

Index

ABANDONMENT

Generally, **§ 61:1 et seq.**
Abandonment of Contracts, this index
Alteration of contract and, **§ 61:10**
Client by attorney, **§ 61:6**
Construction contracts, **§§ 61:1, 61:6**
Contracts. Abandonment of Contracts, this index
Discipline for abandonment, **§ 61:6**
Laches and, **§ 61:12**
Leased premises, **§§ 2:2, 25:12, 36:6, 61:13**
Modification of contract and, **§ 61:10**
Patient by doctor, **§ 61:6**
Property
 Generally, **§ 61:13**
 Abandonment of contract and, **§ 61:13**
 Jury instruction as to, **§ 61:13**
 Leased premises, **§§ 2:2, 25:12, 36:6, 61:13**
Rescission and, **§ 61:11**
Trade name, **§ 61:13**
Waiver and, **§ 47:18**

ABANDONMENT OF CONTRACTS

Generally, **§ 61:1 et seq.**
Abandonment of property and, **§ 61:13**
Abrogation, **§ 61:1**
Agency relations and, **§ 61:1**
Alteration of contract and, **§ 61:10**
Answer, allegation as to, **§ 61:7**
Appeal, **§ 61:7**
Burden of proof, **§ 61:8**
Cancellation of contract and, **§§ 61:1, 62:38**
Circumstantial evidence, **§ 61:4**
Client, abandonment of, **§ 61:6**
Consent and, **§§ 61:2, 61:3**
Consideration for, **§§ 56:9, 61:5**
Construction contracts, **§§ 61:1, 61:6**
Contract created by, **§ 61:5**
Contracts subject to abandonment, **§§ 61:1, 61:2, 61:6**
Corporation, abandonment by, **§ 61:5**
Deficiency judgment and, **§ 61:3**
Defined, **§ 61:1**
Destruction of documents and, **§ 61:10**

ABANDONMENT OF CONTRACTS—Cont'd

Discipline for, **§ 61:6**
Effect, **§ 61:6**
Equal dignities rule and, **§ 61:5**
Forms, this index
Implied abandonment, **§§ 61:2, 61:4**
Intent and, **§ 61:2**
Jury instruction as to, **§ 61:7**
Laches and, **§ 61:12**
Manner of asserting defense, **§ 61:7**
Modification and, **§§ 61:10, 65:12**
Mutual rescission, **§ 61:1**
New contract created by, **§ 61:5**
Performance, abandonment before commencing, **§ 65:12**
Pleading, **§ 61:7**
Proof of, **§§ 61:4, 61:6, 61:7**
Rescission and, **§§ 61:1, 61:11, 62:37, 62:38**
Settlement, **§ 61:2**
Statute of frauds and, **§§ 53:24, 61:1, 61:5**
Termination of contract, **§§ 61:1, 61:6, 62:37**
Third party beneficiary contracts, **§ 61:1**
Voluntariness of, **§ 61:3**
Waiver, **§§ 61:7, 61:9**

ABATEMENT

Generally, **§ 1:2 et seq.**
Another action pending, **§§ 1:2, 23:1 et seq.**
Breach of notice requirements, **§ 12:3 et seq.**
Burden of proof, **§ 1:2**
Collateral estoppel, **§ 1:2**
Corporations, qualification to bring action, **§§ 18:17, 39:37**
Death of party causing, **§ 17:1 et seq.**
Definition, **§ 1:2**
Exhaustion of remedies and, **§ 16:11**
Fictitious business names, **§ 39:36**
Foreign corporation, qualification to do business in California, **§ 39:37**
Lack of capacity to be sued, **§ 18:41**
Lack of capacity to sue, **§§ 1:2, 18:35, 18:37**
Misjoinder of parties, **§§ 1:2, 20:1 et seq.**
Misnomer, **§ 1:2**
Nonjoinder of parties, **§§ 1:2, 21:1 et seq.**
Notice, lack of, **§§ 12:3, 12:6**
Pleads in abatement, generally, **§ 1:2 et seq.**
Prematurity, **§§ 1:2, 12:32, 16:11, 27:1, 27:6**
Qualification to bring action
 Domestic corporation, **§ 18:17**
 Foreign corporation, **§ 39:37**
Release, **§ 1:2**

INDEX

ABATEMENT—Cont'd

- Res judicata effect of, §§ 1:2, 14:8
- Ripeness, §§ 1:2, 27:1
- Settlement, § 1:2
- Statute of limitations, § 1:2
- Survival of cause of action and, §§ 17:2, 17:3
- Trial of, § 1:2
- Waiver, § 1:2 et seq.

ABORTION

- Consent, §§ 32:4, 52:14
- Failure to have as barring recovery, § 36:4
- Hospitals, refusal to perform, § 38:37
- Minor mother, § 52:14
- Mitigation of damages, § 36:4

ABSENCE

- Death, this index
- Delay in prosecution, effect of defendant's absence, § 28:29
- Delay in service and return of summons, effect of defendant's absence, § 3:19
- Limitation of actions, § 25:61
- Service and return requirements, effect of defendant's absence, § 3:19
- Statute of limitations
 - Effect of defendant's absence, § 25:61
 - Effect of partner's absence, § 25:55

ABSOLUTE CERTAINTY

- Burden of proof, § 1:8

ABSOLUTE PRIVILEGE

- Privilege and Justification, this index

ABSTENTION

- Forum non conveniens, § 6:34
- Mootness, judicial abstention, § 22:12

ABSTRACT ISSUE

- Generally, § 22:1 et seq.

ABSTRACT OF TITLE

- Statute of limitations and, § 25:14

ABUSE OF PROCESS

- Immunity, § 38:81
- Privilege and, § 41:6
- SLAPP suits, § 12:37
- Statute of limitations and, § 25:25
- Venue, § 5:34

ACALA COTTON BOARD

- Immunity, § 38:122

ACCORD AND SATISFACTION

Generally, § 63:1 et seq.

Absence of a dispute, § 63:6

Accord without satisfaction, § 63:4

Accounting action and, § 63:7

Admissibility of evidence, § 63:9

All disputes resolved, presumption, § 63:11

Answer

Generally, § 63:7

Amendment of, § 63:12

Appeal, § 63:10

Burden of proof, § 63:11

Checks, tender as, §§ 63:5, 69:2

Common counts, defense to, § 63:7

Competency and, § 63:1

Consent and, § 63:1

Consideration, §§ 63:1 to 63:3, 63:6

Definition

Generally, §§ 43:10, 63:1

Accord, § 63:1

Satisfaction, § 63:4

Elements, § 63:1

Employment dispute and, § 63:5

Executed accord required, § 63:4

Existing legal duty, § 63:5

Honest dispute requirement, § 63:2

Illegal contract, effect of, §§ 63:2, 63:3, 63:10

Implied, § 63:1

Intent of parties, § 63:1

Joint creditor may discharge claim by, § 69:9

Jury instructions as to, §§ 63:1, 63:9

Knowledge of dispute, § 63:1

Novation and, §§ 63:13, 64:13

Objections to tender, § 63:5

Part performance and, §§ 63:3, 63:6

Payment by check, §§ 63:5, 69:1

Performance of the accord, § 63:4

Pleading, § 63:7

Presumption that accord and satisfaction covers all disputes, § 63:11

Retention of check, § 63:5

Satisfaction, § 63:4

Settlement and, §§ 43:10, 63:9, 63:14

Subject matter of, § 63:1

Summary judgment, § 63:8

Supplemental pleading, § 63:12

Trial, § 63:9

Wages and, § 63:5

INDEX

ACCORD AND SATISFACTION—Cont'd

Waiver, §§ 63:7, 63:12
Written contract and, § 63:6

ACCOUNT

Accord and satisfaction, § 63:7
Common Counts, this index
Demand for, § 11:22
Probate, § 11:18
Setoff, §§ 44:2, 44:3
Statute of limitations, §§ 25:12, 25:15
Uncertainty and, § 10:6
Venue, § 5:33
Verification of account, §§ 11:18, 11:22

ACCOUNTANTS

Corporate accountants, personal jurisdiction over, § 4:28
Fictitious business name requirements as to, § 39:36
Gross negligence of, license revocation and, § 48:23
Licensing requirements as to, § 39:35
Malpractice, limitation of actions, §§ 25:15, 25:37
Statute of limitations, malpractice, §§ 25:15, 25:37

ACCOUNTING

Accord and satisfaction and, § 63:7
Adequacy of remedy at law, § 31:5
Default judgment for, § 2:1
Dissolution of joint venture, licensing requirements and, § 39:4
Fictitious business names requirements and, § 39:36
Indispensable parties in action for trust accounting, § 21:2
Laches in action for, § 26:7
Mistake in as recoverable, § 40:1
Obligation to do equity, § 35:1
Partnerships, actions for and licensing or fictitious business name requirements,
 §§ 39:4, 39:36
Statute of frauds and, § 53:29
Statute of limitations and, § 25:40
Venue, §§ 5:17, 5:36

ACCOUNT STATED

Common Counts, this index
Pleading, § 10:6
Statute of frauds and, § 53:20
Statute of limitations, §§ 25:12, 25:15
Venue, § 5:33

ACCRUAL OF CAUSE OF ACTION

Generally, § 25:3
Asbestos exposure, § 25:31
Assignability, effect on, § 18:18

ACCRUAL OF CAUSE OF ACTION—Cont'd

Attorney

- Contingent fee contract, recovery on, **§ 25:3**
- Reliance on advice and, **§ 25:6**
- Bad faith actions, **§ 25:38**
- Breach of contract, **§§ 25:4, 25:7, 25:12**
- Civil conspiracy and, **§ 25:8**
- Civil rights violations and, **§ 25:7**
- Claim requirement, **§§ 12:23, 12:27, 12:29**
- Commencement of limitations period
 - Generally, **§ 25:3**
 - Conditions and, **§ 25:3**
 - Discovery of cause of action, **§§ 25:3, 25:5**
 - Event commencing, **§§ 25:3, 25:4**
 - Title insurance, actions on, **§ 25:14**
- Continuing conduct and, **§ 25:7**
- Contract causes of action, **§ 25:4**
- Damages and, **§§ 25:3, 25:14**
- Definition, **§ 25:3**
- Discovery of cause of action
 - Generally, **§ 25:5**
 - Fiduciaries and, **§§ 25:5, 25:65**
 - Title insurance, actions on, **§ 25:14**
- Duty to defend and, **§ 25:7**
- Fiduciaries, actions against, **§ 25:65**
- Filing of action and, **§ 25:3**
- Fraud and, **§ 25:4**
- Government tort claims, **§ 12:23**
- Indemnity against a government, **§ 12:23**
- Installments, actions on, **§ 25:7**
- Insurance related causes of action, **§§ 25:14, 25:38**
- Knowledge of plaintiff and, **§§ 25:4, 25:5, 25:7**
- Libel, **§ 25:25**
- Medical malpractice, government defendants, **§ 12:23**
- Minors, **§ 25:51**
- Notice to plaintiff and, **§ 25:5**
- Personal injury, **§§ 25:4, 25:25**
- Prematurity of action and, **§ 25:3**
- Prerequisite acts and, **§ 25:3**
- Statute of Limitations, this index
- Statute of Repose, **§ 25:5**
- Tacking and, **§ 25:6**
- Time, calculation of, **§ 25:3**
- Tolling and, **§§ 25:3, 25:42**
- Tolling of Statute of Limitations, this index
- Uncertainty and, **§ 25:3**

INDEX

ACKNOWLEDGMENT OF DEBT

Statute of limitations, effect of, **§ 25:46**

ACTION

Accrual of Cause of Action, this index
Adequacy of remedy, **§ 31:1 et seq.**
Another action pending, **§ 23:1 et seq.**
Cause of Action, this index
Commencement of Action, this index
Definition, **§§ 3:1, 25:17, 28:2, 28:3**
Delay in Service and Return of Summons, this index
Forum Non Conveniens, this index
Laches inapplicable, **§ 26:11**
Statute of Limitations, this index

ACT OF THE ELEMENTS

Acts of God, this index

ACTS OF GOD

Generally, **§§ 30:1 et seq., 38:53**
Act of the elements as, **§ 30:1**
Animals, **§ 30:13**
Answer, allegation as to, **§ 30:15**
Answer, allegation of fire as an act of God, **§ 30:15**
Boundary adjustments after, **§ 30:3**
Burden of proof, **§§ 30:2, 30:15, 30:17**
Common carriers and, **§§ 30:2, 30:3**
Contract actions, defense to, **§§ 30:1, 30:2**
Damage by the elements, **§ 30:12**
Defined, **§§ 30:1, 30:3, 30:14**
Demurrer to defense, **§ 30:15**
Destruction of contract subject matter, **§§ 30:18, 30:20, 60:2, 60:3**
Disaster services, immunity for, **§§ 38:45, 38:53**
Drought, **§ 30:5**
Drugs, distribution without prescription during, **§ 38:53**
Earthquake, **§§ 30:3, 30:11, 30:18**
Exoneration of surety by, **§§ 30:14, 67:3**
Failure of consideration, **§ 57:1**
Fires, **§§ 30:3, 30:12, 30:20**
Flood, **§§ 30:3, 30:6, 30:18, 30:20**
Force majeure and, **§ 30:18**
Force of nature, **§ 30:2**
Forms, this index
Freezing conditions, **§§ 30:10, 30:18**
Geothermal resource leases or prospecting permits and, **§ 30:3**
Guarantor, assertion of defense of debtor, **§ 67:3**
Home solicitation contracts and, **§ 30:3**
Hurricanes, **§ 30:7**
Ice, **§ 30:10**

CALIFORNIA AFFIRMATIVE DEFENSES

ACTS OF GOD—Cont'd

Immunity, disaster services, §§ 38:45, 38:53
Impossibility and, §§ 30:18, 30:20, 60:2, 60:3, 60:9
Inland carriers and, § 30:3
Insanity, §§ 30:14, 67:3
Irresistible, superhuman cause, § 30:3
Jury instructions, §§ 30:15, 30:16
Landslide, §§ 30:3, 30:14, 30:20
Lease agreements, § 30:20
Lightning, §§ 30:9, 30:12, 30:18
Marine carriers and, § 30:3
Mootness, § 22:2
Negligence actions, defense to, § 30:2
Offshore oil or gas facilities and, § 30:3
Perils of the sea, § 30:3
Personal injury, § 30:3
Pestilence, § 30:3
Pleading, § 30:15
Prevention of performance and, §§ 30:2, 59:1, 59:4, 59:10
Property held by person other than owner, destruction of, § 30:2
Public enemy, §§ 30:2, 30:3
Public utility district, § 30:3
Purchase and sale agreements, § 30:20
Quiet title, § 30:3
Rain, § 30:6
Reestablishing boundaries, § 30:3
Riot, § 30:3
Sale of goods, § 30:20
Statutory definitions, § 30:3
Storm, §§ 30:2, 30:3, 30:8, 30:18
Strict liability and, § 30:2
Surety, assertion of defense of debtor, §§ 30:14, 67:3
Teacher's service period and, § 30:3
Tidal waves, § 30:3
Tornado, § 30:3
Tort actions, defense to, §§ 30:1, 30:2
Unavoidable accident and, §§ 30:3, 30:18, 30:19
Use of the defense, § 30:2
Vis major and, § 30:18
Waiver, § 30:16
War, § 30:3
Water discharge and, § 30:3
Wind, § 30:7
Wrongful death, § 30:3

ACUPUNCTURISTS

Gross negligence, license revocation for, § 48:23
Licensing requirements as to, § 39:35

INDEX

ADEQUACY OF CONSIDERATION

Consideration, this index

ADEQUACY OF REMEDY AT LAW

Generally, **§ 31:1 et seq.**

Accounting, action for, **§ 31:5**

Another action pending and, **§ 31:11**

Answer, allegation as to, **§ 31:8**

Appeal as to, **§ 31:8**

Breach of contract, **§ 31:6**

Burden of proof, **§§ 31:1, 31:3, 31:9**

Certiorari and, **§§ 31:1, 31:4**

Community property, **§ 31:2**

Constructive trusts, **§ 31:1**

Court's power to raise, **§ 31:10**

Damages, difficulty in ascertaining and, **§§ 31:2, 31:6**

Declaratory relief and, **§§ 31:1, 31:5**

Enforcement of judgment, **§ 31:1**

Extraordinary writs, **§§ 31:1, 31:4**

Financial hardship, **§ 31:7**

Injunctive relief, **§§ 31:1, 31:2**

Insolvent wrongdoer, **§ 31:7**

Irreparable injury, **§ 31:6**

Judgment-proof wrongdoer, **§ 31:7**

Mandamus and, **§§ 31:1, 31:4**

Multiplicity of proceedings, **§§ 31:2, 31:11**

Personal property

 Generally, **§§ 31:1, 31:3**

 Specific performance and, **§ 31:3**

 Uniqueness, **§ 31:3**

Personal service contracts, **§ 31:2**

Pleading, **§ 31:8**

Presumption, real property is unique, **§§ 31:1, 31:3**

Prohibition and, **§§ 31:1, 31:4**

Quasi-community property, **§ 31:2**

Real property, **§§ 31:1, 31:3**

Review, writ of, **§ 31:1**

Security, effect of, **§ 31:1**

Separate property, **§ 31:2**

Specific performance, **§§ 31:1, 31:3**

Trust, obligation arising from, **§ 31:2**

Waiver, **§ 31:10**

Writ of certiorari, **§§ 31:1, 31:4**

Writ of mandate, **§§ 31:1, 31:4**

Writ of prohibition, **§§ 31:1, 31:4**

Writ of review, **§ 31:1**

ADHESION CONTRACTS

Arbitration agreements, §§ **68:2, 68:6**

Contract provisions

Arbitration clause, §§ **68:2, 68:6**

Choice of forum clause, § **4:5**

Choice of law clause, § **4:5**

Limitation of actions, § **25:41**

Release, § **42:1**

Exculpatory contracts, §§ **37:11, 42:1**

Personal jurisdiction provisions and, § **4:5**

Release, § **42:1**

Unconscionability, §§ **55:4 to 55:6, 68:2**

ADMINISTRATIVE AGENCIES AND PROCEEDINGS

Administrative appeals, exhaustion of, § **16:2**

Collateral estoppel, effect of orders, § **15:2**

Delay in prosecution, tolling while administrative proceeding pending, § **28:26**

Election of remedies by administrative agency, § **24:9**

Estoppel

Administrative proceeding, assertion in, § **34:1**

Agency, assertion against, § **34:9**

Exhaustion of administrative appeal, § **16:2**

Exhaustion of Remedies, this index

Finality of decisions by for res judicata purposes, § **14:40**

Immunity, this index

Laches in administrative proceedings, § **26:7**

Primary jurisdiction of

Generally, § **8:1**

Assertion of defense, § **8:3**

Burden of proof, § **8:4**

Elements of defense, § **8:2**

Exhaustion of remedies and, §§ **8:2, 8:6**

Nature of defense, § **8:2**

Remedies for, §§ **8:2, 8:3**

Stay based on, §§ **8:2, 8:3**

Waiver of defense, § **8:5**

Privilege and

Reports in public journals, § **41:10**

Reports of public meetings, § **41:11**

Statements made during administrative proceeding, § **41:5**

Public Agencies and Entities, this index

Public Officers and Employees, this index

Res judicata effect of administrative decisions, § **14:40**

Standing to challenge agency decisions, § **19:13**

Statute of limitations and

Actions against, § **25:32**

Actions by, § **25:18**

Administrative mandamus, §§ **25:19, 25:40, 25:61**

INDEX

ADMINISTRATIVE AGENCIES AND PROCEEDINGS—Cont'd

Statute of limitations and—Cont'd
Administrative proceedings, tolling and, §§ 25:70, 25:71
Estoppel to assert, § 25:73
Exceptions to, § 25:75
Public nuisances, abatement of, § 25:74
Tolling of limitations period during administrative proceeding, §§ 25:69, 25:70
Subject matter jurisdiction and, § 7:2

ADMINISTRATORS

Personal Representatives, this index

ADMIRALTY LAW

Election of remedies, § 24:9
Forum selection clause, § 6:24
Laches, § 26:9
Verification of pleadings as to, § 11:17

ADMISSION AGAINST INTEREST

Avoidance, § 1:5
Collateral estoppel, §§ 14:19, 15:6, 15:7
Inconsistent defenses, § 1:3

ADMISSIONS

Complaint as, §§ 25:46, 25:82, 26:5
Judicial admission, §§ 1:11, 34:19
Settlement as, § 43:1

ADOPTION

Consent, §§ 32:4, 52:16
Continuing jurisdiction over proceeding, § 7:5
Failure to put up for as barring recovery, § 36:4
Guardian ad litem, appointment of, § 18:4
Misrepresentation by public official, liability for, § 38:105
Rescission of, § 62:1
Subject matter jurisdiction, continuing jurisdiction, § 7:5
Wrongful life liability, § 38:37

ADVERSE POSSESSION

Answer, allegation as to, § 25:11
Consent, § 32:1
Laches and, §§ 26:11, 26:13
Mistake as defense to, § 40:1
Statute of limitations
 Generally, § 25:11
 Tolling of, §§ 25:53, 25:61, 25:75
Summons, § 2:2
Unclean hands and, § 45:2

ADVISORY JURY

Estoppel, § **34:10**
Rescission, § **62:33**
Statute of frauds, § **53:26**

ADVISORY OPINION

Generally, § **22:3**
Mootness and, § **22:1**
Prematurity and, § **27:8**
Real party in interest and, § **22:3**
Ripeness and, §§ **22:3, 27:8**
Standing and, § **22:3**
Waiver, § **22:9**

AFFIDAVIT

Definition, § **11:2**
Demurrers and, § **9:4**
Proof of service, § **2:8**
Service by publication, § **2:16**
Verification of pleadings by, §§ **11:2, 11:3, 11:22, 11:24, 11:26**

AFFILIATES

Personal jurisdiction and, §§ **4:11, 4:25**

AFFIRMATIVE DEFENSES

Generally, § **1:1 et seq.**
Abatement, this index
Answer, this index
Burden of Proof, this index
Delay in asserting, § **1:4**
Demurrer, this index
Forms, this index
Forum non conveniens, § **4:38**
Inconsistent defenses, § **1:3**
Laches and, § **1:4**
Pleading, this index
Pleas in abatement. Abatement, this index
Response to affirmative defenses and pleas, § **1:4**
Separate statement of, §§ **1:3, 1:5**
Standing to assert, § **1:1**
Waiver, § **1:11**

AGED PERSONS

Lifetime care, statute of frauds, § **53:23**

AGENT

Agents and Agency, this index

AGENT FOR SERVICE OF PROCESS

Generally, §§ **2:2, 2:8, 2:9, 2:15, 4:6**
Appointment of Secretary of State as, § **4:6**

INDEX

AGENT FOR SERVICE OF PROCESS—Cont'd

- Automobile dealer or remanufacturer, § 2:8
- Broker-dealers, § 2:8
- Carriers exempt from ICC regulation, § 2:2
- Consent to appointment of, § 4:6
- Corporations
 - Dissolved corporation, § 2:8
 - Foreign corporation, § 2:8
 - Nonprofit corporation, § 2:2
- Department of Motor Vehicles, § 2:8
- Driving school operators, § 2:8
- Foreign entities
 - Banks, § 2:8
 - Corporations, § 2:8
 - Educational institutions, § 2:8
 - Insurance companies, §§ 2:2, 2:8
 - Savings and loan holding companies, § 2:8
 - Travelers check sellers, § 2:8
- Geothermal well owners and operators, § 2:2
- Individual, appointment by, § 2:6
- Interinsurance exchange, § 2:8
- Investment advisers, § 2:8
- Nonresidents
 - Generally, § 2:8
 - Aircraft owners, § 2:8
 - Auction companies, § 2:8
 - Boaters, §§ 2:8, 2:15
 - Fliers, §§ 2:8, 2:15
 - Insurance adjusters, § 2:8
 - Land sellers, § 2:8
 - Motorists, §§ 2:8, 2:15
 - Personal representatives, § 2:8
 - Prepaid rental service licensees, § 2:8
 - Real estate licensees, § 2:8
 - Sellers of marketing plans, § 2:8
 - Subdivider, § 2:8
- Owner of multiple residential premises, § 2:2
- Postsecondary educational institutions, § 2:2
- Real estate licensees, § 2:8
- Reciprocal exchange, § 2:8
- Rental listing service licensees, § 2:8
- Residents away from the state, § 2:8
- Savings and loan holding companies, § 2:8
- Securities sellers, § 2:8
- Service by mail despite agent, § 2:9
- Travelers check sellers, § 2:8
- Vehicle dealers and manufacturers, § 2:8

AGENTS AND AGENCY

- Abandonment of, **§ 61:1**
- Agent for Service of Process, this index
- Alarm company agents, licensing requirements as to, **§ 39:22**
- Answer, allegation of, **§ 54:7**
- Athletic agents, licensing requirements as to, **§ 39:34**
- Attorney in Fact, this index
- Authority, **§ 54:1 et seq.**
- Burden of proof
 - Equal dignities rule, **§ 54:8**
 - Undue influence, **§ 46:2**
- Collection of debts for principal, **§ 69:6**
- Commission agreements, **§ 53:10**
- Contracts by agent, liability of principal on, **§ 54:1 et seq.**
- Corporations, acting through, **§ 54:3**
- Duty of inquiry as to agent's authority, **§ 54:1**
- Election to sue agent as barring suit against principal, **§ 24:14**
- Employment managers and agents, licensing requirements as to, **§ 39:34**
- Equal Dignities Rule, this index
- Escrow
 - Contracts in violation of status as, **§ 37:22**
 - Smoke detector disclosure and, **§ 38:5**
- Estopel and, **§§ 34:9, 54:4**
- Executive officers of corporation, **§ 54:3**
- Fiduciary relationships
 - Presumptions, **§ 46:2**
 - With principal, **§ 46:3**
- Fraud by agent causing rescission, **§ 62:5**
- Imputation of negligence by, **§§ 48:13, 48:15**
- Inquiry into authority, **§ 54:1**
- Joinder as defendant with principal, **§ 20:3**
- Liability of principal or agent for contracts, **§ 54:1**
- Licensing requirements as to generally, **§ 39:34**
- Limitation on liability of principal, **§ 54:1**
- Misrepresentations by, **§ 62:5**
- Mistake, imputation to principal of agent's knowledge of, **§ 40:9**
- Negotiation by agent, **§ 54:1**
- Ostensible, **§ 54:4**
- Partnership, this index
- Payments, receipt of, **§ 69:6**
- Personal jurisdiction and
 - Conduct of as establishing jurisdiction, **§ 4:11**
 - Designation of agent for service of process within California, **§ 4:12**
 - Jurisdiction over principal as affecting jurisdiction over agent, **§ 4:28**
 - Personal jurisdiction through, **§§ 4:11, 4:25**
- Presumption person acting as principal, **§ 54:8**
- Principal, this index

INDEX

AGENTS AND AGENCY—Cont'd

- Privity with principal for res judicata, **§ 14:28**
- Ratification of agent's acts by principal, **§§ 54:5, 62:20**
- Real Estate Brokers and Salespersons, this index
- Real estate sales agreements involving agent, statute of frauds and, **§§ 53:10, 54:1 et seq.**
- Real party in interest, **§ 19:4**
- Receipt of money for principal, **§ 69:6**
- Relation with principal, **§ 54:1 et seq.**
- Release
 - Fraud by agent and, **§ 42:4**
 - Of fewer than all debtors, **§ 42:7**
- Rescission and acts of agent, **§ 62:5**
- Res judicata and, **§ 14:28**
- Setoff and, **§ 44:4**
- Standing to bring action for principal, **§ 19:3**
- Statute of Frauds, this index
- Statute of limitations
 - Accrual of cause of action and, **§ 25:65**
 - Concealment of cause of action by, **§ 25:21**
- Transmission of offer by agent, **§ 54:1**
- Trustee's agents, **§ 48:15**
- Ultimate fact, pleading of, **§ 10:2**
- Undisclosed agency
 - Generally, **§ 54:1**
 - Setoff and, **§ 44:4**
 - Undisclosed principal, **§§ 54:1, 62:5**
- Undue Influence, this index
- Waiver, agent's power as to, **§ 47:2**

AGREED BOUNDARY

- Generally, **§§ 10:2, 25:11**

AGREEMENTS

- Contracts, this index

AGRICULTURAL LABOR RELATIONS BOARD

- Subject matter jurisdiction of, **§ 7:2**

AGRICULTURAL LEASES

- Leases, this index

AIDS/ACQUIRED IMMUNE DEFICIENCY SYNDROME

- Immunity for performing test or disclosing results to patient, **§ 38:29**
- Testing of minors, **§ 52:14**

AIRPLANES

- Release for purchase of, **§ 42:3**

AIRPORTS

- Airport Land Use Commission, **§ 38:18**

AIRPORTS—Cont'd

Land use, immunity for, **§ 38:18**

"AKA"

Nonentity, lack of capacity to sue, **§ 18:30**

ALARM COMPANIES AND OPERATORS

Bureau of Collection and Investigative Services, **§ 39:22**

Fictitious business names, **§ 39:36**

Licensing requirements as to, **§§ 39:13, 39:22**

ALCOHOLIC BEVERAGES

Alcoholic Beverage Control Board

Exhaustion of remedies and, **§ 16:1**

Res judicata effect of decisions by, **§ 14:40**

Subject matter jurisdiction of, **§ 7:2**

Consent to medical treatment, **§ 32:4**

Immunity, **§§ 38:33, 38:44**

Reporting use by student, immunity, **§ 38:44**

Social hosts, immunity, **§ 38:33**

ALIAS SUMMONS

Delay in service and return of, **§ 3:14**

Service and return requirements as to, **§ 3:14**

Summons, this index

ALIENATION OF AFFECTION

Cause of action for, **§§ 9:1, 38:37**

Psychiatrist, sexual relations with patient, **§ 38:37**

ALTERATION OF DOCUMENTS

Generally, **§ 66:1 et seq.**

Abandonment and, **§ 61:10**

Agent, alteration by, **§ 54:1**

Answer, **§ 66:8**

Appeal, **§ 66:8**

Bank statements of account, **§ 66:2**

Bifurcated trial, **§ 66:8**

Blanks, **§§ 54:1, 66:2, 66:4**

Burden of proof, **§ 66:9**

Commercial paper and, **§ 66:2**

Consent to alteration, **§§ 66:1, 66:2, 66:4, 66:5, 66:7, 66:10**

Corrections in instrument, **§ 66:5**

Deed, altered after recordation, **§ 66:1**

Deed of trust, **§ 66:4**

Defined, **§ 66:2**

Destruction of Documents, this index

Document returned to original condition, **§ 66:6**

Duplicate originals, **§ 66:7**

Effect of alteration, **§ 66:3**

Equal dignities rule and, **§ 54:1**

INDEX

ALTERATION OF DOCUMENTS—Cont'd

Equity, obligation to do, **§ 35:1**
Estoppel, **§ 66:4**
Evidence, introduction of altered document, **§ 66:1**
Executory obligations extinguished, **§ 66:1**
Forgery and, **§§ 66:1, 66:2**
Guarantor may assert as defense, **§§ 67:3, 67:4**
Holder in due course and, **§ 66:2**
Immaterial alterations, **§ 66:5**
Incomplete instruments, **§ 66:2**
Intent, **§ 66:3**
Jury instructions as to, **§ 66:8**
Manner of asserting the defense, **§ 66:8**
Materiality of, **§§ 66:3, 66:5**
Mortgages, **§ 66:4**
Mutual rescission and, **§ 61:10**
Negligence aiding alteration, **§ 66:2**
Negotiable instruments and, **§ 66:2**
Obligation to do equity, **§ 35:1**
Other contracts unaffected, **§ 66:5**
Parol evidence as to, **§ 66:8**
Power of attorney, **§ 66:3**
Promissory note, **§ 66:4**
Ratification of, **§§ 66:5, 66:10**
Restoration to original condition, **§ 66:6**
Securities and, **§ 66:2**
Signature altered, **§§ 66:1, 66:2**
Spoliation, **§ 66:5**
Statute of frauds and, **§ 53:7**
Surety may assert as defense, **§§ 67:3, 67:4**
Third party alterations, **§ 66:5**
Time of alteration, **§§ 66:1, 66:5, 66:8**
Transfer of altered instrument, **§ 66:2**
Trial, **§ 66:8**
Waiver of defense, **§ 66:10**
Warehouse receipts and, **§ 66:2**

ALTER EGO

Amended judgment, **§§ 3:11, 14:32**
Arbitration, **§ 68:1**
Personal jurisdiction and, **§§ 4:25, 4:26**
Pleading, **§ 2:20**
Res judicata and, **§ 14:32**
Service of process on, time for
 Amended complaint, **§ 3:13**
 Estoppel and, **§ 3:23**
 Original complaint, **§ 3:11**
Statute of limitations and, **§§ 25:23, 25:52**

ALTER EGO—Cont'd

Usury, § 37:13

ALTERNATIVE DISPUTE RESOLUTION

Arbitration and Award, this index

Common interest developments, actions against builder and, § 12:38

Covenants, conditions, and restrictions (CCRs) and, § 12:38

AMANUENSIS RULE

Equal dignities rule, § 54:3

Statute of frauds, § 53:3

AMBIGUOUS PLEADING

Uncertainty of Pleading, this index

AMBULANCES

Emergency, immunity during, §§ 38:51, 38:118

Health Care Professionals, this index

Traffic signals, immunity during emergency, § 38:118

AMENDED PLEADINGS

Accord and satisfaction, pleading, § 63:12

Allegation of punitive damages, health care providers, § 12:36

Answer, amendment of

Generally, § 1:4

Collateral estoppel, § 15:12

Liberality and, § 15:12

Prematurity, § 27:2

Statute of limitations, §§ 25:77, 25:83

Burden on plaintiff, correction of uncertain pleading, § 10:16

Capacity, amendment of complaint to cure lack of, § 18:37

Commencement of action, new parties named in, §§ 3:3, 3:13

Complaint, amendment of

Defects in complaint as served, § 2:21

Delay in prosecution, tolling caused by, §§ 28:18, 28:23, 28:24

Delay in service and return of summons, § 3:13

Prematurity, § 27:1

Relation back and, §§ 3:13, 25:77

Service and return of summons on, §§ 2:23, 3:3, 3:11 to 3:13

Subject matter jurisdiction, effect on, § 7:1

Uncertainty and, § 10:16

Venue, effect on, §§ 5:4, 5:42

Defects in complaint as served, § 2:21

Delay in prosecution

Generally, §§ 28:23, 28:24, 29:3

Not a trial, § 28:4

Tolling and, §§ 28:18, 28:23, 28:24

Delay in service and return of summons, §§ 3:3, 3:11 to 3:13, 29:3

Demurrer, amendment following, §§ 9:4, 10:16

Estoppel based on newly discovered facts, § 34:10

INDEX

AMENDED PLEADINGS—Cont'd

- Failure to state cause of action and, **§ 9:4**
- Government claims requirements and, **§ 12:26**
- Joinder of parties, amendment to effect, **§§ 20:8, 21:4**
- Lack of standing, amendment to correct, **§ 19:7**
- Leave to amend, demurrer and, **§§ 9:4, 9:6**
- Liberality, policy of, **§ 15:2**
- Licensing requirements
 - Contractor license requirements, **§ 39:18**
 - Real estate license requirements, **§ 39:28**
- Modification of contracts, **§ 65:10**
- Novation, **§ 64:10**
- Prematurity, **§ 27:1**
- Prevention of performance, amendment of answer to allege, **§ 59:5**
- Privilege, amendment of answer to allege, **§ 41:23**
- Probate claim, **§ 12:32**
- Punitive damages allegation, health care providers, **§ 12:36**
- Relation back and, **§§ 3:11, 25:77**
- Release, **§§ 42:8, 42:12**
- Return of service, **§ 3:15**
- Service of Process, this index
- Setoff, **§ 44:7**
- Settlement, **§ 43:6**
- Statute of limitations and, **§§ 25:1, 25:76 to 25:78, 25:83**
- Subject matter jurisdiction, effect on, **§ 7:1**
- Summons, **§§ 2:23, 3:14**
- Supplemental Pleadings, this index
- Uncertainty and, **§ 10:16**
- Unclean hands, **§ 45:15**
- Venue, effect on, **§§ 5:4, 5:42**
- Verification of pleadings to cure defect, **§ 11:28**

AMENDED SUMMONS

- Summons, this index

AMOUNT IN CONTROVERSY

- Small claims court, **§ 7:2**
- Subject matter jurisdiction and, **§ 7:2**
- Superior court, **§ 7:2**

AMUSEMENT PARKS

- Immunity for employees detaining persons for violation of park rules, **§ 38:17**

ANATOMICAL GIFTS

- Immunity, **§ 38:63**
- Uniform Anatomical Gift Act, **§ 38:63**

ANIMAL HEALTH TECHNICIANS

- Emergency care, immunity, **§ 38:55**
- Firefighter's rule, **§ 48:25**

ANIMAL HEALTH TECHNICIANS—Cont'd

Immunity, §§ 38:16, 38:55
Persons treating impaired technicians, § 38:16
Veterinarian, this index

ANIMALS

Abuse, reporting immunity, § 38:43
Acts of God caused by, § 30:13
Dogs, this index
Emergency care, immunity, § 38:55
Euthanasia, § 38:55
Fights, reporting immunity, § 38:43
Fish hatcheries, § 38:59
Horses and Horse Racing, this index
Immunity, §§ 38:19, 38:20, 38:43, 38:55, 38:77
Injuring, § 38:19
Killing, § 38:19
Law enforcement activities and, immunity, § 38:76
Railroads, liability for animals in railway, § 38:20
Statute of frauds and sale of, § 53:11
Statute of limitations, injury to, § 25:25
Strays, § 38:19
Veterinarian, this index

ANNULMENT OF MARRIAGE

Dissolution of Marriage, this index
Marriage, this index
Minors, annulment by parent, § 45:10
Res judicata and, § 14:51
Unclean hands and, § 45:10
Venue, § 5:18

ANOTHER ACTION PENDING

Generally, § 23:1 et seq.
Abstention and, § 23:3
Adequacy of remedy at law and, §§ 31:2, 31:11
Answer, allegation of, § 23:4
Appellate review, § 23:7
Bifurcated trial, § 23:6
Burden of proof, § 23:8
California courts, actions pending in, § 23:2
Child custody actions and, § 23:3
Comity, §§ 23:1, 23:3
Concurrent exclusive jurisdiction and, §§ 7:5, 23:11
Demurrer, §§ 23:4, 23:5
False Claims Act, actions under, § 23:1
Federal court, action pending in, § 23:3
Foreign jurisdiction, action pending in, § 23:3
Forms, this index

INDEX

ANOTHER ACTION PENDING—Cont'd

Injunctions and, §§ 23:2, 23:3
Judicial notice, § 23:5
Jurisdiction, priority of, §§ 7:2, 7:5
Plea in abatement, §§ 1:2, 23:2
Priority of jurisdiction, §§ 7:2, 7:5
Probate proceedings and, § 23:2
Res judicata and, §§ 14:18, 14:42, 23:2
Splitting cause of action and, §§ 14:15, 23:10
Stay, §§ 23:2, 23:5
Subject matter jurisdiction, § 7:5
Uniform Child Custody Jurisdiction Act, § 23:3
Waiver, § 23:9

ANSWER

Generally, § 1:1 *et seq.*
Accord and satisfaction, §§ 63:7, 63:12
Adverse possession, § 25:11
Advice of counsel, § 41:30
Agency, equal dignities rule, § 54:7
Alteration of documents, § 66:8
Amendment, §§ 1:4, 15:12
Another action pending, § 23:4
Arbitration demand, § 68:7
Architect's license, allegation as to lack of, § 39:19
Assignee may not sue, § 18:36
Assumption of the risk, § 48:24
Bailment, demand for return of deposited property, § 12:16
Collateral estoppel, allegation as to, § 15:12
Comparative fault, §§ 48:6, 48:17
Consent, § 32:6
Consideration
 Failure of, § 57:4
 Lack or inadequacy of, § 56:13
Consumer class actions, notice and demand in, § 12:18
Contract, failure to demand performance, § 12:13
Contractor's license, allegation as to lack of, § 39:18
Contracts
 Abandonment of, § 61:7
 Alteration of, § 66:8
 Capacity to contract, lack of, § 52:36
 Consideration, failure of, § 57:4
 Consideration, lack of, § 56:13
 Contractual limitations period, § 25:41
 Destruction of, § 66:8
 Failure to demand performance, § 12:13
 Frustration of purpose, § 58:2
 Gambling contract, § 37:28

ANSWER—Cont'd

Contracts—Cont'd

 Illegality, § 37:28

 Impossibility, § 60:13

 Modification of, § 65:8

 Novation, § 64:10

 Rescission, §§ 12:7, 62:25, 62:32

 Statute of frauds, § 53:35

 Unsound mind and, § 52:36

Conversion, demand for return of converted property, § 12:17

Corporation

 Appearance in pro per improper, § 18:14

 Domestic corporation not qualified to sue, § 18:36

 Foreign corporation not qualified to sue, § 39:37

 Not qualified to sue, § 18:36

Death of plaintiff, § 17:36

Defamation

 Demand for correction or retraction, § 12:14

 Truth as defense to action for, § 51:6

Deficiency judgment, defects in notice as to foreclosure sale, § 12:8

Delay in service or prosecution, allegation as to, §§ 3:26, 29:4

Demand requirements

 Bailment, demand for return of deposited property, § 12:16

 Consumer class actions, demand in, § 12:18

 Contract, failure to demand performance, § 12:13

 Conversion, demand for return of converted property, § 12:17

 Defamation, demand for correction or retraction, § 12:14

 Failure to make demand, § 12:13

 Notice not provided, § 12:18

 Return of property, justified refusal to return, § 12:16

 Shareholder's derivative action, defective demand prior to, § 12:15

Demurrer to, § 1:4

Denials

 Generally, § 1:1

 In actions under \$1000, § 11:23

Duress, § 33:8

Election of remedies and, § 24:11

Emergency doctrine, § 49:2

Equal dignities rule, § 54:7

Equity, failure to do equity, § 35:2

Estoppel

 Generally, § 34:10

 Prevention of performance and, § 59:11

Exhaustion of remedies, § 16:10

Exoneration of surety, § 67:5

Failure

 Of consideration, § 57:4

INDEX

ANSWER—Cont'd

Failure—Cont'd

To satisfy certificate of merit requirements, **§ 12:39**

To satisfy claim, demand or notice requirements, **§ 12:39**

To satisfy fictitious business name requirements, **§ 39:36**

To state a cause of action, **§ 9:3**

Fictitious business name requirements, failure to satisfy, **§ 39:36**

Fire as an act of God, **§ 30:15**

Forms, this index

Forum non conveniens, **§ 6:26**

Frustration of purpose, **§ 58:2**

Fund transfers, notice of breach, **§ 12:11**

General appearance as waiver of defenses, **§§ 2:28, 4:8, 4:31**

General denial, effect of, **§§ 36:8, 67:5, 69:10**

Government Tort Claims Act, failure to make timely or proper claim, **§ 12:28**

Guarantor, exoneration of, **§ 67:5**

Illegality, **§ 37:28**

Immunity, allegation of, **§ 38:140**

Impossibility, **§ 60:13**

Incompetency of plaintiff, **§ 18:36**

Insurance loss, notice of, **§ 12:10**

Jurisdiction

Lack of personal jurisdiction, **§ 4:31**

Lack of subject matter jurisdiction, **§ 7:11**

Justification, **§ 41:21**

Laches, **§ 26:15**

Lack of capacity of foreign representative, **§ 18:12**

Lack of capacity to sue, **§§ 18:35, 18:36**

Lack of consideration, **§ 56:13**

Lack of prosecution, discretionary dismissal, **§ 29:4**

Lack of standing or real party in interest, **§§ 18:41, 19:6**

Lack of subject matter jurisdiction, **§ 7:11**

Libel, demand for correction or retraction, **§ 12:14**

Licensing requirements

Generally, **§ 39:39**

Architect's license, allegation as to lack of, **§ 39:19**

Contractor's license, allegation as to lack of, **§ 39:18**

Real estate license, allegation as to lack of, **§ 39:28**

Minority of plaintiff, **§ 18:36**

Misjoinder of parties, **§ 20:7**

Misnomer as to party, **§ 18:30**

Mitigation of damages, **§ 36:8**

Modification of contracts, **§§ 65:8, 65:10**

Mootness, **§ 22:4**

Nonentity as party, **§ 18:30**

Nonjoinder of parties, **§§ 21:1, 21:3**

ANSWER—Cont'd

Notice requirements

Consumer class actions, notice in, **§ 12:18**

Deficiency judgment, defects in notice as to foreclosure sale, **§ 12:8**

Fund transfers, notice of breach, **§ 12:11**

Insurance loss, notice of, **§ 12:10**

Rescission, §§ **12:7, 62:25**

Sale of goods, notice of breach, **§ 12:11**

Novation, **§ 64:10**

Parties

Capacity to sue, lack of, §§ **18:14, 18:18, 18:30, 18:36, 18:41**

Misjoinder, **§ 20:7**

Nonjoinder, **§ 21:3**

Real party in interest, absence of, **§ 19:6**

Standing, lack of, **§ 19:6**

Payment, §§ **69:10, 69:13**

Plaintiff's incompetency, **§ 18:36**

Plaintiff's lack of authority, **§ 18:36**

Plaintiff's lack of capacity, **§ 18:36**

Plaintiff's minority, **§ 18:36**

Pleading, this index

Prematurity, **§ 27:2**

Prevention of performance, §§ **59:5, 59:11**

Privilege, §§ **41:21, 41:23, 41:30**

Real estate license, allegation as to lack of, **§ 39:28**

Real party in interest, **§ 19:6**

Release

Allegation of, **§ 42:8**

Waiver of, **§ 42:12**

Rescission, §§ **12:7, 62:25, 62:32**

Res judicata, allegation as to, **§ 14:54**

Sale of goods, notice of breach, **§ 12:11**

Separate statement of defenses, **§ 1:5**

Service and return of summons, assertion of delay in, **§ 3:26**

Setoff

Generally, §§ **44:1, 44:7, 44:9**

Allegation as to, **§ 44:7**

Waiver by failure to assert defense, **§ 44:9**

Settlement, **§ 43:6**

Shareholder's derivative action, demand prior to, **§ 12:15**

Slander, demand for correction or retraction, **§ 12:14**

Specific denials, **§ 1:1**

Standing, **§ 19:6**

Stare decisis, allegation as to, **§ 14:62**

Statute of frauds, **§ 53:35**

Statute of limitations

Adverse possession, **§ 25:11**

INDEX

ANSWER—Cont'd

- Statute of limitations—Cont'd
 - Allegations as to, §§ **25:2, 25:6, 25:11, 25:40, 25:78**
 - Contractual limitations period, § **25:41**
 - Facts establish bar, § **25:78**
 - Failure to satisfy Doe pleading requirements, § **25:77**
 - Law governing limitation period, § **25:2**
 - Statute of limitation bars action, § **25:78**
 - Waiver of defense, § **25:83**
- Subject matter jurisdiction, lack of, § **7:11**
- Subrogee may not sue, § **18:36**
- Surety, exoneration of, § **67:5**
- Unclean hands, § **45:15**
- Unconscionability, § **55:5**
- Undue influence, §§ **46:13, 46:15**
- Unjust enrichment, § **55:5**
- Usury, § **37:13**
- Venue objection waived, §§ **5:41, 5:45**
- Verification, assertion absent or improper verification, § **11:27**
- Waiver, § **47:14**

ANTICIPATORY BREACH

- Statute of limitations, effect on, §§ **25:9, 60:12**

ANTI-DEFICIENCY LEGISLATION

- Deed of Trust; Foreclosure, this index

ANTITRUST

- Illegality of contract restraining trade, § **37:14**
- Immunity
 - Trade group immunity, § **38:122**
 - Witness immunity, § **38:41**
- Notice to Attorney General of suit, § **12:6**
- Personal jurisdiction, state regulation affecting, § **4:18**
- Settlement, § **43:5**
- Sherman Antitrust Act, § **37:14**
- Trade groups, immunity from, § **38:122**
- Venue, § **5:20**

APIARIES

- Pest control operation, damages, § **38:22**

APPEAL

- Abandonment of contract, appeal as to, § **61:7**
- Accord and satisfaction, § **63:10**
- Adequacy of remedy, appeal as to, § **31:8**
- Administrative appeals, exhaustion of, § **16:2**
- Alteration of documents, § **66:8**
- Arbitration, order as to, §§ **68:9, 68:10**
- Bifurcated trial, § **1:2**

APPEAL—Cont'd

- Charitable trust, notice to Attorney General in appeal involving, **§ 12:6**
- Collateral estoppel and, **§§ 14:56, 15:12**
- Comparative fault issues, **§ 48:19**
- Corporate suspension or forfeiture, effect on corporation's appellate rights, **§ 39:38**
- Criminal appeals, death as abating, **§ 17:27**
- Death as abating criminal appeal, **§ 17:27**
- Delay in prosecution and
 - Retrial after reversal, **§ 28:1**
 - Review of order as to, **§§ 28:32, 29:7**
 - Standard of review on, **§ 28:32**
 - Tolling by appeal, **§§ 28:15, 29:2**
- Demurrer and, **§ 9:6**
- Duress, raising issue for first time, **§ 33:8**
- Equal dignities rule, **§ 54:7**
- Equity, obligation to do, **§ 35:2**
- Estoppel, appeal and, **§ 34:10**
- Exhaustion of administrative appeal, **§ 16:2**
- Exoneration of surety, appeal and, **§ 67:5**
- Failure to mitigate, **§§ 36:8, 36:9**
- Failure to state cause of action, appeal and, **§ 9:6**
- Illegality, appeal and, **§§ 37:28, 39:41**
- Immunity
 - Appellate court judges and, **§ 38:131**
 - Appellate review as to, **§ 38:142**
- Indispensable parties and, **§§ 21:5, 21:7**
- Invited error and, **§ 34:1**
- Judicial error, appeal as remedy for, **§ 38:131**
- Jurisdiction of appellate courts, **§ 7:2**
- Laches and, **§ 26:18**
- Law of the case and, **§ 14:60**
- Misjoinder of parties, **§ 20:9**
- Modification of contracts, **§ 65:8**
- Nonjoinder of parties, **§ 21:7**
- Novation, **§ 64:10**
- Obligation to do equity, **§ 35:2**
- Personal jurisdiction and, **§ 4:34**
- Prematurity, **§ 27:5**
- Real party in interest, absence of, **§ 19:9**
- Release, **§ 42:11**
- Rescission, **§ 62:34**
- Res judicata, **§ 14:56**
 - Effect of judgment by court of appeal, **§ 14:38**
 - Finality of judgment on appeal, **§ 14:6**
- Reversal on appeal
 - Delay in prosecution and, **§ 28:1**
 - Limitation of actions and, **§ 25:68**

INDEX

APPEAL—Cont'd

- Standing, review as to, **§ 19:17**
- Statute of frauds, **§ 53:38**
- Statute of limitations
 - Appellate review as to, **§ 25:81**
 - Tolling of limitations period and appeal, **§ 25:68**
- Subject matter jurisdiction, review as to, **§§ 7:4, 7:14**
- Tolling by
 - Delay in prosecution, **§§ 28:15, 29:2**
 - Limitations period and, **§ 25:68**
- Unclean hands, **§§ 45:19, 45:21**
- Venue, appellate review as to, **§ 5:43**
- Waiver
 - Appeal as to, **§ 47:15**
 - Failure to state cause of action and, **§ 9:6**

APPEARANCE

- Generally, **§ 3:17**
- Answer as, **§ 4:31**
- Attorney, appearance by
 - Generally, **§§ 2:28, 4:8, 14:4, 18:4**
 - Attorney in fact, **§ 18:14**
 - Corporation, **§ 18:14**
- Discretionary dismissal, failure to appear, **§ 29:13**
- General appearance as waiver
 - Defects in service, **§ 2:28**
 - Delay in service, **§§ 3:18, 3:31**
 - Lack of personal jurisdiction, **§§ 4:4, 4:8**
- In pro per appearance
 - Corporation, **§ 18:4**
 - Personal representative, **§ 18:11**
- Res judicata and, **§ 14:4**
- Special appearance, **§ 2:25**
- Stipulation as, **§ 3:18**

APPRAISALS

- Arbitration and award, **§ 68:15**

ARBITRATION AND AWARD

- Generally, **§ 68:1 et seq.**
- Adhesion contracts, **§§ 68:2, 68:6**
- Agreement submitting to, **§ 4:5**
- Alter ego, amendment of award, **§ 68:1**
- Alternate Dispute Resolution, this index
- American Arbitration Association, **§§ 38:132, 68:1, 68:4**
- Answer, allegation as to, **§ 68:7**
- Appeal of order denying arbitration, **§§ 68:9, 68:10**
- Appraisal proceedings under contract, **§ 68:15**

ARBITRATION AND AWARD—Cont'd

Arbitrator

Bias of, **§ 68:4**

Determination of arbitrability of dispute, **§§ 68:1, 68:7, 68:10**

Disqualification of, **§ 68:4**

Neutrality of, **§ 68:4**

Number of, **§ 68:4**

Attorney-client relationship as evidence of bias, **§ 68:4**

Attorney fee disputes

Binding effect of award, **§§ 12:5, 14:51**

Immunity of local bar association as arbitrator, **§ 38:8**

Notice to client of right to arbitration, **§ 12:5**

Res judicata and, **§ 14:51**

Waiver, **§ 12:5**

Award

Confirmation or correction of, **§ 68:10**

Res judicata effect of, **§ 14:41**

Bad faith in arbitration proceeding, **§§ 68:1, 68:12**

Bias of arbitrator, **§ 68:4**

Burden of proof, **§ 68:11**

Choice of law, **§ 68:1**

Class actions and, **§ 68:7**

Client's right to arbitration, notice of, **§ 12:5**

Collateral estoppel and, **§ 15:2**

Compelling arbitration

Bad faith and, **§§ 68:1, 68:12**

Burden of proof, **§ 68:11**

Court's power to determine arbitrability of dispute, **§§ 68:1, 68:7, 68:10**

Motion for, **§ 68:8**

Petition for, **§ 68:8**

Pleadings, **§§ 68:1, 68:7**

Review of order as to, **§§ 68:9, 68:10**

Who may be compelled to arbitrate, **§ 68:3**

Consent to arbitration, **§§ 68:1, 68:7, 68:12**

Consolidation of arbitrations, **§ 68:5**

Contractors, arbitration of violations of licensing requirements, **§ 39:18**

Contracts as to

Generally, **§ 68:1**

Adhesion contract, arbitration agreement as, **§§ 68:2, 68:6**

Appraisal proceedings, **§ 68:15**

Breach of, allegation as to, **§ 68:7**

Court approval of, **§ 68:1**

Enforcement of award based on illegal contract, **§ 37:26**

Failure to read, **§ 68:1**

Interpretation of, **§§ 68:1, 68:2, 68:9**

Personal jurisdiction, consent to in agreement, **§ 4:5**

Repudiation of, **§ 68:13**

INDEX

ARBITRATION AND AWARD—Cont'd

- Contracts as to—Cont'd
 - Self-executing arbitration clauses, **§ 68:1**
 - Severability of arbitration clause, §§ 37:5, 68:2, 68:4, 68:13
 - Specific performance of, **§ 68:1**
 - Statute of frauds and, **§ 53:23**
 - Unconscionability and, **§ 55:1**
 - Undue influence and, §§ 46:2, 68:2
 - Who is bound by, §§ 68:1, 68:6
- Courts and
 - Approval of arbitration agreement, **§ 68:1**
 - Choice of law, **§ 68:1**
 - Determination of arbitrability of dispute, §§ 68:1, 68:7
 - Dismissal periods and, **§ 28:2**
 - Jurisdiction of court and arbitration contract, **§ 68:1**
 - Third parties' rights in arbitration, **§ 68:1**
 - Death of party, effect of, **§ 17:8**
 - Delay in prosecution and, §§ 28:4, 28:9, 28:11, 28:23, 68:1
 - Delay in service and return of summons and, **§ 3:9**
 - Demand for, §§ 68:1, 68:12
 - Demurrer, **§ 68:7**
 - Disclosure obligations, **§ 68:4**
 - Discretionary dismissal and, **§ 29:3**
 - Election of remedies and, **§ 24:4**
 - Equitable relief in arbitration, **§ 68:1**
 - Exhaustion of remedies doctrine and, **§ 16:17**
 - Existence of agreement to arbitrate, **§ 68:1**
 - Failure to mediate, **§ 68:14**
 - Failure to participate in, **§ 68:1 et seq.**
 - Failure to read contract, **§ 68:1**
 - Federal Arbitration Act, §§ 68:1 to 68:3
 - Fictitious defendants and, **§ 68:7**
 - Foreign corporations, right to participate in arbitration, **§ 39:37**
 - Fraud and arbitration agreement, **§ 68:2**
 - Frustration of purpose of underlying contract and, **§ 58:1**
 - General reference, **§ 68:16**
 - Guarantors, effect on, **§ 67:3**
 - Illegality
 - Arbitration of, **§ 68:2**
 - Awards, illegality and, §§ 37:26, 68:13
 - Determination of illegality by arbitrator, **§ 68:2**
 - Enforcement of award based on illegal contract, **§ 37:26**
 - Severability of arbitration clauses and, §§ 37:5, 68:2, 68:13
 - Immunity of arbitrators, §§ 38:8, 38:132, 38:133
 - Incorporation of arbitration terms, §§ 68:1, 68:2
 - Injunction for or against arbitration, §§ 68:1, 68:7
 - International commercial disputes, §§ 68:4, 68:5

ARBITRATION AND AWARD—Cont'd

- Interpretation of agreement, §§ **68:1, 68:2, 68:9**
- Judicial reference, § **68:16**
- Jury trial, waiver, § **68:1**
- Laches, arbitrator's determination of, §§ **68:1, 68:12**
- Limitation period, action to compel, § **25:12**
- Loss of consortium and, § **68:6**
- Mediation, failure to mediate, § **68:14**
- Medical malpractice
 - Generally, § **68:6**
 - Limitation periods and, § **25:38**
- Motion for arbitration, § **68:8**
- Neutrality of arbitrator, § **68:4**
- Notice, § **12:5**
- Patients, § **68:6**
- Permeation doctrine, § **68:2**
- Personal jurisdiction, consent to in agreement, § **4:5**
- Petition for arbitration, §§ **68:1, 68:8**
- Pleading, § **68:7**
- Preliminary injunction, § **68:7**
- Prematurity of arbitration action, § **68:7**
- Private contractual arrangement, § **68:1**
- Privilege for statements published in, § **41:5**
- Proceedings after arbitration, § **68:10**
- Punitive damages in arbitration, § **68:1**
- Reference, § **68:16**
- Repudiation of contract as to, § **68:13**
- Res judicata effect of award
 - Generally, § **14:41**
 - Attorney-client fee dispute, § **14:51**
- Scope of arbitration, §§ **68:1, 68:8, 68:12**
- Service
 - Demand for arbitration, § **3:9**
 - Petition for arbitration, § **2:2**
- Severability of arbitration clause, §§ **37:5, 68:2, 68:4**
- Special reference, § **68:16**
- Specific arbitration statutes, § **68:6**
- Specific performance of arbitration agreement, § **68:1**
- Standing to enforce arbitration agreement, § **68:7**
- Statute of frauds and, § **53:23**
- Statute of limitations and, §§ **25:12, 25:36**
- Statutes governing
 - Generally, § **68:5**
 - Medical malpractice, § **68:6**
- Stay to permit arbitration, § **68:5**
- Submission to arbitration voluntarily, §§ **68:1, 68:12**
- Sureties, effect on, § **67:3**

INDEX

ARBITRATION AND AWARD—Cont'd

- Third party affected by arbitration, §§ **68:6, 68:7**
- Timing of effort to compel arbitration, § **68:8**
- Torts, arbitration as to, §§ **68:1, 68:6**
- Unconscionability of provision for, § **55:1**
- Undue influence, §§ **46:2, 68:2**
- Waiver
 - Generally, §§ **47:10, 68:10 to 68:12**
 - Attorney's client's right to arbitration of fee dispute, § **12:5**
 - Jury trial, § **68:1**
 - Submission to arbitration, effect of, § **68:1**
- Who decides existence of agreement, § **68:1**
- Who is bound by arbitration agreement, §§ **68:1, 68:6**
- Who may be compelled to arbitrate, § **68:3**
- Who may compel arbitration, § **68:8**
- Willful conduct disputes, § **68:12**
- Written agreement, effect of, § **68:1**
- Writ to review order compelling arbitration, § **68:9**

ARCHITECTS

- Certificate of merit in professional negligence action, § **12:2**
- Contractors, licensing of, §§ **39:13, 39:19**
- Contracts, statute of frauds, § **53:23**
- Engineers, licensing of, § **39:19**
- Immunity, §§ **38:7, 38:123**
- Landscape Architect, this index
- Land surveyors, licensing of, § **39:19**
- Licensing requirements as to, §§ **37:6, 39:13, 39:19**
- Partnerships, licensing of, § **39:13**
- Plans, effect of signing, § **38:7**
- Property owner, licensing of, § **39:19**
- School building, § **38:123**
- Security for costs, § **13:5**
- Signature and stamping of documents, § **38:7**
- Statute of frauds and, § **53:23**

ARMED FORCES AND MILITARY MATTERS

- Capacity to Contract, this index
- Delay in prosecution, effect of, § **28:17**
- Dogs, military work, § **38:76**
- Emancipated minors, §§ **52:17, 52:19**
- Immunity
 - Contractors, § **38:130**
 - Illegal orders to military personnel, § **38:68**
 - Service of process, § **2:18**
- Military Service, this index
- Minors, this index
- Service of process, armed forces immunity, § **2:18**

ARMED FORCES AND MILITARY MATTERS—Cont'd

Statute of limitations, military service, § **25:62**

ASBESTOS EXPOSURE ACTIONS

Immunity, § **38:123**

Indemnification, § **38:123**

School districts, § **38:123**

Statute of limitations and, §§ **25:4, 25:7, 25:31**

Workers' compensation, § **38:123**

ASSAULT

Assignability of cause of action, § **18:26**

Comparative fault and, § **48:16**

Consent to, § **32:1**

Firefighter's rule, § **48:25**

Inconsistent defenses, § **1:3**

Self-defense and, §§ **1:3, 50:1 et seq.**

Statute of limitations, § **25:25**

ASSIGNMENT

Generally, § **18:18 et seq.**

Answer, allegation as to, § **18:36**

Appellate review as to capacity of assignee, § **18:38**

Assignee's

Capacity-sue, §§ **18:18 to 18:27**

Status as to defenses to assigned claim, § **18:18**

Third party rights in modification of contract, § **65:7**

Assignment of benefit not burden, § **18:18**

Assignment of Cause of Action, this index

Attorneys, assignment of certain items barred, § **18:18**

Benefit of creditors, § **67:3**

Burden of proof, § **18:18**

Cause of action. Assignment of Cause of Action, this index

Choses in action, §§ **18:18, 53:24**

Complaint, allegation as to, § **18:18**

Consent and, § **18:18**

Contracts

Capacity to sue and, § **18:19**

Nonassignment provision, unconscionability of, § **55:1**

Statute of frauds and, §§ **53:9, 53:23, 53:24**

Definition, § **18:18**

Equitable assignment or lien, § **18:26**

Expectancy not assignable, § **18:18**

Failure of consideration on assigned contract and, § **57:1**

Illegal contract, effect of assignment of, § **37:25**

Intangibles, § **53:23**

Judgment, § **18:26**

Lease, § **53:9**

Modification of contract, third party rights, § **65:7**

INDEX

ASSIGNMENT—Cont'd

- Name of plaintiff in action after, **§ 18:18**
- Nonassignability, **§ 18:18**
- Nonjoinder of parties and, **§ 21:2**
- Novation and, **§ 64:14**
- Oral assignment, **§ 18:18**
- Partial assignment, indispensable party, **§§ 18:18, 21:2**
- Personal jurisdiction over assignor, **§ 4:7**
- Personal service contracts, **§ 18:19**
- Privity and, **§ 14:25**
- Prohibition of, waiver of, **§ 47:10**
- Property, **§ 18:18**
 - Real party in interest and, **§§ 18:18, 19:1, 19:14**
 - Res judicata, privity, **§ 14:25**
 - Setoff and, **§§ 18:18, 44:5**
 - Standing and, **§§ 18:18, 19:1, 19:14**
 - Statute of Frauds, this index
 - Statutory prohibitions, **§ 18:18**
 - Subrogation and, **§§ 18:28, 18:36**
 - Survivability and, **§§ 17:10, 18:18**
 - Wages
 - Generally, **§ 18:18**
 - Incompetent's assignment of, **§ 52:30**
 - Minor's assignment of, **§§ 52:3, 52:6**
 - Statute of frauds and, **§ 53:23**
- Waiver, **§ 18:38**
- Waiver of anti-assignment clause, **§ 18:19**
- Written assignment, **§ 18:18**

ASSIGNMENT OF CAUSE OF ACTION

- Accrual of cause of action and, **§ 18:18**
- Assault and battery, **§ 18:26**
- Assignment, this index
- Bad faith cause of action, **§ 18:25**
- Breach by insurance company, **§ 18:25**
- Breach of contract, **§ 18:19**
- Breach of fiduciary duty, **§ 18:23**
- Breach of right of privacy, **§ 18:26**
- Conversion, **§ 18:22**
- Corporate claims against directors, **§ 18:27**
- Defamation, **§ 18:26**
- Fraud, **§ 18:20**
- Fraudulent conveyance, **§ 18:20**
- Infliction of emotional distress, **§ 18:26**
- Insurance company breach, **§ 18:25**
- Legal malpractice, **§ 18:24**
- Libel, **§ 18:26**
- Malicious prosecution, **§ 18:26**

CALIFORNIA AFFIRMATIVE DEFENSES

ASSIGNMENT OF CAUSE OF ACTION—Cont'd

Malpractice, § 18:24
Misrepresentation, § 18:20
Negligence, § 18:26
Penalties, § 18:27
Personal jurisdiction over assignor, § 4:7
Personal service contracts, § 18:19
Personal torts, § 18:26
Punitive damage claims, §§ 18:22, 18:27
Real party in interest and, §§ 18:18, 19:1, 19:14
Right of privacy, § 18:26
Setoff, § 18:18
Slander, § 18:26
Small claims court plaintiffs, § 18:18
Splitting the cause of action, § 18:27
Standing and, §§ 18:18, 19:1, 19:14
Statute of frauds and, § 53:24
Statutory penalties, § 18:27
Survival of cause of action, §§ 17:10, 18:18
Tax refund actions, §§ 18:18, 18:31
Trespass, § 18:27
Waste, § 18:27
Will contest, § 18:21
Workers' compensation action, § 18:18

ASSUMPTION OF THE RISK

Generally, § 48:24
Allegation as to, § 48:24
Comparative fault and, § 48:24
Consent, § 48:24
Express assumption of the risk, § 48:24
Firefighter's rule and, § 48:25
Strict liability actions and, § 48:24

ATHLETIC AGENTS

Labor Commissioner and, § 39:34
License requirements as to, § 39:34
Miller-Ayala Athlete Agents Act, § 37:22

ATHLETICS

Emergency medical assistance, immunities, § 38:47

ATTACHMENT

Death of defendant, effect of, § 17:33
Defendant's death, effect of, § 17:33
Election of remedies, § 24:5
Forum non conveniens, § 6:9
Setoff and, § 44:2

INDEX

ATTORNEY FEES

- Arbitration of dispute as to
 - Binding effect of award, §§ **12:5, 14:51**
 - Immunity of local bar association as arbitrator, § **38:8**
 - Notice to client of right to arbitration, § **12:5**
 - Res judicata and, § **14:51**
 - Waiver, § **12:5**
- Attorneys, this index
- Defamation actions, § **51:8**
- Demand as prerequisite to recovery under attorney's fee clause, § **12:13**
- Fee agreements
 - Statute of frauds and, § **53:23**
 - Unconscionability and, § **55:3**
 - Undue influence and, §§ **46:2, 46:3**

ATTORNEY GENERAL

- Certificate of merit, § **23:2**
- Discretionary acts, § **38:75**
- Environmental actions, §§ **2:2, 12:6**
- Escheat, § **2:2**
- Immunity, § **38:75**
- Notice requirements as to
 - Antitrust actions, § **12:6**
 - Charitable trusts, § **12:6**
 - Environmental actions, § **12:6**
 - False claims actions, § **12:6**
 - Unfair competition action, § **12:6**
- Service
 - Actions affecting public, § **2:2**
 - Actions against the state, § **2:2**
- Standing, § **19:1 et seq.**
- Venue, §§ **5:23, 5:25 to 5:27**

ATTORNEY IN FACT

- Agents and Agency, this index
- Alterations in terms of power, § **66:3**
- Appearance for corporation barred, § **18:14**
- Corporation, appearance by, § **18:14**
- Enforcement of power of attorney, § **18:31**
- Equal dignities rule and, §§ **53:3, 54:1 et seq.**
- Immunity under durable power of attorney, § **38:26**
- Licensing requirements and
 - Cemetery brokers, salespersons, § **39:30**
 - Real estate brokers, salespersons, § **39:27**
- Minor's capacity to retain, §§ **52:3, 52:4**
- Mortgage execution, § **54:2**
- Personal jurisdiction over, § **4:6**
- Power of Attorney, this index

ATTORNEY IN FACT—Cont'd

Prisoner's power to retain, **§ 52:35**
Revocation, **§ 38:26**
Standing, **§ 18:31**
Statute of frauds, **§§ 53:3, 53:19**
Venue, **§ 5:36**

ATTORNEYS

Abandonment of client, **§ 61:6**
Advice of, client's acts in reliance on
Generally, **§§ 41:14, 41:18, 41:26 et seq.**
As tolling statute of limitations, **§ 25:6**
Attorney-client privilege and, **§ 41:26**
Attorney not liable to third parties for, **§ 41:18**
Defense based on
Generally, **§ 41:26 et seq.**
Answer, allegation of, **§ 41:30**
Application of defense, **§§ 41:26, 41:28, 41:29**
Attorney-client privilege and, **§§ 41:27, 41:31**
Bad faith of client and, **§ 41:27**
Burden of proof, **§ 41:33**
Contempt and, **§ 41:29**
Criminal charges and, **§ 41:29**
Disclosure by client and, **§ 41:27**
Discovery and, **§ 41:31**
Elements, **§ 41:27**
Emotional distress and, **§ 41:28**
Error by attorney and, **§ 41:27**
Exemplary damages and, **§§ 41:26, 41:28**
Insurance and, **§ 41:28**
Jury instruction, **§ 41:32**
Malicious prosecution and, **§ 41:26 et seq.**
Manner of asserting, **§ 41:30**
Pleading, **§ 41:30**
Trespass and, **§ 41:28**
Trial and, **§ 41:32**
Exemplary damages and, **§§ 41:26, 41:28**
Justification defense based on, **§ 41:14**
Appearance as general appearance, **§§ 2:28, 4:8, 14:4, 14:32**
Assignment of certain matters barred, **§ 18:18**
Assumption of jurisdiction over law practice, **§ 2:2**
Attorney-client privilege, **§§ 41:27, 41:31**
Attorney Fees, this index
Authority
Bind clients by statements, **§§ 32:2, 34:9, 48:12**
Receipt of money for client, **§ 69:6**
Signature for client, **§ 54:1**

INDEX

ATTORNEYS—Cont'd

- Bar investigations
 - Committee of Bar Examiners, immunity, **§ 38:132**
 - Reports, immunity for, **§ 38:81**
- Certificates of merit, attorney's duties as to, **§ 12:2**
- Champerty, **§ 18:18**
- Charging lien, **§ 53:1**
- Committee of Bar Examiners, immunity of, **§ 38:132**
- Confidential relationship with client, §§ **46:2, 46:3**
- Consent
 - Arbitration for client, **§ 68:1**
 - Attorney's, client bound by, **§ 32:2**
- Conspiracy actions against attorney
 - Immunity and, **§ 38:9**
 - Prerequisites to filing action, **§ 12:36**
 - Statute of limitations, tolling of, **§ 12:36**
 - Verification of action alleging, **§ 11:15**
- Contingency fees
 - Equitable lien for, **§ 18:26**
 - Marital dissolution actions and, **§ 37:19**
 - Statute of limitations on, accrual of, **§ 25:3**
- Corporate counsel, personal jurisdiction over, **§ 4:28**
- Death
 - Effect on attorney's practice, **§ 38:9**
 - Effect on delay in prosecution statutes, §§ **28:20, 28:28**
- Delay in prosecution, responsibility of, §§ **28:21, 28:28, 29:3**
- Disability of as tolling statute of limitations, **§ 25:60**
- Disbarment
 - Citation to appear, **§ 2:2**
 - Effect on attorney's practice, **§ 38:9**
 - Effect on delay in prosecution, **§ 28:28**
 - Statute of limitations, **§ 25:74**
 - Verification of petition for, **§ 11:15**
- Discipline
 - Abandonment of client, **§ 61:6**
 - Effect on attorney's practice, **§ 38:9**
 - Violation of certificate of merit requirements, **§ 12:2**
 - Violation of notice of intent to sue requirements, **§ 12:4**
- Discretionary dismissal, illness affecting, **§ 29:3**
- Employment agreements, §§ **46:2, 46:3**
- Equal dignities rule and, **§ 54:1**
- Estoppel, statute of limitations and, **§ 25:73**
- Extrinsic mistake by, effect on judgment for res judicata purposes, **§ 14:45**
- Fees. Attorney Fees, this index
- Fiduciary relationships, §§ **46:2, 46:3, 61:6**
- Gross negligence and, **§ 48:23**
- Illness affecting delay in prosecution, §§ **28:28, 29:3**

ATTORNEYS—Cont'd

Immunity

- Arbitration of fee disputes and, **§ 38:8**
- Bar investigation reports, **§ 38:81**
- Committee of Bar Examiners, **§§ 38:66, 38:132**
- Conspiracy actions and, **§ 38:9**
- Lawyer referral services, **§ 38:12**
- Service of process, immunity from, **§ 2:18**
- Termination of practice, procedure on, **§ 38:9**

Imputation of negligence by, **§ 48:12**

Incapacity

- Effect on attorney's practice, **§ 38:9**
- Extrinsic mistake caused by, **§ 14:45**
- Lack of prosecution and, **§§ 28:28, 29:3**
- Statute of limitations and, **§ 25:60**

Justification and

- Attorney's defense, **§ 41:18**
- Client's defense, **§ 41:14**
- Lack of prosecution, effect of illness, **§§ 28:28, 29:3**
- Law practice assumed by court, **§ 38:9**
- Lawyer referral services, immunity of, **§ 38:12**
- Legal Malpractice, this index
- Licensing requirements as to attorney acting as
 - Attorney at law, **§ 39:35**
 - Cemetery broker or salesperson, **§ 39:30**
 - Personal property broker or salesperson, **§ 39:31**
 - Real estate broker or salesperson, **§ 39:27**
 - Ship and yacht broker or salesperson, **§ 39:31**

Malpractice, this index

Miller-Ayala Athlete Agents Act, attorney's violation of, **§ 37:22**

Minor's capacity as to

- Court approval of contract with for litigation, **§ 52:15**
- Emancipated minor, **§ 52:13**
- Payment of attorney, **§§ 52:13, 52:15**
- Retention of attorney, **§ 52:4**

Necessaries, attorney's services as, **§ 52:13**

Notice

- Of intent to sue health care provider, attorney's duties as to, **§ 12:4**
- Termination of practice, **§ 38:9**
- To client of arbitration rights, **§ 12:5**

Personal jurisdiction

- Attorney, appearance by as general appearance, **§§ 2:28, 4:8, 14:4, 14:32**
- Corporate counsel, **§§ 4:28, 14:32**
- Unauthorized appearance, **§§ 2:28, 4:36, 14:4**
- Presumption of authority, **§§ 2:28, 4:8, 14:4**
- Prisoner's capacity to hire, **§ 52:35**
- Privilege, **§§ 41:5, 41:7, 41:14, 41:18**

INDEX

ATTORNEYS—Cont'd

- Resignation as, procedure after, **§ 38:9**
- Sanctions in bankruptcy, **§ 23:3**
- Service of process
 - Court assumption of jurisdiction over practice, **§ 2:2**
 - Disbarment proceedings, **§ 2:2**
 - Immunity from, **§ 2:18**
- Settlements, duties as to, **§ 43:3**
- State Bar and Committee of Bar Examiners, this index
- Statute of limitations
 - Advice as affecting, **§ 25:7**
 - Civil conspiracy, action against, **§ 38:9**
 - Contingency fee contract, recovery on, **§ 25:3**
 - Disbarment, **§ 25:74**
 - Effect of incapacity, **§ 25:60**
 - Estopel and, **§ 25:73**
 - Malpractice
 - Generally, **§ 25:35**
 - Tolling and, **§ 25:43**
 - Withdrawal and, **§ 25:57**
- Substitution of counsel and delay in service of process, **§ 3:1**
- Successor attorney liability, **§ 48:12**
- Suspension, **§§ 11:15, 38:9**
- Termination of practice, procedure on, **§ 38:9**
- Unauthorized appearance, personal jurisdiction, **§§ 2:28, 4:8, 4:36**
- Unconscionability and, **§ 55:3**
- Undue influence, **§§ 46:2, 46:3**
- Verification
 - By attorney, **§§ 11:2, 11:3**
 - Conspiracy allegation, **§ 11:15**
 - Disbarment or suspension petition, **§ 11:15**
- Waiver
 - Attorney-client privilege, **§ 47:11**
 - Attorney's waiver of client's rights
 - Generally, **§ 47:2**
 - Arbitration rights, **§ 12:5**
 - Work product privilege, **§ 47:11**
 - Withdrawal, limitation of actions, **§ 25:57**
 - Witnesses, attorneys as, **§ 11:2**
 - Work product, **§ 47:11**

AUCTION COMPANIES AND AUCTIONEERS

- Bulk transfers, limitation of actions, **§ 25:30**
- Immunity, **§ 38:4**
- Licensing requirements as to, **§§ 38:4, 39:35**
- Misrepresentation, **§ 38:4**
- Sales tax, **§ 38:4**

AUDIOLOGISTS

Licensing requirement as to, **§ 39:35**

AUTHORIZED EMERGENCY VEHICLES

Ambulances, **§ 38:51**

Definition, **§ 38:51**

Immunity, **§§ 38:51, 38:118**

Traffic signals, **§ 38:118**

AUTOMATIC STAY

Stay, this index

AUTOMOBILES

Automobile repair dealers, licensing requirements as to, **§ 39:24**

Automobile Sales Finance Act

Notice of sale of personal property collateral under, **§ 12:8**

Rescission under, **§ 62:23**

Venue under, **§ 5:33**

Uninsured Motorists, this index

Vehicle Leasing Act, **§§ 23:2, 23:3, 62:23**

AUTOPSIES

Generally, **§ 38:15**

Anatomical gifts and, **§ 38:63**

Cemetery authority, **§ 38:15**

Corneal eye tissue, **§ 38:63**

Death, this index

Demand for, **§ 17:6**

Funeral directors, **§ 38:15**

Hospitals, **§ 38:15**

Immunity, **§§ 38:15, 38:63, 38:81**

Pituitary glands, **§ 38:63**

Wills, **§ 38:15**

BAD CHECKS, ACTIONS TO RECOVER FOR

Statute of limitations, **§ 25:28**

BAD FAITH ACTIONS

Accrual of cause of action, **§ 25:38**

Advice of counsel, **§§ 41:26, 41:28**

Assignability, **§ 18:25**

Attorney's advice and, **§ 41:28**

Comparative fault, **§ 48:16**

Effect on compelling arbitration, **§§ 68:1, 68:12**

Estoppel, **§§ 34:1, 34:9**

Insurance, this index

Irrelevant when truth is a defense, **§ 51:1**

Pleading, **§ 1:10**

Release, **§ 42:4**

Statute of limitations, **§§ 25:38, 25:70**

INDEX

BAD FAITH ACTIONS—Cont'd

- Survival of cause of action based on, **§ 17:19**
- Truth, effect of, **§ 51:1**
- Waiver of right to compel arbitration, §§ **68:1, 68:12**

BAIL BONDS

- Prevention of performance, §§ **59:4, 67:4**
- Statute of limitations, forfeiture of bail bonds, **§ 25:24**

BAILIFFS

- Immunity, **§ 38:133**

BAILMENT

- Demand for return of property, **§ 12:16**
- Exculpatory clauses and, §§ **37:11, 42:2**
- Release, public policy and, **§ 42:2**
- Waiver of legal protections, **§ 47:13**

BANKRUPTCY

- Automatic stay as tolling of statute of limitations, §§ **25:69, 25:70**
- Bankruptcy of surety or guarantor, **§ 67:4**
- Delay in prosecution, effect of, **§ 28:19**
- Delay in service and return of summons and, **§ 3:24**
- Election of remedies and, **§ 24:4**
- Guaranties and, §§ **67:3, 67:4**
- Immunity
 - Bankruptcy trustees, **§ 38:133**
 - Federal actions violating automatic stay, **§ 38:126**
 - Res judicata effect of bankruptcy sale orders, **§ 14:51**
 - Sanctions on attorneys, **§ 23:3**
 - Service of process, tolling period for, **§ 3:24**
 - Setoff and, **§ 44:6**
 - Standing, **§ 19:3**
 - Statute of limitations and, §§ **25:69, 25:70**
 - Surety and, §§ **67:3, 67:4**
- Tolling effect of automatic stay, §§ **25:69, 25:70**
- Trustees, **§ 38:133**
- Usury
 - As defense to involuntary bankruptcy, **§ 37:27**
 - Raising defense in, **§ 37:13**

BANKS

- Banker's lien, **§ 44:3**
- Bloodbanks and Plasma Centers, this index
- Branch banks, venue as to, §§ **5:1, 5:42**
- Claim filing requirement on liquidation, **§ 12:34**
- Correction of statements of account, **§ 66:2**
- Credit Unions, this index
- Deposit in as payment of debt, **§ 69:4**
- Exculpatory clause, **§ 42:2**

BANKS—Cont'd

- Failure of causing injury to prisoner, § **38:84**
- Financial Institutions, this index
- Forbidden names, § **39:36**
- Forged instruments and, § **66:2**
- Illegality of contracts and, §§ **37:24, 37:27**
- Minors' accounts, §§ **52:12, 52:16**
- National banks, venue, § **5:1**
- Personal jurisdiction over, state regulations affecting, § **4:18**
- Release, public policy and, § **42:2**
- Service of process
 - Generally, § **2:7**
 - Foreign banks, § **2:8**
- Setoff and, § **44:3**
- Statement of account, correction of, § **66:2**
- Statute of limitations and
 - Bad checks, recovery on, § **25:28**
 - Deposits or other property, recovery from bank, § **25:74**
 - Promissory notes, § **25:13**
 - Undue influence and, § **46:3**
 - Usury and, § **37:13**
 - Venue and, § **5:1**

BARBERS

- Licensing requirements as to, § **39:35**

BAR, RES JUDICATA

- Generally, §§ **14:1, 15:1**

BATTERY

- Arrest, excessive force in, § **38:76**
- Comparative fault and, § **48:16**
- Consent to, §§ **32:1, 32:9**
- Firefighter's rule and, § **48:25**
- Notice of intent to sue health care provider requirement and, § **12:4**
- Self-defense and, § **50:1 et seq.**
- Statute of limitations, § **25:25**

BEYOND A REASONABLE DOUBT

- Burden of proof, § **1:8**

BIAS

- Arbitration, bias of arbitrator, § **68:4**
- Attorney-client relationship as evidence of, § **68:4**
- Exhaustion of remedies, bias of administrative agency and, § **16:7**
- SLAPP action, judicial bias, § **12:37**

BIFURCATED TRIAL

- Generally, § **1:2**
- Alteration of documents, § **66:8**
- Another action pending, § **23:6**

INDEX

BIFURCATED TRIAL—Cont'd

- Collateral estoppel, trial as to, **§ 15:12**
- Delay in service and return of summons, trial as to, **§ 3:28**
- Exhaustion of remedies issues and, **§ 16:12**
- Exoneration of surety, **§ 67:5**
- Impossibility, determination of, **§ 60:15**
- Laches, determination of, **§ 26:17**
- Lack of capacity to contract, determination of, **§ 52:36**
- Licensing requirements, **§ 39:39**
- Misjoinder of parties and, **§ 20:8**
- Notice, claim and demand requirements, trial of, **§ 12:39**
- Obligation to do equity, trial as to, **§ 35:4**
- Privilege, **§ 41:21**
- Qualification of foreign corporation to do business in California, **§ 39:37**
- Release, trial as to, **§ 42:10**
- Res judicata
 - Bifurcated trial, res judicata effect of judgment in, **§ 14:12**
 - Trial as to, **§ 14:56**
- Service and return requirements, trial as to, **§ 3:28**
- Setoff, **§ 44:7**
- Settlement issues, trial as to, **§ 43:6**
- Statute of limitations, **§ 25:80**
- Subject matter jurisdiction, trial as to lack of, **§ 7:13**
- Unconscionability, **§ 55:5**

BILL OF PARTICULARS

- Common counts, demand for, **§ 10:4**

BLANKS

- Generally, **§ 66:4**
- Alteration of documents containing, **§ 66:2**
- Authority to fill in, **§§ 54:1, 66:4**
- Bill of lading, **§ 66:2**
- Certificated securities, **§ 66:2**
- Deed of trust, **§ 66:4**
- Equal dignities rule and, **§§ 54:1, 66:4**
- Negotiable instrument, **§ 66:2**
- Promissory notes, **§ 66:4**
- Summons, **§ 2:22**
- Third party filling in, **§§ 66:1, 66:2, 66:4**
- Warehouse receipt, **§ 66:2**

BLOOD ALCOHOL TESTING

- Immunity, **§ 38:23**
- Res judicata effect of driver's refusal to take, **§ 14:51**

BLOODBANKS AND PLASMA CENTERS

- AIDS, immunity for, **§ 38:29**
- Minor's donations, **§ 52:16**

BLOOD TRANSFUSIONS

Immunity for, **§ 38:24**

BOARD OF SUPERVISORS

County, this index

Ferry services, **§§ 38:59, 38:116**

Immunity, this index

Public Officers and Employees, this index

Roads, **§ 38:116**

BOATERS

Service of process on nonresident, **§§ 2:8, 2:15**

BONDS

Bail bonds, **§§ 25:24, 59:4**

Bond and Undertaking Law, **§ 13:1**

Mechanics' Liens, this index

Notice requirements as to, **§ 12:12**

Payment bonds, notices as to, **§ 12:12**

Personal jurisdiction and court bonds, **§ 4:6**

Statute of limitations for action on, **§ 25:12**

Suretyship, **§ 67:1 et seq.**

BOOK ACCOUNT

Common Counts, this index

Statute of limitations, **§§ 25:12, 25:15**

BOUNDARIES REESTABLISHMENT

Summons, **§ 2:2**

BREACH OF CONFIDENCE

Immunity and, **§ 38:38 et seq.**

Statute of limitations, **§§ 25:5, 25:15**

BREACH OF CONTRACT

Abandonment of contract and, **§ 61:6**

Accrual of cause of action, **§§ 25:4, 25:12, 25:15**

Acts of God, this index

Adequacy of remedy at law, **§ 31:6**

Anticipatory breach, **§§ 59:3, 60:12**

Assignability of cause of action, **§§ 17:10, 18:19**

Breach of Covenant of Good Faith and Fair Dealing, this index

Breach of Warranty, this index

Commencement of, **§§ 25:3 to 25:7**

Competitor's privilege, **§ 41:20**

Consent, **§ 32:1**

Contractor's licensing requirements, effect on action for, **§ 39:18**

Contracts, this index

Election of remedies and, **§§ 24:2, 24:5 to 24:8**

Estoppel, this index

Failure to mitigate, **§ 36:2**

INDEX

BREACH OF CONTRACT—Cont'd

- Fictitious business names, effect on action for, **§ 39:36**
- Fraudulent breach, immunity of public entity, **§ 38:105**
- Frustration of purpose and, **§§ 58:1, 60:18**
- Government claims filing requirement, **§ 12:21**
- Immunity for, public agencies and employees, **§§ 38:56, 38:105**
- Impossibility, this index
- Inducing breach of contract, privilege for, **§§ 41:9, 41:19, 41:20**
- Joinder of parties, **§§ 20:2 to 20:4**
- Justification for, **§ 41:13 et seq.**
- Manager's privilege, **§ 41:19**
- Misrepresentation, **§ 38:105**
- Mistake, this index
- Mitigation and, **§ 36:2**
- Nonjoinder of contracting parties, **§ 21:2**
- Personal service contracts, effect of death of party to, **§ 17:24**
- Prevention of Performance, this index
- Privilege and, **§§ 41:6, 41:13 et seq.**
- Res judicata implications of action for, **§ 14:15**
- Setoff and, **§ 44:6**
- Statute of limitations and
 - Generally, **§§ 25:3, 25:4, 25:12, 25:15**
 - Inducing breach of contract, **§ 25:15**
- Survival of cause of action, **§§ 17:10, 17:24**
- Unclean hands and, **§ 45:1 et seq.**
- Venue, **§ 5:4 et seq.**
- Waiver
 - Of breach, **§ 59:7**
 - Of right to sue, **§ 47:10**

BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING

- Fictitious business name, effect on action for, **§ 39:36**
- Statute of limitations
 - Oral contract, **§ 25:15**
 - Written contract, **§ 25:12**

BREACH OF FIDUCIARY DUTY

- Assignability of cause of action, **§ 18:23**
- Burden of proof shift, **§§ 46:2, 46:3, 46:5, 46:6, 46:9, 46:14**
- Fiduciaries, this index
- Nonjoinder of parties and, **§ 21:2**
- Statute of limitations, **§§ 25:6, 25:37, 25:38**

BREACH OF PROMISE TO MARRY

- Cause of action for, **§§ 9:1, 17:10, 38:37**

BREACH OF RIGHT TO PRIVACY

- Invasion of Privacy, this index

BREACH OF STATUTORY DUTIES

Government claims filing requirement, **§ 12:28**

Statute of limitations, **§ 25:18**

BREACH OF TRUST

Fiduciaries, this index

Trustees, this index

Trusts, this index

BREACH OF WARRANTY

Immunity and, **§ 38:105**

Notice requirements, **§ 12:11**

Res judicata and, **§ 14:29**

Statute of limitations

Accrual and, **§ 25:5**

Breach of warranty as to check, **§ 25:28**

Contract action based on breach of warranty, **§§ 25:12, 25:15**

Personal injury based on breach of warranty, **§ 25:25**

Vouching in and, **§ 14:29**

Warranty, this index

BROKER-DEALERS

Licensing requirements as to, **§ 39:32**

BROKERS

Commission agreements, **§ 53:10**

Definition real estate broker, **§ 39:22**

Fiduciaries, this index

Finders, **§ 39:22**

Licensing requirements as to

Cemetery brokers, **§ 39:30**

Mineral, oil, and gas brokers, **§ 39:29**

Real estate brokers, **§ 39:25 et seq.**

Securities brokers, **§ 39:32**

Yacht and ship brokers, **§ 39:31**

Real Estate Brokers and Salespersons, this index

Statute of Frauds, this index

Undue influence and, **§ 46:2**

BROUGHT TO TRIAL

Definition for five-year rule, **§ 28:4**

BUILDING DESIGNER

Architects, this index

BULK SUPPLIER DOCTRINE

Comparative fault, **§ 48:31**

BULK TRANSFERS

Statute of limitations and, **§ 25:30**

INDEX

BURDEN OF PROOF

Generally, **§ 1:6 et seq.**

Abandonment of contract, **§ 61:8**

Acceptance of note in discharge of debt, **§ 69:3**

Accord and satisfaction, **§ 63:11**

Acts of God, **§§ 30:2, 30:15, 30:17**

Adequacy of remedy at law, **§§ 31:1, 31:3, 31:9**

Adhesion contracts, **§§ 55:4, 55:6**

Advisory opinions, **§ 22:8**

Agency, **§ 54:8**

Agent's fiduciary duties, **§ 46:2**

Allocation of, **§ 1:9**

Allocation of payment, **§§ 69:3, 69:9**

Alteration of documents, **§ 66:9**

Amenability to service of process, **§ 3:19**

Another action pending, **§ 23:8**

Arbitration agreement, breach of, **§ 68:11**

Assignment, **§ 18:18**

Assumption of the risk, **§ 48:24**

Authority of agent, **§ 54:8**

Capacity to contract

 Incompetent's contract, **§ 52:34**

 Minor's contract, **§ 52:11**

Causation of tort, **§ 48:20**

Clear and convincing evidence, **§ 1:8**

Collateral estoppel, burden of proof as to, **§ 15:13**

Comparative fault, **§§ 48:2, 48:20**

Confidential relationships, **§§ 46:2, 46:3, 46:5, 46:6, 46:9, 46:14**

Consent, **§ 32:7**

Consideration

 Failure of, **§ 57:5**

 Illegality of, **§ 37:30**

 Inadequacy of, **§§ 37:30, 56:14**

 Lack of, **§§ 37:30, 56:14**

 Specific performance, adequacy of consideration, **§ 56:4**

Contractor's licensing requirements, satisfaction of, **§§ 39:2, 39:18**

Corporation, foreign corporation's qualification to do business in California,
§ 39:37

Criminal matters, **§§ 1:8, 1:9**

Dangerous conditions on public property, **§ 38:111**

Death of plaintiff or defendant, **§ 17:39**

Defamation, proof of truth of statement, **§§ 51:1, 51:9**

Definitions, **§ 1:8**

Degrees of, **§ 1:8**

Delay in prosecution

 Burden of proof as to, **§§ 28:33, 29:8**

 Burden of setting case within dismissal period, **§ 28:27**

BURDEN OF PROOF—Cont'd

- Delay in service and return of summons, **§ 3:30**
- Design immunity, **§ 38:113**
- Destruction of document, **§ 66:9**
- Discovery rule as to cause of action, **§§ 25:5, 25:82**
- Discretionary dismissal, **§ 29:8**
- Duress, **§ 33:9**
- Emergency, **§ 49:3**
- Emergency medical services, **§ 38:49**
- Equal dignities rule, **§ 54:8**
- Equity, failure to do, **§ 35:3**
- Estoppel, **§ 34:11**
- Exhaustion of remedies, **§ 16:14**
- Exoneration of surety, **§ 67:6**
- Extraordinary writs, **§ 31:4**
- Failure of consideration, **§ 57:5**
- Failure to
 - Arbitrate, **§ 68:11**
 - Do equity, **§ 35:3**
 - Mitigate damages, **§§ 36:6, 36:10**
 - Provide notice, claim, demand or certificate of merit, **§ 12:40**
 - State a cause of action, **§§ 9:6, 9:7**
- Fictitious business name requirements, satisfaction of, **§ 39:36**
- Fiduciary relationships, **§§ 46:2, 46:3, 46:5, 46:6, 46:9, 46:14**
- Foreign corporation's qualification to do business in California, **§ 39:37**
- Forgery, bank's lack of negligence as to, **§ 66:2**
- Forum non conveniens, **§ 6:29**
- Fraud, **§ 1:8**
- Frustration of purpose, **§§ 58:3, 62:12**
- Gift, **§ 53:24**
- Good faith settlement, **§§ 43:2, 43:7**
- Illegality of contract, **§ 37:30**
- Immunity
 - Generally, **§ 38:143**
 - Dangerous condition of public land, **§ 38:111**
 - Design immunity, **§ 38:113**
 - Emergency medical services, **§ 38:49**
- Impossibility, **§ 60:16**
- Insanity, **§ 1:9**
- Insurance risk increased, **§ 62:22**
- Jury instructions, **§§ 1:5, 1:6, 1:9**
- Laches
 - Generally, **§ 26:19**
 - Prejudice from delay, **§ 26:6**
- Lack of consideration, **§§ 37:30, 56:14**
- Lack of proper and effective service, **§ 2:27**
- Lack of prosecution, **§§ 28:33, 29:8**

INDEX

BURDEN OF PROOF—Cont'd

- Lack of required care, **§ 1:9**
- Licensing requirements, satisfaction of, **§§ 39:2, 39:18, 39:40**
- Manner of asserting defense, **§ 3:30**
- Material alteration of contract, **§ 66:9**
- Mistake, **§ 40:12**
- Modification of contract, **§ 65:9**
- Mootness, **§ 22:8**
- Mutual rescission, **§ 61:8**
- Nonjoinder of parties, **§ 21:8**
- Note taken in payment of debt, **§ 69:3**
- Notice of sale of personal property collateral, **§ 12:8**
- Novation, **§ 64:11**
- Obligation to do equity, **§ 35:3**
- Payment, **§§ 69:9, 69:12**
- Payment of debt by third party, **§ 69:3**
- Personal jurisdiction, **§§ 4:30, 4:35**
- Pleas in abatement, **§ 1:2**
- Presumptions, this index
- Prevention of performance, **§ 59:6**
- Primary jurisdiction, **§ 8:4**
- Privilege, **§§ 41:9, 41:12, 41:22, 41:33**
- Proof of retraction of nonperformance, **§ 59:3**
- Punitive damages, **§ 1:8**
- Qualification of foreign corporation for intrastate business, **§ 39:37**
- Ratification, **§ 54:8**
- Release, **§ 42:13**
- Rescission
 - Generally, **§ 62:35**
 - Before insurance loss, **§ 62:22**
 - Frustration, **§ 62:12**
- Res judicata
 - Generally, **§ 14:57**
 - Personal jurisdiction, proof as to, **§ 14:4**
 - Prior action, effect of burden of proof in, **§ 14:19**
- Scope of agency, **§ 54:8**
- Security for costs or damages
 - Generally, **§§ 13:2, 13:10**
 - Shareholders' derivative actions, **§ 13:2**
- Self-defense, **§§ 50:1, 50:10**
- Service and return requirements, **§ 3:30**
- Service of process, **§§ 2:9, 2:27**
- Setoff, **§§ 44:8, 44:10**
- Settlement, **§ 43:7**
- Signature, validity of, **§ 53:39**
- Specific performance, adequacy of consideration, **§ 56:4**
- Statute of frauds, **§§ 53:24, 53:25, 53:39**

CALIFORNIA AFFIRMATIVE DEFENSES

BURDEN OF PROOF—Cont'd

- Statute of limitations, § 25:82
- Subject matter jurisdiction, § 7:15
- Termination of parental rights, § 1:8
- Trustee's fiduciary duties, § 46:2
- Truth, as defense in defamation action, §§ 51:1, 51:9
- Unclean hands, § 45:20
- Unconscionability, § 55:6
- Undue influence, §§ 46:2, 46:3, 46:5, 46:6, 46:9, 46:14
- Unjust enrichment, § 55:6
- Usury, § 37:13
- Venue, § 5:44
- Waiver, § 47:16

BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

- Licensing of alarm company operators, § 39:22

BUREAU OF ELECTRONIC AND APPLIANCE REPAIR

- Licensing of electronic and appliance dealers, § 39:23

BUSINESS COMPULSION

- Duress, this index

“BUT FOR” TEST

- Personal jurisdiction, § 4:10

CABLE TELEVISION

- Television, this index

CALIFORNIA ALTERNATE ENERGY SOURCE FINANCING

AUTHORITY

- Immunity, § 38:122

CALIFORNIA ARBITRATION ACT

- Arbitration and Award, this index

CALIFORNIA BEEF COUNCIL

- Immunity, § 38:122

CALIFORNIA CHERRY COMMISSION

- Immunity, § 38:122

CALIFORNIA COASTAL COMMISSION

- Res judicata, § 14:40

CALIFORNIA DISASTER ACT

- Generally, § 38:53

- Emergency Services Act, §§ 38:22, 38:53, 38:75

CALIFORNIA EARTHQUAKE PREDICTION COUNCIL

- Immunity, § 38:70

CALIFORNIA EGG COMMISSION

- Immunity, § 38:122

INDEX

CALIFORNIA EMERGENCY SERVICES ACT

Immunity under, §§ 38:22, 38:53, 38:75

CALIFORNIA ENVIRONMENTAL QUALITY ACT

Notice requirements, in action under, § 12:6

CALIFORNIA HORSE RACING BOARD

Immunity, § 38:14

CALIFORNIA HOUSING FINANCE AUTHORITY

Immunity, § 38:122

CALIFORNIA ICEBERG LETTUCE COMMISSION

Immunity, § 38:122

CALIFORNIA INSURANCE GUARANTEE ASSOCIATION

Immunity, § 38:67

CALIFORNIA KIWIFRUIT COMMISSION

Immunity, § 38:122

CALIFORNIA NAVEL ORANGE COMMISSION

Immunity, § 38:122

CALIFORNIA PISTACHIO COMMISSION

Immunity, § 38:122

CALIFORNIA RECREATIONAL TRAILS ACT

Immunity, §§ 38:32, 38:112

CALIFORNIA REHABILITATION COMMISSION

Immunity, § 38:122

CALIFORNIA SHEEP COMMISSION

Immunity, § 38:122

CALIFORNIA STATE LOTTERY

Gambling and, § 37:20

Service of process, § 2:2

CALIFORNIA TABLE GRAPE COMMISSION

Immunity, § 38:122

CALIFORNIA TAHOE CONSERVANCY

Immunity, § 38:122

CALIFORNIA UNFAIR PRACTICES ACT

Duress, § 33:7

Illegality, § 37:14

Immunity, §§ 38:13, 38:41, 38:122

CALIFORNIA URBAN WATERFRONT AREA RESTORATION

FINANCING AUTHORITY

Immunity, § 38:122

**CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS
BOARD**

Claim filing requirement, **§ 12:30**
Escheat and, **§ 38:73**
Immunity, **§ 38:73**
Res judicata effect of decisions, **§ 14:40**

CALIFORNIA WHEAT COMMISSION

Immunity, **§ 38:122**

CAMPAIGN ADVERTISING

Defamation and, **§§ 12:14, 51:4**

CANCELLATION OF CONTRACTS

Generally, **§§ 61:1, 62:38**
Abandonment of Contracts, this index

CANCELLATION OF DOCUMENTS

Laches in action for, **§ 26:8**
Statute of limitations
Generally, **§ 25:12**
Real property, documents pertaining to, **§ 25:11**
State defendants, **§ 25:75**
Venue, **§§ 5:5, 5:16**

CAPACITY-CONTRACT

Voidable contracts, **§§ 52:8 to 52:11**
Void contracts, **§§ 52:3 to 52:7**

CAPACITY-SUE

Assignee, **§§ 18:18 to 18:27**
Corporations
Generally, **§§ 18:13 to 18:17**
Demurrer, **§§ 18:35 to 18:37**
Minority, **§§ 18:1 to 18:8**

CAPACITY TO BE SUED

Generally, **§ 18:41**
Capacity to Sue, this index
Death, effect of, **§§ 17:22 et seq., 18:11**
Extrinsic mistake and, **§ 14:45**
Res judicata and, **§§ 14:20, 14:45**

CAPACITY TO CONTRACT

Generally, **§§ 18:40, 52:1 et seq.**
Answer, allegation as to, **§§ 52:3, 52:36**
Armed forces
Approval of minor's enlistment in, **§ 52:15**
Capacity of members of, **§§ 52:17, 52:19**
Bifurcated trial, **§ 52:36**
Burden of proof
Incompetent's contract, **§ 52:34**

INDEX

CAPACITY TO CONTRACT—Cont'd

Burden of proof—Cont'd
 Minor's contract, **§ 52:11**
Capacity to sue and, §§ **18:40, 52:21, 52:38**
Civil death, **§ 52:35**
Civil rights, deprivation of as affecting, **§ 52:35**
Conservatorship, §§ **52:22, 52:26**
Contracts, this index
Corporations, powers suspended or forfeited, §§ **39:37, 39:38**
Court approval and, §§ **52:15, 52:29, 52:31, 53:4**
Death and, **§ 52:1**
Demurrer and, **§ 52:36**
Determining incapacity, **§ 52:22**
Disaffirmance by Minor, this index
Emancipated Minors, this index
Exoneration of surety and, §§ **67:3, 67:4**
Guaranties and, **§ 67:3**
Intoxication, §§ **52:22, 52:23**
Jury instruction as to, §§ **52:34, 52:36**
Lack of capacity to sue and, **§ 52:38**
Manner of asserting, **§ 52:36**
Mental Incompetency, this index
Minority and, §§ **52:1, 52:2**
Minors, this index
Necessaries, §§ **52:13, 52:26, 52:30**
Notice of incapacity, **§ 52:26**
Personal property, minor's contracts as to, §§ **52:3, 52:6**
Premarital Agreement, this index
Prisoners, this index
Ratification and, §§ **52:20, 52:34**
Release, **§ 52:26**
Rescission, this index
Soundness of mind and, §§ **52:1, 52:21**
Suretyship and, **§ 67:3**
Time of incapacity, **§ 52:22**
Undue influence and, **§ 52:29**
Voidable contracts, §§ **52:28, 52:29**
Void contracts, §§ **52:26, 52:27, 52:35**
Voluntary incapacity, §§ **52:22, 52:23**
Waiver
 Capacity to make waiver, **§ 47:2**
 Of defense, §§ **52:20, 52:37**
Who may invoke, **§ 52:33**

CAPACITY TO SUE

Generally, **§ 18:1 et seq.**
Adoption, **§ 18:4**
“AKA” as nonentity, **§ 18:30**

CAPACITY TO SUE—Cont'd

- Allegations as to
 - Assignees, §§ **18:18, 18:36**
 - Authorization to sue, § **18:36**
 - Corporations, §§ **18:14, 18:17, 18:36**
 - Incompetency of plaintiff, § **18:36**
 - Lack of capacity, generally, § **18:36**
 - Lack of standing, § **18:41**
 - Minority of plaintiff, § **18:36**
 - Misnomer in plaintiff's name, § **18:30**
 - Nonentity as plaintiff, § **18:30**
 - Subrogee, § **18:36**
 - Answer, §§ **18:35, 18:36**
 - Appearance in pro per, corporations, § **18:14**
 - Appellate review, § **18:38**
 - Assignee, § **18:36**
 - Capacity to contract and, §§ **52:21, 52:38**
 - Child advocate, § **18:4**
 - Child support, § **18:4**
 - Church, §§ **18:32, 18:34**
 - Civil death
 - Generally, § **18:33**
 - Statute of limitations and, § **25:54**
 - Club, § **18:34**
 - Common law trust, § **18:34**
 - Conservators and Conservatorship, this index
 - Contractual subrogation, § **18:28**
 - Corporations
 - Generally, § **39:38**
 - Appearance in pro per, § **18:14**
 - Dissolution, effect of, §§ **4:24, 18:16, 18:30**
 - Foreign corporation, § **39:37**
 - Merger, effect of, § **18:15**
 - Nonprofit religious corporation, § **18:32**
 - Qualification of, §§ **18:17, 18:36**
 - Suspension or forfeiture of corporate powers, § **39:38**
 - "DBA" as nonentity, § **18:30**
 - Death, effect of, §§ **17:9 et seq., 17:40, 18:11**
 - Defendant same as plaintiff, § **18:29**
 - Definitions as to, § **18:31**
 - Demurrer, § **18:12**
 - Dissolution of corporation, effect of, §§ **4:24, 18:16, 18:30**
 - Drug Dealer Liability Act, assignment of cause of action under, § **18:18**
 - Emancipated minors, § **18:8**
 - Equitable subrogation, § **18:28**
 - Estate, capacity of, §§ **17:4, 18:11, 18:30**
 - Extrinsic mistake and, § **14:45**

INDEX

CAPACITY TO SUE—Cont'd

Failure to state a cause of action and, **§ 18:1**
Fetus and, **§ 18:7**
Foreign personal representative, **§ 18:12**
Forms, this index
Guardian ad Litem, this index
Guardianship, effect of, **§ 18:10**
Imprisonment, effect of, **§ 18:33**
Incompetency and, **§§ 18:1, 18:36**
Judicial notice, **§ 18:36**
Lack of standing and, **§§ 18:1, 18:39, 18:42, 19:1 et seq.**
Married minors, **§ 18:8**
Merger of corporation, **§ 18:15**
Minority, **§ 18:36**
Name of plaintiff, **§§ 18:1, 18:30**
Nonentities, **§§ 18:11, 18:30**
Nonprofit religious corporation, **§ 18:32**
Parentage, **§ 18:4**
Partnerships, **§ 18:34**
Personal representatives, **§§ 18:11, 18:12**
Plaintiff same as defendant, **§ 18:29**
Plea in abatement based on, **§§ 1:2, 18:35**
Prisoners, **§ 18:33**
Real party in interest requirement and, **§§ 18:1, 19:1, 19:20**
Res judicata and, **§§ 14:20, 14:45**
Special demurrer, **§ 18:37**
Standing requirement and, **§§ 18:41, 18:42, 19:1, 19:20**
Stock exchange, **§ 18:34**
Subrogees, **§ 18:28**
Syndicate, **§ 18:34**
Tax disputes, **§ 18:31**
Unincorporated associations, **§§ 18:30, 18:34**
Unions, **§ 18:34**
Waiver, **§§ 18:35, 18:36, 18:38, 18:39**
Workers' compensation actions, **§§ 18:4, 18:18**

CAPTION

Generally, **§ 2:3**
Identification of parties, **§§ 2:3, 20:1**
Statute of limitations not controlled by, **§ 25:9**

CARRIERS

Common Carriers, this index

CARTWRIGHT ACT

Illegality of contracts in violation of, **§ 37:14**
Immunity in actions under
 Trade group immunity, **§ 38:122**
 Witness immunity, **§ 38:41**

CARTWRIGHT ACT—Cont'd

Personal jurisdiction, regulation affecting, **§ 4:18**

CASE AND CONTROVERSY

Mootness and, **§ 22:1**

CAUSATION

Burden of proof, **§ 48:20**

Comparative fault and, **§ 48:18**

Failure to wear seatbelt, **§ 48:19**

Impossibility, as cause of breach, **§ 60:11**

Trial as to, **§ 48:18**

Ultimate fact, **§ 10:2**

CAUSE IN FACT

Generally, **§ 48:2**

CAUSE OF ACTION

Accrual of Cause of Action, this index

Alienation of affection, **§ 9:1**

Amendment of pleadings to state, **§§ 9:4, 9:6**

Appropriation of decedent's personality, **§ 17:11**

Assignability, generally, **§§ 18:18 to 18:27**

Assignment of Cause of Action, this index

Capacity to sue and, **§ 9:1**

Chose in action, **§§ 53:11, 53:14, 53:24**

Common counts, statement of cause of action as to, **§ 9:2**

Comparative fault defense and, **§ 48:16**

Construction of, **§ 9:4**

Defects in, **§ 9:1**

Definition, **§ 14:15**

Demurrer, this index

Exhaustion of remedies and, **§§ 16:10, 16:11**

Failure to State a Cause of Action, this index

Judgment, merger into, **§§ 14:1, 15:1**

Lack of standing and, **§ 19:1 et seq.**

Liberal construction of, **§ 9:4**

Merger into judgment, **§§ 14:1, 15:1**

Misjoinder of causes of action, **§§ 20:1, 20:12**

Outside the statute of frauds, **§§ 53:27 to 53:32**

Parties and, **§ 20:1**

Personality of decedent, cause of action for appropriation of, **§ 17:11**

Prematurity and, **§ 27:1**

Primary rights theory and, **§ 14:15**

Prohibited causes of action, **§§ 9:1, 38:37**

Real party in interest and, **§ 19:1 et seq.**

Res judicata and

Generally, **§ 14:15**

Cause of action defined, **§ 14:15**

Compulsory cross-claims and, **§ 14:18**

INDEX

CAUSE OF ACTION—Cont'd

- Res judicata and—Cont'd
 - Continuing course of conduct, **§ 14:16**
 - Issues included in cause of action, **§§ 14:15, 14:17**
 - Splitting a cause of action, **§ 14:15**
- Ripeness and, **§ 27:1**
- Same cause of action, **§§ 14:15 to 14:18, 23:2**
- Splitting a cause of action, **§§ 14:15, 23:10**
- Statement of cause of action essential to proper joinder, **§ 20:5**
- Statute of Frauds, this index
- Statute of limitations, pleading of excuse as to, **§ 25:78**
- Subject to comparative fault defense, **§ 48:7**
- Survival of Cause of Action, this index
- Unconscionability, **§ 55:1**

CEMETERY AUTHORITIES

- Autopsies, **§ 38:15**
- Cremated human remains, **§ 38:15**
- Immunity, **§ 38:15**

CEMETERY BROKERS AND SALESPERSONS

- Licensing requirements as to, **§ 39:30**

CERTIFICATE OF MERIT

- Generally, **§ 12:2**
- Architects, **§ 12:2**
- Attorney's duties as to, **§ 12:2**
- Burden of proof, **§ 12:40**
- Common interest development, action against contractor, **§ 12:2**
- Demurrer and, **§§ 12:2, 12:39**
- Discretionary dismissal and, **§ 29:3**
- Engineers, **§ 12:2**
- Failure to inform or warn and, **§ 12:2**
- Health care professionals, **§ 12:2**
- Indemnity actions, **§ 12:2**
- In propria persona exception, **§ 12:2**
- Lack of prosecution and, **§ 29:3**
- Land surveyors, **§ 12:2**
- Malpractice, **§ 12:2**
- Motion to strike and, **§ 12:39**
- Multiple defendants and, **§ 12:2**
- Relief from requirements as to, **§ 12:2**
- Res ipsa loquitur and, **§ 12:2**
- Sexual abuse, requirements as to action for childhood abuse, **§ 12:2**
- Statute of limitations and, **§ 12:2**
- Surgeons, **§ 12:2**
- Verification of compliance, **§ 12:2**

CALIFORNIA AFFIRMATIVE DEFENSES

CERTIFICATE OF QUALIFICATION TO CONDUCT INTRASTATE BUSINESS

Generally, § **39:37**
Bifurcated trial, § **39:37**
Burden of proof, § **39:37**
Capacity of corporation to sue and, § **39:37**
Corporations, §§ **39:37, 39:38, 45:2**

CERTIFICATE OF TITLE

Statute of limitations as to action on, § **25:14**

CERTIORARI

Adequacy of remedy at law, §§ **31:1, 31:4**
Constitutional provisions, § **7:2**
Laches and, § **26:7**
Subject matter jurisdiction, § **7:2**
Verification of petition, § **11:9**

CHAMPERTY

Generally, § **18:18**

CHANGE OF VENUE

Venue, this index

CHARITIES

Charitable trust, notice to Attorney General in action involving, § **12:6**
Fiduciary duty, § **46:2**
Food banks, immunities, § **38:27**
Food donations, § **38:27**
Gleaning, § **38:27**
Immunity, §§ **38:27, 38:139**
Negligence action against volunteer director of nonprofit corporation
 Court order as prerequisite to filing action, § **12:36**
 Verification of complaint alleging, § **11:4**
Perpetuities and, § **37:16**
Restraints on alienation and, § **37:16**

CHARTER BOAT SAFETY ACT

Immunity for licenses issued under, § **38:103**

CHECKS

Check as conditional payment, § **69:2**
Check as promissory note, § **69:2**
Joint checks, § **69:5**
Tender of as full payment, §§ **63:5, 69:2**

CHEMICAL TESTS

Res judicata effect of driver's refusal to take, § **14:51**

CHILD

Child Abuse; Child Custody; Child Support; Minors; Paternity; Uniform Parentage Act; this index

INDEX

CHILD ABUSE

- Child Abuse and Neglect Reporting Act, §§ **38:43, 41:8**
- Child Abuse Prevention and Treatment Act, appointment of guardian ad litem under, § **18:4**
- Medical and mental treatment, contract for, § **52:14**
- Privilege, Child Abuse and Neglect Reporting Act, § **41:8**
- Reporting immunity, § **38:43**
- Statute of limitations as to, § **25:26**

CHILD CUSTODY

- Abandonment of custody, § **61:1**
- Conflicting jurisdictions, § **23:3**
- Forum non conveniens and, § **6:25**
- Indian Child Welfare Act and, § **12:3**
- Indispensable parties in, § **21:2**
- Jurisdiction, §§ **23:3, 45:11**
- Notice in action for, § **12:3**
- Personal jurisdiction, § **4:29**
- Res judicata and subsequent actions as to, § **14:16**
- Subject matter jurisdiction, § **7:3**
- Unclean hands and, § **45:11**
- Uniform Child Custody Jurisdiction Act, §§ **7:3, 23:3, 45:11**

CHILD SUPPORT

- Capacity to sue for, § **18:4**
- Death of parent, effect on, §§ **17:25, 17:32**
- District attorney, action by, § **18:4**
- Guardian ad litem, §§ **18:3, 18:4**
- Joinder of parties and, § **21:2**
- Jurisdiction, §§ **7:2, 7:3**
- Parent's duty, § **52:13**
- Paternity and, §§ **17:25, 17:32**
- Personal jurisdiction, § **4:29**
- Real parties in interest and, § **19:3**
- Revised Uniform Reciprocal Enforcement of Support Act, this index
- Setoff and, § **44:6**
- Standing and, § **19:11**
- Statute of limitations
 - County recovery of payments, § **25:18**
 - Money judgment, § **25:10**
- Venue
 - Generally, § **5:32**
 - District attorney's action for, § **5:28**
- Verification of pleadings for, § **11:12**

CHIROPRACTOR

- Fictitious business name, doing business under, § **39:36**
- Immunity, § **38:10**
- Licensing requirements, § **39:35**

CHIROPRACTOR—Cont'd

Notice of intent to sue, **§ 12:4**
Peer review committees, **§ 38:10**
Security for costs, **§ 13:6**
Statute of limitations
 Bifurcation of trial as to, **§ 25:80**
 Malpractice, §§ **25:3, 25:36**
 Tolling, **§ 25:44**

CHOICE OF LAW

Arbitration, **§ 68:1**
Choice of law clause, §§ **4:5, 4:9**
Complaint, allegation as to, **§ 4:5**
Contracts and, §§ **4:5, 4:9, 4:24, 6:1**
Death of plaintiff or defendant, **§ 17:1**
Forum non conveniens and, §§ **4:24, 6:4, 6:6**
Forum selection clauses and, §§ **4:5, 4:9, 6:24, 37:1**
Illegality, §§ **37:1, 37:13**
Personal jurisdiction and, §§ **4:5, 4:22, 4:24**
Res judicata and, §§ **14:20, 14:39**
Service of process, **§ 2:1**
Statute of frauds and, **§ 53:24**
Statute of limitations and, **§ 25:2**
Usury, **§ 37:13**
Waiver, **§ 47:7**

CHOOSE IN ACTION

Generally, §§ **53:11, 53:14, 53:24**
Assignment, §§ **17:10, 18:18**
Cause of Action, this index
Definition, §§ **17:10, 18:18**

CHURCH

Capacity to sue, **§ 18:34**
Nonprofit religious corporations, action on behalf of, **§ 18:31**
Religious organizations, this index

CITIZENSHIP

Forum non conveniens, effect on, §§ **6:3, 6:22**
Personal jurisdiction
 Effect of citizenship on, **§ 4:19**
 Submission to, **§ 4:2**

CITIZEN'S SUITS

Standing, **§ 19:7**

CITY

Collateral estoppel, application against, **§ 15:10**
Conflict of interest, **§ 37:17**
Contractor's licensing requirements, application to, **§ 39:5**
Contracts of, illegality and, **§ 37:17**

INDEX

CITY—Cont'd

Council investigations, privilege, **§ 41:5**
Delay in prosecution, condemnation action by, **§ 28:2**
Discretionary Acts and Omissions, this index
Earthquakes, immunity and, **§ 38:71**
Estoppel against, **§ 34:9**
Flood control activities, **§ 38:120**
Gambling, **§ 38:14**
Highways, **§ 38:116**
Highway Users Tax Fund, **§ 38:59**
Illegality of contracts by, **§ 37:17**
Immunity, this index
Laches, application to, **§ 26:12**
Legislative proceedings, privilege, **§ 41:5**
Privilege and, **§§ 41:3, 41:5, 41:11**
Privity, res judicata and, **§ 14:26**
Public Agencies and Entities, this index
Public meetings of, reports as to, **§ 41:11**
Public Officers and Employees, this index
Res judicata as to, privity and, **§ 14:26**
Setoff and, **§ 44:5**
Statute of limitations, generally, **§ 25:75**
Taxpayers' actions against, **§ 19:7**
Venue in actions by or against, **§§ 5:25, 5:28**
Verification of pleadings by, **§ 11:3**

CIVIL ACTION

Definition for statute of limitations, **§ 25:1**

CIVIL CONSPIRACY

Conspiracy, this index

CIVIL DEATH

Capacity to contract and, **§ 52:35**
Capacity to sue and, **§ 18:33**
Fugitives and, **§ 18:33**
Statutes of limitations and, **§ 25:54**

CIVIL ENGINEERS

Engineers, this index

CIVIL HARASSMENT PETITIONS

SLAPP suit, **§ 12:37**

CIVIL RELIEF ACT OF 1940

Tolling, **§ 28:17**

CIVIL RIGHTS

Actions against peace officers, tolling for incarcerated persons, **§ 25:54**
Civil Rights Act, government claim filing requirement inapplicable, **§ 12:20**
Concurrent jurisdiction as to, **§ 14:52**

CIVIL RIGHTS—Cont'd

Consent, **§ 32:1**

Death, effect on cause of action for violation of, **§ 17:10**

Fugitives from justice, appearance, capacity to sue, **§ 18:33**

Government Tort Claims Act, application to action for violation of, **§ 12:21**

Prisoner's loss of, **§ 52:35**

Res judicata and, **§ 14:52**

Sheriffs, **§ 38:135**

Statute of limitations, §§ **25:24, 25:25, 25:40, 25:54**

CLAIM FILING REQUIREMENTS

Generally, **§ 12:19 et seq.**

Bifurcated trial and, **§ 12:39**

Burden of proof as to, **§ 12:40**

Claim, definition of

Action against certain fiduciaries, **§ 5:29**

Probate actions, **§ 12:32**

Corporations in liquidation or dissolution, **§ 12:33**

Definition for action against certain fiduciaries, **§ 5:29**

Definition for probate actions, **§ 12:32**

Demurrer, §§ **12:20, 12:39**

Dissolution of corporation, **§ 12:34**

Exhaustion of remedies, **§ 12:43**

Financial institutions in liquidation or dissolution, **§ 12:34**

Forms, this index

Foster parents, claims against Foster Home and Small Family Insurance Fund, **§ 12:35**

Government entities

Generally, **§ 12:20 et seq.**

Agreements as to claims procedures and, **§ 12:31**

Appropriated funds, claims against, **§ 12:31**

Government Tort Claims Act, this index

Local public entity requirements, **§ 12:31**

Tax refund claims, **§ 12:31**

Liquidation proceedings

Corporations, **§ 12:33**

Financial institutions, **§ 12:34**

Notice of defect, **§ 12:4**

Notice requirements and, **§ 12:19**

Prematurity of complaint prior to filing claim, §§ **27:1, 27:7**

Probate claims, §§ **12:32, 17:34, 25:58**

Real property security dealers, **§ 12:36**

Statute of limitations and, §§ **12:32, 12:43, 25:58, 25:69, 25:85**

Summary judgment as to, **§ 12:39**

Tax refunds, **§ 12:31**

Waiver, **§ 12:41**

CLASS ACTIONS

Arbitration and, **§ 68:7**

INDEX

CLASS ACTIONS—Cont'd

Class members, res judicata and, **§ 14:34**
Consumer class actions, notice requirements, **§ 12:18**
Delay in prosecution statutes and, **§ 28:2**
Exhaustion of remedies, exception to doctrine, **§ 16:8**
Government tort claims class actions, **§ 12:20**
Mootness and, **§ 22:2**
Notice requirements as to, **§ 12:18**
Res judicata effect on class members, **§ 14:34**
Settlement of, **§ 43:5**
State Bar, use of unpaid residuals, **§ 38:65**
Statutes of limitations, tolling as to, **§ 25:56**
Tax refund claims and, **§ 12:31**
Waiver, **§§ 47:12, 68:12**

CLEAN HANDS

Unclean Hands, this index

CLEAR AND CONVINCING EVIDENCE

Generally, **§§ 1:8, 61:8**
Abandonment of contract, **§ 61:8**
Alteration of documents, **§ 66:9**
Burden of Proof, this index
Mistake, **§ 40:12**
Modification of contract, **§ 65:9**
Mutual rescission, **§ 61:8**
Novation, **§§ 64:5, 64:11**
Rescission, **§ 62:35**
Res judicata, **§ 14:19**
Undue influence, **§ 46:14**
Waiver, proof of, **§ 47:16**

CLERK OF THE COURT

Immunity, **§§ 38:133, 38:135**

CLIENT

Attorneys, this index

CLUB

Capacity to sue, **§ 18:34**

COERCION

Duress, this index

COLLATERAL

Deficiency judgment, **§ 12:8**
Notice of sale
Automobile Sales Finance Act, notice under, **§ 12:8**
Burden of proof as to, **§ 12:8**
Waiver of right to, **§ 12:8**

COLLATERAL ESTOPPEL

Generally, **§ 15:1 et seq.**

Actual litigation requirement, **§ 15:6**

Administrative actions, **§ 15:2**

Answer, allegation as to, **§ 15:12**

Appellate review, **§§ 14:56, 15:12**

Arbitration, **§ 15:2**

Attorney fee arbitration, binding effect of, **§§ 12:5, 14:51**

Bifurcated trial as to, **§ 15:12**

Blood alcohol tests on driver and, **§ 15:7**

Burden of proof as to, **§ 15:13**

Chemical tests on driver and, **§ 14:51**

City, application against, **§ 15:10**

County, application against, **§ 15:10**

Criminal proceedings

Application of collateral estoppel to issues determined in, **§§ 15:2, 15:7**

Blood alcohol tests on driver and, **§ 15:7**

Burden of proof and, **§ 15:7**

Privity and, **§ 15:7**

Declaratory judgment and, **§ 15:8**

Default judgment, effect of, **§ 15:6**

Delay in service and return of summons, effect of dismissal, **§ 3:25**

Demurrer based on, **§ 15:12**

Department of Motor Vehicles and, **§ 15:7**

Due process, **§§ 15:4, 15:6**

Election of remedies and, **§§ 24:1, 24:15**

Exceptions to application of

Generally, **§§ 14:43 et seq., 15:8**

Changed circumstances, **§ 15:9**

Declaratory relief actions, **§ 15:8**

Extrinsic fraud, **§ 15:8**

Extrinsic mistake, **§ 15:8**

Government agencies or entities, **§ 15:10**

Habeas corpus proceeding, **§ 15:8**

Ineffective exceptions, **§ 15:11**

New facts, **§ 15:9**

Public interest, **§§ 14:46, 15:10**

Purely legal issues, **§ 15:8**

Unlawful detainer actions, **§ 15:8**

Extrinsic fraud as bar, **§ 15:8**

Extrinsic mistake as bar, **§ 15:8**

False Claims Act, **§ 15:7**

Finality, **§ 15:5**

Government agency or entity, application against, **§ 15:10**

Habeas corpus proceeding, **§ 15:8**

Identity of issues, **§§ 15:1, 15:6**

Injustice and, **§ 15:10**

INDEX

COLLATERAL ESTOPPEL—Cont'd

- Issue of law and, **§ 15:8**
- Judgment on the merits, **§ 15:2**
- Judicial notice, **§ 15:12**
- Jurisdiction, lack of as affecting, **§§ 7:12, 15:2**
- Mutuality of estoppel, **§ 15:4**
- Offensive use of doctrine, **§ 15:4**
- Personal jurisdiction
 - Burden of proof as to, **§ 4:30**
 - Essential to finding of collateral estoppel, **§ 15:2**
 - Estoppel as to determination of, **§ 4:32**
- Pleading, **§ 15:12**
- Plea in abatement, effect of, **§ 1:2**
- Privity, this index
- Privity requirements, **§§ 15:2, 15:4, 15:7**
- Public agencies and entities, **§ 15:10**
- Public interest, exception for, **§§ 14:46, 15:10**
- Quasi, **§ 15:16**
- Requirements as to, **§§ 15:1 to 15:6**
- Res judicata and, **§§ 14:1, 14:59, 15:1 to 15:3, 15:15**
- Retraxit, **§ 14:61**
- Service and return requirements, effect of dismissal, **§ 3:25**
- Settlement and, **§§ 14:61, 15:5, 15:6**
- Small claims court judgments and, **§ 14:37**
- State as a party, **§§ 15:7, 15:10**
- Subject matter jurisdiction and, **§§ 14:3, 15:2**
- Summary judgment, **§ 15:12**
- Tax actions and issues, **§ 14:51**
- Unemployment compensation appeals and, **§ 14:51**
- Unlawful detainer, **§§ 15:6, 15:8**
- Waiver, **§ 15:14**

COLLATERAL SOURCE RULE

- Definition, **§ 36:3**
- Failure to mitigate and, **§ 36:3**
- Insurance and, **§ 36:3**
- Punitive damages and, **§ 38:124**
- Settlement and, **§ 36:3**
- Workers' compensation benefits and, **§ 36:3**

COLLECTION AGENCIES

- Fictitious business name, doing business under, **§ 39:36**
- Licensing requirements as to, **§ 39:35**
- Setoff and, **§ 44:5**
- Undue influence, **§ 46:2**

COLLEGES

- Community Colleges, this index

COLLUSIVE ACTIONS

Advisory opinions in, §§ 18:29, 22:3
Jurisdiction, § 18:18
Same person plaintiff and defendant, § 18:29

COMITY

Action pending in another forum, §§ 23:1, 23:3
Concurrent exclusive jurisdiction, § 23:11
Exhaustion of remedies and, § 16:1
Gambling debts, enforcement of, § 37:20
Primary jurisdiction of administrative agency and, §§ 8:1, 8:2

COMMENCEMENT OF ACTION

Generally, §§ 3:3, 3:11, 3:13, 25:3 to 25:7
Accrual of Cause of Action, this index
Alter egos, §§ 3:11, 3:13
Delay in Service and Return of Summons, this index
Doe defendants, §§ 3:3, 25:77
Fictitious defendants, § 3:3
Party added by amendment, § 3:13
Statute of limitations and, § 25:3 et seq.

COMMERCIAL ACTUALITY

Personal jurisdiction and, § 4:10

COMMERCIAL FRUSTRATION

Frustration of Purpose, this index

COMMERCIAL PAPER GUARANTY

Guaranty, this index

COMMISSION AGREEMENTS

Agreements between brokers, § 53:10
Real Estate Brokers and Salespersons, this index
Statute of frauds, § 53:10

COMMISSIONER OF CORPORATIONS

Corporations, this index

COMMISSIONS ON REAL PROPERTY TRANSFERS

Agreements between brokers, § 53:10
Brokers' licensing requirement, § 39:27
Real Estate Licensee, this index
Statute of frauds, § 53:10

COMMITTEE OF BAR EXAMINERS

State Bar and Committee of Bar Examiners, this index

COMMON CARRIERS

Act of God and, §§ 30:2, 30:3
Comparative fault, § 48:3
Gross negligence and, § 48:23
Illegality of contracts by and, §§ 37:10, 37:11

INDEX

COMMON CARRIERS—Cont'd

Immunities of, **§ 38:20**
Inherent vice of carried goods, **§ 30:2**
Inland carrier, **§ 30:3**
Marine carrier, **§ 30:3**
Privilege, **§ 41:9**
Public enemy, **§ 30:2**
Railroads, liability for animals in railway, **§ 38:20**
Release, **§ 42:2**
Service of process, **§ 2:2**
Setoff and, **§ 44:6**
Statute of frauds and, **§ 53:23**
Strict liability of, **§ 30:2**

COMMON COUNTS

Accord and satisfaction and, **§ 63:7**
Bill of particulars and, **§ 10:4**
Book account, **§§ 25:12, 25:15, 25:59**
Failure to state a cause of action for, **§ 9:2**
Judicial Council form for, **§§ 9:2, 10:4**
Pleading, **§§ 9:2, 10:4**
Special demurrer to, **§§ 9:2, 10:4**
Statute of limitations, **§ 25:21**
Uncertainty of pleading and, **§§ 9:2, 10:4**
Venue, **§ 5:36**

COMMON ENEMY DOCTRINE

Generally, **§§ 49:8, 49:9**
Emergency and, **§ 49:9**
Privilege of necessity and, **§ 49:8**

COMMON INTEREST DEVELOPMENT

Action for negligence of builder
Alternative dispute resolution and, **§ 12:38**
Certificate of merit in, **§ 12:2**
Notice of, **§ 12:38**
Homeowners' associations, this index
Standing of, **§ 19:6**

COMMON LAW

Accord and satisfaction, **§ 63:5**
Adequacy of remedy at law, **§§ 31:1, 31:2**
Assignment of causes of action, **§ 18:18**
Capacity to sue, **§§ 18:30, 18:31, 18:33, 18:34**
Common carriers, **§ 38:20**
Common enemy doctrine, **§ 49:9**
Concurrent jurisdiction, **§ 23:11**
Contribution, **§ 42:7**
Conversion, **§ 33:2**
Corporations, effect of dissolution, **§ 18:16**

COMMON LAW—Cont'd

Corporations, effect of merger, **§ 18:15**
Duress, **§ 33:1**
Election of remedies, **§ 24:9**
Estate, capacity of, **§ 18:30**
Estoppel, **§§ 32:10, 34:9**
Exhaustion, **§ 16:5**
Immunities
 Generally, **§ 38:1**
 Judges, nonstatutory immunity, **§ 38:131**
 Law enforcement activities, **§§ 38:79, 38:81**
 Legislators, **§ 38:137**
 No longer recognized in California, **§ 38:138**
 Nonstatutory immunities, generally, **§ 38:125**
 Other governmental officers and employees, **§ 38:135**
 Prisons and prisoners, **§§ 38:83, 38:88**
 private person assisting government officials, **§ 38:136**
 Prosecuting attorneys, **§ 38:134**
 Quasi-judicial officers, nonstatutory immunity, **§ 38:132**
 Specific statutory immunities, **§§ 38:8, 38:19, 38:20**
Impossibility, **§§ 30:20, 60:1, 60:2**
Last clear chance, **§ 48:26**
Minority, **§§ 18:2, 18:7, 52:2**
Payment, **§§ 69:7, 69:9**
Personal jurisdiction, **§§ 4:1, 6:1**
Preemption, **§ 7:19**
Prevention of performance, **§ 59:1**
Privilege, **§§ 41:9, 41:19, 41:29, 49:9**
Real property, **§§ 53:9, 53:19**
Recoupment, **§§ 44:1 to 44:3**
Res judicata, **§§ 14:1, 14:29**
Restraint of competition, **§§ 37:14, 38:122**
Retraxit, **§§ 14:61, 42:17**
Right of privacy, **§§ 40:1, 47:4**
Security for costs, **§ 13:11**
Self-defense, **§ 50:4**
Service of process immunity, **§ 2:18**
Setoff, **§§ 44:1 to 44:3**
Settlement, **§ 43:2**
Sovereign immunity, **§ 38:56**
Statute of limitations, **§§ 25:4, 25:18, 25:21, 25:23, 25:38, 25:59**
Suretyship, **§ 67:1**
Survival of causes of action, **§§ 17:2, 17:3**
Truth, **§§ 51:1, 51:9**
Unclean hands, **§§ 45:1, 45:4**
Unconscionability, **§§ 45:25, 55:1, 55:2**
Wrongful death, **§ 17:6**

INDEX

COMMON LAW TRUST

Capacity to sue, **§ 18:34**

COMMUNITY COLLEGES

Athletic event emergencies, medical aid, **§ 38:47**

Conflict of interest in contract by, **§ 37:17**

Counselors' immunity, **§ 38:44**

Counselors' use of confidential data, **§ 38:44**

Emergencies, immunity, **§§ 38:47, 38:53**

Fire drills, immunity, **§ 38:53**

Good faith release of student record information, **§ 38:44**

Immunity, **§§ 38:44, 38:47, 38:53, 38:123**

COMMUNITY PROPERTY

Dissolution of Marriage, this index

Duress and, **§ 33:3**

Laches in action as to, **§ 26:7**

Marriage, this index

Mutual mistake as to, **§ 40:8**

Premarital Agreement, this index

Presumption, **§ 1:9**

Restraining order as to, **§ 31:2**

Retirement or pension benefits, **§§ 19:4, 26:4**

Statute of frauds, **§§ 53:22, 53:23**

Undue influence, **§§ 46:5, 46:10**

COMPARATIVE EQUITABLE INDEMNITY

Generally, **§ 48:16**

COMPARATIVE FAULT

Generally, **§ 48:1 et seq.**

Against whom defense is asserted, **§ 48:4**

Agent's negligence and, **§§ 48:13, 48:15**

Answer

Generally, **§§ 48:6, 48:17**

Assumption of the risk, allegation as to, **§ 48:24**

Comparative fault, allegation as to, **§ 48:17**

Assault actions and, **§ 48:16**

Assumption of the risk and, **§ 48:24**

Attorney's negligence and, **§ 48:12**

Bad faith, **§ 48:16**

Battery, **§ 48:16**

Bulk supplier doctrine, **§ 48:31**

Burden of proof, **§§ 48:2, 48:20**

Causation, **§ 48:18**

Cause in fact, **§ 48:2**

Causes of action subject to defense, **§ 48:16**

Children, **§§ 48:4, 48:8, 48:9**

Completed and accepted doctrine, **§ 48:30**

COMPARATIVE FAULT—Cont'd

- Component parts doctrine, **§ 48:31**
- Concealed defects, **§ 48:30**
- Conservators and, **§ 48:16**
- Contract actions and, **§ 48:16**
- Contractual indemnity, **§ 48:16**
- Contributory negligence, **§ 48:1**
- Conversion actions and, **§ 48:16**
- Damages, caps on, **§§ 48:9, 48:19**
- Decedents, **§ 48:11**
- Defects
 - Component parts doctrine, **§ 48:31**
 - Concealed, **§ 48:30**
 - Latent, **§ 48:30**
 - Trivial, **§ 48:28**
- Defenses, sophisticated user, **§ 48:29**
- Demurrer, **§ 48:18**
- Dog bite actions and, **§ 48:16**
- Drug dealer Liability Act, **§ 48:16**
- Due care, **§ 48:1**
- Duty of care, **§ 48:1**
- Emergency and, **§ 49:1**
- Emotional distress actions and, **§ 48:16**
- Employees and employers, **§§ 48:13 to 48:16**
- Fair Responsibility Act of 1986, **§§ 43:2, 48:5**
- False arrest and imprisonment, **§ 48:16**
- Family members, **§§ 48:9, 48:10**
- Firefighter's rule and, **§ 48:25**
- Foster parents, **§ 48:9**
- Fraud and, **§ 48:16**
- Gross negligence and, **§ 48:23**
- Guardians, **§§ 48:8, 48:9**
- Health care providers, **§ 48:19**
- Heirs of plaintiff and, **§ 48:11**
- Homeowner's associations, actions as to common areas and, **§ 48:16**
- Horseback riding, assumption of risk, **§ 48:24**
- Hospital workers, assumption of risk, **§ 48:24**
- Implied warranty of fitness and, **§ 48:16**
- Imputation of
 - Generally, **§§ 48:6, 48:17**
 - Agent's negligence to principal or trustee, **§§ 48:13, 48:15**
 - Attorney's negligence to client, **§ 48:12**
 - Child's negligence to parent or guardian, **§§ 48:8, 48:9**
 - Decedents, **§ 48:11**
 - Defacement of property by child, **§ 48:9**
 - Employee's negligence, **§§ 48:13 to 48:15**
 - Family members, **§§ 48:9, 48:10**

INDEX

COMPARATIVE FAULT—Cont'd

- Imputation of—Cont'd
 - Guardians, §§ 48:8, 48:9
 - Independent contractor's negligence to employer, § 48:14
 - Joint venturers, § 48:7
 - Motor vehicles and, § 48:8
 - Parents, §§ 48:8, 48:9
 - Partners, § 48:7
 - Physicians and, § 48:12
 - Pleading and proof as to, §§ 48:6, 48:17
 - Spouses, § 48:10
 - Trustee's agents, § 48:15
 - Vehicle owners, drivers and passengers, § 48:8
 - Willful misconduct by child, § 48:9
- Incapacity of plaintiff and, § 48:4
- Indemnity and, § 48:16
- Independent contractors and, § 48:14
- Infliction of emotional distress, § 48:16
- Integration of component parts, § 48:31
- Intentional misrepresentation, § 48:16
- Intoxicated persons, §§ 48:3, 48:4
- Inverse condemnation actions and, § 48:16
- Joint and several liability and, § 48:5
- Joint venturers, § 48:7
- Judo, assumption of risk, § 48:24
- Jury instructions
 - Generally, § 48:19
 - Contributory negligence, § 48:19
 - Willful misconduct, § 48:22
- Last clear chance and, §§ 48:26, 49:5
- Latent defects, § 48:30
- Loss of consortium, § 48:16
- Mental incompetency of plaintiff and, § 48:4
- Minors, § 48:4
- Motions, § 48:18
- Motor vehicles and, §§ 48:8, 48:19
- Negligence actions and, § 48:16
- Negligence per se and, §§ 48:2, 48:4, 48:16
- Negligent misrepresentation actions and, § 48:16
- No admission of negligence, § 48:17
- Non-economic damages and, § 43:2
- Nonparties not bound by finding, § 48:1
- Nonstatutory defense, § 48:1
- Nuisance and, § 48:16
- Omissions and commissions, § 48:1
- Parents, §§ 48:8, 48:9
- Partners, § 48:7

COMPARATIVE FAULT—Cont'd

Physical disability and, **§ 48:4**
Physicians and, **§ 48:12**
Pleading, **§§ 48:4, 48:6, 48:17**
Products liability actions and, **§ 48:16**
Proof of, **§§ 48:2, 48:19, 48:20**
Proportionate fault and, **§ 48:1**
Proximate cause, **§§ 48:2, 48:18, 48:19**
Public employees, **§§ 48:3, 48:4, 48:25**
Public entities, **§§ 48:3, 48:4**
Rescue doctrine and, **§ 49:7**
Res ipsa loquitur and, **§ 48:16**
Schools, injury to pupil, **§ 48:9**
Seatbelt, failure to wear as, **§ 48:19**
Self-defense causing injury to bystander, **§ 50:8**
Setoff and, **§ 44:6**
Settlement and, **§§ 43:2, 48:5**
Skiing, assumption of risk, **§ 48:24**
Sophisticated user defense, **§ 48:29**
Spouses, **§§ 48:10, 48:16**
Strict liability actions and, **§ 48:16**
Superseding cause, **§ 48:27**
Torts, this index
Trespass actions and, **§ 48:16**
Trial, **§ 48:19**
Trivial defects, **§ 48:28**
Trustee's agents, **§ 48:15**
Vehicle owners, drivers and passengers, **§ 48:8**
Waiver of, **§ 48:21**
Warranty actions and, **§ 48:16**
Who may assert defense, **§ 48:3**
Willful misconduct and, **§§ 48:9, 48:22**
Workers' compensation actions and, **§§ 48:1, 48:16**
Wrongful death actions and, **§ 48:16**

COMPENSATED SURETY DEFENSE

Generally, **§ 35:6**

COMPETITOR'S PRIVILEGE

Generally, **§ 41:20**
Inducing breach of contract, **§ 41:20**
Interference with prospective advantage, **§ 41:20**

COMPLAINT

Adequacy of consideration, **§ 56:13**
Administrative remedies, excuse for not exhausting, **§ 16:10**
Agency, ratification of agent's acts, **§ 54:7**
Amended Pleadings, this index
Assignee, allegation as to action by, **§ 18:18**

INDEX

COMPLAINT—Cont'd

Capacity to sue

Action by assignee, **§ 18:18**

Corporation qualified to sue, **§ 18:17**

Choice of forum provision, allegation as to, **§ 4:5**

Choice of law provision, allegation as to, **§ 4:5**

Common Counts, this index

Conclusions of law, pleading, **§ 10:3**

Consideration, allegation of, **§§ 56:1, 56:13**

Contractors, compliance with licensing requirements, **§ 39:18**

Contracts

Choice of forum clause, **§ 4:5**

Choice of law clause, **§ 4:5**

Consideration adequate, **§ 56:13**

Performance of, **§ 59:5**

Prevention of performance by defendant, **§ 59:5**

Corporations

Capacity to sue, **§§ 18:17, 39:37, 39:38**

Foreign corporations, qualification to do business in California, **§ 39:37**

Cross-Claims and Cross-Complaints, this index

Defamation, service of demand for correction or retraction, **§ 12:14**

Defects in complaint as served, **§ 2:21**

Definition, **§§ 3:1, 28:2**

Delay, excuse for

Discovery of cause of action, **§ 25:21**

Laches, **§ 26:15**

Delay in Service and Return of Summons, this index

Demand requirements

Bailment, demand for return of deposited property, **§ 12:16**

Conversion, demand for return of converted property, **§ 12:17**

Defamation, service of demand for correction or retraction, **§ 12:14**

Shareholder's derivative action, demand prior to, **§ 12:15**

Document to be served with summons, **§§ 2:21, 3:1**

Emergency doctrine, **§ 49:2**

Equity, allegation as to doing of, **§ 35:2**

Estoppel, allegation of, **§§ 34:1, 34:10**

Exhaustion of administrative remedies inapplicable, **§ 16:10**

Fictitious business name requirements, satisfaction of, **§ 39:36**

Foreign corporations, compliance with qualification requirements, **§ 39:37**

Forms, this index

Government Tort Claims Act, satisfaction of claim requirement, **§ 12:20**

Libel and slander, service of demand for correction or retraction, **§ 12:14**

Licensing requirement compliance

Contractor's license, **§ 39:18**

Real estate license, **§ 39:28**

Nonjoinder of parties, explanation for, **§ 21:3**

COMPLAINT—Cont'd

Notice requirements

 Collateral, notice as to foreclosure on, **§ 12:8**

 Insurance loss, notice of, **§ 12:10**

 Rescission, allegation as to, **§ 12:7**

 Obligation to do equity, **§ 35:2**

 Parties, sufficiency of allegations as to, **§§ 18:1 et seq., 20:1 et seq., 21:1 et seq.**

 Performance of contract, **§ 59:5**

 Pleading, this index

 Prematurity of complaint, **§ 27:1 et seq.**

 Real estate license requirements, satisfaction of, **§ 39:28**

 Real party in interest, absence of, **§ 19:6**

 Relation back, amended pleading and, **§ 25:77**

 Rescission complaint as notice, **§§ 62:1, 62:24, 62:25**

 Satisfaction of claim requirement, **§ 12:20**

 Service of Process, this index

 Setoff, **§§ 44:1, 44:2, 44:7, 44:8**

 Settlement, enforcement of, **§ 43:6**

 Shareholder's derivative action, demand prior to, **§ 12:15**

 Slander, demand for correction or retraction, **§ 12:14**

 Standing, plaintiff's lack of, **§§ 19:4, 19:13, 19:15**

 Statute of limitations

 Delayed discovery, **§ 25:21**

 Estoppel to assert statute, **§ 25:73**

 Fraudulent concealment, **§ 25:72**

 Revival by acknowledgment or payment, **§ 25:46**

 Tolling by repair efforts, **§ 25:47**

 Subject matter jurisdiction, effect on, **§ 7:1**

 Ultimate facts, pleading of, **§ 10:2**

 Uncertainty of Pleading, this index

 Venue

 Allegations as to, **§ 5:45**

 Effect on, **§§ 5:4, 5:42**

 Verification of, **§ 11:1 et seq.**

COMPLETED AND ACCEPTED DOCTRINE

 Comparative fault, **§ 48:30**

COMPLEX LITIGATION

 Stays in as affecting time for service and return of summons, **§ 3:20**

COMPONENT PARTS DOCTRINE

 Comparative fault, **§ 48:31**

 Personal jurisdiction, **§ 4:17**

COMPROMISE AND SETTLEMENT

 Settlement, this index

COMPULSORY CROSS-CLAIMS

 Bar on unasserted claims, **§ 14:18**

INDEX

COMPULSORY CROSS-CLAIMS—Cont'd

Complaints, this index
Cross-Claims and Cross-Complaints, this index
Declaratory relief exception, §§ 14:18, 14:49
Eminent domain actions and, § 14:18
Res judicata and
 Generally, § 14:18
 Declaratory judgments, § 14:49
Setoff and, §§ 44:2, 44:9
Statutes of limitations and, § 25:71

COMPUTATION OF TIME

Time, this index

CONCEALED DEFECTS

Comparative fault, § 48:30

CONCILIATION

Immunity
 Conciliators and participants, § 38:132
 Service of process, § 2:18
International commercial agreements as to, tolling and, § 25:70

CONCLUSION OF LAW

Uncertainty of pleading, § 10:3

CONCURRENT EXCLUSIVE JURISDICTION

Another action pending and, § 23:11
Subject matter jurisdiction, §§ 7:1, 7:5

CONDEMNATION

Eminent Domain, this index

CONDITIONS PRECEDENT

Certificate of Merit, this index
Claim Filing Requirements, this index
Court order as prerequisite to action, §§ 12:36, 12:38, 25:49
Demand Requirements, this index
Notice Requirements, this index
Pleading performance of, § 10:9

CONFIDENTIAL RELATIONSHIPS

Attorneys, this index
Burden of proof, §§ 46:2, 46:3, 46:5, 46:6, 46:9, 46:14
Effect on arbitration enforceability, § 68:2
Fiduciaries, this index
Manager's Privilege, this index
Mistake based on reliance on, § 40:4
Release, §§ 42:4, 42:13
Undue influence, §§ 46:2 to 46:9, 46:14

CONFLICT OF INTEREST

Contracts of public employees, **§ 37:17**

Illegality, **§ 37:17**

CONFLICT OF LAW

Choice of Law, this index

CONSENT

Generally, **§ 32:1 et seq.**

Abandonment of contract, **§§ 61:2, 61:3**

Abortion, **§ 32:4**

Accord, element of, **§ 63:1**

Actual consent, **§ 32:2**

Adoption, **§§ 32:4, 52:16**

Age of majority and, **§ 32:4**

Alcohol problem treatment, **§ 32:4**

Alteration of documents, **§§ 66:1, 66:2, 66:5, 66:7, 66:10, 67:4**

Answer, allegation as to, **§ 32:6**

Answer, allegation of affirmative defense, **§ 32:6**

Apparent consent, **§ 32:2**

Arbitration, **§§ 68:1, 68:7, 68:12**

Assault, **§ 32:1**

Assumption of the risk and, **§ 48:24**

Attorney, consent on behalf of client, **§ 32:2**

Battery, **§§ 32:1, 32:9**

Blanks in document, delivery as consent to filling in, **§ 66:4**

Blood alcohol testing, **§ 38:23**

Blood donation, **§ 52:16**

Breach of contract, **§ 32:1**

Burden of proof, **§ 32:7**

Clients, **§§ 32:2 to 32:4**

Consideration for, **§ 32:2**

Contracts

Actions based on, **§§ 32:1, 32:6**

Personal jurisdiction, consent to, **§ 4:5**

Conversion, **§§ 32:1, 32:2**

Convulsive treatment, **§§ 32:4, 52:14**

Corporal punishment, **§ 32:4**

Corporation, consent by officers or directors, **§ 32:2**

Course of medical treatment, **§§ 32:3, 32:4**

Defamation, **§ 32:1**

Definition, **§ 32:1**

Drug problem treatment, **§ 32:4**

Duress and, **§§ 32:1, 33:1**

Emergency and, **§§ 32:2, 32:9**

Estoppel and, **§ 32:10**

Experimental drugs, **§ 52:14**

Express assumption of the risk and, **§ 48:24**

INDEX

CONSENT—Cont'd

- Fetus, **§ 32:4**
- Fraud and, **§§ 32:1, 32:6**
- General denial, **§ 32:6**
- Guardians, **§ 32:4**
- How consent is given, **§ 32:2**
- Implied consent
 - Defendant's conduct, **§§ 32:2, 32:9**
 - Personal jurisdiction and, **§§ 4:6 to 4:8**
- Incompetent persons, consent by, **§§ 32:2, 52:21 to 52:34**
- Invasion of privacy, **§ 32:1**
- Jury instructions and, **§ 32:6**
- Jury trial, **§ 32:6**
- Landlord-tenant relations, **§ 32:1**
- Manner of giving, **§ 32:2**
- Marriage, **§ 32:4**
- Material alteration of documents, **§§ 66:2, 66:5**
- Medical treatment, **§§ 32:4, 32:9**
- Minors, consent by, **§§ 32:2, 32:4, 52:2 to 52:20**
- Misrepresentations and, **§ 32:1**
- Mistake and, **§§ 32:1, 32:6, 40:1 et seq.**
- Modification of contract and, **§ 65:1**
- Mutual rescission, **§ 61:3**
- Novation, **§§ 64:3, 64:10, 64:13, 64:14**
- Nuisance, **§ 32:1**
- Olympics, participation in, **§ 32:4**
- Ova donations, **§ 32:4**
- Parents, **§ 32:4**
- Partnership, consent by partner, **§ 32:2**
- Patients, **§§ 32:2 to 32:4, 32:9**
- Personal jurisdiction, **§§ 4:4 to 4:8, 4:20, 4:27, 4:36**
- Pleading, **§§ 32:6, 32:8**
- Pregnant woman, **§ 32:4**
- Privilege and, **§§ 41:1, 41:25**
- Protected class, **§ 32:2**
- Psychosurgery, **§§ 32:4, 52:14**
- Rape, **§§ 32:2, 32:4**
- Ratification, **§ 32:5**
- Rescission for lack of, **§§ 62:2 to 62:7, 62:18**
- Revocation, **§ 32:5**
- Riparian rights, **§ 32:3**
- Sexual intercourse, **§§ 32:2, 32:4**
- Sperm donations, **§ 32:4**
- Spouses, **§ 32:4**
- Sterilization, **§§ 32:4, 38:28**
- Subject matter jurisdiction and, **§§ 7:8, 7:17**
- Suretyship contracts, **§ 67:4**

CONSENT—Cont'd

Termination of, **§ 32:5**
Time of, **§ 32:5**
Torts and, **§ 32:1**
Trespass, **§§ 32:1, 32:3**
Undue influence and, **§§ 32:1, 46:1**
Venue, **§ 5:1**
Waiver
 Consent and, **§§ 47:1, 47:19**
 Waiver of defense of consent, **§§ 32:8, 32:11**
Water, diversion of, **§ 32:3**

CONSENT JUDGMENT

Res judicata effect of, **§ 14:14**

CONSEQUENTIAL DAMAGES

Rescission and, **§ 62:5**
Unconscionability and, **§ 55:2**

CONSERVATORS AND CONSERVATORSHIP

Another action pending, **§ 23:2**
Appointment of conservator, effect of
 Conservatee's capacity to contract, **§§ 52:22, 52:26, 52:30**
 Conservator's capacity to sue, **§§ 18:3, 18:9, 18:10**
Attorney's conservator, termination of practice, **§ 38:9**
Capacity to contract and appointment of, **§§ 52:22, 52:26, 52:30**
Claim requirement, **§ 12:29**
Comparative fault and, **§ 48:16**
Confidential relationship and, **§ 46:3**
Death, effect on appointment, **§ 17:26**
Dissolution of marriage, conservator's capacity to seek, **§ 18:9**
Escheat, conservator for escheated property, **§ 38:73**
Foreign conservators, **§ 18:12**
Immunity, **§§ 38:28, 38:72, 38:74, 38:133**
In propria persona appearance barred, **§§ 18:10, 18:14**
Mootness and, **§ 22:2**
Partition action, **§ 18:3**
Persons authorized to seek, **§§ 18:31, 19:3**
Privity, **§§ 14:31, 14:39**
Service of process, **§ 2:2**
Settlement, approval of, **§ 11:19**
Standing to seek appointment of, **§§ 18:31, 19:8, 19:11**
Statute of limitations, effect of conservatee's incompetency, **§§ 25:12, 25:51, 25:53**
Subject matter jurisdiction, **§ 7:2**
Undue influence and, **§ 46:3**
Valueless property and, **§ 38:73**
Venue, **§§ 5:29, 5:36**
Verification of petition to approve settlement by guardian, **§ 11:19**

INDEX

CONSIDERATION

Generally, §§ 56:1 et seq., 57:1 et seq.
Abandonment of contract, §§ 56:9, 61:5
Accord and satisfaction requirement, §§ 63:1 to 63:3, 63:6
Adequacy of, §§ 46:10, 56:1, 56:4, 56:9, 56:14
Answer
 Failure of consideration, § 57:4
 Lack or inadequacy of consideration, § 56:13
Bargained for, § 56:2
Bilateral contracts and, §§ 56:3, 57:3
Burden of proof
 Failure of, § 57:5
 Illegality of, § 37:30
 Inadequacy of, §§ 37:30, 56:14
 Lack of, §§ 37:30, 56:14
 Specific performance, adequacy of consideration, § 56:4
Cancellation of contract and, § 56:9
Complaint, allegation as to adequacy of, § 56:13
Consent and, § 32:2
Contracts, this index
Debt of discharged bankrupt, § 56:8
Deeds and, § 56:9
Defined, § 56:2
Equivalent value unnecessary, § 56:2
Estoppel and, § 56:2
Executed contracts, § 56:9
Executory consideration, § 56:1
Executory contracts, §§ 56:3, 56:5
Exoneration of surety and, § 67:3
Express contract, § 56:1
Failure of, §§ 56:16, 57:7
Failure of Consideration, this index
Family relationships, § 56:2
Fiduciaries and, § 56:4
Forbearance as, § 56:2
Fraud and, § 56:4
Fraudulent conveyances, adequacy of consideration for, §§ 56:1, 56:2
Frustration of purpose of contract and, § 58:1
Gifts, §§ 56:2, 56:9
Good consideration, § 56:1
Guaranties and, §§ 56:10, 67:3
Holder in due course, § 56:11
Illegality and
 Illegal consideration
 Generally, §§ 37:23, 56:5
 Burden of proof, § 37:30
 Definition of consideration, § 56:2

CONSIDERATION—Cont'd

Illegality and—Cont'd
Illegal consideration—Cont'd
 Illegality, generally, **§ 37:1**
 Manner of asserting defense, §§ **37:28, 56:13**
 Rescission, **§ 62:13**
 Illegal contract, accord and, §§ **63:2, 63:3, 63:10**
 Illusory promises as, **§ 56:6**
 Implied contract, **§ 56:1**
 Impossibility of ascertaining, §§ **56:1, 56:17**
 Inadequacy of, §§ **56:4, 57:7**
 Interest as, **§ 56:2**
 Joint obligations, **§ 56:2**
 Judicial notice as to, **§ 56:2**
 Jury instructions as to
 Failure of consideration, **§ 57:4**
 Lack or inadequacy of consideration, **§ 56:13**
 Lack of
 Generally, §§ **56:1, 56:2**
 Against whom defense is asserted, **§ 56:11**
 Existing legal duty, **§ 56:7**
 Illegal consideration, §§ **37:1, 37:23, 37:28, 37:30, 56:2, 56:5, 56:13**
 Illusory promises, **§ 56:6**
 Moral obligation, **§ 56:8**
 Legal duty as, §§ **56:7, 63:3**
 Letter of credit and, **§ 56:9**
 Modification of contract and, §§ **47:1, 56:9, 65:2 to 65:6**
 Moral obligation as, **§ 56:8**
 Mutuality, **§ 56:3**
 Mutual rescission, §§ **56:9, 61:5**
 Necessity of, **§ 56:9**
 Negotiable instruments, **§ 56:1**
 Nonsuit, **§ 56:13**
 Novation of contract, §§ **47:1, 64:1, 64:6**
 Options, **§ 56:12**
 Oral contracts, **§ 56:1**
 Parol evidence, **§ 56:13**
 Part performance as, **§ 56:9**
 Past consideration, **§ 56:6**
 Pleading consideration, §§ **56:1, 56:13, 56:15**
 Prejudice to public interest, **§ 62:14**
 Premarital agreements, **§ 56:9**
 Presumed for written contract, §§ **53:5, 56:1, 56:4, 56:13, 56:14, 63:6**
 Promissory estoppel and lack of consideration, §§ **56:9, 56:18**
 Recipient, §§ **56:2, 56:9**
 Release, §§ **42:1, 42:5, 56:9**
 Rescission for failure of
 Generally, §§ **57:3, 62:8 to 62:11**

INDEX

CONSIDERATION—Cont'd

- Rescission for failure of—Cont'd
 - Notice of, § 57:3
- Satisfaction clauses, § 56:6
- Services, § 56:2
- Settlement, §§ 43:1, 56:2
- Sham translation, § 56:19
- Specific performance and, §§ 56:1, 56:4, 56:13, 56:14
- Statute of Frauds, this index
- Summary judgment, § 56:13
- Suretyship and, §§ 56:10, 67:3
- Time-barred debt as, § 56:8
- Timing of determination as to, §§ 56:4, 56:12
- Trial, § 56:13
- Trusts and, § 56:9
- Types of consideration, § 56:2
- Undue influence and, §§ 46:10, 56:4
- Unilateral contract, § 56:3
- Unlawful consideration, §§ 37:1, 37:23, 37:28, 37:30, 56:5, 56:13
- Unnecessary for certain contracts, § 56:9
- Valuable consideration, § 56:1
- Voluntary transfers and, § 56:9
- Waiver
 - Consideration for, § 47:1
 - Of consideration, §§ 56:15, 57:6
- Who is affected by lack or inadequacy, § 56:11
- Who may assert lack or inadequacy, § 56:11
- Written contracts, §§ 56:1, 56:9, 56:13, 56:14, 63:6

CONSOLIDATED ACTIONS

- Delay in prosecution and, §§ 28:18, 29:1
- Notice to adversary of defective service in one action, § 3:23

CONSORTIUM

- Loss of Consortium, this index

CONSPIRACY

- Action against attorney
- Immunity and, § 38:9
- Prerequisites to filing action, § 12:36
- Statute of limitations, tolling of, § 12:36
- Verification of action alleging, § 11:15
- Contracting parties and, § 53:32
- Court order prior to filing action against attorney, §§ 12:36, 38:15
- Demand requirement, futility, § 12:15
- Futility of demand requirement, § 12:15
- Judges, § 38:131
- Personal jurisdiction, effect on, §§ 4:11, 4:21
- Privilege and, § 41:6

CONSPIRACY—Cont'd

Statute of frauds and, **§ 53:32**
Statute of limitations and
 Generally, **§ 25:8**
 Attorney as party to conspiracy, **§ 12:36**
 Interference with business or trade, **§ 25:15**

CONSTABLE

Service of process by, **§ 2:3**
Statute of limitations in action against, **§§ 25:32, 25:33**

CONSTITUENT CORPORATION

Corporation, this index

CONSTITUTIONALITY

Affirmative defense based on, **§ 37:32**
Prematurity, **§ 27:1**
Uncertainty of pleading, vagueness as constitutional defense, **§ 10:19**

CONSTRUCTION CONTRACTS

Abandonment, **§§ 61:1, 61:6**
Allocation of payments by contractor, **§ 69:9**
Arbitration as to, **§ 12:38**
Bids and bidding
 Mistake in, **§§ 40:2, 40:4, 40:5, 62:3**
 Public officials, illegality and, **§ 37:22**
 Unlicensed contractor, rejection for, **§ 39:5**
Building inspectors, immunity of, **§ 38:135**
Certificate of merit, **§ 12:2**
Common interest development actions for negligence, **§§ 12:2, 12:36**
Contractors, this index
Contractor's License Requirements, this index
Contracts, this index
Design of public construction, **§§ 38:113, 38:130**
Exculpatory clauses in, **§ 37:11**
Exoneration of surety and, **§ 67:4**
Forum non conveniens and, **§§ 6:16, 6:24**
Forum selection clause, **§ 4:5**
Home construction contracts, **§ 53:23**
Illegality and, **§§ 37:6, 37:11**
Immunities, **§§ 38:7, 38:108, 38:113**
Impossibility and, **§ 60:2**
Indemnity and, limitations period, **§ 25:17**
Malpractice, **§ 25:37**
Mechanic's lien, **§ 12:12**
Modification of, **§§ 65:4 to 65:6**
Mootness, **§§ 22:2, 22:7**
Parties to action, **§ 21:2**
Security for injunction as to, **§ 13:8**
Statute of Frauds, this index

INDEX

CONSTRUCTION CONTRACTS—Cont'd

- Statute of limitations, §§ 25:13, 25:14, 25:16, 25:17, 25:37, 25:47
- Swimming pool construction contracts, § 53:23
- Venue, § 5:8

CONSTRUCTIVE FRAUD

- Mistake, §§ 40:14, 62:5
- Statute of limitations, § 25:21
- Undue influence, § 46:2

CONSTRUCTIVE TRUST

- Generally, §§ 31:1, 53:9, 53:21, 53:24
- Disaffirmance of minor's contract and, § 52:11
- Inadequacy of remedy, §§ 31:1, 31:5
- Laches, § 26:7
- Rescission, §§ 62:5, 62:32
- Statute of frauds, §§ 53:9, 53:21, 53:24
- Statute of limitations, § 25:40

CONSUMER CLASS ACTIONS

- Class Actions, this index
- Demand requirements, § 12:18
- Injunctive relief and, § 12:18
- Notice requirements, § 12:18
- Repairs, effect of, § 12:18

CONSUMER DEBT

- Service of process, § 2:2
- Venue, §§ 5:33, 5:45

CONSUMER LEASES

- Venue, § 5:45

CONSUMERS LEGAL REMEDIES ACT

- Generally, §§ 55:1, 55:3
- Notice and demand requirements under, § 12:18
- Unconscionability and, §§ 55:1, 55:3

CONTEMPT

- Advice of counsel and, § 41:29
- Newspersons Shield Law
 - Immunity from contempt under, § 38:36
 - Premature petition for relief under, § 27:1
- Statute of limitations, § 25:10
- Vexatious litigants, § 13:3

CONTRACTORS

- Abandonment of contract and, §§ 61:1, 61:6
- Bid shopping, § 45:2
- Construction Contracts, this index
- Contractor's License Requirements, this index
- Definition, §§ 39:3, 39:8

CONTRACTORS—Cont'd

Discipline for abandonment of project, **§ 61:6**
Government contractor defense, **§ 38:130**
Illegality and, **§§ 37:6, 37:15, 37:25, 39:16**
Immunity, **§ 38:130**
Independent Contractors, this index
Negligence, common interest developments, **§§ 12:2, 12:36**
Notice requirements and, **§ 37:6**
Setoff and, **§§ 39:18, 44:9**
Severance of claims, **§ 39:18**
Unclean hands and, **§ 45:2**

CONTRACTOR'S LICENSE REQUIREMENTS

Generally, **§ 39:2 et seq.**
Abandonment of contract and, **§ 61:6**
Adulthood requirement, **§ 52:4**
Agricultural activities, **§ 39:12**
Alarm company operators, **§ 39:13**
Allegations as to, **§§ 39:2, 39:18**
Amended pleading, **§ 39:18**
Answer, **§ 39:18**
Arbitration of violations of, **§ 39:18**
Architects, **§ 39:13**
Breach of contract and, **§ 39:18**
Burden of proof, **§§ 39:2, 39:18, 39:40**
Civil engineers, **§ 39:13**
Compensation, **§ 39:2**
Complaint, **§ 39:18**
Contracts in violation of, **§§ 37:15, 37:25, 39:1, 39:2, 39:4, 39:16, 39:17**
Corporations, **§ 39:4**
Court's power to act sua sponte, **§ 39:18**
Definition, **§§ 39:3, 39:8**
Demurrer, **§ 39:18**
Enforcement, **§ 39:2**
Engineers, **§ 39:13**
Exceptions
 Generally, **§§ 39:5 to 39:15**
 Agricultural activities, **§ 39:12**
 Alarm company operators, **§ 39:13**
 Electronic equipment repair, **§ 39:3**
 Employees, **§ 39:15**
 Government representatives, **§ 39:5**
 Homeowners, **§ 39:8**
 Landscaping, **§ 39:3**
 Licensees under other laws, **§ 39:13**
 Materialmen, **§ 39:14**
 Mobile homes, **§ 39:10**
 Oil and gas operators, **§ 39:7**

INDEX

CONTRACTOR'S LICENSE REQUIREMENTS—Cont'd

- Exceptions—Cont'd
 - Partnerships, **§ 39:4**
 - Personal property, **§ 39:10**
 - Persons licensed under other laws, **§ 39:13**
 - Property owners, **§ 39:8**
 - Public representatives, **§ 39:5**
 - Public utilities, **§ 39:6**
 - Single family residences, **§ 39:8**
 - Small operations, **§ 39:11**
 - Specialty contractors, **§ 39:9**
 - Structural pest control operators, **§ 39:13**
 - Suppliers, **§ 39:14**
- Expired license, **§§ 39:16, 39:17**
- Farm labor contractors, licensing, **§ 39:34**
- Fraud in inducing contract and, **§ 39:18**
- General contractors, **§ 39:3**
- Good faith and, **§ 39:17**
- Illegality, **§ 37:6**
- In pari delicto, **§§ 39:14, 39:18**
- Joint venture licensees, **§ 39:4**
- Limitations of bar on recovery, **§ 39:18**
- Mechanics' lien, **§ 39:18**
- Minor's capacity to obtain license, **§ 52:4**
- Oil and gas operations, **§ 39:7**
- Out of state work, **§ 39:3**
- Partnerships, **§ 39:4**
- Personal property and, **§ 39:10**
- Pleading, **§ 39:18**
- Property owners, **§ 39:7**
- Public entities, **§ 39:5**
- Public utilities, **§ 39:6**
- Security interests and, **§ 39:2**
- Setoff and, **§§ 39:18, 44:9**
- Severance of claims, **§ 39:10**
- Small operations, **§ 39:11**
- Specialty contractors, **§§ 39:3, 39:9**
- Subcontractors, **§ 39:3**
- Substantial compliance, **§§ 39:2, 39:16, 39:17**
- Substantial performance, **§§ 39:16, 39:17**
- Time license in effect, **§§ 39:16, 39:17**
- Unlicensed contractors, **§§ 39:3, 39:4, 39:18**
- Violation of
 - Generally, **§§ 39:1, 39:2**
 - Allegation as to, **§ 39:18**
 - Arbitration of, **§ 39:18**
 - Criminal penalties, **§ 39:2**

CONTRACTOR'S LICENSE REQUIREMENTS—Cont'd

Violation of—Cont'd
 Illegality and, §§ 37:15, 37:25
 Mechanics' lien foreclosure, § 39:18
 Partnerships and joint ventures, § 39:4
 Recovery barred, § 39:18
 Security interest barred, § 39:2
 Substantial compliance, §§ 39:2, 39:16, 39:17
 Substantial performance and, § 39:17
 Time license in effect and, §§ 39:16, 39:17
 Waiver, §§ 39:2, 39:18

CONTRACTS

Abandonment of Contracts, this index
Abrogation, § 61:1
Accord and Satisfaction, this index
Acts of God as defense, § 30:1 *et seq.*
Adequacy of consideration for, §§ 56:1, 56:4, 56:9, 56:14
Adequacy of remedy at law, § 31:6
Adhesion, §§ 42:2, 55:1 *et seq.*, 68:2
Admission of validity by novation, § 64:2
Agent as signatory, §§ 53:3, 53:4, 53:20, 53:41, 54:1 *et seq.*
Alteration of Documents, this index
Amendment, § 64:4
Anticipatory breach of
 Generally, § 60:12
 Statute of limitations, effect on, § 25:12
Arbitration and Award, this index
Assignability, §§ 18:18, 18:19
Assignment, this index
Bilateral, §§ 56:3, 57:3, 61:2
Blanks, this index
Breach, declaratory relief, §§ 31:1, 31:5
Breach of Contract, this index
Cancellation, §§ 61:1, 62:38
Capacity to Contract, this index
Choice of forum provision, § 4:5
Choice of law provision, §§ 4:5, 4:9, 4:24, 6:1, 6:24
Common counts and, § 10:4
Comparative fault and contract actions, § 48:16
Competition, contract restraining, § 37:14
Competitive bidding, § 37:22
Completion of blanks, §§ 54:1, 66:2, 66:4
Conditions precedent, pleading of, § 10:9
Consent, this index
Consideration, this index
Construction Contracts, this index

INDEX

CONTRACTS—Cont'd

Construction of contracts
Statute of frauds and, **§ 53:2**
To avoid impossibility, **§ 60:10**
Continuing care contracts, statute of frauds and, **§ 53:23**
Contractor's licensing requirements, this index
Contractual statutes of limitation periods
Generally, **§§ 25:12 to 25:15**
Allegation as to, **§ 25:41**
Contract provisions as to, **§ 25:41**
Tolling agreements, **§§ 25:67, 25:83**
Corporation as party, statute of frauds and, **§§ 53:4, 53:17**
Court approval of, **§§ 52:15, 52:29, 52:31, 53:4**
Credit services contracts, statute of frauds and, **§ 53:23**
Damages, contractual limitations on, **§§ 55:2, 55:3**
Dance lessons, statute of frauds and, **§ 53:23**
Death of party as terminating contract, **§§ 17:10, 17:24, 60:2**
Debt, this index
Demand requirements and, **§ 12:13**
Destruction of Documents, this index
Destruction of subject matter, **§ 60:2**
Deegee, contract defeating rights of, **§ 37:18**
Disaffirmance of minor's contracts, **§§ 18:6, 52:8 to 52:11**
Discount buying services contracts, statute of frauds and, **§ 53:23**
Duplicate originals, **§ 66:7**
Duration, statute of frauds and, **§§ 53:5, 53:20, 53:21**
Duress and, **§ 33:1 et seq.**
Emancipated minors, **§§ 52:2, 52:12, 52:17 to 52:19**
Employment contracts, mitigation of damages, **§ 36:5**
Equal dignities rule and, **§ 54:1 et seq.**
Essential terms, statute of frauds and, **§§ 53:2, 53:5, 53:9**
Estoppel, this index
Executed contracts, **§§ 56:9, 65:5**
Executory, **§§ 56:3, 56:5, 65:5**
Existing legal duty as consideration, **§ 56:7**
Exoneration of Sureties, this index
Failure of Consideration, this index
Failure to mitigate and, **§ 36:1 et seq.**
Failure to read, **§§ 40:4, 42:1, 42:4, 62:5, 62:6, 68:1**
Fire protection contracts, immunity under, **§ 38:90**
Forum selection clauses, **§§ 4:5, 4:9, 6:24, 7:9, 37:1**
Fraud, this index
Frustration of Purpose, this index
Gambling contracts, **§ 37:20**
Governmental entities, bidding requirements, **§ 37:22**
Government claims requirements and, **§ 12:20 et seq.**
Gray market goods contracts, **§ 62:23**

CONTRACTS—Cont'd

Guaranties, §§ 56:10, 67:1 *et seq.*

Home solicitation contracts

 Natural disasters, limitations on contracts after, § 30:3

 Rescission of, §§ 62:1, 62:23

Illegality, §§ 37:1 *et seq.*, 56:5, 56:13, 63:2, 63:3, 63:10

Illusory promises, § 56:6

Implied abandonment, §§ 61:2, 61:4

Implied contracts, § 56:1

Impossibility, this index

Inadequacy of consideration. Consideration, this index

Indemnity and comparative fault, § 48:16

Indispensable parties, § 21:2

Inducing breach of contract, privilege and, §§ 41:6, 41:13 *et seq.*

Insolvent party, § 62:17

Interference with, §§ 41:19, 41:20, 53:10, 53:28

Interpretation, §§ 53:2, 60:10, 68:1, 68:2, 68:9

Laches in actions as to, §§ 26:7 to 26:11

Lack of capacity to contract. Capacity to Contract, this index

Leases, this index

Limitations on assignment of, § 18:18

Liquidated damages, unconscionability, § 55:3

Loans, this index

Marriage, contract restraining, § 37:19

Married minors, §§ 52:17, 52:18

Material alteration of, § 66:1 *et seq.*

Materiality of consideration, § 57:2

Merchants, contracts by, §§ 53:11, 62:21

Minors

 Capacity-contract, §§ 52:2 to 52:20

 Disaffirmance of contract, § 18:8

Mistake, §§ 40:1 *et seq.*, 62:3

Mitigation of damages as to, § 36:1 *et seq.*

Modification of Contract, this index

Moral obligation as consideration, § 56:8

Multiparty contract

 Disaffirmance of, § 52:11

 Statute of frauds and, § 53:4

Mutuality of obligation, § 56:3

Mutual rescission. Abandonment of Contracts, this index

Necessaries, contracts for, §§ 52:13, 52:26, 52:30

Nonjoinder of parties to, § 21:2

Notice

 Insurance loss, notice of, § 12:10

 Nonperformance, excuse for, §§ 12:9, 59:1

 Rescission, § 12:7

Novation, this index

INDEX

CONTRACTS—Cont'd

Options, §§ 53:9, 53:20, 56:12

Oral contracts

 Pleading written or oral contract, § 10:14

 Statute of Frauds, this index

Parol Evidence, this index

Partial destruction of subject matter, § 60:2

Partnership as party, statute of frauds and, § 53:4

Past consideration, § 56:6

Payment, this index

Performance

 Conditions, § 10:9

 Demand for, § 12:13

 Event excusing, § 12:9

 Notice of excuse for, § 12:9

 Part performance, §§ 53:11, 53:20 to 53:22, 53:25, 53:35

Personal service contracts, §§ 18:18, 31:2, 60:2, 60:9, 67:3

Pleading

 Account, items of, § 10:6

 Common counts, § 10:4

 Conditions, performance of, § 10:9

 Items of account, § 10:6

 Oral contract, § 10:14

 Terms of contract, § 10:15

 Written contract, §§ 10:14, 10:15

Premarital agreements, tolling of statute of limitations under, § 25:48

Prevention of Performance, this index

Probate claims requirements, § 12:32

Promise to execute, estoppel and, § 53:26

Promissory notes, limitations period on, § 25:14

Public employees, conflict of interest, § 37:17

Purchase and sale contracts, disaffirmance, §§ 52:5, 52:16

Quantum meruit, statute of frauds and, §§ 53:10, 53:20, 53:21, 53:25, 53:34

Ratification of, §§ 32:5, 52:20, 52:34, 54:5, 62:20

Reformation, §§ 53:30, 62:39

Release, this index

Repair contracts, illegal provisions, § 37:22

Requirements contracts, § 53:11

Rescission, this index

Res judicata and, § 14:15

Restraint of alienation, § 37:16

Restraint of competition or trade, § 37:14

Restraint of marriage, § 37:19

Sale of Goods, this index

Satisfaction clauses, § 56:6

Settlement, this index

CONTRACTS—Cont'd

Severability

- Actions that are barred, **§ 37:26**
- Arbitration and adhesion contracts, **§ 68:2**
- Exoneration of surety by conduct of creditor, **§ 67:4**
- Illegal consideration, **§ 37:23**
- Modification of contract, **§ 65:5**
- Neutrality or bias of arbitrator, **§ 68:4**
- Other illegal contracts, **§ 37:22**
- Partial illegality, **§ 37:5**
- Prevention of performance, **§ 59:1**
- Repudiation of contract, **§ 68:13**
- Rescission, **§ 62:30**
- Settlement enforcement, **§ 43:3**
- Unsound mind, **§ 53:24**
- Voidable contracts, **§ 52:10**
- Sham translation, **§ 56:19**
- Signature, this index
- Sovereign immunity waiver for contract actions, **§§ 38:56, 38:126**
- Spanish language requirements, **§ 62:23**
- Specific Performance, this index
- Statute of Frauds, this index
- Statute of limitations
 - Generally, **§§ 25:12 to 25:15**
 - Accrual, **§§ 25:3 to 25:7**
 - Adhesion contracts, **§ 25:41**
 - Contract provisions as to, **§§ 25:41, 25:67, 55:1**
 - Tolling agreements, **§§ 25:67, 25:83**
 - Unconscionability, contractual limitation periods, **§ 55:1**
- Stipulation
 - Generally, **§ 43:11**
 - Description of subject matter of contract, waiver of mistake as to, **§ 40:13**
 - Subject matter jurisdiction, forum selection clauses and, **§ 7:9**
 - Subrogation, capacity to sue, **§ 18:28**
 - Substituted contract, **§ 64:1**
 - Supplemental agreement, **§ 65:3**
 - Surety contracts, **§§ 56:10, 67:1 et seq.**
 - Termination. Abandonment of Contracts, this index
 - Termination of revocable offer by assignment, **§ 18:18**
 - Third party beneficiary contracts, abandonment, **§ 61:1**
 - Time of the essence clauses, **§ 57:2**
 - Tolling agreements, **§§ 25:41, 25:67, 25:83**
 - Tort Claims Act and, **§ 38:56**
 - Translation requirements, **§ 62:23**
 - Uncertainty of pleading, **§§ 10:4, 10:6, 10:9, 10:14, 10:15**
 - Unconscionability, **§§ 55:1 et seq., 62:3**
 - Undue Influence, this index

INDEX

CONTRACTS—Cont'd

- Unilateral, § **56:3**
- United States, actions against, § **38:126**
- Usury, this index
- Valuable consideration, § **56:1**
- Venue in actions on, §§ **5:30, 5:33**
- Voidable contracts, §§ **52:8 to 52:11, 52:28, 52:29**
- Void contracts, §§ **52:3 to 52:7, 52:26, 52:27, 52:35**
- Voluntary transfer, § **56:9**
- Waiver
 - Anti-assignment clauses, § **18:19**
 - Breach of contract, § **59:7**
 - Capacity to make waiver, § **47:2**
 - Lack of capacity to contract, §§ **52:20, 52:37**
- Wills, contracts regarding, §§ **53:21, 53:22, 53:26**
- Wrongful termination of employment, mitigation of damages as to, § **36:5**

CONTRIBUTION

- Non-economic damages and, § **43:2**
- Release and, § **42:7**
- Settlement and, § **43:2**
- Statute of limitations, §§ **25:39, 25:41, 25:68**
- Workers' compensation, § **25:25**

CONTRIBUTORY NEGLIGENCE

- Comparative Fault, this index

CONTROL

- Alter Ego, this index
- Both sides of suit, § **18:29**
- Collusion in bringing suit, § **18:29**
- Controlled entities, effect on statute of limitations, § **25:52**
- Res judicata and
 - Corporate alter egos, § **14:32**
 - Persons who control litigation, § **14:23**
- Shareholders' derivative action, futility of demand on controlled entity, § **12:15**
- Statute of limitations, effect on, § **25:52**

CONTROLLER

- Escheat and, § **38:73**
- Immunity, § **38:73**
- Setoff by, § **44:2**
- Statute of limitations and, §§ **25:32, 25:76**

CONVERSION

- Assignability of cause of action, § **18:22**
- Comparative fault and, § **48:16**
- Consent, §§ **32:1, 32:2**
- Defenses, § **40:1**
- Demand for return of property, §§ **12:17, 25:20**

CONVERSION—Cont'd

Discovery rule, statute of limitations, §§ 25:5, 25:20
Duress in, § 33:2
Good faith as defense to, § 40:1
Ignorance as defense to, § 40:1
Illegality of contract and, § 37:27
Judges, immunity and, § 38:131
Mistake as defense to, § 40:1
Mitigation of damages as to, § 36:7
Punitive damages, assignment of, § 18:27
Statute of limitations and, §§ 25:19, 25:20
Venue, §§ 5:34, 5:36

CONVEYANCES

Statute of frauds and, § 53:9

CONVULSIVE TREATMENT

Consent, §§ 32:4, 52:14
Immunity and, § 38:10
Minors, consent by, §§ 32:4, 52:14

COORDINATION

Another action pending, § 23:2
Delay in prosecution and, §§ 28:2, 29:1
Subject matter jurisdiction, § 7:5
Venue, § 5:10

CORONER

Autopsies, §§ 38:15, 38:63
Immunity, §§ 38:15, 38:63, 38:135
Service of process by, § 2:3
Statute of limitations for action against, § 25:32
Sudden infant death syndrome, autopsy, tort liability, § 38:15
Uniform Anatomical Gift Act, § 38:63

CORPORAL PUNISHMENT

Consent, § 32:4

CORPORATE SECURITIES BROKERS, LICENSING REQUIREMENTS

Generally, § 39:32
Contract in violation of, § 37:15

CORPORATE SECURITIES LAW

Personal jurisdiction, state regulation affecting, § 4:18

CORPORATIONS

Abandonment of contracts by, § 61:5
Acts only through agents, §§ 54:3, 61:5
Alter ego
Delay in service of process on, §§ 3:11, 3:13, 3:23
Personal jurisdiction over, §§ 4:25, 4:26
Res judicata and, § 14:32

INDEX

CORPORATIONS—Cont'd

- Alter ego—Cont'd
 - Statute of limitations and, §§ 25:23, 25:52
- Appeal, suspension of forfeiture, § 39:38
- Appearance in propria persona barred, § 18:14
- Capacity-sue, §§ 18:13 to 18:17
- Capacity to sue, §§ 18:30, 18:31, 18:36, 39:37, 39:38
- Cemetery brokers and salespersons, § 39:30
- Certificate of qualification to conduct intrastate business, §§ 39:37, 39:38, 45:2
- Claim filing requirements, dissolution, § 12:33
- Consent, § 32:2
- Contractor's license requirements and, § 39:4
- Contracts by, signature, § 53:4
- Corporate counsel, personal jurisdiction over, § 4:28
- Corporate division a nonentity, § 18:30
- Court's power to act sua sponte, bar for suspension or forfeiture, § 39:38
- Deficiency judgment on dissolution, § 12:33
- Department of Corporations, § 47:13
- Derivative actions, § 39:38
- Directors, this index
- Dissolution actions
 - Claim filing requirement in, § 12:33
 - Indispensable parties in, § 21:2
 - Verification of petition as to, § 11:16
- Dissolved corporations, §§ 4:24, 18:16, 18:30
- Equal dignities rule and, § 54:3
- Estoppel
 - Nonexistence, assertion of, § 34:9
 - Persons who may estop corporation, § 34:9
- Executive officer as agent, § 54:3
- Failure to file statement, § 39:38
- Failure to pay taxes, § 39:38
- Fictitious business names and, § 39:36
- Forbidden names, § 39:36
- Foreign Corporations, this index
- Forfeiture of good standing, §§ 4:24, 18:17
- Franchise Tax Board, suspension by, §§ 18:17, 39:38
- Immunities, § 38:35
- Inherent right to sue and be sued, § 18:13
- In propria persona appearance barred, § 18:14
- Joinder in derivative actions, § 21:2
- Joint venture licenses, § 39:4
- Lack of capacity-sue, §§ 18:13 to 18:17
- Lack of capacity to sue, §§ 18:30, 39:38
- Lack of standing, § 19:6
- Liability for prior corporation's debt, § 18:15

CORPORATIONS—Cont'd

- Licensing requirements
 - Cemetery brokers and salespersons, **§ 39:30**
 - Contractors, **§ 39:4**
 - Foreign corporations conducting interstate business, **§ 39:37**
 - Personal property brokers and salespersons, **§ 39:31**
 - Real estate brokers and salespersons, **§ 39:27**
 - Ship and yacht brokers and salespersons, **§ 39:31**
 - Structural pest control operators, **§ 39:21**
 - Suspended status, corporations in, **§ 39:38**
- Limited purpose corporations, **§ 38:35**
- Manager's privilege, **§ 41:19**
- Merged corporations, **§§ 18:15, 25:52**
- Minors, **§ 38:35**
- Nonprofit corporations
 - Mutual benefit corporations, **§ 38:35**
 - Promise to pay debts of, **§ 53:17**
 - Public benefit corporations, **§ 38:35**
 - Religious corporations, **§§ 18:31, 38:35**
- Officer
 - As fiduciary, **§ 46:2**
 - As guarantor, **§§ 56:10, 67:2**
- Parent-subsidiary, personal jurisdiction based on, **§§ 4:10, 4:25**
- Personal jurisdiction and
 - Alter ego and, **§ 4:26**
 - Corporate counsel, **§ 4:28**
 - Employees, **§ 4:28**
 - Foreign corporations, **§ 39:37**
 - Officers, **§ 4:28**
 - Parent-subsidiary relationship, **§§ 4:10, 4:25**
 - Presence in California, **§ 4:15**
 - Qualification to conduct business in California and, **§ 4:20**
 - Shareholders, **§ 4:28**
 - Stare regulation affecting, **§ 4:18**
 - Submission to, **§§ 4:2, 4:25**
 - Subsidiaries, **§§ 4:10, 4:25**
 - Successors in interest, **§ 4:27**
- Personal property brokers and salespersons, **§ 39:31**
- Presence in California, **§ 4:15**
- Privileges and, **§§ 41:16, 41:19**
- Privity and res judicata, **§ 14:32**
- Prohibited names, **§ 39:36**
- Pro se appearance, **§ 18:14**
- Qualification to conduct intrastate business, **§§ 4:20, 18:17, 18:36, 39:37, 39:38, 45:2**
- Real estate brokers and salespersons, **§ 39:27**
- Real party in interest as to, **§ 19:4**
- Receivership, leave of court to sue corporation in, **§ 12:36**

INDEX

CORPORATIONS—Cont'd

- Res judicata, privity as to, **§ 14:32**
- Resolution as a writing, **§ 53:9**
- Restraint on alienation of securities, **§ 37:16**
- Return of service, **§ 2:19**
- Revival of good standing, **§ 18:17**
- Sales of securities, **§§ 37:16, 37:22, 53:13**
- Security for costs
 - Derivative actions, **§ 13:2**
 - Foreign corporations, **§ 13:4**
- Service of process, **§§ 2:2, 2:7, 2:8, 2:13, 39:37**
- Setoff and, **§ 44:4**
- Shareholders
 - As guarantors, **§§ 56:10, 67:2**
 - Intervention in action by corporation, **§ 20:4**
 - Notice of meeting, waiver of, **§ 47:8**
 - Shareholders' Derivative Actions, this index
 - Ship brokers and salespersons, **§ 39:31**
 - Standing of, **§ 19:6**
 - Statute of frauds and, **§§ 53:4, 53:9, 53:13, 53:17**
 - Statute of limitations
 - Alter egos, **§§ 25:23, 25:52**
 - Breach by directors, **§§ 25:23, 25:37**
 - Breach by shareholders, **§ 25:23**
 - Controlled entities and, **§ 25:52**
 - Directors
 - Generally, **§ 25:23**
 - Malpractice actions against, **§ 25:37**
 - Dissolved corporations, **§ 25:23**
 - Effect of suspension or forfeiture, **§§ 18:17, 25:76, 39:38**
 - Foreign corporations, absence from state, **§ 25:61**
 - Merged corporations, **§ 25:50**
 - Recovery of stock, **§ 25:23**
 - Shareholders, **§ 25:23**
 - Successors in interest, **§ 25:50**
 - Tolling when controlled by wrongdoer, **§§ 25:50, 25:52**
 - Structural pest control operators, **§ 39:21**
 - Submission to personal jurisdiction, **§§ 4:2, 4:25**
 - Successors in interest, **§ 4:27**
 - Summons, **§§ 2:2, 2:19**
 - Suspension or forfeiture, effect of
 - Generally, **§§ 39:37, 39:38**
 - Capacity to sue, **§§ 18:17, 18:36**
 - Taxes, failure to pay, **§ 39:38**
 - Thrift Guaranty Corporation, **§ 38:35**
 - Unclean hands, effect on qualification to conduct intrastate business, **§ 45:2**

CORPORATIONS—Cont'd

- Undue influence and
 - Corporate officers, directors, and attorneys, **§ 46:2**
 - Corporations, **§ 46:3**
- Venue, **§§ 5:30, 39:37**
- Verification of pleadings by, **§§ 11:2, 11:3**
- Waiver
 - Person who may waive for corporation, **§§ 47:2, 47:11**
 - Suspension or forfeiture, **§ 39:38**
- Writ of mandate, suspension or forfeiture, **§ 39:38**
- Yacht brokers and salespersons, **§ 39:31**

COSMETOLOGISTS

- Licensing requirements as to, **§ 39:35**

COSTS

- Security for Costs, this index
- Waiver
 - Waiver of malicious prosecution by seeking in indemnity action, **§ 47: 6**
 - Waiver of recovery of, **§ 47:5**

COUNTY

- Administrative Agencies and Proceedings, this index
- Collateral estoppel, application against, **§ 15:10**
- Conflict of interest, contracts by county officials, **§ 37:17**
- Contractor's licensing requirements, exception, **§ 39:5**
- Contracts
 - Bidding process violations, **§ 37:22**
 - Conflicts of interest in, **§ 37:17**
- Delay in prosecution statutes of condemnation actions, **§ 28:2**
- Donations of food, **§ 38:27**
- Earthquake, **§ 38:71**
- Estoppel against, **§ 34:9**
- Fire protection
 - Contracts, **§ 38:90**
 - Districts, **§§ 38:51, 38:90**
- Food donations, **§ 38:27**
- Gambling, **§ 38:14**
- Highways, **§ 38:116**
- Illegality, **§§ 37:17, 37:22**
- Immunity, this index
- Laches, application to, **§ 26:12**
- Patient's rights advocates, **§ 38:96**
- Privilege and, **§§ 41:3, 41:5, 41:11**
- Privity, res judicata as to county, **§ 14:26**
- Public Agencies and Entities, this index
- Public health directors, **§ 38:22**
- Public Officers and Employees, this index
- Res judicata and, **§ 14:26**

INDEX

COUNTY—Cont'd

- Roads, **§ 38:116**
- Setoff and, **§§ 44:2, 44:4**
- Statute of limitations and
 - Actions against, **§ 25:32**
 - Actions by, **§ 25:18**
 - Administrative mandamus, **§§ 25:40, 25:61**
 - Administrative proceedings, tolling and, **§§ 25:70, 25:71**
 - Estoppel to assert, **§ 25:73**
 - Exceptions to, **§ 25:75**
 - Public nuisances, abatement of, **§ 25:74**
 - Tolling of limitations period during administrative proceeding, **§§ 25:69, 25:70**
- Streets, **§ 38:116**
- Taxpayers' actions against, **§ 19:3**
- Venue in actions by or against, **§§ 5:25, 5:28**
- Verification of pleadings by, **§ 11:3**

COURSE OF CONDUCT

- Joinder of plaintiffs affected by, **§ 20:2**
- Res judicata as to actions based on, **§ 14:16**
- Statute of limitations and, **§§ 25:7, 25:77**

COURSE OF EMPLOYMENT

- Ultimate fact, pleading as, **§ 10:2**

COURT PERSONNEL

- Hiring and firing, **§ 38:131**
- Immunity, **§§ 38:133, 38:135**
- Privilege and, **§ 41:5**

COURTS

- Abstract issues and, **§ 22:1 et seq.**
- Administration of and forum non conveniens, **§ 6:12 et seq.**
- Advice in small claims court, **§ 38:69**
- Advisory opinions by, **§ 22:3**
- Appeal, this index
- Appointment of conservator, **§§ 52:22, 52:26**
- Approval by
 - Contracts, **§§ 52:15, 52:29, 52:31**
- Arbitration, courts' powers as to
 - Approval of arbitration agreement, **§ 68:1**
 - Choice of law, **§ 68:1**
 - Determination of arbitrability of dispute, **§§ 68:1, 68:7**
 - Jurisdiction of court and arbitration contract, **§ 68:1**
 - Third parties' rights in arbitration, **§ 68:1**
- Collusive actions and, **§ 22:3**
- Contracts affecting jurisdiction of, **§ 37:22**
- Court order as prerequisite to action
 - Attorney, civil conspiracy action against, **§ 12:36**

COURTS—Cont'd

- Court order as prerequisite to action—Cont'd
 - Director of charitable or nonprofit organization, negligence action against, **§ 12:36**
 - Punitive damage claims, **§ 12:36**
 - Receiver, action against or against estate property, **§ 12:36**
 - Statute of limitations and, **§ 25:49**
 - Delay in prosecution and, §§ 28:8, 28:13, 28:14, 29:2
 - Determination of incapacity, **§ 52:26**
 - Equitable tolling, actions filed in wrong court, **§ 25:70**
 - Forum non conveniens and, **§ 6:12 et seq.**
 - Immunity and
 - Generally, §§ 38:131, 38:133
 - Advice of, §§ 38:69, 38:96
 - Inherent powers, **§ 7:2**
 - Jurisdiction of, contracts to oust, **§ 37:22**
 - Law practice, assuming jurisdiction of, **§ 38:9**
 - Leave of court requirement and statute of limitations, **§ 25:49**
 - Moot or hypothetical questions and, **§ 22:1 et seq.**
 - Power-act sua sponte
 - Delay in prosecution statutes and, §§ 29:1 to 29:3
 - Power to act sua sponte
 - Adequacy of remedy at law, **§ 31:10**
 - Appointment of guardian ad litem, §§ 18:5, 18:9
 - Corporate suspension or forfeiture, **§ 39:38**
 - Delay in prosecution statutes and, §§ 28:1, 28:11, 28:30, 29:5
 - Delay in service and return of summons statutes, **§ 3:27**
 - Illegality, §§ 37:24, 37:28, 39:1, 39:18
 - Judges, this index
 - Laches, §§ 26:10, 26:13, 26:15
 - Licensing requirements and, §§ 39:1, 39:38, 39:40
 - Mootness, **§ 22:5**
 - Nonjoinder of indispensable party, **§ 21:5**
 - Personal jurisdiction, **§ 4:33**
 - Service and return requirements, **§ 3:27**
 - Stay based on primary jurisdiction in administrative agency, **§ 8:4**
 - Subject matter jurisdiction, §§ 7:8, 7:12
 - Unclean hands, §§ 45:17, 45:21
 - Unconscionability, **§ 55:7**
 - Removal of actions by United States, **§ 38:126**
 - Settlements, approval of, §§ 43:2, 43:3, 43:6
 - Sua sponte, this index
 - Subject matter jurisdiction of
 - Generally, **§ 7:2**
 - Actions in excess of, **§ 7:10**
 - Concurrent jurisdiction of, §§ 7:1, 7:5
 - Error by court, effect on jurisdiction, **§ 7:7**
 - Jurisdiction to determine jurisdiction, **§ 7:4**

INDEX

COURTS—Cont'd

- Subject matter jurisdiction of—Cont'd
 - Monetary limits on jurisdiction, § 7:2
 - Transfer to court with jurisdiction, § 7:6
 - Uniform acts, jurisdiction under, § 7:3
- Transfer between courts, § 7:6
- Unclean hands and, §§ 45:17, 45:21
- Vexatious litigants, powers as to, § 13:3

COVENANT NOT TO COMPETE

- Illegality, § 37:14

COVENANT NOT TO SUE

- Assignment, §§ 18:19, 18:25
- Privilege, § 41:6
- Release and, §§ 42:7, 42:16, 42:17
- Retraxit, § 42:16
- Settlement, § 43:2
- Statute of frauds and, § 53:23
- Statute of limitations
 - Accrual, § 25:3
 - Written contract, §§ 25:12, 25:41
- Survival, § 17:19

COVENANT OF GOOD FAITH AND FAIR DEALING

- Breach of, this index
- Death, effect on cause of action for breach of, § 17:19
- Fictitious business name and, § 39:36
- Statute of limitations
 - Oral contract, § 25:15
 - Written contract, § 25:12

COVENANTS, CONDITIONS, AND RESTRICTIONS (CC&RS)

- Alternative dispute resolution and, § 12:38
- Illegality, § 37:16
- Restraints on alienation, § 37:16

CREDIT SERVICES ACT

- Generally, § 47:13

CREDIT UNIONS

- Defamation of, § 51:5
- Failure of causing injury to prisoner, § 38:84
- Financial Institutions, this index
- Illegality of loan by, § 37:27
- Immunity, § 38:66
- Loans to minors, § 52:7
- Venue for actions against, § 5:30

CRIME

- Illegality, this index

CALIFORNIA AFFIRMATIVE DEFENSES

CRIMINAL CONVERSATION

Cause of action for, §§ **9:1, 38:37**
Psychiatrist, sex with patient, § **38:37**

CRIMINAL CONVICTION

AIDS-related immunities, § **38:29**
Capacity to contract after, § **52:35**
Deprivation of civil rights, § **52:35**

CRIMINAL PROSECUTION

Advice of counsel and, § **41:29**
Agreement to conceal crime, § **37:23**
Collateral estoppel effect of, §§ **14:19, 15:2, 15:7**
Death of defendant, effect of, § **17:27**
Defamation, § **51:5**
Duress and, §§ **33:2, 33:3**
Felony, action arising from, limitations period, § **25:27**
Grand jurors, §§ **38:133, 38:134, 41:4, 41:10**
Res judicata effect of, § **14:19**
Statute of limitations, action arising from felony, § **25:27**
Warrants, §§ **38:17, 38:79, 38:131, 38:133**

CROPS

Sale of, statute of frauds and, § **53:11**

CROSS-CLAIMS AND CROSS-COMPLAINTS

Compulsory Cross-claims, this index
Declaratory judgment exception from compulsory filing rule, §§ **14:18, 14:49**
Delay in prosecution, effect of, §§ **28:2, 28:18, 29:1, 29:3**
Delay in service and return of summons as to, §§ **3:1, 3:3**
General appearance as waiver of delay in service, § **3:17**
Government claims requirement exception, § **12:21**
Lack of subject matter jurisdiction, § **7:6**
Personal jurisdiction, submission by filing of, §§ **4:9, 4:29**
Res judicata effect and, §§ **14:18, 14:22, 14:49**
Service and return requirements, §§ **3:1, 3:3, 3:17**
Setoff and, §§ **25:74, 44:1, 44:2, 44:8 to 44:10**
Settlement, § **43:6**
Statute of limitations and, §§ **25:71, 25:74**
Submission to personal jurisdiction, §§ **4:9, 4:29**
Tolling of limitation of actions and, § **25:71**

CUSTODY ACTIONS

Child Custody, this index

DAIRY COUNCIL OF CALIFORNIA

Immunity, § **38:122**

DAMAGES

Accrual of actions
Nominal damages and, § **25:3**

INDEX

DAMAGES—Cont'd

- Accrual of actions—Cont'd
 - Uncertainty of damages and, §§ 25:3, 25:14
- Allocation after good faith settlement, § 48:5
- Assignability, § 18:27
- Caps on, §§ 48:9, 48:19
 - Civil penalties, damages as, § 38:124
- Collateral source rule, §§ 36:3, 38:124
- Complaint, sufficiency of allegations for default, § 2:1
- Consequential damages, §§ 55:2, 62:5
- Contractual limitations on, §§ 55:2, 55:3
- Contribution, this index
- Default judgment for, § 2:1
- Double damages, §§ 24:2, 24:6, 24:16, 37:14
- Economic damages, § 48:5
- Election of remedies and, §§ 24:2, 24:6, 24:7, 24:16
- Emotional distress
 - Corporate injury, § 19:4
 - Death, effect on recovery of, § 17:14
 - Statute of limitations as to, § 25:25
- Employer's willful misconduct, § 38:124
- Exemplary damages. Punitive Damages, this index
- Failure to Mitigate Damages, this index
- Fair Responsibility Act of 1986, §§ 43:2, 48:5
- Forum non conveniens, considerations as to, § 6:20
- Government Tort Claims Act, this index
- Health care providers, § 48:19
- Indemnity, this index
- Industrial injury, § 38:124
- Laches not applicable in action for, § 26:11
- Liquidated, § 55:3
- Loss of use damages, § 36:6
- Non-economic damages, § 43:2
- Occurrence of as commencing accrual, §§ 25:3, 25:14
- Pain and suffering, effect of plaintiff's death, § 17:14
- Prevention of performance, damages arising from, §§ 59:3, 59:4
- Punitive Damages, this index
- Recovery in single action, § 14:15
- Rescission and
 - Generally, §§ 12:7, 62:5, 62:31
 - Notice of, effect of failure to give, § 12:7
- Setoff and Recoupment, this index
- Settlement and, §§ 43:2, 48:5
- Single cause of action and, § 14:15 et seq.
- Statement of damages, §§ 2:1, 2:16, 2:23
- Statute of limitations
 - Nominal damages, accrual and, § 25:3

DAMAGES—Cont'd

Statute of limitations—Cont'd

Uncertain damages, accrual and, §§ 25:3, 25:14

Subject matter jurisdiction and, §§ 7:2, 7:16

Treble damages, §§ 37:13, 37:14

Usury, damages recoverable, § 37:13

Waiver of excess for purposes of subject matter jurisdiction, § 7:16

DAMS

Consent to, § 32:3

Immunity, §§ 38:32, 38:108, 38:119

DANCING

Contract for lessons, § 53:23

Dance studio contracts, § 53:23

Death of party who contracted for lessons, effect of, § 17:24

Illegal contracts under, §§ 37:22, 47:13

Statute of frauds and, § 53:23

DATE

Time, this index

“DBA”

Nonentity, lack of capacity to sue, § 18:30

DEATH

Generally, § 17:1 et seq.

Abatement as caused by death of party, § 17:1 et seq.

Acceleration of real property loans on, § 47:13

Answer, § 17:36

Appellate review of order as to effect of, § 17:38

Arbitration and, § 17:8

Attachment, effect of defendant's death, § 17:33

Attorney's death, termination of practice and, § 38:9

Autopsies, this index

Bad faith, effect on action for, § 17:19

Burden of proof, § 17:39

Capacity to contract and, § 52:1

Capacity to sue and, § 17:40

Cause of action, effect of plaintiff's death on, §§ 17:9 et seq., 18:11

Child support actions, parent's death, §§ 17:25, 17:32

Choice of law as to, § 17:1

Civil death, this index

Civil rights action, effect of death of plaintiff, § 17:10

Conservatorship, effect of conservatee's death, § 17:26

Contracts terminated by, §§ 17:10, 17:24, 60:2

Coroner, §§ 38:15, 38:63, 38:135

Covenant of good faith and fair dealing, effect on action for breach of, § 17:19

Cremation, § 38:15

Criminal appeal abated, § 17:27

INDEX

DEATH—Cont'd

- Dance lesson contracts, § 17:24
- Dating service contracts, § 17:24
- Debtor's death
 - Generally, §§ 44:3, 47:13, 67:3
 - Guaranties and, §§ 67:2 to 67:4
 - Promise to answer for debt of another and, § 53:17
 - Setoff by financial institution and, § 44:3
- Defamation and, §§ 17:11, 17:15
- Defendant's death
 - Generally, § 17:22 et seq.
 - Disciplinary actions, § 17:27
 - Judgment in excess of jurisdiction, § 17:22
 - Limitation of actions and, § 25:59
 - Penal actions, § 17:27
 - Personal service contracts, § 17:24
 - Punitive damages liability and, § 17:28
 - Support action and, §§ 17:25, 17:32
 - United States, actions by, § 17:29
- Delay in prosecution, effect of, §§ 17:5, 28:20, 28:28, 29:3
- Disaffirmance of minor's contracts and, § 52:8
- Discretionary dismissal, effect of, § 17:37
- Dissolution of marriage, § 17:7
- Embalmer's immunity, § 38:63
- Emotional distress damages, § 17:14
- Employee's death by employer, § 17:6
- Employer's death, effect of, § 17:24
- Employment agency contracts, § 17:24
- Failure to prevent disease, immunity, § 38:97
- False arrest actions, death of plaintiff, § 17:12
- Fraud actions, death of plaintiff, § 17:20
- Funeral director's immunity and, § 38:15
- Government Tort Claims Act, this index
- Guaranties and, §§ 67:2 to 67:4
- Impossibility and death of party to contract, § 60:2
- Incompetency proceedings, § 17:26
- Insurance, effect on actions as to, §§ 17:2, 17:19, 17:30
- Judgment, effect of, § 17:2
- Judgment lien, effect of defendant's death on, § 17:33
- Lack of capacity to sue after, § 17:40
- Lienholders, § 17:33
- Malicious prosecution actions, death of plaintiff, § 17:13
- Marriage, effect on dissolution action, § 17:7
- Mootness and, §§ 17:41, 22:2
- Natural Death Act, § 38:26
- Nonresident motorist, death of, § 17:30
- Notice of claim period after, § 12:32

DEATH—Cont'd

- Pain and suffering damages, effect on, **§ 17:14**
- Parties, limitation of actions and, **§§ 17:5, 25:58, 25:59**
- Partition, **§ 18:11**
- Paternity, **§ 17:25**
- Penalty, actions for, **§ 17:27**
- Personal injury actions, **§§ 17:2, 17:14, 17:30**
- Personality of decedent, cause of action for appropriation of, **§ 17:11**
- Personal jurisdiction after, **§ 17:4**
- Personal Representatives, this index
- Personal service contracts, effect on, **§§ 17:24, 18:18**
- Petition to establish, verification of, **§ 11:18**
- Plaintiff's death, effect of
 - Generally, **§ 17:9 et seq.**
 - Damages recoverable, **§§ 17:14, 17:21**
 - Delay in prosecution, **§ 17:5**
 - False arrest actions, **§ 17:12**
 - Invasion of privacy actions, **§ 17:11**
 - Limitation of actions, **§§ 17:5, 25:58**
 - Malicious prosecution actions, **§ 17:13**
 - Survival of actions, **§§ 17:1 et seq., 18:11**
 - Wrongful death actions, **§ 17:6**
- Presumption of death from absence, **§ 1:9**
- Prisoners, duress as justification for escape, **§ 33:5**
- Probate proceedings
 - Claim procedure, **§§ 12:32, 17:34**
 - Substitution of personal representative in actions involving decedent, **§ 17:4**
- Punitive damages, **§§ 17:1, 17:6, 17:21, 17:28**
- Right of privacy, effect of plaintiff's death, **§ 17:11**
- Setoff by financial institution on debtor's death, **§ 44:3**
- Spouses, **§ 17:7**
- Statute of frauds and, **§ 53:17**
- Statute of limitations, **§§ 17:5, 25:58, 25:59**
- Substitution of personal representative after death of party, **§ 17:4**
- Sudden infant death syndrome, **§ 38:15**
- Summary judgment, **§ 17:36**
- Supplemental pleadings, **§ 17:36**
- Suretyship and, **§§ 67:2 to 67:4**
- Survival of Cause of Action, this index
- Termination of revocable offer, **§ 18:18**
- Tolling of statute of limitations, **§§ 17:5, 25:58, 25:59**
- Uniform Anatomical Gift Act, **§ 38:63**
- United States, actions by, **§ 17:29**
- Venue in actions based on, **§§ 5:24, 5:34**
- Verification of petition to establish, **§ 11:18**
- Wills, this index
- Writ of attachment, effect on, **§ 17:33**

INDEX

DEATH—Cont'd

Wrongful death, §§ 17:2, 17:6, 17:18

DEBT

Acceleration of, §§ 47:10, 47:13

Accord and Satisfaction, this index

Acknowledgment and statute of limitations, § 25:46

Agreement to answer for another's debt, § 53:17

Agreement to assume mortgage, § 53:19

Allocation of payment among debts, § 69:9

Assignment, this index

Bankruptcy, this index

Collection agencies

Generally, § 46:2

Licensing, §§ 39:35, 39:36

Death of debtor, §§ 44:3, 47:13, 53:17

Debtor's selection of debts to pay, § 69:9

Deficiency Judgments, this index

Discharge by joint creditor, § 69:5

Exoneration of Sureties, this index

Gambling, enforcement of, §§ 37:20, 37:23

Insolvent party as obligor, § 62:17

Loans, this index

Marriage of debtor, § 47:13

Merger of corporation, effect on, § 18:15

Note taken as payment, § 69:3

Novation, §§ 64:3, 64:5

Of another, §§ 53:17, 64:7

Part payment, statute of limitations, § 25:46

Payment, this index

Payment before maturity, § 69:8

Payment of principal waives interest, § 69:11

Prepayment penalty, enforcement of, § 37:16

Promissory notes, limitations period on, § 25:13

Setoff and Recoupment, this index

Statute of frauds, §§ 53:16 to 53:19

Statutes of limitations and, §§ 25:13, 25:46

Time-barred debt as consideration, § 56:8

DEBTOR

Guarantor as debtor for purposes of notice, § 12:8

Joint Debtors, this index

Judgment debtor, service of process, name of debtor, § 2:20

Notice of sale of personal property, § 12:8

DECEASED PERSONALITY

Appropriation of, § 17:11

DECEDENTS

Arbitration, effect of death of party to arbitration agreement, § 17:8

DECEDENTS—Cont'd

Claims against, §§ 12:32, 17:34, 25:28
Death, this index
Debts of, §§ 44:3, 47:13, 53:17
Escheat, § 5:26
Imputation of fault of, § 48:11
Statute of frauds, §§ 53:17, 53:21, 53:26
Wrongful death, §§ 17:6, 19:3

DECEIT

Fraud, this index

DECISION ON THE MERITS

Collateral Estoppel, this index
Res Judicata, this index

DECLARATION

Affidavit, this index, § 9:4

DECLARATORY JUDGMENTS AND DECLARATORY RELIEF

Adequacy of remedy at law, §§ 31:1, 31:5, 31:8
Breach of contract and, § 31:1
Collateral estoppel and, § 15:8
Compulsory cross-claim requirement and, § 14:49
Exhaustion of remedies and, § 16:1
Government Tort Claims Act, this index
Immunity, §§ 38:131, 38:135
Judges, § 38:131
Laches in action for, §§ 26:7, 26:11
Prematurity, § 27:1
Res judicata and, § 14:49
Statute of limitations and, §§ 25:9, 25:76
Subject matter jurisdiction, §§ 7:2, 7:3
Unclean hands, § 45:7
Venue, §§ 5:33, 5:35

DEED OF TRUST

Alteration of, § 66:4
Anti-deficiency legislation
Effect on guarantor or surety, § 67:3
Waiver, § 47:13
Assumption agreements and, § 53:19
Deficiency Judgment, this index
Election of remedies on enforcement of, § 24:4
Equal dignities rule and, § 54:2
Foreclosure, this index
Joinder, action by person holding power of sale under, § 20:4
Payment, this index
Privilege and justification, § 41:2
Purchaser's agreement to assume, § 53:19

INDEX

DEED OF TRUST—Cont'd

- Redemption, period for, **§ 25:11**
- Service of process, **§§ 2:2, 2:17**
- Signature, agent's authority to sign for principal, **§ 54:2**
- Spouse's action to set aside, limitation period as to, **§ 25:11**
- Statute of Frauds, this index
- Statute of limitations for actions as to, **§ 25:11**
- Trustee's sales, obligation to do equity, **§ 35:1**
- Waivers as to, **§ 47:13**

DEEDS

- Blanks in, **§ 66:4**
- Consideration for, **§ 56:9**
- Form of grant deed, **§§ 53:5, 53:9**
- Illegality of covenants in, **§ 37:16**
- Minor's capacity to make, **§ 52:5**
- Mistake and, **§ 40:8**
- Reformation, **§ 53:30**
- Restraint on alienation and, **§ 37:16**
- Sale of real property, **§ 53:9**
- Spouse's action to set aside, limitation period as to, **§ 25:11**
- Statute of Frauds, this index

DEFACEMENT OF PROPERTY

- Liability, **§ 48:6**

DEFAMATION

- Anonymous Witness Program, **§ 38:41**
- Answer, allegation as to truth, **§ 51:6**
- Assignability of cause of action, **§ 18:26**
- Attorney fees, **§ 51:8**
- Bad faith of person making statement, **§ 51:1**
- Belief in truth of statement, **§ 51:1**
- Broadcasts and broadcasting station or network, **§ 38:42**
- Burden of proof, proof of truth of statement, **§§ 51:1, 51:9**
- Campaign advertising, **§§ 12:14, 51:4**
- Child abuse, **§ 38:43**
- Consent to, **§ 32:1**
- Construction of statements, **§ 51:2**
- Credit union, defamation of, **§ 51:5**
- Criminal prosecution for, **§ 51:5**
- Damages, failure to make demand for correction or retraction, **§ 12:14**
- Definition, **§ 51:1**
- Demand for correction or retraction, **§§ 12:13, 12:14**
- Disclosure immunities
 - Generally, **§ 38:38**
 - Abuse informants, **§ 38:43**
 - Candidates, **§ 38:39**
 - Drug use, **§ 38:44**

DEFAMATION—Cont'd

Disclosure immunities—Cont'd
 Insurance information, § **38:40**
 Pharmacists, § **38:16**
 Professional licensees, § **38:39**
 Radio station owners, § **38:42**
 School counselors, principals, and personnel, § **38:44**
 Television station owners, § **38:42**
 Undocumented workers, § **38:39**
 Veterinarians, § **38:16**
Discovery rule, statute of limitations, §§ **25:5, 25:25**
Entire publication considered, § **51:2**
Falsity and, § **51:1**
Government claim filing requirement, § **12:21**
Immunity
 Generally, §§ **38:16, 38:38 to 38:44, 38:131, 38:132, 38:134, 38:137**
 Disclosure immunities, above
Insurance Information and Privacy Protection Act, § **38:40**
Judges and similar officers, §§ **38:131, 38:132**
Legislators, § **38:137**
License revocation and, § **51:5**
Mistake as defense to, § **40:1**
Mootness, § **22:2**
Opinions and, § **51:3**
Personal jurisdiction and, §§ **4:16, 4:23**
Pleading, § **10:12**
Privilege and justification, §§ **41:1 et seq., 51:5, 51:11**
Prosecutors, § **38:134**
Radio, § **38:42**
Retraction, § **12:14**
Security for costs, former law, § **13:1**
Service of process, time to respond, § **2:2**
Single publication rule, § **25:25**
Statute of limitations, §§ **25:5, 25:25**
Television, § **38:42**
Time to respond to summons, § **2:2**
Truth, § **51:1 et seq.**
Uncertainty of pleading, § **10:12**
Venue, §§ **5:18, 5:34**
Veterinarians, § **38:16**

DEFAULT JUDGMENT

Accounting, § **2:1**
Collateral estoppel and, § **15:6**
Damages recoverable by
 Allegation in complaint, § **2:1**
 Statement of damages, § **2:1**
Delay in prosecution, effect of, § **28:16**

INDEX

DEFAULT JUDGMENT—Cont'd

- Delay in service and return of summons, effect of, §§ 3:24, 3:31
- Due process and, § 2:1
- Evidentiary hearing, § 2:1
- Personal jurisdiction and, §§ 4:30, 14:4
- Res judicata and
 - Generally, § 14:9
 - Extrinsic mistake in, § 14:45
 - Personal jurisdiction and, § 14:4
- Return of service and, § 3:15
- Service and return requirements, effect on, § 3:24
- Service of process and, § 2:1
- Statement of damages, §§ 2:1, 2:16, 2:23
- Suspension of corporate good standing and, § 18:17
- Waiver of default, § 47:12

DEFENDANT

- Absence from state, tolling and
 - Dismissal for failure to serve and return summons, § 3:19
 - Dismissal for lack of prosecution statutes, § 28:29
 - Statute of limitations, § 25:61
- Added defendants, delay in prosecution and, § 28:18
- Conduct of as affecting delay in prosecution, §§ 29:2, 29:3
- Death, this index
- Definition, §§ 3:1, 3:3
- Delay in prosecution as to added defendants, § 28:18
- Delay in Service and Return of Summons, this index
- Discretionary dismissal and, §§ 29:2, 29:3
- Election to sue particular defendants, § 24:14
- Joinder of defendants, § 20:3
- Misjoinder of defendants, §§ 20:3 to 20:5
- Personal Jurisdiction, this index
- Relation back, § 25:77
- Same person plaintiff and defendant, § 18:29
- Statute of limitations
 - Absence of, § 25:61
 - Death of, § 25:59
 - Fiduciary status of defendant and, § 25:65
 - Military service and, § 25:62
 - Restitution requirement and, § 25:64
 - Tolling agreements and, § 25:67

DEFICIENCY JUDGMENT

- Abandonment of contract and, § 61:3
- Dissolution of corporation, § 12:33
- Election of remedies, § 24:4
- Guarantor's liability, § 12:8
- Notice of sale requirements, § 12:8

DEFICIENCY JUDGMENT—Cont'd

One action rule, **§ 44:3**

Res judicata effect of foreign judgment for, **§ 14:39**

Service of process, **§§ 2:2, 2:12**

Setoff and, **§ 44:6**

Statute of limitations in action for, **§§ 25:11, 25:12, 25:67**

Waiver, **§ 47:13**

DEFINITIONS

Words and Phrases, this index

DELAY IN PROSECUTION

Generally, **§ 28:1 et seq.**

Action, definition, **§§ 28:2, 28:3**

Added or new defendants, **§ 28:18**

Administrative actions, effect of, **§ 28:26**

Amended complaint, effect of, **§§ 28:18, 28:23, 28:24**

Appeals

 Pretrial, **§ 28:15**

 Retrial after reversal, **§ 28:1**

 Review of decision as to, **§ 28:32**

Arbitration, effect of, **§§ 28:4, 28:9, 28:11, 28:23, 68:1**

Attorney

 Death of, **§§ 28:20, 28:28**

 Disbarment of, **§ 28:28**

 Illness of, **§ 28:28**

 Responsibility for delay, **§ 28:21**

Bankruptcy, effect of, **§ 28:19**

Brought to trial, definition, **§ 28:4**

Burden of proof

 Generally, **§ 28:33**

 Burden of bringing to trial within dismissal period, **§ 28:27**

Challenge to trial judge, **§ 28:12**

Class actions and, **§ 28:2**

Condemnation actions and, **§ 28:2**

Consolidation, effect of, **§ 28:18**

Coordination of actions, **§ 28:2**

Courts

 Congestion and, **§ 28:14**

 Court error and, **§§ 28:13, 28:27**

 Power to dismiss sua sponte, **§§ 28:1, 28:11, 28:30**

Cross-claims, **§§ 28:2, 28:18**

Death, effect of, **§§ 17:5, 28:20, 28:28**

Default judgment, **§ 28:16**

Defendant

 Absence of, **§ 28:29**

 Added later, **§ 28:18**

Delay in service and return of summons and, **§§ 3:22, 3:24, 3:33, 28:35**

INDEX

DELAY IN PROSECUTION—Cont'd

- Demurrer, effect of, §§ 28:4, 28:23
- Disbarment, effect of, § 28:28
- Discretionary Dismissal Statutes, this index
- Dismissal for
 - Generally, § 28:30 *et seq.*
 - Appeal of decision on motion to dismiss, § 28:32
 - Burden of proof, § 28:33
 - CCP 473 motion and, § 28:30
 - Motion to dismiss, § 28:30
 - Trial as to, § 28:31
 - Waiver of, § 28:34
- Dissolution of marriage, § 28:2
- Doe defendants, § 28:18
- Estoppel, §§ 28:2, 28:34
- Extension or tolling, § 28:5 *et seq.*
- Family law proceedings, § 28:2
- Fictitious defendants, § 28:18
- Futility extension, §§ 28:1, 28:10 *et seq.*
- Government defendants, § 28:24
- Guardian ad litem, effect of lack, § 28:22
- Illness, § 28:28
- Impossibility extension, §§ 28:1, 28:10 *et seq.*
- Impracticability extension, §§ 28:1, 28:10 *et seq.*
- Imprisonment, effect of, § 28:25
- Injunction, effect of, §§ 28:1, 28:9
- Insured defendant, § 28:20
- Intervention, § 28:2
- Judicial arbitration, § 28:11
- Laches and, §§ 26:24, 28:36
- Long arm jurisdiction, effect of, § 28:29
- Military service, § 28:17
- Motion in limine, not a trial, § 28:4
- Motion to amend, not a trial, § 28:4
- Motion to dismiss for, § 28:30
- Multiparty actions, § 28:18
- New or added defendants, § 28:18
- New trial and, § 28:1
- Oral agreement, §§ 28:1, 28:7
- Partial trial and, § 28:4
- Personal representative's appointment, § 28:20
- Personal representative's final account, § 28:3
- Plaintiff's death, effect of, § 28:28
- Prematurity and, § 28:24
- Probate proceedings, § 28:2
- Security for costs, § 28:8
- Service and return requirements and, §§ 3:22, 3:24, 3:33, 28:35

DELAY IN PROSECUTION—Cont'd

- Service of process and, §§ 28:24, 28:29
- Settlement and, §§ 28:1, 28:15
- Special proceedings, § 28:3
- State as a party, § 28:2
- Statute of limitations and, §§ 28:36, 29:1
- Stay, effect of, §§ 28:1, 28:9, 28:15
- Stipulation, effect of, §§ 28:1, 28:6, 28:7
- Suspended jurisdiction, §§ 28:1, 28:8
- Tolling
 - Generally, § 28:5 *et seq.*
 - Added or new defendants, § 28:18
 - Administrative actions, effect of, § 28:26
 - Amended complaint, effect of, §§ 28:18, 28:23, 28:24
 - Appeal before trial, § 28:15
 - Arbitration, effect of, §§ 28:4, 28:9, 28:11, 28:23, 68:1
- Attorney
 - Death of, §§ 28:20, 28:28
 - Diligence required, §§ 28:21, 28:23
 - Disbarment of, § 28:28
 - Illness of, § 28:28
 - Responsibility for delay, § 28:21
- Bankruptcy, § 28:19
- Courts
 - Congestion, § 28:14
 - Court error, §§ 28:13, 28:27
 - Jurisdiction suspended, § 28:8
- Death, §§ 17:5, 28:15, 28:20, 28:28
- Default judgment, § 28:16
- Defendant
 - Absence from state, § 28:29
 - Military service, § 28:17
 - Demurrer, effect of, §§ 28:4, 28:23
 - Disbarment, effect of, § 28:28
 - Doe defendants, § 28:18
 - Estoppel, §§ 28:2, 28:34
 - Extension, § 28:5 *et seq.*
 - Fictitious defendants, § 28:18
 - Futility extension, §§ 28:1, 28:10 *et seq.*
 - Government defendants, § 28:24
 - Guardian ad litem, effect of lack, § 28:22
 - Illness, § 28:28
 - Impossibility extension, §§ 28:1, 28:10 *et seq.*
 - Impracticability extension, §§ 28:1, 28:10 *et seq.*
 - Imprisonment, effect of, § 28:25
 - Injunction, effect of, §§ 28:1, 28:9
 - Insured defendant, § 28:20

INDEX

DELAY IN PROSECUTION—Cont'd

Tolling—Cont'd
 Judge, challenge to, **§ 28:12**
 Litigation delays and, **§ 28:24**
 Long arm jurisdiction, effect of, **§ 28:29**
 Military service, **§ 28:17**
 Minute tolling order, **§ 28:8**
 Personal representative's appointment, **§ 28:20**
 Plaintiff's death, effect of, **§ 28:28**
 Prematurity and, **§ 28:24**
 Related action pending, **§ 28:18**
 Service of process and, §§ **28:24, 28:29**
 Settlement and, §§ **28:1, 28:15**
 Stay, effect of, §§ **28:1, 28:9, 28:15**
 Stipulation, effect of, §§ **28:1, 28:6, 28:7**
 Suspended jurisdiction and, §§ **28:1, 28:8**
 Transfer of venue, effect of, §§ **28:8, 28:23**
 Trial setting and, **§ 28:27**
 Writs, **§ 28:15**
Transfer of venue, effect of, §§ **28:8, 28:23**
Trial
 Definition, **§ 28:4**
 Dismissal motion and, **§ 28:31**
 Trial setting and, **§ 28:27**
Waiver, §§ **28:1, 28:7, 28:34, 47:13**
Writs, **§ 28:15**
Written stipulation, **§ 28:6**

DELAY IN SERVICE AND RETURN OF SUMMONS

Generally, §§ **2:19, 2:30, 3:1 et seq.**
Absence of party, effect of, **§ 3:19**
Actions and proceedings affected
 Generally, **§ 3:4 et seq.**
 Arbitration proceedings, **§ 3:9**
 Eminent domain, **§ 3:5**
 Federal court, action in, **§ 3:8**
 Federal law, action under, **§ 3:7**
 Government agency, action by, **§ 3:6**
 Juvenile proceedings, **§ 3:9**
 Probate proceedings, **§ 3:9**
 Support actions, **§ 3:4**
 Tax refund actions, **§ 3:9**
Alias summons, **§ 3:14**
Alter egos, time for service on
 Amended complaint, **§ 3:13**
 Estoppel and, **§ 3:23**
 Original complaint, **§ 3:11**
Amended complaint, §§ **3:11, 3:13**

DELAY IN SERVICE AND RETURN OF SUMMONS—Cont'd

- Amended summons, **§ 3:14**
- Amendment of pleadings and, §§ 3:3, 3:11, 3:12
- Answer and, **§ 3:26**
- Appellate review as to, §§ 3:17, 3:29
- Arbitration and, **§ 3:9**
- Avoidance of service, §§ 2:6, 2:13
- Bankruptcy, tolling by, § 3:24
- Bifurcated trial, **§ 3:28**
- Burden of proof, §§ 3:30, 3:31
- Commencement of action
 - Generally, **§ 3:3**
 - Alter ego of named defendant, §§ 3:11, 3:13
 - Amended complaint, **§ 3:13**
 - Fictitious defendants, **§ 3:12**
 - Supplemental complaint, **§ 3:13**
- Condemnation proceedings and, **§ 3:5**
- Court's power to act sua sponte and, §§ 3:27, 3:31
- Cross-complaint, §§ 3:1, 3:3, 3:17
- Default judgment, effect of, §§ 2:1, 3:24
- Defective service, effect of late decision, §§ 2:14, 3:23
- Defendants, status as affecting time requirements
 - Generally, **§ 3:11 et seq.**
 - Alter ego of named defendant, §§ 3:11, 3:13
 - Amended complaint, defendant added in, §§ 3:3, 3:11, 3:14
 - Fictitious defendant, §§ 3:3, 3:12
 - Original defendant, §§ 3:3, 3:12
 - Relation back doctrine, **§ 3:11**
 - Supplemental complaint, defendant added in, §§ 3:3, 3:14
- Time for service, **§ 3:10 et seq.**
- Delay in prosecution and, §§ 3:22, 3:24, 3:32, 3:33, 28:35, 29:1 to 29:3, 29:12
- Demurrer based on, **§ 3:26**
- Discretionary dismissal and, §§ 3:32, 29:1 to 29:3, 29:12
- Dismissal and
 - Generally, **§ 3:25**
 - Collateral estoppel and, **§ 3:25**
 - Effect of, §§ 3:1, 3:25, 14:8
 - Res judicata and, §§ 3:25, 14:8
- Diversity jurisdiction and, **§ 3:8**
- Doe defendants, §§ 3:3, 3:12
- Eminent domain, **§ 3:5**
- Estoppel and, §§ 3:23, 3:29
- Exceptions to service and return requirements
 - Generally, **§§ 3:1, 3:16 et seq.**
 - Amenability of defendant to service, **§ 3:19**
 - Attorney's disbarment or incapacity, **§ 3:24**
 - Bankruptcy, **§ 3:24**

INDEX

DELAY IN SERVICE AND RETURN OF SUMMONS—Cont'd

- Exceptions to service and return requirements—Cont'd
 - Change of venue proceedings, **§ 3:22**
 - Default judgment, **§ 3:24**
 - Discovery, completion of, **§ 3:24**
 - Estoppel, **§ 3:23**
 - Futility, **§ 3:22**
 - General appearance, **§ 3:17**
 - Holiday, effect of, **§§ 3:16, 3:24**
 - Impossibility, **§ 3:22**
 - Impracticability, **§ 3:22**
 - In pro per plaintiff, **§ 3:24**
 - Insufficient grounds, **§ 3:24**
 - Service, challenge to validity of, **§ 3:21**
 - Stay affecting service, **§ 3:20**
 - Stipulation
 - Extending time, **§ 3:18**
 - General appearance, stipulation as, **§ 3:17**
 - Waiver, **§ 3:31**
 - Failure to state a cause of action, effect of, **§ 3:11**
 - Federal court proceedings and, **§ 3:8**
 - Federal law, actions under and, **§ 3:7**
 - Fictitious defendants, **§§ 3:3, 3:12**
 - General appearance and, **§§ 2:25, 2:28, 3:1, 3:13, 3:17, 3:31**
 - Impossibility, impracticability, or futility exception, **§§ 3:1, 3:22**
 - Incompetency, **§§ 3:22, 3:24**
 - Indispensable parties, **§ 3:3**
 - Ineffective service and, **§ 3:10**
 - In pro per, plaintiff as, **§ 3:24**
 - Intervention and, **§§ 3:3, 3:17, 3:25**
 - Judicial notice, **§ 3:28**
 - Juvenile proceedings, **§ 3:9**
 - Lack of prosecution and, **§§ 3:22, 3:24, 3:32, 3:33, 28:35, 29:1 to 29:3, 29:12**
 - Lis pendens, delay due to dispute as to, **§ 3:22**
 - Lost summons, **§ 3:14**
 - Mandamus to review, **§ 3:29**
 - Motion to dismiss, **§§ 3:1, 3:10, 3:26, 3:27, 3:29**
 - Motion to quash, **§§ 3:1, 3:27, 3:29**
 - Newly added parties, **§§ 3:3, 3:13**
 - Notice
 - By adversary, **§ 3:23**
 - Of complaint, **§ 3:24**
 - Peace officer defendants, **§ 3:20**
 - Plaintiff, newly added, **§§ 3:3, 3:13**
 - Pleading defense, **§ 3:26**
 - Probate proceedings, **§ 3:9**
 - Prohibition, **§ 3:29**

DELAY IN SERVICE AND RETURN OF SUMMONS—Cont'd

Public agencies and entities, **§ 3:6**
Relation back doctrine and, **§ 3:11**
Res judicata effect of dismissal based on, **§§ 3:25, 14:8**
Return of Service, this index
Service
 Challenge to validity of, exception for, **§§ 3:1, 3:21**
 Not amenable to process, exception for, **§§ 3:1, 3:19**
Service of Process, this index
Settlement, **§ 3:22**
Soldiers' and Sailors' Civil Relief Act, application to, **§ 3:7**
Special appearance and motion as to, **§ 3:27**
State as a party, **§§ 2:2, 3:6**
Statute of limitations and, **§ 29:1**
Stay, exception for, **§§ 3:1, 3:20**
Stipulation affecting
 Generally, **§ 3:1**
 Extending time for service and return, **§ 3:18**
 General appearance, stipulation as, **§ 3:17**
Substituted service and, **§ 3:19**
Summons, this index
Supersedeas, exception for, **§ 3:20**
Supplemental pleadings and, **§§ 3:3, 3:13**
Tax refund actions, **§§ 3:9, 3:17**
Time requirements
 Generally, **§§ 2:19, 2:30, 3:1 et seq.**
 Commencement of period, **§§ 3:3, 3:10 et seq.**
 Cross-complaints, **§ 3:3**
 Defendant, service on, **§ 3:11 et seq.**
 Holiday, effect of, **§§ 3:16, 3:24**
 Mandatory period, **§ 3:1**
 Plaintiff joined after commencement of action, **§ 3:3**
 Return of service, **§ 3:15**
 Stipulation extending time, **§ 3:18**
 Third party complaints, **§ 3:3**
Tolling, **§§ 3:16 et seq., 17:5**
Trial Court Delay Reduction Act, effect of, **§ 3:10**
Venue change, exception for, **§ 3:22**
Waiver, **§§ 3:31, 47:13**

DELIVERY

Generally, **§ 65:5**
Gifts, **§ 53:24**
Service of Process, this index

DEMAND LETTERS

Privilege for, **§§ 41:5, 41:7**

INDEX

DEMAND REQUIREMENTS

Generally, **§ 12:1 et seq.**
Acceleration of debt and, **§ 12:13**
Bailment, return of property subject to, **§ 12:16**
Bifurcated trial as to, **§ 12:39**
Burden of proof as to, **§ 12:40**
Claim Filing Requirements, this index
Consumer class actions and, **§ 12:18**
Contract provision as to, **§ 12:13**
Conversion, return of converted property, **§§ 12:17, 25:20**
Defamation, correction or retraction, **§ 12:14**
Demand promissory notes, **§ 25:13**
Demurrer based on, **§ 12:39**
Depository, return of deposited property, **§ 12:16**
Dissolution of corporation and, **§ 12:15**
Exhaustion of remedies, shareholders' derivative actions, **§ 12:15**
Forms, this index
Futility exception, **§§ 12:15 to 12:17**
Libel, correction or retraction, **§ 12:14**
Motion to strike, **§ 12:39**
Notice Requirements, this index
Performance under contract, **§ 12:13**
Prerequisite to attorney fees, **§ 12:13**
Retraction, demand for, **§§ 12:13, 12:14**
Return of converted property, **§§ 12:17, 25:20**
Return of property from bailee, **§ 12:16**
Return of property from depositary, **§ 12:16**
Shareholders' derivative action, **§ 12:15**
Slander, correction or retraction, **§ 12:14**
Statute of limitations and
 Generally, **§ 25:3**
 Conversion, **§ 25:20**
 Demand promissory note, **§ 25:13**
Summary judgment, **§ 12:39**
Waiver, **§ 12:41**

DEMURRER

Affidavits and, **§ 9:4**
Affirmative defenses, **§ 1:4**
Agency allegations, **§ 54:7**
Amendment following, **§§ 9:4, 10:16**
Another action pending as grounds for, **§§ 23:4, 23:5**
Appeal and, **§ 9:6**
Arbitration, **§ 68:7**
Certificate of merit, failure to obtain, **§ 12:39**
Claim requirement, failure to satisfy, **§ 12:39**
Collateral estoppel, determination by, **§ 15:12**
Common counts, **§ 9:2**

DEMURRER—Cont'd

- Comparative fault, **§ 48:18**
- Declarations and, **§ 9:4**
- Delay in prosecution
 - Demurrer not a trial, **§ 28:4**
 - Discretionary dismissal, effect on, **§ 29:3**
 - Not avoided by, **§ 28:23**
- Delay in service and return of summons and, **§ 3:26**
- Demand, failure to make, **§ 12:39**
- Discretionary dismissal, effect on, **§ 29:3**
- Election of remedies as grounds for, **§ 24:12**
- Equal dignities rule, **§ 54:7**
- Exhaustion of remedies as grounds for, **§§ 16:10, 16:11**
- Exhibits and, **§ 9:4**
- Exoneration of surety, **§ 67:5**
- Extraordinary writs, failure to verify, **§ 11:9**
- Failure to file a government claim, **§ 12:20**
- Failure to satisfy certificate of merit requirements, **§§ 12:2, 12:39**
- Failure to satisfy claim requirements, **§§ 12:20, 12:39**
- Failure to satisfy demand requirements, **§ 12:39**
- Failure to satisfy notice requirements, **§ 12:39**
- Failure to state a cause of action, **§§ 9:3, 9:4**
- Form complaints and, **§ 10:2**
- Illegality, determination in, **§ 37:28**
- Immunity, **§ 38:140**
- Impossibility, **§ 60:14**
- Judgment of demurrer, effect of, **§ 14:8**
- Laches, **§ 26:16**
- Lack of capacity-sue, **§§ 18:35 to 18:37**
- Lack of capacity to contract, **§ 52:36**
- Lack of capacity to sue, **§ 18:12**
- Lack of standing, **§§ 19:14, 19:15**
- Lack of subject matter jurisdiction, **§ 7:12**
- Liberal construction of pleadings, **§ 9:4**
- Licensing requirements, **§§ 39:1, 39:18, 39:39**
- Misjoinder of parties, **§§ 20:1, 20:8**
- Mistake, demurrer to claim of, **§ 40:11**
- Multiple defendants and, **§ 9:1**
- Nonjoinder of parties, **§§ 21:1, 21:4**
- Notice requirement, failure to satisfy, **§ 12:39**
- Pleadings, construction of, **§ 9:4**
- Prematurity as grounds, **§§ 27:2, 27:3**
- Privilege, **§§ 41:21, 41:23**
- Real party in interest, **§§ 19:6, 19:7**
- Res judicata
 - Assertion of defense by, **§ 14:55**
 - Judgment of demurrer, effect of, **§ 14:8**

INDEX

DEMURRER—Cont'd

- Service and return requirements, § **3:26**
- Standing
 - Raising defense by, §§ **19:14, 19:15**
 - To bring demurrer, § **9:1**
- Statute of frauds, determination by, §§ **53:35, 53:36**
- Statute of limitations, §§ **25:78, 25:79, 25:83**
- Subject matter jurisdiction, § **7:12**
- Truth as defense to defamation, assertion in, § **51:7**
- Uncertainty as basis for, §§ **10:1, 10:16**
- Unclean hands, §§ **45:15, 45:16**
- Unconscionability, determination as to, § **55:5**
- Undue influence, § **46:13**
- Venue, waiver of objections by, §§ **5:41, 5:45**
- Verification of pleading, raising defense by, § **11:27**

DEMURRER TO ANSWER

- Generally, § **1:4**
- Waiver resulting from failure to, § **1:4**

DENIAL OF DEFENSES

- Affirmative defenses deemed denied, § **1:4**

DENTISTS

- Abandonment of patient, § **61:6**
- Dental care contracts with minor, § **52:14**
- Emergency care, immunity, §§ **38:10, 38:46**
- Gross negligence, § **48:23**
- Immunity, §§ **38:19, 38:46**
- License requirements, § **39:35**
- Notice of intent to sue, § **12:4**
- Peer review committee, § **38:10**
- Security for costs, § **13:6**
- Statute of limitations
 - Bifurcated trial, § **25:80**
 - Malpractice, § **25:36**
 - Tolling, §§ **25:44, 25:51**

DEPARTMENT OF CONSUMER AFFAIRS

- Alarm companies and operators, § **39:22**
- Auto repair dealers, § **39:24**
- Bureau of Collection and Investigative Services, § **39:22**
- Bureau of Electronic and Appliance Repair, § **39:23**
- Electronic and appliance repair dealers, § **39:23**
- Immunity, § **38:122**
- Licensing requirements
 - Generally, § **39:1**
 - Alarm company operators and agents, § **39:22**
 - Auto repair dealers, § **39:24**
 - Electronic and appliance repair dealers, § **39:23**

CALIFORNIA AFFIRMATIVE DEFENSES

DEPARTMENT OF CORPORATIONS

Licensing requirements, § 47:13

DEPARTMENT OF FORESTRY

Fire fighting activities, immunity, § 38:90

DEPARTMENT OF MOTOR VEHICLES

Agent for service of process, § 2:8

Collateral estoppel, application to, § 15:7

Driver's licenses, §§ 14:51, 15:7, 38:102

Emancipated minors, identification cards and, §§ 38:62, 52:17

Hearing officer, immunity, § 38:132

Identification cards, §§ 38:62, 52:17

Immunity, §§ 38:62, 38:102, 38:132

Lienholders, § 38:62

Mandatory duty, immunity and, § 38:102

Service of process on, § 2:2

DEPARTMENT OF PUBLIC HEALTH

Immunity, § 38:75

Kosher food law representative, § 38:75

DEPARTMENT OF PUBLIC WORKS

Subject matter jurisdiction and, § 7:2

DEPARTMENT OF SOCIAL SERVICES

Res judicata and, § 14:40

DEPOSITORY

Demand requirements, § 12:16

Gross negligence, § 48:23

DERIVATIVE ACTIONS

Shareholders' Derivative Actions, this index

DESIGN DEFECTS

Fraudulent concealment, § 25:17

Immunity, defects on public property, §§ 38:113, 38:121

Negligence, § 38:113

Public construction, failure to warn, § 38:113

Real property, statutes of limitations as to design defects, § 25:17

Recreational property, §§ 38:113, 38:121

Statute of Repose, § 25:17

Statutes of Limitations, §§ 25:16, 25:17

DESIGN IMMUNITY

Immunity; Public Property Immunities, this index

DESIGN REVIEW BOARD

Immunity, § 38:122

DESTROYED LAND RECORDS, RE-ESTABLISHMENT

Summons, § 2:2

INDEX

DESTRUCTION OF DOCUMENTS

Generally, **§ 66:1 et seq.**
Abandonment and, **§ 61:10**
Alteration of Documents, this index
Answer, **§ 66:8**
Appeal, **§ 66:8**
Bank statements of account, **§ 66:2**
Bifurcated trial, **§ 66:8**
Blanks, **§§ 54:1, 66:2, 66:4**
Burden of proof, **§ 66:9**
Commercial paper and, **§ 66:2**
Consent to destruction, **§§ 66:1, 66:2, 66:5, 66:7, 66:10**
Corrections in instrument, **§ 66:5**
Deed, destroyed after recordation, **§ 66:1**
Deed of trust, **§ 66:4**
Document returned to original condition, **§ 66:6**
Duplicate originals, **§ 66:7**
Effect of destruction, **§ 66:3**
Equity, obligation to do, **§ 35:1**
Estoppel, **§ 66:4**
Executory obligations extinguished, **§ 66:1**
Guaranties and, **§§ 67:3, 67:4**
Immaterial damage to document, **§ 66:5**
Incomplete instruments, **§ 66:2**
Intent, **§ 66:3**
Manner of asserting the defense, **§ 66:8**
Materiality of, **§§ 66:3, 66:5**
Modification of contract by, **§ 65:12**
Mutual rescission and, **§ 61:10**
Negligence aiding destruction, **§ 66:2**
Negotiable instruments and, **§ 66:2**
Obligation to do equity, **§ 35:1**
Other contracts unaffected, **§ 66:5**
Parol evidence as to, **§ 66:8**
Promissory note, **§ 66:4**
Proof of after destruction, **§ 53:7**
Ratification of destruction, **§§ 66:5, 66:10**
Restoration to original condition, **§ 66:6**
Signature, destruction of, **§§ 66:1, 66:2**
Spoliation, **§ 66:5**
Statute of frauds and, **§ 53:7**
Sureties and, **§§ 67:3, 67:4**
Third party destruction, **§ 66:5**
Time of destruction, **§§ 66:1, 66:5, 66:8**
Trial, **§ 66:8**
Waiver of defense, **§ 66:10**

CALIFORNIA AFFIRMATIVE DEFENSES

DIRECTOR OF EMPLOYMENT DEVELOPMENT

Setoff of disability payments by, **§ 44:2**

DIRECTOR OF HEALTH SERVICES

Probate notice, service on, **§ 12:32**

DIRECTORS

As fiduciaries, **§ 46:2**

Assignability of corporate action against, **§ 18:27**

Corporations, this index

Lack of standing, right of shareholders to uphold or invalidate election, **§ 19:6**

Malpractice, limitation of actions, **§ 25:37**

Negligence action against volunteer director of nonprofit corporation

Generally, **§ 12:1**

Court order as prerequisite to filing action, **§ 12:36**

Verification of complaint alleging, **§ 11:4**

Personal jurisdiction over, **§ 4:28**

Statute of limitations as to

Generally, **§§ 25:23, 25:37**

Tolling, **§ 25:52**

DISABILITY

Definition for exposure to asbestos, **§ 25:31**

Statute of limitations and, **§§ 25:53, 25:60**

War veterans, limitation of actions, **§ 25:63**

DISAFFIRMANCE BY MINOR

Generally, **§§ 52:8 to 52:11**

Burden of proof, **§ 52:11**

Capacity to sue and, **§ 18:6**

Conduct effecting, **§ 52:9**

Contracts voidable, **§§ 52:8 to 52:11, 52:28, 52:29**

Death of minor and, **§ 52:8**

Effect of disaffirmance, **§ 52:11**

Emancipated minors and, **§ 52:17**

Entire contract disaffirmed, **§ 52:10**

Judgment, **§ 18:6**

Laches, **§§ 52:9, 52:20**

Medical services contracts, **§ 68:6**

Minors, this index

Multiparty contracts, **§ 52:11**

Notice, **§ 52:9**

Ratification, **§ 52:20**

Release, **§ 52:9**

Rescission, this index

Restoration after disaffirmance, **§ 52:11**

Time of disaffirmance, **§§ 52:8, 52:9, 52:20**

Waiver, **§ 52:20**

INDEX

DISAPPEARING CORPORATION

Capacity, **§ 18:15**

DISBARMENT OR SUSPENSION

Attorneys, this index

Delay in prosecution, effect on, **§ 28:28**

Delay in service and return of summons and, **§ 3:24**

Statute of limitations and, **§ 25:74**

Summons, **§ 2:2**

Verification of pleading for, **§ 11:15**

DISCOUNT BUYING SERVICE CONTRACTS

Statute of frauds and, **§ 53:23**

DISCOVERY

Complex litigation, stay as to, **§ 3:20**

Delay in service and return of summons and, **§ 3:24**

Discovery sanction of dismissal as res judicata, **§ 14:8**

General appearance, **§§ 3:17, 4:36**

Jurisdictional facts, discovery as to, **§ 4:32**

Motion to quash and, **§ 4:32**

Sanctions and, **§§ 4:32, 14:8**

Service and return requirements, **§ 3:24**

Uncertainty of pleading and, **§ 10:1**

Waiver, **§ 47:12**

DISCOVERY RULE, STATUTE OF LIMITATIONS

Generally, **§ 25:5**

Accrual of Cause of Action, this index

Asbestos exposure, actions based on, **§ 25:31**

Attorney's advice, effect of, **§ 25:6**

Breach of contract, **§ 25:12**

Breach of warranty, **§ 25:5**

Burden of proof, **§§ 25:5, 25:82**

Child abuse, **§ 25:26**

Conversion, **§ 25:20**

Defamation, **§§ 25:5, 25:25**

Diligence and, **§ 25:5**

Fiduciaries, **§§ 25:5, 25:12, 25:21, 25:35 to 25:37, 25:65**

Fraud, **§§ 25:5, 25:15, 25:21, 25:35 to 25:37, 25:65**

Fraudulent concealment, **§§ 25:20, 25:21, 25:72**

Good faith improver, **§ 25:29**

Incest, **§ 25:26**

Latent injuries, causes of action based on, **§ 25:5**

Libel, **§§ 25:5, 25:25**

Malpractice, **§§ 25:5, 25:35 to 25:37**

Mistake, **§§ 25:15, 25:21**

Notice and, **§ 25:5**

Rescission for fraud or mistake, **§§ 25:12, 25:15**

DISCOVERY RULE, STATUTE OF LIMITATIONS—Cont'd

Securities qualification violation, § 25:18
Sex abuse, § 25:26
Slander, §§ 25:5, 25:25
Slander of title, § 25:22
Statute of Limitations, this index
Title and title insurance claims, § 25:14
Warranty, breach of, § 25:5

DISCRETIONARY ACTS AND OMISSIONS

Generally, § 38:75
Aid to motorists absent accident, § 38:77
Arrest, decision to, § 38:78
Attorney General, § 38:75
California Emergency Services Act, § 38:53
Certificates, issuance, denial or revocation of, §§ 38:75, 38:102
Condemnation proceedings, § 38:75
Denial of permits, certificates and licenses, §§ 38:75, 38:102
Department of Public Health, § 38:75
Design of public construction, § 38:113
Determination of lowest bidder, § 38:75
Diagnosis of mental illness, § 38:75
Disease prevention, § 38:97
Emergency Services Act and, § 38:75
Exercise of, § 38:75
Failure to arrest, § 38:80
Failure to prevent disease, § 38:97
Failure to warn, § 38:75
Federal Tort Claims Act and, § 38:75
Foster homes, § 38:75
Investigations, §§ 38:75, 38:76, 38:79
Issuance of permits, certificates and licenses, §§ 38:75, 38:102
Lack of police protection, § 38:79
Lack of prisons, § 38:85
Law enforcement activities
 Aid to motorist absent accident, § 38:77
 Arrest, decision to, § 38:78
 Failure to retain arrestee in custody, § 38:80
 Mandatory duty, breach of, §§ 38:75, 38:76
 Protection, lack or inadequacy, § 38:79
Legislative acts, § 38:74
Licenses, issuance, denial, revocation, §§ 38:75, 38:81, 38:102
Mandatory duties and, § 38:75
Negligence in performing, §§ 38:75, 38:79
Permits, issuance, denial, revocation, §§ 38:75, 38:102
Police activities, § 38:75 et seq.
Prisons, lack or inadequacy, § 38:85
Pursuit of fleeing vehicle, § 38:75

INDEX

DISCRETIONARY ACTS AND OMISSIONS—Cont'd

Quarantine, **§ 38:97**

Revocation of permits, certificates and licenses, **§§ 38:75, 38:102**

DISCRETIONARY DISMISSAL STATUTES

Generally, **§§ 28:35, 29:1 et seq.**

Amendment of pleadings, effect of, **§ 29:3**

Answer, **§ 29:4**

Answer, allegation as to, **§ 29:4**

Appeal

Appellate review of order as to, **§ 29:7**

Judgment presumed correct, **§ 29:2**

Tolling and, **§ 29:1**

Appearance failure, **§ 29:13**

Arbitration, effect of, **§ 29:3**

Attorney

Illness of, **§ 29:3**

Misconduct by, **§ 29:2**

Sole practitioner, **§ 29:3**

Belated diligence, **§ 29:5**

Burden of proof, **§§ 29:7, 29:8**

CCP 473 motion and, **§§ 29:2, 29:7**

Certificate of merit filing and, **§ 29:3**

Consolidation, effect of, **§ 29:1**

Coordination, effect of, **§ 29:1**

Court caused delays and, **§ 29:2**

Court's power to dismiss sua sponte under, **§ 29:5**

Cross-claims, effect of, **§§ 29:1, 29:3**

Defendant's knowledge or conduct, **§§ 29:2, 29:3**

Demurrer, based on, **§ 29:5**

Dismissal for delay in prosecution and, **§§ 28:35, 29:1, 29:2, 29:10**

Dismissal for delay in service and return of summons and, **§§ 3:32, 29:1 to 29:3, 29:12**

Factors determining discretion, **§§ 29:2, 29:3**

Failure to appear, **§ 29:13**

Financial hardship, **§ 29:3**

Illness of attorney or party, **§ 29:3**

In propria persona parties, **§ 29:3**

Judicial Council rules, **§§ 29:1, 29:5**

Knowledge by defendant of plaintiff's claim and, **§§ 29:2, 29:3**

Laches and, **§§ 26:24, 29:1, 29:11**

Motion-dismiss, **§§ 29:4 to 29:6**

Motion in limine, **§ 29:6**

New trial, discretionary dismissal and, **§ 29:1**

Notice requirements

Effect on prosecution of action, **§ 29:2**

Motion for dismissal, **§ 29:5**

Prejudice to defendant, **§ 29:2**

CALIFORNIA AFFIRMATIVE DEFENSES

DISCRETIONARY DISMISSAL STATUTES—Cont'd

Service and return requirements and, §§ 3:32, 29:1 to 29:3, 29:12
Service of process
 Discretionary dismissal, § 29:1
 Mandatory dismissal, § 3:1 et seq.
Settlement, §§ 29:2, 29:3
Statute of limitations and, § 29:3
Trial as to, § 29:6
Trial Court Delay Reduction Act, § 29:1
Waiver, §§ 29:6, 29:9
Writ proceeding to review denial of motion for, § 29:7

DISEASE

AIDS
 Immunity, § 38:29
 Testing of minors, § 52:14
Autopsies, this index
Convulsive treatment, §§ 32:4, 38:10, 52:14
Diagnosis errors by public employee, § 38:104
Disease prevention, § 38:97
Doctrine of necessity, § 49:8
Emergency and, § 49:1
Experimental drugs, § 52:14
Immunization against, § 38:24
Medical Malpractice, this index
Medical treatment, consent to, § 32:4
Necessity and, § 49:8
Pharmacists, this index
Physicians and Surgeons, this index
Psychosurgery, §§ 32:4, 52:14
Quarantine, § 38:97
Sexually transmitted disease, § 52:14
Swine flu, § 38:24

DISMISSAL

Amendment of pleading and, § 9:6
Another action pending and, § 23:2
Appeal and review, waiver of objection, § 9:6
Delay in Prosecution, this index
Delay in Service and Return of Summons, this index
Discretionary Dismissal Statutes, this index
Failure to state cause of action and, §§ 9:4, 9:6
Forum non conveniens as grounds for, §§ 6:22, 6:23, 6:27
Leave to amend and, § 9:6
Motion to Dismiss, this index
Prejudice, dismissal with or without, effect of, § 14:8
Res judicata effect of, §§ 3:25, 14:8
Retract and, § 14:61

INDEX

DISMISSAL—Cont'd

Security for costs, failure to provide, **§ 13:1 et seq.**

DISSOLUTION OF CORPORATION

Capacity to sue or be sued, effect on, **§§ 4:24, 18:16, 18:30**

Claim filing requirement, **§ 12:33**

Notice and demand requirements, shareholders' derivative actions, **§ 12:15**

Personal jurisdiction and, **§ 4:24**

Service of process, **§§ 2:7, 2:8, 4:24**

Shareholders, suit against on corporate obligations, **§ 18:16**

Statute of limitations

Action to avoid acts by dissolved corporation, **§ 25:23**

Successor in interest and, **§ 25:50**

Verification of pleadings for, **§ 11:16**

DISSOLUTION OF MARRIAGE

Annulment action venue, **§ 5:18**

Conservator, capacity to seek, **§ 18:9**

Death, effect of, **§ 17:7**

Delay in prosecution and, **§ 28:2**

Guardian ad litem and, **§ 18:9**

Illegality of contract promoting, **§ 37:19**

Insanity, ground for, **§ 18:9**

Joinder of parties in, **§§ 20:4, 20:5**

Laches and, **§ 26:4**

Marriage, this index

Personal jurisdiction, **§ 4:29**

Privilege in action for, **§ 41:8**

Promotion of, **§ 37:19**

Subject matter jurisdiction over, **§ 7:2**

Summons in action for, **§ 2:2**

Unclean hands, **§ 45:10**

Venue

Generally, **§ 5:31**

Annulment action, **§ 5:18**

Verification of petition for, **§ 11:12**

DISTRIBUTION OF SALES LITERATURE

Personal jurisdiction, **§ 4:12**

DISTRICT ATTORNEYS

Prosecutors, this index

DISTRICTS SECURITIES COMMISSION

Immunity, **§ 38:122**

DIVERSITY JURISDICTION

Service and return requirements and, **§ 3:8**

DOCTORS

Physicians and Surgeons, this index

CALIFORNIA AFFIRMATIVE DEFENSES

DOCTRINE OF NECESSITY

Generally, **§ 49:8**

DOE DEFENDANTS

Fictitious Defendants, this index

DOGS

Abuse, reporting immunity, **§ 38:43**

Bites, **§§ 38:76, 48:16**

Emergency services for, **§ 38:55**

Euthanasia, **§ 38:55**

Fights, reporting immunity, **§ 38:43**

Firefighter's rule analogy to groomers, **§ 48:25**

Immunity, **§§ 38:19, 38:43, 38:55, 38:77**

Killing animals, **§ 38:19**

License, **§§ 38:19, 38:102**

Military work, **§ 38:76**

Police work, **§ 38:76**

Strays, **§ 38:19**

DOING BUSINESS IN CALIFORNIA

Certificate of qualification to conduct intrastate business, **§§ 18:17, 39:37**

Personal jurisdiction and, **§§ 4:32, 39:37**

DOMESTIC CORPORATIONS

Corporations, this index

Personal jurisdiction and, **§ 4:2**

DOMESTIC VIOLENCE

Restraining order, enforcement department, notice, **§ 38:76**

DOMICILE

Forum non conveniens, **§§ 6:3, 6:22**

Personal jurisdiction, **§ 4:2**

Venue and, **§ 5:36**

DOMICILIARY

Forum non conveniens and, **§§ 6:3, 6:22**

Personal jurisdiction and, **§ 4:2**

DRIVERS' LICENSES

Revocation, res judicata, **§ 14:51**

DROUGHT

Act of God as, **§ 30:5**

DRUG DEALER LIABILITY ACT

Capacity to sue, lack of, **§ 18:18**

Comparative fault, **§ 48:16**

Immunity for assistance to police, **§ 38:17**

Statute of limitations, **§ 25:5**

INDEX

DRUGS

Consent to medical treatment, **§ 32:4**
End of Life Option Act, immunity, **§ 38:26**

DUE DILIGENCE

Service by publication, **§ 2:16**

DUE PROCESS

Collateral estoppel, essential to, **§§ 15:4, 15:6**
Demand, notice, and claim requirements, **§ 12:39**
Forum non conveniens and, **§ 6:1**
Minimum contacts rule, **§ 4:1**
Personal jurisdiction and, **§§ 4:1, 4:3**
Preliminary bond notice, **§ 12:12**
Res judicata and, **§§ 14:3, 14:5, 14:20, 14:39**
Service of process, **§§ 2:1, 2:8, 2:12, 2:23**
Setoff and, **§ 44:3**
Statute of limitations, **§§ 25:1, 25:32, 25:33**
Subject matter jurisdiction and, **§§ 14:3, 14:39**

DUPLICATION

Penalty, punitive or multiple damages, **§ 24:16**

DURABLE POWER OF ATTORNEY

Power of Attorney, this index

DURESS

Generally, **§ 33:1 et seq.**
Answer, **§ 33:8**
Appeal as to, **§ 33:8**
Boycotts and, **§ 33:7**
Burden of proof, **§ 33:9**
Business compulsion or duress, **§§ 33:1, 33:7**
Clouding title as, **§§ 33:2, 33:3**
Collective bargaining as, **§ 33:3**
Community property and, **§ 33:3**
Consent, **§§ 32:1, 32:6, 33:1 et seq.**
Contract actions and, **§ 33:1**
Conversion and, **§ 33:2**
Criminal prosecution, threat of as duress, **§§ 33:2, 33:3**
Definition, **§§ 33:1, 33:2**
Detention of property as, **§§ 33:1 to 33:3**
Economic compulsion, **§§ 33:1, 33:7**
Emergency, **§§ 33:1, 33:14**
Fear, **§§ 33:2 to 33:4**
Foreclosure and, **§ 33:3**
Form of allegation as to, **§ 33:8**
Forum selection clause and, **§ 7:9**
Fraud and, **§ 33:12**
Holder in due course, standing to assert defense, **§ 33:5**

DURESS—Cont'd

- Jury instructions as to, **§ 33:8**
- Menace, definition of, **§§ 33:1, 33:2, 62:4**
- Misrepresentation and, **§ 33:12**
- Necessity, **§ 33:14**
- Physical confinement as, **§§ 33:1, 33:2**
- Picketing as, **§ 33:3**
- Pleading, **§§ 33:8, 33:10, 55:5**
- Premarital agreements affected by, **§ 33:1**
- Ratification, **§ 33:10**
- Release and, **§§ 42:4, 42:8, 42:13**
- Rescission based on, **§§ 33:6, 62:1, 62:2, 62:4, 62:26**
- Settlements and, **§ 43:1**
- Standing to assert, **§ 33:5**
- Statute of limitations and
 - Generally, **§§ 25:21, 25:40**
 - Tolling due to duress, **§ 25:66**
- Subjective test, **§ 33:4**
- Successor in interest, **§ 33:5**
- Third party, duress by, **§ 33:6**
- Threats as, **§§ 33:1 to 33:3**
- Tort actions as, **§ 33:1**
- Unclean hands and, **§ 45:2**
- Unconscionability and, **§§ 33:13, 55:9**
- Undue influence and, **§§ 33:11, 46:1, 46:12, 46:17**
- Unfairness and, **§ 33:13**
- Unfair Practices Act, **§ 33:2**
- Unlawful confinement, **§§ 33:1, 33:2**
- Unlawfulness, **§ 33:3**
- Waiver
 - Duress affecting waiver, **§ 47:1**
 - Waiver of defense of duress, **§ 33:10**
- Will affected by, **§ 33:1**
- Wrongfulness, **§ 33:3**

DUTY OF CARE

- Comparative fault and, **§ 48:1**
- Immunity, this index
- Imputation of nondelegable duties and, **§ 48:6 et seq.**
- Torts, this index

DUTY TO WARN

- Failure to Warn, this index

DWELLING HOUSE

- Definition for service of process, **§ 2:14**

EARTHQUAKES

- Act of God as, **§§ 30:3, 30:11, 30:18**
- Alteration of documents and, **§ 53:7**

INDEX

EARTHQUAKES—Cont'd

- Architects, inspection immunities and, **§ 38:53**
- California Earthquake Prediction Council, **§ 38:71**
- Destruction of documents and, **§ 53:7**
- Drugs without prescription after, **§ 38:53**
- Immunities, **§ 38:71**
- Immunities of California Earthquake Authority, **§ 38:122**
- Impossibility and, **§ 60:2**

EASEMENT

- Easement by necessity, statute of limitations as to action to establish, **§ 25:74**
- Minor's capacity as to, **§ 52:5**
- Prescriptive easement, consent to, **§ 32:4**
- Real Property, this index

ECONOMIC COMPULSION

- Duress, this index

ECONOMIC DAMAGES

- Damages, this index

ECONOMIC DURESS

- Duress, this index

ELDERLY

- Abuse, reporting immunity, **§ 38:43**
- End of Life Option Act, immunity, **§ 38:26**
- Food distribution to, **§ 38:27**

ELECTION OF DIRECTORS

- Lack of standing, right of shareholders to uphold or invalidate, **§ 19:6**

ELECTION OF REMEDIES

- Generally, **§ 24:1 et seq.**
- Administrative remedies, **§ 24:9**
- Admiralty and maritime claims, election between, **§ 24:9**
- Agent, **§ 24:14**
- Answer, **§ 24:11**
- Answer, allegation as to, **§ 24:11**
- Arbitration, **§ 24:4**
- Attachment, **§ 24:5**
- Bankruptcy, **§ 24:4**
- Breach of contract, **§§ 24:2, 24:5 to 24:8**
- Collateral estoppel and, **§§ 24:1, 24:15**
- Conduct that does not raise election, **§ 24:9**
- Covenant of good faith and fair dealing, **§ 24:8**
- Cumulative remedies, **§ 24:9**
- Damages, **§§ 24:2, 24:6, 24:7, 24:16**
- Deed of trust, **§ 24:4**
- Demurrer based on, **§ 24:12**
- Election to sue particular persons, **§ 24:14**

ELECTION OF REMEDIES—Cont'd

Emotional distress as cause of action and, **§ 24:5**
Estoppel and, **§ 24:1**
Foreclosure, **§ 24:4**
Forms, this index
Fraud as cause of action and, **§ 24:5**
Injunction and, **§ 24:9**
Knowledge requirement, **§ 24:3**
Limitation of actions, **§ 25:70**
Motion as to, **§ 24:12**
Multiple damages, election of, **§ 24:16**
One action rule, **§ 24:4**
Penalty, election of, **§ 24:16**
Personal injury action, **§ 24:4**
Prejudice requirement, **§ 24:2**
Provisional remedies and, **§ 24:9**
Punitive damages, election of, **§ 24:16**
Real property and, **§§ 24:4, 24:9**
Rescission and, **§ 24:6**
Res judicata and, **§§ 24:1, 24:15**
Restitution and, **§ 24:6**
Specific performance and, **§§ 24:2, 24:3, 24:6, 24:7**
Standing to assert defense, **§ 24:2**
Statute of limitations and, **§ 25:70**
Supplemental pleadings, **§ 24:11**
Tax disputes and, **§ 24:9**
Time for election, **§ 24:10**
Torts, **§§ 24:5, 24:8**
Waiver, **§ 24:13**
Workers' compensation actions, **§ 24:4**

ELECTIONS

Campaign advertising, defamatory material in, **§§ 12:14, 51:4**
First Amendment standards, **§ 51:4**
Illegal contracts as to, **§ 37:22**
Libel and slander and, **§§ 12:14, 51:4**
Mootness as to election issues, **§ 22:2**
Voter information, disclosure of, **§ 38:37**

ELECTRICAL ENGINEERS

Engineers, this index

ELECTRONIC AND APPLIANCE REPAIR DEALERS

Licensing, **§§ 39:3, 39:23**

ELECTRONIC RECORDING DELIVERY ACT

Generally, **§ 53:3**

INDEX

ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

Generally, **§ 53:3**

ELISOR

Definition, **§ 2:3**

Service of process by, **§§ 2:3, 2:15**

EMANCIPATED MINORS

Generally, **§§ 18:8, 52:17**

Armed forces members as, **§§ 52:17, 52:19**

Capacity to contract, **§ 52:17**

Capacity to sue, **§ 18:8**

Contracts, this index

Court order establishing, **§ 52:17**

Definition, **§§ 18:8, 52:17**

Emancipation of Minors Act, **§§ 52:17, 52:19**

Identification cards, **§§ 38:62, 52:17**

Married minors as, **§ 18:8**

Medical treatment of, **§ 52:14**

Minors, this index

Parent's agreement establishing, **§ 52:17**

Statute of limitations not tolled as to, **§ 25:51**

EMBALMERS

Immunity, **§ 38:63**

Licensing requirements, **§ 39:35**

EMERGENCIES

Generally, **§ 49:1 et seq.**

Alternative actions possible, **§ 49:1**

Answer, allegation as to, **§ 49:2**

Assistance, **§ 38:53**

Awareness of, **§ 49:1**

Burden of proof, **§ 49:3**

Common enemy doctrine, **§ 49:9**

Comparative fault and, **§ 49:1**

Consent and, **§§ 32:2, 32:9**

Consent implied, **§§ 32:2, 32:9**

Disaster Services. Immunities, this index

Duress, **§§ 33:1, 33:14**

Emergency medical service providers

Firefighter's rule and, **§ 48:25**

Gross negligence of, **§ 48:23**

Medical care, **§§ 38:46, 38:49, 38:89**

Obstetrical care, **§ 38:46**

Training, **§ 38:50**

Emergency Services Act, immunity under, **§§ 38:22, 38:53, 38:75**

EMERGENCIES—Cont'd

Emergency vehicles
 Ambulances, § **38:51**
 Authorized emergency vehicles, § **38:51**
 Immunity, §§ **38:51, 38:118**
 Traffic signals, § **38:118**
Fictitious business name, use of "emergency" in, § **39:36**
Flooding, this index
Forms, this index
Fraud, § **33:12**
Immunity
 Generally, § **38:45 et seq.**
 Ambulances, § **38:51**
 Choking, § **38:52**
 Disaster services, § **38:53**
 Earthquakes, § **38:72**
 Electricity distribution, § **38:20**
 Emergency medical care, §§ **38:46, 38:49, 38:50**
 Emergency medical personnel, § **38:50**
 Emergency medical services, §§ **38:49, 38:53**
 Emergency Medical Services Authority, § **38:46**
 Emergency obstetrical care, § **38:46**
 Emergency Services Act, §§ **38:22, 38:53**
 Emergency shelters, § **38:53**
 Emergency vehicles, §§ **38:51, 38:118**
 Emergency veterinary services, § **38:55**
 Emergency volunteers, § **38:55**
 Extraterritorial emergency services, § **38:64**
 Fire fighting activities, § **38:89 et seq.**
 Gas distribution, § **38:20**
 Good Samaritans, § **38:46**
 Interstate emergency services agreement, § **38:53**
 Prisoners, release during emergency, § **38:88**
 Rescue services, § **38:51**
 Resuscitation and respiratory care, § **38:48**
 School emergencies, § **38:47**
 Jury instructions, §§ **49:1, 49:6**
 Last clear chance doctrine and, § **49:5**
 Medical care immunities, §§ **38:46, 38:49, 38:89**
 Necessity doctrine and, § **49:8**
 Non-negligent status, § **49:1**
 Pleading, § **49:2**
 Privilege and, § **49:8**
 Rescue doctrine and, § **49:7**
 Responsibility for emergency and, §§ **49:1, 49:6**
 State of, § **38:71**
 Suddenness of, § **49:1**

INDEX

EMERGENCIES—Cont'd

- Trial, § **49:2**
- Unexpectedness of, § **49:1**
- Vehicles, §§ **38:51, 38:118**
- Veterinary services, § **38:55**
- Waiver, § **49:4**
- Who may assert the defense, § **49:2**

EMERGENCY MEDICAL SERVICE PROVIDERS

- Firefighter's rule applicable, § **48:25**
- Gross negligence, § **48:23**
- Medical care immunities, §§ **38:46, 38:49, 38:89**
- Obstetrical care immunity, § **38:46**
- Training, § **38:50**

EMINENT DOMAIN

- Compulsory cross-claims and, § **14:18**
- Delay
 - In prosecution of, § **28:2**
 - In service and return of summons, § **3:5**
- Government claims filing requirements as to, § **12:21**
- Immunity, § **38:75**
- Inverse Condemnation, this index
- Prematurity, § **27:1**
- Prevention of performance by, § **59:2**
- Res judicata and, § **14:18**
- Service and return requirements as to, § **3:5**
- Setoff and, § **44:2**
- Summons, § **2:2**
- Venue, §§ **5:4, 5:12**
- Verification of pleadings for, § **11:25**

EMOTIONAL DISTRESS

- Advice of counsel and, § **41:28**
- Assignability of cause of action for, § **18:26**
- Comparative fault and, § **48:16**
- Damages
 - Death of plaintiff, effect of, § **17:14**
 - Statute of limitations and, § **25:25**
- Election of remedies and, § **24:5**
- Physician treating minor, liability for, § **52:14**
- Privilege, §§ **41:6, 41:11, 41:28**
- Statute of limitations as to, § **25:25**
- Truth as defense to intentional infliction of, § **51:1**
- Venue, § **5:34**
- Volunteers, immunities, § **38:35**

EMPLOYMENT

- Agreements restraining, § **37:14**
- Arbitration and, § **68:2**

EMPLOYMENT—Cont'd

- Assignability and
 - Personal service contracts, **§ 18:19**
 - Wages
 - Generally, **§ 18:18**
 - Incompetent's assignment of, **§ 52:30**
 - Minor's assignment of, **§§ 52:3, 52:6**
 - Statute of frauds and, **§ 53:23**
 - Benefits, waiver of, **§ 47:13**
 - Comparative fault and, **§ 48:16**
 - Contractor's licensing requirements as to employees, **§ 39:15**
 - Death, effect of, **§ 17:24**
 - Definition, **§§ 38:51, 38:56, 39:15**
 - Disability benefits, setoff and, **§ 44:6**
 - Disclosure of felony conviction, **§ 51:1**
 - Discrimination, statute of limitations as to, **§ 25:25**
 - Employer's willful misconduct, **§ 38:124**
 - Employment agency agreements, **§ 53:23**
 - Employment agreements, **§§ 37:23, 53:20, 53:23**
 - Employment counseling agreements, **§ 53:23**
 - Failure of consideration and, **§ 57:1**
 - Firefighter's rule and, **§ 48:25**
 - Illegal consideration for, **§§ 37:22, 37:23**
 - Imputation of negligence and, **§§ 48:13 to 48:15**
 - Independent contractors, **§§ 38:51, 38:56, 48:14**
 - Intervention, effect on limitations period, **§ 25:76**
 - Jury instructions, mitigation of damages, **§ 36:8**
 - Managers
 - Licensing of, **§ 39:34**
 - Privilege for statements made by, **§ 41:19**
 - Minor's employment agreement, **§§ 52:7, 52:15**
 - Mitigation of damages, **§ 36:5**
 - Negligent selection of employees, **§§ 48:13 to 48:15**
 - Novation of employment contract. Novation, this index
 - Personal service contract, effect of death of party to, **§ 17:24**
 - Picketing as duress, **§ 33:3**
 - Pleading scope of employment, **§ 10:2**
 - Privileges as to, **§§ 41:9, 41:19**
 - Public Officers and Employees, this index
 - Release
 - Joint debtors and, **§ 42:7**
 - Workers' compensation benefits, **§ 42:4**
 - Res judicata and, **§ 14:27**
 - Scope of employment, pleading of, **§ 10:2**
 - Setoff of benefits and wages, **§ 44:6**
 - Statute of frauds and, **§§ 53:20, 53:23**

INDEX

EMPLOYMENT—Cont'd

- Statute of limitations
 - Discrimination, **§ 25:25**
 - Intervention and, **§ 25:76**
 - Personal injury, §§ **25:25, 25:70**
 - Tolling, **§ 25:70**
 - Wrongful discharge, §§ **25:7, 25:25, 25:77**
- Teachers' tenure rights, waiver, **§ 47:13**
- Undue influence and, §§ **46:2, 46:3**
- Unemployment benefits
 - Generally, **§ 36:5**
 - Overpayment, recovery of, **§ 38:37**
 - Setoff, **§ 44:6**
- Unions, §§ **41:9, 41:19**
- Wages
 - Accord and satisfaction and, **§ 63:5**
 - Setoff, **§ 44:6**
- Waiver of benefits, **§ 47:13**
- Workers' Compensation Actions, this index
- Wrongful termination
 - Mitigation of damages, **§ 36:5**
 - Statute of limitations, §§ **25:7, 25:25, 25:77**

EMPLOYMENT AGENCIES

- Death, effect on contracts of, **§ 17:24**
- Licensing requirements as to, **§ 39:34**

END OF LIFE OPTION ACT

- Immunity, **§ 38:26**

ENERGY

- Alternative systems, **§ 38:122**
- California Alternative Energy Source Financing Authority, **§ 38:122**
- Solar energy systems, covenants restricting, **§ 37:16**

ENGINEERS

- Certificate of merit requirement, **§ 12:2**
- Civil engineers, **§ 38:7**
- Construction Contracts, this index
- Electrical engineers, **§ 38:7**
- Engineering Criteria Review Board, **§ 38:122**
- Immunity, §§ **38:10, 38:123**
- Licensing requirements as to, §§ **39:13, 39:19, 39:20**
- Mechanical engineers, **§ 38:7**
- School buildings, **§ 38:123**
- Security for costs, **§ 13:5**
- State Board of Registration for Professional Engineers and Land Surveyors, **§ 38:122**
- Structural engineers, **§ 38:123**
- Supervision of construction, **§ 38:7**

ENGINEERS—Cont'd

Surveyors, §§ 38:7, 38:122

ENVIRONMENTAL ACTIONS

Exhaustion of administrative remedies and, § 16:9

Laches and, § 26:12

Notice to Attorney General of, § 12:6

Service on Attorney General, § 2:2

Unclean hands defense and, § 45:4

Venue, § 5:4

EQUAL DIGNITIES RULE

Generally, § 54:1 et seq.

Abandonment of contracts, § 61:5

Agents and Agency, this index

Answer, allegation as to, § 54:7

Appeal and, § 54:7

Attorney's authority as to client, § 54:1

Authority of agent and

 Generally, § 54:1 et seq.

 Attorney, § 54:1

 Brokers, § 54:1

 Corporations, § 54:3

 Duty of inquiry as to, § 54:1

 Joint ventures, § 54:3

 Mortgages, § 54:2

 Partners, § 54:3

 Spouses, § 54:1

 Blanks, filling in, § 54:1

 Burden of proof, § 54:8

 Deed of trust, § 54:2

 Duty of inquiry as to agent's authority, § 54:1

 Entire transaction, § 54:5

 Estoppel, §§ 54:3 to 54:5

 Exceptions, § 54:3

 Full performance effect, § 54:4

 Husband and wife and, §§ 54:1, 54:3

 Jury instructions as to, § 54:7

 Leases, § 54:2

 Manner of asserting, § 54:7

 Mortgage, § 54:2

 Partners, application to, §§ 54:1, 54:3

 Power of attorney, §§ 53:3, 54:1 et seq.

 Presumption person acting as principal, § 54:8

 Principal's power to assert defense, § 54:6

 Ratification, §§ 54:3 to 54:5, 54:7, 54:8

 Real estate broker's authority, § 54:1

 Spouses, §§ 54:1, 54:3

INDEX

EQUAL DIGNITIES RULE—Cont'd

Statute of frauds and, §§ 53:3, 53:4, 53:41, 54:10
Statutory equal dignities, § 54:11
Unconscionability, § 54:4
Undisclosed principal and, §§ 54:1, 54:3
Waiver of the defense, §§ 54:6, 54:7, 54:9
Who may assert defense, § 54:6

EQUITABLE DOCTRINES

Adequacy of remedy at law, § 31:1 et seq.
Collateral Estoppel, this index
Duty to do equity, § 35:1 et seq.
Equitable tolling, statutes of limitation, §§ 25:41, 25:70
Estoppel, this index
Forum non conveniens, § 6:1 et seq.
Laches, this index
One Who Seeks Equity Must Do Equity, this index
Rescission, this index
Res Judicata, this index
Superior equities, § 35:6
Unclean Hands, this index
Unconscionability, this index

EQUITABLE ESTOPPEL

Estoppel, this index

EQUITABLE SUBROGATION

Effect on capacity to sue, § 18:28

EQUITABLE WRITS

Adequacy of remedy at law, §§ 31:1, 31:4
Certiorari, this index
Delay in prosecution
Review of decision as to, §§ 28:32, 29:7
Tolling and, § 28:15
Demurrer, § 11:9
Exhaustion of remedies, review based on, § 16:1
Laches and, § 26:7
Law of case, § 14:60
Mandamus, this index
Motion to dismiss, § 11:9
Petition, verification, § 11:9
Prohibition, this index
Res judicata, § 14:13
Review, writ of, § 31:1
Security for costs in action by nonresident, review of order as to, § 13:4
Statute of limitations, administrative mandamus, §§ 25:18, 25:32, 25:40
Unclean hand and, §§ 45:2, 45:12
Verification of petition for, § 11:9
Writ of Review, this index

EQUITY ACTIONS

- Certiorari, this index
- Equitable relief
 - Adequacy of consideration and, §§ **56:1, 56:4, 56:9**
 - Adequacy of remedy at law, § **31:1 et seq.**
 - Arbitration not barred by prayer, § **68:1**
 - Government claims filing requirements in action for, § **12:21**
 - Obligation to do equity, § **35:1 et seq.**
 - Rescission, § **62:27**
 - Unconscionability, § **55:1**
- Extraordinary Writs, this index
- Laches, § **26:1 et seq.**
- Mandamus, this index
- Prohibition, this index
- Rescission, this index
- Shareholders' derivative actions, demand requirement, § **12:15**
- Statute of limitations
 - Generally, §§ **25:1, 25:9, 25:39, 35:1**
 - Application of, §§ **25:1, 25:9**
 - Vacation of void judgments, § **25:74**
- Subject matter jurisdiction and, §§ **7:2, 7:3**
- Venue, § **5:36**

ERISA

- Preemption and, § **7:19**

ESCAPE

- Generally, § **33:5**
- Immunity as to, §§ **38:88, 38:99, 38:100**

ESCHEAT

- Controller, immunity as to, § **38:73**
- Immunity and, §§ **38:3, 38:73**
- Laches and, § **26:4**
- Museums, property loaned to, § **38:3**
- Notice to Attorney General, § **12:6**
- Personal property, §§ **38:3, 38:73**
- Service of process, § **2:2**
- Subject matter jurisdiction over, § **7:2**
- Unclaimed Property Law, § **38:73**
- Venue, § **5:26**
- Verification of petition to recover escheated property, § **11:11**

ESCROW

- Escrow agents
 - Agreement violating obligation of, § **37:22**
 - Escrow Agents' Fidelity Corporation, § **38:2**
 - Immunity
 - Escrow Agents' Fidelity Corporation, § **38:2**

INDEX

ESCROW—Cont'd

Escrow agents—Cont'd
Immunity—Cont'd
 Smoke detector disclosure, § **38:5**
 Imputation of negligence by, § **48:13**
 Statute of limitations, § **25:37**
Exculpatory clauses, § **42:2**
Instructions, statute of frauds effect, §§ **53:2, 53:3, 53:6, 53:9, 53:10**
Release, public policy as to, § **42:2**
Smoke detector disclosure and, § **38:5**
Waiver of instructions, § **47:10**

ESTATES

Capacity to sue, §§ **17:4, 18:11, 18:30**
Financial institutions, disbursement of funds to pay estate taxes, § **38:37**
Joinder of parties challenging, § **21:2**
Nonentity, § **18:11**
Personal Representatives, this index
Probate claims requirements, §§ **12:32, 17:34**
Subject to suit, §§ **18:11, 18:30**

ESTOPPEL

Generally, § **34:1 et seq.**
Actions at law and, § **34:1**
Actual knowledge of facts and, § **34:5**
Administrative agencies
 Administrative proceeding, assertion in, § **34:1**
 Agency, assertion against, § **34:9**
Agents and, § **34:9**
Agreement to accept note in payment, § **69:3**
Amended pleadings and, § **34:10**
Answer, § **34:10**
Appeal, § **34:10**
Bar of estoppel
 Assertion of service and return requirements, §§ **3:23, 3:29**
 Delay in service and return of summons, assertion of, § **3:23**
 Denial of personal service, § **2:6**
 Government Tort Claims Act, this index
 Minor's disaffirmance of judgment or contract, § **18:6**
 Probate claim requirements, §§ **12:32, 17:34**
 Res judicata
 Estoppel as exception to, § **14:43**
 Estoppel to raise, § **14:58**
Statute of limitations
 Generally, § **25:73**
 Tolling agreements and, § **25:67**
 Written contract as to, § **25:12**
Burden of proof, §§ **34:11, 53:26**

ESTOPPEL—Cont'd

Capacity to contract and
Generally, **§ 52:37**
Contracts of mental incompetents, **§ 52:34**
Contracts of minors, **§§ 52:5, 52:20**
City, assertion against, **§ 34:9**
Complaints and, **§§ 34:1, 34:10**
Conclusive presumption raised by, **§ 34:1**
Conduct related to subject matter, requirement as to, **§ 34:3**
Consent and, **§ 32:10**
Consideration unnecessary, **§ 56:2**
Contract, estoppel as modification of, **§§ 65:5, 65:6, 65:11**
Corporations
 Assertion as to existence of corporation and, **§ 34:9**
 Estoppel by, **§ 34:9**
County, estoppel against, **§ 34:9**
Delay in prosecution and, **§§ 28:2, 28:34**
Denial of waiver, estoppel to, **§ 47:1**
District, estoppel against, **§ 34:9**
Duty to act and, **§ 34:1**
Election of remedies and, **§ 24:1**
Equal dignities rule and, **§§ 54:3, 54:4**
Estoppel to deny waiver, **§ 47:1**
Failure of consideration, **§ 57:6**
Forms, this index
Fraud and, **§§ 34:1, 34:6, 53:26**
Good faith, **§ 34:4**
Government agencies, estoppel against, **§§ 34:7, 34:9**
Government Tort Claims Act, this index
Grantor of real property, **§ 34:9**
Guarantors and, **§ 67:3**
Heirs and, **§ 34:9**
Ignorance and, **§§ 34:1, 34:4**
Illegality, estoppel to assert, **§§ 34:7, 37:7, 37:24, 37:29**
Imputed knowledge, **§ 34:4**
Indemnity, **§ 34:1**
Intentional conduct and, **§§ 34:1, 34:2, 34:8**
Invited error, **§ 34:20**
Joint wills and, **§ 53:26**
Judicial admission, **§ 34:19**
Judicial estoppel, **§ 34:18**
Knowledge
 Generally, **§§ 34:1, 34:2, 34:5**
 Of action as not barring challenge to service, **§ 2:4**
Laches
 Estoppel to assert, **§ 26:14**
 Relation to estoppel, **§§ 26:21, 34:14**

INDEX

ESTOPPEL—Cont'd

- Landlord-tenant relations, **§ 34:1**
- Legislation, estoppel and, **§ 34:7**
- Limitation of actions, **§ 25:73**
- Manner of asserting defense, **§ 34:10**
- Minors
 - Generally, **§ 34:9**
 - Contracts by, **§§ 52:5, 52:20**
- Mistake
 - Generally, **§ 40:3**
 - Estoppel to assert, **§ 40:13**
 - Mistake of law and, **§ 34:4**
- Modification of contract and, **§§ 65:5, 65:6, 65:11, 65:14**
- Motions as to, **§ 34:10**
- Municipality, estoppel against, **§ 34:9**
- Negligence and, **§§ 34:1, 34:5, 34:7**
- Notice and proof of loss by insured, **§ 12:10**
- Nuisance and, **§ 34:7**
- Partners, estoppel as to partnership, **§ 34:9**
- Part performance exception to statute of frauds, **§ 53:25**
- Payment and, **§ 69:3**
- Persons affected by, **§§ 34:8, 34:9**
- Plaintiffs, **§ 34:1**
- Pleading, **§§ 34:10, 34:12**
- Prejudice and, **§ 34:6**
- Premarital agreements, **§ 25:48**
- Presumption raised by, **§ 34:1**
- Prevention of performance and, **§ 59:11**
- Privity and, **§§ 34:8, 34:9**
- Probate proceedings, **§ 12:32**
- Promise to execute contract and statute of frauds, **§ 53:26**
- Promissory estoppel and, **§§ 34:16, 53:26**
- Public entity, **§§ 34:7, 34:9, 37:24**
- Public policy, **§§ 34:7, 34:9**
- Ratification and, **§§ 34:17, 54:5**
- Release, **§§ 42:1, 42:13**
- Reliance, **§§ 34:1, 34:5**
- Requirements
 - Generally, **§ 34:1 et seq.**
 - Duty, **§ 34:1**
 - Ignorance of party asserting estoppel, **§§ 34:4, 53:26**
 - Intentional conduct, **§ 34:2**
 - Reasonable reliance, **§ 34:5**
 - Relation between conduct and matter in issue, **§ 34:3**
 - Unconscionable injury, **§ 34:6**
- Res judicata
 - Estoppel as exception to, **§ 14:43**

ESTOPPEL—Cont'd

Res judicata—Cont'd
 Estoppel to raise, **§ 14:58**
Service and return requirements, **§ 3:23**
Service of process, lack of or defect in service, §§ **2:4, 2:6, 2:28**
Setoff and, **§ 44:6**
Silence and, §§ **34:1, 34:2**
State as party, §§ **25:73, 34:7, 34:9**
Statute of frauds and
 Generally, **§ 34:1**
 Agreements not to be performed during lifetime of promisor, **§ 53:21**
 Assertion of statute, **§ 53:26**
 Burden of proof, **§ 34:11**
 Commissions on real property transfers, **§ 53:10**
 Manner of asserting defense, §§ **53:35, 53:38**
 Part performance that takes contract outside statute, **§ 53:25**
Statute of limitations and, §§ **25:73, 34:1**
Statutes and, **§ 34:7**
Subject matter jurisdiction and, §§ **7:8, 7:10**
Successors in interest, **§ 34:9**
Summary judgment, **§ 34:10**
Supplemental pleadings, **§ 34:10**
Sureties and, **§ 67:3**
Timing of conduct, **§ 34:3**
Unclean hands and, §§ **34:13, 45:21, 45:24**
Unconscionability and, §§ **34:1, 34:6, 34:13**
Uniform Interstate Family Support Act, **§ 34:7**
Unjust enrichment and, **§ 34:6**
Usury, **§ 37:13**
Waiver and, §§ **34:12, 34:15, 47:1, 47:17**
Wills and, **§ 53:26**
Writing not essential, **§ 54:4**

EVIDENCE

Agreements to suppress or procure, illegality of, **§ 37:22**
Burden of Proof, this index
Clear and convincing, this index
Definition of proof, **§ 1:8**
Insurance requirement, proof of loss, **§ 12:10**
Judicial Notice, this index
Modification of contract, waiver and estoppel, **§ 65:14**
Negative, proof of, **§ 1:9**
Presumptions, this index
Service of Process, this index
Verified pleading as evidence in venue hearing, **§ 5:42**
Witnesses, this index

EXCESS OF JURISDICTION

Generally, **§ 7:10**

INDEX

EXCESS OF JURISDICTION—Cont'd

Death of defendant as causing, § 17:22
Indispensable party, absence of, § 21:2
Res judicata effect of, §§ 7:10, 14:3

EXCHANGE OF REAL PROPERTY

Statute of frauds and, § 53:9

EXCLUSIVE LISTING

Real Estate Brokers and Salespersons, this index

EXCULPATORY CLAUSES

Escrow instructions, § 42:2
Illegality of
Fraud, § 37:10
Negligent, reckless or willful conduct, § 37:11
Violation of law, § 37:12
Releases, this index

EXECUTOR

Personal Representatives, this index

EXEMPLARY DAMAGES

Punitive Damages, this index

EXHAUSTION OF REMEDIES

Generally, § 16:1 *et seq.*
Administrative appeals, exhaustion of, § 16:2
Administrative scheme, cases outside, § 16:5
Alcoholic Beverage Control Board, § 16:1
Answer, § 16:10
Appellate review, § 16:13
Arbitration, § 16:17
Bias of agency and, § 16:7
Bifurcated trial, § 16:12
Burden of proof, § 16:14
Cause of action and, § 16:11
Claim filing requirements, § 12:43
Class actions, § 16:8
Comity and, § 16:1
Complaint, allegation as to exhaustion inapplicable, § 16:10
Constitutional challenges, § 16:3
Declaratory judgment, § 16:1
Demand requirements and, § 12:15
Demurrer, § 16:10
Exceptions to doctrine
Generally, § 16:3
Administrative scheme, cases outside, § 16:5
Bias of administrative agency, § 16:7
Burden of proof, § 16:14
Class actions, § 16:8

EXHAUSTION OF REMEDIES—Cont'd

Exceptions to doctrine—Cont'd
 Constitutional challenges, **§ 16:3**
 Futility, **§ 16:4**
 General concern, issues as to, **§ 16:9**
 Irreparable harm, **§ 16:6**
 Pleading, **§ 16:10**
 Public concern, issues as to, **§ 16:9**
 Extraordinary writs and, **§ 16:1**
 False Claims Act, **§ 16:1**
 Federal remedies, **§ 16:1**
 Forms, this index
 Futility, **§ 16:4**
 Injunction, **§ 16:1**
 Intervention, **§ 16:4**
 Irreparable harm and, **§ 16:6**
 Labor law issues, **§ 16:19**
 Mandamus, **§ 16:1**
 Nonadministrative remedies
 Generally, **§ 16:17**
 Burden of proof, **§ 16:14**
 Class actions, **§ 16:8**
 Labor disputes, **§ 16:18**
 Prematurity and, **§§ 16:11, 27:1, 27:7**
 Primary jurisdiction and, **§§ 8:1, 8:2, 8:6, 16:16**
 Public concern, **§ 16:9**
 Ripeness and, **§ 16:16**
 Summary judgment, **§ 16:11**
 Tax proceedings, **§ 16:1**
 Trial as to, **§ 16:12**
 Union, **§ 16:18**
 Waiver, **§ 16:15**
 Wrongful discharge, **§ 16:18**

EXHIBITS

Demurrer and, **§ 9:4**
Judicial notice, **§ 1:10**
Uncertainty of pleading contract terms and, **§ 10:15**

EXONERATION OF SURETIES

Generally, **§ 67:1 et seq.**
Act of creditor as defense, **§§ 67:3, 67:4**
Acts of God and, **§§ 30:14, 67:3**
Alteration
 Debtor's obligation, **§§ 67:4, 67:6**
 Documents, **§ 67:3**
Answer, allegation as to, **§ 67:5**
Anti-deficiency statutes, **§ 67:3**
Appeal as to, **§ 67:5**

INDEX

EXONERATION OF SURETIES—Cont'd

- Bankruptcy
 - Debtor's, **§ 67:3**
 - Guarantor's, **§ 67:4**
- Burden of proof, **§ 67:6**
- Collateral, impairment of, **§ 67:4**
- Collateral estoppel and, **§ 67:3**
- Commercial Code, effect of, **§ 67:3**
- Conditional obligations, guaranty of, **§ 67:2**
- Consent to alterations, **§§ 67:4, 67:6**
- Consideration, time of, **§ 56:10**
- Construction of guaranty or surety bond, **§ 67:2**
- Corporate filing requirements, failure to satisfy, **§ 67:3**
- Corporate officers as sureties, **§§ 56:10, 67:2**
- Creditor's conduct and, **§ 67:4**
- Death
 - Debtor's, **§ 67:3**
 - Guarantor's, **§ 67:2**
- Debtor in default, **§ 67:4**
- Debtor's personal disabilities, **§ 67:3**
- Definitions, **§§ 67:1, 67:2**
- Delay in proceeding against debtor, **§ 67:4**
- Demand and, **§ 67:2**
- Demurrer based on, **§ 67:5**
- Destruction of contract, **§§ 67:3, 67:6**
- Discharge of debtor by operation of law, **§ 67:3**
- Duration of guaranty or bond, **§ 67:2**
- Duration of underlying obligation, **§ 67:4**
- Estoppel and, **§§ 67:3, 67:4**
- Exhaustion of remedies by creditor, **§ 67:2**
- Extension of time, principal obligation, **§ 67:4**
- Failure to accelerate debt, **§ 67:4**
- Fraud
 - By creditor, **§§ 67:3, 67:5**
 - By debtor, **§ 67:3**
- Guarantors, generally, **§ 67:2**
- Illegality of underlying transaction, **§§ 37:3, 37:24, 67:3**
- Impairment of collateral, **§ 67:4**
- Impossibility, **§ 67:3**
- Indemnity and, **§ 67:8**
- Insanity of debtor, **§ 67:3**
- Insurance and, **§ 67:9**
- Interpretation of surety bond or guaranty, **§ 67:2**
- Investigation, duty as to, **§ 67:5**
- Jury instructions as to, **§ 67:5**
- Lack of capacity to contract and, **§ 67:4**
- Lack of consideration defense and, **§§ 67:3, 67:5, 67:6**

EXONERATION OF SURETIES—Cont'd

Letter of credit, §§ 67:2, 67:10
Manner of asserting the defense, § 67:5
Material alteration of obligation, § 67:4
Notice and, § 67:2
Partnerships, § 67:2
Payment, changes as to, § 67:4
Performance and, § 67:3
Personal disability of debtor as defense, § 67:3
Pleading, § 67:5
Reformation, § 53:30
Release affecting right of recourse, §§ 42:7, 67:4, 67:5
Reliance on debtor's defenses, § 67:3
Res judicata defense, § 67:3
Restraints on alienation, § 67:3
Severability, § 67:4
Shareholders as sureties or guarantors, §§ 56:10, 67:4
Statute of frauds and, §§ 53:17, 67:3
Statute of limitations, § 67:3
Statutes incorporated in guaranty, § 67:2
Sureties, generally, § 67:2
Suretyship relation, §§ 67:1, 67:2
Suspension of right to enforce, § 67:4
Termination of bond or guaranty, § 67:2
Trial as to, § 67:5
Usury and, §§ 37:13, 67:3
Waiver, § 67:7
Waiver of rights protecting surety, §§ 47:5, 67:4, 67:6, 67:7

EX PARTE MATTERS

General appearance in, § 3:17

EXPECTATION

Assignment of, § 18:18

EXPERT WITNESSES

Court appointed, immunity of, § 38:133

EXPRESS ASSUMPTION OF RISK

Assumption of the Risk, this index

EXPRESS TRUSTS

Laches in action as to, § 26:7
Statute of limitations, § 25:40

EXTRAORDINARY WRITS

Adequacy of the remedy at law, §§ 31:1, 31:4
Certiorari, this index
Delay in prosecution

Review of decision as to, §§ 28:32, 29:7
Tolling and, § 28:15

INDEX

EXTRAORDINARY WRITS—Cont'd

- Demurrer, **§ 11:9**
- Exhaustion of remedies, review based on, **§ 16:1**
- Laches and, **§ 26:7**
- Law of case, **§ 14:60**
- Mandamus, this index
- Motion to dismiss, **§ 11:9**
- Petition, verification of, **§ 11:9**
- Prohibition, this index
- Res judicata and, **§ 14:13**
- Review, writ of, **§ 31:1**
- Security for costs in action by nonresident, review of order as to, **§ 13:4**
- Statute of limitations, administrative mandamus, **§§ 25:18, 25:32, 25:40**
- Subject matter jurisdiction, **§ 7:2**
- Unclean hands and, **§§ 45:2, 45:12**
- Verification of petition for, **§ 11:9**
- Writ of Review, this index

EXTRINSIC EVIDENCE

- Parol Evidence, this index

EXTRINSIC FRAUD

- Collateral estoppel and, **§ 15:8**
- Res judicata and, **§§ 14:39, 14:44, 14:51, 14:52**
- Vacation of judgment for
 - Laches, **§ 26:5**
 - Res judicata, **§§ 14:39, 14:44**
 - Statute of limitations, **§ 25:21**

EXTRINSIC MISTAKE

- Collateral estoppel and, **§ 15:8**
- Res judicata and, **§§ 14:44, 14:45**
- Vacation of judgment for
 - Laches, **§ 26:5**
 - Res judicata, **§§ 14:44, 14:45**
 - Statute of limitations, **§ 25:21**

EYEGLASSES

- Sale to minors, **§ 52:7**

FAILURE OF CONSIDERATION

- Generally, **§ 57:1 et seq.**
- Answer, allegation as to, **§ 57:4**
- Assignees and, **§ 57:1**
- Bilateral contracts and, **§ 57:3**
- Burden of proof, **§ 57:5**
- Commercial frustration, **§§ 57:8, 58:1 to 58:5**
- Contract continues until asserted, **§ 57:1**
- Contracts subject to defense, **§ 57:1**
- Definition, **§§ 57:1, 62:8**

FAILURE OF CONSIDERATION—Cont'd

- Delay in performance, **§ 57:2**
- Employment contracts, **§ 57:1**
- Estoppel to assert defense, **§ 57:6**
- Forms, this index
- Frustration of purpose and, **§§ 57:8, 58:1**
- Holders in due course, **§ 57:1**
- Inadequacy of consideration and, **§§ 56:16, 57:7**
- Jury instructions as to, **§ 57:4**
- Lack of consideration and, **§§ 56:16, 57:7**
- Leases and, **§ 57:1**
- Manner of asserting defense, **§ 57:4**
- Materiality, **§§ 57:2, 62:11**
- Parol evidence as to, **§ 57:4**
- Partial or total failure, **§§ 57:3, 57:4, 62:9**
- Pleading, **§§ 57:4, 62:8**
- Reason for failure immaterial, **§ 57:1**
- Release, **§§ 42:5, 42:13**
- Rescission
 - Generally, **§§ 57:3, 62:8 to 62:11**
 - Notice of, **§ 57:3**
 - Restoration of status quo, **§§ 62:1, 62:27**
- Time of failure, **§§ 57:1, 62:11**
- Time of the essence clauses, **§ 57:2**
- Waiver, **§ 57:6**
- Warranties, **§ 57:1**

FAILURE TO COMMENCE TRIAL

- Delay in Prosecution, this index

FAILURE TO EXHAUST REMEDIES

- Exhaustion of Remedies, this index

FAILURE TO MITIGATE DAMAGES

- Generally, **§ 36:1 et seq.**
- Abortion, effect of failure to obtain, **§ 36:4**
- Adoption, effect of failure to obtain, **§ 36:4**
- Answer, allegation as to, **§ 36:8**
- Appeal, **§§ 36:8, 36:9**
- Avoidable consequences doctrine, **§ 36:1**
- Breach of contract, **§ 36:2**
- Burden of mitigation, **§ 36:2**
- Burden of proof, **§§ 36:6, 36:10**
- Charitable benefits and, **§ 36:3**
- Collateral source rule, **§ 36:3**
- Comparable employment, **§ 36:5**
- Comparative fault and, **§ 48:19**
- Conversion actions, **§ 36:7**
- Cost, recovery of, **§ 36:2**

INDEX

FAILURE TO MITIGATE DAMAGES—Cont'd

Damages, § 36:1
Defamation, proof of mitigation, § 51:6
Diligence and, §§ 36:2, 36:6
Economic injury, § 36:6
Election not to present evidence, § 36:9
Employment and, § 36:5
Expense and burden of mitigation, §§ 36:2, 36:6
Financial hardship and, §§ 36:2, 36:5
Flooding, § 36:6
Forms, this index
General denial, effect of, § 36:8
Good faith, § 36:2
Illness, § 36:5
Imprisonment, § 36:5
Insurance, § 36:3
Jury instructions, § 36:8
Landlord-tenant relations, § 36:6
Leases, § 36:6
Loss of consortium and, § 36:4
Loss of use, § 36:6
Manufacturer, mitigation of damages, § 36:6
Medical treatment, § 36:4
Personal injury damages and, § 36:4
Pleading, § 36:8
Pregnancy, effect of failure to terminate, § 36:4
Proof of damages, §§ 36:1, 36:8
Property damage, §§ 36:6, 36:7
Public benefits paid by government entity, § 36:3
Public employees, § 36:5
Reasonableness of efforts, §§ 36:2, 36:8
Religious beliefs and, § 36:4
Remarriage and, § 36:4
Rent, recovery of, § 36:6
Repair and, § 36:6
Replacement, § 36:6
Seatbelts, § 36:4
Seller, mitigation of damages, § 36:6
Settlement and, § 36:3
Surgery, § 36:4
Unemployment benefits, § 36:5
Waiver, § 36:9
Workers' compensation benefits, § 36:3
Wrongful death, § 36:4
Wrongful termination, § 36:5

FAILURE TO PROSECUTE

Delay in Prosecution, this index

FAILURE TO READ

Generally, **§ 40:4**
Arbitration clause, **§ 68:1**
Contract, §§ **40:4, 68:1**
Jury instruction as to, **§ 40:4**
Release, §§ **42:1, 42:4**

FAILURE TO SERVE AND RETURN SUMMONS

Service of Process, this index

FAILURE TO STATE A CAUSE OF ACTION

Generally, **§ 9:1 et seq.**
Adequacy of remedy at law, **§ 31:10**
Amendment
 To conform to proof, **§ 9:6**
 To state, §§ **9:4, 9:6**
Answer, assertion in, §§ **9:1, 9:3**
Appellate review and, §§ **9:6, 9:7**
Burden of proof, §§ **9:6, 9:7**
Cause of Action, this index
Common counts and, **§ 9:2**
Defenses raised by, **§ 1:1**
Demurrer based on
 Generally, §§ **9:3, 9:4**
 Affidavits and declarations, consideration of, **§ 9:4**
 Exhibits, consideration of, **§ 9:4**
 Judicial notice and, §§ **1:10, 9:4**
 Leave to amend and, §§ **9:4, 9:6**
Difficulty of proof irrelevant, **§ 9:4**
Forms, this index
Immunity, **§ 9:1**
Lack of capacity to sue and, §§ **9:1, 18:1**
Leave to amend and, §§ **9:4, 9:6**
Liberal construction of pleadings as to, **§ 9:4**
Motions as to
 Dismissal, **§ 9:4**
 Judgment on the pleadings, **§ 9:4**
 New trial, **§ 9:5**
 Summary judgment, **§ 9:4**
Multiple defendants and, §§ **9:1, 9:4**
New trial motion, assertion in, **§ 9:6**
Quiet title action, **§ 9:1**
Res judicata and dismissal or judgment on demurrer, **§ 14:8**
Separate treatment of parties, §§ **9:1, 9:4**
Standing to assert defense, §§ **9:1, 19:4, 19:13, 19:15**
Statute of limitations defense and, **§ 25:78**
Time of asserting defense, **§ 9:8**
Trial, assertion during, **§ 9:5**

INDEX

FAILURE TO STATE A CAUSE OF ACTION—Cont'd

Uncertainty of pleading and, §§ 10:1, 10:18

Waiver of defense, §§ 1:10, 9:1, 9:8

FAILURE TO SUBSCRIBE

Statute of frauds, § 53:3

Verification of pleadings and, § 11:30

FAILURE TO VERIFY

Verification Requirements, this index

FAILURE TO WARN

Dangerous condition on public property, § 38:111

Design defects of public construction, § 38:113

Earthquakes, § 38:71

Hazardous recreational activities, § 38:112

Misrepresentation as to license or permit, § 38:105

Psychotherapists, §§ 38:54, 38:95

Release of dangerous prisoner, §§ 38:75, 38:88

Traffic signals, § 38:118

FAIR EMPLOYMENT AND HOUSING ACT

Government claims filing requirement, § 12:21

FAIR RESPONSIBILITY ACT OF 1986

Comparative fault, § 43:2

Non-economic damages, §§ 43:2, 48:5

Personal injury, § 43:2

Property damage, § 43:2

Wrongful death, § 43:2

FALSE ADVERTISING

Venue, § 5:36

FALSE ARREST AND FALSE IMPRISONMENT

Comparative fault, § 48:16

Government claims filing requirement, § 12:21

Immunity and, §§ 38:17, 38:78 to 38:80

Joinder of plaintiffs falsely arrested, § 20:2

Statute of limitations, §§ 25:25, 25:54

Survival of cause of action, § 17:12

Tort Claims Act and, § 38:76

Venue, § 5:34

FALSE CLAIMS ACT

Another action pending, §§ 14:51, 23:1, 23:2

Collateral estoppel, § 15:7

Exhaustion of administrative remedies, § 16:1

Notice requirement, § 12:6

Statute of limitations, § 25:21

FAMILY CONCILIATION COURT ACT

Subject matter jurisdiction, **§ 7:2**

FAMILY LAW PROCEEDINGS

Adequacy of remedy at law, **§ 31:2**

Adoption, this index

Child Custody, this index

Child Support, this index

Death, effect on dissolution action, **§ 17:7**

Delay in prosecution and, **§ 28:2**

Dissolution of Marriage, this index

Domestic violence, **§ 38:76**

Equity, obligations as to, **§ 35:1**

Injunctive relief, **§ 31:2**

Mediation, immunity of mediator, **§ 38:133**

Minors, this index

Obligation to do equity in, **§ 35:1**

Restraining order as to property transfers, **§ 31:2**

Spouses, this index

Subject matter jurisdiction and, §§ 7:2, 7:3

Unclean hands, §§ 45:1, 45:10, 45:11

FAMILY RELATIONSHIPS

Consideration and, **§ 56:2**

Imputation of negligence within, §§ 48:9, 48:10

Minors, this index

Parents, this index

Spouses, this index

Undue influence, §§ 46:4 to 46:7

FARM LABOR CONTRACTORS

Licensing requirements as to, §§ 39:12, 39:34

Service of process on, **§ 2:2**

FAST TRACK

Trial Court Delay Reduction Act, this index

FEDERAL ARBITRATION ACT

Generally, §§ 68:1 to 68:3

FEDERAL CIVIL RIGHTS ACT

Government claim filing requirement inapplicable, **§ 12:21**

FEDERAL COURT

Pendent claims, equitable tolling, **§ 25:70**

Removal of actions, service of process, time, **§ 3:10**

Res judicata effect of judgments, §§ 14:6, 14:17, 14:39

Service and return requirements, application in, **§ 3:8**

FEDERAL EMPLOYERS' LIABILITY ACT

Comparative fault and, **§ 48:16**

Subject matter jurisdiction, preemption by, **§ 7:19**

INDEX

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Immunity, **§ 38:22**

FEDERAL LAW

Exhaustion of federal remedies, **§§ 16:1, 16:18**

Finality for res judicata, **§§ 14:6, 14:17**

Laches and, **§ 26:9**

Preemption, **§ 7:19**

Res judicata effect of judgments based on, **§§ 14:6, 14:7, 14:39**

Service and return requirements, application under, **§ 3:7**

Venue and, **§ 5:1**

FEDERAL LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Comparative fault and, **§§ 48:16, 48:24**

FEDERAL PARENTAL KIDNAPPING ACT

Subject matter jurisdiction and, **§ 7:3**

FEDERAL TORT CLAIMS ACT

Comparative fault and, **§ 48:16**

Immunity under, **§§ 38:67, 38:68, 38:75, 38:105**

FELONY

Actions arising from

Collateral estoppel and, **§§ 15:2, 15:7**

Punitive damages, recovery of after death of defendant, **§ 17:28**

Res judicata and, **§ 14:19**

Statute of limitations, **§ 25:27**

Venue, **§ 5:20**

Criminal Prosecution, this index

Damages arising from, immunity, **§ 38:31**

Deprivation of civil rights by, **§ 52:35**

Disclosure of as defamation, **§ 51:1**

FETUS

Abortion, this index

Consent and, **§ 32:4**

Guardian ad litem for, **§ 18:7**

Injuries to

Prebirth injuries, cause of action for, **§ 18:7**

Statute of limitations, **§§ 25:38, 25:53**

Wrongful death of, cause of action for, **§ 18:7**

FICTITIOUS BUSINESS NAMES

Generally, **§ 39:36**

Res judicata and, failure to satisfy fictitious name requirements, **§ 14:8**

FICTITIOUS DEFENDANTS

Commencement of action as to, **§§ 3:3, 25:77**

Delay in prosecution and, **§ 28:18**

Delay in service and return of summons and, **§§ 3:3, 3:12**

FICTITIOUS DEFENDANTS—Cont'd

General appearance by, **§ 3:12**
Government Tort Claims Act, this index
Mechanics' liens, **§ 12:12**
Relation back, statute of limitations, **§ 25:77**
Service and return requirements, **§§ 3:3, 3:12**
Statute of limitations and, **§ 25:77**
Summons contents as to, **§ 2:2**

FIDUCIARIES

Accrual of cause of action against, **§ 25:65**
Adequacy of consideration, **§ 56:4**
Agents, **§ 46:2**
Agreements violating obligations of, enforceability of, **§ 37:22**
Attorneys as, **§§ 46:2, 46:3, 61:6**
Breach of duty, statute of limitations, **§§ 25:42, 25:70**
Breach of Fiduciary Duty, this index
Brokers, **§ 46:2**
Burden of proof, **§§ 46:2, 46:3, 46:5, 46:6, 46:9, 46:14**
Charities, **§ 46:2**
Children, **§§ 46:2, 46:4**
Collection agencies, **§ 46:2**
Confidential Relationships, this index
Corporate officers, directors, and attorneys, **§ 46:2**
Discovery rule, statute of limitations, **§§ 25:5, 25:12, 25:21, 25:35 to 25:37, 25:65**
Exculpatory provisions and, **§ 37:11**
Financial advisers, **§ 46:2**
Friends, **§ 46:3**
Illegality and, **§§ 37:11, 37:22**
Immunity, **§§ 38:28, 38:84**
Joint venturers, **§ 46:2**
Ministers, **§§ 46:2, 46:3**
Mistake induced by, **§ 40:4**
Nurses, **§ 46:2**
Parents, **§ 46:2**
Partners, **§ 46:2**
Physicians, **§§ 46:2, 61:6**
Prisoners, **§ 38:84**
Release of, **§§ 42:2, 42:3, 42:13**
Setoff and, **§ 44:4**
Spouses, **§ 46:2**
Statute of limitations, **§§ 25:12, 25:21, 25:35, 25:36, 25:52, 25:65**
Unconscionability, this index
Undue influence and, **§§ 46:2 to 46:9, 56:4**
Venue in actions against, **§ 5:29**

FINALITY OF JUDGMENT

Generally, **§§ 14:6, 15:5**

INDEX

FINALITY OF JUDGMENT—Cont'd

Collateral estoppel and, **§ 15:5**
Federal judgments, **§§ 14:6, 14:17**
Judgments, **§ 14:7**
Res judicata, **§§ 14:6 to 14:10, 14:23**

FINANCIAL HARDSHIP

Adequacy of remedy at law, **§ 31:7**
Bankruptcy, this index
Discretionary dismissal and, **§ 29:3**
Duress, **§§ 33:1, 33:7**
Failure to mitigate, **§§ 36:2, 36:5, 36:8**
Forum non conveniens, consideration as to, **§ 6:10**
Laches and, **§ 26:4**
Security for costs, **§§ 13:5, 13:6, 13:8, 13:10**
Venue, **§ 6:10**

FINANCIAL INSTITUTIONS

Conducting intrastate business and, **§ 39:37**
Correction of statements of account, **§ 66:2**
Credit unions, immunity of, **§ 38:66**
Debt, this index
Deposit in as payment, **§ 69:4**
Exculpatory clause, **§ 42:2**
Failure, causing injury to prisoner, **§ 38:84**
Forbidden names, **§ 39:36**
Foreign lending institutions, **§ 39:37**
Forgery and, **§ 66:2**
Illegality, **§§ 37:24, 37:27**
Loans, this index
Loans to minors, **§ 52:7**
Minors' accounts, **§§ 52:12, 52:16**
Release, public policy as to, **§ 42:2**
Setoff by, **§ 44:3**
Statement of account, **§ 66:2**
Undue influence and, **§ 46:3**

FINDERS

Fee agreements by, **§ 53:10**
Licensing requirements and, **§§ 39:26, 39:32**
Real estate, **§§ 39:26, 53:10**
Securities, **§ 39:32**
Statute of frauds, **§ 53:10**
Usury, finders fee and, **§ 37:13**

FINE ART

Gross negligence as to, **§ 48:23**
Statute of frauds and sale of, **§ 53:23**

FIRES AND FIREFIGHTING

Act of God as, §§ 30:3, 30:12, 30:20
Contracts for fire protection, § 38:90
Department of Forestry, § 38:90
Destruction of documents by, § 53:7
Doctrine of necessity, § 49:8
Emergency and, § 49:1
Equipment, § 38:92
Firefighter's rule, § 48:25
Fire protection districts, §§ 38:51, 38:90
Immunity and
 Generally, §§ 38:53, 38:89
 Child abuse reporting, § 38:43
 Contracts for fire protection, § 38:90
 Discretionary decisions and, § 38:91
 Driving to scene of fire, § 38:92
 Emergency medical services, § 38:49
 Emergency services by fire fighters, §§ 38:49, 38:51
 Entry on property to fight, § 38:60
 Equipment, §§ 38:91, 38:92
 Failure to provide fire protection, § 38:91
 Flammable liquids, transportation of, § 38:70
 Personnel, §§ 38:91, 38:92
 School fire drills, § 38:53
 Smoke detectors, § 38:5
 Transportation of fire victims, § 38:93
 Water suppliers, § 38:93
Impossibility, § 60:2
Limitation on cause of action for firefighting, § 48:25
Quality of, § 38:92
Rescue doctrine and, §§ 38:43, 48:25
School fire drills, § 38:53
Smoke detectors, § 38:5
Transportation of one injured by fire, § 38:93
Water suppliers, § 38:93

FIRST AMENDMENT

Campaign advertising and, § 51:4
Defamation, truth as defense, §§ 51:1, 51:3
Free press, § 41:10
Motion to strike actions arising from exercise of rights, § 12:1
News Media, this index
Newspapers, this index
Personal jurisdiction and, § 4:23
Privilege based on, §§ 41:10, 41:12, 51:1, 51:3

FISH

Fish and Game investigators, immunity, § 38:135

INDEX

FISH—Cont'd

Hatcheries, immunity, **§ 38:59**
Public Property Immunities, this index

FIVE YEAR RULE

Delay in Prosecution, this index

FLIERS

Service of process on nonresidents, **§§ 2:8, 2:15**

FLOODING

Act of God as, **§§ 30:3, 30:6, 30:18, 30:20**
Common enemy doctrine, **§§ 49:8, 49:9**
Doctrine of necessity, **§ 49:8**
Drugs without prescription during, **§ 38:53**
Emergency and
 Generally, **§§ 49:1, 49:9**
 Repairs to public roads, **§ 38:116**
Failure to mitigate, **§ 36:6**
Flood control activities, **§§ 38:116, 38:119, 38:120, 49:1, 49:8, 49:9**
Inverse condemnation, **§ 49:9**
Misrepresentation, **§ 38:105**
Reclamation Board, **§ 38:120**
Reclamation Districts, **§§ 38:119, 38:122**

FOOD

Distribution to elderly, **§ 38:27**
Donations, **§ 38:27**
Food, drug and cosmetic laws, immunity under, **§ 38:21**
Food banks, immunity, **§ 38:27**
Gleaning, **§ 38:27**
Immunity, **§ 38:27**

FOOD, DRUG AND COSMETIC LAW

Immunity, **§ 38:21**

FORBEARANCE

Consideration, this index

FORBIDDEN CAUSES OF ACTION

Generally, **§ 38:37**

FORBIDDEN NAMES

Generally, **§ 39:36**

FORCE MAJEURE

Acts of God, this index

FORCE OF NATURE

Acts of God, this index

FORCIBLE ENTRY AND DETAINER

Verification of pleadings as to, **§ 11:10**

FORECLOSURE

Anti-deficiency legislation
Generally, **§ 44:3**
Effect on guarantor or surety, **§ 67:3**
Waiver, **§ 47:13**
Consultants, **§§ 39:26, 68:2**
Deficiency Judgments, this index
Duress as defense, **§§ 33:3, 33:7**
Election of remedies and, **§ 24:4**
Full credit bid, **§ 69:15**
Home Equity Sales Act, **§ 47:13**
Home solicitation contracts and, **§§ 30:3, 47:13, 62:1, 62:23**
Notice of sale of collateral, **§ 12:8**
One action rule, **§ 44:3**
Parties, **§ 21:2**
Personal property collateral, **§ 12:8**
Privilege, **§§ 41:2, 41:7**
Rescission and, **§ 62:23**
Service of process as to, **§§ 2:2, 2:4**
Setoff and, **§ 44:3**
Statute of limitations, **§ 25:12**
Unconscionability and contracts as to property in, **§ 55:3**
Usury, **§ 37:13**
Venue, **§§ 5:4, 5:10**

FOREIGN BANKS

Conducting intrastate business in California, **§ 39:37**
Service of process on, **§ 2:8**

FOREIGN CORPORATIONS

Agent for service of process on, **§ 2:8**
Answer, allegation as to failure to qualify to do business in California, **§ 39:37**
Arbitration proceedings, **§ 39:37**
Conducting intrastate business and, **§ 39:37**
Corporations, this index
Definition, **§§ 39:37, 39:38**
Failure to file statement, **§ 39:38**
Failure to pay taxes, **§ 39:38**
Filing statement, **§ 39:38**
Forfeiture, **§ 39:38**
Immunity and, **§ 38:35**
Personal jurisdiction over, **§ 39:37**
Pleas in abatement as to, **§§ 1:2, 39:37**
Qualification to do business in California, **§§ 1:2, 39:37**
Security for costs in action by, **§ 13:4**
Service of process on, **§§ 2:8, 2:13, 39:37**
Statute of limitations as to, tolling and, **§ 25:61**
Suspension of powers, **§ 39:38**

INDEX

FOREIGN CORPORATIONS—Cont'd

Taxes, **§ 39:38**

Venue, **§ 39:37**

FOREIGN JUDGMENTS

Gambling debts, enforceability of, **§ 37:20**

Res judicata and, **§§ 14:39, 14:42**

Sister State and Foreign Money Judgments Recognition Act, **§ 14:39**

Statute of limitations, **§§ 25:2, 25:74**

Uniform Foreign Money-Judgments Recognition Act, **§ 14:39**

Venue, **§ 5:32**

FOREIGN LENDING INSTITUTIONS

Financial Institutions, this index

Qualification to conduct intrastate business, **§ 39:37**

FOREIGN PERSONAL REPRESENTATIVE

Capacity to sue, **§§ 18:12, 18:38**

FOREIGN SOVEREIGN IMMUNITIES ACT

Generally, **§§ 38:75, 38:129**

FOREIGN STATES

Generally, **§ 14:39**

Concurrent jurisdiction and, **§ 14:42**

Foreign Sovereign Immunities Act, **§§ 38:75, 38:129**

Intervention, res judicata, **§ 14:42**

Res judicata and, **§§ 14:39, 14:42**

Sister State and Foreign Money Judgments Recognition Act, **§ 14:39**

Sovereign Immunity, this index

Uniform Foreign Money-Judgments Recognition Act, **§ 14:39**

FORFEITURES

Bail, **§§ 7:10, 25:24, 59:4**

Corporate status and, **§§ 4:24, 18:17**

Corporations, this index

Death of defendant, **§ 17:27**

Disfavored status, **§§ 37:6, 47:1**

Illegality of contract and, **§ 37:6**

Personal jurisdiction and, **§ 4:24**

Service of process as to, **§§ 2:2, 2:7**

Statute of limitations

Generally, **§§ 25:18, 25:24**

Directors and shareholders, **§ 25:23**

Unclean hands and, **§ 45:8**

Unlawful detainer, **§ 45:8**

Venue, **§ 5:20**

Waiver, **§ 47:20**

Waiver and, **§ 47:1**

FORGERY

Generally, §§ **66:1, 66:2**

Statute of limitations, forged check, § **25:28**

FORMS

Absence of settling party, § **43:6**

Allocation of payment, § **69:11**

Alteration, § **66:8**

Answer, allegations of affirmative defenses

Abandonment of contract, § **61:7**

Accord and satisfaction, § **63:7**

Action, another action pending, § **23:4**

Act of God, § **30:15**

Adequacy of remedy at law, § **31:8**

Administrative remedies, exhaustion of, § **16:10**

Adverse decision not yet made, § **27:2**

Adverse possession, statute of limitations and, § **25:11**

Advice of counsel, § **41:30**

Agency, equal dignities rule, § **54:7**

Another action pending, § **23:4**

Arbitration agreement, breach of, § **68:7**

Assumption of risk, § **48:24**

Bailment, demand for return of deposited property, § **12:16**

Breach of contract for sale of goods and fund transfers, notice of, § **12:11**

Capacity to sue, lack of

Assignee may not sue, § **18:36**

Corporate plaintiff is not qualified to sue, § **18:36**

Corporation may not appear in pro per, § **18:14**

Lack of standing to be sued, § **18:41**

Misnomer as to party, § **18:30**

Nonentity as party, § **18:30**

Plaintiff's incompetency, § **18:36**

Plaintiff's lack of authority, § **18:36**

Plaintiff's lack of capacity, § **18:36**

Plaintiff's minority, § **18:36**

Subrogee may not sue, § **18:36**

Cause of action, failure to state, § **9:3**

Collateral estoppel, § **15:12**

Comparative fault, § **48:17**

Consent, § **32:6**

Consideration

Failure of, § **57:4**

Lack or inadequacy of, § **56:13**

Consumer class actions, notice and demand in, § **12:18**

Contractors license, lack of, § **39:18**

Contracts

Abandonment of, § **61:7**

Alteration of, § **66:8**

INDEX

FORMS—Cont'd

- Answer, allegations of affirmative defenses—Cont'd
- Contracts—Cont'd
 - Arbitration agreement, breach of, **§ 68:7**
 - Capacity to contract, lack of, **§ 52:36**
 - Consideration, defined, **§§ 56:13, 63:9**
 - Consideration, failure of, **§ 57:4**
 - Consideration, lack of, **§§ 56:13, 63:9**
 - Contractual limitations period, **§ 25:41**
 - Demand for performance, **§ 69:11**
 - Destruction of, **§ 66:8**
 - Excuse for nonperformance, **§ 59:5**
 - Failure to demand performance, **§ 12:13**
 - Frustration of purpose, **§ 58:2**
 - Gambling contract, **§ 37:28**
 - Illegality, **§ 37:28**
 - Impossibility, **§ 60:13**
 - Incorporation by reference, **§ 53:37**
 - Interpretation, **§ 53:42**
 - Modification of, **§ 65:8**
 - Novation, **§ 64:10**
 - Payment, **§ 69:10**
 - Prevention of performance, **§ 59:5**
 - Rescission, **§§ 12:7, 62:25, 62:32**
 - Risks contemplated by parties, **§ 60:15**
 - Statute of frauds, **§ 53:35**
 - Time for performance, **§ 69:11**
 - Unsound mind and, **§ 52:36**
- Conversion, demand for return of converted property, **§ 12:17**
- Corporation
 - Appearance in pro per improper, **§ 18:14**
 - Foreign corporation, not qualified to do business in California, **§ 39:37**
 - Not qualified to sue, **§ 18:36**
- Debt is not due, **§ 27:2**
- Defamation
 - Demand for correction or retraction, **§ 12:14**
 - Truth as defense to action for, **§ 51:6**
- Deficiency judgment, defects in notice as to foreclosure sale, **§ 12:8**
- Delay in prosecution, **§ 29:4**
- Demand requirements
 - Bailment, demand for return of deposited property, **§ 12:16**
 - Consumer class actions, demand in, **§ 12:18**
 - Contract, failure to demand performance, **§ 12:13**
 - Conversion, demand for return of converted property, **§ 12:17**
 - Defamation, demand for correction or retraction, **§ 12:14**
 - Failure to make demand, **§ 12:13**
 - Notice of consumer class action not provided, **§ 12:18**
 - Return of property, justified refusal to return, **§ 12:16**

CALIFORNIA AFFIRMATIVE DEFENSES

FORMS—Cont'd

Answer, allegations of affirmative defenses—Cont'd
Demand requirements—Cont'd
Shareholder's derivative action, defective demand prior to, **§ 12:15**
Election of remedies, **§ 24:11**
Emergency doctrine, **§ 49:2**
Equal dignities rule, **§ 54:7**
Equity, failure to do equity, **§ 35:2**
Estoppel, **§ 34:10**
Exhaustion of administrative remedies, **§ 16:10**
Exoneration of surety, **§ 67:5**
Failure
Of consideration, **§ 57:4**
To do equity, **§ 35:2**
To have contractor's license, **§ 39:18**
To make timely claim, **§ 12:28**
To mitigate damages, **§ 36:8**
To state cause of action, **§ 9:3**
Fire as an act of God, **§ 30:15**
Frustration of purpose, **§ 58:2**
Fund transfers, notice of breach, **§ 12:11**
Government Tort Claims Act, failure to make timely or proper claim, **§ 12:28**
Immunity, **§ 38:140**
Impossibility, **§ 60:13**
Incompetency of plaintiff, **§ 18:36**
Incorporation from cross-complaint, **§ 1:5**
Insurance loss, notice of, **§ 12:10**
Judgment, prior judgment invalid for lack of personal jurisdiction, **§ 4:31**
Jurisdiction
Lack of personal jurisdiction, invalid prior judgment, **§ 4:31**
Lack of subject matter jurisdiction, **§ 7:11**
Laches, **§ 26:15**
Lack of
Consideration, **§ 56:13**
Personal jurisdiction, invalid prior judgment, **§ 4:31**
Prosecution, **§ 29:4**
Standing, **§ 18:41**
Subject matter jurisdiction, **§ 7:11**
Libel, demand for correction or retraction, **§ 12:14**
License lacking
Architect's license, **§ 39:19**
Contractor's license, **§ 39:18**
Real estate license, **§ 39:28**
Minority of plaintiff, **§ 18:36**
Misjoinder of defendants, **§ 20:7**
Misjoinder of plaintiffs, **§ 20:7**
Mistake, **§ 40:11**
Mitigation of damages, **§ 36:8**

INDEX

FORMS—Cont'd

- Answer, allegations of affirmative defenses—Cont'd
 - Modification of contract, § **65:8**
- Nonjoinder of parties
 - Nonjoinder of defendants, § **21:3**
 - Nonjoinder of plaintiffs, § **21:3**
- Notice requirements
 - Consumer class actions, notice in, § **12:18**
 - Deficiency judgment, defects in notice as to foreclosure sale, § **12:8**
 - Fund transfers, notice of breach, § **12:11**
 - Insurance loss, notice of, § **12:10**
 - Rescission, §§ **12:7, 62:25**
 - Sale of goods, notice of breach, § **12:11**
- Novation, § **64:10**
- Parties
 - Capacity to sue, lack of, §§ **18:14, 18:18, 18:30, 18:36, 18:41**
 - Misjoinder, § **20:7**
 - Nonjoinder, § **21:3**
 - Real party in interest, absence of, § **19:14**
 - Standing, lack of, § **19:14**
- Payment, § **69:10**
- Prematurity of suit, § **27:1**
- Prior judgment invalid for lack of personal jurisdiction, § **4:31**
- Real party in interest, absence of, § **19:14**
- Release, § **42:8**
- Rescission, §§ **12:7, 62:25, 62:32**
- Res judicata bars action, § **14:54**
- Sale of goods, notice of breach, § **12:11**
- Self-defense, § **50:9**
- Setoff and recoupment, § **44:7**
- Settlement, § **43:6**
- Shareholder's derivative action, demand prior to, § **12:15**
- Slander, demand for correction or retraction, § **12:14**
- Stare decisis bars action, § **14:62**
- Statute of frauds, § **53:35**
- Statute of limitations
 - Adverse possession, § **25:11**
 - Contractual limitations period, § **25:41**
 - Facts establish bar, § **25:78**
 - Failure to satisfy Doe pleading requirements, § **25:77**
 - Law governing limitation period, § **25:2**
 - Statute of limitation bars action, § **25:78**
- Subject matter jurisdiction, lack of, § **7:11**
- Surety, exoneration of, § **67:5**
- Truth as defense to defamation action, § **51:6**
- Unclean hands, § **45:15**
- Unconscionability, § **55:5**

FORMS—Cont'd

- Answer, allegations of affirmative defenses—Cont'd
 - Undue influence, § **46:13**
 - Unjust enrichment, § **55:5**
 - Waiver of claim, § **47:14**
- Breach of fiduciary duty, § **46:13**
- Burden on failure to mitigate, § **36:8**
- Complaint
 - Adequacy of consideration, § **56:13**
 - Administrative remedies, excuse for not exhausting, § **16:10**
 - Agency, ratification of agent's acts, § **54:7**
 - Assignee as plaintiff, § **18:18**
 - Capacity to sue
 - Action by assignee, § **18:18**
 - Corporation qualified to sue, § **18:17**
 - Choice of forum clause, § **4:5**
 - Choice of law clause, § **4:5**
 - Contractor's license, possession of, § **39:18**
- Contracts
 - Choice of forum clause, § **4:5**
 - Choice of law clause, § **4:5**
 - Consideration adequate, § **56:13**
 - Performance of, § **59:5**
 - Prevention of performance by defendant, § **59:5**
- Corporation qualified to sue, § **18:17**
- Defamation, service of demand for correction or retraction, § **12:14**
- Delay, excuse for
 - Discovery of cause of action, § **25:21**
 - Laches, § **26:15**
- Demand requirements
 - Bailment, demand for return of deposited property, § **12:16**
 - Conversion, demand for return of converted property, § **12:17**
 - Defamation, service of demand for correction or retraction, § **12:14**
 - Shareholder's derivative action, demand prior to, § **12:15**
- Emergency doctrine, § **49:2**
- Exhaustion of administrative remedies inapplicable, § **16:10**
- Fictitious business name requirements, satisfaction of, § **39:36**
- Government Tort Claims Act, satisfaction of claim requirement, § **12:20**
- Justification, § **41:21**
- Libel and slander, service of demand for correction or retraction, § **12:14**
- Licensing requirement compliance
 - Contractor's license, § **39:18**
 - Real estate license, § **39:28**
- Nonjoinder of parties, explanation for, § **21:3**
- Notice requirements
 - Collateral, notice as to foreclosure on, § **12:8**
 - Insurance loss, notice of, § **12:10**

INDEX

FORMS—Cont'd

Complaint—Cont'd

 Notice requirements—Cont'd

 Rescission, allegation as to, § 12:7

 Performance of contract, § 59:5

 Privilege

 Advice of counsel, § 41:30

 General allegations, § 41:21

 Real estate license requirements, satisfaction of, § 39:28

 Real party in interest, absence of, § 19:14

 Rescission

 Contract rescinded, § 62:32

 Notice of given, § 12:7

 Notice of not given, § 62:25

 Revival by acknowledgment or payment, § 25:46

 Satisfaction of claim requirement, § 12:20

 Shareholder's derivative action, demand prior to, § 12:15

 Slander, demand for correction or retraction, § 12:14

 Standing, plaintiff's lack of, § 19:14

 Statute of limitations

 Delayed discovery, § 25:21

 Estoppel to assert statute, § 25:73

 Fraudulent concealment, § 25:72

 Revival by acknowledgment or payment, § 25:46

 Tolling by repair efforts, § 25:47

 Defenses limited to certain defendants or causes of action, § 1:5

 Effect of illegality, § 37:28

 Effect of presumption, § 1:9

 Equal dignities rule, § 54:7

 Frustration of purpose, § 58:2

 Imputation of knowledge, § 54:7

 Incorporation by reference, § 53:37

 Intent required for waiver, § 47:15

 Jury instructions

 Abandonment

 Contract, § 61:7

 Property right, § 61:13

 Trade name, § 61:13

 Absence of settling party, § 43:6

 Accord and satisfaction, § 63:9

 Act of God, § 30:15

 Advice of counsel, § 41:32

 Agency

 Authority of agent, § 54:7

 Definitions, § 54:7

 Equal dignities rule, § 54:7

 Imputation of agent's knowledge to principal, § 54:7

 Allocation of payment, § 69:11

FORMS—Cont'd

- Jury instructions—Cont'd
 - Alteration, **§ 66:8**
 - Breach of fiduciary duty, **§ 46:13**
 - Burden of proof, **§§ 1:5, 1:6, 1:9**
 - Burden on failure to mitigate, **§ 36:8**
 - Competitor's privilege, **§ 41:20**
 - Contracts
 - Abandonment of contract, **§ 61:7**
 - Alteration of, **§ 66:8**
 - Capacity to contract, lack of, **§ 52:36**
 - Conditions, **§ 59:5**
 - Consideration, defined, **§§ 56:13, 63:9**
 - Consideration, failure of, **§ 57:4**
 - Consideration, lack of, **§§ 56:13, 63:9**
 - Demand for performance, **§ 69:11**
 - Excuse for nonperformance, **§ 59:5**
 - Frustration of purpose, **§ 58:2**
 - Illegality, **§ 37:28**
 - Impossibility, **§ 60:15**
 - Incorporation by reference, **§ 53:37**
 - Interpretation, **§ 53:42**
 - Modification of, **§ 65:8**
 - Novation, **§ 64:10**
 - Parol evidence and contract interpretation, **§ 53:42**
 - Payment, **§§ 69:8, 69:11**
 - Performance, **§§ 47:9, 47:10, 59:5**
 - Prevention of performance, **§ 59:5**
 - Risks contemplated by parties, **§ 60:15**
 - Statute of frauds, **§ 53:37**
 - Time for performance, **§ 69:11**
 - Unsound mind and, **§ 52:36**
 - Waiver of objection to performance, **§ 47:9**
 - Waiver of performance, **§ 47:10**
 - Contributory negligence, **§ 48:19**
 - Defenses limited to certain defendants or causes of action, **§ 1:5**
 - Duress, **§ 33:8**
 - Economic duress, **§ 33:8**
 - Effect of defendant's negligence, **§ 30:15**
 - Effect of illegality, **§ 37:28**
 - Effect of presumption, **§ 1:9**
 - Emergency, **§§ 49:1, 49:6**
 - Employment, failure to mitigate damages, **§ 36:8**
 - Equal dignities rule, **§ 54:7**
 - Estoppel, **§ 34:10**
 - Exoneration of surety, **§ 67:5**

INDEX

FORMS—Cont'd

- Jury instructions—Cont'd
 - Failure
 - Of consideration, **§ 57:4**
 - To disclose financial condition, **§ 67:5**
 - To mitigate damages, **§ 36:8**
 - To read document, **§ 40:4**
 - Fiduciary duty, breach of, **§ 46:13**
 - Frustration of purpose, **§ 58:2**
 - Illegality, **§ 37:28**
 - Impossibility, **§ 60:15**
 - Imputation of knowledge, **§ 54:7**
 - Incorporation by reference, **§ 53:37**
 - Intent required for waiver, **§ 47:15**
 - Introductory instructions, **§ 1:5**
 - Investigation, no duty in plaintiff to make, **§ 67:5**
 - Justification, **§ 41:21**
 - Lack of consideration, **§ 56:13**
 - Limitation of defense to certain defendants or causes of action, **§ 1:5**
 - Material alteration, **§ 66:8**
 - Mistake, **§§ 40:4, 40:11**
 - Mitigation of damages, **§ 36:8**
 - Modification of contract, **§ 65:8**
 - Neglect of legal duty, **§ 40:11**
 - Notice requirements
 - Foreclosure sale, **§ 12:8**
 - Rescission, **§ 12:7**
 - Waiver of right to rescind, **§ 12:7**
 - Novation, **§ 64:10**
 - Objection to tender, **§ 69:8**
 - Parol evidence and contract interpretation, **§ 53:42**
 - Partial impossibility, **§ 60:15**
 - Payment, **§§ 69:8, 69:11**
 - Performance of contract, **§ 59:5**
 - Presumption effect, **§ 1:9**
 - Prevention of performance, **§ 59:5**
 - Privilege
 - Advice of counsel, **§ 41:32**
 - General instructions, **§ 41:21**
 - Property, abandonment, **§ 61:13**
 - Ratification, **§ 54:7**
 - Self-defense, **§§ 50:1, 50:2**
 - Settlement, **§ 43:6**
 - Statute of frauds, **§ 53:37**
 - Statute of limitations, **§ 25:80**
 - Stipulation, **§ 43:11**
 - Surety, exoneration of, **§ 67:5**

FORMS—Cont'd

Jury instructions—Cont'd
 Temporary impossibility, **§ 60:15**
 Tender, objection to, **§ 69:8**
 Trade name, abandonment, **§ 61:13**
 Transition to defense instructions, **§ 1:5**
 Transition to substantive instructions, **§ 1:5**
 Truth as defense to defamation action, **§ 51:1**
 Unclean hands, **§ 45:18**
 Unsound mind, **§ 52:36**
 Usury, **§ 37:28**
 Waiver, **§ 47:15**
 Willful misconduct, **§ 48:22**
Lack of consideration, **§ 56:13**
Material alteration, **§ 66:8**
Neglect of legal duty, **§ 40:11**
Partial impossibility, **§ 60:15**
Presumption effect, **§ 1:9**
Prevention of performance, **§ 59:5**
Rescission, notice of, **§§ 57:3, 62:25**
Temporary impossibility, **§ 60:15**
Tolling agreement, **§ 25:67**
Transition to defense instructions, **§ 1:5**
Transition to substantive instructions, **§ 1:5**
Unsound mind, **§ 52:36**
Usury, **§ 37:28**

FORUM NON CONVENIENS

Generally, **§ 6:1 et seq.**
Abstention, **§ 6:34**
Actions
 Multiplicity of, **§ 6:12**
 Other actions pending, **§ 6:21**
Answer, **§ 6:26**
Appellate review, **§§ 6:18, 6:27, 6:28**
Burden of proof, **§ 6:29**
Burden on court, **§§ 6:12, 6:15**
Child custody and, **§ 6:25**
Choice of forum clause in contract, effect on, **§§ 4:5, 6:1, 6:24**
Choice of law provisions and, **§§ 4:5, 4:24, 6:4 to 6:6**
Citizenship, effect of, **§§ 6:3, 6:22**
Conditional orders, **§ 6:23**
Conflict of laws, **§§ 6:5, 6:6**
Considerations of court as to
 Generally, **§ 6:2 et seq.**
Actions
 Multiplicity of, **§ 6:12**
 Other actions pending, **§ 6:21**

INDEX

FORUM NON CONVENIENS—Cont'd

- Considerations of court as to—Cont'd
 - Administrative difficulties, §§ **6:12, 6:15**
 - Choice of law, § **6:5**
 - Conflict of laws, § **6:5**
 - Convenience
 - Counsel, § **6:18**
 - Parties, § **6:4**
 - Witnesses, § **6:4**
 - Courts
 - Generally, § **6:12 et seq.**
 - Fair trial, § **6:14**
 - Multiplicity of actions, § **6:13**
 - Disadvantages to parties, § **6:8**
 - Domicile of parties, §§ **6:3, 6:22**
 - Expense, §§ **6:10, 6:20**
 - Fair trial, § **6:14**
 - Forum, relationship of action to, § **6:7**
 - Irrelevant considerations, § **6:19 et seq.**
 - Judgment, enforcement of, § **6:9**
 - Jury, burden on, § **6:12**
 - Limitations, statute of, § **6:4**
 - Multiplicity of actions, § **6:13**
 - Oppressive conduct, § **6:5**
 - Parties
 - Convenience of, § **6:5**
 - Cost of litigation, § **6:20**
 - Disadvantages to, § **6:8**
 - Failure to join, § **6:33**
 - Indispensable parties, §§ **6:4, 6:33**
 - Relationship to forum, § **6:7**
 - Personal jurisdiction over parties, §§ **6:1, 6:4, 6:31**
 - Public interest, § **6:7**
 - Real property, location of, § **6:16**
 - Relationship to forum, § **6:7**
 - Relief
 - Amount of, § **6:19**
 - Availability of, § **6:9**
 - Tort, place of, § **6:12**
 - Vexatious conduct, § **6:5**
 - View of location relevant to action, § **6:11**
- Construction contracts, § **6:24**
- Contract provisions and, § **6:24**
- Convenience
 - Counsel, § **6:18**
 - Parties, § **6:4**
 - Witnesses, § **6:4**

FORUM NON CONVENIENS—Cont'd

Courts

Administrative efficiency and, **§ 6:15**

Burden on, **§ 6:12**

Discretion as to, **§ 6:1**

Damages irrelevant to decision, **§ 6:20**

Dismissal

Generally, **§§ 6:3, 6:22**

Motion for, **§ 6:27**

Order as to, **§ 6:23**

Domicile, effect of, **§§ 6:3, 6:22**

Due process and, **§ 6:1**

Enforcement of judgment and, **§ 6:9**

Expense and, **§ 6:10**

Factors relevant to decision, **§ 6:2 et seq.**

Fair trial and, **§ 6:14**

Forum selection clauses and, **§ 6:24**

Franchise agreement restricting venue, **§ 6:7**

General appearance and, **§ 6:27**

Indispensable parties and, **§§ 6:4, 6:33, 21:2**

Irrelevant considerations, **§ 6:17 et seq.**

Jurisdiction and Service of Process Act, **§ 6:1**

Mandamus as method of review of order, **§§ 6:27, 6:28**

Motion concedes jurisdiction, **§§ 6:1, 6:31**

Motion to dismiss, **§§ 6:23, 6:27, 6:28**

Motion to stay, **§§ 6:23, 6:27, 6:28**

Multiplicity of actions, **§ 6:13**

Order

Conditions on, **§ 6:22**

Dismissal, **§§ 6:3, 6:22**

Review of, **§§ 6:27, 6:28**

Stay, **§§ 6:3, 6:22**

Parties

Convenience of, **§ 6:5**

Cost of litigation, **§ 6:20**

Disadvantages to, **§ 6:8**

Failure to join, **§ 6:33**

Indispensable parties, **§§ 6:4, 6:33**

Relationship to forum, **§ 6:7**

Pending action, effect of, **§ 6:21**

Personal jurisdiction and

Conduct outside state, **§ 4:21**

Express consent, **§ 4:5**

Factors, **§ 6:4**

Lack of personal jurisdiction, **§ 6:31**

Nonresidents, **§ 4:9**

Related defenses and principles, **§§ 4:38, 5:46**

INDEX

FORUM NON CONVENIENS—Cont'd

Personal jurisdiction and—Cont'd
 Special jurisdictional statutes, § 4:24
Public interest, § 6:7
Quasi in rem jurisdiction and, § 6:22
Real property and, § 6:16
Residency, effect of, §§ 6:3, 6:22
Res judicata and, § 14:39
Statute of limitations, §§ 6:6, 6:23
Stay based on, §§ 6:22, 6:23, 6:25
Timing of motion, § 6:27
Uniform Child Custody Jurisdiction Act and, § 6:25
Venue and, §§ 5:46, 6:32
Waiver, §§ 6:27, 6:30
Witnesses, convenience of, § 6:5

FORUM SELECTION CLAUSES

Admiralty law, § 6:24
Appellate review, § 4:34
Choice of law clauses and, § 4:5
Complaint, allegation as to, § 4:5
Duress, effect of, § 7:9
Form of, § 4:5
Forum non conveniens and, §§ 6:2, 6:24, 6:27, 6:29
Illegality and, § 37:1
Personal jurisdiction and, § 4:5
Res judicata, effect on, § 14:39
Subject matter jurisdiction, effect on, § 7:9
Venue, § 5:33

FOSTER HOMES

Claim requirements, § 12:35
Failure to enforce provisions governing, § 38:74
Foster Home and Small Family Insurance Fund, claims against, § 12:35
Immunity, §§ 38:37, 38:43
Negligent placement, §§ 38:74, 38:82, 38:104

FOURTEENTH AMENDMENT

Setoff, § 44:3

FOURTH AMENDMENT

Waiver, § 47:4

FRANCHISE TAX BOARD

Corporate taxes, effect of failure to pay, §§ 18:17, 39:38
Refunds, taxpayer's obligation to do equity, § 35:1
Res judicata and, § 14:40
Service of process on, § 2:2
Suspension of corporations, §§ 18:17, 39:38
Taxes, this index

FRAUD

- Adequacy of consideration and, **§ 56:4**
- Adoption, **§ 38:105**
- Agent's fraud, **§ 62:5**
- Agreement to defraud, enforceability of, **§ 37:21**
- AIDS, **§ 38:29**
- Arbitration clause vitiated by, **§ 68:2**
- Assignability of cause of action, **§ 18:20**
- Auctioneers and auction companies, **§ 38:4**
- Bar to res judicata, **§§ 14:44, 14:52**
- Breach of contract or warranty, **§ 38:105**
- Burden of proof as to, **§ 1:8**
- Comparative fault and, **§ 48:16**
- Concealment
 - Insurance applications, **§ 62:22**
 - Tolling statute of limitations, **§ 25:72**
- Consent and, **§§ 32:1, 32:6**
- Constructive fraud, **§ 62:5**
- Contractor's licensing requirements and, **§ 39:18**
- Contracts
 - Avoiding responsibility for, **§ 37:10**
 - Fraudulent inducement of contract, illegality and, **§ 37:27**
 - Income taxes, illegal contracts, **§ 37:21**
- Definition, **§ 38:105**
- Discovery rule, statute of limitations, **§§ 25:5, 25:21, 25:35 to 25:37, 25:72**
- Duress and, **§ 33:12**
- Election of remedies and, **§ 24:5**
- Errors of description as, **§ 62:7**
- Estoppel and, **§§ 34:1, 34:6**
- Exculpatory provisions and, **§§ 37:10, 37:11**
- Extrinsic Fraud, this index
- Failure to read contract and, **§ 40:4**
- Failure to warn, **§ 38:105**
- Falsity and, **§ 51:1**
- Fiduciaries, limitation of actions, **§§ 25:40, 25:65**
- Floods, **§ 38:105**
- Futility of demand and, **§ 12:15**
- Gambling, enforceability of contract as to, **§ 37:20**
- Guaranties and, **§ 67:3**
- Illegality and
 - Agreements to defraud, **§ 37:21**
 - Exculpatory provision, **§§ 37:10, 37:11**
 - Fraudulent inducement of contract and, **§ 37:27**
 - Income taxes, illegal contracts as to, **§ 37:21**
- Immunity, this index
- Income taxes, illegal contracts, **§ 37:21**
- Indemnity and, **§ 42:14**

INDEX

FRAUD—Cont'd

- Innocent misrepresentation, §§ **62:3, 62:5**
- Insurance policy applications, § **62:22**
- Joinder of plaintiffs and defendants, §§ **20:2, 20:3**
- Justification defense and, § **41:14**
- Marriage, § **38:37**
- Mistake and, §§ **40:3, 40:4, 40:14**
- Pleading, §§ **10:1, 10:13, 62:5**
- Privilege as defense to action for, § **41:6**
- Public employees, § **38:105**
- Public entities, § **38:105**
- Ratification obtained by, § **62:20**
- Release, §§ **42:1, 42:4, 42:5, 42:8, 42:13**
- Rescission and
 - Generally, §§ **62:1 to 62:3, 62:5, 62:7, 62:20, 62:22**
 - Discovery rule, statute of limitations, §§ **25:12, 25:15**
- Res judicata, bar to, §§ **14:44, 14:52**
- Service of process defeated by, § **4:3**
- Setoff and, § **44:1**
- Statute of frauds and cause of action for, § **53:27**
- Statute of limitations and, §§ **25:5, 25:21, 25:35, 25:36, 25:73, 25:86**
- Sureties and, § **67:3**
- Survival of cause of action, § **17:20**
- Taxation, agreement to defraud taxing authorities, § **37:21**
- Truth and, § **51:1**
- Uncertainty of pleading, §§ **10:1, 10:13**
- Unclean hands, §§ **45:2, 45:9**
- Undue influence and, §§ **46:1, 46:16**
- Venue, §§ **5:5, 5:16, 5:36**

FRAUDULENT CONCEALMENT

- Comparative fault and, § **48:16**
- Immunity, §§ **38:56, 38:105**
- Statute of limitations, tolling by
 - Criminal defendants, § **25:54**
 - Doctrine of relation back, § **25:78**
 - Fraud or mistake, § **25:21**
 - Incarcerated persons, § **25:54**
 - Latent design and construction defects, § **25:17**
 - legal malpractice, § **25:43**
 - Legal malpractice, §§ **25:35, 25:43**
 - Manner of asserting defense, § **25:79**
 - Medical malpractice, §§ **25:36, 25:44**
 - One or four years, § **25:35**
 - One or three years, § **25:36**
 - Pleadings, § **25:79**
 - Taking or harming personal property, § **25:20**
 - Ten years, § **25:17**

FRAUDULENT CONCEALMENT—Cont'd

Statute of limitations, tolling by—Cont'd
Three years, §§ 25:20, 25:21
Unasserted cross-claim, filing complaint, § 25:72

FRAUDULENT CONVEYANCES

Adequacy of consideration under Fraudulent Conveyances Act, §§ 56:1, 56:2
Assignment of cause of action, § 18:20
Survival of action to set aside, § 17:17

FRAUDULENT PROMISE TO MARRY

Cause of action for, §§ 9:1, 38:37

FREEZING CONDITIONS

Act of God as, §§ 30:10, 30:18

FRUSTRATION OF PURPOSE

Generally, § 58:1 et seq.
Arbitration and, § 58:1
Both parties frustrated, § 58:1
Burden of proof, §§ 58:3, 62:12
Causation, § 58:1
Commercial frustration, §§ 57:8, 58:1 to 58:6
Delivery of goods and, § 58:1
Event not anticipated or foreseeable, §§ 58:1, 62:12
Extreme hardship requirement, § 58:1
Failure of consideration and, § 57:8
Foreseeability and, § 58:1
Full performance bars defense, § 58:1
Impossibility and, §§ 58:1, 58:5, 60:18, 62:12
Manner of asserting defense, § 58:2
Motion to strike, § 58:2
Pleading, § 58:2
Preemption, § 58:6
Prevention of performance and, § 59:8
Rescission, § 62:12
Summary judgment, § 58:2
Unforeseeability requirement, § 58:1
Waiver of defense, § 58:4

FUGITIVES FROM JUSTICE

Appearance, § 2:28
Capacity to sue, § 18:33
Distentitlement, §§ 34:18, 52:35
Prisoners, justification for escape, § 33:5
Statute of limitations, § 25:61

FULL CREDIT BID

Generally, § 69:15

INDEX

FULL FAITH AND CREDIT

Res judicata and, §§ 14:39, 14:42

FUNDAMENTAL JURISDICTION

Generally, § 7:10

FUND TRANSFERS

Notice of breach of warranty and, § 12:11

FUNERAL DIRECTORS AND ESTABLISHMENTS

Autopsies, § 38:15

Cremated human remains, § 38:15

Death, this index

Fictitious business names and, § 39:36

Immunity, § 38:15

Licensing requirements, § 39:35

FUTILITY

Conspiracy as cause of, § 12:15

Delay in prosecution and, §§ 28:1, 28:10 et seq.

Demand requirement exception, § 12:15 to 12:17

Exhaustion of remedies exception, §§ 16:4, 16:15

Fraud as cause of, § 12:15

Misappropriation and, § 12:15

Res judicata, § 14:62

Service and return requirements, exception to, §§ 3:1, 3:22

GAMBLING

Generally, § 37:20

California State Lottery, § 37:20

Comity, action to enforce foreign judgment, § 37:20

Consideration and, § 37:23

Debts, §§ 37:20, 37:23

Foreign judgments as to, § 37:20

Fraud and, § 37:20

Gaming clubs, immunity for ejection of undesirable patrons, § 38:14

Gaming Registration Act, § 38:14

Illegality and, §§ 37:3, 37:20

Insurance, § 37:20

Loans to pay gambling debts, § 37:20

Lotteries, § 37:20

Ships, § 37:20

GAMING REGISTRATION ACT

Immunity under, § 38:14

GAS BROKERS

Oil, Gas and Mineral Rights, this index

GAS RIGHTS

Oil, Gas and Mineral Rights, this index

GENERAL APPEARANCE

- Generally, **§ 3:17**
- Answer as, §§ **2:24, 2:28, 4:31**
- Appellate review as to, **§ 2:26**
- Consent to personal jurisdiction by, §§ **4:8, 4:31, 4:36**
- Cross-claim, **§ 3:17**
- Definition, **§ 2:28**
- Delay in service and return of summons and, §§ **3:1, 3:13, 3:17**
- Discovery as to, §§ **3:17, 4:32, 4:36**
- Doe defendants, **§ 3:12**
- Equivalent to personal service, §§ **2:4, 2:28, 3:17, 4:8, 4:31, 4:36**
- Ex parte hearings, **§ 3:17**
- Fictitious defendants, **§ 3:12**
- Forum non conveniens and, **§ 6:27**
- Improper service, defeated by answer, **§ 2:24**
- Intervention, **§ 3:17**
- Motion to quash and, §§ **2:25, 2:26, 4:32**
- Nonparty, **§ 4:9**
- Service and return requirements, §§ **3:1, 3:13, 3:17**
- Stipulation as to, §§ **2:28, 3:17**
- Tax refund actions, **§ 3:17**
- Unauthorized appearance, §§ **2:28, 4:36**
- Waiver
 - Personal jurisdiction objection, §§ **4:8, 4:36**
 - Return of service, **§ 3:17**
 - Service of process, §§ **2:28, 3:31**

GENERAL DEMURRER

- Generally, **§ 9:4**
- Common counts, **§ 9:2**
- Demurrer, this index
- Failure to state cause of action and, **§ 9:4**
- General appearance by, **§ 3:17**
- Lack of capacity to sue and, **§ 18:37**
- Lack of standing, §§ **19:14, 19:15**
- Real party in interest, §§ **19:14, 19:15**

GENERAL DENIAL

- Generally, **§ 1:1**
- Answer, this index
- Consent, **§ 32:6**
- Contract actions, **§ 32:6**
- Exoneration of surety, **§ 67:5**
- Failure to mitigate, **§ 36:8**
- Laches and, **§ 26:15**
- Payment, **§ 69:10**

GENERAL GUARDIAN

- Guardian ad Litem, this index

INDEX

GENERAL JURISDICTION

Personal jurisdiction, **§ 4:9**
Subject matter jurisdiction, **§ 7:1**

GIFTS

Anatomical, **§§ 38:26, 38:63, 52:16**
Burden of proof, **§ 53:24**
Consideration for, **§§ 56:2, 56:8, 56:9**
Contemplation of marriage, **§ 38:37**
Delivery, **§ 53:24**
Gift certificates, **§ 37:22**
Immunity, **§§ 38:34, 38:37, 38:63**
Minors, **§ 38:34**
Mistake and, **§ 40:1**
Real property, **§ 53:9**
Rescission based on mistake, **§ 40:1**
Sham transaction, **§ 56:14**
Statute of frauds, as to, **§§ 53:9, 53:22 to 53:24**
Undue influence, **§ 46:1**
Uniform Anatomical Gift Act, **§ 38:63**
Uniform Transfer to Minors Act, **§ 38:34**

GLEANING

Immunity, **§§ 38:27, 38:32**

GOOD FAITH IMPROVERS

Discovery rule, statute of limitations, **§ 25:29**
Mistake by, **§ 40:1**
Setoff and, **§ 44:2**
Statute of limitations, **§ 25:29**

GOOD FAITH SETTLEMENT

Settlement, this index

GOODS

Definition, **§ 53:11**
Destruction of and impossibility, **§ 60:2**
Gray market goods, **§ 62:23**
Leases of, **§§ 53:12, 53:20, 60:2, 62:19**
Rescission of contract as to, **§§ 62:19, 62:21**
Sale of Goods, this index
Specially manufactured, **§ 53:11**
Statute of frauds and sale or lease of, **§§ 53:11, 53:12**
Timber, **§ 53:11**

GOOD SAMARITAN IMMUNITIES

Emergencies, this index

GOVERNMENT

City, this index
County, this index

GOVERNMENT—Cont'd

Public Agencies and Entities, this index
Public Officers and Employees, this index
State, this index

GOVERNMENT CONTRACTOR DEFENSE

Generally, § 38:130

GOVERNMENT EMPLOYEE

Public Officers and Employees, this index

GOVERNMENT ENTITY

Public Agencies and Entities, this index

GOVERNMENT TORT CLAIMS ACT

Generally, § 12:20 *et seq.*
Accrual of cause of action, § 12:23
Actions subject to, § 12:21
Actual knowledge of claim by government entity, § 12:28
Amendment of claim, § 12:26
Answer, allegation as to, § 12:28
Breach of contract, § 12:21
Breach of statutory duties, § 12:20
Burden of proof, § 12:20
Civil rights actions exempt, § 12:20
Claim requirements
Actions subject to, § 12:21
Amendment of claim, § 12:26
Burden of proof, § 12:20
Contents of, § 12:24
Cross-actions and, §§ 12:21, 12:28
Defects in claim, notice of, § 12:26
Denial of claim, § 12:27
Estoppel as to, § 12:30
Exceptions, § 12:21
Execution of claim, § 12:24
Failure to make, §§ 12:20, 12:28, 12:29
Form of claim, § 12:24
Government agency's duties as to, § 12:21
Minor's claims, §§ 12:21 to 12:23
Multiparty claims, § 12:22
Place of filing, § 12:25
Relief from, § 12:29
Soldiers' and Sailors' Civil Relief Act and, § 12:23
Time of filing, § 12:23
Tolling under, § 12:23
Waiver of, § 12:39
Who may file, § 12:22
Class actions, § 12:22
Complaint, allegation as to, § 12:20

INDEX

GOVERNMENT TORT CLAIMS ACT—Cont'd

- Contract claims, **§ 12:21**
- Cross-actions, **§§ 12:21, 12:28**
- Declaratory judgment, **§ 12:21**
- Defamation, **§ 12:21**
- Defects in claim, notice of, **§ 12:26**
- Delay in prosecution and, **§ 28:24**
- Demurrer, **§ 12:28**
- Denial of claim, **§ 12:27**
- Design immunity, **§ 38:121**
- Doe defendants, **§ 12:21**
- Eminent domain, **§ 12:21**
- Equity actions and, **§ 12:21**
- Estoppel and, **§ 12:30**
- Exceptions to claim requirement, **§ 12:21**
- Failure to file claim, **§§ 12:20, 12:28, 12:29**
- False arrest, **§§ 12:20, 38:78**
- Federal law, actions based on, **§ 12:21**
- Fictitious defendants, **§ 12:20**
- Growing crops, damage to, **§ 12:20**
- Immunity under, **§§ 38:32, 38:53, 38:56 et seq.**
- Imprisonment and, **§ 12:23**
- Incompetency and, **§ 12:23**
- Indemnity, **§ 12:21**
- Intentional torts and, **§ 12:21**
- Inverse condemnation excepted, **§ 12:20**
- Judicial immunity, **§ 38:131**
- Limitation of actions and, **§§ 12:23, 25:33, 25:85**
- Loss of consortium, **§ 12:21**
- Mailing of claim, **§ 12:23**
- Malicious prosecution, **§ 38:76**
- Mechanics' liens, **§ 12:21**
- Minor's claims, **§§ 12:21 to 12:23**
- Multiparty claims, **§ 12:22**
- Negligence actions, **§ 12:21**
- Nuisance, **§ 12:21**
- Personal injury action, **§ 12:21**
- Personal property, damage to, **§ 12:21**
- Pleading, **§§ 12:20, 12:28**
- Prematurity and, **§ 27:1**
- Prisoners, **§ 38:82**
- Public agency's duties under, **§ 12:21**
- Purpose of Act, **§ 12:20**
- Rejection of claims, **§ 12:20**
- Related procedures, **§ 12:31**
- Relief from failure to file claim, **§ 12:29**
- Response to claim, **§ 12:27**

GOVERNMENT TORT CLAIMS ACT—Cont'd

Secretary of State, agency's informational filing requirement and, **§ 12:21**
Slander, § 12:21
Soldiers' and Sailors' Civil Relief Act and, **§ 12:23**
Statute of limitations and, §§ 12:23, 25:33, 25:85
Tax refund actions, §§ 12:21, 12:31
Tolling under, **§ 12:23**
Waiver, §§ 12:26, 12:30
Workers' compensation, **§ 12:21**
Wrongful death, **§ 12:21**

GRADUAL EARTH MOVEMENT

Immunity, **§ 38:72**

GRAND JURORS

Immunity, §§ 38:133, 38:134
Privilege, §§ 41:5, 41:10

GRAY MARKET GOODS

Goods, this index

GREAT CRUELTY

Statute of limitations, effect of, **§ 25:63**

GROSS NEGLIGENCE

Generally, **§ 48:23**
Carriers, **§ 48:23**
Comparative fault and, **§ 48:23**
Definition, **§ 40:4**
Depositories, **§ 48:23**
Emergency medical service providers, **§ 48:23**
Fine art, **§ 48:23**
Hazardous recreational activities, **§ 48:23**
License revocation and, **§ 48:23**
Loss of license, **§ 48:23**
Mistake and, **§ 40:4**
Negligence, this index
Torts, this index

GROWING CROPS

Adulteration, **§ 38:21**
Government claims filing requirement, **§ 12:21**

GUARANTIES AND GUARANTORS

Generally, **§ 67:1 et seq.**
Arbitration, effect on, **§ 67:3**
Assignment of obligations and, **§ 18:18**
Commercial paper, **§ 53:17**
Consideration, §§ 56:10, 67:3
Deficiency judgment, **§ 12:8**
Exoneration of Sureties, this index

INDEX

GUARANTIES AND GUARANTORS—Cont'd

- Guarantor as debtor, **§ 12:8**
- Illegality of underlying transaction, **§§ 37:3, 37:13, 37:24, 67:3**
- Joinder, **§§ 20:1, 20:4**
- Letters of credit, **§§ 67:2, 67:10**
- Limitation of actions as to, **§ 25:39**
- Payment and, **§ 69:9**
- Personal jurisdiction and, **§§ 4:6, 4:15, 4:28**
- Privity for res judicata purposes, **§ 14:29**
- Reformation, **§ 53:30**
- Res judicata and, **§ 14:29**
- Statute of frauds and, **§§ 53:17, 67:3**
- Statute of limitations
 - Action against, **§ 25:39**
 - Assertion of debtor's cause of action, **§ 67:3**
- Sureties, Exoneration of Sureties, this index
- Title guaranty, statute of limitations, **§ 25:14**
- Waiver of protections for, **§§ 47:5, 67:4, 67:6, 67:7**

GUARDIAN AD LITEM

- Generally, **§§ 18:2 to 18:10, 19:1**
- Adoption, **§ 18:4**
- Appointment, generally, **§§ 18:3, 18:4**
- Appointment to represent unborn, **§§ 18:4, 18:7**
- Child support, **§§ 18:3, 18:4**
- Court's inherent power to appoint, **§§ 18:5, 18:9**
- Delay in prosecution and, **§ 28:22**
- Dissolution of marriage, **§ 18:9**
- Failure to appoint, effect of, **§ 18:5**
- Fetus, appointment to represent, **§§ 18:4, 18:7**
- Friend may seek appointment, **§§ 19:8, 19:11**
- Guardians and Guardianships, this index
- Immunity, **§ 38:133**
- Infancy, **§§ 18:2 to 18:6**
 - In propria persona appearance barred, **§§ 18:9, 18:10**
 - Mental incompetency, **§§ 18:9, 18:10**
 - Necessity of, **§§ 18:2 to 18:10**
 - Parentage, action to determine, **§§ 18:3, 18:4**
 - Parents, preferential status, **§§ 18:3, 18:4**
 - Party, lack of status as, **§§ 18:2, 18:9**
 - Paternity, **§§ 18:3, 18:4**
 - Relative may seek appointment, **§§ 19:8, 19:11**
 - Res judicata, effect of lack of, **§ 14:45**
 - Revised Uniform Reciprocal Enforcement of Support Act, **§ 18:3**
 - Special appointment, **§ 18:4**
 - Spouses, **§ 18:9**
 - Standing to seek appointment of, **§§ 19:8, 19:11**
 - Uniform Parentage Act, **§ 18:4**

GUARDIAN AD LITEM—Cont'd

Waiver of, **§ 18:5**

GUARDIANS AND GUARDIANSHIP

Alternative-guardian ad litem, **§§ 18:2 to 18:10**

Attorney, guardian on termination of practice, **§ 38:9**

Capacity to sue, effect on, **§ 18:10**

Consent by, **§ 32:4**

Fiduciaries, this index

Fiduciary relationship and, **§ 46:3**

Guardian ad Litem, this index

Immunity, **§§ 38:28, 38:73, 38:133**

Imputation of ward's negligence, **§§ 48:8, 48:9**

Partition actions, **§ 18:3**

Party, lack of status as, **§ 18:4**

Privity for res judicata, **§ 14:31**

Res judicata and, **§ 14:31**

Setoff and, **§ 44:4**

Standing to seek appointment of, **§§ 18:9, 19:1, 19:11, 19:20**

Statute of limitations, effect on, **§ 25:53**

Subject matter jurisdiction as to, **§§ 7:2, 7:5**

Unascertained or unborn parties, appointment of guardian for, **§ 18:4**

Undue influence and, **§ 46:3**

Valueless property, **§ 38:73**

Venue, **§§ 5:29, 5:36**

Verification of petition to approve settlement by, **§ 11:20**

GUARDIANSHIP

Guardians and Guardianship, this index

GUNS

Liability for giving access to minor, **§ 48:6**

HABEAS CORPUS

Collateral estoppel and, **§§ 15:7, 15:8**

Mootness, **§ 22:2**

Res judicata and, **§§ 14:6, 14:50**

Subject matter jurisdiction over, **§§ 7:1, 7:2**

Vexatious litigants, **§ 13:3**

HAGUE SERVICE CONVENTION

Service of process under, **§§ 2:4, 2:9**

HANDICAPPED PERSONS

Disability, this index

HARASSMENT

SLAPP suit, civil harassment petitions, **§ 12:37**

HAZARDOUS RECREATIONAL ACTIVITIES

Gross negligence and, **§ 48:23**

Immunity, **§ 38:112**

INDEX

HAZARDOUS SUBSTANCES AND WASTE

- Asbestos exposure actions, § 25:31
- Damages, immunities, § 38:22
- Hazardous Substances Act, § 38:22
- Hazardous Substances Act, immunity under, § 38:22
- Housing authority, § 38:22
- Immunity, § 38:22
- Lead-based paint, § 38:22
- Statute of limitations
 - Asbestos exposure actions, § 25:31
 - Cleanup action, § 25:11

HEALTH CARE PROFESSIONALS

- Acupuncturists, § 39:35
- Audiologists, § 39:35
- Certificate of merit requirement, § 12:2
- Chiropractors, this index
- Damages recoverable against, § 48:19
- Dentists, this index
- Emergencies, this index
- Government claim filing requirement, § 12:21
- Hospitals, this index
- Immunity
 - All persons, statutory immunities available to, § 38:2
 - Disaster services, § 38:53
 - Emergency and Good Samaritan immunities, § 38:45 et seq.
 - Forbidden causes of action, § 38:37
 - Health quality assurance and peer review committee, § 38:10
 - Informants on child abuse, elder abuse, and similar wrongs, § 38:43
 - Medical and psychiatric care, § 38:94 et seq.
 - Natural Death Act, § 38:26
 - Powers of attorney, § 38:26
 - Referral societies and referrals, § 38:12
- Licensing of, § 39:35
- Malpractice. Medical Malpractice, this index
- Natural Death Act, § 38:26
- Notice of intent to sue, § 12:4
- Nurses, this index
- Opticians, § 39:35
- Optometrists, this index
- Paramedics, this index
- Pathologists, § 39:35
- Personal jurisdiction, § 4:18
- Pharmacists, this index
- Physical Therapists, this index
- Physicians and Surgeons, this index
- Podiatrists, this index
- Psychiatrists, Psychologists and Psychotherapists, this index

HEALTH CARE PROFESSIONALS—Cont'd

- Punitive damages, court order as to, §§ 12:36, 38:37
- Radiological technicians, gross negligence of, § 48:23
- Respiratory care practitioners, §§ 38:48, 39:35
- Security for costs in action against, § 13:6
- Speech pathologists, § 39:35
- Statute of limitations
 - Generally, §§ 25:36, 25:44
 - Bifurcation, § 25:80
 - Incompetents, § 25:53
 - Medical Injury Compensation Reform Act, §§ 25:36, 25:44, 25:51
 - Minors, §§ 25:36, 25:44, 25:51
 - Tolling, §§ 25:44, 25:51, 25:53
- Tort liability, abortions, § 38:37

HEALTH INSURANCE COUNSELOR (VOLUNTEER)

- Immunity, § 38:2

HEIRS

- Arbitration agreed to by decedent, § 68:6
- Claim requirement, § 12:32
- Comparative fault imputation, §§ 48:11, 48:16
- Contracts as to, illegality, §§ 37:16, 37:18
- Estoppel of, § 34:9
- Illegality of contracts and
 - Defeating rights of, § 37:18
 - Restraint of alienation as to, § 37:16
- Imputation of decedent's fault, §§ 48:11, 48:16
- Joinder after death of party, §§ 17:4, 20:4, 21:2
- Parties, § 20:4
- Personal representative, §§ 17:4, 18:11
- Privity for res judicata, §§ 14:25, 14:31
- Real party in interest after death of party, § 17:4
- Res judicata and, §§ 14:25, 14:31
- Restraints on alienation, § 37:16
- Standing after death of party, § 17:4
- Statute of limitations, § 25:25
- Wrongful death, this index

HOLDER IN DUE COURSE

- Alteration of transferred document, § 66:2
- Assignment as affecting illegality of underlying transaction, § 37:25
- Capacity, § 18:18
- Consideration for underlying transaction
 - Failure of, § 57:1
 - Inadequacy of, § 56:11
- Duress, § 33:5
- Illegality, §§ 37:3, 37:13, 37:25
- Material alteration of transferred document, § 66:2

INDEX

HOLDER IN DUE COURSE—Cont'd

Modification of contract, § **65:1**

Usury and, § **37:13**

HOLDER OF CONTRACT, GENERALLY

Modification of contract, § **65:7**

HOLIDAY

Definition for statute of limitations, § **25:3**

HOME EQUITY SALES ACT

Unconscionability and contracts under, § **55:3**

Waiver, § **47:13**

HOMEOWNERS' ASSOCIATIONS

Alternative dispute resolution, § **12:38**

Common interest developments, this index

Notice requirement, § **12:3**

Privity, § **14:24**

Real party in interest, § **19:1**

Setoff and, § **44:6**

Standing, §§ **19:1, 19:6**

HOME PROTECTION BILL OF RIGHTS

Generally, § **50:10**

HORSES AND HORSE RACING

Abuse reporting immunity, § **38:43**

Assumption of risk, § **48:24**

California Horse Racing Board, § **38:14**

Illegality of gambling contracts as to, § **37:20**

Immunity, §§ **38:14, 38:43**

HOSPITALS

Abortions, refusal to perform, § **38:37**

Arbitration requirements, § **68:6**

Assumption of risk of hospital workers, § **48:24**

Autopsies, § **38:15**

Child abuse, reporting immunity, § **38:43**

Exculpatory contracts as to, § **37:11**

Immunity

Generally, § **38:94 et seq.**

Abuse, reports as to, § **38:43**

Anatomical gifts and, § **38:63**

Autopsies, § **38:15**

Communicating information to, §§ **38:10, 38:39, 38:81**

Emergency care, § **38:45 et seq.**

End of Life Option Act, § **38:26**

Peer review committees, § **38:10**

Quality control committees, § **38:10**

Reporting child abuse, § **38:43**

HOSPITALS—Cont'd

Immunity—Cont'd

- Reports by or to, §§ 38:37, 38:39, 38:43, 38:81
- Treating minors during schooltime, § 38:47
- Medical Malpractice, this index
- Medical Treatment, this index
- Mental institutions, § 38:95
- Minors, treatment of, § 52:14
- Peer review committees, § 38:10
- Release, public policy as to, § 42:2
- Scene of an emergency, § 38:46

HOSTAGES

Immunity, § 38:17

HOUSING DEVELOPMENT PROJECTS

Security for costs, injunctions, § 13:8

HURRICANES

Act of God as, § 30:7

HYPOTHETICAL ISSUES

Generally, § 22:1 et seq.

ICE

Act of God as, § 30:10

IDEM SONANS

Service of process, defect in name of party, § 2:20

IDENTITY THEFT

Immunity, public agencies and entities, § 38:106

ILLEGALITY

Generally, § 37:1 et seq.

Accord, §§ 63:2, 63:3, 63:10

Actions affected by, §§ 37:26, 37:27

Agreement not to compete, § 37:14

Agreement not to prosecute, § 37:23

Agreement to defraud, § 37:21

Amendment of law and, § 37:2

Answer, allegation as to, § 37:28

Antitrust, contracts restraining trade and, § 37:14

Appeal as to, §§ 37:28, 39:42

Arbitration

Arbitration of illegality, § 68:2

Awards, illegality and, §§ 37:26, 68:13

Compelling arbitration, § 68:3

Determination of illegality by arbitrator, § 68:2

Enforcement of award based on illegal contract, § 37:26

Illegality, severability of arbitration clauses and, §§ 37:5, 68:2, 68:13

Architectural services, § 37:6

INDEX

ILLEGALITY—Cont'd

- Assignment, effect on illegality, **§ 37:25**
- Athlete agents, regulation of, **§ 37:22**
- Bailment, **§ 37:11**
- Banks, **§§ 37:24, 37:27**
- Burden of proof
 - Generally, **§ 37:30**
 - Usury, **§ 37:13**
- California State Lottery, **§ 37:20**
- Capacity to contract and, **§ 52:1**
- Cartwright Act, **§ 37:14**
- Casinos, **§ 37:20**
- Change in law, **§ 37:2**
- Choice of law
 - Generally, **§ 37:1**
 - Usury, **§ 37:13**
- City, conflict of interest, **§ 37:17**
- City charters, contract barred by, **§ 37:1**
- Cohabitation agreements, **§§ 37:19, 37:23**
- Comity, enforcement of foreign gambling judgments, **§ 37:20**
- Common carriers, **§§ 37:10, 37:11**
- Common carriers and, **§§ 37:10, 37:11**
- Community college, conflict of interest, **§ 37:17**
- Competitive bidding contracts, **§ 37:22**
- Conflict of interest, **§ 37:17**
- Consideration
 - Accord and satisfaction and, **§§ 63:2, 63:3, 63:10**
 - Illegal consideration
 - Generally, **§§ 37:23, 56:5**
 - Burden of proof, **§ 37:30**
 - Definition of consideration, **§ 56:2**
 - Illegality, generally, **§ 37:1**
 - Manner of asserting defense, **§§ 37:28, 56:13**
 - Rescission, **§ 62:13**
- Construction contracts, **§§ 37:6, 37:11**
- Construction favoring legality, **§ 37:3**
- Contingency fees, **§ 37:19**
- Contractors, this index
- Contractor's License Requirements, this index
- Contracts of public employees, **§ 37:17**
- Contracts with minors, **§ 52:7**
- Conversion, **§ 37:27**
- Corporate securities
 - Brokers and, **§ 37:15**
 - Restraint on alienation, **§ 37:16**
- County, conflict of interest, **§ 37:17**

ILLEGALITY—Cont'd

Court's

Agreement to oust court's jurisdiction, illegality of, **§ 37:22**

Power to act sua sponte as to, **§§ 37:24, 37:28, 39:42**

Covenants, restraints on alienation, **§ 37:16**

Creditors and, **§ 37:21**

Credit unions, **§ 37:27**

Crime

Contracts to compound or conceal, **§ 37:23**

Evidence, agreements to suppress or procure, **§ 37:22**

Customer lists, agreements not to use, **§ 37:14**

Dance Act, **§ 37:22**

Dangerous activities, **§ 37:11**

Debts, gambling, **§ 37:20**

Deeds, restraint on alienation, **§ 37:16**

Demurrer based on, **§ 37:28**

Deviser, contract to defeat rights of, **§ 37:18**

Dissolution of marriage, promotion of, **§ 37:19**

Double damages, **§ 37:14**

Effect of, **§ 37:6**

Elections, contracts as to, **§ 37:22**

Embezzlement, **§ 37:23**

Employee agreement not to compete, **§ 37:14**

Employment agreements and, **§ 37:23**

Escrow holders, **§ 37:22**

Estoppel to assert, **§§ 34:7, 37:24, 37:29**

Evidence, agreements to suppress or procure, **§ 37:22**

Exculpatory clauses, **§§ 37:10 to 37:12**

Federal regulations, contract barred by, **§ 37:1**

Fiduciaries, **§§ 37:11, 37:22**

Foreign judgments on gambling debts, **§ 37:20**

Forfeiture and, **§ 37:6**

Forum selection clauses, **§ 37:1**

Franchise agreement restrictions, **§ 37:22**

Fraud

Agreements to defraud, **§ 37:21**

Exculpatory provisions as to, **§§ 37:10, 37:11**

Fraudulent inducement of contract, **§ 37:27**

Income taxes, illegal contracts as to, **§ 37:21**

Gambling

Generally, **§§ 37:3, 37:20, 37:28**

Gambling debts, **§§ 37:20, 37:23**

Gambling ships, **§ 37:20**

Grantees, restraints on alienation, **§ 37:16**

Guarantors, illegality of underlying transaction, **§§ 37:3, 37:13, 37:24, 67:3**

Heirs

Defeating rights of, **§ 37:18**

INDEX

ILLEGALITY—Cont'd

Heirs—Cont'd

 Restraint of alienation as to, **§ 37:16**

Holder in due course, **§§ 37:13, 37:25**

Hospitals, exculpatory provisions, **§ 37:11**

Implied contracts and, **§ 37:1**

Indemnity, **§§ 37:11, 37:12**

Inequality of fault, **§ 37:7**

Influencing legislation, **§ 37:22**

Innkeepers, **§ 37:11**

In pari delicto, **§§ 37:6, 37:7, 37:15, 37:31, 45:23**

Insurance

 Generally, **§ 37:11**

 Gambling, **§ 37:20**

 Public enemy as insured, **§ 52:1**

Intent, effect of, **§§ 37:4, 37:13**

Interest, **§§ 37:5, 37:13**

Joint venture, contractor's licensing requirements as to, **§§ 37:15, 39:4**

Jurisdiction of court, agreement to oust, **§ 37:22**

Jury instructions as to, **§ 37:28**

Labor disputes and, **§§ 37:1, 37:22, 37:23**

Landlord/tenant relations, **§ 37:11**

Lease

 Illegal provisions in, **§ 37:11**

 Restraint on alienation by, **§ 37:16**

Legatee, contract to defeat rights of, **§ 37:18**

Licensing requirements

 Contractors, nature and elements of defense, **§§ 39:4, 39:16**

 Effect of illegality, **§ 37:6**

 Persons barred by illegality, **§ 37:25**

 Produce dealers and processors of farm products, **§ 39:33**

 Related defense, **§ 39:42**

 Specific illegal contracts, **§ 37:15**

 Time of procuring license, **§ 39:16**

 Violation of

 Lack of required license, **§§ 39:1, 39:4, 39:16, 39:33**

 Persons barred by illegality, **§ 37:25**

 Specific illegal contracts, **§ 37:15**

 Waiver of defense, **§ 39:41**

Life estates, **§ 37:16**

Loans

 Due on sale clauses and, **§ 37:16**

 Gambling debts to be paid from, **§ 37:20**

 Usury and, **§ 37:13**

Lobbying, **§ 37:22**

Lotteries, **§ 37:20**

Manner of performance and, **§§ 37:1, 37:3**

ILLEGALITY—Cont'd

- Marriage, contracts in restraint of, **§ 37:19**
- Mechanics' liens and, **§§ 37:6, 37:26**
- Military personnel, illegal orders to, **§ 38:68**
- Minor's contracts
 - Generally, **§ 52:7**
 - Agreements to pay victim of sexual abuse, **§ 37:22**
- Motive, **§ 37:4**
- Municipal utility districts, conflict of interest, **§ 37:17**
- Negligence, **§§ 37:11, 37:27**
- Negligent misrepresentation, exculpatory contracts and, **§ 37:10**
- Object of contract, **§ 37:1**
- Ordinances, contract barred by, **§ 37:1**
- Parol evidence as to, **§ 37:28**
- Partial illegality, **§§ 37:5, 37:23**
- Partners, agreement not to compete, **§ 37:14**
- Partnership, licensing requirements, **§§ 37:15, 39:4**
- Penalty
 - Imposed by statute, **§§ 37:1, 37:15**
 - Usury, **§ 37:13**
- Performance, **§§ 37:1, 37:3**
- Perpetuities and, **§ 37:16**
- Personal representatives, agreements as to devisees, **§ 37:18**
- Place of execution and, **§ 37:1**
- Place of performance and, **§ 37:1**
- Pleading, **§§ 37:28, 37:30**
- Police officer, conflict of interest, **§ 37:17**
- Prenuptial agreements, **§ 37:19**
- Prepayment penalty, **§ 37:16**
- Presumption of legality, **§ 37:3**
- Protected class and, **§§ 37:7, 37:15**
- Public employees, contracts of, **§ 37:17**
- Public entity contracts, **§ 37:22**
- Public policy, contrary to, **§ 37:1 et seq.**
- Punitive damages, waiver of, **§ 37:11**
- Quantum meruit and, **§ 37:26**
- Quiet title actions and, **§ 37:27**
- Racial discrimination, **§ 37:22**
- Ratification and, **§§ 37:2, 37:29**
- Real estate licensees and, **§ 37:15**
- Reckless injury, exculpation from, **§ 37:11**
- Regulations, contract barred by, **§ 37:1**
- Related transactions, **§ 37:3**
- Release, **§ 37:11**
- Repair contracts, **§ 37:22**
- Repeal of law, **§ 37:2**
- Repudiation, **§ 37:8**

INDEX

ILLEGALITY—Cont'd

- Rescission, §§ **62:1, 62:13**
- Restraint of competition, § **37:14**
- Restraint of marriage, § **37:19**
- Restraint of trade, § **37:14**
- Restraint on alienation, § **37:16**
- Revenue measure, § **37:15**
- Sale of business, noncompetition clause, § **37:14**
- Sale of property, § **37:23**
- Sales agreements, § **37:11**
- School districts, conflict of interest, § **37:17**
- Securities, sale of, §§ **37:16, 37:22**
- Separation agreements, § **37:19**
- Servicemen's Readjustment Act and, § **37:1**
- Setoff and, §§ **37:15, 44:6**
- Settlement agreements and, §§ **37:22, 37:26, 43:4**
- Severability and, §§ **37:5, 37:23, 68:2, 68:13**
- Sexual abuse, agreements to pay victim of, § **37:22**
- Sherman Antitrust Act and, §§ **37:1, 37:14**
- Special districts, conflict of interest, § **37:17**
- Spendthrift trusts, § **37:16**
- State Bar Rules of Professional Conduct, § **37:1**
- Statute imposing penalty, §§ **37:1, 37:15**
- Strikes, §§ **37:1, 37:22, 37:23**
- Subdivision Map Act, agreements as to, §§ **37:22, 37:26**
- Subletting and Subcontracting Fair Practices Act, § **37:15**
- Superintendent of schools, conflict of interest, § **37:17**
- Superintendent of State Printing, conflict of interest, § **37:17**
- Sureties, illegality of underlying transaction, §§ **37:3, 37:13, 37:24, 67:3**
- Third parties, §§ **37:24, 37:25**
- Timing of
 - Generally, § **37:2**
 - Usury, § **37:13**
- Trade secrets, agreements protecting, § **37:14**
- Treble damages and, §§ **37:13, 37:14**
- Trustees, § **37:22**
- Trusts
 - Generally, §§ **37:16, 37:25**
 - Trusts in restraint of trade, § **37:14**
- Unclean hands and, §§ **37:31, 45:2**
- Unconstitutionality and, § **37:32**
- Unfair Practices Act, § **37:14**
- Uniform Fraudulent Transfer Act, § **37:21**
- Uniform Premarital Agreement Act, § **37:19**
- Uniform Trade Secrets Act, § **37:14**
- Unjust enrichment and, §§ **37:6, 37:15**
- Usury, this index

ILLEGALITY—Cont'd

- Violation of law and, **§ 37:12**
- Violation of licensing requirements, §§ 37:15, 39:1, 39:4, 39:16, 39:33
- Void contracts, generally, §§ 52:3 to 52:37
- Voting, contracts as to, **§ 37:22**
- Wagering contracts, **§ 37:20**
- Waiver, §§ 37:24, 37:28, 37:29
- Who is barred, **§ 37:25**
- Who may assert, §§ 37:24, 37:29
- Who may determine, §§ 37:24, 37:28, 39:42, 68:2
- Willful injury, exculpatory contract as to, **§ 37:11**
- Wills, restraint on alienation in, **§ 37:16**

IMMATERIAL ALLEGATION

- Generally, **§ 10:1**

IMMIGRATION REFORM AND CONTROL ACT

- Immunity for disclosure under, **§ 38:39**

IMMUNITY

- Generally, **§ 38:1 et seq.**
- Abuse, reporting immunity, **§ 38:43**
- Acala Cotton Board, **§ 38:122**
- Access, §§ 38:108, 38:112, 38:114
- Actions of others, immunity of public agencies for, **§ 38:59**
- Actions under invalid laws, immunity of public agencies for, **§ 38:58**
- Acute care hospital, **§ 38:46**
- Adjacent property, immunity of public agencies for conditions on, §§ 38:108, 38:111
- Administrative proceedings, commencement and prosecution, **§ 38:81**
- Admission to bar, **§ 38:81**
- Agricultural labor organizations, **§ 38:35**
- AIDS related, **§ 38:29**
- Airport land use, **§ 38:18**
- Airports, **§ 38:18**
- Air Resources Board, **§ 38:74**
- Alcoholic beverages
 - Social host immunity, **§ 38:33**
 - Student use, reports as to, **§ 38:44**
- Alienation of affection, **§ 38:37**
- Ambulance services, §§ 38:51, 38:118
- Amusement park employees, detention of persons for violation of park rules, **§ 38:17**
- Anatomical gifts, **§ 38:63**
- Animal fights, reporting, **§ 38:43**
- Animal health technicians, §§ 38:16, 38:55
- Animals, §§ 38:19, 38:20, 38:43, 38:55, 38:77
- Anonymous Witness Program, **§ 38:41**
- Answer, allegation of immunity, **§ 38:140**

INDEX

IMMUNITY—Cont'd

- Antitrust
 - Trade group immunity, **§ 38:122**
 - Witness immunity, **§ 38:41**
- Appellate review as to, **§ 38:142**
- Arbitrators, **§§ 38:8, 38:132, 38:133**
- Architects, **§§ 38:7, 38:123**
- Armed Forces and Military Matters, this index
- Arrest, **§§ 38:76 to 38:80**
- Arson, reporting, **§ 38:40**
- Asbestos exposure actions, **§ 38:123**
- Assistance in emergency, **§ 38:45 et seq.**
- Assistance to police, **§§ 38:17, 38:50**
- Athletes, assistance in emergency, **§ 38:47**
- Attorney General, **§ 38:75**
- Attorney in fact, **§ 38:26**
- Attorneys
 - Arbitration of fee disputes and, **§ 38:8**
 - Bar investigation reports, **§ 38:81**
 - Committee of Bar Examiners, **§ 38:132**
 - Conspiracy actions and, **§ 38:9**
 - Lawyer referral services, **§ 38:12**
 - Service of process, immunity from, **§ 2:18**
 - Termination of practice, procedure on, **§ 38:9**
- Auctioneers and auction companies, **§ 38:4**
- Authorized emergency vehicles, **§§ 38:51, 38:118**
- Automatic stay violation by federal government, **§ 38:126**
- Autopsies, **§§ 38:15, 38:63, 38:81**
- Bailiffs, **§ 38:133**
- Bankruptcy trustees, **§ 38:133**
- Banks, failure of causing injury to prisoner, **§ 38:84**
- Bar associations, **§§ 38:12, 38:65, 38:132**
- Bays, **§§ 38:108, 38:110**
- Beaches, **§ 38:108**
- Blood alcohol testing, **§ 38:23**
- Blood banks, **§ 38:29**
- Blood transfusions, **§ 38:24**
- Board of Medical Quality Assurance, **§ 38:81**
- Board of supervisors, **§§ 38:59, 38:116, 38:137**
- Boxing officials, **§ 38:14**
- Breach of
 - Confidence, **§ 38:38 et seq.**
 - Contract, **§§ 38:56, 38:105**
 - Promise to marry, **§ 38:37**
 - Trust, **§§ 38:28, 38:84, 38:133**
 - Warranty, **§ 38:105**
- Building inspectors, **§ 38:135**

IMMUNITY—Cont'd

- Burden of proof
 - Generally, **§ 38:143**
 - Dangerous condition of public land, **§ 38:111**
 - Design immunity, **§ 38:113**
 - Emergency medical services, **§ 38:49**
- Cable television, **§ 38:42**
- California Alternative Energy Source Financing Authority, **§ 38:122**
- California Avocado Commission, **§ 38:122**
- California Beef Council, **§ 38:122**
- California Cherry Commission, **§ 38:122**
- California Credit Union Share Guaranty Corporation, **§ 38:66**
- California Disaster Act, **§ 38:53**
- California Earthquake Authority, **§ 38:122**
- California Earthquake Prediction Council, **§ 38:71**
- California Egg Commission, **§ 38:122**
- California Emergency Services Act, §§ **38:22, 38:53, 38:75**
- California Horse Racing Board, **§ 38:14**
- California Housing Finance Agency, **§ 38:122**
- California Iceberg Lettuce Commission, **§ 38:122**
- California Insurance Guarantee Association, **§ 38:13**
- California Kiwifruit Commission, **§ 38:122**
- California National Guard, **§ 38:68**
- California Navel Orange Commission, **§ 38:122**
- California Parent Locator Service and Central Registry, **§ 38:38**
- California Pistachio Commission, **§ 38:122**
- California Recreational Trails Act, §§ **38:32, 38:112**
- California Rehabilitation Center, **§ 38:95**
- California Sheep Commission, **§ 38:122**
- California Table Grape Commission, **§ 38:122**
- California Tahoe Conservancy, **§ 38:108**
- California Urban Waterfront Area Restoration Financing Authority, **§ 38:122**
- California Wheat Commission, **§ 38:122**
- Canals, §§ **38:60, 38:119**
- Candidates, §§ **38:39, 38:42**
- Cardiopulmonary resuscitation, **§ 38:48**
- Caregiver for minor, consent to school-related medical care, **§ 38:26**
- Cargo tank vehicles, **§ 38:70**
- Carriers, **§ 38:20**
- Cartwright Act, §§ **38:41, 38:122**
- Causes of action, forbidden, **§ 38:37**
- Cemetery authorities, **§ 38:15**
- Certificates, revocation, denial, issuance by public agencies, §§ **38:75, 38:102 et seq.**
- Charities
 - Generally, **§ 38:139**
 - Food gathering activities, **§ 38:27**
- Charter Boat Safety Act, **§ 38:103**

INDEX

IMMUNITY—Cont'd

- Child abuse, reporting, **§ 38:43**
- Child Abuse and Neglect Reporting Act, **§ 38:43**
- Child Protective Services, **§ 38:43**
- Chiropractors, **§ 38:10**
- Choking emergencies, **§ 38:52**
- Civil conspiracy, **§ 38:9**
- Civil engineers, **§§ 38:7, 38:123**
- Civil service employees, **§ 38:81**
- Class actions, residue in, **§ 38:65**
- Clerks of the court, **§§ 38:133, 38:135**
- Commissions and boards authorized by state, **§ 38:122**
- Committee of Bar Examiners, **§§ 38:81, 38:132**
- Common carriers, **§ 38:20**
- Common Law, this index
- Community colleges, **§§ 38:44, 38:47, 38:53, 38:123**
- Conciliators, **§ 38:132**
- Condemnation proceedings, **§ 38:75**
- Conduits, **§§ 38:60, 38:119**
- Confidential information, **§ 38:41**
- Conservators, **§ 38:28**
- Contempt, newsperson's shield law, **§ 38:36**
- Contractors, design immunity and, **§ 38:130**
- Contracts for fire protection and, **§ 38:90**
- Controlled substance abuse, reporting, **§ 38:44**
- Controller, escheated property and, **§ 38:73**
- Convulsive treatment, **§ 38:10**
- Coroners, **§§ 38:15, 38:63, 38:135**
- Corporations
 - Generally, **§ 38:35**
 - California Credit Union Share Guaranty Corporation, **§ 38:66**
 - Commissioner of, **§ 38:66**
 - Consultants communicating with Commissioner of, **§ 38:4**
 - Directors, **§ 38:35**
 - Foreign, **§ 38:35**
 - Nonprofit corporations, **§ 38:35**
 - Officers, **§ 38:35**
 - Religious, **§§ 38:35, 38:37**
 - Shareholders, **§ 38:35**
 - Thrift Guaranty Corporation, **§ 38:35**
 - Transfer of shares, **§ 38:35**
- County clerks, **§ 38:135**
- Courts
 - Appointed officers and expert witnesses, **§ 38:133**
 - Attorney's practice, assuming jurisdiction over, **§ 38:9**
 - Judges, **§ 38:131**
 - Patient's judicial review, interference with, **§ 38:96**

IMMUNITY—Cont'd

Courts—Cont'd
Personnel, §§ 38:133, 38:135
Small claims courts, advice in, § 38:69
Tax proceedings in, § 38:67
United States, removal of actions against, § 38:126
CPR services, § 38:48
Credit unions, §§ 38:66, 38:84
Cremation, § 38:15
Criminal conversation, § 38:37
Dairy Council of California, § 38:122
Damages, §§ 38:31, 38:37, 38:124
Dams, §§ 38:32, 38:108, 38:119
Dangerous conditions, §§ 38:32, 38:79, 38:95, 38:107 to 38:121
Declaratory relief and, §§ 38:131, 38:135
Defamation, this index
Defense of truth and, § 51:11
Definition, § 38:82
Demurrer and, § 38:141
Dentists, §§ 38:10, 38:46
Department of Consumer Affairs, § 38:122
Department of Forestry, fire fighting immunity, § 38:90
Department of Motor Vehicles, §§ 38:62, 38:102, 38:132
Department of Public Health, § 38:75
Dependent adults, reporting abuse, § 38:43
Design immunity, defects on public property, §§ 38:113, 38:121
Design Review Board, § 38:122
Detention and evaluation, § 38:99
Diagnosis, errors in by public employee, § 38:75
Disability insurance benefits, recovery of by state, § 38:37
Disaster services, §§ 38:45, 38:53
Disciplinary proceedings, commencement or prosecution of, § 38:81
Discretionary Acts and Omissions, this index
Disease prevention, § 38:97
District agricultural associations, § 38:122
Districts Securities Commission, § 38:122
Division of Labor Law Enforcement, § 38:76
Dogs, this index
Domestic violence restraining order, enforcement of, § 38:76
Donations, § 38:27
Drains, § 38:119
Driver's licenses, § 38:102
Drug Dealer Liability Act, immunity for assistance to police, § 38:17
Drugs
Distribution without prescription during emergency, § 38:53
Reporting use by students, § 38:44
Durable power of attorney, § 38:26

INDEX

IMMUNITY—Cont'd

- Duty of care, §§ 38:1, 38:32, 38:135
- Duty to warn. Failure to Warn, this index
- Earth movement, gradual, § 38:72
- Earthquakes, §§ 38:53, 38:71, 38:122
- Elderly, this index
- Elections, voter information, § 38:37
- Electrical engineers, § 38:7
- Electricity distribution decisions, § 38:20
- Eleventh Amendment, immunity of State under, § 38:127
- Emancipated minor, identification card, § 38:62
- Embalmers, § 38:63
- Emergencies, this index
- Eminent domain decisions, § 38:75
- Enactment of law, §§ 38:74, 38:77
- End of Life Option Act, § 38:26
- Energy, alternative systems, § 38:122
- Enforcement of law, §§ 38:74, 38:77
- Engineering Criteria Review Board, § 38:122
- Engineers, §§ 38:7, 38:123
- Entry on property, § 38:60
- Enucleators, § 38:63
- Escape, §§ 38:88, 38:99, 38:100
- Escheat, §§ 38:3, 38:73
- Escrow, this index
- Euthanasia, § 38:55
- Execution of law, §§ 38:74, 38:77
- Expert witnesses, immunity of court appointed, § 38:133
- Extraterritorial emergency services, § 38:64
- Failure to admit to medical facility, § 38:101
- Failure to arrest, §§ 38:78, 38:80
- Failure to enact or enforce law, §§ 38:74, 38:77
- Failure to enforce law, §§ 38:74, 38:77
- Failure to examine patient, § 38:98
- Failure to inspect, §§ 38:13, 38:104
- Failure to install traffic signal, §§ 38:113, 38:118
- Failure to investigate crime, § 38:79
- Failure to prevent disease, § 38:97
- Failure to provide fire protection, § 38:91
- Failure to provide police protection, § 38:79
- Failure to retain prisoner in custody, §§ 38:80, 38:88
- Failure to supervise prisoners, § 38:88
- Failure to Warn, this index
- False arrest, § 38:76 *et seq.*
- False imprisonment, §§ 38:17, 38:78 to 38:80
- Familial immunity, §§ 38:138, 52:17
- Federal Insecticide, Fungicide and Rodenticide Act, § 38:22

IMMUNITY—Cont'd

- Federal Tort Claims Act, §§ 38:67, 38:68, 38:75, 38:105
- Fee arbitration, § 38:8
- Felonies, immunity from damages arising from, § 38:31
- Fences, construction of by railroad, § 38:20
- Ferry services, §§ 38:59, 38:116
- Fiduciaries, §§ 38:28, 38:84
- Field trips, § 38:123
- Financial information, § 38:38
- Fire and Firefighting, this index
- Fire drills, § 38:53
- Fish and Game investigators, § 38:135
- Fish hatcheries, § 38:59
- Flammable liquids, transportation of, § 38:70
- Flood control activities, §§ 38:116, 38:119, 38:120, 49:1, 49:8, 49:9
- Food, Drug and Cosmetic Law, § 38:21
- Food banks, § 38:27
- Food donations, § 38:27
- Forbidden causes of action, § 38:37
- Foreign corporations, § 38:35
- Foreign nations, actions against, § 38:129
- Foreign Sovereign Immunities Act, § 38:129
- Forest resource management, § 38:60
- For-hire vessels, licensing of, § 38:103
- Foster homes, §§ 38:75, 38:104
- Fraud
 - Inspections, § 38:104
 - Insurance reports, § 38:40
 - Licensing, § 38:105
 - Promise to marry, § 38:37
 - Public agencies and employees and, § 38:56
- Funeral directors, § 38:15
- Gaming clubs, ejection of undesirable patrons, § 38:14
- Gaming Registration Act, § 38:14
- Gas, distribution decisions as to, § 38:20
- Gifts
 - Anatomical, § 38:63
 - In contemplation of marriage, § 38:37
 - To minors, § 38:34
- Gleaning, §§ 38:27, 38:32
- Good faith release of student record information, § 38:44
- Good Samaritans, § 38:45 et seq.
- Governmental immunity, §§ 7:14, 38:56 et seq.
- Government contractor immunity, § 38:130
- Government Tort Claims Act, this index
- Gradual earth movement, § 38:72
- Grand jurors, §§ 38:133, 38:134

INDEX

IMMUNITY—Cont'd

- Guardian ad litem, § 38:133
- Guardians, §§ 38:28, 38:73, 38:133
- Hazardous conditions, §§ 38:32, 38:79, 38:95, 38:111, 38:118, 38:119
- Hazardous recreational activities, § 38:112
- Hazardous substances, § 38:22
- Health care facilities, long-term, §§ 38:28, 38:43, 38:94 et seq.
- Health care professionals
 - All persons, statutory immunities available to, § 38:2
 - Disaster services, § 38:53
 - Emergency and Good Samaritan immunities, § 38:45 et seq.
 - End of Life Option Act, § 38:26
 - Forbidden causes of action, § 38:37
 - Health quality assurance and peer review committee, § 38:10
 - Informants on child abuse, elder abuse, and similar wrongs, § 38:43
 - Medical and psychiatric care, § 38:94 et seq.
 - Natural Death Act, § 38:26
 - Powers of attorney, § 38:26
 - Referral societies and referrals, § 38:12
- Health care services, §§ 38:4, 38:10
- Health insurance counselors, immunities of, § 38:2
- Hearing officers, § 38:132
- Heimlich maneuver, § 38:51
- Highways, §§ 38:113 to 38:116
- Highway Users Tax Fund, §§ 38:59, 38:116
- HIV testing, § 38:29
- Horses
 - Racing officials, § 38:14
 - Reporting abuse, § 38:43
- Hospitals, this index
- Hostages, § 38:17
- Housing Authority, hazardous conditions, § 38:22
- Identification cards, § 38:62
- Immigrants, immunity for disclosures as to, § 38:39
- Immunizations, § 38:24
- Indemnity distinguished, § 38:147
- Infant abandonment, §§ 38:28, 38:45
- Injunctions, immunity of judge as to, § 38:131
- In-line skating, § 38:112
- Inspections
 - Entry on property to, § 38:60
 - Failure to, §§ 38:13, 38:104
 - Negligent inspections, § 38:104
- Institution of litigation, § 38:81
- Insurance, this index
- Interspousal immunity, § 38:138
- Interstate Civil Defense and Disaster Compact, § 38:53

IMMUNITY—Cont'd

- Interstate emergency services agreement, **§ 38:53**
- Intoxicated persons, custody of, **§§ 38:82, 38:99**
- Intrafamilial immunity, **§§ 38:138, 52:17**
- Invalid laws, actions under, **§ 38:58**
- Invasion of privacy, **§ 38:38 et seq.**
- Inverse condemnation and, **§ 38:126**
- Investigations
 - Generally, **§§ 38:75, 38:77**
 - Bar, admission to, **§ 38:81**
 - Civil service employees, **§ 38:81**
 - Discretionary acts, **§§ 38:75, 38:76, 38:79**
 - Pharmacies, **§ 38:71**
 - Warrants, **§ 38:78**
- Irrigation districts, **§ 38:119**
- Joint Exercise of Powers Act, **§ 38:64**
- Joint powers activities by public agencies, **§ 38:64**
- Joint Task Force on Personal Information and Privacy, **§ 38:38**
- Judges
 - Generally, **§ 38:131**
 - Judicial conduct, **§ 38:88**
 - Judicial error, remedy for, **§ 38:131**
 - Judicial rights, **§§ 38:86, 38:96**
 - Persons appointed by judge, **§ 38:133**
 - Quasi judicial officers, **§ 38:132**
- Judgmental immunity, **§ 38:146**
- Jurors, **§ 38:133**
- Juvenile Offenders, this index
- Land failure, **§§ 38:72, 38:109**
- Landslide Hazard Identification Program, **§ 38:109**
- Landslides, **§§ 38:72, 38:109**
- Land surveyors, **§§ 38:7, 38:60, 38:122**
- Lanterman-Petris-Short Act, **§ 38:99**
- Law clerks appointed by court, **§ 38:133**
- Law enforcement activities, **§§ 38:17, 38:75 to 38:81**
- Lawful orders to military unit, **§ 38:68**
- Lead-based paint, **§ 38:22**
- Legal referral services, **§ 38:12**
- Legislative decisions, **§ 38:74**
- Legislators, **§§ 38:74, 38:137**
- Liability insurers, **§ 38:40**
- Libel. Defamation, this index
- Libraries, **§ 38:17**
- Licensing Requirements, this index
- Liquor, social host providing, **§ 38:33**
- Long-term Care Ombudsman, **§ 38:43**
- Long-term health care facilities, **§§ 38:28, 38:43**

INDEX

IMMUNITY—Cont'd

- Los Angeles County Transportation Commission, § **38:122**
- Lowest responsible bidder, selection, § **38:75**
- Magazines, news reporter's privilege and, § **38:36**
- Malicious prosecution and, §§ **38:76, 38:81**
- Manmade improvements and, § **38:108**
- Marriage
 - Breach of promise to, § **38:37**
 - Gifts in contemplation of, § **38:37**
- McAteer-Petris Act, § **38:122**
- Mechanical engineers, § **38:7**
- Mediators and, § **38:133**
- Medical schools, §§ **38:10, 38:39**
- Medical treatment
 - AIDS, § **38:29**
 - Cardiopulmonary resuscitation, § **38:48**
 - Choking emergencies, § **38:52**
 - Convulsive treatment, § **38:10**
 - Malpractice and, §§ **38:10, 38:25, 38:37, 38:39, 38:84, 38:87, 38:94 et seq.**
 - Medical examiners, anatomical gifts and, § **38:63**
 - Multiphasic screening unit, § **38:12**
 - Narcotic addict treatment, §§ **38:81, 38:96**
 - Prisoners and, §§ **38:84, 38:87**
 - Sterilization, § **38:28**
 - Transfusions, § **38:24**
 - Vaccination, § **38:24**
- Medicare beneficiaries, immunities of health insurance counselors, § **38:2**
- Mental patients and incompetents
 - Abuse, reporting of, § **38:43**
 - Confinement of, § **38:99**
 - Convulsive treatment and, § **38:10**
 - Definition of mental patient, § **38:95**
 - Detention and evaluation of, § **38:99**
 - Diagnosis of, § **38:75**
 - Escape of, §§ **38:99, 38:100**
 - Failure to admit, §§ **38:99, 38:101**
 - Failure to examine, § **38:98**
 - Injuries to or by, § **38:95**
 - Judicial rights of, § **38:96**
 - Lanterman-Petris-Short Act and, § **38:99**
 - Pharmacists and, § **38:16**
 - Psychiatric care, §§ **38:10, 38:30, 38:75, 38:94 to 38:101**
 - Psychiatric outpatients, medicine, § **38:75**
 - Release of information as to patient, § **38:30**
 - Release of patient, §§ **38:95, 38:99**
 - Reporting abuse of, § **38:43**
 - Seventy-two hour hold, § **38:99**

IMMUNITY—Cont'd

- Mental patients and incompetents—Cont'd
 - Suicide of, §§ **38:95, 38:99**
 - Unclaimed property of, § **38:73**
- Merchandise, adulterated or misbranded, § **38:21**
- Merchants, §§ **38:17, 38:21**
- Militia, § **38:68**
- Ministerial acts, § **38:75**
- Minors, this index
- Misrepresentation by public official, §§ **38:56, 38:105**
- Missing in action, death and, § **38:26**
- Motor vehicles
 - Emergency vehicles, § **38:51**
 - Liability insurers, § **38:40**
 - Motor Vehicle Theft and Insurance Reporting Act, § **38:40**
 - Negligent entrustment of, § **38:33**
 - Notice of sale or transfer of, § **38:37**
 - Off-Highway Motor Vehicle Recreation Act, §§ **38:32, 38:112**
 - Permissive use of, § **38:37**
 - Police aid to driver, § **38:77**
 - Pursuit of, §§ **38:51, 38:75**
 - Sale or transfer of, § **38:37**
- Multiphasic screening units, § **38:12**
- Museums, property loaned to, § **38:3**
- Narcotic addict, commitment and treatment, §§ **38:81, 38:96**
- National Guard, injuries by, § **38:68**
- Natural conditions, § **38:108 et seq.**
- Natural Death Act and, § **38:26**
- Negligence, this index
- Negligent inspection, § **38:104**
- News media
 - News reporters, § **38:36**
 - Television and radio station owners, § **38:42**
- Nondedicated roads, § **38:115**
- Nonprofit cooperative associations, §§ **38:35, 38:122**
- Nuisance, public property, §§ **38:113, 38:121**
- Nurses, §§ **38:43, 38:46, 38:48, 38:49**
- Off-Highway Motor Vehicle Recreation Act, §§ **38:32, 38:112**
- Office of Administrative Hearings, § **38:132**
- Of pharmacies, § **38:76**
- Oil, distribution decisions as to, § **38:20**
- Optometrists, § **38:10**
- Paramedics, § **38:49**
- Parent and child support obligations, § **38:38**
- Parks, § **38:107 et seq.**
- Parole boards and officers
 - Generally, § **38:132**

INDEX

IMMUNITY—Cont'd

- Parole boards and officers—Cont'd
 - Presentence investigation by officer, **§ 38:133**
 - Paroled prisoners, released or escaped, **§ 38:88**
 - Patient, judicial review as to, **§ 38:96**
 - Pawnbrokers, **§ 38:76**
 - Peace Officers, this index
 - Peer review committees, **§§ 38:10, 38:11, 38:39**
 - Permit revocation, denial or issuance, **§§ 38:75, 38:102**
 - Personal jurisdiction and, **§ 4:3**
 - Personal property, escheat of, **§§ 38:3, 38:73**
 - Personal representatives, **§ 38:28**
 - Pest control and pesticides, **§ 38:22**
 - Petit jury, **§ 38:133**
 - Pharmacists, **§§ 38:2, 38:16, 38:53, 38:77**
 - Physicians and Surgeons, this index
 - Pilots, **§ 38:20**
 - Pipelines, **§§ 38:20, 38:60, 38:119**
 - Plasma centers, AIDS related disclosures, **§ 38:29**
 - Pleading, **§§ 38:1, 38:92, 38:140**
 - Podiatrists, **§§ 38:10, 38:46, 38:47**
 - Poisons
 - Generally, **§ 38:22**
 - Adulterated products, **§ 38:21**
 - Poison control centers, **§ 38:46**
 - Poison information specialists, **§ 38:46**
 - Police officers. Peace Officers, this index
 - Powerhouse, **§ 38:60**
 - Power of attorney, **§ 38:26**
 - Power transmission lines, **§ 38:60**
 - Press releases, **§ 38:81**
 - Presumptions, this index
 - Prisoners
 - Civil protective custody, **§ 38:82**
 - Definition, **§ 38:82**
 - Emergency endangering lives of, **§§ 38:53, 38:88**
 - Escape and, **§§ 38:51, 38:88**
 - Failure to supervise, **§ 38:88**
 - Failure to warn of release of, **§§ 38:75, 38:88**
 - Injuries to or by, **§§ 38:83, 38:84**
 - Judicial rights of, **§ 38:88**
 - Medical care of, **§ 38:87**
 - Paroled, released or escaped, **§§ 38:51, 38:88**
 - Unclaimed property of, **§§ 38:73, 38:75**
 - Wrongful death, **§ 38:84**
 - Prisoners of war, **§ 38:26**

IMMUNITY—Cont'd

Prisons

- Lack or inadequacy of, **§ 38:85**
- Prison officials, **§§ 38:59, 38:82 to 38:88, 38:135**
- Privilege and, **§§ 38:145, 41:24**
- Probation officers, **§ 38:133**
- Process servers, **§ 38:133**
- Products liability

 Adulterated or misbranded products, **§ 38:21**

 Product known to be unsafe, **§ 38:37**

Professional organizations

- Generally, **§§ 38:6 et seq., 38:39**
- Arbitrators, **§ 38:8**
- Architects, **§ 38:7**
- Attorneys, **§§ 38:8, 38:9, 38:12**
- Engineers, **§§ 38:7, 38:11**
- Health quality assurance committees, **§ 38:10**
- Insurance underwriting committees, **§ 38:10**
- Land surveyors, **§ 38:7**
- Multiphasic screening units, **§ 38:12**
- Peer review committees, **§ 38:10**
- Real estate licensees, **§ 38:11**
- Referral societies, **§ 38:12**

Proof of, **§§ 38:1, 38:141, 38:142**

Property

- Disposal of valueless, **§ 38:75**
- Entry on, **§ 38:60**
- Juvenile offenders, mental patients, or prisoners, **§ 38:75**
- Unclaimed, **§§ 38:3, 38:73**

Prosecution and prosecutors, **§§ 38:81, 38:96, 38:134**

Psychiatric outpatients, medicine, **§ 38:75**

Psychologists, **§ 38:133**

Psychotherapists

- Decisions on confinement and releases, **§ 38:99**
- Emergency and Good Samaritan immunities, **§ 38:54**
- Escaping mental patients, **§ 38:100**
- Failure to make mental or physical examination, **§ 38:98**
- Forbidden causes of action, **§ 38:37**
- Injuries to or by mentally ill, **§ 38:95**
- Law enforcement activities, **§ 38:75**
- Nonstatutory immunities, **§ 38:133**
- School counselors, principals, and personnel, **§ 38:44**

Public Agencies and Entities, this index

Public defenders, **§ 38:134**

Public health officers, **§ 38:63**

Publicity, **§ 38:81**

Public Officers and Employees, this index

INDEX

IMMUNITY—Cont'd

- Public Property Immunities, this index
- Public Utility Commission, §§ 38:20, 38:122
- Punitive damages, §§ 38:37, 38:124
- Pursuit of fleeing vehicles, §§ 38:51, 38:75
- Quality assurance committees, § 38:10
- Quality of, § 38:92
- Quarantine decision to, § 38:97
- Quasi-judicial conduct, § 38:88
- Quasi-judicial officers, §§ 38:10, 38:132
- Quasi-legislative decisions, § 38:74
- Racing officials, § 38:14
- Radio, §§ 38:36, 38:42
- Railroads, § 38:20
- Rating organizations, § 38:13
- Real estate licensees
 - AIDS disclosure, § 38:29
 - Information as to, § 38:39
 - Peer review committees and, § 38:11
 - Smoke detectors, § 38:5
- Real property owners, §§ 38:29, 38:31, 38:32, 38:60, 38:107 et seq.
- Receivers, §§ 38:28, 38:133
- Reclamation Board flood control, § 38:120
- Reclamation districts, §§ 38:119, 38:122
- Recreational Property, this index
- Referees, § 38:14
- Referral societies, § 38:12
- Release
 - Mental patients, § 38:95
 - Patient information, § 38:30
 - Patients, §§ 38:95, 38:99
 - Prisoners, §§ 38:75, 38:88
- Religious corporations, §§ 38:35, 38:37
- Reporters, § 38:36
- Repossession agency, § 38:4
- Rescue
 - Emergency and, § 38:51
 - Firefighting and, § 38:92
 - Rescue teams, §§ 38:48, 38:51
- Respiratory care, § 38:48
- Respondeat superior, §§ 38:56, 38:59, 38:135
- Restraint of trade, state commissions and, § 38:122
- Revocation
 - Permits, licenses or certificates, §§ 38:75, 38:81, 38:102, 38:132
 - Power of attorney, § 38:26
- Right of privacy and, § 38:38 et seq.
- Risk Retention Act, § 38:40

IMMUNITY—Cont'd

- Rivers, §§ 38:108, 38:110
- Roads, §§ 38:108, 38:113 to 38:117
- San Francisco Bay Conservation and Development Commission, § 38:122
- Savings and loan associations, §§ 38:26, 38:84
- Schools, this index
- Search warrants, § 38:17
- Seduction, § 38:37
- Service of process, § 2:18
- Seventy-two hour hold, § 38:99
- Sex offenders, registration of, § 38:38
- Sheriffs, §§ 38:59, 38:76 to 38:80, 38:133, 38:135
- Skateboarding, § 38:112
- Slander. Defamation, this index
- Small Business Expansion Fund, § 38:122
- Small claims court advice, § 38:69
- Smoke detector disclosure, § 38:5
- Social hosts, § 38:33
- Social workers, §§ 38:43, 38:134
- Soil Conservation and Domestic Allotment Act, § 38:122
- Sovereign Immunity, this index
- Sports officials, § 38:14
- Spouses, §§ 38:35, 38:138
- State, actions against, §§ 38:53, 38:127
- State Athletic Commission, § 38:14
- State Bar, §§ 38:39, 38:81, 38:132
- State Board of Control, § 38:73
- State Board of Registration for Professional Engineers and Land Surveyors, § 38:122
- State lands, unimproved, §§ 38:108, 38:110, 38:114
- State of emergency, § 38:71
- State Oil and Gas Supervisor, § 38:20
- State Resource Conservation Commission, § 38:122
- Sterilization, § 38:28
- Stewards, § 38:14
- Stray animals, § 38:19
- Streams, §§ 38:108, 38:110
- Streets, §§ 38:114, 38:116
- Subsidence of land, §§ 38:20, 38:72
- Successor trustees, § 38:28
- Suicide, §§ 38:95, 38:99
- Summary judgment and, § 38:141
- Superintendent of schools, §§ 38:23, 38:59, 38:75, 38:123
- Superior courts, § 38:69
- Taxes
 - Collection, prevention of, § 38:37
 - Tax assessors, § 38:135
 - Tax proceedings, §§ 38:67, 38:126

INDEX

IMMUNITY—Cont'd

- Telephones, §§ 38:17, 38:37, 38:45
- Television, §§ 38:36, 38:42
- Theft of money from custody, § 38:61
- Third parties
 - Causing dangerous condition of public property, § 38:111
 - Reliance on immunity of another, § 38:130
- Timber harvesting, entry on private property for, § 38:60
- Traffic signals, §§ 38:111, 38:113, 38:118
- Trails, §§ 38:108, 38:112, 38:114
- Training during emergency, § 38:50
- Transfusions, § 38:24
- Transportation Tax Fund, § 38:116
- Treasurer, escheated property, § 38:73
- Trespass, §§ 38:19, 38:60
- Trustees, §§ 38:28, 38:84, 38:133
- Truth as a defense and, § 51:11
- Tunnel traffic, § 38:70
- Unclaimed property law, §§ 38:3, 38:73
- Unconstitutional laws, actions under, § 38:58
- Underwriting committees, § 38:10
- Undocumented workers, information on, § 38:39
- Unemployment benefits overpayment, recovery of, § 38:37
- Unfair Practices Act, §§ 38:13, 38:41, 38:122
- Uniform Anatomical Gift Act, § 38:63
- Uniform Transfer to Minors Act, § 38:34
- Unimproved property, §§ 38:108, 38:110, 38:114
- Unincorporated associations, §§ 38:35, 38:122
- United States, actions against, § 38:126
- Unpublished information, § 38:36
- Vaccines, § 38:24
- Vehicular pursuits, §§ 38:51, 38:75
- Vessel operators, §§ 38:46, 38:103
- Veterinarians, §§ 38:16, 38:43, 38:55
- Vicarious Liability, this index
- Volcanic eruptions, § 38:71
- Volunteers, this index
- Voter registration information, disclosure, § 38:37
- Waiver, § 38:144
- Warrants, §§ 38:17, 38:79, 38:131, 38:133
- Water supply, § 38:93
- Weather conditions, § 38:117
- Willful Misconduct, this index
- Wills, autopsies and, § 38:15
- Witnesses
 - Anonymous Witness Program, § 38:41
 - Appointed by court, § 38:133

IMMUNITY—Cont'd

Witnesses—Cont'd

 Service of process on, §§ 2:18, 4:3

Workers' compensation, § 38:123

Wrongful death, §§ 38:35, 38:84, 38:100

Wrongful life, § 38:37

Z'Berg-Nejedly Forest Practice Act, § 38:60

IMMUNIZATIONS

Disease, this index

Immunity, § 38:24

IMPEACHMENT

Service of process in action for, § 2:2

IMPLIED CONTRACTS

Common Counts, this index

Consideration, § 56:1

Illegality, § 37:1

Modification of contract, third party rights, § 65:7

Statute of limitations

 Generally, § 25:15

 Implied contractual warranty, § 25:28

Venue, § 5:33

IMPLIED WARRANTY OF FITNESS

Comparative fault and, § 48:16

IMPOSSIBILITY

Generally, § 60:1 et seq.

Acts of God and, §§ 30:18, 30:20, 60:2, 60:3

Answer alleging, § 60:13

Anticipatory breach and, § 60:12

Apportionment of performance, § 60:8

Bad bargain, § 60:5

Bifurcated trial, § 60:15

Breach of contract and, § 60:11

Burden of proof, § 60:16

Causal relationship to breach of contract, §§ 60:2, 60:11

Consideration impossible to ascertain, §§ 56:1, 56:17

Construction contracts, § 60:2

Construction of contract to avoid, § 60:10

Contracts, this index

Contracts anticipating risk, § 60:6

Death, § 60:2

Defendant caused, no defense, § 60:12

Demurrer, § 60:14

Destruction of subject matter, § 60:2

Difficulty from foreseeable cause, § 60:6

Earthquakes and, § 60:2

INDEX

IMPOSSIBILITY—Cont'd

Effect of, **§ 60:11**

Extraordinary difficulty and expense, **§§ 60:1, 60:5**

Fire, **§ 60:2**

Foreseeable risks, **§§ 60:6, 60:16**

Frustration and, **§§ 58:1, 58:5, 60:18, 62:12**

Goods, destruction of, **§ 60:2**

Government action, **§ 60:6**

Guaranties and, **§ 67:3**

Impracticability, **§§ 60:1, 60:5**

Interpretation of contract to avoid, **§ 60:10**

Irresistible superhuman cause, **§ 60:3**

Jury instructions as to, **§ 60:15**

Leased property, destruction of, **§ 60:2**

Manner of asserting, **§ 60:13**

Mistake and, **§ 60:19**

Motion, **§ 60:14**

Operation of law, **§ 60:4**

Partial destruction of subject matter, **§ 60:2**

Partial impossibility, **§ 60:8**

Personal service contracts and, **§§ 60:2, 60:9**

Pleading, **§ 60:13**

Prevention of performance and, **§§ 59:9, 60:12**

Public enemy causing, **§ 60:3**

Real property sales, **§ 60:2**

Sales of goods, **§ 60:2**

Summary judgment, **§ 60:14**

Sureties and, **§ 67:3**

Temporary impossibility, **§ 60:9**

Third party action causing, **§ 60:6**

Tidal waves, **§ 60:2**

Time of impossibility, **§ 60:7**

Trial, **§ 60:15**

Uniform Vendor and Purchaser Risk Act, **§ 60:2**

Waiver of defense, **§ 60:17**

IMPRISONMENT

Incarceration, this index

IMPUTATION OF COMPARATIVE FAULT

Comparative Fault, this index

INADEQUACY OF CONSIDERATION

Consideration, this index

INADEQUACY OF REMEDY

Adequacy of Remedy at Law, this index

INCAPACITY OF PERSON

Attorney's incapacity

As extrinsic mistake affecting validity of judgment, **§ 14:15**

Delay in prosecution and, **§§ 28:28, 29:3**

Statute of limitations and, **§ 25:60**

Capacity-contract, **§§ 52:21 to 52:30**

Capacity to contract, **§§ 52:3, 52:34, 52:36, 52:37**

Capacity to sue, effect on, **§§ 18:9, 18:10**

Comparative fault, effect on, **§ 48:4**

Consent, **§§ 32:2, 34:4, 52:21 to 52:24**

Conservators and Conservatorship, this index

Death, effect on action to determine, **§ 17:26**

Dissolution of marriage based on, **§ 18:9**

Failure to state a cause of action, **§§ 9:1, 18:1**

Government claims filing requirements and, **§ 12:20**

Guardians and Guardianship, this index

Incarceration, **§§ 18:33, 52:35**

Indispensable party and, **§ 18:31**

Mental Incompetency, this index

Party's incapacity

Delay in prosecution and, **§§ 28:28, 29:3**

Statute of limitations and, **§§ 25:42, 25:53, 25:55, 25:59**

Personal jurisdiction and, **§ 18:9**

Plaintiff's, effect on tort action, **§ 48:4**

Probate proceedings, **§ 25:53**

Rescission, **§ 62:16**

Res judicata effect of validity of judgment, **§§ 14:20, 14:51**

Standing, relation to, **§§ 18:42, 19:1, 19:20**

Statute of limitations, effect of, **§§ 25:42, 25:53, 25:55, 25:60**

Tolling due to, **§§ 25:42, 25:53, 25:55, 25:59**

Waiver affected by, **§ 47:2**

INCAPACITY TO SUE

Capacity to Sue, this index

INCARCERATION

Capacity to sue, **§§ 18:33, 52:35**

Delay in prosecution, effect on, **§ 28:25**

Government claims filing requirement and, **§ 12:23**

Prisoners, this index

Statute of limitations, effect on, **§§ 25:54, 25:55**

INCEST

Statute of limitations and, **§ 25:26**

INCOMPETENCY

Mental Incompetency, this index

INCOMPETENT PERSONS

Mental Incompetency, this index

INDEX

INCONSISTENT DEFENSES

Affirmative Defenses, Answer, this index

INCONTESTABILITY

Generally, **§ 25:86**

INDEBTEDNESS

Debt, this index

INDEMNITY

Accrual

Generally, **§§ 25:5, 25:39**

Claims against government, **§ 12:23**

Asbestos exposure actions, school facilities, **§ 38:123**

Certificate of merit requirements in certain actions for, **§ 12:2**

Comparative fault and, **§ 48:16**

Construction disputes, statute of limitations, **§ 25:17**

Definition, **§ 42:14**

Exoneration of surety and, **§ 67:8**

Felonies, **§ 37:12**

Fraud and, **§§ 37:10, 42:14**

Future illegal acts, **§ 37:12**

Government claims filing requirements and, **§ 12:21**

Guaranty and, **§ 67:8**

Illegality, **§§ 37:10 to 37:12**

Immunity distinguished, **§ 38:147**

Negligence and, **§§ 37:11, 42:14**

Past illegal acts, **§ 37:12**

Privity for res judicata, **§ 14:29**

Release and, **§§ 42:1, 42:14**

Res judicata and, **§ 14:29**

Settlement, effect of, **§ 43:2**

Sovereign immunity and, **§ 38:56**

Statute of Frauds, this index

Statute of limitations

Generally, **§ 25:39**

Accrual, discovery rule, **§ 25:5**

Latent construction defects, **§ 25:17**

Suretyship contract and, **§ 67:8**

Violation of law, **§ 37:12**

Waiver of right to, malicious prosecution actions, **§ 47:6**

INDEPENDENT CONTRACTORS

Contractors, this index

Definition, **§§ 38:51, 38:56**

Employees, **§§ 38:51, 38:56**

Imputation of negligence by, **§ 48:14**

Negligent selection, **§ 38:75**

Nondelegable duty, breach by owner, **§ 48:14**

INDEPENDENT CONTRACTORS—Cont'd

Peculiar risk doctrine and, **§ 48:14**
Personal jurisdiction, **§§ 4:11, 4:28**
Public entity liability, **§ 38:56**

**INDEPENDENT WHOLESALE REPRESENTATIVES CONTRACTUAL
RELATIONS ACT**

Personal jurisdiction under, **§ 4:5**

INDIAN CHILD WELFARE ACT OF 1978

Notice of child custody proceedings under, **§ 12:3**

INDIGENT PERSONS

Right to counsel, limitation of actions, **§ 25:60**

INDISPENSABLE PARTIES

Accounting by trust and, **§ 21:2**
Adoption, guardian ad litem, **§ 18:4**
Answer, allegation as to, **§ 21:3**
Appellate review and, **§§ 21:5, 21:7**
Breach of contract actions, **§ 21:2**
Child support actions, **§ 18:4**
Complaint, allegation as to, **§ 21:3**
Contract actions, **§ 21:2**
Court's inherent powers as to, **§ 21:5**
Definition, **§§ 20:4, 21:1, 21:2**
Delay in service and return of summons and, **§ 3:3**
Forms, this index
Forum non conveniens and, **§§ 6:4, 6:33, 21:1**
Heirs as, **§§ 17:4, 21:2**
Incompetent person, joinder of, **§ 18:31**
Injunction against contract performance, **§ 21:2**
Joint debtors, **§ 21:2**
Joint obligors and obligees, **§ 21:2**
Lease disputes, **§ 21:2**
Minor, paternity action, **§ 18:4**
Misjoinder of parties and, **§ 21:10**
Nonjoinder of Parties, this index
Nuisance, **§ 21:2**
Partial assignment, **§§ 18:18, 21:2**
Partial subrogation, **§§ 18:18, 21:2**
Partners, **§ 21:2**
Paternity action, **§ 18:4**
Pleadings as to, **§ 21:4**
Real party in interest and, **§ 19:2**
Reformation, **§ 21:2**
Rescission, **§ 21:2**
Res judicata and, **§ 14:18**
Service and return requirements and, **§ 3:3**
Specific performance, **§ 21:2**

INDEX

INDISPENSABLE PARTIES—Cont'd

Standing and, **§ 19:2**
Statute of limitations, **§ 3:3**
Time of determining, **§ 21:1**
Tort actions, **§ 21:2**
Trial and, **§ 21:6**
Trust beneficiaries as, **§ 21:2**
Validation action, **§ 25:34**
Waiver, **§ 21:9**
Wrongful death, **§ 17:4**

INDUCING BREACH OF CONTRACT

Breach of Contract, this index

INEBRIATES

Intoxicated persons, this index

INFANCY

Minority; Minors, this index

INFILCTION OF EMOTIONAL DISTRESS

Emotional Distress, this index

INFORMATION PRACTICES ACT

Venue in actions under, **§§ 5:24, 5:36**

INJUNCTIONS

Adequacy of remedy at law, **§§ 31:1, 31:2, 31:6 to 31:9**
Arbitration, compelling or terminating, **§§ 68:1, 68:7**
Collection of taxes, **§ 38:37**
Commencement of action enjoined, tolling of limitations period, **§ 25:69**
Community property, restraining transfer of, **§ 31:2**
Compensation difficult to ascertain, **§ 31:2**
Construction litigation, security, **§ 13:8**
Consumer class actions and, **§ 12:18**
Definition, **§ 31:1**
Delay in prosecution, effect on, **§§ 28:1, 28:9**
Election of remedies and, **§ 24:9**
Equity, obligation to do, **§ 35:1**
Family law, **§ 31:2**
Immunity, judges, **§ 38:131**
Indispensable party, contract performance, **§ 21:2**
Laches and, **§§ 26:2, 26:4, 26:7**
Minority, **§§ 18:2, 18:3**
Mootness and, **§§ 22:2, 22:7, 22:8**
Multiplicity of proceedings, **§§ 23:4, 23:9, 31:2, 31:11**
Obligation to do equity, **§ 35:1**
Pecuniary compensation inadequate, **§ 31:2**
Personal service contracts, **§ 31:2**
Preliminary injunctive relief, verification of request for, **§ 11:24**
Quasi-community property, restraining transfer of, **§ 31:2**

INJUNCTIONS—Cont'd

Separate property, restraining transfer of, **§ 31:2**
Service of process, §§ 2:3, **3:20**
SLAPP suits, **§ 12:37**
Statute of limitations, **§ 28:68**
Tolling of statute of limitations where action enjoined, **§ 25:69**
Trust, obligation arising from, **§ 31:2**
Unclean hands, §§ **45:2, 45:7**
Venue, §§ **5:4, 5:36**
Verification of pleadings for, §§ **11:4, 11:24**
Vexatious litigants, **§ 13:3**

INLAND CARRIERS

Acts of God as affecting, **§ 30:3**

IN PARI DELICTO

Contractor's licensing requirements, §§ **39:14, 39:18**
Illegality and, §§ **37:6, 37:7, 37:15, 37:31**
Unclean hands and, §§ **45:2, 45:23**

IN PERSONAM JURISDICTION

Personal Jurisdiction, this index

IN PROPRIA PERSONA

Appearance as
Conservator, §§ **18:11, 18:14**
Corporation, **§ 18:14**
Guardian, §§ **18:9, 18:10**
Guardian ad litem, §§ **18:9, 18:10**
Personal representative, §§ **17:4, 18:11, 18:14**
Third party, **§ 18:18**
Conservator's appearance, §§ **18:11, 18:14**
Corporation's appearance, **§ 18:14**
Costs, vexatious litigants, **§ 13:3**
Delay in service and return of summons and, **§ 3:24**
Discretionary dismissal and, **§ 29:3**
Guardian ad litem appearance and, §§ **18:9, 18:10**
Guardian's appearance and, §§ **18:9, 18:10**
Personal representative's appearance, §§ **17:4, 18:11, 18:14**
Security for costs in actions by, **§ 13:3**
Service and return requirements and, **§ 3:24**
Small claims court, **§ 18:14**
Vexatious litigants, actions by, **§ 13:3**

IN REM JURISDICTION

Acts of God, **§ 30:3**
Election of remedies, **§ 24:9**
Personal jurisdiction and, **§ 4:1**
Res judicata and, §§ **14:20, 14:51**
Service of process to effect, **§ 2:16**

INDEX

IN REM JURISDICTION—Cont'd

Validation actions, §§ 5:28, 16:1, 25:34

Verification, §§ 11:13, 11:17

INSANITY

Mental Incompetency, this index

INSOLVENCY

Adequacy of remedy at law and, §§ 31:2, 31:7

Bankruptcy, this index

Debt, this index

Effect on allocation of damages, § 48:5

Insurer, § 38:13

Rescission, § 62:17

Risk retention group, liability of agents, § 38:40

Setoff and, §§ 44:1, 44:3

Successor in interest, § 4:27

Uninsured motorists, limitation of actions, § 25:41

INSTALLMENT NOTES

Acceleration of debt, §§ 47:10, 47:13

Failure of consideration, § 57:2

Modification of contract, § 65:5

Prematurity of complaint and, § 27:1

Res judicata and, §§ 14:15, 14:51

Statute of limitations and, §§ 25:7, 25:13

Venue, § 5:33

INSURANCE

Accrual of cause of actions and

Action on policy, §§ 25:4, 25:7

Bad faith action, § 25:38

Duty to defend, § 25:7

Subrogation, § 25:39

Title insurance, § 25:14

Advice of counsel and, § 41:28

Arson, § 38:40

Assignment of cause of action against insurer, § 18:25

Automobile liability insurance, § 38:40

Bad Faith Actions, this index

Bonding requirement for action by nonadmitted insurers, § 13:4

Breach, survival of cause of action, § 17:19

Brokers and agents, licensing, §§ 39:1, 39:35

Burden of proof, rescission of policy, § 62:22

California Insurance Guarantee Association, § 38:13

Cancellation provisions, waiver of, § 47:13

Collateral source rule, § 36:3

Concealment in policy application, § 62:22

Consent to personal jurisdiction, § 4:5

Death of defendant, effect of insurance, §§ 17:2, 17:30

INSURANCE—Cont'd

- Delay in prosecution and, **§ 28:20**
- Disability
 - Overpayment, **§ 38:37**
 - Setoff, **§ 44:2**
- Explanation for denial or cancellation of policy, **§ 38:40**
- Failure to mitigate as to, **§ 36:3**
- Fraud, **§ 38:40**
- Gambling and, **§ 37:20**
- Guaranties and, **§ 67:9**
- Illegality, **§§ 37:11, 37:20**
- Immunity
 - Arson reporting, **§ 38:40**
 - Automobile insurance, denial of, **§ 38:40**
 - Disability insurance, actions to recover, **§ 38:37**
 - Health insurance, doctor's advisory committees, **§ 38:10**
 - Insurance agents, placement of insurance with licensed insurer, **§ 38:40**
 - Insurance Commissioner, **§ 38:40**
 - Insurance guarantee and rating organizations, **§ 38:13**
 - Insurance Information and Privacy Protection Act, **§ 38:40**
 - Motor Vehicle Theft and Insurance Fraud Reporting Act, **§ 38:40**
 - Providing information, **§ 38:40**
 - Reports to and by insurer, **§ 38:40**
 - Underwriting committees, **§ 38:10**
 - Unemployment insurance, actions to recover, **§ 38:37**
- Insolvency, **§ 38:13**
- Insurance Information and Privacy Protection Act, **§ 38:40**
- Insureds' legal rights, waiver of, **§ 47:13**
- Intent to deceive in application, **§ 62:22**
- Joinder of parties in actions as to, **§§ 20:5, 21:2**
- Licensing requirements, brokers and agents, **§§ 39:1, 39:35**
- Life and disability insurance, minor as insured, **§ 52:16**
- Motor Vehicle Theft and Insurance Fraud Reporting Act, **§ 38:40**
- Nonadmitted insurers, actions by, **§ 13:4**
- Notice
 - Breach of requirement as to, allegation of, **§ 12:10**
 - Complaint, allegation as to, **§ 12:10**
 - Prejudice rule, **§ 12:10**
 - Proof of loss, **§ 12:10**
 - Waiver of, **§ 47:8**
- Overpayment of disability or unemployment insurance benefits, **§ 38:37**
- Personal jurisdiction, regulation affecting, **§ 4:18**
- Policy provisions
 - Statute of limitations clause, **§ 25:41**
 - Waiver of, **§ 47:10**
- Prematurity and, **§ 27:1**
- Premium, receipt of, **§ 56:14**

INDEX

INSURANCE—Cont'd

- Privity for res judicata, subrogated insurers, **§ 14:25**
- Probate claim requirements and, **§ 12:32**
- Proof of loss, **§ 12:10**
- Public enemy as insured, **§ 52:1**
- Punitive damages, **§ 37:11**
- Rating organizations, **§ 38:13**
- Rescission of policies, **§§ 12:7, 62:22**
- Res judicata
 - Generally, **§§ 14:14, 14:23, 14:25**
 - Settlements and, **§ 14:14**
 - Subrogated insurers, **§ 14:25**
- Service of process in cases as to, **§§ 2:2, 2:8**
- Setoff and, **§§ 44:2, 44:6**
- Settlements
 - Consent of insurer to, **§ 43:5**
 - Effect on insurer, **§ 43:2**
 - Insurer's duty to report settlement of professional negligence action, **§ 43:5**
 - Res judicata effect of, **§ 14:14**
- Statute of frauds and, **§ 53:24**
- Statute of limitations
 - Action on policy, **§§ 25:4, 25:7**
 - Bad faith action, **§ 25:38**
 - Duty to defend, **§ 25:7**
 - Fire insurance, **§ 25:12**
 - Insurance agents, **§ 25:37**
 - Insurer's breach, **§§ 25:7, 25:12, 25:14, 25:25, 25:38**
 - Policy provision as to, **§ 25:41**
 - Subrogation, **§ 25:39**
 - Title insurance, **§§ 25:12, 25:14**
 - Uninsured motorist coverage, **§ 25:45**
- Subrogation and
 - Res judicata, **§ 14:25**
 - Statute of limitations, **§ 25:39**
- Suretyship and, **§ 67:9**
- Survival of cause of action for breach, **§ 17:19**
- Time for rescission of policy, **§ 62:22**
- Title Insurance, this index
- Underwriting committees, **§ 38:10**
- Unemployment, overpayment, **§ 38:37**
- Unfair Practices Act, **§ 38:13**
- Uninsured motorist disputes, **§ 25:45**
- Waiver
 - Cancellation provisions, **§ 47:13**
 - Legal rights of insured, **§ 47:13**
 - Notice, **§ 47:13**
 - Policy provisions, **§ 47:10**

INSURANCE—Cont'd

Willful acts, § 37:11

Workers' Compensation Actions, this index

INSURANCE COMMISSIONER

Primary jurisdiction of, § 8:1

Service of process on, §§ 2:2, 2:8

INTEGRATION OF COMPONENT PARTS

Comparative fault, § 48:31

INTENTIONAL MISREPRESENTATION

Adequacy of consideration, § 56:4

Adoption, § 38:105

Agent's fraud, § 62:5

AIDS, § 38:29

Auctioneers and auction companies, § 38:4

Breach of contract or warranty, § 38:105

Comparative fault and, § 48:16

Concealment, insurance applications, § 62:22

Consent and, §§ 32:1, 32:6

Constructive fraud, § 62:5

Contractor's licensing requirements and, § 39:18

Contract to exempt from negligent misrepresentation, § 37:10

Definition, § 38:105

Duress and, § 33:12

Errors of description, § 62:7

Estoppel and, §§ 34:1, 34:6

Exoneration of surety, §§ 67:3, 67:4

Failure to read contract based on, § 40:4

Failure to warn, § 38:105

Floods, § 38:105

Gambling, § 37:20

Guaranties and, § 67:3

Illegality, §§ 37:21, 37:27

Illegality, contract to exempt from responsibility, § 37:10

Immunity, §§ 38:56, 38:105

Indemnity, § 42:14

Innocent misrepresentation, §§ 62:3, 62:5

Insurance policy applications, § 62:22

Justification defense and, § 41:14

Marriage, § 38:37

Misrepresentation, this index

Mistake and, §§ 40:3, 40:4, 40:14

Pleading, § 62:5

Privilege as defense to action for, § 41:6

Public employees, § 38:105

Public entities, § 38:105

Ratification obtained by, § 62:20

INDEX

INTENTIONAL MISREPRESENTATION—Cont'd

Release, §§ 42:1, 42:4, 42:5, 42:8, 42:13
Rescission, §§ 62:2, 62:5, 62:20
Setoff and, § 44:1
Statute of frauds and, § 53:27
Sureties and, § 67:3
Unclean hands, §§ 45:2, 45:9
Undue influence and, §§ 46:1, 46:16

INTENTIONAL TORTS

Assignment, § 18:27
Comparative fault and, §§ 48:16, 48:27
Family immunity, § 38:138
Government claim filing requirements and, § 12:21
Notice of intent to sue and, § 12:4
Public liability, § 38:56
Torts, this index

INTEREST

Acceptance of principal as waiver of, §§ 69:1, 69:11
Application of payment to, § 69:9
Bonus, usury and, § 37:13
Brokerage fee, usury and, § 37:13
Commission, usury and, § 37:13
Compensation, usury and, § 37:13
Consideration based on, § 56:2
Debt, this index
Definition, § 37:13
Deposit stops running of, § 69:4
Effect of exoneration of a surety on, § 67:4
Finder's fee, usury and, § 37:13
Guaranties and, § 67:4
Illegality, this index
Loans, this index
Secured transactions, usury and, § 37:13
Suretyship and, § 67:4
Usury, this index
Variable interest loans, usury and, § 37:13
Waiver, §§ 47:5, 69:1

INTERESTED PERSONS

Service of process on, § 2:3
Standing, § 19:1 *et seq.*

INTERFERENCE

Interference with prospective economic advantage
Competitor's privilege, § 41:20
Privilege, §§ 41:6, 41:12, 41:13, 41:19, 41:20
Statute of frauds and, § 53:28
Truth as defense to actions for, § 51:1

INTERFERENCE—Cont'd

- Interference with trade or business, **§ 25:15**
- Mootness, noninterference with voluntary associations, **§ 22:12**
- Privilege, §§ **41:6, 41:12, 41:13, 41:19, 41:20**
- Statute of frauds, §§ **53:10, 53:28**
- Statute of limitations
 - Conspiracy, **§ 25:15**
 - Interference with trade or business, **§ 25:15**
- Torts, this index
- Truth as defense to actions based on, **§ 51:1**

INTERIOR DECORATORS

- Contractor's licensing requirements and, **§ 39:3**

INTERNET

- Communications purposefully directed, **§ 4:15**
- Conduct outside state as establishing jurisdiction, **§ 4:15**
- Exchange of commercial information over Internet, **§ 4:12**
- General jurisdiction based on extensive or wide ranging, substantial activities in state, **§ 4:12**
- Immunities arising from obligations to provide information, **§ 38:38**
- Lack of personal jurisdiction, §§ **4:12, 4:15**
- Prevention of performance, impossibility, **§ 59:9**

INTERPLEADER

- Privilege, **§ 41:6**
- Verification of pleadings for, **§ 11:5**

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

- Immunity, **§ 38:53**

INTERSTATE LAND SALES FULL DISCLOSURE ACT

- Rescission under, **§ 62:23**

INTERVENTION

- Generally, §§ **20:4, 21:1**
- Attorney general, **§ 12:6**
- Delay in prosecution and, §§ **28:2, 29:1**
- Delay in service and return of summons and, §§ **3:3, 3:17, 3:25**
- Exhaustion of remedies prior to, **§ 16:4**
- Following dismissal for delay in service and return of summons, **§ 3:25**
- General appearance, **§ 3:17**
- Indian child custody proceedings, **§ 12:3**
- Personal jurisdiction, consent by, §§ **4:7, 4:8**
- Prematurity and, **§ 27:1**
- Relation back, **§ 25:76**
- Res judicata and, §§ **14:20, 14:24**
- Service and return requirements and, §§ **3:3, 3:17, 3:25**
- Service of process and, **§ 3:3**
- Statute of limitations and, **§ 25:76**

INDEX

INTOXICATED PERSONS

- Blood alcohol testing, res judicata effect of driver's refusal to take, **§ 14:51**
- Capacity to contract, **§§ 52:22, 52:23**
- Civil protective custody, **§ 38:82**
- Comparative fault and, **§§ 48:3, 48:4**
- Consent, **§§ 32:2, 52:21 to 52:34**
- Driver's license, revocation of and res judicata, **§ 14:51**
- Minors, this index
- Prisoners, **§ 38:82**
- Seventy-two hour hold, **§ 38:99**
- Social hosts, **§ 38:33**

INVASION OF PRIVACY

- Assignability of cause of action, **§ 18:26**
- Consent to, **§ 32:1**
- Death of plaintiff, effect of, **§ 17:11**
- Disclosures to insurers, **§ 38:40**
- Immunity, **§ 38:38 et seq.**
- Insurance Information and Privacy Protection Act, **§ 38:40**
- Mistake as defense to, **§ 40:1**
- Newsworthiness, **§ 41:10**
- Privacy Act, **§ 41:6**
- Privilege and, **§§ 41:2, 41:6, 41:8, 41:10, 41:11**
- Statute of limitations, **§§ 25:5, 25:25**
- Torts, this index
- Waiver, **§ 47:4**

INVERSE CONDEMNATION

- Accrual of statute of limitations, **§ 25:5**
- Collateral source rule and, **§ 36:3**
- Common enemy doctrine, **§ 49:9**
- Comparative fault, **§ 48:16**
- Flood control improvements in emergency, **§ 49:9**
- Government claims filing requirement and, **§ 12:21**
- Immunity, **§§ 38:92, 38:102, 38:126**
- Prematurity, **§ 27:1**
- Service of process in action for, **§ 2:2**
- Sovereign immunity waiver, **§ 38:126**
- Statute of limitations, **§§ 25:5, 25:19**
- United States, actions against, **§ 38:126**
- Venue, **§§ 5:12, 5:23**

INVESTMENT ADVISORS

- Contractor's licensing requirements and, **§ 39:32**

INVITED ERROR

- Generally, **§ 34:20**
- Appeal and, **§ 34:1**

IRREPARABLE INJURY

Adequacy of remedy at law and, §§ 31:1, 31:2, 31:6, 31:8
Definition, § 31:6
Exhaustion of remedies and, § 16:6

IRRESISTIBLE SUPERHUMAN CAUSE

Act of God as, § 30:3
Impossibility, §§ 30:20, 60:3

IRRIGATION DISTRICT

Contractor's licensing requirements and, § 39:5
Immunity, § 38:119
Service of process on, § 2:2
Venue, § 5:33

ISSUE PRECLUSION

Collateral Estoppel, this index

ITEMS OF ACCOUNT

Pleading, § 10:6

JOB LISTING SERVICES

Licensing requirements as to, § 39:34

JOINDER OF DEFENDANTS

Generally, § 20:3
Agent joined with principal, § 20:3
Amendment of pleadings, § 20:8
Assignment and, § 21:2
Breach of contract actions, § 20:4
Child support, § 21:2
Complaint, sufficiency, §§ 20:3 to 20:5, 20:8
Consortium, action for loss of, § 20:4
Contract actions, § 20:4
Debtors, § 20:4
Devisees, § 20:4
Dissolution of corporation, § 21:2
Employee benefit plan, § 20:4
Fraud, § 20:3
Government agencies, § 21:2
Heirs, §§ 17:4, 20:4
Improper joinder affecting venue, § 5:38
Intervenor, § 20:4
Marital dissolution, §§ 20:4, 20:5
Members of unincorporated associations, § 20:4
Misjoinder of Parties, this index
Negligence, §§ 20:3, 20:4
Nuisance, §§ 20:4, 21:2
Parents in action for injury to child, § 20:4
Partners, §§ 4:2, 20:4, 20:5, 21:2

INDEX

JOINDER OF DEFENDANTS—Cont'd

Personal representatives, **§ 20:4**
Personal torts, **§ 20:3**
Plaintiff refusing to join, **§ 20:4**
Principal, joining with agent, **§ 20:3**
Property actions, **§ 20:4**
Quiet title actions, **§ 20:4**
Relation back, **§ 21:3**
Res judicata, **§ 14:20 et seq.**
Spouses, **§§ 14:30, 20:4**
Subrogees, **§§ 20:4, 21:2**
Sureties, **§ 67:2**
Torts, **§§ 20:3, 20:4, 21:2**
Trust beneficiaries, **§§ 20:4, 21:2**
Trustees, **§ 20:4**
Unincorporated associations, **§ 20:4**
Venue, **§§ 5:37, 5:38**
Wrongful death, **§ 20:4**

JOINDER OF PLAINTIFFS

Generally, **§ 20:2**
Assignment and, **§ 21:2**
Bond surety, **§ 20:4**
Breach of contract, **§§ 20:2, 20:4**
Broker, **§ 20:4**
Challenge to estate, **§ 21:2**
Child support, **§ 21:2**
Consortium, action for loss of, **§ 20:4**
Contract actions, **§§ 20:2, 20:4**
Course of conduct, **§ 20:2**
Deed of trust, action by person with power of sale, **§ 20:4**
Devises, **§ 20:4**
Dissolution of corporation, **§ 21:2**
False imprisonment, **§ 20:2**
Fraud, **§ 20:2**
Heirs after death of party, **§§ 17:4, 20:4**
Insurer, **§ 20:4**
Intervenor, **§ 20:4**
Loss of consortium, **§ 20:4**
Marital dissolution, **§§ 20:4, 20:5**
Members of unincorporated associations, **§ 20:4**
Misjoinder of Parties, this index
Negligence, **§§ 20:2, 20:4**
Nuisance, **§§ 20:4, 21:2**
Parents in action for injury to child, **§ 20:4**
Partners, **§§ 20:4, 20:5, 21:2**
Paternity action, **§ 18:4**
Personal representatives, **§ 20:4**

JOINDER OF PLAINTIFFS—Cont'd

- Personal torts, §§ 20:2, 20:3
- Property actions, § 20:4
- Quiet title actions, § 20:4
- Real estate broker, § 20:4
- Relation back, § 21:3
- Res judicata, § 14:20 *et seq.*
- Shareholders in action by corporation, § 20:4
- Spouses, §§ 14:30, 20:4
- Subrogees, §§ 20:4, 21:2
- Surety, § 20:4
- Tax refund actions, § 20:2
- Torts, §§ 20:2, 20:4, 21:2
- Trust beneficiaries, §§ 20:4, 21:2
- Trustees, §§ 18:11, 20:4
- Unincorporated associations, § 20:4
- Wrongful death, § 20:4

JOINT AND SEVERAL LIABILITY

- Comparative fault and, § 48:5
- Judgment as to less than all persons liable, effect on others, §§ 21:2, 48:5
- Release, §§ 42:1, 42:7
- Settlement, § 43:2

JOINT DEBTORS

- Indispensable parties, § 21:2
- Joinder as parties, § 20:4
- Judgment as to less than all, effect on others, § 21:2
- Summons in action against, § 2:2

JOINT EXERCISE OF POWERS ACT

- Immunity under, § 38:64

JOINT TENANCY

- Death, §§ 17:4, 17:5
- Liability for corporate stock transfer, § 38:35
- Real Property, this index
- Statute of frauds and agreements regarding, § 53:9

JOINT UNDERWRITING ASSOCIATION FOR LIABILITY INSURANCE

- Generally, § 38:40

JOINT VENTURES

- Authority of venturers to bind venture, § 54:3
- Contractors as, § 39:4
- Dissolution
 - Generally, § 39:4
 - Indispensable parties, § 21:2
- Imputation of negligence by, § 48:7
- Licensing requirements
 - Contractors, § 39:4

INDEX

JOINT VENTURES—Cont'd

- Licensing requirements—Cont'd
 - Illegality and, §§ 37:15, 39:4
 - Real estate licensees, § 39:26
- Partnership, this index
 - Real estate licensees, § 39:26
 - Statute of frauds and, § 53:4
 - Statute of limitations, discovery rule and, § 25:37
 - Undue influence, § 46:2

JOKE

- Generally, § 56:19

JONES ACT

- Comparative negligence and, § 48:16

JUDGES

- Appeal, remedy for error, § 38:131
- Conspiracy, § 38:131
- Conversion, § 38:131
- Declaratory relief, § 38:131
- Defamatory remarks, § 38:131
- Immunity
 - Judges, § 38:131
 - Persons appointed by judge, § 38:133
 - Quasi-judicial officers, § 38:132
- Injunctive relief, § 38:131
- Privilege for acting as, §§ 41:4, 41:5
- Remedy for error by, § 38:131
- Sua Sponte, this index
- Tort Claims Act, § 38:131
- Vicarious liability, § 38:131

JUDGMENT

- Action on, § 26:11
- Adequacy of remedy at law, judgment-proof wrongdoers, § 31:7
- Amendment to name alter ego, §§ 3:11, 14:32
- Assignability, § 18:26
- Cause of action, merger into, §§ 14:1, 15:1
- Collateral Estoppel, this index
- Conclusiveness, § 14:1
- Death of party, § 17:2
- Disaffirmance by minor, § 18:6
- Enforcement of judgment, § 26:13
- Extrinsic fraud and, § 14:44
- Extrinsic mistake and, § 14:45
- Finality of, § 14:6
- Foreign gambling debts, §§ 14:39, 37:20
- Foreign Judgments, this index
- Jointly liable debtors, effect of judgment against less than all, § 21:2

JUDGMENT—Cont'd

 Judgment lien, effect of defendant's death on, **§ 17:33**
 Judicial notice of, **§ 10:8**
 Laches and
 Action on judgment, **§ 26:11**
 Enforcement of judgment, **§ 26:13**
 Renewal of judgment, **§ 26:13**
 Vacating judgment, **§§ 26:5, 26:7**
 Merger of cause of action, **§§ 14:1, 15:1**
 Minor, disaffirmance of judgment, **§ 18:6**
 Nonentity not subject to, **§ 18:30**
 Personal Jurisdiction, this index
 Pleading, **§ 10:8**
 Presumption of correctness, **§§ 14:39, 14:57, 29:2**
 Real party in interest, **§ 17:33**
 Relief from, obligation to do equity, **§ 35:1**
 Renewal of
 Child or spousal support judgment, limitations period, **§ 25:10**
 Laches and, **§ 26:13**
 Res Judicata, this index
 Rights represented by, **§ 53:23**
 Satisfaction of, **§§ 42:1, 42:7, 42:18**
 Spelling names of judgment debtors, **§ 2:20**
 Stare decisis and, **§ 14:62**
 Statute of limitations
 Generally, **§ 25:10**
 Action on, **§ 25:10**
 Child or spousal support judgment, **§ 25:10**
 Collateral attack on judgment without jurisdiction, **§ 25:74**
 Reversal of, tolling, **§ 25:68**
 Void judgment, **§§ 25:21, 25:74**
 Subject Matter Jurisdiction, this index
 Survival of judgment lien, **§ 17:33**
 Tolling on reversal after appeal, **§ 25:68**
 Transfer of rights as to, statute of frauds and, **§ 53:23**
 Vacating judgment, laches in, **§§ 26:5, 26:7**
 Venue for action on, **§ 5:18**
 Voidable against minor without guardian ad litem, **§ 18:5**

JUDGMENT ON THE PLEADINGS

 Motion for Judgment on the Pleadings, this index

JUDGMENT-PROOF WRONGDOERS

 Adequacy of remedy at law, **§ 31:7**

JUDICIAL ABSTENTION

 Mootness, **§ 22:12**

JUDICIAL ADMISSION

 Answer as, **§ 1:10**

INDEX

JUDICIAL ADMISSION—Cont'd

Complaint as, §§ 25:46, 25:82, 26:6

Estoppel, § 34:19

JUDICIAL ARBITRATION

Arbitration and Award, this index

JUDICIAL ARBITRATION ACT

Arbitration and Award, this index

JUDICIAL BIAS

SLAPP action, § 12:37

JUDICIAL COUNCIL

Common counts, form of, §§ 9:2, 10:4

Denials in actions under \$1000, form of, § 11:23

Discretionary dismissal rules, §§ 29:1, 29:2, 29:5

Probate claim form, § 12:32

Return of service form, § 2:19

Summons form, § 2:2

JUDICIAL ESTOPPEL

Generally, § 34:18

JUDICIAL NOTICE

Generally, §§ 1:4, 1:10, 9:4

Administrative proceedings, § 8:3

Another action pending, § 23:5

Capacity to sue, §§ 18:35, 18:36

Change of venue, evidence on motion for, § 5:42

Collateral estoppel, hearing as to, § 15:12

Consideration for contract, § 56:2

Delay in service and return of summons and, § 3:28

Demurrer and, § 9:4

Exhaustion, § 16:11

Failure to state a cause of action, § 9:4

Impossibility, facts constituting, § 60:14

Judgments, § 10:8

Lack of capacity to sue, § 18:36

License, permit or filing requirement, § 39:39

Motion to dismiss and, § 3:28

Official determination, § 10:8

Ordinances, § 10:11

Parties, §§ 20:6 to 20:8, 21:3, 21:4

Personal jurisdiction, showing as to, § 4:32

Pleadings, §§ 10:8, 10:11, 20:6 to 20:8

Prematurity defense and, § 27:3

Res judicata, hearing as to, § 14:55

Statute of limitations, evidence as to, § 25:79

Statutes, § 10:11

Venue, § 5:42

JUDICIAL NOTICE—Cont'd

Vexatious litigants, evidence as to, **§ 13:3**

Wages usually paid by check, **§ 69:2**

JUDICIAL SALES

Obligation to do equity, **§ 35:1**

JUDO

Assumption of risk, **§ 48:24**

JURISDICTION

Abstention, **§ 23:3**

Acts in excess of, **§ 7:10**

Concurrent exclusive jurisdiction, **§§ 7:5, 23:11**

Courts, this index

Definition, **§ 7:10**

Determination of, **§§ 7:1, 7:4**

Jurisdiction to determine, **§ 7:4**

Necessity, jurisdiction by, **§ 4:9**

Personal Jurisdiction, this index

Subject Matter Jurisdiction, this index

Suspended jurisdiction extending dismissal statutes, **§§ 28:1, 28:8**

JURISDICTIONAL DEFENSES

Exhaustion of remedies, **§ 16:1 et seq.**

Governmental immunity, **§ 7:14**

Nonjurisdictional defenses, this index

Personal jurisdiction lacking, **§ 4:1 et seq.**

Preemption, **§§ 1:10, 7:19, 58:6**

Primary jurisdiction, **§ 8:1 et seq.**

Standing, **§ 19:1 et seq.**

Statute of limitations, criminal proceedings, **§ 25:83**

Subject matter jurisdiction, lack of, **§ 7:1 et seq.**

JURISDICTION AND SERVICE OF PROCESS ACT

Forum non conveniens, **§ 6:1**

Personal jurisdiction and, **§ 4:1**

Service of process under, **§§ 2:4, 2:7, 2:14**

JURISDICTION BY NECESSITY

Generally, **§ 4:5**

JURORS

Immunity, **§ 38:133**

Privilege for acting as, **§ 41:5**

JURY INSTRUCTIONS

Accord and satisfaction, **§ 62:1**

Acts of God, **§§ 30:15, 30:16**

Advice of counsel, **§ 41:32**

Capacity to contract, **§ 52:34**

Consent, **§ 32:6**

INDEX

JURY INSTRUCTIONS—Cont'd

- Defamation, truth as defense, **§ 51:1**
- Duress, **§ 33:8**
- Equal dignities rule, **§ 54:7**
- Failure to mitigate, **§ 36:8**
- Forms of
 - Abandonment
 - Contract, **§ 61:7**
 - Property right, **§ 61:13**
 - Trade name, **§ 61:13**
 - Absence of settling party, **§ 43:6**
 - Accord and satisfaction, **§ 63:9**
 - Act of God, **§ 30:15**
 - Advice of counsel, **§ 41:32**
 - Agency
 - Authority of agent, **§ 54:7**
 - Definitions, **§ 54:7**
 - Equal dignities rule, **§ 54:7**
 - Imputation of agent's knowledge to principal, **§ 54:7**
 - Allocation of payment, **§ 69:11**
 - Alteration, **§ 66:8**
 - Breach of fiduciary duty, **§ 46:13**
 - Burden of proof, **§§ 1:5, 1:6, 1:9**
 - Burden on failure to mitigate, **§ 36:8**
 - Competitor's privilege, **§ 41:20**
 - Contracts
 - Abandonment of contract, **§ 61:7**
 - Alteration of, **§ 66:8**
 - Capacity to contract, lack of, **§ 52:36**
 - Conditions, **§ 59:5**
 - Consideration, defined, **§§ 56:13, 63:9**
 - Consideration, failure of, **§ 57:4**
 - Consideration, lack of, **§§ 56:13, 63:9**
 - Demand for performance, **§ 69:11**
 - Excuse for nonperformance, **§ 59:5**
 - Frustration of purpose, **§ 58:2**
 - Illegality, **§ 37:28**
 - Impossibility, **§ 60:15**
 - Incorporation by reference, **§ 53:37**
 - Interpretation, **§ 53:42**
 - Modification of, **§ 65:8**
 - Novation, **§ 64:10**
 - Parol evidence and contract interpretation, **§ 53:42**
 - Payment, **§§ 69:8, 69:11**
 - Performance, **§§ 47:9, 47:10, 59:5**
 - Prevention of performance, **§ 59:5**
 - Risks contemplated by parties, **§ 60:15**

JURY INSTRUCTIONS—Cont'd

- Forms of—Cont'd
 - Contracts—Cont'd
 - Statute of frauds, **§ 53:37**
 - Time for performance, **§ 69:11**
 - Unsound mind and, **§ 52:36**
 - Waiver of objection to performance, **§ 47:9**
 - Waiver of performance, **§ 47:10**
 - Contributory negligence, **§ 48:19**
 - Defenses limited to certain defendants or causes of action, **§ 1:5**
 - Duress, **§ 33:8**
 - Economic duress, **§ 33:8**
 - Effect of defendant's negligence, **§ 30:15**
 - Effect of illegality, **§ 37:28**
 - Effect of presumption, **§ 1:9**
 - Emergency, **§§ 49:1, 49:6**
 - Employment, failure to mitigate damages, **§ 36:8**
 - Equal dignities rule, **§ 54:7**
 - Estoppel, **§ 34:10**
 - Exoneration of surety, **§ 67:5**
 - Failure
 - Of consideration, **§ 57:4**
 - To disclose financial condition, **§ 67:5**
 - To mitigate damages, **§ 36:8**
 - To read document, **§ 40:4**
 - Fiduciary duty, breach of, **§ 46:13**
 - Frustration of purpose, **§ 58:2**
 - Illegality, **§ 37:28**
 - Impossibility, **§ 60:15**
 - Imputation of knowledge, **§ 54:7**
 - Incorporation by reference, **§ 53:37**
 - Intent required for waiver, **§ 47:15**
 - Introductory instructions, **§ 1:5**
 - Investigation, no duty in plaintiff to make, **§ 67:5**
 - Justification, **§ 41:21**
 - Lack of consideration, **§ 56:13**
 - Limitation of defense to certain defendants or causes of action, **§ 1:5**
 - Material alteration, **§ 66:8**
 - Mistake, **§§ 40:4, 40:11**
 - Mitigation of damages, **§ 36:8**
 - Modification of contract, **§ 65:8**
 - Neglect of legal duty, **§ 40:11**
 - Notice requirements
 - Foreclosure sale, **§ 12:8**
 - Rescission, **§ 12:7**
 - Waiver of right to rescind, **§ 12:7**
 - Novation, **§ 64:10**
 - Objection to tender, **§ 69:8**

INDEX

JURY INSTRUCTIONS—Cont'd

Forms of—Cont'd

- Parol evidence and contract interpretation, § **53:42**
- Partial impossibility, § **60:15**
- Payment, §§ **69:8, 69:11**
- Performance of contract, § **59:5**
- Presumption effect, § **1:9**
- Prevention of performance, § **59:5**
- Privilege
 - Advice of counsel, § **41:32**
 - General instructions, § **41:21**
- Property, abandonment, § **61:13**
- Ratification, § **54:7**
- Self-defense, §§ **50:1, 50:2**
- Settlement, § **43:6**
- Statute of frauds, § **53:37**
- Statute of limitations, § **25:80**
- Stipulation, § **43:11**
- Surety, exoneration of, § **67:5**
- Temporary impossibility, § **60:15**
- Tender, objection to, § **69:8**
- Trade name, abandonment, § **61:13**
- Transition to defense instructions, § **1:5**
- Transition to substantive instructions, § **1:5**
- Truth as defense to defamation action, § **51:1**
- Unclean hands, § **45:18**
- Unsound mind, § **52:36**
- Waiver, § **47:15**
- Willful misconduct, § **48:22**

Ratification, § **54:7**

Trial, this index

JUSTICIABILITY

Generally, § **22:1 et seq.**

JUSTIFICATION

Privilege and Justification, this index

JUVENILE OFFENDERS

- Minors, this index
- Personal property, § **38:73**
- Prisoners, § **38:82**
- Unclaimed personal property, § **38:73**

JUVENILE PROCEEDINGS

- Delay in service and return of summons and, § **3:9**
- Minors, this index
- Subject matter jurisdiction over, § **7:2**

LABOR

- Agreements not to compete, **§ 37:14**
- Assignability and
 - Personal service contracts, **§ 18:19**
 - Wages
 - Generally, **§ 18:18**
 - Incompetent's assignment of, **§ 52:30**
 - Minor's assignment of, **§§ 52:3, 52:6**
 - Statute of frauds and, **§ 53:23**
 - Benefits, waiver, **§ 47:13**
 - Comparative fault, **§ 48:16**
 - Contracts, statute of frauds, **§§ 53:20, 53:23**
 - Death
 - Employers, **§ 17:24**
 - Personal service contract, **§ 17:24**
 - Disability benefits
 - Overpayment, recovery of, **§ 38:37**
 - Setoff and, **§ 44:2**
 - Disclosure of felony conviction and, **§ 51:1**
 - Employment, mitigation of damages, **§ 36:5**
 - Employment agreements, **§ 37:23**
 - Exhaustion of remedies requirement, **§ 16:18**
 - Failure of consideration and, **§ 57:1**
 - Farm labor contractors, service of process on, **§ 2:2**
 - Firefighter's rule, **§ 48:25**
 - Imputation of negligence and, **§§ 48:13 to 48:15**
 - Independent contractors, **§§ 38:51, 38:56, 48:14**
 - Intervention and statute of limitations, **§ 25:76**
 - Labor Commissioner
 - Athletes' agents, licensing requirements as to, **§ 39:34**
 - Talent agencies, licensing requirements as to, **§ 39:34**
 - Labor law
 - Contracts, statute of frauds, **§§ 53:20, 53:23**
 - Exhaustion of remedies requirement, **§ 16:19**
 - Farm labor contractors, service of process on, **§ 2:2**
 - Labor-Management Reporting and Disclosure Act, **§ 17:23**
 - Licensing requirements and, **§§ 39:15, 39:34**
 - Manager's privilege, **§ 41:19**
 - Minor employees, **§§ 52:7, 52:15**
 - Negligent selection of employees, **§§ 48:13 to 48:15**
 - Novation of employment contract. Novation, this index
 - Personal service contract, effect of death, **§ 17:24**
 - Picketing as duress, **§ 33:3**
 - Privileges as to, **§§ 41:9, 41:19**
 - Public Officers and Employees, this index
 - Release
 - Joint debtors and, **§ 42:7**

INDEX

LABOR—Cont'd

Release—Cont'd

Workers' compensation benefits, § 42:4

Res judicata and, § 14:27

Respondeat superior, res judicata, § 14:27

Setoff, benefits and wages, § 44:6

Statute of frauds and, §§ 53:20, 53:23

Statute of limitations and, § 25:25

Strikes, illegality and, §§ 37:1, 37:22, 37:23

Teachers' tenure rights, waiver, § 47:13

Undue influence, §§ 46:2, 46:3

Unemployment benefits, §§ 36:5, 38:37, 44:2

Unions, §§ 41:9, 41:19

Wages

Duty to pay, § 63:5

Setoff, § 44:6

Waiver of benefits, § 47:13

Workers' Compensation Actions, this index

Wrongful termination and, § 36:5

LACHES

Generally, § 26:1 *et seq.*

Abandonment of contract and, § 61:12

Accounting actions, § 26:7

Actions to recover real property, § 26:7

Administrative remedies, § 26:7

Admiralty actions and, § 26:9

Affirmative defenses and, § 1:4

Answer, allegation as to, § 26:15

Appellate review, § 26:18

Arbitrator's determination of, §§ 68:1, 68:12

Bifurcated trial as to, § 26:17

Burden of proof

Generally, § 26:19

Prejudice to defendant, § 26:6

Cancellation of documents, § 26:8

Certiorari, § 26:7

Child support, §§ 26:7, 26:11

City, application to, § 26:13

Community property

Generally, § 26:7

Pension or retirement benefits, § 26:4

Complaint, allegation as to excuse for delay, § 26:15

Constructive trust and, § 26:7

Contract actions, §§ 26:7 to 26:13

County, application to, § 26:12

Court's inherent power to determine, §§ 26:10, 26:13, 26:15

Damage actions, § 26:11

LACHES—Cont'd

- Declaratory judgment, §§ **26:7, 26:11**
- Delay in prosecution and, §§ **26:24, 28:36, 29:1, 29:11**
- Demurrer, § **26:16**
- Disaffirmance by minor and, §§ **18:6, 52:9, 52:20**
- Discretionary dismissal and, § **26:24**
- Dissolution of marriage and, § **26:4**
- Elements of
 - Generally, § **26:1**
 - Delay, §§ **26:2 to 26:5**
 - Prejudice, §§ **26:2, 26:6**
- Environmental actions and, § **26:12**
- Equity actions and, § **26:1 et seq.**
- Escheat, § **26:4**
- Estoppel and, §§ **26:14, 26:21, 34:14**
- Express trusts, § **26:7**
- Extraordinary writs, § **26:7**
- Federal law and, § **26:9**
- Financial inability to file suit, § **26:4**
- Fluctuating values, effect of, § **26:10**
- Forms, this index
- General denial and, § **26:15**
- Injunction and, §§ **26:2, 26:4, 26:7**
- Judgment
 - Action on judgment, § **26:11**
 - Enforcement of judgment, § **26:13**
 - Renewal of judgment, § **26:13**
 - Vacating judgment, §§ **26:5, 26:7**
- Mandamus, §§ **26:4, 26:5, 26:7**
- Mining, § **26:10**
- Minors
 - Application to, § **26:13**
 - Right of disaffirmance and, § **18:6**
- Partition, § **26:7**
- Paternity action, § **26:11**
- Prejudice and, § **26:3**
- Premarital agreement, § **25:48**
- Probate proceedings and, § **12:32**
- Prohibition and, § **26:7**
- Quiet title actions, §§ **26:8, 26:13**
- Real property, actions to recover, § **26:8**
- Reformation, § **26:4**
- Relatives, application to, § **26:13**
- Rescission and
 - Generally, §§ **26:8, 62:1**
 - Civil Code § 2314, § **62:20**
 - Mutual rescission, § **61:13**

INDEX

LACHES—Cont'd

- Rescission and—Cont'd
 - Nature and elements of defense, §§ 26:8, 62:1
 - Notice requirements, §§ 12:7, 62:25
 - Time for rescission, § 62:26
 - Waiver of defense, § 62:36
- Resulting trusts and, §§ 26:7, 26:13
- Setoff and, § 44:9
- Shareholders' derivative actions and, § 26:7
- Spouses, § 26:13
- Stale claims defense and, § 26:22
- State, application to, § 26:12
- Statute, challenge to validity or effectiveness of, § 26:13
- Statute of limitations and
 - Generally, § 26:20
 - Federal, admiralty or common law cases, § 26:9
 - Laches in general, § 26:1
 - Limitations in general, § 25:1
 - Mere delay insufficient, § 26:3
 - Not unreasonable delay, § 26:4
 - Prejudice, § 26:6
 - Waiver of defense, § 25:84
- Subdivision, challenge to, § 26:5
- Successor, § 26:1
- Tolling of Statute of Limitations, this index
- Trusts, §§ 26:5, 26:7
- Ultra vires conduct, § 26:7
- Unconscionability and, § 34:14
- Vacating judgment and, §§ 26:5, 26:7
- Waiver and, §§ 1:11, 26:19, 26:23
- Wrongful discharge, § 26:5

LACK OF CAPACITY TO BE SUED

- Capacity to be Sued, this index

LACK OF CAPACITY TO CONTRACT

- Capacity to Contract, this index

LACK OF CAPACITY TO SUE

- Capacity to Sue, this index

LACK OF CONSIDERATION

- Consideration, this index

LACK OF PERSONAL JURISDICTION

- Personal Jurisdiction, this index

LACK OF PROPER OR EFFECTIVE SERVICE

- Generally, § 2:1 et seq.
- Service of Process, this index

LACK OF PROSECUTION

Delay in Prosecution, this index

LACK OF STANDING

Generally, **§ 19:1 et seq.**

Abstract issue, **§ 22:1**

Administrative agency employee, **§ 19:13**

Advisory opinions and, **§ 22:3**

Agent, **§ 19:3**

Aggrieved person, **§ 19:10**

Answer, allegation that plaintiff lacks standing, **§ 19:14**

Appellate review and, **§ 19:17**

Assignment and, **§§ 18:18, 19:1, 19:14**

Associations, **§ 19:6**

Bifurcated trial as to, **§ 19:16**

Burden of proof, **§ 19:18**

Capacity to sue and, **§§ 18:1, 18:39, 18:42, 19:1 et seq., 19:20**

Child support, **§ 19:11**

Choice of law, **§ 19:1**

Citizen's suits, **§ 19:7**

Class representatives, **§ 19:2**

Conservator, **§§ 18:31, 19:8, 19:11**

Constitutional issues, **§§ 19:5, 19:9, 19:13**

Corporations, **§ 19:6**

Demurrer, **§§ 19:14, 19:15**

Directors, right of shareholders to uphold or invalidate election, **§ 19:6**

Election of directors, right of shareholders to uphold or invalidate, **§ 19:6**

Election of remedies, standing to assert, **§ 24:2**

Estoppel to assert, **§ 19:19**

Failure to state a cause of action and

 Generally, **§§ 19:13, 19:15**

 Standing to assert, **§ 9:1**

Forms, this index

General demurrer, **§§ 19:13, 19:15**

Guardian, **§§ 18:9, 19:1, 19:11, 19:20**

Heirs before death of party, **§ 17:4**

Homeowners' associations, **§ 19:6**

Interested persons, **§§ 19:1, 19:8**

Loss of, **§ 19:4**

Mandamus proceedings and, **§§ 19:7, 19:8**

Minors, **§ 19:1**

Misjoinder of parties and

 Generally, **§ 20:5**

 Standing to assert, **§§ 9:1, 20:6**

Mootness and, **§§ 19:22, 22:10**

Nonjoinder of parties and, **§ 19:3**

Parties to action, **§ 19:2**

Partnership, **§§ 19:3, 19:6**

INDEX

LACK OF STANDING—Cont'd

- Personal representative, § 19:8
- Provisional relief and, § 19:1
- Prudential requirement, § 19:13
- Real party in interest and, §§ 19:1, 19:3
- Real property actions, § 19:13
- Ripeness, § 19:21
- Shareholders
 - actions as to corporation, §§ 19:3, 19:4, 19:13
 - Right to uphold or invalidate election of directors, § 19:6
- Statutory definitions, § 19:5 et seq.
- Subrogation and, § 19:1
- Taxpayer suits, §§ 19:1, 19:7
- Timing, § 19:4
- Trial, § 19:16
- Trusts, §§ 19:3, 19:5
- Unincorporated associations, § 19:6
- Waiver, § 19:19
- Wrongful death, §§ 18:11, 19:1, 20:4, 21:2

LACK OF SUBJECT MATTER JURISDICTION

- Subject Matter Jurisdiction, this index

LANDLORD-TENANT RELATIONS

- Consent and, § 32:1
- Failure to mitigate, § 36:6
- Illegality and, §§ 37:11, 37:16
- Leases, this index
- Mitigation and, § 36:6
- Release, §§ 42:2, 42:3
- Setoff in, § 44:2
- Statute of frauds, §§ 53:9, 53:12, 53:20, 53:24, 53:26
- Undue influence, § 46:3
- Unlawful detainer
 - Generally, §§ 44:6, 45:8
 - Collateral estoppel and, §§ 15:6, 15:8
 - Res judicata and, § 14:48
 - Setoff and, § 44:6

LAND RECORDS RE-ESTABLISHMENT

- Res judicata and, § 14:51
- Summons in action to, § 2:2
- Verification of pleadings for, § 11:13

LANDSCAPE ARCHITECT

- Contractor acting as, § 39:3
- Licensing requirements as to, §§ 39:3, 39:19
- Out of state practitioners, § 39:19
- Security for costs in action against, § 13:5

LANDSLIDES

Act of God as, §§ 30:3, 30:14, 30:20
Immunity, §§ 38:72, 38:109
Landslide Hazard Identification Program, § 38:109
Subsidence of Land, this index

LAND SURVEYOR

Certificate of merit in action against, § 12:2
Entry on private property, § 38:60
Immunity, §§ 38:7, 38:60, 38:122
Licensing requirements as to, §§ 38:122, 39:19, 39:20
Plans, immunity for changes to, § 38:7
Professional Land Surveyors' Act, § 39:20
Security for costs in action against, § 13:5
State Board of Registration for Professional Engineers and Land Surveyors,
§ 38:122

LAND TRUST

Immunities, §§ 38:32, 38:108, 38:109, 38:112, 38:114

LANTERMAN-PETRIS-SHORT ACT

Immunity under, § 38:99

LAST CLEAR CHANCE

Generally, §§ 48:26, 49:5

LAST OVERT ACT DOCTRINE

Civil conspiracy, accrual of statute of limitations, § 25:8

LATENT CONSTRUCTION DEFECTS

Comparative fault, § 48:30
Statute of limitations and, § 25:17
Statute of Repose and, § 25:17

LATENT INJURY

Discovery rule, statute of limitations, § 25:5

LAW ENFORCEMENT

Peace Officers, this index

LAW OF THE CASE

Presumption as to, §§ 14:57, 29:2
Res judicata and, § 14:60

LEASES

Abandonment of leased premises, §§ 2:2, 25:12, 36:6, 61:13
Acts of God affecting, § 30:20
Agricultural leases, § 53:9
Assignment, § 53:9
Destruction of subject matter, § 60:2
Drilling rights, § 53:9
Equal dignities rule and, § 54:2
Essential terms, § 53:9

INDEX

LEASES—Cont'd

- Exculpatory clauses, **§ 42:2**
- Failure of consideration and, **§ 57:1**
- Failure to mitigate, **§ 36:6**
- Frustration of purpose of, **§ 58:1**
- Goods, leases of, **§ 53:12**
- Illegality and, **§§ 37:11, 37:16**
- Impossibility and, **§ 30:20**
- Indispensable parties in action as to, **§ 21:2**
- Landlord-Tenant Relations, this index
- Minor's capacity to execute, **§ 52:5**
- Mistake as to premises and, **§ 40:5**
- Mitigation of damages and, **§ 36:6**
- Modification of lease, **§ 53:9**
- Partial destruction of subject matter, **§ 60:2**
- Presumed term of lease, **§ 53:9**
- Release, **§§ 42:2, 42:3**
- Rescission, **§ 62:19**
- Restraint on alienation and, **§ 37:16**
- Service of process in action as to, **§ 2:2**
- Statute of frauds, **§§ 53:9, 53:12, 53:20, 53:24, 53:26**
- Statute of limitations
 - Generally, **§ 25:12**
 - Oral lease, **§ 25:15**
 - Written lease, **§ 25:12**
- Sublease requirements, **§ 53:9**
- Term of lease, **§ 53:9**
- Unconscionability and, **§§ 55:1, 55:3**
- Unlawful detainer
 - Generally, **§§ 44:6, 45:8**
 - Collateral estoppel and, **§§ 15:6, 15:8**
 - Res judicata and, **§ 14:48**
 - Setoff and, **§ 44:6**

LEGAL MALPRACTICE

- Arbitration of fee dispute, waiver of, **§ 12:5**
- Assignability of cause of action, **§§ 17:20, 18:24**
- Client's right to arbitration, waiver of, **§ 12:5**
- Death of client prior to trial and, **§ 17:14**
- Statute of limitations
 - Generally, **§ 25:35**
 - Tolling, **§§ 25:43, 25:51, 25:53, 25:54**
- Survival of cause of action, **§§ 17:20, 17:30**
- Tolling
 - Generally, **§§ 25:43, 25:51, 25:53, 25:54**
 - Mental incompetency, **§ 25:53**
 - Minority, **§ 25:51**

CALIFORNIA AFFIRMATIVE DEFENSES

LEGAL SERVICE AGENCY, TERMINATION OF REPRESENTATION BY

Delay in prosecution and, **§ 28:9**
Statute of limitations and, **§ 25:50**

LEGAL TENDER

Generally, **§§ 69:1, 69:2**

LEGISLATORS

Discretionary acts or omissions, **§ 38:74**
Immunity
Generally, **§§ 38:74, 38:137**
From service of process, **§ 2:18**
Legislative decisions, **§ 38:74**
Privilege for statements made by, **§ 41:3 et seq.**

LETTERS

Demand letters, privilege for, **§§ 41:5, 41:7**
Privilege
Demand letters, **§§ 41:5, 41:7**
Interested persons, **§ 41:9**
Protected proceedings, **§ 41:7**
Statute of frauds, writing established by, **§§ 53:2, 53:9**

LETTERS OF CREDIT

Consideration, **§ 56:9**
Exoneration of sureties, **§§ 67:2, 67:10**
Statute of frauds and, **§§ 53:2, 53:9, 53:11, 53:15**

LIABILITY CREATED BY STATUTE

Statute of limitations as to, **§ 25:18**

LIBEL

Defamation, this index

LIBRARIES

Defacement of property by child, **§ 48:9**
Detention of property by child beyond loan, **§ 48:9**
Immunity, **§ 38:17**

LICENSING REQUIREMENTS

Generally, **§ 39:1 et seq.**
Accountants, **§ 39:35**
Acupuncturists, **§ 39:35**
Adulthood as prerequisite, **§ 52:4**
Alarm company operators and agents, **§ 39:22**
Amended pleadings, **§§ 39:18, 39:28**
Answer
Generally, **§ 39:39**
Architect's license, **§ 39:19**
Contractor's license, **§§ 39:2, 39:18**
Real estate license, **§ 39:28**
Appliance repair dealers, **§ 39:23**

INDEX

LICENSING REQUIREMENTS—Cont'd

- Architects, §§ 39:13, 39:19
- Associations, § 39:21
- Athletic agents, § 39:34
- Attorneys, § 39:35
- Auctioneers, § 39:35
- Audiologists, § 39:35
- Automotive repairs dealers, § 39:24
- Barbers, § 39:35
- Bifurcated trial, § 39:39
- Broker-dealers, § 39:32
- Burden of proof, §§ 39:2, 39:18, 39:40
- Bureau of Collection and Investigative Services, § 39:22
- Bureau of Electronic and Appliance Repair, § 39:23
- Cemetery brokers and salespersons, § 39:30
- Charter Boat Safety Act, § 38:103
- Chiropractors, § 39:35
- Collection agencies, § 39:35
- Complaint
 - Contractor's license, § 39:18
 - Real estate license, § 39:28
- Contractor's License Requirements, this index
- Corporations, this index
- Cosmetologists, § 39:35
- Counselors, § 39:35
- Defamation, effect on, § 51:5
- Demurrer, §§ 39:1, 39:18, 39:39
- Dentists, § 39:35
- Department of Consumer Affairs, §§ 39:22 to 39:24
- Department of Corporations, § 47:13
- Dogs, §§ 38:19, 38:102
- Driver's licenses, § 38:102
- Electronic repair dealers, § 39:23
- Embalmers, § 39:35
- Employment agencies, § 39:34
- Employment managers, § 39:34
- Engineers, §§ 39:13, 39:19, 39:20
- Farm labor contractors, § 39:34
- Farm product processors, § 39:33
- Foreign corporations conducting interstate business, § 39:37
- For-hire vessels, § 38:103
- Funeral directors, § 39:35
- Gas brokers and salespersons, § 39:29
- Gross negligence, revocation for, § 48:23
- Illegality
 - Contractors, nature and elements of defense, §§ 39:4, 39:16
 - Effect of illegality, § 37:6

LICENSING REQUIREMENTS—Cont'd

Illegality—Cont'd

Persons barred by illegality, **§ 37:25**

Produce dealers and processors of farm products, **§ 39:33**

Related defense, **§ 39:42**

Specific illegal contracts, **§ 37:15**

Time of procuring license, **§ 39:16**

Waiver of defense, **§ 39:41**

Immunity

Generally, **§ 38:102 et seq.**

Discretionary acts immunity, **§ 38:75**

Dogs, **§§ 38:19, 38:102**

Driver's licenses, **§ 38:102**

Hearing officer immunity, **§ 38:132**

Licensing commissions and boards, **§ 38:122**

Misrepresentations and, **§ 38:105**

Prosecution as to license violations, **§ 38:81**

Reports as to professional licensees, **§ 38:39**

Revocation, **§§ 38:75, 38:81, 38:102, 38:132**

Vessels, **§ 38:103**

Insurance brokers and agents, **§ 39:35**

Interior decorators, **§ 39:3**

Investment advisors, **§ 39:32**

Job listing services, **§ 39:34**

Judicial notice, **§§ 39:1, 39:39**

Labor Commissioner, **§ 39:34**

Landscape architects, **§§ 39:3, 39:19**

Land surveyors, **§§ 38:122, 39:19, 39:20**

Marriage, family and child counselors, **§ 39:35**

Mineral brokers and salespersons, **§ 39:29**

Minor's capacity to obtain, **§ 52:4**

Nurses, **§ 39:35**

Nurses' registry, **§ 39:34**

Oil brokers and salespersons, **§ 39:29**

Opticians, **§ 39:35**

Optometrists, **§ 39:35**

Partnerships, **§§ 39:4, 39:19, 39:21**

Pathologists, **§ 39:35**

Penalties, **§§ 37:15, 39:1, 39:2, 39:25**

Performance of act without license, effect of, **§ 39:1 et seq.**

Personal jurisdiction, holding license in California, **§ 4:12**

Personal property brokers, salespersons, **§ 39:31**

Physical therapists, **§ 39:35**

Physicians, **§ 39:35**

Pleading, **§ 39:39**

Police power, **§§ 39:1, 39:19**

Private detectives, **§ 39:35**

INDEX

LICENSING REQUIREMENTS—Cont'd

- Processors of farm products, § **39:33**
- Produce dealers, § **39:33**
- Real Estate Licensees, this index
- Respiratory care practitioners, § **39:35**
- Revenue measures, §§ **39:1, 39:19**
- Revocation, §§ **38:75, 38:81, 38:102, 38:132, 48:23**
- Security interest, unlicensed contractor, § **37:25**
- Ship and yacht brokers and salespersons, § **39:31**
- Social workers, § **39:35**
- Speech pathologists, § **39:35**
- State Board of Registration for Professional Engineers and Land Surveyors, § **38:122**
- Statute of Frauds, this index
- Sua sponte, §§ **39:1, 39:38, 39:40**
- Talent agencies, § **39:34**
- Tax preparers, § **39:35**
- Time of procuring license, §§ **39:16, 39:17, 39:19, 39:28**
- Veterinarians, § **39:35**
- Violation of
 - Contractors, generally, § **39:2**
 - Effect of illegality, § **37:6**
 - Lack of required license in general, § **39:1**
 - Persons barred by illegality, § **37:25**
 - Produce dealers and processors of farm products, § **39:33**
 - Specific illegal contracts, § **37:15**
 - Substantial performance, § **39:17**
 - Time of procuring license, § **39:16**
 - Unlicensed partnership composed of licensed partners, § **39:4**
- Waiver, §§ **39:1, 39:2, 39:18, 39:33, 39:39, 47:13**

LIENHOLDERS AND LIEN RIGHTS

- Application of payment to secured debt, § **69:9**
- Death of defendant, effect of, § **17:33**
- Deficiency judgment, notice prerequisites, § **12:8**
- Liability of Department of Motor Vehicles, § **38:62**
- Mortgage, this index
- Probate claims requirements, exception for, § **12:32**
- Statute of frauds and, § **53:9**

LIFE ESTATES

- Real Property, this index
- Restraint of alienation and, § **37:16**
- Statute of frauds and transfer of, § **53:9**

LIFETIME CARE CONTRACTS

- Generally, § **53:23**

LIGHTNING

- Act of God as, §§ **30:9, 30:12, 30:18**

LIMITATION OF ACTIONS

Statute of Limitations, this index

LIMITED PARTNERSHIP

Limited partners not proper parties, **§ 20:5**
Partnership, this index
Personal jurisdiction and, **§§ 4:5, 4:11**
Res judicata and, **§ 14:33**
Service of process on, **§§ 2:2, 2:7**

LIMITED PERSONAL JURISDICTION

Generally, **§§ 4:9, 4:13 et seq.**

LIQUIDATED DAMAGES

Damages, this index

LIQUIDATORS

Statute of limitations, **§ 25:30**

LIQUOR

Alcoholic Beverages, this index

LIS PENDENS

Advice of counsel and, **§ 41:28**
Privilege as to, **§§ 41:4 to 41:8**
Res judicata, **§ 14:25**

LISTING AGREEMENTS

Real Estate Brokers and Salespersons, this index

LITIGANTS

Privilege for statements made by, **§ 41:5**

LOANS

Acceleration of, **§§ 47:10, 47:13**
Agreements to loan money, **§§ 53:9, 53:16**
Credit unions, loans to minors by, **§ 52:7**
Debt, this index
Deed of Trust, this index
Deficiency Judgments, this index
Exoneration of Sureties, this index
Foreclosure, this index
Foreign lending institutions, **§ 39:37**
Guaranties, this index
Interest, this index
Library books, **§ 48:9**
Minors, **§ 52:7**
Mortgage, this index
Payment, this index
Personal, family or household use, **§ 53:16**
Prepayment penalty, **§ 37:16**
Procurement for third person, **§ 53:18**

INDEX

LOANS—Cont'd

- Promissory notes and, §§ 44:6, 66:4, 69:3
- Setoff
 - Bank deposits, § 44:6
 - Promissory notes, § 44:6
 - Student loans, § 44:2
- Statute of Frauds, this index
- Student loans, setoff, § 44:2
- Unconscionability, § 55:3
- Usury, this index
- Variable interest, § 37:13
- Waiver of right to accelerate, §§ 47:10, 47:13

LOCAL ACTION

- Venue, this index

LOCAL AGENCY

- Definition, § 5:28
- Venue in actions by or against, §§ 5:25, 5:28

LONG ARM JURISDICTION

- Generally, §§ 4:1, 4:9 et seq.
- Conduct outside state as establishing jurisdiction
 - Generally, § 4:15
 - Cause of action, nature of, § 4:23
 - Citizenship of litigants, § 4:19
 - Extensive or wide ranging activity in California, § 4:12
 - Intentional effect in California, §§ 4:15, 4:16
 - Interests of California, § 4:21
 - Law to be applied, § 4:22
 - Litigants
 - Characteristics of, § 4:20
 - Citizenship of, § 4:19
 - State regulation of subject matter of lawsuit in California, § 4:18
 - Stream of commerce, § 4:17
 - Substantial activity in California, § 4:12
- Delay in prosecution statutes, effect of, § 28:29
- Due process and, §§ 4:1, 4:9
- Jurisdiction established by
 - General jurisdiction, §§ 4:9, 4:11, 4:12
 - Limited jurisdiction, §§ 4:9, 4:13 et seq.
 - Special jurisdiction, § 4:9
- Minimum contacts requirement, §§ 4:1, 4:9, 4:15
- Personal Jurisdiction, this index
- Purposeful availment standard, §§ 4:10, 4:15, 4:16

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT

- Assumption of the risk and, § 48:24
- Comparative fault and, § 48:16

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

Immunity, § 38:122

LOSS OF CONSORTIUM

Arbitration as to, §§ 68:1, 68:6

Comparative fault and, § 48:16

Government claims filing requirements and, § 12:21

Joinder of parties, § 20:4

Mitigation, § 36:4

Statute of limitations, § 25:25

LOSS OR DESTRUCTION OF DOCUMENTS

Destruction of Documents, this index

LOTTERY

Assignment by winner, § 18:18

Legality, § 37:20

Service of process on Lottery Commission, § 2:2

Setoff, § 44:2

MAGAZINES

First Amendment, this index

News reporter's immunity and, § 38:36

Privileges for, §§ 41:2, 41:9 to 41:12

MAIL

Personal jurisdiction, effect of mailing to California, § 4:15

Service of process by, §§ 2:2, 2:9 to 2:11

MAJORITY, AGE OF

Definition, § 52:2

MALICIOUS PROSECUTION

Advice of counsel and, § 41:26 et seq.

Assignability of cause of action, § 18:26

Favorable termination, §§ 19:5, 25:1, 43:1, 43:12, 68:10

Government entities may not sue, § 41:6

Immunity, §§ 38:76, 38:81

Prematurity and, § 27:7

Privilege, §§ 41:3, 41:6, 41:11, 41:14, 41:26 et seq.

Release, § 42:6

Res judicata, §§ 14:10, 14:14

Settlement, §§ 43:1, 43:12

SLAPP suits, § 12:37

Statute of limitations, §§ 25:25, 25:68

Survival of cause of action, §§ 17:3, 17:13, 17:30

Termination of underlying action, § 27:7

Tolling pending appeal, § 25:68

Unclean hands, § 45:5

Venue, §§ 5:7, 5:34, 5:36

Waiver of indemnity by bringing action for, § 47:6

INDEX

MALPRACTICE

- Accountants, limitation of actions, **§ 25:37**
- Assignability of cause of action, **§ 18:24**
- Attorneys, this index
- Comparative Fault, this index
- Damages, cap, **§ 48:19**
- Discovery rule, statute of limitations, **§§ 25:5, 25:35 to 25:37**
- Fee arbitration and, **§ 12:5**
- Legal Malpractice, this index
- Medical Malpractice, this index
- Mitigation, **§ 36:4**
- Statute of limitations
 - Generally, **§§ 25:25, 25:37**
 - Tolling, **§§ 25:43, 25:44**

MANAGER'S PRIVILEGE

- Generally, **§§ 4:28, 41:17 to 41:19**
- Breach of contract, **§ 41:19**
- Confidential relationship, **§ 41:19**
- Corporations, **§ 41:19**
- Definition, **§ 4:28**
- Personal jurisdiction and, **§ 4:28**
- Related privileges and, **§§ 41:17, 41:18**
- Respondeat superior and, **§ 41:19**
- Unions and, **§ 41:19**

MANDAMUS

- Adequacy of remedy at law, **§§ 31:1, 31:4**
- Administrative mandamus, **§ 16:1**
- Exhaustion of remedies, review as to, **§ 16:1**
- Extraordinary Writs, this index
- Forum non conveniens, review of order as to, **§§ 6:27, 6:28**
- Laches and, **§§ 26:4, 26:5, 26:7**
- Motion for dismissal, review of
 - Delay in service or return of summons, **§ 3:25**
 - Lack of personal jurisdiction, **§ 4:34**
- Motion to quash, review of, **§ 2:26**
- Original subject matter jurisdiction, **§ 7:2**
- Personal jurisdiction, review as to, **§ 4:34**
- Review of
 - Motion for dismissal, **§ 3:29**
 - Motion to quash, **§ 2:26**
- Statute of limitations, **§§ 25:18, 25:32, 25:40**
- Subject matter jurisdiction over, **§ 7:2**
- Unclean hands and, **§§ 45:2, 45:12**
- Venue, review of order as to, **§ 5:43**
- Verification of petition for, **§ 11:9**

MANIFEST INJUSTICE

Collateral estoppel, exception based on, **§ 15:10**

Res judicata, exception based on, **§ 14:46**

MARINE CARRIER

Acts of God as affecting, **§ 30:3**

MARITAL DISSOLUTION

Dissolution of Marriage, this index

MARRIAGE

Acceleration of real property loans and, **§ 47:13**

Annulment action, venue, **§ 5:18**

Annulment of Marriage, this index

Breach of promise to marry, **§§ 9:1, 38:37**

Capacity to marry, **§ 52:32**

Ceremonial marriage presumed correct, **§ 1:9**

Community Property, this index

Consent to, **§ 32:4**

Consortium, Loss of, this index

Contracts in restraint of, **§ 37:19**

Counselors, **§ 39:35**

Death, effect of, **§ 17:7**

Dissolution of Marriage, this index

Emancipated Minors, this index

Emancipation of minors by, **§§ 18:8, 19:3**

Fraudulent promise to marry, **§ 38:37**

Gifts given in contemplation of, **§ 38:37**

Imputation of negligence between spouses, **§ 48:10**

Joinder of spouse as party in action, **§§ 14:30, 20:4**

Legal separation, venue in action for, **§ 5:31**

Married minor's capacity to sue, **§ 18:8**

Mental incompetency and, **§ 52:32**

Minors, **§§ 37:19, 37:22, 45:10, 52:17, 52:18**

Parental control ceases, **§ 52:14**

Premarital Agreements, this index

Privity for res judicata, **§ 14:30**

Promise to marry, **§§ 9:1, 38:37**

Res judicata and, **§§ 14:30, 14:51**

Spouses, this index

Statute of frauds and, **§§ 53:22, 53:25**

Statute of limitations, tolling as to actions between spouses during, **§ 25:72**

Tolling of statute of limitations as to actions between spouses during, **§ 25:72**

Venue in actions as to

Annulment, **§ 5:31**

Legal separation, **§ 5:31**

Marital dissolution, **§ 5:31**

Support, **§ 5:32**

Transitory nature of actions as to, **§ 5:18**

INDEX

MARSHAL

Service of process by, **§ 2:3**

MARY CARTER AGREEMENTS

Generally, **§§ 43:1, 43:2**

MASTER AND SERVANT

Employment, this index

MATERIAL ALLEGATION

Generally, **§§ 1:1, 10:1**

MATERIAL ALTERATION OF DOCUMENTS

Alteration of Documents, this index

MATERIALMEN

Contractor's license requirements and, **§ 39:14**

MCATEER-PETRIS ACT

Immunity, **§ 38:122**

MECHANICAL ENGINEERS

Engineers, this index

MECHANICS' LIENS

Commencement of foreclosure action in wrong court, **§ 25:70**

Construction Contracts, this index

Contractors, this index

Contractor's License Requirements, this index

Doe defendants, notice to, **§ 12:12**

Government claims filing requirement, **§ 12:20**

Illegality, **§§ 37:6, 37:26**

Joinder of parties in action as to, **§ 21:2**

Payment bonds, notices as to, **§ 12:12**

Preliminary notice, **§ 12:12**

Privilege, **§ 41:6**

Prohibited on publicly owned property, **§ 12:12**

Stop notices, **§ 12:12**

Unclean hands, **§ 45:5**

Unlicensed contractors, foreclosure of, **§ 39:18**

Venue in foreclosure action, **§§ 5:10, 12:12**

Waiver, **§ 47:5**

MEDIATION

Failure to mediate, **§§ 12:38, 68:14**

MEDICAL BOARD OF CALIFORNIA

Statute of limitations, revocation of license by, **§ 25:74**

Venue, **§ 5:22**

MEDICAL MALPRACTICE

Abandonment of patient, **§ 61:6**

Accrual as to government defendants, **§ 12:23**

MEDICAL MALPRACTICE—Cont'd

Arbitration, **§ 25:36**

Arbitration of claims, **§ 68:6**

Battery and notice of claim requirements, **§ 12:4**

Certificate of merit, **§ 12:2**

Government claims requirements as to

 Generally, **§ 12:21**

 Relation to notice of intent to sue, **§ 12:4**

Immunity, **§§ 38:10, 38:25, 38:37, 38:39, 38:84, 38:87, 38:94 et seq.**

Injuries from natural causes, **§ 38:25**

Medical Injury Compensation Reform Act, statute of limitations under, **§§ 25:36, 25:44, 25:51**

 Notice of intent to sue, **§ 12:4**

 Patient's Bill of Rights, **§ 68:6**

 Physicians and Surgeons, this index

 Public employees and entities and, **§§ 38:84, 38:87, 38:95, 38:98**

 Punitive damages, **§§ 25:36, 38:37**

 Statute of limitations

 Generally, **§§ 25:36, 25:44**

 Bifurcation, **§ 25:80**

 Incompetents, **§ 25:53**

 Medical Injury Compensation Reform Act, **§§ 25:36, 25:44, 25:51**

 Minors, **§§ 25:36, 25:44, 25:51**

 Tolling, **§§ 25:44, 25:51, 25:53**

 Who is bound by arbitration agreement, **§ 68:6**

MEDICAL TREATMENT

AIDS, **§§ 38:29, 52:14**

Audiologists, licensing of, **§ 39:35**

Cardiopulmonary resuscitation, **§ 38:48**

Choking emergencies, **§ 38:52**

Consent to

 Generally, **§ 32:1 et seq.**

 Emergency as affecting, **§ 32:9**

Convulsive treatment, **§ 38:10**

Disease, this index

Health Care Professionals, this index

Immunity, this index

Licensing Requirements, this index

Methadone treatment, **§ 52:14**

Minors, **§§ 52:14, 52:15**

Multiphasic screening unit, **§ 38:11**

Narcotic addict treatment, **§§ 38:81, 38:96**

Patients, this index

Physicians and Surgeons, this index

Psychosurgery, **§§ 32:4, 52:14**

Psychotropic drugs, **§ 52:14**

Sexually transmitted disease, **§ 52:14**

INDEX

MEDICAL TREATMENT—Cont'd

- Sterilization, §§ 32:4, 38:28, 52:14
- Transfusions, § 38:24
- Vaccination, § 38:24

MEDICARE

- Immunities of health insurance counselors, § 38:2

MENACE

- Duress, this index

MENTAL INCOMPETENCY

- Abuse, reporting, § 38:43
- Act of God as, §§ 30:14, 67:3
- Burden of proof, as to, § 1:9
- Capacity-contract and
 - Incapacity defined, §§ 52:21 to 52:29
 - Rescission and, §§ 52:27 to 52:29
- Capacity to contract and
 - Generally, § 52:21 *et seq.*
 - Adjudication of incapacity to contract, §§ 52:22, 52:26
 - Age and, § 52:25
 - Answer alleging, § 52:36
 - Burden of proof, § 52:34
 - Conservatee's capacity, §§ 52:26, 52:32
 - Court approved contracts and, § 52:31
 - Evidence as to, § 52:24
 - Intoxication and, § 52:23
 - Jury instructions as to, § 52:36
 - Marriage and, § 52:32
 - Necessaries, contracts for, § 52:30
 - Person entirely without understanding and, §§ 52:27, 52:28
 - Person of unsound mind, and, § 52:28
 - Person susceptible to undue influence, § 52:29
 - Physical condition and, § 52:25
 - Ratification, § 52:34
 - Rescission and, §§ 62:6, 62:16
 - Senility and, § 52:25
 - Time at which incapacity occurs, § 52:22
 - Voluntary incapacity and, § 52:23
 - Waiver, § 52:37
- Capacity to marry and, § 52:32
- Capacity to Sue, this index
- Comparative negligence and, § 48:4
- Confinement of patient, § 38:99
- Consent by incompetent, §§ 32:2, 32:4
- Conservator of estate, appointment, §§ 52:22, 52:26
- Contracts approved by the court, § 52:29
- Contracts by persons of unsound mind, §§ 52:21 to 52:34

MENTAL INCOMPETENCY—Cont'd

- Contracts for necessities, **§ 52:30**
- Convulsive treatment, **§ 38:10**
- Death, effect on action to determine, **§ 17:26**
- Definitions
 - Incompetency, **§ 18:9**
 - Insanity, **§ 25:53**
 - Mental patient, **§ 38:95**
- Delay in service and return of summons and, **§§ 3:22, 3:24**
- Detention and evaluation of patient, **§ 38:99**
- Determination of incapacity, **§§ 52:22 to 52:25**
- Diagnosis of, discretionary, **§ 38:75**
- Dissolution of marriage based on, **§ 18:9**
- Entirely without understanding, **§§ 46:11, 52:27**
- Escape of patient, **§§ 38:99, 38:100**
- Estoppel, **§ 52:34**
- Failure to admit patient, **§§ 38:99, 38:101**
- Failure to examine patient, **§ 38:98**
- Government claims filing requirement and, **§ 12:20**
- Guaranties and, **§ 67:3**
- Guardians and Guardianship, this index
- Immunity, this index
- Indispensable party and, **§ 18:31**
- Injuries to or by patient, **§ 38:95**
- Intoxicated Persons, this index
- Judicial determination of, **§ 52:26**
- Judicial rights, **§ 38:96**
- Lanterman-Petris-Short Act, **§ 38:99**
- Notice of incapacity to contract, **§ 52:26**
- Personal jurisdiction and, **§ 18:9**
- Persons who may object to contracts by, **§ 52:33**
- Pharmacists, **§ 38:16**
- Physical condition not determinative, **§ 52:25**
- Probate proceedings
 - Guardian ad litem, appointment, **§§ 18:2 to 18:10**
 - Res judicata and, **§ 14:51**
 - Statute of limitations as affected by incompetency, **§ 25:53**
- Psychiatric outpatients, medication, **§ 38:75**
- Rape, consent by incompetent, **§ 32:2**
- Ratification, **§ 52:34**
- Release
 - Avoidable by incompetent, **§ 42:4**
 - Of patient, **§§ 38:95, 38:99**
 - Of patient's information, **§ 38:30**
- Rescission and, **§§ 52:27 to 52:29, 62:6, 62:16**
- Service of process affected by, **§§ 3:22, 3:24**
- Seventy-two hour hold, **§ 38:99**

INDEX

MENTAL INCOMPETENCY—Cont'd

Statute of limitations, effect of, §§ **25:42, 25:53, 25:59**
Substitution of parties, limitation of actions, § **25:50**
Suicide, §§ **38:95, 38:99**
Suretyship and, § **67:3**
Susceptible of undue influence, §§ **46:11, 52:29**
Time of incompetency, § **52:22**
Tolling due to, §§ **25:42, 25:53, 25:59**
Unclaimed personal property, § **38:73**
Undue influence and, §§ **46:11, 52:29**
Unsound mind, §§ **46:11, 52:21 to 52:34, 62:16**
Void contracts, §§ **52:26, 52:27**
Voluntary incapacity, §§ **52:22, 52:23**
Voluntary intoxication, § **52:23**
Waiver
 Defense based on incompetency, § **52:37**
 Validity of waiver affected by, §§ **47:2, 47:11**

MERCHANTS

Contracts between, §§ **53:11, 62:21**
Immunity, §§ **38:17, 38:21**
Rescission of contract between, § **62:21**

MERE POSSIBILITY

Assignment, § **18:18**

MERGER OF CORPORATION

Capacity to sue, effect of, § **18:15**
Corporations, this index
Definition, § **18:15**
Liability for prior debt, § **18:15**
Personal jurisdiction, § **4:27**
Substitution of parties by, limitation of actions and, § **25:50**

MERGER OF JUDGMENT

Generally, §§ **14:1, 15:1**

METHADONE TREATMENT

Minor's consent to, § **52:14**

MILITARY SERVICE

Armed Forces and Military Matters, this index
Capacity to Contract, this index
Delay in prosecution, effect on, § **28:17**
Five-year rule, effect on, § **28:17**
Minors, this index
Service of process, immunity, § **2:18**
Statute of limitations, § **25:62**

MILLER ACT

Notice requirements on public works claims, § **12:12**

CALIFORNIA AFFIRMATIVE DEFENSES

MILLER-AYALA ATHLETE AGENTS ACT

Attorney's violation of, **§ 37:22**

MINERAL BROKERS

Oil, Gas and Mineral Rights, this index

MINERAL RIGHTS

Oil, Gas and Mineral Rights, this index

MINIMUM CONTACTS

Generally, **§ 4:1 et seq.**

Personal jurisdiction, this index

MINING

Oil, Gas and Mineral Rights, this index

MINORITY

Capacity-sue and, **§§ 18:2 to 18:8**

Computation of time, **§ 18:2**

Definition, minor, **§ 18:1**

Disaffirmance by, **§ 18:6**

Emancipation of, **§ 18:8**

Fetus

Recovery for injury to, **§ 18:7**

Status of, **§ 18:7**

Government claims filing requirements and, **§ 12:22**

Guardian ad Litem, this index

Guardians and Guardianship, this index

Laches, application to minor, **§ 26:13**

Lack of capacity-sue, **§§ 18:2 to 18:8**

Necessity for guardian ad litem, **§§ 18:2 to 18:6**

Probate claims filing requirement and, **§§ 12:32, 17:34, 25:51**

Res judicata and probate proceedings, **§ 14:51**

Service of process and, **§ 2:14**

Settlement of claims by parent

Generally, **§ 18:3**

Verification of petition for, **§ 11:20**

Statute of limitations, tolling due to, **§§ 25:36, 25:42, 25:44, 25:51, 25:60**

Verification of petition to approve settlement, **§ 11:20**

Workers' compensation action, **§ 18:4**

MINORS

Abandonment, **§ 45:3**

Abortion, **§ 52:14**

Abuse reporting immunity, **§ 38:43**

Adoption of, **§ 32:4**

Age of majority, **§ 32:4**

Agricultural work, **§ 52:15**

AIDS testing, **§ 52:14**

Alcoholic beverages, providing to, **§ 38:33**

INDEX

MINORS—Cont'd

- Annuities, **§ 52:16**
- Arbitration of medical malpractice claims, **§ 68:6**
- Armed forces
 - Emancipation by enlistment, **§ 52:19**
 - Enlistment by minor, **§ 52:15**
- Assignment of claims by, limitation of actions and, **§ 25:51**
- Assignment of wages by, **§§ 52:4, 52:6**
- Attorney, retention by, **§§ 52:3, 52:13, 52:15**
- Banking, **§§ 52:7, 52:12, 52:16**
- Baseball games, sports-attending services at, **§ 52:15**
- Blood donations, **§ 52:16**
- Blood transfusions, **§ 38:24**
- Broker, capacity to act as, **§ 52:4**
- Capacity-contract
 - Generally, **§§ 52:2 to 52:20**
- Capacity-sue, **§§ 18:2 to 18:8**
- Capacity to contract
 - Apparent maturity irrelevant, **§ 52:3**
 - Burden of proof, **§ 52:11**
 - Court approval, **§ 52:15**
 - Deeds, **§ 52:5**
 - Determining incapacity, **§ 52:22**
 - Disaffirmance by Minor, this index
 - Emancipated Minors, this index
 - Employment contracts, **§§ 52:5, 52:15**
 - Medical care, **§§ 52:14, 52:15**
 - Necessaries, **§ 52:13**
 - Personal property, **§§ 52:3, 52:6**
 - Ratification of contract, **§ 52:20**
 - Real property, **§§ 52:3, 52:5**
 - Rescission and, **§ 52:11**
 - Unsound mind, generally, **§ 52:22**
 - Waiver, **§ 52:20**
- Certificate of merit, sexual abuse claims, **§ 12:2**
- Child Abuse and Neglect Reporting Act, **§ 38:43**
- Child abuse complaint as adult, certificate of merit, **§ 12:2**
- Child Support, this index
- Comparative negligence and, **§§ 48:4, 48:8, 48:9**
- Computation of time as to, **§ 18:2**
- Consent by, **§§ 32:2, 32:4, 52:2 to 52:20**
- Contractor's license barred, **§ 52:4**
- Contracts approved by the court, **§ 52:15**
- Contracts contrary to law, **§ 52:7**
- Convulsive treatment of, **§ 32:4**
- Corporate shares, transfer to, **§ 38:35**
- Credit union loans, **§ 52:7**

MINORS—Cont'd

- Custodians of property transferred to, **§ 38:34**
- Custody actions
 - Generally, **§ 45:11**
 - Indian children, notice to tribe, **§ 12:3**
- Dangerous conditions, **§§ 38:119, 52:16**
- Deeds by, **§ 52:5**
- Defacement of property by, **§ 48:9**
- Delegation of power, **§§ 52:3, 52:4**
- Dental care contracts, **§ 52:14**
- Diagnosis errors, **§ 38:104**
- Disaffirmance by minor, this index
- Disaffirmance of contracts or judgments, **§§ 18:6, 52:8 to 52:11**
- Duty to support parent, **§ 45:2**
- Easement barred, **§ 52:5**
- Emancipated Minors, this index
- Employment, **§§ 52:7, 52:15**
- Entertainment contracts, **§ 52:15**
- Estoppel, assertion against, **§§ 34:9, 52:5, 52:20**
- Eyeglasses, sale to, **§ 52:7**
- False claim of adult status, **§ 52:3**
- Fetus
 - Recovery of injury to, **§ 18:7**
 - Status of, **§ 18:7**
- Foster homes, **§§ 38:75, 38:104**
- Gifts to, **§ 38:34**
- Government claims filing requirement, **§ 12:23**
- Guardian ad Litem, this index
- Guardians and Guardianship, this index
- Immunity
 - Abuse reporting, **§ 38:43**
 - Alcoholic beverages, providing to, **§ 38:33**
 - Caregivers of minor, consent to school-related medical care, **§ 38:26**
 - Child Abuse and Neglect Reporting Act, **§ 38:43**
 - Corporate shares, transfer to, **§ 38:35**
 - Custodians of property transferred to, **§ 38:34**
 - Dangerous conditions and, **§ 38:119**
 - Foster homes, **§§ 38:75, 38:104**
 - Gifts to, **§ 38:34**
 - Immunizations of, **§ 38:24**
 - Institution of litigation as to, **§ 38:81**
 - Intoxication and, **§ 38:33**
 - Medical diagnosis and treatment of, **§§ 38:26, 38:104**
 - Prisoners, **§ 38:82**
 - Protective services, **§ 38:43**
 - Schools and, **§§ 38:26, 38:47**
 - Transfusions, **§ 38:24**

INDEX

MINORS—Cont'd

Immunity—Cont'd

Uniform Transfer to Minors Act, **§ 38:34**

Imputation of negligence by to parent or guardian, **§§ 48:8, 48:9**

Indispensable as party, **§ 18:4**

Infant abandonment, **§§ 38:28, 38:45**

Injury to fetus, recovery for, **§ 18:7**

Insurance, life and disability, **§ 52:16**

Intoxicated, **§ 38:33**

Investment contracts, **§§ 52:15, 52:16**

Joinder

Custody actions, **§ 21:2**

Personal injury actions, **§ 20:4**

Support actions, **§ 21:2**

Judgment for support, limitation of actions on, **§ 25:10**

Juvenile Offenders, this index

Juvenile proceedings, this index

Laches, application to minor, **§ 26:13**

Lack of capacity-contract, **§§ 52:2 to 52:20**

Lack of capacity-sue, **§§ 18:2 to 18:8**

Lease by, **§ 52:5**

Licensing requirements and, **§ 52:4**

Loans, **§ 52:7**

Marriage of

Annulment, **§ 45:10**

Consent, **§§ 32:4, 45:10**

Contracts by married minors, **§§ 52:17, 52:18**

Contracts in restraint of, **§ 37:19**

Underage marriage, **§ 45:10**

Medical treatment of

Abortion, **§ 52:14**

AIDS testing, **§ 52:14**

At school, **§ 38:47**

Child abuse, **§ 52:14**

Consent, **§ 32:4**

Contracts for, **§§ 52:14, 52:15**

Convulsive treatment, **§§ 32:4, 52:14**

Court approval as to, **§ 52:15**

Diagnosis and treatment, **§ 38:104**

Drug or alcohol treatment, **§ 52:14**

Experimental drugs, **§ 52:16**

Methadone, **§ 52:14**

Pregnancy, **§ 52:14**

Probate proceedings, guardian ad litem, appointment, **§ 18:4**

Psychosurgery, **§§ 32:4, 52:14**

Psychotropic drugs, **§ 52:14**

Sexually transmitted disease, **§ 52:14**

MINORS—Cont'd

- Medical treatment of—Cont'd
 - Statute of limitations as to, §§ 25:36, 25:44, 25:51
 - Sterilization, § 52:14
 - Transfusions, § 38:24
 - Vaccinations, § 38:24
- Mental health treatment, § 52:14
- Military service by, § 52:15
- Necessaries for support, § 52:13
- Newspapers, contracts as to, § 52:6
- Ownership of real property, § 52:5
- Parent, privity of child with, § 14:30
- Personal property, contracts as to, §§ 52:3, 52:6
- Personal representative, capacity to act as, § 52:4
- Power of appointment by, § 52:4
- Power of attorney by, § 52:4
- Premarital agreements, § 52:12
- Prisoners, § 38:82
- Privity and, §§ 14:30, 14:31
- Probate claims
 - Filing requirement, §§ 12:32, 17:34, 25:51
 - Res judicata effect of, § 14:51
- Professional sports contracts, § 52:15
- Protective services, § 38:43
- Psychosurgery, §§ 32:4, 52:14
- Purchase and sale contract, §§ 52:5, 52:16
- Rape and, §§ 32:2, 32:4, 52:14
- Ratification of contracts by, § 52:20
- Real property contracts, §§ 52:3, 52:5
- Release, disaffirmance of, § 52:9
- Sale of goods, § 52:11
- Service of process on, § 2:14
- Setoff and, § 44:6
- Settlement of claims
 - Court approval, §§ 43:5, 53:15
 - Verification of approval petition, § 11:19
- Sexual abuse claim
 - Agreements to pay victim of, § 37:22
 - Certificate of merit requirement in action for, §§ 12:2, 25:26
 - Statute of limitations as to, § 25:26
- Sexual intercourse and, §§ 32:2, 32:4
- Sports-attending services, § 52:15
- Standard of care, § 48:4
- Standing to bring action, § 19:1
- Statute of limitations and
 - Generally, § 25:51
- Medical malpractice, §§ 25:36, 25:44, 25:51

INDEX

MINORS—Cont'd

Statute of limitations and—Cont'd
 Tolling, §§ 25:42, 25:51, 25:60
Support
 Generally, § 52:16
 Effect of death, §§ 17:25, 17:32
 Setoff, § 44:6
Talent agency contracts, § 52:15
Tear gas or tear gas weapons, sale to minors, § 52:7
Tolling of statute of limitations and, § 25:51
Transfusions, § 38:24
Treatment, incorrect, § 38:104
Trustee, § 52:16
Unclean hands and, §§ 45:2, 45:3, 45:10, 45:11
Undue influence and
 Generally, §§ 46:2, 46:3
 Burden of proof, § 46:6
 Dependent parent, § 46:6
 Presumption, § 46:6
Uniform Child Custody Jurisdiction Act, § 45:11
Uniform Transfer to Minors Act, § 38:34
Vaccinations, § 38:24
Verification of petition to approve settlement, § 11:20
Voidable contracts by, §§ 52:8 to 52:11
Void contracts by, §§ 52:3 to 52:7, 52:25
Wages, assignment of, §§ 52:3, 52:6
Ward of court, § 38:81
Who may rely on minority, § 52:2
Willful misconduct of, imputation to parent, § 48:9
Workers' compensation action by, § 18:4
Wrongful life and, § 18:7

MISAPPROPRIATION

Futility of demand requirement, § 12:15
Misappropriation of name or likeness, mistake, § 40:1
Mistake, § 40:1
Privilege and, § 41:6
Trade secrets, statute of limitations as to, §§ 25:7, 25:20

MISJOINDER OF CAUSES OF ACTION

Generally, §§ 20:1, 20:12

MISJOINDER OF PARTIES

Generally, § 20:1 et seq.
Amendment, § 20:8
Answer
 Generally, §§ 20:6, 20:7
 Allegations as to, § 20:7
Appellate review, § 20:9

MISJOINDER OF PARTIES—Cont'd

Availability of defense, **§ 20:6**
Capacity to sue or be sued and, **§ 20:5**
Demurrer, **§§ 20:1, 20:6, 20:8**
Forms, this index
Joinder of Defendants, this index
Joinder of Plaintiffs, this index
Judicial notice, **§ 20:7**
Misjoinder of causes of action and, **§ 20:12**
Motion to dismiss, **§ 20:8**
Nonjoinder of parties and, **§§ 20:1, 20:4, 20:11, 21:1, 21:10**
Nonsuit, **§ 20:7**
Plea in abatement based on, **§ 1:2**
Special demurrer, **§ 20:8**
Standing to assert defense, **§§ 9:1, 20:5, 20:6**
Statement of cause of action, **§ 20:5**
Waiver, **§ 20:10**

MISNOMER

Defects in name of party served, **§ 2:20**
Plea in abatement based on, **§ 1:2**
Relation back of amendment to correct, **§ 25:77**
Summons, **§ 2:2**

MISREPRESENTATION

Adequacy of consideration, **§ 56:4**
Adoption, **§ 38:105**
Agent's fraud, **§ 62:5**
AIDS, **§ 38:29**
Assignability of cause of action, **§ 18:20**
Auctioneers and auction companies, **§ 38:4**
Breach of contract or warranty, **§ 38:105**
Comparative fault and, **§ 48:16**
Concealment, insurance applications, **§ 62:22**
Consent and, **§§ 32:1, 32:6**
Constructive fraud, **§ 62:5**
Contractor's licensing requirements and, **§ 39:18**
Contract to exempt from, **§ 37:10**
Definition, **§ 38:105**
Duress and, **§ 33:12**
Errors of description, **§ 62:7**
Estoppel and, **§§ 34:1, 34:6**
Exculpation agreements as to, **§ 37:10**
Failure to read contract based on, **§ 40:4**
Failure to warn, **§ 38:105**
Floods, **§ 38:105**
Gambling and, **§ 37:20**
Guaranties and, **§ 67:3**

INDEX

MISREPRESENTATION—Cont'd

- Illegality
 - Agreements to defraud, § 37:21
 - Exculpatory provision, §§ 37:10, 37:11
 - Fraudulent inducement of contract and, § 37:27
 - Income taxes, illegal contracts as to, § 37:21
- Immunity, §§ 38:56, 38:105
- Indemnity, § 42:14
- Innocent misrepresentation, §§ 62:3, 62:5
- Insurance policy applications, § 62:22
- Justification defense and, § 41:14
- Marriage, § 38:37
- Mistake and, §§ 40:3, 40:4, 40:14
- Negligent misrepresentation, §§ 25:15, 25:21, 48:16
- Pleading, § 62:5
- Privilege as defense to action for, § 41:6
- Public employees, § 38:105
- Public entities, § 38:105
- Ratification obtained by, § 62:20
- Release, §§ 42:1, 42:4, 42:5, 42:8, 42:13
- Rescission, §§ 62:2, 62:5, 62:20
- Setoff and, § 44:1
- Statute of frauds and cause of action for, § 53:27
- Statute of limitations
 - Generally, § 25:21
 - Tolling due to, § 25:72
- Suretyship and, § 67:3
- Unclean hands, §§ 45:2, 45:9
- Undue influence and, §§ 46:1, 46:16

MISTAKE

- Generally, § 40:1 *et seq.*
- Accounting error as, § 40:1
- Adverse possession, § 40:1
- Agents, imputation of knowledge of mistake to principal, § 40:9
- Answer, allegation of, § 40:11
- Belief in a non-existent subject, § 40:6
- Bids for construction, §§ 40:4, 40:5, 62:3
- Boundary lines, §§ 40:1, 40:6
- Burden of proof, § 40:12
- Clerical error, §§ 40:1, 40:4
- Community property, § 40:8
- Confidential relationships, § 40:4
- Consent and, §§ 32:1, 32:6, 40:1 *et seq.*
- Construction bids, §§ 40:2, 40:4, 40:5, 62:3
- Constructive trust as remedy for, § 40:1
- Contracts
 - Generally, § 40:1 *et seq.*

MISTAKE—Cont'd

Contracts—Cont'd

 Competency of contracting party, **§ 52:26**

 Minority of contracting party, **§ 52:3**

Conversion, **§ 40:1**

Defamation, **§ 40:1**

Definition, **§ 40:1**

Demurrer to allegation of, **§ 40:11**

Discovery rule, statute of limitations, **§§ 25:5, 25:15, 25:21**

Disease, **§ 40:6**

Errors of description, **§§ 40:13, 62:7**

Essential elements of contract, **§ 62:3**

Estoppel and, **§§ 34:4, 40:13**

Extrinsic evidence as to, **§ 40:11**

Extrinsic Mistake, this index

Failure to read contract and, **§§ 40:4, 42:1, 42:4, 68:1**

Fiduciary relationships, **§ 40:4**

Foreign law, **§§ 40:3, 40:7**

Forgetfulness, **§ 40:5**

Fraud and, **§ 40:14**

Future events, **§ 40:1**

Gifts, **§ 40:1**

Good faith improvements, **§ 40:1**

Gross negligence and, **§ 40:4**

Impossibility and, **§ 60:19**

Injury, **§ 40:6**

Innocent misrepresentation, **§§ 62:3, 63:5**

Intent, **§ 40:1**

Intentional uncertainty, **§ 40:5**

Judgment, **§§ 40:1, 40:4**

Jury instructions as to, **§§ 40:4, 40:11**

Leases, **§ 40:5**

Legal duty, neglect of, **§ 40:4**

Materiality, **§§ 40:1, 40:2, 40:11, 62:3**

Minority of contracting party, **§ 52:3**

Misappropriation of name or likeness, **§ 40:1**

Misrepresentation causing, **§§ 40:3, 40:4, 40:14**

Mutual, **§§ 40:1, 40:3, 40:4, 40:7, 40:8, 62:3**

Neglect of legal duty, **§ 40:4**

Negligence, **§ 40:4**

Non-existence of subject, **§ 40:6**

Of fact, **§§ 40:1 to 40:6**

Of judgment, **§§ 40:1, 40:4**

Of law, **§§ 40:1, 40:2, 40:7 to 40:10**

Ownership of property, **§§ 40:1, 40:6**

Parol evidence, **§ 40:11**

Payment, **§ 40:1**

INDEX

MISTAKE—Cont'd

- Pleading, **§ 40:11**
- Presumptions, **§ 40:12**
- Privacy, **§§ 40:1, 40:8**
- Real property, **§ 40:1**
- Reformation based on
 - Contract, **§§ 40:1, 40:3**
 - Will, **§ 40:1**
- Release, **§§ 42:4, 42:8, 42:13**
- Remedy for, **§ 40:1**
- Rescission
 - Generally, **§§ 40:1, 40:10, 40:13, 62:2, 62:3, 62:7**
 - Limitations period, discovery rule as to, **§ 25:15**
- Specific performance, **§ 40:1**
- Statute of limitations, **§§ 25:5, 25:21, 40:1, 40:8**
- Stipulations, **§ 40:13**
- Summary judgment, **§ 40:11**
- Timing, **§§ 40:2, 40:7**
- Trespass, **§ 40:1**
- Uncertainty and, **§ 40:5**
- Unconscious ignorance or forgetfulness, **§ 40:5**
- Unilateral, **§§ 40:3, 40:4, 40:7, 40:9, 40:10, 40:14, 62:3**
- Waiver, **§ 40:13**
- Wills, reformation of, **§ 40:1**

MITIGATION

- Failure to Mitigate Damages, this index

MODIFICATION OF CONTRACT

- Generally, **§ 65:1 et seq.**
- Abandonment of contract and, **§§ 61:10, 65:12**
- Answer, allegation as to, **§ 65:8**
- Assignees, third party rights, **§ 65:7**
- Burden of proof, **§ 65:9**
- Conduct inconsistent with contract, **§ 65:12**
- Consent, **§ 65:1**
- Consideration, **§§ 47:1, 56:9, 65:2 to 65:6**
- Construction contracts, **§§ 65:4 to 65:6**
- Contract holders, third party rights, **§ 65:7**
- Contracting parties, third party rights, **§ 65:7**
- Contract not wholly extinguished, **§ 65:1**
- Contract with method of modification, **§ 65:3**
- Delivery necessary to execution, **§ 65:5**
- Equal dignities rule, **§ 54:1 et seq.**
- Escrow instructions precluding, **§ 65:3**
- Estoppel and, **§§ 65:5, 65:6, 65:11, 65:14**
- Evidence, waiver and estoppel, **§ 65:14**
- Executed oral agreement, **§ 65:5**

MODIFICATION OF CONTRACT—Cont'd

- Executory contracts, **§ 65:5**
- Implied in fact contracts, third party rights, **§ 65:7**
- Jury instructions as to, **§ 65:8**
- Lack of consideration, **§ 65:2**
- Leases, **§ 53:9**
- Listing agreement, **§ 53:10**
- Manner of asserting the defense, **§ 65:8**
- Merchants, modification of contract between, **§ 62:21**
- Mutual rescission and, **§§ 61:10, 65:12**
- Negotiations not a modification, **§ 65:1**
- Novation and, **§§ 64:4, 65:11, 65:13**
- Oral contract
 - Modification of, **§ 65:2**
 - Modification of written contract by, **§§ 65:5, 65:6**
- Parol evidence, **§§ 65:3, 65:5, 65:6**
- Pleading, **§§ 65:8, 65:10**
- Promissory estoppel as substitute for consideration, **§ 65:5**
- Proof of facts, waiver and estoppel, **§ 65:14**
- Rescission and, **§ 65:11**
- Sale of goods and, **§§ 62:21, 65:1, 65:2, 65:4, 65:5**
- Severability of modified contracts, **§ 65:5**
- Signed agreement as to goods, **§ 62:21**
- Statute of frauds, **§§ 53:8 to 53:10, 65:3 to 65:6**
- Summary judgment, **§ 65:8**
- Third parties and, **§§ 65:1, 65:7**
- Transferees, third party rights, **§ 65:7**
- Trial, **§ 65:9**
- Waiver
 - As alternate means to enforce modification, **§§ 65:6, 65:11**
 - Delay and, **§ 62:21**
 - Estoppel and, **§ 65:14**
 - Of defense, **§ 65:10**
- Written contract
 - Generally, **§§ 65:3 to 65:6**
 - Commercial paper, modification of, **§ 65:1**
 - Equal dignities rule, **§ 54:1 et seq.**
 - Oral agreement modifying, **§§ 65:5, 65:6**
 - Sale of goods, modification by, **§ 62:21**
 - Statute of frauds and, **§ 53:10**
 - Written agreement as modification, **§ 65:4**

MONEY HAD AND RECEIVED

- Claim requirements, **§ 12:21**
- Common Counts, this index
- Statute of limitations, **§ 25:21**
- Uncertainty of pleading and, **§ 10:3**
- Usury, **§ 37:13**

INDEX

MONEY HAD AND RECEIVED—Cont'd

Venue, § 5:36

MOOTNESS

- Generally, § 22:1 *et seq.*
- Abstention, judicial, § 22:12
- Answer, § 22:4
- Appellate review and, § 22:7
- Burden of proof, § 22:8
- Class actions and, § 22:2
- Conservatorship, § 22:2
- Court's power to act *sua sponte* as to, § 22:5
- Criminal justice, § 22:2
- Death and, §§ 17:41, 22:2
- Demurrer and, § 22:5
- Election disputes, § 22:2
- General public issues and, §§ 22:2, 22:7
- Injunctions and, § 22:8
- Judicial abstention, § 22:12
- Legislation and regulations, § 22:2
- Pleading, § 22:4
- Pregnancy issues and, § 22:2
- Prematurity and, § 27:8
- Public officers and, § 22:2
- Racial discrimination and, § 22:2
- Res judicata and, § 22:11
- School issues, § 22:2
- Standing and, § 22:10
- Trial and, § 22:6
- Waiver, § 22:9

MORAL CERTAINTY

- Burden of proof, § 1:8

MORTGAGE

- Agreement to assume, § 53:19
- Alteration of, § 66:4
- Anti-deficiency legislation and, §§ 47:13, 67:3
- Debt, this index
- Equal dignities rule, § 54:2
- Foreclosure, this index
- Liens, this index
- Loans, this index
- Payment, this index
- Power of attorney, authority to sign, § 54:2
- Probate claims requirement, exception for, § 12:32
- Purchaser's agreement to assume, § 53:19
- Statute of Frauds, this index
- Statute of limitations, action to redeem, § 25:11

MORTGAGE—Cont'd

Waiver of debtor's rights, **§ 47:13**

MOTION FOR JUDGMENT ON THE PLEADINGS

Generally, §§ **1:4, 9:4**

Estoppel, **§ 34:10**

Failure to file claim under Government Tort Claims Act and, **§ 12:20**

Failure to state cause of action and, **§ 9:4**

Lack of subject matter jurisdiction as grounds for, **§ 7:12**

Res judicata

Assertion of defense by, **§ 14:55**

Effect of judgment based on, **§ 14:10**

Subject matter jurisdiction, lack of, **§ 7:12**

Unclean hands, **§ 45:15**

MOTION FOR NEW TRIAL

New Trial, this index

MOTION FOR SUMMARY JUDGMENT

Summary Judgment, this index

MOTION IN LIMINE

Generally, §§ **1:4, 1:5, 1:10**

Failure to state a cause of action, **§ 9:5**

Lack of prosecution and, §§ **28:4, 29:6**

MOTION TO AMEND

Generally, §§ **1:4, 1:10, 9:4, 9:6, 10:16**

Addition of alter ego, §§ **3:11, 14:32**

Lack of prosecution and, **§ 28:4**

Verification, **§ 11:28**

MOTION TO DISMISS

Generally, **§ 9:4**

Delay in Prosecution, this index

Discretionary Dismissal Statutes, this index

Extraordinary writ, failure to verify, **§ 11:9**

Failure to file claim under Government Tort Claims Act and, **§ 12:20**

Failure to state cause of action and, §§ **9:4, 9:6**

Forum non conveniens, §§ **6:22, 6:23, 6:27, 6:28**

Mandamus, reviewed by, §§ **3:25, 4:34**

Misjoinder of parties, **§ 20:8**

Personal jurisdiction and, **§ 4:32**

Res judicata

Assertion of defense by, **§ 14:55**

Effect on motion based on, **§ 14:8**

Service and return requirements, §§ **3:1, 3:10, 3:17, 3:26, 3:27**

MOTION TO QUASH

Delay in service and return of summons and, §§ **3:1, 3:27**

General appearance, effect of, §§ **2:26, 3:27**

INDEX

MOTION TO QUASH—Cont'd

Mandamus to review, §§ 2:26, 3:27
Personal jurisdiction and, §§ 4:31, 4:32, 4:34, 4:36
Person not named in complaint, § 2:20
Service and return requirements, determination by, §§ 3:1, 3:27
Service of process and, §§ 2:25, 2:26, 3:27, 4:32

MOTION TO STAY

Forum non conveniens, §§ 6:22, 6:23, 6:27, 6:28
Primary jurisdiction in administrative agency, § 8:3
Stay, this index

MOTION TO STRIKE

Generally, § 1:4
Failure to file claim under Government Tort Claims Act and, § 12:20
Failure to satisfy notice, claim, demand or certificate of merit requirements, § 12:39
Failure to verify, § 11:27
General appearance, § 3:17
Personal jurisdiction, §§ 2:25, 2:28, 4:31, 4:32, 4:36
SLAPP actions, § 12:37
Waiver, motion as, §§ 6:30, 29:9, 53:37

MOTOR VEHICLES

Automobile repair dealers, licensing requirements as to, § 39:24
Automobile Sales Finance Act
 Notice of sale of personal property collateral under, § 12:8
 Rescission under, § 62:23
 Venue under, § 5:33
Cargo tank vehicles, § 38:70
Department of Motor Vehicles, this index
Financing, rescission of contract, § 62:23
Immunity, this index
Imputation of negligence by owner, driver, or passenger, § 48:8
Lienholders, liability of Department of Motor Vehicles, § 38:62
Motor Vehicle Theft And Insurance Fraud Reporting Act, immunity under, § 38:40
Negligent entrustment of, § 38:33
Off-Highway Motor Vehicle Recreation Act, immunity under, §§ 38:32, 38:112
Permissive use, §§ 38:37, 48:8
Pursuit, §§ 38:51, 38:75
Sale or transfer, §§ 38:37, 48:8
Undocumented vessels, § 48:8
Uninsured Motorists, this index
Vehicle Leasing Act, §§ 23:2, 23:3, 62:23

MULTIPHASIC SCREENING UNIT

Immunity and, § 38:12

MULTIPLE DAMAGES

Election of remedies, § 24:16

MULTIPLICITY OF ACTIONS

Another action pending, § 23:1 *et seq.*

Forum non conveniens and, § 6:13

MULTIPLICITY OF PARTIES

Certificate of merit requirements, § 12:2

Government claims requirements as to, § 12:22

MUNICIPALITY

City, this index

MUSEUMS

Escheat, § 38:3

Holocaust art, §§ 25:2, 25:20, 25:63

Loaned property, §§ 25:20, 38:3

MUTUALITY OF ESTOPPEL

Generally, § 15:4

MUTUAL RESCISSION

Abandonment of Contracts, this index

NAME

Caption, § 2:3

Defect in name of party served, § 2:20

Fictitious Business Names, this index

Summons, §§ 2:2, 2:20

NARCOTIC ADDICTS

Commitment and treatment, §§ 38:81, 38:96

Immunity, §§ 38:81, 38:96

Methadone treatment, consent by minor to, § 52:14

NATIONAL BANK

Venue and, § 5:1

NATURAL DEATH ACT

Immunity, § 38:26

NECESSARIES

Mental incompetent's contracts as to, §§ 52:26, 52:30

Minor's contracts as to, § 52:13

NECESSARY PARTIES

Definition, § 21:1

Heirs after death of party, § 17:4

Misjoinder of Parties, this index

Nonjoinder of Parties, this index

NECESSITY

Generally, § 49:8

INDEX

NECESSITY—Cont'd

Duress, **§ 33:14**

Jurisdiction by necessity, **§ 4:9**

Self-defense, necessity for warning or retreat, **§ 50:7**

NEGATIVE

Proof of, **§ 1:9**

NEGLIGENCE

Acts of God as defense, **§ 30:2**

Arrest, **§ 38:78**

Assignability of cause of action, **§ 18:26**

Charities, **§ 38:139**

Comparative and contributory negligence. Comparative Fault, this index

Component parts doctrine, defense of, **§ 48:31**

Contractors, common interest developments, **§§ 12:2, 12:36**

Design defect, **§ 38:113**

Directors, officers of nonprofit, leave of court to sue, **§ 12:36**

Disclosures to insurer, **§ 38:40**

Discretionary acts, **§§ 38:75, 38:79**

Documents altered or destroyed through, **§ 66:2**

Emergency and, **§ 49:1**

Escape of mental patient, **§ 38:99**

Estoppel, **§§ 34:1, 34:6, 34:7**

Exculpatory contracts as to, **§ 37:11**

Government claims filing requirement, **§ 12:21**

Gross Negligence, this index

Hiring or supervision of inspector, **§ 38:104**

Illegality and, **§§ 37:11, 37:27**

Immunity

 Arrest, **§ 38:78**

 Charities, **§ 38:139**

 Conduct on campus, **§ 38:123**

 Design defect, **§ 38:113**

 Discretionary acts, **§§ 38:75, 38:79**

 Inspector, hiring or supervision of, **§ 38:104**

 Insurance Information and Privacy Protection Act, **§ 38:40**

 Insurer, disclosures to, **§ 38:40**

 Mental patient, escape of, **§ 38:99**

 Public Property Immunities, this index

 Recreational property and, **§ 38:32**

 Volunteer corporate directors, **§ 38:35**

Imputation of negligence. Comparative Fault, this index

Indemnity, **§ 42:14**

Insurance Information and Privacy Protection Act, **§ 38:40**

Joinder of plaintiff and defendant, **§§ 20:2 to 20:5**

Legal Malpractice, this index

Malpractice, this index

NEGLIGENCE—Cont'd

Medical Malpractice, this index
Mistake based on, **§ 40:4**
Negligence per se, **§§ 48:2, 48:4, 48:16**
On-campus conduct, **§ 38:123**
Privilege as defense to, **§ 41:6**
Public Property Immunities, this index
Release, **§§ 42:1 to 42:4, 42:6, 42:7**
Res ipsa loquitur and, **§ 48:16**
Torts, this index
Ultimate fact, pleading of, **§ 10:2**
Venue, **§ 5:23**
Volunteer corporate directors, immunities, **§ 38:35**

NEGLIGENT BREACH OF CONTRACT

Statute of limitations, **§ 25:25**

NEGLIGENT ENTRUSTMENT LIABILITY

Immunity, **§ 38:33**

NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS

Emotional Distress, this index

NEGLIGENT INJURY TO PROPERTY RIGHTS

Statute of limitations, **§ 25:15**

NEGLIGENT MISREPRESENTATION

Comparative fault and, **§ 48:16**
Misrepresentation, this index
Statute of limitations, **§§ 25:15, 25:21**

NEGOTIABLE INSTRUMENTS

Consideration, **§ 56:1**
Holder in Due Course, this index
Obligation to do equity, action to restore lost document, **§ 35:1**

NEW MATTER

Generally, **§ 1:1 et seq.**
Burden of proof, **§ 1:9**
Defined, **§ 1:5**

NEWS MEDIA

Actual malice, **§ 41:12**
Campaign Advertising, this index
Constitutional privilege, **§ 41:12**
Defamation, this index
First Amendment, this index
Immunity, **§ 38:36**
Magazines, this index
Press releases, **§ 38:81**
Privileges for, **§§ 41:2, 41:9 to 41:12, 51:1, 51:3, 51:4**
Radio, this index

INDEX

NEWS MEDIA—Cont'd

Television, this index
Truth as a defense, §§ 51:1, 51:3, 51:9

NEWSPAPERS

Actual malice, § 41:9
Campaign Advertising, this index
First Amendment, this index
Immunity, § 38:36
Malice, § 41:2
Minor's contract as to, § 52:6
Newspaper of general circulation
 Dissolution of corporation, § 12:33
 Financial institution liquidation, § 12:34
 Notice of sale of collateral, § 12:8
 Probate sales, § 12:32
 Service of process by publication, § 2:16
Newspersons Shield Law
 Generally, § 38:36
 Premature petition for relief, § 27:1
News reporters, § 38:36
Privilege for, §§ 41:2, 41:9 to 41:12, 51:1, 51:3, 51:4
Service by publication, § 2:16
Truth as a defense, § 51:1 et seq.

NEW TRIAL

Discretionary dismissal and, § 29:1
Failure to state a cause of action and, § 9:5
Mandatory dismissal and, § 28:1

NONENTITIES

Corporation's becoming, § 18:30
Estate, § 18:11
Judgment against ineffective, § 18:30
Lack of capacity to sue, §§ 18:11, 18:30
Service of process impossible, § 18:30
Waiver, § 18:30

NONJOINDER OF PARTIES

Generally, § 21:1 et seq.
Agent without principal, § 24:14
Amendment, § 21:4
Answer, §§ 21:1, 21:3
Appellate review as to, §§ 21:1, 21:5, 21:7
Assignees and assignors, § 21:2
Breach of contract, § 21:2
Breach of fiduciary duty, § 21:2
Burden of proof, § 21:8
Child support and custody actions, § 21:2
Complaint, allegation of explanation for nonjoinder, § 21:3

CALIFORNIA AFFIRMATIVE DEFENSES

NONJOINDER OF PARTIES—Cont'd

Contract actions, **§ 21:2**
Court's inherent powers as to, **§ 21:5**
Demurrer based on, **§§ 21:1, 21:4**
Dissolution of corporation or partnership and, **§ 21:2**
Election of remedies and, **§ 24:14**
Indispensable Parties, this index
Misjoinder of parties and, **§§ 20:1, 20:4, 20:11, 21:1, 21:10**
Nonsuit and, **§ 21:6**
Personal jurisdiction and, **§ 21:1**
Plea in abatement based on, **§ 1:2**
Service of process and, **§ 21:1**
Statute of limitations and, **§ 21:1**
Statutory actions and, **§ 18:31**
Subrogees and subrogors, **§ 21:2**
Waiver, **§ 21:9**

NONJURISDICTIONAL DEFENSES

Abatement, this index
Absence of a guardian ad litem, **§§ 18:3, 18:5**
Another action pending, **§ 23:2**
Collateral estoppel, **§ 15:14**
Exhaustion of remedies, **§ 16:1 et seq.**
Failure to provide security for costs, **§ 13:4**
Failure to state a cause of action, **§ 9:1**
Failure to verify, **§ 11:28**
Lack of capacity of foreign personal representative, **§ 18:12**
Lack of capacity to sue, **§ 18:35**
Lack of standing, **§ 19:19**
Misjoinder of parties, **§§ 20:1, 20:10**
Nonjoinder of parties, **§§ 21:1, 21:5**
Notice of intent to sue requirement, **§ 12:4**
Prematurity, **§ 27:5**
Primary jurisdiction in administrative agency, **§ 8:1**
Probate claim requirement, **§ 12:32**
Res judicata, **§ 14:58**
Statute of limitations, **§ 25:83**
Venue, **§§ 5:2, 7:2**

NONPROFIT ASSOCIATIONS

Charities, this index
Corporations, this index
Directors, officers of nonprofit, leave of court to sue, **§ 12:36**
Farm products processing by, licensing requirements and, **§ 39:33**
Immunity, **§§ 38:35, 38:122**
Promise to answer for debts of, **§ 53:17**
Rescission, **§ 62:5**
Standing, **§ 19:6**

INDEX

NONRESIDENTS

- Forum Non Conveniens, this index
- Motorists
 - Service of process on, §§ 2:8, 2:15
 - Statute of limitations, tolling as to, § 25:61
 - Survival of cause of action against, § 17:30
- Personal Jurisdiction, this index
- Personal Representatives, this index
- Security for costs in actions by, § 13:4
- Service of process by mail, § 2:9
- Service of process on agent, § 2:8
- Service on motorists, boaters, fliers, §§ 2:8, 2:15
- Statute of limitations
 - Absence from state, tolling due to, § 25:61
 - Choice of law considerations, § 25:2

NONSUIT

- Comparative fault, § 48:19
- Consideration, lack or inadequacy of, § 56:13
- Failure to file government claim, § 12:28
- Misjoinder of parties, § 20:8
- Nonjoinder of parties, § 21:6
- Prematurity, raising defense in motion for, § 27:4
- Res judicata and judgment based on, § 14:11
- Statute of frauds, raising issue in motion for, § 53:37
- Statute of limitations, raising issue in motion for, § 25:80
- Unclean hands, § 45:18

NOTICE

- Actual notice of complaint not equivalent to service, §§ 2:4, 3:24
- Arbitration
 - Attorney-client fee disputes, § 12:5
 - Assignment, setoff, § 44:5
 - Attorney General, notice to, §§ 2:2, 12:6
 - Attorneys
 - Conspiracy cause of action, § 38:9
 - Discipline proceeding, § 12:5
 - Bifurcated trial as to compliance with, § 12:39
 - Breach of warranty, § 12:11
 - Burden of proof, § 12:40
 - California Environmental Quality Act, § 12:6
 - Cancellation of compulsory motor vehicle insurance, § 47:8
 - Charitable trusts and, § 12:6
 - Child custody action involving Indian child, § 12:3
 - Chiropractor, § 12:4
 - Claim on insurance policy, notice and proof of loss or injury, § 12:10
 - Claim requirements and, § 12:19 et seq.
 - Client's arbitration rights, § 12:5

NOTICE—Cont'd

- Contract, §§ **12:7 to 12:12**
- Default judgment, § **2:1**
- Deficiency judgment, § **12:8**
- Demurrer based on, § **12:39**
- Dentists, § **12:4**
- Deposit as payment of debt, § **69:4**
- Discretionary dismissal and
 - Effect on prosecution of action, § **29:2**
 - Motion for dismissal, § **29:5**
- Disposal of property by state, § **38:73**
- Entry on real property by surveyor, § **38:60**
- Environmental actions, § **12:6**
- Escheat, § **12:6**
- Estoppel as to insured's notice and proof of loss, § **12:10**
- Event excusing contract performance, § **12:9**
- Exhaustion of remedies, § **12:43**
- Foreclosure, § **12:8**
- Forms, this index
- Guaranties and, § **67:2**
- Health care professionals, § **12:4**
- Incapacity to contract, § **52:26**
- Injunction in environmental action, § **12:6**
- Intent to sue health care professional, § **12:4**
- Liquidation
 - Corporation, § **12:33**
 - Financial institution, notice of, § **12:34**
- Medical malpractice, § **12:4**
- Motor vehicle, sale or transfer, § **38:37**
- Notice of sale of personal property collateral, § **12:8**
- Nurses, § **12:4**
- Personal jurisdiction and, § **4:1**
- Pest eradication, § **38:22**
- Physicians, § **12:4**
- Podiatrists, § **12:4**
- Preliminary bond notice, § **12:12**
- Prematurity of complaint and, §§ **27:1, 27:7**
- Prevention of performance, notice provision, § **59:1**
- Psychologist, § **12:4**
- Remedies, exhaustion of, § **12:43**
- Rescission
 - Generally, §§ **12:7, 62:1, 62:24, 62:25**
 - Allegations as to, §§ **12:7, 62:25**
 - Complaint as, §§ **62:1, 62:24, 62:25**
 - Failure to give, § **62:25**
 - Form of notice, §§ **57:3, 62:25**
- Revocation of power of attorney, § **38:26**

INDEX

NOTICE—Cont'd

- Sale of personal property collateral
 - Generally, **§ 12:8**
 - Deficiency judgment and, **§ 12:8**
 - Waiver of notice as to, **§§ 47:5, 47:13**
- Savings and loan associations, **§ 38:26**
- Service of process
 - Actual notice as not equivalent to, **§§ 2:4, 3:24**
 - As giving notice, **§ 2:1**
 - Defects in, notice to opposing counsel, **§ 3:23**
 - Failure to give notice of trial, **§ 2:31**
- Setoff, assignment, **§ 44:5**
- Sliding scale settlement and, **§ 12:3**
- Statement of damages, **§ 2:1**
- Statute of limitations and
 - Generally, **§§ 12:4, 12:42, 25:69**
 - Discovery rule and notice, **§§ 25:5, 25:21**
- Stockholders, waiver of notice of meetings, **§ 47:8**
- Summary judgment as to, **§ 12:39**
- Suretyship and, **§ 67:3**
- Surgeons, **§ 12:4**
- Termination of probationary employees, **§ 47:8**
- Unfair competition claims and, **§ 12:6**
- Waiver
 - Generally, **§ 47:8**
 - Certificate of merit requirement, **§ 12:41**
 - Claim requirement, **§ 12:41**
 - Fraud and, **§ 47:8**
 - Insured's notice and proof of loss, **§ 12:10**
 - Notice of sale of collateral, **§ 12:8**
 - Notice requirement, **§ 12:41**
 - Statutory rights, notice as to, **§ 47:5**

NOTICE AND ACKNOWLEDGMENT OF RECEIPT

- Service by mail, **§ 2:10**

NOTICE AND PROOF OF INSURANCE LOSS

- Generally, **§ 12:20**

NOVATION

- Generally, **§ 64:1 et seq.**
- Accord and satisfaction and, **§§ 63:13, 64:13**
- Admission as to contract validity, **§ 64:2**
- Amendment or clarification not novation, **§ 64:4**
- Answer, allegation as to, **§ 64:10**
- Appellate review and, **§ 64:10**
- Assignment and, **§ 64:14**
- Burden of proof, **§ 64:11**
- Conduct as basis for novation, **§ 64:3**

NOVATION—Cont'd

- Consent, §§ **64:1, 64:3, 64:10, 64:14**
- Consideration, §§ **47:1, 64:1, 64:6**
- Contracts, this index
- Defined, § **64:1**
- Effect of, § **64:8**
- Election to assert as a defense, § **64:12**
- Elements of, § **64:1**
- Extinguishment of prior contract, §§ **64:4, 64:13**
- Intent and agreement of parties, §§ **64:1, 64:3**
- Jury instructions as to, § **64:10**
- Manner of asserting the defense, § **64:10**
- Modification of contract and, §§ **64:4, 65:11, 65:13**
- Oral novation of written agreement, § **64:7**
- Pleading, § **64:10**
- Previous valid obligation required, § **64:2**
- Release and, §§ **64:1, 64:15**
- Statute of frauds and, §§ **53:17, 53:19, 64:5, 64:7**
- Substituted contract, § **64:1**
- Summary judgment as to, § **64:10**
- Trial, § **64:10**
- Validity of
 - New agreement, §§ **64:1, 64:5**
 - Old agreement, §§ **64:1, 64:2**
- Waiver, § **64:12**
- What does not constitute novation, § **64:9**
- Written contract with oral novation, § **64:7**

NUISANCE

- Agricultural activity, § **38:37**
- City inspectors, res judicata and, § **14:27**
- Claim requirements, § **12:21**
- Comparative fault, § **48:16**
- Consent to, § **32:1**
- Design immunity, §§ **38:113, 38:121**
- Estoppel and, § **34:7**
- Government claim filing requirement as to, § **12:21**
- Immunity, §§ **38:113, 38:121**
- Joinder of parties, §§ **20:4, 21:2**
- Mitigation of damages, § **36:6**
- Public employee, § **38:121**
- Public entity, §§ **38:56, 38:113, 38:121**
- Public Property Immunities, this index
- Res judicata and, §§ **14:16, 14:27**
- Standing, public nuisance action, §§ **19:4, 19:6**
- Statute of limitations, §§ **25:5, 25:7, 25:19, 25:74**
- Torts, this index
- Venue, §§ **5:4, 5:8**

INDEX

NURSES

- Child abuse, reporting immunity, **§ 38:43**
- Emergency care, immunity, **§ 38:46**
- Immunity, §§ **38:43, 38:46, 38:48, 38:49, 38:94 et seq.**
- Instructing paramedics, immunity, **§ 38:49**
- Licensing requirements as to, **§ 39:35**
- Medical Malpractice, this index
- Notice of intent to sue, **§ 12:4**
- Rescue team, **§ 38:48**
- Security for costs in action against, **§ 13:6**
- Statute of limitations
 - Generally, §§ **25:36, 25:44**
 - Bifurcation, **§ 25:80**
 - Incompetents, **§ 25:53**
 - Medical Injury Compensation Reform Act, §§ **25:36, 25:44, 25:51**
 - Minors, §§ **25:36, 25:44, 25:51**
 - Tolling, §§ **25:44, 25:51, 25:53**
- Undue influence and, **§ 46:2**

OBLIGATION

- Definition for assignment, **§ 18:18**

OFF-HIGHWAY MOTOR VEHICLE RECREATION ACT

- Immunity under, §§ **38:32, 38:112**

OFFSET

- Setoff and Recoupment, this index

OIL, GAS AND MINERAL RIGHTS

- Brokers and salespersons as to
 - Generally, **§ 39:29**
 - Res judicata effect of fraud judgment as to, **§ 14:51**
- Contractor's license requirements and, **§ 39:7**
- Discharge caused by act of God, **§ 30:3**
- Geothermal leases and prospecting permits, act of God and, **§ 30:3**
- Laches and, **§ 26:10**
- Licensing requirement for brokers or salespersons of, **§ 39:29**
- Liens, waiver, **§ 47:5**
- State Oil and Gas Supervisor, **§ 38:20**
- Statute of frauds and, **§ 53:9**
- Subsidence of land, **§ 38:20**
- Waiver, liens, **§ 47:5**

OLYMPICS

- Consent to participation in, **§ 32:4**

ONE ACTION RULE

- Deficiency Judgments, this index

ONE WHO SEEKS EQUITY MUST DO EQUITY

- Generally, **§ 35:1 et seq.**

ONE WHO SEEKS EQUITY MUST DO EQUITY—Cont'd

Accounting, § 35:1
Actions founded on statute, § 35:1
Answer, allegation as to, § 35:2
Appeal, § 35:2
Bifurcated trial, § 35:4
Burden of proof, § 35:3
Complaint, § 35:2
Family law, § 35:1
Forms, this index
Governmental entities and, § 35:1
Injunction, § 35:1
Judicial sale, § 35:1
Negotiable instrument, § 35:1
Pleading, § 35:2
Quiet title, § 35:1
Relief from judgment, § 35:1
Rescission, § 35:1
Restoration of a writing, § 35:1
Same transaction requirement, § 35:1
Specific performance, § 35:1
Spouses, § 35:1
Statute of limitations and, §§ 35:1, 35:2
Successors in interest, § 35:1
Taxpayer's suit, § 35:1
Trustee's sale, § 35:1
Unclean hands and, §§ 35:5, 45:22
Waiver and, § 35:4

OPINION

Defamation and, § 51:3

OPTICIANS

Licensing requirements as to, § 39:35

OPTIONS

Consideration and, § 56:12
Failure of consideration and, § 57:2
Real Property, this index
Statute of frauds and, §§ 53:9, 53:20
Time of the essence clauses, § 57:2

OPTOMETRISTS

Immunity, § 38:10
Licensing requirements as to, § 39:35
Peer review committee, § 38:10

ORAL AGREEMENT IN OPEN COURT

Delay in prosecution, §§ 28:1, 28:7
Five-year rule, §§ 28:1, 28:7

INDEX

ORAL AGREEMENT IN OPEN COURT—Cont'd

Settlement, § 43:3

ORAL CONTRACT

Equal dignities rule, § 54:1 et seq.
Pleading, §§ 10:14, 10:15
Statute of frauds, this index
Statute of limitations, § 25:15

ORDINANCES

Judicial notice, § 10:11
Uncertainty of pleading, § 10:11

ORGAN DONATIONS

Uniform Anatomical Gift Act, § 38:63

OUTRAGE

Privilege, § 41:6

OVA DONATIONS

Consent to, § 32:4

OWNERSHIP

Personal jurisdiction and, § 4:14
Ultimate fact, § 10:2

PARAMEDICS

Firefighter's rule, § 48:25
Immunity, § 38:49

PARENTAGE

Paternity Actions, this index

PARENT ENTITIES

Alter Ego, this index
Personal jurisdiction over, §§ 4:2, 4:25
Res judicata and, § 14:32

PARENTS

Abandonment of custody of child, § 61:1
Abuse, reporting immunity, § 38:43
Adult children, § 46:10
Annulment of child's marriage, § 45:10
Burden of proof, § 46:6
Child
 Privity as to, § 14:30
 Undue influence by adult child, § 46:10
Consent as to child, § 32:4
Custody actions, personal jurisdiction in, § 4:29
Death
 Effect on paternity action, § 17:25
 Effect on support action, § 17:32
Duty to support child, §§ 17:32, 52:13

PARENTS—Cont'd

- Foster parents, claim as to, **§ 12:35**
- Grandparents, undue influence by, **§ 46:7**
- Guardian ad litem
 - Actions to determine parentage, **§ 18:4**
 - Appointment of parent as, **§§ 18:3, 18:4**
- Immunities, **§§ 38:38, 38:138**
- Imputation of negligence by or to, **§§ 48:8, 48:9**
- Joinder as parties, **§ 20:4**
- Juvenile actions, standing in, **§ 19:3**
- Minors, this index
- Paternity Actions, this index
- Privity with child, **§ 14:30**
- Real property of child and, **§ 52:5**
- Settlement of minor's claims, **§ 18:3**
- Summons for parent's action for injury to child, **§ 2:2**
- Support actions against
 - Immunities, **§ 38:38**
 - Personal jurisdiction in, **§ 4:29**
 - Venue, **§ 5:32**
- Support by child, **§ 45:2**
- Undue influence
 - Generally, **§§ 46:2, 46:4, 46:6**
 - Adult child over parent, **§ 46:10**
 - Grandparents, undue influence by, **§ 46:7**
 - Presumption of, **§ 46:6**
 - Venue, action to establish relation, **§ 5:32**

PAROLE OFFICERS

- Generally, **§ 38:132**
- Presentence investigation, **§ 38:133**

PAROL EVIDENCE

- Allocation of payment to principal and interest, **§§ 69:9, 69:11**
- Alteration of documents, **§ 66:8**
- Consideration, proof by, **§ 56:13**
- Failure of consideration, proof by, **§ 57:4**
- Illegality, **§ 37:28**
- Mistake, **§ 40:11**
- Modification of contract and, **§§ 65:5, 65:6**
- Res judicata, **§§ 14:7, 14:14, 14:56, 14:57**
- Statute of frauds and, **§§ 53:2, 53:5, 53:42**

PARTIAL ASSIGNMENT

- Assignment, this index
- Indispensable parties, **§§ 18:18, 21:2**

PARTIAL SUBROGATION

- Indispensable parties, **§§ 18:28, 21:2**
- Subrogation, this index

INDEX

PARTIAL TRIAL

Delay in prosecution and, **§ 28:4**

PARTIES

Child support, **§ 18:4**

Conservators and Conservatorships, this index

Corporations, this index

Death, this index

Defect in name on summons, **§ 2:20**

Defendant, this index

Determine identity from caption, **§ 20:1**

Dissolution of Marriage, this index

Forum Non Conveniens, this index

Guardian, not a party, **§ 18:2**

Guardian ad litem, not a party, **§§ 18:2, 18:9**

Indispensable Parties, this index

Insurers, **§§ 20:5, 21:2**

Intervention, this index

Joinder, **§§ 20:1 et seq., 21:1 et seq.**

Joinder of Defendants, this index

Joinder of Plaintiffs, this index

Limited partner, **§ 20:5**

Loss of consortium, **§ 20:4**

Misjoinder of Parties, this index

Modification of contract, **§ 65:7**

Name used in lawsuit, **§ 18:1**

Necessary Parties, this index

Nonentities, this index

Nonjoinder of Parties, this index

Persons who cannot be made parties, **§ 21:1**

Plaintiff, this index

Statement of cause of action essential to proper joinder, **§ 20:5**

Statute of limitations

Amendment of complaint to name, **§ 25:77**

Substitution of parties and, **§ 25:50**

Substitution of Parties, this index

Substitution of personal representative after death of, **§ 17:4**

PARTITION

Deceased parties, **§ 18:11**

Laches, **§ 26:7**

Statute of frauds and action for, **§ 53:9**

Subject matter jurisdiction over action for, **§ 7:3**

Summons, **§ 2:2**

Unascertained or unborn parties, appointment of guardian for, **§ 18:4**

Venue, **§ 5:13**

Waiver, **§ 47:5**

PARTNERSHIP

- Adequacy of remedy at law, **§ 31:6**
- Agreements not to compete, **§ 37:14**
- Architects, licensing requirements, **§ 39:19**
- Authority of partners to bind partnership, **§ 54:3**
- Burden of proof as to, **§ 1:8**
- Capacity to sue, **§ 18:34**
- Contractors, **§ 39:4**
- Contractor's Licensing Requirements, this index
- Contracts, **§ 53:4**
- Dissolution
 - Contractor's licensing requirements and, **§ 39:4**
 - Indispensable parties, **§ 21:2**
- Equal dignities rule and, **§ 54:1 et seq.**
- Estoppel and, **§ 34:9**
- Fictitious business names, **§ 39:36**
- Illegality, licensing requirements as to, **§§ 37:15, 39:4**
- Imputation of comparative fault to partners, **§ 48:7**
- Joinder of parties, **§§ 20:4, 20:5, 21:2**
- Landscape architects, licensing requirements, **§ 39:19**
- Partner's absence, effect on statute of limitations, **§ 25:55**
- Partners as guarantors, **§ 67:2**
- Personal jurisdiction, **§§ 4:2, 4:5, 4:11, 4:28**
- Persons who may waive, **§ 47:11**
- Privileges, **§ 41:16**
- Real estate brokers, licensing requirements and, **§ 39:27**
- Real estate partnerships, **§ 53:9**
- Res judicata and, **§ 14:33**
- Service of process, limited partners, **§§ 2:2, 2:7**
- Setoff and, **§§ 44:3, 44:4**
- Standing of, **§§ 19:3, 19:6**
- Statute of frauds
 - Partnership agreements as subject to, **§§ 53:4, 53:9, 53:17, 53:24**
 - Partnership as signatory, **§§ 53:4, 53:9**
- Statute of limitations
 - Partners, **§ 25:37**
 - Tolling, **§ 25:55**
 - Unsuccessful means to avoid bar of statute, **§ 25:76**
- Tolling of statute of limitations and, **§ 25:55**
- Undue influence and, **§ 46:2**
- Venue
 - Generally, **§ 5:30**
 - Dissolution actions, **§§ 5:33, 5:36**

PART PERFORMANCE

- Accepted in writing, **§ 63:6**
- Accord and satisfaction, **§§ 63:3, 63:6**
- Allocation of partial performance among obligees, **§§ 60:8, 69:9**

INDEX

PART PERFORMANCE—Cont'd

- Consideration and, §§ 56:9, 63:6
- Contracts, statute of frauds and, §§ 53:11, 53:20 to 53:22, 53:25, 53:35
- Effect on guaranty or suretyship obligation, § 67:3
- Estoppel, § 53:25
- Failure of consideration and, §§ 57:3, 57:4
- Impossibility and, § 60:8
- Payment of part of debt, §§ 69:1, 69:9
- Performance, this index
- Premarital agreements, marriage as part performance of, §§ 53:22, 53:25
- Sale of goods, § 53:11
- Statute of frauds effect, §§ 53:11, 53:20 to 53:22, 53:25, 53:35

PASSENGER

- Imputation of fault, § 48:6

PATENT CONSTRUCTION DEFECTS

- Statute of limitations as to, § 25:16

PATERNITY ACTIONS

- Child as party in, § 18:4
- Child support and, §§ 17:25, 17:32
- Death, effect of, § 17:25
- District Attorney, brought by, § 18:3
- Guardian ad litem, §§ 18:3, 18:4
- Laches, § 26:11
- Statute of limitations and, § 25:74
- Subject matter jurisdiction over, § 7:3
- Uniform Parentage Act, jurisdiction under, § 7:3

PATHOLOGISTS

- Licensing requirements and, § 39:35

PATIENTS

- Abandonment by physician, § 61:6
- Arbitration of disputes by, § 68:6
- Consent by, §§ 32:1, 32:3, 32:4, 32:9
- Definition, § 38:95
- Health Care Professionals, this index
- Hospitals, this index
- Judicial review as to, § 38:96
- Medical Malpractice, this index
- Outpatient's medication, § 38:75
- Patient's Bill of Rights, § 68:6
- Patient's rights advocates, § 38:96

PAWNBROKERS

- Immunity, § 38:76

PAYMENT

- Generally, § 69:1 et seq.

PAYMENT—Cont'd

- Accord and satisfaction, §§ **63:7, 69:5**
- Agents, § **69:6**
- Answer, §§ **69:10, 69:12**
- Application of payment to obligations, § **69:9**
- Attorney, receipt of payment for client, § **69:6**
- Burden of proof, §§ **69:3, 69:9, 69:12**
- Checks
 - As payment, §§ **63:5, 69:2**
 - As promissory note, § **69:2**
- Conditional payment, § **69:2**
- Construction contracts, allocation of payments on, § **69:9**
- Currency payment made in, § **69:1**
- Debtor's selection of creditor to pay, § **69:9**
- Debts, application of payments to, § **69:9**
- Defined, § **69:1**
- Deposit in a financial institution, § **69:4**
- Estoppel and, § **69:3**
- Financial institutions, payment by deposit in, § **69:4**
- Full credit bid, § **69:15**
- General denial preserves defense, § **69:10**
- Installment, §§ **63:5, 69:9**
- Interest
 - Terminated by proper deposit, § **69:4**
 - Waived by payment of principal, § **69:1**
- Joint obligees, § **69:5**
- Jury instructions as to, § **69:11**
- Legal tender, §§ **69:1, 69:2**
- Liens, application of payments to, §§ **69:9, 69:15**
- Manner of asserting the defense, §§ **69:10, 69:11**
- Manner of paying
 - Application of payments, § **69:9**
 - Check, § **69:2**
 - Currency, § **69:1**
 - Deposit in financial institution, § **69:4**
 - Note, § **69:3**
 - Objection to, § **69:8**
 - Persons paid, §§ **69:5, 69:6**
 - Place of payment, § **69:7**
 - Wire transfer, § **69:8**
- Maturity, payment before, § **69:8**
- Mistake in making, § **40:1**
- Nonpayment, pleading of, § **10:2**
- Notes as payment, § **69:3**
- Objections to tender, §§ **47:9, 69:5, 69:8**
- Parol evidence and, §§ **69:3, 69:9, 69:11**
- Part payment, statute of limitations affected by, § **25:46**

INDEX

PAYMENT—Cont'd

Part performance by, §§ 53:25, 69:1
Performance and, § 69:14
Place of making payment, § 69:7
Pleading, §§ 10:2, 69:10
Prematurity of action for, § 27:1
Prepayment penalty, § 37:16
Presumptions of payment, §§ 69:2, 69:3, 69:9
Prior to maturity, § 69:8
Promissory notes as payment, § 69:3
Receipt, § 53:2
Secured debt, application of payments and, § 69:9
Security not presumed as full payment, § 69:3
Setoff of counter obligations, § 69:3
Statute of limitations, partial payment and, § 25:46
Tender, this index
Tender to joint obligee, § 69:5
Third person
 Application of payments affecting, § 69:9
 Payment by, § 69:3
Trial, § 69:11
Ultimate fact, pleading of, § 10:2
Waiver
 Of defense, § 69:13
 Of interest, §§ 69:1, 69:11
 Of objections to tender, §§ 47:9, 69:5, 69:8

PEACE OFFICERS

Aid to motorists, § 38:77
Arrest, immunity for
 Discretionary decision, § 38:78
 Failure to, §§ 38:78, 38:80
 Good faith arrest, § 38:78
 With or without warrant, § 38:78
Assistance to, immunity, §§ 38:17, 38:50
Breach, mandatory law enforcement duty, §§ 38:75, 38:76
Conflict of interest and, § 37:17
Conservatee, detention and return of, § 38:28
CPR, § 38:48
Defamation and, §§ 41:5, 51:8
Definition, § 38:78
Delay in service and return of summons and, § 3:20
Department of Health Services, § 38:78
Discretionary acts, §§ 38:75, 38:76
Emergency medical services, immunity, § 38:49
Execution of orders by, § 38:78
Failure to arrest, §§ 38:78, 38:80
Failure to retain in custody, §§ 38:80, 38:88

PEACE OFFICERS—Cont'd

- False arrest, §§ 38:76, 38:78, 38:80
- False imprisonment, §§ 38:17, 38:77, 38:78, 38:80
- Firefighter's rule and, § 48:25
- Hostages, § 38:17
- Immunity
 - Generally, §§ 38:76 to 38:80
 - Assistance to peace officer, §§ 38:17, 38:50
 - Confinement decisions, § 38:99
 - Decedent's personal property, delivery of, § 38:28
 - Emergency services and, §§ 38:49 to 38:51
 - Hostage situations, § 38:17
 - Investigations, § 38:76
 - Pharmacies, reports as to, § 38:76
 - Prisoners, escape of, § 38:88
 - Release decisions, § 38:99
 - Search warrants, §§ 38:17, 38:79
- Inadequacy of police protection, § 38:79
- Investigations
 - Immunity for, § 38:76
 - Internal investigations, privilege, § 41:10
 - Pharmacies, § 38:76
- Labor Commission, § 38:78
- Lack of police protection, § 38:79
- Litigation, § 38:81
 - Malicious prosecution, §§ 38:76, 38:81
 - Narcotic addict, commitment, treatment, §§ 38:81, 38:96
 - Negligent misrepresentation, § 38:76
- Pawnbrokers, § 38:76
- Prosecution, § 38:81
 - Public assistance to, immunity, §§ 38:17, 38:50
 - Pursuit of fleeing vehicles, §§ 38:51, 38:75
 - Release of mental patient, § 38:99
- Rescue
 - Generally, § 38:51
 - Rescue doctrine, §§ 48:25, 49:7
- Respondeat superior, § 38:59
- Search warrants, §§ 38:17, 38:79
- Self-defense and, § 50:1 et seq.
- Sheriffs, this index
 - Statute of limitations as to where plaintiff incarcerated, § 25:54
 - Stay of service on, § 3:20
 - Telephones, § 38:17
 - Vehicular pursuits, immunity, §§ 38:51, 38:75
 - Vicarious liability, §§ 38:59, 38:99
 - Warrantless arrest, § 38:78
 - Warrant validity, §§ 38:17, 38:79

INDEX

PECULIAR RISK DOCTRINE

Generally, § 48:14

PEER REVIEW COMMITTEES

Immunity, §§ 38:10, 38:11

Immunity for giving information to, § 38:39

PENALTY, ACTIONS FOR

Death, effect of, § 17:27

Statute of limitations

Generally, § 25:24

Directors and shareholders, actions against, § 25:23

Venue, § 5:20

PENALTY, ELECTION OF

Election of remedies, § 24:16

PENDENT JURISDICTION

Res judicata and, § 14:17

Tolling effect, statute of limitations, § 25:70

PENDING ACTION

Definition, § 23:2

PERFORMANCE

Apportionment among obligees, §§ 60:8, 69:9

Delay in, § 57:2

Equal dignities rule and, § 54:4

Estoppel, § 54:4

Failure of consideration and, §§ 57:3, 57:4

Frustration of contract's purpose and, § 58:1

Guaranties and, § 67:3

Impossibility, this index

Part Performance, this index

Payment and, § 69:14

Suretyship and, § 67:3

PERFORMANCE OF CONDITIONS PRECEDENT

Conditions Precedent, this index

PERILS OF THE SEA

Act of God as, § 30:3

PERMISSIVE CROSS-CLAIMS

Compulsory Cross-claims, this index

Cross-Claims and Cross-Complaints, this index

Res judicata and, § 14:18

PERMIT REQUIREMENTS

Licensing Requirements, this index

PERPETUATION OF TESTIMONY

Verification of petition for, § 11:14

PERPETUITIES

Restraints on alienation, **§ 37:16**

PERSONAL GUARANTY

Deficiency judgment on, notice as to, **§ 12:8**
Exoneration of Sureties, this index
Guaranties and Guarantors, this index
Personal jurisdiction over guarantor, **§ 4:28**
Privity for res judicata, **§ 14:29**
Res judicata and, **§ 14:29**
Statute of limitations, **§ 25:39**

PERSONAL INJURY ACTIONS

Accrual of cause of action, **§§ 25:4, 25:5**
Acts of God as affecting liability, **§ 30:3**
Assignability of cause of action, **§ 18:26**
Comparative Fault, this index
Death of party, **§§ 17:2, 17:14, 17:30**
Default judgment as to, **§ 2:1**
Discovery rule for latent injury, **§ 25:5**
Election of remedies and, **§ 24:4**
Failure to mitigate, **§ 36:4**
Fair Responsibility Act of 1986, **§ 43:2**
Government claims filing requirement for, **§ 12:21**
Incest, statute of limitations, **§ 25:26**
Latent defects, statute of limitations, **§ 25:17**
Latent injury, discovery rule, **§ 25:5**
Medical Malpractice, this index
Mitigation of damages, **§ 36:4**
Negligence, this index
Non-economic damages, **§ 43:2**
Patent defects, statute of limitations, **§ 25:16**
Prisoners, justification for escape, **§ 33:5**
Probate claims requirement as to, **§ 12:32**
Service of process in parent's action for child's injury, **§ 2:2**
Settlement, this index
Statement of damages and, **§ 2:1**
Statute of limitations
 Generally, **§ 25:25**
 Accrual of, **§§ 25:3 to 25:7**
 Childhood sexual abuse, **§ 25:26**
 Discovery rule and, **§ 25:5**
 Domestic abuse, **§ 25:26**
 Felony, action based on, **§ 25:27**
 Government employees as defendants, **§ 25:37**
 Incest, **§ 25:26**
 Latent construction defects, **§ 25:17**
 Malpractice, this index

INDEX

PERSONAL INJURY ACTIONS—Cont'd

- Statute of limitations—Cont'd
 - Patent construction defects, **§ 25:16**
- Subrogation and, **§ 18:28**
- Survival of cause of action, **§§ 17:10, 17:30**
- Torts, this index
- Venue
 - Generally, **§ 5:34**
 - Actions against state, **§ 5:24**

PERSONAL JURISDICTION

- Generally, **§ 4:1 et seq.**
- Adhesion contracts, **§ 4:5**
- Advertisements, **§§ 4:12, 4:15**
- Affiliates, **§§ 4:11, 4:25**
- Agents
 - Agent for service of process, **§§ 4:6, 4:12**
 - Conduct of as establishing jurisdiction, **§ 4:11**
 - Corporate attorneys and accountants, personal jurisdiction over, **§ 4:28**
 - Jurisdiction over principal as affecting jurisdiction over agent, **§ 4:28**
- Alter ego, **§§ 4:25, 4:26**
- Answer, allegation as to, **§ 4:31**
- Answer, allegation of prior judgment invalid for lack of personal jurisdiction, **§ 4:35**
- Antitrust regulation affecting, **§ 4:18**
- Appellate review, **§§ 4:34, 4:36**
- Arbitration, **§ 4:5**
- Assignment, **§ 4:7**
- Attorney in fact for health care, jurisdiction over, **§ 4:6**
- Banks, **§ 4:18**
- Burden of proof
 - Generally, **§ 4:35**
 - Presumption as to existence of personal jurisdiction, **§ 4:30**
 - Res judicata and, **§ 14:4**
 - “But for” test, **§ 4:10**
- Cartwright Act, **§ 4:18**
- Child custody and support, **§ 4:29**
- Choice of law concerns, **§§ 4:5, 4:22, 4:24**
- Citizenship
 - As affecting personal jurisdiction, **§ 4:19**
 - Personal jurisdiction over citizens, **§ 4:2**
- Collateral attack on judgment based on lack of, **§ 4:30**
- Collateral estoppel
 - Generally, **§ 4:32**
 - Essential to, **§ 15:2**
- Commercial actuality test, **§ 4:10**
- Complaint
 - Choice of forum clause, allegation as to, **§ 4:5**

PERSONAL JURISDICTION—Cont'd

Complaint—Cont'd

 Choice of law clause, allegation as to, **§ 4:5**

Component parts doctrine, **§ 4:17**

Conduct

 Causing an effect in the state, **§ 4:16 et seq.**

 Outside the state, **§ 4:15**

 Subject to special regulation in state, **§ 4:18**

 Within the state, **§ 4:14**

Consent and

 Generally, **§ 4:4**

 Contract provisions establishing

 Generally, **§ 4:5**

 Choice of forum clause, form of, **§ 4:5**

 Choice of law clause, form of, **§ 4:5**

 Limited partnerships agreements, **§ 4:5**

 Statute as to, **§ 4:24**

 Express consent, **§ 4:5**

 Failure to object, **§§ 4:33, 4:36**

 General appearance as, **§§ 4:8, 4:31, 4:36**

 Implied consent

 Filing suit in California as, **§ 4:7**

 General appearance as, **§§ 4:8, 4:31, 4:36**

 Operation of law as, **§ 4:6**

 Conspiracy, effect of, **§§ 4:11, 4:21**

 Contracts and

 Choice of forum provision, **§ 4:5**

 Choice of law provision, **§ 4:5**

 Consent to personal jurisdiction by, **§ 4:5**

 Limited partnerships agreements, **§ 4:5**

 Statutory requirements, **§ 4:24**

 Corporate counsel, **§ 4:28**

 Corporate officers, directors, shareholders and employees, **§ 4:28**

 Corporations and entities

 Generally, **§ 4:20**

 Agents

 Conduct of as establishing jurisdiction, **§ 4:11**

 Corporate attorneys and accountants, personal jurisdiction over, **§ 4:28**

 Jurisdiction over principal as affecting jurisdiction over agent, **§ 4:28**

 Alter ego, jurisdiction over, **§ 4:26**

 California corporations, jurisdiction over, **§ 4:2**

 Foreign corporations, **§ 39:37**

 Parents and subsidiaries, jurisdiction over, **§§ 4:2, 4:25**

 Representative in California at time of service, **§ 4:3**

 Special jurisdiction over, **§ 4:24 et seq.**

 Successors in interest, jurisdiction over, **§ 4:27**

 Criminal penalties and, **§ 4:18**

INDEX

PERSONAL JURISDICTION—Cont'd

- Cross-claims, §§ 4:7, 4:29
- Death, effect of, § 17:4
- Defamation and, §§ 4:16, 4:23
- Default judgment and, § 4:30
- Discovery of jurisdictional facts, § 4:32
- Dissolution of marriage, § 4:29
- Dissolved corporation, § 4:24
- Distribution of sales literature, § 4:12
- Domestic corporation, submission to, § 4:2
- Domicile, § 4:2
- Domiciliary, submission to, § 4:2
- Due process, §§ 4:1, 4:3, 4:9
- Durable power of attorney for health care, jurisdiction over attorney, § 4:6
- Economic activity in California as establishing, §§ 4:10, 4:14
- Extensive or wide ranging activity in California, § 4:12
- Family law matters, §§ 4:24, 4:29
- First Amendment cases, § 4:23
- Force as affecting, § 4:3
- Foreign corporations, § 39:37
- Foreseeability, § 4:15
- Forms
 - Choice of forum clause, allegation of, § 4:5
 - Choice of law clause, allegation of, § 4:5
 - Judgment, prior judgment invalid for lack of personal jurisdiction, § 4:31
- Forum Non Conveniens, this index
- Forum selection clauses, § 4:5
- Fraud as affecting, § 4:3
- Full faith and credit, § 14:4
- General appearance and, §§ 4:8, 4:31, 4:34 to 4:36
- General jurisdiction
 - Generally, § 4:12
 - Agent for service of process within California, § 4:12
 - Distribution of sales literature, § 4:12
 - Extensive or wide ranging activity in California, § 4:12
 - License holding, § 4:12
 - Other types of jurisdiction compared, § 4:9
 - Sales, solicitation or engaging in business within state, § 4:12
 - Significant dollar value in sales, § 4:12
 - Substantial activity as establishing, § 4:12
 - Telephone directory listing, § 4:12
 - Timing of presence and activities, § 4:12
- Guaranties and, §§ 4:15, 4:28
- Health care professionals, § 4:18
- Immunity from service of process and, §§ 2:18, 4:3
- Imputation, § 4:11
- Independent contractors, § 4:11

PERSONAL JURISDICTION—Cont'd

- Independent Wholesale Representatives Contractual Relations Act, **§ 4:6**
- Insurance and, **§§ 4:5, 4:18**
- Interests of California as affecting, **§ 4:21**
- Intervention as affecting, **§ 4:7**
- Judicial notice, **§ 4:32**
- Jurisdiction and Service of Process Act, **§ 4:1**
- Jurisdiction by necessity, **§ 4:9**
- Lack of proper service and, **§§ 2:1, 2:29**
- License holding, **§ 4:12**
- Limited jurisdiction
 - Generally, **§§ 4:9, 4:13**
 - Conduct of defendant, place of as affecting, **§ 4:13 et seq.**
- Long Arm Jurisdiction, this index
- Manager's privilege, **§ 4:28**
- Mandamus, **§ 4:34**
- Manufacturers and, **§§ 4:6, 4:16 to 4:18**
- Medical profession, regulation affecting, **§ 4:18**
- Minimum contacts and, **§§ 4:1, 4:9, 4:15**
- Motion to dismiss, **§ 4:32**
- Motion to quash, **§§ 4:31, 4:32, 4:34, 4:36**
- Motorist, jurisdiction over nonresident, **§ 4:6**
- Nonjoinder of parties and, **§ 21:1**
- Nonresidents and
 - Generally, **§ 4:9**
 - Conduct, place of as affecting jurisdiction over, **§ 4:13 et seq.**
 - Due process and, **§ 4:9**
 - Economic activity in California, as establishing jurisdiction, **§ 4:10**
 - Filing suit as consent to jurisdiction, **§ 4:7**
 - Implied consent to personal jurisdiction, **§ 4:6**
 - Independent Wholesale Representatives Contractual Relations Act, **§ 4:6**
 - Intentional conduct causing effect in California, **§ 4:16**
 - Limited jurisdiction and, **§ 4:9**
 - Long Arm Jurisdiction, this index
 - Minimum contacts and, **§ 4:9**
 - Motorists, **§ 4:6**
 - Physical presence in California at time of service, **§§ 4:3, 4:15**
 - Presence in California at time of service, **§§ 4:3, 4:15**
 - Property, ownership of as affecting jurisdiction, **§ 4:13**
 - Purposeful availment standard, **§§ 4:10, 4:15, 4:16**
 - Qualification to do business in California, **§ 4:20**
 - Sexual intercourse, paternity actions, **§ 4:6**
 - Special jurisdiction and, **§ 4:9**
 - Stream of commerce standard, **§ 4:17**
 - Substantial activity in California, **§ 4:12**
 - Surety on court bond, **§ 4:6**
 - Uniform Parentage Act, **§ 4:6**

INDEX

PERSONAL JURISDICTION—Cont'd

- Ownership, **§ 4:14**
- Parent entities, **§§ 4:2, 4:10, 4:25**
- Partnerships, **§§ 4:2, 4:11, 4:28**
- Personal representatives, **§ 4:20**
- Persons whose conduct may be considered as to, **§ 4:11**
- Physical presence, **§§ 4:3, 4:15**
- Presumption as to existence of personal jurisdiction, **§ 4:30**
- Products liability, **§ 4:10**
- Property ownership, effect of, **§ 4:14**
- Purposeful availment, **§§ 4:10, 4:15 to 4:18**
- Qualification to do business, **§ 4:20**
- Reasonableness standard as to, **§§ 4:1, 4:9**
- Residency, effect on jurisdiction
 - California, **§ 4:2**
 - Change of domicile prior to service, **§ 4:2**
 - Long-arm statutes, this index
 - Outside California, **§ 4:9 et seq.**
- Res judicata and
 - Burden of proof and, **§ 14:4**
 - Dismissal, effect of, **§ 14:8**
 - Effect of, **§§ 4:30, 4:32, 14:8, 14:39**
 - Personal jurisdiction as essential to, **§§ 14:4, 14:20**
- Revised Uniform Reciprocal Enforcement of Support Act, **§ 4:29**
- Sales activity, effect of, **§§ 4:11, 4:12, 4:15, 4:17**
- Securities regulation affecting, **§ 4:18**
- Service of process and
 - Generally, **§§ 2:1, 2:29**
 - Establishing by, **§§ 2:1, 2:4, 2:11, 4:3**
 - Incompetent person, service on, **§ 18:9**
 - Mail, service by, **§ 2:11**
- Sexual intercourse within state, **§ 4:29**
- Solicitation within the state, **§§ 4:12, 4:14, 4:15**
- Special appearance, **§ 4:30**
- Special jurisdiction
 - Contracts, choice of law provision, **§ 4:24**
 - Corporations and Entities
 - Alter ego, **§ 4:26**
 - Dissolved corporation, **§ 4:24**
 - Employees, **§ 4:28**
 - Officers, **§ 4:28**
 - Parents and subsidiaries, jurisdiction over, **§ 4:25**
 - Successors in interest, jurisdiction over, **§ 4:27**
 - Family law matters, **§ 4:29**
 - Statutes establishing, **§ 4:24**
- State regulation of subject matter of lawsuit as affecting, **§ 4:18**
- Stream of commerce, **§§ 4:15, 4:17**

PERSONAL JURISDICTION—Cont'd

- Sua sponte, **§ 4:33**
- Subject matter jurisdiction and, **§§ 4:32, 4:37, 7:1, 7:17**
- Submission to, by filing complaint or cross-complaint, **§ 4:7**
- Subsidiaries, **§§ 4:11, 4:25**
- Substantial activity in California as establishing, **§ 4:12**
- Substantive law as affecting, **§ 4:22**
- Successor in interest, **§ 4:27**
- Sureties, **§§ 4:6, 4:28**
- Telephone directory listing, **§ 4:12**
- Timing of presence and activities in California, **§ 4:12**
- Uniform Child Custody Jurisdiction Act, **§ 4:29**
- Uniform Divorce Recognition Act, **§ 4:29**
- Uniform Interstate family Support Act, **§ 4:29**
- Uniform Parentage Act, **§§ 4:6, 4:24**
- Unilateral acts by plaintiff, **§ 4:11**
- Unincorporated associations, **§ 4:2**
- Venue and, **§§ 5:45, 5:46**
- Verified complaint, **§ 4:32**
- Waiver, **§§ 4:8, 4:36**
- Warsaw Convention, **§ 4:9**
- Writ of mandate, review by, **§ 4:34**

PERSONAL PROPERTY

- Abandonment, **§ 61:13**
- Brokers and salespersons
 - Licensing requirements as to, **§ 39:31**
 - Loans by, unconscionability, **§ 55:3**
- Collateral, personal property as
 - Burden of proof, notice of sale, **§ 12:8**
 - Deficiency judgment, **§ 12:8**
 - Waiver of right to notice, **§ 12:8**
- Contractor's license requirements and, **§ 39:10**
- Defacement by child, **§ 48:9**
- Escheat, **§§ 38:3, 38:73**
- Goods, this index
- Government claims filing requirement as to, **§ 12:21**
- Immediate possession and control of minor, **§ 52:6**
- Lease
 - Failure to mitigate, **§ 36:6**
 - Rescission of, **§ 62:19**
- Minor's contracts concerning, **§§ 52:3, 52:6**
- Ownership, personal jurisdiction based on, **§ 4:14**
- Pawnbrokers, **§ 38:76**
- Personal jurisdiction, ownership and, **§ 4:14**
- Premarital agreements as to, **§§ 53:22, 53:23**
- Rescission of contracts as to, **§§ 62:1, 62:19**
- Specific performance as to, **§ 31:1**

INDEX

PERSONAL PROPERTY—Cont'd

Statute of Frauds, this index
Statute of limitations and, **§ 25:20**
Transmutation, §§ **53:22, 53:23**
Trusts and, **§ 53:9**
Venue
 Generally, **§ 5:36**
 Action against state, **§ 5:24**

PERSONAL REPRESENTATIVES

Agent for foreign representative, service on, **§ 2:8**
Appearance in propria persona, §§ **17:4, 18:11**
Attorney's, termination of practice after death, **§ 38:9**
Capacity to sue
 Generally, **§ 18:11**
 Foreign representative, **§ 18:12**
Contract to defeat rights of beneficiary, **§ 37:18**
Definition, §§ **12:32, 17:1, 18:11**
Delay in prosecution
 Effect of appointment, **§ 28:20**
 Final account, **§ 28:3**
Foreign representatives
 Generally, **§ 18:12**
 Capacity to sue, **§ 18:12**
 Service of process on, **§ 2:8**
Immunities, **§ 38:28**
In propria persona appearance barred, §§ **17:4, 18:11**
Joinder in action, **§ 20:4**
Jurisdiction over, **§ 4:20**
Personal jurisdiction, **§ 4:20**
Privity for res judicata, **§ 14:31**
Public officer, status as, **§ 5:22**
Res judicata
 Privity and, **§ 14:31**
 Settling of account, **§ 14:51**
Service of process on nonresident representative, **§ 2:8**
Statute of limitations tolled by lack of, **§ 25:74**
Substitution as party for decedent, §§ **17:4, 17:36**
Venue and, **§ 5:29**

PERSONAL SERVICE

Generally, **§ 2:5 et seq.**
Corporations and other entities, §§ **2:7, 4:2**
Definition, §§ **2:6, 2:8, 2:9**
General appearance as equivalent, §§ **2:1, 2:24, 2:28, 3:17**
Immunities from service, §§ **2:18, 4:3**
Individuals, §§ **2:6, 4:3**
Peace officers, service on, **§ 3:20**

PERSONAL SERVICE—Cont'd

Personal Jurisdiction, this index
Secretary of State, **§ 2:8**
Service of Process, this index
Summons, this index

PERSONAL SERVICE CONTRACTS

Adequacy of remedy at law, **§ 31:2**
Assignability, **§ 18:19**
Death, effect of, **§ 17:24**
Duration, **§ 47:13**
Guaranties of, **§ 67:3**
Impossibility, **§§ 60:2, 60:9**
Specific performance, **§ 31:2**

PERSONAL TORTS

Torts, this index

PEST CONTROL

Immunity, **§ 38:22**
Licensing requirements as to, **§§ 39:13, 39:21, 52:4**
Notice, **§ 38:22**

PESTILENCE

Act of God as, **§ 30:3**

PHARMACISTS

Drugs without prescription in emergency, **§ 38:53**
Gross negligence, license revocation and, **§ 48:23**
Immunities, **§§ 38:2, 38:16, 38:53, 38:77**
Impairment of, **§ 38:16**
Investigations as to, **§ 38:76**
Licensing requirements as to, **§ 39:35**
Mental illness, **§ 38:16**
Prescription refills, **§ 38:53**

PHYSICAL DISABILITY

Comparative fault and, **§ 48:4**

PHYSICAL THERAPISTS

Diversion program for therapists or assistants with impaired competency, **§ 38:16**
Gross negligence, license revocation and, **§ 48:23**
Licensing requirements as to, **§ 39:35**

PHYSICIANS AND SURGEONS

Abandonment of patient, **§ 61:6**
AIDS testing, disclosure of results, **§ 38:29**
Child abuse, reporting immunity, **§ 38:43**
Court appointed, **§ 38:133**
Emergency care, immunity, **§§ 38:46, 38:47**
Fee agreements, unconscionability and, **§ 55:3**

INDEX

PHYSICIANS AND SURGEONS—Cont'd

- Gross negligence, license revocation and, § **48:23**
- Immunity
 - Generally, § **38:94 et seq.**
 - Abuse, disclosures as to, § **38:43**
 - AIDS related, § **38:29**
 - Anatomical gifts, § **38:63**
 - Autopsies, § **38:26**
 - Disclosure of information as to, §§ **38:38, 38:39**
 - Emergency services by, §§ **38:46 to 38:54**
 - End of Life Option Act, § **38:26**
 - Expert witness, appointment as, § **38:133**
 - Mental examination, lack or inadequacy, § **38:98**
 - Narcotic addicts, commitment of, § **38:96**
 - Natural Death Act, § **38:26**
 - Paramedics, instructing immunity, § **38:49**
 - Peer review and related committees, § **38:10**
 - Prosecution assistance and, § **38:81**
 - School athletic events, emergency aid, § **38:47**
 - Imputation of negligence by, § **48:12**
 - Infliction of emotional distress on minor, § **52:14**
 - Information communicated to, immunity, § **38:39**
 - Information concerning, §§ **38:10, 38:38**
 - Instructing paramedics, immunity, § **38:49**
 - Licensing requirements as to, § **39:35**
 - Mental examination, lack or inadequacy, § **38:98**
 - Minor, treatment of, § **52:14**
 - Narcotic addicts, commitment of, § **38:96**
 - Natural Death Act, § **38:26**
 - Notice of intent to sue, § **12:4**
 - Obstetrical services, immunity, § **38:46**
 - Paramedics, instructing immunity, § **38:49**
 - Physician-patient privilege, waiver of, § **47:11**
 - Release, § **42:2**
 - Rescue teams, § **38:48**
 - School athletic events, emergency aid, § **38:47**
 - Security for costs in action against, § **13:6**
 - Statute of limitations
 - Generally, §§ **25:36, 25:44**
 - Bifurcation, § **25:80**
 - Incompetents, § **25:53**
 - Medical Injury Compensation Reform Act, §§ **25:36, 25:44, 25:51**
 - Minors, §§ **25:36, 25:44, 25:51**
 - Tolling, §§ **25:44, 25:51, 25:53**
 - Successor physicians, § **48:12**
 - Unconscionability and fee agreements, § **55:3**
 - Underwriting committees, § **38:10**

PHYSICIANS AND SURGEONS—Cont'd

Undue influence and, **§ 46:2**
Uniform Anatomical Gift Act, **§ 38:63**
Waiver, physician-patient privilege, **§ 47:11**

PLACE OF TRIAL

Venue and, **§ 5:1**

PLAGIARISM

Statute of limitations, **§ 25:15**

PLAINTIFF

Capacity to sue, this index
Death
Generally, **§ 17:1 et seq.**
Damages recoverable, **§§ 17:14, 17:21**
Delay in prosecution, **§ 17:5**
False arrest actions, **§ 17:12**
Invasion of privacy actions, **§ 17:11**
Limitation of actions and, **§§ 17:5, 25:58**
Malicious prosecution actions, **§ 17:13**
Survival of actions, **§ 17:1 et seq.**
Wrongful death actions, **§ 17:6**
Definition, **§ 3:1**
Joinder of Plaintiffs, this index
Same person as plaintiff and defendant, **§ 18:29**
Statute of limitations, discovery rule and, **§ 25:5**
Tolling of statute of limitations and
Generally, **§ 25:42**
Absence from state, **§ 25:61**
Class action members, **§ 25:56**
Controlled entities and, **§ 25:52**
Disability of, **§ 25:60**
Incarceration of, **§ 25:54**
Mental incompetency of, **§ 25:53**
Military service and, **§ 25:62**
Minors, **§ 25:51**
Multiple plaintiffs, **§ 25:42**
Successors in interest, **§ 25:50**
Tolling agreements and, **§ 25:67**

PLEADING

Abandonment of contracts, **§ 61:7**
Accord and satisfaction, **§§ 63:7, 63:12**
Acts of God, **§ 30:15**
Adequacy of remedy at law, **§ 31:8**
Advice of counsel, **§ 41:30**
Advisory opinions, **§ 22:4**
Affirmative Defenses, this index
Agency, **§ 54:7**

INDEX

PLEADING—Cont'd

Alteration of Documents, this index
Amended Pleadings, this index
Amendment, burden of proof, **§ 10:16**
Another action pending, **§ 23:4**
Answer, this index
Architect's license, **§ 39:19**
Assumption of the risk, **§ 48:15**
Burden of proof affected by, **§ 1:7**
Collateral estoppel, **§ 14:54**
Common counts, **§§ 9:2, 10:4**
Comparative fault, **§ 48:4**
Complaint, this index
Conclusions of law, **§ 10:3**
Conditions precedent, **§ 10:9**
Consent, **§§ 32:6, 32:8**
Consideration, **§§ 56:1, 56:13, 56:15**
Contractor's license, **§ 39:18**
Contracts, **§§ 10:4, 10:6, 10:9, 10:14, 10:15**
Cross-claims and cross-complaints
 Setoff, pleadings as to, **§§ 44:1, 44:2, 44:8 to 44:10**
 Settlement, **§ 43:6**
Death of party, **§ 17:36**
Defamation, **§ 10:12**
Definition, **§ 41:8**
Delay in service and return of summons and, **§ 3:26**
Discovery rule, statute of limitations, **§ 25:21**
Discretionary dismissal, allegation as to, **§ 29:4**
Duress, **§§ 33:8, 62:4**
Election of remedies, allegation of, **§ 24:11**
Equity, obligation to do, **§ 35:2**
Essential to jurisdiction, **§ 7:1**
Estoppel, **§ 34:10**
Estoppel to assert statute of limitations, **§ 25:73**
Exhaustion of remedies, **§ 16:10**
Exoneration of surety, **§ 67:5**
Failure of consideration, **§§ 57:4, 62:8**
Failure to mitigate, **§ 36:8**
Failure to State a Cause of Action, this index
Form complaints, demurrer to, **§ 10:2**
Forms, this index
Forum non conveniens, **§ 6:26**
Fraud, **§§ 10:13, 62:5**
Frauds, statute of, **§ 53:35**
Fraudulent concealment of statute of limitations, **§ 25:72**
Guaranties, **§ 67:5**
Illegality, **§§ 37:28, 37:30**

PLEADING—Cont'd

- Immunity, §§ **38:1, 38:91, 38:140**
- Impossibility, § **60:13**
- Imputation of fault, § **48:6**
- Inconsistent defenses, § **1:3**
- Incorporation by reference, § **1:5**
- Items of account, § **10:6**
- Judgment, § **10:8**
- Jurisdiction based on, § **7:1**
- Labels, effect of, § **1:5**
- Laches, § **26:15**
- Lack of capacity to sue, §§ **18:35, 18:36**
- Lack of proper or effective service, § **2:24**
- Lack of standing, § **19:6**
- Lack or inadequacy of consideration, §§ **56:13, 56:15**
- Land, description of, § **10:7**
- Libel, § **10:12**
- Licensing requirements
 - Generally, § **39:39**
 - Architect's, § **39:19**
 - Contractor's, § **39:18**
 - Real estate, § **39:28**
- Misjoinder of parties, § **20:7**
- Mistake, § **40:11**
- Mitigation of damages, § **36:8**
- Modification of contract, § **65:8**
- Mootness, § **22:4**
- Nonjoinder of parties, § **21:3**
- Novation, § **64:10**
- Obligation to do equity, § **35:2**
- Official determination, § **10:8**
- Payment, § **69:10**
- Performance of conditions precedent, § **10:9**
- Pleas in abatement, § **1:2**
- Privilege, §§ **41:8, 41:21, 41:30**
- Ratification, § **54:7**
- Real estate licensees, § **39:28**
- Real party in interest, § **19:6**
- Real property, description of, § **10:7**
- Release, § **42:8**
- Rescission, § **62:32**
- Res judicata, § **14:54**
- Response to affirmative defenses, § **1:4**
- Self-defense, § **50:9**
- Separate statement of defenses, § **1:5**
- Service and return requirements and, § **3:26**
- Setoff, § **44:7**

INDEX

PLEADING—Cont'd

- Settlement, § 43:6
- Slander, § 10:12
- Standing, lack of, §§ 19:14, 19:15
- Statute of frauds, §§ 53:11, 53:35
- Statute of limitations
 - Generally, §§ 10:10, 25:78
 - Allegations as to
 - Acknowledgment, tolling by, § 25:46
 - Choice of law, § 25:2
 - Four years, § 25:40
 - Fraud or mistake, § 25:21
 - Fraudulent concealment and related rules, § 25:73
 - Part payment of debt, tolling by, § 25:46
 - Real property actions, § 25:11
 - Relation back doctrine, § 25:78
 - Repair or cure efforts, § 25:47
 - Specific tolling agreement by parties, § 25:68
 - Three months to five years, § 25:11
 - Three years, § 25:21
 - Unsuccessful means to avoid, § 25:77
 - Uncertainty of pleading as to, § 10:10
 - Unnecessary date, effect of, § 10:4
- Subject matter jurisdiction and, § 7:11
- Supplemental Pleadings, this index
- Suretyship and, § 67:5
- Ultimate facts, § 10:2
- Uncertainty of Pleading, this index
- Unclean hands, § 45:15
- Undue influence, § 46:13
- Usury, § 37:13
- Venue, § 5:41
- Waiver, §§ 1:5, 47:14

PLEAS IN ABATEMENT

- Abatement, this index

PODIATRISTS

- Emergency care, immunity, §§ 38:46, 38:47
- Immunity, §§ 38:10, 38:46, 38:47
- Medical Treatment, this index
- Notice of intent to sue, § 12:4
- School athletic event, emergency aid, § 38:47
- Security for costs in action against, § 13:6
- Statute of limitations
 - Generally, §§ 25:36, 25:44
 - Bifurcation, § 25:80
 - Incompetents, § 25:53

PODIATRISTS—Cont'd

Statute of limitations—Cont'd

 Medical Injury Compensation Reform Act, §§ 25:36, 25:44, 25:51

 Minors, §§ 25:36, 25:44, 25:51

 Tolling, §§ 25:44, 25:51, 25:53

 Underwriting committee, § 38:10

POISON CONTROL CENTERS

 Immunity, § 38:46

POLICE OFFICERS

 Peace Officers, this index

POLITICAL QUESTIONS

 Court's powers as to, § 22:1

POLITICAL REFORM ACT OF 1974

 Security for costs in action under, § 13:7

POLLUTION

 Notice of suit to enjoin to Attorney General, § 12:6

POWER OF APPOINTMENT

 Minor's capacity to exercise, § 52:4

 Prisoner's power to create, § 52:35

POWER OF ATTORNEY

 Alterations in terms of, § 66:3

 Appearance of attorney in fact as attorney at law, § 18:14

 Attorney in Fact, this index

 Cemetery brokers, salespersons, § 39:30

 Durable power of attorney

 Enforcement of, § 18:31

 Incapacity of principal and, § 18:31

 Equal dignities rule, §§ 53:3, 54:1 et seq.

 Immunity, § 38:26

 Licensing requirements

 Cemetery brokers, salespersons, § 39:30

 Real estate brokers, salespersons, § 39:27

 Minor's power to create, § 52:4

 Missing in action, § 38:26

 Mortgage, execution by, § 54:2

 Personal jurisdiction and, § 4:6

 Prisoners of war, § 38:26

 Real estate brokers, salespersons, § 39:27

 Revocation, § 38:26

 Statute of frauds, § 53:3

 Venue, § 5:36

PRECLUSION OF ISSUES

 Generally, §§ 14:1, 15:1 et seq.

 Collateral Estoppel, this index

INDEX

PRECLUSION OF ISSUES—Cont'd

Res Judicata, this index

PREEMPTION

Generally, § 7:19

Frustration of purpose, § 58:6

PREGNANCY

Abortion, this index

Consent by pregnant woman, § 32:4

Failure to mitigate by termination of, § 36:4

Minor's consent to treatment as to, § 52:14

Moot issues and, § 22:2

Prevention in minors, consent, § 52:14

PREJUDICE

With or without, § 14:8

PRELIMINARY BOND NOTICE

Generally, § 12:12

PREMARITAL AGREEMENT

Amendment, § 56:9

Consideration for, § 56:9

Disclosure requirement as to, § 55:3

Duress and, § 33:1

Illegality and, § 37:19

Minor as contracting party, § 52:12

Revocation, § 56:9

Statute of frauds, §§ 53:22, 53:23

Tolling statute of limitations as to, § 25:48

Unconscionability of, § 55:3

Undue influence and, § 46:5

Uniform Premarital Agreement Act

Generally, § 53:22

Illegality and, § 37:19

Unconscionability and, § 55:3

PREMATURITY

Generally, § 27:1 *et seq.*

Abatement, this index

Abstract issue and, § 27:1

Advisory opinions and, § 27:8

Agreement to delay suit, § 27:1

Amended complaint, § 27:1

Amendment of answer and, § 27:2

Answer, allegation of, § 27:2

Appellate review and, § 27:5

Cause of action and, § 27:1

Claim requirements and, §§ 12:32, 27:1, 27:7

Contract defining time of suit, § 27:1

PREMATURITY—Cont'd

Delay in prosecution and, **§ 28:24**
Demurrer, **§§ 27:2, 27:3**
Exhaustion of remedies and, **§§ 16:11, 27:1, 27:7**
Government claims filing requirement, **§ 27:1**
Installment debt actions, **§ 27:1**
Insurance related actions, **§ 27:1**
Intervention, **§ 27:1**
Judicial notice, **§ 27:3**
Lack of standing and, **§ 19:13**
Malicious prosecution, **§ 27:7**
Mootness and, **§ 27:8**
Newspersons Shield Law, premature petition for relief, **§ 27:1**
Nonsuit motion and, **§ 27:4**
Notice requirement, effect of, **§§ 27:1, 27:7**
Payment, **§ 27:1**
Plea in abatement based on, **§§ 1:2, 12:32, 27:1, 27:6**
Probate claims and, **§ 12:32**
Res judicata effect of dismissal based on, **§ 14:8**
Ripeness and, **§ 27:1 et seq.**
Street assessments and, **§ 27:1**
Supplemental pleadings, **§ 27:1**
Trial and, **§ 27:4**
Waiver, **§§ 27:2, 27:6**

PRENATAL INJURIES

Generally, **§ 18:7**
Fetus, this index
Statute of limitations, **§§ 25:36, 25:51**
Wrongful Death, this index
Wrongful Life, this index

PREPAYMENT PENALTY

Illegality and, **§ 37:16**

PREPONDERANCE OF EVIDENCE

Generally, **§ 1:8**
Abandonment of contract, **§ 61:8**
Accord and satisfaction, **§ 63:11**
Alteration of documents, **§ 66:9**
Assumption of the risk, **§ 48:24**
Burden of proof as to, **§ 1:8**
Emergency, **§ 49:3**
Frustration of purpose, **§ 58:3**
Impossibility, **§ 60:16**
Modification of contract, **§ 65:9**
Novation, **§ 64:11**
Rescission, **§ 62:35**
Self-defense, **§§ 50:1, 50:10**

INDEX

PREPONDERANCE OF EVIDENCE—Cont'd

Statute of frauds, **§ 53:39**
Undue influence, **§§ 46:9, 46:14**
Waiver, **§ 47:16**

PRESCRIPTIVE EASEMENT

Adverse Possession, this index
Consent, **§ 32:1**
Statute of limitations, **§ 25:11**
Unclean hands, **§§ 45:2, 45:7**

PRESUMPTIONS

Generally, **§ 1:9**
Accord and satisfaction covers all disputes, **§ 63:11**
Alteration before execution, **§ 66:5**
Attorney authorized to appear, **§§ 2:28, 4:8, 14:4**
Capacity or incapacity to contract, **§ 52:26**
Ceremonial marriage valid, **§ 1:9**
Check acceptance not presumed payment, **§ 69:2**
Communication innocent and without malice, **§ 41:9**
Community property, **§ 1:9**
Consent to novation, **§ 64:10**
Consequences of voluntary acts intended, **§ 1:9**
Consideration for written contract, **§§ 53:5, 56:1, 56:4, 56:13, 56:14, 63:6**
Constitutional rights are not waived, **§ 47:4**
Contract intended to be equitable, **§ 55:3**
Correctness of choice of forum, **§§ 5:30, 5:44**
Courts
 Concurrent state and federal, **§§ 7:1, 7:19**
 Jurisdiction of, **§§ 7:1, 7:15**
 Lawful exercise of jurisdiction by, **§§ 1:9, 4:30, 4:35, 10:8, 14:3, 14:54**
Death after five years missing, **§§ 1:9, 17:37**
Defamatory speech is false, **§§ 51:1, 51:9**
Defendant's knowledge, pleading of facts within, **§ 10:1**
Devise to subscribing witness, **§ 33:1**
Duty has been regularly performed, **§ 1:9**
Emergency rescue personnel, **§ 38:49**
Estoppel, **§ 34:1**
Fiduciary with advantage used undue influence, **§§ 1:9, 42:13, 46:2**
Foreign law same as California law, **§ 25:2**
Good faith, **§§ 38:22, 38:43, 38:96**
Guarantor prejudiced by alteration of underlying contract, **§ 67:4**
Independent advice, confidential relationship, **§ 46:8**
Intent to make equitable contract, **§ 55:3**
Interest for loan, **§ 37:13**
Joint and several promise or obligation, **§ 56:2**
Judgment correctly determines rights, **§§ 14:39, 14:57, 29:2**
Laches in relation to statute of limitations, **§§ 26:6, 26:19**

PRESUMPTIONS—Cont'd

- Lack of diligence, service and return requirements, **§ 3:30**
- Lease term, **§ 53:9**
- Legality of contract, **§§ 37:3, 37:30**
- Legal title owner also owns beneficial, **§§ 1:8, 1:9**
- Loans made for interest, **§ 37:13**
- Member of nonprofit association, **§ 38:35**
- Minor free of crime, **§ 1:8**
- Mistake not presumed, **§ 40:12**
- Negligence per se, **§§ 48:2, 48:4**
- Note not accepted as payment, **§ 69:3**
- Not evidence, **§ 46:9**
- Obligations joint, **§ 42:1**
- Official duty has been performed, **§ 1:9**
- Payment
 - Check, effect of retaining, **§ 69:2**
 - Check cashed and paid, **§ 63:5**
 - Earlier installments paid first, **§ 69:9**
 - On account of debt, **§§ 69:3, 69:9**
- Per se negligence, **§§ 38:51, 48:4**
- Personal jurisdiction, existence of, **§ 4:30**
- Personal property not unique, **§ 31:3**
- Person with valid claim will assert it, **§ 25:1**
- Property acquired in marriage is community, **§ 1:9**
- Real property as unique, **§§ 31:1, 31:3**
- Receipt, **§ 12:4**
- Responsibility for actions, **§§ 32:4, 52:21**
- Return of service, truth of, **§§ 2:3, 2:19, 2:27**
- Sanity, **§ 52:34**
- Service by registered process server, **§§ 2:3, 2:19, 2:27**
- Signature validity, **§ 53:39**
- Statute of limitations, presumptions as to, **§§ 25:1, 25:2**
- Superior court jurisdiction, **§ 7:15**
- Surety prejudiced by alteration of underlying contract, **§ 67:4**
- Trustee's undue influence over beneficiary, **§ 46:2**
- Unconscionability, presumptions as to, **§ 55:6**
- Undue influence, **§§ 33:1, 46:2, 46:3, 46:5, 46:6, 46:8, 46:9**
- Unlawful acts reflect unlawful intent, **§ 1:9**
- Unsound mind, capacity to contract, **§§ 52:26, 52:28, 62:16**
- Usurious rate of interest, **§ 37:13**
- Venue is correct, **§§ 5:30, 5:44**
- Violation of agent's fiduciary duty, **§ 46:2**
- Violation of law shows lack of due care, **§ 1:9**
- Violation of trustee's fiduciary duty, **§ 46:2**
- Writing as evidence of consideration, **§ 25:46**

PREVENTION OF PERFORMANCE

- Generally, **§ 59:1 et seq.**

INDEX

PREVENTION OF PERFORMANCE—Cont'd

- Acts of creditor as, §§ **59:1, 59:3**
- Acts of God as, §§ **30:2, 59:4, 59:10**
- Anticipatory breach, § **60:12**
- Attaching unwarranted conditions, § **59:3**
- Burden of proof, § **59:6**
- Complaint, allegations as to, § **59:5**
- Conditional performance and, § **59:3**
- Damages calculation, §§ **59:2, 59:3**
- Eminent domain causing, § **59:2**
- Estoppel and, §§ **59:1, 59:11**
- Forms, this index
- Frustration of purpose and, §§ **59:1, 59:8**
- Impossibility and, §§ **59:1, 59:9**
- Insurance, waiver of defects in notice of loss, § **59:3**
- Jury instructions as to, § **59:5**
- Manner of asserting defense, § **59:5**
- Mitigation of damages, § **59:1**
- Notice of, §§ **12:9, 59:1**
- Offer of performance, § **59:3**
- Operation of law, § **59:2**
- Placing performance beyond control, § **59:3**
- Prevention by a privy, § **59:4**
- Prevention by a stranger, § **59:4**
- Repudiation of contract, § **59:3**
- Rescission, § **62:17**
- Severable contracts, § **59:1**
- Waiver of defense, §§ **59:3, 59:7**
- War as, § **59:4**
- Whose conduct prevents performance, § **59:4**

PRIMARY JURISDICTION

- Generally, § **8:1 et seq.**
- Burden of proof, § **8:3**
- Comity and, § **8:1**
- Court's powers as to, § **8:4**
- Exhaustion of remedies and, §§ **8:1, 8:2, 8:6, 16:16**
- Insurance Commissioner and, § **8:1**
- Motion to stay, §§ **8:3, 8:5**
- Waiver, § **8:4**

PRIMARY RIGHTS THEORY

- Generally, § **14:15**

PRINCIPAL

- Agents and Agency, this index
- Application of payments to, § **69:9**
- Election to sue agent, § **24:14**
- Equal Dignities Rule, this index

PRINCIPAL—Cont'd

- Estoppel to disclaim agent's acts, §§ **54:4, 54:5**
- Execution of document in presence, § **54:3**
- Fiduciary relationship, § **46:3**
- Imputation of negligence and, §§ **48:13, 48:15**
- Innocent principal, § **62:5**
- Joinder as defendant with agent, § **20:3**
- Payment of whole waives interest, § **69:1**
- Personal jurisdiction through agent, §§ **4:11, 4:25**
- Presumption that person acts as, § **54:8**
- Privity and, §§ **14:28, 14:29**
- Ratification by, § **54:5**
- Real party in interest and, § **19:3**
- Release
 - Fraud by agent and, § **42:4**
 - Of less than all debtors, § **42:7**
- Res judicata, privity and
 - Agent, § **14:28**
 - Surety, § **14:29**
- Spouse as, §§ **54:1, 54:3**
- Standing and, § **19:3**
- Statute of limitations
 - Accrual of cause of action and, § **25:65**
 - Concealment of cause of action by agent, § **25:21**
- Undisclosed, §§ **54:1, 62:5**
- Undue influence, § **46:3**

PRISONERS

- Attorneys, ability to hire, § **52:35**
- Capacity to contract, § **52:35**
- Capacity to sue, § **18:33**
- Civil death, §§ **18:33, 25:54, 52:35**
- Civil protective custody, § **38:82**
- Civil rights, loss of, §§ **18:33, 52:35**
- Deemed filed rule, § **25:6**
- Definition, § **38:82**
- Duress and escape, § **33:5**
- Emergency endangering lives, §§ **38:53, 38:88**
- Escaped prisoners, § **38:88**
- Escaping arrestees, § **38:51**
- Failure to warn of release, § **38:75**
- Fugitives from Justice, this index
- Illegal contract, § **37:17**
- Immunity, this index
- Injury caused by, § **38:83**
- Injury suffered by, § **38:84**
- Judicial rights of, § **38:86**
- Medical care, § **38:87**

INDEX

PRISONERS—Cont'd

Name change, §§ 2:1, 12:3
Paroled prisoners, § 38:88
Personal property, unclaimed, § 38:73
Power of appointment, power to create, § 52:35
Preconviction detainee, § 38:82
Prisoners of war, §§ 25:63, 38:26
Release, failure to warn, § 38:75
Released prisoners, § 38:88
Statute of limitations and, § 25:54
Tolling of statute of limitations, § 25:54
Unclaimed personal property, § 38:73
Undue influence and, § 46:10
Vexatious litigation, § 13:3
Ward of juvenile court, § 38:82
Will, power to make, § 52:35
Wrongful death, § 38:84

PRISONS

Immunity, § 38:85
Inadequacy, § 38:85
Lack of, § 38:85
Prison officials, immunity of, §§ 38:59, 38:82 to 38:88, 38:135

PRIVACY ACT

Invasion of Privacy, this index
Privilege and, § 41:6

PRIVATE ATTORNEY GENERAL

Security for costs in action by, § 13:7

PRIVATE DETECTIVES

Fictitious business names, § 39:36
Licensing requirements as to, § 39:35

PRIVATE PERSONS

Nonstatutory immunities, assisting government officials, § 38:136

PRIVILEGE AND JUSTIFICATION

Generally, § 41:1 et seq.
Absolute, §§ 41:3 to 41:7, 41:13, 41:19
Abuse of process, § 41:6
Actual malice, §§ 41:9, 41:12
Administrative agency investigations and proceedings, §§ 41:5, 41:10, 41:11
Advice of counsel
Generally, §§ 41:14, 41:18, 41:26 et seq.
Attorney-client privilege and, § 41:26
Attorney not liable to third parties for, § 41:18
Defense based on
Generally, § 41:26 et seq.
Answer, allegation of, § 41:30

PRIVILEGE AND JUSTIFICATION—Cont'd

- Advice of counsel—Cont'd
 - Defense based on—Cont'd
 - Application of defense, §§ 41:26, 41:28, 41:29
 - Attorney-client privilege and, §§ 41:27, 41:31
 - Bad faith actions and, § 41:28
 - Bad faith of client and, § 41:27
 - Burden of proof, § 41:33
 - Contempt and, § 41:29
 - Criminal charges and, § 41:29
 - Disclosure by client and, § 41:27
 - Discovery and, § 41:31
 - Elements, § 41:27
 - Emotional distress and, § 41:28
 - Error by attorney and, § 41:27
 - Exemplary damages and, §§ 41:26, 41:28
 - Insurance and, § 41:28
 - Jury instruction, § 41:32
 - Malicious prosecution and, § 41:26 et seq.
 - Manner of asserting, § 41:30
 - Pleading, § 41:30
 - Trespass and, § 41:28
 - Trial and, § 41:32
 - Exemplary damages and, §§ 41:26, 41:28
 - Justification defense based on, § 41:14
 - Advisor, privilege of, § 41:18
 - Affiants, § 41:5
 - Amendment of answer, § 41:23
 - Answer, §§ 41:21, 41:23, 41:30
 - Arbitration, § 41:5
 - Attorneys
 - Generally, §§ 41:5, 41:14, 41:18, 41:26 et seq.
 - Attorney-client relationship, § 41:18
 - Attorney's advice, §§ 41:14, 41:18, 41:26 et seq.
 - Bad faith actions, attorney's advice and, § 41:28
 - Bifurcated trial, § 41:21
 - Board of Medical Quality Assurance, § 41:5
 - Breach of contract
 - Generally, §§ 41:6, 41:13 et seq.
 - Competitor's privilege, § 41:20
 - Inducing, §§ 41:6, 41:13, 41:20
 - Justification for, § 41:13 et seq.
 - Manager's privilege, § 41:19
 - Burden of proof, §§ 41:9, 41:12, 41:22, 41:33
 - Candidates, § 41:9
 - Child Abuse and Neglect Reporting Act, § 41:8
 - City council proceedings and investigations, §§ 41:3, 41:5, 41:11

INDEX

PRIVILEGE AND JUSTIFICATION—Cont'd

- Competition and
 - Generally, **§ 41:13**
 - Competitor's privilege, **§ 41:20**
- Consent and, **§§ 41:1, 41:25**
- Conspiracy and, **§ 41:6**
- Constitutional news media privileges, **§ 41:12**
- Contempt, advice of counsel and, **§ 41:29**
- Corporations, **§§ 41:16, 41:19**
- County proceedings and investigations, **§§ 41:3, 41:5, 41:11**
- Court personnel, **§ 41:5**
- Credit reports, **§ 41:9**
- Criminal prosecutions, advice of counsel and, **§ 41:29**
- Deeds of trust, foreclosure of, **§§ 41:2, 41:7**
- Defamation, **§§ 41:1 et seq., 51:5, 51:11**
- Defense of truth and, **§ 51:11**
- Demand letters, **§§ 41:5, 41:7**
- Demurrer, **§§ 41:21, 41:23**
- Department of Employment Development, **§ 41:5**
- Department of Real Estate, **§ 41:5**
- Director, **§ 41:19**
- Dissolution of marriage, **§ 41:8**
- Documentary evidence, **§ 41:4**
- Duress and, **§ 41:14**
- Emotional distress
 - Generally, **§§ 41:6, 41:11, 41:28**
 - Advice of counsel and, **§ 41:28**
- Employment, **§§ 41:9, 41:19**
- Excessive publication, **§ 41:9**
- Executive branch, **§ 41:3**
- Experts, **§ 41:5**
- Fair and true reports
 - In public journals, **§§ 41:10, 51:11**
 - In public meetings, **§§ 41:11, 51:11**
- Fair comment, **§ 41:9**
- Federal legislative bodies, **§ 41:5**
- Federal officials, **§ 41:3**
- First Amendment, **§§ 41:10, 41:12, 51:1, 51:3**
- Foreclosure of deeds of trust, **§§ 41:2, 41:7**
- Forms, this index
- Fraud, **§§ 41:6, 41:14**
- Grand jurors, **§§ 41:4, 41:10**
- Grievance procedures, **§ 41:5**
- Immunity and, **§§ 38:145, 41:24**
- Inducing breach of contract, **§§ 41:6, 41:13, 41:20**
- Insurance, advice of counsel and, **§ 41:28**
- Interested parties, publications to, **§ 41:9**

PRIVILEGE AND JUSTIFICATION—Cont'd

- Interference with prospective advantage, §§ 41:6, 41:12, 41:13, 41:20, 53:28
- Internal Revenue Service, § 41:5
- Invasion of privacy, §§ 41:2, 41:6, 41:8, 41:10, 41:11
- Judges, §§ 41:4, 41:5
- Judicial proceedings, §§ 41:4, 41:5, 41:10
- Jurors, § 41:5
- Justification
 - Generally, § 41:13 et seq.
 - Advisor, defense for, § 41:18
 - Conduct by one financially interested, § 41:16
 - Conduct by one responsible for another's welfare, § 41:17
 - Conduct related to protected proceeding, § 41:7
 - Protection of personal interests, § 41:15
 - Wrongful or unlawful means and, § 41:14
- Legislative proceedings, §§ 41:4, 41:5, 41:8, 41:10
- Legislators, § 41:3 et seq.
- Lessor, § 41:16
- Letters, §§ 41:5, 41:7, 41:9
- Libel and slander, §§ 41:1 et seq., 51:5, 51:11
- Lis pendens and, §§ 41:8, 41:28
- Litigants and, § 41:5
- Magazines, §§ 41:2, 41:9 to 41:12
- Malice, §§ 41:2, 41:3, 41:9, 41:14
- Malicious prosecution
 - Generally, §§ 41:3, 41:6, 41:11, 41:14
 - Advice of counsel as defense, § 41:26 et seq.
- Manager's privilege, §§ 4:28, 41:17 to 41:19
- Mechanics' liens, § 41:6
- Motive, §§ 41:9, 41:14, 41:16, 41:19
- Necessity, § 49:8
- Negligence and, § 41:6
- News media, constitutional privilege, §§ 41:2, 41:9 to 41:12, 51:1, 51:3, 51:4
- Newspapers, §§ 41:2, 41:9, 41:10, 51:1, 51:3, 51:4
- Official proceedings, §§ 41:4, 41:5, 41:10, 51:11
- Opinion insufficient, § 51:3
- Outrage, § 41:6
- Parent corporation, § 41:16
- Partnerships and, § 41:16
- Perjury and, § 41:4
- Pleading, §§ 41:8, 41:21, 41:30
- Police internal investigations, § 41:10
- Presumptions, communication innocent and without malice, § 41:9
- Privacy, invasion of, §§ 41:2, 41:6, 41:8, 41:10, 41:11
- Privacy Act, § 41:6
- Protection of own interests, § 41:15

INDEX

PRIVILEGE AND JUSTIFICATION—Cont'd

Publications

Generally, §§ 41:2 to 41:12

By and to interested persons, § 41:9

In discharge of official duty, §§ 41:4, 41:5

In judicially reviewable proceedings, § 41:4

In judicial proceedings, §§ 41:4, 41:5

In legislative proceedings, §§ 41:4, 41:5

In official proceedings, §§ 41:4, 41:5

On recall of public officials, § 41:5

To further litigation purposes, § 41:8

Public journals, § 41:10

Public meeting, § 41:11

Public utility, § 41:9

Qualified privileges, §§ 41:8, 41:9, 41:13, 41:19

Quasi-governmental proceedings, § 41:5

Quasi-judicial proceedings, § 41:5

Radio, §§ 41:2, 41:9 to 41:12, 51:1, 51:3, 51:4

Right of fair comment, § 41:9

School board meetings, § 41:5

Self-defense, § 50:1 et seq.

Service of process, exemptions or immunity, § 2:18

Settlement negotiations, §§ 41:5, 41:7

Slander and libel, §§ 41:1 et seq., 51:5, 51:11

Slander of title, § 41:6

Small claims court, § 41:5

State Bar, § 41:5

State of California

Legislative bodies, § 41:5

Long-Term Care Ombudsman, § 41:3

Officials of, § 41:3

Stockholders, §§ 41:16, 41:19

Summary judgment, § 41:21

Telegraph company, § 41:9

Telephones, § 41:7

Television, §§ 41:2, 41:9, 41:10

Third parties and, § 41:8

Trade secrets, misappropriation and, § 41:6

Trespass, advice of counsel and, § 41:28

Truth, relation to defense of, § 51:11

Unfair business practices, § 41:6

Unions, §§ 41:9, 41:19

Unlawful means, § 41:14

Verified petition as to, § 41:10

Waiver, §§ 41:23, 47:11, 47:13

Who may assert, § 41:14

Witnesses, §§ 41:5, 41:7

PRIVILEGE AND JUSTIFICATION—Cont'd

Wrongful means, § 41:14

PRIVITY

Generally, § 14:24

Adequacy of representation and, § 14:24

Agent, § 14:28

Alter ego and, § 14:32

Assignors and assignees, § 14:25

Child, § 14:30

City, § 14:26

Class actions and, § 14:34

Collateral estoppel requirement, §§ 15:2, 15:4

Control, effect of, §§ 14:23, 14:32

Corporations, § 14:32

County, § 14:26

Definition, § 14:24

Employer and employee, § 14:27

Estoppel and, §§ 34:8, 34:9

Government agencies and entities, § 14:26

Government officers, § 14:26

Guarantor, § 14:29

Guardian and ward, § 14:31

Heirs, §§ 14:25, 14:31

Homeowners association members, § 14:24

Indemnity actions, § 14:29

Marriage, § 14:30

Parent entities, § 14:32

Parents, § 14:30

Partners and partnerships, §§ 14:32, 14:33

Personal representatives, § 14:31

Predecessor in interest, §§ 14:24, 14:25

Principal and agent, § 14:28

Principal and surety, § 14:29

Public agencies and entities, § 14:26

Public officers, § 14:26

Res judicata requirement, § 14:20 et seq.

Spouses, § 14:30

State, §§ 14:26, 15:7

Subrogation and, § 14:25

Successors in interest, § 14:25

Surety, § 14:29

Unincorporated associations, §§ 14:32, 14:33

PROBATE PROCEEDINGS

Amendment of claim, § 12:32

Claim requirements, §§ 12:32, 17:34

Death, this index

INDEX

PROBATE PROCEEDINGS—Cont'd

- Delay in prosecution and, § 28:2
- Delay in service and return of summons and, § 3:9
- Director of Health Services, notice to, § 12:32
- Duress and, § 33:1
- Estoppel, §§ 12:32, 17:34
- Guardian ad litem, capacity to sue, § 18:4
- Insurance affecting claim requirement, § 12:32
- Judicial Council form, § 12:32
- Jurisdiction of court, § 7:3
- Lienholders excepted from claim requirement, § 12:32
- Minority, effect of, §§ 12:32, 17:34, 25:51
- Mortgage rights, § 12:32
- Notice of death and petition to administer estate, § 12:32
- Personal injury action, § 12:32
- Personal representative, appointment as, § 47:5
- Reports in, verification of, § 11:19
- Res judicata and, §§ 14:17, 14:20, 14:36, 14:51
- Service and return requirements and, § 3:9
- Statute of limitations and, §§ 25:53, 25:74, 25:83
- Taxes, §§ 12:32, 17:34
- Verification requirements in, § 11:20
- Waiver, §§ 12:32, 17:34, 47:13

PROBATION OFFICERS

- Generally, § 38:133

PROCESSORS OF FARM PRODUCTS

- Licensing requirements as to, § 39:33

PROCESS SERVERS

- Identity of, § 2:3
- Immunity, § 38:133
- Presumption of service, §§ 2:3, 2:19, 2:27

PRODUCE DEALERS

- Licensing requirements as to, § 39:33

PRODUCTS LIABILITY

- Adulterated or misbranded products, § 38:21
- Comparative fault, § 48:16
- Personal jurisdiction and, § 4:10
- Product known to be unsafe, § 38:37
- Statute of limitations, §§ 25:16, 25:17, 25:25
- Torts, this index

PROFESSIONAL LAND SURVEYORS' ACT

- Licensing requirements under, § 39:20

PROFESSIONAL NEGLIGENCE

- Battery does not constitute for notice requirement, § 12:4

PROFESSIONAL NEGLIGENCE—Cont'd

Definition, **§ 25:36**

Intentional torts not included in notice requirement, **§ 12:4**

Legal Malpractice, this index

Malpractice, this index

Medical Malpractice, this index

Notice requirements as to, **§ 12:4**

Security for costs in action for, **§§ 13:5, 13:6**

Statute of limitations

Generally, **§§ 25:25, 25:36, 25:37, 25:43, 25:44**

Bifurcation of trial as to, **§ 25:80**

Torts, this index

PROFESSIONAL ORGANIZATIONS, IMMUNITY

Generally, **§ 38:6 et seq.**

Information given to, **§ 38:39**

PROHIBITED CAUSES OF ACTION

Generally, **§ 38:37**

PROHIBITION

Adequacy of remedy at law, **§§ 31:1, 31:4**

Constitutional provisions, **§ 7:2**

Delay in service and return of summons, review of order by, **§ 3:29**

Equitable Writs, this index

Laches and, **§ 26:7**

Legislator's immunity, **§ 38:137**

Remedy for wrongful exercise of jurisdiction, **§ 7:4**

Service and return requirements and, **§ 3:29**

Statute of limitations, **§§ 25:32, 25:41**

Subject matter jurisdiction over, **§ 7:2**

Verification of petition for, **§ 11:9**

PROMISE TO MARRY

Cause of action for, **§§ 9:1, 38:37**

PROMISSORY ESTOPPEL

Consideration substitute, **§ 56:9**

Estoppel and, **§§ 34:1, 34:16**

Lack of consideration and, **§§ 56:9, 56:18, 65:6**

Modification of contract, **§ 65:6**

Statute of frauds, **§ 53:26**

PROOF

Evidence, this index

PROOF OF LOSS

Insurance claim requirement, **§ 12:10**

PROPER PARTY

Misjoinder of Parties, this index

Nonjoinder of Parties, this index

INDEX

PROPERTY

Personal Property, this index

Real Property, this index

PROPERTY RIGHTS

Abandonment, **§ 61:13**

Assignability, **§ 18:18**

Escheat, this index

Fair Responsibility Act of 1986, **§ 43:2**

Non-economic damages, **§ 43:2**

Personal Property, this index

Public Property Immunities, this index

Real Property, this index

Recovery of property, survival of cause of action, **§ 17:17**

Recreational Property, this index

Settlement as to, **§ 43:2**

Statute of limitations, **§ 25:15**

Survival of cause of action, **§§ 17:3, 17:10, 17:16, 17:31**

PROPOSITION 51

Comparative fault, **§ 48:5**

PROPRIA PERSONA

In Propria Persona, this index

PROSECUTORS

Criminal Prosecution, this index

Defamation, **§ 38:134**

Immunity, **§§ 38:81, 38:96, 38:134**

PROSPECTIVE PARTY'S DEATH

Death, this index

Statute of limitations, **§§ 17:5, 25:58, 25:59**

Survival of Cause of Action, this index

PROTECTED CLASS

Consent by member of, **§ 32:2**

Illegality and, **§§ 37:7, 37:15**

PROVISIONAL REMEDIES

Attachment, this index

Election of remedies, **§ 24:9**

Injunctive Relief, this index

Standing and, **§ 19:1**

PROXIMATE CAUSE

Generally, **§§ 48:2, 48:18, 48:19**

PSYCHIATRISTS, PSYCHOLOGISTS AND PSYCHOTHERAPISTS

Confinement of mental patients, **§ 38:99**

Court appointment, **§ 38:133**

Definition, **§ 38:54**

PSYCHIATRISTS, PSYCHOLOGISTS AND PSYCHOTHERAPISTS

—Cont'd

- Duty to warn, §§ 38:54, 38:95
- Emergency services, § 38:54
- Failure to warn, §§ 38:54, 38:95
- Good faith release of student record information, § 38:44
- Immunity
 - Decisions on confinement and releases, § 38:99
 - Emergency and Good Samaritan immunities, § 38:54
 - Escaping mental patients, § 38:100
 - Failure to make mental or physical examination, § 38:98
 - Forbidden causes of action, § 38:37
 - Injuries to or by mentally ill, § 38:95
 - Law enforcement activities, § 38:75
 - Nonstatutory immunities, § 38:133
 - School counselors, principals, and personnel, § 38:44
- Mediating family law dispute, immunity, § 38:133
- Notice of intent to sue, § 12:4
- Outpatients, administering medication, § 38:75
- Release of mental patients, § 38:99
- Security for costs in action against, § 13:6
- Sexual relations with patients, § 38:37
- Statute of limitations
 - Generally, §§ 25:36, 25:44
 - Bifurcation, § 25:80
 - Incompetents, § 25:53
 - Medical Injury Compensation Reform Act, §§ 25:36, 25:44, 25:51
 - Minors, §§ 25:36, 25:44, 25:51
 - Tolling, §§ 25:44, 25:51, 25:53

PSYCHOSURGERY

- Minors, consent to, §§ 32:4, 52:14

PSYCHOTROPIC DRUGS

- Minors, consent to, § 52:14

PUBLIC AGENCIES AND ENTITIES

- Burden of proof, design immunity, § 38:113
- California Coastal Commission, § 38:56
- California National Guard, § 38:68
- Canals, § 38:119
- Charter Boat Safety Act, § 38:103
- Collateral estoppel, application against, § 15:10
- Comparative fault defense and, §§ 48:3, 48:4
- Conduits, § 38:119
- Conspiracy, § 38:102
- Constitutional, immunity, § 38:56
- Contractors
 - Generally, § 38:130

INDEX

PUBLIC AGENCIES AND ENTITIES—Cont'd

Contractors—Cont'd

- Contractor's licensing requirements, application public agencies, **§ 39:5**
- Contracts of, illegality of, **§ 37:22**
- Dams, **§ 38:119**
 - Definition, **§§ 38:56, 38:108, 38:112, 38:114**
 - Delay in service and return of summons and, **§ 3:6**
 - Design of public construction, **§ 38:113**
 - Disclosure of voter registration data, **§ 38:37**
 - Discretionary acts and omissions, **§§ 38:74, 38:75**
 - Dog bites, **§ 38:76**
 - Drains, **§ 38:119**
 - Earthquakes, **§ 38:71**
 - Emergency medical services, immunity, **§ 38:49**
 - Estoppel
 - Generally, **§§ 34:9, 37:24**
 - Administrative proceeding, assertion in, **§ 34:1**
 - Agency, assertion against, **§ 34:9**
 - Failure to inform, admission to mental health facilities, **§ 38:30**
 - Failure to inspect, **§§ 38:13, 38:104**
 - Failure to warn, **§§ 38:71, 38:75, 38:88, 38:118**
 - Failure-warn, **§§ 38:111 to 38:113**
 - Filing of information as to with Secretary of State, **§ 12:21**
 - Fire fighting activities, **§§ 38:89 to 38:93**
 - Fraudulent inspection, **§ 38:104**
 - Fraudulent misrepresentation, **§ 38:105**
 - Gradual earth movement, **§ 38:72**
 - Hazardous recreational activities, **§ 38:112**
 - Hazardous substances, **§ 38:22**
 - Identification cards for emancipated minors, **§ 38:62**
 - Illegality, contracts of, **§ 37:22**
 - Immunity
 - Generally, **§§ 38:56 et seq., 38:122**
 - Design of public improvements, **§ 38:113**
 - Discretionary acts and omissions, **§§ 38:74, 38:75**
 - Earth movement and, **§§ 38:71, 38:72**
 - Failure to inform, admission to mental health facilities, **§ 38:30**
 - Failure to inspect, **§§ 38:13, 38:104**
 - Failure to warn, **§§ 38:71, 38:75, 38:88, 38:118**
 - Failure-warn, **§§ 38:111 to 38:113**
 - Fire fighting activities, **§§ 38:89 to 38:93**
 - Hazardous substances and, **§ 38:22**
 - Immunizations, **§ 38:24**
 - Information, publication of, **§ 38:106**
 - Inspections, **§ 38:104**
 - Insurance organizations, **§ 38:13**
 - Joint powers activities and, **§ 38:64**

PUBLIC AGENCIES AND ENTITIES—Cont'd

Immunity—Cont'd

- Law enforcement activities, **§§ 38:76 to 38:81**
- Legislative decisions by, **§ 38:74**
- Licensing activities, **§§ 38:102, 38:103, 38:105**
- Medical care, **§§ 38:94 to 38:101**
- Mental illness, **§ 38:30**
- Misrepresentations by, **§ 38:105**
- Peace Officers, this index
- Prisons and prisoners, **§§ 38:82 to 38:88**
- Public Property Immunities, this index
- Punitive damages, **§ 38:124**
- Recreational property and, **§ 38:32**
- Transfusions, **§ 38:24**
- Vicarious Liability, this index
- Voter registration data, disclosure of, **§ 38:37**
- Independent contractors, **§ 38:56**
- Inspection, failure or inadequacy, **§ 38:104**
- Joint powers activities, **§ 38:64**
- Judgment against public employee, payment, **§ 38:84**
- Laches, **§ 26:12**
- Levee maintenance districts, **§ 38:56**
- Licensing decisions, immunity, **§ 38:102**
- Medical care, **§§ 38:94 to 38:101**
- Medical malpractice, **§§ 38:38, 38:84, 38:95, 38:98**
- Mentally ill persons, **§§ 38:30, 38:94 to 38:100**
- Misrepresentations, **§ 38:105**
- Motor vehicle accidents, **§ 38:92**
- Negligent hiring and supervision of inspector, **§ 38:104**
- Negligent inspection, **§ 38:104**
- Nondedicated roads, **§ 38:115**
- Nuisance, **§§ 38:56, 38:113, 38:121**
- Obligation to do equity, **§ 35:1**
- Police protection, lack or inadequacy, **§ 38:79**
- Prisons and prisoners, **§§ 38:82 to 38:88**
- Privilege as to proceedings and investigations of, **§§ 41:3, 41:5, 41:11**
- Psychiatric care, **§§ 38:94 to 38:101**
- Public property, purchase by employee, **§ 47:13**
- Public Property Immunities, this index
- Punitive damages, **§ 38:124**
- Recreational property immunities and, **§ 38:32**
- Rescue, **§§ 38:46, 38:51, 38:92**
- Reservoirs, **§ 38:119**
- Res judicata and, **§ 14:26**
- Respondeat superior, **§§ 38:56, 38:59, 38:135**
- Roster of Public Agencies, **§ 12:21**
- School districts, **§§ 38:56, 38:123**

INDEX

PUBLIC AGENCIES AND ENTITIES—Cont'd

- Secretary of State, informational filing requirement and, **§ 12:21**
- Service and return requirements and, **§ 3:6**
- Service of process on, **§§ 2:2, 2:7, 2:13**
- Setoff, **§ 44:2**
- Settlement against public employee, payment, **§ 38:84**
- Settlements and, **§§ 43:2, 43:5**
- Small claims court advice, **§ 38:68**
- Sovereign immunity, **§§ 38:1, 38:59, 38:125**
- Statute of limitations
 - Actions against, **§§ 25:32, 25:33**
 - Actions by, **§ 25:18**
 - Administrative mandamus, **§§ 25:19, 25:40, 25:61**
 - Administrative proceedings, tolling and, **§§ 25:70, 25:74**
 - Estopel to assert, **§ 25:73**
 - Exceptions to, **§ 25:75**
 - Money judgment against, **§ 25:10**
 - Public nuisances, abatement of, **§ 25:74**
 - Tolling of limitations period during administrative proceeding, **§§ 25:69, 25:70**
- Superintendent of schools, **§ 38:59**
- Swine flu, **§ 38:24**
- Tax proceedings, **§ 38:67**
- Tort Claims Act, **§§ 38:56, 38:68, 38:109, 38:125**
- Traffic signals, **§ 38:118**
- Tunnel traffic with flammable liquids, **§ 38:70**
- Uniform Anatomical Gift Act, **§ 38:63**
- Venue
 - Actions against state, **§ 5:25**
 - Actions by or against, **§ 5:21**
- Verification of pleadings by, **§§ 11:2, 11:3**
- Vicarious liability, this index
- Violation of controlled substance laws, publication of information, **§ 38:106**
- Waivers by, **§§ 47:2, 47:13**
- Weather conditions on roads, **§ 38:117**

PUBLICATION

- Defamation, **§§ 12:14, 41:2 to 41:12, 41:21, 51:1 to 51:5**
- Escheat actions, **§ 2:2**
- Notice of death, **§ 12:32**
- Privilege, **§§ 41:2 to 41:12, 41:21, 51:1 to 51:5, 51:11**
- Quiet title actions, **§ 2:2**
- Service of process by, **§§ 2:14, 2:16**
- Statute of limitations, **§ 25:25**
- Summons, **§§ 2:2, 25:34**
- Unclaimed property, **§ 2:2**

PUBLIC EMPLOYMENT RELATIONS BOARD

- Subject matter jurisdiction and, **§ 7:2**

PUBLIC ENEMY

Act of God as, §§ **30:2, 30:3**
Impossibility caused by, § **60:3**

PUBLIC INTEREST

Collateral estoppel exception, §§ **14:46, 14:47, 15:10**
Contracts, §§ **37:10, 37:11, 37:19**
Estoppel, § **34:9**
Exhaustion, §§ **16:3, 16:9**
Laches, § **26:12**
Mootness, § **22:2**
Privilege, §§ **41:9, 41:20**
Release, §§ **42:1, 42:3**
Rescission, § **62:14**
SLAPP actions, § **12:37**
Standing, §§ **19:6, 19:7**
Waiver, § **47:5**

PUBLIC INTEREST LITIGATION

Laches, § **26:12**
Service on Attorney General, § **2:2**

PUBLIC OFFICERS AND EMPLOYEES

Actions of others, nonliability, § **38:59**
Authorized emergency vehicles, § **38:51**
Charter Boat Safety Act, § **38:103**
Conduct related to prosecution, § **38:81**
Conspiracy, § **38:102**
Contracts, conflict of interest, § **37:17**
Definition, §§ **5:22, 38:56**
Delay in service and return of summons and, § **3:6**
Design of public improvements, § **38:113**
Discretionary acts and omissions, §§ **38:74, 38:75**
Drains, § **38:119**
Earthquakes, § **38:71**
Entry upon property, § **38:60**
Failure to inspect, §§ **38:13, 38:104**
Failure to mitigate, § **36:5**
Failure to warn, §§ **38:71, 38:75, 38:88, 38:118**
Failure-warn, §§ **38:111 to 38:113**
False arrest, imprisonment, § **38:76**
Firefighter's rule, § **48:25**
Firefighting activities, §§ **38:89 to 38:93**
Fraudulent misrepresentations by, § **38:105**
Gradual earth movements and, § **38:72**
Hazardous recreational activities and, § **38:112**
Hazardous substances and, § **38:22**
Identification cards and, § **38:62**
Illegality, contracts by, § **37:17**

INDEX

PUBLIC OFFICERS AND EMPLOYEES—Cont'd

- Immunity, §§ 38:13, 38:24, 38:56 et seq.
- Inspection, failure or inadequacy, §§ 38:13, 38:104
- Judges, this index
- Law enforcement activities, §§ 38:76 to 38:81
- Licensing decisions, immunity, § 38:102
- Litigation, commencement or prosecution, § 38:81
- Malicious prosecution, §§ 38:76, 38:81
- Medical care immunity, §§ 38:84, 38:87, 38:94 to 38:101
- Mentally ill persons, §§ 38:30, 38:94 to 38:100
- Misrepresentations, § 38:105
- Mitigation of damages by, § 36:5
- Mootness of issues as to, § 22:2
- Motor vehicle accidents and, § 38:92
- Negligent inspection, § 38:104
- Nuisance and, § 38:121
- Peace Officers, this index
- Personal representative not, § 5:22
- Police officers. Peace Officers, this index
- Prisons and prisoners, §§ 38:82 to 38:88
- Private person assisting, nonstatutory immunities, § 38:136
- Privilege and, §§ 41:3, 41:5, 41:11
- Prosecution of litigation, § 38:81
- Psychiatric care, §§ 38:94 to 38:101
- Public property, purchase by, § 47:13
- Public Property Immunities, this index
- Punitive damages and, § 38:124
- Rescue immunity, §§ 38:46, 38:51, 38:92
- Res judicata and, § 14:26
- Respondeat superior, §§ 38:56, 38:59, 38:135
- Roster of Public Agencies, § 12:21
- Service and return requirements and, § 3:6
- Service of process, §§ 2:2, 2:7, 2:13
- Settlements and, §§ 38:84, 43:2, 43:5
- Sovereign immunity, §§ 38:1, 38:59, 38:125
- Statute of limitations
 - Actions against, §§ 25:32, 25:33
 - Estoppel to assert, § 25:73
 - Exceptions to, § 25:75
 - Money judgment against, § 25:10
 - Public nuisances, abatement of, § 25:74
 - Seizure damages, § 25:24
- Superintendent of schools, § 38:59
- Tax proceedings, § 38:67
- Teachers' tenure rights, § 47:13
- Theft of money from custody, § 38:61
- Tort Claims Act, §§ 38:68, 38:125

PUBLIC OFFICERS AND EMPLOYEES—Cont'd

- Traffic signals, **§ 38:118**
- Tunnel traffic with flammable liquids, **§ 38:70**
- Unconstitutional laws, actions under, **§ 38:58**
- Uniform Anatomical Gift Act, **§ 38:63**
- Venue
 - Actions against state, **§ 5:25**
 - Actions by or against, **§ 5:22**
- Verification of pleadings by, **§ 11:3**
- Vicarious Liability, this index
- Violation of controlled substance laws, publication of information, **§ 38:106**
- Voter registration data, disclosure of, **§ 38:37**

PUBLIC POLICY

- Exhaustion of administrative remedies and, **§ 16:9**
- Illegality, **§ 37:1 et seq.**

PUBLIC PROPERTY IMMUNITIES

- Generally, **§§ 38:107 to 38:121**
- Access roads and trails, **§§ 38:108, 38:112, 38:114**
- Adjacent property, **§§ 38:108, 38:111**
- Bays, **§§ 38:108, 38:110**
- Beaches, **§ 38:108**
- Canals, **§§ 38:60, 38:119**
- Conduits, **§§ 38:60, 38:119**
- Dams, **§§ 38:108, 38:119**
- Dangerous conditions, **§§ 38:32, 38:79, 38:95, 38:111, 38:118, 38:119**
- Design of public improvements, **§§ 38:113, 38:121**
- Drains, **§ 38:119**
- Flood control activities, **§ 38:120**
- Hazardous conditions, **§§ 38:32, 38:79, 38:95, 38:111, 38:118, 38:119**
- Hazardous recreational activities, **§ 38:112**
- Highways, **§§ 38:113, 38:114, 38:116**
- Inspection, **§ 38:104**
- Lakes, **§§ 38:108, 38:110**
- Land failure, **§ 38:109**
- Manmade improvements, **§ 38:108**
- Natural conditions, **§§ 38:108, 38:109**
- Nondedicated roads, **§ 38:115**
- Nuisance and, **§§ 38:113, 38:121**
- Parks, **§ 38:108**
- Recreational property immunity and, **§ 38:32**
- Reservoirs, **§§ 38:108, 38:119**
- Rivers, **§§ 38:108, 38:110**
- Roads, **§§ 38:108, 38:113 to 38:117**
- Streams, **§§ 38:108, 38:110**
- Streets, **§§ 38:114, 38:116**
- Traffic signals, **§§ 38:111, 38:113, 38:118**

INDEX

PUBLIC PROPERTY IMMUNITIES—Cont'd

Trails, §§ 38:108, 38:112, 38:114
Unimproved property, §§ 38:108, 38:110, 38:114
Urban areas, flood control activities, § 38:120
Weather conditions, § 38:117

PUBLIC SECURITY PERSONNEL

Firefighter's rule, § 48:25

PUBLIC UTILITIES

Contractor's licensing requirements as to, § 39:6
Privilege, § 41:9

PUBLIC UTILITIES COMMISSION

Contractor's licensing requirements as to, § 39:6
Exclusive jurisdiction, § 7:2
Immunity, §§ 38:17, 38:20, 38:122
Res judicata, § 14:40

PUBLIC UTILITY DISTRICTS

Acts of God affecting, § 30:3

PUNITIVE DAMAGES

Arbitration of claims for, § 68:1
Assignability, § 18:27
Burden of proof, § 1:8
Death from a felony, § 17:6
Death of plaintiff or defendant, §§ 17:2, 17:6, 17:21, 17:28
Definition, § 38:124
Election of remedies, § 24:16
Felony, actions arising from, § 17:28
Health care providers and, §§ 12:36, 38:37
Immunity of public agencies, § 38:124
Insurance as to, illegality, § 37:11
Medical malpractice
 Complaint, court order requirement, § 12:36
 Statute of limitations, § 25:36
Public entities and employees, § 38:124
Religious corporations, claim against, §§ 12:36, 38:37
Survival of action for, §§ 17:2, 17:6, 17:21, 17:28
Wrongful death, § 17:6

PURPOSEFUL AVAILMENT

Personal jurisdiction based on, §§ 4:10, 4:15 to 4:18

QUALIFICATION TO DO BUSINESS

Capacity to sue and, §§ 18:17, 39:37, 39:38
Intrastate business, § 39:37
Personal jurisdiction, effect of, § 4:20
Venue, effect on, § 5:30

QUALIFIED PRIVILEGE

Privilege and Justification, this index

QUANTUM MERUIT

Common Counts, this index

Contractor's license violation, recovery based on, **§ 39:18**

Illegality, recovery of, **§ 37:26**

Rescission, **§§ 62:1, 62:27**

Statute of frauds, **§§ 53:10, 53:20, 53:21, 53:25, 53:34**

Statute of limitations, **§§ 25:3, 25:12, 25:15**

QUASI

Collateral estoppel, **§ 15:16**

Community property, **§ 31:2**

Forum non conveniens, **§ 6:22**

Immunity

Judicial, **§§ 38:88, 38:132**

Legislative, **§ 38:74**

Officers, **§§ 38:10, 38:132**

In Rem. Quasi in Rem, this Index

Judicial proceedings. Quasi-Judicial Proceedings; State Bar and Committee of Bar Examiners, this Index

Privilege and justification, **§ 41:5**

Social workers, prosecutorial functions, **§ 38:134**

QUASI IN REM

Forum non conveniens and, **§ 6:22**

Jurisdiction, **§ 4:1**

QUASI-JUDICIAL PROCEEDINGS

Generally, **§ 38:132**

Arbitrators, immunity, **§§ 38:8, 38:132, 38:133**

Exhaustion, **§ 16:17**

Mediators and conciliators, immunity, **§ 38:132**

Pleading, **§ 10:8**

Privilege, **§§ 41:4 to 41:7**

Res judicata, **§ 14:40**

QUIET TITLE ACTIONS

Another action pending, **§ 23:2**

Dissolved corporations, **§ 18:16**

Guardian ad litem, appointment for unborn or unascertained persons, **§ 18:4**

Illegality, effect of, **§ 37:27**

Joinder of parties, **§§ 20:4, 21:2**

Laches and, **§§ 26:8, 26:13**

Obligation to do equity, **§ 35:1**

Res judicata and, **§ 14:20**

Service of process in action for, **§ 2:2**

Statute of frauds and, **§ 53:31**

Statute of limitations, **§§ 25:11, 25:68, 25:74, 25:75, 25:77**

INDEX

QUIET TITLE ACTIONS—Cont'd

- Subject matter jurisdiction over, § 7:3
- Summons in action for, § 2:2
- Survival of cause of action, §§ 17:16, 17:31
- Unborn or unascertained parties, § 18:4
- Unclean hands, §§ 45:2, 45:7
- Venue, § 5:7
- Verification of pleadings for, §§ 11:6 to 11:8

QUI TAM ACTIONS

- Generally, § 12:6

RACIAL DISCRIMINATION

- Illegality and, §§ 37:1, 37:22

RADIO

- Actual malice, § 41:9
- Defamation, immunity, § 38:42
- Immunity, §§ 38:36, 38:42
- Malice, §§ 41:2, 41:9
- News reporter's immunity, § 38:36
- Privileges for, §§ 41:2, 41:9 to 41:12, 51:1, 51:3, 51:4
- Station owner, immunity of, § 38:42

RADIOLOGICAL TECHNICIANS

- Gross negligence, license revocation and, § 48:23

RAILROADS

- Common Carriers, this index
- Immunity, § 38:20

RAIN

- Act of God as, § 30:6

RAPE

- Consent to, §§ 32:2, 32:4
- Incompetent or incapacitated persons, § 32:2
- Minors, §§ 32:2, 32:4

RATIFICATION

- Generally, § 54:5
- Alteration of document, §§ 66:5, 66:10
- Burden of proof, § 54:8
- Destruction of document, §§ 66:5, 66:10
- Duress, ratification of, § 33:10
- Entire transaction, § 54:5
- Equal dignities rule, §§ 54:3 to 54:5, 54:7, 54:8
- Estoppel and, §§ 34:17, 54:5
- Express or implied, § 54:5
- Fraudulently obtained, § 62:20
- Illegality, §§ 37:2, 37:29
- Jury instruction as to, § 54:7

RATIFICATION—Cont'd

Mental incompetent's contracts, **§ 52:34**
Minor's contracts, **§ 52:20**
Pleading, **§ 54:7**
Prejudice of third parties, **§ 54:5**
Principal disclosed or undisclosed, **§ 54:5**
Question of fact, **§ 54:7**
Rescission of, **§§ 54:5, 62:20**
Time of ratification, **§§ 52:20, 54:5**
Torts of agent, principal's liability for, **§ 48:13**
Unconscionability and, **§ 54:4**
Writing required, **§ 54:5**

REAL ESTATE BROKERS AND SALESPERSONS

Agents and Agency, this index
Agreements between brokers, **§ 53:10**
AIDS disclosure, **§ 38:29**
Amended pleadings, **§ 39:28**
Answer, allegation of lack of real estate license, **§ 39:28**
Attorneys as, **§§ 37:15, 39:27**
Broker, **§ 39:26**
Cemetery sales, **§ 39:30**
Commission agreements
 License requirements and, **§§ 39:25 to 39:28**
 Modification of, **§ 53:10**
 Rescission of underlying agreement, effect on, **§ 62:31**
 Statute of frauds and, **§ 53:10**
Complaint, **§ 39:28**
Corporations, **§ 39:27**
Court orders, **§ 39:27**
Definitions, **§ 39:26**
Equal dignities rule and, **§§ 54:1, 54:2**
Essential commission contract terms, **§ 53:10**
Exclusive listing agreements, **§ 53:10**
Expired license, **§ 39:28**
Extension of commission contract, **§ 53:10**
Fictitious name requirements and, **§§ 39:27, 39:36**
Fiduciary relationships, **§ 46:2**
Finders and, **§§ 39:26, 53:10**
Illegality and, **§ 37:15**
Immunities
 AIDS disclosure, **§ 38:29**
 Information as to, **§ 38:39**
 Peer review committees and, **§ 38:11**
 Smoke detectors, **§ 38:5**
Interference with contract, **§ 53:28**
Joint ventures, **§ 39:26**
Land outside state, **§ 39:25**

INDEX

REAL ESTATE BROKERS AND SALESPERSONS—Cont'd

- Licensing requirements as to, §§ 39:25 to 39:28
- Limitations on recovery by, § 39:27
- Listing agreements by
 - Exclusive listing, § 53:10
 - License requirements for, § 39:26
 - Modification, § 53:10
 - Statute of frauds and, § 53:10
- Middlemen, § 39:26
- Partners, § 39:27
- Peer review committee, § 38:11
- Persons acting on own account, § 39:27
- Pleading, § 39:28
- Power of attorney, § 39:27
- Probate proceedings, § 39:26
- Quantum meruit, § 53:10
- Receivers, § 39:27
- Rescission of sales agreement and, § 62:31
- Res judicata effect of fraud judgment as to, § 14:51
- Revoked license, § 39:28
- Salesperson, § 39:26
- Service of process on nonresident, § 2:8
- Smoke detectors, § 38:5
- Splitting commissions, § 39:26
- Statute of Frauds, this index
- Time of procuring license, § 39:28
- Transfer of stock, § 39:32
- Trustees, § 39:27
- Undue influence, § 46:2
- Written agreement requirement, § 53:10

REAL PARTY IN INTEREST

- Generally, § 19:1 et seq.
- Lack of Standing, this index

REAL PROPERTY

- Abandonment, § 61:13
- Adequacy of remedy at law, §§ 31:1, 31:3
- Adverse Possession, this index
- AIDS disclosure, § 38:29
- Anti-deficiency legislation, §§ 47:13, 67:3
- Assumption of mortgage, § 53:19
- Authorized entry on, § 38:60
- Boundary line mistake, §§ 40:1, 40:6
- Boundary re-establishment after natural disaster, § 30:3
- Construction and design defects, statutes of limitations as to, § 25:17
- Contracts by minors as to, §§ 52:3, 52:5, 52:16
- Deed of Trust, this index

REAL PROPERTY—Cont'd

- Deeds, this index
- Defacement, **§ 48:9**
- Deficiency Judgment, this index
- Description of, **§ 10:7**
- Earth movements, **§§ 38:71, 38:72**
- Easement, this index
- Election of remedies, **§§ 24:4, 24:9**
- Entry, authorized, **§ 38:60**
- Equal dignities rule and, **§ 54:1 et seq.**
- Errors in description, **§ 62:7**
- Estoppel as to, **§ 34:9**
- Exchange, **§ 53:9**
- Exclusive listing, **§ 53:10**
- Felony occurring on, owner's liability, **§ 38:31**
- Foreclosure, this index
- Form of grant, **§ 53:5**
- Forum non conveniens and, **§ 6:16**
- Gift, **§ 53:9**
- Good Faith Improvers, this index
- Immunities
 - AIDS disclosure, **§ 38:29**
 - Earth movements, **§§ 38:71, 38:72**
 - Entry on for public purposes, **§ 38:60**
 - Felonies occurring on, **§ 38:31**
 - Public Property Immunities, this index
 - Recreational activities on, **§ 38:32**
- Injury to
 - Real party in interest, **§ 19:1**
 - Statute of limitations, **§ 25:20**
- Inverse Condemnation, this index
- Joint tenant's agreement re, **§ 53:9**
- Laches
 - Action to recover, **§ 26:8**
 - Value fluctuations and, **§ 26:10**
- Land, defined, **§ 53:9**
- Landlord-Tenant Relations, this index
- Latent construction defects, statute of limitations as to, **§ 25:17**
- Leases, this index
- Lien secured by land, **§ 53:9**
- Lis pendens, **§ 53:9**
- Loans, this index
- Mining claim, **§ 53:9**
- Minor as owner, **§ 52:5**
- Mistake, **§§ 40:1, 40:6, 40:8**
- Mortgage, this index
- Notice of incapacity to contract, **§ 52:26**

INDEX

REAL PROPERTY—Cont'd

- Nuisance, this index
- Oil, gas and mineral rights, **§ 53:9**
- Option, **§ 53:9**
- Ownership
 - Affecting personal jurisdiction, **§ 4:14**
 - Mistake as to, **§ 40:6**
 - Pleading of, **§ 10:2**
- Partition, this index
- Partnerships re, **§ 53:9**
- Patent construction defects, statute of limitations, **§ 25:16**
- Presumption real property is unique, **§§ 31:1, 31:3**
- Prisoner's capacity to contract as to, **§ 52:35**
- Public Property Immunities, this index
- Quiet title, this index
- Real party in interest, injury to, **§ 19:13**
- Recreational Property, this index
- Rescission of contracts as to, **§§ 62:1, 62:19, 62:31**
- Restraints on alienation, **§ 37:16**
- Riparian character of land, **§ 10:2**
- Sale, **§ 53:9**
- Service of process in cases relating to, **§ 2:2**
- Setoff and, **§§ 44:2, 44:3**
- Specific Performance, this index
- Standing to bring action as to, **§ 19:13**
- Statute of Frauds, this index
- Statute of limitations
 - Generally, **§§ 25:11, 25:19**
 - Adverse possession, **§ 25:11**
 - Conversion, **§ 25:19**
 - County, **§ 25:75**
 - Good faith improver, **§ 25:29**
 - Latent defects, **§ 25:17**
 - Oral lease, **§ 25:15**
 - Patent defects, **§ 25:16**
 - Quiet title, **§ 25:11**
 - Repair and, **§ 25:47**
 - Slander of title, **§ 25:22**
 - State, **§ 25:75**
 - Trespass, **§ 25:19**
 - Written lease, **§ 25:12**
- Statute of Repose, **§ 25:11**
- Survival of cause of action, **§§ 17:3, 17:6, 17:10, 17:31**
- Transmutation, **§§ 53:22, 53:23**
- Trespass, this index
- Trust as to real property, **§§ 53:9, 54:2**
- Unconscionability and, **§ 55:3**

REAL PROPERTY—Cont'd

- Unique quality of, §§ 31:1, 31:3
- Vendor's lien, waiver, § 47:5
- Venue
 - Generally, § 5:4
 - Condemnation, § 5:12
 - County, real property located in more than one, §§ 5:4, 5:14
 - Defective construction, § 5:8
 - Documents affecting real property
 - Cancellation of, § 5:5
 - Reformation of, § 5:6
 - Specific performance, § 5:9
 - Eminent domain, §§ 5:4, 5:12
 - Foreclosure, § 5:10
 - Fraud as to, § 5:16
 - Improvements to real property
 - Negligent design or construction, § 5:8
 - Recovery of work to improve, § 5:15
 - Injury to real property
 - Generally, § 5:8
 - Nuisance, § 5:8
 - Slander of title as, § 5:7
 - Trespass as, § 5:8
 - Inverse condemnation, § 5:23
 - Local and transitory actions, § 5:4 et seq.
 - Nuisance, § 5:8
 - Partition, § 5:13
 - Quiet title, § 5:7
 - Slander of title, § 5:7
 - Specific performance, § 5:9
 - Transitory and local actions, § 5:4 et seq.
 - Trespass, § 5:8
 - Unlawful detainer, § 5:11
 - Waiver of rights as to, §§ 47:5, 47:13
 - Water rights, § 53:9

REASONABLE CERTAINTY

- Burden of proof, § 1:8

REASONABLE IMPLIED ASSUMPTION OF RISK

- Generally, § 48:24

RECEIVERS AND RECEIVERSHIP

- Capacity to sue, § 18:1
- Complaint as to, leave of court, § 12:36
- Definition, § 38:133
- Immunity, §§ 38:28, 38:133
- Licensing requirements
 - Cemetery brokers, salespersons, § 39:30

INDEX

RECEIVERS AND RECEIVERSHIP—Cont'd

- Licensing requirements—Cont'd
 - Personal property brokers, salespersons, § 39:27
 - Real estate brokers, salespersons, § 39:27
 - Ship and yacht brokers, salespersons, § 39:27
- Long-term health care facilities, § 38:28
- Res judicata and, §§ 14:17, 14:21
- Sale of collateral by, § 12:8
- Tolling of statute of limitations and, § 25:70
- Usury, § 37:13

RECIPROCAL INSURANCE EXCHANGE

- Service of process in action as to, § 2:2
- Venue, § 5:30

RECKLESS MISCONDUCT

- Assumption of the risk and, § 48:24

RECLAMATION BOARD

- Flood control activities, § 38:120
- Immunity, § 38:120

RECLAMATION DISTRICTS

- Contractor's licensing requirements and, § 39:5
- Immunity, §§ 38:119, 38:122

RECONSIDERATION

- Generally, §§ 1:4, 1:5, 16:2

RECREATIONAL PROPERTY

- Beaches, § 38:108
- California Recreational Trails Act, §§ 38:32, 38:112
- Dangerous conditions on, §§ 38:32, 38:79, 38:95, 38:111, 38:118, 38:119
- Design defects, §§ 38:113, 38:121
- Golf course architects, licensing and, § 39:19
- Hazardous recreational activities, §§ 38:112, 48:23
- Immunity, § 38:32
- Lakes, §§ 38:108, 38:110
- Off-Highway Motor Vehicle Recreation Act, §§ 38:32, 38:112
- Parks, § 38:108
- Public access to, §§ 38:107 to 38:121
- Rivers and streams, §§ 38:108, 38:110
- Trails, §§ 38:108, 38:112, 38:114
- Trespass, this index
- Water, this index

REFERENCES AND REFEREES

- Arbitration and award, § 68:16
- Immunity and, §§ 38:14, 38:132, 38:133
- Jury waiver, § 47:4
- Settlement, § 43:3

REFERENCES AND REFEREES—Cont'd

Writing requirement, **§ 53:23**

REFORMATION

Contract, **§§ 40:1, 40:3**
Deeds, **§ 53:30**
Guaranty, **§ 53:30**
Incontestability clause, **§ 25:86**
Indispensable parties, **§ 21:2**
Laches, **§ 26:4**
Mistake, **§§ 40:1, 40:3**
Rescission and, **§ 62:39**
Sale of goods, **§ 53:30**
Statute of frauds and, **§ 53:30**
Venue, **§§ 5:6, 5:33, 5:36**
Wills, **§ 40:1**

RELATION BACK

Generally, **§§ 3:11, 25:77**
Amended Pleadings, this index
Doe defendants, **§ 25:77**
Fictitious defendants, **§ 25:77**
Intervention complaint, **§ 25:76**
Joinder of employer and employee, **§ 25:76**
Misnomer, **§ 25:77**
Statute of limitations and, **§ 25:77**
Supplemental pleadings, **§ 25:77**

RELEASE

Generally, **§ 42:1 et seq.**
Adhesion contracts, **§ 42:2**
Agents, **§§ 42:2, 42:7**
Airplanes, purchase of, **§ 42:3**
Amendment of pleadings, **§§ 42:8, 42:12**
Answer, **§§ 42:8, 42:12**
Appeal, **§ 42:11**
Avoidance, return of consideration, **§ 42:5**
Bad faith, **§ 42:4**
Bailment, **§ 42:2**
Banks, **§ 42:2**
Bifurcated trial, **§ 42:10**
Burden of proof, **§ 42:13**
Civil rights action, **§ 42:3**
Consideration, **§§ 42:1, 42:5, 56:9**
Contribution, **§ 42:7**
Co-obligors, **§ 42:7**
Covenant not to execute and, **§ 42:16**
Covenant not to sue and, **§§ 42:7, 42:16**
Criminal action, **§ 42:3**

INDEX

RELEASE—Cont'd

- Definition, **§ 42:1**
- Disaffirmance by minor, **§ 52:9**
- Duress, **§§ 42:4, 42:8, 42:13**
- Employees, **§ 42:4**
- Escrow instructions, **§ 42:2**
- Estoppel, **§§ 42:1, 42:13**
- Exculpatory clauses, **§§ 42:1, 42:2, 42:14**
- Exoneration of surety, **§ 67:4**
- Express assumption of the risk and, **§ 48:24**
- Failure of consideration, **§§ 42:5, 42:13**
- Failure to read, **§§ 42:1, 42:4**
- Fewer than all parties, **§ 42:7**
- Fiduciaries, **§ 42:2**
- Forms, this index
- Fraud, **§§ 42:1, 42:4, 42:5, 42:8, 42:13**
- General release, **§ 42:6**
- Guarantors, **§§ 42:7, 67:4**
- Hazardous activities, **§ 42:3**
- Hospitals, **§ 42:2**
- Illegality, **§§ 37:10 to 37:12**
- Inadequacy of consideration, **§ 42:5**
- Indemnity agreements and, **§§ 42:1, 42:14**
- Joint debtors or tortfeasors, **§§ 42:7, 42:16, 43:2, 48:5, 69:5**
- Jury trial, **§ 42:9**
- Landlords, **§§ 42:2, 42:3**
- Leases, **§§ 42:2, 42:3**
- Malicious prosecution, **§ 42:6**
- Medical malpractice, **§ 42:2**
- Mental incompetence, **§ 42:4**
- Mistake, **§§ 42:4, 42:8, 42:13**
- Negligence, **§§ 42:1 to 42:4, 42:6, 42:7**
- Novation and, **§ 64:15**
- Oral release, **§§ 42:1, 42:5**
- Parachuting, **§ 42:3**
- Physical incompetence, **§ 42:4**
- Physicians, **§ 42:2**
- Pleading, **§ 42:8**
- Plea in abatement based on, **§ 1:2**
- Post-event releases, **§§ 42:1, 42:4**
- Post-judgment settlement, **§ 42:7**
- Principals, **§ 42:7**
- Rescission and, **§§ 42:5, 62:31**
- Retract and, **§ 42:17**
- Satisfaction of judgment and, **§§ 42:1, 42:7, 42:18**
- Scope of release, **§ 42:6**
- Settlement and, **§§ 42:7, 42:15, 43:2, 43:9**

RELEASE—Cont'd

- Ship repair, § 42:3
- Signature, § 42:1
- Speaking motions, § 42:9
- Specific performance, § 42:8
- Statute of frauds and, § 53:23
- Statutory limitations or prohibitions, § 42:4
- Summary judgment, § 42:9
- Supplemental answer, §§ 42:8, 42:12
- Sureties, §§ 42:7, 67:4
- Tenants, § 42:3
- Type size in, §§ 42:2, 42:6
- Undue influence in, §§ 42:4, 42:5, 42:8
- Unknown claims, §§ 42:5, 42:6
- Valid pre-event releases, §§ 42:1, 42:3
- Void pre-event releases, §§ 42:1, 42:2
- Waiver, §§ 42:8, 42:12
- Waiver of rights, § 42:1
- Workers' compensation and, §§ 42:1, 42:4, 53:23
- Writing, §§ 42:1, 42:5
- Written release, § 42:1

RELIEF FROM JUDGMENT

- Judgment, this index

RELIGIOUS ORGANIZATIONS AND SOCIETIES

- Causes of action as to, § 38:37
- Immunity of, § 38:35
- Justiciability, § 22:1
- Punitive damages, court order requirement, § 12:36

REMEDIES

- Adequacy of Remedy at Law, this index
- Exhaustion of Remedies, this index

REMOVAL OF ACTIONS

- Service of process, delay and, § 3:10

REPAIRS

- Construction defect, § 12:38
- Consumer class actions, demand requirement, § 12:18
- Excuse for delay in rescission, § 12:7
- Laches, excuse for, § 26:4
- Mitigation, § 36:6
- Statute of limitations, tolling and, §§ 25:16, 25:17, 25:47

REPORTING REQUIREMENTS

- Immunity for compliance with, § 38:38 et seq.

REPOSE, STATUTE OF

- Statute of Repose, this index

INDEX

REPOSSESSION AGENCY

Immunity, **§ 38:4**

REPRESENTATIVE ACTIONS

Class Actions, this index

RESCISSION

Generally, §§ 57:3, 62:1 *et seq.*

Abandonment of contract and, **§ 61:11**

Accounting and, **§ 62:27**

Adequacy of remedy at law, §§ 62:37, 62:38

Adoption and, **§ 62:1**

Agency and, **§ 62:5**

Answer, §§ 62:25, 62:32

Appeal, **§ 62:34**

Automobile liability insurance, **§ 38:40**

Automobile Sales Finance Act, rescission under, **§ 62:23**

Bad bargain, **§ 62:1**

Bids, mistakes in, **§ 62:3**

Breach of translation requirements, **§ 62:23**

Burden of proof, §§ 62:22, 62:35

Cancellation of contract and, **§ 62:38**

Complaint

Allegation as to, **§ 12:7**

As notice of rescission, §§ 62:1, 62:24, 62:25

Consent, lack of, §§ 62:2 to 62:7, 62:18

Consideration, failure of, §§ 57:3, 62:8 to 62:11

Consideration, total or partial failure of, §§ 57:3, 62:8 to 62:11

Consumer Credit Protection Act, **§ 62:23**

Contracts and

Automobile sales contracts, **§ 62:23**

Cancellation and, **§ 62:38**

Conditions on rescission, §§ 62:1, 62:21, 62:26

Contractual waivers, **§ 62:7**

Failure of consideration as grounds for, §§ 57:3, 62:8 to 62:11

Gray market contract disclosures, **§ 62:23**

Home solicitation contracts, §§ 62:1, 62:23

Limiting time for rescission, **§ 62:26**

Minor, **§ 52:11**

Reformation of, **§ 62:39**

Severability, **§ 62:30**

Spanish language requirements, **§ 62:23**

Termination of, **§ 62:37**

Damages and, §§ 12:7, 62:5, 62:28, 62:31

Defaulting party, right to relief, **§ 62:29**

Defined, **§ 62:31**

Disability tolls time, **§ 62:26**

Discovery of rescission right, **§ 62:26**

RESCISSON—Cont'd

- Duress and, §§ 33:6, 62:1, 62:2, 62:4, 62:26
- Effect of fault, § 62:29
- Effect of rescission, § 62:31
- Election of remedies and, § 24:6
- Equitable adjustments and, § 62:27
- Equity, obligation to do, § 35:1
- Errors in description and, § 62:7
- Failure of consideration and, §§ 57:3, 62:8 to 62:11
- Fault and, §§ 62:9, 62:29
- Foreclosure and, § 62:23
- Fraud, §§ 62:1 to 62:3, 62:5, 62:7, 62:20, 62:22
- Frustration of purpose and, § 62:12
- Gift, § 40:1
- Goods, contracts as to
 - Generally, § 62:21
 - Gray market goods, § 62:23
 - Leases of, § 62:19
 - Merchants, contracts between, § 62:21
 - Modification of, § 62:21
- Grounds for
 - Generally, § 62:1
 - Consent, lack of, §§ 62:2 to 62:7
 - Duress, § 62:4
 - Failure of consideration, §§ 57:3, 62:8 to 62:11
 - Fraud, §§ 62:5, 62:20
 - Frustration, § 62:12
 - Illegality, §§ 62:1, 62:13
 - Impossibility, § 62:12
 - Mistake, §§ 40:1, 40:10, 40:13, 62:3
 - Public interest, prejudice to, § 62:14
 - Statutory grounds, §§ 62:15 to 62:23
 - Undue influence, §§ 62:6, 62:26
 - Waiver of, §§ 47:1, 47:10, 62:7, 62:36
- Home solicitation contracts, §§ 62:1, 62:23
- Illegality, §§ 62:1, 62:13
- Impossibility and, § 62:12
- Indispensable parties, § 21:2
- Innocent misrepresentations and, §§ 62:3, 62:5
- Insolvency and, § 62:17
- Insurance policies and, §§ 12:7, 38:40, 62:22
- Interstate Land Sales Full Disclosure Act, § 62:23
- Laches and
 - Generally, §§ 26:8, 62:1
 - Civil Code § 2314, § 62:20
 - Mutual rescission, § 61:13
- Nature and elements of defense, §§ 26:8, 62:1

INDEX

RESCISSION—Cont'd

- Laches and—Cont'd
 - Notice requirements, §§ 12:7, 62:25
 - Time for rescission, § 62:26
 - Waiver of defense, § 62:36
- Lack of consent grounds, §§ 62:2 to 62:7
- Leases, use of leased property and, § 62:19
- Menace, §§ 62:4, 62:26
- Mental incompetency and, §§ 52:27 to 52:29, 62:6, 62:16
- Merchants, rescission of contracts by, § 62:21
- Mistake and, §§ 40:1, 40:10, 40:13, 62:2, 62:3, 62:7
- Motive, § 62:1
- Multiparty contracts, § 62:2
- Mutual rescission, generally, § 61:1 *et seq.*
- Nonprofit associations and, § 62:5
- Notice of
 - Generally, §§ 12:7, 62:1, 62:24, 62:25
 - Allegations as to, §§ 12:7, 62:25
 - Complaint as, §§ 62:1, 62:24, 62:25
 - Failure to give, § 62:25
 - Form of notice, §§ 57:3, 62:25
- Obligation to do equity, § 35:1
- Partial rescission, §§ 62:21, 62:30
- Party in default barred, § 62:29
- Personal property contracts, §§ 62:1, 62:19
- Pleading, §§ 62:25, 62:32
- Post-trial proceedings, § 62:34
- Prejudice to public interest, § 62:14
- Prevention of third party's performance and, § 62:17
- Procedure for, §§ 62:24 to 62:29
- Property insurance, § 38:40
- Public interest, prejudice to, § 62:14
- Ratification and, §§ 54:5, 62:20
- Real estate brokers and, § 62:31
- Real property contracts, §§ 62:1, 62:19, 62:31
- Reformation of contracts and, § 62:39
- Release, §§ 42:5, 62:31
- Relief available on rescission, §§ 62:27, 62:28
- Repairs and delay in giving notice, §§ 12:7, 62:26
- Restitution, § 62:40
- Restoration of status quo, §§ 52:11, 57:3, 62:1, 62:24, 62:27
- Settlement agreements, § 43:5
- Settlement efforts, § 62:26
- Severability and, § 62:30
- Spanish language contract requirements and, § 62:23
- Statute of frauds and, § 53:9

RESCISSION—Cont'd

- Statute of limitations and
- Generally, **§ 62:1**
- Oral contract, **§ 25:15**
- Written contract, **§ 25:12**
- Statutory grounds for, **§§ 62:15 to 62:23**
- Student athlete, contract for athlete agent or endorsement, **§ 62:23**
- Subdivided Lands Act, **§ 62:23**
- Subdivision Map Act, **§ 62:23**
- Tax sale purchasers, rescission by, **§ 62:1**
- Termination of contracts and, **§ 62:37**
- Third party beneficiaries and, **§§ 62:1, 62:31**
- Third party obligors and, **§ 62:17**
- Time for rescission, **§§ 62:22, 62:25, 62:26**
- Tolling of time for rescission, **§ 62:26**
- Total rescission, **§§ 62:21, 62:30**
- Trial, **§ 62:33**
- Unconscionability and, **§ 62:3**
- Undue influence, **§§ 62:2, 62:6, 62:26**
- Unsound mind, contract by person of, **§§ 52:27 to 52:29, 62:6, 62:16**
- Voidable contracts, **§§ 62:2, 62:31**
- Void consideration, **§ 62:10**
- Waiver, **§§ 47:1, 47:10, 62:7, 62:21, 62:26, 62:36**
- Who may be affected by rescission, **§ 62:2**
- Who may rescind, **§ 62:1**
- Written rescission requirement, **§ 62:21**

RESCUE DOCTRINE

- Generally, **§§ 48:25, 49:7**

RESIDENCE

- Domicile, this index
- Service of process, definition of, **§ 2:14**
- Venue and, **§ 5:36**

RESIDENTS

- Forum non conveniens and, **§§ 6:3, 6:22**
- Personal jurisdiction, submission to, **§ 4:2**

RES IPSA LOQUITUR

- Certificate of merit, **§ 12:2**
- Comparative fault and, **§ 48:16**

RES JUDICATA

- Generally, **§ 14:1 et seq.**
- Acts in excess of jurisdiction and, **§§ 7:10, 14:3**
- Adequacy of representation, **§ 14:24**
- Administrative determinations, **§§ 14:6, 14:40**
- Adversity, requirement of, **§ 14:22**
- Agreement to withhold issues, **§ 14:15**

INDEX

RES JUDICATA—Cont'd

- Alcoholic Beverage Control Board, **§ 14:40**
- Alter ego, privity and, **§ 14:32**
- Annulment of marriage, effect of judgment as to, **§ 14:51**
- Another action pending and, **§§ 14:18, 23:2, 23:3**
- Answer, **§ 14:54**
- Answer, allegation as to
 - Res judicata bars action, **§ 14:54**
 - Stare decisis bars action, **§ 14:62**
- Appearance in same capacity, **§ 14:21**
- Appellate court judgments, **§ 14:38**
- Appellate review, **§ 14:56**
- Arbitration awards, **§§ 14:39, 14:41**
- Assignment, effect on privity, **§ 14:25**
- Attorney fee arbitration and, **§§ 12:5, 14:51**
- Bankruptcy sale orders and, **§ 14:51**
- Bifurcated trial as to, **§§ 14:12, 14:56**
- Board of Control, **§ 14:40**
- Breach of contract and, **§ 14:15**
- Burden of proof, **§§ 14:4, 14:19, 14:56, 14:57**
- Capacity to sue and be sued, **§§ 14:20, 14:45**
- Cause of action, this index
- Child, privity with parent, **§ 14:30**
- Child custody, **§ 14:16**
- Choice of law, **§§ 14:20, 14:39**
- Civil rights, **§§ 14:39, 14:52**
- Class actions, **§ 14:34**
- Collateral estoppel and, **§§ 14:1, 14:59, 15:1 to 15:3, 15:15**
- Competency of counsel, **§ 14:24**
- Compulsory cross-claims and, **§§ 14:18, 14:49**
- Concurrent jurisdiction and, **§§ 14:39, 14:42**
- Consent judgment and, **§ 14:14**
- Conservatorship, **§ 14:31**
- Contracts, **§ 14:15**
- Control and privity, **§§ 14:23, 14:32**
- Corporate privity, **§ 14:32**
- Course of conduct, **§ 14:16**
- Criminal proceedings, **§ 14:19**
- Cross-claims, **§§ 14:13, 14:18, 14:49**
- Decision on the merits, **§ 14:7 et seq.**
- Declaratory judgment and, **§ 14:49**
- Default judgment, effect of, **§§ 14:4, 14:9, 14:45, 15:6**
- Deficiency judgment, **§ 14:39**
- Delay in service and return of summons, effect of violation, **§§ 3:25, 14:8**
- Demurrer
 - Assertion of defense, **§ 14:55**
 - Effect of, **§ 14:8**

RES JUDICATA—Cont'd

- Department of Social Services, **§ 14:40**
- Discovery sanctions, **§ 14:8**
- Dismissal, effect of, **§ 14:8**
- Dissolution of marriage, **§ 14:1**
- Driver's license, effect of revocation for failing alcohol tests, **§ 14:51**
- Due process, **§§ 14:5, 14:20, 14:39**
- Election of remedies and, **§§ 14:52, 24:1, 24:15**
- Eminent domain, **§§ 14:17, 14:18**
- Employment, effect of, **§ 14:27**
- Estoppel, **§§ 14:43, 14:47, 14:58**
- Exceptions
 - Generally, **§ 14:43 et seq.**
 - Estoppel, **§ 14:43**
 - Extrinsic fraud and, **§ 14:44**
 - Extrinsic mistake, **§ 14:45**
 - Manifest injustice, **§ 14:46**
 - Other excuses, **§ 14:52**
- Excess of jurisdiction, effect of, **§§ 7:10, 14:3**
- Extraordinary writs and, **§ 14:13**
- Extrinsic fraud as bar, **§§ 14:39, 14:44, 14:52**
- Extrinsic mistake as bar, **§ 14:45**
- Failure to state a cause of action, **§ 14:8**
- Federal court judgments, **§§ 14:6, 14:17, 14:39**
- Fictitious business name requirement, **§ 14:8**
- Finality of Judgment, this index
- Foreign Judgments, this index
- Forum non conveniens, **§ 14:39**
- Forum selection clauses, effect of, **§ 14:39**
- Franchise Tax Board, **§ 14:40**
- Fraud
 - As bar to res judicata, **§§ 14:44, 14:52**
 - Mineral, oil, or gas licensees, effect of fraud judgment as to, **§ 14:51**
 - Real estate licensees, effect of fraud judgment as to, **§ 14:51**
- Full faith and credit, **§§ 14:39, 14:42**
- Future conduct, **§ 14:15**
- Government agencies and entities, privity, **§ 14:26**
- Guarantors
 - Notice of sale of collateral and, **§ 12:8**
 - Privity and, **§ 14:29**
- Guardian ad litem, effect of lack of, **§ 14:45**
- Guardianship, privity, **§ 14:31**
- Habeas corpus, **§ 14:50**
- Heirs, privity, **§§ 14:25, 14:31**
- Incapacity determination, **§ 14:51**
- Indemnity, **§ 14:29**
- Indispensable parties and, **§ 14:18**

INDEX

RES JUDICATA—Cont'd

- Injustice, manifest, **§ 14:46**
- In rem jurisdiction, **§§ 14:20, 14:51**
- Installment obligations and, **§§ 14:15, 14:51**
- Insurance, **§§ 14:14, 14:23**
- Intervention, **§ 14:20**
- Issues of pure law, **§ 14:47**
- Joinder of plaintiffs and defendants, **§ 14:20**
- Judgment, this index
- Judgment after bifurcated trial, **§§ 14:12, 14:56**
- Judgment in excess of jurisdiction, **§ 14:3**
- Judgment on appeal, **§ 14:12**
- Judgment on the pleadings
 - Generally, **§ 14:55**
 - Effect, **§ 14:10**
- Judicial notice, **§ 14:55**
- Lack of capacity to sue and be sued, **§§ 14:20, 14:45**
- Lack of personal jurisdiction, **§ 14:8**
- Lack of prosecution dismissal, effect of, **§ 14:8**
- Lack of subject matter jurisdiction and, **§§ 7:12, 14:8, 14:39**
- Land records reestablishment, **§ 14:51**
- Law of the case and, **§ 14:60**
- Manifest injustice, **§ 14:46**
- Master and servant, **§ 14:27**
- Mineral, oil, or gas licensees, effect of fraud judgment as to, **§ 14:51**
- Mootness and, **§§ 14:12, 22:11**
- Motion to dismiss
 - Generally, **§ 14:55**
 - Effect, **§ 14:8**
- Nonsuit, effect of, **§ 14:11**
- Nuisance, **§§ 14:16, 14:27**
- Parent, privity with child, **§ 14:30**
- Parent entities, **§ 14:32**
- Partners and partnerships, **§§ 14:32, 14:33**
- Pendent jurisdiction, federal court's refusal to exercise, **§§ 14:8, 14:17**
- Permissive cross-complaint, **§ 14:18**
- Personal jurisdiction
 - Determination as res judicata, **§§ 4:30, 4:32, 14:5, 14:8, 14:39**
 - Essential to res judicata, **§§ 14:4, 14:20**
- Personal representative, **§ 14:31**
- Pleading, **§ 14:54**
- Plea in abatement based on, **§§ 1:2, 14:8**
- Prematurity, effect of dismissal, **§ 14:8**
- Principal and agent privity, **§ 14:28**
- Principal and surety privity, **§ 14:29**
- Privity, this index
- Privity requirement, **§ 14:20 et seq.**

RES JUDICATA—Cont'd

- Probate proceedings, §§ 14:17, 14:20, 14:36, 14:51
- Public agencies and entities, § 14:26
- Public officers, § 14:26
- Public Utilities Commission, § 14:40
- Pure law issues, § 14:47
- Quiet title, § 14:20
- Real estate licensees, effect of fraud judgment as to, § 14:51
- Receivership, § 14:17
- Reestablishment of land records, § 14:51
- Requirements
 - Generally, § 14:1
 - Adversy, § 14:22
 - Decision on merits, § 14:7 et seq.
 - Finality of decision, § 14:6
 - Identity of parties, § 14:20 et seq.
 - Personal jurisdiction, § 14:4
 - Same cause of action, § 14:15 et seq.
 - Subject matter jurisdiction, § 14:3
- Respondeat superior, § 14:27
- Retraxit and, § 14:61
- Revised Uniform Reciprocal Enforcement of Support Act, § 14:39
- Rooker-Feldman* doctrine, § 14:64
- Sanctions for frivolous appeal, § 14:1
- Service and return requirements, effect of violation, §§ 3:25, 14:8
- Settlement, §§ 14:14, 15:5, 15:6
- Settlement of accounting of administrator, executor or personal representative, § 14:51
- Sister state money judgment, § 14:39
- Small claims court, §§ 14:3, 14:18, 14:37
- Special defense, §§ 14:12, 14:56
- Special demurrer as to, § 14:8
- Splitting a cause of action and, §§ 14:15, 14:35
- Spouses, privity, § 14:30
- State as a party, § 14:26
- Statute of limitations and, § 14:16
- Stipulated judgment, § 14:14
- Subject matter jurisdiction
 - Dismissal based on, §§ 7:12, 14:8, 14:39
 - Essential, §§ 14:3, 14:18
- Subrogated insurers, privity, § 14:25
- Subrogees, § 14:25
- Successor in interest, § 14:25
- Summary judgment, §§ 14:10, 14:55
- Superior court judgments, §§ 14:35, 14:36
- Supplemental pleadings, § 14:54
- Surety, privity of, § 14:29
- Taxes, §§ 14:40, 14:51

INDEX

RES JUDICATA—Cont'd

- Unemployment Insurance Appeals Board, determinations by and, **§ 14:51**
- Unincorporated associations, **§§ 14:32, 14:33**
- Unlawful detainer, **§ 14:48**
- Validation actions, **§§ 14:20, 14:51**
- Vexatious litigation and, **§ 14:63**
- Waiver of defense, **§ 14:58**
- Workers' compensation
 - Generally, **§§ 14:27, 14:40**
 - Workers' Compensation Appeal Board, decisions by, **§ 14:40**

RESPIRATORY CARE PRACTITIONERS

- Immunity, **§ 38:48**
- Licensing requirements as to, **§ 39:35**

RESPONDEAT SUPERIOR

- Imputation of negligence and, **§§ 48:13 to 48:15**
- Manager's privilege, **§ 41:19**
- Public entities and employees, **§§ 38:56, 38:59, 38:135, 48:3, 48:4**
- Release of less than all parties and, **§ 42:7**

RESTITUTION

- Election of remedies and, **§ 24:6**
- Rescission, **§ 62:40**
- Statute of frauds, **§ 53:24**
- Statute of limitations, effect of order that defendant provide, **§ 25:64**

RESTORATION OF A WRITING

- Obligation to do equity, **§ 35:1**

RESTRAINT OF COMPETITION OR TRADE

- Illegality of, **§ 37:14**
- Immunity, **§ 38:122**

RESTRAINT ON ALIENATION

- Generally, **§ 37:16**

RESULTING TRUST

- Consideration, **§ 56:1**
- Laches and, **§§ 26:7, 26:13**
- Statute of frauds and, **§§ 53:9, 53:24**
- Statute of limitations, **§ 25:40**
- Trusts, this index
- Unclean hands, **§ 45:9**

RETAILER

- Service of process, use tax, **§ 2:2**

RETAIL INSTALLMENT SALES ACT

- Venue under, **§ 5:33**

RETRACTION, DEMAND FOR

- Defamation actions and, **§§ 12:13, 12:14**

RETRACTION, DEMAND FOR—Cont'd
Waiver, § 47:11

RETRAXIT

Covenant not to sue and, § 42:16
Definition, § 42:17
Release and, § 42:17
Res judicata and, § 14:61

RETURN OF SERVICE

Generally, §§ 2:19, 3:1 et seq.
Amendment, § 3:15
Collateral estoppel, § 3:25
Corporations, § 2:19
Cross-complaint, § 3:3
Definition, § 3:15
Delay in Service and Return of Summons, this index
Endorsed copy, § 3:15
Filing of, § 3:15
Form of, § 2:19
General appearance waives, §§ 2:28, 3:17
Judicial Council form of, § 2:19
Misplaced return, § 3:15
Motion to Quash, this index
Presumption created by, §§ 2:3, 2:27
Proof of service and, §§ 2:19, 3:15
Purpose of, § 3:2
Res judicata, § 3:25
Service of Process, this index
Time requirements, §§ 2:19, 2:30, 3:15

REVISED UNIFORM LIMITED PARTNERSHIP ACT

Personal jurisdiction over partners, consent provision, § 4:5

REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT

Guardian ad litem, necessity for, § 18:3
Personal jurisdiction, § 4:29
Res judicata, § 14:39
Subject matter jurisdiction, § 7:2
Venue, § 5:32
Verification of pleading, § 11:12

REVOCATION

License, immunity, §§ 38:75, 38:81, 38:102, 38:132
Power of Attorney, § 38:26

RIGHT OF PRIVACY

Consent to invasion of, §§ 32:1, 32:2, 32:4
Death, effect of, §§ 17:11, 18:26
Disclosures to insurers, § 38:40
Immunity for invasion of, § 38:38

INDEX

RIGHT OF PRIVACY—Cont'd

Insurance Information and Privacy Protection Act, § **38:40**
Mistake as defense to, § **40:1**
Newsworthiness, § **41:10**
Privacy Act, § **41:6**
Privilege, §§ **41:2, 41:6, 41:8, 41:10, 41:11**
Truth as defense, § **51:1**
Waiver, § **47:4**

RIOT

Act of God as, § **30:3**

RIPARIAN RIGHTS

Character of land as riparian, pleading of, § **10:2**
Consent to divert water, § **32:3**
Water, this index

RIPENESS

Generally, § **27:1 et seq.**
Prematurity, this index

RISK RETENTION ACT

Generally, § **38:40**

ROOKER-FELDMAN DOCTRINE

Generally, § **14:64**

ROSTER OF PUBLIC AGENCIES

Generally, § **12:20**

SALE OF GOODS

Acts of God and, § **30:20**
Agreements between merchants, § **62:21**
Breach of Warranty, this index
Bulk Sales, this index
Contracts between merchants, § **53:11**
Crops, § **53:11**
Gray market goods, § **62:23**
Impossibility and, § **30:20**
Minor's capacity as to, § **52:11**
Modification of contract as to, §§ **62:21, 65:1, 65:2, 65:4, 65:5**
Part performance of, § **53:11**
Personal jurisdiction and, §§ **4:11, 4:12, 4:15 to 4:17**
Quantity, § **53:11**
Reformation, § **53:30**
Requirements contracts, § **53:11**
Rescission of, § **62:21**
Sale or return transactions, § **53:11**
Specially manufactured goods, § **53:11**
Statute of frauds, §§ **53:11, 53:14**
Statute of limitations and, §§ **25:12, 25:15**

SALE OF GOODS—Cont'd

Unconscionability, §§ 55:1, 55:3

Warranty, this index

SAME PERSON PLAINTIFF AND DEFENDANT

Lack of capacity to sue, § 18:29

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

Immunity, § 38:122

SATISFACTION

Accord and Satisfaction, this index

SATISFACTION OF JUDGMENT

Definition, § 42:18

Judgment, this index

Release and, §§ 42:1, 42:7, 42:18

SAVINGS AND LOAN ASSOCIATIONS

Claim filing requirements, liquidation, § 12:34

Derivative actions, requirements as to, §§ 12:15, 13:2

Failure, causing injury to prisoner, § 38:84

Financial Institutions, this index

Foreign association, service on, § 2:8

Immunity, acting under power of attorney, § 38:26

Liquidation of, § 12:34

Setoff by, § 44:3

Shareholder derivative actions, requirements as to, § 12:15

Statute of limitations as to deposits with, § 25:74

SCHOOLS

Agent for service of process, post-secondary educational institutions, § 4:6

Asbestos exposure actions, § 38:123

Community Colleges, this index

Counselors

Confidential information, § 38:44

Good faith release of student record information, § 38:44

Immunity, § 38:44

Emergency medical services, § 38:53

Employees, students injured by minor, § 48:9

Field trips, § 38:123

Fire drills, § 38:53

Immunities

Generally, §§ 38:59, 38:123

Counselors, § 38:44

Emergencies, §§ 38:47, 38:53

Medical, §§ 38:10, 38:39

Principals, § 38:44

Public entity immunities and, § 38:56

Public Property Immunities, this index

INDEX

SCHOOLS—Cont'd

Immunities—Cont'd

School boards, §§ 38:59, 38:123, 38:135, 38:137

Sponsored activities, § 38:123

Student alcohol or drug use, § 38:44

Vicarious liability, this index

Waiver of liability, § 38:123

Injuries, § 38:123

Liability, § 38:123

Medical, §§ 38:10, 38:39

Principals

Confidential information, § 38:44

Good faith release of student record information, § 38:44

Immunity, § 38:44

Reporting alcohol or substance abuse, § 38:44

Public Entities, this index

Pupil, injuries by or to, § 48:9

School boards

Immunity, §§ 38:59, 38:123, 38:135, 38:137

Privilege, meetings, § 41:5

Vicarious Liability, this index

School-sponsored activities, § 38:123

Student athlete, rescission of contract for athlete agent or endorsement, § 62:23

Superintendents of Schools, this index

Teachers' service period affected by act of God, § 30:3

Tort Claims Act, § 38:56

Trustees, vicarious liability, § 38:59

Unimproved state lands, § 38:110

Unsafe buildings, § 38:123

Vicarious Liability, this index

Waiver of liability, § 38:123

SCOPE OF EMPLOYMENT

Ultimate fact, pleading of, § 10:2

SEARCH WARRANTS

Aid of citizens, in execution of, § 38:17

Execution of, § 38:78

Immunity, § 38:17

SEATBELTS

Causation, § 48:19

Comparative fault, §§ 36:4, 48:19

Failure to mitigate, §§ 36:4, 48:19

SECRETARY OF STATE

Certificate of qualification to conduct intrastate business, § 39:37

Failure of corporation to pay taxes, §§ 18:17, 39:38

Failure to file corporate statement, § 39:38

Fictitious business names, § 39:36

SECRETARY OF STATE—Cont'd

- Foreign corporations and, § 39:37
- Franchise Tax Board, § 39:38
- Service of process
 - Generally, § 4:6
 - Substituted service of process on, §§ 2:8, 4:6
- Suspension of good corporate standing by, §§ 18:17, 39:37

SECURITIES

- Certificated securities, alteration of, § 66:2
- Personal jurisdiction based on, § 4:18
- Service of process, violations of securities regulations, § 2:8
- Statute of frauds and sales agreements, § 53:13
- Statute of limitations, breach of qualification requirements, § 25:18

SECURITY FOR COSTS

- Generally, § 13:1 *et seq.*
- Appellate review, §§ 13:2, 13:4
- Architects, actions against, § 13:5
- Bond and Undertaking Law, § 13:1
- Building designers, actions against, § 13:5
- Burden of proof, § 13:10
- Chiropractors, actions against, § 13:6
- Constitutionality, §§ 13:1, 13:3, 13:7
- Construction projects, actions as to, § 13:8
- Defamation, § 13:1
- Definition, § 13:3
- Delay in prosecution and, § 28:8
- Dentists, actions against, § 13:6
- Development projects, actions as to, § 13:8
- Dismissal for failure to provide, § 13:1 *et seq.*
- Engineers, actions against, § 13:5
- Extraordinary writ to review decision as to, § 13:4
- Financial hardship, §§ 13:5, 13:6, 13:8, 13:10
- Foreign corporations, actions by, § 13:4
- Health care professionals, actions against, § 13:6
- Housing development projects, actions as to, § 13:8
- Injunction against development project, § 13:8
- Landscape architects, actions against, § 13:5
- Land surveyors, actions against, § 13:5
- Motion for summary judgment, § 13:6
- Nonadmitted insurers, actions by, § 13:4
- Nonresidents, actions by, § 13:4
- Nurses, actions against, § 13:6
- Physicians, actions against, § 13:6
- Podiatrists, actions against, § 13:6
- Political Reform Act cases, § 13:7
- Private attorney general, actions by, § 13:7

INDEX

SECURITY FOR COSTS—Cont'd

Professional negligence actions and, §§ 13:5, 13:6
Psychologists, actions against, § 13:6
Shareholders' derivative actions, § 13:2
Small claims court, §§ 13:5, 13:6
Stay, § 13:2 *et seq.*
Summary judgment, § 13:6
Surgeons, actions against, § 13:6
Veterinarians, actions against, § 13:6
Vexatious litigants, actions by, § 13:3
Waiver, § 13:11

SECURITY INTERESTS

Exoneration of Sureties, this index
Lienholders and Lien Rights, this index
Not presumed to be full payment, § 69:3
Secured debt paid last, § 69:9
Statute of frauds and, § 53:15

SEDUCTION

Cause of action for, § 9:1
Forbidden cause of action, § 38:37
Psychiatrists, § 38:37
Statute of limitations, § 25:25

SELF-DEFENSE

Generally, § 50:1 *et seq.*
Aggressors not protected, § 50:6
Answer, allegation as to, § 50:9
Burden of proof, §§ 50:1, 50:10
Bystanders, injuries to, § 50:8
Comparative fault, § 50:8
Degree of force permitted, § 50:3
Force that may be used, § 50:2
Home Protection Bill of Rights and, § 50:10
Imminent danger, § 50:2
Inconsistent defenses and, § 1:3
Jury instructions as to, §§ 50:1, 50:2
Justifiable homicide and, § 50:4
Manner of asserting the defense, § 50:9
Mutual combat, § 50:6
Necessity for warning or retreat, § 50:7
Pleading, § 50:9
Reasonable appearances govern, § 50:2
Residence, defense of, §§ 50:7, 50:10
Retreat and, §§ 50:6, 50:7
Threats, § 50:2
Trial as to, § 50:9
Waiver of the defense, § 50:11

SELF-DEFENSE—Cont'd

Warning, necessity for, §§ 50:7, 50:9

What may be protected, § 50:5

Who may be protected, § 50:4

SELLER-ASSISTED MARKETING PLANS

Service of process on nonresident, § 2:8

SEPARATE PROPERTY

Transmutation of, §§ 53:22, 53:23

SEPARATE STATEMENT OF DEFENSES

Generally, §§ 1:3, 1:5

SEPARATE TREATMENT OF PARTIES

Failure to state a cause of action, §§ 9:1, 9:4

Venue, § 5:37

SEPARATION

Dissolution of Marriage, this index

Summons, § 2:2

SERVICEMEN'S READJUSTMENT ACT

Illegality of contracts contrary to, § 37:1

SERVICE AND RETURN REQUIREMENTS

Generally, §§ 2:19, 3:1 et seq.

Return of Service, this index

SERVICE OF PROCESS

Generally, § 2:1 et seq.

Abandonment of leased premises, § 2:2

Affirmative defenses as to

Generally, § 2:1 et seq.

Appellate review as to, § 2:26

Failure to serve and return summons, § 3:1 et seq.

Motions to assert, § 2:25

Personal jurisdiction, lack of, § 2:29

Pleading, § 2:24

Return of service, failure as to, § 3:1 et seq.

Summons, failure to serve and return, § 3:1 et seq.

Time for service, failure to serve and return summons, § 3:10

Waiver of, § 2:28

Alter egos, time for service on

Amended complaint, § 3:13

Estoppel and, § 3:23

Original complaint, § 3:11

Amended complaints, §§ 2:1, 2:23, 3:13

Amended summons, §§ 2:1, 2:23, 3:14

Appellate review, § 2:26

Armed forces immunity, § 2:18

Attorney General, § 2:2

INDEX

SERVICE OF PROCESS—Cont'd

- Attorney's immunity, § 2:18
- Burden of proof
 - Generally, §§ 2:27, 3:30, 3:31
 - Amenability to service, §§ 3:19, 3:30
 - Propriety of service, § 2:27
 - Service by mail, § 2:9
- Carriers, § 2:2
- Choice of law, § 2:1
- Collateral estoppel, § 3:25
- Complaint as served
 - Amended complaint, § 2:23
 - Defects in, § 2:21
 - Supplemental complaint, § 2:23
- Conservatorship, § 2:2
- Constable, § 2:3
- Coroner, § 2:3
- Corporation
 - Generally, §§ 2:2, 2:7
 - Persons who may be served, §§ 2:7, 2:8
- Court discretion as to, § 2:17
- Cross-complaint, § 3:3
- Defects
 - Complaint, § 2:21
 - Name of party served, § 2:20
 - Summons, § 2:22
- Delay in prosecution and, §§ 28:24, 28:29, 29:2
- Delay in Service And Return of Summons, this index
- Department of Motor Vehicles, § 2:2
- Diligence, substitute service, § 2:14
- Dissolved corporation, §§ 2:7, 2:8, 4:24
- Double service of process, § 2:4
- Due process, §§ 2:1, 2:8
- Elisor, § 2:3
- Escheat, § 2:2
- Estoppel to deny or challenge, §§ 2:4, 2:6
- Evidence. Proof of service, below
- Exemption from service of process, §§ 2:18, 4:3
- Farm labor contractors, § 2:2
- Foreclosure, § 2:2
- Franchise Tax Board, § 2:2
- Fraud, effect of, § 4:3
- General appearance, effect of, §§ 2:24, 2:26, 2:28
- Geothermal well, § 2:2
- Hague Service Convention, service under, §§ 2:4, 2:9
- Household member, service on, § 2:14
- Idem sonans, defects in name of party, § 2:20

SERVICE OF PROCESS—Cont'd

- Immunity from service of process, §§ 2:18, 4:3
- Impeachment, § 2:2
- Improvement Bond Act of 1915, § 2:2
- In rem actions, § 2:16
- Insurance, §§ 2:2, 2:8
- Insurance Commissioner, §§ 2:2, 2:8
- Interested persons and, § 2:3
- Inverse condemnation, § 2:2
- Irrigation district, § 2:2
- Joint debtors, § 2:2
- Jurisdiction and Service of Process Act, §§ 2:4, 2:7, 2:14
- Lack of personal jurisdiction and, §§ 2:1, 2:29, 4:3, 4:30 to 4:32
- Limited partnership, § 2:2
- Mail, service by
 - California residents, § 2:10
 - Effect of, § 2:11
 - Name of party, defects in, § 2:20
 - Notice and acknowledgment of receipt procedure, § 2:10
 - Outside California, § 2:9
 - Support of minor child, service on other parent, § 2:17
 - Time service becomes effective, § 2:9
- Mandamus, § 2:26
- Marshal, § 2:3
- Minors, § 2:14
- Misnomer, § 2:20
- Motion to Quash, this index
- Nonentities, §§ 2:7, 18:30
- Nonjoinder of parties and, § 21:1
- Nonresidents
 - Generally, §§ 2:8, 2:9
 - Motorists, boaters, fliers, §§ 2:8, 2:15
 - Notice, failure to give notice of trial, § 2:31
 - Notice and acknowledgment of receipt, §§ 2:9, 2:12, 2:13
 - Party served, misnomer, § 2:20
 - Personal Jurisdiction, this index
 - Personal Service, this index
 - Process server
 - Licensure, § 2:3
 - Statutory requirements as to, § 2:3
- Proof of service
 - Default judgment, § 3:15
 - Delay in Service and Return of Summons, this index
 - Due process requirement, § 2:1
 - Return of service and, §§ 2:19, 3:15
- Public agencies and entities, §§ 2:2, 2:7, 2:13
- Publication, service by, §§ 2:14, 2:16

INDEX

SERVICE OF PROCESS—Cont'd

- Quiet title actions, § 2:2
- Real estate licensees, nonresident, § 2:8
- Real property actions, § 2:2
- Reciprocal insurance exchange, § 2:2
- Retailers, § 2:2
- Return of Service, this index
- Secretary of State, §§ 2:8, 4:6
- Securities regulation violations, § 2:8
- Seller-assisted marketing plans, nonresident, § 2:8
- Sheriff, § 2:3
- State as a party, § 2:2
- Subdividers, nonresident, § 2:8
- Submerged lands disputes, § 2:2
- Substituted service
 - Generally, § 2:12 *et seq.*
 - Diligence requirement, § 2:12 *et seq.*
 - Entity, § 2:13
 - Individual, § 2:14
 - Name of party, defects in, § 2:20
 - Nonresidents, § 2:15
- Support of minor child, service on other parent, § 2:17
- Tax collection actions, § 2:2
- Telegraph, service by, § 2:2
- Tidelands litigation, § 2:2
- Time requirements
 - Generally, §§ 2:19, 2:30
 - Failure to comply, § 2:30
- Tort actions against the state, § 2:2
- Trustees, § 2:2
- Unincorporated associations, §§ 2:2, 2:13
- Uninsured Employers' Fund, § 2:1
- United States, § 2:2
- Waiver of defense, § 2:28
- Water storage districts, § 2:2
- Wells, § 2:2
- Witnesses, immunity from service, § 2:18
- Writ of mandate, § 2:26

SERVICE OF PROCESS BY MAIL

- Service of Process, this index

SERVICE OF PROCESS BY PUBLICATION

- Service of Process, this index

SETOFF AND RECOUPMENT

- Generally, § 44:1 *et seq.*
- Agency, undisclosed, § 44:4
- Amended pleadings, § 44:7

SETOFF AND RECOUPMENT—Cont'd

Answer, §§ 44:1, 44:7, 44:9
Assignment, effect of, §§ 18:18, 44:5
Attachment, § 44:2
Banker's lien, §§ 44:1, 44:3
Bankruptcy and, § 44:6
Banks, § 44:3
Bifurcated trial and, § 44:7
Burden of proof, §§ 44:3, 44:8
Capacity of parties and, § 44:4
Child support and, § 44:6
City, setoff and, § 44:4
Common carriers, § 44:6
Comparative fault, § 44:6
Complaint as to, §§ 44:1, 44:2, 44:7, 44:8
Compulsory cross-claims and, §§ 44:2, 44:9
Contractors, §§ 39:18, 44:9
Contractual waiver of, § 44:9
Controller, setoff by, § 44:2
Corporations, §§ 44:3, 44:4
Costs of repair, § 44:2
Costs of transfer, § 44:2
County, §§ 44:2, 44:4
Court costs, § 44:2
Cross-actions and, §§ 44:1, 44:8, 44:10
Cross-complaints, §§ 44:2, 44:10
Death of debtor, § 44:3
Deficiency judgments and, § 44:3
Director of Employment Development, setoff by, § 44:2
Disability benefits, § 44:2
Due process and, § 44:3
Eminent domain, § 44:2
Employee wages, § 44:6
Estoppel, § 44:4
Fiduciaries, § 44:4
Financial institutions, § 44:3
Fraud and, § 44:1
Good faith improvers, § 44:2
Guardians, § 44:4
Illegality and, §§ 37:15, 44:6
Insolvency and, §§ 44:1, 44:3
Insurance and, § 44:6
Intra-governmental, § 44:2
Joint claims, § 44:4
Judgment creditors and debtors, § 44:2
Laches, § 44:9
Landlord-tenant relations, § 44:2

INDEX

SETOFF AND RECOUPMENT—Cont'd

- Limitations and, §§ 44:1, 44:6
- Liquidated damages, §§ 44:2, 44:9
- Maturity of debt and, §§ 44:1, 44:3, 44:6
- Medi-Cal payments, § 44:2
- Money judgment, § 44:2
- Municipal corporations, § 44:4
- Mutual accounts, § 44:2
- One action rule, § 44:3
- Parties affected, § 44:4
- Partnership, §§ 44:3, 44:4
- Payment by setoff, § 69:3
- Pleading, § 44:7
- Post-judgment motions as to, § 44:7
- Promissory notes and, § 44:2
- Property taxes, § 44:2
- Public entities, § 44:2
- Real property, § 44:3
- Receivership, § 44:3
- Reciprocal insurance exchange, § 44:2
- Savings and loan associations, § 44:3
- Spousal support, § 44:6
- Spouses, § 44:6
- State
 - Generally, § 44:4
 - State action, § 44:3
 - State agencies, setoff and, § 44:2
- Statute of frauds, §§ 53:24, 53:34
- Statute of limitations, §§ 25:71, 25:74, 44:1, 44:2, 44:6, 44:10
- Statutes as to, § 44:2
- Student loans and, § 44:2
- Subletting and Subcontracting Fair Practices Act, § 37:15
- Summary judgment as to, § 44:7
- Summary proceedings and, § 44:6
- Supplemental pleadings and, § 44:7
- Tax refunds and, § 44:2
- Trustees and, §§ 44:3, 44:4
- Undisclosed agent and, § 44:4
- Unlawful detainer and, § 44:6
- Unlicensed contractors, § 39:18
- Wages, § 44:6
- Waiver, §§ 44:3, 44:9

SETTLEMENT

- Generally, § 43:1 *et seq.*
- Abandonment, § 61:2
- Accord and satisfaction and, §§ 43:10, 63:9, 63:14
- Admission of liability, § 43:1

SETTLEMENT—Cont'd

Amended pleadings, **§ 43:6**

Answer, **§ 43:6**

Antitrust disputes, **§ 43:5**

Approval

Generally, **§§ 43:2, 43:3, 43:6**

Burden of proof, **§ 43:7**

Minor's claims, **§ 43:5**

Verification of petition for, **§ 11:19**

Attorneys, duties as to, **§ 43:3**

Attributes of a judgment, **§ 43:1**

Bad faith, **§ 37:22**

Bifurcated trial, **§ 43:6**

Breach of, **§§ 43:1, 43:3, 43:6, 43:8**

Burden of proof, **§§ 43:2, 43:7**

Class actions, **§ 43:5**

Collateral estoppel and, **§§ 14:61, 15:5, 15:6, 43:2**

Comparative fault and, **§ 43:2**

Consent to settlement, **§ 43:5**

Consideration for, **§§ 43:1, 56:2**

Contracts for, **§ 43:1**

Contribution, **§ 43:2**

Covenant not to sue, **§ 43:2**

Creditors and, **§ 43:4**

Cross-complaints, **§ 43:6**

Death, effect on offer of, **§ 17:14**

Definition, **§ 43:1**

Delay in prosecution, effect of, **§§ 28:1, 28:15, 29:2, 29:3**

Delay in service and return of summons, effect of settlement, **§ 3:22**

Duress and, **§ 43:1**

Effect, **§ 43:2**

Enforcement, **§ 43:3**

Fair Responsibility Act of 1986, **§ 43:2**

Forms, this index

Good faith settlement

Generally, **§§ 43:2, 43:6, 43:7**

Bad faith settlements, illegality of, **§ 37:22**

Burden of proof, **§§ 43:2, 43:7**

Effect on allocation of damages, **§ 48:5**

Illegality and, **§§ 37:22, 37:26, 43:4**

Immunity from service of process in attending conference, **§ 2:18**

Indemnity and, **§ 43:2**

Insurance

Consent of insurer to, **§ 43:5**

Effect on insurer, **§ 43:2**

Insurer's duty to report settlement of professional negligence action, **§ 43:5**

Res judicata effect of, **§ 14:14**

INDEX

SETTLEMENT—Cont'd

- Joint tortfeasors or obligors and, §§ 42:7, 42:16, 43:2, 48:5
- Judgment, § 43:12
 - Judgment liens and, § 43:4
 - Judicially supervised, § 43:3
 - Marital settlements, § 43:1
 - Mary Carter agreements, §§ 43:1, 43:2
 - Minors
 - Court approval, §§ 43:5, 53:15
 - Verification of approval petition, § 11:19
 - Misdemeanor, compromise of, § 43:1
 - Multiparty contract or tort claims, partial settlement and, § 43:2
 - Negotiations, privilege, §§ 41:5, 41:7
 - Non-economic damages, § 43:2
 - Notice requirements as to, §§ 12:3, 43:3
 - Offers, §§ 43:2, 43:3
 - Oral agreements, §§ 43:3, 53:24
 - Persons affected by, § 43:5
 - Pleading, § 43:6
 - Plea in abatement based on, § 1:2
 - Post-judgment release, § 42:7
 - Public employees, §§ 43:2, 43:5
 - Public entities, §§ 43:2, 43:5
 - Release
 - Generally, §§ 42:15, 43:2, 43:9
 - Post-judgment, § 42:7
 - Relief from, § 43:4
 - Representative actions, § 43:5
 - Rescission of, § 43:4
 - Res judicata and, §§ 14:14, 15:5, 15:6, 43:5
 - Retraxit, §§ 14:61, 42:17
 - Service and return requirement, effect of settlement on, § 3:22
 - Service of process, immunity from, § 2:18
 - Severability, § 43:3
 - Signatures, § 43:3
 - Sliding scale agreements
 - Generally, §§ 43:1, 43:2
 - Notice of, § 12:3
 - Statute of frauds and, §§ 43:3, 53:11, 53:23, 53:24
 - Stipulations, §§ 43:3, 43:11
 - Structured settlement, §§ 12:3, 43:1
 - Summary judgment, §§ 43:3, 43:6
 - Supplemental pleadings, § 43:6
 - Testimony of counsel, § 43:6
 - Third party rights, §§ 43:4, 43:5
 - Timing, § 43:3
 - Tolling of statute of limitations, § 25:73

SETTLEMENT—Cont'd

Verification of petition for approval, **§ 11:19**
Waiver, **§ 43:8**
Wrongful death, **§ 43:2**

SEVERABILITY

Contracts, this index
Illegality, this index

SEX OFFENDERS

Registration of, **§ 38:38**

SEXUAL ABUSE

Agreements to pay victim of, **§ 37:22**
Certificate of merit requirement in action for, **§§ 12:2, 25:26**
Childhood abuse, action by adult, certificate of merit, **§§ 12:2, 25:26**
Informant's immunity, **§ 38:43**
Statute of limitations as to, **§ 25:26**

SEXUAL INTERCOURSE

Consent to, **§§ 32:2, 32:4**
Criminal conversation, **§ 38:37**
Duress, **§§ 33:2, 33:4**
Incompetent or incapacitated persons, **§ 32:2**
Minors, **§§ 32:2, 32:4**
Paternity, this index
Personal jurisdiction based on, **§ 4:29**
Psychiatrist with patient, **§ 38:37**
Rape, this index

SHAM TRANSLATION

Real party in interest, **§ 56:19**

SHAREHOLDERS

Corporations, this index
Intervention in action by corporation, **§ 20:4**
Lack of standing, this index
Notice of meeting, waiver, **§ 47:8**
Personal jurisdiction, nonresident, **§§ 4:6, 4:24, 4:28**
Real party in interest, **§ 19:3**
Shareholders' Derivative Actions, this index
Statute of limitations in action against, **§ 25:23**

SHAREHOLDERS' DERIVATIVE ACTIONS

Burden of proof re security for costs, **§ 13:2**
Corporate suspension or forfeiture, **§§ 18:17, 39:38**
Corporations, this index
Demand requirement, **§ 12:15**
Equitable actions, **§ 12:15**
Joinder of corporation, **§ 21:2**
Laches and, **§ 26:7**

INDEX

SHAREHOLDERS' DERIVATIVE ACTIONS—Cont'd

- Notice and demand requirement, **§ 12:15**
- Res judicata and, **§ 14:32**
- Savings and loan associations, **§ 12:15**
- Security for costs, **§ 13:2**
- Standing, **§ 19:3**
- Statute of limitations, **§ 25:23**
- Suspended status, effect of, **§§ 18:17, 39:38**
- Unclean hands and, **§ 45:6**

SHERIFFS

- Civil Rights Act, **§ 38:135**
- Execution of warrants, **§ 38:78**
- Immunity, **§§ 38:59, 38:76 to 38:80, 38:133, 38:135**
- Peace Officers, this index
- Respondeat superior, **§§ 38:59, 38:135**
- Service of process by, **§ 2:3**
- Statute of limitations as to, **§ 25:33**
- Vicarious liability, **§§ 38:59, 38:135**

SHERMAN ANTITRUST ACT

- Antitrust, this index
- Contract contrary to, **§ 37:1**
- Illegality, **§§ 37:1, 37:14**

SHIPS

- Licensing of, **§ 38:103**
- Sale of, **§ 53:14**
- Ship and yacht brokers, licensing requirements as to, **§ 39:31**

SIGNATURE

- Alteration or destruction of, **§§ 66:1, 66:2**
- Burden of proof re validity, **§ 53:39**
- Equal dignities rule, **§§ 53:3, 53:4, 53:22, 53:39, 54:3**
- Forgery, **§§ 66:1, 66:2**
- Material alteration of contract, **§ 66:1**
- Settlement agreements, **§ 43:3**
- Statute of frauds, **§§ 53:3, 53:4, 53:22, 53:39, 54:3, 54:10**

SINGLE PUBLICATION RULE

- Generally, **§ 25:25**

SISTER STATE MONEY JUDGMENT

- Foreign Judgments, this index
- Judgments, this index
- Res judicata, **§ 14:39**
- Sister State and Foreign Money Judgments Act, **§§ 14:39, 14:51**
- Stay of enforcement, **§ 14:39**
- Subject matter jurisdiction over, **§ 7:2**
- Venue and, **§ 5:36**

SKIING

Assumption of risk, **§ 48:24**
Hazardous recreation, **§§ 38:112, 48:23**

SLANDER

Libel and slander. Defamation, this index
Title. Slander of Title, this index

SLANDER OF TITLE

Discovery rule, statute of limitations, **§ 25:22**
Privilege, **§ 41:6**
Statute of limitations, **§ 25:22**
Survival of cause of action, **§ 17:3**
Venue, **§§ 5:7, 5:8**

SLAPP ACTIONS

Motion to strike, **§ 12:37**

SLIDING SCALE SETTLEMENT

Settlement, this index

SMALL CLAIMS COURT

Advice, immunity for, **§ 38:69**
Amount in controversy in, **§ 7:2**
Appearance in propria persona in, **§ 18:14**
Assignee's appearance generally barred, **§ 18:18**
Capacity to sue, **§ 18:2**
Collateral estoppel and, **§ 14:37**
Equitable tolling of statute of limitations and, **§ 25:70**
Extraordinary writs, **§ 13:4**
Immunity for advice, **§ 38:69**
Judicial proceedings, privilege, **§ 41:5**
Jurisdiction, **§ 7:2**
Privilege, judicial proceedings, **§ 41:5**
Removal of actions, **§ 38:126**
Res judicata effect of judgment, **§§ 14:3, 14:18, 14:37**
Security for Costs, this index
Subject matter jurisdiction of, **§ 7:1 et seq.**
Summons, **§ 2:2**
United States, actions against, **§ 38:126**
Verification, **§ 11:4**
Vexatious litigants and, **§ 13:3**

SMOKE DETECTORS

Disclosure requirements as to, immunity, **§ 38:5**

SOCIAL HOSTS

Immunity, **§ 38:33**
Negligent entrustment, **§ 38:33**

SOCIAL WORKERS

Child abuse, reporting immunity, **§ 38:43**

INDEX

SOCIAL WORKERS—Cont'd

Immunity, §§ 38:10, 38:43, 38:54, 38:133 to 38:135
Licensing requirements as to, § 39:35
Quasi-prosecutorial functions, immunity, § 38:134

SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT

Immunity, § 38:122

SOLAR ENERGY SYSTEMS

Illegality, § 37:16
Restraint on alienation as to, § 37:16

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

Delay in prosecution and, § 28:17
Delay in service and return of summons and, § 3:7
Government claim filing requirements and, § 12:20
Service of process, §§ 2:18, 3:7
Tolling, §§ 12:23, 25:41, 25:62, 25:63

SOPHISTICATED USER DEFENSE

Comparative fault, § 48:29

SOVEREIGN IMMUNITY

Generally, §§ 38:56, 38:125 to 38:130
Contractors, § 38:130
Foreign countries, § 38:129
Indemnity, § 38:56
Public entities and employees, § 38:125
Removal of actions against United States, § 38:126
Sister states, § 38:128
State of California, §§ 38:56, 38:127
Third parties, § 38:130
United States, § 38:126
Waiver, §§ 38:126 to 38:129

SPEAKING MOTIONS

Release, § 42:9
Settlement, § 43:3

SPECIAL APPEARANCE

Delay in service and return of summons and, § 3:27
General Appearance, this index
Personal jurisdiction and, §§ 4:30 to 4:32, 4:36
Service and return requirements, §§ 2:28, 3:27

SPECIAL CONTRACT

Venue and, § 5:33

SPECIAL DAMAGES

Defamation, demand requirement and, § 12:14

SPECIAL DEFENSE

Bifurcated trial, this index

SPECIAL DEFENSE—Cont'd

- Res judicata
 - As special defense, **§ 14:52**
 - Judgment on special defense as, **§ 14:12**
 - Statute of limitations, **§ 25:1**

SPECIAL DEMURRER

- Amendment following, **§§ 9:4, 10:16**
- Common counts, **§§ 9:2, 10:4**
- Lack of capacity to sue, **§§ 18:37, 18:42**
- Misjoinder of parties, **§ 20:8**
- Res judicata of determination of, **§ 14:8**
- Uncertainty, **§ 10:1**
- Waiver, **§ 10:17**

SPECIAL PROCEEDING

- Delay in prosecution of, **§ 28:3**
- Five-year rule, **§ 28:3**

SPECIAL VERDICT

- Comparative fault, **§ 48:19**

SPECIFIC DENIAL

- Answer, this index

SPECIFIC JURISDICTION

- Generally, **§ 4:9**

SPECIFIC PERFORMANCE

- Adequacy of consideration, **§§ 35:1, 56:1, 56:4, 56:13, 56:14**
- Adequacy of remedy at law, **§§ 31:1, 31:3**
- Arbitration, **§§ 25:12, 68:1**
- Burden of proof, adequacy of consideration, **§ 56:4**
- Compelling arbitration and, **§ 68:1**
- Election of remedies and, **§§ 24:2, 24:6, 24:7**
- Equity, obligation to do, **§ 35:1**
- Indispensable parties, **§§ 21:2, 21:3**
- Laches and, **§ 26:7**
- Obligation to do equity, **§ 35:1**
- Oral agreement as to will, enforcement of, **§ 53:21**
- Personal property, **§ 31:3**
- Pleading, **§ 10:1**
- Real property, **§ 31:3**
- Uncertainty of pleading, **§ 10:1**
- Unconscionability and, **§ 55:6**
- Uniqueness requirement, **§ 31:3**
- Venue
 - Generally, **§ 5:9**
 - Tax actions, **§ 5:27**

INDEX

SPEECH PATHOLOGISTS

Licensing requirements as to, **§ 39:35**

SPENDTHRIFT TRUSTS

Illegality and, **§ 37:16**

SPERM DONATIONS

Consent to, **§ 32:4**

SPLITTING A CAUSE OF ACTION

Another action pending and, **§ 23:10**

Assignment of cause of action with punitive damages, **§ 18:27**

Partial subrogation, **§ 18:28**

Res judicata and, **§§ 14:15, 14:35**

SPORTS OFFICIALS

California Horse Racing Board, **§ 38:14**

Gaming Registration Act, **§ 38:14**

Immunity, **§ 38:14**

State Athletic Commission, **§ 38:14**

SPOUSES

AIDS, disclosure of, **§ 38:29**

Annulment of Marriage, this index

Arbitration of medical malpractice, **§ 68:6**

Authority to execute documents for other spouse, **§§ 54:1, 54:3**

Burden of proof, **§ 46:5**

Consent of, **§§ 32:4, 38:35**

Death, effect on action for dissolution, **§ 17:7**

Dissolution of Marriage, this index

Equal dignities rule and, **§§ 54:1, 54:3**

Guardian ad litem for, **§ 18:9**

Immunity, **§§ 38:35, 38:138**

Imputation of negligence between, **§§ 48:10, 48:16**

Interspousal immunity, **§ 38:138**

Joinder as parties, **§§ 14:30, 20:4**

Laches and, **§ 26:13**

Marriage, this index

Obligation to do equity, **§ 35:1**

Premarital Agreements, this index

Presumption of undue influence, **§ 46:5**

Res judicata and, **§ 14:30**

Setoff and, **§ 44:6**

Statute of limitations

Community property claim against real property transfer, **§ 25:11**

Tolling of actions against spouse, **§ 25:59**

Undue influence, **§§ 46:2, 46:4, 46:5, 46:10**

Waiver

Of rights by surviving spouse, **§§ 47:5, 55:3**

Of support payments, **§ 47:6**

STALE CLAIMS

Laches and, **§ 26:22**

Notice of breach of warranty and, **§ 12:11**

STANDING

Generally, **§ 19:1 et seq.**

Abstract issue, **§ 22:1**

Administrative agency employee, **§ 19:13**

Advisory opinions and, **§ 22:3**

Agent, **§ 19:3**

Aggrieved person, **§ 19:10**

Answer, allegation that plaintiff lacks standing, **§ 19:14**

Appellate review and, **§ 19:17**

Assignment and, **§§ 18:18, 19:1, 19:14**

Associations, **§ 19:6**

Bifurcated trial as to, **§ 19:16**

Burden of proof, **§ 19:18**

Capacity to sue and, **§§ 18:1, 18:39, 18:42, 19:1 et seq., 19:20**

Child support, **§ 19:11**

Choice of law, **§ 19:1**

Citizen's suits, **§ 19:7**

Class representatives, **§ 19:2**

Conservator, **§§ 18:31, 19:8, 19:11**

Constitutional issues, **§§ 19:5, 19:9, 19:13**

Demurrer, **§§ 19:14, 19:15**

Election of remedies, standing to assert, **§ 24:2**

Estoppel to assert, **§ 19:19**

Failure to state a cause of action and

 Generally, **§§ 19:13, 19:15**

 Standing to assert, **§ 9:1**

Forms, this index

General demurrer, **§§ 19:13, 19:15**

Guardian, **§§ 18:9, 19:1, 19:11, 19:20**

Heirs before death of party, **§ 17:4**

Homeowners' associations, **§ 19:6**

Interested persons, **§§ 19:1, 19:8**

Loss of, **§ 19:4**

Mandamus proceedings and, **§§ 19:7, 19:8**

Minors, **§ 19:1**

Misjoinder of parties and

 Generally, **§ 20:5**

 Standing to assert, **§§ 9:1, 20:6**

Mootness and, **§§ 19:22, 22:10**

Nonjoinder of parties and, **§ 19:3**

Parties to action, **§ 19:2**

Partnership, **§§ 19:3, 19:6**

Personal representative, **§ 19:8**

Provisional relief and, **§ 19:1**

INDEX

STANDING—Cont'd

- Prudential requirement, **§ 19:13**
- Real party in interest and, **§§ 19:1, 19:3**
- Real property actions, **§ 19:13**
- Ripeness, **§ 19:21**
 - Shareholders, actions as to corporation, **§§ 19:3, 19:4, 19:13**
 - Statutory definitions, **§ 19:5 et seq.**
- Subrogation and, **§ 19:1**
- Taxpayer suits, **§§ 19:1, 19:7**
- Timing, **§ 19:4**
- Trial, **§ 19:16**
- Trusts, **§§ 19:3, 19:5**
- Unincorporated associations, **§ 19:6**
- Waiver, **§ 19:19**
- Wrongful death, **§§ 18:11, 19:1, 20:4, 21:2**

STATE

- Actions against, **§ 38:127**
- Citizens' suits, **§ 19:3**
- Collateral estoppel
 - Application against state, **§ 15:10**
 - Privity, **§ 15:7**
- Contractor's licensing requirements and, **§ 39:5**
- Delay in prosecution and, **§ 28:2**
- Delay in service and return of process and, **§§ 2:2, 3:6**
- Estoppel
 - Generally, **§ 34:9**
 - Legislation, estoppel as to, **§ 34:7**
 - Statute of limitations, **§ 25:73**
 - Statutes, **§ 34:7**
- Immunity, this index
- Indemnity, unclaimed property, **§ 38:73**
- Laches, application to, **§ 26:12**
- Legislative proceedings, privilege, **§ 41:5**
- Privilege
 - Legislative bodies, **§ 41:5**
 - Long-Term Care Ombudsman, **§ 41:3**
 - Officials of, **§ 41:3**
- Public Agencies and Entities, this index
- Public Officers and Employees, this index
- Public Property Immunities, this index
- Res judicata and, **§ 14:26**
- Service and return requirements, **§§ 2:2, 3:6**
- Sovereign immunity, **§§ 38:56, 38:127**
- State lands, unimproved, **§§ 38:108, 38:110, 38:114**
- Statute of limitations
 - Generally, **§ 25:75**
 - Actions against, **§ 25:33**

STATE—Cont'd

Statute of limitations—Cont'd

Actions by, **§ 25:18**

Administrative mandamus, §§ **25:19, 25:40, 25:61**

Administrative proceedings, tolling and, §§ **25:70, 25:74**

Employees, actions against, **§ 25:37**

Estoppel to assert, **§ 25:73**

Exceptions to, **§ 25:75**

Money judgment, **§ 25:10**

Public nuisances, abatement of, **§ 25:74**

Tolling, **§ 25:72**

Tolling of limitations period during administrative proceeding, §§ **25:69, 25:70**

Taxpayer actions, **§ 19:3**

Tolling of statute of limitations, §§ **25:72 to 25:74**

Tort Claims Act, this index

Venue in actions involving, §§ **5:21, 5:23 to 5:25, 5:27, 5:34, 5:37**

Verification of pleadings by, **§ 11:3**

STATE AGENCIES

Public Agencies and Entities, this index

STATE ATHLETIC COMMISSION

Immunity, **§ 38:14**

STATE BAR AND COMMITTEE OF BAR EXAMINERS

Attorneys, this index

Bar associations, immunity, **§ 38:132**

Class actions, State Bar use of unpaid residuals, **§ 38:65**

Evaluation of judicial candidates, **§ 38:39**

Immunity from service of process, **§ 2:18**

Immunity, quasi-judicial, **§ 38:132**

Investigation of character for bar admission, **§ 38:81**

Joinder, §§ **20:4, 38:9**

Privilege, quasi-judicial, **§ 41:5**

Quasi-judicial functions

 Immunity, **§ 38:132**

 Privilege, **§ 41:5**

Res judicata, **§ 14:40**

Rules of Professional Conduct, violation of in contract as illegal, **§ 37:1**

Verification, **§ 11:15**

STATE BOARD OF CONTROL

California Victim Compensation and Government Claims Board, this index

**STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS**

Immunity, **§ 38:122**

STATE HOUSING LAW

Service of process under, **§ 2:2**

INDEX

STATEMENT OF DAMAGES

Default and, §§ 2:1, 2:23

Publication, § 2:16

STATE RAILROAD COMMISSION

Licensing requirement exception, § 38:6

STATE RESOURCE CONSERVATION COMMISSION

Immunity, § 38:122

STATUTE OF FRAUDS

Generally, § 53:1 *et seq.*

Abandonment of contract and, §§ 53:24, 61:1, 61:5

Accounting and, § 53:29

Account stated and, § 53:20

Agent's signature, §§ 53:3, 53:4, 53:20, 53:41

Agreement not to be performed in life, § 53:21

Agreement not to be performed in year, § 53:20

Agreements outside the statute, § 53:24

Agreements within the statute, §§ 53:8 to 53:23

Alteration of agreement subject to, § 53:7

Ambiguity, effect of, §§ 53:2, 53:42

Animals, sale of as subject to, § 53:11

Answer, allegation as to, § 53:35

Answer for debt of another, §§ 53:17, 64:7

Appeal, § 53:38

Application, § 53:2

Arbitration agreements, § 53:23

Architectural services contracts, § 53:23

Assignments

 Choses in action, § 53:24

 Contracts, §§ 53:9, 53:23, 53:24

 Intangibles, § 53:23

 Lease, § 53:9

 Wages, § 53:23

Assumption of mortgage, § 53:19

Attorney fee agreements, § 53:23

Attorney in fact, subscription of agreement by, § 53:3

Broker's commission agreements, § 53:10

Burden of proof, §§ 53:24, 53:25, 53:39

Carriers, § 53:23

Cash bond agreement, § 53:23

Causes of action outside the statute, §§ 53:27 to 53:32

Choice of law, § 53:24

Choses in action, §§ 53:11, 53:14, 53:24

Commencement date of contract and, § 53:5

Commercial paper

 Endorsements, § 53:23

 Guaranties, § 53:17

STATUTE OF FRAUDS—Cont'd

- Common carrier hiring agreements and, **§ 53:23**
- Community property and, **§§ 53:22, 53:23**
- Consideration and, **§ 53:5**
- Conspiracy cause of action and, **§ 53:32**
- Construction contracts and, **§ 53:23**
- Construction issues
 - Contract construction, **§ 53:2**
 - Statutory construction, **§ 53:1**
- Constructive trust, **§§ 53:9, 53:21, 53:24**
- Contents of note or memorandum and, **§§ 53:2, 53:5, 53:9**
- Contingency extending time, **§ 53:20**
- Continuing care contracts, **§ 53:23**
- Contracts, this index
- Contracts terminable at will and, **§ 53:20**
- Conveyances, **§ 53:9**
- Corporations
 - Corporate resolution as memorandum of contract, **§ 53:9**
 - Corporation as signatory, **§§ 53:4, 53:17**
 - Promise to pay debts of, **§ 53:17**
 - Sale of securities of, **§ 53:13**
- Credit services contracts, **§ 53:23**
- Crops, sale of, **§ 53:11**
- Dancing, contracts as to, **§ 53:23**
- Dating service contracts, **§ 53:23**
- Death and promise to answer for debt of another, **§ 53:17**
- Debts, **§§ 53:16 to 53:19**
- Deed of trust, assumption of, **§ 53:19**
- Deeds
 - Form of, **§§ 53:5, 53:9**
 - Reformation of, **§ 53:30**
- Defensive only, **§ 53:33**
- Demurrer, **§§ 53:35, 53:36**
- Deposition, **§ 53:2**
- Description of property, **§ 53:9**
- Destruction of document subject to, **§ 53:7**
- Discount buying service contracts, **§ 53:23**
- Duration, **§§ 53:5, 53:20**
- Effect of failure to satisfy, **§ 53:34**
- Employment contracts, **§§ 53:20, 53:23**
- Equal dignities rule and, **§§ 53:3, 53:4, 53:41, 54:10**
- Escrow instructions and, **§§ 53:2, 53:3, 53:6, 53:9, 53:10**
- Essential terms for writing, **§§ 53:2, 53:5, 53:9**
- Estoppel and
 - Generally, **§ 34:1**
 - Agreements not to be performed during lifetime of promisor, **§ 53:21**
 - Assertion of statute, **§ 53:26**

INDEX

STATUTE OF FRAUDS—Cont'd

- Estoppel and—Cont'd
 - Burden of proof, **§ 34:11**
 - Commissions on real property transfers, **§ 53:10**
 - Manner of asserting defense, **§§ 53:35, 53:38**
 - Part performance that takes contract outside statute, **§ 53:25**
- Exchange of documents, **§ 53:2**
- Exchange of real property, **§ 53:9**
- Executed agreements, **§ 53:24**
- Finders fee agreements, **§ 53:10**
- Fine art, **§ 53:23**
- Forms, this index
- Fraud cause of action and, **§ 53:27**
- General denial, **§ 53:35**
- General intangibles transfer, **§ 53:23**
- Gifts and, **§§ 53:9, 53:24**
- Goods
 - Lease of as subject to, **§ 53:12**
 - Sale of as subject to, **§ 53:11**
 - Governmental resolution, **§ 53:9**
 - Guaranties and, **§§ 53:17, 67:3**
 - Health studio contracts, **§ 53:23**
 - Home construction contracts, **§ 53:23**
 - Identity of contracting parties, **§ 53:5**
 - Incorporation of documents by reference, **§ 53:5**
 - Indorsements, **§ 53:23**
 - Insurance, contract to collect proceeds of, **§ 53:24**
 - Intangibles, assignment of, **§ 53:23**
 - Interference with contract and, **§§ 53:10, 53:28**
 - Joint tenants' agreement re tenancy, **§ 53:9**
 - Joint ventures, **§ 53:4**
 - Judgment, transfer of rights to, **§ 53:23**
 - Jury instructions as to, **§ 53:37**
 - Lease of goods, **§§ 53:12, 53:20**
 - Lease of real property, **§§ 53:9, 53:12, 53:20, 53:24, 53:26**
 - Letters, **§§ 53:2, 53:9**
 - Letters of credit, **§§ 53:9, 53:15**
 - Licenses, **§§ 53:9, 53:20**
 - Liens, **§ 53:9**
 - Life estate, **§ 53:9**
 - Lifetime care contracts, **§ 53:23**
 - Loans of money and, **§§ 53:9, 53:16 to 53:19**
 - Loss of writing and, **§ 53:7**
 - Manner of asserting defense, **§ 53:35**
 - Maritime contracts, **§§ 53:20, 53:24**
 - Mark as signature, **§ 53:3**
 - Marriage and, **§§ 53:22, 53:23**

STATUTE OF FRAUDS—Cont'd

- Meaning of note or memorandum, §§ 53:2, 53:5
- Membership camping contracts, § 53:23
- Merchants, contracts between, § 53:11
- Misrepresentation of cause of action, § 53:27
- Modification of contract within statute, §§ 53:8 to 53:10, 65:3 to 65:6
- Mortgage assumption agreement, § 53:19
- Motions asserting, §§ 53:36, 53:37
- Multiparty contracts, § 53:4
- Mutuality and, § 53:4
- Nonprofit associations, answering for debt of, § 53:17
- Nonsuit asserting, § 53:37
- Novation, §§ 53:17, 53:19, 64:5, 64:7
- Objection to evidence, § 53:37
- Oil, gas and mineral rights, § 53:9
- Options, §§ 53:9, 53:20
- Parol evidence rule and, §§ 53:2, 53:5, 53:42
- Partition action and, § 53:9
- Partnerships and
 - Partnership agreements as subject to, §§ 53:4, 53:9, 53:17, 53:24
 - Partnership as signatory, §§ 53:4, 53:9
- Part performance and, §§ 53:11, 53:20 to 53:22, 53:25, 53:35
- Party by and to whom promises are made, § 53:5
- Party to be charged, §§ 53:3, 53:4
- Personal property
 - Premarital agreements as to, §§ 53:22, 53:23
 - Sale or lease, §§ 53:11 to 53:14
- Place of making payment may be oral, § 69:7
- Pleading, § 53:35
- Power of attorney, § 53:3
- Premarital agreements, §§ 53:22, 53:23
- Promise to answer for debt of another, §§ 53:17, 64:7
- Promissory estoppel and, § 53:26
- Purpose of, § 53:1
- Quantum meruit, §§ 53:10, 53:20, 53:21, 53:25, 53:34
- Quiet title cause of action and, § 53:31
- Ratification and, § 54:5
- Real estate
 - Assumption of mortgage on, § 53:19
 - Commission agreements as to, §§ 53:10, 53:28
 - Deeds as to, §§ 53:5, 53:9, 53:30
 - Finder's agreements as to, § 53:9
 - Gift of, § 53:9
 - Options, § 53:9
 - Sale, exchange, or lease of, §§ 53:5, 53:9, 53:20
 - Transmutation of, §§ 53:22, 53:23
 - Trusts as to, §§ 53:9, 53:24

INDEX

STATUTE OF FRAUDS—Cont'd

- Receipt as writing, §§ 53:2, 53:9
- Reformation and, § 53:30
- Releases, § 53:23
- Representations
 - Misrepresentations, §§ 53:26, 53:28
 - Third party's credit, § 53:18
 - Written agreement exists, § 53:10
- Reproduction of fine art, § 53:23
- Requirements contracts, § 53:11
- Rescission and, § 53:9
- Resulting trusts and, §§ 53:9, 53:24
- Retail installment contracts, § 53:23
- Sales agreements
 - Goods, § 53:11
 - Personal property, § 53:14
 - Real property, § 53:9
 - Return transaction, § 53:11
 - Securities, § 53:13
 - Ships, § 53:14
- Securities, sales of, § 53:13
- Security interest agreement, § 53:15
- Seller assisted marketing plans, § 53:23
- Setoff and, §§ 53:24, 53:34
- Settlement agreements, §§ 43:3, 53:11, 53:23, 53:24
- Severability and, §§ 53:24, 53:34
- Signature, §§ 53:3, 53:4, 53:22, 53:39, 54:3, 54:10
- Specially manufactured goods, § 53:11
- Statute of limitations
 - Limitations period for written contracts and, § 25:12
 - Tolling agreements and, § 53:23
- Subject matter of contract, § 53:5
- Sublease, § 53:9
- Subscribed by party to be charged, §§ 53:2, 53:3
- Summary judgment motion based on, § 53:36
- Suretyship and, §§ 53:17, 67:3
- Swimming pool construction contracts, § 53:23
- Telegram as sufficient for letter of credit, § 53:9
- Telegram as writing, §§ 53:2, 53:9
- Terms and conditions of contract, § 53:5
- Third party
 - Promise to answer for debt of, § 53:17
 - Representation as to credit of, § 53:18
- Time and
 - Agreement not to be performed in life, § 53:21
 - Agreement not to be performed in year, § 53:20
 - Commencement date of contract, § 53:5

STATUTE OF FRAUDS—Cont'd

Time and—Cont'd
Contingency extending, **§ 53:20**
Duration of contract, **§ 53:5**
Indefinite duration contracts, **§ 53:20**
Leases of real property, **§ 53:9**
Preparation of note or memorandum, **§§ 53:1, 53:6, 53:22**
Tolling agreements, **§ 53:23**
Torts and, **§ 53:34**
Transmutation, **§§ 53:22, 53:23**
Trial, **§ 53:37**
Trusts, **§§ 53:9, 53:21, 53:24**
Unconscionability and, **§§ 53:25, 53:26, 55:1**
Waiver, **§§ 53:26, 53:37, 53:40**
Water rights and, **§ 53:9**
Weight loss contracts, **§ 53:23**
Wills, contracts as to, **§§ 53:20 to 53:22, 53:26**
Writing, **§ 53:2**

STATUTE OF LIMITATIONS

Generally, **§ 25:1 et seq.**
Abandonment of leased premises, **§ 25:12**
Absence and absentees, **§ 25:61**
Abstract of title, **§ 25:14**
Abuse of process, **§ 25:25**
Accountants, actions against, **§ 25:37**
Accounting, **§ 25:40**
Account stated, **§§ 25:12, 25:15**
Accrual of Cause of Action, this index
Acknowledgment of debt, **§ 25:46**
Actions
Actions to which limitations apply, **§ 25:74**
Actions without statutes of limitations, **§ 25:74**
Administrative agencies and proceedings
Generally, **§§ 25:18, 25:19, 25:32, 25:40, 25:61, 25:69**
Actions against, **§ 25:33**
Actions by, **§ 25:18**
Administrative mandamus, **§§ 25:19, 25:40, 25:61**
Administrative proceedings, tolling and, **§§ 25:70, 25:74**
Estoppel to assert, **§ 25:73**
Exceptions to, **§ 25:75**
Public nuisances, abatement of, **§ 25:74**
Tolling of limitations period during administrative proceeding, **§§ 25:69, 25:70**
Adverse possession, **§§ 25:11, 25:53, 25:61, 25:75**
Alter ego, **§§ 25:23, 25:52**
Amendment of pleadings and
Answer, **§§ 25:78, 25:83**

INDEX

STATUTE OF LIMITATIONS—Cont'd

- Amendment of pleadings and—Cont'd
 - Complaint, §§ 25:1, 25:76, 25:77
- Amendment of statutes of limitations, § 25:1
- Animals, injury to, § 25:25
- Answer, §§ 25:78, 25:83
- Anticipatory breach, § 25:12
- Appellate review, §§ 25:68, 25:81
- Arbitration and, §§ 25:12, 68:12
- Asbestos exposure, § 25:31
- Assault and battery, § 25:25
- Attorneys
 - Advice as affecting, § 25:7
 - Civil conspiracy, action against, § 38:9
 - Contingency fee contract, recovery on, § 25:3
 - Disbarment, § 25:74
 - Effect of incapacity, § 25:60
 - Estoppel and, § 25:73
 - Malpractice
 - Generally, § 25:35
 - Tolling and, § 25:43
 - Withdrawal and, § 25:50
- Automatic stay, §§ 25:69, 25:70
- Avoidance of community property transfer, § 25:11
- Bad checks, actions to recover for, § 25:28
- Bad faith actions, § 25:38
- Bail bonds, forfeiture of, § 25:24
- Bankruptcy automatic stay, §§ 25:69, 25:70
- Banks, actions against, §§ 25:28, 25:74
- Battery, § 25:25
- Bifurcated trial as to, § 25:80
- Bonds, action on, § 25:12
- Book account, §§ 25:12, 25:15
- Breach of confidence, §§ 25:5, 25:15
- Breach of contract
 - Generally, §§ 25:3, 25:4, 25:12, 25:15
 - Inducing breach of contract, § 25:15
- Breach of covenant of good faith and fair dealing, §§ 25:12, 25:15
- Breach of fiduciary duty, §§ 25:6, 25:37, 25:38
- Breach of right to privacy, § 25:25
- Breach of statutory duties, § 25:18
- Breach of warranty
 - Accrual and, § 25:5
 - Breach of warranty as to check, § 25:28
 - Contract action based on breach of warranty, §§ 25:12, 25:15
 - Personal injury based on breach of warranty, § 25:25
- Bulk transfers, § 25:30

STATUTE OF LIMITATIONS—Cont'd

- Burden of proof, **§ 25:82**
- Cancellation of documents
 - Generally, **§ 25:12**
 - Real property, documents pertaining to, **§ 25:11**
 - State defendants, **§ 25:75**
- Caption not controlling, **§ 25:9**
- Certificate of merit, effect of lack of, **§ 12:2**
- Certificate of title, **§ 25:14**
- Certificates of deposit, **§ 25:74**
- Childhood sexual abuse, **§ 25:26**
- Child support
 - County recovery of payments, **§ 25:18**
 - Money judgment, **§ 25:10**
- Chiropractor, actions against, §§ **25:36, 25:44, 25:80**
- Choice of law, **§ 25:2**
- City, actions against, **§ 25:75**
- Claim filing requirements and, §§ **12:20, 12:28, 12:32, 12:42, 25:58, 25:69, 25:85**
- Class actions, **§ 25:56**
- Collateral attack on judgment, **§ 25:74**
- Commencement of action, §§ **25:3 to 25:7**
- Common interest developments, tolling of, **§ 12:38**
- Compulsory cross-claims, **§ 25:71**
- Computation of time, **§ 25:3**
- Conservatorship of plaintiff, **§ 25:53**
- Conspiracy
 - Generally, **§ 25:8**
 - Attorneys, **§ 38:9**
 - Interference with trade or business, **§ 25:15**
- Constable, actions against, **§ 25:33**
- Constitutionality, **§ 25:1**
- Construction and design defects, §§ **25:16, 25:17**
- Constructive fraud, **§ 25:21**
- Constructive trust, **§ 25:40**
- Contracts, this index
- Conversion, §§ **25:19, 25:20**
- Coroner, actions against, **§ 25:33**
- Corporations, effect of suspension or forfeiture, §§ **18:17, 39:38**
- County, §§ **25:18, 25:32, 25:75**
- Course of conduct, §§ **25:7, 25:77**
- Covenant of good faith and fair dealing, §§ **25:12, 25:15**
- Cross-claims, §§ **25:71, 25:74**
- Damages
 - Nominal damages, accrual and, **§ 25:3**
 - Uncertain damages, accrual and, §§ **25:3, 25:14**
- Death of prospective parties, §§ **17:5, 25:58, 25:59**
- Decedent's spouse as defendant, **§ 25:59**

INDEX

STATUTE OF LIMITATIONS—Cont'd

- Deceit, **§ 25:21**
- Declaratory judgment, **§§ 25:9, 25:76**
- Deed of trust, **§ 25:13**
- Defamation, **§§ 25:5, 25:25**
- Delay in prosecution and, **§§ 28:36, 29:1**
- Demurrer, **§§ 25:78, 25:79, 25:83**
- Dentists, actions against, **§§ 25:36, 25:44, 25:80**
- Director's breach of duty, **§§ 25:23, 25:37**
- Disbarment, **§ 25:74**
- Discovery Rule, Statute of Limitations, this index
- Dissolved corporation, **§ 25:23**
- Domestic violence, **§ 25:26**
- Drug Dealer Liability Act, **§ 25:5**
- Due process, **§§ 25:1, 25:32, 25:33**
- Duress, **§§ 25:21, 25:40**
- Easement by necessity, **§ 25:74**
- Emancipated minors and, **§ 25:51**
- Employment discrimination, **§ 25:25**
- Environmental actions, **§ 25:33**
- Equitable tolling, **§§ 25:41, 25:70**
- Equity actions
 - Generally, **§§ 25:1, 25:9, 25:39, 35:1**
 - Application of, **§§ 25:1, 25:9**
 - Vacation of void judgments, **§ 25:74**
- Escrowholders, actions against, **§ 25:37**
- Estoppel and, **§§ 25:12, 25:67, 25:73, 34:1**
- Evidence as to, judicial notice, **§ 25:79**
- Express trusts, **§ 25:40**
- Failure to state a cause of action and, **§ 25:78**
- False arrest or imprisonment, **§§ 25:25, 25:54, 38:83**
- False Claims Act, **§ 25:21**
- Felony, actions arising from, **§ 25:27**
- Fetus, injury to, **§§ 25:36, 25:51**
- Fiduciary, **§§ 25:12, 25:21, 25:35, 25:36, 25:52, 25:65**
- Filing in wrong court, effect of, **§§ 7:6, 25:70**
- Forfeited corporate status, effect of, **§§ 18:17, 39:38**
- Forfeiture actions, **§§ 25:23, 25:24**
- Forged check, **§ 25:28**
- Forms, this index
- Forum non conveniens and, **§§ 6:4, 6:6, 6:23**
- Fraud, **§§ 25:5, 25:21, 25:35, 25:36, 25:73, 25:86**
- Fraudulent concealment
 - Fraud or mistake, **§ 25:21**
 - Legal malpractice, **§§ 25:35, 25:43**
 - Malpractice by other professionals, **§ 25:37**
 - Medical malpractice, **§ 25:44**

STATUTE OF LIMITATIONS—Cont'd

Fraudulent concealment—Cont'd

One or four years, **§ 25:35**

Other accrual rules and running of statute, **§ 25:5**

Taking or harming personal property, **§ 25:20**

Three years, §§ **25:20, 25:21**

Tolling of Statute of Limitations, this index

Unasserted cross-claim, filing complaint, **§ 25:72**

Good faith improver, **§ 25:29**

Government agencies and entities, §§ **25:10, 25:33, 25:51, 25:53, 25:54, 25:75**

Government officers, §§ **25:24, 25:32, 25:33, 25:51, 25:53, 25:54**

Government Tort Claims Act and, §§ **12:20, 12:28, 25:33, 25:51, 25:80**

Great cruelty, effect of, **§ 25:63**

Guarantor

Action against, **§ 25:39**

Assertion of debtor's cause of action, **§ 67:3**

Guaranty of title, **§ 25:14**

Guardian's effect on statute of limitations, **§ 25:53**

Hazardous substances and waste

Asbestos exposure actions, **§ 25:31**

Cleanup action, **§ 25:11**

Health care professionals

Generally, §§ **25:36, 25:44**

Medical Injury Compensation Reform Act, §§ **25:36, 25:44, 25:51**

Minors, §§ **25:36, 25:44, 25:51**

Tolling, §§ **25:44, 25:51, 25:53**

Heirs, **§ 25:25**

Holiday, effect on, **§ 25:3**

Implied contracts, §§ **25:15, 25:28**

Imprisonment, effect of, **§ 25:54**

Incapacity or incompetency, effect of, §§ **25:42, 25:53, 25:55**

Incest, **§ 25:26**

Incontestability clauses, **§ 25:86**

Indemnity, §§ **25:17, 25:19, 25:39**

Inducing breach of contract, **§ 25:15**

Infliction of emotional distress, **§ 25:25**

Installment payments, §§ **25:7, 25:13**

Instrument in writing, effect of, §§ **25:12, 25:15**

Insurance

Action on policy, §§ **25:4, 25:7**

Bad faith action, **§ 25:38**

Duty to defend, **§ 25:7**

Fire insurance, **§ 25:12**

Incontestability clauses, **§ 25:86**

Insurance agents, **§ 25:37**

Insurer's breach, §§ **25:7, 25:12, 25:14, 25:25, 25:38**

Policy provision as to, **§ 25:41**

INDEX

STATUTE OF LIMITATIONS—Cont'd

Insurance—Cont'd

 Subrogation, § 25:39

 Title insurance, §§ 25:12, 25:14

 Uninsured motorist coverage, § 25:45

Interference with trade or business, § 25:15

International commercial agreements, § 25:70

Intervention, effect of, § 25:76

Invasion of privacy, §§ 25:5, 25:25

Inverse condemnation, §§ 25:5, 25:19

Joint venturers, actions against, § 25:37

Judgment

 Action on, § 25:10

 Child or spousal support judgment, § 25:10

 Collateral attack on judgment without jurisdiction, § 25:74

 Reversal of, tolling, § 25:68

 Void judgment, §§ 25:21, 25:74

Judgment after reversal, § 25:68

Judicial notice, § 25:79

Jury instructions as to, §§ 1:5, 25:76

Laches and

 Generally, § 26:20

 Federal, admiralty or common law cases, § 26:9

 Laches in general, § 26:1

 Limitations in general, § 25:1

 Mere delay insufficient, § 26:3

 Not unreasonable delay, § 26:4

 Prejudice, § 26:6

 Waiver of defense, § 25:84

Latent construction defects, § 25:17

Lease, §§ 25:12, 25:15

Legal malpractice

 Generally, § 25:35

 Tolling, §§ 25:43, 25:51, 25:53, 25:54

Liability created by statute, § 25:18

Libel, §§ 25:5, 25:25

Liquidators, § 25:30

Loss of consortium, § 25:25

Malicious prosecution, §§ 25:25, 25:68

Malpractice

 Generally, §§ 25:25, 25:37

 Tolling, §§ 25:43, 25:44

Mandamus, §§ 25:18, 25:32, 25:40

Marriage

 Avoidance of spouse's real property instrument, § 25:11

 Premarital agreement and, § 25:48

Medical license revocation, § 25:74

STATUTE OF LIMITATIONS—Cont'd

Medical malpractice

Generally, §§ 25:36, 25:44

Bifurcation, § 25:80

Incompetents, § 25:53

Medical Injury Compensation Reform Act, §§ 25:36, 25:44, 25:51

Minors, §§ 25:36, 25:44, 25:51

Misappropriation of trade secrets, §§ 25:7, 25:20

Misrepresentation, § 25:21

Mistake, §§ 25:5, 25:21, 40:1, 40:8

Money judgment against state, § 25:10

Mortgage, action to redeem, § 25:11

Municipalities, §§ 25:18, 25:32, 25:75

Negligence, §§ 25:4, 25:5, 25:15, 25:25

Negligent misrepresentation, §§ 25:15, 25:21

Nominal damages and, § 25:3

Nonjoinder of parties and, § 21:1

Nonjurisdictional character, § 25:83

Nonresident motorists, § 25:61

Nonresidents, §§ 25:2, 25:61

Nonsuit, § 25:80

Notice and demand requirements and, §§ 12:42, 25:69

Notice of intent to sue, effect on, § 12:4

Nuisance, §§ 25:5, 25:7, 25:19, 25:74

Nurses, §§ 25:36, 25:44, 25:80

Obligation to do equity, §§ 35:1, 35:2

Oral contract, § 25:15

Partnership, §§ 25:37, 25:55, 25:60, 25:76

Patent construction defects, § 25:16

Paternity actions, § 25:74

Penalty, actions for, §§ 25:23, 25:24

Personal injury, §§ 25:3 to 25:5, 25:16, 25:17, 25:25, 25:26, 25:76

Personal property actions, §§ 25:16, 25:17, 25:20

Personal representative, lack of, § 25:74

Physicians, actions against, §§ 25:36, 25:44, 25:80

Plagiarism, § 25:15

Pleading

Generally, §§ 10:10, 25:78

Allegations as to

Acknowledgment, tolling by, § 25:46

Choice of law, § 25:2

Four years, § 25:40

Fraud or mistake, § 25:21

Fraudulent concealment and related rules, § 25:73

Part payment of debt, tolling by, § 25:46

Real property actions, § 25:11

Relation back doctrine, § 25:78

INDEX

STATUTE OF LIMITATIONS—Cont'd

Pleading—Cont'd

Allegations as to—Cont'd

Repair or cure efforts, **§ 25:47**

Specific tolling agreement by parties, **§ 25:68**

Three months to five years, **§ 25:11**

Three years, **§ 25:21**

Unsuccessful means to avoid, **§ 25:77**

Uncertainty of pleading as to, **§ 10:10**

Unnecessary date, effect of, **§ 10:4**

Plea in abatement based on, **§ 1:2**

Podiatrists, actions against, §§ 25:36, 25:44, 25:80

Prenatal injuries, §§ 25:36, 25:51

Presumptions, §§ 25:1, 25:2, 25:46

Prisoners, **§ 25:54**

Probate and, §§ 12:32, 25:59, 25:70, 25:79

Product liability, §§ 25:16, 25:25, 25:47

Professional negligence, §§ 25:25, 25:36, 25:37, 25:43, 25:44, 25:80

Promissory notes and, **§ 25:13**

Property rights, injury to, §§ 25:15 to 25:20

Psychologists, actions against, §§ 25:36, 25:44, 25:80

Public agencies and entities, §§ 25:10, 25:33, 25:51, 25:53, 25:54, 25:75

Public officers, §§ 25:24, 25:32, 25:33, 25:51, 25:53, 25:54

Quiet title actions, §§ 25:11, 25:68, 25:74, 25:75

Real property actions

Generally, §§ 25:11, 25:19

Adverse possession, **§ 25:11**

Conversion, **§ 25:19**

County, **§ 25:75**

Good faith improver, **§ 25:29**

Latent defects, **§ 25:17**

Oral lease, **§ 25:15**

Patent defects, **§ 25:16**

Quiet title, **§ 25:11**

Repair and, **§ 25:47**

Slander of title, **§ 25:22**

State, **§ 25:75**

Trespass, **§ 25:19**

Written lease, **§ 25:12**

Recovery of corporate stock, **§ 25:23**

Relation back, §§ 3:11, 25:76, 25:77

Repairs, extension of statute of limitations, §§ 25:17, 25:47

Rescission, §§ 25:12, 25:15, 62:1

Res judicata and, **§ 14:16**

Restitution order and, **§ 25:64**

Revocation of medical license, **§ 25:74**

Sale of goods, §§ 25:12, 25:15

Savings and loan associations, deposits held by, **§ 25:74**

STATUTE OF LIMITATIONS—Cont'd

- Securities qualification breaches, **§ 25:18**
- Seduction of minor, **§ 25:25**
- Service by mail, not an extension, **§ 25:76**
- Setoff and, §§ **25:71, 25:74, 44:1, 44:2, 44:6, 44:10**
- Shareholder's breach of duty, **§ 25:23**
- Shareholders' derivative actions, **§ 25:23**
- Sheriff, **§ 25:33**
- Slander, §§ **25:5, 25:25**
- Slander of title, **§ 25:22**
- Special defense, **§ 25:1**
- Spouses, §§ **25:11, 25:48, 25:58**
- Stale claims, **§ 25:1**
- State
 - Generally, **§ 25:75**
 - Actions against, **§ 25:33**
 - Actions by, **§ 25:18**
 - Administrative mandamus, §§ **25:19, 25:40, 25:61**
 - Administrative proceedings, tolling and, §§ **25:70, 25:74**
 - Employees, actions against, **§ 25:37**
 - Estoppel to assert, **§ 25:73**
 - Exceptions to, **§ 25:75**
 - Money judgment, **§ 25:10**
 - Public nuisances, abatement of, **§ 25:74**
 - Tolling, generally, **§ 25:72**
 - Tolling of limitations period during administrative proceeding, §§ **25:69, 25:70**
 - Statutory liability, **§ 25:18**
 - Stockbrokers, **§ 25:37**
 - Subrogation, **§ 25:39**
 - Subsidence of land, **§ 25:7**
 - Successors in interest, **§ 25:50**
 - Suretyship
 - Action against surety, **§ 25:39**
 - Assertion of debtor's cause of action, **§ 67:3**
 - Tax deed challenge, **§ 25:74**
 - Tax violations, **§ 25:24**
 - Time-barred debt as consideration, **§ 56:8**
 - Title companies, §§ **25:14, 25:37**
 - Title insurance, §§ **25:12, 25:14**
 - Tolling agreements, §§ **25:41, 25:67, 25:76, 25:83**
 - Tolling of Statute of Limitations, this index
 - Trade libel, **§ 25:15**
 - Transfer of action, effect on limitations period, **§ 7:6**
 - Trespass, **§ 25:19**
 - Trustees, **§ 25:37**
 - Trusts, §§ **25:37, 25:40, 25:74**
 - Unconscionability, contractual limitation periods, **§ 55:1**

INDEX

STATUTE OF LIMITATIONS—Cont'd

- Undue influence, **§ 25:40**
- Uniform Partnership Act, **§ 25:76**
- Uninsured motorists, **§§ 25:25, 25:41, 25:45, 25:51**
- United States, actions by, **§§ 25:63, 25:75**
- Usury, **§ 37:13**
- Vacation of void judgment, **§§ 25:21, 25:74**
- Validation actions, **§ 25:34**
- Veterinarians, **§ 25:25**
- Waiver, **§§ 25:46, 25:67, 25:78, 25:83, 47:5, 47:12, 54:1**
- War, effect of, **§ 25:63**
- Workers' compensation actions, **§§ 25:25, 25:39, 25:51, 25:70**
- Written contract, **§ 25:12**
- Wrong court, effect of filing in, **§§ 7:6, 25:70**
- Wrongful death, **§§ 25:16, 25:17, 25:25, 25:57**
- Wrongful discharge, **§§ 25:7, 25:25, 25:77**
- Zoning and planning contests, **§ 25:33**

STATUTE OF REPOSE

- Generally, **§ 25:5**
- Accrual rules and running of statute, generally, **§ 25:5**
- Equitable tolling, **§ 25:70**
- Latent design and construction defects, **§ 25:17**
- Real property actions, **§ 25:11**

STATUTES

- Judicial notice, **§§ 1:10, 10:11**
- Statute of Frauds, this index
- Statute of Limitations, this index
- Statute of Repose, this index
- Uncertainty of pleading, **§§ 1:10, 10:11**

STATUTORY PENALTIES

- Assignment of cause of action, **§ 18:27**

STAY

- Another action pending and, **§§ 23:2, 23:5**
- Answer, after motion to quash, **§ 2:26**
- Bankruptcy, automatic stay as tolling of statute of limitations, **§§ 25:69, 25:70**
- Common interest developments, action against builder, **§ 12:38**
- Delay in prosecution and, **§§ 28:1, 28:9, 28:15**
- Delay in service and return of summons and, **§§ 3:1, 3:20**
- Enforcement of sister state judgment, **§ 14:39**
- Forum non conveniens and, **§§ 6:3, 6:22, 6:23, 6:25, 6:27, 6:28**
- Primary jurisdiction and, **§§ 8:3, 8:5**
- Security for costs, **§ 13:2 et seq.**
- Service and return requirements, extension, **§§ 3:1, 3:20**
- Tolling of statute of limitations, **§§ 25:49, 25:69, 25:70**

STERILIZATION

Consent to, §§ 32:4, 38:28, 52:14
Immunity, § 38:28
Minors and, §§ 32:4, 52:14

STIPULATION

Change of venue, § 5:42
Consideration, § 56:9
Delay in prosecution and, §§ 28:1, 28:6, 28:7
Delay in service and return of summons and, §§ 3:1, 3:17, 3:18
General appearance and, §§ 2:28, 3:17
Mistake, stipulation that mistake will not affect contract, §§ 40:1, 40:13
Res judicata effect of stipulated judgment, § 14:14
Service and return requirements, §§ 3:1, 3:17, 3:18
Settlement and, §§ 43:3, 43:11, 43:12
Subject matter jurisdiction, effect of, § 7:8
Venue, change of, § 5:42

STOCK EXCHANGE

Capacity to sue, § 18:34
Statute of limitations against brokers, § 25:37

STOCKHOLDERS' DERIVATIVE ACTIONS

Shareholders' Derivative Actions, this index

STORM

Act of God as, §§ 30:2, 30:3, 30:8, 30:18
Freezing conditions, §§ 30:10, 30:18
Hurricane, § 30:7
Lightning, §§ 30:9, 30:12, 30:18
Rain, § 30:6
Tornado, § 30:3
Wind, § 30:7

STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION (SLAPP)

Motion to strike, § 12:37

STREAM OF COMMERCE

Personal jurisdiction and, § 4:17

STRICT LIABILITY

Assumption of the risk and, § 48:24
Comparative fault and, §§ 48:16, 48:31
Firefighter's rule, § 48:25
Release, § 42:2
Statute of limitations, §§ 25:3, 25:17
Strict products liability, § 48:16

STRIKES

Illegality and, §§ 37:1, 37:22, 37:23

INDEX

STRUCTURAL ENGINEERS

Engineers, this index

STRUCTURAL PEST CONTROL OPERATORS

Pest Control, this index

SUA SPONTE

Adequacy of remedy at law, **§ 31:10**

Corporate powers, suspension or forfeiture, **§ 39:38**

Five year rule, **§§ 28:1, 28:11, 28:30**

Guardian ad litem, appointment of, **§§ 18:5, 18:9**

Illegality, **§§ 37:24, 37:28, 39:1, 39:18**

Judges, this index

Laches, **§§ 1:5, 26:10, 26:13, 26:15**

License requirement, **§§ 39:1, 39:8, 39:40**

Mootness, **§ 22:5**

Nonjoinder of indispensable party, **§ 21:5**

Personal jurisdiction, **§ 4:33**

Prosecution, lack of, **§§ 29:1 to 29:3, 29:5**

Service and return of process, **§§ 3:27, 3:31**

Subject matter jurisdiction, **§§ 7:8, 7:12**

Unclean hands, **§§ 45:17, 45:21**

Unconscionability, **§ 55:7**

SUBDIVIDED LANDS ACT

Subdividers and Subdivisions, this index

SUBDIVIDERS AND SUBDIVISIONS

Forcible entry and detainer, defenses, **§ 37:26**

Laches in challenging subdivision, **§ 26:5**

Service of process on nonresident, **§ 2:8**

Statute of limitations and, **§ 25:33**

Subdivided Lands Act, **§ 62:23**

Subdivision Map Act

Generally, **§ 37:26**

Illegal contracts and, **§ 37:22**

Rescission, **§ 62:23**

Waiver, **§ 47:13**

SUBDIVISION MAP ACT

Subdividers and Subdivisions, this index

SUBDIVISIONS

Subdividers and Subdivisions, this index

SUBJECT MATTER JURISDICTION

Generally, **§§ 4:37, 7:1 et seq.**

Acts in excess of, **§ 7:10**

Administrative agencies and, **§ 7:2**

Adoption, **§ 7:5**

Agricultural Labor Relations Board, **§ 7:2**

SUBJECT MATTER JURISDICTION—Cont'd

- Alcoholic Beverage Control Board, § **7:2**
- Amended complaint, effect of, § **7:1**
- Amount in controversy, § **7:2**
- Another action pending and, § **7:5**
- Answer, allegation as to, § **7:11**
- Appellate courts and, § **7:2**
- Appellate review of decision as to, §§ **7:4, 7:14**
- Arbitration clause does not divest, § **68:1**
- Bifurcated trial, § **7:13**
- Burden of proof, § **7:15**
- Certiorari, § **7:2**
- Child custody, § **7:3**
- Child custody actions, § **45:11**
- Collateral estoppel
 - Effect of decision based on lack of subject matter jurisdiction, §§ **7:12, 14:3**
 - Requirement as to, § **15:2**
- Concurrent jurisdiction, §§ **7:1, 7:5**
- Consent and, §§ **7:8, 7:17**
- Conservatorship proceedings, § **7:2**
- Constitutional provisions, § **7:2**
- Continuation throughout action, § **7:4**
- Contracts
 - Choice of forum provision, effect on jurisdiction, § **7:9**
 - Ousting court's jurisdiction, § **37:22**
 - Stipulation affecting, § **7:8**
- Corporate suspension or forfeiture and, § **39:38**
- Courts
 - Generally, § **7:2**
 - Actions in excess of jurisdiction, § **7:10**
 - Concurrent jurisdiction of, §§ **7:1, 7:5**
 - Error by, effect on jurisdiction, § **7:7**
 - Inherent powers as to, §§ **7:8, 7:12**
 - Jurisdiction to determine jurisdiction, § **7:4**
 - Monetary limits on jurisdiction, § **7:2**
 - Small claims courts, this index
 - Uniform acts, jurisdiction under, § **7:3**
- Cross-complaints and, § **7:6**
- Damages
 - Amount in controversy, § **7:2**
 - Waiver of excess as affecting subject matter jurisdiction, § **7:16**
- Declaratory judgment, §§ **7:2, 7:3**
- Defeating
 - Contract provision as to, § **7:9**
 - Court error, § **7:7**
 - Estoppel, § **7:8**
 - Stipulation, § **7:8**

INDEX

SUBJECT MATTER JURISDICTION—Cont'd

- Demurrer based on, §§ **7:11, 7:12**
- Department of Public Works, § **7:2**
- Determination of, § **7:1**
- Dismissal based on lack of, §§ **14:8, 14:39**
- Dissolution of marriage, § **7:2**
- Due process and, § **14:3**
- Equity actions, §§ **7:2, 7:3**
- Error by court and, § **7:7**
- Escheat actions and, § **7:2**
- Estoppel and, §§ **7:8, 7:10**
- Evidence on propriety of transfer, § **7:6**
- Excess of jurisdiction, § **7:10**
- Exhaustion of remedies and, §§ **16:1, 16:16**
- Extraordinary writs and, § **7:2**
- Family Conciliation Court Act, § **7:2**
- Family law proceedings and, §§ **7:2, 7:3**
- Federal Employers Liability Act, § **7:9**
- Federal Parental Kidnapping Act, § **7:3**
- Forms, this index
- Forum non conveniens and, § **6:1**
- Forum selection clauses and, § **7:9**
- Guardianship proceedings and, §§ **7:2, 7:5**
- Habeas corpus proceedings and, § **7:2**
- Judgment on the pleadings, § **7:12**
- Jurisdiction and
 - Concurrent jurisdiction, §§ **7:1, 7:5**
 - Jurisdiction to determine, § **7:4**
 - Means to carry out, § **7:1**
 - Monetary limits on, § **7:2**
 - Retention of, § **7:5**
 - Subsequent proceedings, jurisdiction over, § **7:5**
 - Transfer of, § **7:6**
- Juvenile proceedings and, § **7:2**
- Mandamus proceedings and, § **7:2**
- Motion to challenge, § **7:12**
- Ouster, contracts, § **37:22**
- Partition, § **7:3**
- Personal jurisdiction and, §§ **4:32, 4:37, 6:4, 7:17**
- Power to impose sanctions, § **7:4**
- Preemption and, §§ **7:1, 7:19**
- Prejudice irrelevant, § **7:8**
- Presumptions as to, §§ **7:15, 7:19**
- Priority, § **7:5**
- Probate proceedings and, § **7:3**
- Prohibition proceedings and, §§ **7:2, 7:4**
- Public Employment Relations Board, § **7:2**

SUBJECT MATTER JURISDICTION—Cont'd

Public Utilities Commission, § 7:2

Quiet title actions, § 7:3

Res judicata

Effect of dismissal for lack of subject matter jurisdiction, §§ 7:10, 7:12, 14:8, 14:39

Requirements as to, §§ 14:3, 14:18

Revised Uniform Reciprocal Enforcement of Support Act, § 7:2

Sister state money judgments, § 7:2

Statute of limitations and effect of filing in court without, § 7:6

Statutory grants of jurisdiction, § 7:3

Stipulation as affecting, § 7:8

Superior Court, nature of jurisdiction, § 7:2

Supremacy clause and, § 7:19

Transfer of action and, §§ 7:2, 7:6

Trial

Assertion of defense during, § 7:13

Effect of, § 7:1

Trusts, § 7:3

Uniform Child Custody Jurisdiction Act, §§ 7:3, 45:11

Uniform Civil Liability for Support Act, §§ 7:2, 7:3

Uniform Parentage Act, § 7:3

United States, actions against, § 38:126

Validation actions, § 7:3

Venue and, § 7:18

Waiver, §§ 1:11, 7:8, 7:16

Workers' Compensation Appeals Board, § 7:2

Writ proceedings and, § 7:2

SUBLEASE

Leases, this index

SUBLETTING AND SUBCONTRACTING FAIR PRACTICES ACT

Setoff under, § 37:15

SUBMERGED LANDS

Service of process as to, § 2:2

SUBROGATION

Assignment and, §§ 18:26, 18:28

Capacity to sue, § 18:28

Definition, § 18:28

Joinder of subrogee and subrogor as parties, §§ 20:4, 21:2

Partial subrogation, indispensable parties, §§ 18:28, 21:2

Personal injury actions and, §§ 18:28, 21:2

Privity for res judicata, § 14:25

Res judicata and, § 14:25

Splitting a cause of action and, § 18:28

Statute of limitations and, § 25:39

Volunteer, § 18:28

INDEX

SUBROGATION—Cont'd

Workers' compensation actions, §§ 18:28, 25:39

SUBSIDENCE OF LAND

Cause of action, accrual, § 14:16

Gradual earth movement, § 38:72

Immunity, §§ 38:20, 38:72

Landslides, this index

State Oil and Gas Supervisor, § 38:20

Statute of limitations and, § 25:7

SUBSIDIARY

Personal jurisdiction over, §§ 4:11, 4:25

SUBSTITUTED SERVICE OF PROCESS

Service of Process, this index

SUBSTITUTION OF COUNSEL

Delay in service and return of summons and, § 3:1

SUBSTITUTION OF PARTIES

Amendment to name new party, § 18:37

Statute of limitations, effect on, §§ 25:50, 25:77

SUBSTITUTION OF PERSONAL REPRESENTATIVE

Generally, § 17:4

Waiver of lack of substitution, § 17:36

SUCCESSOR IN INTEREST

Death and succession, § 17:2

Duress, § 33:5

Estoppel and, § 34:9

Laches, § 26:1

Obligation to do equity, § 35:1

Personal jurisdiction over, § 4:27

Res judicata and, § 14:25

Statute of limitations, § 25:77

Successor trustee, § 38:28

SUDDEN INFANT DEATH SYNDROME

Autopsies as to, § 38:15

SUICIDE

Immunity, §§ 38:26, 38:95, 38:99

SUMMARY JUDGMENT

Generally, §§ 1:4, 1:5, 9:4

Accord and satisfaction, § 63:8

Adequacy of consideration, § 56:13

Affirmative defenses, § 1:5

Collateral estoppel, assertion of defense by motion for, § 15:12

Delay in prosecution, effect of hearing on, § 28:4

Demurrer motion on same ground, § 1:5

SUMMARY JUDGMENT—Cont'd

Duress, summary judgment as to, **§ 33:8**
Estoppel, summary judgment as to, **§ 34:10**
Exhaustion of remedies, determining issue, **§ 16:11**
Failure to file government claim, **§ 12:28**
Failure to satisfy claim, notice or demand requirement, **§ 12:39**
Failure to state cause of action and, **§ 9:4**
Frustration of purpose, **§ 58:2**
Immunity, determination as to, **§ 38:140**
Impossibility, **§ 60:14**
Lack or inadequacy of consideration, **§ 56:13**
Modification of contract, **§ 65:8**
Novation, **§ 64:10**
Privilege, **§ 41:21**
Release, determining validity of, **§ 42:9**
Res judicata
 Assertion of defense in, **§ 14:55**
 Effect of summary judgment on, **§ 14:10**
Setoff, determination on motion for, **§ 44:7**
Settlement, **§§ 43:3, 43:6**
Statute of frauds as grounds for, **§ 53:36**
Strike motion on same ground, **§ 1:5**
Truth as defense, **§ 51:7**
Unclean hands, **§ 45:16**
Unconscionability, **§ 55:5**
Undue influence, **§ 46:13**

SUMMONS

Adoption, **§ 2:2**
Adverse possession, **§ 2:2**
Alias summons, **§ 3:14**
Amended summons, **§§ 2:23, 3:14**
Blanks contained in, **§ 2:22**
Boundaries reestablishment, **§ 2:2**
Characteristics, **§ 2:2**
Child custody, **§ 2:2**
Condemnation, **§ 2:2**
Continuing proceedings, **§ 2:2**
Corporations, **§ 2:2**
Defects in, **§§ 2:2, 2:22**
Defendant, identification of
 Generally, **§ 2:2**
 Defects in, **§ 2:19**
 Doe defendants, **§ 2:2**
Delay in Service and Return of Summons, this index
Destroyed land records, reestablishment, **§ 2:2**
Disbarment, **§ 2:2**
Dissolution of marriage, **§ 2:2**

INDEX

SUMMONS—Cont'd

Doe defendants, § 2:2
Eminent domain, § 2:2
Fictitious defendants, § 2:2
Form of, § 2:2
Joint debtors, § 2:2
Judicial Council forms, § 2:2
Lost summons, § 3:14
Motion to Quash, this index
Parent's action for injury to child, § 2:2
Partition, § 2:2
Probate claim requirement not met by, § 17:34
Quiet title action, § 2:2
Res judicata, effect of failure to serve and return summons, §§ 3:25, 14:8, 14:10
Return of Service, this index
Service of Process, this index
Statutory requirements as to, §§ 2:2, 2:22
Tax lien, § 2:2
Unincorporated associations, § 2:2
Unlawful detainer, §§ 2:2, 2:22
Validation actions, § 2:2
Who may serve, § 2:3

SUPERINTENDENT OF BANKS

Notice of liquidation of financial institution, § 12:34

SUPERINTENDENTS OF SCHOOLS

Conflict of interest, § 37:17
Immunity, §§ 38:23, 38:59, 38:75, 38:123
Investigation of fitness, § 38:75
Public entity, § 38:59
Schools, this index

SUPERIOR COURT

Advice immunity, § 38:69
Amount in controversy in, § 7:2
Concurrent exclusive jurisdiction and, §§ 7:5, 23:11
Courts, this index
General jurisdiction, § 7:1
Narcotic addicts, committed on petition, § 38:96
Res judicata effect of judgment, § 14:36
Subject Matter Jurisdiction, this index

SUPERSEDEAS

Stay, this index

SUPERSEDING CAUSE

Comparative fault, § 48:27

SUPPLEMENTAL PLEADINGS

Generally, §§ 1:4, 2:23

SUPPLEMENTAL PLEADINGS—Cont'd

- Accord and satisfaction, **§ 63:12**
- Death of plaintiff or defendant, **§ 17:36**
- Delay in service and return of summons and, **§§ 3:3, 3:13**
- Election of remedies, raising defense in, **§ 24:11**
- Estoppel and, **§ 34:10**
- Prematurity, **§ 27:1**
- Relation back, statute of limitations, **§ 25:77**
- Release, **§§ 42:8, 42:12**
- Res judicata, assertion of defense in, **§§ 14:16, 14:54**
- Service and return requirements, **§§ 2:23, 3:3, 3:13**
- Setoff and, **§ 44:7**
- Settlement, **§ 43:6**

SUPPLIERS

- Contractor's licensing requirements and, **§ 39:14**

SURETY

- Guarantees and Guarantors, this index

SURGEONS

- Physicians and Surgeons, this index

SURVEYOR

- Land Surveyor, this index

SURVIVAL OF CAUSE OF ACTION

- Generally, **§§ 17:3, 18:11**
- Abatement and, **§ 17:2**
- Assignability and, **§§ 17:10, 18:18**
- Bad faith actions, **§§ 17:14, 17:19**
- Breach of contract, **§§ 17:10, 17:24**
- Breach of right of privacy, **§ 17:11**
- Child support, **§§ 17:25, 17:32**
- Dissolution of marriage, **§ 17:7**
- False arrest, **§ 17:12**
- Fraud, **§ 17:20**
- Fraudulent conveyance, to set aside, **§ 17:17**
- Insurance company breach, **§ 17:19**
- Legal malpractice, **§§ 17:20, 17:30**
- Lien survival, **§ 17:33**
- Malicious prosecution, **§§ 17:3, 17:13**
- Malpractice, **§ 17:30**
- Paternity, **§ 17:25**
- Personal injury actions, **§§ 17:10, 17:30**
- Property rights actions, **§§ 17:10, 17:16, 17:31**
- Quiet title actions, **§§ 17:16, 17:31, 18:16**
- Real property actions, **§ 17:10**
- Recovery of property, actions for, **§ 17:17**
- Right of privacy, **§ 17:11**

INDEX

SURVIVAL OF CAUSE OF ACTION—Cont'd

- Slander of title, **§ 17:3**
- Trespass, **§ 17:16**
- Trusts, **§ 17:16**
- Unlawful detainer, **§§ 17:16, 17:31**
- Usury, **§ 17:16**
- Will contest, **§ 17:16**
- Wrongful death, **§§ 17:2, 17:6, 17:18**

SURVIVING CORPORATION

- Capacity to sue, **§§ 18:15, 18:16**

SUSPENDED CORPORATIONS

- Capacity to sue, **§§ 18:17, 18:36, 39:37, 39:38**
- Malpractice action by, **§ 25:43**
- Service of process, **§§ 2:2, 2:7**
- Statute of limitations, **§ 25:76**

SWIMMING POOLS

- Construction contracts, statute of frauds and, **§ 53:23**

SYNDICATES

- Capacity to sue, **§ 18:34**

TALENT AGENCIES

- Contracts with minors, **§ 52:15**
- Licensing requirements as to, **§ 39:34**

TAXES

- Adverse possession, **§ 25:11**
- Assignability of refund claim, **§§ 18:18, 18:31**
- Claim for refund of, **§ 12:31**
- Class actions unavailable for refund, **§ 12:31**
- Collateral estoppel and, **§ 14:51**
- Collection, prevention of, **§ 38:37**
- Corporation's failure to pay, effect of, **§§ 18:17, 25:76, 39:37, 39:38**
- Election of remedies by Franchise Tax Board, **§ 24:9**
- Exhaustion of remedies and, **§ 16:1**
- Franchise Tax Board, election of remedies by, **§ 24:9**
- Immunity, **§ 38:66**
- Injunction against collection, barred, **§ 38:37**
- Joinder of parties, refund actions, **§§ 20:2, 20:5**
- Parties authorized to sue for refund, **§ 18:31**
- Probate proceedings and, **§§ 12:32, 17:34**
- Public entities, setoff and, **§ 44:2**
- Quiet title action as to tax defaulted property, verification of, **§ 11:8**
- Recovery of goods seized, statute of limitations as to, **§ 25:20**
- Refunds
 - Assignment of claim, **§§ 18:18, 18:31**
 - Claim requirements and, **§ 12:31**
 - Venue, **§ 5:27**

TAXES—Cont'd

- Res judicata and, §§ **14:40, 14:51**
- Sales tax, auctioneers and auction companies, § **38:4**
- Service of process in actions as to
 - Collection actions, § **2:2**
 - Tax deeded property, § **2:2**
- Setoff and, § **44:2**
- Statute of limitations
 - Recovery of goods seized, § **25:20**
 - Sales and use taxes, § **25:18**
 - Tax deed challenge, § **25:74**
 - Tax penalty actions, § **25:24**
- Tolling
 - Absence, § **25:61**
 - Judgment reversal, § **25:68**
 - War, § **25:63**
- Suspension of corporation's powers and, §§ **18:17, 39:38**
- Tax assessors, immunity of, § **38:135**
- Taxpayers' Suits
 - Standing, §§ **19:1, 19:7**
 - Venue, § **5:22**
 - Verification, quiet title action as to tax defaulted property, § **11:8**
 - Waste, § **19:3**
- Tax preparers, licensing requirements as to, § **39:35**
- Tax proceedings
 - Adequacy of consideration, definition in, §§ **56:1, 56:4**
 - Federal Tort Claims Act, § **38:67**
 - Immunity, § **38:67**
 - Sovereign immunity waived, § **38:126**
 - United States, actions against, § **38:126**
- Tax Refund Actions, this index
- Venue, §§ **5:22, 5:27, 5:35**
- Verification of pleadings, tax defaulted properties, § **11:8**
- Waiver, privilege to keep return confidential, § **47:11**

TAX LIENS

- Summons, § **2:2**

TAX REFUND ACTIONS

- Assignability, § **18:18**
- Exhaustion, §§ **16:1, 16:2**
- Government claim filing requirements and, §§ **12:21, 12:31**
- Obligation to do equity, § **35:1**
- Service and return requirements, §§ **3:9, 3:17**
- Setoff, § **44:2**
- Statute of limitations, § **25:32**
- Venue, § **5:27**
- Verification, § **11:29**

INDEX

TEACHERS

Injury or death caused by minor, **§ 48:9**
Public Officers and Employees, this index
Schools, this index
Tenure rights, waiver, **§ 47:13**

TEAR GAS

Minors, sale of tear gas or tear gas weapons to, **§ 52:7**

TELEGRAPH

Privilege, telegraph companies and, **§ 41:9**
Service of summons by, **§ 2:2**

TELEPHONES

Emergencies, use of, **§ 38:45**
Hostages and, **§ 38:17**
Immediate physical presence, equal dignities rule and, **§ 54:3**
Immunities and, **§§ 38:17, 38:45**
Law enforcement, **§ 38:17**
Personal jurisdiction, directory listing, **§ 4:12**
Privilege, protected proceedings, **§ 41:7**

TELEVISION

Actual malice, **§ 41:9**
Cable television, immunity, **§ 38:42**
Defamation, immunity, **§ 38:42**
Immunity, **§§ 38:36, 38:42**
Malice, **§§ 41:2, 41:9**
News reporter's immunity, **§ 38:36**
Privilege, **§§ 41:2, 41:9 to 41:12, 51:1, 51:3, 51:4**

TENANTS

Landlord-Tenant Relations, this index

TENDER

Accord and satisfaction, **§§ 63:4, 63:5, 63:8**
Check as, **§§ 63:5, 69:2**
Defense, **§§ 25:7, 25:14**
Deposit in financial institution, **§ 69:4**
Full payment of debt or obligation, **§§ 63:5, 69:1, 69:2, 69:8**
Futile act, **§ 59:3**
Joint creditor, tender to one enough, **§ 69:5**
Objections to, **§§ 47:9, 63:5, 69:8**
One who seeks equity, **§§ 35:1, 35:2**
Rescission, **§§ 42:15, 62:26, 62:27, 62:36**
Sales of goods, **§ 12:11**
Statute of limitations, **§§ 25:4, 25:6, 25:14**

TERMINATION OF CONTRACTS

Abandonment of Contracts, this index

TESTIMONY

Witnesses, this index

THING IN ACTION

Assignment of, §§ 17:10, 18:18

Cause of Action, this index

Definition, §§ 9:1, 17:10, 18:18

THIRD PARTIES

Abandonment of contract benefiting, § 61:1

Alteration of documents by, § 66:5

Application of payment prejudicing, § 69:9

Arbitration affecting, §§ 68:6, 68:7

Blanks, filling in, §§ 66:1, 66:4, 66:10

Consideration, § 56:2

Dangerous conditions on public property caused by, § 38:111

Destruction of documents by, § 66:5

Equal dignities rule, power to assert, § 54:6

Estoppel, §§ 34:9, 54:4

Forum selection clauses, §§ 4:5, 6:24

Illegality, who may assert, §§ 37:24, 37:25

Immunity, reliance on immunity of another, § 38:130

Impossibility caused by, § 60:6

Joinder, §§ 20:5, 21:2

Modification of contract affecting, §§ 65:1, 65:7

Notice, § 12:12

Notice requirements, waiver, § 47:8

Payment of debt by, § 69:3

Prevention of performance and, § 59:3

Privilege and, § 41:8

Procurement of loan for, § 53:18

Ratification causing prejudice to, § 54:5

Reliance on immunity of another, § 38:130

Representation as to credit of, § 53:18

Rescission

 Based on performance of, § 62:17

 Effect on, §§ 62:1, 62:31

Settlement, effect on, §§ 43:4, 43:5

Sovereign immunity, reliance on, § 38:130

Statute of limitations, § 25:41

Subrogees, and, §§ 18:28, 25:39

Third party complaints, §§ 3:3, 3:17

Waiver of notice requirements, § 47:8

THREE-YEAR RULE

Generally, §§ 2:19, 3:1 et seq.

Return of Service, this index

INDEX

TIDAL WAVE

Act of God as, **§ 30:3**
Impossibility and, **§ 60:2**

TIDELANDS

Service of process in action as to, **§ 2:2**

TIMBER

Harvesting, entry on private property for, **§§ 17:16, 38:60**
Sale of, **§ 53:11**
Venue, **§§ 5:8, 5:20**

TIME

Age of majority, **§ 32:4**
Alteration of documents, **§§ 66:1, 66:5, 66:8**
Arbitration, compelling, **§ 68:8**
Capacity to contract, time of, **§ 52:22**
Computation of
 Age, **§ 52:2**
 Minority, **§ 18:2**
 Statute of limitations, **§ 25:3**
Consent to conduct, **§ 32:5**
Consideration determined, **§§ 56:4, 56:12**
Contractor's license and, **§§ 39:16, 39:17**
Demurrer to answer, **§ 1:4**
Destruction of documents, **§§ 66:1, 66:5, 66:8**
Disaffirmance of minor's contracts, **§§ 52:8, 52:9, 52:20**
Election of remedies, time to assert, **§ 24:10**
Estoppel, time of representations, **§ 34:3**
Failure of consideration, **§§ 57:1, 62:11**
Fictitious business name compliance and, **§ 39:36**
Illegality, time to assert, **§ 37:2**
Impossibility determined, **§ 60:7**
Installment payments, **§ 69:9**
Laches, this index
License procurement and, **§§ 39:16, 39:17, 39:19, 39:28**
Mental incompetency, **§ 52:22**
Mistake, **§§ 40:2, 40:7**
Payment time, **§§ 67:4, 69:8**
Personal jurisdiction, timing of presence and activities within California, **§ 4:12**
Ratification, **§§ 52:20, 54:5**
Rescission, **§§ 62:22, 62:25, 62:26**
Statute of Frauds, this index
Statute of Limitations, this index
Statute of Repose, this index
Time of the essence provisions, **§ 57:2**
Tolling, this index
Unconscionability occurs, **§ 55:1**
Usury, **§ 37:13**

TIME—Cont'd

Verification of date, omission of, **§ 11:26**

Waiver of equal dignities rule, **§ 54:9**

TITLE

Abstract of title, statute of limitations and, **§ 25:14**

Certificate of title, statute of limitations as to action on, **§ 25:14**

Companies, statute of limitations as to, **§§ 25:14, 25:37**

Insurance. Title Insurance, this index

Quiet Title Actions, this index

Slander of Title, this index

TITLE INSURANCE

Arbitration, **§ 68:1**

Discovery rule, statute of limitations, **§ 25:14**

Malpractice, limitation of actions, **§ 25:37**

Statute of limitations, **§§ 25:12, 25:14**

Tolling, **§ 25:70**

TOLLING OF STATUTE OF LIMITATIONS

Generally, **§ 25:42 et seq.**

Absence of a party, **§ 25:61**

Accrual of Cause of Action, this index

Acknowledgment of debt and, **§ 25:46**

Adverse possession and, **§ 25:53**

Agreement tolling statute

Generally, **§ 25:41**

Allegation as to, **§ 25:41**

Form, tolling agreement, **§ 25:67**

Tolling agreements, **§§ 25:67, 25:83**

Appeal, tolling pending, **§ 25:68**

Asbestos exposure actions, **§ 25:31**

Attorney's incapacity, **§ 25:60**

Automatic stay, **§§ 25:69, 25:70**

Bankruptcy, **§§ 25:69, 25:70**

Certificate of merit, effect of lack, **§ 12:2**

Claims requirements and, **§§ 25:76, 25:85**

Class action, **§ 25:56**

Common interest developments, action against builder, **§ 12:38**

Contractual limitation periods

Generally, **§ 25:41**

Allegation as to, **§ 25:41**

Contract provisions as to, **§ 25:41**

Tolling agreements, **§§ 25:67, 25:83**

Controlled entities, **§ 25:52**

Corporations

Generally, **§ 25:52**

Foreign, **§ 25:61**

Officers, **§ 25:52**

INDEX

TOLLING OF STATUTE OF LIMITATIONS—Cont'd

- Corporations—Cont'd
 - Suspended, **§ 18:17**
- Court approval requirement and, **§ 25:49**
- Cross-claim, **§ 25:71**
- Death, **§§ 17:5, 25:58, 25:59**
- Delay in prosecution and, **§ 28:36**
- Directors, **§ 25:52**
- Discovery Rule, Statute of Limitations, this index
- Duress and, **§ 25:66**
- Emancipated minors, **§ 25:51**
- Equitable tolling doctrine, **§ 25:70**
- Fiduciary, **§§ 25:5, 25:12, 25:21, 25:35, 25:36, 25:52, 25:64**
- Foreign corporations, **§ 25:61**
- Fraudulent concealment
 - Criminal defendants, **§ 25:54**
 - Doctrine of relation back, **§ 25:78**
 - Fraud or mistake, **§ 25:21**
 - Incarcerated persons, **§ 25:54**
 - Latent design and construction defects, **§ 25:17**
 - Legal malpractice, **§§ 25:35, 25:43**
 - Manner of asserting defense, **§ 25:79**
 - Medical malpractice, **§§ 25:36, 25:44**
 - One or four years, **§ 25:35**
 - One or three years, **§ 25:36**
 - Pleadings, **§ 25:79**
 - Taking or harming personal property, **§ 25:20**
 - Ten years, **§ 25:17**
 - Three years, **§§ 25:20, 25:21**
 - Unasserted cross-claim, filing complaint, **§ 25:72**
- Government claim filing requirements, **§§ 12:20, 12:28**
- Imprisonment of plaintiff, **§ 25:54**
- Incompetency, **§§ 25:42, 25:53, 25:55**
- Injunction barring commencement of action, **§ 25:69**
- In rem jurisdiction, **§ 25:61**
- Insurance, uninsured motorist, **§ 25:45**
- Laches and, **§ 25:84**
- Leave of court requirement and, **§ 25:49**
- Legal malpractice, **§§ 25:43, 25:51, 25:53, 25:54**
- Malicious prosecution, **§ 25:68**
- Marriage, **§§ 25:48, 25:72**
- Medical malpractice, **§§ 25:36, 25:44, 25:51, 25:53**
- Mental incapacity or incompetency, **§§ 25:42, 25:53, 25:55**
- Military service, **§ 25:62**
- Minority, **§§ 25:42, 25:49, 25:51, 25:60**
- Multiple plaintiffs, **§ 25:42**
- Officers, **§ 25:52**

TOLLING OF STATUTE OF LIMITATIONS—Cont'd

Partial payment of debt and, **§ 25:46**
Partnerships and, **§ 25:55**
Pendent jurisdiction, **§ 25:70**
Personal representative, lack of, **§ 25:74**
Plaintiff's status and
 Generally, **§ 25:42**
 Absence from state, **§ 25:61**
 Class action members, **§ 25:56**
 Controlled entities and, **§ 25:52**
 Disability of, **§ 25:60**
 Incarceration of, **§ 25:54**
 Mental incompetency of, **§ 25:53**
 Military service and, **§ 25:62**
 Minors, **§ 25:51**
 Multiple plaintiffs, **§ 25:42**
 Successors in interest, **§ 25:50**
 Tolling agreements as to, **§ 25:67**
Premarital agreements, **§ 25:48**
Prisoners, **§ 25:54**
Probate claims, **§§ 12:32, 25:74**
Receivership, **§ 25:70**
Repairs, **§§ 25:17, 25:47**
Rescission, **§§ 25:12, 25:15, 62:1**
Restitution, **§ 25:64**
Reversal of judgment, **§ 25:68**
Settlement, **§ 25:73**
State, action against, **§ 25:72**
Statute of frauds, tolling agreements and, **§ 53:23**
Statute of Limitations, this index
Stay, **§ 25:69**
Tolling agreements, **§§ 25:41, 25:67, 25:83**
Total unanticipated disability, **§ 25:60**
Uninsured motorist coverage and, **§§ 25:45, 25:51**
Victims of duress, **§ 25:66**
War, **§ 25:63**

TORNADO

Act of God as, **§ 30:3**

TORTS

Acts of God as defense in action, **§§ 30:1, 30:2**
Alienation of affection, **§ 38:37**
Arbitration
 Tort claims, **§§ 68:1, 68:6**
 Tortious conduct by party to, **§§ 68:1, 68:12**
Assault, **§§ 32:1, 48:25, 50:1 et seq.**
Assignability of, **§§ 18:20 to 18:27**

INDEX

TORTS—Cont'd

- Assumption of the risk and, **§ 48:25**
- Autopsy, sudden infant death syndrome, **§ 38:15**
- Bad faith of defendant, **§ 51:7**
- Battery, §§ 32:1, 32:9, 48:16, 48:25, 50:1 et seq.
- Breach of confidence, **§ 38:38**
- Breach of promise to marry, **§ 38:37**
- Breach of trust, **§ 38:28**
- Business compulsion. Duress, this index
- Common enemy doctrine, **§ 49:9**
- Comparative Fault, this index
- Consent to, **§ 32:1 et seq.**
- Conspiracy, §§ 38:9, 41:6, 53:32
- Conversion, §§ 32:1, 32:2, 33:2, 36:7, 37:27, 38:131, 48:16
- Criminal conversation, **§ 38:37**
- Damages, this index
- Defamation, this index
- Denial of permit, **§ 38:102**
- Design immunity, §§ 38:113, 38:121
- Duress and, **§ 33:1 et seq.**
- Duty of care, §§ 38:1, 38:32, 48:1
- Election of remedies and, §§ 24:5, 24:8
- Emergency, §§ 32:2, 32:9, 49:1 et seq.
- Emotional Distress, this index
- Failure to Mitigate Damages, this index
- Failure to Warn, this index
- False arrest or imprisonment, §§ 38:17, 38:78 to 38:80, 48:16
- Federal Tort Claims Act, §§ 38:67, 38:68, 38:73, 38:105, 48:16
- Fictitious business names and, **§ 39:36**
- Firefighter's rule, **§ 48:25**
- Fraud, this index
- Fraudulent concealment, §§ 38:56, 48:16
- Government Tort Claims Act, this index
- Gross negligence, **§ 48:23**
- Immunity, this index
- Inducing breach of contract, §§ 41:6, 41:13, 41:20
- Intentional Misrepresentation, this index
- Intentional torts, this index, **§ 12:4**
- Interference, this index
- Interference with contract, §§ 41:6, 41:13, 41:20, 53:10, 53:28
- Interference with prospective advantage, §§ 41:6, 41:12, 41:13, 41:20, 53:28
- Interspousal or interfamily tort immunity, **§ 38:138**
- Invasion of Privacy, this index
- Joinder of parties, §§ 20:2 to 20:5, 21:2
- Joint tortfeasors, release, §§ 42:7, 42:16, 43:2, 48:5
- Last clear chance, §§ 48:26, 49:5

TORTS—Cont'd

Malicious prosecution
 Advice of counsel, **§ 41:26 et seq.**
 Law enforcement activities, **§§ 38:76, 38:81**
 Privilege, **§§ 41:3, 41:6, 41:11, 41:12**
 Release, **§ 42:6**
Medical Malpractice, this index
Misappropriation of name or likeness, mistake and, **§ 40:1**
Misrepresentation, this index
Mitigation of damages and, **§ 36:5**
Multiparty claims, settlement, **§§ 42:7, 42:16, 43:2, 48:5**
Necessity, **§ 49:8**
Negligence, this index
 Negligent entrustment, **§ 38:33**
 Negligent selection of employee, **§ 48:14**
Notice of intent to sue, **§ 12:4**
Nuisance, this index
Personal injury, **§ 43:2**
Privilege and Justification, this index
Probate claim requirements as to, **§ 12:32**
Punitive damages, **§§ 37:11, 38:37, 38:124, 68:1**
Ratification of torts of agent by principal, **§ 48:13**
Res ipsa loquitor, **§ 48:16**
Self-Defense, this index
Service of summons, actions against the state, **§ 2:2**
Slander of title, **§ 41:6**
Sovereign immunity waiver, **§ 38:126**
Statute of frauds and, **§ 53:34**
Statute of Limitations, this index
Strict liability, **§§ 48:16, 48:24, 48:25**
Tort Claims Act, this index
Trespass, this index
United States, actions against, **§ 38:126**
Venue, **§§ 5:23, 5:24, 5:28, 5:30, 5:34**
Willful misconduct, **§§ 48:9, 48:22**
Wrongful Death, this index
Wrongful life, **§ 38:37**
Wrongful termination, mitigation of damages, **§ 36:5**

TOTAL UNANTICIPATED DISABILITY

Tolling of statute of limitations, **§ 25:60**

TRADE LIBEL

Statute of limitations, **§ 25:15**

TRADE SECRETS

Accrual of action for misappropriation, **§ 25:7**
Illegal contracts, **§ 37:14**
Limitation of actions, **§ 25:20**

INDEX

TRADE SECRETS—Cont'd

Misappropriation, privilege and, **§ 41:6**
Statute of limitations, **§§ 25:7, 25:20**

TRADING WITH THE ENEMY ACT

Generally, **§ 25:69**

TRANSFER

Assignment, this index
Cause of action, **§§ 18:18 to 18:27**
Courts, transfers between, **§§ 7:2, 7:6**
Modification of contract, third party rights, **§ 65:7**
Neutral county, **§ 5:28**
Property, **§ 18:18**
Statute of limitations and, **§ 7:6**
Subject matter jurisdiction and, **§§ 7:2, 7:6**
Venue, **§ 5:42**

TRANSFUSIONS

Immunity, **§ 38:24**

TRANSITORY ACTION

Venue, this index

TREASURER

Immunity, escheated property, **§ 38:73**

TRESPASS

Advice of counsel and, **§ 41:28**
Assignability of cause of action for, **§ 18:27**
Comparative fault, **§ 48:16**
Consent, **§§ 32:1, 32:3**
Dogs, **§ 38:19**
Good faith trespass, **§ 41:28**
Immunity for entry on property by public employee, **§ 38:60**
Mistake and, **§§ 40:1, 40:5**
Self-defense and, **§ 50:5**
Statute of limitations, **§§ 25:4, 25:17, 25:19**
Survival of cause of action, **§ 17:16**
Timber harvesting, **§ 38:60**
Unclean hands, **§ 45:2**
Venue, **§§ 5:8, 5:14**
Willful trespass, **§ 41:28**
Z'Berg-Nejedly Forest Practice Act, **§ 38:60**

TRIAL

Abatement, trial as to, **§ 1:2**
Accord and satisfaction, **§ 63:9**
Alteration of documents, **§ 66:8**
Another action pending, trial as to, **§ 23:6**
Arbitration, **§§ 68:8 to 68:10**

TRIAL—Cont'd

Bifurcated Trial, this index
Comparative fault defense, **§ 48:19**
Consideration, existence or adequacy, **§ 56:13**
Definition for delay in prosecution statutes, **§ 28:4**
Delay in prosecution
 Generally, **§ 28:1 et seq.**
 Definition of trial for, **§ 28:4**
Destruction of documents, **§ 66:8**
Equal dignities rule, **§ 54:7**
Exoneration of surety or guarantor, **§ 67:5**
Frauds, statute of, asserting the defense, **§ 53:37**
Indispensable parties and, **§ 21:6**
Jury Instructions, this index
Limitation of actions, **§ 25:80**
Modification of contract, **§ 65:8**
Novation, **§ 64:10**
Release, **§ 42:9**
Self-defense, **§ 50:9**
Separate trials of defendants, **§ 20:8**
Statute of limitations, **§ 25:80**
Subject matter jurisdiction
 Trial as to, **§ 7:13**
 Unaffected by, **§ 7:1**
Truth as a defense, determination of, **§ 51:8**
Unclean hands, **§ 45:18**
Unconscionability, **§ 55:5**
Waiver, trial as to, **§ 47:15**
Witnesses, §§ 38:133, 41:5, 41:7

TRIAL COURT DELAY REDUCTION ACT

Delay in service and return of summons and, **§ 3:10**
Discretionary dismissal statutes, **§ 29:1**

TRIBUNAL

Res judicata effect of decisions by, **§ 14:35 et seq.**
Subject matter jurisdiction of, **§ 7:5**

TRIVIAL DEFECTS

Comparative fault, **§ 48:28**

TRUSTEES

Agents of, **§ 48:15**
Agreements violating obligations of, **§ 37:22**
Application of payments received by, **§ 69:9**
Bankruptcy, **§ 38:133**
Burden of proof, fiduciary duty, **§ 46:2**
Discovery rule and limitations period, §§ 25:5, 25:37
Fiduciary relation with beneficiary, §§ 25:65, 46:2
Forbidden names, **§ 39:36**

INDEX

TRUSTEES—Cont'd

- Immunity, §§ 38:28, 38:84, 38:133
- Imputation of liability, § 48:15
- Joinder of parties and, §§ 18:11, 20:4
- Liability for agent's acts, § 48:15
- Mistake and, § 40:1
- Notice in action against, § 2:2
- Presumption of undue influence, § 46:2
- Prisoner's, § 38:84
- Real parties in interest, §§ 19:3, 19:5
- Service of process in action against, § 2:2
- Setoff as to, §§ 44:3, 44:4
- Standing, §§ 19:3, 19:5
- Statute of limitations against, §§ 25:5, 25:37, 25:65
- Successor liability, § 38:28
- Trusts, this index
- Undue influence, § 46:2
- Venue, actions against, § 5:29

TRUSTEE'S SALE

- Deed of Trust, this index

TRUSTS

- Charitable trusts, notice requirements in suit against, § 12:6
- Consideration for, § 56:9
- Constructive trusts
 - Minor's disaffirmed contract and, § 52:11
 - Mistake, remedy for, § 40:1
 - Statute of frauds and, §§ 53:9, 53:21, 53:24
- Definition, § 46:2
- Equal dignities rule and, § 54:2
- Forbidden names, § 39:36
- Illegality and, §§ 37:16, 37:25
- Immunity and, §§ 38:28, 38:84, 38:133
- Joinder of parties and, §§ 18:11, 20:4
- Laches and, §§ 26:5, 26:7
- Minor as trustee, § 52:16
- Notice to Attorney General, § 12:6
- Real estate investment trusts
 - Generally, § 38:35
 - Statute of frauds and, § 53:9
- Resulting trusts, §§ 45:9, 53:9, 53:24
- Service of process in action as to, § 2:2
- Spendthrift trusts, § 37:16
- Statute of frauds and, §§ 53:9, 53:21, 53:24
- Statute of limitations, §§ 25:40, 25:72
- Subject matter jurisdiction over actions involving, § 7:3
- Survival of cause of action, § 17:16

TRUSTS—Cont'd

Trustees, this index
Undue influence and, **§ 46:2**
Voluntary, **§ 46:2**

TRUTH

Generally, **§ 51:1 et seq.**
Answer, allegation as to, **§ 51:6**
Attorney fees, **§ 51:8**
Bad faith of defendant, **§ 51:1**
Belief of defendant, **§ 51:1**
Burden of proof, **§§ 51:1, 51:9**
Campaign advertising, **§ 51:4**
Consequences of defamation, **§ 51:5**
Demurrers, **§ 51:7**
Determination of defamation, **§ 51:2**
Duress and, **§ 33:2**
Emotional distress and, **§ 51:1**
First Amendment, **§§ 51:1, 51:3, 51:4**
Fraud and, **§ 51:1**
Immunity and, **§ 51:11**
Interference and, **§ 51:1**
Motions to determine, **§ 51:7**
News media, **§§ 51:1, 51:3, 51:9**
Opinions, **§§ 51:2, 51:3**
Pleading, **§ 51:6**
Privilege and, **§ 51:11**
Right of privacy, **§ 51:1**
Trial, **§ 51:8**
Waiver of defense, **§ 51:10**

TWO-YEAR RULE

Generally, **§ 29:1 et seq.**
Discretionary Dismissal Statutes, this index

ULTIMATE FACT

Generally, **§ 10:2**
Agency, **§§ 10:2, 54:7**
Agreed boundary, **§ 10:2**
Amendment to state, **§ 10:3**
Causation, **§ 10:2**
Course of conduct, **§ 10:2**
Lack of consideration, **§ 56:13**
Negligence, **§ 10:2**
Nonpayment, **§ 10:2**
Outrageous conduct, **§ 10:2**
Ownership, **§ 10:2**
Partnership, **§ 10:2**
Payment, **§ 10:2**

INDEX

ULTIMATE FACT—Cont'd

- Performance of condition precedent, **§ 10:2**
- Riparian character of land, **§ 10:2**
- Scope of employment, **§ 10:2**
- Verification, **§ 11:2**

ULTRAHAZARDOUS ACTIVITIES

- Firefighters' rule and, **§ 48:25**
- Immunity unavailable, **§ 38:130**
- Statute of limitations, **§ 25:19**

UNAVOIDABLE ACCIDENT

- Act of God as, **§§ 30:3, 30:18, 30:19**

UNBORN

- Fetus
 - Injuries to, **§ 18:7**
 - Statute of limitations, **§§ 25:36, 25:51**
- Guardian ad litem for, **§§ 18:4, 18:7**
- Partition actions, **§ 18:4**
- Quiet title actions, **§ 18:4**

UNCERTAINTY OF PLEADING

- Generally, **§ 10:1 et seq.**
- Accounts and, **§ 10:6**
- Amendment of Pleadings, this index
- Appellate review, **§ 10:17**
- Common counts, **§ 10:4**
- Conclusions of law and, **§ 10:2**
- Conditions precedent, **§ 10:9**
- Constitutional defense, vagueness as, **§ 10:19**
- Constitutional law, vagueness as defense under, **§ 10:19**
- Contracts, **§§ 10:9, 10:14, 10:15**
- Defamation, **§ 10:12**
- Defendant's knowledge and, **§ 10:1**
- Definitions, **§§ 10:1, 10:5 et seq., 10:13**
- Demurrer, **§§ 10:1, 10:16**
- Discovery and, **§ 10:1**
- Due process, vagueness as defense, **§ 10:19**
- Exhibits, reliance if attached, **§ 10:15**
- Failure to state a cause of action and, **§§ 10:1, 10:18**
- Fraud, **§§ 10:1, 10:13**
- Land, description of, **§ 10:7**
- Libel, **§ 10:12**
- Material allegations and, **§ 10:1**
- Money had and received, **§ 10:3**
- Ordinances, **§ 10:11**
- Pleadings, this index
- Slander, **§ 10:12**
- Special demurrer, **§ 10:1**

UNCERTAINTY OF PLEADING—Cont'd

Specific performance, **§ 10:1**
Statute of limitations, **§§ 10:4, 10:10**
Statutes, **§ 10:11**
Ultimate facts and, **§ 10:2**
Vagueness as constitutional defense, **§ 10:19**
Waiver, **§ 10:17**

UNCLAIMED PROPERTY LAW

Escheat, **§§ 25:11, 38:72**
Immunity under, **§ 38:72**
Statute of limitations, **§§ 25:11, 25:74**
Venue, **§ 5:26**
Verification, **§ 11:11**

UNCLEAN HANDS

Generally, **§ 45:1 et seq.**
Actions to which doctrine applies, **§ 45:4 et seq.**
Adverse possession, **§ 45:2**
Annulment of marriage, **§ 45:10**
Answer, **§ 45:15**
Appeal, **§§ 45:19, 45:21**
At law, **§ 45:4**
Bad faith, **§ 45:2**
Breach of contract, **§ 45:1 et seq.**
Burden of proof, **§ 45:20**
CERCLA actions and, **§ 45:4**
Child custody actions, **§ 45:11**
Conduct during litigation, **§§ 45:2, 45:19**
Contractors, **§ 45:2**
Corporate failure to qualify to conduct intrastate business, **§ 45:2**
Court's power to act sua sponte on, **§§ 45:17, 45:21**
Declaratory relief, **§ 45:7**
Defensive use, **§ 45:13**
Demurrer, **§§ 45:15, 45:16**
Dissolution of marriage, **§ 45:10**
Duress and, **§ 45:2**
Environmental cleanup actions and, **§ 45:4**
Equitable actions and, **§ 45:4**
Equity, obligation to do, **§§ 35:5, 45:22**
Estoppel and, **§§ 34:13, 45:21, 45:24**
Extraordinary writs and, **§§ 45:2, 45:12**
Forfeitures, **§ 45:8**
Fraud, **§§ 45:2, 45:3, 45:9**
Illegal contracts and, **§ 45:23**
Illegality and, **§§ 37:31, 45:2**
In equity, **§ 45:4**
Injunctive relief, **§§ 45:2, 45:7**

INDEX

UNCLEAN HANDS—Cont'd

In pari delicto and, §§ 45:2, 45:23
Legal actions and, § 45:4
Malicious prosecution and, § 45:5
Mandamus and, §§ 45:2, 45:12
Meaning, § 45:2
Mechanics' liens and, § 45:5
Minors, §§ 45:2, 45:3, 45:10, 45:11
Motion for judgment on the pleadings, § 45:15
Nonsuit, § 45:18
Obligation to do equity and, §§ 35:5, 45:22
Pleading, § 45:15
Prejudice required, § 45:3
Profit margin, § 45:2
Public policy, §§ 45:2, 45:10, 45:23
Purging of, § 45:14
Quiet title, §§ 45:2, 45:7
Resulting trusts, § 45:9
Same transaction, § 45:3
Shareholders' derivative actions, § 45:6
Summary judgment, § 45:16
Trespass, § 45:2
Unconscionability and, §§ 34:13, 45:25, 55:8
Undue influence, § 45:2
Uniform Child Custody Jurisdiction Act, § 45:11
Unlawful detainer, § 45:8
Violation of law, §§ 45:2, 45:23
Waiver, §§ 45:18, 45:21

UNCONSCIONABILITY

Generally, § 55:1 *et seq.*
Answer, allegation as to, § 55:5
Arbitration clauses, § 55:1
Attorney fees, § 55:3
Bifurcated trial, § 55:5
Burden of proof, § 55:6
Consequential damage limitation, § 55:2
Court's power to act sua sponte as to, § 55:7
Damage limitations and, §§ 55:2, 55:3
Duress and, §§ 33:13, 55:9
Equal dignities rule and, § 54:4
Equity, § 55:1
Estoppel and, §§ 34:1, 34:6, 34:13
Foreclosure contracts, § 55:3
Home Equity Sales Act, § 55:3
Leases, §§ 55:1, 55:3
Legislative history, § 55:1
Liquidated damages and, § 55:3

UNCONSCIONABILITY—Cont'd

Loans, § 55:3
No cause of action, § 55:1
Nonassignability clauses, § 55:1
Oppression, § 55:4
Part performance exception, § 53:25
Premarital agreements, § 55:3
Procedural aspects, § 55:4
Professional fees, § 55:3
Rescission and, § 62:3
Residential real property foreclosure, § 55:3
Sale of goods, §§ 55:1 to 55:3
Sale or lease to consumer, § 55:3
Specific performance, § 55:6
Statute of frauds and, §§ 53:25, 53:26, 55:1
Statute of limitations, contractual provisions and, § 55:1
Substantive aspects, § 55:4
Surprise, § 55:4
Time of determination, § 55:1
Unclean hands and, §§ 34:13, 45:25, 55:8
Undue influence and, § 46:18
Waiver
 Generally, § 55:7
 Spouses waiver of property rights and, § 55:3
Warranty disclaimers, § 55:4
When judged, § 55:1

UNDUE INFLUENCE

Generally, § 46:1 *et seq.*
Adequacy of consideration and, §§ 46:10, 56:4
Agents, § 46:2
Answer, §§ 46:13, 46:15
Arbitration clauses, §§ 46:2, 68:2
Attorneys, §§ 46:2, 46:3
Bankers, § 46:3
Brokers, § 46:2
Burden of proof, §§ 46:2, 46:3, 46:5, 46:6, 46:9, 46:14
Capacity to contract and, § 52:29
Charitable solicitations and, § 46:2
Children, §§ 46:2, 46:4, 46:6, 46:10
Clear and convincing evidence, § 46:14
Collection agencies, § 46:2
Community property, §§ 46:5, 46:10
Confidential relationships, §§ 46:2, 46:9
Consent and, §§ 32:1, 46:1
Conservatorship and, § 46:3
Consideration for, §§ 46:10, 56:4
Contractors and, § 46:3

INDEX

UNDUE INFLUENCE—Cont'd

- Contractual relations and, §§ **46:3, 52:29**
- Corporate officers, directors, and attorneys, § **46:2**
- Corporations, § **46:3**
- Definition, §§ **46:1, 46:2**
- Demurrer and, § **46:13**
- Distress and, § **46:12**
- Duress and, §§ **33:11, 46:1, 46:12, 46:17**
- Elements of, §§ **46:1, 46:13**
- Employer-employee
 - Generally, § **46:3**
 - Employment agreements, § **46:2**
- Entirely without understanding, § **46:11**
- Family relationships, §§ **46:4 to 46:7**
- Fiduciary relationships, §§ **46:2 to 46:9, 46:13, 56:4**
- Financial adviser and client, § **46:2**
- Fraud and, §§ **46:1, 46:16**
- Friendship and, § **46:3**
- Grandparents, § **46:7**
- Grossly oppressive and unfair advantage, §§ **46:1, 46:2, 46:12**
- Guardianships and, § **46:3**
- Husband and wife, §§ **46:2, 46:10**
- Inadequate consideration, § **46:10**
- Independent advice, § **46:8**
- Joint venturers, § **46:2**
- Jury instructions as to, § **46:13**
- Lack of consideration and, §§ **46:10, 56:4**
- Landlord-tenant relationship and, § **46:3**
- Mental Incompetency, this index
- Minister and parishioner, §§ **46:2, 46:3, 46:13**
- Minors, this index
- Mistake, § **42:4**
- Motion, § **46:13**
- Need and, § **46:12**
- Neighbors, § **46:3**
- Nurse and patient, § **46:2**
- Parents, §§ **46:2, 46:4, 46:6, 46:10**
- Partners, § **46:2**
- Physician and patient, § **46:2**
- Pleading, § **46:13**
- Premarital agreements, § **46:5**
- Preponderance of the evidence, §§ **46:9, 46:14**
- Presumption of, §§ **46:2, 46:3, 46:5, 46:6, 46:8, 46:9**
- Prisoners, § **46:10**
- Real estate broker and client, § **46:2**
- Real or apparent authority, § **46:10**
- Release, §§ **42:4, 42:5, 42:8**

UNDUE INFLUENCE—Cont'd

Religious counselors, §§ **46:2, 46:3**
Rescission and, §§ **62:2, 62:6, 62:26**
Securities broker and client, § **46:2**
Siblings, § **46:7**
Spouses, §§ **46:2, 46:4, 46:5, 46:10**
Statute of limitations to set aside an instrument for, § **25:40**
Summary judgment, § **46:13**
Susceptible of undue influence, §§ **46:11, 52:29**
Trustees, § **46:2**
Unconscionability and, § **46:18**
Unfair advantage, §§ **46:1, 46:2, 46:4, 46:9 to 46:12**
Unsound mind, §§ **46:2, 46:11, 46:13**
Voidable and void contracts, §§ **46:11, 52:29**
Voluntary trusts, § **46:2**
Waiver, §§ **46:13, 46:15**
Weakness of mind and, §§ **46:2, 46:11, 46:13, 52:29**
Wills, § **46:1**

UNEMPLOYMENT BENEFITS

Appeals, standing as to, § **19:3**
Mitigation of damages and, § **36:5**
Overpayment, recovery of, § **38:37**
Res judicata and, § **14:51**
Subsequent action, collateral estoppel, § **14:40**
Unemployment Insurance Appeals Board
 Res judicata and, § **14:51**

UNFAIR COMPETITION

Abstention, § **22:12**
Consent, § **32:1**
Notice to Attorney General, § **12:6**
One who seeks equity, § **35:1**
Restitution, § **62:40**
Statute of limitations, § **25:12**

UNFAIR PRACTICES ACT

Duress, § **33:7**
Illegality and, § **37:14**
Immunity under, §§ **38:13, 38:41, 38:122**
Notice in action under, § **12:6**
Venue, § **5:20**

UNFAIR TRADE PRACTICES

Duress, § **33:7**
Illegality, §§ **37:14, 37:22**
Venue, § **5:20**

UNIFORM ANATOMICAL GIFT ACT

Immunity, §§ **38:26, 38:63**

INDEX

UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT

Another action pending and, § 23:3
Forum non conveniens and, § 6:25
Multiple proceedings as to custody, § 23:3
Notice, § 2:2
Personal jurisdiction under, §§ 4:7, 4:29
Service of process, § 2:18
Subject matter jurisdiction under, § 7:3
Unclean hands, § 45:11

UNIFORM CIVIL LIABILITY FOR SUPPORT ACT

Subject matter jurisdiction under, §§ 7:2, 7:3

UNIFORM COMMERCIAL CODE

Estoppel, § 34:1

UNIFORM COMPARATIVE FAULT ACT

Nonadoption, § 48:1
Setoff, § 44:6

UNIFORM DIVORCE RECOGNITION ACT

Personal jurisdiction under, § 4:29

UNIFORM ELECTRONIC TRANSACTIONS ACT

Statute of frauds, § 53:3

UNIFORM FOREIGN COUNTRY MONEY JUDGMENTS RECOGNITION ACT

Res judicata and, § 14:39

UNIFORM FOREIGN MONEY CLAIMS ACT

Payment, § 69:1

UNIFORM FRAUDULENT TRANSFER ACT

Estoppel, § 34:1
Illegality and, § 37:21
Statute of limitations, § 25:21

UNIFORM INTERSTATE FAMILY SUPPORT ACT

Burden of proof, § 1:8
Estoppel, § 34:7
Guardian ad litem, § 18:3
Immunity, § 38:139
Immunity from service of process, § 2:18
Personal jurisdiction under, §§ 4:7, 4:29
Res judicata and, § 14:39
Service of process, § 2:18
Subject matter jurisdiction under, §§ 7:2, 7:3
Venue under, § 5:32
Verification of pleadings under, § 11:12

CALIFORNIA AFFIRMATIVE DEFENSES

UNIFORM LIMITED PARTNERSHIP ACT

Forum non conveniens, § 4:5

UNIFORM PARENTAGE ACT

Appointment of guardian ad litem under, § 18:4

Child as party under, § 18:4

Personal jurisdiction, §§ 4:6, 4:7, 4:24, 4:29

Sexual intercourse, personal jurisdiction based on, §§ 4:24, 4:29

Standing, § 19:3

Subject matter jurisdiction under, § 7:3

Summons, § 2:2

Venue, § 5:32

UNIFORM PARTNERSHIP ACT

Estoppel, § 34:1

Statute of limitations, § 25:76

UNIFORM PERSONAL PROPERTY LEASING ACT

Statute of frauds, § 53:12

UNIFORM PREMARITAL AGREEMENT ACT

Premarital Agreements, this index

UNIFORM PROBATE CODE

Personal representative, § 17:1

UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT

Revised Uniform Reciprocal Enforcement of Support Act, this index

UNIFORM SALES ACT

Consideration, § 56:17

UNIFORM SINGLE PUBLICATION ACT

Statute of limitations, § 25:25

UNIFORM TRADE SECRETS ACT

Illegality and, § 37:14

UNIFORM TRANSFERS TO MINORS ACT

Immunity under, § 38:34

Venue, § 5:36

UNIFORM VENDOR AND PURCHASER RISK ACT

Generally, § 60:2

UNINCORPORATED ASSOCIATIONS

Agricultural labor organizations, § 38:35

Capacity to sue, §§ 18:1, 18:14, 18:30, 18:34

Homeowners' association, standing of, § 19:6

Immunity, §§ 38:35, 38:122

Joinder of parties and, § 20:4

Nonprofit associations, § 38:35

Nonprofit cooperative associations, §§ 38:35, 38:122

Partnership, this index

INDEX

UNINCORPORATED ASSOCIATIONS—Cont'd

- Personal jurisdiction over, § 4:2
- Presumptions, § 38:35
- Principal place of business, § 5:30
- Promise to pay debt of nonprofit, § 53:17
- Res judicata and, § 14:32
- Service of process on, §§ 2:2, 2:7, 2:13
- Standing to bring action, § 19:6
- Summons in action as to, § 2:2
- Venue in actions against, § 5:30

UNINSURED MOTORISTS

- Equitable tolling doctrine, § 25:70
- Insolvency, limitation of actions, § 25:41
- Limitation of actions, § 25:25
- Notice of claim, § 12:10
- Statute of limitations
 - Generally, §§ 25:45, 25:51
 - Subrogation, § 25:39

UNIONS

- Capacity to sue, §§ 18:34, 18:35
- Confidential relations, § 41:19
- Equitable tolling doctrine and, § 25:70
- Exhaustion of remedies and, § 16:18
- Privilege, § 41:19

UNITED STATES

- Contractor's licensing requirements as to, § 39:5
- Death of defendant, effect on actions, § 17:29
- Removal of actions against, § 38:126
- Service of process, claim for unclaimed property, § 2:2
- Small claims court, § 38:126
- Sovereign immunity and, § 38:126
- Statute of limitations, actions by, §§ 25:63, 25:75
- Waiver of sovereign immunity, § 38:126

UNJUST ENRICHMENT

- Allegation as to, § 55:5
- Burden of proof, § 55:6
- Estoppel and, § 34:6
- Illegality and, §§ 37:6, 37:15
- One who seeks equity, § 35:1
- Rescission, §§ 62:28, 62:30
- Sham transaction, § 56:19
- Statute of frauds, §§ 53:24, 53:26, 55:1
- Unconscionability and, § 55:5

UNKNOWN PERSONS, GUARDIAN AD LITEM

- Generally, § 18:4

UNLAWFUL CONSIDERATION

Consideration; Illegality, this index

UNLAWFUL DETAINER

Collateral estoppel and, §§ 15:6, 15:8
Death, §§ 17:6, 17:31
Forfeitures and, § 45:8
Frustration of purpose, § 58:1
Illegality as defense, § 37:26
Laches, § 26:11
Mootness, § 22:2
Motion to Quash, this index
Notice requirement, §§ 12:3, 27:1
Prematurity, § 27:1
Res judicata and, § 14:48
Service of process in action for, §§ 2:2, 2:14, 2:22, 3:1
Setoff and, § 44:6
Summons in action for, §§ 2:2, 2:22
Survival of cause of action, §§ 17:16, 17:31
Unclean hands and, § 45:8
Venue, § 5:11
Verification of pleadings for, § 11:10

UNREASONABLE IMPLIED ASSUMPTION OF THE RISK

Assumption of the Risk, this index

UNRUH ACT

Government claims requirement, § 12:21
Statute of limitations, § 25:25
Waiver, § 47:13

UNSOND MIND

Mental Incompetency, this index

USUAL PLACE OF ABODE

Service of process definition of, § 2:14

USURY

Generally, §§ 37:13, 37:27
Answer, §§ 37:13, 37:28
Bonus, § 37:13
Breach of contract, § 37:13
Brokerage fee, § 37:13
Burden of proof, § 37:13
Change in law, § 37:2
Choice of law, § 37:13
Commission, § 37:13
Death, effect of, § 17:16
Estoppe, § 37:13
Exceptions, § 37:13

INDEX

USURY—Cont'd

Exoneration of surety and, **§ 67:3**
Finder's fee, **§ 37:13**
Good faith, **§ 37:13**
Guarantors and, **§§ 37:13, 37:24, 67:3**
Holder in due course, **§§ 37:13, 37:25**
Illegality, **§§ 37:2, 37:5, 37:13, 37:24**
Intent, **§ 37:13**
Interest, **§§ 37:5, 37:13**
Loans, this index
Penalties, **§ 37:13**
Pleading, **§§ 37:13, 37:28**
Presumption of interest for loan, **§ 37:13**
Presumption of usurious interest rate, **§ 37:13**
Principal, **§ 37:13**
Sales transactions, **§ 37:13**
Statute of limitations, **§§ 25:24, 37:13**
Sureties, **§§ 37:13, 37:24, 67:3**
Survival of cause of action, **§ 17:16**
Timing, **§ 37:13**
Treble damages, **§ 37:13**
Variable interest loans, **§ 37:13**
Who may assert, **§ 37:13**

VACCINATIONS

Immunity for, **§ 38:24**

VAGUENESS

Uncertainty of pleading, vagueness as constitutional defense, **§ 10:19**

VALIDATION ACTIONS

Exhaustion, **§ 16:1**
Res judicata and, **§§ 14:3, 14:20, 14:51**
Statute of limitations, **§§ 25:7, 25:34**
Subject matter jurisdiction, **§ 7:3**
Summons, **§ 2:2**
Venue, **§ 5:28**

VEHICLE LEASING ACT

Generally, **§§ 23:2, 23:3, 62:23**

VENUE

Generally, **§ 5:1 et seq.**
Abuse of process, **§ 5:34**
Accounting actions, **§§ 5:17, 5:36**
Account stated, **§ 5:33**
Adoption, **§ 5:36**
Amended complaint, effect of, **§§ 5:4, 5:42**
Annulment of marriage, **§ 5:18**
Answer as waiver of defense, **§§ 5:41, 5:45**

VENUE—Cont'd

- Antitrust, **§ 5:20**
- Appellate review, **§ 5:43**
- Assumption of jurisdiction over law practice, **§ 5:36**
- Attorney General, **§§ 5:25 to 5:27**
- Attorney in fact, **§ 5:36**
- Banks, **§§ 5:1, 5:42**
- Burden of proof, **§§ 5:33, 5:44**
- Business
 - Damage to, actions for, **§ 5:18**
 - Place of doing business as affecting venue, **§ 5:36 et seq.**
- Cancellation of documents, **§§ 5:5, 5:16**
- Carriers, **§ 5:30**
- Change of venue, **§ 5:42**
- Child support actions, **§§ 5:28, 5:32**
- City, actions by or against, **§§ 5:25, 5:28**
- Common counts, **§ 5:36**
- Complaint, amended, **§§ 5:4, 5:42**
- Condemnation, **§§ 5:4, 5:12**
- Consent to venue, **§ 5:1**
- Conservatorship, **§§ 5:29, 5:36**
- Constitutional provisions affecting, **§ 5:2**
- Consumer debt actions, **§§ 5:33, 5:45**
- Consumer leases, **§ 5:45**
- Contracts
 - Generally, **§§ 5:30, 5:33**
 - Common counts, **§ 5:36**
 - Declaratory relief actions, **§ 5:35**
 - Real property contracts, **§ 5:4 et seq.**
 - Transitory nature of action, **§ 5:10**
- Convenience of counsel, **§ 5:1**
- Conversion, **§§ 5:34, 5:36**
- Corporations, **§ 5:30**
- Costs of transfer of venue, **§ 5:28**
- County, actions by or against, **§§ 5:25, 5:28**
- Credit unions, **§ 5:30**
- Death, **§§ 5:24, 5:34**
- Declaratory judgment actions, **§§ 5:33, 5:35**
- Defamation, **§ 5:34**
- Definition, **§ 5:1**
- Delay in prosecution and transfer of, **§§ 28:8, 28:23**
- Demurrer waives defect, **§§ 5:41, 5:45**
- Diligence in change of venue, **§ 5:45**
- Dissolution of marriage, **§ 5:31**
- Domicile, **§ 5:36**
- Eminent domain, **§§ 5:4, 5:12**
- Equity actions, **§ 5:36**

INDEX

VENUE—Cont'd

- Escheat, **§ 5:26**
- False advertising, **§ 5:36**
- False imprisonment, **§ 5:34**
- Family law actions
 - Annulment, **§ 5:31**
 - Legal separation, **§ 5:31**
 - Marital dissolution, **§ 5:31**
 - Support, **§ 5:32**
 - Transitory nature of actions as to, **§ 5:18**
- Federal law and, **§ 5:1**
- FEHA actions, venue in, **§ 5:34**
- Felony, actions arising from, **§ 5:20**
- Fiduciary, actions against, **§ 5:29**
- Foreclosure, **§§ 5:4, 5:10**
- Foreign corporation conducting business in California, **§ 39:37**
- Forfeiture actions, **§ 5:20**
- Forum non conveniens and, **§§ 5:46, 6:32**
- Fraud, **§§ 5:5, 5:16, 5:36**
- Guardianship actions, **§§ 5:29, 5:36**
- Household goods carriers, **§ 5:30**
- Implied contracts, **§ 5:33**
- Improper joinder of defendants, **§ 5:38**
- Infliction of emotional distress, **§ 5:34**
- Information Practices Act, **§§ 5:24, 5:36**
- Injunction, **§§ 5:4, 5:36**
- Inverse condemnation, **§§ 5:12, 5:23**
- Irrigation district, **§ 5:33**
- Judgments, action on, **§ 5:18**
- Judicial notice, **§ 5:42**
- Jurisdiction, venue and, **§ 5:2**
- Libel, **§ 5:34**
- Local actions, **§ 5:4 et seq.**
- Local government
 - Actions by, **§ 5:28**
 - Public officers, actions for or by, **§§ 5:21, 5:22**
 - State, actions against, **§§ 5:25, 5:28**
- Malicious prosecution, **§§ 5:7, 5:34, 5:36**
- Mandamus, **§ 5:43**
- Mechanics' lien foreclosure, **§§ 5:10, 12:12**
- Mixed actions, **§ 5:19**
- Money had and received, **§ 5:36**
- Motion for change of venue, **§ 5:42**
- Multiple causes of action as affecting
 - Generally, **§ 5:39**
 - Local and transitory causes of action, **§ 5:4 et seq.**

VENUE—Cont'd

- Multiple defendants as affecting
 - Generally, **§ 5:37**
 - Improperly joined defendants, **§ 5:38**
- National banks, **§ 5:1**
- Nuisance, **§§ 5:4, 5:8**
- Oral contracts, **§§ 5:30, 5:33**
- Partition, **§ 5:13**
- Partnership, **§ 5:30**
- Partnership dissolution, **§§ 5:33, 5:36**
- Penalty, action for, **§ 5:20**
- Personal injury
 - Generally, **§ 5:34**
 - State, actions against, **§ 5:24**
- Personal jurisdiction and, **§ 5:46**
- Personal property actions, **§§ 5:24, 5:36**
- Personal representatives, action against, **§ 5:29**
- Place of trial, **§ 5:1**
- Pleading, **§ 5:41**
- Presumption of correctness, **§§ 5:30, 5:44**
- Public agencies and entities, **§§ 5:21, 5:25**
- Public officers, actions by or against, **§§ 5:21, 5:22, 5:25**
- Qualification to do business, **§ 5:30**
- Quiet title actions, **§ 5:7**
- Real property actions
 - Generally, **§ 5:4**
 - Condemnation, **§ 5:12**
 - County, real property located in more than one, **§§ 5:4, 5:14**
 - Defective construction, **§ 5:8**
 - Documents affecting real property
 - Cancellation of, **§ 5:5**
 - Reformation of, **§ 5:6**
 - Specific performance, **§ 5:9**
 - Eminent domain, **§§ 5:4, 5:12**
 - Foreclosure, **§ 5:10**
 - Fraud as to, **§ 5:16**
 - Improvements to real property
 - Negligent design or construction, **§ 5:8**
 - Recovery of work to improve, **§ 5:15**
 - Injury to real property
 - Generally, **§ 5:8**
 - Nuisance, **§ 5:8**
 - Slander of title as, **§ 5:7**
 - Trespass as, **§ 5:8**
 - Inverse condemnation, **§ 5:23**
 - Local and transitory actions, **§ 5:4 et seq.**
 - Nuisance, **§ 5:8**

INDEX

VENUE—Cont'd

- Real property actions—Cont'd
 - Partition, **§ 5:13**
 - Quiet title, **§ 5:7**
 - Slander of title, **§ 5:7**
 - Specific performance, **§ 5:9**
 - Transitory and local actions, **§ 5:4 et seq.**
 - Trespass, **§ 5:8**
 - Unlawful detainer, **§ 5:11**
 - Reciprocal insurance exchanges, **§ 5:30**
 - Reformation, **§ 5:6**
 - Residence as affecting, **§ 5:36 et seq.**
 - Retail Installment Sales Act, **§ 5:33**
 - Revised Uniform Reciprocal Enforcement of Support Act, **§ 5:32**
 - Sacramento, actions that must be brought in, **§ 5:27**
 - Sister state money judgments, **§ 5:36**
 - Slander, **§ 5:18**
 - Slander of title, **§§ 5:7, 5:8**
 - Special contracts and, **§ 5:33**
 - Specific performance, **§§ 5:9, 5:27**
 - State, actions by and against
 - Generally, **§ 5:21**
 - Escheat, **§ 5:26**
 - Inverse condemnation, **§ 5:23**
 - Local government agencies, actions by, **§ 5:25**
 - Personal injury, **§ 5:24**
 - Property damage actions
 - Personal property, **§ 5:24**
 - Real property, **§ 5:23**
 - Public officers, **§§ 5:21, 5:22**
 - Transfer of venue to Sacramento, **§§ 5:23, 5:25**
 - Stipulations re change of venue, **§ 5:42**
 - Subject matter jurisdiction and, **§§ 5:45, 7:18**
 - Suspension of jurisdiction pending motion to change, **§ 5:42**
 - Tax actions, **§ 5:35**
 - Taxpayers' suits, **§ 5:22**
 - Tax refund actions, **§ 5:27**
 - Torts, **§§ 5:30, 5:34**
 - Transfer, **§ 5:28**
 - Transfer affecting mandatory dismissal period, **§§ 28:8, 28:23**
 - Transfer to another state improper, **§ 23:3**
 - Transfer within California, **§ 5:42**
 - Transitory actions
 - Generally, **§ 5:18**
 - Local actions compared, **§ 5:4 et seq.**
 - Mixed actions, **§ 5:19**
 - Trespass, **§ 5:14**

VENUE—Cont'd

Trustees, **§ 5:29**
Unfair trade practices, **§ 5:20**
Uniform Parentage Act, **§ 5:32**
Uniform Transfers to Minors Act, **§ 5:36**
Unincorporated associations, **§ 5:30**
Unlawful detainer, **§ 5:11**
Validation actions, **§ 5:28**
Verification of facts as to in consumer actions, **§ 5:45**
Verified pleading as evidence in venue hearing, **§ 5:42**
Waiver, **§§ 5:2, 5:41, 5:45**
Waste, **§§ 5:4, 5:8**
Water resource development, **§ 5:2**
Wrongful death, **§ 5:24**
Wrongful discharge, **§ 5:22**

VERIFICATION REQUIREMENTS

Generally, **§ 11:1 et seq.**
Account, **§ 11:22**
Admiralty law, **§ 11:17**
Affidavit, verification by, **§ 11:2**
Amendment of verification, **§§ 11:28, 11:29**
Answer, assertion of failure to verify, **§ 11:27**
Appellate review, **§§ 11:27, 11:29**
Attorney
 Conspiracy allegation, verification of, **§ 11:15**
 Disbarment or suspension petition, **§ 11:15**
 Verification by, **§§ 11:2, 11:3**
Certiorari, **§ 11:9**
Child support, **§ 11:12**
City, verification by, **§ 11:3**
Clear title, action for, **§ 11:7**
Conservator
 Appointment, petition for, **§ 11:4**
 Settlement approval, **§ 11:20**
Conspiracy allegation as to attorney, verification of, **§ 11:15**
Corporation, verification by, **§§ 11:2, 11:3**
County, verification by, **§ 11:3**
Death, petition to establish, **§ 11:18**
Declaration, verification by, **§ 11:2**
Defective verification, **§ 11:26**
Demurrer, **§ 11:27**
Denials in actions under \$1000, **§ 11:23**
Disbarment or suspension of attorney, verification of petition for, **§ 11:15**
Dissolution of corporation, petition, **§ 11:16**
Eminent domain, **§ 11:25**
Escheat, **§ 11:11**
Extraordinary writs, **§ 11:9**

INDEX

VERIFICATION REQUIREMENTS—Cont'd

- Failure to subscribe and, **§ 11:30**
- Fifth amendment and, **§ 11:20**
- Forcible entry and detainer, **§ 11:10**
- Form and contents, **§ 11:2**
- Guardian's settlement approval, **§ 11:20**
- Heirs, petition to identify, **§ 11:19**
- Information and belief, verification on, **§§ 11:2, 11:3**
- Injunction, **§§ 11:4, 11:24**
- Interpleader, **§ 11:5**
- Land records reestablishment, **§ 11:3**
- Mandamus, **§ 11:9**
- Mandatory verification, **§ 11:4 et seq.**
- Minor's settlement approval, **§ 11:20**
- Motion to strike, **§ 11:27**
- Multiple parties, verification by, **§ 11:3**
- Negligence action against volunteer director of nonprofit corporation, **§ 11:4**
- Nonparty, verification by, **§ 11:3**
- Optional verification, **§ 11:21 et seq.**
- Perpetuation of testimony, **§ 11:14**
- Personal knowledge requirement, **§ 11:3**
- Preliminary injunctions, **§ 11:24**
- Privilege, verification of petition claiming, **§ 41:10**
- Probate proceedings, **§ 11:20**
- Prohibition, **§ 11:9**
- Public agencies and entities, **§§ 11:2, 11:3**
- Public officers, **§ 11:3**
- Purpose of, **§ 11:2**
- Quiet title actions, **§§ 11:6, 11:7**
- Reestablishment of land records, **§ 11:3**
- Revised Uniform Reciprocal Enforcement of Support Act, **§ 11:12**
- Small claims court pleadings, **§ 11:4**
- State, verification by, **§ 11:3**
- Statute of limitations and, **§ 11:28**
- Tax sale, **§ 11:8**
- Testimony, perpetuation of, **§ 11:14**
- Title actions, **§§ 11:6, 11:7**
- Unlawful detainer, **§ 11:10**
- Venue facts, verification of in consumer actions, **§ 5:45**
- Vessel, action against, **§ 11:17**
- Waiver of requirement, **§ 11:29**
- Writs, **§ 11:9**

VESSELS

- Verification of pleadings as to, **§ 11:17**

VETERINARIAN

- Animal abuse reporting, **§ 38:43**

VETERINARIAN—Cont'd

Animals, this index
Defamation of, **§ 38:16**
Dog fights reporting, **§ 38:43**
Emergency care immunity, **§ 38:55**
Euthanasia, **§ 38:55**
Firefighter's rule and, **§ 48:25**
Immunity, **§§ 38:16, 38:43, 38:55**
Impaired, **§ 38:16**
Licensing requirements, **§ 39:35**
Reporting immunity, **§ 38:43**
Security for costs in action against, **§ 13:6**
Statute of limitations, **§ 25:25**

VEXATIOUS LITIGANTS

Definition, **§ 13:3**
Res judicata and, **§ 14:63**
Security for costs, **§ 13:3**

VICARIOUS LIABILITY

Board of supervisors, **§ 38:59**
Chief of police, **§ 38:59**
City council members, **§ 38:59**
Imputation of negligence and, **§ 48:6 et seq.**
Judges, **§ 38:131**
Manager's privilege, **§ 41:19**
Mayors, **§ 38:59**
Mental patients, **§ 38:95**
Prison officials, **§ 38:59**
Public entities and employees, **§§ 38:56, 38:59, 38:135**
Release and persons with, **§ 42:7**
School board members, **§ 38:59**
Sheriffs, **§§ 38:59, 38:135**

VICTIMS

Duress, tolling of statute of limitations, **§ 25:66**
Fires and firefighting, immunity, **§ 38:93**
Minor's contracts, agreements to pay victim of sexual abuse, **§ 37:22**

VIS MAJOR

Acts of God, this index

VOLUNTARY TRANSFER

Generally, **§ 56:9**

VOLUNTEERS

Advice in small claims courts, **§ 38:69**
Emergency, **§§ 38:50, 38:53**
Fire department, **§ 38:89**
Firefighters' rule and, **§ 48:25**

INDEX

VOLUNTEERS—Cont'd

Immunity

- Commissions and boards, **§ 38:122**
- Corporations and corporate officers, directors, and shareholders, **§ 38:35**
- Emergency and Good Samaritan immunities, **§§ 38:45, 38:50, 38:51, 38:53**
- Fire fighting activities, **§ 38:89**
- Immunization and transfusion immunities, **§ 38:24**
- Informants on child abuse, elder abuse, and similar wrongs, **§ 38:43**
- Public entities, public employees, and public persons, **§§ 38:68, 38:69**
- Statutory immunities available to all persons, **§ 38:2**
- Negligence action against director of nonprofit corporation, **§§ 12:36, 38:35**
- Sexual abuse by, **§ 25:26**
- Small claims court, advice, **§ 38:69**
- Subrogation, **§ 18:28**
- Willful and wanton misconduct, **§ 38:45**

VOUCHING IN

- Warranty, this index

WAGES

Assignment

- Generally, **§ 53:23**
- Incompetent's assignment of, **§ 52:30**
- Minor's assignment of, **§§ 52:3, 52:6**
- Employment, this index
- Payment by check, **§ 69:2**

WAIVER

Generally, **§ 47:1 et seq.**

Abandonment and, **§ 47:18**

Acceleration of debt, waiver of, **§ 47:13**

Affirmative defenses, waiver of

Generally, **§§ 1:1, 1:11**

Accord and satisfaction, **§§ 63:7, 63:12**

Acts of God defense, **§ 30:16**

Adequacy of remedy at law, **§ 31:10**

Advisory opinion, **§ 22:9**

Alteration of contracts, **§ 66:10**

Another action pending, **§ 23:9**

Anti-assignment clause in contract, **§ 18:19**

Arbitration

Generally, **§§ 47:10, 68:10 to 68:12**

Attorney's client's right to arbitration of fee dispute, **§ 12:5**

Jury trial, **§ 68:1**

Submission to arbitration, effect of, **§ 68:1**

Breach of arbitration clause, **§ 68:12**

Certificate of merit requirements, **§ 12:41**

Claim requirements, **§ 12:41**

Client's right to arbitration, **§ 12:5**

WAIVER—Cont'd

Affirmative defenses, waiver of—Cont'd
Collateral estoppel, **§ 15:14**
Comparative fault, **§ 48:21**
Consent, §§ **32:8, 32:11**
Consideration, §§ **56:15, 57:6**
Contractor's license requirements, §§ **39:2, 39:18**
Corporate suspension or forfeiture, §§ **18:17, 39:38**
Damages, waiver of excess as affecting subject matter jurisdiction, **§ 7:16**
Dangerous activities, **§ 37:11**
Debtor's right to notice of sale, **§ 12:8**
Defenses not subject to
Another action pending, **§ 23:9**
Corporate suspension or forfeiture, **§ 39:38**
Failure to state a cause of action, §§ **1:11, 9:1, 9:8**
Illegality, §§ **37:24, 37:28, 37:29, 39:41**
Laches, §§ **1:11, 26:19, 26:23**
Lack of standing, **§ 19:19**
Licensing requirements, **§ 39:41**
Nonentity as a party, **§ 18:30**
Nonjoinder of indispensable parties, **§ 21:9**
Subject matter jurisdiction, §§ **1:11, 7:8, 7:16**
Unclean hands, **§ 45:21**
Delay in prosecution, §§ **28:1, 28:7, 28:34, 29:6, 29:9, 47:13**
Delay in service and return of summons, §§ **3:17, 3:26, 3:31, 47:13**
Demand requirements, **§ 12:41**
Destruction of documents, **§ 66:10**
Duress, **§ 33:10**
Election of remedies, **§ 24:13**
Emergency, **§ 49:4**
Equal dignities rule, §§ **54:1, 54:7, 54:9**
Excess damages, waiver as affecting subject matter jurisdiction, **§ 7:16**
Exhaustion of remedies, **§ 16:15**
Exoneration of sureties, **§ 67:7**
Failure of consideration, **§ 57:6**
Failure to amend pleading when leave is given, **§ 9:6**
Failure to arbitrate, **§ 68:12**
Failure to demur to answer, **§ 1:4**
Failure to mitigate damages, **§ 36:9**
Failure to state a cause of action, §§ **1:11, 9:1, 9:8**
Failure to verify pleadings, **§ 11:29**
Fictitious business names, **§ 39:36**
Field trips, **§ 38:123**
Foreign corporation's failure to qualify to do business in California, **§ 39:37**
Forum non conveniens, §§ **6:27, 6:30**
Frauds, statute of, **§ 53:40**
Frustration of purpose, **§ 58:4**

INDEX

WAIVER—Cont'd

- Affirmative defenses, waiver of—Cont'd
 - General appearance as, §§ 3:17, 4:8, 4:34 to 4:32
 - Government claim filing requirements, § 12:31
 - Guarantors, protections for, §§ 47:5, 67:4, 67:7
 - Guardian ad litem, appointment of, § 18:5
 - Illegality, §§ 37:24, 37:28, 37:29, 39:42
 - Immunity, § 38:144
 - Impossibility, § 60:17
 - Interest, §§ 47:5, 69:1, 69:11
 - Laches and, §§ 1:11, 26:19, 26:23
 - Lack of capacity of foreign representative, § 18:12
 - Lack of capacity to contract, §§ 52:20, 52:37
 - Lack of capacity to sue, §§ 18:35, 18:36, 18:38, 18:39
 - Lack of formal substitution after death, § 17:36
 - Lack of personal jurisdiction, § 4:36
 - Licensing requirements, §§ 39:1, 39:2, 39:18, 39:33, 39:39, 47:13
 - Minor's right to disaffirm, § 18:6
 - Misjoinder of parties, § 20:10
 - Mistake, § 40:13
 - Mitigation of damages and, § 36:9
 - Modification of contract and
 - Delay, causing waiver, § 62:21
 - Estoppel, waiver and, § 65:14
 - Waiver as alternate means to enforce modification, §§ 65:6, 65:11
 - Waiver of modification defenses, § 65:10
 - Mootness, § 22:9
 - Nonjoinder of necessary or proper party, § 21:9
 - Notice and proof of loss by insured, § 12:10
 - Notice of sale of collateral, § 12:8
 - Notice requirements, § 12:41
 - Novation, § 64:12
 - Objections to tender, §§ 47:9, 63:5, 69:8
 - Obligation to do equity, § 35:4
 - Payment, § 69:13
 - Payment of principal waives interest, §§ 69:1, 69:11
 - Personal jurisdiction
 - Failure to pursue appellate review, § 4:34
 - General appearance as, §§ 4:8, 4:36
 - Preliminary bond notice, § 12:12
 - Prematurity, §§ 27:2, 27:6
 - Prevention of performance, § 59:7
 - Primary jurisdiction, § 8:5
 - Privilege, §§ 41:23, 47:11, 47:13
 - Probate claim requirement, §§ 12:32, 17:34
 - Receiver's immunity from suit without leave of court, § 12:36
 - Release, §§ 42:8, 42:12

WAIVER—Cont'd

Affirmative defenses, waiver of—Cont'd
Rescission, §§ **62:7, 62:21, 62:26, 62:36**
Res judicata, § **14:58**
Rights not waivable, §§ **47:13, 62:7, 62:36**
Ripeness, § **27:6**
Security requirements, § **13:11**
Self-defense, § **50:11**
Service of Process, this index
Setoff, §§ **44:3, 44:9**
Settlement, § **43:8**
Sovereign immunity, §§ **38:126 to 38:129**
Standing, § **19:16**
Statute of frauds, §§ **53:26, 53:37, 53:40**
Statute of limitations
Generally, §§ **25:83, 47:12, 54:1**
Acknowledgment of debt, § **25:46**
Payment of debt, § **25:46**
Pleading of, § **25:78**
Tolling agreements and, § **25:67**
Subject matter jurisdiction, §§ **1:11, 7:8, 7:16**
Support by parent, § **46:6**
Sureties, protections for, §§ **47:5, 67:4, 67:7**
Truth as defense, § **51:10**
Uncertainty of pleading, § **10:17**
Unclean hands, §§ **45:18, 45:21**
Unconscionability, § **55:7**
Undue influence, §§ **46:13, 46:15**
Unsound mind, § **52:26**
Venue, §§ **5:2, 5:41, 5:45, 47:12**
Verification of pleadings, defects in, § **11:29**
Agent, waiver by, § **47:2**
Answer alleging, § **47:14**
Anti-deficiency legislation, § **47:13**
Appeals, §§ **47:12, 47:15**
Artificial persons, §§ **47:2, 47:11**
Artist, consignment of art and, § **47:13**
Assignment, right to enforce bar on, § **47:10**
Attorneys
Attorney-client privilege, § **47:11**
Attorney's waiver of client's rights
Generally, § **47:2**
Arbitration rights, § **12:5**
Work product privilege, § **47:11**
Bailment, § **47:13**
Bonding requirements, § **47:5**
Breach of contract, right to sue, § **47:10**

INDEX

WAIVER—Cont'd

- Burden of proof, **§ 47:16**
- Cancellation of compulsory motor vehicle insurance, **§ 47:8**
- Capacity to make, **§ 47:2**
- Choice of law, **§ 47:7**
- Claim requirements, **§ 12:41**
- Class action, **§§ 47:12, 68:12**
- Clear and convincing evidence, **§ 47:16**
- Client's right to arbitration, **§ 12:5**
- Collateral estoppel, **§ 15:14**
- Commercial Code rights, **§§ 47:1, 47:5, 47:9**
- Comparative fault, **§ 48:21**
- Consent and, **§§ 47:1, 47:19**
- Consideration and, **§ 47:1**
- Constitutional rights, **§ 47:4**
- Contractual rights, **§§ 47:9, 47:10**
- Corporations, waivers by, **§§ 47:2, 47:11**
- Costs
 - Waiver of malicious prosecution by seeking in indemnity action, **§ 47:6**
 - Waiver of recovery of, **§ 47:5**
- Court ordered rights, **§ 47:6**
- Credit Services Act, **§ 47:13**
- Debt, right to accelerate, **§§ 47:10, 47:13**
- Deed of trust rights, **§ 47:13**
- Default, **§ 47:12**
- Delay, **§ 47:1**
 - Delay in prosecution, **§§ 28:1, 28:7, 28:34, 29:6, 29:9, 47:13**
 - Delay in service and return of summons, **§§ 3:17, 3:26, 3:31, 47:13**
- Department of Corporations, **§ 47:13**
- Discovery, **§ 47:12**
- Duress, **§§ 33:10, 47:1**
- Economic compulsion, **§ 47:1**
- Employee benefits, **§ 47:13**
- Escrow instructions, **§ 47:10**
- Estoppel and, **§§ 34:12, 34:15, 47:1, 47:17**
- Estoppel to deny waiver, **§ 47:1**
- Evidence, objections to, **§ 47:9**
- Forfeiture, **§ 47:20**
- Forfeitures, **§ 47:1**
- Fourth Amendment, **§ 47:4**
- Guarantors, protections for, **§§ 47:5, 67:4, 67:6, 67:7**
- Home Equity Sales Act, **§ 47:13**
- Home inspectors, liability of, **§ 47:13**
- Incapacity, **§§ 47:2, 47:11**
- Injunction undertaking, **§ 47:13**
- Insurance
 - Cancellation provisions, **§ 47:13**

WAIVER—Cont'd

Insurance—Cont'd

 Legal rights of insured, **§ 47:13**

 Notice, **§ 47:13**

 Policy provisions, **§ 47:10**

Intent, **§ 47:1**

Interest, **§§ 47:5, 69:1, 69:11**

Judicial disqualification grounds, **§ 47:13**

Jury instructions as to, **§§ 47:9, 47:10, 47:15**

Jury trial, **§ 47:4**

Just compensation, **§ 47:4**

Knowledge, **§ 47:1**

Laches and, **§§ 1:11, 26:19, 26:23**

Lack of capacity to contract, **§§ 47:2, 47:11, 52:20, 52:37**

Laws to benefit individuals, **§§ 47:1, 47:3**

Laws to benefit the public, **§ 47:13**

Licensing requirements, **§ 47:13**

Liens, **§§ 47:5, 47:13**

Malicious prosecution, rights under Tort Claims Act, **§ 47:6**

Mandatory dismissal provisions, **§ 47:13**

Marriage and, **§ 47:13**

Mechanics' liens, **§ 47:5**

Mental incompetency, **§§ 47:2, 47:11**

Mortgage rights, **§ 47:13**

Motor vehicle conditional sale contract, **§ 47:13**

Notice, **§§ 47:5, 47:8, 47:13**

Objections, **§ 47:9**

Oil and gas liens, **§ 47:5**

Partition of property, **§ 47:5**

Partnership, persons who may waive, **§ 47:11**

Permit requirements, **§ 47:13**

Persons who may make, **§ 47:2**

Physician-patient privilege, **§ 47:11**

Pleading, **§§ 1:5, 47:14**

Pleas in abatement, **§ 1:2 et seq.**

Preponderance of the evidence, **§ 47:16**

Privacy, **§ 47:4**

Privilege, **§§ 41:23, 47:11, 47:13**

Probate claims, **§ 47:13**

Procedural rights, **§ 47:12**

Public entities, waivers by, **§§ 47:2, 47:13**

Public interest, **§§ 47:1, 47:5, 47:13**

Public policy, **§§ 47:1, 47:3**

Rescission of, **§§ 47:1, 47:10**

Revocation of, **§ 47:1**

Rights not waivable, **§§ 47:13, 62:7, 62:36**

Sale of collateral, **§§ 47:5, 47:13**

INDEX

WAIVER—Cont'd

- Search and seizure, **§ 47:4**
- Self-incrimination right, **§ 47:4**
- Spouses, **§§ 47:5, 47:6**
- Statute of limitations, **§§ 47:5, 47:12**
- Statutory rights, **§ 47:5**
- Stockholders, waiver of notice of meetings and, **§ 47:8**
- Subdivision Map Act, **§ 47:13**
- Sureties, protections for, **§§ 47:5, 67:4, 67:6, 67:7**
- Surviving spouse, **§ 47:5**
- Teachers' tenure rights, **§ 47:13**
- Tender, waiver of objections to, **§ 47:9**
- Termination, probationary employee, **§ 47:8**
- Trial, **§ 47:15**
- Unruh Act, **§ 47:13**
- Unsound mind, **§§ 47:2, 47:11, 52:26**
- Vendor's lien on real property, **§ 47:5**
- Voluntary, **§ 47:1**
- Warranty provisions, **§ 47:13**
- Will, waiver of right to be executor, **§ 47:5**

WANTON MISCONDUCT

- Generally, **§ 48:22**
- Illegal contract, **§ 37:11**
- Immunities exclude, **§§ 38:27, 38:29, 38:48**

WAR

- Act of God as, **§ 30:3**
- Prevention of performance by, **§ 59:4**
- Statute of limitations, tolling and, **§ 25:63**

WARRANTS

- Arrest, **§§ 38:78, 38:131**
- Immunity, **§§ 38:17, 38:79, 38:131, 38:133**
- Judges, **§ 38:131**
- Search, **§§ 38:17, 38:131**

WARRANTY

- Breach of Warranty, this index
- Comparative fault and, **§ 48:16**
- Disclaimers, **§ 55:3**
- Failure of consideration, **§ 57:1**
- Fitness, **§ 48:16**
- Res judicata and, **§ 14:29**
- Statute of limitations as to breach of
 - Accrual and, **§ 25:5**
 - Breach of warranty as to check, **§ 25:28**
 - Contract action based on breach of warranty, **§§ 25:12, 25:15**
 - Personal injury based on breach of warranty, **§ 25:25**
- Vouching in of seller by buyer in action on, **§ 14:29**

WARRANTY—Cont'd

Waiver of, **§ 47:13**

WARSAW CONVENTION

Comparative fault, **§ 48:16**

Forum non conveniens, **§ 6:1**

Notice requirements under, **§ 12:3**

Personal jurisdiction under, **§ 4:9**

WASTE

Assignability of cause of action, **§ 18:27**

Full credit bid, **§ 69:15**

Statute of limitations, **§§ 25:11, 25:18**

Taxpayers' suits, **§§ 19:1, 19:7**

Venue, **§§ 5:4, 5:8**

WATER

Aqueducts, **§ 38:60**

Charter Boat Safety Act, **§ 38:103**

Common enemy doctrine, **§ 49:9**

Conduits, **§§ 38:60, 38:119**

Consent to diversion of, **§ 32:3**

Dams, **§§ 32:2, 38:32, 38:108, 38:119**

Discharge caused by act of God, **§ 30:3**

Diversion of, **§ 32:3**

Drought as act of God, **§ 30:5**

Emergency, **§ 49:1**

Ferry services, **§§ 38:59, 38:116**

Fire fighting, immunity of water supplier, **§ 38:93**

Flooding, this index

Ice as act of God, **§ 30:10**

Irrigation districts, **§§ 38:119, 39:5**

Lakes, **§§ 38:108, 38:110**

Municipal supply, **§§ 38:59, 38:60**

Public Property Immunities, this index

Rain as act of God, **§ 30:6**

Reclamation districts, **§§ 38:119, 38:120, 38:122, 39:5**

Reservoirs, **§§ 38:60, 38:108, 38:119**

Rivers, **§§ 38:108, 38:110**

Statute of frauds and, **§ 53:9**

Urban areas, flood control activities, **§ 38:120**

Water rights, transfer of, **§ 53:9**

Water storage district, service of process on, **§ 2:2**

WEIGHT LOSS CONTRACTS

Death, effect of, **§ 17:24**

Statute of frauds and, **§ 53:23**

WELLS

Service of process in action as to, **§ 2:2**

INDEX

WILLFUL MISCONDUCT

- Arbitration, waiver by, **§ 68:12**
- Assumption of the risk, **§ 48:24**
- Comparative fault and, **§ 48:22**
- Firefighters' rule, **§ 48:25**
- Immunities exclude
 - Conservators, receivers, trustees and the like, **§ 38:28**
 - Corporations and corporate officers, directors, and shareholders, **§ 38:35**
 - Fire fighting immunities, **§§ 38:49, 38:89**
 - Forbidden causes of action, **§ 38:37**
 - General Good Samaritan immunities, **§ 38:46**
 - Immunization and transfusion immunities, **§ 38:24**
 - Law enforcement activities, **§ 38:75**
 - Law enforcement immunities, **§ 38:49**
 - Paramedics, peace officers, and firefighters, **§ 38:49**
 - Schools, school boards, and students, **§ 38:124**
 - Transportation of persons injured by fire, **§ 38:93**
- Insurance, **§ 37:11**
- Latent defects, **§ 25:17**
- Minor, **§ 48:9**
- Reckless disregard, **§ 48:22**

WILLS

- Autopsies and, **§ 38:15**
- Contests
 - Assignability of cause of action for, **§ 18:21**
 - Survival of cause of action, **§ 17:16**
 - Undue influence, **§ 46:1**
- Duress, **§ 33:1**
- Immunity, autopsies, **§ 38:15**
- Joint wills, estoppel as to, **§ 53:26**
- Mistake and, **§ 40:1**
- Presumption, devise to subscribing witness, **§ 33:1**
- Prisoner's power to make, **§ 52:35**
- Reformation, **§ 40:1**
- Restraint on alienation in, **§ 37:16**
- Revocation, **§ 33:1**
- Statute of frauds, **§§ 53:20 to 53:22, 53:26**
- Undue influence and, **§ 46:1**
- Witnesses, devise to, **§ 33:1**

WIND

- Act of God as, **§ 30:7**

WITHOUT PREJUDICE

- Res judicata effect of dismissal, **§ 14:8**

WITH PREJUDICE

- Res judicata effect of dismissal, **§ 14:8**

WITNESSES

- Anonymous Witness Program, **§ 38:41**
- Attorney as, **§ 11:2**
- Forum non conveniens and convenience of, **§§ 6:2, 6:5, 6:8, 23:3**
- Illegal contracts, **§ 37:22**
- Immunity
 - Anonymous Witness Program, **§ 38:41**
 - Appointed by court, **§ 38:133**
 - Service of process on, **§§ 2:18, 4:3**
- Perpetuation of testimony, verification of petition for, **§ 11:14**
- Privilege, **§§ 41:5, 41:7**
- Res judicata, **§ 14:23**
- Statute of frauds, **§ 53:3**
- Will, devise to witness to, **§ 33:1**

WORDS AND PHRASES

- Abandonment, **§§ 61:1, 61:13, 65:12**
- Abatement, **§ 1:2**
- Abrogation, **§ 61:1**
- Accord, **§§ 43:10, 63:1**
- Accord and satisfaction, **§§ 63:1, 64:13**
- Accrue, **§ 25:3**
- Action, **§§ 3:1, 3:17, 25:17, 28:2, 28:3**
- Act of the elements, **§ 30:1**
- Acts of God, **§ 30:1 et seq.**
- Actual malice, **§ 41:9**
- Adequate consideration, **§ 56:1**
- Advantage, **§ 46:2**
- Affidavit, **§ 11:2**
- Agent, **§§ 2:15, 54:1**
- Age of majority, **§ 52:2**
- Alteration, **§ 65:2**
- Ambiguous, **§ 10:1**
- Assignment, **§ 18:18**
- Assumption of the risk, **§ 48:24**
- Authority of agent, **§ 54:1**
- Authorized emergency vehicle, **§ 38:51**
- Avoidable consequences doctrine, **§ 36:1**
- Bar, **§§ 14:1, 15:1**
- Broker-dealer, **§ 39:32**
- Brought to trial, **§ 28:4**
- Burden of proof, **§ 1:8**
- Business compulsion and duress, **§§ 33:1, 33:7**
- Cancellation, **§§ 61:1, 62:38**
- Cause in fact, **§ 48:2**
- Cause of action, **§§ 9:1, 14:15**
- Child advocate, **§ 18:4**
- Child protective services, **§ 38:43**

INDEX

WORDS AND PHRASES—Cont'd

- Chose in action, **§ 18:18**
- Civil action, **§ 25:1**
- Claim, **§§ 5:29, 12:32**
- Claim preclusion, **§ 15:1**
- Collateral source rule, **§ 36:3**
- Commence, **§§ 3:3, 25:3 to 25:6**
- Commercial actuality, **§ 4:10**
- Commercial frustration, **§ 57:8**
- Common enemy doctrine, **§ 49:9**
- Compensation, **§ 39:2**
- Complaint, **§§ 3:1, 28:2**
- Conclusion of law, **§ 10:3**
- Confidential relationship, **§§ 46:2, 46:3**
- Conscious indifference, **§ 48:23**
- Consent, **§ 32:1**
- Consideration, **§§ 56:1, 56:2**
- Consolidation of corporations, **§ 18:15**
- Constituent corporation, **§ 18:15**
- Consumer, **§ 12:18**
- Contract, **§ 65:5**
- Contractor, **§§ 39:3, 39:8**
- Contributory negligence, **§ 48:1**
- Conveyance, **§ 53:9**
- County highway, **§ 38:116**
- Creditor, **§§ 59:1, 59:3**
- Damage by the elements, **§ 30:12**
- Dangerous condition, **§ 38:111**
- Debtor, **§ 12:8**
- Deceased personality, **§ 17:11**
- Defamation, **§ 51:1**
- Defendant, **§ 3:1**
- Delegation of power, **§ 52:4**
- Disability, **§ 25:31**
- Disappearing corporation, **§ 18:15**
- Discretionary act, **§ 38:75**
- Doing business in California, **§§ 4:32, 39:37**
- Domicile, **§ 5:36**
- Due diligence, **§ 2:16**
- Duress, **§§ 33:1, 33:2, 62:4**
- Duty, **§ 38:1**
- Dwelling house, **§ 2:14**
- Economic compulsion, **§§ 33:1, 33:7**
- Elisor, **§ 2:3**
- Emancipated minor, **§§ 18:8, 52:17**
- Emergency doctrine, **§ 49:1**
- Emergency service, **§ 38:50**

WORDS AND PHRASES—Cont'd

Employee, §§ 38:51, 38:56, 39:15
Entirely without understanding, § 52:27
Equal dignities rule, § 54:1 et seq.
Equitable estoppel, § 34:1
Escapee, § 38:100
Estoppel in pais, § 34:1
Executed contract, §§ 53:24, 65:5
Execution, §§ 53:24, 65:5, 66:1
Executory, §§ 65:5, 66:1
Expectation, § 18:18
Express assumption of the risk, § 48:24
Failure of consideration, § 57:1 et seq.
Fair comment, § 41:9
Fiduciary relationship, §§ 46:2, 46:3
Fighting fires, § 38:92
Finality, § 14:6
Final judgment, §§ 14:6, 15:5
Fire fighting facilities, § 38:92
Force majeure, § 30:18
Foreign corporation, § 39:37
Foreign judgment, § 14:39
Foreign lending institution, § 39:37
Foreign representative, § 18:12
Foreign state, § 14:39
Frustration of purpose, § 58:1 et seq.
Fundamental jurisdiction, § 7:10
Gaming clubs, § 38:14
General appearance, § 2:28
General jurisdiction, § 4:9
Gift, §§ 53:24, 56:9
Good consideration, §§ 56:1, 56:2
Goods, § 53:11
Gross negligence, §§ 40:4, 48:23
Guarantor, § 67:1
Holiday, § 25:3
Idem sonans, § 2:21
Illusory promise, § 56:6
Immaterial allegation, § 10:1
Immediate possession and control, § 52:6
Imminent peril doctrine, § 49:1
Impossibility, § 60:1 et seq.
Impracticability, §§ 60:1, 60:5
Inception of the loss, § 12:10
Incidental or appurtenant to land, § 53:9
Incompetent person, § 18:9
Indemnity, §§ 42:14, 67:8

INDEX

WORDS AND PHRASES—Cont'd

- Independent contractor, §§ 38:51, 38:56
- Indispensable party, § 21:1
- Injunction, § 31:1
- Injury, § 25:36
- Insane, § 25:53
- Interest, § 37:13
- Interested, § 41:9
- Irreparable injury, § 31:6
- Irresistible superhuman cause, §§ 30:3, 30:20
- Issue preclusion, § 15:1
- Joint tortfeasor, § 48:5
- Judicial arbitration, § 28:11
- Jurisdiction, §§ 7:1, 7:10
- Jurisdictional, § 7:1
- Land, § 53:9
- Last clear chance, §§ 48:26, 49:5
- Last overt act doctrine, § 25:8
- Latent deficiency, § 25:17
- Law, §§ 1:8, 38:74
- Legal tender, § 69:2
- Liability, § 25:15
- Liability created by law, § 25:23
- Libel, § 51:1
- Limited jurisdiction, § 4:9
- Litigation, § 13:3
- Local action, § 5:4
- Local agency, § 5:28
- Long-term, § 53:20
- Mail, § 2:9
- Malice, §§ 38:78, 41:9
- Manager's privilege, § 4:28
- Mark, § 53:3
- Material allegation, §§ 1:1, 10:1
- Material alteration, § 66:3
- Memorandum, §§ 53:2, 53:5
- Menace, §§ 33:1, 33:2, 62:4
- Mental institution, § 38:95
- Mere possibility, § 18:18
- Merger, §§ 14:1, 15:1, 18:15
- Minor, §§ 18:1, 52:2
- Misrepresentation, § 38:105
- Mistake
 - Generally, § 40:1
 - Mistake of fact, §§ 40:1, 40:3
 - Mistake of law, §§ 40:1, 40:7
- Moral obligation, § 56:8

WORDS AND PHRASES—Cont'd

- Mutual rescission, **§ 61:1**
Natural condition, **§ 38:108**
Necessaries, **§§ 52:13, 52:30**
Necessary party, **§ 21:1**
Necessity, **§ 49:8**
Neglect of legal duty, **§ 40:4**
Negligence, **§ 48:1**
New matter, **§§ 1:1, 1:5**
Nonfundamental jurisdiction, **§ 7:10**
Note or memorandum, **§ 53:2**
Novation, **§§ 64:1, 64:13**
Object of a contract, **§ 37:1**
Obligation, **§§ 18:18, 42:1, 63:6**
Obligation to do equity, **§ 35:1**
Operation of law, **§ 60:4**
Oral agreement made in open court, **§§ 28:1, 28:7**
Parental control, **§ 52:17**
Partial trial, **§ 28:4**
Party, **§ 19:2**
Party sought to be charged, **§ 53:4**
Patent deficiency, **§ 25:16**
Patient, **§ 38:95**
Payment, **§ 69:1**
Peace officer, **§ 38:78**
Pending action, **§ 23:2**
Perils of the sea, **§ 30:3**
Personal property, **§ 52:6**
Personal representative, **§§ 12:32, 17:1, 18:11**
Personal service, **§§ 2:6, 2:8, 2:9**
Place of trial, **§ 5:1**
Plaintiff, **§ 3:1**
Pleading, **§ 41:8**
Plea in abatement, **§ 1:2**
Preponderance of the evidence, **§ 1:8**
Preventive relief, **§ 31:1**
Prisoner, **§ 38:82**
Privilege, **§ 41:2**
Privity, **§ 14:24**
Produce dealer, **§ 39:33**
Professional negligence, **§ 25:36**
Proof, **§ 1:8**
Proper party, **§ 21:1**
Property, **§ 17:3**
Property of a public entity, **§ 38:104**
Proximate cause, **§ 48:2**
Psychotherapist, **§ 38:54**

INDEX

WORDS AND PHRASES—Cont'd

- Public employee, §§ 38:56, 38:131
- Public entity, §§ 38:56, 38:108, 38:112, 38:114
- Public journals, § 41:10
- Public officer, § 5:22
- Public property, § 38:104
- Punitive damages, § 38:124
- Purposeful availment of California law, §§ 4:10, 4:15, 4:16
- Pursuant to court order, § 28:11
- Qualified financial contract, § 53:24
- Ratification, § 54:5
- Real estate, § 53:9
- Real estate broker, § 39:26
- Real estate salesman, § 39:26
- Real property, §§ 52:6, 53:9, 53:19
- Reasonable implied assumption of the risk, § 48:24
- Receiver, § 38:133
- Reformation, § 62:39
- Related cause of action, § 14:18
- Release, § 42:1
- Representative services doctrine, § 4:25
- Rescission, § 61:1
- Rescue doctrine, § 49:7
- Rescue team, §§ 38:48, 38:51
- Reservoir, §§ 38:108, 38:119
- Residence, §§ 2:14, 5:36
- Retraxit, §§ 14:61, 42:17
- Return of service, § 3:15
- Sale or return transaction, § 53:11
- Sanitation employee, § 38:22
- Satisfaction, § 63:4
- Satisfaction of judgment, § 42:18
- Scene of an emergency, § 38:46
- School-sponsored activity, § 38:123
- Security, § 13:3
- Settlement, § 43:1
- Signature, § 53:3
- Signed, § 53:3
- Slander, § 51:1
- Special contract, § 5:33
- Special damages, defamation action, § 12:14
- Special proceeding, § 28:3
- Specialty contractor, § 39:3
- Specific jurisdiction, § 4:9
- State of emergency, § 38:71
- Statute, § 38:56
- Subcontractor, § 39:3

WORDS AND PHRASES—Cont'd

- Subrogation, § 18:28
- Subscribed, § 53:3
- Substantial completion, § 25:17
- Surety, § 67:1
- Surviving corporation, § 18:15
- Termination, § 62:37
- Thing in action, §§ 9:1, 17:10, 18:18
- Time, § 25:3
- Time of the essence, § 57:2
- Transact intrastate business, § 39:37
- Transfer, § 18:18
- Transitory action, § 5:4
- Trial, § 28:4
- Tribunal, § 7:5
- Trust, § 46:2
- Ultimate fact, § 10:2
- Unavoidable accident, § 30:19
- Uncertainty, §§ 10:1, 10:5 et seq., 10:13
- Unconscionability, §§ 55:1 to 55:3
- Undue influence, §§ 46:1, 46:2
- Unfair advantage, § 46:10
- Unimproved public property, § 38:108
- Unintelligible, § 10:1
- Unlawful means, § 41:14
- Unlawfulness, § 37:1
- Unpublished information, § 38:36
- Unreasonable implied assumption of the risk, § 48:24
- Usual place of abode, § 2:14
- Valuable consideration, § 56:1
- Venue, § 5:1
- Vexatious litigant, § 13:3
- Vis major, § 30:18
- Voluntary transfer, § 56:9
- Voluntary trust, § 46:2
- Weather conditions, § 38:117
- Willful misconduct, §§ 25:17, 48:22
- Without prejudice, § 14:8
- With prejudice, § 14:8
- Writing, § 53:2
- Wrongful means, § 41:14

WORKERS' COMPENSATION ACTIONS

- Asbestos exposure actions, § 38:123
- Assignability of benefits, § 18:18
- Comparative fault and, §§ 48:1, 48:16
- Election of remedies, § 24:4
- Equitable tolling doctrine, § 25:71

INDEX

WORKERS' COMPENSATION ACTIONS—Cont'd

- Fetus, injury in work related accident, § 18:7
- Government claims filing requirement in, § 12:21
- Immunity, § 38:123
- Imputation of negligence and, § 48:16
- Minor parties' capacity to sue, § 18:4
- Probate proceedings, guardian ad litem, appointment, § 18:4
- Release
 - Approval of Workers' Compensation Appeals Board, § 42:1
 - Employees, § 42:4
 - Writing requirement, § 42:1
- Res judicata and, §§ 14:27, 14:40
- Spoliation of evidence, § 7:2
- Statute of limitations, minor's action, § 25:51
- Subrogation, §§ 18:28, 25:39
- Workers' Compensation Appeals Board
 - Approval of release by, § 42:1
 - Res judicata and, § 14:40
 - Subject matter jurisdiction, § 7:2

WRITING

- Accepting part performance, effect of, § 63:6
- Definition, § 53:2
- Equal Dignities Rule, this index
- Release, §§ 42:1, 42:5
- Statute of Frauds, this index

WRIT OF ATTACHMENT

- Attachment, this index

WRIT OF CERTIORARI

- Certiorari, this index

WRIT OF MANDATE

- Mandamus, this index

WRIT OF PROHIBITION

- Prohibition, this index

WRIT OF REVIEW

- Certiorari, this index

WRITS

- Constitutional provisions, § 7:2
- Extraordinary writs, this index
- Subject matter jurisdiction, § 7:2
- Verification of petition for, § 11:9

WRITTEN CONTRACT

- Pleading, §§ 10:14, 10:15
- Statute of frauds, § 53:1 et seq.
- Statute of limitations, § 25:12

WRONGFUL DEATH

Generally, **§ 17:1 et seq.**

Acts of God as defense in action for, **§ 30:3**

Comparative fault and, **§§ 48:11, 48:16**

Death, this index

Death of employee by employer, **§ 17:6**

Death of fetus, **§ 18:7**

Death of party and, **§§ 17:2, 17:6, 17:18**

Employee, death of, **§ 17:6**

Escaping mental patients, **§ 38:100**

Estate, standing to sue for, **§ 18:11**

Failure to mitigate damages and, **§ 36:4**

Fair Responsibility Act of 1986, **§ 43:2**

Government claims filing requirement, **§§ 12:21 to 12:23, 12:29**

Immunity, **§§ 38:84, 38:100**

Imputation of negligence and, **§ 48:16**

Joinder of parties, **§ 20:4**

Limitation of actions, **§ 25:58**

Non-economic damages, **§ 43:2**

Parties, **§§ 19:3, 20:4, 21:2**

Personal jurisdiction, **§ 4:19**

Prisoners, **§ 38:84**

Probate claims requirement, **§ 12:32**

Punitive damages, **§ 17:6**

Release, **§ 42:1**

Res judicata and, **§§ 14:31, 14:40**

Settlement, **§ 43:2**

Standing, **§§ 18:11, 19:3**

Statement of damages, **§ 2:1**

Statute of limitations, **§§ 25:16, 25:17, 25:25, 25:31, 25:36, 25:77**

Torts, this index

Venue

Generally, **§ 5:34**

Action against state, **§ 5:24**

WRONGFUL LIFE

Cause of action for, **§§ 9:1, 38:37**

WRONGFUL TERMINATION OF EMPLOYMENT

Comparable employment, mitigation of damages, **§ 36:5**

Employment, this index

Exhaustion of remedies as to, **§ 16:18**

Failure to mitigate damages, **§ 36:5**

Financial hardship, **§ 36:5**

Illness and, **§ 36:5**

Imprisonment and, **§ 36:5**

Labor, this index

Laches, **§ 26:5**

INDEX

WRONGFUL TERMINATION OF EMPLOYMENT—Cont'd

Public employees, **§ 36:5**

Statute of limitations, **§§ 25:7, 25:25, 25:77**

Unemployment benefits, mitigation of damages, **§ 36:5**

Venue

Generally, **§ 5:33**

Action against public officer, **§ 5:22**

YACHT AND SHIP BROKERS

Licensing requirement, **§ 39:31**

Z'BERG-NEJEDLY FOREST PRACTICE ACT

Immunity for entry on land under, **§ 38:60**