Index

ACCOUNTANTS AND ACCOUNTING ANDERSON RULING Summary judgment, 9:3 **Discovery** (this index) **ACTIONABLE CAUSE ANSWER** Complaint, **3:14**, **3:16 Response** (this index) ACTIONABLE CONDUCT ANTIFRAUD PROVISIONS **Complaint** (this index) **Fraud** (this index) ADMISSIBILITY OF EVIDENCE APPEAL AND REVIEW Complaint, 3:25 Arbitration, 12:3, 12:8 Summary judgment, 9:3 Interlocutory review of class certifica-**ADMISSIONS** Opposition to petition for interlocu-Requests for admissions, **6:8, 7:3** tory appeal, 8:10 Settlement, 11:3 Orders, 8:4 Summary judgment, 9:3 Petition for interlocutory appeal, 8:9 ADMISSIONS, REQUESTS FOR Settlement, 11:3 Generally, 7:3 ARBITRATION **AFFIDAVIT** Generally, 2:7, 12:1 to 12:17 Discovery, 7:6 to 7:9 Amendments, 12:3, 12:4 Summary judgment, 9:3 American Arbitration Association (AAA), generally, 12:2 to 12:18 AFFIRMATIVE DEFENSE American Arbitration Association Secu-**Response** (this index) rities Arbitration Rules, generally, App. 12 AIDING AND ABETTING LIABILITY American Stock Exchange (AMEX) Complaint, Securities Exchange Act of window, 12:3 1934, **3:11** Answer, 12:4, 12:14 **AMENDMENTS** Appeal and review, **12:3**, **12:8** Arbitration, 12:3, 12:4 Attorneys, right to counsel, 12:6 Discovery, **6:5 to 6:7** Award, generally, 12:6 AMERICAN ARBITRATION Case law, generally, 12:3 to 12:5 ASSOCIATION (AAA) Challenges, 12:3 **Arbitration** (this index) Claimant's posthearing memorandum, 12:17 AMERICAN ARBITRATION Claimant's prehearing memorandum, **ASSOCIATION SECURITIES** 12:15 ARBITRATION RULES Class actions, 12:4 Generally, App. 12 Commencement, 12:4 AMERICAN STOCK EXCHANGE

(AMEX)

Arbitration, 12:3

Compel arbitration, 12:3, 12:10 to

Consolidation of actions, 12:4

12:12

| ARBITRATION—Cont'd | ARBITRATION—Cont'd |
|---|--|
| Constitutional law, 12:7 | Memorandum—Cont'd |
| Constitution of American Stock | motion to compel arbitration, 12:11, |
| Exchange (AMEX), 12:3 | 12:12 |
| Construction and interpretation, 12:3 | respondents' prehearing memoran- |
| Copies, 12:4 | dum, 12:16 |
| Correction of award, 12:8 | Modification of award, 12:8 |
| Counterclaims, 12:4 | Motion to compel arbitration, 12:10 to |
| Court-ordered discovery, 12:5 | 12:12 National Association of Securities Deal- |
| Cross-claims, 12:4 | ers (NASD) |
| Customer disputes, FINRA Code of | generally, 12:2 to 12:18 |
| Arbitration Procedure, App. 10 | New York rule, 12:7 |
| Damages, punitive, 12:7 | New York Stock Exchange (NYSE), |
| Demand, 12:4 | generally, 12:2 to 12:18 |
| Discovery, 12:3, 12:5 | Notice of intent, 12:4 |
| Discretion of court, 12:8 | Orders, 12:3, 12:5 |
| Enforcement, 12:3 | Panel, selection of, 12:6 |
| Exceptional circumstances, 12:3 | Parties, 12:3 |
| Executed submission agreement, 12:4 Expedited proceedings, 12:4 | Pending acts and matters, 12:3 |
| Federal Arbitration Act (FAA) | Preemption, 12:2 |
| generally, 12:2 to 12:18 | Punitive damages, 12:7 |
| • | Questions of law or fact, 12:4, 12:8 |
| 9 U.S.C. §§ 1-15, App. 9 Federal courts, 12:3 | Records and recording, 12:4, 12:6 |
| * | Rehearing, 12:8 |
| Federal venue statute, 12:8 | Reply memorandum, 12:12 |
| Fees, filing, 12:4 | Respondents' prehearing memorandum, |
| Financial Industry Regulatory Authority (FINRA) | 12:16 |
| customer disputes, Code of Arbitra- | Selection of arbitrators, 12:6 |
| tion Procedure for, App. 10 | Self-regulatory organizations (SROs), |
| industry disputes, Code of Arbitration | generally, 12:2 to 12:4 |
| Procedure for, App. 11 | Service of process and papers, 12:4 |
| Forum selection, 12:3 | Simplified proceedings, 12:4 |
| Hearing, conduct of, 12:6 | State courts, 12:3 |
| Identification of forum, 12:3 | Statement of claim, 12:4, 12:13, 12:14 |
| Industry disputes, FINRA Code of | State regulations, 12:2 |
| Arbitration Procedure, App. 11 | Stay pending arbitration, 12:3 |
| Initiating claim, 12:4 | Suprama Court 12:3 |
| Intent, notice of, 12:4 | Supreme Court, 12:3 Third-party claims, 12:4 |
| Joinder and consolidation of actions, | Time, 12:3, 12:8 |
| 12:4 | Trial, 12:3 |
| Joint answer of respondents, 12:14 | Uniform Arbitration Act, generally, 12: 2 |
| Limited discovery, 12:5 | Vacation of award, 12:8 |
| Memorandum | Venue, 12:8 |
| claimant's posthearing memorandum, 12:17 | Written acts and matters, 12:3 |
| claimant's prehearing memorandum, 12:15 | ASSUMPTION OF RISK Response, 4:15 |

| ATTORNEYS Arbitration, right to counsel, 12:6 | CASE LAW Arbitration (this index) |
|---|--|
| Discovery, 6:3 Discovery (this index) Internal investigations, selection of outside counsel, 1:9 | CAUSE OF ACTION Complaint (this index) Response, Securities Act Section 11, 4:8 |
| Response, 4:3, 4:15 | CELOTEX RULING Summary judgment, 9:3 |
| ATTORNEYS' FEES Settlement, 11:3 Summary judgment, 9:3 | CERTIFICATES AND CERTIFICATION |
| AUDITS AND AUDITING Sarbanes-Oxley Act (this index) | Class Certification (this index) Plaintiff's sworn certification, securities complaint, 3:41 |
| AUTHENTICATION OF DOCUMENTS Generally, 6:8 | CHALLENGES Arbitration, 12:3 Constitutional challenges, 3:4 Response, 2:3 |
| AWARD Arbitration (this index) | CLASS ACTIONS |
| BANKS AND BANKING Litigation against bank directors and officers by FDIC as receiver of closed banks, 1:11 | Arbitration, 12:4 Class Certification (this index) Discovery, 6:23, 6:26 Pleading, 3:6 Securities Litigation Uniform Standards |
| BLUE SKY LAWS Complaint, 3:28 | Act of 1998 (SLUSA), preemption of state law class actions, 1:4 Settlement (this index) |
| BRIEFS | CLASS CERTIFICATION |
| Generally, 10:3 Defendants' forms, 10:11 Discovery affidavit, brief in opposition and, 7:7 | Generally, 2:5 , 8:1 to 8:10 Federal Rule of Civil Procedure 23, generally, 8:2 Focus on class certification, 1:8 |
| to 7:9 motions, generally, 7:7 to 7:11 stay, 7:10, 7:11 Plaintiffs' forms, 10:6 | Interlocutory review opposition to petition for interlocutory appeal, 8:10 orders, 8:4 |
| Responses, motions in lieu of answer dismiss, motion to, 5:7 to 5:9 transfer, motion to, 5:11, 5:12 Summary judgment, motion, 9:2, 9:5 to 9:7 | petition for interlocutory appeal, 8:9 Memorandum, 8:6 to 8:8 Motion to certify generally, 8:3 et seq. |
| BROKER-DEALERS | defendants' memorandum in response to motion, 8:7 , 8:8 plaintiff's memorandum in support, |
| Complaint, 3:39 Discovery (this index) | 8:6 to 8:8 plaintiffs' reply memorandum in sup- |
| CARE, STANDARD OF Complaint (this index) | port of motion, 8:8 Opt-out notice in Rule 10b-5 case, 8:11 |

| CLASS CERTIFICATION—Cont'd | COMPLAINTS—Cont'd |
|---|--|
| Outline for plaintiffs' expert report, mar- | Control-person liability, 3:17, 3:23 |
| ket efficiency, 8:12 | Corporations, individual shareholders |
| Pleading requirements, generally, 8:2 | of, 3:7 |
| Reply, 8:8 | Covered class action, 3:27 |
| Response, 8:7 , 8:8 | Culpable participation, 3:17 |
| CLOSING OF BANKS | Definitions, 3:9 |
| Litigation against bank directors and | Demands, 3:7 |
| officers by FDIC as receiver of | Derivative action, 3:7 |
| closed banks, 1:11 | Derivative liability, 3:17 |
| 'COINCIDES' REQUIREMENT | Diversity jurisdiction, 28 U.S.C.A. § 1332, 3:3 |
| Securities Litigation Uniform Standards | Due process, 3:34 |
| Act of 1998 (SLUSA), 1:4 | Enforcement, 3:7 , 3:18 |
| COMMON FUND DOCTRINE | Enterprise, existence of, 3:26 |
| Settlement, 11:3 | Equitable tolling, 3:4 |
| | Evidence, 3:20 , 3:25 , 3:34 |
| COMMON LAW | Exceptions, 3:27 |
| Complaint (this index) | False or misleading statements, 3:16 |
| Cross-claims, 4:5 | Family resemblance test, 3:9 |
| COMPLAINTS | Federal causes of action |
| Generally, 2:2, 3:1 to 3:47 | generally, 3:8 to 3:26 |
| Actionable cause, 3:14, 3:16 | conspiracy liability, 3:25 |
| Admissibility of evidence, 3:25 | definition of federal security, 3:9 |
| Aiding and abetting liability under Rule 10b-5, 3:11 | respondeat superior liability, 3:24 RICO, 3:26 |
| Antifraud provisions, 3:16, 3:21 | Securities Act of 1933, below |
| Blue sky laws, 3:28 | Securities Exchange Act of 1934, |
| Broker-dealer cases, 3:39 | below |
| Care, standard of, generally, 3:15 to 3:29 | Federal question jurisdiction, 28 U.S.C.A. § 1331, 3:3 |
| Cause of action, generally, 3:1 to 3:47 | Federal securities claims, 3:4 |
| Certification, plaintiff's sworn, 3:41 | Federal securities laws, 3:23 |
| Challenges, constitutional, 3:4 | Federal security defined, 3:9 |
| Checklists for causes of action, 3:1 | Fiduciary duty, breach of, 3:32 |
| Class action, 3:6 | Forum selection clauses, 3:3 |
| Common law | Fraud and misrepresentation |
| generally, 3:32 | generally, 3:22 , 3:31 , 3:33 |
| causes of action | common law, 3:31 |
| generally, 3:30 | in connection with, 3:14 |
| state law causes of action, 3:31 to 3:34 | Insider Trading and Securities Fraud Enforcement Act of 1988, 3:18 |
| claims, 3:27 , 3:34 | loss causation, 1:7 |
| principles, 3:23 | open market, 3:37 |
| Conspiracy liability, 3:8, 3:25 | particularity, fraud with, 3:5 |
| Constitutional challenges, 3:4 | prospectus or oral communication, |
| Constitutional law, 3:34 | 3:21 |
| Construction and interpretation, 3:9 | proxy solicitation, 3:14 |

| COMPLAINTS—Cont'd | COMPLAINTS—Cont'd |
|---|---|
| Fraud and misrepresentation—Cont'd | Misrepresentation. Fraud and misrepre- |
| proxy statements, 3:38 | sentation, above |
| public offering, antifraud provisions | Misstatement, 3:13 |
| for purchasers of securities in, | Multiple causes of action, 2:2 |
| 3:21 | National exchange, 3:12 |
| sale of securities, 3:29 , 3:36 | Negligence, 3:21, 3:22, 3:29, 3:33 |
| state law causes of action, 3:29, 3:31 | Notice of securities lawsuit, 3:40 |
| tender offers, 3:14 | Offer, 3:14 , 3:22 |
| Fraudulent statements in SEC filings, | Omission |
| 3:16 | generally, 3:13 , 3:31 |
| FRCP Rule 8(a), 3:3 | prospectus or oral communication, |
| FRCP Rule 23.1, 3:7 | 3:21 |
| Innocence of plaintiff, 3:16 , 3:21 , 3:29 | sale of security, 3:29 |
| Insider Trading and Securities Fraud | Open market, 3:37 |
| Enforcement Act of 1988, 3:18 | Oral communication, 3:21 |
| Interim class leadership, sample motions | Participation, culpable, 3:17 |
| for | Particularity, 3:5, 3:7 |
| generally, 3:42 to 3:47 | Parties liable, 3:13, 3:14 |
| plaintiff's brief in support of motion | Pattern, existence of, 3:26 |
| for appointment as interim lead plaintiff, 3:44 | Personal jurisdiction, 3:3 |
| plaintiff's motion for appointment as | Pleading, 3:6 |
| interim lead plaintiff, 3:43 | Pleading requirements, generally, 3:2 to |
| plaintiff's response to competing | 3:7 |
| motions for selection of interim | Preparation, generally, 3:1 to 3:47 |
| lead plaintiff, 3:47 | Private Securities Litigation Reform Act |
| second plaintiff's opposition and | of 1995, 3:4 |
| competing motion for appoint- | Prospectus, 3:21 |
| ment as interim lead plaintiff, 3:45 | Proxy, 3:13, 3:14, 3:38 |
| | Public offerings, 3:21 |
| third plaintiff's opposition and competing motion for appoint- | Punitive damages, 3:34 |
| ment as interim lead plaintiff, | Qualifications, 3:9 |
| 3:46 | Racketeer Influenced and Corrupt |
| Interstate means, use of, generally, 3:10 | Organizations (RICO), 3:3 to 3:5 , |
| to 3:13, 3:20 to 3:22 | 3:8, 3:26 Records and recording, 3:16 |
| Investment contract, qualifying as, 3:9 | Registration, 3:12 , 3:19 , 3:20 , 3:28 |
| Investments held not to be securities, | |
| 3:9 | Respondent superior liability, 3:8, 3:24 |
| Investments held to be securities, 3:9 | Response (this index) |
| Joint and several liability, 3:17, 3:23 | Restatement (Second) of Torts, 3:23 , 3:33 |
| Jurisdiction, 3:3, 3:9 | Rule 10b-5, 3:10 |
| Lampf decision, 3:4 | Sale of securities |
| Limitation of actions, 3:4 | |
| Limitation of actions, 3.4 Limitations and restrictions, 3:27 | fraud and misrepresentation, 3:21, 3:29, 3:36 |
| Loss causation, 1:7 | offer, 3:22 |
| | |
| Market manipulation, 3:12 | unregistered security, 3:28 |

| COMPLAINTS—Cont'd | COMPLAINTS—Cont'd |
|--|---|
| SEC filings, fraudulent statements in, | 28 U.S.C.A. § 1332, diversity jurisdic- |
| 3:16 | tion, 3:3 |
| Secondary liability, 3:23 | Unconventional security, 3:8 |
| Securities Act of 1933 | Uniform limitation of actions, 3:4 |
| generally, 3:8, 3:18 | Uniform Securities Act, 3:29 |
| Section 5, 3:20 | Uniform Standards Act of 1998, 3:3, |
| Section 11, 3:19 | 3:27 |
| Section 12(a)(1), 3:20 | Unregistered securities, 3:20 , 3:28 Venue, 3:3 , 3:25 |
| Section 12(a)(2), 3:21 | Verification, 3:7 |
| Section 15, 3:23 | , |
| Section 17(a), 3:22 | CONFERENCES |
| Section 22(a), 3:3 | Discovery, 6:5 |
| Securities Exchange Act of 1934, 3:10 | CONFESSION OF JUDGMENT |
| Securities Exchange Act of 1934, generally, 3:3 et seq. | Settlement, 11:8 |
| Securities lawsuit, notice of, 3:40 | CONFIDENTIALITY |
| Security defined, 3:9 | Internal investigation committee work |
| Short-swing trading in company stock, | and findings, 1:9 |
| 3:15 | Settlement, 11:3 |
| Solicitation, 3:13 , 3:14 | CONSIDERATION |
| State law causes of action | Settlement, 11:3 |
| generally, 3:11, 3:27 to 3:34 | |
| common-law causes of action, 3:31 to | CONSOLIDATION |
| 3:34 | Arbitration, 12:4 |
| fiduciary duty, breach of, 3:32 | CONSPIRACY |
| fraud, 3:29 | Complaint, 3:8, 3:25 |
| fraud, common-law, 3:31 | • |
| negligence, 3:33 punitive damages, 3:34 | CONSTITUTIONAL CHALLENGES |
| State Securities Act, failure to regis- | Complaint, 3:4 |
| ter, 3:28 | CONSTITUTIONAL LAW |
| statutes, 3:28 to 3:30 | Arbitration, 12:7 |
| State law claims, 3:4 | Complaint, 3:34 |
| State Securities Act, 3:28, 3:30 | CONCERTIFICATO |
| Stock, 3:15 | CONSTITUTIONS |
| Strict liability, 3:15 , 3:20 | American Stock Exchange (AMEX), 12:3 |
| Supplemental jurisdiction, 3:3 | 12.3 |
| Supreme Court, 3:9 | CONSTRUCTION AND |
| Tender and tender offers, 3:14, 3:20, | INTERPRETATION |
| 3:21 | Arbitration, 12:3 |
| Section 10(b), Securities Exchange Act | Complaint, 3:9 |
| of 1934, 3:10 et seq. | CONTENTION INTERROGATORIES |
| Tests, 3:9 | Generally, 6:24 |
| Tolling, equitable, 3:4 | · |
| 28 U.S.C.A. § 1331, federal question | CONTINUANCE |
| iurisdiction. 3:3 | Summary judgment, 9:3 |

CONTRACTS AND AGREEMENTS

Arbitration (this index) Cross-claims, 4:5 Settlement (this index)

CONTRIBUTION

Cross-claims, 4:5

CONTRIBUTORY FAULT

Response, 4:15

CONTROL PERSON

Affirmative defense, 4:11, 4:13

CONTROL-PERSON LIABILITY

Securities Act of 1933, **3:23** Securities Exchange Act of 1934, **3:17**

CO-PARTIES

Cross-claims, 4:5

COPIES

Arbitration, 12:4

Discovery, requests for admissions, 6:8

CORPORATION

Complaint, individual shareholders, **3:7**

Discovery (this index)

CORRECTION

Arbitration, **12:8** Discovery, **6:4**, **6:6**, **6:7**

COUNTERCLAIM

Response (this index)

COURT-ORDERED DISCOVERY

Arbitration, 12:5

CROSS-CLAIM

Response (this index)

CULPABLE PARTICIPATION

Complaint, 3:17

DAMAGES

Arbitration, 12:7

Complaint (this index)

DEALERS

Financial Industry Regulatory Authority Code of Arbitration Procedure customer disputes, **App. 10**

industry disputes, App. 11

© 2024 Thomson Reuters, Rel. 22, 11/2024

DEFENSE

Response (this index)

DEFINITION

Claims, 11:3

Federal security, 3:9

Security, 3:9

Written discovery, 6:17 to 6:20

DELAWARE CARVE-OUT

Securities Litigation Uniform Standards Act of 1998 (SLUSA), **1:4**

DELAWARE COURT OF CHANCERY

Stockholder appraisal actions, 1:12

DELAY

Summary judgment, 9:3

DEMAND

Arbitration, 12:4

Complaint, 3:7

DEPOSITIONS

Generally, 6:9, 7:4

Notice, **6:13**

Summary judgment, 9:3

Written questions, **6:10**

DERIVATIVE ACTION

Complaint, 3:7

Settlement, 11:2

DERIVATIVE LIABILITY

Complaint, 3:17

DIRECTED MOTIONS

Generally, 7:4

DIRECTORS

Discovery (this index)

Litigation against bank directors by FDIC as receiver of closed banks,

1:11

DISCLOSURE

Generally, 10:3

Mandatory disclosure, 6:3, 6:4

DISCOVERY

Generally, 2:4, 6:1 to 6:48, 7:1 to 7:11

Accountants. Motions, below

Admissions, requests for, 6:8, 7:3

Affidavit, 7:6 to 7:9

| DISCOVERY—Cont'd | DISCOVERY—Cont'd |
|---|--|
| Amendments, 6:5 to 6:7 | Expenses, 7:3 |
| Answers, 6:6, 6:8 | Expert witnesses, 6:4 , 6:22 , 6:35 |
| Appropriate court, 7:3 | FRCP, generally, 6:1 to 6:48, 7:2 to |
| Arbitration, 12:3 , 12:5 | 7:11 |
| Attorneys | Freedom of Information Act (FOIA) |
| meetings among counsel, 6:3 | requests, 6:10 |
| motions, below | Good faith, 6:3 |
| of record, 6:3 | Initial disclosures, 6:4 |
| Authentication of documents, 6:8 | Inspection, 6:7 |
| Briefs (this index) | Instructions for written discovery, 6:17 |
| Broker-dealer. Motions, below | to 6:20 |
| Change or modification, 6:5 | International discovery, 6:10 |
| Changes, 6:3 | International financial markets and busi |
| Class action issues | ness transactions, 6:10 |
| document requests, 6:26 | Interrogatories |
| interrogatories, 6:23 | generally, 6:6 |
| Compel discovery, motions to, generally, | motions |
| 7:2 to 7:9 | generally, 6:17 , 6:18 |
| Conferences, 6:5 | accountants, 6:33 to 6:35 |
| Contention interrogatories, 6:24 | attorneys, 6:39, 6:40 broker-dealer, 6:44, 6:45 |
| Copies, 6:8 | |
| Corporation | issuers of securities and corporate directors, 6:27 to 6:29 |
| depositions and subpoenas, 6:9 | plaintiffs, discovery directed to, |
| directors. Motions, below | 6:21 to 6:24 |
| Corrections, 6:4 , 6:6 , 6:7 | special interrogatories, 10:3 |
| Definitions for written discovery, 6:17 | summary judgment, 9:3 |
| to 6:20 | Issuers of securities. Motions, below |
| Deposition (this index) | Joinder of parties, 6:5 |
| Directed motions, 7:4 | Letters of request, 6:10 |
| Directors. Motions, below | Limitations and restrictions, 6:3 , 6:5 , |
| Disclosure (this index) | 7:4 |
| Disputes, generally, 7:1 to 7:11 | Mandatory disclosure, 6:3 , 6:4 |
| Documents | Meetings among counsel, 6:3 |
| internal investigations, preservation and collection, 1:9 | Memorandum, 7:6 to 7:9 |
| , | Modification of subpoena, 7:4 |
| motions | Motions |
| generally, 6:19 , 6:20 | generally, 6:12 to 6:48, 7:3, 7:5 to |
| accountants, 6:36 to 6:38 | 7:11 |
| attorneys, 6:41 to 6:43 | accountants |
| broker-dealer, 6:46 to 6:48 | generally, 6:33 to 6:38 |
| class action issues, 6:26 | alternate example |
| issuers of securities and corporate | document requests, 6:37 , 6:38 |
| directors, 6:30 to 6:32 | interrogatories, 6:34 |
| plaintiffs, discovery directed to, | |
| 6:25, 6:26 | document requests, 6:36 to 6:38 expert witnesses, 6:35 |
| requests for, 6:7 | |
| Exceptions, 6:6 to 6:9 | interrogatories, 6:33 to 6:35 |

| DISCOVERY—Cont'd | DISCOVERY—Cont'd |
|---|--|
| Motions—Cont'd | Motions—Cont'd |
| attorneys | instructions for written discovery, |
| generally, 6:39 to 6:43 | 6:17 to 6:20 |
| alternate example | interrogatories |
| document requests, 6:42, 6:43 | generally, 6:17 , 6:18 |
| interrogatory, 6:40 | accountants, 6:33 to 6:35 |
| document requests, 6:41 to 6:43 | alternate example, 6:18 |
| interrogatories, 6:39, 6:40 | attorneys, 6:39 , 6:40 |
| brief | broker-dealer, 6:44 , 6:45 |
| affidavit, brief in opposition and, 7:7 to 7:9 | issuers of securities and corporate directors, 6:27 to 6:29 |
| alternate motion papers in sup- | plaintiffs, discovery directed to, |
| port, 7:8 | 6:21 to 6:24 |
| papers in opposition, 7:9 | issuers of securities and corporate |
| stay of discovery, brief in opposi- | directors |
| tion of, 7:11 | generally, 6:27 to 6:32 |
| stay of discovery, brief supporting, | alternate example |
| 7:10 | document requests, 6:31 , 6:32 |
| broker-dealer | interrogatories, 6:28, 6:29 |
| generally, 6:44 to 6:48 | document requests, 6:30 to 6:32 |
| alternate example | interrogatories, 6:27 to 6:29 |
| document requests, 6:47, 6:48 | limit discovery, 7:4 |
| interrogatories, 6:45 | limit discovery, 7.4 |
| document requests, 6:46 to 6:48 | notice of motion and motion, memo- |
| interrogatories, 6:44, 6:45 | randum in support, affidavit and |
| compel, generally, 7:2 et seq. | proposed order, 7:6 to 7:9 |
| compel discovery, 7:3, 7:6 to 7:9 | notice of taking depositions, 6:13 |
| corporate directors. Issuers of securi- | plaintiffs, discovery directed to |
| ties and corporate directors, | generally, 6:21 to 6:26 |
| below this group definitions for written discovery, 6:17 | class action issues, 6:23 , 6:26 |
| to 6:20 | contention interrogatories, 6:24 |
| directed motions, 7:4 | document requests, 6:25, 6:26 |
| directors. Issuers of securities and | expert witnesses, interrogatories, |
| corporate directors, below this | 6:22 |
| group | interrogatories, 6:21 to 6:24 |
| document requests | scheduling order, 6:16 |
| generally, 6:19 , 6:20 | |
| accountants, 6:36 to 6:38 | stay discovery, generally, 7:2 et seq. |
| alternate example, 6:20 | stipulated protective order, 6:14 , 6:15 |
| attorneys, 6:41 to 6:43 | Notice |
| broker-dealer, 6:46 to 6:48 | depositions, 6:9 , 6:13 |
| issuers of securities and corporate | motion, memorandum in support, |
| directors, 6:30 to 6:32 | affidavit and proposed order, 7:6 |
| plaintiffs, discovery directed to, | to 7:9 |
| 6:25, 6:26 | subpoenas, 6:9 |
| expert witnesses, 6:35 | Objections, 6:6 to 6:8 |
| filing motions, 6:5 | Oral examination, 6:9 |

| DISCOVERY—Cont'd | DISCOVERY—Cont'd |
|--|--|
| Order | Stipulation, 6:9, 6:11 |
| generally, 7:4 | Subpoena, 6:9 , 7:3 , 7:4 |
| notice of motion and motion, memo- | Subpoena duces tecum, 6:9 |
| randum in support, affidavit and | Supplements to answers, 6:6 |
| proposed order, 7:6 to 7:9 | Supplements to disclosures, 6:4 |
| preliminary orders, 6:5 | Supplement to responses, 6:7 |
| protective order, 7:3 | Taking, generally, 6:1 to 6:48 |
| scheduling orders, 6:5, 6:11, 6:16 | Time, 6:3 to 6:5, 6:11 |
| stipulated protective order, 6:14 , 6:15 | Unrepresented parties, 6:3 |
| Participate in discovery plan, failure to, 7:3 | Written acts and matters generally, 2:4 |
| Parties, unrepresented, 6:3 | definitions, 6:17 to 6:20 |
| Plan, 6:3 | instructions, 6:17 to 6:20 |
| Pleading requirements, generally, 6:1 to | questions, 6:10 |
| 6:11, 7:2 to 7:4 | report, 6:3, 6:4 |
| Preliminary orders, 6:5 | requests for admissions, 6:8 |
| Pretrial conference, 6:5, 6:11 | stipulation, 6:9 |
| Private corporations, 6:9 | • |
| Private Securities Litigation Reform Act of 1995, 7:2 et seq. | DISCRETION OF COURT Arbitration, 12:8 |
| Proposed order, 7:6 to 7:9 | DISMISSAL |
| Protective order, 6:14, 6:15, 7:3, 7:4 | Response (this index) |
| Public corporations, 6:9 | Response (this macx) |
| Quashal of subpoena, 7:4 | DISMISSAL WITH PREJUDICE |
| Reasonable notice, 6:9 | Exhibit B, stipulation for dismissal with |
| Records and recording, 6:5 | prejudice, 11:9 |
| Reports and reporting, 6:3, 6:4 | DISTRIBUTION |
| Requests for admissions, 6:8 , 7:3 | Settlement, 11:3 |
| Requests for documents and statements, 6:7 | DIVERSITY JURISDICTION |
| Responses, 6:7 | 28 U.S.C.A. § 1332, diversity jurisdic- |
| Sanctions, 6:3 to 6:5, 7:3 | tion, 3:3 |
| Scheduling order, 6:5 , 6:11 , 6:16 | DOCUMENT REQUESTS |
| Seasonable amendments to answers, 6:6 | Discovery (this index) |
| Seasonable amendments to responses, | DUE DILIGENCE |
| 6:7 | |
| Securities Act of 1933, generally, 6:1 | Response, 4:8 , 4:15 |
| Securities Exchange Act of 1934 | DUE PROCESS |
| generally, 6:1 | Complaint, 3:34 |
| Service of process and papers, 6:9, 7:3 | DURA DECISION |
| Settlement, 6:3 | Pleading loss causation, 1:7 |
| Stay | r leading loss causation, 1.7 |
| motions to stay discovery, generally, | ENFORCEMENT |
| 7:2 et seq. | Arbitration, 12:3 |
| Reform Act, stay provisions of, gener- | Corporation, 3:7 |
| ally, 7:2 et seq. | Insider Trading and Securities Fraud |
| Stipulated protective order, 6:14 , 6:15 | Enforcement Act of 1988, 3:18 |

ENTERPRISE, EXISTENCE OF

Complaint, 3:26

EQUITABLE TOLLING

Complaint, 3:4

ESTOPPEL

Response, 4:15

EVIDENCE

Admissibility of evidence, 3:25
Class actions, exhibit A-2, proof of claim and release, 11:13
Complaint, 3:20, 3:25, 3:34
Standard of proof, 3:34
Summary judgment, 9:3
Trial, 10:3

Witnesses (this index)

EXCEPTIONAL CIRCUMSTANCES

Arbitration, 12:3

EXCEPTIONS, EXCLUSIONS, AND EXEMPTIONS

Complaint, **3:27**Discovery, **6:6 to 6:9**Response, **4:9, 4:14**

EXCLUSIONS

Exceptions, Exclusions, and Exemptions (this index)

EXECUTED SUBMISSION AGREEMENT

Arbitration, 12:4

EXEMPTIONS

Exceptions, Exclusions, and Exemptions (this index)

EXHIBIT LIST

Defendants' forms, **10:16** Plaintiffs' forms, **10:9**

EXHIBITS

Identification, 10:3

EXPEDITED PROCEEDINGS

Arbitration, 12:4

EXPENSES

Discovery, 7:3
Settlement, 11:3
Summary judgment, 9:3

EXPERT REPORTS

Outline for plaintiffs', class certification on market efficiency, 8:12

EXPERT WITNESSES

Discovery, **6:4**, **6:22**, **6:35** Response, **4:8**

FALSE OR MISLEADING STATEMENTS

Complaint, 3:16

FAMILY RESEMBLANCE TEST

Complaint, 3:9

FEDERAL ARBITRATION ACT (FAA)

Arbitration (this index)

FEDERAL CAUSES OF ACTION

Complaint, 3:8, 3:9

FEDERAL COURTS

Arbitration, 12:3
Settlement, 11:3

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

Litigation against bank directors and officers by FDIC as receiver of closed banks, 1:11

FEDERAL DISTRICT

Local rules for, 10:2

FEDERAL QUESTION JURISDICTION

28 U.S.C.A. § 1331, **3:3**

FEDERAL RULES OF CIVIL PROCEDURE (FRCP)

Discovery (this index)

Rule 8, answer, **4:3**

Rule 8(a), complaint, 3:3

Rule 9(e), cross-claims, 4:5

Rule 10b-5, cross-claims, 4:5

Rule 11

Response (this index)

Rule 12. **Response** (this index)

Rule 13, response, 4:4, 4:5

Rule 14, third-party claims, 4:6

Rule 16(b), discovery, 6:5, 6:11

Rule 16(f), discovery, 6:5

Rule 18(b), cross-claims, 4:5

FEDERAL RULES OF CIVIL PROCEDURE (FRCP)—Cont'd

Rule 23

Class Certification (this index)
Settlement (this index)

Rule 23.1, complaint, 3:7

Rule 23(b)(3), settlement, 11:3

Rule 23(f). Class Actions (this index)

Rule 26. **Discovery** (this index)

Rule 29, stipulations and scheduling orders, **6:11**

Rule 30, depositions and subpoenas, 6:9

Rule 32(a), objections, 10:3

Rule 33, interrogatories, 6:6

Rule 34, discovery, **6:7, 6:9**

Rule 36, requests for admissions, **6:8**

Rule 37. **Discovery** (this index)

Rule 45. **Discovery** (this index)

Rule 49, trial, 10:3

Rule 51, trial, 10:3

Rule 56, summary judgment, 9:2, 9:3

Trial, 10:2

FEDERAL RULES OF EVIDENCE

Rule 402, trial, 10:3

Rule 403, trial, 10:3

FEDERAL SECURITIES

Complaint, 3:4, 3:23

Definition, 3:9

Trial. 10:3

FEDERAL VENUE STATUTE

Arbitration, 12:8

FEEDER FUNDS

Securities Litigation Uniform Standards Act of 1998 (SLUSA), **1:4**

FEES

Arbitration, 12:4

401(k) plan fee litigation, 1:6

Settlement, 11:3

FIDUCIARY DUTY, BREACH OF

Complaint, 3:32

FINANCIAL INDUSTRY

REGULATORY AUTHORITY (FINRA)

Customer disputes, Code of Arbitration Procedure, **App. 10**

FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)—Cont'd

Industry disputes, Code of Arbitration Procedure for, **App. 11**

FINANCIAL INSTITUTIONS

Securities litigation against bank directors and officers, 1:11

FORUM SELECTION

Arbitration, 12:3

Complaint, 3:3

401(K) PLANS

Fee litigation, 1:6

FRAUD AND MISREPRESENTATION

Complaint (this index)

Response, state law claims, 4:14

SEC filings, fraudulent statements, 3:16

FREEDOM OF INFORMATION ACT (FOIA)

Requests, 6:10

GOOD FAITH

Discovery, 6:3

Response

Reliance on counsel, 4:15

Securities Act Section 11, **4:8**

Securities Act Section 15, 4:11

Securities Act Section 18(a), 4:12

Securities Act Section 20, 4:13

state law claims, 4:14

Summary judgment, bad faith, 9:3

HEARING

Arbitration, 12:6

IDENTIFICATION

Documents or other exhibits, 10:3

Forum, 12:3

IMPEACHMENT

Generally, 10:3

'IN CONNECTION WITH' REQUIREMENT

Securities Litigation Uniform Standards Act of 1998 (SLUSA), **1:4**

INDEMNIFICATION

Cross-claims, 4:5

INDEPENDENT ACCOUNTING FIRM

Internal investigations, 1:9

INITIAL DISCLOSURES

Generally, **6:4**

INITIATING CLAIM

Arbitration, 12:4

IN LIMINE MOTION

Notice with supporting memorandum, 10:12, 10:13

INNOCENCE OF PLAINTIFF

Complaint, 3:16, 3:21, 3:29

IN PARI DELICTO

Response, 4:15

INSIDER TRADING AND SECURITIES FRAUD

ENFORCEMENT ACT OF 1988

Complaint, 3:18

INSPECTION

Requests for documents and statements, **6:7**

INSTRUCTIONS

Written discovery, 6:17 to 6:20

INTENT

Arbitration, 12:4

INTEREST ON MONEY

Settlement, prejudgment interest, 11:3

INTERLOCUTORY REVIEW OF CLASS CERTIFICATION

Opposition to petition for interlocutory appeal, **8:10**

Orders, 8:4

Petition for interlocutory appeal, 8:9

INTERNAL INVESTIGATIONS

Advance definition of purpose and scope, **1:9**

Confidentiality of work and findings, **1:9** Cooperation with regulatory bodies, **1:9**

Independent accounting firm, selection by outside counsel, **1:9**

Outside counsel, selection, 1:9

Preservation and collection of electronic and paper documents, **1:9**

INTERNAL INVESTIGATIONS

-Cont'd

Responsibility, 1:9

Strategic considerations, 1:9

INTERNATIONAL DISCOVERY

Generally, 6:10

INTERNATIONAL FINANCIAL MARKETS AND BUSINESS TRANSACTIONS

Discovery, 6:10

INTERROGATORIES

Discovery (this index)

INTERSTATE MEANS

Complaint (this index)

INTERVENING CAUSE

Response, 4:15

INTERVENTION

Settlement, 11:3

INVESTIGATIONS

Advance definition of purpose and scope of internal investigations, **1:9**

Confidentiality of work and findings, 1:9

Cooperation with regulatory bodies, 1:9

Independent accounting firm, selection by outside counsel, **1:9**

Outside counsel, selection for internal investigations, 1:9

Preservation and collection of electronic and paper documents, **1:9**

Responsibility for internal investigations, **1:9**

Securities litigation against bank directors and officers, 1:11

Strategic considerations in internal investigations, **1:9**

ISSUERS OF SECURITIES

Discovery (this index)

JANUS CASE

Primary and secondary liability, 1:3

JOINDER AND CONSOLIDATION OF ACTIONS

Arbitration, 12:4

JOINDER OF PARTIES

Discovery, 6:5

JOINT AND SEVERAL LIABILITY

Complaint, **3:17**, **3:23** Cross-claims, **4:5**

JOINT ANSWER

Arbitration, 12:14

JUDGMENT

Motions for judgment as matter of law, 10:3

Settlement

class actions, proposed judgment, 11:15

exhibit A, confession of judgment,

11:8 exhibit B, proposed judgment, 11:15

Summary Judgment (this index)

JURISDICTION

Complaint, 3:3, 3:9

JURORS

Generally, 10:3

JURY INSTRUCTIONS

Generally, 10:3

Defendants' forms, proposed jury instructions and verdict form, 10:17

Plaintiffs' forms, requested jury instructions and verdict form, **10:10**

KNOWLEDGE

Notice and Knowledge (this index)

LACHES

Response, 4:15

LAMPF DECISION

Complaint, 3:4

LETTERS OF REQUEST

Generally, 6:10

LIMITATION OF ACTIONS

Complaint, 3:4

LIMITATIONS AND RESTRICTIONS

Arbitration, 12:5 Complaint, 3:27 **Discovery** (this index)

Index-14

LOCAL RULES

Trial, 10:2

LORENZO CASE

Primary and secondary liability, 1:3

LOSS CAUSATION

Pleading in fraud action, 1:7

MADOFF FEEDER FUND CASES

Securities Litigation Uniform Standards Act of 1998 (SLUSA), **1:4**

MANDATORY DISCLOSURE

Generally, 6:3, 6:4

MANDATORY PRETRIAL SUBMISSIONS

Generally, 10:3

MARKET EFFICIENCY

Outline for plaintiffs' expert report at class certification, **8:12**

MARKET MANIPULATION

Complaint, 3:12

MATERIAL FACT

Summary judgment, 9:3

MATERIALITY

Complaint (this index)

MATSUSHITA DECISION

Settlement, 11:3

Summary judgment, 9:3

MEETINGS AMONG COUNSEL

Discovery, **6:3**

MEMORANDUM

Arbitration (this index)

Class certification, **8:6 to 8:8**

Defendants' forms, 10:12, 10:13

Discovery, 7:6 to 7:9

MISREPRESENTATION

Fraud and Misrepresentation (this index)

MISSTATEMENT

Complaint, 3:13

MODIFICATION OR CHANGE

Arbitration, 12:8

Discovery, 6:3, 6:5

MODIFICATION OR CHANGE

—Cont'd Subpoena, 7:4

MOTION

Arbitration, 12:10 to 12:12 Class Certification (this index) Discovery (this index)

Judgment as matter of law, 10:3
Notice of motion and motion in limine
with supporting memorandum,
10:12, 10:13

Response (this index)

Settlement, motion to intervene, 11:3
Summary Judgment (this index)

MOTIONS IN LIMINE Generally, 10:3, 10:12, 10:13

MULTIPARTY CASES

Settlement, 11:3

MULTIPLE CAUSES OF ACTION Complaint, 2:2

NATIONAL ASSOCIATION OF SECURITIES DEALERS (NASD)

Generally, 12:2 et seq.

NATIONAL EXCHANGE

Complaint, 3:12

NEGLIGENCE

Complaint, 3:21, 3:22, 3:29, 3:33
Response, 4:10, 4:14
Securities litigation against bank dir

Securities litigation against bank directors and officers, 1:11

NEW YORK RULE

Arbitration, 12:7

NEW YORK STOCK EXCHANGE (NYSE)

Arbitration, 12:2 et seq.

Summary judgment, **9:3** Trial, **10:3**, **10:12**, **10:13**

NOTICE AND KNOWLEDGE

Arbitration, 12:4
Discovery, 6:9, 6:13, 7:6 to 7:9
Response (this index)
Securities lawsuit, notice of, 3:40
Settlement, 11:3, 11:12, 11:14

OBJECTIONS

Discovery, **6:6 to 6:8** FRCP Rule 32(a), **10:3** Settlement, **11:3** Trial, **10:3**

OFFER

Complaint, **3:14**, **3:22** Response, **4:14**

OFFICERS AND DIRECTORS

Litigation by FDIC as receiver of closed banks, 1:11

OMISSION

Complaint (this index)

OPEN MARKET

Complaint, 3:37

OPT-OUT

Notice in Rule 10b-5 case, **8:11** Settlement, **11:3**

ORAL COMMUNICATION

Complaint, 3:21

ORAL EXAMINATION

Generally, 6:9

ORDER

Arbitration, 12:3, 12:5
Defendants' forms, 10:13
Discovery (this index)
Settlement in class actions, 11:11

PARTIAL SUMMARY JUDGMENT

Generally, 9:3

PARTICIPATION

Complaint, culpable participation, **3:17** Discovery, **7:3** Settlement, **11:3**

PARTICULARITY

Complaint, 3:5, 3:7

PARTIES

Arbitration, **12:3**Unrepresented parties, **6:3**

PATTERN, EXISTENCE OF

Complaint, 3:26

PENDING ACTS AND MATTERS

Arbitration, 12:3

Class actions, 11:12, 11:14

PENSION PLAN LITIGATION

401(k) fee, **1:6**

PERSONAL JURISDICTION

Complaint, 3:3

PERSONAL KNOWLEDGE

Summary judgment, 9:3

PERSON LIABLE

Complaint (this index)

PREEMPTION

Arbitration, 12:2

State law class actions, Securities Litigation Uniform Standards Act of 1998 (SLUSA), 1:4

PREJUDGMENT INTEREST

Settlement, 11:3

PREJUDICE

Settlement, 11:9

PRELIMINARY ORDERS

Generally, 6:5

PRETRIAL CONFERENCE

Generally, 6:5

Stipulations and scheduling orders, 6:11

PRETRIAL SUBMISSION

Mandatory pretrial submissions, 10:3

PRIVATE CORPORATIONS

Discovery, 6:9

PRIVATE RIGHT OF ACTION

Complaint (this index)

PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

Generally, 1:1 et seq., App. 5

Complaint, 3:4

Discovery (this index)

15 U.S.C.A. § 78u-4, et seq., generally,

1:1 et seq.

Major developments and issues, **1:2** Pub. L. No. 104-67, 202 Stat. 737

(1995), generally, **1:1 et seq.**

Response, 4:3

Index-16

PROPORTIONATE LIABILITY

Cross-claims, 4:5

PROSPECTUS

Complaint, misrepresentation or omission in prospectus, **3:21**

PROTECTIVE ORDER

Generally, 7:3, 7:4

Stipulated protective order, 6:14, 6:15

PROXY

Complaint

fraud in connection with solicitation, 3:14

5:14

fraud in statements, 3:38

solicitation, 3:13

PUBLIC CORPORATIONS

Depositions and subpoenas, 6:9

PUBLIC OFFERINGS

Complaint, 3:21

PUBLIC OFFICIALS

Response, Securities Act Section 11, 4:8

PUNITIVE DAMAGES

Arbitration, 12:7

Complaint, 3:34

QUALIFICATIONS

Investment contract, qualifying as, 3:9

OUASHAL

Subpoena, 7:4

QUESTIONS OF LAW OR FACT

Arbitration, 12:4, 12:8

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS (RICO)

Complaint, 3:3 to 3:5, 3:8, 3:26

18 U.S.C. §§ 1961 et seq., App. 4

Federal causes of action, 3:26

Section 1964(c), 3:3

Section 1965, 3:3

RATIFICATION

Response, 4:15

REASONABLE EXPENSES

Summary judgment, 9:3

| REASONABLE NOTICE | RESPONSES—Cont'd |
|--|--|
| Depositions and subpoenas, 6:9 | Affirmative defense |
| RECEIVERSHIP | generally, 4:7 to 4:15 |
| | answer, 4:3 |
| Litigation by FDIC as receiver of closed banks, 1:11 | nonstatutory defenses, 4:15 |
| , | Securities Act |
| RECORDS AND RECORDING | control person, Section 15, 4:11 |
| Arbitration, 12:6 | control person, Section 20, 4:13 |
| filing answer, 12:4 | Section 5, 4:9 |
| filing claim, 12:4 | Section 11, 4:8 |
| filing fee, 12:4 | Section 12(a)(1), 4:9 |
| Complaint, fraudulent statements in | Section 12(a)(2), 4:10 |
| SEC filings, 3:16 | Section 15, 4:11 |
| Discovery, filing motions, 6:5 | Section 18(a), 4:12 |
| Summary judgment, 9:3 | Section 20, 4:13 |
| REFORM ACT | state law claims, 4:14 |
| Private Securities Litigation Reform | statutory defenses, generally, 4:8 to |
| Act of 1995 (this index) | 4:13 |
| REGISTRATION | Answer |
| | generally, 2:3, 4:1 to 4:27 |
| Complaint, 3:12, 3:19, 3:20, 3:28 | affirmative defenses, 4:3 |
| Response, 4:9 , 4:14 | alternate example, 4:18 , 4:19 |
| REHEARING | arbitration, 12:4, 12:14 |
| Arbitration, 12:8 | combined answer, counterclaims, |
| RELEASE | cross-claims and third-party |
| | complaint, 4:23 |
| Settlement (this index) | cross-claims and, 4:20 |
| RELIANCE | alternate example, 4:21 FRCP Rule 8, 4:3 |
| Complaint (this index) | |
| Response, good faith reliance on | FRCP Rule 11, 4:3 |
| counsel, 4:15 | FRCP Rule 12, 4:3 interrogatories, 6:6 |
| RENEWAL | knowledge, information, and belief of |
| Motions for judgment, 10:3 | attorney, 4:3 |
| | motions in lieu of answer, below |
| REPLY | Private Securities Litigation Reform |
| Response (this index) | Act of 1995, 4:3 |
| REPORTS AND REPORTING | requests for admissions, 6:8 |
| Discovery, written report, 6:3 , 6:4 | responsive allegations, 4:3 |
| Internal investigations, 1:9 | sample pleading, 4:17 |
| | sanctions, 4:3 |
| RESCISSION | Securities Act, 4:3 |
| Response, 4:14 | Securities Exchange Act, 4:3 |
| RESPONDEAT SUPERIOR | Summary judgment, 9:3 |
| LIABILITY | • • • |
| Complaint, 3:8, 3:24 | third-party complaint, 4:26 |
| • | alternate example, 4:27 |
| RESPONSES | Arbitration, 12:4 |
| Generally, 2:3, 4:1 to 4:27, 5:1 to 5:14 | Assumption of risk, 4:15 |

| RESPONSES—Cont'd | RESPONSES—Cont'd |
|---|--|
| Attorneys, 4:3, 4:15 | Cross-claim—Cont'd |
| Briefs (this index) | reply to cross-claims, 4:24 |
| Causation, 4:8 | alternate example, 4:25 |
| Challenges, 2:3 | summary judgment, 9:3 |
| Class certification, 8:7, 8:8 | time, 4:5 |
| Combined answer, counterclaims, cross- | Uniform Securities Act, 4:5 |
| claims and third-party complaint, | Defense. Affirmative defense, above |
| 4:23 | Dismiss, motion to, 5:3 |
| Common-law claims, 4:5 | Dismiss, motion to. Motions in lieu of |
| Contractual relationship, 4:5 | answer, below |
| Contribution, 4:5 | Documents and statements, requests for |
| Contributory fault, 4:15 | 6:7 |
| Control person, Section 15, 4:11 | Due diligence, 4:8 , 4:15 |
| Control person, Section 20, 4:13 | Estoppel, 4:15 |
| Co-parties, 4:5 | Exemption, registration, 4:9, 4:14 |
| Counterclaim | Expert witnesses, 4:8 |
| generally, 2:3, 4:1 to 4:27 | Failure to pay for investments, 4:4 |
| arbitration, 12:4 | Fraud, 4:14 |
| combined answer, counterclaims, | FRCP 13, cross-claims, 4:5 |
| cross-claims and third-party | FRCP Rule 8, answer, 4:3 |
| complaint, 4:23 failure to pay for investments, 4:4 | FRCP Rule 9(e), cross-claims, 4:5 |
| FRCP Rule 11, 4:4 | FRCP Rule 10b-5, cross-claims, 4:5 |
| FRCP Rule 13, 4:4 | FRCP Rule 11 |
| summary judgment, 9:3 | answer, 4:3 |
| Cross-claim | counterclaims, 4:4 |
| generally, 2:3 , 4:1 to 4:27 | cross-claims, 4:5 |
| answer and, 4:20 | motions in lieu of answer, below |
| alternate example, 4:21 | third-party claims, 4:6 |
| arbitration, 12:4 | FRCP Rule 12 |
| combined answer, counterclaims, | answer, 4:3 |
| cross-claims and third-party | motions in lieu of answer, below |
| complaint, 4:23 | FRCP Rule 12(2), cross-claims, 4:5 |
| common-law claims, 4:5 | FRCP Rule 13, counterclaims, 4:4 |
| contractual relationship, 4:5 | FRCP Rule 14, third-party claims, 4:6 |
| contribution, 4:5 | FRCP Rule 18(b), cross-claims, 4:5 |
| co-parties, 4:5 | Good faith |
| FRCP Rule 9(e), 4:5 | reliance on counsel, 4:15 |
| FRCP Rule 10b-5, 4:5 | Securities Act Section 11, 4:8 |
| FRCP Rule 11, 4:5 | Securities Act Section 15, 4:11 |
| FRCP Rule 12(2), 4:5 | Securities Act Section 18(a), 4:12 |
| FRCP Rule 13, 4:5 | Securities Act Section 20, 4:13 |
| FRCP Rule 18(b), 4:5 | state law claims, 4:14 |
| indemnification, 4:5 | Indemnification, 4:5 |
| joint and several liability, 4:5 | Intervening cause, 4:15 |
| knowledge, 4:5 | Joint and several liability, 4:5 |
| proportionate liability, 4:5 | Laches, 4:15 |
| proportionate natifity, 7.3 | Lacites, T. 12 |

| RESPONSES—Cont'd | RESPONSES—Cont'd |
|---|--|
| Motions in lieu of answer | Registration, 4:9, 4:14 |
| generally, 5:1 to 5:14 | Reliance on counsel, good faith, 4:15 |
| dismiss, motion to | Reply |
| generally, 5:3 | arbitration, 12:12 |
| brief in opposition, 5:8 , 5:9 | class certification, 8:8 |
| brief in support of, 5:7 | cross-claims, 4:24 |
| reply brief, 5:9 | alternate example, 4:25 |
| sample motions, generally, 5:6 to | motions in lieu of answer, 5:9 |
| 5:9 | summary judgment, 9:7 |
| exhibits, motion to strike, 5:13 , 5:14 | Rescission, 4:14 |
| pleading requirements, generally, 5:2 | Sample pleadings, generally, 4:16 to |
| to 5:4 | 4:27 |
| sample motions, generally, 5:5 to | Sanctions, 4:3 |
| 5:12 | Securities Act |
| strike exhibits, motion to, 5:13 , 5:14 transfer, motion to | affirmative defense, above |
| generally, 5:4 | answer, 4:3 |
| brief in opposition, 5:12 | Securities Exchange Act, 4:3 |
| brief in support, 5:11 | Settlement, 4:14 |
| | State law claims, 4:14 |
| notice, 5:10 to 5:14 | Statutes. Affirmative defense, above |
| sample motions, 5:10 to 5:14 | Third-party claims and complaints |
| venue, change of, generally, 5:10 to 5:14 | generally, 2:3, 4:1 to 4:27 |
| 0111 | answer to third-party complaint, 4:26 |
| venue, change of. Transfer, motion to, above this group | alternate example, 4:27 |
| Motion to dismiss. Motions in lieu of | arbitration, 12:4 |
| answer, above, 2:3 | combined answer, counterclaims, |
| Motion to transfer. Motions in lieu of | cross-claims and third-party complaint, 4:23 |
| answer, above | FRCP Rule 11, 4:6 |
| Negligence, absence of, 4:10, 4:14 | FRCP Rule 14, 4:6 |
| Nonsellers, 4:14 | Time, 4:5 |
| Nonstatutory defenses, 4:15 | |
| Notice and knowledge | Transfer, motion to, 5:4 Unclean hands, 4:14 |
| answer, 4:3 | |
| cross-claims, 4:5 | Uniform Securities Act, 4:5 |
| motions in lieu of answer, 5:10 to | Venue, change of. Motions in lieu of answer, above |
| 5:14 | Waiver, 4:15 |
| Securities Act Section 11, 4:8 | Withdrawal, 4:8 |
| Offer of rescission or settlement, 4:14 | willidrawai, 4:8 |
| In pari delicto, 4:15 | RESTATEMENT (SECOND) OF |
| Pleading requirements, generally, 4:2 to | TORTS |
| 4:6 | Complaint, 3:23 , 3:33 |
| Private Securities Litigation Reform Act | |
| of 1995, 4:3 | RETIREMENT PLAN LITIGATION |
| Proportionate liability, 4:5 | 401(k) fee, 1:6 |
| Public officials, 4:8 | SALE OF SECURITIES |
| Ratification, 4:15 | Complaint (this index) |
| , | - · · r · · · · · · · · · · · · · · · · · · · |

exhibit B, proposed judgment, 11:15

stipulation of settlement, 11:10

SECURITIES LITIGATION SANCTIONS UNIFORM STANDARDS ACT OF Discovery, 6:3 to 6:5, 7:3 1998 (SLUSA)—Cont'd Response, 4:3 'In connection with' requirement, 1:4 SCHEDULING ORDER Madoff feeder funds case. 1:4 Generally, 6:5, 6:11 Recent developments, 1:4 Limiting time, 6:5 **SECURITY** Motions, **6:16** Defined, 3:9 **SCIENTER SELF-REGULATORY Complaint** (this index) **ORGANIZATIONS (SROs)** SEASONABLE AMENDMENTS **Arbitration** (this index) Answers, 6:6 SEPARATE PROCEEDINGS Responses, 6:7 Settlement, 11:3 SEC SERVICE OF PROCESS AND PAPERS Securities Exchange Commission (this index) Arbitration, 12:4 Depositions, 6:9 SECONDARY LIABILITY Subpoenas, 6:9, 7:3 Complaint, 3:23 SETTLEMENT **SECURITIES ACT OF 1933** Generally, 2:6, 11:1 to 11:16 Answer, 4:3 Admissions, none, 11:3 **Complaint** (this index) Agreement and release **Discovery** (this index) generally, 11:5 to 11:9 15 U.S.C. §§ 77a et seq., **App. 2** alternate example, 11:6 to 11:9 Settlement. 11:3 class actions, 11:13 SECURITIES EXCHANGE ACT OF exhibit A, confession of judgment, 1934 11:8 Answer. 4:3 exhibit B, stipulation for dismissal **Complaint** (this index) with prejudice, 11:9 **Discovery** (this index) supplemental agreement, class action, 15 U.S.C. §§ 78a et seq., App. 3 11:16 Appeal and review, 11:3 Settlement, 11:3 Attorneys' fees, 11:3 Trial, 10:3 Class actions SECURITIES EXCHANGE generally, 11:1 to 11:16 **COMMISSION (SEC)** exhibit A, preliminary approval order, Fraudulent statements in filings, 3:16 11:11 Rules, App. 7 exhibit A-1, notice of pendency and SECURITIES LITIGATION proposed settlement of class UNIFORM STANDARDS ACT OF action, 11:12 1998 (SLUSA) exhibit A-2, proof of claim and release, 11:13 Generally, 1:4, App. 6 'Coincides' and 'in connection with' exhibit A-3, summary notice of requirements, 1:4 pendency and proposed settlement, 11:14 Delaware carve-outs, 1:4

Feeder funds and 'in connection with'

requirements, 1:4

| SETTLEMENT—Cont'd | SETTLEMENT—Cont'd |
|--|--|
| Class actions—Cont'd | Summary notice of pendency and |
| supplemental agreement, 11:16 | proposed settlement, 11:14 |
| Common fund doctrine, 11:3 | SHORT-SWING TRADING |
| Confession of judgment, 11:8 | Complaint, 3:15 |
| Confidentiality, 11:3 | 1 |
| Consideration, 11:3 | SIMPLIFIED PROCEEDINGS |
| Definition of claims, 11:3 | Arbitration, 12:4 |
| Derivative actions, 11:2 | SOLICITATION |
| Discovery, 6:3 | Complaint, 3:13, 3:14 |
| Dismissal with prejudice, 11:9 | |
| Distribution, 11:3 | SPECIAL INTERROGATORIES |
| Evidence, 11:13 | Generally, 10:3 |
| Expenses, 11:3 | STANDING TO SUE |
| Federal court actions, 11:3 | Complaint (this index) |
| Fees, 11:3 | |
| FRCP Rule 23, generally, 11:2 to 11:16 | STATE COURTS |
| FRCP rule 23(b)(3), 11:3 | Arbitration, 12:3 |
| Interest on money, 11:3 | Settlement, 11:3 |
| Intervention, 11:3 | STATE LAWS |
| Judgment, confession of, 11:8 | Arbitration, 12:2 |
| Judgment proposal, 11:15 | Causes of action. Complaint (this |
| Matsushita decision, 11:3 | index) |
| Motion to intervene, 11:3 | Class actions, Securities Litigation |
| Multiparty cases, 11:3 | Uniform Standards Act of 1998 |
| Nonsettling defendants in multiparty | (SLUSA), 1:4 |
| cases, 11:3 | Complaint, 3:28, 3:30 |
| Notice, 11:3, 11:12, 11:14 | STATEMENT OF CASE OR CLAIM |
| Objections, 11:3 | |
| Opt-out, 11:3 | Arbitration, 12:4, 12:13, 12:14 |
| Order, 11:11 | Defendants' forms, 10:11 |
| Participation, 11:3 | Plaintiffs' forms, 10:5 |
| Pendency of class action and proposed | STATEMENT OF FACTS |
| settlement, 11:12 | Summary judgment, 9:2 |
| Pleading requirements, generally, 11:2, | |
| 11:3 | STATEMENTS, REQUESTS FOR |
| Prejudgment interest, 11:3 | Generally, 6:7 |
| Prejudice, dismissal with, 11:9 | STATUTES |
| Preliminary approval order, 11:11 | |
| Proposed judgment, 11:15 | Arbitration, federal venue statute, 12:8 |
| Release. Agreement and release, above | Complaint, 3:18, 3:27, 3:28 to 3:30 |
| Response, 4:14 | ERISA (this index) |
| Securities Act of 1933, 11:3 | Federal Arbitration Act, 9 U.S.C. §§ 1- |
| Securities Exchange Act of 1934, 11:3 | 15, App. 9 Eroadom of Information Act (EQIA) |
| Separate proceedings, 11:3 | Freedom of Information Act (FOIA) |
| State court actions, 11:3 | requests, 6:10 Insider Trading and Securities Froud |
| State court actions, 11:3 Stipulations, 11:9, 11:10 | Insider Trading and Securities Fraud Enforcement Act of 1988, 3:18 |
| 5upulauolis, 11.9, 11.10 | Embreement Act of 1700, 3.10 |

| STATUTES—Cont'd | SUBMISSION AGREEMENT |
|---|---|
| Private Securities Litigation Reform Act of 1995, 1:1 et seq., App. 5 | Arbitration, 12:4 |
| Private Securities Litigation Reform | SUBMISSIONS |
| Act of 1995 (this index) | Mandatory pretrial submissions, 10:3 |
| Racketeer Influenced and Corrupt Organizations (RICO) (this index) Response (this index) | SUBPOENA Generally, 6:9, 7:4 Failure to attend or serve, 7:3 |
| Securities Act of 1933 (this index) | SUBPOENA DUCES TECUM |
| Securities Exchange Act of 1934 (this index) | Generally, 6:9 |
| Securities Exchange Commission (SEC) Rules, App. 7 | SUMMARIES Identification of, 10:3 |
| Securities Litigation Uniform Standards Act of 1998, 1:4, App. 6 State law causes of action, 3:28 to 3:30 Title 28, United States Code, App. 1 28 U.S.C., App. 1 Uniform Securities Act, App. 8 | SUMMARY JUDGMENT Generally, 2:5, 9:1 to 9:7 Admissibility of evidence, 9:3 Admissions, 9:3 Affidavits, 9:3 Anderson ruling, 9:3 |
| STAY | Answer, 9:3 |
| Generally, 7:10, 7:11 | Attorneys' fees, 9:3 |
| Arbitration, 12:3 | Bad faith, 9:3 Brief, 9:2, 9:5 to 9:7 |
| Motions, generally, 7:2 et seq. | Celotex ruling, 9:3 |
| Reform Act, stay provisions of, generally, 7:2 et seq. | Claims, 9:3 Continuance, 9:3 |
| STIPULATED PROTECTIVE ORDER | Counterclaim, 9:3 |
| Motions, 6:14, 6:15 | Cross-claim, 9:3 |
| | Delay, 9:3 |
| STIPULATION | Depositions, 9:3 |
| Generally, 6:11 | Evidence, 9:3 |
| Class action, settlement, 11:10 | Expenses, 9:3 |
| Depositions and subpoenas, 6:9 | FRCP Rule 56, 9:2, 9:3 |
| Settlement, 11:9, 11:10 | Interrogatories, 9:3 |
| STOCK | Knowledge, 9:3 |
| Complaint, 3:15 | Material fact, 9:3 |
| _ | Matsushita ruling, 9:3 |
| STOCKHOLDER APPRAISAL | Motions |
| ACTIONS | generally, 9:3 to 9:7 |
| Delaware Court of Chancery, 1:12 | defendant's brief in support, 9:5 to |
| STONERIDGE INVESTMENT | 9:7 |
| PARTNERS, LLC. v. | defendant's reply brief, 9:7 |
| SCIENTIFIC-ATLANTA, INC. | plaintiff's brief in opposition, 9:6, 9: |
| Primary and secondary liability, 1:3 | Partial summary judgment, 9:3 Personal knowledge, 9:3 |
| STRICT LIABILITY | Pleading requirements, generally, 9:2 , |
| Complaint, 3:15, 3:20 | 9:3 |
| | |

Index-22

| SUMMARY JUDGMENT—Cont'd Reasonable expenses, 9:3 | TOLLING Complaint, equitable tolling, 3:4 |
|--|--|
| Records and recording, 9:3 | |
| Reply, 9:7 | TRIAL |
| Statement of facts, 9:2 | Generally, 2:6, 10:1 to 10:17 |
| Supporting materials, 9:2 | Arbitration, 12:3 Briefs, 10:3 , 10:6 , 10:11 |
| Supreme Court rulings, 9:3 | Defendants' forms |
| SUMMARY NOTICE | generally, 10:11 to 10:17 |
| Settlement, class action pendency and | brief, 10:11 |
| proposed settlement, 11:14 | exhibit list, 10:16 |
| SUPPLEMENTAL AGREEMENT | notice of motion and motion in limine |
| Settlement, class action, 11:16 | with supporting memorandum, |
| | 10:12, 10:13 |
| SUPPLEMENTAL JURISDICTION | proposed jury instructions and verdict form, 10:17 |
| Complaint, 3:3 | proposed order, 10:13 |
| SUPPLEMENTS TO ANSWERS | proposed order, 10:13 proposed voir dire questions, 10:14 |
| Generally, 6:6 | statement of case, 10:11 |
| SUPPLEMENTS TO DISCLOSURES | witness list, 10:15 |
| | Disclosures, 10:3 |
| Generally, 6:4 | Evidence, 10:3 |
| SUPPLEMENT TO RESPONSES | Exhibit list, 10:9, 10:16 |
| Generally, 6:7 | Exhibits, identification of, 10:3 |
| SUPREME COURT | Federal district, local rules for, 10:2 |
| Arbitration, 12:3 | Federal Rules of Civil Procedure |
| Complaint, 3:9 | (FRCP), generally, 10:2 |
| Dura decision, 1:7 | Federal Rules of Evidence Rule 402, |
| Lampf decision, 3:4 | 10:3 |
| Matsushita decision, 9:3 , 11:3 | Federal Rules of Evidence Rule 403, 10:3 |
| Summary judgment, 9:3 | Federal securities laws, 10:3 |
| TENDER | Identification of documents or other |
| Complaint, 3:14, 3:20, 3:21 | exhibits, 10:3 |
| Complaint, 3.14 , 3.20 , 3.21 | Impeachment, 10:3 |
| TESTS | In limine motion, 10:12 , 10:13 |
| Family resemblance test, 3:9 | Interrogatories, special, 10:3 |
| THIRD-PARTY CLAIMS | Judgment as matter of law, motions for, |
| Response (this index) | 10:3 |
| | Jurors, 10:3 |
| TIME | Jury instructions, 10:3 , 10:10 , 10:17 Knowledge, 10:3 |
| Arbitration, 12:3 , 12:8 | Lists, 10:8 , 10:9 , 10:15 , 10:16 |
| Cross-claims, 4:5 | Local rules, 10:2 |
| Discovery, 6:3 to 6:5, 6:11 | Mandatory pretrial submissions, 10:3 |
| Limitation of actions, 3:4 | Memorandum, 10:12 , 10:13 |
| Trial, 10:3 | Motions, 10:3, 10:12, 10:13 |
| TITLE 28, UNITED STATES CODE | Notice, 10:12 , 10:13 |
| Generally, App. 1 | Objections, 10:3 |

| TRIAL—Cont'd | UNIFORM SECURITIES ACT |
|---|--|
| Order, 10:13 | Generally, App. 8 |
| Plaintiffs' forms | Complaint, 3:29 |
| generally, 10:5 to 10:10 | Cross-claims, 4:5 |
| brief, 10:6 | Response, 4:5 |
| exhibit list, 10:9 | Section 501(2), 3:29 |
| proposed voir dire questions, 10:7 | Section 605(a), 3:29 |
| requested jury instructions and verdict | UNIFORM STANDARDS ACT OF 1998 |
| form, 10:10 | Complaint, 3:3, 3:27 |
| statement of case, 10:5 | • |
| witness list, 10:8 | UNITED STATES CODE |
| Pleading requirements, generally, 10:2 , 10:3 | Title 28, App. 1 |
| Proposed jury instructions and verdict | UNREGISTERED SECURITIES |
| form, 10:17 | Complaint, 3:20, 3:28 |
| Proposed order, 10:13 | Sale, 3:28 |
| Proposed voir dire questions, 10:7 , | UNREPRESENTED PARTIES |
| 10:14 | Discovery, 6:3 |
| Renewed motions for judgment, 10:3 | • |
| Securities Exchange Act, 10:3 | VACATION OF AWARD |
| Special interrogatories, 10:3 | Arbitration, 12:8 |
| Statement of case, 10:5 , 10:11 | VENUE |
| Submissions, 10:3 | Arbitration, 12:8 |
| Summaries, identification of, 10:3 | Complaint, 3:3 , 3:25 |
| Time, 10:3 | Response (this index) |
| Verdict form, 10:3, 10:10, 10:17 | • • |
| Voir dire, 10:3 , 10:7 , 10:14 | VERDICT FORM |
| Witnesses, 10:3 | Generally, 10:3 |
| Witness list, 10:8, 10:15 | Defendants' proposed forms, 10:17 |
| 28 U.S.C. | Plaintiffs' proposed forms, 10:10 |
| Generally, App. 1 | VERIFICATION |
| | Complaint, 3:7 |
| 28 U.S.C.A. § 1331 | • |
| Complaint, 3:3 | VOIR DIRE |
| 28 U.S.C.A. § 1332 | Defendants' proposed voir dire questions, 10:14 |
| | Plaintiffs' proposed voir dire questions, |
| Complaint, 3:3 | 10:7 |
| UNCLEAN HANDS | Proposed questions, 10:3 , 10:7 , 10:14 |
| Response, state law claims, 4:14 | |
| | WAIVER |
| UNCONVENTIONAL SECURITY | Response, 4:15 |
| Complaint, 3:9 | WITHDRAWAL |
| UNIFORM ARBITRATION ACT | Response, Securities Act Section 11, 4:8 |
| Arbitration (this index) | • |
| • | WITNESSES |
| UNIFORM LIMITATION OF | Generally, 10:3 |
| ACTIONS | Discovery (this index) |
| Complaint, 3:4 | Expert witnesses, 6:4, 6:22, 6:35 |

Index-24

INDEX

WITNESSES—Cont'd

Expert Witnesses (this index)

List

generally, **10:3** defendants' forms, **10:15** plaintiffs' forms, **10:8**

WRITTEN ACTS AND MATTERS

Arbitration, 12:3
Depositions upon written questions, 6:10

WRITTEN ACTS AND MATTERS

—Cont'd

Discovery, generally, **2:4**Motions, definitions and instructions for written discovery, **6:17 to 6:20**

Reports, 6:3, 6:4

Requests for admissions, 6:8

Stipulation, 6:9