

**BROWARD COUNTY BAR ASSOCIATION
FAMILY LAW SECTION**

NUTS AND BOLTS

**Proper Introduction of Evidence:
Bench Cards**

NOVEMBER 6, 2025

*The Honorable Christopher Wigand, 17th Judicial Circuit, Broward County, Florida
Juliette E. Lippman, Esq., Birnbaum, Lippman & Gregoire, PLLC.
Henny L. Shomar, Esq., Tripp Scott*

BENCH CARD: VIDEO OR PHOTOGRAPH - FOUNDATION

Authority: §§ 90.901–90.953, Fla. Stat.

FOUNDATION STEPS

<u>Step</u>	<u>Description</u>
1 Identify the Video	Ask the witness to recognize the video or photograph and explain how they know it. Ask about the location, date and time.
2 Confirm Accuracy	Establish that it fairly and accurately depicts what it purports to show.
3 Check for Alteration	Ask if the video or photograph has been edited or altered in any way.
4 Establish Custody	For video: Determine who maintained and stored the video.
5 Verify Equipment	For video: Confirm the recording device was working properly at the time.
6 Authenticate Final	Ask, “Does this [video or photograph] fairly and accurately depict what you saw that day?” For video – if a copy of the recording Ask, Is this a true and complete copy of the original recording?”

PRACTICE NOTES

- Ensure timestamps and metadata match the event timeline.

CHECKLIST SUMMARY

 Identify → Confirm → Check → Establish → Verify → Authenticate

*The Honorable Christopher Wigand, 17th Judicial Circuit, Broward County, Florida
Juliette E. Lippman, Esq., Birnbaum, Lippman & Gregoire, PLLC.
Henny L. Shomar, Esq., Tripp Scott*

BENCH CARD: REFRESHING RECOLLECTION

Authority: § 90.613, Fla. Stat.

PURPOSE

To assist witness memory by reviewing a document without making that item evidence.

FOUNDATION STEPS

<u>Step</u>	<u>Description</u>
1 Determine Lack of Memory	Ask, “Do you presently recall the event or fact?”
2 Offer to Refresh	Ask, “Would reviewing a document or item help refresh your memory?”
3 Allow Review	Hand the witness the document and permit the witness to silently review the document. Then, ask, “Please review the document and tell me if it helps you remember.” Ask, “Does this document refresh your recollection?” After the review, take the document back from the witness.
4 Confirm Recollection	Ask, “Do you now have an independent recollection of the facts?”
5 Elicit Refreshed Testimony	Have the witness testify from present memory, not the writing.

PRACTICE NOTES

- The writing used is not itself evidence unless independently admissible.
- Opposing counsel may inspect and cross-examine about it.
- Use neutral language—do not suggest the content of the writing.
- Ensure the record reflects that testimony comes from refreshed recollection.

CHECKLIST SUMMARY

 Determine → Offer → Review → Confirm → Elicit

*The Honorable Christopher Wigand, 17th Judicial Circuit, Broward County, Florida
Juliette E. Lippman, Esq., Birnbaum, Lippman & Gregoire, PLLC.
Henny L. Shomar, Esq., Tripp Scott*

BENCH CARD: JUDICIAL NOTICE

Authority: §§ 90.201–90.205, Fla. Stat.

PURPOSE

To streamline proceedings by recognizing facts or laws not subject to reasonable dispute.

FOUNDATION STEPS

<u>Step</u>	<u>Description</u>
1 Confirm Notice	Ensure the opposing party has been notified of the request.
2 Identify Proper Matter	Verify the fact is appropriate for judicial notice under statute.
3 Provide Proof	Offer certified or reliable sources establishing accuracy.
4 Allow Hearing	Permit both sides to be heard on propriety and effect.
5 Announce on Record	State the matter judicially noticed and the authority used.

PRACTICE NOTES

- Judicially noticed facts are conclusive.
- Always specify the statute and factual basis on the record for appellate review.

CHECKLIST SUMMARY

Confirm → Identify → Provide → Allow → Announce

*The Honorable Christopher Wigand, 17th Judicial Circuit, Broward County, Florida
Juliette E. Lippman, Esq., Birnbaum, Lippman & Gregoire, PLLC.
Henny L. Shomar, Esq., Tripp Scott*

BENCH CARD: RECORDS CUSTODIAN

Authority: §§ 90.803(6), 90.902(11), Fla. Stat.

PURPOSE

To authenticate and admit business records under the hearsay exception for regularly kept records.

FOUNDATION STEPS

<u>Step</u>	<u>Description</u>
1 Identify Role	Ask if the witness is the custodian or qualified to testify about the records.
2 Timing of Record	Confirm records were made at or near the time of the event.
3 Source of Information	Verify they were made by, or from, someone with personal knowledge.
4 Business Practice	Establish that it is regular business practice to make such records.
5 Integrity	Confirm that the records have not been altered or modified.

PRACTICE NOTES

- A qualified witness need not have made the record personally.
- Focus on routine practice, timing, and reliability of the business system.
- Digital records require confirmation of secure data storage and retrieval procedures.

CHECKLIST SUMMARY

Identify → Timing → Source → Business → Integrity

The Honorable Christopher Wigand, 17th Judicial Circuit, Broward County, Florida
Juliette E. Lippman, Esq., Birnbaum, Lippman & Gregoire, PLLC.
Henny L. Shomar, Esq., Tripp Scott

BENCH CARD: IMPEACHMENT — PRIOR INCONSISTENT STATEMENT

Authority: § 90.614, Fla. Stat.

PURPOSE

To attack a witness's credibility by showing a prior inconsistent statement.

FOUNDATION STEPS

<u>Step</u>	<u>Description</u>
1 Commit to Testimony	Confirm what the witness just said: "You testified that ____, correct?"
2 Confront with Statement	Ask if they recall making a prior statement on [date] to [person].
3 Specify Circumstances	Identify when, where, and to whom it was made. <i>If witness admits statement, stop – no extrinsic evidence needed – goal accomplished!</i>
4 Reveal Inconsistency	<i>If witness denies the statement:</i> Show or read the inconsistent statement: "Didn't you say ____?"
5 Allow Explanation	Give witness a chance to explain or deny before offering proof.
6 Introduce Extrinsic Proof	If material and denied, you may now impeach the witness with extrinsic evidence.

PRACTICE NOTES

- The statement must be truly inconsistent, not just phrased differently.
- Depositions and prior testimony qualify as prior statements.

CHECKLIST SUMMARY

 Confirm → Confront → Specify → Reveal → Allow → Introduce

*The Honorable Christopher Wigand, 17th Judicial Circuit, Broward County, Florida
Juliette E. Lippman, Esq., Birnbaum, Lippman & Gregoire, PLLC.
Henny L. Shomar, Esq., Tripp Scott*

BENCH CARD: SOCIAL MEDIA EVIDENCE

Authority: §§ 90.901–90.953, Fla. Stat.

PURPOSE

To authenticate and admit social media posts, messages, or digital content as evidence.

FOUNDATION STEPS

<u>Step</u>	<u>Description</u>
1 Identify Content	Ask if the witness recognizes the post, profile, or message.
2 Attribute Authorship	Determine how the witness knows who created or sent it.
3 Confirm Originality	Ask whether the content has been changed or deleted.
4 Verify Source	Establish when and how the content was obtained or captured.
5 Authenticate Exhibit	Confirm the exhibit accurately reflects what was seen originally.

PRACTICE NOTES

- Direct or circumstantial evidence may authenticate authorship.
- Retain metadata or logs to confirm origin and accuracy.
- Avoid overreliance on screenshots without corroborating testimony.

CHECKLIST SUMMARY

Identify → Attribute → Confirm → Verify → Authenticate

*The Honorable Christopher Wigand, 17th Judicial Circuit, Broward County, Florida
Juliette E. Lippman, Esq., Birnbaum, Lippman & Gregoire, PLLC.
Henny L. Shomar, Esq., Tripp Scott*