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Demonstrative Evidence

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Demonstrative Evidence

Introduction

Demonstrative Evidence is "[p]hysical evidence that one can see and inspect (i.e. an explanatory aid, such as a chart, map, and some computer simulations) and that, while of probative value and usually offered to clarify testimony, does not play a direct part in the incident in question." Black's Law Dictionary 675 (10th ed. 2014).

Demonstrative evidence is of particular value to explain, illustrate, clarify, and support witness testimony, as well as enhance the interest of jurors. It may or may not be formally admitted into evidence, and, of course, is subject to Rules of Evidence to be admitted. Demonstrative evidence includes charts, graphs, diagrams, maps, models, photographs, audiorecordings, videorecordings, animations, and computer-generated graphics.

See also the Scientific Evidence guide.

[Photograph of Melvin Belli, particularly known for his use of demonstrative evidence at trial.]

Primary Resources

Uniform Rules
Uniform Law Commission - Rules of Evidence

"The primary object of this act is to simplify and codify the rules pertaining to what may be introduced in evidence in any civil or criminal trial in a court of law. It reflects closely the federal rules of evidence. ... Approved by the American Bar Association."

Includes the Final Act (1999 with 2005 amendments).


Federal & Ohio Rules of Court

Federal Rules of Evidence
See Rules 401. Test for Relevant Evidence; 402. General Admissibility of Relevant Evidence; 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons; 901. Authenticating or Identifying Evidence; and 1006. Summaries to Prove Content.
[Links from the United States Courts website and Cornell University Legal Information Institute.]

Ohio Rules of Evidence
See Rules 401. Definition of "Relevant Evidence"; 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible; 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Undue Delay; 901. Requirement of Authentication or Identification; and 1006. Summaries.
[Link from the Supreme Court of Ohio website.]

Books

Treatises & Practice Materials

- The Art & Science of Trial Advocacy
  http://scholar.csuohio.edu/record=b2627416~S0
  See Chapter 7. Trial Exhibits and Demonstrative.
  KF8915 .P4 2011

- Art of Advocacy - Demonstrative Evidence
  https://advance.lexis.com/GoToFullToc?requestid=e3525d8a-a50b-8ecb-c406-f7b943109734&crid=1ccc36fe-0253-0169-6fd6-268c135979be
  Ashley S. Lipson. Matthew Bender & Company, Inc.

- Modern Visual Evidence
  http://olc1.ohiolink.edu/record=b1510797~S0

- Real and Demonstrative Evidence: A Real World Practice Manual for Winning at Trial
  http://olc1.ohiolink.edu/record=b31555951~S0
  Available via OhioLINC.

- Federal Criminal Trials
  https://advance.lexis.com/GoToFullToc?requestid=8fa30e77-3892-4a5a-ae7f-a030152df12&crid=3593d00d-c4ed-879d-a7ef-e540b16e26c
  Judge James Cissell.
  Also available in print - Reference KF8860 .C57 2013.

- Federal Practice Procedure
  https://a.next.westlaw.com/Browse/Home/SecondarySources/TextsTreatises/FederalPracticeProcedureWrightMiller?transitionType=Default&contextData=%28sc.Default%29#
  Thomson/West, c1999-
  See Sections 5217, 5218. Demonstrative Evidence - Origins and Policy; 5173. "Real Proof"; 5174. Objects Illustrative of Testimony; and 5175. Demonstrations; as well as Sections 5214, 5215, 5219, and 5222 (on Rule 403) within volume 22A.
  Available on WestlawNext; current through June 2014.
  Also available in print - Reference KF8840 .W68

- Wharton's Criminal Evidence
  Barbara E. Bergman, Nancy Hollander, and Theresa M. Duncan.
  Available on WestlawNext; current through November 2013.

- Giannelli Evidence
  https://a.next.westlaw.com/Browse/Home/SecondarySources/OhioSecondarySources/OhioTextsTreatises/BaldwinsOhioPracticeSeries/BaldwinsOhioPracticeEvidence?transitionType=Default&contextData=%28sc.Default%29#
  Paul C. Giannelli. West, c2010.
  See sections 401.12. Demonstrative Evidence; 901.7 through 901.25 (concerning photographs; videotapes & movies; sound recordings; diagrams, maps & models; jury views; out-of-court experiments; in-court exhibitions & demonstrations; exhibits in jury room; and computer simulations); and 1006. Summaries.
  Available on WestlawNext; current through September 2013.