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.]

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Library Reference

Available

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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."

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

Art of Advocacy - Demonstrative Evidence
https://advance.lexis.com/GoToFullToc?requestid=e3525d8a-a50b-8ecb-c406-f7b943109734&crid=1ccc36fe-12f3-0919-e16d-266c13597b6e

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=b3155951~S0

Federal Criminal Trials
https://advance.lexis.com/GoToFullToc?requestid=8f93e77-3892-4a5a-ae7f-a03052d012&crid=3593d00d-c4ae-879d-a75e-e540f46e66f8

Wharton's Criminal Evidence

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 401.2. Demonstrative Evidence; 901.17 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.
Study Aids

- Federal Rules of Evidence in a Nutshell
  http://scholar.csuohio.edu/record=b2612123~S0
  Michael H. Graham, Thomson/West, c2011.
  See Article IV. Relevance and Its Limits.
  Reference Study Aids KF8935 .Z9 G7 2011

- McCormick on Evidence
  http://scholar.csuohio.edu/record=b2644952~S0
  See Chapter 21. Real Evidence, Other Nontestimonial Evidence, and Demonstrative Aids.
  Reference Study Aids & AO66 KF8935 .M29 2013

- Model Witness Examination
  http://scholar.csuohio.edu/record=b2539391~S0
  See Chapter 4. Demonstrative and Real Evidence.
  AO66 KF8950 .S236 2010

Journal Literature & Blogs

Finding Articles & Selected Journal Titles

See the Finding Articles in Law Reviews and Journals guide.

- American Journal of Trial Advocacy
  http://scholar.csuohio.edu/record=b2761832~S0
  Sanford University Cumberland School of Law Center for Advocacy and Clinical Education, c1977/1978-present.
  Also available in print K1_M4785

- Defense Counsel Journal
  http://scholar.csuohio.edu/record=b2762453~S0
  International Association of Defense Counsel, c1987-present.
  Also available in print - K9_N745

- Harvard Journal of Law & Technology
  http://scholar.csuohio.edu/record=b2762639~S0
  Harvard Law School, c1988-present.
  Also available at its website and in print - K8_A6867

- Rutgers Computer & Technology Law Journal
  http://scholar.csuohio.edu/record=b2762282~S0
  Rutgers Law School, c1981-present.

- Trial
  American Trial Lawyers Association (ATLA), c1964-present.
  Note: ATLA now known as the American Association for Justice.
  Available from WestlawNext.
  Also available in print - K9_R5

- Yale Journal of Law & Technology
  http://scholar.csuohio.edu/record=b2842890~S0
  Yale Law School.
  Library has vol. 3 (2000-2001)-present.
  Also available on its website.
dritoday Blog
http://forhbedefense.org/Default.aspx
Published by DRI, an "international membership organization of all lawyers involved in the defense of civil litigation," originally "founded as the Defense Research Institute in 1960."

Evidence Prof Blog
http://lawprofessors.typepad.com/evidenceprof/
Searchable blog edited by Colin Miller. Contributing Editors Jeffrey Bellin and Ben Trachtenberg. A member of The Law Professor Blogs Network.

Federal Evidence Blog
http://federalevidence.com/blog
Highlights "recent cases and issues involving the Federal Rules of Evidence and other topical evidence matters." Published by FederalEvidence.com.

The Jury Expert: The Art and Science of Litigation Advocacy
http://www.thejuryexpert.com/
Published by the American Society of Trial Consultants.

The Legal Advocate
http://blog.nita.org/
Published by the National Institute for Trial Advocacy.

Litigation Consulting Report
http://www.a2lc.com/blog/
Published by A2L Consulting, an "attorney owned and operated litigation consulting, jury consulting, litigation graphics, trial technology and visual persuasion firm."

Video and the Law
http://www.videoandthelaw.com/
Published by Chris Ballard, "the Founder and Principal of Omni Video, ... for paralegals and trial lawyers worldwide."

Web-Based Resources

Associations & Organizations

- American Bar Association - Section of Litigation - Civil Trial Practice Standards
  http://www.americanbar.org/content/dam/aba/migrated/2011_build/litigation/ctps.authcheckdam.pdf
  Standards "adopted as ABA policy in August 2007."

- Center for Legal and Court Technology
  http://www.legaltechcenter.net/
  A "non-profit research, education, and consulting organization that works to improve the administration of justice through the use of technology." Began "as a joint project of the William & Mary Law School and National Center for State Courts." Currently supports over 2,500 judges and courtrooms.

- National Center for State Courts (NCSC) - Services & Experts - Technology Tools
  Includes information on national standards, court-specific standards, and several technology topics (such as Technology in the Courts and Video Technologies). The NCSC "is an independent, nonprofit court improvement organization."

Government Entities

  August 1999. See, in particular, Section VI. Video Evidence System Standards.

- U.S. General Services Administration - Facilities Standards for the Public Buildings Service
  http://www.gsa.gov/portal/mediaId/187607/fileName/P100_Version_2014.action