

Table of Contents

Volume 1

CHAPTER 1. CONDUCT OF TRIAL

- § 1:1 The conduct of trial, generally
- § 1:2 The courtroom
- § 1:3 Technology in the courts
- § 1:4 Power of court to use protective orders to seal court records
- § 1:5 Binding effect of interlocutory order on successor judge
- § 1:6 Excluding the public
- § 1:7 Exclusion of media representatives—Closure
- § 1:8 Testimony on video recording or by telephone
- § 1:9 Defamation privilege for fair reports on judicial proceedings
- § 1:10 Admission or exclusion of party's family
- § 1:11 Persons permitted at counsel table
- § 1:12 In camera proceedings
- § 1:13 Bench conferences during trial
- § 1:14 Taking pictures, broadcasting and televising proceedings
- § 1:15 Midtrial transfer of venue
- § 1:16 Preserving the record
- § 1:17 Court reporters
- § 1:18 Transcribing the testimony
- § 1:19 The bystander's report
- § 1:20 Lost pleadings, exhibits, etc.
- § 1:21 Spoliation of evidence
- § 1:22 Nunc pro tunc orders
- § 1:23 The conduct of the parties
- § 1:24 The presence of the parties
- § 1:25 When a party represents himself
- § 1:26 The right of a prisoner to attend own civil proceedings
- § 1:27 Arrest of judge, attorneys, etc., during trial
- § 1:28 Liability of participants in trial for libel and slander

- § 1:29 The witness's absolute privilege
- § 1:30 Assaulting or harassing the judge, juror, or witness
- § 1:31 Bribery of judge or witness
- § 1:32 Effect of signing false affidavit
- § 1:33 The plain error doctrine in civil cases
- § 1:34 Interlocutory appeals
- § 1:35 The requirement that the pleadings must present a justiciable issue

CHAPTER 2. LAWS APPLIED IN ILLINOIS CIVIL SUITS

I. IN GENERAL

- § 2:1 The laws that govern in civil trials in Illinois Circuit Courts
- § 2:2 Finding law that applies to civil trials in Illinois
- § 2:3 The Circuit Court's subject-matter jurisdiction
- § 2:4 The doctrine of forum non conveniens
- § 2:5 The deference to Illinois Appellate Decisions
- § 2:6 Determining whether to give an earlier decision prospective effect
- § 2:7 Retroactive effect of judicial decisions
- § 2:8 The law of the case
- § 2:9 Stare decisis
- § 2:10 Dictum
- § 2:11 Illinois statutes
- § 2:12 Statutory construction
- § 2:13 The retroactive effect of statutes
- § 2:14 Mootness and the public interest exception thereto

II. PLEADINGS IN ILLINOIS CIRCUIT COURT CASES

- § 2:15 Form of pleadings
- § 2:16 Bills of particulars
- § 2:17 Counterclaims
- § 2:18 Motions with respect to pleadings
- § 2:19 Exhibits with pleadings

CHAPTER 3. SELECTION OF LAWS APPLIED IN CIRCUIT COURTS

- § 3:1 General comments about the conflict of laws

TABLE OF CONTENTS

§ 3:2	Choice-of-law rules
§ 3:3	Relationship of conflict of laws principles to international law
§ 3:4	Characterization of conflicts questions
§ 3:5	Applicable law of conflict of laws; the doctrine of renvoi
§ 3:6	The recognition and enforcement of foreign rights
§ 3:7	The limitations on the recognition of foreign rights
§ 3:8	The vested or acquired rights theory
§ 3:9	The local law theory
§ 3:10	The bases for the recognition of foreign rights
§ 3:11	The comity of nations as a bases for recognition of foreign rights
§ 3:12	Factors that guide or limit the application of the comity doctrine
§ 3:13	Constitutional limitations on the forum of a cause of action
§ 3:14	Conflict-of-laws rules placing constitutional limitations upon forum
§ 3:15	The supremacy of federal laws in the recognition and enforcement of foreign rights
§ 3:16	The forum state's public policy as a guide

CHAPTER 4. ADMINISTRATIVE BODIES, RULES, AND APPEALS

§ 4:1	A brief view of the size, complexity, and importance of Administrative Review
§ 4:2	The definitions used in the Administrative Review article
§ 4:3	The scope of Article III, The Administrative Review article
§ 4:4	The jurisdiction to review final administrative decisions
§ 4:5	The powers of the Circuit Court
§ 4:6	Appeals of a final decision, order, or judgment of the Circuit Court
§ 4:7	Direct review of administrative orders by the appellate court
§ 4:8	Exhausting administrative remedies
§ 4:9	Appeal of an agency's determination
§ 4:10	The powers of an administrative agency
§ 4:11	Adequate notice of administrative hearing

- § 4:12 The timeliness of filing a complaint for administrative review of an agency decision
- § 4:13 The appellate review of an administrative decision
- § 4:14 The use of the Writ of Certiorari to review administrative action
- § 4:15 The construction of administrative decisions
- § 4:16 The court's deference to administrative decisions
- § 4:17 Reversal by the reviewing court if a mistake has been committed
- § 4:18 The reversal by the Appellate Court of findings by an administrative agency
- § 4:19 Authority of Circuit Court to remand case to administrative body to correct its findings
- § 4:20 Illinois State Labor Relations Board
- § 4:21 Illinois Commerce Commission
- § 4:22 Electoral boards
- § 4:23 Workers' Compensation Commission
- § 4:24 Pension benefits of state elected officials
- § 4:25 Labor Relations Board—Department of Labor
- § 4:26 Merit Board
- § 4:27 Department of Human Rights
- § 4:28 Board of Trustees of Police Pension Fund
- § 4:29 Civil Service Commission
- § 4:30 Illinois Department of Employment Security
- § 4:31 Department of Labor—Wage Payment and Collection Act

CHAPTER 5. CLAIMS THAT ARE TIME-BARRED

- § 5:1 The nature of statutes of limitations
- § 5:2 The nature of the defense of a statute of limitations
- § 5:3 Tolling the statute of limitations
- § 5:4 Effect of person's death on statute of limitations
- § 5:5 Revival of a barred cause of action
- § 5:6 Statutes of repose
- § 5:7 Fraudulent concealment as an exception to the statute of limitations
- § 5:8 Equitable estoppel against a statute of limitations defense
- § 5:9 Barring claims against lawyers by statute of limitations and statute of repose

TABLE OF CONTENTS

§ 5:10 Laches

CHAPTER 6. SUBSTITUTION OF JUDGE

- § 6:1 Substitution of judge for involvement of judge
- § 6:2 Substitution of judge as of right
- § 6:3 Substitution of judge for cause
- § 6:4 Substitution of judge in contempt proceedings
- § 6:5 Authority of successor judge

CHAPTER 7. CONDUCT OF JUDGE

I. GENERAL CONDUCT OF THE JUDGE

- § 7:1 General conduct of judge
- § 7:2 Demeanor of judge, generally
- § 7:3 Judge as witness
- § 7:4 Independent investigations by judge
- § 7:5 The recusal of a judge
- § 7:6 Objections to misconduct of judge
- § 7:7 Liability of judge for libel and slander
- § 7:8 Immunity of liability for judges for judicial actions
other than defamation

II. CONTROLLING THE PROCEEDINGS

- § 7:9 Presence of judge
- § 7:10 The power and duty of the judge to preserve
order
- § 7:11 The judge's right and duty to expedite trial
- § 7:12 The right of the judge to control dress of persons
in courtroom
- § 7:13 The right of the judge to control persons near
courtroom
- § 7:14 The judge's right to limit the number of witnesses
- § 7:15 Control of proceedings by pretrial order
- § 7:16 Controlling offensive language
- § 7:17 Judicial control of those speaking and writing
about proceedings
- § 7:18 Court's control of its records

III. THE JUDGE'S COMMENTS IN COURT

- § 7:19 Comments to jury, generally
- § 7:20 Remarks of judge on testimony and rulings

- § 7:21 Remarks on matters of law and common knowledge
- § 7:22 Judge's voice and diction
- § 7:23 Judicial humor

IV. THE JUDGE'S CONDUCT TOWARD OTHERS

- § 7:24 Judge's conduct toward parties
- § 7:25 Judge's conduct toward witnesses
- § 7:26 Judge's conduct toward counsel
- § 7:27 The judge's right to control the number of counsel
- § 7:28 Judge's assistance of counsel
- § 7:29 Pressure on parties to effect settlement
- § 7:30 Ex parte communications about pending matters

V. THE JUDGE'S CONTROL OF EXAMINATION OF WITNESSES

- § 7:31 Judge's control of examination of witnesses
- § 7:32 Judge's right to bar a party from consulting with attorney
- § 7:33 Questioning witnesses by judge
- § 7:34 Exclusion of improper testimony on court's own motion

VI. THE COURT'S OWN WITNESSES

- § 7:35 Court's own witnesses
- § 7:36 Cross-examining and impeaching court's witness

CHAPTER 8. ILLINOIS RULES OF PROFESSIONAL CONDUCT (EFFECTIVE JANUARY 1, 2010)

- § 8:1 Preamble: A lawyer's responsibilities
- § 8:2 Scope

CHAPTER 9. CONDUCT OF ATTORNEY IN TRIAL

I. THE ROLE OF THE ATTORNEY

- § 9:1 Need for counsel to be admitted to practice law

TABLE OF CONTENTS

- § 9:2 Sanctions for representation by nonlawyer
- § 9:3 Ability of counsel to bind client
- § 9:4 The attorney as a witness
- § 9:5 The attorney litigation privilege
- § 9:6 The authority of attorney after death of litigant client
- § 9:7 Disqualification of counsel because of conflict

II. THE GENERAL CONDUCT OF THE ATTORNEY

- § 9:8 General conduct of attorney
- § 9:9 Illinois Rules of Professional Conduct
- § 9:10 The conduct of an attorney before a tribunal
- § 9:11 Fairness of attorney to opposing party and counsel
- § 9:12 The attorney's conduct toward the judge and jury
- § 9:13 The attorney's statements about a pending case
- § 9:14 Checklist: suggested rules of conduct for attorneys
- § 9:15 Withdrawal of attorney
- § 9:16 Duty of attorney to refrain from using or revealing confidence or records of a client
- § 9:17 Duty of attorney to report professional misconduct

III. DISCIPLINING THE ATTORNEY

- § 9:18 Direct contempt by attorney
- § 9:19 Indirect contempt by attorney
- § 9:20 Discipline of attorney for improper conduct
- § 9:21 Checklist: grounds for disciplining attorney
- § 9:22 Actions against attorney for malpractice

CHAPTER 10. MOTIONS BEFORE AND DURING TRIAL

- § 10:1 Motions during trial, generally
- § 10:2 Motion procedure
- § 10:3 Evidence on motions
- § 10:4 Motion in limine
- § 10:5 Voluntary dismissal
- § 10:6 Involuntary dismissal
- § 10:7 Default judgment

- § 10:8 Dismissal for want of prosecution and dismissal for lack of reasonable diligence in obtaining service
- § 10:9 Motions during trial to amend pleadings
- § 10:10 The third-party complaint
- § 10:11 Motion to dismiss to test legal sufficiency of complaint
- § 10:12 Motion for dismissal on ground that affirmative matter bars suit from going forward

CHAPTER 11. CONTINUANCES

- § 11:1 Continuances, in general
- § 11:2 Application for continuance
- § 11:3 Time for making motion for continuances
- § 11:4 Hearing and order for continuance
- § 11:5 Taxing costs upon granting continuance
- § 11:6 Continuance on court's own motion or consent of adverse party
- § 11:7 Absence of material evidence
- § 11:8 Absence of material witness
- § 11:9 Unpreparedness of party
- § 11:10 Absence, illness, or death of party
- § 11:11 Counsel on trial elsewhere
- § 11:12 Counsel otherwise unavailable
- § 11:13 Substitution of counsel
- § 11:14 Amendments to pleadings
- § 11:15 Prejudice, excitement, and surprise
- § 11:16 Continuance because of war
- § 11:17 Party or attorney in general assembly

CHAPTER 12. CONTEMPT OF COURT

- § 12:1 Power of court to punish for contempt
- § 12:2 Civil and criminal contempt
- § 12:3 Direct and indirect contempt
- § 12:4 Direct criminal contempts committed outside actual presence of the judge
- § 12:5 Acts by attorney constituting direct criminal contempt
- § 12:6 Acts constituting direct criminal contempt
- § 12:7 Perjury as contempt of court
- § 12:8 Mental illness as defense in contempt proceeding
- § 12:9 Procedure in direct criminal contempt

TABLE OF CONTENTS

- § 12:10 Right to jury in contempt proceedings
- § 12:11 Procedural rights of person charged with a serious direct criminal contempt
- § 12:12 Judge who hears contempt proceeding
- § 12:13 The record and order in a direct criminal contempt
- § 12:14 Punishment for contempt
- § 12:15 Appeal of contempt order
- § 12:16 Defenses to contempt orders

CHAPTER 13. NONJURY TRIALS

- § 13:1 Nonjury trials, generally
- § 13:2 Procedure in nonjury trials
- § 13:3 The admissibility of evidence in nonjury trials
- § 13:4 Motion to find for defendant

CHAPTER 14. JURY TRIAL

- § 14:1 Trial by jury, in general
- § 14:2 Right to fair and impartial jury
- § 14:3 Number of jurors

CHAPTER 15. PROVINCE OF COURT AND JURY

- § 15:1 Questions of law and fact, generally
- § 15:2 Invasion of province of jury
- § 15:3 Mixed questions of law and fact
- § 15:4 Credibility of witnesses
- § 15:5 Weight to be given evidence, generally
- § 15:6 Weight to be given particular kinds of evidence
- § 15:7 Preponderance of evidence
- § 15:8 Presumptions and inferences
- § 15:9 Character and conditions of things
- § 15:10 Amount and extent
- § 15:11 Nature of conditions
- § 15:12 Character and status of persons
- § 15:13 Status of person as independent contractor
- § 15:14 Acts and conduct
- § 15:15 Rights, duties, and liabilities
- § 15:16 Ownership of property
- § 15:17 Construction of language
- § 15:18 Contracts

CHAPTER 16. SELECTING THE JURY

I. THE JURY TRIAL

- § 16:1 The civil jury trial
- § 16:2 The rights and responsibilities of jurors
- § 16:3 Exemptions from jury service
- § 16:4 Right to time off for jury duty
- § 16:5 Jurors' fees

II. SUMMONING THE JURORS

- § 16:6 Summoning the jury
- § 16:7 Right to names and addresses of prospective jurors

III. THE QUALIFICATIONS OF A JUROR

- § 16:8 Grounds for challenging array
- § 16:9 Discrimination because of sex, race, etc

IV. IMPANELING THE JURY

- § 16:10 Impaneling jury
- § 16:11 Passing on panels of jurors

V. THE VOIR DIRE EXAMINATION

- § 16:12 Conduct of voir dire examination
- § 16:13 Matters to be investigated on voir dire
- § 16:14 Use of hypothetical questions
- § 16:15 Questioning jurors regarding insurance
- § 16:16 Duty of jurors to answer truthfully
- § 16:17 Effect of juror's failure to divulge pertinent information

VI. ALTERNATE JURORS

- § 16:18 Selection of alternate jurors

VII. CHALLENGING JURORS

- § 16:19 Challenging jurors, generally
- § 16:20 Order of exercising challenges
- § 16:21 Peremptory challenges
- § 16:22 Right of court to excuse jurors

TABLE OF CONTENTS

- § 16:23 Use of peremptory challenges to excuse jurors because of race, etc.
- § 16:24 Systematic exclusion because of gender

VIII. SWEARING AND INSTRUCTING THE JURY

- § 16:25 Swearing jury
- § 16:26 Preliminary instructions to jurors—Handbooks

CHAPTER 17. CHALLENGING JUROR FOR CAUSE

- § 17:1 Challenge for cause, generally
- § 17:2 The jurors' required qualifications
- § 17:3 Making a challenge for cause
- § 17:4 Passing on a challenge for cause
- § 17:5 Effect of ruling on challenge
- § 17:6 Waiver of challenge for cause
- § 17:7 Having read or heard news reports of case
- § 17:8 Previous knowledge of facts
- § 17:9 Previous connection with case
- § 17:10 Connection with insurance company
- § 17:11 Preconceived opinion
- § 17:12 Prejudice and bias, generally
- § 17:13 Familial relationship with party
- § 17:14 Business or professional relationship with party
- § 17:15 Social relationship with party
- § 17:16 Bias against person involved in case
- § 17:17 Bias against circumstantial evidence
- § 17:18 Racial, religious, and class prejudices and beliefs
- § 17:19 Relationships with witnesses
- § 17:20 Relationships with attorney
- § 17:21 Physically impaired juror

CHAPTER 18. CONDUCT OF JURY DURING TRIAL

I. THE CONDUCT OF THE JURORS

- § 18:1 General conduct of jury and those dealing with it
- § 18:2 Preliminary cautionary jury instructions
- § 18:3 Jury instruction during the trial

- § 18:4 The conduct of the jury during trial
- § 18:5 Inquiries by jurors
- § 18:6 Juror as witness
- § 18:7 Juror's immunity

II. IMPROPER CONDUCT OF JURORS

- § 18:8 Failure of juror to appear
- § 18:9 Acceptance of favors by jurors
- § 18:10 Unauthorized separation of jury during trial
- § 18:11 Attention to proceedings
- § 18:12 Taking notes
- § 18:13 Use of intoxicants or drugs
- § 18:14 Dismissal of juror for improper conduct

III. IMPROPER CONDUCT BY OTHERS TOWARD JURORS

- § 18:15 Bribing juror
- § 18:16 Communications with jurors before and during trial
- § 18:17 Improper communications with jurors
- § 18:18 Personal exchanges with jurors during trial
- § 18:19 Communications with jurors after trial

IV. IMPROPER RECEPTION OF EVIDENCE

- § 18:20 Reception of evidence out of court
- § 18:21 Jurors reading or hearing accounts of trial
- § 18:22 Procedure when juror reads account of trial
- § 18:23 Unauthorized view
- § 18:24 Harassing jurors
- § 18:25 Replacing juror with an alternate juror

CHAPTER 19. OPENING STATEMENTS

- § 19:1 Right to make an opening statement
- § 19:2 Content of opening statement
- § 19:3 Opening statement and limiting evidence
- § 19:4 Directing verdict on opening statement
- § 19:5 Admissions in opening statement

CHAPTER 20. ORDER OF PROOF

- § 20:1 Order of proof, generally

TABLE OF CONTENTS

§ 20:2	Right to open and close
§ 20:3	Order of producing testimony
§ 20:4	Right to introduce evidence at later stage
§ 20:5	Right to reopen proofs
§ 20:6	Right to recall witness
§ 20:7	Right to introduce evidence during cross-examination
§ 20:8	Rebuttal evidence
§ 20:9	Surrebuttal
§ 20:10	Severing, splitting, and bifurcating trials

CHAPTER 21. THE BURDEN OF PROOF

I. THE BURDEN OF PROOF

§ 21:1	Burden of proof, generally
§ 21:2	Burden of proof and burden of going forward
§ 21:3	Situations where the burden of going forward shifts
§ 21:4	A prima facie case
§ 21:5	The party having the burden of proof
§ 21:6	Party having the burden in particular kinds of civil cases
§ 21:7	Burden on defendant
§ 21:8	Burden of proving negative averments
§ 21:9	Situations where proof is excused before trial
§ 21:10	Situations where proof is excused during trial
§ 21:11	Methods of proving facts

CHAPTER 22. THE BURDEN OF PROOF AND OF PROVING SPECIFIC CAUSES AND FACTS IN CERTAIN CASES

§ 22:1	The complex mix of burden of proof and the burden of proving causes and certain specific facts
§ 22:2	Negligence
§ 22:3	Illegality
§ 22:4	Invalidity of a law
§ 22:5	Bailee negligence
§ 22:6	Estate claim
§ 22:7	Proximate cause
§ 22:8	Contracts

TRIAL HANDBOOK FOR ILLINOIS LAWYERS—CIVIL

- § 22:9 Gifts
- § 22:10 Citation to discover assets
- § 22:11 Constructive trust cases
- § 22:12 Resulting trusts
- § 22:13 Resulting trust—Jointly held property
- § 22:14 Fraud—Burden of proof and sufficiency of evidence
- § 22:15 Municipal ordinance violations
- § 22:16 Will contest
- § 22:17 Medical malpractice
- § 22:18 —Informed consent
- § 22:19 —Proximate cause
- § 22:20 —Proof of physician-client relationship
- § 22:21 —Lost chance
- § 22:22 —Sole proximate cause
- § 22:23 Intentional interference with contract
- § 22:24 Invasion of privacy
- § 22:25 Negligent supervision of mental patient
- § 22:26 Negligent entrustment
- § 22:27 Wrongful death
- § 22:28 Criminal act in a civil case
- § 22:29 Legal malpractice
- § 22:30 Dog or other animal injury
- § 22:31 Hospital liability
- § 22:32 Tortious interference with prospective economic opportunity
- § 22:33 Tortious interference with professional relationship between lawyer and client
- § 22:34 Product liability
- § 22:35 Intentional infliction of emotional distress
- § 22:36 Negligent infliction of emotional distress
- § 22:37 Unjust enrichment
- § 22:38 Retaliatory discharge for filing a workers' compensation claim
- § 22:39 Retaliatory discharge for whistle-blowing
- § 22:40 Invasion of privacy—Public disclosure of private facts
- § 22:41 Unreasonable intrusion upon seclusion
- § 22:42 Civil conspiracy
- § 22:43 Slander of title
- § 22:44 False light invasion of privacy
- § 22:45 Spoliation of evidence
- § 22:46 Public disclosure of private facts

TABLE OF CONTENTS

§ 22:47	Malicious prosecution
§ 22:48	False imprisonment
§ 22:49	Involuntary commitment
§ 22:50	Illinois Trade Secrets Act violations
§ 22:51	Trade libel
§ 22:52	Negligent misrepresentation
§ 22:53	Abuse of process
§ 22:54	Fraudulent misrepresentation
§ 22:55	Fraud and deceptive practices—Consumer Fraud Act
§ 22:56	Hospital's negligent credentialing
§ 22:57	Breach of fiduciary duty
§ 22:58	Fraudulent concealment
§ 22:59	Defamation privilege
§ 22:60	Defamation
§ 22:61	Negligent hiring
§ 22:62	Premises negligence liability

CHAPTER 23. USE OF STIPULATIONS

§ 23:1	Nature of stipulation
§ 23:2	Form and contents of stipulation
§ 23:3	Use of stipulations to control trial
§ 23:4	Use of stipulations to excuse proof of facts
§ 23:5	Subject matter of stipulations
§ 23:6	Construction and enforcement of stipulations
§ 23:7	Relief from stipulations

CHAPTER 24. WITNESSES

I. ATTENDANCE OF WITNESSES

§ 24:1	Compelling attendance of witnesses
§ 24:2	Service of subpoena
§ 24:3	Procedure in quashing subpoena
§ 24:4	Notice to party to appear
§ 24:5	Sanctions on party for failure to appear pursuant to notice
§ 24:6	Diplomatic immunity of ambassadors, consuls, etc
§ 24:7	Failure of witness to appear
§ 24:8	Habeas corpus to testify
§ 24:9	Witnesses from out of state

- § 24:10 Barring witness from testifying as sanction for failure to disclose witness's name

II. DEALING WITH WITNESSES

- § 24:11 Communicating with or harassing witness
§ 24:12 Right to interview witnesses
§ 24:13 Right to confer with witness on stand
§ 24:14 Compensation of witnesses
§ 24:15 Giving testimony on television, radio, or motion picture

III. RIGHTS AND DUTIES OF WITNESSES

- § 24:16 Liability of witnesses
§ 24:17 Privilege of witness while attending trial
§ 24:18 Perjury by a witness
§ 24:19 Subornation of perjury
§ 24:20 The privilege against self-incrimination

IV. EXCLUSION OF WITNESSES

- § 24:21 Exclusion of witnesses
§ 24:22 Penalties for violating exclusion order
§ 24:23 Persons permitted in courtroom despite exclusion order
§ 24:24 Sequestering witnesses

V. TESTIMONY OF WITNESSES

- § 24:25 Swearing witnesses
§ 24:26 Effect of failure to administer oath
§ 24:27 Witness testifying on video or closed-circuit television

VI. INTERPRETERS

- § 24:28 Right to an interpreter
§ 24:29 Qualifications of interpreter
§ 24:30 Using interpreter in court

CHAPTER 25. COMPELLING PRODUCTION OF DOCUMENTS

- § 25:1 Right to compel production of documents
§ 25:2 Subpoena duces tecum

TABLE OF CONTENTS

- § 25:3 Compelling party or corporate representative to produce evidence
- § 25:4 Procedure in quashing subpoena duces tecum
- § 25:5 Effect on admissibility
- § 25:6 Use of document by requesting party

CHAPTER 26. COMPETENCY OF WITNESS TO TESTIFY

- § 26:1 Competency of witnesses, in general
- § 26:2 The duty to identify witnesses and to disclose their testimony
- § 26:3 Time for objecting to competency
- § 26:4 Determining competency of witness to testify
- § 26:5 Competency of felon to testify in a criminal case or proceeding
- § 26:6 Competency of child to testify
- § 26:7 Determining competency of child to testify
- § 26:8 Competency of spouse to testify for or against other spouse
- § 26:9 Competency of participants in trial
- § 26:10 Competency of deaf-mute
- § 26:11 Competency of mentally or physically handicapped person
- § 26:12 Competency of addict or alcoholic
- § 26:13 Effect of religious beliefs on competency to testify
- § 26:14 Competency of omitted witnesses
- § 26:15 Limitation on testimony and freedom to cross-examine

CHAPTER 27. DEAD MAN'S ACT

- § 27:1 The Dead Man's Act, generally
- § 27:2 Definition of terms used in the Dead Man's Act
- § 27:3 Persons entitled to protection of Dead Man's Act
- § 27:4 Determining whether a person is a "person under legal disability"
- § 27:5 Rules applied in determining incompetency
- § 27:6 Raising question of disqualification
- § 27:7 Waiver of incompetency—Failure to make timely objection
- § 27:8 —Introduction by protected party of testimony as to protected conversation or event

- § 27:9 —Use of deposition of testimony of barred witness
- § 27:10 Time at which incompetency is determined
- § 27:11 Persons barred by Dead Man's Act from testifying
- § 27:12 Persons not barred from testifying by Dead Man's Act
- § 27:13 Inapplicability of Act to proceedings to determine heirship
- § 27:14 Qualifying to testify by releasing or assigning interest
- § 27:15 Determining alignment of parties for purpose of disqualifying witness
- § 27:16 Conversations barred by the Dead Man's Act
- § 27:17 Events barred by Dead Man's Act
- § 27:18 Admissibility of recording, videotape, etc. of conversation or event
- § 27:19 Use of account books
- § 27:20 Statements of deceased partners or joint contractors
- § 27:21 Commenting in closing arguments about act
- § 27:22 Instructing about Dead Man's Act
- § 27:23 Impact of the Dead Man's Act upon a summary judgment proceeding

CHAPTER 28. ADMISSIBILITY OF EVIDENCE

I. THE GENERAL REQUIREMENTS FOR ADMISSIBILITY

- § 28:1 Admissibility of evidence, generally
- § 28:2 Foundation for admissibility of evidence
- § 28:3 Competency of evidence
- § 28:4 Materiality of evidence
- § 28:5 Res judicata and other forms of foreclosure of issues

II. THE RELEVANCY OF EVIDENCE

- § 28:6 Relevancy of evidence
- § 28:7 Relevancy of conditions after event
- § 28:8 Relevancy conditioned on fact
- § 28:9 Relevancy of evidence of improper conduct of opposing counsel or party

TABLE OF CONTENTS

III. SPECIAL LIMITATIONS ON ADMISSIBILITY

- § 28:10 Admissibility of negative evidence
- § 28:11 Admissibility of evidence as to stipulated or admitted fact, or judicially noticed fact
- § 28:12 Evidence on collateral issues
- § 28:13 Evidence that causes unfair surprise
- § 28:14 Admissibility of inadmissible evidence to rebut previously admitted improper evidence (curative admissibility)
- § 28:15 Evidence that may prejudice or confuse the jury, or waste time

IV. ADMISSIBILITY OF PARTICULAR KINDS OF EVIDENCE

- § 28:16 Self-serving declarations
- § 28:17 Evidence about death and related facts
- § 28:18 Evidence about birth and age
- § 28:19 Evidence about marriage
- § 28:20 Polygraph (lie detector) tests
- § 28:21 Admissibility of conduct shortly before an accident
- § 28:22 Admissibility of post-event inspections
- § 28:23 Plaintiff's preexisting physical condition
- § 28:24 Subsequent injuries to plaintiff
- § 28:25 Evidence of pain and suffering
- § 28:26 Displaying injuries or their effects in court
- § 28:27 Custom and usage
- § 28:28 Proof of weight
- § 28:29 Race, color, and nationality
- § 28:30 Wealth or poverty of party
- § 28:31 Family relationships
- § 28:32 Physical and mental examinations of parties and others
- § 28:33 Intelligence and psychological tests
- § 28:34 Income tax returns
- § 28:35 Computations
- § 28:36 Evidence of, or comments about, liability insurance
- § 28:37 Instructing about liability insurance
- § 28:38 Settlements made with third persons
- § 28:39 Paid and unpaid bills

- § 28:40 Habits of animals
- § 28:41 Intoxication
- § 28:42 Instructing about intoxication
- § 28:43 Evidence obtained by illegal search or seizure
- § 28:44 Evidence of proximate cause

CHAPTER 29. OBJECTIONS TO EVIDENCE

- § 29:1 Objections to evidence, generally
- § 29:2 Right to object to evidence, generally
- § 29:3 Need for objection to improper evidence
- § 29:4 Need for objection to evidence ruled upon pursuant to motion in limine
- § 29:5 Sufficiency of objection by another party
- § 29:6 Timeliness of objection
- § 29:7 Stating grounds for objection
- § 29:8 Ruling on objection
- § 29:9 Waiver of objection
- § 29:10 Effect of stipulation that objection will apply to all such evidence
- § 29:11 Motion to exclude or strike inadmissible evidence
- § 29:12 The offer-of-proof requirement
- § 29:13 Making the offer of proof
- § 29:14 The ruling on the offer of proof

CHAPTER 30. ADMISSION OF EVIDENCE

- § 30:1 Admitting evidence, generally
- § 30:2 Ruling on admissibility of evidence
- § 30:3 Conditional admission of evidence
- § 30:4 Restricting use of admitted evidence
- § 30:5 Instructing on limited use of evidence
- § 30:6 Introducing evidence during cross-examination
- § 30:7 Introducing evidence during rebuttal
- § 30:8 Withdrawal of evidence

CHAPTER 31. CIRCUMSTANTIAL EVIDENCE

- § 31:1 Admissibility of circumstantial evidence, generally

TABLE OF CONTENTS

- § 31:2 Matters provable by circumstantial evidence
- § 31:3 Instructing on circumstantial evidence

CHAPTER 32. DIRECT EXAMINATION OF WITNESSES

- § 32:1 Direct examination, generally
- § 32:2 Conduct of witness
- § 32:3 Examining deaf or mute witness
- § 32:4 Form and content of question
- § 32:5 Leading questions
- § 32:6 Checklist: situations where leading questions are permitted
- § 32:7 Questions that call for conclusion of witness
- § 32:8 Requirements of witness's answer
- § 32:9 Responsiveness of answer
- § 32:10 Witness's firsthand knowledge
- § 32:11 Witness's best recollection, belief, impression, etc
- § 32:12 Testimony concerning telephone conversations
- § 32:13 Improper conduct of counsel in examining witness
- § 32:14 Coaching of witness by spectator

CHAPTER 33. REFRESHING AND RECALLING WITNESS'S RECOLLECTION

- § 33:1 Use of memoranda, generally
- § 33:2 Present recollection refreshed
- § 33:3 Writings used to refresh witness's memory
- § 33:4 Right of opposing counsel to inspect memorandum
- § 33:5 Past recollection recorded
- § 33:6 Admission of writing

CHAPTER 34. RIGHT TO CALL AN ADVERSE PARTY

- § 34:1 Right to call an adverse party, generally
- § 34:2 Calling an adverse party or person
- § 34:3 Manner of examining witness under section 2-1102
- § 34:4 Right to rebut testimony of called witness

CHAPTER 35. CROSS-EXAMINING WITNESS

- § 35:1 Right to cross-examine witness
- § 35:2 Scope of cross-examination
- § 35:3 Form of questions on cross-examination
- § 35:4 Cross-examining expert witness
- § 35:5 Cross-examining expert as “professional witness”
- § 35:6 Using treatise to cross-examine expert witness
- § 35:7 Right to bring out entire transaction,
conversation, etc
- § 35:8 Additional matters proper on cross-examination
- § 35:9 Manner of conducting cross-examination
- § 35:10 Lack of good faith in making insinuations
- § 35:11 Testing witness’s knowledge and accuracy
- § 35:12 Answers that embarrass or degrade witness
- § 35:13 Right to recall witness for further
cross-examination
- § 35:14 Effect of denial of right to cross-examine
- § 35:15 Right in civil cases to confront declarant of
testimonial hearsay
- § 35:16 Cross-examining on collateral issues
- § 35:17 Cross-examining plaintiff as to prior bad health
or injuries

CHAPTER 36. IMPEACHMENT OF WITNESSES

- § 36:1 Impeachment of witnesses, generally
- § 36:2 Impeaching one’s own witness
- § 36:3 Calling hostile witness
- § 36:4 Examining hostile witness
- § 36:5 Laying foundation for impeaching witness
- § 36:6 Credibility of witnesses, generally
- § 36:7 Instructing on credibility of witnesses
- § 36:8 Impeachment on collateral issues
- § 36:9 Showing interest of witness
- § 36:10 Showing bias of witness
- § 36:11 Showing hostility of witness
- § 36:12 Religious beliefs or opinions of witness
- § 36:13 Illegal or disreputable occupation of witness
- § 36:14 Previous misconduct of witness
- § 36:15 Testimony of narcotics addict
- § 36:16 Intoxication of witness at time of event

TABLE OF CONTENTS

- § 36:17 Checklist: matters which may not be used for impeachment
- § 36:18 Expert testimony as to credibility of witness
- § 36:19 Testimony false in part
- § 36:20 Mentally impaired witness
- § 36:21 Right to bring out contents of loan agreement
- § 36:22 Impeachment of personal-injury plaintiff with proof of earlier injury or preexisting condition
- § 36:23 Impeachment by proof of prior conviction

CHAPTER 37. IMPEACHING WITH PRIOR INCONSISTENT STATEMENT OR CONDUCT

- § 37:1 Prior inconsistent statement
- § 37:2 Statements in pleadings as prior inconsistent statements
- § 37:3 Statements in depositions as prior inconsistent statements
- § 37:4 Determining inconsistency of prior statement
- § 37:5 Prior inconsistent statement as substantive proof
- § 37:6 Witness's right to explain prior statement
- § 37:7 Proof of statement by extrinsic evidence
- § 37:8 Admission of inconsistent statement in evidence
- § 37:9 Laying foundation for prior inconsistent statement
- § 37:10 Failure to follow up after laying foundation
- § 37:11 Prior expressions of opinion
- § 37:12 Instructing on prior inconsistent statements
- § 37:13 Prior inconsistent conduct

CHAPTER 38. REDIRECT AND RECROSS-EXAMINATION

- § 38:1 Scope of redirect examination
- § 38:2 Form and content of questions on redirect examination
- § 38:3 Refreshing witness's memory on redirect examination
- § 38:4 Explaining and correcting testimony on redirect examination
- § 38:5 Rehabilitating witness
- § 38:6 Explaining impeaching answers

§ 38:7 Use of prior consistent statements

§ 38:8 Right to recross-examination

CHAPTER 39. PRIVILEGED COMMUNICATIONS AND INFORMATION

I. THE NATURE OF PRIVILEGED COMMUNICATIONS

§ 39:1 Nature of privileged communication

§ 39:2 Need for confidentiality

II. ESTABLISHING AND WAIVING A PRIVILEGE

§ 39:3 Effect of eavesdropping

§ 39:4 Burden of proving existence of privilege

§ 39:5 Claiming privilege

§ 39:6 Waiving privilege

§ 39:7 Commenting on exercise of privilege

III. COMMUNICATIONS TO A SPOUSE

§ 39:8 Communications between husband and wife

§ 39:9 Requirements for privilege to exist between husband and wife

§ 39:10 Existence of marital relationship

IV. COMMUNICATIONS TO AN ATTORNEY

§ 39:11 Privileged communications between attorney and client

§ 39:12 Existence of attorney and client relationship

§ 39:13 Confidential nature of communication to lawyer

§ 39:14 Communications regarding insurance

§ 39:15 Communications in furtherance of crime or fraud

§ 39:16 Privileged communications by testator

§ 39:17 Confidential communications by corporate officers and employees

§ 39:18 The work-product doctrine

§ 39:19 Claiming attorney-client privilege

§ 39:20 Waiving attorney-client privilege

§ 39:21 Termination of attorney-client privilege

TABLE OF CONTENTS

§ 39:22 Effect of dispute between attorney and client

V. COMMUNICATIONS TO A HEALTH-CARE SPECIALIST

§ 39:23 Physician-patient privilege

§ 39:24 Waiving the physician-patient privilege

§ 39:25 Ex parte communications by attorney with treating physician

§ 39:26 Psychiatrist-patient privilege

§ 39:27 Patient's right to privacy and confidentiality

VI. OTHER PRIVILEGED COMMUNICATIONS

§ 39:28 Privileged communications by client to accountant

§ 39:29 Privileged communications to clergyman

§ 39:30 Reporter's privilege

§ 39:31 Confidentiality of statements made to rape crisis personnel

§ 39:32 Confidentiality of statements made to personnel counselors

§ 39:33 Confidential communications under the Clinical Social Work and Social Work Practice Act

§ 39:34 The judicial deliberation privilege

VII. COMMUNICATIONS THAT ARE NOT PRIVILEGED

§ 39:35 Situations where privilege is not recognized

VIII. PRIVILEGED INFORMATION

§ 39:36 Political vote

§ 39:37 Privileged communications to public officials

§ 39:38 Trade secrets

§ 39:39 The law enforcement investigatory privilege

CHAPTER 40. ILLINOIS RULES OF EVIDENCE

§ 40:1 In general

§ 40:2 Committee commentary

CHAPTER 41. JUDICIAL NOTICE

§ 41:1 Meaning of judicial notice

- § 41:2 Kinds of facts noticed
- § 41:3 When judicial notice is discretionary or mandatory
- § 41:4 The opportunity to be heard
- § 41:5 Opportunity to be heard
- § 41:6 Time of taking judicial notice
- § 41:7 Admissibility of evidence to rebut judicially noticed fact
- § 41:8 Instructing on judicial notice
- § 41:9 Judicial notice of laws
- § 41:10 Judicial notice of laws of other jurisdiction or foreign country
- § 41:11 Facts concerning court
- § 41:12 Judicial notice in child abuse, neglect, or dependency proceeding
- § 41:13 Facts about government, etc
- § 41:14 Cities, towns, villages, and geographical facts
- § 41:15 Location
- § 41:16 Population
- § 41:17 Historical and economic facts
- § 41:18 Intoxicating liquors
- § 41:19 Scientific and statistical facts
- § 41:20 Language and abbreviations
- § 41:21 Human health, habits, and behavior
- § 41:22 Natural phenomena
- § 41:23 Business customs and practices
- § 41:24 Value
- § 41:25 Transportation, streets, and highways
- § 41:26 Checklist: other facts judicially noticed
- § 41:27 Checklist: facts not judicially noticed

CHAPTER 42. PRESUMPTIONS AND INFERENCES

I. THE NATURE OF PRESUMPTIONS AND INFERENCES

- § 42:1 Nature of presumptions
- § 42:2 Reasonableness of presumption
- § 42:3 Irrebuttable presumptions
- § 42:4 Rebuttable presumptions
- § 42:5 Inferences

TABLE OF CONTENTS

- § 42:6 Presumption upon presumption, inference upon inference
- § 42:7 Conflicting presumptions
- § 42:8 Effect of controverting evidence on presumptions

II. ESTABLISHING AND REBUTTING PRESUMPTIONS

- § 42:9 Procedure in establishing presumed fact
- § 42:10 Admissibility of evidence to rebut presumed fact

III. ADMISSIBLE PRESUMPTIONS

- § 42:11 Presumption of regularity
- § 42:12 Regularity of acts and proceedings of public interest
- § 42:13 Regularity of judicial proceedings
- § 42:14 Regularity of acts of corporate personnel
- § 42:15 Presumption of continuance of condition
- § 42:16 Foreign laws
- § 42:17 Sanity
- § 42:18 Delivery of letter
- § 42:19 Instructions on presumptions

IV. RES IPSA LOQUITUR

- § 42:20 Res ipsa loquitur
- § 42:21 Extent of control by defendant
- § 42:22 Res ipsa loquitur in medical malpractice cases
- § 42:23 Determining whether res ipsa loquitur applies
- § 42:24 Rebutting the res ipsa loquitur presumption
- § 42:25 Instructing on res ipsa loquitur

V. PRESUMPTIONS ABOUT PEOPLE

- § 42:26 Presumptions about individuals
- § 42:27 Checklist: Presumptions about people
- § 42:28 Presumption of death after seven years absence
- § 42:29 Presumption of survivorship
- § 42:30 Presumptions about marriage
- § 42:31 Presumptions about legitimacy
- § 42:32 Knowledge of law
- § 42:33 Identity of names and persons
- § 42:34 Possession and ownership of property

- § 42:35 Suicide or accidental death
- § 42:36 Presumptions about gifts of property
- § 42:37 Presumptions about gifts of services
- § 42:38 Presumptions about transfers into joint tenancy
- § 42:39 Presumptions about negligence
- § 42:40 Presumptions about wills
- § 42:41 Presumptions about children
- § 42:42 Presumptions about domicile
- § 42:43 Presumptions as to payment
- § 42:44 Other presumptions created by law
- § 42:45 Statutory presumptions in product-liability cases
- § 42:46 Presumptions about business decisions of
corporation board of directors—The business-
judgment rule

VI. INFERENCES BASED UPON CONDUCT OF PARTY

- § 42:47 Misconduct of party
- § 42:48 Destruction or suppression of evidence
- § 42:49 Attempts to corrupt or influence juror or witness
- § 42:50 Flight from scene of accident
- § 42:51 Failure to produce evidence
- § 42:52 Failure to call witness
- § 42:53 Instructing on failure to produce evidence or call
witness
- § 42:54 Failure of party to testify

CHAPTER 43. REAL AND DEMONSTRATIVE EVIDENCE

- § 43:1 Real and demonstrative evidence distinguished
- § 43:2 Use of real evidence, generally
- § 43:3 Tangible articles having some bearing on
transaction in question
- § 43:4 Tangible articles in same condition
- § 43:5 Admissibility of sound recordings
- § 43:6 Use of graphic aids
- § 43:7 Admissibility of static models and casts
- § 43:8 Use of operating models
- § 43:9 Effect of marks or notations on demonstrative
evidence
- § 43:10 Displaying personal injuries to jury

TABLE OF CONTENTS

- § 43:11 Admissibility of braces, crutches, and such devices

CHAPTER 44. PHOTOGRAPHS, MOTION PICTURES, ETC.

- § 44:1 Admissibility of photographs
§ 44:2 The foundation for a photograph
§ 44:3 Posed photographs
§ 44:4 Photographs of premises and objects
§ 44:5 Prejudicial photographs
§ 44:6 Admissibility of motion pictures and videotapes
§ 44:7 Surveillance tapes
§ 44:8 Day-in-the-life videotapes
§ 44:9 Admissibility of X-ray photographs
§ 44:10 Enlarged and colored photographs
§ 44:11 Computer-generated simulation

CHAPTER 45. VIEW

- § 45:1 Right to view premises
§ 45:2 Request for view
§ 45:3 Conduct of view
§ 45:4 Nature of view

CHAPTER 46. DOCUMENTARY EVIDENCE

- § 46:1 General requirements relating to documentary evidence
§ 46:2 When a written document is required or preferred
§ 46:3 Effect of alteration of instrument
§ 46:4 Procedure in offering and admitting documents in evidence
§ 46:5 Remainder of related writings or recorded statement
§ 46:6 When authentication of documentary evidence is excused
§ 46:7 Documents that do not require authentication
§ 46:8 Authentication of private writings
§ 46:9 Authentication of attested documents
§ 46:10 Authentication of acknowledged and recorded documents
§ 46:11 Other rules relating to use of private writings

- § 46:12 Statutes
- § 46:13 Court decisions
- § 46:14 Court papers and records
- § 46:15 Records of counties and municipalities
- § 46:16 Records of public officers
- § 46:17 Records of private corporations
- § 46:18 Letter
- § 46:19 Telegram, telex, and electronic mail
- § 46:20 Facsimile (fax) mail
- § 46:21 Authentication of church records
- § 46:22 Authentication of family Bible and other family records
- § 46:23 Authentication of annuity and mortality tables
- § 46:24 Authentication of scientific books
- § 46:25 Authentication of ancient documents

CHAPTER 47. THE BEST-EVIDENCE RULE

- § 47:1 Best-evidence rule, generally
- § 47:2 Situations calling for “best evidence”
- § 47:3 Situations where “best evidence” is not required
- § 47:4 Use of secondary evidence
- § 47:5 Where primary evidence is in control of opponent
- § 47:6 Secondary evidence of bulky records
- § 47:7 Admissibility of computer printouts
- § 47:8 Admissibility of computer graphics
- § 47:9 Proof of loss of primary evidence
- § 47:10 Secondary evidence of public records
- § 47:11 Copies as primary or secondary evidence
- § 47:12 Nature of secondary evidence to be used
- § 47:13 Establishing contents of document by oral evidence

CHAPTER 48. OPINION EVIDENCE, GENERALLY

- § 48:1 Requirement that witness testify as to facts
- § 48:2 Facts distinguished from opinions
- § 48:3 Admissibility of opinions in general
- § 48:4 Opinions concerning ultimate issue

TABLE OF CONTENTS

CHAPTER 49. NONEXPERT OPINION EVIDENCE

- § 49:1 Use of opinion testimony by lay witnesses
- § 49:2 Examining nonexpert witness regarding an opinion
- § 49:3 Nonexpert opinion about individuals
- § 49:4 Nonexpert opinion on mental condition
- § 49:5 Nonexpert opinion on physical condition
- § 49:6 Speed
- § 49:7 Stopping distance
- § 49:8 Value of personal property
- § 49:9 Sanity
- § 49:10 Nonexpert opinion on intoxication and influence of drugs
- § 49:11 Age of person
- § 49:12 Bloodstains
- § 49:13 Competency of testator
- § 49:14 Other matters on which nonexpert may state an opinion

Volume 2

CHAPTER 50. EXPERT TESTIMONY AND OPINION EVIDENCE

I. USE OF EXPERT TESTIMONY

- § 50:1 Use of expert and opinion evidence, generally
- § 50:2 Definition of opinion witnesses
- § 50:3 Disclosure of consultants, experts, experts' opinions, and qualifications
- § 50:4 Limitations on testimony of expert who has disclosed opinions pursuant to discovery
- § 50:5 Sanctions for failure to comply with discovery requirements
- § 50:6 Limitation on testimony and freedom to cross-examine

II. QUALIFICATIONS OF EXPERT WITNESS

- § 50:7 Qualifications required of expert witnesses
- § 50:8 Qualifications of expert in actions involving medical care

§ 50:9 Voir dire as to expert witness's qualifications

III. THE TESTIMONY OF THE EXPERT WITNESS

- § 50:10 Matters to which expert witness may testify
- § 50:11 The "*Frye* plus reliability" standard
- § 50:12 Acceptance of new scientific principles
- § 50:13 Expert opinions on matters of law
- § 50:14 Expert opinion on matters of common knowledge
- § 50:15 Examining the expert
- § 50:16 Right of expert to rely on inadmissible evidence
- § 50:17 Disclosure of facts or data underlying expert opinion
- § 50:18 Testimony based upon personal knowledge or observation
- § 50:19 Opinions of expert witness based on facts not within his personal knowledge
- § 50:20 Testimony based upon scientific literature, tests, etc
- § 50:21 Weight to be given expert witness's opinions
- § 50:22 The scope of cross-examination of expert witnesses

IV. SUBJECT MATTER OF EXPERT WITNESS'S TESTIMONY

- § 50:23 Matters to which expert witness must testify
- § 50:24 Expert testimony as to which party should prevail
- § 50:25 Expert testimony in legal malpractice cases
- § 50:26 Expert opinion as to cause of injury
- § 50:27 Expert testimony in accountant malpractice cases
- § 50:28 Speed
- § 50:29 Sanity or competency
- § 50:30 Expert opinion as to narcotics addiction
- § 50:31 Truth and deception tests
- § 50:32 Matters of business customs and practices
- § 50:33 How an incident occurred (reconstruction testimony)
- § 50:34 Value of services
- § 50:35 Value of personal property
- § 50:36 Questioned documents

TABLE OF CONTENTS

- § 50:37 Blood tests
- § 50:38 DNA evidence
- § 50:39 Intoxication
- § 50:40 Miscellaneous scientific tests and devices
- § 50:41 Other expert testimony
- § 50:42 Instructing as to expert testimony

CHAPTER 51. VALUATION OF REAL ESTATE

- § 51:1 Real estate valuation, generally
- § 51:2 Nonexpert opinion of value
- § 51:3 Expert opinion of value
- § 51:4 Owner's opinion of value
- § 51:5 Qualification of real estate expert
- § 51:6 Cost of subject property
- § 51:7 Sales of comparable property
- § 51:8 Similarity required of comparable properties
- § 51:9 Time since sale of comparable properties
- § 51:10 Exchanges of property
- § 51:11 Appraiser's value based in part on hearsay
- § 51:12 Absence of sales of comparable properties
- § 51:13 Valuation based upon income of property
- § 51:14 Offers
- § 51:15 Cross-examining valuation witness

CHAPTER 52. PROOF OF HANDWRITING

- § 52:1 Proof of handwriting, generally
- § 52:2 Use of nonexpert witness
- § 52:3 Expert handwriting witness
- § 52:4 Use of exemplars
- § 52:5 Using photographic copy as standard
- § 52:6 Cross-examining handwriting witness

CHAPTER 53. PATERNITY AND LEGITIMACY PROCEEDINGS

- § 53:1 Situations where a person's paternity or legitimacy may be an issue
- § 53:2 Proving a person's parentage or legitimacy
- § 53:3 Proceedings under the Illinois Parentage Act of 2015

- § 53:4 Tests to determine inherited characteristics (DNA)
- § 53:5 Admissible evidence in proceedings to establish paternity
- § 53:6 Presumptions about legitimacy

CHAPTER 54. EXPERIMENTS, DEMONSTRATIONS, AND TESTS

- § 54:1 Experiments and demonstrations, generally
- § 54:2 Person conducting experiment
- § 54:3 Similarity of conditions
- § 54:4 Subject matter of experiment or demonstration
- § 54:5 Courtroom demonstrations

CHAPTER 55. HYPOTHETICAL QUESTION

- § 55:1 Use of hypothetical question
- § 55:2 Contents of hypothetical question
- § 55:3 Objections to hypothetical question
- § 55:4 Answer to hypothetical question
- § 55:5 Cross-examining as to answer to hypothetical question

CHAPTER 56. MEDICAL TESTIMONY

- § 56:1 Testimony of medical witness, generally
- § 56:2 Qualifications of medical expert
- § 56:3 Direct examination of physician or surgeon
- § 56:4 Medical testimony based in part on hearsay
- § 56:5 Testimony of treating and nontreating physicians
- § 56:6 Subjective symptoms
- § 56:7 Checklist: some objective symptoms
- § 56:8 Hypothetical question asked physician or surgeon
- § 56:9 Cross-examining medical witness
- § 56:10 Hospital records
- § 56:11 Doctor's reports
- § 56:12 Medical Studies Act
- § 56:13 Scientific records
- § 56:14 Medical texts and treatises
- § 56:15 Medical or anatomical charts, models, skeletons, etc

TABLE OF CONTENTS

§ 56:16	Psychologist and psychiatrist
§ 56:17	Impartial medical experts
§ 56:18	Expert testimony in medical cases
§ 56:19	Basis for medical expert's testimony
§ 56:20	Need for expert testimony in medical cases
§ 56:21	Standard of care in medical cases
§ 56:22	The need for medical doctor to obtain the informed consent of patient
§ 56:23	The sole proximate cause instruction in medical cases
§ 56:24	Instructing on medical testimony

CHAPTER 57. HEARSAY EVIDENCE

§ 57:1	Admissibility of hearsay evidence
§ 57:2	Definition of hearsay evidence
§ 57:3	Verbal acts as hearsay
§ 57:4	Implied hearsay evidence
§ 57:5	Inapplicability of hearsay rule to certain situations
§ 57:6	Res gestae rule
§ 57:7	Necessity of objections to hearsay evidence
§ 57:8	Hearsay admitted without objection
§ 57:9	Attacking and supporting credibility of declarant
§ 57:10	Hearsay within hearsay
§ 57:11	Declarations by agent or employee
§ 57:12	Affidavits

CHAPTER 58. EXCEPTIONS TO HEARSAY RULE

I. THE STATUS OF THE HEARSAY RULE IN ILLINOIS

§ 58:1	The status of the hearsay rule after the adoption of the Illinois Rules of Evidence
--------	--

II. OFFICIAL RECORDS

§ 58:2	Official records
§ 58:3	Coroner's records and verdict
§ 58:4	Police records
§ 58:5	Weather reports
§ 58:6	Census reports

III. VITAL STATISTICS

- § 58:7 Official vital records, generally
- § 58:8 Birth records
- § 58:9 Marriage records
- § 58:10 Death records

IV. FAMILY HISTORY, RELATIONSHIPS, ETC.

- § 58:11 Family history
- § 58:12 Relationship and pedigree
- § 58:13 Church records
- § 58:14 Family bibles
- § 58:15 Recitals in conveyances
- § 58:16 Ancient documents

V. SPONTANEOUS AND EXCITED UTTERANCES

- § 58:17 Spontaneous declarations
- § 58:18 Spontaneous declarations by young child
- § 58:19 Checklist: declarations held to be spontaneous
- § 58:20 Declarations held not to be spontaneous
- § 58:21 Excited utterances
- § 58:22 Dying declarations

VI. STATEMENTS, FEELINGS, AND OTHER MENTAL PROCESSES

- § 58:23 Present sense impressions
- § 58:24 Pain and suffering
- § 58:25 Existing mental, emotional, or physical condition
- § 58:26 State of mind
- § 58:27 Statement of intention
- § 58:28 Knowledge or notice
- § 58:29 Motive, plan, or design

VII. DECLARATIONS AGAINST INTEREST

- § 58:30 Declarations against interest, generally
- § 58:31 Declarations against pecuniary interest
- § 58:32 Declarations against penal interest

VIII. TABLES, REPORTS, ALMANACS, ETC.

- § 58:33 Mortality tables

TABLE OF CONTENTS

- § 58:34 Almanacs
- § 58:35 Treatises, scientific works, etc
- § 58:36 Historical works
- § 58:37 Newspapers and advertisements
- § 58:38 Market reports

IX. OTHER EXCEPTIONS TO THE HEARSAY RULE

- § 58:39 Directories and business registers
- § 58:40 Surveys and polls
- § 58:41 Ownership of property
- § 58:42 Person's age
- § 58:43 Stopping distance chart
- § 58:44 Testimony by high-risk adults with disabilities
- § 58:45 Report of court-appointed investigator
- § 58:46 Child's hearsay statements in custody proceeding about abuse
- § 58:47 Admissibility of evidence of out-of-court statements of elder abuse victim

CHAPTER 59. TESTIMONY AT FORMER TRIAL OR PROCEEDING

- § 59:1 Use of testimony from former trial, generally
- § 59:2 Identity of parties
- § 59:3 Opportunity to cross-examine witness
- § 59:4 Same or similar issues
- § 59:5 Unavailability of witness
- § 59:6 Checklist: witness held to be unavailable
- § 59:7 Diligence in procuring witness
- § 59:8 Proving former testimony

CHAPTER 60. BUSINESS ENTRIES, RECORDS, AND REPORTS

- § 60:1 Use of business records, generally
- § 60:2 Account books and records
- § 60:3 Authentication of business records
- § 60:4 Microfilms and like copies of business records
- § 60:5 Admissibility of absence of entry in business records
- § 60:6 Computer evidence printouts

CHAPTER 61. ADMISSIONS BY PARTY

I. THE ADMISSIBILITY OF A PARTY'S ADMISSION

§ 61:1 Admissions in civil cases, generally

II. PERSONS MAKING THE ADMISSION

§ 61:2 Admissions by attorney for party

§ 61:3 Admissions by agent, employee, or partner

§ 61:4 Admissions by minors

§ 61:5 Admissions by person now deceased

III. JUDICIAL ADMISSIONS

§ 61:6 Judicial admissions

§ 61:7 Judicial admissions in pleadings

IV. MANNER IN WHICH ADMISSION IS MADE

§ 61:8 Subject matter of admission

§ 61:9 Admissions by others

§ 61:10 Admissions in depositions and interrogatories

§ 61:11 Admissions pursuant to demand to admit facts

§ 61:12 Admissions to avoid continuance

§ 61:13 Admissions in confession inadmissible in criminal case

§ 61:14 Admissibility of guilty plea in civil case

§ 61:15 Admissibility of criminal judgment in subsequent civil suit

§ 61:16 Silence of party as an admission in civil case

§ 61:17 Admission by adoption of statement of another

§ 61:18 Failure to reply to written statement as admission

§ 61:19 Offers of compromise as an admission

§ 61:20 Actions of party after an accident as an admission

§ 61:21 Changes of product or design after injury

§ 61:22 Payment of bills of injured person as an admission

§ 61:23 Safety rules as an admission

§ 61:24 Disposal of property

V. PROVING AND REBUTTING ADMISSION

§ 61:25 Procedure in proving an admission

TABLE OF CONTENTS

- § 61:26 Rebuttability of ordinary admissions
- § 61:27 Right to explain admission

VI. INSTRUCTING ON ADMISSIONS

- § 61:28 Instructing on admissions

CHAPTER 62. EVIDENCE OF CHARACTER AND REPUTATION

- § 62:1 Evidence of character and reputation, generally
- § 62:2 Proof of character of party
- § 62:3 Character (reputation) of other witnesses
- § 62:4 Cross-examining character witness

CHAPTER 63. PAROL AND EXTRINSIC EVIDENCE

- § 63:1 Parol evidence, generally
- § 63:2 Types of writings affected by rule
- § 63:3 Private writings
- § 63:4 Corporate records
- § 63:5 Public records and documents
- § 63:6 Persons affected by rule
- § 63:7 Exceptions to rule, generally
- § 63:8 Evidence as to formation or existence of contract
- § 63:9 Prior or contemporaneous writings (collateral rule)
- § 63:10 Subsequent parol agreements or modifications
- § 63:11 The “four corners” rule
- § 63:12 The integrated contract
- § 63:13 Incomplete contract or writing; intent
- § 63:14 Date and subject matter
- § 63:15 Consideration
- § 63:16 Relationship, identity, and capacity of parties
- § 63:17 Showing time, place, and mode of performance or payment
- § 63:18 Construction of ambiguous instrument
- § 63:19 Latent and patent ambiguities
- § 63:20 Evidence admissible in construction of instrument
- § 63:21 Extrinsic evidence in will cases

CHAPTER 64. USING DEPOSITIONS AND INTERROGATORIES AT TRIAL

- § 64:1 Purposes for which discovery depositions may be used
- § 64:2 Using interrogatories at trial
- § 64:3 Taking evidence deposition
- § 64:4 Objections to depositions
- § 64:5 Using evidence deposition at trial
- § 64:6 Unavailability of deponent
- § 64:7 Diligence required to produce deponent
- § 64:8 Partial use of deposition
- § 64:9 Using deposition after substitution or refiling or using depositions taken in other jurisdictions
- § 64:10 Using doctor's deposition at trial
- § 64:11 Instructing on evidence depositions
- § 64:12 Perpetuating testimony
- § 64:13 Use of videotaped deposition in evidence
- § 64:14 Sanctions for discovery violations

CHAPTER 65. EVIDENCE THAT TENDS TO SHOW DUE CARE OR LACK OF DUE CARE

I. EVIDENCE SHOWING CARE OR LACK OF CARE

- § 65:1 Evidence that tends to show due care or lack of due care, generally
- § 65:2 Circumstantial evidence of due care
- § 65:3 Similar acts or occurrences
- § 65:4 Prior accidents to show dangerous condition
- § 65:5 Evidence of prior accidents
- § 65:6 Similar occurrences to show notice of dangerous condition
- § 65:7 Absence of other acts or injuries
- § 65:8 Statistical evidence of unlikelihood of accident
- § 65:9 Issuance or nonissuance of traffic ticket
- § 65:10 Use of seat belts or other protective devices
- § 65:11 Intoxication or influence of drugs of party

II. PROOF OF HABITS

- § 65:12 Proof of habits

TABLE OF CONTENTS

§ 65:13 Instructing on evidence of careful habits

III. APPLICATION OF STANDARDS, RULES, USUAL METHODS, ETC.

§ 65:14 Usual method or practice

§ 65:15 Safety rules, penal statutes, etc. that establish standards of care

§ 65:16 Violation of company's own rules as evidence of negligence

§ 65:17 Admissibility of standards adopted by trade groups and others

§ 65:18 Evidence of better method, device, or procedure

CHAPTER 66. MISTRIAL

§ 66:1 Nature of mistrial

§ 66:2 Right to have mistrial declared

§ 66:3 Grounds for declaring mistrial

§ 66:4 Disclosure of liability insurance

§ 66:5 Instructing jury about liability insurance

§ 66:6 Discharge for inability of jury to arrive at verdict

§ 66:7 Effect of order declaring mistrial

CHAPTER 67. DIRECTED VERDICT

§ 67:1 Right of court to direct verdict

§ 67:2 Procedure in moving for directed verdict

§ 67:3 Determining right to directed verdict

§ 67:4 Directing verdict for variance

§ 67:5 Permitting amendments to pleadings

§ 67:6 The treatment of contributory negligence in assessing plaintiff's recoverable damage

§ 67:7 Other changes in pleadings during trial

§ 67:8 Negligence and contributory negligence as question of law or fact

§ 67:9 Willful and wanton misconduct—Law or fact

§ 67:10 Motion of both parties for directed verdict

§ 67:11 Ruling for directed verdict

§ 67:12 Duty of jury to render verdict as directed

CHAPTER 68. NEGLIGENCE, CONTRIBUTORY NEGLIGENCE, AND WILLFUL AND WANTON CONDUCT

§ 68:1 The preparation of jury instructions in cases

- involving negligence, contributory negligence, and willful and wanton conduct in Illinois civil trials
- § 68:2 Instructing the jury as to burden of proof in negligence, contributory negligence, and willful and wanton conduct in Illinois civil trials
- § 68:3 The development of the comparative negligence doctrine
- § 68:4 Limitations on recovery in tort actions
- § 68:5 The treatment of contributory negligence in assessing plaintiff's recoverable damages
- § 68:6 Joint liability in tort actions
- § 68:7 Jury instructions in negligence actions, generally

CHAPTER 69. DAMAGES

I. GENERAL RULES RELATING TO DAMAGES

- § 69:1 General rules relating to damages
- § 69:2 Evidence inconsistent with proper measure of damages
- § 69:3 Nominal damages
- § 69:4 Foreseeability of damages
- § 69:5 Compensatory damages in general
- § 69:6 The allowance of economic damages—The *Moorman* economic-loss doctrine
- § 69:7 Certainty of damages
- § 69:8 Duty to minimize damages
- § 69:9 Duty to mitigate damages in medical malpractice cases
- § 69:10 Duty of lessor to mitigate damages when tenant abandons premises
- § 69:11 General and special damages
- § 69:12 Proof of damages
- § 69:13 Treatment of other payments received by plaintiff (collateral source rule)
- § 69:14 The single-recovery rule
- § 69:15 Effect of income taxes on damages
- § 69:16 Effect of future inflation on damages
- § 69:17 Allocation of damages according to fault
- § 69:18 Damages under the Jones Act
- § 69:19 Limitation on recovery in tort actions
- § 69:20 Damages in FELA cases
- § 69:21 Manifestly inadequate damages

TABLE OF CONTENTS

II. PUNITIVE DAMAGES

- § 69:22 Liability for punitive damages
- § 69:23 Punitive damages in contract case
- § 69:24 Amount of punitive damages
- § 69:25 Punitive damages in product-liability cases
- § 69:26 Punitive damages barred in professional malpractice cases
- § 69:27 Limitations on punitive damages in certain other cases

III. DAMAGES FOR PERSONAL INJURY

- § 69:28 Damages in personal-injury cases
- § 69:29 Recovery of medical expenses in personal-injury action
- § 69:30 Damages for future effects of injury
- § 69:31 Damages for pain and suffering before death
- § 69:32 Reducing damages for future losses to their present cash value
- § 69:33 Liability for aggravation of an injury
- § 69:34 Damages for mental anguish
- § 69:35 Damages for exposure to HIV
- § 69:36 Recovery for family expenses
- § 69:37 Damages for loss of consortium

IV. DAMAGES TO PERSONAL OR REAL PROPERTY

- § 69:38 Damages to personal property
- § 69:39 Damages for injury to minor child
- § 69:40 Defectively designed products action
- § 69:41 Damages to real estate
- § 69:42 Damages for conversion
- § 69:43 Damage to trees

V. DAMAGES FOR BREACH OF CONTRACT

- § 69:44 Damages for breach of contract
- § 69:45 Damages for anticipatory repudiation
- § 69:46 The quantum meruit recovery

VI. PROVISIONS FOR LIQUIDATED DAMAGES

- § 69:47 Liquidated damages provisions

- § 69:48 Liquidated damages provisions in leases

VII. DAMAGES FOR WRONGFUL DEATH

- § 69:49 Damages in wrongful-death actions
§ 69:50 Reduction of damages recoverable in wrongful-death action because of contributory negligence of decedent or beneficiary
§ 69:51 Damages for death of minor

VIII. DAMAGES FOR OTHER WRONGFUL ACTS

- § 69:52 Damages in dramshop action
§ 69:53 Damages for wrongful tree cutting
§ 69:54 Damages for wrongful discharge
§ 69:55 Damages for lost profits
§ 69:56 Damages for libel or slander
§ 69:57 Damages to bailed property
§ 69:58 Recovery of economic damages
§ 69:59 Recovery of noneconomic damages for breach of warranty
§ 69:60 Damages to rented premises
§ 69:61 Damages for delay by construction contractor
§ 69:62 Measure of damages in other cases
§ 69:63 Damages for intentional interference with contract rights
§ 69:64 Joint and several liability of joint tortfeasors
§ 69:65 Damages for legal malpractice
§ 69:66 Damages for medical malpractice
§ 69:67 Damages under the Consumer Fraud and Deceptive Business Practice Act
§ 69:68 Damages for spoliation of evidence
§ 69:69 Determining fair value of dissenting corporate shareholders to receive fair compensation

CHAPTER 70. EMINENT DOMAIN

I. EMINENT DOMAIN PROCEEDINGS

- § 70:1 Exercise of eminent domain power—Public use, blight
§ 70:2 Exercise of eminent domain power for public ownership and control

TABLE OF CONTENTS

- § 70:3 Exercise of eminent domain for certain specific, enumerated purposes

II. DAMAGES IN EMINENT DOMAIN PROCEEDINGS

- § 70:4 Damages in eminent domain proceedings, generally
§ 70:5 Damages for land taken
§ 70:6 The unit rule for valuing property in eminent domain proceedings
§ 70:7 Elements of damages that are not compensated
§ 70:8 Apportionment of damages among claimants
§ 70:9 The fair cash market value of property
§ 70:10 Special use—Evidence of replacement or reproduction cost
§ 70:11 Valuation of timber, minerals, etc
§ 70:12 Compensation for easements
§ 70:13 The admissibility of evidence
§ 70:14 The highest and best use
§ 70:15 Instructing on highest and best use
§ 70:16 Testimony as to value of property
§ 70:17 Admissibility of price paid for property
§ 70:18 Evidence of sales of comparable real estate
§ 70:19 Bona fide offer as evidence of fair market value
§ 70:20 Effect of present and prospective zoning changes
§ 70:21 Damages for land not taken
§ 70:22 Special benefits to land not taken
§ 70:23 The impact of change in access and traffic flow on land not taken
§ 70:24 Reimbursement of property owner for expenses
§ 70:25 Jury instructions

CHAPTER 71. ATTORNEY'S FEES

- § 71:1 Recovery of attorney's fees and legal expenses
§ 71:2 The equitable or common-fund doctrine for allowance of attorney's fees
§ 71:3 The imposition of sanctions against an attorney
§ 71:4 Damages and attorney's fees against insurance company for vexatious delay in payment
§ 71:5 Attorney's fees when the client terminates the agreement
§ 71:6 Attorney's fees provided by statute

- § 71:7 Attorney's fees in action under Residential Real Property Disclosure Act
- § 71:8 Attorney's fees in dissolution of marriage cases
- § 71:9 Attorney's fees provided by contract
- § 71:10 Determining the "prevailing party" for purpose of awarding attorney's fees

CHAPTER 72. ATTORNEYS' RETAINER AGREEMENT

- § 72:1 Written attorney's fee agreements
- § 72:2 Payment of attorney in accordance with a general retainer
- § 72:3 Payment of attorney in accordance with a security retainer agreement
- § 72:4 Payment of attorney in accordance with an advance payment retainer
- § 72:5 Distribution of funds held pursuant to retainer agreement

CHAPTER 73. CLOSING ARGUMENTS

I. CLOSING ARGUMENTS, GENERALLY

- § 73:1 General rules governing closing arguments
- § 73:2 Right to make closing argument
- § 73:3 Waiver of right to argue
- § 73:4 Court's control of closing arguments
- § 73:5 Time allowed for argument
- § 73:6 Right of party to argue own case
- § 73:7 Right to open and close arguments

II. GENERAL RULES RELATING TO CLOSING ARGUMENTS

- § 73:8 Comments on court's instructions
- § 73:9 Stating law applicable to case
- § 73:10 Reading from pleadings
- § 73:11 Reading forms of verdict or interrogatories
- § 73:12 Reading from trial transcript
- § 73:13 Reading from scientific works
- § 73:14 Reading from law books
- § 73:15 Demonstration or reenactment of evidence
- § 73:16 Use of graphic aids

TABLE OF CONTENTS

- § 73:17 Making record of final arguments
- § 73:18 Instructing about final arguments

III. OBJECTING TO AND CORRECTING IMPROPER ARGUMENTS

- § 73:19 Improper remarks and conduct, generally
- § 73:20 Objections to improper remarks or arguments
- § 73:21 Correcting improper remarks or conduct
- § 73:22 Right to retaliate to improper conduct of counsel

IV. ARGUMENTS AND COMMENTS THAT ARE IMPROPER

- § 73:23 Arguing new matter or points
- § 73:24 Addressing jurors by name
- § 73:25 Stating personal opinion of counsel
- § 73:26 Vouching for own witnesses
- § 73:27 Misstating evidence
- § 73:28 Use of profanity
- § 73:29 Comments about opposing party
- § 73:30 Comments about opposing counsel
- § 73:31 Comments about opposing witnesses
- § 73:32 Arguments about damages
- § 73:33 Per diem arguments
- § 73:34 Comments on failure to call witness
- § 73:35 Comments on failure to produce evidence
- § 73:36 Appeals to sympathy, prejudice, or passion
- § 73:37 Requesting jurors to put selves in party's
position
- § 73:38 Remarks about liability insurance
- § 73:39 Arguments about special interrogatories
- § 73:40 Other improper arguments

CHAPTER 74. JURY INSTRUCTIONS

- § 74:1 General requirements for jury instructions
- § 74:2 Oral jury instructions
- § 74:3 Duty to use applicable pattern instructions
when available
- § 74:4 Preparing instructions not based on pattern
instructions
- § 74:5 Typing and marking instructions
- § 74:6 Time for tendering instructions

TRIAL HANDBOOK FOR ILLINOIS LAWYERS—CIVIL

- § 74:7 Court's own instructions
- § 74:8 Instructions recommended not to be given
- § 74:9 Jury instruction conference
- § 74:10 Objections to instructions
- § 74:11 Number of instructions
- § 74:12 Cautionary instructions
- § 74:13 Instructions on issues
- § 74:14 Peremptory instructions
- § 74:15 Instructions that define words or terms
- § 74:16 Instructions based on statutes
- § 74:17 Instructions based on judicial decisions
- § 74:18 Slanted and argumentative instructions
- § 74:19 Invading province of jury
- § 74:20 Negative instructions
- § 74:21 Judge's manner of reading instructions
- § 74:22 Clarifying or explaining instructions
- § 74:23 Correcting erroneous instructions
- § 74:24 Effect of erroneous instructions
- § 74:25 Disposition of instructions
- § 74:26 Instructions on burden of proof
- § 74:27 Instructions on weight of evidence
- § 74:28 Instructions on proximate cause
- § 74:29 Instructing on third person as sole proximate cause
- § 74:30 Instructions in tort actions
- § 74:31 Instructing on in-concert liability
- § 74:32 Instructions on punitive damages
- § 74:33 Instructing on sudden emergency and unavoidable accident
- § 74:34 Instructing on comparative negligence
- § 74:35 Instructing on willful and wanton misconduct
- § 74:36 Right-of-way instructions
- § 74:37 Instructions on damages
- § 74:38 Instructions on per diem damages
- § 74:39 Instructions about impact of income taxes
- § 74:40 Instructing on damages from future loss of earnings
- § 74:41 Instructing on aggravation of preexisting condition
- § 74:42 Failure to produce evidence or a witness
- § 74:43 Instructing jury during the trial
- § 74:44 Instruction on mitigation of damages
- § 74:45 Instructions on professional negligence cases

TABLE OF CONTENTS

§ 74:46	Instructing on disability or loss of normal life
§ 74:47	Instructing on increased risk of harm
§ 74:48	Instructing on damages in wrongful-death case
§ 74:49	Instructions in dram shop cases
§ 74:50	Instruction in case of injury from subsequent treatment
§ 74:51	Instructing on assumption of risk
§ 74:52	Instructing on the news media filming and photographing proceedings

CHAPTER 75. CONDUCT OF JURY DURING DELIBERATIONS

I. THE JURY'S CONDUCT DURING DELIBERATIONS

§ 75:1	Conduct of jury during deliberations
§ 75:2	Treatment of improper conduct by jurors
§ 75:3	Items taken by jury to jury room
§ 75:4	Control of jury during deliberations
§ 75:5	Bailiff attending jury
§ 75:6	Conduct of deliberations
§ 75:7	Secrecy of jury proceedings
§ 75:8	The presence of counsel during jury deliberations
§ 75:9	Meals and entertainment during deliberations

II. RULES GOVERNING ARRIVAL AT VERDICT

§ 75:10	Rules governing arrival at verdict
§ 75:11	Quotient verdicts
§ 75:12	Compromise verdicts
§ 75:13	Verdict for undisputed out-of-pocket expenses or less

III. COMMUNICATIONS BY OTHERS WITH JURY

§ 75:14	Communications by judge with jury deliberations
§ 75:15	Request by judge of numeric division
§ 75:16	Communication by others during jury deliberations
§ 75:17	Urging agreement
§ 75:18	Answering jurors' questions

- § 75:19 Jury's request to rehear testimony
- § 75:20 Jury's request to reread or clarify instructions

IV. DEALING WITH IMPROPER CONDUCT RELATING TO THE JURY

- § 75:21 Eavesdropping on deliberations
- § 75:22 Separation of jury during deliberations
- § 75:23 Use of magnifying glass and other devices
- § 75:24 Experiments by jurors
- § 75:25 Haste in arriving at verdict
- § 75:26 Use of books during deliberations

CHAPTER 76. VERDICT

I. GENERAL RULES RELATING TO VERDICTS

- § 76:1 General provisions relating to verdicts
- § 76:2 Form of verdict
- § 76:3 Objections to form of verdict
- § 76:4 Special verdicts
- § 76:5 Itemized verdicts

II. THE RETURN OF THE VERDICT

- § 76:6 Return of verdict
- § 76:7 Sealed verdicts

III. POLLING THE JURORS

- § 76:8 Polling jurors
- § 76:9 Procedure when juror dissents or is uncertain

CHAPTER 77. SPECIAL INTERROGATORIES

- § 77:1 Special interrogatories
- § 77:2 Form and number of special interrogatories
- § 77:3 Objections to and comments about special interrogatories
- § 77:4 Instructing as to special interrogatories
- § 77:5 Special interrogatories inconsistent with general verdict

TABLE OF CONTENTS

CHAPTER 78. CONSTRUING, REVISING, CORRECTING, RECONSIDERING, AND IMPEACHING VERDICTS

- § 78:1 Construction of general verdicts
- § 78:2 Revising or amending verdicts
- § 78:3 Power of court to have jury reconsider defective verdict
- § 78:4 Impeachment of verdict
- § 78:5 Inconsistent verdicts
- § 78:6 The doctrine of aider by verdict

CHAPTER 79. THE ENTRY OF JUDGMENT

- § 79:1 The single posttrial motions in jury cases
- § 79:2 Entry of judgment
- § 79:3 Judgment for purposes of appeal
- § 79:4 Duty of clerk to enter judgment
- § 79:5 Effects of entry of judgment
- § 79:6 Amount of judgment
- § 79:7 Setoffs against judgment
- § 79:8 The revestment doctrine
- § 79:9 Allowance of court costs
- § 79:10 Costs and fees for vexatious delay by insurance company
- § 79:11 Award of prejudgment interest
- § 79:12 Collection of judgment in favor of deceased person
- § 79:13 Arrest of judgment and judgment notwithstanding verdict
- § 79:14 Postjudgment interest
- § 79:15 The motion for a new trial
- § 79:16 The notice of appeal

CHAPTER 80. SUMMARY JUDGMENT

- § 80:1 Summary judgment requirements
- § 80:2 Summary judgment for plaintiff
- § 80:3 Summary judgment for defendant
- § 80:4 Summary judgment procedure
- § 80:5 Summary determination of major issues
- § 80:6 Form of affidavits
- § 80:7 When material facts are not obtainable by affidavit

§ 80:8 Affidavits made in bad faith

§ 80:9 Amendment of pleading

CHAPTER 81. POST JUDGMENT PROCEDURES

§ 81:1 Petition for relief from judgment

§ 81:2 Remittitur

§ 81:3 Res judicata—Judgment as bar to subsequent suit

§ 81:4 Collateral estoppel

§ 81:5 The doctrine of judicial estoppel

§ 81:6 The motion to reconsider based on newly discovered evidence, changes in law, or court's previous errors in application of existing law

§ 81:7 Vacation of judgment

§ 81:8 Settlement agreements

§ 81:9 The damages only retrial

§ 81:10 Right to refile after taking voluntary dismissal

§ 81:11 Collateral attack on a judgment

§ 81:12 Motions after judgment in nonjury cases

§ 81:13 Supplemental citation proceeding

CHAPTER 82. DECLARATORY JUDGMENTS

§ 82:1 Declaratory judgments in cases of actual controversy

§ 82:2 Setting request for declaratory judgment relief only for early hearing

§ 82:3 The trial of the issues in a declaratory judgment action and proceeding by a jury

§ 82:4 Taxing of costs in declaratory judgment proceedings

Table of Laws and Rules

Table of Cases

Index