

Index

(All references in index are to section numbers.)

- admissibility
 - computerized data, 11.446, 32.43
 - depositions, 11.445, 11.455
 - early hearings, 11.34, 11.642
 - exhibits/documentary evidence, 11.445, 11.642
 - expert opinions, 11.48
 - foundation for, 11.445
 - governmental investigations, 11.491
 - requests for admissions, 11.445
 - stipulations of authenticity, 11.445
 - stipulations of fact, 11.471
- affidavits
 - limits on length, 11.32
 - summary judgment, 11.34
- alternative dispute resolution, 13.15, 20.313, 21.142, 21.5, 22.541, 22.71, 22.91, 34.21, 34.292
- “American Rule,” *see* attorney fees
- antitrust, 30
 - conflicts of interest, 30.3
 - data gathering, 30.2
 - expert opinion, 30.2
 - related proceedings, 30.4
- appeals, *see* judgments and appeals
- attorney–client privilege, *see* privileges
- attorney fees, 14
 - “American Rule,” 14.11, 14.121
 - class actions, 21.7
 - common-fund, 14.12
 - discovery, 14.224
 - documentation and evidence supporting, 14.223
 - eligibility, 14.1
 - guidelines and ground rules, 14.21
 - hearings, 14.232
 - lodestar, 14.122
 - mass torts, 22.927
 - motion for, 14.22
 - motions, content of, 14.221
 - percentage-fee, 14.121
 - records, maintaining, 14.213
 - review
 - court of appeals, 14.121
 - district court, 14.231
 - staffing, 14.212

attorney fees (*continued*)

statutory-fee, 14.13

timing, 14.222

attorneys, *see* counsel

bankruptcy

adversary proceedings, 10.123, 20

coordination with related litigation, 10.123

mass tort litigation, 22.5

appeals, 22.533

automatic stay, 22.541, 22.545

consolidation of claims, 22.512, 22.54

estimating the value of tort claims, 22.56

future claimant representation, 22.55

MDL transferee judge's role, 22.511, 22.531

roles of district and bankruptcy judges, 22.52, 22.53

withdrawing the reference, 22.52

bellwether/test trial, *see* trial

CERCLA (Superfund), 34

allocation, 34.291

case management, 34.2

consent decrees, 34.293

costs, response, 34.12

counsel, organizing, 34.24

damages, 34.12

discovery, 34.28

document management, centralized, 34.25

experts, 34.29

issues, narrowing, 34.26

joinder, 34.27

liability, 34.12

magistrate judges, 34.22

related cases, 34.23

remedy, 34.12

response costs, 34.12

settlement, 34.292

special masters, 34.22

statutory framework, 34.11

trial, 34.294

civil RICO, 35

case management, 35.3

discovery, 35.33

initial conference, 35.32

motion practice, 35.34

pleadings, 35.31

statutory framework, 35.2

trial, 35.35

- class actions, 21
 - attorney fee awards
 - approval criteria, 21.71
 - reviewing fee requests, 21.72
 - case management, 11.213, 21.4
 - discovery, 21.41
 - relationship with other cases, 21.42
 - certification
 - deciding motion, 21.2
 - effect of multiple cases, classes, 21.25
 - hearings, orders, 21.21
 - interlocutory appeals of, 21.28
 - timing, 21.133
 - certification standards, 21.13
 - litigation class, 21.131
 - settlement class, 21.132
 - class counsel
 - criteria for appointment, 21.271
 - procedures for appointment, 21.273
 - selecting, 21.272
 - class representatives, appointing, 21.26
 - communications with class members
 - among parties, counsel, class members, 21.33
 - from class members, 21.32
 - notices, 21.31
 - precertification, 21.12
 - conference, initial, 11.213
 - defining class, 21.22
 - discovery, precertification, 21.14
 - Rule 23(a) requirements, 21.141
 - Rule 23(b) requirements, 21.142
 - discovery, postcertification, 21.41
 - in particular types of cases
 - civil RICO, 35.1
 - employment discrimination, 32.42
 - securities, 31.31, 31.5
 - initial case-management orders, 21.11
 - issues classes, 21.24
 - limited fund settlement, 21.132
 - notices
 - class certification, 21.311
 - settlement, 21.312
 - relationship with pending cases, precertification, 21.15
 - settlements
 - claims administrator, 21.661
 - class counsel, 21.641
 - class representatives, 21.642
 - conditional settlements, 21.652
 - criteria for evaluating, 21.62
 - judicial review, 21.61

- class actions, settlements (*continued*)
 - limited fund settlements, 22.73
 - magistrate judges, 21.644
 - objectors, 21.643
 - partial settlements, 21.651
 - reviewing proposed settlements, 21.63
 - special masters, 21.644, 21.661
 - undistributed funds, 21.662
 - subclasses, role of, 21.23
 - trials, 21.5
- copyright, *see* intellectual property
- counsel
 - class counsel, *see* class actions
 - committees of counsel, 10.221
 - compensation, 10.223
 - coordination in multiparty litigation, 10.22
 - disqualification, 10.23
 - lead counsel, 10.221
 - liaison counsel, 10.221
 - responsibilities, 10.21, 10.222
 - withdrawal, 10.23
- court-appointed experts, 11.51
 - class action settlement review, 21.644
 - disclosure and discovery, 11.483, 23.344
 - mass tort litigation, 22.87
 - patent litigation, 33.26
- courtroom technology
 - courthouse facilities, 12.12
 - digitized video depositions, 12.333
 - evidence presentation systems, 12.32
 - facilitating evidence presentation, 11.645
 - videoconferencing, 12.334
- depositions
 - admissibility, 11.445, 11.455
 - discovery, 11.45
 - managing at trial, 12.33
 - managing pretrial, 11.45
 - pretrial, 11.45
 - videotaped from scientific experts, 23.345
- discovery
 - business records, 11.446
 - computerized data, 11.446
 - depositions, 11.45
 - documents, 11.44
 - expert opinions, 11.48
 - foreign (extraterritorial), 11.494
 - governmental and grand jury investigations, 11.491

- discovery (*continued*)
 - in particular types of cases
 - CERCLA (Superfund), 34.28
 - civil RICO, 35.33
 - class actions, 21.14, 21.41
 - copyright cases, 33.311
 - employment discrimination, 32.43
 - mass torts, 22.8
 - patent, 33.25
 - securities, 31.6
 - interrogatories, 11.46
 - planning and control, 11.42
 - privilege claims, 11.43
 - protective orders, 11.43
 - relationship to issues, 11.41
 - requests for admissions, 11.47
 - sampling/opinion surveys, 11.493
 - special problems, 11.49
 - stipulations of fact, 11.47
- electronic discovery, *see* discovery, computerized data
- employment discrimination, 32
 - ADA, 32.24
 - ADEA, 32.23
 - case management, 32.4
 - Civil Rights Act of 1964, 32.22
 - class actions, 32.42
 - developments in the law, 32.3
 - discovery, 32.43
 - computerized records, 32.432
 - confidential information, 32.433
 - expert testimony, 32.435
 - from class members, 32.436
 - preservation of records, 32.434
 - statistical evidence, 32.435
 - FMLA, 32.25
 - initial pretrial conference, 32.41
 - settlement, 32.46
 - affirmative relief, 32.462
 - attorney fees, 32.463
 - hearing, 32.464
 - implementation, 32.465
 - timing, 32.461
 - statutory framework, 32.2
 - summary judgment, 32.44
 - Title VII, 32.21
 - trial, 32.45
- evidence
 - see also* expert scientific evidence
 - expediting presentation, 11.64

- evidence (*continued*)
 - limits on, 11.644
 - pretrial rulings on objections, 11.642
 - technology, using to present, 11.645
- expert scientific evidence, 23
 - see also* court-appointed experts
 - aggregation of, 23.272
 - assessing, preliminary considerations, 23.31
 - case management, 23.2
 - clinical medical judgment, 23.273
 - Daubert* issues
 - criteria, 23.23
 - “fit” test, 23.25
 - initiating an inquiry, 23.351
 - the trilogy, 23.22
 - disclosures, 23.33
 - discovery
 - court-appointed experts, 23.344
 - nonretained experts, 23.343
 - nontestifying experts, 23.342
 - testifying experts, 23.341
 - videotaped depositions, 23.345
 - Federal Rules of Evidence, 23.21
 - final pretrial conference, 23.36
 - initial conference, 23.32
 - motion practice
 - handling challenges, 23.353
 - summary judgment, 23.354
 - timing of challenges, 23.352
 - research, 23.274
 - scope of appellate review, 23.26
 - trial, 23.37
 - toxicological vs. epidemiological, 23.271
- experts
 - see also* expert scientific evidence, court-appointed experts
 - in particular types of cases
 - antitrust, 30.2
 - CERCLA (Superfund), 34.29
 - copyright, 33.313
 - employment discrimination, 32.435
 - patent, 33.26
- federal–state coordination, *see* multiple jurisdiction litigation
- final pretrial conference, *see* pretrial procedures, conferences
- initial conferences, *see* pretrial procedures, conferences
- intellectual property
 - copyright law, 33.31
 - discovery, 33.311
 - experts, 33.313

Index

- intellectual property, copyright law (*continued*)
 - motions, 33.312
 - patent law, 33.2
 - discovery, 33.25
 - experts, 33.26
 - injunctive relief, 33.24
 - issues, defining, 33.23
 - Markman* hearing, 33.22
 - statutory framework, 33.21
 - trial, 33.27
 - trademark law, 33.32
- judgments and appeals, 15
 - disposition of materials, 15.3
 - entry of final judgment, 15.2
 - interlocutory appeal, 15.1
- jury instructions, *see* pretrial procedures, trial
- litigation in multiple jurisdictions, *see* multiple jurisdiction litigation
- magistrate judges, 10.14, 11.53
 - CERCLA (Superfund) cases, 34.22
 - class action settlement, 21.644
 - mass tort settlement, 22.91
 - referral of scientific evidence matters, 23.32
 - reviewing fee requests, 14.231, 21.727
- mass torts, 22
 - assignment, intradistrict to single judge, 22.32
 - bankruptcy appeals, 22.533
 - case-management orders, 22.6
 - adding parties, 22.631
 - deferred docketing, 22.633
 - electronic communications, 22.635
 - issue identification and development, 22.634
 - pleadings and motions, 22.632
 - initial, 22.61
 - subsequent, 22.63
 - class actions, 22.7
 - certification, post-*Amchem*, 22.72
 - determining applicable law, 22.752
 - issues, identifying, 22.751
 - limited fund settlements, post-*Ortiz*, 21.132, 21.142, 22.73
 - medical monitoring, 22.74
 - discovery, 22.8
 - depositions, 22.84
 - documents, 22.85
 - experts, 22.87
 - initial disclosures, 22.82
 - interrogatories, 22.83
 - physical evidence, 22.86
 - sampling, 22.81

- mass torts, discovery (*continued*)
 - scientific evidence, 22.87
 - division of labor among judges, 22.53
 - estimating value, 22.56
 - future claimants, representation for, 22.55
 - future claims, discharging, 22.58
 - initial issues, 22.2
 - MDL transferee judge, 22.35, 22.531
 - multiple filings in federal district courts, 22.3
 - aggregating claims, 22.311–22.318
 - multiple filings in state and federal courts, 22.4
 - multiple filings in trial and bankruptcy courts, 22.5
 - consolidation, 22.51
 - transfer, 22.51
 - venue, 22.51
 - reference, withdrawing, 22.52
 - reorganization plan, confirming, 22.59
 - reorganization plan, negotiating, 22.57
 - settlement
 - attorney fees, 22.927
 - class certification, 22.921
 - evaluating merits, 22.923
 - fairness hearing, conducting, 22.924
 - fairness, adequacy, reasonableness, 22.922
 - information gathering, 22.924
 - judicial role, 22.91
 - nonmonetary benefits, evaluating, 22.925
 - presenting decision, 22.926
 - review, 22.92
 - tort claims
 - against debtors, 22.541
 - against other defendants, 22.542
 - automatic stay, expanding, 22.545
 - consolidation, 22.543
 - enjoining related cases, 22.545
 - transferring related nondebtor cases, 22.544
 - transfer, denial of, 22.34
 - transfer, interdistrict (including MDL), 22.33
 - trial, 22.93
- multiple jurisdiction litigation, 10.225, 20
 - mass tort district and bankruptcy courts, 22.5
 - multidistrict transfers under section 1407, 20.13
 - related civil cases in different courts, 20.12
 - related civil cases in same court, 20.11
 - related criminal and civil cases, 20.2
 - related state and federal cases
 - identifying need for coordination, 20.311
 - jurisdictional conflicts, 20.32
 - specific forms of coordination, 20.313
 - threshold steps for coordinating, 20.312

- patent law, *see* intellectual property
- pendent jurisdiction, 20.32
- pretrial procedures, 11
 - conferences, 11.2
 - attendance, 11.23
 - case-management planning, 11.211
 - final pretrial, 11.6
 - initial, 11.11, 11.211
 - scheduling order, 11.212
 - scientific evidence, 23.32
 - settlement, 11.214
 - subsequent, 11.22
 - conferences in particular types of cases
 - civil RICO, 35.32
 - class actions, 11.213, 21.11
 - mass torts, 22.61
 - securities, takeover litigation, 31.71
 - discovery, 11.4
 - depositions, 11.45
 - documents, 11.44
 - expert opinions, 11.48
 - interrogatories, 11.46
 - planning and control, 11.42
 - privilege claims, 11.43
 - protective orders, 11.43
 - requests for admission, 11.47
 - stipulations of fact, 11.47
 - jury instructions, 11.65
 - pleading and motion practice, 11.32
 - prediscovery disclosure, 11.13
 - special referrals, 11.5
 - experts, 11.51
 - magistrate judges, 11.53
 - special masters, 11.52
 - summary judgment, 11.34
 - trial preparation
 - briefs, 11.66
 - date and place, 11.61
 - evidence presentation, 11.64
 - final motions, 11.66
 - final order, 11.67
 - jury demands, 11.62
 - jury instructions, 11.65
 - structure, 11.63
- privileges
 - privilege claims, 11.43
 - umbrella protective orders, 11.432
 - “Vaughn Index,” 11.431

- questionnaires
 - exchanging, 20.313
 - in lieu of interrogatories, 22.83
 - prospective jurors, 12.412
 - requiring instead of depositions, 21.14
 - requiring of class members, 21.41, 31.31
 - sampling tool, 22.81
- recusal, 10.121, 13.11, 34.27
- RICO, *see* civil RICO
- sanctions
 - authority for, 10.152
 - considerations, 10.153
 - principles for, 10.151
 - procedure for, 10.155
 - types, 10.154
- securities, 31
 - class actions, 31.31, 31.5
 - discovery, 31.6
 - initial pretrial conference, 31.4
 - Private Securities Litigation Reform Act, 31.3
 - discovery stays, 31.34
 - pleading requirements, 31.32
 - safe harbor, 31.33
 - statutory framework, 31.2
 - takeover litigation, 31.7
 - discovery, 31.73
 - initial conference, 31.71
 - injunctive relief, 31.73
 - trial and settlement, 31.8
- settlement, 13
 - agreements affecting discovery, 13.22
 - encouraging, 13.15
 - ethical considerations, 13.24
 - general principles, 13.11
 - in particular types of cases
 - CERCLA (Superfund), 34.292
 - class actions, 21.6
 - employment discrimination, 32.46
 - mass tort bankruptcy reorganizations, 22.57
 - securities, 31.8
 - partial settlements, 13.21
 - relationship to discovery, 13.12
 - review and approval, 13.14
 - side agreements, 13.24
 - timing, 13.12
 - techniques to promote, 13.13

Index

- special masters, 10.14, 11.52
 - attorney fee review, 14.221, 14.231
 - computer experts, 11.446
 - deposition abuses, 11.456
 - discovery disputes, 11.424
 - federal–state coordination, 20.312
 - in particular types of cases,
 - class actions, 21.661 (administration), 21.727 (attorney fees), 21.644 (settlement review)
 - CERCLA (Superfund), 34.22 (case management), 34.292 (settlement)
 - employment, 32.465
 - mass tort litigation, 22.8 (discovery), 22.91 (settlement), 22.924 (settlement review)
 - patent litigation, 33.23
 - scientific evidence, 23.32
 - settlement facilitation, 13.13
- Superfund, *see* CERCLA (Superfund)
- trademark, *see* intellectual property
- trial, 12
 - administration, 12.1
 - bellwether/test, 20.132, 22.315, 22.56, 22.93
 - judge’s role in conduct, 12.24
 - conferences, 12.15
 - courthouse facilities, 12.12
 - demonstrative aids, 12.31
 - depositions, 12.33
 - alternatives, 12.334
 - editing, 12.332
 - presentation/videotaped, 12.333
 - summaries, 12.331
 - exhibits, 12.13, 12.32
 - evidence
 - advance notice, 12.23
 - presenting, 12.3
 - sequencing, 12.34
 - glossaries, 12.31
 - in particular types of cases
 - CERCLA (Superfund), 34.294
 - civil RICO, 35.35
 - class actions, 21.5
 - employment discrimination, 32.45
 - mass tort, 22.93
 - patent, 33.27
 - securities, 31.8
 - indexes, 12.31
 - judge unable to proceed, 12.6
 - judicial control, 12.35

trial (*continued*)

- jury trials, 12.4
 - exhibits, 12.435
 - final instructions, 12.434
 - impaneling jury, 12.41
 - interim and limiting instructions, 12.433
 - mistrial, avoiding, 12.44
 - notebooks, 12.422
 - notetaking, 12.421
 - peremptory challenges, 12.413
 - preliminary instructions, 12.432
 - questions from jurors, 12.423
 - readbacks, 12.436
 - supplemental instructions, 12.436
 - venire size, 12.411
 - voir dire, 12.412
- multiparty cases, special procedures, 12.22
- nonjury trials, 12.5
 - combined with jury trial, 12.53
 - findings of fact, conclusions of law, 12.52
 - prepared statements, 12.51
- opening statements, 12.21
- schedule, 12.11
- time limits, 12.35
- transcripts, 12.14
- verdicts, 12.45
 - as matter of law, 12.452
 - general with interrogatories, 12.451
 - return of, 12.453
 - special, 12.451