

# Index

## **ABATEMENT**

- Common nuisance, § 26.7
- Plea, abolished, § 8.3
- Public nuisance
  - Information by attorney general, § 3.7
  - Parties, § 26.7

## **ABSTENTION**

- As applied to federal court, § 2.3

## **ACCIDENTS**

- Reformation of instruments, § 25.1

## **ACCOUNTS AND ACCOUNTING**

- Actions, general principles, § 19.3
- Administrator, action to establish trust, § 3.10
- Careless and erroneous billing, § 28.1
- Complaints, this index
- Counterclaim not required, § 19.3
- Final judgment should state the account, § 19.3
- Mortgages, § 27.3
- Statute of limitations, application to, § 19.3
- Stockholders of corporation, want of fiduciary relationship, § 19.2

## **ACTIONS**

- Declaratory relief from administrative proceedings, § 14.2
- Domestic enjoined, § 4.9
- Domicile as basis, § 4.2
- Early equity jurisdiction, § 3.6
- Enjoining, § 4.8
  - Administrative enjoined, § 4.10
  - Declaratory proceedings, § 4.9, 18.6
  - Equitable defense, § 4.9
  - Federal court, § 4.8
  - Foreign proceedings, § 4.5, 4.8
  - Public officers, § 4.10
- Equitable relief, § 4.2, 8.3
- Foreign actions, § 4.5
  - Enjoining, § 4.5, 4.8
  - Declination, § 4.8
- Foreign land, § 4.12
- Implied jurisdiction to proceed quasi in rem, § 5.3
- In rem, § 6.2, 6.5

**ACTIONS—Cont'd**

- Motion to dismiss, § 8.3
  - Failure to state claim upon which relief can be granted, § 8.3
- Multiplicity of, action to avoid, § 1.3
  - Enjoined from prosecuting domestic proceeding, § 4.9
- National banks, § 5.3
- Nationality as basis, § 4.2
- Nonresidents
  - Enjoined from prosecuting domestic action, § 4.9
  - Requirements, § 4.2
- Personal, action to enforce, § 4.1
  - In rem, § 3.1
    - Personal obligation to be established is a proceeding in personam, § 4.1
  - Quasi in rem, § 3.1
- Public officers, enjoining, § 4.10
- Quasi in rem and in rem combined, § 5.2
- Residents
  - Enjoined from prosecuting foreign, § 4.8
  - Subject to action, § 4.2
- Seizure of res, § 6.6
- Superior court, § 2.4
- Supreme judicial court, § 2.3
- Terminated by entry of judgment, § 4.1
- Vexatious enjoined, § 4.9

**ADEQUATE REMEDY AT LAW**

- Declination to enjoin proceedings based on judgment, § 4.11
- Equitable defense, § 4.11
- Judgment reviewed, § 4.11
- No longer bar to equitable relief, § 4.18
- Rules of civil procedure, § 4.16, 4.18

**ADMINISTRATIVE LAW**

- Generally, § 14.1
- Agency, defined, § 14.2
- Appeal, § 3.9, 14.2
- Appellate review, § 14.3
- Civil actions for judicial review, § 14.2
  - Agency decision accompanied by reasons, § 14.2
  - Application for additional evidence, § 14.2
  - Complaint, § 14.2
  - Filing, § 14.2
    - Place, § 14.2
    - Time, § 14.2
  - Hearing without jury, § 14.2
  - Intervenors, § 14.2
  - No hearing de novo, § 14.2
  - Power of court to modify or set aside agency decision, § 14.2
  - Requirements of record, § 14.2

## INDEX

### **ADMINISTRATIVE LAW—Cont'd**

Civil actions for judicial review, § 14.2—Cont'd

Review confined to record, § 14.2

Service, § 14.2

Venue, § 14.2

Declaratory proceedings, § 14.2, 18.7

Jurisdiction to review, § 18.7

Discretion of agency, jurisdiction to enjoin, § 4.10

Discretionary power of supreme judicial court, § 14.2

Eminent domain, jurisdiction to enjoin taking, § 4.10

Equitable procedure applied, § 3.9

Findings of fact, § 8.3

Injunctions, § 4.10

Judicial review, § 4.10, 14.2

Not applicable to the Commonwealth in its sovereign capacity, § 4.10

Persons aggrieved, § 14.2

Rehearing implied, § 3.9

Remand to board for statement of reasons, § 4.10

Review, § 3.9, 4.18, 14.2

Equitable procedure applied, § 3.9

No rehearing implied, § 3.9

Scope of review, § 3.9, 14.2

Right to hearing, § 14.2

State Administrative Procedure Act, § 14.2

Taxes, declaratory proceedings to review assessment, § 18.7

Waiver, § 8.3

### **ADMINISTRATORS**

Executors and Administrators, this index

Trust, action to establish, § 3.10

### **ADMISSIONS**

Requests for, § 9.5

### **ADVANTAGEOUS RELATIONSHIP**

Interference, this index

### **AFFIRMATIVE ACTS IN FOREIGN JURISDICTION**

Denial of relief, § 3.6

### **AFFIRMATIVE DEFENSES**

Effect if not pleaded, § 11.1

Equitable Defenses, this index

Illegal conduct, § 11.11

Manner of raising

Answer, § 11.1

Motion, § 11.1

Responsive pleadings, § 11.1

Unclean hands, § 11.5

Waiver, § 11.13

**AGE DISCRIMINATION**

Generally, § 13.8

**AGREEMENTS**

Contracts and Agreements, this index

**AGREEMENTS RELATIVE TO FACTS OR EVIDENCE**

Exceptions not necessary, § 8.15

Trial of action, § 8.15

**ALIENATION**

Restrictions against sale of stock, § 1.3

**ALIMONY**

Foreign judgment, jurisdiction to enforce, probate court, § 3.10

**ALTERNATIVE DISPUTE RESOLUTION (ADR)**

Generally, § 8.31

Arbitration and Award, this index

**AMENDMENT OF PLEADINGS**

Generally, § 2.4

**ANSWER**

Admissions, § 8.3

Affirmative defenses, § 11.1

Principles stated, § 11.1

Anomalous defenses, § 11.12

Counterclaim, § 2.4

Requires filing of reply, § 2.4

Denials and admissions

General denial not permitted, § 8.3

Effect, § 8.3

Filing, time, § 8.3

General denial not permitted, § 8.3

Illegality of subject matter of action, § 11.11

Laches, § 11.2

Necessity of filing, § 8.3

Principles stated, § 8.3

Requirements, § 8.3

Rules of civil procedure, § 8.3

Statute of limitations, § 11.8

Time for filing, § 8.3

**ANTI-SLAPP STATUTE**

Generally, § 28.11

**ANTITRUST ACT**

Generally, § 21.8

**APPEAL AND REVIEW**

Generally, § 8.23, 8.29

## INDEX

### **APPEAL AND REVIEW—Cont'd**

- Administrative proceedings, § 3.9, 14.2
  - Re-examination of administrative proceedings, § 3.9
- Certiorari as method of review, § 3.9
- Certiorari as the method where no appeal or exception, § 3.9
- Declaratory proceedings, in substitution thereof, § 18.7
- Dismissal, § 8.23
- Duty of clerk, § 8.23
- Entry in full court, § 8.23
- Equitable procedure applied, § 3.9
- Exceptions not necessary, § 8.15
- Fee, § 8.23
- Filing briefs and motions, § 8.23
  - Place, § 8.23
  - Time, § 8.23
- Further review, § 8.23
- Interlocutory matters, § 8.28
- Judgment reviewed by statutory proceeding, § 4.11
- Manner
  - Appeal, § 8.23
  - Report, § 8.23
- Objection sufficient, § 8.15
- Order for judgment, appeal from, § 8.23
- Petition for rehearing, § 8.23
- Preliminary injunctions, § 8.27
- Record, § 8.23
- Re-examination of administrative proceedings, § 3.9
- Rules of appellate procedure, § 8.23
- Scope, § 3.9, 8.24
- Service, § 8.23
- State Administrative Procedure Act, remedy now provided to persons aggrieved by decisions, § 4.10
- Superior court, finality of decision, § 3.9
- Temporary restraining order, § 8.27
- Testimony, designation of person to report, § 8.15

### **APPEARANCE**

- Attorney, appearance of, § 8.3
- Jurisdiction conferred, not as to subject matter, § 4.15
- Waiver of service of process, § 4.3

### **ARBITRATION AND AWARD**

- Award, § 4.6
- Civil action, stay, § 4.6
- Collective bargaining agreements, § 4.6
- Effect of agreement, § 4.6
- Enjoining, § 4.6
- Injunction against, not usual, § 4.6
- Jurisdiction, raising point, § 4.6

**ARBITRATION AND AWARD—Cont'd**

- Superior court enjoining civil action after award, § 4.6
- Uniform Arbitration Act for Commercial Disputes, § 4.6

**ARREST**

- Nonresident on mesne process, § 4.3
- Permitted, § 4.4

**ASSETS**

- Action for marshaling, § 20.8

**ASSIGNMENT FOR BENEFIT OF CREDITORS**

- Contractors, subcontractors, lien, privately owned buildings, statutory right to enforce, § 15.3

**ASSIGNMENTS**

- Civil Actions, this index
- Complaints, this index
- Enforcement, § 17.5

**ATTACHMENT**

- Description of parties, § 2.4
- Equitable attachment after verdict or finding, § 8.22
- Injunction in lieu, § 5.6
  - Distinguished, § 5.6
- Jurisdiction based upon control of property, § 4.1
- Probate courts, equitable, § 3.10
- Property subject, § 5.5
  - Nonresident, § 5.5
- Requirement, as to nonresidents not applicable to equity, § 4.2
- Rules of civil procedure, § 8.3
  - Affidavit, requirement, § 2.4
  - Approval of court, § 2.4
  - Availability, § 2.4
  - Counterclaim, § 2.4
  - Cross-claim, § 2.4
  - Dissolution of ex parte attachments, § 2.4
  - Ex parte hearings, § 2.4
  - Form of hearing, § 2.4
  - Modification of ex parte attachments, § 2.4
  - Motions, § 2.4
  - Service, § 2.4
  - Subsequent attachment, § 2.4
  - Writ, § 2.4

**ATTORNEY GENERAL**

- Consumer protection cases, § 4.19
- Criminal statutes, enjoining violations, § 3.7
- Interest in trusts, § 22.2
- Public nuisance, abatement, information, § 3.7

## INDEX

### ATTORNEYS

- Appearance of attorney, equitable actions, § 8.3
- Appointment as receivers, § 12.9
- Rules of Professional Conduct, § 21.11
- Service of process, § 4.4

### ATTORNEYS' FEES

- Award of, § 8.30
- Court and docket for fee generating appointments, § 21.12

### ATTORNEYS' LIENS

- Equitable remedies, § 15.3

### AUTOMOBILES

- Motor Vehicles, this index

### AVIATION

- Nuisances, § 26.8
- Trespasses, § 26.8

### BANKRUPTCY

- Liens and encumbrances
  - Contractor or subcontractor in re construction, alteration or repair of privately owned buildings, action to establish lien, § 15.2
  - Shares of stock, lien established against, § 16.3
- Receiver, effect as to appointment, § 12.8

### BANKS

- National Banks, this index

### BARRATRY

- Abolished, § 11.11

### BILL OF COMPLAINT

- Generally, § 27.1
- Complaints, this index
- Partition of real estate, § 27.1

### BLASTING

- Nuisances, § 26.8

### BONDS

- Privately owned buildings, performance, civil action to enforce provisions
  - Materialmen, § 15.3
  - Subcontractor, § 15.3
- Public works, required, § 15.1
  - Claimants, right to enforce provisions of bond, § 15.1
  - Laborers, materialmen, etc., § 15.1
- Surety bonds, enforcement, § 15.4

### BROKERS AND BROKERAGE AGREEMENTS

- Action to establish trust, § 22.1

**BUILDINGS**

- Real Estate, this index
- Removal of structures, action to compel, § 26.8

**BULK SALES**

- Generally, § 23.4
- Bulk transfers, defined, § 23.4
- Complaint, § 23.4
- Creditors protected, § 23.4
- Fraudulent, § 23.4
- Notice requirement, § 23.4
- Setting aside, § 23.4
- Statute of limitations, § 23.4
- Subsequent transfers, § 23.4
- Transfers exempted, § 23.4

**BURIAL RIGHTS**

- Generally, § 13.5

**BUSINESS AND COMMERCE**

- Consumer law, § 28.4

**CANCELLATION OF INSTRUMENTS**

- Generally, § 25.2
- Complaints, this index
- Leases, § 25.2
- Mortgages, § 27.3
- Promissory notes, § 25.2
- Real property, § 25.2
- Statutes governing, § 28.10

**CASE STATED**

- Trial of action, § 8.15

**CERTIORARI**

- Writs, this index

**CHAMPERTY**

- Abolished, § 11.11

**CHARITIES AND CHARITABLE CONTRIBUTIONS**

- Immunity, § 11.22

**CHATTELS**

- Situs, § 5.5

**CHILDREN AND MINORS**

- Capacity to be party, § 7.4
- Father's right to enjoin former wife from changing name, § 20.7
- Trusts and trustees
  - Real or personal property, sale of trust res, § 4.1

## INDEX

### CHOSES IN ACTION

Jurisdiction quasi in rem, § 5.4

### CITIZENS AND CITIZENSHIP

Jurisdiction, citizenship as basis of, jurisdiction, § 4.2

### CIVIL ACTIONS

Accounts and accounting

Joint adventurers, § 16.1

Partners, § 16.1

Administrative Law, this index

Affirmative defenses, § 11.1

Agreed statement of facts, § 8.15

Anomalous defenses, § 11.12

Answers, § 8.3

Appointment of receivers, § 12.3

Assignments, § 17.5

Benefit of creditors, § 17.6

Statutory authority, § 17.6

Enforcement, § 17.5

Not required as against nonresidents, § 5.6

Attorney, appearance of, § 8.2

Cancellation of instruments, § 25.2

Commencement, § 8.1

Answer, § 8.3

Motion, § 8.3

Responsive pleading, § 8.3

Attorney, appearance of, § 8.2

Complaint, § 8.3

Entry fee, § 8.3

In rem, § 6.7

Pleadings

Answer, § 8.3

Complaint, § 8.3

Demurrers, replaced, § 8.3

Motion to dismiss, § 8.3

Pleas in abatement, replaced, § 8.3

Responsive pleadings, § 8.3

Return day, § 8.3

Rules of civil procedure, § 8.3

Amendments to pleadings, § 8.3

Appearances, § 8.3

Depositions, § 8.3

Discovery, § 8.3

Interrogatories, § 8.3

Pleadings, § 8.3

Pre-trial procedure, § 8.3

Service, § 8.3

**CIVIL ACTIONS—Cont'd**

Commencement, § 8.1—Cont'd

Summons, § 8.3

Separate summons for each defendant, § 8.3

Complaint, § 8.3

Judgment for relief demanded, § 8.3

Conspiracy, interference with advantageous relationship, § 13.4

Contribution, § 20.2

Copyright, § 21.3

Counterclaim, § 2.4

Creditors' actions

Non-statutory, § 24.8

Statutory, § 24.2, 24.5

Declaratory relief, § 18.1

Discovery, § 8.3

Discrimination, § 13.6

Encroachments, § 26.8

Environmental protection, § 26.9

Bond, § 26.9

Damage to environment defined, § 26.9

Damages, § 26.9

Jurisdiction, § 26.9

Person defined, § 26.9

Pleadings, § 26.9

Statute, § 26.9

Evidence, report on appeal, § 8.15

Exoneration, § 20.4

Findings of fact, § 8.15

Foreclosure of mortgage, § 27.4

Foreign land, § 4.12

Forfeiture, actions to prevent, § 27.5

Hearing, § 8.15

Husband and wife, § 20.7

In rem proceedings, § 6.2

Indemnification, § 20.3

Intentional infliction of severe emotional distress, § 13.4

Interference with advantageous relationship, § 13.4

Interference with contractual relationship, § 13.3

Interpleader, § 19.4

Jury trial, § 8.16

Laches raised in answer, § 11.2

Lateral support, § 26.4

Mandatory finding of facts, § 8.15

Marshaling of assets, § 20.8

Masters, § 8.14

Merchandise, sale in bulk, § 23.4

Mortgages, § 27.3

Multiplicity of interests, § 19.4

## INDEX

### **CIVIL ACTIONS—Cont'd**

- New trial, § 8.16
- Nonresident parties, § 5.6
  - Notice, § 5.6
- Nuisances, § 26.6
- Officers and directors of corporations, § 16.5
- Partners, actions for accounting, § 16.1
- Personal property, actions between co-owners, § 20.6
- Quieting title to real estate, § 27.2
- Reach and apply proceedings, § 24.2, 24.5
- Receivers, § 12.3
  - Domestic corporations, § 12.6
  - Foreign corporations, § 12.7
  - Partnership, § 12.4
  - Proceedings, § 12.2
  - Property of an individual, § 12.5
  - Statutory authority, § 12.6
- Re-delivery of property, § 22.3
- Reformation, § 25.1
- Rehearing, § 8.23
- Removing clouds on title to real estate, § 27.2
- Replevin, § 22.3
- Report of testimony, § 8.15
- Rescission, § 25.3
- Rulings of law, § 8.15
- Seizure of the res, § 5.6
- Service of process, § 4.2
- Set-off, § 4.9
- Specific performance, § 17.1
- Statement of evidence, § 8.15
- Statute as to appointment of receivers, § 12.6
- Statute of limitations, § 11.8
- Stockholders
  - Derivative actions under rules of civil procedure, § 16.4
  - Effect of rules of civil procedure, § 16.4
- Stockholders' actions, § 16.4
- Trade names, § 21.2
- Trade secrets, § 21.4
- Trespasses, § 26.8
- Trial by jury, § 8.16
- Trials, § 8.15
- Trusts, to establish, § 22.1
- Unfair competition, § 21.2
- Uniform Fraudulent Conveyance Law, § 23.3
- Waste, § 26.3
  - Injunction, § 26.3
  - Jurisdiction, § 26.3
  - Jury trial, § 26.3

**CIVIL ACTIONS—Cont'd**

- Waste, § 26.3—Cont'd
- Persons entitled to maintain, § 26.3

**CIVIL ASSET FORFEITURE REFORM ACT**

- Generally, § 30.8

**CIVIL RIGHTS**

- Discrimination, this index
- Federal civil rights act, § 13.19, 21.10
- State civil rights act, § 13.18, 21.10

**CLASS ACTIONS**

- Generally, § 10.1
- Administrative agencies, § 18.7
- Consumer protection, § 10.3
- Consumer Protection Act, § 28.8
- Declaratory proceedings, § 18.7
- Dismissal or compromise, § 10.5
- Notice, § 10.4
- Nuisance, § 26.7
- Parties, § 4.5
- Prerequisites, § 10.2
- Security, § 10.4

**CLEARLY ERRONEOUS**

- As standard of appellate review in equity cases, § 8.29

**CLOUD ON TITLE**

- Declaratory proceedings, § 27.2
- Injunction to prevent, § 27.2
- Jurisdiction, § 4.1
- Removal of cloud on title, § 5.4, 27.2

**COLLATERAL ATTACK**

- Proceedings subject to, § 4.18
- Resident not permitted, § 4.2

**COLLATERAL ESTOPPEL**

- Generally, § 11.17

**COMMENCEMENT OF ACTION**

- Absent parties, § 4.2
- Resident, § 4.2
- Further notice required, § 4.2
- Civil Actions, this index
- Discovery, § 8.3
- Equitable relief in general, § 8.1
- In rem proceedings, § 6.7
- Nonresident, not required to be instituted by attachment, § 4.2
- Proceedings in rem, § 6.7
- Seizure of res, § 5.5, 6.6

## INDEX

### COMMON NUISANCE

Abatement, § 26.7

### COMMONWEALTH

Actions against, not authorized, § 4.10

Injunction, no provision for issuance, § 4.10

### COMPLAINTS

Accounts and accounting, § 19.1, 19.3

Action of account abolished, § 19.1

Affirmative relief to defendant, § 19.3

No counterclaim required, § 19.3

Complicated, § 19.2

Employer and employee, § 19.2

Equitable nature, § 19.1

Fiduciary relationship, § 19.2

General principles, § 19.3

Jurisdiction, § 19.1

Jury issues, § 19.3

Parties, § 19.2

Principal and agent, § 19.2

Profits of business, § 19.2

Relief decreed, § 19.3

Stockbroker, § 19.2

Appointment of trustee, § 22.1

Assignments, § 17.5

Benefit of creditors

Enforcement, § 17.6

Receiver, § 17.6

Statutes, § 17.6

Future acquired property, § 17.5

Jurisdiction, § 17.5

Cancellation of instruments, § 25.2

Accident, § 25.2

Counterclaim by defendant, § 25.2

Discretion of court, § 25.2

Equitable principles, § 25.2

Fraud, § 25.2

Jurisdiction, § 25.2

Mistake, § 25.2

Contribution, § 20.2

Co-sureties, § 20.2

General, § 20.2

Rules of civil procedure, § 20.2

Co-owners of personal property, § 20.6

Creditors' action, § 24.1, 24.2, 24.8

Non-statutory, § 24.8

Statutory, § 23.1, 24.2

Employment contract, specific performance, § 21.5

**COMPLAINTS—Cont'd**

- Exoneration, § 20.4
  - Creditors' right, § 20.4
  - Jurisdiction, § 20.4
- Forfeiture, § 29.3
  - Jurisdiction, § 29.3
  - Leases, § 29.3
  - Prevention, § 29.3
- Husband and wife, § 20.7, 22.3
- Interpleader, § 19.4
  - Avoiding multiplicity of suits, § 19.4
  - Jurisdiction, § 19.4
  - Stakeholder, § 19.4
- Lateral support, § 26.4
  - Jurisdiction, § 26.4
- Leases, § 25.2
- Liens and incumbrances, § 15.3
  - Civil action to establish, § 15.3
  - Contract, public works, § 15.3
    - Form, § 15.4
  - Intervention of parties under rules of civil procedure, § 15.3
  - Public works, actions to establish, § 15.1
    - Form, statutory changes, § 15.4
  - Public works contract, § 15.3
  - Re-execution, § 1.3
- Lost instruments, § 1.3
- Marshaling of assets, § 20.8
- Mortgages, § 27.3
  - Accounting, § 27.3
  - Attaching creditor, § 27.3
  - Discharge, § 27.3
  - General principles, § 27.3
  - Jurisdiction, § 27.3
  - Redemption, § 27.3
  - Re-instatement, § 27.3
  - Soldiers and sailors civil relief act, § 27.3
- Nuisances, § 26.6
  - Actions to enjoin, § 26.6
  - Public, § 26.6
- Partners, § 16.1
- Prayers for relief, now judgment for relief demanded, § 8.3
- Public works, lien, § 15.3, 15.4
- Reach and apply proceedings, § 23.1, 24.2
  - Property, subject to be reached, trust, § 24.5
- Receivership proceedings, § 12.2
- Re-delivery of property, § 22.3
- Reformation, § 25.1

## INDEX

### COMPLAINTS—Cont'd

- Reformation of instruments, § 25.1
  - Accident, § 25.1
  - Counterclaim, § 25.1
  - Fraud, § 25.1
  - Jurisdiction, § 25.1
  - Law, mistake, § 25.1
  - Mistake, § 25.1
  - Mutual mistake, § 25.1
  - Statement of facts, § 25.1
  - Statute of frauds, § 25.1
- Replevin, equitable, § 22.3
- Rescission, § 25.3
  - Damages, § 25.3
  - Jurisdiction, § 25.3
- Set-off, § 4.9
- Specific performance, § 17.1
  - Contracts, § 17.1
  - Negative covenants, § 21.5
  - Real property, § 17.2
  - Supervision by court, § 17.2
  - Tender of performance, § 17.2
  - Vendee, § 17.2
  - Vendor, § 17.2
- Specific performance for conveyance of land (Form), § 2.4
- Stock and stockholders
  - Declaration of dividends, § 16.4
  - For declaration of dividends, § 16.4
  - Inspection of corporate records, § 16.4
  - Receivers, upon application, § 16.4
- Trade mark, infringement, § 21.2
- Trespass, § 26.8
  - Aircraft, § 26.8
  - Continuance, § 26.8
  - Enjoining, § 26.8
  - Jurisdiction, § 26.8
- Trusts and trustees, § 22.1
  - Constructive, § 22.1
  - Express, § 22.1
  - Implied, § 22.1
  - Jurisdiction over, § 22.1
  - Personal property, § 22.1
  - Real property, § 22.1
    - Consideration advanced by plaintiff, § 22.1
  - Resulting, § 22.1
  - Statute of frauds, § 22.1
  - Voluntary, § 22.1

**COMPLAINTS—Cont'd**

- Unfair competition, § 21.2
- Jurisdiction to enjoin, § 21.2
- Trade mark, § 21.2
- Trade name, § 21.2

**COMPROMISE AND SETTLEMENT**

- Class actions, § 10.5
- With joint tortfeasor
- Admissibility of evidence, § 20.2

**CONFIDENTIAL OR PRIVILEGED INFORMATION**

- Trade secrets, § 21.4

**CONFLICT OF LAWS**

- Domicile as basis of jurisdiction, § 4.2
- Defined, § 4.2
- Effect of judgment against nonresident, § 4.1
- Jurisdictional principles as to resident defined, § 4.2
- Nationality as basis of jurisdiction, § 4.2
- Resulting trust decreed in re foreign lands, § 4.1

**CONSERVATORS AND CONSERVATORSHIPS**

- Partition of real estate, § 27.1

**CONSTITUTIONAL LAW**

- Due Process, this index
- Forfeiture, constitutional safeguards, § 30.8
- Full Faith and Credit, this index
- Injunction against public officials, § 4.10
- Judgment void in absence of jurisdiction, § 3.3
- Nonresident, absence of jurisdiction, § 3.3
  - Process insufficient, § 3.3
- Principles of jurisdiction as to nationals, § 4.2
- Nonresidents, § 4.2
- Residents, § 4.2
- Process
  - Insufficient process, § 3.3
  - Requirements of process, § 6.8
- Right to trial by jury, § 8.16
- Unconstitutional or void proceedings enjoined, § 4.10

**CONSTRUCTIVE TRUST**

- Elements, § 22.1
- Principles, § 22.1

**CONSUMER CREDIT**

- Cost disclosure, § 28.1
- Statutes governing, consumer credit reporting, § 28.10

**CONSUMER PROTECTION ACT**

- Generally, § 28.1 et seq.

## INDEX

### **CONSUMER PROTECTION ACT—Cont'd**

- Anti-slapp statute, § 28.11
- Attorney general
  - As enforcer, § 3.7
  - as plaintiff, § 4.19
  - regulations, § 28.6
- Automobile dealers, § 28.1
- Billing, careless and erroneous, § 28.1
- Civil remedies, § 28.8
- Class actions, § 10.3, 28.8
- Commercial relationship, § 28.7
- Consumer credit, cost disclosure, § 28.1
- Definitions of terms, § 28.4
- Demand letter, § 28.9
- Double damages, § 28.8
- Examination of books and records, § 28.8
- Exempted transactions, § 28.5
- Exhaustion of remedies before administrative tribunals, § 28.6
- Federal trade commission, decisions, § 28.6
- Injunctions, § 28.8
- Miscellaneous laws, § 28.10
- New rights created under, § 28.2
- Persons covered by, § 28.3
- Procedural requirements, § 28.9
- Purpose, § 28.2
- Stipulation for payment of cost, § 28.8
- Superior court, exclusive trial jurisdiction, § 28.8
- Thirty-day period, § 28.9
- Trade or commerce, § 28.7
- Treble damages, § 28.8

### **CONSUMER REPORTING AGENCY**

- Statutes governing, § 28.10

### **CONTEMPT**

- Nature, § 13.17

### **CONTRACTORS**

- Liens, materialmen or subcontractors, actions to establish, § 15.2
- Private contracts, § 15.3
  - Assignment for benefit of creditors, bankruptcy, receiverships, in re contractor or subcontractor, enforcement of lien, § 15.3, 15.4

### **CONTRACTS AND AGREEMENTS**

- Commonwealth, in behalf, § 15.1
- Declaratory proceedings, enjoining civil action, § 4.9
- Employment Agreements, this index
- Interference, this index
- Personal service contracts, § 21.7
  - Enforcement, § 21.7

**CONTRACTS AND AGREEMENTS—Cont'd**

- Personal service contracts, § 21.7—Cont'd
  - Grounds for excusing performance, § 21.7
  - Negative covenants, § 21.7
  - No affirmative enforcement, § 21.7
- Public officers, jurisdiction to enjoin award of contracts, § 4.10
- Public work contracts
  - Liens, § 15.2
    - Civil actions to establish liens, § 15.1, 15.3, 15.4
  - Motion, § 15.1
- Restriction against alienation of shares of stock enforced, § 1.3
- Rights, § 15.2
- Specific Performance, this index

**CONTRIBUTION**

- Generally, § 20.1
- Actions to enforce, § 20.2
  - Co-sureties, § 20.2
- Exoneration, distinguished, § 20.4

**CONVEYANCES**

- Deeds and Conveyances, this index
- Fraudulent Conveyances, this index
- Specific Performance, this index

**CO-OWNERS OF PERSONAL PROPERTY**

- Actions between, § 20.6

**COPYRIGHTS**

- Generally, § 21.1, 21.3
- Common law, § 21.3
- Denial of injunctive relief, § 21.3
- Filing of architectural plans, § 21.3
- Injunctions, § 21.3
- Statutory, § 21.3

**CORPORATIONS**

- Actions against dissolved, § 12.6
- Assets
  - Dissolution, distribution of assets, judgment of court, § 16.4
  - Receivership, sale, § 12.13
- Creditors
  - Actions, distribution of assets notwithstanding, § 16.4
  - Rights of creditors, § 16.5
- Directors, liability to creditors or corporation, § 16.5
- Dissolution, § 11.1, 12.6, 16.6
  - Not affected by rules of civil procedure, § 16.6
  - Outside rules of civil procedure, § 12.6
- Distribution of assets, § 16.4
  - Outside rules of civil procedure, § 12.6

## INDEX

### **CORPORATIONS—Cont'd**

- Dividends, compelling declaration, § 16.4
- Examinations of books and records, stockholders, § 16.4
- Foreign Corporations, this index
- Inspection of records, § 16.4
- Liability of officers and directors, § 16.5
- Municipal Corporations, this index
- Officers, liability, § 16.5
- Reach and apply shares or interests of debtor, § 16.3
- Receivers, § 12.2, 12.6
  - Appointment, § 12.6
  - Stockholders' application, § 16.4
- Records, inspection by stockholder, § 16.4
- Stock and Stockholders, this index
- Unfair competition, assuming a like name, § 21.2

### **COSTS AND EXPENSES**

- Counsel fees, award, § 16.4
- Declaratory proceedings, § 18.6

### **COUNTERCLAIM**

- Setoff and Counterclaim, this index

### **COURTS**

- Adequate remedy at law, statutory provisions repealed, § 1.3
- Concurrent jurisdiction at law and equity, § 3.6, 3.9
- Denial of relief under earlier statutory jurisdiction, § 1.3
- Discretion of Court, this index
- Discretion to deny relief, § 3.6
- Early equity jurisdiction, § 1.3, 3.6
- Equitable jurisdiction in general, § 3.6
- Housing Courts, merger of law and equity, § 2.7
- In rem proceedings, § 6.3
- Land Courts, this index
- Multiplicity of actions, action to avoid, § 1.3
- Objection to jurisdiction, § 4.15
- Power to proceed in rem, § 6.3, 6.4
- Probate and Family Courts, this index
- Specific performance of contract, earlier jurisdiction, § 3.6
- Statutory jurisdiction, § 3.4
  - Authority to proceed in rem, § 6.2, 6.5
- Superior Courts, this index
- Supervisory jurisdiction over courts of law not recognized, § 4.9
- Supreme Court, this index
- Writ of prohibition abolished, § 4.13

### **COVENANTS**

- Implied, § 21.5
- Negative, § 21.5
- Not to compete, § 21.5, 21.6

**COVENANTS—Cont'd**

- Restrictive covenants, § 21.5
- Specific performance against competition, § 21.5

**CREDITORS' ACTIONS**

- Generally, § 24.1-24.8
- Conveyance to be executed by commissioner, § 4.1
- Debt, § 24.3
  - Contractual, § 24.3
  - Defined, § 24.3
  - Distinguished, § 24.3
  - Executory contract, § 24.3
  - Damages, for breach, § 24.3
  - Liquidated damages, § 24.3
- Equitable relief after verdict or finding, § 8.22
  - Jurisdiction, § 8.22
  - Practice and procedure, § 8.22
  - Property conveyed in fraud of creditors, § 8.22
  - Share of stock, § 8.22
  - Statute applicable, § 8.22
- Insurance, § 24.7
  - Defenses of insurer, § 24.7
  - Liability, § 24.7
  - Motor vehicle, § 24.7
- Interests in corporation, § 16.3
- Judgment creditor
  - Action to reach and apply, § 23.1, 24.2
  - Lien established by filing of action, § 24.2
  - Reach and apply insurance policy, § 24.7
- Mortgage
  - Action to set aside as fraudulent, § 27.3
  - Surplus after foreclosure, right to reach, § 27.3
- National bank, as trustee, § 5.3
- Nonresident, action to reach trust, § 5.3
- Non-statutory, § 24.8
- Officers and directors of corporations, § 16.5
- Property fraudulently conveyed, § 23.2
- Property not subject to be reached, § 24.6
  - Action for personal injuries, § 24.6
  - Debt due from Commonwealth, § 24.6
  - Money in possession of court, § 24.6
  - Spendthrift trust, § 24.6
- Property subject to be reached, § 24.4, 24.5
  - Assignable, § 24.4
  - Bills of lading, § 24.5
  - Chattels in warehouse, § 24.5
  - Choses in action, § 24.4
  - Claim against Commonwealth, § 24.5

## INDEX

### **CREDITORS' ACTIONS—Cont'd**

- Property subject to be reached, § 24.4, 24.5—Cont'd
  - Contents of safe deposit box, § 24.5
  - Damages, right to, § 24.5
  - Debts, § 24.5
  - Dower, § 24.5
  - Existence required, § 24.4
  - Exoneration, § 24.5
  - Good will, § 24.5
  - Insurance, § 24.5
  - Intangible rights, § 24.4
  - Judgment, § 24.5
  - Letters patent, § 24.5
  - Money or property in custody of court, § 24.5
  - Mortgage, § 24.5
  - Notes, § 24.5
  - Option to purchase real estate, § 24.5
  - Partner's interest, § 24.5
  - Royalties, § 24.5
  - Safe deposit box, § 24.5
  - Tangible rights, § 24.4
  - Trusts, § 24.5
  - Vested remainder, § 24.5
- Property transferred in fraud of creditors, § 23.2
- Reach and apply proceedings, § 23.1, 24.2
- Rules of civil procedure, § 24.2
- Sale of merchandise in bulk, § 23.4
  - Avoiding, § 23.4
- Statutory, § 23.1, 24.2
  - Ancillary to pendency proceeding, § 24.2
  - Debt required, § 24.2
  - Defendant's right to jury, § 24.2
  - Description of property sought to be reached, § 24.2
  - Equitable claim, § 24.2
  - Equitable trustee process, § 24.2
  - Injunction, § 24.2
  - Jurisdiction, § 24.2
  - Jury waived in commencing, § 24.2
  - Legal claim, § 24.2
  - Lien acquired, § 24.2
  - Necessary parties, § 24.2
  - Nonresident parties, § 24.2
    - Quasi in rem proceedings, § 24.2
  - Statement of grounds, § 24.2
- Stock and stockholders, § 16.3
  - Corporations, § 16.3
    - Domestic, § 16.3
    - Foreign, § 16.3

**CREDITORS' ACTIONS—Cont'd**

- Stock and stockholders, § 16.3—Cont'd
  - Dividends, § 16.3
  - Injunction against alienation, effect, § 16.3
  - Jurisdiction, § 16.3
  - Lien established by injunctions, § 16.3
  - Nonresidents, § 16.3
  - Right to trial by jury, § 16.3
  - Statute, § 16.3
  - Subject to restriction against alienation, § 16.3
    - Lien or pledge, § 16.3
- Supplementary proceedings after judgment not a bar, § 4.18
- Trust, action to reach, § 5.3

**CRIMINAL LAW**

- Enforcement of statutory laws
  - General principles, § 3.7
  - Injunction, § 3.7
  - Parties, § 3.7
  - Private nuisance, abatement, § 3.7
  - Public nuisance, abatement, § 3.7
- Jurisdiction
  - Generally, § 3.7
- Statutory laws, violation, § 3.7

**CROSS-CLAIMS**

- Equitable defenses, § 8.12, 11.4
- Rules of civil procedure, § 2.4
  - Against co-party, § 2.4
  - Removal of actions, § 2.4
  - Separate trials, § 2.4

**DAMAGES**

- Alternative equitable remedy, § 4.18
- Assessment in civil action seeking equitable relief, necessity, § 4.18
- Concurrent remedy in equity, § 4.18
- Difficulty to determine, no bar to, § 4.18
- Equitable replevin, § 22.3
- In personam jurisdiction, § 4.17
- Jury trial, specific performance, § 8.16
- Rescission waived, § 25.3
- Specific Performance, this index
- Treble damages under Consumer Protection Act, § 28.8
- Waste, § 26.3

**DE MINIMIS NON CURAT LEX**

- Declination to grant relief, § 4.15

**DEAD BODIES**

- Interment of remains, § 13.5

## INDEX

### **DEAD BODIES—Cont'd**

#### Jurisdiction

Enjoining disposition of corpse, § 13.5

Right to perform autopsy, § 13.5

Right to possession, § 13.5

### **DEBTOR AND CREDITOR**

Action to redeem from mortgage, § 27.3

Assignment for benefit, § 17.6

#### Collection

Prohibited practices, § 28.10

Creditor's Actions, this index

Reaching and applying, § 5.5

Situs, § 5.5

### **DECEIT**

Fraud and Deceit, this index

### **DECLARATORY JUDGMENTS**

Generally, § 18.1-18.7

Actions for, § 18.1

#### Administrative agencies

By-passing administrative remedy, § 18.7

Class actions, § 18.7

Judicial review of decisions, § 18.7

Right to invoke, § 18.7

Administrative proceedings, § 14.2

Affirmative relief to defendant, counterclaim, § 18.6

#### Answer

Can assert controversy, § 18.4

Appellate procedure, not a substitute for, § 18.2

Burden of proof, § 18.4

Civil action, enjoined, § 4.9

Cloud on title, petition to remove, § 27.2

Collective bargaining agreements, § 18.6

#### Controversy, required

Complaint must disclose, § 18.5

Subordinate questions, not favored, § 18.5

Costs, prevailing party entitled, § 18.6

Counterclaim, § 18.6

#### Dismissal

as matter of discretion, § 18.5

When improper, § 18.2

Environmental protection, § 26.9

Equity jurisdiction, § 4.10

#### Injunctions

Generally, § 4.9, 18.6

Against public officials, § 4.10

**DECLARATORY JUDGMENTS—Cont'd**

- Insurer may not intervene in civil actions, for purpose of securing declaratory relief, § 18.6
- Jury, trial by, § 18.2
- Motion for more definite statement, § 15.3
  - Multifariousness, § 18.4
- Motion to strike, § 18.4
- Party, city or town, ordinances to be interpreted, necessary party, § 18.4
- Pleadings, § 18.4, 18.5
- Proceedings for declaratory relief, § 18.1
- Relief, extent declared, § 18.6
- Rules of civil procedure, § 18.1
- Specific statutes, § 18.3
- Trust
  - Foreign, absence of jurisdiction, § 18.6
  - Nonresident trustee, absence of jurisdiction, § 5.3
- Unconstitutional proceedings may be enjoined, § 4.10

**DECLINATION TO GRANT RELIEF**

- De minimis non curat lex, § 4.15
- Triviality of claim, § 4.15

**DECREES**

- Judgments and Decrees, this index

**DEEDS AND CONVEYANCES**

- Appointment of special master, § 5.3
- Avoiding for fraud or duress, § 1.3
- Cancellation, § 25.2
- Foreign land, resulting trust decreed, § 4.1
- Judgment of court, § 4.1, 5.2
  - Commissioner, § 4.1
  - Defendant, § 4.1
- Property conveyed in fraud of creditors, § 23.2, 23.4

**DEFENSES**

- Affirmative defenses, § 11.1
- Anomalous defenses, § 11.12
- Equitable Defenses, this index
- Motion, defenses raised by, § 8.9
- Rules of civil procedure, § 8.3

**DELAY**

- Laches and Delay, this index

**DEMAND OR REQUEST**

- Consumer Protection Act, demand letter, § 28.9
- Report of material facts
  - Land Court, § 3.11
- Rulings
  - Generally, § 8.15

## INDEX

### **DEMAND OR REQUEST—Cont'd**

Rulings—Cont'd

Case stated, § 8.15

Party aggrieved, § 8.15

Trial on agreed facts, § 8.15

### **DEPOSITIONS**

Generally, § 9.2

Rules of civil procedure, § 8.3

### **DISCOVERY**

Generally, § 9.1

Commencement of action for equitable relief, § 8.4

Depositions, § 9.2

Entry upon land, § 9.4

Interrogatories, § 9.3

Production of documents and things, § 9.4

Requests for admissions, § 9.5

Rules of civil procedure, § 8.3

Sanctions, § 9.6

### **DISCRETION OF COURT**

Affirmative acts in foreign jurisdiction, § 3.6

Denial of relief, § 3.6

Internal affairs of foreign corporation, § 3.6

Principles of doctrine of forum non conveniens, § 3.6

Specific performance not a matter of strict right, § 3.6

Trivial claim or interest, denial of relief, § 3.6

### **DISCRIMINATION**

Actions based on discrimination, § 13.6

Age, § 13.8

Burden of proof, § 13.6

Credit extension, § 13.6

Damages, § 13.6

Employment, § 13.14

Gender, § 13.15

Handicapped, § 13.10

Housing, § 13.12

Injunctive relief, § 13.6

Insurance and bonding, § 13.6

Massachusetts commission against discrimination, § 13.6

Relief available, § 13.6

Religion, § 13.11

Retaliation, § 13.13

Sexual harassment, § 13.7, 13.9

Statutory provisions, § 13.6

### **DISMISSAL**

Appeal and review, § 8.23

**DISMISSAL—Cont'd**

- Class actions, § 10.5
- Declaratory relief, § 18.2, 18.5
- Motions, § 4.15, 8.3

**DISTRICT COURTS**

- Equity jurisdiction, § 3.12

**DIVORCE**

- Property, actions between persons divorced, probate court jurisdiction, § 3.10

**DOMICILE OR RESIDENCE**

- Absent, jurisdiction over, § 3.3, 4.2
  - Further service of process, § 4.4
  - Power to decree relief, § 4.1
- Distinguished from domicile, § 4.2
- Distinguished from residence, § 4.2
- Enjoining foreign actions, § 4.5
- Jurisdiction
  - Domicile, jurisdiction based on, § 3.9, 4.2
  - Residence, jurisdiction based on, § 3.3
- Principle discussed, § 4.2
- Quasi in rem proceedings, § 5.3
- Residence and domicile distinguished, § 4.2
- Rights and obligations discussed, § 4.2
- Service of process without the jurisdiction, § 4.4

**DOUBLE COMPENSATION**

- Consumer Protection Act, § 28.8

**DUE PROCESS**

- Full faith and credit defined, § 4.2
- Judgment void in absence of jurisdiction, § 3.3
- Nonresident, void judgment in absence of jurisdiction, § 3.3
  - Notice of action, § 5.6
- Process, requirements, § 6.8
- Requirements of notice of action to nonresident, § 5.6
- Service of process, § 6.8

**DURESS AND COERCION**

- Avoiding deed, § 2.3

**EMINENT DOMAIN**

- Jurisdiction to enjoin taking, § 4.10

**EMPLOYMENT**

- Conscientious employee, protection of, § 21.9
- Discrimination, § 13.14
- Public Officers and Employees, this index

**EMPLOYMENT AGREEMENTS**

- Generally, § 21.1

## INDEX

### **EMPLOYMENT AGREEMENTS—Cont'd**

- Confidential information, enjoining use, § 21.5
- General principles, § 21.5
- Negative covenants
  - Enforcement, § 21.5
  - Limitations as to time and space, § 21.5
- Restrictive covenants, § 21.5

### **ENCROACHMENTS**

- Removal, § 26.8

### **ENCUMBRANCES**

- Liens and Encumbrances, this index

### **ENGAGEMENT RINGS**

- Conditional gift, § 22.3

### **ENTRY UPON LAND**

- Generally, § 9.4

### **ENVIRONMENTAL PROTECTION**

- Generally, § 26.9
- Damages, § 26.9
- Declaratory relief, § 26.9
- Jurisdiction, § 26.9
- Massachusetts Oil and Hazardous Material Release Prevention and Response Act, § 26.9
- Statute, § 26.9

### **EQUITABLE ATTACHMENT**

- Generally, § 8.22
- Jurisdiction, § 8.22
- Motion for relief, § 8.22

### **EQUITABLE DEFENSES**

- Generally, § 11.1 et seq.
- Affirmative defenses, § 11.1, 11.13
- Anomalous defenses, § 11.12
- Available against a judgment, § 4.9
- Civil action, § 4.9, 4.11
- Claim preclusion, § 11.14
- Clean hands, § 11.5
- Collateral estoppel, § 11.17
- Counterclaims, § 11.3
- Cross-claims, § 11.4
- Estoppel by judgment, § 11.15
- Illegality, § 11.11
- Immunity, § 11.18-11.22
- Issue preclusion, § 11.14
- Judgment enjoined, § 4.9
- Judicial estoppel, § 11.16

**EQUITABLE DEFENSES—Cont'd**

- Laches, § 11.2
- Manner of raising
  - Answer, § 11.1
  - Motion, § 11.1
- Merger of cause of action, § 11.15
- Motion, defenses raised by, § 8.9
- Mutuality of obligation, § 11.6
- Option to assert in proceeding, § 4.11
- Pendent jurisdiction, § 11.23
- Permissive not mandatory, § 4.9, 4.11
- Reformation, § 25.1
- Statute of frauds, § 11.7
- Statute of limitations, § 11.8, 11.9
- Statute of repose, § 11.10

**EQUITABLE LIENS**

- Real property, established against nonresident, § 5.3

**EQUITABLE SERVITUDES**

- Generally, § 27.5

**ERROR**

- Mistake or Error, this index

**ESPIONAGE**

- Industrial, § 21.4

**ESTOPPEL**

- Waiver and Estoppel, this index

**EVIDENCE**

- Exceptions during trial, objection sufficient, § 8.15
- Stipulation during trial, § 8.15

**EX PARTE PROCEEDINGS**

- Rules of civil procedure, § 2.4
  - Dissolution of ex parte attachment, § 2.4
  - Dissolution of ex parte trustee process, § 2.4
  - Modification of ex parte attachments, § 2.4
  - Modification of ex parte trustee process, § 2.4

**EXCEPTIONS OR EXCLUSIONS**

- Certiorari as method of review, § 3.9
- No longer necessary to preserve appellate rights, § 8.15
- Trial, not necessary, § 8.15

**EXECUTIVE BRANCH**

- Immunity, § 11.21

**EXECUTORS AND ADMINISTRATORS**

- Ancillary, jurisdiction quasi in rem, § 5.3
- Foreign, jurisdiction quasi in rem, § 5.3

## INDEX

### EXONERATION

- Generally, § 20.1
- Actions to enforce, § 20.4
- Contribution, distinguished, § 20.4

### EXPENSES

- Costs and Expenses, this index

### EXTRAORDINARY REMEDIES

- Generally, § 3.13

### FACTS

- Findings of Fact, this index

### FAMILY COURTS

- Probate and Family Courts, this index

### FEDERAL EQUITY JURISDICTION

- Generally, § 1.4

### FEDERAL TRADE COMMISSION

- Effects of decisions, § 28.6

### FEES

- Attorneys' Fees, this index

### FIDUCIARIES

- Generally, § 19.1-19.4
- Nature of relationship, § 19.2

### FINALITY OF JUDGMENTS

- Accounting, § 19.3
- Injunction during pendency of appeal, § 27.3
  - Expiration upon entry of decree, § 27.3
- Liens, public works, § 15.1
- Mortgages, anticipatory, § 27.3

### FINDINGS OF FACT

- Administrative procedure, § 14.3
- Amendment, § 8.16
- Equitable relief after, § 8.22
- Of fact, § 8.15
- Requests for
  - Generally, § 8.18
  - Practical considerations, § 8.19
- Vacation, § 8.16

### FIRST REFUSAL

- Options and First Refusal, this index

### FORECLOSURE

- Actions to foreclose, § 27.4
  - Counterclaim by mortgagee to redeem unnecessary, § 27.3
- Jurisdiction, § 27.4

**FORECLOSURE—Cont'd**

Soldiers and Sailors Civil Relief Act, § 27.4

Statutes, § 27.4

**FOREIGN CORPORATIONS**

Ancillary receiverships, § 12.7

Internal affairs, declination to grant relief, § 4.15

Shares of stock or intent thereon, reaching and applying, § 16.3

**FOREIGN JUDGMENTS**

Injunction against enforcement, § 4.9

**FOREIGN STATE OR COUNTRY**

Actions, foreign

Declination to enjoin, § 4.8

Effect of judgment enjoining, § 4.8

Jurisdiction, foreign

Affirmative acts to be performed, jurisdiction declined, § 3.6

Enjoining acts within, § 4.5

Status of case after decision, § 3.9

Land, foreign

Action involving, § 4.12

Declination to enjoin use, § 4.5

Judgment in personam, § 4.1

Jurisdiction, § 3.1, 4.1

Declination to enjoin use, § 4.5

In personam jurisdiction, § 4.1

Jurisdictional principles discussed, § 4.1

Trust, § 4.12

Established, § 22.1

Summary judgment, § 3.9

**FORFEITURE**

Generally, § 29.1-29.8, 30.1-30.9

Actions to prevent, § 29.3

Attorney General, seizure of property, admiralty and maritime claims, § 30.4

Civil and criminal forfeiture, difference between, § 30.6

Classification of seizures and forfeitures, § 30.1

Constitutional safeguards, § 30.8

Constitutionality of state statute, § 29.6

Excessive punishment, § 30.9

Federal court proceedings, § 30.1 et seq.

General state statutory scheme, § 29.4

Historical note, § 29.2

Innocent owner defense, § 30.7

Nature of, in general, § 29.1

Notice under federal law, § 30.5

Partnership agreement provision, § 21.6

Property subject to forfeiture, § 30.3

Qui tam action, § 29.8

## INDEX

### **FORFEITURE—Cont'd**

- Seizure of Res, this index
- Specific applications of state statute, § 29.5
- Specific forfeiture statutes, § 29.7
- State court proceedings, § 29.1 et seq.
- Subsequent proceedings and pleadings, § 30.5

### **FORUM NON CONVENIENS**

- Declination of jurisdiction, § 4.15
- Doctrine, § 4.15
- Principles discussed, § 3.6

### **FRAUD AND DECEIT**

- Avoiding deed, § 1.3
- Bulk merchandise, setting aside sale, § 23.4
- Cancellation of instruments, § 25.2
- Constructive trust, § 22.1
  - Implied constructive trust, principles stated, § 22.1
- Enjoining judgment obtained, § 4.11
- Equitable relief, § 1.3
- Jurisdiction obtained, § 4.4
- Property conveyed in fraud of creditors, § 23.2
- Reformation of instruments, § 25.1
- Rescission, innocent misrepresentation, § 25.3
- Trust imposed, to prevent unjust enrichment, § 22.1

### **FRAUDULENT CONVEYANCES**

- Creditors' action to set aside, § 23.2
- Intent to defraud, § 23.2, 23.3
- Jurisdiction of land court, § 3.11
- Mortgages, to set aside, § 27.3
- Statutory actions for equitable relief, § 23.2
- Uniform Fraudulent Transfer Act, actions under, § 23.3

### **FULL FAITH AND CREDIT**

- Absent residents, requirement of process defined, § 4.2
- Judgment, effect of against nonresidents, § 4.1
- Principles defined, § 4.2
- Residents, requirement of process defined, § 4.2
- Void judgment not entitled to recognition, § 3.3

### **GARNISHMENT**

- Receivers
  - Actions against, § 12.11
  - Appointment, § 12.8

### **GENDER DISCRIMINATION**

- Generally, § 13.15

**GRAVES**

- Injunction, § 13.5
  - Burial of deceased persons, § 13.5
  - Defacement or removal of monument, § 3.6
- Removal of dead bodies, § 13.5

**HANDICAPPED PERSONS**

- Discrimination, § 13.10

**HARASSMENT**

- Sexual harassment, § 13.7, 13.9

**HAZARDOUS MATERIALS**

- Massachusetts Oil and Hazardous Material Release Prevention and Response Act, § 26.9

**HISTORY AND HISTORICAL BACKGROUND**

- Chancery, § 1.2, 3.3
- Equity in Massachusetts, § 1.3
- Equity jurisdiction in general, § 1.1
- Federal equity jurisdiction, § 1.4

**HOUSING AUTHORITIES**

- Liens, construction of projects, § 15.1

**HOUSING COURTS**

- Merger of law and equity, § 2.7

**HOUSING DISCRIMINATION**

- Generally, § 13.12

**HUSBAND AND WIFE**

- Actions between husband and wife, § 3.10, 20.7
- Alimony judgments, foreign courts, jurisdiction to enforce, probate courts, § 3.10
- Complaint, § 20.7, 22.3
- Contract rights, § 20.7
- Divorce, § 20.7
  - Property, actions to establish, probate court, § 3.10
- Enjoining enforcement of equity judgment, § 4.9
- Foreign judgment, not enforceable in superior court, § 3.9
- Legal rights, generally, § 20.7
- Probate court, actions between, § 3.10
- Property rights, conflict, § 20.7
- Separation agreement, probate courts, jurisdiction to enforce, § 3.10

**ILLEGALITY**

- Answer, illegality of subject matter of action, § 11.11
- Equitable defenses, § 11.8
- Subject matter of action, § 11.8

**IMMUNITY**

- Generally, § 11.18-11.22
- Executive branch, § 11.21

## INDEX

### **IMMUNITY—Cont'd**

- Judicial immunity, § 11.19
- Legislator's immunity, § 11.20
- Other immunities, § 11.22

### **IMPLIED TRUST**

- Principles, § 22.1

### **IMPOUNDMENT**

- In personam jurisdiction, § 4.20

### **IN PERSONAM JURISDICTION**

- Generally, § 4.1 et seq.

### **IN REM JURISDICTION**

- Jurisdiction, this index

### **INDEMNITIES AND INDEMNIFICATION**

- Generally, § 20.1
- Actions to enforce, § 20.3
- Principal and agent, § 20.3
- Rules of civil procedure, § 20.3

### **INDICTMENTS AND INFORMATION**

- Attorney general, suit by, § 3.7
- Criminal statutes, violations, suit to enjoin, § 3.7
- Public nuisance, abatement, § 3.7

### **INDUSTRIAL ESPIONAGE**

- Generally, § 21.4

### **INJUNCTIONS**

- Action in foreign jurisdiction enjoined, § 4.5
- Acts abroad, § 4.5
- Adequate remedy at law to review judgment, § 4.9
- Administrative action enjoined, § 4.10
- Administrative proceedings, jurisdiction to enjoin, § 4.10
- Against discrimination, § 13.6
- Arbitration proceedings, jurisdiction to enjoin, § 4.6
- Attachment distinguished, § 5.6
- Civil actions enjoined, declaratory proceedings, § 18.6
- Cloud on title to real estate, to prevent, § 27.2
- Copyright, § 21.3
- Criminal statutes, enjoining violations, § 3.7
- Dead body
  - Enjoining burial of corpse, § 13.5
- Declination to issue, § 4.9
- Enforcement of domestic judgment, § 4.9
- Enjoining foreign action, § 4.8
- Proceedings on judgment, § 4.11
- Use of foreign land, § 4.5
- Distinguished from attachment, § 5.6

**INJUNCTIONS—Cont'd**

- Domestic action enjoined, § 4.9
- Ecclesiastical matters, § 4.9
- Eminent domain, jurisdiction to enjoin taking, § 4.10
- Employment contracts, confidential information, enjoining violations, § 21.5
- Encroachments, § 26.8
- Enforcement of judgments, § 4.11
- Equitable defense as grounds to enjoin civil action, § 4.9
- Equitable relief after verdict or finding, § 8.22
- Equitable set-off, § 4.9
- Expires upon entry of final judgment, § 27.3
- Federal court, action pending therein, § 4.8
- Final judgment, continuance in effect during appeal from final judgment, § 27.3
- Foreign actions, § 4.5
  - Effect of judgment, § 4.8
  - Enforcement of judgments, § 4.9
- Foreign judgment, enforcement enjoined, § 4.1
- Foreign land, § 4.5
- Fraud in obtaining judgment, § 4.11
- Good will, sale, § 21.5
- Health regulation, violation, § 26.6
- Illegal proceedings enjoined, § 4.10
- Judgment, declination to enjoin proceedings, § 4.11
  - Accident permitting entry, § 4.11
  - Moving to dissolve, not a waiver of objections to jurisdiction, § 4.15
  - Obtained by fraud, § 4.11
  - Recovered through accident, § 4.11
  - Reviewed at law, § 4.9
- Mandatory, § 26.8
- Method of reviewing judgment at law, § 4.9
- Moot, § 4.18
- Mortgages, final judgment, expiration in actions for redemption, § 27.3
- National bank subject to, § 5.5
- Negligence permitting recovery of judgment, bar to equitable relief, § 4.11
  - Enjoined from prosecuting domestic action, § 4.9
- Personal injury, declination to enjoin action, § 4.8
- Personal rights protected, § 4.10, 13.1
- Preliminary Injunctions, this index
- Probate Courts, § 3.10
- Property rights protected, § 4.10
- Public nuisances
  - Abatement, § 3.7
  - Information by attorney general, § 3.7
  - Right of private individual to enjoin, § 3.7
- Public officers
  - Contracts, award, jurisdiction to enjoin, § 4.10
  - Enjoining, § 4.10
  - Public officials enjoined from illegal action, § 4.10

## INDEX

### **INJUNCTIONS—Cont'd**

- Res judicata as affecting foreign jurisdiction, § 4.5
- Restraining illegal acts by public officials, § 4.10
- Restrictions running with land, enjoining enforcement, § 5.3
- Retention of action to assess damages, § 4.18
- Right of privacy, § 13.2
- Rules of civil procedure, § 4.11
- Shares of stock, lien created, § 16.3
- Structures, encroaching, § 26.8
  - Damages not the usual remedy, § 26.8
- Supervisory jurisdiction over courts of law not recognized, § 4.9
- Temporary Restraining Orders, this index
- Trade mark, § 21.2
- Trade secrets, § 21.4
- Trespass, § 26.8
  - Continuous trespasses, § 1.3
  - Mandatory injunction, encroaching structure, § 26.8
- Trees, § 26.8
  - Roots, § 26.8
- Unconstitutional or void proceedings enjoined, § 4.10
- Unfair competition, § 21.2
  - Assuming a like name, enjoining, § 21.2
- Vexatious litigation, § 4.9
- Void proceedings enjoined, § 4.10
- Waste, § 26.3
- Zoning law violation, § 26.6

### **INSANITY**

- Capacity to be party, § 7.4
- Trustee of real or personal property, sale of trust res, § 4.1

### **INSTRUMENTS**

- Cancellation of Instruments, this index
- Lost or Destroyed Instruments, this index
- Reformation of Instruments, this index
- Rescission, action for, § 25.3

### **INSURANCE**

- Fire insurance, § 12.9
- Insurer may not intervene in civil action to secure declaratory relief, remedy, declaratory proceedings, § 18.6
- Jurisdiction quasi in rem, § 5.4
- Liability insurance, § 12.9
- Motor vehicle policies, reaching and applying, § 24.7
  - Statute of limitations, § 24.7
- Policy against legal liability, reaching and applying, § 24.7

### **INTELLECTUAL PROPERTY**

- Copyrights, this index
- Trade Secrets, this index

**INTELLECTUAL PROPERTY—Cont'd**

Trademarks and Trade Names, this index

**INTEREST ON MONEY**

Lien, public works, § 15.1

**INTERFERENCE**

Advantageous relationship, interference with

Civil conspiracy, § 13.4

Equitable relief available, § 13.4

No need to show contract, § 13.4

Tort action, § 13.4

Malice as element, § 13.4

Contracts, interference with

Damages, § 13.3

Equitable relief available, § 13.3

Tort action, § 13.3

Malice as element, § 13.3

Malice defined, § 13.3

**INTERLOCUTORY APPEALS**

Generally, § 8.28

**INTERMENT**

Jurisdiction to restrain, § 13.5

**INTERNAL AFFAIRS**

Foreign corporations

Declination to grant relief, § 4.15

Discretion to deny relief, § 3.6

**INTERPLEADER**

Action, in the nature, § 19.4

Civil actions seeking equitable relief, § 19.4

Equitable relief, § 8.13

**INTERROGATORIES**

Generally, § 9.3

Rules of civil procedure, § 8.3

**INTERVENTION**

Generally, § 7.5

Administrative proceedings, § 14.2

Attorney general, § 15.3

Creditor's action, § 24.2

Permissive intervention, § 15.3

Procedure, § 15.3

Public work contracts, § 15.1

Rules of civil procedure, § 15.1

Right, § 15.3

Rules of civil procedure, § 15.3

Stockholders' actions, § 16.4

## INDEX

### IRREPARABLE HARM

As basis for issuance of temporary restraining order and preliminary injunction,  
§ 8.26

### JUDGES

Immunity, judicial, § 11.19  
Recusal of judge, § 3.14

### JUDGMENTS AND DECREES

Generally, § 4.1  
Amending or altering, motion, § 8.20  
Appointment of trustee, § 5.3  
Avoiding conveyance based on fraud, § 4.1  
Bankruptcy, injunction against enforcement, § 4.11  
Bound conscience of defendant, § 4.1  
Collateral attack not permitted by resident, § 4.2  
Commencement of action for equitable relief, § 8.3  
Conclusive in proceedings in rem, § 6.2  
Conveyances of property by special master, § 6.5  
Declaratory Judgments, this index  
Declination to enjoin enforcement, § 4.9  
Defendant to execute conveyance, § 4.1  
Divesting of title, § 4.1  
Domestic, declination to enjoin enforcement, § 4.9  
Effect, § 4.1  
    Enjoining foreign action, § 4.8  
    Foreign jurisdiction, § 4.5  
    Proceedings in rem, § 5.2, 5.3, 6.2  
    Quasi in rem proceedings, § 5.2, 5.3  
    Void Judgment, § 3.4  
Enforcement, § 4.5  
    Enjoined, § 4.9, 4.11  
Enforcement enjoined, § 4.9, 4.11  
Equitable set-off, § 4.9  
    Defenses, § 4.9  
Execution of conveyance by direction of court, § 5.2  
Foreign actions, enjoined, § 4.9  
Foreign jurisdiction, effect as to res judicata, § 4.5  
Foreign land, judgment in personam against parties subject to jurisdiction, § 4.1  
Fraud as basis of equitable relief, § 4.11  
In rem, § 5.2, 5.3, 6.2, 6.5  
Injunction against prosecution of foreign action, § 4.8  
Invalid for want of jurisdiction, § 3.3  
Method of review, § 4.9  
Multiple claims, parties, § 19.4  
Negligence, bar to equitable relief, § 4.11  
Notwithstanding verdict, § 8.5  
Parties subject to in personam in re foreign land, § 4.1  
Personal command to defendant, § 4.1

**JUDGMENTS AND DECREES—Cont'd**

Quasi in rem

Effect, § 4.3, 5.2, 5.3

Power of the court to enter decree, § 3.4

Quieting title, proceeding to be in rem, § 4.1

Recognition afforded in foreign jurisdiction, § 4.8

Recording as affecting land, § 5.3

Passes title to real property, § 4.1

Remedy at law to review, § 4.11

Requirements to enter decree in personam, § 4.1

Res judicata, § 4.8

Review, § 4.9

Statutory proceedings, § 4.11

Sale by special master, § 6.5

Set-off, § 4.9

Special master directed to execute conveyance, § 6.5

Specific performance, amendment into action at law, § 6.3

Termination of suit, § 4.1

Trust property, quasi in rem jurisdiction, § 3.4

Vacating of by proceeding at law, § 4.11

Void judgments

Absence of jurisdiction, § 3.3, 4.15, 4.18

Effect, § 3.4

Void ab initio, § 4.18

Collateral attack, § 4.18

Effect, § 4.15

Want of jurisdiction, § 4.18

**JUDICIAL ESTOPPEL**

Nature, § 11.16

**JUDICIAL IMMUNITY**

Generally, § 11.19

**JURISDICTION**

Generally, § 3.1, 3.6

Acquired by fraud as to nonresident, § 4.3

Adequate remedy at law, § 4.18

Administrative agencies of commonwealth, decision, appeal to the superior court, § 3.9

Administrative proceedings, review, § 3.9

Affirmative acts to be performed in foreign jurisdiction, § 3.6

Appointment of receivers, § 12.3

Arbitration proceedings, enjoining, § 4.6

Cloud on title to real estate, § 4.1

Collateral attack, § 4.18

Commonwealth of Massachusetts, limitation as to actions against, § 4.10

Concurrent in Land Court, § 3.11

Conferred by consent or waiver, § 4.14

## INDEX

### **JURISDICTION—Cont'd**

- Court first obtaining retains, § 3.9
- Criminal statutes, enjoining violations, § 3.7
- Dead bodies, § 13.5
  - Removal or disposition of remains, § 13.5
- Declaratory proceedings, civil action enjoined, § 4.9
- Declination based upon triviality of claim, § 3.6
  - To enjoin use of foreign land, § 4.5
- Defined, § 3.3
- Denial of relief, § 3.6
  - Affirmative acts in foreign jurisdiction, § 3.6
- District courts, § 3.12
- Domestic actions enjoined, § 4.9
- Domicile as the basis, § 3.3, 4.2
- Eminent domain, enjoining taking, § 4.10
- Enjoining continuous trespasses, § 1.3
  - Acts abroad, § 4.5
  - Foreign actions, § 4.8
- Equitable principles discussed, § 3.4, 3.9
  - Defenses in civil actions, § 4.11
  - Set-off, § 4.9
- Equity
  - Acts in personam, § 4.1
  - Cases and matters cognizable under equity jurisprudence, § 3.4
  - Supervisory jurisdiction in equity, § 4.9
- Extraordinary remedies, § 3.13
- Federal equity jurisdiction, § 1.4
- Foreign actions enjoined, § 4.8
- Forum non conveniens, principles discussed, § 3.6, 4.15
- Fraud
  - Basis of equitable relief, § 1.3
  - Obtained by fraud, § 4.4
- General principles, § 3.3
- Illegal act by public officers enjoined, § 4.10
- Implied in quasi in rem proceedings, § 5.3
- Impoundment, § 4.20
- In personam, § 4.1 et seq.
- In rem
  - Generally, § 6.2
  - Commencement of action, § 6.7
  - Defined, § 6.1
  - Judgment, effect, § 5.2
  - Notice of proceedings, § 6.8
  - Powers of courts, § 6.3, 6.4
  - Principles stated, § 6.1, 6.2
  - Proceedings, § 6.4, 6.5
  - Process, § 6.8
  - Property affected, § 6.2

**JURISDICTION—Cont'd**

In rem—Cont'd

Requirements of process, § 6.8

Seizure of res, § 6.6

Service of process, § 6.8

Statutory jurisdiction, § 6.2, 6.5

Injunctions against public officers, § 4.10

Internal affairs of foreign corporation, § 4.15

Judge, recusal of, § 3.14

Judgments, § 3.3

Enforcement of judgments, enjoined, § 4.11

Nonresidents, § 3.3

Quasi in rem, § 3.4

Jurisprudence distinguished, § 3.2

Lack, § 4.13

Long-Arm Jurisdiction, this index

Loss, § 4.18

When case becomes moot, § 4.18

Merger of law and equity, § 3.2

Mortgages, validity determined, § 4.1

Motion to dismiss, § 4.15

Raising want, § 4.15

Nationality as basis, § 4.2

Nuisance, § 3.7

Public, abatement, § 3.7

Violation of criminal statutes, § 3.7

Objection, § 4.15

Equitable trustee, § 4.15

Invalid judgment, § 4.15

Want of service, § 4.15

Manner of raising, § 4.15

Motion to dismiss, § 4.15

Responsive pleading, § 4.15

Probate courts, § 4.15

Quasi in rem proceedings, § 4.15

Subject matter, § 4.15

Cannot be waived, § 4.15

Waiver, § 4.15

Obtained by fraud, § 4.4

Parties consenting, § 4.14

Pendent, § 11.23

Personal, § 4.1

Conferred, § 4.14

Personal rights protected by injunctions, § 4.10

Persons subject, § 4.4

Anomalous waivers of objection, § 4.15

Pleadings, § 4.15

Consenting to exercise, § 4.14

## INDEX

### **JURISDICTION—Cont'd**

- Power of the sovereign, § 4.4
- Power to proceed in rem, § 4.1, 6.3, 6.4
- Primary jurisdiction, § 4.21
- Principles defined as to nonresidents, § 4.3, 4.4
  - Quasi in rem jurisdiction, § 4.1
- Property rights protected, § 4.10
- Public officers, enjoining, § 4.10
- Quasi in rem, § 3.1, 4.1, 5.3
  - Appointment of special master, § 5.3
  - Certificate of deposit, § 5.4
  - Defined, § 5.2
  - Distinguished, § 5.2
  - Drafts, § 5.4
  - Effect of judgment, § 5.2
  - Equitable lien impressed on real estate, § 5.3
  - Executor and administrator, foreign, § 5.3
    - Trust as to property within the commonwealth, § 5.3
  - General principles, cases stated, § 5.3
  - Implied, § 5.3
  - In rem distinguished, § 5.2
  - Insurance policies, § 5.4
  - Judgment, effect, § 5.2
  - Nonresident, § 4.3
  - Notice, § 5.6
    - Nonresident, § 5.6
    - Owner of property, § 5.6
    - Parties, § 5.6
  - Plea to jurisdiction, § 4.15
  - Power to proceed, § 4.1
  - Principles stated, § 5.3
  - Promissory notes, § 5.4
  - Removal of cloud on title, § 5.4
  - Requirements of notice, § 5.6
  - Res, § 5.4, 5.5
    - Existence, sufficient to confer jurisdiction, § 5.4
    - Requirements of a res, § 5.4
      - Notice, § 5.6
    - Seizure, § 5.6
    - Situs of res, § 5.5
    - Sufficiency of res, § 5.5
  - Restrictions running with land, action to determine, § 5.3
  - Seizure of res during pendency of action, § 5.6
  - Stock certificate, § 5.4
  - Trust, action to reach and apply, § 5.3
  - Voluntary unincorporated association, action against, § 5.3
- Quia timet, § 3.5
- Quieting title to real estate, § 4.1

**JURISDICTION—Cont'd**

- Reach and apply, probate courts, § 3.10
- Real property, actions involving, § 4.1
  - Real estate without the commonwealth, § 3.1
  - Soil, sand, gravel or loam, enjoining removal, § 3.9
- Receivership proceedings, § 12.2, 12.3
  - Partnership, § 12.4
  - Property of individual, § 12.5
- Recusal of judge, § 3.14
- Re-execution of lost instruments, § 1.3
- Registered land, superior court, § 3.9
- Removal of cloud on title to real estate, § 4.1, 4.7
- Residents, § 3.3, 4.2, 4.4
  - Absent from the commonwealth, § 3.3
  - Jurisdiction retained, § 4.2, 4.4
- Responsive pleadings, § 4.15
  - Raising want, § 4.15
- Restraining illegal acts by public officers, § 4.10
- Review of administrative proceedings, § 3.9
- Sale of trust property, § 4.1
- Set-off, equitable principles defined, § 4.9
- Sovereign, jurisdiction over person, § 4.4
- Specific performance, § 17.2
  - Contracts involving skill and judgment, § 1.3
  - Land court, § 3.11
  - Probate courts, § 3.10
  - Sale of personality, § 1.3
  - Trust raised against nonresident, § 4.1
- Statutory jurisdiction
  - Authority to proceed in rem, § 6.3
  - Earlier statutes, § 1.3
  - Must be conferred by law of this commonwealth, § 3.7
- Subject matter, objection, § 4.15
  - Cannot be waived, § 4.15
  - Judicial notice, § 4.15
  - Open at all stages of proceeding, § 4.15
  - Principles, § 4.15
  - Responsive pleading raising point, § 4.15
- Supreme judicial court, § 3.6, 3.8
  - Equitable jurisdiction
    - Concurrent, § 3.8
    - Original, § 3.8
    - Superior court, jurisdiction concurrent with supreme judicial court, § 3.8, 3.9
    - Transfer of causes to or from, § 3.8
- Title to land, actions involving, § 4.1
- Triviality of claim, § 4.15
  - Declination, § 3.6
- Trustee, nonresident, absence of jurisdiction, § 5.3

## INDEX

### **JURISDICTION—Cont'd**

- Void ab initio, § 4.18
- Waiver of objection, § 4.14
  - Anomalous pleadings, § 4.15
  - Subject matter, § 4.15
- Want, § 4.13
- Workmen's compensation cases, § 3.9
- Writ of prohibition abolished, § 4.13
- Zoning by-laws, § 3.9

### **JURISPRUDENCE**

- Defined, § 3.2
- Jurisdiction distinguished, § 3.2
- Merger of law and equity, § 3.2
- Principles discussed, § 3.2

### **JURY AND JURY TRIAL**

- Claim, § 8.16
- Constitutional right, § 8.16
- Declaratory proceedings, § 18.2
  - Counterclaim, § 8.16
- Denial of issues, § 8.16
- Discretion, granting issues, § 8.16
- Examination of jurors, § 8.16
- Not to be infringed, § 1.3
- Partition of real estate, § 27.1
- Principles discussed, § 1.3
- Probate courts, § 8.16
- Right, § 8.16
  - Trial by jury, § 1.3
- Specific performance, statutory right, § 17.4
- Trial, this index
- Trial without jury, § 8.15
- Waiver, § 8.15

### **LACHES AND DELAY**

- Answer raising issue, § 11.2
- Burden of proof, § 11.2
- Elements, § 11.2
- Equitable defenses, § 4.9

### **LAND COURTS**

- Generally, § 3.11
- Concurrent jurisdiction, § 3.11
- Equity, § 3.11
  - Jurisdiction, § 3.6, 3.11
  - Procedure in equity, § 3.11
- Equity court of commonwealth, § 3.11
- Exceptions, § 3.11
- Finding of fact final in, § 3.11

**LAND COURTS—Cont'd**

Jurisdiction, § 3.11

Boundary determination and application of zoning ordinance, § 3.11

Equity concurrent as to land, § 3.11

Reach and apply, § 3.11

Zoning ordinance, determining validity of, by-law and regulation, § 3.11

Reports

Evidence, § 3.11

Material facts, § 3.11

Testimony, § 3.11

Rules, following those of superior court, § 3.11

Rules of civil procedure, § 2.6

Superior court rules, application, § 3.11

**LANDLORD AND TENANT**

Action to prevent forfeiture, § 27.5

Cancellation, § 25.2

Complaint, § 25.2

Declaratory relief, § 18.4

Competition between lessees, § 18.4

Specific performance of covenants, § 17.2

**LATERAL SUPPORT**

Actions and proceedings

Establishment, § 26.4

In rem, § 6.2

Title, actions involving, § 4.1

Quieting title, § 27.2

Recording of judgment, effect, § 4.1

Removing cloud on title, § 27.2

Specific performance, § 1.3

Land court, § 3.11

Probate court, § 3.10

**LEGAL CLAIM**

Determination in equity, § 3.6

Discretion to determine, § 3.6

**LEGISLATURE AND LEGISLATORS**

Immunity, § 11.20

**LIENS AND ENCUMBRANCES**

Action to establish, § 15.3

Attorneys' liens, § 15.3

Bankruptcy, this index

Buildings, § 15.4

Civil actions seeking equitable relief, § 15.1, 15.3

Establishment of liens, § 15.3

Public works, § 15.1

Filing, superior court, § 15.1

## INDEX

### **LIENS AND ENCUMBRANCES—Cont'd**

Civil actions seeking equitable relief, § 15.1, 15.3—Cont'd

Public works, § 15.1—Cont'd

Form of action, § 15.4

Procedure, § 15.1

Claimants

No sworn statement required, § 15.1

Intervention under rules of civil procedure, § 15.1

Judgment, motion for, § 15.1

Parties, necessary, § 15.1

Speedy trial, § 15.1

Complaints, this index

Counsel fees, § 15.1

Created by injunction, § 16.3

Equitable, established in real property against nonresident, § 5.3

Form of action (subcontractor of general contractor), § 15.4

General or subcontractor bankrupt, § 15.2

Housing authority, § 15.1

Land, § 15.4

Marshaling of assets, § 20.8

Mechanics, actions to establish, § 15.3

Jurisdiction, probate court, § 3.10

Old age assistance, jurisdiction, probate court, § 3.10

Private job

Form of certificate, § 15.4

M.G.L.A. c. 254, § 15.3

Privately owned buildings

Bond, performance, suit to enforce

Materialmen, § 15.3

Subcontractor, § 15.3

Enforcement, action to enforce in event of bankruptcy, assignment for benefit of creditors or appointment of receiver of contractor or subcontractor, § 3.9, 15.3

Public works, § 15.1

Action to establish lien, § 15.3

Form, § 15.4

Bond required, § 15.1

Labor, security for payment, § 15.1

Materials, security for payment, § 15.1

Statutory changes, § 15.1

Subcontractors, security for payment, § 15.1

Interest on claim, § 15.1

Judgment, motion for, § 15.1

Security required for performance, bond, no retained percentage, § 15.1

Statutory provisions, as amended, § 15.1

Shares of stock impressed, § 16.3

**LONG-ARM JURISDICTION**

- As affecting service on non-residents, § 5.7
- Bases of long arm jurisdiction, § 5.8
- Extended to absentee spouse, § 5.7

**LOST OR DESTROYED INSTRUMENTS**

- Actions for re-execution, § 1.3
- Re-execution of lost instruments, § 1.3

**LOW BALLING**

- As violation of consumer protection law, § 28.6

**MAINTENANCE AND REPAIRS**

- Abolished, § 11.11

**MANDAMUS**

- Abolished by rules of civil procedure, § 16.4

**MARSHALING OF ASSETS**

- Generally, § 20.1, 20.8

**MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION**

- Generally, § 13.6
- Review of commissioner's action, § 13.6

**MASTERS**

- Generally, § 8.14
- Appointment, § 8.14
- Discharge, § 8.14
- Distinguished, § 8.14
- Duties, § 8.14
- Failure of a party to appear before, § 8.14
- Inherent power to make reference, § 8.14
- No reference of petition of assessment of damages to, § 8.14
- Official stenographer, appointment, § 8.14
- Order of reference
  - Amended, § 8.14
  - Split reference between liability and damages, § 8.14
- Preparation and filing of report, § 8.14
- Report
  - Certificate by, § 8.14
  - Confirmation, § 8.14
  - Effect, § 8.14
  - Exceptions to, § 8.14
  - Preparation and filing, § 8.14
  - Recommittal, § 8.14
  - Summary of evidence, § 8.14
- Scope of appellate review, § 8.14
- Special Masters, this index

**MAXIMS**

- Equity acts in personam, § 4.1

## INDEX

### **MAXIMS—Cont'd**

One who seeks equity must do equity, § 11.5

### **MERGER AND CONSOLIDATION**

Splitting cause of action, § 4.9

### **MERGER OF LAW AND EQUITY**

Generally, § 2.1

Adequate remedy at law no longer problem, § 4.18

Housing Courts, § 2.7

Jurisdiction, § 3.2

Jurisprudence, § 3.2

Land Court, § 2.6

Probate and Family Court, § 2.5

Rules of Civil Procedure, effect of, § 2.2

Superior Court, § 2.4

Supreme Judicial Court and Appeals Court, § 2.3

### **MINORITY STOCKHOLDERS**

Actions by, § 16.4

Allegations, § 16.4

Counsel fees, § 16.4

### **MINORS**

Children and Minors, this index

### **MISTAKE OR ERROR**

Cancellation of instruments, § 25.2

Misrepresentation, innocently made, as basis of rescission, § 25.3

Reformation, mutual, § 25.1

Reformation of instruments, § 25.1

### **MONEY OR CASH**

Jurisdiction of courts, money judgments, § 3.8

Right to trial by jury, money judgments, § 1.3

### **MONUMENTS AND MEMORIALS**

Graves, enjoining removal, § 3.6, 13.5

### **MORTGAGES**

Actions and proceedings, § 27.3

Accounting, § 27.3

Discharge, § 27.3

Foreclosure, § 27.3

Redemption, § 27.3

Contract creditor, § 27.3

Reinstatement, § 27.3

Soldiers' and Sailors' Civil Relief Act, § 27.3

Statutory provisions, § 27.3

Complaints, this index

Counterclaim

Foreclosure proceedings, § 27.4

**MORTGAGES—Cont'd**

Counterclaim—Cont'd

Not required in action to foreclose, § 27.3

Creditor, action to set aside as fraudulent, § 27.3

Creditors' actions to reach and apply, § 24.2

Declaratory proceeding to have deed adjudged a mortgage, § 27.3

Early equity jurisdiction, § 3.6

Action to determine ownership of surplus, § 27.3

Actions of complaint, § 27.4

Estoppel, § 27.4

Good faith requirement, § 27.4

Jurisdiction to enjoin, probate court, § 3.10

Lack of mutuality, § 27.4

Specific performance, to obtain deed from mortgagor, § 17.3

Time limitations, § 27.4

Fraudulent

Creditors' action to set aside, § 27.3

Creditors' rights to set aside, § 27.3

Injunction against foreclosure

Expiration of, contempt, § 27.3

Expires upon entry of final judgment, § 27.3

Parties, indispensable, purchaser at foreclosure, § 27.3

Redemption

Action, pleading, § 27.3

Motion to complaint, general, § 27.3

Parties, necessary, purchaser at foreclosure sale, § 27.3

Purchaser at sale, § 27.3

Necessary party, § 27.3

Venue, § 27.3

Specific performance, after foreclosure, against agreed buyer, § 17.3

Surplus after foreclosure, disposition, § 27.3

Tender by mortgagor, § 27.4

Validity determined, § 4.1

Waste, necessary issue in actions for redemption, § 27.3

**MOTIONS**

De minimis non curat lex, § 4.15

Dismissal

Generally, § 8.3

Failure to state a claim upon which relief can be granted, § 8.3

Equitable relief after verdict or finding, § 8.22

Forum non conveniens, § 4.15

Internal affairs of foreign corporation, § 4.15

Judgment notwithstanding verdict, § 8.16

Mortgage, action to restrain foreclosure and to redeem, sufficiency of action,  
§ 27.3

New trial, § 8.16

Rehearing, § 8.23

## INDEX

### **MOTIONS—Cont'd**

- Rules of civil procedure, § 2.4
- Appearances, § 8.3
  - Form, § 8.3
- Consolidation of defenses, § 2.4
- For defenses, § 2.4
- For more definite statement, § 2.4
- Motion for judgment on pleadings, § 2.4
- Motion to strike, § 2.4
- Pleadings, § 8.3
- Triviality of claim, § 4.15

### **MOTOR VEHICLES**

- Amendment, change or modification
  - Jury trial, plaintiff amending into equity waives right, § 8.16
  - Law action into equity, plaintiff's right to trial by jury, § 8.16
- Rules of civil procedure, § 2.4, 8.14
  - As a matter of course, § 2.4
  - By leave of court, § 2.4
  - Relation back, § 2.4
  - Supplemental pleadings, § 2.4
- Trial, amendment after, § 8.7
- Insurance policy
  - Action to reach and apply, § 24.7
  - Statute of limitations, § 24.7

### **MULTIPLICITY OF INTERESTS**

- Actions based on, § 19.4
- Jurisdiction, § 19.4

### **MUNICIPAL CORPORATIONS**

- Health regulation, violation enjoined, § 26.6
- Nuisances
  - Action versus town to enjoin, § 26.6
  - Violation of health regulations, enjoined, § 26.6
- Public works, contracts for erection, alteration, repair, security for payment of claims required, § 15.1
- Liens, statutory, § 15.1

### **NATIONAL BANKS**

- Creditor's action, bank as trustee, § 5.3
- Injunctions, § 5.5
  - Creditor's action, § 5.3
- Trust, bank as trustee, injunction, § 5.3

### **NATIONALITY**

- Principles discussed as to rights and obligations, § 4.2
- Proceedings based upon such status, § 4.2

### **NEGATIVE COVENANT**

- Implied, § 21.5

**NEW TRIAL**

Motion for, § 8.21

**NONCOMPETITION**

Partnership agreement, § 21.6

**NONRESIDENTS**

Residents or Nonresidents, this index

**NOTES**

Cancellation, § 25.2

**NUISANCES**

Generally, § 26.1 et seq.

Abatement, § 26.7

Aircraft, § 26.8

Blasting, § 26.8

Class actions, § 26.7

Injunctions, § 26.6

Health regulations, violation, § 26.6

Municipalities, § 26.6

Zoning regulations, violation, § 26.6

Municipalities

Abatement, actions, § 26.6

Injunctions, § 26.6

Private nuisance, § 26.5

Public nuisances

Abatement, § 3.7

Buildings used in violation of law, restraining use, § 26.7

Criminal statutes, violation, § 3.7

Gaming, enjoining, § 26.7

Illegal sale of liquor, enjoining, § 26.7

Information by attorney general, § 3.7

Injunction, § 3.7

Parties, § 26.7

Right of private individual to enjoin, § 3.7

**OIL SPILLS**

Massachusetts Oil and Hazardous Material Release Prevention and Response  
Act, § 26.9

**OPTIONS AND FIRST REFUSAL**

Purchase options

Enforcement, § 17.2

Reaching and applying in creditors' action, § 4.1

Recording of decree directing a conveyance, § 4.1

Specific performance, § 17.2

**ORDERS**

Appeal from, § 8.23

Form to Master, order of reference, § 8.14

## INDEX

### **ORDERS—Cont'd**

Temporary Restraining Orders, this index

### **PARTIES**

Generally, § 7.1

Absent, jurisdiction retained, § 4.2

Capacity to be party, § 7.4

Class actions, § 4.5

Counterclaim, additional parties, § 2.4

Creditor's action, § 24.2

Declaratory proceedings, party, city or town, ordinances to be interpreted, § 18.4

Description in action

Address required in attachment of real property, § 2.4

Creditor's action, § 24.2

Discovery, action for, § 8.3

Husband and wife, § 3.10

Infant, capacity to be party, § 7.4

Insane persons, capacity to be party, § 7.4

Intervention, § 7.5

Joinder in counterclaim, rules of civil procedure, § 2.4

Joint parties, § 16.1

Partners, § 16.1

Party defendant, interest required as, § 7.3

Proper, necessary and indispensable parties, § 7.2

Voluntary associations, unincorporated associations, actions quasi in rem, § 5.3

Writ of protection, § 4.4

### **PARTITION**

Generally, § 27.1

Conservator, right to maintain petition, § 27.1

Jury issues, § 27.1

Notice requirements, § 27.1

Rules of civil procedure, § 27.1

Sale, proceeds, distribution, § 27.1

### **PARTNERS AND PARTNERSHIPS**

Accounts and accounting

Between partners, § 16.1

Actions and proceedings

Creditor's action to reach debtor's interest, § 12.4

Partners

Actions between, § 16.1

Actions to reach partner's interest, § 16.2

Appointment of receivers, § 12.4

Complaint, § 16.1

Noncompetition clause, § 21.6

Parties to suits, § 16.1

Receiver of partner's interest, § 12.4

**PENDENT JURISDICTION**

Generally, § 11.23

**PERSONAL INJURIES**

Foreign action, declination to enjoin, § 4.8

**PERSONAL PROPERTY**

Actions between co-owners, § 20.6

Jurisdiction, § 20.6

Actions quasi in rem, § 5.3

Co-owners, actions between, § 20.6

Engagement ring, right to recover, § 22.3

Joint accounts, § 20.6

Jurisdiction

Co-owners, actions between, § 20.6

Domestic property, § 3.1

Foreign property, § 3.1

Replevin, equitable, § 22.3

Sale in bulk, § 23.4

Seizure of res, § 6.6

Situs, § 5.5

Chattels, § 5.5

Debt, § 5.5

Promissory notes, § 5.5

Specific performance, § 17.4

Not in personam, § 6.3

Trusts and trustees, § 22.1

Express declared, principles restated, § 22.1

Uniform Fraudulent Conveyance Law, § 23.3

**PERSONAL RIGHTS**

Generally, § 13.1 et seq.

Civil rights acts, § 13.18, 13.19

Discrimination, this index

Privacy, right of, § 13.2

Religious disputes, § 13.16

Violation of, enjoined, § 4.10

**PERSONAL SERVICES CONTRACTS**

Generally, § 21.7

**PERSONS**

Subject to jurisdiction, § 4.4

**PLEADINGS**

Admissions, effect at trial, § 8.15

Affirmative defenses must be raised, § 11.1

Counterclaim, § 2.4

Anomalous defenses, § 11.12

Waiving special appearance

Point of jurisdiction, § 4.15

## INDEX

### **PLEADINGS—Cont'd**

- Answer, this index
- Complaint, this index
- Counterclaim, § 2.4
  - Accounting, none required, § 19.3
  - Mortgages, action to foreclose, may be expunged, § 27.3
- Defensive pleadings, § 8.8
- Environmental protection, § 26.9
- Equitable defense to judgment, § 4.9
  - Not mandatory, § 4.9
  - Permissive, § 4.9
- Illegality of transaction, § 11.11
- Laches, § 11.2
- Objection to want of jurisdiction over person waived, § 4.15
- Rules of civil procedure, § 2.4
  - Affirmative defenses, § 2.4
  - Appearances, § 2.4, 8.3
    - Change of appearances, § 2.4
  - Claims for relief, § 2.4
  - Complaint and answer, § 2.3
  - Defenses, § 2.4
  - Failure to deny, effect, § 2.4
  - Form, § 2.4, 8.3
  - Special matters, § 2.4
  - Supplemental, § 2.4
  - Transitional rule, § 2.1
  - Verification, § 2.4
  - Withdrawals, § 2.4
- Scope of evidence determined by, § 8.6
- Statute of frauds
  - Raised by answer, § 11.7
- Statute of limitations, § 11.8
- Time for filing, § 2.4
- Trade secrets, § 21.4
- Trial of issues limited by, § 8.15

### **POWERS AND DUTIES**

- Court of Equity, § 4.5
  - Acts in personam, § 6.3
  - Jurisdiction to proceed in rem, § 6.3

### **PRELIMINARY INJUNCTIONS**

- Appellate review, § 8.26
- Criteria for issuance, § 8.27
- Need for security in issuance of, in connection with action for replevin, § 8.25, 22.3
- Scope, § 8.25

**PRIVACY**

- Equitable relief through injunction, § 13.2
- Freedom of press, § 13.2
- Prior restraint doctrine, § 13.2
- Right, § 13.2
  - Attorney's letter to litigant, § 13.2
  - Inmates, § 13.2
- Statutory protection, § 13.2
- Use of name, portrait, § 13.2
- Violation, § 13.2

**PRIVILEGES AND IMMUNITIES**

- Generally, § 11.18

**PROBATE AND FAMILY COURTS**

- Abatement of succession taxes, § 3.10
- Alimony, foreign judgment, jurisdiction to enforce, § 3.10
- Determine ownership of property, § 3.10
- Divorced persons, actions to establish title to property, § 3.10
- Equitable attachment, § 3.10
  - Jurisdiction, § 3.10
- Equity jurisdiction, § 3.10
  - Establishing trust in personal property, § 3.10
- Husband and wife, jurisdiction of controversies over property, § 3.10
- Injunctions, § 3.10
  - Jurisdiction, § 3.10
    - Based on residence, § 3.10
    - Between probate courts, § 3.10
    - Concurrent jurisdiction, § 3.10
      - Superior court, court first obtaining retains, § 3.9
    - Equitable jurisdiction, in general, § 3.10
    - Lien, old age assistance, action to establish, § 3.10
    - Limitation, § 3.10
      - Geographical area limitations, § 3.10
    - Statutory grant of equity, jurisdiction to, § 3.10
    - Transfer from superior court, § 3.10
    - Trust, action to establish, § 3.10
- Jury, § 8.16
- Merger of law and equity, § 2.5
- Mortgage, jurisdiction to enjoin foreclosure, probate Court, § 3.10
- Procedure governed by equity practice, § 3.10
- Real estate
  - Lien, old age assistance, jurisdiction to establish, § 3.10
  - Partition of real estate, jury issues, § 27.1
- Removal of proceedings, § 3.10
- Retention of jurisdiction by court first obtaining, § 3.10
- Shares of stock subject to be reached, § 3.10
- Specific performance of contracts to sell realty, § 3.10
- Statutory grant of equity jurisdiction to, § 3.10

## INDEX

### **PROBATE AND FAMILY COURTS—Cont'd**

Supreme judicial court, transfer of causes to or from, § 3.8

Trust, resulting, jurisdiction to establish, § 22.1

Venue of actions

Actions in re trusts, § 3.10

### **PROCESS AND SERVICE OF PROCESS AND PAPERS**

Actions for equitable relief, § 4.2

Domiciliary served where found, § 4.2

Equivalent to a seizure of the res, § 5.6

Executor and administrator

Foreign, § 5.3

Jurisdiction quasi in rem, § 5.3

In rem proceedings, § 6.7-6.8

Required, § 6.7

Service, § 6.8

Lien, action to establish statutory, § 15.1

Lien, civil action to establish statutory, § 15.3

Nonresident

Jurisdiction quasi in rem, service of process, § 5.6

Notice, § 5.6

Notice

In rem proceedings, § 6.8

Nonresident, § 5.6

Outside the Commonwealth

Individual making service, § 5.7

Proof of service, § 5.7

Rules of civil procedure

Backing, § 2.4

Effect of failure to file pleadings, § 2.4

Filing of pleadings, § 2.4

Multiple defendants, § 2.4

Seizure of res, § 6.6

Service of subpoena

Nonresidents, § 4.3

Acquired by fraud, § 4.3

Attorney for, § 4.3

### **PRODUCTION OF DOCUMENTS AND THINGS**

Generally, § 9.4

### **PROFESSIONAL CONDUCT RULES**

Generally, § 21.11

### **PROMISSORY NOTES**

Cancellation, § 25.2

Situs, § 5.5

### **PROPERTY**

Creditors' action to reach, § 23.1, 23.4, 24.2

**PROPERTY—Cont'd**

- Defendant in proceeding in rem, § 6.1
- Judgment in rem, § 6.5
- Jurisdiction quasi in rem, § 5.1
  - In rem, § 6.2
- Lis pendens, § 4.2
- Ownership may be determined if property within jurisdiction, § 4.1
- Personal Property, this index
- Quasi in rem proceedings, § 5.3
- Quieting title to real estate, § 4.1
- Real Estate, this index
- Rights
  - Infringement of, enjoined, § 4.10
  - Protected by injunctions, § 4.10, 12.6
  - Religious disputes, § 13.16
  - Violation of, enjoined, § 4.10
- Seizure of res, § 6.6
- Subject to attachment
  - Reached and applied, § 4.1

**PUBLIC LAWS**

- Jurisdiction to enforce, § 3.7
- Violations, public nuisance, § 3.7

**PUBLIC OFFICERS AND EMPLOYEES**

- Certiorari, to review action, § 4.10
- Contracts
  - Actions to establish liens, § 15.1
  - Jurisdiction to enjoin award of contract, § 4.10
- Eminent domain, jurisdiction to enjoin taking, § 4.10
- Equity jurisdiction to determine title to office, none, § 4.10
- Injunction against action by officials, § 4.10

**PUBLIC WORKS CONTRACTS**

- Contracts and Agreements, this index
- Liens, this index

**PURCHASE OPTIONS**

- Options and First Refusal, this index

**QUASI IN REM JURISDICTION**

- Jurisdiction, this index

**QUI TAM ACTION**

- Generally, § 29.8

**QUIA TIMET**

- Generally, § 3.5

**QUIETING TITLE**

- Generally, § 27.2
- Action, § 4.1

## INDEX

### **QUIETING TITLE—Cont'd**

- Form, § 27.2
- Injunction to prevent cloud, § 27.2
  - Process, § 27.2
  - Service, § 27.2
- Jurisdiction, § 27.2
- Removing clouds, § 27.2

### **REACH AND APPLY**

- Generally, § 24.2
- Conveyance to be executed by defendant, § 4.1
- Creditor's actions, § 23.1, 24.2
- Debt owed to nonresident, § 5.5
- Dower interest, § 24.4
- Land court, jurisdiction, § 3.11
- Option to purchase real estate, § 4.1
- Probate courts, § 3.10

### **REAL ESTATE**

- Action to enforce restrictions, § 27.6
- Actions involving title, § 4.1
- Cancellation of deed, § 25.2
- Concurrent jurisdiction of Land Court, § 3.11
- Decree in rem, § 6.2
- Defendant in proceeding in rem, § 6.2
- Divesting of title by judgment, § 4.1
- Effect of judgment as to res judicata, § 4.8
- Eminent domain, jurisdiction to enjoin taking, § 4.10
- Enjoining use of foreign, § 4.5
- Equitable lien established against nonresidents, § 5.3
- Equitable servitudes, § 27.6
- Foreign trust, § 4.12
- Fraudulent conveyance, jurisdiction of land court, § 3.11
  - Jurisdictional principle discussed, § 4.1
  - Trust established, § 22.1
- Gift, completed, not revocable, § 22.1
- In rem jurisdiction, § 4.1
- Judgment in rem, § 6.2, 6.5
  - Affecting foreign land, § 4.1
- Jurisdiction in re foreign land, § 3.1
- Jurisdiction quasi in rem, § 5.1, 5.3, 5.5
  - Requirements of notice, § 5.6
  - Seizure of the res, § 5.5
- Lateral Support, this index
- Partition, § 27.1
- Power of court to proceed in rem, § 6.3
- Proceedings in rem, § 6.2
- Quieting title, § 27.2
- Recording of judgment, effect, § 4.1

**REAL ESTATE—Cont'd**

- Registered land, jurisdiction of superior court, § 3.9
- Removing cloud on title, § 5.4, 27.2
- Rescission, based on fraud, § 25.3
- Restrictions running with land, jurisdiction of courts, § 3.9
- Seizure of res, § 6.6
- Soil, loan, sand or gravel, enjoining removal, § 3.9
- Specific performance, § 1.3, 17.2
  - Contract to sell, § 1.3
  - Equitable lien established against nonresident, § 5.3
  - Land court, § 3.11
  - Mortgage, foreclosure without judgment of court, contract to sell enforced, § 17.3
  - Nonresident, § 4.1
  - Probate courts, § 3.10
- Structures
  - Encroachment, action to enjoin, § 26.8
  - Erection upon oral promise to convey land, trust imposed, § 22.1
- Trespass, actions to enjoin, § 26.8
- Trusts and trustees, § 22.1
  - Constructive, § 22.1
  - Express, § 22.1
  - Foreign land, § 22.1
  - Implied, § 22.1
  - Permitting erection of structure upon oral promise to convey, constructive trust imposed, § 22.1
  - Purchase for value without notice of trust, bars trust, § 22.1
  - Resulting, § 22.1
  - Statute of frauds, § 22.1
- Uniform Fraudulent Conveyance Law, § 23.3

**RECEIVERS AND RECEIVERSHIP**

- Generally, § 6.2, 12.1
- Account, final, § 12.15
- Accountant employed, § 12.9
- Actions and proceedings
  - Actions against, § 12.11
    - Garnishment, § 12.11
    - Judgment satisfied out of assets, § 12.11
    - Permission of court required, § 12.11
    - Petition to sue, § 12.11
    - Reach and apply, § 12.11
    - Trustee process, § 12.11
  - Actions by, § 12.10
    - Amendment to name of party, § 12.10
    - Brought in name of receiver, § 12.10
    - Compromise of claim, § 12.10
    - Effect of Federal Bankruptcy Act, § 12.10

## INDEX

### RECEIVERS AND RECEIVERSHIP—Cont'd

- Actions and proceedings—Cont'd
  - Actions by, § 12.10—Cont'd
    - Permission of court required, § 12.10
- Administration expenses, § 12.14
- Allowance of claim of creditor, § 12.12
- Ancillary receivers of foreign corporations, § 12.7
- Annulment of character of corporations, § 12.6
- Appeal from judgment appointing, § 12.8
  - Continuance of receivership, § 12.8
- Decree of sale, § 12.13
- Application
  - Judgment creditor for appointment, § 12.6
- Application of contract creditor, § 12.2
- Appointment, § 12.2
  - Action, effect, § 12.2, 12.8
  - Ancillary to relief, § 12.2
  - Appeal from action, § 12.8
  - Application of judgment creditor, § 12.6
  - Attachment, § 12.8
    - Creditors entitled to notice of application, § 12.8
    - Property affected by, § 12.8
  - Authority determined by judgment, § 12.3
  - Conditioned upon payment into court of sum of money, § 12.2
  - Conservation of assets, § 12.2
  - Defendant's right to defend, § 12.2
  - Dissolves attachment, § 12.8
  - Domestic corporations, § 12.6
  - Ex parte application, § 12.2
  - Execution issued in action at law, § 12.8
  - Foreign corporations, § 12.7
  - Garnishment, § 12.8
  - General equity jurisdiction, § 12.3
  - Injunction affected, § 12.8
  - Notice of application, § 12.2
  - Property of individual, § 12.6
    - Placed in control of court, § 12.8
    - Receivers possession of property that of court, § 12.8
  - Relates back to filing of petition, § 12.8
  - Rules of civil procedure, § 12.2
    - Limitations on, § 12.2
  - Special to conserve property, § 12.3
  - Statutory, § 12.6
  - Statutory authority, § 12.6
  - Temporary, § 12.2
  - Title to property not affected, § 12.8
  - Trustee process affected, § 12.8
  - Vacation, § 12.2

**RECEIVERS AND RECEIVERSHIP—Cont'd**

- Appraiser employed, § 12.9
- Approval of bond, § 12.9
- Assets, petition for leave to sell, § 12.13
- Assets, sale of corporate or partnership, good will and trade mark, § 12.13
- Assets of estate, sale, § 12.13
- Attachment
  - Attachments by creditors preserved, § 12.8
  - Continued, § 12.12
  - Dissolved by appointment, § 12.8
  - Creditors entitled to notice, § 12.8
- Authority determined by judgment appointing, § 12.3
- Bankruptcy intervening, § 12.8
- Bond
  - Approval, § 12.9
  - Required, § 12.9
- Business corporations, § 12.6
- Business of corporate defendant, § 12.9
- Chose in action, § 12.3
- Claims against estate
  - Allowance, § 12.12
  - Creditors, § 12.12
    - Priority, § 12.12
  - Disallowance, § 12.12
  - Filing proof, § 12.12
  - Hearing of claim, § 12.12
  - Payment of claims, § 12.15
  - Requirements of proof, § 12.12
  - Trial, § 12.12
- Compensation, § 12.14
- Complaint, § 12.2
- Compromise of claim, § 12.10
- Conducting business, § 4.13
- Continuance
  - Attachment, § 12.12
  - Business, § 12.9
  - Pending appeal, § 12.8
- Contract liens against estate, § 12.14
  - Preservation, § 12.14
- Contracts, executory, § 12.9
- Control of property, § 12.2
- Corporations, dissolution, § 12.2
- Corporations, effect of appointment, § 12.6
- Counsel employed, § 12.9
- Creditors, § 12.12
  - Allowance of claim, § 12.12
  - Attachment dissolved, § 12.12

## INDEX

### RECEIVERS AND RECEIVERSHIP—Cont'd

- Creditors, § 12.12—Cont'd
  - Claim allowed, § 12.12
    - Disallowed, § 12.12
    - Notice to prove, § 12.12
    - Particulars, § 12.12
    - Preferred, § 12.12
  - Contract, lien, § 12.12
  - Costs and expenses in procuring appointment, § 12.14
  - Dispute as to claim, § 12.12
  - Dissolution of attachments, § 12.12
  - Filing proof of claim, § 12.12
  - Notice of receivership proceedings, § 12.12
  - Payment of claims, § 12.15
  - Preferred, taxes, § 12.12
  - Priority of claims, § 12.12
  - Proof of claim, § 12.12
  - Requirements as to proof of claim, § 12.12
  - Rights, § 12.12
    - To notice, § 12.2
  - Creditors, taxes, priority, § 12.12
- Defendant's right to be heard, § 12.2
- Demand upon defendant to turn over property, § 12.9
- Deposit of receivership funds, § 12.9
- Disallowance of claim of creditors, § 12.12
- Discharge, § 12.13
- Discretion of appoint, § 12.2
- Dissolution of attachment, § 12.12
  - By appointment, § 12.8
  - Corporations, § 12.6
- Distribution of assets, § 12.15
- Domestic corporations, § 12.2, 12.6
- Duties, § 12.9
- Effect of appointment, § 12.8
  - Appeal, § 12.8
  - Attachment of property, § 12.8
    - Dissolves, § 12.8
    - Garnishment affected, § 12.8
    - Injunction, § 12.8
  - Possession of property that of court, § 12.8
  - Property attached, § 12.8
    - Placed in control of court, § 12.8
  - Relates back to the filing of petition, § 12.8
  - Title to property not affected, § 12.8
  - Trustee process, § 12.8
- Employment of counsel, § 12.9
  - Accountant, § 12.9
  - Appraisers, § 12.9

**RECEIVERS AND RECEIVERSHIP—Cont'd**

- Execution issued in civil action, § 12.8
- Expenses of administrations, § 12.14
- Expiration of charter of corporation, § 12.6
- Filing of inventory, § 12.9
- Final account, § 12.15
- Fire insurance, § 12.9
- Foreign corporations, § 12.7
- Fraternal benefit societies, § 12.6
- Funds remaining after decree of distribution, § 12.13
- Garnishment affected by appointment, § 12.8
- General equity jurisdiction to appoint, § 12.3
- General principles, § 12.2
- Hearing of claim against estate, § 12.12
- Indebtedness incurred only by leave of court, § 12.9
- Insolvency of partnerships, § 12.4
- Instructions, right to petition court, § 12.9
- Insurance against fire loss, § 12.9
  - Public liability, § 12.9
- Intervening bankruptcy, § 12.8
- Inventory, § 12.9
- Judgment appointing final
  - Distribution, § 12.15
  - Effect, § 12.8
- Judgment creditor
  - Of an individual, § 12.5
  - Of corporation, application for, § 12.6
- Jurisdiction to appoint under equity jurisdiction, § 12.3
- Leases, duty of receiver, § 12.9
- Leave to sell assets, § 12.13
- Liability insurance, § 12.9
- Liens of attachment preserved, § 12.8
  - Upon estate, § 12.12, 12.14
- Limited, § 12.2
- List of creditors to be filed, § 12.9
- Notice to creditors, § 12.2
- Objections by defendant, § 12.2
- Partnerships, § 12.4
- Payment into court of sum of money for use, § 12.2
- Permanent, § 12.2
- Possession of property, § 12.2
- Power to appoint, general equity jurisdiction, § 12.3
- Preferences as to claims, § 12.12
  - Expenses of administrations, § 12.14
- Preservation of attachments, § 12.8
- Priority
  - Claims, § 12.12
  - Taxes, § 12.12

## INDEX

### RECEIVERS AND RECEIVERSHIP—Cont'd

- Priority of claims, united States, § 12.12
- Proceeding equal in rem, § 12.2
- Process, notice to creditors, § 12.2
- Proof of claims by creditors, § 12.9, 12.12
- Property
  - Appointment of receiver, § 12.4
  - Attachment preserved for benefit of receivership, § 12.8
  - Delivered to trustee in bankruptcy, § 12.8
  - Demand for, § 12.9
  - In custodia legis, § 12.2
  - Liens upon, § 12.12, 12.14
    - Preserved, § 12.12, 12.14
  - Of individual, § 12.5
  - Outside jurisdiction appointing, § 12.8
  - Petition to turn over property, § 12.9
  - Sale by, § 12.13
    - Appeal from decree, § 12.13
    - Confirmation by court, § 12.13
    - Decree authorizing, § 12.13
    - Lien outstanding, § 12.13
    - Mortgaged property, § 12.13
    - Notice of sale, § 12.13
    - Private sale, § 12.13
    - Public sale, § 12.13
    - Ratification of sale, § 12.13
    - Terms of sale, § 12.13
- Purposes of appointment to conserve assets, § 12.2
- Qualifying as such, § 12.9
- Remedial agency, § 12.2
- Return day of process, § 12.2
- Rights of creditors, § 12.12
- Rules of civil procedure, § 12.2
- Sale of assets, § 12.13
- Sequestration of property, § 12.2
- Shares of stock, § 12.3
- Social corporations, § 12.6
- Special, § 12.3
- Statutory authority to appoint, § 12.6
  - Dissolution of attachment, § 12.8
  - Distinguished, § 12.6
- Stockholder, application for appointment, limited, § 12.6
- Taxes, preferred claim, § 12.12
- Taxes, priority, § 12.12
- Temporary, § 12.2
- Time for filing
  - Inventory and list of creditors, § 12.9
  - Proofs of claim, § 12.9

**RECEIVERS AND RECEIVERSHIP—Cont'd**

- Title to property not affected, § 12.2, 12.8
- Trustee process discharged by appointment, § 12.8
- Uniform Fraudulent Conveyance Law, § 23.3
- Vacation of appointment, § 12.2
- Withdrawals of funds, § 12.9

**RECOMMITTAL**

- Master's report, § 8.14

**RE-EXECUTION OF LOST INSTRUMENTS**

- Generally, § 1.3

**REFERENCES AND REFEREES**

- Generally, § 8.14
- Appointment, § 8.14
- Attendance of stenographer, § 8.14
- Confirmation of report, § 8.14
  - Additional evidence, § 8.14
  - Effect of summaries of evidence, § 8.14
  - Exceptions, § 8.14
  - Facts only, § 8.14
  - Interlocutory decree, § 8.14
  - Overruling exceptions, § 8.14
  - Relief granted, § 8.14
  - Sustaining exceptions, § 8.14
- Contents of order referring, § 8.14
- Direction to report evidence, § 8.14
- Discharge, § 8.14
- Duties, § 8.14
  - Certificates of compliance with rule, § 8.14
  - Deciding questions of evidence, § 8.14
  - Discretion of court, § 8.14
  - Evidence de bene, § 8.14
    - Necessity of objection, § 8.14
    - Not to be reported, § 8.14
    - Outside scope of pleadings, § 8.14
    - Questions as to, § 8.14
  - Exhibits, § 8.14
  - Facts, requests for finding, § 8.14
  - Failure of party to appear, § 8.14
  - Finding of facts, § 8.14
  - Hearings, § 8.14
    - Limited as to issues raised in pleadings, § 8.14
  - Law, rulings as to, § 8.14
  - Mixed questions of law and fact, § 8.14
  - Narrative findings of fact, § 8.14
  - Necessity of objection to evidence, § 8.14
  - Postponement of hearings, § 8.14

## INDEX

### REFERENCES AND REFEREES—Cont'd

- Duties, § 8.14—Cont'd
  - Re-opening hearings, § 8.14
  - Report, preparation, § 8.14
    - Alteration, § 8.14
    - Changes, § 8.14
    - Filing, § 8.14
    - Furnishing copies, § 8.14
  - Request for findings of fact, § 8.14
  - Rulings as to questions of law, § 8.14
    - Relief, § 8.14
  - Scope of reference, § 8.14
  - Summaries of evidence, § 8.14
  - Trial, § 8.14
  - View, § 8.14
- Evidence, § 8.14
  - Admission or exclusion, § 8.14
  - Exception to, § 8.14
    - Annexed, § 8.14
    - Necessity of objection, § 8.14
    - Rules of court applicable, § 8.14
    - Saving, § 8.14
  - Summaries, § 8.14
  - Taken by stenographer, § 8.14
  - To be reported, § 8.14
- Exceptions, § 8.14
  - Appended to report, § 8.14
  - Completion of exceptions, § 8.14
  - Copies to be furnished, § 8.14
  - Dismissal of late, § 8.14
  - Effect of late filing, § 8.14
  - Effective only to matters apparent on face of report, § 8.14
  - Evidence, § 8.14
    - Admission, § 8.14
    - Exclusion, § 8.14
    - Insufficient in law to warrant finding, § 8.14
  - Extension of time for filing, § 8.14
  - Late filing, effect, § 8.14
  - Matters not apparent on fact of report, § 8.14
  - Motion to strike not substitute for, § 8.14
  - Necessity of stenographer at hearings, § 8.14
    - Selection, § 8.14
  - Rule of court, § 8.14
  - Time for filing, § 8.14
- Exhibits, § 8.14
- Expenses of stenographer, § 8.14
- Facts
  - Reported, § 8.14

**REFERENCES AND REFEREES—Cont'd**

Facts—Cont'd

Requests, § 8.14

Facts found, effect, § 8.14

Findings, § 8.14

Conclusiveness, § 8.14

Disregarding rulings of law, § 8.14

Duty to make, § 8.14

Effect, § 8.14

Failure to find subsidiary facts, § 8.14

Finality, § 8.14

Inferences may be drawn by court, § 8.14

Of facts

Narrative form, § 8.14

Requests, § 8.14

Subsidiary facts upon vital points, § 8.14

Summaries of evidence, effect, § 8.14

Hearings, § 8.14

Inherent power of court, § 8.14

Law

Requests, § 8.14

Rulings as to, § 8.14

Limited to preliminary issue, § 8.14

Method of saving objection to evidence, § 8.14

Mixed questions of law and fact, § 8.14

Order of, amended, § 8.14

Order of reference, § 8.14

Order referring, § 8.14

Preliminary issue, § 8.14

Preparation and filing of report, § 8.14

Purpose to make facts final, § 8.14

Recommittal, § 8.14

Affidavits in support, § 8.14

Discretion of court, § 8.14

Error on face of report, § 8.14

Not apparent, § 8.14

Motion required, § 8.14

Supported by affidavit, § 8.14

Rehearing, § 8.14

Report of evidence, § 8.14

Subsidiary facts lacking, § 8.14

Summaries of evidence, § 8.14

Vital facts missing, § 8.14

Relief, ruling as to, § 8.14

Re-opening hearings, § 8.14

Report of facts, § 8.14

Reports, § 8.14

Draft, § 8.14

## INDEX

### REFERENCES AND REFEREES—Cont'd

- Reports, § 8.14—Cont'd
  - Exhibits, § 8.14
  - Filing, § 8.14
  - Furnishing copies, § 8.14
  - Hearing, § 8.14
  - No standing until confirmed, § 8.14
    - Additional evidence before court, § 8.14
    - Discretion of court, § 8.14
  - Preparation, § 8.14
  - Recommittal, § 8.14
  - Subsidiary findings, § 8.14
  - Ultimate findings, § 8.14
    - Conclusion of facts, § 8.14
    - Evidence reported, § 8.14
    - Narrative form, § 8.14
    - Pleadings should not be included, § 8.14
    - Subsidiary facts, § 8.14
- Requests for findings of fact, § 8.14
  - Rulings of law, § 8.14
- Rule, § 8.14
- Rules of court, § 8.14
  - Points of law, rulings as to, § 8.14
  - Evidence reported, § 8.14
- Stenographer to take evidence, § 8.14
  - Approval, § 8.14
  - Expense incurred to be paid by parties, § 8.14
  - Selection, § 8.14
- Subsidiary findings, § 8.14
- Summaries of evidence, § 8.14
  - Appending to report, § 8.14
  - Application to master, § 8.14
  - Compliance with rule of court, § 8.14
  - Copies to be furnished, § 8.14
  - Furnishing transcript of evidence, § 8.14
  - Recommittal for purpose of annexing, § 8.14
  - Requirements as to stenographer, § 8.14
  - Rulings of law, § 8.14
  - Summaries of evidence, § 8.14
- Ultimate findings, § 8.14

### REFORMATION OF INSTRUMENTS

- Generally, § 25.1
- Action, pleading, complaint, § 25.1
- Civil actions for equitable relief, § 25.1
- Complaint, § 25.1
- Effect of unilateral mistakes, § 25.1
- Equitable defense civil actions, § 25.1

**REFORMATION OF INSTRUMENTS—Cont'd**

- Equitable defense to civil action, § 25.1
- Mutual mistake, § 25.1
- Mutual mistake required, § 25.1
- Pleading, complaint, § 25.1
- Remedy, § 25.1

**REHEARING**

- Application, § 8.23
- Civil actions seeking equitable relief, § 8.23
- Re-examination of administrative proceedings, § 3.9

**REINSTATEMENT**

- Mortgage, § 27.3

**RELIGION AND RELIGIOUS MATTERS**

- Adjudication
  - Civil rights, § 13.16
  - Property rights, § 13.16
- Deprivation of church membership, § 13.16
- Interpreting deed of trust, § 13.16
- Judicial intervention determined by issues, § 13.16
- Judicial restraint exercised, § 13.16
- Trusts, § 13.16

**REMEDIES**

- Extraordinary remedies, § 3.13
- Remedies at law. Adequate Remedy at Law, this index

**REMOVAL OF ACTIONS**

- Probate court, § 3.10

**REPLEVIN**

- Complaint, § 22.3
- Engagement ring, right to recovery, § 22.3
- Equitable, § 22.3
  - Jurisdiction, § 22.3
  - Personal property, § 22.3
  - Statute, § 22.3
- Need for security when temporary restraining order or preliminary injunction is sought as incident or action for, § 8.25, 22.3

**REQUESTS**

- Admissions, requests for, § 9.5
- Demand or Request, this index

**RES**

- In rem proceedings, § 6.6
- Localized, § 5.4
- Nonresident, sufficient to confer jurisdiction over real estate, § 5.4
- Requirements, § 5.4
- Seizure of Res, this index

## INDEX

### **RES—Cont'd**

- Situs of Res, this index
- Sufficiency to provide jurisdiction, § 5.5

### **RES JUDICATA**

- Action based on judgment of foreign jurisdiction, § 4.8
- Foreign jurisdiction, effect of judgment, § 4.5
- Judgment, effect of in equity, § 4.1
  - In foreign jurisdiction, § 4.5
  - Quasi in rem, § 4.3
- Nonresident, effect of judgment quasi in rem, § 4.3
- Pleading in bar, § 4.8
- Principles discussed, § 4.5
- Recognition given to judgment, § 4.8

### **RESCISSION**

- Action for, § 25.3
- Equitable conditions, § 25.3
- Fraud, innocent misrepresentation, basis, § 25.3
- Relief decreed, collateral to action, § 25.3
- Restoration of property, § 25.3

### **RESIDENCE**

- Domicile or Residence, this index

### **RESIDENTS OR NONRESIDENTS**

- Appearing waives service of process, § 4.3
- Application of property to satisfaction of debt, § 5.3
- Appointment of trustee, § 5.3
- Arrest on mesne process, § 4.3, 4.4
- Attachment of property not required in equity, § 5.6
- Beneficiary of trust bound by judgment, § 4.3
- Commencement of action, attachment not required, § 4.2
- Counterclaims
  - Effect of filing, § 4.14
  - Not waiving point of jurisdiction, § 4.14
  - Waives point of jurisdiction, § 4.14
- Creditor's action, § 4.3
- Declaratory proceedings, absence of jurisdiction, § 5.3
- Effect of judgment quasi in rem, § 4.3
- Enjoined from prosecuting domestic action, § 4.9
- Executor and administrator, foreign, § 5.3
- Immunity from service of process, § 4.3
- Implied jurisdiction to proceed quasi in rem, § 5.3
- Judgment void in absence of jurisdiction, § 5.3
- Jurisdiction, § 3.3
  - Absence of proper service, § 3.3
  - Conferred by filing counterclaim, § 4.14
  - Consent, § 4.14
  - Domestic property, § 3.1

**RESIDENTS OR NONRESIDENTS—Cont'd**

- Jurisdiction, § 3.3—Cont'd
  - General principles stated, § 4.4, 5.3
  - Not subject to jurisdiction, absence of proper service, § 3.3, 4.3
  - Principles defined, § 4.3
  - Quasi in rem, § 4.3
  - Submission, § 4.3
  - Temporarily within state, § 4.3
  - Want of jurisdiction, § 3.1, 3.3
- Jurisdiction quasi in rem, § 4.3, 5.3
  - Actions to reach and apply trust, § 5.3
  - Attachment of property not required, § 5.6
  - Process, § 5.6
  - Reaching and applying debt, § 5.5
  - Requirements of notice, § 5.6
  - Seizure of the res, § 5.6
- Notice of pendency of action, § 5.6
- Principles of jurisdiction, § 4.4, 5.3
- Process served on attorney, § 4.4
- Property subject to be attached, § 4.3, 5.3
- Quasi in rem proceedings, § 5.3
- Reach and apply proceeding, § 4.3
- Real property, equitable lien established, § 5.3
- Requirements of notice, § 5.6
- Res, sufficient to confer jurisdiction, § 5.4
- Rules of court as to substitute service of process
  - Attorney, § 4.3, 4.4
  - Secured by fraud, § 4.3
- Situs of property, § 5.5
- Specific performance, § 4.1
  - Real property, conveyance decreed, § 5.3
- Statutory requirements as to attachment not effective, § 5.5
- Submission to the jurisdiction, § 4.3, 5.3
- Temporarily within jurisdiction, subject to service, § 4.3
- Want of jurisdiction, § 4.3
- Witness, immune from service of process, § 4.3

**RESPONSIVE PLEADINGS**

- Generally, § 4.15, 8.3
- Affirmative defenses, § 11.1
- Anomalous pleadings, § 4.15
- Commencement of action for equitable relief, § 8.3
- De minimis non curat lex, § 4.15
- Forum non conveniens, § 4.15
- Internal affairs of foreign corporation, § 4.15
- Pleadings as waiver, § 4.15
- Triviality of claim, § 4.15
- Waiver, § 4.15

## INDEX

### **RESPONSIVE PLEADINGS—Cont'd**

Want of jurisdiction, § 4.15

### **RESTITUTION**

Generally, § 25.4

### **RETENTION OF JURISDICTION**

Claim for damages, § 4.18

Court first obtaining, § 3.9

Former problems, § 4.18

Principles, § 4.18

Probate court, retention by court first obtaining, § 3.10

Rules of civil procedure, § 4.18

### **RULES OF APPELLATE PROCEDURE**

Generally, § 8.23

### **RULES OF CIVIL PROCEDURE**

Accounts and accounting, § 19.1

Counterclaims, § 19.3

Adequate remedy at law, § 4.18

Attachment, this index

Civil Actions, this index

Commencement of action, § 8.3

Complaint and answer, § 8.3

Creditors' actions, § 24.2

Cross-claims, § 2.4

Declaratory judgment, § 18.1

Defenses, § 8.3

Demand for relief, § 1.3

Depositions, § 8.3

Discovery, § 8.3

Equitable defenses, § 11.1

Exoneration, § 20.4

Fraudulent conveyances, joinder of remedies, § 23.3

Grounds for new trial, § 8.16

Indemnification, § 20.3

Injunctions, § 4.11

Interrogatories, § 8.3

Judgment based upon multiple claims, § 19.4

Judgment for specific act, § 5.3

Vesting title, § 5.3

Judgment involving multiple parties, § 19.4

Jury trials, § 4.18

Masters, § 8.14

Appointment and compensation, § 8.14

Powers, § 8.14

Proceedings, § 8.14

Meetings, § 8.14

Statement of accounts, § 8.14

**RULES OF CIVIL PROCEDURE—Cont'd**

- Masters, § 8.14—Cont'd
  - Proceedings, § 8.14—Cont'd
    - Witnesses, § 8.14
  - Reference by agreement, § 8.14
  - Report, § 8.14
    - Contents, § 8.14
    - Draft report, § 8.14
    - Filing, § 8.14
    - Jury actions, § 8.14
    - Non-jury actions, § 8.14
    - Stipulations as to findings, § 8.14
- Merger of law and equity, § 2.1
  - Effect in general, § 2.2
  - Transitional rule, § 2.1
- Mortgages, actions to foreclose, § 27.4
- Motion to dismiss, § 8.3
  - Failure to state a claim upon which relief can be granted, § 8.3
- New trial, § 8.16
- Pleadings, this index
- Pre-trial procedure, § 2.4
  - Formulating issues, § 2.4
- Receivers, § 12.2
- Relief from judgment or order, § 4.11
- Remedies, § 3.8
  - Extraordinary remedies, § 3.13
- Setoff and counterclaim, § 2.4
- Specific performance, § 17.4
- Summons, § 2.4
- Trial by jury, § 8.16
- Trusts and Trustees, this index

**RULES OF COURT**

- Land court, following rules of superior court, § 3.11

**RULINGS OF LAW**

- Requests for, § 8.17

**SALES**

- Bulk Sales, this index
- Vendor and Purchaser, this index

**SANCTIONS**

- Discovery, § 9.6

**SEALED INSTRUMENTS**

- Imports consideration, § 17.2

**SEIZURE OF RES**

- Generally, § 5.5, 5.6, 6.6
- During pendency of action, § 5.5, 5.6

## INDEX

### **SEIZURE OF RES—Cont'd**

- Forfeiture, this index
- Injunction equivalent, § 5.5
- Notice, § 5.6
  - Claimant, § 5.6
  - Owner, § 5.6
- Pending action, § 5.5
- Real property, § 6.6
- Requirements, § 6.6
  - Quasi in rem proceedings, § 5.6
- Service of process on nonresidents, § 5.6
  - Subpoena equivalent, § 5.6

### **SEQUESTRATION**

- Chose in action, § 4.5

### **SERVICE OF PROCESS AND PAPERS**

- Process and Service of Process and Papers, this index

### **SETOFF AND COUNTERCLAIM**

- Accounting, none required, § 19.3
- Affirmative relief, § 2.4
- Answer by plaintiff, § 2.4
- Copy to be furnished to plaintiff, § 2.4
- Declaratory proceedings, § 18.6
  - Jury issues, § 18.6
- Determination required, § 2.4
- Distinct cause from that asserted in action, § 2.4
- Equitable defenses, § 8.11, 11.3
- Equitable jurisdiction, § 4.9
- Equitable principles discussed, § 4.9
- Form, § 2.4
- Independent cause of actions, § 2.4
- Joinder of claims and remedies, § 4.18
- Mortgages, foreclosure, § 27.4
  - Unnecessary, may be expunged, § 27.3
- Permissive, § 2.4
- Reformation of instruments, § 25.1
- Required to be filed where subject matter arises out of cause stated in action, § 2.4
- Rules of civil procedure, § 2.4
  - Against Commonwealth, § 2.4
  - Compulsory, § 2.4
  - Joinder of parties, § 2.4
  - Maturing after pleading, § 2.4
  - Omitted, § 2.4
  - Permissive, § 2.4
  - Separate trials, § 2.4
- Transaction defined, § 2.4

**SETTLEMENT**

Compromise and Settlement, this index

**SEXUAL HARASSMENT**

Generally, § 13.7, 13.9

**SITUS OF RES**

Chattels, § 5.5

Determined by law of jurisdiction, § 4.1

Jurisdiction over, § 5.5

Property, § 5.5

Tangibles, § 5.5

**SOLDIERS' AND SAILORS' CIVIL RELIEF ACTS**

Mortgages, § 27.4

Foreclosure, § 27.4

Foreclosure without leave of court, specific performance against agreed buyer,  
§ 17.3

Title to real property, removing cloud based on foreclosing mortgage without  
first obtaining leave of court, § 27.2

**SOVEREIGN OR STATE JURISDICTION**

Persons subject to jurisdiction, § 4.4

Power over persons, § 4.4

**SPECIAL MASTER**

Authorized to execute conveyances, § 6.5

Conveyances by, § 6.5

Masters, this index

Quasi in rem proceedings, § 5.3

**SPECIFIC PERFORMANCE**

Generally, § 17.1-17:6

Action for, § 17.1

Final judgment, § 21.5

Findings of fact, § 21.5

Time, bringing civil action, § 17.2

Amendment to law, § 6.3

Chattels

Principles defined, § 17.2

Statutory jurisdiction, § 17.2

Complaints, this index

Consumer protection, § 17.2

Contracts

Personal property, contract for sale, § 1.3

Shares of stock, § 1.3

Real property, § 1.3

Defect, excusing performance, § 17.2

Form, contract to convey land, § 2.4

Mutuality, § 17.2

## INDEX

### **SPECIFIC PERFORMANCE—Cont'd**

Conveyance to third party

Not a bona fide purchaser, relief decreed, § 17.2

Plaintiff entitled to relief prior to time provided for performance, § 17.2

Corporations, dividends, compelling declaration, § 16.4

Covenant not to compete in business, relief denied, no evidence of damage,  
§ 21.5

Damages

Alternative relief, § 17.2

Equivalent of performance, relief denied, § 17.4

Assessment, discretion, § 17.4

Jury trial, statutory, § 17.4

Retention of action to assess, § 17.2

Right to recover not affected by equitable remedy, § 1.3

Discretion, not a matter of strict right, § 3.6

Distinctly a proceeding in personam, § 6.3

Dividends, compelling corporations to declare, § 16.4

Dower, wife's right to barred, where husband was under legal obligation to  
reconvey property, § 17.2

Easements, § 17.2

Employment contracts, § 21.5

Restriction against competition, § 21.5

Restrictions enforced, § 21.5

Enforcement where property conveyed to third person, § 17.2

Equitable conversion, § 17.1

Estoppel of buyers, § 17.2

Federal tax lien, § 17.2

Final judgment retention of jurisdiction, § 17.4

Form of pleadings, § 17.1

Fraudulent registration of title, § 17.2

General observations, § 17.1

Good title, § 17.2

In personam proceeding, § 4.1, 6.3

Injunctions against alienation of property, § 17.2

Judgment in personam, § 6.3

Jury trial, § 17.4

Land court, jurisdiction, § 3.11

Lease

Agreement to give, discretion to refuse relief, § 17.2

Covenants enforced, § 17.2

Mortgages, foreclosure

Action to obtain deed from mortgagor, § 17.3

Foreclosure without judgment of court, contract to sell enforced, § 17.3

Option to purchase real estate, enforcement, § 17.2

Oral agreement to extend time, § 17.2

Partial performance, § 17.2

Parties, necessary, § 17.2

Personal property, § 17.4

**SPECIFIC PERFORMANCE—Cont'd**

- Personal service contracts, § 1.3, 21.7
- Personality, § 1.3
- Pleading, requirements of action, § 17.2
- Probate courts, § 3.10
- Proceeding in personam, § 6.3
- Retention of jurisdiction in final action to adjust rights of parties, § 17.4
- Rules of civil procedure, § 17.4
- Seal as sufficient consideration, § 17.2
- Shares of stock, § 1.3
  - Compelling surrender to corporation, § 17.4
- Statutory jurisdiction, chattels, § 17.4
- Tender of purchase price, when excused, § 17.2
- Third party, judgment against, § 17.2
- Time of the essence, § 17.2
- Trust raised against nonresident, § 4.1
- When it may be refused, § 17.2

**SPLITTING CAUSE OF ACTION**

- Merger, § 4.9

**SPOUSES**

- Husband and Wife, this index

**STAKEHOLDER**

- Actions by, § 19.4
- Interpleader, this index

**STATUTE OF FRAUDS**

- Answer raising, § 11.7
- Equitable defenses, § 11.7
- Estoppel, § 11.7
- Not applicable to resulting trust, § 11.7
- Reformation, bar, § 25.1
- Resulting trust, not applicable, § 11.7
- Trust in land, § 22.1
- Vendors, § 11.7

**STATUTE OF LIMITATIONS**

- Answer, § 11.8
- Civil actions seeking equitable relief available as a defense, § 11.8
- Equitable defense, § 11.8
- Equitable tolling, § 11.9

**STATUTE OF REPOSE**

- Equitable defenses, § 11.10

**STATUTES**

- Consumer reports, statutes governing, § 28.10
- Equitable relief, statutory actions for
  - Cloud on title, actions to remove, § 27.2

## INDEX

### STATUTES—Cont'd

Equitable relief, statutory actions for—Cont'd

Corporations

Liability of officers and directors, § 16.5

Creditors' rights, § 16.5

Discontinuance of action, § 16.5

Jurisdiction, § 16.5

Procedure, § 16.5

Statutory provisions, § 16.5

Stockholders, liability, § 16.5

Creditor's actions, § 24.2

Debt, § 24.2

Jury trial, § 24.2

Property, right, title or interest, § 24.4

Not subject to be reached, § 24.6

Subject to be reached, § 24.5

Property subject to be reached, trust res, § 24.5

Quasi in rem, § 24.2

Reach and apply process, § 24.2

Declaratory relief, § 18.6

Administrative agencies, § 18.7

Alternative remedy, § 18.7

Appeal, § 18.7

Constitutionality of law, etc., § 18.5

Notice to attorney general, § 18.4

Controversy required, § 18.5

Costs, § 18.6

Counterclaim, § 18.6

Determination of status, etc., § 18.6

Discretion, § 18.5

Further relief, § 18.6

Grounds, § 18.5

Joinder of parties, § 18.4

Jurisdiction, § 18.1

Jury trial, § 18.2

Parties, § 18.4

Pleadings, § 18.4

Procedure, § 18.4

Relief to respondent, § 18.6

Statutes, § 18.1

Subjects for relief, § 18.6

Supplemental relief, § 18.6

Trust, foreign, jurisdiction, § 18.6

Foreclosure of mortgages, § 27.4

Soldiers and Sailors Civil Relief Act, § 27.4

Counterclaim, § 27.4

Jurisdiction, § 27.4

Notice, § 27.4

**STATUTES—Cont'd**

- Equitable relief, statutory actions for—Cont'd
  - Foreclosure of mortgages, § 27.4—Cont'd
    - Soldiers and Sailors Civil Relief Act, § 27.4—Cont'd
      - Parties, § 27.4
      - Procedure, § 27.4
      - Recording in registry of deed, § 27.4
      - Statute, § 27.4
      - Venue, § 27.4
    - United States of America, lien, § 27.4
    - Service of process, requirements, § 27.4
    - Venue of suit, § 27.4
  - Fraudulent conveyance, § 23.2
  - Insurance, § 24.7
    - Liability policy, § 24.7
    - Motor vehicle policy, § 24.7
    - Reaching and applying, § 24.7
  - Interpleader, in the nature, § 19.4
  - Land court, § 24.2
  - Probate courts, § 24.2
  - Property conveyed in fraud, § 23.2
    - Creditor, § 23.2
    - Debt, § 24.3
    - Grantee necessary party, § 23.2
    - Jurisdiction, § 23.2
    - Statement of cause of action, § 23.2
  - Reach and apply actions, § 24.2
    - Creditor's actions, § 24.2
    - Debt as basis of jurisdiction, § 24.2
    - Equitable trustee process, § 24.2
    - Injunction, § 24.2
    - Jurisdiction, § 24.2
    - Law remedy inadequate, § 24.2
    - Lien acquired by injunction, § 24.2
    - Remedy at law inadequate, § 24.2
    - Statutes, § 24.2
  - Removing cloud on title to real estate, § 27.2
  - Replevin, § 22.3
  - Sale of merchandise in bulk, § 23.4
    - Creditors, § 23.4
    - Fraudulent, § 23.4
    - Jurisdiction, § 23.4
    - Relief decreed, § 23.4
    - Vendee, § 23.4
  - Shares of stock, reaching and applying, § 16.3
  - Superior court, § 24.2
  - Supreme judicial court, § 24.2

## INDEX

### **STATUTES—Cont'd**

- Equitable relief, statutory actions for—Cont'd
  - Uniform Fraudulent Conveyance Law, § 23.3
    - Actions in equity, § 23.3
    - Conveyances, § 23.3
    - Creditors, § 23.3
    - Fraud, § 23.3
    - Procedure, § 23.3
- Fraudulent conveyance, jurisdiction of land court, § 3.11
- Transfer of causes from supreme judicial court to inferior courts, § 3.8

### **STENOGRAPHERS**

- Appointment
  - By master, § 8.14
  - By statute, § 8.14

### **STIPULATIONS**

- Cannot confer jurisdiction over subject matter of action, § 4.15
- Evidence during trial, § 8.15

### **STOCK AND STOCKHOLDERS**

- Accounting, want of fiduciary relationship, § 19.2
- Actions by, § 16.4
  - Close corporation, § 16.4
  - Exhausting remedy within corporations, § 16.4
  - Intervention by stockholders, § 16.4
  - Joining corporation, § 16.4
  - Jurisdiction, § 16.4
- Books and records of corporation
  - Examination, § 16.4
- Contract to sell enforced, § 1.3
- Creditors' Actions, this index
- Distribution of assets, § 12.2
- Dividends, action to compel declaration, § 16.4
  - Improper, liability to repay, § 16.5
- Examination of books, § 16.4
- Jurisdiction quasi in rem, § 5.4
- Liability, § 16.5
- Nonresident's interest affected by judgment, § 4.1
- Power of court to render effective judgment, § 4.1
- Reached in equity, § 16.3
  - Probate court, § 3.10
- Reaching and applying shares in satisfaction of debt, § 16.3
  - Lien established by injunction, § 16.3
- Restriction against alienation, § 1.3
- Shares of stock
  - Compelling surrender to corporation, § 17.4
  - Restriction against alienation, § 17.4
  - Subject to the control of the court, § 4.1

**STOCK AND STOCKHOLDERS—Cont'd**

Specific performance of contract to sell, § 1.3

Statutory liability, § 16.5

**SUBCONTRACTORS**

Measure of damages for contractor's breach, § 15.2

Rights, § 15.2

Substantial performance, § 15.2

**SUBMISSION TO JURISDICTION**

Nonresident, § 4.3

Principle defined, § 4.3

**SUBPOENAS**

Service, equivalent to seizure of res, § 5.6

**SUBROGATION**

Nature, § 20.5

**SUBSTANTIALITY**

As standard of proof in reviewing decisions of administrative bodies, substantial evidence, § 14.2

**SUMMARIES**

Masters, summaries of evidence, § 8.14

**SUMMARY JUDGMENT**

Generally, § 8.10

Foreign courts, § 3.9

**SUMMARY PROCESS**

Housing Court, § 2.7

**SUMMONS**

Rules of civil procedure

Amendment, § 2.4

Form, § 2.4

Issuance, § 2.4

Return, § 2.4

**SUPERIOR COURTS**

Equitable jurisdiction, § 3.9

Equity jurisdiction conferred, § 3.9

Defined, § 3.6

Jurisdiction, § 3.9

Boundaries, § 3.9

Concurrent jurisdiction with probate court, court first obtaining retains, § 3.9

Declaratory judgments, § 3.9

Easement, § 3.9

Exclusive jurisdiction, when suit first filed therein, § 3.9

Original and concurrent with supreme judicial court, § 3.8

Tax title, § 3.9

Title to land, § 3.9

## INDEX

### **SUPERIOR COURTS—Cont'd**

- Liens, private building contracts, enforcement of, in the event of bankruptcy, assignment for benefit of creditors, etc., § 3.9
- Merger of law and equity, § 2.4
- Method of review where no exception or appeal, § 3.9
- Real property, registered land, jurisdiction to entertain action, § 3.9
- Transfer of proceedings to or from supreme judicial court, § 3.8
- Workmen's compensation, § 3.9

### **SUPPLEMENTARY PROCEEDINGS**

- Equitable jurisdiction to reach property, notwithstanding, § 4.18

### **SUPREME COURT**

- Concurrent jurisdiction, § 3.8
- Equity jurisdiction, § 3.6, 3.8
  - Full equity jurisdiction conferred, § 3.8
- Merger of law and equity, § 2.3
- Transfer of causes of action, § 3.8
- Transfer of proceedings from inferior courts, § 3.8

### **SUSPENSION OR REVOCATION**

- Revocable trusts, § 22.1

### **TANGIBLE PROPERTY**

- Situs, § 5.5

### **TAXES AND TAXATION**

- Declaratory proceedings, § 3.9
  - Determining validity of assessment, § 18.7
  - Jurisdiction
    - Limitation, § 18.5
    - Review of assessments, § 18.7
  - Seeking declaration that tax taking is invalid, § 3.9
  - Taxpayers, limitation on right to invoke declaratory proceedings, § 18.5

### **TEMPORARY RESTRAINING ORDERS**

- Appellate review, § 8.27
- Criteria for issuance, § 8.26
- Need for security in issuance of, in connection with action for replevin, § 8.25, 22.3
- Scope, § 8.25

### **TENDER**

- Specific performance of contracts, § 17.2

### **TERMINATION**

- Judgment required, § 4.1

### **THIRD PARTIES**

- Rules of civil procedure, § 2.4
  - When defendant may bring, § 2.4
  - When plaintiff may bring, § 2.4

**TITLE AND OWNERSHIP**

- Cloud on Title, this index
- Divesting of title to real property or an interest therein, § 4.1
- Quieting Title, this index
- Real Estate, this index

**TORTS**

- Civil conspiracy, § 13.4
- Intentional infliction of severe emotional distress, § 13.4
- Interference with advantageous relationship, § 13.4
- Interference with contractual relationship, § 13.3

**TRADE SECRETS**

- Defined, § 21.4
- Employment contracts, § 21.4
- Injunction, § 21.4
- List of customers of laundry, § 21.4
- Memory, § 21.4
- Patent laws, § 21.4
- Pleadings, § 21.4
- Restrictive covenants, § 21.4

**TRADEMARKS AND TRADE NAMES**

- Generally, § 21.1
- Deception of public, § 21.2
- Geographic, family names, § 21.2
- Intent to mislead not necessary, § 21.2
- Secondary meaning, § 21.2
- Unfair competition, § 21.2

**TREBLE DAMAGES**

- Recoverable under Consumer Protection Act, § 28.8

**TREES**

- Trespass, overhanging branches and roots, § 26.8

**TRESPASS AND TRESPASSERS**

- Generally, § 26.1 et seq.
- Actions to enjoin, § 26.8
- Aircraft, § 26.8
- Blasting, § 26.8
- Boughs of trees, § 26.8
- Damages, principles, § 26.8
- Encroachments, structures, removal, § 26.8
- Joint tenants, damages, § 26.8
- Jury claim in re damages, § 26.8
- Overhanging branches, § 26.8
- Real property, action to enjoin, general principles discussed, § 26.8
- Roots of trees, § 26.8
- Tenants in common, damages, § 26.8

## INDEX

### TRIALS

- Generally, § 8.15
- Admissions in pleadings, § 8.15
- Affidavits, § 8.15
- Agreed statement of facts, § 8.15
  - Contains all the ultimate facts, § 8.15
  - Defective, § 8.15
  - Inferences permissible, § 8.15
  - Practice, § 8.15
  - Rulings of law, § 8.15
- Agreement as to evidence, § 8.15
- Amendment after hearing, § 8.15
- Appeal as to points of evidence, § 8.15
- Appellate court, may find error in finding of fact, § 8.15
- Case stated, § 8.15
- Counterclaim, § 2.4
- Court, trial before a justice, § 8.15
- Designation of person to report testimony, § 8.15
- Evidence, § 8.15
  - How reported, § 8.15
  - Not part of record on appeal, § 8.15
  - Reporting testimony, § 8.15
  - Scope of evidence limited by pleadings, § 8.15
  - Statement of evidence, § 8.15
  - Stipulation as to evidence, § 8.15
- Exceptions
  - No longer necessary, § 8.15
  - Saving, not necessary, § 8.15
- Facts, request for findings not necessary, § 8.15
- Findings and order for judgment
  - Amendment, § 8.16
  - Vacation, § 8.16
- Findings of fact
  - Inferences as to the material facts, § 8.15
- Heard in any county, § 8.15
- Hearing, § 8.15
- Inferences to be drawn from agreed facts, § 8.15
- Jury
  - Generally, § 8.16
  - Appeal from denial of jury issues, § 8.16
  - Application subject to discretion of court, § 8.16
  - Cases and matters cognizable in equity, § 8.16
  - Claim
    - As of discretion, § 8.16
    - As of right, § 8.16
  - Common law action tried in equity, § 8.16
  - Conclusiveness of verdict, § 8.16
  - Constitutional right, § 8.16

**TRIALS—Cont'd**

Jury—Cont'd

- Declaratory proceedings, § 18.2
- Defendant's right to claim, § 8.16
  - Amendment from action at law, § 8.16
- Denial of application to frame issues, § 8.16
- Denial of jury issues, § 8.16
- Discharge of issues, § 8.16
- Discretion of court to grant, § 8.16
- Examination of jurors, § 8.16
- Exceptions during course of trial, § 8.16
- Extension of time for claiming, § 8.16
- Finality of verdict, § 8.16
- Form of issues, § 8.16
- Framing of issues, § 8.16
- Issues submitted, § 8.16
  - Issues tried in like manner as civil action, § 8.16
  - Requests for rulings of law, § 8.16
- Manner of claiming, § 8.16
- Motion required, § 8.16
- Parties bound by pleadings, § 8.16
- Plaintiff's right, § 8.16
  - Amendment from law to equity, § 8.16
- Pleadings govern framing of issues, § 8.16
- Preserved by constitution, § 8.16
- Probate courts, discretion, § 8.16
- Procedure, § 8.16
- Prosecution of exceptions, § 8.16
- Requirements as to claiming, § 8.16
- Right to, § 8.16
- Rules of civil procedure, § 8.16
- Rules of court, § 8.16
- Specific performance, § 8.16
  - Statutory right, § 17.4
- Statutory provisions, § 8.16
- Time for claiming, § 8.16
- Verdict of jury conclusive, § 8.16
- Waiver
  - Action in equity, § 8.15
  - Defendant, § 8.15
  - Failure to claim, § 8.15
  - Plaintiff, § 8.15
    - Action in equity, § 8.15
    - Failure to claim, § 8.15
- Limited by pleadings, § 8.15
- Manner, § 8.15
- Masters' report, additional evidence, § 8.14

## INDEX

### **TRIALS—Cont'd**

- New trial, § 8.16
  - Grounds for new trial, rules of civil procedure, § 8.16
  - Motion for new trial, § 8.16
- Place, § 8.15
- Pre-trial procedure
  - Rules of civil procedure, § 2.4
- Principles, § 8.15
- Rehearing, § 8.23
- Report of evidence on appeal, § 8.15
- Reporting testimony, § 8.15
- Requests for findings of fact, not necessary, § 8.15
- Rulings of law, § 8.15
- Vacation of findings, § 8.16
- Without jury, § 8.15

### **TRIVIAL MATTERS**

- Declination to grant relief, triviality of claim, § 4.15
- Jurisdiction declined, triviality of claim, § 3.6

### **TRUSTS AND TRUSTEES**

- Absent trustee, sale of trust property, § 4.1
- Accounting, distribution of res, § 19.3
- Actions to establish, § 22.1
- Administrator, action to establish, § 3.10
- Appointment of trustee, § 5.3
  - Courts, jurisdiction to appoint, § 22.1
  - Succeeding, § 22.1
  - When required, § 22.1
  - Where trust declared, § 22.1
- Assignment for benefit of creditors, § 17.6
- Attorney general's interest
  - Charitable trusts, § 22.2
  - Park land, § 22.2
- Beneficiary's rights determined by law of situs of trust, § 4.1
- Complaints, this index
- Constructive, § 22.1
  - To prevent fraud or unjust enrichment, principles restated, § 22.1
- Courts, trustee, jurisdiction to appoint trustee, § 22.1
- Creditors' action to set aside, § 24.2, 24.5
- Cy pres, § 22.1
- Declaratory proceedings, want of jurisdiction in absence of trustee, foreign trust, § 5.3
- Establishment, actions for, § 22.1
- Executor and administrator, foreign, § 5.3
- Express, personal property, § 22.1
- Express trust
  - Principles, § 22.1
- Expressed, § 22.1

**TRUSTS AND TRUSTEES—Cont'd**

- Foreign executor, action against, § 22.1
- Foreign land, § 4.12
- Foreign trust, absence of jurisdiction, § 5.3
- Husband and wife, § 20.7
  - Principles restated, § 22.1
  - Principles stated, § 20.7, 22.1
- Implied, § 22.1
- In rem proceedings, § 6.5
- Insane person as trustee, sale of trust res, § 4.1
- Jurisdiction, earlier, § 3.6
  - Quasi in rem, § 4.1, 5.1
- Minor as trustee, sale of trust res, § 4.1
- National bank, action to reach and apply trust, § 5.3
- Nonresidents
  - Absence of jurisdiction, § 5.3
  - Action to reach and apply, § 5.3
  - Ancillary executor, § 22.1
  - Equitable lien by way or trust established in real estate, § 5.3
  - Foreign, absence of jurisdiction, § 5.3
  - Implied in real estate, § 5.3
- Personal property, principles, restated, § 22.1
- Power to enter judgment quasi in rem, § 3.4
- Presumption of gift, § 22.1
- Probate court, jurisdiction
  - Establish trust, personal property, § 3.10
- Purchase of property without notice, § 22.1
- Quasi in rem jurisdiction, foreign executor, § 22.1
- Quasi in rem proceedings, § 5.3
- Religious disputes, § 13.16
  - Deed of trust, § 13.16
- Resulting trusts, § 22.1
  - Consideration advanced, § 22.1
  - Essentials, § 22.1
  - Foreign land, § 4.1
  - Principles, § 22.1
  - Probate courts, jurisdiction to establish resulting trusts, § 22.1
  - Sale or transfer, § 6.5
- Revocable, § 22.1
- Settlor, powers, § 24.5
- Specific performance decreed against nonresident, § 4.1
- Statute of frauds, § 11.7
- Trustees
  - Process
    - Creditors' actions seeking equitable relief
    - Equitable process, § 24.2, 24.5
    - Parties, equitable trustees, § 24.2

## INDEX

### **TRUSTS AND TRUSTEES—Cont'd**

#### Trustees—Cont'd

##### Process—Cont'd

##### Rules of civil procedure, § 8.3

##### Answer by trustee, § 2.4

##### Availability, § 2.4

##### Counterclaim, § 2.4

##### Cross-claim, § 2.4

##### Dissolution of ex parte trustee process, § 2.4

##### Ex parte hearings, § 2.4

##### Form of hearing, § 2.4

##### Modification of ex parte trustee process, § 2.4

##### Motion for court's approval, § 2.4

##### Affidavit in support, § 2.4

##### Service, § 2.4

##### Subsequent process, § 2.4

##### Summons, § 2.4

##### Third-party complaint, § 2.4

##### Unjust enrichment, § 22.1

##### Venue of suits in probate courts, § 3.10

##### Voluntary, § 22.1

### **UNCLEAN HANDS**

##### Denial of equitable relief, due to, § 11.5

### **UNFAIR COMPETITION**

##### Action to enjoin, § 21.2

##### Assuming a like name, § 21.2

##### Trade mark, infringement, § 21.2

### **UNFAIR OR DECEPTIVE ACTS OR PRACTICES**

##### Under Consumer Protection Act, § 28.6, 28.8

### **UNIFORM COMMERCIAL CODE (UCC)**

##### Equity jurisdiction, affected by, § 3.8

### **UNIFORM FRAUDULENT CONVEYANCE LAW**

##### Generally, § 23.3

##### Ancillary to pending action, § 23.3

##### Conveyance of property, § 23.3

##### Creditor, § 23.3

##### Defined, § 23.3

##### Fraud, § 23.3

##### Consideration, § 23.3

##### Fact, § 23.3

##### Impairment of capital, § 23.3

##### Insolvency, § 23.3

##### Intent, § 23.3

##### Actual, § 23.3

##### Implied, § 23.3

**UNIFORM FRAUDULENT CONVEYANCE LAW—Cont'd**

- Fraud, § 23.3—Cont'd
  - Law, § 23.3
- Intent to defraud, § 23.3
- Jurisdiction, § 23.3
- Qualifications, § 25.3
- Receivers, § 23.3
- Relief decreed, § 23.3
- Statutes, § 23.3
- Type of action, § 23.3

**UNJUST ENRICHMENT**

- Trust imposed, § 22.1

**VEHICLES**

- Motor Vehicles, this index

**VENDOR AND PURCHASER**

- Action for specific performance, § 17.2
- Implied trust raised in favor against nonresident, § 4.1
- Specific performance of land contract, § 1.3
- Statute of frauds, § 11.7

**VENUE**

- Liens, public works, civil actions to obtain benefit of security retained, § 15.1
- Mortgages
  - Action to redeem, § 27.3
  - Foreclosure, § 27.4
  - Redemption, § 27.4
- Trusts, probate and family courts, § 3.10

**VERDICTS**

- Equitable relief, attachment after, § 8.22

**VOLUNTARY OR INVOLUNTARY MATTERS**

- Associations, voluntary
  - Nonresident, subject to action quasi in rem, § 5.3
  - Parties, unincorporated associations, quasi in rem actions, § 5.3
  - Quasi in rem jurisdiction, § 5.3
- Principles, voluntary trust, § 22.1

**WAIVER AND ESTOPPEL**

- Adequate remedy at law, no longer bar to equitable relief, § 4.18
- Affirmative defense, § 11.13
- Collateral estoppel, § 11.17
- Failure to plead defense, waiver of right to insist on, § 11.13
- Judgment, estoppel by, § 11.15
- Judicial estoppel, § 11.16
- Specific performance, estoppel of buyers, § 17.2
- Statute of frauds, § 11.7

## INDEX

### WASTE

- Generally, § 26.1 et seq.
- Complaints, § 26.3
- Damages, § 26.3
- Defined, § 26.2
- Life tenants, § 26.2
- Permissive waste, § 26.2
- Statutes, § 26.2
- Tenant at will, § 26.2
- Tenant for years, § 26.2
- Voluntary waste, § 26.2

### WATER RIGHTS

- Generally, § 27.6

### WITNESSES

- Immunity from service of process, § 4.3
- Record on appeal, trial on merits, requirements as to inclusion, § 8.15
- Writ of protection, § 4.4

### WORKERS' COMPENSATION

- Jurisdiction, § 3.9

### WRIT OF PROTECTION

- Principles defined, § 4.4

### WRITING OR WRITTEN INSTRUMENTS

- Cancellation, § 25.2

### WRITS

- Certiorari, writ
  - Quasi judicial action, § 4.10
  - Review of court action, § 3.9
- Mandamus, writ
  - Abolished by rules of civil procedure, § 16.4
- Prohibition, writ
  - Abolished by rules of civil procedure, § 4.13

### ZONING AND PLANNING

- Actions for declaratory judgment, § 18.6
- Appeals, § 26.6
  - Hardship, § 26.6
- Jurisdiction
  - Land court, § 3.11
  - Superior court, § 3.9
- Violation as constituting private nuisance, § 26.6