of the facts, more than  
12 one affidavit may be made. The presumption established by this  
13 section is a presumption affecting the burden of producing  
14 evidence.

15 1563. This article shall not be interpreted to require tender  
16 or payment of more than one witness and mileage fee or other  
17 charge unless there is an agreement to the contrary.

18 1564. The personal attendance of the custodian or other  
19 qualified witness and the production of the original records is  
20 required if the subpoena duces tecum contains a clause which  
21 reads:

22 "The personal attendance of the custodian or other qualified  
23 witness and the production of the original records is required  
24 by this subpoena. The procedure authorized pursuant to sub-  
25 division (b) of Section 1560, and Sections 1561 and 1562, of  
26 the Evidence Code will not be deemed sufficient compliance  
27 with this subpoena."

28 1565. If more than one subpoena duces tecum is served  
29 upon the custodian of records or other qualified witness from  
30 a hospital and the personal attendance of the custodian or  
31 other qualified witness is required pursuant to Section 1564,  
32 the witness shall be deemed to be the witness of the party serv-  
33 ing the first such subpoena duces tecum.

34 1566. This article applies in any proceeding in which testi-  
35 mony can be compelled.

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37 CHAPTER 3. OFFICIAL WRITINGS AFFECTING PROPERTY

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39 1600. The official record of a document purporting to  
40 establish or affect an interest in property is prima facie evi-  
41 dence of the existence and content of the original recorded  
42 document and its execution and delivery by each person by  
43 whom it purports to have been executed if:

44 (a) The record is in fact a record of an office of a public en-  
45 tity; and

46 (b) A statute authorized such a document to be recorded in  
47 that office.

48 1601. (a) Subject to subdivisions (b) and (c), when in  
49 any action it is desired to prove the contents of the official  
50 record of any writing lost or destroyed by conflagration or  
51 other public calamity, after proof of such loss or <sup>destruction</sup>



1 the following may, without further proof, be admitted in evi-  
2 dence to prove the contents of such record:

3 (1) Any abstract of title made and issued and certified as  
4 correct prior to such loss or destruction, and purporting to  
5 have been prepared and made in the ordinary course of busi-  
6 ness by any person engaged in the business of preparing and  
7 making abstracts of title prior to such loss or destruction; or

8 (2) Any abstract of title, or of any instrument affecting  
9 title, made, issued, and certified as correct by any person en-  
10 gaged in the business of insuring titles or issuing abstracts of  
11 title to real estate, whether the same was made, issued, or  
12 certified before or after such loss or destruction and whether  
13 the same was made from the original records or from abstract  
14 and notes, or either, taken from such records in the preparation  
15 and upkeep of its plant in the ordinary course of its  
16 business.

17 (b) No proof of the loss of the original writing is required  
18 other than the fact that the original is not known to the party  
19 desiring to prove its contents to be in existence.

20 (c) Any party desiring to use evidence admissible under  
21 this section shall give reasonable notice in writing to all other  
22 parties to the action who have appeared therein, of his inten-  
23 tion to use such evidence at the trial of the action, and shall  
24 give all such other parties a reasonable opportunity to inspect  
25 the evidence, and also the abstracts, memoranda, or notes from  
26 which it was compiled, and to take copies thereof.

27 1602. If a patent for mineral lands within this state  
28 issued or granted by the United States of America, contains a  
29 statement of the date of the location of a claim or claims upon  
30 which the granting or issuance of such patent is based, such  
31 statement is prima facie evidence of the date of such location.

32 1603. A deed of conveyance of real property, purporting  
33 to have been executed by a proper officer in pursuance of  
34 legal process of any of the courts of record of this state, ac-  
35 knowledged and recorded in the office of the recorder of the  
36 county wherein the real property therein described is situated,  
37 or the record of such deed, or a certified copy of such record,  
38 is prima facie evidence that the property or interest therein  
39 described was thereby conveyed to the grantee named in such  
40 deed.

41 1604. A certificate of purchase, or of location, of any lands  
42 in this state, issued or made in pursuance of any law of the  
43 United States or of this state, is prima facie evidence that  
44 the holder or assignee of such certificate is the owner of the  
45 land described therein; but this evidence may be overcome  
46 by proof that, at the time of the location, or time of filing a  
47 preemption claim on which the certificate may have been  
48 issued, the land was in the adverse possession of the adverse  
49 party, or those under whom he claims, or that the adverse-  
50 party is holding the land for mining purposes.

51 1605. Duplicate copies and authenticated translations of  
52 original Spanish title papers relating to land claims in this

1 state, derived from the Spanish or Mexican governments,  
2 prepared under the supervision of the Keeper of Archives, au-  
3 thenticated by the Surveyor-General or his successor and by  
4 the Keeper of Archives, and filed with a county recorder, in ac-  
5 cordance with Chapter 281 of the Statutes of 1865-66, are re-  
6 ceivable as prima facie evidence with like force and effect as  
7 the originals and without proving the execution of such  
8 originals.

9 ~~SEC. 2.~~ 3. Section 2904 of the Business and Professions  
10 Code is repealed.

11 ~~SEC. 3.~~ 4. Section 5012 of the Business and Professions  
12 Code is amended to read:

13 5012. The board shall have a seal.

14 ~~SEC. 4.~~ 5. Section 25009 of the Business and Professions  
15 Code is amended to read:

16 25009. Any defendant in any action brought under this  
17 chapter or any person who may be a witness therein under Sec-  
18 tions 2016, 2018, and 2019 of the Code of Civil Procedure or  
19 Section 776 of the Evidence Code, and the books and records  
20 of any such defendant or witness, may be brought into court  
21 and the books and records may be introduced by reference into  
22 evidence, but no information so obtained may be used against  
23 the defendant or any such witness as a basis for a misdemeanor  
24 prosecution under this chapter.

25 ~~SEC. 5.~~ 6. Section 53 of the Civil Code is amended to read:

26 53. (a) Every provision in a written instrument relating to  
27 real property which purports to forbid or restrict the convey-  
28 ance, encumbrance, leasing, or mortgaging of such real prop-  
29 erty to any person of a specified race, color, religion, ancestry,  
30 or national origin, is void and every restriction or prohibition  
31 as to the use or occupation of real property because of the  
32 user's or occupier's race, color, religion, ancestry, or national  
33 origin is void.

34 (b) Every restriction or prohibition, whether by way of  
35 covenant, condition upon use or occupation, or upon transfer  
36 of title to real property, which restriction or prohibition di-  
37 rectly or indirectly limits the acquisition, use or occupation of  
38 such property because of the acquirer's, user's, or occupier's  
39 race, color, religion, ancestry, or national origin is void.

40 (c) In any action to declare that a restriction or prohibition  
41 specified in subdivision (a) or (b) of this section is void, the  
42 court takes judicial notice of the recorded instrument or in-  
43 struments containing such prohibitions or restrictions in the  
44 same manner that it takes judicial notice of the matters listed  
45 in Section 452 of the Evidence Code.

46 ~~SEC. 6.~~ 7. Section 164.5 is added to the Civil Code, to  
47 read:

48 164.5. The presumption that property acquired during mar-  
49 riage is community property does not apply to any property  
50 to which legal or equitable title is held by a person at the time  
51 of his death if the marriage during which the property was

1 acquired was terminated by divorce more than four years  
2 prior to such death.

3 SEC. 7. 8. Section 193 of the Civil Code is repealed.

4 SEC. 8. 9. Section 194 of the Civil Code is repealed.

5 SEC. 9. 10. Section 195 of the Civil Code is repealed.

6 ~~SEC. 10. Section 3544 is added to the Civil Code, to read:~~  
7 ~~3544. A person intends the ordinary consequences of his~~  
8 ~~voluntary act.~~

9 SEC. 11. Section 3545 is added to the Civil Code, to read:  
10 3545. Private transactions are fair and regular.

11 SEC. 12. Section 3546 is added to the Civil Code, to read:  
12 3546. Things happen according to the ordinary course of  
13 nature and the ordinary habits of life.

14 SEC. 13. Section 3547 is added to the Civil Code, to read:  
15 3547. A thing continues to exist as long as is usual with  
16 things of that nature.

17 SEC. 14. Section 3548 is added to the Civil Code, to read:  
18 3548. The law has been obeyed.

19 SEC. 15. Section 1 of the Code of Civil Procedure is  
20 amended to read:

21 1. This act shall be known as the Code of Civil Procedure,  
22 and is divided into four parts, as follows:

23 Part I. Of Courts of Justice.

24 II. Of Civil Actions.

25 III. Of Special Proceedings of a Civil Nature.

26 IV. Miscellaneous Provisions.

27 SEC. 16. Section 117g of the Code of Civil Procedure is  
28 amended to read:

29 117g. No attorney at law or other person than the plaintiff  
30 and defendant shall take any part in the filing or the prosecu-  
31 tion or defense of such litigation in the small claims court.  
32 The plaintiff and defendant shall have the right to offer evi-  
33 dence in their behalf by witnesses appearing at such hearing,  
34 or at any other time. The presence of the plaintiff or defend-  
35 ant, whether individual or corporate, at the hearing shall not  
36 be required to permit the proof of the items of an account but  
37 such proof shall be in accordance with the provisions of Sec-  
38 tions 1270 and 1271 of the Evidence Code. The judge or justice  
39 may also informally make any investigation of the controversy  
40 between the parties either in or out of court and give judg-  
41 ment and make such orders as to time of payment or otherwise  
42 as may, by him, be deemed to be right and just. The provisions  
43 of Section 579 of the Code of Civil Procedure are hereby made  
44 applicable to small claims court actions.

45 SEC. 17. Section 125 of the Code of Civil Procedure is  
46 amended to read:

47 125. In an action for divorce or seduction, the court may  
48 direct the trial of any issue of fact joined therein to be private,  
49 and may exclude all persons except the officers of the court, the  
50 parties, their witnesses, and counsel. Nothing in this section  
51 prevents the exclusion of a witness pursuant to Evidence Code  
52 Section 777.

1 SEC. 18. Section 153 of the Code of Civil Procedure is  
2 amended to read:

3 153. Except as otherwise expressly provided by law, the  
4 seal of a court need not be affixed to any proceeding therein,  
5 or to any document, except:

6 1. To a writ;

7 2. To a summons;

8 3. To a warrant of arrest;

9 4. To the certificate of probate of a will or of the appoint-  
10 ment of an executor, administrator, or guardian.

11 SEC. 19. Section 433 of the Code of Civil Procedure is  
12 amended to read:

13 433. When any of the matters enumerated in Section 430  
14 do not appear upon the face of the complaint, the objection  
15 may be taken by answer; except that when the ground of  
16 demurrer is that there is another action or proceeding pending  
17 between the same parties for the same cause and the court  
18 may take judicial notice of the other action or proceeding  
19 under Division 4 (commencing with Section 450) of the Evi-  
20 dence Code, an affidavit may be filed with the demurrer for  
21 the sole purpose of establishing such fact or invoking such  
22 notice.

23 SEC. 20. Section 631.7 is added to the Code of Civil Pro-  
24 cedure, to read:

25 631.7. Ordinarily, unless the court otherwise directs, the  
26 trial of a civil action tried by the court without a jury shall  
27 proceed in the order specified in Section 607.

28 SEC. 21. Section 1256.2 of the Code of Civil Procedure is  
29 repealed.

30 SEC. 22. Section 1747 of the Code of Civil Procedure is  
31 amended to read:

32 1747. Notwithstanding the provisions of Section 124 of the  
33 Code of Civil Procedure, all superior court hearings or con-  
34 ferences in proceedings under this chapter shall be held in  
35 private and the court shall exclude all persons except the offi-  
36 cers of the court, the parties, their counsel and witnesses. Con-  
37 ferences may be held with each party and his counsel sep-  
38 arately and in the discretion of the judge, commissioner or  
39 counselor conducting the conference or hearing, counsel for  
40 one party may be excluded when the adverse party is present.  
41 All communications, verbal or written, from parties to the  
42 judge, commissioner or counselor in a proceeding under this  
43 chapter shall be deemed to be official information within the  
44 meaning of Section 1040 of the Evidence Code.

45 The files of the conciliation court shall be closed. The peti-  
46 tion, supporting affidavit, reconciliation agreement and any  
47 court order made in the matter may be opened to inspection  
48 by any party or his counsel upon the written authority of the  
49 judge of the conciliation court.

50 SEC. 23. The heading of Part IV of the Code of Civil Pro-  
51 cedure is amended to read:

## PART IV. MISCELLANEOUS PROVISIONS

- 1  
2  
3 SEC. 24. Section 1823 of the Code of Civil Procedure is re-  
4 pealed.  
5 SEC. 25. Section 1824 of the Code of Civil Procedure is re-  
6 pealed.  
7 SEC. 26. Section 1825 of the Code of Civil Procedure is re-  
8 pealed.  
9 SEC. 27. Section 1826 of the Code of Civil Procedure is re-  
10 pealed.  
11 SEC. 28. Section 1827 of the Code of Civil Procedure is re-  
12 pealed.  
13 SEC. 29. Section 1828 of the Code of Civil Procedure is re-  
14 pealed.  
15 SEC. 30. Section 1829 of the Code of Civil Procedure is re-  
16 pealed.  
17 SEC. 31. Section 1830 of the Code of Civil Procedure is re-  
18 pealed.  
19 SEC. 32. Section 1831 of the Code of Civil Procedure is re-  
20 pealed.  
21 SEC. 33. Section 1832 of the Code of Civil Procedure is re-  
22 pealed.  
23 SEC. 34. Section 1833 of the Code of Civil Procedure is re-  
24 pealed.  
25 SEC. 35. Section 1834 of the Code of Civil Procedure is re-  
26 pealed.  
27 SEC. 36. Section 1836 of the Code of Civil Procedure is re-  
28 pealed.  
29 SEC. 37. Section 1837 of the Code of Civil Procedure is re-  
30 pealed.  
31 SEC. 38. Section 1838 of the Code of Civil Procedure is re-  
32 pealed.  
33 SEC. 39. Section 1839 of the Code of Civil Procedure is re-  
34 pealed.  
35 SEC. 40. Section 1844 of the Code of Civil Procedure is re-  
36 pealed.  
37 SEC. 41. Section 1845 of the Code of Civil Procedure is re-  
38 pealed.  
39 SEC. 42. Section 1845.5 of the Code of Civil Procedure is  
40 repealed.  
41 SEC. 42. Section 1845.5 of the Code of Civil Procedure is  
42 renumbered and amended to read:  
43 1845.5.  
44 1247c. In an eminent domain proceeding a witness, other-  
45 wise qualified, may testify with respect to the value of the real  
46 property including the improvements situated thereon or the  
47 value of any interest in real property to be taken, and may  
48 testify on direct examination as to his knowledge of the amount  
49 paid for comparable property or property interests. In render-  
50 ing his opinion as to highest and best use and market value of  
51 the property sought to be condemned the witness shall be per-  
52 mitted to consider and give evidence as to the nature and value

1 of the improvements and the character of the existing uses  
2 being made of the properties in the general vicinity of the  
3 property sought to be condemned. *Nothing in this section*  
4 *makes inadmissible any evidence that is admissible under Sec-*  
5 *tions 800 to 805, inclusive, of the Evidence Code or under any*  
6 *other provision of the Evidence Code.*

7 SEC. 43. Section 1846 of the Code of Civil Procedure is re-  
8 pealed.

9 SEC. 44. Section 1847 of the Code of Civil Procedure is re-  
10 pealed.

11 SEC. 45. Section 1848 of the Code of Civil Procedure is re-  
12 pealed.

13 SEC. 46. Section 1849 of the Code of Civil Procedure is re-  
14 pealed.

15 SEC. 47. Section 1850 of the Code of Civil Procedure is re-  
16 pealed.

17 SEC. 48. Section 1851 of the Code of Civil Procedure is re-  
18 pealed.

19 SEC. 49. Section 1852 of the Code of Civil Procedure is re-  
20 pealed.

21 SEC. 50. Section 1853 of the Code of Civil Procedure is re-  
22 pealed.

23 SEC. 51. Section 1854 of the Code of Civil Procedure is re-  
24 pealed.

25 SEC. 52. Section 1855 of the Code of Civil Procedure is re-  
26 pealed.

27 SEC. 53. Section 1855a of the Code of Civil Procedure is  
28 repealed.

29 SEC. 54. Section 1863 of the Code of Civil Procedure is re-  
30 pealed.

31 SEC. 55. Section 1867 of the Code of Civil Procedure is re-  
32 pealed.

33 SEC. 56. Section 1868 of the Code of Civil Procedure is re-  
34 pealed.

35 SEC. 57. Section 1869 of the Code of Civil Procedure is re-  
36 pealed.

37 SEC. 58. Section 1870 of the Code of Civil Procedure is re-  
38 pealed.

39 SEC. 59. Section 1871 of the Code of Civil Procedure is re-  
40 pealed.

41 SEC. 60. Section 1872 of the Code of Civil Procedure is re-  
42 pealed.

43 SEC. 61. Section 1875 of the Code of Civil Procedure is re-  
44 pealed.

45 SEC. 62. Section 1879 of the Code of Civil Procedure is re-  
46 pealed.

47 SEC. 63. Section 1880 of the Code of Civil Procedure is re-  
48 pealed.

49 SEC. 64. Section 1881 of the Code of Civil Procedure is re-  
50 pealed.

- 1     SEC. 65. Section 1883 of the Code of Civil Procedure is re-  
2     pealed.
- 3     SEC. 66. Section 1884 of the Code of Civil Procedure is re-  
4     pealed.
- 5     SEC. 67. Section 1885 of the Code of Civil Procedure is re-  
6     pealed.
- 7     SEC. 68. Section 1893 of the Code of Civil Procedure is  
8     amended to read :
- 9     1893. Every public officer having the custody of a public  
10    writing, which a citizen has a right to inspect, is bound to give  
11    him, on demand, a certified copy of it, on payment of the legal  
12    fees therefor. *If a public officer having custody of public writ-*  
13    *ings of a particular type fails to find a demanded writing of*  
14    *that type after diligent search, he shall furnish, upon demand,*  
15    *a writing so stating and affix his signature thereto in his official*  
16    *capacity, on payment of a fee therefor in like amount as the*  
17    *minimum fee that would have been required for the prepara-*  
18    *tion and certification of a nonphotographic copy of the de-*  
19    *manded writing.*
- 20    SEC. 69. Section 1901 of the Code of Civil Procedure is re-  
21    pealed.
- 22    SEC. 70. Section 1903 of the Code of Civil Procedure is re-  
23    pealed.
- 24    SEC. 71. Section 1905 of the Code of Civil Procedure is re-  
25    pealed.
- 26    SEC. 72. Section 1906 of the Code of Civil Procedure is re-  
27    pealed.
- 28    SEC. 73. Section 1907 of the Code of Civil Procedure is re-  
29    pealed.
- 30    SEC. 74. Section 1908.5 is added to the Code of Civil Pro-  
31    cedure, to read :
- 32    1908.5. When a judgment or order of a court is conclusive,  
33    the judgment or order must be alleged in the pleadings if  
34    there be an opportunity to do so; if there be no such oppor-  
35    tunity, the judgment or order may be used as evidence.
- 36    SEC. 75. Section 1918 of the Code of Civil Procedure is re-  
37    pealed.
- 38    SEC. 76. Section 1919 of the Code of Civil Procedure is re-  
39    pealed.
- 40    SEC. 77. Section 1919a of the Code of Civil Procedure is  
41    repealed.
- 42    SEC. 78. Section 1919b of the Code of Civil Procedure is  
43    repealed.
- 44    SEC. 79. Section 1920 of the Code of Civil Procedure is re-  
45    pealed.
- 46    SEC. 80. Section 1920a of the Code of Civil Procedure is  
47    repealed.
- 48    SEC. 81. Section 1920b of the Code of Civil Procedure is  
49    repealed.
- 50    SEC. 82. Section 1921 of the Code of Civil Procedure is re-  
51    pealed.

- 1     SEC. 83. Section 1922 of the Code of Civil Procedure is re-  
2     pealed.
- 3     SEC. 84. Section 1923 of the Code of Civil Procedure is re-  
4     pealed.
- 5     SEC. 85. Section 1924 of the Code of Civil Procedure is re-  
6     pealed.
- 7     SEC. 86. Section 1925 of the Code of Civil Procedure is re-  
8     pealed.
- 9     SEC. 87. Section 1926 of the Code of Civil Procedure is re-  
10    pealed.
- 11    SEC. 88. Section 1927 of the Code of Civil Procedure is re-  
12    pealed.
- 13    SEC. 89. Section 1927.5 of the Code of Civil Procedure is  
14    repealed.
- 15    SEC. 90. Section 1928 of the Code of Civil Procedure is re-  
16    pealed.
- 17    SEC. 91. Article 2.1 (commencing with Section 1928.1) of  
18    Chapter 3 of Title 2 of Part IV of the Code of Civil Procedure  
19    is repealed.
- 20    SEC. 92. Section 1936 of the Code of Civil Procedure is re-  
21    pealed.
- 22    SEC. 93. Section 1936.1 of the Code of Civil Procedure is  
23    repealed.
- 24    SEC. 94. Section 1937 of the Code of Civil Procedure is re-  
25    pealed.
- 26    SEC. 95. Section 1938 of the Code of Civil Procedure is re-  
27    pealed.
- 28    SEC. 96. Section 1939 of the Code of Civil Procedure is re-  
29    pealed.
- 30    SEC. 97. Section 1940 of the Code of Civil Procedure is re-  
31    pealed.
- 32    SEC. 98. Section 1941 of the Code of Civil Procedure is re-  
33    pealed.
- 34    SEC. 99. Section 1942 of the Code of Civil Procedure is re-  
35    pealed.
- 36    SEC. 100. Section 1943 of the Code of Civil Procedure is  
37    repealed.
- 38    SEC. 101. Section 1944 of the Code of Civil Procedure is  
39    repealed.
- 40    SEC. 102. Section 1945 of the Code of Civil Procedure is  
41    repealed.
- 42    SEC. 103. Section 1946 of the Code of Civil Procedure is  
43    repealed.
- 44    SEC. 104. Section 1947 of the Code of Civil Procedure is  
45    repealed.
- 46    SEC. 105. Section 1948 of the Code of Civil Procedure is  
47    repealed.
- 48    SEC. 106. Section 1951 of the Code of Civil Procedure is  
49    repealed.
- 50    SEC. 107. Article 5 (commencing with Section 1953e) of  
51    Chapter 3 of Title 2 of Part IV of the Code of Civil Procedure  
52    is repealed.



- 1     SEC. 108. Article 6 (commencing with Section 1953i) of  
2 Chapter 3 of Title 2 of Part IV of the Code of Civil Procedure  
3 is repealed.
- 4     SEC. 109. Chapter 4 (consisting of Section 1954) of Title  
5 2 of Part IV of the Code of Civil Procedure is repealed.
- 6     SEC. 110. Chapter 5 (commencing with Section 1957) of  
7 Title 2 of Part IV of the Code of Civil Procedure is repealed.
- 8     SEC. 111. Section 1967 of the Code of Civil Procedure is  
9 repealed.
- 10    SEC. 112. Section 1968 of the Code of Civil Procedure is  
11 repealed.
- 12    SEC. 113. Section 1973 of the Code of Civil Procedure is  
13 repealed.
- 14    SEC. 114. Section 1974 of the Code of Civil Procedure is  
15 amended to read:
- 16     1974. No person is liable upon a representation as to the  
17 credit of a third person, unless such representation, or some  
18 memorandum thereof, be in writing, and either subscribed  
19 by or in the handwriting of the party to be held liable.
- 20    SEC. 115. Chapter 7 (consisting of Section 1978) of Title  
21 2 of Part IV of the Code of Civil Procedure is repealed.
- 22    SEC. 116. Chapter 8 (commencing with Section 1980.1) of  
23 Title 2 of Part IV of the Code of Civil Procedure is repealed.
- 24    SEC. 117. Chapter 1 (commencing with Section 1981) of  
25 Title 3 of Part IV of the Code of Civil Procedure is repealed.
- 26    SEC. 118. Section 1998 of the Code of Civil Procedure is  
27 repealed.
- 28    SEC. 119. Section 1998.1 of the Code of Civil Procedure is  
29 repealed.
- 30    SEC. 120. Section 1998.2 of the Code of Civil Procedure is  
31 repealed.
- 32    SEC. 121. Section 1998.3 of the Code of Civil Procedure is  
33 repealed.
- 34    SEC. 122. Section 1998.4 of the Code of Civil Procedure is  
35 repealed.
- 36    SEC. 123. Section 1998.5 of the Code of Civil Procedure is  
37 repealed.
- 38    SEC. 124. Section 2009 of the Code of Civil Procedure is  
39 amended to read:
- 40     2009. An affidavit may be used to verify a pleading or a  
41 paper in a special proceeding, to prove the service of a sum-  
42 mons, notice, or other paper in an action or special proceed-  
43 ing, to obtain a provisional remedy, the examination of a wit-  
44 ness, or a stay of proceedings, and in uncontested proceedings  
45 to establish a record of birth, or upon a motion, and in any  
46 other case expressly permitted by statute.
- 47    SEC. 125. Section 2016 of the Code of Civil Procedure is  
48 amended to read:
- 49     2016. (a) Any party may take the testimony of any per-  
50 son, including a party, by deposition upon oral examination or  
51 written interrogatories for the purpose of discovery or for use  
52 as evidence in the action or for both purposes. Such depositions

1 may be taken in an action at any time after the service of the  
2 summons or in a special proceeding after the service of the  
3 petition or after the appearance of the defendant or respond-  
4 ent. After commencement of the action or proceedings, the  
5 deposition may be taken without leave of court, except that  
6 leave of court, granted with or without notice, and for good  
7 cause shown, must be obtained if the notice of the taking of  
8 the deposition is served by the plaintiff within 20 days after  
9 service of the summons or petition on, or appearance of, the  
10 defendant or respondent. The attendance of witnesses or the  
11 production of books, documents, or other things at depositions  
12 may be compelled by the use of subpoena as provided in Chap-  
13 ter 2 (commencing with Section 1985), Title 3, Part 4 of this  
14 code.

15 (b) Unless otherwise ordered by the court as provided by  
16 subdivision (b) or (d) of Section 2019 of this code, the depo-  
17 nent may be examined regarding any matter, not privileged,  
18 which is relevant to the subject matter involved in the pend-  
19 ing action, whether it relates to the claim or defense of the  
20 examining party, or to the claim or defense of any other  
21 party, including the existence, description, nature, custody,  
22 condition and location of any books, documents, or other tangi-  
23 ble things and the identity and location of persons having  
24 knowledge of relevant facts. It is not ground for objection  
25 that the testimony will be inadmissible at the trial if the testi-  
26 mony sought appears reasonably calculated to lead to the dis-  
27 covery of admissible evidence. All matters which are privi-  
28 leged against disclosure upon the trial under the law of this  
29 state are privileged against disclosure through any discovery  
30 procedure. This article shall not be construed to change the  
31 law of this state with respect to the existence of any privilege,  
32 whether provided for by statute or by judicial decision.

33 The work product of an attorney shall not be discoverable  
34 unless the court determines that denial of discovery will un-  
35 fairly prejudice the party seeking discovery in preparing his  
36 claim or defense or will result in an injustice, and any writ-  
37 ing that reflects an attorney's impressions, conclusions, opin-  
38 ions, or legal research or theories shall not be discoverable un-  
39 der any circumstances.

40 (c) Examination and cross-examination of deponents may  
41 proceed as permitted at the trial.

42 (d) At the trial or upon the hearing of a motion or an  
43 interlocutory proceeding, any part or all of a deposition, so far  
44 as admissible under the rules of evidence, may be used against  
45 any party who was present or represented at the taking of  
46 the deposition or who had due notice thereof, in accordance  
47 with any one of the following provisions:

48 (1) Any deposition may be used by any party for the pur-  
49 pose of contradicting or impeaching the testimony of deponent  
50 as a witness.

1 (2) The deposition of a party to the record of any civil  
2 action or proceeding or of a person for whose immediate bene-  
3 fit said action or proceeding is prosecuted or defended, or of  
4 anyone who at the time of taking the deposition was an officer,  
5 director, superintendent, member, agent, employee, or manag-  
6 ing agent of any such party or person may be used by an  
7 adverse party for any purpose.

8 (3) The deposition of a witness, whether or not a party,  
9 may be used by any party for any purpose if the court finds:  
10 (i) that the witness is unavailable as a witness within the  
11 meaning of Section 240 of the Evidence Code or (ii) upon  
12 application and notice, that such exceptional circumstances  
13 exist as to make it desirable, in the interest of justice and  
14 with due regard to the importance of presenting the testimony  
15 of witnesses orally in open court, to allow the deposition to be  
16 used.

17 (4) Subject to the requirements of this section, a party may  
18 offer in evidence all or any part of a deposition, and if such  
19 party introduces only part of such deposition, any party may  
20 introduce any other parts.

21 Substitution of parties does not affect the right to use depo-  
22 sitions previously taken; and, when an action in any court  
23 of the United States or of any state has been dismissed and  
24 another action involving the same subject matter is afterward  
25 brought between the same parties or their representatives or  
26 successors in interest, all depositions lawfully taken and duly  
27 filed in the former action may be used in the latter as if orig-  
28 inally taken therefor.

29 (e) Subject to the provisions of subdivision (c) of Section  
30 2021 of this code, objection may be made at the trial or hear-  
31 ing to receiving in evidence any deposition or part thereof for  
32 any reason which would require the exclusion of the evidence  
33 if the witness were then present and testifying.

34 (f) A party shall not be deemed to make a person his own  
35 witness for any purpose by taking his deposition. Except where  
36 the deposition is used under the provisions of paragraph (2)  
37 of subdivision (d) of this section, the introduction in evidence  
38 of the deposition or any part thereof for any purpose other  
39 than that of contradicting or impeaching the deponent, or for  
40 explaining or clarifying portions of the said deposition offered  
41 by an adverse party, makes the deponent the witness of the  
42 party introducing the deposition, as to the portions of the  
43 deposition introduced by said party. At the trial or hearing  
44 any party may rebut any relevant evidence contained in a  
45 deposition whether introduced by him or by another party.

46 (g) It is the policy of this state (i) to preserve the rights  
47 of attorneys to prepare cases for trial with that degree of  
48 privacy necessary to encourage them to prepare their cases  
49 thoroughly and to investigate not only the favorable but the  
50 unfavorable aspects of such cases and (ii) to prevent an at-  
51 torney from taking undue advantage of his adversary's in-  
52 dustry or efforts.

1 SEC. 126. Article 6 (commencing with Section 2042) of  
2 Chapter 3 of Title 3 of Part IV of the Code of Civil Procedure  
3 is repealed.

4 SEC. 127. Title 4 (consisting of Section 2061) of Part IV  
5 of the Code of Civil Procedure is repealed.

6 SEC. 128. Section 2065 of the Code of Civil Procedure is  
7 repealed.

8 SEC. 129. Section 2066 of the Code of Civil Procedure is  
9 repealed.

10 SEC. 130. Section 2078 of the Code of Civil Procedure is  
11 repealed.

12 SEC. 131. Section 2079 of the Code of Civil Procedure is  
13 repealed.

14 SEC. 132. Chapter 4 (commencing with Section 2101) of  
15 Title 6 of Part IV of the Code of Civil Procedure is repealed.

16 SEC. 133. Section 6602 of the Corporations Code is  
17 amended to read:

18 6602. If any action or proceeding, the court takes judicial  
19 notice, in the same manner that it takes judicial notice of the  
20 matters listed in Section 452 of the Evidence Code, of the  
21 official acts affecting corporations of the legislative, executive,  
22 and judicial departments of the state or place under the  
23 laws of which the corporation purports to be incorporated.

24 SEC. 134. Section 25310 of the Corporations Code is  
25 amended to read:

26 25310. The commissioner shall adopt a seal bearing the  
27 inscription: "Commissioner of Corporations, State of Califor-  
28 nia." The seal shall be affixed to all writs, orders, permits, and  
29 certificates issued by him, and to such other instruments as he  
30 directs.

31 SEC. 135. Section 11513 of the Government Code is  
32 amended to read:

33 11513. (a) Oral evidence shall be taken only on oath or  
34 affirmation.

35 (b) Each party shall have these rights: to call and examine  
36 witnesses; to introduce exhibits; to cross-examine opposing  
37 witnesses on any matter relevant to the issues even though  
38 that matter was not covered in the direct examination; to  
39 impeach any witness regardless of which party first called him  
40 to testify; and to rebut the evidence against him. If respond-  
41 ent does not testify in his own behalf he may be called and  
42 examined as if under cross-examination.

43 (c) The hearing need not be conducted according to tech-  
44 nical rules relating to evidence and witnesses. Any relevant  
45 evidence shall be admitted if it is the sort of evidence on which  
46 responsible persons are accustomed to rely in the conduct of  
47 serious affairs, regardless of the existence of any common law  
48 or statutory rule which might make improper the admission  
49 of such evidence over objection in civil actions. Hearsay evi-  
50 dence may be used for the purpose of supplementing or ex-  
51 plaining other evidence but shall not be sufficient in itself to  
52 support a finding unless it would be admissible over objection

1 in civil actions. The rules of privilege shall be effective to the  
2 extent that they are otherwise required by statute to be recog-  
3 nized at the hearing, and irrelevant and unduly repetitious  
4 evidence shall be excluded.

5 SEC. 136. Section 19580 of the Government Code is  
6 amended to read:

7 19580. Either by deposition or at the hearing the employee  
8 may be examined and may examine or cause any person to be  
9 examined under Section 776 of the Evidence Code.

10 SEC. 137. Section 3197 of the Health and Safety Code is  
11 amended to read:

12 3197. In any prosecution for a violation of any provision of  
13 this article, or any rule or regulation of the board made pur-  
14 suant to this article, or in any quarantine proceeding author-  
15 ized by this article, or in any habeas corpus or other proceed-  
16 ing in which the legality of such quarantine is questioned,  
17 any physician, health officer, spouse, or other person shall be  
18 competent and may be required to testify against any person  
19 against whom such prosecution or other proceeding was insti-  
20 tuted, and the privileges provided by Sections 970, 971, 980,  
21 994, and 1014 of the Evidence Code are not applicable to or  
22 in any such prosecution or proceeding.

23 SEC. 137.5. Section 5708 of the Labor Code is amended to  
24 read:

25 5708. (a) All hearing and investigations before the com-  
26 mission, panel, a commissioner, or a referee, are governed by  
27 this division and by the rules of practice and procedure  
28 adopted by the commission. In the conduct thereof they shall  
29 not be bound by the common law or statutory rules of evidence  
30 and procedure, but may make inquiry in the manner, through  
31 oral testimony and records, which is best calculated to ascertain  
32 the substantial rights of the parties and carry out justly the  
33 spirit and provisions of this division. All oral testimony, ob-  
34 jections, and rulings shall be taken down in shorthand by a  
35 competent phonographic reporter.

36 (b) Except as provided in subdivision (c), the Evidence  
37 Code does not apply to the hearings and investigations de-  
38 scribed in subdivision (a).

39 (c) The rules of privilege provided by Division 8 (com-  
40 mencing with Section 900) of the Evidence Code shall be  
41 recognized in such hearings and investigations to the extent  
42 they are required by Division 8 to be recognized, but subdivi-  
43 sion (b) of Section 914 of the Evidence Code does not apply  
44 in such hearings and investigations.

45 SEC. 138. Section 270e of the Penal Code is amended to  
46 read:

47 270e. No other evidence shall be required to prove mar-  
48 riage of husband and wife, or that a person is the lawful  
49 father or mother of a child or children, than is or shall be re-  
50 quired to prove such facts in a civil action. In all prosecu-  
51 tions under either Section 270a or 270 of this code, Sections  
52 970, 971, and 980 of the Evidence Code do not apply, and both

1 husband and wife shall be competent to testify to any and all  
2 relevant matters, including the fact of marriage and the par-  
3 entage of a child or children. Proof of the abandonment and  
4 nonsupport of a wife, or of the omission to furnish necessary  
5 food, clothing, shelter, or of medical attendance for a child or  
6 children is prima facie evidence that such abandonment and  
7 nonsupport or omission to furnish necessary food, clothing,  
8 shelter or medical attendance is wilful. In any prosecution  
9 under Section 270, it shall be competent for the people to prove  
10 nonaccess of husband to wife or any other fact establishing  
11 nonpaternity of a husband. In any prosecution pursuant to  
12 Section 270, the final establishment of paternity or nonpater-  
13 nity in another proceeding shall be admissible as evidence of  
14 paternity or nonpaternity.

15 SEC. 139. Section 686 of the Penal Code is amended to  
16 read:

17 686. In a criminal action the defendant is entitled:

18 1. To a speedy and public trial.

19 2. To be allowed counsel as in civil actions, or to appear and  
20 defend in person and with counsel.

21 3. To produce witnesses on his behalf and to be confronted  
22 with the witnesses against him, in the presence of the court,  
23 except that:

24 (a) Hearsay evidence may be admitted to the extent that it  
25 is otherwise admissible in a criminal action under the law of  
26 this state.

27 (b) The deposition of a witness taken in the action may be  
28 read to the extent that it is otherwise admissible under the  
29 law of this state.

30 SEC. 140. Section 688 of the Penal Code is amended to  
31 read:

32 688. No person charged with a public offense may be  
33 subjected, before conviction, to any more restraint than is  
34 necessary for his detention to answer the charge.

35 SEC. 141. Section 939.6 of the Penal Code is amended to  
36 read:

37 939.6. (a) Subject to subdivision (b), in the investigation  
38 of a charge, the grand jury shall receive no other evidence  
39 than such as is:

40 (1) Given by witnesses produced and sworn before the  
41 grand jury;

42 (2) Furnished by writings, material objects, or other things  
43 presented to the senses; or

44 (3) Contained in a deposition that is admissible under sub-  
45 division 3 of Section 686.

46 (b) The grand jury shall receive none but evidence that  
47 would be admissible over objection at the trial of a criminal  
48 action, but the fact that evidence which would have been ex-  
49 cluded at trial was received by the grand jury does not render  
50 the indictment void where sufficient competent evidence to sup-  
51 port the indictment was received by the grand jury.

1 SEC. 142. Section 961 of the Penal Code is amended to  
2 read:

3 961. Neither presumptions of law, nor matters of which  
4 judicial notice is authorized or required to be taken, need be  
5 stated in an accusatory pleading.

6 SEC. 143. Section 963 of the Penal Code is amended to  
7 read:

8 963. In pleading a private statute, or an ordinance of a  
9 county or a municipal corporation, or a right derived there-  
10 from, it is sufficient to refer to the statute or ordinance by its  
11 title and the day of its passage, and the court must thereupon  
12 take judicial notice thereof in the same manner that it takes  
13 judicial notice of matters listed in Section 452 of the Evidence  
14 Code.

15 SEC. 144. Section 1120 of the Penal Code is amended to  
16 read:

17 1120. If a juror has any personal knowledge respecting a  
18 fact in controversy in a cause, he must declare the same in  
19 open court during the trial. If, during the retirement of the  
20 jury, a juror declare a fact which could be evidence in the  
21 cause, as of his own knowledge, the jury must return into  
22 court. In either of these cases, the juror making the statement  
23 must be sworn as a witness and examined in the presence of  
24 the parties in order that the court may determine whether  
25 good cause exists for his discharge as a juror.

26 SEC. 145. Section 1322 of the Penal Code is repealed.

27 SEC. 146. Section 1323 of the Penal Code is repealed.

28 SEC. 147. Section 1323.5 of the Penal Code is repealed.

29 SEC. 148. Section 1345 of the Penal Code is amended to  
30 read:

31 1345. The deposition, or a certified copy thereof, may be  
32 read in evidence by either party on the trial if the court finds  
33 that the witness is unavailable as a witness within the meaning  
34 of Section 240 of the Evidence Code. The same objections may  
35 be taken to a question or answer contained in the deposition  
36 as if the witness had been examined orally in court.

37 SEC. 149. Section 1362 of the Penal Code is amended to  
38 read:

39 1362. The depositions taken under the commission may be  
40 read in evidence by either party on the trial if the court finds  
41 that the witness is unavailable as a witness within the meaning  
42 of Section 240 of the Evidence Code. The same objections may  
43 be taken to a question in the interrogatories or to an answer  
44 in the deposition as if the witness had been examined orally in  
45 court.

46 SEC. 150. Section 306 of the Public Utilities Code is  
47 amended to read:

48 306. The office of the commission shall be in the City and  
49 County of San Francisco. The office shall always be open, legal  
50 holidays and nonjudicial days excepted. The commission shall  
51 hold its sessions at least once in each calendar month in the  
52 City and County of San Francisco. The commission may also

1 meet at such other times and in such other places as may be  
2 expedient and necessary for the proper performance of its  
3 duties, and for that purpose may rent quarters or offices.  
4 Except for the commission's deliberative conferences, the ses-  
5 sions and meetings of the commission shall be open and public  
6 and all persons shall be permitted to attend.

7 The commission shall have a seal, bearing the inscription  
8 "Public Utilities Commission State of California." The seal  
9 shall be affixed to all writs and authentications of copies of  
10 records and to such other instruments as the commission shall  
11 direct.

12 The commission may procure all necessary books, maps,  
13 charts, stationery, instruments, office furniture, apparatus, and  
14 appliances.

15 SEC. 151. Sections 2 to 150 of this act shall become opera-  
16 tive on January 1, 1967.



AMENDED IN SENATE APRIL 1, 1965  
AMENDED IN SENATE MARCH 23, 1965  
AMENDED IN SENATE FEBRUARY 24, 1965  
AMENDED IN SENATE FEBRUARY 18, 1965

SENATE BILL

No. 110

**Introduced by Senator Cobey**  
(Coauthor: Assemblyman Song)

January 14, 1965

REFERRED TO COMMITTEE ON JUDICIARY

*An act to establish an Evidence Code, thereby consolidating and revising the law relating to evidence; amending various sections of the Business and Professions Code, Civil Code, Code of Civil Procedure, Corporations Code, Government Code, Health and Safety Code, Penal Code, and Public Utilities Code to make them consistent therewith; adding Sections 164.5, 3544, 3545, 3546, 3547, and 3548 to the Civil Code; adding Sections 631.7 and 1908.5 to the Code of Civil Procedure; and repealing legislation inconsistent therewith.*

*The people of the State of California do enact as follows:*

1 SEC. 1. This act shall be known as the Cobey-Song Evi-  
2 dence Act.

3 SEC. 2. The Evidence Code is enacted, to read:

4  
5 **EVIDENCE CODE**

6  
7 **DIVISION 1. PRELIMINARY PROVISIONS AND**  
8 **CONSTRUCTION**

9  
10 1. This code shall be known as the Evidence Code.

11 2. The rule of the common law, that statutes in derogation  
12 thereof are to be strictly construed, has no application to this  
13 code. This code establishes the law of this state respecting the  
14 subject to which it relates, and its provisions are to be liber-  
15 ally construed with a view to effecting its objects and promot-  
16 ing justice.

**MJN 3466**

1 3. If any provision or clause of this code or application  
2 thereof to any person or circumstances is held invalid, such  
3 invalidity shall not affect other provisions or applications of  
4 the code which can be given effect without the invalid provi-  
5 sion or application, and to this end the provisions of this code  
6 are declared to be severable.

7 4. Unless the provision or context otherwise requires, these  
8 preliminary provisions and rules of construction shall govern  
9 the construction of this code.

10 5. Division, chapter, article, and section headings do not  
11 in any manner affect the scope, meaning, or intent of the pro-  
12 visions of this code.

13 6. Whenever any reference is made to any portion of this  
14 code or of any other statute, such reference shall apply to all  
15 amendments and additions heretofore or hereafter made.

16 7. Unless otherwise expressly stated:

17 (a) "Division" means a division of this code.

18 (b) "Chapter" means a chapter of the division in which  
19 that term occurs.

20 (c) "Article" means an article of the chapter in which that  
21 term occurs.

22 (d) "Section" means a section of this code.

23 (e) "Subdivision" means a subdivision of the section in  
24 which that term occurs.

25 (f) "Paragraph" means a paragraph of the subdivision in  
26 which that term occurs.

27 8. The present tense includes the past and future tenses;  
28 and the future, the present.

29 9. The masculine gender includes the feminine and neuter.

30 10. The singular number includes the plural; and the plu-  
31 ral, the singular.

32 11. "Shall" is mandatory and "may" is permissive.

33 12. (a) This code shall become operative on January 1,  
34 1967, and shall govern proceedings in actions brought on or  
35 after that date and, except as provided in subdivision (b),  
36 further proceedings in actions pending on that date.

37 (b) Subject to subdivision (c), a trial commenced before  
38 January 1, 1967, shall not be governed by this code. For the  
39 purpose of this subdivision:

40 (1) A trial is commenced when the first witness is sworn or  
41 the first exhibit is admitted into evidence and is terminated  
42 when the issue upon which such evidence is received is sub-  
43 mitted to the trier of fact. A new trial, or a separate trial of a  
44 different issue, commenced on or after January 1, 1967, shall be  
45 governed by this code.

46 (2) If an appeal is taken from a ruling made at a trial  
47 commenced before January 1, 1967, the appellate court shall  
48 apply the law applicable at the time of the commencement of  
49 the trial.

50 (c) The provisions of Division 8 (commencing with Section  
51 900) relating to privileges shall govern any claim of privilege  
52 made after December 31, 1966.

DIVISION 2. WORDS AND PHRASES DEFINED

100. Unless the provision or context otherwise requires, these definitions govern the construction of this code.

105. "Action" includes a civil action and a criminal action.

110. "Burden of producing evidence" means the obligation of a party to introduce evidence sufficient to avoid a ruling against him on the issue.

115. "Burden of proof" means the obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of fact or the court. The burden of proof may require a party to raise a reasonable doubt concerning the existence or nonexistence of a fact or that he establish the existence or nonexistence of a fact by a preponderance of the evidence, by clear and convincing proof, or by proof beyond a reasonable doubt.

Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.

120. "Civil action" includes civil proceedings.

125. "Conduct" includes all active and passive behavior, both verbal and nonverbal.

130. "Criminal action" includes criminal proceedings.

135. "Declarant" is a person who makes a statement.

140. "Evidence" means testimony, writings, material objects, or other things presented to the senses that are offered to prove the existence or nonexistence of a fact.

145. "The hearing" means the hearing at which a question under this code arises, and not some earlier or later hearing.

150. "Hearsay evidence" is defined in Section 1200.

160. "Law" includes constitutional, statutory, and decisional law.

165. "Oath" includes affirmation or declaration under penalty of perjury.

170. "Perceive" means to acquire knowledge through one's senses.

175. "Person" includes a natural person, firm, association, organization, partnership, business trust, corporation, or public entity.

180. "Personal property" includes money, goods, chattels, things in action, and evidences of debt.

185. "Property" includes both real and personal property.

190. "Proof" is the establishment by evidence of a requisite degree of belief concerning a fact in the mind of the trier of fact or the court.

195. "Public employee" means an officer, agent, or employee of a public entity.

200. "Public entity" includes a nation, state, county, city and county, city, district, public authority, public agency, or any other political subdivision or public corporation, whether foreign or domestic.

205. "Real property" includes lands, tenements, and hereditaments.

1 210. "Relevant evidence" means evidence, including evi-  
 2 dence relevant to the credibility of a witness or hearsay declar-  
 3 ant, having any tendency in reason to prove or disprove any  
 4 disputed fact that is of consequence to the determination of the  
 5 action.

6 220. "State" means the State of California, unless applied  
 7 to the different parts of the United States. In the latter case,  
 8 it includes any state, district, commonwealth, territory, or  
 9 insular possession of the United States.

10 225. "Statement" means (a) oral or written verbal ex-  
 11 pression or (b) nonverbal conduct of a person intended by him  
 12 as a substitute for oral or written verbal expression.

13 230. "Statute" includes a treaty and a constitutional pro-  
 14 vision.

15 235. "Trier of fact" includes (a) the jury and (b) the  
 16 court when the court is trying an issue of fact other than one  
 17 relating to the admissibility of evidence.

18 240. (a) Except as otherwise provided in subdivision (b),  
 19 "unavailable as a witness" means that the declarant is:

20 (1) Exempted or precluded on the ground of privilege from  
 21 testifying concerning the matter to which his statement is  
 22 relevant;

23 (2) Disqualified from testifying to the matter;

24 (3) Dead or unable to attend or to testify at the hearing be-  
 25 cause of then existing physical or mental illness or infirmity;

26 (4) Absent from the hearing and the court is unable to  
 27 compel his attendance by its process; or

28 (5) Absent from the hearing and the proponent of his state-  
 29 ment has exercised reasonable diligence but has been unable  
 30 to procure his attendance by the court's process.

31 (b) A declarant is not unavailable as a witness if the ex-  
 32 emption, preclusion, disqualification, death, inability, or ab-  
 33 sence of the declarant was brought about by the procurement  
 34 or wrongdoing of the proponent of his statement for the pur-  
 35 pose of preventing the declarant from attending or testifying.

36 250. "Writing" means handwriting, typewriting, printing,  
 37 photostating, photographing, and every other means of re-  
 38 cording upon any tangible thing any form of communication  
 39 or representation, including letters, words, pictures, sounds,  
 40 or symbols, or combinations thereof.

### 41 42 DIVISION 3. GENERAL PROVISIONS

#### 43 44 CHAPTER 1. APPLICABILITY OF CODE

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46 300. Except as otherwise provided by statute, this code ap-  
 47 plies in every action before the Supreme Court or a district  
 48 court of appeal, superior court, municipal court, or justice  
 49 court, including proceedings in such actions conducted by a  
 50 referee, court commissioner, or similar officer, but does not  
 51 apply in grand jury proceedings.

CHAPTER 2. PROVINCE OF COURT AND JURY

310. (a) All questions of law (including but not limited to questions concerning the construction of statutes and other writings, the admissibility of evidence, and other rules of evidence) are to be decided by the court. Determination of issues of fact preliminary to the admission of evidence are to be decided by the court as provided in Article 2 (commencing with Section 400) of Chapter 4.

(b) Determination of the law of an organization of nations or of the law of a foreign nation or a public entity in a foreign nation is a question of law to be determined in the manner provided in Division 4 (commencing with Section 450).

311. If the law of an organization of nations, a foreign nation or a state other than this state, or a public entity in a foreign nation or a state other than this state, is applicable and such law cannot be determined, the court may, as the ends of justice require, either:

(a) Apply the law of this state if the court can do so consistently with the Constitution of the United States and the Constitution of this state; or

(b) Dismiss the action without prejudice or, in the case of a reviewing court, remand the case to the trial court with directions to dismiss the action without prejudice.

312. Except as otherwise provided by law, where the trial is by jury:

(a) All questions of fact are to be decided by the jury.

(b) Subject to the control of the court, the jury is to determine the effect and value of the evidence addressed to it, including the credibility of witnesses and hearsay declarants.

CHAPTER 3. ORDER OF PROOF

320. Except as otherwise provided by law, the court in its discretion shall regulate the order of proof.

CHAPTER 4. ADMITTING AND EXCLUDING EVIDENCE

Article 1. General Provisions

350. No evidence is admissible except relevant evidence.

351. Except as otherwise provided by statute, all relevant evidence is admissible.

352. The court in its discretion may exclude evidence if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury.

353. A verdict or finding shall not be set aside, nor shall the judgment or decision based thereon be reversed, by reason of the erroneous admission of evidence unless:

1 (a) There appears of record an objection to or a motion to  
2 exclude or to strike the evidence that was timely made and so  
3 stated as to make clear the specific ground of the objection or  
4 motion; and

5 (b) The court which passes upon the effect of the error or  
6 errors is of the opinion that the admitted evidence should  
7 have been excluded on the ground stated and that the error  
8 or errors complained of resulted in a miscarriage of justice.

9 354. A verdict or finding shall not be set aside, nor shall  
10 the judgment or decision based thereon be reversed, by reason  
11 of the erroneous exclusion of evidence unless the court which  
12 passes upon the effect of the error or errors is of the opinion  
13 that the error or errors complained of resulted in a miscarriage  
14 of justice and it appears of record that:

15 (a) The substance, purpose, and relevance of the excluded  
16 evidence was made known to the court by the questions asked,  
17 an offer of proof, or by any other means;

18 (b) The rulings of the court made compliance with subdi-  
19 vision (a) futile; or

20 (c) The evidence was sought by questions asked during  
21 cross-examination or re-cross-examination.

22 355. When evidence is admissible as to one party or for  
23 one purpose and is inadmissible as to another party or for  
24 another purpose, the court upon request shall restrict the evi-  
25 dence to its proper scope and instruct the jury accordingly.

26 356. Where part of an act, declaration, conversation, or  
27 writing is given in evidence by one party, the whole on the  
28 same subject may be inquired into by an adverse party; when  
29 a letter is read, the answer may be given; and when a detached  
30 act, declaration, conversation, or writing is given in evidence,  
31 any other act, declaration, conversation, or writing which is  
32 necessary to make it understood may also be given in evidence.

## 33 34 Article 2. Preliminary Determinations on Admissibility 35 of Evidence

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37 400. As used in this article, "preliminary fact" means a  
38 fact upon the existence or nonexistence of which depends the  
39 admissibility or inadmissibility of evidence. The phrase "the  
40 admissibility or inadmissibility of evidence" includes the  
41 qualification or disqualification of a person to be a witness and  
42 the existence or nonexistence of a privilege.

43 401. As used in this article, "proffered evidence" means  
44 evidence, the admissibility or inadmissibility of which is de-  
45 pendent upon the existence or nonexistence of a preliminary  
46 fact.

47 402. (a) When the existence of a preliminary fact is dis-  
48 puted, its existence or nonexistence shall be determined as pro-  
49 vided in this article.

50 (b) The court may hear and determine the question of the  
51 admissibility of evidence out of the presence or hearing of the  
52 jury; but in a criminal action, the court shall hear and deter-

1 mine the question of the admissibility of a confession or admis-  
2 sion of the defendant out of the presence and hearing of the  
3 jury if any party so requests.

4 (c) A ruling on the admissibility of evidence implies what-  
5 ever finding of fact is prerequisite thereto; a separate or  
6 formal finding is unnecessary unless required by statute.

7 403. (a) The proponent of the proffered evidence has the  
8 burden of producing evidence as to the existence of the pre-  
9 liminary fact, and the proffered evidence is inadmissible unless  
10 the court finds that there is evidence sufficient to sustain a  
11 finding of the existence of the preliminary fact, when:

12 (1) The relevance of the proffered evidence depends on the  
13 existence of the preliminary fact;

14 (2) The preliminary fact is the personal knowledge of a  
15 witness concerning the subject matter of his testimony;

16 (3) The preliminary fact is the authenticity of a writing; or

17 (4) The proffered evidence is of a statement or other con-  
18 duct of a particular person and the preliminary fact is whether  
19 that person made the statement or so conducted himself.

20 (b) Subject to Section 702, the court may admit condition-  
21 ally the proffered evidence under this section, subject to evi-  
22 dence of the preliminary fact being supplied later in the  
23 course of the trial.

24 (c) If the court admits the proffered evidence under this  
25 section, the court:

26 (1) May, and on request shall, instruct the jury to deter-  
27 mine whether the preliminary fact exists and to disregard the  
28 proffered evidence unless the jury finds that the preliminary  
29 fact does exist.

30 (2) Shall instruct the jury to disregard the proffered evi-  
31 dence if the court subsequently determines that a jury could  
32 not reasonably find that the preliminary fact exists.

33 404. Whenever the proffered evidence is claimed to be  
34 privileged under Section 940, the person claiming the privilege  
35 has the burden of showing that the proffered evidence might  
36 tend to incriminate him; and the proffered evidence is inadmis-  
37 sible unless it clearly appears to the court that the proffered  
38 evidence cannot possibly have a tendency to incriminate the  
39 person claiming the privilege.

40 405. With respect to preliminary fact determinations not  
41 governed by Section 403 or 404:

42 (a) When the existence of a preliminary fact is disputed,  
43 the court shall indicate which party has the burden of produc-  
44 ing evidence and the burden of proof on the issue as implied  
45 by the rule of law under which the question arises. The court  
46 shall determine the existence or nonexistence of the prelimi-  
47 nary fact and shall admit or exclude the proffered evidence  
48 as required by the rule of law under which the question arises.

49 (b) If a preliminary fact is also a fact in issue in the action:

50 (1) The jury shall not be informed of the court's determina-  
51 tion as to the existence or nonexistence of the preliminary fact.

1 (2) If the proffered evidence is admitted, the jury shall not  
2 be instructed to disregard the evidence if its determination of  
3 the fact differs from the court's determination of the pre-  
4 liminary fact.

5 406. This article does not limit the right of a party to in-  
6 troduce before the trier of fact evidence relevant to weight  
7 or credibility.

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#### CHAPTER 5. WEIGHT OF EVIDENCE GENERALLY

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410. As used in this chapter, "direct evidence" means evi-  
12 dence that directly proves a fact, without an inference or pre-  
13 sumption, and which in itself, if true, conclusively establishes  
14 that fact.

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411. Except where additional evidence is required by stat-  
16 ute, the direct evidence of one witness who is entitled to full  
17 credit is sufficient for proof of any fact.

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412. If weaker and less satisfactory evidence is offered  
19 when it was within the power of the party to produce stronger  
20 and more satisfactory evidence, the evidence offered should  
21 be viewed with distrust.

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413. In determining what inferences to draw from the evi-  
23 dence or facts in the case against a party, the trier of fact  
24 may consider, among other things, the party's failure to ex-  
25 plain or to deny by his testimony such evidence or facts in  
26 the case against him, or his wilful suppression of evidence  
27 relating thereto, if such be the case.

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#### DIVISION 4. JUDICIAL NOTICE

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450. Judicial notice may not be taken of any matter un-  
32 less authorized or required by law.

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451. Judicial notice shall be taken of:

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(a) The decisional, constitutional, and public statutory law  
35 of this state and of the United States and the provisions of any  
36 charter described in Section 7½ or 8 of Article XI of the  
37 California Constitution.

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(b) Any matter made a subject of judicial notice by Section  
39 11383, 11384, or 18576 of the Government Code or by Section  
40 307 of Title 44 of the United States Code.

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(c) Rules of professional conduct for members of the bar  
42 adopted pursuant to Section 6076 of the Business and Pro-  
43 fessions Code and rules of practice and procedure for the  
44 courts of this state adopted by the Judicial Council.

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(d) Rules of pleading, practice, and procedure prescribed  
46 by the United States Supreme Court, such as the Rules of the  
47 United States Supreme Court, the Federal Rules of Civil Pro-  
48 cedure, the Federal Rules of Criminal Procedure, the Admi-  
49 ralty Rules, the Rules of the Court of Claims, the Rules of the  
50 Customs Court, and the General Orders and Forms in Bank-  
51 ruptcy.



1 (e) The true signification of all English words and phrases  
2 and of all legal expressions.

3 (f) Facts and propositions of generalized knowledge that  
4 are so universally known that they cannot reasonably be the  
5 subject of dispute.

6 452. Judicial notice may be taken of the following matters  
7 to the extent that they are not embraced within Section 451:

8 (a) The decisional, constitutional, and statutory law of any  
9 state of the United States and the resolutions and private acts  
10 of the Congress of the United States and of the Legislature of  
11 this state.

12 (b) Regulations and legislative enactments issued by or  
13 under the authority of the United States or any public entity  
14 in the United States.

15 (c) Official acts of the legislative, executive, and judicial  
16 departments of the United States and of any state of the  
17 United States.

18 (d) Records of (1) any court of this state or (2) any court  
19 of record of the United States or of any state of the United  
20 States.

21 (e) Rules of court of (1) any court of this state or (2) any  
22 court of record of the United States or of any state of the  
23 United States.

24 (f) The law of an organization of nations and of foreign  
25 nations and public entities in foreign nations.

26 (g) Facts and propositions that are of such common knowl-  
27 edge within the territorial jurisdiction of the court that they  
28 cannot reasonably be the subject of dispute.

29 (h) Facts and propositions that are not reasonably subject  
30 to dispute and are capable of immediate and accurate determi-  
31 nation by resort to sources of reasonably indisputable accuracy.

32 453. The trial court shall take judicial notice of any matter  
33 specified in Section 452 if a party requests it and:

34 (a) Gives each adverse party sufficient notice of the request,  
35 through the pleadings or otherwise, to enable such adverse  
36 party to prepare to meet the request; and

37 (b) Furnishes the court with sufficient information to en-  
38 able it to take judicial notice of the matter.

39 454. (a) In determining the propriety of taking judicial  
40 notice of a matter, or the tenor thereof:

41 (1) Any source of pertinent information, including the  
42 advice of persons learned in the subject matter, may be con-  
43 sulted or used, whether or not furnished by a party.

44 (2) Exclusionary rules of evidence do not apply except  
45 for Section 352 and the rules of privilege.

46 (b) Where the subject of judicial notice is the law of an  
47 organization of nations, a foreign nation, or a public entity in  
48 a foreign nation and the court resorts to the advice of persons  
49 learned in the subject matter, such advice, if not received in  
50 open court, shall be in writing.

1 455. With respect to any matter specified in Section 452  
2 or in subdivision (f) of Section 451 that is of substantial con-  
3 sequence to the determination of the action:

4 (a) If the trial court has been requested to take or has  
5 taken or proposes to take judicial notice of such matter, the  
6 court shall afford each party reasonable opportunity, before  
7 the jury is instructed or before the cause is submitted for  
8 decision by the court, to present to the court information rele-  
9 vant to (1) the propriety of taking judicial notice of the mat-  
10 ter and (2) the tenor of the matter to be noticed.

11 (b) If the trial court resorts to any source of information  
12 not received in open court, including the advice of persons  
13 learned in the subject matter, such information and its source  
14 shall be made a part of the record in the action and the court  
15 shall afford each party reasonable opportunity to meet such  
16 information before judicial notice of the matter may be taken.

17 456. If the trial court denies a request to take judicial  
18 notice of any matter, the court shall at the earliest practicable  
19 time so advise the parties and indicate for the record that it  
20 has denied the request.

21 457. If a matter judicially noticed is a matter which would  
22 otherwise have been for determination by the jury, the trial  
23 court may, and upon request shall, instruct the jury to accept  
24 as a fact the matter so noticed.

25 458. The failure or refusal of the trial court to take ju-  
26 dicial notice of a matter, or to instruct the jury with respect  
27 to the matter, does not preclude the trial court in subsequent  
28 proceedings in the action from taking judicial notice of the  
29 matter in accordance with the procedure specified in this di-  
30 vision.

31 459. (a) The reviewing court shall take judicial notice of  
32 (1) each matter properly noticed by the trial court and (2)  
33 each matter that the trial court was required to notice under  
34 Section 451 or 453. The reviewing court may take judicial no-  
35 tice of any matter specified in Section 452. The reviewing  
36 court may take judicial notice of a matter in a tenor different  
37 from that noticed by the trial court.

38 (b) In determining the propriety of taking judicial notice  
39 of a matter, or the tenor thereof, the reviewing court has the  
40 same power as the trial court under Section 454.

41 (c) When taking judicial notice under this section of a  
42 matter specified in Section 452 or in subdivision (f) of Section  
43 451 that is of substantial consequence to the determination of  
44 the action, the reviewing court shall comply with the provi-  
45 sions of subdivision (a) of Section 455 if the matter was not  
46 theretofore judicially noticed in the action.

47 (d) In determining the propriety of taking judicial notice  
48 of a matter specified in Section 452 or in subdivision (f) of  
49 Section 451 that is of substantial consequence to the determi-  
50 nation of the action, or the tenor thereof, if the reviewing court  
51 resorts to any source of information not received in open court  
52 or not included in the record of the action, including the

1 advice of persons learned in the subject matter, the reviewing  
2 court shall afford each party reasonable opportunity to meet  
3 such information before judicial notice of the matter may be  
4 taken.

5 460. Where the advice of persons learned in the subject  
6 matter is required in order to enable the court to take judicial  
7 notice of a matter, the court on its own motion or on motion  
8 of any party may appoint one or more such persons to pro-  
9 vide such advice. If the court determines to appoint such a  
10 person, he shall be appointed and compensated in the manner  
11 provided in Article 2 (commencing with Section 730) of  
12 Chapter 3 of Division 6.

13  
14 DIVISION 5. BURDEN OF PROOF; BURDEN OF  
15 PRODUCING EVIDENCE; PRESUMPTIONS  
16 AND INFERENCES  
17

18 CHAPTER 1. BURDEN OF PROOF  
19

20 Article 1. General  
21

22 500. Except as otherwise provided by law, a party has the  
23 burden of proof as to each fact the existence or nonexistence  
24 of which is essential to the claim for relief or defense that he  
25 is asserting.

26 501. Insofar as any statute, except Section 522, assigns the  
27 burden of proof in a criminal action, such statute is subject  
28 to Penal Code Section 1096.

29 502. The court on all proper occasions shall instruct the  
30 jury as to which party bears the burden of proof on each issue  
31 and as to whether that burden requires that a party raise a  
32 reasonable doubt concerning the existence or nonexistence of  
33 a fact or that he establish the existence or nonexistence of a  
34 fact by a preponderance of the evidence, by clear and convinc-  
35 ing proof, or by proof beyond a reasonable doubt.

36  
37 Article 2. Burden of Proof on Specific Issues  
38

39 520. The party claiming that a person is guilty of crime or  
40 wrongdoing has the burden of proof on that issue.

41 521. The party claiming that a person did not exercise a  
42 requisite degree of care has the burden of proof on that issue.

43 522. The party claiming that any person, including him-  
44 self, is or was insane has the burden of proof on that issue.

45  
46 CHAPTER 2. BURDEN OF PRODUCING EVIDENCE  
47

48 550. (a) The burden of producing evidence as to a par-  
49 ticular fact is on the party against whom a finding on that  
50 fact would be required in the absence of further evidence.

1 (b) The burden of producing evidence as to a particular  
2 fact is initially on the party with the burden of proof as to  
3 that fact.

4  
5 CHAPTER 3. PRESUMPTIONS AND INFERENCES

6  
7 Article 1. General

8  
9 600. (a) A presumption is an assumption of fact that the  
10 law requires to be made from another fact or group of facts  
11 found or otherwise established in the action. A presumption  
12 is not evidence.

13 (b) An inference is a deduction of fact that may logically  
14 and reasonably be drawn from another fact or group of facts  
15 found or otherwise established in the action.

16 601. A presumption is either conclusive or rebuttable.  
17 Every rebuttable presumption is either (a) a presumption  
18 affecting the burden of producing evidence or (b) a presump-  
19 tion affecting the burden of proof.

20 602. A statute providing that a fact or group of facts is  
21 prima facie evidence of another fact establishes a rebuttable  
22 presumption.

23 603. A presumption affecting the burden of producing evi-  
24 dence is a presumption established to implement no public  
25 policy other than to facilitate the determination of the par-  
26 ticular action in which the presumption is applied.

27 604. The effect of a presumption affecting the burden of  
28 producing evidence is to require the trier of fact to assume  
29 the existence of the presumed fact unless and until evidence  
30 is introduced which would support a finding of its nonexist-  
31 ence, in which case the trier of fact shall determine the exist-  
32 ence or nonexistence of the presumed fact from the evidence  
33 and without regard to the presumption. Nothing in this section  
34 shall be construed to prevent the drawing of any inference  
35 that may be appropriate.

36 605. A presumption affecting the burden of proof is a pre-  
37 sumption established to implement some public policy other  
38 than to facilitate the determination of the particular action in  
39 which the presumption is applied, such as the policy in favor  
40 of the legitimacy of children, the validity of marriage, the  
41 stability of titles to property, or the security of those who  
42 entrust themselves or their property to the administration of  
43 others.

44 606. The effect of a presumption affecting the burden of  
45 proof is to impose upon the party against whom it operates the  
46 burden of proof as to the nonexistence of the presumed fact.

47 607. When a presumption affecting the burden of proof  
48 operates in a criminal action to establish presumptively any  
49 fact that is essential to the defendant's guilt, the presumption

1 operates only if the facts that give rise to the presumption  
2 have been found or otherwise established beyond a reasonable  
3 doubt and, in such case, the defendant need only raise a rea-  
4 sonable doubt as to the existence of the presumed fact.

5  
6 Article 2. Conclusive Presumptions  
7

8 620. The presumptions established by this article, and all  
9 other presumptions declared by law to be conclusive, are con-  
10 clusive presumptions.

11 621. Notwithstanding any other provision of law, the issue  
12 of a wife cohabiting with her husband, who is not impotent,  
13 is conclusively presumed to be legitimate.

14 622. The facts recited in a written instrument are conclu-  
15 sively presumed to be true as between the parties thereto, or  
16 their successors in interest; but this rule does not apply to the  
17 recital of a consideration.

18 623. Whenever a party has, by his own statement or con-  
19 duct, intentionally and deliberately led another to believe a  
20 particular thing true and to act upon such belief, he is not, in  
21 any litigation arising out of such statement or conduct, per-  
22 mitted to contradict it.

23 624. A tenant is not permitted to deny the title of his  
24 landlord at the time of the commencement of the relation.

25  
26 Article 3. Presumptions Affecting the Burden  
27 of Producing Evidence  
28

29 630. The presumptions established by this article, and all  
30 other rebuttable presumptions established by law that fall  
31 within the criteria of Section 603, are presumptions affecting  
32 the burden of producing evidence.

33 631. Money delivered by one to another is presumed to  
34 have been due to the latter.

35 632. A thing delivered by one to another is presumed to  
36 have belonged to the latter.

37 633. An obligation delivered up to the debtor is presumed  
38 to have been paid.

39 634. A person in possession of an order on himself for the  
40 payment of money, or delivery of a thing, is presumed to have  
41 paid the money or delivered the thing accordingly.

42 635. An obligation possessed by the creditor is presumed  
43 not to have been paid.

44 636. The payment of earlier rent or installments is pre-  
45 sumed from a receipt for later rent or installments.

46 637. The things which a person possesses are presumed to  
47 be owned by him.

48 638. A person who exercises acts of ownership over prop-  
49 erty is presumed to be the owner of it.

1 639. A judgment, when not conclusive, is presumed to cor-  
2 rectly determine or set forth the rights of the parties, but  
3 there is no presumption that the facts essential to the judg-  
4 ment have been correctly determined.

5 640. A writing is presumed to have been truly dated.

6 641. A letter correctly addressed and properly mailed is  
7 presumed to have been received in the ordinary course of mail.

8 642. A trustee or other person, whose duty it was to convey  
9 real property to a particular person, is presumed to have  
10 actually conveyed to him when such presumption is necessary  
11 to perfect title of such person or his successor in interest.

12 643. A deed or will or other writing purporting to create,  
13 terminate, or affect an interest in real or personal property is  
14 presumed to be authentic if it:

15 (a) Is at least 30 years old;

16 (b) Is in such condition as to create no suspicion concern-  
17 ing its authenticity;

18 (c) Was kept, or if found was found, in a place where  
19 such writing, if authentic, would be likely to be kept or  
20 found; and

21 (d) Has been generally acted upon as authentic by persons  
22 having an interest in the matter.

23 644. A book, purporting to be printed or published by  
24 public authority, is presumed to have been so printed or  
25 published.

26 645. A book, purporting to contain reports of cases ad-  
27 judged in the tribunals of the state or nation where the book  
28 is published, is presumed to contain correct reports of such  
29 cases.

30

#### 31 Article 4. Presumptions Affecting the Burden of Proof

32

33 660. The presumptions established by this article, and all  
34 other rebuttable presumptions established by law that fall  
35 within the criteria of Section 605, are presumptions affecting  
36 the burden of proof.

37 661. A child of a woman who is or has been married, born  
38 during the marriage or within 300 days after the dissolution  
39 thereof, is presumed to be a legitimate child of that marriage.  
40 This presumption may be disputed only by the people of the  
41 State of California in a criminal action brought under Section  
42 270 of the Penal Code or by the husband or wife, or the de-  
43 scendant of one or both of them. In a civil action, this presump-  
44 tion may be rebutted only by clear and convincing proof.

45 662. The owner of the legal title to property is presumed  
46 to be the owner of the full beneficial title. This presumption  
47 may be rebutted only by clear and convincing proof.

48 663. A ceremonial marriage is presumed to be valid.

1 664. It is presumed that official duty has been regularly  
2 performed. This presumption does not apply on an issue as to  
3 the lawfulness of an arrest if it is found or otherwise estab-  
4 lished that the arrest was made without a warrant.

5 665. A person is presumed to intend the ordinary conse-  
6 quences of his voluntary act. This presumption is inapplicable  
7 in a criminal action to establish the specific intent of the  
8 defendant where specific intent is an element of the crime  
9 charged.

10 666. Any court of this State or the United States, or any  
11 court of general jurisdiction in any other state or nation, or  
12 any judge of such a court, acting as such, is presumed to have  
13 acted in the lawful exercise of its jurisdiction. This presump-  
14 tion applies only when the act of the court or judge is under  
15 collateral attack.

16 667. A person not heard from in seven years is presumed  
17 to be dead.

18 668. An unlawful intent is presumed from the doing of an  
19 unlawful act. This presumption is inapplicable in a criminal  
20 action to establish the specific intent of the defendant where  
21 specific intent is an element of the crime charged.

22  
23 DIVISION 6. WITNESSES

24  
25 CHAPTER 1. COMPETENCY

26  
27 700. Except as otherwise provided by statute, every person  
28 is qualified to be a witness and no person is disqualified to  
29 testify to any matter.

30 701. A person is disqualified to be a witness if he is:

31 (a) Incapable of expressing himself concerning the matter  
32 so as to be understood, either directly or through interpreta-  
33 tion by one who can understand him; or

34 (b) Incapable of understanding the duty of a witness to tell  
35 the truth.

36 702. (a) Subject to Section 801, the testimony of a witness  
37 concerning a particular matter is inadmissible unless he has  
38 personal knowledge of the matter. Against the objection of  
39 a party, such personal knowledge must be shown before the  
40 witness may testify concerning the matter.

41 (b) A witness' personal knowledge of a matter may be  
42 shown by any otherwise admissible evidence, including his  
43 own testimony.

44 703. (a) Before the judge presiding at the trial of an  
45 action may be called to testify in that trial as a witness, he  
46 shall, in proceedings held out of the presence and hearing of  
47 the jury, inform the parties of the information he has con-  
48 cerning any fact or matter about which he will be called to  
49 testify.

50 (b) Against the objection of a party, the judge presiding  
51 at the trial of an action may not testify in that trial as a

1 witness. Upon such objection, the judge shall declare a mistrial  
 2 and order the action assigned for trial before another judge.

3 (c) The calling of the judge presiding at a trial to testify in  
 4 that trial as a witness shall be deemed a consent to the granting  
 5 of a motion for mistrial, and an objection to such calling of a  
 6 judge shall be deemed a motion for mistrial.

7 (d) In the absence of objection by a party, the judge  
 8 presiding at the trial of an action may testify in that trial as  
 9 a witness.

10 704. (a) Before a juror sworn and impaneled in the trial  
 11 of an action may be called to testify before the jury in that  
 12 trial as a witness, he shall, in proceedings conducted by the  
 13 court out of the presence and hearing of the remaining jurors,  
 14 inform the parties of the information he has concerning any  
 15 fact or matter about which he will be called to testify.

16 (b) Against the objection of a party, a juror sworn and im-  
 17 paneled in the trial of an action may not testify before the  
 18 jury in that trial as a witness. Upon such objection, the court  
 19 shall declare a mistrial and order the action assigned for trial  
 20 before another jury.

21 (c) The calling of a juror to testify before the jury as a  
 22 witness shall be deemed a consent to the granting of a motion  
 23 for mistrial, and an objection to such calling of a juror shall  
 24 be deemed a motion for mistrial.

25 (d) In the absence of objection by a party, a juror sworn  
 26 and impaneled in the trial of an action may be compelled to  
 27 testify in that trial as a witness.

28  
 29 CHAPTER 2. OATH AND CONFRONTATION

30  
 31 710. Every witness before testifying shall take an oath  
 32 or make an affirmation or declaration in the form provided  
 33 by law.

34 711. At the trial of an action, a witness can be heard  
 35 only in the presence and subject to the examination of all  
 36 the parties to the action, if they choose to attend and examine.

37  
 38 CHAPTER 3. EXPERT WITNESSES

39  
 40 Article 1. Expert Witnesses Generally

41  
 42 720. (a) A person is qualified to testify as an expert if he  
 43 has special knowledge, skill, experience, training, or education  
 44 sufficient to qualify him as an expert on the subject to which  
 45 his testimony relates. Against the objection of a party, such  
 46 special knowledge, skill, experience, training, or education  
 47 must be shown before the witness may testify as an expert.

48 (b) A witness' special knowledge, skill, experience, train-  
 49 ing, or education may be shown by any otherwise admissible  
 50 evidence, including his own testimony.

51 721. (a) Subject to subdivision (b), a witness testifying  
 52 as an expert may be cross-examined to the same extent as



1 any other witness and, in addition, may be fully cross-exam-  
2 ined as to (1) his qualifications, (2) the subject to which his  
3 expert testimony relates, and (3) the matter upon which his  
4 opinion is based and the reasons for his opinion.

5 (b) If a witness testifying as an expert testifies in the form  
6 of an opinion, he may not be cross-examined in regard to the  
7 content or tenor of any scientific, technical, or professional  
8 text, treatise, journal, or similar publication unless:

9 (1) The witness referred to, considered, or relied upon such  
10 publication in arriving at or forming his opinion; or

11 (2) Such publication has been admitted in evidence.

12 722. (a) The fact of the appointment of an expert witness  
13 by the court may be revealed to the trier of fact.

14 (b) The compensation and expenses paid or to be paid to  
15 an expert witness by the party calling him is a proper subject  
16 of inquiry by any adverse party as relevant to the credibility of  
17 the witness and the weight of his testimony.

18 723. The court may, at any time before or during the trial  
19 of an action, limit the number of expert witnesses to be called  
20 by any party.

21  
22 Article 2. Appointment of Expert Witness by Court  
23

24 730. When it appears to the court, at any time before or  
25 during the trial of an action, that expert evidence is or may  
26 be required by the court or by any party to the action, the  
27 court on its own motion or on motion of any party may ap-  
28 point one or more experts to investigate, to render a report  
29 as may be ordered by the court, and to testify as an expert at  
30 the trial of the action relative to the fact or matter as to which  
31 such expert evidence is or may be required. The court may  
32 fix the compensation for such services, if any, rendered by any  
33 person appointed under this section, in addition to any service  
34 as a witness, at such amount as seems reasonable to the court.

35 731. (a) In all criminal actions and juvenile court pro-  
36 ceedings, the compensation fixed under Section 730 shall be  
37 a charge against the county in which such action or proceeding  
38 is pending and shall be paid out of the treasury of such county  
39 on order of the court.

40 (b) In any county in which the board of supervisors so pro-  
41 vides, the compensation fixed under Section 730 for medical ex-  
42 perts in civil actions in such county shall be a charge against  
43 and paid out of the treasury of such county on order of the  
44 court.

45 (c) Except as otherwise provided in this section, in all  
46 civil actions, the compensation fixed under Section 730 shall,  
47 in the first instance, be apportioned and charged to the several  
48 parties in such proportion as the court may determine and  
49 may thereafter be taxed and allowed in like manner as other  
50 costs.

1 732. Any expert appointed by the court under Section 730  
2 may be called and examined by the court or by any party to  
3 the action. When such witness is called and examined by the  
4 court, the parties have the same right as is expressed in Section  
5 775 to cross-examine the witness and to object to the questions  
6 asked and the evidence adduced.

7 733. Nothing contained in this article shall be deemed or  
8 construed to prevent any party to any action from producing  
9 other expert evidence on the same fact or matter mentioned  
10 in Section 730; but, where other expert witnesses are called  
11 by a party to the action, their fees shall be paid by the party  
12 calling them and only ordinary witness fees shall be taxed  
13 as costs in the action.

#### 14 CHAPTER 4. INTERPRETERS AND TRANSLATORS

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17 750. A person who serves as an interpreter or translator  
18 in any action is subject to all the rules of law relating to  
19 witnesses.

20 751. (a) An interpreter shall take an oath that he will  
21 make a true interpretation to the witness in a language that  
22 the witness understands and that he will make a true inter-  
23 pretation of the witness' answers to questions to counsel, court,  
24 or jury, in the English language, with his best skill and judg-  
25 ment.

26 (b) A translator shall take an oath that he will make a  
27 true translation in the English language of any writing he  
28 is to decipher or translate.

29 752. (a) When a witness is incapable of hearing or under-  
30 standing the English language or is incapable of expressing  
31 himself in the English language so as to be understood directly  
32 by counsel, court, and jury, an interpreter whom he can under-  
33 stand and who can understand him shall be sworn to interpret  
34 for him.

35 (b) The interpreter may be appointed and compensated as  
36 provided in Article 2 (commencing with Section 730) of  
37 Chapter 3.

38 753. (a) When the written characters in a writing offered  
39 in evidence are incapable of being deciphered or understood  
40 directly, a translator who can decipher the characters or un-  
41 derstand the language shall be sworn to decipher or trans-  
42 late the writing.

43 (b) The translator may be appointed and compensated as  
44 provided in Article 2 (commencing with Section 730) of  
45 Chapter 3.

46 754. (a) As used in this section, "deaf person" means a  
47 person with a hearing loss so great as to prevent his under-  
48 standing language spoken in a normal tone.

49 (b) In any criminal action where the defendant is a deaf  
50 person, all of the proceedings of the trial shall be interpreted  
51 to him in a language that he understands by a qualified inter-  
52 preter appointed by the court.

1 (c) In any action where the mental condition of a deaf  
2 person is being considered and where such person may be  
3 committed to a mental institution, all of the court proceedings  
4 pertaining to him shall be interpreted to him in a language  
5 that he understands by a qualified interpreter appointed by  
6 the court.

7 (d) Interpreters appointed under this section shall be paid  
8 for their services a reasonable sum to be determined by the  
9 court, which shall be a charge against the county in which  
10 such action is pending and shall be paid out of the treasury  
11 of such county on order of the court.

12  
13 CHAPTER 5. METHOD AND SCOPE OF EXAMINATION

14 Article 1. Definitions

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16  
17 760. "Direct examination" is the first examination of a  
18 witness upon a matter that is not within the scope of a previ-  
19 ous examination of the witness.

20 761. "Cross-examination" is the examination of a witness  
21 by a party other than the direct examiner upon a matter that  
22 is within the scope of the direct examination of the witness.

23 762. "Redirect examination" is an examination of a wit-  
24 ness by the direct examiner subsequent to the cross-examina-  
25 tion of the witness.

26 763. "Re-cross-examination" is an examination of a witness  
27 by a cross-examiner subsequent to a redirect examination of  
28 the witness.

29 764. A "leading question" is a question that suggests to  
30 the witness the answer that the examining party desires.

31  
32 Article 2. Examination of Witnesses

33  
34 765. The court shall exercise reasonable control over the  
35 mode of interrogation of a witness so as (a) to make such in-  
36 terrogation as rapid, as distinct, and as effective for the as-  
37 certainment of the truth, as may be, and (b) to protect the  
38 witness from undue harassment or embarrassment.

39 766. A witness must give responsive answers to questions,  
40 and answers that are not responsive shall be stricken on motion  
41 of any party.

42 767. Except under special circumstances where the inter-  
43 ests of justice otherwise require:

44 (a) A leading question may not be asked of a witness on  
45 direct or redirect examination.

46 (b) A leading question may be asked of a witness on cross-  
47 examination or re-cross-examination.

48 768. (a) In examining a witness concerning a writing, it  
49 is not necessary to show, read, or disclose to him any part  
50 of the writing.

1 (b) If a writing is shown to a witness, all parties to the  
2 action must be given an opportunity to inspect it before any  
3 question concerning it may be asked of the witness.

4 769. In examining a witness concerning a statement or  
5 other conduct by him that is inconsistent with any part of his  
6 testimony at the hearing, it is not necessary to disclose to him  
7 any information concerning the statement or other conduct.

8 770. Unless the interests of justice otherwise require, ex-  
9 trinsic evidence of a statement made by a witness that is incon-  
10 sistent with any part of his testimony at the hearing shall be  
11 excluded unless:

12 (a) The witness was so examined while testifying as to give  
13 him an opportunity to explain or to deny the statement; or

14 (b) The witness has not been excused from giving further  
15 testimony in the action.

16 771. (a) Subject to subdivision (c), if a witness, either  
17 while testifying or prior thereto, uses a writing to refresh his  
18 memory with respect to any matter about which he testifies,  
19 such writing must be produced at the hearing at the request of  
20 an adverse party and, unless the writing is so produced, the  
21 testimony of the witness concerning such matter shall be  
22 stricken.

23 (b) If the writing is produced at the hearing, the adverse  
24 party may, if he chooses, inspect the writing, cross-examine  
25 the witness concerning it, and introduce in evidence such por-  
26 tion of it as may be pertinent to the testimony of the witness.

27 (c) Production of the writing is excused, and the testimony  
28 of the witness shall not be stricken, if the writing:

29 (1) Is not in the possession or control of the witness or the  
30 party who produced his testimony concerning the matter; and

31 (2) Was not reasonably procurable by such party through  
32 the use of the court's process or other available means.

33 772. (a) The examination of a witness shall proceed in  
34 the following phases: direct examination, cross-examination,  
35 redirect examination, re-cross-examination, and continuing  
36 thereafter by redirect and re-cross-examination.

37 (b) Unless for good cause the court otherwise directs, each  
38 phase of the examination of a witness must be concluded be-  
39 fore the succeeding phase begins.

40 (c) Subject to subdivision (d), a party may, in the dis-  
41 cretion of the court, interrupt his cross-examination, redirect  
42 examination, or re-cross-examination of a witness, in order to  
43 examine the witness upon a matter not within the scope of a  
44 previous examination of the witness.

45 (d) If the witness is the defendant in a criminal action, the  
46 witness may not, without his consent, be examined under  
47 direct examination by another party.

48 773. (a) A witness examined by one party may be cross-  
49 examined upon any matter within the scope of the direct ex-  
50 amination by each other party to the action in such order as  
51 the court directs.

1 (b) The cross-examination of a witness by any party whose  
2 interest is not adverse to the party calling him is subject to  
3 the same rules that are applicable to the direct examination.

4 774. A witness once examined cannot be reexamined as  
5 to the same matter without leave of the court, but he may be  
6 reexamined as to any new matter upon which he has been  
7 examined by another party to the action. Leave may be granted  
8 or withheld in the court's discretion.

9 775. The court, on its own motion or on the motion of any  
10 party, may call witnesses and interrogate them the same as if  
11 they had been produced by a party to the action, and the  
12 parties may object to the questions asked and the evidence  
13 adduced the same as if such witnesses were called and exam-  
14 ined by an adverse party. Such witnesses may be cross-  
15 examined by all parties to the action in such order as the  
16 court directs.

17 776. (a) A party to the record of any civil action, or a  
18 person identified with such a party, may be called and examined  
19 as if under cross-examination by any adverse party at any  
20 time during the presentation of evidence by the party calling  
21 the witness.

22 (b) A witness examined by a party under this section may  
23 be cross-examined by all other parties to the action in such  
24 order as the court directs; but the witness may be examined  
25 only as if under redirect examination by:

26 (1) In the case of a witness who is a party, his own counsel  
27 and counsel for a party who is not adverse to the witness.

28 (2) In the case of a witness who is not a party, counsel for  
29 the party with whom the witness is identified and counsel for  
30 a party who is not adverse to the party with whom the witness  
31 is identified.

32 (c) For the purpose of this section, parties represented by  
33 the same counsel are deemed to be a single party.

34 (d) For the purpose of this section, a person is identified  
35 with a party if he is:

36 (1) A person for whose immediate benefit the action is  
37 prosecuted or defended by the party.

38 (2) A director, officer, superintendent, member, agent, em-  
39 ployee, or managing agent of the party or of a person specified  
40 in paragraph (1), or any public employee of a public entity  
41 when such public entity is the party.

42 (3) A person who was in any of the relationships specified  
43 in paragraph (2) at the time of the act or omission giving rise  
44 to the cause of action.

45 (4) A person who was in any of the relationships specified  
46 in paragraph (2) at the time he obtained knowledge of the  
47 matter concerning which he is sought to be examined under  
48 this section.

49 777. (a) Subject to subdivisions (b) and (c), the court  
50 may exclude from the courtroom any witness not at the time  
51 under examination so that such witness cannot hear the testi-  
52 mony of other witnesses.

1 (b) A party to the action cannot be excluded under this  
2 section.

3 (c) If a person other than a natural person is a party to  
4 the action, an officer or employee designated by its attorney  
5 is, entitled to be present.

6 778. After a witness has been excused from giving further  
7 testimony in the action, he cannot be recalled without leave of  
8 the court. Leave may be granted or withheld in the court's  
9 discretion.

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## CHAPTER 6. CREDIBILITY OF WITNESSES

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### Article 1. Credibility Generally

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### Article 2. Attacking or Supporting Credibility

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785. The credibility of a witness may be attacked or supported by any party, including the party calling him.

786. Evidence of traits of his character other than honesty or veracity, or their opposites, is inadmissible to attack or support the credibility of a witness.

787. Subject to Section 788, evidence of specific instances of his conduct relevant only as tending to prove a trait of his character is inadmissible to attack or support the credibility of a witness.

788. For the purpose of attacking the credibility of a witness, it may be shown by the examination of the witness or by

1 the record of the judgment that he has been convicted of a  
2 felony unless:

3 (a) A pardon based on his innocence has been granted to  
4 the witness by the jurisdiction in which he was convicted.

5 (b) A certificate of rehabilitation and pardon has been  
6 granted to the witness under the provisions of Chapter 3.5  
7 , (commencing with Section 4852.01) of Title 6 of Part 3 of  
8 the Penal Code.

9 (c) The accusatory pleading against the witness has been  
10 dismissed under the provisions of Penal Code Section 1203.4.

11 *This exception shall not apply to any criminal trial where*  
12 *the witness is being prosecuted for a subsequent offense.*

13 (d) The conviction was under the laws of another jurisdic-  
14 tion and the witness has been relieved of the penalties and  
15 disabilities arising from the conviction pursuant to a procedure  
16 substantially equivalent to that referred to in subdivision (b)  
17 or (c).

18 789. Evidence of his religious belief or lack thereof is in-  
19 admissible to attack or support the credibility of a witness.

20 790. Evidence of the good character of a witness is inad-  
21 missible to support his credibility unless evidence of his bad  
22 character has been admitted for the purpose of attacking his  
23 credibility.

24 791. Evidence of a statement previously made by a wit-  
25 ness that is consistent with his testimony at the hearing is  
26 inadmissible to support his credibility unless it is offered  
27 after:

28 (a) Evidence of a statement made by him that is incon-  
29 sistent with any part of his testimony at the hearing has been  
30 admitted for the purpose of attacking his credibility, and the  
31 statement was made before the alleged inconsistent state-  
32 ment; or

33 (b) An express or implied charge has been made that his  
34 testimony at the hearing is recently fabricated or is influenced  
35 by bias or other improper motive, and the statement was made  
36 before the bias, motive for fabrication, or other improper  
37 motive is alleged to have arisen.

38  
39 DIVISION 7. OPINION TESTIMONY AND  
40 SCIENTIFIC EVIDENCE

41  
42 CHAPTER 1. EXPERT AND OTHER OPINION TESTIMONY

43  
44 Article 1. Expert and Other Opinion Testimony Generally

45  
46 800. If a witness is not testifying as an expert, his testi-  
47 mony in the form of an opinion is limited to such an opinion  
48 as is permitted by law, including but not limited to an opinion  
49 that is:

- 50 (a) Rationally based on the perception of the witness; and  
51 (b) Helpful to a clear understanding of his testimony.

1 801. If a witness is testifying as an expert, his testimony  
2 in the form of an opinion is limited to such an opinion as is:  
3 (a) Related to a subject that is sufficiently beyond common  
4 experience that the opinion of an expert would assist the trier  
5 of fact; and

6 (b) Based on matter (including his special knowledge, skill,  
7 experience, training, and education) perceived by or person-  
8 ally known to the witness or made known to him at or before  
9 the hearing, whether or not admissible, that is of a type that  
10 reasonably may be relied upon by an expert in forming an  
11 opinion upon the subject to which his testimony relates, unless  
12 an expert is precluded by law from using such matter as a  
13 basis for his opinion.

14 802. A witness testifying in the form of an opinion may  
15 state on direct examination the reasons for his opinion and  
16 the matter (including, in the case of an expert, his special  
17 knowledge, skill, experience, training, and education) upon  
18 which it is based, unless he is precluded by law from using such  
19 reasons or matter as a basis for his opinion. The court in its  
20 discretion may require that a witness before testifying in the  
21 form of an opinion be first examined concerning the matter  
22 upon which his opinion is based.

23 803. The court may, and upon objection shall, exclude  
24 testimony in the form of an opinion that is based in whole or  
25 in significant part on matter that is not a proper basis for  
26 such an opinion. In such case, the witness may, if there remains  
27 a proper basis for his opinion, then state his opinion after  
28 excluding from consideration the matter determined to be  
29 improper.

30 804. (a) If a witness testifying as an expert testifies that  
31 his opinion is based in whole or in part upon the opinion or  
32 statement of another person, such other person may be called  
33 and examined by any adverse party as if under cross-exam-  
34 ination concerning the opinion or statement.

35 (b) This section is not applicable if the person upon whose  
36 opinion or statement the expert witness has relied is (1) a  
37 party, (2) a person identified with a party within the meaning  
38 of subdivision (d) of Section 776, or (3) a witness who has  
39 testified in the action concerning the subject matter of the  
40 opinion or statement upon which the expert witness has relied.

41 (c) Nothing in this section makes admissible an expert  
42 opinion that is inadmissible because it is based in whole or in  
43 part on the opinion or statement of another person.

44 (d) An expert opinion otherwise admissible is not made  
45 inadmissible by this section because it is based on the opinion  
46 or statement of a person who is unavailable for examination  
47 pursuant to this section.

48 805. Testimony in the form of an opinion that is otherwise  
49 admissible is not objectionable because it embraces the ultimate  
50 issue to be decided by the trier of fact.



1 Article 2. Opinion Testimony on Particular Subjects

2  
3 870. A witness may state his opinion as to the sanity of a  
4 person when :

5 (a) The witness is an intimate acquaintance of the person  
6 whose sanity is in question ;

7 (b) The witness was a subscribing witness to a writing, the  
8 validity of which is in dispute, signed by the person whose  
9 sanity is in question and the opinion relates to the sanity of  
10 such person at the time the writing was signed ; or

11 (c) The witness is qualified under Section 800 or 801 to  
12 testify in the form of an opinion.

13  
14 CHAPTER 2. BLOOD TESTS TO DETERMINE PATERNITY

15  
16 890. This chapter may be cited as the Uniform Act on  
17 Blood Tests to Determine Paternity.

18 891. This act shall be so interpreted and construed as to  
19 effectuate its general purpose to make uniform the law of  
20 those states which enact it.

21 892. In a civil action in which paternity is a relevant fact,  
22 the court may upon its own initiative or upon suggestion made  
23 by or on behalf of any person whose blood is involved, and  
24 shall upon motion of any party to the action made at a time so  
25 as not to delay the proceedings unduly, order the mother,  
26 child, and alleged father to submit to blood tests. If any party  
27 refuses to submit to such tests, the court may resolve the ques-  
28 tion of paternity against such party or enforce its order if the  
29 rights of others and the interests of justice so require.

30 893. The tests shall be made by experts qualified as exam-  
31 iners of blood types who shall be appointed by the court. The  
32 experts shall be called by the court as witnesses to testify to  
33 their findings and shall be subject to cross-examination by the  
34 parties. Any party or person at whose suggestion the tests have  
35 been ordered may demand that other experts, qualified as  
36 examiners of blood types, perform independent tests under  
37 order of the court, the results of which may be offered in evi-  
38 dence. The number and qualifications of such experts shall be  
39 determined by the court.

40 894. The compensation of each expert witness appointed  
41 by the court shall be fixed at a reasonable amount. It shall be  
42 paid as the court shall order. The court may order that it be  
43 paid by the parties in such proportions and at such times as it  
44 shall prescribe, or that the proportion of any party be paid by  
45 the county, and that, after payment by the parties or the  
46 county or both, all or part or none of it be taxed as costs in  
47 the action.

48 895. If the court finds that the conclusions of all the ex-  
49 perts, as disclosed by the evidence based upon the tests, are  
50 that the alleged father is not the father of the child, the ques-  
51 tion of paternity shall be resolved accordingly. If the experts

1 disagree in their findings or conclusions, the question shall be  
2 submitted upon all the evidence.

3 896. This chapter applies to criminal actions subject to the  
4 following limitations and provisions:

5 (a) An order for the tests shall be made only upon applica-  
6 tion of a party or on the court's initiative.

7 (b) The compensation of the experts shall be paid by the  
8 county under order of court.

9 (c) The court may direct a verdict of acquittal upon the  
10 conclusions of all the experts under the provisions of Section  
11 895; otherwise, the case shall be submitted for determination  
12 upon all the evidence.

13 897. Nothing contained in this chapter shall be deemed  
14 or construed to prevent any party to any action from pro-  
15 ducing other expert evidence on the matter covered by this  
16 chapter; but, where other expert witnesses are called by a  
17 party to the action, their fees shall be paid by the party  
18 calling them and only ordinary witness fees shall be taxed  
19 as costs in the action.

20

## 21 DIVISION 8. PRIVILEGES

22

### 23 CHAPTER 1. DEFINITIONS

24

25 900. Unless the provision or context otherwise requires,  
26 the definitions in this chapter govern the construction of this  
27 division. They do not govern the construction of any other  
28 division.

29 901. "Proceeding" means any action, hearing, investiga-  
30 tion, inquest, or inquiry (whether conducted by a court, ad-  
31 ministrative agency, hearing officer, arbitrator, legislative body,  
32 or any other person authorized by law) in which, pursuant to  
33 law, testimony can be compelled to be given.

34 902. "Civil proceeding" means any proceeding except a  
35 criminal proceeding.

36 903. "Criminal proceeding" means:

37 (a) A criminal action; and

38 (b) A proceeding pursuant to Article 3 (commencing with  
39 Section 3060) of Chapter 7 of Division 4 of Title 1 of the  
40 Government Code to determine whether a public officer should  
41 be removed from office for wilful or corrupt misconduct in  
42 office.

43 905. "Presiding officer" means the person authorized to  
44 rule on a claim of privilege in the proceeding in which the  
45 claim is made.

46

### 47 CHAPTER 2. APPLICABILITY OF DIVISION

48

49 910. Except as otherwise provided by statute, the provi-  
50 sions of this division apply in all proceedings. The provisions  
51 of any statute making rules of evidence inapplicable in par-  
52 ticular proceedings, or limiting the applicability of rules of

1 draw any inference therefrom as to the credibility of the  
2 witness or as to any matter at issue in the proceeding.

3 (b) The court, at the request of a party who may be ad-  
4 versely affected because an unfavorable inference may be  
5 drawn by the jury because a privilege has been exercised, shall  
6 instruct the jury that no presumption arises because of the  
7 exercise of the privilege and that the jury may not draw any  
8 inference therefrom as to the credibility of the witness or as  
9 to any matter at issue in the proceeding.

10 914. (a) The presiding officer shall determine a claim of  
11 privilege in any proceeding in the same manner as a court de-  
12 termines such a claim under Article 2 (commencing with Sec-  
13 tion 400) of Chapter 4 of Division 3.

14 (b) No person may be held in contempt for failure to dis-  
15 close information claimed to be privileged unless he has failed  
16 to comply with an order of a court that he disclose such in-  
17 formation. This subdivision does not apply to any govern-  
18 mental agency that has constitutional contempt power, nor  
19 does it apply to hearings and investigations of the Industrial  
20 Accident Commission, nor does it impliedly repeal Chapter 4  
21 (commencing with Section 9400) of Part 1 of Division 2 of  
22 Title 2 of the Government Code. If no other statutory pro-  
23 cedure is applicable, the procedure prescribed by Section 1991  
24 of the Code of Civil Procedure shall be followed in seeking an  
25 order of a court that the person disclose the information  
26 claimed to be privileged.

27 915. (a) Subject to subdivision (b), the presiding officer  
28 may not require disclosure of information claimed to be privi-  
29 leged under this division in order to rule on the claim of  
30 privilege.

31 (b) When a court is ruling on a claim of privilege under  
32 Article 9 (commencing with Section 1040) of Chapter 4 (offi-  
33 cial information and identity of informer) or under Section  
34 1060 (trade secret) and is unable to do so without requiring  
35 disclosure of the information claimed to be privileged, the court  
36 may require the person from whom disclosure is sought or the  
37 person authorized to claim the privilege, or both, to disclose  
38 the information in chambers out of the presence and hearing  
39 of all persons except the person authorized to claim the privi-  
40 lege and such other persons as the person authorized to claim  
41 the privilege is willing to have present. If the judge deter-  
42 mines that the information is privileged, neither he nor any  
43 other person may ever disclose, without the consent of a per-  
44 son authorized to permit disclosure, what was disclosed in the  
45 course of the proceedings in chambers.

46 916. (a) The presiding officer, on his own motion or on the  
47 motion of any party, shall exclude information that is sub-  
48 ject to a claim of privilege under this division if:

49 (1) The person from whom the information is sought is not  
50 a person authorized to claim the privilege; and

51 (2) There is no party to the proceeding who is a person au-  
52 thorized to claim the privilege.

1 (b) The presiding officer may not exclude information  
2 under this section if:

3 (1) He is otherwise instructed by a person authorized to  
4 permit disclosure; or

5 (2) The proponent of the evidence establishes that there is  
6 no person authorized to claim the privilege in existence.

7 917. Whenever a privilege is claimed on the ground that  
8 the matter sought to be disclosed is a communication made in  
9 confidence in the course of the lawyer-client, physician-patient,  
10 psychotherapist-patient, clergyman-penitent, or husband-wife  
11 relationship, the communication is presumed to have been  
12 made in confidence and the opponent of the claim of privilege  
13 has the burden of proof to establish that the communication  
14 was not confidential.

15 918. A party may predicate error on a ruling disallowing  
16 a claim of privilege only if he is the holder of the privilege,  
17 except that a party may predicate error on a ruling disallowing  
18 a claim of privilege by his spouse under Section 970 or 971.

19 919. Evidence of a statement or other disclosure of privi-  
20 leged information is inadmissible against a holder of the  
21 privilege if:

22 (a) A person authorized to claim the privilege claimed it  
23 but nevertheless disclosure erroneously was required to be  
24 made; or

25 (b) The presiding officer did not exclude the privileged in-  
26 formation as required by Section 916.

27 920. Nothing in this division shall be construed to repeal  
28 by implication any other statute relating to privileges.

29  
30 CHAPTER 4. PARTICULAR PRIVILEGES

31  
32 Article 1. Privilege of Defendant in Criminal Case

33  
34 930. To the extent that such privilege exists under the Con-  
35 stitution of the United States or the State of California, a  
36 defendant in a criminal case has a privilege not to be called  
37 as a witness and not to testify.

38  
39 Article 2. Privilege Against Self-incrimination

40  
41 940. To the extent that such privilege exists under the  
42 Constitution of the United States or the State of California,  
43 a person has a privilege to refuse to disclose any matter that  
44 may tend to incriminate him.

45  
46 Article 3. Lawyer-client Privilege

47  
48 950. As used in this article, "lawyer" means a person au-  
49 thorized, or reasonably believed by the client to be authorized,  
50 to practice law in any state or nation.

51 951. As used in this article, "client" means a person who,  
52 directly or through an authorized representative

1 lawyer for the purpose of retaining the lawyer or securing  
2 legal service or advice from him in his professional capacity,  
3 and includes an incompetent (a) who himself so consults the  
4 lawyer or (b) whose guardian or conservator so consults the  
5 lawyer in behalf of the incompetent.

6 952. As used in this article, "confidential communication  
7 between client and lawyer" means information transmitted be-  
8 tween a client and his lawyer in the course of that relationship  
9 and in confidence by a means which, so far as the client is  
10 aware, discloses the information to no third person other  
11 than those who are present to further the interest of the client  
12 in the consultation or those to whom disclosure is reasonably  
13 necessary for the transmission of the information or the ac-  
14 complishment of the purpose for which the lawyer is con-  
15 sulted, and includes advice given by the lawyer in the course  
16 of that relationship.

17 953. As used in this article, "holder of the privilege"  
18 means:

- 19 (a) The client when he has no guardian or conservator.  
20 (b) A guardian or conservator of the client when the client  
21 has a guardian or conservator.  
22 (c) The personal representative of the client if the client is  
23 dead.  
24 (d) A successor, assign, trustee in dissolution, or any simi-  
25 lar representative of a firm, association, organization, partner-  
26 ship, business trust, corporation, or public entity that is no  
27 longer in existence.

28 954. Subject to Section 912 and except as otherwise pro-  
29 vided in this article, the client, whether or not a party, has  
30 a privilege to refuse to disclose, and to prevent another from  
31 disclosing, a confidential communication between client and  
32 lawyer if the privilege is claimed by:

- 33 (a) The holder of the privilege;  
34 (b) A person who is authorized to claim the privilege by the  
35 holder of the privilege; or  
36 (c) The person who was the lawyer at the time of the confi-  
37 dential communication, but such person may not claim the  
38 privilege if there is no holder of the privilege in existence or  
39 if he is otherwise instructed by a person authorized to permit  
40 disclosure.

41 955. The lawyer who received or made a communication  
42 subject to the privilege under this article shall claim the priv-  
43 ilege whenever he is present when the communication is sought  
44 to be disclosed and is authorized to claim the privilege under  
45 subdivision (c) of Section 954.

46 956. There is no privilege under this article if the services  
47 of the lawyer were sought or obtained to enable or aid anyone  
48 to commit or plan to commit a crime or a fraud.

49 957. There is no privilege under this article as to a commu-  
50 nication relevant to an issue between parties all of whom  
51 claim through a deceased client, regardless of whether the

1 claims are by testate or intestate succession or by inter vivos  
2 transaction.

3 958. There is no privilege under this article as to a commu-  
4 nication relevant to an issue of breach, by the lawyer or by the  
5 client, of a duty arising out of the lawyer-client relationship.

6 959. There is no privilege under this article as to a com-  
7 munication relevant to an issue concerning the intention or  
8 competence of a client executing an attested document of  
9 which the lawyer is an attesting witness, or concerning the  
10 execution or attestation of such a document.

11 960. There is no privilege under this article as to a commu-  
12 nication relevant to an issue concerning the intention of a  
13 client, now deceased, with respect to a deed of conveyance,  
14 will, or other writing, executed by the client, purporting to  
15 affect an interest in property.

16 961. There is no privilege under this article as to a commu-  
17 nication relevant to an issue concerning the validity of a deed  
18 of conveyance, will, or other writing, executed by a client, now  
19 deceased, purporting to affect an interest in property.

20 962. Where two or more clients have retained or consulted  
21 a lawyer upon a matter of common interest, none of them may  
22 claim a privilege under this article as to a communication  
23 made in the course of that relationship when such communi-  
24 cation is offered in a civil proceeding between such clients.

25  
26 Article 4. Privilege Not to Testify Against Spouse

27  
28 970. Except as otherwise provided by statute, a married  
29 person has a privilege not to testify against his spouse in  
30 any proceeding.

31 971. Except as otherwise provided by statute, a married  
32 person whose spouse is a party to a proceeding has a privilege  
33 not to be called as a witness by an adverse party to that pro-  
34 ceeding without the prior express consent of the spouse having  
35 the privilege under this section unless the party calling the  
36 spouse does so in good faith without knowledge of the marital  
37 relationship.

38 972. A married person does not have a privilege under  
39 this article in:

40 (a) A proceeding brought by or on behalf of one spouse  
41 against the other spouse.

42 (b) A proceeding to commit or otherwise place his spouse  
43 or his spouse's property, or both, under the control of another  
44 because of the spouse's alleged mental or physical condition.

45 (c) A proceeding brought by or on behalf of a spouse to  
46 establish his competence.

47 (d) A proceeding under the Juvenile Court Law, Chapter  
48 2 (commencing with Section 500) of Part 1 of Division 2 of  
49 the Welfare and Institutions Code.

50 (e) A criminal proceeding in which one spouse is charged  
51 with:

1 (1) A crime against the person or property of the other  
2 spouse or of a child of either, whether committed before or  
3 during marriage.

4 (2) A crime against the person or property of a third  
5 person committed in the course of committing a crime against  
6 the person or property of the other spouse, whether committed  
7 before or during marriage.

8 (3) Bigamy or adultery.

9 (4) A crime defined by Section 270 or 270a of the Penal  
10 Code.

11 973. (a) Unless erroneously compelled to do so, a married  
12 person who testifies in a proceeding to which his spouse is a  
13 party, or who testifies against his spouse in any proceeding,  
14 does not have a privilege under this article in the proceeding  
15 in which such testimony is given.

16 (b) There is no privilege under this article in a civil pro-  
17 ceeding brought or defended by a married person for the im-  
18 mediate benefit of his spouse or of himself and his spouse.

19

20 Article 5. Privilege for Confidential Marital  
21 Communications  
22

23 980. Subject to Section 912 and except as otherwise pro-  
24 vided in this article, a spouse (or his guardian or conservator  
25 when he has a guardian or conservator), whether or not a  
26 party, has a privilege during the marital relationship and  
27 afterwards to refuse to disclose, and to prevent another from  
28 disclosing, a communication if he claims the privilege and  
29 the communication was made in confidence between him and  
30 the other spouse while they were husband and wife.

31 981. There is no privilege under this article if the com-  
32 munication was made, in whole or in part, to enable or aid  
33 anyone to commit or plan to commit a crime or a fraud.

34 982. There is no privilege under this article in a proceed-  
35 ing to commit either spouse or otherwise place him or his  
36 property, or both, under the control of another because of his  
37 alleged mental or physical condition.

38 983. There is no privilege under this article in a proceed-  
39 ing brought by or on behalf of either spouse to establish his  
40 competence.

41 984. There is no privilege under this article in:

42 (a) A proceeding brought by or on behalf of one spouse  
43 against the other spouse.

44 (b) A proceeding between a surviving spouse and a person  
45 who claims through the deceased spouse, regardless of whether  
46 such claim is by testate or intestate succession or by inter  
47 vivos transaction.

48 985. There is no privilege under this article in a criminal  
49 proceeding in which one spouse is charged with:

50 (a) A crime committed at any time against the person or  
51 property of the other spouse or of a child of either.

1 (b) A crime committed at any time against the person or  
2 property of a third person committed in the course of com-  
3 mitting a crime against the person or property of the other  
4 spouse.

5 (c) Bigamy or adultery.

6 (d) A crime defined by Section 270 or 270a of the Penal  
7 Code.

8 986. There is no privilege under this article in a proceed-  
9 ing under the Juvenile Court Law, Chapter 2 (commencing  
10 with Section 500) of Part 1 of Division 2 of the Welfare and  
11 Institutions Code.

12 987. There is no privilege under this article in a criminal  
13 proceeding in which the communication is offered in evidence  
14 by a defendant who is one of the spouses between whom the  
15 communication was made.

16  
17 Article 6. Physician-Patient Privilege  
18

19 990. As used in this article, "physician" means a person  
20 authorized, or reasonably believed by the patient to be author-  
21 ized, to practice medicine in any state or nation.

22 991. As used in this article, "patient" means a person  
23 who consults a physician or submits to an examination by a  
24 physician for the purpose of securing a diagnosis or preven-  
25 tive, palliative, or curative treatment of his physical or mental  
26 or emotional condition.

27 992. As used in this article, "confidential communication  
28 between patient and physician" means information, including  
29 information obtained by an examination of the patient, trans-  
30 mitted between a patient and his physician in the course of  
31 that relationship and in confidence by a means which, so far  
32 as the patient is aware, discloses the information to no third  
33 persons other than those who are present to further the in-  
34 terest of the patient in the consultation or those to whom dis-  
35 closure is reasonably necessary for the transmission of the  
36 information or the accomplishment of the purpose for which  
37 the physician is consulted, and includes advice given by the  
38 physician in the course of that relationship.

39 993. As used in this article, "holder of the privilege"  
40 means:

41 (a) The patient when he has no guardian or conservator.

42 (b) A guardian or conservator of the patient when the pa-  
43 tient has a guardian or conservator.

44 (c) The personal representative of the patient if the patient  
45 is dead.

46 994. Subject to Section 912 and except as otherwise pro-  
47 vided in this article, the patient, whether or not a party, has  
48 a privilege to refuse to disclose, and to prevent another from  
49 disclosing, a confidential communication between patient and  
50 physician if the privilege is claimed by:

51 (a) The holder of the privilege;



1 (b) A person who is authorized to claim the privilege by  
2 the holder of the privilege; or

3 (c) The person who was the physician at the time of the  
4 confidential communication, but such person may not claim  
5 the privilege if there is no holder of the privilege in existence  
6 or if he is otherwise instructed by a person authorized to per-  
7 mit disclosure.

8 995. The physician who received or made a communication  
9 subject to the privilege under this article shall claim the privi-  
10 lege whenever he is present when the communication is sought  
11 to be disclosed and is authorized to claim the privilege under  
12 subdivision (c) of Section 994.

13 996. There is no privilege under this article as to a com-  
14 munication relevant to an issue concerning the condition of  
15 the patient if such issue has been tendered by:

16 (a) The patient;

17 (b) Any party claiming through or under the patient;

18 (c) Any party claiming as a beneficiary of the patient  
19 through a contract to which the patient is or was a party; or

20 (d) The plaintiff in an action brought under Section 376  
21 or 377 of the Code of Civil Procedure for damages for the  
22 injury or death of the patient.

23 997. There is no privilege under this article if the services  
24 of the physician were sought or obtained to enable or aid any-  
25 one to commit or plan to commit a crime or a tort or to escape  
26 detection or apprehension after the commission of a crime or  
27 a tort.

28 998. There is no privilege under this article in a criminal  
29 proceeding.

30 999. There is no privilege under this article in a proceed-  
31 ing to recover damages on account of conduct of the patient  
32 which constitutes a crime.

33 1000. There is no privilege under this article as to a com-  
34 munication relevant to an issue between parties all of whom  
35 claim through a deceased patient, regardless of whether the  
36 claims are by testate or intestate succession or by inter vivos  
37 transaction.

38 1001. There is no privilege under this article as to a com-  
39 munication relevant to an issue of breach, by the physician or  
40 by the patient, of a duty arising out of the physician-patient  
41 relationship.

42 1002. There is no privilege under this article as to a com-  
43 munication relevant to an issue concerning the intention of  
44 a patient, now deceased, with respect to a deed of conveyance,  
45 will, or other writing, executed by the patient, purporting to  
46 affect an interest in property.

47 1003. There is no privilege under this article as to a com-  
48 munication relevant to an issue concerning the validity of a  
49 deed of conveyance, will, or other writing, executed by a  
50 patient, now deceased, purporting to affect an interest in  
51 property.

1 1004. There is no privilege under this article in a proceed-  
2 ing to commit the patient or otherwise place him or his prop-  
3 erty, or both, under the control of another because of his  
4 alleged mental or physical condition.

5 1005. There is no privilege under this article in a proceed-  
6 ing brought by or on behalf of the patient to establish his  
7 competence.

8 1006. There is no privilege under this article as to infor-  
9 mation that the physician or the patient is required to report  
10 to a public employee, or as to information required to be  
11 recorded in a public office, if such report or record is open to  
12 public inspection.

13 1007. There is no privilege under this article in a proceed-  
14 ing brought by a public entity to determine whether a right,  
15 authority, license, or privilege (including the right or privilege  
16 to be employed by the public entity or to hold a public office)  
17 should be revoked, suspended, terminated, limited, or condi-  
18 tioned.

19  
20 Article 7. Psychotherapist-patient Privilege

21  
22 1010. As used in this article, "psychotherapist" means:

23 (a) A person authorized, or reasonably believed by the pa-  
24 tient to be authorized, to practice medicine in any state or  
25 nation who devotes, or is reasonably believed by the patient  
26 to devote, a substantial portion of his time to the practice of  
27 psychiatry; or

28 (b) A person certified as a psychologist under Chapter 6.6  
29 (commencing with Section 2900) of Division 2 of the Business  
30 and Professions Code.

31 1011. As used in this article, "patient" means a person  
32 who consults a psychotherapist or submits to an examination  
33 by a psychotherapist for the purpose of securing a diagnosis  
34 or preventive, palliative, or curative treatment of his mental  
35 or emotional condition or who submits to an examination of his  
36 mental or emotional condition for the purpose of scientific  
37 research on mental or emotional problems.

38 1012. As used in this article, "confidential communication  
39 between patient and psychotherapist" means information, in-  
40 cluding information obtained by an examination of the pa-  
41 tient, transmitted between a patient and his psychotherapist  
42 in the course of that relationship and in confidence by a means  
43 which, so far as the patient is aware, discloses the information  
44 to no third persons other than those who are present to fur-  
45 ther the interest of the patient in the consultation or examina-  
46 tion or those to whom disclosure is reasonably necessary for  
47 the transmission of the information or the accomplishment of  
48 the purpose of the consultation or examination, and includes  
49 advice given by the psychotherapist in the course of that  
50 relationship.

1 1013. As used in this article, "holder of the privilege"  
2 means:

3 (a) The patient when he has no guardian or conservator.

4 (b) A guardian or conservator of the patient when the pa-  
5 tient has a guardian or conservator.

6 (c) The personal representative of the patient if the pa-  
7 tient is dead.

8 1014. Subject to Section 912 and except as otherwise pro-  
9 vided in this article, the patient, whether or not a party, has  
10 a privilege to refuse to disclose, and to prevent another from  
11 disclosing, a confidential communication between patient and  
12 psychotherapist if the privilege is claimed by:

13 (a) The holder of the privilege;

14 (b) A person who is authorized to claim the privilege by  
15 the holder of the privilege; or

16 (c) The person who was the psychotherapist at the time of  
17 the confidential communication, but such person may not claim  
18 the privilege if there is no holder of the privilege in existence  
19 or if he is otherwise instructed by a person authorized to per-  
20 mit disclosure.

21 1015. The psychotherapist who received or made a commu-  
22 nication subject to the privilege under this article shall claim  
23 the privilege whenever he is present when the communication  
24 is sought to be disclosed and is authorized to claim the privi-  
25 lege under subdivision (c) of Section 1014.

26 1016. There is no privilege under this article as to a com-  
27 munication relevant to an issue concerning the mental or  
28 emotional condition of the patient if such issue has been ten-  
29 dered by:

30 (a) The patient;

31 (b) Any party claiming through or under the patient;

32 (c) Any party claiming as a beneficiary of the patient  
33 through a contract to which the patient is or was a party; or

34 (d) The plaintiff in an action brought under Section 376  
35 or 377 of the Code of Civil Procedure for damages for the  
36 injury or death of the patient.

37 1017. There is no privilege under this article if the psy-  
38 chotherapist is appointed by order of a court to examine the  
39 patient, but this exception does not apply where the psycho-  
40 therapist is appointed by order of the court upon the request  
41 of the lawyer for the defendant in a criminal proceeding in  
42 order to provide the lawyer with information needed so that  
43 he may advise the defendant whether to enter a plea based on  
44 insanity or to present a defense based on his mental or emo-  
45 tional condition.

46 1018. There is no privilege under this article if the services  
47 of the psychotherapist were sought or obtained to enable or  
48 aid anyone to commit or plan to commit a crime or a tort or  
49 to escape detection or apprehension after the commission of  
50 a crime or a tort.

51 1019. There is no privilege under this article as to a com-  
52 munication relevant to an issue between parties all of whom

1 claim through a deceased patient, regardless of whether the  
2 claims are by testate or intestate succession or by inter vivos  
3 transaction.

4 1020. There is no privilege under this article as to a com-  
5 munication relevant to an issue of breach, by the psychothera-  
6 pist or by the patient, of a duty arising out of the psycho-  
7 therapist-patient relationship.

8 1021. There is no privilege under this article as to a com-  
9 munication relevant to an issue concerning the intention of a  
10 patient, now deceased, with respect to a deed of conveyance,  
11 will, or other writing, executed by the patient, purporting to  
12 affect an interest in property.

13 1022. There is no privilege under this article as to a com-  
14 munication relevant to an issue concerning the validity of a  
15 deed of conveyance, will, or other writing, executed by a pa-  
16 tient, now deceased, purporting to affect an interest in  
17 property.

18 1023. There is no privilege under this article in a proce-  
19 ceeding under Chapter 6 (commencing with Section 1367) of  
20 Title 10 of Part 2 of the Penal Code initiated at the request  
21 of the defendant in a criminal action to determine his sanity.

22 1024. There is no privilege under this article if the psycho-  
23 therapist has reasonable cause to believe that the patient is in  
24 such mental or emotional condition as to be dangerous to him-  
25 self or to the person or property of another and that disclosure  
26 of the communication is necessary to prevent the threatened  
27 danger.

28 1025. There is no privilege under this article in a proceed-  
29 ing brought by or on behalf of the patient to establish his  
30 competence.

31 1026. There is no privilege under this article as to informa-  
32 tion that the psychotherapist or the patient is required to  
33 report to a public employee or as to information required to  
34 be recorded in a public office, if such report or record is open  
35 to public inspection.

36  
37 Article 8. Clergyman-Penitent Privileges  
38

39 1030. As used in this article, "clergyman" means a priest,  
40 minister, religious practitioner, or similar functionary of a  
41 church or of a religious denomination or religious organization.

42 1031. As used in this article, "penitent" means a person  
43 who has made a penitential communication to a clergyman.

44 1032. As used in this article, "penitential communication"  
45 means a communication made in confidence, in the presence of  
46 no third person so far as the penitent is aware, to a clergyman  
47 who, in the course of the discipline or practice of his church,  
48 denomination, or organization, is authorized or accustomed to  
49 here such communications and ~~has a duty to keep them secret,~~  
50 *under the discipline or tenets of his church, denomination,*  
51 *or organization, has a duty to keep such communications secret*

1 1033. Subject to Section 912, a penitent, whether or not  
2 a party, has a privilege to refuse to disclose, and to prevent  
3 another from disclosing, a penitential communication if he  
4 claims the privilege.

5 1034. Subject to Section 912, a clergyman, whether or not  
6 a party, has a privilege to refuse to disclose a penitential  
7 communication if he claims the privilege.

8  
9 Article 9. Official Information and Identity of Informer

10  
11 1040. (a) As used in this section, "official information"  
12 means information acquired in confidence by a public employee  
13 in the course of his duty and not open, or officially disclosed,  
14 to the public prior to the time the claim of privilege is made.

15 (b) A public entity has a privilege to refuse to disclose of-  
16 ficial information, and to prevent another from disclosing such  
17 information, if the privilege is claimed by a person authorized  
18 by the public entity to do so and:

19 (1) Disclosure is forbidden by an act of the Congress of  
20 the United States or a statute of this state; or

21 (2) Disclosure of the information is against the public in-  
22 terest because there is a necessity for preserving the confi-  
23 dentiality of the information that outweighs the necessity for  
24 disclosure in the interest of justice; but no privilege may be  
25 claimed under this paragraph if any person authorized to do  
26 so has consented that the information be disclosed in the pro-  
27 ceeding. In determining whether disclosure of the information  
28 is against the public interest, the interest of the public entity  
29 as a party in the outcome of the proceeding may not be con-  
30 sidered.

31 1041. (a) Except as provided in this section, a public en-  
32 tity has a privilege to refuse to disclose the identity of a per-  
33 son who has furnished information as provided in subdivision

34 (b) purporting to disclose a violation of a law of the United  
35 States or of this state or a public entity in this state, and  
36 to prevent another from disclosing such identity, if the privi-  
37 lege is claimed by a person authorized by the public entity to  
38 do so and:

39 (1) Disclosure is forbidden by an act of the Congress of  
40 the United States or a statute of this state; or

41 (2) Disclosure of the identity of the informer is against  
42 the public interest because there is a necessity for preserving  
43 the confidentiality of his identity that outweighs the neces-  
44 sity for disclosure in the interest of justice; but no privilege  
45 may be claimed under this paragraph if any person authorized  
46 to do so has consented that the identity of the informer be  
47 disclosed in the proceeding. In determining whether disclosure  
48 of the identity of the informer is against the public interest,  
49 the interest of the public entity as a party in the outcome of  
50 the proceeding may not be considered.

1 (b) This section applies only if the information is furnished  
2 in confidence by the informer to:

3 (1) A law enforcement officer;

4 (2) A representative of an administrative agency charged  
5 with the administration or enforcement of the law alleged to  
6 be violated; or

7 (3) Any person for the purpose of transmittal to a person  
8 listed in paragraph (1) or (2).

9 (c) There is no privilege under this section to prevent the  
10 informer from disclosing his identity.

11 1042. (a) Except where disclosure is forbidden by an act  
12 of the Congress of the United States, if a claim of privilege  
13 under this article by the state or a public entity in this state  
14 is sustained in a criminal proceeding, the presiding officer  
15 shall make such order or finding of fact adverse to the public  
16 entity bringing the proceeding as is required by law upon any  
17 issue in the proceeding to which the privileged information  
18 is material.

19 (b) Notwithstanding subdivision (a), where a search is  
20 made pursuant to a warrant valid on its face, the public entity  
21 bringing a criminal proceeding is not required to reveal to the  
22 defendant official information or the identity of an informer  
23 in order to establish the legality of the search or the admissi-  
24 bility of any evidence obtained as a result of it.

25  
26 Article 10. Political Vote  
27

28 1050. If he claims the privilege, a person has a privilege  
29 to refuse to disclose the tenor of his vote at a public election  
30 where the voting is by secret ballot unless he voted illegally or  
31 he previously made an unprivileged disclosure of the tenor  
32 of his vote.

33 Article 11. Trade Secret  
34

35 1060. If he or his agent or employee claims the privilege,  
36 the owner of a trade secret has a privilege to refuse to disclose  
37 the secret, and to prevent another from disclosing it, if the  
38 allowance of the privilege will not tend to conceal fraud or  
39 otherwise work injustice.

40  
41 CHAPTER 5. IMMUNITY OF NEWSMAN FROM CITATION  
42 FOR CONTEMPT  
43

44 1070. A publisher, editor, reporter, or other person con-  
45 nected with or employed upon a newspaper, or by a press as-  
46 sociation or wire service, cannot be adjudged in contempt by  
47 a court, the Legislature, or any administrative body, for re-  
48 fusing to disclose the source of any information procured for  
49 publication and published in a newspaper.

50 Nor can a radio or television news reporter or other person  
51 connected with or employed by a radio or television station

1 be so adjudged in contempt for refusing to disclose the source  
2 of any information procured for and used for news or news  
3 commentary purposes on radio or television.

4  
5 DIVISION 9. EVIDENCE AFFECTED OR EXCLUDED  
6 BY EXTRINSIC POLICIES

7  
8 CHAPTER 1. EVIDENCE OF CHARACTER, HABIT, OR CUSTOM  
9

10 1100. Except as otherwise provided by statute, any other-  
11 wise admissible evidence (including evidence in the form of  
12 an opinion, evidence of reputation, and evidence of specific  
13 instances of such person's conduct) is admissible to prove a  
14 person's character or a trait of his character.

15 1101. (a) Except as provided in this section and in Sec-  
16 tions 1102 and 1103, evidence of a person's character or a  
17 trait of his character (whether in the form of an opinion, evi-  
18 dence of reputation, or evidence of specific instances of his  
19 conduct) is inadmissible when offered to prove his conduct  
20 on a specified occasion.

21 (b) Nothing in this section prohibits the admission of evi-  
22 dence that a person committed a crime, civil wrong, or other  
23 act when relevant to prove some fact (such as motive, oppor-  
24 tunity, intent, preparation, plan, knowledge, identity, or ab-  
25 sence of mistake or accident) other than his disposition to  
26 commit such acts.

27 (c) Nothing in this section affects the admissibility of evi-  
28 dence offered to support or attack the credibility of a witness.

29 1102. In a criminal action, evidence of the defendant's  
30 character or a trait of his character in the form of an opinion  
31 or evidence of his reputation is not made inadmissible by Sec-  
32 tion 1101 if such evidence is:

33 (a) Offered by the defendant to prove his conduct in con-  
34 formity with such character or trait of character.

35 (b) Offered by the prosecution to rebut evidence adduced  
36 by the defendant under subdivision (a).

37 1103. In a criminal action, evidence of the character or a  
38 trait of character (in the form of an opinion, evidence of repu-  
39 tation, or evidence of specific instances of conduct) of the vic-  
40 tim of the crime for which the defendant is being prosecuted  
41 is not made inadmissible by Section 1101 if such evidence is:

42 (a) Offered by the defendant to prove conduct of the victim  
43 in conformity with such character or trait of character.

44 (b) Offered by the prosecution to rebut evidence adduced  
45 by the defendant under subdivision (a).

46 1104. Except as provided in Sections 1102 and 1103, evi-  
47 dence of a trait of a person's character with respect to care  
48 or skill is inadmissible to prove the quality of his conduct on  
49 a specified occasion.

50 1105. Any otherwise admissible evidence of habit or custom  
51 is admissible to prove conduct on a specified occasion in con-  
52 formity with the habit or custom.

1 CHAPTER 2. OTHER EVIDENCE AFFECTED OR EXCLUDED BY  
2 EXTRINSIC POLICIES  
3

4 1150. (a) Upon an inquiry as to the validity of a verdict,  
5 any otherwise admissible evidence may be received as to state-  
6 ments made, or conduct, conditions, or events occurring, either  
7 within or without the jury room, of such a character as is likely  
8 to have influenced the verdict improperly. No evidence is ad-  
9 missible to show the effect of such statement, conduct, condi-  
10 tion, or event upon a juror either in influencing him to assent  
11 to or dissent from the verdict or concerning the mental pro-  
12 cesses by which it was determined.

13 (b) Nothing in this code affects the law relating to the com-  
14 petence of a juror to give evidence to impeach or support a  
15 verdict.

16 1151. When, after the occurrence of an event, remedial or  
17 precautionary measures are taken, which, if taken previously,  
18 would have tended to make the event less likely to occur, evi-  
19 dence of such subsequent measures is inadmissible to prove  
20 negligence or culpable conduct in connection with the event.

21 1152. (a) Evidence that a person has, in compromise or  
22 from humanitarian motives, furnished or offered or promised  
23 to furnish money or any other thing, act, or service to another  
24 who has sustained or claims to have sustained loss or damage,  
25 as well as any conduct or statements made in negotiation  
26 thereof, is inadmissible to prove his liability for the loss or  
27 damage or any part of it.

28 (b) This section does not affect the admissibility of evi-  
29 dence of:

30 (1) Partial satisfaction of an asserted claim or demand  
31 without questioning its validity when such evidence is offered  
32 to prove the validity of the claim; or

33 (2) A debtor's payment or promise to pay all or a part of  
34 his pre-existing debt when such evidence is offered to prove  
35 the creation of a new duty on his part or a revival of his pre-  
36 existing duty.

37 1153. Evidence of a plea of guilty, later withdrawn, or of  
38 an offer to plead guilty to the crime charged or to any other  
39 crime, made by the defendant in a criminal action is inadmis-  
40 sible in any action or in any proceeding of any nature, includ-  
41 ing proceedings before agencies, commissions, boards, and  
42 tribunals.

43 1154. Evidence that a person has accepted or offered or  
44 promised to accept a sum of money or any other thing, act,  
45 or service in satisfaction of a claim, as well as any conduct  
46 or statements made in negotiation thereof, is inadmissible to  
47 prove the invalidity of the claim or any part of it.

48 1155. Evidence that a person was, at the time a harm was  
49 suffered by another, insured wholly or partially against loss  
50 arising from liability for that harm is inadmissible to prove  
51 negligence or other wrongdoing.



1 1156. (a) In-hospital medical staff committees of a li-  
2 censed hospital may engage in research and medical study for  
3 the purpose of reducing moribidity or mortality, and may  
4 make findings and recommendations relating to such purpose.  
5 Except as provided in subdivision (b), the written records  
6 of interviews, reports, statements, or memoranda of such in-  
7 hospital medical staff committees relating to such medical  
8 studies are subject to Sections 2016 to 2036, inclusive, of the  
9 Code of Civil Procedure (relating to discovery proceedings)  
10 but, subject to subdivisions (c) and (d), shall not be admitted  
11 as evidence in any action or before any administrative body,  
12 agency, or person.

13 (b) The disclosure, with or without the consent of the pa-  
14 tient, of information concerning him to such in-hospital medi-  
15 cal staff committee does not make unprivileged any informa-  
16 tion that would otherwise be privileged under Section 994 or  
17 1014; but, notwithstanding Sections 994 and 1014, such in-  
18 formation is subject to discovery under subdivision (a) except  
19 that the identity of any patient may not be discovered under  
20 subdivision (a) unless the patient consents to such disclosure.

21 (c) This section does not affect the admissibility in evidence  
22 of the original medical records of any patient.

23 (d) This section does not exclude evidence which is relevant  
24 evidence in a criminal action.

25

26

## DIVISION 10. HEARSAY EVIDENCE

27

28

### CHAPTER 1. GENERAL PROVISIONS

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1200. (a) "Hearsay evidence" is evidence of a statement  
that was made other than by a witness while testifying at the  
hearing and that is offered to prove the truth of the matter  
stated.

34 (b) Except as provided by law, hearsay evidence is inad-  
35 missible.

36 (c) This section shall be known and may be cited as the  
37 hearsay rule.

1201. A statement within the scope of an exception to the  
hearsay rule is not inadmissible on the ground that the evi-  
dence is hearsay evidence if the hearsay evidence of such state-  
ment consists of one or more statements each of which meets  
the requirements of an exception to the hearsay rule.

1202. Evidence of a statement or other conduct by a de-  
clarant that is inconsistent with a statement by such declarant  
received in evidence as hearsay evidence is not inadmissible  
for the purpose of attacking the credibility of the declarant  
though he is not given and has not had an opportunity to  
explain or to deny such inconsistent statement or other con-  
duct. Any other evidence offered to attack or support the  
credibility of the declarant is admissible if it would have been  
admissible had the declarant been a witness at the hearing.  
For the purposes of this section, the deponent of a deposition

1 taken in the action in which it is offered shall be deemed to  
2 be a hearsay declarant.

3 1203. (a) The declarant of a statement that is admitted as  
4 hearsay evidence may be called and examined by any adverse  
5 party as if under cross-examination concerning the statement.

6 (b) This section is not applicable if the declarant is (1) a  
7 party, (2) a person identified with a party within the meaning  
8 of subdivision (d) of Section 776, or (3) a witness who has  
9 testified in the action concerning the subject matter of the  
10 statement.

11 (c) This section is not applicable if the statement is one  
12 described in Article 1 (commencing with Section 1220), Ar-  
13 ticle 3 (commencing with Section 1235), or Article 10 (com-  
14 mencing with Section 1300) of Chapter 2 of this division.

15 (d) A statement that is otherwise admissible as hearsay evi-  
16 dence is not made inadmissible by this section because the de-  
17 clarant who made the statement is unavailable for examination  
18 pursuant to this section.

19 1204. A statement that is otherwise admissible as hearsay  
20 evidence is inadmissible against the defendant in a criminal  
21 action if the statement was made, either by the defendant or  
22 by another, under such circumstances that it is inadmissible  
23 against the defendant under the Constitution of the United  
24 States or the State of California.

25 1205. Nothing in this division shall be construed to repeal  
26 by implication any other statute relating to hearsay evidence.  
27

## 28 CHAPTER 2. EXCEPTIONS TO THE HEARSAY RULE

### 29 Article 1. Confessions and Admissions

30  
31  
32 1220. Evidence of a statement is not made inadmissible  
33 by the hearsay rule when offered against the declarant in an  
34 action to which he is a party in either his individual or repre-  
35 sentative capacity, regardless of whether the statement was  
36 made in his individual or representative capacity.

37 1221. Evidence of a statement offered against a party is not  
38 made inadmissible by the hearsay rule if the statement is one  
39 of which the party, with knowledge of the content thereof, has  
40 by words or other conduct manifested his adoption or his belief  
41 in its truth.

42 1222. Evidence of a statement offered against a party is not  
43 made inadmissible by the hearsay rule if:

44 (a) The statement was made by a person authorized by the  
45 party to make a statement or statements for him concerning  
46 the subject matter of the statement; and

47 (b) The evidence is offered either after admission of evi-  
48 dence sufficient to sustain a finding of such authority or, in  
49 the court's discretion as to the order of proof, subject to the  
50 admission of such evidence.

1 1223. Evidence of a statement offered against a party is not  
2 made inadmissible by the hearsay rule if:

3 (a) The statement was made by the declarant while partici-  
4 pating in a conspiracy to commit a crime or civil wrong and in  
5 furtherance of the objective of that conspiracy;

6 (b) The statement was made prior to or during the time  
7 that the party was participating in that conspiracy; and

8 (c) The evidence is offered either after admission of evi-  
9 dence sufficient to sustain a finding of the facts specified in  
10 subdivisions (a) and (b) or, in the court's discretion as to the  
11 order of proof, subject to the admission of such evidence.

12 1224. When the liability, obligation, or duty of a party to  
13 a civil action is based in whole or in part upon the liability,  
14 obligation, or duty of the declarant, or when the claim or right  
15 asserted by a party to a civil action is barred or diminished by  
16 a breach of duty by the declarant, evidence of a statement  
17 made by the declarant is as admissible against the party as it  
18 would be if offered against the declarant in an action involving  
19 that liability, obligation, duty, or breach of duty.

20 1225. When a right, title, or interest in any property or  
21 claim asserted by a party to a civil action requires a determina-  
22 tion that a right, title, or interest exists or existed in the de-  
23 clarant, evidence of a statement made by the declarant during  
24 the time the party now claims the declarant was the holder  
25 of the right, title, or interest is as admissible against the party  
26 as it would be if offered against the declarant in an action  
27 involving that right, title, or interest.

28 1226. Evidence of a statement by a minor child is not made  
29 inadmissible by the hearsay rule if offered against the plaintiff  
30 in an action brought under Section 376 of the Code of Civil  
31 Procedure for injury to such minor child.

32 1227. Evidence of a statement by the deceased is not made  
33 inadmissible by the hearsay rule if offered against the plaintiff  
34 in an action for wrongful death brought under Section 377 of  
35 the Code of Civil Procedure.

36

37

## Article 2. Declarations Against Interest

38

39 1230. Evidence of a statement by a declarant having suffi-  
40 cient knowledge of the subject is not made inadmissible by the  
41 hearsay rule if the declarant is unavailable as a witness and  
42 the statement, when made, was so far contrary to the de-  
43 clarant's pecuniary or proprietary interest, or so far subjected  
44 him to the risk of civil or criminal liability, or so far tended  
45 to render invalid a claim by him against another, or created  
46 such a risk of making him an object of hatred, ridicule, or  
47 social disgrace in the community, that a reasonable man in  
48 his position would not have made the statement unless he be-  
49 lieved it to be true.

1 1241. Evidence of a statement is not made inadmissible by  
2 the hearsay rule if the statement :

3 (a) Is offered to explain, qualify, or make understandable  
4 conduct of the declarant ; and

5 (b) Was made while the declarant was engaged in such  
6 conduct.

7 1242. Evidence of a statement made by a dying person  
8 respecting the cause and circumstances of his death is not made  
9 inadmissible by the hearsay rule if the statement was made  
10 upon his personal knowledge and under a sense of immediately  
11 impending death.

12

13 Article 5. Statements of Mental or Physical State

14

15 1250. (a) Subject to Section 1252, evidence of a statement  
16 of the declarant's then existing state of mind, emotion, or  
17 physical sensation (including a statement of intent, plan, mo-  
18 tive, design, mental feeling, pain, or bodily health) is not made  
19 inadmissible by the hearsay rule when :

20 (1) The evidence is offered to prove the declarant's state  
21 of mind, emotion, or physical sensation at that time or at any  
22 other time when it is itself an issue in the action ; or

23 (2) The evidence is offered to prove or explain acts or con-  
24 duct of the declarant.

25 (b) This section does not make admissible evidence of a  
26 statement of memory or belief to prove the fact remembered or  
27 believed.

28 1251. Subject to Section 1252, evidence of a statement of  
29 the declarant's state of mind, emotion, or physical sensation  
30 (including a statement of intent, plan, motive, design, mental  
31 feeling, pain, or bodily health) at a time prior to the statement  
32 is not made inadmissible by the hearsay rule if :

33 (a) The declarant is unavailable as a witness ; and

34 (b) The evidence is offered to prove such prior state of  
35 mind, emotion, or physical sensation when it is itself an issue  
36 in the action and the evidence is not offered to prove any fact  
37 other than such state of mind, emotion, or physical sensation.

38 1252. Evidence of a statement is inadmissible under this  
39 article if the statement was made under circumstances such as  
40 to indicate its lack of trustworthiness.

41

42 Article 6. Statements Relating to Wills and to Claims  
43 Against Estates

44

45 1260. (a) Evidence of a statement made by a declarant  
46 who is unavailable as a witness that he has or has not made a  
47 will, or has or has not revoked his will, or that identifies his  
48 will, is not made inadmissible by the hearsay rule.

49 (b) Evidence of a statement is inadmissible under this sec-  
50 tion if the statement was made under circumstances such as to  
51 indicate its lack of trustworthiness.

1 1261. (a) Evidence of a statement is not made inadmissible  
 2 by the hearsay rule when offered in an action upon a claim  
 3 or demand against the estate of the declarant if the statement  
 4 was made upon the personal knowledge of the declarant at a  
 5 time when the matter had been recently perceived by him and  
 6 while his recollection was clear.

7 (b) Evidence of a statement is inadmissible under this sec-  
 8 tion if the statement was made under circumstances such as  
 9 to indicate its lack of trustworthiness.

10  
 11 Article 7. Business Records  
 12

13 1270. As used in this article, "a business" includes every  
 14 kind of business, governmental activity, profession, occupation,  
 15 calling, or operation of institutions, whether carried on for  
 16 profit or not.

17 1271. Evidence of a writing made as a record of an act,  
 18 condition, or event is not made inadmissible by the hearsay  
 19 rule when offered to prove the act, condition, or event if:

20 (a) The writing was made in the regular course of a busi-  
 21 ness;

22 (b) The writing was made at or near the time of the act,  
 23 condition, or event;

24 (c) The custodian or other qualified witness testifies to its  
 25 identity and the mode of its preparation; and

26 (d) The sources of information and method and time of  
 27 preparation were such as to indicate its trustworthiness.

28 1272. Evidence of the absence from the records of a busi-  
 29 ness of a record of an asserted act, condition, or event is not  
 30 made inadmissible by the hearsay rule when offered to prove  
 31 the nonoccurrence of the act or event, or the nonexistence of  
 32 the condition, if:

33 (a) It was the regular course of that business to make rec-  
 34 ords of all such acts, conditions, or events at or near the time  
 35 of the act, condition, or event and to preserve them; and

36 (b) The sources of information and method and time of  
 37 preparation of the records of that business were such that the  
 38 absence of a record of an act, condition, or event is a trust-  
 39 worthy indication that the act or event did not occur or the  
 40 condition did not exist.

41  
 42 Article 8. Official Records and Other Official Writings  
 43

44 1280. Evidence of a writing made as a record of an act,  
 45 condition, or event is not made inadmissible by the hearsay  
 46 rule when offered to prove the act, condition, or event if:

47 (a) The writing was made by and within the scope of duty  
 48 of a public employee;

49 (b) The writing was made at or near the time of the act,  
 50 condition, or event; and

51 (c) The sources of information and method and time of  
 52 preparation were such as to indicate its trustworthiness.

1 1281. Evidence of a writing made as a record of a birth,  
2 fetal death, death, or marriage is not made inadmissible  
3 by the hearsay rule if the maker was required by law to file  
4 the writing in a designated public office and the writing was  
5 made and filed as required by law.

6 1282. A written finding of presumed death made by an  
7 employee of the United States authorized to make such finding  
8 pursuant to the Federal Missing Persons Act (56 Stats. 143,  
9 1092, and P.L. 408, Ch. 371, 2d Sess. 78th Cong.; 50 U.S.C.  
10 App. 1001-1016), as enacted or as heretofore or hereafter  
11 amended, shall be received in any court, office, or other place  
12 in this state as evidence of the death of the person therein  
13 found to be dead and of the date, circumstances, and place  
14 of his disappearance.

15 1283. An official written report or record that a person is  
16 missing, missing in action, interned in a foreign country,  
17 captured by a hostile force, beleaguered by a hostile force,  
18 besieged by a hostile force, or detained in a foreign country  
19 against his will, or is dead or is alive, made by an employee  
20 of the United States authorized by any law of the United  
21 States to make such report or record shall be received in any  
22 court, office, or other place in this state as evidence that such  
23 person is missing, missing in action, interned in a foreign  
24 country, captured by a hostile force, beleaguered by a hostile  
25 force, besieged by a hostile force, or detained in a foreign  
26 country against his will, or is dead or is alive.

27 1284. Evidence of a writing made by the public employee  
28 who is the official custodian of the records in a public office,  
29 reciting diligent search and failure to find a record, is not  
30 made inadmissible by the hearsay rule when offered to prove  
31 the absence of a record in that office.

32

33

#### Article 9. Former Testimony

34

35 1290. As used in this article, "former testimony" means  
36 testimony given under oath in:

37 (a) Another action or in a former hearing or trial of the  
38 same action;

39 (b) A proceeding to determine a controversy conducted by  
40 or under the supervision of an agency that has the power to  
41 determine such a controversy and is an agency of the United  
42 States or a public entity in the United States;

43 (c) A deposition taken in compliance with law in another  
44 action; or

45 (d) An arbitration proceeding if the evidence of such  
46 former testimony is a verbatim transcript thereof.

47 1291. (a) Evidence of former testimony is not made inad-  
48 missible by the hearsay rule if the declarant is unavailable as  
49 a witness and:

50 (1) The former testimony is offered against a person who  
51 offered it in evidence in his own behalf on the former occasion  
52 or against the successor in interest of such person; or

1 (2) The party against whom the former testimony is offered  
2 was a party to the action or proceeding in which the testimony  
3 was given and had the right and opportunity to cross-examine  
4 the declarant with an interest and motive similar to that which  
5 he has at the hearing.

6 (b) The admissibility of former testimony under this section  
7 is subject to the same limitations and objections as though the  
8 declarant were testifying at the hearing, except that former  
9 testimony offered under this section is not subject to:

10 (1) Objections to the form of the question which were not  
11 made at the time the former testimony was given.

12 (2) Objections based on competency or privilege which did  
13 not exist at the time the former testimony was given.

14 1292. (a) Evidence of former testimony is not made inad-  
15 missible by the hearsay rule if:

16 (1) The declarant is unavailable as a witness;

17 (2) The former testimony is offered in a civil action; and

18 (3) The issue is such that the party to the action or pro-  
19 ceeding in which the former testimony was given had the  
20 right and opportunity to cross-examine the declarant with an  
21 interest and motive similar to that which the party against  
22 whom the testimony is offered has at the hearing.

23 (b) The admissibility of former testimony under this section  
24 is subject to the same limitations and objections as though the  
25 declarant were testifying at the hearing, except that former  
26 testimony offered under this section is not subject to objections  
27 based on competency or privilege which did not exist at the  
28 time the former testimony was given.

29  
30 Article 10. Judgments  
31

32 1300. Evidence of a final judgment adjudging a person  
33 guilty of a crime punishable as a felony is not made inad-  
34 missible by the hearsay rule when offered in a civil action to  
35 prove any fact essential to the judgment unless the judgment  
36 was based on a plea of nolo contendere.

37 1301. Evidence of a final judgment is not made inadmis-  
38 sible by the hearsay rule when offered by the judgment debtor  
39 to prove any fact which was essential to the judgment in an  
40 action in which he seeks to:

41 (a) Recover partial or total indemnity or exoneration for  
42 money paid or liability incurred because of the judgment;

43 (b) Enforce a warranty to protect the judgment debtor  
44 against the liability determined by the judgment; or

45 (c) Recover damages for breach of warranty substantially  
46 the same as the warranty determined by the judgment to have  
47 been breached.

48 1302. When the liability, obligation, or duty of a third  
49 person is in issue in a civil action, evidence of a final judg-  
50 ment against that person is not made inadmissible by the

1 hearsay rule when offered to prove such liability, obligation,  
2 or duty.

3 Article 11. Family History

4  
5 1310. (a) Subject to subdivision (b), evidence of a state-  
6 ment by a declarant who is unavailable as a witness concerning  
7 his own birth, marriage, divorce, legitimacy, relationship by  
8 blood or marriage, race, ancestry, or other similar fact of his  
9 family history is not made inadmissible by the hearsay rule,  
10 even though the declarant had no means of acquiring personal  
11 knowledge of the matter declared.

12 (b) Evidence of a statement is inadmissible under this sec-  
13 tion if the statement was made under circumstances such as to  
14 indicate its lack of trustworthiness.

15 1311. (a) Subject to subdivision (b), evidence of a state-  
16 ment concerning the birth, marriage, divorce, death, legiti-  
17 macy, race, ancestry, relationship by blood or marriage, or  
18 other similar fact of the family history of a person other  
19 than the declarant is not made inadmissible by the hearsay  
20 rule if the declarant is unavailable as a witness and:

21 (1) The declarant was related to the other by blood or  
22 marriage; or

23 (2) The declarant was otherwise so intimately associated  
24 with the other's family as to be likely to have had accurate  
25 information concerning the matter declared and made the  
26 statement (i) upon information received from the other or  
27 from a person related by blood or marriage to the other or  
28 (ii) upon repute in the other's family.

29 (b) Evidence of a statement is inadmissible under this sec-  
30 tion if the statement was made under circumstances such as to  
31 indicate its lack of trustworthiness.

32 1312. Evidence of entries in family bibles or other family  
33 books or charts, engravings on rings, family portraits, engrav-  
34 ings on urns, crypts, or tombstones, and the like, is not made  
35 inadmissible by the hearsay rule when offered to prove the  
36 birth, marriage, divorce, death, legitimacy, race, ancestry, re-  
37 lationship by blood or marriage, or other similar fact of the  
38 family history of a member of the family by blood or marriage.

39 1313. Evidence of reputation among members of a family  
40 is not made inadmissible by the hearsay rule if the reputation  
41 concerns the birth, marriage, divorce, death, legitimacy, race,  
42 ancestry, relationship by blood or marriage, or other similar  
43 fact of the family history of a member of the family by blood  
44 or marriage.

45 1314. Evidence of reputation in a community concerning  
46 the date or fact of birth, marriage, divorce, or death of a per-  
47 son resident in the community at the time of the reputation  
48 is not made inadmissible by the hearsay rule.

49 1315. Evidence of a statement concerning a person's birth,  
50 marriage, divorce, death, legitimacy, race, ancestry, relation-  
51 ship by blood or marriage, or other similar fact of family his-  
52 tory which is contained in a writing made as a record of a



1 church, religious denomination, or religious society is not made  
2 inadmissible by the hearsay rule if:

3 (a) The statement is contained in a writing made as a  
4 record of an act, condition, or event that would be admissible  
5 as evidence of such act, condition, or event under Section 1271;  
6 and

7 (b) The statement is of a kind customarily recorded in con-  
8 nection with the act, condition, or event recorded in the writ-  
9 ing.

10 1316. Evidence of a statement concerning a person's birth,  
11 marriage, divorce, death, legitimacy, race, ancestry, relation-  
12 ship by blood or marriage, or other similar fact of family  
13 history is not made inadmissible by the hearsay rule if the  
14 statement is contained in a certificate that the maker thereof  
15 performed a marriage or other ceremony or administered a  
16 sacrament and:

17 (a) The maker was a clergyman, civil officer, or other person  
18 authorized to perform the acts reported in the certificate by  
19 law or by the rules, regulations, or requirements of a church,  
20 religious denomination, or religious society; and

21 (b) The certificate was issued by the maker at the time  
22 and place of the ceremony or sacrament or within a reasonable  
23 time thereafter.

24  
25 Article 12. Reputation and Statements Concerning  
26 Community History, Property Interests,  
27 and Character  
28

29 1320. Evidence of reputation in a community is not made  
30 inadmissible by the hearsay rule if the reputation concerns an  
31 event of general history of the community or of the state or  
32 nation of which the community is a part and the event was  
33 of importance to the community.

34 1321. Evidence of reputation in a community is not made  
35 inadmissible by the hearsay rule if the reputation concerns the  
36 interest of the public in property in the community and the  
37 reputation arose before controversy.

38 1322. Evidence of reputation in a community is not made  
39 inadmissible by the hearsay rule if the reputation concerns  
40 boundaries of, or customs affecting, land in the community and  
41 the reputation arose before controversy.

42 1323. Evidence of a statement concerning the boundary of  
43 land is not made inadmissible by the hearsay rule if the de-  
44 clarant is unavailable as a witness and had sufficient knowledge  
45 of the subject, but evidence of a statement is not admissible  
46 under this section if the statement was made under circum-  
47 stances such as to indicate its lack of trustworthiness.

48 1324. Evidence of a person's general reputation with ref-  
49 erence to his character or a trait of his character at a relevant  
50 time in the community in which he then resided or in a group  
51 with which he then habitually associated is not made inadmis-  
52 sible by the hearsay rule.

1 Article 13. Dispositive Instruments and Ancient Writings

2  
3 1330. Evidence of a statement contained in a deed of con-  
4 veyance or a will or other writing purporting to affect an  
5 interest in real or personal property is not made inadmissible  
6 by the hearsay rule if:

7 (a) The matter stated was relevant to the purpose of the  
8 writing;

9 (b) The matter stated would be relevant to an issue as to  
10 an interest in the property; and

11 (c) The dealings with the property since the statement was  
12 made have not been inconsistent with the truth of the state-  
13 ment.

14 1331. Evidence of a statement is not made inadmissible by  
15 the hearsay rule if the statement is contained in a writing  
16 more than 30 years old and the statement has been since  
17 generally acted upon as true by persons having an interest in  
18 the matter.

19

20 Article 14. Commercial, Scientific, and  
21 Similar Publications

22

23 1340. Evidence of a statement, other than an opinion, con-  
24 tained in a tabulation, list, directory, register, or other pub-  
25 lished compilation is not made inadmissible by the hearsay  
26 rule if the compilation is generally used and relied upon as  
27 accurate in the course of a business as defined in Section 1270.

28 1341. Historical works, books of science or art, and pub-  
29 lished maps or charts, made by persons indifferent between  
30 the parties, are not made inadmissible by the hearsay rule  
31 when offered to prove facts of general notoriety and interest.

32

33 DIVISION 11. WRITINGS

34

35 CHAPTER 1. AUTHENTICATION AND PROOF OF WRITINGS

36

37 Article 1. Requirement of Authentication

38

39 1400. Authentication of a writing means (a) the introduc-  
40 tion of evidence sufficient to sustain a finding that it is the  
41 writing that the proponent of the evidence claims it is or (b)  
42 the establishment of such facts by any other means provided  
43 by law.

44 1401. (a) Authentication of a writing is required before  
45 it may be received in evidence.

46 (b) Authentication of a writing is required before second-  
47 ary evidence of its content may be received in evidence.

48 1402. The party producing a writing as genuine which  
49 has been altered, or appears to have been altered, after its  
50 execution, in a part material to the question in dispute, must  
51 account for the alteration or appearance thereof. He may  
52 show that the alteration was made by another, without his

1 concurrence, or was made with the consent of the parties af-  
2 fected by it, or otherwise properly or innocently made, or  
3 that the alteration did not change the meaning or language  
4 of the instrument. If he does that, he may give the writing  
5 in evidence, but not otherwise.

6

7 Article 2. Means of Authenticating and Proving Writings

8

9 1410. Nothing in this article shall be construed to limit  
10 the means by which a writing may be authenticated or proved.

11 1411. Except as provided by statute, the testimony of a  
12 subscribing witness is not required to authenticate a writing.

13 1412. If the testimony of a subscribing witness is required  
14 by statute to authenticate a writing and the subscribing wit-  
15 ness denies or does not recollect the execution of the writing,  
16 the writing may be authenticated by other evidence.

17 1413. A writing may be authenticated by anyone who saw  
18 the writing made or executed, including a subscribing witness.

19 1414. A writing may be authenticated by evidence that:

20 (a) The party against whom it is offered has at any time  
21 admitted its authenticity; or

22 (b) The writing has been acted upon as authentic by the  
23 party against whom it is offered.

24 1415. A writing may be authenticated by evidence of the  
25 genuineness of the handwriting of the maker.

26 1416. A witness who is not otherwise qualified to testify as  
27 an expert may state his opinion whether a writing is in the  
28 handwriting of a supposed writer if the court finds that he  
29 has personal knowledge of the handwriting of the supposed  
30 writer. Such personal knowledge may be acquired from:

31 (a) Having seen the supposed writer write;

32 (b) Having seen a writing purporting to be in the hand-  
33 writing of the supposed writer and upon which the supposed  
34 writer has acted or been charged;

35 (c) Having received letters in the due course of mail pur-  
36 porting to be from the supposed writer in response to letters  
37 duly addressed and mailed by him to the supposed writer; or

38 (d) Any other means of obtaining personal knowledge of  
39 the handwriting of the supposed writer.

40 1417. The genuineness of handwriting, or the lack thereof,  
41 may be proved by a comparison made by the trier of fact with  
42 handwriting (a) which the court finds was admitted or treated  
43 as genuine by the party against whom the evidence is offered  
44 or (b) otherwise proved to be genuine to the satisfaction of the  
45 court.

46 1418. The genuineness of writing, or the lack thereof, may  
47 be proved by a comparison made by an expert witness with  
48 writing (a) which the court finds was admitted or treated as  
49 genuine by the party against whom the evidence is offered or  
50 (b) otherwise proved to be genuine to the satisfaction of the  
51 court.

1 1419. Where a writing whose genuineness is sought to be  
 2 proved is more than 30 years old, the comparison under Sec-  
 3 tion 1417 or 1418 may be made with writing purporting to be  
 4 genuine, and generally respected and acted upon as such, by  
 5 persons having an interest in knowing whether it is genuine.

6 1420. A writing may be authenticated by evidence that  
 7 the writing was received in response to a communication sent  
 8 to the person who is claimed by the proponent of the evidence  
 9 to be the author of the writing.

10 1421. A writing may be authenticated by evidence that the  
 11 writing refers to or states matters that are unlikely to be  
 12 known to anyone other than the person who is claimed by the  
 13 proponent of the evidence to be the author of the writing.  
 14

### 15 Article 3. Presumptions Affecting Acknowledged 16 Writings and Official Writings 17

18 1450. The presumptions established by this article are pre-  
 19 sumptions affecting the burden of producing evidence.

20 1451. A certificate of the acknowledgment of a writing  
 21 other than a will, or a certificate of the proof of such a writing,  
 22 is prima facie evidence of the facts recited in the certificate  
 23 and the genuineness of the signature of each person by whom  
 24 the writing purports to have been signed if the certificate meets  
 25 the requirements of Article 3 (commencing with Section 1180)  
 26 of Chapter 4, Title 4, Part 4, Division 2 of the Civil Code.

27 1452. A seal is presumed to be genuine and its use author-  
 28 ized if it purports to be the seal of:

29 (a) The United States or a department, agency, or public  
 30 employee of the United States.

31 (b) A public entity in the United States or a department,  
 32 agency, or public employee of such public entity.

33 (c) A nation recognized by the executive power of the  
 34 United States or a department, agency, or officer of such  
 35 nation.

36 (d) A public entity in a nation recognized by the executive  
 37 power of the United States or a department, agency, or officer  
 38 of such public entity.

39 (e) A court of admiralty or maritime jurisdiction.

40 (f) A notary public within any state of the United States.

41 1453. A signature is presumed to be genuine and author-  
 42 ized if it purports to be the signature, affixed in his official  
 43 capacity, of:

44 (a) A public employee of the United States.

45 (b) A public employee of any public entity in the United  
 46 States.

47 (c) A notary public within any state of the United States.

48 1454. A signature is presumed to be genuine and author-  
 49 ized if it purports to be the signature, affixed in his official  
 50 capacity, of an officer, or deputy of an officer, of a nation or  
 51 public entity in a nation recognized by the executive power of  
 52 the United States and the writing to which the signature is

1 affixed is accompanied by a final statement certifying the genuineness of the signature and the official position of (a) the person who executed the writing or (b) any foreign official who has certified either the genuineness of the signature and official position of the person executing the writing or the genuineness of the signature and official position of another foreign official who has executed a similar certificate in a chain of such certificates beginning with a certificate of the genuineness of the signature and official position of the person executing the writing. The final statement may be made only by a secretary of an embassy or legation, consul general, consul, vice consul, consular agent, or other officer in the foreign service of the United States stationed in the nation, authenticated by the seal of his office.

## CHAPTER 2. SECONDARY EVIDENCE OF WRITINGS

### Article 1. Best Evidence Rule

1500. Except as otherwise provided by statute, no evidence other than the writing itself is admissible to prove the content of a writing. This section shall be known and may be cited as the best evidence rule.

1501. A copy of a writing is not made inadmissible by the best evidence rule if the writing is lost or has been destroyed without fraudulent intent on the part of the proponent of the evidence.

1502. A copy of a writing is not made inadmissible by the best evidence rule if the writing was not reasonably procurable by the proponent by use of the court's process or by other available means.

1503. (a) A copy of a writing is not made inadmissible by the best evidence rule if, at a time when the writing was under the control of the opponent, the opponent was expressly or impliedly notified, by the pleadings or otherwise, that the writing would be needed at the hearing, and on request at the hearing the opponent has failed to produce the writing. In a criminal action, the request at the hearing to produce the writing may not be made in the presence of the jury.

(b) Though a writing requested by one party is produced by another, and is thereupon inspected by the party calling for it, the party calling for the writing is not obliged to introduce it as evidence in the action.

1504. A copy of a writing is not made inadmissible by the best evidence rule if the writing is not closely related to the controlling issues and it would be inexpedient to require its production.

1505. If the proponent does not have in his possession or under his control a copy of a writing described in Section 1501, 1502, 1503, or 1504, other secondary evidence of the content of the writing is not made inadmissible by the best evi-

1 dence rule. This section does not apply to a writing that is also  
2 described in Section 1506 or 1507.

3 1506. A copy of a writing is not made inadmissible by the  
4 best evidence rule if the writing is a record or other writing  
5 that is in the custody of a public entity.

6 1507. A copy of a writing is not made inadmissible by the  
7 best evidence rule if the writing has been recorded in the pub-  
8 lic records and the record or an attested or a certified copy  
9 thereof is made evidence of the writing by statute.

10 1508. If the proponent does not have in his possession a  
11 copy of a writing described in Section 1506 or 1507 and could  
12 not in the exercise of reasonable diligence have obtained a  
13 copy, other secondary evidence of the content of the writing  
14 is not made inadmissible by the best evidence rule.

15 1509. Secondary evidence, whether written or oral, of the  
16 content of a writing is not made inadmissible by the best evi-  
17 dence rule if the writing consists of numerous accounts or  
18 other writings that cannot be examined in court without great  
19 loss of time, and the evidence sought from them is only the  
20 general result of the whole; but the court in its discretion  
21 may require that such accounts or other writings be produced  
22 for inspection by the adverse party.

23 1510. A copy of a writing is not made inadmissible by the  
24 best evidence rule if the writing has been produced at the  
25 hearing and made available for inspection by the adverse party.

26

## 27 Article 2. Official Writings and Recorded Writings

28

29 1530. (a) A purported copy of a writing in the custody  
30 of a public entity, or of an entry in such a writing, is prima  
31 facie evidence of the existence and content of such writing  
32 or entry if:

33 (1) The copy purports to be published by the authority of  
34 the nation or state, or public entity therein, in which the writ-  
35 ing is kept;

36 (2) The office in which the writing is kept is within the  
37 United States or within the Panama Canal Zone, the Trust  
38 Territory of the Pacific Islands, or the Ryukyu Islands, and  
39 the copy is attested or certified as a correct copy of the writing  
40 or entry by a public employee, or a deputy of a public em-  
41 ployee, having the legal custody of the writing; or

42 (3) The office in which the writing is kept is not within  
43 the United States or any other place described in paragraph  
44 (2) and the copy is attested as a correct copy of the writing  
45 or entry by a person having authority to make the attestation.  
46 The attestation must be accompanied by a final statement  
47 certifying the genuineness of the signature and the official posi-  
48 tion of (i) the person who attested the copy as a correct copy  
49 or (ii) any foreign official who has certified either the genui-  
50 ness of the signature and official position of the person attest-  
51 ing the copy or the genuineness of the signature and official  
52 position of another foreign official who has executed a similar

1 certificate in a chain of such certificates beginning with a cer-  
2 tificate of the genuineness of the signature and official position  
3 of the person attesting the copy. The final statement may be  
4 made only by a secretary of an embassy or legation, consul  
5 general, consul, vice consul, consular agent, or other officer in  
6 the foreign service of the United States stationed in the nation  
7 in which the writing is kept, authenticated by the seal of his  
8 office.

9 (b) The presumptions established by this section are pre-  
10 sumptions affecting the burden of producing evidence.

11 1531. For the purpose of evidence, whenever a copy of a  
12 writing is attested or certified, the attestation or certificate  
13 must state in substance that the copy is a correct copy of the  
14 original, or of a specified part thereof, as the case may be.

15 1532. (a) The official record of a writing is prima facie  
16 evidence of the existence and content of the original recorded  
17 writing if:

18 (1) The record is in fact a record of an office of a public  
19 entity; and

20 (2) A statute authorized such a writing to be recorded in  
21 that office.

22 (b) The presumption established by this section is a pre-  
23 sumption affecting the burden of producing evidence.

### 24 Article 3. Photographic Copies of Writings

25 1550. A photostatic, microfilm, microcard, miniature photo-  
26 graphic or other photographic copy or reproduction, or an en-  
27 largement thereof, of a writing is as admissible as the writing  
28 itself if such copy or reproduction was made and preserved as  
29 a part of the records of a business (as defined by Section  
30 1270) in the regular course of such business. The introduction  
31 of such copy, reproduction, or enlargement does not preclude  
32 admission of the original writing if it is still in existence.

33 1551. A print, whether enlarged or not, from a photo-  
34 graphic film (including a photographic plate, microphoto-  
35 graphic film, photostatic negative, or similar reproduction)  
36 of an original writing destroyed or lost after such film was  
37 taken is as admissible as the original writing itself if, at the  
38 time of the taking of such film, the person under whose di-  
39 rection and control it was taken attached thereto, or to the  
40 sealed container in which it was placed and has been kept, or  
41 incorporated in the film, a certification complying with the  
42 provisions of Section 1531 and stating the date on which, and  
43 the fact that, it was so taken under his direction and control.

### 44 Article 4. Hospital Records

45 1560. (a) As used in this article, "hospital" means a hos-  
46 pital located in this State that is operated by a public entity  
47 or any licensed hospital located in this state.  
48  
49  
50  
51

1 (b) Except as provided in Section 1564, when a subpoena  
2 duces tecum is served upon the custodian of records or other  
3 qualified witness from a hospital in an action in which the  
4 hospital is neither a party nor the place where any cause,  
5 of action is alleged to have arisen and such subpoena requires  
6 the production of all or any part of the records of the hospital  
7 relating to the care or treatment of a patient in such hospital,  
8 it is sufficient compliance therewith if the custodian or other  
9 officer of the hospital, within five days after the receipt of  
10 such subpoena, delivers by mail or otherwise a true and correct  
11 copy (which may be a photographic or microphotographic re-  
12 production) of all the records described in such subpoena to the  
13 clerk of court or to the court if there be no clerk or to such  
14 other person as described in subdivision (a) of Section 2018  
15 of the Code of Civil Procedure, together with the affidavit de-  
16 scribed in Section 1561.

17 (c) The copy of the records shall be separately enclosed in  
18 an inner envelope or wrapper, sealed, with the title and num-  
19 ber of the action, name of witness, and date of subpoena clearly  
20 inscribed thereon; the sealed envelope or wrapper shall then  
21 be enclosed in an outer envelope or wrapper, sealed, directed  
22 as follows:

23 (1) If the subpoena directs attendance in court, to the clerk  
24 of such court, or to the judge thereof if there be no clerk.

25 (2) If the subpoena directs attendance at a deposition or  
26 other hearing, to the officer before whom the deposition is to  
27 be taken, at the place designated in the subpoena for the taking  
28 of the deposition or at his place of business.

29 (3) In other cases, to the officer, body, or tribunal conduct-  
30 ing the hearing, at a like address.

31 (d) Unless the parties to the proceeding otherwise agree,  
32 or unless the sealed envelope or wrapper is returned to a  
33 witness who is to appear personally, the copy of the records  
34 shall remain sealed and shall be opened only at the time of  
35 trial, deposition, or other hearing, upon the direction of the  
36 judge, officer, body, or tribunal conducting the proceeding, in  
37 the presence of all parties who have appeared in person or  
38 by counsel at such trial, deposition, or hearing. Records which  
39 are not introduced in evidence or required as part of the  
40 record shall be returned to the person or entity from whom  
41 received.

42 1561. (a) The records shall be accompanied by the affi-  
43 davit of the custodian or other qualified witness, stating in  
44 substance each of the following:

45 (1) That the affiant is the duly authorized custodian of the  
46 records and has authority to certify the records.

47 (2) That the copy is a true copy of all the records described  
48 in the subpoena.

49 (3) That the records were prepared by the personnel of  
50 the hospital, staff physicians, or persons acting under the  
51 control of either, in the ordinary course of hospital business  
52 at or near the time of the act, condition, or event.



1 (b) If the hospital has none of the records described, or  
2 only part thereof, the custodian shall so state in the affidavit,  
3 and deliver the affidavit and such records as are available in  
4 the manner provided in Section 1560.

5 1562. The copy of the records is admissible in evidence to  
6 the same extent as though the original thereof were offered  
7 and the custodian had been present and testified to the matters  
8 stated in the affidavit. The affidavit is admissible as evidence of  
9 the matters stated therein pursuant to Section 1561 and the  
10 matters so stated are presumed true. When more than one per-  
11 son has knowledge of the facts, more than one affidavit may be  
12 made. The presumption established by this section is a pre-  
13 sumption affecting the burden of producing evidence.

14 1563. This article shall not be interpreted to require tender  
15 or payment of more than one witness and mileage fee or other  
16 charge unless there is an agreement to the contrary.

17 1564. The personal attendance of the custodian or other  
18 qualified witness and the production of the original records is  
19 required if the subpoena duces tecum contains a clause which  
20 reads:

21 "The personal attendance of the custodian or other qualified  
22 witness and the production of the original records is required  
23 by this subpoena. The procedure authorized pursuant to sub-  
24 division (b) of Section 1560, and Sections 1561 and 1562, of  
25 the Evidence Code will not be deemed sufficient compliance  
26 with this subpoena."

27 1565. If more than one subpoena duces tecum is served  
28 upon the custodian of records or other qualified witness from  
29 a hospital and the personal attendance of the custodian or  
30 other qualified witness is required pursuant to Section 1564,  
31 the witness shall be deemed to be the witness of the party serv-  
32 ing the first such subpoena duces tecum.

33 1566. This article applies in any proceeding in which testi-  
34 mony can be compelled.

35  
36 CHAPTER 3. OFFICIAL WRITINGS AFFECTING PROPERTY  
37

38 1600. The official record of a document purporting to  
39 establish or affect an interest in property is prima facie evi-  
40 dence of the existence and content of the original recorded  
41 document and its execution and delivery by each person by  
42 whom it purports to have been executed if:

43 (a) The record is in fact a record of an office of a public en-  
44 tity; and

45 (b) A statute authorized such a document to be recorded in  
46 that office.

47 1601. (a) Subject to subdivisions (b) and (c), when in  
48 any action it is desired to prove the contents of the official  
49 record of any writing lost or destroyed by conflagration or  
50 other public calamity, after proof of such loss or destruction,

1 the following may, without further proof, be admitted in evi-  
2 dence to prove the contents of such record :

3 (1) Any abstract of title made and issued and certified as  
4 correct prior to such loss or destruction, and purporting to  
5 have been prepared and made in the ordinary course of busi-  
6 ness by any person engaged in the business of preparing and  
7 making abstracts of title prior to such loss or destruction ; or

8 (2) Any abstract of title, or of any instrument affecting  
9 title, made, issued, and certified as correct by any person en-  
10 gaged in the business of insuring titles or issuing abstracts of  
11 title to real estate, whether the same was made, issued, or  
12 certified before or after such loss or destruction and whether  
13 the same was made from the original records or from abstract  
14 and notes, or either, taken from such records in the preparation  
15 and upkeeping of its plant in the ordinary course of its  
16 business.

17 (b) No proof of the loss of the original writing is required  
18 other than the fact that the original is not known to the party  
19 desiring to prove its contents to be in existence.

20 (c) Any party desiring to use evidence admissible under  
21 this section shall give reasonable notice in writing to all other  
22 parties to the action who have appeared therein, of his inten-  
23 tion to use such evidence at the trial of the action, and shall  
24 give all such other parties a reasonable opportunity to inspect  
25 the evidence, and also the abstracts, memoranda, or notes from  
26 which it was compiled, and to take copies thereof.

27 1602. If a patent for mineral lands within this state  
28 issued or granted by the United States of America, contains a  
29 statement of the date of the location of a claim or claims upon  
30 which the granting or issuance of such patent is based, such  
31 statement is prima facie evidence of the date of such location.

32 1603. A deed of conveyance of real property, purporting  
33 to have been executed by a proper officer in pursuance of  
34 legal process of any of the courts of record of this state, ac-  
35 knowledged and recorded in the office of the recorder of the  
36 county wherein the real property therein described is situated,  
37 or the record of such deed, or a certified copy of such record,  
38 is prima facie evidence that the property or interest therein  
39 described was thereby conveyed to the grantee named in such  
40 deed.

41 1604. A certificate of purchase, or of location, of any lands  
42 in this state, issued or made in pursuance of any law of the  
43 United States or of this state, is prima facie evidence that  
44 the holder or assignee of such certificate is the owner of the  
45 land described therein ; but this evidence may be overcome  
46 by proof that, at the time of the location, or time of filing a  
47 preemption claim on which the certificate may have been  
48 issued, the land was in the adverse possession of the adverse  
49 party, or those under whom he claims, or that the adverse  
50 party is holding the land for mining purposes.

51 1605. Duplicate copies and authenticated translations of  
52 original Spanish title papers relating to land claims in this

1 state, derived from the Spanish or Mexican governments,  
2 prepared under the supervision of the Keeper of Archives, au-  
3 thenticated by the Surveyor-General or his successor and by  
4 the Keeper of Archives, and filed with a county recorder, in ac-  
5 cordance with Chapter 281 of the Statutes of 1865-66, are re-  
6 ceivable as prima facie evidence with like force and effect as  
7 the originals and without proving the execution of such  
8 originals.

9 SEC. 3. Section 2904 of the Business and Professions Code  
10 is repealed.

11 SEC. 4. Section 5012 of the Business and Professions Code  
12 is amended to read:

13 5012. The board shall have a seal.

14 SEC. 5. Section 25009 of the Business and Professions Code  
15 is amended to read:

16 25009. Any defendant in any action brought under this  
17 chapter or any person who may be a witness therein under Sec-  
18 tions 2016, 2018, and 2019 of the Code of Civil Procedure or  
19 Section 776 of the Evidence Code, and the books and records  
20 of any such defendant or witness, may be brought into court  
21 and the books and records may be introduced by reference into  
22 evidence, but no information so obtained may be used against  
23 the defendant or any such witness as a basis for a misdemeanor  
24 prosecution under this chapter.

25 SEC. 6. Section 53 of the Civil Code is amended to read:

26 53. (a) Every provision in a written instrument relating to  
27 real property which purports to forbid or restrict the convey-  
28 ance, encumbrance, leasing, or mortgaging of such real prop-  
29 erty to any person of a specified race, color, religion, ancestry,  
30 or national origin, is void and every restriction or prohibition  
31 as to the use or occupation of real property because of the  
32 user's or occupier's race, color, religion, ancestry, or national  
33 origin is void.

34 (b) Every restriction or prohibition, whether by way of  
35 covenant, condition upon use or occupation, or upon transfer  
36 of title to real property, which restriction or prohibition di-  
37 rectly or indirectly limits the acquisition, use or occupation of  
38 such property because of the acquirer's, user's, or occupier's  
39 race, color, religion, ancestry, or national origin is void.

40 (c) In any action to declare that a restriction or prohibition  
41 specified in subdivision (a) or (b) of this section is void, the  
42 court takes judicial notice of the recorded instrument or in-  
43 struments containing such prohibitions or restrictions in the  
44 same manner that it takes judicial notice of the matters listed  
45 in Section 452 of the Evidence Code.

46 SEC. 7. Section 164.5 is added to the Civil Code, to read:

47 164.5. The presumption that property acquired during mar-  
48 riage is community property does not apply to any property  
49 to which legal or equitable title is held by a person at the time  
50 of his death if the marriage during which the property was

- 1 acquired was terminated by divorce more than four years  
2 prior to such death.
- 3 SEC. 8. Section 193 of the Civil Code is repealed.
- 4 SEC. 9. Section 194 of the Civil Code is repealed.
- 5 SEC. 10. Section 195 of the Civil Code is repealed.
- 6 SEC. 11. Section 3545 is added to the Civil Code, to read:  
7 3545. Private transactions are fair and regular.
- 8 SEC. 12. Section 3546 is added to the Civil Code, to read:  
9 3546. Things happen according to the ordinary course of  
10 nature and the ordinary habits of life.
- 11 SEC. 13. Section 3547 is added to the Civil Code, to read:  
12 3547. A thing continues to exist as long as is usual with  
13 things of that nature.
- 14 SEC. 14. Section 3548 is added to the Civil Code, to read:  
15 3548. The law has been obeyed.
- 16 SEC. 15. Section 1 of the Code of Civil Procedure is  
17 amended to read:
- 18 1. This act shall be known as the Code of Civil Procedure,  
19 and is divided into four parts, as follows:
- 20 Part I. Of Courts of Justice.
- 21 II. Of Civil Actions.
- 22 III. Of Special Proceedings of a Civil Nature.
- 23 IV. Miscellaneous Provisions.
- 24 SEC. 16. Section 117g of the Code of Civil Procedure is  
25 amended to read:
- 26 117g. No attorney at law or other person than the plaintiff  
27 and defendant shall take any part in the filing or the prosecu-  
28 tion or defense of such litigation in the small claims court.  
29 The plaintiff and defendant shall have the right, to offer evi-  
30 dence in their behalf by witnesses appearing at such hearing,  
31 or at any other time. The presence of the plaintiff or defend-  
32 ant, whether individual or corporate, at the hearing shall not  
33 be required to permit the proof of the items of an account but  
34 such proof shall be in accordance with the provisions of Sec-  
35 tions 1270 and 1271 of the Evidence Code. The judge or justice  
36 may also informally make any investigation of the controversy  
37 between the parties either in or out of court and give judg-  
38 ment and make such orders as to time of payment or otherwise  
39 as may, by him, be deemed to be right and just. The provisions  
40 of Section 579 of the Code of Civil Procedure are hereby made  
41 applicable to small claims court actions.
- 42 SEC. 17. Section 125 of the Code of Civil Procedure is  
43 amended to read:
- 44 125. In an action for divorce or seduction, the court may  
45 direct the trial of any issue of fact joined therein to be private,  
46 and may exclude all persons except the officers of the court, the  
47 parties, their witnesses, and counsel. Nothing in this section  
48 prevents the exclusion of a witness pursuant to Evidence Code  
49 Section 777.

1 SEC. 18. Section 153 of the Code of Civil Procedure is  
2 amended to read:

3 153. Except as otherwise expressly provided by law, the  
4 seal of a court need not be affixed to any proceeding therein,  
5 or to any document, except:

6 1. To a writ;

7 2. To a summons;

8 3. To a warrant of arrest;

9 4. To the certificate of probate of a will or of the appoint-  
10 ment of an executor, administrator, or guardian.

11 SEC. 19. Section 433 of the Code of Civil Procedure is  
12 amended to read:

13 433. When any of the matters enumerated in Section 430  
14 do not appear upon the face of the complaint, the objection  
15 may be taken by answer; except that when the ground of  
16 demurrer is that there is another action or proceeding pending  
17 between the same parties for the same cause and the court  
18 may take judicial notice of the other action or proceeding  
19 under Division 4 (commencing with Section 450) of the Evi-  
20 dence Code, an affidavit may be filed with the demurrer for  
21 the sole purpose of establishing such fact or invoking such  
22 notice.

23 SEC. 20. Section 631.7 is added to the Code of Civil Pro-  
24 cedure, to read:

25 631.7. Ordinarily, unless the court otherwise directs, the  
26 trial of a civil action tried by the court without a jury shall  
27 proceed in the order specified in Section 607.

28 SEC. 21. Section 1256.2 of the Code of Civil Procedure is  
29 repealed.

30 SEC. 22. Section 1747 of the Code of Civil Procedure is  
31 amended to read:

32 1747. Notwithstanding the provisions of Section 124 of the  
33 Code of Civil Procedure, all superior court hearings or con-  
34 ferences in proceedings under this chapter shall be held in  
35 private and the court shall exclude all persons except the offi-  
36 cers of the court, the parties, their counsel and witnesses. Con-  
37 ferences may be held with each party and his counsel sep-  
38 arately and in the discretion of the judge, commissioner or  
39 counselor conducting the conference or hearing, counsel for  
40 one party may be excluded when the adverse party is present.  
41 All communications, verbal or written, from parties to the  
42 judge, commissioner or counselor in a proceeding under this  
43 chapter shall be deemed to be official information within the  
44 meaning of Section 1040 of the Evidence Code.

45 The files of the conciliation court shall be closed. The peti-  
46 tion, supporting affidavit, reconciliation agreement and any  
47 court order made in the matter may be opened to inspection  
48 by any party or his counsel upon the written authority of the  
49 judge of the conciliation court.

50 SEC. 23. The heading of Part IV of the Code of Civil Pro-  
51 cedure is amended to read:

PART IV. MISCELLANEOUS PROVISIONS

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- SEC. 24. Section 1823 of the Code of Civil Procedure is re-  
pealed.
- SEC. 25. Section 1824 of the Code of Civil Procedure is re-  
pealed.
- SEC. 26. Section 1825 of the Code of Civil Procedure is re-  
pealed.
- SEC. 27. Section 1826 of the Code of Civil Procedure is re-  
pealed.
- SEC. 28. Section 1827 of the Code of Civil Procedure is re-  
pealed.
- SEC. 29. Section 1828 of the Code of Civil Procedure is re-  
pealed.
- SEC. 30. Section 1829 of the Code of Civil Procedure is re-  
pealed.
- SEC. 31. Section 1830 of the Code of Civil Procedure is re-  
pealed.
- SEC. 32. Section 1831 of the Code of Civil Procedure is re-  
pealed.
- SEC. 33. Section 1832 of the Code of Civil Procedure is re-  
pealed.
- SEC. 34. Section 1833 of the Code of Civil Procedure is re-  
pealed.
- SEC. 35. Section 1834 of the Code of Civil Procedure is re-  
pealed.
- SEC. 36. Section 1836 of the Code of Civil Procedure is re-  
pealed.
- SEC. 37. Section 1837 of the Code of Civil Procedure is re-  
pealed.
- SEC. 38. Section 1838 of the Code of Civil Procedure is re-  
pealed.
- SEC. 39. Section 1839 of the Code of Civil Procedure is re-  
pealed.
- SEC. 40. Section 1844 of the Code of Civil Procedure is re-  
pealed.
- SEC. 41. Section 1845 of the Code of Civil Procedure is re-  
pealed.
- SEC. 42. Section 1845.5 of the Code of Civil Procedure is  
renumbered and amended to read:

1247c. In an eminent domain proceeding a witness, other-  
wise qualified, may testify with respect to the value of the real  
property including the improvements situated thereon or the  
value of any interest in real property to be taken, and may  
testify on direct examination as to his knowledge of the amount  
paid for comparable property or property interests. In render-  
ing his opinion as to highest and best use and market value of  
the property sought to be condemned the witness shall be per-  
mitted to consider and give evidence as to the nature and value

1 of the improvements and the character of the existing uses  
2 being made of the properties in the general vicinity of the  
3 property sought to be condemned. Nothing in this section  
4 makes inadmissible any evidence that is admissible under Sec-  
5 tions 800 to 805, inclusive, of the Evidence Code or under any  
6 other provision of the Evidence Code.

7 SEC. 43. Section 1846 of the Code of Civil Procedure is re-  
8 pealed.

9 SEC. 44. Section 1847 of the Code of Civil Procedure is re-  
10 pealed.

11 SEC. 45. Section 1848 of the Code of Civil Procedure is re-  
12 pealed.

13 SEC. 46. Section 1849 of the Code of Civil Procedure is re-  
14 pealed.

15 SEC. 47. Section 1850 of the Code of Civil Procedure is re-  
16 pealed.

17 SEC. 48. Section 1851 of the Code of Civil Procedure is re-  
18 pealed.

19 SEC. 49. Section 1852 of the Code of Civil Procedure is re-  
20 pealed.

21 SEC. 50. Section 1853 of the Code of Civil Procedure is re-  
22 pealed.

23 SEC. 51. Section 1854 of the Code of Civil Procedure is re-  
24 pealed.

25 SEC. 52. Section 1855 of the Code of Civil Procedure is re-  
26 pealed.

27 SEC. 53. Section 1855a of the Code of Civil Procedure is  
28 repealed.

29 SEC. 54. Section 1863 of the Code of Civil Procedure is re-  
30 pealed.

31 SEC. 55. Section 1867 of the Code of Civil Procedure is re-  
32 pealed.

33 SEC. 56. Section 1868 of the Code of Civil Procedure is re-  
34 pealed.

35 SEC. 57. Section 1869 of the Code of Civil Procedure is re-  
36 pealed.

37 SEC. 58. Section 1870 of the Code of Civil Procedure is re-  
38 pealed.

39 SEC. 59. Section 1871 of the Code of Civil Procedure is re-  
40 pealed.

41 SEC. 60. Section 1872 of the Code of Civil Procedure is re-  
42 pealed.

43 SEC. 61. Section 1875 of the Code of Civil Procedure is re-  
44 pealed.

45 SEC. 62. Section 1879 of the Code of Civil Procedure is re-  
46 pealed.

47 SEC. 63. Section 1880 of the Code of Civil Procedure is re-  
48 pealed.

49 SEC. 64. Section 1881 of the Code of Civil Procedure is re-  
50 pealed.

- 1     SEC. 65. Section 1883 of the Code of Civil Procedure is re-  
2     pealed.
- 3     SEC. 66. Section 1884 of the Code of Civil Procedure is re-  
4     pealed.
- 5     SEC. 67. Section 1885 of the Code of Civil Procedure is re-  
6     pealed.
- 7     SEC. 68. Section 1893 of the Code of Civil Procedure is  
8     amended to read:
- 9     1893. Every public officer having the custody of a public  
10    writing, which a citizen has a right to inspect, is bound to give  
11    him, on demand, a certified copy of it, on payment of the legal  
12    fees therefor. If a public officer having custody of public writ-  
13    ings of a particular type fails to find a demanded writing of  
14    that type after diligent search, he shall furnish, upon demand,  
15    a writing so stating and affix his signature thereto in his official  
16    capacity, on payment of a fee therefor in like amount as the  
17    minimum fee that would have been required for the prepara-  
18    tion and certification of a nonphotographic copy of the de-  
19    manded writing.
- 20    SEC. 69. Section 1901 of the Code of Civil Procedure is re-  
21    pealed.
- 22    SEC. 70. Section 1903 of the Code of Civil Procedure is re-  
23    pealed.
- 24    SEC. 71. Section 1905 of the Code of Civil Procedure is re-  
25    pealed.
- 26    SEC. 72. Section 1906 of the Code of Civil Procedure is re-  
27    pealed.
- 28    SEC. 73. Section 1907 of the Code of Civil Procedure is re-  
29    pealed.
- 30    SEC. 74. Section 1908.5 is added to the Code of Civil Pro-  
31    cedure, to read:
- 32    1908.5. When a judgment or order of a court is conclusive,  
33    the judgment or order must be alleged in the pleadings if  
34    there be an opportunity to do so; if there be no such oppor-  
35    tunity, the judgment or order may be used as evidence.
- 36    SEC. 75. Section 1918 of the Code of Civil Procedure is re-  
37    pealed.
- 38    SEC. 76. Section 1919 of the Code of Civil Procedure is re-  
39    pealed.
- 40    SEC. 77. Section 1919a of the Code of Civil Procedure is  
41    repealed.
- 42    SEC. 78. Section 1919b of the Code of Civil Procedure is  
43    repealed.
- 44    SEC. 79. Section 1920 of the Code of Civil Procedure is re-  
45    pealed.
- 46    SEC. 80. Section 1920a of the Code of Civil Procedure is  
47    repealed.
- 48    SEC. 81. Section 1920b of the Code of Civil Procedure is  
49    repealed.
- 50    SEC. 82. Section 1921 of the Code of Civil Procedure is re-  
51    pealed.



- 1 SEC. 83. Section 1922 of the Code of Civil Procedure is re-  
2 pealed.
- 3 SEC. 84. Section 1923 of the Code of Civil Procedure is re-  
4 pealed.
- 5 SEC. 85. Section 1924 of the Code of Civil Procedure is re-  
6 pealed.
- 7 SEC. 86. Section 1925 of the Code of Civil Procedure is re-  
8 pealed.
- 9 SEC. 87. Section 1926 of the Code of Civil Procedure is re-  
10 pealed.
- 11 SEC. 88. Section 1927 of the Code of Civil Procedure is re-  
12 pealed.
- 13 SEC. 89. Section 1927.5 of the Code of Civil Procedure is  
14 repealed.
- 15 SEC. 90. Section 1928 of the Code of Civil Procedure is re-  
16 pealed.
- 17 SEC. 91. Article 2.1 (commencing with Section 1928.1) of  
18 Chapter 3 of Title 2 of Part IV of the Code of Civil Procedure  
19 is repealed.
- 20 SEC. 92. Section 1936 of the Code of Civil Procedure is re-  
21 pealed.
- 22 SEC. 93. Section 1936.1 of the Code of Civil Procedure is  
23 repealed.
- 24 SEC. 94. Section 1937 of the Code of Civil Procedure is re-  
25 pealed.
- 26 SEC. 95. Section 1938 of the Code of Civil Procedure is re-  
27 pealed.
- 28 SEC. 96. Section 1939 of the Code of Civil Procedure is re-  
29 pealed.
- 30 SEC. 97. Section 1940 of the Code of Civil Procedure is re-  
31 pealed.
- 32 SEC. 98. Section 1941 of the Code of Civil Procedure is re-  
33 pealed.
- 34 SEC. 99. Section 1942 of the Code of Civil Procedure is re-  
35 pealed.
- 36 SEC. 100. Section 1943 of the Code of Civil Procedure is  
37 repealed.
- 38 SEC. 101. Section 1944 of the Code of Civil Procedure is  
39 repealed.
- 40 SEC. 102. Section 1945 of the Code of Civil Procedure is  
41 repealed.
- 42 SEC. 103. Section 1946 of the Code of Civil Procedure is  
43 repealed.
- 44 SEC. 104. Section 1947 of the Code of Civil Procedure is  
45 repealed.
- 46 SEC. 105. Section 1948 of the Code of Civil Procedure is  
47 repealed.
- 48 SEC. 106. Section 1951 of the Code of Civil Procedure is  
49 repealed.
- 50 SEC. 107. Article 5 (commencing with Section 1953e) of  
51 Chapter 3 of Title 2 of Part IV of the Code of Civil Procedure  
52 is repealed.

1 SEC. 108. Article 6 (commencing with Section 1953i) of  
2 Chapter 3 of Title 2 of Part IV of the Code of Civil Procedure  
3 is repealed.

4 SEC. 109. Chapter 4 (consisting of Section 1954) of Title  
5 2 of Part IV of the Code of Civil Procedure is repealed.

6 SEC. 110. Chapter 5 (commencing with Section 1957) of  
7 Title 2 of Part IV of the Code of Civil Procedure is repealed.

8 SEC. 111. Section 1967 of the Code of Civil Procedure is  
9 repealed.

10 SEC. 112. Section 1968 of the Code of Civil Procedure is  
11 repealed.

12 SEC. 113. Section 1973 of the Code of Civil Procedure is  
13 repealed.

14 SEC. 114. Section 1974 of the Code of Civil Procedure is  
15 amended to read:

16 1974. No person is liable upon a representation as to the  
17 credit of a third person, unless such representation, or some  
18 memorandum thereof, be in writing, and either subscribed  
19 by or in the handwriting of the party to be held liable.

20 SEC. 115. Chapter 7 (consisting of Section 1978) of Title  
21 2 of Part IV of the Code of Civil Procedure is repealed.

22 SEC. 116. Chapter 8 (commencing with Section 1980.1) of  
23 Title 2 of Part IV of the Code of Civil Procedure is repealed.

24 SEC. 117. Chapter 1 (commencing with Section 1981) of  
25 Title 3 of Part IV of the Code of Civil Procedure is repealed.

26 SEC. 118. Section 1998 of the Code of Civil Procedure is  
27 repealed.

28 SEC. 119. Section 1998.1 of the Code of Civil Procedure is  
29 repealed.

30 SEC. 120. Section 1998.2 of the Code of Civil Procedure is  
31 repealed.

32 SEC. 121. Section 1998.3 of the Code of Civil Procedure is  
33 repealed.

34 SEC. 122. Section 1998.4 of the Code of Civil Procedure is  
35 repealed.

36 SEC. 123. Section 1998.5 of the Code of Civil Procedure is  
37 repealed.

38 SEC. 124. Section 2009 of the Code of Civil Procedure is  
39 amended to read:

40 2009. An affidavit may be used to verify a pleading or a  
41 paper in a special proceeding, to prove the service of a sum-  
42 mons, notice, or other paper in an action or special proceed-  
43 ing, to obtain a provisional remedy, the examination of a wit-  
44 ness, or a stay of proceedings, and in uncontested proceedings  
45 to establish a record of birth, or upon a motion, and in any  
46 other case expressly permitted by statute.

47 SEC. 125. Section 2016 of the Code of Civil Procedure is  
48 amended to read:

49 2016. (a) Any party may take the testimony of any per-  
50 son, including a party, by deposition upon oral examination or  
51 written interrogatories for the purpose of discovery or for use  
52 as evidence in the action or for both purposes. Such depositions

1 may be taken in an action at any time after the service of the  
2 summons or in a special proceeding after the service of the  
3 petition or after the appearance of the defendant or respondent.  
4 After commencement of the action or proceedings, the  
5 deposition may be taken without leave of court, except that  
6 leave of court, granted with or without notice, and for good  
7 cause shown, must be obtained if the notice of the taking of  
8 the deposition is served by the plaintiff within 20 days after  
9 service of the summons or petition on, or appearance of, the  
10 defendant or respondent. The attendance of witnesses or the  
11 production of books, documents, or other things at depositions  
12 may be compelled by the use of subpoena as provided in Chapter  
13 2 (commencing with Section 1985), Title 3, Part 4 of this  
14 code.

15 (b) Unless otherwise ordered by the court as provided by  
16 subdivision (b) or (d) of Section 2019 of this code, the deponent  
17 may be examined regarding any matter, not privileged,  
18 which is relevant to the subject matter involved in the pending  
19 action, whether it relates to the claim or defense of the  
20 examining party, or to the claim or defense of any other  
21 party, including the existence, description, nature, custody,  
22 condition and location of any books, documents, or other tangible  
23 things and the identity and location of persons having  
24 knowledge of relevant facts. It is not ground for objection  
25 that the testimony will be inadmissible at the trial if the testimony  
26 sought appears reasonably calculated to lead to the discovery  
27 of admissible evidence. All matters which are privileged  
28 against disclosure upon the trial under the law of this  
29 state are privileged against disclosure through any discovery  
30 procedure. This article shall not be construed to change the  
31 law of this state with respect to the existence of any privilege,  
32 whether provided for by statute or by judicial decision.

33 The work product of an attorney shall not be discoverable  
34 unless the court determines that denial of discovery will unfairly  
35 prejudice the party seeking discovery in preparing his  
36 claim or defense or will result in an injustice, and any writing  
37 that reflects an attorney's impressions, conclusions, opinions,  
38 or legal research or theories shall not be discoverable under  
39 any circumstances.

40 (c) Examination and cross-examination of deponents may  
41 proceed as permitted at the trial.

42 (d) At the trial or upon the hearing of a motion or an  
43 interlocutory proceeding, any part or all of a deposition, so far  
44 as admissible under the rules of evidence, may be used against  
45 any party who was present or represented at the taking of  
46 the deposition or who had due notice thereof, in accordance  
47 with any one of the following provisions:

48 (1) Any deposition may be used by any party for the purpose  
49 of contradicting or impeaching the testimony of deponent  
50 as a witness.

1 (2) The deposition of a party to the record of any civil  
2 action or proceeding or of a person for whose immediate bene-  
3 fit said action or proceeding is prosecuted or defended, or of  
4 anyone who at the time of taking the deposition was an officer,  
5 director, superintendent, member, agent, employee, or manag-  
6 ing agent of any such party or person may be used by an  
7 adverse party for any purpose.

8 (3) The deposition of a witness, whether or not a party,  
9 may be used by any party for any purpose if the court finds:  
10 (i) that the witness is unavailable as a witness within the  
11 meaning of Section 240 of the Evidence Code or (ii) upon  
12 application and notice, that such exceptional circumstances  
13 exist as to make it desirable, in the interest of justice and  
14 with due regard to the importance of presenting the testimony  
15 of witnesses orally in open court, to allow the deposition to be  
16 used.

17 (4) Subject to the requirements of this section, a party may  
18 offer in evidence all or any part of a deposition, and if such  
19 party introduces only part of such deposition, any party may  
20 introduce any other parts.

21 Substitution of parties does not affect the right to use dep-  
22 ositions previously taken; and, when an action in any court  
23 of the United States or of any state has been dismissed and  
24 another action involving the same subject matter is afterward  
25 brought between the same parties or their representatives or  
26 successors in interest, all depositions lawfully taken and duly  
27 filed in the former action may be used in the latter as if orig-  
28 inally taken therefor.

29 (e) Subject to the provisions of subdivision (c) of Section  
30 2021 of this code, objection may be made at the trial or hear-  
31 ing to receiving in evidence any deposition or part thereof for  
32 any reason which would require the exclusion of the evidence  
33 if the witness were then present and testifying.

34 (f) A party shall not be deemed to make a person his own  
35 witness for any purpose by taking his deposition. Except where  
36 the deposition is used under the provisions of paragraph (2)  
37 of subdivision (d) of this section, the introduction in evidence  
38 of the deposition or any part thereof for any purpose other  
39 than that of contradicting or impeaching the deponent, or for  
40 explaining or clarifying portions of the said deposition offered  
41 by an adverse party, makes the deponent the witness of the  
42 party introducing the deposition, as to the portions of the  
43 deposition introduced by said party. At the trial or hearing  
44 any party may rebut any relevant evidence contained in a  
45 deposition whether introduced by him or by another party.

46 (g) It is the policy of this state (i) to preserve the rights  
47 of attorneys to prepare cases for trial with that degree of  
48 privacy necessary to encourage them to prepare their cases  
49 thoroughly and to investigate not only the favorable but the  
50 unfavorable aspects of such cases and (ii) to prevent an at-  
51 torney from taking undue advantage of his adversary's in-  
52 dustry or efforts.

1 SEC. 126. Article 6 (commencing with Section 2042) of  
2 Chapter 3 of Title 3 of Part IV of the Code of Civil Procedure  
3 is repealed.

4 SEC. 127. Title 4 (consisting of Section 2061) of Part IV  
5 of the Code of Civil Procedure is repealed.

6 SEC. 128. Section 2065 of the Code of Civil Procedure is  
7 repealed.

8 SEC. 129. Section 2066 of the Code of Civil Procedure is  
9 repealed.

10 SEC. 130. Section 2078 of the Code of Civil Procedure is  
11 repealed.

12 SEC. 131. Section 2079 of the Code of Civil Procedure is  
13 repealed.

14 SEC. 132. Chapter 4 (commencing with Section 2101) of  
15 Title 6 of Part IV of the Code of Civil Procedure is repealed.

16 SEC. 133. Section 6602 of the Corporations Code is  
17 amended to read:

18 6602. If any action or proceeding, the court takes judicial  
19 notice, in the same manner that it takes judicial notice of the  
20 matters listed in Section 452 of the Evidence Code, of the  
21 official acts affecting corporations of the legislative, executive,  
22 and judicial departments of the state or place under the  
23 laws of which the corporation purports to be incorporated.

24 SEC. 134. Section 25310 of the Corporations Code is  
25 amended to read:

26 25310. The commissioner shall adopt a seal bearing the  
27 inscription: "Commissioner of Corporations, State of Califor-  
28 nia." The seal shall be affixed to all writs, orders, permits, and  
29 certificates issued by him, and to such other instruments as he  
30 directs.

31 SEC. 135. Section 11513 of the Government Code is  
32 amended to read:

33 11513. (a) Oral evidence shall be taken only on oath or  
34 affirmation.

35 (b) Each party shall have these rights: (b) to call and examine  
36 witnesses; to introduce exhibits; to cross-examine opposing  
37 witnesses on any matter relevant to the issues even though  
38 that matter was not covered in the direct examination; to  
39 impeach any witness regardless of which party first called him  
40 to testify; and to rebut the evidence against him. If respond-  
41 ent does not testify in his own behalf he may be called and  
42 examined as if under cross-examination.

43 (c) The hearing need not be conducted according to tech-  
44 nical rules relating to evidence and witnesses. Any relevant  
45 evidence shall be admitted if it is the sort of evidence on which  
46 responsible persons are accustomed to rely in the conduct of  
47 serious affairs, regardless of the existence of any common law  
48 or statutory rule which might make improper the admission  
49 of such evidence over objection in civil actions. Hearsay evi-  
50 dence may be used for the purpose of supplementing or ex-  
51 plaining other evidence but shall not be sufficient in itself to  
52 support a finding unless it would be admissible over objection

1 in civil actions. The rules of privilege shall be effective to the  
2 extent that they are otherwise required by statute to be recog-  
3 nized at the hearing, and irrelevant and unduly repetitious  
4 evidence shall be excluded.

5 SEC. 136. Section 19580 of the Government Code is  
6 amended to read:

7 19580. Either by deposition or at the hearing the employee  
8 may be examined and may examine or cause any person to be  
9 examined under Section 776 of the Evidence Code.

10 SEC. 137. Section 3197 of the Health and Safety Code is  
11 amended to read:

12 3197. In any prosecution for a violation of any provision of  
13 this article, or any rule or regulation of the board made pur-  
14 suant to this article, or in any quarantine proceeding author-  
15 ized by this article, or in any habeas corpus or other proceed-  
16 ing in which the legality of such quarantine is questioned,  
17 any physician, health officer, spouse, or other person shall be  
18 competent and may be required to testify against any person  
19 against whom such prosecution or other proceeding was insti-  
20 tuted, and the privileges provided by Sections 970, 971, 980,  
21 994, and 1014 of the Evidence Code are not applicable to or  
22 in any such prosecution or proceeding.

23 SEC. 138. Section 270e of the Penal Code is amended to  
24 read:

25 270e. No other evidence shall be required to prove mar-  
26 riage of husband and wife, or that a person is the lawful  
27 father or mother of a child or children, than is or shall be re-  
28 quired to prove such facts in a civil action. In all prosecu-  
29 tions under either Section 270a or 270 of this code, Sections  
30 970, 971, and 980 of the Evidence Code do not apply, and both  
31 husband and wife shall be competent to testify to any and all  
32 relevant matters, including the fact of marriage and the par-  
33 entage of a child or children. Proof of the abandonment and  
34 nonsupport of a wife, or of the omission to furnish necessary  
35 food, clothing, shelter, or of medical attendance for a child or  
36 children is prima facie evidence that such abandonment and  
37 nonsupport or omission to furnish necessary food, clothing,  
38 shelter or medical attendance is wilful. In any prosecution  
39 under Section 270, it shall be competent for the people to prove  
40 nonaccess of husband to wife or any other fact establishing  
41 nonpaternity of a husband. In any prosecution pursuant to  
42 Section 270, the final establishment of paternity or nonpater-  
43 nity in another proceeding shall be admissible as evidence of  
44 paternity or nonpaternity.

45 SEC. 139. Section 686 of the Penal Code is amended to  
46 read:

47 686. In a criminal action the defendant is entitled:

- 48 1. To a speedy and public trial.
- 49 2. To be allowed counsel as in civil actions, or to appear and  
50 defend in person and with counsel.

1 3. To produce witnesses on his behalf and to be confronted  
2 with the witnesses against him, in the presence of the court,  
3 except that:

4 (a) Hearsay evidence may be admitted to the extent that it  
5 is otherwise admissible in a criminal action under the law of  
6 this state.

7 (b) The deposition of a witness taken in the action may be  
8 read to the extent that it is otherwise admissible under the  
9 law of this state.

10 SEC. 140. Section 688 of the Penal Code is amended to  
11 read:

12 688. No person charged with a public offense may be  
13 subjected, before conviction, to any more restraint than is  
14 necessary for his detention to answer the charge.

15 SEC. 141. Section 939.6 of the Penal Code is amended to  
16 read:

17 939.6. (a) Subject to subdivision (b), in the investigation  
18 of a charge, the grand jury shall receive no other evidence  
19 than such as is:

20 (1) Given by witnesses produced and sworn before the  
21 grand jury;

22 (2) Furnished by writings, material objects, or other things  
23 presented to the senses; or

24 (3) Contained in a deposition that is admissible under sub-  
25 division 3 of Section 686.

26 (b) The grand jury shall receive none but evidence that  
27 would be admissible over objection at the trial of a criminal  
28 action, but the fact that evidence which would have been ex-  
29 cluded at trial was received by the grand jury does not render  
30 the indictment void where sufficient competent evidence to sup-  
31 port the indictment was received by the grand jury.

32 SEC. 142. Section 961 of the Penal Code is amended to  
33 read:

34 961. Neither presumptions of law, nor matters of which  
35 judicial notice is authorized or required to be taken, need be  
36 stated in an accusatory pleading.

37 SEC. 143. Section 963 of the Penal Code is amended to  
38 read:

39 963. In pleading a private statute, or an ordinance of a  
40 county or a municipal corporation, or a right derived there-  
41 from, it is sufficient to refer to the statute or ordinance by its  
42 title and the day of its passage, and the court must thereupon  
43 take judicial notice thereof in the same manner that it takes  
44 judicial notice of matters listed in Section 452 of the Evidence  
45 Code.

46 SEC. 144. Section 1120 of the Penal Code is amended to  
47 read:

48 1120. If a juror has any personal knowledge respecting a  
49 fact in controversy in a cause, he must declare the same in  
50 open court during the trial. If, during the retirement of the  
51 jury, a juror declare a fact which could be evidence in the

1 cause, as of his own knowledge, the jury must return into  
2 court. In either of these cases, the juror making the statement  
3 must be sworn as a witness and examined in the presence of  
4 the parties in order that the court may determine whether  
5 good cause exists for his discharge as a juror.

6 SEC. 145. Section 1322 of the Penal Code is repealed.

7 SEC. 146. Section 1323 of the Penal Code is repealed.

8 SEC. 147. Section 1323.5 of the Penal Code is repealed.

9 SEC. 148. Section 1345 of the Penal Code is amended to  
10 read:

11 1345. The deposition, or a certified copy thereof, may be  
12 read in evidence by either party on the trial if the court finds  
13 that the witness is unavailable as a witness within the meaning  
14 of Section 240 of the Evidence Code. The same objections may  
15 be taken to a question or answer contained in the deposition  
16 as if the witness had been examined orally in court.

17 SEC. 149. Section 1362 of the Penal Code is amended to  
18 read:

19 1362. The depositions taken under the commission may be  
20 read in evidence by either party on the trial if the court finds  
21 that the witness is unavailable as a witness within the meaning  
22 of Section 240 of the Evidence Code. The same objections may  
23 be taken to a question in the interrogatories or to an answer  
24 in the deposition as if the witness had been examined orally in  
25 court.

26 SEC. 150. Section 306 of the Public Utilities Code is  
27 amended to read:

28 306. The office of the commission shall be in the City and  
29 County of San Francisco. The office shall always be open, legal  
30 holidays and nonjudicial days excepted. The commission shall  
31 hold its sessions at least once in each calendar month in the  
32 City and County of San Francisco. The commission may also  
33 meet at such other times and in such other places as may be  
34 expedient and necessary for the proper performance of its  
35 duties, and for that purpose may rent quarters or offices.  
36 Except for the commission's deliberative conferences, the ses-  
37 sions and meetings of the commission shall be open and public  
38 and all persons shall be permitted to attend.

39 The commission shall have a seal, bearing the inscription  
40 "Public Utilities Commission State of California." The seal  
41 shall be affixed to all writs and authentications of copies of  
42 records and to such other instruments as the commission shall  
43 direct.

44 The commission may procure all necessary books, maps,  
45 charts, stationery, instruments, office furniture, apparatus, and  
46 appliances.

47 SEC. 151. Sections 2 to 150 of this act shall become opera-  
48 tive on January 1, 1967.



STATE OF CALIFORNIA  
Supreme Court of California**PROOF OF SERVICE**STATE OF CALIFORNIA  
Supreme Court of CaliforniaCase Name: **BERROTERAN v. S.C. (FORD MOTOR COMPANY)**Case Number: **S259522**Lower Court Case Number: **B296639**

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REQUEST FOR JUDICIAL NOTICE	S259522_MJN_FordMotorCompany
ADDITIONAL DOCUMENTS	S259522_01 of 14 - Exhs. to MJN
ADDITIONAL DOCUMENTS	S259522_02 of 14 - Exhs. to MJN
ADDITIONAL DOCUMENTS	S259522_03 of 14 - Exhs. to MJN
ADDITIONAL DOCUMENTS	S259522_04 of 14 - Exhs. to MJN
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5/13/2020

Date

/s/Frederic Cohen

Signature

Cohen, Frederic (56755)

Last Name, First Name (PNum)

Horvitz & Levy LLP

Law Firm