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| | |
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| | |
|--|---|
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| 29 A Am. Jur. 2d Evidence Sec. 953, 965-966, 968, 980-987, 989, 993-995,1003, 1013 (2003) | 1, 6, 8, 9, 11-14 |
| 31A Am.Jur.2d Sec. 131 (2003) | 8 |
| 32A C.J.S. Evidence Sec. 999 (2004); C.D. Varner & J.M. McGee, Worth A Thousand Words: The Admissibility of Day-In-The-Life Videos, 35 Tort & Ins. L.J. 175 (1999) | 6 |
| 35A Am.Jur.2d Federal Tax Enforcement Sec. 1245 (2003) | 15 |
| 36 Tex. Jur. 3d Evidence Sec. 472 (2004) | 4, 11 |

| | |
|---|--------|
| 44 Am. Jur. Proof of Facts 2d 707 | 9 |
| 71 Tex. Jur. 3d Sec. 110 (2004) | 17 |
| Am.L.Prod.Liab. 3d Sec. 76:24 (2004) | 2 |
| Ann. 2003 ATLA Convention Reference Material 2233, Nuts and Bolts: Demonstrative Evidence in Automobile and Premises Cases (2003) | 11 |
| CJS Evidence, Sections 798, 799 (2003) | 9 |
| Computers in the Courtroom, the Federal Rules of Evidence, and the Need for Institutional Reform and More Judicial Acceptance, 13 Harv. J.L. & Tech. 161 (Winter 2000) | 3 |
| Galves, Fred - Where the Not-So-Wild Things Are | 3 |
| Procedural Issues Under Daubert, 36 Hous. L. Rev. 1133 (1999) | 14, 15 |
| TX Practice Guide, Personal Injury 2d, Ch. 12 VII (2004) | 4, 9 |
| Tx. Jur. 3d Evidence Sec. 474. | 7 |
| Warton, Lory Dennis - Litigators Byte The Apple: Utilizing Computer-Generated Evidence at Trial, 41 Baylor L. Rev. 731 (1989). | 3, 4 |