Table of Contents

Volume 1

PART I. FEDERAL JURY PRACTICE

CHAPTER 1. TRIAL BY JURY

	TERU II TRUME DI SCRII
§ 1:1	Historical basis for the right to a jury trial
§ 1:1.20	Origins of the American jury—Early American juries
§ 1:1.30	—The Seventh Amendment
§ 1:1.40	—Jury as judge of legal and factual questions—Verdicts of
	conscience
§ 1:2	Right to a jury trial
§ 1:3	Obtaining a jury trial
§ 1:4	Waiver of jury trial
§ 1:5	Discretionary relief from waiver
§ 1:6	Improving effectiveness of trial by jury—Generally
§ 1:7	—Juror notebooks
§ 1:8	—Preliminary and interim instructions

- —Special verdict forms § 1:9 —Juror questions § 1:10
- —Juror note taking § 1:11
- § 1:12 —Use of masters
- § 1:13 —Courtroom technology
- § 1:14 —Jury selection
- § 1:15 —Jury instructions—Role of jury instructions
- Written copies of instructions to jurors § 1:16
- ——Fed. R. Civ. P. 51 § 1:17
- — Crafting jury instructions § 1:18
- § 1:19 — — Using model instructions
- ——Instructions at trial § 1:20
- Appendix A. Sample Waiver of Jury Trial Form
- Appendix B. Suggested Colloquy for Jury Waiver in Criminal Case

CHAPTER 2. FAIR TRIAL—FREE PRESS

- § 2:1 General
- § 2:2 Fair trial by impartial jury
- § 2:3 News media and public trial
- § 2:4 Standards relating to fair trial and free press

- § 2:5 Cameras in the courtroom
- Appendix A. Sample Decorum Order
- Appendix B. Sample Media Advisory Regarding
 Announcement of Verdict
- Appendix C. ABA Standards for Criminal Justice

CHAPTER 3. SELECTION OF FEDERAL JURY PANELS

- § 3:1 Federal law governs qualifications
- § 3:2 Jury Selection and Service Act of 1968—Background
- § 3:3 Random methods of selection
- § 3:4 Juror questionnaire forms
- § 3:5 Juror qualifications
- § 3:6 Selection and summoning of jurors
- § 3:7 Period of service and compensation
- § 3:8 Discrimination in selection
- § 3:9 Jury selection challenge
- § 3:10 Implementation of Act by United States District Courts

Appendix Sample Jury Plan

CHAPTER 4. CHOOSING AND EMPANELING THE JURY

- § 4:1 Usage of jurors
- § 4:2 Jury panel and orientation
- § 4:3 Information regarding panel
- § 4:4 Anonymous juries
- § 4:5 Analyzing the venire
- § 4:6 Administration of oath and preliminary matters
- § 4:7 Examination of jurors
- § 4:8 Challenges
- § 4:9 Peremptory challenges
- § 4:10 Alternate jurors
- § 4:11 Swearing of panel and preliminary instructions
- Appendix A. Sample Informational Mailings from the Clerk's Office to Prospective Jurors
- Appendix B. Sample Juror Questionnaires
- Appendix C. Statement to Venire and Questionnaire in Anonymous Jury Case
- Appendix D. Sample Preliminary Statement to Be Read by Court

- Appendix E. General Preliminary Jury Instructions in Civil and Criminal Cases
- Appendix F. Sample Preliminary Instruction for Anonymous Jury

CHAPTER 5. GENERAL CONCERNS IN TRIAL MANAGEMENT

- § 5:1 Control of miscellaneous aspects of trial
 § 5:2 Joint trials and severance—Criminal cases
 § 5:3 Bifurcation and consolidation—Civil cases
- § 5:4 Presence of defendant
- § 5:5 If defendant is prisoner
- § 5:6 Defendant's self–representation
- § 5:7 Defendant's representation by counsel
- § 5:8 The disruptive defendant
- § 5:9 Enforcing attendance of reluctant witnesses
- § 5:10 Admonitions
- § 5:11 Note-taking by jurors
- § 5:12 "The rule"—Exclusion of witnesses
- § 5:13 Sequestration of jurors
- § 5:14 Improper influences and its investigation
- § 5:15 Misconduct of jurors during trial
- § 5:16 Jury nullification
- § 5:17 View of scene
- § 5:18 Questions by jurors
- § 5:19 Court's questions to witnesses
- § 5:20 Control of counsel
- § 5:21 Mistrial
- Appendix A. Cautionary Instruction in Case with Repeated Exchanges Between Court and Counsel
- Appendix B. Questions for Defendants Who Desire to Represent Themselves
- Appendix C. Detailed Instruction Regarding Publicity
- Appendix D. Sample Sequestration Order
- Appendix E. Procedure for Handling Recalcitrant Witness

CHAPTER 6. OPENING STATEMENTS TO CLOSING ARGUMENTS

- § 6:1 Opening statements
- § 6:2 Direct examination
- § 6:3 Cross examination
- § 6:4 Objections and offers of proof

- § 6:5 Exhibits
- § 6:6 Closing arguments
- Appendix A. Computer Technology and Trial Procedure
- Appendix B. Excerpts from American Bar Association's Standards for Criminal Justice

CHAPTER 7. INSTRUCTIONS TO THE JURY

- § 7:1 In general
- § 7:2 Preparation of instructions
- § 7:3 Requests for instructions
- § 7:4 Objections to instructions
- § 7:5 Commenting on the evidence
- § 7:6 Form and delivery of instructions

Appendix Drafting Jury Instructions

Bibliography

CHAPTER 8. USE OF SPECIAL VERDICTS AND INTERROGATORIES

- § 8:1 In general
- § 8:2 History of special verdicts
- § 8:3 Purpose of special verdicts
- § 8:4 Law governing
- § 8:5 Discretionary power of court
- § 8:6 Instructions by the court
- § 8:7 Form, sufficiency and construction of special verdict
- § 8:8 General verdict with written interrogatories
- § 8:9 When to use special verdicts and written interrogatories
- § 8:10 Special verdicts and interrogatories in criminal cases

CHAPTER 9. DELIBERATION TO DISCHARGE

- § 9:1 Deliberations of jury
- § 9:2 Permitting jury to disband during deliberations
- § 9:3 Communications between court and jury
- § 9:4 Substitution or dismissal of juror during deliberations
- § 9:5 Reaching the verdict
- § 9:6 Reception of the verdict
- § 9:7 Poll of jury
- § 9:8 Discharge of jury
- § 9:9 Impeaching the verdict
- § 9:10 Post-verdict motions

- Appendix A. Sample Instruction Post-Trial Debriefing
- Appendix B. Jury Service Exit Questionnaire

Volume 1A

PART II. GENERAL INSTRUCTIONS FOR FEDERAL CRIMINAL CASES

CHAPTER 10. GENERAL PRELIMINARY INSTRUCTIONS AT THE BEGINNING OF A CRIMINAL TRIAL

- § 10:01 Opening instruction
- § 10:02 Pretrial publicity
- § 10:03 Note-taking—Prohibited
- § 10:04 —Permitted
- § 10:05 Questions by jurors—Prohibited
- § 10:06 —Permitted
- § 10:07 View of location—Prohibited
- § 10:08 Instruction pertaining to a second trial
- § 10:09 Sequestration of jurors

CHAPTER 11. INSTRUCTIONS DURING A CRIMINAL TRIAL

- § 11:01 Admonitions at court recesses—Long form
- § 11:02 —Short form
- § 11:03 Objections and rulings
- § 11:04 Court's comments to counsel
- § 11:05 Court's questions to witnesses
- § 11:06 Court's comments on certain evidence
- § 11:07 View of location—Permitted
- § 11:08 Publicity during trial
- § 11:09 Evidence admitted for a limited purpose only
- § 11:10 Typewritten transcripts of tape recorded conversations
- § 11:11 Statement of one defendant in a multi-defendant trial
- § 11:12 Impeachment of a defendant's testimony—Prior conviction of a crime
- § 11:13 Impeachment of defendant's testimony—Otherwise inadmissible statement
- § 11:14 Dismissal of some defendants
- § 11:15 Cross-examination of defendant's character witness

CHAPTER 12. BEGINNING OF THE FINAL CHARGE

§	12:01	Introduction to the final charge—Province of the court and of the jury
8	12:02	
§	12:03	Evidence received in the case—Stipulations, judicial notice, and inferences permitted
§	12:04	Direct and circumstantial evidence
§	12:05	Inferences from the evidence
§	12:06	Inference of regularity
§	12:07	Jury's recollection controls
§	12:08	The question is not evidence
§	12:09	Consider only the offense charged
§	12:10	Presumption of innocence, burden of proof, and reasonable doubt
§	12:11	Verdict as to defendant only
§	12:12	Consider each count separately
§	12:13	Consider each count and each defendant separately
§	12:14	Give each defendant and each count separate consideration
§	12:15	Apply instructions to each defendant
8	12:16	Do not consider dismissed defendants

CHAPTER 13. THE OFFENSE CHARGED

§	13:01	The nature of the offense charged
§	13:02	The statute defining the offense charged
§	13:03	The essential elements of the offense charged
§	13:04	The indictment is not evidence
§	13:05	"On or about"—Explained
§	13:06	Approximate amount—Explained
§	13:07	Unanimity—Explained

CHAPTER 14. CONSIDERATION OF THE EVIDENCE BY THE JURY

Ş	14:01	Opinion evidence—The expert witness
_		Charts and summaries—Not admitted; admitted
_		Statement or conduct of a defendant—Single defendant on
		trial
ş	14:04	—Multiple defendants on trial
ş	14:05	Accusatory statements
ş	14:06	False exculpatory statements

§ 14:07 Coercion or bribery of a witness and suppression or fabrication of evidence Immediate flight or concealment 14:0814:09 Tape recordings and typewritten transcripts 14:10 Eyewitness identification of the defendant 14:11 —Alternate form 14:12 Fingerprints or handwriting evidence Failure to follow a lawful order of the court 14:1314:14 Weaker or less satisfactory evidence 14:15Absence of witness

CHAPTER 15. CREDIBILITY OF WITNESSES

§ 14:16 Number of witnesses called is not controlling

§ 15:01 Credibility of witnesses—Generally 15:02 —Informant 15:03 —Immunized witness 15:04 —Accomplice 15:05 —Drug or alcohol abuser 15:06 —Inconsistent statement (Falsus in Uno Falsus in Omnibus) 15:07 —Conviction of felony —The defendant's conviction of a felony 15:0815:09 —Bad reputation for truth and veracity 15:10 —Periurer 15:11 —The refusal of witness or defendant to answer 15:12—The defendant as a witness 15:13 —Child witness 15:14 Effect of the defendant's decision not to testify

CHAPTER 16. DEFINITIONS

15:15 Character evidence—Reputation of the defendant

To "embezzle"—Defined 16:01To "conceal"—Defined 16:02 16:03 "Conversion"—Defined "Stolen"—Defined 16:04 16:05 "Possession"—Defined § 16:06 "False"—Defined "Intent to defraud" and "fraudulent intent"—Defined 16:07 16:08 "Fraud" and "fraudulent"—Defined § "Mere presence"—Defined 16:09 Possession of recently stolen property—Inferences permitted 16:10 "Materiality"—Defined § 16:11

CHAPTER 17. MENTAL STATE

- § 17:01 Introduction
- § 17:02 Survey of selected criminal statutes
- § 17:03 Specific intent
- § 17:04 "Knowingly"—Defined
- § 17:05 "Willfully"—Defined (non-tax cases)
- § 17:06 Motive—Explained
- § 17:07 Proof of knowledge or intent
- § 17:08 —Rule 404(b) Evidence
- § 17:09 Deliberate ignorance—Explained

CHAPTER 18. AGENCY

- § 18:01 Aiding and abetting—Explained
- § 18:02 Common scheme or plan—Evidence of acts or declarations of confederates
- § 18:03 Agent of the defendant
- § 18:04 Personal responsibility of a corporate agent
- § 18:05 Corporate criminal responsibility—Explained

CHAPTER 19. THE DEFENSE

- § 19:01 The theory of the defense—Explained
- § 19:02 Coercion or duress—Explained
- § 19:03 Insanity—Explained
- § 19:04 Entrapment—Explained
- § 19:05 Acting under the influence of drugs or alcohol—Explained
- § 19:06 The good faith defense—Explained
- § 19:07 Alibi—Explained
- § 19:08 Action on the advice of counsel—Explained

CHAPTER 20. THE DELIBERATIONS AND THE VERDICT

- § 20:01 Verdict—Election of foreperson—Duty to deliberate— Unanimity—Punishment—Form of verdict— Communication with the court
- § 20:02 Form of verdict—Insanity
- § 20:03 Verdict—Multiple defendants—Single or multiple counts
- § 20:04 Exhibits during deliberations
- § 20:05 Lesser included offense—Elements and form of verdict
- § 20:06 Partial verdict

- § 20:07 Supplemental instructions—Response to questions from the jury
- § 20:08 —When jurors fail to agree seasonably
- § 20:09 Return to deliberations after polling

Volume 2

PART III. INSTRUCTIONS FOR PARTICULAR FEDERAL CRIMINAL CASES

CHAPTER 21. ATTEMPT

- § 21:01 The nature of the offense charged
- § 21:02 The statute defining the offense charged
- § 21:03 The essential elements of the offense charged
- § 21:04 "A substantial step"—Defined

CHAPTER 22. ACCESSORY AFTER THE FACT (18 U.S.C.A. § 3)

- § 22:01 The nature of the offense charged
- § 22:02 The statute defining the offense charged
- § 22:03 The essential elements of the offense charged
- § 22:04 "Accessory after the fact"—Defined

CHAPTER 23. ARSON (18 U.S.C.A. § 81)

- § 23:01 The nature of the offense charged
- § 23:02 The statute defining the offense charged
- § 23:03 The essential elements of the offense charged
- § 23:04 "Within the special maritime and territorial jurisdiction of the United States"—Defined
- § 23:05 "Willfull and maliciously"—Defined

CHAPTER 24. FORCIBLY ASSAULTING, RESISTING, OR IMPEDING CERTAIN FEDERAL OFFICERS OR EMPLOYEES (18 U.S.C.A. § 111)

A. ASSAULTING, RESISTING, OR IMPEDING (18 U.S.C.A. § 111(a))

- § 24:01 The nature of the offense charged
- § 24:02 The statutes defining the offense charged
- § 24:03 The essential elements of the offense charged

B. USING A DEADLY OR DANGEROUS WEAPON (18 U.S.C.A. § 111(b))

- § 24:04 The nature of the offense charged
- § 24:05 The statutes defining the offense charged
- § 24:06 The essential elements of the offense charged
- § 24:07 "Deadly or dangerous weapon"—Defined

C. INSTRUCTIONS COMMON TO FORCIBLY ASSAULTING AND FORCIBLY ASSAULTING WITH A DEADLY OR DANGEROUS WEAPON (18 U.S.C.A. § 111)

- § 24:08 "Forcibly assaults"—Defined
- § 24:09 "Officers and Employees of the United States"—Defined
- § 24:10 "While engaged in . . . the performance of . . . official duties"—Defined
- § 24:11 Defendant's knowledge of the official status of the victim
- § 24:12 Lawful self-defense

CHAPTER 25. ASSAULT (18 U.S.C.A. § 113)

A. ASSAULT WITH INTENT TO COMMIT MURDER OR OTHER FELONY (18 U.S.C.A. §§ 113(a)(1) AND (a)(2))

- § 25:01 The nature of the offense charged
- § 25:02 The statute defining the offense charged

§ 25:03 The essential elements of the offense charged

B. ASSAULT WITH A DANGEROUS WEAPON (18 U.S.C.A. § 113(a)(3))

- § 25:04 The nature of the offense charged
- § 25:05 The statute defining the offense charged
- § 25:06 The essential elements of the offense charged

C. ASSAULT RESULTING IN SERIOUS BODILY INJURY (18 U.S.C.A. § 113(a)(6))

- § 25:07 The nature of the offense charged
- § 25:08 The statute defining the offense charged
- § 25:09 The essential elements of the offense charged

D. INSTRUCTIONS COMMON TO ASSAULT

- § 25:10 "Within the special maritime and territorial jurisdiction of the United States"—Defined
- § 25:11 "With the intent to commit murder"—Defined
- § 25:12 "A dangerous weapon"—Defined

CHAPTER 26. BANKRUPTCY CONCEALMENT OF ASSETS AND FALSE OATHS AND STATEMENTS (18 U.S.C.A. § 152)

A. FRAUDULENT CONCEALMENT

- § 26:01 The nature of the offense charged
- § 26:02 The statute defining the offense charged
- § 26:03 The essential elements of the offense charged
- § 26:04 "Fraudulently conceals"—Defined

B. FALSE OATHS AND STATEMENTS

- § 26:05 The nature of the offense charged
- § 26:06 The statute defining the offense charged
- § 26:07 The essential elements of the offense charged
- § 26:08 "False statement"—Defined

C. INSTRUCTIONS COMMON TO CONCEALMENT OF ASSETS AND FALSE OATHS AND STATEMENTS

- § 26:09 "The estate of a debtor"—Defined§ 26:10 "Debtor"—Defined
- § 26:11 "Creditor"—Defined
- § 26:12 "Custodian"—Defined

CHAPTER 27. BRIBERY OF PUBLIC OFFICIALS AND WITNESSES (18 U.S.C.A. § 201)

A. GIVING, OFFERING, OR PROMISING A BRIBE TO A PUBLIC OFFICIAL (18 U.S.C.A. § 201(b)(1)(A))

- § 27:01 The nature of the offense charged
- § 27:02 The statute defining the offense charged
- § 27:03 The essential elements of the offense charged

B. DEMANDING, SEEKING, OR RECEIVING A BRIBE BY A PUBLIC OFFICIAL (18 U.S.C.A. § 201(b)(2)(A))

- § 27:04 The nature of the offense charged
- § 27:05 The statute defining the offense charged
- § 27:06 The essential elements of the offense charged

C. INSTRUCTIONS COMMON TO GIVING OR DEMANDING A BRIBE (18 U.S.C.A. § 201)

- § 27:07 "Public official"—Defined
- § 27:08 "Official act"—Defined
- § 27:09 "Corruptly"—Defined
- § 27:10 "Anything of value"—Defined
- § 27:11 "Official act" was lawful—No defense
- § 27:12 Official unable to perform—No defense

CHAPTER 28. RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS (18 U.S.C.A. § 215)

- A. CORRUPTLY GIVING, OFFERING OR PROMISING ANYTHING OF VALUE (18 U.S.C.A. § 215(a)(1))
- § 28:01 The nature of the offense charged
- § 28:02 The statute defining the offense charged
- § 28:03 The essential elements of the offense charged
- B. CORRUPTLY ACCEPTING OR AGREEING TO ACCEPT ANYTHING OF VALUE (18 U.S.C.A. § 215(a)(2))
- § 28:04 The nature of the offense charged
- § 28:05 The statute defining the offense charged
- § 28:06 The essential elements of the offense charged
- C. INSTRUCTION COMMON TO RECEIPT OR COMMISSION FOR PROCURING LOANS (18 U.S.C.A. § 215)
- § 28:07 "Financial institution"—Defined
- § 28:08 "Corruptly"—Defined

CHAPTER 29. CIVIL RIGHTS— DEPRIVATION OF RIGHTS UNDER COLOR OF LAW (18 U.S.C.A. § 242)

- § 29:01 The nature of the offense charged
- § 29:02 The statute defining the offense charged
- § 29:03 The essential elements of the offense charged
- § 29:04 "Under color of any law"—Defined
- § 29:05 "Willfully"—Defined
- § 29:06 "Any person in any state"—Defined
- § 29:07 "Deprivation of any rights"—Explained

CHAPTER 30. FALSE, FICTITIOUS, AND FRAUDULENT CLAIMS (18 U.S.C.A. § 287)

§ 30:01 The nature of the offense charged
§ 30:02 The statute defining the offense charged
§ 30:03 The essential elements of the offense charged
§ 30:04 "Any department or agency"—Defined
§ 30:05 "False, fictitious, or fraudulent"—Defined
§ 30:06 "Material"—Defined
§ 30:07 "Claim"—Defined

CHAPTER 31. CONSPIRACY TO COMMIT AN OFFENSE OR TO DEFRAUD THE UNITED STATES (18 U.S.C.A. § 371)

- \S 31:01 The nature of the offense charged
- § 31:02 The statute defining the offense charged
- § 31:03 The essential elements of the offense charged
- § 31:04 Conspiracy—Existence of an agreement
- § 31:05 —Membership in an agreement
- § 31:06 Acts and declarations of co-conspirators
- § 31:07 "Overt act"—Defined
- § 31:08 Success of conspiracy immaterial
- § 31:09 Single or multiple conspiracies
- § 31:10 Responsibility for substantive offense
- § 31:11 The withdrawal defense

CHAPTER 32. COUNTERFEITING AND FORGERY (18 U.S.C.A. §§ 471, 472 AND 495)

A. COUNTERFEITING OBLIGATIONS OF THE UNITED STATES (18 U.S.C.A. § 471)

- § 32:01 The nature of the offense charged
- § 32:02 The statute defining the offense charged
- § 32:03 The essential elements of the offense charged

B. PASSING OR UTTERING COUNTERFEIT OBLIGATIONS OF THE UNITED STATES (18 U.S.C.A. § 472)

- § 32:04 The nature of the offense charged
- § 32:05 The statute defining the offense charged
- § 32:06 The essential elements of the offense charged

C. CONTRACTS, DEEDS, AND POWERS OF ATTORNEY (18 U.S.C.A. § 495)

- § 32:07 The nature of the offense charged
- § 32:08 The statute defining the offense charged
- § 32:09 The essential elements of the offense charged
- § 32:10 "Deed, contract or other writing"—Defined

D. INSTRUCTIONS COMMON TO COUNTERFEITING AND FORGERY

- § 32:11 "Intent to defraud"—Defined
- § 32:12 "Falsely made," "forged," "counterfeited," or "altered"— Defined
- § 32:13 "Obligation of the United States"—Defined

CHAPTER 33. EMBEZZLEMENT AND MISAPPLICATION FROM A NATIONAL OR INSURED BANK (18 U.S.C.A. § 656)

- § 33:01 The nature of the offense charged
- § 33:02 The statute defining the offense charged
- § 33:03 The essential elements of the offense charged
- § 33:04 "Embezzles"—Defined
- § 33:05 "Willfully misapplies"—Defined
- § 33:06 "Intent to injure or defraud the bank"—Defined

CHAPTER 34. EMBEZZLEMENT AND THEFT—INTERSTATE OR FOREIGN SHIPMENTS BY CARRIER (18 U.S.C.A. § 659) [FIRST PARAGRAPH]

§ 34:01 The nature of the offense charged

- § 34:02 The statute defining the offense charged
 § 34:03 The essential elements of the offense charged
 § 34:04 "Steals, or unlawfully takes"—Defined
 § 34:05 "Moving as or which are a part of or which constitute an interstate shipment"—Defined
- § 34:06 "Value"—Defined
- § 34:07 Prima facie evidence of interstate character of shipment
- § 34:08 The lesser included offense

CHAPTER 35. ESCAPE AND RESCUE (18 U.S.C.A. § 751(a))

- § 35:01 The nature of the offense charged
- § 35:02 The statute defining the offense charged
- § 35:03 The essential elements of the offense charged
- § 35:04 "Escapes"—Defined
- § 35:05 "Custody"—Defined
- § 35:06 Duress or necessity as a defense
- § 35:07 Acting under the influence of drugs or alcohol—Explained

CHAPTER 36. THREATS AGAINST THE PRESIDENT (18 U.S.C.A. § 871(a))

- § 36:01 The nature of the offense charged
- § 36:02 The statute defining the offense charged
- § 36:03 The essential elements of the offense charged
- § 36:04 "Knowingly and willfully makes any threat"—Defined

CHAPTER 37. EXTORTIONATE CREDIT TRANSACTIONS (18 U.S.C.A. §§ 891–894)

A. MAKING EXTORTIONATE EXTENSIONS OF CREDIT (18 U.S.C.A. § 892(a))

- § 37:01 The nature of the offense charged
- § 37:02 The statute defining the offense charged
- § 37:03 The essential elements of the offense charged
- § 37:04 "An extortionate extension of credit"—Defined
- § 37:05 "Understanding"—Defined

B. COLLECTION OF CREDIT BY EXTORTIONATE MEANS (18 U.S.C.A. § 894(a)(1))

- § 37:06 The nature of the offense charged
 § 37:07 The statute defining the offense charged
 § 37:08 The essential elements of the offense charged
 § 37:09 "An extortionate means"—Defined
 § 37:10 "To collect an extension of credit"—Defined
- C. INSTRUCTIONS COMMON TO EXTORTIONATE EXTENSION AND COLLECTION OF CREDIT (18 U.S.C.A. §§ 891–894)
- § 37:11 "Creditor"—Defined
 § 37:12 "Debtor"—Defined
 § 37:13 "To extend credit"—Defined
 § 37:14 "The repayment of any extension of credit"—Defined
 § 37:15 "Renewal"—Defined
 § 37:16 "Threat"—Explained
 § 37:17 Actual fear not an element

CHAPTER 38. FALSE PERSONATION— OFFICER OR EMPLOYEE OF THE UNITED STATES (18 U.S.C.A. § 912)

§ 38:01 The nature of the offense charged
§ 38:02 The statute defining the offense charged
§ 38:03 The essential elements of the offense charged
§ 38:04 "Falsely assumes or pretends"—Defined
§ 38:05 Intent to defraud
§ 38:06 "Thing of value"—Defined

Volume 2A

CHAPTER 39. FIREARMS (18 U.S.C.A. §§ 922 AND 924)

A. DEALING IN FIREARMS WITHOUT A LICENSE (18 U.S.C.A. § 922)

§ 39:01 The nature of the offense charged
§ 39:02 The statutes defining the offense charged
§ 39:03 The essential elements of the offense charged
§ 39:04 "Licensed dealer"—Defined
§ 39:05 "Engaged in the business of"—Defined
§ 39:06 "Willfully"—Defined

B. POSSESSION OR RECEIPT OF A FIREARM (18 U.S.C.A. § 922(1))

§ 39:07 The nature of the offense charged
§ 39:08 The statutes defining the offense charged
§ 39:09 The essential elements of the offense charged
§ 39:10 "Crime punishable by imprisonment for a term exceeding one year"—Defined
§ 39:11 "Firearm"—Defined
§ 39:12 "Possess"—Defined
§ 39:13 "Receive"—Defined
§ 39:14 "In or affecting commerce," and "shipped or transported in interstate . . . commerce"—Defined
§ 39:15 "Knowingly"—Defined

C. USING OR CARRYING A FIREARM DURING ANY CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME (18 U.S.C.A. § 924)

§ 39:16 The nature of the offense charged
§ 39:17 The statute defining the offense charged
§ 39:18 The essential elements of the offense charged
§ 39:19 "Crime of violence or drug trafficking crime"—Defined
§ 39:20 "Uses or carries a firearm"—Defined
§ 39:21 "Knowingly"—Defined

D. POSSESSION OF AN UNREGISTERED FIREARM (26 U.S.C.A. § 5861)

- § 39:22 The nature of the offense charged
- § 39:23 The statutes defining the offense charged
- § 39:24 The essential elements of the offense charged

CHAPTER 40. FRAUD AND FALSE STATEMENTS (18 U.S.C.A. § 1001)

A. CONCEALING A MATERIAL FACT (18 U.S.C.A. § 1001(a)(1))

- § 40:01 The nature of the offense charged
- § 40:02 The statute defining the offense charged
- § 40:03 The essential elements of the offense charged
- § 40:04 "Conceals or covers up by any trick, scheme, or device"— Defined

B. MAKING A FALSE, FICTITIOUS OR FRAUDULENT STATEMENT (18 U.S.C.A. § 1001(a)(2))

- § 40:05 The nature of the offense charged
- § 40:06 The statute defining the offense charged
- § 40:07 The essential elements of the offense charged
- § 40:08 "False, fictitious or fraudulent statements or representations"—Defined

C. MAKING OR USING ANY FALSE WRITING OR DOCUMENT (18 U.S.C.A. § 1001(a)(3))

- § 40:09 The nature of the offense charged
- § 40:10 The statute defining the offense charged
- § 40:11 The essential elements of the crime charged
- § 40:12 "Makes or uses any false writing or document"—Defined

D. INSTRUCTIONS COMMON TO FRAUD AND FALSE STATEMENTS

§ 40:13 "Knowingly"—Defined

- § 40:14 "Willfully"—Defined
- § 40:15 Unanimity—Explained
- § 40:16 The good faith defense

CHAPTER 41. FALSE ENTRIES IN BANK RECORDS AND FEDERAL CREDIT INSTITUTION RECORDS (18 U.S.C.A. §§ 1005 AND 1006)

A. FALSE ENTRIES IN BANK RECORDS (18 U.S.C.A. § 1005-THIRD PARAGRAPH)

- § 41:01 The nature of the offense charged
- § 41:02 The statute defining the offense charged
- § 41:03 The essential elements of the offense charged

B. FALSE ENTRIES IN FEDERAL CREDIT INSTITUTION RECORDS (18 U.S.C.A. § 1006-FIRST PARAGRAPH)

- § 41:04 The nature of the offense charged
- § 41:05 The statute defining the offense charged
- § 41:06 The essential elements of the offense charged

C. INSTRUCTIONS COMMON TO FALSE ENTRIES IN BANK RECORDS AND FALSE ENTRIES IN FEDERAL CREDIT INSTITUTION RECORDS

- § 41:07 "False"—Defined
- § 41:08 "Intent to defraud"—Defined
- § 41:09 "Intent to injure or defraud the bank"—Defined
- § 41:10 "Materiality"—Defined

CHAPTER 42. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS (18 U.S.C.A. § 1030)

- A. OBTAINING INFORMATION FROM COMPUTER—INJURY TO UNITED STATES (18 U.S.C.A. § 1030(a)(1))
- § 42:01 The nature of the offense charged
- § 42:02 The statute defining the offense charged
- § 42:03 The essential elements of the offense charged
- B. OBTAINING INFORMATION FROM COMPUTER OF FINANCIAL INSTITUTION (18 U.S.C.A. § 1030(a)(2))
- § 42:04 The nature of the offense charged
- § 42:05 The statute defining the offense charged
- § 42:06 The essential elements of the offense charged
- C. UNLAWFUL ACCESS OF COMPUTER USED BY OR FOR GOVERNMENT (18 U.S.C.A. § 1030(a)(3))
- § 42:07 The nature of the offense charged
- § 42:08 The statute defining the offense charged
- § 42:09 The essential elements of the offense charged
- D. COMPUTER FRAUD—USE BY OR FOR FINANCIAL INSTITUTION OR GOVERNMENT (18 U.S.C.A. § 1030(a)(4))
- § 42:10 The nature of the offense charged
- § 42:11 The statute defining the offense charged
- § 42:12 The essential elements of the offense charged
- E. TRANSMISSION OF PROGRAM TO CAUSE DAMAGE TO A COMPUTER (18 U.S.C.A. § 1030(a)(5)(A))
- § 42:13 The nature of the offense charged

- § 42:14 The statute defining the offense charged
- § 42:15 The essential elements of the offense charged

F. INSTRUCTIONS COMMON TO FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS

- § 42:16 "Computer"—Defined
- § 42:17 "Protected computer"—Defined
- § 42:18 "Financial institution"—Defined
- § 42:19 "Exceeds authorized access"—Defined
- § 42:20 "Department of the United States"—Defined

CHAPTER 43. FUGITIVES FROM JUSTICE (18 U.S.C.A. § 1073)

- § 43:01 The nature of the offense charged
- § 43:02 The statute defining the offense charged
- § 43:03 The essential elements of the offense charged
- § 43:04 "Moves or travels in interstate or foreign commerce"— Defined
- § 43:05 "Intent to avoid prosecution, or custody or confinement"— Defined
- § 43:06 "Felony"—Explained

CHAPTER 44. INTERSTATE TRANSMISSION OF WAGERING INFORMATION (18 U.S.C.A. § 1084)

- § 44:01 The nature of the offense charged
- § 44:02 The statute defining the offense charged
- § 44:03 The essential elements of the offense charged
- § 44:04 "Engaged in the business of betting or wagering"—Explained

CHAPTER 45. HOMICIDE (18 U.S.C.A. § 1111 AND § 1112)

A. MURDER—FIRST DEGREE (18 U.S.C.A. § 1111)

- § 45:01 The nature of the offense charged
- § 45:02 The statute defining the offense charged

§ 45:03 The essential elements of the offense charged

B. MURDER—SECOND DEGREE (18 U.S.C.A. § 1111)

- § 45:04 The nature of the offense charged
- § 45:05 The statute defining the offense charged
- § 45:06 The essential elements of the offense charged

C. VOLUNTARY MANSLAUGHTER (18 U.S.C.A. § 1112)

- § 45:07 The nature of the offense charged
- § 45:08 The statute defining the offense charged
- § 45:09 The essential elements of the offense charged

D. INVOLUNTARY MANSLAUGHTER (18 U.S.C.A. § 1112)

- § 45:10 The nature of the offense charged
- § 45:11 The statute defining the offense charged
- § 45:12 The essential elements of the offense charged

E. FELONY MURDER (18 U.S.C.A. § 1111)

- § 45:13 The nature of the offense charged
- § 45:14 The statute defining the offense charged
- § 45:15 The essential elements of the offense charged

F. INSTRUCTIONS COMMON TO HOMICIDE

- § 45:16 "Malice aforethought"—Defined
- § 45:17 "Premeditation"—Defined
- § 45:18 The lesser included offense
- § 45:19 Self-defense—Defined

CHAPTER 46. KIDNAPPING (18 U.S.C.A. § 1201(a)(1))

- § 46:01 The nature of the offense charged
- § 46:02 The statute defining the offense charged

- § 46:03 The essential elements of the offense charged
 § 46:04 "Kidnaps"—Defined
 § 46:05 "And holds for ransom or reward or otherwise"—Defined
- § 46:06 "Transported in interstate commerce"—Defined

CHAPTER 47. MAIL, WIRE, AND BANK FRAUD (18 U.S.C.A. §§ 1341, 1343, AND 1344)

A. MAIL FRAUD (18 U.S.C.A. § 1341)

- § 47:01 The nature of the offense charged
- § 47:02 The statute defining the offense charged
- § 47:03 The essential elements of the offense charged
- § 47:04 Use of the mails or interstate carrier-defined

B. FRAUD BY WIRE (18 U.S.C.A. § 1343)

- § 47:05 The nature of the offense charged
- § 47:06 The statute defining the offense charged
- § 47:07 The essential elements of the offense charged
- § 47:08 "Transmits by means of wire, radio, or television communication in interstate commerce"—Defined

C. BANK FRAUD (18 U.S.C.A. § 1344)

- § 47:09 The nature of the offense charged
- § 47:10 The statute defining the offense charged
- § 47:11 The essential elements of the offense charged
- § 47:12 "Federally chartered or insured financial institution"— Defined

D. INSTRUCTIONS COMMON TO MAIL, WIRE, AND BANK FRAUD

- § 47:13 "Any scheme or artifice to defraud" and "false or fraudulent pretenses, representations or promises"—Defined
- § 47:14 Intent to defraud—Defined
- § 47:15 Each use of the mails and each transmission by wire communication in interstate commerce—Defined
- § 47:16 The good faith defense
- § 47:17 Unanimity-explained

CHAPTER 48. OBSTRUCTION OF JUSTICE—INFLUENCING OR INJURING AN OFFICER OR JUROR GENERALLY (18 U.S.C.A. § 1503)

- § 48:01 The nature of the offense charged
 § 48:02 The statute defining the offense charged
 § 48:03 The essential elements of the offense charged
 § 48:04 "Corruptly"—Defined
- § 48:05 "Endeavors"—Defined

CHAPTER 49. TAMPERING WITH A WITNESS, VICTIM, OR AN INFORMANT (18 U.S.C.A. § 1512)

§ 49:01 The nature of the offense charged
§ 49:02 The statute defining the offense charged
§ 49:03 The essential elements of the offense charged
§ 49:04 "Intimidation" and "physical force"—Defined
§ 49:05 "With intent to influence, delay, or prevent testimony"—Defined
§ 49:06 "Official proceeding"—Defined

CHAPTER 50. PERJURY (18 U.S.C.A. §§ 1621 AND 1623)

A. PERJURY (18 U.S.C.A. § 1621(1))

§ 50:01 The nature of the offense charged
§ 50:02 The statute defining the offense charged
§ 50:03 The essential elements of the offense charged
§ 50:04 "Willfully and contrary to such oath"—Defined
§ 50:05 Requirement of corroboration—Explained

B. FALSE DECLARATIONS BEFORE A GRAND JURY OR COURT (18 U.S.C.A. § 1623(a))

§ 50:06 The nature of the offense charged
§ 50:07 The statute defining the offense charged
§ 50:08 The essential elements of the offense charged

- § 50:09 "Irreconcilably contradictory declarations"—Defined
- § 50:10 The recantation defense

C. INSTRUCTIONS COMMON TO PERJURY AND FALSE DECLARATIONS BEFORE A GRAND JURY OR COURT

- § 50:11 Unanimous agreement to false statement—Explained
- § 50:12 The "Literal Truth" defense

CHAPTER 51. SUBORNATION OF PERJURY (18 U.S.C.A. § 1622)

- § 51:01 The nature of the offense charged
- § 51:02 The statute defining the offense charged
- § 51:03 The essential elements of the offense charged

CHAPTER 52. POSTAL SERVICE (18 U.S.C.A. §§ 1708 AND 1709)

A. THEFT OR RECEIPT OF STOLEN MAIL MATTER GENERALLY (18 U.S.C.A. § 1708) (THIRD PARAGRAPH)

- § 52:01 The nature of the offense charged
- § 52:02 The statute defining the offense charged
- § 52:03 The essential elements of the offense charged
- § 52:04 "Possess"—Defined
- § 52:05 Possession of recently stolen property—Inference permitted

B. THEFT OF MAIL MATTER BY OFFICER OR EMPLOYEE (18 U.S.C.A. § 1709)

- § 52:06 The nature of the offense charged
- § 52:07 The statute defining the offense charged
- § 52:08 The essential elements of the offense charged
- § 52:09 "Embezzle"—Defined
- § 52:10 "Intended to be conveyed by mail"—Explained

CHAPTER 53. INTERFERENCE WITH COMMERCE BY THREATS OR VIOLENCE HOBBS ACT—EXTORTION (18 U.S.C.A. § 1951)

§	53:01	The nature of the offense charged
§	53:02	The statute defining the offense charged
§	53:03	The essential elements of the offense charged
§	53:04	"Obstructs, delays, or affects commerce"—Defined
§	53:05	"Robbery"—Defined
§	53:06	"Extortion" by fear of physical violence—Defined
§	53:07	"Extortion" by fear of economic loss—Defined
§	53:08	The wrongful use of economic fear—Defined
§	53:09	"Extortion under color of official right"—Defined
§	53:10	"Property"—Defined

CHAPTER 54. INTERSTATE TRAVEL IN AID OF RACKETEERING (18 U.S.C.A. § 1952(a)(3))

§	54:01	The nature of the offense charged
§	54:02	The statute defining the offense charged
§	54:03	The essential elements of the offense charged
§	54:04	"Travels in interstate commerce or uses any facility in interstate commerce"—Defined
§	54:05	To "Promote, or facilitate the promotion, of any unlawful activity"—Defined
§	54:06	"Business enterprise involving gambling, narcotics or controlled substances or prostitution"—Defined

Volume 2B

CHAPTER 55. ILLEGAL GAMBLING BUSINESSES (18 U.S.C.A. § 1955(a))

§	55:01	The nature of the offense charged
§	55:02	The statute defining the offense charged
§	55:03	The essential elements of the offense charged
§	55:04	"Conducts, finances, manages, supervises, directs, or owns"—
		Defined
§	55:05	In "violation of the law of a state or political subdivision in
		which it is conducted"—Defined

- § 55:06 "Five or more persons"—Defined
 § 55:07 Five or more persons need not be charged or known
 § 55:08 Line information and lay-off wagers—Explained
 § 55:09 "In substantially continuous operation"—Defined
 § 55:10 "Gross revenue of \$2,000 in any single day"—Defined
- CHAPTER 56. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS (18 U.S.C.A. §§ 1961 ET SEQ.)
- A. PARTICIPATION IN THE AFFAIRS OF AN INTERSTATE ENTERPRISE THROUGH A PATTERN OF RACKETEERING ACTIVITY (18 U.S.C.A. § 1962(c))
- § 56:01 The nature of the offense charged
 § 56:02 The statute defining the offense charged
 § 56:03 The essential elements of the offense charged
 § 56:04 An "enterprise"—Defined
 § 56:05 "Engaged in, or the activities of which affect, interstate commerce"—Defined
 § 56:06 "Racketeering activity"—Defined
 § 56:07 A "pattern of racketeering activity"—Defined
 § 56:08 "To conduct or participate directly or indirectly, in the conduct of" the affairs of the enterprise—Defined
- B. CONSPIRACY TO PARTICIPATE IN THE AFFAIRS OF AN INTERSTATE ENTERPRISE THROUGH A PATTERN OF RACKETEERING ACTIVITY (18 U.S.C.A. § 1962(d))
- § 56:09 The nature of the offense charged
- § 56:10 The statutes defining the offense charged
- § 56:11 The essential elements of the offense charged

CHAPTER 57. ROBBERY AND BURGLARY (18 U.S.C.A. § 2113)

A. BANK ROBBERY (18 U.S.C.A. § 2113(a))

- § 57:01 The nature of the offense charged
- § 57:02 The statute defining the offense charged
- § 57:03 The essential elements of the offense charged

B. BANK ROBBERY WITH A DANGEROUS WEAPON OR DEVICE (18 U.S.C.A. § 2113(d))

- § 57:04 The nature of the offense charged
- § 57:05 The statute defining the offense charged
- § 57:06 The essential elements of the offense charged
- § 57:07 "Assaults any person"—Defined
- § 57:08 "Puts in jeopardy the life of any person by the use of a dangerous weapon or device"—Defined
- § 57:09 The lesser included offense

C. INSTRUCTIONS COMMON TO BANK ROBBERY (18 U.S.C.A. §§ 2113(a) AND (d))

- § 57:10 "By force and violence, or by intimidation"—Defined
- § 57:11 "Custody, control, management, or possession"—Defined
- § 57:12 "Any bank, credit union, or any savings and loan association"—Defined
- § 57:13 Possession of recently stolen property—Permissible inference

CHAPTER 58. CARJACKING (18 U.S.C.A. § 2119)

- § 58:01 The nature of the offense charged
- § 58:02 The statute defining the offense charged
- § 58:03 The essential elements of the offense charged
- § 58:04 "By force and violence, or by intimidation"—Defined

CHAPTER 59. STOLEN PROPERTY (18 U.S.C.A. §§ 2312, 2313, 2314, 2315)

A. INTERSTATE TRANSPORTATION OF STOLEN VEHICLES (18 U.S.C.A. § 2312)

- § 59:01 The nature of the offense charged
- § 59:02 The statute defining the offense charged
- § 59:03 The essential elements of the offense charged

B. SALE OR RECEIPT OF STOLEN VEHICLES (18 U.S.C.A. § 2313)

- § 59:04 The nature of the offense charged
- § 59:05 The statute defining the offense charged
- § 59:06 The essential elements of the offense charged

C. INTERSTATE TRANSPORTATION OF STOLEN GOODS (18 U.S.C.A. § 2314)

- § 59:07 The nature of the offense charged
- § 59:08 The statute defining the offense charged
- § 59:09 The essential elements of the offense charged

D. SALE OR RECEIPT OF STOLEN GOODS (18 U.S.C.A. § 2315)

- § 59:10 The nature of the offense charged
- § 59:11 The statute defining the offense charged
- § 59:12 The essential elements of the offense charged

E. INSTRUCTIONS COMMON TO TRANSPORTATION, SALE, AND RECEIPT OF STOLEN VEHICLES OR GOODS (18 U.S.C.A. §§ 2312–2315)

- § 59:13 "Stolen"—Defined
- § 59:14 "Transports in interstate commerce"—Defined
- § 59:15 "Value"—Defined
- § 59:16 Possession of recently stolen property—Inference permitted

CHAPTER 60. TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY (18 U.S.C.A. § 2421)

§ 60:01 The nature of the offense charged
§ 60:02 The statute defining the offense charged
§ 60:03 The essential elements of the offense charged
§ 60:04 "Transports any individual in interstate commerce"—Defined
§ 60:05 "Prostitution" or other illegal "sexual activity"—Defined
§ 60:06 Failure to accomplish intended activity is immaterial
§ 60:07 The intent required

CHAPTER 61. IMMIGRATION (8 U.S.C.A. § 1324)

A. BRINGING AN ALIEN INTO UNITED STATES (8 U.S.C.A. § 1324(a)(1)(A)(i))

- § 61:01 The nature of the offense charged
- § 61:03 The essential elements of the offense charged

The statute defining the offense charged

B. ILLEGAL TRANSPORTATION OF AN ALIEN (8 U.S.C.A. § 1324(a)(1)(A)(ii))

- \S 61:04 The nature of the offense charged
- § 61:05 The statute defining the offense charged
- § 61:06 The essential elements of the offense charged

C. CONCEALMENT OF AN ALIEN (8 U.S.C.A. § 1324(a)(1)(A)(iii))

- § 61:07 The nature of the offense charged
- § 61:08 The statute defining the offense charged
- § 61:09 The essential elements of the offense charged

D. INSTRUCTIONS COMMON TO IMMIGRATION RELATED CRIMES

§ 61:10 "Alien"—Defined

§ 61:02

§ 61:11 "Reckless disregard"—Defined

§ 61:12 "To conceal"—Defined

CHAPTER 62. SECURITIES FRAUD (15 U.S.C.A. §§ 77Q(a) AND 78J(b))

A. THE SECURITIES ACT OF 1933— FRAUDULENT INTERSTATE TRANSACTIONS (15 U.S.C.A. § 77q(a))

- § 62:01 The nature of the offense charged
- § 62:02 The statutes defining the offense charged
- § 62:03 The essential elements of the offense charged
- § 62:04 "The use of any means or instruments in interstate commerce or the mails"—Defined

B. THE SECURITIES EXCHANGE ACT OF 1934 MANIPULATIVE AND DECEPTIVE DEVICES (15 U.S.C.A. § 78j(b) AND 17 C.F.R. § 240.10b-5)

- § 62:05 The nature of the offense charged
- § 62:06 The statutes defining the offense charged
- § 62:07 The essential elements of the offense charged
- § 62:08 "The use of any means or instrumentality of interstate commerce or of the mails, or of any national securities exchange"—Defined
- § 62:09 "Any manipulative or deceptive device or contrivance"—

 Defined
- § 62:10 "A fraud or deceit upon any person"—Defined
- § 62:11 "In connection with the purchase or sale of any security"—
 Defined

C. INSTRUCTIONS COMMON TO THE SECURITIES ACT OF 1933 AND THE SECURITIES EXCHANGE ACT OF 1934

- § 62:12 "Security"—Defined
- § 62:13 "Device, scheme, or artifice to defraud"—Defined
- § 62:14 Materiality—Defined
- § 62:15 Fraud, fraudulent intent, and good faith—Defined

CHAPTER 63. FOOD, DRUG AND COSMETIC ACT (21 U.S.C.A. § 331(a))

§ 63:01 The nature of the offense charged
§ 63:02 The statute defining the offense charged
§ 63:03 The essential elements of the offense charged
§ 63:04 "Interstate commerce"—Defined
§ 63:05 "Adulterated"—Defined
§ 63:06 "Insanitary conditions" and "filth"—Explained
§ 63:07 "Position of responsibility"—Defined
§ 63:08 Knowledge or intent not elements

CHAPTER 64. DRUG ABUSE PREVENTION AND CONTROL (21 U.S.C.A. § 841)

A. DISTRIBUTION OF A CONTROLLED SUBSTANCE (21 U.S.C.A. § 841(a)(1))

- § 64:01 The nature of the offense charged
 § 64:02 The statute defining the offense charged
 § 64:03 The essential elements of the offense charged
 § 64:04 "To distribute"—Defined
- B. POSSESSION OF A CONTROLLED SUBSTANCE WITH THE INTENT TO DISTRIBUTE (21 U.S.C.A. § 841(a)(1))
- § 64:05 The nature of the offense charged
 § 64:06 The statute defining the offense charged
 § 64:07 The essential elements of the offense charged
 § 64:08 "To possess"—Defined
 § 64:09 "With intent to distribute"—Defined

C. SIMPLE POSSESSION OF A CONTROLLED SUBSTANCE (21 U.S.C.A. § 844(a))

- § 64:10 The nature of the offense charged§ 64:11 The statute defining the offense charged
- § 64:12 The essential elements of the offense charged

D. INSTRUCTIONS COMMON TO DRUG ABUSE PREVENTION AND CONTROL

- § 64:13 "A controlled substance"—Defined
- § 64:14 Actual or exact amount of controlled substance need not be proven
- § 64:15 Knowledge of precise controlled substance need not be proven
- § 64:16 "Good faith" defense for physicians and pharmacists
- § 64:17 Attempt—Explained
- § 64:18 Entrapment—Explained

CHAPTER 65. DRUG ABUSE PREVENTION AND CONTROL USE OF A COMMUNICATION FACILITY (21 U.S.C.A. § 843(b))

- § 65:01 The nature of the offense charged
- § 65:02 The statute defining the offense charged
- § 65:03 The essential elements of the offense charged
- § 65:04 "Communication facility"—Defined
- § 65:05 "Facilitate the commission"—Defined

CHAPTER 66. CONTINUING CRIMINAL ENTERPRISE (21 U.S.C.A. § 848)

- § 66:01 The nature of the offense charged
- § 66:02 The statute defining the offense charged
- § 66:03 The essential elements of the offense charged
- § 66:04 Felony violation of the federal narcotics law—Defined
- § 66:05 "A continuing series of violations"—Defined
- § 66:06 "In concert with five or more other persons"—Defined
- § 66:07 "Organizer, supervisory position, or any other position of management"—Defined
- § 66:08 "Obtains substantial income or resources"—Defined

CHAPTER 67. INTERNAL REVENUE CODE CRIMINAL PROVISIONS (26 U.S.C.A. §§ 7201 TO 7207)

A. ATTEMPT TO EVADE OR DEFEAT ANY TAX (26 U.S.C.A. § 7201)

§	67:01	The nature of the offense charged
§	67:02	The statute defining the offense charged
§	67:03	The essential elements of the offense charged
§	67:04	"Attempts in any manner to evade or defeat any tax"— Explained
§	67:05	The "net worth method" of determining income—Explained
§	67:06	The "cash expenditures method" of determining income— Explained
§	67:07	The "bank deposits method" of determining income— Explained
8	67:08	Proof of precise amount of tax owed not necessary

B. WILLFUL FAILURE TO FILE A RETURN (26 U.S.C.A. § 7203)

- § 67:09 The nature of the offense charged
 § 67:10 The statute defining the offense charged
 § 67:11 The essential elements of the offense charged
 § 67:12 The requirement to file a return—Explained
- C. FRAUDULENT AND FALSE STATEMENTS DECLARATION UNDER PENALTIES OF PERJURY (26 U.S.C.A. § 7206(1))
- § 67:13 The nature of the offense charged
- § 67:14 The statute defining the offense charged
- § 67:15 The essential elements of the offense charged

D. FRAUDULENT RETURNS, STATEMENTS, OR OTHER DOCUMENTS (26 U.S.C.A. § 7207)

§ 67:16 The nature of the offense charged

- § 67:17 The statute defining the offense charged
- § 67:18 The essential elements of the offense charged
- § 67:19 Not necessary to show any additional tax due

E. INSTRUCTIONS COMMON TO INTERNAL REVENUE CODE CRIMINAL PROVISIONS (26 U.S.C.A. §§ 7201 TO 7207)

- § 67:20 "Willfully"—Defined
- § 67:21 Funds or property from unlawful sources
- § 67:22 Proof of signing of return as proof of knowledge of contents of return
- § 67:23 When the offense charged may be complete
- § 67:24 Each tax year is separate
- § 67:25 The good faith defense

CHAPTER 68. RESOURCE CONSERVATION AND RECOVERY ACT (42 U.S.C.A. § 6928)

- § 68:01 The nature of the offense charged
- § 68:02 The statute defining the offense charged
- § 68:03 The essential elements of the offense charged
- § 68:04 "Hazardous waste"—Defined

CHAPTER 69. HARASSING TELEPHONE CALLS IN INTERSTATE COMMERCE (47 U.S.C.A. § 223(a)(1)(E))

- § 69:01 The nature of the offense charged
- § 69:02 The statute defining the offense charged
- § 69:03 The essential elements of the offense charged
- § 69:04 "Solely to harass"—Defined

CHAPTER 70. CRIMINAL PENALTIES FOR ACTS INVOLVING FEDERAL HEALTH CARE PROGRAMS (42 U.S.C.A. § 1320A-7B)

- § 70:01 The nature of the offense charged
- § 70:02 The statute defining the offense charged

Ş	70:03	The essential elements of the offense charged
-		"Remuneration," "kickback," "bribe," or "rebate"—Defined
§	70:05	"Federal health care program"—Defined
§	70:06	"To induce"—Defined
		"Knowingly and willfully"—Defined
8	70:08	"Good faith"—Explained

CHAPTERS 71 TO 99 [RESERVED]

Volume 3

PART IV. INTRODUCTION TO INSTRUCTIONS FOR FEDERAL CIVIL CASES

CHAPTER 100. INTRODUCTION

§	100:01	The role of civil jury instructions
§	100:02	Written copies of instructions for jurors
§	100:03	Rule 51 of the Federal Rules of Civil Procedure
§	100:04	Crafting jury instructions
§	100:05	Using these instructions
§	100:06	Organization of civil jury instructions
§	100:07	Instructions at the beginning, during, and at the conclusion
		of trial

PART V. GENERAL INSTRUCTIONS FOR FEDERAL CIVIL CASES

CHAPTER 101. GENERAL PRELIMINARY INSTRUCTIONS AT BEGINNING OF CIVIL TRIAL

OVERVIEW

A. GENERALLY

§	101:01	Opening instructions
§	101:02	Order of trial
§	101:03	Claims and defenses
88	101:04	to 101:09 [Reserved]

PROVINCE AND CONDUCT OF JURY B.

- § 101:10 Province of judge and jury
- § 101:11 Jury conduct
- § 101:12 Juror conduct—No independent investigation
- § 101:13 Juror use of electronic technology—During voir dire of potential jurors
- § 101:14 —Before trial
- § 101:15 —At the end of each day of the case
- § 101:16 —At the beginning of each day of the case
- § 101:17 Sequestration
- § 101:18 Notetaking—Permitted
- § 101:19 —Prohibited
- § 101:20 Questions by jurors—Permitted
- § 101:21 —Prohibited
- § 101:22 Unauthorized view of the place of incident
- § 101:23 No transcript available to jury
- § 101:24 Publicity during trial
- § 101:25 Remand on issue of damages only
- §§ 101:26 to 101:29 [Reserved]

C. ROLE OF JUDGE

- § 101:30 Judge's questions to witnesses
- § 101:31 Bench conferences
- §§ 101:32 to 101:39 [Reserved]

D. **EVIDENCE**

- § 101:40 Evidence in the case
- § 101:41 Burden of proof
- § 101:42 Direct and circumstantial evidence
- § 101:43 Credibility of witnesses
- § 101:44 What is not evidence
- § 101:45 Evidence for limited purposes
- § 101:46 Admissions in pleadings
- § 101:47 Stipulation of fact
- § 101:48 Stipulation of testimony
- § 101:49 Ruling on objections
- § 101:50 Official translation

CHAPTER 102. INSTRUCTIONS DURING A CIVIL TRIAL

A. INSTRUCTIONS BEFORE RECESS

- § 102:01 Cautionary instruction before court recess
- § 102:02 Bench conferences
- §§ 102:03 to 102:09 [Reserved]

B. STIPULATIONS

- § 102:10 Stipulated testimony
- § 102:11 Stipulations of fact
- § 102:12 Publicity during trial
- §§ 102:13 to 102:19 [Reserved]

C. EVIDENCE

- § 102:20 Judicial notice
- § 102:21 Transcript of audio recording
- § 102:22 Tests and experiments
- § 102:23 Deposition as substantive evidence
- § 102:24 Use of interrogatories
- § 102:25 Use of requests for admission
- § 102:26 Official translation
- § 102:27 View of location permitted
- § 102:28 Life expectancy evidence
- §§ 102:29 to 102:39 [Reserved]

D. LIMITATIONS ON USE OF EVIDENCE

- § 102:40 Limited purpose evidence
- § 102:41 Evidence admitted against only one party
- § 102:42 Previous trial
- § 102:43 Cross-examination of character witness
- § 102:44 Impeachment by conviction of crime
- § 102:45 Stricken testimony
- § 102:46 Cautionary instruction
- §§ 102:46 to 102:59 [Reserved]

E. WITHDRAWAL OR DISCONTINUANCE

§ 102:60 Withdrawal of claim

§ 102:61 Dismissal or discontinuance as to some parties §§ 102:62 to 102:69 [Reserved]

F. JUDGE'S COMMENTS

- § 102:70 Judge's comments to lawyer
- § 102:71 Objections and rulings
- § 102:72 Judge's questions to witnesses
- § 102:73 Judge's comments on certain evidence

CHAPTER 103. INSTRUCTIONS AT CLOSE OF EVIDENCE: DUTIES OF COURT AND JURY

A. GENERALLY

- § 103:01 General introduction
- § 103:02 Use of notes
- § 103:03 Juror use of electronic communication technologies
- §§ 103:04 to 103:09 [Reserved]

B. PARTIES

- § 103:10 Instructions apply to each party
- § 103:11 All persons equal before the law—Individuals
- § 103:12 —Organizations
- § 103:13 Multiple plaintiffs
- § 103:14 Multiple defendants
- § 103:15 Dismissal or discontinuance as to some defendants
- §§ 103:16 to 103:29 [Reserved]

C. CONSIDERATION OF EVIDENCE

- § 103:30 Evidence in the case
- § 103:31 Consideration of the evidence—Corporate party's agents and employees
- § 103:32 Instruction if pleadings read to or given to jury
- § 103:33 Court's comments not evidence
- § 103:34 Questions not evidence
- § 103:35 Official translation
- § 103:36 Law enforcement officer testimony
- §§ 103:37 to 103:49 [Reserved]

D. JURY PROCEDURES

§ 103:50 Election of foreperson or presiding juror; duty to deliberate; communications with court; cautionary; unanimous verdict; verdict form

CHAPTER 104. INSTRUCTIONS AT CLOSE OF EVIDENCE: BURDEN OF PROOF

A. STANDARD OF PROOF

- § 104:01 Preponderance of the evidence
 § 104:02 Clear and convincing evidence
 § 104:03 Burden of proof where some jurors have served on jury in criminal case
- § 104:04 "If you find" or "if you decide"
- § 104:05 Direct and circumstantial evidence
- §§ 104:06 to 104:19 [Reserved]

B. INFERENCES AND PRESUMPTIONS

- § 104:20 Inferences
- § 104:21 Presumption of regularity
- § 104:22 Finding that official report made
- § 104:23 Finding as to thing once proved to exist
- § 104:24 Notice or knowledge—Duty of inquiry
- § 104:25 Failure to call available witness
- § 104:26 Failure to produce available evidence
- § 104:27 Suppression or fabrication of evidence
- § 104:28 Fifth Amendment
- §§ 104:29 to 104:39 [Reserved]

C. OPINION EVIDENCE

- § 104:40 Expert witness
- § 104:41 Authenticity of report
- § 104:42 Evidence admitted for a limited purpose only
- § 104:43 Statistical evidence
- §§ 104:44 to 104:49 [Reserved]

D. MISCELLANEOUS EVIDENCE

§ 104:50 Charts and summaries

- § 104:51 Fingerprints
 § 104:52 Handwriting
 § 104:53 Oral statements or admissions
 § 104:54 Number of witnesses
 § 104:55 Evidence in electronic format
- §§ 104:56 to 104:69 [Reserved]

E. DISCOVERY MATERIALS

§ 104:70 Requests for admission
 § 104:71 —No response to requests
 § 104:72 Answers to interrogatories
 § 104:73 Answers to interrogatories or requests for admission not binding on others

CHAPTER 105. INSTRUCTIONS AT CLOSE OF EVIDENCE: CREDIBILITY OF WITNESSES

§ 105:01 Witness credibility
§ 105:02 Use of depositions as evidence
§ 105:03 Testimony of perjurer
§ 105:04 Impeachment—Inconsistent statement or conduct
§ 105:05 —Conviction of felony
§ 105:06 —Bad reputation for truthfulness
§ 105:07 Effect of prior inconsistent conduct
§ 105:08 Effect of refusal of witness to answer
§ 105:09 All available witnesses or evidence need not be produced
§ 105:10 Child witness
§ 105:11 Law enforcement officer testimony

CHAPTER 106. INSTRUCTIONS AT CLOSE OF EVIDENCE: THE VERDICT

§	106:01	Duty to deliberate
§	106:02	Effect of instruction as to damages
§	106:03	Verdict—One of multiple defendants
§	106:04	Election of foreperson or presiding juror—General verdict
§	106:05	—Special verdict
§	106:06	—Special and general verdicts
§	106:07	Verdict forms—Jury's responsibility
§	106:08	Communications between court and jury during jury's
		deliberations

- § 106:09 Additional instruction—Generally § 106:10 —When jurors fail seasonably to agree 106:11 —Changed instruction § 106:12 Special verdict under Fed. R. Civ. P. 49(a)—Survival action 106:13 —Automobile accident 106:14 —Comparative fault 106:15 —Statute of limitations
- § 106:16 —Unanimity required

CHAPTER 107. INSTRUCTIONS AT CLOSE OF EVIDENCE: AFFIRMATIVE **DEFENSES**

- § 107:01 Statute of limitations defense
- § 107:02 Release of all claims by plaintiff—Avoidance of
- § 107:03 Accord and satisfaction
- § 107:04 Workers' compensation defense

CHAPTER 108. INSTRUCTIONS AT CLOSE OF EVIDENCE: AGENCY AND OTHER VICARIOUS RESPONSIBILITY INSTRUCTIONS

- § 108:01 Agents of corporation
- § 108:02 Ratification
- § 108:03 Apparent authority
- § 108:04 Common scheme or plan
- § 108:05 Corporate entity—Alter ego
- § 108:06 "Independent contractor"—Defined
- § 108:07 "Partnership"—Defined

CHAPTER 109 TO 119 (RESERVED)

PART VI. INSTRUCTIONS FOR CIVIL **DIVERSITY CASES**

CHAPTER 120. CLAIMS FOR INJURIES TO PERSONS: NEGLIGENCE

GENERALLY

§ 120:01 Plaintiff's claim for damages for personal injuries

- § 120:02 Negligence
- § 120:03 Essential elements of plaintiff's claim
- § 120:04 Issues remaining where liability admitted
- § 120:05 Gross negligence
- §§ 120:06 to 120:09 [Reserved]

B. DUTY OF CARE

- § 120:10 Ordinary care
- § 120:11 —A relative term
- § 120:12 Quantum of care varies with danger
- § 120:13 Trespasser
- §§ 120:14 to 120:19 [Reserved]

C. INFERENCES

- § 120:20 Inference from fact of accident
- § 120:21 Res ipsa loquitur
- §§ 120:22 to 120:29 [Reserved]

D. PARTICULAR NEGLIGENT ACTS

- § 120:30 Particulars of claimed negligence of defendant
- § 120:31 Duty of employer as to place of work
- § 120:32 Duty of owner or occupant of premises to invitee
- § 120:33 Duty of railroad to warn at crossing
- §§ 120:34 to 120:39 [Reserved]

E. STATUTES, ORDINANCES, OR REGULATIONS

- § 120:40 Provisions of statute, ordinance, or regulation
- § 120:41 Effect of a violation of law
- §§ 120:42 to 120:49 [Reserved]

F. MULTIPLE TORTFEASORS AND CORPORATIONS

- § 120:50 Joint tortfeasors
- § 120:51 Corporation can act only through agents
- §§ 120:52 to 120:59 [Reserved]

G. CAUSATION

§ 120:60 Proximate cause
§ 120:61 More than one proximate cause
§ 120:62 Intervening cause
§ 120:63 Superseding cause
§ 120:64 Efficient intervening cause
§§ 120:65 to 120:69 [Reserved]

H. DEFENSES

- § 120:70 Release of all claims by plaintiff
 § 120:71 Contributory negligence
 § 120:72 Last clear chance
 § 120:73 Sudden emergency
 § 120:74 Assumption of risk
 § 120:75 Best judgment
 § 120:76 Unavoidable accident
 §§ 120:77 to 120:79 [Reserved]
- I. VERDICTS
- § 120:80 Comparative negligence
 § 120:81 "Pure" comparative negligence—Giving example
 § 120:82 —General verdict
 § 120:83 "Modified" comparative negligence
 § 120:84 "Pure" or "modified" comparative negligence
 § 120:85 Verdict for defendant—Contributory negligence as bar
 § 120:86 Contribution—Separate submission
 § 120:87 Interrogatories to jury
 § 120:88 Medical malpractice
 § 120:89 Personal injury case—Assumption of the risk and contributory negligence

CHAPTER 121. CLAIMS FOR INJURIES TO PERSONS: INTENTIONAL TORTS

A. GENERALLY

§ 121:01 Intent
§§ 121:02 to 121:09 [Reserved]

B. ASSAULT AND BATTERY

- § 121:10 Assault and battery
- § 121:11 Self-defense
- §§ 121:12 to 121:19 [Reserved]

C. MALICIOUS PROSECUTION

- § 121:20 Essential elements of claim
- § 121:21 Favorable termination
- § 121:22 Probable cause for prosecution
- § 121:23 Malice and malicious
- §§ 121:24 to 121:29 [Reserved]

D. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

- § 121:30 Essential elements of claim
- §§ 121.31 to 121:39 [Reserved]

E. FALSE ARREST OR FALSE IMPRISONMENT

- § 121:40 Essential elements of claim of false imprisonment
- § 121:41 Essential elements of claim of false arrest
- § 121:42 Arrest by peace officer without warrant
- § 121:43 Arrest by private person
- § 121:44 Right of reasonable detention by property owner
- § 121:45 Reasonable cause for arrest/detention
- §§ 121:46 to 121:49 [Reserved]

F. ABUSE OF PROCESS

- § 121:50 Essential elements of claim
- § 121:51 Abuse of process
- § 121:52 Ill will

CHAPTER 122. CLAIMS FOR INJURIES TO PERSONS: PRODUCTS LIABILITY

A. GENERALLY

§ 122:01 Plaintiff's claim

- § 122:02 Essential elements of claim
- § 122:03 Transcript of judge's instructions to jury—Claim for damages relating to prescription drug failure to warn
- §§ 122:04 to 122:09 [Reserved]

B. DEFINITIONS

- § 122:10 Defective condition
- § 122:11 Proximate cause
- § 122:12 Willful and wanton
- § 122:13 Negligence
- §§ 122:14 to 122:19 [Reserved]

C. PARTICULAR ACTS

- § 122:20 Crashworthiness doctrine
- § 122:21 Fault not at issue
- § 122:22 Sale to plaintiff not necessary
- § 122:23 Manufacturer not guarantor
- § 122:24 Requirement of warning
- §§ 122:25 to 122:29 [Reserved]

D. DEFENSES

- § 122:30 Assumption of risk and obvious danger
- § 122:31 Misuse
- § 122:32 Substantial change in product
- § 122:33 Comparative fault
- § 122:34 Unreasonable use
- §§ 122:35 to 122:39 [Reserved]

E. VERDICTS

§ 122:40 Verdict form

CHAPTER 123. FRAUD AND DECEIT

A. GENERALLY

- § 123:01 Plaintiff's claim
- § 123:02 Essential elements of claim for misrepresentation
- § 123:03 Essential elements of claim for fraudulent concealment

§§ 123:04 to 123:09 [Reserved]

B. PRESUMPTIONS

§ 123:10 Fraud not presumed §§ 123:11 to 123:19 [Reserved]

C. DEFINITIONS

§ 123:20 Recklessly
§§ 123:21 to 123:29 [Reserved]

D. PARTICULAR ACTS

§ 123:30 Justifiable reliance
§ 123:31 Breach of fiduciary responsibility
§§ 123:32 to 123:39 [Reserved]

E. DAMAGES

§ 123:40 Punitive damages

F. VERDICTS

§ 123:41 Interrogatories to jury

CHAPTER 124. LIBEL

A. GENERALLY

§ 124:01 Plaintiff's claim
§ 124:02 Essential elements of claim—Nonprivileged libel
§ 124:03 Essential elements of plaintiff's claim—Privileged libel
§§ 124:04 to 124:09 [Reserved]

B. DEFINITIONS

§ 124:10 Libel
§ 124:11 Actual malice
§§ 124:12 to 124:19 [Reserved]

C. SPECIFIC ACTS

- § 124:20 Ordinary (non-privileged) libel—Finding of truth
- § 124:21 Libel in privileged situations
- § 124:22 Recklessness
- § 124:23 Of and concerning
- § 124:24 Republication not justification
- §§ 124:25 to 124:29 [Reserved]

D. DAMAGES

- § 124:30 Compensatory damages
- § 124:31 Punitive damages

E. VERDICTS

§ 124:32 Special verdict—Defamation

CHAPTER 125. INVASION OF PRIVACY

A. GENERALLY

- § 125:01 Plaintiff's claim
- § 125:02 Invasion of privacy—Essential elements
- § 125:03 Intrusion into private affairs—Essential elements
- § 125:04 Public disclosure of private facts—Essential elements
- § 125:05 Placing plaintiff in false light—Essential elements
- § 125:06 Appropriation of name, picture or identity—Essential elements
- §§ 125:07 to 125:09 [Reserved]

B. ACTS OF AGENTS

- § 125:10 Corporation acts through agents
- §§ 125:11 to 125:19 [Reserved]

C. DEFENSES

- § 125:20 Constitutional privilege
- §§ 125:21 to 125:29 [Reserved]

D. DAMAGES

§ 125:30 Compensatory damages

CHAPTER 126. CONTRACT ACTIONS

A. GENERALLY

§ 126:01 Elements of contract formation
§ 126:02 Implied contract
§ 126:03 Substantial performance of contract
§ 126:04 Repudiation
§ 126:05 Rescission
§ 126:06 Assignment
§ 126:07 Breach of contract—Damages
§ 126:08 —Mitigation of damages

B. DEFENSES

126:09 [Reserved]

- § 126:10 Excuse from performance
- § 126:11 Undue influence
- § 126:12 Waiver
- §§ 126:13 to 126:19 [Reserved]

C. INTERPRETATION

- § 126:20 Parol evidence
- §§ 126:21 to 126:29 [Reserved]

D. SALE OF GOODS

§ 126:30 Acceptance or rejection of goods under contract §§ 126:31 to 126:39 [Reserved]

E. ACTION FOR COMMISSION

§ 126:40 Broker's action for commission—Essential elements §§ 126:41 to 126:49 [Reserved]

F. FRANCHISE AGREEMENTS

§ 126:50 Termination for cause §§ 126:51 to 126:59 [Reserved]

G. EMPLOYMENT CONTRACTS

§ 126:60 Parties' claims

- § 126:61 Essential elements of plaintiff's claim
 § 126:62 Determining the contract
 § 126:63 Discharge for cause
- § 126:63 Discharge for caus
- § 126:64 Damages
- §§ 126:65 to 126:69 [Reserved]

H. INSURANCE

- § 126:70 Accidental death
- § 126:71 Self destruction—Essential elements
- § 126:72 Misrepresentation
- § 126:73 Oral agreement

CHAPTER 127. BUSINESS TORTS

A. INTERFERENCE WITH CONTRACTUAL ADVANTAGE

- § 127:01 Interference with prospective advantage—Essential elements
- § 127:02 Raiding key employees—Essential elements
- § 127:03 Damages
- §§ 127:04 to 127:09 [Reserved]

B. TRADE SECRETS

- § 127:10 Essential elements of claim
- § 127:11 "Trade secrets"—Defined
- § 127:12 Confidential relationship
- § 127:13 Misappropriation
- § 127:14 Compensatory damages
- § 127:15 Punitive damages
- §§ 127:16 to 127:19 [Reserved]

C. INSURANCE

§ 127:20 Duty of insurer to settle

CHAPTER 128. DAMAGES FOR INJURY TO PERSONS

A. PERSONAL INJURIES

§ 128:01 Damages claimed for personal injuries

- § 128:02 Damages claimed for injury, pain, disability, disfigurement, loss of capacity for enjoyment of life
- \S 128:03 Damages claimed for aggravation or activation of disease or defect
- §§ 128:04 to 128:09 [Reserved]

B. MEDICAL EXPENSES

- § 128:10 Damages claimed for medical expenses for care and treatment of plaintiff or plaintiff's spouse
- § 128:11 —More detail on measuring medical expenses, past and future
- § 128:12 Damages claimed for care and treatment of plaintiff's minor child
- § 128:13 Damages claimed for care and treatment of minor plaintiff after reaching majority
- §§ 128:14 to 128:19 [Reserved]

C. LOSS OF EARNINGS

- § 128:20 Loss of past and future earnings
- § 128:21 Life expectancy—Table of mortality
- § 128:22 Present worth of future loss
- § 128:23 Lost wages and/or earning capacity—When economic experts testified
- §§ 128:24 to 128:29 [Reserved]

D. WRONGFUL DEATH

- § 128:30 Elements of wrongful death claim
- §§ 128:31 to 128:39 [Reserved]

E. LOSS OF CONSORTIUM AND SERVICES

- § 128:40 Spouse's loss of consortium and services
- § 128:41 Parent's loss of child's services, earnings, earning capacity
- §§ 128:42 to 128:49 [Reserved]

F. MITIGATION

- § 128:50 Duty to mitigate
- §§ 128:51 to 128:59 [Reserved]

G. REASONABLENESS

§ 128:60 Reasonable not speculative §§ 128:61 to 128:69 [Reserved]

H. PROXIMATE CAUSE

 $\$ 128:70 Damages must have been proximately caused $\$ 128:71 to 128:79 [Reserved]

I. PUNITIVE AND NOMINAL DAMAGES

- \S 128:80 No punitive damages when damage caused by negligence
- § 128:81 Punitive and exemplary damages
- § 128:82 Nominal damages
- §§ 128:83 to 128:89 [Reserved]

J. INCOME TAXES

§ 128:90 Income tax effects of award §§ 128:91 to 128:99 [Reserved]

K. ATTORNEY FEES AND COURT COSTS

§ 128:100 Attorney fees and court costs §§ 128:101 to 128:109 [Reserved]

L. VERDICTS

§ 128:110 Verdict on plaintiff's claims for actual and punitive damages

CHAPTER 129. DAMAGES FOR INJURY TO PROPERTY AND BUSINESS INTERESTS

A. PROPERTY DAMAGE

- § 129:01 Damage to property
- § 129:02 "Fair market value"—Defined
- § 129:03 Loss of use
- §§ 129:04 to 129:19 [Reserved]

B. EMPLOYMENT CONTRACTS

§ 129:20 Loss of earnings §§ 129:21 to 129:29 [Reserved]

C. PROFITS AND GOODWILL

§ 129:30 Loss of profits

§ 129:31 Future profits

§ 129:32 Loss of goodwill

§§ 129:33 to 129:39 [Reserved]

D. PUNITIVE DAMAGES

§ 129:40 Punitive damages §§ 129:41 to 129:49 [Reserved]

E. MITIGATION OF DAMAGES

§ 129:50 Mitigation of damages

CHAPTERS 130–149 [RESERVED]

Volume 3A

PART VII. INSTRUCTIONS FOR CIVIL ACTIONS GOVERNED BY FEDERAL LAW

CHAPTER 150. ANTITRUST—PRIVATE ACTION

A. SHERMAN ACT

1. GENERALLY

§ 150:1 Nature of the claim

§ 150:2 Corporation can act only through agents

§ 150:3 Ignorance of antitrust laws no defense

§§ 150:4 to 150:9 [Reserved]

2. STATUTES DEFINING THE CLAIM

- § 150:10 Generally
- §§ 150:11 to 150:19 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

a. PRICE FIXING

- § 150:20 Generally
- § 150:21 Rule of reason
- § 150:22 Per se violation
- § 150:23 —Tying agreement
- § 150:24 Mere charging of identical prices not unlawful
- §§ 150:25 to 150:29 [Reserved]

b. MONOPOLIZATION

- § 150:30 Generally
- § 150:31 Willful and intentional acquisition and maintenance of monopoly
- § 150:32 Attempted monopolization
- § 150:33 Conspiracy to monopolize
- § 150:34 Sherman Act anticompetitive conduct
- §§ 150:35 to 150:39 [Reserved]

c. CONSPIRACY

- § 150:40 Generally
- § 150:41 Not necessary to join all co-conspirators
- § 150:42 Acts lawful without conspiracy
- § 150:43 Proof of membership in conspiracy
- § 150:44 Acts and declarations of co-conspirators
- § 150:45 Success of conspiracy immaterial
- § 150:46 Proof of overt act unnecessary
- § 150:47 Motives prompting conspiracy are immaterial
- §§ 150:48 to 150:59 [Reserved]

4. **DEFINITIONS**

- § 150:60 Person
- § 150:61 In restraint of interstate trade

- § 150:62 Interstate commerce
- § 150:63 Intent
- § 150:64 Monopolize
- § 150:65 Conspiracy
- § 150:66 Relevant market
- §§ 150:67 to 150:69 [Reserved]

5. CAUSATION

- § 150:70 Proximate cause
- § 150:71 Multiple causes
- § 150:72 Effect of final decree in criminal suit by government
- §§ 150:73 to 150:79 [Reserved]

6. DEFENSES

- § 150:80 Plaintiff responsible for conspiracy
- § 150:81 Statute of limitations—Generally
- § 150:82 —Fraudulent concealment
- § 150:83 Justification in tying agreement case
- § 150:84 Withdrawal from conspiracy
- §§ 150:85 to 150:89 [Reserved]

7. DAMAGES

- § 150:90 Compensatory damages
- § 150:91 Future profits
- § 150:92 Effect of allegations and instructions as to damages
- § 150:93 Jury not concerned with treble damages, costs or attorney fees
- §§ 150:94 to 150:99 [Reserved]

8. VERDICTS

- § 150:100 Price fixing
- § 150:101 Monopolization
- § 150:102 Statute of limitations
- §§ 150:103 to 150:109 [Reserved]

B. CLAYTON ACT

1. NATURE OF THE CLAIM

§ 150:110 Nature of the claim §§ 150:111 to 150:119 [Reserved]

2. STATUTES DEFINING THE CLAIM

§ 150:120 Statutes defining the claim §§ 150:121 to 150:129 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

a. ANTICOMPETITIVE ACTIVITIES

o	200.200	2550110101 01011101
§	150:131	Violation of Section 7 of the Clayton Act
§	150:132	Relevant line of commerce
§	150:133	Section of the country
§	150:134	Effect of acquisition
§	150:135	Mere acquisition not violation
8	150:136	Competition restraining arrangements to restrai

§ 150:136 Competition restraining arrangements to restrain competition

§§ 150:137 to 150:139 [Reserved]

8 150:130 Essential elements

b. CLAIMS AGAINST LABOR ORGANIZATION

§ 150:140 Nature of the claim § 150:141 Standard of proof

§ 150:142 Clear proof

§§ 150:143 to 150:149 [Reserved]

4. CAUSATION

§ 150:150 Proximate cause

§ 150:151 Effect of final decree in civil suit by government

§§ 150:152 to 150:159 [Reserved]

5. DAMAGES

§ 150:160 Compensatory damages §§ 150:161 to 150:169 [Reserved]

6. VERDICTS

\$ 150:170 Generally
\$\$ 150:171 to 150:179 [Reserved]

C. ROBINSON-PATMAN ACT

1. GENERALLY

§ 150:180 Nature of the claim §§ 150:181 to 150:189 [Reserved]

2. STATUTES INVOLVED

§ 150:190 Generally §§ 150:191 to 150:199 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 150:200 Essential elements
§ 150:201 Sale of commodities
§ 150:202 Reasonably contemporaneous sales
§ 150:203 Like grade and quality
§ 150:204 Price discrimination
§ 150:205 Harm to competition—Generally
§ 150:206 —Primary line injury
§ 150:207 —Secondary and tertiary line injury
§ 150:208 to 150:209 [Reserved]

4. **DEFINITIONS**

§ 150:210 Person
§ 150:211 Commerce
§§ 150:212 to 150:219 [Reserved]

5. CAUSATION

§ 150:220 Generally

§§ 150:221 to 150:229 [Reserved]

6. DEFENSES

§ 150:230 Meeting competition
§ 150:231 Cost justification
§ 150:232 Functional discounts
§ 150:233 Changing conditions
§§ 150:234 to 150:239 [Reserved]

7. DAMAGES

§ 150:240 Generally
§§ 150:241 to 150:249 [Reserved]

8. VERDICTS

§ 150:250 Special verdict—Secondary line

CHAPTER 151. AUTOMOBILE DEALERS DAY IN COURT ACT (15 U.S.C.A. §§ 1221 TO 1225)

A. GENERALLY

§ 151:1 Nature of the claim §§ 151:2 to 151:9 [Reserved]

B. STATUTES DEFINING THE CLAIM

§ 151:10 Generally
§§ 151:11 to 151:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 151:20 Generally
§ 151:21 Manufacturer failed to act in good faith
§§ 151:22 to 151:29 [Reserved]

D. DEFINITIONS

- § 151:30 Automobile manufacturer
- § 151:31 Franchise
- § 151:32 Automobile dealer
- § 151:33 Commerce
- § 151:34 Good faith
- §§ 151:35 to 151:39 [Reserved]

E. CAUSATION

- § 151:40 Generally
- §§ 151:41 to 151:49 [Reserved]

F. DAMAGES

- § 151:50 Generally
- § 151:51 Loss of future profits
- § 151:52 Punitive damages
- §§ 151:53 to 151:59 [Reserved]

G. DEFENSES

- § 151:60 Good faith termination of franchise
- §§ 151:61 to 151:69 [Reserved]

H. VERDICT

§ 151:70 Special verdict

CHAPTER 152. PETROLEUM MARKETING PRACTICES ACT (15 U.S.C.A. §§ 2801–2806)

A. GENERALLY

- § 152:1 Nature of the claim
- §§ 152:2 to 152:9 [Reserved]

B. STATUTES DEFINING THE CLAIM

§ 152:10 Generally

§§ 152:11 to 152:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 152:20 Generally
§ 152:21 Notification requirement
§§ 152:22 to 152:29 [Reserved]

D. DEFINITIONS

- § 152:30 Franchise
- § 152:31 Franchise relationship
- § 152:32 Franchisor
- § 152:33 Franchisee
- § 152:34 Refiner
- § 152:35 Distributor
- § 152:36 Retailer
- § 152:37 Marketing premises
- § 152:38 Leased marketing premises
- § 152:39 Contract
- § 152:40 Trademark
- § 152:41 Motor fuel
- § 152:42 Failure
- § 152:43 Fail to renew and nonrenewal
- § 152:44 Affiliate
- § 152:45 Relevant geographic market area
- § 152:46 Termination
- § 152:47 Commerce
- §§ 152:48 to 152:49 [Reserved]

E. CAUSATION

- § 152:50 Generally
- §§ 152:51 to 152:59 [Reserved]

F. DAMAGES

- § 152:60 Generally
- §§ 152:61 to 152:69 [Reserved]

G. DEFENSES

§ 152:70 Grounds for nonrenewal of a franchise relationship

§§ 152:71 to 152:79 [Reserved]

H. VERDICTS

§ 152:80 Special verdict

CHAPTER 153. FAIR CREDIT REPORTING ACT (15 U.S.C.A. § 1681)

A. GENERALLY

§ 153:1 Nature of the action §§ 153:2 to 153:9 [Reserved]

B. STATUTES

§ 153:10 Generally

§ 153:11 Applicability of the Fair Credit Reporting Act

§§ 153:12 to 153:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 153:20 Negligent noncompliance with the Act

§ 153:21 Willful noncompliance with the Act

§§ 153:22 to 153:29 [Reserved]

D. DEFINITIONS

§ 153:30 Consumer

§ 153:31 Consumer report

§ 153:32 Investigative consumer report

§ 153:33 Consumer reporting agency

§ 153:34 File

§ 153:35 Employment purposes

§ 153:36 Medical information

§ 153:37 Person

§ 153:38 Negligence

§ 153:39 Willful

§§ 153:40 to 153:49 [Reserved]

E. CAUSATION

§ 153:50 Generally

§§ 153:51 to 153:59 [Reserved]

F. DEFENSES

§ 153:60 Maintenance of reasonable procedures to ensure compliance §§ 153:61 to 153:69 [Reserved]

G. DAMAGES

§ 153:70 Damages for negligent noncompliance with the act § 153:71 Punitive damages for willful noncompliance with the act §§ 153:72 to 153:79 [Reserved]

H. VERDICTS

§ 153:80 Verdict form

CHAPTER 154. EMINENT DOMAIN

A. GENERALLY

§ 154:1 Nature of the action §§ 154:2 to 154:9 [Reserved]

B. STATUTES

§ 154:10 Fifth Amendment §§ 154:11 to 154:19 [Reserved]

C. ESSENTIALS OF PLAINTIFF'S CLAIMS

§ 154:20 Taking of property§ 154:21 Taking of easement§ 154:22 Inverse condemnation

§§ 154:23 to 154:29 [Reserved]

D. DEFINITIONS

§ 154:30 Just compensation § 154:31 Fair market value §§ 154:32 to 154:39 [Reserved]

E. DEFENSES

- § 154:40 Increase in value
- § 154:41 Special benefits to property not taken
- §§ 154:42 to 154:49 [Reserved]

F. DAMAGES

§	154:50	Just compensation
§	154:51	Factors in determining fair market value
§	154:52	Fair market value based upon assumption
§	154:53	Fair market value determined without regard to improvement resulting from taking
§	154:54	Government's need for property not considered in determining fair market value
§	154:55	Injury to existing or planned business or property not to be considered
§	154:56	Opinion evidence as to fair market value
§	154:57	Diagrams, charts, or summaries of opinion evidence of fair market value
§	154:58	Owner's opinion as to fair market value
§	154:59	Fair market value of partial taking
§	154:60	Determination of severance damage
§	154:61	Evidence as to sales and leases of comparable properties
§	154:62	Evidence as to purchase price of property taken
§	154:63	Evidence as to offers for sale of comparable properties
§	154:64	Maximum permissible use of easement taken
§	154:65	Mitigation of landowner's loss or damage
§	154:66	Compensation fixed must be just
§	154:67	Interest not to be included in jury's award

G. VERDICTS

§§ 154:68 to 154:79 [Reserved]

- § 154:80 Instructions regarding special verdict
- § 154:81 Special verdict

CHAPTER 155. FEDERAL EMPLOYERS'
LIABILITY ACT (45 U.S.C.A. §§ 51–59)
FEDERAL SAFETY APPLIANCE ACT (49
U.S.C.A. §§ 20301–20304, 21302, 21304)
FEDERAL BOILER INSPECTION ACT (49
U.S.C.A. §§ 20102, 20701 TO 20703, 21304)

A. FEDERAL EMPLOYERS' LIABILITY ACT

1. GENERALLY

- § 155:1 Nature of the action
- § 155:2 Corporation can act only through its agents
- §§ 155:3 to 155:9 [Reserved]

2. STATUTES

- § 155:10 Generally
- §§ 155:11 to 155:19 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 155:20 Generally
- § 155:21 Particulars of claimed negligence of defendant
- § 155:22 Quantum of care varies with danger
- § 155:23 Duty of employer as to place of work
- § 155:24 Borrowed (loaned) servant doctrine and right to control
- § 155:25 Duty to furnish safe appliances for use in work
- §§ 155:26 to 155:29 [Reserved]

4. **DEFINITIONS**

- § 155:30 Negligence
- § 155:31 Ordinary care
- § 155:32 Employee
- § 155:33 Common carrier by railroad
- § 155:34 Engaging in interstate commerce
- § 155:35 Course of employment
- §§ 155:36 to 155:39 [Reserved]

5. CAUSATION

- § 155:40 Generally
- § 155:41 Inference from fact of accident alone
- § 155:42 Res ipsa loquitur
- §§ 155:43 to 155:49 [Reserved]

6. DEFENSES

- § 155:50 Assumption of risk
- § 155:52 Statute of limitations
- § 155:53 Release of all claims by plaintiff
- § 155:54 Mitigation
- §§ 155:55 to 155:59 [Reserved]

7. DAMAGES

- § 155:60 Injury to employee
- § 155:61 Death of employee
- § 155:62 Present value of future loss
- § 155:63 Income tax effects of award
- § 155:64 Reduction of damages for contributory negligence
- § 155:65 Aggravation of preexisting condition
- § 155:66 Mitigation of damages
- §§ 155:67 to 155:69 [Reserved]

8. VERDICTS

- § 155:70 Issues to be determined
- § 155:71 Contributory negligence submitted
- § 155:72 Contributory negligence not submitted
- § 155:73 Verdict form
- § 155:74 Special verdict—Violation of safety regulations
- §§ 155:75 to 155:79 [Reserved]

B. FEDERAL SAFETY APPLIANCE ACT AND FEDERAL BOILER INSPECTION ACT

1. GENERALLY

§ 155:80 Nature of the action

§ 155:81 Corporation can act only through its agents §§ 155:82 to 155:89 [Reserved]

2. STATUTES

- § 155:90 Federal Safety Appliance Act
- § 155:91 Federal Boiler Inspection Act
- §§ 155:92 to 155:99 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 155:100 Federal Safety Appliance Act
- § 155:101 Federal Boiler Inspection Act
- § 155:102 Federal Safety Appliance requirement for power brakes
- §§ 155:103 to 155:109 [Reserved]

4. **DEFINITIONS**

- § 155:110 Railroad carrier
- § 155:111 Vehicle
- §§ 155:112 to 155:119 [Reserved]

5. CAUSATION

- § 155:120 Generally
- §§ 155:121 to 155:129 [Reserved]

6. DEFENSES

- § 155:130 Generally
- §§ 155:131 to 155:139 [Reserved]

7. DAMAGES

- § 155:140 Injury to employee
- § 155:141 Death of employee
- § 155:142 Present value of future loss
- § 155:143 Income tax effects of award
- §§ 155:144 to 155:149 [Reserved]

8. VERDICTS

§ 155:150 Special verdict

§ 155:151 —Violation of safety regulation

CHAPTER 156. MARITIME CLAIMS JONES ACT (46 U.S.C.A. §§ 30105–30106; FORMERLY 46 U.S.C.A. APP. § 688) UNSEAWORTHINESS MAINTENANCE AND CURE LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT (33 U.S.C.A. §§ 901–950)

A. JONES ACT

1. GENERALLY

§ 156:1 Nature of the action §§ 156:2 to 156:9 [Reserved]

2. STATUTES

\$ 156:10 Generally
\$\$ 156:11 to 156:19 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 156:20 Generally
- § 156:21 Seaman acting in course of employment
- § 156:22 Particulars of negligence
- § 156:23 Injury on water not required
- §§ 156:24 to 156:29 [Reserved]

4. **DEFINITIONS**

- § 156:30 Seaman
- § 156:31 Course of employment as a member of crew
- § 156:32 Vessel in navigation
- § 156:33 Negligence
- §§ 156:34 to 156:39 [Reserved]

5. CAUSATION

- § 156:40 Generally
- § 156:41 Res ipsa loquitur
- §§ 156:42 to 156:49 [Reserved]

6. DEFENSES

- § 156:50 Contributory negligence
- § 156:51 Plaintiff's compliance with defendant's request or directions not contributory negligence
- § 156:52 Breach of primary duty
- § 156:53 Statute of limitations
- § 156:54 Release
- §§ 156:55 to 156:59 [Reserved]

7. DAMAGES

- § 156:60 Generally
- § 156:61 Mitigation
- § 156:62 Present worth of future loss
- § 156:63 Income tax effects of award
- § 156:64 Reduction of damages for contributory negligence
- §§ 156:65 to 156:69 [Reserved]

8. VERDICT

- § 156:70 Special verdict including Jones Act and unseaworthiness claims
- §§ 156:71 to 156:79 [Reserved]

B. UNSEAWORTHINESS

1. GENERALLY

- § 156:80 Nature of the action
- §§ 156:81 to 156:89 [Reserved]

2. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 156:90 Generally
- § 156:91 Negligence and unseaworthiness are separate claims

- § 156:92 Negligence not at issue
- § 156:93 Duration of unseaworthiness not material
- § 156:94 Whole vessel need not be unseaworthy
- § 156:95 Latest and most modern equipment not required
- §§ 156:96 to 156:99 [Reserved]

3. **DEFINITIONS**

- § 156:100 Seaman
- § 156:101 Seaworthiness
- § 156:102 Vessel in navigation
- §§ 156:103 to 156:109 [Reserved]

4. CAUSATION

- § 156:110 Generally
- §§ 156:111 to 156:119 [Reserved]

5. DEFENSES

- § 156:120 Contributory negligence
- § 156:121 Operational negligence
- § 156:122 Statute of limitations
- § 156:123 Release
- §§ 156:124 to 156:129 [Reserved]

6. DAMAGES

- § 156:130 Generally
- § 156:131 Present worth of future loss
- § 156:132 Income tax effects of award
- § 156:133 Reduction of damages for contributory negligence
- § 156:134 Mitigation
- §§ 156:135 to 156:139 [Reserved]

7. VERDICTS

- § 156:140 Special verdict including Jones Act and unseaworthiness claims
- § 156:141 Alternative special verdict form
- §§ 156:142 to 156:149 [Reserved]

C. MAINTENANCE AND CURE

1. GENERALLY

- § 156:150 Nature of the action
- §§ 156:151 to 156:159 [Reserved]

2. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 156:160 Generally
- § 156:161 Unreasonable refusal to provide maintenance and cure
- §§ 156:162 to 156:169 [Reserved]

3. **DEFINITIONS**

- § 156:170 Cure
- § 156:171 Maintenance
- § 156:172 Maintenance and cure
- § 156:173 Seaman
- § 156:174 Unreasonable refusal to provide maintenance and cure
- §§ 156:175 to 156:179 [Reserved]

4. DEFENSES

- § 156:180 Willful misbehavior of seaman
- §§ 156:181 to 156:189 [Reserved]

5. DAMAGES

- § 156:190 Maintenance and cure
- § 156:191 Unreasonable refusal to provide maintenance and cure
- § 156:192 Avoidance of double recovery
- §§ 156:193 to 156:199 [Reserved]

6. VERDICTS

- § 156:200 Generally
- §§ 156:201 to 156:209 [Reserved]

D. LONGSHORE AND HARBOR WORKERS COMPENSATION ACT

1. GENERALLY

§ 156:210 Nature of the action §§ 156:211 to 156:219 [Reserved]

2. STATUTES

§ 156:220 Generally
§§ 156:221 to 156:229 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 156:230 Generally
 § 156:231 Particulars of negligence claim
 § 156:232 Duty of care owed by defendant
 § 156:233 Turn over duty
 § 156:234 Practical measures duty
 § 156:235 to 156:239 [Reserved]

4. **DEFINITIONS**

§ 156:240 Covered worker
 § 156:241 Maritime employment
 § 156:242 Navigable waters
 § 156:243 to 156:249 [Reserved]

5. CAUSATION

§ 156:250 Generally
 § 156:251 Inference from fact of accident alone
 § 156:252 Res ipsa loquitur
 § 156:253 Superseding cause
 § 156:254 to 156:259 [Reserved]

6. DEFENSES

§ 156:260 Defendant's contention as to negligence claim § 156:261 Contributory negligence

- § 156:262 Negligence of employer or fellow employees not imputed to plaintiff
- §§ 156:263 to 156:269 [Reserved]

7. DAMAGES

- § 156:270 Generally
- § 156:271 Compensation Act to be disregarded in making findings of fact
- § 156:272 Mitigation
- § 156:273 Present worth of future loss
- § 156:274 Income tax effects of award
- § 156:275 Reduction of damages for contributory negligence
- §§ 156:276 to 156:279 [Reserved]

8. VERDICTS

- § 156:280 Issues to be determined by jury
- § 156:281 Special verdict

CHAPTER 157. LABOR: MANAGEMENT SECONDARY BOYCOTTS (29 U.S.C.A. §§ 158(b)(4)(B) and 187) BREACH OF DUTY OF FAIR REPRESENTATION (29 U.S.C.A. § 185)

A. EMPLOYER'S CLAIM AGAINST UNION FOR DAMAGES FOR SECONDARY BOYCOTT

1. GENERALLY

- § 157:1 Nature of the action
- § 157:2 Union and corporation can act only through officers and agents
- §§ 157:3 to 157:9 [Reserved]

2. STATUTES

§ 157:10 Generally §§ 157:11 to 157:19 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 157:20 Generally
- § 157:21 Proof need not establish forbidden object alone
- §§ 157:22 to 157:29 [Reserved]

4. **DEFINITIONS**

- § 157:30 Knowingly
- § 157:31 Intent
- § 157:32 Clear proof
- §§ 157:33 to 157:39 [Reserved]

5. CAUSATION

- § 157:40 Generally
- §§ 157:41 to 157:49 [Reserved]

6. DEFENSES

- § 157:50 Generally
- § 157:51 Ally doctrine
- § 157:52 Consumer picketing
- §§ 157:53 to 157:59 [Reserved]

7. DAMAGES

- § 157:60 Generally
- § 157:61 Effect of instructions as to damages
- § 157:62 Mitigation
- §§ 157:63 to 157:69 [Reserved]

8. VERDICTS

- § 157:70 Issues to be determined
- § 157:71 Verdict form
- §§ 157:72 to 157:79 [Reserved]

B. EMPLOYEE'S CLAIM FOR BREACH OF DUTY OF FAIR REPRESENTATION

1. GENERALLY

- § 157:80 Nature of the action
- § 157:81 Breach of duty of fair representation
- § 157:82 Breach of duty of fair representation when negotiating collective bargaining agreement
- §§ 157:83 to 157:89 [Reserved]

2. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIMS

- § 157:90 Wrongful discharge
- § 157:91 Negotiating collective bargaining agreement
- §§ 157:92 to 157:99 [Reserved]

3. **DEFINITIONS**

- § 157:100 Arbitrary conduct
- § 157:101 Discriminatory conduct
- § 157:102 Bad faith
- §§ 157:103 to 157:109 [Reserved]

4. CAUSATION

- § 157:110 Generally
- §§ 157:111 to 157:119 [Reserved]

5. DEFENSES

- § 157:120 Failure to exhaust contract remedies
- § 157:121 Failure to exhaust internal union remedies
- §§ 157:122 to 157:129 [Reserved]

6. DAMAGES

- § 157:130 Generally
- § 157:131 Present value of future loss
- § 157:132 Mitigation
- §§ 157:133 to 157:139 [Reserved]

7. VERDICTS

§ 157:140 Verdict form

CHAPTER 158. PATENT INFRINGEMENT (35 U.S.C.A. §§ 1–376)

A. GENERALLY

- § 158:1 Nature of the action
- § 158:2 Description of patent claims
- §§ 158:3 to 158:9 [Reserved]

B. STATUTES

- § 158:10 Generally
- § 158:11 Conditions for patentability; novelty
- §§ 158:12 to 158:19 [Reserved]

C. ESSENTIAL ELEMENTS OF THE CLAIM

- § 158:20 Infringement
- § 158:21 Patent ownership
- § 158:22 Direct infringement—Literal infringement
- § 158:23 —Doctrine of equivalents
- § 158:24 Inducement of infringement
- § 158:25 Contributory infringement
- § 158:26 Patent claims to be considered separately
- § 158:27 Foreign patents not conclusive of United States validity
- § 158:28 Assignment
- § 158:29 License
- § 158:30 Willful infringement
- § 158:31 Written description
- §§ 158:32 to 158:39 [Reserved]

D. DEFINITIONS

- § 158:40 Patent
- § 158:41 Patent claims
- § 158:42 Staple article of commerce
- § 158:43 Patentable invention
- § 158:44 Presumption of validity
- § 158:45 Date of invention

§ 158:46 Earlier filed application
§ 158:47 Prior art
§ 158:48 Level of ordinary skill
§ 158:49 Reasonable royalty
§ 158:50 Lost profits
§ 158:51 Preponderance of the evidence
§ 158:52 Clear and convincing evidence
§ 158:53 Willfulness
§ 158:54 to 158:59 [Reserved]

E. DEFENSES

§ 158:60 Invalidity of patent Conditions that invalidate patent 158:61 158:62 Disclosure requirements 158:63 Prosecution history estoppel 8 158:64 Abstract ideas not patentable 158:65 Obviousness—Generally 158:66 —Commercial success and other secondary considerations 158:67 —Combination of old elements; synergism 8 158:68 Anticipation 158:69 —Prior art—Printed publication § 158:70 ——Field 158:71 —Prior invention in the United States 8 158:72 Public use 158:73 Utility 158:74 On sale 158:75 Method constitutes a process 158:76 Misrepresentation; Duty of disclosure, candor and good faith 158:77 Non-infringement § 158:78 Plaintiff not inventor 158:79 Inequitable conduct Ş § 158:80 Safe harbor § 158:81 Enablement §§ 158:82 to 158:89 [Reserved]

F. DAMAGES

§ 158:90 Generally
§ 158:91 Non-infringing alternatives
§ 158:92 Lost profits
§ 158:93 Reasonable royalty
§ 158:94 Willful infringement
§ 158:95 Punitive damages

- § 158:96 Speculative damages
- § 158:97 Damages in cases of inducement or contributory infringement
- §§ 158:98 to 158:109 [Reserved]

G. VERDICTS

- § 158:110 Issues to be determined
- § 158:111 Special interrogatories

CHAPTER 159. TRADEMARKS (15 U.S.C.A. § 1051 et seq.)

A. GENERALLY

- § 159:1 Nature of the action
- § 159:2 Obtaining a trademark
- § 159:3 Registration of trademark
- §§ 159:4 to 159:9 [Reserved]

B. STATUTES

- § 159:10 Registered trademarks
- § 159:11 False designations of origin
- §§ 159:12 to 159:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 159:20 Infringement of registered trademark
- § 159:21 Infringement of unregistered trademark
- § 159:22 Trade dress infringement
- § 159:23 Contributory infringement
- § 159:24 Inducement of trademark infringement
- § 159:25 Likelihood of confusion
- § 159:26 False designation of origin and false description
- § 159:27 Trademark disparagement
- § 159:28 Ownership of trademark by seller
- § 159:29 Right to exclusive use
- § 159:30 Registration of trademark
- § 159:31 Cybersquatting Consumer Protection Act
- §§ 159:32 to 159:39 [Reserved]

D. DEFINITIONS

§ 159:40 Mark
§ 159:41 Trademark
§ 159:42 Service mark
§ 159:43 Collective mark
§ 159:44 Certification mark
§ 159:45 Trade name
§ 159:46 Trade dress
§ 159:47 Assignment
§ 159:48 License
§ 159:49 Preponderance of the evidence
§ 159:50 Reverse confusion
§§ 159:51 to 159:59 [Reserved]

E. CAUSATION

§ 159:60 Generally
 § 159:61 Use of words in trademark
 § 159:62 Strength of trademark
 § 159:63 Secondary meaning
 § 159:64 to 159:69 [Reserved]

F. DEFENSES

§ 159:70 Generally
§ 159:71 Trademark invalidity—Registered trademark
§ 159:72 —Unregistered trademark
§ 159:73 Concurrent use
§ 159:74 Doctrine of extension
§ 159:75 Abandonment
§ 159:76 Generic name
§ 159:77 Lack of distinctiveness
§ 159:78 Deceptively misdescriptive trademark
§ 159:79 Continuous prior use within remote geographic area
§ 159:80 Token use of trademark
§ 159:81 Acquiescence
§ 159:82 Cybersquatting Consumer Protection Act
§ 159:83 to 159:89 [Reserved]

G. DAMAGES

§ 159:90 Statutory or actual notice

- § 159:91 Actual damages for infringement of registered trademark § 159:92 Profits § 159:93 Intentional infringement
- § 159:94 Cybersquatting Consumer Protection Act
- §§ 159:95 to 159:109 [Reserved]

H. **VERDICTS**

- § 159:110 Special interrogatories to the jury—Infringement of a registered trademark
- § 159:111 —Infringement of unregistered trademark
- § 159:112 Cybersquatting Consumer Protection Act

Volume 3B

CHAPTER 160. COPYRIGHT INFRINGEMENT (17 U.S.C.A. § 101 ET SEQ.)

GENERALLY

- § 160:1 Nature of the action
- § 160:2 Rights of copyright interests
- § 160:3 Obtaining a copyright
- § 160:4 Subject matter
- §§ 160:5 to 160:9 [Reserved]

STATUTES В.

- § 160:10 Generally
- §§ 160:11 to 160:19 [Reserved]

ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 160:20 Generally
- § 160:21 Elements of plaintiff's copyright infringement claim
- § 160:22 Ownership of valid copyright
- § 160:23 Originality
- § 160:24 Authorship and work-made-for-hire
- § 160:25 Notice of copyright
- § 160:26 Copying

- § 160:27 Accessibility
- § 160:28 Vicarious infringement
- § 160:29 Contributory infringement
- §§ 160:30 to 160:39 [Reserved]

D. DEFINITIONS

- § 160:40 Copyright
- § 160:41 Works
- § 160:42 Derivative work
- § 160:43 Compilation
- § 160:44 Collective work
- § 160:45 Original
- § 160:46 Author
- § 160:47 Joint authors
- § 160:48 Assignment of copyright interest
- § 160:49 Exclusive licensing of copyright
- § 160:50 Publication
- § 160:51 Computer program
- § 160:52 Fair use
- § 160:53 Willful
- § 160:54 Preponderance of the evidence
- § 160:55 Direct and circumstantial evidence
- §§ 160:56 to 160:68 [Reserved]

E. CAUSATION

- § 160:69 Generally
- §§ 160:70 to 160:78 [Reserved]

F. DEFENSES

- § 160:79 Fair use
- § 160:80 Abandonment
- § 160:81 Limitation on liability for information residing on systems or networks at direction of users [New]
- § 160:82 Misuse of copyright [New]
- § 160:83 Limitation on liability for information residing on systems or networks at direction of users [New]
- §§ 160:84 to 160:88 [Reserved]

G. DAMAGES

§ 160:89 Generally

- § 160:90 Actual damages
- § 160:91 Profits
- § 160:92 Statutory damages
- §§ 160:93 to 160:98 [Reserved]

H. VERDICTS

§ 160:99 Verdict form

CHAPTER 161. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO) (18 U.S.C.A. §§ 1961–1968)

A. GENERALLY

- § 161:1 Nature of the action
- § 161:2 Use of the term "racketeering"
- §§ 161:3 to 161:9 [Reserved]

B. STATUTES

- § 161:10 Section 1964(a)—Investment
- § 161:11 Section 1962(b)—Acquisition or maintenance
- § 161:12 Section 1962(c)—Participation
- § 161:13 Section 1962(d)—Conspiracy
- § 161:14 18 U.S.C.A. § 1341—Mail fraud statute
- § 161:15 Section 1343—Wire fraud
- § 161:16 Section 1961(6)—Collection of unlawful debt
- §§ 161:17 to 161:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 161:20 Section 1962(a)—Investment
- § 161:21 Section 1962(b)—Acquisition or maintenance
- § 161:22 Section 1962(c)—Participation
- § 161:23 Section 1962(d)—Conspiracy
- § 161:24 Predicate Act—Mail fraud
- § 161:25 ——Racketeering activity
- § 161:26 —Wire fraud
- §§ 161:27 to 161:39 [Reserved]

D. DEFINITIONS

§ 161:40 Person § 161:41 Enterprise § 161:42 Enterprise affecting interstate or foreign commerce § 161:43 Employed by or associated with enterprise § 161:44 Acquire or maintain an interest in or control of an enterprise § 161:45 Acquire an interest in, establish, or operate an enterprise § 161:46 Racketeering activity § 161:47 Pattern of racketeering activity § 161:48 —Mail fraud 161:49 Collection of unlawful debt § 161:50 Through 161:51 Overt Act 161:52 Knowingly § 161:53 Willfully § 161:54 Fraudulent intent 161:55 False or fraudulent representation § 161:56 Materiality § 161:57 Scheme or artifice 161:58 Intent § 161:59 Defraud § 161:60 Income § 161:61 Proximate cause §§ 161:62 to 161:69 [Reserved]

E. CAUSATION

§ 161:70 Generally §§ 161:71 to 161:79 [Reserved]

F. DEFENSES

\$ 161:80 Generally
§\$ 161:81 to 161:89 [Reserved]

G. DAMAGES

§ 161:90 Generally
§ 161:91 Punitive damages
§ 161:92 Mitigation
§ 161:93 Cautionary instruction

§§ 161:94 to 161:99 [Reserved]

H. VERDICTS

§ 161:100 Special verdict form

CHAPTER 162. SECURITIES REGULATION

A. SECTION 11 OF THE SECURITIES ACT OF 1933 (15 U.S.C.A. § 77k)

1. GENERALLY

- § 162:1 Nature of the claim
- § 162:2 Purpose of securities laws
- § 162:3 Sophisticated investors
- §§ 162:4 to 162:9 [Reserved]

2. STATUTES

- § 162:10 Generally
- § 162:11 Registration requirements
- §§ 162:12 to 162:19 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 162:20 Essential elements of plaintiff's claim
- § 162:21 Acquisition of registered security
- § 162:22 Misstatements or omissions
- § 162:23 Materiality
- § 162:24 Defendant's status
- § 162:25 Reliance not required
- § 162:26 Statute of limitations
- § 162:27 Liability of accountant
- §§ 162:28 to 162:39 [Reserved]

4. **DEFINITIONS**

- § 162:40 Security
- § 162:41 Broker and dealer
- § 162:42 Underwriter

- § 162:43 Issuer
- § 162:44 Distribution
- § 162:45 Misrepresentation
- § 162:46 Omission
- § 162:47 Disclosure
- § 162:48 Materiality
- § 162:49 Preponderance of the evidence
- §§ 162:50 to 162:59 [Reserved]

5. CAUSATION

- § 162:60 Generally
- §§ 162:61 to 162:69 [Reserved]

6. DEFENSES

- § 162:70 Generally
- § 162:71 Due diligence—Individual signers of registration—Nonexpert statements
- § 162:72 ——Expert's statements
- § 162:73 Knowledge of plaintiff
- § 162:74 Loss causation
- § 162:75 Waiver, estoppel, ratification
- §§ 162:76 to 162:89 [Reserved]

7. DAMAGES

- § 162:90 Generally
- § 162:91 Amount of damages
- § 162:92 Mitigation of damages
- §§ 162:93 to 162:99 [Reserved]

8. VERDICTS

- § 162:100 Verdict form
- § 162:101 Special interrogatories to the jury—Apportionment of damages
- §§ 162:102 to 162:109 [Reserved]

B. SECTION 12 OF THE SECURITIES ACT OF 1933 (15 U.S.C.A. § 771)

1. GENERALLY

§ 162:110 Nature of the claim
 § 162:111 Purpose of securities laws
 §§ 162:112 to 162:119 [Reserved]

2. STATUTES

§ 162:120 Generally §§ 162:121 to 162:129 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 162:130 Generally
§ 162:131 Reliance
§§ 162:132 to 162:139 [Reserved]

4. **DEFINITIONS**

§ 162:140 Security
 § 162:141 Issuer
 § 162:142 Seller
 § 162:143 Instrumentalities of interstate commerce
 § 162:144 Prospectus
 § 162:145 Misrepresentation
 § 162:146 Omission
 § 162:147 Disclosure
 § 162:148 Materiality
 § 162:149 Preponderance of the evidence
 § 162:150 to 162:159 [Reserved]

5. CAUSATION

§ 162:160 Generally §§ 162:161 to 162:169 [Reserved]

6. DEFENSES

§ 162:170 Statute of limitations

- § 162:171 Reasonable care
- § 162:172 Plaintiff's knowledge
- § 162:173 Loss causation
- § 162:174 Waiver, estoppel, ratification
- §§ 162:175 to 162:189 [Reserved]

7. DAMAGES

- § 162:190 Generally
- § 162:191 Damages
- § 162:192 Mitigation of damages
- §§ 162:193 to 162:199 [Reserved]

8. VERDICTS

- § 162:200 Verdict form
- § 162:201 Special interrogatories to the jury—Apportionment of damages
- §§ 162:202 to 162:209 [Reserved]

C. SECTION 10(b) OF THE SECURITIES EXCHANGE ACT OF 1934 (15 U.S.C.A § 17j)

1. GENERALLY

- § 162:210 Nature of the claim
- § 162:211 Purpose of securities laws
- §§ 162:212 to 162:219 [Reserved]

2. STATUTES

- § 162:220 Section 10(b)
- § 162:221 Rule 10b-5
- § 162:222 Section 20(a)
- §§ 162:223 to 162:229 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

a. PRIMARY VIOLATION—FRAUDULENT ACTS

8	162:230	Generally
_		Misrepresentation or omission of material fact
§	162:232	Scienter
§	162:233	Justifiable reliance
§	162:234	Reliance—Active open market (fraud-on-the-market)
§	162:235	Statement evaluated in light of circumstances
§	162:236	Every opinion need not be disclosed
§	162:237	Projections and forecasts
§	162:238	Statements of opinion versus statements of fact
§§	162:239	to 162:249 [Reserved]

b. PRIMARY ACTIVITY—CHURNING

§ 162:250 Generally
§ 162:251 Investment objectives
§ 162:252 Broker's control
§§ 162:253 to 162:259 [Reserved]

c. PRIMARY VIOLATIONS—INSIDER TRADING

\$ 162:260 Generally
\$\$ 162:261 to 162:269 [Reserved]

d. SECONDARY VIOLATIONS

§ 162:270 Controlling person
§ 162:271 Principal's liability for agent's actions
§§ 162:272 to 162:279 [Reserved]

4. **DEFINITIONS**

§ 162:280 Security
§ 162:281 Materiality
§ 162:282 Broker and dealer
§ 162:283 Underwriter

- § 162:284 Recklessness
 § 162:285 Instrumentality of interstate commerce
 § 162:286 Preponderance of the evidence
- §§ 162:287 to 162:299 [Reserved]

5. CAUSATION

§ 162:300 Generally
§§ 162:301 to 162:309 [Reserved]

6. DEFENSES

- § 162:310 Due diligence
- § 162:311 Good faith defense to claim of control-person liability— Broker or dealer
- § 162:312 Plaintiff's knowledge
- § 162:313 Safe harbor
- §§ 162:314 to 162:319 [Reserved]

7. DAMAGES

- § 162:320 Generally
- § 162:321 Damages for misrepresentations or omissions
- § 162:322 Damages for churning
- § 162:323 Mitigation of damages
- §§ 162:324 to 162:329 [Reserved]

8. VERDICTS

- § 162:330 Verdict form
- § 162:331 Special interrogatories—Device, scheme, or artifice
- § 162:332 —Misrepresentations or omissions of material facts
- § 162:333 —Churning
- § 162:334 Special interrogatories to the jury—Insider trading
- § 162:335 —Apportionment of damages

CHAPTER 163. TAXATION

A. CASUALTY AND THEFT LOSSES

1. GENERALLY

§ 163:1 Nature of the action

§§ 163:2 to 163:9 [Reserved]

2. STATUTES

§ 163:10 Generally
§§ 163:11 to 163:19 [Reserved]

3. ESSENTIALS OF PLAINTIFF'S CLAIM

§ 163:20 Generally §§ 163:21 to 163:29 [Reserved]

4. **DEFINITIONS**

§ 163:30 Personal casualty loss §§ 163:31 to 163:39 [Reserved]

5. CAUSATION

§ 163:40 Generally
 § 163:41 Preponderance of the evidence
 §§ 163:42 to 163:49 [Reserved]

6. VERDICTS

§ 163:50 Special interrogatory §§ 163:51 to 163:59 [Reserved]

B. GIFTS

1. GENERALLY

§ 163:60 Nature of the action §§ 163:61 to 163:69 [Reserved]

2. STATUTES

§ 163:70 Generally §§ 163:71 to 163:79 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 163:80 Generally

§ 163:81 Opinions immaterial

§ 163:82 Gift in contemplation of death

§§ 163:83 to 163:89 [Reserved]

4. **DEFINITIONS**

§ 163:90 Gift

§§ 163:91 to 163:99 [Reserved]

5. CAUSATION

§ 163:100 Generally

§ 163:101 Preponderance of the evidence

§§ 163:102 to 163:109 [Reserved]

6. VERDICTS

§ 163:110 Special interrogatory

§§ 163:111 to 163:119 [Reserved]

C. PROPERTY HELD FOR SALE IN THE ORDINARY COURSE OF BUSINESS

1. GENERALLY

§ 163:120 Nature of the action

§§ 163:121 to 163:129 [Reserved]

2. STATUTES

§ 163:130 Generally

§§ 163:131 to 163:139 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 163:140 Generally

§§ 163:141 to 163:149 [Reserved]

4. **DEFINITIONS**

§ 163:150 Capital assets
§ 163:151 Primarily
§§ 163:152 to 163:159 [Reserved]

5. CAUSATION

§ 163:160 Generally
§ 163:161 Preponderance of the evidence
§§ 163:162 to 163:169 [Reserved]

6. VERDICTS

§ 163:170 Special interrogatory §§ 163:171 to 163:179 [Reserved]

D. HOBBY LOSSES

1. GENERALLY

§ 163:180 Nature of the action §§ 163:181 to 163:189 [Reserved]

2. STATUTES

\$ 163:190 Generally
\$\$ 163:191 to 163:199 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

\$ 163:200 Generally
§\$ 163:201 to 163:209 [Reserved]

4. **DEFINITIONS**

§ 163:210 Business activity §§ 163:211 to 163:219 [Reserved]

5. CAUSATION

§ 163:220 Generally

§ 163:221 Preponderance of the evidence §§ 163:222 to 163:229 [Reserved]

6. VERDICTS

§ 163:230 Special interrogatory §§ 163:231 to 163:239 [Reserved]

E. CHARACTERIZATION OF SECURITIES AS EQUITY OR DEBT

1. GENERALLY

§ 163:240 Nature of the action §§ 163:241 to 163:249 [Reserved]

2. STATUTES

§ 163:250 Generally
§§ 163:251 to 163:259 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 163:260 Generally

§ 163:261 Difference between stockholder and creditor

§§ 163:262 to 163:269 [Reserved]

4. **DEFINITIONS**

§ 163:270 Loan

§ 163:271 Capital investment

§ 163:272 Sinking fund

§ 163:273 Maturity

§§ 163:274 to 163:279 [Reserved]

5. CAUSATION

§ 163:280 Generally

§ 163:281 Preponderance of the evidence

§§ 163:282 to 163:289 [Reserved]

6. VERDICTS

§ 163:290 Special interrogatory §§ 163:291 to 163:299 [Reserved]

F. STOCKHOLDER-EMPLOYEE COMPENSATION

1. GENERALLY

§ 163:300 Nature of the action §§ 163:301 to 163:309 [Reserved]

2. STATUTES

§ 163:310 Generally
§§ 163:311 to 163:319 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 163:320 Generally
§§ 163:321 to 163:329 [Reserved]

4. **DEFINITIONS**

§ 163:330 Reasonable compensation
§§ 163:331 to 163:339 [Reserved]

5. CAUSATION

§ 163:340 Generally
§ 163:341 Preponderance of the evidence
§§ 163:342 to 163:349 [Reserved]

6. VERDICTS

§ 163:350 Special interrogatory §§ 163:351 to 163:359 [Reserved]

G. WITHHOLDING TAXES—EMPLOYEES AND INDEPENDENT CONTRACTORS

1. GENERALLY

§ 163:360 Nature of the action §§ 163:361 to 163:369 [Reserved]

2. STATUTES

§ 163:370 Generally §§ 163:371 to 163:379 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 163:380 Generally
§ 163:381 Safe haven
§§ 163:382 to 163:389 [Reserved]

4. **DEFINITIONS**

\$ 163:390 Employee \$\$ 163:391 to 163:399 [Reserved]

5. CAUSATION

§ 163:400 Generally
§ 163:401 Preponderance of the evidence
§§ 163:402 to 163:409 [Reserved]

6. VERDICTS

§ 163:410 Special interrogatory §§ 163:411 to 163:419 [Reserved]

H. WITHHOLDING TAX—SECTION 6672 PENALTY

1. GENERALLY

§ 163:420 Nature of the action

§§ 163:421 to 163:429 [Reserved]

2. STATUTES

\$ 163:430 Generally
\$\$ 163:431 to 163:439 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 163:440 Generally

§ 163:441 Responsible persons

§ 163:442 Willfully

§§ 163:443 to 163:449 [Reserved]

4. **DEFINITIONS**

§ 163:450 Willfully

§§ 163:451 to 163:459 [Reserved]

5. CAUSATION

§ 163:460 Generally

§ 163:461 Preponderance of the evidence

§§ 163:462 to 163:469 [Reserved]

6. VERDICTS

§ 163:470 Special interrogatory §§ 163:471 to 163:479 [Reserved]

I. FRAUD AND NONCOOPERATION

1. GENERALLY

§ 163:480 Nature of the action §§ 163:481 to 163:489 [Reserved]

2. STATUTES

§ 163:490 Generally §§ 163:491 to 163:499 [Reserved]

3. ESSENTIALS ELEMENTS OF PLAINTIFF'S CLAIM

§ 163:500 Generally

§ 163:501 Effect of noncooperation

§§ 163:502 to 163:509 [Reserved]

4. **DEFINITIONS**

§ 163:510 Fraud

§§ 163:511 to 163:519 [Reserved]

5. CAUSATION

§ 163:520 Generally

§ 163:521 Clear and convincing evidence

§ 163:522 Preponderance of the evidence

§§ 163:523 to 163:529 [Reserved]

6. VERDICTS

§ 163:530 Special interrogatory

CHAPTER 164. BANKRUPTCY (28 U.S.C.A. § 157(e))

A. INVOLUNTARY PETITIONS FOR BANKRUPTCY

1. GENERALLY

§ 164:1 Generally §§ 164:2 to 164:9 [Reserved]

2. STATUTES

§ 164:10 Generally §§ 164:11 to 164:19 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 164:20 Generally §§ 164:21 to 164:29 [Reserved]

4. **DEFINITIONS**

§ 164:30 Property of debtor §§ 164:31 to 164:39 [Reserved]

5. CAUSATION

§ 164:40 Generally
§ 164:41 Preponderance of the evidence
§§ 164:42 to 164:49 [Reserved]

6. DEFENSES

§ 164:50 Lack of good faith§ 164:51 Bona fide dispute§§ 164:52 to 164:59 [Reserved]

B. DISCRIMINATION ON THE BASIS OF BANKRUPTCY

1. GENERALLY

§ 164:60 Nature of the action §§ 164:61 to 164:69 [Reserved]

2. STATUTES

§ 164:70 Generally
§§ 164:71 to 164:79 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 164:80 Generally §§ 164:81 to 164:89 [Reserved]

4. **DEFINITIONS**

- § 164:90 Governmental unit
- § 164:91 Debtor
- §§ 164:92 to 164:99 [Reserved]

5. CAUSATION

- § 164:100 Generally
- § 164:101 Preponderance of the evidence
- §§ 164:102 to 164:109 [Reserved]

6. DAMAGES

- § 164:110 Generally
- § 164:111 Punitive damages
- §§ 164:112 to 164:119 [Reserved]

C. PREFERENCE ACTIONS AND EXCEPTIONS

1. GENERALLY

- § 164:120 Nature of the action
- §§ 164:121 to 164:129 [Reserved]

2. STATUTES

- § 164:130 Generally
- §§ 164:131 to 164:139 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 164:140 Generally
- $\$ 164:141 More than a creditor would receive if the case were a case under chapter 7
- §§ 164:142 to 164:149 [Reserved]

4. **DEFINITIONS**

§ 164:150 Insider—Debtor is individual

§ 164:151 —Debtor is corporation
 § 164:152 —Debtor is partnership
 § 164:153 —Debtor is municipality
 § 164:154 Insolvent—Generally
 § 164:155 —Partnership
 § 164:156 —Municipality
 § 164:157 New value
 § 164:158 Consumer debt
 § 164:159 Transfer
 §§ 164:160 to 164:169 [Reserved]

5. CAUSATION

§ 164:170 Generally
§ 164:171 Preponderance of the evidence
§§ 164:172 to 164:179 [Reserved]

6. DEFENSES

§ 164:180 Exceptions to preferential transfers
§ 164:181 New value
§ 164:182 Ordinary course of business
§ 164:183 Recoupment
§ 164:184 Statute of limitation
§§ 164:185 to 164:189 [Reserved]

7. DAMAGES

§ 164:190 Generally
§§ 164:191 to 164:199 [Reserved]

D. FRAUDULENT TRANSFERS AND OBLIGATIONS

1. GENERALLY

§ 164:200 Nature of the action §§ 164:201 to 164:209 [Reserved]

2. STATUTES

§ 164:210 Generally §§ 164:211 to 164:219 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 164:220 Generally
§ 164:221 Ponzi scheme
§§ 164:222 to 164:229 [Reserved]

4. **DEFINITIONS**

- § 164:230 Insolvent—Generally
- § 164:231 —Partnership
- § 164:232 —Municipality
- § 164:233 Value
- § 164:234 Unreasonably amount of remaining capital
- § 164:235 Transfer
- §§ 164:236 to 164:249 [Reserved]

5. CAUSATION

- § 164:250 Generally
- § 164:251 Preponderance of the evidence
- §§ 164:252 to 164:259 [Reserved]

6. DEFENSES

- § 164:260 Generally
- § 164:261 For value and in good faith
- § 164:262 Recoupment
- § 164:263 Ponzi scheme
- § 164:264 Statute of limitation
- §§ 164:265 to 164:269 [Reserved]

7. DAMAGES

- § 164:270 Generally
- §§ 164:271 to 164:279 [Reserved]

E. IMPROVEMENT OF POSITION

1. GENERALLY

§ 164:280 Nature of the action

§§ 164:281 to 164:289 [Reserved]

2. STATUTES

§ 164:290 Generally §§ 164:291 to 164:299 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 164:300 Generally
§§ 164:301 to 164:309 [Reserved]

4. **DEFINITIONS**

§ 164:310 Insufficiency §§ 164:311 to 164:319 [Reserved]

5. CAUSATION

§ 164:320 Generally
§ 164:321 Preponderance of the evidence
§§ 164:322 to 164:329 [Reserved]

6. DEFENSES

§ 164:330 Statute of limitation

CHAPTER 165. UNLAWFUL POLICE CONDUCT (42 U.S.C.A. § 1983)

A. GENERALLY

§ 165:1 Nature of the action
§§ 165:2 to 165:9 [Reserved]

B. STATUTES

§ 165:10 Generally §§ 165:11 to 165:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 165:20 Generally
§ 165:21 Unlawful arrest
§ 165:22 Unreasonable search
§ 165:23 Excessive force
§ 165:24 Deadly force
§ 165:25 Liability of superior officers
§ 165:26 Custom, policy, ordinance, regulation or decision
§ 165:27 Failure to train
§ 165:28 When official status not required
§§ 165:29 to 165:39 [Reserved]

D. DEFINITIONS

§ 165:40 Under color of state law
§ 165:41 Deliberate indifference
§ 165:42 Custom or practice
§ 165:43 Malicious conduct
§ 165:44 Wanton conduct
§ 165:45 Oppressive conduct
§§ 165:46 to 165:49 [Reserved]

E. CAUSATION

\$ 165:50 Generally
\$\$ 165:51 to 165:69 [Reserved]

F. DAMAGES

§ 165:70 Compensatory and nominal damages
§ 165:71 Punitive damages
§ 165:72 Mitigation of damages
§ 165:73 Avoidance of double recovery
§§ 165:74 to 165:79 [Reserved]

G. VERDICTS

§	165:80	Verdict form—Generally
§	165:81	—One plaintiff, two defendants
§	165:82	Special interrogatories
§	165:83	Special verdict form—False arrest and malicious
		prosecution

CHAPTER 166. PRISONERS: CRUEL AND UNUSUAL PUNISHMENTS, DENIAL OF MEDICAL CARE, AND DENIAL OF ACCESS TO COURTS

A. GENERALLY

§ 166:1 Nature of the action §§ 166:2 to 166:9 [Reserved]

B. STATUTES

§ 166:10 Generally
§§ 166:11 to 166:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIMS

§ 166:20 Pervasive risk of harm
§ 166:21 Denial of medical care
§ 166:22 Conditions of confinement—Failure to protect from attack [Retitled]
§ 166:23 Excessive force
§ 166:24 Denial of access to courts
§ 166:25 Fraudulently obtained warrant [New]
§§ 166:26 to 166:29 [Reserved]

D. DEFINITIONS

§ 166:30 Deliberate indifference
 § 166:31 Maliciously
 § 166:32 Deliberately
 § 166:33 Sadistically
 §§ 166:34 to 166:49 [Reserved]

E. CAUSATION

§ 166:50 Generally§ 166:51 Preponderance of the evidence

F. DAMAGES

§ 166:60 Actual damages § 166:61 Nominal damages § 166:62 Punitive damages § 166:63 Mitigation of damages § 166:64 Avoidance of double recovery §§ 166:65 to 166:69 [Reserved]

G. VERDICTS

§ 166:70 Verdict form § 166:71 Verdict form—One plaintiff, two defendants § 166:72 Special interrogatories—Excessive force § 166:73 —Denial of access to courts

CHAPTER 167. CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS (42) U.S.C.A. § 1985(3))

GENERALLY

§ 167:1 Nature of case §§ 167:2 to 167:9 [Reserved]

В. **STATUTES**

§ 167:10 Generally §§ 167:11 to 167:19 [Reserved]

ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 167:20 Generally § 167:21 Conspiracy agreement § 167:22 Deprivation of rights § 167:23 Defendants' dislike or hatred of protected class §§ 167:24 to 167:29 [Reserved]

DEFINITIONS

§ 167:30 Conspiracy

D.

- § 167:31 Knowingly
- § 167:32 Intent
- § 167:33 Invidious
- §§ 167:34 to 167:39 [Reserved]

E. CAUSATION

- § 167:40 Generally
- § 167:41 Preponderance of the evidence
- §§ 167:42 to 167:49 [Reserved]

F. DAMAGES

- § 167:50 Generally
- § 167:51 Nominal damages
- § 167:52 Punitive damages
- § 167:53 Mitigation of damages
- § 167:54 Avoidance of double recovery
- §§ 167:55 to 167:59 [Reserved]

G. VERDICT

§ 167:60 Generally

CHAPTER 168. PUBLIC EMPLOYEES (42 U.S.C.A. § 1983)

A. FIRST AMENDMENT

1. GENERALLY

- § 168:1 Nature of the action
- §§ 168:2 to 168:9 [Reserved]

2. STATUTES

- § 168:10 Generally
- §§ 168:11 to 168:19 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 168:20 Speech activity concerning subject of public concern
- § 168:21 Political activity
- § 168:22 Custom, policy, ordinance, regulation or decision
- §§ 168:23 to 168:29 [Reserved]

4. **DEFINITIONS**

- § 168:30 Under color of state law
- § 168:31 Key employee
- § 168:32 Policymaker
- §§ 168:33 to 168:39 [Reserved]

5. CAUSATION

- § 168:40 Generally
- § 168:41 Preponderance of the evidence
- § 168:42 Proximate cause
- §§ 168:43 to 168:49 [Reserved]

6. DEFENSES

- § 168:50 Generally
- §§ 168:51 to 168:59 [Reserved]

7. DAMAGES

- § 168:60 Actual damages
- § 168:61 Nominal damages
- § 168:62 Punitive damages
- § 168:63 Mitigation of damages
- §§ 168:64 to 168:69 [Reserved]

8. VERDICTS

- § 168:70 Verdict form
- § 168:71 —One plaintiff, two defendants
- § 168:72 Special interrogatories regarding protected speech balancing issues
- § 168:73 Supplemental verdict form
- §§ 168:74 to 168:79 [Reserved]

B. DUE PROCESS

1. GENERALLY

§ 168:80 Nature of the action §§ 168:81 to 168:89 [Reserved]

2. STATUTES

\$ 168:90 Generally
\$\$ 168:91 to 168:99 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 168:100 Generally
§ 168:101 Custom, policy, ordinance, regulation or decision
§§ 168:102 to 168:109 [Reserved]

4. **DEFINITIONS**

§ 168:110 Protected property interest § 168:111 Under color of state law §§ 168:112 to 168:119 [Reserved]

5. CAUSATION

§ 168:120 Generally
 § 168:121 Preponderance of the evidence
 § 168:122 Proximate cause
 §§ 168:123 to 168:139 [Reserved]

6. DAMAGES

§ 168:140 Actual damages
 § 168:141 Nominal damages
 § 168:142 Punitive damages
 § 166.143 Mitigation of damages
 § 168:144 to 168:149 [Reserved]

7. VERDICTS

§ 168:150 Verdict form

§ 168:151 —One plaintiff, two defendants §§ 168:152 to 168:159 [Reserved]

C. EQUAL PROTECTION

1. GENERALLY

§ 168:160 Nature of the action §§ 168:161 to 168:169 [Reserved]

2. STATUTES

§ 168:170 Generally §§ 168:171 to 168:179 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 168:180 Generally
§ 168:181 Custom, policy, ordinance, regulation or decision
§§ 168:182 to 168:189 [Reserved]

4. **DEFINITIONS**

§ 168:190 Hostile environment
 § 168:191 Under color of state law
 §§ 168:192 to 168:199 [Reserved]

5. CAUSATION

§ 168:200 Generally
§ 168:201 Preponderance of the evidence
§ 168:202 Proximate cause
§§ 168:203 to 168:219 [Reserved]

6. DAMAGES

§ 168:220 Actual damages
§ 168:221 Nominal damages
§ 168:222 Punitive damages
§ 166:223 Mitigation of damages
§§ 168:224 to 168:229 [Reserved]

7. VERDICTS

- \S 168:230 Verdict form
- § 168:231 —One plaintiff, two defendants
- § 168:232 Special interrogatories

Volume 3C

CHAPTER 169. HOUSING DISCRIMINATION (42 U.S.C.A. §§ 1981, 1982) FAIR HOUSING ACT (42 U.S.C.A. §§ 3601–3619, 3631)

A. SECTION 1981

1. GENERALLY

§ 169:1 Nature of the action §§ 169:2 to 169:9 [Reserved]

2. STATUTES

§ 169:10 Generally §§ 169:11 to 169:19 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 169:20 Generally
- § 169:21 Intent
- § 169:22 Pretext
- § 169:23 Custom, policy, ordinance, regulation or decision
- §§ 169:24 to 169:29 [Reserved]

4. **DEFINITIONS**

- § 169:30 Racial discrimination
- § 169:31 Direct and indirect evidence
- §§ 169:32 to 169:39 [Reserved]

5. CAUSATION

- § 169:40 Generally
- § 169:41 Preponderance of the evidence
- § 169:42 Proximate cause
- §§ 169:43 to 169:49 [Reserved]

6. DEFENSES

- § 169:50 Defenses
- § 169:51 Same result
- § 169:52 Legitimate, nondiscriminatory reasons for defendant's action
- §§ 169:53 to 169:59 [Reserved]

7. DAMAGES

- § 169:60 Actual damages
- § 169:61 Nominal damages
- § 169:62 Punitive damages
- § 169:63 Mitigation of damages
- §§ 169:64 to 169:69 [Reserved]

8. VERDICTS

- § 169:70 Verdict form
- §§ 169:71 to 169:79 [Reserved]

B. SECTION 1982

1. GENERALLY

- § 169:80 Nature of the action
- §§ 169:81 to 169:89 [Reserved]

2. STATUTES

- § 169:90 Section 1982
- §§ 169:91 to 169:99 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 169:100 Generally

- § 169:101 Intent
- § 169:102 Pretext
- § 169:103 Custom, policy, ordinance, regulation or decision
- §§ 169:104 to 169:109 [Reserved]

4. **DEFINITIONS**

- § 169:110 Racial discrimination
- § 169:111 Direct and indirect evidence
- §§ 169:112 to 169:119 [Reserved]

5. CAUSATION

- § 169:120 Generally
- § 169:121 Preponderance of the evidence
- § 169:122 Proximate cause
- §§ 169:123 to 169:129 [Reserved]

6. DEFENSES

- § 169:130 Defenses
- § 169:131 Legitimate, nondiscriminatory reasons for defendant's action
- § 169:132 Legitimate, nondiscriminatory reasons for defendant's action
- §§ 169:133 to 169:139 [Reserved]

7. DAMAGES

- § 169:140 Actual damages
- § 169:141 Nominal damages
- § 169:142 Punitive damages
- § 169:143 Mitigation of damages
- §§ 169:144 to 169:149 [Reserved]

8. VERDICTS

- § 169:150 Verdict form
- §§ 169:151 to 169:159 [Reserved]

C. FAIR HOUSING ACT

1. GENERALLY

§ 169:160 Nature of the action §§ 169:161 to 169:169 [Reserved]

2. STATUTES

§ 169:170 Generally
§§ 169:171 to 169:179 [Reserved]

3. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 169:180 Generally
 § 169:181 Disparate impact
 § 169:182 Right to receive information
 §§ 169:183 to 169:189 [Reserved]

4. **DEFINITIONS**

§ 169:190 Familial status §§ 169:191 to 169:199 [Reserved]

5. CAUSATION

§ 169:200 Generally
 § 169:201 Preponderance of the evidence
 § 169:202 Proximate cause
 §§ 169:203 to 169:209 [Reserved]

6. DEFENSES

§ 169:210 Defenses
§ 169:211 Same result
§ 169:212 Legitimate, nondiscriminatory reasons for defendant's action
§ 169:213 Disparate impact—Objective criteria
§ 169:214 Older persons exception
§§ 169:215 to 169:219 [Reserved]

7. DAMAGES

- § 169:220 Actual damages
- § 169:221 Nominal damages
- § 169:222 Punitive damages
- § 169:223 Mitigation of damages
- §§ 169:224 to 169:229 [Reserved]

8. VERDICTS

§ 169:230 Verdict form

CHAPTER 170. RACIAL DISCRIMINATION IN EMPLOYMENT (42 U.S.C.A. § 1981)

A. GENERALLY

§ 170:1 Nature of the action §§ 170:2 to 170:9 [Reserved]

B. STATUTES

\$ 170:10 Generally
\$\$ 170:11 to 170:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIMS

- § 170:20 Generally
- § 170:21 Intent
- § 170:22 Pretext
- § 170:23 Custom, policy, ordinance, regulation or decision
- § 170:24 Retaliation
- §§ 170:25 to 170:29 [Reserved]

D. DEFINITIONS

- § 170:30 Racial discrimination
- § 170:31 Direct and indirect evidence
- § 170:32 Motivating factor
- §§ 170:33 to 170:39 [Reserved]

E. CAUSATION

- § 170:40 Generally
- § 170:41 Preponderance of the evidence
- § 170:42 Proximate cause
- §§ 170:43 to 170:49 [Reserved]

F. DEFENSES

- § 170:50 Defenses
- § 170:51 Same result
- § 170:52 Legitimate nondiscriminatory reasons for employment decision
- §§ 170:53 to 170:59 [Reserved]

G. DAMAGES

- § 170:60 Compensatory damages
- § 170:61 Back pay
- § 170:62 Front pay
- § 170:63 Nominal damages
- § 170:64 Punitive damages
- § 170:65 Mitigation of damages
- §§ 170:66 to 170:69 [Reserved]

H. VERDICTS

- § 170:70 Verdict form
- § 170:71 Interrogatories to jury

CHAPTER 171. DISCRIMINATION IN EMPLOYMENT (42 U.S.C.A. §§ 1981A & 2000E)

A. GENERALLY

- § 171:1 Nature of the claim §§ 171:2 to 171:9 [Reserved]
- B. STATUTES
- § 171:10 Generally

§§ 171:11 to 171:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§	171:20	Disparate treatment
§	171:21	Harassment—Supervisor—Tangible employment action
§	171:22	——No tangible employment action
§	171:23	—Hostile environment—Co-worker
§	171:24	Disparate impact
§	171:25	Retaliation
§	171:26	Intent
§	171:27	Respondent superior
§	171:27.50	Supervisor's liability under cat's paw theory [New]
§	171:28	Pretext
§	171:29	Constructive discharge [New]
88	171:30 to	171:39 [Reserved]

D. DEFINITIONS

- § 171:40 Hostile or abusive work environment
 § 171:41 Reasonable care
 § 171:42 Motivating factor
 § 171:43 Tangible employment action
- § 171:44 Supervisor
- § 171:45 Reasonable person
- § 171:46 Direct and indirect evidence
- § 171:47 Employee [New]
- §§ 171:48 to 171:59 [Reserved]

E. CAUSATION

- § 171:60 Generally
- § 171:61 Preponderance of the evidence
- § 171:62 Proximate cause
- §§ 171:63 to 171:69 [Reserved]

F. DEFENSES

- § 171:70 Defenses
- § 171:71 Bona fide occupational qualification
- § 171:72 Bona fide seniority system
- § 171:73 After-acquired evidence

- § 171:74 Reasonable care to prevent and correct sexual harassment § 171:75 Business judgment
- § 171:76 Same decision
- § 171:77 Legitimate nondiscriminatory reasons for employment decision
- § 171:78 Business necessity
- § 171:79 Bisexual harasser
- § 171:80 Failure to report harassment
- § 171:81 Same actor
- §§ 171:82 to 171:89 [Reserved]

G. DAMAGES

- § 171:90 Compensatory damages
- § 171:91 Back pay
- § 171:92 Front pay
- § 171:93 Nominal damages
- § 171:94 Punitive damages
- § 171:95 Mitigation of damages
- §§ 171:96 to 171:99 [Reserved]

H. VERDICT

- § 171:100 Jury interrogatories—Disparate treatment
- § 171:101 —Discharge or failure to promote—Including same decision defense
- § 171:102 Mixed motive

CHAPTER 172. DISABLED EMPLOYEES AMERICANS WITH DISABILITIES ACT (42 U.S.C.A. §§ 12111–12117)

A. GENERALLY

- § 172:1 Nature of the claim—Disparate treatment
- §§ 172:2 to 172:9 [Reserved]

B. STATUTES

- § 172:10 Generally
- § 172:11 Disparate treatment
- § 172:12 Reasonable accommodation
- §§ 172:13 to 172:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 172:20 Disparate treatment
§ 172:21 Reasonable accommodation
§ 172:22 Hostile environment—Supervisor
§ 172:23 —Co-worker
§ 172:24 Retaliation
§ 172:25 Respondent superior
§ 172:26 Employee with mobility impairment—Failure to accommodate—Disability and retaliation admitted—Damages sought [New]

D. DEFINITIONS

§§ 172:27 to 172:29 [Reserved]

§	172:30	Disability
§	172:31	Qualified individual with a disability
§	172:32	Discrimination
§	172:33	Essential job functions
§	172:34	Substantially limited
§	172:35	Major activities of life
§	172:36	Regarded as having an impairment
§	172:37	Record of impairment
§	172:38	Direct threat
§	172:39	Reasonable accommodation
§	172:40	Undue hardship
88	172:41	to 172:49 [Reserved]

E. CAUSATION

§ 172:50 Generally
 § 172:51 Preponderance of the evidence
 §§ 172:52 to 172:59 [Reserved]

F. DEFENSES

§	172:60	Good faith efforts at reasonable accommodation
§	172:61	Undue hardship
§	172:62	Direct threat to health or safety of plaintiff or others
§	172:63	Business necessity
§	172:64	Business judgment
Ş	172:65	Bona fide seniority system

§ 172:66 Same decision §§ 172:67 to 172:69 [Reserved]

G. DAMAGES

- § 172:70 Compensatory damages
- § 172:71 Back pay
- § 172:72 Front pay
- § 172:73 Nominal damages
- § 172:74 Punitive damages
- § 172:75 Mitigation of damages
- §§ 172:76 to 172:79 [Reserved]

H. VERDICTS

- § 172:80 Verdict form
- § 172:81 Jury interrogatories—Disparate treatment
- § 172:82 —Reasonable accommodation

CHAPTER 173. AGE DISCRIMINATION IN EMPLOYMENT (29 U.S.C.A. §§ 621–634)

A. GENERALLY

- § 173:1 Nature of the action—Disparate treatment
- § 173:2 —Disparate impact
- §§ 173:3 to 173:9 [Reserved]

B. STATUTES

- § 173:10 Generally
- §§ 173:11 to 173:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIMS

- § 173:20 Disparate treatment
- § 173:21 Disparate impact
- § 173:22 Hostile environment
- § 173:23 Retaliation
- § 173:24 Statistical evidence
- § 173:25 Respondeat superior

- § 173:26 Pretext
- § 173:27 Proof of discrimination under Age Discrimination in Employment Act [New]
- §§ 173:28 to 173:39 [Reserved]

D. DEFINITIONS

- § 173:40 Willful
- § 173:41 Determinative factor
- § 173:42 Motivating factor
- § 173:43 Tangible employment action
- § 173:44 Direct and indirect evidence
- §§ 173:45 to 173:49 [Reserved]

E. CAUSATION

- § 173:50 Generally
- § 173:51 Preponderance of the evidence
- §§ 173:52 to 173:59 [Reserved]

F. DEFENSES

- § 173:60 Bona fide occupational qualification
- § 173:61 Bona fide seniority system
- § 173:62 Bona fide employee benefit plans
- § 173:63 Business necessity
- § 173:64 After-acquired evidence
- § 173:65 Waiver
- § 173:66 Good cause or reasonable factor other than age
- §§ 173:67 to 173:69 [Reserved]

G. DAMAGES

- § 173:70 Compensatory damages
- § 173:71 Front pay
- § 173:72 Liquidated damages
- § 173:73 Nominal damages
- § 173:74 Mitigation of damages
- § 173:75 No punitive or exemplary damages
- §§ 173:76 to 173:79 [Reserved]

H. VERDICTS

§ 173:80 Verdict form

CHAPTER 174. EQUAL PAY ACT (29 U.S.C.A. § 206(d))

A. GENERALLY

§ 174:1 Nature of the claim §§ 174:2 to 174:9 [Reserved]

B. STATUTES

\$ 174:10 Generally
§\$ 174:11 to 174:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- $\S 174:20$ Generally
- § 174:21 Rates of pay
- § 174:22 Pretext
- § 174:23 Retaliation
- § 174:24 Essential elements and affirmative defenses [New]
- §§ 174:25 to 174:29 [Reserved]

D. DEFINITIONS

- § 174:30 Equal work
- § 174:31 Equal skill
- § 174:32 Equal effort
- § 174:33 Equal responsibility
- § 174:34 Similar working conditions
- § 174:35 Willful
- §§ 174:36 to 174:39 [Reserved]

E. CAUSATION

- § 174:40 Generally
- § 174:41 Preponderance of the evidence
- §§ 174:42 to 174:49 [Reserved]

F. DEFENSES

§ 174:50 Generally

§ 174:51 Seniority system
§ 174:52 Merit system
§ 174:53 Quantity or quality of production
§ 174:54 Factor other than sex—Generally
§ 174:55 —Education
§ 174:56 —Experience
§ 174:57 —Prior salary
§ 174:58 —Training program
§ 174:59 —Competitive salaries
§ 174:60 —Classification system
§ 174:61 —Mistake
§ 174:62 —Red circle rate
§ 174:63 —Differential economic benefit

G. DAMAGES

- § 174:70 Damages—Nonwillful violation
- § 174:71 —Willful violation
- § 174:72 No punitive or exemplary damages
- §§ 174:73 to 174:79 [Reserved]

§§ 174:64 to 174:69 [Reserved]

H. VERDICTS

- § 174:80 Verdict form
- § 174:81 Special interrogatories to jury

CHAPTER 175. FAIR LABOR STANDARDS ACT (29 U.S.C.A. §§ 201–219)

A. GENERALLY

§ 175:1 Nature of the claim §§ 175:2 to 175:9 [Reserved]

B. STATUTES

- § 175:10 Minimum wage
- § 175:11 Overtime
- §§ 175:12 to 175:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 175:20 Generally
- § 175:21 Retaliation
- §§ 175:22 to 175:29 [Reserved]

D. DEFINITIONS

- § 175:30 Employee
- § 175:31 Joint employers
- § 175:32 Regular rate of pay
- § 175:33 Hours worked
- § 175:34 Workweek
- § 175:35 Willful
- § 175:36 Don
- § 175:37 Doff
- §§ 175:38 to 175:39 [Reserved]

E. CAUSATION

- § 175:40 Generally
- § 175:41 Preponderance of the evidence
- §§ 175:42 to 175:49 [Reserved]

F. DEFENSES

- § 175:50 Generally
- §§ 175:51 to 175:59 [Reserved]

G. DAMAGES

- § 175:60 Damages—Nonwillful violation
- § 175:61 —Willful violation
- § 175:62 No punitive or exemplary damages
- §§ 175:63 to 175:69 [Reserved]

H. VERDICTS

- § 175:70 Verdict form
- § 175:71 Special interrogatories to jury

CHAPTER 176. EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT (42 U.S.C.A. § 1395DD)

A. GENERALLY

§ 176:1 Nature of the action—Individual plaintiff § 176:2 —Hospital plaintiff

$\$ 176:3 to 176:9 [Reserved]

B. STATUTES

§ 176:10 Generally §§ 176:11 to 176:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 176:20 Individual plaintiff

§ 176:21 Hospital plaintiff

§§ 176:22 to 176:29 [Reserved]

D. DEFINITIONS

§ 176:30 Appropriate medical screening examination

§ 176:31 Emergency medical condition

§ 176:32 To stabilize

§ 176:33 Duty to stabilize

§ 176:34 Active labor

§§ 176:35 to 176:39 [Reserved]

E. CAUSATION

§ 176:40 Generally

§ 176:41 Preponderance of the evidence

§ 176:42 Proximate cause

§§ 176:43 to 176:49 [Reserved]

F. DEFENSES

§ 176:50 Consent of plaintiff or certification

§ 176:51 Denial that patient came to emergency room

§ 176:52 Denial that patient requested treatment
§ 176:53 Denial that defendant failed to provide screening examination
§ 176:54 Denial of knowledge of emergency medical condition
§ 176:55 Denial of failure to stabilize
§ 176:56 Offer of further medical examination and treatment
§ 176:57 Offer to transfer to other medical facility
§ 176:58 Denial that plaintiff suffered harm
§§ 176:59 to 176:69 [Reserved]

G. DAMAGES

§ 176:70 Compensatory damages §§ 176:71 to 176:79 [Reserved]

H. VERDICT

- § 176:80 Verdict form§ 176:81 Verdict form in state with limitation on damages
- CHAPTER 177. SEX DISCRIMINATION IN FEDERALLY ASSISTED EDUCATION PROGRAMS TITLE IX OF THE EDUCATION AMENDMENTS ACT OF 1972 (20 U.S.C.A. §§ 1681–1688)

A. GENERALLY

§ 177:1 Nature of the action §§ 177:2 to 177:9 [Reserved]

B. STATUTES

§ 177:10 Generally
§§ 177:11 to 177:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§ 177:20 Generally § 177:21 Harassment—Student-on-student

- § 177:22 Sexual harassment—Institution employee
- § 177:23 Intent
- § 177:24 Retaliation
- §§ 177:25 to 177:29 [Reserved]

D. DEFINITIONS

- § 177:30 Educational institution
- § 177:31 Federal financial assistance
- § 177:32 Motivating factor
- § 177:33 Hostile environment
- § 177:34 Reasonable person
- § 177:35 Deliberate indifference
- § 177:36 Actual knowledge
- § 177:37 Direct and indirect evidence
- § 177:38 Appropriate person
- §§ 177:39 to 177:49 [Reserved]

E. CAUSATION

- § 177:50 Generally
- § 177:51 Preponderance of the evidence
- § 177:52 Proximate cause
- §§ 177:53 to 177:59 [Reserved]

F. DEFENSES

- § 177:60 Generally
- §§ 177:61 to 177:69 [Reserved]

G. DAMAGES

- § 177:70 Compensatory damages
- § 177:71 Back pay
- § 177:72 Front pay
- § 177:73 Nominal damages
- § 177:74 Punitive damages
- § 177:75 Mitigation of damages
- §§ 177:76 to 177:79 [Reserved]

H. VERDICTS

§ 177:80 Verdict form

§ 177:81 Jury interrogatories

CHAPTER 178. FALSE CLAIMS ACT (31 U.S.C.A. §§ 3729–3733)

A. GENERALLY

§ 178:1 Nature of the action §§ 178:2 to 178:9 [Reserved]

B. STATUTES

§ 178:10 Generally §§ 178:11 to 178:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

- § 178:20 Generally
- § 178:21 Imputed knowledge
- § 178:22 Respondent superior
- § 178:23 Authorization to violate regulations
- §§ 178:24 to 173:29 [Reserved]

D. DEFINITIONS

- § 178:30 False
- § 178:31 Fraudulent
- § 178:32 Knowing and knowingly
- § 178:33 Claim
- § 178:34 Obligation
- § 178:35 Material
- §§ 178:36 to 178:39 [Reserved]

E. CAUSATION

- § 178:40 Generally
- § 178:41 Preponderance of the evidence
- §§ 178:42 to 178:49 [Reserved]

F. DEFENSES

§ 178:50 Generally

§§ 178:51 to 178:59 [Reserved]

G. DAMAGES

§ 178:60 Generally
§ 178:61 Civil penalties
§§ 178:62 to 178:69 [Reserved]

H. VERDICTS

§ 178:70 Verdict form§ 178:71 Jury interrogatories

CHAPTER 179. FAMILY AND MEDICAL LEAVE ACT (31 U.S.C.A. §§ 2601–2654)

A. GENERALLY

§ 179:1 Nature of the claim §§ 179:2 to 179:9 [Reserved]

B. STATUTES

§ 179:10 Generally §§ 179:11 to 179:19 [Reserved]

C. ESSENTIAL ELEMENTS OF PLAINTIFF'S CLAIM

§	179:20	Wrongful termination of employee with serious health condition
§	179:21	Wrongful termination of employee needed to care for family member with serious health condition
§	179:22	Wrongful termination of employee on leave for birth, adoption or foster care
§	179:23	Failure to reinstate employee with serious health condition
§	179:24	Failure to reinstate employee needed to care for family member with serious health condition
§	179:25	Failure to reinstate employee on leave for birth, adoption, or foster care [Retitled]
§	179:26	Interference with leave rights
§	179:27	Retaliation for opposing actions violating FMLA [Retitled]
88	170.98	to 170.20 [Recorned]

D. DEFINITIONS

- § 179:30 Needed to care for
 § 179:31 Serious health condition
 § 179:32 Health care provider
 § 179:33 Appropriate notice—Leave foreseeable
 § 179:34 —Leave unforeseeable
 § 179:35 Equivalent position
 § 179:36 Key employee
- § 179:37 Adverse employment action
- §§ 179:38 to 179:39 [Reserved]

E. CAUSATION

- § 179:40 Generally
- § 179:41 Preponderance of the evidence
- §§ 179:42 to 179:49 [Reserved]

F. DEFENSES

- § 179:50 Same decision
- § 179:51 Exception to job restoration—Key employee
- § 179:52 —Employee would not have been employed at time of reinstatement
- § 179:53 Good faith defense to liquidated damages
- § 179:54 Honest belief
- §§ 179:55 to 179:59 [Reserved]

G. DAMAGES

- § 179:60 Generally
- § 179:61 Mitigation of damages
- §§ 179:62 to 179:69 [Reserved]

H. VERDICTS

- § 179:70 Verdict form
- § 179:71 Special verdict

Table of Laws and Rules

Table of Cases

Index