



New Jersey

# Rules of Evidence

Summary Trial Guide

by Yale I. Markus, Esq., APN

## GENERAL PROVISIONS

- 101** (a) **(1) Rules** except per (a)(3) and **(2) privileges apply to all proceedings**, formal or informal. **Rules relaxed (3)** small Claims Court; by statute; criminal/juvenile sentencing, bail, PTI; probable cause, grand jury, ex parte; admissibility; **(4)** administrative; **(5)** undisputed facts, stipulations, admissions; **(6)** testimonial affidavits. **(b)** Definitions **(1) "burden of persuasion"** is obligation and standard to prove; **(2) "burden of producing evidence"** is obligation to introduce; **(3) "writing"** at 801(e); **(4) "Public Official"** at 801(f); **(5) "Statement Under Oath"** is under perjury penalty. **(c) Rules repeal statutes if stated.**
- 102** Purpose and construction to secure fairness, avoid expense and delay, develop evidence law, ascertain truth, and do justice.
- 103** Rulings on Evidence [Not Adopted].
- 104** **(a) Preliminary questions** (witness qualifications/privileges/admissibility) are for judge, subject to 403 or privilege, may be outside presence of jury. **(b) When depends on preliminary fact**, court may admit evidence conditionally, instruct jury if unfulfilled. **(c) Hearings on confession** must be outside presence of jury.