

STATE OF MAJOR RULES OF EVIDENCE

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ARTICLE I. GENERAL PROVISIONS

Rule 101. Scope

These rules govern proceedings in the courts of the State of Major with the exceptions stated in Rule 1101.

Rule 102. Purpose and Construction

These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

Rule 103. Rulings on Evidence

(a) Effect of erroneous ruling.

Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and

(1) Objection. - In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or

(2) Offer of proof. - In case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked.

Once the court makes a definitive ruling on the record admitting or excluding evidence, either at or before trial, a party need not renew an objection or offer of proof to preserve a claim of error for appeal.

(b) Record of offer and ruling

The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. It may direct the making of an offer in question and answer form.

(c) Hearing of jury

In jury cases, proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.

(d) Plain error

Nothing in this rule precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of the court.

Rule 104. Preliminary Questions

(a) Questions of admissibility generally.

Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of subdivision (b). In making its determination it is not bound by the rules of evidence except those with respect to privileges.

(b) Relevancy conditioned on fact.

When the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

(c) Hearing of jury.

Hearings on the admissibility of confessions shall in all cases be conducted out of the hearing of the jury. Hearings on other preliminary matters shall be so conducted when the interests of justice require, or when an accused is a witness and so requests.

(d) Testimony by accused.

The accused does not, by testifying upon a preliminary matter, become subject to cross-examination as to other issues in the case.

(e) Weight and credibility.

This rule does not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

Rule 105. Limited Admissibility

When evidence which is admissible as to one party or for one purpose but not admissible as to another party or for another purpose is admitted, the court, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

Rule 106. Remainder of or Related Writings or Recorded Statements

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

ARTICLE II. JUDICIAL NOTICE

Rule 201. Judicial Notice of Adjudicative Facts

(a) Scope of rule.

This rule governs only judicial notice of adjudicative facts.

(b) Kinds of facts.

A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(c) When discretionary.

A court may take judicial notice, whether requested or not.

(d) When mandatory.

A court shall take judicial notice if requested by a party and supplied with the necessary information.

(e) Opportunity to be heard.

A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.

(f) Time of taking notice.

Judicial notice may be taken at any stage of the proceeding.

(g) Instructing jury.

In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

ARTICLE III. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS

Rule 301. Presumptions in General Civil Actions and Proceedings

In all civil actions and proceedings not otherwise provided for by Act of the legislature of the State of Major or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast.

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 401. Definition of "Relevant Evidence"

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Rule 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible

All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules prescribed by the Supreme Court pursuant to statutory authority. Evidence which is not relevant is not admissible.

Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

Rule 404. Character Evidence Not Admissible To Prove Conduct; Exceptions; Other Crimes

(a) Character evidence generally

Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except:

(1) Character of accused - In a criminal case, evidence of a pertinent trait of character offered by an accused, or by the prosecution to rebut the same, or if evidence of a trait of character of the alleged victim of the crime is offered by an accused and admitted under Rule 404 (a)(2), evidence of the same trait of character of the accused offered by the prosecution;

(2) Character of alleged victim - In a criminal case, and subject to the limitations imposed by Rule 412, evidence of a pertinent trait of character of the alleged victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the alleged victim offered by the prosecution in a homicide case to rebut evidence that the alleged victim was the first aggressor;

(3) Character of witness - Evidence of the character of a witness, as provided in Rules 607, 608 and 609.

(b) Other crimes, wrongs, or acts

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial.

Rule 405. Methods of Proving Character

(a) Reputation or opinion.

In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry is allowable into relevant specific instances of conduct.

(b) Specific instances of conduct.

In cases in which character or a trait of character of a person is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

Rule 406. Habit; Routine Practice

Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

Rule 407. Subsequent Remedial Measures

When, after an injury or harm allegedly caused by an event, measures are taken that, if taken previously, would have made the injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove negligence, culpable conduct, a defect in a product, a defect in a product's design, or a need for a warning or instruction. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

Rule 408. Compromise and Offers to Compromise

(a) Prohibited uses. Evidence of the following is not admissible on behalf of any party, when offered to prove liability for, invalidity of, or amount of a claim that was disputed as to validity or amount, or to impeach through a prior inconsistent statement or contradiction:

(1) furnishing or offering or promising to furnish or accepting or offering or promising to accept a valuable consideration in compromising or attempting to compromise the claim; and

(2) conduct or statements made in compromise negotiations regarding the claim, except when offered in a criminal case and the negotiations related to a claim by a public office or agency in the exercise of regulatory, investigative, or enforcement authority.

(b) Permitted uses. This rule does not require exclusion if the evidence is offered for purposes not prohibited by subdivision (a). Examples of permissible purposes include proving a witness's bias or prejudice; negating a contention of undue delay; and proving an effort to obstruct a criminal investigation or prosecution.

Rule 409. Payment of Medical and Similar Expenses

Evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

Rule 410. Inadmissibility of Pleas, Plea Discussions, and Related Statements

Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible against the defendant who made the plea or was a participant in the plea discussions:

- (1) a plea of guilty which was later withdrawn;
- (2) a plea of nolo contendere;
- (3) any statement made in the course of any proceedings under Rule 11 of the Federal Rules of Criminal Procedure or comparable State of Major procedure regarding either of the foregoing pleas; or
- (4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn.

However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought in fairness be considered contemporaneously with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

Rule 411. Liability Insurance

Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

Rule 412. Sex Offense Cases; Relevance of Alleged Victim's Past Sexual Behavior or Alleged Sexual Predisposition

- (a) Evidence generally inadmissible.

The following evidence is not admissible in any civil or criminal proceeding involving alleged sexual misconduct except as provided in subdivisions (b) and (c):

- (1) Evidence offered to prove that any alleged victim engaged in other sexual behavior.
 - (2) Evidence offered to prove any alleged victim's sexual predisposition.
- (b) Exceptions.

(1) In a criminal case, the following evidence is admissible, if otherwise admissible under these rules:

(A) evidence of specific instances of sexual behavior by the alleged victim offered to prove that a person other than the accused was the source of semen, injury, or other physical evidence;

(B) evidence of specific instances of sexual behavior by the alleged victim with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and

(C) evidence the exclusion of which would violate the constitutional rights of the defendant.

(2) In a civil case, evidence offered to prove the sexual behavior or sexual predisposition of any alleged victim is admissible if it is otherwise admissible under these rules and its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. Evidence of an alleged victim's reputation is admissible only if it has been placed in controversy by the alleged victim.

(c) Procedure to determine admissibility.

(1) A party intending to offer evidence under subdivision (b) must --

(A) file a written motion at least 14 days before trial specifically describing the evidence and stating the purpose for which it is offered unless the court, for good cause requires a different time for filing or permits filing during trial; and

(B) serve the motion on all parties and notify the alleged victim or, when appropriate, the alleged victim's guardian or representative.

(2) Before admitting evidence under this rule the court must conduct a hearing in camera and afford the victim and parties a right to attend and be heard. The motion, related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise.

Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

(b) In a case in which the State of Major intends to offer evidence under this rule, the attorney for the State of Major shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under the law of the State of Major that involved--

(1) any conduct proscribed by chapter 109A of title 18, Revised Code of Major;

(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

Rule 414. Evidence of Similar Crimes in Child Molestation Cases

(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

(b) In a case in which the State of Major intends to offer evidence under this rule, the attorney for the State of Major shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under the law of the State of Major that involved--

(1) any conduct proscribed by chapter 109A of title 18, Revised Code of Major, that was committed in relation to a child;

(2) any conduct proscribed by chapter 110 of title 18, Revised Code of Major;

(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

(4) contact between the genitals or anus of the defendant and any part of the body of a child;

(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(5).

Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

ARTICLE V. PRIVILEGES

Rule 501. General Rule

Except as otherwise required by the Constitution of the United States or provided by Act of the State of Major or in rules prescribed by the Supreme Court of Major pursuant to statutory authority, the privilege of a witness, person, government, State, or political subdivision thereof shall be governed by the principles of the common law as they may be interpreted by the courts of Major in the light of reason and experience.

Rule 502. Attorney-Client Privilege and Work Product; Limitations on Waiver

The following provisions apply, in the circumstances set out, to disclosure of a communication or information covered by the attorney-client privilege or work-product protection.

(a) Scope of waiver.

When the disclosure is made in a State of Major proceeding or to a of Major office or agency and waives the attorney-client privilege or work-product protection, the waiver extends to an undisclosed communication or information in a State of Major proceeding only if:

(1) the waiver is intentional;

(2) the disclosed and undisclosed communications or information concern the same subject matter; and

(3) they ought in fairness to be considered together.

(b) Inadvertent disclosure.

When made in a State of Major proceeding or to a State of Major office or agency, the disclosure does not operate as a waiver in a State of Major proceeding if:

(1) the disclosure is inadvertent;

(2) the holder of the privilege or protection took reasonable steps to prevent disclosure; and

(3) the holder promptly took reasonable steps to rectify the error, including (if applicable) following Federal Rule of Civil Procedure 26(b)(5)(B).

(c) Controlling effect of a party agreement.—

An agreement on the effect of disclosure in a State of Major proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.

(d) Definitions.—

In this rule:

(1) "attorney-client privilege" means the protection that applicable law provides for confidential attorney-client communications; and

(2) "work-product protection" means the protection that applicable law provides for tangible material (or its intangible equivalent) prepared in anticipation of litigation or for trial.

ARTICLE VI. WITNESSES

Rule 601. General Rule of Competency

Every person is competent to be a witness except as otherwise provided in these rules.

Rule 602. Lack of Personal Knowledge

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, relating to opinion testimony by expert witnesses.

Rule 603. Oath or Affirmation

Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.

Rule 604. Interpreters

An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation to make a true translation.

Rule 605. Competency of Judge as Witness

The judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve the point.

Rule 606. Competency of Juror as Witness

(a) At the trial.

A member of the jury may not testify as a witness before that jury in the trial of the case in which the juror is sitting. If the juror is called so to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.

(b) Inquiry into validity of verdict or indictment.

Upon an inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of the jury's deliberations or to the effect of anything upon that or any other juror's mind or emotions as influencing the juror to assent to or dissent from the verdict or indictment or concerning the juror's mental processes in connection therewith. But a juror may testify about (1) whether extraneous prejudicial information was improperly brought to the jury's attention, (2) whether any outside influence was improperly brought to bear upon any juror, or (3) whether there was a mistake in entering the verdict onto the verdict form. A juror's affidavit or evidence of any statement by the juror may not be received on a matter about which the juror would be precluded from testifying.

Rule 607. Who May Impeach

The credibility of a witness may be attacked by any party, including the party calling the witness.

Rule 608. Evidence of Character and Conduct of Witness

(a) Opinion and reputation evidence of character.

The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for

truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

(b) Specific instances of conduct.

Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' character for truthfulness, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination when examined with respect to matters that relate only to character for truthfulness.

Rule 609. Impeachment by Evidence of Conviction of Crime

(a) General rule.

For the purpose of attacking the character for truthfulness of a witness,

(1) evidence that a witness other than an accused has been convicted of a crime shall be admitted, subject to Rule 403, if the crime was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused; and

(2) evidence that any witness has been convicted of a crime shall be admitted regardless of the punishment, if it readily can be determined that establishing the elements of the crime required proof or admission of an act of dishonesty or false statement by the witness.

(b) Time limit.

Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) Effect of pardon, annulment, or certificate of rehabilitation.

Evidence of a conviction is not admissible under this rule if (1) the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, and that person has not been convicted of a subsequent crime that was punishable by death or imprisonment in excess of one year, or (2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(d) Juvenile adjudications.

Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(e) Pendency of appeal.

The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

Rule 610. Religious Beliefs or Opinions

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

Rule 611. Mode and Order of Interrogation and Presentation

(a) Control by court.

The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of cross-examination.

Cross-examination should be limited to the subject matter of the direct examination and matters affecting the credibility of the witness. The court may, in the exercise of discretion, permit inquiry into additional matters as if on direct examination.

(c) Leading questions.

Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the witness' testimony. Ordinarily leading questions should be permitted on

cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

Rule 612. Writing Used to Refresh Memory

Except as otherwise provided in criminal proceedings by section 3500 of title 18, Revised Code of Major, if a witness uses a writing to refresh memory for the purpose of testifying, either--

(1) while testifying, or

(2) before testifying, if the court in its discretion determines it is necessary in the interests of justice,

an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness. If it is claimed that the writing contains matters not related to the subject matter of the testimony the court shall examine the writing in camera, excise any portions not so related, and order delivery of the remainder to the party entitled thereto. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal. If a writing is not produced or delivered pursuant to order under this rule, the court shall make any order justice requires, except that in criminal cases when the prosecution elects not to comply, the order shall be one striking the testimony or, if the court in its discretion determines that the interests of justice so require, declaring a mistrial.

Rule 613. Prior Statements of Witnesses

(a) Examining witness concerning prior statement.

In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

(b) Extrinsic evidence of prior inconsistent statement of witness.

Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate the witness thereon, or the interests of justice otherwise require. This provision does not apply to admissions of a party-opponent as defined in Rule 801(d)(2).

Rule 614. Calling and Interrogation of Witnesses by Court

(a) Calling by court.

The court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.

(b) Interrogation by court.

The court may interrogate witnesses, whether called by itself or by a party.

(c) Objections.

Objections to the calling of witnesses by the court or to interrogation by it may be made at the time or at the next available opportunity when the jury is not present.

Rule 615. Exclusion of Witnesses

At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of the party's cause, or (4) a person authorized by statute to be present.

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 701. Opinion Testimony by Lay Witnesses

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness, and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

Rule 703. Bases of Opinion Testimony by Experts

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence in order for the opinion or inference to be admitted. Facts or data that are otherwise inadmissible shall not be disclosed to the jury by the proponent of the opinion or inference unless the court determines that their

probative value in assisting the jury to evaluate the expert's opinion substantially outweighs their prejudicial effect.

Rule 704. Opinion on Ultimate Issue

(a) Except as provided in subdivision (b), testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

(b) No expert witness testifying with respect to the mental state or condition of a defendant in a criminal case may state an opinion or inference as to whether the defendant did or did not have the mental state or condition constituting an element of the crime charged or of a defense thereto. Such ultimate issues are matters for the trier of fact alone.

Rule 705. Disclosure of Facts or Data Underlying Expert Opinion

The expert may testify in terms of opinion or inference and give reasons therefor without first testifying to the underlying facts or data, unless the court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

Rule 706. Court Appointed Experts

(a) Appointment.

The court may on its own motion or on the motion of any party enter an order to show cause why expert witnesses should not be appointed, and may request the parties to submit nominations. The court may appoint any expert witnesses agreed upon by the parties, and may appoint expert witnesses of its own selection. An expert witness shall not be appointed by the court unless the witness consents to act. A witness so appointed shall be informed of the witness' duties by the court in writing, a copy of which shall be filed with the clerk, or at a conference in which the parties shall have opportunity to participate. A witness so appointed shall advise the parties of the witness' findings, if any; the witness' deposition may be taken by any party; and the witness may be called to testify by the court or any party. The witness shall be subject to cross-examination by each party, including a party calling the witness.

(b) Compensation.

Expert witnesses so appointed are entitled to reasonable compensation in whatever sum the court may allow. The compensation thus fixed is payable from funds which may be provided by law in criminal cases and civil actions and proceedings involving just compensation under the fifth amendment. In other civil actions and proceedings the compensation shall be paid by the parties in such proportion and at such time as the court directs, and thereafter charged in like manner as other costs.

(c) Disclosure of appointment.

In the exercise of its discretion, the court may authorize disclosure to the jury of the fact that the court appointed the expert witness.

(d) Parties' experts of own selection.

Nothing in this rule limits the parties in calling expert witnesses of their own selection.

ARTICLE VIII. HEARSAY

Rule 801. Definitions

The following definitions apply under this article:

(a) Statement.

A "statement" is (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by the person as an assertion.

(b) Declarant.

A "declarant" is a person who makes a statement.

(c) Hearsay.

"Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) Statements which are not hearsay.

A statement is not hearsay if--

(1) Prior statement by witness. The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is (A) inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or

(2) Admission by party-opponent. The statement is offered against a party and is

(A) the party's own statement, in either an individual or a representative capacity or

(B) a statement of which the party has manifested an adoption or belief in its truth, or

(C) a statement by a person authorized by the party to make a statement concerning the subject, or

(D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or

(E) a statement by a coconspirator of a party during the course and in furtherance of the conspiracy.

The contents of the statement shall be considered but are not alone sufficient to establish the declarant's authority under subdivision (C), the agency or employment relationship and scope thereof under subdivision (D), or the existence of the conspiracy and the participation therein of the declarant and the party against whom the statement is offered under subdivision (E).

Rule 802. Hearsay Rule

Hearsay is not admissible except as provided by these rules or by other rules prescribed by the Major Supreme Court pursuant to statutory authority or by Act of the legislature of the State of Major.

Rule 803. Hearsay Exceptions; Availability of Declarant Immaterial

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) Present sense impression. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) Excited utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) Then existing mental, emotional, or physical condition. A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) Statements for purposes of medical diagnosis or treatment. Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

(5) Recorded recollection. A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly. If admitted, the memorandum or

record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

(6) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record or data compilation, all as shown by the testimony of the custodian or other qualified witness, or by certification that complies with Rule 902(11), Rule 902(12), or a statute permitting certification, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(7) Absence of entry in records kept in accordance with the provisions of paragraph (6). Evidence that a matter is not included in the memoranda reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) Public records and reports. Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or (C) in civil actions and proceedings and against the Government in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.

(9) Records of vital statistics. Records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law.

(10) Absence of public record or entry. To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with Rule 902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(11) Records of religious organizations. Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) Marriage, baptismal, and similar certificates. Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

(13) Family records. Statements of fact concerning personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

(14) Records of documents affecting an interest in property. The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorizes the recording of documents of that kind in that office.

(15) Statements in documents affecting an interest in property. A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

(16) Statements in ancient documents. Statements in a document in existence twenty years or more the authenticity of which is established.

(17) Market reports, commercial publications. Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.

(18) Learned treatises. To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.

(19) Reputation concerning personal or family history. Reputation among members of a person's family by blood, adoption, or marriage, or among a person's associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history.

(20) Reputation concerning boundaries or general history. Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or State or nation in which located.

(21) Reputation as to character. Reputation of a person's character among associates or in the community.

(22) Judgment of previous conviction. Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

(23) Judgment as to personal, family or general history, or boundaries. Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.

(24) [Other exceptions.][Transferred to Rule 807]

Rule 804. Hearsay Exceptions; Declarant Unavailable

(a) Definition of unavailability.

"Unavailability as a witness" includes situations in which the declarant--

(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement; or

(2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or

(3) testifies to a lack of memory of the subject matter of the declarant's statement; or

(4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

(b) Hearsay exceptions.

The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) Statement under belief of impending death. In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be impending death.

(3) Statement against interest. A statement that:

(A) a reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and

(B) is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability.

(4) Statement of personal or family history. (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

(5) [Other exceptions.][Transferred to Rule 807]

(6) Forfeiture by wrongdoing. A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

Rule 805. Hearsay Within Hearsay

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statements conforms with an exception to the hearsay rule provided in these rules.

Rule 806. Attacking and Supporting Credibility of Declarant

When a hearsay statement, or a statement defined in Rule 801(d)(2)(C), (D), or (E), has been admitted in evidence, the credibility of the declarant may be attacked, and if attacked may be supported, by any evidence which would be admissible for those purposes if declarant had testified as a witness. Evidence of a statement or conduct by the declarant at any time,

inconsistent with the declarant's hearsay statement, is not subject to any requirement that the declarant may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the declarant as a witness, the party is entitled to examine the declarant on the statement as if under cross-examination.

Rule 807. Residual Exception

A statement not specifically covered by Rule 803 or 804 but having equivalent circumstantial guarantees of trustworthiness, is not excluded by the hearsay rule, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, the proponent's intention to offer the statement and the particulars of it, including the name and address of the declarant.

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

Rule 901. Requirement of Authentication or Identification

(a) General provision.

The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

(b) Illustrations.

By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this rule:

(1) Testimony of witness with knowledge. Testimony that a matter is what it is claimed to be.

(2) Nonexpert opinion on handwriting. Nonexpert opinion as to the genuineness of handwriting, based upon familiarity not acquired for purposes of the litigation.

(3) Comparison by trier or expert witness. Comparison by the trier of fact or by expert witnesses with specimens which have been authenticated.

(4) Distinctive characteristics and the like. Appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances.

(5) Voice identification. Identification of a voice, whether heard firsthand or through mechanical or electronic transmission or recording, by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker.

(6) Telephone conversations. Telephone conversations, by evidence that a call was made to the number assigned at the time by the telephone company to a particular person or business, if (A) in the case of a person, circumstances, including self-identification, show the person answering to be the one called, or (B) in the case of a business, the call was made to a place of business and the conversation related to business reasonably transacted over the telephone.

(7) Public records or reports. Evidence that a writing authorized by law to be recorded or filed and in fact recorded or filed in a public office, or a purported public record, report, statement, or data compilation, in any form, is from the public office where items of this nature are kept.

(8) Ancient documents or data compilation. Evidence that a document or data compilation, in any form, (A) is in such condition as to create no suspicion concerning its authenticity, (B) was in a place where it, if authentic, would likely be, and (C) has been in existence 20 years or more at the time it is offered.

(9) Process or system. Evidence describing a process or system used to produce a result and showing that the process or system produces an accurate result.

(10) Methods provided by statute or rule. Any method of authentication or identification provided by Act of legislature of the State of Major or by other rules prescribed by the Major Supreme Court pursuant to statutory authority.

Rule 902. Self-authentication

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(1) Domestic public documents under seal. A document bearing a seal purporting to be that of the United States, or of any State, district, Commonwealth, territory, or insular possession thereof, or the Panama Canal Zone, or the Trust Territory of the Pacific Islands, or of a political subdivision, department, officer, or agency thereof, and a signature purporting to be an attestation or execution.

(2) Domestic public documents not under seal. A document purporting to bear the signature in the official capacity of an officer or employee of any entity included in paragraph (1) hereof, having no seal, if a public officer having a seal and having official duties in the district or political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine.

(3) Foreign public documents. A document purporting to be executed or attested in an official capacity by a person authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of the signature and

official position (A) of the executing or attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of an embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of official documents, the court may, for good cause shown, order that they be treated as presumptively authentic without final certification or permit them to be evidenced by an attested summary with or without final certification.

(4) Certified copies of public records. A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with paragraph (1), (2), or (3) of this rule or complying with any Act of the legislature of the State of Major or rule prescribed by the Major Supreme Court pursuant to statutory authority.

(5) Official publications. Books, pamphlets, or other publications purporting to be issued by public authority.

(6) Newspapers and periodicals. Printed materials purporting to be newspapers or periodicals.

(7) Trade inscriptions and the like. Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin.

(8) Acknowledged documents. Documents accompanied by a certificate of acknowledgment executed in the manner provided by law by a notary public or other officer authorized by law to take acknowledgments.

(9) Commercial paper and related documents. Commercial paper, signatures thereon, and documents relating thereto to the extent provided by general commercial law.

(10) Presumptions under Acts of the legislature of the State of Major. Any signature, document, or other matter declared by Act of Congress to be presumptively or prima facie genuine or authentic.

(11) Certified domestic records of regularly conducted activity. The original or a duplicate of a domestic record of regularly conducted activity that would be admissible under Rule 803(6) if accompanied by a written declaration of its custodian or other qualified person, in a manner complying with any Act of the legislature of the State of Major or rule prescribed by the Major Supreme Court pursuant to statutory authority, certifying that the record:

(A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;

(B) was kept in the course of the regularly conducted activity; and

(C) was made by the regularly conducted activity as a regular practice.

A party intending to offer a record into evidence under this paragraph must provide written notice of that intention to all adverse parties, and must make the record and declaration available for inspection sufficiently in advance of their offer into evidence to provide an adverse party with a fair opportunity to challenge them.

(12) Certified foreign records of regularly conducted activity. In a civil case, the original or a duplicate of a foreign record of regularly conducted activity that would be admissible under Rule 803(6) if accompanied by a written declaration by its custodian or other qualified person certifying that the record:

(A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;

(B) was kept in the course of the regularly conducted activity; and

(C) was made by the regularly conducted activity as a regular practice.

The declaration must be signed in a manner that, if falsely made, would subject the maker to criminal penalty under the laws of the country where the declaration is signed. A party intending to offer a record into evidence under this paragraph must provide written notice of that intention to all adverse parties, and must make the record and declaration available for inspection sufficiently in advance of their offer into evidence to provide an adverse party with a fair opportunity to challenge them.

Rule 903. Subscribing Witness' Testimony Unnecessary

The testimony of a subscribing witness is not necessary to authenticate a writing.

ARTICLE X. CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

Rule 1001. Definitions

For purposes of this article the following definitions are applicable:

(1) Writings and recordings. "Writings" and "recordings" consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

(2) Photographs. "Photographs" include still photographs, X-ray films, video tapes, and motion pictures.

(3) Original. An "original" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an "original".

(4) Duplicate. A "duplicate" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduces the original.

Rule 1002. Requirement of Original

To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules.

Rule 1003. Admissibility of Duplicates

A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate in lieu of the original.

Rule 1004. Admissibility of Other Evidence of Contents

The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible if--

(1) Originals lost or destroyed. All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith; or

(2) Original not obtainable. No original can be obtained by any available judicial process or procedure; or

(3) Original in possession of opponent. At a time when an original was under the control of the party against whom offered, that party was put on notice, by the pleadings or otherwise, that the contents would be a subject of proof at the hearing, and that party does not produce the original at the hearing; or

(4) Collateral matters. The writing, recording, or photograph is not closely related to a controlling issue.

Rule 1005. Public Records

The contents of an official record, or of a document authorized to be recorded or filed and actually recorded or filed, including data compilations in any form, if otherwise admissible, may be proved by copy, certified as correct in accordance with Rule 902 or testified to be correct by a

witness who has compared it with the original. If a copy which complies with the foregoing cannot be obtained by the exercise of reasonable diligence, then other evidence of the contents may be given.

Rule 1006. Summaries

The contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in court may be presented in the form of a chart, summary, or calculation. The originals, or duplicates, shall be made available for examination or copying, or both, by other parties at reasonable time and place. The court may order that they be produced in court.

Rule 1007. Testimony or Written Admission of Party

Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by that party's written admission, without accounting for the nonproduction of the original.

Rule 1008. Functions of Court and Jury

When the admissibility of other evidence of contents of writings, recordings, or photographs under these rules depends upon the fulfillment of a condition of fact, the question whether the condition has been fulfilled is ordinarily for the court to determine in accordance with the provisions of Rule 104. However, when an issue is raised (a) whether the asserted writing ever existed, or (b) whether another writing, recording, or photograph produced at the trial is the original, or (c) whether other evidence of contents correctly reflects the contents, the issue is for the trier of fact to determine as in the case of other issues of fact.

ARTICLE XI: MISCELLANEOUS RULES

Rule 1101. Applicability of Rules

(a) Courts and judges.

These rules apply to the State of Major courts, in the actions, cases, and proceedings and to the extent hereinafter set forth. The terms "judge" and "court" in these rules include State of Major bankruptcy judges and State of Major magistrate judges.

(b) Proceedings generally.

These rules apply generally to civil actions and proceedings, including admiralty and maritime cases, to criminal cases and proceedings, to contempt proceedings except those in which the court may act summarily, and to proceedings and cases under title 11, Revised Code of Major.

(c) Rule of privilege.

The rule with respect to privileges applies at all stages of all actions, cases, and proceedings.

(d) Rules inapplicable.

The rules (other than with respect to privileges) do not apply in the following situations:

(1) Preliminary questions of fact. The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under Rule 104.

(2) Grand jury. Proceedings before grand juries.

(3) Miscellaneous proceedings. Proceedings for extradition or rendition; preliminary examinations in criminal cases; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; and proceedings with respect to release on bail or otherwise.

Rule 1102. Amendments

Amendments to the State of Major Rules of Evidence may be made as provided in section 2072 of title 28 of the Revised Code of Major.

Rule 1103. Title

These rules may be known and cited as the Major Evidence Rules.



Entry 2-1: Sondra (at scene) 1 of 1



Entry 2-2. Sondra t Scene- 1 of 1



Police Department - Mal, Oregon	STATEMENT
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Victim	Witness	<input checked="" type="checkbox"/>	DATE\TIME 9/9/20XX 1300 hrs	CASE NO. 69000 545
TAKEN BY Det. Flanagan			SERIAL	
STATEMENT OF Alexandra Torres			AGE	
ALIAS				
ADDRESS 1211 E. Allison Street		ZIP 57773		503-993-2271
DATE AND PLACE OF BIRTH				
OCCUPATION AND EMPLOYER Tutor				BUSINESS PHONE

ENTER STATEMENT BELOW

Today, I was contacted by Detective Flanagan who came to my cabin on the Lake shore path in Portage Bay, of Priest Lake. He asked me if I knew anything about a woman who drowned on Priest Lake 16 years ago. I never came forward and told what I knew back then because I didn't think I had anything to offer then and nobody asked me about what I saw.

I recall the incident because of the news about the drowning near Gun Lodge. The day of the reported drowning, I was sitting on my cabin porch facing out towards Portage Bay and reading. I remember a couple paddling into the Bay. The raft was around 150 yards away when the couple got in the water to swim. I thought this was strange that they were out there with all the boat traffic around and when the Sheriff had just a short while before come by telling folks on floatation devises to move in closer to shore because of that traffic. The raft never turned over.

I saw the man pulled the woman into the raft and row back towards Gun Lodge. He rowed very slowly not like a normal person would if his wife was unconscious and laying in the raft.

I declare, under penalty of perjury under the laws of the State of Oregon, that the statement above is true and correct to the best of my knowledge.

9/9/XX
Date

Alexandra Torres
Signature

Mal Police Department Report: Follow Up Report of Det. Rusty Flanagan

Suspect:		
Samuel L. Griffith, 2323 S.E. 6 th Mal, OR 503-433-1112 39 - 6'1" - 197 lbs.		
Persons Interviewed:		
Samuel Griffith	2323 SE 6 th , Mal, OR	503-433-1112
Dr. Mamoud	Appleton Hospital, Salem, OR	(B) 503- 207-1122
Bob Oos	All Farm Insurance 1900 Main Street, Mal, OR	(B) 503-333-1497
Alexandra Torres	200 Peach Tree Lane Macminville, OR	(H) 503- 333-7854

8/20/20XX- 16 1830 hrs. Detective R. Flanagan dispatched to Gun Lodge on Priest Lake. Upon arrival met with officer Styles who briefed me on what had occurred. According to the officer, Sam and Marian Griffith had been boating and swimming. Marian drowned when struck by their capsized raft. Marian had been transported from the scene. I know the Griffiths because Sam works for the *Mal Gazette* and we go to the same church.

8/20/20XX-16 1900 hrs. Interviewed Samuel Griffith in the upstairs lounge of Gun Lodge. Griffith stated that he and his wife were swimming near their raft in Portage Bay some distance from the beach in front of the lodge. Said that Marian developed a leg cramp and was clinging to the raft when the wake of a passing speedboat caused the raft to capsize and his wife went underwater. He said that he was able to turn the raft over, pull his wife into the raft and row back to the Lodge's dock. Marian was dead by the time they reached the dock. Advised Griffith of his rights and took a written statement.

8/21/20XX-16 0835 hrs. I attended the autopsy conducted by Dr. Mamoud, Oregon's Medical Examiner. Dr. Mamoud found no marks on Marian's body, and opined that she died from asphyxia due to drowning. Dr. Mamoud classified the death as "possible accident."

8/22/20XX-16 0930 hrs. Called Sam Griffith and learned that his wife was insured for \$250,000 and that he was the primary beneficiary.

8/22/20XX-16 1530 hrs. Went to speak with Bob Oos, whom Griffith had told me was his insurance agent. Oos inform me that Sam Griffith had already been in contact with him to determine how he might collect on the insurance.

8/26/20XX-16 1300 hrs. Went to Gun Lodge and met with life guards Bonny Peters and Bob Luby. We attempted to recreate the situation described by Sam Griffith using the Griffiths' Sevylor raft. Both Peters and Luby got in the water in Portage Bay with Bonny hanging onto the raft. We then ran various motor boats of different sizes by the raft to generate large wakes. Despite several efforts to overturn the raft with boat wakes, the raft stayed upright. Videotaped all.

8/27/20XX-16 1030 hrs. Presented the case to District Attorney Alsdorf. Alsdorf indicated that at this stage the District Attorney's office declined to prosecute. Case closed.

9/8/20XX 0903 hrs. Telephone call from Ruston Police Homicide Cold Case Detective Michael Doerty. Doerty states that Samuel Griffith's second wife has been stabbed to death. Doerty request access to our case file because Ruston PD is investigating Sam Griffith as a suspect in his wife's death. Overnighted our case file to Doerty. Agreed to assist Ruston PD. Decided that we should reopen our case and decided to go to Portage Bay and knock on doors tomorrow.

9/9/20XX 1300 hrs. Went cabin to cabin along the Lake shore path in Portage Bay. Located a witness, Alexandra Torres, who was never contacted during the initial investigation. She recalled the incident because of the news about the drowning near Gun Lodge. The day of the reported drowning, Ms. Torres states that she was sitting on her cabin porch facing out towards Portage Bay and reading. She recalls a couple paddling into the Bay. The raft was around 150 yards away when the couple got in the water to swim. She saw the man pull the woman into the raft and row back towards Gun Lodge. Ms. Torres never saw the raft capsize. At the time she didn't think it was important to report. Took a statement from Ms. Torres and FAXed it to Doerty.

WITNESS STATEMENT: NEIL ALDRIN

I reside at 516 Broadway Avenue, Mal, Oregon. I am a writer of fiction.

I am well acquainted with Samuel Griffith. We served in the Marines together and four years ago, I co-authored a book with him. It is a novel, *Settling Scores*, about a covert operation led by a mercenary to rescue his daughter from a drug cartel in Columbia, South America.

After leaving the Marine Corps, Sam Griffith and I settled in Mal, Oregon, where Sam went to work for the local newspaper. It was in Mal that Sam met his first wife Marian. I was the best man at their wedding. Eventually, Sam moved away after the tragic accidental drowning of his wife. Now, Sam and I see each other roughly three times a year. We always meet at the National Mystery Writers Convention and we will meet at least two other times each year, often times when on business near where the other lives.

I know both by reputation and first-hand experience that Sam and his second wife Sondra were deeply in love with each other. Sam is a faithful husband, and he is a truthful, honest, law-abiding, peace-loving and decent human being. Sam loved to surprise Sondra with gifts. He showered her with flowers, cards, and sometimes jewelry. I remember that he built and furnished the home office for her once they had moved to their new home in Ruston. Whenever they were together Sam was holding Sondra's hand or otherwise showing his affection for her in many small but significant ways.

This is a true statement given to Samuel Griffith's attorney.

Date: March 13, 20XX+1

Neil Aldrin

Department of Public Safety – Ruston, Major	STATEMENT
--	------------------

Victim	Witness	<input checked="" type="checkbox"/>	DATE/TIME 8/21/20XX 2015	CASE NO. 00 4453766
TAKEN BY Det. Montgomery			SERIAL	
STATEMENT OF Varda Levi			AGE	
ALIAS				
ADDRESS 4189 Alter Street, Ruston		ZIP 98105	225-3421	
DATE AND PLACE OF BIRTH				
OCCUPATION AND EMPLOYER Retired teacher			BUSINESS PHONE	

ENTER STATEMENT BELOW

I am 86 years old and retired. I have three grown sons and five grandchildren. I live by myself. My husband passed away five years ago.

Tonight, detective Montgomery came to my house to speak with me because I called the Ruston Police Department to tell what I know about what happened to Sondra Griffith.

On July 23rd of this year, I heard a knock at my back door at about 9:00 P.M. It was my next-door neighbor Sondra Griffith. Sondra was very upset. She was crying. Tears were streaming down her cheeks. She was shaking too. She told me that her husband Sam Griffith had just grabbed her by the neck and threatened to kill her. She said that she begged him to stop and he did. Then he left and as soon as he was out the door, she said she ran straight out her back door and over to my house. Sondra showed me a red mark on her throat.

Sondra said that Sam had hit her once before and threatened to kill her if she ever told anyone. She said that both times it happened when they argued over their finances.

I pleaded with her to call the police but she said she was deathly afraid of Sam, her husband. She said he told her not to tell anyone and that if she did he would kill her. Sondra said that her throat really hurt. I drove her to Ruston Medical Center’s Emergency Room and I went into the room when she saw the doctor. The doctor asked Sondra what was wrong, she told her that her neck really hurt. The doctor examined the red marks and Sondra’s neck. The doctor asked Sondra what happened to cause the red mark and Sondra told the doctor the same thing that she told me. After the examination and an x-ray the doctor told Sondra that nothing was broken but that she would have a big bruise. The doctor urged Sondra to call the police but Sondra was adamant that she would not. I drove Sondra home.

Sondra and I are in a neighborhood bridge group and when Sondra was out the room another friend of Sondra’s, Mercedes Jones, told me that Sondra told her that Sam abused her both physically and verbally. I believe he has committed other domestic violence on

Sondra but I personally know only of this one time.

I declare, under penalty of perjury under the laws of the State of Major, that the statement above is true and correct to the best of my knowledge.

8/21/XX

Date

Varda Levi

Signature

Entry 8. Sondra Griffith's Medical Record-1 of 2

DESCRIBE INJURY (WHEN, WHERE, & HOW) OR ILLNESS:

Throat hurts and slight erythema

ALLERGIES:

N/A

PREV. TETANUS DATE N/A			GIVEN THIS VISIT? No			HEIGHT 5' 7"	WEIGHT 107	LMP _____
TIME 10:35P.M.	TEMP. 98	PULSE 89	RESP.	BLOOD PRESSURE 110/73	I.V.S.			
MEDICATIONS TAKEN: None								
MEDICATIONS GIVEN: Recommend ibuprofen or aspirin for pain to be taken as directed on bottle.								
HISTORY & PHYSICAL FINDINGS: Saw Patient on 7/23/XX at 2235 hr. Patient upset and had been crying. Pt. states that her husband, Samuel Griffith, attacked her. Pt. states, "He grabbed me with both hands on my neck and squeezed hard." Pt says that she begged him to stop and he kept yelling at her that she should stop "bitching about how he spent." She reports "felt dizzy and thought I was going to pass out." She said that "once before he slapped me in the face when we argued about money." Pt states that husband finally stopped strangling her. Husband told her: "I'll kill you if she ever tell anyone I abused you in any way." Husband left and Pt went to neighbor Levi's house. Pt's complaint is that her "throat really hurts." Examined neck and slight erythema (too minor to photograph). But no lesions and palpation yields no sign of serious injury. Pt's voice is hoarse and she states, "It's difficult to swallow." Sent Pt for X-ray.								
TREATMENT & ORDERS: Further spoke with Pt. Asked her to contact Ruston PD and report the domestic violence. Pt. refuses. She states that her husband will calm down. X-ray returned and no sign of injury. Advised Pt again to call police. Told her that she would likely show bruising and to call if pain persists after 3 or 4 days.								
BROUGHT TO HOSPITAL BY: Car - Friend Varda Levi accompanied her.			ACCOUNT NO. 343336		ADMIT DATE N/A		ADMIT TIME N/A	
DISPOSITION & CONDITION ON DISCHARGE: Satisfactory			ADMIT DIAGNOSIS				RM - BED	
PATIENT NAME (LAST, FIRST, MI) Sondra Griffith								

Entry 8. Sondra Griffith's Medical Record-2 of 2

DIAGNOSTIC IMPRESSION: Slight injury to larynx cartilage from reported strangulation by husband	STREET ADDRESS 4187 Alter Street				
	CITY, STATE Ruston, Major	ZIP 98102	PHONE 206-328-5110		
NURSE (SIGNATURE) Anne Baldwing	RELIGION	PHYSICIAN Dr. Clancy Lark			
	DIET 4	COND. 1	AGE 51	SEX F	BIRTH DATE 5/23/20XX-51
PHYSICIAN (SIGNATURE) <i>Karen Welby</i>	NEAREST RELATIVE Kathleen Brenneman				
	STREET ADDRESS 1200 E. Allison				
EMERGENCY ROOM REPORT RUSTON MEDICAL CENTER	CITY, STATE, ZIP Ruston, Major 98112			PHONE 206-555-3245	
	GUARANTOR NAME			PHONE	
	EMPLOYER & CITY Shepard Pharmaceuticals Inc.				

Mal Police Department EXPLANATION OF RIGHTS

INCIDENT NUMBER 20XX-16 - 34
UNIT FILE NUMBER 1768

Date 8/20/20XX-16 Time 2030

Statement of: Samuel Griffith

EXPLANATION OF MY CONSTITUTIONAL RIGHTS

Before questioning and the making of any statement, I, Samuel L. Griffith have been advised by Det. Rusty Flanagan of the following rights:

1. I have the right to remain silent;
2. Any statement that I do make, either oral or written, can be used as evidence against me in a court of law (I understand that if I am a juvenile my statement may be used against me in a criminal prosecution in the event that juvenile court declines jurisdiction in my case);
3. I have the right at this time to an attorney of my own choosing and to have him present before and during questioning and the making of any statement;
4. If I cannot afford an attorney, I am entitled to have one appointed for me by court without cost to me and to have him present before and during questioning and the a making of any statement.

WAIVER OF CONSTITUTIONAL RIGHTS

I have read the above explanation of my constitutional rights and I understand them. I have decided not to exercise these rights at this time. The following statement is made by me freely and voluntarily and without threats or promises of any kind.

Witnesses Dyke Styles

Signature Samuel Griffith

Today my wife and I were staying at Gun Lodge at Priest Lake, Oregon. We had left the children with my brother and his wife. This afternoon Marian suggested we take the raft out in the lake for a row and swim because she thought it would be romantic. We went out about 5 PM, leaving from the Gun Lodge dock. We paddled over to Portage Bay. We were swimming around near the raft when Marian got a leg cramp and was hanging onto the raft. A speed boat went by about 25 yards away causing the raft to capsize. I heard Marian cough when the raft went over. I started turning over the raft and saw that Marian had gone underwater. I went underwater and pulled her up and into the boat. I gave her CPR but she did not respond. I rowed back to Gun Lodge dock and by the time I arrived my wife was dead.

Entry 11-1. Marian- 1 of 1



Entry 11-2. Marian- 1 of 1



Entry 11-3. Marian- 1 of 1





Entry 11-5. Lodge- 1 of 1



Entry 11-6. Lodge- 1 of 1



Entry 11-7. Lodge Beach- 1 of 1



Entry 11-8. Lodge - 1 of 1



Entry 11-9. Lodge Dock - 1 of 1



Entry 11-10. Lodge Dock - 1 of 1



Entry 11-11. Lodge Dock - 1 of 1



Entry 11-12. View from Lodge - 1 of 1



Entry 11-13. Priest Lake - 1 of 1



Entry 11-14. Priest Lake - 1 of 1



Entry 11-15. Priest Lake - 1 of 1



Entry 11-16. Priest Lake - 1 of 1



Entry 11-17. Torres Cabin - 1 of 1



Entry 11-18. View from Torres Cabin - 1 of 1



Entry 11-19. View from Torres Cabin - 1 of 1



Entry 11-22. Satellite Image - 1 of 1



Entry 11-23. Satellite Image - 1 of 1

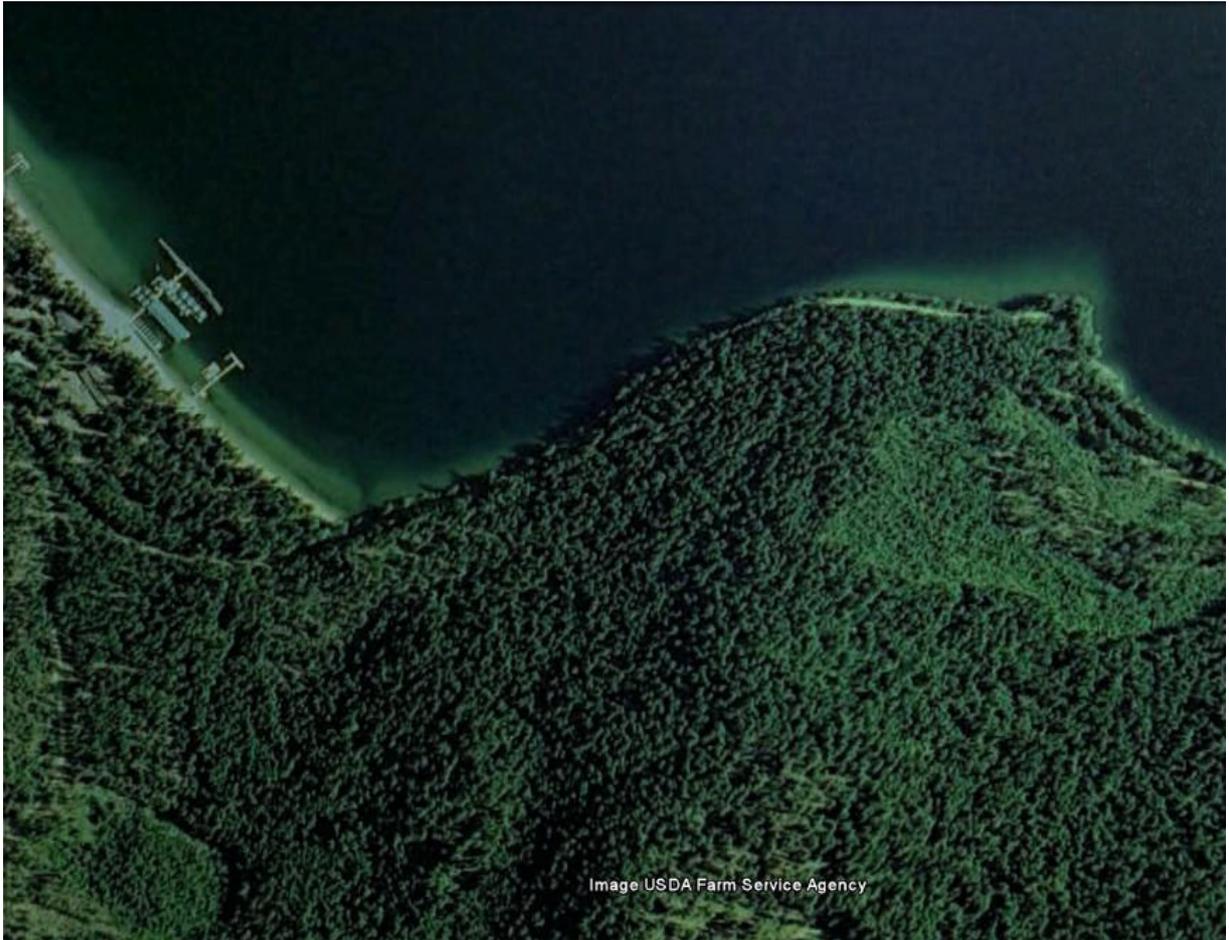


Image USDA Farm Service Agency

Entry 12-1. Front Griffith House- 1 of 1



Entry 12-2. Front Griffith House- 1 of 1



Entry 12-3. Front Door Griffith House- 1 of 1



Entry 12-4. Griffith Driveway- 1 of 1



Entry 12-5. Griffith Driveway- 1 of 1



Entry 12-6. Front Door Griffith House- 1 of 1



Entry 12-7. Front Door & Griffith Office- 1 of 1



Entry 12-8. Griffith Office- 1 of 1



Entry 12-9. Griffith Living Room- 1 of 1



Entry 12-10. Living Room & Upstairs Balcony- 1 of 1



Entry 12-11. Stairway to Upstairs Balcony- 1 of 1



Entry 12-12. Top of Stairs- 1 of 1



Entry 12-13. View from Balcony- 1 of 1



Entry 12-14. Balcony & Bedroom Entry- 1 of 1



Entry 12-15. Entry to Bedroom- 1 of 1



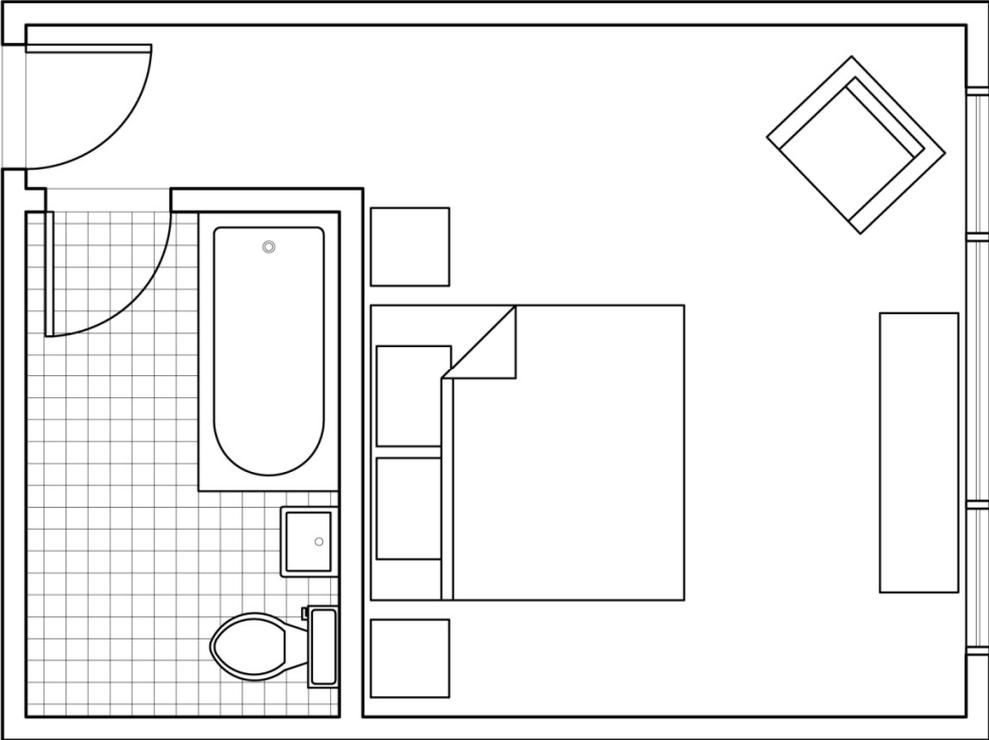
Entry 12-16. Entry from Back Yard- 1 of 1



Entry 12-17. Dresser in Bedroom- 1 of 1



Entry 12-18. Bedroom Bathroom Diagram- 1 of 1



Department of Public Safety - Ruston, Major				STATEMENT	
Victim		Witness	X	DATE\TIME 8/20/20XX 0630	CASE NO. 00 4453766
TAKEN BY Det. Montgomery				SERIAL	
STATEMENT OF Officer Barbara Delaney				AGE	
ALIAS					
ADDRESS Ruston Police Department			ZIP		
DATE AND PLACE OF BIRTH					
OCCUPATION AND EMPLOYER				BUSINESS PHONE	
ENTER STATEMENT BELOW					
<p>At 0145 today my partner, Michael Tuehy, and I were dispatched to a residence at 4187 Alter Street. When we arrived, we met with Detective Montgomery who advised us that it was a homicide scene and that Mrs. Griffith had been stabbed to death in the bedroom of the house. The Detective assigned us to go door to door to check for witnesses and to otherwise investigate the neighborhood. We went door to door but found no one who had seen or heard anything.</p> <p>Three blocks away from the Griffiths' house on Alter Street and approximately 10 yards from Birch Avenue, a cross street, my flashlight picked up a glint of something shiny in the bushes. I pulled back the bushes and uncovered a butcher knife. My partner took pictures of the knife in the location where it was found. Nearby, Officer Tuehy saw a soda can in the brush. I uncovered that too and Officer Tuehy took pictures of where it was found.</p> <p>Officer Tuehy stayed at the scene and I went to the Griffiths' house where I contacted CSI Dreiser. Dreiser told me to take two bags and a pair of latex gloves he gave me and to put the knife in one bag and the can in another and to handle them carefully so I would leave no prints and not smudge any prints or destroy any other evidence on them. Also, he told me to measure how far the two pieces of evidence were apart and to photograph them.</p> <p>When I got back to where the can and knife were, I moved the knife directly out sidewalk from where it was located. Then, I did the same with the can. Tuehy photographed them. We measured the distance between the two items. They were 15 feet apart. I put the knife in one bag and the can in another. Then, I took the two bags to the house and gave them to Dreiser.</p>					

I declare, under penalty of perjury under the laws of the State of Major, that the statement above is true and correct to the best of my knowledge.

8/20/XX
Date

Barbara Delaney
Signature

Entry 13-1. Knife- 1 of 1



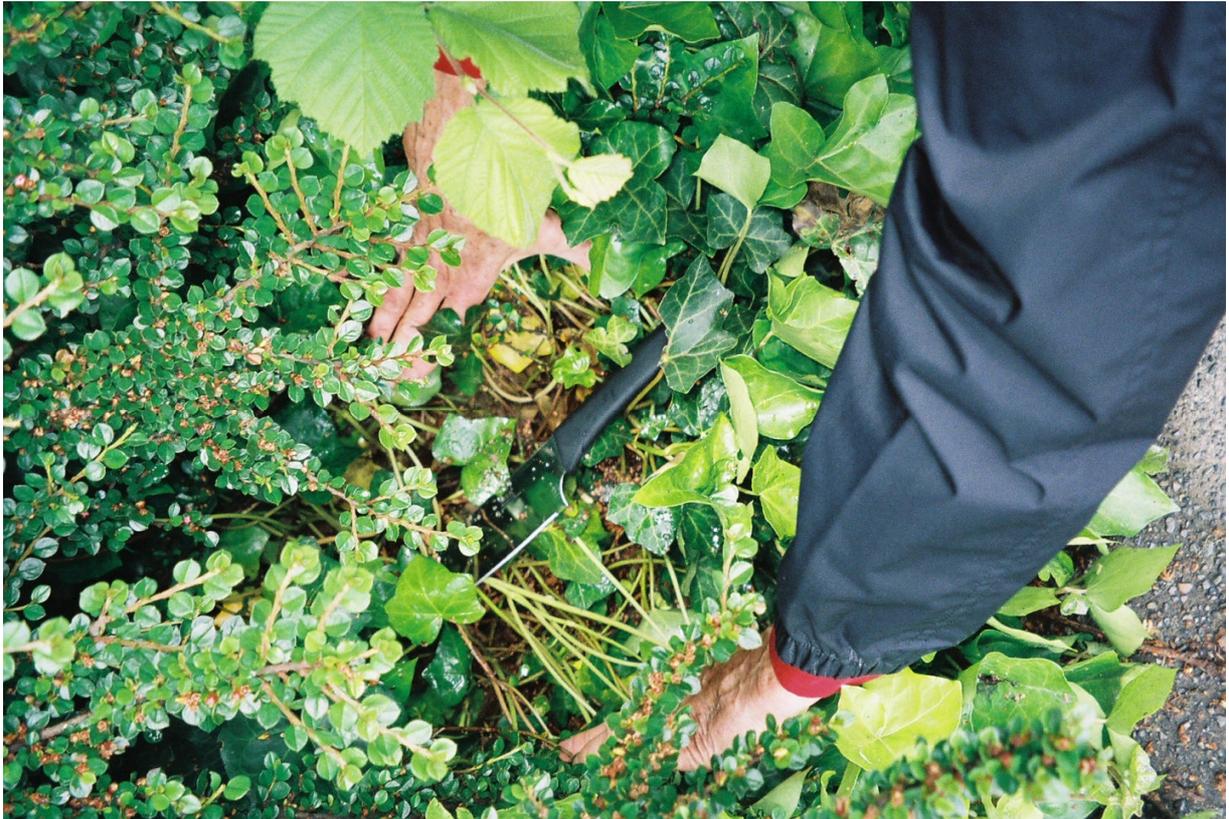
Entry 13-2. Knife- 1 of 1



Entry 13-3. Knife- 1 of 1



Entry 13-4. Knife- 1 of 1



Entry 13-5. Knife on Sidewalk- 1 of 1



Entry 13-6. Can- 1 of 1



Entry 13-7. Can- 1 of 1



Entry 13-8. Can- 1 of 1



Entry 13-9. Knife & Can-on Sidewalk- 1 of 1



Ruston Police Department: Follow Up Report of CSI Jay Dreiser

Suspect: Samuel L. Griffith, at 4187 Alter Street, Ruston 55 - 6'1" - 205 lbs. Case No. 00 4453766
Persons Interviewed:

8/20/20XX 0730 hrs. At 0200 hrs. arrived at homicide scene at the above address. Det. Montgomery already on the scene and the area around the house was cordoned off. Shortly after arrival, Officer Delaney contacted me at the house and said she had found a knife and soda can three blocks away. Her partner was at the location when we arrived. We were short handed so I told Delaney how to collect and bag them and that she should bring them back to me. When Delaney came back with them, I showed them both to Det. Montgomery, I sealed both bags and Det. Montgomery and I both signed the bag. After processing the crime scene, I turned both items into the Evidence Room of the Ruston Police Department.

Ruston Police Department Report: Follow Up Report Det. Ted Montgomery

Suspect:	Case No. 00 4453766
Samuel L. Griffith, 4187 Alter Street, Ruston	
55 – 6’1”	

8/21/20XX- 1 1030 hrs. Examined e-mail box on Samuel Griffith’s laptop computer seized yesterday pursuant to a search warrant from Griffith’s den. Located in an e-mail in his “sent” file to a Roberta Dicer dated 7/20/XX 3:10 a.m. stating , among other things, “my heart cries out for you.” Upon further investigation, located an e-mail response from Dicer in Griffith’s hard drive, although it had been deleted from his mailbox and discarded from the recycle bin. That e-mail stated in part: “I know the feeling having had that special feeling for you since the time that that lightning strike snuck up on us and put us in that hopelessly impossible situation of love.” Printed out copies of both e-mails and included them with the case file.

Conducted an Internet search for “Samuel Griffith” and located the author's website – www.samuelgriffithbook.com. Printed out the screen image of the home page and placed that with the case file.

8/20/20XX-16 1900

Entry 14-1. E-mail-1 of 1

FROM: Griffith, Sam [Griffiths@comyak.com]

Sent: 7/20/XX 3:10 a.m.

To: Roberta Dicer

Cc:

Subject: Staying in Touch

Luv - You have a particular grace and calm that I adore. You have a level of sophistication that is so fitting with your beauty. Please sleep soundly knowing that despite the best efforts of my head, my heart cries out for you, your voice, and an even deeper connection to your soul.

- SAM

Entry 14-2. E-mail-1 of 1

FROM: Dicer, Roberta [RTD@digitalflow.net]

Sent: 7/21/XX 9:00 a.m.

To: Griffiths@comyak.com

Cc:

Subject: Staying in Touch

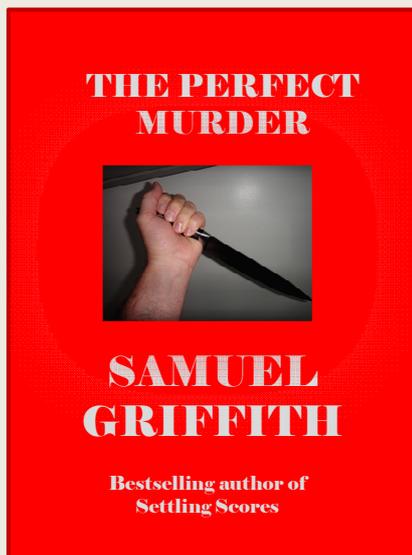
Dear – Writing me at three a.m. You need more sleep. I know the feeling having had that special feeling for you since the time that that lightening strike snuck up on us and put us in that hopelessly impossible situation of love. Hope you sleep well tonight. Love you – Bobbie

Samuel Griffith's Official Home Page

Sam's Bio

Sam's Newsletter

Sam's Books



Sam's Bio

Sam Griffith is considered by many to be the most versatile and original mystery writer of the past two decades. His stories range from his runaway best-selling first novel, *Small Town Killer*, about a retired Marine Corps veteran who investigates mysterious disappearances in a small town in central Oregon to *Settling Scores*, co-written with Neil Aldrin, that recounts the story of a mercenary's reprisal against a drug cartel.

Sam Griffith graduated from Northwestern University where he majored in journalism. Following college, he joined the Marine Corps. Leaving the Corps after two tours, he moved to Mal, which is a farm community in the middle of Oregon. Sam went to work for the *Mal Gazette*, the town's daily newspaper, where he began as a crime reporter. He rose quickly to become the paper's Editor.

It was in Mal, Oregon that Sam met then Sondra Brenneman, and they married. Sondra worked for a pharmaceutical company. After Sam's first book became a blockbuster and Sondra became a top executive in the company, they moved to Ruston, which is the company's headquarters.

After 19 best sellers, Sam's newest book *The Perfect Murder* was published by Atticus Press this last fall, and it has received critical acclaim.

EXEMPLIFICATION



IN THE SUPERIOR COURT OF OREGON
COUNTY OF RICHLAND

EXEMPLIFICATION

I, Abigail Swift, the undersigned, Clerk of the above-entitled Court certify that the attached is a full, true, and correct copy of the original on file. IN WITNESS I have signed the exemplification and affix the seal of this court.

DATE: Dec. 29, 20XX – 1 Clerk of the above entitled Court Abigail Swift

I, Evan Wiggins, Superior Court Judge of the above entitled court certify that the Court is a court of record having a Clerk and seal; that the Court Clerk who signed the foregoing attestation is a duly appointed and qualified clerk, and as such, duly qualified to execute said certificate of attestation; that the same is in due form, according to the laws of the state of Oregon; that the signature to said attestation is the Clerk's genuine handwriting, and that all her official acts, as such, clerk, are entitled to full faith and credit.

IN WITNESS my signature and seal of this court.

Evan Wiggins

DATE: Dec. 29, 20XX-1 Judge of the above-entitled Court _____

I, Doug Smith, Court Administrator about the above-entitled Court, certify that the Honorable Judge, whose name is subscribed in the preceding certificate, was, at the time of signing the same Judge of this Court and was duly commissioned, qualified and authorized by law to execute said certificate and that his/her signature to said certificate is genuine.

IN WITNESS I have signed this exemplification and affix the seal of the court.

Doug Smith

DATE: Dec. 29, 20XX-1 Court Administrator of the above-entitled court _____

I certify that this is a full, true, and correct on file in this office.

Abigail Swift

Clerk, Superior Court of the state of Oregon, Richland County

**Superior Court of Oregon
County of Richland**

State of Oregon, Plaintiff,

vs.

Alexandra Torres 5/23/XX-27

Defendant. DOB
PCN: XX-666431
SID: 958477733

No.20XX-0- 49998765

**Felony Judgment and Sentence --
Jail One Year or Less
(FJS)**

Clerk's Action Required, 2.1, 4.1, 4.3, 5.2, 5.3,
5.5, 5.7
 Defendant Used Motor Vehicle
 Juvenile Decline Mandatory Discretionary

I. Hearing

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer, and the (deputy) prosecuting attorney were present.

II. Findings

2.1 Current Offenses: The defendant is guilty of the following offenses, based upon
 guilty plea (date) _____ jury-verdict (date) _____ bench trial (date) _____:

Count	Crime	OCW (w/subsection)	Class	Date of Crime
1	Violation of the Uniform Contolled Substances Act - amphetamines	69.50.403(1)(e)	C	2/2/XX-8

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C),
(If the crime is a drug offense, include the type of drug in the second column.)

Additional current offenses are attached in Appendix 2.1a.

The jury returned a special verdict or the court made a special finding with regard to the following:

- The defendant used a **firearm** in the commission of the offense in Count _____. OCW 9.94A.602, 9.94A.533.
- The defendant used a **deadly weapon other than a firearm** in committing the offense in Count _____ . OCW 9.94A.602, 9.94A.533.
- Count _____ is a **criminal street gang**-related felony offense in which the defendant compensated, threatened, or solicited a **minor** in order to involve that minor in the commission of the offense. OCW 9.94A.833.
- Count _____ is the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang** member or associate when the defendant committed the crime. OCW 9.94A.702, 9.94A. ____.
- The defendant has a **chemical dependency** that has contributed to the offense(s). OCW 9.94A.607.
- The crime(s) charged in Count _____ involve(s) **domestic violence**. OCW 10.99.020.
- Count _____ is a felony in the commission of which the defendant used a **motor vehicle**. OCW46.20.285.
- Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score (OCW 9.94A.589).
- Other current convictions listed under different cause numbers used in calculating the offender score are** (list offense and cause number):

Entry 18. Felony Judgment and Sentences – Jail One Year Or Less –3 of 10

	Crime	Cause Number	Court (County & State)
1.			
2.			

Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History:

	Crime	Date of Crime	Date of Sentence	Sentencing Court (County & State)	A or J Adult, Juv.	Type of Crime	DV* Yes
1	Theft in the third degree	8/20 /XX-9	12/23 /XX-9	Richland District		Misd	
2	Unlawful issuance of bank check	4/11 /XX-9	7/6/ /XX-9	Richland District		Misd	
3							
4							
5							

* DV: Domestic Violence was pled and proved.

Additional criminal history is attached in Appendix 2.2.

The defendant committed a current offense while on community placement/community custody (adds one point to score). OCW 9.94A.525.

The prior convictions listed as numbers _____, above, or in appendix 2.2, are one offense for purposes of determining the offender score (OCW 9.94A.525).

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term
1	0	C	0-60 days		0-60	5 yr.

(F) Firearm , (D) Other deadly weapons, (CSG) criminal street gang involving minor.
 Additional current offense sentencing data is attached in Appendix 2.3.

2.4 Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence:

- below the standard range for Count(s) _____.
 - above the standard range for Count(s) _____.
 - The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.
 - Aggravating factors were stipulated by the defendant, found by the court after the defendant waived jury trial, found by jury, by special interrogatory.
 - within the standard range for Count(s) _____, but served consecutively to Count(s) _____.
- Findings of fact and conclusions of law are attached in Appendix 2.4. Jury’s special interrogatory is attached. The Prosecuting Attorney did did not recommend a similar sentence.

2.5 Ability to Pay Legal Financial Obligations. The court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that:

- The defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. OCW 9.94A.753.
- The following extraordinary circumstances exist that make restitution inappropriate (OCW 9.94A.753):
_____.
- The defendant has the present means to pay costs of incarceration. OCW 9.94A.760.

III. Judgment

- 3.1 The defendant is **guilty** of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.
- 3.2 The court **dismisses** Counts _____ in the charging document.

IV. Sentence and Order

It is ordered:

4.1 Confinement. The court sentences the defendant as follows:

- (a) **Confinement.** OCW 9.94A.589. A term of total confinement in the custody of the county jail:
 _____ 2 months on Count 1 _____ months on Count _____
 _____ months on Count _____ months on Count _____
 _____ months on Count _____ months on Count _____

Actual number of months of total confinement ordered is: one _____.

All counts shall be served concurrently, except for the following which shall be served consecutively:

_____.

The sentence herein shall run consecutively with the sentence in cause number(s) _____

_____.

but concurrently to any other felony cause not referred to in this Judgment. OCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: _____.

_____.

Partial Confinement. The defendant may serve the sentence, if eligible and approved, in partial confinement in the following programs, subject to the following conditions: _____.

- work crew OCW 9.94A.725 home detention OCW 9.94A.731, .190
 work release OCW 9.94A.731

Conversion of Jail Confinement (Nonviolent and Nonsex Offenses). OCW 9.94A.680(3). The county jail is authorized to convert jail confinement to an available county supervised community option, to reduce the time spent in the community option by earned release credit consistent with local correctional facility standards, and may require the offender to perform affirmative conduct pursuant to OCW 9.94A.

The defendant shall receive credit for time served in an available county supervised community option prior to sentencing. The jail shall compute time served.

Alternative Conversion. OCW 9.94A.680. 30_ days of total confinement ordered above are hereby converted to 240 __ hours of community restitution (service) (8 hours = 1 day, nonviolent offenders only, 30 days maximum) under the supervision of the Department of Corrections (DOC) to be completed on a schedule established by the defendant's community corrections officer but not less than _____ hours per month.

Alternatives to total confinement were not used because of: _____
 criminal history failure to appear (finding required for nonviolent offenders only) OCW 9.94A.680.

- (b) **Credit for Time Served:** The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. OCW 9.94A.505. The jail shall compute time served.

4.2 Community Custody. OCW 9.94A.505, .702.

(A) The defendant shall serve _____ months (up to 12 months) in community custody.

The court may order community custody under the jurisdiction of DOC for up to 12 months if the defendant is convicted of a violent offense, a crime against a person under OCW 9.94A.411, or felony violation of chapter 69.50 or 69.52 OCW or an attempt, conspiracy or solicitation to commit such a crime. For offenses committed on or after June 7, 2006, the court shall impose a term of community custody under OCW 9.94A.701 if the offender is guilty of failure to register (second or subsequent offense) under OCW 9A.44.130(11)(a) and for offenses after June 12, 2008 for unlawful possession of a firearm with a finding that the defendant was a member or associate of a criminal street gang. The defendant shall report to DOC not later than 72 hours after release from custody at the address provided in open court or by separate document.

(B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition;

(7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) abide by any additional conditions imposed by DOC under OCW 9.94A.704 and .706. The defendant’s residence location and living arrangements are subject to the prior approval of DOC while on community custody.

The court orders that during the period of supervision the defendant shall:

- consume no alcohol.
- have no contact with: _____.
- remain within outside of a specified geographical boundary, to wit: _____.
- participate in the following crime-related treatment or counseling services: Richland County Drug Rehabilitation _____.
- undergo an evaluation for, and fully comply with, treatment for domestic violence substance abuse mental health anger management.
- comply with the following crime-related prohibitions: _____.
- Other conditions: _____

_____.

(C) The conditions of community custody shall begin immediately upon release from confinement unless otherwise set forth here: _____.

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. OCW 9.94A.562.

4.3 Legal Financial Obligations: The defendant shall pay to the clerk of this court:

JASS CODE

<i>PCV</i>	\$ <u>500</u>	Victim assessment	OCW 7.68.035
<i>PDV</i>	\$ _____	Domestic Violence assessment	OCW 10.99.080
<i>CRC</i>	\$ _____	Court costs, including OCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
		Criminal filing fee \$ _____ FRC	
		Witness costs \$ _____ WFR	
		Sheriff service fees \$ _____ SFR/SFS/SFW/WRF	
		Jury demand fee \$ _____ JFR	
		Extradition costs \$ _____ EXT	
		Other \$ _____	
<i>PUB</i>	\$ _____	Fees for court appointed attorney	OCW 9.94A.760
<i>WFR</i>	\$ _____	Court appointed defense expert and other defense costs	OCW 9.94A.760
	\$ _____	DUI fines, fees and assessments	
<i>CLF</i>	\$ _____	Crime lab fee <input type="checkbox"/> suspended due to indigency	OCW 43.43.690
	\$ <u>100</u>	DNA collection fee	OCW 43.43.7541
<i>FPV</i>	\$ _____	Specialized forest products	OCW 76.48.140
	\$ _____	Other fines or costs for: _____	

RTN/RJN \$ _____ Emergency response costs (Vehicular Assault, Vehicular Homicide, Felony DUI only, \$1000 maximum) OCW 38.52.430
 Agency: _____

RTN/RJN \$ _____ Restitution to: _____

RTN/RJN \$ _____ Restitution to: _____

\$ _____ Restitution to: _____
 (Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)

\$ 600 **Total** OCW

9.94A.760

- The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. OCW 9.94A.753. A restitution hearing:
 - shall be set by the prosecutor.
 - is scheduled for _____ (date).
- The defendant waives any right to be present at any restitution hearing (sign initials): _____.
- Restitution** Schedule attached.

Restitution ordered above shall be paid jointly and severally with:

Name of other defendant **Cause Number** (Victim's name) (Amount-\$)

RJN

The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. OCW 9.94A.7602, OCW 9.94A.760(8).

All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ _____ per month commencing _____.
 OCW 9.94A.760.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. OCW 9.94A.760(7)(b).

The court orders the defendant to pay costs of incarceration at the rate of \$ _____ per day, (actual costs not to exceed \$100 per day). (JLR) OCW 9.94A.760.

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. OCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. OCW 10.73.160.

4.4 DNA Testing. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. OCW 43.43.754.

HIV Testing. The defendant shall submit to HIV testing. OCW 70.24.340.

4.5 No Contact:

The defendant shall not have contact with _____ (name) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until _____ (which does not exceed the maximum statutory sentence).

The defendant is excluded or prohibited from coming within _____ (distance) of:
 _____ (name of protected person(s))'s home/residence work place school (other location(s)) _____, or
 other location _____ until _____ (which does not exceed the maximum statutory sentence).

A separate Domestic Violence No-Contact Order or Antiharassment No-Contact Order is filed concurrent with this Judgment and Sentence.

4.6 Other: _____

_____.

4.7 Off-Limits Order. (Known drug trafficker). OCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____
_____.

V. Notices and Signatures

5.1 Collateral Attack on Judgment. If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in OCW 10.73.100. OCW 10.73.090.

5.2 Length of Supervision. If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. OCW 9.94A.760 and OCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. OCW 9.94A.760(4) and OCW 9.94A.753(4).

5.3 Notice of Income-Withholding Action. If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. OCW 9.94A.7602. Other income-withholding action under OCW 9.94A.760 may be taken without further notice. OCW 9.94A.7606.

5.4 Community Custody Violation.

(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. OCW 9.94A.633.

(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. OCW 9.94A.714.

5.5 Firearms. You may not own, use or possess any firearm unless your right to do so is restored by a superior court in Oregon State, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) OCW 9.41.040, 9.41.047.

5.6 Reserved.

5.7 Motor Vehicle: If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver’s license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver’s license. OCW 46.20.285.

5.8 Other: _____.

Done in Open Court and in the presence of the defendant this date: June 3, 20XX-8

Henry Evans

Judge/Print Name: Henry Evans

Jane Parker

Jerry Chan

Alexandra Torres

Deputy Prosecuting Attorney
OSBA No. 14923
Print Name: Jane Parker

Attorney for Defendant
OSBA No. 17779
Print Name: Jerry Chan

Defendant
Print Name: Alexandra Torres

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in OCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, OCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, OCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, OCW 9.96.050; or d) a certificate of restoration issued by the governor, OCW 9.96.020. Voting before the right is restored is a class C felony, OCW 29A.84.660. Registering to vote before the right is restored is a class C felony, OCW 29A.84.140. Defendant’s signature: *Alexandra Torres*

I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the _____ language, which the defendant understands. I interpreted this Judgment and Sentence for the defendant into that language.

I certify under penalty of perjury under the laws of the state of Oregon that the foregoing is true and correct.

Signed at (city) _____, (state) _____, on (date) _____.

Interpreter

Print Name

VI. Identification of the Defendant

958477733
 SID No. _____ Date of Birth _____
 (If no SID complete a separate Applicant card _____ 5/23/27 _____
 (form FD-258) for State Patrol)

FBI No. 999076653 _____ Local ID No. 7594939 _____

PCN No. XX-666431 _____ Other _____

Alias name, DOB: _____

Race: Asian/Pacific Islander Black/African-American Caucasian Hispanic Male
 Native American Other: _____ Non-Hispanic Female

Fingerprints: I attest that I saw the defendant who appeared in court affix his or her fingerprints and signature on this document.

Clerk of the Court, Deputy Clerk, __Marie Spence_____ Dated: June 3, 20XX-8

The defendant's signature:

Left four fingers taken simultaneously	Left Thumb	Right Thumb	Right four fingers taken simultaneously
--	------------	-------------	---

EXEMPLIFICATION



IN THE DISTRICT COURT OF
RICHLAND COUNTY, OREGON

EXEMPLIFICATION

I John Small, the undersigned, Clerk of the above-entitled Court certify that the attached is a full, true, and correct copy of the original on file. IN WITNESS I have signed the exemplification and affix the seal of this court.

DATE: Dec. 29, 20XX – 1 Clerk of the above entitled Court John Small

I, Michael Garcia District Court Judge of the above entitled court certify that the Court is a court of record having a Clerk and seal; that the Court Clerk who signed the foregoing attestation is a duly appointed and qualified clerk, and as such, duly qualified to execute said certificate of attestation; that the same is in due form, according to the laws of the state of Oregon; that the signature to said attestation is the Clerk's genuine handwriting, and that all his official acts, as such, clerk, are entitled to full faith and credit.

IN WITNESS my signature and seal of this court.

Michael Garcia

DATE: Dec. 29, 20XX-1 Judge of the above-entitled Court _____

I, Susan Nevins, Court Administrator about the above-entitled Court, certify that the Honorable Judge, whose name is subscribed in the preceding certificate, was, at the time of signing the same Judge of this Court and was duly commissioned, qualified and authorized by law to execute said certificate and that her signature to said certificate is genuine.

IN WITNESS I have signed this exemplification and affix the seal of the court.

Susan Nevins

DATE: Dec. 29, 20XX-1 Court Administrator of the above-entitled court _____

I certify that this is a full, true, and correct on file in this office.

John Small

Clerk, District Court of Richland County Oregon

<p><u>Richland County District Court</u></p> <hr/> <p>State of Oregon Plaintiff, vs. Alexandra Torres Defendant.</p>	<p>No. 20XX-8-999365</p> <p>Judgment and Sentence (JS)</p>
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The defendant pled guilty to:

Count	Crime	OCW or Ordinance (with subsection)
1.	Theft in the third degree	RCO 9A.56.050
2.		

In count(s) _____, the defendant committed the offense against another family or household member as defined in OCW 10.99.020.

Therefore, the defendant is adjudged guilty and sentenced as follows:

Sentence is suspended (susp) for 6 months on the following conditions:

Count 1) 30 days of jail, susp; and a fine of \$ 0 with \$ _____ susp./def.

Count 2) _____ days of jail, susp./def. _____ days; and a fine of \$ _____ with \$ _____ susp./def.

Serve a total of 2 days in jail with credit for 2 days served, and

serve a total of _____ days of electronic home monitoring with credit for _____ days served.

Other alternative means of confinement _____.

Jail sentences are concurrent/consecutive with all other commitments _____.

This crime is an offense which requires sex or kidnapping offender registration, or is one of the following offenses, assault in the fourth degree with sexual motivation, communication with a minor for immoral purposes, custodial sexual misconduct in the second degree, failure to register, harassment, patronizing a prostitute, sexual misconduct with a minor in the second degree, stalking, or violation of a sexual assault protection order granted under chapter 7.90 OCW. Therefore, the defendant shall have a biological sample collected for purposes of DNA identification analysis. OCW 43.43.754.

Defendant shall pay to the clerk of this court:

XX fine	\$ 100 _____	<input type="checkbox"/> BAC fee	\$ _____
<input type="checkbox"/> assessments	\$ _____	<input type="checkbox"/> criminal traffic fee	\$ _____
<input type="checkbox"/> costs	\$ _____	<input type="checkbox"/> probation/monitoring fee	\$ _____
<input type="checkbox"/> bench warrant fee	\$ _____	<input type="checkbox"/> booking fee	\$ _____
<input type="checkbox"/> jail recoupment fee	\$ _____	<input type="checkbox"/> public defender recoupment	\$ _____
<input type="checkbox"/> DNA fee (OCW 43.43.7541)	\$ _____	<input type="checkbox"/> domestic violence assessment	\$ _____
<input type="checkbox"/> other _____	\$ _____	<input type="checkbox"/> criminal conviction fee	\$ _____
<input type="checkbox"/> restitution to: _____			\$ _____
Total:			\$ <u>100</u> _____

\$ _____ of this total is converted to _____ hours of community restitution (service) which must be completed by _____. **Proof of completion shall be provided to the court/probation department.**

The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____, for the cost of pretrial electronic monitoring in the amount of \$ _____.

Additional Conditions of Sentence:

- No criminal violations of law or alcohol related infractions.
- Not drive a motor vehicle without a valid license and proof of insurance.
- Probation for _____ months. Supervised probation for _____ months, with probation department and abide by all rules and regulations of probation department. Pay a \$ _____ pre-sentence fee and a \$ _____ monthly probation fee unless the fee is reduced by the probation department.

Supervised probation to end upon completion of Certified domestic violence treatment and/or _____

Begin the following within _____ days and complete within _____ days and file proof of timely enrollment. Certified Domestic Violence Program Anger Management Consumer Awareness (theft) Other _____

XX Obtain an X alcohol/drug evaluation from a Oregon State-approved agency a psycho-sexual evaluation from a state certified provider a mental health evaluation from a state licensed mental health provider, and file a copy of the evaluation within 30 days. Begin any recommended treatment or education within _____ days and file proof of timely enrollment and completion.

Begin the following within _____ days and complete within _____ months, and file proof of timely enrollment and completion: DUI Victim’s Panel Alcohol/Drug Information School One Year Alcohol/Drug Treatment Two Year Alcohol/Drug Treatment Alcohol/Drug Treatment for the period of _____ Driver Improvement School.

X X Use no alcoholic beverages or non-prescribed controlled drugs.

Attend Alcoholics Anonymous X Narcotics Anonymous Other self-help program (_____) meetings 2 times a week for _____ months or as recommended by treatment provider.

Do not go upon the property of and have no contact with _____

This crime involves a sex offense, or a kidnapping offense involving a minor, as defined in OCW 9A.44.130. The defendant is required to register with the county sheriff as described in the “Offender Registration” Attachment.

Return for a review hearing: _____ Bail or Bond is Exonerated Forfeited.

I have read the rights, conditions and warnings.

Dated: 8/20/XX-9

Alexandra Torres

5/23/XX-27

Norma Armstrong

Defendant’s Signature

Date of Birth

Judge

Alfred Barnhart

Malachi Burke

Deputy Prosecuting Attorney
OSBA No. 68590

Attorney for Defendant
OSBA 98023



EXEMPLIFICATION



IN THE DISTRICT COURT OF
THE COUNTY OF RICHLAND

EXEMPLIFICATION

I John Small, the undersigned, Clerk of the above-entitled Court certify that the attached is a full, true, and correct copy of the original on file. IN WITNESS I have signed the exemplification and affix the seal of this court.

DATE: Dec. 29, 20XX – 1 Clerk of the above entitled Court John Small

I, Michael Garcia District Court Judge of the above entitled court certify that the Court is a court of record having a Clerk and seal; that the Court Clerk who signed the foregoing attestation is a duly appointed and qualified clerk, and as such, duly qualified to execute said certificate of attestation; that the same is in due form, according to the laws of the state of Oregon; that the signature to said attestation is the Clerk's genuine handwriting, and that all his official acts, as such, clerk, are entitled to full faith and credit.

IN WITNESS my signature and seal of this court.

Michael Garcia

DATE: Dec. 29, 20XX-1 Judge of the above-entitled Court _____

I, Susan Nevins, Court Administrator about the above-entitled Court, certify that the Honorable Judge, whose name is subscribed in the preceding certificate, was, at the time of signing the same Judge of this Court and was duly commissioned, qualified and authorized by law to execute said certificate and that his/her signature to said certificate is genuine.

IN WITNESS I have signed this exemplification and affix the seal of the court.

Susan Nevins

DATE: Dec. 29, 20XX-1 Court Administrator of the above-entitled court _____

I certify that this is a full, true, and correct on file in this office.

John Small

Clerk, District Court of Richland County, Oregon

<p><u>Richland County District Court</u></p> <hr/> <p>State of Oregon Plaintiff, vs. Alexandra Torres Defendant.</p>	<p>No. 20XX-9-213499</p> <p>Judgment and Sentence (JS)</p>
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The defendant pled guilty to:

Count	Crime	OCW or Ordinance (with subsection)
1.	Unlawful Issuance of Bank Check	RCO 9A.56.060
2.		

In count(s) _____, the defendant committed the offense against another family or household member as defined in OCW 10.99.020.

Therefore, the defendant is adjudged guilty and sentenced as follows:

Sentence is deferred for 6 months on the following conditions:

Count 1) 30 days of jail, deferred; and a fine of \$ 0 with \$ _____ susp./def.

Count 2) _____ days of jail, susp./def. _____ days; and a fine of \$ _____ with \$ _____ susp./def.

Serve a total of 2 days in jail with credit for 2 days served, and

serve a total of _____ days of electronic home monitoring with credit for _____ days served.

Other alternative means of confinement _____.

Jail sentences are concurrent/consecutive with all other commitments _____.

This crime is an offense which requires sex or kidnapping offender registration, or is one of the following offenses, assault in the fourth degree with sexual motivation, communication with a minor for immoral purposes, custodial sexual misconduct in the second degree, failure to register, harassment, patronizing a prostitute, sexual misconduct with a minor in the second degree, stalking, or violation of a sexual assault protection order granted under chapter 7.90 OCW. Therefore, the defendant shall have a biological sample collected for purposes of DNA identification analysis. OCW 43.43.754.

Defendant shall pay to the clerk of this court:

xx fine	\$ 200 _____	<input type="checkbox"/> BAC fee	\$ _____
<input type="checkbox"/> assessments	\$ _____	<input type="checkbox"/> criminal traffic fee	\$ _____
<input type="checkbox"/> costs	\$ _____	<input type="checkbox"/> probation/monitoring fee	\$ _____
<input type="checkbox"/> bench warrant fee	\$ _____	<input type="checkbox"/> booking fee	\$ _____
<input type="checkbox"/> jail recoupment fee	\$ _____	<input type="checkbox"/> public defender recoupment	\$ _____
<input type="checkbox"/> DNA fee (OCW 43.43.7541)	\$ _____	<input type="checkbox"/> domestic violence assessment	\$ _____
<input type="checkbox"/> other _____	\$ _____	<input type="checkbox"/> criminal conviction fee	\$ _____
<input type="checkbox"/> restitution to: _____			\$ _____
Total:			\$ <u>200</u> _____

x \$ 200 of this total is converted to 75 hours of community restitution (service) which must be completed by 9/1/XX-9. **Proof of completion shall be provided to the court/probation department.**

The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____, for the cost of pretrial electronic monitoring in the amount of \$ _____.

Additional Conditions of Sentence:

No criminal violations of law or alcohol related infractions.

REVISED CODE OF OREGON

RCO 69.50.403 Uniform Controlled Substances Act

Prohibited acts: C — Penalties.

(1) It is unlawful for any person knowingly or intentionally:

(a) To distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by *RCW 69.50.307;

(b) To use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, or issued to another person;

(c) To obtain or attempt to obtain a controlled substance, or procure or attempt to procure the administration of a controlled substance, (i) by fraud, deceit, misrepresentation, or subterfuge; or (ii) by forgery or alteration of a prescription or any written order; or (iii) by the concealment of material fact; or (iv) by the use of a false name or the giving of a false address;

(d) To falsely assume the title of, or represent herself or himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance;

(e) To make or utter any false or forged prescription or false or forged written order;

(f) To affix any false or forged label to a package or receptacle containing controlled substances;

(g) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter;

(h) To possess a false or fraudulent prescription with intent to obtain a controlled substance;
or

(i) To attempt to illegally obtain controlled substances by providing more than one name to a practitioner when obtaining a prescription for a controlled substance. If a person's name is legally changed during the time period that he or she is receiving health care from a practitioner, the person shall inform all providers of care so that the medical and pharmacy records for the person may be filed under a single name identifier.

(2) Information communicated to a practitioner in an effort unlawfully to procure a controlled substance or unlawfully to procure the administration of such substance, shall not be deemed a privileged communication.

(3) A person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, or fined not more than two thousand dollars, or both.

RCO 9A.56.050 Theft in the third degree.

(1) A person is guilty of theft in the third degree if he or she commits theft of property or services which (a) does not exceed seven hundred fifty dollars in value, or (b) includes ten or more merchandise pallets, or ten or more beverage crates, or a combination of ten or more merchandise pallets and beverage crates.

(2) Theft in the third degree is a gross misdemeanor.

RCO 9A.56.020 Theft – Definition, defense

(1) "Theft" means:

(a) To wrongfully obtain or exert unauthorized control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services; or

(b) By color or aid of deception to obtain control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services; or

(c) To appropriate lost or misdelivered property or services of another, or the value thereof, with intent to deprive him or her of such property or services.

(2) In any prosecution for theft, it shall be a sufficient defense that:

(a) The property or service was appropriated openly and avowedly under a claim of title made in good faith, even though the claim be untenable; or

(b) The property was merchandise pallets that were received by a pallet recycler or repairer in the ordinary course of its business.

RCO 9A.56.060 - Unlawful issuance of checks or drafts.

(1) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or (draft, on a bank or other depository for the payment of money, knowing at the time of such drawing, or delivery, that he or she has not sufficient funds in, or credit with the bank or other depository, to meet the check or draft, in full upon its presentation, is guilty of unlawful issuance of bank check. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft, and the uttering or delivery of such a check or draft to another person without such fund or credit to meet the same shall be prima facie evidence of an intent to defraud.

(2) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft on a bank or other depository for the payment of money and who issues a stop-payment order directing the bank or depository on which the check is drawn not to honor the check, and who fails to make payment of money in the amount of the check or draft or otherwise arrange a settlement agreed upon by the holder of the check within twenty days of issuing the check or draft is guilty of unlawful issuance of a bank check.

(3) When any series of transactions which constitute unlawful issuance of a bank check

would, when considered separately, constitute unlawful issuance of a bank check in an amount of seven hundred fifty dollars or less because of value, and the series of transactions are a part of a common scheme or plan, the transactions may be aggregated in one count and the sum of the value of all of the transactions shall be the value considered in determining whether the unlawful issuance of a bank check is to be punished as a class C felony or a gross misdemeanor.

(4) Unlawful issuance of a bank check in an amount greater than seven hundred fifty dollars is a class C felony.

(5) Unlawful issuance of a bank check in an amount of seven hundred fifty dollars or less is a gross misdemeanor and shall be punished as follows:

(a) The court shall order the defendant to make full restitution;

(b) The defendant need not be imprisoned, but the court shall impose a fine of up to one thousand one hundred twenty-five dollars. Of the fine imposed, at least three hundred seventy-five dollars or an amount equal to one hundred fifty percent of the amount of the bank check, whichever is greater, shall not be suspended or deferred. Upon conviction for a second offense within any twelve-month period, the court may not suspend or defer any portion of the fine.

MPJIC 6.51 Expert Testimony

A witness who has special training, education, or experience may be allowed to express an opinion in addition to giving testimony as to facts.

You are not, however, required to accept his or her opinion. To determine the credibility and weight to be given to this type of evidence, you may consider, among other things, the education, training, experience, knowledge, and ability of the witness. You may also consider the reasons given for the opinion and the sources of his or her information, as well as considering the factors already given to you for evaluating the testimony of any other witness.