

Table of Contents

PART 1. INTRODUCTION (CONTINUED)

CHAPTER 1. THE HISTORY OF TORT LAW

- § 1:1 A civil wrong
- § 1:2 Criminal law
- § 1:3 Contract law
- § 1:4 Property law
- § 1:5 Statutory law
- § 1:6 History of tort law
- § 1:7 Recognition as a field of law
- § 1:8 Development of negligence
- § 1:9 Limitations on liability
- § 1:10 Prosser and the Restatement of Torts
- § 1:11 Enterprise liability
- § 1:12 Rise of tort claims
- § 1:13 Tort reform
- § 1:14 The future

PART 2. GENERAL

CHAPTER 2. BRINGING TORT ACTIONS

- § 2:1 Jurisdiction
- § 2:2 Federal courts—Source of jurisdiction
- § 2:3 —Generally
- § 2:4 —Federal question jurisdiction
- § 2:5 —Diversity jurisdiction
- § 2:6 —Alien residents and citizenships
- § 2:7 —Diversity jurisdiction and class actions
- § 2:8 —Discretionary declension to exercise jurisdiction in class actions
- § 2:9 —Mandatory declension to exercise jurisdiction in class actions
- § 2:10 —Citizenship of class actions
- § 2:11 Ohio courts—Subject-matter jurisdiction
- § 2:12 —County court of common pleas
- § 2:13 —County courts
- § 2:14 —Municipal courts
- § 2:15 —Small claims courts
- § 2:16 —Ohio Supreme Court
- § 2:17 —First Appellate District
- § 2:18 —Second Appellate District
- § 2:19 —Eighth Appellate District

§ 2:20	Applying personal jurisdiction analysis
§ 2:21	Federal question jurisdiction—In rem or quasi in rem
§ 2:22	—Territorial
§ 2:23	Personal jurisdiction—Ohio state rules
§ 2:24	—Small claims courts
§ 2:25	—Ohio Supreme Court
§ 2:26	—First Appellate District
§ 2:27	—Second Appellate District
§ 2:28	—Third Appellate District
§ 2:29	—Eighth Appellate District
§ 2:30	—10th Appellate District
§ 2:31	—11th Appellate District
§ 2:32	Definition of “resident”
§ 2:33	Personal jurisdiction—Trustees and beneficiaries
§ 2:34	—Ohio’s long-arm statute
§ 2:35	— —Definition of transact
§ 2:36	— —Due process
§ 2:37	General jurisdiction
§ 2:38	Specific jurisdiction
§ 2:39	Ancillary factors
§ 2:40	Forum non conveniens—Federal courts—Generally
§ 2:41	— —Public interest factors
§ 2:42	— —Private interest factors
§ 2:43	Venue—Ohio courts
§ 2:44	—Change of venue in state courts—Wrong venue
§ 2:45	— —Cost of choosing the wrong venue
§ 2:46	— —The “You Would Do Better Not to Show” clause
§ 2:47	— —Transferring due to prejudice
§ 2:48	—No proper forum
§ 2:49	—Multiple defendants and claims for relief
§ 2:50	—Notice of pending litigation and transfer of judgments
§ 2:51	—Appealing a final judgment
§ 2:52	—Action affecting title to land
§ 2:53	—Improper venue and collateral attack
§ 2:54	—Small claims courts
§ 2:55	Commencing an action—Federal court
§ 2:56	—Ohio courts
§ 2:57	—Small claims court
§ 2:58	—Fourth Appellate District
§ 2:59	—Seventh Appellate District
§ 2:60	Pleadings—Complaint
§ 2:61	—Federal courts—Complaint
§ 2:62	— —Format
§ 2:63	— —Special issues
§ 2:64	—Ohio courts—Generally
§ 2:65	— —Format
§ 2:66	— —First Appellate District
§ 2:67	— —Third Appellate District

TABLE OF CONTENTS

§ 2:68	Medical malpractice—Complaints
§ 2:69	Intentional torts against employer—Complaint
§ 2:70	Special matters—Complaint
§ 2:71	Summons
§ 2:72	—Federal court
§ 2:73	— —When to file a summons
§ 2:74	—Ohio courts
§ 2:75	— —Serving the summons and complaint
§ 2:76	— —Small claims court
§ 2:77	Reply
§ 2:78	—Federal courts
§ 2:79	—Ohio courts
§ 2:80	Defendant’s answers, denials, affirmative defenses
§ 2:81	—Federal
§ 2:82	— —Format
§ 2:83	— —Serving the answer
§ 2:84	—Ohio
§ 2:85	— —Serving the answer
§ 2:86	Denials
§ 2:87	—Federal
§ 2:88	— —Partial denial
§ 2:89	— —General denial
§ 2:90	— —Denial for lack of knowledge or information
§ 2:91	— —Failing to deny
§ 2:92	—Ohio
§ 2:93	— —General denial
§ 2:94	— —Specific denial
§ 2:95	— —Partial denial
§ 2:96	— —Denial for lack of knowledge
§ 2:97	— —Failure to deny
§ 2:98	Affirmative defenses
§ 2:99	—Federal
§ 2:100	— —Preanswer defenses
§ 2:101	—Ohio
§ 2:102	— —Ohio Supreme Court
§ 2:103	— —First Appellate District
§ 2:104	— —Second Appellate District
§ 2:105	— —Third Appellate District
§ 2:106	— —Fourth Appellate District
§ 2:107	— —Fifth Appellate District
§ 2:108	— —10th Appellate District
§ 2:109	— —Special defenses
§ 2:110	— —Preanswer defenses
§ 2:111	Pleadings—Ohio—Format
§ 2:112	Joinder of claims—Federal
§ 2:113	— —Contingent claims
§ 2:114	— —Permissive counterclaims
§ 2:115	Joinder of Parties—Federal

- § 2:116 Joinder of claims—Ohio—Permissive counterclaims
- § 2:117 Compulsory claims—Federal—Required party
- § 2:118 —Ohio

CHAPTER 3. CAUSATION

- § 3:1 Causation
- § 3:2 Legal proximate cause
- § 3:3 “Substantial factor” test
- § 3:4 Supreme Court adoption of the substantial factor test
- § 3:5 Application of the substantial factor test—Lower courts
- § 3:6 —Asbestos and silica dust cases
- § 3:7 — —Eighth District
- § 3:8 — —11th District
- § 3:9 —Non-asbestos cases—Court of claims
- § 3:10 — —Eighth District
- § 3:11 “But for” test
- § 3:12 Supreme court application of the “but for” test
- § 3:13 Foreseeability
- § 3:14 —Supreme court
- § 3:15 —Sixth District
- § 3:16 Natural and probable consequences test
- § 3:17 —Supreme Court
- § 3:18 —Third District
- § 3:19 —10th District
- § 3:20 Concurrent causation
- § 3:21 —Supreme Court
- § 3:22 —Second District
- § 3:23 —Fifth District
- § 3:24 —Sixth District
- § 3:25 —Eighth District
- § 3:26 Cause in fact and but for
- § 3:27 Unforeseeable consequences and plaintiffs
- § 3:28 —Supreme court
- § 3:29 Superseding and intervening forces
- § 3:30 Intervening force risked by actor’s conduct
- § 3:31 —Supreme court
- § 3:32 —10th District
- § 3:33 Intervening force causing same harm as that risked by actor’s conduct
- § 3:34 —Supreme Court
- § 3:35 —Lower courts
- § 3:36 Normal intervening forces
- § 3:37 —Supreme Court
- § 3:38 —Third District
- § 3:39 —Fifth District
- § 3:40 —Sixth District
- § 3:41 —Ninth District
- § 3:42 Acts done under impulsion of emotional disturbance

TABLE OF CONTENTS

§ 3:43	—Sixth District
§ 3:44	—Court of Common Pleas, Tuscarawas County
§ 3:45	Acts of protection from danger threatened by actor's negligence
§ 3:46	—Supreme Court
§ 3:47	—Third District
§ 3:48	Negligence of intervening acts
§ 3:49	—Lower courts
§ 3:50	Intentional tortious or criminal acts done under opportunity afforded by actor's negligence
§ 3:51	Injury caused by intentional criminal act—First District
§ 3:52	—10th District
§ 3:53	Injury negligently caused in the course of a criminal act—Supreme Court
§ 3:54	—12th District
§ 3:55	Tortious or criminal acts the probability of which makes actor's conduct negligence
§ 3:56	—Lower courts
§ 3:57	Harm increased or accelerated by extraordinary force of nature
§ 3:58	—Supreme court
§ 3:59	—Fourth District
§ 3:60	—Circuit court
§ 3:61	Third person's failure to prevent harm
§ 3:62	—Supreme Court
§ 3:63	Medical causation; Enhancement, lighting up, or aggravation of injuries—In general
§ 3:64	Medical causation—Medical etiology versus legal causation
§ 3:65	—Exposure caused by contact with infected defendant
§ 3:66	— —Supreme Court
§ 3:67	— —First District
§ 3:68	—Exposure caused by defendant's negligence or intentional act
§ 3:69	— —Supreme Court
§ 3:70	— —Eighth District
§ 3:71	— —11th District
§ 3:72	Injuries incurred by trauma
§ 3:73	—Second District
§ 3:74	—Seventh District
§ 3:75	Medicines, drugs, and substances consumed—Supreme Court
§ 3:76	Injuries incurred by trauma—Seventh District
§ 3:77	Other toxic substances; Commercial poisons
§ 3:78	—Supreme Court
§ 3:79	—Fourth District
§ 3:80	—Sixth District
§ 3:81	Other toxic substances; commercial poisons—Eighth District
§ 3:82	Enhancement, lighting up, or aggravation of injuries
§ 3:83	Actor's liability for harm sustained in a subsequent accident
§ 3:84	—Seventh District
§ 3:85	Other "Second Injury" cases; Subsequent negligent medical treatment
§ 3:86	—Supreme Court

- § 3:87 —Third District
- § 3:88 —Ninth District

CHAPTER 4. CHOICE OF LAW AND CONFLICT OF LAW

- § 4:1 Introduction
- § 4:2 Federal legislation
- § 4:3 State legislation
- § 4:4 Long-arm statute
- § 4:5 Academic analysis
- § 4:6 Lex loci delicti: old traditional rule that law of the place of wrongdoing governs
- § 4:7 Law of the place of wrongdoing as controlling
- § 4:8 Injuries sustained in out-of-state accident—Supreme Court of Ohio
- § 4:9 Criticisms of lex loci delicti—Supreme Court of Ohio
- § 4:10 Modern flexible solutions—Interest analysis
- § 4:11 The Currie approach
- § 4:12 Greatest governmental interest
- § 4:13 —Other jurisdictions
- § 4:14 Comparative impairment technique
- § 4:15 —Other jurisdictions
- § 4:16 Dominant contacts/“Center of Gravity”
- § 4:17 —Other jurisdictions
- § 4:18 Choice influencing considerations
- § 4:19 —Other jurisdictions
- § 4:20 Depecage doctrine
- § 4:21 Court usage—Maryland
- § 4:22 Restatement Second, Conflict of Laws
- § 4:23 Injuries sustained out-of-state in an accident with a mechanical device—Supreme Court of Ohio
- § 4:24 —First District
- § 4:25 —Second District
- § 4:26 —Third District
- § 4:27 —Fifth District
- § 4:28 —Sixth District
- § 4:29 —Seventh District
- § 4:30 —Eighth District
- § 4:31 —Ninth District
- § 4:32 —10th District
- § 4:33 —11th District
- § 4:34 —12th District
- § 4:35 Injuries sustained in an accident in state—Sixth District
- § 4:36 —Seventh District
- § 4:37 False conflicts
- § 4:38 Characterization
- § 4:39 Renvoi
- § 4:40 Constitutional considerations
- § 4:41 Lex fori: law of forum as controlling matters of practice

TABLE OF CONTENTS

- § 4:42 Statute of limitations—Rule that law of forum governs
- § 4:43 —Rule that law of forum does not govern
- § 4:44 Applying law of jurisdiction where cause of action arose
- § 4:45 Using interest analysis approach—Rhode Island
- § 4:46 Effect of borrowing statute of forum

CHAPTER 5. GROSS NEGLIGENCE

- § 5:1 Introduction
- § 5:2 Establishing a distinct wrong/liability
- § 5:3 —Ohio Supreme Court
- § 5:4 Defining recklessness
- § 5:5 Gross negligence contrasted to negligence
- § 5:6 —A critical distinction made
- § 5:7 Defining “willful” misconduct
- § 5:8 Defining “wanton” misconduct
- § 5:9 Negligence vs. gross negligence on a spectrum of fault
- § 5:10 Negligence vs. gross negligence—Ohio Supreme Court
- § 5:11 —First District Court of Appeals
- § 5:12 —Third District Court of Appeals
- § 5:13 —Fifth District Court of Appeals
- § 5:14 —Sixth District Court of Appeals
- § 5:15 —Seventh District Court of Appeals
- § 5:16 —Eighth District Court of Appeals
- § 5:17 —10th District Court of Appeals
- § 5:18 —12th District Court of Appeals

CHAPTER 6. IMPUTED LIABILITY FOR THE TORTS OF OTHERS

- § 6:1 Introduction
- § 6:2 Respondeat superior
- § 6:3 —Supreme Court
- § 6:4 —First District
- § 6:5 —Second District
- § 6:6 —Third District
- § 6:7 —Fourth District
- § 6:8 —Fifth District
- § 6:9 —Sixth District
- § 6:10 —Seventh District
- § 6:11 —Eighth District
- § 6:12 —Ninth District
- § 6:13 —10th District
- § 6:14 —11th District
- § 6:15 —12th District
- § 6:16 Apparent authority & ostensible agency
- § 6:17 —Supreme Court
- § 6:18 —First District
- § 6:19 —Second District
- § 6:20 —Third District

- § 6:21 —Fourth District
- § 6:22 —Fifth District
- § 6:23 —Sixth District
- § 6:24 —Seventh District
- § 6:25 —Eighth District
- § 6:26 —Ninth District
- § 6:27 —10th District
- § 6:28 —11th District
- § 6:29 —12th District
- § 6:30 Ratification
- § 6:31 —Second District
- § 6:32 —Sixth District
- § 6:33 —Eighth District
- § 6:34 —10th District
- § 6:35 —12th District
- § 6:36 Situations involving direct liability for another's torts—Negligent hiring and retention
- § 6:37 Negligent hiring and retention—Supreme Court
- § 6:38 —First District
- § 6:39 —Second District
- § 6:40 —Third District
- § 6:41 —Fourth District
- § 6:42 —Fifth District
- § 6:43 —Sixth District
- § 6:44 —Seventh District
- § 6:45 —Eighth District
- § 6:46 —Ninth District
- § 6:47 —10th District
- § 6:48 —11th District
- § 6:49 —12th District
- § 6:50 Negligent entrustment
- § 6:51 —Driving—Supreme Court
- § 6:52 — —Eighth District
- § 6:53 —Weapons—Second District
- § 6:54 — —Eighth District
- § 6:55 — —10th District
- § 6:56 Negligent supervision—Parents
- § 6:57 — —Supreme Court
- § 6:58 — —First District
- § 6:59 — —Second District
- § 6:60 — —Fifth District
- § 6:61 — —Eighth District
- § 6:62 — —Ninth District
- § 6:63 Negligent Supervision—Parents—10th District
- § 6:64 Negligent supervision—Employers
- § 6:65 — —Second District
- § 6:66 — —Fourth District

TABLE OF CONTENTS

CHAPTER 7. LIABILITY FOR CONSEQUENTIAL DAMAGES AND SUCCESSIVE INJURIES

- § 7:1 Introduction
- § 7:2 Medical malpractice/negligence
- § 7:3 Negligent repair
- § 7:4 Negligent misrepresentation
- § 7:5 Conversion
- § 7:6 Willful and wanton breach of duty
- § 7:7 Liability for successive injuries
- § 7:8 —Vehicular accident—Ohio Supreme Court
- § 7:9 —First District
- § 7:10 —Medical malpractice
- § 7:11 —Third District Court of Appeals
- § 7:12 —Fifth District Court of Appeals
- § 7:13 —Seventh District Court of Appeals
- § 7:14 —Ninth District Court of Appeals

CHAPTER 8. MISCELLANEOUS FACTORS AFFECTING RIGHT TO SUE

- § 8:1 Workers' compensation; right to sue a private employer for an intentional tort
- § 8:2 Workers' compensation—Supreme Court
- § 8:3 —Sixth District
- § 8:4 —11th District
- § 8:5 Political subdivision immunity
- § 8:6 —Supreme Court
- § 8:7 —Third District
- § 8:8 —Fifth District
- § 8:9 —Seventh District
- § 8:10 —Eighth District
- § 8:11 —10th District
- § 8:12 —11th District
- § 8:13 —12th District

CHAPTER 9. MULTIPLE TORTFEASORS

- § 9:1 Introduction
- § 9:2 "Alternative liability" theory/shifting of burden to multiple defendants to show no responsibility for harm
- § 9:3 "Alternative liability" theory/ shifting of burden to multiple defendants to show no responsibility for harm—Supreme Court of Ohio
- § 9:4 —10th District
- § 9:5 Presumptive liability based on supplier's share of market of injury-causing product; shifting of burden of proof to defendants to show that they could not have made product
- § 9:6 Persons acting in concert

- § 9:7 Joint enterprise; joint venture
- § 9:8 —Supreme Court of Ohio
- § 9:9 —First District
- § 9:10 —Fifth District
- § 9:11 —Eighth District
- § 9:12 Joint, joint and several, tortfeasor liability
- § 9:13 —Generally
- § 9:14 —Second District
- § 9:15 —Fourth District
- § 9:16 —Seventh District
- § 9:17 Effect of lack of concerted actions; necessity that acts of multiple wrongdoers result in single indivisible harm
- § 9:18 Effect of lack of concerted actions—Fifth District
- § 9:19 —Ninth District
- § 9:20 Effect of tortfeasors being immune or possession privilege
- § 9:21 Effect of “pure” judicial or statutory system of comparative negligence or fault
- § 9:22 “Modified” judicial or statutory system of comparative negligence or fault
- § 9:23 Apportionment of damages among multiple tortfeasors in instances of distinct harms or injuries or of single but divisible injuries
- § 9:24 Effect of verdict amount to an improperly apportionment; efforts to, and modes of, cure
- § 9:25 —First District
- § 9:26 —Third District
- § 9:27 Effect of judgment in favor of some multiple tortfeasors but not in favor of others
- § 9:28 Allocation or apportionment of loss between or among multiple wrongdoers; contribution; indemnity
- § 9:29 Contribution
- § 9:30 Generally; historical development of “no contribution among tortfeasors” dogma; present status
- § 9:31 Prerequisites to contribution; existence of common liability to injury victim
- § 9:32 Effect of immunity or privilege, or statutory defense; workers’ compensation
- § 9:33 Adjusting contribution; “pro rata” or “equal” shares method
- § 9:34 Other factors affecting multiple tortfeasors’ apportionment of liability among selves; effect of insolvency or absence
- § 9:35 Rights of paying liability insurer
- § 9:36 Common liability requirement
- § 9:37 Effect of complete defense of one defendant—Immunity
- § 9:38 Interspousal immunity; parent-child immunity
- § 9:39 Guest-host immunity
- § 9:40 Charitable immunity
- § 9:41 Governmental immunity
- § 9:42 —Effect of intentional, willful, or wanton misconduct
- § 9:43 Effect of release and settlement on contribution claim—Generally
- § 9:44 Effect on liability of party obtaining releases—Right of party obtaining release to seek contribution

TABLE OF CONTENTS

§ 9:45	Effect of liability of nonsettling parties—Generally
§ 9:46	Release and settlement of contribution and indemnity claims
§ 9:47	Allocation of shares of contribution
§ 9:48	Indemnity
§ 9:49	Doctrines of implied indemnity; essentiality of purported indemnitee’s actual liability to third person harmed
§ 9:50	Express contract
§ 9:51	—Third District
§ 9:52	—Fourth District
§ 9:53	—10th District
§ 9:54	Contract implied in fact
§ 9:55	Quasi-contract (tort)
§ 9:56	Previous contractual relationships
§ 9:57	Previous contractual relationship—Employer-employee
§ 9:58	—Owner-contractor
§ 9:59	—Lessor-lessee
§ 9:60	No previous contractual relationship—Strict liability in tort—Municipal liability
§ 9:61	Loan agreements
§ 9:62	Mary Carter agreements
§ 9:63	Time of accrual of claim for indemnity
§ 9:64	Status of rule purporting to deny indemnity among tortfeasors
§ 9:65	Traditional “all or nothing” indemnity; doctrine of “partial indemnity”—Effect of comparative or relative fault or negligence
§ 9:66	Tests and criteria; “active-passive”; “primary-secondary”; “constructively” liable; the “imaginary lawsuit”
§ 9:67	Persons entitled to indemnity from other tortfeasors; people vicariously liable
§ 9:68	Persons entitled to indemnity from other tortfeasors—Product liability situations; retailer-buyer-user, etc., from supplier in vertical chain, vice versa, and other aspects
§ 9:69	—Principal, owner, or general contractor, from contractor to subcontractor
§ 9:70	—Municipal corporation, from property owner or occupier
§ 9:71	—Tortfeasor causing initial injury from medical or healing art attendant
§ 9:72	—Tortfeasor ordinarily negligent, from one guilty of wanton or willful misconduct or gross negligence
§ 9:73	Effect of an immunity
§ 9:74	Obtaining indemnity from employer covered by workers’ compensation

CHAPTER 10. NEGLIGENCE

§ 10:1	Introduction
§ 10:2	Burden of proof
§ 10:3	Function of the court and jury
§ 10:4	Res ipsa loquitur
§ 10:5	History
§ 10:6	Elements of the cause of action or claim

- § 10:7 Duty
- § 10:8 —Duty owed to the Public
- § 10:9 Duty owed for ultrahazardous materials
- § 10:10 Rule for abnormally dangerous activities
- § 10:11 —Venereal disease
- § 10:12 Breach of duty
- § 10:13 —Foreseeability
- § 10:14 Causation
- § 10:15 —But-for
- § 10:16 Standard of care—Generally
- § 10:17 —Reasonable person
- § 10:18 —Duty to invitees
- § 10:19 —Known or obvious dangers
- § 10:20 Amusement facilities
- § 10:21 Sports events; athletic games and contests
- § 10:22 —Golf
- § 10:23 —Bowling alleys and pool and billiard rooms
- § 10:24 —Roller and ice skating rinks
- § 10:25 —Swimming and diving; beaches, bathing places or resorts or pools; water skiing and other water sports
- § 10:26 —Winter sports; skiing, tobogganing, or bobsledding; ski resorts; slopes; ski lifts
- § 10:27 —Summer camps
- § 10:28 —Injury to spectators
- § 10:29 Theaters
- § 10:30 Drive-in theaters
- § 10:31 Circuses; carnivals
- § 10:32 Domestic animal shows
- § 10:33 Wild animal shows
- § 10:34 Fairgrounds
- § 10:35 Shooting gallery or range
- § 10:36 Racing shows; soap box derbies
- § 10:37 Indoor sports arena; hockey; basketball; wrestling, etc
- § 10:38 Baseball parks
- § 10:39 Other amusements; circuses and carnivals; amusement rides
- § 10:40 —Duties as to inspection and warning
- § 10:41 —Duties as to construction, maintenance, and management of premises
- § 10:42 —Amusement rides and devices
- § 10:43 Damages to patron's property
- § 10:44 Economic loss
- § 10:45 Liability of financial lending institutions for construction defects
- § 10:46 Insurance companies
- § 10:47 Dangerous instrumentalities
- § 10:48 —Electricity
- § 10:49 —Telephone companies
- § 10:50 —Gas companies
- § 10:51 —Fires
- § 10:52 —Fireworks

TABLE OF CONTENTS

- § 10:53 —Explosives and explosions
- § 10:54 —Steam
- § 10:55 —Weapons; firearms

CHAPTER 11. PRIMA FACIE TORTS

- § 11:1 Generally
- § 11:2 Origin and development of doctrine—Generally
- § 11:3 Development of doctrine in New York
- § 11:4 Approach of the Restatement Second, Torts
- § 11:5 Courts recognizing prima facie torts—Missouri
- § 11:6 —New Jersey
- § 11:7 —New Mexico
- § 11:8 —New York
- § 11:9 Courts not recognizing the prima facie doctrine—Ohio
- § 11:10 —Washington, D.C

CHAPTER 12. PROBLEMS OF PROOF, FUNCTIONS OF THE COURT & JURY, PRESUMPTIONS, RES IPSA LOQUITUR, CIRCUMSTANTIAL EVIDENCE

- § 12:1 Functions of the court and jury in tort actions
- § 12:2 Determination of duties and standard of conduct by the court—
Motions for directed verdict
- § 12:3 Motions for directed verdict—Ninth Appellate District
- § 12:4 Motion for new trial
- § 12:5 —Second Appellate District
- § 12:6 —Ninth Appellate District
- § 12:7 Motions in limine
- § 12:8 —First Appellate District
- § 12:9 —Eighth Appellate District
- § 12:10 Presumptions—In general
- § 12:11 —Ohio Supreme Court
- § 12:12 —Instructing the jury
- § 12:13 —Rebutting presumptions
- § 12:14 — —Ohio Supreme Court
- § 12:15 —Suicide
- § 12:16 — —Ohio Supreme Court
- § 12:17 — —Second Appellate District
- § 12:18 — —Fourth Appellate District
- § 12:19 — —Eighth Appellate District
- § 12:20 — —10th Appellate District
- § 12:21 — —11th Appellate District
- § 12:22 —Amnesia
- § 12:23 — —11th Appellate District
- § 12:24 —Due care by plaintiff
- § 12:25 — —Ohio Supreme Court
- § 12:26 —Failure of party to produce evidence

- § 12:27 — —Ohio Supreme Court
- § 12:28 —Failure of a party to testify
- § 12:29 — —10th Appellate District
- § 12:30 —Automobile case
- § 12:31 — —Seventh Appellate District
- § 12:32 Res ipsa loquitur
- § 12:33 Effect of res ipsa loquitur, evidence, inference, or presumption
- § 12:34 —Ohio Supreme Court
- § 12:35 Res ipsa loquitur—Application in trial to the court without a jury
- § 12:36 — —Third Appellate District
- § 12:37 —Elements
- § 12:38 —Event or occurrence which ordinarily results from negligence
- § 12:39 — —Ohio Supreme Court
- § 12:40 — —First District Appellate
- § 12:41 —Control of instrumentality
- § 12:42 — —Ohio Supreme Court
- § 12:43 — —Eighth District Appellate
- § 12:44 —Multiple defendants
- § 12:45 — —First District Appellate
- § 12:46 —Effect of plaintiff's conduct
- § 12:47 — —Sixth District Appellate
- § 12:48 —Elevators and escalators
- § 12:49 — —First Appellate District
- § 12:50 — —Sixth Appellate District
- § 12:51 — —Eighth Appellate District
- § 12:52 — —10th Appellate District
- § 12:53 —Product liability actions
- § 12:54 — —Ohio Supreme Court
- § 12:55 — —First Appellate District
- § 12:56 —Automobile cases
- § 12:57 — —First Appellate District
- § 12:58 — —Sixth Appellate District
- § 12:59 —Medical malpractice cases
- § 12:60 — —First Appellate District
- § 12:61 — —Sixth Appellate District
- § 12:62 — —Eighth Appellate District
- § 12:63 — —Ninth Appellate District
- § 12:64 — —10th District Appellate
- § 12:65 —Hospitals and nursing homes—First Appellate District
- § 12:66 —Sewer back-up cases
- § 12:67 — —Ohio Supreme Court
- § 12:68 —Use of expert testimony to establish elements of res ipsa loquitur
- § 12:69 — —First Appellate District
- § 12:70 — —Eighth Appellate District
- § 12:71 — —Ninth Appellate District
- § 12:72 —Circumstantial evidence
- § 12:73 — —Fourth Appellate District

TABLE OF CONTENTS

- § 12:74 — —10th Appellate District
- § 12:75 —Reasonableness of the inference
- § 12:76 — —Fourth Appellate District
- § 12:77 —Strength of circumstantial evidence
- § 12:78 — —Eighth Appellate District

CHAPTER 13. STANDARD OF CARE

- § 13:1 Reasonable person
- § 13:2 Knowledge imputed to reasonable person
- § 13:3 —Supreme Court of Ohio
- § 13:4 —First District
- § 13:5 —Second District
- § 13:6 —Third District
- § 13:7 —Sixth District
- § 13:8 —Eighth District
- § 13:9 —Ninth District
- § 13:10 —10th District
- § 13:11 Circumstances as affecting reasonable person
- § 13:12 Duty to invitees
- § 13:13 —Supreme Court of Ohio
- § 13:14 —First District
- § 13:15 —Second District
- § 13:16 —Third District
- § 13:17 —Fourth District
- § 13:18 —Fifth District
- § 13:19 —Sixth District
- § 13:20 —Seventh District
- § 13:21 —Eighth District
- § 13:22 —Ninth District
- § 13:23 —10th District
- § 13:24 —11th District
- § 13:25 —12th District
- § 13:26 Duty to licensees
- § 13:27 —First District
- § 13:28 —Second District
- § 13:29 —Fifth District
- § 13:30 —Sixth District
- § 13:31 —Seventh District
- § 13:32 —Eighth District
- § 13:33 —10th District
- § 13:34 —12th District
- § 13:35 Duty to frequenters
- § 13:36 —First District
- § 13:37 —Third District
- § 13:38 —Eighth District
- § 13:39 —Ninth District
- § 13:40 —11th District
- § 13:41 Reasonable vehicle passenger

- § 13:42 Reasonable livestock owner
- § 13:43 Reasonable doctor
- § 13:44 —Supreme Court of Ohio
- § 13:45 —Second District
- § 13:46 —Sixth District
- § 13:47 —Seventh District
- § 13:48 —Ninth District
- § 13:49 —10th District
- § 13:50 —11th District
- § 13:51 —12th District
- § 13:52 Rescue doctrine
- § 13:53 —Supreme Court of Ohio
- § 13:54 —First District
- § 13:55 —Third District
- § 13:56 —Sixth District
- § 13:57 —10th District
- § 13:58 Foreseeability—Generally
- § 13:59 Liability based on misconduct of third persons
- § 13:60 Providers of alcoholic beverages
- § 13:61 Social hosts
- § 13:62 Tavern keepers
- § 13:63 —Supreme Court of Ohio
- § 13:64 —First District
- § 13:65 —Second District
- § 13:66 —Seventh District
- § 13:67 —Ninth District
- § 13:68 —10th District
- § 13:69 Possessors of land—Innkeepers
- § 13:70 Enhanced degree of care; conduct or activities involving
unusually high risk of harm
- § 13:71 Enhanced degree of care—Electricity
- § 13:72 —Carriers
- § 13:73 — —Motor vehicles
- § 13:74 — —Trains
- § 13:75 — —Particular applications—Airplanes
- § 13:76 Standards applicable to minors
- § 13:77 —Engaging in adult activities
- § 13:78 Standard owed to minors
- § 13:79 Standard applicable to persons under impediment—Duties of and
to handicapped persons
- § 13:80 —Sudden physical impairment
- § 13:81 —Mentally deficient persons
- § 13:82 —Intoxicated persons
- § 13:83 Standard as affect by custom, safety standards, or company
rules—Custom of community, industry, or trade
- § 13:84 Standard as affect by custom—Weight accorded to custom
- § 13:85 —Safety standards, codes, or manuals
- § 13:86 —Company rules
- § 13:87 —Manufacturer’s instructions, brochures, or manuals

TABLE OF CONTENTS

§ 13:88	—Rules of sports
§ 13:89	Standard as affected by statute, ordinance, or regulations
§ 13:90	Statutes and effect of violation of statute
§ 13:91	—Supreme Court of Ohio
§ 13:92	—Fourth District
§ 13:93	—Eighth District
§ 13:94	—10th District
§ 13:95	—12th District
§ 13:96	Effect of violation of ordinance
§ 13:97	—First District
§ 13:98	—Eighth District
§ 13:99	Effect of violation of administrative regulations—Supreme Court of Ohio
§ 13:100	—First District
§ 13:101	—Second District
§ 13:102	—Fourth District
§ 13:103	—10th District
§ 13:104	—11th District
§ 13:105	—12th District
§ 13:106	Standard as affected by sudden emergency doctrine
§ 13:107	Illustrations of voluntary undertaking rule
§ 13:108	Good samaritan

CHAPTER 14. WILLFUL MISCONDUCT, WANTON MISCONDUCT, RECKLESS DISREGARD OF THE SAFETY OF OTHERS, GROSS NEGLIGENCE

§ 14:1	Introduction
§ 14:2	Willful misconduct
§ 14:3	—Supreme Court of Ohio
§ 14:4	—Automobile accident—First District
§ 14:5	— —Second District
§ 14:6	— —Third District
§ 14:7	— —Fourth District
§ 14:8	— —Fifth District
§ 14:9	— —Sixth District
§ 14:10	— —Seventh District
§ 14:11	— —Ninth District
§ 14:12	— —10th District
§ 14:13	— —11th District
§ 14:14	— —12th District
§ 14:15	Property issues and mistakes—Second District
§ 14:16	—11th District
§ 14:17	Wanton misconduct
§ 14:18	—Automobile accident—Supreme Court of Ohio
§ 14:19	— —First District
§ 14:20	— —Second District

- § 14:21 — —Third District
- § 14:22 — —Fourth District
- § 14:23 — —Seventh District
- § 14:24 — —Eighth District
- § 14:25 — —Ninth District
- § 14:26 — —10th District
- § 14:27 — —11th District
- § 14:28 —Train accident—First District
- § 14:29 — —10th District
- § 14:30 Reckless conduct or disregard of safety of others
- § 14:31 —Automobile accident—Second District
- § 14:32 — —Third District
- § 14:33 — —Sixth District
- § 14:34 — —Eighth District
- § 14:35 — —Ninth District
- § 14:36 — —10th District
- § 14:37 —Trespassing, logging, and more—Seventh District
- § 14:38 — —11th District
- § 14:39 Gross negligence
- § 14:40 —Automobile accidents—Fifth District
- § 14:41 — —11th District
- § 14:42 —Bank misconduct—Supreme Court of Ohio
- § 14:43 — —First District
- § 14:44 — —Second District
- § 14:45 — —Eighth District
- § 14:46 — —Ninth District

PART 3. TORTS AGAINST A PERSON

CHAPTER 15. PARENTAL LIABILITY FOR CHILD'S TORTS

- § 15:1 Generally
- § 15:2 Negligent entrustment
- § 15:3 —Vehicles
- § 15:4 — —Ohio Supreme Court
- § 15:5 — —First District Court of Appeals
- § 15:6 — —Second District Court of Appeals
- § 15:7 — —Third District Court of Appeals
- § 15:8 — —Fifth District Court of Appeals
- § 15:9 — —Sixth District Court of Appeals
- § 15:10 — —Eighth District Court of Appeals
- § 15:11 — —Ninth District Court of Appeals
- § 15:12 — —10th District Court of Appeals
- § 15:13 — —11th District Court of Appeals
- § 15:14 — —12th District Court of Appeals
- § 15:15 —Weapons
- § 15:16 — —First District Court of Appeals

TABLE OF CONTENTS

§ 15:17	— —Second District Court of Appeals
§ 15:18	— —Fifth District Court of Appeals
§ 15:19	— —Eighth District Court of Appeals
§ 15:20	— —Ninth District Court of Appeals
§ 15:21	— —10th District Court of Appeals
§ 15:22	—Gasoline/lighter/matches—Sixth District Court of Appeals
§ 15:23	— —Ninth District Court of Appeals
§ 15:24	— —11th District Court of Appeals
§ 15:25	—A person
§ 15:26	Failure to control child
§ 15:27	—Vehicles—Ohio Supreme Court
§ 15:28	— —First District Court of Appeals
§ 15:29	— —Eighth District Court of Appeals
§ 15:30	—Delinquent acts
§ 15:31	—Assault/battery—Third District Court of Appeals
§ 15:32	— —11th District Court of Appeals
§ 15:33	—Arson
§ 15:34	Consent by parent—Vehicular accident
§ 15:35	—Shooting
§ 15:36	Master-servant relationship
§ 15:37	—First District Court of Appeals
§ 15:38	—Seventh District Court of Appeals
§ 15:39	Statutory liability
§ 15:40	—Damage to property and theft—Revised Code 3109.09
§ 15:41	— — —Ohio Supreme Court
§ 15:42	— — —First District Court of Appeals
§ 15:43	— — —Second District Court of Appeals
§ 15:44	— — —Fourth District Court of Appeals
§ 15:45	— — —Fifth District Court of Appeals
§ 15:46	— — —Sixth District Court of Appeals
§ 15:47	— — —Eighth District Court of Appeals
§ 15:48	— — —Ninth District Court of Appeals
§ 15:49	— — —10th District Court of Appeals
§ 15:50	— — —11th District Court of Appeals
§ 15:51	—Liability of parents for assaults committed by their children— Revised Code 3109.10
§ 15:52	— — —First District Court of Appeals
§ 15:53	— — —Second District Court of Appeals
§ 15:54	— — —Third District Court of Appeals
§ 15:55	— — —Fifth District Court of Appeals
§ 15:56	— — —Eighth District Court of Appeals
§ 15:57	— — —10th District Court of Appeals
§ 15:58	— — —11th District Court of Appeals
§ 15:59	—Parental liability for minor in operating a motor vehicle— Revised Code 4507.07
§ 15:60	— — —Ohio Supreme Court
§ 15:61	— — —First District Court of Appeals
§ 15:62	— — —Second District Court of Appeals
§ 15:63	— — —Fourth District Court of Appeals

- § 15:64 — — —Fifth District Court of Appeals
- § 15:65 — — —Sixth District
- § 15:66 — — —Eighth District Court of Appeals
- § 15:67 — — —Ninth District Court of Appeals
- § 15:68 — — —10th District Court of Appeals
- § 15:69 —Parental liability for minor’s vandalism, desecration, or ethnic
intimidation—Revised Code 2307.70
- § 15:70 — — —Fifth District Court of Appeals
- § 15:71 — — —Ninth District Court of Appeals

CHAPTER 16. ASSAULT AND BATTERY

- § 16:1 Introduction
- § 16:2 —First District
- § 16:3 —Second District
- § 16:4 —Third District
- § 16:5 —Fourth District
- § 16:6 —Fifth District
- § 16:7 —Sixth District
- § 16:8 —Seventh District
- § 16:9 —Eighth District
- § 16:10 —Ninth District
- § 16:11 —10th District
- § 16:12 —11th District
- § 16:13 —12th District
- § 16:14 Relationship between civil actions and criminal prosecutions
- § 16:15 Intent to inflict harm
- § 16:16 Questions of law and fact
- § 16:17 Intent to inflict harm—Third District
- § 16:18 —10th District
- § 16:19 Problems of causation
- § 16:20 Transferred intent
- § 16:21 Statute of limitations
- § 16:22 Effect of practical joke or act committed in sport
- § 16:23 —Third District
- § 16:24 —Fifth District
- § 16:25 —11th District
- § 16:26 —12th District
- § 16:27 —Ohio Supreme Court
- § 16:28 Defenses
- § 16:29 Defense of property
- § 16:30 —Sixth District
- § 16:31 —Seventh District
- § 16:32 —Eighth District
- § 16:33 —Ohio Supreme Court
- § 16:34 Consent
- § 16:35 —First District
- § 16:36 —Second District
- § 16:37 —Fourth District

TABLE OF CONTENTS

§ 16:38	—Fifth District
§ 16:39	—Sixth District
§ 16:40	—Seventh District
§ 16:41	—Eighth District
§ 16:42	—Ninth District
§ 16:43	—10th District
§ 16:44	—12th District
§ 16:45	—Ohio Supreme Court
§ 16:46	Self-defense
§ 16:47	—First District
§ 16:48	—Second District
§ 16:49	—Sixth District
§ 16:50	—Eighth District
§ 16:51	—Ninth District
§ 16:52	—10th District
§ 16:53	—11th District
§ 16:54	—12th District
§ 16:55	—Ohio Supreme Court
§ 16:56	Defense of others
§ 16:57	—Eighth District
§ 16:58	Assumption of the risk
§ 16:59	—Sixth District
§ 16:60	—Eighth District
§ 16:61	Unavailable defenses
§ 16:62	Persons liable
§ 16:63	—Employer/Employee
§ 16:64	— —First District
§ 16:65	— —Third District
§ 16:66	— —Fifth District
§ 16:67	— —Seventh District
§ 16:68	— —Eighth District
§ 16:69	— —Ninth District
§ 16:70	— —10th District
§ 16:71	— —11th District
§ 16:72	— —Ohio Supreme Court
§ 16:73	Insured
§ 16:74	—First District
§ 16:75	—Second District
§ 16:76	—Fifth District
§ 16:77	—Sixth District
§ 16:78	—Eighth District
§ 16:79	—Ninth District
§ 16:80	—10th District
§ 16:81	—11th District
§ 16:82	—12th District
§ 16:83	Mental health facilities
§ 16:84	—Miscellaneous
§ 16:85	—Second District

§ 16:86	—Seventh District
§ 16:87	Hotels
§ 16:88	—Miscellaneous
§ 16:89	—Battery
§ 16:90	Intent; character of intent
§ 16:91	—Second District
§ 16:92	—Fifth District
§ 16:93	—Sixth District
§ 16:94	—Eighth District
§ 16:95	—Ninth District
§ 16:96	—10th District
§ 16:97	—Ohio Supreme Court
§ 16:98	Harmful and offensive contact
§ 16:99	—Second District
§ 16:100	—Third District
§ 16:101	—Fourth District
§ 16:102	—Sixth District
§ 16:103	—Eighth District
§ 16:104	—Ninth District
§ 16:105	—10th District
§ 16:106	—11th District
§ 16:107	—Ohio Supreme Court
§ 16:108	Direct contact
§ 16:109	—First District
§ 16:110	—Seventh District
§ 16:111	—Ninth District
§ 16:112	Assaults
§ 16:113	Intent; character of intent
§ 16:114	—First District
§ 16:115	—Third District
§ 16:116	—Fourth District
§ 16:117	—Fifth District
§ 16:118	—Sixth District
§ 16:119	—Eighth District
§ 16:120	—10th District
§ 16:121	Assault by firearm
§ 16:122	—First District
§ 16:123	—Second District
§ 16:124	—Third District
§ 16:125	—Sixth District
§ 16:126	—Eighth District
§ 16:127	—10th District
§ 16:128	Sexual assault
§ 16:129	—Second District
§ 16:130	—Third District
§ 16:131	—Fifth District
§ 16:132	—Eighth District
§ 16:133	—10th District

TABLE OF CONTENTS

§ 16:134	—11th District
§ 16:135	—Supreme Court of Ohio
§ 16:136	Searching customer unjustly suspected of theft
§ 16:137	—Second District
§ 16:138	—Eighth District
§ 16:139	—Ninth District
§ 16:140	—10th District
§ 16:141	Use of force; excessive force
§ 16:142	—First District
§ 16:143	—Third District
§ 16:144	—Fourth District
§ 16:145	—Seventh District
§ 16:146	—Eighth District
§ 16:147	—10th District
§ 16:148	—11th District
§ 16:149	—12th District
§ 16:150	Relationship to negligence
§ 16:151	Damages
§ 16:152	—Second District
§ 16:153	—Fifth District
§ 16:154	—Eighth District
§ 16:155	Conclusion

CHAPTER 17. BIRTH RELATED TORTS

§ 17:1	Introduction
§ 17:2	Preconception injury to mother resulting in injury to or death of child
§ 17:3	Prenatal injury to mother—Early rule denying recovery to child
§ 17:4	—Modern rule allowing recovery to child
§ 17:5	Viable versus nonviable fetus at time of death
§ 17:6	Injury resulting in death of child
§ 17:7	Mother's contributory negligence
§ 17:8	—First District
§ 17:9	—Second District
§ 17:10	—Third District
§ 17:11	—Fifth District
§ 17:12	—Sixth District
§ 17:13	—Seventh District
§ 17:14	—Eighth District
§ 17:15	—10th District
§ 17:16	—11th District
§ 17:17	—12th District
§ 17:18	—Supreme Court of Ohio
§ 17:19	—Court of Claims Ohio
§ 17:20	—Ohio Common Pleas
§ 17:21	—Wrongful birth and wrongful pregnancy—Parent's claim
§ 17:22	—Healthy but unwanted child—Wrongful pregnancy
§ 17:23	— —Damages

- § 17:24 —Unhealthy, impaired child—Wrongful birth
- § 17:25 — —Damages
- § 17:26 — —First District
- § 17:27 — —Second District
- § 17:28 — —Fourth District
- § 17:29 — —Eighth District
- § 17:30 — —Supreme Court of Ohio
- § 17:31 Wrongful life—Child’s claim
- § 17:32 — —Fourth District
- § 17:33 — —Eighth District
- § 17:34 — —Supreme Court of Ohio

CHAPTER 18. FALSE IMPRISONMENT

- § 18:1 Generally
- § 18:2 Elements
- § 18:3 Intent necessary
- § 18:4 Intent—Ohio Supreme Court
- § 18:5 —First District Court of Appeals
- § 18:6 —Third District Court of Appeals
- § 18:7 Actual confinement/unlawful detention
- § 18:8 —Sixth Circuit Court of Appeals
- § 18:9 —Northern District of Ohio
- § 18:10 —Ohio Supreme Court
- § 18:11 —First District Court of Appeals
- § 18:12 —Third District Court of Appeals
- § 18:13 —Sixth District Court of Appeals
- § 18:14 —Seventh District Court of Appeals
- § 18:15 —Eighth District Court of Appeals
- § 18:16 —Ninth District Court of Appeals
- § 18:17 —10th District Court of Appeals
- § 18:18 —11th District Court of Appeals
- § 18:19 —12th District Court of Appeals
- § 18:20 —Court of claims
- § 18:21 —Common pleas court
- § 18:22 Knowledge of confinement
- § 18:23 —Common pleas court
- § 18:24 Significance of confinement to a “limited area”
- § 18:25 —Northern District of Ohio
- § 18:26 Irrelevance of malice or motive
- § 18:27 —Sixth Circuit Court of Appeals
- § 18:28 —Ohio Supreme Court
- § 18:29 —Sixth District Court of Appeals
- § 18:30 False arrest
- § 18:31 False imprisonment *or* false arrest—Two essentially indistinguishable claims
- § 18:32 False arrest—Northern District of Ohio
- § 18:33 —Southern District of Ohio
- § 18:34 —Ohio Supreme Court

TABLE OF CONTENTS

§ 18:35	—First District Court of Appeals
§ 18:36	—10th District Court of Appeals
§ 18:37	False arrest and <i>no</i> false imprisonment—A minority approach
§ 18:38	— —Southern District of Ohio
§ 18:39	False imprisonment vs. malicious prosecution
§ 18:40	Defining malice and probable cause
§ 18:41	—Sixth Circuit Court of Appeals
§ 18:42	—Northern District of Ohio
§ 18:43	—Ohio Supreme Court
§ 18:44	—First District Court of Appeals
§ 18:45	—Sixth District Court of Appeals
§ 18:46	Persons liable
§ 18:47	Private citizen liability
§ 18:48	—Ohio Supreme Court
§ 18:49	Respondeat superior—Employer’s liability
§ 18:50	— —First District Court of Appeals
§ 18:51	— —10th District Court of Appeals
§ 18:52	Damages
§ 18:53	—Seventh District Court of Appeals
§ 18:54	—Common pleas court
§ 18:55	Defenses generally
§ 18:56	—Northern District of Ohio
§ 18:57	—First District Court of Appeals
§ 18:58	Consent
§ 18:59	—First District Court of Appeals
§ 18:60	—Third District Court of Appeals
§ 18:61	—Eighth District Court of Appeals
§ 18:62	—11th District Court of Appeals
§ 18:63	Privilege to confine—Exercise of authority effecting arrest
§ 18:64	— —Sixth Circuit Court of Appeals
§ 18:65	— —11th District Court of Appeals
§ 18:66	Effecting an arrest without a warrant
§ 18:67	—Sixth Circuit Court of Appeals
§ 18:68	—Northern District of Ohio
§ 18:69	—Southern District of Ohio
§ 18:70	—Ohio Supreme Court
§ 18:71	—Fourth District Court of Appeals
§ 18:72	—Fifth District Court of Appeals
§ 18:73	—Eighth District Court of Appeals
§ 18:74	—Ninth District Court of Appeals
§ 18:75	—10th District Court of Appeals
§ 18:76	—Common pleas court
§ 18:77	The continuing nature of false imprisonment
§ 18:78	—Ohio Supreme Court
§ 18:79	—Third District Court of Appeals
§ 18:80	—12th District Court of Appeals
§ 18:81	—Court of claims
§ 18:82	Guilty plea or conviction in a criminal proceeding

- § 18:83 —Northern District of Ohio
- § 18:84 —Eighth District Court of Appeals
- § 18:85 Fact-specific situations shaping false imprisonment analysis
- § 18:86 Shopkeeper detention—Shoplifting situations
- § 18:87 —Applicable statute and regulation
- § 18:88 —First District Court of Appeals
- § 18:89 —Third District Court of Appeals
- § 18:90 —Seventh District Court of Appeals
- § 18:91 —Eighth District Court of Appeals
- § 18:92 —Ninth District Court of Appeals
- § 18:93 —12th District Court of Appeals
- § 18:94 Detention of employee—First District Court of Appeals
- § 18:95 —Third District Court of Appeals
- § 18:96 —10th District Court of Appeals
- § 18:97 Police and peace officer activity—Generally
- § 18:98 Political Subdivision Tort Liability Act (R.C. 2744.03)
- § 18:99 Necessity of malice to overcome immunity
- § 18:100 —Sixth Circuit Court of Appeals
- § 18:101 —Northern District of Ohio
- § 18:102 —Southern District of Ohio
- § 18:103 —First District Court of Appeals
- § 18:104 —Fourth District Court of Appeals
- § 18:105 —Ninth District Court of Appeals
- § 18:106 —10th District Court of Appeals
- § 18:107 Mistaken identity as to person arrested or confined—Generally
- § 18:108 Mistaken identity—Ohio Supreme Court
- § 18:109 —Eighth District Court of Appeals
- § 18:110 —10th District Court of Appeals
- § 18:111 Use of force during arrest—Generally
- § 18:112 —Sixth Circuit Court of Appeals
- § 18:113 —Northern District of Ohio
- § 18:114 —Second District Court of Appeals
- § 18:115 —Fourth District Court of Appeals
- § 18:116 —Fifth District Court of Appeals
- § 18:117 —Eighth District Court of Appeals
- § 18:118 —Ninth District Court of Appeals

CHAPTER 19. LIABILITY FOR INJURY OR DAMAGES CAUSED BY ANIMALS

- § 19:1 Introduction
- § 19:2 Theories of liability—Negligence (common law)
- § 19:3 —Statutory
- § 19:4 Liability for trespassing livestock
- § 19:5 Landowner duties
- § 19:6 Swine
- § 19:7 Cattle—Ohio Supreme Court
- § 19:8 —Fifth District
- § 19:9 Animals at large, collisions with vehicles or persons on road

TABLE OF CONTENTS

§ 19:10	Theories of liability—Strict tort liability
§ 19:11	—Negligence
§ 19:12	Types of animals at large on street or highway—Cattle
§ 19:13	— —Fourth District
§ 19:14	— —Ohio Supreme Court
§ 19:15	— —Court of claims
§ 19:16	—Horses
§ 19:17	— —Sixth District
§ 19:18	— —10th District
§ 19:19	— —11th District
§ 19:20	— —12th District
§ 19:21	—Dogs
§ 19:22	— —Sixth District
§ 19:23	Liability to licensees and invitees
§ 19:24	Duties of owner
§ 19:25	Liability of harborers
§ 19:26	Domestic animals
§ 19:27	Possessor's knowledge of abnormally dangerous/vicious propensities of animal
§ 19:28	Issues regarding service animals
§ 19:29	Cats
§ 19:30	—Court of common pleas (Clermont County)
§ 19:31	—Fifth District
§ 19:32	Cattle, hogs, goats, and sheep
§ 19:33	—Sixth District
§ 19:34	—Seventh District
§ 19:35	Dogs
§ 19:36	—Owner, keeper, and harborer defined
§ 19:37	—Exceptions/defenses
§ 19:38	—Strict liability
§ 19:39	—Common law (negligence)
§ 19:40	—Landlord liability
§ 19:41	—First District
§ 19:42	—Second District
§ 19:43	—Third District
§ 19:44	—Fourth District
§ 19:45	—Fifth District
§ 19:46	—Sixth District
§ 19:47	—Seventh District
§ 19:48	—Eighth District
§ 19:49	—Ninth District
§ 19:50	—10th District
§ 19:51	—11th District
§ 19:52	—12th District
§ 19:53	—Court of claims
§ 19:54	—Ohio State Supreme Court
§ 19:55	Horses and mules
§ 19:56	—Ohio Equine Liability Act

- § 19:57 —Ohio State Supreme Court
- § 19:58 —First District
- § 19:59 —Sixth District
- § 19:60 —Eighth District
- § 19:61 —11th District
- § 19:62 Wild animals
- § 19:63 —Ducks
- § 19:64 — —11th District
- § 19:65 —Deer—Ohio Court of Claims
- § 19:66 —Apes—Fifth District
- § 19:67 —Zoos—Ohio State Supreme Court
- § 19:68 Defenses—Assumption of risk
- § 19:69 —Contributory/comparative negligence
- § 19:70 —Lack of knowledge of animal's propensity for viciousness
- § 19:71 —Trespass
- § 19:72 —Special issues with child trespassers
- § 19:73 —Attractive nuisance
- § 19:74 —Teasing, tormenting, or abusing animal

CHAPTER 20. LIABILITY FOR MOTOR VEHICLE OPERATIONS

- § 20:1 Generally
- § 20:2 —Ohio Supreme Court
- § 20:3 —Second District
- § 20:4 —Sixth District
- § 20:5 —Eighth District
- § 20:6 —Ninth District
- § 20:7 Owner liability
- § 20:8 Ownership of motor vehicle
- § 20:9 Liability for family members
- § 20:10 Agency
- § 20:11 —First District
- § 20:12 —Second District
- § 20:13 —Fifth District
- § 20:14 —Sixth District
- § 20:15 —Eighth District
- § 20:16 Family purpose doctrine
- § 20:17 Joint ownership or control
- § 20:18 Negligent entrustment
- § 20:19 —Ohio Supreme Court
- § 20:20 —First District
- § 20:21 —Third District
- § 20:22 —Sixth District
- § 20:23 —Eighth District
- § 20:24 —10th District
- § 20:25 —Common pleas
- § 20:26 Defective vehicle
- § 20:27 —Ohio Supreme Court

TABLE OF CONTENTS

§ 20:28	—Seventh District
§ 20:29	—Eighth District
§ 20:30	—Ninth District
§ 20:31	Stolen vehicles
§ 20:32	Driver liability
§ 20:33	—First District
§ 20:34	—Second District
§ 20:35	Willful or wanton misconduct
§ 20:36	Statutory duties and negligence per se
§ 20:37	—R.C. 4511.25: lanes of travel upon roadways
§ 20:38	— —Ohio Supreme Court
§ 20:39	— —First District
§ 20:40	— —Sixth District
§ 20:41	— —Seventh District
§ 20:42	— —Eighth District
§ 20:43	— —Ninth District
§ 20:44	— —11th District
§ 20:45	—R.C. 4511.251: prohibition on street racing
§ 20:46	— —Third District
§ 20:47	— —Common pleas
§ 20:48	—R.C. 4511.26: vehicles traveling opposite directions
§ 20:49	— —Ohio State Supreme Court
§ 20:50	— —Second District
§ 20:51	— —Common pleas
§ 20:52	— —United States District Court for the Northern District of Ohio, Eastern Division
§ 20:53	—R.C. 4511.27: rules governing overtaking and passing
§ 20:54	— —Ohio Supreme Court
§ 20:55	— —First District
§ 20:56	— —Third District
§ 20:57	— —Eighth District
§ 20:58	—R.C. 4511.28: overtaking and passing on the right
§ 20:59	— —Ohio State Supreme Court
§ 20:60	— —First District
§ 20:61	— —Second District
§ 20:62	— —Fifth District
§ 20:63	— —Common pleas
§ 20:64	—R.C. 4511.29: driving left of center in passing
§ 20:65	— —Sixth District
§ 20:66	—R.C. 4511.30: prohibition against driving upon left side of roadway
§ 20:67	— —Ohio State Supreme Court
§ 20:68	—R.C. 4511.34: space between moving vehicles
§ 20:69	— —Ohio State Supreme Court
§ 20:70	—R.C. 4511.35: divided roadways
§ 20:71	— —Ohio State Supreme Court
§ 20:72	— —First District
§ 20:73	—R.C. 4511.38: care to be exercised in starting or backing
§ 20:74	— —Eighth District

- § 20:75 —R.C. 4511.42: hand and arm signals—Second District
- § 20:76 —Fifth District
- § 20:77 —R.C. 4513.03: lights on vehicles—Ohio Supreme Court
- § 20:78 —R.C. 4513.20: brake equipment—Ohio Supreme Court
- § 20:79 Liability of persons other than drivers
- § 20:80 —Signer of minor's driver's license application
- § 20:81 —Employers
- § 20:82 —Governmental entities
- § 20:83 —Generally
- § 20:84 — — —Ohio State Supreme Court
- § 20:85 — — —Third District
- § 20:86 — — —12th District
- § 20:87 — —Willful or wanton misconduct
- § 20:88 — —Discretion
- § 20:89 — —Personal liability and immunity
- § 20:90 Negligent entrustment
- § 20:91 Occupants and passengers—General rule of nonliability
- § 20:92 —Exceptions
- § 20:93 — —Joint enterprise
- § 20:94 Respondeat superior
- § 20:95 —Eighth District
- § 20:96 —Driving at request of owner
- § 20:97 —Independent contractors
- § 20:98 —Scope of employment
- § 20:99 —Going to and coming from work
- § 20:100 —Deviation from scope of employment—Third District
- § 20:101 — —10th District
- § 20:102 —Resumption of scope of employment—10th District
- § 20:103 Defenses

CHAPTER 21. PREMISES LIABILITY

- § 21:1 Generally
- § 21:2 Recreational use or user statute
- § 21:3 Injuries occurring at schools or universities—Supreme Court
- § 21:4 —10th District
- § 21:5 Injuries occurring playing in softball league or tournament—
Supreme Court
- § 21:6 —Fifth District
- § 21:7 —Sixth District
- § 21:8 Injuries occurring while snowmobiling—Supreme Court
- § 21:9 —Second District
- § 21:10 Injuries occurring while walking/riding bike/cutting through
public park or school—First District
- § 21:11 —Third District
- § 21:12 —Sixth District
- § 21:13 —Seventh District
- § 21:14 —Eighth District
- § 21:15 —10th District

TABLE OF CONTENTS

§ 21:16	Injuries to spectators at school or park—Supreme Court
§ 21:17	—Third District
§ 21:18	—Eighth District
§ 21:19	—Ninth District
§ 21:20	—10th District
§ 21:21	Injuries occurring in public parks when fees have been paid— Supreme Court
§ 21:22	—Second District
§ 21:23	—10th District
§ 21:24	—11th District
§ 21:25	Injuries occurring from fall at school or park—Eighth District
§ 21:26	Drowning—10th District
§ 21:27	—11th District
§ 21:28	—12th District
§ 21:29	Injuries occurring on privately owned and land not open to the public—Supreme Court
§ 21:30	—Fourth District
§ 21:31	—Eighth District
§ 21:32	—Ninth District
§ 21:33	Injuries occurring at promotional events—Second District
§ 21:34	Injuries occurring on publicly owned land not a park or school— Sixth District
§ 21:35	Invitees—Duty of premises occupant
§ 21:36	—Tests and definition of invitees—Supreme Court
§ 21:37	— —Second District
§ 21:38	— —Seventh District
§ 21:39	— —Eighth District
§ 21:40	— —10th District
§ 21:41	— —11th District
§ 21:42	Contributory or comparative negligence
§ 21:43	Running into a protruding structure—Supreme Court
§ 21:44	—First District
§ 21:45	—Second District
§ 21:46	—10th District
§ 21:47	Falling in holes or cracks—Supreme Court
§ 21:48	—Fifth District
§ 21:49	—Sixth District
§ 21:50	—Eighth District
§ 21:51	—11th District
§ 21:52	Slipping on floor/tripping on carpet—Supreme Court
§ 21:53	—Second District
§ 21:54	—Eighth District
§ 21:55	—10th District
§ 21:56	—11th District
§ 21:57	Falling from raised platforms/structures/cliffs—Supreme Court
§ 21:58	—First District
§ 21:59	—Second District
§ 21:60	—Third District
§ 21:61	—Sixth District

- § 21:62 —Eighth District
- § 21:63 —10th District
- § 21:64 Falling on stairs—First District
- § 21:65 —Fourth District
- § 21:66 —Fifth District
- § 21:67 —Sixth District
- § 21:68 —Seventh District
- § 21:69 —Eighth District
- § 21:70 —12th District
- § 21:71 Falling on floor debris—Fifth District
- § 21:72 —Eighth District
- § 21:73 —12th District
- § 21:74 Injury at driving range—Seventh District
- § 21:75 Shipowner, longshoreman, or other shore workers—U.S.
Supreme Court
- § 21:76 —Ohio Supreme Court
- § 21:77 —First District
- § 21:78 —Seventh District
- § 21:79 —Eighth District
- § 21:80 Duty owed to independent contractors, employees, and
subcontractors by general contractors and landowners
- § 21:81 Landowner's duty to independent contractors—Supreme Court
- § 21:82 —Second District
- § 21:83 —Fifth District
- § 21:84 —Sixth District
- § 21:85 —10th District
- § 21:86 General contractor's duty to employees of subcontractors—First
District
- § 21:87 —Second District
- § 21:88 —Seventh District
- § 21:89 —Eighth District
- § 21:90 —Ninth District
- § 21:91 Design professionals' duty to subcontractors' employees—10th
District
- § 21:92 —11th District
- § 21:93 Stores, shops, banks, business, and professional offices, and the
like
- § 21:94 Rugs, carpets, and doormats
- § 21:95 —First District
- § 21:96 —Second District
- § 21:97 —Sixth District
- § 21:98 —Seventh District
- § 21:99 —Eighth District
- § 21:100 —Ninth District
- § 21:101 —10th District
- § 21:102 —12th District
- § 21:103 Piled, stored, or displayed merchandise (tripping)—Second
District
- § 21:104 —Eighth District

TABLE OF CONTENTS

§ 21:105	—10th District
§ 21:106	—12th District
§ 21:107	Piled, stored, or displayed merchandise (toppling items)—Fourth District
§ 21:108	—Fifth District
§ 21:109	—Seventh District
§ 21:110	Projecting objects, obstacles—Fifth District
§ 21:111	—10th District
§ 21:112	—11th District
§ 21:113	Chairs (collapsing or slipping)—First District
§ 21:114	—Fifth District
§ 21:115	—Seventh District
§ 21:116	—Eighth District
§ 21:117	—Ninth District
§ 21:118	—10th District
§ 21:119	Carts—Seventh District
§ 21:120	—Eighth District
§ 21:121	Foreign substances, spilled liquid on the floor in grocery stores/ supermarkets/food courts
§ 21:122	—First District
§ 21:123	—Second District
§ 21:124	—Seventh District
§ 21:125	—Eighth District
§ 21:126	—Ninth District
§ 21:127	—10th District
§ 21:128	—12th District
§ 21:129	Foreign substances in other places of business—First District
§ 21:130	—Fifth District
§ 21:131	Tracked in water, snow, mud, etc
§ 21:132	—Third District
§ 21:133	—Fifth District
§ 21:134	—Sixth District
§ 21:135	—Eighth District
§ 21:136	—10th District
§ 21:137	—11th District
§ 21:138	Floors made wet and slippery from washing or cleaning
§ 21:139	—Second District
§ 21:140	—Fourth District
§ 21:141	—Fifth District
§ 21:142	—10th District
§ 21:143	Floors made slippery by waxing or oiling
§ 21:144	—First District
§ 21:145	—Second District
§ 21:146	—Fourth District
§ 21:147	—Sixth District
§ 21:148	—Ninth District
§ 21:149	—10th District
§ 21:150	—12th District
§ 21:151	Steps or stairs—Supreme Court

- § 21:152 —Third District
- § 21:153 —Fifth District
- § 21:154 —Seventh District
- § 21:155 —Ninth District
- § 21:156 —11th District
- § 21:157 —12th District
- § 21:158 Ramp or inclined floor—Second District
- § 21:159 —Fifth District
- § 21:160 —Eighth District
- § 21:161 —Ninth District
- § 21:162 —10th District
- § 21:163 —11th District
- § 21:164 Ramp or inclined Floor—12th District
- § 21:165 Doors, entranceways, exits—Eight District
- § 21:166 Glass doors and walls—Supreme Court
- § 21:167 —Ohio Ct. Cl
- § 21:168 Revolving doors—First District
- § 21:169 —Seventh District
- § 21:170 Electrically operated doors—Sixth District
- § 21:171 Gates—Ninth District
- § 21:172 Parking lots—Supreme Court
- § 21:173 —Fifth District
- § 21:174 —Seventh District
- § 21:175 Private and abutting owners and occupiers; walks and sidewalks
- § 21:176 —Supreme Court
- § 21:177 —Second District
- § 21:178 —Third District
- § 21:179 —Fourth District
- § 21:180 —Fifth District
- § 21:181 —Eighth District
- § 21:182 —10th District
- § 21:183 Snow and ice—Nonresidential premises
- § 21:184 — —First District
- § 21:185 — —Seventh District
- § 21:186 — —Ninth District
- § 21:187 —Residential premises—Supreme Court
- § 21:188 Licensees—Definition and duty owed
- § 21:189 — —Supreme Court
- § 21:190 — —First District
- § 21:191 — —Sixth District
- § 21:192 — —Eight District
- § 21:193 — —Ninth District
- § 21:194 — —10th District
- § 21:195 —Fireman’s rule, police and other public officers and employees
- § 21:196 Social guests
- § 21:197 —Supreme Court
- § 21:198 —Second District
- § 21:199 —Third District

TABLE OF CONTENTS

§ 21:200	—Fourth District
§ 21:201	—Fifth District
§ 21:202	—Sixth District
§ 21:203	—Eighth District
§ 21:204	—10th District
§ 21:205	—11th District
§ 21:206	—12th District
§ 21:207	—Children
§ 21:208	— —Ninth District
§ 21:209	— —11th District
§ 21:210	Trespassers—Generally
§ 21:211	—Second District
§ 21:212	—Fifth District
§ 21:213	—Sixth District
§ 21:214	—Ninth District
§ 21:215	—Children
§ 21:216	— —Swimming pools—Supreme Court
§ 21:217	— —Railroads—Ninth District
§ 21:218	— —Electrical substation—Ninth District
§ 21:219	— —Ramps—10th District
§ 21:220	— —Trampolines—Ninth District

Table of Contents

PART 3. TORTS AGAINST A PERSON (CONTINUED)

CHAPTER 22. PRODUCTS LIABILITY

§ 22:1	Generally
§ 22:2	Histories
§ 22:3	Privity concepts; vertical; horizontal
§ 22:4	Economic analysis; cost-benefit test; allocation of risk
§ 22:5	Customer's or consumer's expectations as test
§ 22:6	Statutes
§ 22:7	—Generally; Consumer Product Safety Act; Federal Hazardous Substances Act; proposed federal legislation
§ 22:8	—Ohio
§ 22:9	Admiralty and maritime jurisdiction
§ 22:10	—Specific actions and remedies
§ 22:11	Pretrial and disclosure; evidence; trial
§ 22:12	Pretrial; disclosures and discovery
§ 22:13	—Statute of limitations
§ 22:14	—First District
§ 22:15	—Second District
§ 22:16	—Third District
§ 22:17	—Fourth District
§ 22:18	—Fifth District
§ 22:19	—Sixth District
§ 22:20	—Seventh District
§ 22:21	—Eighth District
§ 22:22	—Ninth District
§ 22:23	—11th District
§ 22:24	—12th District
§ 22:25	Evidence
§ 22:26	—Prior accidents
§ 22:27	—Subsequent remedial measures or repairs
§ 22:28	—Absence of other accidents
§ 22:29	Theories
§ 22:30	—Common elements—Generally
§ 22:31	—Industry standards, custom, usage, and practices
§ 22:32	—Failure to met manufacturer's specifications or standards; subsequent improvements
§ 22:33	—Recalls
§ 22:34	—“Unavoidably unsafe” products
§ 22:35	— —Ohio Supreme Court

- § 22:36 — —Second District
- § 22:37 — —Eighth District
- § 22:38 —Open and obvious dangers
- § 22:39 —Strict liability in tort
- § 22:40 — —Generally
- § 22:41 — —First District
- § 22:42 — —Second District
- § 22:43 —The “unreasonably dangerous” doctrine
- § 22:44 — —Generally
- § 22:45 — —Variations in or from rule
- § 22:46 Causation
- § 22:47 —Generally
- § 22:48 Causation generally—Sixth District
- § 22:49 —Eighth District
- § 22:50 Intervening cause
- § 22:51 Superseding causes
- § 22:52 —Second District
- § 22:53 —Sixth District
- § 22:54 Concurrent causes
- § 22:55 Negligence
- § 22:56 Breach of warranty
- § 22:57 —In general
- § 22:58 —Express
- § 22:59 — —Generally
- § 22:60 — —Particular types of statements
- § 22:61 — — —First District
- § 22:62 — — —Seventh District
- § 22:63 — — —Eighth District
- § 22:64 — — —Ninth District
- § 22:65 — — —10th District
- § 22:66 — — —11th District
- § 22:67 — — —12th District
- § 22:68 —Advertising
- § 22:69 —Implied
- § 22:70 —Waiver, exclusion, or modification; disclaimers
- § 22:71 —Notice of breach
- § 22:72 —Of merchantability
- § 22:73 — —Generally
- § 22:74 — —Fitness for ordinary purposes
- § 22:75 — —Latent defects
- § 22:76 —Of fitness for particular purpose
- § 22:77 — —Generally
- § 22:78 — —Requirement that seller be merchant; of sale
- § 22:79 Other theories—Fraud and deceit
- § 22:80 Design defects
- § 22:81 —General considerations
- § 22:82 —Generally
- § 22:83 —Definitions; difficulties in defining

TABLE OF CONTENTS

§ 22:84	—Supplier not an insurer; product need not be “fool proof”
§ 22:85	—Risk-utility or risk-benefit analysis
§ 22:86	—Consumer expectations
§ 22:87	—Particular theories
§ 22:88	—Strict liability in tort
§ 22:89	— —Elements of strict liability—In general
§ 22:90	— —Restatement Torts 2d, section 402A
§ 22:91	— — —Defective design
§ 22:92	—Crashworthiness
§ 22:93	Defective warning
§ 22:94	—To whom warning given
§ 22:95	—Prescription drugs
§ 22:96	—Adequacy of warning
§ 22:97	—Open and obvious dangers
§ 22:98	“Unreasonably dangerous” defect
§ 22:99	To whom strict liability applies—In general
§ 22:100	—Manufacturers; sellers
§ 22:101	Successor in interest to manufacturer
§ 22:102	Enterprise liability; industry-wide or market-share liability
§ 22:103	Lessors
§ 22:104	Real-estate developers; builders and contractors
§ 22:105	Franchisor and licensors
§ 22:106	Seller of used or old productions
§ 22:107	The <i>Barker</i> case two-prong approach; consumer expectations; risk-utility or risk-benefit analysis
§ 22:108	“Enhanced injury,” “second accident,” “second collision,” “crashworthiness” cases
§ 22:109	“Enhanced injury”—Generally
§ 22:110	—Liability of supplier for injuries caused by defect that does not cause initial accident—Automobiles, trucks and the like, vans
§ 22:111	—Burden of proof; apportionment problems; other evidence questions
§ 22:112	Warning; duty to warn; instructions or directions for use
§ 22:113	—In general
§ 22:114	—Continuing duty to warn; postsale or post-transaction warnings
§ 22:115	—Causation
§ 22:116	—Questions for court or for jury
§ 22:117	—Negligence as a basis
§ 22:118	—Relationship between negligence and strict tort liability
§ 22:119	—Knowledge of danger—Defendant
§ 22:120	— —Plaintiff
§ 22:121	—Open and obvious dangers
§ 22:122	—Adequacy of warnings
§ 22:123	Instructions or directions to use
§ 22:124	Persons who may recover
§ 22:125	Bystanders
§ 22:126	Property damage
§ 22:127	—Damage to other property
§ 22:128	—Sixth Circuit Court of Appeals

- § 22:129 —First District
- § 22:130 —Second District
- § 22:131 —Third District
- § 22:132 —Sixth District
- § 22:133 —Eighth District
- § 22:134 —Ninth District
- § 22:135 —10th District
- § 22:136 —12th District
- § 22:137 Economic loss—Definitions and distinctions
- § 22:138 Recovery, or not, under various theories—Strict liability in tort
- § 22:139 Negligence
- § 22:140 —Ohio Supreme Court
- § 22:141 —Eighth District
- § 22:142 —10th District
- § 22:143 Breach of warranty
- § 22:144 —Ohio Supreme Court
- § 22:145 —First District
- § 22:146 —Second District
- § 22:147 —Third District
- § 22:148 —Eighth District
- § 22:149 —Ninth District
- § 22:150 —10th District
- § 22:151 Defenses
- § 22:152 —Contributory negligence
- § 22:153 — —Defective design cases
- § 22:154 — —Defective due to inadequate warning
- § 22:155 —Comparative negligence
- § 22:156 Assumption of the risk; voluntarily and unreasonably proceeding to encounter a known risk
- § 22:157 Defenses—What constitutes assumption of the risk
- § 22:158 — —Ohio Supreme Court
- § 22:159 — —Third District
- § 22:160 — —Fourth District
- § 22:161 — —Eighth District
- § 22:162 — —Ninth District
- § 22:163 — —10th District
- § 22:164 — —11th District
- § 22:165 — —In defective design actions
- § 22:166 — — —Fifth District
- § 22:167 — — —Sixth District
- § 22:168 — — —Eighth District
- § 22:169 — — —11th District
- § 22:170 — —Defective due to a manufacturing defect
- § 22:171 — — —In strict liability in tort actions
- § 22:172 — — — —Ohio Supreme Court
- § 22:173 — — — —Seventh District
- § 22:174 —Defective due to inadequate warning actions—First District
- § 22:175 — —Sixth District

TABLE OF CONTENTS

§ 22:176	—In negligence actions—Fourth District
§ 22:177	The “learned intermediary” doctrine
§ 22:178	—Ohio Supreme Court
§ 22:179	—Eighth District
§ 22:180	“Products” versus “services
§ 22:181	Generally; what is, or is not, a “product”
§ 22:182	—Ohio Supreme Court
§ 22:183	—Fourth District
§ 22:184	Generally, what is, or is not, a “product”—Sixth District
§ 22:185	—Eighth District
§ 22:186	Generally; what is, or is not, a “product”—10th District
§ 22:187	Particular products
§ 22:188	Transportation
§ 22:189	Automobiles
§ 22:190	Brakes and braking systems
§ 22:191	Body and related parts; chassis and related parts; accessories
§ 22:192	Electrical system; batteries, alternators, or generators; ignitions or starters; lights
§ 22:193	Engines, motors, and related parts
§ 22:194	Fuel systems and gasoline tanks
§ 22:195	Tires—Ohio Supreme Court
§ 22:196	—Sixth District
§ 22:197	—Eighth District
§ 22:198	—Ninth District
§ 22:199	Wheels; rims—Ohio Supreme Court
§ 22:200	—Second District
§ 22:201	—Fourth District
§ 22:202	—Sixth District
§ 22:203	—Ninth District
§ 22:204	Buses—First District
§ 22:205	—10th District
§ 22:206	Jeeps
§ 22:207	Trailers—First District
§ 22:208	—Eighth District
§ 22:209	—10th District
§ 22:210	Trucks; tractors—First District
§ 22:211	—Eighth District
§ 22:212	Road, and heavy related, machinery and equipment; backhoes, bulldozers, earth movers, diggers, graders, loaders, and the like—First District
§ 22:213	—Sixth District
§ 22:214	Cranes and booms; derricks; other lifting and hoisting devices, machines, and apparatuses—Ohio Supreme Court
§ 22:215	—Fifth District
§ 22:216	—Eighth District
§ 22:217	—11th District
§ 22:218	Forklifts and forklift trucks—First District
§ 22:219	—Second District
§ 22:220	—Third District

- § 22:221 —Ninth District
- § 22:222 —10th District
- § 22:223 Motorcycles—First District
- § 22:224 —Fourth District
- § 22:225 —Seventh District
- § 22:226 —Eighth District
- § 22:227 —Ninth District
- § 22:228 —10th District
- § 22:229 —11th District
- § 22:230 Aircraft
- § 22:231 Houses, buildings, structures, and parts thereof
- § 22:232 Circuit breakers
- § 22:233 Elevators; escalators; dumbwaiters
- § 22:234 Roofs
- § 22:235 Furniture, home appliances, furnishing, and equipment
- § 22:236 Fans
- § 22:237 Furnaces and other heating apparatus—Third District
- § 22:238 —Ninth District
- § 22:239 Stoves
- § 22:240 Gas, gas companies or suppliers, liquid gas furnishers
- § 22:241 Fire extinguishers, sprinkler systems, smoke detectors
- § 22:242 Burglar alarms—Second District
- § 22:243 —Fifth District
- § 22:244 Laundry equipment, cleaners, washers, dryers—Ohio Supreme Court
- § 22:245 Laundry equipment, cleaners, washers, driers—Ninth District
- § 22:246 Meat grinders; food cutters and choppers—First District
- § 22:247 —Fifth District
- § 22:248 —Eighth District
- § 22:249 Cabinets
- § 22:250 Machinery, apparatuses, and appliances; parts thereof
- § 22:251 Conveyors, conveyor belts
- § 22:252 Pipes, tubes, and hoses
- § 22:253 Production line machines
- § 22:254 Rollers; rolling mills—Fourth District
- § 22:255 —Seventh District
- § 22:256 Safety equipment; glasses, clothing, and belts
- § 22:257 Shearing, cutting, slitting, etc., machinery and devices—First District
- § 22:258 —Fifth District
- § 22:259 —Eighth District
- § 22:260 —11th District
- § 22:261 Textile machinery
- § 22:262 Presses
- § 22:263 Lawn mowers
- § 22:264 Ladders
- § 22:265 Farm and agricultural machinery, appliances, and equipment
- § 22:266 Augers
- § 22:267 Combines and harvesters

TABLE OF CONTENTS

§ 22:268	Tractors and parts
§ 22:269	Containers and packaging
§ 22:270	Beer bottles—Seventh District
§ 22:271	—Ninth District
§ 22:272	Soft drink and mixer bottles—Bubble-up bottles
§ 22:273	Other glass bottles and jars—Food product containers
§ 22:274	Bottle carriers
§ 22:275	Cups
§ 22:276	Tanks
§ 22:277	Firearms, air guns, other weapons, and ammunitions
§ 22:278	Handguns, pistols, and revolvers—Ohio Supreme Court
§ 22:279	—Second District
§ 22:280	Rifles
§ 22:281	Air guns and BB guns—First District
§ 22:282	—Eighth District
§ 22:283	—Ninth District
§ 22:284	Ammunition
§ 22:285	Kerosene
§ 22:286	Lighters and lighter fluids—Ohio Supreme Court
§ 22:287	—Eighth District
§ 22:288	—Ninth District
§ 22:289	Toys, games, recreational equipment, and athletic equipment and supplies
§ 22:290	Balloons
§ 22:291	Athletic equipment, apparatuses, and supplies
§ 22:292	Exercise equipment and machines
§ 22:293	Helmets and other equipment—Ohio Supreme Court
§ 22:294	Football helmets and other equipment—First District
§ 22:295	Helmets and other equipment—Seventh District
§ 22:296	Football helmets and other equipment—Eighth District
§ 22:297	Helmets and other equipment—Ninth District
§ 22:298	Miscellaneous recreational equipment; amusement rides
§ 22:299	Bleachers, grandstands, and other seating equipment
§ 22:300	Swimming pools
§ 22:301	Trampolines
§ 22:302	Clothing; wearing apparel; inflammable clothing and substances
§ 22:303	Coats and jackets
§ 22:304	Gloves—Ohio Supreme Court
§ 22:305	—Ninth District
§ 22:306	Pajamas
§ 22:307	Pants and slacks—Ohio Supreme Court
§ 22:308	—Ninth District
§ 22:309	Drugs and medications
§ 22:310	Blood equipment
§ 22:311	Breathing machines
§ 22:312	Catheters—Sixth District
§ 22:313	—Eighth District
§ 22:314	Eyeglasses and contact lenses

- § 22:315 Surgical implants and pins—Ohio Supreme Court
- § 22:316 —First District
- § 22:317 —Second District
- § 22:318 —Eighth District
- § 22:319 —10th District
- § 22:320 —12th District
- § 22:321 Wheelchairs
- § 22:322 Blood and blood equipment and supplies
- § 22:323 Food
- § 22:324 —Generally
- § 22:325 —“Natural” defects in food or food products
- § 22:326 — —First District
- § 22:327 — —Seventh District
- § 22:328 — —Eighth District
- § 22:329 Restaurants, caterers, and other food preparers
- § 22:330 —First District
- § 22:331 —Seventh District
- § 22:332 Beverages—First District
- § 22:333 —Fifth District
- § 22:334 —Seventh District
- § 22:335 —Ninth District
- § 22:336 Tobacco
- § 22:337 Miscellaneous tobacco products
- § 22:338 Animals and livestock; animal feeds and medicines

CHAPTER 23. PROFESSIONAL NEGLIGENCE AND MALPRACTICE

- § 23:1 “Good Samaritan” legislation
- § 23:2 Health care practice and practitioners—Negligence
- § 23:3 — —Evidence
- § 23:4 — —Expert testimony
- § 23:5 — —Physician-patient relationship
- § 23:6 — —Causation
- § 23:7 — —Defenses—Contributory/comparative negligence
- § 23:8 — —Assumption of Risk
- § 23:9 — —Vicarious liability of physicians and surgeons; “Captain of the ship doctrine”
- § 23:10 —Standard of care and locality rule
- § 23:11 — —General practitioners; nonspecialists
- § 23:12 —Standard of Care and Locality Rule—Specialists
- § 23:13 —Type of injuries—Abandonment; lack of diligence in attending patient
- § 23:14 — —Diagnosis
- § 23:15 — —Medicines or drugs administered; allergy or unusual susceptibility
- § 23:16 — —Obstetrics and child birth; gynecology; birth control and contraception; sterilization
- § 23:17 —Types of practitioners—Physicians—Basis of duty

TABLE OF CONTENTS

§ 23:18	— — —Continuing attention
§ 23:19	— — —Abandonment
§ 23:20	— — —Errors in judgment
§ 23:21	— — —Prescribing or administering medication
§ 23:22	— — —Unnecessary surgery
§ 23:23	— — —Surgeons—Generally
§ 23:24	— — —Orthopedists
§ 23:25	— — —Plastic and cosmetic surgeons
§ 23:26	— — —Plaster cast application
§ 23:27	— — —Neurosurgeons
§ 23:28	— — —Urologists
§ 23:29	— — —Anesthesiologists and anesthetists
§ 23:30	— — —Psychotherapists
§ 23:31	— — —Sexual misconduct
§ 23:32	— — —Suicide or serious injury from attempted suicide
§ 23:33	— — —Liability to their persons from violence of patients
§ 23:34	— — —Liability for breach of confidentiality; privilege communications
§ 23:35	— — —Gastroenterologist
§ 23:36	— — —Internists
§ 23:37	— — —Eye doctors, ophthalmologists (oculists) opticians, optometrists
§ 23:38	— — —Podiatrists
§ 23:39	— — —Chiropractors
§ 23:40	— — —Therapists
§ 23:41	— — —Veterinarians
§ 23:42	— — —Dentists—Generally
§ 23:43	— — —Res ipsa loquitur
§ 23:44	— — —Nurses, technicians, aides, and orderlies—Generally
§ 23:45	— — —Psychiatric nurses
§ 23:46	— — —Hospitals—Generally
§ 23:47	— — —Disclosing significant matters to patient
§ 23:48	— — —Emergency situations
§ 23:49	— — —Recovery room accidents
§ 23:50	— — —Duty to protect patient from self-inflicted harm
§ 23:51	— — —Vicarious liability—For acts of omissions of doctors
§ 23:52	— — —For acts or omissions of nurses
§ 23:53	— — —Furniture (beds), equipment, apparatus and appliances
§ 23:54	— — —Premises liability—Interior walks, floors, steps, and the like
§ 23:55	— — —Exterior walks, steps, or grounds
§ 23:56	— — —Liability of hospital for conduct of physicians and nonphysicians—Independent contractor physicians
§ 23:57	— — —Ostensible agency or apparent authority
§ 23:58	— — —Corporate negligence
§ 23:59	— — —Interns and residents
§ 23:60	— — —Anesthesiologists
§ 23:61	— — —Emergency room physicians
§ 23:62	— — —Radiologists
§ 23:63	— — —Sterilization

- § 23:64 —Transplants
- § 23:65 —Consent—The Doctrine of Informed Consent
- § 23:66 — —Standards
- § 23:67 — —Failure to warn patient
- § 23:68 —Battery
- § 23:69 —Contract, warranty, or guarantee
- § 23:70 —Fraud, deceit, and misrepresentation
- § 23:71 —“Right to die” and related problems
- § 23:72 —Negligence of recommended physician
- § 23:73 —Borrowed servant doctrine
- § 23:74 —General requirement of expert testimony
- § 23:75 — —Qualified expert
- § 23:76 — —Defendants’ own testimony
- § 23:77 — —Medical treatises
- § 23:78 — —Exceptions
- § 23:79 —Medical malpractice—Defibrillator
- § 23:80 — —Foreign objects
- § 23:81 — —Anesthesia
- § 23:82 — —Burns following surgery
- § 23:83 — —Other injuries
- § 23:84 —Loss or destruction of medical records; spoliation of evidence
- § 23:85 —Statute of limitations—Time and act of omission
- § 23:86 — —Discovery rule
- § 23:87 —Statute of Limitations—Tolling limitations—Fraudulent concealment
- § 23:88 —Statute of limitations—Tolling limitations—Wrongful death
- § 23:89 —Chiropractors—Liability for undertaking treatment beyond area of qualifications
- § 23:90 —Chiroprodists; podiatrists
- § 23:91 —Blood banks
- § 23:92 Attorneys—Generally
- § 23:93 —Necessity of attorney-client relationship
- § 23:94 —Liability for withdrawal as counsel
- § 23:95 —Statute of limitations
- § 23:96 —Conducting litigation
- § 23:97 —Conflict of interest situations
- § 23:98 —Settlement procedures
- § 23:99 —Contracts
- § 23:100 —Real estate transactions
- § 23:101 —Wills; administration of estates; estate planning
- § 23:102 —Domestic relations; family law; divorce, etc
- § 23:103 —Corporate matters
- § 23:104 —Tax matters
- § 23:105 —Criminal law
- § 23:106 —Evidence
- § 23:107 —Discovery rule
- § 23:108 —Liability to nonclient third parties
- § 23:109 — —Wills and administrations; will beneficiaries
- § 23:110 Accountants—Generally

TABLE OF CONTENTS

§ 23:111	—Specific applications
§ 23:112	—Defenses—Statute of limitations
§ 23:113	— —Comparative negligence
§ 23:114	—Liability to third persons
§ 23:115	Architects and engineers—Generally
§ 23:116	—Defective plans or design
§ 23:117	—Defenses—Economic Loss Doctrine
§ 23:118	— —Governmental immunity
§ 23:119	Contractors
§ 23:120	Druggists, pharmacists, and apothecaries—Generally
§ 23:121	—Improperly or incorrectly filling prescription
§ 23:122	Real property and property specialists—Abstractors
§ 23:123	—Appraisers
§ 23:124	—Surveyors
§ 23:125	—Brokers and agents
§ 23:126	—Notaries public
§ 23:127	Educational, school administrator, and teacher malpractice
§ 23:128	Barbers, beauty shops or parlors, and cosmetologists
§ 23:129	Insurance brokers and agents—Duty of broker or agent
§ 23:130	—Liability for failure to procure coverage

CHAPTER 24. PSYCHIC AND EMOTIONAL INJURY

§ 24:1	Emotional distress law—Generally
§ 24:2	Negligent infliction of emotional distress
§ 24:3	—Type of injury—Emotional distress
§ 24:4	— — —Third District
§ 24:5	— — —Fifth District
§ 24:6	— — —Eighth District
§ 24:7	— — —Ninth District
§ 24:8	— — —10th District
§ 24:9	— — —11th District
§ 24:10	— — —12th District
§ 24:11	— —Physical peril or bystander
§ 24:12	— — —Court of claims
§ 24:13	— — —Common pleas
§ 24:14	— — —Fifth District
§ 24:15	— — —Seventh District
§ 24:16	— — —Eighth District
§ 24:17	— — —Ninth District
§ 24:18	— — —11th District
§ 24:19	— — —Supreme Court
§ 24:20	—Type of negligent act
§ 24:21	— —Third District
§ 24:22	— —Sixth District
§ 24:23	— —Eighth District
§ 24:24	— —10th District
§ 24:25	— —12th District

- § 24:26 — — Supreme Court
- § 24:27 — — Property loss—Court of claims
- § 24:28 — — — Second District
- § 24:29 — Defenses—Immunity
- § 24:30 — — — Sixth District
- § 24:31 — — — Ninth District
- § 24:32 — — — 11th District
- § 24:33 — — Statute of limitations
- § 24:34 — — — Eighth District
- § 24:35 Negligent Infliction of Emotional Distress—Defenses—Statute of limitations—10th Circuit
- § 24:36 Negligent infliction of emotional distress—Insurance coverage—10th District
- § 24:37 Intentional infliction of emotional distress
- § 24:38 — Serious emotional distress
- § 24:39 — Eighth District
- § 24:40 — Ninth District
- § 24:41 — 10th District
- § 24:42 — 11th District
- § 24:43 — 12th District
- § 24:44 — Nature of the tort—Independence—Second District
- § 24:45 — — Wrongful death—Supreme Court
- § 24:46 — — Cases failing upon all elements—Eighth District
- § 24:47 — — Extreme and outrageous conduct
- § 24:48 — — Sales—First District
- § 24:49 — — — 12th District
- § 24:50 — — Workplace—Eighth District
- § 24:51 — — — 10th District
- § 24:52 — — — 12th District
- § 24:53 — — — Supreme Court
- § 24:54 — — Insurance—11th District
- § 24:55 — — — Second District
- § 24:56 — — — Third District
- § 24:57 — — — Fifth District
- § 24:58 — — — Eighth District
- § 24:59 — — Lawsuit—Second District
- § 24:60 — — — Sixth District
- § 24:61 — — — Eighth District
- § 24:62 — — — Ninth District
- § 24:63 — — — 10th District
- § 24:64 — — Doctor patient duties—Fourth District
- § 24:65 — — Investigation—Sixth District
- § 24:66 — — — Eighth District
- § 24:67 — — Arrests, corrections, and prison guards—Court of claims
- § 24:68 — — — 11th District
- § 24:69 — — Intentionally, purposefully, or recklessly to cause injury
- § 24:70 — — — Court of claims
- § 24:71 — — — Second District
- § 24:72 — — — Seventh District

TABLE OF CONTENTS

§ 24:73	— — —10th District
§ 24:74	Intentional infliction of emotional distress injury—Second District
§ 24:75	Intentional infliction of emotional distress—Third District
§ 24:76	—Fifth District
§ 24:77	—Eighth District
§ 24:78	—Defenses—Statutory immunity
§ 24:79	— — —Fifth District
§ 24:80	— — —Sixth District
§ 24:81	— — —Eighth District
§ 24:82	— — —10th District
§ 24:83	— — —12th District
§ 24:84	— — —Supreme Court
§ 24:85	— — Statute of limitations
§ 24:86	— — —Second District
§ 24:87	— — —Third District
§ 24:88	— — —10th District
§ 24:89	— — Workers' compensation

CHAPTER 25. TRESPASS TO A PERSON

§ 25:1	Generally
§ 25:2	Trespass to a person: battery
§ 25:3	Battery—Supreme Court of Ohio
§ 25:4	—First District of Ohio
§ 25:5	—Second District of Ohio
§ 25:6	—Fourth District of Ohio
§ 25:7	—Fifth District of Ohio
§ 25:8	—Sixth District of Ohio
§ 25:9	—Eighth District of Ohio
§ 25:10	—Ninth District of Ohio
§ 25:11	—10th District of Ohio
§ 25:12	—11th District of Ohio
§ 25:13	—12th District of Ohio
§ 25:14	Assault
§ 25:15	—First District of Ohio
§ 25:16	—Second District of Ohio
§ 25:17	—Third District of Ohio
§ 25:18	—Fifth District of Ohio
§ 25:19	—Eighth District of Ohio
§ 25:20	—Ninth District of Ohio
§ 25:21	—10th District of Ohio
§ 25:22	—11th District of Ohio
§ 25:23	False imprisonment and false arrest
§ 25:24	—Supreme Court of Ohio
§ 25:25	—Sixth District of Ohio
§ 25:26	—Seventh District of Ohio
§ 25:27	—Eighth District of Ohio
§ 25:28	—Ninth District of Ohio
§ 25:29	—10th District of Ohio

- § 25:30 —11th District of Ohio
- § 25:31 Invasion of privacy
- § 25:32 —Eighth District of Ohio
- § 25:33 —Ninth District of Ohio
- § 25:34 —10th District of Ohio
- § 25:35 Vicarious liability
- § 25:36 —First District of Ohio
- § 25:37 —Fifth District of Ohio
- § 25:38 —Ninth District of Ohio
- § 25:39 Damages—Actual
- § 25:40 —Indirect trespass
- § 25:41 —Mutual combat
- § 25:42 —Nominal
- § 25:43 — —First District of Ohio
- § 25:44 —Punitive
- § 25:45 — —Second District of Ohio
- § 25:46 — —Ninth District of Ohio
- § 25:47 Defenses and exceptions
- § 25:48 —Self-defense
- § 25:49 — —Eighth District of Ohio
- § 25:50 — —10th District of Ohio
- § 25:51 — —11th District of Ohio
- § 25:52 —Consent
- § 25:53 — —First District of Ohio
- § 25:54 — —Fourth District of Ohio
- § 25:55 — —Eighth District of Ohio
- § 25:56 — —Minors and consent
- § 25:57 —Implied consent or emergency
- § 25:58 — —First District of Ohio
- § 25:59 — —Sixth District of Ohio
- § 25:60 — —Eighth District of Ohio
- § 25:61 — —Ninth District of Ohio
- § 25:62 —Lawful privilege or authorization
- § 25:63 —Imprisonment
- § 25:64 —Parents and discipline of children
- § 25:65 — —Eighth District of Ohio
- § 25:66 —Statute of limitations
- § 25:67 — —Supreme Court
- § 25:68 — —Fourth District of Ohio
- § 25:69 — —Ninth District of Ohio
- § 25:70 — —10th District of Ohio
- § 25:71 — —12th District of Ohio

CHAPTER 26. ULTRAHAZARDOUS ACTIVITIES

- § 26:1 Generally
- § 26:2 *Rylands v. Fletcher*—The first ultrahazardous activity case
- § 26:3 The state of the *Rylands* principle in Ohio

TABLE OF CONTENTS

§ 26:4	Escape of water—Ohio Supreme Court
§ 26:5	—First District
§ 26:6	—Fifth District
§ 26:7	Oil and natural Gas—Northern District Ohio
§ 26:8	Oil and natural gas—Ohio Supreme Court
§ 26:9	—10th District
§ 26:10	—12th District
§ 26:11	Animals—Second District
§ 26:12	—Third District
§ 26:13	—Fifth District
§ 26:14	Blasting—Supreme Court of Ohio
§ 26:15	—10th District
§ 26:16	Explosive storage—Supreme Court of Ohio
§ 26:17	Natural resource development waste—Supreme Court of Ohio
§ 26:18	Industrial waste—Federal Sixth Circuit Court of Appeals
§ 26:19	—Northern District of Ohio
§ 26:20	—10th District
§ 26:21	Nuclear incident
§ 26:22	—Southern District of Ohio
§ 26:23	Aviation causing ground damage
§ 26:24	—Supreme Court of the United States
§ 26:25	Sewage—Eighth District
§ 26:26	Miscellaneous—Ninth District
§ 26:27	—10th District
§ 26:28	Firearms
§ 26:29	—Southern District of Ohio
§ 26:30	Affirmative defense—Engagement in ultrahazardous activities
§ 26:31	— —Eighth District
§ 26:32	— —11th District

CHAPTER 27. TOXIC TORTS

§ 27:1	Generally
§ 27:2	—Supreme Court of Ohio
§ 27:3	—First District
§ 27:4	—Fourth District
§ 27:5	—Fifth District
§ 27:6	—Sixth District
§ 27:7	—Eighth District
§ 27:8	—Ninth District
§ 27:9	—10th District
§ 27:10	—11th District
§ 27:11	Carbon monoxide poisoning
§ 27:12	—Supreme Court of Ohio
§ 27:13	—First District
§ 27:14	—Second District
§ 27:15	—Third District
§ 27:16	—Fourth District
§ 27:17	—Fifth District

- § 27:18 —Sixth District
- § 27:19 —Seventh District
- § 27:20 —Eighth District
- § 27:21 —Ninth District
- § 27:22 —10th District
- § 27:23 —11th District
- § 27:24 Asbestos
- § 27:25 —Supreme Court of Ohio
- § 27:26 —First District
- § 27:27 —Second District
- § 27:28 —Third District
- § 27:29 —Fifth District
- § 27:30 —Sixth District
- § 27:31 —Seventh District
- § 27:32 —Eighth District
- § 27:33 —Ninth District
- § 27:34 —10th District
- § 27:35 —11th District
- § 27:36 —12th District
- § 27:37 Fertilizers
- § 27:38 Insecticides

PART 4. TORTS AGAINST PROPERTY

CHAPTER 28. STRICT LIABILITY

- § 28:1 Strict-liability claims
- § 28:2 Adjoining landowners/lateral support
- § 28:3 —Ohio Supreme Court
- § 28:4 —First District of Ohio
- § 28:5 —Second District of Ohio
- § 28:6 —Third District of Ohio
- § 28:7 —Fourth District of Ohio
- § 28:8 —Sixth District of Ohio
- § 28:9 —Seventh District of Ohio
- § 28:10 Lateral support—Land in its natural state
- § 28:11 Negligent withdrawal of lateral support
- § 28:12 —Ohio Supreme Court
- § 28:13 —First District of Ohio
- § 28:14 —Ninth District of Ohio
- § 28:15 —10th District of Ohio
- § 28:16 Buildings or structures
- § 28:17 —Ohio Supreme Court
- § 28:18 —Second District of Ohio
- § 28:19 —Ohio district courts
- § 28:20 Subjacent support
- § 28:21 Negligent withdrawal of subjacent support
- § 28:22 —Fourth District of Ohio

TABLE OF CONTENTS

§ 28:23	—Fifth District of Ohio
§ 28:24	—Seventh District
§ 28:25	Withdrawing subterranean substance (water, oil, minerals, etc.)
§ 28:26	Withdrawing subterranean substance—Ohio Supreme Court
§ 28:27	—Fifth District of Ohio
§ 28:28	—10th District of Ohio
§ 28:29	Waters
§ 28:30	Interference with the use of watercourses and lakes: riparian rights (harm by one riparian owner to another)
§ 28:31	Interference with the use of watercourses and lakes—Ohio Supreme Court
§ 28:32	—Sixth District of Ohio
§ 28:33	Reasonableness of use of water
§ 28:34	Surface waters
§ 28:35	“Common enemy” doctrine
§ 28:36	—First District of Ohio
§ 28:37	—Eighth District of Ohio
§ 28:38	—10th District of Ohio
§ 28:39	Civil-law rule and modifications thereof
§ 28:40	—Ohio Supreme Court
§ 28:41	—First District of Ohio
§ 28:42	—Fifth District of Ohio
§ 28:43	—Ninth District of Ohio
§ 28:44	—10th District of Ohio
§ 28:45	Rule of reasonable use
§ 28:46	—Ohio Supreme Court
§ 28:47	—First District of Ohio
§ 28:48	—Third District of Ohio
§ 28:49	—Sixth District of Ohio
§ 28:50	—Eighth District of Ohio
§ 28:51	—Ninth District of Ohio
§ 28:52	—10th District of Ohio
§ 28:53	—11th District of Ohio
§ 28:54	Damming back water
§ 28:55	—Ohio Supreme Court
§ 28:56	—Fifth District of Ohio
§ 28:57	—Ninth District
§ 28:58	—11th District of Ohio
§ 28:59	Augmenting natural flow
§ 28:60	—Ohio Supreme Court
§ 28:61	—Eighth District of Ohio
§ 28:62	—10th District of Ohio
§ 28:63	Collecting and discharging water
§ 28:64	—Ohio Supreme Court
§ 28:65	—Second District of Ohio
§ 28:66	—10th District of Ohio
§ 28:67	Diverting water from accustomed drainage patterns—First District of Ohio
§ 28:68	—Eighth District of Ohio

- § 28:69 —11th District of Ohio
- § 28:70 Ground, underground, and percolating waters
- § 28:71 —Ohio Supreme Court
- § 28:72 —Ninth District of Ohio
- § 28:73 —11th District of Ohio
- § 28:74 Ground, underground, and percolating waters: historical development

CHAPTER 29. TRESPASS TO REAL PROPERTY AND CHATTELS

- § 29:1 Trespass to real property & chattels
- § 29:2 Technical trespass deemed negligence
- § 29:3 —10th Appellate District
- § 29:4 Trespass distinguished from nuisance—Sixth Appellate District
- § 29:5 Noxious gases and odors—Fourth Appellate District
- § 29:6 Trespass to chattels distinguished from conversion/computer trespass
- § 29:7 Trespass to chattel applied to Internet—Southern District of Ohio
- § 29:8 —U.S. District Court for the Northern District of Ohio
- § 29:9 Utility analysis for trespass to chattels—First Appellate District
- § 29:10 Continuing trespass verse permanent trespass
- § 29:11 —10th Appellate District
- § 29:12 Elements—Trespass to real property
- § 29:13 — —Petroleum contamination—10th Appellate District
- § 29:14 — — —Northern District of Ohio
- § 29:15 Trespass to chattels
- § 29:16 —Severed cable lines—Northern District of Ohio, Eastern Division
- § 29:17 Trespass to land
- § 29:18 Intentional intrusions of land
- § 29:19 —Supreme Court of Ohio
- § 29:20 —Northern District of Ohio
- § 29:21 —Second Appellate District
- § 29:22 —Fifth Appellate District
- § 29:23 —Sixth Appellate District
- § 29:24 —12th Appellate District
- § 29:25 Intrusions on, beneath, and above earth's surface
- § 29:26 —Fourth Appellate District
- § 29:27 —Sixth Appellate District
- § 29:28 —Seventh Appellate District
- § 29:29 —Eighth Appellate District
- § 29:30 Extent of trespasser's liability
- § 29:31 The Restatement of Law 2d, Torts
- § 29:32 Intended intrusions causing no harm
- § 29:33 —Ninth Appellate District
- § 29:34 Intrusions under mistake
- § 29:35 Intentional intrusions under mistake—Restatement of Law 2d, Torts

TABLE OF CONTENTS

§ 29:36	—Fifth Appellate District
§ 29:37	—Ninth Appellate District
§ 29:38	Actual possession of property trespassed on; illegal possession; adverse possession—Sixth Appellate District
§ 29:39	—Third Appellate District
§ 29:40	—Third Appellate District distinguished
§ 29:41	—Ninth Appellate District
§ 29:42	Sufficiency of possession
§ 29:43	—Supreme Court of Ohio
§ 29:44	—Second Appellate District
§ 29:45	—10th Appellate District
§ 29:46	Other remedies for possessors of land
§ 29:47	—Ohio Revised Code
§ 29:48	— —Second Appellate District
§ 29:49	—Trespass to try title
§ 29:50	—Forcible entry and detainer
§ 29:51	— —Ohio Revised Code
§ 29:52	— —Ninth Appellate District
§ 29:53	Trespass to personal property or chattels
§ 29:54	—First Appellate District
§ 29:55	Actual or constructive possession as essential
§ 29:56	—Second Appellate District
§ 29:57	Trespass ab initio
§ 29:58	Termination of consent
§ 29:59	—Supreme Court of Ohio
§ 29:60	—Ninth Appellate District
§ 29:61	—Shaker Heights Municipal Court
§ 29:62	Who may maintain action
§ 29:63	—Seventh Appellate District
§ 29:64	—10th Appellate District
§ 29:65	—12th Appellate District
§ 29:66	Persons liable
§ 29:67	—For continuing trespass
§ 29:68	—For joint tortfeasors
§ 29:69	—Failure to prevent trespass
§ 29:70	—12th Appellate District
§ 29:71	Defenses
§ 29:72	—Supreme Court of Ohio
§ 29:73	—Fourth Appellate District
§ 29:74	—Eighth Appellate District
§ 29:75	—Consent
§ 29:76	— —Sixth Appellate District
§ 29:77	— —10th Appellate District
§ 29:78	— —Ohio Court of Common Pleas
§ 29:79	—Estoppel
§ 29:80	— —Sixth Appellate District
§ 29:81	—Privilege
§ 29:82	— —Eighth Appellate District

- § 29:83 — —Ninth Appellate District
- § 29:84 Damages
- § 29:85 —Sixth Appellate District
- § 29:86 —Permanent trespass
- § 29:87 —Second Appellate District
- § 29:88 —Eighth Appellate District
- § 29:89 —Ninth Appellate District
- § 29:90 —10th Appellate District
- § 29:91 —Compensatory
- § 29:92 —Compensatory damages for destroying growth to land
- § 29:93 —Fourth Appellate District
- § 29:94 —Punitive
- § 29:95 — —Supreme Court of Ohio
- § 29:96 — —Sixth Appellate District
- § 29:97 —Nominal
- § 29:98 — —First Appellate District
- § 29:99 — —Sixth Appellate District
- § 29:100 — —Eighth Appellate District

PART 5. BUSINESS TORTS

CHAPTER 30. ANTITRUST

- § 30:1 Antitrust—Generally
- § 30:2 Relevant antitrust legislation
- § 30:3 —In general
- § 30:4 —The Sherman Act
- § 30:5 — —Section 1
- § 30:6 — —Section 2
- § 30:7 — —Comparison between sections 1 and 2
- § 30:8 —The Clayton Act
- § 30:9 — —Generally
- § 30:10 — —Section 7
- § 30:11 — —Section 3
- § 30:12 — —Elements of a private action
- § 30:13 —Section 4—Actions for damages
- § 30:14 —Section 16—Actions for injunctive relief
- § 30:15 —Enforcement under the Federal Trade Commission Act
- § 30:16 —The Robinson-Patman Act
- § 30:17 Business torts and antitrust—Generally
- § 30:18 —Antitrust considerations
- § 30:19 —The traditional approach: the per se rule
- § 30:20 —The decline of the per se approach: the rule of reason
- § 30:21 —The rule of reason—Ohio Supreme Court
- § 30:22 — —Sixth Circuit Court of Appeals
- § 30:23 — —First District
- § 30:24 — —Third District
- § 30:25 — —Fourth District

TABLE OF CONTENTS

§ 30:26	— —Sixth District
§ 30:27	— —Eighth District
§ 30:28	— —Ninth District
§ 30:29	— —10th District

CHAPTER 31. BAD FAITH IN INSURANCE CONTRACTS AND OTHER CONTRACTS

§ 31:1	Insurance or Indemnity Contracts
§ 31:2	Good faith and bad faith
§ 31:3	Parties to a bad faith action
§ 31:4	Third party bad faith action
§ 31:5	Reservation of rights
§ 31:6	Bad faith actions—Generally
§ 31:7	—Ohio Supreme Court
§ 31:8	—First Appellate District
§ 31:9	—Second Appellate District
§ 31:10	—Seventh Appellate District
§ 31:11	—Eighth Appellate District
§ 31:12	—Ninth Appellate District
§ 31:13	—10th Appellate District
§ 31:14	—12th Appellate District
§ 31:15	Basis of liability—Generally
§ 31:16	Notice in general
§ 31:17	General rules for notice
§ 31:18	—Ohio Supreme Court
§ 31:19	—First Appellate District
§ 31:20	—Second Appellate District
§ 31:21	—Third Appellate District
§ 31:22	—Fourth Appellate District
§ 31:23	—Fifth Appellate District
§ 31:24	—Sixth Appellate District
§ 31:25	—Seventh Appellate District
§ 31:26	—Eighth Appellate District
§ 31:27	—Ninth Appellate District
§ 31:28	—10th Appellate District
§ 31:29	—11th Appellate District
§ 31:30	Negligence standard—Generally
§ 31:31	—Duty—Generally
§ 31:32	— —Ohio Supreme Court
§ 31:33	— —Fifth Appellate District
§ 31:34	— —Sixth Appellate District
§ 31:35	— —Seventh Appellate District
§ 31:36	— —Eighth Appellate District
§ 31:37	— —Ninth Appellate District
§ 31:38	— —10th Appellate District
§ 31:39	— —12th Appellate District
§ 31:40	—Breach
§ 31:41	—Good faith/bad faith standard

- § 31:42 — —Ohio Supreme Court
- § 31:43 — —Sixth Appellate District
- § 31:44 — —Seventh Appellate District
- § 31:45 — —10th Appellate District
- § 31:46 Who may bring action
- § 31:47 —Ohio Supreme Court
- § 31:48 —Eighth Appellate District
- § 31:49 —Ninth Appellate District
- § 31:50 —10th Appellate District
- § 31:51 Proof of negligence or bad faith
- § 31:52 First party bad faith actions—Generally
- § 31:53 —General Rules
- § 31:54 —Ohio Supreme Court
- § 31:55 —First Appellate District
- § 31:56 —Second Appellate District
- § 31:57 —Third Appellate District
- § 31:58 —Fifth Appellate District
- § 31:59 —Sixth Appellate District
- § 31:60 —Seventh Appellate District
- § 31:61 —Eighth Appellate District
- § 31:62 —Ninth Appellate District
- § 31:63 —10th Appellate District
- § 31:64 —11th Appellate District
- § 31:65 —12th Appellate District
- § 31:66 —Basis of liability
- § 31:67 — —Gruenberg v. Aetna Insurance
- § 31:68 — —Anderson v. Continental Insurance Co
- § 31:69 — —Expert testimony
- § 31:70 — — —Ohio Supreme Court
- § 31:71 — — —Fifth Appellate District
- § 31:72 — — —11th Appellate District
- § 31:73 — — —12th Appellate District
- § 31:74 —Statutory Liability
- § 31:75 —Damages—Compensatory
- § 31:76 — —Other economic loss
- § 31:77 — — —Third Appellate District
- § 31:78 — — —12th Appellate District
- § 31:79 —Intentional infliction of emotion distress
- § 31:80 — —First Appellate District
- § 31:81 — —12th Appellate District
- § 31:82 —Punitive damages—Generally
- § 31:83 — — —Ohio Supreme Court
- § 31:84 — — —Third Appellate District
- § 31:85 — — —Fifth District
- § 31:86 — — —Seventh Appellate District
- § 31:87 — — —Eighth Appellate District
- § 31:88 — — —11th Appellate District
- § 31:89 —Attorney fees—Generally

TABLE OF CONTENTS

§ 31:90	— —Ohio Supreme Court
§ 31:91	— —First Appellate District
§ 31:92	— —Third Appellate District
§ 31:93	— —Fifth Appellate District
§ 31:94	— —Sixth Appellate District
§ 31:95	— —Seventh Appellate District
§ 31:96	— —Eighth Appellate District
§ 31:97	— —10th Appellate District
§ 31:98	— —12th Appellate District
§ 31:99	Defenses—Statute of limitations

CHAPTER 32. TORTIOUS BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

§ 32:1	Generally
§ 32:2	Development of doctrine
§ 32:3	Application to specific contracts
§ 32:4	—Insurance
§ 32:5	— —Ohio Supreme Court
§ 32:6	— —First District
§ 32:7	— —Second District
§ 32:8	— —Third District
§ 32:9	— —Fourth District
§ 32:10	— —Fifth District
§ 32:11	— —Sixth District
§ 32:12	— —Seventh District
§ 32:13	— —Eighth District
§ 32:14	— —Ninth District
§ 32:15	— —10th District
§ 32:16	— —11th District
§ 32:17	— —12th District
§ 32:18	— —Discovery
§ 32:19	— —Court of Common Pleas
§ 32:20	Employment relationships
§ 32:21	—Second District
§ 32:22	—Third District
§ 32:23	—Sixth Circuit
§ 32:24	—Seventh District
§ 32:25	—Eighth District
§ 32:26	—Ninth District
§ 32:27	—10th District
§ 32:28	—11th District
§ 32:29	—12th District
§ 32:30	Franchise agreements
§ 32:31	Banking
§ 32:32	Commercial contracts
§ 32:33	Breach of contract accompanied by independent tort
§ 32:34	Remedies

- § 32:35 Contractual remedies
- § 32:36 Limitation to foreseeable losses
- § 32:37 The reasonable certainty requirement
- § 32:38 Tort remedies
- § 32:39 Emotional distress
- § 32:40 Punitive damages
- § 32:41 —Particular applications

CHAPTER 33. BREACH OF FIDUCIARY DUTY

- § 33:1 Fiduciary obligations of corporate directors and officers
- § 33:2 —Dealings with corporate shares
- § 33:3 Shareholder Standing for Derivative Claims
- § 33:4 Dealings with corporate shares—Federal
- § 33:5 —Ohio Supreme Court
- § 33:6 —First District
- § 33:7 —Second District
- § 33:8 —Third District
- § 33:9 —Fourth District
- § 33:10 —Fifth District
- § 33:11 —Sixth District
- § 33:12 —Seventh District
- § 33:13 —Eighth District
- § 33:14 —Ninth District
- § 33:15 —10th District
- § 33:16 —12th District
- § 33:17 The duty of diligence and due care
- § 33:18 —The business judgment rule
- § 33:19 Breaches of duty of care
- § 33:20 —Absence from board meetings without reason or excuse
- § 33:21 —Failure to keep informed of corporate affairs
- § 33:22 —Failure to properly manage corporate affairs
- § 33:23 Limits on liability for breach of duty of care
- § 33:24 Causation
- § 33:25 Reliance on advice
- § 33:26 Limits on liability for breach of duty of care—U.S. Supreme Court
- § 33:27 —Federal
- § 33:28 —Ohio Supreme Court
- § 33:29 —First District
- § 33:30 —Fourth District
- § 33:31 —Seventh District
- § 33:32 —10th District
- § 33:33 —11th District
- § 33:34 —12th District
- § 33:35 Conflict of Interest
- § 33:36 —Contracts with interested directors
- § 33:37 —Contracts between corporations with common directors
- § 33:38 —Shareholder ratification

TABLE OF CONTENTS

§ 33:39	—Statutory provisions
§ 33:40	—Charter and By-law provisions
§ 33:41	—Third District
§ 33:42	—Eighth District
§ 33:43	Directors and other insiders' liability under Section 10(b) of the Securities Exchange Act
§ 33:44	Director's liability in transactions involving Corporate Counsel
§ 33:45	—Tender Offers
§ 33:46	—Mergers
§ 33:47	Usurpation of Corporate Opportunity
§ 33:48	—Second District
§ 33:49	—Fifth District
§ 33:50	—Eighth District
§ 33:51	—10th District
§ 33:52	—11th District
§ 33:53	Breach of Fiduciary Duty by Shareholder
§ 33:54	—Corporate structure
§ 33:55	Determining the parameters of fiduciary duty
§ 33:56	—Types of actions
§ 33:57	Inducing breaches of fiduciary Duty
§ 33:58	Aiding and Abetting
§ 33:59	—Sixth District
§ 33:60	—Eighth District
§ 33:61	—Ninth District
§ 33:62	Appraisal Proceedings
§ 33:63	Attorneys
§ 33:64	Brokers, Dealers and Advisors, Duties to Investors
§ 33:65	Business Judgment Rule
§ 33:66	—First District
§ 33:67	—Second District
§ 33:68	—Eighth District
§ 33:69	—12th District
§ 33:70	Close Corporations, Duties Between Shareholders
§ 33:71	—Federal
§ 33:72	—Ohio Supreme Court
§ 33:73	—Second District
§ 33:74	Corporations, Duties Between Shareholders—Third District
§ 33:75	Close Corporations, Duties Between Shareholders—Eighth District
§ 33:76	—Ninth District
§ 33:77	—10th District
§ 33:78	Corporate Opportunity Doctrine
§ 33:79	Damages
§ 33:80	—Lost Profits
§ 33:81	—Punitive Damages
§ 33:82	De facto Fiduciary Duties
§ 33:83	—Federal
§ 33:84	—Ohio Supreme Court
§ 33:85	—First District

- § 33:86 —Eighth District
- § 33:87 —10th District
- § 33:88 Derivative Actions
- § 33:89 —Federal
- § 33:90 —Second District
- § 33:91 —Eighth District
- § 33:92 Disclosure Duties
- § 33:93 Economic Loss Doctrine
- § 33:94 Employers and Employees
- § 33:95 Freeze-outs
- § 33:96 Golden Parachutes
- § 33:97 Joint Ventures
- § 33:98 Legitimate Expectations
- § 33:99 Lenders, Duty to Borrowers
- § 33:100 —Ohio Supreme Court
- § 33:101 —First District
- § 33:102 —Sixth District
- § 33:103 Leveraged Buy-out
- § 33:104 Loyalty, Duty of
- § 33:105 Partners, Duties Between
- § 33:106 Poison Pills
- § 33:107 Proportionality (Unocal) Standard
- § 33:108 Self-Dealing
- § 33:109 Shareholders, Fiduciary Duties Between
- § 33:110 —Federal
- § 33:111 —Ohio Supreme Court
- § 33:112 —Ninth District
- § 33:113 —10th District
- § 33:114 Waste

CHAPTER 34. COMPUTER AND CYBERSPACE LITIGATION

- § 34:1 E-mail Harassment and Creation of Hostile Work Environment
- § 34:2 —Sixth Circuit
- § 34:3 —N.D. Ohio
- § 34:4 —Second District
- § 34:5 —Third District
- § 34:6 —10th District
- § 34:7 Trespass
- § 34:8 —Unauthorized Accessing of a Computer
- § 34:9 —Statutory Liability—Computer Fraud and Abuse Act
- § 34:10 — — —N.D. Ohio
- § 34:11 — — —CAN-SPAM Act
- § 34:12 — — —N.D. Ohio
- § 34:13 —First Amendment Protection
- § 34:14 — — —S.D. Ohio
- § 34:15 Defamation—N.D. Ohio
- § 34:16 —Sixth District

TABLE OF CONTENTS

§ 34:17	—Personal Jurisdiction—Sixth Circuit
§ 34:18	— —Fifth District
§ 34:19	Third Party Liability—Communications Decency Act
§ 34:20	— —Fifth District
§ 34:21	Cybersquatting
§ 34:22	—Sixth Circuit
§ 34:23	—N.D. Ohio
§ 34:24	—S.D. Ohio
§ 34:25	—Ninth District
§ 34:26	—Personal Jurisdiction
§ 34:27	— —Sixth Circuit
§ 34:28	— —S.D. Ohio
§ 34:29	—First Amendment Protection
§ 34:30	— —S.D. Ohio
§ 34:31	First Amendment Protection of Publication—Sixth Circuit

CHAPTER 35. CIVIL CONSPIRACY

§ 35:1	Generally
§ 35:2	—Ohio Supreme Court
§ 35:3	Malicious Combination between two or more people—First District
§ 35:4	—Second District
§ 35:5	—Third District
§ 35:6	—Fifth District
§ 35:7	—Ninth District
§ 35:8	—10th District
§ 35:9	—11th District
§ 35:10	Injury or damages—First District
§ 35:11	—Eighth District
§ 35:12	—Ninth District
§ 35:13	An independent unlawful act—Ohio Supreme Court
§ 35:14	—First District
§ 35:15	—Second District
§ 35:16	—Sixth District
§ 35:17	—Eighth District
§ 35:18	—11th District
§ 35:19	Acceptance of Benefits, as Participation in a civil conspiracy
§ 35:20	—Ohio Supreme Court
§ 35:21	—First District
§ 35:22	—Second District
§ 35:23	—Third District
§ 35:24	—Fourth District
§ 35:25	—Fifth District
§ 35:26	—Sixth District
§ 35:27	—Eighth District
§ 35:28	—Ninth District
§ 35:29	—10th District
§ 35:30	—11th District

- § 35:31 —12th District
- § 35:32 Aiding and Abetting
- § 35:33 —Second District
- § 35:34 —Third District
- § 35:35 —Fifth District
- § 35:36 —Sixth District
- § 35:37 —Eighth District
- § 35:38 —Ninth District
- § 35:39 —10th District
- § 35:40 —11th District
- § 35:41 Collusive Foreclosure as a Civil Conspiracy
- § 35:42 —First District
- § 35:43 —Second District
- § 35:44 —Sixth District
- § 35:45 —Seventh District
- § 35:46 —Eighth District
- § 35:47 —10th District
- § 35:48 Concert of Action
- § 35:49 —Second District
- § 35:50 —Third District
- § 35:51 —Fourth District
- § 35:52 —Fifth District
- § 35:53 —Sixth District
- § 35:54 —Seventh District
- § 35:55 —Eighth District
- § 35:56 —Ninth District
- § 35:57 —11th District
- § 35:58 Conspiracy to breach contract
- § 35:59 —Second District
- § 35:60 —Seventh District
- § 35:61 Conspiracy to defame
- § 35:62 —Ohio Supreme Court
- § 35:63 —First District
- § 35:64 —Sixth District
- § 35:65 —Eighth District
- § 35:66 —Ninth District
- § 35:67 —10th District
- § 35:68 Corporations, Conspiracy with Employees or Affiliated Companies
- § 35:69 —Ohio Supreme Court
- § 35:70 —Second District
- § 35:71 —Fifth District
- § 35:72 —Sixth District
- § 35:73 —Eighth District
- § 35:74 —10th District
- § 35:75 —11th District
- § 35:76 Evidence of Actual Agreement
- § 35:77 —Second District

TABLE OF CONTENTS

§ 35:78	—Fourth District
§ 35:79	—Ninth District
§ 35:80	—10th District
§ 35:81	Intent and purpose
§ 35:82	—First District
§ 35:83	—Second District
§ 35:84	—Fifth District
§ 35:85	—Seventh District
§ 35:86	—Eighth District
§ 35:87	—Ninth District
§ 35:88	—10th District
§ 35:89	Negligence as a basis
§ 35:90	Patents, Conspiracy to infringe
§ 35:91	Privilege
§ 35:92	—Sixth District
§ 35:93	—Eighth District
§ 35:94	—Tenth District
§ 35:95	Underlying Wrong Required
§ 35:96	—Ohio Supreme Court
§ 35:97	—First District
§ 35:98	—Second District
§ 35:99	—Fourth District
§ 35:100	—Fifth District
§ 35:101	—Sixth District
§ 35:102	—Seventh District
§ 35:103	—Eighth District
§ 35:104	—Ninth District
§ 35:105	—10th District
§ 35:106	—11th District
§ 35:107	Unlawful Acts or Means not Required
§ 35:108	—Ohio Supreme Court
§ 35:109	—Ninth District

CHAPTER 36. CONSUMER PROTECTION

§ 36:1	Generally
§ 36:2	Common law remedies
§ 36:3	—Fraudulent or intentional misrepresentation
§ 36:4	— —Ohio Supreme Court
§ 36:5	— —First Appellate District
§ 36:6	— —Second Appellate District
§ 36:7	— —Third Appellate District
§ 36:8	— —Fourth Appellate District
§ 36:9	— —Fifth Appellate District
§ 36:10	— —Sixth Appellate District
§ 36:11	— —Seventh Appellate District
§ 36:12	— —Eight Appellate District
§ 36:13	— —Ninth Appellate District
§ 36:14	— —10th Appellate District

§ 36:15	— —11th Appellate District
§ 36:16	— —12th Appellate District
§ 36:17	—Negligent misrepresentation
§ 36:18	— —Ohio Supreme Court
§ 36:19	— —First Appellate District
§ 36:20	— —Second Appellate District
§ 36:21	— —Third Appellate District
§ 36:22	— —Fourth Appellate District
§ 36:23	— —Fifth Appellate District
§ 36:24	— —Sixth Appellate District
§ 36:25	— —Seventh Appellate District
§ 36:26	— —Eighth Appellate District
§ 36:27	— —Ninth Appellate District
§ 36:28	— —10th Appellate District
§ 36:29	— —11th Appellate District
§ 36:30	— —12th Appellate District
§ 36:31	—Fraudulent concealment
§ 36:32	— —Ohio Supreme Court
§ 36:33	— —First Appellate District
§ 36:34	— —Second Appellate District
§ 36:35	— —Third Appellate District
§ 36:36	— —Fourth Appellate District
§ 36:37	— —Fifth Appellate District
§ 36:38	— —Seventh Appellate District
§ 36:39	— —Eighth Appellate District
§ 36:40	— —Ninth Appellate District
§ 36:41	— —10th Appellate District
§ 36:42	— —11th Appellate District
§ 36:43	— —12th Appellate District
§ 36:44	—The doctrine of caveat emptor
§ 36:45	— —Ohio Supreme Court
§ 36:46	— —First Appellate District
§ 36:47	— —Second Appellate District
§ 36:48	— —Third Appellate District
§ 36:49	— —Fourth Appellate District
§ 36:50	— —Fifth Appellate District
§ 36:51	— —Sixth Appellate District
§ 36:52	— —Seventh Appellate District
§ 36:53	— —Eighth Appellate District
§ 36:54	— —Ninth Appellate District
§ 36:55	— —10th Appellate District
§ 36:56	— —11th Appellate District
§ 36:57	— —12th Appellate District
§ 36:58	Overview of the Federal Trade Commission Act
§ 36:59	Overview of the Fair Debt Collection Practices Act
§ 36:60	Overview of the Consumer Sales Practices Act
§ 36:61	Scope of the CSPA
§ 36:62	CSPA exclusions and exemptions

TABLE OF CONTENTS

§ 36:63	CSPA—Unlawful acts and practices
§ 36:64	—Deception
§ 36:65	—Deceptive intent not required
§ 36:66	—Ohio Supreme Court
§ 36:67	CSPA- Unlawful acts and practices—Deception—Deceptive intent not required—First Appellate District
§ 36:68	Second Appellate District
§ 36:69	CSPA—Unlawful acts and practices—Deception—Deceptive intent not required—Third Appellate District
§ 36:70	—Fourth Appellate District
§ 36:71	—Sixth Appellate District
§ 36:72	—Ninth Appellate District
§ 36:73	—10th Appellate District
§ 36:74	—11th Appellate District
§ 36:75	—12th Appellate District
§ 36:76	—Actual deception need not be shown
§ 36:77	—Deceptive intent not required—First Appellate District
§ 36:78	—Fourth Appellate District
§ 36:79	—12th Appellate District
§ 36:80	—The capacity of the consumer
§ 36:81	—Unconscionable conduct
§ 36:82	—First Appellate District
§ 36:83	—Second Appellate District
§ 36:84	—Third Appellate District
§ 36:85	—10th Appellate District
§ 36:86	—11th Appellate District
§ 36:87	—Unfairness
§ 36:88	—Consumer injury—First Appellate District
§ 36:89	—11th Appellate District
§ 36:90	—12th Appellate District
§ 36:91	—Immoral, unethical, oppressive, or unscrupulous conduct—Sixth Appellate District
§ 36:92	—Ninth Appellate District
§ 36:93	—10th Appellate District
§ 36:94	—11th Appellate District
§ 36:95	—12th Appellate District
§ 36:96	—Factual considerations—Product misrepresentation
§ 36:97	—Supreme Court of Ohio
§ 36:98	—First Appellate District
§ 36:99	—Second Appellate District
§ 36:100	—Fourth Appellate District
§ 36:101	—Fifth Appellate District
§ 36:102	—Eighth Appellate District
§ 36:103	—Ninth Appellate District
§ 36:104	—10th Appellate District
§ 36:105	—11th Appellate District
§ 36:106	—12th Appellate District
§ 36:107	—Advertising misrepresentation
§ 36:108	—Ohio Supreme Court

§ 36:109	— — —Third Appellate District
§ 36:110	— — —Fourth Appellate District
§ 36:111	— — —Fifth Appellate District
§ 36:112	— — —Ninth Appellate District
§ 36:113	— — —10th Appellate District
§ 36:114	— — —11th Appellate District
§ 36:115	— — —12th Appellate District
§ 36:116	— —Bait and switch
§ 36:117	— — —Second Appellate District
§ 36:118	— — —Fourth Appellate District
§ 36:119	— — —Fifth Appellate District
§ 36:120	— — —Eighth Appellate District
§ 36:121	— — —Ninth Appellate District
§ 36:122	— — —10th Appellate District
§ 36:123	— — —11th Appellate District
§ 36:124	— — —12th Appellate District
§ 36:125	— —Fictitious come-ons
§ 36:126	— — —Ohio Supreme Court
§ 36:127	— — —Fifth Appellate District
§ 36:128	— — —10th Appellate District
§ 36:129	— — —11th Appellate District
§ 36:130	— —Pyramid schemes
§ 36:131	— —Pyramid Schemes—10th Appellate District
§ 36:132	— —Lotteries and games of chance—Eighth Appellate District
§ 36:133	— — —10th Appellate District
§ 36:134	— —Warranties and guarantees
§ 36:135	— — —Ninth Appellate District
§ 36:136	— — —10th Appellate District
§ 36:137	— — —11th Appellate District
§ 36:138	— — —12th Appellate District
§ 36:139	— —Failure to deliver ordered goods
§ 36:140	— — —Second Appellate District
§ 36:141	— — —Third Appellate District
§ 36:142	— — —Fourth Appellate District
§ 36:143	— — —Fifth Appellate District
§ 36:144	— — —10th Appellate District
§ 36:145	— — —11th Appellate District
§ 36:146	— —Price misrepresentations—Preticketing and list prices
§ 36:147	— — —Reduced or special prices
§ 36:148	— — —Wholesale, warehouse, or factory prices
§ 36:149	— — —Price comparisons
§ 36:150	— — —Free goods and service
§ 36:151	— — — —Third Appellate District
§ 36:152	— — — —Third Fourth Appellate District
§ 36:153	— — — —12th Appellate District
§ 36:154	— — —Third other charges
§ 36:155	—Affirmative defenses—Statute of limitations
§ 36:156	— —Statutory exemptions

TABLE OF CONTENTS

§ 36:157	— — Failure to demonstrate actual damages
§ 36:158	— Enforcement and remedies—Public enforcement
§ 36:159	— — — Civil and criminal penalties
§ 36:160	— — — Injunctive relief
§ 36:161	— — — Assurances of voluntary compliance
§ 36:162	— — Private enforcement—Private cause of action
§ 36:163	— — — — Damages
§ 36:164	— — — — Multiple and punitive damages
§ 36:165	— — — — Attorney’s fees and costs
§ 36:166	— — — — Class actions
§ 36:167	— — — — Equitable relief

Table of Contents

PART 5. BUSINESS TORTS (CONTINUED)

CHAPTER 37. CONVERSION

- § 37:1 Generally
- § 37:2 —Eighth Appellate District
- § 37:3 Wrongful levy and sale of property; wrongful attachments of property—Second Appellate District
- § 37:4 —Seventh Appellate District
- § 37:5 Acts inconsistent with the rights of the owner—Eighth Appellate District
- § 37:6 Intent—Fourth Appellate District
- § 37:7 —Eighth Appellate District
- § 37:8 Requirement of demand and refusal
- § 37:9 —10th Appellate District
- § 37:10 —Exceptions to requirement for demand and refusal
- § 37:11 Conversion evidenced by an agreed statement of fact—Sixth Appellate District
- § 37:12 —Eighth Appellate District
- § 37:13 Where original taking was wrongful—Supreme Court
- § 37:14 —Fifth Appellate District
- § 37:15 —10th Appellate District
- § 37:16 Wrongful sale or disposition of property—Eighth Appellate District
- § 37:17 What may be converted—Tangibles
- § 37:18 — —Soil, dirt, crops
- § 37:19 — — —Supreme court
- § 37:20 —Fixtures
- § 37:21 — —10th Appellate District
- § 37:22 —Gas and mineral rights
- § 37:23 — —Fifth Appellate District
- § 37:24 —Animals—Second Appellate District
- § 37:25 — —Sixth Appellate District
- § 37:26 —Conveyances, vehicles—Supreme Court
- § 37:27 — —Fifth Appellate District
- § 37:28 —Intangibles
- § 37:29 —Money
- § 37:30 — —Second Appellate District
- § 37:31 — —Sixth Appellate District
- § 37:32 — —Eighth Appellate District
- § 37:33 — —10th Appellate District
- § 37:34 —Checks, bank passbook—Supreme Court

- § 37:35 — —Second Appellate District
- § 37:36 — —Eighth Appellate District
- § 37:37 — —Ninth Appellate District
- § 37:38 —Negotiable instruments
- § 37:39 —Stock, certificates of stock, and other assets—Second Appellate District
- § 37:40 —Ideas—Supreme Court
- § 37:41 Ways in which property may be converted—Taking of property—Fifth Appellate District
- § 37:42 Ways in which property may be converted destruction of property—First Appellate District
- § 37:43 Who may convert—Aiders and abettors
- § 37:44 — —First Appellate District
- § 37:45 — —Second Appellate District
- § 37:46 —Principal’s or employer’s liability
- § 37:47 —Agent or employer’s liability
- § 37:48 —Subsequent purchasers
- § 37:49 — —Supreme court
- § 37:50 — —Cuyahoga County common pleas
- § 37:51 —Landlord/Tenant conversion—Second Appellate District
- § 37:52 — —Fourth Appellate District
- § 37:53 — —11th Appellate District
- § 37:54 —Forgers and forgeries—Supreme court
- § 37:55 — —Second Appellate District
- § 37:56 — —Fifth Appellate District
- § 37:57 — —Eighth Appellate District
- § 37:58 — —11th Appellate District
- § 37:59 —Donor/Donee relationships; engagements—First Appellate District
- § 37:60 — —Fifth Appellate District
- § 37:61 Defenses—Negligence
- § 37:62 — —Eighth Appellate District
- § 37:63 —Mistake
- § 37:64 — —First Appellate District
- § 37:65 —Waiver—By plaintiff
- § 37:66 —Abandonment
- § 37:67 — —Eighth Appellate District
- § 37:68 — —Seventh Appellate District
- § 37:69 — —10th Appellate District
- § 37:70 —Third-party actions and privity—Plaintiff
- § 37:71 — —Of the defendant
- § 37:72 —Breach of contract
- § 37:73 —Breach of contract resulting in loss of property
- § 37:74 — —Supreme court
- § 37:75 — —Sixth Appellate District
- § 37:76 —Estoppel
- § 37:77 — —Eighth Appellate District
- § 37:78 —Mitigation of damages
- § 37:79 — —First Appellate District

TABLE OF CONTENTS

§ 37:80	—Discharge of the plaintiff's indebtedness—First Appellate District
§ 37:81	Damages
§ 37:82	—Interest
§ 37:83	— —First Appellate District
§ 37:84	— —Ninth Appellate District
§ 37:85	—Punitive
§ 37:86	— —First Appellate District
§ 37:87	— —Fourth Appellate District
§ 37:88	— —11th Appellate District
§ 37:89	— —Franklin County Municipal Court
§ 37:90	—Compensatory
§ 37:91	—Nominal
§ 37:92	— —Second Appellate District
§ 37:93	Replevin—Second Appellate District
§ 37:94	—10th Appellate District
§ 37:95	—Ohio Revised Code
§ 37:96	—Possession of specific personal property—Second Appellate District
§ 37:97	— —Fourth Appellate District
§ 37:98	—Compared with conversion
§ 37:99	— —10th Appellate District

CHAPTER 38. COVENANTS NOT TO COMPETE

§ 38:1	Introduction
§ 38:2	Historical and social origins
§ 38:3	Employees' common law fiduciary duty of loyalty to their employers—Duty of loyalty owed by employees while employed—Activities permitted—First Appellate District
§ 38:4	— — —Eighth Appellate District
§ 38:5	— — —10th Appellate District
§ 38:6	— — —12th Appellate District
§ 38:7	— —Activities prohibited—Fourth Appellate District
§ 38:8	— — —Seventh Appellate District
§ 38:9	— — —Ninth Appellate District
§ 38:10	— — —10th Appellate District
§ 38:11	—Duty of loyalty owed by employees after termination—Activities allowed—Supreme Court of Ohio
§ 38:12	— —Activities prohibited—Second Appellate District
§ 38:13	— — —Eighth Appellate District
§ 38:14	— — —Bankruptcy Court for the Southern District of Ohio
§ 38:15	—High-echelon employees' duties not to compete—Eighth Appellate District
§ 38:16	— —12th Appellate District
§ 38:17	— —Northern District of Ohio
§ 38:18	—Corporate opportunity doctrine: in general—Eighth Appellate District
§ 38:19	— —Southern District of Ohio
§ 38:20	— —Defenses—Eighth Appellate District

- § 38:21 — — —Northern District of Ohio
- § 38:22 —Corporate opportunity doctrine—Business competition and corporate opportunity distinguished—11th Appellate District
- § 38:23 Express covenants not to compete—Generally—First Appellate District
- § 38:24 — — —Sixth Appellate District
- § 38:25 —Typical restrictions
- § 38:26 —Enforceability—Consideration—Supreme Court of Ohio
- § 38:27 — — —Second Appellate District
- § 38:28 — — —10th Appellate District
- § 38:29 — — —Northern District of Ohio
- § 38:30 — —Reasonableness—Territorial restrictions—Second Appellate District
- § 38:31 — — — —Third Appellate District
- § 38:32 — — — —Seventh Appellate District
- § 38:33 — — — —10th Appellate District
- § 38:34 — — — —Northern District of Ohio
- § 38:35 — — — —Southern District of Ohio
- § 38:36 — —Durational restrictions—Sixth Appellate District
- § 38:37 — —Void per se doctrine
- § 38:38 — —Blue pencil doctrine
- § 38:39 — —Rule of reasonableness—Supreme Court of Ohio
- § 38:40 — — —First Appellate District
- § 38:41 — — —Second Appellate District
- § 38:42 — — —10th Appellate District
- § 38:43 — — —12th Appellate District
- § 38:44 Actions and Remedies—Temporary restraining orders and preliminary injunctions
- § 38:45 Actions and remedies—Temporary restraining orders and preliminary injunctions—First Appellate District
- § 38:46 — —Second Appellate District
- § 38:47 Actions and Remedies—Temporary restraining orders and preliminary injunctions—Fifth Appellate District
- § 38:48 Actions and remedies—Temporary restraining orders and preliminary injunctions—Sixth Appellate District
- § 38:49 — —10th Appellate District
- § 38:50 — —12th Appellate District
- § 38:51 — —Sixth Circuit Court
- § 38:52 — —Southern District Court
- § 38:53 —Permanent injunctions
- § 38:54 — —First Appellate District
- § 38:55 — —Third Appellate District
- § 38:56 — —Fifth Appellate District
- § 38:57 — —Sixth Appellate District
- § 38:58 — —10th Appellate District
- § 38:59 — —12th Appellate District
- § 38:60 —Damages
- § 38:61 — —Second Appellate District
- § 38:62 Actions and Remedies—Damages—Third Appellate District

TABLE OF CONTENTS

§ 38:63	Actions and remedies—Damages—Sixth Appellate District
§ 38:64	— —Eighth Appellate District
§ 38:65	— —10th Appellate District
§ 38:66	— —Sixth Circuit Court of Appeals
§ 38:67	Statutory considerations—Employment statutes—First Appellate District
§ 38:68	— —Second Appellate District
§ 38:69	— —12th Appellate District
§ 38:70	—Contrary to public policy—Second Appellate District
§ 38:71	— —10th Appellate District
§ 38:72	At-will employment—Second Appellate District
§ 38:73	—Fifth Appellate District
§ 38:74	—Sixth Appellate District
§ 38:75	—Eighth Appellate District
§ 38:76	—Ninth Appellate District
§ 38:77	—10th Appellate District
§ 38:78	—11th Appellate District
§ 38:79	Validity in accounting profession—Seventh Appellate District
§ 38:80	—Ninth Appellate District
§ 38:81	—Sixth Circuit Court
§ 38:82	Consideration—Supreme Court of Ohio
§ 38:83	—Fifth Appellate District
§ 38:84	Construction and severability of covenants—Supreme Court of Ohio
§ 38:85	—Third Appellate District
§ 38:86	—Sixth Appellate District
§ 38:87	—Seventh Appellate District
§ 38:88	—Ninth Appellate District
§ 38:89	—10th Appellate District
§ 38:90	—Ohio Common Pleas Court of Cuyahoga County
§ 38:91	—Northern District of Ohio
§ 38:92	Covenant void because of hardship on employee—Fourth Appellate District
§ 38:93	—Fifth Appellate District
§ 38:94	—Seventh Appellate District
§ 38:95	—10th Appellate District
§ 38:96	—12th Appellate District
§ 38:97	—Sixth Circuit Court of Appeals
§ 38:98	—Northern District of Ohio
§ 38:99	—Southern District of Ohio
§ 38:100	Holdover clause
§ 38:101	—Southern District of Ohio
§ 38:102	Liquidated damage clause—Second Appellate District
§ 38:103	—Third Appellate District
§ 38:104	—Seventh Appellate District
§ 38:105	—Eighth Appellate District
§ 38:106	—Ninth Appellate District
§ 38:107	—10th Appellate District
§ 38:108	—Northern District of Ohio

- § 38:109 Validity in medical profession—Second Appellate District
- § 38:110 —Eighth Appellate District
- § 38:111 —10th Appellate District
- § 38:112 Nondisclosure agreements—Sixth Appellate District
- § 38:113 —Eighth Appellate District
- § 38:114 —10th Appellate District
- § 38:115 —11th Appellate District
- § 38:116 —Sixth Circuit Court of Appeals
- § 38:117 Protectable interests—Customer relations and information—
Sixth Appellate District
- § 38:118 — —10th Appellate District
- § 38:119 — —Sixth Circuit Court of Appeals
- § 38:120 — —Northern District of Ohio
- § 38:121 — —Southern District of Ohio
- § 38:122 —Knowledge imparted by employer—Sixth Appellate District
- § 38:123 — —10th Appellate District
- § 38:124 — —12th Appellate District
- § 38:125 — —Northern District of Ohio
- § 38:126 —Price, cost, and marketing information—First Appellate
District
- § 38:127 — —Seventh Appellate District
- § 38:128 — —Northern District of Ohio
- § 38:129 — —Southern District of Ohio
- § 38:130 —Unique, special, or extraordinary skills—Sixth Appellate
District
- § 38:131 —Seventh Appellate District
- § 38:132 —10th Appellate District
- § 38:133 —Injurious to the public—Second Appellate District
- § 38:134 — —Fifth Appellate District
- § 38:135 — —10th Appellate District
- § 38:136 Spouses—Supreme Court of Ohio
- § 38:137 —Sixth Appellate District
- § 38:138 —Ninth Appellate District
- § 38:139 —10th Appellate District
- § 38:140 —11th Appellate District
- § 38:141 —12th Appellate District
- § 38:142 Time and territorial restrictions—Supreme Court of Ohio
- § 38:143 —12th Appellate District
- § 38:144 —Sixth Circuit Court of Appeals
- § 38:145 —Northern District of Ohio

CHAPTER 39. DECEPTIVE ADVERTISING

- § 39:1 Generally
- § 39:2 Common law deceptive trade practice—Unfair competition
- § 39:3 —Trademarks
- § 39:4 — —Ohio Supreme Court
- § 39:5 — —First District
- § 39:6 — —Second District

TABLE OF CONTENTS

§ 39:7	— —Third District
§ 39:8	— —Fourth District
§ 39:9	— —Fifth District
§ 39:10	— —Sixth District
§ 39:11	— —Seventh District
§ 39:12	— —Eighth District
§ 39:13	— —Ninth District
§ 39:14	— —10th District
§ 39:15	— —12th District
§ 39:16	Ohio statutes
§ 39:17	—Ohio Deceptive Trade Practices Act
§ 39:18	— —Ohio Supreme Court
§ 39:19	— —First District
§ 39:20	— —Second District
§ 39:21	— —Third District
§ 39:22	— —Fourth District
§ 39:23	— —Fifth District
§ 39:24	— —Sixth District
§ 39:25	— —Seventh District
§ 39:26	— —Eighth District
§ 39:27	— —Ninth District
§ 39:28	— —10th District
§ 39:29	— —11th District
§ 39:30	— —12th District
§ 39:31	Ohio Statutes—Ohio Deceptive Trade Practices Act—Northern District
§ 39:32	Ohio statutes—Ohio Deceptive Trade Practices Act—Southern District
§ 39:33	—Little FTC Acts
§ 39:34	—Ohio Consumer Sales Practices Act
§ 39:35	— —Ohio Supreme Court
§ 39:36	— —First District
§ 39:37	Ohio Statutes—Ohio Consumer Sales Practices Act—Second District
§ 39:38	— —Third District
§ 39:39	— —Fourth District
§ 39:40	Ohio statutes—Ohio Consumer Sales Practices Act—Fifth District
§ 39:41	— —Sixth District
§ 39:42	— —Seventh District
§ 39:43	— —Eighth District
§ 39:44	— —Ninth District
§ 39:45	— —10th District
§ 39:46	— —11th District
§ 39:47	— —12th District
§ 39:48	— —Comparison with California and New York statutory schemes
§ 39:49	—Uniform Deceptive Trade Practices Act
§ 39:50	Industry self-regulation and the law

- § 39:51 Industry self-regulation—Better Business Bureau—Generally
- § 39:52 — —National Advertising Division
- § 39:53 — —National Advertising Review Board
- § 39:54 Industry Self-Regulation—Broadcast network standards
- § 39:55 Defenses—First Amendment—History: no protection
- § 39:56 — —Modern law: some protection
- § 39:57 — —Injunctions
- § 39:58 — —Regulation by the FTC
- § 39:59 —Puffing—Generally
- § 39:60 — — —Ohio Supreme Court
- § 39:61 — — —First District
- § 39:62 — — —Second District
- § 39:63 — — —Third District
- § 39:64 — — —Fourth District
- § 39:65 — — —Sixth District
- § 39:66 — — —Seventh District
- § 39:67 — — —Eighth District
- § 39:68 — — —Ninth District
- § 39:69 — — —10th District
- § 39:70 — — —11th District
- § 39:71 — — —12th District
- § 39:72 Lanham Act—Federal common law before 1946
- § 39:73 —Development of deceptive advertising action
- § 39:74 —Legislative history
- § 39:75 —1988 Amendments: current law—Generally
- § 39:76 — —New cause of action: product disparagement
- § 39:77 — —Retroactivity
- § 39:78 —Analyzing a potential section 43(a) claim—The *Skil* test
- § 39:79 — — —Ohio cases citing to *Skil*
- § 39:80 — —Some variant tests
- § 39:81 —False statement of description—Generally
- § 39:82 — —Type of statement: ambiguous or unambiguous
- § 39:83 — —Extrinsic evidence
- § 39:84 — —Assessing falseness
- § 39:85 — —Omissions or failures to disclose
- § 39:86 —Dilution by blurring or tarnishment
- § 39:87 — —Factors for blurring
- § 39:88 — —Factors for fame
- § 39:89 — —Cause of action
- § 39:90 — — —Tendency to deceive
- § 39:91 —Cause of action—Materiality
- § 39:92 — — —Interstate Commerce
- § 39:93 — —Injury
- § 39:94 — —Burden of proof
- § 39:95 — —Relevance of intent
- § 39:96 —Surveys—Generally
- § 39:97 — —Interpreting the survey
- § 39:98 — —Scrutinizing the survey

TABLE OF CONTENTS

§ 39:99	—Standing issues—Generally
§ 39:100	— —Direct competitors
§ 39:101	— —Indirect competitors
§ 39:102	— —Other persons with commercial interest
§ 39:103	— —Consumers
§ 39:104	—Remedies—Generally
§ 39:105	— —Injunctive relief—Standard
§ 39:106	— — —Scope
§ 39:107	— —Monetary relief—Availability
§ 39:108	— — —Amount
§ 39:109	— —Attorney’s fees
§ 39:110	The Federal Trade Commission Act—Generally
§ 39:111	—Its roles
§ 39:112	—Unlawfulness and unfair
§ 39:113	—Investigatory and adjudicatory authority
§ 39:114	—Categories of FTC rules
§ 39:115	— —Rules of Practice
§ 39:116	— —Trade regulation rules
§ 39:117	— —Guides, advisory opinions, policies
§ 39:118	—Analyzing an advertisement under the act
§ 39:119	— —The reasonable basis rule
§ 39:120	— —The governing standard
§ 39:121	— — —Likely to mislead
§ 39:122	— — —Reasonable consumer
§ 39:123	— — —Materiality
§ 39:124	— —Sample cases
§ 39:125	—Procedures—Investigations
§ 39:126	— —Consent orders
§ 39:127	— —Formal hearings and adjudications
§ 39:128	— —Remedies
§ 39:129	— —Exception
§ 39:130	— —Appeals
§ 39:131	— — —Administrative
§ 39:132	— — —Judicial
§ 39:133	— —Judicial actions and remedies

CHAPTER 40. DEFAMATION

§ 40:1	Generally
§ 40:2	Definitions—Slander
§ 40:3	—Libel
§ 40:4	—Distinctions
§ 40:5	Defamation per se and per quod—Generally
§ 40:6	Classes of actions defamatory per se
§ 40:7	Slander per se
§ 40:8	Libel per se
§ 40:9	Libel per quod
§ 40:10	Defamation by act
§ 40:11	Defamation per quod

- § 40:12 —Second Appellate District
- § 40:13 —10th Appellate District
- § 40:14 Defamation per se
- § 40:15 —United States Supreme Court
- § 40:16 —Second Appellate District
- § 40:17 —10th Appellate District
- § 40:18 Defamatory meaning
- § 40:19 —Second Appellate District
- § 40:20 —Sixth Circuit Court of Appeals
- § 40:21 Disparagement
- § 40:22 Elements
- § 40:23 —Publication
- § 40:24 — —By plaintiff
- § 40:25 — — —Cuyahoga County Court of Common Pleas
- § 40:26 — —Intracorporate communications
- § 40:27 — — —Supreme Court of Ohio
- § 40:28 — — —First Appellate District
- § 40:29 — — —Fourth Appellate District
- § 40:30 — — —Fifth Appellate District
- § 40:31 — —Opinions
- § 40:32 — — —Supreme Court of Ohio
- § 40:33 — —Intracorporate communications—11th Appellate District
- § 40:34 — —Commercial printers
- § 40:35 — —To plaintiff
- § 40:36 — — —Second Appellate District
- § 40:37 — — —Sixth Appellate District
- § 40:38 — — —Cuyahoga County Court of Common Pleas
- § 40:39 — —Southern District of Ohio
- § 40:40 — —Repetition or republication
- § 40:41 — — —Supreme Court of Ohio
- § 40:42 — — —First Appellate District
- § 40:43 — — —Sixth Circuit Court of Appeals
- § 40:44 — —Single or multiple publication
- § 40:45 — — —Sixth Appellate Circuit
- § 40:46 — — —10th Appellate District
- § 40:47 — —Constitutional issues under First and Fourteenth amendments
- § 40:48 — — —The *New York Times* case
- § 40:49 — — —The *Gertz* case
- § 40:50 — — —Progeny of the *Times* case
- § 40:51 — —Public officials
- § 40:52 — — —Second Appellate District
- § 40:53 — — —Public controversy
- § 40:54 — —Public figures
- § 40:55 — — —First Appellate District
- § 40:56 — — —Second Appellate District
- § 40:57 — — —12th Appellate District
- § 40:58 — —Private persons

TABLE OF CONTENTS

§ 40:59	— — —Ninth Appellate District
§ 40:60	— — —Media defendants
§ 40:61	— — —Supreme Court of Ohio
§ 40:62	— — —Nonmedia defendants
§ 40:63	— — — —Supreme Court of Ohio
§ 40:64	— — — —First Appellate District
§ 40:65	— — — —Second Appellate District
§ 40:66	— — — —10th Appellate District
§ 40:67	— — — —11th Appellate District
§ 40:68	— — —Tests of standards
§ 40:69	— — — —Negligence as a test
§ 40:70	— — — — —Supreme Court of Ohio
§ 40:71	— — — — —Fifth Appellate District
§ 40:72	— — — —Gross irresponsibility as a test
§ 40:73	— — — —Actual malice standard
§ 40:74	— — — — —Supreme Court of Ohio
§ 40:75	— — — — —11th Appellate District
§ 40:76	Publication
§ 40:77	—Compelled self-publication
§ 40:78	— —Second Appellate District
§ 40:79	— —Seventh Appellate District
§ 40:80	— —Eighth Appellate District
§ 40:81	— —Northern District of Ohio
§ 40:82	—Excessive publication, as defeating privilege
§ 40:83	—Neutral reportage doctrine
§ 40:84	—Publication, requirement of—Ohio Supreme Court
§ 40:85	Parties—Plaintiffs—Generally
§ 40:86	— —Deceased persons
§ 40:87	— —For profit corporations
§ 40:88	— —Not for profit corporations
§ 40:89	— —Partnerships and associations
§ 40:90	— —Group defamation
§ 40:91	— —Defendants—Generally
§ 40:92	— —Vicarious liability; employers
§ 40:93	— — —Second Appellate District
§ 40:94	— — —Sixth Appellate District
§ 40:95	— —Telecommunication; radio, televisions, etc
§ 40:96	Construction principles—Generally
§ 40:97	—Inducement
§ 40:98	—Colloquium
§ 40:99	—Innuendo
§ 40:100	— —Sixth Appellate District
§ 40:101	—Innocent construction
§ 40:102	— —Seventh Appellate District
§ 40:103	— —12th Appellate District
§ 40:104	— —Southern District of Ohio
§ 40:105	—Headlines
§ 40:106	— —12th Appellate District

- § 40:107 Evidence
- § 40:108 —Second Appellate District
- § 40:109 —Nonactionability of opinion
- § 40:110 — —Opinion in general
- § 40:111 — — —First Appellate District
- § 40:112 — — —Eighth Appellate District
- § 40:113 — —Opinions in illustrations
- § 40:114 — — —Supreme Court of Ohio
- § 40:115 — — —Fifth Appellate District
- § 40:116 — — —Eighth Appellate District
- § 40:117 — — —10th Appellate District
- § 40:118 — — —12th Appellate District
- § 40:119 — —Present status of common-law “fair comment” doctrine
- § 40:120 Practice and procedure—Pleadings
- § 40:121 —Summary judgment practice—Generally
- § 40:122 — —Summary judgment granted
- § 40:123 — —Summary judgment denied
- § 40:124 Questions for the court
- § 40:125 Questions for the jury
- § 40:126 Imputation of crime or criminal offense—Generally
- § 40:127 False communications or report that plaintiff has been arrested—Ninth Appellate District
- § 40:128 Imputation of crime or criminal offense—False statement or report that plaintiff has been indicted or is under indictment
- § 40:129 —Charge of being a “crook”
- § 40:130 Imputation of Crime or criminal offense—Accusation or imputation of commission of particular crime or criminal offense
- § 40:131 Imputation of crime or criminal offense—Accusation or imputation of commission of particular crime or criminal offense—Ninth Appellate District
- § 40:132 Imputation of disease—Generally
- § 40:133 — —Supreme Court of Ohio
- § 40:134 — —Eighth Appellate District
- § 40:135 —Insanity and other mental incompetence or emotional instability
- § 40:136 Imputations of unchastity, sexual activity, or homosexuality—Generally
- § 40:137 —Calling one a “slut” or a “bitch”
- § 40:138 —Eighth Appellate District
- § 40:139 —Calling one a “slut” or a “bitch”—12th Appellate District
- § 40:140 Imputations adversely affecting one’s business, trade, calling, or professions—Generally
- § 40:141 Imputations adversely affecting one’s business, trade, calling, or professions—Attorneys
- § 40:142 — —Supreme Court of Ohio
- § 40:143 — —First Appellate District
- § 40:144 — —Ninth Appellate District
- § 40:145 — —10th Appellate District
- § 40:146 — —11th Appellate District

TABLE OF CONTENTS

§ 40:147	—Physicians, similar medical art healers; dentists; nurses
§ 40:148	Imputations adversely affection one’s business, trade, calling or professions—Physicians, similar medical art healers; dentists; nurses—First Appellate District
§ 40:149	Imputations adversely affection one’s business, trade, calling, or professions—Physicians, similar medical art healers; dentists; nurses—Sixth Appellate District
§ 40:150	—Seventh Appellate District
§ 40:151	—12th Appellate District
§ 40:152	—Psychiatrists, psychologists, counselors, social workers—First Appellate District
§ 40:153	—Clergymen
§ 40:154	—Eighth Appellate District
§ 40:155	—School teacher and principals
§ 40:156	—Sixth Appellate District
§ 40:157	—Professional athletes or sports figures—Eighth Appellate District
§ 40:158	—12th Appellate District
§ 40:159	—Employees, laborers, unions, and other labor organizations
§ 40:160	—Supreme Court of Ohio
§ 40:161	—Second Appellate District
§ 40:162	—Sixth Appellate District
§ 40:163	—Eighth Appellate District
§ 40:164	—Ninth Appellate District
§ 40:165	—11th Appellate District
§ 40:166	—Business credit, insolvency, and the like
§ 40:167	—10th Appellate District
§ 40:168	Imputation of objectionable political, social principles, racial, or religious intolerance, statements reflecting on religious belief, standing, or activities, or on race, color, or nationality
§ 40:169	Employment Evaluations
§ 40:170	Employment References—Third Appellate District
§ 40:171	Facts, requirement of
§ 40:172	Falsity, proof of
§ 40:173	Group libel
§ 40:174	Hyperbole and loose, figurative speech
§ 40:175	—10th Appellate District
§ 40:176	—12th Appellate District
§ 40:177	—Southern District of Ohio
§ 40:178	Implication, defamation by
§ 40:179	Innocent construction rule
§ 40:180	—Second Appellate District
§ 40:181	—Third Appellate District
§ 40:182	—Fifth Appellate District
§ 40:183	—Seventh Appellate District
§ 40:184	—Eighth Appellate District
§ 40:185	—Ninth Appellate District
§ 40:186	—10th Appellate District
§ 40:187	Judicial and quasi-judicial proceedings

- § 40:188 Libel-proof doctrine
- § 40:189 Malice
- § 40:190 —Common-law malice
- § 40:191 —Constitutional Malice
- § 40:192 —Constitutional malice—Supreme Court of Ohio
- § 40:193 — —Sixth Appellate District
- § 40:194 — —Eighth Appellate District
- § 40:195 — —Ninth Appellate District
- § 40:196 — —11th Appellate District
- § 40:197 — —12th Appellate District
- § 40:198 Opinion rule
- § 40:199 —Milkovich rule
- § 40:200 —Supreme Court of Ohio
- § 40:201 —Eighth Appellate District
- § 40:202 —10th Appellate District
- § 40:203 Libel by question
- § 40:204 Libel by gesture, photograph, or cartoon
- § 40:205 Libel by jest, joke, humor, or ridicule
- § 40:206 Disparagement of goods, trade libel, injurious falsehood, or false words—Generally
- § 40:207 —Elements
- § 40:208 —Distinctions
- § 40:209 —Publication
- § 40:210 —Disparaging statement; plain and natural meaning of words
- § 40:211 —Falsity & malice
- § 40:212 —Supreme Court of Ohio
- § 40:213 —Remedies
- § 40:214 —Damages
- § 40:215 — —Compensatory
- § 40:216 —Defenses
- § 40:217 Slander/disparagement of title—Generally
- § 40:218 —Definition and nature
- § 40:219 —Similarities and distinctions
- § 40:220 —Elements and requisites
- § 40:221 —First Appellate District
- § 40:222 —10th Appellate District
- § 40:223 —Special damages (compensatory); pecuniary loss
- § 40:224 —Sufficiency of allegations or of evidence
- § 40:225 —Litigation and related expenses; attorney’s fees
- § 40:226 —Defenses
- § 40:227 Slander/disparagement of credit
- § 40:228 False words
- § 40:229 —Commercial speech
- § 40:230 Defenses and privileges
- § 40:231 Defenses & privileges—Effect of truth
- § 40:232 Defenses and privileges—Consent
- § 40:233 —Absolute privilege
- § 40:234 —Judicial proceedings

TABLE OF CONTENTS

§ 40:235	— — Supreme Court of Ohio
§ 40:236	— — Second Appellate District
§ 40:237	— — Sixth Appellate District
§ 40:238	— — 11th Appellate District
§ 40:239	— Business communication—First Appellate District
§ 40:240	— — Second Appellate District
§ 40:241	— — Third Appellate District
§ 40:242	— — Fourth Appellate District
§ 40:243	— — Sixth Appellate District
§ 40:244	— — Ninth Appellate District
§ 40:245	— — 11th Appellate District
§ 40:246	— — Northern District of Ohio
§ 40:247	— Attorneys
§ 40:248	— — Eighth Appellate District
§ 40:249	— — Ninth Appellate District
§ 40:250	— Judicial officers
§ 40:251	— Parties to litigation
§ 40:252	— — 10th Appellate District
§ 40:253	— Jurors, petit and grand
§ 40:254	— Witnesses
§ 40:255	— — Second Appellate District
§ 40:256	— Legislative proceedings
§ 40:257	— — Ninth Appellate District
§ 40:258	— — Witness in a legislative proceeding
§ 40:259	— — — Fourth Appellate District
§ 40:260	— — — Eighth Appellate District
§ 40:261	— Executive officers in discharge of duties
§ 40:262	— — 10th Appellate District
§ 40:263	— Husband and wife
§ 40:264	— Publication required by law
§ 40:265	— Qualified or conditional privilege
§ 40:266	— — Nature of defense; burden of proof
§ 40:267	— — Elements
§ 40:268	— — Interests protected; self-interest of communicator
§ 40:269	— — Family relationship
§ 40:270	— — Attorneys
§ 40:271	— — Physicians and other healing arts practitioners
§ 40:272	— — Insurance companies, insureds and so on—Eighth Appellate District
§ 40:273	— — — Ninth Appellate District
§ 40:274	— — Reporters, newspapers, media
§ 40:275	— — Employees—Privilege upheld—Eighth Appellate District
§ 40:276	— — — 11th Appellate District
§ 40:277	Defenses & privileges—Qualified or conditional privilege—Employees—Privilege denied
§ 40:278	Defenses and privileges—Qualified or conditional privilege—Publishing employee’s work record or qualifications—Third Appellate District
§ 40:279	— — — Sixth Appellate District

- § 40:280 — — —Northern District of Ohio
- § 40:281 — —Matters relating to labor unions
- § 40:282 — — —Fifth Appellate District
- § 40:283 — — —11th Appellate District
- § 40:284 — —Reports of official proceedings or of public meetings
- § 40:285 — —Publication of testimony
- § 40:286 — —Legislative, executive, or official proceeding
- § 40:287 — —Statutory development
- § 40:288 — —Fair comment
- § 40:289 — —Fair reporting privilege
- § 40:290 — —Abuse of privilege—Generally
- § 40:291 — —Knowledge of falsity or reckless disregard of truth
- § 40:292 — —Libel proof plaintiff
- § 40:293 — —Retraction
- § 40:294 Damages—Generally
- § 40:295 — —Nominal
- § 40:296 — —Compensatory—Generally
- § 40:297 — —Special harm or damage
- § 40:298 — —Emotional distress
- § 40:299 — —Presumed
- § 40:300 — —Excessiveness, adequacy or inadequacy
- § 40:301 — —Eighth Appellate District
- § 40:302 — —Punitive—Generally
- § 40:303 — —Excessiveness or inadequacy
- § 40:304 — —United States Supreme Court
- § 40:305 — —Sixth Circuit Court of Appeals
- § 40:306 — —Special
- § 40:307 — —Second Appellate District

CHAPTER 41. EMPLOYER—EMPLOYEE (MASTER—SERVANT) TORTIOUS RELATIONSHIPS

- § 41:1 Generally
- § 41:2 Employee inventions
- § 41:3 Employee’s shop right or license invention
- § 41:4 Protecting against the establishment of a shop right
- § 41:5 — —Ohio Supreme Court
- § 41:6 — —Second Appellate District
- § 41:7 — —Sixth Appellate District
- § 41:8 — —10th Appellate District
- § 41:9 Employee’s use of former employer’s confidential information of trade secrets
- § 41:10 — —Ohio Supreme Court
- § 41:11 Memorized information
- § 41:12 Presumptions
- § 41:13 Solicitation of former customers
- § 41:14 — —First Appellate District
- § 41:15 — —Fifth Appellate District

TABLE OF CONTENTS

§ 41:16	—Sixth Appellate District
§ 41:17	—Eighth Appellate District
§ 41:18	—Ninth Appellate District
§ 41:19	—10th Appellate District
§ 41:20	—11th Appellate District
§ 41:21	—12th Appellate District
§ 41:22	Solicitation of former employer’s customers’ customer list
§ 41:23	—Ohio Supreme Court
§ 41:24	—First Appellate District
§ 41:25	—Second Appellate District
§ 41:26	—Sixth Appellate District
§ 41:27	—Eighth Appellate District
§ 41:28	—10th Appellate District
§ 41:29	—11th Appellate District
§ 41:30	—12th Appellate District
§ 41:31	Stealing, inducing, enticing, luring away at-will employees by third person, former employee, or both—General rule denying liability
§ 41:32	—Fair competition as a defense
§ 41:33	—Ohio Supreme Court
§ 41:34	Independent and general contractors and inherent danger rule
§ 41:35	Inherently dangerous defined
§ 41:36	Inherent danger rule and asbestos
§ 41:37	Breach of collateral contract, or violation of restrictive covenant
§ 41:38	Waiver and abandonment of restrictive covenants
§ 41:39	Restrictive covenants and the use of property
§ 41:40	—Ohio Supreme Court
§ 41:41	—Second Appellate District
§ 41:42	—Sixth Appellate District
§ 41:43	—Seventh Appellate District
§ 41:44	Breach of fiduciary duty—Fiduciary relationship defined
§ 41:45	Unjustified interference with business relations
§ 41:46	—Ohio Supreme Court
§ 41:47	—Eighth Appellate District
§ 41:48	Unfair competition; unreasonable restraint of trade
§ 41:49	—Reasonable factors
§ 41:50	Noncompete covenant
§ 41:51	Noncompete Covenant—Ohio Supreme Court
§ 41:52	—First Appellate District
§ 41:53	Noncompete covenant—Second Appellate District
§ 41:54	—Third Appellate District
§ 41:55	—Fourth Appellate District
§ 41:56	—Fifth Appellate District
§ 41:57	—Sixth Appellate District
§ 41:58	—Seventh Appellate District
§ 41:59	—Eighth Appellate District
§ 41:60	—Ninth Appellate District
§ 41:61	—10th Appellate District
§ 41:62	—11th Appellate District

§ 41:63 —12th Appellate District

CHAPTER 42. EMPLOYER LIABILITY FOR INJURY TO EMPLOYEES

- § 42:1 Generally
- § 42:2 Common-law liability
- § 42:3 Safety devices and training procedures—First District Court of Appeals
- § 42:4 —Second District Court of Appeals
- § 42:5 —Third District Court of Appeals
- § 42:6 —Fourth District Court of Appeals
- § 42:7 —Fifth District Court of Appeals
- § 42:8 —Sixth District Court of Appeals
- § 42:9 —Seventh District Court of Appeals
- § 42:10 —Eighth District Court of Appeals
- § 42:11 —Ninth District Court of Appeals
- § 42:12 —10th District Court of Appeals
- § 42:13 —11th District Court of Appeals
- § 42:14 —12th District Court of Appeals
- § 42:15 —Ohio Supreme Court
- § 42:16 Injury caused by a third party—First District Court of Appeals
- § 42:17 —Second District Court of Appeals
- § 42:18 —Third District Court of Appeals
- § 42:19 —Fourth District Court of Appeals
- § 42:20 —Fifth District Court of Appeals
- § 42:21 —Sixth District Court of Appeals
- § 42:22 —Seventh District Court of Appeals
- § 42:23 —Eighth District Court of Appeals
- § 42:24 —Ninth District Court of Appeals
- § 42:25 —10th District Court of Appeals
- § 42:26 —11th District Court of Appeals
- § 42:27 —12th District Court of Appeals
- § 42:28 —Ohio Supreme Court
- § 42:29 Duty to provide a safe work place—Generally
- § 42:30 —Statutory and common law
- § 42:31 —Frequenters
- § 42:32 —Independent Contractors
- § 42:33 —Employees falling, being struck, electrocuted, or exposed to materials—First District Court of Appeals
- § 42:34 — —Second District Court of Appeals
- § 42:35 — —Third District Court of Appeals
- § 42:36 — —Fourth District Court of Appeals
- § 42:37 — —Fifth District Court of Appeals
- § 42:38 — —Sixth District Court of Appeals
- § 42:39 — —Seventh District Court of Appeals
- § 42:40 — —Eighth District Court of Appeals
- § 42:41 — —Ninth District Court of Appeals
- § 42:42 — —10th District Court of Appeals

TABLE OF CONTENTS

§ 42:43	— —11th District Court of Appeals
§ 42:44	— —12th District Court of Appeals
§ 42:45	— —Ohio Supreme Court
§ 42:46	—Simple tool doctrine
§ 42:47	— —Tools to which applicable
§ 42:48	— —First District Court of Appeals
§ 42:49	— —Second District Court of Appeals
§ 42:50	— —Sixth District Court of Appeals
§ 42:51	— —Seventh District Court of Appeals
§ 42:52	— —Ohio Supreme Court
§ 42:53	— —Circuit court
§ 42:54	— —Defenses—Fellow-servant doctrine
§ 42:55	— — —Assumption of the risk
§ 42:56	— — — —Second District Court of Appeals
§ 42:57	— — — —Third District Court of Appeals
§ 42:58	— — — —Sixth District Court of Appeals
§ 42:59	— — — —Seventh District Court of Appeals
§ 42:60	— — — —10th District Court of Appeals
§ 42:61	— — — —Ohio Supreme Court
§ 42:62	Statutory prohibition against employment—Minors
§ 42:63	— —Second District Court of Appeals
§ 42:64	— —Eighth District Court of Appeals
§ 42:65	— —Ohio Supreme Court
§ 42:66	Defenses—Contributory/comparative negligence
§ 42:67	—Assumption of the risk
§ 42:68	—Fellow servant doctrine
§ 42:69	—Second District Court of Appeals
§ 42:70	—Third District Court of Appeals
§ 42:71	—Sixth District Court of Appeals
§ 42:72	—Seventh District Court of Appeals
§ 42:73	—Eighth District Court of Appeals
§ 42:74	—10th District Court of Appeals
§ 42:75	—Ohio Supreme Court
§ 42:76	Acts, activities, and liability of coemployees; employer’s liability
§ 42:77	—First District Court of Appeals
§ 42:78	—Second District Court of Appeals
§ 42:79	—Third District Court of Appeals
§ 42:80	—Sixth District Court of Appeals
§ 42:81	—Seventh District Court of Appeals
§ 42:82	—Eighth District Court of Appeals
§ 42:83	—Ninth District Court of Appeals
§ 42:84	—10th District Court of Appeals
§ 42:85	—Ohio Supreme Court
§ 42:86	Federal Employers’ Liability Act (FELA)
§ 42:87	Federal Employers’ Liability Act—Statute of limitations
§ 42:88	—Employers to whom Act applies
§ 42:89	—Persons entitled to recover under Act
§ 42:90	—Negligence and negligent infliction of emotional distress

- § 42:91 —First District Court of Appeals
- § 42:92 —Sixth District Court of Appeals
- § 42:93 —Eighth District Court of Appeals
- § 42:94 —10th District Court of Appeals
- § 42:95 —Ohio Supreme Court
- § 42:96 Federal Locomotive Inspection Act (LIA)
- § 42:97 Federal Locomotive Inspection Act—Eighth District
- § 42:98 Safety Appliance Act
- § 42:99 —First District Court of Appeals
- § 42:100 —Sixth District Court of Appeals
- § 42:101 —Eighth District Court of Appeals
- § 42:102 —10th District Court of Appeals
- § 42:103 —Ohio Supreme Court
- § 42:104 Locomotive Boiler Inspection Act (LBIA)
- § 42:105 Workers' compensation—Scope of coverage
- § 42:106 —Defenses
- § 42:107 —Covered employees
- § 42:108 —Exclusive nature of worker's compensation remedy against employer—Dual capacity doctrine
- § 42:109 —Intentional injuries by employers
- § 42:110 — —Substantial certainty
- § 42:111 —Intentional injuries by coemployee
- § 42:112 —Third-party actions
- § 42:113 — —Eighth District Court of Appeals
- § 42:114 — —Ohio Supreme Court
- § 42:115 —Compensable injuries—Psychological injuries
- § 42:116 — —Preexisting condition
- § 42:117 — —Intoxication/drug use
- § 42:118 — — —Eighth District Court of Appeals
- § 42:119 — — —Ninth District Court of Appeals
- § 42:120 — — —Ohio Supreme Court
- § 42:121 — —Willful misconduct
- § 42:122 — — —10th District Court of Appeals
- § 42:123 Illegally employed minors and child labor laws
- § 42:124 —Fair Labor Standards Act
- § 42:125 Construction workers
- § 42:126 Construction workers'—First District Court of Appeals
- § 42:127 —Third District Court of Appeals
- § 42:128 —Fourth District Court of Appeals
- § 42:129 —Sixth District Court of Appeals
- § 42:130 —Seventh District Court of Appeals
- § 42:131 —Eighth District Court of Appeals
- § 42:132 —10th District Court of Appeals
- § 42:133 —Ohio Supreme Court
- § 42:134 —Contractor in control of premises—Unsafe methods of operation
- § 42:135 — —Duty to provide shoring
- § 42:136 —Contractor not in control of premises—Liability for inherently dangerous work

TABLE OF CONTENTS

§ 42:137	— — —First District Court of Appeals
§ 42:138	— — —Second District Court of Appeals
§ 42:139	— — —Third District Court of Appeals
§ 42:140	— — —Fourth District Court of Appeals
§ 42:141	— — —Fifth District Court of Appeals
§ 42:142	— — —Sixth District Court of Appeals
§ 42:143	— — —Seventh District Court of Appeals
§ 42:144	— — —Eighth District Court of Appeals
§ 42:145	— — —Ninth District Court of Appeals
§ 42:146	— — —10th District Court of Appeals
§ 42:147	— — —11th District Court of Appeals
§ 42:148	— — —12th District Court of Appeals
§ 42:149	Injuries to seaman—Vessel crew members

CHAPTER 43. EXCULPATORY CONTRACTS

§ 43:1	Generally
§ 43:2	Exculpatory contracts and public policy
§ 43:3	Limitations to exculpatory contract laws
§ 43:4	Unconscionability defined
§ 43:5	Willful or wanton conduct
§ 43:6	Clear and unequivocal terms
§ 43:7	Interpreting an exculpatory contract
§ 43:8	Interpreting common words in an exculpatory contract
§ 43:9	Interpreting an exemption
§ 43:10	Avoiding the effect of an exculpatory contract
§ 43:11	Particular applications
§ 43:12	—First Appellate District
§ 43:13	—Second Appellate District
§ 43:14	—Third Appellate District
§ 43:15	—Fourth Appellate District
§ 43:16	—Fifth Appellate District
§ 43:17	—Sixth Appellate District
§ 43:18	—Seventh Appellate District
§ 43:19	—Eighth Appellate District
§ 43:20	—Ninth Appellate District
§ 43:21	—10th Appellate District
§ 43:22	—11th Appellate District
§ 43:23	—12th Appellate District
§ 43:24	Leases
§ 43:25	—First Appellate District
§ 43:26	—Third Appellate District
§ 43:27	—Sixth Appellate District
§ 43:28	—10th Appellate District
§ 43:29	—11th Appellate District
§ 43:30	Commercial transactions
§ 43:31	Employers and employees
§ 43:32	—Definition of a servant
§ 43:33	Common carriers

- § 43:34 —The Second Cummins Amendment
- § 43:35 —Liabilities
- § 43:36 —Acts of God
- § 43:37 —Receiving property
- § 43:38 —Conversion
- § 43:39 —Interstate
- § 43:40 Bailees for hire—Generally
- § 43:41 —Parking lots
- § 43:42 —Tokens for identification
- § 43:43 Innkeepers
- § 43:44 —Eighth Appellate District
- § 43:45 Telegraph companies
- § 43:46 Hospitals and health-care facilities
- § 43:47 Effect of exculpatory contracts on noncontracting parties
- § 43:48 —First Appellate District
- § 43:49 —Fifth Appellate District
- § 43:50 —10th Appellate District
- § 43:51 Asserting an exculpatory contract defense—Fourth Appellate District
- § 43:52 —Fifth Appellate District
- § 43:53 —Ninth Appellate District
- § 43:54 —11th Appellate District

CHAPTER 44. FRAUD AND DECEIT

- § 44:1 Fraud
- § 44:2 Deceit
- § 44:3 Concealment
- § 44:4 Fraudulent concealment
- § 44:5 Fraudulent misrepresentation
- § 44:6 Negligent misrepresentation
- § 44:7 —First Appellate Court
- § 44:8 —Second Appellate Court
- § 44:9 —Third Appellate Court
- § 44:10 —Sixth Appellate Court
- § 44:11 —Eighth Appellate Court
- § 44:12 —Ninth Appellate Court
- § 44:13 —10th Appellate Court
- § 44:14 —Municipal Court
- § 44:15 Innocent misrepresentation
- § 44:16 Fraud—Generally
- § 44:17 —Effect
- § 44:18 —As a defense
- § 44:19 —Types
- § 44:20 — —Actual fraud
- § 44:21 — — —Ohio Supreme Court
- § 44:22 — — —Second Appellate District
- § 44:23 — —Constructive or legal fraud
- § 44:24 — — —First Appellate District

TABLE OF CONTENTS

§ 44:25	— — —Second Appellate District
§ 44:26	— — —Fourth Appellate District
§ 44:27	— —Constructive or Legal Fraud—11th Appellate District
§ 44:28	—Elements
§ 44:29	Misrepresentation
§ 44:30	Fraudulent misrepresentation
§ 44:31	Misrepresentation of real property
§ 44:32	Negligent misrepresentation
§ 44:33	—Liability
§ 44:34	—Restatement provision
§ 44:35	Misrepresentation—Methods
§ 44:36	— —Duty to disclose
§ 44:37	— — —Restatement provisions
§ 44:38	— — —Distinction between mere silence and concealment
§ 44:39	— — —Contrast to duty to speak
§ 44:40	— — —Second Appellate District
§ 44:41	— — —Third Appellate District
§ 44:42	— — —Fourth Appellate District
§ 44:43	—Method—Duty to disclose—Fifth Appellate District
§ 44:44	—Methods—Duty to disclose—Sixth Appellate District
§ 44:45	— — —Seventh Appellate District
§ 44:46	— — —Eighth Appellate District
§ 44:47	— — —Ninth Appellate District
§ 44:48	— — —10th Appellate District
§ 44:49	— — —12th Appellate District
§ 44:50	— — —Partial disclosure—Third Appellate District
§ 44:51	— — — —Fifth Appellate District
§ 44:52	— — —Sales disclosures—Fifth Appellate District
§ 44:53	— — — —Sixth Appellate District
§ 44:54	— — — —Ninth Appellate District
§ 44:55	— — — —11th Appellate District
§ 44:56	— — —Nondisclosure coupled with tricks, artifices, or misrepresentations—First Appellate District
§ 44:57	— — — —12th Appellate District
§ 44:58	— —Ambiguous representation, construction of language
§ 44:59	— —Representation erroneously expressed
§ 44:60	— —Representation misleading or incomplete
§ 44:61	— —Fact or opinion
§ 44:62	— —Distinction between statements of fact and matters of opinion
§ 44:63	— —Exceptions to, and qualifications of, rules as to opinionative matter
§ 44:64	— —Relation of trust and confidence; effect of superior knowledge
§ 44:65	— — —Professional advisor opinion
§ 44:66	— —Opinion deliberately given falsely with intent to deceive
§ 44:67	— —Commendatory trade talk; puffing
§ 44:68	— —Matters of futurity, mere promises
§ 44:69	— —Matters of futurity, mere promise—Promissory statements and assertions as to future intentions

- § 44:70 —Matters of futurity, mere promises—Eighth Appellate District
- § 44:71 — — —10th Appellate District
- § 44:72 — — —Celina Municipal Courts
- § 44:73 — — —Exceptions
- § 44:74 — —Matters as to law
- § 44:75 —Knowledge of falsity
- § 44:76 — —Necessity and effect of belief of representor in truth of representation
- § 44:77 — —Federal district
- § 44:78 — —10th Appellate District
- § 44:79 — —12th Appellate District
- § 44:80 — —Ohio bankruptcy court
- § 44:81 — —Circumstances precluding belief
- § 44:82 — — —Fifth Appellate District
- § 44:83 — — —Sixth Appellate District
- § 44:84 — — —11th Appellate District
- § 44:85 — —Qualified statements
- § 44:86 — —Duty to know facts; forgetfulness
- § 44:87 — —Statements made as of personal knowledge, unqualifiedly and recklessly
- § 44:88 — —Plaintiff's lack of shown knowledge
- § 44:89 — —Duty to investigate—Sixth Appellate District
- § 44:90 — — —Eighth Appellate District
- § 44:91 — — —Effect of investigation
- § 44:92 —Intent to deceive
- § 44:93 — —Representations made directly or indirectly
- § 44:94 — —Immateriality of motive
- § 44:95 —Falsity
- § 44:96 — —Representation erroneously expressed
- § 44:97 — —Partial truths; incomplete representations
- § 44:98 — —Eighth Appellate District
- § 44:99 — —Ninth Appellate District
- § 44:100 — —10th Appellate District
- § 44:101 —Reliance; expectation of influencing conduct
- § 44:102 —Reliance—Restatement provisions
- § 44:103 — —Right to rely; justifiable reliance
- § 44:104 — — —Restatement provisions
- § 44:105 — —Qualifications of general rule
- § 44:106 — — —Parole evidence unable to demonstrate reliance
- § 44:107 — — —Parole evidence enable to demonstrate reliance—United States Supreme Court
- § 44:108 — — —Parole evidence unable to demonstrate reliance—First Appellate District
- § 44:109 — — — —Second Appellate District
- § 44:110 — — — —Seventh Appellate District
- § 44:111 — — — —Eighth Appellate District
- § 44:112 —Liability
- § 44:113 Deceit

TABLE OF CONTENTS

- § 44:114 —Remedies
- § 44:115 — —Equitable remedy of rescission
- § 44:116 — —Restitution
- § 44:117 —Fraudulent transfers
- § 44:118 —Recognizing fraudulent transfers in Ohio
- § 44:119 —Fraudulent transfer: actual intent to defraud
- § 44:120 Damages—Second Appellate District
- § 44:121 —11th Appellate District

CHAPTER 45. INDEPENDENT CONTRACTORS

- § 45:1 Relationships—Independent contractor
- § 45:2 —Principal
- § 45:3 —Agent
- § 45:4 —Servant
- § 45:5 —Employee
- § 45:6 —Independent contractor as distinguished from master/servant or principal/agent
- § 45:7 —Effect of independent contractor relationship on tort liability
- § 45:8 — —Exceptions to the rule
- § 45:9 — — —Inherently dangerous activity
- § 45:10 — — — —Nuisances
- § 45:11 — — —Nondelegable duty doctrine
- § 45:12 — —Where the employer is at fault
- § 45:13 — —Agency by estoppel
- § 45:14 — — —First District
- § 45:15 — — —Second District
- § 45:16 — — —Third District
- § 45:17 — — —Fourth District
- § 45:18 — — —Fifth District
- § 45:19 — — —Sixth District
- § 45:20 — — —Seventh District
- § 45:21 — — —Eight District
- § 45:22 — — —Ninth District
- § 45:23 — — —10th District
- § 45:24 — — —11th District
- § 45:25 —Effect of Independent Contractor Relationship on Tort Liability—Agency by estoppel—12th District
- § 45:26 —Effect of independent contractor relationship on tort liability—Agency by estoppel—Supreme Court of Ohio
- § 45:27 — — —Court of common pleas
- § 45:28 — — —Court of claims
- § 45:29 Liability of Landowner
- § 45:30 Liability of landowner—No duty to employee
- § 45:31 —Duty to employee
- § 45:32 —Negligence of independent contractor not imputed on landowner
- § 45:33 —Negligence of independent contractor *is* imputed on landowner
- § 45:34 —Inherently dangerous work
- § 45:35 —Premises left in dangerous condition due to contractor’s negligence

- § 45:36 —Landowner seeking to repair dangerous premises
- § 45:37 —First District
- § 45:38 —Second District
- § 45:39 —Third District
- § 45:40 —Fourth District
- § 45:41 —Fifth District
- § 45:42 —Sixth District
- § 45:43 —Seventh District
- § 45:44 —Eight District
- § 45:45 —Ninth District
- § 45:46 —10th District
- § 45:47 —11th District
- § 45:48 —12th District
- § 45:49 —Supreme Court of Ohio
- § 45:50 —Court of common pleas
- § 45:51 —Liability of city as employer of independent contractor
- § 45:52 — —First District
- § 45:53 — —Third District
- § 45:54 — —Fifth District
- § 45:55 — —Sixth District
- § 45:56 — —Seventh District
- § 45:57 — —Eight District
- § 45:58 — —Ninth District
- § 45:59 — —10th District
- § 45:60 — —11th District
- § 45:61 — —Supreme Court of Ohio
- § 45:62 — —Court of common pleas
- § 45:63 — —Circuit Court of Ohio
- § 45:64 —Liability of hospital as employer of independent contractor
- § 45:65 — —Agency by estoppel
- § 45:66 — —Agency by estoppel in the emergency room
- § 45:67 — —Non-delegable duty doctrine
- § 45:68 — —Negligence in selecting or retaining independent contractor
- § 45:69 — — —First District
- § 45:70 — — —Second District
- § 45:71 — — —Third District
- § 45:72 — — —Fourth District
- § 45:73 — — —Fifth District
- § 45:74 — — —Sixth District
- § 45:75 — — —Seventh District
- § 45:76 — — —Eight District
- § 45:77 — — —Ninth District
- § 45:78 — — —10th District
- § 45:79 — — —11th District
- § 45:80 — — —12th District
- § 45:81 — — —Supreme Court of Ohio

CHAPTER 46. INTERFERENCE WITH CONTRACTUAL OR BUSINESS RELATIONS

- § 46:1 Generally

TABLE OF CONTENTS

§ 46:2	Definition of interference with contractual relations
§ 46:3	Definition of interference with business relations
§ 46:4	General recognition of doctrine
§ 46:5	Criteria under <i>Kenty</i> for interference with a contract
§ 46:6	Tortious interference before <i>Kenty</i>
§ 46:7	Nonactionability of interference with the performance of one's own contract
§ 46:8	—Ohio Supreme Court
§ 46:9	—Seventh Appellate District
§ 46:10	—Eighth Appellate District
§ 46:11	—10th Appellate District
§ 46:12	Liability of agents
§ 46:13	—Supreme Court
§ 46:14	—United States District Court, Southern District of Ohio
§ 46:15	Liability of corporate directors, officers, or employees
§ 46:16	—United States Court of Appeals, Sixth Circuit
§ 46:17	—Eighth Appellate District
§ 46:18	—10th Appellate District
§ 46:19	Negligent interference
§ 46:20	—Physical harm exception
§ 46:21	Elements of tortious interference
§ 46:22	—Necessity of contract
§ 46:23	— —Elements of a contract
§ 46:24	— —Types of contract
§ 46:25	— —Contract types to sustain tortious interference
§ 46:26	— —Eligible parties
§ 46:27	— —Third-party beneficiary
§ 46:28	— —Contracts terminable at will
§ 46:29	— —Contracts not terminable at will
§ 46:30	— —Voidable contracts
§ 46:31	— —Invalid or unenforceable contracts
§ 46:32	— —Void contracts
§ 46:33	— —Contract void under Statute of Frauds
§ 46:34	— —Parole evidence rule applied to make a contract void
§ 46:35	— —Void insurance policy
§ 46:36	— —Void contracts and the issue of standing
§ 46:37	—Inducing breach of contract
§ 46:38	—Causation factors
§ 46:39	—Defendant's knowledge of contract
§ 46:40	—Defendant's intent and purpose
§ 46:41	— —Defendant's "Malice"
§ 46:42	— —Malice standard differs from the defamation standard
§ 46:43	— —Defendant's motive to injure plaintiff
§ 46:44	Exceptions
§ 46:45	Interference must be "Improper"
§ 46:46	Competition as proper or improper interference
§ 46:47	Defenses
§ 46:48	—Justification

- § 46:49 —Privilege
- § 46:50 —Qualified privilege
- § 46:51 —Competition
- § 46:52 —Protection of economic or welfare interest
- § 46:53 —Advice or truthful information
- § 46:54 —Protecting own interests
- § 46:55 —Labor Management Relations Act
- § 46:56 Damages
- § 46:57 —Calculation
- § 46:58 — —Lost profits
- § 46:59 —Punitive
- § 46:60 —Attorney’s fees
- § 46:61 —Purely economic loss
- § 46:62 Harassment
- § 46:63 Real estate transactions
- § 46:64 Professional relations—Accountants
- § 46:65 —Attorneys—Supreme Court of Ohio
- § 46:66 — —Eighth Appellate District
- § 46:67 — —10th Appellate District
- § 46:68 —Physicians—First Appellate District
- § 46:69 — —Fifth Appellate District
- § 46:70 — —Eighth Appellate District
- § 46:71 — —11th Appellate District
- § 46:72 Employer-employee relations
- § 46:73 Noncompetition agreements
- § 46:74 Construction
- § 46:75 Interference with business relationship
- § 46:76 Distinction from tortious interference with a contract
- § 46:77 Foundation of interference with a business relationship
- § 46:78 Deceptive trade practice
- § 46:79 Dispensing with necessity of contract
- § 46:80 Business relationship
- § 46:81 Knowledge
- § 46:82 Damages
- § 46:83 Defenses—Privilege
- § 46:84 Industry regulations—Horse industry
- § 46:85 —Radiology technicians
- § 46:86 Interference by noncompetitor—Governmental; city; allegations
or evidence not sufficient
- § 46:87 Other governmental agents
- § 46:88 Interference by public utility
- § 46:89 Interference by former employer with employee’s future
employment
- § 46:90 Distributorship or dealership—Interference by supplier
- § 46:91 Franchise
- § 46:92 No relationship between interferer and interferee
- § 46:93 By other means—Allegations or evidence of interference
sufficient
- § 46:94 Interference with prospective or future contractual relationships

TABLE OF CONTENTS

§ 46:95	Interference with contract for sale of business, stock, or real property
§ 46:96	Interference with building construction or paving contract
§ 46:97	Interference with lease of sublease agreement, or contract for sale or lease
§ 46:98	Defenses—Privilege—Financial interest
§ 46:99	— —Advice
§ 46:100	Interference with inheritance of gift
§ 46:101	—Jurisdiction
§ 46:102	—Suppression, spoliation, destruction, or loss of will
§ 46:103	—Deprivation of inheritance by inducing inter vivos transfer— Fourth Appellate District
§ 46:104	— —Eighth Appellate District
§ 46:105	— —12th Appellate District
§ 46:106	— —Cuyahoga Court of Common Pleas
§ 46:107	Spoliation of evidence
§ 46:108	—Damages
§ 46:109	—Supreme Court
§ 46:110	—First Appellate District
§ 46:111	—Third Appellate District
§ 46:112	—Eighth Appellate District
§ 46:113	At-will contracts
§ 46:114	—First Appellate District
§ 46:115	—Ninth Appellate District

CHAPTER 47. INTELLECTUAL PROPERTY

§ 47:1	Trademarks, service marks, and trade names—Generally
§ 47:2	Trade dress
§ 47:3	Distinctions
§ 47:4	The Lanham Act
§ 47:5	Ohio trademarks
§ 47:6	Proving likelihood of confusion
§ 47:7	—Arbitrariness of the marks
§ 47:8	—Existence of similar third-party marks
§ 47:9	—Incontestability status
§ 47:10	—Consumer recognition
§ 47:11	—Relatedness of the goods and/or services
§ 47:12	—Physical similarity
§ 47:13	—Evidence of actual confusion
§ 47:14	—Marketing channels used
§ 47:15	—Likely degree of purchaser care
§ 47:16	—Defendant’s intent in selecting the mark
§ 47:17	—Likelihood of expansion of the product lines
§ 47:18	—Fifth Circuit
§ 47:19	—Tenth Circuit
§ 47:20	Doctrine of secondary meaning
§ 47:21	—Reasonably prudent purchaser
§ 47:22	—Necessity of proving wrongful intent

- § 47:23 —Use in conjunction with specific items
- § 47:24 —Geographical limitations
- § 47:25 —Seventh District
- § 47:26 —Eighth District
- § 47:27 —Ninth District
- § 47:28 —11th District
- § 47:29 Defenses
- § 47:30 —Consent
- § 47:31 —Misuse
- § 47:32 —Invalidity
- § 47:33 —Abandonment
- § 47:34 —Estoppel by laches
- § 47:35 —Estoppel by acquiescence
- § 47:36 Relief—Preliminary injunctions
- § 47:37 —Permanent injunctions
- § 47:38 — —Second District
- § 47:39 — —Seventh District
- § 47:40 — —Supreme Court of Ohio
- § 47:41 Damages
- § 47:42 Copyright—Generally
- § 47:43 —Infringement
- § 47:44 —The Federal Copyright Act of 1976
- § 47:45 —Acceptance of federal preemption

CHAPTER 48. INTERFERENCE WITH PROSPECTIVE ADVANTAGE

- § 48:1 Generally
- § 48:2 —U.S. Southern District Ohio
- § 48:3 —Fifth District
- § 48:4 —Eighth District
- § 48:5 —Ninth District
- § 48:6 Causation—Eighth District
- § 48:7 —10th District
- § 48:8 Competitor's privilege
- § 48:9 —U.S. Sixth Circuit
- § 48:10 —U.S. Bankruptcy Southern District Ohio
- § 48:11 —Ohio Supreme Court
- § 48:12 —First District
- § 48:13 —Sixth District
- § 48:14 —Eighth District
- § 48:15 —Ninth District
- § 48:16 —10th District
- § 48:17 —11th District
- § 48:18 Damages
- § 48:19 —Lost profits—U.S. Sixth Circuit
- § 48:20 —Punitive damages—10th District
- § 48:21 Elements—U.S. Sixth Circuit
- § 48:22 —10th District

TABLE OF CONTENTS

§ 48:23	Expectancy of economic gain—10th District
§ 48:24	Intent and purpose—First District
§ 48:25	—Fifth District
§ 48:26	Intent and Purpose—10th District
§ 48:27	Justification and privilege
§ 48:28	—Supreme Court
§ 48:29	—Ohio Court of Claims
§ 48:30	—First District
§ 48:31	—Third District
§ 48:32	—Fourth District
§ 48:33	—Sixth District
§ 48:34	—Eighth District
§ 48:35	—Ninth District
§ 48:36	—10th District
§ 48:37	—12th District
§ 48:38	Legal action as interference—Third District
§ 48:39	—10th District
§ 48:40	Negligent interference—Supreme Court

CHAPTER 49. INTERFERENCE WITH LAWFUL BUSINESS

§ 49:1	Generally
§ 49:2	Policy and rationale
§ 49:3	Common law background
§ 49:4	Evolution of elements and privileges
§ 49:5	Elements—Scope
§ 49:6	—The existence of a lawful business relationship, trade, or profession
§ 49:7	—The existence of a lawful business relationship, trade, or profession—First Appellate District
§ 49:8	— —Second Appellate District
§ 49:9	— —Fourth Appellate District
§ 49:10	— —Fifth Appellate District
§ 49:11	— —Sixth Appellate District
§ 49:12	— —Seventh Appellate District
§ 49:13	— —Eighth Appellate District
§ 49:14	— —Ninth Appellate District
§ 49:15	— —10th Appellate District
§ 49:16	— —11th Appellate District
§ 49:17	— —12th Appellate District
§ 49:18	—Wrongdoer's knowledge of the existence of the business, trade, or profession
§ 49:19	—The existence of a lawful business relationship, trade, or profession—Eighth Appellate District
§ 49:20	—Purposeful intent
§ 49:21	— —First Appellate District
§ 49:22	— —Second Appellate District
§ 49:23	— —Third Appellate District

- § 49:24 — —Seventh Appellate District
- § 49:25 — —Eighth Appellate District
- § 49:26 — —10th Appellate District
- § 49:27 — —Defenses
- § 49:28 — — —Burden of proof to establish privilege
- § 49:29 — — —Ohio Supreme Court
- § 49:30 — — —First Appellate District
- § 49:31 — — —Second Appellate District
- § 49:32 — — —Third Appellate District
- § 49:33 — — —Fourth Appellate District
- § 49:34 — — —Fifth Appellate District
- § 49:35 — — —Sixth Appellate District
- § 49:36 — — —Seventh Appellate District
- § 49:37 — — —Eighth Appellate District
- § 49:38 — — —Ninth Appellate District
- § 49:39 — — —10th Appellate District
- § 49:40 — — —11th Appellate District
- § 49:41 — — —12th Appellate District
- § 49:42 —Proximate cause
- § 49:43 — —First Appellate District
- § 49:44 — —Second Appellate District
- § 49:45 — —Fifth Appellate District
- § 49:46 — —Sixth Appellate District
- § 49:47 — —Eighth Appellate District
- § 49:48 — —Ninth Appellate District
- § 49:49 — —10th Appellate District
- § 49:50 — —12th Appellate District
- § 49:51 —Actual damage
- § 49:52 — —Second Appellate District
- § 49:53 — —Third Appellate District
- § 49:54 — —Fourth Appellate District
- § 49:55 — —Fifth Appellate District
- § 49:56 — —Sixth Appellate District
- § 49:57 — —Ninth Appellate District
- § 49:58 — —10th Appellate District
- § 49:59 — —11th Appellate District
- § 49:60 Damages—Compensatory
- § 49:61 —Punitive
- § 49:62 —Doctrine of avoid consequences
- § 49:63 Injunction
- § 49:64 Affirmative defenses—Privilege in general
- § 49:65 — —Burden of proof
- § 49:66 —Competition
- § 49:67 — —First Appellate District
- § 49:68 — —Second Appellate District
- § 49:69 — —Fifth Appellate District
- § 49:70 — —Seventh Appellate District
- § 49:71 — —Eighth Appellate District

TABLE OF CONTENTS

§ 49:72	— —11th Appellate District
§ 49:73	— —12th Appellate District
§ 49:74	—Defendant’s legally protected interest
§ 49:75	— —First Appellate District
§ 49:76	— —Second Appellate District
§ 49:77	— —Third Appellate District
§ 49:78	— —Fifth Appellate District
§ 49:79	— —Sixth Appellate District
§ 49:80	— —Seventh Appellate District
§ 49:81	— —Eighth Appellate District
§ 49:82	— —Ninth Appellate District
§ 49:83	— —10th Appellate District
§ 49:84	— —11th Appellate District
§ 49:85	— —12th Appellate District
§ 49:86	—Confidential relationships and advice
§ 49:87	— —11th Appellate District
§ 49:88	— —First amendment defenses
§ 49:89	—Actions taken in the public interest
§ 49:90	— —Sixth Appellate District
§ 49:91	— —12th Appellate District
§ 49:92	Statute of limitations
§ 49:93	Actual malice defeats privilege
§ 49:94	—Ohio Supreme Court
§ 49:95	—Fourth Appellate District
§ 49:96	—Sixth Appellate District
§ 49:97	—Seventh Appellate District
§ 49:98	—Eighth Appellate District
§ 49:99	—10th Appellate District
§ 49:100	—11th Appellate District
§ 49:101	—12th Appellate District
§ 49:102	Factual considerations and settings—Source of interference
§ 49:103	—Competitors or potential competitors
§ 49:104	—Suppliers of goods or services
§ 49:105	—Employees and agents
§ 49:106	Decisional trends

CHAPTER 50. INTERFERENCE WITH EMPLOYMENT RELATIONS

§ 50:1	Generally
§ 50:2	Distinction between torts
§ 50:3	Existence of an employment relationship
§ 50:4	Wrongdoer’s knowledge of employment relationship
§ 50:5	Purposeful intent—United States District Court
§ 50:6	—Ohio Supreme Court
§ 50:7	—Circuit Court of Ohio
§ 50:8	—Ohio Court of Claims
§ 50:9	—First District
§ 50:10	—Second District

- § 50:11 —Third District
- § 50:12 —Fifth District
- § 50:13 —Sixth District
- § 50:14 —Seventh District
- § 50:15 —Eighth District
- § 50:16 —Ninth District
- § 50:17 —10th District
- § 50:18 —11th District
- § 50:19 —12th District
- § 50:20 —United States Court of Appeals Sixth Circuit
- § 50:21 —Parties/agents—United States District Court
- § 50:22 — —Ohio Supreme Court
- § 50:23 — —Circuit Court of Ohio
- § 50:24 — —Ohio Court of Claims
- § 50:25 — —First District
- § 50:26 — —Second District
- § 50:27 — —Third District
- § 50:28 — —Fifth District
- § 50:29 — —Sixth District
- § 50:30 — —Seventh District
- § 50:31 — —Eighth District
- § 50:32 — —Ninth District
- § 50:33 — —10th District
- § 50:34 — —11th District
- § 50:35 — —12th District
- § 50:36 Proximate cause
- § 50:37 Actual damages
- § 50:38 Remedies—Compensatory and punitive damages
- § 50:39 —Injunction
- § 50:40 — —Second District
- § 50:41 — —Sixth District
- § 50:42 — —Eighth District
- § 50:43 Burden of proof
- § 50:44 Statute of limitations
- § 50:45 Privilege in general
- § 50:46 Specific privileges—Competition for employees
- § 50:47 —Legally protected interests—United States District Court
- § 50:48 — —Sixth District
- § 50:49 — —Eighth District
- § 50:50 — —10th District
- § 50:51 — —11th District
- § 50:52 —Confidential relationships and advice
- § 50:53 Specific privileges—First Amendment defenses
- § 50:54 Specific privileges—Actions taken in public interest
- § 50:55 Competing employers
- § 50:56 Supervisor/coemployee
- § 50:57 —United States Court of Appeals Sixth Circuit
- § 50:58 —United States District Court

TABLE OF CONTENTS

§ 50:59	—Ohio Supreme Court
§ 50:60	—Ohio Court of Claims
§ 50:61	—First District
§ 50:62	—Fifth District
§ 50:63	—Sixth District
§ 50:64	—Seventh District
§ 50:65	—Eighth District
§ 50:66	—Ninth District
§ 50:67	—10th District
§ 50:68	—11th District
§ 50:69	—12th District
§ 50:70	Third party—United States District Court
§ 50:71	—Supreme Court of Ohio
§ 50:72	—Circuit Court of Ohio
§ 50:73	—First District
§ 50:74	—Third District
§ 50:75	—Sixth District
§ 50:76	—Eighth District
§ 50:77	—Ninth District
§ 50:78	—10th District
§ 50:79	—11th District

CHAPTER 51. LENDER LIABILITY

§ 51:1	Debtor and creditor generally
§ 51:2	Definition of fiduciary relationship
§ 51:3	Inside and outside lenders
§ 51:4	Lender liability
§ 51:5	Statute of limitations
§ 51:6	—Ohio Supreme Court
§ 51:7	—Second Appellate District
§ 51:8	—Fourth Appellate District
§ 51:9	—Fifth Appellate District
§ 51:10	—Sixth Appellate District
§ 51:11	—Seventh Appellate District
§ 51:12	—10th Appellate District
§ 51:13	—11th Appellate District
§ 51:14	Excessive lender control—Outside lenders are not generally fiduciaries
§ 51:15	— —Ohio Supreme Court
§ 51:16	— —First Appellate District
§ 51:17	— —Second Appellate District
§ 51:18	— —Third Appellate District
§ 51:19	— —Fourth Appellate District
§ 51:20	— —Fifth Appellate District
§ 51:21	— —Sixth Appellate District
§ 51:22	— —Seventh Appellate District
§ 51:23	— —Eight Appellate District
§ 51:24	— —Ninth Appellate District

- § 51:25 — —10th Appellate District
- § 51:26 — —11th Appellate District
- § 51:27 — —12th Appellate District
- § 51:28 — —Elyria Municipal Court
- § 51:29 —Factors considered in determination of excessive control—
Participation in business decisions
- § 51:30 — —Control over financial affairs
- § 51:31 Common law theories
- § 51:32 —Fraudulent concealment
- § 51:33 — —General rules and definitions
- § 51:34 — —Use of fraud to gain control—First Appellate District
- § 51:35 — — —Sixth Appellate District
- § 51:36 — — —Eight Appellate District
- § 51:37 — — —Ninth Appellate District
- § 51:38 — — —10th Appellate District
- § 51:39 — — —11th Appellate District
- § 51:40 —Misrepresentation to inquiring third parties—Generally
- § 51:41 —Information negligently supplied for the guidance of others—
Supreme Court of Ohio
- § 51:42 — —Sixth Appellate District
- § 51:43 — —Ninth Appellate District
- § 51:44 — —11th Appellate District
- § 51:45 —Interference with business relationships—Generally
- § 51:46 —Interference with corporate governance and management
- § 51:47 Joint venture—Generally
- § 51:48 Alter ego relationships—Generally
- § 51:49 —First Appellate District
- § 51:50 —Ninth Appellate District
- § 51:51 Principal-agent—Generally
- § 51:52 Negligence for breach of fiduciary duty action—Generally
- § 51:53 —Supreme Court of Ohio
- § 51:54 —Sixth Appellate District
- § 51:55 —Ninth Appellate District
- § 51:56 —10th Appellate District
- § 51:57 —11th Appellate District
- § 51:58 Implied covenant of good faith and fair dealing
- § 51:59 —Good faith standard
- § 51:60 — —Supreme Court of Ohio
- § 51:61 — —First Appellate District
- § 51:62 — —Second Appellate District
- § 51:63 — —Third Appellate District
- § 51:64 — —Fifth Appellate District
- § 51:65 — —Eight Appellate District
- § 51:66 — —10th Appellate District
- § 51:67 — —11th Appellate District
- § 51:68 —Refusal to advance funds
- § 51:69 — —Supreme Court of Ohio
- § 51:70 — —Fifth Appellate District
- § 51:71 — —Sixth Appellate District

TABLE OF CONTENTS

§ 51:72	— —Seventh Appellate District
§ 51:73	— —Eight Appellate District
§ 51:74	— —Ninth Appellate District
§ 51:75	— —11th Appellate District
§ 51:76	—Acceleration of debt—Second Appellate District
§ 51:77	—Lenders’ assurances and commitments to troubled borrowers— First Appellate District
§ 51:78	— —Eight Appellate District
§ 51:79	— —Elyria Municipal Court
§ 51:80	—Loan application—Supreme Court of Ohio
§ 51:81	— —Fourth Appellate District
§ 51:82	— —Fifth Appellate District
§ 51:83	— —10th Appellate District
§ 51:84	Lender exposure to liability for borrower’s environmental violations—Federal statutory framework
§ 51:85	—State statutory framework
§ 51:86	—Ohio Supreme Court
§ 51:87	—Fourth Appellate District
§ 51:88	—Sixth Appellate District
§ 51:89	—Direct liability of lenders for cleanup costs under CERCLA
§ 51:90	Lender liability for selling “hot goods”
§ 51:91	—United States Supreme Court

Table of Contents

PART 5. BUSINESS TORTS (CONTINUED)

CHAPTER 52. MALICIOUS PROSECUTION, MALICIOUS USE OF CIVIL PROCESS AND ABUSE OF PROCESS

§ 52:1	Generally
§ 52:2	History
§ 52:3	Malicious prosecution is not a favored cause of action in law
§ 52:4	—Ohio Supreme Court
§ 52:5	—Seventh Appellate District
§ 52:6	Malicious prosecution arising from criminal proceedings
§ 52:7	—Ohio Supreme Court
§ 52:8	—Federal District
§ 52:9	—First Appellate District
§ 52:10	—Second Appellate District
§ 52:11	—Third Appellate District
§ 52:12	—Fourth Appellate District
§ 52:13	—Fifth Appellate District
§ 52:14	—Sixth Appellate District
§ 52:15	—Seventh Appellate District
§ 52:16	—Eighth Appellate District
§ 52:17	—Ninth Appellate District
§ 52:18	—10th Appellate District
§ 52:19	—11th Appellate District
§ 52:20	Termination of proceedings in favor of present plaintiff
§ 52:21	—Ohio Supreme Court
§ 52:22	—Federal District
§ 52:23	—First Appellate District
§ 52:24	—Second Appellate District
§ 52:25	—Third Appellate District
§ 52:26	—Fourth Appellate District
§ 52:27	—Fifth Appellate District
§ 52:28	—Seventh Appellate District
§ 52:29	—10th Appellate District
§ 52:30	—11th Appellate District
§ 52:31	Causation factors; institution, commencement, instigating, procuring former criminal proceedings, or continuation thereof—Eighth Appellate District
§ 52:32	Probable cause
§ 52:33	—Ohio Supreme Court

- § 52:34 —First Appellate District
- § 52:35 —Second Appellate District
- § 52:36 —Third Appellate District
- § 52:37 —Fifth Appellate District
- § 52:38 —Sixth Appellate District
- § 52:39 —Seventh Appellate District
- § 52:40 —Eighth Appellate District
- § 52:41 —Ninth Appellate District
- § 52:42 —10th Appellate District
- § 52:43 —11th Appellate District
- § 52:44 Effect of conviction—First Appellate District
- § 52:45 —Sixth Appellate District
- § 52:46 Effect of acquittal or of innocence—Ohio Supreme Court
- § 52:47 —First Appellate District
- § 52:48 Effect of discharge of accused by magistrate; dismissal of criminal charges
- § 52:49 Malice, purpose, or motive
- § 52:50 —Federal District
- § 52:51 —First Appellate District
- § 52:52 —Fifth Appellate District
- § 52:53 —Eighth Appellate District
- § 52:54 —Ninth Appellate District
- § 52:55 —11th Appellate District
- § 52:56 Function of court and jury in malicious prosecution litigation
- § 52:57 —Second Appellate District
- § 52:58 —Fifth Appellate District
- § 52:59 Evidence; presumptions; burden of proof
- § 52:60 —Third Appellate District
- § 52:61 —Sixth Appellate District
- § 52:62 —Seventh Appellate District
- § 52:63 —10th Appellate District
- § 52:64 —11th Appellate District
- § 52:65 Personal liability; employers; respondeat superior—First Appellate District
- § 52:66 —Fifth Appellate District
- § 52:67 Damages
- § 52:68 —Excessive
- § 52:69 — —First Appellate District
- § 52:70 — —Second Appellate District
- § 52:71 — —Eighth Appellate District
- § 52:72 —Punitive
- § 52:73 — —Ohio Supreme Court
- § 52:74 — —First Appellate District
- § 52:75 —Attorney’s fees—Ohio Supreme Court
- § 52:76 — —First Appellate District
- § 52:77 Defenses
- § 52:78 —Ohio Supreme Court
- § 52:79 —Federal District
- § 52:80 —First Appellate District

TABLE OF CONTENTS

§ 52:81	—Fifth Appellate District
§ 52:82	Wrongful use of civil actions
§ 52:83	—Fifth Appellate District
§ 52:84	—Eighth Appellate District
§ 52:85	—Ninth Appellate District
§ 52:86	—Probable cause
§ 52:87	— —Eighth Appellate District
§ 52:88	— —Ninth Appellate District
§ 52:89	—Impropriety of purpose in bringing earlier action; malice
§ 52:90	—Termination of earlier proceedings; counterclaims
§ 52:91	— —Ninth Appellate District
§ 52:92	—Persons who may sue; person liable; attorneys; countersuits
§ 52:93	— —Eighth Appellate District
§ 52:94	— —Ninth Appellate District
§ 52:95	—Various earlier civil proceedings—Ohio Supreme Court
§ 52:96	— —Eighth Appellate District
§ 52:97	—Proceedings alleging insanity or mental or emotional instability; earlier insolvency, bankruptcy or like proceedings
§ 52:98	—Damages—Eighth Appellate District
§ 52:99	— —Ninth Appellate District
§ 52:100	—Evidence, presumptions, and burden of proof
§ 52:101	—Functions of court and jury
§ 52:102	—Defenses; advice of counsel
§ 52:103	— —Ohio Supreme Court
§ 52:104	Abuse of process—Generally
§ 52:105	—Ohio Supreme Court
§ 52:106	—Eighth Appellate District
§ 52:107	—Ninth Appellate District
§ 52:108	—Definition
§ 52:109	—Distinctions
§ 52:110	—Elements
§ 52:111	— —Second Appellate District
§ 52:112	— —Fourth Appellate District
§ 52:113	—Debt collection practices
§ 52:114	—Attorneys—Eighth Appellate District
§ 52:115	— —Ninth Appellate District
§ 52:116	—Other related torts—Ohio Supreme Court
§ 52:117	— —First Appellate District

CHAPTER 53. NEGLIGENT ENTRUSTMENT

§ 53:1	Generally
§ 53:2	Persons to whom doctrine applies
§ 53:3	Instrumentalities to which doctrine applies
§ 53:4	Negligence of entruster and entrustee required
§ 53:5	—First District Court of Appeals
§ 53:6	—Second District Court of Appeals
§ 53:7	—Third District Court of Appeals
§ 53:8	—Fourth District Court of Appeals

- § 53:9 —Fifth District Court of Appeals
- § 53:10 —Sixth District Court of Appeals
- § 53:11 —Seventh District Court of Appeals
- § 53:12 —Eighth District Court of Appeals
- § 53:13 —Ninth District Court of Appeals
- § 53:14 —10th District Court of Appeals
- § 53:15 —Negligent entrustment—11th District Court of Appeals
- § 53:16 — —12th District Court of Appeals
- § 53:17 — —Supreme Court of Ohio
- § 53:18 Respondeat superior distinguished
- § 53:19 —First District Court of Appeals
- § 53:20 —Second District Court of Appeals
- § 53:21 —Third District Court of Appeals
- § 53:22 —Fourth District Court of Appeals
- § 53:23 —Fourth District Court of Appeals
- § 53:24 —Sixth District Court of Appeals
- § 53:25 —Seventh District Court of Appeals
- § 53:26 —Eighth District Court of Appeals
- § 53:27 —Ninth District Court of Appeals
- § 53:28 —10th District Court of Appeals
- § 53:29 —11th District Court of Appeals
- § 53:30 —12th District Court of Appeals
- § 53:31 —Supreme Court of Ohio

CHAPTER 54. NUISANCE AND POLLUTION

- § 54:1 Nuisance—Generally
- § 54:2 Nuisance per se, absolute nuisance, or nuisance as a matter of law
- § 54:3 Qualified nuisance
- § 54:4 Nuisance in fact
- § 54:5 Intentional nuisance
- § 54:6 Public nuisance
- § 54:7 Private nuisance
- § 54:8 Continuing and permanent nuisances
- § 54:9 Distinction between trespass and nuisance
- § 54:10 Particular applications
- § 54:11 Noise—Ohio Supreme Court
- § 54:12 —First Appellate District
- § 54:13 —Second Appellate District
- § 54:14 —Third Appellate District
- § 54:15 —Fourth Appellate District
- § 54:16 —Fifth Appellate District
- § 54:17 —Seventh Appellate District
- § 54:18 —Eighth Appellate District
- § 54:19 —Ninth Appellate District
- § 54:20 —10th Appellate District
- § 54:21 —11th Appellate District
- § 54:22 —12th Appellate District

TABLE OF CONTENTS

§ 54:23	Gases—First Appellate District
§ 54:24	—Fourth Appellate District
§ 54:25	—Fifth Appellate District
§ 54:26	—Seventh Appellate District
§ 54:27	—Eighth Appellate District
§ 54:28	—Ninth Appellate District
§ 54:29	—11th Appellate District
§ 54:30	—12th Appellate District
§ 54:31	Smoke—First Appellate District
§ 54:32	—Second Appellate District
§ 54:33	—Fourth Appellate District
§ 54:34	—Fifth Appellate District
§ 54:35	—Seventh Appellate District
§ 54:36	—Eighth Appellate District
§ 54:37	—Ninth Appellate District
§ 54:38	Dust—Ohio Supreme Court
§ 54:39	—Second Appellate District
§ 54:40	—Third Appellate District
§ 54:41	—Fourth Appellate District
§ 54:42	—Fifth Appellate District
§ 54:43	—Sixth Appellate District
§ 54:44	—Seventh Appellate District
§ 54:45	—Eighth Appellate District
§ 54:46	—Ninth Appellate District
§ 54:47	—10th Appellate District
§ 54:48	—11th Appellate District
§ 54:49	—12th Appellate District
§ 54:50	Odors
§ 54:51	—Ohio Supreme Court
§ 54:52	—First Appellate District
§ 54:53	—Second Appellate District
§ 54:54	—Third Appellate District
§ 54:55	—Fourth Appellate District
§ 54:56	—Fifth Appellate District
§ 54:57	—Sixth Appellate District
§ 54:58	—Seventh Appellate District
§ 54:59	—Eighth Appellate District
§ 54:60	—Ninth Appellate District
§ 54:61	—10th Appellate District
§ 54:62	—11th Appellate District
§ 54:63	—12th Appellate District
§ 54:64	Vibrations—Ohio Supreme Court
§ 54:65	—First Appellate District
§ 54:66	—Fifth Appellate District
§ 54:67	—Eighth Appellate District
§ 54:68	—10th Appellate District
§ 54:69	Casting of light—Fifth Appellate District
§ 54:70	—Sixth Appellate District

§ 54:71	Other—Ohio Supreme Court
§ 54:72	—First Appellate District
§ 54:73	—Second Appellate District
§ 54:74	—Third Appellate District
§ 54:75	—Fifth Appellate District
§ 54:76	—Sixth Appellate District
§ 54:77	—Seventh Appellate District
§ 54:78	—Ninth Appellate District
§ 54:79	—10th Appellate District
§ 54:80	—11th Appellate District
§ 54:81	—12th Appellate District
§ 54:82	Persons entitled to sue
§ 54:83	Who may recover for public nuisances
§ 54:84	Who may recover for private nuisances
§ 54:85	Persons liable
§ 54:86	Remedies
§ 54:87	Actions for damages
§ 54:88	—Ohio Supreme Court
§ 54:89	—First Appellate District
§ 54:90	—Second Appellate District
§ 54:91	—Fifth Appellate District
§ 54:92	—Sixth Appellate District
§ 54:93	—Seventh Appellate District
§ 54:94	—Eighth Appellate District
§ 54:95	—Ninth Appellate District
§ 54:96	—11th Appellate District
§ 54:97	—12th Appellate District
§ 54:98	Actions for injunctions
§ 54:99	—Ohio Supreme Court
§ 54:100	—First Appellate District
§ 54:101	—Second Appellate District
§ 54:102	—Third Appellate District
§ 54:103	—Fourth Appellate District
§ 54:104	—Fifth Appellate District
§ 54:105	—Seventh Appellate District
§ 54:106	—Eighth Appellate District
§ 54:107	—Ninth Appellate District
§ 54:108	—10th Appellate District
§ 54:109	—11th Appellate District
§ 54:110	—12th Appellate District
§ 54:111	Defenses
§ 54:112	—Contributory negligence; assumption of risk—Ohio Court of Claims
§ 54:113	— —First Appellate District
§ 54:114	— —Ninth Appellate District
§ 54:115	—Comparative negligence
§ 54:116	—Coming to the nuisance
§ 54:117	— —Ohio Supreme Court

TABLE OF CONTENTS

§ 54:118	— —First Appellate District
§ 54:119	— —Third Appellate District
§ 54:120	— —Fourth Appellate District
§ 54:121	— —Seventh Appellate District
§ 54:122	— —Eighth Appellate District
§ 54:123	— —Ninth Appellate District
§ 54:124	— —12th Appellate District
§ 54:125	—Balance of convenience
§ 54:126	— —First Appellate District
§ 54:127	— —Second Appellate District
§ 54:128	— —Third Appellate District
§ 54:129	— —Eighth Appellate District
§ 54:130	— —Ninth Appellate District
§ 54:131	— —10th Appellate District
§ 54:132	— —12th Appellate District
§ 54:133	—Statute of limitations
§ 54:134	— —First Appellate District
§ 54:135	— —Second Appellate District
§ 54:136	— —Third Appellate District
§ 54:137	— —Fourth Appellate District
§ 54:138	— —Fifth Appellate District
§ 54:139	— —Seventh Appellate District
§ 54:140	Effect of compliance with legislative, ordinance, administrative regulation; licenses, permits, zoning, etc—Generally
§ 54:141	—Second Appellate District
§ 54:142	—Sixth Appellate District
§ 54:143	—Seventh Appellate District
§ 54:144	—Eighth Appellate District
§ 54:145	—10th Appellate District
§ 54:146	Defenses for agricultural activities
§ 54:147	—Third Appellate District
§ 54:148	—Ninth Appellate District
§ 54:149	Pollution
§ 54:150	Water pollution
§ 54:151	Citizens' lawsuits—Ohio Supreme Court
§ 54:152	—Second Appellate District
§ 54:153	—Fifth Appellate District
§ 54:154	—Sixth Appellate District
§ 54:155	—Ninth Appellate District
§ 54:156	—12th Appellate District
§ 54:157	Water quality standard
§ 54:158	Permits
§ 54:159	Cleanup operations
§ 54:160	—12th Appellate District
§ 54:161	Point source
§ 54:162	Superfund
§ 54:163	State law and regulations—The Water Pollution Control Act
§ 54:164	—Pollution as a nuisance

- § 54:165 Ohio pollution common law
- § 54:166 Pollution of groundwaters, subterranean, percolating waters,
aquifers, wells, and the like—Ohio Supreme Court
- § 54:167 —Sixth Appellate District
- § 54:168 —Seventh Appellate District
- § 54:169 —Ninth Appellate District
- § 54:170 —10th Appellate District
- § 54:171 Pollution of surface waters, streams, lakes, ponds, and the like—
Ohio Supreme Court
- § 54:172 —First Appellate District
- § 54:173 —Second Appellate District
- § 54:174 —Fifth Appellate District
- § 54:175 —Sixth Appellate District
- § 54:176 —Eighth Appellate District
- § 54:177 —12th Appellate District
- § 54:178 Oil and other hazardous substances
- § 54:179 Liability under section 311(b)(6) of Federal Water Pollution
Control Act (33 USCS 1321(b)(6)) of polluter for civil penalties
- § 54:180 Cleanup costs
- § 54:181 —Fifth Appellate District
- § 54:182 State statutes and regulations; preemption under federal
statutes
- § 54:183 —Sixth Appellate District
- § 54:184 —10th Appellate District
- § 54:185 —Second Appellate District
- § 54:186 Air pollution
- § 54:187 By emissions from automobiles and other motor vehicles; from
lead; from furnaces; ozone; sulphur and sulphur dioxide—
Seventh Appellate District
- § 54:188 —Eighth Appellate District
- § 54:189 Parties' citizens' lawsuits—Second Appellate District
- § 54:190 —Fourth Appellate District
- § 54:191 —Seventh Appellate District
- § 54:192 —Eighth Appellate District
- § 54:193 —11th Appellate District
- § 54:194 State regulation
- § 54:195 —Ohio Supreme Court
- § 54:196 —10th Appellate District
- § 54:197 Solid waste pollution
- § 54:198 Federal statutes
- § 54:199 State regulations—The Solid Waste Disposal Act
- § 54:200 —Ohio Supreme Court
- § 54:201 —Fifth Appellate District
- § 54:202 —11th Appellate District

CHAPTER 55. TRADE SECRETS

- § 55:1 Generally
- § 55:2 The history of the evolution of trade secret law in Ohio
- § 55:3 Essence of action; doctrinal bases

TABLE OF CONTENTS

§ 55:4	State statutory regulation
§ 55:5	There are two classifications of misappropriation
§ 55:6	Misappropriation—Memorization of physical records—Ohio Supreme Court
§ 55:7	— —10th Appellate District
§ 55:8	—Physical taking—First Appellate District
§ 55:9	Wrongful acquisition
§ 55:10	Misappropriation—Ohio Supreme Court
§ 55:11	Threatened misappropriation of a trade secret may warrant an injunction—Fifth Appellate District
§ 55:12	—Seventh Appellate District
§ 55:13	—Ninth Appellate District
§ 55:14	Sales of related products is compelling evidence that trade secrets have been misappropriated
§ 55:15	Definitions—Improper
§ 55:16	—Person
§ 55:17	—Trade secret
§ 55:18	—Misappropriation
§ 55:19	Elements, characteristics, factors for a cause of action
§ 55:20	Trade secret status—10th Appellate District
§ 55:21	—Ninth Appellate District
§ 55:22	—First Appellate District
§ 55:23	Discovery and related processes; protective orders
§ 55:24	In camera inspection of relevant evidence—First Appellate District
§ 55:25	—Ninth Appellate District
§ 55:26	Limited disclosure of requested documents from independent third parties—Fifth Appellate District
§ 55:27	—Ninth Appellate District
§ 55:28	—10th Appellate District
§ 55:29	Limited discovery—Trade secret information contained within documents
§ 55:30	Third-party disclosure of relevant evidence
§ 55:31	Contempt—11th Appellate District
§ 55:32	Computers
§ 55:33	Software
§ 55:34	Client lists—The Ohio Supreme Court
§ 55:35	—11th Appellate District
§ 55:36	Records held by a public agency
§ 55:37	Preemption
§ 55:38	—The Supreme Court of the United States
§ 55:39	—The United States Court of Appeals for the Sixth Circuit
§ 55:40	—Fifth Appellate District
§ 55:41	Remedies against misappropriators
§ 55:42	Remedies—Burden of proof
§ 55:43	Jurisdiction—Minimum contacts—The Ohio Supreme Court
§ 55:44	— —Eighth Appellate District
§ 55:45	—Third-party beneficiary—Sixth Appellate District
§ 55:46	— —Ninth Appellate District

- § 55:47 —Concurrent—Ninth Appellate District
- § 55:48 Damages
- § 55:49 —Lost profits—First Appellate District
- § 55:50 — —10th Appellate District
- § 55:51 —Development costs—Eighth Appellate District
- § 55:52 — —Ninth Appellate District
- § 55:53 — —10th Appellate District
- § 55:54 —Removal of products
- § 55:55 —Omission
- § 55:56 —Timing
- § 55:57 —Calculations
- § 55:58 —Depreciation
- § 55:59 —Research and development
- § 55:60 —Taxes
- § 55:61 —Prejudgment interest
- § 55:62 —Defendant's savings
- § 55:63 —Royalty as a measure of damages
- § 55:64 —Punitive damages—Malicious intent
- § 55:65 — —Compensatory damages required—Seventh Appellate District
- § 55:66 — — —Fifth Appellate District
- § 55:67 — —Multiple awards
- § 55:68 —Attorney's fees—Benefit to the public
- § 55:69 — —Discretion of court—Sixth Appellate District
- § 55:70 — — —12th Appellate District
- § 55:71 Injunctions
- § 55:72 —Limiting the scope of the injunction
- § 55:73 —Irreparable harm
- § 55:74 —Scope
- § 55:75 Preliminary injunction—Standard—First Appellate District
- § 55:76 — —Eighth Appellate District
- § 55:77 — —Seventh Appellate District
- § 55:78 — —10th Appellate District
- § 55:79 Temporary restraining order
- § 55:80 Defenses—Statute of limitations
- § 55:81 — —The United States Court of Appeals for the Sixth Circuit
- § 55:82 —Abandonment
- § 55:83 —Substantial element of secrecy
- § 55:84 — —The Ohio Supreme Court
- § 55:85 — —The United States District Court for the Southern District of Ohio
- § 55:86 — —Eighth Appellate District
- § 55:87 — —Ninth Appellate District
- § 55:88 —Failure to protect asset—Ninth Appellate District
- § 55:89 — —Fourth Appellate District
- § 55:90 — —Sixth Appellate District
- § 55:91 — —Eighth District
- § 55:92 —Public exhibition
- § 55:93 — —Plant tours or access—Sixth Appellate District

TABLE OF CONTENTS

§ 55:94	— — —The United States District Court for the Northern District of Ohio
§ 55:95	—Published material, trade or technical literature
§ 55:96	—Disclosure to particular persons
§ 55:97	— —Eighth Appellate District
§ 55:98	— —12th Appellate District
§ 55:99	—Unclean hands
§ 55:100	—Reverse engineering
§ 55:101	Customers, clients, and employees—The United States Court of Appeals for the Sixth Circuit
§ 55:102	—The United States Court of Appeals for the Seventh Circuit
§ 55:103	—Express employment agreement not present
§ 55:104	—Employment agreement present—First Appellate District
§ 55:105	— —Third Appellate District
§ 55:106	— —Fifth District
§ 55:107	—Assignability of the employment agreement
§ 55:108	—Modifying a noncompete employment agreement
§ 55:109	—Miscellaneous persons
§ 55:110	—Independent development—Third Appellate District
§ 55:111	— —Sixth Appellate District
§ 55:112	—Proposals
§ 55:113	—Confidentiality restrictions
§ 55:114	Costs, prices, and bids
§ 55:115	Customer lists and information
§ 55:116	—Eighth Appellate District
§ 55:117	—10th District
§ 55:118	Employees' skills and knowledge
§ 55:119	Shop-rights doctrine
§ 55:120	Uniform Trade Secrets Act

CHAPTER 56. UNFAIR COMPETITION

§ 56:1	Generally
§ 56:2	Lanham Act, sections 43(A) and 44—15 USCS 1125(a)
§ 56:3	Lanham Act—Elements
§ 56:4	— —Trade dress
§ 56:5	— — —First Appellate District
§ 56:6	— — —Fifth Appellate District
§ 56:7	— — —Sixth Appellate District
§ 56:8	— — —Eighth Appellate District
§ 56:9	— — —Ninth Appellate District
§ 56:10	Advertising
§ 56:11	—Second Appellate District
§ 56:12	—Sixth Appellate District
§ 56:13	—Seventh Appellate District
§ 56:14	—Eighth Appellate District
§ 56:15	—Ninth Appellate District
§ 56:16	Federal preemption
§ 56:17	Ohio legislation

- § 56:18 —Federal district
- § 56:19 —First Appellate District
- § 56:20 —Second Appellate District
- § 56:21 —Fifth Appellate District
- § 56:22 —Sixth Appellate District
- § 56:23 —Seventh Appellate District
- § 56:24 —Eighth Appellate District
- § 56:25 —Ninth Appellate District
- § 56:26 —10th Appellate District
- § 56:27 —Passing off
- § 56:28 Passing off—First Appellate District
- § 56:29 —Sixth Appellate District
- § 56:30 —Eighth Appellate District
- § 56:31 —Ninth Appellate District
- § 56:32 —10th Appellate District
- § 56:33 —12th Appellate District
- § 56:34 Confusion
- § 56:35 —Second Appellate District
- § 56:36 —Fifth Appellate District
- § 56:37 —Sixth Appellate District
- § 56:38 —Eighth Appellate District
- § 56:39 —Ninth Appellate District
- § 56:40 —11th Appellate District
- § 56:41 —Ohio Supreme Court
- § 56:42 Franchise requirements
- § 56:43 Motor vehicle franchises
- § 56:44 —The franchisor
- § 56:45 —Franchisee/Former franchisor
- § 56:46 Misappropriation
- § 56:47 Passing off and confusion
- § 56:48 —*Sovereign Order of Saint John*
- § 56:49 —*Wynn Oil*
- § 56:50 — —Likelihood of confusion
- § 56:51 — —Profits gained by infringement
- § 56:52 — —Injunction and attorney’s fees
- § 56:53 Preemption
- § 56:54 Prior public use
- § 56:55 —An affirmative defense
- § 56:56 —Experimental use exception

CHAPTER 57. USURPATION OF CORPORATE OPPORTUNITY

- § 57:1 Usurpation of corporate opportunity
- § 57:2 The corporate opportunity doctrine
- § 57:3 Corporate interest or expectancy
- § 57:4 Opportunity in “line of business” of corporation
- § 57:5 —Purchase of ongoing business—First District Court of Appeals
- § 57:6 — —Second District Court of Appeals

TABLE OF CONTENTS

§ 57:7	— —Eighth District Court of Appeals
§ 57:8	— —Ninth District Court of Appeals
§ 57:9	— —11th District Court of Appeals
§ 57:10	— —Supreme Court of Ohio
§ 57:11	—Other business opportunities—First District Court of Appeals
§ 57:12	— —Second District Court of Appeals
§ 57:13	— —Third District Court of Appeals
§ 57:14	— —Fifth District Court of Appeals
§ 57:15	— —Eighth District Court of Appeals
§ 57:16	— —Ninth District Court of Appeals
§ 57:17	— —10th District Court of Appeals
§ 57:18	— —11th District Court of Appeals
§ 57:19	Fairness test
§ 57:20	—Provision of goods or services—Second District Court of Appeals
§ 57:21	— —Sixth District Court of Appeals
§ 57:22	— —Eighth District Court of Appeals
§ 57:23	— —10th District Court of Appeals
§ 57:24	— —11th District Court of Appeals
§ 57:25	— —Supreme Court of Ohio
§ 57:26	—Taking corporate customers—Second District Court of Appeals
§ 57:27	— —Fifth District Court of Appeals
§ 57:28	— —Eighth District Court of Appeals
§ 57:29	— —10th District Court of Appeals
§ 57:30	—Conveyance of interest in real property by third party— Purchase
§ 57:31	— —Lease—Third District Court of Appeals
§ 57:32	— — —Eighth District Court of Appeals
§ 57:33	—Purchase of stock in corporation or subsidiary
§ 57:34	—Sales of stock—Second District Court of Appeals
§ 57:35	— —Third District Court of Appeals
§ 57:36	— —Fourth District Court of Appeals
§ 57:37	— —Sixth District Court of Appeals
§ 57:38	— —Seventh District Court of Appeals
§ 57:39	— —Eighth District Court of Appeals
§ 57:40	— —10th District Court of Appeals
§ 57:41	—Other business opportunities—Second District Court of Appeals
§ 57:42	— —Third District Court of Appeals
§ 57:43	Financial inability of corporation to take advantage of opportunity
§ 57:44	—Real property transaction
§ 57:45	—Stock transactions
§ 57:46	Other corporate opportunities—Eighth District Court of Appeals
§ 57:47	—10th District Court of Appeals

CHAPTER 58. WRONGFUL DISCHARGE

§ 58:1	Private employment; at-will employees—Generally
§ 58:2	Theories & history—The English rule
§ 58:3	—The American rule and Wood's treatise
§ 58:4	—Older general rule on nonliability; modern status of rule

- § 58:5 At-will doctrine
- § 58:6 Constructive discharge
- § 58:7 Age discrimination in employment
- § 58:8 Statutory limitations
- § 58:9 —National Labor Relations Act
- § 58:10 —Civil Rights Act of 1964
- § 58:11 —Americans with Disabilities Act of 1990
- § 58:12 —Equal rights—42 USC Section 1981
- § 58:13 —Occupational Safety and Health Act
- § 58:14 —Whistleblower Protection Act
- § 58:15 Ohio statutes
- § 58:16 Express contract—Just cause; insubordination
- § 58:17 Contract implied in fact
- § 58:18 Promissory estoppel
- § 58:19 Employment manuals
- § 58:20 Disclaimers; modifications assert
- § 58:21 Public policy standard
- § 58:22 Specific policies—Sexual harassment
- § 58:23 —Age discrimination
- § 58:24 —Workers' compensation
- § 58:25 —Drug testing
- § 58:26 —Pregnancy
- § 58:27 Intentional infliction of emotional distress
- § 58:28 Sexual harassment
- § 58:29 Racial abuse
- § 58:30 Theft accusations
- § 58:31 Effect of workers' compensation statute
- § 58:32 Defamation
- § 58:33 Communications to other employees
- § 58:34 Communications by other employees
- § 58:35 Communications during employee misconduct investigations
- § 58:36 Communications to prospective employers
- § 58:37 Government agencies
- § 58:38 Violation of privacy
- § 58:39 Fraud
- § 58:40 Assault and battery
- § 58:41 Seeking workers' compensation benefits
- § 58:42 Making complaints or efforts relating to working conditions affecting health or safety
- § 58:43 Attachment or garnishment of wages or earnings
- § 58:44 Civil rights violations or discriminatory practices
- § 58:45 Effect of various labor management relations statutes
- § 58:46 Polygraph examination restrictions; barring tests as conditions to employment
- § 58:47 Filing complaint under Fair Labor Standards Act
- § 58:48 Unlawful or unethical acts of employer of coemployees
- § 58:49 Whistle blowing
- § 58:50 Refusal to participate in illegal acts
- § 58:51 Assertion of constitutional rights

TABLE OF CONTENTS

§ 58:52	Reduction in rank or other demotion as breach of contract
§ 58:53	Matters relation to bonuses, perquisites, etc.
§ 58:54	Remedies, practice, and procedure
§ 58:55	Public employment—Constitutional issues and limitations
§ 58:56	—Procedural due process
§ 58:57	Defenses—Employment at will
§ 58:58	—Express at-will disclaimer
§ 58:59	—Contracts
§ 58:60	—Statute of limitations
§ 58:61	—Good cause for termination
§ 58:62	—Mitigation of damages
§ 58:63	Remedies—Duty to mitigate
§ 58:64	—Back pay and front pay
§ 58:65	—Reinstatement

PART 6. MISCELLANEOUS TORTS

CHAPTER 59. CIVIL RIGHTS

§ 59:1	Federal law—Definition
§ 59:2	42 U.S.C.A. § 1981—“Statement of Equal Rights”
§ 59:3	—“Make and enforce contracts” defined
§ 59:4	—Protection against impairment
§ 59:5	42 U.S.C.A. § 1985(3)—Depriving persons of rights or privileges
§ 59:6	42 U.S.C.A. § 1983
§ 59:7	Deprivation of rights under color of state law—Elements
§ 59:8	The <i>Parratt</i> case and its aftermath; mere negligence; loss of property rights
§ 59:9	The <i>Parratt</i> case and its aftermath—Ohio Supreme Court
§ 59:10	—Fourth Appellate District
§ 59:11	—Sixth Appellate District
§ 59:12	—Eighth Appellate District
§ 59:13	—10th Appellate District
§ 59:14	—12th Appellate District
§ 59:15	Causation factors
§ 59:16	Assault and battery—Fourth Appellate District
§ 59:17	—Eighth Appellate District
§ 59:18	—10th Appellate District
§ 59:19	Search and seizure—Fourth Appellate District
§ 59:20	—Sixth Appellate District
§ 59:21	—Eighth Appellate District
§ 59:22	—10th Appellate District
§ 59:23	—11th Appellate District
§ 59:24	False imprisonment or arrest
§ 59:25	—First Appellate District
§ 59:26	—Fifth Appellate District
§ 59:27	—10th Appellate District
§ 59:28	—12th Appellate District

- § 59:29 Malicious prosecution—Generally
- § 59:30 Section 1983 claim for malicious prosecution
- § 59:31 —First Appellate District
- § 59:32 —Sixth Appellate District
- § 59:33 —10th Appellate District
- § 59:34 Vicarious liability of superiors—Municipalities and other political subdivisions
- § 59:35 — —U.S. Supreme Court
- § 59:36 — —Ohio Supreme Court
- § 59:37 — —First Appellate District
- § 59:38 — —Fourth Appellate District
- § 59:39 — —Sixth Appellate District
- § 59:40 — —Eighth Appellate District
- § 59:41 — —10th Appellate District
- § 59:42 State liability—10th Appellate District
- § 59:43 —12th Appellate District
- § 59:44 Liability of police and other peace officers—Use of force in arrests generally
- § 59:45 Qualified immunity
- § 59:46 —First Appellate District
- § 59:47 —Second Appellate District
- § 59:48 —Fourth Appellate District
- § 59:49 —Fifth Appellate District
- § 59:50 —Sixth Appellate District
- § 59:51 —10th Appellate District
- § 59:52 —11th Appellate District
- § 59:53 Defenses; immunities—States; state governors; state attorneys general; other state officials
- § 59:54 — —12th Appellate District
- § 59:55 —Prosecuting attorneys
- § 59:56 — —Fifth Appellate District
- § 59:57 — —Seventh Appellate District
- § 59:58 —Private defense counsel; public defenders
- § 59:59 —Political subdivisions
- § 59:60 — —Ohio Supreme Court
- § 59:61 — —First Appellate District
- § 59:62 — —Eighth Appellate District
- § 59:63 — —10th Appellate District
- § 59:64 —Legislators
- § 59:65 — —Eighth Appellate District
- § 59:66 — —Ninth Appellate District
- § 59:67 — —12th Appellate District
- § 59:68 Damages
- § 59:69 —Attorney’s fees

CHAPTER 60. INTERFERENCE WITH BURIAL OF A DEAD BODY

- § 60:1 Interference with the burial of a dead body

TABLE OF CONTENTS

§ 60:2	Standing
§ 60:3	—First District
§ 60:4	—Second District
§ 60:5	—Seventh District
§ 60:6	—Eighth District
§ 60:7	—12th District
§ 60:8	Negligence
§ 60:9	Fetuses
§ 60:10	Funeral home incidents—Fifth District
§ 60:11	—Seventh District
§ 60:12	—Ninth District
§ 60:13	The injuring of bodies
§ 60:14	Bodies and body parts of the deceased—Ohio Supreme Court
§ 60:15	—First District
§ 60:16	—Second District
§ 60:17	—11th District
§ 60:18	Disturbing a gravesite—Third District
§ 60:19	—Eighth District
§ 60:20	Burial generally—Eighth District
§ 60:21	—11th District
§ 60:22	Pets
§ 60:23	Intentional—Generally
§ 60:24	—Funeral home incidents—Sixth District
§ 60:25	— —Ninth District
§ 60:26	—Burial incidents—Fifth District
§ 60:27	— —Sixth District
§ 60:28	— —Seventh District
§ 60:29	— —Eighth District
§ 60:30	— —11th District
§ 60:31	— —Sixth Circuit
§ 60:32	—Bodies and body parts of the deceased—First District
§ 60:33	— —Second District
§ 60:34	— —Sixth District
§ 60:35	— —Sixth Circuit
§ 60:36	—Situations involving murder—Fifth District
§ 60:37	— —Ninth District
§ 60:38	— —Southern District (federal)
§ 60:39	— —Sixth Circuit
§ 60:40	—Pets
§ 60:41	Wrongfully placing and maintaining an individual on life support system
§ 60:42	—Ohio Supreme Court
§ 60:43	—Sixth District
§ 60:44	—Ninth District

CHAPTER 61. INTOXICATING LIQUORS

§ 61:1	Generally
§ 61:2	Civil liability for selling or furnishing—Common law

- § 61:3 —Statutory law—Dram Shop Act
- § 61:4 —Dram Shop Act—Ohio Supreme Court
- § 61:5 — —U.S. District Court, N.D. Ohio, Eastern Division
- § 61:6 — —First District
- § 61:7 — —Second District
- § 61:8 — —Third District
- § 61:9 — —Fourth District
- § 61:10 — —Sixth District
- § 61:11 — —Seventh District
- § 61:12 — —Eighth District
- § 61:13 — —Ninth District
- § 61:14 — —10th District
- § 61:15 — —11th District
- § 61:16 — —Issues regarding proximate cause
- § 61:17 — — —Second District
- § 61:18 — — —Seventh District
- § 61:19 — — —Eighth District
- § 61:20 — — —Ninth District
- § 61:21 — — —10th District
- § 61:22 —Sale to minors—Minor is personally injured
- § 61:23 — — —Ohio Supreme Court
- § 61:24 — — —First District
- § 61:25 — — —Second District
- § 61:26 — — —Fourth District
- § 61:27 — — —Fifth District
- § 61:28 — — —Eighth District
- § 61:29 — —Minor injures another
- § 61:30 — — —Supreme court
- § 61:31 — — —First District
- § 61:32 — — —Ninth District
- § 61:33 — — —10th District
- § 61:34 — — —12th District
- § 61:35 —Effect of social host being purveyor
- § 61:36 — —Fifth District
- § 61:37 — —Eighth District
- § 61:38 — —Ninth District
- § 61:39 — —10th District
- § 61:40 — —12th District

CHAPTER 62. LOSS OF CONSORTIUM

- § 62:1 Generally
- § 62:2 Husband and wife
- § 62:3 —Automobile accidents—Ohio Supreme Court
- § 62:4 — —First District Court of Appeals
- § 62:5 — —Second District Court of Appeals
- § 62:6 — —Third District Court of Appeals
- § 62:7 — —Fourth District Court of Appeals
- § 62:8 — —Fifth District Court of Appeals

TABLE OF CONTENTS

§ 62:9	— —Sixth District Court of Appeals
§ 62:10	— —Seventh District Court of Appeals
§ 62:11	— —Eighth District Court of Appeals
§ 62:12	— —Ninth District Court of Appeals
§ 62:13	— —10th District Court of Appeals
§ 62:14	— —11th District Court of Appeals
§ 62:15	— —12th District Court of Appeals
§ 62:16	— —Court of claims
§ 62:17	—Medical negligence—Ohio Supreme Court
§ 62:18	— —First District Court of Appeals
§ 62:19	— —Second District Court of Appeals
§ 62:20	— —Third District Court of Appeals
§ 62:21	— —Fourth District Court of Appeals
§ 62:22	— —Fifth District Court of Appeals
§ 62:23	— —Eighth District Court of Appeals
§ 62:24	— —Ninth District Court of Appeals
§ 62:25	— —10th District Court of Appeals
§ 62:26	— —11th District Court of Appeals
§ 62:27	—Dog bite—Eighth District Court of Appeals
§ 62:28	— —Ninth District Court of Appeals
§ 62:29	— —10th District Court of Appeals
§ 62:30	Requirement of a valid marriage
§ 62:31	—Automobile accident—Second District Court of Appeals
§ 62:32	— —Seventh District Court of Appeals
§ 62:33	— —Eighth District Court of Appeals
§ 62:34	— —10th District Court of Appeals
§ 62:35	—Sexual abuse
§ 62:36	—Medical negligence—First District Court of Appeals
§ 62:37	— —Second District Court of Appeals
§ 62:38	— —Ninth District Court of Appeals
§ 62:39	— —10th District Court of Appeals
§ 62:40	—Exposure to chemicals/fumes
§ 62:41	Engaged to be married
§ 62:42	Child’s loss of parental consortium—Motor vehicle accidents— Ohio Supreme Court
§ 62:43	— —Fourth District Court of Appeals
§ 62:44	— —Sixth District Court of Appeals
§ 62:45	— —10th District Court of Appeals
§ 62:46	— —11th District Court of Appeals
§ 62:47	— —12th District Court of Appeals
§ 62:48	— —Court of claims
§ 62:49	—Medical negligence/malpractice—Ohio Supreme Court
§ 62:50	— —First District Court of Appeals
§ 62:51	— —12th District Court of Appeals
§ 62:52	— —Court of claims of Ohio
§ 62:53	Parent’s loss of consortium of child
§ 62:54	—Vehicular accidents—First District Court of Appeals
§ 62:55	— —Second District Court of Appeals

- § 62:56 — —Fifth District Court of Appeals
- § 62:57 — —Seventh District Court of Appeals
- § 62:58 —Medical negligence/malpractice—Ohio Supreme Court
- § 62:59 — —First District Court of Appeals
- § 62:60 — —Second District Court of Appeals
- § 62:61 — —Eighth District Court of Appeals
- § 62:62 — —11th District Court of Appeals
- § 62:63 — —12th District Court of Appeals
- § 62:64 —Dog bite—First District Court of Appeals
- § 62:65 — —Ninth District Court of Appeals
- § 62:66 Defenses
- § 62:67 —Waivers and releases
- § 62:68 —Sexual torts
- § 62:69 —Failure to join—First District Court of Appeals
- § 62:70 — —Fourth District Court of Appeals
- § 62:71 — —Statute of limitations
- § 62:72 —Medical negligence actions—Ohio Supreme Court
- § 62:73 — —First District Court of Appeals
- § 62:74 — —Fourth District Court of Appeals
- § 62:75 — —Fifth District Court of Appeals
- § 62:76 — —Sixth District Court of Appeals
- § 62:77 —General statute of limitations actions—Second District Court of Appeals
- § 62:78 — —10th District Court of Appeals
- § 62:79 Death actions—Generally
- § 62:80 —The “next of kin controversy”
- § 62:81 —Vehicular accidents—Sixth Circuit Court of Appeals
- § 62:82 — —United States District Court, S.D.
- § 62:83 — —Ohio Supreme Court
- § 62:84 — —First District Court of Appeals
- § 62:85 — —Third District Court of Appeals
- § 62:86 — —Fourth District Court of Appeals
- § 62:87 — —Sixth District Court of Appeals
- § 62:88 — —Ninth District Court of Appeals
- § 62:89 — —10th District Court of Appeals
- § 62:90 — —11th District Court of Appeals
- § 62:91 —Medical negligence/malpractice—First District Court of Appeals
- § 62:92 — —Second District Court of Appeals
- § 62:93 — —Third District Court of Appeals
- § 62:94 — —10th District Court of Appeals

CHAPTER 63. MARITIME TORTS

- § 63:1 Federal maritime and admiralty
- § 63:2 Maritime under Ohio law
- § 63:3 The Ohio Watercraft and Navigation Act
- § 63:4 Ohio Watercraft and Navigation Act—Northern District of Ohio
- § 63:5 —Fourth District Court of Appeals
- § 63:6 —Fifth District Court of Appeals

TABLE OF CONTENTS

§ 63:7	—Eighth District Court of Appeals
§ 63:8	—10th District Court of Appeals
§ 63:9	—11th District Court of Appeals
§ 63:10	The Ohio Watercraft Law
§ 63:11	Maritime jurisdiction—Constitutional basis
§ 63:12	—Statutory basis
§ 63:13	—Procedure
§ 63:14	—As pertains to personal injury or property damage
§ 63:15	—AJEA—Supreme Court of the United States
§ 63:16	— —Sixth Circuit Court of Appeals
§ 63:17	— —Southern District of New York
§ 63:18	—Maritime locus, navigability—Supreme Court of Ohio
§ 63:19	— —Sixth Circuit Court of Appeals
§ 63:20	— —First District Court of Appeals
§ 63:21	Property damage and personal injury by vessels—Ohio Statutory Law
§ 63:22	Personal injury and death—As applicable to federal law
§ 63:23	— —United States Supreme Court
§ 63:24	— —Eighth District Court of Appeals
§ 63:25	—Workers’ compensation—Supreme Court of Ohio
§ 63:26	— —Northern District of Ohio
§ 63:27	— —First District Court of Appeals
§ 63:28	— —Sixth District Court of Appeals
§ 63:29	Remedies and defenses in admiralty actions—In rem and in personam, generally
§ 63:30	Remedies and defenses in admiralty action—Actions against liability insurers
§ 63:31	— —Sixth Circuit Court of Appeals
§ 63:32	— —Supreme Court of Ohio
§ 63:33	Remedies and defenses in admiralty actions—Possessory rights
§ 63:34	— —Supreme Court of Ohio
§ 63:35	— —Fourth District Court of Appeals
§ 63:36	— —Sixth District Court of Appeals
§ 63:37	— —Ninth District
§ 63:38	—Statutes of limitations, laches
§ 63:39	—Limitation of liability act
§ 63:40	—Interspousal immunity, generally
§ 63:41	—Interspousal immunity—Ohio Supreme Court
§ 63:42	— —Sixth Circuit Court of Appeals
§ 63:43	—Comparative negligence and assumption of the risk, merger of the two
§ 63:44	—Comparative negligence and assumption of the risk—Sixth Circuit Court of Appeals
§ 63:45	— —Sixth District Court of Appeals
§ 63:46	— —Eighth District Court of Appeals
§ 63:47	— —10th District Court of Appeals
§ 63:48	— —11th District Court of Appeals
§ 63:49	Choice of law in admiralty actions—Generally
§ 63:50	—Death on the High Seas Act

- § 63:51 Death on the High Seas Act—Effect on state law applicability
- § 63:52 Choice of law in admiralty actions—Property damage, baggage, or cargo claims
- § 63:53 —Actions arising in territorial waters—Collision—Supreme Court of Ohio
- § 63:54 — — —Seventh District Court of Appeals
- § 63:55 — — —Ohio Court of Common Pleas—Hamilton County
- § 63:56 Choice of law in admiralty actions—Actions arising in territorial waters—Collision—Court of Claims, Ohio
- § 63:57 Choice of law in admiralty actions—Actions arising in territorial waters—Wrongful death of a passenger, seaman, or offshore worker
- § 63:58 Substantive maritime law—Property damage—Collision
- § 63:59 — — —Rules of the road
- § 63:60 — — —Compulsory pilotage
- § 63:61 — — —Cargo damage—The Harter Act
- § 63:62 — — —Carriage of Goods by Sea Act
- § 63:63 — — —Towage damage
- § 63:64 — — —Damage caused by wrecks and other obstructions to navigation
- § 63:65 — — —Pollution of navigable waters
- § 63:66 — — —10th District Court of Appeals
- § 63:67 — — —Franklin County Court of Common Pleas
- § 63:68 — — —Personal injury—To crewmen or seamen—Actions based on unseaworthiness of a vessel
- § 63:69 — — —Unseaworthiness and marine insurance
- § 63:70 — — —Actions based upon the negligence of vessel or vessel owner, generally
- § 63:71 — — —Actions based upon the negligence of vessel or vessel owner—Complaint under Jones Act for personal injury to crew members
- § 63:72 — — —Actions for wrongful death
- § 63:73 — — —Noncrew members or maritime workers (Longshoreman’s and Harbor Workers’ Compensation Act)
- § 63:74 — — —Non-crew members or maritime workers (Longshoreman’s and Harbor Workers’ Compensation Act)—United States Supreme Court
- § 63:75 — — —Noncrew members or maritime workers (Longshoreman’s and Harbor Workers’ Compensation Act)—Eighth District Court of Appeals
- § 63:76 — — —Effect on other tort claims
- § 63:77 — — —Procedure
- § 63:78 — — —Suits against the United States
- § 63:79 — — —Public Vessels Act
- § 63:80 — — —Suits in Admiralty Act
- § 63:81 — — —Federal Tort Claims Act

PART 7. DEFENSES

CHAPTER 64. DEFENSES IN GENERAL

- § 64:1 Generally

TABLE OF CONTENTS

§ 64:2	Defenses—Intentional torts
§ 64:3	— —First District Court of Appeals
§ 64:4	— —Second District Court of Appeals
§ 64:5	— —Third District Court of Appeals
§ 64:6	— —Fourth District Court of Appeals
§ 64:7	—Intentional tort—Fifth District Court of Appeals
§ 64:8	—Intentional torts—Sixth District Court of Appeals
§ 64:9	— —Seventh District Court of Appeals
§ 64:10	— —Eighth District Court of Appeals
§ 64:11	— —Ninth District Court of Appeals
§ 64:12	— —10th District Court of Appeals
§ 64:13	— —11th District Court of Appeals
§ 64:14	— —12th District Court of Appeals
§ 64:15	— —Supreme Court of Ohio
§ 64:16	—Statutory defenses
§ 64:17	— —First District Court of Appeals
§ 64:18	— —Second District Court of Appeals
§ 64:19	— —Third District Court of Appeals
§ 64:20	— —Fourth District Court of Appeals
§ 64:21	— —Fifth District Court of Appeals
§ 64:22	— —Sixth district court of appeals
§ 64:23	— —Seventh District Court of Appeals
§ 64:24	— —Eighth District Court of Appeals
§ 64:25	— —Ninth District Court of Appeals
§ 64:26	— —10th District Court of Appeals
§ 64:27	— —11th District Court of Appeals
§ 64:28	— —12th District Court of Appeals
§ 64:29	— —Supreme Court of Ohio
§ 64:30	—Act of God
§ 64:31	— —First District Court of Appeals
§ 64:32	— —Second District Court of Appeals
§ 64:33	— —Third District Court of Appeals
§ 64:34	— —Fourth District Court of Appeals
§ 64:35	— —Fifth District Court of Appeals
§ 64:36	— —Sixth District Court of Appeals
§ 64:37	— —Seventh District Court of Appeals
§ 64:38	— —Eighth District Court of Appeals
§ 64:39	— —Ninth District Court of Appeals
§ 64:40	— —10th District Court of Appeals
§ 64:41	— —11th District Court of Appeals
§ 64:42	— —12th District Court of Appeals
§ 64:43	— —Supreme Court of Ohio
§ 64:44	—Unavoidable accident
§ 64:45	— —First District Court of Appeals
§ 64:46	— —Second District Court of Appeals
§ 64:47	— —Third District Court of Appeals
§ 64:48	— —Fourth District Court of Appeals
§ 64:49	— —Fifth District Court of Appeals

- § 64:50 — —Sixth District Court of Appeals
- § 64:51 — —Seventh District Court of Appeals
- § 64:52 — —Eighth District Court of Appeals
- § 64:53 — —Ninth District Court of Appeals
- § 64:54 — —10th District Court of Appeals
- § 64:55 — —11th District Court of Appeals
- § 64:56 — —12th District Court of Appeals
- § 64:57 — —Supreme Court of Ohio
- § 64:58 —Sudden emergency
- § 64:59 — —First District Court of Appeals
- § 64:60 — —Second District Court of Appeals
- § 64:61 — —Third District Court of Appeals
- § 64:62 — —Fourth District Court of Appeals
- § 64:63 — —Fifth District Court of Appeals
- § 64:64 — —Sixth District Court of Appeals
- § 64:65 — —Seventh district court of appeals
- § 64:66 — —Eighth District Court of Appeals
- § 64:67 — —Ninth District Court of Appeals
- § 64:68 — —10th District Court of Appeals
- § 64:69 — —11th District Court of Appeals
- § 64:70 — —12th District Court of Appeals
- § 64:71 — —Supreme Court of Ohio
- § 64:72 —Equitable estoppel
- § 64:73 — —First District Court of Appeals
- § 64:74 — —Second District Court of Appeals
- § 64:75 — —Third District Court of Appeals
- § 64:76 — —Fourth District Court of Appeals
- § 64:77 — —Fifth District Court of Appeals
- § 64:78 — —Sixth District court of appeals
- § 64:79 — —Seventh district court of appeals
- § 64:80 — —Eighth district court of appeals
- § 64:81 — —Ninth District Court of Appeals
- § 64:82 — —10th District Court of Appeals
- § 64:83 — —11th District Court of Appeals
- § 64:84 — —12th District Court of Appeals
- § 64:85 — —Supreme Court of Ohio

CHAPTER 65. ASSUMPTION OF THE RISK

- § 65:1 Assumption of the risk
- § 65:2 Generally
- § 65:3 Concepts subsumed under term
- § 65:4 Express agreement
- § 65:5 Primary assumption of the risk
- § 65:6 Knowledge and appreciation of risk
- § 65:7 Voluntary exposure to risk—Sports
- § 65:8 — —Injury to spectators
- § 65:9 — —Injury to participants
- § 65:10 —Riding with intoxicated or reckless driver

TABLE OF CONTENTS

§ 65:11	Assumption of risk by employee
§ 65:12	Products liability
§ 65:13	Implied assumption of the risk
§ 65:14	Relation of assumption of risk to contributory negligence
§ 65:15	Burden of proof
§ 65:16	Disapproval or abolition of defense
§ 65:17	Actions in which defense is available
§ 65:18	—In actions based on reckless, grossly negligent, or intentional conduct of defendant
§ 65:19	Motor vehicles
§ 65:20	Participation in sports or games
§ 65:21	Attending sporting events and exhibitions as a spectator
§ 65:22	Products liability

CHAPTER 66. COMPARATIVE NEGLIGENCE

§ 66:1	Generally
§ 66:2	Contributory negligence versus comparative negligence and the arguments pro and con
§ 66:3	History and development of the doctrine in Ohio
§ 66:4	Mode of adopting comparative negligence
§ 66:5	Validity of comparative negligence statutes
§ 66:6	Types of comparative negligence
§ 66:7	—The “pure” comparative negligence rule
§ 66:8	—The “modified” comparative negligence system
§ 66:9	—The “not greater than” rule
§ 66:10	—The “slight gross” system
§ 66:11	Remote comparative negligence rule in Tennessee
§ 66:12	Uniform Comparative Fault Act
§ 66:13	Retrospective application—Statutory adoption of doctrine
§ 66:14	—Where statute expressly prohibits retrospective application
§ 66:15	—Where statute provides for retrospective application
§ 66:16	—Constitutionality of retroactive application
§ 66:17	—Judicial adoption of doctrine
§ 66:18	Effect on other doctrines and principles—Generally
§ 66:19	—Proximate cause
§ 66:20	— —Second District
§ 66:21	— —Third District
§ 66:22	— —Fourth District
§ 66:23	— —Sixth District
§ 66:24	— —Seventh District
§ 66:25	— —Eighth District
§ 66:26	— —Ninth District
§ 66:27	— —10th District
§ 66:28	— —11th District
§ 66:29	—Intentional conduct
§ 66:30	—Willful, wanton, or reckless conduct
§ 66:31	—Gross negligence
§ 66:32	—Violation of statute or regulation by defendant

- § 66:33 — —10th District
- § 66:34 — —Sixth District
- § 66:35 — —Eighth District
- § 66:36 — —Second District
- § 66:37 —Plaintiff's violation of safety statute
- § 66:38 —Punitive damages for intentional tort or aggravated negligence
- § 66:39 —Plaintiff's capacity
- § 66:40 —Infancy
- § 66:41 —Mental infirmity
- § 66:42 —Doctrine of last clear chance
- § 66:43 —Open and obvious doctrine
- § 66:44 —Minor or trivial defect doctrine
- § 66:45 —Doctrine of *res ipsa loquitur*
- § 66:46 Effect of comparative negligence on assumption of risk
- § 66:47 Statutory abolition of implied assumption of risk
- § 66:48 Judicial abolition of implied assumption of risk after enactment of the comparative negligence statute
- § 66:49 Retention of assumption of risk after adoption of comparative negligence
- § 66:50 Express assumption of risk
- § 66:51 Statutory violations—Municipal liability
- § 66:52 —Safe place statutes
- § 66:53 —Guest statutes
- § 66:54 —Dram Shop Act
- § 66:55 —Seat belt statutes
- § 66:56 Common law rules—Generally
- § 66:57 —Assumption of the risk
- § 66:58 —Last clear chance
- § 66:59 —Gross negligence
- § 66:60 —Attractive nuisance
- § 66:61 —*Res ipsa loquitur*
- § 66:62 —Punitive damages
- § 66:63 —Nuisance—Unintentional
- § 66:64 — —Intentional
- § 66:65 —Active/passive negligence
- § 66:66 —Seat belt defense
- § 66:67 —Strict liability
- § 66:68 —Adoption or rejection by statute
- § 66:69 —Misrepresentation
- § 66:70 —Ultrahazardous activities
- § 66:71 —Absolute liability
- § 66:72 Effect of settlement in comparative negligence cases
- § 66:73 Use of special verdicts
- § 66:74 Types of special verdicts—Specific special

CHAPTER 67. CONTRIBUTORY NEGLIGENCE

- § 67:1 Historical development of doctrine
- § 67:2 Essence of doctrine

TABLE OF CONTENTS

§ 67:3	Comparative negligence compared
§ 67:4	Assumption of the risk compared
§ 67:5	Reasons and justification for doctrine
§ 67:6	Modification and abrogation of doctrine
§ 67:7	Question of law or fact?
§ 67:8	Burden of pleading and requisite proof
§ 67:9	Effect of defendant's conduct—Generally
§ 67:10	—Injury intentionally inflicted by defendant
§ 67:11	—Defendant's willful, wanton, or reckless conduct
§ 67:12	—Defendant's gross negligence
§ 67:13	—Violation by defendant of statute or regulation
§ 67:14	—Statute intended to protect minors
§ 67:15	Effect of plaintiff's conduct—Plaintiff's standard of care
§ 67:16	—Standard of care applied to minors
§ 67:17	—Plaintiff's willful, wanton, or reckless conduct
§ 67:18	—Plaintiff's violation of statute or regulation
§ 67:19	—Plaintiff's contributory negligence unconnected with injury suffered
§ 67:20	Nature and elements of contributory negligence—Generally
§ 67:21	Comparison between contributory negligence and negligence
§ 67:22	Distinction between contributory negligence and doctrine of avoidable consequences—Nonuse of seat belts
§ 67:23	Imputed contributory negligence
§ 67:24	—Historical development
§ 67:25	Negligence of one spouse imputed to another
§ 67:26	Negligence of parent in child's action
§ 67:27	Negligence of vehicle operator in passenger action against third party
§ 67:28	—Where passenger is owner of a vehicle
§ 67:29	—Where the owner of the vehicle is the parent of the driver
§ 67:30	Contributory negligence of servant imputed to master in master's action against third party
§ 67:31	Negligence of employer imputed to employee
§ 67:32	Negligence of bailee imputed to bailor
§ 67:33	Negligence of one member of joint enterprise imputed to another
§ 67:34	Negligence of nominal plaintiff imputed to real beneficiary of action
§ 67:35	Negligence of railroad imputed to lessor railroad
§ 67:36	Negligence of endangered person imputed to rescuer
§ 67:37	Intentional but unreasonable exposure to known danger
§ 67:38	Failure to appreciate discoverable risk
§ 67:39	Inattention and forgetfulness
§ 67:40	Diversion of attention or distraction
§ 67:41	Plaintiff's capacity affecting standard
§ 67:42	—Physical disability
§ 67:43	Plaintiff's capacity affecting standard
§ 67:44	—Intoxication
§ 67:45	—Infancy
§ 67:46	Failure to wear a seat belt

- § 67:47 Failure to wear a motorcycle helmet
- § 67:48 Negligence of guest or occupant
- § 67:49 Choice-of-path doctrine
- § 67:50 Exposure to danger during rescue effort
- § 67:51 Liability of rescued person to rescuer
- § 67:52 Sudden emergency doctrine
- § 67:53 Plaintiff's obligation to anticipate negligence of others

CHAPTER 68. ECONOMIC LOSS DOCTRINE

- § 68:1 Generally
- § 68:2 —Ohio
- § 68:3 — —Exceptions
- § 68:4 Economic losses—Ohio definition
- § 68:5 Ohio Revised Code
- § 68:6 —Southern District of Ohio
- § 68:7 —Third District Court of Appeals
- § 68:8 —Eighth District Court of Appeals
- § 68:9 —10th District Court of Appeals
- § 68:10 Products liability—Generally
- § 68:11 —Ohio Revised Code
- § 68:12 — —Ohio Supreme Court
- § 68:13 — —Third District Court of Appeals
- § 68:14 — —Fourth District Court of Appeals
- § 68:15 — —10th District Court of Appeals
- § 68:16 — —12th District Court of Appeals
- § 68:17 —Applicable case law—Supreme Court of Ohio
- § 68:18 — —Fifth District Court of Appeals
- § 68:19 — —Eighth District Court of Appeals
- § 68:20 — —Ninth District Court of Appeals
- § 68:21 — —10th District Court of Appeals
- § 68:22 Construction contract context—Supreme Court of Ohio
- § 68:23 —First District Court of Appeals
- § 68:24 —Third District Court of Appeals
- § 68:25 —Sixth District Court of Appeals
- § 68:26 —Eighth District Court of Appeals
- § 68:27 —Ninth District Court of Appeals
- § 68:28 —10th District Court of Appeals
- § 68:29 Residential housing loans—First District Court of Appeals
- § 68:30 —Common pleas court—Summit County

CHAPTER 69. IMMUNITIES

- § 69:1 Sovereign immunities—History
- § 69:2 “Sovereign” and “governmental” immunity
- § 69:3 The immunity of the United States government
- § 69:4 The immunity of foreign governments
- § 69:5 Establishing, limiting, abolition, reinstating immunity—
Constitutional and statutory provisions
- § 69:6 —Constitutional validity of immunities

TABLE OF CONTENTS

§ 69:7	Tests and criteria—"Governmental function" versus "proprietary function" dichotomy
§ 69:8	—The "general duty" versus "special duty" dichotomy
§ 69:9	—The "discretionary function" versus "ministerial function" dichotomy
§ 69:10	Exceptions—Keeping highways safe
§ 69:11	—Negligent operation of motor vehicles
§ 69:12	—Dangerous and defective buildings
§ 69:13	—Keeping highways safe—Effect of nuisances causing harm
§ 69:14	—Effect of procuring liability insurance
§ 69:15	States and state agencies—Generally
§ 69:16	—Torts of officers or employees
§ 69:17	—Medical negligence/malpractice—First District Court of Appeals
§ 69:18	— —Third District Court of Appeals
§ 69:19	— —Fourth District Court of Appeals
§ 69:20	— —10th District Court of Appeals
§ 69:21	—Electrocution
§ 69:22	—Negligent supervision
§ 69:23	—Intentional/negligent infliction of emotional distress
§ 69:24	—Actions brought by inmates at a correctional institution
§ 69:25	— —Third District Court of Appeals
§ 69:26	— —Fourth District Court of Appeals
§ 69:27	— —Fifth District Court of Appeals
§ 69:28	— —10th District Court of Appeals
§ 69:29	—Constitutional actions/due process
§ 69:30	—Defamation
§ 69:31	—Tortious wrongful discharge—10th District Court of Appeals
§ 69:32	— —11th District Court of Appeals
§ 69:33	—As between states; interstate sovereignty
§ 69:34	Municipal corporations
§ 69:35	—Effect of statutory abrogation of state's immunity
§ 69:36	—Capacity to sue and be sued
§ 69:37	—Acts of officers and employees
§ 69:38	Counties
§ 69:39	—Capacity to sue and be sued
§ 69:40	—Construction/building negligence
§ 69:41	—Vehicular accidents—Second District Court of Appeals
§ 69:42	— —Sixth District Court of Appeals
§ 69:43	— —Ninth District Court of Appeals
§ 69:44	—False imprisonment
§ 69:45	—Acts of officers and employees
§ 69:46	— —Construction/building negligence—Seventh District Court of Appeals
§ 69:47	— — —Eighth District Court of Appeals
§ 69:48	— — —In the 12th District Court of Appeals
§ 69:49	—Drowning
§ 69:50	—Mental/emotional distress
§ 69:51	—Tortious interference with business relationship

- § 69:52 —Legal malpractice
- § 69:53 Townships and towns
- § 69:54 School boards and districts
- § 69:55 —Capacity to sue and be sued
- § 69:56 —Recreational user statute Revised Code 1533.181
- § 69:57 —Acts of officers and employees
- § 69:58 Public officers and employees
- § 69:59 —Discretionary functions
- § 69:60 —United States officers
- § 69:61 —State and territorial officers
- § 69:62 —Subdivision officers
- § 69:63 —Types of officers—Legislative
- § 69:64 — — —Second District Court of Appeals
- § 69:65 — — —Fifth District Court of Appeals
- § 69:66 — — —Eighth District Court of Appeals
- § 69:67 — — —Ninth District Court of Appeals
- § 69:68 — —Judicial
- § 69:69 — — —Acting outside of jurisdiction—Ohio Supreme Court
- § 69:70 — — — —11th District Court of Appeals
- § 69:71 — — —Negligence in Recording/transcribing—Sixth District Court of Appeals
- § 69:72 — — — —Eighth District Court of Appeals
- § 69:73 — — —Improper sentencing/false imprisonment
- § 69:74 — — —Indecipherable allegations
- § 69:75 — — —General misconduct/bias/maliciousness—Eighth District
- § 69:76 — — — —Ninth District
- § 69:77 — — — —10th District Court of Appeals
- § 69:78 — — —Violation of constitutional rights—First District Court of Appeals
- § 69:79 — — — —10th District Court of Appeals
- § 69:80 — — —Seizure/removal/conversion—Second District Court of Appeals
- § 69:81 — — — —12th District Court of Appeals
- § 69:82 — —Executive
- § 69:83 — —Police officers
- § 69:84 — —Quasi-judicial; administrative
- § 69:85 — — —Prosecuting attorneys; private defense counsel; public defenders
- § 69:86 Charities
- § 69:87 Familial immunity
- § 69:88 Spouses
- § 69:89 Parent and child
- § 69:90 —Automobile and other vehicle accidents
- § 69:91 Workers' compensation; employers' immunity
- § 69:92 —Dual-capacity doctrine and other theories used to obviate employer immunity
- § 69:93 — —Ohio Supreme Court
- § 69:94 — —Second District Court of Appeals
- § 69:95 — —Third District Court of Appeals

TABLE OF CONTENTS

§ 69:96	— —Fourth District Court of Appeals
§ 69:97	— —Sixth District Court of Appeals
§ 69:98	— —Eighth District Court of Appeals
§ 69:99	— —Ninth District Court of Appeals
§ 69:100	— —10th District Court of Appeals
§ 69:101	— —11th District Court of Appeals
§ 69:102	—Third persons; fellow employees; contractors
§ 69:103	— —Vehicular accident—Ohio Supreme Court
§ 69:104	— — —Third District Court of Appeals
§ 69:105	— — —Sixth District Court of Appeals
§ 69:106	— — —Seventh District Court of Appeals
§ 69:107	— — —Eighth District Court of Appeals
§ 69:108	— — —10th District Court of Appeals
§ 69:109	—Medical malpractice/medical negligence
§ 69:110	—Emotional distress—Second District Court of Appeals
§ 69:111	— —Sixth District Court of Appeals
§ 69:112	—Negligent supervision—Third District Court of Appeals
§ 69:113	— —Eighth District Court of Appeals
§ 69:114	—Assault/battery—Fourth District Court of Appeals
§ 69:115	— —Eighth District Court of Appeals
§ 69:116	—Exposure to chemical/gas—Ninth District Court of Appeals
§ 69:117	— —10th District Court of Appeals
§ 69:118	—Dog bite
§ 69:119	—“Horseplay”—Sixth District Court of Appeals
§ 69:120	— —Seventh District Court of Appeals
§ 69:121	—Intentional torts; willful or wanton misconduct; recklessness; gross negligence
§ 69:122	— —Assault
§ 69:123	— —Dangerous work conditions—Ohio Supreme Court
§ 69:124	— — —First District Court of Appeals
§ 69:125	— — —Eighth District Court of Appeals
§ 69:126	— — —Injury from product/machines—Sixth District Court of Appeals
§ 69:127	— — —10th District Court of Appeals
§ 69:128	Liability of public bodies for defects in highways, roads, streets, bridges, sidewalks, waters, and sewers
§ 69:129	—Dividers; median strips
§ 69:130	—Barriers, barricade, guardrails—Ohio Supreme Court
§ 69:131	— —Third District Court of Appeals
§ 69:132	— —Sixth District Court of Appeals
§ 69:133	— —Seventh District Court of Appeals
§ 69:134	— —Eighth District Court of Appeals
§ 69:135	—Curbs—First District Court of Appeals
§ 69:136	— —Ninth District Court of Appeals
§ 69:137	—Shoulders
§ 69:138	—Holes—Fifth District Court of Appeals
§ 69:139	— —Sixth District Court of Appeals
§ 69:140	— —Eighth District Court of Appeals
§ 69:141	— —Ninth District Court of Appeals

- § 69:142 — —10th District Court of Appeals
- § 69:143 — —Court of Claims of Ohio
- § 69:144 — —Traffic control signals and devices—Second District Court of Appeals
- § 69:145 — —Fifth District Court of Appeals
- § 69:146 — —Eighth District Court of Appeals
- § 69:147 — —10th District Court of Appeals
- § 69:148 — —Ohio Court of Claims
- § 69:149 — —Vegetation and the like obscuring vision—Fifth District Court of Appeals
- § 69:150 — —11th District Court of Appeals
- § 69:151 — —Trees—Ohio Supreme Court
- § 69:152 — —Fourth District Court of Appeals
- § 69:153 — —Sixth District Court of Appeals
- § 69:154 — —Sidewalk; other walkways; parkways or parking strips
- § 69:155 — —Snow and ice—Sixth District Court of Appeals
- § 69:156 — —Ninth District Court of Appeals
- § 69:157 — —Sewers, drains, waterways, and waters—First District Court of Appeals
- § 69:158 — —Second District Court of Appeals
- § 69:159 — —Fourth District Court of Appeals
- § 69:160 — —Fifth District Court of Appeals
- § 69:161 — —Seventh District Court of Appeals
- § 69:162 — —Eighth District Court of Appeals
- § 69:163 — —Ninth District Court of Appeals
- § 69:164 — —10th District Court of Appeals
- § 69:165 — —11th District Court of Appeals
- § 69:166 — —12th District Court of Appeals
- § 69:167 — —Bridges—Third District Court of Appeals
- § 69:168 — —Ninth District Court of Appeals
- § 69:169 Counties
- § 69:170 Schools, school district, officers, and employees
- § 69:171 — —Lack or insufficiency of supervision—Second District Court of Appeals
- § 69:172 — —Fourth District Court of Appeals
- § 69:173 — —Fifth District Court of Appeals
- § 69:174 — —Sixth District Court of Appeals
- § 69:175 — —Seventh District Court of Appeals
- § 69:176 — —10th District Court of Appeals
- § 69:177 — —11th District Court of Appeals
- § 69:178 — —12th District Court of Appeals
- § 69:179 — —Condition of buildings, equipment, outside premises, grounds, walks, and playgrounds—Second District Court of Appeals
- § 69:180 — —Fifth District Court of Appeals
- § 69:181 — —Sixth District Court of Appeals
- § 69:182 — —Eighth District Court of Appeals
- § 69:183 — —Physical education classes; school athletic events—Ohio Supreme Court
- § 69:184 — —Second District Court of Appeals

TABLE OF CONTENTS

§ 69:185	— —Third District Court of Appeals
§ 69:186	— —Fourth District
§ 69:187	— —Fifth District
§ 69:188	— —Sixth District
§ 69:189	— —Seventh District
§ 69:190	— —Eighth District
§ 69:191	— —Ninth District
§ 69:192	— —11th District
§ 69:193	— —12th District
§ 69:194	—Incidents from chemistry and related experiments, shopwork, and manual or vocational training
§ 69:195	—Transportation; school buses—Ohio Supreme Court
§ 69:196	— —Second District
§ 69:197	— —Third District
§ 69:198	— —Fifth District
§ 69:199	— —Eighth District
§ 69:200	— —10th District
§ 69:201	— —12th District Court of Appeals
§ 69:202	—Acts and activities of fellow students—Seventh District Court of Appeals
§ 69:203	— —Eighth District Court of Appeals
§ 69:204	— —11th District Court of Appeals
§ 69:205	— —12th District Court of Appeals
§ 69:206	—Torts of teachers
§ 69:207	—Teacher brings suit against school board—Eighth District Court of Appeals
§ 69:208	— —11th District Court of Appeals
§ 69:209	—School employees: superintendents, principals, and teachers
§ 69:210	—Infliction of corporal punishment—Fourth District Court of Appeals
§ 69:211	— —Ninth District
§ 69:212	—Educational malpractice
§ 69:213	—Battery/assault—Ninth District Court of Appeals
§ 69:214	— —10th District Court of Appeals
§ 69:215	—Negligent supervision of students—Second District Court of Appeals
§ 69:216	— —Fourth District Court of Appeals
§ 69:217	— —Sixth District Court of Appeals
§ 69:218	— —Seventh District Court of Appeals
§ 69:219	— —10th District Court of Appeals
§ 69:220	—Physical education classes/school athletic events—Ohio Supreme Court
§ 69:221	— —Second District Court of Appeals
§ 69:222	— —Third District Court of Appeals
§ 69:223	— —Fifth District Court of Appeals
§ 69:224	— —Sixth District Court of Appeals
§ 69:225	— —Seventh District Court of Appeals
§ 69:226	— —Eighth District Court of Appeals
§ 69:227	— —11th District Court of Appeals

- § 69:228 Tort liability of miscellaneous public officers and employees—
Hostile work environment
- § 69:229 —Mobs, riots, and the like—Second District Court of Appeals
- § 69:230 —Sixth District Court of Appeals
- § 69:231 —Police activities in connection with crime
- § 69:232 —Negligent investigation—Second District
- § 69:233 —Seventh District
- § 69:234 —Eighth District
- § 69:235 —10th District
- § 69:236 —11th District
- § 69:237 —Failure to protect—Sixth District
- § 69:238 —10th District
- § 69:239 —Vehicular accidents and police chases—Immunity of political
subdivisions in vehicular accidents
- § 69:240 —Immunity of individual officers of political subdivisions in
vehicular accidents
- § 69:241 —Ohio Supreme Court
- § 69:242 —First District Court of Appeals
- § 69:243 —Second District Court of Appeals
- § 69:244 —Third District Court of Appeals
- § 69:245 —Fourth District Court of Appeals
- § 69:246 —Fifth District
- § 69:247 —Sixth District
- § 69:248 —Seventh District
- § 69:249 —Eighth District Court of Appeals
- § 69:250 —Ninth District Court of Appeals
- § 69:251 —10th District Court of Appeals
- § 69:252 —11th District Court of Appeals
- § 69:253 —12th District
- § 69:254 —Ohio municipal court
- § 69:255 —Fire prevention and control
- § 69:256 —Untimely response—Sixth District Court of Appeals
- § 69:257 —12th District Court of Appeals

CHAPTER 70. JUSTIFICATION

- § 70:1 Generally
- § 70:2 Consent
- § 70:3 —Participation in acts that result in injury—Supreme Court
- § 70:4 —Second District
- § 70:5 —Acts performed by others; medical procedures
- § 70:6 —Supreme Court
- § 70:7 —Sixth District
- § 70:8 —10th District
- § 70:9 Self-defense
- § 70:10 —Supreme Court
- § 70:11 —12th District
- § 70:12 —Ninth District
- § 70:13 Defense of property

TABLE OF CONTENTS

§ 70:14	—Supreme Court
§ 70:15	—Seventh District
§ 70:16	Defense of third persons
§ 70:17	—Fifth District
§ 70:18	—Sixth District
§ 70:19	Discipline
§ 70:20	—Eighth District
§ 70:21	Mistake
§ 70:22	Illegality
§ 70:23	Infancy
§ 70:24	—Supreme Court
§ 70:25	—First District
§ 70:26	—Third District
§ 70:27	—Sixth District
§ 70:28	Incompetency, mental deficiency, and insanity
§ 70:29	—Intentional torts
§ 70:30	—Negligence—Supreme Court
§ 70:31	— —Fifth District
§ 70:32	— —Sixth District

Table of Contents

PART 7. DEFENSES (CONTINUED)

CHAPTER 71. LAST CLEAR CHANCE

- § 71:1 Generally
- § 71:2 Rationale of the last clear chance doctrine
- § 71:3 Contributory negligence required
- § 71:4 Helpless plaintiff
- § 71:5 Inattentive plaintiff
- § 71:6 Defendant's knowledge of plaintiff's peril
- § 71:7 Relative timing of negligence of parties
- § 71:8 Defendant's clear chance

CHAPTER 72. MISCELLANEOUS MERGERS

- § 72:1 Election of remedies or defenses, generally
- § 72:2 Election of remedies or defenses—Supreme Court of Ohio
- § 72:3 —Northern District of Ohio
- § 72:4 —Southern District of Ohio
- § 72:5 —Second District Court of Appeals
- § 72:6 —Fourth District Court of Appeals
- § 72:7 —Sixth District Court of Appeals
- § 72:8 —Seventh District Court of Appeals
- § 72:9 —Eighth District Court of Appeals
- § 72:10 —10th District Court of Appeals
- § 72:11 —12th District Court of Appeals
- § 72:12 Dismissal—Generally
- § 72:13 —Ohio Rules of Civil Procedure
- § 72:14 —Supreme Court of Ohio
- § 72:15 —First District Court of Appeals
- § 72:16 —Third District Court of Appeals
- § 72:17 —Sixth District Court of Appeals
- § 72:18 —Seventh District Court of Appeals
- § 72:19 —Eighth District Court of Appeals
- § 72:20 —Ninth District Court of Appeals
- § 72:21 —10th District Court of Appeals
- § 72:22 —11th District Court of Appeals
- § 72:23 —12th District Court of Appeals
- § 72:24 —Involuntary dismissals due to failure to state a claim—Supreme Court of Ohio
- § 72:25 — —Second District Court of Appeals
- § 72:26 — —Fifth District Court of Appeals
- § 72:27 — —Seventh District Court of Appeals

- § 72:28 — —Eighth District Court of Appeals
- § 72:29 — —10th District Court of Appeals
- § 72:30 — —11th District Court of Appeals
- § 72:31 — —12th District Court of Appeals
- § 72:32 —Voluntary
- § 72:33 — —Supreme Court of Ohio
- § 72:34 — —Second District Court of Appeals
- § 72:35 — —Eighth District Court of Appeals
- § 72:36 — —Ninth District Court of Appeals
- § 72:37 — —10th District Court of Appeals
- § 72:38 — —12th District Court of Appeals
- § 72:39 — —Double dismissal
- § 72:40 — — —Supreme Court of Ohio
- § 72:41 — — —Fifth District Court of Appeals
- § 72:42 — — —Eighth District Court of Appeals
- § 72:43 — — —10th District Court of Appeals
- § 72:44 — — —12th District Court of Appeals
- § 72:45 Abatement, stay, survival, and assignment—Generally
- § 72:46 —Abatement because another action is pending—Supreme Court of Ohio
- § 72:47 — —Sixth District Court of Appeals
- § 72:48 — —Eighth District Court of Appeals
- § 72:49 — —Ninth District Court of Appeals
- § 72:50 — —10th District Court of Appeals
- § 72:51 — —11th District Court of Appeals
- § 72:52 —Abatement arising from a transfer of interest
- § 72:53 —Abatement by death of a party
- § 72:54 — —Eighth District Court of Appeals
- § 72:55 — —Ninth District Court of Appeals
- § 72:56 — —10th District Court of Appeals
- § 72:57 — —Libel and slander—Supreme Court of Ohio
- § 72:58 — — —Fifth District Court of Appeals
- § 72:59 — — —Eighth District Court of Appeals
- § 72:60 — —Malicious prosecution
- § 72:61 — —Nuisance context
- § 72:62 — —Workers' compensation—Supreme Court of Ohio
- § 72:63 — — —Second District Court of Appeals
- § 72:64 — — —Fourth District Court of Appeals
- § 72:65 — — —Fifth District Court of Appeals
- § 72:66 — — —Eighth District Court of Appeals
- § 72:67 — —Trespass context
- § 72:68 Discharge in bankruptcy—Generally
- § 72:69 —Seventh District Court of Appeals
- § 72:70 —Eighth District Court of Appeals
- § 72:71 —10th District Court of Appeals
- § 72:72 —12th District Court of Appeals
- § 72:73 —Estoppel
- § 72:74 —Malicious and willful tort

TABLE OF CONTENTS

§ 72:75	— —Supreme Court of Ohio
§ 72:76	— —Circuit Court of Ohio
§ 72:77	— —Southern District of Ohio
§ 72:78	— —Second District Court of Appeals
§ 72:79	— —Third District Court of Appeals
§ 72:80	— —Sixth District Court of Appeals
§ 72:81	— —Ninth District Court of Appeals

CHAPTER 73. PROXIMATE CAUSE

§ 73:1	Generally
§ 73:2	The hazard problem
§ 73:3	—Open and obvious
§ 73:4	— —Ohio Supreme Court
§ 73:5	— —First District
§ 73:6	— —Second District
§ 73:7	— —Third District
§ 73:8	— —Fourth District
§ 73:9	— —Fifth District
§ 73:10	— —Sixth District
§ 73:11	— —Seventh District
§ 73:12	— —Eighth District
§ 73:13	— —Ninth District
§ 73:14	— —10th District
§ 73:15	— —11th District
§ 73:16	— —12th District
§ 73:17	Emergency defense
§ 73:18	—Ohio Supreme Court
§ 73:19	—First District
§ 73:20	—Second District
§ 73:21	—Sixth District
§ 73:22	—Seventh District
§ 73:23	—Eighth District
§ 73:24	—10th District
§ 73:25	—11th District
§ 73:26	—12th District
§ 73:27	Comparative negligence (plaintiff's negligence as a remote cause)
§ 73:28	Comparative negligence—Ohio Supreme Court
§ 73:29	—First District
§ 73:30	—Second District
§ 73:31	—Third District
§ 73:32	—Fourth District
§ 73:33	—Fifth District
§ 73:34	—Sixth District
§ 73:35	—Seventh District
§ 73:36	—Eighth District
§ 73:37	—Ninth District
§ 73:38	—10th District
§ 73:39	—11th District

- § 73:40 —12th District
- § 73:41 Tests of proximate cause—Foreseeable plaintiff
- § 73:42 — —Ohio Court of Claims
- § 73:43 — —Supreme Court of Ohio
- § 73:44 — —Second District
- § 73:45 Scope of the risk of harm, manner, and extent—Scope
- § 73:46 —Manner
- § 73:47 —Extent
- § 73:48 —Supreme Court of Ohio
- § 73:49 —First District
- § 73:50 —Third District
- § 73:51 —Fifth District
- § 73:52 —Seventh District
- § 73:53 Risk over
- § 73:54 —Southern District
- § 73:55 —Fifth District
- § 73:56 Intervening acts/superseding cause—Intervening act
- § 73:57 —Superseding cause
- § 73:58 —First District
- § 73:59 —Sixth District
- § 73:60 Act of God

CHAPTER 74. RES JUDICATA & COLLATERAL ESTOPPEL

- § 74:1 True res judicata
- § 74:2 Collateral estoppel
- § 74:3 Privity; mutual parties
- § 74:4 Res judicata; claim preclusion; estoppel by judgment—Southern District Court
- § 74:5 —Ohio Supreme Court
- § 74:6 —First Appellate District
- § 74:7 —Second Appellate District
- § 74:8 —Third Appellate District
- § 74:9 —Fourth Appellate District
- § 74:10 —Fifth Appellate District
- § 74:11 —Sixth Appellate District
- § 74:12 —Seventh Appellate District
- § 74:13 —Eighth Appellate District
- § 74:14 —Ninth Appellate District
- § 74:15 —11th Appellate District
- § 74:16 Collateral estoppel; issue preclusion—Northern District
- § 74:17 —Ohio Supreme Court
- § 74:18 —First Appellate District
- § 74:19 —Second Appellate District
- § 74:20 —Third Appellate District
- § 74:21 —Fourth Appellate District
- § 74:22 —Fifth Appellate District
- § 74:23 —Sixth Appellate District

TABLE OF CONTENTS

- § 74:24 —Seventh Appellate District
- § 74:25 —Eighth Appellate District
- § 74:26 —Ninth Appellate District
- § 74:27 —10th Appellate District
- § 74:28 —11th Appellate District

CHAPTER 75. STATUTE OF LIMITATIONS AND SIMILAR TIME LIMITS

- § 75:1 Generally
- § 75:2 Statutes of limitations generally raised as affirmative defense
- § 75:3 Federal limitations period applies to federal claims raised in state court
- § 75:4 Statutes of limitations—What statute governs
- § 75:5 When statute starts to run
- § 75:6 —Discovery rule
- § 75:7 When an action is “commenced”
- § 75:8 The savings statute; generally
- § 75:9 The savings statute—Refiled action can be filed in different court from original
- § 75:10 —Case Applications
- § 75:11 —Refiling in state court after dismissal in federal court
- § 75:12 Construction and constitutionality of statutes of limitation
- § 75:13 Amendments to statutes of limitation
- § 75:14 Tolling and suspensions of statutes of limitations
- § 75:15 —Discovery rule
- § 75:16 Actions under Revised Code 2305.09—Generally
- § 75:17 —Negligence claims
- § 75:18 —Fraud claims
- § 75:19 —Nuisance and trespass to land
- § 75:20 —Intentional infliction of emotional distress
- § 75:21 —Real property claims
- § 75:22 —Personal property actions
- § 75:23 —Abuse of process
- § 75:24 —Accountant negligence
- § 75:25 —Architects and engineers
- § 75:26 —Breach of fiduciary duty
- § 75:27 —Breach of warranty
- § 75:28 —Other miscellaneous claims
- § 75:29 Actions under Revised Code 2305.10—Generally
- § 75:30 —Personal bodily injury
- § 75:31 —Injury to personal property
- § 75:32 —Product liability claims
- § 75:33 —Constitutionality of the statute of repose
- § 75:34 Actions under Revised Code 2305.11—Generally
- § 75:35 —Libel and slander actions
- § 75:36 —Malicious prosecution and abuse of process
- § 75:37 —False arrest and imprisonment
- § 75:38 —Legal malpractice

- § 75:39 —Professional negligence other than legal or medical
- § 75:40 Malpractice actions *not* covered under Revised Code 2305.11
- § 75:41 Actions under Revised Code 2305.111—Generally
- § 75:42 —Case applications
- § 75:43 — —Actions for intentional infliction of emotional distress
reclassified by court as actions for battery or sexual assault
- § 75:44 Actions under Revised Code 2305.113—Generally
- § 75:45 —180-Day letters
- § 75:46 —Discovery rule
- § 75:47 —Case applications
- § 75:48 Asbestos claims
- § 75:49 Wrongful death claims
- § 75:50 Statutes of repose

CHAPTER 76. PREINJURY RELEASE & EXCULPATORY CLAUSES

- § 76:1 Generally
- § 76:2 One's own negligence
- § 76:3 Compromises, settlements, and releases—Validity, as between
parties; effect of mistake, fraud, duress
- § 76:4 —As between tortfeasors; loan receipts; “Mary Carter” agreements
and similar devices

PART 8. DAMAGES

CHAPTER 77. DAMAGES GENERALLY

- § 77:1 Generally
- § 77:2 Compensatory damages (also *actual, tangible, actual, or real damages*)
- § 77:3 Special damages (also *particular damages or economic loss*)
- § 77:4 Special damages—Lost wages/lost income/lost earnings
- § 77:5 —Lost wages—Ohio Supreme Court
- § 77:6 — —First District of Ohio
- § 77:7 — —Second District of Ohio
- § 77:8 — —Third District of Ohio
- § 77:9 — —Fourth District of Ohio
- § 77:10 — —Fifth District of Ohio
- § 77:11 — —Sixth District of Ohio
- § 77:12 — —Seventh District of Ohio
- § 77:13 — —Eighth District of Ohio
- § 77:14 — —Ninth District of Ohio
- § 77:15 — —11th District of Ohio
- § 77:16 — —12th District of Ohio
- § 77:17 —Diminished earning capacity or loss of earning power
- § 77:18 — —Ohio Supreme Court
- § 77:19 — —First District of Ohio
- § 77:20 — —Second District of Ohio

TABLE OF CONTENTS

§ 77:21	—Third District of Ohio
§ 77:22	—Fourth District of Ohio
§ 77:23	—Sixth District of Ohio
§ 77:24	—Seventh District of Ohio
§ 77:25	—Eighth District of Ohio
§ 77:26	—Ninth District of Ohio
§ 77:27	—10th District of Ohio
§ 77:28	—11th District of Ohio
§ 77:29	—12th District of Ohio
§ 77:30	—Medical expenses
§ 77:31	—Second District of Ohio
§ 77:32	—10th District of Ohio
§ 77:33	—Pure economic loss
§ 77:34	—Lost profits
§ 77:35	—Third District of Ohio
§ 77:36	General damages (also <i>direct, necessary, intangible damages, or noneconomic loss</i>)
§ 77:37	Types of general damages—Pain and suffering
§ 77:38	—Ohio Supreme Court
§ 77:39	—First District of Ohio
§ 77:40	—Second District of Ohio
§ 77:41	—Third District of Ohio
§ 77:42	—Fourth District of Ohio
§ 77:43	—Fifth District of Ohio
§ 77:44	—Sixth District of Ohio
§ 77:45	—Seventh District of Ohio
§ 77:46	—Eighth District of Ohio
§ 77:47	—Ninth District of Ohio
§ 77:48	—10th District of Ohio
§ 77:49	—11th District of Ohio
§ 77:50	—12th District of Ohio
§ 77:51	—Loss of consortium
§ 77:52	—Ohio Supreme Court
§ 77:53	—First District of Ohio
§ 77:54	—Second District of Ohio
§ 77:55	—Third District of Ohio
§ 77:56	—Fourth District of Ohio
§ 77:57	—Fifth District of Ohio
§ 77:58	—Sixth District of Ohio
§ 77:59	—Seventh District of Ohio
§ 77:60	—Eighth District of Ohio
§ 77:61	—Ninth District of Ohio
§ 77:62	—10th District of Ohio
§ 77:63	—11th District of Ohio
§ 77:64	—12th District of Ohio
§ 77:65	Loss of enjoyment of life (also: <i>Loss of ability to perform normal functions</i>)
§ 77:66	Loss of enjoyment of life—Ohio Supreme Court
§ 77:67	—Second District of Ohio

- § 77:68 —Third District of Ohio
- § 77:69 —Fourth District of Ohio
- § 77:70 —Eighth District of Ohio
- § 77:71 —10th District of Ohio
- § 77:72 Survival action
- § 77:73 —Fifth District of Ohio
- § 77:74 —Sixth District of Ohio
- § 77:75 Loss of a “less-than-even” chance
- § 77:76 —First District of Ohio
- § 77:77 —Third District of Ohio
- § 77:78 —Fourth District of Ohio
- § 77:79 —Fifth District of Ohio
- § 77:80 —Seventh District of Ohio
- § 77:81 —Eighth District of Ohio
- § 77:82 —Ninth District of Ohio
- § 77:83 —10th District of Ohio
- § 77:84 —11th District of Ohio
- § 77:85 Wrongful pregnancy, wrongful birth, and wrongful life
- § 77:86 —First District of Ohio
- § 77:87 —Fourth District of Ohio
- § 77:88 —Eighth District of Ohio
- § 77:89 Joint and several liability
- § 77:90 Several liability
- § 77:91 Limitations on amount recoverable
- § 77:92 —Wrongful death
- § 77:93 — —Ohio Supreme Court
- § 77:94 — —First District of Ohio
- § 77:95 — —Fourth District of Ohio
- § 77:96 — —Fifth District of Ohio
- § 77:97 — —Sixth District of Ohio
- § 77:98 — —Ninth District of Ohio
- § 77:99 — —12th District of Ohio
- § 77:100 Doctrine of “Avoidable Consequences” (also: “*duty to mitigate damages*”)
- § 77:101 Doctrine of “Avoidable Consequences”—Second District of Ohio
- § 77:102 —Third District of Ohio
- § 77:103 —Fourth District of Ohio
- § 77:104 —Ninth District of Ohio
- § 77:105 —10th District of Ohio
- § 77:106 Nominal damages (also: *contemptuous damages*)
- § 77:107 Nominal damages—Ohio Supreme Court
- § 77:108 —Second District of Ohio
- § 77:109 —Fourth District of Ohio
- § 77:110 —Ninth District of Ohio
- § 77:111 —10th District of Ohio
- § 77:112 2004 Ohio Tort Reform Act
- § 77:113 —Ohio Revised Code 2315.18
- § 77:114 —Ohio Revised Code 2315.20

TABLE OF CONTENTS

§ 77:115	—Ohio Revised Code 2315.21
§ 77:116	— <i>Arbino v. Johnson & Johnson</i>
§ 77:117	—Constitutionality of R.C. 2315.18
§ 77:118	—Alleged open courts and right to remedy violation
§ 77:119	—Alleged due process violation
§ 77:120	—Alleged equal protection violation
§ 77:121	—Alleged separation of powers violation
§ 77:122	—Alleged single-subject rule violation
§ 77:123	—Constitutionality of R.C. 2315.21
§ 77:124	—Alleged Seventh Amendment violation
§ 77:125	—Alleged right to a remedy and right to an open court
§ 77:126	—Alleged due process violation
§ 77:127	—Alleged equal protection violation
§ 77:128	—Alleged separation of powers violation
§ 77:129	—Alleged single subject rule violation
§ 77:130	—Dissent, generally

CHAPTER 78. COMPENSATORY DAMAGES

§ 78:1	Generally
§ 78:2	General and special damages
§ 78:3	Future or prospective damages
§ 78:4	The reasonable certainty standard
§ 78:5	Factors affecting compensatory damages
§ 78:6	—2004 Ohio Tort Reform Act
§ 78:7	—Interest
§ 78:8	—Medical malpractice—Ohio Supreme Court
§ 78:9	—First District Court of Appeals
§ 78:10	—Second District Court of Appeals
§ 78:11	—Fourth District Court of Appeals
§ 78:12	—Fifth District Court of Appeals
§ 78:13	—Seventh District Court of Appeals
§ 78:14	—10th District Court of Appeals
§ 78:15	—11th District Court of Appeals
§ 78:16	—12th District Court of Appeals
§ 78:17	—Vehicular accident—First District Court of Appeals
§ 78:18	—Second District Court of Appeals
§ 78:19	—Third District Court of Appeals
§ 78:20	—Fourth District Court of Appeals
§ 78:21	—Fifth District Court of Appeals
§ 78:22	—Sixth District Court of Appeals
§ 78:23	—Seventh District Court of Appeals
§ 78:24	—Eighth District Court of Appeals
§ 78:25	—Ninth District Court of Appeals
§ 78:26	—General negligence—First District Court of Appeals
§ 78:27	—Second District Court of Appeals
§ 78:28	—Fourth District Court of Appeals
§ 78:29	—Fifth District Court of Appeals
§ 78:30	—Seventh District Court of Appeals

§ 78:31	—Products liability—Second District Court of Appeals
§ 78:32	—Third District Court of Appeals
§ 78:33	—Fourth District Court of Appeals
§ 78:34	—Conversion
§ 78:35	—Fire/explosion/electrical malfunction
§ 78:36	—Sexual harassment
§ 78:37	—False imprisonment/malicious prosecution
§ 78:38	—Dog attack
§ 78:39	—Taxation
§ 78:40	—Vehicular accident—Ohio Supreme Court
§ 78:41	—Third District Court of Appeals
§ 78:42	—Court of claims
§ 78:43	—Inflation; purchasing power of dollar
§ 78:44	—Medical malpractice/medical negligence
§ 78:45	—Vehicular accident—Fourth District Court of Appeals
§ 78:46	—Eighth District Court of Appeals
§ 78:47	—General negligence
§ 78:48	—Reduction to present worth of future losses
§ 78:49	—General negligence—Second District Court of Appeals
§ 78:50	—Ninth District Court of Appeals
§ 78:51	—Vehicular accidents—Fourth District Court of Appeals
§ 78:52	—10th District Court of Appeals
§ 78:53	—Conversion
§ 78:54	—Discrimination
§ 78:55	—Medical malpractice/medical negligence
§ 78:56	—Aggravation
§ 78:57	—Vehicular accident—Ohio Supreme Court
§ 78:58	—First District Court of Appeals
§ 78:59	—Second District Court of Appeals
§ 78:60	—Third District Court of Appeals
§ 78:61	—Fourth District Court of Appeals
§ 78:62	—Fifth District Court of Appeals
§ 78:63	—Sixth District Court of Appeals
§ 78:64	—Seventh District Court of Appeals
§ 78:65	—Eighth District Court of Appeals
§ 78:66	—Ninth District Court of Appeals
§ 78:67	—10th District Court of Appeals
§ 78:68	—11th Court of Appeals
§ 78:69	—12th District Court of Appeals
§ 78:70	—Court of Claims of Ohio
§ 78:71	—Fumes/chemicals—Ohio Supreme Court
§ 78:72	—Second District Court of Appeals
§ 78:73	—Seventh District Court of Appeals
§ 78:74	—Eighth District Court of Appeals
§ 78:75	—10th District Court of Appeals
§ 78:76	—Emotional trauma
§ 78:77	—Medical negligence—Supreme Court of Ohio
§ 78:78	—First District Court of Appeals

TABLE OF CONTENTS

§ 78:79	— — —Sixth District Court of Appeals
§ 78:80	— — —11th District Court of Appeals
§ 78:81	— — —Court of Claims of Ohio
§ 78:82	—Mitigation
§ 78:83	— —Motor vehicle accident—Second District Court of Appeals
§ 78:84	— — —Sixth District Court of Appeals
§ 78:85	— — —Seventh District Court of Appeals
§ 78:86	— — —Eighth District Court of Appeals
§ 78:87	— — —Ninth District Court of Appeals
§ 78:88	— —Wrongful termination
§ 78:89	— —Medical negligence/malpractice
§ 78:90	— —Explosion of methane gas from city landfill
§ 78:91	— —Negligence in using herbicide
§ 78:92	— —Negligence in producing cattle feed
§ 78:93	— —Wrongful Pregnancy
§ 78:94	— —Pollution of groundwater
§ 78:95	— —Emotional distress
§ 78:96	—Collateral source rule
§ 78:97	— —Insurance write-offs—First District Court of Appeals
§ 78:98	— — —Ninth District Court of Appeals
§ 78:99	— —Sick pay, vacation benefits—Fifth District Court of Appeals
§ 78:100	— — —Sixth District Court of Appeals
§ 78:101	— —Civil actions with codefendants
§ 78:102	—Periodic payments
§ 78:103	Personal injuries—Pain and suffering
§ 78:104	— —Vehicular accident—Ohio Supreme Court
§ 78:105	— — —First District Court of Appeals
§ 78:106	— — —Second District Court of Appeals
§ 78:107	— — —Third District Court of Appeals
§ 78:108	— — —Fourth District Court of Appeals
§ 78:109	— — —Fifth District Court of Appeals
§ 78:110	— — —Sixth District Court of Appeals
§ 78:111	— — —Seventh District Court of Appeals
§ 78:112	— — —Eighth District Court of Appeals
§ 78:113	— — —Ninth District Court of Appeals
§ 78:114	— — —10th District Court of Appeals
§ 78:115	— —Injury sustained from boiling water
§ 78:116	— —Medical negligence—Ohio Supreme Court
§ 78:117	— — —Eighth District Court of Appeals
§ 78:118	— — —10th District Court of Appeals
§ 78:119	— — —11th District Court of Appeals
§ 78:120	— —Age discrimination
§ 78:121	— —Assault with a weapon—Second District Court of Appeals
§ 78:122	— — —Fifth District Court of Appeals
§ 78:123	— — —Eighth District Court of Appeals
§ 78:124	— — —Ninth District Court of Appeals
§ 78:125	— — —10th District Court of Appeals
§ 78:126	— — —11th District Court of Appeals

§ 78:127	—Bitten by dog—Ohio Supreme Court
§ 78:128	—First District Court of Appeals
§ 78:129	—Fourth District Court of Appeals
§ 78:130	—Sixth District Court of Appeals
§ 78:131	—Eighth District Court of Appeals
§ 78:132	—Ninth District Court of Appeals
§ 78:133	—10th District Court of Appeals
§ 78:134	—11th District Court of Appeals
§ 78:135	—12th District Court of Appeals
§ 78:136	—Court of Claims of Ohio
§ 78:137	—Loss of enjoyment of life
§ 78:138	—Vehicular accidents—Ohio Supreme Court
§ 78:139	—Third District Court of Appeals
§ 78:140	—Fifth District Court of Appeals
§ 78:141	—Eighth District Court of Appeals
§ 78:142	—Injury at birth
§ 78:143	—Explosion/gas/fumes
§ 78:144	—General negligence—Ohio Supreme Court
§ 78:145	—Sixth District Court of Appeals
§ 78:146	—Court of Claims of Ohio
§ 78:147	—Shortening of life expectancy
§ 78:148	—Medical malpractice—Third District Court of Appeals
§ 78:149	—Fourth District Court of Appeals
§ 78:150	—Eighth District Court of Appeals
§ 78:151	—Vehicular accident—First District Court of Appeals
§ 78:152	—Second District Court of Appeals
§ 78:153	—Fourth District Court of Appeals
§ 78:154	—Loss of spouse's consortium
§ 78:155	—Automobile accident—Ohio Supreme Court
§ 78:156	—First District Court of Appeals
§ 78:157	—Second District Court of Appeals
§ 78:158	—Third District Court of Appeals
§ 78:159	—Fourth District Court of Appeals
§ 78:160	—Fifth District Court of Appeals
§ 78:161	—Sixth District Court of Appeals
§ 78:162	—Seventh District Court of Appeals
§ 78:163	—Eighth District Court of Appeals
§ 78:164	—Ninth District Court of Appeals
§ 78:165	—10th District Court of Appeals
§ 78:166	—11th District Court of Appeals
§ 78:167	—12th District Court of Appeals
§ 78:168	—Court of Claims of Ohio
§ 78:169	—Medical negligence/malpractice—Ohio Supreme Court
§ 78:170	—First District Court of Appeals
§ 78:171	—Second District Court of Appeals
§ 78:172	—Third District Court of Appeals
§ 78:173	—Fourth District Court of Appeals
§ 78:174	—Fifth District Court of Appeals

TABLE OF CONTENTS

§ 78:175	— — — Eighth District Court of Appeals
§ 78:176	— — — Ninth District Court of Appeals
§ 78:177	— — — 10th District Court of Appeals
§ 78:178	— — — 11th District Court of Appeals
§ 78:179	— — Dog bite—Eighth District Court of Appeals
§ 78:180	— — — Ninth District Court of Appeals
§ 78:181	— — — 10th District Court of Appeals
§ 78:182	— Loss of parent's or child's consortium—Parent's claim—Motor vehicle accident—First District Court of Appeals
§ 78:183	— — — Second District Court of Appeals
§ 78:184	— — — Fifth District Court of Appeals
§ 78:185	— — — Seventh District Court of Appeals
§ 78:186	— — — Medical negligence/malpractice—Ohio Supreme Court
§ 78:187	— — — First District Court of Appeals
§ 78:188	— — — Second District Court of Appeals
§ 78:189	— — — Eighth District Court of Appeals
§ 78:190	— — — 11th District Court of Appeals
§ 78:191	— — — 12th District Court of Appeals
§ 78:192	— Child's claim—Motor vehicular accident—Ohio Supreme Court
§ 78:193	— — — Fourth District Court of Appeals
§ 78:194	— — — Sixth District Court of Appeals
§ 78:195	— — — 10th District Court of Appeals
§ 78:196	— — — 11th District Court of Appeals
§ 78:197	— — — 12th District Court of Appeals
§ 78:198	— — — Court of claims
§ 78:199	— — — Medical negligence/malpractice—Ohio Supreme Court
§ 78:200	— — — First District Court of Appeals
§ 78:201	— — — 12th District Court of Appeals
§ 78:202	— — — Court of Claims of Ohio
§ 78:203	Medical and other health care provider expenses
§ 78:204	— Medical negligence/malpractice
§ 78:205	— Automobile accident—Second District Court of Appeals
§ 78:206	— Third District Court of Appeals
§ 78:207	— Fifth District Court of Appeals
§ 78:208	— Ninth District Court of Appeals
§ 78:209	— 12th District Court of Appeals
§ 78:210	— General negligence—First District Court of Appeals
§ 78:211	— Second District Court of Appeals
§ 78:212	— Future medical expenses
§ 78:213	Lost to trial, time, or earnings; loss; impairment or diminution of future earning capacity
§ 78:214	— Vehicular accident—Ohio Supreme Court
§ 78:215	— Second District Court of Appeals
§ 78:216	— Third District Court of Appeals
§ 78:217	— Fifth District Court of Appeals
§ 78:218	— Ninth District Court of Appeals
§ 78:219	— 10th District Court of Appeals
§ 78:220	— 12th District Court of Appeals

- § 78:221 —Medical negligence
- § 78:222 —Stroke
- § 78:223 Damage, deprivation, loss, or destruction of property—Personal property
- § 78:224 —Cost of repairs or restoration—General personal property
- § 78:225 ———Vehicles—Ohio Supreme Court
- § 78:226 ———Second District Court of Appeals
- § 78:227 ———Fifth District Court of Appeals
- § 78:228 ———Seventh District Court of Appeals
- § 78:229 ———Eighth District Court of Appeals
- § 78:230 ———Ninth District Court of Appeals
- § 78:231 ———10th District Court of Appeals
- § 78:232 ———11th District Court of Appeals
- § 78:233 —Loss or deprivation of use
- § 78:234 —Property having no market value; household goods; wearing apparel
- § 78:235 ———Ohio Supreme Court
- § 78:236 ———Fourth District Court of Appeals
- § 78:237 ———Ninth District Court of Appeals
- § 78:238 ———10th District Court of Appeals
- § 78:239 ———12th District Court of Appeals
- § 78:240 —Property converted or wrongfully detained
- § 78:241 ———Second District Court of Appeals
- § 78:242 ———Second District Court of Appeals
- § 78:243 ———Fourth District Court of Appeals
- § 78:244 ———Sixth District Court of Appeals
- § 78:245 ———Eighth District Court of Appeals
- § 78:246 ———11th District Court of Appeals
- § 78:247 —Animals—Second District Court of Appeals
- § 78:248 —Eighth District Court of Appeals
- § 78:249 —Ninth District Court of Appeals
- § 78:250 —10th District Court of Appeals
- § 78:251 —11th District Court of Appeals
- § 78:252 —Court of Claims of Ohio
- § 78:253 Businesses; lost profits
- § 78:254 —Ohio Supreme Court
- § 78:255 —Third District Court of Appeals
- § 78:256 —Eighth District Court of Appeals
- § 78:257 —Ninth District Court of Appeals
- § 78:258 —10th District Court of Appeals
- § 78:259 —District Court of Appeals
- § 78:260 Real property
- § 78:261 —Permanent injury
- § 78:262 —Temporary injury
- § 78:263 —Trespass and removal of trees/furniture—Ohio Supreme Court
- § 78:264 —First District Court of Appeals
- § 78:265 —Second District Court of Appeals
- § 78:266 —Fourth District Court of Appeals
- § 78:267 —Sixth District Court of Appeals

TABLE OF CONTENTS

§ 78:268	—Seventh District Court of Appeals
§ 78:269	—Eighth District Court of Appeals
§ 78:270	—Ninth District Court of Appeals
§ 78:271	—10th District Court of Appeals
§ 78:272	—11th District Court of Appeals
§ 78:273	—12th District Court of Appeals
§ 78:274	—Damage from flooding—Fourth District Court of Appeals
§ 78:275	—Eighth District Court of Appeals
§ 78:276	—Ninth District Court of Appeals
§ 78:277	—11th District Court of Appeals
§ 78:278	—12th District Court of Appeals
§ 78:279	—Negligent construction/repair/destruction—Seventh District Court of Appeals
§ 78:280	—Eighth District Court of Appeals
§ 78:281	—Ninth District Court of Appeals
§ 78:282	—Pollution/contamination/hazardous waste
§ 78:283	—Second District Court of Appeals
§ 78:284	—Fourth District Court of Appeals
§ 78:285	—Fifth District Court of Appeals
§ 78:286	—Ninth District Court of Appeals
§ 78:287	—10th District Court of Appeals
§ 78:288	—11th District Court of Appeal
§ 78:289	—Vehicular accident—Sixth District Court of Appeal
§ 78:290	—Ninth District Court of Appeals
§ 78:291	—Excessiveness—Second District Court of Appeals
§ 78:292	—Fourth District Court of Appeals
§ 78:293	—Seventh District Court of Appeals
§ 78:294	—Ninth District Court of Appeals
§ 78:295	—12th District Court of Appeals

CHAPTER 79. PUNITIVE DAMAGES

§ 79:1	Generally
§ 79:2	Basis for awarding—In general
§ 79:3	—Punishment
§ 79:4	—Ohio Supreme Court
§ 79:5	—Fifth Appellate District
§ 79:6	—12th Appellate District
§ 79:7	—Deterrence
§ 79:8	—Sixth Appellate District
§ 79:9	—Eighth Appellate District
§ 79:10	—Offsetting litigation expenses
§ 79:11	—Fourth Appellate District
§ 79:12	—Fifth Appellate District
§ 79:13	—Ninth Appellate District
§ 79:14	Constitutional challenges—Double jeopardy
§ 79:15	—Due process
§ 79:16	—Ohio Supreme Court
§ 79:17	—First Appellate District

- § 79:18 — —Second Appellate District
- § 79:19 — —Fifth Appellate District
- § 79:20 —Due Process—12th Appellate District
- § 79:21 —Equal protection
- § 79:22 — —Fifth Appellate District
- § 79:23 — —Seventh Appellate District
- § 79:24 — —Ninth Appellate District
- § 79:25 Tort Reform Act
- § 79:26 —Limitations on punitive damages
- § 79:27 Double jeopardy and multiple awards
- § 79:28 Actual damages as necessary predicate; effect of award of nominal damages
- § 79:29 —Ohio Supreme Court
- § 79:30 —Sixth Appellate District
- § 79:31 —Eighth Appellate District
- § 79:32 Consideration of defendant's or defendants' financial worth
- § 79:33 —Ninth Appellate District
- § 79:34 —10th Appellate District
- § 79:35 Liability insurance as covering
- § 79:36 —Sixth Appellate District
- § 79:37 —Eighth Appellate District
- § 79:38 Entities or persons liable
- § 79:39 —Principals, employers, partners
- § 79:40 —Ohio Revised Code
- § 79:41 — —First Appellate District
- § 79:42 — —Eighth Appellate District
- § 79:43 —Corporations, for acts of employees
- § 79:44 — —First Appellate District
- § 79:45 — —Second Appellate District
- § 79:46 —Governmental entities; United States; Ohio; political subdivisions
- § 79:47 — —Ohio Supreme Court
- § 79:48 — —Fifth Appellate District
- § 79:49 Type of torts in which punitive damages are recoverable
- § 79:50 —Generally; intentional or malicious wrongs
- § 79:51 — —Fifth Appellate District
- § 79:52 — —Sixth Appellate District
- § 79:53 —Torts against the person or personalty
- § 79:54 — —Sixth Appellate District
- § 79:55 — —11th Appellate District
- § 79:56 —Torts affecting or injuring property
- § 79:57 — —Fifth Appellate District
- § 79:58 — —Ninth Appellate District
- § 79:59 Acts done recklessly or wantonly, or with gross negligence—
Intoxicated vehicle drivers
- § 79:60 — —Ohio Supreme Court
- § 79:61 — —Sixth Appellate District
- § 79:62 —Maritime
- § 79:63 —Product liability

TABLE OF CONTENTS

§ 79:64	—Medical, attorney, or other professional malpractice or negligence
§ 79:65	Excessiveness
§ 79:66	—Ohio Revised Code
§ 79:67	— —Fifth Appellate District
§ 79:68	—Second Appellate District
§ 79:69	—Fifth Appellate District
§ 79:70	Vicarious liability for punitive damages
§ 79:71	—Liability of principal authorizing act of agent
§ 79:72	—Liability of principal for retaining unfit agent
§ 79:73	—Liability of principal ratifying agent's act
§ 79:74	— —Ohio Supreme Court
§ 79:75	— —First Appellate District
§ 79:76	Punitive damages against successor corporations
§ 79:77	—Continuation of product line
§ 79:78	Bifurcation of liability and damages
§ 79:79	—Deferral of discovery
§ 79:80	—Bifurcation as to punitive damages only
§ 79:81	—Jury trial consideration
§ 79:82	—Practical problems

Table of Laws and Rules

Table of Cases

Index