

CACIVEV CH. 8C-D
Cal. Prac. Guide Civ. Trials & Ev. Ch. 8C-D

Cal. Prac. Guide Civ. Trials & Ev. Ch. 8C-D

California Practice Guide: Civil Trials and Evidence
William E. Wegner, Robert H. Fairbank, and Justice Norman L. Epstein; Contributing Editor:
Judge Eli Chernow (Ret.)

Chapter 8. Evidence
C. Foundation

D. Demonstrative Evidence

1. [8:470] ““Demonstrative Evidence”” Defined

2. [8:471] Admissibility—In General

a. [8:472] Limitation—court discretion (Ev.C. §§ 352)

=> [8:476] PRACTICE POINTER

b. [8:477] Foundation requirements—in general

(1) [8:478] Requisite degree of proof

3. Particular Types of Demonstrative Evidence

a. [8:480] Graphic illustrations—maps, diagrams and charts

(1) [8:481] Typical examples

=> [8:482] CAUTION re preserving record

=> [8:483] PRACTICE POINTER

(2) [8:484] Admissibility—in general

(a) [8:485] Common objections

(b) [8:486] Waiver of objection by questioning witness about exhibit

(3) [8:487] Compare—inadmissible graphics used in questioning witness

=> [8:488] PRACTICE POINTER—*Make a record*

(4) [8:489] Compare—graphics used in argument

=> [8:490] PRACTICE POINTER—*Make a record*

b. [8:491] Demonstration by witness testifying

(1) [8:492] Example

(2) [8:493] Necessity of preserving record

=> [8:494] PRACTICE POINTERS *re preserving record*

(3) [8:494.1] Compelled demonstrations?

(a) [8:494.2] Comment

c. [8:495] Models

(1) [8:496] Scale models

(2) [8:497] Working models

(3) [8:498] Mannequins

(a) [8:498.1] Effect of size differences

d. [8:500] Experiments

(1) [8:501] ““Substantially similar”” conditions required

(a) [8:502] Compare——effect of dissimilar conditions

(b) [8:503] Compare——effect of *unknown* conditions at time of event in question

(c) [8:504] Burden on proponent

=> [8:506] *PRACTICE POINTER*

(2) [8:507] Necessity for expert witness testimony

(3) [8:508] Experiments using ““scientific”” techniques (““*Kelly*”” rule)

(4) [8:509] Application

(a) [8:510] Testing for mechanical failure

(b) [8:511] Testing with dummy

(c) [8:512] Driving time experiment

(d) [8:513] Reconstruction of travel route

e. [8:514] Accident reconstruction

(1) [8:515] ““Substantial similarity”” of conditions required

(2) [8:516] Compare—*dissimilar conditions*

f. [8:517.5] Photographic reconstruction

g. [8:518] Computer simulations

(1) [8:519] Admissibility of computer animations to illustrate expert testimony

1. [8:470] **““Demonstrative Evidence”” Defined:** Demonstrative evidence““ is physical evidence that is not itself at issue in the case but which *illustrates* or *demonstrates* a party's testimony or theory of the case. For example:

—maps, charts and diagrams (¶¶ 8:480);

—models (¶¶ 8:495);

—demonstrations by testifying witness (¶¶ 8:491); as well as experiments conducted in (and out) of the courtroom (¶¶ 8:500).

Compare—audio/visual recordings: Audio/visual recordings (photos, videotapes, etc.) may also illustrate a party's testimony but is not limited to this purpose. Therefore, such recordings are properly treated as a separate category of evidence. (See ¶¶ 8:525 *ff.*)

2. [8:471] **Admissibility—In General:** Demonstrative evidence is as admissible as the testimony it illustrates. I.e., if the witness' testimony is otherwise admissible (relevant, nonhearsay, etc.), demonstrative evidence is also admissible ... subject to the court's discretion (below). It simply helps the jury *visualize* the witness' testimony.

a. [8:472] **Limitation—court discretion (Ev.C. §§ 352):** Ev.C. §§ 352 is often the major limitation on admissibility of demonstrative evidence. It gives the court discretion to exclude such evidence where its probative value is ““substantially outweighed”” by risks of undue consumption of time, undue prejudice or confusing the issues or misleading the jury. [Ev.C. §§ 352; *DiRosario v. Havens* (1987) 196 CA3d 1224, 1232, 242 CR 423, 427]]

Cross-refer: Discretionary exclusion under Ev.C. §§ 352 is discussed in detail in *Ch. 8F*.

The following are the most common reasons for excluding demonstrative evidence under Ev.C. §§ 352:

•• [8:473] *Argumentative:* Diagrams, charts or graphs that go beyond simply illustrating a

witness' testimony may be excluded as argumentative.

For example, in a product safety case, a chart illustrating testimony as to the number of injuries per year involving the product may be proper. But a chart using piles of broken bones to illustrate the same point might be excluded.

•• [8:474] *Matters of opinion rather than fact*: Similarly, a diagram or chart may be excluded where it goes beyond simply illustrating testimony and portrays disputed opinions as fact.

For example, a corporate organizational chart may be offered in evidence to help the jury understand the cast of characters. But in determining its admissibility, the court may consider that the chart denotes lines of authority that are in dispute.

•• [8:475] *Undue emphasis*: The court may consider the extent to which a proffered exhibit places emphasis on certain matters.

For example, the court may challenge a party's time line chart that uses bright colors in a way that distorts certain matters or events.

=> [8:476] **PRACTICE POINTER**: In view of the court's broad discretion, try to ascertain the judge's attitude toward demonstrative evidence *before* expending large sums on trial exhibits that may never be used. Raise the subject of demonstrative evidence well in advance of trial, perhaps at a status conference. Or ask other lawyers about your judge's attitude toward such evidence.

Further, if you are contemplating using an unusual form of demonstrative evidence (e.g., computer animation or laser technology), notify the court and opposing counsel *well before trial* to give them adequate time to prepare a response. While this may eliminate the tactical advantage of surprise, it may help overcome the judge's natural reluctance to admit a form of evidence with which he or she is unfamiliar.

b. [8:477] **Foundation requirements—in general**: Foundation for ““demonstrative evidence”” is established by testimony or other evidence establishing that it is a *fair representation* of the underlying witness testimony or other direct evidence. [*People v. Ham* (1970) 7 CA3d 768, 780, 86 CR 906, 913 (disapproved on other grounds in *People v. Compton* (1971) 6 C3d 55, 60, 98 CR 217, 220, fn. 3); see also ¶¶ 8:441]

(1) [8:478] **Requisite degree of proof**: The degree of proof required to establish the foundation varies with the nature of the demonstrative evidence.

•• For example, the foundation for a *chronological chart* of events may simply be the testimony of various witnesses during the course of trial.

•• On the other hand, where a *scale model* is offered in evidence, its maker may be required to testify as to the precise specifications utilized in constructing the model.

[8:479] *Reserved.*

3. Particular Types of Demonstrative Evidence

a. [8:480] **Graphic illustrations—maps, diagrams and charts:** The use of properly authenticated maps, charts and diagrams has long been recognized as a type of ““pictorial communication””; i.e., *illustrating* witness testimony or other evidence. [See *People v. Kynette* (1940) 15 C2d 731, 755, 104 P2d 794, 807(overruled on other grounds in *People v. Snyder* (1958) 50 C2d 190, 197, 324 P2d 1, 6); *People v. Sassounian* (1986) 182 CA3d 361, 400—401, 226 CR 880, 902]

(1) [8:481] **Typical examples:**

—*maps* of intersection where accident occurred, as established by witness testimony;

—““*time line*”” *charts illustrating chronology* or sequence of events testified to by witnesses;

—*bar graphs* showing income and expenses claimed by witnesses;

—*chart quoting or summarizing witness statements* at different times to show inconsistencies.

=> [8:482] **CAUTION re preserving record:** Sometimes, witnesses illustrate their testimony by drawing on a blackboard or butcher paper panel. Unless such drawings are adequately preserved, there may be no effective appellate review. (E.g., Witness draws map on blackboard which is erased after testimony completed.) [See *Haase v. Central Union High School Dist.* (1938) 27 CA2d 319, 325, 80 P2d 1044, 1048]

=> [8:483] **PRACTICE POINTER:** Most courts now use butcher paper instead of blackboards so that a witness' drawings can be preserved by tearing off the sheet and having it marked as an exhibit.

Where blackboards are still used, consider using a *polaroid camera* (with court's permission) to photograph drawings made by opposing witnesses, and having the photographs marked as exhibits.

Alternatively, ask the court to instruct the witness to recreate the diagram on a separate piece of paper, and have that marked as an exhibit.

(2) [8:484] **Admissibility**—**in general**: If the graphic is a ““fair representation”” of the evidence it purportedly illustrates, it is generally held admissible.

But the trial court has discretion (Ev.C. §§ 352) to exclude graphics whose probative value is outweighed by risks of confusing the issues, misleading the jury, etc. [*Silvey v. Harm (1932)* 120 CA 561, 571, 8 P2d 570, 574—map of accident scene may be admissible ““although ... inaccurate in some particulars””]

(a) [8:485] **Common objections**: Graphics may be objected to on various grounds, including:

- lack of foundation (no evidence to support entries);
- argumentative (reflecting counsel's views rather than testimony of witnesses);
- unduly prejudicial (distorting evidence), etc. *See discussion in Ch. 8F.*

(b) [8:486] **Waiver of objection by questioning witness about exhibit**: Extensively questioning a witness regarding the *contents* of an opposing party's exhibit may *waive* any objection to its admission into evidence. I.e., where the contents have already been disclosed, the court may find it proper to permit the jury to see the actual exhibit. [*People v. Sassounian (1986)* 182 CA3d 361, 400—401, 226 CR 880, 902—a ““semi-map”” of area where killing took place containing various hearsay notations by third persons]

(3) [8:487] **Compare**—**inadmissible graphics used in questioning witness**: Graphics need not be admissible in evidence to be used in questioning a witness. Counsel may be permitted to question a witness regarding entries on a chart *without* offering it in evidence ... ““much as diagrams made on a blackboard are used”” in questioning witnesses. [*People v. Cossey (1950)* 97 CA2d 101, 112, 217 P2d 133, 141—large chart listing financial transactions used in cross-examining witness]

=> [8:488] **PRACTICE POINTER**—**Make a record**: Even so, everything shown to the jury should be *marked for identification* (*see* ¶¶ 8:3356 *ff.*). Failure to do so may prevent appellate review.

Comment: Some judges require large charts to be accompanied by a 8.5 ““ x 11 ”” *facsimile* which is also marked for identification.

(4) [8:489] **Compare—graphics used in argument:** Charts and graphs may also be prepared for use in argument to the jury. Such graphics are intended to illustrate *counsel's argument*, rather than witness testimony, and therefore are not admissible evidence. It is discretionary with the trial judge whether to permit such graphics in closing argument (*see* ¶¶ 13:365). [See *People v. Gonzalez* (1990) 51 C3d 1179, 1227—1230, 275 CR 729, 754—755—Prosecutor's homemade scale used to “weigh” aggravating and mitigating factors was merely an illustration to show weighing process jury must perform in determining D's sentence]

=> [8:490] **PRACTICE POINTER—Make a record:** You cannot complain on appeal regarding graphics used by your opponent in closing argument unless an adequate record has been made. Ask to have such graphics marked for identification.

This is another reason to bring a *polaroid camera* to court. You'll have to have court permission to use the camera while court is in session, but such permission is usually granted.

b. [8:491] **Demonstration by witness testifying:** Demonstrations by a witness while testifying are admissible to *illustrate* the witness' testimony if conducted under substantially similar conditions to the matter at issue. [*People v. Jacobs* (1987) 195 CA3d 1636, 1656, 241 CR 550, 561]

Such demonstration *is evidence* and may be sufficient by itself to support a finding or verdict. [*People v. Buttles* (1990) 223 CA3d 1631, 1639—1640, 273 CR 397, 401]

(1) [8:492] **Example:** Police Officer demonstrated while testifying how D could have removed contraband from his hat while handcuffed. [*People v. Tolliver* (1960) 179 CA2d 736, 740—741, 4 CR 271, 274]

(2) [8:493] **Necessity of preserving record:** Unless an adequate record is made of the witness' demonstration, there may be no basis for effective appellate review. [*People v. Buttles, supra*, 223 CA3d at 1639—1640, 273 CR at 401—Witness demonstrated how D had pointed gun out the window of his car, but no record made of the angle at which she pointed; appellate court *assumed* demonstration supported jury verdict despite conflicting evidence]

=> [8:494] **PRACTICE POINTERS re preserving record:** If you expect an opposing witness to demonstrate *anything* during trial, *bring a video camera!* You'll have to obtain court permission to use the camera while the witness is demonstrating, but such permission will usually be granted.

If no video camera is available, bring a *polaroid camera*.

In any event, when a witness uses gestures to convey a concept, describe for the record what the

witness has done *in as much detail as possible*: E.g., ““May the record show the witness has placed her right hand on her left shoulder (etc.).””

(3) [8:494.1] **Compelled demonstrations?** ““No person has a privilege to refuse to be a witness.”” [See Ev.C. §§ 911(a)]

Being a witness includes *nonverbal* as well as verbal testimony. [See Emerson Elec. Co. v. Sup.Ct. (Grayson) (1997) 16 C4th 1101, 1111—1112, 68 CR2d 883, 889—nonverbal testimony can be compelled at deposition (CCP §§ 2025.480)]

(a) [8:494.2] **Comment:** Although confined to depositions, *Emerson* strongly implies that a trial witness may be compelled to perform a demonstration or reenactment.

Thus, a trial witness presumably may be asked to:

- draw a diagram showing how an accident occurred;
- demonstrate how an allegedly defective product was used;
- reenact the event in question; or
- furnish a handwriting exemplar.

c. [8:495] **Models:** Models may be admissible as demonstrative evidence, within the court's discretion, to illustrate witness testimony or other direct evidence.

(1) [8:496] **Scale models:** A model of something too large to produce in court (e.g., a large machine) may be admissible if shown to represent the ““real thing”” accurately and it is helpful to the jury's understanding.

(2) [8:497] **Working models:** Similarly, a model constructed for the purpose of illustrating to the jury how a particular mechanism works may be admissible. [People v. McDaniel (1976) 16 C3d 156, 174—175, 127 CR 467, 478—479—model bomb prepared by expert admissible to illustrate how applying pressure to triggering device causes electrical circuit to close, detonating dynamite]

Such models need not be built to ““scale”” or be the same as the object in question. [People v. McDaniel, supra, 16 C3d at 174, 127 CR at 478—479—where type of explosive device actually used was unknown, it was proper for expert witness to use model bomb to illustrate to jury type *which could have been used*]

(3) [8:498] **Mannequins:** Mannequins may be used as illustrative evidence to assist the jury in understanding the testimony of witnesses or to clarify circumstances of a crime. [*People v. Cummings* (1993) 4 C4th 1233, 1291, 18 CR2d 796, 833—mannequin used to illustrate bullet paths; *People v. Medina* (1995) 11 C4th 694, 753, 47 CR2d 165, 199—same]

(a) [8:498.1] **Effect of size differences:** Such evidence is generally admissible despite variations in size (unless the objecting party can show the size difference would affect the jury's ability to assess the evidence). Ordinarily, any discrepancy between size of the mannequin and that of the victim can easily be pointed out to the jurors. [*People v. Cummings, supra*, 4 C4th at 1291, 18 CR2d at 833]

[8:499] *Reserved.*

d. [8:500] **Experiments:** Experiments conducted in or out of court are a type of demonstrative evidence. The results may be admissible if:

—the experiment was conducted under *conditions* ““*substantially similar*”” to those of the events at issue (see below); *and*

—the evidence will not consume undue time, confuse the issues or mislead the jury (*Ev.C. §§ 352, Ch. 8F*). [*Hasson v. Ford Motor Co.* (1977) 19 C3d 530, 548—550, 138 CR 705, 717—718 (overruled on other grounds in *Soule v. General Motors Corp.* (1994) 8 C4th 548, 574—580, 34 CR2d 607, 622—626)]

(1) [8:501] ““**Substantially similar**”” **conditions required:** To establish a foundation for ““experimental evidence,”” it must be shown that the experiment was conducted ““under the same or similar conditions as those existing when the accident or event took place.”” [*People v. Bonin* (1989) 47 C3d 808, 846—848, 254 CR 298, 321]

The conditions need only be ““substantially identical””——*not* ““absolutely identical.”” [*Culpepper v. Volkswagen of America, Inc.* (1973) 33 CA3d 510, 521—522, 109 CR 110, 117—118]

(a) [8:502] **Compare——effect of dissimilar conditions:** Experiments may be inadmissible if conducted under conditions *dissimilar* in any *significant* respect to the undisputed facts of the case. [*Ehrhardt v. Brunswick, Inc.* (1986) 186 CA3d 734, 740—741, 231 CR 60, 63—64—videotaped experiment excluded where it directly contradicted all eyewitness testimony]

(b) [8:503] **Compare**—**effect of *unknown* conditions at time of event in question:** If the conditions existing when the incident took place are *unknown*, experiments conducted under different conditions may still be relevant if shown to produce the same effect. [See *People v. McDaniel* (1976) 16 C3d 156, 174, 127 CR 467, 478—479—where type of explosive device actually used was unknown, it was proper for expert witness to use model bomb to illustrate to jury how explosion *could have been* triggered]

(c) [8:504] **Burden on proponent:** The burden is on the proponent of experimental evidence to establish the experiment was conducted under ““substantially similar”” conditions. Any significant difference is ground for exclusion of the experiment. [*People v. Bonin, supra, 47 C3d at 847, 254 CR at 321*]

•• [8:505] Example: Witness testified D strangled Victim with a T-shirt. Criminalist wrapped T-shirt around his upper arm to determine if it would produce striations similar to those found on Victim's neck. His testimony was inadmissible because there was no showing Criminalist's arm and Victim's neck were similar; or that the force applied by Criminalist was similar to that supposedly applied by D. [*People v. Bonin, supra, 47 C3d at 847, 254 CR at 321*]

=> [8:506] **PRACTICE POINTER:** If you are the opposing party, you have to be sharp with your objections to experimental evidence. A general objection (e.g., ““irrelevant”” or ““lack of foundation””) may not call the court's attention to ““dissimilar”” conditions under which the experiment was conducted. Be specific; clearly state *which conditions* are *dissimilar* to the events at issue.

(2) [8:507] **Necessity for expert witness testimony:** Expert witness testimony is almost always required for experiments, particularly those conducted outside of court. In such cases, the foundational requirements for expert witness testimony must also be established. (*See detailed discussion at ¶¶ 8:725.*)

(3) [8:508] **Experiments using ““scientific”” techniques (““Kelly”” rule):** Whenever an experiment relies for its conclusion on scientific tests or techniques (e.g., chemical reactions), such scientific knowledge must be proved as a foundational fact. I.e., it must be ““sufficiently established to have gained *general acceptance* in the particular field in which it belongs.”” This is the so-called ““Kelly”” rule, discussed in detail at ¶¶ 8:565 ff. [*People v. Roehler* (1985) 167 CA3d 353, 386—387, 213 CR 353, 375—378—““Kelly”” analysis required for admission of experimental evidence showing force required to cause victim's head injuries]

On the other hand, experiments that simply demonstrate what can be learned from manipulation of physical evidence are not subject to the ““Kelly”” rule. [*People v. Roehler, supra, 167 CA3d at 386—387, 213 CR at 375—378*—““Kelly”” analysis *not* required for admission of

experimental evidence showing boat could not capsize accidentally]

(4) [8:509] **Application:** Assuming ““substantial similarity of conditions”” is established, and also that any ““scientific”” tests used comport with ““Kelly”” rule, the following experiments may be offered to illustrate or demonstrate witness testimony:

(a) [8:510] **Testing for mechanical failure:** Manufacturer's experimental tests, demonstrating that improper driving methods could have caused brake fluid to attain temperatures high enough to cause vaporization, was admissible to show P's negligent driving caused the brake failure. [Hasson v. Ford Motor Co. (1977) 19 C3d 530, 549—550, 138 CR 705, 717—718 (overruled on other grounds in Soule v. General Motors Corp. (1994) 8 C4th 548, 574—580, 34 CR2d 607, 622—626)]

(b) [8:511] **Testing with dummy:** Experimental collisions (using an ““anthropomorphic dummy””) may be admissible to corroborate medical examiner's conclusions re cause of death (i.e., that neither rocks nor contact with boat could have caused Victim's head injuries). [People v. Roehler (1985) 167 CA3d 353, 388—390, 213 CR 353, 376—378]

(c) [8:512] **Driving time experiment:** Evidence of an experiment to determine the time it would take to travel from the crime scene to the location of D's arrest was admissible to rebut D's alibi (that he could not have committed the crime since he was arrested in distant neighborhood within a half-hour of the robbery). [People v. Terry (1974) 38 CA3d 432, 444, 113 CR 233, 241]

(d) [8:513] **Reconstruction of travel route:** Reconstruction of D's travel route using a chart made by a ““tachograph”” attached to odometer in D's tanker truck (which measures vehicle speed and distance traveled) was admissible where the reliability of method was established and D had the opportunity to discredit the method utilized or present other hypotheses consistent with the tachograph chart. [People v. Williams (1973) 36 CA3d 262, 273—274, 111 CR 378, 385—386]

e. [8:514] **Accident reconstruction:** Assuming a proper foundation is laid, a visual reconstruction of the accident or event in dispute may greatly assist the jurors. Thus, videos or other recordings of such reconstructions, made under *substantially similar* conditions to the events in dispute, are admissible as demonstrative evidence (illustrating witness testimony or other evidence). [See Hasson v. Ford Motor Co. (1977) 19 C3d 530, 548—550, 138 CR 705, 717—718 (over-ruled on other grounds in Soule v. General Motors Corp. (1994) 8 C4th 548, 574—580, 34 CR2d 607, 622—626); Culpepper v. Volkswagen of America, Inc. (1973) 33 CA3d 510, 520—522, 109 CR 110, 117—118 —filmed reconstruction of vehicle rollover; DiRosario v. Havens (1987) 196 CA3d 1224, 1231—1233, 242 CR 423, 426—427 —filmed

reconstruction of intersection accident]

(1) [8:515] **“Substantial similarity” of conditions required:** The reconstruction must have been made under “substantially similar” conditions (e.g., comparable lighting, identical intersection, same model car, etc.) to those existing at the time of the accident or event in dispute. [People v. Boyd (1990) 222 CA3d 541, 565—566, 271 CR 738, 753—754—filmed reconstruction, offered to show witness could not have seen clearly enough to make ID, inadmissible where D failed to establish filming occurred under substantially similar lighting conditions]

But the conditions *need not be* “absolutely identical.” [Grimshaw v. Ford Motor Co. (1981) 119 CA3d 757, 791, 174 CR 348, 370; DiRosario v. Havens, supra, 196 CA3d at 1231, 242 CR at 427—filmed recreation of accident scene was admissible despite some dissimilarities]

(2) [8:516] **Compare—dissimilar conditions:** But such evidence is likely to be excluded where there are significant variables in the conditions under which the accident reconstruction was conducted. [Solis v. Southern Calif. Rapid Transit Dist. (1980) 105 CA3d 382, 390, 164 CR 343, 347—accident reconstruction evidence excluded because conducted on clear day on dry pavement whereas accident occurred on rainy day, and vehicle not in same mechanical condition]

[8:517] Likewise, filmed demonstrations are inadmissible where the conditions are totally *inconsistent* with all eyewitness testimony. [Ehrhardt v. Brunswick, Inc. (1986) 186 CA3d 734, 740—741, 231 CR 60, 63—64—videotaped demonstration depicting D's theory of boating accident properly excluded where demonstration inconsistent with *all* eyewitness testimony]

[8:517.1—517.4] *Reserved.*

f. [8:517.5] **Photographic reconstruction:** Photographs of an accurate reconstruction of an event in issue are admissible as illustrative evidence. [People v. Cummings (1993) 4 C4th 1233, 1291, 18 CR2d 796, 833—photograph of defendants posed in back seat of car admitted to illustrate prosecution's theory in murder case]

g. [8:518] **Computer simulations:** Where an accident or event reconstruction is not feasible (e.g., because the occurrence was unseen or the sequence of events involved is uncertain) computer simulations may be used to illustrate events *based on witness testimony and other evidence.*

They have the unique advantage of creating visual images of events that may otherwise be difficult to describe or illustrate. For example:

—to reconstruct the way in which a crime or other event could have occurred;

——to illustrate sequence of events in chain of causation;

——to illustrate the spread of a toxic plume in an environmental damage case.

Although increasing in use, there is presently no known California case law dealing with the admissibility of computer simulations.

(1) [8:519] **Admissibility of computer animations to illustrate expert testimony:** Computer animations are ““tantamount to drawings”” by experts to illustrate their testimony. They are admissible to the same extent as if the animations had been done by hand, rather than by a computer. [*People v. Hood* (1997) 53 CA4th 965, 969, 62 CR2d 137, 140——computer animation did not need to satisfy *Kelly* rule for scientific evidence (§§ 8:563 ff.)]

[8:520—523] *Reserved.*

©© 1993-2007 by The Rutter Group, a Division of Thomson/West

(2007)

CACIVEV CH. 8C-D

END OF DOCUMENT