

## TABLE OF INSTRUCTIONS

Page

### E1.00

#### EARLY CASE SUMMARY

E1.00	Early Case Summary—General Comment.....	2
E1.01	Early Case Summary.....	5

### 1.00

#### PROHIBITED INSTRUCTIONS

1.00	Prohibited Instructions—General Comment .....	9
1.01	Unavoidable Accident Instructions.....	11
1.02	Conjunctive Submissions .....	13
1.03	Sole Cause Instructions .....	16
1.04	Sudden Emergency Instructions .....	18
1.05	Physical Facts Instructions .....	19
1.06	Advance Payment or Partial Settlement Instructions .....	20

### 2.00

#### EXPLANATORY

2.00	Submissions in Multi-Party or in Multi-Claim Litigation— General Comment .....	24
2.00(A)	Recommended Explanatory Instruction Before Jury Selection .....	33
2.00(B)	Recommended Admonitions at Recess or Adjournment— General Comment .....	35
2.00(C)	Juror Bias—Instruction for Use in All Cases—Before Jury Selection .....	38
2.01	Instruction for All Cases.....	39
2.02	Facts Not Assumed.....	48
2.03	Order of Instructions .....	49
2.03(A)	Juror Bias—Instruction for Use in All Cases .....	50
2.04	Return of Verdict .....	51
2.05	Multi-Claim Submissions—Designation of Applicable Instructions.....	53

## MISSOURI APPROVED JURY INSTRUCTIONS

	Page
2.06 Inconsistent or Erroneous Verdict .....	55
2.07 Explanatory—Insurance, Benefits .....	57

### 3.00

#### BURDEN OF PROOF

3.01 General.....	59
3.02 Eminent Domain [Withdrawn 2008] .....	62
3.03 Will Contest [Withdrawn 2012].....	62
3.04 Clear and Convincing—Gift.....	63
3.05 Libel or Slander—Plaintiff a Public Official or Public Figure.	64
3.06 Libel or Slander—Punitive Damages Sought by a Plaintiff Not a Public Official or Public Figure.....	66
3.07 Clear and Convincing—Commitment for Mental Illness .....	67
3.08 Paternity Actions.....	68

### 4.00

#### DAMAGES—GENERAL

4.01 Personal and Property.....	72
4.02 Property Only .....	81
4.03 Property—Misrepresentation .....	86
4.04 Quantum Meruit .....	88
4.05 Broker's Commission—Agreed Percentage.....	91
4.06 Broker's Commission—No Amount Agreed.....	92
4.07 Action to Recover for Services Furnished Decedent.....	93
4.08 Contract—When Substantial Performance Submitted.....	94
4.09 Amount Not in Dispute.....	95
4.10 Ejectment [Withdrawn 2012] .....	96
4.11 Damages Uninsured Motor Vehicle—Suit Against Insurer Only [Withdrawn 2012] .....	96
4.12 Apportionment of Fault—Plaintiff Claiming Against All From Whom Apportionment Is Sought—Plaintiff's Claim and Apportionment Decided in Same Trial.....	97
4.13 Apportionment of Fault—Plaintiff Not Claiming Against All From Whom Apportionment of Fault Is Sought—Plaintiff's Claim and Apportionment Decided in Same Trial .....	99
4.14 Apportionment of Fault—Separate Trial.....	101
4.15 Libel or Slander—Plaintiff Not a Public Official or Public Figure .....	103
4.16 Libel or Slander—Plaintiff a Public Official or Public Figure .....	105

## TABLE OF INSTRUCTIONS

	Page
4.17 Breach of Warranty Under Uniform Commercial Code— Accepted Goods.....	106
4.18 Personal Injury and Loss of Consortium, Loss of Services or Medical Expenses—Spouse or Child Injured—Non- Comparative Fault Only .....	108

### 5.00

#### DAMAGES—WRONGFUL DEATH

5.01 Wrongful Death .....	111
5.02 Death of Husband—Alternate Form [Withdrawn 1981].....	114
5.03 Death of Minor Child [Withdrawn 1981].....	114
5.04 Death of Wife—Short Form [Withdrawn 1981].....	114
5.05 Death of Wife—Alternate Form [Withdrawn 1981] .....	114
5.06 Administrator’s Action on Behalf of Heirs—Short Form [Withdrawn 1981].....	114
5.07 Administrator’s Action on Behalf of Heirs—Alternate Form [Withdrawn 1981].....	114
5.08 Death of Parent—Short Form [Withdrawn 1981] .....	114
5.09 Death of Parent—Alternate Form [Withdrawn 1981] .....	114

### 6.00

#### DAMAGES—WRONGFUL DEATH—MITIGATING AND AGGRAVATING CIRCUMSTANCES

6.01 Mitigating Circumstances .....	116
6.02 Aggravating Circumstances .....	117

### 7.00

#### DAMAGES—JOINT TORT-FEASORS

7.01 Deduction for Admitted Settlement With Joint Tort-Feasor [Withdrawn 1983].....	120
7.02 Disputed Partial Settlement.....	121

### 8.00

#### DAMAGES—FEDERAL EMPLOYERS’ LIABILITY ACT

8.01 Death of Employee under F.E.L.A. [Withdrawn 2012].....	123
---	-----

## MISSOURI APPROVED JURY INSTRUCTIONS

	Page
8.02 Injury to Employee [Withdrawn 2012] .....	123

### 9.00

#### EMINENT DOMAIN

9.01 Damages—All Property Taken .....	125
9.02 Damages—Part of Property Taken .....	127
9.03 Burden of Proof .....	130
9.04 Verdict Directing—Where Authority Claims “No Damage” From Taking .....	132
9.05 Withdrawal Instructions—General Benefits .....	133
9.06 Illustration—All Property Taken .....	135
9.07 Illustration—Part of Property Taken—Evidence of Damage to Remainder .....	138

### 10.00

#### DAMAGES—EXEMPLARY

10.00 General Comment .....	143
10.01 Outrageous Conduct—Intentional Torts .....	144
10.02 Negligence Constituting Conscious Disregard for Others... ..	149
10.03 Multiple Defendants .....	153
10.04 Strict Liability—Either Product Defect or Failure to Warn Submitted .....	154
10.05 Strict Liability—Both Product Defect and Failure to Warn Submitted .....	157
10.06 Both Negligence and Strict Liability Submitted .....	159
10.07 Modification of MAI 10.02—Submission of Specific Acts and Knowledge .....	161
10.08 Penalty and Attorney’s Fees— Vexatious Refusal to Pay by Insurance Company .....	164

### 11.00

#### DEFINITIONS—NEGLIGENCE

11.01 Highest Degree of Care .....	166
11.02 Negligence of Adult .....	167
11.03 Negligence and Highest Degree of Care Combined .....	170
11.04 Negligence of Minor .....	171
11.05 Ordinary Care .....	173
11.06 Negligence—Health Care Providers .....	175

## TABLE OF INSTRUCTIONS

		Page
11.07	Negligence and Ordinary Care Combined .....	177
11.08	Negligence—Different Standards of Care .....	179
11.09	Ordinary Care—Fraudulent Misrepresentation [Withdrawn 1996] .....	180
11.10	Negligence—Ordinary Care— Manufacturers of Certain Products .....	181

### 12.00

#### UNINSURED AND UNDERINSURED MOTOR VEHICLE

12.00	General Comment—Uninsured and Underinsured Motor Vehicles .....	184
12.01	Definitions—Uninsured Motor Vehicle .....	187
12.02	Definition—Uninsured Motor Vehicle—Hit-and-Run Vehicle .....	189
12.03	Verdict Directing—Uninsured Motor Vehicle—Insurer Only Defendant .....	190
12.04	Verdict Directing—Uninsured Motor Vehicle—Insurer and Uninsured Driver Joined .....	192
12.05	Verdict Directing—Uninsured Motor Vehicle—Hit-and-Run Vehicle .....	193
12.06	Damages—Uninsured Motor Vehicle—Suit Against Insurer Only .....	195
12.07	Form of Verdict—Uninsured Motor Vehicle—Both Individual Tort-Feasor and Insurance Carrier Sued .....	197
12.08	Form of Verdict—Uninsured Motor Vehicle—Insurer Only Defendant .....	200

### 13.00

#### DEFINITIONS—AGENCY

13.01	General Comment .....	203
13.02	Battery Committed by Servant .....	206
13.03	Scope of Employment—Dual Purpose Acts .....	209
13.04	Scope of Employment—Route Deviation .....	211
13.05	Scope of Employment .....	213
13.06	Scope of Agency—Servant or Independent Contractor ..	215
13.07(1)	Contract—Apparent Authority—Conduct of Principal ..	218
13.07(2)	Contract—Apparent Authority—Acts of Agent With Principal's Knowledge .....	220

## MISSOURI APPROVED JURY INSTRUCTIONS

Page

### 14.00

#### DEFINITIONS—YIELD THE RIGHT-OF-WAY

14.01	General Comment .....	223
14.02	Vehicle Entering Intersection After Another Vehicle .....	225
14.03	Vehicle on the Left .....	227
14.04	Vehicle Making Left Turn at Intersection .....	228
14.05	Vehicle Entering at Stop Sign or Yield Sign.....	229
14.06	Vehicle Entering From an Alley or Driveway .....	231
14.07	Making Left Turn Into Alley or Driveway .....	232
14.08	Vehicle on the Left Combined With Vehicle Entering Intersection After Another Vehicle.....	233
14.09	Special Pedestrian Control Signals.....	234

### 15.00

#### WILL CONTEST

15.01	Definition—Sound and Disposing Mind and Memory...	236
15.02	Definition—Undue Influence .....	238
15.03	Burden of Proof .....	239
15.04	Verdict Directing.....	241
15.05	Verdict Directing—Partial Invalidity of Will Due to Fraud .....	244
15.06	Verdict Directing—Partial Invalidity of Will Due to Undue Influence .....	246
15.07	Affirmative Defense—Fraud Invalidating Will .....	247
15.08	Affirmative Defense—Undue Influence.....	249
15.09	Illustration—Will Contest.....	250
15.10(A)	Form of Verdict.....	255
15.10(B)	Form of Verdict—Partial Invalidity.....	256

### 16.00

#### DEFINITIONS—MISCELLANEOUS

16.01	Legal Malice [Withdrawn 1996] .....	258
16.01(1)	Malice in Law—Liability for Actual Damages in Malicious Prosecution Cases Arising Out of Civil Actions .....	259
16.01(2)	Legal Malice—Liability for Actual Damages in Malicious Prosecution Cases Arising Out of Criminal Actions ...	260
16.02	Fair Market Value.....	261

## TABLE OF INSTRUCTIONS

		Page
16.03	Good Faith in Ejectment [Withdrawn 2012] .....	263
16.04	Substantial Performance .....	264
16.05	Malicious Prosecution—Reasonable Grounds—Criminal Action .....	265
16.06	Malicious Prosecution—Reasonable Grounds—Civil Action .....	266
16.07	Mental Illness—Commitment for Mental Illness .....	267
16.08	Inherently Dangerous Activity.....	268

### 17.00

#### VERDICT DIRECTING—MOTOR VEHICLES

17.01	Single Negligent Act Submitted .....	270
17.02	Multiple Negligent Acts Submitted.....	274
17.03	Excessive Speed .....	278
17.04	Failure to Act After Danger of Collision Apparent.....	279
17.05	Failure to Keep a Lookout.....	284
17.06	Failure to Signal Intention to Turn .....	288
17.07	Failure to Sound Horn [Withdrawn 2000].....	290
17.08	Failure to Yield Right-of-Way .....	291
17.09	Following Too Closely .....	292
17.10	Passing on the Right.....	294
17.11	Slowing Without Adequate Warning .....	296
17.12	Stopping Without Adequate Warning .....	297
17.13	Wrong Side of the Road.....	300
17.14	Humanitarian Negligence, Compound [Withdrawn 1990] ..	303
17.15	Humanitarian Negligence, Disjunctive [Withdrawn 1990] .	303
17.16	Rear End Collision .....	304
17.17	Per se Negligence—Improper Turn.....	307
17.18	Per se Negligence—Violating Speed Limit .....	309
17.19	Unable to Stop Within Range of Vision.....	311
17.20	Stopping in Lane Reserved for Moving Traffic .....	313
17.21	Driving While Intoxicated.....	315

### 18.00

#### VERDICT DIRECTING—AGENCY

18.01	Verdict Directing Modification Required.....	318
-------	--	-----

## MISSOURI APPROVED JURY INSTRUCTIONS

Page

### 19.00

#### VERDICT DIRECTING—MULTIPLE CAUSES OF DAMAGE

19.01	Verdict Directing Modification—Multiple Causes of Damage .....	324
-------	--	-----

### 20.00

#### VERDICT DIRECTING—WRONGFUL DEATH

20.01	Single Negligent Act Submitted .....	329
20.02	Multiple Negligent Acts Submitted.....	332

### 21.00

#### ACTIONS AGAINST HEALTH CARE PROVIDERS

21.00	General Comment .....	336
21.01	Verdict Directing—No Comparative Fault.....	337
21.02	Verdict Directing—Single or Multiple Defendants With Comparative Fault—Multiple Negligent Acts .....	340
21.03	Damages—No Comparative Fault.....	342
21.04	Damages—Comparative Fault .....	344
21.05	Definitions—Categories of Damages .....	346
21.06	Limiting Instruction—Apportionment of Fault to Settling Tortfeasor under § 538.230 (Repealed H.B. 393 (2005)) ...	348
21.07	Derivative Claims—Loss of Consortium, Loss of Services or Medical Expenses.....	350
21.08	Verdict Directing—Lost Chance of Survival—No Comparative Fault—Multiple Negligent Acts .....	352
21.09	Damages—Lost Chance of Survival—No Comparative Fault .....	354
21.10	Verdict Directing—Lost Chance of Survival—Comparative Fault—Multiple Negligent Acts .....	356
21.11	Damages—Lost Chance of Survival—Comparative Fault ..	358
21.12	Verdict Directing—Lost Chance of Recovery (Non-Death) Cases—No Comparative Fault—Multiple Negligent Acts.	360
21.13	Damages—Lost Chance of Recovery (Non-Death) Cases—No Comparative Fault .....	362
21.14	Verdict Directing—Lost Chance of Recovery (Non-Death) Cases—Comparative Fault—Multiple Negligent Acts .....	364
21.15	Damages—Lost Chance of Recovery (Non-Death) Cases—Comparative Fault .....	366



## TABLE OF INSTRUCTIONS

		Page
22.00		
VERDICT DIRECTING—OWNERS AND OCCUPIERS OF LAND		
22.00	General Comment .....	369
22.01	Trespassing Children .....	370
22.02	Dangerous Condition Near Public Thoroughfare .....	372
22.03	Invitee Injured .....	375
22.04	Sidewalk Defect [Withdrawn 1993] .....	380
22.05	Tenant Injured on Premises Reserved for Common Use ....	381
22.06	Private Nuisance .....	385
22.07	Licensee .....	388
22.08	Highway Danger Created by Highway Construction Contractor .....	391
22.09	Sidewalk Defect—Dangerous Condition Created by Abutting Landowner .....	392
22.10	Constant Trespassing .....	395

## 23.00

### VERDICT DIRECTING—INTENTIONAL TORTS

23.01	Assault .....	399
23.02	Battery .....	401
23.03	Battery—Intent to Induce Apprehension .....	403
23.04	False Imprisonment .....	404
23.05	Fraudulent Misrepresentations—Pecuniary Loss .....	406
23.06	Libel [Withdrawn 1980] .....	412
23.06(1)	Libel—Plaintiff Not a Public Official or Public Figure ..	413
23.06(2)	Libel—Plaintiff a Public Official or Public Figure .....	416
23.07	Malicious Prosecution—For Initiating or Continuing Criminal or Civil Actions .....	420
23.08	Service Letters .....	423
23.09	Slander—Not Per Se [Withdrawn 1980] .....	426
23.10	Slander Per Se [Withdrawn 1980] .....	426
23.10(1)	Slander—Plaintiff Not a Public Official or Public Figure .....	427
23.10(2)	Slander—Plaintiff a Public Official or Public Figure ....	429
23.11	Tortious Interference With Contract .....	432
23.12(1)	Conversion—Taking .....	434
23.12(2)	Conversion—Failure to Surrender Possession .....	437
23.13	Retaliatory Discharge or Discrimination-Worker's Compensation [Withdrawn 2012] .....	438

## MISSOURI APPROVED JURY INSTRUCTIONS

	Page
23.14	Employee's Breach of Duty of Loyalty ..... 439

### 24.00

## FEDERAL EMPLOYERS' LIABILITY ACT

24.01	Verdict Directing—Failure to Provide Safe Place to Work [Withdrawn 2008] ..... 442
24.01(A)	Verdict Directing—Constructive Knowledge Not In Issue— Failure to Provide Safe Place to Work ..... 445
24.01(B)	Verdict Directing—Constructive Knowledge Disputed— Failure to Provide Safe Place to Work ..... 448
24.02	Verdict Directing—Locomotive Inspection Act Violation ..... 451
24.03	Verdict Directing—Safety Appliance Act Violation ..... 453
24.04(A)	Affirmative Defense—Failure to Mitigate Damages .... 455
24.04(B)	Affirmative Defense—Contributory Negligence ..... 457
24.05	Withdrawal Instruction—Assumption of the Risk ..... 459
24.06	Damages—Death of Employee ..... 460
24.07	Damages—Injury to Employee ..... 462

### 25.00

## VERDICT DIRECTING—BREACH OF WARRANTY AND PRODUCT LIABILITY

25.01	Breach of Warranty of Title to Personalty ..... 467
25.02	Breach of Common Law Implied Warranty of Fitness for Consumption ..... 468
25.03	Breach of Common Law Implied Warranty of Fitness for a Particular Purpose Under Uniform Commercial Code ..... 470
25.04	Strict Liability—Product Defect ..... 473
25.05	Strict Liability—Failure to Warn ..... 476
25.06	Verdict Directing—Products Liability—Negligently Furnishing Dangerous Instrumentality or Product [Withdrawn 1990] ..... 478
25.07	Breach of Express Warranty Under Uniform Commercial Code ..... 479
25.08	Breach of Implied Warranty of Merchantability Under Uniform Commercial Code ..... 482
25.09	Product Liability—Negligent Manufacture, Design, or Failure to Warn ..... 485

## TABLE OF INSTRUCTIONS

		Page
25.10(A)	Negligently Supplying Dangerous Instrumentality .....	487
25.10(B)	Negligently Supplying Dangerous Instrumentality for Supplier's Business Purposes .....	490

### 26.00

#### VERDICT DIRECTING—CONTRACT

26.01	Breach of Unilateral Contract .....	494
26.02	Breach of Bilateral Contract—Breach Sole Issue .....	496
26.03	Action on Account .....	500
26.04	Account Stated—Matured Debts .....	502
26.05	Quantum Meruit—Goods or Services Furnished .....	503
26.06	Breach of Bilateral Contract—Terms and Breach in Issue .	505
26.07	Breach of Bilateral Contract—When Substantial Performance Sufficient .....	508

### 27.00

#### EJECTMENT

27.01	Verdict Directing—Ejectment Against a Stranger .....	511
27.02	Verdict Directing—Ejectment Against Co-tenant .....	512
27.03	Verdict Directing—Ejectment—Damages Only .....	513
27.04	Verdict Directing—Ejectment—Counterclaim for Value of Improvements .....	515
27.05	Damages—Ejectment .....	516
27.06	Definition—Good Faith in Ejectment .....	518

### 28.00

#### VERDICT DIRECTING—SERVICES FURNISHED DECEDENT

28.00	General Comment .....	520
28.01	Recovery for Services Furnished Decedent Under Express Contract Where Family Relationship Is Admitted or an Issue .....	522
28.02	Recovery for Services Furnished Decedent Under Implied Contract Where Family Relationship Is Admitted or an Issue .....	523
28.03	Action Against Estate by One Admittedly Not in a Family Relationship .....	524
28.04	Quantum Meruit Recovery Sought Where Family Relationship Is an Issue .....	525

## MISSOURI APPROVED JURY INSTRUCTIONS

Page

### 29.00

#### VERDICT DIRECTING—REAL ESTATE COMMISSION

29.01	Sale Not Consummated.....	527
29.02	Sale Consummated—Agreed Commission .....	530
29.03	Sale Consummated—No Agreed Commission .....	532
29.04	Sale Consummated—Exclusive Right to Sell.....	534
29.05	Sale Prevented by Owner [Withdrawn 1980].....	536

### 30.00

#### VERDICT DIRECTING—THIRD PARTY PLAINTIFF

30.01	Surety Against Principal .....	538
30.02	Master Against Servant .....	540
30.03	Retailer Against Wholesaler .....	541

### 31.00

#### VERDICT DIRECTING—MISCELLANEOUS

31.00	General Negligence—Single Negligent Act Submitted..	544
31.01	Negligently Furnishing Dangerous Instrumentality or Product [Withdrawn 1978] .....	546
31.02(1)	Res Ipsa Loquitur—Pedestrian.....	547
31.02(2)	Res Ipsa Loquitur—Bus Passenger .....	549
31.02(3)	Res Ipsa Loquitur—General.....	551
31.03	Explosives.....	554
31.04	Loss of Consortium, Loss of Services or Medical Expenses—Spouse or Child Injured—For EITHER Comparative Fault or Non-Comparative Fault Submissions.....	555
31.05	Eminent Domain [Withdrawn 2008] .....	558
31.06	Will Contest [Withdrawn 2012] .....	558
31.07	Amount of Damages Only Issue [Withdrawn 2016].....	558
31.07(A)	Admission of Liability—Amount of Damages Only Issue .....	559
31.07(B)	Admission of Negligence Only—Causation and Damage Still at Issue .....	561
31.08	Life Insurance Policy .....	562
31.09	Insurance Policy on Property .....	564
31.10	Uninsured Motor Vehicle—General Comment [Withdrawn 2012].....	565

## TABLE OF INSTRUCTIONS

		Page
31.11	Uninsured Motor Vehicle—Insurer Only Defendant [Withdrawn 2012] .....	565
31.12	Uninsured Motor Vehicle—Insurer and Uninsured Driver Joined [Withdrawn 2012] .....	565
31.13	Uninsured Motor Vehicle—Hit-and-Run Vehicle [Withdrawn 2012] .....	565
31.14	Commitment for Mental Illness .....	566
31.15	Inherently Dangerous Activity—Liability of Employer of Independent Contractor .....	567
31.16	Waiver of Sovereign Immunity—Dangerous Condition of Public Entity’s Property—Actual or Constructive Notice.....	570
31.17	Waiver of Sovereign Immunity—Dangerous Condition of Public Entity’s Property Created by Employee .....	573
31.18	Paternity Actions—No Statutory Presumption .....	575
31.19	Paternity Actions—Statutory Presumption .....	576
31.20	Paternity Actions—Rebuttal of Statutory Presumption .....	577
31.21	Partial Invalidity of Will Due to Fraud [Withdrawn 2012].....	578
31.22	Partial Invalidity of Will Due to Undue Influence [Withdrawn 2012] .....	578
31.23	Negligent Infliction of Emotional Distress .....	579
31.24	Employment Discrimination—Missouri Human Rights Act [Withdrawn 2012] .....	581
31.25	Lawful Justification—Employment Discrimination— Missouri Human Rights Act [Withdrawn 2012] .....	581
31.26	Negligent Misrepresentation—Pecuniary Loss .....	582
31.27	Wrongful Discharge in Violation of Public Policy [Withdrawn 2012] .....	585

## 32.00

## AFFIRMATIVE DEFENSES

32.01	General Comment.....	588
32.01(1)	Comparative Fault—Single Negligent Act Submitted...	589
32.01(2)	Comparative Fault—Multiple Negligent Acts Submitted .....	595
32.01(3)	Comparative Fault—Wrongful Death .....	597
32.02	Comparative Fault—Guest Passenger—Failure to Warn Driver of Known Dangers .....	599
32.03	Comparative Fault—Guest Passenger—Failure to Warn Driver of Dangers Which Were “Reasonably Apparent”.....	601

## MISSOURI APPROVED JURY INSTRUCTIONS

		Page
32.04	Comparative Fault—Guest Passenger—Interfering With Driver .....	603
32.05	Comparative Fault—Guest Passenger—Riding With Intoxicated Driver .....	604
32.06	Comparative Fault—Malpractice .....	606
32.07	Contributory Negligence—F.E.L.A. [Withdrawn 1996] ..	608
32.07(A)	Failure to Mitigate Damages—F.E.L.A. [Withdrawn 2012] .....	608
32.07(B)	Contributory Negligence—F.E.L.A. [Withdrawn 2012] ..	608
32.08	Battery Actions—Consent .....	609
32.09	Battery Actions—Ejecting Trespasser .....	610
32.10	Battery Actions—Resisting Invasion of Property .....	612
32.11	Battery Actions—Self-Defense .....	614
32.12	Libel and Slander—Truth .....	616
32.13	False Imprisonment—Shoplifting .....	617
32.14	Payment for Services Furnished Decedent .....	619
32.15	Gratuitous Furnishing of Services .....	620
32.16	Family Relationship .....	621
32.17	Will Contest—Fraud Invalidating Will [Withdrawn 2012] .....	622
32.18	Will Contest—Undue Influence [Withdrawn 1991] .....	622
32.19	Life Insurance—Misrepresentation of Material Fact—Not Warranted .....	623
32.20	Life Insurance—Breach of Warranty .....	625
32.21	Release .....	627
32.22	Avoidance of Affirmative Defense—Release Obtained by Fraud .....	628
32.23	Product Liability—Strict Liability—Contributory Fault .....	630
32.24	Insurance Policy Defense .....	632
32.25	Warranty—Exclusion of Implied Warranty Under UCC .....	633
32.26	Conversion—Consent .....	634
32.27	Conversion—Abandonment .....	635
32.28	Comparative Fault—Invitee Injured—Failure to Keep a Lookout .....	636
32.29	Failure to Mitigate Damages .....	638

### 33.00

## CONVERSE INSTRUCTIONS

33.01	General Comment .....	641
33.02	Instructions Conversing Verdict Directing 17.01 Using “If You Do Not Believe” Introduction [Withdrawn 1980] ..	652

## TABLE OF INSTRUCTIONS

		Page
33.03	Instructions Conversing Verdict Directing 17.01 Using “Unless You Believe” Introduction .....	653
33.04	Instructions Conversing Verdict Directing 17.02 Using “Unless You Believe” Introduction .....	657
33.05	Conversing Verdict Directing Using Affirmative Converse—“If You Believe” Introduction [Withdrawn 1988] .....	660
33.05(1)	Conversing Verdict Directing Instruction Using Affirmative Converse—“If You Believe” Introduction .....	661
33.05(2)	Affirmative Converse—Legal Justification for Negligence Per Se .....	664
33.06	Humanitarian Converse Instructions [Withdrawn 1990] .....	667
33.07	Issue of Sound and Disposing Mind and Memory [Withdrawn 1980] .....	667
33.08	Issue of Furnishing Services and Agreement to Pay [Withdrawn 1980] .....	667
33.09	Issue of Implied Agreement to Pay [Withdrawn 1980] ..	667
33.10	Issue of Plaintiff Furnishing Services [Withdrawn 1980] .....	667
33.11	Issue of Express Contract [Withdrawn 1980] .....	667
33.12	Conversing Issue of Accepting Benefits of Services [Withdrawn 1980] .....	667
33.13	General Converse [Withdrawn 1980] .....	667
33.14	Conversing Verdict Directing 22.02, 22.03, 22.04 and 22.05. Using “If You Do Not Believe” Introduction [Withdrawn 1980] .....	667
33.15	Instructions Conversing Verdict Directing 22.02, 22.03, 22.04 and 22.05 Using “Unless You Believe” Introduction .....	668
33.16	Conversing Exemplary Damages .....	670

## 34.00

### WITHDRAWAL AND LIMITING INSTRUCTIONS

34.01	General Comment .....	674
34.02	Issues and Evidence .....	676
34.03	General Benefits—Eminent Domain [Withdrawn 2008] ....	680
34.04	F.E.L.A.—Assumption of the Risk [Withdrawn 2012] .....	680
34.05	Advance Payments, Undisputed Partial Settlements, or Collateral Source Payments .....	681
34.06	Limiting Instructions .....	683

## MISSOURI APPROVED JURY INSTRUCTIONS

Page

35.00

### ILLUSTRATIONS

35.00	General Comment .....	686
35.01	Head-On Collision With Counterclaim [Withdrawn 1991] ..	689
35.02	Apportionment of Fault—Defendant Adjudged at Fault in Prior Trial Claiming Apportionment in Separate Trial....	690
35.03	Head-On Collision—Suit by Passenger Against Other Driver— Third-Party Claim Against Driver of Passenger’s Vehicle for Apportionment of Fault .....	697
35.04	Comparative Fault—Right Angle Collision—Suit Against Driver and His Employer—Agency in Issue—Counterclaim for Personal Injury by Employee.....	705
35.05	Multiple Defendants—Damages and Apportionment of Fault Determined in Same Trial .....	719
35.06(1)	Husband and Wife Both Sue for Personal Injuries and Loss of Consortium [Withdrawn 1991].....	727
35.06(2)	Husband Sues for Personal Injuries and Wife Sues for Loss of Consortium [Withdrawn 1991].....	727
35.07	Bilateral Contract—Substantial Performance in Issue .....	728
35.08	Eminent Domain—All Property Taken [Withdrawn 2008] .	733
35.09	Eminent Domain—Part of Property Taken—Evidence of Damage to Remainder [Withdrawn 2008] .....	733
35.10	Product Liability—Defective Ladder .....	734
35.11	Submission of One Claim by Two Verdict Directors— Humanitarian and Primary Negligence [Withdrawn 1991] .....	740
35.12	Will Contest [Withdrawn 2012] .....	740
35.13	Head-On Collision With Counterclaim—Comparative Fault [Withdrawn 1985] .....	740
35.14	Comparative Fault—Head-On Collision—Two Defendants .	741
35.15	Negligence and Strict Liability Combined—Comparative Fault—Apportionment of Fault Among Defendants .....	748
35.16	Comparative Fault—Head-On Collision—Personal Injury and Loss of Consortium .....	760
35.17	No Comparative Fault—Rear End Collision—Personal Injury and Loss of Consortium .....	768
35.18	Personal Injury and Consortium Claims—Action Against Health Care Provider—Comparative Fault.....	775
35.19	Punitive Damages—Bifurcated Trial Under § 510.263—No Comparative Fault—Two Defendants—Apportionment of Fault Between Defendants .....	784
35.20	Medical Malpractice—Minor Injured—Derivative Claim—No Comparative Fault .....	796



## TABLE OF INSTRUCTIONS

		Page
35.21	Health Care Providers—Settling Tortfeasor—Apportionment of Fault Under § 538.230— <u>With</u> Comparative Fault (Repealed by H.B. 393 (2005)).....	804
35.22	Health Care Providers—Settling Tortfeasor—Apportionment of Fault Under § 538.230— <u>No</u> Comparative Fault of Plaintiff (Repealed by H.B. 393).....	814

## 36.00

## FORMS OF VERDICT

36.01	Plaintiff vs. Defendant—Personal Injuries Only.....	825
36.02	Plaintiff vs. Defendant—Personal Injuries and Property Damage .....	827
36.03	Plaintiff vs. Defendant—Personal Injuries and Counterclaim for Personal Injuries [Withdrawn 1980] .....	829
36.04	Plaintiff vs. Defendant— Personal Injuries and Property Damage and Counterclaim—Personal Injuries and Property Damage [Withdrawn 1980] .....	829
36.05	Plaintiff vs. Two Defendants .....	830
36.06	Crossclaim for Indemnity by Surety vs. Principal; by Employer vs. Employee .....	833
36.07	Multiple Plaintiffs (Separate Counts) vs. Defendant [Withdrawn 1980] .....	835
36.08	Multiple Plaintiffs (Consolidated Cases) vs. Defendant [Withdrawn 1980] .....	835
36.09	Plaintiff vs. Defendant— Principal and Interest [Withdrawn 1980] .....	835
36.10	Plaintiff vs. Defendant Insurance Company—Interest— Vexatious Refusal Penalty—Attorney Fees .....	836
36.11	Plaintiff vs. Defendant—Actual and Punitive Damages ....	838
36.12	Plaintiff vs. Two Defendants—Actual and Punitive Damages.....	840
36.13	Uninsured Motor Vehicle— Both Individual Tort-Feasor and Insurance Carrier Sued [Withdrawn 2012] .....	843
36.14	Uninsured Motor Vehicle— Insurer Only Defendant [Withdrawn 2012] .....	843
36.15	Apportionment of Fault Among Defendants.....	844
36.16	Liability for Apportionment of Fault Against Party Not Claimed Against by Plaintiff .....	847
36.17	Plaintiff vs. Defendant—Will Contest [Withdrawn 2012] ..	849
36.17(A)	Plaintiff vs. Defendant—Will Contest [Withdrawn 2012] ..	849
36.17(B)	Plaintiff vs. Defendant—Will Contest—Partial Invalidity [Withdrawn 2012].....	849
36.18	Commitment for Mental Illness .....	850

## MISSOURI APPROVED JURY INSTRUCTIONS

	Page
36.19 Plaintiff vs. Defendant—Disputed Partial Settlement .....	851
36.20 Actions Against Health Care Providers—Plaintiff vs. Single Defendant—No Comparative Fault.....	853
36.21 Actions Against Health Care Providers—Plaintiff vs. Multiple Defendants—No Apportionment of Fault Among Defendants and No Comparative Fault .....	856
36.22 Actions Against Health Care Providers—Plaintiff vs. Single or Multiple Defendants—Comparative Fault .....	859
36.23 Combined Injury and Derivative Claims .....	863
36.24 Actions Against Health Care Providers—Lost Chance of Survival—No Comparative Fault .....	866
36.25 Actions Against Health Care Providers—Lost Chance of Survival—Comparative Fault .....	869
36.26 Actions Against Health Care Providers—Lost Chance of Recovery (Non-Death) Cases—No Comparative Fault.....	873
36.27 Actions Against Health Care Providers—Lost Chance of Recovery (Non-Death) Cases—Comparative Fault.....	876
36.28 Paternity Actions .....	879

### 37.00

#### COMPARATIVE FAULT

37.00	Comparative Fault—General Comment .....	881
37.01	Verdict Directing Modification .....	886
37.02	Required Change of Former Contributory Negligence Instruction to Submit Plaintiff's Comparative Fault ..	889
37.03	Damages.....	893
37.04	Converse Instructions—Plaintiff or Defendant .....	896
37.05(1)	Vicarious Liability—Agency in Issue.....	897
37.05(2)	Vicarious Liability—Agency Not Disputed .....	901
37.06	Complete Affirmative Defenses .....	903
37.07	Form of Verdict—Plaintiff vs. Defendant .....	905
37.08	Damages—Personal Injury and Loss of Consortium, Loss of Services or Medical Expenses—Spouse or Child Injured .....	908
37.09	Form of Verdict—Combined Injury and Derivative Claims .....	911

### 38.00

#### EMPLOYMENT DISCRIMINATION

38.01(A)	Verdict Directing—Missouri Human Rights Act—Employment Discrimination (for actions accruing before August 28, 2017) .....	916
----------	---	-----

## TABLE OF INSTRUCTIONS

		Page
38.01(B)	Verdict Directing—Missouri Human Rights Act— Employment Discrimination by Reason of Disability— Existence of Disability Disputed (for actions accruing before August 28, 2017) .....	920
38.02	Missouri Human Rights Act—Lawful Justification (for actions accruing before August 28, 2017).....	924
38.03	Verdict Directing—Wrongful Discharge in Violation of Public Policy .....	926
38.04	Verdict Directing—Retaliatory Discharge or Discrimination—Workers’ Compensation (for actions accruing before August 28, 2017).....	929
38.05	Verdict Directing—Retaliatory Discharge or Discrimination—Workers’ Compensation (for actions accruing on or after August 28, 2017) .....	931
38.06	Verdict Directing—Missouri Human Rights Act— Employment Discrimination (for actions accruing on or after August 28, 2017) .....	933
38.07	Verdict Directing—Missouri Human Rights Act— Employment Discrimination by Reason of Disability— Existence of Disability Disputed (for actions accruing on or after August 28, 2017).....	936
38.08	Missouri Human Rights Act—Business Judgment Rule (for actions accruing on or after August 28, 2017).....	940
38.09	Missouri Human Rights Act—Damages (for actions accruing on or after August 28, 2017) .....	942
38.10	Missouri Human Rights Act—Verdict Form (for actions accruing on or after August 28, 2017) .....	944

## 39.00

## MERCHANDISING PRACTICES

39.01	Verdict Directing—Violation of Missouri Merchandising Practices Act .....	948
-------	--	-----

### Table of Effective Dates of Instructions

### Table of Laws and Rules

### Table of Cases

### Index