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### FEDERAL EVIDENCE REVIEW Coverage

#### Cases Covered This Issue:

- Reviewed 31
- Cited 327
- Case Comments 74
- Practice Points 18

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### HIGHLIGHTING CASES DECIDED IN APRIL 2005

## In Focus

**Save Your Breath?** First Circuit explains that just “calling out” the single word “objection” gets you no where if the “specific” grounds for the objection are not clear under FRE 103 – 1st Cir. (p. 347)

**Not Shocking Enough for Jurors:** It’s hard to show that a defendant’s statements are so profane on a tape recorded conversation that it would be unduly prejudicial to admit under FRE 403 – 8th Cir. (p. 360)

**Noticing Judicial Notice:** The *Lead Story* for this issue focuses on some ins-and-outs of the alternative to formal proof of fact – (*Lead Story: Taking Judicial Notice – Ten Common Questions on Rule 201*) (p. 327)

**Eliminate the Witness, Get Her Hearsay:** Fourth Circuit examines application of the doctrine of “Forfeiture by Wrongdoing” under FRE 804(b)(6), suggesting what must be shown to use the doctrine when a witness’s absence is procured -- 4th Cir. (p. 415)

**Two for One:** Tenth Circuit suggests if you show admissibility under FRE 701 (admissible non-expert opinion), you per se have shown admissibility under FRE 602 (personal knowledge) as well. But court is silent if it works the other way around – 10th Cir. (p. 397 & p. 387)

**A Waiver is a Wavier:** If a defendant waives his Fifth Amendment privilege against self-incrimination, he can’t reclaim it later if his incriminating statement is used in another criminal proceeding, as long as the original waiver was not illegally obtained – 5th Cir. (p. 339)

**Family Values?** Despite not having communicated with him for over a decade, defendant’s brothers could testify about his low reputation for truthfulness – 7th Cir. (p. 389)

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