# **Index**

## ABROGATION

Negligence, charitable immunities, § 16:94

#### **ABUSE**

Child Abuse, this index Domestic Relations, this index Juvenile Law, this index

# ABUSE OF PROCESS

Generally, § 16:244 Elements, § 16:244

# ABUSE PREVENTION ACT

Generally, § 8:286-8:302

## ACCEPTANCE OR REJECTION

Agent's unauthorized act, acceptance of benefits

Ratification, § 1:48

Restitution, § 1:15, 1:54

Bailments, § 2:5

Offer and acceptance. **Contracts and Agreements**, this index

Parent-child relations, unwillingness to accept responsibility for conduct injuring a child, parental fitness issue, § 8:199

Sales and Leases of Goods, this index

## **ACCESS**

Landlord's access to premises, § 12:63

Scientific and forensic analysis following, post conviction access, § 9:132

# **ACCOUNTING**

Agents or agency

Duties of agent to principal, § 1:57 Equitable action for by agent, § 1:67

\$ 1.07

Equitable remedies, § 1:67, 10:68

Personal Representatives, this index

## ACCOUNTING—Cont'd

Trustee's duty to account, § 17:95

# **ACT OF GOD**

Bailments, effect on, § 2:18, 2:20

## **ADMINISTRATORS**

**Executors and Administrators**, this index

# ADMISSIONS OR DECLARATIONS

Generally, § 9:163 et seq.

Adoptive admissions, **§ 9:167, 9:168** 

Consciousness of guilt or liability, § 9:168

Deceased persons, hearsay exception, § 9:177-9:179

Discovery, admissions by request, § 3:111

Dying declarations, § 9:172

Hearsay exception, declarant unavailable, § 9:169 et seq.

Implied admissions, hearsay exception, § 9:167, 9:168

Judicial admissions, hearsay evidence, § 9:164

Against penal interest, hearsay rule, § 9:173-9:175

Prior reported testimony, § 9:171 Silence, admissions by, § 9:167 Vicarious admissions, § 9:165, 9:166

# **ADOPTION**

Generally, § 8:168-8:184

For detailed treatment see **Domestic Relations**, this index

## ADVERSE POSSESSION

Acquisition of title, § 14:61

## AFFIRMATIVE DEFENSES

Generally, § 3:76

Divorce, § 8:63

Landlord and tenant, summary process actions, § 12:44

AGENTS OR AGENCY—Cont'd

Public order, offenses to, § 7:284	Agent—Cont'd
AGED PERSONS	Dual agent, § 1:32
	Employee distinguished, § 1:72
Assault and battery, § 7:164	Employees, § 1:6, 1:8
Attachment of home, § 3:46	Fiduciary status of agent, § 1:2,
Homestead rights, § 14:123	1:12, 1:18, 1:34, 1:55
Speedy trial, § 3:152	Independent contractor as agent or
AGENTS OR AGENCY	nonagent, § 1:7
Generally, § 1:1 et seq.	Insubordination, § 1:57
Acceptance of benefits of agent's	Joint venturers, § 1:10
unauthorized act	By necessity, § 1:21
Ratification, § 1:48	Nominal agents, power coupled
Restitution, § 1:15, 1:54	with interest, § 1:14, 1:88
Accomplishment of agency purposes,	Partner, § 1:9
§ 1:87	Power coupled with interest, nomi-
Accounting	nal agents, § 1:14, 1:88
Agent's duties to principal, § 1:59	Restitutionary power, holder of,
Equitable action for by agent,	§ 1:15
§ 1:67	Secretary of State as statutory
Acknowledgment of authority, cre-	agent, § 1:13
ation formality, § 1:30	Secret instructions to agent by
Acquiescence as ratification of	principal, § 1:33
agency, § 1:47	Servant/employee distinguished,
Actual authority	§ 1:6
Apparent authority distinguished,	Statutory agent, § 1:13
§ 1:22	Subagents, § 1:8, 1:34, 1:35
Express, § 1:20	Subservants, § 1:8
Implied, § 1:21	Trustee, § 1:11
Adoption distinguished from ratifica-	Unincorporated associations,
tion, § <b>1:54</b>	§ 1:17
Agency by necessity, § 1:21	Apparent authority of agents
Agency coupled with interest, § 1:14,	Generally, § 1:22, 1:23
1:18, 1:88	Special agent, termination of
Agent	authority, § 1:95
Adverse interests to principal,	Attorney, durable power of attorney,
effect of having, § 1:18	§ 1:90, 1:91
Authority of agents, below	Attorney's authority as agent for cli-
Business trust, § 1:11	ent, § 1:40
Buyer of goods, § 1:16, 1:37, 1:38	Authority of agents
Capacity to accept appointment as	Generally, § 1:19
agent, § 1:18	Acknowledgment of authority,
Capacity to appoint agent, § 1:17	creation formality, § 1:30
Corporations, § 1:17, 1:18, 1:22	Actual authority
Course of conduct as conveying	Apparent authority
authority, § 1:22	distinguished, § 1:22
Court-appointed fiduciary, § 1:12	Express, § 1:20
Definition and classes of, § 1:5	Implied, § 1:21
- · · · · · · · · · · · · · · · · · · ·	r

**AFFRAY** 

AGENTS OR AGENCY—Cont'd	AGENTS OR AGENCY—Cont'd
Authority of agents—Cont'd	Authority of agents—Cont'd
Apparent, generally, § 1:22, 1:23,	Money
1:95	Accounting, § 1:59
Attorney-client relationship, § 1:40	Borrowing, § 1:39
Bankruptcy or insolvency, effect	Collecting, § 1:38, 1:59
of, <b>§ 1:94</b>	Delivery to third party, § 1:82
Borrowing money, § 1:39, 1:59	Necessity, authority by, § 1:21
Buying and selling property or goods, § 1:16, 1:38	Notice of limitations, § 1:31 Ostensible authority, § 1:21
Changed circumstances, effect of, § 1:94	Power distinguished from authority, § 1:19
Collecting money, § 1:38, 1:59	Promissory notes, executing,
Contracts, making, § 1:5, 1:36	§ 1:39
Course of conduct of agent as	Ratification of agent's unautho-
conveying authority, § 1:22	rized undertakings, below
Creation of authority formalities	Renunciation of, § 1:89
Generally, § 1:27, 1:95	Repudiation of agent's act, § 1:47-
Acknowledgment, § 1:30	1:49, 1:53, 1:60
Sealed instruments, § 1:29	Rescission of agent's transaction,
Writings, <b>§ 1:27</b>	§ 1:46, 1:48, 1:76, 1:81
Death, effect of, § 1:90, 1:91	Restitution, § 1:25
Delegation by agent, § 1:34, 1:35	Revocation of, § 1:88
Discretionary authority, § 1:34,	Sealed instruments, creation of
1:35	authority formality, § 1:29
Distinguished from power, § 1:19	Secret instructions, § 1:33
Durable power of attorney, § 1:90,	Selling and buying property,
1:92	§ 1:16, 1:38
Estoppel doctrine, § 1:24	Special agents, § 1:5, 1:32, 1:71,
Express authority, generally, § 1:20	1:95
Implied authority, generally, § 1:21	Subagents, § 1:8
Incapacity, effect of, § 1:92	Termination. Termination of pow-
Inherent agency power, § 1:26,	ers, below
1:36, 1:71, 1:72, 1:95	Trustee, § 1:11
Investigation as to agent's author-	Types
ity	Actual authority, § 1:19, 1:20, 1:21
Principal's duty to investigate unauthorized acts, § 1:47	Apparent authority, § 1:22
Third party's duty to investigate	Estoppel, § 1:24
limitations of authority,	* *
§ 1:31, 1:32	Inherent agency power, § 1:26, 1:36, 1:71, 1:72
Limitations of authority	Writings, creation of authority
Notice of limitations, § 1:31	formalities, § 1:27
Secret instructions, § 1:33	Bankruptcy or insolvency, effect of,
Special agents, § 1:5, 1:32, 1:71	§ 1:94
Third party's duty to investigate, § 1:31, 1:32	Borrowing money, authority of agents, § 1:39, 1:59
Time limitations, § 1:44	Bringing lawsuit as ratification of
Making contracts, § 1:36	agency, § 1:49

AGENTS OR AGENCY—Cont'd	AGENTS OR AGENCY—Cont'd
Business trust, § 1:11	Compensation of agent—Cont'd
Buying and selling property or goods,	Broker's commission, § 1:64
authority of agents, § 1:16, 1:38	Duty of principal, § 1:63, 1:64
Capacity of parties	Entitlement, § 1:63
Agent's capacity to accept appoint-	Forfeiture of, § 1:60
ment, § 1:18	Indemnity, § 1:65
Agent's loss of capacity, § 1:93	Reimbursement, § 1:60, 1:65
Conviction of felony, effect of,	Worker's compensation, § 1:69
§ 1:92	Competence, agent's duties to
Corporation, § 1:17, 1:18	principal, § 1:58
Death, effect of, § 1:90, 1:91	Consent
Married women, § 1:17, 1:18	Apparent authority, § 1:22
Mentally ill or defective person,	Dual agent. consent to, § 1:32
§ 1:17, 1:18, 1:92	Implied authority, § 1:21
Minor, § 1:17, 1:18, 1:92	Principal's capacity to give, § 1:17
Principal's capacity to appoint	Unauthorized acts of agent,
agent, § 1:17	consent to
Principal's loss of capacity, § 1:92	Adoption, novation, and restitu-
Termination of agency, incapacity	tion, § 1:54
grounds, § 1:92	Ratification means, § 1:51, 1:53
Unincorporated association, § 1:17	Contracts, making
Care, agent's duties to principal, § 1:58	Authority of agents, § 1:5, 1:36
· ·	Obligations. Duties and liabilities
Care and skill, agent's duties to principal, § 1:58	among parties, below
Change of circumstances	Partial repudiation of contract,
Ratification of agent's unautho-	§ 1:50
rized act, § 1:45	Undisclosed principal, § 1:3, 1:70
Return of property to third party,	Contractual obligations. Duties and
§ 1:81	liabilities among parties, below
Termination of agency powers,	Conviction of felony, effect of, § 1:92
§ 1:94	Corporations, § 1:17, 1:18, 1:22
Characteristics of agency relation-	Counterclaim or setoff, agent's, § 1:67
ship, § 1:2	· ·
Chef as employee, § 1:6	Coupled with interest, agency, <b>§ 1:14, 1:18, 1:88</b>
Classification of parties	Course of conduct of agent as
Agent, § 1:5	conveying authority, § 1:22
Employee, § 1:72	Court-appointed fiduciary, § 1:12
Independent contractor, § 1:7	Creation of authority, formalities
Master/employer, § 1:4	Generally, § 1:27-1:30, 1:95
Principal, § 1:3	Acknowledgment and recording of
Servant/employee, § 1:6	deeds, § 1:30
Subagents and subservants, § 1:8,	Equal dignity rule, § 1:28
1:34, 1:35	Ratification of agent's unautho-
Collecting money, authority of	rized acts or torts, § 1:41,
agents, § 1:38, 1:59	1:42
Compensation of agent	Sealed instruments, § 1:29
Amount, § 1:63	Statute of Frauds, § 1:18, 1:27

AGENTS OR AGENCY—Cont'd	AGENTS OR AGENCY—Cont'd
Creation of authority, formalities	Definitions—Cont'd
—Cont'd	Restitutionary power, imposing so
Termination of authority, effect of, § 1:95	as to avoid unjust enrichment, § 1:15
Uniform Commercial Code, § 1:29 Written authorization to agent,	Restitution distinguished from ratification, § 1:54
§ 1:27	Servant, § 1:6
Death, termination of agency powers	Special agent, § 1:5, 1:32, 1:71
Agent's death, § 1:91	Subagents and subservants, § 1:8
Durable power of attorney, § 1:92	Trustee, § 1:11
Principal's death, § 1:90, 1:92	Undisclosed principal, § 1:3, 1:70
Decision of appeal tribunal, § 4:96	Delegation of authority by agent,
Defending lawsuit, as ratification of	§ 1:34, 1:35
agency, § 1:49	Delivery of principal's money or
Definitions	property to third party, § 1:82
Actual authority, § 1:19	Destruction of property, effect of,
Adoption of unauthorized act	§ 1:94
distinguished from ratifica-	Diligence, agent's duties to principal,
tion, § 1:54	§ 1:58
Agency, § 1:2	Disclosed principal, generally, § 1:3, 1:70
Agent, § 1:5	Discretionary authority, § 1:34, 1:35
Apparent authority, § 1:22, 1:23	Dual agent, § 1:32
Authority distinguished from	Durable power of attorney, § 1:90,
power, § 1:19	1:92
Business trust, § 1:11	Duties and liabilities among parties
Disclosed principal, § 1:3	Generally, § 1:55 et seq.
Employee, § 1:6	Accounting
Equal dignity rule, § 1:28	Agent's duties to principal,
Estoppel doctrine, § 1:24	§ 1:59
Express authority, § 1:20	Equitable action for, § 1:67
General agent, § 1:5	Agent and principal. Principal and
Implied actual authority, § 1:21	agent, duties and liabilities as
Independent contractor, § 1:7	between, below
Inherent agency power, § 1:26	Agent and third party, duties and
Insubordination of agent, § 1:57	liabilities as between
Joint venture, § 1:10	Action against third party,
Master/employer, § 1:4	agent's right to sue in his
Novation of unauthorized dealing	own name, § 1:84, 1:85
distinguished from ratification, § 1:54	Breach of warranty of authority, § 1:80, 1:83
Partially disclosed principal, § 1:3	Contractual liability, § 1:3,
Partner, § 1:9	1:78-1:82, 1:84
Power distinguished from authority, § 1:19	Damages for breach of warranty of authority, § 1:80
Principal, § 1:3	Delivery of property, § 1:82
Ratification, § 1:41, 1:54	Immunity from liability, § 1:83

Obedience, agent's duties to

principal, § 1:57

#### AGENTS OR AGENCY—Cont'd AGENTS OR AGENCY—Cont'd Duties and liabilities among parties Duties and liabilities among parties —Cont'd —Cont'd Agent and third party, duties and Contractual obligations—Cont'd liabilities as between—Cont'd Third party to principal, duties Interference with agent's possesof, § 1:76 sion, § 1:85 Undisclosed or partially Investigate limitations of authordisclosed principal, § 1:3, ity, § 1:31, 1:32 1:70 Counterclaim or setoff, agent's, Misrepresentation of agent's § 1:67 authority, § 1:83 Negligence of agent, § 1:83 Delivery of property, agent's duties to third party, § 1:82 Negotiable instruments, § 1:79 Disclosed principal, § 1:3, 1:70 Rescission, § 1:81 Employee Restitution. § 1:84 Tort liability of principal/master Return of property, § 1:81 to agent/servant, § 1:69 Tort liability, § 1:83, 1:85 Torts of, duties of principal to Undisclosed principal, § 1:3, third party, § 1:70-1:75 1:70, 1:76 Worker's compensation, § 1:69 Warranty of agent's authority, Furnish opportunity for work, § 1:80, 1:83 principal's duties to agent, Care and skill, agent's duties to § 1:66 principal, § 1:58 Immunity from liability, agent's, Compensation of agent § 1:83 Amount, § 1:63 Indemnify, principal's duties to Broker's commission, § 1:64 agent, § 1:65 Duty of principal, § 1:63, 1:64 Injunctive relief, § 1:60 Entitlement, § 1:63 Investigate limitations of agent's authority, third party's duty, Forfeiture of, § 1:60 § 1:31, 1:32 Indemnity, § 1:65 Investigate unauthorized acts of Reimbursement, § 1:60, 1:65 agent, principal's duty, § 1:47 Worker's compensation, § 1:69 Lien rights, agent's exercise of, Contractual liability § 1:67 Principal, third party's duties to, Loyalty, agent's duties to principal, § 1:76 § 1:56 Contractual obligations Motor vehicle use, duties and Agent to principal, duties of, liabilities as to third party, § 1:55 § 1:75 Agent to third party, duties of, Noncompetition, § 1:56, 1:60 § 1:3, 1:78-1:82 Noninterference with agent's pos-Classification of principal, session, § 1:85 importance of, § 1:3 Noninterference with agent's Principal to agent, duties of. work, § 1:66 § 1:61, 1:67 Noninterference with principal's Principal to third party, duties business or interests, third of, § 1:3, 1:70, 1:71 party's, § 1:77

Third party to agent, duties of,

§ 1:84

#### AGENTS OR AGENCY—Cont'd AGENTS OR AGENCY—Cont'd Duties and liabilities among parties Duties and liabilities among parties —Cont'd —Cont'd Partially disclosed principal, § 1:3, Principal and agent, duties and 1:70 liabilities as between—Cont'd Principal and agent, duties and Opportunity to work, furnishing, liabilities as between § 1:66 Accounting, § 1:59, 1:67 Ratification of unauthorized Action for accounting, agent's acts, effect of, § 1:51, 1:52 equitable, § 1:67 Real estate broker, duty to pay, Care and skill, § 1:58 § 1:64 Compensation, duty to pay, Recovery from agent the dam-§ 1:63, 1:64 ages paid to third party and Compensation, forfeiture of, cost of defending third § 1:60 party's lawsuit, § 1:60 Compensation, worker's Refusal to render further sercompensation, § 1:69 vices, agent's, § 1:67 Continuing to act after termina-Reimbursement, § 1:60, 1:65 tion, agent's liability when, Remedies for agent's breach, § 1:95 principal's, § 1:60 Contractual obligations, agent's, Remedies for principal's breach, § 1:55 agent's, § 1:67 Contractual obligations, Reputation of agent, § 1:66, principal's, § 1:61 1:68 Counterclaim or setoff, agent's, Safety in agent's performance of § 1:67 work, § 1:66 Diligence, § 1:58 Setoff or counterclaim, agent's, Discharge agent before agreed-§ 1:67 upon termination date, Special skills, § 1:58, 1:76 § 1:60 Tort liability, § 1:68, 1:69 Fair dealing, § 1:62 Trade secrets, § 1:60 Forfeiture of agent's right to Principal and third party, duties compensation, § 1:60 and liabilities as between Full disclosure of relevant facts as to agency, § 1:56, 1:58 Generally, § 1:19 Furnishing opportunity for Apparent authority of agent, work, § 1:66 § 1:22, 1:23 Good faith, § 1:2, 1:62 Contractual liability, § 1:76 Indemnify, § 1:65 Contractual undertakings, § 1:3, Injunctive relief, § 1:60 1:70, 1:71, 1:76 Investigate unauthorized acts of Estoppel to deny ratification of agent, § 1:47 agent's unauthorized acts, Lien rights, agent's exercise of, § 1:53, 1:71 § 1:67 Investigate limitations of agent's Loyalty, § 1:56 authority, § 1:31, 1:32 Noncompetition, § 1:56, 1:60 Motor vehicle, statutory rule as Noninterference with agent's to use of, § 1:75 work, § 1:66 Privileged act of principal, Obedience, § 1:57 § 1:83

#### AGENTS OR AGENCY—Cont'd AGENTS OR AGENCY—Cont'd Duties and liabilities among parties Duties and liabilities among parties —Cont'd —Cont'd Principal and third party, duties Remedies—Cont'd and liabilities as between Agent's duties to principal —Cont'd breached or violated Ratification, effect of, § 1:51, -Cont'd party and cost of defend-1:52 ing third party's lawsuit, Ratification by estoppel, § 1:53, § 1:60 1:71 Principal's duties to agent Secret instructions to agent, § 1:33 breached or violated Special skills of agent, § 1:76 Generally, § 1:67 Tort liability, § 1:70-1:75, 1:77 Action for accounting, equitable, § 1:67 Unauthorized contractual Lien rights, exercise, § 1:67 undertakings, § 1:71 Refuse to render further ser-Undisclosed or partially vices, § 1:67 disclosed principal, § 1:3, Setoff or counterclaim, § 1:67 1:70, 1:76 Respondeat superior liability for Privileged act of principal, § 1:83 employee's torts, duties of Ratification of agent's unauthoprincipal to third party, § 1:4, rized act 1:70-1:75, 1:83 Generally, § 1:71 Return of property, agent's duties Adoption, novation, and restituto third party, § 1:81 tion, § 1:15, 1:54 Setoff or counterclaim, agent's, Effect of, § 1:51, 1:52 § 1:67 Estoppel to deny, § 1:53, 1:71 Skill and care, agent's duties to Real estate broker, principal's duty principal, § 1:58 to pay agent, **§ 1:64** Third party and agent. Agent and Refusal to render further services, third party, duties and agent's, § 1:67 liabilities as between, above Reimbursement, principal's duties Third party and principal. Principal to agent, § 1:60, 1:65 and third party, duties and liabilities as between, above Tort liability Agent's duties to principal Agent, third party's duty to, breached or violated § 1:85 Generally, § 1:60 Agent's duties to third party, Action against agent, § 1:60 § 1:83 Discharge agent before Apparent authority of agent, agreed-upon termination § 1:22, 1:23 date, § 1:60 Employee's torts, duties of Forfeiture of agent's right to principal/employer to compensation, § 1:60 agent/servant, § 1:69 Injunctive relief. § 1:60 Employee's torts, duties of Principal's duties to agent principal/employer to third breached or violated, party, § 1:6, 1:70-1:75 § 1:67 Employee's torts, duties of Recovery from agent the principal to third party,

§ 1:26

damages paid to third

AGENTS OR AGENCY—Cont'd	AGENTS OR AGENCY—Cont'd
Duties and liabilities among parties	Employee—Cont'd
—Cont'd	Inherent agency power, § 1:26
Tort liability—Cont'd	Master's control of, § 1:4
Nonemployee agent torts, duties	Principal's tort liability to
of principal to third party,	Agent, <b>§ 1:69</b>
§ 1:72, 1:75	Third party, § 1:70-1:75
Principal, third party's duties to,	Tort liability of employer for
§ 1:19, 1:77	employee's conduct, § 1:26,
Principal's duties to agent, § 1:68, 1:69	1:70-1:75
Third party's duties to agent,	Tort liability of principal to agent,
§ 1:85	§ 1:69  Tages of duties of principal to third
Third party's duties to principal,	Torts of, duties of principal to third party, § 1:26
§ 1:19, 1:77	Vicarious liability, <b>§ 1:26, 1:70-</b>
Worker's compensation, § 1:69	1:75
Trade secrets, § 1:60	Employees, § 1:7, 1:8
Unauthorized undertakings by	Employer, generally, <b>§ 1:6, 1:26,</b>
agent	1:69, 1:72
Contractual undertakings,	Employerr, generally, § 1:4
principal's duties to third	Enemy status, principal's, § 1:92
party, § 1:71	Equal dignity rule, § 1:26, 1:28
Ratification, § 1:51-1:54	Estoppel, authority of agents, § 1:24
Use of motor vehicle, liability to third party, § 1:75	Estoppel to deny ratification, § 1:53,
Undisclosed or partially disclosed	1:71
principal, § 1:3, 1:70, 1:76	Events precluding ratification, § 1:43-1:45
Warranty of authority, agent's	Evidence
breach of duties to third party,	Express ratification, § 1:46
§ 1:80, 1:83	Implied ratification, § 1:47-1:49
Worker's compensation, § 1:69	Expiration of specified time
Effect of ratification of agency,	Ratification of agent's unautho-
§ 1:51, 1:52	rized act, § 1:44
Effect of termination of agency powers, § 1:95	Termination of agency powers,
Elements of agency relationship	§ 1:86
Generally, § 1:1 et seq.	Express authority, § 1:20 Express ratification, § 1:46
Capacity of parties, § 1:17, 1:18	Felony conviction, effect of, § 1:92
Classification of parties, § 1:3-1:8	Fiduciary status of agent, § 1:2, 1:12,
Other relationships distinguished,	1:18, 1:34, 1:56
§ 1:9-1:16	Forfeiture of agent's right to
Emergencies, agent by necessity,	compensation, § 1:60
§ 1:21	Forfeiture of compensation of agent,
Employee	§ 1:60
Classification as, § 1:6	Furnish opportunity for work,
Employer's control of, § 1:26,	principal's duties to agent,
1:70-1:75	§ 1:66
Independent contractor	General agent
distinguished, § 1:7	Capacity, § 1:18

#### AGENTS OR AGENCY—Cont'd

General agent—Cont'd

Defined and distinguished from
special agent, § 1:5, 1:32,
1:71

Good faith

Change of position by agent before rescission of third party, § 1:81

Durable power of attorney, reliance on without knowledge of principal's death, § 1:90, 1:92

Duty agent owes principal, § 1:2, 1:62

Third party's reliance on agent's authority, § 1:33

Immunity from liability, agent's, § 1:83

Implied authority, § 1:2, 1:22
Implied ratification, § 1:47-1:49

Incapacity, termination of agency powers

Agent's incapacity, § 1:93 Principal's incapacity, § 1:92

Indemnify, principal's duties to agent, § 1:65

Independent contractors, generally, § 1:7

Inherent agency power, § 1:26, 1:36, 1:71, 1:72, 1:95

Injunctive relief, § 1:60

Insubordination of agent, § 1:57

Insurance company as agent, § 1:14 Interference

Agent's possession, noninterference with, § 1:85

Agent's work, noninterference with, § 1:66

Principal's business or interests, third party's noninterference with, § 1:77

Investigation as to agent's authority Principal's duty to investigate unauthorized acts, § 1:47

Third party's duty to investigate limitations of authority, § 1:31, 1:32

Joint venturers and joint enterprise distinguished, § 1:10

#### AGENTS OR AGENCY—Cont'd

Lenders as having power to confess judgment where default, § 1:14

Liabilities. Duties and liabilities among parties, above

Lien rights, agent's exercise of, § 1:67

Limitations of authority of agents Notice of limitations, § 1:31 Secret instructions, § 1:33

Special agents, § 1:5, 1:32, 1:71

Time limitations, § 1:44 Loss of capacity, agent's or

principal's, § 1:93
Loss of property, effect of, § 1:94

Loss of property, effect of, § 1:94 Loyalty, agent's duties to principal, § 1:56

Making contracts. Contracts, above Master, generally, § 1:4, 1:6, 1:26 Mentally ill or defective person, § 1:17, 1:18, 1:92

Minor, § 1:17, 1:18, 1:92

Money, authority of agents Accounting, duty, § 1:59, 1:67 Borrowing money, § 1:39, 1:59 Collecting money, § 1:38, 1:59

Motor vehicle use, duties and liabilities as to third party, § 1:75

Mutual consent as basis of agency relationship, § 1:17

Necessity, agency by, § 1:21

By necessity, § 1:21

Negotiable instruments, § 1:39, 1:79

Noncompetition, § 1:56, 1:60

Nonemployee agent, principal's tort liability, § 1:68, 1:72, 1:75

Noninterference obligation. Interference, above

Notice of limitations of agent's authority, § 1:31

Novation distinguished from ratification, § 1:54

Obedience, agent's duties to principal, § 1:57

Opportunity for work, principal's duties to furnish agent, § 1:66

Ostensible authority, § 1:21

AGENTS OR AGENCY—Cont'd	AGENTS OR AGENCY—Cont'd
Other relationships distinguished	Ratification of agent's unauthorized
Business trust, § 1:11	undertakings—Cont'd
Buyer of goods, § 1:16	Bringing lawsuit against third
Court-appointed fiduciary, § 1:12	party, § 1:49
Employer and employee, § 1:6,	Changed circumstances, § 1:45
1:69, 1:72	Consent, § 1:51, 1:52, 1:53
Fiduciary, court-appointed, § 1:12 Holder of restitutionary power,	Creation of authority, § 1:41, 1:45
§ 1:15	Defending lawsuit brought by third party, § 1:49
Independent contractor, § 1:7	Definition, § 1:41, 1:49
Joint venturer, § 1:10	Effect of, § 1:51, 1:52
Master and servant, § 1:6	Estoppel to deny, § 1:53, 1:71
Master/employer, § 1:4	Events precluding, § 1:43-1:45
Partner, § 1:9	Evidence, § 1:46-1:49
Power coupled with interest, § 1:14, 1:88	Express, <b>§ 1:46</b>
Restitutionary power, holder of,	Implied, § 1:47-1:49
§ 1:15, 1:54	Liabilities, § 1:51-1:54
Statutory agent, § 1:13	Novation distinguished, § 1:54
Trustee, § 1:11	Requirements, § 1:45
Partially disclosed principal, gener-	Restitution distinguished, § 1:54
ally, § <b>1:3, 1:70</b>	Retention of benefits, § 1:48
Partners and partnerships	Retention of benefits as ratifica-
Generally, § 1:9	tion, § 1:48
Business trust as partnership,	Silence, § <b>1:47</b>
§ 1:11	Before specified time, § 1:44
Joint venturers and joint enterprise distinguished, § 1:10	Third party's choice to ratify act, § 1:48
Power	Time limitations, § 1:44, 1:45
Distinguished from authority,	Withdrawal of third party, § 1:43
§ 1:19	Real estate broker, principal's duty to
Inherent agency power, § 1:26,	pay agent, <b>§ 1:64</b>
1:36, 1:71, 1:72, 1:95	Reasonable time, termination of
Principal	agency powers, § 1:86
Generally, § 1:3	Refusal to render further services,
Capacity, § 1:17	agent's, § 1:67
Employer distinguished, § 1:4	Reimbursement, principal's duties to
Master distinguished, § 1:4	agent, § 1:60, 1:65
Privileged act of principal, § 1:83	Remedies
Promissory notes, agent executing, § 1:39	Agent's contractual remedies, § 1:67
Ratification of agent's unauthorized undertakings	Agent's duties to principal breached or violated, § 1:60
Generally, § 1:41 et seq.	Principal's duties to agent
Acceptance of benefits, § 1:48	breached or violated, § 1:67
Acquiescence, § 1:47	Renunciation by agent, termination of
Adoption distinguished, § 1:54	agency powers. § 1:89

#### AGENTS OR AGENCY—Cont'd AGENTS OR AGENCY—Cont'd Repudiation of agent's act Special agent Failure of principal to repudiate Authority of, § 1:5, 1:32, 1:71, act, effect of, § 1:47, 1:53 Partial repudiation of contract. Defined and distinguished from § 1:50 general agent, § 1:5, 1:32, 1:71 Third party's choice to ratify act, § 1:48 Limitation of authority, § 1:5, 1:32, 1:71 Rescission of agent's transaction, § 1:48, 1:76, 1:81 Termination of authority of, § 1:95 Respondeat superior liability for Statute of Frauds, effect of, § 1:18, employee's torts, duties of 1:27 principal to third party, § 1:4, Subagents, § 1:8, 1:34, 1:35 1:70-1:75, 1:83 Termination of agency powers Restitutionary power, imposing so as Accomplishment of purpose, to avoid unjust enrichment, § 1:87 § 1:15, 1:54, 1:84 By act of the parties, § 1:86-1:89 Restitution distinguished from ratifi-Bankruptcy or insolvency, effect cation, § 1:54 of, § 1:94 Retention of benefits as ratification of Change of circumstances, § 1:94 agency, § 1:48 Continuing to act after termination, Return of property, agent's duties to agent's liability for, § 1:95 third party, § 1:81 Death of agent, § 1:91 Revocation by principal, termination Death of principal, § 1:90, 1:92 of agency powers, § 1:88 Destruction of property, effect of, Sealed instruments, creation of § 1:94 authority, § 1:29 Durable power of attorney, effect Secretary of State as statutory agent, of, § 1:92 § 1:13 Effect of, § 1:95 Secret instructions, limitations of Enemy status, principal's, § 1:92 agent's authority, § 1:33 Expiration of time, § 1:86 Selling and buying property or goods, Felony conviction, principal's, authority of agents, § 1:16, 1:38 § 1:92 Servant Impossibility of performance, effect of, § 1:94 Classification as, § 1:6 Incapacity of agent, § 1:93 Subservants, generally, § 1:8 Incapacity of principal, § 1:92 Servant/employee Inherent powers, § 1:95 Classification as, § 1:6 Loss of property, effect of, § 1:94 Master's control of, § 1:6 By operation of law, § 1:90-1:94 Tort liability of employer for Purpose of agency, accomplished, employeet's conduct, § 1:6 § 1:87 Tort liability of master for ser-Reasonable time, § 1:86 vant's conduct, § 1:6 Renunciation by agent, § 1:89 Setoff or counterclaim, agent's. Revocation by principal, § 1:88 § 1:67 Special agent's apparent authority, Silence as ratification of agency, § 1:47 § 1:95 Skill and care, agent's duties to Specified acts performed or

achieved, § 1:87

principal, § 1:58

§ 1:69

#### AGENTS OR AGENCY—Cont'd AGENTS OR AGENCY—Cont'd Termination of agency powers Writings, creation of authority, § 1:27 —Cont'd **AIRSPACE** Specified time, expiration of, Generally, § 14:136 § 1:86 Time, expiration of, § 1:86 ALCOHOLIC BEVERAGES War, effect of, § 1:94 Dram shop cases, procedural require-At will termination, § 1:66, 1:88 ments, § 16:51 Third party. Duties and liabilities Duty of licensed seller or server among parties, above Consumer of alcohol, duty to, Time § 16:49 Ratification of agent's unautho-Injured third party, duty to, § 16:48 rized acts Social host furnishing alcoholic Changed circumstances affectbeverages, § 16:50 ing time for ratifying act, § 1:45 **ALIAS** Before specified time, § 1:44 Character evidence, alias or Terminating agency powers, nickname for criminal expiration of specified, § 1:86 defendant, § 9:33 Time, expiration of authority, § 1:86 **ALIMONY** Tort liability. Duties and liabilities Generally, § 8:77-8:104 among parties, above For detailed treatment see **Domestic** Trade secrets, duties and liabilities **Relations**. this index among parties, § 1:60 Trustee and agent distinguished, ANCIENT DOCUMENTS § 1:11 Statements in, hearsay exception, Unauthorized undertakings by agent § 9:204 Principal's duties to third party, **ANIMALS** § 1:71 Habits of, § 9:51 Ratification of. Ratification of agent's unauthorized Strict liability, § 16:203-16:208 undertakings, above ANNULMENT OF MARRIAGE Use of motor vehicle, liability to Generally, § 8:44-8:67 third party, § 1:75 Undisclosed principal, generally, ANSWER § 1:3, 1:70, 1:76 Interrogatories answers, § 3:105, Unincorporated associations, § 1:17 3:106 War, effect of, § 1:94 Pleadings, answer Warranty of authority, agent's breach Generally, § 3:75, 3:120 of duties to third party, § 1:80, Affirmative defenses, § 3:76 1:83 Witness's trial answer, motion to At will termination of agency powstrike, § 3:174, 4:34 ers, § 1:66, 1:88 Withdrawal of third party as event ANTENUPTIAL AGREEMENTS precluding principal's ratifica-Generally, § 8:24-8:26 tion of agent's unauthorized act, **ANTI-SLAPP STATUTE** § 1:43 Worker's compensation for agent, Dismissal of complaint, motion for,

§ 3:124

APPEAL AND REVIEW	APPEAL AND REVIEW—Cont'd
Generally, § 4:1 et seq.	Briefs
Administrative decisions	Generally, § 4:87 et seq.
Creating record in agency, § 4:29	Appendix to brief, above
Objection, prerequisite of making,	Argument, § 4:89
§ 4:28	Contents, § 4:88
Raising issue in trial court obliga-	Defined, § 4:87
tion, § <b>4:27</b>	Direct appellate review, transfer
Remand orders to, § 4:12	for, § <b>4:92</b>
Agreed record, perfecting the appeal,	Format, § 4:88
§ 4:75	Further appellate review, § 4:93
Agreed statement of evidence or	Number of copies, § 4:88
proceedings, § 4:75	Number of pages, § 4:88
Ancillary proceedings, interlocutory appellate review, § 4:17	Page requirements, § 4:88
Appellant's duties, assembly of the	Reference to impounded materials, § 4:88
record, § 4:79	Service of, § <b>4:87</b>
Appendix to brief	Technical requirements, § 4:88
Generally, § 4:85	Time for filing, § 4:87, 4:92
Agreed statement of evidence or	Certification of questions of law,
proceedings when no	§ 4:60
transcript as part of, § 4:75	Certification of transcript, § 4:69
Contents, § 4:85	Certifying questions of law to
Copies, § <b>4:86</b>	Supreme Court, § 4:60
Designation of contents or parts of	Child welfare cases, ordering the trial
record to include in appendix,	transcript, § 4:73
§ <b>4:8</b> 5	Civil cases, ordering the trial
Distinguishing between record	transcript, § 4:70, 4:72
appendix and record on	Claim of appeal
appeal, § 4:69	Cross-appeal, need for filing,
Exhibits volumes, § 4:86	§ 4:48
Pages in appendix, technical requirements, § 4:86	Dismissal of appeal, § 4:50
Paper size, § 4:86	Filing, generally, § 4:43-4:50
Technical requirements, § 4:86	Interlocutory orders, need for filing appeal from, § 4:49
Application for	Time limits
Direct appellate review, § 4:91	Generally, § 4:45
Further appellate review, § 4:93	Late appeals, § 4:47
Arbitration disputes, interlocutory	Tolling appeal period, § <b>4:46</b>
appellate review, § <b>4:17</b>	Clerk's duties, assembly of the rec-
Argument	ord, § 4:78
Briefs, <b>§ 4:89</b>	Commonwealth's appeal of criminal
Oral argument, § 4:95	case, <b>§ 4:16</b>
Assembly of the record, <b>§ 4:78, 4:79</b>	Contents of appendix to brief, § 4:85
Attorney disqualification, § 3:166	Contents of briefs, § 4:88
Attorney fees, award of, § 4:100	Copies
Automatic stays pending appeal,	Appendix to brief, § 4:86
§ 4:61	Briefs, § <b>4:88</b>

APPEAL AND REVIEW—Cont'd	APPEAL AND REVIEW—Cont'd
Correcting record, § 4:76	Discretionary stays pending appeal,
Correction or modification of record,	§ 4:62, 4:66
§ 4:76	Dismissal of action, appeal of,
Costs, entitlement and award of,	§ 3:130
§ 4:99	Dismissal of appeal, § 4:50, 4:80,
Courts of appeal, generally	4:82, 4:90
Generally, § 4:1, 4:2	Dismissal under anti-SLAPP statute,
Appeals Court, § 4:4	special motion for, § 3:124
Appellate Division of District	Disqualification of attorney, § 3:166
Court decisions, appeals from, § 4:8	Docketing the appeal, § 4:81, 4:91
Supreme Court, below	Double jeopardy claims, interlocu-
Criminal case	tory appellate review, § 4:23
Commonwealth's appeal of, § 4:16	Electronic recording of proceedings, ordering the transcript, § 4:72
Double jeopardy claims, § 4:23	Entry of judgment on separate docu-
Ineffective assistance of counsel	ment, § 4:6
claim, § 4:27	Evidence
Ordering transcript of record on	Agreed statement of evidence or
appeal, § 4:71, 4:72	proceedings, § 4:75
Raising issue in trial court obliga-	Offer of proof, appeal of evidence
tion, <b>§ 4:27</b>	excluded on, § 3:175, 4:33
Special post-trial requirements,	Record of appeal, statement of
§ 4:42	evidence or proceedings,
Special pretrial requirements,	§ 4:74
§ 4:30	Sufficiency of evidence at trial,
Special trial requirements, § 4:36 Speedy trial claims, § 4:23	§ 4:35, 4:36
Stays pending appeal, § 4:65-4:67	Exhibits volumes, appendix to brief,
Sufficiency of evidence at trial,	§ 4:86
§ 4:36	Extension of time for filing appeal,
Superintendence powers of	§ 4:46, 4:47
Supreme Judicial Court,	Filing the appeal
§ 4:21	Generally, § 4:43
Suppression orders, § 4:19	Interlocutory order, § 4:49
Time limitations for filing appeal,	Late appeals, § 4:47
§ 4:45-4:47	Time limitations, § <b>4:45-4:47</b>
Cross-appeals, § 4:48	Tolling the appeal period, § 4:46
Death of parties, § 4:77	Filing the cross-appeal, § 4:48
Decision of appeal tribunal, § 4:96	Finality requirement
Definition	Generally, § 4:5 et seq.
Brief, § 4:87	Concept of finality, generally, § 4:5
Record on appeal, § 4:69	District Court Appellate Division
Direct appellate review	decisions, § 4:8
Generally, § 4:91	Doctrine of present execution,
Briefing schedule, § 4:92	§ 4:14
Discovery mechanisms, § 4:30	Entry of judgment on separate doc-
Discretionary interlocutory appellate	ument, need for, § 4:6
review, § <b>4:18, 4:19</b>	Exceptions, § 4:11

#### APPEAL AND REVIEW—Cont'd APPEAL AND REVIEW—Cont'd Finality requirement—Cont'd Interlocutory appellate review Final judgments made interlocu-—Cont'd tory, § 4:5 Doctrine of present execution, Interlocutory, final judgments § 4:14 made, § 4:5 Double jeopardy claims, § 4:23 Exceptions allowing, § 4:13 Interlocutory decisions, exceptions allowing review of, § 4:11 Final judgments made interlocu-Need for entry of judgment on septory, § 4:5 arate document, § 4:6 Injunctive orders, § 4:14 Judgment notwithstanding the Partial judgment, § 4:7 verdict, § 4:17 Post-trial motions as suspending finality of appealable judg-Medical malpractice cases, § 4:17 Need for filing appeal from interment, § 4:11 locutory orders, § 4:49 Present execution doctrine, § 4:14 Post-trial motions as suspending Report of final decision, trial finality of appealable judgcourt's, § 4:56 ment, § 4:11 Report without decision, trial Present execution doctrine, § 4:14 court's, § 4:57 Pretrial orders as interlocutory Separate document for entry of orders, § 4:10 judgment, need for, § 4:6 Remand orders to administrative Findings of fact, § 3:184 decisions, § 4:12 Firearms, jurisdiction for appeals of Report of trial court, § 4:55 denial to carry, § 3:7 Stays pending appeal Frivolous appeal, § 4:101 Civil cases, stay of interlocutory Further appellate review, § 4:93 order in, § 4:63 Impounded documents, reference in Superintendence powers of brief, § 4:88 Supreme Judicial Court, Injunctive orders, appeal of, § 4:15 § 4:21 Interlocutory appellate review Suppression orders in criminal Generally, § 4:9 et seq. case, § 4:19 Administrative decisions, remand Supreme Judicial Court superintenorders to, § 4:12 dence powers, § 4:21 Ancillary proceedings, § 4:17 Time limitations, § 4:49 Arbitration disputes, § 4:17 Intervention motion determination, Authorized interlocutory appeals, § 4:14 § 4:15-4:17 Judgment, finality of, § 4:5-4:8, 4:10 Civil case, single justice review, Judgment, summary judgment, § 4:17 § 3:148, 3:149 Commonwealth's appeal of crimi-Judgment notwithstanding the nal case, § 4:16 verdict, § 3:189 Conditional new trial, § 4:17 Late appeals, § 4:47 Criminal case review by Com-Master's report, § 4:31 monwealth, § **4:16** Medical malpractice cases Criminal case suppression orders, Appellate review of tribunal find-§ 4:19 ings, § 16:139 Discretionary interlocutory review, Interlocutory appellate review,

§ 4:17

§ 4:18, 4:19

APPEAL AND REVIEW—Cont'd	APPEAL AND REVIEW—Cont'd
Modifying record, § 4:76	Preserving right to appeal—Cont'd
New trial order, § 3:191, 4:17	Mandatory procedures, § 4:30-
Notice of appeal, trial court report as,	4:42
§ 4:58	Objections, making, § 4:28
Notice of appeal procedure, § 3:187,	Party's obligations, § 4:25-4:29
4:6, 4:43-4:50	Post-trial procedure special
Number, briefs, copies and pages,	requirements, § 4:42
§ 4:88	Pretrial procedure special require-
Objections, preserving right to appeal	ments, § <b>4:31</b>
by making, <b>§ 4:28</b>	Raising issue in trial court, § 4:27
Offer of proof, appeal of evidence	Specificity for grounds for objec-
excluded on, § 3:175, 4:33	tions or request for appeal,
Oral argument, § 4:95	§ 4:28
Ordering the transcript, § <b>4:70-4:73</b>	Trial procedure special require-
Pages	ments, § 4:36
Appendix to brief, § 4:86	Pretrial orders as interlocutory orders.
Brief, § 4:88	§ 4:10
Paper size, appendix to brief, § 4:86	Procedure for seeking stay
Partial judgment, finality require-	Civil cases, § 4:64
ment, § <b>4:7</b>	Criminal cases, § 4:67
Perfecting the appeal	Procedure in appellate courts
Generally, § 4:68 et seq.	Generally, § 4:43, 4:83, 4:83 et
Agreed record, § 4:75	seq.
Appellant's duties assembling the	Appendix to brief, above
record, § <b>4:79</b>	Attorney fees, § 4:100
Assembling record, duties of	Briefs, above
Appellant's duties, § 4:79	Costs, <b>§ 4:99</b>
Clerk's duties, § 4:78	Decision, <b>§ 4:96</b>
Clerk's duties assembling the rec-	Direct appellate review
ord, § <b>4:78</b>	Generally, <b>§ 4:91</b>
Correcting record, § 4:76	Briefing schedule, § 4:92
Docketing the appeal, § 4:81	Discretionary interlocutory review,
Modifying record, § 4:76	§ 4:18, 4:19
Ordering transcript, § 4:70-4:73	Dismissal of appeal, § 4:90
Record of appeal, § 4:69-4:77	Further appellate review, § 4:93
Statement of evidence or proceed-	Notice of appeal, § 4:43
ings, <b>§ 4:74</b>	Oral argument, § 4:95
Petition for rehearing, § 4:98	Rehearing, § 4:98
Post-trial motions as suspending	Rescript, § 4:97
finality of appealable judgment,	
§ 4:11	Summary disposition rule, § 4:94
Precedential effect of appeal deci-	Questions of law
sion, § <b>4:96</b>	Certification, § 4:60
Present execution doctrine, interlocu-	Questions of law reports. Reports of
tory appellate review, § 4:14	trial judge to an appellate court,
Preserving right to appeal	below
Creating record in trial court,	Record of appeal
§ 4:29	Generally, § <b>4:69-4:77</b>

#### APPEAL AND REVIEW—Cont'd APPEAL AND REVIEW—Cont'd Record of appeal—Cont'd Reports of trial judge to an appellate Agreed statement of evidence or court—Cont'd proceedings, § 4:75 Material facts, parties' agreement to, § 4:57 Appellant's duties, assembly of the Nature of report, § 4:51 record, § 4:79 Appendix to brief, above No decision, report without deci-Assembly of the record, § 4:78, sion, § 4:57 4:79 Notice of appeal, trial court report Briefs, above as, § 4:59 Certification of transcript, § 4:69 Perfecting the report, § 4:68 Clerk's duties, assembly of the Procedure, appellate procedure as record, § 4:78 to reports, § 4:58 Correction or modification of rec-Review of reported matters, appelord, § 4:76 late, § 4:58 Creating record in trial court, Stay pending appeal, § 4:64 § 4:29 Rescript procedure, § 4:97 Defined, § 4:69 Sanctions, award of, § 4:101 Electronic recording of proceed-Scope of Chapter 4 of text, § 4:1, 4:2 ings, ordering the transcript, Service of briefs, § 4:87 § 4:72 Small claims cases, § 3:9 Ordering the transcript, § 4:70-4:73 Special motion to dismiss under anti-SLAPP statute, § 3:124 Perfecting the appeal, above Speedy trial claims, criminal case, Statement of evidence or proceed-§ 4:23 ings when no transcript, § 4:74 Statement of evidence or proceedings when no transcript, § 4:74 Reference to impounded materials, § 4:88 Stays pending appeal Rehearing, procedure, § 4:98 Generally, § 4:61 et seq. Remand orders to administrative Automatic, § 4:61 decisions, § 4:12 Civil cases Report of master, § 4:31 Generally, § 4:61-4:64 Reports of trial judge to an appellate Automatic stay, § 4:61 Discretionary stay, § 4:62 Generally, § 4:51 et seq. Interlocutory order, stay of, Agreement to material facts, § 4:63 § 4:57 Procedure for seeking stay, Authority of single justice or § 4:64 appellate court to issue report, Criminal cases § 4:54 Generally, § 4:65 Authority of trial court to issue report, § 4:52 Discretionary stay, § 4:66 Certification of questions of law, Procedure for seeking stay, § 4:60 § 4:67 Discretion of appellate court to Discretionary stay, civil cases, consider report, § 4:59 § 4:62 Final decision, report of, § 4:56 Discretionary stay, criminal cases,

§ 4:66

Interlocutory matter, § 4:55

#### APPEAL AND REVIEW—Cont'd APPEAL AND REVIEW—Cont'd Stays pending appeal—Cont'd Time—Cont'd Rescript, § 4:97 Interlocutory order Civil cases, stay of order in, Statement of evidence or proceed-§ 4:63 ings when no transcript of record on appeal, § 4:74 Procedure for seeking stay Tolling the appeal period, § 4:46 Civil cases, § 4:64 Tolling appeal period, § 4:46 Criminal cases, § 4:67 Transcript Substitution of parties, § 4:77 Certification of transcript, § 4:69 Summary disposition rule, § 4:94 Child welfare cases, ordering the Summary judgment trial transcript, § 4:73 Denial, appeal from, § 3:148 Ordering the transcript, § 4:70-Grant, appeal from, § 3:149 4:73 Superintendence powers of Supreme Statement of evidence or proceed-Judicial Court ings when no transcript, Administrative function, § 4:24 § 4:74 Availability of power, § 4:22 Unemployment case decisions issued Exercise of power, § 4:23 by Division of Employment Invoking power, § 4:23 Security, jurisdiction for appeal Procedure to invoke power, § 4:23 of, § 3:7 Source of power, § 4:20 Workers' compensation, § 19:76 Suppression orders in criminal case, APPRAISAL § 4:19 Business corporations shares. Supreme Court **Corporations**, this index Generally, § 3:4, 4:1, 4:3 Certifying questions of law to, ARBITRATION § 4:60 Interlocutory appellate review, Superintendence powers, § 4:20arbitration disputes, § 4:17 4:24 Workers' compensation, § 19:61 Transfer from Appellate Court for ARMED FORCES direct appellate review, § 4:91, 4:92 Privileged information, military and diplomatic secrets, § 9:97 Time Direct appellate review briefing ARREST schedule, § **4:92** Generally, § 7:1-7:14 Docketing the appeal, § 4:81 Authority to arrest pursuant to federal Extension of time for filing appeal, civil immigration detainer, § 4:46, 4:47 § 7:3.50 Filing notice of appeal, § 4:6 ASSAULT AND BATTERY Filing the appeal, § **4:45-4:47** Filing the brief, § 4:87, 4:92 Generally, § 7:159-7:177, 16:1-16:5 Injunctive orders, appeal of, § 4:15 Apprehension of imminent harmful or offensive conduction, § 16:2 Late appeal, § 4:47 Damages recoverable, § 16:5 Limitations, § 4:45-4:47 Family or household member, Oral argument, issuing decision § 7:164.50 after, § 4:95 Fear, § 16:2 Ordering transcript of record on appeal, § 4:70 Lack of consent, § 16:4

# ASSAULT AND BATTERY—Cont'd Overt act, § 16:3

# ASSUMPTION OF RISK

Generally, § 16:88

# **ATTACHMENT**

Civil Practice, this index

## ATTEMPT

Criminal law, § 7:134

# ATTORNEY-CLIENT PRIVILEGE

Generally, § 9:77-9:84

Common interest doctrine, § 9:80

Communication and acts outside scope, § 9:81

Comparison with work product privilege, § 9:84

Duration, § 9:82

Nature and purpose, § 9:77

Relationship, § 9:78

Scope, § 9:79, 9:80

Communication and acts outside scope, § 9:81

Waiver, § 9:83

Work product privilege, comparison, § 9:84

## ATTORNEY FEES

Appellate courts procedure, § 4:100

Domestic relations contempt cases, attorney's fees in, § 8:309

Domestic relations obligations. enforcement of, § 8:304-8:309

Medical malpractice cases, fee limitation, § 16:150

Workers' Compensation, this index

#### ATTORNEY GENERAL

Intervention by Attorney General, § 3:68

Service of process on, § 3:35

# **ATTORNEYS**

Agent for client, authority as, § 1:40

Child care and protection proceedings, right to attorney, § 11:18

Child custody, appointment of guardian ad litem or attorney, § 8:242

Children requiring assistance, appointment of counsel, § 11:43

## ATTORNEYS—Cont'd

Criminal procedure, right to counsel Identification of suspects, § 7:101 Interrogation of suspects, § 7:81-

7:84, 7:97

Violation of right, effect, § 7:102

Disqualification of attorney, § 3:165, 3:166

Dual representation, § 3:165

Durable power of attorney, § 1:90-1:92

Engaged in trial in another court as basis for continuance, § 3:153

Fees. Attorney Fees, this index

Limited liability companies for practice of law, § 6:161, 6:161

Malpractice. Legal Malpractice, this index

Privileges. Attorney-Client Privilege, this index

Professional corporations

Personal liability, § 6:149, 6:149

Who may organize professional corporation, § 6:142, 6:142

Sanctions for failure to appear for trial, § 3:154

Successive representation, § 3:165

Witness, attorney as, § 3:165

Work product, discovery of, § 3:84

## AUTHENTICATION

Generally, § 9:206 et seq.

Best evidence rule, § 9:211, 9:212

Circumstantial proof of documentary evidence, § 9:208

Contents of document, proof of, § 9:211, 9:212

Demonstrative evidence, § 9:214

Direct proof of documentary evidence, § 9:207

Documentary evidence, § 9:207-9:212

Excuses for nonproduction of original, § 9:212

Procedural devices avoiding proof of authentication of document, § 9:210

Real or demonstrative evidence. § 9:214

AUTHENTICATION—Cont'd	BAILMENTS—Cont'd
Self-authentication of documentary evidence, § 9:209	Dangerous products or chattels, § 2:34
BAIL JUMPING	Defects in bailed property, bailor's
Criminal law, § 7:291	liability for injuries caused by, § 2:34
BAILMENTS	Definition
Generally, § 2:1 et seq.	Generally, § 2:1
Acceptance, § 2:5	Bailee, § 2:2
Accidental casualty, liability for,	Bailment, § 2:1, 2:22
§ 2:33, 2:40	Bailment for hire, § 2:33
Accomplishment of purpose,	Bailor, § 2:2
termination on, § 2:42	Common carrier, § 2:18
Act of God, effect of, § 2:18, 2:20	Consignment, § 2:24
Agreement or contract for bailment, § 2:6, 2:42	Constructive bailment, § 2:4
Anticipatory repudiation of bailment	Gratuitous bailee, § 2:31
contract, § 2:42	Gross negligence, § 2:31 Innkeeper, § 2:20
Articles left in vehicles in parking	Ordinary care and diligence,
lots and garages, § 2:8	§ 2:33
Automobile rental companies, § 2:11	Sale of personal property, § 2:22
Automobile repair shops, § 2:10 Bad faith of bailee, § 2:31	Security consignment, § 2:24
Bailee for hire, § 2:7, 2:33	Warehousemen, § 2:15
Bailment for hire, § 2:33	Delegation of services, § 2:1
Burden of proof as to liabilities	Delivery
between bailor and bailee,	Consignment, § 2:24
§ 2:35	Element of bailment transaction, § 2:4
Care and use of property, generally, § 2:29-2:37	Sale of personal property, § 2:22
Collision damage waiver, § 2:12	Warehousemen, § 2:16
Common carriers, <b>§ 2:18, 2:30</b>	Destruction of property, conse-
Conditional sale arrangement, § 2:23	quences, § 2:16, 2:26, 2:35, 2:36
Consent, § 2:1, 2:5, 2:6 Consignment distinguished, § 2:24	Distinguished from other transactions
Constructive bailment, § 2:1, 2:6	Consignment, § 2:24
Continuation after term expires, § 2:42	Sale of personal property, § 2:22-2:24
Contract of bailment	Security device, § 2:23
Anticipatory repudiation of bail-	Elements
ment contract, § 2:42	Generally, § 2:3
Requirement, § 2:6, 2:42	Acceptance, § 2:5
Conversion of bailed property,	Agreement, § 2:6
§ 2:27, 2:36, 2:42	Delivery, § 2:4
Creditors, § 2:22, 2:26, 2:38	Estoppel of bailee to deny bailor's
Damages	title, § 2:28
Negligence, bailee's liability to bailor, § 2:36	Estoppel of bailor to assert title against bona fide purchaser from
Unauthorized detention, § 2:42	bailee, <b>§ 2:28</b>

#### BAILMENTS—Cont'd BAILMENTS—Cont'd Evidence, burden of proof and of Naked or gratuitous bailee, liability of, § 2:39 going forward, § 2:35 Exculpatory provisions, parking lots Negligent entrustment theory of and garages, § 2:9 liability, § **2:40** Nondelivery of goods Finder of lost property, § 2:6, 2:27, 2:31 By bailee, consequences, § 2:27 Fire, effect of, § 2:20, 2:33 By a carrier, § 2:19 Garages, § 2:7 Ordinary wear and tear, liability for, Good faith, delivery of stored goods, § 2:32 Owner of premises or vehicle where § 2:16 Gratuitous or naked bailee, liability property is left, § 2:6 of, § 2:31, 2:39 Parking lots, § 2:7 Gross negligence of bailee, § 2:31 Possessory right of bailee, § 2:26 Guest's valuables, § 2:20 Principal-agent relationship imposed Hotels. Innkeepers and hotels, below over bailor-bailee relationship, § 2:40 Illegal use of property, bailee's, § 2:42 Reasonable care, § 2:7, 2:10, 2:13, 2:16, 2:30 Implied contract of bailment, § 2:6 Redelivery or return of property, Implied warranty of fitness, § 2:34, § 2:6, 2:25, 2:27, 2:43 Refusal to deliver property to third Innkeepers and hotels, § 2:20, 2:21, person with paramount title, 2:22-2:21 § 2:41 Installment sales, § 2:23 Refusal to return property to bailor, Interpleader cause of action, § 2:28 § 2:27, 2:36 Interstate rail and motor carriers, Relations between bailor and bailee § 2:19 (rights, duties, and liabilities) Jury question, whether bailee Burden of proof, § 2:35 exercised due care, § 2:35 Care of property, generally, § 2:30 Knowledge of delivery, § 2:6 Conversion of property, § 2:27 Liabilities Damages, § 2:36, 2:37 Absolute liability, § 2:19 Defects in bailed property, bailor's Limiting liability for bailment, liability for injuries caused by, § 2:7-2:21 § 2:34 Relations between bailor and Mutual benefit of bailor and bailee, bailee, § 2:29-2:37 § 2:33 Third persons, as to, § 2:38-2:41 Possessory right of bailee, § 2:26 Loaned property, § 2:32 Sole benefit of bailee, § 2:32 Loss of property, consequences, Sole benefit of bailor, § 2:31 § 2:16, 2:21, 2:26, 2:35, 2:36 Misdelivery of goods Standard of care, § 2:29-2:37 By a carrier, § 2:19 Relations between third person and bailor/bailee (rights, duties, and Conversion cause of action, § 2:27 liabilities). Third person, below Stored goods, § 2:16 Renewal of term, § 2:42 Misuse of property by bailee, § 2:27 Rental companies, automobile Mutual benefit of bailor and bailee, Generally, § 2:11 bailment for, § 2:33 Liability of bailee, § 2:14 Mutual termination of bailment. Liability of bailor, § 2:13

§ 2:42

BAILMENTS—Cont'd	BAILMENTS—Cont'd
Rental companies, automobile	Third person (rights, duties, and
—Cont'd	liabilities as to)—Cont'd
Statutory regulation, § 2:12	Bailor's liability, § 2:40
	· · · · · · · · · · · · · · · · · · ·
Repairer of dangerous chattels, duty	Bailor's rights, § 2:26
to warn potential users about danger, § 2:40	Title and right to property, § 2:25, 2:25-2:28
Repair shops, automobile, § 2:10	Title and right to property
Repair shops, damages for	Generally, § 2:25
negligence, § 2:37	Conversion by bailee, § 2:27
Replevin, action for, § 2:27	Estoppel of bailee to deny bailor's
Residential tenant's property, storage and sale, § 2:17	title, § 2:28
· -	Right to possession, bailee's,
Retrieval of property by bailor, § 2:43	§ 2:26
•	Types of bailments
Return of property to bailee, § 2:43	Automobile rental companies,
Sale of personal property	§ 2:11
distinguished, § 2:22-2:24 Security consignment, § 2:24	Automobile repair shops, § 2:10
Security interest in personal property	Common carriers, § 2:18
distinguished, § 2:23, 2:24	Garages, § 2:7
Sentimental value, § 2:26	Hotels, § 2:20, 2:21
Sole benefit of bailee, bailment for,	Innkeepers, § 2:20, 2:21
§ 2:32	Parking lots, § 2:7
Sole benefit of bailor, bailment for,	Warehousemen, § 2:15
§ 2:31	Valuation of damages, § 2:36
Standard of care	Warehousemen
Generally, § 2:21	Generally, § 2:15
Burden of proof, § 2:35	Duty of care, <b>§ 2:16</b>
Damages, valuation of, § 2:36	Duty to deliver, § 2:16
Mutual benefit of bailor and bailee,	Storage and sale of evicted resi-
bailment for, § 2:33	dential tenant's property,
Sole benefit of bailee, bailment for,	§ 2:17
§ 2:32	Warehousers
Sole benefit of bailor, bailment for, § 2:31	Misdelivery, § 2:27
Storage and sale of evicted residential	Warn users of dangerous character of
tenant's property, § 2:17	property, § 2:34, 2:40
Strict liability in tort, § 2:21, 2:34,	Warranty of fitness, implied, § 2:34,
2:40	2:40
Term for the bailment, § 2:42	BANKRUPTCY OR INSOLVENCY
Termination of bailment	Agents or agency matters, § 1:94
Generally, § 2:42	
Effect of, § 2:25, 2:43	BANKS AND BANKING
Theft, liability for, § 2:21, 2:33	Attachment of accounts, § 3:51, 3:54
Third person (rights, duties, and liabilities as to)	Check collection process. Com- mercial Paper, this index
	Security deposits, § 12:70, 12:71
Bailee's liability, § 2:41	
Bailee's rights, § 2:26, 2:38, 2:39	Trustee process, § <b>3:51-3:55</b>

#### **BATTERY**

Family or household member, § 7:164.50

Intentional tort

Generally, § 16:6-16:9 Consent, lack of, § 16:8

Damages recoverable, § 16:9

Elements, § 16:6-16:8

Harmful or offensive contact, § 16:7

Intent, § 16:6

Justification, lack of, § 16:8

Medical malpractice, § 16:127 Medical malpractice, § 16:127

## **BEHAVIOR AND HABITS**

Animals' habits, § 9:51 Relevant evidence, § 9:50, 9:51

# BENEFIT CORPORATIONS

Corporations, § 6:2

# BEST EVIDENCE RULE

Evidence, this index

# BEYOND A REASONABLE DOUBT

Proof by, civil cases, § 9:19
Proof by, criminal cases, § 9:20
Presumption of innocence, § 9:27

# **BIAS OR PREJUDICE**

Impeachment of witnesses, § 9:141, 9:142

# **BONDS**

Appeals, § 4:17, 4:61, 4:62

Attachment procedure, prejudgment, § 3:43, 3:48, 3:50, 3:51

Medical malpractice appeals, § 4:17 Medical malpractice tribunals, § 16:138

Personal representatives, bond requirements, § 18:42, 18:43

Preliminary injunction requirement, § 10:24

Removal of case from District Court, § 3:10

Service of process, § 3:32
Substitution of parties, § 3:70
Taxed as costs at case conclusion, § 3:51

BONDS—Cont'd

Trustee process, § 3:51, 3:55

# **BOOKMAKING**

Criminal law, § 7:277

#### **BUILDINGS**

Lead paint, rented premises, § 12:96-12:106

## **BULKY ITEMS**

Attachment of, § 3:48

# **BURDEN OF PRODUCTION**

Distinguished from burden of persuasion, § 9:16

## BURDEN OF PROOF

Bailments, burden of proof and of going forward, § 2:35

Civil Practice, this index

Contracts, this index

Criminal cases, beyond reasonable doubt, § 9:20

Legal malpractice, § 16:160 Negligence, § 16:75

# BURGLARY

Criminal law, § 7:226-7:228

# BUSINESS AND COMMERCE

Customs and practices, judicial notice, § 9:8

Judicial notice, business customs and practices, § 9:8

# BUSINESS CORPORATIONS

Generally, § 6:1-6:248

For detailed treatment see **Corporations**, this index

# **BUSINESS TRUST**

Generally, § 1:11

Partnership distinguished, § 13:8

# **BYSTANDERS**

Emotional distress, § 16:57

# CARE AND PROTECTION PROCEEDINGS

Juvenile Law, this index

#### **CAUSATION**

Medical malpractice, proximate causation of physical injury, § 16:123

Negligence, this index

# CERTIFICATES AND CERTIFICATION

Alternative dispute resolution certification, § 3:29

Appeal and review

Questions of law, certifying to Supreme Court, § 4:60

Transcript, certification of, § 4:69

Class actions, § 3:64

Limited liability companies' certificate of organization. **Corporations**, this index

Marriage, certificate of intention, § 8:4

Pleadings, signing of, § 3:74

Questions of law, certifying for
Supreme Court determination,
§ 4:60

Title, certification by mortgagee's attorney, § 14:152, 16:170

# CHALKS

Evidence, § 9:217

# CHARACTER EVIDENCE

Generally, § 9:32 et seq.

Ability and opportunity to commit crime, § 9:40

Accident or mistake, absence of, § 9:42

Acts, other acts, § 9:33 et seq. Admissibility to prove conduct,

§ 9:33 et seq.

Alias or nickname for criminal defendant, § 9:33

Background, § 9:39

Crimes, other crimes, § 9:33 et seq.

Good character of criminal defendant, § 9:43

Homicide/assault cases, victim, § 9:45

Impeachment of witness, § 9:47, 9:143-9:147

Intent, § 9:37

#### CHARACTER EVIDENCE—Cont'd

Judicial discretion, § 9:147

Knowledge, § 9:38

Material issue in civil case, § 9:44

Motive, § 9:36

Other crimes, wrongs or acts, § 9:33 et seq.

Pattern of conduct, identity shown by, § 9:41

Rape/sexual assault cases, victim, § 9:46

Relationship of parties, § 9:39

Reputation, § 9:43

Victim, § 9:45, 9:46

Wrongs, other wrongs, § 9:33 et seq.

## **CHARITABLE IMMUNITIES**

Medical malpractice, § 16:151 Negligence, § 16:93-16:95

#### CHARITABLE TRUSTS

Trusts and Trustees, this index

## **CHARTS**

Evidence, § 9:215

#### **CHATTELS**

**Conversion**, this index

Destruction of property, criminal law, § 7:243

Trespass to chattels, § 16:23

## **CHECKS**

Commercial Paper, this index Larceny by, § 7:236

## CHILD ABUSE

Care and protection proceedings. **Juvenile Law**, this index

## CHILD CUSTODY

Generally, § 8:240-8:285

For detailed treatment see **Domestic Relations**, this index

## CHILDREN AND MINORS

Abuse. **Juvenile Law**, this index

Agency relationship, capacity of minor, § 1:17, 1:18, 1:92

Care and protection proceedings. **Juvenile Law**, this index

# CHILDREN AND MINORS—Cont'd

Child custody

Generally, § 8:240-8:285

For detailed treatment see Domes**tic Relations**. this index

Children requiring assistance, § 11:35 et seq.

Child support

Generally, § 8:200-8:239

For detailed treatment see Domestic Relations, this index

Civil practice, minors as parties, § 3:57, 3:70

Contracts, capacity to contract, § 5:42, 5:43

Juvenile Law, this index

Loss of consortium, § 16:69

Owners or occupiers of land, duty to child trespassers, § 16:38

Prostitution or human trafficking, enticing child to engage in, § 7:196

Wills, omitted children, § 18:19

# CIRCUMSTANTIAL EVIDENCE

Authentication by, § 9:208

# CIVIL PRACTICE

Generally, § 3:1 et seq.

Absence of material witness or evidence, continuance grounds, § 3:153

Abuse, domestic abuse cases jurisdiction, § 3:7, 3:8

Abusive discovery methods, § 3:88, 3:89

Additur, § 3:155, 3:192

Admission of evidence, de bene, § 3:176

Admissions, discovery, § 3:111

Affirmative defenses, § 3:76

Allowable pleadings, § 3:72

Alter or amend judgment, motion, § 3:193

Amendment as to defendant, § 3:40

Amendment as to defendant, service of process, § 3:40

Amendment of admission given during discovery, § 3:111

#### CIVIL PRACTICE—Cont'd

Amendment of discovery response, generally, § 3:91

Amendment of findings of fact, § 3:183

Amendment of judgment, motion, § 3:193

Amendment of pleadings, motion, § 3:118

Answer

Interrogatories answers, § 3:105, 3:106

Pleadings, § 3:75, 3:76, 3:120

Witness's trial answer, motion to strike, § 3:174, 4:34

Anti-SLAPP statute, motion to dismiss complaint, § 3:124

**Appeal and Review**, this index

Appeal of discovery orders, § 3:92 Appeal pending, depositions when, § 3:101

Appear for trial, failure to, § 3:154 Application of civil procedure rules, § 3:2, 3:151

Appointment of discovery special master, § 3:98

Appointment of master, objections to, § 4:31

Assignment for trial, generally, § 3:152

Attachment

Generally, § 3:42 et seq.

Bank accounts, § 3:51, 3:54

Books, § 3:46

Bulky items, § 3:48

Clothes, § 3:46

Constitutional considerations. § 3:43

Definitions, § 3:42, 3:44

Disabled person's home, § 3:46

Dissolution of attachment, § 3:49, 3:50, 3:54

Due process considerations, § 3:43

Elderly person's home, § 3:46

Exempt property, § 3:46, 3:54

Ex parte, § 3:45

Ex parte hearing or order, § 3:53

Government benefits, § 3:54

Homestead, § 3:46

#### CIVIL PRACTICE—Cont'd CIVIL PRACTICE—Cont'd Attachment—Cont'd Bank accounts, attachment of, § 3:51, 3:54 Household furnishings, § 3:46 Jurisdiction, quasi in rem, § 3:15 Bonds Keeper appointed as custodian of Appeals, § 4:17, 4:61, 4:62 property, § **3:48** Attachment procedure, prejudgment, § 3:43, 3:48, 3:50, 3:51 Mesne process, § 3:42 Mobile home, § 3:46 Medical malpractice appeals, § 4:17 Money, § 3:46, 3:51-3:55 Preliminary injunction require-Mortgage or lien, personal propment, § 10:24 erty subject to, § 3:47 Removal of case from District Motor vehicles, § 3:46, 3:47 Court, § 3:10 Newspaper publishing, personal Service of process, § 3:32 property used in, § 3:47 Substitution of parties, § 3:70 Pension benefit funds, § 3:54 Procedure for attaching funds by Taxed as costs at case conclusion, trustee process, § 3:51-3:55 § 3:51 Procedure for attaching personal Trustee process, § 3:51, 3:55 property, § 3:44, 3:48, 3:50 Books, attachment of, § 3:46 Procedure for attaching real prop-**Boston Municipal Court** erty, § 3:44, 3:49, 3:50 Appeal of cases dismissed, § 3:10 Purpose, § 3:44 Appeals, § 4:4, 4:8, 4:53 Railroad cars, § 3:47 Application of civil procedure Rent, § 3:46 rules, § 3:2, 3:151 Restrictions as to certain property, Case management time standards, § 3:47 § 3:150 Sale of attached property, § 3:48 Civil actions for money damages, Ship or vessel, § 3:47 § 3:7, 3:10 Steamboats, § 3:47 Concurrent appellate jurisdiction in Stock, § 3:46 Appeals Court, § 3:5 Summary prejudgment remedies, Continuance of cases, § 3:153 generally, § 3:43 Cover sheet filed with complaint, Time, dissolution of attachment, § 3:29 § 3:49, 3:50 Divisions, § 3:7 Trustee process, below Electronic recording of court Wages, § 3:51-3:55 proceedings, § 4:29 Attorney Equity jurisdiction, § 3:8 Disqualification, motion for, Filing statement of damages when § 3:165, 3:166 commencing action, § 3:30 Engaged in trial in another court as Motions, procedure, § 3:116 basis for continuance, § 3:153 One form of action rule, § 3:27 Sanctions for failure to appear for One-trial system, § 3:10 trial, § 3:154 Remand-removal system, § 3:10 Work product, discovery of, § 3:84 Small claims, § 3:9 Attorney General Intervention by Attorney General, Stays pending appeal, § 4:61 § 3:68 Subject matter jurisdiction, § 3:7 Service of process on, § 3:35 Time standards, trial procedure Audio-visual depositions, § 3:99 case management, § 3:150

#### CIVIL PRACTICE—Cont'd CIVIL PRACTICE—Cont'd Boston Municipal Court—Cont'd Certification—Cont'd Pleadings, signing of, § 3:74 Trustee process actions, venue, § 3:24 Change of venue, § 3:25 Venue, § 3:23, 3:24 City, service of process on, § 3:36 Bulky items, attachment of, § 3:48 Claim for relief, pleading, § 3:73, Burden of proof 3:74 Generally, § 9:16 Class actions Affirmative defenses, § 3:76 Burden of proof, § 3:63 Certification, § 3:64 Bailments, burden of proof and of going forward, § 2:35 Compromise, § 3:65 Beyond reasonable doubt, civil Dismissal, § 3:65 cases, § 9:19 Notice, § 3:64 Class actions, § 3:63 Prerequisites. § 3:63 Clear and convincing evidence, Clerical mistakes as to judgment, § 9:18 § 3:196 Intervention as of right, § 3:66 Closing argument, § 3:179 Preponderance of evidence, § 9:17 Clothes, attachment of, § 3:46 Relief from judgment, § 3:194 Collection of consumer debt, venue, Special motion to dismiss. § 3:124 § 3:24 Summary judgment, § 3:142 Commencement of action Capacity, pleading lack of, § 3:77 Generally, § 3:27 Capacity to sue distinguished from Alternative dispute resolution cerreal party in interest, § 3:57 tification, § 3:29 Case management, trial procedure Capacity to sue distinguished from Assignment for trial, § 3:152 real party in interest, § 3:57 Attorney's failure to appear for Complaint, filing, § 3:28-3:30 trial, sanctions, § 3:154 Corporate disclosure statement, Conflict between civil procedural filing, § 3:30 rules and time standards, Cover sheet to complaint, contents, § 3:151 § 3:29 Continuances, § 3:153 Filing complaint, § 3:28-3:30 District Court and Boston Munici-Filing corporate disclosure statepal Court, § 3:150 ment, § 3:30 Housing Court, § 3:150 Filing cover sheet, § 3:29 Juvenile Court, § 3:150 Issuance of summons, § 3:31 Land Court, § 3:150 One form of action, § 3:27 Nonappearance by attorney, sanc-Service of process tions, § 3:154 Amendment as to defendant, Probate and Family Court, § 3:150 § 3:40 Sanctions against attorney who Attorney General, on, § 3:35 fails to appear for trial, § 3:154 City, on, § 3:36 Superior Court, § 3:151, 3:152 Commonwealth, on, § 3:35 Time standards, § 3:150-3:154 On Commonwealth, § 3:35 Certification County, on, § 3:36 Alternative dispute resolution cer-On county, city, town, or other tification, § 3:29 political subdivision, Class actions. § 3:64 § 3:36

#### CIVIL PRACTICE—Cont'd CIVIL PRACTICE—Cont'd Commencement of action—Cont'd Conservator as real party in interest, Service of process—Cont'd § 3:57 Defensive motions, § 3:120 Consolidation of actions, § 3:26, 3:167 Domestic corporation, on, Constitutional issues § 3:34 On domestic corporation, § 3:34 Attachment, § 3:43 Intervention by Attorney General, Foreign corporation, on, § 3:38 § 3:68 On foreign corporation, § 3:38 Long-arm statute, service on Jurisdiction by minimum contacts, due process concerns, § 3:18, non-resident under, § 3:39 3:19 Methods, § 3:32-3:40 Right to jury trial, § 3:155 Non-domiciliaries, service under Consumer debt collection, venue, long-arm statute on, § 3:39 § 3:24 On non-domiciliaries, § 3:39 Consumer debts, special require-Out-of-state service, § 3:32, ments for defaults and default 3:33, 3:39 judgments, § 3:135.50 On person in state, § 3:33 Continuance, § 3:153 Person in state, § 3:33 Contract actions, venue, § 3:21 On political subdivision of Copying, discovery by, § 3:108 Commonwealth (authority, Corporate disclosure statement, filboard, committee, or simiing, § 3:30 lar entity), § 3:37 Probate and Family Court, Corporations Corporate disclosure statement, § 3:32, 3:33 filing with complaint, § 3:30 Return of service, § 3:41 Foreign corporations, § 3:16, 3:38 Secretary of State, on, § 3:38 Personal jurisdiction, § 3:16-3:18 Time limit, § 3:31, 3:40 Service of process on corporation, Town, on, § 3:36 § 3:34, 3:38 By whom, § 3:32 Counterclaims Small claims, § 3:9 Generally, § 3:72, 3:78 Summons, issuance of, § 3:31 Cross-claim distinguished, § 3:79 Commonwealth Dismissal of complaint, effect on Action by, venue, § 3:24 counterclaim, § 3:127 Service of process on, § 3:35, 3:37 District Court and Boston Munici-Compelling discovery, motion, pal Court, § 3:10 § 3:112 County, service of process on, § 3:36 Compensation claims of victims of Court costs, recovery of in small violent crimes, § 3:7 claims cases, § 3:9 Complaint Cover sheet to complaint, contents, Contents, § 3:74 § 3:29 Dismissal of complaint, below Cross-claim Filing of complaint, § 3:28-3:30 Generally, § 3:72 Compromise, class actions, § 3:65 Distinguished from counterclaim, Compulsory counterclaim, § 3:78 § 3:79 Conditions precedent averments, Custodian of attached property, pleading, § 3:77 keeper appointed as, § 3:48 Consent to jurisdiction, § 3:16 Death of parties, § 3:70, 4:77

CIVIL PRACTICE—Cont'd	CIVIL PRACTICE—Cont'd
De bene, admission of evidence,	Definition—Cont'd
§ 3:176	Foreign corporation, § 3:38
Debt collector, action by, venue, § 3:24	Forum non conveniens doctrine, § 3:25
Declaratory judgments	General verdict, § 3:162
Equitable remedies, § 10:55,	Indispensable parties, § 3:58
10:56, 10:57	Interpleader, § 3:62
Jurisdiction, subject matter, § 3:8	Intervention as of right, § 3:66
Summary judgment, § 3:145	Judgment, § <b>3:185</b>
Defamation cases, summary judg-	Jurisdiction, § 3:3
ment, § 3:145 Default	Mesne process, § 3:42
Entry of, § 3:132	Necessary party, § 3:58
Setting aside, § 3:136	Notice pleading, § 3:71
Default judgment	Offer of proof, § 3:175
Generally, § 3:133	Opening statement, § 3:170
Amount of damages, § 3:134,	Original process, § 3:42
3:135	Permissive counterclaim, § 3:78
Consumer debts, special require-	Permissive intervention, § 3:67
ments, § 3:135.50	Personal jurisdiction, § 3:15
Damages issues, § 3:134, 3:135	In personam jurisdiction, § 3:15
Effect, § 3:135	Process, § 3:32
Entry by clerk, § 3:133	Proper party, § 3:59
Entry by court, § 3:134	Quasi in rem jurisdiction, § 3:15
Hearing requirement, § 3:134	Real party in interest, § 3:56
Setting aside, § 3:136	Remittitur, § 3:192
Defensive motions, service of process	In rem jurisdiction, § 3:15
of, § 3:120	Return of service of process,
Defensive motions, venue, § 3:120	§ <b>3:41</b>
Definition	Service of process, § 3:32
Additur, § 3:192	Special verdict, § 3:162
Affirmative defense, § 3:76	Subject matter jurisdiction, § 3:3
Answer, § 3:75	Summary judgment, § 3:137
Attachment, § 3:42, 3:44 Class action, § 3:63	Venue, § 3:20
The state of the s	Demand for jury trial, § 3:156
Closing argument, § 3:179	Depositions. Discovery, below
Compulsory counterclaim, § 3:78 Counterclaim, § 3:78	Detailed findings of fact, waiver of, § 3:183.50
Cross-claim, § 3:79	Deterring citizens from exercising
De bene, admission of evidence, § 3:176	rights, special motion to dismiss complaint, § 3:124
Deposition, § 3:93	Directed verdict
Discovery, § 3:81	Appeal prerequisite, § 4:35
Dismissal of complaint, § 3:125	Judgment notwithstanding the
Entry of default, § 3:132	verdict prerequisite, § 3:188
Entry of default judgment, § 3:133	Motion for, § 3:177, 3:178
Final process, § 3:42	Opening statement, after, § 3:171

CIVIL PRACTICE—Cont'd	CIVIL PRACTICE—Cont'd
Disabled person's home, attachment	Discovery—Cont'd
of, <b>§ 3:46</b>	Depositions—Cont'd
Discovery	Oral examination, generally,
Generally, § 3:81 et seq.	§ 3:95-3:99
Abusive methods, § <b>3:88</b> , <b>3:89</b>	Out of country, § 3:93
Before action filed	Place for taking, § 3:96
Depositions to preserve	Preserve testimony before
testimony, § 3:94	action, § 3:94
Interrogatories, § 3:94	Production of documents at,
Admissions, effect, § 3:111	§ <b>3:97</b> Signature, § <b>3:94, 3:98</b>
Admissions by written request,	
§ 3:111	Subpoena, § 3:96, 3:97 Time for taking
After trial depositions, § 3:101	Generally, § 3:94
Amendment of admission, § 3:111	•
Amendment of response, generally, § 3:91	After trial and pending appeal, § 3:101
Answers to interrogatories, § 3:105, 3:106	Audio-visual deposition, § <b>3:99</b>
Appeal of orders, § 3:92	Notice of deposition and
Appeal pending when deposition	subpoena, § 3:96
occurs, § 3:101	Written questions, deposition
Appointment of discovery special	upon, § 3:100
master, § 3:98	Use in court, § 3:99, 3:102
Attorney work product, § 3:84	Videotaped, § 3:99
Audio-visual depositions, § 3:99	By whom taken, § 3:93
Compelling discovery, motion, § 3:112, 3:113	Who takes the deposition, § 3:93
Conduct of the deposition, § 3:98	Written questions, § 3:94, 3:98,
Corporations, depositions, § 3:96	3:100
Defined, § 3:81	Electronically stored information, § 3:87
Depositions	9 5:67 Depositions, § 3:97
Generally, § 3:93-3:102	Entry upon land, § 3:108
Before action, § 3:94	Expenses
After trial, § 3:101	Compelling discovery, § 3:112
Appeal pending, § 3:101	Deposition taken before action,
Audio-visual, § 3:99	§ 3:94
Conduct of the deposition,	Producing documents and
§ 3:98	things, § 3:108
Corporations, § 3:96	Sanctions for abusive discovery
Defined, § 3:93	methods, § 3:89
Electronically stored informa-	Experts
tion, § <b>3:97</b>	Audio-visual deposition of,
Evidence, taking, § 3:98	§ 3:99
Foreign country, § 3:93	Identity and opinion, discovery
Letter rogatory, § 3:93	of, § <b>3:86</b>
Notice, § 3:95-3:97, 3:99	Failure to make discovery, sanc-
Objections, § 3:98	tions. Sanctions for failure to

#### CIVIL PRACTICE—Cont'd CIVIL PRACTICE—Cont'd Discovery—Cont'd Discovery—Cont'd Notice, depositions, § 3:95-3:97, make discovery, below 3:99 Failure to timely file answers to interrogatories, sanctions for, Number of interrogatories, § 3:104 § 3:106 Objections Fast track case assignment, effect Depositions, § 3:98 of, § 3:150 Interrogatories, § 3:105 Foreign country depositions, Opinion of experts, discovery of, § 3:93 § 3:86 Identity and opinion of experts, Out of country depositions, § 3:93 discovery of, § 3:86 Physical and mental examination Inacessible electronically stored Generally, § 3:109 information, § 3:87 Expert, audio-visual deposition Inspection and copying, § 3:108 of, § 3:99 Insurance agreements, § 3:83 Expert, discovery of, § 3:86 Insurance statement by injured Place for taking depositions, party or witness, § 3:84 § 3:96 Interlocutory nature of, § 3:92 Preserve testimony before action Interrogatories by depositions, § 3:94 Generally, § 3:103 Privileged matters and communications, § 3:82, 3:85 Before action filed, § 3:94 Privilege log, § 3:85 Answers, § 3:105, 3:106 Producing documents and things, Number, § 3:104 expenses of, § **3:108** Objections, § 3:105 Production of documents and Sanctions for failing to timely things, § 3:108 file answers, § 3:106 Production of documents at depo-Time for filing answers, § 3:105, sitions, § 3:97 3:106 Protective orders Use at trial, § 3:107 Generally, § 3:88 Letter rogatory, § 3:93 Award of expenses, § 3:89 Mental examination. Physical and Request for admissions mental examination, below Generally, § 3:110 Metadata, § 3:87 Effect of admission, § 3:111 Methods Request for physical and mental Generally, § 3:81 examination and report, Depositions, § 3:93-3:102 § 3:109 Entry upon land, § 3:108 Request for production of docu-Interrogatories, § 3:103-3:107 ments and tangible things or Modification of method, § 3:81 entry upon land, § 3:108 Requests for admission Physical and mental examination of persons, § 3:109 Effect of admission, § 3:111 Production of documents and Review of orders, § 3:92 things, § 3:108 Sampling and testing, § 3:108 Requests for admission, § 3:111 Sanctions against attorney for fail-Sanctions for failure to make ure to appear for trial, § 3:154 discovery, § 3:112, 3:113 Sanctions for abusive discovery Modification of method, § 3:81 methods, § 3:89

CIVIL PRACTICE—Cont'd	CIVIL PRACTICE—Cont'd
Discovery—Cont'd	Discovery—Cont'd
Sanctions for failing to timely file	Trade secrets, § 3:88
answers to interrogatories,	Trial preparation materials, § 3:84
§ 3:106	Use in court
Sanctions for failure to make	Depositions, § 3:99, 3:102
discovery	Interrogatories, § 3:107
Compelling discovery, § 3:112,	Videotaped depositions, § 3:99
3:113	Withdrawal of admission, § 3:111
Failure to comply with court	Work-product doctrine, § 3:84
order, § 3:113	Written questions by depositions,
Interrogatories answers, failure	§ 3:94, 3:98, 3:100
to file timely, § 3:106	Dismissal of complaint
Motion to compel discovery, § 3:112	Generally, § 3:125-3:131
Physical and mental examina-	Anti-SLAPP statute, motion under,
tions, § 3:109	§ 3:124
Refusal to provide discovery,	Class actions, § 3:65
§ 3:113	By court, § 3:127, 3:129
Scope	By defendant, § 3:130, 3:131
Generally, § 3:82	Defined, § 3:125
Electronically stored informa-	Deterring citizens from exercising
tion, § 3:87	rights, special motion to
Experts, § <b>3:86</b>	dismiss, § 3:124
Inacessible electronically stored	Expenses, § 3:125, 3:127
information, § 3:87	Failure to prosecute, § 3:129,
Insurance agreements, § 3:83	3:154
Metadata, § <b>3:87</b>	Failure to provide discovery,
Privilege log, § 3:85	§ 3:113
Trial preparation materials, § 3:84	Failure to serve timely summons, § 3:31
Sequence, § 3:90	Failure to state a claim, motion
Signature on depositions, § 3:94,	grounds, <b>§ 3:120</b>
3:98	Involuntary
Subpoena as to depositions, § 3:96,	By court, § 3:129
3:97	Effect of, § 3:131
Supplementation, § 3:91	By motion of defendant,
Testing and sampling, § 3:108	§ 3:130, 3:131
Timing	Lack of prosecution grounds,
Admissions request responses,	§ 3:129, 3:15 <b>4</b>
§ 3:109	Motion
Depositions, above	Anti-SLAPP statute, under,
Fast track case assignment,	§ 3:124
effect of, § 3:150	Burden of proof, § 3:124
Interrogatories responses,	Court's motion, § 3:127, 3:129
§ 3:105, 3:106	Defendant's motion, § <b>3:130</b> , <b>3:131</b>
Production of documents and	
things request, response to, § 3:108	Involuntary dismissal by motion of defendant, § 3:130
8 2.100	or detendant, § 3.130

CIVIL PRACTICE—Cont'd	CIVIL PRACTICE—Cont'd
Dismissal of complaint—Cont'd	District Court—Cont'd
Motion—Cont'd	Time standards, trial procedure
Plaintiff's motion, § 3:125-	case management, § 3:150
3:128	Transfer and retransfer of cases,
Special motion to dismiss, deter-	§ 3:10
ring citizens from exercis-	Venue, transitory action, § 3:23
ing rights, § 3:124	Domestic abuse cases jurisdiction,
By motion. Motion, below	§ 3:7, 3:8
By plaintiff, § 3:125-3:128	Domestic corporation, service of pro-
By stipulation, § 3:126	cess on, § 3:34
Stipulation to dismiss, § 3:126	Domicile
Two-dismissal rule, § 3:128	Jurisdiction, personal, § 3:17
Voluntary	Service on non-domiciliaries under
By court, § 3:127	long-arm statute, § 3:39
Effect of dismissal by plaintiff	Due process
or parties, <b>§ 3:128</b>	Attachment, § 3:43
By motion, § 3:127	Jurisdiction, minimum contacts
By plaintiff, § 3:125	grounds, § 3:18, 3:19
By stipulation, § 3:126	Elderly persons
Dissolution of attachment, § 3:49,	Attachment of home, § 3:46
3:50, 3:54	Speedy trial, § 3:152
District Court	÷ •
Generally, § 3:7	Election laws actions, speedy trial, § 3:152
Appeal, § 3:5, 3:10	
Application of civil procedure	Electronically stored information
rules, § 3:2, 3:151	Depositions, § 3:97
Case management time standards,	Electronic recording of court
§ 3:150	proceedings, § 4:29
Concurrent appellate jurisdiction in	Entry of default judgment, § 3:133-3:135
Appeals Court, § 3:5	
Consolidation of trials, § 3:167	Entry of judgment, § 3:185-3:187, 4:6, 4:41
Continuances, § 3:153	
Cover sheet filed with complaint,	Equity jurisdiction. Jurisdiction, subject matter, below
§ 3:29	Evidence
Creating record for appeal, § 4:29	
Equity jurisdiction, § 3:7, 3:8,	Burden of proof, above
10:9	Conditionally admitted, § 3:176
Jury trial, § <b>3:156</b>	De bene, admission of evidence,
Motion practice, § 3:116	§ 3:176
One-trial system for civil cases,	Findings of fact, § 3:182-3:184
§ 3:10	Judgment notwithstanding the
Removal of case, § 3:10, 3:156	verdict, § 3:188
Reporting case to appeals court,	In limine motions, § 3:163
§ 4:53	New trial grounds, § 3:190
Requests for rulings of law,	Objections, § 3:174
§ 3:182	Offer of proof, § 3:175, 4:33
Retransfer, § 3:10	Order of presentation of evidence,
Small claims, § 3:9	§ 3: <del>1</del> 76

#### CIVIL PRACTICE—Cont'd CIVIL PRACTICE—Cont'd Evidence—Cont'd Filing complaint, § **3:28-3:30** Preliminary questions of fact, Filing corporate disclosure statement, determination of, § 3:173 § 3:30 Presentation, generally, § 3:172 Filing cover sheet, § 3:29 Relief from judgment, § 3:194 Final process, § 3:42 Sufficiency of evidence at trial, Findings of fact, § 3:182-3:184 § 4:35 Firearms, jurisdiction for appeals of View of premises, § 3:164 denial to carry, § 3:7 Voir dire hearing, § 3:173 Foreign corporation Executor or administrator, action by Jurisdiction, personal, § 3:16 or against Service of process on, § 3:38 Real party in interest, § 3:56 Forfeiture actions, venue, § 3:24 Venue, § 3:24 Forum non conveniens doctrine. Executor or administrator, action by venue, § 3:25 or against, venue, § 3:24 Fraud averments, pleading, § 3:77 Exempt property, attachment proce-Government benefits, attachment of, dure, § 3:46, 3:54 § 3:54 Ex parte attachment, § 3:45 Guardian as real party in interest, Ex parte hearing or order § 3:57 Attachment, § 3:53 Hearing Expenses Default judgment, § 3:134 Attorney who fails to appear for Evidence, voir dire hearing, trial, § 3:154 § 3:173 Discovery, above Motion practice, § 3:114-3:119 Dismissal of complaint, voluntary, Homestead, attachment of, § 3:46 § 3:125, 3:127 Household furnishings, attachment Fact, questions of of, § 3:46 Findings of fact, § 3:182-3:184 **Housing Court** Voir dire for preliminary questions Generally, § 3:12 of fact, § 3:173 Appeals, § 3:5, 3:9 Failure of attorney to appear for trial, Application of civil procedural sanctions, § 3:154 rules, § 3:2, 3:151 Failure to appear for trial, § 3:154 Case management time standards, Failure to make discovery. Discovery, § 3:150 above Creating record for appeal, § 4:29 Failure to prosecute as grounds for Electronic recording of proceeddismissal of complaint, § 3:129, ings, § 4:29 Equitable remedies, § 3:12, 10:8 Failure to provide discovery as Equity jurisdiction, § 3:12, 10:8 grounds for dismissal of com-Interlocutory appeals from injuncplaint, § 3:113 tive orders, § 4:15 Failure to serve timely summons as Interlocutory review, discretionary, grounds for dismissal of com-§ 4:18 plaint, § 3:31 Jurisdiction, subject matter, § 3:12, Failure to state a claim, dismissal 10:8 motion grounds, § 3:120 One form of action, § 3:27 Failure to timely file answers to interrogatories, sanctions for, § 3:106 Reporting case to appeals, § 4:52

#### CIVIL PRACTICE—Cont'd CIVIL PRACTICE—Cont'd Housing Court—Cont'd Joinder of parties. Parties, below Sanitary code violations actions Judgment jurisdiction, § 3:7, 3:8 Generally, § 3:185 Small claims, § 3:9 Alter or amend judgment, motion Stays pending appeal, § 4:61 to, § 3:193 Summary process actions jurisdic-Averments, pleadings, § 3:77 tion, § 3:7 Clerical mistakes, § 3:196 Time standards, trial procedure Declaratory judgment, § 3:8, 3:145 case management, § 3:150 Default judgment, § 3:133-3:136 Zoning appeals jurisdiction, § 3:7, Defined. § 3:185 3:24 Effect of entry of judgment, Identity and opinion of experts, § 3:187 discovery of, § 3:86 Entry of default judgment, Illness of party, continuance grounds, § 3:133-3:135 § 3:153 Entry of judgment, § 3:185-3:187, Impleader, § 3:72, 3:80 4:6, 4:41 Incompetents as parties, § 3:57, 3:70 Independent action to vacate judg-Independent action to vacate judgment, § 3:195 ment, § 3:195 New trial, motion for, § 3:190-Injunctions 3:192, 4:41 Bonds, preliminary injunction Notice of appeal from, filing, requirement, § 10:24 § 3:187 Interlocutory appeals from injunc-Notwithstanding the verdict, tive orders in Housing or motion for JNOV, § 3:188, Land Courts, § 4:15, 4:18 3:189, 4:41 Inspection and copying, discovery by, Nunc pro tunc, § 3:185 § 3:108 Post-trial motions In-state person, service of process on, Judgment notwithstanding the § 3:33 verdict, motion for, Instructions to jury, § 3:180, 3:181, § 3:188, 3:189 4:38 New trial, motion for, § 3:190-Insurance agreements and informa-3:192 tion, discovery of, § 3:83, 3:84 Relief from judgment, motion Interlocutory orders from, § 3:194-3:196, 4:41 Discovery, § 3:92 Relief from judgment, motion for, Housing and Land Courts' injunc-§ 3:194-3:196, 4:41 tive orders, § 4:15, 4:18 Rescript of appellate court, § 4:97 Probate and Family Court orders, Separate document required for § 4:9, 4:18, 4:49 entry of, § 4:6 Summary judgment denial, § 3:148 Setting aside judgment. Post-trial Interpleader, § 3:62 motions, above Interrogatories. Discovery, above Stays pending appeal, § 4:61-4:67 Intervention. Parties, below Summary, Summary judgment, Involuntary dismissal of complaint, below § 3:129-3:131 Judgment notwithstanding the Issuance of summons, § 3:31 verdict, motion for, § 3:188, 3:189, 4:41 Joinder of claims and remedies. § 3:61, 3:167, 3:168 Jurisdiction, attachment, § 3:15

CIVIL PRACTICE—Cont'd	CIVIL PRACTICE—Cont'd
Jurisdiction, defensive motions as to,	Jurisdiction, subject matter—Cont'd
§ 3:120	District Court and Boston Munici-
Jurisdiction, defined, § 3:3	pal Court—Cont'd
Jurisdiction, personal	Lead paint poison prevention claims, § 3:8
Generally, § 3:15	Medical malpractice claims,
Consent, based on, § 3:16	§ 3:9
Corporations, § 3:16-3:18	One-trial system for civil cases,
Defined, § 3:15	§ 3:7, 3:10
Domicile, based on, § 3:17	Paternity and support claims,
Due process as to minimum	§ 3:7, 3:11
contacts grounds, § 3:18, 3:19	Remand-removal system, § 3:10
Foreign corporations, § 3:16	Rent-related claims, § 3:7, 3:8
Implied consent, § 3:16	Retransfer, § 3:10
Long-arm statute, § 3:18, 3:19, 3:39	Sanitary code violations actions, § 3:7, 3:8
Minimum contacts grounds,	Small claims, § 3:8, 3:9
§ 3:18, 3:19	Summary process actions, § 3:7,
Presence, based on, § 3:17	3:8, 3:10
Quasi in rem jurisdiction, § 3:15	Temporary custody and support of minor child claims, § 3:7
In rem jurisdiction, § 3:15 Residence, based on, § 3:17	Transfer and retransfer, § 3:10,
	3:139
Secretary of State, § 3:16	Unemployment case decisions
Jurisdiction, subject matter	issued by Division of
Generally, § 3:3	Employment Security,
Appeals Court, § 3:5	appeal of, § <b>3:7</b>
Appeals of denial to carry firearms, § 3:7	Victims of violent crimes,
Counterclaims, § 3:10	compensation claims, § 3:7
Declaratory judgments, § 3:8	Zoning appeals, § 3:7, 3:24
Defined, § 3:3	Domestic abuse claims, § 3:7, 3:8
District Court and Boston Munici-	Equity jurisdiction
pal Court	District Court, § 10:9
Generally, § 3:7 et seq.	District Court and Boston Municipal Court, § 3:7, 3:8
Action for money damages,	Housing Court, § 3:12, 10:8
limits on damages, § 3:7,	Juvenile Court, § 10:10
3:10	Probate and Family Court,
Appeal, § 3:10	§ 3:11, 10:6
Counterclaims, § 3:10	Small claims cases, § 3:8
Declaratory judgments, § 3:8	Firearms, appeals of denial to
Domestic abuse claims, § 3:7,	carry, § 3:7
3:8	Housing Court, § 3:12, 10:8
Equity jurisdiction, § 3:7, 3:8,	Jury trials, § 3:10
10:9	Juvenile Court, § <b>3:14, 10:10</b>
Firearms, appeals of denial to	Land Court, § 3:13, 10:7
carry, § 3:7	Lead paint poison prevention
Jury trials, § 3:10	claims, § 3:8

### CIVIL PRACTICE—Cont'd CIVIL PRACTICE—Cont'd Jurisdiction, subject matter—Cont'd Jurisdiction, subject matter—Cont'd Mediation, small claims, § 3:9 Transfer of case to another court Medical malpractice claims, § 3:9 —Cont'd Supreme Judicial Court, § 3:4, One-trial system for civil cases, 3:6 § 3:7, 3:10 Venue, generally, § 3:20, 3:22, Paternity and support claims, 3:24, 3:25 § 3:7, 3:11 Unemployment case decisions Probate and Family Court, § 3:11, issued by Division of 10:6 Employment Security, appeal Remand-removal system, § 3:10 of, § 3:7 Rent-related claims, § 3:7, 3:8 Victims of violent crimes, Sanitary code violations actions, compensation claims, § 3:7 § 3:7, 3:8 Zoning appeals, § 3:7, 3:24 Small claims, § 3:8, 3:9 Jurisdiction quasi in rem for attach-Superior Court ment proceedings, § 3:15 Cover sheet to complaint, Jurors. Jury trial, below contents, § 3:29 Jury trial Declaratory judgments, § 3:8 Breach of contract, § 5:87 Filing cover sheet with com-Demand for jury trial plaint, § 3:29 Generally, § 3:156 Jurisdiction, generally, § 3:6, Waiver of, § 3:157, 3:158 3:10 Directed verdict, motion for, Removal, transfer and retransfer, § 3:171, 3:177, 3:178 and appeal of cases Instructions to jury, § 3:180, between District Count 3:181, 4:38 and, § 3:10 Jurors Temporary custody and support Alternate jurors, § 3:159 of minor child claims, § 3:7 Note taking by jurors, § 3:161 Transfer of case to another Number of jurors, § 3:159 court, § 3:22 Peremptory challenges, § 3:160 Supreme Judicial Court Selection of jurors, § 3:160 Generally, § 3:4 Verdict, § 3:162 Civil actions for money dam-Note taking by jurors, § 3:161 ages, § 3:7 Number of jurors, § 3:159 Equitable remedies, § 3:4, 10:4 Objections, instructions to jury, Temporary custody and support of § 3:181, 4:38 minor child claims, § 3:7 Peremptory challenges to jurors, Transfer of case to another court § 3:160 Consolidation of actions, § 3:26 Right to, § 3:155, 3:156 District Court and Boston Selection of jurors, § 3:160 Municipal Court, § 3:10, Small claims cases, § 3:9 3:24, 3:26, 3:29 Time for making jury demand, Land Court, § 3:13 § 3:156 Probate and Family Court, Verdicts, generally, § 3:162 § 3:11 Voir dire for preliminary questions Small claims, § 3:9 of fact, presentation of evi-

dence, § 3:173

Superior Court, § 3:22

CIVIL PRACTICE—Cont'd	CIVIL PRACTICE—Cont'd
Jury trial—Cont'd	Lead-based paint poison prevention
Waiver	claims, § 3:8
Generally, § 3:157	Leading questions, § 3:172
Trial by court, § 3:158	Letter rogatory, § 3:93
Juvenile Court	In limine motions, § 3:163
Generally, § 3:14	Long-arm statute
Appeals, § 3:5	Personal jurisdiction, § 3:18, 3:19
Case management time standards, § 3:150	Service on non-resident under, § 3:39
Equity jurisdiction, § 10:10	Master, appointment of, § 3:98, 4:31
Jurisdiction, subject matter, § 3:14	Mechanics of trial
Reporting case to appeals court,	Closing argument, § 3:179
§ 4:52	Findings of fact, § 3:182-3:184
Time standards, trial procedure case management, § 3:150	Findings of fact, requests for, § 4:40
Keeper appointed as custodian of	Instructions to jury
attached property, § 3:48	Generally, <b>§ 3:180</b>
Lack of prosecution, grounds for dismissal of complaint, § 3:129,	Appeal procedure requirements. § 4:38
3:154 Land Court	Objections, § 3:181
	Judgment
Generally, § 3:13	Generally, § <b>3:185</b>
Appellate jurisdiction, § 3:2, 3:8 Application of civil procedural	Effect of entry of, § 3:187
rules, § 3:2, 3:151	Entry of, § 3:186, 3:187
Case management time standards,	Motion for directed verdict
§ 3:150	Generally, § <b>3:177</b>
Creating record for appeal, § 4:29	Form and grounds, § 3:178
Electronic recording of trial,	Opening statement, power of
§ 4:29	court to direct verdict after
Equitable remedies, § 10:7	§ 3:171
Equity jurisdiction, § 3:11	Nonjury trials
Filing complaint, § 3:28 Interlocutory appeals from injunc-	Appellate review of findings, § 3:184
tive orders, <b>§ 4:15</b>	Findings of fact, § 3:183, 3:184
Interlocutory review of order, discretionary, § 4:18	Findings of fact, requests for, § 4:40
Jurisdiction, subject matter, § 3:13, 10:7	Rulings of law, requests for, § 3:182, 4:39
One form of action, § 3:27	Opening statements
Partition petitions, jurisdiction,	Generally, § <b>3:170</b>
§ 3: <del>11</del> , 3:21	Power of court to direct verdict,
Reporting case to appellate court,	§ 3:171
§ 4:52	Presentation of evidence
Stays pending appeal, § 4:61	Generally, § 3:172
Time standards, trial procedure case management, § 3:150	Conditionally admitted evidence, § 3:176
Zoning appeals & 3.8 3.24	Objections 8 3.174

CIVIL PRACTICE—Cont'd	CIVIL PRACTICE—Cont'd
Mechanics of trial—Cont'd	Motion practice—Cont'd
Presentation of evidence—Cont'd	Continuances, § 3:153
Offer of proof, § 3:175, 4:33	Default and default judgment, set-
Voir dire for preliminary ques-	ting aside, § 3:136
tions of fact, § 3:173	Defensive motions, § 3:120, 3:124
Rulings of law, requests for, § 3:182, 4:39	Deterring citizens from exercising right to petition, § 3:124
Mediation, small claims, § 3:9	Directed verdict
Medical malpractice	Generally, § 3:177
Bonds, appeal, § <b>4:17</b>	Form, § 3:178
Jurisdiction, subject matter, § 3:9	Grounds, § 3:178
Speedy trial, § 3:152	Opening statement, power of
Mental examination. Discovery, above	court to direct verdict after, § 3:171
Mesne process, attachment, § 3:42	Discovery, above
Methods of service of process, § 3:32-3:40	Dismissal, motions for, § 3:120, 3:124, 3:129-3:131
Minimum contacts grounds for	Disqualify attorney, § 3:165, 3:166
personal jurisdiction, § 3:18,	District Court procedure, § 3:116
3:19	Hearings, § 3:114-3:119
Minors as parties, § 3:57, 3:70	Judgment notwithstanding verdict,
Misjoinder of parties, § 3:60	§ 3:188, 3:189, 4:41
Mistake	In limine motion, § 3:163
Averments, pleadings, § 3:77	New trial
Judgment, clerical mistakes as to, § 3:196	Generally, § <b>3:190</b> Additur, § <b>3:192</b>
Mobile home, attachment of, § 3:46	Procedure, § 3:191, 4:41
Money, attachment of, § 3:46, 3:51-	Remittitur, § 3:192
3:55	Post-trial
Money seized by trustee process, § 3:51-3:55	Alter or amend judgment, motion to, § 3:193
More definite statement, motion for,	Judgment notwithstanding the
§ 3:120	verdict, motion for,
Mortgage or lien, attachment of	§ 3:188, 3:189, 4:41
personal property subject to, § 3:47	New trial, motion for, § <b>3:190- 3:192, 4:41</b>
Motion practice	Relief from judgment, motion
Generally, § 3:114	from, § 3:194-3:196, 4:41
Alter or amend judgment, § 3:193	Pretrial
Amendment of	Generally, § 3:114
Findings of fact, § 3:183	Amendment of pleadings,
Judgment, § 3:193	§ 3:118
Pleadings, <b>§ 3:118</b>	Appeal procedure requirements,
Anti-SLAPP statute, under,	§ 4:31
§ 3:124	Defensive motions, § 3:120,
Attorney disqualification motion,	3:124
§ 3:165, 3:166	Disqualify attorney, motion to,
Consolidate trials, § 3:167	§ 3:165, 3:166

CIVIL PRACTICE—Cont'd	CIVIL PRACTICE—Cont'd
Motion practice—Cont'd	Negligence cases, summary judg-
Pretrial—Cont'd	ment, § 3:146
District Court procedure,	Newspaper publishing, attachment of
§ 3:116	personal property used in,
In limine motions, § 3:163	§ 3:47
Probate and Family Court proce-	New trial
dure, § 3:117	Generally, § 3:190
Superior Court procedure,	Additur, § 3:192
§ 3:115	Judgment notwithstanding the
View, motion for a, § 3:164	verdict, alternative, § 3:188
Probate and Family Court procedure, § 3:117	Procedure, § 3:191, 4:41
Reconsideration, motion for,	Remittitur, § 3:192
§ 3:119	Non-domiciliaries, service under
Relief from judgment	long-arm statute on, § 3:39
Generally, § 3:194	Nonjoinder of parties, § 3:60
Appeal procedure requirements,	Nonjury trials
§ 4:41	Findings of fact, § 3:183, 3:184
Clerical mistakes, § 3:196	Findings of fact, requests for,
Independent action, § 3:195	§ 4:40
Separate trials, § 3:168	Rulings of law, § 3:182, 4:39
Sequester witnesses, § 3:169	Notice
Speedy trial, § 3:152	Appeal from judgment, filing,
Stay pending appeal, § 4:64	§ 3:187
Strike, motion to	Class actions, § 3:64
Appeal prerequisite, § 4:34	Depositions, § 3:95-3:97, 3:99
Pleadings, § 3:120	Notice pleading, definition, § 3:71
Witness's trial answer, § 3:174,	Notice pleading doctrine, § 3:71,
4:34	3:77
Summary judgment, § 3:120,	Number of interrogatories, § 3:104
3:138	Number of jurors, § 3:159
Superior Court procedure, § 3:115	Nunc pro tunc judgment, § 3:185
Trial motions	Objections
Consolidation of trials, § 3:167	Depositions, § 3:98
Disqualify attorney, § 3:165,	Evidence, presentation of, § 3:174
3:166	Instructions to jury, § 3:181, 4:38
In limine motions, § 3:163	Interrogatories, § 3:105
Separate trials, § 3:168	Master's appointment, § 4:31
Sequester witnesses, § 3:169	Requirement for filing an appeal,
Strike witness's trial answer, § 3:174, 4:34	§ 4:28
View, motion for a, § 3:164	Specificity of, § 4:28
View, motion for a, § 3:164	Official document or act averments,
Motive of party, actions involving,	pleadings, § 3:77
§ 3:146	One form of action, § 3:27
Motor vehicles, attachment of,	One-trial system for civil cases,
§ 3:46, 3:47	§ 3:7, 3:10
Necessary party, § 3:58	Opening statements, § 3:170, 3:171
	-

CIVIL PRACTICE—Cont'd	CIVIL PRACTICE—Cont'd
Opinion of experts, discovery of,	Parties—Cont'd
§ 3:86	Proper party, § 3:59
Original process, § 3:42	Public officers, § 3:70
Out of country depositions, § 3:93	Real party in interest, § 3:56, 3:57
Out-of-state service of process, § 3:32, 3:33, 3:39	Relation back concept, § 3:56, 3:118
Partial judgment, § 3:185, 4:7	Separation of trials, § 3:168
Partial new trial on damages, § 3:192	Substitution of parties, § 3:56,
Partial summary judgment, § 3:137	3:70, 4:77
Parties	Third-party, § 3:80
Amendment as to defendant, § 3:40	Transfer of interest, effect of, § 3:70
Class actions, above	Partition actions, jurisdiction and
Compulsory joinder of parties,	venue, § 3:11, 3:21
§ 3:58	Paternity and support claims, jurisdiction 8 3.7 3.11
Death, § 3:70, 4:77	diction, § <b>3:7, 3:11</b> Pension benefit funds, attachment of
Defensive motions, § 3:120	§ 3:54
Illness as basis for continuance, § 3:153	Permissive counterclaim, pleadings,
Impleader, § <b>3:72</b> , <b>3:80</b>	§ 3:78
Incompetents, § 3:57, 3:70	Permissive joinder of parties, § 3:59
Indispensable parties, § 3:58,	Person in state, service of process on
3:120	§ 3:33
Infants, § 3:57, 3:70	Physical and mental examination.
Interpleader, § 3:62	Discovery, above
Intervention	Pleadings
By Attorney General, § 3:68	Generally, § 3:71-3:80
Motion, § <b>3:69</b>	Affirmative defenses, § 3:76
Permissive, § 3:67	Allowed, § <b>3:72</b>
As of right, § <b>3:66</b>	Amendment of pleadings, motion,
Joinder of claims, § 3:61	§ 3:118
Joinder of parties	Answer
Compulsory, § 3:58	Generally, § 3:75, 3:120
Indispensable parties, § 3:58,	Affirmative defenses, § 3:76
3:120	Capacity, pleading lack of, § 3:77
Misjoinder, § 3:60	Claim for relief
Necessary party, § 3:58	Generally, § 3:73
Nonjoinder, § 3:60	Form, § 3:74
Permissive, § 3:59	Complaint's contents, § 3:74
Proper party, § 3:59	Compulsory counterclaim, § 3:78
Remedies, § 3:58	Conditions precedent averments, § 3:77
Minors, § 3:57, 3:70	Counterclaim, § 3:72, 3:78, 3:79
Misjoinder, effect of, § 3:60	Cross-claim, § 3:72, 3:79
Necessary party, § 3:58	Defensive motions, § 3:120
Nonjoinder, effect of, § 3:60	Demand for judgment, § 3:73
Permissive joinder of parties, § 3:59	Duress averments, § 3:77

CIVIL PRACTICE—Cont'd	CIVIL PRACTICE—Cont'd
Pleadings—Cont'd	Pretrial procedure—Cont'd
Failure to state a claim, § 3:122	Default and default judgment,
Form, claim for relief, § 3:74	§ 3:132-3:136
Fraud averments, § 3:77	Discovery, § 3:81-3:113
General theory of pleadings,	Disposition without trial, § 3:125-
§ 3:71	3:149
Judgment averments, § 3:77 Mistake averments, § 3:77	Involuntary dismissal, § 3:129- 3:131
More definite statement, motion	Motions, § 3:114-3:119
for, § 3:120	Parties, § 3:56-3:70
Notice pleading doctrine, § 3:71,	Personal jurisdiction, § 3:15-3:19
3:77	Pleadings, § <b>3:71-3:80</b>
Official document or act aver-	Subject matter jurisdiction, § 3:3-
ments, § 3:77	3:14
Permissive counterclaim, § 3:78	Summary judgment, § 3:137-3:149
Signing of pleading, § 3:74	Venue, § 3:20-3:26
Special damage averments, § 3:77	Voluntary dismissal, § 3:125-3:128
Special matters, § 3:77	Privileged matters and communica-
Statute of Frauds defense, § 3:76	tions, discovery of, § 3:82, 3:85
Strike, motion to, § 3:120	Privilege log, scope of discovery,
Third-party claim, § 3:72, 3:80	§ 3:85
Time and place averments, § 3:77	Probate and Family Court
Undue influence averments, § 3:77	Generally, § 3:11
Political subdivision of Com-	Appeals
monwealth (authority, board,	Interlocutory, § 4:9
committee, or similar entity),	Stays pending appeal, § 4:61 Trial court's issuance of report,
service of process on, § 3:37	\$ 4:52
Prejudgment remedies	Appeals Court concurrent jurisdic-
Generally, § 3:42, 3:43	tion, § 3:5
Attachment, § 3:42-3:55	Application of civil procedure
Constitutional considerations,	rules, § <b>3:2, 3:151</b>
§ 3:43	Automatic stay pending appeal,
Mesne process, § 3:42	§ 4:61
Trustee process, § 3:51-3:55	Case management time standards,
Preliminary questions of fact, § 3:173	§ 3:150
Pretrial procedure	Creating record for appeal, § 4:29
Generally, § 3:1-3:149	Discovery special master, appoint-
Application of civil procedure	ment of, § 3:98
rules, § 3:2, 3:151	Domestic abuse cases jurisdiction, § 3:7, 3:8
Attachment and trustee process,	Electronic recording of proceed-
§ 3:42-3:55	ings, § 4:29
Case management conference,	Equity jurisdiction, § <b>3:11, 10:6</b>
§ 3:150	Findings of fact, making, § 3:183
Case management time periods, § 3:150-3:154	Interlocutory appeals, § 4:9
Commencement of action, § 3:27-	Interlocutory review of order,
3:41	§ 4:18, 4:49
J.TI	5 7.10, 7.7/

## CIVIL PRACTICE—Cont'd CIVIL PRACTICE—Cont'd Probate and Family Court—Cont'd Reconsideration, motion for, § 3:119 Jurisdiction, subject matter, § 3:11, Relation back concept, § 3:56, 3:118 Relief from judgment Motion practice, § 3:117 Generally, § 3:194 One form of action, § 3:27 Appeal procedure requirements, Paternity and support cases juris-§ 4:41 diction, § 3:7, 3:11 Burden of proof, § 3:194 Pretrial motions, procedure, Clerical mistakes, § 3:196 § 3:117 Independent action, § 3:195 Service of process, § 3:32, 3:33 In rem action, venue, § 3:21 Time standards, trial procedure Remand-removal system, § 3:10 case management, § 3:150-In rem jurisdiction, § 3:15 354 Rent, attachment of, § 3:46 Procedure for attaching funds by Rent-related claims, jurisdiction, trustee process, § 3:51-3:55 § 3:7, 3:8 Procedure for attaching personal Replevin actions, venue, § 3:21 property, § 3:44, 3:48, 3:50 Reports of trial judge to an appellate Procedure for attaching real property, court. **Appeal and Review**, this § 3:44, 3:49, 3:50 index Residence as basis for personal juris-Attachment, § 3:42-3:55 diction, § 3:17 Constitutional considerations, Res judicata effect, summary judgprejudgment remedies, § 3:43 ment, § 3:149 Mesne process, defined, § 3:42 Restrictions as to certain property as Original or final, defined, § 3:42 to attachment, § 3:47 Service of process. Commence-Return of service, § 3:41 ment of action, above Rulings of law Trustee process, § 3:42, 3:51-3:55 Certification of questions of law, Production of documents and things, § 4:60 discovery method, § 3:108 Report for appeal determination. Production of documents at deposi-Appeal and Review, this tions, § 3:97 index Promissory notes actions, summary judgment, § 3:145 Requests for, § 3:182, 4:39 Proper party, § 3:59 Sale of attached property, § 3:48 Pro se litigants, applying civil proce-Sampling and testing, discovery dure rules to, § 3:2, 3:73 method, § 3:108 Protective orders, discovery, § 3:88, Sanitary code violations actions, jurisdiction, § 3:7, 3:8 Public officers as parties, § 3:70 Secretary of State Purpose of attachment, § 3:44 Jurisdiction, personal, § 3:16 Purpose of summary judgment, Service of process on, § 3:38 § 3:137 Separate document required for entry Quasi in rem jurisdiction, § 3:15 of judgment, § 4:6 Railroad cars, attachment of, § 3:47 Separate trials, motion practice, § 3:168 Real party in interest, § 3:56, 3:57 Separation of trials, § 3:168 Reckless conduct actions, summary Sequester witnesses, § 3:169 judgment, § 3:146

### CIVIL PRACTICE—Cont'd CIVIL PRACTICE—Cont'd Service of process. Commencement Summary judgment—Cont'd Alter or amend, § 3:193 of action, above Setting aside judgment Appeal from denial of, § 3:148 Default judgment, § 3:146 Appeal from grant of, § 3:149 Post-trial motions. Trial procedure, Brief and statement, § 3:141 below Burden of proof, § 3:132, 3:142 Time standards, § 3:188 Declaratory judgment actions, Ship or vessel, attachment of, § 3:47 § 3:145 Signature Defamation cases, § 3:145 Depositions, § 3:94, 3:98 Defined, § 3:137 Pleadings, § 3:74 Entitlement to judgment as matter Small claims cases of law and no triable facts, § 3:145 Appeals, § 3:9 Formal requisites, § 3:138-3:141 Equity jurisdiction, § 3:8 Intention of parties, actions involv-Procedure, § 3:9 ing, § 3:146 Service of process, § 3:9 Interlocutory nature of order deny-Venue, § 3:23, 3:24 ing, § 3:148 Special damage averments, plead-Materials considered, § 3:144 ings, § 3:77 Special matters, pleadings, § 3:77 Motion practice, § 3:120, 3:140 Special motion to dismiss, burden of Motive of party, actions involving, proof, § 3:124 § 3:146 Negligence cases, § 3:146 Special questions to jury, § 4:37 Special verdict, § 3:162 Partial, § 3:147 Speedy trial, § 3:152 Promissory notes actions, § 3:145 State of mind actions, summary judg-Purpose, § 3:137 ment, § 3:146 Reckless conduct, actions involv-Statute of Frauds defense, pleadings, ing, § 3:146 § 3:76 Res judicata effect of, § 3:149 Stay of judgment pending appeal, Role of court, § 3:143 § 4:61-4:67 State of mind, actions involving, Steamboats, attachment of, § 3:47 § 3:146 Stipulation Time as to filing, § 3:140 Dismissal of complaint, § 3:126 When disfavored, § 3:143, 3:146, Waiver of right to jury, § 3:158 3:148 Stock, attachment of, § 3:46 When favored, § 3:143, 3:145, 3:149 Strike, motion to Summary prejudgment remedies, Pleadings, § 3:120 generally, § 3:43 Witness's trial answer, § 3:174, Summary prejudgment seizure 4:34 Generally, § 3:42-3:55 Subpoena as to depositions, § 3:96, Attachment, § 3:44-3:50 Substitution of parties, § 3:56, 3:70, Constitutional considerations, 4:77 § 3:43 Summary judgment Mesne process, § 3:42 Generally, § 3:137 Trustee process, § 3:51-3:55 Affidavits, § 3:139 Summons, issuance of, § 3:31

### CIVIL PRACTICE—Cont'd CIVIL PRACTICE—Cont'd Superior Court Time standards—Cont'd Juvenile Court, § 3:150 Consolidation of trials, § 3:167 Cover sheet filed with complaint, Land Court, § 3:150 § 3:29 New trial motion, § 3:191, 4:41 Creating record for appeal, § 4:29 Pleading time and place, § 3:77 Declaratory judgments, § 3:8 Probate and Family Court, § 3:150 Filing cover sheet with complaint, Relief from judgment, motion. § 3:29 § 3:194, 4:41 Jurisdiction, § 3:6, 3:10 Service of process when com-Motion practice, § 3:115 mencing action, § 3:31, 3:40 Opening statement, § 3:170 Setting aside judgment, § 3:188 Removal, transfer and retransfer, Substitution of parties, motion for, and appeal of cases between § 3:70 District Count and, § 3:10 Summary judgment motion, filing, Time standards, trial procedure § 3:140 case management, § 3:150, Superior Court, § 3:150 3:151, 3:152 Track assignment of cases, gener-Transfer of case to another court, ally, § 3:152 § 3:22 Town, service of process on, § 3:36 Supreme Judicial Court, procedure Track assignment of cases, generally, and jurisdiction, § 3:2, 3:4, 4:3 § 3:152 Temporary custody and support of Trade secrets, discovery, § 3:88 minor child claims, jurisdiction, Transfer due to improper venue, § 3:7 § 3:22, 3:25 Testing and sampling, discovery Transfer of case to another court. method, § 3:108 Jurisdiction, subject matter, Third-party claim, § 3:72, 3:80 above Time, dissolution of attachment, Transfer of interest by party, effect § 3:49, 3:50 of, § 3:70 Time and place averments, pleadings, § 3:77 Transitory action. Venue, below Time standards Trial preparation materials, Generally, § 3:150-3:154 discovery, § 3:84 Amendment of judgment, § 3:193 Trial procedure Amendment of pleading, § 3:118 Generally, § 3:150-3:196 Answer, filing of, § 3:75 Assignment for trial, § 3:152 Boston Municipal Court. § 3:150 Attorney's failure to appear, sanc-Closing argument, § 3:179 tions for, § 3:154 Conflict with procedural rule, Case management conference, § 3:151 § 3:150-3:154 Demand for jury trial, § 3:156 Case management time periods, § 3:150-3:154 District Court, § 3:150 Closing argument, § 3:179 Housing Court, § 3:150 Continuances, § 3:153 Independent action to vacate judgment, § 3:195 Detailed findings of fact, waiver of, § 3:183.50 Intervene, motion to, § 3:69

Fact, questions of

Findings of fact, § 3:182-3:184

Judgment, appeal from entry of,

§ 3:187, 4:41

CIVIL PRACTICE—Cont'd	CIVIL PRACTICE—Cont'd
Trial procedure—Cont'd	Trial procedure—Cont'd
Fact, questions of—Cont'd	Preliminary proceedings, § 3:163-
Voir dire for preliminary questions of fact, § 3:173	3:169
	Presentation of evidence
Findings of fact, § 3:182-3:184	Generally, § 3:172 Conditionally admitted evi-
Findings of fact, requests for, § <b>4:40</b>	dence, § 3:176
Instructions to jury	Objections, § 3:174
Generally, § <b>3:180</b>	Offer of proof, § 3:175, 4:33
Appeal procedure requirements, § 4:38	Voir dire for preliminary questions of fact, § 3:173
Objections, § 3:181, 4:38	Principles of law, court's stating
Judgment, above	of, § 3:182
Jury trial, above	Requests for findings of fact,
Mechanics of trial, generally,	§ 3:183, 4:40
§ 3:170-3:187	Requests for rulings of law,
Motion for directed verdict	§ 3:182, 4:39
Generally, § <b>3:177</b>	Rulings of law, requests for, § 3:182, 4:39
Form and grounds, § 3:178	
Opening statement, power of	Sanctions against attorney for failure to appear, § 3:154
court to direct verdict after,	Setting aside judgment. Post-trial
§ 3:171	motions, above
Nonappearance by attorney, sanctions, § 3:154	Special questions to jury, § 4:37
, •	Time standards, § 3:150-3:154
Nonjury trials	Trustee as real party in interest,
Appellate review of findings, § 3:184	§ 3:56
Findings of fact, § 3:183, 3:184	Trustee process, prejudgment security
Findings of fact, requests for,	Availability, § 3:51
§ 4:40	Charging trustee, § 3:55
Rulings of law, requests for,	Discharging trustee, § 3:55
§ 3:182, 4:39	Due process considerations, § 3:43
Opening statements	Exempt property, § 3:54
Generally, § 3:170	Procedure, § 3:52
Power of court to direct verdict, § 3:171	Purpose, § 3:51
9 5:171 Post-trial motions	Venue, § 3:24
	Two-dismissal rule, § 3:128
Additur and remittitur, § 3:192	Undue influence averments, pleadings, § 3:77
Alter or amend judgment, motion to, § 3:193	Unemployment case decisions issued
Judgment notwithstanding the	by Division of Employment
verdict, motion for,	Security, jurisdiction for appeal
§ 3:188, 3:189	of, § 3:7
New trial, motion for, § 3:190-	Venue
3:192	Generally, § 3:20 et seq.
Relief from judgment, motion	Boston Municipal Court, § 3:23
from. § 3:194-3:196	Change of venue, § 3:25

## CIVIL PRACTICE—Cont'd CIVIL PRACTICE—Cont'd Voluntary dismissal of complaint, Venue—Cont'd § 3:125-3:128 City of Boston, action by or against, § 3:24 Wages, attachment of, § 3:51-3:55 Collection of consumer debt, Waiver of § 3:24 Affirmative defense, § 3:76 Commonwealth, action by, § 3:24 Demand for jury trial, § 3:157, Consolidation of actions, § 3:26 3:158 Consumer debt, collection of, Improper venue, § 3:20 § 3:24 Withdrawal of admission given dur-Contract actions, § 3:21 ing discovery, § 3:111 County, action by or against, Witnesses § 3:24 Absence of material witness or Debt collector, action by, § 3:24 evidence, continuance grounds, § 3:153 Defective public way, § 3:24 Discovery of insurance statement Defensive motions, § 3:120 by injured party or witness, District Court, § 3:23 § 3:84 Executor or administrator, action Leading questions, § 3:172 by or against, § 3:24 Order in which witnesses are pre-Forfeiture actions. § 3:24 sented at trial, § 3:172 Forum non conveniens doctrine, Sequester witnesses, motion to, § 3:25 § 3:169 Local action in rem, § 3:21 Strike trial answer, motion to, Partition actions, § 3:21 § 3:174, 4:34 Replevin actions, § 3:21 Trial practice and procedure, gen-Small claims cases, § 3:9, 3:24 erally, § 3:172 Special provisions, § 3:24 Voir dire of, § 3:173 Summary process to recover pos-Zoning appeals jurisdiction, § 3:7, session of land actions, § 3:21 3:24 Tort actions, § 3:21 **CLASS ACTIONS** Transfer due to improper venue, Generally, § 3:63-3:65 § 3:22, 3:25 Transitory action CLEAR AND CONVINCING Generally, § 3:21 **EVIDENCE** District Court and Boston Proof by, § 9:18 Municipal Court, § 3:23 CLOSING THE ESTATE Special venue provisions, § 3:24 Probate and Administration of Superior Court, § 3:22 Estates, this index Trustee process, § 3:24 Waiver of improper venue, § 3:20 COERCION Zoning appeals, § 3:24 See **Duress or Coercion**, this index Victims of violent crimes, compensa-**COHABITATION** tion claims, § 3:7 Privileged conversations, § 9:101, Videotaped depositions, § 3:99 9:102 View of premises by court or motion, COLLATERAL SOURCE RULE § 3:164

Abrogation, medical malpractice

cases, § 16:148

Voir dire hearing, evidence and pre-

liminary fact questions, § 3:173

# COMMERCIAL DISPARAGEMENT

Defamation distinguished, § 16:226

# COMMERCIAL LISTS AND PUBLICATIONS

Hearsay exception, § 9:200

## COMMERCIAL PAPER

Agency issues, § 1:39, 1:79
Bank collection. Check collection, below

Checks

Collection issues. Check collection, above

Negotiable instruments

Agency issues, § 1:39, 1:79

Payment of check. Check collection, above

Presentment of checks. Check collection, above

# COMMERCIAL SEX OFFENSES

Generally, § 7:285-7:290

## COMMON NIGHT WALKER

Criminal law, § 7:288

## **COMPENSATION**

Agent's, § 1:60, 1:69

Business corporations directors, § 6:56

Mortgage originators, restriction on compensation, § 14:142

Victims of violent crimes, compensation claims, § 3:7

# COMPENSATORY DAMAGES

Generally, § 5:92-5:94

## **COMPLAINT**

Landlord and tenant Civil complaints, § 12:20

Criminal complaints, § 12:19

Reprisals, § 12:116

Summary process actions, § 12:41

Uniform Summary Process Rules, § 12:41

## COMPROMISE AND SETTLEMENT

Offers, evidentiary aspects of, § 9:56, 9:57

## COMPUTER DATABASES

Evidence, § 9:219

# CONCURRENT OWNERSHIP

Real Property, this index

## **CONDOMINIUMS**

Generally, § 14:32-14:53

Assessment of common expenses, § 14:42

By-laws, § 14:38

Casualty loss, § 14:46

Collection of common expenses, § 14:43, 14:44

Common expenses

Assessment, § 14:42

Collection, § 14:43, 14:44

Conversions, § 12:119, 14:53

Cooperative distinguished, § 14:33

Declarant

Control of organization during transition, § 14:39

Retention of nonownership interest, § 14:36

Defaulting unit owner, collection of rent from tenant of, § 14:44

Establishment

Generally, § 14:33

Contents of master deed, § 14:35

Nonownership interest, declarant's retention, § 14:36

Recording master deed, § 14:34

Formation and function, organization of unit owners, § 14:37

Improvements, § 14:45

Liens, collection of common expenses, § 14:43

Master deed

Contents, § 14:35

Recording, § 14:34

Notices, required, ownership of individual unit, § 14:50

Organization of unit owners

Generally, § 14:37-14:46

Amendments (1988), § 14:41

Assessment of common expenses, § 14:42

By-laws, § 14:38

Casualty loss, § 14:46

## CONDOMINIUMS—Cont'd

Organization of unit owners—Cont'd Collection of common expenses, § 14:43, 14:44

Declarant's control of organization during transition, § 14:39

Defaulting unit owner, collection of rent from tenant of, § 14:44

Formation and function, § 14:37 Improvements, § 14:45

Liens, § 14:43

Powers and duties

Generally, § 14:40-14:44

Amendments (1988), § 14:41

Assessment of common expenses, § 14:42

Collection of common expenses, § 14:43, 14:44

Defaulting unit owner, collection of rent from tenant of, § 14:44

Liens, § 14:43

Ownership of individual unit Generally, § 14:47-14:51

General characteristics, § 14:47 Notices, required, § 14:50

Standing to sue, owner's, § 14:51

Unit deed, § 14:49 Rent, collection from tenant of defaulting unit owner, § 14:44

Standing to sue, owner's, § 14:51 Termination of condominium,

§ 14:52

Time sharing, § 14:54

Transition period, declarant's control during, § 14:39

Unit deed, § 14:49

Unit owners

Defaulting unit owner, collection of rent from tenant of, § 14:44 Organization of unit owners, above Ownership of individual unit, above

# CONFIDENTIAL INFORMATION

Constructive trust, abuse of confidential information. § 17:58

## CONFIDENTIAL INFORMATION —Cont'd

Distinguishing privileges from confidential data, § 9:62

Medical malpractice, unauthorized disclosure, § 16:128

Privileged communications. Privileges and Immunities, this index

## CONFLICT OF INTEREST

Disqualification of attorney, § 3:165, 3:166

## CONFRONTATION CLAUSE

Business records, § 9:192 Excited utterances, § 9:185 Official records, § 9:199

## CONSENT OR APPROVAL

Adoption, necessity of consent, § 8:173-8:175, 8:176

Agents or Agency, this index

Assault, lack of consent, § 16:4

Bailments, § 2:1, 2:5, 2:6

Battery, lack of consent, § 16:8 Criminal law, defense, § 7:300

Criminal procedure, consent searches, § 7:73, 7:74

Jurisdiction, consent to, § 3:16

Kidnapping, lack of consent, § 7:222

Medical malpractice, lack of informed consent, § 16:126

Privacy, invasion of, defense of consent, § 16:223

Real property, privileged entry, § 16:25

Trusts and Trustees, this index

# CONSIGNMENT

Bailments distinguished, § 2:24

## **CONSPIRACY**

Generally, § 7:136-7:139

# CONSTRUCTIVE TRUSTS

Trusts and Trustees, this index

# **CONSUMER PROTECTION**

Administrative enforcement and penalties

Lead paint, § 12:106

### CONSUMER PROTECTION CONTEMPT—Cont'd Distinction between civil and crimi--Cont'd Debt and default judgment, special nal contempt, § 8:328 protection for consumer debt, Equitable remedies, generally, § 3:135.50 § 10:69-10:75 Inspection Sanctions, § 10:74 Lead paint, § 12:98, 12:99 Separate trial, criminal contempt, § 10:71 Lead paint Generally, § 12:96-12:106 Summary proceedings, criminal contempt, § 10:70 Administrative enforcement, § 12:106 CONTRACTS AND AGREEMENTS Civil liability of owner, § 12:105 Generally, § 5:1-5:103 Correction of violations, duty of Acceptance of offer. Formation of owner, § 12:102 contract, below Federal law, § 12:96, 12:97 Agents and Agency, this index Inspections, § 12:98, 12:99 Agreed lessee, § 12:7 Lead-Based Paint Poisoning Agreed purchaser, § 12:6 Prevention Act, § 12:96 Ambiguity Massachusetts law, § 12:98 et seq. Interpretation against drafter, Notice, duty of owner to give, § 5:70 § 12:101 Parol evidence, use of, § 5:72 Prohibited acts, § 12:100 Plain meaning of language, § 5:65 Reporting requirements, § 12:98, Antenuptial agreements. **Domestic** 12:99 **Relations**, this index Residential Lead-Based Paint Haz-Anticipatory repudiation doctrine, ard Reduction Act, § 12:97 § 5:84 Screening requirements, § 12:98, Assignment 12:99 Assignee's rights, § 5:102 Lead paint, screening and reporting Definition, § 5:99 requirements, § 12:96-12:106 Future rights, § 5:101 Notice Rights assignable, § 5:100, 5:101 Lead paint, § 12:101 Rights of assignee, § 5:102 Records and reports Avoidance or reformation of contract Lead paint, § 12:98, 12:99 Generally, § 5:48-5:63 CONTEMPT Duress, § 5:54 Economic duress, § 5:55 Appellate review, § 10:75 Fraud, § 5:52, 5:53 Child support enforcement Illegality, § 5:59-5:61 Generally, § 8:327 Law, mistake of, § 5:50 Civil contempt, § 8:328, 8:329 Minor, § 5:43, 5:44 Criminal contempt, § 8:328, 8:333 Misrepresentation, § 5:52, 5:53 Distinction between civil and crim-Mistake, § 5:48-5:51 inal contempt, § 8:328 Mutual mistake, § 5:48 Civil contempt, § 8:328, 8:329, Remedies for mistake, § 5:51 10:72 Threats, § 5:54 Clarity of order and disobedience, Unconscionability, § 5:62, 5:63 § 10:73 Undue influence, § 5:57, 5:58 Criminal contempt, § 8:328, 8:333, 10:70, 10:71 Unilateral mistake, § 5:49

CONTRACTS AND AGREEMENTS	CONTRACTS AND AGREEMENTS
—Cont'd	—Cont'd
Breach of contract	Consideration—Cont'd
Generally, § 5:84-5:98	Continued but different perfor-
Anticipatory repudiation, § 5:84	mance, § 5:18
Divisible contracts, § 5:88	Defined, § 5:17
Duty to mitigate damages, § 5:93	Firm offers under UCC, § 5:22
Duty to perform contract, § 5:86, 5:87	Irrevocable offers under UCC, § 5:22
Jury trial, § 5:87	Modification of contract, § 5:18,
Material breach, § 5:86, 5:87	5:22
Nature and effect of material	Moral obligation, § 5:20
breach, § 5:87	Mutual assent, § 5:17-5:22
Question of fact, § 5:87	Past consideration, § 5:19
Remedies for breach, below	Preexisting legal duty, § 5:18
Waiver of condition, § 5:82	Sealed contracts, § 5:21, 5:22
When does breach occur, § 5:86, 5:87	Uniform Commercial Code transactions, § 5:22
Burden of proof	Damages
Conditions, § 5:79	Certainty and foreseeability, § 5:93
Mitigation of damages, § 5:93	Certainty of proof, § 5:93
Necessaries for minor, furnishing,	Compensatory, § 5:92-5:94
§ 5:45	Expectation, § 5:92-5:94
Statute of Frauds, § 5:27	Liquidated, § 5:91
Capacity to contract	Mitigation of damages, § 5:93
Generally, § 5:42	Nominal, § 5:90
Guardianship, § 5:46	Reliance damages, § 5:95
Intoxication, § 5:47	Restitution theory, § 5:96
Mental disability, § 5:46, 5:47	Sales of goods, § 5:97
Minority, § 5:42, 5:43	Specific enforcement, § 5:98 Definition
Conditions	
Generally, § 5:78	Anticipatory repudiation, § 5:84
Burden of proof, § 5:79	Assignment of contract, § 5:99
Concurrent, § 5:79	Benefit of the bargain damages, § 5:92
Constructive, § 5:80	Condition, § 5:78
Express, § 5:80	Condition precedent or subsequent,
Implied in fact, § 5:80	§ 5:79
Personal satisfaction as condition, § 5:81	Consequential damages, § 5:92 Consideration, § 5:17
Precedent, § 5:79	Contract, § 5:1
Satisfaction as condition, § 5:81	Course of dealing or performance,
Subsequent, § 5:79	§ 5:68
Types of conditions, § 5:79	Delegation of duties, § 5:99
Waiver of condition, § 5:82	Divisible contracts, § 5:88
Consideration	Duress, § 5:54
Accord and satisfaction, § 5:18	Expectation damages, § 5:92
Bargained-for exchange, § 5:17	Express contract, § 5:3

### CONTRACTS AND AGREEMENTS CONTRACTS AND AGREEMENTS —Cont'd —Cont'd Definition—Cont'd Formation of contract—Cont'd Fraud in the factum, § 5:53 Consideration—Cont'd Implied-in-fact contract, § 5:4 Defined, § 5:17 Firm offers under UCC, § 5:22 Implied-in-law contract, § 5:5 Irrevocable offers under UCC, Impossibility of performance, § 5:22 § 5:76 Impracticability to excuse perfor-Modification of contract, § 5:18, 5:22 mance, § 5:76 Letter of intent, § 5:10 Moral obligation, § 5:20 Necessity for bargained Liquidated damages, § 5:91 exchange, § 5:17 Material breach, § 5:86 Past consideration, § 5:19 Misrepresentation, § 5:52 Pre-existing legal duty rule, Mistake, § 5:48 § 5:18 Mutual assent, § 5:7 Sealed contracts, § 5:21, 5:22 Nominal damages, § 5:90 Uniform Commercial Code Offer, § 5:9 transactions, § 5:22 Parol evidence rule, § 5:72 Detrimental reliance on promise, Pre-existing legal duty rule, § 5:18 § 5:23, 5:24 Quantum meruit, § 5:5 Illegality, § 5:59-5:61 Quasi-contract, § 5:5 Immoral motives, § 5:59 Unconscionability, § 5:62 Indefiniteness and uncertainty as to Undue influence, § 5:57 terms, § 5:7, 5:8 Usage of trade, § 5:68 Letter of intent, § 5:10 Delegation of duties, § 5:99, 5:103 Licensing requirements, § 5:60 Disaffirmance by minor, § 5:43 Mere memorial of the contract. Divisible contracts. § 5:88 § 5:7 Formation of contract Modification of contract, Acceptance of offer consideration, § 5:18, 5:22 Bilateral contract, § 5:12 Mutual assent Conformity to terms of offer, Generally, § 5:7-5:22 § 5:13 Acceptance of offer, § 5:11-5:13 Consideration, below Consideration, § 5:17-5:22 Grumbling acceptance, § 5:13 Manifestation of, § 5:7, 5:9 Manner of, § 5:12 Offer, § 5:9-5:13 Silence, § 5:12 Offer Uniform Commercial Code Acceptance of offer, above transactions, § 5:16 Advertisements, § 5:10 Unilateral contract, § 5:12 Conformity of terms in accep-Avoidance or reformation of tance, § 5:13 contract, above Counteroffer, § 5:11, 5:13 Consideration Defined, § 5:9 Accord and satisfaction, § 5:18 Duration, § 5:11 Expressions that are not offers, Bargained exchange, necessity § 5:10 for, § 5:17 Firm offers under UCC, § 5:22 Continued but different performance, § 5:18 Invitation for offers, § 5:10

CONTRACTS AND AGREEMENTS
—Cont'd
Illegality
Generally, § 5:59
Licensing statutes, § 5:60
Sunday contracts, § 5:61
Impossibility of performance doc-
trine, § <b>5:76</b>
Impracticability to excuse perfor-
mance, § 5:76
Incidental third party beneficiaries,
§ 5:83
Intended third party beneficiaries, § 5:83
· ·
Interference with contractual relations
Generally, § <b>16:255</b>
Improper motives or means,
illustrations of, § 16:256
Remedies, § 16:257
Interpretation
Generally, § 5:64-5:71
Ambiguity, generally, § 5:65, 5:70,
5:72
Common law, parol evidence rule,
§ 5:73
Course of dealing, § 5:68
Course of performance, § 5:68
Against drafter, § 5:70
Electronic contracts, § 5:71
Extrinsic circumstances, use of, § 5:68
Fair dealing, <b>§ 5:69</b>
Good faith, § 5:69
Handwritten clauses, § 5:71
Intention of parties, § 5:66
Parol evidence rule, § 5:72
Plain meaning of language, § 5:65
Printed clauses, § 5:71
Typewritten clauses, § 5:71
Uniform Commercial Code, parol evidence rule, § 5:74
Usage of trade, § 5:68
Whole, writing considered as a,
§ 5:67
Words, constructions of, § 5:64
Interspousal relations, contract rights § 8:16

### CONTRACTS AND AGREEMENTS CONTRACTS AND AGREEMENTS —Cont'd —Cont'd Justification for nonperformance Nonperformance—Cont'd Conditions, § 5:78-5:80 Anticipatory repudiation, § 5:84 Duress, § 5:54-5:58 Avoidance or reformation of contract, above Fraud, § 5:52, 5:53 Frustration of purpose, § 5:77 Breach, § 5:84-5:98 Illegality, § 5:59-5:61 Conditions, § 5:78-5:80 Impossibility of performance, Divisible contracts, § 5:88 § 5:76 Duress, § 5:54-5:58 Impracticability to excuse perfor-Duty to perform, § 5:86, 5:87 mance, § 5:76 Fraud, § 5:52, 5:53 Misrepresentation, § 5:52, 5:53 Frustration of purpose, § 5:77 Mistake, § 5:48-5:51 Illegality, § 5:59-5:61 Unconscionability, § 5:62, 5:63 Impossibility of performance, Undue influence, § 5:57, 5:58 § 5:76 Landlord and tenant relationship, Impracticability to excuse perforgenerally, § 12:1 mance, § 5:76 Marital agreements, § 8:28, 8:29 Justification for nonperformance, Medical malpractice, breach of above contract theory of liability, Material breach, § 5:86, 5:87 § 16:132 Misrepresentation, § 5:52, 5:53 Merger clause, § 5:73 Mistake, § 5:48-5:51 Minor Remedies for breach, below Generally, § 5:43 Unconscionability, § 5:62, 5:63 Avoidance of contract, § 5:44 Undue influence, § 5:57, 5:58 Necessaries furnished to, liability for, § 5:45 Offer. Formation of contract, above Parol evidence rule Transactions not avoidable, § 5:44 Misrepresentation, effect of, § 5:52, Common law, § 5:73 5:53 Uniform Commercial Code, § 5:74 Money had and received, action for, Parties' capacity. Capacity to § 5:6 contract, above Moral conduct Performance of contract, generally, Consideration, moral obligation, § 5:75-5:83 § 5:20 Personal property contracts, enforce-Motives, immoral, § 5:59 ment, § 5:98 Nature of contract Ratification by minor, § 5:43 Definition of contract, § 5:1 Reformation due to duress, § 5:56 Express contracts, § 5:3 Reliance on misrepresentation, § 5:52 Implied-in-fact contracts, § 5:4 Remedies for breach of contract Implied-in-law contracts, § 5:5, Generally, § 5:89-5:98 5:6 Buyers' remedies, sales of goods Money had and received, impliedcontract, § 5:97 in-law contract, § 5:6 Calculating amount of expectation Necessaries furnished to minor, damages, § 5:93 § 5:45 Consequential damages, § 5:92 Nonperformance Generally, § 5:75-5:83 Construction contracts, § 5:94

# CONTRACTS AND AGREEMENTS —Cont'd

Remedies for breach of contract
—Cont'd

Cover, sales of goods contract, § 5:97

Duty to mitigate damages, § 5:93, 5:97

Emotional distress and mental suffering, § 5:93

Employment contracts, § 5:94, 5:98

**Expectation damages** 

Generally, § 5:92

Calculating amount of damages, § 5:93

Construction contracts, § 5:94 Duty to mitigate damages, § 5:93

Employment contracts, § 5:94

Mitigation duty, § 5:93

Particular contracts, § 5:94

Proof with reasonable certainty, § 5:93

Real estate purchase contracts, § 5:94

Injunction, § 5:98

Liquidated damages, § 5:91

Mitigation duty, § 5:93, 5:97

Money had and received, § 5:6

Nominal damages, § 5:90

Personal property contracts, specific enforcement, § 5:98

Quantum meruit, § 5:5

Real estate purchase contracts, § 5:94

Real property contracts, specific enforcement, § 5:98

Reliance damages, § 5:95

Restitution, § 5:96

Sales of goods, damages under Uniform Commercial Code, § 5:97

Sellers' remedies, sales of goods contract, § 5:97

Service contracts, specific enforcement, § 5:98

Specific enforcement, § 5:98

# CONTRACTS AND AGREEMENTS —Cont'd

Remedies for breach of contract
—Cont'd

Third party beneficiary, recovery by, § 5:83

Uniform Commercial Code, sales of goods, damages under, § 5:97

Remedies for misrepresentation, § 5:53

Remedies for quasi-contract breach, quantum meruit, § 5:5

Remedies for undue influence, § 5:58

Sales and Leases of Goods, this index

Separation agreements. **Domestic Relations**, this index

Service contracts, specific enforcement, § 5:98

Statute of Frauds

Generally, § 5:25-5:41

Burden of proof, § 5:27

Electronic communications, § 5:25

Historical perspective, § 5:25, 5:26, 5:35

Memorandum

Original Statute of Frauds, sufficiency of under, § 5:27

UCC sale of goods, confirmatory memorandum, § 5:37

Objections to sufficiency of memorandum, § 5:27, 5:37

Original statute of frauds

Generally, § 5:26

Administrator's or executor's promise, § 5:28

Creditors debts payable by other than debtor, § 5:29

Debt of another, promise to answer for, § 5:29

Exception, promise to answer for debt of another, § 5:30

Executor's or administrator's promise, § 5:28

Interest in land, contract affecting, § 5:32, 5:33

Land sale contract, § 5:32, 5:33

Leading object exception, § 5:30

## CONTRACTS AND AGREEMENTS CONTRACTS AND AGREEMENTS —Cont'd —Cont'd Statute of Frauds-Cont'd Trustee's contractual liability to third persons, § 17:97 Original statute of frauds—Cont'd Main purpose exception, § 5:30 **Types** Express, § 5:3 Marriage, promise in consideration of, § 5:26, Implied-in-fact, § 5:4 5:31 Implied-in-law, § 5:5, 5:6 Not to be performed within year, Money had and received, § 5:6 contract, § 5:34 Quasi-contract, § 5:5 One year period for contract Uniform Commercial Code performance, § 5:34 Generally, § 5:2 Performance within one year, Agreement, § 5:14 § 5:34 Consideration, § 5:22 Promise by administrator, § 5:28 Formation of contract, § 5:14-Promise by executor, § 5:28 5:16, 5:21, 5:22 Promise in consideration of mar-Mentally disabled persons, § 5:46 riage, § 5:31 Missing terms, § 5:15 Promise to answer for debt of Parol evidence rule, § 5:74 another, § 5:29, 5:30 Sales and Leases of Goods, this Sufficiency of memorandum, index § 5:27, 5:37 Statute of Frauds, § 5:35-5:41 Third person promise to pay Unconscionability defense, § 5:63 debt of another, § 5:29 Uniform Electronic Transactions Act Part performance Generally, § 5:71 Sale of goods contract, § 5:38 Statute of Frauds, § 5:25 Sale of land contract, § 5:33 Venue for contract actions, § 3:21 Purpose, § 5:26 Sufficiency of memorandum, CONTRIBUTION § 5:27, 5:37 Joint tortfeasors, § 16:82 UCC Statute of Frauds for sale of **CONVERSION** goods Chattels, conversion of Generally, § 5:35-5:41 Generally, § 16:19-16:22 Estoppel to plead statute Demand and refusal, § 16:21 ("estoppel doctrine"), Dominion or control, § 16:20 § 5:41 Nature of conversion, § 16:19 Historical perspective, § 5:35 Remedies, § 16:22 Judicial admissions, § 5:40 Memorandum, confirmatory, CONVEYANCES § 5:37 **Title**, this index Partial performance of oral contract, § 5:38 **COOPERATIVES** Specially manufactured goods, Condominiums distinguished, § 5:39 § 14:33 Writing requirement, § 5:36 **CORPORATIONS Uniform Electronic Transactions** Benefit corporations, § 6:2 Act, § 5:25 **Business** corporations Third party beneficiary contracts, § 5:83 Generally, § 6:1-6:248

Shareholder standing, § 6:88

#### CORPORATIONS—Cont'd CORPORATIONS—Cont'd Business corporations—Cont'd Business corporations—Cont'd Articles of organization—Cont'd Abandonment of merger and share exchange, § **6:114** Optional provisions, § 6:10 Action without directors' meeting, Principal place of business, § 6:14 § 6:55 Action without meeting, Protest of name, § 6:12 shareholders, § 6:38 Required provisions, § 6:8 Administrative dissolution. Supplemental information, § 6:9 § 6:134-6:136 Authority of officers, § 6:59, 6:60 Adoption and approval of merger Books, right of inspection, § 6:39and share exchange, § 6:112, 6:42 6:113 Breach of fiduciary duty, § 6:76-Adoption of statutory scheme, 6:82 § 6:1 Bylaws Advance for expenses, directors, Generally, § 6:17 § 6:96, 6:97 Amendment, § 6:104-6:106 Agreements of shareholders, Emergency bylaws, § 6:18 § 6:45, 6:46 Care, duty of directors, § 6:78 Amendment of articles of organi-Change of professional corporation zation to business corporation, Generally, § **6:100** § 6:154, 6:155 By directors alone, § 6:101 Committees, directors' delegation Practical effects. § 6:103 to, § 6:54 With shareholder approval, Common law right of inspection, § 6:102 § 6:39 Amendment of bylaws Compensation, directors, § 6:56 Generally, § 6:104 Completion of organization, § 6:19 Changes in quorum or voting Defective incorporation, effect of, requirements, § 6:105, § 6:20, 6:21 6:106 Delegation to committees, § 6:54 Directors' quorum or voting Demand for payment, dissent and requirements, § 6:106 appraisal Shareholders' quorum or voting Notice of intent to demand, requirements, § 6:105 § 6:123 Voting requirements, § 6:105, Supplemental demand, § 6:127 6:106 Demand on corporation, derivative Annual shareholders meeting, proceedings, § 6:89 § 6:31 Derivative proceedings Appeal from denial of restatement Generally, § 6:87-6:92 after dissolution, § 6:136 Demand on corporation, § 6:89 Articles of dissolution, filing, Discontinuance, § 6:91 § 6:132 Dismissal, § 6:90 Articles of organization Disposition of the proceeding, Generally, § 6:7 § 6:90-6:92 Amendment, § 6:100-6:103 Expenses, payment of, § 6:92 Incorporators' function, § 6:6 Nature of, § 6:87 Mandatory provisions, § 6:8 Settlement, § 6:91

Name, § 6:11

CORPORATIONS—Cont'd	CORPORATIONS—Cont'd
Business corporations—Cont'd	Business corporations—Cont'd
Directors	Directors—Cont'd
Generally, § 6:47-6:57	Liabilities—Cont'd
Action without meeting, § 6:55	limitation or elimination of liability, § 6:81
Advance for expenses, <b>§ 6:96</b> , <b>6:97</b>	loans, <b>§ 6:86</b>
Amendment of articles of orga-	Loans to directors, § 6:86
nization by directors alone,	Loyalty, duty of, § 6:79
§ 6:101	Management of corporation, § 6:29, 6:47-6:57
Amendment of bylaws, directors' quorum or voting	Meetings of directors, § <b>6:52</b> -
requirements, <b>§ 6:106</b>	6:55
Breach of fiduciary duty, § 6:76,	Number of directors, § 6:49
6:76-6:79	Qualifications, § 6:47
Care, duty of, <b>§ 6:78</b>	Quorum, § 6:53, 6:106
Committees, delegation to,	Requirement, § 6:47
§ 6:54	Resignation and removal, § 6:57
Compensation, § 6:56	Vacancy, filling, § 6:51
Delegation to committees,	Voting, § 6:53, 6:106
§ 6:54	Discontinuance, derivative
Distributions improper,	proceedings, § 6:91
liabilities, § 6:83	Dismissal, derivative proceedings,
Duty of care, <b>§ 6:78</b>	§ 6:90
Duty of loyalty, § 6:79	Disposition of derivative proceed-
Election of directors, § 6:50,	ings, <b>§ 6:90-6:92</b>
6:51	Disregard of corporate entity,
Fiduciary duties, breach of	§ 6:75
duty of care, § 6:78	Dissent and appraisal, right of
duty of loyalty, § 6:79	Beneficial owners' rights, § 6:121
limitation of elimination of	Costs and fees of court action
liability, § 6:81	for judicial appraisal,
remedies for, § 6:82 standards of conduct for	§ 6:129
directors, <b>§ 6:76</b>	Court action for judicial appraisal, § 6:128, 6:129
standards of conduct for	Demand for payment
officers, § 6:80	notice of intent to demand,
Function, § <b>6:47</b>	§ 6:123
Improper distributions, § 6:83	supplemental demand,
Inspection power, § 6:48	§ 6:127
Insurance, § 6:99	Form for perfecting appraisal
Liabilities	rights, notice and, § 6:124
breach of fiduciary duty, § 6:76, 6:76-6:79	Judicial appraisal, court action for, § 6:128, 6:129
distributions, § 6:83, 6:83-	Nominees' rights, § 6:121
6:85	Notice
improper distributions, § 6:83	appraisal rights, corporation's
indemnification, § <b>6:93-6:97</b>	notice of, § 6:122

### CORPORATIONS—Cont'd CORPORATIONS—Cont'd Business corporations—Cont'd Business corporations—Cont'd Dissent and appraisal, right of Distributions —Cont'd Generally, § 6:68 Notice-Cont'd Directors liabilities, § 6:83 intent to demand payment, Liabilities, § 6:83-6:85 shareholder's notice of. Limitation periods, § 6:85 § 6:123 Share dividends, § 6:69 perfecting appraisal rights, Shareholders liabilities, § 6:84 notice and form for. Share options, § 6:70 § 6:124 Dividends, § 6:69 Payment of estimated value of Doctrine of "piercing the corporate shares veil," § 6:75 appraisal procedure, gener-Duties of officers, § 6:59-6:69 ally, § 6:126 Duty of care, directors, § 6:78 dissatisfaction with by Duty of loyalty, directors, § 6:79 shareholder. § 6:127-Effect of dissolution, § 6:133 6:129 Effect of merger and share notice of intent to demand. exchange, **§ 6:116** § 6:123 Election of directors, § 6:50, 6:51 Perfecting appraisal rights Emergency bylaws, § 6:18 notice and form for, § 6:124 Emergency powers, § 6:27 procedure, generally, § 6:125 Expenses, payment of Procedure, appraisal, § 6:122-Advance for expenses, directors, 6:126 § 6:96, 6:97 Transactions giving rise to Derivative proceedings, § 6:92 appraisal rights, § 6:120 Judicial appraisal, § 6:129 Dissolution and termination Fiduciary duties of directors, Generally, § 6:130-6:139 breach of Administrative, § 6:134-6:136 Duty of care, **§ 6:78** Appeal from denial of restate-Duty of loyalty, § 6:79 ment after dissolution, Limitation of elimination of § 6:136 liability, **§ 6:81** Effect of dissolution, § 6:133 Remedies for, § 6:82 Filing articles of dissolution, Standards of conduct for direc-§ 6:132 tors, § 6:76 Judicial dissolution, § 6:137-Fiduciary duties of officers, § 6:80 6:139 Filing articles of dissolution, Receivership, § 6:139 § 6:132 Restatement after dissolution, Filing articles or organization with § 6:135, 6:136 secretary of state, § 6:7 Voluntary, § 6:130-6:133 Filing of articles of merger and When no shares issued and busishare exchange, § 6:115 ness not commenced. Financial structure § 6:130 Generally, § 6:63-6:73 When shares issued and business commenced, § 6:131 Distributions, § 6:68-6:70 Distinct entity, corporation as, Shareholders' preemptive rights, § 6:3 § 6:71

CORPORATIONS—Cont'd	CORPORATIONS—Cont'd
Business corporations—Cont'd	Business corporations—Cont'd
Financial structure—Cont'd	Insurance for indemnity of direc-
Shares of stock, generally,	tors, <b>§ 6:99</b>
<b>§ 6:63-6:67</b> Transfer of shares, <b>§ 6:72, 6:73</b>	Judicial appraisal, court action for, § 6:128, 6:129
Formation of corporation	Judicial dissolution, § 6:137-6:139
Generally, § <b>6:4-6:23</b>	Liabilities
Articles of organization, § 6:7-	Generally, § 6:74-6:99
6:10	Breach of fiduciary duty, § 6:76-
Bylaws, § 6:17, 6:18	6:82
Change of office or agent,	Derivative proceedings, § 6:87-
§ 6:15	6:92
Closely-held corporations, § 6:23	Disregard of corporate entity, § 6:75
Completion of organization, § 6:19	Doctrine of "piercing the corporate veil," § 6:75
Corporation by estoppel, § 6:21 De facto corporation, § 6:20	Improper distributions, § 6:83-6:85
Defective incorporation, effect	Loans to directors, § 6:86
of, § 6:20, 6:21	Piercing the corporate veil,
Distinct entity, § 6:3	§ <b>6:75</b>
Emergency bylaws, § 6:18	Statutory liabilities, § 6:83-6:86
Incorporators, <b>§ 6:6, 6:19</b>	List of shareholders, § 6:36
Name of corporation, § 6:11,	Loans to directors, § 6:86
6:11-6:13	Loyalty, directors' duty of, § 6:79
Promoters, § <b>6:4, 6:5</b>	Management of corporation
Registered office and registered	Generally, § <b>6:29-6:62</b>
agent, maintenance of, <b>§ 6:14-6:16</b>	Basic management scheme, § 6:29
Resignation of agent, § 6:16	Directors, § 6:47-6:57
Statutory scheme, § 6:1	Officers, § 6:58-6:62
Subchapter s corporations,	Shareholders, <b>§ 6:30-6:46</b>
§ 6:23	Meeting of shareholders
Fractional shares of stock, § 6:66	Generally, § 6:31-6:38
Incorporators, generally, § 6:6, 6:19	Action without meeting, § 6:38
Indemnification	Consent, action without meet-
Generally, § <b>6:93-6:98</b>	ing, § 6:38
Advance for expenses, § 6:96,	Court-ordered meeting, § 6:33
6:97	Notice of meeting, § 6:34
Court-ordered, § 6:97	Record date; shareholders list, § 6:35
Director's liability, <b>§ 6:93-6:97</b>	Remote communications, § <b>6:37</b>
Insurance, § <b>6:99</b>	Special meeting, § 6:32
Mandatory, § <b>6:95</b>	Meetings of directors
Officer's liability, § 6:98	Generally, § 6:52-6:55
Permissible, <b>§ 6:93, 6:94</b>	Delegation to committees,
Inspection of books, right of,	§ 6:54
\$ 6:39-6:42	Quorum and voting, § 6:53

CORPORATIONS—Cont'd	CORPORATIONS—Cont'd
Business corporations—Cont'd	Business corporations—Cont'd
Merger and share exchange	Organic changes
Generally, § 6:107-6:116	Generally, § 6:100-6:139
Abandonment of, § 6:114	Amendment of corporate docu-
Adoption and approval of plan,	ments, § 6:100-6:106
§ 6:112, 6:113	Dissolution, § 6:130-6:139
Effect of, § 6:116	Merger and share exchange, § <b>6:107-6:116</b>
Filing of articles of, § 6:115	Right of dissent and appraisal,
Merger, generally, § 6:107	§ 6:120-6:129
Parent and subsidiary, § 6:108	Sale of assets, <b>§ 6:117-6:119</b>
Plan of merger, § 6:109	Piercing the corporate veil doc-
Plan of share exchange, § 6:111	trine, § <b>6:28</b> , <b>6:75</b>
Share exchange, generally,	Powers
§ 6:110	Generally, § 6:25-6:28
Between subsidiaries, § 6:108	Emergency, § 6:27
Name of corporation	Enumeration of, § 6:26
Generally, § 6:11	Shareholders, § 6:30
Protest of name, § 6:11	Ultra vires doctrine, § 6:28
Reservation of name, § 6:13	Preemptive rights of shareholders,
Office, registered, § 6:14	§ 6:71
Officers	Principal place of business, articles
Generally, § 6:58-6:62	of organization provision, <b>§ 6:14</b>
Authority, § 6:59, 6:60	Professional corporations, § 6:156
Duties 11 . 6 < 70	Professional corporation's change
generally, § 6:59	to business corporation,
instruments affecting real estate, § 6:60	§ 6:154
· -	Promoters
standard of conduct, breach of fiduciary duties, § 6:80	Generally, § 6:4
Fiduciary duties, breach of,	Duties and liabilities, § 6:5
§ 6:80	Purposes, § <b>6:24</b>
Indemnification, officer's	Qualifications of directors, § 6:47
liability, § 6:98	Quorum
Management of corporation,	Directors, § 6:53, 6:106
§ 6:29, 6:58-6:62	Shareholders, § 6:43, 6:105
Real estate, duty and authority	Real estate, officers' duty and
as to instruments affecting,	authority as to instruments affecting, § 6:60
§ 6:60	Receivership, § 6:139
Required officers, § 6:58	Record date, shareholders, § 6:35
Resignation and removal, § 6:62	Registered office and agent, main-
Standards of conduct for	tenance of, § 6:14-6:16
officers, <b>§ 6:80</b>	Remedies for breach of fiduciary
Tenure, § 6:61	duties, § 6:82
Optional provisions of articles of	Remote communications,
organization, § 6:10	shareholders meetings by,
Options, share, § 6:70	§ <b>6:3</b> 7

### CORPORATIONS—Cont'd CORPORATIONS—Cont'd Business corporations—Cont'd Business corporations—Cont'd Removal of directors, § 6:57 Shareholders—Cont'd Removal of officers, § 6:62 Improper distributions, liability for, § 6:84 Required directors, § 6:47 Inspection of books, right of, Required officers, § 6:58 § 6:39-6:42 Reservation of corporate name, Liability for improper distribu-§ 6:13 tions, § 6:84 Resignation of directors, § 6:57 List, § 6:36 Resignation of officers, § 6:62 Management of corporation, Restatement after dissolution, § 6:29, 6:30-6:46 § 6:135, 6:136 Meetings, § 6:31-6:38 Sale of assets Notice of meeting, § 6:34 Responsibilities for debts and Powers, § 6:30 liabilities of transferor Preemptive rights of shareholdcorporation, § 6:119 ers, § 6:71 When shareholder approval not Quorum, § 6:43 required, § **6:117** Record date, § 6:35 When shareholder approval Remote communications, meetrequired, § 6:118 ings by, § 6:37 Secretary of state Special meeting, § 6:32 Filing articles or organization Standing, derivative proceedwith, § 6:7 ings, § 6:88 Reservation of corporate name, Trusts, voting, § 6:45 § 6:13 Voting, § 6:44 Settlement, derivative proceedings, amendment of articles of § 6:91 organization, § 6:102 Shareholders amendment of bylaws, Action without meeting, § 6:38 § 6:105 Agreements, § 6:45, 6:46 Voting trusts and voting agree-Amendment of articles or orgaments, § 6:45 nization, shareholder Shares of stock approval, § 6:102 Generally, § 6:63-6:73 Amendment of bylaws, Certificates, with or without, § 6:65 shareholders quorum and voting requirements, Distributions, § 6:68-6:70, 6:83-§ 6:105 6:85 Dividends, § 6:69 Annual meeting, § 6:31 Approval of sale of corporate Exchange of shares on merger, assets, § 6:117, 6:118 § 6:110-6:116 Fractional shares, § 6:66 Common law right of inspection of books, § 6:39 Improper distributions, liability for, § 6:83-6:85 Consent, action without meeting, § 6:38 Issuance, § 6:67 Number, § 6:64 Court-ordered meeting, § 6:33 Options, § 6:70 Derivative proceedings. shareholder standing, Preemptive rights of sharehold-§ 6:88 ers, § 6:71

#### CORPORATIONS—Cont'd CORPORATIONS—Cont'd Business corporations—Cont'd Business corporations—Cont'd Shares of stock-Cont'd Amendment of articles of organi-Restrictions on transfer, § 6:73 zation-Cont'd Types, § 6:64 By directors alone, § 6:101 Special meeting, shareholders, Practical effects, § 6:103 § 6:32 With shareholder approval, Standing, derivative proceedings, § 6:102 § 6:88 Amendment of bylaws Subchapter s corporations, § 6:23 Generally, § 6:104 Tenure of officers, § 6:61 Changes in quorum or voting requirements, § 6:105, Transfer of shares, § 6:72, 6:73 6:106 Ultra vires doctrine, § 6:28, 6:75 Directors' quorum or voting Vacancy of directors, filling, requirements, § 6:106 § 6:50, 6:51 Shareholders' quorum or voting Voluntary dissolution, § 6:130requirements, § 6:105 6:133 Voting requirements, § 6:105, Voting requirements 6:106 Amendment of bylaws, § 6:105, 6:106 Annual shareholders meeting, § 6:31 Directors, § 6:53, 6:106 Appeal from denial of restatement Professional corporations, votafter dissolution, § 6:136 ing trusts, § 6:151 Appraisal of shares. Dissent and Shareholders, § 6:44, 6:45, appraisal, below 6:102, 6:105 Articles of dissolution, filing, Voting trusts, professional corpora-§ 6:132 tions, § 6:151 Articles of organization Business corporations Generally, § 6:7 Generally, § 6:1-6:248 Amendment, § 6:100-6:103 Abandonment of merger and share Incorporators' function, § 6:6 exchange, § **6:114** Mandatory provisions, § 6:8 Action without directors' meeting, Name, § 6:11 § 6:55 Optional provisions, § 6:10 Action without meeting, Principal place of business, shareholders, § 6:38 § 6:14 Administrative dissolution, Protest of name, § 6:12 § 6:134-6:136 Required provisions, § 6:8 Adoption and approval of merger Supplemental information, § 6:9 and share exchange, § 6:112, 6:113 Authority of officers, § 6:59, 6:60 Books, right of inspection, § 6:39-Adoption of statutory scheme, 6:42 § 6:1 Breach of fiduciary duty, § 6:76-Advance for expenses, directors, 6:82 § 6:96, 6:97 **Bylaws** Agreements of shareholders, Generally, § 6:17 § 6:45, 6:46 Amendment, § 6:104-6:106 Amendment of articles of organi-Emergency bylaws, § 6:18 zation Generally, § 6:100 Care, duty of directors, § 6:78

CORPORATIONS—Cont'd	CORPORATIONS—Cont'd
Business corporations—Cont'd	Business corporations—Cont'd
Change of professional corporation	Directors—Cont'd
to business corporation,	Delegation to committees,
§ 6:154, 6:155	§ 6:54
Committees, directors' delegation to, § <b>6:54</b>	Distributions improper, liabilities, § 6:83
Common law right of inspection,	Duty of care, <b>§ 6:78</b>
§ <b>6:39</b>	Duty of loyalty, § 6:79
Compensation, directors, § 6:56 Completion of organization, § 6:19	Election of directors, § 6:50, 6:51
Defective incorporation, effect of,	Fiduciary duties, breach of
§ 6:20, 6:2 <b>1</b>	Duty of care, <b>§ 6:78</b>
Delegation to committees, § 6:54	Duty of loyalty, § 6:79
Demand for payment, dissent and appraisal	Limitation of elimination of liability, § 6:81
Notice of intent to demand,	Remedies for, § 6:82
§ 6:123	Standards of conduct for
Supplemental demand, § 6:127	directors, <b>§ 6:76</b>
Demand on corporation, derivative	Standards of conduct for
proceedings, § 6:89	officers, <b>§ 6:80</b>
Derivative proceedings	Function, <b>§ 6:47</b>
Generally, § 6:87-6:92	Improper distributions, § 6:83
Demand on corporation, § 6:89	Indemnification of directors,
Discontinuance, § 6:91	below
Dismissal, § 6:90	Inspection power, § 6:48
Disposition of the proceeding,	Insurance, § <b>6:99</b>
§ 6:90-6:92	Liabilities
Expenses, payment of, § 6:92 Nature of, § 6:87	Breach of fiduciary duty,
Settlement, § 6:91	§ 6:76, 6:76-6:79
Shareholder standing, § 6:88	Distributions, § 6:83, 6:83-
Directors	Improper distributions, § 6:83
Generally, § <b>6:47-6:57</b>	Indemnification, § 6:93-6:97
Action without meeting, § 6:55	Limitation or elimination of
Advance for expenses, § 6:96,	liability, § 6:81
6:97	Loans, § 6:86
Amendment of articles of orga-	Loans to directors, § 6:86
nization by directors alone,	Loyalty, duty of, § 6:79
§ 6:101	Management of corporation,
Amendment of bylaws, direc-	§ 6:29, 6:47-6:57
tors' quorum or voting requirements, § 6:106	Meetings of directors, § 6:52-6:55
Breach of fiduciary duty, § 6:76,	Number of directors, § 6:49
6:76-6:79	Qualifications, § 6:47
Care, duty of, § 6:78	Quorum, § 6:53, 6:106
Committees, delegation to,	Requirement, § 6:47
§ 6:54	Resignation and removal, § 6:57
Compensation, § 6:56	Vacancy, filling, § 6:51

### CORPORATIONS—Cont'd CORPORATIONS—Cont'd Business corporations—Cont'd Business corporations—Cont'd Dissent and appraisal, right of Directors—Cont'd Voting, § 6:53, 6:106 —Cont'd Discontinuance, derivative Perfecting appraisal rights proceedings, § 6:91 Notice and form for, § 6:124 Procedure, generally, § 6:125 Dismissal, derivative proceedings, § 6:90 Procedure, appraisal, § 6:122-6:126 Disposition of derivative proceedings, § 6:90-6:92 Transactions giving rise to appraisal rights, § 6:120 Disregard of corporate entity, Dissolution and termination § 6:75 Generally, § 6:130-6:139 Dissent and appraisal, right of Administrative, § 6:134-6:136 Beneficial owners' rights, § 6:121 Appeal from denial of restatement after dissolution, Costs and fees of court action § 6:136 for judicial appraisal, § 6:129 Effect of dissolution, § 6:133 Court action for judicial Filing articles of dissolution. appraisal, § 6:128, 6:129 § 6:132 Demand for payment Judicial dissolution, § 6:137-6:139 Notice of intent to demand, § 6:123 Receivership, § 6:139 Supplemental demand, Restatement after dissolution, § 6:127 § 6:135, 6:136 Form for perfecting appraisal Voluntary, § 6:130-6:133 rights, notice and, § 6:124 When no shares issued and busi-Judicial appraisal, court action ness not commenced, for, § 6:128, 6:129 § 6:130 Nominees' rights, § 6:121 When shares issued and business commenced, § 6:131 Notice Distinct entity, corporation as, Appraisal rights, § 6:3 corporation's notice of, § 6:122 Distributions Intent to demand payment, Generally, § 6:68 shareholder's notice of, Directors liabilities, § 6:83 § 6:123 Liabilities, § 6:83-6:85 Perfecting appraisal rights, Limitation periods, § 6:85 notice and form for, Share dividends, § 6:69 § 6:124 Shareholders liabilities, § 6:84 Payment of estimated value of Share options, § 6:70 shares Dividends, § 6:69 Appraisal procedure, gener-Doctrine of "piercing the corporate ally, § 6:126 veil," § 6:75 Dissatisfaction with by Duties of officers, § 6:59-6:69 shareholder, § 6:127-Duty of care, directors, § 6:78 6:129 Duty of loyalty, directors, § 6:79 Notice of intent to demand.

Effect of dissolution. § 6:133

§ 6:123

### CORPORATIONS—Cont'd CORPORATIONS—Cont'd Business corporations—Cont'd Business corporations—Cont'd Formation of corporation—Cont'd Effect of merger and share exchange, **§ 6:116** Defective incorporation, effect of, § 6:20, 6:21 Election of directors, § 6:50, 6:51 Defectively formed, Emergency bylaws, § 6:18 distinguished from partner-Emergency powers, § 6:27 ship, § 13:10 Expenses, payment of Distinct entity, § 6:3 Advance for expenses, directors, Emergency bylaws, § 6:18 § 6:96, 6:97 Incorporators, § 6:6, 6:19 Derivative proceedings, § 6:92 Name of corporation, § 6:11, Judicial appraisal, § 6:129 6:11-6:13 Fiduciary duties of directors, Promoters, § 6:4, 6:5 breach of Registered office and registered Duty of care, § 6:78 agent, maintenance of, Duty of loyalty, § 6:79 § 6:14-6:16 Limitation of elimination of Resignation of agent, § 6:16 liability, § 6:81 Statutory scheme, § 6:1 Remedies for, § 6:82 Subchapter S corporations, Standards of conduct for direc-§ 6:23 tors, § 6:76 Fractional shares of stock, § 6:66 Fiduciary duties of officers, § 6:80 Incorporators, generally, § 6:6, Filing articles of dissolution, 6:19 § 6:132 Indemnification Filing articles or organization with Generally, § 6:93-6:98 Secretary of State, § 6:7 Advance for expenses, § 6:96, Filing of articles of merger and share exchange, § 6:115 6:97 Court-ordered, § 6:97 Financial structure Director's liability, § 6:93-6:97 Generally, § 6:63-6:73 Insurance, § 6:99 Distributions, § 6:68-6:70 Mandatory, § 6:95 Shareholders' preemptive rights, Officer's liability, § 6:98 § 6:71 Shares of stock, generally, Permissible, § 6:93, 6:94 § 6:63-6:67 Inspection of books, right of, Transfer of shares, § 6:72, 6:73 § 6:39-6:42 Formation of corporation Insurance for indemnity of directors, § 6:99 Generally, § 6:4-6:23 Articles of organization, § 6:7-Judicial appraisal, court action for, 6:10 § 6:128, 6:129 Judicial dissolution, § 6:137-6:139 Bylaws, § 6:17, 6:18 Change of office or agent, Liabilities § 6:15 Generally, § 6:74-6:99 Closely-held corporations, Breach of fiduciary duty, § 6:76-§ 6:23 Completion of organization, Derivative proceedings, § 6:87-§ 6:19 6:92 Corporation by estoppel, § 6:21 Disregard of corporate entity, De facto corporation, § 6:20 § 6:75

CORPORATIONS—Cont'd	CORPORATIONS—Cont'd
Business corporations—Cont'd	Business corporations—Cont'd
Liabilities—Cont'd	Merger and share exchange
Doctrine of "piercing the	—Cont'd
corporate veil," § 6:75	Share exchange, generally,
Improper distributions, § 6:83-	§ 6:110
6:85	Between subsidiaries, § 6:108
Loans to directors, § 6:86	Name of corporation
Piercing the corporate veil,	Generally, § 6:11
§ 6:75	Protest of name, § 6:11
Statutory liabilities, § 6:83-6:86	Reservation of name, § 6:13
List of shareholders, § 6:36	Office, registered, § 6:14
Loans to directors, § 6:86	Officers
Loyalty, directors' duty of, § 6:79	Generally, § 6:58-6:62
Management of corporation	Authority, § 6:59, 6:60
Generally, § <b>6:29-6:62</b>	Duties
Basic management scheme,	Generally, § 6:59
§ 6:29	Instruments affecting real
Directors, § 6:47-6:57	estate, <b>§ 6:60</b>
Officers, § 6:58-6:62	Standard of conduct, breach
Shareholders, § 6:30-6:46 Meeting of shareholders	of fiduciary duties, § 6:80
ě	Fiduciary duties, breach of,
Generally, § 6:31-6:38 Action without meeting, § 6:38	§ 6:80
Consent, action without meet-	Indemnification, officer's
ing, § 6:38	liability, § 6:98
Court-ordered meeting, § <b>6:33</b>	Management of corporation,
Notice of meeting, § <b>6:34</b>	§ 6:29, 6:58-6:62
Record date; shareholders list,	Real estate, duty and authority
§ 6:35	as to instruments affecting,
Remote communications, § 6:37	§ 6:60
Special meeting, § 6:32	Required officers, § 6:58
Meetings of directors	Resignation and removal, § 6:62
Generally, § 6:52-6:55	Standards of conduct for
Delegation to committees,	officers, <b>§ 6:80</b>
§ 6:54	Tenure, § 6:61
Quorum and voting, § 6:53	Optional provisions of articles of
Merger and share exchange	organization, § 6:10
Generally, § 6:107-6:116	Options, share, § 6:70
Abandonment of, § 6:114	Organic changes
Adoption and approval of plan,	Generally, § 6:100-6:139
\$ 6:112, 6:113	Amendment of corporate docu-
Effect of, § <b>6:116</b>	ments, § 6:100-6:106
	Dissolution, § 6:130-6:139
Filing of articles of, § 6:115 Merger, generally, § 6:107	Merger and share exchange,
	§ 6:107-6:116
Parent and subsidiary, § 6:108 Plan of merger, § 6:109	Right of dissent and appraisal, § 6:120-6:129
Plan of share exchange, <b>§ 6:111</b>	Sale of assets, § 6:117-6:119
Time of blime cheminge, 5 Will	care or abbetts, a start start

CORPORATIONS—Cont'd	CORPORATIONS—Cont'd
Business corporations—Cont'd	Business corporations—Cont'd
Piercing the corporate veil doc-	Right of dissent and appraisal. Dis-
trine, § 6:28, 6:75	sent and appraisal, above
Powers	Sale of assets
Generally, § <b>6:25-6:28</b>	Responsibilities for debts and
Emergency, § 6:27	liabilities of transferor
Enumeration of, § 6:26	corporation, § 6:119
Shareholders, § 6:30	When shareholder approval not
Ultra vires doctrine, § 6:28	required, § 6:117
Preemptive rights of shareholders, § 6:71	When shareholder approval required, § 6:118
Principal place of business, articles	Secretary of state
of organization provision, § 6:14	Filing articles or organization with, § 6:7
Professional corporations, § 6:156	Reservation of corporate name,
Professional corporation's change	§ 6:13
to business corporation, § 6:154	Settlement, derivative proceedings, § <b>6:91</b>
Promoters	Shareholders
Generally, § 6:4	Action without meeting, § 6:38
Duties and liabilities, § 6:5	Agreements, § 6:45, 6:46
Purposes, § <b>6:24</b>	Amendment of articles or orga-
Qualifications of directors, § 6:47 Quorum	nization, shareholder approval, § 6:102
Directors, § 6:53, 6:106	Amendment of bylaws,
Shareholders, § 6:43, 6:105	shareholders quorum and
Real estate, officers' duty and	voting requirements,
authority as to instruments	§ 6:105
affecting, § 6:60	Annual meeting, § 6:31
Receivership, § 6:139 Record date, shareholders, § 6:35	Approval of sale of corporate assets, § 6:117, 6:118
Registered office and agent, maintenance of, § 6:14-6:16	Common law right of inspection of books, § 6:39
Remedies for breach of fiduciary duties, § 6:82	Consent, action without meeting, § 6:38
Remote communications,	Court-ordered meeting, § 6:33
shareholders meetings by,	Derivative proceedings,
§ <b>6:37</b>	shareholder standing,
Removal of directors, § 6:57	§ 6:88
Removal of officers, § 6:62	Dissent. Dissent and appraisal,
Required directors, § 6:47	above
Required officers, § 6:58	Improper distributions, liability
Reservation of corporate name,	for, § <b>6:84</b>
§ 6:13	Inspection of books, right of,
Resignation of directors, § 6:57	§ 6:39-6:42
Resignation of officers, § 6:62	Liability for improper distribu-
Restatement after dissolution,	tions, § 6:84
§ 6:135, 6:13 <b>6</b>	List, § <b>6:36</b>

CORPORATIONS—Cont'd	CORPORATIONS—Cont'd
Business corporations—Cont'd	Business corporations—Cont'd
Shareholders—Cont'd	Special meeting, shareholders,
Management of corporation,	§ 6:32
§ 6:29, 6:30-6:46	Standing, derivative proceedings,
Meetings, § 6:31-6:38	§ 6:88
Notice of meeting, § 6:34	Stock. Shares of stock, above
Powers, § <b>6:30</b>	Subchapter S corporations, § 6:23
Preemptive rights of sharehold-	Tenure of officers, § 6:61
ers, § <b>6:71</b>	Termination. Dissolution and
Quorum, § 6:43	termination, above
Record date, § 6:35	Transfer of shares, <b>§ 6:72, 6:73</b>
Remote communications, meet-	Ultra vires doctrine, § 6:28, 6:75
ings by, <b>§ 6:37</b>	Vacancy of directors, filling,
Right of dissent and appraisal.	§ 6:50, 6:51
Dissent and appraisal,	Voluntary dissolution, § 6:130-
above	6:133
Special meeting, § 6:32	Voting requirements
Standing, derivative proceed-	Amendment of bylaws, § 6:105,
ings, <b>§ 6:88</b>	6:106
Trusts, voting, § 6:45	Directors, § 6:53, 6:106
Voting, <b>§ 6:44</b>	Professional corporations, vot-
Amendment of articles of	ing trusts, <b>§ 6:151</b>
organization, § 6:102	Shareholders, § 6:44, 6:45,
Amendment of bylaws,	6:102, 6:105
§ 6:105	Voting trusts, professional corpora-
Voting trusts and voting agree-	tions, § 6:151
ments, § 6:45	Bylaws
Shares of stock	Generally, § 6:17
Generally, § 6:63-6:73	Emergency bylaws, § 6:18
Appraisal. Dissent and appraisal,	By-laws
above	Generally, § 6:17
Certificates, with or without,	•
§ 6:65	Emergency bylaws, § 6:18
Distributions, § 6:68-6:70, 6:83-	Close corporations, § 6:22
6:85	Close corporations, § 6:22
Dividends, § 6:69	De facto corporation, § 6:20
Exchange of shares on merger,	De facto corporation, § 6:20
§ 6:110-6:116	Defectively formed, distinguished
Fractional shares, § 6:66	from partnership, § 13:10
Improper distributions, liability	Definition
for, <b>§ 6:83-6:85</b>	Corporations, § 6:3
Issuance, § <b>6:67</b>	Ultra vires doctrine, § 6:28
Number, § <b>6:64</b>	Definition
Options, § 6:70	Corporations, § 6:3
Preemptive rights of sharehold-	Ultra vires doctrine, § 6:28
ers, § 6:71	Dissolution
Restrictions on transfer, § 6:73	Business corporations, § 6:130-
Types, <b>§ 6:64</b>	6:139
1, 100, 3 0.0.	V-1-07

CORPORATIONS—Cont'd	CORPORATIONS—Cont'd
Dissolution—Cont'd	Limited liability companies—Cont'd
Equitable remedies, § 10:53, 10:54	Organization
Professional corporations, § 6:156	Certificate of organization,
Dissolution and termination	§ 6:158-6:160
Business corporations, § 6:130-6:139	Restating certificate of organization, § 6:160
Limited liability companies,	Signature on certificate of amend-
§ 6:188-6:194	ment of certificate of organi-
Professional corporations, § 6:156	zation, § 6:159
Emergencies, business corporations	Signature on certificate of organization, § 6:158
Bylaws, <b>§ 6:18</b> Powers, <b>§ 6:27</b>	Tax classification of LLC, § 6:157,
	<b>6:177</b>
Emergencies, business corporations	Termination. Dissolution and
Bylaws, <b>§ 6:18</b> Powers, <b>§ 6:27</b>	termination, above
, -	Name
Estoppel, corporation by, § 6:21	Business corporations, § 6:11-6:13
Incorporation, defective, § 6:20, 6:21	Professional corporations, § 6:144
Incorporation, defective, § 6:20, 6:21	Names or naming
Limited liability companies	Business corporations, § 6:11-6:13
Generally, § 6:157-6:198	Foreign llc, § <b>6:198</b>
Amending certificate of organization, § 6:159	Limited liability companies, <b>§ 6:162, 6:198</b>
Certificate of organization	Professional corporations, § 6:144
Amending, § <b>6:159</b>	Professional corporations
Contents of certificate, below	Generally, § 6:140-6:156
Execution by whom, § 6:158	Abbreviations used in corporate
Filing, § <b>6:158</b>	name, § 6:144
Restating, <b>§ 6:160</b>	Ancillary services, rendering,
Contents of certificate	§ 6:145, 6:146
Certificate of amendment of	Annual report, § 6:147
certificate of organization, § 6:159	Articles of organization, filing, § 6:143
Certificate of organization,	Attorneys
§ 6:159	Personal liability, § 6:149
Restated certificate of organization, § 6:160	Who may organize professional corporation, § 6:142
Definition	Basic operation
Limited liability company,	Annual report, § 6:147
§ 6:157	Attorney's liability, § 6:149
Filing certificate of amendment of	Personal liability of professional
certificate of organization,	rendering services and
§ 6:159	other shareholders, § 6:148
Filing certificate of organization,	6:149
§ 6:158	What services may be rendered,
Formation of LLC by filing certifi-	§ 6:145
cate of organization, § 6:158	Who may render services,
Notice of formation, § 6:158	§ 6:146

### CORPORATIONS—Cont'd CORPORATIONS—Cont'd Professional corporations—Cont'd Professional corporations—Cont'd Redemption of shares—Cont'd Benefits, § 6:140 Certificate supporting dissolution Dissolution if untimely, § 6:156 request, § 6:156 Sole shareholder, § 6:153 Change of status Services rendered Change to business corporation, Ancillary services, rendering, § 6:154, 6:155 § 6:145, 6:146 Dissolution, § 6:156 Annual report, § 6:147 Merger or consolidation, Attorney liability, § 6:149 § 6:155 Definition of professional ser-Consolidation, § 6:154, 6:155 vice, § 6:141 Contents of annual report, § 6:147 Personal liability, § 6:148, 6:149 Contents of articles of organiza-What services may be rendered, tion, § 6:143 § 6:145 Definition of professional service, Who may render services, § 6:141 § 6:146 Directors as shareholders, § 6:142 Shares or stock Dissolution, § 6:156 Generally, § 6:150-6:153, 6:156 Failure to comply with regulatory Issuance, § 6:150 board requirements, dissolu-Personal liability of shareholdtion consequences, § 6:156 ers, § 6:148, 6:149 Filing annual report, § 6:147 Proxies, § 6:151 Filing articles of organization, Redemption of shares, § 6:152, § 6:143 6:153, 6:156 Issuance of shares, § 6:150 Sole shareholder, redemption of Liability, personal, § 6:148, 6:149 shares, § 6:153 Limitation on damages recover-Transfer, § 6:150, 6:156 able, § 6:149 Voting trusts, § 6:151 Merger, § 6:154, 6:155 Sole shareholder, redemption of Multiple services rendered, shares, § 6:153 § 6:145 Stock. Shares or stock, above Name, § 6:144 Time Organic changes Redemption or transfer of Change to business corporation, shares, § 6:152, 6:153 § 6:154 Service of certificate of dissolu-Dissolution, § 6:156 tion request, § 6:156 Merger or consolidation, Tort liability of shareholder, § 6:155 § 6:148, 6:149 Organization Transfer of shares, § 6:150, 6:156 Generally, § 6:140 Voting trusts, § 6:151 Attorney involvement, § 6:142 What services may be rendered, Filing articles of organization, § 6:145 § 6:143 Who may render services, § 6:146 Name, corporate name, § 6:144 Professional l.l.c., § 6:161 By whom, § 6:141, 6:142 Proxy for shares, § 6:151 **Promoters** Redemption of shares Generally, § 6:4, 6:5

Promoters, § 6:4, 6:5

Generally, § 6:152

CORPORATIONS—Cont'd

Corporation by estoppel, § 6:21

Waiver or estoppel

#### Alibi defense COUNTERCLAIMS Generally, § 7:296, 7:297 Generally, § 3:72, 3:78 Anticipatory warrant Agent's counterclaim or setoff, Search and seizure, § 7:53 § 1:67 Armed assault in dwelling Cross-claim distinguished, § 3:79 With intent to commit felony, Dismissal of complaint, effect on § 7:172 counterclaim, § 3:127 Armed burglary, § 7:228 District Court and Boston Municipal Armed home invasion, § 7:173 Court, § 3:10 Armed robbery, § 7:218 COURTS Arrest Negligence actions, judicial Generally, § 7:1-7:14 immunity, § 16:117 Deadly force to affect felon's arrest, § 7:10 **COVENANTS** Definition, § 7:1 **Real Property**, this index Dwelling, entry into to make arrest **CREDITORS' CLAIMS** without warrant, § 7:11 Personal Representatives, this index Evidence Illegal arrest, admissibility of CRIMINAL LAW AND evidence obtained as result **PROCEDURE** of, § 7:14 Generally, § 7:1-7:14, 7:115-7:320 Probable cause, furnishing, Accessory § 7:3 After the fact, § 7:123 Execution of warrant, § 7:5 Before the fact Extraterritorial arrest by police Generally, § 7:122 officer, § 7:12 Accident, defense Felony, § 7:9, 7:10 Generally, § 7:295 Illegal arrest Accidental encounters, identification Admissibility of evidence of suspects, § 7:109 obtained as result of, § 7:14 Right to resist, § 7:13 Administrative searches, § 7:35, 7:36 Admissibility of subsequent Issuance of warrant, § 7:4 identifications, suspects, § 7:105 Misdemeanor, § 7:8 Affray Probable cause Generally, § 7:284 Generally, § 7:2 Public order, offenses to, § 7:284 Determination for persons arrested without warrant, Under age 14, aggravated indecent § 7:7 assault and battery on child, Evidence furnishing, § 7:3 § 7:190 Resist unlawful arrest, right to, Under age 14, indecent assault and battery on child, § 7:189 § 7:13 Right to resist unlawful arrest, Under age 16, unnatural and lascivi-§ 7:13 ous acts with child, § 7:191 Warrant Aggravated indecent assault and bat-Entry into home, § 7:6 tery on child under age 14, § 7:190 Execution of warrant, § 7:5, 7:6

CRIMINAL LAW AND

PROCEDURE—Cont'd

Aggravated rape, § 7:179

CRIMINAL LAW AND PROCEDURE—Cont'd	CRIMINAL LAW AND PROCEDURE—Cont'd
Arrest—Cont'd	Assault—Cont'd
Warrant—Cont'd	Intent, assault with specific intent
Issuance of warrant, § 7:4	—Cont'd
Knock and announce rule, § 7:6	Harassment, criminal, § 7:177
Warrantless	Kill, § 7:169
Dwelling, entry into to make	Maim, § 7:170
arrest, § 7:11	Mayhem, § 7:174, 7:175
Entry into dwelling to make	Murder, § 7:168
arrest, § 7:11	Rape, § <b>7:180</b>
Extraterritorial arrest by police	Rape child, <b>§ 7:188</b>
officer, § 7:12	Robbery, <b>§ 7:216</b>
Felony, § 7:9, 7:10	Rob or steal, § 7:171
Misdemeanor, § 7:8	Stalking, <b>§ 7:176</b>
Probable cause determination,	Strangling or suffocating
§ 7:7	another, § 7:165
Use of deadly force to affect	Strangling or suffocating another,
felon's arrest, § 7:10	§ 7:165
Arson	Assault and battery
Generally, § <b>7:224, 7:225</b> Assault	Generally, § <b>7:160</b>
	Aggravated indecent assault and
Generally, § 7:159  Armed assault in dwelling with	battery on child under age 14.
intent to commit felony,	§ 7:190
§ 7:172	Child, on, § 7:162
Armed home invasion, § 7:173	Dangerous weapon, by means of,
Dangerous weapon	§ 7:167
Armed assault in dwelling with	Disabled person, on, § 7:164
intent to commit felony,	Elderly person, on, § 7:164
§ 7:172	Elderly persons, § 7:164
Armed home invasion, § 7:173	Enhanced penalties, class of
Assault and battery by means of,	victim, § 7:161
§ 7:167	Family or household member, § 7:164.50
Assault by means of, § 7:166	Indecent assault and battery,
Harassment, criminal, § 7:177	§ 7:181, 7:182, 7:189
Home or dwelling	Mentally retarded person, on,
Armed assault in dwelling with intent to commit felony,	§ 7:163, 7:182
§ 7:172	Strangling or suffocating another,
Armed home invasion, § 7:173	§ 7:165
Intent, assault with specific intent	Attempt
Armed assault in dwelling with	Generally, § 7:134
intent to commit felony,	Automatic standing to object, search
§ 7:172	and seizure, § 7:19
Armed home invasion, § 7:173	Bail jumping, <b>§ 7:291</b>
Commit felony, armed assault in dwelling with intent to,	Basic rule, interrogation of suspects, § 7:86
§ 7:172	Body searches, § 7:32

CRIMINAL LAW AND	CRIMINAL LAW AND
PROCEDURE—Cont'd Bookmaking	PROCEDURE—Cont'd Children and minors—Cont'd
Gaming offenses, § 7:277	Reckless endangerment to child,
Burglarious implements, possession,	sex offense, § 7:197
§ 7:230	Sex offenses, generally, § 7:184-
Burglary	7:197, 7:286
Generally, § 7:226	Statutory rape, § 7:184
Armed, § 7:228	Unnatural and lascivious acts with
Elements, <b>§ 7:227</b>	child under age 16, § <b>7:191</b>
Entering dwelling by false pretenses, § 7:229	Civilian participation, search and seizure, § 7:62
Possession of burglarious imple-	Classification of controlled sub-
ments, § 7:230	stances into schedules, § 7:258
Chattels, destruction of property,	Classification of crimes, § 7:115
§ 7:243	Commercial sex offenses
Check, larceny by, § 7:236	Common night walker, § 7:288
Children and minors	Deriving support from earnings of
Under age 14, indecent assault and	prostitute, § 7:289
battery on child, § 7:189	Disseminating obscene matter,
Under age 16, unnatural and lascivious acts with child,	§ 7:285, 7:286
§ 7:191	Human trafficking for sexual servitude, § 7:290
Aggravated indecent assault and	Prostitution, § 7:287-7:290
battery on child under age 14,	Common night walker, § 7:288
§ 7:190	Community caretaking function of
Aggravated statutory rape, § 7:185	seizure, <b>§ 7:67</b>
Assault and battery on child, § 7:162	Conduct of police, interrogation of suspects, § 7:95
Assault with intent to rape child, § 7:188	Conduct of the interrogation of
Disseminating obscene matter	suspects by police, § 7:77 Confidential informants, search and
involving children, § 7:286	seizure
Enticement, § 7:195, 7:196	Generally, § 7:55
Enticing child to engage in	Federal and state differences,
prostitution or human traffick-	§ 7:57
ing, § 7:196	Misrepresentation if affidavit,
Forcible rape, § 7:186	§ 7:44
Indecent assault and battery on child under age 14, § 7:189	Consent as defense
Pornography, child	Generally, § 7:300
Dissemination of visual material	Kidnapping, lack of consent,
of nude child or child in	§ 7:222
sexual conduct, § 7:194	Consent searches, § 7:73, 7:74
Posing or exhibiting child in	Conspiracy
state of nudity or sexual	Generally, <b>§ 7:136</b>
conduct, § 7:193	Duration, § 7:138
Possession, § 7:192	Parties, § 7:137
Rape, § 7:184-7:188	Special rules, § 7:139

CRIMINAL LAW AND	CRIMINAL LAW AND
PROCEDURE—Cont'd	PROCEDURE—Cont'd
Constitutional considerations,	Custody, when warnings required for
identification of suspects, § 7:101-7:106	interrogation, § 7:88
Controlled substances offenses	Deadly force to affect felon's arrest, § 7:10
Generally, § 7:258-7:273	Defenses
Being present where heroin is kept,	Common
§ 7:272	Generally, § <b>7:295-7:320</b>
Classification of substances into	Accident, § 7:295
schedules, § 7:258	Alibi, § 7:296, 7:297
Counterfeit substances, § 7:261	Coercion or duress, § 7:298
Forfeiture of property, § 7:273	Consent or condonation by
Heroin, being present, § 7:272	victim, § 7:300
Intent to distribute	Defense of another, § 7:317
Generally, § 7:263	Defense of property, § 7:318
Near school or playground,	Diminished capacity, § 7:307
§ 7:265	Double jeopardy, § 7:301-7:303
Proof of elements, § 7:266-	Duress or coercion, § 7:298
7:269	Entrapment, § 7:304
Punishment, § 7:264	Insanity (lack of criminal
Motor vehicle offenses, operating	responsibility), § 7:308-
under the influence, § 7:244-	7:312
7:248	Intoxication, § 7:146, 7:306
Paraphernalia, § 7:262 Possession	Necessity, § 7:299
Generally, § 7:259	Self-defense, § 7:313-7:315
Counterfeit substance, § 7:261	Statute of limitations, § 7:319,
Drug paraphernalia, § 7:262	7:320
With intent to distribute con-	Defense of another, § 7:317
trolled substances, § 7:263-	Defense of property
7:269	Generally, § 7:318
Punishment, § 7:260	Definition of arrest, § 7:1
Trafficking in controlled sub-	Deliberately elicited statements,
stances, § 7:270, 7:271	interrogation of suspects, § 7:83
Corporations	Deliberate premeditation, homicide, § 7:148
Capacity to commit crime, § 7:124	Deriving support from earnings of
Corporeal identification of suspects techniques	prostitute, § 7:289
Accidental encounters, § 7:109	Description in warrant
In-court identification, § 7:110	Person to be searched, § 7:48
Lineups, § 7:107	Place to be searched, § 7:46, 7:47
One-on-one show-ups, § 7:108	Things to be seized, § 7:49, 7:50
Counterfeiting	Destruction of property
Generally, § 7:261	Generally, § 7:241
Criminal responsibility	Chattels, <b>§ 7:243</b>
Diminished capacity, § 7:307	Malicious, <b>§ 7:241</b>
Insanity defense (lack of criminal	Particular buildings, § 7:243
responsibility), § 7:308-7:312	Wanton, § 7:241

CRIMINAL LAW AND

#### PROCEDURE—Cont'd PROCEDURE—Cont'd Diminished capacity, mental health Embezzlement issues, § 7:307 Larceny by, § 7:235 Disabled person, assault and battery Entering dwelling by false pretenses, burglary, § 7:229 on, § 7:164 Disorderly conduct Entrapment Application, § 7:305 Generally, § 7:282 Concept, § 7:304 Display of single photograph, identification of suspect, § 7:112 Entry into home, execution of arrest Disseminating obscene matter warrant, § 7:6 Evidence Generally, § 7:285 Illegal arrest, admissibility of evi-Involving children, § 7:286 dence obtained as result of, Dissemination of visual material of § 7:14 nude child or child in sexual Probable cause for arrest, furnishconduct, § 7:194 ing, § 7:3 Distinguishing federal and state, Rape, § 7:198-7:203 confidential informants matters, Exceptions to exclusionary rule, § 7:57 § 7:16 Distribution Exceptions to warrant requirement Distribute controlled substances, Generally, § 7:65-7:74 intent to, § 7:263-7:269 Administrative searches, § 7:36 Distribute controlled substances Consent searches, § 7:73, 7:74 near school or playground, Exigent circumstances, § 7:66 intent to, § 7:265 Motor vehicle searches, § 7:68-Disturbing the peace, § 7:283 7:70 Double jeopardy Plain view seizure, § 7:65 Generally, § 7:301 Search incident to arrest, § 7:71, Multiple punishments at single prosecution, § 7:303 Exclusionary rule, search and seizure Successive prosecutions, § 7:302 Generally, § 7:15 Due process rights, identification of Automatic standing to object, suspects, § 7:103-7:106 § 7:19 Duration of conspiracy, § 7:138 Description of place to be searched Duress or coercion in warrant, § 7:47 Defense, § 7:298 Description of things to be seized Extortion. § 7:223 in warrant, § 7:50 Robbery, use of force or intimida-Exceptions, § 7:16 tion, § 7:217 Limitations on rule, § 7:17 Dwelling, entry into to make arrest Standing to object, § 7:18-7:20 without warrant, § 7:11 Target standing to object, § 7:20 Elderly, crimes against Exclusion of suggestive identification Assault and battery on, § 7:164 of suspects, § 7:104 Electronic recording of interrogation Execution of arrest warrant, § 7:5, of suspects, § 7:91 7:6 Electronic surveillance warrant, Execution of search and seizure war-§ 7:37 rant Elements of burglary, § 7:227 Generally, § 7:60-7:64

CRIMINAL LAW AND

#### CRIMINAL LAW AND CRIMINAL LAW AND PROCEDURE—Cont'd PROCEDURE—Cont'd Execution of search and seizure war-Fourteenth amendment (voluntarirant—Cont'd ness), interrogation of suspects Civilian participation, § 7:62 —Cont'd Knock and announce rule, § 7:61 Conduct of the police, § 7:77 Humane practice consideration, Return of warrant, § 7:64 § 7:79 Scope of search, § 7:63 Miranda rights waiver distinction, Time of execution, § 7:60 § 7:80 Exigent circumstances exception, Personal characteristics of suspect, § 7:66 § 7:78 Extortion, § 7:223 Procedural considerations, § 7:79, Extraterritorial arrest by police officer, § 7:12 Extreme atrocity or cruelty, homi-Test for voluntariness, § 7:76-7:78 cide, § 7:149 Gaming offenses Failure to appear in court, § 7:291 Generally, § 7:274 Fairness of array of suspects, Bookmaking, § 7:277 photographs, § 7:113 Keeping gaming house, § 7:276 False pretenses Keeping gaming implements, Burglary, § 7:229 § 7:275 Larceny by Registering bets, § 7:277 Generally, § **7:234** Use of telephones, § 7:278 Family or household member, assault Government agent, who is, interrogaand battery on, § 7:164.50 tion of suspects, § 7:82 Felony, arrest, § 7:9, 7:10 Government officials, constitutional Fifth amendment (miranda rule), requirements, search and interrogation of suspects seizure, § 7:38 Generally, § 7:85-7:100 Grand jury orders or subpoena, Background, § 7:85 search and seizure, § 7:33 Basic rule, § 7:86 Harassment, § 7:177 Limitations on scope of rule, Heroin, being present, § 7:272 § 7:85-7:100 Home invasion Procedure for giving warnings, Armed home invasion, § 7:173 § 7:90, 7:91 Home or dwelling Waiver of rights, § 7:80, 7:92-7:97 Armed assault in dwelling with When are warnings required, intent to commit felony, § 7:87-7:89 § 7:172 First complaint doctrine, rape, Homicide § 7:202, 7:203 Generally, § 7:140-7:158 First degree murder, § 7:147-7:150 Assault with specific intent, Forcible rape § 7:169 Children, § 7:187 Deliberate premeditation, § 7:148 Forfeiture of property Extreme atrocity or cruelty, Controlled substances offenses, § 7:149 § 7:273 Felony murder, § 7:150 Fourteenth amendment (voluntari-First degree murder, § 7:147-7:150 ness), interrogation of suspects Generally, § 7:75-7:80 Intoxication, effect of, § 7:146

CRIMINAL LAW AND	CRIMINAL LAW AND
PROCEDURE—Cont'd	PROCEDURE—Cont'd
Homicide—Cont'd	Homicide—Cont'd
Involuntary manslaughter, § 7:156-7:158	Premeditation, deliberate, § 7:148
Malice	Reasonable provocation, § 7:153
Applied, § 7:144	Second degree murder, § 7:151
Defined, § 7:144	Self-defense or defense of another, excessive use of force,
First degree murder, § 7:147	§ 7:155
Inferred, § 7:145	Sudden combat, § 7:154
Intoxication or mental impair-	Voluntary manslaughter, § 7:152,
ment, effect of, § 7:146	7:153-7:155
Revised instruction, § 7:143	Wanton and reckless conduct,
Second degree murder, § 7:151	§ 7:157
Traditional meaning, § 7:142	Humane practice consideration, inter-
Manslaughter	rogation of suspects, § 7:79
Battery, § 7:158	Human trafficking for sexual
Involuntary, § 7:156-7:158	servitude, § 7:290
Mitigating circumstances,	Identification of suspects
§ 7:153-7:155	Generally, § 7:101-7:114
Reasonable provocation,	Accidental encounters, § 7:109
§ 7:153	Admissibility of subsequent
Self-defense or defense of	identifications, § 7:105
another, excessive use of force, § 7:155	Constitutional considerations, § 7:101-7:106
Sudden combat, § 7:154	Corporeal identification techniques
Voluntary manslaughter	Accidental encounters, § 7:109
generally, <b>§ 7:152, 7:153- 7:155</b>	In-court identification, § 7:110
Wanton and reckless conduct,	Lineups, § 7:107
§ 7:157	One-on-one show-ups, § 7:108
Mental impairment, effect of, <b>§ 7:146</b>	Display of single photograph, § 7:112
Mitigating circumstances, volun-	Due process rights, state proce-
tary manslaughter, § 7:153-	dure, § 7:106
7:155	Exclusion of suggestive identifica-
Motor vehicle offense, § 7:255,	tion, § 7:104
7:256	Fairness of array, photographs,
Murder	§ 7:113
Generally, <b>§ 7:141</b>	In-court identification
Deliberate premeditation, § 7:148	Corporeal identification techniques, § 7:110
Extreme atrocity or cruelty	Mugshots, use of, <b>§ 7:114</b>
generally, § 7:149	Lineups, § 7:107
Felony murder, § 7:150	Mugshots use in court, § 7:114
First degree, § 7:147-7:150	One-on-one show-ups, § 7:108
Premeditation, deliberate,	Photographic identification
§ 7:148	techniques
Second degree, § 7:151	Generally, § 7:111

CRIMINAL LAW AND	CRIMINAL LAW AND
PROCEDURE—Cont'd	PROCEDURE—Cont'd Informant, search and seizure
Identification of suspects—Cont'd Photographic identification	Confidential or unnamed, § 7:55-
techniques—Cont'd	7:57
Display of single photograph,	Police officer, § 7:59
§ 7:112	Victim, § 7:58
Fairness of array, photographs,	Witness, § 7:58
§ 7:113	Insanity defense
In-court use of mugshots,	Generally, § 7:308-7:312
§ 7:114	Background, § 7:308
Right to counsel, § 7:101, 7:102	Distinction from incompetence to
Right to due process, § 7:103-	stand trial, § 7:312
7:106	Operation of model penal code
Show-ups	rule, § <b>7:309</b>
Accidental encounters, § 7:109	Procedural requirements, § 7:310
In-court identification, § 7:110	Verdict for defendant, conse-
Lineups, § 7:107 One-on-one, § 7:108	quences of, § 7:311
· -	Intent
Single photograph, display of, § 7:112	Assault with specific intent
State procedure, due process	Armed assault in dwelling with intent to commit felony,
rights, § 7:106	§ 7:172
Subsequent identifications, admis-	Armed home invasion, § 7:173
sibility of, § 7:105	Commit felony, armed assault in
Suggestive identification, exclusion of, § 7:104	dwelling with intent to, § 7:172
Identity fraud, § 7:239	Harassment, criminal, § 7:177
Illegal arrest	Kill, § 7:169
Admissibility of evidence obtained	Maim, § 7:170
as result of, § 7:14	Mayhem, § 7:174, 7:175
Right to resist, § 7:13	Murder, § 7:168
Impeachment, using interrogation statement for, § 7:98	Rape, § 7:180
Implements	Rape child, § 7:188
Burglarious implements, posses-	Robbery, § 7:216
sion of, § 7:230	Rob or steal, § 7:171
Gaming offenses, keeping gaming	Stalking, § 7:176
implements, § 7:275	Criminal
Incident to arrest, search, § 7:71,	Constructive, § 7:128
7:72	General, § 7:126
In-court identification of suspects	Specific, § <b>7:127</b> Transferred, § <b>7:128</b>
Corporeal identification	Intent to distribute controlled sub-
techniques, § 7:110 Mugshots, use of, § 7:114	stances
Indecent assault and battery, § 7:181,	Generally, § 7:263
7:182, 7:189	Near school or playground,
Indecent exposure, public order	§ 7:265
offense, § 7:279	Proof of elements, § 7:266-7:269

#### CRIMINAL LAW AND CRIMINAL LAW AND PROCEDURE—Cont'd PROCEDURE—Cont'd Intent to distribute controlled sub-Interrogation of suspects—Cont'd Limitations on scope of miranda stances—Cont'd rule, § 7:98-7:100 Punishment, § 7:264 Miranda rights Interrogation of suspects Actions and characteristics of Generally, § 7:75-7:100 suspect, § 7:93 Basic rule, § 7:86 Attorney, waiver after invoking Conduct of police, § 7:95 right to, § 7:97 Conduct of the police, § 7:77 Background, § 7:85 Custody, when warnings required, Basic rule, § 7:87 § 7:88 Conduct of police, § 7:95 Deliberately elicited statements, Custody, when warnings § 7:83 required, § 7:88 Electronic recording of interroga-Electronic recording of intertion, § 7:91 rogation, § 7:91 Fifth amendment (miranda rule) Interrogation, when warnings Generally, § 7:85-7:100 required, § 7:89 Background, § 7:85 Juveniles, § 7:94 Basic rule, § 7:86 Limitations on scope of rule, Limitations on scope of rule, § 7:98-7:100 § 7:85-7:100 Procedure for giving warnings, Procedure for giving warnings, § 7:90, 7:91 § 7:90, 7:91 Public safety exception, § 7:99 Waiver of rights, § 7:80, 7:92-Silence, waiver after invoking 7:97 right to, § 7:96 When are warnings required, Use of evidence derived from § 7:87-7:89 violation of rule, § 7:100 Fourteenth amendment (voluntari-Use of statement for impeachment, § 7:98 Waiver of rights, § 7:80, 7:92-Generally, § 7:75-7:80 7:97 Conduct of the police, § 7:77 When warnings required, Humane practice consideration, § 7:87-7:89 § 7:79 Personal characteristics of suspect, Miranda rights waiver distinc-§ 7:78 tion, § 7:80 Procedure for giving miranda Personal characteristics of warnings, § 7:90, 7:91 suspect, § 7:78 Public safety exception, miranda Procedural considerations, rights, § 7:99 § 7:79, 7:80 Silence, waiver of rights after Test for voluntariness, § 7:76invoking right to, § 7:96 7:78 Sixth amendment (right to counsel) Government agent, who is, § 7:82 Generally, § 7:81-7:84 Humane practice consideration, Waiver of right to counsel, § 7:79 § 7:84 Impeachment, using statement for, When are statements § 7:98 "deliberately elicited," Juveniles, § 7:94 § 7:83

CRIMINAL LAW AND	CRIMINAL LAW AND
PROCEDURE—Cont'd	PROCEDURE—Cont'd
Interrogation of suspects—Cont'd Sixth amendment (right to counsel)	Joint venturers as parties to crime —Cont'd
—Cont'd	Withdrawal from joint venture,
Who is a government agent,	§ 7:121
§ 7:82	Jurisdiction
Test for voluntariness	Generally, <b>§ 7:116</b>
Generally, § 7:76	Courts, § 7:116
Conduct of the police, § 7:77	Juvenile matters and proceedings
Personal characteristics of	Interrogation of juveniles, § 7:94
suspect, <b>§ 7:78</b>	Keeping gaming house offense,
Use of evidence derived from	§ 7:276
violation of miranda rights rule, § 7:100	Keeping gaming implements offenses, § 7:275
Use of statement for impeachment,	Kidnapping
§ 7:98	Generally, § 7:220
Waiver of miranda rights	Lack of consent, § 7:222
Generally, § 7:92-7:97	Punishment, § 7:221
Actions and characteristics of suspect, § 7:93	Kill or murder, assault with specific intent, § 7:168, 7:169
After invoking right to counsel,	Knock and announce rule, § 7:6, 7:61
§ 7:97	Larceny
After invoking right to silence, § 7:96	Generally, <b>§ 7:231</b>
Juvenile, <b>§ 7:94</b>	By check, § 7:236
Police conduct, § 7:95	By embezzlement, § 7:235
Voluntariness distinguished,	By false pretenses, § 7:234
§ 7:80	Punishment, § 7:232
Waiver of right to counsel, § 7:84	Receiving stolen property, § 7:238
Warnings	Robbery, larceny from the person,
Procedure for giving, § 7:90,	§ 7:219 Shanlifting § 7:227
7:91	Shoplifting, § 7:237
When required, § 7:87-7:89	Stealing, § 7:233
Who is a government agent, § 7:82	By stealing, § 7:233 Leaving scene of accident, § 7:254
Intoxication	Lewd and lascivious behavior
Defense, § <b>7:146</b> , <b>7:306</b> Motor vehicle offenses, operating	Indecent exposure, § 7:279
under the influence, § 7:244-	Public order offense, § 7:280,
7:248	7:281
Inventory search, motor vehicle,	Sex offense, § 7:183, 7:191
§ 7:70 Involuntary manslaughter	License
Generally, § 7:156	Motor vehicle, operating without,
Issuance of arrest warrant, § 7:4	§ 7:257
Joint venturers as parties to crime	Limitations on exclusionary rule,
Generally, § 7:119	§ 7:17 Limitations on scope of miranda rule
Application of law, § 7:120	Limitations on scope of miranda rule, § 7:98-7:100
Elements, § 7:120	Lineups, § 7:107

CRIMINAL LAW AND	CRIMINAL LAW AND
PROCEDURE—Cont'd	PROCEDURE—Cont'd
Maim, assault with specific intent, § 7:170	Miranda rights, interrogation of suspects—Cont'd
Malice	Attorney, waiver after invoking
Applied, § 7:144	right to, <b>§ 7:97</b>
Defined, § 7:142	Background, § 7:85
Destruction of property, § 7:241	Basic rule, § 7:87
First degree murder, § 7:147	Conduct of police, § 7:95
Homicide, § 7:144-7:146, 7:151	Custody, when warnings required,
Inferred, § 7:145	§ 7:88
Intoxication, effect of	Electronic recording of interroga-
Effect of, § 7:146	tion, § 7:91
Mental impairment, effect of, § 7:131, 7:146	Interrogation, when warnings required, § 7:89
Revised instruction, § 7:143	Juveniles, § 7:94
Second degree murder, § 7:151	Limitations on scope of rule,
Traditional meaning, § 7:142	§ 7:98-7:100
Mayhem	Procedure for giving warnings,
Assault with specific intent,	§ 7:90, 7:91
§ 7:174	Public safety exception, § 7:99 Silence, waiver after invoking right
Two branches, § 7:175	to, § 7:96
Mental health issues	Use of evidence derived from
Diminished capacity, § 7:307	violation of rule, § 7:100
Insanity defense (lack of criminal responsibility), § 7:308-7:312	Use of statement for impeachment, § 7:98
Mental impairment, effect on homi-	Waiver of rights
cide, § 7:146	Generally, § 7:80, 7:92-7:97
Mentally retarded person, assault and battery on, § 7:163, 7:182	When warnings required, § 7:87-7:89
Mental state	Misdemeanor
Generally, § 7:125	Arrest, § 7:8
Assault and battery on retarded person, § 7:163	Misrepresentation in warrant affidavit, effect of, § 7:43, 7:44
Intent, criminal	Mitigating circumstances, voluntary
Constructive, § 7:128	manslaughter, § 7:153-7:155
General, § 7:126	Motive
Specific, § <b>7:127</b>	Mental state, § 7:129
Transferred, § 7:128	Motor vehicle searches
Knowledge, § 7:130	Generally, § 7:68
Malice, § 7:131, 7:146	Inventory search, § 7:70
Motive, § 7:129	Scope of search, § 7:69
Recklessness, § 7:132	What constitute "seizure," § 7:28-
Wantonness, § 7:132	7:30
Miranda rights, interrogation of	Mugshots use in court, § 7:114
suspects	Multiple punishments at single prose-
Actions and characteristics of suspect, § 7:93	cution, double jeopardy defense, § 7:303

#### CRIMINAL LAW AND CRIMINAL LAW AND PROCEDURE—Cont'd PROCEDURE—Cont'd Near school or playground, intent to Photographic identification of distribute controlled substances suspects techniques—Cont'd offenses, § 7:265 In-court use of mugshots, § 7:114 Necessity, defense Place, search and seizure Generally, § 7:299 Description of place to be Nexus between crime, place and searched, § 7:46, 7:47 objects for probable cause Knock and announce rule, § 7:61 determinations, § 7:54 Nexus between crime, place and One-on-one show-ups, identification objects for probable cause of suspects, § 7:108 determination, § 7:54 Paraphernalia, controlled substances Plain view observation, § 7:23, offenses, § 7:262 7:65 Parties to crime Roadblocks, § 7:31 Generally, § 7:118-7:124 Plain view observation, what consti-Accessory after the fact, § 7:123 tutes "search," § 7:23 Accessory before the fact, § 7:122 Plain view seizure, exception to war-Conspiracy, § 7:137 rant requirement, § 7:65 Corporations, § 7:124 Playground, intent to distribute con-Principals and joint venturers, trolled substances offenses near § 7:119-7:121 school or, § 7:265 Police officer as source of informa-Generally, § 7:292, 7:292-7:294 tion, § 7:59 Person, crimes against the Pornography, child Generally, § 7:140-7:223 Dissemination of visual material of Assault and battery, § 7:159-7:167 nude child or child in sexual Assault with specific intent, conduct, § 7:194 § 7:168-7:177 Posing or exhibiting child in state Extortion, § 7:223 of nudity or sexual conduct, § 7:193 Firearms offenses, § 7:204-7:212 Homicide, § 7:140-7:158, 7:255, Possession, § 7:192 7:256 Posing or exhibiting child in state of Kidnapping, § 7:220-7:222 nudity or sexual conduct, Robbery, § 7:213-7:219 § 7:193 Sex offenses Possession offenses Adult, § 7:178-7:183 Burglarious implements, posses-Child, § 7:184-7:197 sion of, § 7:230 Evidentiary considerations, Controlled substances, possession § 7:198-7:203 of, § 7:259-7:271 Personal characteristics of suspect, Firearms, possession of, § 7:204 interrogation issue, § 7:78 Preliminary crimes Photographic identification of Generally, § 7:133 suspects techniques Attempt, § 7:134 Generally, § 7:111 Conspiracy, § 7:136-7:139 Display of single photograph, Solicitation, § 7:135 § 7:112 Premeditation, deliberate, homicide, Fairness of array, photographs,

§ 7:148

§ 7:113

CRIMINAL LAW AND	CRIMINAL LAW AND
PROCEDURE—Cont'd	PROCEDURE—Cont'd
Principals and joint venturers, § 7:119-7:121	Procedure for obtaining search and seizure warrant, § 7:42
Prior sexual conduct, admitting evi-	Property
dence of	Crimes against
Complainant conduct, § 7:199	Generally, § 7:224-7:243
Victim's virginity, § 7:200	Arson, § 7:224
Private security guards, constitutional	Burglary, § 7:226-7:228
requirements, § 7:40	Destruction of property, § 7:241
Probable cause	7:243
Arrest	Entering dwelling by false
Generally, § 7:2	pretenses, § 7:229
Determination for persons arrested without warrant,	Identity fraud, § 7:239
§ 7:7	Larceny, § 7:231-7:237
Evidence furnishing, § 7:3	Possession of burglarious implements, § 7:230
Search and seizure	Receiving stolen property,
Generally, § 7:51	§ 7:238, 7:239
Anticipatory warrant, § 7:53	Trespass, § 7:240
Confidential informant as source of information, § 7:55-7:54	Public order, offenses to
Distinguishing federal and state,	Affray, § <b>7:284</b>
confidential informants	Disorderly conduct, § 7:282
matters, § 7:57	Disturbing the peace, § 7:283
Informant	Indecent exposure, § 7:279
confidential or unnamed, § 7:55-7:57	Lewd and lascivious behavior, § 7:280, 7:281
police officer, § 7:59	Public safety exception, miranda
victim, § 7:58	rights, § <b>7:99</b>
witness, § 7:58	Public school administrators,
Nexus between crime, place and	constitutional requirements,
objects, <b>§ 7:54</b>	search and seizure, § 7:39
Police officer as source of infor-	Punishment
mation, § 7:59	Destruction of property, § 7:242
Satisfaction of aguilar-spinelli test, confidential	Distribution of, or possession with intent to distribute, § 7:264
informants, § 7:56	Possession of controlled sub-
Stale information, § 7:52	stances, <b>§ 7:260</b>
Victim as source of information, § 7:58	Trafficking in controlled substances, § 7:271
Warrant requirement, generally,	Rape
§ 7:51-7:59 Witness as source of informa-	Generally, § 7:178-7:183
tion, § 7:58	Aggravated, § 7:179
Probationer and his premises, search of, § 7:34	Assault with specific intent, § 7:180
Procedure for giving miranda warn-	Child
ings, interrogation of suspects, § 7:90, 7:91	Aggravated statutory rape, § 7:185

CRIMINAL LAW AND PROCEDURE—Cont'd	CRIMINAL LAW AND PROCEDURE—Cont'd
Rape—Cont'd	Right to counsel
Child—Cont'd	Identification of suspects, § 7:101,
Assault with intent to rape child,	7:102
§ 7:188	Interrogation of suspects, § 7:81-
Forcible rape, § 7:187	7:84
Statutory rape, § 7:184	Waiver of miranda rights after
Evidence, § 7:198-7:203	invoking right to counsel, § 7:97
First complaint doctrine, rape, § 7:202, 7:203	Waiver of right to counsel, interrogation of suspects, § 7:84
Prior sexual conduct, admitting evidence of	Right to resist unlawful arrest, § 7:13
Complainant conduct, § 7:199	Roadblocks
Victim's virginity, § 7:200	Search and seizure, § 7:31
Rape-shield law	Robbery
Generally, § 7:198	Generally, § 7:213-7:219
Prior sexual conduct of	Armed, § 7:218
complainant, admitting	Asportation element, § 7:214
evidence of, § <b>7:199</b>	Assault with specific intent, § 7:216
Trauma syndrome, § 7:201	Assault with specific intent to rob
Virginity of victim, evidence of,	or steal, § 7:171
§ 7:200	Elements, § 7:214-7:216
Rape-shield law	Intent to steal, § 7:216
Generally, § 7:198	Larceny from the person, § 7:219
Prior sexual conduct of complain-	Nature of robbery, § 7:213
ant, admitting evidence of,	Property subject to, § 7:215
§ 7:199	Unarmed, § 7:219
Reasonable expectation of privacy, search and seizure, § 7:21, 7:22	Use of force or intimidation, § 7:217, 7:218
Receiving stolen goods	Satisfaction of aguilar-spinelli test,
Generally, § <b>7:238</b>	confidential informants, § 7:56
Recklessness	School administrators, constitutional
Endangerment to child, sex offense, § 7:197	requirements, search and seizure, § 7:39
Mental state, § 7:132	Schools
Motor vehicle operation offense, § 7:250	Intent to distribute controlled substances offenses near, § 7:265
Registration	Scope of search
Gaming offenses, registering bets,	Execution of warrant, § 7:63
§ 7:277	Motor vehicle searches, § 7:30,
Motor vehicle offenses, operating	7:69
without registration, § 7:257	Search and seizure
Resist unlawful arrest, right to,	Generally, § 7:15-7:74
§ 7:13	Administrative searches, § 7:35,
Return of warrant, search and seizure, § 7:64	7:36 Anticipatory warrant, § 7:53

CRIMINAL LAW AND	CRIMINAL LAW AND
PROCEDURE—Cont'd	PROCEDURE—Cont'd
Search and seizure—Cont'd	Search and seizure—Cont'd
Automatic standing to object,	Exclusionary rule—Cont'd
§ 7:19	Target standing to object, § 7:20
Body searches, § 7:32	Execution of warrant
Civilian participation, § 7:62	Generally, § 7:60-7:64
Community caretaking function of seizure, § 7:67	Civilian participation, § 7:62
Confidential informants	Knock and announce rule,
Generally, § 7:55	§ 7:61
Federal and state differences,	Return of warrant, § 7:64
§ 7:57	Scope of search, § 7:63
Misrepresentation if affidavit,	Time of execution, § 7:60
§ 7:44	Exigent circumstances exception,
Consent searches, § 7:73, 7:74	§ <b>7:66</b>
Description, warrant	Government officials,
Person to be searched, § 7:48	constitutional requirements,
Place to be searched, § 7:46,	§ 7:38
7:47	Grand jury orders or subpoena,
Things to be seized, § 7:49, 7:50	§ 7:33
Distinguishing federal and state,	Incident to arrest, search, § 7:71, 7:72
confidential informants mat-	Informant
ters, § 7:57	
Electronic surveillance warrant, § 7:37	Confidential or unnamed, § 7:55-7:57
Exceptions to exclusionary rule,	Police officer, § 7:59
§ 7:16	Victim, § 7:58
Exceptions to warrant requirement	Witness, § 7:58
Generally, § 7:65-7:74	Inventory search, motor vehicle,
Administrative searches, § 7:36	§ 7:70
Consent searches, § 7:73, 7:74	Knock and announce rule, § 7:61
Exigent circumstances, § 7:66	Limitations on exclusionary rule,
Motor vehicle searches, § 7:68-	§ 7:17
7:70	Misrepresentation in affidavit,
Plain view seizure, § 7:65	effect of, § 7:43, 7:44
Search incident to arrest, § 7:71,	Motor vehicle searches
7:72	Generally, § 7:68
Exclusionary rule	Exit orders, § 7:30
Generally, § 7:15	Inventory search, § 7:70
Automatic standing to object,	Scope of search, § 7:30, 7:69
§ 7:19  Description of place to be	Motor vehicle stop, what constitutes "seizure," § 7:28-7:30
searched in warrant, § 7:47	Nexus between crime, place and
Description of things to be seized in warrant, § 7:50	objects for probable cause
Exceptions, § 7:16	determinations, § 7:54 Place
Limitations on rule, § 7:17	
Standing to object, § 7:18-7:20	Description of place to be searched, § 7:46, 7:47

CRIMINAL LAW AND PROCEDURE—Cont'd	CRIMINAL LAW AND PROCEDURE—Cont'd
Search and seizure—Cont'd	Search and seizure—Cont'd
Place—Cont'd	Probationer and his premises,
Knock and announce rule,	search of, § 7:34
§ 7:61	Procedure for obtaining warrant,
Nexus between crime, place and	§ 7:42
objects for probable cause	Public school administrators,
determination, § 7:54	constitutional requirements,
Plain view observation, § 7:23,	§ 7:39
7:65	Reasonable expectation of privacy,
Roadblocks, § 7:31	§ 7:21, 7:22
Plain view observation, what con-	Return of warrant, § 7:64
stitutes "search," § 7:23	Roadblocks, § 7:31
Plain view seizure, exception to	Satisfaction of aguilar-spinelli test,
warrant requirement, § 7:65	confidential informants,
Police officer as source of information, § 7:59	§ 7:56
Private security guards,	School administrators,
constitutional requirements,	constitutional requirements,
§ 7:40	§ 7:39
Probable cause	Scope of search
Generally, § 7:51	Execution of warrant, § 7:63
Anticipatory warrant, § 7:53	Motor vehicle searches, § 7:30, 7:69
Confidential informant as source	
of information, § 7:55-7:54	Security guards, constitutional requirements, § 7:40
Distinguishing federal and state,	Stale information, probable cause,
confidential informants	§ 7:52
matters, § 7:57	Standard, reasonable expectation
Informant	of privacy, § 7:21
confidential or unnamed,	Standing to object
§ 7:55-7:57	Generally, § 7:18
police officer, § 7:59	Automatic, § 7:19
victim, § 7:58	Target, § 7:20
witness, § <b>7:58</b>	Stop of a motor vehicle
Nexus between crime, place and	Exit orders, § 7:30
objects, § 7:54	Justification, § 7:29
Police officer as source of infor-	Scope of detention or search,
mation, § 7:59	§ 7:30, 7:69
Satisfaction of aguilar-spinelli test, confidential	What constitutes "seizure,"
informants, § 7:56	§ 7:28-7:30
Stale information, § 7:52	Stop of a person
Victim as source of information,	Justification, § 7:26
§ 7:58	Scope of search or "frisk,"
Warrant requirement, generally,	§ 7:27
§ 7:51-7:59	What constitutes "seizure,"
Witness as source of informa-	§ 7:25-7:27
tion, § 7:58	Target standing to object, § 7:20

#### CRIMINAL LAW AND CRIMINAL LAW AND PROCEDURE—Cont'd PROCEDURE—Cont'd Search and seizure—Cont'd Search and seizure—Cont'd Third party consent searches, Warrant—Cont'd § 7:74 Warrant requirement, probable Time of execution of warrant, cause, § 7:51-7:59 § 7:60 Warrantless searches Types of objects for which warrant Administrative searches, § 7:36 may issue, § 7:45 Consent, § 7:73, 7:74 Victim as source of information, Exigent circumstances, § 7:66 § 7:58 Incident to arrest searches, Warrant § 7:71, 7:72 Generally, § 7:41 Motor vehicle searches, § 7:68-Confidential informants, § 7:44 7:70 Consent searches exception, Plain view seizure, § 7:65 § 7:73, 7:74 What constitutes "search" Description Generally, § 7:21-7:23 person to be searched, § 7:48 Plain view observation, § 7:23 place to be searched, § 7:46, Reasonable expectation of 7:47 privacy, § 7:21 things to be seized, § 7:49, Standard, reasonable expectation 7:50 of privacy, § 7:21 Electronic surveillance, § 7:37 What constitutes "seizure" Exceptions to warrant require-Generally, § 7:24-7:30 ment, § 7:65-7:74 Community caretaking function, Exclusionary rule, application of § 7:67 description of place to be Stop of a motor vehicle, § 7:28searched, § 7:47 7:30 Stop of a person, § 7:25-7:27 description of things to be seized, § 7:50 Witness as source of information, § 7:58 Execution of warrant, § 7:60-Second degree murder, § 7:151 7:64 Exigent circumstances excep-Security guards, constitutional requirements, search and tion, § 7:66 seizure, § 7:40 Incident to arrest searches exception, § 7:71, 7:72 Self defense Generally, § 7:313-7:315 Misrepresentation in affidavit, effect of, § 7:43, 7:44 Basic rule, § 7:313 "Castle law," § 7:315 Motor vehicles searches exception, § 7:68-7:70 Duty to avoid combat, § 7:315 Plain view seizure exception, Procedural rule, § 7:316 § 7:65 Reasonableness of apprehension of Probable cause requirement, harm and use of force, § 7:51-7:59 § 7:314 Procedure for obtaining, § 7:42 Sexual assault and offenses Third party consent searches Adult sex offenses, § 7:178-7:183 exception, § 7:74 Aggravated indecent assault and Types of objects for which warbattery on child under age 14, rant may issue, § 7:45 § 7:190

#### CRIMINAL LAW AND CRIMINAL LAW AND PROCEDURE—Cont'd PROCEDURE—Cont'd Sexual assault and offenses-Cont'd Stop of a motor vehicle Child sex offenses, § 7:184-7:197, Exit orders, § 7:30 7:286 Justification, § 7:29 Indecent assault and battery, Scope of detention or search, § 7:181, 7:182, 7:189 § 7:30, 7:69 Lewd and lascivious behavior, What constitutes "seizure," § 7:183, 7:191 § 7:28-7:30 Shoplifting Stop of a person Generally, § 7:237 Justification, § 7:26 Show-ups, identification of suspects Scope of search or "frisk," § 7:27 Accidental encounters, § 7:109 What constitutes "seizure," In-court identification, § 7:110 § 7:25-7:27 Lineups, § 7:107 Strangling or suffocating another, § 7:165 One-on-one, § 7:108 Silence during interrogation, waiver Subornation of perjury, § 7:294 of rights after invoking right to, Subsequent identifications of § 7:96 suspects, admissibility of, § 7:105 Single photograph, display of, identification of suspect, § 7:112 Successive prosecutions, double Sixth amendment (right to counsel), jeopardy defense, § 7:302 interrogation of suspects Suggestive identification of suspects, Generally, § 7:81-7:84 exclusion of, § 7:104 Waiver of right to counsel, § 7:84 Target standing to object, search and seizure, § 7:20 When are statements "deliberately elicited," § 7:83 Telephone Who is a government agent, § 7:82 Gaming offenses, using for, § 7:278 Solicitation Test for voluntariness, interrogation Generally, § 7:135 of suspects Stale information, probable cause, Generally, § 7:76 search and seizure, § 7:52 Conduct of the police, § 7:77 Stalking Personal characteristics of suspect, Assault with specific intent, § 7:78 § 7:176 Standard, reasonable expectation of Third party consent searches, § 7:74 privacy, search and seizure, Time of execution of warrant, search § 7:21 and seizure, § 7:60 Standing to object, search and seizure Trafficking in controlled substances, Generally, § 7:18 § 7:270, 7:271 Automatic, § 7:19 Transporting firearm into com-Target, § 7:20 monwealth, § 7:211 State procedure, due process rights, Trauma syndrome, rape, § 7:201 identification of suspect, § 7:106 **Trespass** Statute of limitations Generally, § 7:240 Defense, § 7:319, 7:320 Types of objects for which search and Statutory rape, § 7:184 seizure warrant may issue, Stealing § 7:45 Larceny by, § 7:233 Unarmed robbery, § 7:219

CRIMINAL LAW AND

#### PROCEDURE—Cont'd PROCEDURE—Cont'd Unauthorized use of motor vehicle, Warrant, search and seizure—Cont'd § 7:257 Description Unnatural and lascivious acts Person to be searched, § 7:48 With child under sixteen, § 7:191 Place to be searched, § 7:46, Use of evidence derived from viola-7:47 tion of miranda rights rule, Things to be seized, § 7:49, 7:50 § 7:100 Electronic surveillance, § 7:37 Use of interrogation statement for Exceptions to warrant requirement, impeachment, § 7:98 § 7:65-7:74 Venue Exclusionary rule, application of Generally, § 7:117 Description of place to be Victims of crime searched, § 7:47 Source of information, search and Description of things to be seizure, § 7:58 seized, § 7:50 Virginity of victim, evidence of, Execution of warrant, § 7:60-7:64 § 7:200 Exigent circumstances exception, Voluntary § 7:66 Manslaughter Incident to arrest searches excep-Generally, § 7:152, 7:153-7:155 tion, § 7:71, 7:72 Misrepresentation in affidavit, Waiver of miranda rights, interrogation of suspects effect of, § 7:43, 7:44 Generally, § 7:92-7:97 Motor vehicles searches exception, § 7:68-7:70 Actions and characteristics of Plain view seizure exception, suspect, § 7:93 § 7:65 After invoking right to counsel, § 7:97 Probable cause requirement, § 7:51-7:59 After invoking right to silence, § 7:96 Procedure for obtaining, § 7:42 Juvenile, § 7:94 Third party consent searches Police conduct, § 7:95 exception, § 7:74 Voluntariness distinguished, § 7:80 Types of objects for which warrant Waiver of right to counsel, interrogamay issue, § 7:45 tion of suspects, § 7:84 Warrant requirement, probable cause, § 7:51-7:59 Destruction of property, § 7:241 Warrantless arrest Mental state, § 7:132 Dwelling, entry into to make Warnings, interrogation of suspects arrest, § 7:11 Procedure for giving, § 7:90, 7:91 Entry into dwelling to make arrest, When required, § 7:87-7:89 § 7:11 Warrant, arrest Extraterritorial arrest by police Execution of warrant, § 7:5 officer, § 7:12 Felony, § 7:9, 7:10 Issuance of warrant, § 7:4 Warrant, search and seizure Misdemeanor, § 7:8 Generally, § 7:41 Probable cause determination, Confidential informants, § 7:44 § 7:7 Consent searches exception, Use of deadly force to affect § 7:73, 7:74 felon's arrest, § 7:10

CRIMINAL LAW AND

# CRIMINAL LAW AND PROCEDURE—Cont'd Warrantless searches and sei

Warrantless searches and seizures Administrative searches, § 7:36 Consent, § 7:73, 7:74

Exigent circumstances, § 7:66
Incident to arrest searches, § 7:71,
7:72

Motor vehicle searches, § 7:68-7:70

Plain view seizure, § 7:65

Weapons or firearms

Armed assault in dwelling with intent to commit felony, § 7:172

Armed burglary, § 7:228

Armed home invasion, § 7:173

Armed robbery, § 7:218

Assault and battery by means of dangerous weapon, § 7:167

Assault by means of dangerous weapon, § 7:166, 7:167, 7:172, 7:173

Burglary, armed, § 7:228

Carrying firearms in particular places, offense of, § 7:210

Dangerous weapons

Armed assault in dwelling with intent to commit felony, § 7:172

Armed home invasion, § 7:173
Assault and batter by means of, § 7:167

Assault by means of, § 7:166 Discharging firearms in particular places, offense of, § 7:210

Firearms offenses, generally, § 7:204-7:212

Home invasion, armed, § 7:173

Identification card, possession of firearm without, offense, § 7:204

Machine guns, offenses involving, § 7:209

Possession of firearm, offense Ballistics expert, § 7:207 Identification card not present, § 7:204

# CRIMINAL LAW AND PROCEDURE—Cont'd

Weapons or firearms—Cont'd
Possession of firearm, offense
—Cont'd

Outside residence or place of business, § 7:205-7:208

Punishment, § 7:206

Residence or place of business, possession outside of, § 7:205-7:208

Residence or place of business, possession within, § 7:204

Second amendment case law, § 7:208

Without firearms identification card, § 7:204

Robbery, § 7:217, 7:218

Sawed-off shotguns, offenses involving, § 7:209

Transporting firearm into commonwealth, § 7:211

What constitutes "search"

Generally, § 7:21-7:23

Plain view observation, § 7:23

Reasonable expectation of privacy, § 7:21

Standard, reasonable expectation of privacy, § 7:21

What constitutes "seizure"

Generally, § 7:24-7:30

Community caretaking function, § 7:67

Stop of a motor vehicle, § 7:28-7:30

Stop of a person, § 7:25-7:27

Who is a government agent, interrogation of suspects, § 7:82

Witnesses

Search and seizure, source of information, § 7:58

#### **CROSS-CLAIM**

Generally, § 3:72

Distinguished from counterclaim, § 3:79

# CUSTODY OF CHILDREN

Generally, § 8:240-8:285

# CUSTODY OF CHILDREN—Cont'd For detailed treatment see **Domestic**

**Relations**, this index

#### CUSTOM AND USAGE

Business custom
Relevant evidence, § 9:50
Negligence, proof of custom, § 16:78

# **DAMAGES**

Additur and remittitur, § 3:192
Advantageous relations, interference with, § 16:259

Assault, damages recoverable, § 16:5 Battery, damages recoverable, § 16:9 Defamation, § 16:237

Emotional distress, intentional or reckless infliction, damages recoverable, § 16:18

False imprisonment, damages recoverable, § 16:14

Fraudulent misrepresentation, § 16:251

Legal malpractice, negligence, § 16:161

Malicious prosecution, § 16:243 Medical Malpractice, this index Negligence, this index Nuisance, private, § 16:212

Private nuisance, § 16:212

Sales and Leases of Goods, this index

Trust beneficiary, damages as available remedy, \$ 17:108
Wrongful death, \$ 16:54

# **DEATH AND DEATH ACTIONS**

Agency powers, termination of, § 1:90, 1:91

Appeal and review proceedings, effect of death of parties, § 4:77

Civil practice, effect of death of parties, § 3:70, 4:77

Durable power of attorney, § 1:92 Limited liability companies, death of member, § 6:175

#### **DECEDENTS' ESTATES**

Claims and debts, payment of.

Personal Representatives, this index

#### DECEDENTS' ESTATES—Cont'd Executors and Administrators, this index

Intestate Succession, this index
Personal Representative, this index
Probate and Administration of
Estates, this index

Wills, this index

# DECLARATORY JUDGMENTS

Equitable remedies, § 10:55, 10:56, 10:57

Jurisdiction, subject matter, § 3:8 Summary judgment, § 3:145

#### DEEDS

Condominiums, unit deed, § 14:49 Conveyance by deed, § 14:63, 14:64, 14:65

Estoppel by deed, § 14:68 Mortgage deed, § 14:153 Quitclaim deed, § 14:67 Warranty deed, § 14:66

#### DE FACTO PARENTS

Domestic relations, § 8:131, 8:132

#### **DEFAMATION**

Generally, § 16:225-16:237 Absolute privilege, § 16:234 Applicability of defamation to plaintiff, § 16:228

Commercial disparagement distinguished, § 16:226

Conditional or qualified privilege

Generally, § 16:235 Abuse of, § 16:236

Constitutional limits on recovery, § 16:230

Damages, § 16:236

Distinction from commercial disparagement, § 16:226

Elements of action, **§ 16:225, 16:226**Libel

Generally, § 16:231, 16:232 Defense, truth as, § 16:232 Requirements, § 16:231 Nature of action, § 16:225, 16:226 Opinion, defamatory, § 16:229

#### DEFAMATION—Cont'd

Privilege

Generally, § 16:234

Absolute, § 16:234

Conditional or qualified, § **16:235**, **16:236** 

Publication requirement, § 16:227 Slander, requirements, § 16:233

#### **DEFAULT**

Civil Practice, this index

Landlord and tenant, summary process actions, § 12:50

Lenders as having power to confess judgment where default, § 1:14

#### **DEFAULT JUDGMENTS**

Civil Practice, this index

Landlord and tenant, summary process actions, § 12:50

# **DEFECTIVE WAYS**

Negligence, this index

# **DEFENSE OF ANOTHER**

Criminal law, § 7:317

#### **DEFENSE OF PROPERTY**

Criminal law, § 7:318

# **DEFENSES**

**Affirmative Defenses**, this index Criminal law and procedure, § 7:295-

7:320

Equitable remedies, § 10:58-10:63

Legal Malpractice, this index

Negligence, this index

**Products Liability**, this index

# **DEFINITIONS**

Words and Phrases, this index

#### DELEGATION

Authority of agents, § 1:35

Bailment services, § 2:1

Business corporations, directors' delegation to committees, § 6:54

Contracts, delegation of duties, § 5:99, 5:103

# **DEMAND OR REQUEST**

Landlord and Tenant, this index

#### DEMONSTRATIONS

Admissibility of, § 9:218

# DEMONSTRATIVE EVIDENCE

Chain of custody, § 9:214

Chalks, § 9:217

Charts, § 9:215

Computer databases, § 9:219

Definition, § 9:213

Demonstrations, § 9:218

Digital images, § 9:219

Duplicates, § 9:216

Experiments, § 9:218

Identification, § 9:214

Maps, § 9:215

Models, § 9:215

Photographs, § 9:219-9:221

Pictures, § 9:219-9:221

Use of, § 9:213

Views, § 9:222

X-rays, § 9:219

#### **DEPOSITIONS**

Generally, § 3:93-3:102

For detailed treatment see Civil

**Practice**, this index

#### DERIVATIVE PROCEEDINGS

Business corporations, § 6:87-6:92

#### **DESCRIPTIONS**

Land descriptions. **Title**, this index

# DESTRUCTION OF PROPERTY

Criminal law, § 7:241, 7:243

# DIGITAL IMAGES

Evidence, § 9:219

#### DIPLOMATIC AGENTS

Privileged information, military and diplomatic secrets, § 9:97

#### **DIPLOMATIC SECRETS**

Privileges, § 9:97

# **DISABLED PERSONS**

Assault and battery on, § 7:164

Attachment of disabled person's

home, § 3:46

Homestead rights, § 14:123

#### DISABLED PERSONS—Cont'd

Uniform Commercial Code, mentally disabled persons, § 5:46

#### DISCLOSURE

Federal Mortgage Reform and Anti-Predatory Lending Act, § 14:145-14:147

Lead-based paint, § 12:101

Massachusetts Predatory Home Loan Practices Act, § 14:148-14:150

Medical malpractice, unauthorized disclosure of confidential information, § 16:128

Mortgages, disclosures required by federal law, § 14:145

Nondisclosure, tort of, § 16:254

Partnership, duty of full disclosure, § 13:21

Political vote, privilege, § 9:105 Public disclosure of private facts, § 16:220

#### **DISCOVERY**

Civil Practice

Generally, § 3:81-3:113

For detailed treatment see **Civil Practice**, this index

Rent, actions for, § 12:48, 12:49 Workers' compensation, § 19:60

# DISCRIMINATION

Landlord and tenant, discrimination in housing as unlawful, § 12:64, 12:65

Mortgage loan application, antidiscrimination provisions, § 14:144

# DISMISSAL AND NONSUIT

Appeal and Review, this index
Business corporation derivative
proceeding, § 6:90
Class actions, § 3:65
Complaint, Civil Practice, this index

# **DISORDERLY CONDUCT**

Criminal law, § 7:282

# DISPUTE RESOLUTION OFFICIAL

Custody and visitation, § 8:243

#### DISSOLUTION

Business corporations, § 6:130-6:139 Equitable remedies, § 10:53, 10:54 Limited liability companies, § 6:188-6:194

Professional corporations, § 6:156

#### DISTRICT COURT

See Civil Practice, this index

#### DISTURBING THE PEACE

Criminal law, § 7:283

#### **DIVORCE**

See **Domestic Relations**, this index

#### DOCTRINES

Judicial notice doctrine, purpose and effect, § 9:1

#### **DOGS**

Strict liability, § 16:206-16:208

#### DOMESTIC ANIMALS

Strict Liability, this index

# DOMESTIC RELATIONS

Abuse prevention. Domestic violence and abuse prevention, below Adoption. Parent-child relations, below

## Alimony

Generally, § 8:77-8:104

After marriage, property acquired, § 8:113

Age of parties factor, § 8:75
Arrearages, effect on modifying alimony, § 8:101

Changed circumstances, § 8:96, 8:98

Changed circumstances standard, modification, § 8:98, 8:99

Cohabitation

Effect on alimony, § 8:101
Termination of alimony, § 8:103

Components of award, § 8:86

Determining the amount, § 8:85

Deviation from duration and amount limits, § 8:90, 8:90.50

Duration limits, § 8:90, 8:90.50

Economic factors, § 8:93

Employment, § 8:93

#### DOMESTIC RELATIONS—Cont'd DOMESTIC RELATIONS—Cont'd Alimony—Cont'd Alimony—Cont'd Self-modification of judicial Extending durational limits in interests of justice, § 8:90.50 award, § 8:97 Financial statements, income of Temporary alimony, § 8:79, 8:81 spouses, § 8:88 Termination "Full retirement age," payor Generally, § 8:102-8:104 reaching, termination, § 8:104 Cohabitation or remarriage of General term, § 8:80, 8:81 recipient, § 8:103 Health of parties factor, § 8:75 "Full retirement age," payor Income of spouses, determining, reaching, § 8:104 Remarriage of recipient, § 8:103 § 8:87, 8:88 Inflation, effect of, § 8:101 Transitional, § 8:84 Length of marriage factor, § 8:74 **Types** Permanent, § 8:79 Lifestyle during marriage, § 8:94 Rehabilitative, § 8:79 Limits, deviation from, § 8:90 Reimbursement, § 8:79 Loss of child support grounds, effect on modifying alimony, Temporary, § 8:79, 8:81 § 8:101 Annulment Maximum amount of alimony, Generally, § 8:44-8:67 § 8:89, 8:90 Distinction from divorce, § 8:44 Modification Grounds, § 8:47 Generally, § 8:96 Antenuptial agreements, § 8:24-8:26 Arrearages grounds, § 8:101 Generally, § 8:24-8:26 Changed circumstances stan-Standards for judging validity, dard, § 8:98, 8:99 § 8:26 Cohabitation grounds, § 8:101 Time for measuring, § 8:27 Inflation grounds, § 8:101 Validity, § 8:25, 8:26 Loss of child support grounds, Arbitrator assistance, property divi-§ 8:101 sion, § 8:109 Moral conduct grounds, § 8:101 Assignable property, property divi-Other factors, § 8:101 sion factor Pre-Alimony Reform Act Generally, § 8:111 awards, § 8:100 Real estate, § 8:112 Self-modification of judicial Best interests of the child award, § 8:97 Adoption consent, § 8:175 Moral conduct, effect on modify-Child custody, § 8:245, 8:257, ing alimony, **§ 8:101** 8:258 Nature, § 8:77 Business interests, property division, Permanent, § 8:79 § 8:119 Pre-Alimony Reform Act awards, Child custody modification, § 8:100 Generally, § 8:240-8:285 Purpose, § 8:77 Appointment of dispute resolution Rehabilitative, § 8:79, 8:82 official, § 8:243 Reimbursement, § 8:79, 8:83 Appointment of guardian ad litem Remarriage of recipient, terminaor attorney, § 8:242 tion, § 8:103 Attitudes and conduct of parents.

effect of, § 8:255

Security for alimony, § 8:78

#### DOMESTIC RELATIONS—Cont'd DOMESTIC RELATIONS—Cont'd Child custody—Cont'd Child custody—Cont'd Best interests of the child Habeas corpus and similar proceedings, enforcement of Factors considered in awarding custody and visitation obligacustody, § 8:257, 8:258 tions, § 8:342 Maintenance of status quo, Home environment, factors § 8:245, 8:258 considered in awarding Child Custody Jurisdiction Act, custody, § 8:259 § 8:245-8:251 Conduct of parents, effect of, Home state jurisdiction, § 8:248 § 8:255 International aspects, jurisdiction, Criminal prosecution, enforcement § 8:246 of custody and visitation Interstate case, jurisdiction, obligations, § 8:343 § 8:245-8:251 Discretionary assumption of juris-Joint or shared custody, § 8:256 diction, § 8:247 Jurisdiction Domestic violence Generally, § 3:7 Custody, issue in awarding Child Custody Jurisdiction Act, custody, § 8:260 § 8:245-8:251 Visitation rights, effect on, Discretionary assumption of § 8:274 jurisdiction, § 8:247 Emergency jurisdiction, § 8:250 Emergency jurisdiction, § 8:250 Enforcement of custody and visita-Federal Parental Kidnapping tion obligations Prevention Act, § 8:252 Generally, § 8:341 Home state jurisdiction, § 8:248 Criminal prosecution, § 8:343 International aspects, § 8:246 Habeas corpus and similar Interstate case, § 8:245-8:251 proceedings, § 8:342 Only state available jurisdiction, Factors considered in awarding § 8:251 custody Significant connection jurisdic-Generally, § 8:259 tion, § 8:249 Best interests of the child, Temporary custody, § 3:7 § 8:257, 8:258 Maintenance of status quo, § 8:245 Domestic violence, § 8:260 Modification of court orders Fitness of custodial parent, Generally, § 8:274 § 8:261 Changed circumstances test, Home environment, § 8:259 § 8:276 Maintaining status quo, § 8:258 Factors considered, § 8:198 Preference of children, § 8:262 "Real advantage" test, removal Factors considered in granting of child from state, § 8:280 visitation, § 8:272, 8:273 Removal of child from state Factors considered in modifying Generally, § 8:279-8:285 visitation order, § 8:274-Interests of parents, § 8:282, 8:285 8:283 Federal Parental Kidnapping Prevention Act, § 8:252 Motivation for seeking Fitness of custodial parent, § 8:261 removal, § 8:284 "Real advantage" test, Grandparents' visitation rights, § 8:269 § 8:280

Modification, § 8:208, 8:235

#### DOMESTIC RELATIONS—Cont'd DOMESTIC RELATIONS—Cont'd Child custody—Cont'd Child support—Cont'd Disabled child, duration of sup-Only state available jurisdiction, § 8:251 port, § 8:211 Paternity cases, custody in, § 8:264 Double dipping, parents' income, Preference of children, factors § 8:217 considered in awarding Duration of support custody, § 8:262 Generally, § 8:210 Removal of child from state, Adult child continuing educa-§ 8:279 tion, § 8:212 Shared or joint custody, § 8:256 Disabled child, § 8:211 Siblings, right to visit, § 8:270 Duty to support, § 8:200, 8:209 Significant connection jurisdiction, Education, adult child continuing, § 8:249 § 8:212 Types of custody Enforcement. Child support Generally, § 8:253-8:256 enforcement, below Parents' attitudes and conduct, Government benefits, § 8:229 effect of, § 8:255 Guidelines Shared or joint custody, § 8:256 Generally, § 8:213-8:221 Statutory definitions, § 8:254 Basic principles of, § 8:214 Visitation Double dipping, parents' Generally, § 8:265 income, § 8:217 Agreement with adoptive Income of parents, § 8:215parents, § 8:268 8:221 Domestic violence, effect of, Overtime, § 8:219 § 8:273 Secondary jobs, § 8:219 Enforcement of obligation, Self-employment, § 8:220 § 8:341-8:343 Sources specified in guidelines, Factors considered in granting parents' income, § 8:216 visitation, § 8:272, 8:273 Unemployment or underemploy-Factors considered in modifying ment, § 8:221 order, § 8:274-8:285 Unreported income, § 8:218 Grandparents' rights, § 8:269 Health expenses, § 8:227 Modification of orders, § 8:274-Health insurance, § 8:226 8:285 Income of parents Post-adoption visitation, § 8:267 Pre-adoption visitation, § 8:266 Generally, § 8:215-8:221 Siblings, right to visit, § 8:270 Change, modification of court award, § 8:236 Child support Insurance, health care, § 8:226 Generally, § 8:200-8:239 Adult child continuing education, Insurance proceeds, interception duration of support, § 8:212 of, § 8:318 Ages of children, § 8:224 Interstate support orders Basic principles of, § 8:214 Generally, § 8:204 Calculation of amount, § 8:222 Jurisdiction under federal law, Court awards § 8:206 Guidelines, § 8:213 Jurisdiction under state law, Modification, § 8:231-8:239 § 8:207

Purpose, § 8:201

DOMESTIC RELATIONS—Cont'd	DOMESTIC RELATIONS—Cont'd
Child support—Cont'd	Child support—Cont'd
Jurisdiction	State Case Registry, § 8:203
Generally, § 8:205-8:208	Tax consequences, § 8:202
Interstate case under federal law, § 8:206	Unemployment or underemployment, § 8:221
Interstate case under state law, § 8:207	Uninsured health expenses, <b>§ 8:227</b>
Modification of interstate sup-	Unreported income, § 8:218
port orders, <b>§ 8:208</b>	Child support enforcement
Temporary support, § 3:7	Generally, § 8:310 et seq.
Modification of court award	Attachment
Generally, § 8:231-8:239	Generally, <b>§ 8:324</b>
Family obligations, § 8:238	Trustee process, § 8:325, 8:326
Income of parent, change in,	Civil contempt, § 8:328, 8:329
§ 8:236	Contempt
Interstate support orders,	Generally, § <b>8:327</b>
§ 8:208, 8:235	Civil contempt, § 8:328, 8:329
Periodic review of support orders, \$ 8:234	Criminal contempt, § 8:328, 8:333
Rebuttable presumption, § 8:233	Distinction between civil and
Retroactive modification,	criminal contempt, § 8:328
§ 8:232	Criminal contempt, § 8:328, 8:333
Standard of living of parent, change in, § 8:237	Criminal prosecution, § 8:340
Necessaries for minors, furnishing, § 5:45	Department of Revenue's role, § 8:312
Needs of children, § 8:224	Direct enforcement by support
Number of children, § 8:224	recipient, interstate enforce-
Other family members, support of,	ment, § 8:336
§ 8:228	Distinction between civil and criminal contempt, § 8:328
Overtime, <b>§ 8:219</b>	Federal role, § 8:311
Parenting time, § 8:225	Hearing on arrearages, income
Periodic review of support orders, § 8:234	withholding, § 8:316
Purpose, <b>§ 8:201</b>	Income withholding
Rebuttable presumption, modifica-	Generally, § 8:313
tion of award, § 8:233	Amount, § 8:315
Relevant factors, § 8:223-8:230	Hearing on arrearages, § 8:316
Retroactive modification of court	Suspension, § 8:314
award, <b>§ 8:232</b>	Trustee process, § 8:325, 8:326
Role of child support guidelines, <b>§ 8:213</b>	Insurance proceeds, interception of, § 8:318
Scope of support duty, § 8:209	Interception of funds
Secondary jobs, § 8:219	Generally, <b>§ 8:317</b>
Self-employment, § 8:220	Attachment, § 8:324
Standard of living of parent, change, modification of court	Income withholding, § 8:313-8:316
award 8 8:237	Insurance proceeds & 8:318

DOMESTIC RELATIONS—Cont'd	DOMESTIC RELATIONS—Cont'd
Child support enforcement—Cont'd	Contempt—Cont'd
Interception of funds—Cont'd License deprivation, § 8:321	Child support enforcement, § 8:327-8:333
Lottery prizes, § 8:319	Civil contempt, § 8:328, 8:329
Tax refunds, <b>§ 8:320</b>	Criminal contempt, § 8:328, 8:333
Trustee process, § 8:325, 8:326	Distinction between civil and crim-
Work programs, § 8:322	inal, § 8:328
International enforcement, § 8:339 Interstate enforcement	Contribution of parties, property division, <b>§ 8:106, 8:128</b>
	Copyrights, property division factor,
Generally, § 8:335	§ 8:119
Direct enforcement by support	Custody and visitation, appointment
recipient, § 8:336	of dispute resolution official,
Private lawsuits, § 8:338	§ 8:2 <del>4</del> 3
Registered support orders, § 8:337	Divorce
License deprivation, § 8:321	Absolute judgment, effect of,
Liens, child support, § 8:323	§ 8:66
Lottery prizes, interception of,	Abusive and cruel treatment
8 8:319	grounds, <b>§ 8:60</b>
Private lawsuits, interstate enforce-	Adultery grounds, § 8:56
ment, § 8:338	Affirmative defenses, § 8:63
Refund of taxes, interception of,	After marriage, property acquired,
§ 8:320	§ 8:113
Registered support orders, inter-	Age of parties
state enforcement, § 8:337	Alimony, <b>§ 8:75</b>
Suspension of income withholding,	Property division factor, § 8:122
§ 8:314	Alimony
Tax refunds, interception of,	Generally, § 8:77-8:104
§ 8:320	After marriage, property
Trustee process	acquired, § 8:113
Generally, § 8:325	Age of parties factor, § 8:75
Against earnings, § 8:326	Arrearages, effect on modifying
Withholding income. Income with-	alimony, § 8:101
holding, above	Changed circumstances, § 8:96,
Work programs, § 8:322	8:98
Cohabitation	Changed circumstances stan-
Alimony, effect on, § 8:101	dard, modification, <b>§ 8:98</b> , <b>8:99</b>
Separation agreement clause,	
§ 8:35	Cohabitation
Termination of alimony, § 8:103	Effect on alimony, § 8:101
Conduct of parties, property division factor, § 8:123	Termination of alimony, § 8:103
Constitutional limitations on jurisdic-	Components of award, § 8:86
tion, <b>§ 8:75</b>	Determining the amount, § 8:85
Contempt	Deviation from duration and
Generally, § 8:327	amount limits, § 8:90,
Attorney's fees in contempt cases,	8:90.50
§ 8:309	Duration limits, § 8:90, 8:90.50

DOMESTIC RELATIONS—Cont'd	DOMESTIC RELATIONS—Cont'd
Divorce—Cont'd	Divorce—Cont'd
Alimony—Cont'd	Alimony—Cont'd
Economic factors, § 8:93	Permanent, § 8:79
Employment, § 8:93	Pre-Alimony Reform Act
Extending durational limits in	awards, modification,
interests of justice,	§ 8:100
§ 8:90.50	Purpose, § 8:77
Financial statements, income of	Rehabilitative, § 8:79, 8:82
spouses, § 8:88	Reimbursement, § 8:79, 8:83
"Full retirement age," payor reaching, termination,	Remarriage of recipient,
§ 8:104	termination, § 8:103
General term, § 8:80, 8:81	Security for alimony, § 8:78
Health of parties factor, § 8:75	Self-modification of judicial
Income of spouses, determining,	award, § 8:97
§ 8:87, 8:88	Temporary alimony, § 8:79, 8:81
Inflation, effect of, § 8:101	Termination
Length of marriage factor,	
§ 8:74	Generally, § 8:102-8:104
Lifestyle during marriage,	Cohabitation or remarriage of recipient, § 8:103
§ 8:94	"Full retirement age," payor
Limits, deviation from, § 8:90	reaching, § 8:104
Loss of child support grounds,	Remarriage of recipient,
effect on modifying	§ 8:103
alimony, § 8:101	Transitional, § 8:84
Maximum amount of alimony,	Types
§ 8:89, 8:90	Permanent, § 8:79
Modification	Rehabilitative, § 8:79
Generally, § 8:96	Reimbursement, § 8:79
Arrearages grounds, § 8:101	Temporary, § 8:79, 8:81
Changed circumstances stan-	Antenuptial agreements, § 8:24-
dard, § 8:98, 8:99	8:26
Cohabitation grounds, § 8:101	Appeals from judgment, § 8:67
-	Arbitrator assistance, property
Inflation grounds, § 8:101	division, § 8:109
Loss of child support grounds, § 8:101	Assignable property, property divi-
Moral conduct grounds,	sion factor
§ 8:101	Generally, <b>§ 8:111</b>
Other factors, <b>§ 8:101</b>	Real estate, § 8:112
Pre-Alimony Reform Act	Business interests, property divi-
awards, § 8:100	sion, <b>§ 8:119</b>
Self-modification of judicial	Condonation defense, § 8:63
award, § 8:97	Conduct of parties, property divi-
Moral conduct, effect on	sion factor, § 8:123
modifying alimony,	Connivance defense, § 8:63
§ 8:101	Constitutional limitations on juris-
Nature, § 8:77	diction, § 8:75

#### DOMESTIC RELATIONS—Cont'd DOMESTIC RELATIONS—Cont'd Divorce—Cont'd Divorce—Cont'd Contested cases, procedural Fault-based divorce—Cont'd requirements, § 8:54 Intoxication, § 8:59 Contribution of parties, property Non-support, § 8:62 division, § 8:106, 8:128 Financial impact of divorce, gener-Copyrights, property division facally, § 8:70 tor, § 8:119 Financial status, property division Court orders prior to judgment, factor, § 8:125 generally, § 8:64 Foreign courts' judgments, juris-Criminal conviction grounds, diction, § 8:72 § 8:61 Forgiveness defense, § 8:63 Cruel and abusive treatment Future earnings, property division grounds, § 8:60 factor, § 8:119 Defenses to divorce action, § 8:63 Future prospects, property division Desertion grounds, § 8:58 factor, § 8:126 Domicile, what constitutes, § 8:49 Good will of professional corpora-Drug abuse grounds, § 8:59 tion, property division factor, Factors considered for alimony § 8:119 Age of parties, § 8:75 Health of parties Health of parties, § 8:75 Alimony, § 8:75 Length of marriage, § 8:74 Property division factor, § 8:122 Factors considered for property Homemaker contribution, property division division factor, § 8:128 Generally, § 8:105, 8:120-8:128 Impotency grounds, § 8:57 Age of parties, § 8:122 Incarceration grounds, § 8:61 Conduct of parties, § 8:123 In rem jurisdiction, § 8:76 Contribution as homemaker, Insanity defense, § 8:63 § 8:128 Intoxication grounds, § 8:59 Contribution to marital estate, Judgment § 8:127 Appeals from, § 8:67 Financial status, § 8:125 Court orders before judgment, Future prospects, § 8:126 § 8:64 Health of parties, § 8:122 Effect of judgment absolute, Homemaker contribution, **§ 8:66** § 8:128 Effect of judgment nisi, § 8:65 Length of marriage, § 8:121 Modification, § 8:36-8:42 Station of parties, § 8:124 Relationship between separation Fault-based divorce agreement and divorce Generally, § 8:55 judgment, § 8:36, 8:37 Adultery, § 8:56 Judicial discretion, property divi-Criminal conviction, § 8:61 sion, § 8:107 Cruel and abusive treatment, Jurisdiction § 8:60 Generally, § 8:48, 8:71 Desertion, § 8:58 Constitutional limitations, Drug abuse, § 8:59 § 8:75 Impotency, § 8:57 Domicile, what constitutes, Incarceration, § 8:61 § 8:49

#### DOMESTIC RELATIONS—Cont'd DOMESTIC RELATIONS—Cont'd Divorce—Cont'd Divorce—Cont'd Property acquired before and after Jurisdiction—Cont'd Foreign courts' judgments, marriage, § 8:113 § 8:72 Property division Long-arm statute, § 8:73 Generally, § 8:68-8:76, 8:105-Personal, § 8:73 8:128 After marriage, property In rem, § 8:76 Uniform Interstate Family Supacquired, § 8:113 Age of parties factor, § 8:122 port Act, under, § 8:74 Length of marriage Antenuptial agreements, § 8:24-8:26 Alimony, § 8:74 Arbitrator assistance, § 8:109 Property division factor, § 8:121 Assignable property Long-arm statute jurisdiction, Generally, § 8:111 § 8:73 Real estate, § 8:112 Before marriage, property acquired, § 8:113 Business interests, § 8:119 Measuring contribution of parties, Conduct of parties factor, property division, § 8:106 § 8:123 Modification of property division Constitutional limitations on awards, § 8:110 jurisdiction, § 8:75 Nisi judgment, effect of, § 8:65 Contribution as homemaker fac-No-fault divorce tor, § 8:128 Copyrights, § 8:119 Generally, § 8:52 Factors considered, § 8:105, Contested cases procedure, 8:120-8:128 § 8:54 Procedure, § 8:53, 8:54 Financial status factor, § 8:125 Uncontested cases procedure, Foreign courts' judgments, juris-§ 8:53 diction, § 8:72 Future earnings, § 8:119 Non-support grounds, § 8:62 Other types of property, § 8:119 Future prospects factor, § 8:126 Palimony, § 8:69 Good will of professional corporation, § 8:119 Partnerships, property division, § 8:119 Health of parties factor, § 8:122 Patents, property division factor, Homemaker contribution factor, § 8:119 § 8:128 Pensions and other retirement In rem jurisdiction, § 8:76 benefits, property division Judicial discretion, § 8:107 factor, § 8:115, 8:117 Jurisdiction, § 8:71-8:76 Personal gifts, property division Length of marriage factor, factor, § 8:113 § 8:121 Personal jurisdiction, § 8:73 Long-arm statute jurisdiction, Procedural requirements § 8:73 Generally, § 8:51 Before marriage, property Contested cases, § 8:54 acquired, § 8:113 Uncontested cases, § 8:53 Measuring contribution of parties, § 8:106 Professional degrees or licenses, property division factor, Modification of property divi-§ 8:119 sion awards, § 8:110

#### DOMESTIC RELATIONS—Cont'd DOMESTIC RELATIONS—Cont'd Divorce—Cont'd Divorce—Cont'd Time of valuation, property divi-Property division—Cont'd Other types of property, § 8:119 sion, § 8:108 Palimony, § 8:69 Trusts, interests in, § 8:114 Uncontested cases, procedural Partnerships, § 8:119 requirements, § 8:53 Patents, § 8:119 Uniform Interstate Family Support Pensions and other retirement Act, jurisdiction under, § 8:74 benefits, § 8:115, 8:117 Unmarried cohabitants, § 8:69 Personal gifts, § 8:113 Unvested stock options, property Personal jurisdiction, § 8:73 division factor, § 8:119 Professional degrees or licenses, Venue, § 8:50 § 8:119 Domestic violence and abuse preven-QDROs, § 8:116 tion Real estate, assignable property, Generally, § 8:286-8:302 § 8:112 Abuse Prevention Act, generally, In rem jurisdiction, § 8:76 § 8:286 Retirement benefits, § 8:115-Child visitation rights, effect on 8:117 parent's, § 8:273 Royalties, § 8:119 Civil recovery for domestic abuse, Social security benefits, § 8:117 § 8:302 Station of parties factor, § 8:124 Divorce and separate support actions, abuse prevention in, Third party assistance, § 8:109 § 8:290 Time of valuation, § 8:108 Enforcement of abuse prevention Trusts, interests in, § 8:114 orders, § 8:300 Uniform Interstate Family Sup-Evidence, proof of abuse, § 8:292 port Act, jurisdiction under, Firearm surrender orders, § 8:296 § 8:74 Interstate application, § 8:289 Unmarried cohabitants, § 8:69 Jurisdiction, § 3:7, 3:8 Unvested stock options, § 8:119 QDROs, property division, § 8:116 No-contact and stay away orders, § 8:293 Real estate, assignable property, § 8:112 Penalties for violation of orders, § 8:301 Relationship between separation Pets, § 8:288 agreement and divorce judgment, § 8:36, 8:37 Privacy of abuse victims, protecting, § 8:297 Retirement benefits, property division, § 8:115-8:117 Procedures applicable to abuse prevention orders, § 8:298 Royalties, property division factor, § 8:119 Stay away and no-contact orders, § 8:293 Separation agreement and divorce judgment, relationship Substantive dating or engagement between, § 8:36, 8:37 relationship, defined, § 8:287 Social security benefits, property Surrender firearms orders, § 8:296 division factor, § 8:117 Tenants, additional protection for,

§ 8:295

order, § 8:299

Termination of abuse prevention

Station of parties factor, § 8:124

Third party assistance, property

division, § 8:109

DOMESTIC RELATIONS—Cont'd	DOMESTIC RELATIONS—Cont'd
Domestic violence and abuse prevention—Cont'd	Foreign courts' judgments, jurisdiction, § 8:72
Vacate premises orders, § 8:294	Future earnings, property division
What constitutes abuse, § 8:291	factor, § 8:119
Encumbrances, interspousal relations,	Future prospects, property division
title to real property, § 8:15	factor, § 8:126
Enforcement of abuse prevention	Good will of professional corpora-
orders, § 8:300	tion, property division factor,
Enforcement of child support. Child	§ 8:119
support enforcement, above	Guardianship
Enforcement of domestic relations	Generally, § 8:163
obligations	Appointment procedure, § 8:164
Generally, § 8:303-8:343	Emergency short-term proxies,
Abandoned spouses, support of,	§ 8:166
§ 8:334	Powers and duties of guardian, § 8:165
Attorney's fees Generally, § 8:304	Testamentary guardian, § 8:167
Amount, § 8:307	Habeas corpus and similar proceed-
Amount, § 8:307 Availability, § 8:305	ings, enforcement of custody
Contempt case, § 8:309	and visitation obligations,
Child support enforcement, above	§ 8:342
Contempt	Health of parties
Generally, § 8:327	Alimony, § 8:75
Attorney's fees in contempt	Property division factor, § 8:122
cases, <b>§ 8:309</b>	Home environment or living condi-
Child support enforcement,	tions
§ 8:327-8:333	Adoption consideration, § 8:196,
Civil contempt, § 8:329-8:332	8:199
Criminal contempt, § 8:328, 8:333	Custody, factors considered in awarding, § 8:259
Distinction between civil and	Homemaker contribution, property
criminal, § 8:328	division factor, § 8:128
Fault-based divorce	Impediments to valid marriage. Mar-
Generally, § 8:55	riage, below Inheritance rights
Adultery, § 8:56	Parent-child relations
Criminal conviction, § 8:61	Adoption, § 8:183
Cruel and abusive treatment,	Legitimacy and illegitimacy,
§ 8:60	§ 8:143
Desertion, § 8:58	Spouses
Drug abuse, § 8:59	Intestacy, § 8:17
Impotency, § 8:57	Waiver, <b>§ 8:18</b>
Incarceration, § 8:61	Interspousal relations
Intoxication, § 8:59	Generally, § 8:13
Non-support, § 8:62	Contract rights, § 8:16
Financial impact of divorce, generally, § 8:70	Divorce, above
Financial status, property division	Encumbrances, title to real prop-
factor, § 8:125	erty, § 8:15

DOMESTIC RELATIONS—Cont'd	DOMESTIC RELATIONS—Cont'd
Interspousal relations—Cont'd	Jurisdiction—Cont'd
Inheritance rights	Uniform Interstate Family Support
Intestacy, § 8:17	Act, under, § 8:74
Waiver, <b>§ 8:18</b>	Length of marriage
Marriage, below	Alimony, § 8:74
Separate support, action for,	Property division factor, § 8:121
§ 8:22, 8:33 <b>4</b>	Long-arm statute jurisdiction, § 8:73
Support	Marital agreements, § 8:28, 8:29
Abandoned spouses, support of,	Marriage
§ 8:334	Generally, § 8:1-8:12
Action for separate support, § 8:22	Abuse Prevention Act, § 8:286- 8:302
Testimony by spouses	Affinity factor, § 8:9
Marital disqualification, § 8:21	Age factor, § 8:8
Marital privilege, § 8:20	Annulment, § 8:44-8:67
Title to real property, § 8:14	Antenuptial agreements, § 8:24-
Encumbrances, § 8:15	8:26
Tort actions, § 8:19	Ceremony, § 8:5
Judgment	Certificate of intention, § 8:4
Appeals from, § 8:67	Common law, § 8:7
Court orders before judgment,	Consanguinity factor, § 8:9
§ 8:64	Divorce, above
Effect of judgment absolute,	Federal law's impact on marriage,
§ 8:66	§ 8:3
Effect of judgment nisi, § 8:65	Foreign marriage, effect of, § 8:12
Modification, § 8:36-8:42	Formal requirements
Relationship between separation	Ceremony, § 8:5
agreement and divorce judg-	Certificate of intention, § 8:4
ment, § 8:36, 8:37	Irregular solemnization, effect
Judicial discretion, property division,	of, <b>§ 8:6</b>
§ 8:107	Officiant, § 8:5
Jurisdiction	Impediments to valid marriage
Generally, § 8:48, 8:71	Affinity, § 8:9
Child custody, § 8:244-8:252	Age, § 8:8
Child support, § 8:205-8:207	Consanguinity, § 8:9
Constitutional limitations, § 8:75	Mental capacity, § 8:10
Divorce, § 8:48, 8:49, 8:71-8:76	Prior marriage still valid, § 8:11
Domestic violence and abuse	Interspousal relations, § 8:13-8:22
prevention, § 3:7, 3:8	Irregular solemnization, effect of,
Domicile, what constitutes, § 8:49	§ 8:6
Foreign courts' judgments, § 8:72	Mental capacity factor, § 8:10
Long-arm statute, § 8:73	Officiant, § 8:5
Paternity adjudication, § 8:149	Parent-child relations, below
Personal, § 8:73	Prior marriage still valid, § 8:11
Property division in divorce,	Same-sex, <b>§ 8:2</b>
§ 8:71-8:76	Separation agreements, § 8:30-
In rem & 8.76	8.43

DOMESTIC RELATIONS—Cont'd	DOMESTIC RELATIONS—Cont'd
Marriage—Cont'd	Parent-child relations—Cont'd
Testimony by spouses, § 8:20,	Adoption—Cont'd
8:21	Consent not required
Before marriage, property acquired,	Generally, <b>§ 8:176-8:179</b>
§ 8:113	Impact on child, § 8:178
Measuring contribution of parties, property division, <b>§ 8:106</b>	Non-parent bonding, § 8:179
Modification	Requirements, § 8:177
Alimony, <b>§ 8:96-8:101</b>	Consent requirement
Child custody and visitation	Generally, § 8:173-8:175
orders, § 8:274-8:285	"Best interests" of child, § 8:175
Child support orders, § 8:231-	Father of illegitimate child,
8:239	§ 8:174
Divorce judgment with separation	Contact with biological parent,
agreements, § 8:38-8:42	post-adoption issue,
Property division awards, § 8:110	§ 8:184
Name of child, determining, § 8:135	Department of Children and
No-fault divorce	Families proceedings,
Generally, § 8:52	§ 8:180
Contested cases procedure, § 8:54	Disclosure of information, post-
Procedure, § 8:53, 8:54	adoption issue, § 8:184
Uncontested cases procedure, § 8:53	Father of illegitimate child, consent, § 8:174
Other types of property, § 8:119	Fitness as to particular child,
Palimony, § 8:69	parental fitness issue,
Parent-child relations	§ 8:187
Generally, § 8:129-8:199	Home environment or living conditions, parental fitness
Adoption	issue, § 8:199
Generally, § 8:168-8:184	Inheritance rights, § 8:183
Abandonment, parental fitness	Legitimacy of child, father's
issue, § 8:188	consent, § 8:174
Abuse, neglect, or domestic violence as parental fitness	Lifestyle issues, parental fitness
issue, § 8:190, 8:191	issue, § 8:195
Abuse, substance abuse, parental	Living conditions, parental fit-
fitness issue, § 8:198	ness issue, <b>§ 8:199</b>
"Best interests" of child,	Mental competency, parental
consent, § 8:175	fitness issue, § 8:197
Bonding	Negative or punitive attitude of
Child, parental fitness issue,	parent toward child,
§ 8:199	parental fitness issue, § 8:199
Parent, consent not required,	Neglect, <b>§ 8:191</b>
non-parent bonding, § 8:179	Other factors, <b>§ 8:199</b>
Children under age 14, § <b>8:169</b>	Parental unfitness, below
Cognitive issues, parental fitness	Post-adoption issues, § 8:182-
issue, § 8:197	8:184
, , 5.1.	

#### DOMESTIC RELATIONS—Cont'd DOMESTIC RELATIONS—Cont'd Parent-child relations—Cont'd Parent-child relations—Cont'd Illegitimacy Adoption—Cont'd Religious upbringing of child, Generally, § 8:140 specification of, § 8:171 Births assisted by medical Revocation of, § 8:181 technology, § 8:141 Same-sex couple, adoption by, Children of void marriages, § 8:170 § 8:142 Substance abuse, parental fitness Inheritance rights, § 8:143 issue, § 8:198 Immunity, parent-child, § 16:119 Unwillingness to accept Inheritance rights responsibility for conduct Adoption, § 8:183 injuring a child, parental Legitimacy and illegitimacy, fitness issue, § 8:199 § 8:143 Willful failure to support Legitimacy noncustodial child, parental Generally, § 8:140 fitness issue, § 8:199 Births assisted by medical Wrongful adoption, § 8:172 technology, § 8:141 "Best interests" of child, adoption Children of void marriages, consent, § 8:175 § 8:142 Births assisted by medical technol-Inheritance rights of illegitimate ogy, § 8:141 children, § 8:143 Caregiver authorization affidavits, Loss of consortium, § 16:69, 16:70 § 8:139 Medical decisions, § 8:138 Child custody, above Medical technology assisted births, Child support, above § 8:141 Control of children. Right to Name of child, determining, control children, below § 8:135 Custody. Child custody, above Necessaries for minors, furnishing, De facto parents, § 8:131, 8:132 § 5:45 Department of Children and Fami-Opinion of children, separating lies, separating children and children and parents against parents, § 8:161 parents' will, § 8:160 Determining child's name, § 8:135 Parental unfitness, adoption Education of child, § 8:137 consideration Fitness of parent. Parental unfit-Generally, § 8:185 ness, below Abandonment, § 8:188 Guardianship Abuse, neglect, or domestic violence, § 8:190, 8:191 Generally, § 8:163 Appointment procedure, § 8:164 Abuse, substance abuse, § 8:198 Bonding of child, § 8:199 Emergency short-term proxies, § 8:166 Cognitive issues, § 8:197 Powers and duties of guardian, Department of Children and § 8:165 **Families** Cooperation with, § 8:194 Testamentary guardian, § 8:167 Responsibility of, § 8:193 Home environment or living conditions, adoption Fitness as to particular child,

§ 8:187

consideration, § 8:196, 8:199

#### DOMESTIC RELATIONS—Cont'd DOMESTIC RELATIONS—Cont'd Parent-child relations—Cont'd Parent-child relations—Cont'd Parental unfitness, adoption Paternity—Cont'd consideration-Cont'd Adjudication of paternity Home environment or living —Cont'd conditions, § 8:196, 8:199 Who can bring action, Lifestyle issues, § 8:195 § 8:147, 8:148 Voluntary acknowledgment of Living conditions, § 8:199 paternity Mental competency, § 8:197 Generally, § 8:144 Mistreatment Rescission, § 8:145 Generally, § 8:189-8:192 Religious upbringing and educa-Abuse or domestic violence. tion of child, § 8:136, 8:171, § 8:190 8:198 Failure to visit or com-Right to control children municate with child, Generally, § 8:134 § 8:192 Caregiver authorization Neglect of child's needs, § 8:191 affidavits, § 8:139 Determining child's name, Negative or punitive attitude of parent toward child, § 8:135 § 8:199 Education, § 8:137 Neglect of child's needs, Medical decisions, § 8:138 § 8:191 Religious upbringing, § 8:136 Other factors, § 8:199 Right to counsel, separating chil-Substance abuse, § 8:198 dren and parents, § 8:156 Time of determination, § 8:186 Separating children and parents Unwillingness to accept Generally, § 8:154-8:162 responsibility for conduct Abandonment, "safe harbor," injuring a child, § 8:199 § 8:157 Willful failure to support Department of Children and noncustodial child, § 8:199 Families, role of, § 8:161 Paternity Opinion of children, against Generally, § 8:144-8:153 parents' will, § 8:160 Adjudication of paternity Against parents' will Generally, § 8:146-8:153 Department of Children and Blood and genetic marker Families, role of, § 8:161 tests, § 8:153 Opinion of children, § 8:160 Evidence, § 8:149 Procedure, § 8:159 Husband denying paternity, Right to counsel, § 8:156 § 8:150 Special status of parent, § 8:155 Jurisdiction, § 8:149 Termination of parental rights, Non-husband claiming effect of, § 8:162 paternity, § 8:151 Special status of parent, separating Out-of-state plaintiff or children and parents, § 8:155 defendant, § 8:148 Support of child. Child support, Statutory presumption, above § 8:152 Surrogate parenting agreements, Venue, § 8:149 § 8:130

#### DOMESTIC RELATIONS—Cont'd DOMESTIC RELATIONS—Cont'd Parent-child relations—Cont'd Property division—Cont'd Termination of parental rights, Future earnings, § 8:119 separating children and Future prospects factor, § 8:126 parents, § 8:162 Good will of professional corpora-Tort actions involving parent-child tion, § 8:119 relationship, § 8:133 Health of parties factor, § 8:122 Parent-child relations, de facto Homemaker contribution factor, parents, § 8:131, 8:132 § 8:128 Partnerships, property division, In rem jurisdiction, § 8:76 § 8:119 Judicial discretion, § 8:107 Patents, property division factor, Jurisdiction, § 8:71-8:76 § 8:119 Length of marriage factor, § 8:121 Paternity. Parent-child relations, Long-arm statute jurisdiction, above § 8:73 Pensions and other retirement Before marriage, property benefits, property division facacquired, § 8:113 tor, § 8:115, 8:117 Measuring contribution of parties, Personal gifts, property division fac-§ 8:106 tor, § 8:113 Modification of property division Personal jurisdiction, § 8:73 awards, § 8:110 Professional degrees or licenses, Other types of property, § 8:119 property division factor, § 8:119 Palimony, § 8:69 Property acquired before and after Partnerships, § 8:119 marriage, § 8:113 Patents, § 8:119 Property division Pensions and other retirement Generally, § 8:68-8:76, 8:105benefits, § 8:115, 8:117 8:128 Personal gifts, § 8:113 After marriage, property acquired, Personal jurisdiction, § 8:73 § 8:113 Professional degrees or licenses, Age of parties factor, § 8:122 § 8:119 Antenuptial agreements, § 8:24-QDROs, § 8:116 8:26 Real estate, assignable property, Arbitrator assistance, § 8:109 § 8:112 Assignable property In rem jurisdiction, § 8:76 Generally, § 8:111 Retirement benefits, § 8:115-8:117 Real estate, § 8:112 Royalties, § 8:119 Business interests, § 8:119 Social security benefits, § 8:117 Conduct of parties factor, § 8:123 Station of parties factor, § 8:124 Constitutional limitations on juris-Third party assistance, § 8:109 diction, § 8:75 Time of valuation, § 8:108 Contribution as homemaker factor, Trusts, interests in, § 8:114 § 8:128 Uniform Interstate Family Support Copyrights, § 8:119 Act, jurisdiction under, § 8:74 Factors considered, § 8:105, Unmarried cohabitants, § 8:69 8:120-8:128 Unvested stock options, § 8:119 Financial status factor, § 8:125 Property division fix Foreign courts' judgments, jurisdiction, § 8:72 Alimony, above

DOMESTIC RELATIONS—Cont'd	DOMESTIC RELATIONS—Cont'd
QDROs, property division, § 8:116	Social security benefits, property division factor, § 8:117
Real estate, assignable property, § 8:112	Station of parties factor, § 8:124
Relationship between separation	Support Support
agreement and divorce judg-	Abandoned spouses, support of,
ment, § 8:36, 8:37	§ 8:334
In rem jurisdiction, § 8:76	Action for separate support of
Retirement benefits, property divi-	spouse, § 8:22
sion, § 8:115-8:117	Child support, above
Royalties, property division factor, <b>§ 8:119</b>	Surrogate parenting agreement, <b>§ 8:130</b>
Security for alimony, § 8:78	Third party assistance, property divi-
Separating children and parents, § 8:154-8:162	sion, <b>§ 8:109</b>
Separation agreement and divorce	Time of valuation, property division, <b>§ 8:108</b>
judgment, relationship between,	Trusts, interests in, § 8:114
§ 8:36, 8:37	Uniform Interstate Family Support
Separation agreements	Act, jurisdiction under, § 8:74
Generally, § 8:30-8:43 Construction	Unmarried cohabitants, § 8:69
Generally, § 8:34	Unvested stock options, property
Cohabitation clause, § 8:35	division factor, § 8:119
Contractual enforcement, § 8:42	Visitation
Divorce judgment	Modification of court orders
Incorporated agreement, § 8:38	Factors considered, § 8:278
Merged with agreement, § 8:38	Visitation, appointment of dispute resolution official, § 8:243
Relationship to, § 8:36, 8:37	Visitation. Child custody, above
Survival of agreement, § 8:38-	•
8:42	DOMESTIC VIOLENCE AND
Enforcement, § 8:43	ABUSE PREVENTION
Modification of divorce judgment	Generally, § 3:7, 3:8 For detailed treatment see <b>Domestic</b>
Merger of agreement, § 8:38	Relations, this index
Survival of agreement Generally, § 8:39	
Alimony, <b>§ 8:39</b>	DOMESTIC VIOLENCE
Child support, § 8:41	COUNSELOR-VICTIM PRIVILEGE
Contractual enforcement of	
agreement, § 8:42	Generally, § 9:96
Relationship to divorce judgment	DORMITORY OF EDUCATIONAL INSTITUTION
Generally, § 8:36	Termination of tenancy, § 12:37
When does merger occur, § 8:37	• • •
Validity Generally, § 8:31	DOUBLE DAMAGES
Required for no-fault divorce,	Landlord and tenant, condition of
§ 8:33	premises, <b>§ 12:115</b>
Standard, "fair and reasonable,"	DOUBLE JEOPARDY
§ 8:32	Criminal law defense, § <b>7:301-7:303</b>

#### **DRAFTS** EASEMENTS—Cont'd Creation-Cont'd Commercial Paper, this index By prescription—Cont'd DRAM SHOP CASES Period of adverse use, § 14:88 Procedural requirements, § 16:51 Prevention of easement, § 14:84 Definition, § 14:77 DRUGS AND NARCOTICS Express grant or reservation, § 14:80 Offenses, § 7:258-7:273 Extent of easement **DUAL AGENT** Generally, § 14:90-14:97 Attorney representation, § 3:165 Alterations, § 14:95, 14:96 Consent to, § 1:32, 1:77 Express grant or reservation, § 14:91 **DUPLICATES** Implication, § 14:92 Best evidence rule, admissibility of duplicates, § 9:216 Location, alteration in, § 14:96 Necessity, § 14:93 DURABLE POWER OF Prescription, § 14:94 ATTORNEY Repair, maintenance, and improve-Generally, § 1:90-1:92 ment, § 14:97 Use, alteration in, § 14:95 **DURESS OR COERCION** By implication, § 14:81 Constructive trusts, § 17:56 Landlord and tenant relationship Contract avoidance or reformation, distinguished, § 12:4 § 5:56 By necessity, § 14:82 Defense, § 7:298 By prescription, § 14:83-14:89 Defined, § 5:54 Repair, maintenance, and improve-Extortion, § 7:223 ment, § 14:97 Pleadings, duress averments, § 3:77 Termination Robbery, use of force or intimidation, Abandonment, § 14:100 § 7:217 Estoppel, § 14:101 DYING DECLARATIONS Merger, § 14:99 Hearsay exception, § 9:172 Prescription, § 14:103 Release, § 14:102 **EASEMENTS** Terms of instrument of creation. Generally, § 14:77-14:103 § 14:98 Alterations, § 14:95, 14:96 Transferability, § 14:79 Classification, § 14:78 Creation **EDUCATION** Generally, § 14:80-14:89 See Schools and Education, this Express grant or reservation, § 14:80 ELDERLY PERSONS AND ELDER By implication, § 14:81 LAW By necessity, § 14:82 **Aged Persons**, this index By prescription Generally, § 14:83 **ELECTRONICALLY STORED** Adverse use, § 14:87 INFORMATION Burden of proof, § 14:89 Discovery, § 3:85, 3:97 Continuous and uninterrupted **EMERGENCIES** use, § 14:85

Agent by necessity, § 1:21

Open and notorious use, § 14:86

#### EMERGENCIES—Cont'd

Child custody, emergency jurisdiction, § 8:250

Guardianship, emergency short-term proxies, § 8:166

#### **EMOTIONAL DISTRESS**

Bystander cases, § 16:57
Intentional or reckless infliction
Generally, § 16:15-16:18
Damages recoverable, § 16:18
Elements, § 16:15-16:17
Extreme and outrageous conduct,

§ 16:16 Severe emotional distress, § 16:17

State of mind, § 16:15 Medical malpractice, § 16:130

Negligently inflicted

Generally, § 16:56

Bystander cases, § 16:57

Workers' compensation, mental and emotional injuries, § 19:20-19:22

## **EMPLOYMENT**

Negligence, employer's duty to employee and employee of independent contractor, § 16:46, 16:47

# ENFORCEMENT OF CHILD SUPPORT

Generally, § 8:310 et seq.
For detailed treatment see Domestic
Relations, this index

# ENFORCEMENT OF DOMESTIC RELATIONS OBLIGATIONS

Generally, § 8:303-8:343

For detailed treatment see **Domestic Relations**, this index

# ENFORCEMENT OF SANITARY CODE

Landlord and tenant, condition of premises, § 12:108-12:110

## **ENTRAPMENT**

Application at law, § 7:305 Concept, § 7:304 Criminal law defense, § 7:304, 7:305

## **EQUAL DIGNITY RULE**

Generally, § 1:28

# **EQUITABLE REMEDIES**

Generally, § 10:1-10:63

Absence of right to jury trial, § 10:12

Accounting, § 1:59, 1:67, 10:68

Adjustments among multiple interests

Accounting, § 10:68

Contribution, § 10:64

Exoneration, § 10:67

Indemnity, § 10:65

Subrogation, § **10:66** 

Advantageous relations, interference

with, § 10:33

Agent, action for accounting, § 1:67 Appeals Court jurisdiction, § 10:4

Appellate review of

Contempt orders, § 10:75

Preliminary injunction, § 10:28

Boston Municipal Court jurisdiction, § 3:8

Civil contempt, § 10:72

Clarity

Contempt, clarity of order and disobedience, § 10:73

Injunctions, § 10:17

Constructive trust, § 10:43

Contempt

Generally, § 10:69

Appellate review, § 10:75

Civil contempt, § 10:72

Clarity of order and disobedience, § 10:73

Criminal contempt

Separate trial, § 10:71

Summary proceedings, § 10:70

Sanctions, § 10:74

Contracts

Interference with contractual relations, § 10:33

Specific performance of contracts, § 10:30, 10:31, 10:32

Contribution, § 10:64

Courts with equitable jurisdiction.

Jurisdiction of courts, below

Criminal contempt

Separate trial, § 10:71

#### **EQUITABLE REMEDIES—Cont'd EQUITABLE REMEDIES—Cont'd** Criminal contempt—Cont'd Injunctions—Cont'd Appellate review of preliminary Summary proceedings, § 10:70 injunction, § 10:28 Declaratory judgment, § 10:55, 10:56, 10:57 Appropriateness of relief, § 10:20 **Defenses** Bond requirement, preliminary injunction, § 10:24 Generally, § 10:58-10:63 Clarity, § 10:17 Estoppel, equitable, § 10:60, 10:61 Common claims for injunctive Estoppel, judicial, § 10:62 relief Laches, § 10:58 Interference with contractual or Statute of limitations, § 10:63 advantageous relations, Unclean hands, § 10:59 § 10:33 Dissolution of corporation, § 10:53, Noncompetition agreement, 10:54 enforcement of, § 10:36 District Court jurisdiction, § 3:7, 3:8, Nuisance, protection from, 10:9 § 10:37 Enforcement of equitable orders. Specific performance of Contempt, above contracts, § 10:30, 10:31, Enforcing equitable restrictions of 10:32 statutory equitable remedies, Trade mark misappropriation, § 10:50, 10:51 § 10:35 Equitable estoppel, § 10:60, 10:61 Trade name misappropriation, Estoppel § 10:35 Equitable estoppel, § 10:60, 10:61 Trade secret protection, § 10:34 Judicial estoppel, § 10:62 Trespass, protection from, Exoneration, § 10:67 § 10:37 Fraudulent transfer, § 10:45, 10:46, Waste, protection from, § 10:37 10:47 Contracts, breach of, § 5:98 Fundamental aspects of equitable Contracts, specific performance of, jurisprudence § 10:30, 10:31, 10:32 Absence of right to jury trial, § 10:12 Contractual relations, interference with, § 10:33 Lack of adequate remedy at law, Discretion of court, § 10:19 § 10:11 Maxims of equity, § 10:13, 10:14 Duration, § 10:18, 10:22 Historical considerations Duration of temporary restraining Expansion of equity jurisdiction, order, § 10:22 § 10:2 General principles, § 10:15-10:20 Merger of law and equity, § 10:3 Inadequate remedy at law, § 10:20 Separation of law and equity, Interference with advantageous § 10:1 relations, § 10:33 Housing Court jurisdiction, § 3:12, Interference with contractual rela-10:8 tions, § 10:33 Implied trusts, establishing, § 10:43 Interlocutory appeals from injunc-Indemnification, § 10:65 tive orders in Housing or Injunctions Land Courts, § 4:15, 4:18 Generally, § 10:15-10:37 Irreparable harm, standard, § 10:27 Advantageous relations, interfer-Likelihood of success on merits. ence with, § 10:33 standard, § 10:26

EQUITABLE REMEDIES—Cont'd	<b>EQUITABLE REMEDIES—Cont'd</b>
Injunctions—Cont'd	Jurisdiction of courts—Cont'd
Mandatory, <b>§ 10:16</b>	District Court, § 3:8, 10:9
Noncompetition agreement,	Housing Court, § 10:8
enforcement of, § 10:36	Juvenile Court, § 10:10
Nuisance, protection from, § 10:37	Land Court, § 10:7
Permanent injunction, § 10:29	Probate and Family Court, § 10:6
Preliminary injunction	Superior Court, § 10:5
Generally, § 10:23-10:28	Supreme Judicial Court, § 3:4,
Appellate review, § 10:28	10:4
Bond requirement, § 10:24	Jury trial, § 10:12
Irreparable harm, standard,	Juvenile Court jurisdiction, § 10:10
§ 10:27	Laches defense, § 10:58
Likelihood of success on merits, standard, § 10:26	Lack of adequate remedy at law,
Procedure, § 10:23	§ 10:11
Purpose, § 10:23	Land Court jurisdiction, § 10:7
Standards for granting, § 10:25- 10:27	Likelihood of success on merits, injunction standard, § 10:26
Procedure, preliminary injunction,	Mandatory Injunctions, § 10:16
§ 10:23	Maxims of equity, § 10:13, 10:14
Prohibitory, § 10:16	Merger of law and equity, historical
Propriety of injunctive relief,	considerations, § 10:3
§ 10:20	Noncompetition agreement, enforcement of, § 10:36
Purpose of preliminary injunction,	Nuisance, protection from, § 10:37
§ 10:23	Partition of jointly held property,
Scope, § 10:18	§ 10:52
Specificity, § 10:17	Permanent injunction, § 10:29
Specific performance of contracts, § 10:30, 10:31, 10:32	Preliminary injunctions
Standards for granting preliminary	Generally, § 10:23-10:28
injunction, § 10:25-10:27	•
Temporary restraining order	Appeal, § 10:28
Generally, § 10:21	Bond, § 10:24
Duration, § 10:22	Irreparable harm, § 10:27
Trade mark protection, § 10:35	Likelihood of success on merits,
Trade name protection, § 10:35	§ 10:26
Trade secret protection, § 10:34	Standards, § 10:25-10:27
Trespass, protection from, § 10:37	Probate and Family Court jurisdiction, § 3:11, 10:6
Waste, protection from, § 10:37	Quieting title to real estate, § 10:48,
Interference with advantageous relations, § 10:33	10:49
Interference with contractual rela-	Receivership, § 10:44
tions, § 10:33	Reformation of instruments, § 10:40,
Irreparable harm, injunction standard,	10:41, 10:42
§ 10:27	Replevin, § 10:39
Judicial estoppel, § 10:62	Rescission, § 10:38
Jurisdiction of courts	Right to jury trial, § 3:155
Appeals Court, § 10:4	Sanctions, contempt, § 10:74

#### **EQUITABLE REMEDIES—Cont'd** ESTOPPEL—Cont'd Separate trial, criminal contempt, **Bailments** § 10:71 Bailee's estoppel to deny bailor's Separation of law and equity, historititle, § 2:28 cal considerations, § 10:1 Contracts Small claims cases, § 3:8 Formation, promissory estoppel Specific performance of contracts, doctrine, § 5:23, 5:24 § 10:30, 10:31, 10:32 UCC Statute of Frauds for sale of Standards for granting preliminary goods, estoppel to plead statinjunction, § 10:25-10:27 ute ("estoppel doctrine"), Statutory equitable remedies § 5:41 Declaratory judgment, § 10:55, Deed, estoppel by, § 14:68 10:56, 10:57 Equitable remedies Dissolution of corporation, Equitable estoppel, § 10:60, 10:61 § 10:53, 10:54 Judicial estoppel, § 10:62 Enforcing equitable restrictions, Legal malpractice, estoppel defense, § 10:50, 10:51 § 16:182 Fraudulent transfers, § 10:45, Partnership by estoppel, § 13:5 10:46, 10:47 Partition of jointly held property, **EVIDENCE** § 10:52 Generally, § 9:1 et seq. Ouieting title to real estate, § 10:48, 10:49 Judicial notice, general knowledge Receivership, § 10:44 matters, § 9:1 Subrogation, § 10:66 Adjudicative facts Superior Court jurisdiction, § 10:5 Judicial notice, § 9:3 et seq. Supreme Judicial Court jurisdiction. Legislative facts distinguished, § 3:4, 10:4 judicial notice, § 9:1 Temporary restraining order Admissions Generally, § 10:21 Generally, § 9:163 Duration, § 10:22 Adoptive admissions, § 9:167, Trade mark protection, § 10:35 9:168 Trade name protection, § 10:35 Consciousness of guilt or liability, Trade secret protection, § 10:34 adoptive or implied admis-Trespass, protection from, § 10:37 sions, § 9:168 Trusts, establishing, § 10:43 Implied admissions, § 9:167, Unclean hands defense, § 10:59 9:168 Uniform Fraudulent Transfer Act, Judicial admissions, § 9:164 § 10:45, 10:46 Silence, admissions by, § 9:167 Waste, protection from, § 10:37 Vicarious admissions, § 9:165, 9:166 **ESTATE FOR YEARS** Adoptive admissions, § 9:167, 9:168 Present (possessory) estate, § 14:11 Alias or nickname for criminal **ESTOPPEL** defendant, § 9:33 Agency Allied mental health or human services professional privilege, Authority of agents, § 1:24 § 9:94 Ratification, estoppel to deny,

Animals' habits, § 9:51

§ 1:53, 1:71

EVIDENCE—Cont'd	EVIDENCE—Cont'd
Arrest	Beyond a reasonable doubt, proof by
Illegal arrest, admissibility of evi-	—Cont'd
dence obtained as result of,	Traditional rule, § 9:20
§ 7:14	Burden of persuasion
Probable cause for arrest, furnishing, § 7:3	Beyond a reasonable doubt, § 9:19-9:21
Attorney-client privilege, § 9:77 et	Civil cases, § 9:17-9:19
seq.	Clear and convincing evidence,
Authentication or identification	§ 9:18
Generally, § 9:206 et seq.	Criminal cases, § 9:20
Best evidence rule, § 9:211, 9:212	Distinguished from burden of
Circumstantial proof, by, § 9:208 Demonstrative evidence, § 9:214	proof, <b>§ 9:16</b>
Direct proof, by, § 9:207	Preponderance of evidence, § 9:17
Documentary evidence, § 9:207-	Burden of production distinguished
9:212	from burden of persuasion, § 9:16
Excuses for nonproduction of orig-	0
inal, § 9:212	Business practices, judicial notice, <b>§ 9:8</b>
Procedural devices avoiding proof	Chain of custody, real or demonstra-
of authentication, § 9:210	tive evidence, § 9:214
Proof of contents, § 9:211, 9:212	Chalks, <b>§ 9:217</b>
Real or demonstrative evidence,	Character evidence
§ 9:214	Generally, § 9:32 et seq.
Self-authentication, by, § 9:209	Ability and opportunity to commit
Bailments, burden of proof and of	crime, § 9:40
going forward, § 2:35	Accident or mistake, absence of,
Beliefs, witnesses, religious beliefs, <b>§ 9:150</b>	§ 9:42
Best evidence rule	Acts, other acts, § 9:33 et seq.
Generally, § 9:211	Admissibility to prove conduct,
Admissibility of duplicates,	§ 9:33 et seq.
§ 9:216	Alias or nickname for criminal
Copies, § 9:216	defendant, § 9:33
Duplicates, § 9:216	Background, § 9:39
Excuses for nonproduction of orig-	Crimes, other crimes, § 9:33 et
inal, § 9:212	seq.
Lost or destroyed originals, § 9:212	Good character of criminal defendant, § 9:43
Originals, excuses for nonproduction of original, § 9:212	Homicide/assault cases, victim, § 9:45
Photographs, § 9:219-9:221	Impeachment of witness, § 9:47,
Pictures, § 9:219-9:221	9:143-9:147
Beyond a reasonable doubt, proof by	Intent, § 9:37
Civil cases, § 9:19	Knowledge, § 9:38
Criminal cases, § 9:20	Material issue in civil case, § 9:44
Presumption of innocence,	Motive, § 9:36
§ 9:27	Other crimes, wrongs or acts,
Definition, refined, § 9:21	§ 9:33 et seq.

EVIDENCE—Cont'd

#### EVIDENCE—Cont'd Character evidence—Cont'd Criminal cases—Cont'd Pattern of conduct, identity shown Homicide/assault cases, victim, character evidence, § 9:45 by, § 9:41 Rape/sexual assault cases, victim, Other crimes, character evidence, § 9:46 § 9:33 et seq. Relationship of parties, § 9:39 Profile evidence, § 9:49 Reputation, § 9:43 Rape/sexual assault cases, victim, Victim, § 9:45, 9:46 character evidence, § 9:46 Someone else committed crime, Wrongs, other wrongs, § 9:33 et evidence that, § 9:48 seq. Charts, § 9:215 Victim of violent crime, character evidence, § 9:45, 9:46 Circumstantial evidence, authentica-Customs, business custom, § 9:50 tion by, § 9:208 Definition Civil Practice, this index Hearsay, § 9:155 Clear and convincing proof, described, § 9:18 Hearsay, unavailability, § 9:169, 9:170 Commercial lists and publications, § 9:200 Preponderance of the evidence, Competency of witness § 9:17 Real and demonstrative evidence, Generally, § 9:107 § 9:213 Affirmation, § 9:108 Relevancy, § 9:28, 9:29 Attorney as witness, § 9:116 Demonstrations, § 9:218 Child's testimony against parent, Demonstrative evidence. Real and § 9:112 demonstrative evidence, below Child witness, § 9:111 Descriptions, composite or summary, Intellectual disability, accomlay person opinion testimony, modating witness with, § 9:118 § 9:109, 9:110 Digital images, § 9:219 Judge as witness, § 9:116 Diplomatic secrets, § 9:97 Juror as witness, § 9:116 Discretion of judge to exclude rele-Oath, § 9:108 vant evidence, § 9:31 Spousal private conversations, Doctrines, judicial notice doctrine, disqualification of, § 9:113, purpose and effect, § 9:1 9:114 Documentary evidence Spouse testimony as legitimacy of child, § 9:115 Authentication Composite perceptions, lay person Circumstantial proof, § 9:208 opinion testimony, § 9:118 Direct proof, § 9:207 Compromise offers Procedural devices avoiding Civil case, § 9:56 proof of authentication, Criminal case, § 9:57 § 9:210 Computer databases, § 9:219 Procedures in aid of proof, § 9:211, 9:212 Confidential data and privileges distinguished, § 9:62 Self-authentication, § 9:209 Criminal cases Best evidence rule, § 9:211, 9:212 Character evidence, § 9:33 et seq. Contents, proof of, § 9:211, 9:212 Domestic violence and abuse, proof Good character of criminal defendant, § 9:43 of abuse, § 8:292

EVIDENCE—Cont'd	EVIDENCE—Cont'd
Domestic violence counselor-victim	Experts, opinion and expert
privilege, § 9:96	testimony—Cont'd
Duplicates, § 9:216	Ultimate issue, § 9:133-9:135
Executive privilege, § 9:98	Family history, reputation or records,
Experiments, § 9:218	hearsay exception, § 9:203
Experts, opinion and expert	Family history statements, hearsay
testimony	exception, <b>§ 9:176</b>
Admissibility, standard for, § 9:129	Federal laws, judicial notice, legislative facts noticing, § 9:14
Assistance to trier of fact, § 9:123	Foreign countries, laws, judicial
Daubert-Lanigan tests, § 9:129	notice, legislative facts noticing,
Forensic and scientific analysis,	§ 9:15
post conviction access,	Foreign states, laws, judicial notice, legislative facts noticing, § 9:13
§ 9:132	Forensic and scientific analysis, post
Forensic experts, § 9:126	conviction access, § 9:132
Forsensic and scientific analysis, § 9:132	General knowledge matters, judicial
Foundational requirements for	notice, § 9:1
admissibility of expert	Geographical facts, judicial notice,
testimony, § 9:122-9:130	§ 9:4
Assistance to trier of fact, § 9:123	Governmental privileges, § 9:97-9:100
Daubert-Lanigan test, § 9:129	Governmental privileges. Privileges,
Forensic experts, § 9:126	below
Qualifications, § 9:124	Habits
Reliability of application of	Animals' habits, § 9:51
principle or method to case,	Evidentiary standard, § 9:50
§ 9:130	Handwriting
Reliability of principle or	Witnesses, lay person opinion
method used, § 9:127,	testimony, § 9:121
9:128	Hearsay and hearsay exceptions
Substituted forensic experts,	Generally, § 9:155 et seq.
§ 9:126	Admissions by party opponent
Sufficient facts or data in record,	Generally, § 9:163
§ 9:124, 9:125 Qualifications, § 9:124	Adoptive admissions, <b>§ 9:167</b> , <b>9:168</b>
Reliability	
Application of principle or	Consciousness of guilt or liability, adoptive or
method to case, § 9:130	implied admissions,
Daubert-Lanigan tests, § 9:129	§ 9:168
Principle or method used, § 9:127, 9:128	Implied admissions, <b>§ 9:167</b> , <b>9:168</b>
Scientific evidence, § 9:129,	Judicial admissions, § 9:164
9:131, 9:135	Silence, admissions by, § 9:167
Substituted forensic experts,	Vicarious admissions, § 9:165,
§ 9:126	9:166
Sufficient facts or data in record,	Adoptive admissions, § 9:167,
§ 9:124, 9:12 <b>5</b>	9:168

#### EVIDENCE—Cont'd EVIDENCE—Cont'd Hearsay and hearsay exceptions Hearsay and hearsay exceptions —Cont'd —Cont'd Ancient documents, § 9:204 Mistake or apology for unanticipated outcome, state-Business records, § 9:191, 9:192 ments from health care Child victim of sexual abuse stateprovider, § 9:197 ments, § 9:180 Multiple hearsay, § 9:156 Commercial lists and publications, Nonhearsay purposes, § 9:157, § 9:200 9:158 Confrontation Clause, § 9:185, Official records, § 9:198-9:199 9:192, 9:199 Past recollection recorded, § 9:182 Consciousness of guilt or liability, Personal or family history reputaadoptive or implied admistion, § 9:203 sions, § 9:168 Personal or family history state-Decedent's declarations, § 9:177ments, § 9:176 9:179 Prior reported testimony, § 9:171 Declarant's availability immaterial, Prior statements of witnesses. § 9:181 et seq. § 9:159-9:162 Declarant unavailable, § 9:169 et Residual exception, § 9:205 Rule of exclusion, § 9:155 Declarations against interest, Sexual abuse, child victim state-§ 9:173-9:175 ments, § 9:180 Pecuniary or proprietary inter-Silence, admissions by, § 9:167 est, § 9:175 Spontaneous exclamations, Penal interest, § 9:174 § 9:183-9:185 Definitions Statements against penal interest, Hearsay, § 9:155 § 9:174 Unavailability, § 9:169, 9:170 Statements of mental condition, Dying declarations, § 9:172 § 9:186 Exceptions, § 9:163 et seq. Statements of personal history, Excited utterances, § 9:183-9:185 § 9:176 Family history reputation or Statements of physical condition, records, § 9:203 § 9:186 Family history statements, § 9:176 Vicarious admissions, § 9:165, Hospital records, § 9:193, 9:194 9:166 Identification statement by witness, Historical facts, judicial notice, genprior, § 9:162 eral knowledge matters, § 9:5 Implied admissions, § 9:167, Human characteristics, judicial 9:168 notice, general knowledge matters, § 9:6 Judicial admissions, § 9:164 Humanitarian gestures, § 9:58 Learned treatises Human services professional privi-Generally, § 9:201 lege, § 9:94 Medical malpractice cases, Impeachment of witness § 9:202 Generally, **§ 9:136** Medical bills, § 9:195, 9:196 Medical malpractice cases, learned Bad character, § 9:143-9:147 treatises, § 9:202 Bias, § 9:141, 9:142

Character evidence, § 9:47

Medical reports, § 9:195, 9:196

#### EVIDENCE—Cont'd EVIDENCE—Cont'd Impeachment of witness-Cont'd Legislative facts Contradiction by another witness, Adjudicative facts distinguished, § 9:149 § 9:11 Judicial notice, § 9:10 et seq. Incapacity of witness, § 9:148 Liability insurance, § 9:59 Judicial discretion, § 9:147 Maps, § 9:215 Lack of religious belief, § 9:150 Mediation privilege, § 9:106 Prior convictions, § 9:144-9:147 Medical expenses, payment, § 9:58 Prior inconsistent statements Medical malpractice cases, learned Cross-examination, § 9:137treatises, § 9:202 9:140 Medical peer review privilege, § 9:87 Extrinsic evidence, § 9:140 Mental condition, statements of, Probation violations, § 9:144-§ 9:186 9:147 Mental health or human services Rehabilitation of witness, § 9:151professional privilege, § 9:94 9:154 Military secrets, § 9:97 Religious belief, lack of, § 9:150 Models, § 9:215 Inferences Natural forces, judicial notice, opera-Generally, § 9:22 tion and effect, general knowl-Adverse inferences, § 9:23 edge matters, § 9:7 Prima facie evidence, § 9:24 Opinion and expert testimony Journalist privilege, § 9:104 Admissibility, standard for, § 9:129 Judicial notice Daubert-Lanigan tests of reli-Generally, § 9:1 et seq. ability, § 9:129 Adjudicative facts, § 9:3 et seq. Forsensic and scientific analysis, Business practices, § 9:8 § 9:132 Federal laws, legislative facts Reliability, Daubert-Lanigan tests, noticing, § 9:14 § 9:129 Foreign countries, laws of, legisla-Scientific evidence, § 9:129, tive facts noticing, § 9:15 9:131, 9:135 Geographical facts, § 9:4 Ultimate issue. § 9:133-9:135 Government system, § 9:12 Opinion rule, experts. Experts, Historical events, § 9:5 opinion and expert testimony, above Human characteristics, § 9:6 Opinion rule, lay opinions Judicial system, § 9:12 Composite perceptions, § 9:118 Law of federal system, § 9:14 Handwriting, § 9:121 Law of foreign countries, § 9:15 Personal knowledge requirement, Law of Massachusetts, § 9:11 § 9:117 Law of other states, § 9:13 Sanity or insanity of person, Legislative facts, § 9:10 et seq. § 9:120 Natural forces, § 9:7 Shorthand expressions, § 9:118 Objects, § 9:9 Summary descriptions, § 9:118 Value of property, § 9:119 Other states, laws of, legislative facts noticing, § 9:13 Parol evidence rule, § 5:72-5:74 Standard applicable, § 9:3 Past recollection recorded, § 9:182 Learned treatises, § 9:201, 9:202 Paternity, adjudication of, § 8:149

EVIDENCE—Cont'd	EVIDENCE—Cont'd
Photographs, § 9:219-9:221	Privileges—Cont'd
Physical condition, statements of, § 9:186	Confidential data distinguished, § 9:62
Physician-patient privilege, § 9:85	Criminal cases
Pictures, § 9:219-9:221	Comment upon or inference
Political vote, § 9:105	from claim of privilege,
Post conviction access to forensic and	§ 9:67
scientific analysis, § 9:132	Dwyer protocol, § 9:65
Practice and procedure, judicial	Reciprocal discovery, § 9:64
notice, § 9:2	Diplomatic secrets, § 9:97
Preponderance of the evidence,	Discovery
defined, § 9:17	Claim in response to discovery
Presumptions	request, § 9:63
Generally, § 9:25	Reciprocal discovery, § 9:64 Distinction
Criminal cases, § 9:26, 9:27	Confidential matter, § 9:62
Innocence, criminal cases, § 9:27	Incompetent evidence, § 9:61
Prima facie evidence, § 9:24	Domestic violence counselor-
Prima facie evidence, generally, § 9:24	victim, § 9:96
Prior convictions, impeachment of	Dwyer protocol, § 9:65
witness, § 9:144-9:147	Executive privilege, § 9:98
Prior reported testimony, § 9:171	Governmental Executive privilege, § 9:98
Privileges	Informer's identity, § 9:99
Generally, § 9:60 et seq.	Military and diplomatic secrets,
Attorney-client	§ 9:97
Generally, § 9:77 et seq.	Surveillance location, § 9:100
Common interest doctrine,	Incompetent evidence, § 9:61
§ 9:80	Informer's identity, § 9:99
Communications covered,	Journalist, § 9:104
§ 9:79, 9:80	Marital disqualification
Communications excepted, § 9:81	distinguished, § 9:102
Distinguished from attorney-	Mediation privilege, § 9:106
work product, § 9:84	Military secrets, § 9:97
Duration of, § 9:82	Physician-patient, § 9:85
Nature of, <b>§ 9:77</b>	Political vote, § 9:105
Necessity of professional rela-	Psychotherapist-patient
tionship, § 9:78	Generally, § 9:88
Purpose of, <b>§ 9:77</b>	Exceptions, § 9:91
Waiver of, <b>§ 9:83</b>	Operation, § 9:89
Attorney work product, § 9:84	Reciprocal discovery, § 9:64
Civil cases	Religious, § 9:103
Claim in response to discovery	Self-incrimination
request, § 9:63	Generally, § 9:68-9:76
Comment upon or inference	Assertion, necessity of, § 9:74
from claim of privilege, § 9:66	Communicative evidence, § 9:72

EVIDENCE—Cont'd	EVIDENCE—Cont'd
Privileges—Cont'd	Real and demonstrative evidence
Self-incrimination—Cont'd	—Cont'd
Government compulsion, § 9:71	Views, <b>§ 9:222</b>
Immunity, <b>§ 9:76</b>	X-rays, <b>§ 9:219</b>
Personal nature of privilege,	Relevancy
§ 9:73	Generally, § 9:28 et seq.
Risk of criminal liability, § 9:70	Admissibility, generally, § 9:28,
Testimonial evidence, § 9:72	9:29
Waiver of privilege, § <b>9:74</b> , <b>9:75</b>	Animal habits, § 9:51
Sexual assault counselor-victim,	Character
§ 9:95	Criminal defendant's good
Social worker	character, § 9:43
Generally, § 9:92	Homicide/assault cases, victim's
Exceptions, § 9:93	character, § 9:45
Spousal privilege, § 9:101, 9:102	Impeachment of witness, § 9:47
Surveillance location, § 9:100	Material issue, § 9:44
Unmarried cohabitants, § 9:101,	Prior bad acts, § 9:33
9:102	Rape/sexual assault cases,
Waiver	victim's character, § 9:46
Attorney-client privilege, § 9:83	Rule of exclusion, § 9:32
Psychotherapist-patient privi-	Victim's character, § 9:45, 9:46
lege, § 9:89, 9:91	Compromise offers
Self-incrimination privilege,	Civil case, § 9:56
§ 9:74, 9:75 Spousal privilege, § 9:101,	Criminal case, § 9:57
9:102	Definition, § 9:28, 9:29
Probation violations, impeachment of	Discretion of judge, § 9:31
witness, § 9:144-9:147	Exclusion of relevant evidence,
Procedural issues, § 9:2	§ 9:30, 9:31
Profile evidence, § 9:49	Humanitarian gestures, § 9:58
Psychotherapist-patient privilege,	Liability insurance, § 9:59
§ 9:88-9:91	Medical expenses paid, § 9:58
Rape, § 7:198-7:203	Misrepresentations and fraud, sim-
Real and demonstrative evidence	ilar happenings, § 9:54
Chain of custody, § 9:214	Personal habit, § 9:50
Chalks, § 9:217	Profile evidence, § 9:49
Charts, § 9:215	Real property sales, similar, § 9:53
Definition, <b>§ 9:213</b>	Routine business practice, § 9:50
Demonstrations, § 9:218	Sales of similar real property,
Duplicates, <b>§ 9:216</b>	§ 9:53
Experiments, § 9:218	Similar happenings, § 9:52-9:54
Identification, § 9:214	Someone else committed crime,
Maps, <b>§ 9:215</b>	§ 9:48
Models, § 9:215	Subsequent remedial measures,
Photographs, § 9:219-9:221	§ 9:55
Pictures, § 9:219-9:221	Test for, § 9:28, 9:29
Use. § 9:213	Religious belief, lack of, impeachment of witness, § 9:150
UOU. X J.41J	HIGHEOF WILLIOSS, Y 7.150

Post conviction access to forensic and

scientific analysis, § 9:132

#### EVIDENCE—Cont'd EVIDENCE—Cont'd Victims—Cont'd Religious privilege, § 9:103 Sexual assault counselor-victim Reports, hearsay privilege, § 9:95 Medical reports, § 9:193, 9:194, 9:195, 9:196 Views, § 9:222 X-rays, § 9:219 Prior reported testimony, § 9:171 Reports, Housing Court specialist, **EXCITED UTTERANCE** § 12:23 Generally, § 9:183-9:185 Residual exception, hearsay, § 9:205 Confrontation Clause, § 9:185 Return of service of process, § 3:41 **EXECUTIVE PRIVILEGE** Sanity, lay person opinion testimony, Generally, § 9:98 § 9:120 Scientific and forensic analysis, post **EXECUTORS AND** conviction access, § 9:132 ADMINISTRATORS Scientific knowledge, expert **Personal Representative**, this index testimony, § 9:129, 9:131, 9:135 **EXPECTATION DAMAGES** Self-authentication, § 9:209 Generally, § 5:92-5:94 Self-incrimination, § 9:68-9:76 Shorthand expressions, lay person EXPERIMENTS AND TESTS opinion testimony, § 9:118 Evidence, § 9:218 Silence, admissions by, § 9:167 **EXPERT AND OPINION** Similar happenings and transactions **EVIDENCE** Accidents and injuries, § 9:52 Admissibility of expert testimony, Misrepresentations and fraud, foundational requirements for, § 9:54 § 9:122-9:130 Sales of similar real property, Assistance to trier of fact, § 9:123 § 9:53 Daubert-Lanigan test, § 9:129 Sister states, laws Forensic experts, § 9:126 Judicial notice, legislative facts Foundational requirements for admisnoticing, § 9:13 sibility of expert testimony, Social worker privilege, § 9:92, 9:93 § 9:122-9:130 Subsequent remedial measures, Assistance to trier of fact, § 9:123 § 9:55 Daubert-Lanigan test, § 9:129 Summary descriptions, lay person Forensic experts, § 9:126 opinion testimony, § 9:118 Qualifications, § 9:124 Surveillance location, § 9:100 Reliability of application of Value of property, lay person opinion principle or method to case, testimony, **§ 9:119** § 9:130 Victims Reliability of principle or method Character evidence, § 9:45, 9:46 used, § 9:127, 9:128 Substituted forensic experts, Domestic violence counselor-§ 9:126 victim privilege, § 9:96 Sufficient facts or data in record, Hearsay, child victim of sexual § 9:124, 9:125 abuse statements, § 9:180 Legal malpractice, § 16:159 Homicide/assault cases, character Medical malpractice, § 16:124 evidence, § 9:45

Rape/sexual assault cases.

character evidence, § 9:46

## EXPERT AND OPINION EVIDENCE—Cont'd

Qualifications, § 9:124

Reliability of application of principle or method to case, § 9:130

Reliability of principle or method used, § 9:127, 9:128

Scientific evidence, § 9:129, 9:131, 9:135

Standards for admissibility, § 9:129
Substituted forensic experts, § 9:126
Sufficient facts or data in record,
§ 9:124, 9:125

Ultimate issue, § 9:133-9:135

## **EXPERTS**

Audio-visual deposition of, § 3:99 Identity and opinion, discovery of, § 3:86

### FALSE IMPRISONMENT

Generally, § 16:10-16:14
Confinement, § 16:11
Damages recoverable, § 16:14
Elements, § 16:10-16:12
Intent, § 16:10
Justification, § 16:13
Knowledge of confinement, § 16:12

#### FALSE PRETENSES

Burglary, § 7:229 Larceny, § 7:234

## **FAMILY AND RELATIVES**

Assault and battery on, § 7:164.50 Hearsay exceptions

Reputation or records concerning family history, § 9:203

Statements concerning family history, § 9:176

#### FEDERAL LAW

Federal Mortgage Reform and Anti-Predatory Lending Act, § 14:145-14:147

Judicial notice, § 9:14 Lead paint, § 12:96, 12:97

Mortgages, disclosures required, § 14:145

#### FEE SIMPLE AND FEE TAIL

Real Property, this index

### **FELONY MURDER**

Generally, § 7:150

#### FICTITIOUS NAME

Character evidence, alias or nickname for criminal defendant, § 9:33

# FIDUCIARIES AND FIDUCIARY DUTIES

Constructive trust, breach of fiduciary duty, § 17:57, 17:58

**Executors and Administrators**, this index

Partnership, this index

Trustee, fiduciary relationship, § 17:5

#### **FIREARMS**

See Weapons and Firearms, this index

#### **FIXTURES**

Generally, § 14:2

## **FORECLOSURE**

Landlord and tenant, tenancy at will, § 12:16

Mortgages, this index

#### FOREIGN CORPORATION

Jurisdiction, personal, § 3:16 Service of process on, § 3:38

# FOREIGN COUNTRY DEPOSITIONS

Generally, § 3:93

## FOREIGN LAW

Divorce jurisdiction, foreign courts' judgments, § 8:72
Judicial notice, § 9:15

# FOREIGN LIMITED LIABILITY COMPANIES

Generally, § 6:195-6:198

## FOREIGN STATE OR COUNTRY

Weapons or firearms, bringing into commonwealth, § 7:211

#### **FORFEITURE**

Agent's right to compensation, § 1:60

Controlled substances offenses, forfeiture of property, § 7:273 Venue, forfeiture actions, § 3:24

#### **FRATERNITY**

Termination of tenancy, § 12:37

#### **FRAUD**

See Misrepresentation and Fraud, this index

#### FRAUD AND DECEIT

Identity fraud, criminal law, § 7:239
Search and seizure warrant affidavit,
effect of misrepresentation in,
§ 7:43, 7:44

#### FRAUDS, STATUTE OF

See Statute of Frauds, this index

## **FUTURE INTERESTS**

Generally, § 14:13-14:26 Condition broken, right of entry, § 14:16

§ 14:16
Doctrine of worthier title, § 14:23
Executory interest, § 14:21

Possibility of reverter, § 14:15

Power of termination, right of entry, § 14:16

Remainder interest

Generally, § 14:17

Contingent remainder

Generally, § 14:19

Destructibility rule, § 14:20

Vested remainder, § 14:18

Reversion, § 14:14

Right of entry, condition broken or power of termination, § 14:16

Rule against perpetuities

Generally, § 14:25

Common law rule, § 14:25

Statutory modification, § 14:26

Rule in Shelley's Case, § 14:24

Shelley's Case, rule in, § 14:24

Special rules

Generally, § 14:22-14:26

Doctrine of worthier title, § 14:23

## FUTURE INTERESTS—Cont'd

Special rules—Cont'd

Rule against perpetuities, § 14:25, 14:26

Rule in Shelley's Case, § 14:24

Transferability of future interests, § 14:22

Transferability of future interests, § 14:22

Transferee, future interests created in

Generally, § 14:17-14:21

Contingent remainder, § 14:19, 14:20

Executory interest, § 14:21

Remainder, § 14:17

Vested remainder, § 14:18

Transferor, future interests retained by

Generally, § 14:14-14:16

Condition broken, right of entry, § 14:16

Possibility of reverter, § 14:15

Power of termination, right of

entry, § 14:16 Reversion, § 14:14

Worthier title, doctrine of, § 14:23

## **GAMING OFFENSES**

Generally, § 7:274-7:278

### **GARAGES**

Bailments, § 2:7

## GENERAL KNOWLEDGE

Judicial notice, § 9:1 et seq.

#### **GENERAL LAWS**

Judicial notice, § 9:13-9:15

# GEOGRAPHICAL FACTS AND INFORMATION

Judicial notice, § 9:4

#### **GOODS**

Sales and Leases of Goods, this index

## **GOOD SAMARITAN STATUTES**

Medical malpractice actions, § 16:152

Negligence actions, § 16:116

#### **GOVERNMENT ENTITIES**

Judicial notice, form and functions, facts relating to, adjudicative facts, § 9:12

#### GOVERNMENT TORT LIABILITY

Tort Claims Act. **Negligence**, this index

## **GUARDIANSHIP**

Generally, § 8:163

Appointment procedure, § 8:164 Emergency short-term proxies,

§ 8:166

Powers and duties of guardian, § 8:165

Testamentary guardian, § 8:167

#### **GUESTS**

Bailments, guest's valuables, § 2:20 Tenant's guest, tort action for personal injuries, § 12:118

## **HABITABILITY**

Implied warranty, § 14:69

Landlord and tenant, implied warranty of habitability, § 12:94

#### HABITS

**Behavior and Habits**, this index

#### **HANDWRITING**

Witnesses, lay person opinion testimony, § 9:121

# HARASSMENT

Criminal law, § 7:177

## **HEARSAY EVIDENCE**

Generally, § 9:155 et seq.

Admissions by party opponent Generally, § 9:163

Adoptive admissions, **§ 9:167**, **9:168** 

Consciousness of guilt or liability, adoptive or implied admissions, § 9:168

Implied admissions, § 9:167, 9:168

Judicial admissions, § 9:164
Silence, admissions by, § 9:167
Vicarious admissions, § 9:165,
9:166

#### HEARSAY EVIDENCE—Cont'd

Adoptive admissions, § 9:167, 9:168
Ancient documents, statements in, exceptions, § 9:204

Bills, hospital and medical bills, § 9:195, 9:196

Business records, § 9:191, 9:192

Child victim of sexual abuse statements, § 9:180

Commercial lists and publications, § 9:200

Conduct indicative of consciousness of guilt or liability, adoptive or implied admissions, § 9:168

Confrontation Clause

Business records, § 9:192

Excited utterances, § 9:185

Official records, § 9:199

Deceased persons, declarations, § 9:177-9:179

Decedent's declarations, § 9:177-9:179

Declarant's availability immaterial, § 9:181 et seq.

Declarant unavailable, § 9:169 et seq.

Declarations

Deceased person, § 9:177-9:179

Against interest, § 9:173-9:175

Pecuniary or proprietary interest, § 9:175

Penal interests, § 9:174

Definitions

Hearsay, § 9:155

Unavailability of witness, exceptions, § 9:169, 9:170

Dying declarations, exceptions, § 9:172

Exceptions, § 9:163 et seq.

Excited utterances, exception, § 9:183-9:185

Family history, reputation concerning, exceptions, § 9:203

Family history statements, exceptions, § 9:176

Family records, exceptions, § 9:203

Guilty pleas in criminal cases,

judicial admissions, § 9:164

Hospital records, § 9:193, 9:194

#### HEARSAY EVIDENCE—Cont'd

Identification statement by witness, prior, § 9:162

Impending death, statements made under belief of, exceptions, § 9:172

Implied admissions, § 9:167, 9:168
Interest, declarations against interest, § 9:173-9:175

Judicial admissions, § 9:164 Learned treatises, exceptions, § 9:201, 9:202

Lists, commercial lists, § 9:200 Medical bills, § 9:195, 9:196

Medical malpractice cases, learned treatises, § 9:202

Medical reports, § 9:193, 9:194, 9:195, 9:196

Mental condition, statements of, § 9:186

Mistake or apology for unanticipated outcome, statements from health care provider, § 9:197

Multiple hearsay, § 9:156

Nonhearsay purposes, § 9:157, 9:158 Official records, § 9:198-9:199

Past recollection recorded, § 9:182 Personal history

Reputation concerning, exceptions, § 9:203

Statements, exceptions, § 9:176 Physical condition, existing condi-

tion, exception, § 9:186
Prior reported testimony, § 9:171

Prior statements of witnesses, § 9:159-9:162

Prior testimony, exceptions, § 9:159-9:162

Recorded recollection, exception, § 9:182

Reports, hospital and medical reports, § 9:193, 9:194, 9:195, 9:196

Residual exception, § 9:205

Rule of exclusion, § 9:155

Sexual abuse, child victim statements, § 9:180

Silence, admissions by, § 9:167

Spontaneous exclamations, exception, § 9:183-9:185

#### HEARSAY EVIDENCE—Cont'd

Statements

Against interest, exceptions, § 9:173-9:175

Mental condition, of, § 9:186 Personal history, of, § 9:176

Physical condition, of, § 9:186

Vicarious admissions, § 9:165, 9:166

## HISTORY AND HISTORICAL BACKGROUND

Judicial notice, historical facts, § 9:5

### HOLDING OVER

Creation of landlord-tenant relationship, implied methods, § 12:15

#### HOMESTEAD

Generally, § 14:120-14:127

Automatic homestead estate, § 14:121

Death of homsteader, effect of, § 14:124

Declared homestead estate, § 14:122 Divorce of homsteader, effect of,

§ 14:124

Elderly or disabled persons, § 14:123 Marital status of grantor contained in deed, effect of statement, § 14:125

Sale or assignment of home, protection after, § 14:126

Termination, § 14:127

Testamentary dispositions, restrictions on, § 18:15

## HOMICIDE/ASSAULT CASES

Generally, § 7:140-7:158

Victims, character evidence, § 9:45

## HOSPITALS AND HOSPITAL CARE

Hearsay exception, medical matters, § 9:193, 9:194, 9:195, 9:196

Mistake or apology for unanticipated outcome, statements from health care provider and hearsay, § 9:197

Records, hearsay exception, § 9:193, 9:194

#### HOUSING

Lead paint, public health, § 12:96 et seq.

#### **HOUSING COURTS**

Civil complaints, § 12:20
Evidence, reports of Housing court specialists, § 12:24
Housing court specialists, § 12:24
Inspector's reports, § 12:23
Jurisdiction, § 12:18
Landlord and Tenant, this index

Appeals, zoning appeals, § 12:21

Reports of building or housing inspectors, § 12:23
Small claims, § 12:79

Transfer of action, § 12:19, 12:22, 12:46

## **HUMANITARIAN GESTURES**

Evidence, § 9:58

## **HUMAN LIFE**

Judicial notice, general knowledge matters, § 9:6

#### **HUMAN TRAFFICKING**

Sexual servitude and prostitution, § 7:290

## **HUSBAND AND WIFE**

Domestic Relations, this index
Loss of consortium, § 16:68
Private conversations, privilege,
§ 9:101, 9:102
Spousal immunity, § 16:118
Surviving spouse's elective share.
Wills, this index

### **IDENTITY FRAUD**

Character evidence, alias or nickname for criminal defendant, § 9:33
Criminal law, § 7:239

#### **IDENTITY OR IDENTIFICATION**

Suspects, identification, § 7:101-7:114

## **IMMIGRATION**

Authority to arrest pursuant to federal civil immigration detainer, § 7:3.50

#### **IMMUNITY**

**Privileges and Immunities**, this index

#### IMPEACHMENT OF WITNESSES

Witnesses, this index

#### **IMPLIED WARRANTIES**

Landlord and tenant, implied warranty of habitability, § 12:94

## **IMPROVEMENTS**

Condominiums, § 14:45

# INDEMNITY AND INDEMNIFICATION

Business corporations directors, § 6:93-6:97

Equitable remedies, § 10:65

Joint tortfeasors, § 16:83

Limited liability companies members, § 6:173

Principal's duties to agent, § 1:65 Public employees, § 16:115

Trustee's liability to third persons, right to indemnification out of trust estate, § 17:101

## INDEPENDENT CONTRACTORS

Generally, § 1:7

Negligence, employer's duty to employee of independent contractor, § 16:47

Workers' compensation, independent contractors distinguished, § 19:16

## INDEPENDENT COVENANTS RULE

Abrogation of, landlord-tenant law, § 12:81

## **INFERENCES**

Generally, § 9:22 Adverse inferences, § 9:23 Prima facie evidence, § 9:24

## **INFLATION**

Alimony, effect on, § 8:101

## **INFORMANTS**

Identity, § **9:99** Privilege, § **9:99** 

#### INFORMANTS—Cont'd

Search and seizure, § 7:55-7:57

## INHERITANCE RIGHTS

Parent-child relations
Adoption, § 8:183
Legitimacy and illegitimacy,
§ 8:143

Spouses

Intestacy, § 8:17 Waiver, § 8:18

## **INJUNCTIONS**

Equitable remedies

Generally, § 10:15-10:37

For detailed treatment see **Equitable Remedies**, this index

Landlord and tenant

Condition of premises, § 12:109

Trust beneficiary, injunctive relief, § 17:107

#### INNKEEPERS AND HOTELS

Bailments, § 2:20, 2:21

## **INNOCENCE**

Presumption, criminal cases, § 9:27

## **INSANITY**

Witnesses, lay person opinion testimony, § 9:120

## **INSANITY DEFENSE**

Generally, § 7:308-7:312

## **INSPECTION**

Business corporations books, **§ 6:39- 6:42, 6:48** 

Limited liability companies, rights of members, § 6:166

## INSPECTION AND COPYING

Discovery by, § 3:108

## **INSPECTIONS**

Business corporations books, **§ 6:39- 6:42, 6:48** 

Lead paint, § 12:98, 12:99

# INSUBORDINATION

Agent, § 1:57

# INSURANCE AND INSURANCE COMPANIES

Agent, insurance company as, § 1:14 Business corporations, insurance for indemnity of directors, § 6:99

Child support, Intercepting insurance proceeds for enforcing, § 8:318

Discovery of insurance agreements and information, § 3:83, 3:84

Evidence, liability insurance, § 9:59

# INTERFERENCE WITH ADVANTAGEOUS RELATIONS

Generally, § 16:258 Damages, § 16:259

# INTERFERENCE WITH CONTRACTUAL RELATIONS

Contracts and Agreements, this index

### INTERLOCUTORY APPEALS

Generally, § 4:7 et seq. Criminal case, § 4:19 Injunctive orders, § 4:15 Present execution doctrine, § 4:14

## INTERNATIONAL LAW

Judicial notice, § 9:15

# INTERROGATION OF SUSPECTS

Generally, § 7:75-7:100

# INTERROGATORIES

Generally, § 3:94, 3:103-3:107
For detailed treatment see Civil
Practice, this index

## INTERSPOUSAL RELATIONS

See Domestic Relations, this index

#### INTESTATE SUCCESSION

Generally, § 18:32-18:37

Advancements, § 18:37

Per capita share at each generation, heirs other than surviving spouse, § 18:35

Petition, § 18:73

Share of heirs other than surviving spouse, § 18:34, 18:35

Special heirs, § 18:36

## INTESTATE SUCCESSION

-Cont'd

Surviving spouse's share, § 18:33

#### INTOXICATION

Contracts, capacity to contract, § 5:47 Criminal law defense, § 7:146, 7:306

Divorce, fault-based, § 8:59

## **INVESTIGATION**

Agent's authority, § 1:31, 1:32, 1:47 Child care and protection proceedings, appointment of investigator, § 11:19

## **JOINDER**

Claims and remedies, § 3:61, 3:167, 3:168

Parties, joinder of, § 3:58-3:60, 3:120

## JOINTLY HELD PROPERTY

Partition of, equitable remedy, § 10:52

#### JOINT TENANCY

Generally, § 14:28

Palations of cotanants

Relations of cotenants inter se, § 14:30

## JOINT TORTFEASORS

Negligence, this index

## JOINT VENTURES

Agency, joint venturers and joint enterprise distinguished, § 1:10 Parties to crime, § 7:119-7:121 Partnership distinguished, § 13:7

## JOURNALIST PRIVILEGE

Generally, § 9:104

## **JUDGES**

Negligence actions, judicial immunity, § 16:117

## **JUDGMENT**

Generally, § **3:185** 

Alter or amend judgment, motion to, § 3:193

Appeal and review, finality of judgment, § 4:5-4:8

Averments, pleadings, § 3:77

#### .JUDGMENT—Cont'd

Clerical mistakes, § 3:196

Declaratory judgments

Equitable remedies, § 10:55, 10:56, 10:57

Jurisdiction, subject matter, § 3:8 Summary judgment, § 3:145

Default judgment, § 3:133-3:136

Defined, § 3:185

Divorce judgment, § 8:36-8:42, 8:64-8:67

Effect of entry of judgment, § 3:187 Entry of default judgment, § 3:133-3:135

Entry of judgment, § 3:185-3:187, 4:6, 4:41

Independent action to vacate judgment, § 3:195

Landlord and tenant, summary process actions, § 12:53

New trial, motion for, § 3:190-3:192, 4:41

Notice of appeal from, filing, § 3:187 Notwithstanding the verdict, motion for JNOV, § 3:188, 3:189, 4:41

Nunc pro tune, § 3:185

Post-trial motions

Judgment notwithstanding the verdict, motion for, § 3:188, 3:189

New trial, motion for, § 3:190-3:192

Relief from judgment, motion from, § 3:194-3:196, 4:41

Relief from judgment, motion for, § 3:194-3:196, 4:41

Rescript of appellate court, § 4:97 Separate document required for entry of, § 4:6

Stays pending appeal, **§ 4:61-4:67** Summary judgment, **§ 3:137-3:149** 

## JUDICIAL NOTICE

Generally, § 9:1 et seq. Adjudicative facts, § 9:3 et seq. Applicable standard, § 9:3 Business customs and practices, § 9:8 Evidence, § 9:1 et seq. Federal law, § 9:14

# JUDICIAL NOTICE—Cont'd

Foreign law, § 9:15

Geographical facts, § 9:4

Government form and functions,

facts relating to, § 9:12

Government system, § 9:12

Historical events, § 9:5

Human characteristics, § 9:6

Judicial system, § 9:12

Law of federal system, § 9:14

Law of foreign countries, § 9:15

Law of Massachusetts, § 9:11

Law of other states, § 9:13

Legislative facts, § 9:10 et seq.

Natural forces, § 9:7

Objects, characteristics of certain

objects, § 9:9

Other states, laws of, legislative facts noticing, § 9:13

Standard applicable, § 9:3

### JUDICIAL SYSTEM AND COURTS

Judicial notice of courts and court records, § 9:12

### JURISDICTION

Civil Practice, this index

Criminal law, § 7:116

**Domestic Relations**, this index

Housing courts, § 12:18

Juvenile Court, § 3:14

Landlord and tenant, summary process actions, § 12:27

Workers' compensation, jurisdiction under Massachusetts Act, § 19:3

### JURY TRIAL

Juvenile Law, this index

Landlord and tenant, summary process actions, § 12:51

## JUVENILE COURT

Civil practice

Appeals, § 3:5

Case management, trial procedure, § 3:150

Jurisdiction, subject matter, § 3:14 Reporting case to appeals court, § 4:52

#### JUVENILE COURT—Cont'd

Jursidction

Continuing, § 11:51 Original, § 11:50

## JUVENILE LAW

Generally, § 11:1 et seq.

Abuse prevention. Child protection, below

Care and protection proceedings

Generally, § 11:12 et seq.

Appeal, § 11:32

Commencement of proceeding,

§ 11:13

Consent to adoption, jurisdiction to dispense with, § 11:33

Emergency cases

72-hour hearing, **§ 11:17** 

Temporary transfer of custody, § 11:16

Investigator, appointment of, § 11:19

Nonemergency cases

Notice, § 11:14

Preliminary hearing, § 11:15

Pretrial conference, § 11:21

Reviews

Section 29B permanency hearing, § 11:31

Section 21 custody review, § 11:29

Section 26 review and redetermination of needs, § 11:30

Right to counsel, § 11:18

Service plans, § 11:20

Trial on the merits

Generally, § 11:22 et seq.

Adjudication, § 11:26

Conclusions of law, § 11:27

Dispositional options, § 11:28

Evidence, rules of, § 11:23

Findings of fact, § 11:27

Parental unfitness, evidence of, § 11:25

Standard of proof, § 11:24

Child abuse, reporting suspected abuse or neglect

Generally, § 11:1 et seq.

JUVENILE LAW—Cont'd	JUVENILE LAW—Cont'd
Child abuse, reporting suspected abuse or neglect—Cont'd	Delinquency and youthful offenders —Cont'd
Administrative and judicial review,	Arrest and definition, § 11:57
§ 11:11	Complaint and summons, § 11:55
Contents of report, § 11:4	Confidentiality of juvenile records,
Department of Children and Fami-	§ 11:52
lies	Constitutional rights, § 11:54
Central registry of information,	Diagnostic study of juvenile,
§ 11:10	§ 11:59
Maintaining reports, § 11:10	Disposition, § 11:65, 11:66, 11:69
Screening 51A reports, § 11:6	Indictment, youthful offender
Investigation, § 11:7, 11:8	cases, § 11:56
Legal protection for reporter,	Jurisdiction of Juvenile Court
§ 11:5	Continuing, § 11:51
Notice to district attorney and local	Original, <b>§ 11:50</b>
law enforcement, § 11:9	Jury trial, § 11:62
Obligation to report, § 11:2	Juvenile records
Sanctions for failure to report, § 11:3	Confidentiality, § 11:52
Child abuse or neglect, reporting.	Use in subsequent proceedings,
Reporting child abuse or	§ 11:53
neglect, below	Murder charges, § 11:68, 11:69
Child protection, § 11:1 et seq.	Plea agreements and disposition
Children requiring assistance	requests, § 11:60
Generally, § 11:35 et seq.	Pretrial matters, § 11:55 et seq.
Appeal, § 11:48	Probation before trial, § 11:61
Application for assistance, § 11:37	Process, arraignment, and bail,
Counsel, appointment of, § 11:43	§ 11:58
Definitions, § 11:36	Statutory scheme, philosophy, <b>§ 11:49</b>
Disposition	Trial and disposition
Generally, § 11:45 et seq.	Generally, § 11:62 et seq.
Alternatives available to court,	Adjudication, § 11:64
§ 11:46	Admittance of public to trial,
Extension of order, § 11:47	§ 11:63
Informal assistance, § 11:40	Burden of proof, § 11:64
Preliminary advice, § 11:38	Complaint for delinquency, dis-
Preliminary hearing, § 11:39	position, § 11:65
Release or temporary DCF	Extension of commitment to
custody, § 11:42	Department of Youth Ser-
Summons, custodial protection,	vices, <b>§ 11:67</b>
§ 11:41	Indictment as youthful offender,
Trial on the merits, § 11:44	disposition, § 11:66
Delinquency	Jury trial, § 11:62
Jury and jury trial Disposition, above	Department of Youth Services, extension of commitment to, § 11:67
Delinquency and youthful offenders	Disposition
Generally, § 11:49 et seg.	Delinguency, above
CICHCIAIIV. Y III-TI EL SEU.	DOMINGUOTE V. ADOVE

Contractual aspects of landlord rela-

tionship, § 12:1

#### LANDLORD AND TENANT JUVENILE LAW—Cont'd Disposition—Cont'd —Cont'd Youthful offender proceedings, Condition of premises below Breach of quiet enjoyment cove-Interrogation, § 7:94 nant, § 12:90 Jury and jury trial Damages, tenant's claim for, Delinquency, above § 12:113-12:115 Youthful offender proceedings, Deceptive acts or practices, below § 12:95 Reports Double damages, § 12:115 Child abuse. Reporting child abuse Enforcement of Sanitary Code, or neglect, above § 12:108-12:110 Section 23 proceedings, § 11:34 Essential services, furnishing, Youthful offender proceedings § 12:87, 12:91 Jury and jury trial Guest's tort action for personal Disposition, above injuries, § 12:118 Implied warranty of habitability, KIDNAPPING § 12:94 Generally, § 7:220-7:222 Injunctive relief, § 12:109 KNOCK AND ANNOUNCE RULE Landlord's obligations, § 12:88-12:94 Generally, § 7:61 Lead paint, § 12:96-12:106 LAND COURT Quiet enjoyment covenant, See Civil Practice, this index § 12:89, 12:90 Receivership, § 12:110 LAND DESCRIPTIONS Rent withholding, § 12:111 Title, this index Repair and deduct, § 12:112 LANDLORD AND TENANT Retaliation by landlord, action for, Generally, § 12:1 et seq. § 12:116 Abrogation of "independent cove-State Sanitary Code nants" rule, § 12:81 Generally, § 12:92 et seq. Access to premises by landlord, Basic operation, § 12:92 § 12:63 Direct enforcement of, Agreed lessee § 12:108-12:110 Distinction from tenant, § 12:7 Implied warranty of habitability, Agreed purchaser § 12:94 Distinction from tenant, § 12:6 Particular requirements, § 12:93 Commercial lease Tenant remedies, § 12:107-12:118 Abrogation of "independent cove-Tort action for personal injuries, nants" rule, § 12:81 § 12:117, 12:118 Discrimination, § 12:64, 12:65 Treble damages, § 12:115 Complaints Unfair or deceptive acts or prac-Civil complaints, § 12:20 tices, § 12:95 Withholding rent, § 12:111 Criminal complaints, § 12:19 Reprisals, § 12:116 Condominiums Summary process actions, § 12:41 Conversions, § 12:119

Uniform Summary Process Rules,

§ 12:41

LANDLORD AND TENANT —Cont'd	LANDLORD AND TENANT —Cont'd
Covenants	Fraternity, termination of tenancy,
Abrogation of "independent cove-	§ 12:37
nants" rule, § 12:81	Guest's tort action for personal
Damages	injuries, <b>§ 12:118</b>
Condition of premises grounds,	Habitability, § 12:94
tenant's claim for damages,	Holding over as creating tenancies at
§ 12:113-12:115	will, § 12:15
Double damages, § 12:115	Housing courts
List of damages, effect on security deposits, § 12:70	Civil complaints, § 12:20
Security deposits, § 12:70, 12:78	Criminal complaints, § 12:19
Treble damages, § 12:78, 12:115	Evidence, reports of Housing court specialists, § 12:24
Deceptive acts and practices, § 12:15	Housing court specialists, § 12:24
Default, summary process actions,	Inspector's reports, § 12:23
§ 12:50	Jurisdiction, § 12:18
Judgment, § 12:50	LDP and LAR Programs, § 12:25
Definitions	Reports of building or housing
Rent, § 12:80	inspectors, § 12:23
Rent control, § 12:119	Small claims, § 12:79
Tenancies at sufferance, § 12:17	Transfer of action, § 12:19, 12:22,
Tenancies at will, § 12:13	12:46
Demand	Types of actions heard
Discovery, summary process	Civil, <b>§ 12:20</b>
actions, § 12:48, 12:49	Criminal, § 12:19
Jury trial, summary process	Small claims, § 12:79
actions, § 12:51	Zoning appeals, § 12:21
Disclosure	Zoning appeals, § 12:21
Lead-based paint, § 12:101	Implied warranties
Discovery, rent, actions for, § 12:48,	Habitability, § 12:94
12:49	Independent covenants rule, abroga-
Discrimination	tion of, § 12:81
Generally, § 12:64, 12:65 Commercial property, § 12:64,	Injunctive relief
12:65	Condition of premises, § 12:109 Inspections, lead paint, § 12:98,
Remedies, <b>§ 12:65</b>	12:99
Residential property, § 12:64,	Judgments, summary process actions
12:65	Appeal of, § 12:58, 12:59
Dormitory, termination of tenancy,	Execution of, § 12:55-12:57
§ 12:37	Relief from, § 12:54
Easements	Jury trial, summary process actions,
Distinction from tenancy, § 12:4	§ 12:51
Essential services, landlord's furnish-	Last month's rent
ing of, § 12:91	Receipt and payment of interest,
Foreclosure	§ 12:83
Tenancy at will, § 12:16	Transfer of property to new owner,
Tenant protections, § 14:182	§ 12:84

LANDLORD AND TENANT

#### —Cont'd —Cont'd Late charges restrictions, § 12:85 Payment of rent Lawyer for a day program, § 12:25 Commercial, § 12:80 Lead paint Deposit, § 12:68 Generally, § 12:96 et seq. Initial payment, § 12:80, 12:82 Abatement of, § 12:102 Last month's rent, § 12:83, 12:84 Administrative enforcement, Residential, § 12:80 § 12:106 Transfer of realty to new owner, Building inspections, § 12:99 § 12:84 Civil liability, § 12:105 Profit a prendre Correction of violations, § 12:102 Distinction from tenancy, § 12:5 Disclosure of, § 12:101 Public housing Federal law, overview, § 12:96, Lead-based paint, federal law 12:97 overview, § 12:96, 12:97 Inspections, building, § 12:99 Quiet enjoyment covenant Owner's duties, § 12:101-12:103 Generally, § 12:89, 12:90 Prohibited acts, § 12:100 Breach of covenant, § 12:90 Reporting requirements, § 12:98 Furnishing essential services, Screening requirements, § 12:98 § 12:91 Liability of landlord Receivers Contractual aspects of landlord Condition of premises, tenant remrelationship, § 12:1 edies, § 12:110 Lead paint, § 12:105 Regulatory aspects of landlord rela-Regulatory aspects of landlord tionship, § 12:2 relationship, § 12:2 Rent Tort liability to guest, § 12:118 Generally, § **12:80** Tort liability to tenant, § 12:117 Abrogation of "independent cove-License nants" rule, § 12:81 Distinction from tenancy, § 12:3 Defined, § 12:80 Limited assistance representation, Initial payment, limit on, § 12:82 § 12:25 Last month's rent, § 12:83, 12:84 Mortgage foreclosure, tenancy at Late charges limitations, § 12:85 will, § 12:16 Limit on initial payment, § 12:82 Nature of relationship Payment of rent, above Agreed lessee distinguished, Tax escalation, § 12:86 § 12:7 Transfer of property to new owner, Agreed purchaser distinguished, § 12:84 § 12:6 Utilities, § 12:87 Contractual aspects, § 12:1 Withholding rent, § 12:111 Easement distinguished, § 12:4 Rental agreements License distinguished, § 12:3 Generally, § 12:60 Profit a prendre distinguished. Access to premises, landlord's, § 12:5 § 12:63 Regulatory aspects, § 12:2 Discriminatory practices, § 12:64, Negligence, duty owed to tenants and 12:65 their guests and invitees, § 16:40-16:44 Illegal provisions, § 12:62, 12:63

LANDLORD AND TENANT

LANDLORD AND TENANT	LANDLORD AND TENANT
—Cont'd	—Cont'd
Rental agreements—Cont'd	Rooming house, termination of
Required provisions, residential	tenancy, § 12:37
tenancies, § 12:61	Sale or transfer of real estate
Tax escalation clause, § 12:86	Agreed lessee's rights, § 12:7
Termination by tenant who is	Agreed purchaser's rights, § 12:6
victim of domestic violence	Last month's rent prepaid, § 12:84
or sexual assault, <b>§ 12:66</b> , <b>12.67</b>	Security deposit, effect on, § 12:74
Rent control	Sanitary Code
	Landlord's obligations
Generally, § 12:80	Generally, § 12:92 et seq.,
Condominium conversions, § 12:119	12:108
•	Basic operation, § 12:92
Defined, § 12:119	Implied warranty of habitability,
Repairs	§ 12:94
Condition of premises, repair and deduct, § 12:112	Particular requirements, § 12:93
Lead paint, § 12:102	Tenant remedies, § 12:108 et
Reports and reporting	seq.
Inspectors, building or housing,	Unfair or deceptive acts of prac-
§ 12:23	tices, § 12:95
Lead paint, § 12:98	Tenant remedies
Reprisals	Generally, § 12:108 et seq.
Generally, § 12:116	Action for retaliation, § 12:116
Jurisdiction, § 12:18	Claim for damages, § 12:113-
Tenant remedies, § 12:116	12:115
Residential lease	Direct enforcement of Code,
	§ 12:108-12:110
Discrimination, § 12:64, 12:65	Injunctive relief, § 12:109
Required provisions, § 12:61	Receivership, § 12:110
Rights and liabilities	Rent withholding, § 12:111
Condition of rented premises, generally	Repair and deduct, § 12:112
Landlord's obligations, § 12:88-	Tort action for personal injuries,
12:94	§ 12:117, 12:118
Lead paint, § 12:96-12:106	Withholding rent, § 12:111
Tenant remedies, § 12:107-	Security deposits
12:118	Generally, § 12:68
Lead-based paint issues, § 12:96-	Bank deposit receipt, § 12:70
12:106	Banking requirements, § 12:71
Rental agreement, generally,	Documents required, § 12:70
§ 12:60-12:64	Interest payable, § 12:73, 12:83
Rent and other charges, generally,	Last month's rent, § 12:83, 12:84
§ 12:80-12:87	Lawful deductions, § 12:76
Security deposits, generally,	Maximum amount, § 12:69
§ 12:68-12:78	Receipts, § 12:70, 12:83
Tenancies at sufferance, § 12:17	Record-keeping requirements,
Tenancies at will, § 12:13-12:16	§ 12:72

LANDLORD AND TENANT	LANDLORD AND TENANT
—Cont'd	—Cont'd
Security deposits—Cont'd	Summary process actions—Cont'd
Remedies for landlord's	Educational institution housing,
noncompliance, § 12:77,	§ 12:37
12:78	Entry date, § 12:42
Return, § 12:75	Equitable relief, § 12:52
Small claims action, § 12:79	Evidence, termination of tenancy,
Statement of present condition,	§ 12:39
§ 12:70	Execution
Tenant remedies, § 12:77, 12:78	Generally, § <b>12:55</b>
Tenant's list of damages, § 12:70	Stay of execution, § 12:57
Transfer of realty to new owner,	Storage and sale of tenant's
§ 12:74, 12:84	property, § 12:56
Treble damages remedy, § 12:78	Fraternity, § 12:37
Small claims	Housing court jurisdiction, § 12:18
Housing courts, § 12:79	Judgment
Security deposits, § 12:79	Appeal of, § 12:58, 12:59
Sorority, termination of tenancy,	Execution of, § 12:55-12:57
§ 12:37	Relief from, § 12:54
Storage and sale of tenant's property,	Jurisdiction
§ 12:56	Generally, § 12:27
Summary process actions	Housing Court, § 12:18
Generally, <b>§ 12:26</b>	Transfer of action, § 12:46
Affirmative defenses, § 12:44	Jury trial, § 12:51
Answer, § 12:44	Demand, § 12:51
Appeal	Legality of self-help eviction,
Generally, § 12:58	§ 12:29
Bond requirements, § 12:59	Lodging house, § 12:37
Notice of appeal, § 12:58	Motions
Stay of execution, § 12:57	Pretrial, <b>§ 12:47</b>
Time, § 12:54, 12:58	Relief from judgment, § 12:54
Bond, appeal, § 12:59	Nonpayment of rent, notice to quit,
	§ 12:34
Commencement of action, § 12:41	Notice as to storage and sale of
Complaint, § 12:41	tenant's property, § 12:56
Costs, § 12:59	Notice of appeal, § 12:58
Counterclaim, § 12:44, 12:45	Notice to quit
Criminal trespass prosecution,	Nonpayment of rent, § 12:34
§ 12:30	Proof of sufficient notice,
Default, § 12:50	§ 12:39
Judgment, § 12:50	Tenant at will, <b>§ 12:35</b>
Demand for discovery, § 12:48,	Waiver of notice, § 12:38
12:49	Operation of law, surrender of pos-
Demand for jury trial, § 12:51	session by, <b>§ 12:33</b>
Discovery, § 12:48, 12:49	Persons entitled to use, § 12:28
Dismissal, § 12:50	Post-judgment procedures, § 12:54
Dormitory, § 12:37	Pretrial motions, § 12:47

#### LANDLORD AND TENANT LANDLORD AND TENANT —Cont'd —Cont'd Summary process actions—Cont'd Summary process actions—Cont'd Procedure, generally, § 12:40 et At will tenant, notice to quit, § 12:35, 12:36 Proof of sufficient notice, § 12:39 Taxation Relief from judgment, § 12:54 Escalation clause, § 12:86 Rooming house, § 12:37 Tax escalation clauses, § 12:86 Self-help eviction, legality, § 12:29 **Tenancies** Service of process, § 12:41 Generally, § 12:8 Execution of judgment, § 12:55 Contractual aspects, § 12:1 Sorority, § 12:37 Regulatory aspects, § 12:2 At sufferance. Tenancies at suffer-Stay of execution, § 12:57 ance, below Storage and sale of tenant's property, § 12:56 Types, generally, § 12:8 Summons, § 12:41 At will. Tenancies at will, below Surrender of premises, § 12:32 For years. Tenancies for years, below Termination of tenancy Generally, § 12:31 Tenancies at sufferance Agreement, by, § 12:32 Generally, § 12:9, 12:17 Dormitory, § 12:37 Creation, § 12:17 Fraternity, § 12:37 Definition, § 12:17 Nonpayment of rent, for, Rights, duties and liabilities, § 12:34 § 12:17 Notice to quit Tenancies at will Generally, § 12:9, 12:13 Nonpayment of rent, § 12:34 Creation, § 12:13-12:16 Operation by law termination Defined, § 12:13 of tenancy, § 12:33 Holding over, § 12:15 Tenant at will, § 12:35, 12:36 Invalid leases, § 12:14 Waiver of notice, § 12:38 Rights and liabilities, § 12:13-Operation of law, by, § 12:33 12:16 Proof, § 12:39 Term, § 12:13-12:16 Rooming house, § 12:37 Termination, § 12:15 Sorority, § 12:37 Tenancies for years Surrender, by, § 12:32 Generally, § 12:9 Waiver of notice, § 12:38 Assignment, § 12:9, 12:10, 12:11 At will tenant, notice to quit, Extension option, § 12:12 § 12:35, 12:36 Trial date, § 12:43 Option to renew or extend, § 12:12 Renewal option, § 12:12 Postponement, § 12:43 Restriction on assignment or Uniform Summary Process Rules, sublease, § 12:11 § 12:40 et seq. Rights, duties and liabilities, Waiver of appeal bond require-§ 12:9 ment, § 12:59 Sublease, § 12:9, 12:10, 12:11 Waiver of notice to quit, § 12:38 Term, § 12:12 Warehouser's duties and liabilities as to storage of tenant's Tenancy at will, foreclosure of propbelongings, § 12:56 erty, § 12:16

LANDLORD AND TENANT —Cont'd	LANDLORD AND TENANT —Cont'd
Tenant remedies	Uniform Summary Process Rules
Damages, § 12:113-12:115	—Cont'd
Double damages, § 12:115	Appeal, § 12:58
Injunctive relief, § 12:109	Commencement of action, § 12:41
Receivership, § 12:110	Complaint, § 12:41
Rent withholding, § 12:111	Counterclaim, § 12:44, 12:45
Repair-and-deduct, § 12:112	Default, § 12:50
Reprisals, § 12:116	Discovery, § 12:48, 12:49
Treble damages, § 12:78, 12:115	Entry date, § 12:42
Termination of tenancy	Equitable relief, § 12:52
Generally, § 12:31	Execution, § 12:55
Agreement, by, § 12:32	Judgment, § 12:53
Dormitory, § 12:37	Jury trial, § <b>12:51</b>
Evidence, § 12:39	Pretrial motions, § 12:47
Fraternity, § 12:37	Service of process, § 12:41
Nonpayment of rent, for, § 12:34	Summons, § 12:41
Notice to quit	Transfer of action, § 12:46
Nonpayment of rent, § 12:34	Trial date, § 12:43
Operation by law termination of tenancy, § 12:33	Utilities, duties and obligations, § 12:87, 12:91
Tenant at will, § 12:35, 12:36	Withholding rent, condition of
Waiver of notice, § 12:38	premises grounds, § 12:111
Operation of law, by, § 12:33	LANDOWNER
Proof, § 12:39	Liability for lead paint, § 12:101-
Rooming house, § 12:37	12:104
Sorority, <b>§ 12:37</b>	Owners and occupiers of land, partic-
Summary process actions, above	ular duties. <b>Negligence</b> , this
Surrender, by, § 12:32	index
Tenancies at will, § 12:15	LARCENY
Waiver of notice, § 12:38	
At will tenant, notice to quit,	Generally, § 7:219, 7:231-7:237 Checks, § 7:236
§ 12:35, 12:36	Checks, 8 7:230
Torts	LAST MONTH'S RENT
Lead paint, § 12:105	Receipt and payment of interest,
Liability of landlord	§ 12:83
To guest, § 12:118	Transfer of property to new owner,
Lead paint, § 12:105	§ 12:84
To tenant, § 12:117	LATE CHARGES
Treble damages	Landlord and tenant, § 12:85
Condition of premises, § 12:115	Landiord and tenant, § 12.65
Security deposits, § 12:78	LAWYER FOR A DAY PROGRAM
Unfair and deceptive acts and practices, § 12:95	Generally, § 12:25
Uniform Summary Process Rules	LAY PERSONS
Generally, <b>§ 12:40</b>	Witnesses, lay opinion rule, § 9:117-
Answer, § 12:44	9:121

#### LEAD PAINT LEGAL MALPRACTICE—Cont'd Generally, § 12:96 et seq. Continuous representation doctrine, § 16:181 Abatement of, § 12:102 Contributory and comparative Administrative enforcement, negligence, § **16:177** § 12:106 Damages, negligence, § 16:161 Building inspections, § 12:99 Debt collection, statutory liability, Civil liability, § 12:105 § 16:169 Correction of violations, § 12:102 Deceptive acts or practices, § 16:168 Disclosure of, § 12:101 Defenses Federal law, overview, § 12:96, 12:97 Generally, § 16:177-16:182 Injuries, liability for, § 12:105 Contributory and comparative Inspections, building, § 12:99 negligence, § 16:177 Landlord and tenant issues, generally, Estoppel, § 16:182 § 12:96-12:106 In pari delicto, § 16:178 Liability of landowner, § 12:101-Statute of limitations, below 12:104 Elements of negligence action, gener-Owner's duties and liabilities, ally, § 16:155 § 12:101-12:103 Employees, vicarious liability, Prohibited acts, § 12:100 § 16:176 Reporting requirements, § 12:98 Estate of attorney, vicarious liability, Screening requirements, § 12:98 § 16:172 Strict liability, § 12:105 Ethical rules, violation of, § 16:162 LEARNED TREATISES Expert testimony, need for, § 16:159 Hearsay exception, § 9:201, 9:202 Fraud or deceit, **§ 16:163** Medical malpractice, § 9:202 Limited liability company, vicarious liability, § 16:175 LEASES Negligence Generally. Landlord and Tenant, Generally, § 16:154-16:161 this index Attorney-client relationship, exis-Goods. Sales and Leases of Goods, tence of, § 16:154 this index Burden of proof, § 16:160 Trustee's power to lease property, Causation, § 16:158 § 17:78 Damages, § 16:161 LEGAL MALPRACTICE Duty of care, § 16:156, 16:157 Generally, § 16:154-16:182 Elements of action, generally, Attorney-client relationship, exis-§ 16:155 tence of, § 16:154 Expert testimony, need for, Breach of contract § 16:159 Generally, § 16:164-16:166 Nonclients, duty to, § 16:157 Client's instructions, failure to In pari delicto, § **16:178** follow, § 16:165 Partners, vicarious liability, § 16:173 Third party beneficiary, § 16:166 Professional corporations, vicarious Burden of proof, § 16:160 liability, § 16:174 Certification of title by mortgagee's Securities laws, statutory liability, attorney, § 16:170 § 16:171 Statute of limitations Client funds, withholding, § 16:167 Generally, § 16:179 Client instructions, failure to follow. § 16:165 Accrual of action, § 16:180

#### LEGAL MALPRACTICE—Cont'd

Statute of limitations—Cont'd Applicable statute, § 16:179 Continuous representation doctrine, § 16:181

Discovery rule, § 16:180

Tolling, § 16:181

Statutory liability

Generally, § 16:167-16:171

Certification of title by mortgagee's attorney, § 16:170

Client funds, withholding, § 16:167

Debt collection, § 16:169

Securities laws, § 16:171

Unfair or deceptive acts or practices, § 16:168

Third party beneficiary, breach of contract, § 16:166

Tolling statute of limitations, § 16:181

Unfair or deceptive acts or practices, § 16:168

Vicarious liability

Generally, § 16:172-16:176

Employees, § 16:176

Estate of attorney, § 16:172

Limited liability company,

§ 16:175

Partners, § 16:173

Professional corporations, § 16:174

#### LEGISLATIVE FACTS

Judicial notice, § 9:10 et seq.

## LEWDNESS AND OBSCENITY

Indecent exposure, § 7:279
Public order offense, § 7:280, 7:281
Sex offense, § 7:183, 7:191

## LIABILITY

Landlord and Tenant, this index Tenancies at sufferance, § 12:17 Tenancies for years, § 12:9, 12:10

## LIABILITY INSURANCE

Evidentiary aspects of, § 9:59

#### LIBEL

**Defamation**, this index

#### LICENSES AND PERMITS

Landlord and tenant relationship distinguished from license, § 12:3

Real property licenses, § 14:106, 14:107

#### **LIENS**

Condominiums, § 14:43

## LIFE ESTATE

Generally, § 14:9 Characteristics, § 14:10

# LIKENESS

Privacy, invasion of, appropriation of name or likeness, § 16:219

## LIMITED ASSISTANCE REPRESENTATION

Generally, § 12:25

## LIMITED LIABILITY COMPANIES (LLCs)

Generally, § 6:157-6:198

Abbreviations used in name of llc, § 6:162

Acquisition of interest in llc, § 6:163 Admission as member, § 6:163, 6:178

Allocation of profits and losses, § 6:180

Amending certificate of organization, § 6:159

Amending foreign llc's registration, § 6:198

Annual report, § 6:167, 6:198

Assignment of membership interest, § 6:174

Attorney forming llc for practice of law, § 6:161

Cancellation of certificate of organization, § 6:194

Cancellation of foreign llc's registration, § 6:198

Certificate of legal existence of foreign llc, § 6:195

Certificate of organization Amending, § 6:159

Index-142

LIMITED LIABILITY	LIMITED LIABILITY
COMPANIES (LLCs)—Cont'd	COMPANIES (LLCs)—Cont'd
Certificate of organization—Cont'd Cancellation, § 6:194	Default, contributions of members, <b>§ 6:179</b>
Consolidation, § <b>6:184</b> , <b>6:186</b>	Definition
Conversion, § 6:186	Limited liability company, § 6:157
Execution by whom, § <b>6:158</b> Filing, § <b>6:158</b>	Limited liability company interest, § 6:163
Foreign llcs, § 6:195-6:198	Derivative action, § 6:168
Merger, § 6:184, 6:186	Dissolution and termination
Professional llcs, § 6:161	Administrative dissolution,
Restating, <b>§ 6:160</b>	§ 6:190, 6:191
Change of status	Cancellation of certificate of orga-
Consolidation or merger of llc,	nization, § <b>6:194</b>
§ 6:183, 6:185	Distribution of assets, § 6:193
Conversion of other business entity	Events precipitating, § 6:188
to llc, § <b>6:186, 6:187</b>	Foreign llc, <b>§ 6:198</b>
Dissolution and termination,	Judicial, § <b>6:189</b>
§ 6:188-6:194	Reinstatement following
Consolidation	administrative dissolution,
Generally, § 6:183	§ 6:191
Effect of, § 6:185	Winding up, § 6:192, 6:193, 6:198
Contents of certificate	Distinguished from partnerships,
Certificate of amendment of certif-	§ 6:170
icate of organization, § 6:159	Distributions to members
Certificate of cancellation of certif-	Generally, § 6:180
icate of organization, § 6:194	Allocation of profits and losses,
Certificate of consolidation or	§ 6:180
merger, § 6:184	Dissolution and termination,
Certificate of conversion, § 6:186	§ 6:193
Certificate of organization, § 6:159	Record date, § 6:180
Restated certificate of organization, § 6:160	Resignation of members, § 6:176, 6:181
Contents of foreign llc's registration application, § 6:196	Unlawful distributions, § 6:174, 6:182
Contributions of members	Winding up Ilc, § <b>6:193</b>
Generally, § 6:178	Effect of consolidation, § 6:185
Consolidation or merger, § 6:183,	Effect of conversion of other business
6:185	entity to llc, § 6:187
Liability on default, § 6:179	Effect of foreign llc's failure to regis-
Conversion of other business entity to	ter, <b>§ 6:197</b>
llc	Effect of merger, § 6:185
Generally, <b>§ 6:186</b>	Expenses of derivative action,
Consolidation and merger, § 6:183,	§ 6:168
6:185	Failure to make required contribu-
Effect of, § 6:187	tions, § 6:179
Creditors rights on dissolution and	Failure to register foreign llc, effect
termination, § 6:193	of, § 6:197
Death of member, § 6:175	Fiduciary duty of member, § 6:170

#### LIMITED LIABILITY LIMITED LIABILITY COMPANIES (LLCs)—Cont'd COMPANIES (LLCs)—Cont'd Filing annual report, § 6:167, 6:198 Liability of members Filing certificate of amendment of Assignment of membership intercertificate of organization, est, effect of, § **6:174** § 6:159 Attorney llc, § 6:161 Filing certificate of organization, Company obligations, § 6:171 § 6:158 Contributions default, § 6:179 Financial structure Indemnification, § 6:173 Contributions of members, Piercing the veil, § 6:172 § 6:178, 6:179 Vicarious liability, § 6:171 Distributions to members, § 6:180-List of names and addresses of 6:182 members, § 6:166, 6:169 Tax classification of llc, § 6:177 Litigation Fines, foreign llcs failure to register Generally, § 6:168 with state, § 6:197 Foreign llcs, § 6:197 Foreign llc Statute of limitations, unlawful Generally, § 6:195-6:198 distributions claim, § 6:182 Amendment to registration, Winding-up llc, § 6:192 § 6:198 Management and operation of 1.1.c. Annual report, § 6:198 Generally, § 6:164-6:176 Cancellation of doing business, Assignee of member's interest, § 6:198 right of, § 6:174 Dissolution, § 6:198 Formalities, § 6:164-6:168 Failure to register, effect of, Litigation, § 6:168 § 6:197 Membership attributes, § 6:169-Name of company, § 6:198 6:176 Other requirements, § 6:198 Operating agreement, § 6:164, Prohibitions, § 6:198 6:165 Registration requirements, § 6:195, Recordkeeping requirements, 6:196, 6:197 § 6:166 Resident agent, § 6:198 Reporting requirements, § 6:167 Winding up, § **6:198** Manager, § 6:165 Withdrawal from doing business, Membership in 1.1.c. § 6:198 Generally, § 6:169-6:176, 6:178-Formation of llc by filing certificate 6:182 of organization, § 6:158 Admission as member, § 6:163, Good faith reliance on operating 6:178 agreement, § 6:170 Assignment of interest, § 6:174 Incapacity of member, § 6:175 Attributes of membership, gener-Income tax, § 6:177 ally, § 6:169-6:176 Indemnification of member, § 6:173 Contributions of members, Inspection and copying rights of § 6:178, 6:179 members, § 6:166 Death of member, § 6:175 Interest in llc, acquisition, § 6:163 Distributions to members, § 6:180-6:182 Judicial dissolution and termination, § 6:189 Fiduciary duty of member, § 6:170 Incapacity of member, § 6:175 Liability of liquidating trustee, § 6:193 Indemnification, § 6:173

#### LIMITED LIABILITY LIMITED LIABILITY COMPANIES (LLCs)—Cont'd COMPANIES (LLCs)—Cont'd Membership in 1.1.c.—Cont'd Registration of foreign llc, § 6:195-Inspection and copying rights of members, § 6:166 Reporting requirements, § 6:167, 6:198 Liability for company obligations, § 6:171 Reservation of name, § 6:162 Liability on default, § **6:171**, **6:179** Resident agent of foreign llc, § 6:198 List of names and addresses of Resignation of member, § 6:176, members, § 6:166, 6:169 6:181 Piercing the veil, § 6:172 Restating certificate of organization, Resignation of member, § 6:176, § 6:160 6:181 Signature on certificate of amend-Transfer of interest, § 6:174 ment of certificate of organization, § 6:159 Unlawful distributions to Signature on certificate of organizamembers, § 6:182 tion, § 6:158 Merger Tax classification of llc, § 6:157, Generally, § 6:183 6:177 Effect of, § 6:185 Time Name of foreign llc, § 6:198 Registration of foreign llc, § 6:195 Name reservation, § 6:162 Statute of limitations, unlawful Notice of formation, § 6:158 distributions claim, § 6:182 Notice of resignation of member, Transfer of membership interest, § 6:176 § 6:174 Operating agreement Unlawful distributions to members, Generally, § 6:164 § 6:174, 6:182 Fiduciary duties under, § 6:170 Vicarious liability, § 6:171 Good faith reliance on, § 6:170 Winding up, § 6:192, 6:193, 6:198 Type of management, § 6:165 Organic changes LIQUIDATED DAMAGES Consolidation or merger of llc, Generally, § 5:91 § 6:183, 6:185 LISTS OR SCHEDULES Conversion of other business entity to llc, § 6:186, 6:187 Commercial lists and publications, hearsay exception, § 9:200 Dissolution and termination, § 6:188-6:194 Tenant's list of damages, effect on security deposits, § 12:70 Organization Acquisition of llc interest, § 6:163 LOYALTY Admission as member, § 6:163 Agent's duties to principal, § 1:56 Certificate of organization, Directors' duty of, § 6:79 § 6:158-6:160 Partnership, duty of loyalty, § 13:20 Name of company, § 6:162 Trustee's duty of loyalty, § 17:84, Professional llcs, § 6:161 17:85 Partnerships distinguished, § 6:170 Professional llcs, § 6:161 MAGNUSON-MOSS WARRANTY Record date, § 6:180 ACT Recordkeeping requirements, § 6:166 Sales and leases of goods, § 15:16

#### MAIM

Assault with specific intent, § 7:170

### MAINTENANCE AND REPAIRS

Automobile repair shops, § 2:10 Bailments

Automobile repair shops, § 2:10 Damages for negligence of repair shops, § 2:37

Damages for negligence of repair shops, § 2:37

Landlord and tenant

Condition of premises, repair and deduct, § 12:112

Lead paint, § 12:102

Lead paint, § 12:102

#### MALICIOUS PROSECUTION

Generally, § 16:238-16:243

Damages, § 16:243

Elements, § 16:239-16:243

Initiation of proceeding, § 16:239

Lack of probable cause, § 16:240

Malice, § 16:241

Prior proceeding, favorable termination, § 16:242

## **MALPRACTICE**

**Legal Malpractice**, this index **Medical Malpractice**, this index Medical treatises, § 9:202

#### MAPS AND PLATS

Evidence, § 9:215

#### **MARITAL AGREEMENTS**

Generally, § 8:28, 8:29

### MARITAL DISQUALIFICATION

Generally, § 9:102

#### **MARRIAGE**

Generally, § 8:1-8:12

For detailed treatment see **Domestic Relations**, this index

# MASSACHUSETTS UNIFORM TRUST CODE

Trusts and trustees, this index

#### **MASTER**

Appointment of, § 3:98, 4:31 Discovery special master, § 3:98

#### MASTER—Cont'd

Master and servant. **Agents and Agency**, this index

Report of, § 4:31

#### MASTER AND SERVANT

See Agents and Agency, this index

#### **MAYHEM**

Assault with specific intent, § 7:174, 7:175

Mental state, § 7:174

Two branches, § 7:175

#### **MEDIATION**

Custody and visitation, appointment of mediator, § 8:243

#### MEDIATION PRIVILEGE

Generally, § 9:106

#### **MEDIATOR**

Custody and visitation, § 8:243

### **MEDICAL EXPENSES**

Payment, § 9:58

## MEDICAL MALPRACTICE

Generally, § 16:120-16:153

Attorney's fee limitation, § 16:150 Bonds

Appeal, § 4:17

Tribunals, § 16:138

Breach of contract, § 16:132

Breach of duty, § 16:122

Charitable corporations, immunities, § 16:151

Civil rights violation, federal,

§ 16:129

Collateral source rule, abrogation, **§ 16:148** 

Confidential information, unauthorized disclosure, § 16:128

#### Damages

Generally, § 16:146-16:149

Ad damnum prohibited, § 16:146

Collateral source rule, abrogation, § 16:148

Itemization of damages, § 16:147

Pain and suffering, limitation on recovery, § 16:149

Deceptive acts or practices, § 16:131

#### MEDICAL MALPRACTICE MEDICAL MALPRACTICE —Cont'd —Cont'd Disclosure of provider's mistake, Tribunals—Cont'd Appellate review of tribunal find-§ 16:145 Duty of care, § 16:121 ings, § 16:139 Emotional distress, infliction of, Background, § 16:133 § 16:130 Bond requirements, § 16:138 Expert evidence, need for, § 16:124 Claims reviewed, § 16:135 Good Samaritan and other immuniz-Composition, § 16:133 ing statutes, § 16:152 Findings, admissibility at trial, **Immunities** § 16:140 Generally, § 16:151-16:153 Offer of proof, sufficiency, Charitable corporations, § 16:151 § 16:137 Situs of hearing, § 16:134 Good Samaritan and other immunizing statutes, § 16:152 Unanticipated outcome, disclosure of, § 16:145 Public institutions and public employees, § 16:153 Unfair acts or practices, § 16:131 Informed consent, lack of, § 16:126 Vicarious liability, § 16:125 Itemization of damages, § 16:147 MEDICAL PEER REVIEW Jurisdiction, subject matter, § 3:9 **PRIVILEGE** Learned treatises, admissibility, Witnesses, § 9:87 § 9:202 Mistake or apology for unanticipated MENTAL CONDITION outcome, statements from health Insanity defense (lack of criminal care provider and hearsay, responsibility), § 7:308-7:312 § 9:197 Statements of, hearsay exception, Negligence § 9:186 Generally, § 16:120-16:125 **METADATA** Breach of duty, § 16:122 Discovery, § 3:85 Duty of care, § 16:121 Expert evidence, need for, MILITARY § 16:124 Armed Forces, this index Proximate causation of physical **MINORS** injury, § 16:123 See Children and Minors, this index Vicarious liability, § 16:125 Pre-litigation notice, § 16:144 MIRANDA RIGHTS Proximate causation of physical Generally, § 7:85-7:100 injury, § 16:123 Public institutions and public MISREPRESENTATION AND employees, immunities, FRAUD § 16:153 Generally, § 16:246-16:253 Speedy trial, § 3:152 Agent's authority, misrepresentation Statutes of limitation and repose of, § 1:83 Generally, § 16:141-16:143 Constructive trusts, § 17:56 Continuing treatment doctrine, Contracts, effect of fraud and misrep-§ 16:142 resentation, § 5:52, 5:53 Minors' claims, § 16:143 Damages, § 16:251 Tribunals Equitable remedies, fraudulent Generally, § 16:133-16:140 transfer, § 10:45, 10:46, 10:47

# MISREPRESENTATION AND FRAUD—Cont'd

Falsity, knowledge of, § 16:248

Fraudulent misrepresentation

Generally, § 16:246-16:251

Damages, § 16:251

Elements, § 16:246

Inducing plaintiff to act, § 16:249

Justifiable reliance, § 16:250

Knowledge of falsity, § 16:248

Material fact, false representation,

§ 16:247

Inducing plaintiff to act, § 16:249

Innocent misrepresentation, § 16:253

Justifiable reliance, § 16:250

Knowledge of falsity, § 16:248

Landlord's unfair or deceptive acts or practices, § 12:95

Material fact, false representation, § 16:247

Negligent misrepresentation, § 16:252

Partnership, rescission for fraud and misrepresentation, § 13:40

Pleadings, fraud averments, § 3:77

Reliance, justifiable, § 16:250

Similar misrepresentations and fraud, evidence of, § 9:54

Will contests, § 18:99

#### **MISTAKE**

Averments, pleadings, § 3:77

Avoidance or reformation of contract, § 5:48-5:51

Constructive trusts, § 17:56

Judgment, clerical mistakes as to, § 3:192

#### **MODELS**

Evidence, § 9:215

#### **MODIFICATION**

Alimony, § 8:96-8:101

Child custody and visitation orders, § 8:274-8:285

Child support orders, § 8:231-8:239

Contract modification, consideration, § 5:18, 5:22

Discovery, modification of method, § 3:81

#### MODIFICATION—Cont'd

Divorce judgment with separation agreements, § 8:38-8:42

Perfecting the appeal, modifying the record, § 4:76

#### **MONEY**

Accounting, agent's duty, § 1:59, 1:67

Attachment of money, § 3:46, 3:51-3:55

Borrowing money, authority of agents, § 1:39, 1:59

Collecting money, authority of agents, § 1:38, 1:59

Money had and received, action for, § 5:6

### MORAL CONDUCT

Alimony modification grounds, § 8:101

Consideration, moral obligation, § 5:20

Motives, immoral, § 5:59

### **MORTGAGES**

Generally, § 14:137 et seq.

Acceleration of debt

Generally, § 14:155-14:158

Arrearage legislation, § 14:158

Due on encumbrance clause, § 14:157

Due on sale clause, § 14:156

Right to cure default, § 14:158

Anti-discrimination provisions, application for residential

mortgage loan, § 14:144

Application for residential mortgage loan

Generally, § 14:143

Anti-discrimination provisions, § 14:144

Arrearage legislation, acceleration of debt, **§ 14:158** 

Attorney's certification of title, § 14:152

Borrowers' interest statute, § 14:151 Discharge

Generally, § 14:162-14:165 Methods, § 14:165

MORTGAGES—Cont'd	MORTGAGES—Cont'd
Discharge—Cont'd	Foreclosure—Cont'd
Payoff statement, § 14:163	Power of sale, exercise of—Cont'd
Providing or recording discharge,	Notices, § 14:174, 14:175, 14:176, 14:177, 14:178,
§ 14:164 Disabours required by federal law	14:170, 14:177, 14:170,
Disclosures required by federal law, § 14:145	Post-sale procedures, § 14:181
Due on encumbrance clause,	Redemption, § 14:184
§ 14:157	Servicemembers Civil Relief Fund,
Due on sale clause, § 14:156	§ 14:171
Effectuation of mortgage loan, statu-	Tenancy at will, § 12:16
tory requirements	Tenant protections, § 14:182
Generally, § 14:153-14:161	Home loans
Acceleration of debt, above	Application for residential
Discharge	mortgage loan, § 14:143,
Generally, § 14:162-14:165	14:144
Methods, § 14:165	Borrowers' interest statute,
Payoff statement, § 14:163	§ 14:151
Providing or recording dis-	Predatory home loan practices,
charge, § 14:164	§ 14:148
Mortgage deed, § 14:153, 14:154	Incorporated terms in short-form
Prepayment and late payment	deed, mortgage deed, § 14:154
charges, § 14:159, 14:160	Late fees, § 14:160
Real estate tax clause, § 14:161	Late payment charges, § 14:160
Equitable mortgage, § 14:139	Licensing
Federal Mortgage Reform and Anti-	Mortgage loan originators,
Predatory Lending Act, <b>§ 14:145-14:147</b>	§ 14:141
Foreclosure	Nonbank mortgage lenders and
Generally, § 14:170-14:184	brokers, § 14:140
Authorization to foreclose,	Making mortgage loan, statutory
§ 14:171	requirements
Conduct of sale, § 14:180	Generally, § 14:137 et seq.
Entry and possession, § 14:172	Anti-discrimination provisions,
Judicial action, § 14:183	§ 14:144
Notices, § 14:177, 14:178, 14:179	Application for residential
Post-sale procedures, § 14:181	mortgage loan, § 14:143,
Power of sale, exercise of	14:144
Generally, § 14:173-14:176	Attorney's certificate of title,
Generally, § 14:177 et seq.	§ 14:152
Conduct of sale, § 14:180	Borrowers' interest statute,
Junior mortgagees, notices to,	§ 14:151
§ 14:176	Disclosures required, § 14:145
Mortgagee's right to foreclose,	Federal law pre-emption, § 14:149
§ 14:173	Federal Mortgage Reform and
Mortgage loan modification,	Anti-Predatory Lending Act,
notices, § 14:174	§ 14:145-14:147
Newspaper publication, notices, § 14:175	High cost mortgage loans, <b>§ 14:147, 14:148</b>

#### MORTGAGES—Cont'd MOTION PRACTICE Making mortgage loan, statutory See Civil Practice, this index requirements—Cont'd MOTOR VEHICLES Loan affordability and income Attachment of, § 3:46, 3:47 verification, § 14:146 Bailments, motor carriers, § 2:18 Massachusetts Predatory Home Loan Practices Act, § 14:148-Criminal law and procedure 14:150 Condition of operator, § 7:248 Mortgage loan originators, licens-Electronic device, negligent operaing, § 14:141 tion while using, § 7:253 Nonbank mortgage lenders and Homicide, § 7:255, 7:256 brokers, licensing, § 14:140 Leaving scene of accident, § 7:254 Predatory home loan practices, Mobile telephone, negligent opera-§ 14:148 tion while using, § 7:253 Restriction on mortgage Operating negligently so as to originator's compensation, endanger, § 7:251 § 14:142 Operating recklessly, § 7:250 Subprime loans, § 14:150 Operating under the influence Massachusetts Predatory Home Loan Generally, § 7:244-7:248 Practices Act, § 14:148-14:150 Condition of operator, § 7:248 Mortgage deed, § 14:153, 14:154 Elements, § 7:245-7:248 Nature of mortgage, § 14:137 Impaired ability, § 7:248 Possession of mortgaged premises, Operation of motor vehicle, § 14:166 § 7:245 Predatory home loan practices, Per se violation, § 7:247 § 14:148 Public way, § 7:246 Prepayment, § 14:159 Reckless operation while under Real estate tax clause, § 14:161 the influence, § 7:252 Rights and liabilities of parties Serious bodily injury, causing, Generally, § 14:166-14:169 § 7:249, 7:252 Mortgagee's interest, transfer of, Operating without license, § 7:257 § 14:169 Operating without registration, Mortgagor's interest, transfer of, § 7:257 § 14:168 Property damage, negligent opera-Possession of mortgaged premises, tion while using mobile § 14:166 telephone or electronic Waste, § 14:167 device, § 7:253 Right to cure default, acceleration of Public way, operating under the debt, § 14:158 influence, § 7:246 Subprime loans, § 14:150 Serious bodily injury, causing, Title theory, § 14:138 § 7:249 Transfer Unauthorized use, § 7:257 Mortgagee's interest, § 14:169 Criminal law offenses, § 7:244-7:248 Mortgagor's interest, § 14:168 Criminal procedure, searches and Trustee's power to mortgage propseizure, § 7:28-7:30, 7:68-7:70 erty, § 17:77 Imputed negligence and vicarious liability, § 16:80 Waste, § 14:167

Necessaries for minor, § 5:45

Writing requirement, § 14:143

#### MULTIPLE LIABILITY

Negligence cases, § 16:79-16:83

#### **MURDER**

Juveniles charged with, § 11:68, 11:69

#### MUTUAL MISTAKE

Avoidance or reformation of contract, § 5:48

#### **NAMES**

Business corporation name, § 6:11-6:13

Character evidence, alias or nickname for criminal defendant, § 9:33

Child's name, determining, § 8:135

Foreign LLC, § 6:198

Limited liability companies, § 6:162, 6:198

Privacy, invasion of, appropriation of name or likeness, § 16:219

Professional corporations, § 6:144 Trade name protection, § 10:35

## **NECESSARY PARTY**

Generally, § 3:58

### NEGLIGENCE

Generally, § 16:27 et seq.
Abrogation by statute, immunities, § 16:94

Alcoholic Beverages, this index

Assumption of risk, § 16:88

Automobile cases, imputed negligence and vicarious liability, § 16:80

Burden of proof, § 16:75

Causation

Cause in fact, § 16:58 Intervening acts, § 16:60 Proximate cause, § 16:59

Charitable immunities

Generally, § 16:93-16:95 Abrogation by statute, § 16:94 Uncompensated officers, § 16:95

City or town, liability for defective ways, § 16:98

#### NEGLIGENCE—Cont'd

Collateral source rule, damages, impairment of earning capacity, § 16:65

Commonwealth, liability for defective ways, § 16:97

Comparative negligence, § 16:86, 16:87

Consequential damages, § 16:67

Consortium. Loss of consortium, below

Contributory negligence, § 16:84 Court and jury, functions of, § 16:74

Custom, proof of, § 16:78 Damages

Generally, § 16:61-16:73

Collateral source rule, impairment of earning capacity, § 16:65

Consequential damages, § 16:67 Earning capacity, impairment of,

§ 16:63-16:65

Interest, § 16:73

Loss of consortium, below

Medical expenses, § 16:66

Pain and suffering, § 16:62

Present value, impairment of earning capacity, § 16:64

Property, injury to, § 16:72

Defective ways

Governmental immunity, § 16:97, 16:98

Liability of city or town, § 16:98 Defenses

Generally, § 16:84-16:92

Assumption of risk, § 16:88

Comparative negligence, § 16:86, 16:87

Contributory negligence, § 16:84

Last clear chance, § 16:85

Statute of limitations, § **16:89**, **16:90** 

Definition, § 16:27

Duty of reasonable care

Generally, § 16:29

Special circumstances, § 16:30

Earning capacity, impairment of, § 16:63-16:65

Elements of cause of action, § 16:28

NEGLIGENCE—Cont'd	NEGLIGENCE—Cont'd
Emotional Distress, this index	Owners and occupiers of land, partic
Employer's duty to employee and	ular duties—Cont'd
employee of independent	Persons outside premises, § 16:45
contractor, § 16:46, 16:47	Recreational use statutes, § 16:36
Good Samaritan statutes, § 16:116	Tenants and their guests and
Governmental immunity	invitees, § 16:40-16:44
Generally, § 16:96	Trespassers, adults and children,
Defective ways, § 16:97, 16:98	§ 16:37, 16:38
Judicial immunity, § 16:117	Pain and suffering, § 16:62
Tort Claims Act, below	Parent-child immunity, § 16:119
Immunities	Prenatal injuries, § 16:55
Generally, § 16:93-16:119	Present value, damages, impairment
Abrogation by statute, § 16:94	of earning capacity, § 16:64
Charitable immunities, § 16:93-	Presumptions, § 16:75
16:95	Proof
Good Samaritan statutes, § 16:116	Generally, § 16:74-16:78
Governmental immunity, above	Burden of proof, § 16:75
Judicial immunity, § 16:117	Court and jury, functions of,
Parent-child immunity, § 16:119	§ 16:74
Spousal immunity, § 16:118	Custom, § 16:78
Tort Claim Act, below	Presumptions, § 16:75
Imputed negligence, § 16:79, 16:80	Res ipsa loquitur, § 16:77
Interest on damages, § 16:73	Violations of law, § 16:76
Intervening acts, § 16:60	Property, injury to, § 16:72
Joint tortfeasors	Proximate cause
Generally, § 16:81-16:83	Generally, § 16:59
Contribution, § 16:82	Intervening acts, § 16:60
Indemnity, § 16:83	Public employers and employees.
Judicial immunity, § 16:117	Tort Claim Act, below
Landowner. Owners and occupiers of	Recreational use statutes, § 16:36
land, particular duties, below	Res ipsa loquitur, § 16:77
Last clear chance, § 16:85	Sovereign immunity. Tort Claim Act.
Legal Malpractice, this index	below
Loss of consortium	Special circumstances, duty of rea-
Children, § 16:69	sonable care, § 16:30
Parents, § 16:70	Spousal immunity, § 16:118
Siblings, <b>§ 16:71</b>	Statute of limitations
Spouse, § 16:68	Generally, § 16:89
Medical expenses, § 16:66	Tolling, <b>§ 16:90</b>
Medical Malpractice, this index	Statute of repose, § 16:91, 16:92
Misrepresentation, negligent,	Survival of action, <b>§ 16:31</b>
§ 16:252	Tenants and their guests and invitees
Multiple liability, § 16:79-16:83	duties owed to, § 16:40-16:44
Owners and occupiers of land, partic-	Tort Claims Act
ular duties	Generally, <b>§ 16:99-16:119</b>
Generally, § 16:32-16:45	Covered employers and employ-
Lawful visitors, § 16:32-16:35	ees, § 16:100
_amiai vibitoib, 5 10.02-10.00	000, 5 10.100

#### NEGLIGENCE—Cont'd

Tort Claims Act—Cont'd
Exceptions to liability of public
employer, § 16:104-16:110
Extent of liability of public
employer, § 16:101, 16:102

Immunity of public employee, § 16:103

Indemnification of public employees, § 16:115

Presentment of claim

Generally, § 16:111-16:114 Award of settlement of claim, § 16:114

Content of notice, § 16:113
Proper official, presentment of claim to, § 16:112

Public duty rule, extent of liability of public employer, § 16:102

Trespassers, adults and children, duties of owners or occupiers of land, § 16:37, 16:38

Vicarious liability, **§ 16:79, 16:80** Violations of law, **§ 16:76** Wrongful death, **§ 16:52-16:54** 

## NEGOTIABLE INSTRUMENTS

Commercial Paper, this index

## NONDISCLOSURE

Tort of, § 16:254

#### **NUISANCE**

Generally, § 16:209-16:213

Private nuisance

Generally, § 16:210-16:212

Damages, § 16:212

Equitable relief, § 16:212

Illustrations, § 16:211

Requirements, § 16:210

Public nuisance, § 16:213

## OATHS AND AFFIRMATIONS

Competency, test of competency, § 9:108

## **OBEDIENCE**

Agent's duties to principal, § 1:57 Contempt, clarity of order and disobedience, § 10:73

#### **OBJECTIONS**

Depositions, § 3:98

Evidence, presentation of, § 3:174

Instructions to jury, § 3:181, 4:38

Interrogatories, § 3:105

Master's appointment, § 4:31

Preserving right to appeal by making, § 4:28

Specificity of, § 4:28

Statute of Frauds, objections to sufficiency of memorandum, § 5:27, 5:37

### OFFER AND ACCEPTANCE

See Contracts and Agreements, this index

#### OFFICIAL DOCUMENT OR ACT

Confrontation Clause, § 9:199
Records, hearsay exception, official written records, § 9:198-9:199

## OPENING STATEMENTS

Generally, § 3:170, 3:171

#### PAIN AND SUFFERING

Medical malpractice cases, § 16:149 Negligence cases, § 16:62

#### PAINT AND PAINTING

**Lead Paint**, this index

## **PARAPHERNALIA**

Controlled substances offenses, § 7:262

## PARENTAL UNFITNESS

Generally, § 8:185-8:199

For detailed treatment see **Domestic Relations**, this index

#### PARENT-CHILD RELATIONS

Generally, § 8:129-8:199

For detailed treatment see **Domestic Relations**, this index

#### **PARENTS**

De facto parents, § 8:131, 8:132

### **PARKING LOTS**

Bailments, § 2:7

## PAROL EVIDENCE RULE

Generally, § 5:72-5:74

PAROL EVIDENCE RULE—Cont'd PARTNERSHIP—Cont'd Dissolution and winding up-Cont'd Sales and leases of goods, § 15:12 Deceased partner, rights of estate, **PARTIES** § 13:46 Products Liability, this index Definition of terms, § 13:34 Distribution of assets, § 13:49 **PARTITION ACTIONS** Effects of dissolution Equitable remedy, § 10:52 Generally, § 13:41-13:46 Jurisdiction and venue, § 3:11, 3:21 Authority of partners among **PARTNERSHIP** themselves, § 13:41 Generally, § 13:1-13:49 Authority of partners with Actions between partners, § 13:24 respect to third parties, Agent, partner as, § 13:27 § 13:42 Aggregate v. entity theory, § 13:6 Continuation of business, Assets § 13:44-13:46 Distribution, § 13:49 Creditors' rights, § 13:45 Valuation, § 13:48 Deceased partner, rights of Business trust distinguished, § 13:8 estate, § 13:46 Capacity to form, § 13:4 Existing liabilities, § 13:43 Care, duty of, § 13:22 Retiring partner, rights of, Continuation of partnership beyond § 13:46 time fixed for termination, Existing liabilities, § 13:43 § 13:26 Judicial decree, § 13:36 Contract liability to third persons, Operation of law, § 13:35 § 13:30 Rescission for fraud and misrepre-Corporation, defectively formed, sentation, § 13:40 distinguished, § 13:10 Retiring partner, rights of, § 13:46 Creditors' rights on dissolution, Third parties, authority of partners § 13:45 with respect to, § 13:42 Deceased partner, rights of estate on Valuation of partnership assets, dissolution, § 13:46 § 13:48 Definitions Winding up Generally, § 13:1 Generally, § 13:47-13:49 Dissolution and winding up, Distribution of assets, § 13:49 § 13:34 Valuation of partnership assets, Disclosure, duty of, § 13:21 § 13:48 Dissolution and winding up Distribution of assets, § 13:49 Generally, § 13:34-13:46 Estoppel, partnership by, § 13:5 Authority of partners among Existence of partnership, determinthemselves, § 13:41 ing, § 13:2 Causes of dissolution Fiduciary duties Generally, § 13:35-13:37 Generally, § 13:19-13:23 Judicial decree, § 13:36 Care, duty of, § 13:22 Operation of law, § 13:35 Full disclosure, duty of, § 13:21 Rescission for fraud and misrep-Good faith and fair dealing, duty resentation, § 13:40 of, § 13:23 Continuation of business, § 13:44-Loyalty, duty of, § 13:20 13:46 Fraud and misrepresentation, rescis-Creditors' rights, § 13:45 sion, § 13:40

PARTNERSHIP—Cont'd	PARTNERSHIP—Cont'd
Full disclosure, duty of, § 13:21	Partners—Cont'd
Good faith and fair dealing, duty of, § 13:23	Assignability of interest in partner- ship, § 13:15
Governing law, § 13:1	Creditor's remedies, interest in
Imputation of partner's knowledge to	partnership, § 13:16
partnership, § 13:28	Deceased partner, rights of estate
Joint venture distinguished, § 13:7	on dissolution, § 13:46
Judicial decree, cause of dissolution,	Dissolution
§ 13:36	Authority of partners among
Legal malpractice, vicarious liability of partners, § 16:173	themselves, effect of dissolution, § 13:41
Liabilities, existing, effect of dissolution, § 13:43	Third parties, effect of dissolution on authority of
Limited liability partnership	partners with respect to,
Generally, § 13:3	§ 13:42
Liability of partner to third persons, § 13:33	Inheritability, interest in partnership, § 13:17
Limited partnership distinguished, § 13:9	Interest in partnership, partner's, § 13:14
Loyalty, duty of, § 13:20	Legal malpractice, vicarious
Nature of partnership	liability of partners, § 16:173
Generally, § 13:1-13:6	New partner, liability for partner-
Aggregate v. entity theory, § 13:6	ship obligations, § 13:32
Capacity to form, § 13:4	Retiring partner, rights on dissolution, § 13:46
Definition, § 13:1	, •
Estoppel, partnership by, § 13:5	Specific property, partner's rights in, § 13:13
Existence of partnership, determining, § 13:2	Third persons, relations of partners to, below
Governing law, § 13:1	,
Limited liability partnership,	Property of partnership Generally, § 13:11-13:17
§ 13:3	Assignability, § 13:115
New partner, liability for partnership	Creditor's remedies, § 13:16
obligations, § 13:32	Fiduciary duties, above
Notice or knowledge imputed to	Inheritability, § 13:17
partner, § 13:25	Interest in partnership, partner's,
Operation of law, cause of dissolu-	§ 13:14
tion, § 13:36 Other unincorporated forms	Rights and duties, § 13:18
distinguished	Specific property, partner's rights
Generally, § 13:7-13:10	in, § 13:13
Business trust, § 13:8	Title, acquisition and conveyance, § 13:12
Corporation, defectively formed, distinguished, § 13:10	Rescission for fraud and misrepresentation, § 13:40
Joint venture, § 13:7	Retiring partner, rights on dissolu-
Limited partnership, § 13:9	tion, § 13:46
Partners	Termination, continuation of partner-
Actions between partners, § 13:24	ship beyond time fixed for,
Agent partner as 8 13.27	8 13.26

#### PARTNERSHIP—Cont'd

Third persons, relations of partners to Generally, § 13:27-13:33

Admissions and representations of partner, § 13:29

Contract liability, § 13:30

Dissolution, effect on authority of partners with respect to third parties, § 13:42

Imputation to partnership, § 13:28 Knowledge of and notice to partner, § 13:28

Limited liability partnership, liability of partner, § 13:33

New partner, liability for partnership obligations, § 13:32

Partner as agent, § 13:27 Tort liability, § 13:31

Tort liability to third persons, § 13:31 Valuation of partnership assets,

§ 13:48

Winding up. Dissolution and winding up, above

#### **PARTY WALLS**

Generally, § 14:129 Creation, § 14:130 Termination, § 14:132 Use and maintenance of

Use and maintenance of wall, § 14:131

# PAST RECOLLECTION RECORDED

Hearsay exception, § 9:182

## **PATERNITY**

Generally, § 8:144-8:153
For detailed treatment see Domestic Relations, this index

## PEER REVIEW PRIVILEGE

Witnesses, § 9:87

#### **PENSIONS**

Retirement and Pension Plan Benefits, this index

## **PERJURY**

Criminal law, § **7:292-7:294**Subornation of perjury, § **7:294**Violent crime, proceeding relating to, § **7:293** 

## PERSONAL REPRESENTATIVES

Appointment

Generally, § 18:40-18:43

Bond requirements, § 18:42, 18:43 Informal administration of estates,

§ 18:71, 18:79

Priority for appointment, § 18:41

Successor, § 18:62

Terms and conditions, bond requirements, § 18:43

Authorized powers, § 18:51

Basic requirements, § 18:38-18:43

Bond requirements, § 18:42, 18:43

Cause, removal for, § 18:60

Change of testacy status, replacement, § 18:61

Compensation of personal representative, § 18:54

Co-representatives, settlement of estate, § 18:52

Creditors' claims

Insolvent estates, § 18:48

Limitations period, § 18:47

Payment, § 18:49

Death or disability of personal representative, § 18:58

Distribution, settlement of estate, § 18:53

Duties and powers

Generally, § 18:44-18:56

Authorized powers, § 18:51

Compensation of personal representative, § 18:54

Creditors' claims, above

Expenses of personal representative, § 18:54

Insolvent estates, creditors' claims, § 18:48

Inventory, preparation of, § 18:46

Liabilities of personal representative, below

Limitations period, creditors' claims, § 18:47

Notice to interested persons, § 18:45

Payment, creditors' claims, § 18:49 Preparation of inventory, § 18:46 Settlement of estate, below

## PERSONAL REPRESENTATIVES

—Cont'd

Expenses of personal representative, § 18:54

Insolvent estates, creditors' claims, § 18:48

Interested persons, liabilities of personal representative, § 18:55

Inventory, preparation of, § 18:46

Liabilities of personal representative Interested persons, § 18:55

Third persons, § 18:56

Limitations period, creditors' claims, § 18:47

Notice to interested persons, § 18:45 Payment, creditors' claims, § 18:49 Preparation of inventory, § 18:46

Priority for appointment, § 18:41

# Probate and Administration of Estates, this index

Replacement

Generally, § 18:57-18:62

Appointment of successor, § 18:62

Change of testacy status, § 18:61

Death or disability of personal representative, § 18:58

Informal administration of estate, § 18:74

Removal for cause, § 18:60

Resignation of personal representative, § 18:59

Termination, generally, § 18:57

Resignation of personal representative, § 18:59

Settlement of estate

Basic responsibilities, § 18:50 Co-representatives, § 18:52

Distribution, § 18:53

Special personal representative, § 18:39

Successor personal representative, § 18:39, 18:74

Termination, generally, § 18:57

Terms and conditions, appointment, § 18:43

Third persons, liabilities of personal representative, § 18:56

#### PETS

Strict Liability, this index

## PHOTOGRAPHS AND PICTURES

Evidence, § 9:219-9:221
Identification of suspects, § 7:111-7:114

# PHYSICAL AND MENTAL EXAMINATION

Generally, § 3:109

Audio-visual deposition of expert, § 3:99

Discovery of expert, § 3:86

#### PHYSICAL CONDITION

Existing condition, hearsay exception, § 9:186

#### PHYSICIAN-PATIENT PRIVILEGE

Generally, § 9:85

Unanticipated medical outcomes, statements of regret regarding, § 9:86

#### PIERCING CORPORATE VEIL

Limited liability companies members, § 6:172

## **PLEADINGS**

Generally, § 3:71-3:80 See also Civil Practice, this index

#### **PLEAS**

Hearsay, guilty pleas in criminal cases, judicial admissions, § 9:164

#### POISON AND POISONING

Lead Paint, this index

## **POLITICAL ACTIVITIES**

Vote disclosure, privilege, § 9:105

# POST CONVICTION ACTS AND MATTERS

Forensic and scientific analysis, access to, § 9:132

## PREMEDITATION

Homicide, § 7:148

## PRENATAL INJURIES

Generally, § **16:55** 

#### PREPONDERANCE OF EVIDENCE

Proof by, § 9:17

### PRESENT VALUE

Damages, impairment of earning capacity, § 16:64

#### **PRESUMPTIONS**

Generally, § 9:25-9:27 Criminal cases, § 9:26, 9:27 Evidentiary standards, § 9:25-9:27 Innocence, § 9:27 Negligence, § 16:75

Resulting trust, rebuttable presump-

#### PRETRIAL PROCEDURE

Generally, § 3:1-3:149
For detailed treatment see Civil
Practice, this index
Juvenile law, § 11:55 et seq.

tion of trust, § 17:52

### PRIMA FACIE EVIDENCE

Generally, § 9:24
Use in criminal case, § 9:26

#### PRIOR REPORTED TESTIMONY

Hearsay exception, § 9:171

## PRIOR SEXUAL CONDUCT

Complainant conduct, § 7:199 Victim's virginity, § 7:200

## PRIVACY, INVASION OF

Generally, § 16:214-16:224

Appropriation of another's name or likeness, § 16:217, 16:219

Basis of right

Common law basis of right, **§ 16:217-16:224** 

Constitutional, § 16:215

Statutory, § 16:217

Consent, defense of, § 16:223

Constitutional basis of right, § 16:215

Defenses

Consent, § 16:223

Privilege, § 16:222

Historical perspective, § 16:214 Intrusion on another's seclusion.

§ 16:218

#### PRIVACY, INVASION OF-Cont'd

Name or likeness, appropriation, § 16:217, 16:219

Private facts, public disclosure, § 16:220

Privilege, defense of, § 16:222 Publicity placing person in false light, § 16:221

Statutory basis of right, § **16:216**, **16:217** 

#### PRIVILEGES AND IMMUNITIES

Generally, § 9:60 et seq.

Allied mental health or human services professional privilege, § 9:94

Attorney-client

Generally, § 9:77 et seq.

Common interest doctrine, § 9:80

Communications covered, § 9:79, 9:80

Communications excepted, § 9:81

Distinguished from attorney-work product, § 9:84

Duration of, § 9:82

Nature of, § 9:77

Necessity of professional relationship, § 9:78

Purpose of, § 9:77

Waiver of, § 9:83

Attorney work product, § 9:84

Civil cases

Claim in response to discovery request, § 9:63

Comment upon or inference from claim of privilege, § 9:66

Confidential data, § 9:62

Criminal cases

Comment upon or inference from claim of privilege, § 9:67

Dwyer protocol, § 9:65

Reciprocal discovery, § 9:64

Diplomatic secrets, § 9:97

Discovery

Claim in response to discovery request, § 9:63

Reciprocal discovery, § 9:64

Distinction

Confidential matter, § 9:62

#### PRIVILEGES AND IMMUNITIES PRIVILEGES AND IMMUNITIES -Cont'd —Cont'd Distinction—Cont'd Unmarried cohabitants, § 9:101, 9:102 Incompetent evidence, § 9:61 Domestic violence counselor-victim, Waiver § 9:96 Attorney-client privilege, § 9:83 Dwyer protocol, § 9:65 Psychotherapist-patient privilege, Executive privilege, § 9:98 § 9:89, 9:91 Governmental privilege Self-incrimination privilege, Generally, § 9:97 et seq. § 9:74, 9:75 Executive privilege, § 9:98 Spousal privilege, § 9:101, 9:102 Informer's identity, § 9:99 PROBATE AND Military and diplomatic secrets, ADMINISTRATION OF § 9:97 **ESTATES** Surveillance location. § 9:100 Generally, § 18:63-18:93 Human services professional privi-Allowance of petition, notice requirelege, § 9:94 ments after, § 18:77 Incompetent evidence, § 9:61 Appointment of personal representa-Informer's identity, § 9:99 tive, informal administration, Journalist, § 9:104 § 18:71, 18:79 Marital disqualification distinguished, Closing the estate § 9:102 Formal administration, § 18:89 Mediation privilege, § 9:106 Informal administration, § 18:81, Medical Malpractice, this index 18:82 Medical peer review privilege, § 9:87 Voluntary administration, § 18:68 Mental health or human services Court action professional privilege, § 9:94 Formal administration, court order, Military secrets, § 9:97 § 18:88 **Negligence**, this index Supervised administration, § 18:93 Physician and patient privilege, Denial or declination by magistrate, § 9:85 informal administration, § 18:80 Political vote disclosure, § 9:105 Filing Psychotherapist-patient privilege, Notice requirements prior to filing § 9:88-9:91 petition, § 18:76 Reciprocal discovery, § 9:64 Statement, voluntary administra-Religious communication, § 9:103 tion, § 18:64 Reporter's sources, § 9:104 Supervised administration, § 18:92 Self-incrimination, privilege against, Findings and approval by magistrate. § 9:68-9:76 Informal administration, below Sexual assault victim-counselor privi-Formal administration lege, § 9:95 Closing the estate, § 18:89 Social worker-client privilege, Court's order, effect of, § 18:88 § 9:92, 9:93 Effect of court's order, § 18:88 Spousal, § 9:101, 9:102 Necessity, § 18:84 Surveillance location, § 9:100 Notice requirements, § 18:86 Unanticipated medical outcomes. Petition requirements, § 18:85 statements of regret regarding, Responsibilities of court, § 18:87 § 9:86

#### PROBATE AND PROBATE AND ADMINISTRATION OF ADMINISTRATION OF ESTATES—Cont'd ESTATES—Cont'd Informal administration—Cont'd Informal administration Generally, § 18:69-18:82 Petition—Cont'd Testacy, § 18:72 Allowance of petition, notice requirements after, § 18:77 Replacement of personal representative, § 18:74 Appointment of personal representative, § 18:71, 18:79 Will, probate of, § **18:78** Closing the estate, § 18:81, 18:82 Intestacy, petition, § 18:73 Denial or declination by magis-Liability of distributees to claimants, trate, § 18:80 informal administration, § 18:82 Filing of petition, notice require-Low-valued securities, voluntary ments prior to, § 18:76 administration, § 18:66 Findings and approval by magis-Notice requirements trate Formal administration, § 18:86 Appointment of personal repre-Informal administration, § 18:76, sentative, § 18:79 18:77 Probate of will, § 18:78 Orders, supervised administration, Intestacy, petition, § 18:73 § 18:93 Liability of distributees to claim-Other proceedings, supervised ants, closing the estate, administration, § 18:92 § 18:82 Personal Representative, this index Notice requirements, § 18:76, Petition 18:77 Formal administration, § 18:85 Personal representative Informal administration, above Appointment, § 18:71, 18:79 Supervised administration, § 18:91 Successor personal representa-Replacement of personal representative, § 18:74 tive, informal administration, § 18:74 Petition Generally, § 18:70-18:75 Small estates, voluntary administra-Allowance of petition, notice tion, § 18:63 Statement, voluntary administration, requirements after, § 18:77 § 18:64-18:66 Appointment of personal repre-Successor personal representative, sentative, § 18:71 informal administration, § 18:74 Filing of petition, notice require-Summary distribution procedure, ments prior to, § 18:76 voluntary administration, Intestacy, § 18:73 § 18:67 Notice, § 18:76, 18:77 Supervised administration Personal representative, § 18:71, Generally, § 18:90-18:93 18:74 Court action, § 18:93 Replacement of personal repre-Filing, effect on other proceedings, sentative, § 18:74 § 18:92 Requirements, generally, Nature of proceeding, § 18:90 § 18:70-18:75 Orders, § 18:93 Submission of complete informal packet, § 18:75 Other proceedings, effect of filing

on, § 18:92

Petition, § 18:91

Successor personal representative. § 18:74

#### PROBATE AND PRODUCTS LIABILITY—Cont'd ADMINISTRATION OF **Parties** ESTATES—Cont'd Generally, § 16:194-16:196 Supervised administration—Cont'd Defendants, § 16:195-16:196 Termination, § 18:93 Plaintiffs, § 16:194 Termination, supervised administra-Statute of limitations, § 16:200 tion, § 18:93 Strict liability in tort, § 16:186-Voluntary administration 16:188 Generally, § 18:63-18:68 Theories of liability Closing the estate, § 18:68 Breach of warranty, § 16:185 Effect of statement, § 18:65, 18:66 Negligence, § 16:184 Filing statement, § 18:64 Strict liability in tort, § 16:186-Low-valued securities, § 18:66 16:188 Small estates, generally, § 18:63 Warnings, defective, § 16:193 Statement, § 18:64-18:66 PROFESSIONAL CORPORATIONS Summary distribution procedure, Generally, § 6:140-6:156 § 18:67 Abbreviations used in corporate Will, probate of, informal administraname, § 6:144 tion, § 18:78 Alternative of professional llc, PROBATE AND FAMILY COURT § 6:161 Civil Practice, this index Ancillary services, rendering, § 6:145, 6:146 **PROBATION** Annual report, § 6:147 Juvenile Law, this index Articles of organization, filing, § 6:143 PRODUCTS LIABILITY Attorneys Generally, § 16:183-16:200 Personal liability, § 6:149 Background, § 16:183 Who may organize professional Breach of warranty, § 16:185 corporation, § 6:142 Bulk supplier doctrine, § 16:199 Basic operation Defectiveness Annual report, § 6:147 Generally, § 16:190-16:193 Attorney's liability, § 6:149 Design, § 16:192 Personal liability of professional Manufacture, § 16:191 rendering services and other Warnings or instructions, § 16:193 shareholders, § 6:148, 6:149 Defenses What services may be rendered, Generally, § 16:197-16:200 § 6:145 Bulk supplier doctrine, § 16:199 Who may render services, § 6:146 Negligence of plaintiff, § 16:197 Benefits, § 6:140 Certificate supporting dissolution Statute of limitations, § 16:200 request, § 6:156 Unreasonable use of product by plaintiff, § 16:198 Change of status Definition, § 16:183 Change to business corporation, § 6:154, 6:155 Design defect, § 16:192 Dissolution, § 6:156 Instructions, defective, § 16:193 Merger or consolidation, § 6:155 Manufacturing defect, § 16:191 Consolidation, § 6:154, 6:155 Negligence theory of liability, § 16:184 Contents of annual report, § 6:147

For detailed treatment see **Domestic** 

**Relations**, this index

#### PROFESSIONAL CORPORATIONS PROFESSIONAL CORPORATIONS —Cont'd —Cont'd Contents of articles of organization, Services rendered—Cont'd Personal liability, § 6:148, 6:149 § 6:143 Definition of professional service, What services may be rendered, § 6:141 § 6:145 Directors as shareholders, § 6:142 Who may render services, § 6:146 Dissolution, § 6:156 Shares or stock Failure to comply with regulatory Generally, § 6:150-6:153, 6:156 board requirements, dissolution Issuance, § 6:150 consequences, § 6:156 Personal liability of shareholders, Filing annual report, § 6:147 § 6:148, 6:149 Filing articles of organization, Proxies, § 6:151 § 6:143 Redemption of shares, § 6:152, Issuance of shares, § 6:150 6:153, 6:156 Liability, personal, § 6:148, 6:149 Sole shareholder, redemption of Limitation on damages recoverable, shares, § 6:153 § 6:149 Transfer, § 6:150, 6:156 Limited liability company structure Voting trusts, § 6:151 as alliterative, § 6:161 Sole shareholder, redemption of Merger, § 6:154, 6:155 shares, § 6:153 Multiple services rendered, § 6:145 Time Name, § 6:144 Redemption or transfer of shares, Organic changes § 6:152, 6:153 Change to business corporation, Service of certificate of dissolution § 6:154 request, § 6:156 Tort liability of shareholder, § 6:148, Dissolution, § 6:156 6:149 Merger or consolidation, § 6:155 Transfer of shares, § 6:150, 6:156 Organization Voting trusts, § 6:151 Generally, § 6:140 What services may be rendered, Attorney involvement, § 6:142 § 6:145 Filing articles of organization, Who may render services, § 6:146 § 6:143 Name, corporate name, § 6:144 PROFILE EVIDENCE By whom, § 6:141, 6:142 Relevancy, § 9:49 Professional llc alternative, § 6:161 PROFITS A PRENDRE Proxy for shares, § 6:151 Generally, § 14:104 Redemption of shares Characteristics of profits, § 14:105 Generally, § 6:152 Definition, § 14:104 Dissolution if untimely, § 6:156 Landlord and tenant relationship Sole shareholder, § 6:153 distinguished, § 12:5 Services rendered Types of profits, § 14:104 Ancillary services, rendering, PROPERTY DIVISION AT § 6:145, 6:146 Annual report, § 6:147 **DIVORCE** Attorney liability, § 6:149 Generally, § 8:68-8:76, 8:105-8:128

Definition of professional service,

§ 6:141

#### **PROSTITUTION**

Generally, § 7:287, 7:287-7:290 Common night walker, § 7:288 Deriving support from prostitute's earnings, § 7:289 Enticing child to engage in prostitution or human trafficking, § 7:196

Human trafficking for sexual servitude, § 7:290

## PSYCHOTHERAPIST-PATIENT **PRIVILEGE**

Generally, § 9:88-9:91

## PUBLIC ASSISTANCE FUNDS

Seizure by attachment or trustee process, prejudgment, § 3:54

#### **PUBLIC HOUSING**

Lead-based paint, federal law overview, § 12:96, 12:97

#### **PUBLICITY**

Placing person in false light, § 16:221

## PUBLIC OFFICERS AND **EMPLOYEES**

Tort Claims Act. Negligence, this index

### QUIET ENJOYMENT

Landlord and tenant Generally, § 12:89, 12:90 Breach of covenant, § 12:90 Furnishing essential services. § 12:91 State Sanitary Code, § 12:94

## **QUITCLAIM DEED**

Generally, § 14:67

## **RAILROADS**

Attachment of railroad cars, § 3:47 Bailments, interstate rail and motor carriers, § 2:19

### **RAPE**

Generally, § 7:178-7:183

## RAPE/SEXUAL ASSAULT CASES

Victims, character evidence, § 9:46

#### RATIFICATION

Agent's unauthorized undertakings Generally, § 1:41-1:54 For detailed treatment see Agents and Agency, this index Minor's ratification of contracts, § 5:43

#### REAL EVIDENCE

**Demonstrative Evidence**, this index

#### REAL PROPERTY

Generally, § 14:1 et seq. Airspace, § 14:136 Concurrent ownership Generally, § 14:27-14:31 Joint tenancy, § 14:28, 14:30 Tenancy by the entirety, § 14:31 Tenancy in common, § 14:29

#### **Condominiums**, this index

Covenants and restrictions

Generally, § 14:108-14:119 Conditions distinguished, § 14:109 Definition, § 14:108

Duration of real covenants and equitable restrictions, § 14:114

Equitable restrictions

Generally, § 14:111 Common scheme or plan of

development, § 14:113

Duration, § 14:114, 14:115

Requirements for running with land, § 14:112

Termination, § 14:116, 14:117

Illegal restrictions, § 14:118

Nature of covenants, § 14:108

Real covenants

Duration, § 14:114, 14:115 Requirement for running with land, § 14:110

Termination, § 14:116, 14:117

Running with land

Equitable restrictions, § 14:112 Real covenants, § 14:110

Termination of real covenants and equitable restrictions

Other reasons, § 14:117

Parties' conduct, § 14:116

REAL PROPERTY—Cont'd	REAL PROPERTY—Cont'd
Covenants and restrictions—Cont'd	Title, covenants of, § 14:119
Terminology, § 14:108	Trespass to Real Property, this
Title, covenants of, § 14:119	index
Definition, § 14:1	Water Rights, this index
Easements, this index	RECEIVERS AND RECEIVERSHIP
Equitable restrictions. Covenants and	Landlord and tenant
restrictions, above	Condition of premises, tenant rem-
Estate for years, § 14:11 Fee simple	edies, § 12:110
Absolute, § 14:4	Trusts, appointment of receiver,
Defeasible	§ 17:109
Generally, § 14:5	RECEIVING STOLEN PROPERTY
Statutory modification, § 14:6	Generally, § 7:238
Fee tail	RECKLESSNESS
Generally, § 14:7	Intentional or reckless infliction of
Historical background, § 14:7	emotional distress. <b>Emotional</b>
Recognition in Massachusetts,	<b>Distress</b> , this index
§ 14:8	
Fixtures, <b>§ 14:2</b>	RECONSIDERATION
<b>Future Interests</b> , this index	Motion for, § <b>3:119</b>
Homestead, this index	RECORDING
Joint tenancy	Condominium, recording master
Generally, § 14:28	deed, § 14:34
Relations of cotenants inter se, § 14:30	Conveyance by deed, <b>§ 14:64, 14:65</b>
§ 14:50 Licenses	RECORD OF APPEAL
Definition and nature, § 14:106	Generally, § 4:69-4:77
Duration and termination, § 14:107	REGISTRATION
Life estate	Gaming offenses, registering bets,
Generally, § 14:9	§ 7:277
Characteristics, § 14:10	Motor vehicle offenses, operating
Party walls, § 14:129-14:132	without registration, § 7:257
Present (possessory) estates	RELEVANCY
Generally, § 14:3-14:12	Generally, § 9:28 et seq.
Estate for years, § 14:11	Admissibility, generally, § 9:28, 9:29
Fee simple, above	Animal habits, § 9:51
Fee tail, § 14:7, 14:8	Character
Life estate, § 14:9, 14:10	Criminal defendant's good
Tenancy at will, § 14:12	character, § 9:43
Profits a prendre, § 14:104, 14:105	Homicide/assault cases, victim's
Restrictions. Covenants and restric-	character, § 9:45
tions, above	Impeachment of witness, § 9:47
Similar real property, sales of, § 9:53	Material issue, § 9:44
Support rights, § 14:128	Prior bad acts, § 9:33
Tenancy at will, § 14:12	Rape/sexual assault cases, victim's
Tenancy by the entirety, § 14:31	character, § 9:46
Tenancy in common, § 14:29	Rule of exclusion, § 9:32

#### RELEVANCY—Cont'd RENTAL AGREEMENTS—Cont'd Character—Cont'd Landlord and tenant—Cont'd Victim's character, § 9:45, 9:46 Required provisions, residential tenancies, § 12:61 Compromise offers Civil case, § 9:56 Tax escalation clause, § 12:86 Termination by tenant who is Criminal case, § 9:57 victim of domestic violence Defined, § 9:28, 9:29 or sexual assault, § 12:66, Discretion of judge, § 9:31 12:67 Exclusion of relevant evidence, Termination by tenant who is victim § 9:30, 9:31 of domestic violence or sexual Humanitarian gestures, § 9:58 assault, § 12:66, 12.67 Liability insurance, § 9:59 Medical expenses paid, § 9:58 RENT CONTROL Personal habit, § 9:50 Landlord and Tenant, this index Profile evidence, § 9:49 REPAIRS Routine business practice, § 9:50 Maintenance and Repairs, this Similar happenings, § 9:52-9:54 index Someone else committed crime, § 9:48 REPLEVIN Subsequent remedial measures, Sales and leases of goods, § 15:54 § 9:55 REPORTER'S SOURCES Test for, § 9:28, 9:29 Privileged information, § 9:104 RELIABILITY REPORTS AND REPORTING Expert opinion testimony, § 9:129 Child abuse. Child Abuse, this index **RELIGIOUS BELIEFS** Hearsay, hospital and medical Education of child, § 8:137 reports, § 9:193, 9:194, 9:195, Lack of, impeachment of witness, 9:196 § 9:150 Housing Court, inspector's reports, Upbringing and education of child, § 12:23 § 8:136, 8:171, 8:198 Juvenile Law, this index Landlord and tenant RELIGIOUS PRIVILEGE Inspectors, building or housing, Generally, § 9:103 § 12:23 REMAINDER INTEREST Lead paint, § 12:98 Future Interests, this index Reporter's sources, privileged information, § 9:104 RENT Landlord and Tenant, this index REPUTATION Agent's, § 1:66, 1:68 RENTAL AGREEMENTS Generally, § 12:60 RESCISSION Landlord and tenant Agent's transaction, § 1:43, 1:48, Generally, § 12:60 1:76, 1:81 Access to premises, landlord's, Equitable remedies, § 10:38 § 12:63 Partnership, rescission for fraud and Discriminatory practices, § 12:64, misrepresentation, § 13:40 12:65 Paternity, voluntary acknowledgment

Illegal provisions, § 12:62, 12:63

of, § 8:145

#### **RES IPSA LOQUITUR**

Generally, § 16:77

#### RESTITUTION

Agent's unauthorized act, acceptance of benefits, § 1:15, 1:54
Breach of contract remedy, § 5:96
Imposing so as to avoid unjust enrichment, § 1:15, 1:54, 1:84

#### **RESULTING TRUSTS**

Trusts and Trustees, this index

# RETIREMENT AND PENSION PLAN BENEFITS

Divorce asset, property division, § 8:115, 8:117

Seizure by attachment or trustee process, prejudgment, § 3:54

#### RIGHTS AND DUTIES

Landlord and Tenant, this index Tenancies at sufferance, § 12:17 Tenancies at will, § 12:13 Tenancies for years, § 12:9-12:12

## RISK OF LOSS

Sales and leases of goods, § 15:38, 15:39

## ROBBERY

Generally, § 7:213-7:219

#### **ROOMING HOUSE**

Termination of tenancy, § 12:37

#### **RULE AGAINST PERPETUITIES**

Generally, § 17:27 Charitable trusts, § 17:36 Future Interests, this index

# SALE OR TRANSFER OF REAL ESTATE

Homestead protection after sale or transfer of home, § 14:126

Landlord and tenant

Agreed lessee's rights, § 12:7

Agreed purchaser's rights, § 12:6

Remedies for breach of contract, specific enforcement, § 5:98

Similar real property sales evidence, § 9:53

#### SALES AND LEASES OF GOODS

Generally, § 15:1-15:61 Acceptance by buyer or lessee Generally, § 15:34

**Damages** 

Nonacceptance, § 15:50 When goods are accepted, § 15:58

Revocation of acceptance, § 15:35 Acceptance of contract. Offer and acceptance, below

Anticipatory repudiation

Generally, § 15:28

Retraction of repudiation, § 15:29 Assurance of performance, § 15:30 Bona fide purchasers, rights of, § 15:43

Breach

Repudiation, breach, and excuse, below

Risk of loss, § 15:38, 15:39 Cancellation remedy, § 15:46, 15:53 Casualty, excuse of performance, § 15:37

Commercial impracticability, excuse of performance, § 15:36

Consideration, § 15:7

Contract

Generally, § 15:3-15:19 Consideration, § 15:7 Course of dealing and perfor-

mance, § 15:11

Express terms, § 15:10

Formation, § 15:3

Obligations of parties, below

Offer and acceptance, below

Parol evidence rule, § 15:12

Repudiation, breach, and excuse, below

Unconscionable terms, § 15:13

Usage of trade, § 15:11

Warranty terms, below

Writing requirement and exceptions, § 15:8, 15:9

Course of dealing and performance, § 15:11

Creditors of sellers and lessors, rights of, § 15:42

#### SALES AND LEASES OF GOODS SALES AND LEASES OF GOODS -Cont'd —Cont'd Cure rights, seller's or lessor's, Obligations of parties—Cont'd § 15:25 Tender of payment by buyer or lessee, § 15:26, 15:27 Damages, recovery of Offer and acceptance Acceptance of goods, § 15:58 Generally, § 15:4-15:6 Cover and recover damages, Different or additional terms, § 15:55 acceptance with, § 15:6 Liquidated damages, § 15:60 Firm offers, § 15:5 Nonacceptance or repudiation, Manner and medium of accep-§ 15:50 tance, § 15:4 Nondelivery or repudiation dam-Parol evidence rule, § 15:12 ages, § 15:56 Passage of title Seller's and lessor's remedies, Generally, § **15:40 § 15:49** Identification of goods, § 15:41 Delivery Payment. Tender of payment by Tender of delivery by seller, below buyer or lessee, below Withholding or stopping, § 15:45 Price, action for, § 15:48 Different or additional terms, accep-Privity of contract, absence of. tance with, § 15:6 § 15:19 Exclusion of warranties, § 15:18 Recovering goods, remedy of buyer Excuse of performance. Repudiation, or lessee, § 15:54 breach, and excuse, below Rejection by buyer or lessee Express terms of contract, § 15:10 Generally, § 15:32 Express warranties, § 15:15 Rights and obligations after right-Firm offers, § 15:5 ful rejection, § 15:33 Formation of contract, § 15:3 Remedies, buyer's and lessee's Identification of goods Generally, § 15:52-15:58 Passage of title, § 15:41 Cancellation, § 15:53 Resale, § 15:47 Cover and recover damages, Implied warranties, § 15:17 § 15:55 Insolvency, effect on remedies Damages when goods are Buyer's or lessee's insolvency, accepted, § 15:58 § 15:44 Insolvency, seller's or lessor's, Seller's or lessor's insolvency, § 15:52 § 15:52 Nondelivery damages, § 15:56 Inspection, right of, § 15:27 Recovering goods, § 15:54 Installment contracts, § 15:31 Replevin, § 15:54 Liquidated damages, § 15:60 Repudiation damages, § 15:56 Magnuson-Moss Warranty Act, Security interest, buyer's or les-§ 15:16 see's, enforcing, § 15:57 Modification of warranties, § 15:18 Specific performance, § 15:54 Nonacceptance, damages for, § 15:50 Remedies, modification or limitation Obligations of parties Generally, § 15:59 Generally, § 15:20-15:27 Liquidated damages, § 15:60 General obligations, § 15:20 Remedies, seller's and lessor's Tender of delivery by seller, below Generally, § 15:44-15:51

#### SALES AND LEASES OF GOODS SALES AND LEASES OF GOODS -Cont'd -Cont'd Remedies, seller's and lessor's Risk of loss -Cont'd Absence of breach, § 15:38 Cancellation, § 15:46 Effect of breach, § 15:39 Damages, recovery of, § 15:49 Salvage remedy, § 15:47 Delivery, withholding or stopping, Security interest, buyer's or lessee's, § 15:45 enforcing, § 15:57 Identification and resale, § 15:47 Shipment under reservation, § 15:23 Insolvency, buyer's or lessee's, Shipment vs. destination contracts, § 15:44 § 15:22 Nonacceptance, damages for, Shipping terms, § 15:24 § 15:50 Specific performance, § 15:54 Price, action for, § 15:48 Statute of limitations, § 15:61 Rent, action for. § 15:48 Subsequent lessees, rights of, § 15:43 Substituted performance, excuse of Repudiation, damages for, § 15:50 performance, § 15:37 Resale or release, § 15:47, 15:49 Tender of delivery by seller Residual interest, lessor's, damage Generally, § 15:21-15:25 to, § 15:51 Cure rights, seller's or lessor's, Salvage, § 15:47 § 15:25 Rent, action for, § 15:48 Shipment under reservation, Replevin, § 15:54 § 15:23 Repudiation, breach, and excuse Shipment vs. destination contracts, Generally, § 15:28-15:37 § 15:22 Acceptance by buyer or lessee, Shipping terms, § 15:24 § 15:34 Tender of payment by buyer or lessee Anticipatory repudiation, § 15:28, Generally, § 15:26 15:29 Inspection, right of, § 15:27 Assurance of performance, § 15:30 Third parties, title and rights Casualty, § 15:37 Generally, § 15:40-15:43 Commercial impracticability, Bona fide purchasers, rights of, § 15:36 § 15:43 Damages for repudiation, § 15:50 Creditors of sellers and lessors, Excuse of performance, § 15:36, rights of, § 15:42 15:37 Passage of title, § 15:40, 15:41 Impracticability, § 15:36 Subsequent lessees, rights of, Installment contracts, § 15:31 § 15:43 Rejection by buyer or lessee, Title § 15:32, 15:33 Passage of, § 15:40, 15:41 Revocation of acceptance by buyer Warranty of, § 15:14 or lessee, § 15:35 UCC Article 2A (leases), § 15:2 Specific enforcement for breach, UCC Article 2 (sales), § 15:1 § 5:98 Unconscionable terms, § 15:13 Substituted performance, § 15:37 Usage of trade, § 15:11 Resale or release remedy, § 15:47, Warranty terms 15:49 Generally, § 15:14-15:19 Residual interest, lessor's, damage to, Exclusion of warranties, § 15:18 § 15:51

# SALES AND LEASES OF GOODS —Cont'd

Warranty terms—Cont'd Express warranties, § 15:15

Implied warranties, § 15:17

Magnuson-Moss Warranty Act, § 15:16

Modification of warranties, § 15:18

Privity of contract, absence of, § 15:19

Title, warranty of, § 15:14

Writing requirement and exceptions, § 15:8, 15:9

#### **SANITARY CODE**

Basic operation, § 12:92
Particular requirements, § 12:93
Rent withholding for violations, § 12:111

Tenant's remedies, § 12:108 et seq. Violations, injuries, § 12:108

#### SCHOOLS AND EDUCATION

Generally, § 8:137

Dormitory, termination of tenancy, § 12:37

Fraternity, termination of tenancy, § 12:37

Intent to distribute controlled substances near school or playground, § 7:265

Necessaries for minor, § 5:45

Religious upbringing and education of child, § 8:136, 8:171, 8:198

Search and seizure, public school administrators, constitutional requirements, § 7:39

Sorority, termination of tenancy, § 12:37

# SCIENCE AND SCIENTIFIC ANALYSIS

Post conviction access to forensic and scientific analysis, § 9:132

#### **SCIENTIFIC TESTS**

Expert testimony, § 9:129, 9:131, 9:135

#### SEALED INSTRUMENTS

Agents, creation of authority, § 1:28, 1:29

Contract, formation of sealed contract, § 5:21, 5:22

#### SEARCH AND SEIZURE

Generally, § 7:15-7:74

#### **SECRETS**

Agent's instructions, § 1:33

Trade Secrets, this index

#### SECURITY DEPOSITS

Generally, § 12:68

Bank deposit receipt, § 12:70-12:78

Banking requirements, § 12:71

Documents required, § 12:70

Interest payable, § 12:73, 12:83

Last month's rent, § 12:83, 12:84

Lawful deductions, § 12:76

Maximum amount, § 12:69

Receipts, § 12:70, 12:83

Record-keeping requirements, § 12:72

Remedies for landlord's noncompliance, § 12:77, 12:78

Return, § 12:75

Small claims action, § 12:79

Statement of present condition, § 12:70

Tenant remedies, § 12:77, 12:78

Tenant's list of damages, § 12:70

Transfer of realty to new owner,

§ 12:74, 12:84

Treble damages remedy, § 12:78

#### SELF DEFENSE

Generally, § 7:313-7:315

# SELF-INCRIMINATION PRIVILEGE

Generally, § 9:68-9:76

Assertion, necessity of, § 9:74

Communicative evidence, § 9:72

Government compulsion, § 9:71

Immunity, § 9:76

Personal nature of privilege, § 9:73

Risk of criminal liability, § 9:70

Testimonial evidence, § 9:72

Waiver of privilege, § 9:75

#### SEPARATION AGREEMENTS

Generally, § 8:30-8:43

For detailed treatment see **Domestic Relations**, this index

#### **SERVITUDES**

Covenants and restrictions. Real Property, this index
Easements, this index
Licenses, § 14:106, 14:107
Profits a prendre, § 14:104, 14:105

#### **SETTLEMENT**

Class actions, § 3:65

#### SETTLEMENT OF ESTATE

Personal Representatives, this index

## SEXUAL ASSAULT VICTIM-COUNSELORS PRIVILEGE

Generally, § 9:95

### **SHOPLIFTING**

Generally, § 7:237

### SHORTHAND EXPRESSIONS

Lay witness testimony, § 9:118

# SIMILAR HAPPENINGS AND TRANSACTIONS

Accidents and injuries, § 9:52 Misrepresentations and fraud, § 9:54 Sales of similar real property, § 9:53

#### SISTER STATES

Laws, judicial notice, legislative facts noticing, § 9:13

### **SLANDER**

Generally, § 16:233 **Defamation**, this index

## SMALL CLAIMS

Housing courts, § 12:79 Security deposits, § 12:79

#### **SMALL ESTATES**

Probate and administration of estates, § 18:63

#### **SOCIAL HOSTS**

Alcoholic beverages, furnishing, § 16:50

# SOCIAL WORKER-CLIENT PRIVILEGE

Generally, § 9:92, 9:93

### **SOLICITATION**

Criminal law, § 7:135

#### **SORORITY**

Termination of tenancy, § 12:37

#### SPECIFIC PERFORMANCE

Sales and leases of goods, § 15:54

#### SPEEDY TRIAL

Appeal as to claims, § 4:23 Elderly persons, § 3:152

## SPONTANEOUS EXCLAMATIONS

Confrontation Clause, § 9:185 Hearsay exception, § 9:183-9:185

#### SPOUSAL PRIVILEGE

Generally, § 9:101, 9:102

#### **STALKING**

Assault with specific intent, § 7:176

### STANDING TO SUE

Condominiums, owner's standing, § 14:51

## STATUTE OF FRAUDS

Contracts and agreements Generally, § 5:25-5:41 For detailed treatment see

**Contracts and Agreement**, this index

Sales and leases of goods, writing requirement and exceptions, § 15:8, 15:9

Trusts, writing requirement, § 17:16, 17:17

Uniform Electronic Transactions Act, § 5:25

Wills, **§ 18:6** 

#### STATUTE OF LIMITATIONS

Decedents' estates, payment of claims. **Personal Representatives**, this index

Equitable defenses, § 10:63

**Legal Malpractice**, this index **Medical Malpractice**, this index

Index-170

# STATUTE OF LIMITATIONS —Cont'd

Negligence cases, § 16:89, 16:90 Products liability, § 16:200 Sales and leases of goods, § 15:61

## STATUTE OF REPOSE

Medical malpractice, § 16:141-16:143

Negligence cases, § 16:91, 16:92

#### **STOCK**

Attachment of, § 3:46
Business corporations. Corporations, this index

Divorce, unvested stock options, property division, § 8:119

Professional corporations, § 6:150-6:153, 6:156

Trustee's power, shares of stock, § 17:80

#### STORAGE AND STORAGE COSTS

Landlord's storage and sale of tenant's property, summary process actions, § 12:56

#### STRANGULATION OF ANOTHER

Assault with specific intent, § 7:165

## STRICT LIABILITY

Generally, § 16:201-16:214 Animals, § 16:203-16:208 Dogs, § 16:206-16:208 Domestic animals, generally, § 16:205

Land uses, unusual or extraordinary, § 16:202

Lead paint, § 12:105
Pets, generally, § 16:205
Products liability, § 16:186-16:188
Restatement view, abnormally
dangerous activities, § 16:202
Wild animals, § 16:203-16:204

## SUBSEQUENT ACTS OR MATTERS

Admissibility of subsequent remedial measures, § 9:55

## SUFFOCATION OF ANOTHER

Assault with specific intent, § 7:165

#### SUICIDE

Workers' compensation, § 19:21

#### SUMMARY DESCRIPTIONS

Lay witness testimony, § 9:118

### **SUMMARY JUDGMENT**

Generally, § 3:137-3:149
For detailed treatment see Civil
Practice, this index

#### SUPREME JUDICIAL COURT

Generally, § 3:4

Appellate review, § 3:4, 4:3, 4:21
Application of rules of civil procedure, § 3:2, 3:151
Equitable remadies invisition

Equitable remedies jurisdiction, § 3:4, 10:4

Giving opinions to legislature, governor, or executive council, § 3:4

Interlocutory appellate review, § 4:21 Number of justices, § 3:4 Procedure, § 3:2, 3:4

# SURVEILLANCE AND MONITORING

Identity of locations, § 9:100

#### SURVIVAL OF ACTIONS

Negligence, § 16:31

#### TAXES AND TAXATION

Limited liability companies, tax classification, § 6:157, 6:177

Refund of taxes, interception for

child support, § 8:320

#### TAX ESCALATION CLAUSES

Landlord and tenant leases, § 12:86

## TELEPHONES AND TELEGRAPHS

Gaming, using for, § 7:278

#### TENANCY AT WILL

Foreclosure of property, § 12:16 Present (possessory) estate, § 14:12

## TENANCY BY THE ENTIRETY

Generally, § 14:31

## TENANCY IN COMMON

Generally, § 14:29

#### TERM

Tenancies at will, § 12:13-12:16 Tenancies for years, § 12:12

### **TERMINATION**

Agency powers. **Agents or Agency**, this index

Bailments, § 2:25, 2:42, 2:43

Business corporations, dissolution and termination, § 6:130-6:139

Condominium, termination of, § 14:52

Contract offer, § 5:11

Easements, § 14:98-14:103

Homestead, § 14:127

Landlord-tenant relationship.

**Landlord and Tenant**, this index

Limited liability companies, dissolution and termination, § 6:188-6:194

**Trusts and Trustees**, this index Workers' compensation, insurer's modification or termination of benefits, § 19:66

## TESTS AND TESTING

Evidence, § 9:219

## THEFT

Bailments, liability for theft, § 2:21, 2:33

Larceny by stealing, § 7:233

#### THIRD PARTIES

Guests of tenant, tort action by, § 12:118

Lead paint, landlord and tenant, § 12:105

Partners, relations to third persons. **Partnerships**, this index

Personal representatives, liabilities of, § 18:56

Trustee's liability to third persons. **Trusts and Trustees**, this index

#### THIRD PARTY BENEFICIARIES

Contracts and agreements, § 5:83

## TIME SHARING

Generally, § 14:54-14:60 Basic structure, § 14:54

#### TIME SHARING—Cont'd

Breach of condition of mortgage, liability of owner for, § 14:56

Liability of owner for for expenses, § 14:56, 14:57, 14:58

Nonpayment of assessments of fees, liability of owner for, § 14:57, 14:58

Protection of time-share purchasers, § 14:55

Resale service providers, regulation of, § 14:59

Transfer service providers, regulation of, § 14:60

#### TITLE

Generally, § 14:61-14:76

Adverse possession, acquisition by, § 14:61

Attorney's certification of title, § 14:152, 16:170

Conveyance at common law, § 14:62

Conveyance by deed

Generally, § 14:63

Recording, § 14:64

Statutory prerequisites, § 14:65

Covenants of title, § 14:119

Decree of court, title by, § 14:76

Doctrine of worthier title, § 14:23 Estoppel by deed, § 14:68

Goods. Sales and Leases of Goods, this index

Habitability, implied warranty, § 14:69

Land descriptions

Generally, § 14:70-14:74

Accretion and reliction, § 14:74

Certain types of buildings, § 14:72

Quantity, § 14:71

Way, watercourse, or monument as boundary, § 14:73

Partnership property, acquisition and conveyance of title, § 13:12

Quitclaim deed, § 14:67

Registration of title, § 14:75

Warranty deed, § 14:66

## TORT CLAIMS ACT

Negligence, this index

Index-172

#### **TORTS**

Generally, § 16:1 et seq.
Abuse of process, § 16:244, 16:245
Assault, this index
Battery, this index
Conversion of Chattels, this index
Defamation, this index
Emotional Distress, this index
False Imprisonment, this index
Interference with Economic Relations, this index

Invasion of privacy. **Privacy**, this index

Landlord liability, § 12:105, 12:117, 12:118

Lead paint, strict liability, § 12:105
Legal Malpractice, this index
Malicious Prosecution, this index
Medical Malpractice, this index
Misrepresentation and Fraud, this
index

Negligence, this index Nondisclosure, § 16:254

Nuisance, this index

Paint, lead paint, strict liability, § 12:105

**Products Liability**, this index **Strict Liability**, this index

Tort Claims Act. **Negligence**, this index

Trespass to chattels, § 16:23

Trespass to Real Property, this index

Trustee, tort liability to third persons, § 17:98

#### TRADE MARK

Equitable remedies protecting, § 10:35

#### TRADE NAME

Equitable remedies protecting, § 10:35

## TRADE SECRETS

Agency, duties and liabilities among parties, § 1:60
Discovery of, § 3:88
Injunction protection, § 10:34

#### TRANSPORTATION OF FIREARM

Criminal law, bringing firearm into commonwealth, § 7:211

#### TRAUMA SYNDROME

Rape, § 7:201

### TREBLE DAMAGES

Landlord and tenant Condition of premises, § 12:115 Security deposits, § 12:78

#### TRESPASS AND TRESPASSERS

Adult and child trespassers, duties of owners or occupiers of land, § 16:37, 16:38

Chattels, trespass to, § 16:23 Criminal law, § 7:240 Real property, trespass to Generally, § 16:24-16:26 Consent, § 16:25 License, § 16:25 Nature of action, § 16:24

Privileged entries, § 16:25 Remedies, § 16:26

#### TRIAL PROCEDURE

Generally, § 3:150-3:196
For detailed treatment see Civil
Practice, this index

#### TRUSTEE PROCESS

Generally, § 3:24, 3:51-3:55 Child support enforcement, § 8:325, 8:326

## TRUSTS AND TRUSTEES

Generally, § 17:1-17:131

Accounting by trustee, § 17:95 Accumulations of income

Charitable trusts, § 17:37

Chartable trusts, § 17.57

Private express trusts, § 17:28

Actions, trustee's duty to defend, § 17:90

Administration of trust, trustee's duty, § 17:83

Appointment of trustee, § 17:59, 17:62

Beneficiaries

Charitable trusts, indefinite beneficiaries, § 17:35

#### TRUSTS AND TRUSTEES—Cont'd TRUSTS AND TRUSTEES—Cont'd Beneficiaries—Cont'd Charitable trusts—Cont'd Damages, § 17:108 Accumulation of income, effect of rule against, § 17:37 Injunctive relief, § 17:107 Liability of trustee to beneficiary Benevolence, § 17:44 Charitable purposes, generally, Generally, § 17:103-17:119 § 17:38 Breach of trust, § 17:103, Creation, methods of, § 17:32, 17:104 17:33 Remedies as against trustee, Cy pres doctrine, § 17:45, 17:46 below this group Definition, § 17:30 Third party participation in breach of trust, § 17:104 Education, advancement of, § 17:40 Notice to and acceptance by beneficiary, § 17:24 Elements of, § 17:31 Receiver, appointment of, § 17:109 Enforcement of trust, § 17:47 Remedies as against trustee Governmental purposes, § 17:43 Generally, § 17:105-17:119 Health, promotion of, § 17:42 Availability of remedies, factors Indefinite beneficiaries, § 17:35 affecting, § 17:114-17:119 Poverty, relief of, § 17:39 Consent of beneficiary, § 17:115 Private trust distinguished Court approval of trustee's Generally, § 17:34 account, § 17:118 Indefinite beneficiaries, § 17:35 Damages, § 17:108 Rule against perpetuities, effect Injunction, § 17:107 of, § 17:36 Laches, § 17:116 Purposes, generally, § 17:38 Ratification by beneficiary, Religion, advancement of, § 17:41 § 17:115 Rule against accumulation of Receiver, appointment of, income, effect of, § 17:37 § 17:109 Rule against perpetuities, effect of, Release by beneficiary, § 17:115 § 17:36 Removal of trustee, § 17:110 Claims Specific enforcement, § 17:106 Affecting trust property, trustee's Statute of limitations, § 17:117 power over, § 17:79 Tracing trust property, § 17:112, Enforcement of claims, trustee's 17:113 duty, § 17:90 Combination and division of trusts, Removal of trustee, § 17:110 § 17:127 Specific enforcement remedy, § 17:106 Compensation of trustee, § 17:66, Termination of trust, consent of 17:67 beneficiaries, § 17:125, Consent of beneficiaries 17:126 Modification or termination of Trustee, beneficiary serving as, trust, § 17:125, 17:126 § 17:64 Remedies as against trustee, Borrowing money, trustee's power, § 17:115 § 17:77 Constructive trusts Capacity of settlor, § 17:18 Generally, § 17:54-17:58 Charitable trusts Breach of fiduciary duty, § 17:57, Generally, § 17:30-17:47

17:58

#### TRUSTS AND TRUSTEES—Cont'd TRUSTS AND TRUSTEES—Cont'd Intent, expression of-Cont'd Constructive trusts—Cont'd Confidential information, abuse of, Precatory words, § 17:20 § 17:58 Interest of trustee as general partner, Definition, § 17:54 § 17:100 Duress, § 17:56 Inter vivos transfer, § 17:8 Laches, remedies available to benefi-Establishing, § 10:43 Fraud, § 17:56 ciaries, § 17:116 Leasing property, trustee's power, Mistake, § 17:56 § 17:78 Resulting trusts distinguished, Legal and equitable interests, separa-§ 17:55 tion of, § 17:6 Theory, § 17:54 Liability of trustee to beneficiaries. Undue influence, § 17:56 Beneficiaries, above Contract, creation by, § 17:12 Liability of trustee to third persons. Contractual liability to third persons, Trustees, below § 17:97 Loyalty, trustee's duty, § 17:84, Creation of trust 17:85 Charitable trusts, § 17:32, 17:33 Massachusetts Prudent Investor Act, Private express trusts, below § 17:94 Creditor's power to reach trust estate, Massachusetts Uniform Probate § 17:102 Code, § 17:74, 17:95 Cy pres doctrine, § 17:45, 17:46 Massachusetts Uniform Trust Code Damages, remedies available to bene-Generally, § 17:2, 17:3 ficiary, § 17:108 Consent of beneficiaries, modifica-Declaration of trust, § 17:9 tion or termination of trust, Delegation, trustee's duty with § 17:126 respect to, § 17:89 Duty of loyalty under, § 17:85 Divorce, property division, interests Remedies available to beneficiain trusts, § 8:114 ries, § 17:105, 17:119 Exculpatory clause, effect on Trustee's powers and duties upon trustee's duty to use reasonable skill and prudence, § 17:88 termination, § 17:130, 17:131 Expenses, trustee's power to incur, Massachusetts UPC. Uniform Probate Code, below § 17:75 Expiration of trust term, § 17:122 Modification or termination of trust Express trusts Generally, § 17:120-17:131 Generally, § 17:4 Accomplishment of purpose, Private express trusts, below § 17:122 Fiduciary relationship, § 17:5 Combination and division, § 17:127 Impartiality, trustee's duty, § 17:86 Implied trusts, § 17:4 Consent of beneficiaries, § 17:125, Impossibility of accomplishing trust 17:126 purpose, § 17:122 Court's power to terminate, Indemnification out of trust estate, § 17:122, 17:124 trustee's rights, § 17:101 Expiration of trust term, § 17:122 Injunctive relief, remedies available Impossibility of accomplishing to beneficiary, § 17:107 trust purpose, § 17:122 Intent, expression of Ineffective administration. Generally, § 17:19 § 17:124

TRUSTS AND TRUSTEES—Cont'd	TRUSTS AND TRUSTEES—Cont'd
Modification or termination of trust	Private express trusts—Cont'd
—Cont'd Merger of interests, § 17:128	Savings account trusts, § 17:14, 17:15
Reformation to correct mistakes,	Spendthrift provisions, § 17:26
§ 17:129	Statutory trusts, § 17:13
Settlor's power, § 17:120, 17:121	Testamentary trust, § 17:10
Trustee's powers and duties upon	Time restrictions, § 17:27
termination, § 17:130, 17:131	Validity of revocable trust, time restrictions, § 17:29
Unanticipated circumstances, § 17:124	Writing requirement, § 17:16,
Uneconomic trust, § 17:123	17:17
Mortgaging property, trustee's power,	Productivity of property, § 17:91-
§ 17:77	17:94
Nature of trust, § 17:1	Professional corporations, voting
Power of appointment, exercise of,	trusts, § 6:151
§ 17:11	Property of trust
Power of sale, <b>§ 17:76</b>	Generally, § 17:21 Claims affecting trust property,
Powers of trustee. Trustee, below	trustee's powers, § 17:79
Precatory words, § 17:20	Mortgaging property, § 17:77
Principal, trustee's power to invade,	Property owner, liability as to,
§ 17:81	§ 17:99
Private express trusts	Prudent investor rule, § 17:92-17:94
Generally, § 17:8-17:29	Purchase money conveyance. Result
Accumulations of income, § 17:28	ing trusts, below
Beneficiaries, definite, § 17:22-	Purposes of trust
17:24	Generally, § 17:25
Capacity of settlor, § 17:18	Accomplishment of purpose,
Contract, creation by, § 17:12	§ 17:122
Creation, methods of	Impossibility of accomplishing
Generally, § 17:8-17:15	purpose, § 17:122
Contract, § 17:12	Spendthrift provisions, § 17:26
Declaration of trust, § 17:9	Real party in interest, § 3:56
Inter vivos transfer, § 17:8	Reasonable skill and prudence,
Power of appointment, exercise of, § 17:11	trustee's duty to use Generally, § 17:87
Testamentary trust, § 17:10	Exculpatory clause, effect of,
Declaration of trust, § 17:9	§ 17:88
Intent, expression of, § 17:19,	Receiver, appointment of, § 17:109
17:20	Reformation to correct mistakes, § 17:129
Inter vivos transfer, § 17:8	Removal of trustee. Trustee, below
Power of appointment, exercise of, § 17:11	Resulting trusts
-	Generally, § 17:48-17:53
Precatory words, § 17:20	Constructive trusts distinguished,
Property of trust, § 17:21	§ 17:55
Purposes, § 17:25, 17:26	Definition, § 17:48
Rule against perpetuities, § 17:27	Express trust, failure of, § 17:49

TRUSTS AND TRUSTEES—Cont'd	TRUSTS AND TRUSTEES—Cont'd
Resulting trusts—Cont'd	Trustee—Cont'd
Purchase money conveyance	Beneficiary, liability to. Beneficia-
Generally, § 17:51	ries, above
Part payment, effect of, § 17:53	Borrowing money, § 17:77
Presumption of trust rebuttable,	Claims
§ 17:52	Affecting trust property, power
Res of express trust, where not	over, § 17:79
exhausted, § 17:50	Duty to enforce, § 17:90
Theory, § 17:48	Compensation
Role of court in administration of	Generally, <b>§ 17:66</b>
trust, § 17:7	Waiver or forfeiture, § 17:67
Rule against perpetuities, § 17:27,	Contractual liability to third
17:36	persons, § 17:97
Sale, power of, § 17:76	Declining trusteeship, § 17:61
Savings account trusts, § 17:14,	Delegation, duty with respect to,
17:15	§ 17:89
Settlor	Duties of trustee
Capacity, § 17:18  Modification or termination of	Generally, § 17:83-17:95
trust, settlor's power,	Accounting, § 17:95
§ 17:120, 17:121	Actions, duty to defend, § 17:90
Trustee, settlor acting as, § 17:64	Administration of trust, § 17:83
Shares of stock, trustee's power with	Claims, duty to enforce, § 17:90
respect to, § 17:80	Delegation, duty with respect to, § 17:89
Specific enforcement, remedies avail-	Exculpatory clause, effect of,
able to beneficiary, § 17:106	§ 17:88
Spendthrift provisions, § 17:26	Impartiality, § 17:86
Statute of limitations, remedies avail-	Loyalty, duty of, § 17:84, 17:85
able to beneficiaries, § 17:117	Productivity of property,
Statutory trusts, § 17:13	§ 17:91-17:94
Termination. Modification or	Prudent investor rule, § 17:92-
termination of trust, above	17:94
Testamentary trust, § 17:10	Reasonable skill and prudence,
Third party transferee, tracing trust	duty to use, § 17:87
property, § 17:113	Termination of trust, trustee's
Third persons, liability of trustee. Trustees, below	duties upon, § 17:130,
Time restrictions, § 17:27	17:131
Tort liability to third persons, § 17:98	Expenses, power to incur, § 17:75
Tracing trust property	Failure to make appointment, § 17:62
Generally, § 17:112	Indemnification out of trust estate,
Third party transferee, § 17:113	trustee's rights, § 17:101
Trustee	Interest as general partner,
Generally, § 17:59-17:70	\$ 17:100
Accepting trusteeship, § 17:61	Leasing property, § 17:78
Accounting, § 17:95	Legal entities as trustee, § 17:65
Actions, duty to defend, § 17:90	Liability to beneficiaries. Benefi-
Appointment 8 17:50 17:62	ciaries above

#### TRUSTS AND TRUSTEES—Cont'd TRUSTS AND TRUSTEES—Cont'd Trustee—Cont'd Trustee—Cont'd Liability to third persons. Third Removal of trustee—Cont'd persons, liability to, below Grounds, § 17:70 this group Power to remove, § 17:69 Loyalty, duty of, § 17:84, 17:85 Resignation, § 17:68 Mass. Uniform Probate Code, Shares of stock, power with powers under, § 17:74 respect to, § 17:80 Mortgaging property, § 17:77 Third persons, liability to Natural persons as trustee, § 17:63 Generally, § 17:96-17:102 Notice to and acceptance by Contractual liability, § 17:97 trustee, § 17:61 Creditor's power to reach trust Power of sale, § 17:76 estate, § 17:102 Powers of trustee Indemnification out of trust Generally, § 17:71-17:82 estate, trustee's rights, Borrowing money, § 17:77 § 17:101 Claims affecting trust property, Property owner, liability as to, § 17:79 § 17:99 Co-trustees, § 17:73 Tort liability, § 17:98 "Decanting," § 17:82 Tort liability to third persons, Discretionary powers, § 17:72 § 17:98 Expenses, power to incur, Uniform Probate Code, powers § 17:75 under, § 17:74 Leasing property, § 17:78 Vacancy, § 17:60 Mandatory powers, § 17:72 Who may be trustee Mass. Uniform Probate Code. Generally, § 17:63 powers under, § 17:74 Artificial legal entities, § 17:65 Mortgaging property, § 17:77 Beneficiary, § 17:64 Nature of trustee's power, Natural persons, § 17:63 § 17:71 Settlor, § 17:64 Power of sale, § 17:76 Unanticipated circumstances. Principal, power to invade, § 17:81 termination of trust, § 17:124 Shares of stock, § 17:80 Validity of revocable trust, time Termination of trust, trustee's restrictions, § 17:29 powers upon, § 17:130, Writing requirement, § 17:16, 17:17 17:131 UNEMPLOYMENT Transfer of assets to another Jurisdiction for appeal of unemploytrust, power to, § 17:82 ment case decisions issued by Principal, power to invade, § 17:81 Division of Employment Secu-Productivity of property, § 17:91rity, § 3:7 17:94 Property owner, liability as to, UNFAIR OR DECEPTIVE ACTS § 17:99 OR PRACTICES Prudent investor rule, § 17:92-Landlord-tenant relationship, § 12:95 17:94 Removal of trustee UNIFORM COMMERCIAL CODE Generally, § 17:69 Contracts and Agreements, this

index

Breach of trust, § 17:110

## UNIFORM COMMERCIAL CODE

—Cont'd

Sales and Leases of Goods, this index

# UNIFORM ELECTRONIC TRANSACTIONS ACT

Generally, § 5:71 Statute of Frauds, § 5:25

## UNIFORM FRAUDULENT TRANSFER ACT

Equitable remedies, § 10:45, 10:46

# UNIFORM INTERSTATE FAMILY SUPPORT ACT

Jurisdiction, § 8:74

### UNIFORM PROBATE CODE

Intestate Succession, this index
Personal Representatives, this index
Probate and Administration of
Estates, this index

Trusts and Trustees, this index

## UNIFORM SUMMARY PROCESS RULES

Landlord and Tenant, this index

#### UNILATERAL MISTAKE

Avoidance or reformation of contract, § **5:49** 

## **USE AND OCCUPATION**

Tenant at sufferance, § 12:17

### **UTILITIES**

Landlord and tenant, obligations, § 12:87, 12:91

## **VENUE**

Generally, § 3:20-3:26
For detailed treatment see Civil
Practice, this index

#### VICARIOUS LIABILITY

Legal Malpractice, this index Medical malpractice, § 16:125 Negligence cases, § 16:79, 16:80

## **VICTIMS**

Character evidence, § 9:45, 9:46 Hearsay, child sexual abuse victim statements, § 9:180

#### VICTIMS—Cont'd

Homicide/assault cases, character evidence, § 9:45

Privilege

Domestic violence counselorvictim privilege, § 9:96

Sexual assault counselor-victim privilege, § 9:95

Rape/sexual assault cases, character evidence, § 9:46

#### **VIEW BY JURY**

Generally, § 9:219

## VIRGINITY OF VICTIM

Evidence of, § 7:200

#### VISITS AND VISITATION

Appointment of dispute resolution official, § 8:243

## **VOTERS AND VOTING**

Political vote disclosure, privilege, § 9:105

#### WAGES

Seizure by attachment or trustee process, prejudgment, § 3:51-3:55

#### WAIVER

Landlord's termination of tenancy, waiver of notice, § 12:38

Privileges, waiver of. **Evidence**, this index

Psychotherapist-patient privilege, § 9:89, 9:91

Self-incrimination privilege, § 9:74, 9:75

Spousal privilege, § 9:101, 9:102

#### WAR

Effect on agency duties and liabilities, § 1:94

## WARRANTIES

Commercial Paper, this index Implied warranty of habitability Landlord and tenant, breach, § 12:94

Title, acquisition of, § 14:69 Magnuson-Moss Warranty Act, § 15:16

WILLS—Cont'd

#### Products liability, breach of warranty, Contests—Cont'd § 16:185 Grounds for objection—Cont'd Fraud, § 18:99 Sales and Leases of Goods, this Testamentary capacity or intent, index absence of, § 18:97 WARRANTY DEED Undue influence, § 18:98 Generally, § 14:66 Initiating objection, § 18:94, 18:95 WASTE Testamentary capacity or intent, Mortgages, § 14:167 absence of, § 18:97 Trial procedure, § 18:100 WATER RIGHTS Undue influence, § 18:98 Generally, § 14:133-14:135 Declared homestead exemption, Ground water, § 14:135 § 18:17 Stream and lake water, § 14:133 Dependent relative revocation, Surface water, § 14:134 § 18:30 Disabled person's homestead, WEAPONS OR FIREARMS § 18:18 Appeals of denial to carry firearms. Dower, § 18:12 jurisdiction for, § 3:7 Earlier will, revival of, § 18:31 Domestic violence and abuse preven-Elderly person's homestead, § 18:18 tion, firearm surrender orders, Elective share. Surviving spouse's § 8:296 elective share, below WILLS Essential requirements Generally, § 18:1-18:101 Generally, § 18:3-18:5 Abatement, § 18:26 Age, § 18:3 Ademption, § 18:22 Soundness of mind, § 18:4 Age requirement, § 18:3 Testamentary intent, § 18:5 Attestation of witnesses, § 18:8 Execution. Formalities of execution, Automatic homestead exemption, below § 18:16 **Executors and Administrators**, this Bequests and devises, classification, index § 18:21 Exempt property, § 18:14 Change of circumstances, revocation Family allowance, § 18:13 of will, § 18:29 Formalities of execution Children, omitted, § 18:19 Generally, § 18:6-18:9 Class gifts, lapse, § 18:24 Attestation of witnesses, § 18:8 Contests Improper execution, grounds for Generally, § 18:94-18:101 objection, § 18:96 Affidavit of objections, § 18:94, Self-proving wills, § 18:9 18:95 Signature of testator, § 18:7 Compromise agreements, § 18:101 Writing, § 18:6 Execution of will, improper, Homestead, restrictions on § 18:96 testamentary dispositions, Fraud, § 18:99 § 18:15 Grounds for objection Informal administration of estate, Generally, § 18:96-18:99 § 18:78 Lapse Execution of will, improper, § 18:96 Generally, § 18:23

WARRANTIES—Cont'd

WILLS—Cont'd	WILLS—Cont'd
Lapse—Cont'd	Restrictions on testamentary disposi-
Class gifts, <b>§ 18:24</b>	tions—Cont'd
Making will	Surviving spouse's elective share,
Generally, § 18:1-18:9	below
Age requirement, § 18:3	Revival of earlier will, § 18:31
Essential requirements, § 18:3-	Revocation of will
18:5	Generally, § 18:27-18:31
Formalities of execution, above	Change of circumstances, § 18:29
Soundness of mind, § 18:4	Dependent relative revocation,
Testamentary intent, § 18:5, 18:97	§ 18:30
Uniform statutory will, § 18:2	Manner of revocation, § 18:27-
Objections. Contests, above	18:29
Omitted children, § 18:19	Physical act, § 18:28
Post-execution events	Revival of earlier will, § 18:31
Generally, § 18:21-18:26	Subsequent writing, § 18:27
Abatement, § 18:26	Self-proving wills, § 18:9
Ademption, § 18:22	Signature of testator, § 18:7
Bequests and devises, classifica-	Simultaneous death, § 18:25
tion, § 18:21	Soundness of mind, § 18:4
Lapse, § 18:23, 18:24	Statutory will, § 18:2
Simultaneous death, § 18:25	Surviving spouse's elective share
Premarital will, entitlement of spouse	Generally, § 18:10
under, § 18:20	Amount of elective share, § 18:11
Probate of, informal administration,	Dower, § 18:12
§ 18:78	Testamentary intent
Restrictions on testamentary disposi-	Generally, § 18:5
tions	Lack of, grounds for objection,
Generally, § 18:10-18:16	§ 18:97
Automatic homestead exemption, § 18:16	Undue influence, grounds for contest § 18:98
Declared homestead exemption,	Uniform statutory will, § 18:2
§ 18:17	Witnesses, attestation of, § 18:8
Dower, § 18:12	Writing
Elderly or disabled person's	Formalities, § 18:6
homestead, § 18:18	Revocation by subsequent writing,
Exempt property, § 18:14	§ 18:27
Family allowance, § 18:13 Homestead	WITHIOI DING
	WITHHOLDING
Generally, § 18:15-18:18	Landlord and tenant, grounds for
Automatic homestead exemption, § 18:16	withholding rent, § 12:111
Declared homestead exemption,	WITNESSES
§ 18:17	Attorney as, § 9:116
Elderly or disabled person's	Beliefs, religious beliefs, § 9:150
homestead, § 18:18	Bias and prejudice, impeachment,
Omitted children, § 18:19	§ 9:141, 9:142
Premarital will, entitlement of	Character and conduct, evidence,
spouse under, § 18:20	§ 9:143-9:147

WITNESSES—Cont'd

Generally, § 9:117 et seq.

Collective facts, matters difficult to describe, § 9:118

#### Husband and wife-Cont'd Child's legitimacy, spouse's testimony as to, § 9:115 Competency, communications between spouses, § 9:113, Child witness 9:114 Generally, § 9:111 Legitimacy of child, § 9:115 Against parent, § 9:112 Collective facts, matters difficult to Impeachment describe, opinions, § 9:118 Generally, § 9:136 et seq. Communications between spouses, Another witness, contradiction by, § 9:113, 9:114 § 9:149 Competency Bias and prejudice, § 9:141, 9:142 Generally, § 9:107 Rehabilitation after proof of bias Affirmation, § 9:108 and prejudice, § 9:151-Attorney as witness, § 9:116 9:154 Child's testimony against parent, Character evidence, § 9:47, 9:143-§ 9:112 9:147 Child witness, § 9:111 Conviction of crime, evidence, Intellectual disability, accom-§ 9:144-9:147 modating witness with, Evidence of bad reputation, § 9:109, 9:110 § 9:143-9:147 Judge as witness, § 9:116 Rehabilitation after proof of bad Juror as witness, § 9:116 reputation, § 9:151-9:154 Oath, § 9:108 Incapacity of witness, § 9:148 Personal knowledge requirement, Judicial discretion, § 9:147 § 9:107 Prior convictions, § 9:144-9:147 Spousal private conversations, Prior inconsistent statements, disqualification of, § 9:113, § 9:137-9:140 9:114 Rehabilitation of witness, § 9:151-Spouse testimony as legitimacy of 9:154 child, § 9:115 Religious belief, lack of, § 9:150 Test of competency, oath or affir-Incapacity of witness, impeachment, mation, § 9:108 § 9:148 Contradictory testimony by another Intellectual disability, accommodatwitness, § 9:149 ing witness with, § 9:109, 9:110 Conversations, private conversations, Judges, competency as witnesses, wife and husband, privilege and § 9:116 disqualification, § 9:113, 9:114 Jurors, competency as witnesses, Conviction of crime § 9:116 Impeachment, § 9:144-9:147 Lay persons, opinions and expert Disqualification, private conversatestimony, § 9:117 et seq. tions, wife and husband, Nature of oaths or affirmations, § 9:113, 9:114 § 9:108 Experts, opinions and expert Oath or affirmation as test of competestimony, § 9:122 et seq. tence, § 9:108 Handwriting, lay person opinion testimony, § 9:121 **Opinions**

Husband and wife

§ 9:112

Child testimonial privilege,

WITNESSES—Cont'd

#### WITNESSES—Cont'd WITNESSES—Cont'd Opinions—Cont'd Scientific knowledge, expert testimony, § 9:129, 9:131, 9:135 Experts, opinions and expert testimony, § 9:122 et seq. Shorthand expressions, § 9:118 Lay persons, § 9:117 et seq. Spouse's testimony Matters difficult to describe, col-Child's legitimacy, § 9:115 lective facts, § 9:118 Private conversations between Property values, § 9:119 spouses, § 9:113, 9:114 Summary descriptions, § 9:118 Shorthand expressions, § 9:118 Summary descriptions, § 9:118 Ultimate issue, § 9:133-9:135 Value of property, § 9:119 WORDS AND PHRASES Prior convictions, impeachment, Actual authority, § 1:19 § 9:144-9:147 Additur, § 3:192 Prior inconsistent statements, contra-Adoption of unauthorized act diction by, § 9:137-9:140 distinguished from ratification, Privilege § 1:54 Allied mental health or human Affirmative defense, § 3:76 services professional privi-Agency, § 1:2 lege, § 9:94 Agent, § 1:5 Attorney and client, § 9:77-9:84 Answer, § 3:75 Client and attorney, § 9:77-9:84 Anticipatory repudiation, § 5:84 Human services professional privi-Apparent authority, § 1:22, 1:23 lege, § 9:94 Arising out of employment, § 19:25 Husband and wife, private Assignment of contract, § 5:99 conversations, § 9:101, 9:102 Attachment, § 3:42, 3:44 Journalist, § 9:104 Marital disqualification, § 9:102 Authority distinguished from power, Medical peer review privilege, § 1:19 § 9:87 Bailee, § 2:2 Mental health or human services Bailment, § 2:1, 2:22 professional privilege, § 9:94 Bailment for hire, § 2:33 Patient and psychotherapist, Bailor, § 2:2 § 9:88-9:91 Brief on appeal, § 4:87 Physician and patient, § 9:85 Business trust, § 1:11 Priest and penitent, § 9:103 Charitable trusts, § 17:30 Psychotherapist and patient, Civil Practice, this index § 9:88-9:91 Class action, § 3:63 Self-incrimination, § 9:68-9:76 Closing argument, § 3:179 Sexual assault counselor and Common carrier, § 2:18 victim, § 9:95 Compulsory counterclaim, § 3:78 Social worker and client, § 9:92, Condition, § 5:78 9:93 Condition precedent or subsequent, Unanticipated medical outcomes. § 5:79 statements of regret regard-Consequential damages, § 5:92 ing, § 9:86 Consideration, § 5:17 Rehabilitation of witness after Consignment, § 2:24 impeachment, § 9:151-9:154 Constructive bailment, § 2:4 Sanity, lay person opinion testimony, § 9:120 Constructive trusts. § 17:54

WORDS AND PHRASES—Cont'd	WORDS AND PHRASES—Cont'd
Contract, § 5:1	Inherent agency power, § 1:26
Counterclaim, § 3:78	Innkeeper, § 2:20
Course of dealing or performance,	Insubordination of agent, § 1:57
§ 5:68	Interpleader, § 3:62
In course of employment, § 19:27	Intervention as of right, § 3:66
Covenants, § 14:108	Joint venture, § 1:10
Cross-claim, § 3:79	Judgment, § 3:185
De bene, admission of evidence,	Jurisdiction, § 3:3
§ 3:176	Letter of intent, § 5:10
Delegation of duties, § 5:99	Licenses, <b>§ 14:106</b>
Demonstrative evidence, § 9:213	Liquidated damages, § 5:91
Deposition, § 3:93	Master, § 1:4
Disclosed principal, § 1:3	Material breach, § 5:86
Discovery, § 3:81	Mesne process, § 3:42
Dismissal of complaint, § 3:125	Misrepresentation, § 5:52
Divisible contracts, § 5:88	
Duress, § 5:54	Mistake, § 5:48
Easements, § 14:77	Mutual assent, § 5:7
Employee, § 1:6	Necessary party, § 3:58
Employee, § 1:4	Negligence, § 16:27
Employer, § 1.4 Entry of default, § 3:132	Nominal damages, § 5:90
Entry of default judgment, § 3:133	Notice pleading, § 3:71
	Novation of unauthorized dealing
Equal dignity rule, § 1:28	distinguished from ratification
Estoppel doctrine, § 1:24	§ 1:54
Expectation damages, § 5:92	Offer, § 5:9
Express authority, § 1:20	Offer of proof, § 3:175
Express contract, § 5:3	Opening statement, § 3:170
Final process, § 3:42	Ordinary care and diligence, § 2:33
Foreign corporation, § 3:38	Original process, § 3:42
Forum non conveniens doctrine,	Parol evidence rule, § 5:72
§ 3:25	Partially disclosed principal, § 1:3
Fraud in the factum, § 5:53	Partner, § 1:9
General agent, § 1:5	Partnership, § 13:1, 13:34
General verdict, § 3:162	Permissive counterclaim, § 3:78
Gratuitous bailee, § 2:31	Permissive intervention, § 3:67
Gross negligence, § 2:31	Personal jurisdiction, § 3:15
Hearsay, § 9:155	In personam jurisdiction, § 3:15
Hearsay, unavailability, <b>§ 9:169</b> , <b>9:170</b>	Power distinguished from authority § 1:19
Implied actual authority, § 1:21, 1:22	Pre-existing legal duty rule, § 5:18
Implied-in-fact contract, § 5:4	Preponderance of the evidence,
Implied-in-law contract, § 5:5	§ 9:17
Impossibility of performance, § 5:76	Principal, § 1:3
Impracticability to excuse perfor-	Process, § 3:32
mance, § 5:76	Products liability, § 16:183
Independent contractor, § 1:7	Profit a prendre, § 12:5, 14:104
Indispensable parties, § 3:58	Proper party, § 3:59
	op p

#### WORDS AND PHRASES—Cont'd WORKERS' COMPENSATION Quantum meruit, § 5:5 —Cont'd Quasi-contract, § 5:5 Adjustments to compensation Generally, § 19:50-19:54 Quasi in rem jurisdiction, § 3:15 Cost of living, § 19:54 Ratification, § 1:41, 1:54 Delay in eligibility for benefits, Real party in interest, § 3:56 § 19:53 Real property, § 14:1 Nonpayment of benefits prior to Record on appeal, § 4:69 final decision, § 19:52 Relevancy, § 9:28, 9:29 Subsequent injury after return to Remittitur. § 3:192 work, § 19:51 In rem jurisdiction, § 3:15 Unemployment benefits, receipt of, Rent, § 12:80 § 19:50 Rent control, § 12:119 Agent's entitlement, § 1:69 Restitutionary power, imposing so as Appeals to avoid unjust enrichment, To appeals court, § 19:76 § 1:15 To reviewing board, § 19:65 Restitution distinguished from ratifi-Arbitration, § 19:61 cation, § 1:54 Arising out of employment Resulting trusts, § 17:48 Generally, § 19:25 Return of service of process, § 3:41 Definition, § 19:25 Sale of personal property, § 2:22 Security consignment, § 2:24 Street risks, § 19:26 Servant, § 1:6 Attorney's fees for employees Generally, § 19:69-19:72 Service of process, § 3:32 Complaint, insurer's, § 19:71 Special agent, § 1:5, 1:32, 1:71 Documentary requirements, Special verdict, § 3:162 § 19:72 Subagents and subservants, § 1:8 Lump sum settlement, § 19:70 Subject matter jurisdiction, § 3:3 Non-liability issues, § 19:71 Summary judgment, § 3:137 Stages, procedural, § 19:69 Tenancies at sufferance, § 12:17 Average weekly wage Tenancies at will, § 12:13 Generally, § 19:37, 19:37-19:39 Trustee, § 1:11 Latency claims, § 19:38 Unavailability, hearsay, § 9:169, State average weekly wage, 9:170 § 19:39 Unconscionability, § 5:62 Benefits Undisclosed principal, § 1:3, 1:70 Generally, § 19:36-19:54 Undue influence, § 5:57 Average weekly wage, above Usage of trade, § 5:68 Death benefits, § 19:46, 19:47 Venue, § 3:20 Medical benefits, § 19:40 Warehousemen, § 2:15 Vocational rehabilitation, § 19:41 WORKERS' COMPENSATION Waiting period, § 19:36 Weekly compensation, below Generally, § 19:1-19:76 Characteristics of system, § 19:1 Additional compensation Claim for benefits Generally, § 19:48 Dependents, § 19:49 Generally, § 19:58-19:65 Arbitration, § 19:61 Specific permanent injuries, § 19:48 Conciliation. § 19:60

WORKERS' COMPENSATION	WORKERS' COMPENSATION
—Cont'd	—Cont'd
Claim for benefits—Cont'd	Delay in eligibility for benefits,
Discovery, § 19:60	adjustments to compensation, § 19:53
Mediation, § 19:61	-
Stages, procedural, § 19:59-19:65, 19:69	Dependents Additional compensation, § 19:49
Compensation	Death benefits, § 19:46
Additional compensation, above	Dept. of Industrial Accidents, organi-
Additional compensation, above Adjustments, § 19:50, 19:54	zation, § 19:55
Weekly compensation, below	Discovery, § 19:60
Conciliation, § 19:60	Documentary requirements,
Conclusive presumptions	attorney's fees for employees,
Compensability, § 19:29	§ 19:72
Employees, conclusively	Earning capacity, post-injury, § 19:45
presumed, § 19:13	Employees covered
Conference with administrative	Generally, § 19:12-19:16
judge, § 19:62	Conclusively presumed employees,
Connection to work	§ 19:13
Generally, § 19:24-19:33	Exempt employees, § 19:14
Arising out of employment,	Independent contractors
§ 19:25, 19:26	distinguished, § 19:16
Conclusive presumptions of	Lent employees, § 19:15
compensability, § 19:29	Employers covered, § 19:11
In course of employment, § 19:27, 19:28	Enforcement in superior court, § 19:68
Falls, <b>§ 19:31</b>	Exclusivity of remedy
Horseplay, § 19:32	Generally, § 19:4
Recreational activities, § 19:33	Claims that are not "personal
Unexplained death, prima facie	injuries," <b>§ 19:6</b>
evidence of compensability,	Family members, extension to,
§ 19:30	§ 19:5
Cost of living adjustments, § 19:54	Exempt employees, § 19:14 Falls, § 19:31
Coverage	First report of injury, § 19:56
Generally, § 19:3-19:16 Employees covered, below	Hearing, <b>§ 19:64</b>
Employees covered, below Employers covered, § 19:11	Historical perspective, § 19:2
Exclusivity of remedy, below	Horseplay, § 19:32
Jurisdiction under Massachusetts	In course of employment
Act, § 19:3	Generally, § 19:27
Mandatory insurance coverage,	Definition and application, § 19:27
§ 19:7-19:10	Deviations, § 19:28
Date of injury, § 19:23	Independent contractors
Death, unexplained, prima facie evi-	distinguished, § 19:16
dence of compensability,	Insurer
§ 19:30	Duty on receipt of report of injury,
Death benefits	§ 19:57
Amount, § 19:47	Modification or termination of
Dependents, § 19:46	benefits, § 19:66

WORKERS' COMPENSATION	WORKERS' COMPENSATION
—Cont'd	—Cont'd
Jurisdiction under Massachusetts Act,	Practice and procedure—Cont'd
§ 19:3	Conference with administrative
Lent employees, § 19:15	judge, <b>§ 19:62</b>
Lump sum settlement, § 19:67, 19:70	Dept. of Industrial Accidents, orga-
Mandatory insurance coverage	nization, § 19:55
Generally, § 19:7-19:10	Enforcement in superior court,
Private attorney's general action,	§ 19:68
§ 19:8	First report of injury, § 19:56
Statutory extensions, § 19:10	Hearing, § 19:64
Workers' Compensation Trust Fund, § 19:9	Insurer's duty on receipt of report of injury, § 19:57
Mediation, § 19:61	Insurer's modification or termina-
Medical benefits, § 19:40	tion of benefits, § 19:66
Medical examiner, impartial, § 19:63	Lump sum settlement, § 19:67
Mental and emotional injuries	Medical examiner, impartial,
Generally, § 19:20	§ 19:63
Personnel actions, § 19:22	Procedural stages, § 19:59-19:65, 19:69
Suicide, § <b>19:21</b>	Third parties, actions against,
Misconduct, serious and wilful	below
By employee, § 19:34	Preexisting conditions, § 19:18
By employer, <b>§ 19:35</b>	Recreational activities, § 19:33
Modification or termination of	Report of injury
benefits by insurer, § 19:66	First report, § 19:56
Partial incapacity, weekly compensation, § 19:43	Insurer's duty on receipt of report,
Permanent and total incapacity,	§ 19:57
weekly compensation, § 19:44	Settlement
Personal injuries	Lump sum settlement, § 19:67
Generally, § 19:17-19:23	Third parties, actions against,
Date of injury, § 19:23	approval of settlement,
Exclusivity of remedy, claims that	§ 19:74
are not personal injuries, § 19:6	Stages, procedural, § 19:59-19:65, 19:69
Mental and emotional injuries,	State average weekly wage, § 19:39
above	Street risks, § 19:26
Preexisting conditions, § 19:18	Suicide, § 19:21
Specific incident unnecessary,	Superior court, enforcement in,
§ 19:18	§ 19:68
Wear and tear, § 19:19	Temporary total incapacity, weekly
Practice and procedure	compensation, § 19:42
Generally, § 19:55-19:76	Third parties, actions against
Appeal to reviewing board,	Generally, § 19:73
§ 19:65	Approval of settlement, § 19:74
Attorney's fees for employees,	Distribution of proceeds, § 19:75
above	Trust Fund, § 19:9
Claim for benefits, generally, § 19:58-19:65	Unemployment benefits, adjustments to compensation. § 19:50

#### WORKERS' COMPENSATION

-Cont'd

Unexplained death, prima facie evidence of compensability, § 19:30

Vocational rehabilitation, § 19:41

Waiting period, § 19:36

Wear and tear, § 19:19

Weekly compensation

Generally, § 19:42-19:45

Earning capacity, post-injury, § 19:45

Partial incapacity, § 19:43

Permanent and total incapacity, § 19:44

Temporary total incapacity, § 19:42

Workers' Compensation Trust Fund, § 19:9

#### WORK PRODUCT

Comparison with attorney-client privilege, § 9:84

### **WORTHIER TITLE**

Doctrine of, § 14:23

## WRONGFUL DEATH

Generally, § 16:52

Damages, § 16:54

Operation of statute, § 16:53

#### X-RAYS

Evidence, § 9:219

### YOUTHFUL OFFENDERS

Proceedings. **Juvenile Law**, this index