CA Evidence Map

CEC and Prop 8

CEC

Prop 8

CEC 352

Relevance

Public Policy Exclusions

Exclusion	FRE	CA Specific Rule
Subsequent Remedial Measures		
Civil Settlements & Mediation		
Medical Expenses Payments & Offers		
Plea Discussions		
Expressions of Sympathy		
Immigration Status		
Hospital Quality Records		
Victim/ Witness Prostitution		

Character Evidence

in Civil Cases

Testimonial Comparisons

Competency Requirements

Hypnotized Witness Safeguards (CEC only)

Refreshing Recollection Differences

	FRE	CEC
Refreshed *During* Trial		
Refreshed *Before* Trial		

Procedural Considerations

Exceptions in Criminal Cases: When Prosecution Can Initiate Character Evidence

Victim's Past Sexual Conduct FRE

D's Character in Criminal Cases Opening the Door

Victim's Character in Criminal Cases FRE CA Specific Rule

CA Specific Rule

Expert Witness Standard Differences

FRE Standard

CEC Standard

Learned Treatise Differences

FRE Standard

CEC (Narrow Standard)

Sequestration of Witnesses

Authentication and Documents

Hearsay Declarant Unavailability Grounds

Hearsay Exceptions for Unavailable Declarant

(1) Statement against interest

(2) Former Testimony

(3) Dying declarations

(4) Statements Offered Against a Party Procuring Declarant's Unavailability

(5) CA Only- Criminal Prosecution of a Serious Felony

(6) CA Only- Statements describing, inflicting, or threat of physical injury

(7) CA Only- Past condition or state of mind when at issue in the case

Hearsay

Hearsay Exclusions Under FRE

Admissions of Party Opponent

Vicarious party admissions

CA ONLY extra exceptions of vicarious statements

Prior Statements of Testifying Witness

Testifying witness's prior statement of identification

Testifying witness's prior inconsistent statement

Testifying witness's prior consistent statement

Residual Catch All Exception

Business Records

Felony Judgments

Public Records

Credibility/Impeachment

	FRE	CEC
Bolstering/ Accrediting		
Prior Inconsistent Statement (PIS) Foundation		
PIS Substantive Use		
Felony Convictions		
Misdemeanor Convictions		
Stale Convictions > 10 years		
Prior Uncharged Bad Acts		
Prior Consistent Statements		

Privileges CA Differences Only

A-C Privilege

Patient/Physician

Psychotherapist

Hearsay Exceptions NOT Requiring Unavailability

Present Sense Impression

Excited Utterance (Spontaneous Statement in CA)

Statements of Present State of Mind or Condition

Statements Made for Purposes of Medical Diagnosis

Civil Judgments

CA Only- Statements by a Child Abuse Victim in a Criminal Case