# **Index**

## ABNORMALLY DANGEROUS ACTIVITIES

Landlord and tenant, 85.55

## **ABSENT PARTIES**

Multiple parties, 15.40

## **ABSOLUTE LIABILITY**

Animals, injuries caused by, 38.90

### **ABUTTING OWNERS**

Ditch, benefits to adjoining landowners, **52.80** Sidewalks, duty of owner of abutting property, **85.60** 

## **ACCEPTANCE**

Contract, 20.20

## **ACCESS**

Eminent domain, 52.45

## **ACCESS RIGHTS**

Eminent domain, 52.45

## ACCIDENT

Negligence, fact of accident alone, no inference of negligence, 25.55 Special verdict forms, warranties, 22.90 Warranties, 22.90

## ACCORD AND SATISFACTION

Contracts, 20.81 Defenses, 20.81

## **ACCOUNTANT, PUBLIC**

Malpractice, 80.75

# **ACTING PEACEABLY**

Proximate cause, injuries caused by animals, 38.50

# **ACTUAL KNOWLEDGE**

Sidewalk or street defect, knowledge of municipality, 85.65

## ADVERSE POSSESSION

Duties of property owners, 85.80

## **AGENCY**

Agent and principal, punitive damages, 94.92

Insurance agent defined, 59.40

Punitive damages, agent and principal, 94.92

Special verdict form, punitive damages, agent and principal, 94.92

## AGENCY-Cont'd

Vicarious liability, 30.25, 30.30

## ALCOHOLIC BEVERAGES

Civil Damage Act, this index

## **ANIMALS**

Absolute liability, 38.90

Common law strict liability for injuries caused by, 38.93

Defenses, domestic animals, 38.20

Domestic animals

Defenses, 38.20

Scienter, 38.10, 38.20, 38.93

Injuries caused by

Absolute liability, 38.90

Common law strict liability, 38.93

Keeping or harboring, 38.80

Multiple parties, 38.92

Negligence, 38.70

Proximate cause, 38.30 et seq.

Injury caused by, 38.10 et seq.

Proximate cause

Generally, 38.30, 38.60

Acting peaceably, 38.50

Provocation, 38.40

Scienter

Defenses, 38.20

Domestic animals, 38.10, 38.20, 38.93

Negligence, 38.93

## ANTICIPATORY BREACH

Contract, 20.46

## **APPROPRIATION**

Invasion of privacy, 72.15

Special verdict form, invasion of privacy, 72.91

## ARCHITECTS AND ARCHITECTURE

Malpractice, 80.75

### ARTICLES AND TEXTBOOKS

Evidentiary instructions, 12.40

## ASSAULT AND BATTERY

Generally, 60.20

Battery, **60.25** 

Common carrier, passenger safety from, 48.35

Special verdict forms, 60.91, 60.92

## ASSUMPTION OF RISK

Primary, 28.30

Secondary, 28.25

### **ASSUMPTIONS**

Good conduct of another, right to assume, 25.12

Risk

Primary, **28.30** 

Secondary, 28.25

## ATTORNEY-CLIENT RELATIONSHIP

Legal malpractice, 80.61, 80.64

### **ATTORNEYS**

Legal malpractice

Generally, 80.55

Attorney-client relationship, 80.61, 80.64

Case-in-a-case, special verdict form, 80.97

Causation, 80.66

Contract, 80.61, 80.64

Specialists, 80.58

Special verdict form, 80.97, 80.98

Transactional, special verdict form, 80.98

Professional malpractice, 80.55 et seq.

## **AUTOMOBILES AND HIGHWAY TRAFFIC**

Generally, 65.10 et seq.

Common law duties, 65.10

Driver, **65.10** 

Insurance law and practice

Misrepresentation, application for insurance, 59.90

Special verdict forms

Misrepresentation, application for insurance, 59.90

No-fault auto insurance, 65.90

Underinsured motorist insurance, 65.91

Uninsured motorist insurance, 65.92

Tort thresholds for no-fault automobile insurance, 65.40

Negligence, 65.10

No-fault automobile insurance

Special verdict forms, 65.90

Tort thresholds, 65.40

Owner, imputed fault of, 32.10 et seq.

Passenger

Generally, 65.15

Affirmative duty, 65.20

Duty, generally, 65.15

Pedestrian, 65.10

Reasonable care, duty of child, 70.20

Skidding alone, 65.35

Special verdict forms

No-fault insurance, 65.90

Underinsured motorist insurance, 65.91

Uninsured motorist insurance, 65.92

### AUTOMOBILES AND HIGHWAY TRAFFIC—Cont'd

Traffic statutes

Generally, 65.30

Violation of, 65.25

Underinsured motorist insurance, special verdict forms, 65.91

Uninsured motorist insurance, special verdict forms, 65.92

### AVIATION

Reasonable care, duty of child, 70.20

### **AWARDS**

Commissioner's award in eminent domain, 52.20

Damages, this index

### **BAILMENTS**

Products liability, 75.45

### **BATTERY**

Intentional torts, 60.25

Special verdict forms, 60.92

## **BOATS AND BOATING**

Reasonable care, duty of child, 70.20

### **BREACH**

Anticipatory breach, 20.46

Contract, 20.45, 20.46

Covenant to repair leased premises, negligent breach, 85.46

Warranty, 22.50 et seq.

### **BROKERS**

Insurance broker defined, 59.40

### **BUILDING CODE**

Leased premises, violations, 85.50

## **BURDEN OF PROOF**

Generally, 14.15

### **BUSINESS ENTITIES**

Vicarious liability, 30.10 et seq.

## **BUSINESS OF SELLING OR LEASING**

Products liability, generally, 75.10

## **BUSINESS ORGANIZATIONS**

Generally, 40.10

Defamation, 40.10

## **BUSINESS TORTS**

Contractual relationships, interference with

Generally, 40.30

Damages, 40.45

Defamation, business organizations, 40.10

### **BUSINESS TORTS—Cont'd**

Justification, 40.40

Product disparagement, 40.15

Prospective economic advantage, interference with, 40.35

Trade secret

Generally, 40.20

Misappropriation, 40.25

## **CAUSATION**

Generally, 27.10 et seq.

Attorney malpractice, 80.66

Civil Damage Act, 45.30

Direct, 27.10

Legal malpractice, 80.66

Products liability, 75.50

Warranty, 22.65

## **CHILDREN AND MINORS**

Civil Damage Act, 45.10 et seq.

Personal damages, 91.55 et seq.

Punishment by teacher or person other than parent, 70.35

Reasonable care, duty of child

Generally, 70.15

Operation of automobile, airplane, or powerboat, 70.20

Safety of, 70.10

Torts of children, parental liability for

Negligent entrustment, 70.30

Specific propensity, 70.25

Trespassing, 85.19

# CIRCUMSTANTIAL EVIDENCE

Generally, 12.10

Products liability, proof of defect, 75.32

## **CIVIL DAMAGE ACT**

Alcoholic beverage, defined, 45.20

Contribution to intoxication by plaintiff, 45.35

**Damages** 

Bodily injury, 45.55

Injury to minor, 45.50

Means of support, 45.45

Pecuniary loss, 45.45

Defense, **45.40** 

Employer's responsibility for employee conduct, sale of alcoholic beverages,

45.42

Good faith and reasonable reliance on proof of age, 45.40

Illegal sale

Generally, 45.10

Causation, 45.30

Obviously intoxicated person, 45.15

### CIVIL DAMAGE ACT—Cont'd

Intoxication

Generally, 45.25

Contribution to by plaintiff, 45.35

Definition, 45.25

Person under 21, 45.62

Sale of alcoholic beverages, generally, 45.42

Social host liability, 45.60

Special verdict forms

Civil damage act liability, 45.90

Common law social host liability, 45.93 to 45.96

Complicity, 45.93

Injury or death, 45.91

Statutory social host liability, 45.92, 45.94, 45.96

Third person, host liability to, 45.95, 45.96

### **COMMISSIONERS**

Commissioner's award, eminent domain, 52.20

### **COMMON CARRIERS**

Generally, 48.10 et seq.

Definition of passenger, 48.15

Passengers

Duty to protect passenger safety

Generally, 48.15

Assault or intentional harm by employees, 48.35

Injury by third persons, 48.25

Injury from other passengers, 48.30

Stations, **48.20** 

Right of carrier to eject, 48.40

Railroad crossing, 48.45

# **COMMON LAW**

Animals, injuries caused by, 38.93

Automobiles and highway traffic, 65.10

Defamation, actual malice, 50.35

Motor vehicles, 65.10

## **COMPARATIVE FAULT**

Generally, 28.15

Negligence, 28.15

Special verdict forms, 28.91 to 28.93

## **COMPARATIVE NEGLIGENCE**

Special verdict forms, 28.90

## **COMPROMISE AND SETTLEMENT**

Settlement agreements, 15.35

## **CONCURRING CAUSE**

Generally, 27.15

### CONCURRING CAUSE—Cont'd

Negligence, 27.15

### **CONDUCT**

Assumption of good conduct of another, right as to, 25.12

Civil Damage Act, employer's responsibility for employee conduct, sale of alcoholic beverages, **45.42** 

Corporations, vicarious liability for conduct of employees, **30.60** Employee

Civil Damage Act, employer's responsibility for employee conduct, sale of alcoholic beverages, **45.42** 

Corporations, vicarious liability for conduct of employees, 30.60

Good conduct of another, right to assume, 25.12

Reckless conduct, 25.37

Willful conduct, 25.40

### CONSENT OR APPROVAL

Intentional torts, **60.15** 

Medical malpractice

Generally, 80.22

Informed consent, 80.25

Special verdict form, 80.92

Treatment/operation, **80.22** 

Motor vehicle owner, 32.15 et seq.

## CONSIDERATION

Contract offer, 20.40

Employment contract, 55.45

# CONSTRUCTIVE KNOWLEDGE

Sidewalk or street defect, knowledge of municipality, 85.65

## **CONSUMER FRAUD**

Generally, **57.40** 

Special verdict form, 57.92

## **CONTRACTS**

Generally, 20.10 et seq.

Acceptance, 20.20

Accord and satisfaction, 20.81

Attorney-client relationship, 80.61, 80.64

Breach of contract

Generally, 20.45

Anticipatory breach, 20.46

Damages, employment claims, 55.60

Employment contract, 55.60

Special verdict form, 20.90

Consideration of offer, 20.40

Contractual relationship, interference with, 40.30 et seq.

Counteroffer, 20.25

# CONTRACTS—Cont'd Damages Generally, 20.60 Interference with contractual relationships, 40.45 Mitigation of, 20.65 Defenses Accord and satisfaction, 20.81 Duress, 20.77 Frustration, 20.79 Hindrance of performance, 20.56 Impossibility, 20.80 Mutual mistake of fact, 20.76 Undue hardship, 20.80 Unilateral mistake of fact, 20.75 Duress, 20.77 Duty of good faith and fair dealing, 20.55 Elements, **20.10 Employment claims** Generally, 55.35 et seq. Acceptance of employment contract, 55.40 Breach of employment contract, 55.60 Consideration of employment contract, 55.45 Handbooks, 55.35 Manuals, 55.35 Fair dealing, duty of, 20.55 Frustration, 20.79 Good faith and fair dealing, duty of, 20.55 Hindrance of performance, 20.56 Impossibility, 20.80 Mistake of fact Mutual, 20.76 Unilateral, 20.75 Mitigation of damages, 20.65 Modification, 20.41 Mutual mistake of fact, 20.76 Novation, 20.42 Offer Generally, 20.15 et seq. Acceptance, 20.20 Consideration, 20.40 Counteroffer, 20.25 Rejection, 20.30 Revocation, 20.35 Promissory estoppel, 20.50 Rejection of offer, 20.30 Revocation of offer, 20.35

Undue hardship, 20.80

### CONTRACTS—Cont'd

Unilateral mistake of fact, 20.75

### **CONTRIBUTION**

Civil Damage Act, plaintiff's contribution to intoxication, 45.35

## **CONVERSION**

Generally, 60.65

Intentional torts, 60.65

Personal property, 60.65

Special verdict forms, 60.93

## **CORPORATIONS**

Generally, 30.60

Conduct of employees, vicarious liability, 30.60

Defamation, 40.10

Vicarious liability, 30.60

#### COUNTEROFFER

Contracts, 20.25

### **CUSTOM**

Evidence of custom, 25.47

Fault and culpability, 25.47

Negligence, 25.47

## **DAMAGES**

Adjustment for cash value, compensatory damages, 90.25

Apportionment of, 15.20

Bodily and mental harm, personal damages

Future, 91.25

Past, 91.10

Burden of proof, 90.15

Compensatory

Generally, 90.10 et seq.

Adjustment for cash value, 90.25

Cash value, adjustment for, 90.25

General instructions, 90.20

Taxation of, 90.30

### Contract

Generally, 20.60

Interference with contractual relationships, 40.45

Mitigation of, 20.65

## Defamation

Actual, 50.55

Presumed, 50.50

Punitive, **50.65** 

Special, **50.60** 

Special verdict forms, 50.90 to 50.92, 50.97

Defense of persons or property, excessive force or restraint, 60.57

Earning capacity, future loss as personal damages, 91.35

```
DAMAGES—Cont'd
  Earnings, loss of
    Mitigation, 91.47
    Past loss of as personal damages, 91.20
  Fraud and misrepresentation, 57.25
  Future, 90.25 et seq.
  Hospital and medical supplies, personal damages
    Future, 91.30
    Past, 91.15
  Life expectancy tables, 91.85
  Means of support and pecuniary loss, combined instruction, 45.45
  Medical expenses, personal damages
    Future, 91.30
    Past, 91.15
  Mitigation
    Contracts, 20.65
    Person, 91.45
    Property, 92.15
  Personal
    Generally, 90.10 et seq.
    Aggravation, 91.40
    Bodily and mental harm
       Future, 91.25
       Past, 91.10
    Children
       Emancipation of minor, 91.70
       Future medical expenses, 91.65
       Loss of future earning capacity, 91.60
    Earning capacity, loss of
       Child's future earning capacity, 91.60
       Future damages, 91.35, 91.60
    Earnings, loss of, 91.20
    Eggshell plaintiff doctrine, 91.41
    Future
       Bodily and mental harm, 91.25
       Earning capacity, loss of, 91.35, 91.60
       Hospital and medical supplies, 91.30
       Medical expenses, 91.30
    Hospital and medical supplies
       Child, future expenses, 91.65
       Future, 91.30
    Injury to spouse, 91.50
    Medical expenses
       Child, future medical expenses, 91.65
       Future, 91.30
       Past, 91.15
```

# DAMAGES—Cont'd Personal—Cont'd Mitigation of damages Loss of earnings, 91.47 Person, 91.45 Parent's for injury to child, 91.55 Bodily and mental harm, 91.10 Earnings, loss of, 91.20 Hospital and medical supplies, 91.15 Medical expenses, 91.15 Pre-existing condition Aggravation, 91.40 Eggshell plaintiff doctrine, 91.41 Wrongful death, 91.75 Pre-existing condition Aggravation, 91.40 Eggshell plaintiff doctrine, 91.41 Present cash value, 90.25 Property Generally, 90.10 et seq. Elements, **92.10** Mitigation of, 92.15 Punitive Damages, this index Severance Damages, this index Taxation of damages, 90.30 Warranty Generally, 22.70 Special verdict forms, 22.92 **DEATH AND DEATH ACTIONS** Damages, 91.47 Earnings, loss of, 91.47 Measure of wrongful death damages, 91.75 Medical malpractice, loss of chance of more favorable outcome, 80.95, 80.96 Mitigation of damages, 91.47 Special verdict forms Medical malpractice, loss of chance of more favorable outcome, 80.95, 80.96 Negligence, 28.93 DECEPTIVE TRADE PRACTICE Product disparagement, 40.15 **DEFAMATION** Absolute privilege, 50.30 Business organizations, 40.10 Damages Actual, 50.55 Presumed, 50.50

### DEFAMATION—Cont'd

Damages-Cont'd

Punitive, **50.65** 

Special, **50.60** 

Defamatory communication

Generally, 50.10

Publication, 50.15

Negligence, standard for, 50.45

Qualified privilege

Generally, 50.30

Actual malice

Common law standard, 50.35

Constitutional standard, 50.40

Special verdict forms, 50.94, 50.96

Slander per se, 50.20

Special verdict forms

Damages, 50.97

Libel, 50.90

Qualified privilege, 50.94, 50.96

Slander, 50.91, 50.92

Truth, defining, 50.25

## **DEFECTS**

Circumstantial evidence, proof of defect, 75.32

Component parts manufacturing, liability, 75.96

Design, special verdict form, 75.90, 75.94, 75.96, 75.98

Manufacturing

Products liability, 75.30

Special verdict form, 75.92

Products liability, 75.15 et seq.

Seller's liability, design defect, special verdict form, 75.94

Sidewalks

Duty of municipality, 85.63

Knowledge of municipality of defect, 85.65

Streets

Duty of municipality, 85.63

Knowledge of municipality of defect, 85.65

### **DEFENSE**

Dwelling, 60.39 et seq.

Persons, 60.30 et seq.

Property, 60.45 et seq.

### **DEFENSE OF PERSONS OR PROPERTY**

Generally, 60.30 et seq.

Deadly force, use of, 60.60

Dwelling

Generally, 60.39

Trespass, 60.42

### DEFENSE OF PERSONS OR PROPERTY—Cont'd

Excessive force or restraint, damages, **60.57** Peace officer's use of deadly force, 60.60 Retaking by force Generally, 60.51 Amount of force justified, 60.54 Special verdict forms, 60.92 Third persons, defense of, 60.36 Third person's property, 60.48

### **DEFENSES**

Accord and satisfaction, 20.81 Civil Damage Act, 45.40 Contracts, this index Domestic animals, injuries caused by, 38.20 Duress, 20.77 Frustration, 20.79 Hindrance of performance of contract, 20.56 Impossibility, 20.80 Mutual mistake of fact, 20.76 Performance of contract, hindrance, 20.56 Scienter, injuries caused by domestic animals, 38.20 Undue hardship, 20.80 Unilateral mistake of fact, 20.75

### **DEFINITIONS**

Alcoholic beverage, 45.20 Assault, 60.20 Battery, **60.25** Civil assault, 60.20 Compensatory damages, 90.10 Employee, 30.10 Entrant, **85.22** False imprisonment, 60.70 Independent contractor, 30.10 Insurance agent and broker, 59.40 Intent. 60.10 Intoxication, 45.25 Joint venture, 30.70 Negligence, 25.10 Partners, 30.50 Passenger, 48.15 Private nuisance, 60.80 Reasonable care, 25.10 Reckless, 25.37 Scope of authority, 30.55 Severance damages, 52.55 Severance damages to noncontiguous property, **52.60** 

### **DEFINITIONS—Cont'd**

Total taking, **52.35**Trade secret, **40.20**Traffic statutes, terms, **65.30** 

Trespass, **85.10** 

## DENTISTS AND DENTISTRY

Medical malpractice, 80.10

## **DEPOSITION**

Evaluation of evidence, 12.20

## **DESIGN DEFECTS**

Products liability, **75.20** Special verdict form, **75.90**, **75.94**, **75.96**, **75.98** 

## **DIRECT CAUSE**

Generally, **27.10** Negligence, **27.10** 

## DIRECTED VERDICT

Generally, 15.30

## DIRECT EVIDENCE

Generally, 12.10

### **DISCLOSURE**

Fraud and deceit, duty to disclose material facts, **57.30** Medical malpractice, negligent nondisclosure, **80.25** Privacy, public disclosure of private facts, **72.20**, **72.92** Special verdict form, public disclosure of private facts, **72.92** 

## DISPARAGEMENT

Business torts, 40.15

## **DITCHES**

Eminent domain, 52.80

## **DOCTORS**

Medical Malpractice, this index

#### **DURESS**

Contracts, 20.77 Defenses, 20.77

## **DUTY OF FIDUCIARY**

Generally, 23.10

## **DUTY OF JUDGE AND JURY**

Post-trial preliminary statement, 10.20

# **DUTY OF POSSESSOR AND ENTRANT**

Privately owned property, generally, 85.25

### **DUTY OF POSSESSOR TO TRESPASSER**

Activities of owner or occupant, **85.16** Condition of premises, **85.13** 

## **DUTY TO WARN**

Products liability, 75.25

## **EMANCIPATION OF MINOR**

Damages, 91.70

### **EMERGENCY RULE**

Fault and culpability, **25.16** Negligence, **25.16** 

## **EMINENT DOMAIN**

Generally, 52.10 et seq.

Access rights, taking of

Generally, 52.45

Damages, **52.50** 

Burden of proof, 52.30

Commissioner's award, 52.20

Definitions

Severance damages to noncontiguous property, 52.60

Total taking, 52.35

Ditch, benefits to adjoining landowners, 52.80

Fair market value, 52.40

Just compensation, 52.35 et seq.

Leaseholds, 52.75

Non-contiguous tracts, 52.91

Severance damages

Generally, 52.55

Definition, 52.55

Noncontiguous property, 52.60

Partial taking, 52.65

Special verdict forms

Noncontiguous property, 52.91

Owner and tenant, 52.92

Severance damages, 52.90

**Taking** 

Generally, 52.15

Partial

Damages, **52.65** 

Separate verdicts, 52.70

Total, **52.35** 

View of premises, 52.25

# **EMOTIONAL CONDITION**

Distress, **60.75** 

Special verdict forms, 60.90

## EMOTIONAL DISTRESS, INTENTIONAL INFLICTION OF

Generally, 60.75

Special verdict form, 60.90

## **EMPLOYER LIABILITY**

Generally, 55.10 et seq.

## **EMPLOYMENT**

Assault exception, 55.33

Claims

Generally, 55.10 et seq.

Employment contracts

Acceptance, 55.40

Consideration, 55.45

Damages for breach of, 55.60

Handbooks or manuals, 55.35

Good faith, 55.66

Negligence

Gross negligence, 55.34

Hiring, 55.20, 55.91

Retention, 55.30, 55.91

Supervision, 55.25, 55.91

Penalties, 55.68

Report, 55.67

Special verdict forms

Assault exception, 55.93

Intent, conscious and deliberate intent to cause injury, 55.92

Negligent hiring, retention, or supervision, 55.91

Safe place to work, employer's duty to provide, 55.90

Whistleblowers, 55.94

Termination

Condonation, 55.55

Good cause, 55.50

Violation of public policy, 55.65

Tort claims

Assault exception, **55.33**, **55.93** 

Intent, conscious and deliberate intent to cause injury, 55.32, 55.92

Safe place to work, employer's duty to provide, 55.31, 55.90

Whistleblowers, 55.65, 55.94

Conduct of employees, vicarious liability of corporation, 30.60

Employment claims, 55.20 et seq.

Gross negligence, tort claims, 55.34

Intent, conscious and deliberate intent to cause injury, tort claims, 55.32

Negligent hiring, 55.20

Special verdict forms, 30.91

Negligent retention, special verdict forms, 30.91

Penalties, 55.68

Personal injury claims, 55.10 et seq.

### EMPLOYMENT—Cont'd

Punitive damages, 94.15

Safe place to work, employer's duty to provide

Special verdict forms, 55.90

Tort claims, 55.31

Scope of employment, vicarious liability, special verdict forms, 30.90 to 30.92

Special verdict forms

Negligent hiring or retention, 30.91

Safe place to work, employer's duty to provide, 55.90

Vicarious liability, 30.90 to 30.92

Termination claims

Condonation, 55.55

Good cause, 55.50

Violation of public policy, 55.65

Vicarious liability, 30.10 et seq.

Special verdict forms, 30.91

Whistleblowers, 55.65, 55.94

## **ENGINEERS AND ENGINEERING**

Malpractice, 80.75

## **ESTOPPEL**

Contracts, promissory estoppel, 20.50

Promissory estoppel, 20.50

## **EVIDENCE AND WITNESSES**

Eminent domain, view of premises, **52.25** Evidentiary instructions, **12.10** et seq.

## **EXPERT TESTIMONY**

Generally, 12.30

## **FAIR DEALING**

Contract, 20.55

# FAIR MARKET VALUE

Eminent domain, 52.40

## **FALSE IMPRISONMENT**

Generally, 60.70

Definition, 60.70

Intentional torts, 60.70

Jury instructions, 60.70

Special verdict form, 60.94

### FIDUCIARY DUTY

Generally, 23.10

## **FOOD**

Products liability, 75.60

## FORCE OR VIOLENCE

Damages, excessive force or restraint, 60.57

### FORCE OR VIOLENCE—Cont'd

Deadly, use by peace officer, 60.60

Excessive force or restraint, damages, 60.57

Reasonable force, 60.63

Retaking of property by

Generally, 60.51

Amount justified, 60.54

Self defense, threatening force, 60.35

#### **FORMS**

Special Verdict Forms, this index

## FRAUD AND DECEIT

Generally, 57.10 et seq.

Consumer fraud, 57.40, 57.92

Damages, 57.25

Insurance, application for insurance, 59.25

Material facts, duty to disclose, 57.30

Negligent misrepresentation, 57.20

Reasonable reliance, 57.15

Special verdict forms

Consumer fraud, 57.92

Fraud, 57.90

Insurance application misrepresentation, 59.90

Negligent misrepresentation, 57.91

#### **FRUSTRATION**

Contracts, 20.79

Defenses, 20.79

### **GOOD CONDUCT**

Fault and culpability, 25.12

Right to assume another's, 25.12

## **GOOD FAITH**

Contract, 20.55

Employment claims, 55.66

Insurance, good faith duty to settle, 59.35

## **GROSS NEGLIGENCE**

Fault and culpability, 25.35

## HARBORING ANIMALS

Injuries caused by, 38.80

# HEALTH CARE PROVIDER

Medical Malpractice, this index

### **HINDRANCE**

Performance of contract, defense, 20.56

## **HOSPITALS**

Liability, medical malpractice, 80.37 et seq.

### HOSPITALS—Cont'd

Medical malpractice

Duty of hospital, 80.37

Following doctor's orders, liability of hospital, 80.40

Liability, 80.40 to 80.46

Third person, damage or injury to by patient, 80.46

## **HOTELS AND MOTELS**

Duty of innkeeper, 85.70

## **IMMUNITY OR PRIVILEGE**

Privilege or Immunity, this index

## **IMPEACHMENT**

Witnesses, 12.25

## **IMPLIED ACTS AND MATTERS**

Fact of accident alone, no inference of negligence, 25.55 Failure to produce evidence, 12.35

## **IMPOSSIBILITY**

Contracts, 20.80

Defenses, 20.80

## IMPRISONMENT, FALSE

Intentional torts, 60.70

### IMPUTED FAULT

Generally, 32.10 et seq.

Consent

Adult, 32.15

Adult deviation, 32.20

Child, 32.25

Motor vehicle owner

Generally, 32.10

Consent/adult

Generally, 32.15

Deviation, 32.20

Revocation, 32.16

Consent/child, 32.25

Permission to use motor vehicle, 32.90

Statutory imputation of liability, 32.15 et seq.

Permission to use motor vehicle, 32.90

## INDEPENDENT CONTRACTOR

Generally, 30.10

Vicarious liability, 30.10

## **INFERENCE**

Fact of accident alone, no inference of negligence, 25.55 Failure to produce evidence, 12.35

## **INJURIES CAUSED BY ANIMALS**

Generally, 38.10 et seq.

## INNKEEPER, DUTY OF

Generally, 85.70

## INSTRUCTIONS OR DIRECTIONS

Compensatory damages, 90.20

Medical malpractice

Departure from manufacturer's instructions, 80.16

Patient's duty to follow instructions, 80.28

Personal and property compensatory damages, 90.20

## INSURANCE LAW AND PRACTICE

Generally, 59.10 et seq.

Agent and broker defined, 59.40

Burden of proof

Coverage, 59.10

Exclusion, 59.15

Coverage

Burden of proof, 59.10

Intentional injury or harm, 59.30

Definition, agent and broker, 59.40

Exclusions

Burden of proof, 59.15, 59.20

Intentional injury or harm, 59.30

Good faith duty to settle, 59.35

Intentional injury or harm, 59.30

Misrepresentation, application for insurance, 59.25, 59.90

No-fault automobile insurance

Special verdict forms, 65.90

Tort thresholds, 65.40

Special verdict forms

Misrepresentation, application for insurance, 59.90

No-fault auto insurance, 65.90

Underinsured motorist insurance, 65.91

Uninsured motorist insurance, 65.92

Tort thresholds for no-fault automobile insurance, 65.40

#### INTENT

Injury or harm. Intentional Injury or Harm, this index

Special verdict forms, vicarious liability, intentional tort, 30.92

Torts, 60.10 et seq.

Vicarious liability

Employee, scope of authority in intentional wrongs cases, 30.20

Special verdict forms, intentional tort, 30.92

## INTENTIONAL

Generally, 60.10 et seq.

### INTENTIONAL INJURY OR HARM

Assault and batters, 60.20, 60.25, 60.30 et seq.

Conversion, 60.65

Defense of persons and property, 60.30 et seq.

Emotional distress, intentional infliction of, 60.75

Special verdict forms, 60.90

Informed consent, medical malpractice, 80.92

Insurance, 59.30

Intent and consent, 60.10, 60.15

Medical malpractice, 80.90, 80.92

Special verdict forms, intentional infliction of emotional distress, 60.90

### **INTERFERENCE**

Contractual relationship, 40.30

## **INTOXICATION**

Civil Damage Act, this index

Effect, 25.14

Fault and culpability, 25.14

Negligence, 25.14

## INTRUSION UPON SECLUSION

Generally, 72.10

Special verdict form, 72.90

## INVASION OF PRIVACY

Appropriation, 72.15

Intrusion upon seclusion, 72.10

Public disclosure of private facts, 72.20

Special verdict forms

Appropriation, 72.91

Intrusion upon seclusion, 72.90

Public disclosure of private facts, 72.92

### JOINT AND SEVERAL LIABILITY

Primary assumption of risk, 28.30

Secondary assumption of risk, 28.25

## JOINT ENTERPRISE

Generally, 30.65

Vicarious liability, 30.65

# JOINT VENTURE

Generally, 30.70

Definition, 30.70

## JURY AND JURY TRIAL

Instructions regarding means of support and pecuniary loss, damages, 45.45

Preliminary instructions, before trial, 10.15

Recess of, 10.40

Separation of, 10.40

### **JUST COMPENSATION**

Eminent domain, 52.35 et seq.

### **JUSTIFICATION**

Business torts, 40.40

## **KEEPING ANIMALS**

Injuries caused by, 38.80

## **KEEPING OR HARBORING**

Injuries caused by animals, 38.80

## LAND

Property, this index

### LANDLORD AND TENANT

Generally, 85.40 et seq.

Duty of landlord, 85.40

Duty of tenant, 85.40

Eminent domain

Generally, 52.75

Special verdict forms, 52.92

## **LEASES**

Landlord and Tenant, this index

Products liability, defendant in business of selling or leasing, 75.10

Property, this index

### LEGAL MALPRACTICE

Generally, 80.55 et seq.

## LIABILITY

Employer, 55.10 et seq.

Hospital, 80.40 et seq.

Multiple parties, 15.10

Parent, 70.25

Several, 15.10

Strict, 38.93, 75.25

## **MALICE**

Actual, 50.35

Defamation

Common law standard, 50.35

Constitutional standard, 50.40

## **MALPRACTICE**

Attorney, 80.55

Attorney-specialist, 80.58

Medical Malpractice, this index

Professional

Architect, 80.75

Attorney, 80.55 to 80.66

Engineer, 80.75

### MALPRACTICE—Cont'd

Professional—Cont'd

Medical, 80.10 to 80.46

Public accountant, 80.75

### **MANUFACTURING**

Component parts manufacturer, products liability, 75.96

Medical malpractice, departure from manufacturer's instructions, 80.16

Negligence, 75.35

Products liability

Component parts manufacturer, 75.96

**Defects**, 75.30

Liability of manufacturer, 75.33

Post-sale warnings, duty to provide, 75.40

### MEDICAL MALPRACTICE

Generally, 80.10 et seq.

Dentist, 80.10, 80.13

Doctor

Generally, 80.10

Duty to refer, 80.19

Duty to refer, 80.19

Health care provider, generally, 80.10

Hospital

Generally, 80.37

Liability for damage or injury to third person by patient, 80.46

Liability for following doctor's orders, 80.40

Negligence of physician or nurse, liability, 80.43

Informed consent, special verdict form, 80.92

Instructions

Departure from manufacturer's instructions, 80.16

Patient's duty to follow instructions, 80.28

Intentional torts, 80.90

Loss of a chance for more favorable outcome, 80.11

Wrongful death, special verdict form, 80.95, 80.96

Loss of a chance for survival, 80.11

Special verdict form, 80.93, 80.94

Manufacturer's instructions, departure from, 80.16

Medical consent

Informed, **80.25** 

Negligent nondisclosure, 80.25

Treatment/operation, 80.22

More favorable outcome, loss of chance of, 80.11

Special verdict form, 80.93, 80.94

Nurse, 80.31

Patient's duty to follow instructions, 80.28

Specialist, medical/dental, 80.10

Special verdict form, 80.90 to 80.96

### MEDICAL MALPRACTICE—Cont'd

Survival, loss of chance for, **80.11**Special verdict form, **80.93**, **80.94** 

#### **MISTAKE**

Contracts or Agreements, this index

## MITIGATION OF DAMAGES

Damages, this index

## MODIFICATION OR CHANGE

Contracts, 20.41

### **MORTALITY TABLES**

Generally, App

### **MULTIPLE PARTIES**

Generally, 15.10 et seq.

Absent parties, 15.40

Animals, injuries caused by, 38.92

Apportionment of damages, 15.20

Directed verdict, 15.30

Negligence

Answered by court, 15.25

Injuries caused by animals, 38.92

Special verdict forms, 28.91, 28.92

Separate claims, two or more plaintiffs, 15.10

Settlement agreements, 15.35

Several liability, two or more defendants, 15.15

Special verdict forms, negligence, 28.91, 28.92

#### **MUNICIPALITIES**

Negligence, official immunity, special verdict form, 25.90

Official immunity, negligence, special verdict form, 25.90

Sidewalk or street defects

Duty of municipality, 85.63

Knowledge of municipality, 85.65

Special verdict form, negligence, official immunity, 25.90

## MUTUAL MISTAKE OF FACT

Contracts, 20.76

Defenses, 20.76

## **NEGLIGENCE**

Generally, 25.10 et seq.

Alternative theories, 25.52

Animals, injuries caused by

Generally, 38.70

Single parties, 38.91

Answered by court, 15.25

Causation

Generally, 27.10 et seq.

# NEGLIGENCE—Cont'd Causation—Cont'd Concurring, 27.15 Direct, 27.10 Superseding, 27.20 Comparative fault, 28.15 Covenant to repair leased premises, negligent breach, 85.46 Culpability, generally, 25.10 et seq. Custom, evidence of, 25.47 Defamation, 50.45 Defenses, 28.25, 28.30 Definition, 25.10 Emergency rule, 25.16 Employee, vicarious liability, 30.15 **Employment claims** Hiring employees, 55.20 Retention of employees, 55.30 Supervision of employees, 55.25 Fact of accident alone, no inference of negligence, 25.55 Fault and culpability, generally, 25.10 et seq. Fraud and misrepresentation Generally, 57.20 Special verdict form, 57.91 Good conduct, right to assume another's, 25.12 Gross, 25.35 Injuries caused by animals Generally, 38.70 Common law strict liability, 38.93 Multiple parties, 38.92 Single parties, 38.91 Intoxication, 25.14 Joint and several liability, 28.25, 28.30 Leased premises Covenant to repair, negligent breach, 85.46 Negligent repair, 85.49 Manufacturer or seller of goods, products liability, 75.35 Medical malpractice, liability of hospital for negligence of physician or nurse, 80.43 Medical malpractice, negligent nondisclosure, 80.25 Motor vehicles, 65.10 Municipalities, official immunity, special verdict form, 25.90 Nontraffic statutes, violations of, 25.45 Official immunity, special verdict form, 25.90 Parental liability for torts of children Negligent entrustment, 70.30 Specific propensity, 70.25 Products liability Duty to warn, 75.25

### NEGLIGENCE—Cont'd

Products liability—Cont'd

Manufacturer or seller of goods, 75.35

Railroad crossing, 48.45

Reckless defined, 25.37

Res ipsa loquitur, 25.50, 25.52

Special verdict forms

Municipalities, official immunity, 25.90

Negligent hiring or retention, 30.92

Official immunity, 25.90

State, official immunity, 25.90

Vicarious liability, 30.90, 30.92

Wrongful death, 28.93

Specific, 25.52

State, official immunity, special verdict form, 25.90

Statutory compliance, 25.46

Subsequent remedial measures, 25.48

Vicarious liability, 30.15

Negligent hiring or retention, 30.92

Special verdict forms, 30.92

Willful conduct, 25.40

Wrongful death, special verdict forms, 28.93

### **NEXT OF KIN**

Negligence, special verdict forms, **28.93** Special verdict form, negligence, **28.93** 

## NO-FAULT AUTOMOBILE INSURANCE

Special verdict forms, 65.90

Tort thresholds, 65.40

## **NONLITIGANTS**

Negligence, special verdict forms, 28.91

Special verdict forms, negligence, 28.91

## **NONTRAFFIC STATUTES**

Generally, 25.45

## NOTES TAKEN BY JURY

Duties of jury, 10.35

## **NOVATION**

Contracts, 20.42

#### **NUISANCES**

Private

Generally, 60.80

Trespass to land privilege, entry to abate, 60.86

Special verdict form, 60.95

## **NURSES**

Medical malpractice, 80.31, 80.43

### NURSES-Cont'd

Negligence, liability of hospital, 80.43

### **OFFER OF CONTRACT**

Generally, 20.15 et seq.

## **OFFICIAL IMMUNITY**

Municipality, negligence, special verdict form, **25.90** Negligence, special verdict form, **25.90** Special verdict form, **25.90** State, negligence, special verdict form, **25.90** 

## PARENTAL LIABILITY FOR TORTS OF CHILDREN

Negligent entrustment, **70.30** Specific propensity, **70.25** 

## **PARKING FACILITIES**

Parking ramp operator, 85.75

## PARKING RAMP OPERATOR

Duty, **85.75** 

#### **PARTNERSHIP**

Generally, 30.50 et seq.
Definitions
Partner, 30.50
Partners, 30.50
Scope of authority, 30.55
Scope of authority defined, 30.55
Vicarious liability, 30.50 et seq.

### **PASSENGERS**

Affirmative duty of motor vehicle passenger, **65.20** Common carrier, **48.15 et seq.**Duty of motor vehicle passenger, **65.15**, **65.20** Motor vehicles, **65.15**, **65.20** 

## **PATIENT**

Medical malpractice, duty to follow instructions, 80.28

## PEACE OFFICER

Deadly force used in defense of persons or property, 60.60 Defense of persons or property, use of deadly force, 60.60 Use of deadly force, 60.60

### **PEDESTRIAN**

Common law duties, 65.10

## **PENALTIES**

Employment claims, 55.68

## PERSONS, DEFENSE OF

Generally, 60.30 et seq.

#### PHYSICIANS AND SURGEONS

Medical Malpractice, this index

## **POST-SALE WARNINGS**

Manufacturer's duty, **75.40** Products liability, **75.40** 

## PRELIMINARY INSTRUCTIONS

Before trial, 10.15

#### PRELIMINARY MATTERS

Jury instructions, before trial, 10.15

## PRESUMPTIONS AND BURDEN OF PROOF

Generally, 14.15
Damages, 90.15
Eminent domain, just compensation for, 52.30
Insurance Law and Practice, this index

## PRINCIPAL-AGENT

Punitive damages, agent and principal, 94.92 Relationship, generally, 30.30 Scope of authority, 30.30 Special verdict form, punitive damages, 94.92 Vicarious liability, 30.25

#### **PRIVACY**

Appropriation, 72.15
Special verdict form, 72.91
Intrusion upon seclusion, 72.10
Public disclosure of private facts, 72.20
Special verdict form, 72.92
Special verdict form, 72.90
Appropriation, 72.91
Intrusion upon seclusion, 72.90
Public disclosure of private facts, 72.92

## PRIVILEGE OR IMMUNITY

Absolute and qualified, defamation
Generally, **50.30 et seq.**Special verdict forms, **50.90**Municipality, official immunity, special verdict form, **25.90**Negligence, municipality, official immunity, special verdict

Negligence, municipality, official immunity, special verdict form, 25.90

Official Immunity, this index

Private nuisance, entry to abate, trespass to land privilege, **60.86** Qualified and absolute. Absolute and qualified, defamation, above

Special verdict form

Municipality, official immunity, negligence, **25.90**Official immunity, negligence, municipality, **25.90**State, official immunity, negligence, **25.90**State, official immunity, special verdict form, **25.90** 

## PRIVILEGE OR IMMUNITY—Cont'd

Trespass to land privilege, entry to abate private nuisance, 60.86

## PRODUCT DISPARAGEMENT

Generally, **40.15** Business torts, **40.15** 

## PRODUCTS LIABILITY

Generally, 75.10 et seq.

Bailments, 75.45

Causation, 75.50

Circumstantial evidence, proof of defect, 75.32

Component parts manufacturer, liability, 75.96

Defects

Design, 75.20

Special verdict form, 75.90, 75.94, 75.96, 75.98

Existed when product left seller, 75.15

Intermediaries other than manufacturers, 75.31

Manufacturing defects, 75.30

Defendant in business of selling or leasing, 75.10

Duty to warn, 75.25

Food, **75.60** 

Intermediaries other than manufacturers

Defects, 75.31

Liability, 75.95

Manufacturer

Component parts manufacturer, 75.96

Negligence, 75.35

Post-sale warnings, 75.40

Special verdict form, 75.92

Manufacturing defects, 75.30

Proof of defect, 75.32

Seller of goods, negligence, 75.35

Sophisticated intermediaries, 75.26

Special verdict forms, 75.90 et seq.

Strict liability, 75.25

Useful life, 75.55

## PROMISSORY ESTOPPEL

Generally, 20.50

Contract, 20.50

## **PROPERTY**

Abnormally dangerous activities, landlord and tenant, 85.55

Adverse possession, 85.80

Conversion of, 60.65

Covenant to repair leased premises, negligent breach, 85.46

Damages

Generally, 90.10 et seq.

Mitigation of, 92.15

### PROPERTY—Cont'd

Defense of, 60.45 et seq.

Eminent domain on non-contiguous tracts, 52.91

Entrant

Generally, 85.22

Definition, 85.22

Duty of possessor to, 85.25, 85.28

Innkeeper, duty of, 85.70

Landlord, 85.40 et seq.

Leased premises

Abnormally dangerous activities, 85.55

Areas controlled by landlord, 85.43

Building code violations, 85.50

Latent defect, 85.40

Negligent breach of covenant to repair, 85.46

Negligent repair, 85.49

Public use, 85.52

Noncontiguous, eminent domain

Generally, 52.60

Severance damages, definition, 52.60

Special verdict forms for, 52.91

Parking ramp operator, duty of, 85.75

Public use of leased premises, 85.52

Recreational use, 85.31

Sidewalks and streets

Innkeeper's duty, 85.70

Municipality, duty of, 85.63

Owner, duty of, 85.60

Slander of title, 85.82

Tenant, 85.40 et seq.

Trespasser, 85.10 et seq.

## PROSPECTIVE ECONOMIC ADVANTAGE

Interference with, 40.35

# **PROVOCATION**

Proximate cause, injuries caused by animals, 38.40

# PROXIMATE CAUSE

Animals, injuries caused by

Generally, 38.30, 38.60

Acting peaceably, 38.50

Provocation, 38.40

### PUBLIC ACCOUNTANT

Malpractice, 80.75

Professional malpractice, 80.75

## **PUBLICATION**

Generally, 50.15

### PUBLICATION—Cont'd

Defamatory communication, **50.15**Private facts, public disclosure, **72.20**Special verdict form, **72.20**Special verdict form, public disclosure of private facts, **72.92** 

## PUBLIC DISCLOSURE OF PRIVATE FACT

Invasion of privacy, generally, **72.20** Special verdict form, **72.92** 

### **PUBLIC ISSUE**

Generally, **50.10 et seq.**Defamation
Generally, **50.10 et seq.**Special verdict forms, **50.95**Leased premises, public use, **85.52** 

## **PUBLICITY**

Public disclosure of private facts, generally, **72.20** Special verdict form, **72.92** 

## **PUBLIC OFFICERS AND EMPLOYEES**

Defamation

Generally, **50.10 et seq.** Special verdict forms, **50.93**, **50.94** 

Peace officer, use of deadly force in defense of persons or property, 60.60

## **PUBLIC OFFICIAL OR FIGURE**

Generally, 50.10 et seq.

## **PUBLIC POLICY**

Employment termination in violation of, **55.65** Whistleblower Act, **55.65** 

# PUNITIVE DAMAGES

Generally, 94.10

Agent and principal, special verdict form, 94.92

Employer-principal liability, 94.15

Liability for, 94.15

Special verdict forms, 94.90

# RAILROAD CROSSING

Generally, 48.45

### **RAILROADS**

Crossing, **48.45** 

### REASONABLE CARE

Generally, 25.10

Definition, 25.10

Parents and children, 70.10 et seq.

Products liability, 75.10 et seq.

### REASONABLE FORCE

Defense of persons or property, 60.63

## REASONABLENESS

Force or violence, defense of persons or property, 60.63

## RECESS OR SEPARATION OF JURY

Duties of jury, 10.40

## RECKLESS CONDUCT

Generally, **25.37** Negligence, **25.37** 

## RECKLESSNESS

Reckless conduct, negligence, 25.37

## **RECREATIONAL USE**

Privately owned property, 85.31

### **REJECTION**

Contract offer, 20.30

#### RELIANCE

Reasonable reliance, fraud and deceit, 57.15

### REMEDIES

Negligence, 25.48

Subsequent remedial measures, 25.48

## REPAIR

Leased premises

Generally, 85.49

Covenant to repair, negligent breach, 85.46

### **REPORTS**

Employment claims, 55.67

## **RES IPSA LOQUITUR**

Generally, 25.50

Alternative theory, 25.52

Negligence, 25.50, 25.52

## RESPONDEAT SUPERIOR

Civil Damage Act, sale of alcoholic beverages, **45.42** Vicarious liability, employee's scope of authority, **30.20** 

## REVOCATION

Contract offer, 20.35

Imputed fault, motor vehicle owner, consent/adult, 32.16

Motor vehicle owner, consent/adult, 32.16

## RISK

Primary assumption, **28.30** Secondary assumption, **28.25** 

### RULINGS ON OBJECTIONS TO EVIDENCE

Duties of jury, 10.30

## **SALES**

Products liability

Defendant in business of selling or leasing, **75.10**Liability of seller of goods, **75.33** 

### **SCIENTER**

Animals, injuries caused by
Defenses, 38.20
Domestic animals, 38.10, 38.20
Negligence, 38.93
Domestic animals, injuries caused by, 38.20

## **SELF DEFENSE**

Generally, **60.30**, **60.35**Death, force threatening, **60.35**Serious harm, force threatening, **60.35**Threat of death or serious harm, **60.35** 

### SEPARATE ACTS OR MATTERS

Two or more plaintiffs, 15.10

## SEPARATE VERDICT

Partial taking for eminent domain, 52.70

## **SEVERAL LIABILITY**

Generally, 15.10

## SEVERANCE DAMAGES

Generally, **52.55**Definition, **52.55**Eminent domain
Generally, **52.55 et seq.**Special verdict forms, **52.90**Noncontiguous property, **52.60**Partial taking, **52.65**Special verdict forms, **52.90** 

## **SIDEWALKS**

Abutting property, duty of owner of, **85.60**Actual knowledge of municipality of defect, **85.65**Constructive knowledge of municipality of defect, **85.65**Duty of municipality, **85.63**Duty of owner of property abutting, **85.60** 

## **SKIDDING**

Automobiles and highway traffic, 65.35

## **SLANDER OF TITLE**

Duties of property owners, 85.82

### SOPHISTICATED INTERMEDIARIES

Products liability, 75.26

## SPECIAL VERDICT FORMS

Appropriation, 72.91

Battery, **60.92** 

Breach of contract, 20.90

Civil assault, 60.91

Civil Damage Act, 45.90 et seq.

Civil damage act, 45.90 et seq.

Comparative fault, 28.91 to 28.93

Comparative negligence, 28.90

Consequential damages, warranties, 22.92

Contracts

Breach of contract, 20.90

Damages, 22.92

Defamation, 50.90 to 50.97

Difference in value, damages for, warranties, 22.92

Eminent domain, 52.90 to 52.92

Emotional distress, intentional infliction, 60.90

Fraud and misrepresentation, 57.90 to 57.92

Incidental damages, warranties, 22.92

Informed consent, 80.92

Insurance, misrepresentation, application for insurance, 59.90

Intrusion, 72.90

Invasion of privacy, 72.90 to 72.92

Legal malpractice, 80.97, 80.98

Libel, 50.90 et seq.

Medical malpractice, 80.90 to 80.96

Multiple parties, negligence, 28.91, 28.92

Negligence

Generally, 28.90 to 28.93

Comparative fault, 28.91 to 28.93

Comparative negligence, 28.90

Multiple parties, 28.91, 28.92

Next of kin, 28.93

Nonlitigants, 28.91

Official immunity, 25.90

Surviving spouse, 28.93

Wrongful death, 28.93

Next of kin, negligence, 28.93

No-fault automobile insurance, 65.90

Nonlitigants, negligence, 28.91

Nuisance, **60.95** 

Privacy, 72.90 to 72.92

Products liability, 75.90 et seq.

Publication of private facts, 72.92

Punitive damages, 94.90, 94.95

### SPECIAL VERDICT FORMS—Cont'd

Self defense, 60.92 Slander, 50.91, 50.92 Surviving spouse, negligence, 28.93 Warranty, 22.90, 22.92

## **STATE**

Negligence, official immunity, special verdict form, **25.90** Official immunity, negligence, special verdict form, **25.90** Special verdict form, negligence, official immunity, **25.90** 

## STATEMENTS OF COUNSEL AND JUDGE

Post-trial, **10.25** 

### **STATUTES**

Compliance, **25.46**Nontraffic statutes, violation, **25.45** 

#### STRICT LIABILITY

Animals, common law strict liability for injuries caused by, **38.93** Products liability, duty to warn, **75.25** 

## **SUPERSEDING CAUSE**

Generally, **27.20** Negligence, **27.20** 

## SURVIVAL, LOSS OF CHANCE OF

Medical malpractice, **80.11**Special verdict forms, **80.93**, **80.94** 

## **SURVIVING SPOUSE**

Negligence, special verdict forms, **28.93** Special verdict forms, negligence, **28.93** 

## **TAXATION**

Compensatory damages, **90.30** Damages, **90.30** 

## **TEACHERS**

Child, punishment by person other than parent, **70.35** Punishment of child, **70.35** 

### **TENANTS**

Landlord and Tenant, this index

### **TEXTBOOKS**

Evidentiary instructions, 12.40

## THIRD PERSONS

Children, punishment by teacher or person other than parent, **70.35** Common carrier, duty to protect safety from, **48.25** Defense of, **60.36** Defense of property of, **60.48** Hospital, liability for, **80.46** 

### THIRD PERSONS—Cont'd

Medical malpractice, liability of hospital for damage or injury to by patient, 80.46

### **TORTS**

Employment-related claims, **55.10 et seq.**Tort thresholds, no-fault automobile insurance, **65.40** 

## TORT THRESHOLDS

No-fault automobile insurance, 65.40

## TRADE SECRETS

Generally, **40.20**Definition, **40.20**Misappropriation, **40.25** 

## TRAFFIC STATUTES

Terms, definitions, **65.30** Violation, **65.25** 

## TRAFFIC STOPS

Nontraffic statutes, negligence, **25.45**Statutes
Generally, **65.30**Violation of, **65.25** 

## **TRESPASS**

Activities of owner or occupant causing injury, **85.16**Attractive nuisance, **85.19**Children, **85.19**Condition of premises causing injury, **85.13**Defense of dwelling against, **60.42**Defining, **85.10**Duty of possessor and entrant, **85.25**Duty of possessor to trespasser, **85.13**, **85.16**Entry to abate private nuisance, **60.86** 

Recreational use, **85.31** 

## **TRUTH**

Generally, 50.25

### UNDERINSURED MOTORIST INSURANCE

Special verdict forms, 65.91

## UNDUE HARDSHIP

Contracts, 20.80 Defenses, 20.80

# UNILATERAL MISTAKE OF FACT

Contracts, 20.75 Defenses, 20.75

### UNINSURED MOTORIST INSURANCE

Special verdict forms, 65.92

## **USEFUL LIFE**

Products liability, 75.55

## **USEFULNESS**

Products liability, useful life, 75.55

## **VERDICT**

Deliberation and return of, 10.45

Directed verdict, 15.30

Separate verdict, partial taking for eminent domain, 52.70

Special Verdict Forms, this index

## VICARIOUS LIABILITY

Generally, 30.10 et seq.

Agent

Generally, 30.25

Scope of authority, 30.30

Corporations, liability for conduct of employees, 30.60

Definitions

Employee, 30.10

Joint venture, 30.70

Partnership, 30.50, 30.55

**Employee** 

Generally, 30.10

Definition, 30.10

Intentional wrong, 30.20

Negligence, 30.15

Scope of authority, 30.15, 30.20

Independent contractor, 30.10

Joint enterprise, 30.65

Joint venture, 30.70

Negligent hiring or retention, special verdict forms, 30.91

Partnership

Generally, 30.50

Definitions, 30.50, 30.55

Scope of authority, 30.55

Principal-agent relationship, 30.25, 30.30

Scope of employment, special verdict forms, 30.90 to 30.92

Special verdict forms

Generally, 30.90

Intentional tort, 30.92

Negligence, 30.90

Negligent hiring or retention, 30.91, 30.92

Scope of employment, 30.90 to 30.92

## WARNINGS

Inadequate warnings, special verdict forms, 75.90, 75.98

```
Products liability
    Duty to warn, 75.25
    Post-sale warnings, manufacturer's duty, 75.40
  Special verdict forms, inadequate warnings, 75.90, 75.98
WARRANTIES
  Generally, 22.10 et seq.
  Breach of warranty
    Express, 22.50
    Fitness for particular purpose, implied of, 22.60
    Implied of fitness for a particular purpose, 22.60
    Implied warranty of merchantability, 22.55
    Merchantability, implied of, 22.55
  Causation, 22.65
  Consequential damages, 22.92
  Damages, generally, 22.70
  Difference in value, damages for, 22.92
  Exclusion or modification of, 22.40
  Express
    Generally, 22.10
    Breach, 22.50
    By description, 22.15
    By model, 22.20
    By sample, 22.20
  Implied
    Breach of warranty
       Fitness for particular purpose, 22.60
       Merchantability, 22.55
    By course of dealing, 22.30
    Exclusion or modification by course of dealing, 22.45
    Exclusion or modification by usage of trade, 22.45
    Fitness for a particular purpose, 22.35
    Fitness for particular purpose, breach, 22.60
    Of merchantability, 22.25
    Merchantability, breach, 22.55
    Modification by course of dealing, 22.45
    Modification by usage of trade, 22.45
    Usage of trade, exclusion or modification by, 22.45
  Incidental damages, 22.92
  Modification of, 22.40
  Special verdict forms
    Accident cases, 22.90
    Consequential damages, 22.92
    Damages, 22.92
    Difference in value, damages for, 22.92
    Incidental damages, 22.92
    Warranty damages, 22.92
```

WARNINGS—Cont'd

# WHISTLEBLOWER ACT

Employment termination in violation of public policy, **55.65** Special verdict forms, **55.94** 

# WILLFUL AND WANTON MISCONDUCT

Negligence, 25.40

## WILLFUL CONDUCT

Generally, 25.40

# WITNESSES

Credibility of, **12.15**Evaluation of testimony, **12.15**Impeachment, **12.25** 

# WRONGFUL DEATH

Measure of damages, 91.75

Medical malpractice, special verdict forms, 80.95, 80.96

Negligence, special verdict forms, 28.93

Special verdict forms

Medical malpractice, 80.95, 80.96

Negligence, 28.93