

Index

ACCIDENTS

Jury selection, accident cases,
§ 10:18

ACCORD AND SATISFACTION

Pleadings, § 4:6

ACCURACY OR INACCURACY

Judicial notice, accurately verifiable
facts, § 12:7

ACTIONS

Commencement. *See* **Commence-
ment of Action** (this index)

Removal. *See* **Removal of Actions**
(this index)

ACTUAL DAMAGES

Wrongful death, § 15:67

ADDITION OR ADDITIONAL

Judgments, motion to amend or make
additional findings, § 19:9

ADJUDICATIVE FACTS

Judicial notice, § 12:5

ADMINISTRATIVE LAW

Judicial notice, § 12:5

ADMISSIBILITY

Direct examination, expert opinion
must be based on, § 13:46

ADMISSIONS OR DECLARATIONS

Discovery. *See* **Discovery** (this
index)

Opening statements, § 11:27

Pretrial matters and procedure, § 9:34

ADVERSE WITNESS

Discovery and surveillance, § 8:10

AFFIRMATIVE DEFENSES

Accord and satisfaction, § 4:6

Assumption of risk, § 4:8

Contributory negligence, § 4:9

AFFIRMATIVE DEFENSES

—Cont'd

Discharge in bankruptcy, § 4:10

Duress, § 4:11

Estoppel, § 4:12

Failure of consideration, § 4:13

Fraud, § 4:14

Illegality, § 4:15

Injury by fellow servant, § 4:16

License, § 4:18

Payment, § 4:19

Release defense, § 4:20

Res judicata, § 4:21

Statute of frauds, § 4:22

Statute of limitations, § 4:23

AGREED STATEMENT

Proof without evidence, § 12:2

ALIBI

Discovery, § 8:70

ALLIED MENTAL HEALTH

PROFESSIONAL PRIVILEGE

Discovery, § 8:22

ANCIENT DOCUMENTS

Direct examination, § 13:52

ANSWER

Pleadings, § 4:4

Pretrial matters and procedure, § 9:32

APPEAL AND REVIEW

Judgments, § 19:13-19:15

Jurisdiction and venue, § 2:4

Pretrial matters and procedure, § 9:2,
§ 9:5, § 9:10

APPEARANCE

Direct examination, appearance in
court by witnesses, § 13:2-13:5

ARBITRATION AND AWARD

Pleadings, § 4:7

ARGUMENTS

- Closing arguments. *See* **Closing Arguments** (this index)
- Direct examination, argumentative questions, § 13:29
- Opening statements, prohibition of arguing, § 11:8

ASSESSMENTS

- Eminent domain damages, assessed value, § 15:30

ASSIGNMENT

- Commencement of action, assignment of track in land court, § 5:25

ASSUMPTION OF FACTS

- Direct examination, § 13:31

ASSUMPTION OF RISK

- Generally, § 4:8

ATTACHMENT

- Commencement of action, § 5:50

ATTORNEY-CLIENT PRIVILEGE

- Discovery, § 8:23

ATTORNEYS

- Trials, preliminary matters, attorney worksheet, § 3:5

AUDIO-VISUAL RECORDINGS

- Deposition testimony, § 9:36
- Expert witness depositions for trial, § 9:37

AUTHENTICATION

- Direct examination. *See* **Direct Examination** (this index)

AUTHORITY DEFENSE

- Discovery, § 8:72

AUTOMATIC DISCOVERY

- Procedures for, § 8:64-8:68

BANKRUPTCY

- Affirmative defense, § 4:10
- Pleadings, § 4:10

BAR OR BAR ASSOCIATION

- Disciplinary procedures, § 1:2

BENCH TRIALS

- Closing arguments, beginning, § 16:6

BIAS OR PREJUDICE

- Cross-examination, § 14:7, § 14:30
- Jury trial, internal extraneous influences, § 18:8

BOOKS

- Cross-examination, § 14:39

BOSTON MUNICIPAL COURTS

- Civil motions, § 7:12
- Commencement of action, time standards and tracking orders, § 5:4-5:9

BUDGETS

- Depositions, § 8:53

BURDEN OF PROOF

- Generally, § 12:12-12:16
- Inferences, § 12:15
- Opening statements, § 11:37
- Persuasion, burden of, § 12:14
- Presumptions, § 12:16
- Prima facie evidence, § 12:13
- Production, § 12:13

CANDOR

- Trials, candor with tribunal, § 1:11

CAPACITY OR INCAPACITY

- Commencement of action, substitution due to incompetency or incapacity of party, § 5:64
- Cross-examination, § 14:5
- Direct examination. *See* **Direct Examination** (this index)
- Lawyers, § 1:4

CASE EVALUATION FORM AND WORKSHEET

- Pretrial matters and procedure, § 9:39-9:41

CASE MANAGEMENT

- Conferences, § 5:33, 5:34

CAUSATION

- Compensatory damages, § 15:4

CERTAINTY OF PROOF

- Damages, § 15:5

INDEX

CERTIFICATES OF SERVICE

Motions, Superior Court, Rule 9B,
§ 7:4

CHARACTER AND REPUTATION

Direct examination. *See* **Direct Examination** (this index)

CHARITABLE INSTITUTIONS

Damages, caps on, § 15:53

CHECKLISTS

Cross-examination, § 14:28
Direct examination, § 13:11
Opening statements, § 11:15, 11:16

CHILDREN AND MINORS

Direct examination, testimonial competence, § 13:42
Discovery, parent-child disqualification, § 8:37
Juvenile courts. *See* **Juvenile Courts** (this index)
Parent-child disqualification, § 8:37
Voir dire, childhood sex abuse, § 10:14

CIVIL CONTEMPT

Damages, § 15:75

CLERKS

Removal of actions, cover letter to clerk, § 6:9

CLIENT

Property, § 1:5

CLOSING ARGUMENTS

Generally, § 16:1-16:12
Beginning closing arguments, § 16:5-16:7
Bench trials, beginning closing arguments, § 16:6
Body of, § 16:8
Concluding, § 16:9
Exhibits, using, § 16:11
Jury trials, beginning closing arguments, § 16:7
Law of, § 16:2
Objecting to argument, § 16:12
Order of argument, § 16:2
Planning, § 16:3

CLOSING ARGUMENTS—Cont'd

Practicing, § 16:10
Presentation, § 16:10
Pretrial matters and procedure, § 16:3
Structure, § 16:4

COERCION

See **Duress and Coercion** (this index)

COLLATERAL SOURCE RULE

Damages, § 15:62, 15:63

COLLECTING AND ENFORCING JUDGMENTS

Judgments, § 19:15

COMMENCEMENT OF ACTION

Generally, § 5:1-5:66
Assignment of track in land court, § 5:25
Attachment, § 5:50
Case management conference, probate court, § 5:33, 5:34
Changing track and rescheduling events, probate court, § 5:35
Conferences
 probate court, case management conferences, § 5:33, 5:34, § 5:34, 5:36, § 5:36
 Superior (civil) court, § 5:40, § 5:45
Death of party, substitution due to, § 5:63
Delinquency or youthful offender proceedings, § 5:20
Housing court
 CR track, § 5:18
 CV-AAP track, § 5:14
 CV-A track, § 5:12
 CV-F track, § 5:11
 CV-X track, § 5:13
 SC track, § 5:15
 SP track, § 5:16
 standards, § 5:10-5:18
 SU track, § 5:17
Incompetency or incapacity of party, substitution due to, § 5:64
Individual calendar system, land court, § 5:24
Interpleader, § 5:56

COMMENCEMENT OF ACTION

—Cont'd

- Intervention, § 5:57-5:60
- Joinder
 - generally, § 5:51-5:55
 - claims, joinder of, § 5:52
 - criminal cases, § 5:55
 - introduction, § 5:51
 - misjoinder and nonjoinder, § 5:54
 - persons, joinder of, § 5:53
- Juvenile courts
 - generally, § 5:19-5:22
 - care, protection or termination of parental rights, § 5:22
 - CRA proceedings, § 5:21
 - delinquency or youthful offender proceedings, § 5:20
 - youthful offender proceedings, § 5:20
- Land court
 - generally, § 5:23-5:30
 - assignment of track, § 5:25
 - A track, § 5:26
 - decisions, § 5:30
 - F track, § 5:27
 - individual calendar system, § 5:24
 - notifications, § 5:25
 - track designation, § 5:25-5:29
 - T track, § 5:28
 - X track, § 5:29
- Misjoinder and nonjoinder, § 5:54
- Motions to intervene, § 5:60
- Nonjoinder, § 5:54
- Notifications, land court, § 5:25
- Permissive intervention, § 5:59
- Pre-trial conferences and sequential trial days, probate court, § 5:36
- Probate court
 - generally, § 5:31-5:37
 - case management conference, § 5:33, 5:34
 - changing track and rescheduling events, § 5:35
 - conducting the case management conference, § 5:34
 - pre-trial conferences and sequential trial days, § 5:36
 - rescheduling events, § 5:35

COMMENCEMENT OF ACTION

—Cont'd

- Probate court—Cont'd
 - sequential trial days, § 5:36
 - temporary orders, judgments or decrees, § 5:37
 - track assignment, § 5:32
- Process and service of process. Service of process, below
- Real properties in interest and substitution therefore
 - generally, § 5:61-5:66
 - death of party, substitution due to, § 5:63
 - incompetency or incapacity of party, substitution due to, § 5:64
 - substitution, generally, § 5:62-5:66
 - transfer of interest, substitution due to party's, § 5:65
 - vacating public office, substitution due to, § 5:66
- Repose, starting action before, § 5:2
- Rescheduling events, probate court, § 5:35
- Right to intervene, § 5:58
- Rule 16 conferences, Superior (civil) court, § 5:45
- Sequential trial days, probate court, § 5:36
- Service of process
 - generally, § 5:47-5:49
 - personal service outside commonwealth, § 5:49
 - personal service within commonwealth, § 5:48
- Substitution. Real properties in interest and substitution therefore, above
- Superior (civil) court
 - generally, § 5:38-5:46
 - A track, § 5:43
 - case management conference pilot program, § 5:40
 - F track, § 5:42
 - individual track, § 5:41
 - Rule 16 conferences, § 5:45
 - track designation and tracking order, § 5:39

INDEX

COMMENCEMENT OF ACTION —Cont'd

- Superior (civil) court—Cont'd
 - trial continuances, § 5:46
 - X track, § 5:44
- Temporary orders, judgments or decrees, probate court, § 5:37
- Time standards and tracking orders
 - generally, § 5:3-5:46
 - category A, § 5:6
 - category B, § 5:7
 - category C, § 5:8
 - civil cases, § 5:5-5:8
 - criminal cases, § 5:9
 - district and Boston municipal courts
 - overview, § 5:4-5:9
 - overview, § 5:3
 - Track assignment, probate court, § 5:32
 - Tracking orders. Time standards and tracking orders, above
 - Youthful offender proceedings, § 5:20

COMPARATIVE NEGLIGENCE Damages, reduction of, § 15:49

COMPENSATORY DAMAGES *See Damages* (this index)

COMPLAINTS Pleadings, § 4:2

COMPLIANCE OR NONCOMPLIANCE Discovery, § 8:59-8:62

COMPOUND QUESTIONS Direct examination, § 13:33

COMPROMISE AND SETTLEMENT Pretrial matters and procedure, § 9:41, § 9:42

CONFERENCES Commencement of action. *See Commencement of Action* (this index) Discovery, § 8:3, § 8:5

CONFIDENTIAL INFORMATION *See Privileged and Confidential Information* (this index)

CONFLICT OF INTEREST Attorneys, § 1:6 Practice and procedure, § 1:6

CONFUSION Direct examination, confusing questions, § 13:34

CONSIDERATION Affirmative defense, failure of consideration, § 4:13

CONSULTANTS AND CONSULTING Discovery, consulting experts, § 8:11

CONTEMPT Damages. *See Damages* (this index)

CONTINGENT FEES Agreements Form A, § 3:2 Form B, § 3:3

CONTINUANCE Motions, Superior Court (civil motions), § 7:11 Presumptions, § 12:27 Rule 10, motions for continuance, § 7:18

CONTRIBUTORY NEGLIGENCE Affirmative defense, § 4:9

CONVICTION Cross-examination, impeaching by conviction, § 14:32

COOPERATIVE CORRECTION Discovery, § 8:60

CORPORATIONS Presumptions, corporate acts, § 12:31 Records, presumptions, § 12:31

CORRECTION Removal of actions, correcting defects in, § 6:6

COSTS AND EXPENSES Damages. *See Damages* (this index)

COSTS AND EXPENSES—Cont'd
Judgments, § 19:4

COURTS

- Boston municipal court. *See* **Boston Municipal Court** (this index)
- District court. *See* **District Court** (this index)
- Housing court. *See* **Housing Court** (this index)
- Juvenile courts. *See* **Juvenile Court** (this index)
- Land court. *See* **Land Court** (this index)
- Municipal court. *See* **Municipal Court** (this index)
- Superior court. *See* **Superior Court** (this index)
- Supreme judicial court. *See* **Supreme Judicial Court** (this index)

COVER LETTER

- Removal of actions, § 6:9

CRIMINAL CASES

- Discovery, § 8:63-8:68
- Presumptions, § 12:36

CROSS-EXAMINATION

- Generally, § 14:1-14:52
- Bias of witness, § 14:7, § 14:30
- Books, cross-examination with, § 14:39
- Categories, objections and motion to strike, § 14:51, § 14:52
- Center stage, holding of, § 14:37
- Checklist for cross examination, § 14:28
- Competency of witness to testify, testing of, § 14:5
- Composure, importance of, § 14:26
- Control of witness, § 14:21
- Conviction, impeaching by, § 14:32
- Decision to impeach, § 14:29
- Decision to object or move to strike, § 14:49
- Discrediting witnesses
 - generally, § 14:3-14:9
 - bias of witness, showing of, § 14:7
 - competency of witness to testify, testing of, § 14:5

CROSS-EXAMINATION—Cont'd

- Discrediting witnesses—Cont'd
 - interest of witness, showing of, § 14:7
 - knowledge of witness, testing of, § 14:4
 - motive of witness, showing of, § 14:7
 - opportunity of witness to learn about their testimony, determination of, § 14:8
 - prejudice of witness, showing of, § 14:7
 - truth of direct testimony, testing of, § 14:6
 - weakening of testimony given on direct, § 14:9
- Effective cross-examination, § 14:18-14:28
- Expert witnesses, § 14:41
- Eye contact, making, § 14:36
- Factfinder, cross-examine for the, § 14:24
- Favorable facts, developing or eliciting, § 14:2
- General category, objections and motion to strike, § 14:51
- Guidelines, § 14:18-14:27
- Hostile witnesses, § 14:42
- Impeachment
 - bad acts for non-impeachment purposes, § 14:33
 - bias, § 14:30
 - conviction, impeaching by, § 14:32
 - decision to impeach, § 14:29
 - interest, § 14:30
 - motive, § 14:30
 - prejudice, § 14:30
 - prior inconsistent statements, § 14:31
 - testing testimonial faculties and specific contradiction, § 14:34
- Interest, § 14:7, § 14:30
- Knowledge of witness, testing of, § 14:4
- Law and scope, § 14:10
- Listening, § 14:20, § 14:22
- Motions to strike, § 14:47-14:52
- Motive, § 14:7, § 14:30

INDEX

CROSS-EXAMINATION—Cont'd

- Objections, § 14:47-14:52
- Observation, § 14:22
- Opportunity of witness to learn about their testimony, determination of, § 14:8
- Opposing witness, preparation for generally, § 14:12-14:15
 - analysis of witnesses and possible testimony, § 14:14
 - knowing the case, § 14:13
 - organizing and framing the examination, § 14:15
- Patience, importance of, § 14:27
- Periodicals, cross-examination with, § 14:39
- Perseverance, importance of, § 14:26
- Prejudice, § 14:7, § 14:30
- Preparation
 - generally, § 14:11-14:16
 - direct witness, preparation of, § 14:16
 - importance of, § 14:19
 - knowing the case, § 14:13
 - opposing witness, preparation for, § 14:12-14:15
- Prior inconsistent statements, § 14:31
- Rebuttal, § 14:46
- Recross, § 14:45
- Redirect, § 14:44
- Sex crimes, complainant in, § 14:40
- Silent cross-examination, § 14:17
- Sincerity, importance of, § 14:25
- Specific category, objections and motion to strike, § 14:52
- Start and stop strong, § 14:23
- Testing testimonial faculties and specific contradiction, § 14:34
- Treatises, cross-examination with, § 14:39
- Truth of direct testimony, testing of, § 14:6
- Weakening of testimony given on direct, § 14:9
- Witness control techniques
 - generally, § 14:35-14:38
 - center stage, holding of, § 14:37
 - eye contact, making, § 14:36

CROSS-EXAMINATION—Cont'd

- Witness control techniques—Cont'd
 - wording of question to control answer, § 14:38
- Wording of question to control answer, § 14:38

CURE

- Jury instructions, curative, § 17:10

DAMAGES

- Generally, § 15:1-15:76
- Actual damages, wrongful death damages, § 15:67
- Assessed value, eminent domain, § 15:30
- Avoidability of compensatory damages, § 15:7
- Buyers, UCC damages, § 15:17
- Case evaluation worksheet, § 9:40
- Causation, compensatory damages, § 15:4
- Certainty of proof, § 15:5
- Charitable institutions, damage caps on, § 15:53
- Civil contempt, procedure for, § 15:75
- Collateral source rule, § 15:62, 15:63
- Comparative negligence, reduction of damages, § 15:49
- Compensatory damages
 - generally, § 15:3-15:13
 - avoidability, § 15:7
 - causation, § 15:4
 - certainty, § 15:5
 - completeness, § 15:6
 - contract cases, § 15:8-15:13
 - costs and interest, § 15:12
 - expectancy damages, § 15:9
 - liquidated damages, § 15:13
 - reliance damages, § 15:10
 - restitution damages, § 15:11
 - wrongful death damages, § 15:68
- Contempt sanctions
 - generally, § 15:72-15:76
 - civil contempt, procedure for, § 15:75
 - non-summary criminal contempt, procedure for, § 15:74

DAMAGES—Cont'd

Contempt sanctions—Cont'd
summary criminal contempt, procedure for, § 15:73

Contracts, compensatory damages, § 15:8-15:13

Costs and interest
generally, § 15:45-15:47
adding costs and interest, § 15:45
compensatory damages, § 15:12
eminent domain damages, § 15:22, § 15:23

Death. Wrongful death damages, below

Economic loss doctrine, § 15:50

Eminent domain
generally, § 15:21-15:35
assessed value, § 15:30
costs, § 15:22
elements, § 15:21-15:25
fair market, calculation of, § 15:26-15:35
highest and best use, § 15:27
interest, § 15:23
methods, § 15:31
no formal taking (special damages), § 15:35
owner's opinion of value, § 15:29
partial taking (severance damages), § 15:34
real estate taxes, § 15:24
relocation, § 15:25
total taking, § 15:33
type of taking, § 15:32-15:35
valuation, § 15:28-15:35

Evidence, certainty of proof, § 15:5

Expectancy damages, § 15:9

Fair market, eminent domain damages, § 15:26-15:35

Filial consortium, loss of, § 15:59

Forms, § 15:56, § 15:57

Good Samaritan exceptions, § 15:51

Highest and best use, eminent domain damages, § 15:27

Hospital and medical expenses, personal injury damages, § 15:40

DAMAGES—Cont'd

Impairment of earning capacity, personal injury damages, § 15:41

Interest. Costs and interest, above

Leases, UCC damages, § 15:18-15:20

Legal limitations, § 15:48-15:55

Limitations
legal limitations, § 15:48-15:55
no fault insurance law, § 15:52
tort damages, § 15:48-15:55
wrongful death damages, § 15:70

Liquidated damages, § 15:13

Loss of consortium, § 15:58-15:61

Medical bills and reports, form for requesting, § 15:56

Medical malpractice. *See* **Medical Malpractice** (this index)

Multiple damages, § 15:2

No fault insurance law, limitations on damages, § 15:52

Non-summary criminal contempt, procedure for, § 15:74

Opinion of owner of value, eminent domain damages, § 15:29

Pain and suffering, personal injury damages, § 15:42-15:44

Parental consortium, loss of, § 15:60

Personal injury
generally, § 15:39-15:44
hospital and medical expenses, § 15:40
impairment of earning capacity, § 15:41
pain and suffering, § 15:42-15:44

Personal property, § 15:37

Property damage, § 15:36-15:38

Punitive damages. *See* **Punitive Damages** (this index)

Real estate
generally, § 15:37
taxes, eminent domain damages, § 15:24

Reliance damages, § 15:10

Relocation, eminent domain damages, § 15:25

Restitution damages, § 15:11

INDEX

DAMAGES—Cont'd

- Rule 12 (b) motions to dismiss, § 7:34
- Sales, UCC damages, § 15:15-15:17
- Spousal consortium, loss of, § 15:61
- State and local government, damages caps for, § 15:55
- Summary criminal contempt, procedure for, § 15:73
- Taxes, eminent domain, § 15:24
- Torts
 - generally, § 15:36-15:57
 - charitable institutions, damage caps on, § 15:53
 - comparative negligence, reduction of damages, § 15:49
 - costs and interest, above economic loss doctrine, § 15:50
 - filial consortium, loss of, § 15:59
 - forms, § 15:56, § 15:57
 - Good Samaritan exceptions, § 15:51
 - legal limitations, § 15:48-15:55
 - loss of consortium, § 15:58-15:61
 - medical bills and reports, form for requesting, § 15:56
 - medical malpractice cases, damage caps, § 15:54
 - no fault insurance law, limitations on damages, § 15:52
 - parental consortium, loss of, § 15:60
 - personal injury, above property damage, § 15:36-15:38
 - spousal consortium, loss of, § 15:61
 - state and local government, damages caps for, § 15:55
 - wage verification, form for requesting, § 15:57
- Trials. *See* **Trials** (this index)
- UCC damages
 - generally, § 15:14-15:20
 - buyers, § 15:17
 - leases, § 15:18-15:20
 - sales, § 15:15-15:17
 - sellers, § 15:16
- Valuation, eminent domain damages, § 15:28-15:35

DAMAGES—Cont'd

- Wage verification, form for requesting, § 15:57
- Wrongful death damages
 - generally, § 15:64-15:71
 - actual damages, § 15:67
 - beneficiaries, § 15:65
 - compensatory damages, § 15:68
 - limitations, § 15:70
 - parties, § 15:71
 - punitive damages, § 15:69

DATE

- See* **Time and Date** (this index)

DEATH AND DEATH ACTIONS

- Commencement of action, substitution due to death of party, § 5:63
- Damages. *See* **Damages** (this index)
- Wrongful death, damages. *See* **Damages** (this index)

DECEIT

- See* **Fraud and Deceit** (this index)

DECLARATIONS

- See* **Admissions or Declarations** (this index)

DECREES

- See* **Judgments and Decrees** (this index)

DEFAULT JUDGMENT

- Generally, § 19:6

DEFECTS

- Removal of actions, correcting defects in, § 6:6

DEFENSES

- Affirmative defenses. *See* **Affirmative Defenses** (this index)

DELINQUENCY

- Commencement of action, delinquency proceedings, § 5:20

DEMAND OR REQUEST

- Removal to federal court, demand for jury trial, § 6:7

DEMONSTRATIONS

- Direct examination, § 13:64

DENIAL

See Refusal or Denial (this index)

DEPOSITIONS

Generally, § 8:52-8:57
 Budgeting, § 8:53
 Defending a deponent or against a documents only subpoena, § 8:57
 Formal discovery methods, § 8:52-8:57
 Frequency of methods of discovery, § 8:14
 Planning, § 8:54
 Preparation, § 9:35
 Scheduling, § 8:55
 Taking, § 8:56
 Trials. *See Trials* (this index)

DESCRIPTION OR IDENTIFICATION

Direct examination. *See Direct Examination* (this index)
 Discovery, identity of informer, § 8:25

DIRECT EXAMINATION

Generally, § 13:1-13:72
 Accused, exceptions used by, § 13:70
 Admissible facts, expert opinion must be based on, § 13:46
 Adverse examination, § 13:24
 Ancient documents, § 13:52
 Appearance in court by witnesses, § 13:2-13:5
 Argumentative questions, § 13:29
 Art of direct examination, § 13:15-13:39
 Asked and answered questions, § 13:30
 Assumption of facts not in evidence, § 13:31
 Authenticating or identifying evidence
 generally, § 13:49-13:61
 ancient documents, § 13:52
 comparison, § 13:53
 distinguishing characteristics of testimonial authentication and identification, § 13:54

DIRECT EXAMINATION—Cont'd

Authenticating or identifying evidence—Cont'd
 e-mail communications, § 13:55
 handwriting, nonexpert opinion on, § 13:57
 nonexpert opinion on handwriting, § 13:57
 personal knowledge and the opinion rule, § 13:61
 phone calls, § 13:60
 pictures or other products of reliable process or system, § 13:59
 public record or report, § 13:58
 self-authenticating, § 13:50
 statue or rule, methods provided by, § 13:56
 testimonial authentication and identification, § 13:51-13:60
 Best witness, selection of (Step 1), § 13:7
 Capacity or incapacity. Competence, below
 Character and reputation evidence
 generally, § 13:69-13:72
 accused, exceptions used by, § 13:70
 exceptions, § 13:70-13:72
 prosecution, exceptions used by, § 13:71
 witness exceptions, § 13:72
 Checklists, witness preparation, § 13:11
 Child, testimonial competence of a, § 13:42
 Clear questions, § 13:22
 Comment, § 13:32
 Competence
 generally, § 13:41-13:48
 child, testimonial competence of a, § 13:42
 expert witnesses, § 13:43-13:48
 foundations of testimonial competence, § 13:41, 13:42
 testimonial competence, foundations for establishing, § 13:42
 Compound questions, § 13:33
 Confusing questions, § 13:34

INDEX

DIRECT EXAMINATION—Cont'd

Demonstrations, § 13:64

Description

generally, § 13:20

evidence, identification of.

Authenticating or identifying
evidence, above

Eliciting testimony, § 13:23-13:27

E-mail communications, authenticat-
ing or identifying, § 13:55

Evidence. Authenticating or identify-
ing evidence, above

Exceptions, § 13:70-13:72

Experiments, § 13:64

Expert witnesses

admissible facts, expert opinion
must be based on, § 13:46

competence, § 13:43-13:48

expert, witness must be, § 13:45

factfinder, expert testimony to
assist, § 13:44

reliable application of expertise,
§ 13:48

valid principles, expert opinion
must be based on, § 13:47

Factfinder, expert testimony to assist,
§ 13:44

Form of questions, § 13:28-13:39

Foundations of testimonial compe-
tence, § 13:41, 13:42

Handwriting, authenticating or
identifying nonexpert opinion
on, § 13:57

Harassing questions, § 13:35

Hypothetical questions (Step 7),
§ 13:13

Identification of evidence.

Authenticating or identifying
evidence, above

Institutionalized witnesses, subpoena,
§ 13:5

Law of, § 13:14

Laying a foundation

generally, § 13:40-13:61

authenticating or identifying evi-
dence, above

competence, above

expert witnesses. Competence,
above

DIRECT EXAMINATION—Cont'd

Leading questions, § 13:36

Logical order, § 13:18

Making offer of proof, § 13:63

Making witnesses appear in court,
§ 13:2-13:5

Memory problems of witnesses

generally, § 13:65-13:68

recorded memory, § 13:67

recovery of repressed memory,
§ 13:68

repressed memory recovered,
§ 13:68

revival of memory, § 13:66

Minimizing or ignoring weakness,
§ 13:21

Misleading questions, § 13:37

Narrative, calling for a, § 13:38

Offer and use of trial exhibits,
§ 13:62

Offer of proof, making, § 13:63

Open-ended questions, § 13:25

Ordering sequence of direct witness
(Step 4), § 13:10

Outline of examination (Step 3),
§ 13:9

Personal knowledge and the opinion
rule, § 13:61

Phone calls, authenticating or
identifying, § 13:60

Pictures or other products of reliable
process or system, authenticat-
ing or identifying, § 13:59

Practical features, § 13:15-13:22

Preparation

generally, § 13:6-13:13

best witness, selection of (Step 1),
§ 13:7

hypothetical questions (Step 7),
§ 13:13

ordering sequence of direct witness
(Step 4), § 13:10

outline of examination (Step 3),
§ 13:9

self preparation (Step 6), § 13:12

witness file, creation of (Step 2),
§ 13:8

witness preparation (Step 5),
§ 13:11

DIRECT EXAMINATION—Cont'd

- Public record or report, authenticating or identifying evidence, § 13:58
- Purpose, § 13:16
- Recorded memory, § 13:67
- Recovery of repressed memory, § 13:68
- Repressed memory, recovery of, § 13:68
- Reputation evidence. Character and reputation evidence, above
- Revival of memory, § 13:66
- Self-authenticating, § 13:50
- Self preparation (Step 6), § 13:12
- Simple plan, § 13:17
- Small details, use to make broader point, § 13:19
- Specific questions, § 13:26
- Speculative questions, § 13:39
- Subpoenas
 - institutionalized witnesses, § 13:5
 - witnesses outside the commonwealth, § 13:4
 - witnesses within commonwealth, § 13:3
- Tests, § 13:64
- Witness file, creation of (Step 2), § 13:8
- Witness preparation (Step 5), § 13:11

DISCIPLINARY ACTIONS AND PROCEEDINGS

- Attorneys, § 1:2

DISCOVERY

- Generally, § 8:1-8:24
- Admissions
 - admitting requests, § 8:51
 - denying requests, § 8:51
 - objecting to requests, § 8:51
 - requesting, § 8:50
- Adverse witness, surveillance of, § 8:10
- Alibi rule, § 8:70
- Allied mental health or human services professional privilege, § 8:22
- Attorney-client privilege, § 8:23
- Authority defense, § 8:72

DISCOVERY—Cont'd

- Authorizations from client, § 8:5
- Automatic discovery, procedures for, § 8:64-8:68
- Budgeting depositions, § 8:53
- Coercing compliance, § 8:62
- Commonly arising issues, procedures for, § 8:68
- Compelling compliance, § 8:61
- Compliance, § 8:59-8:62
- Conferences, § 8:3, § 8:5
- Consulting experts, § 8:11
- Cooperative correction, § 8:60
- Criminal cases, § 8:63-8:68
- Denial of requests, § 8:51
- Depositions. *See* **Depositions** (this index)
- Development of, § 8:1
- Discretionary trial court decision, § 8:19
- Disqualification, § 8:37
- Domestic violence victim's privilege, § 8:24
- Elections, political voter privilege, § 8:32
- Electronic discovery, § 8:3
- Ethical enforcement, § 8:2
- Examination of the scene, § 8:6
- Exemption defense, § 8:72
- Expert witnesses, § 8:11, § 8:18
- Formal discovery, generally, § 8:13-8:74
- Frequency of discovery methods, § 8:14
- Human services professional privilege, § 8:22
- Identity of informer, § 8:25
- Informal discovery, § 8:4-8:12
- Informer's identity, § 8:25
- Insurance coverage, § 8:16
- Interpreter, client privilege, § 8:27
- Interrogatories
 - answering, § 8:46
 - asking, § 8:45
- Interview of witnesses, § 8:7
- Investigatory privilege, § 8:26
- Lampron-Dwyer* protocol, § 8:41
- License defense, § 8:72

INDEX

DISCOVERY—Cont'd

- Limitations
 - generally, § 8:3, § 8:21-8:43
 - Lampron-Dwyer* protocol, § 8:41
 - privileged matters, below
 - protective orders, § 8:42
 - supplementation of discovery responses, § 8:43
- Location of surveillance, § 8:25
- Mediation privilege, § 8:31
- Medical peer review privilege, § 8:30
- Medical reports, § 8:9
- Mental examinations, § 8:49
- Methods of formal discovery, § 8:13
- Motions, Superior Court, Rule 9C, § 7:5
- News media reports, § 8:8
- Notices, § 8:3
- Objections, admissions requests, § 8:51
- Obtaining formal discovery, § 8:44-8:62
- Opposing party or adverse witness, surveillance of, § 8:10
- Origin of discovery, § 8:1
- Parent-child disqualification, § 8:37
- Perpetuating testimony, § 8:58
- Physical and mental examinations, § 8:49
- Political voter privilege, § 8:32
- Privileged matters, § 8:21-8:40
- Problems of informal investigation, § 8:12
- Protected witness privileges, § 8:25
- Protective orders, § 8:42
- Psychotherapist-patient privilege, § 8:33
- Purposes served by, § 8:2
- Raising accused's mental health, § 8:71
- Reciprocal discovery for the prosecution, § 8:67
- Relevancy of formal discovery, § 8:20
- Religious privilege, § 8:34
- Requesting production of documents, tangible things and property, § 8:47-8:49

DISCOVERY—Cont'd

- Response to requests for production, § 8:48
- Sanctions for noncompliance, § 8:74
- Scheduling depositions, § 8:55
- Scope of formal discovery, § 8:15-8:19
- Self defense first aggressor, § 8:73
- Self-incrimination, privilege against, § 8:29
- Sequence, formal discovery, § 8:14
- Sexual assault counselor, client privilege, § 8:35
- Sign language interpreter, client privilege, § 8:28
- Social worker-client privilege, § 8:36
- Special procedures, § 8:69-8:73
- Spousal privilege and disqualification, § 8:37
- State and federal tax return privileges, § 8:38
- Subpoena, defending a deponent or against a documents only, § 8:57
- Superior Court, Rule 9C, motions, § 7:5
- Supplementation of discovery responses, § 8:43
- Surveillance, § 8:10, § 8:25
- Tax return preparer privilege, § 8:39
- Trial, use at, § 9:31-9:37
- Trial depositions, perpetuating testimony, § 8:58
- Unemployment hearing privilege, § 8:40
- Voting, political voter privilege, § 8:32
- Witness interviews, § 8:7
- Work product, § 8:17

DISCREDITING WITNESSES

- Cross-examination. *See* **Cross-Examination** (this index)

DISCRETIONARY ACTS OR MATTERS

- Discovery, discretionary trial court decision, § 8:19
- Judicial notice, § 12:10
- Opening statements, discretionary enforcement, § 11:12

DISMISSAL

- Jurors. *See* **Jury and Jury Trial** (this index)
- Motions. *See* **Motions** (this index)
- Pretrial matters and procedure, criminal cases, § 9:20

DISTRICT COURT

- Civil motions, § 7:12
- Commencement of action, time standards and tracking orders, § 5:4-5:9
- Jurisdiction, § 2:6

DOMESTIC VIOLENCE

- Discovery, victim's privilege, § 8:24

DURESS AND COERCION

- Affirmative defense, § 4:11
- Discovery, compliance, § 8:62

DUTY OF COURT

- Jury instructions, § 17:3

ELECTIONS

- Discovery, political voter privilege, § 8:32

ELECTRONIC DISCOVERY

- Generally, § 8:3

E-MAIL

- Direct examination, § 13:55

EMINENT DOMAIN

- Damages. *See* **Damages** (this index)

ENFORCEMENT

- Judgments, § 19:15

ERROR

- Opening statements, § 11:26-11:35

ESTOPPEL

- See* **Waiver and Estoppel** (this index)

ETHICS

- Discovery, ethical enforcement, § 8:2
- Opening statements, § 11:6
- Trials. *See* **Trials** (this index)

ETHOS

- Opening statements, § 11:3

EVIDENCE

- Burden of proof. *See* **Burden of Proof** (this index)
- Direct examination. *See* **Direct Examination** (this index)
- Expert and opinion evidence. *See* **Expert and Opinion Evidence** (this index)
- Judicial notice
 - generally, § 12:4-12:11
 - accurately verifiable facts, noticing, § 12:7
 - adjudicative facts, § 12:5
 - administrative notice, § 12:5
 - discretionary notice, § 12:10
 - generally known facts, noticing, § 12:6
 - indisputability, § 12:5
 - lack of notice, § 12:11
 - law, judicial notice of, § 12:8-12:11
 - legislative facts, § 12:5
 - mandatory notice, § 12:9
- Opening statements, § 11:37

EXAMINATIONS AND EXAMINERS

- Cross-examination. *See* **Cross-Examination** (this index)
- Direct examination. *See* **Direct Examination** (this index)
- Discovery, examination of the scene, § 8:6

EXCEPTIONS AND EXEMPTIONS

- Direct examination, § 13:70-13:72
- Discovery, exemption defense, § 8:72

EXHIBITS

- Closing arguments, § 16:11
- Opening statements, § 11:20

EXPENSES

- See* **Costs and Expenses** (this index)

EXPERIMENTS

- Direct examination, § 13:64

EXPERT AND OPINION EVIDENCE

- Cross-examination, § 14:41

INDEX

EXPERT AND OPINION EVIDENCE—Cont'd

Direct examination. *See* **Direct Examination** (this index)
Discovery, § 8:11, § 8:18
Opening statements, referring to experts in, § 11:36

EYE CONTACT

Cross-examination, § 14:36

FAMILY COURT

See **Probate and Family Courts** (this index)

FEDERAL COURTS

Removal of actions. *See* **Removal of Actions** (this index)

FEE AGREEMENTS

Contingent fees. *See* **Contingent Fees** (this index)

FILING AND SERVICE

Direct examination, creation of witness file, (Step 2), § 13:8
Starting lawsuits, service and filing of pleadings and other papers, § 5:47-5:49

FINALITY PRINCIPLE

Judgments, § 19:3

FOREIGN STATE OR COUNTRY

Presumptions, § 12:33

FRAUD AND DECEIT

Affirmative defense, § 4:14

FRAUDS, STATUTE OF

See **Statute of Frauds** (this index)

GOVERNING LAW

Presumptions, § 12:32

HANDWRITING

Direct examination, nonexpert opinions, § 13:57

HARASSMENT

Direct examination, harassing questions, § 13:35

HEALTH AND HEALTH CARE

Jury selection in medical malpractice cases, § 10:16
Presumptions, § 12:20

HEARINGS

Discovery, unemployment hearing privilege, § 8:40

HOSTILE WITNESSES

Cross-examination, § 14:42

HOUSING COURTS

Civil motions, § 7:16
Commencement of action. *See* **Commencement of Action** (this index)
Jurisdiction and venue, § 2:10

HUMAN SERVICES PROFESSIONAL

Privileges, § 8:22

HYPOTHETICAL QUESTIONS

Direct examination, § 13:13

IDENTIFICATION

See **Description or Identification** (this index)

ILLEGALITY

Affirmative defense, § 4:15

IMPARTIALITY

Trials, maintenance of impartiality and decorum of tribunal, § 1:13

IMPEACHMENT

Cross-examination. *See* **Cross-Examination** (this index)

INCAPACITY

See **Capacity or Incapacity** (this index)

INDIVIDUAL CALENDAR SYSTEM

Commencement of action, land court, § 5:24

INFANTS

See **Children and Minors** (this index)

INFERENCES

Burden of proof, § 12:15

INFORMAL DISCOVERY

Generally, § 8:4-8:12

INJUNCTIONS

Generally, § 7:21

INJURIES

Affirmative defense, injury by fellow servant, § 4:16

Personal injury. *See* **Damages** (this index)

IN LIMINE MOTIONS

Generally, § 7:40

INNOCENCE

Presumptions, § 12:22

INSTITUTIONALIZED WITNESSES

Direct examination, subpoena, § 13:5

INSTRUCTIONS OR DIRECTIONS

Jury instructions. *See* **Jury instructions** (this index)

INSURANCE

Discovery, insurance coverage, § 8:16

No fault insurance law, limitations on damages, § 15:52

INTENT

Presumptions, § 12:24

INTEREST

Damages. *See* **Damages** (this index)

INTERESTED PARTIES

Cross-examination, interest of witness, § 14:7, § 14:30

INTERLOCUTORY REVIEW

Judgments, § 19:13

INTERPLEADER

Commencement of action, § 5:56

INTERPRETERS

Discovery, client privilege, § 8:27

INTERROGATORIES

Answering, § 8:46

INTERROGATORIES—Cont'd

Asking, § 8:45

Jury and jury trial, general verdict accompanied by answers to interrogatories, § 18:23

Pretrial matters and procedure, § 9:32

INTERVENTION

Commencement of action, § 5:57-5:60

Right of, commencement of action, § 5:58

INTERVIEWS

Discovery, interview of witnesses, § 8:7

INVESTIGATIONS

Depositions and discovery, § 8:4-8:12

Discovery, investigatory privilege, § 8:26

Jury and jury trial, excessive investigation, § 18:9

Preliminary matters, § 3:9

Problems of informal investigation, § 8:12

INVESTIGATORS

Preliminary matters, § 3:10

JOINDER AND SEVERANCE

Commencement of action. *See* **Commencement of Action** (this index)

JUDGMENT NOTWITHSTANDING VERDICT

Generally, § 19:8

JUDGMENTS AND DECREES

Generally, § 19:1

Additional findings, motion to amend or make, § 19:9

Amendment, motion to amend or make additional findings, § 19:9

Appeals, § 19:13-19:15

Collecting and enforcing judgments, § 19:15

Costs, § 19:4

Default judgments, § 19:6

Entering, § 19:2

INDEX

JUDGMENTS AND DECREES —Cont'd

- Finality principle, § 19:3
- Interlocutory review, § 19:13
- Judgment notwithstanding the verdict, motion for, § 19:8
- Motion for relief of judgment, § 19:11
- New trial motion, § 19:10
- Offer of judgment, § 19:5
- Post-judgment motions in criminal cases, § 19:12
- Post-trial maneuvers, overview, § 19:7
- Principle of finality, § 19:3
- Relief from judgment, motion for, § 19:11
- Resetting the appellate clock, § 19:2
- Starting the appellate clock, § 19:2
- Stopping the appellate clock, § 19:2

JUDICIAL PROCEEDINGS

- Presumptions, § 12:34

JUDICIAL REVIEW

- Administrative agency proceedings, Superior Court (civil motions), § 7:10

JURISDICTION

- Generally, § 2:1-2:11
- Appeals, § 2:4
- District courts, § 2:6
- Housing courts, § 2:10
- Juvenile courts, § 2:8
- Land courts, § 2:9
- Probate and family courts, § 2:7
- Removal of actions, federal courts, § 6:2
- Subject matter jurisdiction, lack of jurisdiction over Rule 12 (b), § 7:25
- Superior court, § 2:5
- Supreme judicial court, § 2:3
- Trials. *See* **Trials** (this index)

JURY AND JURY TRIAL

- Alternate jurors, use of, § 18:12
- Array, challenging, § 10:19-10:22
- Auto accidents, § 10:18

JURY AND JURY TRIAL—Cont'd

- Background of jurors, § 10:5
- Bench or jury trial decisions, § 10:1
- Bias, internal extraneous influences, § 18:8
- Cause, challenges for, § 10:24
- Cautionary instructions, § 17:9
- Challenges to jury selection, § 10:19-10:28
- Closing arguments. *See* **Closing Arguments** (this index)
- Confidential questionnaires, § 10:3
- Consultants, § 10:6
- Court findings, § 18:25
- Curative instructions, § 17:10
- Deadlock, deliberations reaching, § 18:20
- Death, illness or inability, § 18:14
- Deliberations of jury, § 18:1
- Demand for jury trial, § 6:7
- Discharge or dismissal of trial jurors generally, § 18:13-18:17
 - death, illness or inability, § 18:14
 - extreme hardship, prevention of, § 18:17
 - justice and public interest, maintenance of, § 18:16
 - unreasonable delay, keeping away from, § 18:15
- Discussions with non-jurors, § 18:3
- Dismissal of jurors. Discharge or dismissal of trial jurors, above
- Distinctive group, § 10:20
- Duty of court to instruct, § 17:3
- Excessive experimentation or investigation, § 18:9
- External extraneous influences, § 18:2-18:6
- Extreme hardship, prevention of, § 18:17
- Final jury instructions, § 17:12-17:15
- Findings by court, § 18:25
- General final instructions, beginning, § 17:13
- General verdict, § 18:22, 18:23
- Inattention, § 18:10
- Informational instructions, § 17:11

JURY AND JURY TRIAL—Cont'd

Instructions

generally, § 17:1-17:15
 cautionary instructions, § 17:9
 curative instructions, § 17:10
 duty of court to instruct, § 17:3
 final jury instructions, § 17:12-17:15
 general final instructions, beginning, § 17:13
 general principles, § 17:2
 informational instructions, § 17:11
 model jury instructions, § 17:4
 objections, § 17:6
 overview of final jury instructions, § 17:12
 preliminary instructions, § 17:7
 preparation, § 9:6
 procedural final instructions, end, § 17:15
 requesting jury instructions, § 17:5
 specific final instructions, middle, § 17:14
 trial instructions, § 17:8-17:11
 Interference with peremptory challenges, § 10:28
 Internal extraneous influences, § 18:7-18:10
 Interrogatories, general verdict accompanied by answers to, § 18:23
 Investigation, excessive, § 18:9
 Jury room, items taken into, § 18:11
 Justice and public interest, maintenance of, § 18:16
 Lack of attention, § 18:10
 Leaders, § 10:23
 Meddling by third parties, influence of, § 18:5
 Media reports, influence of, § 18:4
 Medical malpractice, § 10:16
 Model jury instructions, § 17:4
 Non-jurors, discussions with, § 18:3
 Notice of qualification, § 10:3
 Number of peremptory challenges, § 10:26
 Objections to instructions, § 17:6
 Peremptory challenges, § 10:25-10:28

JURY AND JURY TRIAL—Cont'd

Popular jurors, challenging, § 10:23
 Preliminary instructions, § 17:7
 Procedural final instructions, end, § 17:15
 Procedures for peremptory challenges, § 10:27
 Products liability cases, § 10:17
 Professionals, § 10:23
 Propriety of peremptory challenges, § 10:28
 Qualification notice, § 10:3
 Receptive juries, getting, § 10:4-10:6
 Removal of actions, demand for jury trial, § 6:7
 Requesting jury instructions, § 17:5
 Responding to jury questions and requests, § 18:19
 Selection
 generally, § 10:1-10:28
 alternate jurors, § 18:12
 array, challenging, § 10:19-10:22
 auto accidents, § 10:18
 background of jurors, § 10:5
 bench or jury trial decisions, § 10:1
 cause, challenges for, § 10:24
 challenges, § 10:19-10:28
 confidential questionnaires, § 10:3
 consultants, § 10:6
 distinctive group, § 10:20
 interference with peremptory challenges, § 10:28
 leaders, § 10:23
 medical malpractice, § 10:16
 notice of qualification, § 10:3
 number of peremptory challenges, § 10:26
 peremptory challenges, § 10:25-10:28
 popular jurors, challenging, § 10:23
 procedures for peremptory challenges, § 10:27
 products liability cases, § 10:17
 professionals, § 10:23
 propriety of peremptory challenges, § 10:28

INDEX

JURY AND JURY TRIAL—Cont'd

- Selection—Cont'd
 - qualification notice, § 10:3
 - receptive juries, getting, § 10:4-10:6
 - systemic exclusion, § 10:22
 - trials, below
 - underrepresentation, § 10:21
 - voir dire, below
- Separating alternate jurors, § 18:12
- Sequestration of jury, § 18:18
- Special verdict, § 18:24
- Specific final instructions, middle, § 17:14
- Systemic exclusion, § 10:22
- Third party meddling, influence of, § 18:5
- Trial instructions, § 17:8-17:11
- Unauthorized views, influence of, § 18:6
- Underrepresentation, § 10:21
- Unreasonable delay, keeping away from, § 18:15
- Verdicts, § 18:21-18:24
- Voir dire
 - generally, § 10:7-10:18
 - auto accident, § 10:18
 - childhood sex abuse, § 10:14
 - defense of lack of criminal responsibility, § 10:15
 - form of motion for individual voir dire, § 10:11
 - group questioning, § 10:9
 - individual questioning, § 10:10, § 10:11
 - information sharing, § 10:8
 - medical malpractice, § 10:16
 - prejudicial publicity, § 10:12
 - product liability, § 10:17
 - questions, § 10:12-10:18
 - racial prejudice, § 10:13

JUVENILE COURTS

- Civil motions, § 7:14
- Commencement of action. *See Commencement of Action* (this index)
- Jurisdiction and venue, § 2:8

KNOWLEDGE

- See Notice and Knowledge* (this index)

LACHES AND DELAY

- Pleadings, § 4:17

LAMPRON-DWYER PROTOCOL

- Discovery, § 8:41

LAND COURT

- Civil motions, § 7:15
- Commencement of action. *See Commencement of Action* (this index)
- Jurisdiction, § 2:9
- Venue, § 2:9

LEADING QUESTIONS

- Direct examination, § 13:36

LEGALITY

- Presumptions, § 12:22

LEGISLATIVE FACTS

- Judicial notice, § 12:5

LIABILITY

- Pretrial matters and procedure, case evaluation worksheet, § 9:39

LICENSES AND PERMITS

- Affirmative defense, § 4:18
- Discovery, license defense, § 8:72

LIMITATIONS OR RESTRICTIONS

- Damages. *See Damages* (this index)
- Discovery. *See Discovery* (this index)
- Statute of limitations, affirmative defenses, § 4:23

LISTENING

- Cross-examination, § 14:20, § 14:22

LOCATION

- See Place or Location* (this index)

LOGIC

- Direct examination, logical order, § 13:18

LOSS OF CONSORTIUM

- Damages, § 15:58-15:61

MAIL AND MAILING

- E-mail, direct examination, § 13:55
- Presumptions, mailing and delivery of mail matter, § 12:30

MALPRACTICE

- Jury selection in malpractice cases, § 10:16
- Medical malpractice. *See* **Medical Malpractice** (this index)

MANDATORY MATTERS

- Discovery, mandatory discovery for the prosecution, § 8:66
- Judicial notice, § 12:9

MEDIATION

- Discovery, mediation privilege, § 8:31

MEDICAL MALPRACTICE

- Damages
 - cap on damages, § 15:54
 - collateral source rule, § 15:63

MEDICAL RECORDS, REPORTS OR BILLS

- Discovery, § 8:9

MEMORANDUM

- Pretrial matters and procedure, § 9:43

MEMORY

- Direct examination. *See* **Direct Examination** (this index)

MENTAL CAPACITY

- Presumptions, § 12:23

MENTAL EXAMINATIONS

- Discovery, § 8:49

MINORS

- See* **Children and Minors** (this index)

MISLEADING QUESTIONS

- Direct examination, § 13:37

MISNOMER

- Rule 12 (b) motions to dismiss, § 7:32

MISSING EVIDENCE

- Opening statements, § 11:37

MISTAKE OR ERROR

- Opening statements, § 11:26-11:35

MOTIONS

- Generally, § 7:1-7:40
- Certificates of service, Superior Court, Rule 9B, § 7:4
- Continuance, Superior Court (civil motions), § 7:11
- Criminal cases, § 7:17-7:20
- Damages, Rule 12 (b) motions to dismiss, § 7:34
- Discovery discussion required, Superior Court, Rule 9C, § 7:5
- Dismissal. Rule 12 (b) motions to dismiss, below
- District and Boston Municipal Courts civil motions, § 7:12
- Housing Court civil motions, § 7:16
- Injunctive relief, § 7:21
- In limine motions, § 7:40
- Judgment, motion for relief of, § 19:11
- Judicial review of administrative agency proceedings, Superior Court (civil motions), § 7:10
- Juvenile Court civil motions, § 7:14
- Land Court civil motions, § 7:15
- Limine, motions in, § 7:40
- Misnomer of party, rule 12 (b) motions to dismiss, § 7:32
- Notice, Superior Court (civil motions), § 7:8
- Probate and Family Court civil motions, § 7:13
- Rapid action required, § 7:22
- Reconsideration, Rule 9D, Superior Court (civil motions), § 7:6
- Revocation of transfer, motions for, Superior Court (civil motions), § 7:9
- Rule 10, motions for continuance, § 7:18
- Rule 13, pretrial motions, § 7:19
- Rule 19, failure to join party under, § 7:31
- Rule 25, motions for required finding of not guilty, § 7:20
- Rule 9A, Superior Court (civil motions), § 7:3

INDEX

MOTIONS—Cont'd

- Rule 12 (b) motions to dismiss
 - generally, § 7:24-7:34
 - failure to state claim upon which relief can be granted, § 7:30
 - improper amount of damages, § 7:34
 - improper venue, § 7:27
 - insufficiency of process, § 7:28
 - insufficiency of service of process, § 7:29
 - misnomer of party, § 7:32
 - pendency of prior action in a court of commonwealth, § 7:34
 - person, lack of jurisdiction over, § 7:26
 - Rule 19, failure to join party under, § 7:31
 - subject matter, lack of jurisdiction over, § 7:25
- Rule 12 (c) motions for judgment on the pleadings, § 7:35
- Rule 12 (e) motions for a more definite statement, § 7:36
- Rule 12 (f) motions to strike, § 7:37
- Seven practical rules of motion practice, § 7:1
- Strike, motions to
 - cross-examination, § 14:47-14:52
 - Rule 12 (f) motions to strike, § 7:37
- Subject matter, lack of jurisdiction over, Rule 12 (b), § 7:25
- Summary judgment motions, § 7:39
- Superior Court (civil motions)
 - continuance, motions for trial, § 7:11
 - judicial review of administrative agency proceedings, § 7:10
 - notice of motion form, § 7:8
 - revocation of transfer, motions for, § 7:9
 - Rule 9A, motions and oppositions, § 7:3
 - Rule 9B, certificates of service, § 7:4
 - Rule 9C, discovery discussion required, § 7:5
 - Rule 9D, reconsideration, § 7:6

MOTIONS—Cont'd

- Superior Court (civil motions)
 - Cont'd
 - Rule 9E, motions to dismiss and post-trial motions, § 7:7
 - transfer, motions to revoke, § 7:9
 - Suppress, motions to, § 7:38
 - Transfer, motions to revoke, Superior Court (civil motions), § 7:9
 - Venue, Rule 12 (b) motions to dismiss, § 7:27

MOTIVE

- Cross-examination, § 14:7, § 14:30

MOTOR VEHICLES

- Accidents, jury selection, § 10:18

MUNICIPAL COURTS

- Boston Municipal Court. *See* **Boston Municipal Court** (this index)
- Civil motions, § 7:12

NEWSPAPERS AND PERIODICALS

- Cross-examination, § 14:39
- Discovery, news media reports, § 8:8

NEW TRIAL

- Judgments, motions, § 19:10

NOTICE AND KNOWLEDGE

- Cross-examination, testing of knowledge of witness, § 14:4
- Direct examination, personal knowledge and the opinion rule, § 13:61
- Discovery, § 8:3
- Federal court, removal to, § 6:5, § 6:8, § 6:10
- Presumptions, § 12:25, § 12:26
- Removal of actions, § 6:5, 6:8, 6:10
- Superior Court (civil motions), § 7:8

OBJECTIONS

- Closing arguments, § 16:12
- Cross-examination, § 14:47-14:52
- Discovery, admissions requests, § 8:51
- Jury instructions, § 17:6

OBSERVATIONS

- Cross-examination, § 14:22

OFFERS

- Direct examination, § 13:63
- Judgment, § 19:5
- Proof, direct examination, § 13:63

OPEN-ENDED QUESTIONS

- Direct examination, § 13:25

OPENING STATEMENTS

- Generally, § 11:1-11:41
- Admissions, § 11:27
- Approach to judge and jury, § 11:1
- Arguing, prohibition of, § 11:8
- Bad theme, § 11:28
- Burden of proof and missing evidence, § 11:37
- Characteristics controlling content, § 11:7-11:11
- Checklists, § 11:15, 16
- Civil case
 - defendant's opening in, § 11:39
 - plaintiff's opening in, § 11:38
- Conclusion of, § 11:25
- Contemporary introductions, § 11:23
- Criminal defense opening, § 11:41
- Defendant's opening in civil case, § 11:39
- Detail, excessive, § 11:33
- Discretionary enforcement, § 11:12
- Ethics, § 11:6
- Ethos, pathos, and logos, § 11:3
- Evidence, missing, § 11:37
- Exhibits, use of, § 11:20
- Expectations of jurors, § 11:2
- Experts, referring to in opening statements, § 11:36
- Faking it, § 11:29
- Inflexibility, § 11:30
- Introductions, § 11:22, § 11:23
- Juror expectations, § 11:2
- Lack of preparation, § 11:35
- Law of opening statements, § 11:5-11:12
- Legal lecturing, § 11:11
- Main part, § 11:24
- Manner of, § 11:19
- Missing evidence and burden of proof, § 11:37
- Mistakes and errors, § 11:26-11:35

OPENING STATEMENTS—Cont'd

- Nature and purpose, § 11:13
- Non-evidential information
 - prohibited, § 11:9
- Order, § 11:6
- Outlines, § 11:15, 11:17
- Overview, § 11:4
- Personal opinions, § 11:10
- Pitfalls, § 11:26-11:35
- Plaintiff's opening in civil case, § 11:38
- Preparation of, § 11:14
- Prima facie case, failure to state, § 11:32
- Product liability case, sample outline for, § 11:17
- Promises that cannot be kept, making, § 11:31
- Prosecution's opening, § 11:40
- Referring to experts in, § 11:36
- Rules of opening, § 11:6
- Sample checklist, § 11:16
- Sample outline for product liability case, § 11:17
- Sequestering witnesses, § 11:21
- Sequestration of witnesses, § 11:21
- Theme, § 11:18, § 11:28
- Time or date, § 11:6, § 11:34
- Traditional introductions, § 11:22
- Wasting of time, § 11:34
- Winging it, § 11:35
- Witnesses, sequestration of, § 11:21

OPINIONS

- Expert and opinion evidence. *See* **Expert and Opinion Evidence** (this index)

OPPONENTS

- Cross-examination. *See* **Cross-Examination** (this index)

OPPORTUNITIES

- Cross-examination, determination of opportunity of witness to learn about their testimony, § 14:8

ORDERS

- Direct examination, ordering sequence of direct witness (Step 4), § 13:10

INDEX

ORDERS—Cont'd

Opening statements, § 11:6

OTHER STATES

Presumptions, § 12:32

PARENT AND CHILD

Children and minors. *See* **Children and Minors** (this index)

Discovery, parent-child disqualification, § 8:37

PAYMENTS

Affirmative defense, § 4:19

PERIODICALS

See **Newspapers and Periodicals** (this index)

PERMITS

See **Licenses and Permits** (this index)

PERPETUATION OF TESTIMONY

Discovery, § 8:58

PERSONAL INJURIES

Damages. *See* **Damages** (this index)

PERSONAL MISCONDUCT OF ATTORNEYS

Trials, practice of law, § 1:7

PERSONAL STATUS AND CONDITION

Presumptions, § 12:18

PERSUASION

Burden of, § 12:14

PHONE CALLS

Direct examination, authenticating or identifying, § 13:60

PHOTOGRAPHS AND PICTURES

Direct examination, authenticating or identifying pictures, § 13:59

PHYSICAL CONDITION

Presumptions, § 12:20

PHYSICAL EXAMINATIONS

Discovery, § 8:49

PHYSICIANS AND SURGEONS

Discovery, medical peer review privilege, § 8:30

PICTURES

See **Photographs and Pictures** (this index)

PLACE OR LOCATION

Discovery, location of surveillance, § 8:25

Eminent domain damages, relocation, § 15:25

PLEADINGS

Generally, § 4:1-4:23

Accord and satisfaction, § 4:6

Answers, § 4:4

Arbitration and award, § 4:7

Bankruptcy, discharge in, § 4:10

Complaints, § 4:2

Laches defense, § 4:17

Release defense, § 4:20

Repleading, removal to federal courts, § 6:7

Res judicata defense, § 4:21

Standards for pleadings, § 4:3

Statute of frauds defense, § 4:22

Trials, filing of pleadings and other papers, § 5:47-5:49

POLITICAL ACTIVITIES

Voter privilege, discovery, § 8:32

POSTJUDGMENT MATTERS

Criminal cases, § 19:12

POST-TRIAL MOTIONS

Judgments, § 19:7

PRACTICE AND PROCEDURE

Generally, § 1:1-1:17

Bar disciplinary procedures, § 1:2

Client property, § 1:5

Competency of lawyers, § 1:4

Confidentiality and privilege, § 1:8

Conflicts of interest, § 1:6

Duties of lawyers, § 1:3

Ethics of trial practice, § 1:1-1:17

Personal misconduct, § 1:7

PREJUDICE

See **Bias or Prejudice** (this index)

PRELIMINARY ACTS OR MATTERS

Jury instructions, § 17:7

PREPARATION

Cross-examination. *See* **Cross-Examination** (this index)

Direct examination. *See* **Direct Examination** (this index)

PRESUMPTIONS

Generally, § 12:17-12:35

Burden of proof. *See* **Burden of Proof** (this index)

Civil cases, generally, § 12:17-12:35

Continuance of fact or condition, § 12:27

Corporate acts and records, § 12:31

Criminal cases, generally, § 12:36

Foreign countries, laws of, § 12:33

Governing law, § 12:32

Health and physical condition, § 12:20

Innocence and legality, § 12:22

Intent, § 12:24

Judicial proceedings, § 12:34

Knowledge of fact, § 12:26

Knowledge of law, § 12:25

Life and death, § 12:21

Mail matter, mailing and delivery of, § 12:30

Mental capacity, § 12:23

Nature and condition of property, § 12:19

Official proceedings and acts, § 12:35

Other states, laws of, § 12:32

Personal status and condition, § 12:18

Regularity of course of business or conduct of affairs, § 12:28

Writings, making, validity and genuineness of, § 12:29

PRETRIAL CONFERENCES

Commencement of action, probate court, § 5:36

Preparation, § 9:44

PRETRIAL MATTERS AND PROCEDURE

Closing arguments, § 16:3

Evidence. Preparation, below

Preparation

generally, § 9:1-9:48

administrative responsibilities, § 9:46

admissions made, § 9:34

answers to interrogatories, § 9:32

appeals, § 9:2, § 9:5, § 9:10

audio-visual deposition testimony, § 9:36

audio-visual expert witness depositions for trial, § 9:37

case evaluation form and worksheet, § 9:39-9:41

client, knowledge of, § 9:8

closing arguments, § 16:3

damage analysis, case evaluation worksheet, § 9:40

deposition testimony, § 9:35

discovery, use at trial, § 9:31-9:37

documents and things produced, § 9:33

evidence

essential elements and sources of proof, § 9:7

factual and legal issues, § 9:5

objections and offer of proof, § 9:4

factual and legal issues, § 9:5

finding the theory, § 9:38

jury instructions, § 9:6

liability analysis, case evaluation worksheet, § 9:39

opposition, knowledge of, § 9:9

pretrial conference, § 9:44

pretrial memorandum, § 9:43

record, § 9:3, § 9:5

settlement, § 9:41, § 9:42

spoliation, § 9:48

standards of review, below

subpoena preparation, § 9:46

theme, crafting of, § 9:38

trial brief, § 9:45

trial kit preparation, § 9:46

witness preparation, § 9:47

INDEX

PRETRIAL MATTERS AND PROCEDURE—Cont'd

Standards of review
generally, § 9:10
administrative decisions, § 9:12
appellate standards of review,
§ 9:23-9:30
arbitration, § 9:13
attachment, § 9:14
attorney discipline, § 9:25
certiorari, § 9:15
conclusions of law, § 9:24
conviction, § 9:29
criminal cases, motion to dismiss
in, § 9:20
directed verdict, § 9:16
dismissal motion, criminal cases,
§ 9:20
findings of fact, § 9:24
ineffective assistance of counsel,
§ 9:30
interlocutory orders, § 9:27
judgment notwithstanding verdict,
§ 9:16
preliminary injunction, motion for,
§ 9:18
required finding of not guilty,
§ 9:22, § 9:28
supervisory power, § 9:26
suppress, motion to, § 9:21
trial court, generally, § 9:11-9:22
zoning decisions, § 9:19

PRIMA FACIE CASE

Burden of proof, § 12:13
Opening statements, failure to state,
§ 11:32

PRINCIPLE OF FINALITY

Judgments, § 19:3

PRIOR INCONSISTENT STATEMENT

Cross-examination, § 14:31

PRIVILEGED AND CONFIDENTIAL INFORMATION

Practice and procedure, § 1:8
Trials. *See* **Trials** (this index)

PRIVILEGES AND IMMUNITIES

Discovery, § 8:21-8:40

PROBATE AND FAMILY COURTS

Civil motions, § 7:13
Commencement of action. *See* **Com-
mencement of Action** (this
index)
Jurisdiction, § 2:7
Venue, § 2:7

PROCESS AND SERVICE OF PROCESS AND PAPERS

Commencement of action. *See* **Com-
mencement of Action** (this
index)
Removal to federal court, process
after, § 6:7
Trials. *See* **Trials** (this index)

PRODUCTION OF DOCUMENTS AND THINGS

Burden of proof, § 12:13

PRODUCTS LIABILITY

Jury selection, § 10:17
Opening statements, sample outline,
§ 11:17

PROMISES

Opening statements, making
promises that cannot be kept,
§ 11:31

PROOF

See **Evidence** (this index)

PROPERTY OF CLIENT

Duties of lawyers regarding, § 1:5

PROSECUTORS

Character and reputation evidence,
exceptions used by prosecution,
§ 13:71
Discovery, mandatory discovery for
the prosecution, § 8:66
Ethical advocacy, higher standards
for prosecuting attorney, § 1:16
Opening statements, § 11:40
Reciprocal discovery for the prosecu-
tion, § 8:67

PROTECTED WITNESSES

Discovery, § 8:25

PROTECTIVE ORDERS

Discovery, § 8:42

**PSYCHOLOGIST-PATIENT
PRIVILEGE**

Discovery, § 8:33

PUBLICITY

Trials, restrictions on trial attorney's
ability to freely engage in trial,
§ 1:14

PUBLIC RECORDS

Direct examination, § 13:58

PUNITIVE DAMAGES

Generally, § 15:2

Wrongful death damages, § 15:69

**QUALIFICATION OR
DISQUALIFICATION**

Discovery, § 8:37

QUESTIONNAIRES

Trials, preliminary matters, § 3:4

REAL ESTATE

Commencement of action. *See* **Com-
mencement of Action** (this
index)

Damages. *See* **Damages** (this index)

REBUTTAL

Cross-examination, § 14:46

RECIPROCITY

Discovery, reciprocal discovery for
the prosecution, § 8:67

RECONSIDERATION

Rule 9D, Superior Court (civil
motions), § 7:6

RECORDED MEMORY

Direct examination, § 13:67

RECORDS AND RECORDING

Pretrial matters and procedure, § 9:3,
§ 9:5

RECROSS EXAMINATION

Generally, § 14:45

REDIRECT EXAMINATION

Generally, § 14:44

REFUSAL OR DENIAL

Discovery requests, § 8:51

REGULATIONS

See **Rules and Regulations** (this
index)

RELEASES

Affirmative defense, § 4:20

RELEVANCY

Discovery, relevancy of formal,
§ 8:20

**RELIEF FROM JUDGMENT OR
ORDER**

Motion for, § 19:11

**RELIGION AND RELIGIOUS
MATTERS**

Privilege, discovery, § 8:34

REMAND

Improper removal to federal court,
remand to state court, § 6:6

REMOVAL OF ACTIONS

Correcting defects in removal, § 6:6

Cover letter to clerk, § 6:9

Demand for jury trial, § 6:7

Federal courts

generally, § 6:1-6:10

after removal, § 6:7

correcting defects in removal,
§ 6:6

cover letter to clerk, § 6:9

demand for jury trial, § 6:7

federal question, notice of removal
form, § 6:8

form of notice of filing the notice
of removal, § 6:10

jurisdiction, § 6:2

jury demand, § 6:7

notice of removal, § 6:5, 6:8,
§ 6:8, 6:10, § 6:10

procedural steps for removal, § 6:5

process after removal, § 6:7

repleading, § 6:7

INDEX

REMOVAL OF ACTIONS—Cont'd

- Federal courts—Cont'd
 - starting a defense of civil action, § 6:1-6:10
 - time for removal, § 6:4
 - venue, § 6:3
- Notice of removal, § 6:5, 6:8, § 6:8, 6:10, § 6:10
- Procedural steps for removal, § 6:5
- Process after removal, § 6:7
- Venue, § 6:3

REPLEADING

- Federal courts, removal to, § 6:7

REPPRESSED MEMORY

- Of direct examination, § 13:68

REPUTATION

- Direct examination. *See* **Direct Examination** (this index)

RES JUDICATA

- Affirmative defense, § 4:21
- Pleadings, § 4:21

RESTRICTIONS

- See* **Limitations or Restrictions** (this index)

REVIEW

- See* **Appeal and Review** (this index)

REVIVAL

- Direct examination, revival of memory, § 13:66

REVOCATION

- Superior Court (civil motions), motions for revocation of transfer, § 7:9

RULE 16

- Commencement of action, § 5:45

RULES AND REGULATIONS

- Opening statements, § 11:6

SANCTIONS

- Discovery noncompliance, § 8:74

SELF-AUTHENTICATING

- Direct examination, § 13:50

SELF DEFENSE

- Discovery, self defense first aggressor, § 8:73

SELF-INCRIMINATION PRIVILEGE

- Discovery, § 8:29

SEQUENCE

- Discovery, formal, § 8:14

SEQUESTRATION

- See* **Witnesses** (this index)

SERVICE OF PROCESS AND PAPERS

- See* **Process and Service of Process and Papers** (this index)

SETTLEMENT

- See* **Compromise and Settlement** (this index)

SEX AND SEXUAL MATTERS

- Cross-examination, § 14:40

SEXUAL ASSAULT VICTIM-COUNSELOR PRIVILEGE

- Generally, § 8:35

SIGN LANGUAGE

INTERPRETER-CLIENT PRIVILEGE

- Discovery, § 8:28

SILENCE

- Cross-examination, § 14:17

SINCERITY

- Cross-examination, § 14:25

SOCIAL WORKER-CLIENT PRIVILEGE

- Discovery, § 8:36

SPECIFIC QUESTIONS

- Direct examination, § 13:26

SPECULATION

- Direct examination, § 13:39

SPOLIATION

- Electronic discovery, § 8:3

SPOILIATION—Cont'd

Pretrial matters and procedure, preparation, § 9:48

SPOUSES

Discovery, spousal privilege and disqualification, § 8:37

STATEMENTS

Agreed statement, proof without evidence, § 12:2

Cross-examination, prior inconsistent statement, § 14:31

Opening statements. *See* **Opening Statements** (this index)

Rule 12 (e) motions for a more definite statement, § 7:36

STATUTE OF FRAUDS

Affirmative defense, § 4:22

Pleadings, § 4:22

STATUTE OF LIMITATIONS

Affirmative defense, § 4:23

STATUTE OF REPOSE

Commencement of action, § 5:2

STIPULATIONS

Proof without evidence, § 12:3

STRIKE MOTIONS

See **Motions** (this index)

SUBJECT MATTER

JURISDICTION

Rule 12 (b), lack of jurisdiction over, § 7:25

SUBPOENAS

Direct examination. *See* **Direct Examination** (this index)

Discovery, defending a deponent or against a documents only subpoena, § 8:57

Pretrial matters and procedure, § 9:46

**SUBSTITUTES OR
SUBSTITUTION**

Commencement of action. *See* **Commencement of Action** (this index)

SUMMARY JUDGMENT

Motions, § 7:39

SUPERIOR COURT

Commencement of action. *See* **Commencement of Action** (this index)

Jurisdiction and venue, § 2:5

Motions. *See* **Motions** (this index)

SUPPLEMENTS

Discovery responses, § 8:43

SUPPRESSION

Motions, § 7:38

SUPREME JUDICIAL COURT

Jurisdiction, § 2:3

Venue, § 2:3

SURVEILLANCE

Discovery, § 8:10, § 8:25

TAXES AND TAXATION

Discovery, state and federal tax return privileges, § 8:38

Returns, state and federal tax return privileges, § 8:38

TELEPHONE CALLS

Direct examination, authenticating or identifying, § 13:60

TEMPORARY ORDERS

Commencement of action, § 5:37

TESTS AND TESTING

Direct examination, § 13:64

TIME AND DATE

Commencement of action. *See* **Commencement of Action** (this index)

Opening statements, § 11:6, § 11:34

Trials. *See* **Trials** (this index)

TORTS

Damages. *See* **Damages** (this index)

TRACKING CASES

Commencement of action. *See* **Commencement of Action** (this index)

INDEX

TREATISES

Cross-examination, § 14:39

TRIAL KITS

Preparation, § 9:46

TRIALS

Accidents, jury selection for auto accidents, § 10:18

Auto accidents, jury selection, § 10:18

Bar disciplinary procedures, practice of law, § 1:2

Candor with tribunal, § 1:11

Cause, challenges for cause to jury selection, § 10:24

Challenges to jury selection, § 10:19-10:28

Closing arguments. *See* **Closing Arguments** (this index)

Collateral source rule, § 15:62, 15:63

Competency of lawyers, § 1:4

Confidential information
jury selection questionnaires, § 10:3

practice of law, § 1:8

Conflicts of interest, attorneys, § 1:6

Contingent fee agreement, Form A, § 3:2

Contingent fee agreement, Form B, § 3:3

Correction of defects, removal to federal court, defects in removal, § 6:6

Cover letter to clerk, § 6:9

Damages

collateral source rule, § 15:62, 15:63

eminent domain, § 15:21-15:35

loss of consortium, § 15:58-15:61

personal injury cases, § 15:39-15:44

personal property cases, § 15:37

real property cases, § 15:38

wrongful death, § 15:64-15:71

Demand for jury trial, removal to federal court, § 6:7

Depositions and discovery

formal discovery methods, § 8:13

TRIALS—Cont'd

Depositions and discovery—Cont'd
frequency of methods of discovery, § 8:14

informal discovery and case investigation, § 8:4-8:12

Direct examination. *See* **Direct Examination** (this index)

Disciplinary procedures, attorneys, discipline, § 1:2

District courts, jurisdiction and venue, § 2:6

Eminent domain, damages, § 15:21-15:35

Ethical advocacy

generally, § 1:9-1:17

candor with tribunal, § 1:11

fair treatment of other attorneys and opposing parties, § 1:12

impartiality and decorum of tribunal, maintenance of, § 1:13

no frivolous advocacy, § 1:9

nonadjudicative tribunal in representative capacity, advising as to, § 1:17

prosecuting attorney, higher ethical standards for, § 1:16

publicity, restrictions on trial attorney's ability to freely engage in trial, § 1:14

reasonable efforts to expedite litigation, § 1:10

witness, inability of attorney to be advocate and, § 1:15

Ethics

generally, § 1:1-1:17

advocacy. *See* ethical advocacy, § 1:1-1:17

Exhibits. *See* **Exhibits** (this index)

Fair treatment of other attorneys and opposing parties, § 1:12

Filing of pleadings and other papers, starting lawsuits, § 5:47-5:49

Form of notice of filing the notice of removal, § 6:10

Health and medical matters, jury selection in malpractice cases, § 10:16

TRIALS—Cont'd

Housing courts, jurisdiction and venue, § 2:10

Impartiality and decorum of tribunal, maintenance of, § 1:13

Informal discovery, § 8:4-8:12

Investigation, preliminary matters, § 3:9

Jurisdiction and venue
generally, § 2:1-2:11
appeals, § 2:4
district courts, § 2:6
housing courts, § 2:10
juvenile courts, § 2:8
land courts, § 2:9
probate and family courts, § 2:7
removal to federal courts, § 6:2, § 6:3
superior court, § 2:5
supreme judicial court, § 2:3

Jury demand, removal to federal courts, § 6:7

Jury selection. *See* **Jury and Jury Trial** (this index)

Jury trial. *See* **Jury and Jury Trial** (this index)

Juvenile courts, jurisdiction and venue, § 2:8

Loss of consortium, damages, § 15:58-15:61

Malpractice cases, jury selection in, § 10:16

Nonadjudicative tribunal in representative capacity, advising as to, § 1:17

Notice, removal to federal court, § 6:5, 6:8, § 6:8, 6:10, § 6:10

Objections, closing arguments, § 16:12

Opening statements. *See* **Opening Statements** (this index)

Personal misconduct of attorneys, § 1:7

Practice of law
generally, § 1:1-1:17
bar disciplinary procedures, § 1:2
client property, § 1:5
competency of lawyers, § 1:4
confidentiality and privilege, § 1:8

TRIALS—Cont'd

Practice of law—Cont'd
conflicts of interest, § 1:6
duties of lawyers, § 1:3
ethical advocacy. *See* Ethical advocacy
personal misconduct, § 1:7

Pre-trial preparation, closing arguments, § 16:3

Probate and family courts, jurisdiction and venue, § 2:7

Procedural steps for removal, § 6:5

Process and service of process
removal to federal court, process after, § 6:7
starting lawsuits, § 5:47-5:49

Products liability cases, jury selection, § 10:17

Property of client, duties of lawyers regarding, § 1:5

Prosecuting attorney, higher ethical standards for, § 1:16

Publicity, restrictions on trial attorney's ability to freely engage in trial, § 1:14

Real property cases, damages, § 15:38

Reasonable efforts to expedite litigation, § 1:10

Removal to federal courts
generally, § 6:1-6:10
after removal, § 6:7
correcting defects in removal, § 6:6
cover letter to clerk, § 6:9
demand for jury trial, § 6:7
federal question, notice of removal form, § 6:8
form of notice of filing the notice of removal, § 6:10
jurisdiction, § 6:2
jury demand, § 6:7
notice of removal, § 6:5, 6:8, § 6:8, 6:10, § 6:10
procedural steps for removal, § 6:5
process after removal, § 6:7
repleading, § 6:7
starting a defense of civil action, § 6:1-6:10

INDEX

TRIALS—Cont'd

- Removal to federal courts—Cont'd
 - time for removal, § 6:4
 - venue, § 6:3
- Repleading, removal to federal courts, § 6:7
- Sequestration of witnesses, opening statements, § 11:21
- Starting a defense of civil action, § 6:1-6:10
- Stipulations, proof without evidence, § 12:3
- Superior Court, jurisdiction and venue, § 2:5
- Supreme judicial court, jurisdiction and venue, § 2:3
- Time
 - discovery, frequency of methods, § 8:14
 - removal to federal courts, § 6:4
- Tribunal, candor with, § 1:11
- Venue. Jurisdiction and venue, above
- Witness, inability of attorney to be advocate and, § 1:15
- Wrongful death, damages, § 15:64-15:71

TRIBUNALS

- Ethical advocacy, advising as to nonadjudicative tribunal in representative capacity, § 1:17
- Impartiality and decorum of tribunal, maintenance of, § 1:13
- Trials, candor with tribunal, § 1:11

UNEMPLOYMENT HEARING

- Privileges and disqualifications, § 8:40

UNIFORM COMMERCIAL CODE

- Damages. *See* **Damages** (this index)

VENUE

- Generally, § 2:1-2:11

VENUE—Cont'd

- Appeals, § 2:4
- District courts, § 2:6
- Housing courts, § 2:11
- Juvenile courts, § 2:8
- Land courts, § 2:9
- Probate and family courts, § 2:7
- Removal of actions, § 6:3
- Rule 12 (b) motions to dismiss, § 7:27
- Superior court, § 2:5
- Supreme judicial court, § 2:3

VOTERS AND VOTING

- Discovery, political voter privilege, § 8:32

WAIVER AND ESTOPPEL

- Affirmative defense, § 4:12

WITNESSES

- Control techniques. *See* **Cross-Examination** (this index)
- Cross-examination. *See* **Cross-Examination** (this index)
- Preliminary matters, § 3:6
- Preparation, § 9:47
- Sequestration of witnesses, opening statements, § 11:21
- Trials, inability of attorney to be advocate and witness, § 1:15

WORK PRODUCT

- Discovery, § 8:17

WRITING OR WRITTEN

INSTRUMENTS

- Presumptions, making, validity and genuineness of writings, § 12:29

WRONGFUL DEATH

- Damages. *See* **Damages** (this index)

YOUTHFUL OFFENDERS

- Commencement of action, youthful offender proceedings, § 5:20