

Index

ABNORMALLY DANGEROUS ACTIVITIES

Strict liability, **3:2, 3:3**

ABSOLUTE IMMUNITY

Civil rights under Section 1983,
26:15

ABSOLUTE PRIVILEGE

Defamation, this index

ABUSE

Children. Child Abuse, this index
Process. Abuse of Process, this index

ABUSE OF PROCESS

Generally, **22:10 to 22:13**
Instructions to jury, **22:17**
Irregular act, **22:12**
Rules of Civil Procedure, **22:13**
Torts, this index
Ulterior motive, **22:11**

ABUSE OF VULNERABLE ADULTS ACT

Negligence, **2:23**

ACCOUNTS AND ACCOUNTING

Professional negligence, **16:41**

ACTING IN CONCERT

Multiple tortfeasors, joint liability,
13:11, 13:44, 13:45
Proximate cause, **5:8**

ACTUAL MALICE

Defamation, constitutional law, **20:22**

ADDITUR AND REMITTITUR

Damages, **6:40**

ADMISSIONS

Products liability, **17:48**

ADOPTION OF CHILDREN

Negligence, duty to disclose, **2:24**

AGE DISCRIMINATION

Employment discrimination, **25:22**

AGENTS AND AGENCY

Principal and Agent, this index

AGRICULTURE

Nuisance, right-to-farm immunity,
3:17

ALCOHOLIC BEVERAGES

Generally, **29:1 to 29:20**
Assault, obviously intoxicated
persons, **29:11, 29:12**
Automobile accidents, commercial
hosts, **29:2**
Burden of proof. Instructions to jury,
below
Certification card defense, **29:7,**
29:18
Commercial hosts
Generally, **29:2, 29:3, 29:13**
Instructions to jury, below
Minors, furnishing alcohol to,
29:14 to 29:18
Contributory negligence, intoxica-
tion, **9:3, 9:25, 9:26, 9:30 to**
9:34
Definition, obviously intoxicated
persons, **29:9**
Driving while intoxicated, **30:15**
Instructions to jury
Generally, **29:8 to 29:20**
Assault, obviously intoxicated
persons, **29:11, 29:12**
Burden of proof
Commercial vendors, furnishing
alcohol to minors, **29:15,**
29:17
Person apparently under influ-
ence of alcohol or obvi-
ously intoxicated person,
29:10, 29:12

ALCOHOLIC BEVERAGES

—Cont'd

- Instructions to jury—Cont'd
- Burden of proof—Cont'd
 - Social hosts, furnishing alcohol to minors, **29:20**
- Certification card defense, commercial vendors, **29:18**
- Children. Minors, furnishing alcohol to, below in this group
- Commercial hosts
 - Generally, **29:13**
 - Minors, furnishing alcohol to, **29:14 to 29:18**
- Definition, obviously intoxicated persons, **29:9**
- Minors, furnishing alcohol to
 - Generally, **29:14 to 29:20**
 - Burden of proof, **29:15, 29:17, 29:20**
 - Certification card defense, commercial vendors, **29:18**
 - Commercial vendors, **29:14 to 29:18**
 - Social hosts, **29:19, 29:20**
- Obviously intoxicated persons, **29:8 to 29:12**
- Person apparently under influence of alcohol or obviously intoxicated person, duty regarding, **29:8**
- Quasi-commercial hosts, **29:13**
- Social hosts, furnishing alcohol to minors, **29:19, 29:20**
- Negligence, intoxication, **2:59, 2:64**
- Obviously intoxicated persons, **29:8 to 29:12**
- Person apparently under influence of alcohol or obviously intoxicated person, duty regarding, **29:8**
- Quasi-commercial hosts, **29:4, 29:13**
- Social hosts
 - Generally, **29:5, 29:6**
 - Furnishing or permitting, what constitutes, **29:6**
 - Minors, furnishing alcohol to, **29:19, 29:20**

ALCOHOLIC BEVERAGES

—Cont'd

- Suppliers of alcohol, liability of, generally, **29:1 to 29:20**
- Torts, this index

ALLEYS

- Motor vehicle accidents, right-of-way when emerging from alley, **30:9, 30:34**

ALTERNATE LIABILITY

- Proximate cause, **5:7**

ALTERNATIVE CAUSE

- Proximate cause, **5:23**

AMBER ALERTS

- Workers' compensation, **12:23**

ANCILLARY DAMAGES

- Damages, this index

ANIMALS

- Generally, **3:4 to 3:7**
- Dogs, **3:5**
- Equine activities statute, **3:7**
- Horses, **3:7**
- Other animals, **3:6**
- Strict liability, generally, **3:4 to 3:7**
- Torts, this index
- Veterinarians, professional negligence, **16:44**

ANTI-SLAPP

- Workers' compensation, **12:24**

APPARENT AGENCY

- Generally, **4:17**
- Medical malpractice, hospitals, **16:51**
- Torts, this index

APPARENT AUTHORITY

- Principal and agent, **4:36**

ARBITRARY ACTIONS

- Governmental entities, claims by property owners, **15:5**

ARBITRATION

- Wrongful discharge, contractual relationships, **24:6**

INDEX

ARCHITECTS

Professional negligence, **16:39**

ARREST

Civil rights under Section 1983,
probable cause, **26:17**

ASBESTOS

Proximate cause, **5:13**

ASSAULT AND BATTERY

Generally, **14:3 to 14:8**
Alcoholic beverages, obviously
intoxicated persons, **29:11**,
29:12
Childhood sexual abuse, **14:7**
Consent, **14:34**
Forms, complaint, **14:42**
Harmful contact, **14:4**
Instructions to jury
 Battery, **14:32**
 Consent, **14:34**
 Offensive contact, **14:33**
 Self-defense, defense of others,
 14:35
Negligence, protection of passengers
 by common carrier, **2:62**
Offensive contact, **14:5**, **14:33**
Self-defense, defense of others, **14:35**
Statutes of limitation, **10:19**
Torts, this index
Vicarious liability, **14:8**

ASSIGNMENT

Labor and Industries, assignment of
claims to, **12:15**

ASSUMPTION OF RISK

Generally, **9:11 to 9:17**
Express assumption, **9:12**, **9:28**
Implied primary assumption, **9:13**,
9:27
Implied reasonable assumption, **9:14**
Implied unreasonable assumption,
9:15
Instructions to jury
 Express assumption, **9:28**
 Implied primary assumption, **9:27**
Products liability, **17:42**
Release of liability, **11:3**
Ski statute, **9:17**

ASSUMPTION OF RISK—Cont'd

Tort Reform Act, effect of, **9:16**

Torts, this index

ATTORNEY MALPRACTICE

Generally, **16:28 to 16:38**
Attorney-client privilege, waiver of,
16:34
Burden of proof, breach of fiduciary
duty, **16:62**
Causation, **16:33**
Contributory negligence, **16:36**
Criminal defense counsel, claims
against, **16:38**
Damages, **16:37**, **16:60**, **16:63**
Defenses, **16:35**, **16:36**
Duty, **16:29**, **16:30**, **16:56**
Existence of attorney-client relation-
ship, **16:55**
Fiduciary duty, **16:61 to 16:63**
Instructions to jury
 Generally, **16:55 to 16:62**
 Burden of proof, breach of fidu-
ciary duty, **16:62**
 Damages, **16:60**, **16:63**
 Duty to non-client, **16:56**
 Existence of attorney-client rela-
tionship, **16:55**
 Fiduciary duty, **16:61 to 16:63**
 Nonclients, duty to, **16:30**, **16:56**
 Proximate cause, **16:59**
 Special expertise, standard of care,
 16:58
 Standard of care, **16:57**, **16:58**
Nonclients, duty to, **16:30**, **16:56**
Proximate cause, **16:59**
Rules of Professional Conduct
 (RPCs), admissibility of evi-
dence regarding, **16:32**
Special expertise, standard of care,
16:58
Standard of care, **16:31**, **16:57**, **16:58**
Statute of limitations, **16:35**
Torts, this index
Waiver of attorney-client privilege,
16:34

ATTORNEYS

Fees. Attorneys' Fees, this index

ATTORNEYS—Cont'd

Malpractice. Attorney Malpractice,
this index

ATTORNEYS' FEES

Generally, **6:15 to 6:30**
Amount, **6:28**
Bad faith, **6:24**
Civil rights under Section 1983,
26:22
Common fund, **6:23**
Contracts, **6:17**
Employment discrimination, **25:33**
Equity, **6:22 to 6:25**
Grounds, generally, **6:16 to 6:25**
Insurance carrier, litigation with, **6:26**
Limitations, **6:27**
Litigation, exposure to, **6:25**
Lodestar fee, calculating, **6:29**
Medical malpractice, **16:26**
Prevailing party, **6:18, 6:21**
Racketeer influenced and corrupt
organizations act (RICO), **27:19**
Statutes, **6:19 to 6:21**
§ D10,000, amounts less than, **6:20**
Torts, this index
Upward adjustment, multiplier, **6:30**
Wrongful discharge, **24:24**

ATTRACTIVE NUISANCE

Premises liability, **18:28**

AT-WILL RELATIONSHIPS

Wrongful discharge, **24:4, 24:26**

BAD FAITH

Attorneys' fees, **6:24**
Insurance, **28:20 et seq.**
Insurance Bad Faith, this index

BALANCING TEST

Nuisance, **3:29**

BATTERY

Assault and Battery, this index

BENEFICIARIES

Wrongful death statute, **7:6**

BEVERAGES

Alcoholic Beverages, this index

BICYCLES

Motor vehicle accidents, **30:22,**
30:46

BLACKLISTING

Employment discrimination, **25:27**

BODILY SUBSTANCE ANALYSIS

Contributory negligence, intoxica-
tion, **9:34**

**BONA FIDE OCCUPATIONAL
QUALIFICATIONS (BFOQS)**

Employment discrimination, **25:34,**
25:42

**BORROWED SERVANT
DOCTRINE**

Generally, **4:4**

BOUNTY HUNTERS

Intentional torts, **14:30**

BURDEN OF PROOF

Presumptions and Burden of Proof,
this index

BUT-FOR CAUSE

Proximate Cause, this index
Torts, this index

BYSTANDERS

Damages, **6:34, 6:44**

CAPRICIOUS ACTIONS

Governmental entities, claims by
property owners, **15:5**

**CAPTAIN OF THE SHIP
DOCTRINE**

Medical malpractice, **16:9**

CAUSATION

Attorney malpractice, **16:33**
Consumer protection, **8:10, 8:18**
Employment discrimination cases,
25:28
Products liability, **17:22**
Torts, this index
Wrongful discharge, **24:4**

CERTIFICATION CARDS

Alcoholic beverages, defenses, **29:7,**
29:18

INDEX

CHARITABLE ORGANIZATIONS

Workers' compensation, **12:19**

CHILD ABUSE

Foster care placement and supervision, **2:21**

Reasonable care, mandatory reporting of child abuse, **2:20**

CHILDREN AND MINORS

Alcoholic Beverages, this index

Assault and battery, childhood sexual abuse, **14:7**

Contributory Negligence, this index

Damages, medical expenses, **6:47**

Death and Death Actions, this index

Motor vehicle accidents, presence of children, **30:19**

Negligence, this index

Outrage, malicious interference with parent-child relationship, **14:12**

Parental immunity, **12:3, 12:4**

Premises liability, trespassers, **18:10, 18:11**

Sexual abuse, **10:20, 14:7**

Torts, this index

Vicarious liability, **4:18, 4:19**

CHOICE OF LAW

Generally, **1:12**

Torts, this index

Wrongful death and survival, **7:2**

CITIZEN ARREST

Intentional torts, statutory privilege and common law privilege, **14:22**

CIVIL RIGHTS AND DISCRIMINATION

Property rights based on state statute, **26:4**

Torts, this index

CIVIL RIGHTS UNDER SECTION 1983

Generally, **26:1 to 26:48**

Absolute immunity, **26:15**

Arrest based on probable cause, **26:17**

Attorney's fees, **26:22**

CIVIL RIGHTS UNDER SECTION 1983—Cont'd

Burden of proof. Instructions to jury, below

Color of state law

Generally, **26:10 to 26:13**

Instructions to jury, **26:25**

Municipality, liability of, **26:12**

Personal liability for deprivation of civil rights, **26:11**

State itself cannot be held liable, **26:13**

Conditions of confinement, **26:41 to 26:44**

Consent, exceptions to warrant requirement, **26:36**

Considerations, **26:39**

Damages, **26:20, 26:21**

Defenses

Generally, **26:14 to 26:19**

Absolute immunity, **26:15**

Arrest based on probable cause, **26:17**

Qualified immunity, **26:16**

Sovereign immunity, **26:18**

Statute of limitations, **26:19**

Deliberate indifference, **26:33, 26:44**

Denial of due process, **26:5**

Deprivation of constitutional right, generally, **26:2 to 26:9**

Due process, **26:5**

Eighth Amendment, conditions of confinement, **26:41 to 26:44**

Employment, property interests in, **26:6**

Exceptions to warrant requirement

Unlawful arrest/seizure of person, **26:38 to 26:40**

Unreasonable search, **26:35 to 26:37**

Exigent circumstances, exceptions to warrant requirement, **26:37**

Failure to train or supervise, or instruct, municipal and local government liability, **26:28**

First Amendment rights, **26:7, 26:8**

Forms, **26:23 to 26:48**

Fourteenth Amendment, conditions of confinement, **26:41 to 26:44**

**CIVIL RIGHTS UNDER SECTION
1983—Cont'd**

Instructions to jury
 Generally, **26:23 to 26:44**
 Burden of proof
 Conditions of confinement,
 26:41, 26:43
 Failure to train or supervise, or
 instruct, municipal and
 local government liability,
 26:28
 Individual defendant, **26:24**
 Unreasonable force, Fourth
 Amendment, **26:29**
 Unreasonable search, **26:34**
 Color of law, **26:25**
 Conditions of confinement, **26:41**
 to 26:44
 Consent, exceptions to warrant
 requirement, **26:36**
 Considerations, **26:39**
 Deliberate indifference, **26:33,**
 26:44
 Eighth or Fourteenth Amendment,
 conditions of confinement,
 26:41 to 26:44
 Exceptions to warrant requirement
 Unlawful arrest/seizure of
 person, **26:38 to 26:40**
 Unreasonable search, **26:35 to**
 26:37
 Exigent circumstances, exceptions
 to warrant requirement, **26:37**
 Failure to train or supervise, or
 instruct, municipal and local
 government liability, **26:28**
 Introductory instruction, **26:23**
 Medical care, conditions of
 confinement, **26:41, 26:42**
 Municipal and local government
 liability, **26:27, 26:28**
 Presumptions and burden of proof.
 Burden of proof, above in this
 group
 Probable cause, exception to war-
 rant requirement, **26:38 to**
 26:40
 Protection, conditions of confine-
 ment, **26:43, 26:44**

**CIVIL RIGHTS UNDER SECTION
1983—Cont'd**

Instructions to jury—Cont'd
 Punitive damages, **26:32**
 Reasonable suspicion for
 investigatory stop, exception
 to warrant requirement, **26:40**
 Search incident to lawful arrest,
 exceptions to warrant require-
 ment, **26:35**
 Seizure of person, Fourth Amend-
 ment, **26:30**
 Subjects and causes to be
 subjected, **26:26**
 Unreasonable force, Fourth
 Amendment, **26:29, 26:31**
 Unreasonable search, **26:34 to**
 26:37
 Land use regulations, **26:3**
 Medical care, conditions of confine-
 ment, **26:41, 26:42**
 Municipal and local government
 liability
 Generally, **26:27, 26:28**
 Color of state law, **26:12**
 Verdicts, **26:48**
 Personal liability for deprivation of
 civil rights, color of state law,
 26:11
 Presumptions and burden of proof.
 Instructions to jury, above
 Probable cause
 Arrests, **26:17**
 Exception to warrant requirement,
 26:38 to 26:40
 Property rights protected by state
 statute, **26:4**
 Protection, conditions of confine-
 ment, **26:43, 26:44**
 Proximate cause, **26:9**
 Public employees, First Amendment
 rights, **26:7**
 Punitive damages, **26:21, 26:32,**
 26:46 to 26:48
 Qualified immunity, **26:16**
 Reasonable suspicion for investiga-
 tory stop, exception to warrant
 requirement, **26:40**

INDEX

CIVIL RIGHTS UNDER SECTION 1983—Cont'd

- School students, First Amendment rights, **26:8**
- Search and seizure
 - Incident to lawful arrest, exceptions to warrant requirement, **26:35**
 - Seizure of person, Fourth Amendment, **26:30**
 - Unreasonable search, **26:34 to 26:37**
- Sovereign immunity, **26:18**
- Special verdict form, unreasonable force, **26:45 to 26:48**
- Statute of limitations, **26:19**
- Subjects and causes to be subjected, **26:26**
- Unreasonable force
 - Fourth Amendment, **26:29, 26:31**
 - Verdicts, **26:45 to 26:48**
- Verdicts
 - Generally, **26:45 to 26:48**
 - Municipal liability, **26:48**
 - Punitive damages, **26:46 to 26:48**
 - Special verdict form, unreasonable force, **26:45 to 26:48**
 - Unreasonable force, **26:45 to 26:48**

CLASS ACTIONS

- Generally, **1:13**

CLEAR AND CONVINCING EVIDENCE

- Negligent misrepresentation, **19:30**

CLERGY

- Professional negligence, **16:42**

COLLATERAL ESTOPPEL

- Defenses, **25:36**

COLLATERAL SOURCE DOCTRINE

- Damages, generally, **6:38**
- Medical malpractice, **16:25**
- Professional negligence, **16:64**
- Torts, this index

COLOR OF LAW

- Civil Rights under Section 1983, this index

COMMERCIAL HOSTS

- Alcoholic Beverages, this index
- Torts, this index

COMMON AREAS

- Premises liability, landlord and tenant, **18:38**

COMMON CARRIERS

- Negligence, this index

COMMON FUND

- Attorneys' fees, **6:23**

COMMON INTEREST

- Defamation, qualified or conditional privilege, **20:18**

COMMON LAW

- Privacy, defenses, **21:9**
- Sources of tort law, **1:1**
- Torts, this index
- Trade secrets, preemption of common law causes of action, **23:10**

COMMUNITY PROPERTY

- Multiple tortfeasors, execution of judgments, **13:3**

COMPANION PRODUCTS

- Products liability, **17:10**

COMPARATIVE BAD FAITH

- Insurance bad faith, **28:22**

COMPARATIVE FAULT

- Intentional torts, **14:27**

COMPETITION

- Interference with prospective advantage or business expectancy, affirmative defense, **23:20**

COMPLETION AND ACCEPTANCE DEFENSE

- Premises liability, **18:21**

COMPROMISE AND SETTLEMENT

- Insurance bad faith, **28:6, 28:7, 28:29**
- Multiple Tortfeasors, this index

**COMPROMISE AND
SETTLEMENT—Cont'd**

Torts, this index

CONCEALMENT

Fraud and misrepresentation, **19:21 to 29:23**

**CONFIDENTIALITY
MEMORANDUM**

Trade secrets, **23:31**

CONFLICT OF LAWS

Choice of Law, this index

CONSENT OR APPROVAL

Assault and battery, **14:34**

Civil rights under Section 1983,
exceptions to warrant require-
ment, **26:36**

Torts, this index

CONSORTIUM, LOSS OF

Damages, **6:35**

CONSTITUTIONAL LAW

Generally, **1:5**

Damages, calculation of damages,
6:37

Defamation, this index

Privacy, defenses, **21:10**

Torts, this index

CONSTRUCTION DEFECTS

Products liability, **17:33**

CONSTRUCTION WORK

Negligence, **2:53**

CONSTRUCTIVE DISCHARGE

Wrongful Discharge, this index

CONSUMER PROTECTION

Generally, **8:1 to 8:20**

Causation, **8:10, 8:18**

Conduct of trade or commerce, **8:6**

Consumer Protection Act, generally,
8:2 et seq.

Elements of Consumer Protection

Act, generally, **8:4 to 8:10, 8:13**

Harm to business or property, **8:9**

Injury, **8:17**

**CONSUMER PROTECTION
—Cont'd**

Instructions to jury

Generally, **8:13 to 8:20**

Causation, **8:18**

Definitions, **8:19, 8:20**

Elements of Consumer Protection
Act, **8:13**

Injury, **8:17**

Per se violations, **8:15**

Public interest, impact on, **8:16**

Reasonableness defense, **8:14**

Trade or commerce, **8:20**

Unfair or deceptive act or practice,
8:19

Insurance bad faith, policies not
requiring defense of insured,
28:16

Per se violations, **8:7, 8:15**

Preemption, **8:3**

Public interest, impact on, **8:8, 8:16**

Reasonableness defense, **8:14**

Remedies, **8:11**

Statute of limitations, **8:12**

Torts, this index

Trade or commerce, **8:20**

Unfair or deceptive act or practice,
8:5, 8:19

**CONTINUING COURSE OF
TREATMENT**

Medical malpractice, **16:11**

CONTRACTORS

Principal and agent, nondelegable
duties, **4:15**

CONTRACTS AND AGREEMENTS

Attorneys' fees, **6:17, 6:18**

Multiple Tortfeasors, this index

Statute of limitations, **10:7**

Torts, this index

CONTRIBUTION

Multiple Tortfeasors, this index

Torts, this index

CONTRIBUTORY NEGLIGENCE

Generally, **9:1 to 9:34**

Agents, imputed contributory
negligence, **9:7**

INDEX

CONTRIBUTORY NEGLIGENCE

—Cont'd

- Attorney malpractice, **16:36**
- Bodily substance analysis, intoxication, **9:34**
- Damages, measure of economic and noneconomic damages, **6:51, 6:52**
- Definition, under the influence of intoxicating liquor or any drug, **9:31**
- Degree of contributory negligence, determination of, **9:21**
- Domestic partners, imputed contributory negligence, **9:6**
- Felony, commission of, **9:4, 9:29, 9:33**
- Fewer than all plaintiffs, contributory negligence of, **9:19**
- Imputed contributory negligence
 - Generally, **9:5 to 9:8**
 - Parent and child, **9:8**
 - Principal and agent, **9:7**
 - Spouses and domestic partners, **9:6**
- Instructions to jury
 - Generally, **9:18 to 9:34**
 - Bodily substance analysis, intoxication, **9:34**
 - Child under six years of age, **9:20**
 - Definition, **9:18, 9:31**
 - Degree of contributory negligence, determination of, **9:21**
 - Felony, commission of, **9:29, 9:33**
 - Fewer than all plaintiffs, contributory negligence of, **9:19**
 - Intoxication, **9:25, 9:26, 9:30 to 9:34**
 - Knowledge by passenger of intoxication, **9:25**
 - Motor vehicle, intoxication of driver, **9:25, 9:32**
 - Parent, imputation of negligence of, **9:22**
 - Parent of child six years of age or older, **9:23**
 - Parent of child under six years of age, **9:24**
 - Voluntary intoxication, **9:26**

CONTRIBUTORY NEGLIGENCE

—Cont'd

- Intoxication, **9:3, 9:25, 9:26, 9:30 to 9:34**
- Knowledge by passenger of intoxication, **9:25**
- Motor vehicle, intoxication of driver, **9:25, 9:32**
- Parent and child, imputed contributory negligence
 - Generally, **9:8, 9:22 to 9:24**
 - Child under six years of age, **9:20**
 - Parent of child six years of age or older, **9:23**
 - Parent of child under six years of age, **9:24**
- Principal and agent, imputed contributory negligence, **9:7**
- Products liability, **17:42**
- Spouses, imputed contributory negligence, **9:6**
- Strict liability, **3:24**
- Torts, this index
- Voluntary intoxication, **9:26**

CONVERSION

- Intentional Interference with Property, this index

CORPORATIONS

- Negligence, duty of shareholder, **2:30**

COSTS OF ACTION

- Racketeer influenced and corrupt organizations act (RICO), **27:20**

COUNTIES

- Negligence, **2:31**

COURSE OF EMPLOYMENT

- Workers' compensation, **12:10**

CRASHWORTHINESS

- Products liability, **17:20**

CRIMINAL LAW

- Attorney malpractice, claims against defense counsel, **16:38**
- Negligence, this index
- Premises liability, protection of public invitees, **18:32**
- Torts, this index

CROSSWALKS

Motor Vehicle Accidents, this index

DAMAGES

Generally, **6:1 to 6:52**

Actual damages, **6:2**

Additur, **6:40**

Adequacy of verdicts, **6:40**

Amount of award, generally, **6:36 to 6:42**

Ancillary damages

Generally, **6:12 to 6:30**

Prejudgment interest, **6:14**

Punitive damages, **6:12**

Tax liability, compensation for increase in, **6:42**

Treble damages, **6:13**

Attorney malpractice, **16:37, 16:60, 16:63**

Business or property, avoidable consequences, **6:50**

Bystander injuries, **6:34**

Children, medical expenses, **6:47**

Civil rights under Section 1983, **26:20, 26:21**

Consortium, loss of, **6:35**

Constitutional provisions affecting calculation of damages, **6:37**

Contributory negligence, measure of economic and noneconomic damages, **6:51, 6:52**

Conversion, **14:17**

Death and Death Actions, this index

Defamation, this index

Direct injury resulting from negligent conduct, emotional distress absent physical injury, **6:9**

Domestic partner, medical expenses, **6:46**

Earnings lost, **6:5**

Emotional distress absent physical injury

Generally, **6:8 to 6:10**

Direct injury resulting from negligent conduct, **6:9**

Statutory authority, **6:10**

Employment Discrimination, this index

Excessive verdicts, **6:40**

DAMAGES—Cont'd

Fraud and misrepresentation, **19:10, 19:16, 19:26**

Health care providers, collateral sources, **6:39**

Instructions to jury

Generally, **6:43 to 6:52**

Avoidable consequences, **6:48 to 6:50**

Bystander recovery of emotional distress, **6:44**

Children, medical expenses, **6:47**

Contributory negligence, measure of economic and noneconomic damages, **6:51, 6:52**

Emotional distress, **6:43 to 6:52**

Measure of economic and noneconomic damages, **6:51, 6:52**

Medical expenses, **6:45 to 6:47**

Past and future medical expenses, **6:45**

Property or business, avoidable consequences, **6:50**

Spouse/state registered domestic partner, medical expenses, **6:46**

Treatment, failure to secure, **6:49**

Insurance bad faith, policies requiring defense of insured, **28:13, 28:14**

Interference with contractual relations, **23:5**

Malicious prosecution, **22:8**

Medical expenses, **6:6, 6:39, 6:45 to 6:47**

Mitigation of damages

Generally, **6:48 to 6:50, 9:9, 9:10**

Employment discrimination, **25:54**

Property or business, avoidable consequences, **6:50**

Seat belt evidence inadmissible, **9:10**

Treatment, failure to secure, **6:49**

Wrongful discharge, **24:33**

Overview, determination amount of award, **6:36**

Pain and suffering, **6:7**

INDEX

DAMAGES—Cont'd

- Past and future medical expenses, **6:45**
- Periodic payments, right to request, **6:41**
- Personal property, damage to, **6:4**
- Privacy, **21:11, 21:16**
- Profits lost, **6:11**
- Racketeer Influenced and Corrupt Organizations Act (RICO), this index
- Real property, damage to, **6:3**
- Remittitur, **6:40**
- Seat belt evidence inadmissible, **9:10**
- Spouses, medical expenses, **6:46**
- Tax liability, compensation for increase in, **6:42**
- Third-party, recovery for injury to
 - Bystander injuries, **6:34**
 - Consortium, loss of, **6:35**
 - Wrongful conception and wrongful birth, **6:32**
 - Wrongful life, **6:33**
- Third-party policies, **28:6**
- Third to party, recovery for injury to
 - Generally, **6:31 to 6:35**
- Timber trespass, **3:32**
- Torts, this index
- Trade secrets, **23:13**
- Treatment, failure to secure, **6:49**
- Treble damages, **6:13, 27:17**
- Wrongful conception and wrongful birth, **6:32**
- Wrongful Discharge, this index
- Wrongful life, **6:33**

DANGEROUS

INSTRUMENTALITY

- Negligence, entrustment, **2:27**

DANGEROUS OFFENDERS

- Governmental entities, claims against, **15:11**

DEAD BODIES

- Tortious interference, **14:18**

DEATH AND DEATH ACTIONS

- Generally, **7:1 to 7:10**
- Beneficiaries, **7:6**

DEATH AND DEATH ACTIONS

—Cont'd

- Children
 - Action brought by parent for death of child, **7:10**
 - Damages in action for benefit of child, **7:8**
- Choice of law, **7:2**
- Damages
 - Children/stepchildren, damages in action for benefit of, **7:8**
 - Dependent parent, brother or sister, damages in action for benefit of, **7:9**
 - Measure of damages, **7:7 to 7:9**
 - Spouse/state registered domestic partner, damages in action for benefit of, **7:7**
- Dependent parent, brother or sister, damages in action for benefit of, **7:9**
- Instructions to jury
 - Generally, **7:7 to 7:10**
 - Child, action brought by parent for death of, **7:10**
 - Children/stepchildren, damages in action for benefit of, **7:8**
 - Dependent parent, brother or sister, damages in action for benefit of, **7:9**
 - Measure of damages, **7:7 to 7:9**
 - Spouse/state registered domestic partner, damages in action for benefit of, **7:7**
- Preemption, **7:2**
- Spouse, damages in action for benefit of, **7:7**
- State registered domestic partner, damages in action for benefit of, **7:7**
- Stepchildren, damages in action for benefit of, **7:8**

DECEIT

- Fraud and Deceit, this index

DECEPTION DOCTRINE

- Motor vehicle accidents, **30:39**

DEFAMATION

- Generally, **20:1 to 20:33**

DEFAMATION—Cont'd

- Absolute privilege
 - Generally, **20:13 to 20:15**
 - Judicial or quasi-judicial proceeding, **20:14**
 - Legislative and other governmental proceedings, **20:15**
- Actual malice, constitutional law, **20:23**
- Burden of proof, **20:5**
- Common interest, qualified or conditional privilege, **20:18**
- Of and concerning plaintiff, **20:11**
- Constitutional law
 - Generally, **20:21 to 20:24**
 - Actual malice, **20:23**
 - Negligence standard, **20:24**
 - Public figures and public officials, **20:22, 20:26**
 - Speech concerning private matter not meriting constitutional protection, **20:25**
- Damages
 - Generally, **20:26**
 - Private figures/public concern, **20:26, 20:27**
- Distinctions between libel, slander and invasion of privacy, **20:2**
- Elements, generally, **20:4 to 20:20**
- Fact or opinion, **20:12**
- False and defamatory communications
 - Generally, **20:8 to 20:10**
 - Defamatory character, **20:9**
 - Falsity, **20:8**
 - Publication, **20:10**
- Governmental proceedings, absolute privilege, **20:15**
- Instructions to jury
 - Generally, **20:28 to 20:33**
 - Definition, **20:28**
 - Opinion, when defamatory, **20:29**
 - Private figure/public figure plaintiff, **20:31**
 - Public official/public figure, **20:30**
 - Qualified privilege, malice, **20:32**
 - Truth as defense, **20:33**
- Judicial proceeding, absolute privilege, **20:14**

DEFAMATION—Cont'd

- Legislative proceedings, absolute privilege, **20:15**
- Neutral reporting, qualified or conditional privilege, **20:16**
- Official proceedings, reports of, **20:17**
- Opinion, when defamatory, **20:29**
- Opinion or fact, **20:12**
- Persons who may be defamed, **20:7**
- Public and/or private officials and figures
 - Generally, **20:30**
 - Constitutional law, **20:22, 20:26**
 - Damages, **20:26, 20:27**
 - Plaintiffs, **20:31**
- Publication, false and defamatory communications, **20:10**
- Qualified or conditional privilege
 - Generally, **20:13, 20:16 to 20:19**
 - Common interest, **20:18**
 - Malice, **20:32**
 - Neutral reporting, **20:16**
 - Official proceedings, reports of, **20:17**
- Quasi-judicial proceeding, absolute privilege, **20:14**
- Questions of law and fact, **20:6**
- Single publication rule, **20:20**
- Slander of title, **20:3**
- Speech concerning private matter not meriting constitutional protection, **20:25**
- Statutes of limitation, **10:19**
- Torts, this index
- Truth as defense, **20:33**

DEFENSES

- Attorney malpractice, **16:35, 16:36**
- Civil Rights under Section 1983, this index
- Collateral estoppel, **25:36**
- Intentional Torts, this index
- Interference with prospective advantage or business expectancy, **23:20, 23:21**
- International Interference with Property, this index
- Malicious prosecution, **21:10, 22:9**

INDEX

DEFENSES—Cont'd

- Nuisance, coming to the nuisance, **3:16**
- Products Liability, this index
- Racketeer influenced and corrupt organizations act (RICO), **27:15**
- Strict liability, **3:24, 3:25**
- Torts, this index

DELIBERATE INDIFFERENCE

- Civil rights under Section 1983, **26:33, 26:44**

DELIBERATE INJURIES

- Workers' compensation, **12:11**

DEPARTMENT OF LABOR AND INDUSTRIES

- Multiple tortfeasors, lien rights, **13:41**

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

- Multiple tortfeasors, lien rights, **13:42**

DESIGN DEFECTS

- Comment K, **17:14**
- Products liability, **17:12, 17:12 to 17:14, 17:35**

DISABILITY DISCRIMINATION

- Torts, this index

DISABLED PERSONS

- Negligence, duty of common carrier, **2:64**

DISCIPLINARY COMMITTEE MEMBERS

- Workers' compensation, **12:20**

DISCLAIMERS

- Wrongful discharge, employee handbook, **24:4, 24:40, 24:41**

DISCOVERY

- Insurance bad faith, claims files and mental impressions of insurer's attorneys, **28:23**
- Statutes of limitation, **10:3**

DISCRETIONARY FUNCTIONS

- Governmental entities, claims against, **15:6**

DISCRIMINATION

- Workers' compensation, **12:13**

DISPARATE IMPACT AND DISPARATE TREATMENT

- Employment discrimination, **25:8 to 25:10, 25:38 to 25:41**

DOGS

- Generally, **3:5**
- Torts, this index
- Workers' compensation, dog handlers, **12:17**

DOMESTIC PARTNERS

- Damages, medical expenses, **6:46**
- Imputed contributory negligence, **9:6**
- Torts, this index

DRIVEWAYS

- Motor vehicle accidents, right-of-way when emerging from driveway, **30:9, 30:34**

DRIVING WHILE INTOXICATED

- Motor vehicle accidents, **30:15**

DUAL PERSONA AND DUAL CAPACITY DOCTRINES

- Workers' compensation, **12:12**

DUE PROCESS

- Civil rights under Section 1983, **26:5**

EARNINGS

- Damages, lost earnings, **6:5**

ECCLESIASTICAL BODIES

- Workers' compensation, **12:18**

ECONOMIC LOSS

- Generally, **1:10**
- Products liability, **17:21**
- Torts, this index

ECONOMIC RELATIONS

- Generally, **23:1 to 23:42**
- Forms
- Generally, **23:14 to 23:42**

ECONOMIC RELATIONS—Cont'd

Forms—Cont'd

Loyalty provisions/agreement not to recruit employees, **23:29**

Improper purpose and improper means, tortious interference, **23:18**

Instructions to jury, improper purpose and improper means, tortious interference, **23:18**

Loyalty provisions/agreement not to recruit employees, **23:29**

Torts, this index

EIGHTH AMENDMENT

Civil rights under Section 1983, conditions of confinement, **26:41 to 26:44**

EJECTION OF PASSENGER

Negligence, common carrier, **2:63**

ELECTRICAL UTILITIES

Negligence

Interruption of service, duty to avoid, **2:25**

Reasonable care, duty to use, **2:41**

EMERGENCIES

Negligence, definition of reasonable care, **2:37**

EMERGENCY MEDICAL SERVICE PERSONNEL

Medical malpractice, immunity, **16:22**

Torts, this index

Workers' compensation, **12:21**

EMERGENCY VEHICLES

Motor Vehicle Accidents, this index

EMOTIONAL DISTRESS

Damages, this index

Wrongful discharge, measure of damages, **24:35**

EMPLOYMENT

Generally, **4:2 to 4:9**

Borrowed servant doctrine, **4:4**

Civil rights under Section 1983, property interests, **26:6**

EMPLOYMENT—Cont'd

Corporation acts through its employees, **4:33**

Discrimination. Employment

Discrimination, this index

On duty issue, scope of employment, **4:5**

Employee liability, **4:9**

Furthering of master's business, scope of employment, **4:6**

Independent contractors and servants, distinguished, **4:3, 4:28**

Instructions to jury

Corporation acts through its employees, **4:33**

Independent contractor, defined, **4:28**

Intentional torts of employee, **4:7**

Scope of employment, **4:5, 4:6, 12:10**

Torts, this index

Vicarious liability, generally, **4:2 to 4:9**

EMPLOYMENT

DISCRIMINATION

Generally, **25:1 to 25:43**

After-acquired evidence defense, **25:31**

Age discrimination, **25:22**

Attorney's fees, **25:33**

Blacklisting, **25:27**

Bona fide occupational qualifications (BFOQs), **25:34, 25:42**

Burden of proof. Instructions to jury, below

Burden-shifting procedures, disparate impact and disparate treatment, **25:11**

Causation, **25:28**

Constructive discharge, **25:6, 25:37**

Damages

Generally, **25:29 to 25:33, 25:55 to 25:57**

After-acquired evidence defense, **25:31**

Attorney's fees, **25:33**

Economic loss, **25:30, 25:56**

Future lost earnings, **25:57**

INDEX

EMPLOYMENT

DISCRIMINATION—Cont'd

Damages—Cont'd

Mitigation of damages, **25:55**

Noneconomic loss, **25:32, 25:56**

Definitions, WLAD, **25:2 to 25:4**

Disability discrimination

Generally, **25:23**

Instructions to jury, below

Disparate impact and disparate treatment, **25:8 to 25:10, 25:38 to 25:41**

Economic or noneconomic loss, damages, **25:30, 25:32, 25:56**

Essential function, disability discrimination, **25:53**

Federal law, claims based on, **25:7**

Future lost earnings, damages, **25:57**

Harassment in workplace, **25:44 to 25:47**

Hostile work environment, sex discrimination, **25:16, 25:47**

Instructions to jury

Generally, **25:37 to 25:57**

Bona fide occupational qualification (BFOQ), **25:42**

Burden of proof

Constructive discharge, **25:37**

Disability discrimination, **25:48, 25:50**

Disparate impact, **25:41**

Disparate treatment, **25:38, 25:39**

Hostile work environment, workplace harassment, **25:47**

Quid pro quo, workplace harassment, **25:45**

Constructive discharge, **25:37**

Damages, **25:55 to 25:57**

Disability discrimination

Generally, **25:48 to 25:52**

Burden of proof, **25:48, 25:50**

Definition of disability, **25:49**

Essential function, **25:53**

Impairment, defined, **25:54**

Reasonable accommodation, **25:50, 25:51**

Undue hardship, **25:52**

EMPLOYMENT

DISCRIMINATION—Cont'd

Instructions to jury—Cont'd

Disparate impact, **25:40, 25:41**

Disparate treatment, burden of proof, **25:38, 25:39**

Economic and noneconomic damages, **25:56**

Essential function, disability discrimination, **25:53**

Future lost earnings, damages, **25:57**

Harassment in workplace, **25:44 to 25:47**

Hostile work environment, workplace harassment, **25:47**

Mitigation of damages, **25:55**

Quid pro quo, workplace harassment, **25:45**

Reasonable accommodation, disability discrimination, **25:50, 25:51**

Retaliation, **25:43**

Undue hardship, disability discrimination, **25:52**

Marital status discrimination, **25:20**

Mitigation of damages, **25:55**

Preemployment inquiries, **25:26**

Presumptions and burden of proof. Instructions to jury, above

Public accommodations discrimination

Disability, **25:12**

Sexual harassment, **25:17**

Quid pro quo, sex discrimination, **25:15, 25:45**

Race discrimination, **25:21**

Reasonable accommodation, disability discrimination, **25:50, 25:51**

Religious discrimination, **25:19**

Retaliation, **25:24, 25:43**

Sex discrimination

Generally, **25:14 to 25:18**

Hostile work environment, **25:16, 25:47**

Public accommodations, **25:17**

Quid pro quo, **25:15, 25:45**

Sexual harassment, **25:14 to 25:17**

Sexual orientation, **25:18**

EMPLOYMENT

DISCRIMINATION—Cont'd

- Statute of limitations, **25:35**
- Torts, this index
- Undue hardship, disability discrimination, **25:52**
- Washington Law Against Discrimination (WLAD)
 - Generally, **25:1**
 - Definitions, **25:2**
 - Persons subject to its terms, **25:3**
 - Special provisions, **25:4**
 - Workers' compensation, retaliation, **25:25**

ENGINEERS

- Professional negligence, **16:39**

ENHANCED INJURY

- Products liability, **17:20**

ENHANCED OBLIGATIONS

- Insurance Bad Faith, this index

ENTERPRISE

- Proximate cause, **5:9**
- Racketeer influenced and corrupt organizations act (RICO), **27:6**

ENTRUSTMENT

- Negligence, motor vehicle or dangerous instrumentality, **2:27**

EQUINE ACTIVITIES

- Generally, **3:7**

EQUITABLE TOLLING

- Statutes of limitation, **10:5**

EQUITY

- Attorneys' fees, **6:22 to 6:25**
- Contribution and indemnity, equitable remedies, **13:36**
- Torts, this index

ESSENTIAL FUNCTIONS

- Employment, disability discrimination, **25:53**

ESTOPPEL

- Statutes of limitation, **10:8**

EVIDENCE

- Fraud and misrepresentation, preponderance of evidence, **19:19**
- Negligence, this index
- Presumptions and Burden of Proof, this index
- Spoliation of evidence, **22:15**
- Torts, this index
- Witness immunity, **12:2**

EXCEPTIONS

- Civil Rights under Section 1983, this index

EXCESS INSURANCE

- Insurance bad faith, policies requiring defense of insured, **28:12**

EXCESSIVE VERDICTS

- Damages, **6:40**

EXIGENT CIRCUMSTANCES

- Civil rights under Section 1983, exceptions to warrant requirement, **26:37**

EXPERTS

- Medical malpractice, **16:7**

EXTREME AND OUTRAGEOUS CONDUCT

- Outrage, **14:37**

FALSE ARREST

- Generally, **14:10, 14:36**

FALSE IMPRISONMENT

- Generally, **14:9, 14:36**
- Statutes of limitation, **10:19**
- Torts, this index

FALSE LIGHT

- Privacy, **10:19, 21:6, 21:14**

FALSE PROMISE

- Fraud and misrepresentation, **19:24**

FAMILY AND RELATIVES

- Immunity, **12:3 to 12:5**
- Torts, this index
- Vicarious liability, **4:18 to 4:20**

INDEX

FAMILY CAR DOCTRINE

Vicarious liability, **4:20, 4:35**

FARMS

Nuisance, right-to-farm immunity,
3:17

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)

Products Liability, this index
Torts, this index

FEDERAL MARITIME JURISDICTION

Workers' compensation, **12:14**

FEDERAL RAILROAD SAFETY ACT

Preemption, **1:9**

FEDERAL TORT CLAIMS ACT

Generally, **15:2**

FEES

Attorney's Fees, this index

FELONIES

Contributory negligence, **9:4, 9:29,
9:33**

FIDUCIARIES OR REPRESENTATIVES

Attorney malpractice, **16:61 to 16:63**
Negligent misrepresentation, **19:30**
Torts, this index

FINANCIAL INTEREST

Interference with prospective
advantage or business expect-
tancy, affirmative defense, **23:21**

FIRST AMENDMENT

Civil rights under Section 1983, **26:7,
26:8**

FORESEEABILITY

Negligence, **2:6**
Proximate cause, **5:19**
Torts, this index

FOREST PRACTICES ACT

Workers' compensation, **12:25**

FORMS

Fraud and Deceit, this index
Insurance Bad Faith, this index
Intentional Torts, this index
Medical Malpractice, this index
Products Liability, this index
Torts, this index
Trade Secrets, this index
Wrongful Discharge, this index

FOSTER CARE

Negligence, foster care placement
and supervision, **2:21**

FOURTEENTH AMENDMENT

Civil rights under Section 1983,
conditions of confinement,
26:41 to 26:44

FRANCHISES

Negligence, duty to employees of
franchisee, **2:28**

FRAUD AND DECEIT

Generally, **19:1 to 19:32**
Active concealment of known facts,
19:23
Affirmative misstatements, negligent
misrepresentation, **19:27**
Burden of proof, **19:18, 19:19, 19:27**
Clear, cogent and convincing evi-
dence, combined with
preponderance of evidence,
negligent misrepresentation,
19:31
Complaint for fraud and negligent
misrepresentation, **19:32**
Concealment, **19:21 to 19:23**
Damages, **19:10, 19:16, 19:26**
Defenses, **19:15**
Duty to disclose, negligent misrepre-
sentation, **19:29**
Elements, generally, **19:2 to 19:10,
19:13**
Existing material fact, **19:3**
Failure to disclose information,
negligent misrepresentation,
19:28 to 19:30
False promise, **19:24**
Fiduciary relationship, negligent mis-
representation, **19:30**

FRAUD AND DECEIT—Cont'd

Forms

Generally, **19:17 to 19:32**

Complaint for fraud and negligent misrepresentation, **19:32**

Fraudulent concealment, **19:7**

Independent duty doctrine, application of, **19:14**

Instructions to jury

Generally, **19:17 to 19:31**

Active concealment of known facts, **19:23**

Affirmative misstatements, negligent misrepresentation, **19:27**

Benefit of the bargain rule, damages, **19:26**

Burden of proof, **19:18, 19:19, 19:27**

Clear, cogent and convincing evidence, combined with preponderance of evidence, negligent misrepresentation, **19:31**

Concealment, **19:21 to 29:23**

Damages, benefit of the bargain rule, **19:26**

Defenses, **19:15**

Duty to disclose, negligent misrepresentation, **19:29**

Elements, **19:13**

Failure to disclose information, negligent misrepresentation, **19:28 to 19:30**

False promise, **19:24**

Fiduciary relationship, negligent misrepresentation, **19:30**

Independent duty doctrine, application of, **19:14**

Intent not to perform, evidence of, **19:25**

Negligent misrepresentation

Generally, **19:27 to 19:32**

Affirmative misstatements, **19:27**

Burden of proof, **19:27**

Clear, cogent and convincing evidence, combined with

FRAUD AND DECEIT—Cont'd

Instructions to jury—Cont'd

Negligent misrepresentation

—Cont'd

preponderance of evidence, **19:31**

Duty to disclose, **19:29**

Failure to disclose information, **19:28 to 19:30**

Fiduciary relationship, **19:30**

Nondisclosure of known facts, **19:22**

Opinion, expression of, **19:20**

Preponderance of evidence, **19:19**

Intended reliance, **19:8**

Intent not to perform, evidence of, **19:25**

Intent of speaker, statements regarding, **19:5**

Jury. Instructions to jury, above

Justifiable reliance, **19:9**

Knowledge of falsity, **19:6**

Negligent misrepresentation

Generally, **19:12**

Instructions to jury, above

Statutes of limitation, **10:18**

Nondisclosure of known facts, **19:22**

Opinion, expression of, **19:20**

Opinion vs. fact, **19:4**

Practice pointers, **19:1**

Preponderance of evidence, **19:19**

Release of liability, **11:8**

Reliance, **19:8, 19:9**

Residential property, sale of, **19:11**

Scienter, **19:6**

Silence, **19:7**

Statutes of limitation, **10:18**

Torts, this index

FRAUDS, STATUTE OF

Wrongful discharge, contractual relationships, **24:12**

FRONT PAY

Wrongful discharge, measure of damages, **24:4**

FUNGIBLE PRODUCTS

Multiple tortfeasors, joint liability, **13:17**

INDEX

GOOD FAITH

Bad Faith, this index

GOOD SAMARITAN RULE

Negligence, **2:14, 2:71**

GOVERNING LAW

Choice of Law, this index

GOVERNMENTAL ENTITIES, ACTIONS AGAINST

Generally, **15:1 to 15:18**

Arbitrary actions of government
agencies, claims by property
owners, **15:5**

Capricious actions of government
agencies, claims by property
owners, **15:5**

Claim-filing requirements, **15:4**

Dangerous offenders, supervision of,
15:11

Discretionary function exemption,
15:6

Failure to enforce exception, public
duty doctrine, **15:13**

Federal agencies, claims against, gen-
erally, **15:2 to 15:15**

Federal Tort Claims Act, **15:2**

Form, claim for action against state
governmental agencies, **15:18**

Judicial immunity, **15:14**

Legislative intent exception, public
duty doctrine, **15:8**

Local governmental entities, claims
against, **15:16**

Motor Vehicle Accidents, this index

Political subdivisions, claims against,
15:16, 15:17

Prejudgment and post judgment inter-
est, **15:15**

Public duty doctrine

Generally, **15:7 to 15:13**

Dangerous offenders, supervision
of, **15:11**

Failure to enforce exception, **15:13**

Legislative intent exception, **15:8**

Special relationship exception,
15:9, 15:11

Volunteer rescue exception, **15:12**

Quasi-judicial immunity, **15:14**

GOVERNMENTAL ENTITIES,

ACTIONS AGAINST—Cont'd

Special relationship exception, public
duty doctrine, **15:9, 15:11**

State agencies, claims against, gener-
ally, **15:2 to 15:15**

Time limits, **15:4, 15:16**

Torts, this index

Unlawful actions of government
agencies, claims by property
owners, **15:5**

Volunteer rescue exception, public
duty doctrine, **15:12**

Washington Tort Claims Act, gener-
ally, **15:3**

GOVERNMENTAL IMMUNITY

Strict liability, **3:25**

GOVERNMENTAL PROCEEDINGS

Defamation, absolute privilege, **20:15**

GOVERNMENT CONTRACTORS

Workers' compensation, **12:22**

GOVERNMENT SPECIFICATIONS

Products liability, **17:38, 17:44**

GROSS NEGLIGENCE

Generally, **2:43, 2:58**

HANDBOOKS

Wrongful discharge, employee
handbooks, **24:10, 24:40, 24:41**

HARASSMENT

Employment discrimination, **25:44 to
25:47**

HAZARDOUS WASTES OR SUBSTANCES

Multiple tortfeasors, joint liability,
13:15

Strict liability, hazardous waste, **3:23**

Torts, this index

HIGHWAYS, STREETS, AND BRIDGES

Nuisance, interference with use, **3:27**

Premises liability, **18:17, 18:23,
18:43, 18:45**

Torts, this index

HORSES

Generally, **3:7**

HOSPITALS

Medical. Torts, this index
Medical Malpractice, this index
Negligence, exclusion of hospital
quality assurance program
records, **2:52**

HOSTILE WORK ENVIRONMENT

Employment, **25:46**
Employment, sex discrimination,
25:16, 25:47

HUSBAND AND WIFE

Damages, medical expenses, **6:46**
Employment, marital status
discrimination, **25:20**
Imputed contributory negligence, **9:6**
Interspousal immunity, **12:5**
Torts, this index
Wrongful death and survival, dam-
ages in action for benefit of
spouse, **7:7**

IMMUNITY

Generally, **12:1 to 12:25**
Civil rights under Section 1983,
absolute immunity, **26:15**
Communication to government
agency or self-regulatory organi-
zation, **12:24**
Family immunity, **12:3 to 12:5**
Interspousal immunity, **12:5**
Nuisance, right-to-farm immunity,
3:17
Parental immunity, **12:3, 12:4**
Witness immunity, **12:2**

IMPLIED AGREEMENTS

Wrongful discharge, **24:8 to 24:10,**
24:36

IMPLIED CAUSES OF ACTION

Generally, **1:4**

IMPLIED WARRANTIES

Products liability, **17:19**

IMPRISONMENT

False Imprisonment, this index

**IMPROVEMENTS TO REAL
PROPERTY**

Statutes of limitation, **10:12**

**IMPUTED CONTRIBUTORY
NEGLIGENCE**

Contributory Negligence, this index

INCOMPETENT PERSONS

Medical malpractice, informed
consent, **16:18**

**INDEPENDENT BUSINESS
JUDGMENT**

Proximate cause, **5:17**

INDEPENDENT CONTRACTORS

Agents, distinguished, **4:37**
Employee, distinguished, **4:3, 4:28**
Premises liability, duty of possessor
to employees, **18:19**
Torts, this index

INDEPENDENT DUTY DOCTRINE

Generally, **1:10**

**INDEPENDENT ECONOMIC
VALUE**

Trade secrets, **23:26**

INFANTS

Children and Minors, this index

INFORMED CONSENT

Medical Malpractice, this index
Medical malpractice. Torts, this index

**INJUNCTIONS AND
RESTRAINING ORDERS**

Timber trespass, **3:32**
Torts, this index
Trade secrets, **23:12**

INSTRUCTIONS

Products liability, manufacturer's
duties, **17:36, 17:37**

INSTRUCTIONS TO JURY

Abuse of process, **22:17**
Alcoholic Beverages, this index
Assault and Battery, this index
Assumption of Risk, this index
Attorney Malpractice, this index

INDEX

INSTRUCTIONS TO JURY—Cont'd

- Children, Alcoholic Beverages, this index
- Civil Rights Under Section 1983, this index
- Commercial vendors, Alcoholic Beverages, this index
- Consumer Protection, this index
- Contributory Negligence, this index
- Damages, this index
- Death and Death Actions, this index
- Defamation, this index
- Discrimination. Employment Discrimination, this index
- Employment, this index
- Employment Discrimination, this index
- Fraud and Deceit, this index
- Insurance Bad Faith, this index
- Intentional Torts, this index
- Interference with Contractual Relations, this index
- Interference with Prospective Advantage or Business Expectancy, this index
- Malicious prosecution, **22:16**
- Medical Malpractice, this index
- Minors, Alcoholic Beverages, this index
- Motor Vehicle Accidents, this index
- Multiple tortfeasors, acting in concert, **13:44, 13:45**
- Negligence, this index
- Nuisance, this index
- Outrage, this index
- Partners and Partnership, this index
- Premises Liability, this index
- Principal and Agent, this index
- Privacy, this index
- Products Liability, this index
- Professional Negligence, this index
- Proximate Cause, this index
- Racketeer Influenced and Corrupt Organizations Act (RICO), this index
- Timber trespass, **3:31**
- Torts, this index
- Trade Secrets, this index

INSTRUCTIONS TO JURY—Cont'd

- Vicarious Liability, this index
- Wrongful Discharge, this index

INSURANCE

- Attorneys' fees, litigation with insurance carrier, **6:26**
- Professional negligence, **16:43, 16:64**
- Torts, this index
- Underinsured motorist (UIM) policies, **28:21**

INSURANCE BAD FAITH

- Generally, **28:1 to 28:33**
- Basis of liability, **28:4**
- Burden of proof, **28:25, 28:31**
- Comparative bad faith, **28:22**
- Consumer Protection Act, policies not requiring defense of insured, **28:16**
- Damages, policies requiring defense of insured, **28:13, 28:14**
- Discovery of claims files and mental impressions of insurer's attorneys, **28:23**
- Enhanced obligations when defending insured under reservation of rights
 - Definition duty, **28:10**
 - Remedies for breach, **28:11**
- Excess carriers, policies requiring defense of insured, **28:12**
- First-party claims, denial of, **28:28**
- Forms
 - Generally, **28:25 to 28:33**
 - Special verdict form, **28:33**
- Instructions to jury
 - Generally, **28:25 to 28:32**
 - Burden of proof, **28:25, 28:31**
 - First-party claims, denial of, **28:28**
 - General duty, **28:26**
 - Insurance Fair Conduct Act, **28:32**
 - Insurance regulations related to settlement of claims, violations of, **28:30**
 - Investigation and exploration of settlement, failure regarding, **28:29**
 - Reservation of rights, failure to act in good faith and defending

INSURANCE BAD FAITH—Cont'd

- Instructions to jury—Cont'd
 - subject to, **28:27**
- Third-party claims, **28:31**
- Insurance Fair Conduct Act, **28:2, 28:3, 28:32**
- Insurance regulations related to settlement of claims, violations of, **28:30**
- Investigation, negotiation and settlement, **28:6, 28:7, 28:29**
- Notice requirement, insurance Fair Conduct Act, **28:3**
- Policies not requiring defense of insured
 - Generally, **28:15 to 28:19**
 - Consumer Protection Act, **28:16**
 - Damages, **28:19**
 - Denial of claims without reasonable justification, **28:16**
 - First to party policies, generally, **28:15 to 28:17**
 - Washington Administrative Code, **28:17, 28:18**
- Policies requiring defense of insured
 - Generally, **28:5 to 28:14**
 - Damages, **28:13, 28:14**
 - Defense, duty to provide, **28:8**
 - Definition of duty to defend, **28:8**
 - Duty to defend, **28:8, 28:9**
 - Enhanced obligations when defending insured under reservation of rights, **28:11**
 - Definition of duty, **28:10**
 - Remedies for breach, **28:11**
- Excess and umbrella carriers, **28:12**
- Investigation, negotiation and settlement within policy limits, **28:7**
- Remedies for breach of duty to defend, **28:8**
- Third to party policies, generally, **28:5 to 28:14**
- Reservation of rights, failure to act in good faith and defending subject to, **28:27**
- Res judicata, uninsured motorist claims, **28:24**

INSURANCE BAD FAITH—Cont'd

- Special verdict form, **28:33**
- Statute of limitations, **28:20**
- Third-party claims, **28:31**
- Torts, this index
- Umbrella carriers, policies requiring defense of insured, **28:12**
- Uninsured motorist claims, res judicata, **28:24**
- Washington Administrative Code, policies not requiring defense of insured, **28:17, 28:18**

INTENTIONAL, WILLFUL, OR WANTON ACTS

- Several or proportionate liability, **13:6**
- Workers' compensation, intentional injuries, **12:11**

INTENTIONAL INTERFERENCE WITH PROPERTY

- Generally, **14:14 to 14:18**
- Conversion
 - Generally, **14:16, 14:17**
 - Complaint, **14:43**
 - Damages, **14:17**
 - Defenses, **14:24, 14:25**
- Damages, conversion, **14:17**
- Dead body, tortious interference with, **14:18**
- Defenses
 - Conversion, **14:24, 14:25**
 - Prevention of conversion of personal property, **14:24**
 - Recapture of personal property, **14:26**
- Prevention of conversion of personal property, **14:24**
- Recapture of personal property, **14:26**
- Torts, this index
- Trespass to land, **14:14**
- Trespass to personal property, **14:15**

INTENTIONAL TORTS

- Generally, **14:1 to 14:43**
- Act and intent requirements, **14:2**
- Citizen arrest, statutory privilege and common law privilege for, **14:22**

INDEX

INTENTIONAL TORTS—Cont'd

- Comparative fault, **14:27**
- Defense of others, **14:21**
- Defenses
 - Generally, **14:19 to 14:30**
 - Citizen arrest, statutory privilege and common law privilege for, **14:22**
 - Comparative fault, **14:27**
 - Defense of others, **14:21**
 - Prevention of trespass to real property, **14:23**
 - Qualified immunity, **14:28**
 - Self-defense, **14:20**
 - Warrant, execution of valid, **14:29**
- Employer and employee, **4:7**
- False arrest, **14:10, 14:36**
- False imprisonment, **14:9, 14:36**
- Forms
 - Generally, **14:31 to 14:43**
 - Assault and battery, complaint, **14:42**
 - Conversion, complaint, **14:43**
- Instructions to jury
 - Generally, **14:31 to 14:43**
 - False imprisonment or false arrest, **14:36**
 - Self-defense, **14:41**
 - Willful misconduct and wanton misconduct, defined, **14:31**
- Multiple Tortfeasors, this index
- Prevention of trespass to real property, **14:23**
- Qualified immunity, **14:28**
- Self-defense, **14:20, 14:41**
- Torts, this index
- Vicarious liability, parent and child, **4:19**
- Warrant, execution of valid, **14:29**
- Willful misconduct and wanton misconduct, defined, **14:31**

INTERFERENCE

- Torts, this index

INTERFERENCE WITH CONTRACTUAL RELATIONS

- Generally, **23:2 to 23:6**
- Burden of proof, **23:14, 23:15**

INTERFERENCE WITH CONTRACTUAL RELATIONS—Cont'd

- Damage, **23:5**
- Elements, **23:3 to 23:6**
- Existence of contract, **23:3**
- Improper purpose and improper means, tortious interference, **23:18**
- Instructions to jury
 - Burden of proof, **23:14, 23:15**
 - Improper purpose and improper means, tortious interference, **23:18**
 - Legally protected interest, affirmative defense, **23:19**
- Knowledge of defendant of existence of contract, **23:3**
- Legally protected interest, affirmative defense, **23:19**
- Multiple tortfeasors, **13:16**
- Privilege, **23:6**
- Wrongful interference, **23:4**

INTERFERENCE WITH PROSPECTIVE ADVANTAGE OR BUSINESS EXPECTANCY

- Generally, **23:7, 23:8**
- Affirmative defenses, **23:20, 23:21**
- Burden of proof, **23:16, 23:17**
- Competition as affirmative defense, **23:20**
- Financial interest as affirmative defense, **23:21**
- Instructions to jury
 - Affirmative defenses, **23:20, 23:21**
 - Burden of proof, **23:16, 23:17**
 - Competition as affirmative defense, **23:20**
 - Financial interest as affirmative defense, **23:21**
- Privilege, **23:8**

INTERSPOUSAL IMMUNITY

- Generally, **12:5**

INTERVENING CAUSES

- Proximate cause, **5:4, 5:22**

INTOXICATING LIQUORS

- Alcoholic Beverages, this index

INVERSE CONDEMNATION

Statutes of limitation, **10:14**
Torts, this index
Trespass, **3:21**

INVESTIGATIONS

Insurance bad faith, **28:7, 28:29**

**JOINT ENTERPRISE AND
PARTNERSHIP**

Principal and agent, **4:16**

JOINT LIABILITY

Multiple Tortfeasors, this index
Torts, this index

JOINT VENTURES

Vicarious liability, **4:34**

JUDICIAL IMMUNITY

Governmental entities, claims
against, **15:14**

JUDICIAL INTERVENTION

Proximate cause, superseding cause,
5:18

JUDICIAL PROCEEDINGS

Defamation, absolute privilege, **20:14**

JURISDICTION

Federal property and state subject
matter jurisdiction, **1:11**
Racketeer Influenced and Corrupt
Organizations Act (RICO), this
index

JURY AND JURY TRIAL

Instructions to Jury, this index

JUSTIFIABLE RELIANCE

Duty of schools toward their pupils,
2:9
Fraud and misrepresentation, **19:9**
Negligence, nonfeasance, **2:8**
Torts, this index

KNOWLEDGE

Contributory negligence, passenger's
knowledge of intoxication, **9:25**
Fraud and misrepresentation, knowl-
edge falsity, **19:6**
Interference with contractual rela-
tions, existence of contract, **23:3**

LANDLORD AND TENANT

Premises Liability, this index

LAND SURVEYORS

Professional negligence, **16:39**

LAND USE

Civil rights under Section 1983, **26:3**

LATENT DEFECTS

Premises liability, landlord and ten-
ant, **18:36**

LEARNED HAND TEST

Negligence, definition of reasonable
care, **2:34**

**LEARNED INTERMEDIARY
DOCTRINE**

Products liability, **17:16**

LEFT TURNS

Motor vehicle accidents, right-of-
way, **30:6, 30:31**

LEGAL CAUSE

Proximate Cause, this index

LEGAL PROCESS

Generally, **22:1 to 22:17**
Negligent investigation, **22:14**
Spoliation of evidence, **22:15**
Torts, this index

**LEGISLATIVE INTENT
EXCEPTION**

Governmental entities, claims
against, public duty doctrine,
15:8

LEGISLATIVE PROCEEDINGS

Defamation, absolute privilege, **20:15**

LIEN RIGHTS

Multiple tortfeasors, **13:41 to 13:43**

LIKENESS

Privacy, appropriation of likeness,
21:4, 21:15

LIQUOR

Alcoholic Beverages, this index

LOAN RECEIPT AGREEMENTS

Multiple tortfeasors, **13:27**

INDEX

LODESTAR FEE

Calculating, **6:29**

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT

Preemption, **1:8**

LOSS OF CHANCE

Proximate cause, **5:11**

LOYALTY PROVISIONS

Economic relations, **23:29**

MALICIOUS PROSECUTION

Generally, **22:2 to 22:9**

Damages, **22:8**

Defenses, **21:10, 22:9**

Elements, generally, **22:4 to 22:8**

Injury, **22:8**

Instructions to jury, **22:16**

Malice, **22:6**

Parties, **22:3**

Probable cause, want of, **22:4, 22:5**

Termination in plaintiff's favor, **22:7**

Torts, this index

MALPRACTICE

Medical. Torts, this index

MARITAL STATUS DISCRIMINATION

Employment discrimination, **25:20**

MARITIME LAW OR MATTERS

Preemption, **1:7, 1:8**

MARKET SHARE LIABILITY

Proximate cause, **5:10**

MARY CARTER AGREEMENTS

Multiple tortfeasors, settlement and
release, **13:28**

MATERIAL RISKS

Medical malpractice, informed
consent, **16:17**

MEDIATION

Medical malpractice, **16:2**

MEDICAL CARE OR TREATMENT

Civil rights under Section 1983,
conditions of confinement,
26:41, 26:42

Damages, medical expenses, **6:6,
6:39, 6:45 to 6:47**

Products liability, medical device
amendments, **17:26**

Torts, this index

MEDICAL MALPRACTICE

Generally, **16:2 to 16:27**

Apparent agency, hospital, **16:51**

Attorney's fees, **16:26**

Burden of proof, **16:47, 16:48**

Captain of the ship doctrine, **16:9**

Collateral source rule, **16:25**

Continuing course of treatment,
16:11

Corporate negligence, hospital
liability, **16:19, 16:50**

Course of treatment, disagreement as
to, **16:8**

Disagreement as to course of treat-
ment, **16:8**

Emergency medical service person-
nel, immunity for, **16:22**

Expert testimony, **16:5**

Forms

Generally, **16:45 to 16:65**

Hospital and anesthesiologists,
complaint against, **16:65**

Hospital liability

Generally, **16:19**

Apparent agency, **16:51**

Complaint, **16:65**

Corporate negligence, **16:19,
16:50**

Incompetent persons, informed
consent, **16:18**

Informed consent

Generally, **16:14 to 16:18, 16:48,
16:52**

Incompetent persons, **16:18**

Material risks, **16:17**

Reasonable patient standard, **16:16**

Written consent form, **16:15**

MEDICAL MALPRACTICE

—Cont'd

Instructions to jury
 Generally, **16:45 to 16:64**
 Apparent agency, hospital, **16:51**
 Burden of proof, **16:47, 16:48**
 Corporate negligence, hospital, **16:50**
 General health care provider, **16:45**
 Hospital, negligence of, **16:49 to 16:51**
 Informed consent, **16:48, 16:52**
 Judgment, exercise of, **16:54**
 No guarantee/poor result, **16:53**
 Specialist, **16:46**
 Judgment, exercise of, **16:54**
 Legislative measures affecting health care, **16:3**
 Material risks, informed consent, **16:17**
 Mediation of healthcare claims, **16:2**
 No guarantee/poor result, **16:53**
 Nurses, **16:21**
 Peer review committees, admissibility of proceedings of, **16:23**
 Pharmacists, **16:20**
 Proximate cause, **16:12**
 Quality improvement committees, admissibility of proceedings of, **16:23**
 Reasonable patient standard, informed consent, **16:16**
 Res ipsa loquitur, **16:10**
 Specialists, **16:46**
 Statute of limitations, **16:24**
 Statutory framework, generally, **16:4**
 Third parties, duties to, **16:5**
 Torts, this index
 Uniform Health Care Information Act, violations of, **16:27**
 Warranty, breach of, **16:13**
 Written consent form, **16:15**

MINORS

Children and Minors, this index

MITIGATION OF DAMAGES

Damages, this index

MOTIVE

Wrongful discharge, retaliatory discharge, **24:30**

MOTOR VEHICLE ACCIDENTS

Generally, **30:1 to 30:50**
 Alcoholic beverages, commercial hosts, **29:2**
 Alley, right-of-way when emerging from, **30:9, 30:34**
 Assumption that others will obey law, **30:16, 30:27, 30:28**
 Bicycle riders, **30:22, 30:46**
 Building, right-of-way when emerging from, **30:9, 30:34**
 Children, presence of, **30:19**
 Crosswalks. Instructions to jury, below
 Deception doctrine, **30:39**
 Driveway, right-of-way when emerging from, **30:9, 30:34**
 Driving while intoxicated, **30:15**
 Emergency, duty of one confronted by, **30:29**
 Emergency vehicles
 Generally, **30:17**
 Instructions to jury, below
 Favored driver, **30:4**
 Following driver, duty of, **30:13, 30:25**
 Governmental entities, claims against
 Maintenance of roadway, **30:23**
 Transfer of ownership of roadway, **30:24**
 Instructions to jury
 Generally, **30:25 to 30:50**
 Alley, driveway or building, emerging from, **30:34**
 Assumption that others will obey law, **30:27, 30:28**
 Bicycle riders, **30:46**
 Crosswalks
 Definition, **30:45**
 Duty of driver approaching crosswalk, **30:41, 30:42**
 Duty of pedestrian before entering crosswalk, **30:43**
 Pedestrian crossing roadway outside of crosswalk, **30:44**

INDEX

MOTOR VEHICLE ACCIDENTS

—Cont'd

- Instructions to jury—Cont'd
 - Crosswalks—Cont'd
 - Pedestrian within crosswalk, **30:40**
 - Deception doctrine, **30:39**
 - Driver or pedestrian, general duty, **30:26**
 - Emergency, duty of one confronted by, **30:29**
 - Emergency vehicles
 - Generally, **30:37, 30:47 to 30:49**
 - Emergency runs, **30:48**
 - Requirements for authorized emergency vehicles, **30:47**
 - Right-of-way, **30:49**
 - Following driver, duty of, **30:25**
 - Left turns, **30:31**
 - Persons or vehicles at work on roadway, **30:50**
 - Private road, entering street or highway from, **30:35**
 - Right-of-way
 - Alley, driveway or building, emerging from, **30:34**
 - Deception doctrine, **30:39**
 - Emergency vehicles, **30:49**
 - Left turns, **30:31**
 - Pedestrian within crosswalk, **30:40**
 - Private road, entering street or highway from, **30:35**
 - Stop signs, **30:32**
 - Uncontrolled intersections, **30:30**
 - Yield signs, **30:33**
 - Right to of to way
 - Generally, **30:30 to 30:35**
 - Seat belts, **30:38**
 - Speed, **30:36**
 - Stop signs, **30:32**
 - Uncontrolled intersections, **30:30**
 - Yield signs, **30:33**
- Intoxicated, driving while, **30:15**
- Left turns, right-of-way, **30:6, 30:31**

MOTOR VEHICLE ACCIDENTS

—Cont'd

- Maintenance of roadway, claims against governmental entities, **30:23**
 - Operators, claims against, generally, **30:3 to 30:22**
 - Passengers, **30:18**
 - Pedestrians
 - Crosswalks. Instructions to jury, above
 - Duty, **30:22**
 - Persons or vehicles at work on roadway, **30:20, 30:50**
 - Private road, right-of-way when entering street or highway from, **30:10, 30:35**
 - Railroad tracks, crossing of, **30:12**
 - Right-of-way
 - Alley, driveway or building, emerging from, **30:9, 30:34**
 - Instructions to jury, above
 - Left turns, **30:6, 30:31**
 - Pedestrian/vehicle, **30:11**
 - Private road, entering street or highway from, **30:10, 30:35**
 - Stop signs, **30:7, 30:32**
 - Uncontrolled intersections, **30:5, 30:30**
 - Yield signs, **30:8, 30:33**
 - Right to of to way
 - Generally, **30:4 to 30:11**
 - School bus drivers, **30:21**
 - Seat belts, **30:38**
 - Speed, **30:14, 30:36**
 - Stop signs, right-of-way, **30:7, 30:32**
 - Third person, liability for operation of motor vehicle by, **30:2**
 - Torts, this index
 - Transfer of ownership of roadway, claims against governmental entities, **30:24**
 - Uncontrolled intersections, right-of-way, **30:5, 30:30**
 - Yield signs, right-of-way, **30:8, 30:33**
- ### MOTOR VEHICLES
- Contributory negligence, intoxication of driver, **9:25, 9:32**

MOTOR VEHICLES—Cont'd

- Definition, under the influence of intoxicating liquor or any drug, **9:32**
- Negligence, entrustment, **2:27**
- Torts, this index
- Vicarious liability, family car doctrine, **4:20, 4:35**

MULTIPLE TORTFEASORS

- Generally, **13:1 to 13:45**
- Acting in concert, joint liability, **13:11, 13:44, 13:45**
- Agency, joint liability, **13:12**
- Amount of settlement credit, **13:30**
- Burden of proof, settlement and release, **13:24**
- Calculation of proportionate shares, **13:9**
- Community property, execution of judgments against, **13:3**
- Contracts
 - Obligation to indemnify, **13:39**
 - Tortious interference with contracts, **13:16**
- Contribution and indemnity
 - Generally, **13:31 to 13:43**
 - Amount, **13:35**
 - Contractual obligation to indemnify, **13:39**
 - Department of Labor and Industries, lien rights asserted by, **13:41**
 - Department of Social and Health Services, lien rights asserted by, **13:42**
 - Equitable remedies, **13:36**
 - Lien rights, **13:41 to 13:43**
 - Model Toxics Control Act, **13:37**
 - Other lien rights, **13:43**
 - Parties, **13:33**
 - Time for commencement, **13:34**
- Covenant not to execute, joint liability, **13:14**
- Department of Labor and Industries, lien rights asserted by, **13:41**
- Department of Social and Health Services, lien rights asserted by, **13:42**

MULTIPLE TORTFEASORS—Cont'd

- Divisible and indivisible harm, several or proportionate liability, **13:5**
- Equitable remedies, **13:36**
- Forms, instructions to jury, acting in concert, **13:44, 13:45**
- Fungible products, joint liability, **13:17**
- Hazardous substances, joint liability, **13:15**
- Instructions to jury, acting in concert, **13:44, 13:45**
- Intentional torts
 - Joint liability, **13:18**
 - Several or proportionate liability, **13:6**
- Joint liability
 - Generally, **13:10 to 13:18**
 - Acting in concert, **13:11**
 - Agency, **13:12**
 - Contracts, tortious interference with, **13:16**
 - Covenant not to execute, **13:14**
 - Fungible products, **13:17**
 - Hazardous substances, **13:15**
 - Intentional torts, **13:18**
 - Plaintiff not at fault, **13:13**
- Lien rights, **13:41 to 13:43**
- Loan receipt agreements, **13:27**
- Mary Carter agreements, settlement and release, **13:28**
- Notice of hearing, settlement and release, **13:22**
- Parties
 - Contribution and indemnity, **13:33**
 - Settlement and release, **13:23**
 - Several or proportionate liability, **13:7, 13:8**
- Phantom tortfeasors, several or proportionate liability, **13:8**
- Reasonableness hearings, settlement and release, **13:21 to 13:26**
- Rescission, settlement and release, **13:20**
- Settlement and release
 - Generally, **13:19 to 13:30**
 - Amount of settlement credit, **13:30**

INDEX

MULTIPLE TORTFEASORS

—Cont'd

- Settlement and release—Cont'd
 - Burden of proof, hearing, **13:24**
 - Effect, **13:26, 13:29**
 - Factors to be considered, **13:25**
 - Loan receipt agreements, **13:27**
 - Notice of hearing, **13:22**
 - Parties, hearing, **13:23**
 - Reasonableness hearings, generally, **13:21 to 13:26**
 - Rescission, **13:20**
 - Sliding scale or Mary Carter agreements, **13:28**
- Several or proportionate liability
 - Generally, **13:4 to 13:9**
 - Calculation of proportionate shares, **13:9**
 - Divisible and indivisible harm, **13:5**
 - Intentional and fault-based torts, **13:6**
 - Parties, **13:7, 13:8**
 - Phantom tortfeasors, **13:8**
- Sliding scale agreements, settlement and release, **13:28**
- Time for commencement, contribution and indemnity, **13:34**
- Tort Reform Act, generally, **13:2**
- Torts, this index

MUNICIPALITIES

- Civil Rights Under Section 1983, this index
- Negligence, **2:31**
- Premises liability, **18:17, 18:23**
- Torts, this index

MUTUAL MISTAKE

- Release of liability, **11:5**

NAMES

- Privacy, appropriation of name, **21:4, 21:15**

NATIVE AMERICAN TRIBES

- Workers' compensation, **12:16**

NEGLIGENCE

- Generally, **2:1 to 2:76**
- Abuse of Vulnerable Adults Act, **2:23**

NEGLIGENCE—Cont'd

- Adoption agency, duty to disclose, **2:24**
- Assault by employees, protection of passengers from, **2:62**
- Behavior of reasonably prudent person, **2:33**
- Breach of duty. Evidence of breach of duty, below
- Business invitee, protection from criminal acts, **2:66**
- Carriers. Common carriers, below
- Children and minors
 - Abuse, mandatory reporting and negligent investigation, **2:20**
 - Common carrier, duty to child passenger, **2:64**
 - Definition of reasonable care, **2:35**
 - Foster care placement and supervision, **2:21**
 - Standard of conduct for child, violation of statute, ordinance or administrative rule, **2:57**
 - Supervision, foster care placement and, **2:21**
- Common carriers
 - Definition of reasonable care, **2:38 to 2:40**
 - Instructions to jury, below
 - Standard of care, **2:40**
 - Status of plaintiff as passenger, **2:39**
- Complaint, automobile accident, **2:76**
- Construction work, **2:53**
- Corporation, duty of shareholder to, **2:30**
- County, duty of, **2:31**
- Creation of risk, **2:4, 2:6**
- Criminal conduct by third persons
 - Generally, **2:15 to 2:18**
 - Increase of risk of harm, **2:16**
 - Perpetrator, special relationship to, **2:18**
 - Plaintiff, special relationship to, **2:17**
- Dangerous instrumentality, entrustment of, **2:27**
- Definition of reasonable care
 - Generally, **2:2, 2:32 to 2:45**

NEGLIGENCE—Cont'd

Definition of reasonable care
—Cont'd
Behavior of reasonably prudent person, **2:33**
Children, **2:35**
Common carriers, **2:38 to 2:40**
Emergency situations, **2:37**
Gross negligence, **2:43**
Learned Hand test, **2:34**
Passenger on common carrier, status as, **2:39**
Physical and mental infirmities, **2:36**
Specific cases, **2:42**
Standard of care, common carriers, **2:40**
Willful and wanton misconduct, **2:44**
Disabled passenger, duty of common carrier to, **2:64**
Duty of schools toward their pupils, inducing justifiable reliance, **2:9**
Duty to use reasonable care, generally, **2:2 to 2:31**
Ejection of passenger by common carrier, **2:63**
Electrical utility
Duty to avoid interruption of service, **2:25**
Duty to use reasonable care, **2:41**
Emergency situations, definition of reasonable care, **2:37**
Entrustment of motor vehicle or dangerous instrumentality, **2:27**
Evidence of breach of duty
Generally, **2:46 to 2:52**
Hospital quality assurance program records, exclusion of, **2:52**
Industry custom, **2:48**
Postaccident repairs, exclusion of, **2:51**
Res ipsa loquitur, **2:50**
Statutory violations and negligence per se, **2:49**
Violation of defendant's policies, **2:47**
Evidence of negligence, violation of statute, ordinance or magistrate of rule, **2:70**

NEGLIGENCE—Cont'd

Foreseeability, **2:6**
Forms
Generally, **2:54 to 2:75**
Complaint, automobile accident, **2:76**
Foster care placement and supervision, **2:21**
Franchisor, duty to employees of franchisee, **2:28**
Good samaritan rule, **2:14, 2:71**
Gross negligence, **2:43, 2:58**
Hospital quality assurance program records, exclusion of, **2:52**
Increase of risk, **2:4, 2:16**
Industry custom, evidence of breach of duty, **2:48**
Infants. Children and minors, above
Infirm passenger, duty of common carrier to, **2:64**
Instructions to jury
Generally, **2:54 to 2:75**
Assault or intentional harm by employees, protection of passengers from, **2:62**
Business invitee, protection from criminal acts, **2:66**
Common carriers
Generally, **2:60 to 2:62**
Assault or intentional harm by employees, protection of passengers from, **2:62**
Business invitee, protection from criminal acts, **2:66**
Disabled, infirm or intoxicated passenger or child, duty to, **2:64**
Ejection of passenger by carrier, **2:63**
Misconduct of others, protection of passengers from, **2:61**
Passengers, duty to, **2:60 to 2:62**
Place to board or alight, **2:67**
Termination of status, **2:65**
Definitions, **2:54, 2:55**
Disabled, infirm or intoxicated passenger or child, duty to, **2:64**

INDEX

NEGLIGENCE—Cont'd

- Instructions to jury—Cont'd
 - Ejection of passenger by carrier, **2:63**
 - Evidence of negligence, violation of statute, ordinance or magistrate of rule, **2:70**
 - Good samaritan rule, **2:71**
 - Gross negligence, **2:58**
 - Intoxication, voluntary, **2:59**
 - Misconduct of others, protection of passengers from, **2:61**
 - Negligence per se, violation of statute, ordinance or magistrate of rule, **2:68**
 - Nondelegable duties, **2:75**
 - Ordinary care, **2:55, 2:56**
 - Passengers, duty of common carriers to, **2:60 to 2:62**
 - Place to board or alight, common carriers, **2:67**
 - Rescue doctrine, **2:72**
 - Res ipsa loquitur, **2:73**
 - Seeing, duty of, **2:74**
 - Standard of conduct for child, violation of statute, ordinance or administrative rule, **2:57**
 - Statute, ordinance or magistrate of rule, violation of
 - Generally, **2:68 to 2:70**
 - Evidence of negligence, **2:70**
 - Negligence per se, **2:68**
 - Willful or wanton misconduct, **2:69**
 - Termination of status, common carriers, **2:65**
 - Voluntary undertaking, **2:71**
 - Willful or wanton misconduct, violation of statute, ordinance or magistrate of rule, **2:69**
- Intentional harm by employees, protection of passengers from, **2:62**
- Interruption of electrical service, duty to avoid, **2:25**
- Intoxication, **2:59, 2:64**
- Justifiable reliance, nonfeasance, **2:8**
- Learned Hand test, definition of reasonable care, **2:34**

NEGLIGENCE—Cont'd

- Minors. Children and minors, above
- Misconduct of others, protection of passengers from, **2:61**
- Misfeasance v. nonfeasance, **2:5**
- Motor vehicle, entrustment of, **2:27**
- Municipality, duty of, **2:31**
- Negligence per se, **2:49, 2:68**
- Negligent investigation, **2:22**
- Nondelegable duties, **2:75**
- Nonfeasance
 - Generally, **2:7 to 2:10**
 - Duty of schools toward their pupils, inducing justifiable reliance, **2:9**
 - Justifiable reliance, inducing of, **2:8**
 - Misfeasance v., **2:5**
 - Special relationship, **2:10**
- Ordinary care, **2:55, 2:56**
- Passengers, duty of common carriers to, **2:60 to 2:62**
- Physical and mental infirmities, definition of reasonable care, **2:36**
- Place to board or alight, common carriers, **2:67**
- Postaccident repairs, exclusion of, **2:51**
- Prison officials, duty to prevent assaults on inmates, **2:29**
- Professional Negligence, this index
- Professional rescuer doctrine, **2:12**
- Question of law or fact, **2:3**
- Reasonable care, generally, **2:2 et seq.**
- Recklessness, **2:45**
- Rescue and rescuers
 - Generally, **2:72**
 - Duty of one who has begun rescue, **2:13, 2:14**
 - Good samaritan statute, **2:14**
 - Liability to injured rescuer, **2:11, 2:12**
 - Professional rescuer doctrine, **2:12**
- Res ipsa loquitur, **2:50, 2:73**
- Seeing, duty of, **2:74**
- Special relationship, nonfeasance, **2:10**
- State agency, duty of, **2:31**

NEGLIGENCE—Cont'd

- Statutory duty
 - Generally, **2:19 to 2:26**
 - Abuse of Vulnerable Adults Act, **2:23**
 - Adoption agency, duty to disclose, **2:24**
 - Child abuse, mandatory reporting and negligent investigation, **2:22**
 - Electrical utility, duty to avoid interruption of service, **2:25**
 - Negligence per se, **2:49, 2:68**
 - Negligent investigation, **2:22**
 - Waste, duty to avoid, **2:26**
- Stockholder, duty to corporation, **2:30**
- Termination of status, common carriers, **2:65**
- Torts, this index
- Utilities. Electrical utility, above
- Voluntary undertaking, **2:71**
- Waste, duty to avoid, **2:26**
- Willful or wanton misconduct, **2:44, 2:69**

NEGLIGENT HIRING OR SUPERVISION

- Employer and employee, **4:8**
- Principal and agent, **4:13**

NEGLIGENT INVESTIGATION

- Generally, **22:14**
- Wrongful discharge, **24:3**

NEGLIGENT MISREPRESENTATION

- Fraud and Deceit, this index

NEGOTIATION

- Insurance bad faith, **28:7, 28:29**

NEUTRAL REPORTING

- Defamation, qualified or conditional privilege, **20:16**

NEWLY DISCOVERED INJURY

- Release of liability, **11:7**

NONCOMPETITION AGREEMENTS

- Trade secrets, **23:34**

NONFEASANCE

- Negligence, this index

NONPROFIT ORGANIZATIONS

- Workers' compensation, **12:19**

NOTICE

- Insurance Fair Conduct Act, **28:3**
- Multiple tortfeasors, settlement and release, **13:22**
- Premises liability, temporary unsafe condition not caused by owner or occupier, **18:31**
- Torts, this index

NUISANCE

- Generally, **3:8, 3:12 to 3:17**
- Balancing test, **3:29**
- Defense based on coming to the nuisance, **3:16**
- Instructions to jury
 - Generally, **3:26 to 3:31**
 - Balancing test, **3:29**
 - Interference with use of street or highway, **3:27**
 - Per se nuisance, **3:30**
 - Private nuisance, **3:28**
 - Public nuisance, **3:28**
- Per se nuisance, **3:15, 3:30**
- Private nuisances, **3:14, 3:28**
- Public nuisances, **3:13, 3:28**
- Right-to-farm immunity, **3:17**
- Shoreline Management Act, **3:18**
- Statutes of limitation, **10:13**
- Street or highway, interference with use of, **3:27**
- Surface water, liability for, **3:19, 3:20**
- Torts, this index

NURSES

- Medical malpractice, **16:21**

OBSCURE DEFECTS

- Premises liability, landlord and tenant, **18:36**

OFFICIAL PROCEEDINGS

- Defamation, reports, **20:17**

OUTRAGE

- Generally, **14:11 to 14:13**
- Civil harassment, **14:13**

INDEX

OUTRAGE—Cont'd

- Extreme and outrageous conduct, **14:38**
- Instructions to jury
 - Extreme and outrageous conduct, **14:38**
 - Intentionally or recklessly causes emotional distress, **14:39**
 - Severe emotional distress, **14:40**
- Intentionally or recklessly causes emotional distress, **14:39**
- Malicious interference with parent-child relationship, **14:12**
- Severe emotional distress, **14:40**
- Statutes of limitation, **10:21**
- Torts, this index

OVERREACHING

- Release of liability, **11:8**

PAIN AND SUFFERING

- Damages, **6:7**

PARTIES

- Malicious prosecution, **22:3**
- Multiple Tortfeasors, this index
- Torts, this index

PARTNERS AND PARTNERSHIP

- Generally, **4:29 to 4:32**
- Act of partner as act of all partners, **4:30**
- Existence of partnership admitted, scope of partnership business in issue, **4:32**
- Existence of partnership in issue, **4:39**
- Instructions to jury
 - Generally, **4:29 to 4:32**
 - Act of partner as act of all partners, **4:30**
 - Definition, **4:29**
 - Existence of partnership admitted, scope of partnership business in issue, **4:32**
 - Existence of partnership in issue, **4:39**
 - Liability of partner, no issue as to partnership, agency or scope of authority, **4:31**

PARTNERS AND PARTNERSHIP —Cont'd

- Instructions to jury—Cont'd
 - Scope of partnership business, **4:38**
- Liability of partner, no issue as to partnership, agency or scope of authority, **4:31**
- Scope of partnership business, **4:38**
- Torts, this index
- Vicarious liability, generally, **4:29 to 4:32**

PASSENGERS

- Motor vehicle accidents, **30:18**
- Negligence, duty of common carriers, **2:60 to 2:62**
- Torts, this index

PEDESTRIANS

- Motor Vehicle Accidents, this index

PEER REVIEW COMMITTEES

- Medical malpractice, admissibility of proceedings, **16:23**
- Torts, this index
- Workers' compensation, **12:20**

PERIODIC PAYMENTS

- Damages, **6:41**

PER SE NEGLIGENCE

- Generally, **2:49, 2:68**

PER SE NUISANCE

- Generally, **3:15, 3:30**

PER SE VIOLATIONS

- Consumer protection, **8:7, 8:15**

PERSONALITY

- Privacy, appropriation of personality, **21:4, 21:15**

PERSONAL JURISDICTION

- Racketeer influenced and corrupt organizations act (RICO), **27:11**

PERSONAL PROPERTY

- Damages, **6:4**

PHANTOM TORTFEASORS

- Multiple tortfeasors, several or proportionate liability, **13:8**

PHARMACISTS

Medical malpractice, **16:20**

PLEADINGS

Racketeer influenced and corrupt organizations act (RICO), **27:13**

POSTACCIDENT REPAIRS

Negligence, **2:51**

PREEMPLOYMENT INQUIRIES

Employment discrimination, **25:26**

PREEMPTION

Generally, **1:6 to 1:9**

Federal Railroad Safety Act, **1:9**

Longshore and Harbor Workers' Compensation Act, **1:8**

Maritime cases, **1:7, 1:8**

Products Liability, this index

Torts, this index

Trade secrets, common law causes of action, **23:10**

Wrongful death and survival, **7:2**

Wrongful discharge, implied agreements, **24:9**

PREJUDGMENT AND POST JUDGMENT INTEREST

Generally, **6:14**

Governmental entities, claims against, **15:15**

Torts, this index

PREMISES LIABILITY

Generally, **18:1 to 18:45**

Accident on rented premises, repairs by landlord, **18:39**

Activities or condition of premises, public invitees, **18:30, 18:33**

Attractive nuisance, **18:28**

Business invitees, **18:6, 18:29 to 18:33, 18:44**

Child trespassers, **18:10, 18:11**

Common areas, landlord and tenant, **18:38**

Completion and acceptance defense, **18:21**

Criminal acts, protection of public invitees from, **18:32**

Customers, duty of business proprietor to, **18:12**

PREMISES LIABILITY—Cont'd

Harm occurring outside of premises, claims for, **18:2, 18:3**

Independent contractors, duty of possessor to employees of, **18:19**

Instructions to jury

Generally, **18:22 to 18:45**

Accident on rented premises, repairs by landlord, **18:39**

Activities or condition of premises, public invitees, **18:30, 18:33**

Attractive nuisance, **18:28**

Business invitees, **18:29 to 18:33, 18:44**

Common areas, landlord and tenant, **18:38**

Criminal acts, protection of public invitees from, **18:32**

Landlord and tenant

Generally, **18:36 to 18:42**

Accident on rented premises, repairs by landlord, **18:39**

Common areas, **18:38**

Latent or obscure defect, **18:36**

Nonresidential tenancies, **18:40**

Persons on premises with permission of tenant, duty of landlord, **18:41**

Promise to put and keep in repair, **18:37**

Residential tenancies, **18:42**

Latent or obscure defect, landlord and tenant, **18:36**

Licensees, **18:26, 18:27, 18:34**

Municipalities, liability of, **18:23**

Nonresidential tenancies, landlord and tenant, **18:40**

Notice of temporary unsafe condition not caused by owner or occupier, public invitees, **18:31**

Persons on premises with permission of tenant, duty of landlord, **18:41**

Promise to put and keep in repair, landlord and tenant, **18:37**

Public invitees

Generally, **18:29 to 18:33**

INDEX

PREMISES LIABILITY—Cont'd

- Instructions to jury—Cont'd
 - Public invitees—Cont'd
 - Activities or condition of premises, **18:30, 18:33**
 - Criminal acts, protection from, **18:32**
 - Defined, **18:29**
 - Notice of temporary unsafe condition not caused by owner or occupier, **18:31**
 - Public way, property owner or occupier adjacent to, **18:22**
 - Residential tenancies, landlord and tenant, **18:42**
 - Roads, **18:23, 18:43, 18:45**
 - Sidewalks, **18:23, 18:43, 18:45**
 - Social guests, **18:26, 18:27, 18:35**
 - Streets, **18:23, 18:43, 18:45**
 - Travelers on sidewalks, streets and roads, **18:45**
 - Trespassers, **18:24, 18:25, 18:28**
- Invitees, duty to, generally, **18:5 to 18:7**
- Landlord and tenant
 - Generally, **18:13 to 18:15**
 - Activities of tenants, **18:15**
 - Instructions to jury, above
 - Nonresidential tenancies, **18:13**
 - Residential tenancies, **18:14**
- Latent or obscure defect, landlord and tenant, **18:36**
- Licensees, generally, **18:8, 18:26, 18:27, 18:34**
- Municipalities, liability of, **18:17, 18:23**
- Natural condition on the premises, claim for harm occurring outside of premises, **18:3**
- Nonresidential tenancies, landlord and tenant, **18:13, 18:40**
- Notice of temporary unsafe condition not caused by owner or occupier, public invitees, **18:31**
- Obscure or latent defect, landlord and tenant, **18:36**
- Promise to put and keep in repair, landlord and tenant, **18:37**

PREMISES LIABILITY—Cont'd

- Public invitees
 - Duty to, **18:7**
 - Instructions to jury, above
- Public way, property owner or occupier adjacent to, **18:16, 18:22**
- Recreation properties, **18:18**
- Residential tenancies, landlord and tenant, **18:14, 18:42**
- Roads, **18:17, 18:23, 18:43, 18:45**
- Sidewalks, **18:17, 18:23, 18:43, 18:45**
- Social guests, **18:8, 18:26, 18:27, 18:35**
- Status of plaintiff, generally, **18:4 to 18:12**
- Streets, **18:17, 18:23, 18:43, 18:45**
- Torts, this index
- Travelers on sidewalks, streets and roads, **18:45**
- Trespassers
 - Generally, **18:24, 18:25, 18:28**
 - Adult trespassers, **18:9**
 - Child trespassers, **18:10, 18:11**
- Vendors of real property, duty of, **18:20**

PREPONDERANCE OF EVIDENCE

- Fraud and misrepresentation, **19:19**

PRESUMPTIONS AND BURDEN OF PROOF

- Alcoholic Beverages, this index
- Attorney malpractice, breach of fiduciary duty, **16:62**
- Defamation, **20:5**
- Fraud and misrepresentation, **19:18, 19:19, 19:27**
- Insurance bad faith, **28:25, 28:31**
- Interference with contractual relations, **23:14, 23:15**
- Interference with prospective advantage or business expectancy, **23:16, 23:17**
- Medical malpractice, **16:47, 16:48**
- Multiple tortfeasors, settlement and release, **13:24**
- Torts, this index
- Trade secrets, **23:22**

**PRESUMPTIONS AND BURDEN
OF PROOF—Cont'd**

Wrongful Discharge, this index

PREVAILING PARTY

Attorneys' fees, **6:18, 6:21**

PRINCIPAL AND AGENT

Generally, **4:10 to 4:17, 4:21 to 4:27**

Act of agent as act of principal, **4:23**

Apparent agency, **4:17, 16:51**

Apparent authority, **4:36**

Authority to commit tort, **4:12**

Contractors, nondelegable duties,
4:15

Control, liability based on right to,
4:11

Imputed contributory negligence, **9:7**

Independent contractors and agents,
distinguished, **4:37**

Instructions to jury

Generally, **4:21 to 4:27**

Act of agent as act of principal,
4:23

Definitions, **4:21, 4:22**

Independent contractors and
agents, distinguished, **4:37**

Principal and agent both sued
Agency or authority denied,
4:26

No issue as to agency or author-
ity, **4:24**

Principal sued but not agent
Agency or authority denied,
4:27

No issue as to agency or author-
ity, **4:25**

Scope of authority, **4:22, 4:36**

Joint enterprise and partnership, **4:16**

Multiple tortfeasors, joint liability,
13:12

Negligent hiring, **4:13**

Nondelegable duties, **4:14, 4:15**

Scope of authority, **4:22, 4:36**

Torts, this index

Vicarious liability, generally, **4:10 to
4:17, 4:21 to 4:27**

PRISON OFFICIALS

Negligence, duty to prevent assaults
on inmates, **2:29**

PRIVACY

Generally, **21:1 to 21:16**

Appropriation of name, personality or
likeness, **21:4, 21:15**

Common law defenses, **21:9**

Constitutional defenses, **21:10**

Damages, **21:11, 21:16**

Establishing liability, **21:2 to 21:8**

False light, placing another in, **10:19,
21:6, 21:14**

Instructions to jury

Generally, **21:12 to 21:16**

Appropriation of name, picture or
identity, **21:15**

Damages, **21:16**

Intrusion into seclusion, **21:12,
21:16**

Placing plaintiff in false light,
21:14

Public disclosure of private facts,
21:13

Interception of private communica-
tions, **21:8**

Intrusion into seclusion, **21:12, 21:16**

Invasion of privacy, generally, **21:1
to 21:16**

Liability, establishing, **21:2 to 21:8**

Likeness, appropriation of, **21:4,
21:15**

Name, appropriation of, **21:4, 21:15**

Personality, appropriation of, **21:4,
21:15**

Placing another in false light, **10:19,
21:6, 21:14**

Private communications, unlawful
interception of, **21:8**

Private facts, public disclosure of,
21:5, 21:13

Public disclosure of private facts,
21:5, 21:13

Public records, **21:7**

Seclusion, intrusion into, **21:3, 21:12**

Statutory defenses, **21:9**

Torts, this index

INDEX

PRIVACY—Cont'd

Unlawful interception of private communications, **21:8**

PRIVILEGED OR CONFIDENTIAL MATTERS

Interference with contractual relations, **23:6**

Interference with prospective advantage or business expectancy, **23:8**

Torts, this index

PROBABLE CAUSE

Civil Rights Under Section 1983, this index

Malicious prosecution, **22:4, 22:5**

PROCESS ABUSE

Abuse of Process, this index

PRODUCTION OF DOCUMENTS

Products liability, **17:47**

PRODUCTS LIABILITY

Generally, **17:1 to 17:48**

Admissions, request for, **17:48**

Assumption of risk, **17:42**

Causation, **17:22**

Comment K, design defects, **17:14**

Companion products, **17:10**

Complaint against manufacturer, **17:43**

Construction defects, **17:33**

Contributory negligence, **17:42**

Crashworthiness, **17:20**

Defenses

Generally, **17:23 to 17:26, 17:44 to 17:46**

Government specifications, **17:38, 17:44**

Medical device amendments, preemption by, **17:26**

Statute of limitations, **17:24, 17:45**

Statute of repose, **17:25**

Twelve-year safe-life presumption, **17:46**

Design defects, **17:12 to 17:14, 17:35**

Economic loss, **17:21**

Enhanced injury, **17:20**

PRODUCTS LIABILITY—Cont'd

Establishment of liability, generally, **17:9 to 17:22**

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Generally, **17:27 to 17:32**

Background, **17:28**

General provisions, **17:29**

Preemption, generally, **17:27 to 17:32**

Forms

Generally, **17:33 to 17:48**

Admissions, request for, **17:48**

Affirmative defenses, **17:44 to 17:46**

Complaint against manufacturer, **17:43**

Government specifications, **17:44**

Production of documents, request for, **17:47**

Statute of limitations, **17:45**

Twelve-year safe-life presumption, **17:46**

Government specifications, **17:38, 17:39, 17:44**

Implied warranty, breach of, **17:19**

Instructions, manufacturer's duties, **17:36, 17:37**

Instructions to jury

Generally, **17:33 to 17:48**

Assumption of risk, **17:42**

Construction defects, **17:33**

Contributory negligence, **17:42**

Design, manufacturer's duties, **17:35**

Government specifications, **17:38, 17:39**

Instructions, manufacturer's duties, **17:36, 17:37**

Manufacturer, defined, **17:40**

Manufacturer's duties, **17:33 to 17:42**

Useful sale life, **17:41**

Warnings, manufacturer's duties, **17:36, 17:37**

Warranties, **17:34**

Learned intermediary doctrine, **17:16**

Manufacturing defects, **17:11**

PRODUCTS LIABILITY—Cont'd

- Medical device amendments,
preemption by, **17:26**
- Preemption
 - Federal Insecticide, Fungicide, and
Rodenticide Act (FIFRA),
above
 - Medical device amendments,
17:26
- Production of documents, request for,
17:47
- Restatement (3d) of Torts, effect on
Washington Products Liability
Act of 1981, **17:7**
- Retailers, liability under Washington
Products Liability Act of 1981,
17:6
- Statute of limitations, **10:16, 10:17,**
17:24, 17:45
- Statute of repose, **17:25**
- Strict liability vs. negligence, design
defects, **17:13**
- Successor liability, Washington
Products Liability Act of 1981,
17:8
- Torts, this index
- Twelve-year safe-life presumption,
17:46
- Useful sale life, **17:41, 17:46**
- Warnings
 - Failure to warn after sale, **17:17**
 - Failure to warn prior to sale,
17:15, 17:16
 - Learned intermediary doctrine,
17:16
 - Manufacturer's duties, **17:36,**
17:37
- Warranties, **17:18, 17:19, 17:34**
- Washington Products Liability Act of
1981
 - Generally, **17:2 to 17:8**
 - Claimants, **17:5**
 - Coverage, **17:4, 17:5**
 - Effective date, **17:2**
 - Restatement (3d) of Torts, effect
of, **17:7**
 - Retailers, liability of, **17:6**
 - Successor liability, **17:8**

PROFESSIONAL NEGLIGENCE

- Generally, **16:1 to 16:65**
- Accountants, **16:41**
- Architects, **16:39**
- Attorney Malpractice, this index
- Clergy, **16:42**
- Collateral sources, **16:64**
- Engineers, **16:39**
- Forms
 - Generally, **16:45 to 16:65**
 - Medical malpractice complaint
against hospital and
anesthesiologist, **16:65**
- Instructions to jury
 - Generally, **16:45 to 16:64**
 - Attorney Malpractice, this index
 - Collateral sources, **16:64**
 - Insurance, **16:64**
- Insurance brokers and agents, **16:43**
- Insurance coverage, **16:64**
- Land surveyors, **16:39**
- Real estate professionals, **16:40**
- Statutes of limitation, **10:15**
- Torts, this index
- Veterinarians, **16:44**

**PROFESSIONAL RESCUER
DOCTRINE**

- Negligence, **2:12**

PROFITS

- Damages, lost profits, **6:11**

PROTECTION

- Civil rights under Section 1983,
conditions of confinement,
26:43, 26:44

PROXIMATE CAUSE

- Generally, **5:1 to 5:24**
- Alternate liability, **5:7**
- Alternative cause, **5:23**
- Asbestos cases, **5:13**
- Attorney malpractice, **16:59**
- But-for cause
 - Alternate liability, **5:7**
 - Asbestos cases, **5:13**
 - Concerted action, **5:8**
 - Enterprise liability, **5:9**

INDEX

PROXIMATE CAUSE—Cont'd

- But-for cause—Cont'd
 - Intervening causes in rescue cases, **5:4**
 - Loss of chance, **5:11**
 - Market share liability, **5:10**
 - Multiple independent causes and substantial factor test, **5:12**
- But to for cause
 - Generally, **5:2 to 5:13**
 - Exceptions, generally, **5:5 to 5:12**
 - Identity of tortfeasor, **5:6 to 5:10**
- Civil rights under Section 1983, **26:9**
- Concerted action, **5:8**
- Enterprise liability, **5:9**
- Foreseeability, **5:19**
- Identity of tortfeasor, **5:6 to 5:10**
- Increased risk, not mere chance, **5:15**
- Independent business judgment, **5:17**
- Instructions to jury
 - Generally, **5:20 to 5:24**
 - Alternative cause, **5:23**
 - Intervening cause, **5:22**
 - Negligence of defendant concurring with other causes, **5:21**
 - Proximate cause, defined, **5:20, 5:23, 5:24**
 - Substantial factor test, **5:24**
- Intervening causes, **5:4, 5:22**
- Judicial intervention as superseding cause, **5:18**
- Legal cause
 - Generally, **5:14 to 5:19**
 - Foreseeability, **5:19**
 - Increased risk, not mere chance, **5:15**
 - Independent business judgment, **5:17**
 - Judicial intervention as superseding cause, **5:18**
 - No superseding causes, **5:16**
- Loss of chance, **5:11**
- Market share liability, **5:10**
- Medical malpractice, **16:12**
- Multiple independent causes and substantial factor test, **5:12**
- Negligence of defendant concurring with other causes, **5:21**

PROXIMATE CAUSE—Cont'd

- No superseding causes, **5:16**
- Rescue cases, intervening causes in, **5:4**
- Substantial factor test, **5:24**
- Torts, this index

PUBLIC ACCOMMODATIONS

- Discrimination. Employment
 - Discrimination, this index
- Employment Discrimination, this index
- Sexual harassment, **25:14 to 25:17**

PUBLICATION

- Defamation, false and defamatory communications, **20:10**

PUBLIC EMPLOYEES

- Civil rights under Section 1983, First Amendment rights, **26:7**

PUBLIC INTEREST

- Consumer protection, **8:8, 8:16**
- Defamation, this index

PUBLIC POLICY OR INTEREST

- Release of liability, **11:6**
- Wrongful Discharge, this index

PUNITIVE DAMAGES

- Generally, **6:12**
- Civil rights under Section 1983, **26:21, 26:32, 26:46 to 26:48**
- Racketeer influenced and corrupt organizations act (RICO), **27:18**
- Torts, this index

QUALIFIED IMMUNITY

- Civil rights under Section 1983, **26:16**
- Defamation, this index
- Intentional torts, **14:28**
- Torts, this index

QUALITY IMPROVEMENT COMMITTEES

- Medical malpractice, admissibility of proceedings, **16:23**

QUASI-COMMERCIAL HOSTS

- Alcoholic beverages, **29:4, 29:13**

QUASI-JUDICIAL IMMUNITY

Governmental entities, claims against, **15:14**

QUASI-JUDICIAL PROCEEDING

Defamation, absolute privilege, **20:14**

QUESTIONS OF LAW AND FACT

Defamation, **20:6**

Negligence, **2:3**

Torts, this index

QUID PRO QUO

Employment, sex discrimination, **25:15, 25:45**

RACE DISCRIMINATION

Employment discrimination, **25:21**

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO)

Generally, **27:1 to 27:28**

Attorney's fees, **27:19**

Business or property, **27:8**

Checklist, **27:14**

Compensatory damages, **27:16**

Costs of action, **27:20**

Damages

Generally, **27:16 to 27:20**

Attorney's fees, **27:19**

Compensatory damages, **27:16**

Costs of action, **27:20**

Punitive damages, **27:18**

Treble damages, **27:17**

Defenses, **27:15**

Definitions, **27:3**

Elements, **27:2**

Enterprise, **27:6**

Instructions to jury

Generally, **27:23 to 27:28**

Causation, **27:28**

Section 1962(a), **27:24**

Section 1962(b), **27:25**

Section 1962(c), **27:26**

Section 1962(d), **27:27**

Jurisdiction

Personal jurisdiction, **27:11**

Subject matter jurisdiction, **27:9**

Pattern of racketeering activity, **27:7**

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO)—Cont'd

Person, **27:5**

Personal jurisdiction, **27:11**

Pleadings, **27:13**

Property or business, **27:8**

Punitive damages, **27:18**

Racketeering activity, **27:4**

Service of process, **27:12**

Standing, **27:10**

Statute of limitations, **27:15**

Subject matter jurisdiction, **27:9**

Torts, this index

Treble damages, **27:17**

Venue, **27:12**

Washington Criminal Profiteering Act, **27:21, 27:22**

RAILROADS

Federal Railroad Safety Act, preemption, **1:9**

Motor vehicle accidents, crossing of tracks, **30:12**

Torts, this index

REAL PROPERTY

Damages, **6:3**

Intentional interference with property. Torts, this index

International Interference with Property, this index

Professional negligence, real estate professionals, **16:40**

Torts, this index

REASONABLE

ACCOMMODATION

Employment, disability discrimination, **25:50, 25:51**

REASONABLE CARE

Foster care placement and supervision, **2:21**

Mandatory reporting of child abuse, **2:20**

REASONABLE PATIENT STANDARD

Medical malpractice, informed consent, **16:16**

INDEX

REASONABLE SUSPICION

Civil rights under Section 1983,
exception to warrant require-
ment, **26:40**

RECAPTURE

Personal property, **14:26**

RECORDS AND RECORDING

Reasonable care, mandatory report-
ing of child abuse, **2:20**

RECREATION PROPERTIES

Premises liability, **18:18**

RELATIVES

Family and Relatives, this index

RELEASE OF LIABILITY

Generally, **11:1 to 11:8**
Assumption of risk, **11:3**
Express assumption of risk, **11:3**
Fraud, **11:8**
Misrepresentation, **11:8**
Mutual mistake, **11:5**
Newly discovered injury, **11:7**
Overreaching, **11:8**
Public policy, **11:6**
Specific grounds for avoiding effect
of release, generally, **11:4 to**
11:8
Statutory restrictions, **11:2**
Torts, this index

RELIANCE

Fraud and misrepresentation, **19:8,**
19:9

RELIGIOUS DISCRIMINATION

Employment discrimination, **25:19**

REMITTITUR

Damages, **6:40**

REPRESENTATIVES

Fiduciaries or Representatives, this
index

RESCISSION

Multiple tortfeasors, settlement and
release, **13:20**

RESCUE AND RESCUERS

Governmental entities, claims
against, public duty doctrine,
15:12
Negligence, this index
Proximate cause, intervening causes,
5:4
Torts, this index

RESERVATION OF RIGHTS

Insurance bad faith, failure to act in
good faith and defending subject
to reservation, **28:27**

RES IPSA LOQUITUR

Medical malpractice, **16:10**
Negligence, **2:50, 2:73**
Torts, this index

RES JUDICATA

Insurance bad faith, uninsured motor-
ist claims, **28:24**

RESTATEMENT (3D) OF TORTS

Products liability, effect on
Washington Products Liability
Act of 1981, **17:7**

RETALIATION

Employment discrimination, **25:24,**
25:25, 25:43
Torts, this index
Wrongful discharge, **24:30, 24:33,**
24:37

REVERSE ENGINEERING

Trade secrets, **23:27**

RIGHT-OF-WAY

Motor Vehicle Accidents, this index

RIGHT-TO-FARM

Nuisance, immunity, **3:17**

RISK

Assumption of Risk, this index

ROYALTIES

Trade secrets, **23:12**

RULES OF CIVIL PROCEDURE

Abuse of process, **22:13**

**RULES OF PROFESSIONAL
CONDUCT (RPCS)**

Attorney malpractice, admissibility
of evidence, **16:32**

SCHOOL BUSES

Motor vehicle accidents, **30:21**

SCHOOLS AND EDUCATION

Civil rights under Section 1983, First
Amendment rights, **26:8**

SCIENTER

Fraud and misrepresentation, **19:6**

SCOPE OF EMPLOYMENT

Generally, **4:5, 4:6**
Torts, this index
Workers' compensation, **12:10**

SEARCH AND SEIZURE

Civil Rights Under Section 1983, this
index

SEAT BELTS

Damages, admissibility of evidence,
9:10
Motor vehicle accidents, **30:38**
Torts, this index

SECLUSION

Privacy, intrusion into seclusion,
21:3, 21:12, 21:16

SEEING, DUTY OF

Negligence, **2:74**

SELF-DEFENSE

Intentional torts, **14:20, 14:41**

SERVICE OF PROCESS

Racketeer influenced and corrupt
organizations act (RICO), **27:12**

SETTLEMENT

Compromise and Settlement, this
index

**SEVERAL OR PROPORTIONATE
LIABILITY**

Multiple Tortfeasors, this index
Torts, this index

SEVERE EMOTIONAL DISTRESS

Outrage, **14:40**

SEX DISCRIMINATION

Employment Discrimination, this
index

SEXUAL HARASSMENT

Public accommodations, **25:14 to
25:17**

SHORELINE MANAGEMENT ACT

Nuisance, **3:18**

SIDEWALKS

Premises liability, **18:17, 18:23,
18:43, 18:45**

SILENCE

Fraud and misrepresentation, **19:7**

SINGLE PUBLICATION RULE

Defamation, **20:20**

SKI STATUTE

Assumption of risk, **9:17**

SLANDER OF TITLE

Generally, **20:3**

SLIDING SCALE AGREEMENTS

Multiple tortfeasors, settlement and
release, **13:28**

SOCIAL GUESTS

Premises liability, **18:8, 18:26, 18:27,
18:35**

SOCIAL HOSTS

Alcoholic Beverages, this index
Torts, this index

SOVEREIGN IMMUNITY

Civil rights under Section 1983,
26:18

SPECIAL EXPERTISE

Attorney malpractice, standard of
care, **16:58**

SPECIALISTS

Medical malpractice, **16:46**

SPECIAL RELATIONSHIP

Governmental entities, claims
against, public duty doctrine,
15:9, 15:16, 15:17
Negligence, nonfeasance, **2:10**

INDEX

SPECIAL VERDICTS

Civil rights under Section 1983,
unreasonable force, **26:45 to
26:48**

Insurance bad faith, **28:33**

Torts, this index

SPEED

Motor vehicle accidents, **30:14,
30:36**

SPOILIATION OF EVIDENCE

Generally, **22:15**

SPOUSES

Husband and Wife, this index

STANDING

Racketeer influenced and corrupt
organizations act (RICO), **27:10**

STATUTE OF FRAUDS

Wrongful discharge, contractual
relationships, **24:12**

STATUTE OF REPOSE

Statutes of Limitation, this index

STATUTES

Negligence, this index

Property rights based on state statute,
26:4

Sources of tort law, **1:2**

STATUTES OF LIMITATION

Generally, **10:1 to 10:24**

Accrual of cause of action, **10:3**

Assault, **10:19**

Attorney malpractice, **16:35**

Battery, **10:19**

Childhood sexual abuse, **10:20**

Civil rights under Section 1983,
26:19

Consumer protection, **8:12**

Contract regarding statute of limita-
tions, **10:7**

Defamation, **10:19**

Determination regarding which
limitation statute to apply, **10:6**

Discovery rule, **10:3**

Employment discrimination, **25:35**

Equitable tolling, **10:5**

STATUTES OF LIMITATION

—Cont'd

Estoppel, application to limitation
defense, **10:8**

False imprisonment, **10:19**

False light, **10:19**

Form of clause asserting affirmative
defense, **10:24**

Fraud, **10:18**

Governmental entities, claims
against, **15:4, 15:16**

Improvements to real property,
injuries arising from, **10:12**

Insurance bad faith, **28:20**

Inverse condemnation, **10:14**

Malpractice, **10:15**

Medical malpractice, **16:24**

Miscellaneous claims, **10:23**

Negligent misrepresentation, **10:18**

Nuisance, **10:13**

Outrage, **10:21**

Personal injuries, **10:9**

Products liability, **10:16, 10:17,
17:24, 17:25, 17:45**

Professional malpractice, **10:15**

Property, injury to, **10:10, 10:11**

Racketeer influenced and corrupt
organizations act (RICO), **27:15**

Statute of repose

Distinguished, **10:2**

Products liability, **10:17**

Tolling, **10:4, 10:5**

Torts, this index

Trade secrets, misappropriation of,
10:22

Trespass, **10:13**

Unenumerated injuries to real prop-
erty, **10:11**

Waiver, application to limitation
defense, **10:8**

Waste, **10:13**

STEPCHILDREN

Wrongful death and survival, dam-
ages, **7:8**

STOCKS AND STOCKHOLDERS

Negligence, duty to corporation, **2:30**

STOP SIGNS

Motor vehicle accidents, right-of-way, **30:7, 30:32**

STRICT LIABILITY

Generally, **3:1 to 3:32**
Abnormally dangerous activities, **3:2, 3:3**
Contributory negligence, **3:24**
Defenses, **3:24, 3:25**
Governmental immunity, **3:25**
Hazardous waste, **3:23**
Products liability, **17:12 to 17:14**
Statutory liability, **3:22, 3:23**
Torts, this index

SUBJECT MATTER

JURISDICTION

Racketeer influenced and corrupt organizations act (RICO), **27:9**

SUBSTANTIAL FACTOR

Proximate cause, **5:24**
Torts, this index
Wrongful discharge, retaliatory discharge, **24:31**

SUCCESSOR LIABILITY

Products liability, **17:8**

SURFACE WATER

Nuisance, **3:19, 3:20**

TAXATION

Damages, compensation for increase in tax liability, **6:42**

TEGMAN

Intentional torts, several or proportionate liability, **13:6**

THIRD PARTIES

Damages, this index
Medical malpractice, **16:5**
Motor vehicle accidents, liability for operation of motor vehicle, **30:2**
Torts, this index

THIRD-PARTY POLICIES

Damages, **28:6**

TIMBER

Trespass, **3:10, 3:11, 3:31, 3:32**

TIME AND DATE

Multiple tortfeasors, contribution and indemnity, **13:34**

TOLLING

Statutes of limitation, **10:4, 10:5**

TORTS

Generally, **1:1 et seq.**
Abnormally dangerous activities, strict liability, **3:2, 3:3**
Absolute immunity
Civil rights under Section 1983, **26:15**
Absolute privilege
Defamation, below
Abuse of process
Generally, **22:10 to 22:13**
Instructions to jury, **22:17**
Irregular act, **22:12**
Rules of Civil Procedure, **22:13**
Ulterior motive, **22:11**
Abuse of Vulnerable Adults Act, negligence, **2:23**
Accountants, professional negligence, **16:41**
Acting in concert
Multiple tortfeasors, joint liability, **13:11, 13:44, 13:45**
Proximate cause, **5:8**
Actual malice, defamation, constitutional law, **20:23**
Additur, damages, **6:40**
Admissions, request for, products liability, **17:48**
Adoption agencies, negligence, duty to disclose, **2:24**
After-acquired evidence defense, **25:31**
Age discrimination, employment discrimination, **25:22**
Agriculture, nuisance, right-to-farm immunity, **3:17**
Alcoholic beverages
Generally, **29:1 to 29:20**
Assault, obviously intoxicated persons, **29:11, 29:12**
Automobile accidents, commercial hosts, **29:2**

INDEX

TORTS—Cont'd

- Alcoholic beverages—Cont'd
 - Burden of proof. Instructions to jury, below
- Certification card defense, **29:7, 29:18**
- Commercial hosts
 - Generally, **29:2, 29:3, 29:13**
 - Instructions to jury, below in this group
 - Minors, furnishing alcohol to, **29:16, 29:17**
- Contributory negligence, intoxication, **9:3, 9:25, 9:26, 9:30 to 9:34**
- Driving while intoxicated, **30:15**
- Instructions to jury
 - Generally, **29:8 to 29:20**
 - Assault, obviously intoxicated persons, **29:11, 29:12**
 - Burden of proof
 - Commercial vendors, furnishing alcohol to minors, **29:15, 29:17**
 - Person apparently under influence of alcohol or obviously intoxicated person, **29:10, 29:12**
 - Social hosts, furnishing alcohol to minors, **29:20**
- Certification card defense, commercial vendors, **29:18**
- Commercial hosts
 - Generally, **29:13**
 - Minors, furnishing alcohol to, **29:16, 29:17**
- Furnishing alcohol to minors.
 - Minors, furnishing alcohol to, below in this subgroup
- Minors, furnishing alcohol to
 - Generally, **29:14 to 29:20**
 - Burden of proof, **29:15, 29:17, 29:20**
 - Certification card defense, commercial vendors, **29:18**
 - Commercial vendors, **29:14 to 29:18**
 - Social hosts, **29:19, 29:20**

TORTS—Cont'd

- Alcoholic beverages—Cont'd
 - Instructions to jury—Cont'd
 - Obviously intoxicated persons, **29:8 to 29:12**
 - Person apparently under influence of alcohol or obviously intoxicated person, duty regarding, **29:8**
 - Quasi-commercial hosts, **29:13**
 - Social hosts, furnishing alcohol to minors, **29:19, 29:20**
- Minors, furnishing alcohol to.
 - Instructions to jury, above in this group
- Negligence, intoxication, **2:59, 2:64**
- Obviously intoxicated persons, **29:8 to 29:12**
- Person apparently under influence of alcohol or obviously intoxicated person, duty regarding, **29:8**
- Presumptions and burden of proof.
 - Instructions to jury, above in this group
- Quasi-commercial hosts, **29:4, 29:13**
- Social hosts
 - Generally, **29:5, 29:6**
 - Furnishing or permitting, what constitutes, **29:6**
 - Minors, furnishing alcohol to, **29:19, 29:20**
 - Suppliers of alcohol, liability of, generally, **29:1 to 29:20**
- Alleys, motor vehicle accidents, right-of-way when emerging from alley, **30:9, 30:34**
- Alternate liability, proximate cause, **5:7**
- Alternative cause, proximate cause, **5:23**
- Amber alerts, workers' compensation, **12:23**
- Ancillary damages. Damages, below
- Animals
 - Generally, **3:4 to 3:7**
 - Dogs, **3:5**
 - Equine activities statute, **3:7**

TORTS—Cont'd

Animals—Cont'd
 Horses, **3:7**
 Strict liability, generally, **3:4 to 3:7**
 Veterinarians, professional negligence, **16:44**
 Anti-SLAPP statutes, workers' compensation, **12:24**
 Apparent agency
 Generally, **4:17**
 Medical malpractice, hospitals, **16:51**
 Apparent authority, principal and agent, **4:36**
 Arbitrary actions, governmental entities, claims by property owners, **15:5**
 Arbitration, wrongful discharge, contractual relationships, **24:6**
 Architects, professional negligence, **16:39**
 Arrest, civil rights under Section 1983, probable cause, **26:17**
 Asbestos, proximate cause, **5:13**
 Assault and battery
 Generally, **14:3 to 14:8**
 Alcoholic beverages, obviously intoxicated persons, **29:11, 29:12**
 Childhood sexual abuse, **14:7**
 Consent, **14:34**
 Forms
 Complaint, **14:42**
 Instructions to jury, below
 Harmful contact, **14:4**
 Instructions to jury
 Battery, **14:32**
 Consent, **14:34**
 Offensive contact, **14:33**
 Negligence, protection of passengers by common carrier, **2:62**
 Offensive contact, **14:5, 14:33**
 Self-defense, defense of others, **14:35**
 Statutes of limitation, **10:19**
 Vicarious liability, **14:8**
 Assumption of risk
 Generally, **9:11 to 9:17**

TORTS—Cont'd

Assumption of risk—Cont'd
 Express assumption, **9:12, 9:28**
 Implied primary assumption, **9:13, 9:27**
 Implied reasonable assumption, **9:14**
 Implied unreasonable assumption, **9:15**
 Instructions to jury
 Express assumption, **9:28**
 Implied primary assumption, **9:27**
 Products liability, **17:42**
 Release of liability, **11:3**
 Ski statute, **9:17**
 Tort Reform Act, effect of, **9:16**
 Attorney malpractice
 Generally, **16:28 to 16:38**
 Attorney-client privilege, waiver of, **16:34**
 Burden of proof, breach of fiduciary duty, **16:62**
 Causation, **16:33**
 Contributory negligence, **16:36**
 Criminal defense counsel, claims against, **16:38**
 Damages, **16:37, 16:60, 16:63**
 Defenses, **16:35, 16:36**
 Duty, **16:29, 16:30**
 Existence of attorney-client relationship, **16:55**
 Fiduciary duty, **16:61 to 16:63**
 Forms. Instructions to jury, below
 Instructions to jury
 Generally, **16:57 to 16:63**
 Burden of proof, breach of fiduciary duty, **16:62**
 Damages, **16:60, 16:63**
 Existence of attorney-client relationship, **16:55**
 Fiduciary duty, **16:61 to 16:63**
 Nonclients, duty to, **16:30, 16:56**
 Proximate cause, **16:59**
 Special expertise, standard of care, **16:58**
 Standard of care, **16:57, 16:58**
 Nonclients, duty to, **16:30, 16:56**

INDEX

TORTS—Cont'd

- Attorney malpractice—Cont'd
 - Proximate cause, **16:59**
 - Rules of Professional Conduct (RPCs), admissibility of evidence regarding, **16:32**
 - Special expertise, standard of care, **16:58**
 - Standard of care, **16:31, 16:57, 16:58**
 - Statute of limitations, **16:35**
 - Waiver of attorney-client privilege, **16:34**
- Attorney's fees
 - Generally, **6:15 to 6:30**
 - Amount, **6:28**
 - Bad faith, **6:24**
 - Civil rights under Section 1983, **26:22**
 - Common fund, **6:23**
 - Contracts, **6:17, 6:18**
 - Employment discrimination, **25:33**
 - Equity, **6:22 to 6:25**
 - Grounds, generally, **6:16 to 6:25**
 - Insurance carrier, litigation with, **6:26**
 - Limitations, **6:27**
 - Litigation, exposure to, **6:25**
 - Lodestar fee, calculating, **6:29**
 - Medical malpractice, **16:26**
 - Prevailing party, **6:18, 6:21**
 - Racketeer influenced and corrupt organizations act (RICO), **27:19**
 - Statutes, **6:19 to 6:21**
 - § 10,000, amounts less than, **6:20**
 - Upward adjustment, multiplier, **6:30**
 - Wrongful discharge, **24:24**
- Attractive nuisance, premises liability, **18:28**
- At-will relationships, wrongful discharge, **24:5, 24:26**
- Bad faith, attorneys' fees, **6:24**
- Balancing test, nuisance, **3:29**
- Beneficiaries, wrongful death and survival, **7:6**
- Bicycles, motor vehicle accidents, **30:22, 30:46**

TORTS—Cont'd

- Blacklisting, employment discrimination, **25:27**
- Bodily substance analysis, contributory negligence, intoxication, **9:34**
- Bona fide occupational qualifications (BFOQs), employment discrimination, **25:34, 25:42**
- Borrowed servant doctrine, generally, **4:4**
- Burden of proof
 - Attorney malpractice, breach of fiduciary duty, **16:62**
 - Defamation, **20:5**
 - Fraud and misrepresentation, **19:18, 19:19, 19:27**
 - Insurance bad faith, **28:25, 28:31**
 - Interference with contractual relations, **23:14, 23:15**
 - Interference with prospective advantage or business expectancy, **23:16, 23:17**
 - Medical malpractice, **16:47, 16:48**
 - Multiple tortfeasors, settlement and release, **13:24**
 - Trade secrets, **23:22**
- Burden-shifting procedure, employment discrimination, **25:11**
- But-for cause. Products liability, below
- Bystanders, damages, **6:34, 6:44**
- Capricious actions, governmental entities, claims by property owners, **15:5**
- Captain of the ship doctrine, medical malpractice, **16:9**
- Causation
 - Attorney malpractice, **16:33**
 - Consumer protection, **8:10, 8:18**
 - Products liability, **17:22**
- Certification cards, alcoholic beverages, defenses, **29:7, 29:18**
- Charitable organizations, workers' compensation, **12:19**
- Children and minors
 - Assault and battery, childhood sexual abuse, **14:7**
 - Damages, medical expenses, **6:47**

TORTS—Cont'd

- Children and minors—Cont'd
 - Motor vehicle accidents, presence of children, **30:19**
 - Negligence, below
 - Outrage, malicious interference with parent-child relationship, **14:12**
 - Parental immunity, **12:3, 12:4**
 - Premises liability, trespassers, **18:10, 18:11**
 - Sexual abuse, **10:20, 14:7**
 - Vicarious liability, **4:18, 4:19**
 - Wrongful death and survival, below
- Choice of law
 - Generally, **1:12**
 - Wrongful death and survival, **7:2**
- Citizen arrest, intentional torts, statutory privilege and common law privilege, **14:22**
- Civil rights under Section 1983
 - Generally, **26:1 to 26:48**
 - Absolute immunity, **26:15**
 - Arrest based on probable cause, **26:17**
 - Attorney's fees, **26:22**
 - Burden of proof. Instructions to jury, below
 - Color of state law
 - Generally, **26:10 to 26:13**
 - Instructions to jury, **26:25**
 - Municipality, liability of, **26:12**
 - Personal liability for deprivation of civil rights, **26:11**
 - State itself cannot be held liable, **26:13**
 - Conditions of confinement, **26:41 to 26:44**
 - Consent, exceptions to warrant requirement, **26:36**
 - Damages, **26:20, 26:21**
 - Defenses
 - Generally, **26:14 to 26:19**
 - Absolute immunity, **26:15**
 - Arrest based on probable cause, **26:17**
 - Qualified immunity, **26:16**
 - Sovereign immunity, **26:18**

TORTS—Cont'd

- Civil rights under Section 1983
 - Cont'd
 - Defenses—Cont'd
 - Statute of limitations, **26:19**
 - Deliberate indifference, **26:33, 26:44**
 - Deprivation of constitutional right, generally, **26:2 to 26:9**
 - Due process, **26:5**
 - Eighth Amendment, conditions of confinement, **26:41 to 26:44**
 - Employment, property interests in, **26:6**
 - Exceptions to warrant requirement
 - Unlawful arrest/seizure of person, **26:38 to 26:40**
 - Unreasonable search, **26:35 to 26:37**
 - Exigent circumstances, exceptions to warrant requirement, **26:37**
 - Failure to train or supervise, or instruct, municipal and local government liability, **26:28**
 - First Amendment rights, **26:7, 26:8**
 - Forms
 - Generally, **26:23 to 26:48**
 - Instructions to jury, below
 - Verdicts, below
 - Fourteenth Amendment, conditions of confinement, **26:41 to 26:44**
 - Instructions to jury
 - Generally, **26:23 to 26:44**
 - Burden of proof
 - Conditions of confinement, **26:41, 26:43**
 - Failure to train or supervise, or instruct, municipal and local government liability, **26:28**
 - Individual defendant, **26:24**
 - Unreasonable force, Fourth Amendment, **26:29**
 - Unreasonable search, **26:34**
 - Color of law, **26:25**
 - Conditions of confinement, **26:41 to 26:44**

INDEX

TORTS—Cont'd

- Civil rights under Section 1983
 - Cont'd
 - Instructions to jury—Cont'd
 - Consent, exceptions to warrant requirement, **26:36**
 - Deliberate indifference, **26:33, 26:44**
 - Eighth or Fourteenth Amendment, conditions of confinement, **26:41 to 26:44**
 - Exceptions to warrant requirement
 - Unlawful arrest/seizure of person, **26:38 to 26:40**
 - Unreasonable search, **26:35 to 26:37**
 - Exigent circumstances, exceptions to warrant requirement, **26:37**
 - Failure to train or supervise, or instruct, municipal and local government liability, **26:28**
 - Introductory instruction, **26:23**
 - Medical care, conditions of confinement, **26:41, 26:42**
 - Municipal and local government liability, **26:27, 26:28**
 - Probable cause, exception to warrant requirement, **26:38 to 26:40**
 - Protection, conditions of confinement, **26:43, 26:44**
 - Punitive damages, **26:32**
 - Reasonable suspicion for investigatory stop, exception to warrant requirement, **26:40**
 - Search incident to lawful arrest, exceptions to warrant requirement, **26:35**
 - Seizure of person, Fourth Amendment, **26:30**
 - Subjects and causes to be subjected, **26:26**
 - Unreasonable force, Fourth Amendment, **26:29, 26:31**

TORTS—Cont'd

- Civil rights under Section 1983
 - Cont'd
 - Instructions to jury—Cont'd
 - Unreasonable search, **26:34 to 26:37**
 - Land use regulations, **26:3**
 - Local government liability. Municipal and local government liability, below
 - Medical care, conditions of confinement, **26:41, 26:42**
 - Municipal and local government liability
 - Generally, **26:27, 26:28**
 - Color of state law, **26:12**
 - Verdicts, **26:48**
 - Personal liability for deprivation of civil rights, color of state law, **26:11**
 - Probable cause
 - Arrests, **26:17**
 - Exception to warrant requirement, **26:38 to 26:40**
 - Property rights protected by state statute, **26:4**
 - Protection, conditions of confinement, **26:43, 26:44**
 - Proximate cause, **26:9**
 - Public employees, First Amendment rights, **26:7**
 - Punitive damages, **26:21, 26:32, 26:46 to 26:48**
 - Qualified immunity, **26:16**
 - Reasonable suspicion for investigatory stop, exception to warrant requirement, **26:40**
 - School students, First Amendment rights, **26:8**
 - Search and seizure
 - Incident to lawful arrest, exceptions to warrant requirement, **26:35**
 - Seizure of person, Fourth Amendment, **26:30**
 - Unreasonable search, **26:34 to 26:37**
 - Sovereign immunity, **26:18**

TORTS—Cont'd

- Civil rights under Section 1983
 - Cont'd
 - Special verdict form, unreasonable force, **26:45 to 26:48**
 - Statute of limitations, **26:19**
 - Subjects and causes to be subjected, **26:26**
 - Unreasonable force
 - Fourth Amendment, **26:29, 26:31**
 - Verdicts, **26:45 to 26:48**
- Verdicts
 - Generally, **26:45 to 26:48**
 - Municipal liability, **26:48**
 - Punitive damages, **26:46 to 26:48**
 - Special verdict form, unreasonable force, **26:45 to 26:48**
 - Unreasonable force, **26:45 to 26:48**
- Class actions, generally, **1:13**
- Clear and convincing evidence, negligent misrepresentation, **19:31**
- Clergy, professional negligence, **16:42**
- Collateral sources
 - Damages, generally, **6:38, 6:39**
 - Medical malpractice, **16:25**
 - Professional negligence, **16:64**
- Color of state law. Civil rights under Section 1983, above
- Comment K, design defects, **17:14**
- Commercial hosts, Alcoholic beverages, above
- Common areas, premises liability, landlord and tenant, **18:38**
- Common carriers. Negligence, below
- Common fund, attorneys' fees, **6:23**
- Common interest, defamation, qualified or conditional privilege, **20:18**
- Common law
 - Privacy, defenses, **21:9**
 - Sources of tort law, **1:1**
 - Trade secrets, preemption of common law causes of action, **23:10**

TORTS—Cont'd

- Community property, multiple tortfeasors, execution of judgments, **13:3**
- Companion products, products liability, **17:10**
- Comparative bad faith, insurance bad faith, **28:22**
- Comparative fault, intentional torts, **14:27**
- Competition, interference with prospective advantage or business expectancy, affirmative defense, **23:20**
- Completion and acceptance defense, premises liability, **18:21**
- Concealment, fraud and misrepresentation, **19:21 to 29:23**
- Confidentiality memorandum, trade secrets, **23:31**
- Consent
 - Assault and battery, **14:34**
 - Civil rights under Section 1983, exceptions to warrant requirement, **26:36**
- Consortium, loss of, damages, **6:35**
- Constitutional law
 - Generally, **1:5**
 - Damages, calculation of damages, **6:37**
 - Defamation, below
 - Privacy, defenses, **21:10**
- Construction defects, products liability, **17:33**
- Construction work, negligence, **2:53**
- Constructive discharge. Wrongful discharge, below
- Consumer protection
 - Generally, **8:1 to 8:20**
 - Causation, **8:10, 8:18**
 - Conduct of trade or commerce, **8:6**
 - Consumer Protection Act, generally, **8:2 et seq.**
 - Elements of Consumer Protection Act, generally, **8:4 to 8:12, 8:13**
 - Forms. Instructions to jury, below
 - Harm to business or property, **8:9**
 - Injury, **8:17**

INDEX

TORTS—Cont'd

Consumer protection—Cont'd

Instructions to jury

Generally, **8:13 to 8:20**

Causation, **8:18**

Definitions, **8:19, 8:20**

Elements of Consumer Protection Act, **8:13**

Injury, **8:17**

Per se violations, **8:15**

Public interest, impact on, **8:16**

Reasonableness defense, **8:14**

Trade or commerce, **8:20**

Unfair or deceptive act or practice, **8:19**

Insurance bad faith, policies not requiring defense of insured, **28:16**

Per se violations, **8:7, 8:15**

Public interest, impact on, **8:8, 8:16**

Reasonableness defense, **8:14**

Remedies, **8:11**

Statute of limitations, **8:12**

Trade or commerce, **8:20**

Unfair or deceptive act or practice, **8:5, 8:19**

Continuing course of treatment, medical malpractice, **16:11**

Contractors, principal and agent, non-delegable duties, **4:15**

Contracts

Attorneys' fees, **6:17, 6:18**

Constructive discharge, above

Multiple tortfeasors, below

Statute of limitations, **10:7**

Wrongful discharge, below

Contribution and indemnity. Multiple tortfeasors, below

Contributory negligence

Generally, **9:1 to 9:34**

Agents, imputed contributory negligence, **9:7**

Attorney malpractice, **16:36**

Bodily substance analysis, intoxication, **9:34**

Children. Parent and child, imputed contributory negligence, below

TORTS—Cont'd

Contributory negligence—Cont'd

Damages, measure of economic and noneconomic damages, **6:51, 6:52**

Degree of contributory negligence, determination of, **9:21**

Domestic partners, imputed contributory negligence, **9:6**

Felony, commission of, **9:4, 9:29, 9:33**

Fewer than all plaintiffs, contributory negligence of, **9:19**

Forms. Instructions to jury, below

Imputed contributory negligence

Generally, **9:5 to 9:8**

Parent and child, **9:8**

Principal and agent, **9:7**

Spouses and domestic partners, **9:6**

Instructions to jury

Generally, **9:18 to 9:34**

Bodily substance analysis, intoxication, **9:34**

Child under six years of age, **9:20**

Definition, **9:18**

Degree of contributory negligence, determination of, **9:21**

Felony, commission of, **9:29, 9:33**

Fewer than all plaintiffs, contributory negligence of, **9:19**

Intoxication, **9:25, 9:26, 9:30 to 9:34**

Knowledge by passenger of intoxication, **9:25**

Motor vehicle, intoxication of driver, **9:25, 9:32**

Parent, imputation of negligence of, **9:22**

Parent of child six years of age or older, **9:23**

Parent of child under six years of age, **9:24**

Voluntary intoxication, **9:26**

TORTS—Cont'd

Contributory negligence—Cont'd
 Intoxication, **9:3, 9:25, 9:26, 9:30 to 9:34**
 Knowledge by passenger of intoxication, **9:25**
 Motor vehicle, intoxication of driver, **9:25, 9:32**
 Parent and child, imputed contributory negligence
 Generally, **9:8, 9:22 to 9:24**
 Child under six years of age, **9:20**
 Parent of child six years of age or older, **9:23**
 Parent of child under six years of age, **9:24**
 Principal and agent, imputed contributory negligence, **9:7**
 Products liability, **17:42**
 Spouses, imputed contributory negligence, **9:6**
 Strict liability, **3:24**
 Voluntary intoxication, **9:26**
 Conversion. Intentional interference with property, below
 Corporations, negligence, duty of shareholder, **2:30**
 Costs of action, racketeer influenced and corrupt organizations act (RICO), **27:20**
 Counties, negligence, **2:31**
 Course of employment, workers' compensation, **12:10**
 Crashworthiness, products liability, **17:20**
 Criminal conduct by third persons. Negligence, below
 Criminal law
 Attorney malpractice, claims against defense counsel, **16:38**
 Premises liability, protection of public invitees, **18:32**
 Damages
 Generally, **6:1 to 6:52**
 Actual damages, **6:2**
 Additur, **6:40**
 Adequacy of verdicts, **6:40**

TORTS—Cont'd

Damages—Cont'd
 Amount of award, generally, **6:36 to 6:42**
 Ancillary damages
 Generally, **6:12 to 6:30**
 Prejudgment interest, **6:14**
 Punitive damages, **6:12**
 Tax liability, compensation for increase in, **6:42**
 Treble damages, **6:13**
 Attorney malpractice, **16:37, 16:60, 16:63**
 Business or property, avoidable consequences, **6:50**
 Bystander injuries, **6:34, 6:44**
 Children, medical expenses, **6:47**
 Civil rights under Section 1983, **26:20, 26:21**
 Consortium, loss of, **6:35**
 Constitutional provisions affecting calculation of damages, **6:37**
 Contributory negligence, measure of economic and noneconomic damages, **6:51, 6:52**
 Conversion, **14:17**
 Defamation, below
 Direct injury resulting from negligent conduct, emotional distress absent physical injury, **6:9**
 Domestic partner, medical expenses, **6:46**
 Earnings lost, **6:5**
 Emotional distress absent physical injury
 Generally, **6:8, 6:8 to 6:10**
 Direct injury resulting from negligent conduct, **6:9**
 Statutory authority, **6:10**
 Employment discrimination, below
 Excessive verdicts, **6:40**
 Forms. Instructions to jury, below
 Fraud and misrepresentation, **19:10, 19:26**
 Health care providers, collateral sources, **6:39**

INDEX

TORTS—Cont'd

Damages—Cont'd

Instructions to jury

Generally, **6:43 to 6:52**

Avoidable consequences, **6:48 to 6:50**

Bystander recovery of emotional distress, **6:44**

Children, medical expenses, **6:47**

Contributory negligence, measure of economic and noneconomic damages, **6:51, 6:52**

Emotional distress, **6:43 to 6:52, 6:44**

Measure of economic and noneconomic damages, **6:51, 6:52**

Medical expenses, **6:45 to 6:47**

Past and future medical expenses, **6:45**

Property or business, avoidable consequences, **6:50**

Spouse/state registered domestic partner, medical expenses, **6:46**

Treatment, failure to secure, **6:49**

Insurance bad faith, policies requiring defense of insured, **28:13, 28:14**

Interference with contractual relations, **23:5**

Malicious prosecution, **22:8**

Medical expenses, **6:6, 6:39, 6:45 to 6:47**

Mitigation of damages

Generally, **9:9, 9:10**

Employment discrimination, **25:55**

Property or business, avoidable consequences, **6:50**

Seat belt evidence inadmissible, **9:10**

Treatment, failure to secure, **6:49**

Wrongful discharge, **24:33**

Pain and suffering, **6:7**

TORTS—Cont'd

Damages—Cont'd

Past and future medical expenses, **6:45**

Periodic payments, right to request, **6:41**

Personal property, damage to, **6:4**

Privacy, **21:11, 21:16**

Profits lost, **6:11**

Racketeer influenced and corrupt organizations act (RICO), below

Real property, damage to, **6:3**

Remittitur, **6:40**

Seat belt evidence inadmissible, **9:10**

Spouses, medical expenses, **6:46**

Tax liability, compensation for increase in, **6:42**

Third-party, recovery for injury to

Bystander injuries, **6:34**

Consortium, loss of, **6:35**

Wrongful conception and wrongful birth, **6:32**

Wrongful life, **6:33**

Third to party, recovery for injury to

Generally, **6:31 to 6:35**

Timber trespass, **3:32**

Trade secrets, **23:13**

Treatment, failure to secure, **6:49, 6:45**

Treble damages, **6:13, 27:17**

Wrongful conception and wrongful birth, **6:32**

Wrongful death and survival, below

Wrongful discharge, below

Wrongful life, **6:33**

Dangerous instrumentality, negligence, entrustment, **2:27**

Dangerous offenders, governmental entities, claims against, **15:11**

Dead bodies, tortious interference, **14:18**

Deception doctrine, motor vehicle accidents, **30:39**

Defamation

Generally, **20:1 to 20:33**

TORTS—Cont'd

Defamation—Cont'd

Absolute privilege

Generally, **20:13 to 20:15**

Judicial or quasi-judicial proceeding, **20:14**

Legislative and other governmental proceedings, **20:15**

Actual malice, constitutional law, **20:23**

Burden of proof, **20:5**

Common interest, qualified or conditional privilege, **20:18**

Of and concerning plaintiff, **20:11**

Conditional privilege. Qualified or conditional privilege, below

Constitutional law

Generally, **20:21 to 20:24**

Actual malice, **20:23**

Negligence standard, **20:24**

Public figures and public officials, **20:22, 20:24**

Speech concerning private matter not meriting constitutional protection, **20:25**

Damages

Generally, **20:26**

Private figures/public concern, **20:26, 20:27**

Defamatory communications,

False and defamatory communications, below

Distinctions between libel, slander and invasion of privacy, **20:2**

Elements, generally, **20:4 to 20:20**

Fact or opinion, **20:12**

False and defamatory communications

Generally, **20:8 to 20:10**

Defamatory character, **20:9**

Falsity, **20:8**

Publication, **20:10**

Forms. Instructions to jury, below

Governmental proceedings, absolute privilege, **20:15**

Instructions to jury

Generally, **20:28 to 20:33**

TORTS—Cont'd

Defamation—Cont'd

Instructions to jury—Cont'd

Definition, **20:28**

Opinion, when defamatory, **20:29**

Private figure/public figure plaintiff, **20:31**

Public official/public figure, **20:30**

Qualified privilege, malice, **20:32**

Truth as defense, **20:33**

Judicial proceeding, absolute privilege, **20:14**

Legislative proceedings, absolute privilege, **20:15**

Neutral reporting, qualified or conditional privilege, **20:16**

Official proceedings, reports of, **20:17**

Opinion, when defamatory, **20:29**

Opinion or fact, **20:12**

Persons who may be defamed, **20:7**

Public and/or private officials and figures

Generally, **20:30**

Constitutional law, **20:22, 20:24**

Damages, **20:26, 20:27**

Plaintiffs, **20:31**

Publication, false and defamatory communications, **20:10**

Qualified or conditional privilege

Generally, **20:13, 20:16 to 20:19**

Common interest, **20:18**

Malice, **20:32**

Neutral reporting, **20:16**

Official proceedings, reports of, **20:17**

Quasi-judicial proceeding, absolute privilege, **20:14**

Questions of law and fact, **20:6**

Single publication rule, **20:20**

Slander of title, **20:3**

Speech concerning private matter not meriting constitutional protection, **20:25**

INDEX

TORTS—Cont'd

- Defamation—Cont'd
 - Statutes of limitation, **10:19**
 - Truth as defense, **20:33**
- Defenses
 - Attorney malpractice, **16:35, 16:36**
 - Civil rights under Section 1983, above
 - Intentional interference with property, below
 - Intentional torts, below
 - Interference with prospective advantage or business expectancy, **23:20, 23:21**
 - Malicious prosecution, **22:9**
 - Nuisance, coming to the nuisance, **3:16**
 - Products liability, below
 - Racketeer influenced and corrupt organizations act (RICO), **27:15**
 - Strict liability, **3:24, 3:25**
- Deliberate indifference, civil rights under Section 1983, **26:33, 26:44**
- Deliberate injuries, workers' compensation, **12:11**
- Department of Labor and Industries, multiple tortfeasors, lien rights, **13:41**
- Department of Social and Health Services, multiple tortfeasors, lien rights, **13:42**
- Design defects, products liability, **17:12, 17:13, 17:35**
- Disability discrimination. Employment discrimination, below
- Disabled persons, negligence, duty of common carrier, **2:64**
- Disciplinary committee members, workers' compensation, **12:20**
- Disclaimer, wrongful discharge, employee handbook, **24:40, 24:41**
- Discovery, insurance bad faith, claims files and mental impressions of insurer's attorneys, **28:23**
- Discovery rule, statutes of limitation, **10:3**

TORTS—Cont'd

- Discretionary functions, governmental entities, claims against, **15:6**
- Discrimination, workers' compensation, **12:13**
- Disparate impact and disparate treatment, employment discrimination, **25:8 to 25:10, 25:38 to 25:41**
- Dogs
 - Generally, **3:5**
 - Workers' compensation, dog handlers, **12:17**
- Domestic partners
 - Damages, medical expenses, **6:46**
 - Imputed contributory negligence, **9:6**
- Driveways, motor vehicle accidents, right-of-way when emerging from driveway, **30:9, 30:34**
- Driving while intoxicated, motor vehicle accidents, **30:15**
- Dual persona and dual capacity doctrines, workers' compensation, **12:12**
- Due process, civil rights under Section 1983, **26:5**
- Earnings, damages, lost earnings, **6:5**
- Ecclesiastical bodies, workers' compensation, **12:18**
- Economic loss
 - Generally, **1:10**
 - Products liability, **17:21**
- Economic relations
 - Generally, **23:1 to 23:42**
- Forms
 - Generally, **23:14 to 23:42**
 - Instructions to jury, below
 - Loyalty provisions/agreement not to recruit employees, **23:29**
- Improper purpose and improper means, tortious interference, **23:18**
- Instructions to jury, improper purpose and improper means, tortious interference, **23:18**

TORTS—Cont'd

- Economic relations—Cont'd
 - Loyalty provisions/agreement not to recruit employees, **23:29**
- Eighth Amendment, civil rights under
 - Section 1983, conditions of confinement, **26:41 to 26:44**
- Ejection of passenger, negligence, common carrier, **2:63**
- Electrical utilities, negligence, duty to avoid interruption of service, **2:25**
- Emergencies, negligence, definition of reasonable care, **2:37**
- Emergency medical service personnel
 - Medical malpractice, immunity, **16:22**
 - Workers' compensation, **12:21**
- Emergency vehicles. Motor vehicle accidents, below
- Emotional distress
 - Absent physical injury. Ancillary damages. Damages, above
 - Wrongful discharge, measure of damages, **24:35**
- Employer and employee
 - Generally, **4:2 to 4:9**
 - Borrowed servant doctrine, **4:4**
 - Civil rights under Section 1983, property interests, **26:6**
 - Corporation acts through its employees, **4:33**
 - On duty issue, scope of employment, **4:5**
 - Employee liability, **4:9**
 - Furthering of master's business, scope of employment, **4:6**
 - Independent contractors and servants, distinguished, **4:3, 4:28**
 - Instructions to jury
 - Corporation acts through its employees, **4:33**
 - Independent contractor, defined, **4:28**
 - Intentional torts of employee, **4:7**
 - Scope of employment, **4:5, 4:6, 12:10**
 - Vicarious liability, generally, **4:2 to 4:9**

TORTS—Cont'd

- Employment discrimination
 - Generally, **25:1 to 25:43**
 - After-acquired evidence defense, **25:31**
 - Age discrimination, **25:22**
 - Attorney's fees, **25:33**
 - Blacklisting, **25:27**
 - Bona fide occupational qualifications (BFOQs), **25:34, 25:42**
 - Burden of proof. Instructions to jury, below
 - Burden-shifting procedure, **25:11**
 - Constructive discharge, **25:6, 25:37**
- Damages
 - Generally, **25:29 to 25:33, 25:55 to 25:57**
 - After-acquired evidence defense, **25:31**
 - Attorney's fees, **25:33**
 - Economic loss, **25:30, 25:56**
 - Future lost earnings, **25:57**
 - Mitigation of damages, **25:55**
 - Noneconomic loss, **25:32, 25:56**
- Disability discrimination
 - Generally, **25:23**
 - Instructions to jury, below
- Disparate impact and disparate treatment, **25:8 to 25:10, 25:38 to 25:41**
- Economic or noneconomic loss, damages, **25:30, 25:32, 25:56**
- Essential function, disability discrimination, **25:53**
- Federal law, claims based on, **25:7**
- Forms. Instructions to jury, below
- Future lost earnings, damages, **25:57**
- Harassment in workplace, **25:44 to 25:47**
- Hostile work environment, **25:16, 25:46, 25:47**
- Instructions to jury
 - Generally, **25:37 to 25:57**
 - Bona fide occupational qualification (BFOQ), **25:42**
 - Burden of proof
 - Constructive discharge, **25:37**

INDEX

TORTS—Cont'd

- Employment discrimination—Cont'd
 - Instructions to jury—Cont'd
 - Burden of proof—Cont'd
 - Disability discrimination, **25:48, 25:50**
 - Disparate impact, **25:41**
 - Disparate treatment, **25:38, 25:39**
 - Hostile work environment, workplace harassment, **25:47**
 - Quid pro quo, workplace harassment, **25:45**
 - Constructive discharge, **25:37**
 - Damages, **25:55 to 25:57**
 - Disability discrimination
 - Generally, **25:48 to 25:52**
 - Burden of proof, **25:48, 25:50**
 - Definition of disability, **25:49**
 - Essential function, **25:53**
 - Impairment, defined, **25:54**
 - Reasonable accommodation, **25:50, 25:51**
 - Undue hardship, **25:52**
 - Disparate impact, **25:40, 25:41**
 - Disparate treatment, burden of proof, **25:38, 25:39**
 - Economic and noneconomic damages, **25:56**
 - Essential function, disability discrimination, **25:53**
 - Future lost earnings, damages, **25:57**
 - Harassment in workplace, **25:44 to 25:47**
 - Hostile work environment, workplace harassment, **25:47**
 - Mitigation of damages, **25:55**
 - Quid pro quo, workplace harassment, **25:45**
 - Reasonable accommodation, disability discrimination, **25:50, 25:51**
 - Retaliation, **25:43**
 - Undue hardship, disability discrimination, **25:52**

TORTS—Cont'd

- Employment discrimination—Cont'd
 - Marital status discrimination, **25:20**
 - Mitigation of damages, **25:55**
 - Preemployment inquiries, **25:26**
 - Public accommodations discrimination, **25:12, 25:17**
 - Quid pro quo, sex discrimination, **25:15, 25:45**
 - Race discrimination, **25:21**
 - Reasonable accommodation, disability discrimination, **25:50, 25:51**
 - Religious discrimination, **25:19**
 - Retaliation, **25:24, 25:25, 25:43**
 - Sex discrimination
 - Generally, **25:14 to 25:18**
 - Hostile work environment, **25:16, 25:47**
 - Public accommodations, **25:17**
 - Quid pro quo, **25:15, 25:45**
 - Sexual harassment, **25:14 to 25:17**
 - Sexual orientation, **25:18**
 - Statute of limitations, **25:35**
 - Undue hardship, disability discrimination, **25:52**
 - Workers' compensation, retaliation, **25:25**
- Engineers, professional negligence, **16:39**
- Enhanced injury, products liability, **17:20**
- Enhanced obligations when defending insured under reservation of rights. Insurance bad faith, below
- Enterprise, racketeer influenced and corrupt organizations act (RICO), **27:6**
- Enterprise liability, proximate cause, **5:9**
- Entrustment, negligence, motor vehicle or dangerous instrumentality, **2:27**
- Equine activities, generally, **3:7**
- Equitable tolling, statutes of limitation, **10:5**

TORTS—Cont'd

- Equity
 - Attorneys' fees, **6:22 to 6:25**
 - Contribution and indemnity, equitable remedies, **13:36**
- Essential functions, employment, disability discrimination, **25:53**
- Estoppel, statutes of limitation, **10:8**
- Evidence
 - After-acquired evidence defense, **25:31**
 - Breach of duty. Negligence, below
 - Fraud and misrepresentation, preponderance of evidence, **19:19**
 - Spoilation of evidence, **22:15**
 - Witness immunity, **12:2**
- Exceptions. Civil rights under Section 1983, above
- Excess insurance, insurance bad faith, policies requiring defense of insured, **28:12**
- Excessive verdicts, damages, **6:40**
- Exigent circumstances, civil rights under Section 1983, exceptions to warrant requirement, **26:37**
- Expert testimony, medical malpractice, **16:5**
- Express assurances, special relationship, **15:10**
- Extreme and outrageous conduct, outrage, **14:38**
- False and defamatory communications. Defamation, above
- False arrest, generally, **14:10, 14:36**
- False imprisonment
 - Generally, **14:9, 14:36**
 - Statutes of limitation, **10:19**
- False light, privacy, **10:19, 21:6, 21:14**
- False promise, fraud and misrepresentation, **19:24**
- Family
 - Immunity, **12:3 to 12:5**
 - Vicarious liability, **4:18 to 4:20**
- Family car doctrine, vicarious liability, **4:20, 4:35**
- Farms, nuisance, right-to-farm immunity, **3:17**

TORTS—Cont'd

- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Products liability, below
- Federal maritime jurisdiction, workers' compensation, **12:14**
- Federal Railroad Safety Act, preemption, **1:9**
- Federal Tort Claims Act, generally, **15:2**
- Felonies, contributory negligence, **9:4, 9:29, 9:33**
- Fiduciary relationships
 - Attorney malpractice, **16:61 to 16:63**
 - Negligent misrepresentation, **19:30**
- Financial interest, interference with prospective advantage or business expectancy, affirmative defense, **23:21**
- First Amendment, civil rights under Section 1983, **26:7, 26:8**
- Foreseeability
 - Negligence, **2:6**
 - Proximate cause, **5:19**
- Forest Practices Act, workers' compensation, **12:25**
- Forms
 - Assault and battery, above
 - Civil rights under Section 1983, above
 - Economic relations, above
 - Fraud and misrepresentation, below
 - Insurance bad faith, below
 - Intentional torts, below
 - Medical malpractice, below
 - Multiple tortfeasors, below
 - Negligence, below
 - Products liability, below
 - Professional negligence, below
 - Trade secrets, below
 - Wrongful discharge, below
- Fourteenth Amendment, civil rights under Section 1983, conditions of confinement, **26:41 to 26:44**
- Franchises, negligence, duty to employees of franchisee, **2:28**

INDEX

TORTS—Cont'd

- Fraud and misrepresentation
 - Generally, **19:1 to 19:32**
 - Active concealment of known facts, **19:23**
 - Affirmative misstatements, negligent misrepresentation, **19:27**
 - Burden of proof, **19:18, 19:19, 19:27**
 - Clear, cogent and convincing evidence, combined with preponderance of evidence, negligent misrepresentation, **19:31**
 - Complaint for fraud and negligent misrepresentation, **19:32**
 - Concealment, **19:21 to 29:23**
 - Damages, **19:10, 19:16, 19:26**
 - Defenses, **19:15**
 - Duty to disclose, negligent misrepresentation, **19:29**
 - Elements, generally, **19:2 to 19:10, 19:13**
 - Existing material fact, **19:3**
 - Failure to disclose information, negligent misrepresentation, **19:28 to 19:30**
 - False promise, **19:24**
 - Fiduciary relationship, negligent misrepresentation, **19:30**
- Forms
 - Generally, **19:17 to 19:32**
 - Complaint for fraud and negligent misrepresentation, **19:32**
 - Instructions to jury, below
- Fraudulent concealment, **19:7**
- Independent duty doctrine, application of, **19:14**
- Instructions to jury
 - Generally, **19:17 to 19:31**
 - Active concealment of known facts, **19:23**
 - Affirmative misstatements, negligent misrepresentation, **19:27**
 - Benefit of the bargain rule, damages, **19:26**

TORTS—Cont'd

- Fraud and misrepresentation—Cont'd
- Instructions to jury—Cont'd
 - Burden of proof, **19:19, 19:27**
 - Clear, cogent and convincing evidence, combined with preponderance of evidence, negligent misrepresentation, **19:31**
 - Concealment, **19:21 to 29:23**
 - Damages, benefit of the bargain rule, **19:26**
 - Defenses, **19:15**
 - Duty to disclose, negligent misrepresentation, **19:29**
 - Elements, **19:13**
 - Failure to disclose information, negligent misrepresentation, **19:28 to 19:30**
 - False promise, **19:24**
 - Fiduciary relationship, negligent misrepresentation, **19:30**
 - Independent duty doctrine, application of, **19:14**
 - Intent not to perform, evidence of, **19:25**
 - Negligent misrepresentation
 - Generally, **19:27 to 19:32**
 - Affirmative misstatements, **19:27**
 - Burden of proof, **19:27**
 - Clear, cogent and convincing evidence, combined with preponderance of evidence, **19:31**
 - Duty to disclose, **19:29**
 - Failure to disclose information, **19:28 to 19:30**
 - Fiduciary relationship, **19:30**
 - Nondisclosure of known facts, **19:22**
 - Opinion, expression of, **19:20**
 - Preponderance of evidence, **19:19**
- Intended reliance, **19:8**
- Intent not to perform, evidence of, **19:25**
- Intent of speaker, statements regarding, **19:5**

TORTS—Cont'd

Fraud and misrepresentation—Cont'd
 Justifiable reliance, **19:9**
 Knowledge of falsity, **19:6**
 Negligent misrepresentation
 Generally, **19:12**
 Instructions to jury, above
 Statutes of limitation, **10:18**
 Nondisclosure of known facts,
 19:22
 Opinion, expression of, **19:20**
 Opinion vs. fact, **19:4**
 Practice pointers, **19:1**
 Preponderance of evidence, **19:19**
 Release of liability, **11:8**
 Reliance, **19:8, 19:9**
 Residential property, sale of, **19:11**
 Scienter, **19:6**
 Silence, **19:7**
 Statutes of limitation, **10:18**
 Frauds, statute of, wrongful discharge, contractual relationships,
 24:12
 Front pay, wrongful discharge, measure of damages, **24:4**
 Fungible products, multiple tortfeasors, joint liability, **13:17**
 Good samaritan rule, negligence,
 2:14, 2:71
 Governmental entities, claims against
 Generally, **15:1 to 15:18**
 Arbitrary actions of government agencies, claims by property owners, **15:5**
 Capricious actions of government agencies, claims by property owners, **15:5**
 Claim-filing requirements, **15:4**
 Dangerous offenders, supervision of, **15:11**
 Discretionary function exemption, **15:6**
 Emergency vehicles. Motor vehicle accidents, above
 Failure to enforce exception, public duty doctrine, **15:13**
 Federal agencies, claims against, generally, **15:2 to 15:15**
 Federal Tort Claims Act, **15:2**

TORTS—Cont'd

Governmental entities, claims against—Cont'd
 Form, claim for action against state governmental agencies, **15:18**
 Judicial immunity, **15:14**
 Legislative intent exception, public duty doctrine, **15:8**
 Local governmental entities, claims against, **15:16, 15:17**
 Political subdivisions, claims against, **15:1, 15:16, 15:17**
 Prejudgment and post judgment interest, **15:15**
 Public duty doctrine
 Generally, **15:7 to 15:13**
 Dangerous offenders, supervision of, **15:11**
 Failure to enforce exception, **15:13**
 Legislative intent exception, **15:8**
 Special relationship exception, **15:9, 15:11**
 Volunteer rescue exception, **15:12**
 Quasi-judicial immunity, **15:14**
 Special relationship exception, public duty doctrine, **15:9, 15:11**
 State agencies, claims against, generally, **15:2 to 15:15**
 Time limits, **15:4, 15:16**
 Unlawful actions of government agencies, claims by property owners, **15:5**
 Volunteer rescue exception, public duty doctrine, **15:12**
 Washington Tort Claims Act, generally, **15:3**
 Governmental immunity, strict liability, **3:25**
 Governmental proceedings, defamation, absolute privilege, **20:15**
 Government contractors, workers' compensation, **12:22**
 Government specifications, products liability, **17:38, 17:39, 17:44**

INDEX

TORTS—Cont'd

- Gross negligence, generally, **2:43, 2:58**
- Handbooks, wrongful discharge, employee handbooks, **24:10, 24:40, 24:41**
- Harassment, employment discrimination, **25:44 to 25:47**
- Hazardous substances
 - Multiple tortfeasors, joint liability, **13:15**
 - Strict liability, hazardous waste, **3:23**
- Highways and streets
 - Nuisance, interference with use, **3:27**
 - Premises liability, **18:17, 18:23, 18:43, 18:45**
- Horses, generally, **3:7**
- Hospital liability. Medical malpractice, below
- Hospitals, negligence, exclusion of hospital quality assurance program records, **2:52**
- Hostile work environment, employment, sex discrimination, **25:16, 25:47**
- Immunity
 - Generally, **12:1 to 12:25**
 - Civil rights under Section 1983, absolute immunity, **26:15**
 - Family immunity, **12:3 to 12:5**
 - Interspousal immunity, **12:5**
 - Nuisance, right-to-farm immunity, **3:17**
 - Parental immunity, **12:3, 12:4**
 - Witness immunity, **12:2**
- Implied agreements, wrongful discharge, **24:8 to 24:10, 24:36**
- Implied causes of action, generally, **1:4**
- Implied warranties, products liability, **17:19**
- Improvements to real property, statutes of limitation, **10:12**
- Imputed contributory negligence.
 - Contributory negligence, above
- Incompetent persons, medical malpractice, informed consent, **16:18**

TORTS—Cont'd

- Independent business judgment, proximate cause, **5:17**
- Independent contractors
 - Agents, distinguished, **4:37**
 - Employee, distinguished, **4:3, 4:28**
 - Premises liability, duty of possessor to employees, **18:19**
- Independent duty doctrine, generally, **1:10**
- Independent economic value, trade secrets, **23:26**
- Informed consent. Medical malpractice, below
- Injunctions
 - Timber trespass, **3:32**
 - Trade secrets, **23:12**
- Instructions to jury
 - Abuse of process, **22:17**
 - Assault and battery, above
 - Assumption of risk, above
 - Attorney malpractice, above
 - Civil rights under Scion 1983, above
 - Consumer protection, above
 - Contributory negligence, above
 - Damages, above
 - Defamation, above
 - Employer and employee, above
 - Fraud and deceit, above
 - Insurance bad faith, below
 - Intentional torts, below
 - Interference with contractual relations. Intentional torts, above
 - Interference with prospective advantage or business expectancy. Intentional torts, above
 - Malicious prosecution, **22:16**
 - Medical malpractice, below
 - Multiple tortfeasors, acting in concert, **13:44, 13:45**
 - Nuisance, below
 - Outrage, below
 - Partners and partnership, below
 - Principal and agent, below
 - Privacy, below
 - Products liability, below
 - Professional negligence, below

TORTS—Cont'd

- Instructions to jury—Cont'd
 - Proximate cause, below
 - Racketeer Influenced and Corrupt Organizations Act (RICO), below
 - Timber trespass, **3:31**
 - Trade secrets, below
 - Vicarious liability, below
 - Wrongful death, below
 - Wrongful discharge, below
- Insurance
 - Attorneys' fees, litigation with insurance carrier, **6:26**
 - Professional negligence, **16:43, 16:64**
- Insurance bad faith
 - Generally, **28:1 to 28:33**
 - Basis of liability, **28:4**
 - Burden of proof, **28:25, 28:31**
 - Comparative bad faith, **28:22**
 - Consumer Protection Act, policies not requiring defense of insured, **28:16**
 - Damages, policies requiring defense of insured, **28:13, 28:14**
 - Discovery of claims files and mental impressions of insurer's attorneys, **28:23**
 - Enhanced obligations when defending insured under reservation of rights
 - Definition of duty, **28:10**
 - Remedies for breach, **28:11**
 - Excess carriers, policies requiring defense of insured, **28:12**
 - First-party claims, denial of, **28:28**
 - First-party policies. Policies not requiring defense of insured, below
- Forms
 - Generally, **28:25 to 28:33**
 - Instructions to jury, below
 - Special verdict form, **28:33**
- Instructions to jury
 - Generally, **28:25 to 28:32**
 - Burden of proof, **28:25, 28:31**

TORTS—Cont'd

- Insurance bad faith—Cont'd
 - Instructions to jury—Cont'd
 - First-party claims, denial of, **28:28**
 - General duty, **28:26**
 - Insurance Fair Conduct Act, **28:32**
 - Insurance regulations related to settlement of claims, violations of, **28:30**
 - Investigation and exploration of settlement, failure regarding, **28:29**
 - Reservation of rights, failure to act in good faith and defending subject to, **28:27**
 - Third-party claims, **28:31**
- Insurance Fair Conduct Act, **28:2, 28:3, 28:32**
- Insurance regulations related to settlement of claims, violations of, **28:30**
- Investigation, negotiation and settlement, **28:7, 28:29**
- Policies not requiring defense of insured
 - Generally, **28:15 to 28:19**
 - Consumer Protection Act, **28:16**
 - Denial of claims without reasonable justification, **28:16**
 - First to party policies, generally, **28:15 to 28:17**
 - Washington Administrative Code, **28:17, 28:18**
- Policies requiring defense of insured
 - Generally, **28:5 to 28:14**
 - Damages, **28:13, 28:14**
 - Defense, duty to provide, **28:8**
 - Enhanced obligations when defending insured under reservation of rights
 - Definition of duty, **28:10**
 - Remedies for breach, **28:11**
 - Excess and umbrella carriers, **28:12**
 - Investigation, negotiation and settlement within policy limits, **28:7**

INDEX

TORTS—Cont'd

- Insurance bad faith—Cont'd
 - Policies requiring defense of insured—Cont'd
 - Third to party policies, generally, **28:5 to 28:14**
 - Remedies for breach of duty to defend, **28:9**
 - Reservation of rights, failure to act in good faith and defending subject to, **28:27**
 - Res judicata, uninsured motorist claims, **28:24**
 - Special verdict form, **28:33**
 - Statute of limitations, **28:20**
 - Third-party claims, **28:31**
 - Third-party policies. Policies requiring defense of insured, above
 - Umbrella carriers, policies requiring defense of insured, **28:12**
 - Washington Administrative Code, policies not requiring defense of insured, **28:17, 28:18**
- Intentional interference with property
 - Generally, **14:14 to 14:18**
- Conversion
 - Generally, **14:16, 14:17**
 - Complaint, **14:43**
 - Damages, **14:17**
 - Defenses, **14:24, 14:25**
- Damages, conversion, **14:17**
- Dead body, tortious interference with, **14:18**
- Defenses
 - Conversion, **14:24, 14:25**
 - Prevention of conversion of personal property, **14:24**
 - Recapture of personal property, **14:26**
- Prevention of conversion of personal property, **14:24**
- Recapture of personal property, **14:26**
- Trespass to land, **14:14**
- Trespass to personal property, **14:15**
- Workers' compensation, intentional injuries, **12:11**

TORTS—Cont'd

- Intentional torts
 - Generally, **14:1 to 14:43**
 - Act and intent requirements, **14:2**
 - Citizen arrest, statutory privilege and common law privilege for, **14:22**
 - Comparative fault, **14:27**
 - Defense of others, **14:21**
- Defenses
 - Generally, **14:19 to 14:30**
 - Citizen arrest, statutory privilege and common law privilege for, **14:22**
 - Comparative fault, **14:27**
 - Defense of others, **14:21**
 - Prevention of trespass to real property, **14:23**
 - Qualified immunity, **14:28**
 - Self-defense, **14:20**
 - Warrant, execution of valid, **14:29**
- Employer and employee, **4:7**
- False arrest, **14:10, 14:36**
- False imprisonment, **14:9, 14:36**
- Forms
 - Generally, **14:31 to 14:43**
 - Assault and battery, complaint, **14:42**
 - Conversion, complaint, **14:43**
 - Instructions to jury, below
- Instructions to jury
 - Generally, **14:31 to 14:43**
 - False imprisonment or false arrest, **14:36**
 - Self-defense, **14:41**
 - Willful misconduct and wanton misconduct, defined, **14:31**
- Multiple tortfeasors, below
- Prevention of trespass to real property, **14:23**
- Qualified immunity, **14:28**
- Self-defense, **14:20, 14:41**
- Vicarious liability, parent and child, **4:19**
- Warrant, execution of valid, **14:29**
- Willful misconduct and wanton misconduct, defined, **14:31**

TORTS—Cont'd

- Interference with contractual relations
 - Generally, **23:2 to 23:6**
 - Burden of proof, **23:14, 23:15**
 - Damage, **23:5**
 - Elements, **23:3 to 23:6**
 - Existence of contract, **23:3**
 - Forms. Instructions to jury, below
 - Improper purpose and improper means, tortious interference, **23:18**
 - Instructions to jury
 - Burden of proof, **23:14, 23:15**
 - Improper purpose and improper means, tortious interference, **23:18**
 - Legally protected interest, affirmative defense, **23:19**
 - Knowledge of defendant of existence of contract, **23:3**
 - Legally protected interest, affirmative defense, **23:19**
 - Multiple tortfeasors, **13:16**
 - Privilege, **23:6**
 - Wrongful interference, **23:4**
- Interference with prospective advantage or business expectancy
 - Generally, **23:7, 23:8**
 - Affirmative defenses, **23:20, 23:21**
 - Burden of proof, **23:16, 23:17**
 - Competition as affirmative defense, **23:20**
 - Financial interest as affirmative defense, **23:21**
 - Instructions to jury
 - Affirmative defenses, **23:20, 23:21**
 - Burden of proof, **23:16, 23:17**
 - Competition as affirmative defense, **23:20**
 - Financial interest as affirmative defense, **23:21**
 - Privilege, **23:8**
- Interspousal immunity, generally, **12:5**
- Intervening causes, proximate cause, **5:4, 5:22**

TORTS—Cont'd

- Inverse condemnation
 - Statutes of limitation, **10:14**
- Trespass, **3:21**
- Investigations, insurance bad faith, **28:7, 28:29**
- Joint enterprise and partnership, principal and agent, **4:16**
- Joint liability. Multiple tortfeasors, below
- Joint ventures, vicarious liability, **4:34**
- Judicial immunity, governmental entities, claims against, **15:14**
- Judicial intervention, proximate cause, superseding cause, **5:18**
- Judicial proceedings, defamation, absolute privilege, **20:14**
- Jurisdiction, federal property and state subject matter jurisdiction, **1:11**
- Justifiable reliance
 - Duty of schools toward their pupils, inducing justifiable reliance, **2:9**
 - Fraud and misrepresentation, **19:9**
 - Negligence, nonfeasance, **2:8**
- Knowledge
 - Contributory negligence, passenger's knowledge of intoxication, **9:25**
 - Fraud and misrepresentation, knowledge falsity, **19:6**
 - Interference with contractual relations, existence of contract, **23:3**
- Landlord and tenant. Premises liability, below
- Land surveyors, professional negligence, **16:39**
- Land use, civil rights under Section 1983, **26:3**
- Latent defects, premises liability, landlord and tenant, **18:36**
- Learned Hand test, negligence, definition of reasonable care, **2:34**
- Left turns, motor vehicle accidents, right-of-way, **30:6, 30:31**
- Legal cause. Products liability, below

INDEX

TORTS—Cont'd

- Legal process
 - Generally, **22:1 to 22:17**
 - Negligent investigation, **22:14**
 - Spoilation of evidence, **22:15**
- Legislative intent exception,
 - governmental entities, claims against, public duty doctrine, **15:8**
- Legislative proceedings, defamation, absolute privilege, **20:15**
- Lien rights, multiple tortfeasors, **13:41 to 13:43**
- Likeness, privacy, appropriation of likeness, **21:4, 21:15**
- Loan receipt agreements, multiple tortfeasors, **13:27**
- Longshore and Harbor Workers' Compensation Act, preemption, **1:8**
- Loss of chance, proximate cause, **5:11**
- Loyalty provisions, economic relations, **23:29**
- Malicious prosecution
 - Generally, **22:2 to 22:9**
 - Damage, **22:8**
 - Defense, **22:9**
 - Elements, generally, **22:4 to 22:8**
 - Injury, **22:8**
 - Instructions to jury, **22:16**
 - Malice, **22:6**
 - Parties, **22:3**
 - Probable cause, want of, **22:4, 22:5**
 - Termination in plaintiff's favor, **22:7**
- Marital status discrimination, employment discrimination, **25:20**
- Maritime cases, preemption, **1:7, 1:8**
- Market share liability, proximate cause, **5:10**
- Mary Carter agreements, multiple tortfeasors, settlement and release, **13:28**
- Material risks, medical malpractice, informed consent, **16:17**
- Mediation, medical malpractice, **16:2**

TORTS—Cont'd

- Medical care
 - Civil rights under Section 1983, conditions of confinement, **26:41, 26:42**
 - Damages, medical expenses, **6:6, 6:39, 6:45 to 6:47**
 - Products liability, medical device amendments, **17:26**
- Medical malpractice
 - Generally, **16:2 to 16:27**
 - Apparent agency, hospital, **16:51**
 - Attorney's fees, **16:26**
 - Burden of proof, **16:47, 16:48**
 - Captain of the ship doctrine, **16:9**
 - Collateral source rule, **16:25**
 - Continuing course of treatment, **16:11**
 - Corporate negligence, hospital liability, **16:19, 16:50**
 - Course of treatment, disagreement as to, **16:8**
 - Disagreement as to course of treatment, **16:8**
 - Emergency medical service personnel, immunity for, **16:22**
 - Expert testimony, **16:7**
- Forms
 - Generally, **16:45 to 16:65**
 - Hospital and anesthesiologists, complaint against, **16:65**
 - Instructions to jury, below
- Hospital liability
 - Generally, **16:19**
 - Apparent agency, **16:51**
 - Complaint, **16:65**
 - Corporate negligence, **16:19, 16:50**
- Incompetent persons, informed consent, **16:18**
- Informed consent
 - Generally, **16:14 to 16:18, 16:48, 16:52**
 - Incompetent persons, **16:18**
 - Material risks, **16:17**
 - Reasonable patient standard, **16:16**
 - Written consent form, **16:15**

TORTS—Cont'd

Medical malpractice—Cont'd
 Instructions to jury
 Generally, **16:45 to 16:64**
 Apparent agency, hospital, **16:51**
 Burden of proof, **16:47, 16:48**
 Corporate negligence, hospital, **16:50**
 General health care provider, **16:45**
 Hospital, negligence of, **16:49 to 16:51**
 Informed consent, **16:48, 16:52**
 Judgment, exercise of, **16:54**
 No guarantee/poor result, **16:53**
 Specialist, **16:46**
 Judgment, exercise of, **16:54**
 Legislative measures affecting health care, **16:3**
 Material risks, informed consent, **16:17**
 Mediation of healthcare claims, **16:2**
 No guarantee/poor result, **16:53**
 Nurses, **16:21**
 Peer review committees, admissibility of proceedings of, **16:23**
 Pharmacists, **16:20**
 Proximate cause, **16:12**
 Quality improvement committees, admissibility of proceedings of, **16:23**
 Reasonable patient standard, informed consent, **16:16**
 Res ipsa loquitur, **16:10**
 Specialists, **16:46**
 Statute of limitations, **16:24**
 Statutory framework, generally, **16:4**
 Third parties, duties to, **16:5**
 Uniform Health Care Information Act, violations of, **16:27**
 Warranty, breach of, **16:13**
 Written consent form, **16:15**
 Mitigation of damages. Ancillary damages. Damages, above

TORTS—Cont'd

Motive, wrongful discharge, retaliatory discharge, **24:30**
 Motor vehicle accidents
 Generally, **30:1 to 30:50**
 Alcoholic beverages, commercial hosts, **29:2**
 Alley, right-of-way when emerging from, **30:9, 30:34**
 Assumption that others will obey law, **30:16, 30:27, 30:28**
 Bicycle riders, **30:22, 30:46**
 Building, right-of-way when emerging from, **30:9, 30:34**
 Children, presence of, **30:19**
 Crosswalks. Instructions to jury, below
 Deception doctrine, **30:39**
 Driveway, right-of-way when emerging from, **30:9, 30:34**
 Driving while intoxicated, **30:15**
 Emergency, duty of one confronted by, **30:29**
 Emergency vehicles
 Generally, **30:17**
 Instructions to jury, below
 Favored driver, **30:4**
 Following driver, duty of, **30:13, 30:25**
 Forms. Instructions to jury, below
 Governmental entities, claims against
 Maintenance of roadway, **30:23**
 Transfer of ownership of roadway, **30:24**
 Instructions to jury
 Generally, **30:25 to 30:50**
 Alley, driveway or building, emerging from, **30:34**
 Assumption that others will obey law, **30:27, 30:28**
 Bicycle riders, **30:46**
 Crosswalks
 Definition, **30:45**
 Duty of driver approaching crosswalk, **30:41, 30:42**
 Duty of pedestrian before entering crosswalk, **30:43**

INDEX

TORTS—Cont'd

- Motor vehicle accidents—Cont'd
 - Instructions to jury—Cont'd
 - Crosswalks—Cont'd
 - Pedestrian crossing roadway outside of crosswalk, **30:44**
 - Pedestrian within crosswalk, **30:40**
 - Deception doctrine, **30:39**
 - Driver or pedestrian, general duty, **30:26**
 - Emergency, duty of one confronted by, **30:29**
 - Emergency vehicles
 - Generally, **30:37, 30:47 to 30:49**
 - Emergency runs, **30:48**
 - Requirements for authorized emergency vehicles, **30:47**
 - Right-of-way, **30:49**
 - Following driver, duty of, **30:25**
 - Left turns, **30:31**
 - Persons or vehicles at work on roadway, **30:50**
 - Private road, entering street or highway from, **30:35**
 - Right-of-way
 - Alley, driveway or building, emerging from, **30:34**
 - Deception doctrine, **30:39**
 - Emergency vehicles, **30:49**
 - Left turns, **30:31**
 - Pedestrian within crosswalk, **30:40**
 - Private road, entering street or highway from, **30:35**
 - Stop signs, **30:32**
 - Uncontrolled intersections, **30:30**
 - Yield signs, **30:33**
 - Right to of to way
 - Generally, **30:30 to 30:35**
 - Seat belts, **30:38**
 - Speed, **30:36**
 - Stop signs, **30:32**
 - Uncontrolled intersections, **30:30**

TORTS—Cont'd

- Motor vehicle accidents—Cont'd
 - Instructions to jury—Cont'd
 - Yield signs, **30:33**
 - Intoxicated, driving while, **30:15**
 - Left turns, right-of-way, **30:6, 30:31**
 - Maintenance of roadway, claims against governmental entities, **30:23**
 - Operators, claims against, generally, **30:3 to 30:22**
 - Passengers, **30:18**
 - Pedestrians
 - Crosswalks. Instructions to jury, above
 - Duty, **30:22**
 - Persons or vehicles at work on roadway, **30:20, 30:50**
 - Private road, right-of-way when entering street or highway from, **30:10, 30:35**
 - Railroad tracks, crossing of, **30:12**
 - Right-of-way
 - Alley, driveway or building, emerging from, **30:9, 30:34**
 - Instructions to jury, above
 - Left turns, **30:6, 30:31**
 - Pedestrian/vehicle, **30:11**
 - Private road, entering street or highway from, **30:10, 30:35**
 - Stop signs, **30:7, 30:32**
 - Uncontrolled intersections, **30:5, 30:30**
 - Yield signs, **30:8, 30:33**
 - Right to of to way
 - Generally, **30:4 to 30:11**
 - School bus drivers, **30:21**
 - Seat belts, **30:38**
 - Speed, **30:14, 30:36**
 - Stop signs, right-of-way, **30:7, 30:32**
 - Third person, liability for operation of motor vehicle by, **30:2**
 - Transfer of ownership of roadway, claims against governmental entities, **30:24**

TORTS—Cont'd

- Motor vehicle accidents—Cont'd
 - Uncontrolled intersections, right-of-way, **30:5, 30:30**
 - Yield signs, right-of-way, **30:8, 30:33**
- Motor vehicles
 - Contributory negligence, intoxication of driver, **9:25, 9:32**
 - Negligence, entrustment, **2:27**
 - Vicarious liability, family car doctrine, **4:20, 4:35**
- Multiple tortfeasors
 - Generally, **13:1 to 13:45**
 - Acting in concert, joint liability, **13:11, 13:44, 13:45**
 - Agency, joint liability, **13:12**
 - Amount of settlement credit, **13:30**
 - Burden of proof, settlement and release, **13:24**
 - Calculation of proportionate shares, **13:9**
 - Community property, execution of judgments against, **13:3**
- Contracts
 - Interpretation, **13:40**
 - Obligation to indemnify, **13:39**
 - Tortious interference with contracts, **13:16**
- Contribution and indemnity
 - Generally, **13:31 to 13:43**
 - Amount, **13:35**
 - Contractual obligation to indemnify, **13:39**
 - Department of Labor and Industries, lien rights asserted by, **13:41**
 - Department of Social and Health Services, lien rights asserted by, **13:42**
 - Equitable remedies, **13:36**
 - Lien rights, **13:41 to 13:43**
 - Model Toxics Control Act, **13:37**
 - Parties, **13:33**
 - Time for commencement, **13:34**
 - Covenant not to execute, joint liability, **13:14**

TORTS—Cont'd

- Multiple tortfeasors—Cont'd
 - Department of Labor and Industries, lien rights asserted by, **13:41**
 - Department of Social and Health Services, lien rights asserted by, **13:42**
 - Divisible and indivisible harm, several or proportionate liability, **13:5**
 - Equitable remedies, **13:36**
 - Factors to be considered, **13:25**
 - Forms, instructions to jury, acting in concert, **13:44, 13:45**
 - Fungible products, joint liability, **13:17**
 - Hazardous substances, joint liability, **13:15**
 - Indemnity. Contribution and indemnity, above
 - Instructions to jury, acting in concert, **13:44, 13:45**
- Intentional torts
 - Joint liability, **13:18**
 - Several or proportionate liability, **13:6**
- Joint liability
 - Generally, **13:10 to 13:18**
 - Acting in concert, **13:11**
 - Agency, **13:12**
 - Contracts, tortious interference with, **13:16**
 - Covenant not to execute, **13:14**
 - Fungible products, **13:17**
 - Hazardous substances, **13:15**
 - Intentional torts, **13:18**
 - Plaintiff not at fault, **13:13**
- Lien rights, **13:41 to 13:43**
- Loan receipt agreements, **13:27**
- Mary Carter agreements, settlement and release, **13:28**
- Notice of hearing, settlement and release, **13:22**
- Parties
 - Contribution and indemnity, **13:33**
 - Settlement and release, **13:23**

INDEX

TORTS—Cont'd

- Multiple tortfeasors—Cont'd
 - Parties—Cont'd
 - Several or proportionate liability, **13:7, 13:8**
 - Phantom tortfeasors, several or proportionate liability, **13:8**
 - Proportionate liability. Several or proportionate liability, below
 - Reasonableness hearings, settlement and release, **13:21 to 13:26**
 - Release. Settlement and release, below
 - Rescission, settlement and release, **13:20**
 - Settlement and release
 - Generally, **13:19 to 13:30**
 - Amount of settlement credit, **13:30**
 - Burden of proof, hearing, **13:24**
 - Effect, **13:26, 13:29**
 - Loan receipt agreements, **13:27**
 - Notice of hearing, **13:22**
 - Parties, hearing, **13:23**
 - Reasonableness hearings, generally, **13:21 to 13:26**
 - Rescission, **13:20**
 - Sliding scale or Mary Carter agreements, **13:28**
 - Several or proportionate liability
 - Generally, **13:4 to 13:9**
 - Calculation of proportionate shares, **13:9**
 - Divisible and indivisible harm, **13:5**
 - Intentional and fault-based torts, **13:6**
 - Parties, **13:7, 13:8**
 - Phantom tortfeasors, **13:8**
 - Sliding scale agreements, settlement and release, **13:28**
 - Time for commencement, contribution and indemnity, **13:34**
 - Tort Reform Act, generally, **13:2**
 - Municipal and local government liability. Civil rights under Section 1983, above

TORTS—Cont'd

- Municipalities
 - Negligence, **2:31**
 - Premises liability, **18:17, 18:23**
- Mutual mistake, release of liability, **11:5**
- Names, privacy, appropriation of name, **21:4, 21:15**
- Native American tribes, workers' compensation, **12:16**
- Negligence
 - Generally, **2:1 to 2:76**
 - Abuse of Vulnerable Adults Act, **2:23**
 - Adoption agency, duty to disclose, **2:24**
 - Assault by employees, protection of passengers from, **2:62**
 - Behavior of reasonably prudent person, **2:33**
 - Business invitee, protection from criminal acts, **2:66**
- Children and minors
 - Abuse, mandatory reporting and negligent investigation, **2:22**
 - Common carrier, duty to child passenger, **2:64**
 - Definition of reasonable care, **2:35**
 - Standard of conduct for child, violation of statute, ordinance or administrative rule, **2:57**
- Common carriers
 - Definition of reasonable care, **2:38 to 2:40**
 - Instructions to jury, below
 - Standard of care, **2:40**
 - Status of plaintiff as passenger, **2:39**
- Complaint, automobile accident, **2:76**
- Construction work, **2:53**
- Corporation, duty of shareholder to, **2:30**
- County, duty of, **2:31**
- Creation of risk, **2:4, 2:6**

TORTS—Cont'd

- Negligence—Cont'd
 - Criminal conduct by third persons
 - Generally, **2:15 to 2:18**
 - Increase of risk of harm, **2:16**
 - Perpetrator, special relationship to, **2:18**
 - Plaintiff, special relationship to, **2:17**
 - Dangerous instrumentality, entrustment of, **2:27**
 - Definition of reasonable care
 - Generally, **2:2, 2:32 to 2:45**
 - Behavior of reasonably prudent person, **2:33**
 - Children, **2:35**
 - Common carriers, **2:38 to 2:40**
 - Emergency situations, **2:37**
 - Gross negligence, **2:43**
 - Learned Hand test, **2:34**
 - Passenger on common carrier, status as, **2:39**
 - Physical and mental infirmities, **2:36**
 - Specific cases, **2:42**
 - Standard of care, common carriers, **2:40**
 - Willful and wanton misconduct, **2:44**
 - Disabled passenger, duty of common carrier to, **2:64**
 - Duty to use reasonable care, generally, **2:2 to 2:31**
 - Ejection of passenger by common carrier, **2:63**
 - Electrical utility, duty to avoid interruption of service, **2:25**
 - Emergency situations, definition of reasonable care, **2:37**
 - Entrustment of motor vehicle or dangerous instrumentality, **2:27**
 - Evidence of breach of duty
 - Generally, **2:46 to 2:52**
 - Hospital quality assurance program records, exclusion of, **2:52**
 - Industry custom, **2:48**

TORTS—Cont'd

- Negligence—Cont'd
 - Evidence of breach of duty
 - Cont'd
 - Postaccident repairs, exclusion of, **2:51**
 - Res ipsa loquitur, **2:50**
 - Statutory violations and negligence per se, **2:49**
 - Violation of defendant's policies, **2:47**
 - Evidence of negligence, violation of statute, ordinance or magistrate of rule, **2:70**
 - Foreseeability, **2:6**
 - Forms
 - Generally, **2:54 to 2:75**
 - Complaint, automobile accident, **2:76**
 - Instructions to jury, below
 - Franchisor, duty to employees of franchisee, **2:28**
 - Good samaritan rule, **2:14, 2:71**
 - Gross negligence, **2:43, 2:58**
 - Hospital quality assurance program records, exclusion of, **2:52**
 - Increase of risk, **2:4, 2:16**
 - Industry custom, evidence of breach of duty, **2:48**
 - Infirm passenger, duty of common carrier to, **2:64**
 - Instructions to jury
 - Generally, **2:54 to 2:75**
 - Assault or intentional harm by employees, protection of passengers from, **2:62**
 - Business invitee, protection from criminal acts, **2:66**
 - Common carriers
 - Generally, **2:60 to 2:62**
 - Assault or intentional harm by employees, protection of passengers from, **2:62**
 - Business invitee, protection from criminal acts, **2:66**
 - Disabled, infirm or intoxicated passenger or child, duty to, **2:64**

INDEX

TORTS—Cont'd

- Negligence—Cont'd
 - Instructions to jury—Cont'd
 - Common carriers—Cont'd
 - Ejection of passenger by carrier, **2:63**
 - Misconduct of others, protection of passengers from, **2:61**
 - Passengers, duty to, **2:60 to 2:62**
 - Place to board or alight, **2:67**
 - Termination of status, **2:65**
- Definitions, **2:54, 2:55**
- Disabled, infirm or intoxicated passenger or child, duty to, **2:64**
- Ejection of passenger by carrier, **2:63**
- Evidence of negligence, violation of statute, ordinance or magistrate of rule, **2:70**
- Good samaritan rule, **2:71**
- Gross negligence, **2:58**
- Intoxication, voluntary, **2:59**
- Misconduct of others, protection of passengers from, **2:61**
- Negligence per se, violation of statute, ordinance or magistrate of rule, **2:68**
- Nondelegable duties, **2:75**
- Ordinary care, **2:55, 2:56**
- Passengers, duty of common carriers to, **2:60 to 2:62**
- Place to board or alight, common carriers, **2:67**
- Rescue doctrine, **2:72**
- Res ipsa loquitur, **2:73**
- Seeing, duty of, **2:74**
- Standard of conduct for child, violation of statute, ordinance or administrative rule, **2:57**
- Statute, ordinance or magistrate of rule, violation of
 - Generally, **2:68 to 2:70**
 - Evidence of negligence, **2:70**
 - Negligence per se, **2:68**

TORTS—Cont'd

- Negligence—Cont'd
 - Instructions to jury—Cont'd
 - Statute, ordinance or magistrate of rule, violation of—Cont'd
 - Willful or wanton misconduct, **2:69**
 - Termination of status, common carriers, **2:65**
 - Voluntary undertaking, **2:71**
 - Willful or wanton misconduct, violation of statute, ordinance or magistrate of rule, **2:69**
- Intentional harm by employees, protection of passengers from, **2:62**
- Interruption of electrical service, duty to avoid, **2:25**
- Intoxication, **2:59, 2:64**
- Justifiable reliance, nonfeasance, **2:8**
- Learned Hand test, definition of reasonable care, **2:34**
- Misconduct of others, protection of passengers from, **2:61**
- Misfeasance v. nonfeasance, **2:5**
- Motor vehicle, entrustment of, **2:27**
- Municipality, duty of, **2:31**
- Negligence per se, **2:49, 2:68**
- Negligent investigation, **2:22**
- Nondelegable duties, **2:75**
- Nonfeasance
 - Generally, **2:5, 2:7 to 2:10**
 - Duty of schools toward their pupils, inducing justifiable reliance, **2:9**
 - Justifiable reliance, inducing of, **2:8**
 - Special relationship, **2:10**
- Ordinary care, **2:55, 2:56**
- Passengers, duty of common carriers to, **2:60 to 2:62**
- Physical and mental infirmities, definition of reasonable care, **2:36**

TORTS—Cont'd

Negligence—Cont'd
 Place to board or alight, common carriers, **2:67**
 Postaccident repairs, exclusion of, **2:51**
 Prison officials, duty to prevent assaults on inmates, **2:29**
 Professional rescuer doctrine, **2:12**
 Question of law or fact, **2:3**
 Reasonable care, generally, **2:2 et seq.**
 Rescue and rescuers
 Generally, **2:72**
 Duty of one who has begun rescue, **2:13, 2:14**
 Good samaritan statute, **2:14**
 Liability to injured rescuer, **2:11, 2:12**
 Professional rescuer doctrine, **2:12**
 Res ipsa loquitur, **2:50, 2:73**
 Seeing, duty of, **2:74**
 Special relationship, nonfeasance, **2:10**
 State agency, duty of, **2:31**
 Statutory duty
 Generally, **2:19 to 2:26**
 Abuse of Vulnerable Adults Act, **2:23**
 Adoption agency, duty to dis- close, **2:24**
 Child abuse, mandatory report- ing and negligent investiga- tion, **2:22**
 Electrical utility, duty to avoid interruption of service, **2:25**
 Instructions to jury, above
 Negligence per se, **2:49, 2:68**
 Negligent investigation, **2:22**
 Waste, duty to avoid, **2:26**
 Stockholder, duty to corporation, **2:30**
 Termination of status, common carriers, **2:65**
 Voluntary undertaking, **2:71**
 Waste, duty to avoid, **2:26**

TORTS—Cont'd

Negligence—Cont'd
 Willful or wanton misconduct, **2:44, 2:69**
 Negligent hiring or supervision
 Employer and employee, **4:8**
 Principal and agent, **4:13**
 Negligent investigation
 Generally, **22:14**
 Wrongful discharge, **24:3**
 Negligent misrepresentation. Fraud and deceit, above
 Negotiation, insurance bad faith, **28:7, 28:29**
 Neutral reporting, defamation, quali- fied or conditional privilege, **20:16**
 Newly discovered injury, release of liability, **11:7**
 Noncompetition agreements, trade secrets, **23:34**
 Nonfeasance. Negligence, above
 Nonprofit organizations, workers' compensation, **12:19**
 Notice
 Multiple tortfeasors, settlement and release, **13:22**
 Premises liability, temporary unsafe condition not caused by owner or occupier, **18:31**
 Nuisance
 Generally, **3:8, 3:12 to 3:17**
 Balancing test, **3:29**
 Defense based on coming to the nuisance, **3:16**
 Forms. Instructions to jury, above
 Instructions to jury
 Generally, **3:26 to 3:31**
 Balancing test, **3:29**
 Interference with use of street or highway, **3:27**
 Per se nuisance, **3:30**
 Private nuisance, **3:28**
 Public nuisance, **3:28**
 Per se nuisance, **3:15, 3:30**
 Private nuisances, **3:14, 3:28**
 Public nuisances, **3:13, 3:28**
 Right-to-farm immunity, **3:17**
 Shoreline Management Act, **3:18**

INDEX

TORTS—Cont'd

- Nuisance—Cont'd
 - Statutes of limitation, **10:13**
 - Street or highway, interference with use of, **3:27**
 - Surface water, liability for, **3:19, 3:20**
- Nurses, medical malpractice, **16:21**
- Obscure defects, premises liability, landlord and tenant, **18:36**
- Official proceedings, defamation, reports, **20:17**
- Outrage
 - Generally, **14:11 to 14:13**
 - Civil harassment, **14:13**
 - Extreme and outrageous conduct, **14:38**
- Instructions to jury
 - Extreme and outrageous conduct, **14:38**
 - Intentionally or recklessly causes emotional distress, **14:39**
 - Severe emotional distress, **14:40**
 - Intentionally or recklessly causes emotional distress, **14:39**
 - Malicious interference with parent-child relationship, **14:12**
 - Severe emotional distress, **14:40**
 - Statutes of limitation, **10:21**
- Overreaching, release of liability, **11:8**
- Pain and suffering, damages, **6:7**
- Parent and child, imputed contributory negligence. Contributory negligence, above
- Parties
 - Malicious prosecution, **22:3**
 - Multiple tortfeasors, above
- Partners and partnership
 - Generally, **4:29 to 4:32**
 - Act of partner as act of all partners, **4:30**
 - Existence of partnership admitted, scope of partnership business in issue, **4:32**
 - Existence of partnership in issue, **4:39**

TORTS—Cont'd

- Partners and partnership—Cont'd
 - Instructions to jury
 - Generally, **4:29 to 4:32**
 - Act of partner as act of all partners, **4:30**
 - Definition, **4:29**
 - Existence of partnership admitted, scope of partnership business in issue, **4:32**
 - Existence of partnership in issue, **4:39**
 - Liability of partner, no issue as to partnership, agency or scope of authority, **4:31**
 - Scope of partnership business, **4:38**
 - Liability of partner, no issue as to partnership, agency or scope of authority, **4:31**
 - Scope of partnership business, **4:38**
 - Vicarious liability, generally, **4:29 to 4:32**
- Passengers
 - Motor vehicle accidents, **30:18**
 - Negligence, duty of common carriers, **2:60 to 2:62**
- Peer review committees
 - Medical malpractice, admissibility of proceedings, **16:23**
 - Workers' compensation, **12:20**
- Periodic payments, damages, **6:41**
- Per se negligence, generally, **2:49, 2:68**
- Per se nuisance, generally, **3:15, 3:30**
- Per se violations, consumer protection, **8:7, 8:15**
- Personality, privacy, appropriation of personality, **21:4, 21:15**
- Personal jurisdiction, racketeer influenced and corrupt organizations act (RICO), **27:11**
- Personal property, damages, **6:4**
- Phantom tortfeasors, multiple tortfeasors, several or proportionate liability, **13:8**
- Pharmacists, medical malpractice, **16:20**

TORTS—Cont'd

- Pleadings, racketeer influenced and corrupt organizations act (RICO), **27:13**
- Policies not requiring defense of insured. Insurance bad faith, above
- Policies requiring defense of insured. Insurance bad faith, above
- Postaccident repairs, negligence, **2:51**
- Preemployment inquiries, employment discrimination, **25:26**
- Preemption
 - Generally, **1:6 to 1:9**
 - Federal Railroad Safety Act, **1:9**
 - Longshore and Harbor Workers' Compensation Act, **1:8**
 - Maritime cases, **1:7, 1:8**
 - Products liability, below
 - Trade secrets, common law causes of action, **23:10**
 - Wrongful death and survival, **7:2**
 - Wrongful discharge, implied agreements, **24:9**
- Prejudgment and post judgment interest
 - Generally, **6:14**
 - Governmental entities, claims against, **15:15**
- Premises liability
 - Generally, **18:1 to 18:45**
 - Accident on rented premises, repairs by landlord, **18:39**
 - Activities or condition of premises, public invitees, **18:30, 18:33**
 - Attractive nuisance, **18:28**
 - Business invitees, **18:6, 18:29 to 18:33, 18:44**
 - Child trespassers, **18:10, 18:11**
 - Common areas, landlord and tenant, **18:38**
 - Completion and acceptance defense, **18:21**
 - Criminal acts, protection of public invitees from, **18:32**
 - Customers, duty of business proprietor to, **18:12**
 - Forms. Instructions to jury, below

TORTS—Cont'd

- Premises liability—Cont'd
 - Harm occurring outside of premises, claims for, **18:2, 18:3**
 - Independent contractors, duty of possessor to employees of, **18:19**
 - Instructions to jury
 - Generally, **18:22 to 18:45**
 - Accident on rented premises, repairs by landlord, **18:39**
 - Activities or condition of premises, public invitees, **18:30, 18:33**
 - Attractive nuisance, **18:28**
 - Business invitees, **18:29 to 18:33, 18:44**
 - Common areas, landlord and tenant, **18:38**
 - Criminal acts, protection of public invitees from, **18:32**
 - Landlord and tenant
 - Generally, **18:36 to 18:42**
 - Accident on rented premises, repairs by landlord, **18:39**
 - Common areas, **18:38**
 - Latent or obscure defect, **18:36**
 - Nonresidential tenancies, **18:40**
 - Persons on premises with permission of tenant, duty of landlord, **18:41**
 - Promise to put and keep in repair, **18:37**
 - Residential tenancies, **18:42**
 - Latent or obscure defect, landlord and tenant, **18:36**
 - Licensees, **18:26, 18:27, 18:34**
 - Municipalities, liability of, **18:23**
 - Nonresidential tenancies, landlord and tenant, **18:40**
 - Notice of temporary unsafe condition not caused by owner or occupier, public invitees, **18:31**

INDEX

TORTS—Cont'd

- Premises liability—Cont'd
 - Instructions to jury—Cont'd
 - Persons on premises with permission of tenant, duty of landlord, **18:41**
 - Promise to put and keep in repair, landlord and tenant, **18:37**
 - Public invitees
 - Generally, **18:29 to 18:33**
 - Activities or condition of premises, **18:30, 18:33**
 - Criminal acts, protection from, **18:32**
 - Defined, **18:29**
 - Notice of temporary unsafe condition not caused by owner or occupier, **18:31**
 - Public way, property owner or occupier adjacent to, **18:22**
 - Residential tenancies, landlord and tenant, **18:42**
 - Roads, **18:23, 18:43, 18:45**
 - Sidewalks, **18:23, 18:43, 18:45**
 - Social guests, **18:26, 18:27, 18:35**
 - Streets, **18:23, 18:43, 18:45**
 - Travelers on sidewalks, streets and roads, **18:45**
 - Trespassers, **18:24, 18:25, 18:28**
- Invitees, duty to, generally, **18:5 to 18:7**
- Landlord and tenant
 - Generally, **18:13 to 18:15**
 - Activities of tenants, **18:15**
 - Instructions to jury, above in this group
 - Nonresidential tenancies, **18:13**
 - Residential tenancies, **18:14**
- Latent or obscure defect, landlord and tenant, **18:36**
- Licensees, generally, **18:8, 18:26, 18:27, 18:34**
- Municipalities, liability of, **18:17, 18:23**
- Natural condition on the premises, claim for harm occurring outside of premises, **18:3**

TORTS—Cont'd

- Premises liability—Cont'd
 - Nonresidential tenancies, landlord and tenant, **18:13, 18:40**
 - Notice of temporary unsafe condition not caused by owner or occupier, public invitees, **18:31**
 - Obscure or latent defect, landlord and tenant, **18:36**
 - Promise to put and keep in repair, landlord and tenant, **18:37**
- Public invitees
 - Duty to, **18:7**
 - Instructions to jury, above in this group
- Public way, property owner or occupier adjacent to, **18:16, 18:22**
- Recreation properties, **18:18**
- Residential tenancies, landlord and tenant, **18:14, 18:42**
- Roads, **18:17, 18:23, 18:43, 18:45**
- Sidewalks, **18:17, 18:23, 18:43, 18:45**
- Social guests, **18:8, 18:26, 18:27, 18:35**
- Status of plaintiff, generally, **18:4 to 18:12**
- Streets, **18:17, 18:23, 18:43, 18:45**
- Travelers on sidewalks, streets and roads, **18:45**
- Trespassers
 - Generally, **18:24, 18:25, 18:28**
 - Adult trespassers, **18:9**
 - Child trespassers, **18:10, 18:11**
- Vendors of real property, duty of, **18:20**
- Preponderance of evidence, fraud and misrepresentation, **19:19**
- Presumptions and burden of proof.
 - Wrongful discharge, below
- Prevailing party, attorneys' fees, **6:18, 6:21**
- Principal and agent
 - Generally, **4:10 to 4:17, 4:21 to 4:27**
 - Act of agent as act of principal, **4:23**

TORTS—Cont'd

Principal and agent—Cont'd
 Apparent agency, **4:17, 16:51**
 Apparent authority, **4:36**
 Authority to commit tort, **4:12**
 Contractors, nondelegable duties, **4:15**
 Control, liability based on right to, **4:11**
 Imputed contributory negligence, **9:7**
 Independent contractors and agents, distinguished, **4:37**
 Instructions to jury
 Generally, **4:21 to 4:27**
 Act of agent as act of principal, **4:23**
 Definitions, **4:21, 4:22**
 Independent contractors and agents, distinguished, **4:37**
 Principal and agent both sued
 Agency or authority denied, **4:26**
 No issue as to agency or authority, **4:24**
 Principal sued but not agent
 Agency or authority denied, **4:27**
 No issue as to agency or authority, **4:25**
 Scope of apparent authority, **4:36**
 Scope of authority, **4:22, 4:36**
 Joint enterprise and partnership, **4:16**
 Multiple tortfeasors, joint liability, **13:12**
 Negligent hiring, **4:13**
 Nondelegable duties, **4:14, 4:15**
 Scope of authority, **4:22, 4:36**
 Vicarious liability, generally, **4:10 to 4:17, 4:21 to 4:27**
 Prison officials, negligence, duty to prevent assaults on inmates, **2:29**
 Privacy
 Generally, **21:1 to 21:16**
 Appropriation of name, personality or likeness, **21:4, 21:15**

TORTS—Cont'd

Privacy—Cont'd
 Common law defenses, **21:9**
 Constitutional defenses, **21:10**
 Damages, **21:11, 21:16**
 False light, placing another in, **10:19, 21:6, 21:14**
 Forms. Instructions to jury, below
 Instructions to jury
 Generally, **21:12 to 21:16**
 Appropriation of name, picture or identity, **21:15**
 Damages, **21:16**
 Intrusion into seclusion, **21:12, 21:16**
 Placing plaintiff in false light, **21:14**
 Public disclosure of private facts, **21:13**
 Interception of private communications, **21:8**
 Intrusion into seclusion, **21:3, 21:12, 21:16**
 Invasion of privacy, generally, **21:1 to 21:16**
 Likeness, appropriation of, **21:4, 21:15**
 Name, appropriation of, **21:4, 21:15**
 Personality, appropriation of, **21:4, 21:15**
 Placing another in false light, **10:19, 21:6, 21:14**
 Private communications, unlawful interception of, **21:8**
 Private facts, public disclosure of, **21:5, 21:13**
 Public disclosure of private facts, **21:5, 21:13**
 Public records, **21:7**
 Seclusion, intrusion into, **21:3, 21:12, 21:16**
 Statutory defenses, **21:9**
 Unlawful interception of private communications, **21:8**
 Privilege
 Interference with contractual relations, **23:6**

INDEX

TORTS—Cont'd

- Privilege—Cont'd
 - Interference with prospective advantage or business expectancy, **23:8**
- Probable cause
 - Civil rights under Section 1983, above
 - Malicious prosecution, **22:4, 22:5**
- Production of documents, products liability, **17:47**
- Products liability
 - Generally, **17:1 to 17:48**
 - Admissions, request for, **17:48**
 - Assumption of risk, **17:42**
 - Causation, **17:22**
 - Comment K, design defects, **17:14**
 - Companion products, **17:10**
 - Complaint against manufacturer, **17:43**
 - Construction defects, **17:33**
 - Contributory negligence, **17:42**
 - Crashworthiness, **17:20**
- Defenses
 - Generally, **17:23 to 17:26, 17:44 to 17:46**
 - Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), below
 - Government specifications, **17:38, 17:44**
 - Medical device amendments, preemption by, **17:26**
 - Statute of limitations, **17:24, 17:45**
 - Statute of repose, **17:25**
 - Twelve-year safe-life presumption, **17:46**
- Design defects, **17:12, 17:12 to 17:14, 17:35**
- Economic loss, **17:21**
- Enhanced injury, **17:20**
- Establishment of liability, generally, **17:9 to 17:22**
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
 - Generally, **17:27 to 17:32**
 - Background, **17:28**
 - General principles, **17:31**

TORTS—Cont'd

- Products liability—Cont'd
 - Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
 - Cont'd
 - General provisions, **17:29**
 - Preemption, generally, **17:27 to 17:32**
 - Washington cases, **17:32**
- Forms
 - Generally, **17:33 to 17:48**
 - Admissions, request for, **17:48**
 - Affirmative defenses, **17:44 to 17:46**
 - Complaint against manufacturer, **17:43**
 - Government specifications, **17:44**
 - Instructions to jury, below
 - Production of documents, request for, **17:47**
 - Statute of limitations, **17:45**
 - Twelve-year safe-life presumption, **17:46**
- Government specifications, **17:38, 17:39, 17:44**
- Implied warranty, breach of, **17:19**
- Instructions, manufacturer's duties, **17:36, 17:37**
- Instructions to jury
 - Generally, **17:33 to 17:42**
 - Assumption of risk, **17:42**
 - Construction defects, **17:33**
 - Contributory negligence, **17:42**
 - Design, manufacturer's duties, **17:35**
 - Government specifications, **17:38, 17:39**
 - Instructions, manufacturer's duties, **17:36, 17:37**
 - Manufacturer, defined, **17:40**
 - Manufacturer's duties, **17:33 to 17:42**
 - Useful sale life, **17:41**
 - Warnings, manufacturer's duties, **17:36, 17:37**
 - Warranties, **17:34**
- Manufacturing defects, **17:11**

TORTS—Cont'd

- Products liability—Cont'd
 - Medical device amendments, preemption by, **17:26**
- Preemption
 - Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), below
 - Medical device amendments, **17:26**
- Production of documents, request for, **17:47**
- Restatement (3d) of Torts, effect on Washington Products Liability Act of 1981, **17:7**
- Retailers, liability under Washington Products Liability Act of 1981, **17:6**
- Statute of limitations, **10:16, 10:17, 17:24, 17:45**
- Statute of repose, **17:25**
- Strict liability vs. negligence, design defects, **17:13**
- Successor liability, Washington Products Liability Act of 1981, **17:8**
- Twelve-year safe-life presumption, **17:46**
- Useful sale life, **17:41, 17:46**
- Warnings
 - Failure to warn after sale, **17:17**
 - Failure to warn prior to sale, **17:15, 17:16**
 - Learned intermediary doctrine, **17:16**
 - Manufacturer's duties, **17:36, 17:37**
- Warranties, **17:18, 17:19, 17:34**
- Washington Products Liability Act of 1981
 - Generally, **17:2 to 17:8**
 - Apparent manufacturer liability, **17:3**
 - Claimants, **17:5**
 - Coverage, **17:4, 17:5**
 - Effective date, **17:2, 17:3**
 - Restatement (3d) of Torts, effect of, **17:7**
 - Retailers, liability of, **17:6**

TORTS—Cont'd

- Products liability—Cont'd
 - Washington Products Liability Act of 1981—Cont'd
 - Successor liability, **17:8**
- Professional negligence
 - Generally, **16:1 to 16:65**
 - Accountants, **16:41**
 - Architects, **16:39**
 - Clergy, **16:42**
 - Collateral sources, **16:64**
 - Engineers, **16:39**
- Forms
 - Generally, **16:45 to 16:65**
 - Instructions to jury, below
 - Medical malpractice complaint against hospital and anesthesiologist, **16:65**
- Instructions to jury
 - Generally, **16:45 to 16:64**
 - Collateral sources, **16:64**
 - Insurance, **16:64**
- Insurance brokers and agents, **16:43**
- Insurance coverage, **16:64**
- Land surveyors, **16:39**
- Real estate professionals, **16:40**
- Statutes of limitation, **10:15**
- Veterinarians, **16:44**
- Professional rescuer doctrine, **2:12**
- Profits, damages, lost profits, **6:11**
- Protection, civil rights under Section 1983, conditions of confinement, **26:43, 26:44**
- Proximate cause
 - Generally, **5:1 to 5:24**
 - Alternate liability, **5:7**
 - Alternative cause, **5:23**
 - Asbestos cases, **5:13**
 - Attorney malpractice, **16:59**
- But-for cause
 - Alternate liability, **5:7**
 - Asbestos cases, **5:13**
 - Concerted action, **5:8**
 - Enterprise liability, **5:9**
 - Expert testimony, **5:3**
 - Frye test, **5:3**

INDEX

TORTS—Cont'd

- Proximate cause—Cont'd
 - But-for cause—Cont'd
 - Intervening causes in rescue cases, **5:4**
 - Loss of chance, **5:11**
 - Market share liability, **5:10**
 - Multiple independent causes and substantial factor test, **5:12**
 - But to for cause
 - Generally, **5:2 to 5:13**
 - Exceptions, generally, **5:5 to 5:12**
 - Identity of tortfeasor, **5:6 to 5:10**
 - Civil rights under Section 1983, **26:9**
 - Concerted action, **5:8**
 - Enterprise liability, **5:9**
 - Foreseeability, **5:19**
 - Forms. Instructions to jury, below
 - Identity of tortfeasor, **5:6 to 5:10**
 - Increased risk, not mere chance, **5:15**
 - Independent business judgment, **5:17**
 - Instructions to jury
 - Generally, **5:20 to 5:24**
 - Alternative cause, **5:23**
 - Intervening cause, **5:22**
 - Negligence of defendant concurring with other causes, **5:21**
 - Proximate cause, defined, **5:20, 5:23, 5:24**
 - Substantial factor test, **5:24**
 - Intervening causes, **5:4, 5:22**
 - Judicial intervention as superseding cause, **5:18**
 - Legal cause
 - Generally, **5:14 to 5:19**
 - Foreseeability, **5:19**
 - Increased risk, not mere chance, **5:15**
 - Independent business judgment, **5:17**
 - Judicial intervention as superseding cause, **5:18**
 - No superseding causes, **5:16**
 - Loss of chance, **5:11**

TORTS—Cont'd

- Proximate cause—Cont'd
 - Market share liability, **5:10**
 - Medical malpractice, **16:12**
 - Multiple independent causes and substantial factor test, **5:12**
 - Negligence of defendant concurring with other causes, **5:21**
 - No superseding causes, **5:16**
 - Rescue cases, intervening causes in, **5:4**
 - Substantial factor test, **5:24**
- Public accommodations, employment discrimination, **25:12**
- Public and/or private officials and figures. Defamation, above
- Publication, defamation, false and defamatory communications, **20:10**
- Public duty doctrine. Governmental entities, claims against, above
- Public employees, civil rights under Section 1983, first Amendment rights, **26:7**
- Public interest, consumer protection, **8:8, 8:16**
- Public invitees. Premises liability, above
- Public policy
 - Release of liability, **11:6**
 - Wrongful discharge, below
- Punitive damages
 - Generally, **6:12**
 - Civil rights under Section 1983, **26:21, 26:32, 26:46 to 26:48**
 - Racketeer influenced and corrupt organizations act (RICO), **27:18**
- Qualified immunity
 - Civil rights under Section 1983, **26:16**
 - Defamation, above
 - Intentional torts, **14:28**
- Quality improvement committees, medical malpractice, admissibility of proceedings, **16:23**
- Quasi-commercial hosts, alcoholic beverages, **29:4, 29:13**

TORTS—Cont'd

- Quasi-judicial immunity, governmental entities, claims against, **15:14**
- Quasi-judicial proceeding, defamation, absolute privilege, **20:14**
- Questions of law and fact
 - Defamation, **20:6**
 - Negligence, **2:3**
- Quid pro quo, employment, sex discrimination, **25:15, 25:45**
- Race discrimination, employment discrimination, **25:21**
- Racketeer influenced and corrupt organizations act (RICO)
 - Generally, **27:1 to 27:28**
 - Attorney's fees, **27:19**
 - Business or property, **27:8**
 - Checklist, **27:14**
 - Compensatory damages, **27:16**
 - Costs of action, **27:20**
 - Damages
 - Generally, **27:16 to 27:20**
 - Attorney's fees, **27:19**
 - Compensatory damages, **27:16**
 - Costs of action, **27:20**
 - Punitive damages, **27:18**
 - Treble damages, **27:17**
 - Defenses, **27:15**
 - Definitions, **27:3**
 - Elements, **27:2**
 - Enterprise, **27:6**
 - Forms. Instructions to jury, below
 - Instructions to jury
 - Generally, **27:23 to 27:28**
 - Causation, **27:28**
 - Section 1962(a), **27:24**
 - Section 1962(b), **27:25**
 - Section 1962(c), **27:26**
 - Section 1962(d), **27:27**
 - Jurisdiction
 - Personal jurisdiction, **27:11**
 - Subject matter jurisdiction, **27:9**
 - Pattern of racketeering activity, **27:7**
 - Person, **27:5**
 - Personal jurisdiction, **27:11**
 - Pleadings, **27:13**

TORTS—Cont'd

- Racketeer influenced and corrupt organizations act (RICO)
 - Cont'd
 - Property or business, **27:8**
 - Punitive damages, **27:18**
 - Racketeering activity, **27:4**
 - Service of process, **27:12**
 - Standing, **27:10**
 - Statute of limitations, **27:15**
 - Subject matter jurisdiction, **27:9**
 - Treble damages, **27:17**
 - Venue, **27:12**
 - Washington Criminal Profiteering Act, **27:21, 27:22**
- Railroads
 - Federal Railroad Safety Act, preemption, **1:9**
 - Motor vehicle accidents, crossing of tracks, **30:12**
- Real property
 - Damages, **6:3**
 - Professional negligence, real estate professionals, **16:40**
- Reasonable accommodation, employment, disability discrimination, **25:50, 25:51**
- Reasonable patient standard, medical malpractice, informed consent, **16:16**
- Reasonable suspicion, civil rights under Section 1983, exception to warrant requirement, **26:40**
- Recapture, personal property, **14:26**
- Recreation properties, premises liability, **18:18**
- Release of liability
 - Generally, **11:1 to 11:8**
 - Assumption of risk, **11:3**
 - Express assumption of risk, **11:3**
 - Fraud, **11:8**
 - Misrepresentation, **11:8**
 - Mutual mistake, **11:5**
 - Newly discovered injury, **11:7**
 - Overreaching, **11:8**
 - Public policy, **11:6**
 - Specific grounds for avoiding effect of release, generally, **11:4 to 11:8**

INDEX

TORTS—Cont'd

- Release of liability—Cont'd
 - Statutory restrictions, **11:2**
- Reliance, fraud and misrepresentation, **19:8, 19:9**
- Religious discrimination, employment discrimination, **25:19**
- Remittitur, damages, **6:40**
- Rescission, multiple tortfeasors, settlement and release, **13:20**
- Rescue and rescuers
 - Governmental entities, claims against, public duty doctrine, **15:12**
 - Negligence, above
 - Proximate cause, intervening causes, **5:4**
- Reservation of rights, insurance bad faith, failure to act in good faith and defending subject to reservation, **28:27**
- Res ipsa loquitur
 - Medical malpractice, **16:10**
 - Negligence, **2:50, 2:73**
- Res judicata, uninsured motorist claims, **28:24**
- Restatement (3d) of Torts, products liability, effect on Washington Products Liability Act of 1981, **17:7**
- Retaliation
 - Employment discrimination, **25:24, 25:25, 25:43**
 - Wrongful discharge, **24:30, 24:31, 24:37**
- Reverse engineering, trade secrets, **23:27**
- Right-to-farm, nuisance, immunity, **3:17**
- Royalties, trade secrets, **23:12**
- Rules of Civil Procedure, abuse of process, **22:13**
- Rules of Professional Conduct (RPCs), attorney malpractice, admissibility of evidence, **16:32**
- School buses, motor vehicle accidents, **30:21**
- School students, civil rights under Section 1983, first Amendment rights, **26:8**

TORTS—Cont'd

- Scienter, fraud and misrepresentation, **19:6**
- Scope of employment
 - Generally, **4:5, 4:6**
 - Workers' compensation, **12:10**
- Search and seizure. Civil rights under Section 1983, above
- Seat belts
 - Damages, admissibility of evidence, **9:10**
 - Motor vehicle accidents, **30:38**
- Seclusion, privacy, intrusion into seclusion, **21:3, 21:12, 21:16**
- Seeing, duty of, negligence, **2:74**
- Self-defense, intentional torts, **14:20, 14:41**
- Service of process, racketeer influenced and corrupt organizations act (RICO), **27:12**
- Settlement, insurance bad faith, **28:7, 28:29**
- Settlement and release. Multiple tortfeasors, above
- Several or proportionate liability. Multiple tortfeasors, above
- Severe emotional distress, outrage, **14:40**
- Sex discrimination. Employment discrimination, above
- Shoreline Management Act, nuisance, **3:18**
- Sidewalks, premises liability, **18:17, 18:23, 18:43, 18:45**
- Silence, fraud and misrepresentation, **19:7**
- Single publication rule, defamation, **20:20**
- Ski statute, assumption of risk, **9:17**
- Slander of title, generally, **20:3**
- Sliding scale agreements, multiple tortfeasors, settlement and release, **13:28**
- Social guests, premises liability, **18:8, 18:26, 18:27, 18:35**
- Social hosts. Alcoholic beverages, above
- Sovereign immunity, civil rights under Section 1983, **26:18**

TORTS—Cont'd

- Special expertise, attorney malpractice, standard of care, **16:58**
- Specialists, medical malpractice, **16:46**
- Special relationship
 - Express assurances, **15:10**
 - Governmental entities, claims against, public duty doctrine, **15:9, 15:11**
 - Negligence, nonfeasance, **2:10**
- Special verdicts
 - Civil rights under Section 1983, unreasonable force, **26:45 to 26:48**
 - Insurance bad faith, **28:33**
- Speed, motor vehicle accidents, **30:14, 30:36**
- Spoliation of evidence, generally, **22:15**
- Spouses
 - Damages, medical expenses, **6:46**
 - Employment, marital status discrimination, **25:20**
 - Imputed contributory negligence, **9:6**
 - Interspousal immunity, **12:5**
 - Wrongful death and survival, damages in action for benefit of spouse, **7:7**
- Standing, racketeer influenced and corrupt organizations act (RICO), **27:10**
- Statute of frauds, wrongful discharge, contractual relationships, **24:12**
- Statute of repose. Statutes of limitation, above
- Statutes, interpretation, **1:3**
- Statutes, sources of tort law, **1:2**
- Statutes of limitation
 - Generally, **10:1 to 10:24**
 - Accrual of cause of action, **10:3**
 - Assault, **10:19**
 - Attorney malpractice, **16:35**
 - Battery, **10:19**
 - Childhood sexual abuse, **10:20**
 - Civil rights under Section 1983, **26:19**
 - Consumer protection, **8:12**

TORTS—Cont'd

- Statutes of limitation—Cont'd
 - Contract regarding statute of limitations, **10:7**
 - Defamation, **10:19**
 - Determination regarding which limitation statute to apply, **10:6**
 - Discovery rule, **10:3**
 - Employment discrimination, **25:35**
 - Equitable tolling, **10:5**
 - Estoppel, application to limitation defense, **10:8**
 - False imprisonment, **10:19**
 - False light, **10:19**
 - Form of clause asserting affirmative defense, **10:24**
 - Fraud, **10:18**
 - Governmental entities, claims against, **15:4, 15:15**
 - Improvements to real property, injuries arising from, **10:12**
 - Insurance bad faith, **28:20**
 - Inverse condemnation, **10:14**
 - Malpractice, **10:15**
 - Medical malpractice, **16:24**
 - Miscellaneous claims, **10:23**
 - Negligent misrepresentation, **10:18**
 - Nuisance, **10:13**
 - Outrage, **10:21**
 - Personal injuries, **10:9**
 - Products liability, **10:16, 10:17, 17:24, 17:25, 17:45**
 - Professional malpractice, **10:15**
 - Property, injury to, **10:10, 10:11**
 - Racketeer influenced and corrupt organizations act (RICO), **27:15**
- Statute of repose
 - Distinguished, **10:2**
 - Products liability, **10:17**
- Tolling, **10:4, 10:5**
- Trade secrets, misappropriation of, **10:22**
- Trespass, **10:13**
- Unenumerated injuries to real property, **10:11**
- Waiver, application to limitation defense, **10:8**

INDEX

TORTS—Cont'd

- Statutes of limitation—Cont'd
 - Waste, **10:13**
- Statutory duty. Negligence, above
- Stepchildren, wrongful death and survival, damages, **7:8**
- Stockholders, negligence, duty to corporation, **2:30**
- Stop signs, motor vehicle accidents, right-of-way, **30:7, 30:32**
- Strict liability
 - Generally, **3:1 to 3:32**
 - Abnormally dangerous activities, **3:2, 3:3**
 - Contributory negligence, **3:24**
 - Defenses, **3:24, 3:25**
 - Governmental immunity, **3:25**
 - Hazardous waste, **3:23**
 - Products liability, **17:13**
 - Statutory liability, **3:22, 3:23**
- Subject matter jurisdiction, racketeer influenced and corrupt organizations act (RICO), **27:9**
- Substantial factor
 - Proximate cause, **5:24**
 - Wrongful discharge, retaliatory discharge, **24:31**
- Successor liability, products liability, **17:8**
- Surface water, nuisance, **3:19, 3:20**
- Taxes, damages, compensation for increase in tax liability, **6:42**
- Third persons
 - Damages, above
 - Medical malpractice, **16:5**
 - Motor vehicle accidents, liability for operation of motor vehicle, **30:2**
- Timber, trespass, **3:10, 3:11, 3:31, 3:32**
- Time, multiple tortfeasors, contribution and indemnity, **13:34**
- Tolling, statutes of limitation, **10:4, 10:5**
- Trade secrets
 - Generally, **23:9 to 23:13**
 - Burden of proof, **23:22**
 - Case authority, **23:9**

TORTS—Cont'd

- Trade secrets—Cont'd
 - Common law causes of action, preemption of, **23:10**
 - Confidentiality memorandum, **23:31**
 - Damages, **23:13**
 - Demand letter to former employee, **23:39 to 23:41**
 - Employee confidentiality and proprietary rights agreement, **23:33**
 - Employee nondisclosure and nonsolicitation agreement, **23:35**
 - Former employees, duties of, **23:11**
- Forms
 - Confidentiality memorandum, **23:31**
 - Demand letter to former employee, **23:39 to 23:41**
 - Employee confidentiality and proprietary rights agreement, **23:33**
 - Employee nondisclosure and nonsolicitation agreement, **23:35**
 - Instructions to jury, below
 - Letter to be given to employee at time of termination or immediately following termination, **23:37**
 - Letter to be sent to new employer, **23:38**
 - Letter to competitor company, **23:42**
 - Manager, demand letter to former employee, **23:40, 23:41**
 - Noncompetition agreement, **23:34**
 - Product manager, demand letter to former employee, **23:41**
 - Protected property list, **23:32**
 - Sales representative
 - noncompetition and confidentiality agreement, **23:36**
 - Trade secrets policy, **23:30**

TORTS—Cont'd

- Trade secrets—Cont'd
 - Improper means, **23:25**
 - Independent economic value, **23:26**
- Injunctions, **23:12**
- Instructions to jury
 - Burden of proof, **23:22**
 - Definition, **23:23**
 - Improper means, **23:25**
 - Independent economic value, **23:26**
- Misappropriation, defined, **23:24**
- Reasonable efforts to maintain secrecy, **23:28**
- Reverse engineering, **23:27**
- Manager, demand letter to former employee, **23:40, 23:41**
- Misappropriation, generally, **23:9 to 23:13**
- Noncompetition agreement, **23:34**
- Preemption of common law causes of action, **23:10**
- Product manager, demand letter to former employee, **23:41**
- Protected property list, **23:32**
- Reasonable efforts to maintain secrecy, **23:28**
- Remedies, **23:12, 23:13**
- Reverse engineering, **23:27**
- Royalties, **23:12**
- Sales representative noncompetition and confidentiality agreement, **23:36**
- Statutes of limitation, **10:22**
- Statutory provisions, **23:9**
- Treble damages
 - Generally, **6:13**
 - Racketeer influenced and corrupt organizations act (RICO), **27:17**
- Trespass
 - Generally, **3:8 to 3:11, 14:14**
 - Complaint, timber trespass, **3:32**
 - Damages, timber trespass, **3:11, 3:32**
 - Injunction, timber trespass, **3:32**

TORTS—Cont'd

- Trespass—Cont'd
 - Instructions to jury, timber trespass, **3:31**
 - Inverse condemnation, **3:21**
 - Land, trespass to, **3:9**
 - Personal property, **14:15**
 - Premises liability, above
 - Prevention of trespass to real property, **14:23**
 - Statutes of limitation, **10:13**
 - Timber trespass, **3:10, 3:31, 3:32**
- Truth, defamation, defenses, **20:33**
- Ultior motive, abuse of process, **22:11**
- Umbrella insurance, insurance bad faith, policies requiring defense of insured, **28:12**
- Undue hardship, employment, disability discrimination, **25:52**
- Unfair or deceptive act or practice, consumer protection, **8:5, 8:19**
- Uniform Health Care Information Act, medical malpractice, **16:27**
- Uninsured motorist claims, res judicata, insurance bad faith, **28:24**
- Unreasonable force. Civil rights under Section 1983, above
- Useful sale life, products liability, **17:41, 17:46**
- Venue, racketeer influenced and corrupt organizations act (RICO), **27:12**
- Verdicts. Civil rights under Section 1983, above
- Veterinarians, professional negligence, **16:44**
- Vicarious liability
 - Generally, **4:1 to 4:39**
 - Assault and battery, **14:8**
 - Family, **4:18 to 4:20**
 - Family car doctrine, **4:20, 4:35**
 - Instructions to jury
 - Family car doctrine, **4:35**
 - Joint venture, **4:34**
 - Intentional torts, parent and child, **4:19**
 - Joint venture, **4:34**

INDEX

TORTS—Cont'd

- Vicarious liability—Cont'd
 - Parent and child, **4:18, 4:19**
- Voluntary intoxication, contributory negligence, **9:26**
- Vulnerable adults, abuse of Vulnerable Adults Act, negligence, **2:23**
- Waiver
 - Attorney malpractice, waiver of attorney-client privilege, **16:34**
 - Statutes of limitation, **10:8**
- Warnings. Products liability, above
- Warranties
 - Medical malpractice, **16:13**
 - Products liability, **17:18, 17:19, 17:34**
- Warrants, intentional torts, execution of valid warrant, **14:29**
- Washington Criminal Profiteering Act, generally, **27:21, 27:22**
- Waste
 - Negligence, duty to avoid, **2:26**
 - Statutes of limitation, **10:13**
- Whistleblowers, wrongful discharge, **24:21, 24:37 to 24:39**
- Willful or wanton misconduct
 - Intentional torts, **14:31**
 - Negligence, **2:44, 2:69**
- Witness immunity, generally, **12:2**
- Workers' compensation
 - Generally, **12:6 to 12:14**
 - Amber alerts, **12:23**
 - Anti-SLAPP statutes, **12:24**
 - Charitable organizations, **12:19**
 - Communications to government agencies or self-regulatory organizations (anti-SLAPP statutes), **12:24**
 - Course of employment, acts outside of, **12:10**
 - Deliberate injuries, **12:11**
 - Disciplinary committee members, **12:20**
 - Discrimination, **12:13**
 - Dog handlers in line of duty, **12:17**
 - Dual persona and dual capacity doctrines, **12:12**

TORTS—Cont'd

- Workers' compensation—Cont'd
 - Ecclesiastical bodies, **12:18**
 - Emergency medical service personnel, **12:21**
 - Employment discrimination, retaliation, **25:25**
 - Federal maritime jurisdiction, **12:14**
 - Forest Practices Act, **12:25**
 - Government contractors, **12:22**
 - Immunity, generally, **12:6 to 12:14**
 - Injury, **12:8**
 - Intentional injuries, **12:11**
 - Native American tribes, **12:16**
 - Nonprofit organizations, **12:19**
 - Peer review committee members, **12:20**
 - Scope of employment, acts outside of, **12:10**
 - Status as employee, **12:8**
 - Statutory coverage, **12:7**
 - Wrongful discharge, violation of public policy, **24:20**
- Wrongful conception and wrongful birth, damages, **6:32**
- Wrongful death and survival
 - Generally, **7:1 to 7:10**
 - Beneficiaries, **7:6**
- Children
 - Action brought by parent for death of child, **7:10**
 - Damages in action for benefit of child, **7:8**
- Choice of law, **7:2**
- Damages
 - Children/stepchildren, damages in action for benefit of, **7:8**
 - Dependent parent, brother or sister, damages in action for benefit of, **7:9**
 - Measure of damages, **7:7 to 7:9**
 - Spouse/state registered domestic partner, damages in action for benefit of, **7:7**
- Dependent parent, brother or sister, damages in action for benefit of, **7:9**
- Forms. Instructions to jury, below

TORTS—Cont'd

Wrongful death and survival
—Cont'd
Instructions to jury
Generally, **7:7 to 7:10**
Child, action brought by parent
for death of, **7:10**
Children/stepchildren, damages
in action for benefit of, **7:8**
Dependent parent, brother or
sister, damages in action
for benefit of, **7:9**
Measure of damages, **7:7 to 7:9**
Spouse/state registered domestic
partner, damages in action
for benefit of, **7:7**
Preemption, **7:2**
Spouse, damages in action for ben-
efit of, **7:7**
State registered domestic partner,
damages in action for benefit
of, **7:7**
Statutes, **7:4**
Stepchildren, damages in action for
benefit of, **7:8**
Survival statutes, **7:4**
Wrongful death statute, **7:5, 7:6**
Wrongful discharge
Generally, **24:1 to 24:43**
Actual termination of employment,
24:27
Arbitration, contractual relation-
ships, **24:6**
Attorney's fees, **24:24**
At will relationships, **24:5, 24:26**
Burden of proof
Public policy, violation of,
24:14
Whistleblowers, **24:39**
Compensatory damages, **24:22**
Complaint for discrimination,
24:43
Constructive discharge
Generally, **24:2, 24:27**
Employment discrimination,
25:6, 25:37
Contractual relationships
Generally, **24:5 to 24:12**
Arbitration, **24:6**

TORTS—Cont'd

Wrongful discharge—Cont'd
Contractual relationships—Cont'd
Employee handbooks, implied
agreements, **24:10**
Express agreements, **24:7**
Implied agreements, **24:8 to**
24:10
Just cause for termination, **24:11**
Preemption by federal labor law,
implied agreements, **24:9**
Statute of frauds, **24:12**
Creation of contract by employer
actions, **24:42**
Damages
Generally, **24:22 to 24:26**
Attorney's fees, **24:24**
Compensatory damages, **24:22**
Defenses, **24:25**
Double damages, **24:23**
Emotional distress, **24:35**
Financial loss, **24:32**
Front pay, **24:4**
Measure of damages, **24:34,**
24:35
Mitigation of damages, **24:33**
Defenses, **24:25**
Disclaimer, employee handbook,
24:40, 24:41
Double damages, **24:23**
Emotional distress, measure of
damages, **24:35**
Employee handbooks, **24:10,**
24:40, 24:41
Express agreements, **24:7**
Federal law, preemption of implied
agreements by, **24:9**
Financial loss, damages, **24:32**
Forms
Generally, **24:26 to 24:42**
Complaint for discrimination,
24:43
Instructions to jury, below
Front pay, measure of damages,
24:4
Illegal act, refusal to perform,
violation of public policy,
24:17

INDEX

TORTS—Cont'd

- Wrongful discharge—Cont'd
 - Implied agreements, **24:8 to 24:10, 24:36**
- Instructions to jury
 - Generally, **24:26 to 24:42**
 - Actual/constructive termination of employment, **24:27**
 - Burden of proof, whistleblowers, **24:39**
 - Creation of contract by employer actions, **24:41**
 - Damages, measure of, **24:35**
 - Disclaimer, employee handbook, **24:40, 24:41**
 - Emotional distress, measure of damages, **24:35**
 - Employee handbook, **24:40, 24:41**
 - Financial loss, damages, **24:32**
 - Front pay, measure of damages, **24:34**
 - Implied employment contract, **24:36**
 - Mitigation of damages, **24:33**
 - Motive of employer, retaliatory discharge, **24:30**
 - Public policy, violation of, **24:28 to 24:35**
 - Retaliatory discharge, **24:30, 24:31, 24:37**
 - Substantial factor, retaliatory discharge, **24:31**
 - Whistleblowers, **24:37 to 24:39**
 - At will employment, **24:26**
- Just cause for termination, contractual relationships, **24:11**
- Legal right or privilege, exercise of, violation of public policy, **24:19, 24:20**
- Mitigation of damages, **24:33**
- Motive of employer, retaliatory discharge, **24:30**
- Negligent investigation, **24:3**
- Preemption by federal labor law, implied agreements, **24:9**
- Presumptions and burden of proof.
 - Burden of proof, above in this group

TORTS—Cont'd

- Wrongful discharge—Cont'd
 - Public duty or obligation, performance of, violation of public policy, **24:18**
- Public policy, violation of
 - Generally, **24:13 to 24:21, 24:28 to 24:35**
 - Burden of proof, **24:14**
 - Elements, **24:16**
 - Illegal act, refusal to perform, **24:17**
 - Legal right or privilege, exercise of, **24:19, 24:20**
 - Public duty or obligation, performance of, **24:18**
 - Whistleblowing activity, **24:21**
 - Workers' compensation claims, **24:20**
- Retaliatory discharge, **24:30, 24:31, 24:37**
- Statute of frauds, contractual relationships, **24:12**
- Substantial factor, retaliatory discharge, **24:31**
- Whistleblowers, **24:21, 24:37 to 24:39**
- Workers' compensation claims, violation of public policy, **24:20**
- Wrongful life, damages, **6:33**
- Yield signs, motor vehicle accidents, right-of-way, **30:8, 30:33**

TRADE SECRETS

- Generally, **23:9 to 23:13**
- Burden of proof, **23:22**
- Case authority, **23:9**
- Common law causes of action, preemption of, **23:10**
- Confidentiality memorandum, **23:31**
- Damages, **23:13**
- Demand letter to former employee, **23:39 to 23:41**
- Employee confidentiality and proprietary rights agreement, **23:33**
- Employee nondisclosure and nonsolicitation agreement, **23:35**
- Former employees, duties of, **23:11**

TRADE SECRETS—Cont'd

Forms

- Confidentiality memorandum, **23:31**
- Demand letter to former employee, **23:39 to 23:41**
- Employee confidentiality and proprietary rights agreement, **23:33**
- Employee nondisclosure and nonsolicitation agreement, **23:35**
- Letter to be given to employee at time of termination or immediately following termination, **23:37**
- Letter to be sent to new employer, **23:38**
- Letter to competitor company, **23:42**
- Manager, demand letter to former employee, **23:40, 23:41**
- Noncompetition agreement, **23:34**
- Product manager, demand letter to former employee, **23:41**
- Protected property list, **23:32**
- Sales representative noncompetition and confidentiality agreement, **23:36**
- Trade secrets policy, **23:30**
- Improper means, **23:25**
- Independent economic value, **23:26**
- Injunctions, **23:12**
- Instructions to jury
 - Burden of proof, **23:22**
 - Definition, **23:23**
 - Improper means, **23:25**
 - Independent economic value, **23:26**
 - Misappropriation, defined, **23:24**
 - Reasonable efforts to maintain secrecy, **23:28**
 - Reverse engineering, **23:27**
- Manager, demand letter to former employee, **23:40, 23:41**
- Misappropriation, generally, **23:9 to 23:13**
- Noncompetition agreement, **23:34**

TRADE SECRETS—Cont'd

- Preemption of common law causes of action, misappropriation, **23:10**
- Product manager, demand letter to former employee, **23:41**
- Protected property list, **23:32**
- Reasonable efforts to maintain secrecy, **23:28**
- Remedies, **23:12, 23:13**
- Reverse engineering, **23:27**
- Royalties, **23:12**
- Sales representative noncompetition and confidentiality agreement, **23:36**
- Statutes of limitation, **10:22**
- Statutory provisions, **23:9**
- Torts, this index

TREBLE DAMAGES

- Generally, **6:13**
- Racketeer influenced and corrupt organizations act (RICO), **27:17**
- Torts, this index

TRESPASS

- Generally, **3:8 to 3:11, 14:14**
- Complaint, timber trespass, **3:32**
- Damages, **3:11**
- Damages, timber trespass, **3:32**
- Injunction, timber trespass, **3:32**
- Instructions to jury, timber trespass, **3:31**
- Inverse condemnation, **3:21**
- Land, trespass to, **3:9**
- Personal property, **14:15**
- Premises Liability, this index
- Prevention of trespass to real property, **14:23**
- Statutes of limitation, **10:13**
- Timber trespass, **3:10, 3:31, 3:32**
- Torts, this index
- Unlawful removal of property, **3:10**

TRUTH

- Defamation, defenses, **20:33**

ULTERIOR MOTIVE

- Abuse of process, **22:11**

INDEX

UMBRELLA INSURANCE

Insurance bad faith, policies requiring defense of insured, **28:12**

UNDERINSURED MOTORIST (UIM) POLICIES

Generally, **28:21**

UNDUE HARDSHIP

Employment, disability discrimination, **25:52**

UNFAIR OR DECEPTIVE ACT OR PRACTICE

Consumer protection, **8:5, 8:19**

UNIFORM HEALTH CARE INFORMATION ACT (UHCIA)

Medical malpractice, **16:27**

UNREASONABLE FORCE

Civil Rights Under Section 1983, this index

USEFUL SALE LIFE

Products liability, **17:41, 17:46**

VENUE

Racketeer influenced and corrupt organizations act (RICO), **27:12**

VERDICTS

Civil Rights Under Section 1983, this index

VETERINARIANS

Professional negligence, **16:44**

VICARIOUS LIABILITY

Generally, **4:1 to 4:39**

Assault and battery, **14:8**

Family, **4:18 to 4:20**

Family car doctrine, **4:20, 4:35**

Instructions to jury

Family car doctrine, **4:35**

Joint venture, **4:34**

Intentional torts, parent and child, **4:19**

Joint venture, **4:34**

Parent and child, **4:18, 4:19**

Torts, this index

VOLUNTARY INTOXICATION

Contributory negligence, **9:26**

VULNERABLE ADULTS

Abuse of Vulnerable Adults Act, negligence, **2:23**

WAIVER AND ESTOPPEL

Attorney malpractice, waiver of attorney-client privilege, **16:34**

Statutes of limitation, **10:8**

Torts, this index

WARNINGS

Products Liability, this index

WARRANTIES

Medical malpractice, **16:13**

Products liability, **17:18, 17:19, 17:34**

Torts, this index

WARRANTS

Intentional torts, execution of valid warrant, **14:29**

WASHINGTON CRIMINAL PROFITEERING ACT

Generally, **27:21, 27:22**

WASHINGTON LAW AGAINST DISCRIMINATION (WLAD)

Employment Discrimination, this index

WASHINGTON PRODUCTS LIABILITY ACT OF 1981

Products Liability, this index

WASTE

Negligence, duty to avoid, **2:26**

Statutes of limitation, **10:13**

Torts, this index

WHISTLEBLOWERS

Wrongful discharge, **24:21, 24:37 to 24:39**

WILD ANIMALS

Animals, this index

WILLFUL OR WANTON MISCONDUCT

Intentional torts, **14:31**

Negligence, **2:44, 2:69**

Recklessness, **2:45**

Torts, this index

WITNESS IMMUNITY

Generally, **12:2**

WLAD

Employment Discrimination, this index

WORKERS' COMPENSATION

Generally, **12:6 to 12:14**

Amber alerts, **12:23**

Anti-SLAPP statutes, **12:24**

Charitable organizations, **12:19**

Communications to government agencies or self-regulatory organizations (anti-SLAPP statutes), **12:24**

Course of employment, acts outside of, **12:10**

Deliberate injuries, **12:11**

Disciplinary committee members, **12:20**

Discrimination, **12:13**

Dog handlers in line of duty, **12:17**

Dual persona and dual capacity doctrines, **12:12**

Ecclesiastical bodies, **12:18**

Emergency medical service personnel, **12:21**

Employment discrimination, retaliation, **25:25**

Federal maritime jurisdiction, **12:14**

Forest Practices Act, **12:25**

Government contractors, **12:22**

Immunity, generally, **12:6 to 12:14**

Injury, **12:8**

Intentional injuries, **12:11**

Native American tribes, **12:16**

Nonprofit organizations, **12:19**

Peer review committee members, **12:20**

Scope of employment, acts outside of, **12:10****12:9**

Status as employee, **12:9**

Statutory coverage, **12:7**

Torts, this index

Wrongful discharge, violation of public policy, **24:20**

WRONGFUL CONCEPTION AND WRONGFUL BIRTH

Damages, **6:32**

WRONGFUL DEATH

Torts, this index

WRONGFUL DISCHARGE

Generally, **24:1 to 24:43**

Actual termination of employment, **24:27**

Arbitration, contractual relationships, **24:6**

Attorney's fees, **24:24**

Burden of proof

Public policy, violation of, **24:14**

Whistleblowers, **24:39**

Causation, **24:4**

Compensatory damages, **24:22**

Complaint for discrimination, **24:43**

Constructive discharge

Generally, **24:2, 24:27**

Employment discrimination, **25:6, 25:37**

Contractual relationships

Generally, **24:5 to 24:12**

Arbitration, **24:6**

Employee handbooks, implied agreements, **24:10**

Express agreements, **24:7**

Implied agreements, **24:8 to 24:10**

Just cause for termination, **24:11**

Preemption by federal labor law, implied agreements, **24:9**

Statute of frauds, **24:12**

Creation of contract by employer actions, **24:41**

Damages

Generally, **24:22 to 24:26**

Attorney's fees, **24:24**

Compensatory damages, **24:22**

Defenses, **24:25**

Double damages, **24:23**

Emotional distress, **24:35**

Financial loss, **24:32**

Front pay, **24:34**

Measure of damages, **24:32 to 24:35**

Mitigation of damages, **24:33**

INDEX

WRONGFUL DISCHARGE

—Cont'd

Defenses, **24:25**
Disclaimer, employee handbook, **24:40, 24:41**
Double damages, **24:23**
Emotional distress, measure of damages, **24:35**
Employee handbooks, **24:10, 24:40, 24:41**
Express agreements, **24:7**
Financial loss, damages, **24:32**
Forms
 Generally, **24:26 to 24:42**
 Complaint for discrimination, **24:43**
Front pay, measure of damages, **24:34**
Illegal act, refusal to perform, violation of public policy, **24:17**
Implied agreements, **24:8 to 24:10, 24:36**
Instructions to jury
 Generally, **24:26 to 24:42**
 Actual/constructive termination of employment, **24:27**
 Burden of proof, whistleblowers, **24:39**
 Creation of contract by employer actions, **24:41**
 Damages, measure of, **24:32 to 24:35**
 Disclaimer, employee handbook, **24:40, 24:41**
 Elements of wrongful termination, **24:29**
 Emotional distress, measure of damages, **24:35**
 Employee handbook, **24:40, 24:41**
 Financial loss, damages, **24:32**
 Front pay, measure of damages, **24:34**
 Implied employment contract, **24:36**
 Mitigation of damages, **24:33**
 Motive of employer, retaliatory discharge, **24:30**
 Public policy, violation of, **24:28 to 24:35**

WRONGFUL DISCHARGE

—Cont'd

Instructions to jury—Cont'd
 Retaliatory discharge, **24:30, 24:31, 24:37**
 Substantial factor, retaliatory discharge, **24:31**
 Whistleblowers, **24:37 to 24:39**
 At will employment, **24:26**
Just cause for termination, contractual relationships, **24:11**
Legal right or privilege, exercise of, violation of public policy, **24:19, 24:20**
Mitigation of damages, **24:33**
Motive of employer, retaliatory discharge, **24:30**
Negligent investigation, **24:3**
Preemption by federal labor law, implied agreements, **24:9**
Presumptions and burden of proof.
 Burden of proof, above
Public duty or obligation, performance of, violation of public policy, **24:18**
Public policy, violation of
 Generally, **24:13 to 24:21, 24:15 to 24:21, 24:28 to 24:35**
 Burden of proof, **24:14**
 Elements, **24:16, 24:29**
 Illegal act, refusal to perform, **24:17**
 Legal right or privilege, exercise of, **24:19, 24:20**
 Public duty or obligation, performance of, **24:18**
 Whistleblowing activity, **24:21**
 Workers' compensation claims, **24:20**
Retaliatory discharge, **24:30, 24:31, 24:37**
Statute of frauds, contractual relationships, **24:12**
Substantial factor, retaliatory discharge, **24:31**
Torts, this index
Whistleblowers, **24:21, 24:37 to 24:39**
At will relationships, **24:5, 24:26**

WRONGFUL DISCHARGE

—**Cont'd**

Workers' compensation claims, violation of public policy, **24:20**

WRONGFUL LIFE

Damages, **6:33**

YIELD SIGNS

Motor vehicle accidents, right-of-way, **30:8, 30:33**