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SWEATT, HERMAN VS. THEOPHILUS SHICKEL PAINTER

NO. _____

SWEATT, HEMAN

VS.

THEOPHILUS SHICKEL PAINTER, ET AL

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IN THE DISTRICT COURT

OF

TRAVIS COUNTY, TEXAS

TRIAL BRIEF

NO. _____

SWEATT, HEMAN

VS.

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T R I A L B R I E F

Pamphlet purporting to be used by the Government has no more weight and does not carry upon the face thereof any greater authenticity or verity than any other document issued.

1. Missouri-Kansas & Texas Railroad Co. v. Dale; 179 SW., 935

The rules and regulations of an association may be admitted upon certification or by proof of a member of such association the contents of the rules of said association and issued by said association.

1. Western Union Telegraph Company vs. Edkhardt; 2 S.W. (2) 505 (Reformed and affirmed by Sup. Ct., 11 S.W. (2) 777

Stipulations entered into at a former trial of the same suit are admissable as evidence as admissions against interests.

1. National Life & Acc. Co. vs. Cassall et al 36 SW. (2) 223

An agreed statement of facts by a partner to a suit constitutes an admission of such facts and such admissions preclude the parties from denying such facts in a subsequent action.

1. Dobbs et al v. Order of United Commercial Travelers of America; 241 S.W. 191 (para. 3 Writ of Error denied by Sup. Ct.)

Sweatt v. Painter, et al - Trial Brief

The defendant's admission of a fact may be introduced in evidence or any part thereof and when a part of such admission has been admitted, the party so introducing the same does not admit the truth of the other portion of such stipulation.

1. Kretzschemar vs. Christensen, 37 S.W. (2), 844

As a general rule printed books are usually inadmissible as hearsay.

1. Vinting vs. Carrington, 26 S.W. (2) 711
2. Woodblock Paving Company vs. McKay, 211 S. W. 822

Rules of Private Association are admissible under proper predicate.

Texas Jurisprudence, Vol. 17, page 731

The general rule in Texas is that scientific books are not admissible as evidence of the matters or opinions which they contain.

St. Louis A.&T. Railroad Company vs. Jones, 14 S.W. 309.

There is an exception to the rule of admitting scientific books where the work book is a treatise of exact science.

St. Louis A. & T. Railroad Co. vs. Jones, 14 S.W., 309

Photographs are admitted in evidence when relevant and shown to be correct.

Southwestern Portland Cement Co. vs. Bustillos, 216 S.W. 268 (211 S.W. 929, Sup. Ct.)

Sweatt vs. Painter et al - Trial Brief

The fact that the photographs were taken without notice to the adverse parties does not render them inadmissible.

Hawkins vs. Missouri-Kansas & Texas Railroad Co.,
83 S.W. 52

The only identification necessary for the introduction of the photograph is that they represent the scene of the person in question and this may be shown by any witness who knows the facts, even though he did not make the photographs himself, not did he see it made.

Thompson vs. Galveston H. & S. A. R. R. Co., 106 SW., 910

Missouri vs. Kansas & Texas R. R. Co. 49 SW., 928

Ordinarily qualification of the witness to give expert testimony rests in the discretion of the trial court.

Cobb vs. Texas and No. O. Railway Co., 107 S.W. (2) 670

The court is to take judicial notice of record and prior proceedings in same suit.

Ferguson vs. Ferguson, 127 S.W. (2) 1018

Edmondson vs. Edmondson, 134 S.W. (2) 378

Mere membership in a profession to which the matter relates is not sufficient, must possess special knowledge as to the very matter on which he professes to give an opinion.

Bowan & Blatz vs. Raley, 210 S.W., 723