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FEDERAL EVIDENCE REVIEW Coverage

Cases Covered This Issue:

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

Covered Since Vol. 1, No. 1:

- Cases reviewed 252
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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)

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