Volume 1

CHAPTER 1. CASE PREPARATION

A. CLIENT INTERVIEW

	§	1:1	Introduction
--	---	-----	--------------

- § 1:2 Client questionnaire
- § 1:3 Client social media letter
- § 1:4 Pain questionnaire
- § 1:5 Family medical history checklist
- § 1:6 Prenatal and birth history
- § 1:7 Defendant information checklist
- § 1:8 Lien checklist
- § 1:9 Products liability checklist
- § 1:10 Referral attorney checklist
- § 1:11 Contingent fee agreement
- § 1:12 Medical authorization form

B. GATHERING PERSONAL INJURY DATA

- § 1:13 Introduction
- § 1:14 Authority to release information
- § 1:15 Authority to release medical records
- § 1:16 Authority to release school records
- § 1:17 Request for abstract of hospital records
- § 1:18 Request for hospital records
- § 1:19 Request for physician records
- § 1:20 Request for physician report
- § 1:21 Request for medical bills
- § 1:22 Authority and request for medical records and bills
- § 1:23 Request for dates of absence from employment
- § 1:24 Request for accident report
- § 1:25 Request to preserve evidence
- $\S~1:26$ Request for vehicle regulatory agency report
- § 1:27 Request for OSHA report
- § 1:28 Products liability checklist
- § 1:29 Playground safety checklist

C. STATUTORY NOTICE

§ 1:30 Introduction

	Handbook of Personal Injury
§ 1:31	Notice of breach of warranty
§ 1:32	Demand letter under Consumer Protection Act—Lead
	Poisoning Prevention and Control Act
§ 1:33	—Premises liability/security breach
§ 1:34	—Destruction of evidence
§ 1:35	Notice of intent to file lawsuit—Medical malpractice
D. U	SING EXPERTS
§ 1:36	Introduction
§ 1:37	Expert qualification checklist
§ 1:38	Medical expert's evaluation of medical treatment
§ 1:39	—Another example
§ 1:40	Pre-complaint report of technical expert
§ 1:41	Expert opinion—Failure to warn and instruct—
•	Prescription drugs
§ 1:42	Expert report—Defective stairway ladder
§ 1:43	Disclosure of liability expert
§ 1:44	Expert affidavit—Gas line fire
§ 1:45	Protocol for the inspection of elevator by expert
E. C	ONSUMER PRODUCT INFORMATION
§ 1:46	Introduction
§ 1:47	Initial request for information

- § 1:48 Request for victim identification
- Request for summary of meetings § 1:49
- Request for product defect notification § 1:50
- § 1:51 Request for information—Enforcement actions
- § 1:52 Request pursuant to Freedom of Information Act

F. GATHERING DATA THROUGH THE INTERNET

- § 1:53 Introduction
- § 1:54 Connecting to the Internet
- § 1:55 Internet tools
- § 1:56 Potential sources for personal injury, legal and product
- Government sources of information § 1:57

CHAPTER 2. COMPLAINTS

A. GENERALLY

- § 2:1 Choice of forum
- § 2:2 Requisites of proper complaint
- § 2:3 Products liability—Toy
- -Another toy example § 2:4

```
§ 2:5
         —Industrial machine
§ 2:6
§ 2:7
         —Birth control pills
§ 2:8
         —Drug
§ 2:9
         -Weight loss drug
§ 2:10
         —DES
§ 2:11
         -Truck cab
§ 2:12
         —Helium gas
         -Toaster
§ 2:13
§ 2:14
         -Wooden plank
         -Electronic monitoring device
§ 2:15
         -Motor vehicle
§ 2:16
§ 2:17
         ——Lap belt
§ 2:18
         —Car seat manufacturer
§ 2:19
         —Drain cleaner
§ 2:20
         —Jet ski
         —Container
§ 2:21
§ 2:22
         —Tool
§ 2:23
         —Elevator
§ 2:24
         -Snowmobile
§ 2:25
         —Flammable uniform
§ 2:26
         —Bicycle
§ 2:27
         -Medical device
§ 2:28
         —Safety device
§ 2:29
         —Above ground swimming pool
§ 2:30
         —Air rifle
§ 2:31
         —Travel agency—School trip
         —Exercise equipment
§ 2:32
§ 2:33
         -Snow tube
§ 2:34
         —Defective playground equipment
         -Bath seat
§ 2:35
         —Basketball net
§ 2:36
§ 2:37
         —Gun
§ 2:38
         —Herbal supplement
§ 2:39
         Products liability and medical malpractice
§ 2:40
         Products liability—Defective water heater
§ 2:41
         -Defective dietary supplement-Illegal steroid
§ 2:42
         -Lawn mower
§ 2:43
         -Bike
§ 2:44
         -Flammable bathrobe
§ 2:45
         -Iron
§ 2:46
         —Chemical hose
         Premises liability—Security breach rape—Assault
§ 2:47
          and battery
         —Security breach//rape—Assault and battery—
§ 2:48
          Another example
§ 2:49
         -Wrongful death-Hotel
```

§ 2:50	Products liability—Add two new defendants
§ 2:51	Premises liability—Slip and fall
§ 2:52	—Dangerous storage of merchandise
§ 2:53	—Defective electrical system
§ 2:54	Negligence—operation of motor vehicle
§ 2:55	—Operation of bus—Transit Authority
§ 2:56	—Negligent entrustment
§ 2:57	—Uninhabitable housing
§ 2:58	—Industrial accident
§ 2:59	—City employee
§ 2:60	—Dog bite
§ 2:61	—Storage of hazardous material
§ 2:62	—Negligent supervision—Nursing home
§ 2:63	Negligent supervision—Rest Home
§ 2:64	Negligence—Negligent supervision—Camp
§ 2:65	——Swimming pool
§ 2:66	——Premises liability and product liability
§ 2:67	——Cooking school
§ 2:68	——Day care
§ 2:69	——Psychiatric facility
§ 2:70	— —Parent—Minor fight
§ 2:71	—Leasing—Airplane
§ 2:72	—Electrocution
§ 2:73	—Propane gas explosion
§ 2:74	—Improperly marked gas line-explosion
§ 2:75	—Agency/ vicarious liability
§ 2:76	—Work site
§ 2:77	—Infected transplant organ from infected hamster
§ 2:78	—Pharmacy
§ 2:79	Complaints—Negligent maintenance of construction
§ 2.10	site
§ 2:80	Negligence—Negligent maintenance of construction
	site
§ 2:81	—Negligent maintenance of construction site
§ 2:82	—Operation and ownership of motor vehicle
§ 2:83	Negligence—Health club
§ 2:84	Wrongful death
§ 2:85	—Gas line fire
§ 2:86	Negligence—Horse farm
§ 2:87	—Soccer association
§ 2:88	—Laboratory work—Chemical/equipment accident
§ 2:89	Medical malpractice
§ 2:90	Medical malpractice and punitive damages
§ 2:91	Medical malpractice—Loss of consortium—Loss of
0.0.00	child
§ 2:92	—Pharmacist, doctor—Drug error

§ 2:93	—Doctor, hospital—Failure to inform, failure to
	follow-up
§ 2:94	Statutory violation—Dram shop
§ 2:95	—Dram shop/wrongful death
§ 2:96	—Lead Poisoning Prevention and Control Act
§ 2:97	Assault and battery
§ 2:98	Discrimination—Age
§ 2:99	MCAD Complaint
§ 2:100	Wrongful termination

B. EXCERPTS FROM SPECIFIC COMPLAINTS

§ 2:101	Products	liability—	-Flammal	ble	fabrics
3 2.101	1 1 Odd dCOS	iiabiiioj	1 Iuiiiiu	OIC	IUDIICE

- § 2:102 —Gas leak in mobile home
- § 2:103 —Intrauterine contraceptive device (IUD)
- § 2:104 —Machine
- § 2:105 Wrongful death—Contact with electrical wire
- § 2:106 —Railroad crossing
- § 2:107 —Airplane accident
- § 2:108 —Admiralty action (46 U.S.C.A. §§ 741–752)
- § 2:109 Premises liability—Slip and fall
- § 2:110 Assault and battery
- § 2:111 —Assault
- § 2:112 Negligence—Common carrier
- § 2:113 —Auto guest passenger sues host
- § 2:114 —Drug-related birth defects
- § 2:115 —Hospital's vicarious liability
- § 2:116 —Negligent supervision
- § 2:117 Fraud and misrepresentation—Home sale
- § 2:118 Libel
- § 2:119 Loss of consortium
- § 2:120 Medical malpractice—Hospital
- § 2:121 —Health plan
- § 2:122 —Anesthesiologist
- § 2:123 —Physician
- § 2:124 Gross negligence—Punitive damages
- § 2:125 —Successor liability
- § 2:126 Sexual harassment
- § 2:127 Jurisdiction—Federal diversity
- § 2:128 —Long arm statute
- § 2:129 Damages—Pain and suffering

C. AMENDED COMPLAINTS

- § 2:130 Introduction
- § 2:131 Form of amended complaint
- § 2:132 Motion to amend complaint

	HANDBOOK OF I ERSONAL INJU
§ 2:133	Motion to substitute—Deceased plaintiff
§ 2:134	Memorandum in support of plaintiff's motion for leave to file third amended complaint—Add party
§ 2:135	—Add claim for wrongful death
§ 2:136	Amended complaint—Medical malpractice—
, =	Gynecologist—Wrongful death, loss of a chance
§ 2:137	Amended Complaint—Medical Malpractice—Doctor, Hospital—Wrongful Death
§ 2:138	Amended complaint—Negligence—Travel service
§ 2:139	Second amended complaint—Construction
§ 2:140	Plaintiffs claims pursuant to Mass. R. Civ. P. 14a
§ 2:141	Rule 14(a) claims
§ 2:142	Substituted complaint
§ 2:143	Plaintiff's memorandum in support of motion for leave to amend complaint
D. CI	AIMS AGAINST UNITED STATES
§ 2:144	Actions under Military Claims Act (10 U.S.C.A.
	§§ 2731 et seq.)
§ 2:145	Military complaint letter—Thalidomide
§ 2:146	—Electrocution
§ 2:147	Actions under Federal Tort Claims Act (28 U.S.C.A. §§ 2671 et seq.)
§ 2:148	Complaint—negligence—Marine Corps personnel
§ 2:149	—Federal Aviation Agency personnel
E. CI	ASS ACTIONS
§ 2:150	Introduction
§ 2:151	Complaint—Class action
§ 2:152	Motion for class certification
§ 2:153	Brief in support of motion for class certification
F. PL	EADING-RELATED MOTIONS
§ 2:154	Opposition to motion to dismiss complaint for lack of jurisdiction
§ 2:155	—Another example
§ 2:156	—Opposition to motion to dismiss for lack of
0	jurisdiction—Personal jurisdiction
§ 2:157	Opposition to motion to dismiss complaint for reasons other than lack of jurisdiction
§ 2:158	Opposition to motion to dismiss for forum non conveniens
§ 2:159	—Another example
§ 2:160	—Opposition to motion to dismiss—Untimely service
§ 2:161	Opposition to motion to dismiss—Cross motion to
<u> </u>	strike exhibit in defendant's motion to dismiss

§ 2:162	—Facts substantiate plaintiff's claim
§ 2:163	Opposition to motion to dismiss—Sufficient
	particularity
§ 2:164	Opposition to motion to dismiss—Wrongful
	termination—Jurisdiction—Service of process— Claims supported
§ 2:165	—Mass. Tort Claims Act
2:166	—Recreational use statute
2:167	Opposition to defendant's motion to dismiss—
,	Jurisdiction
§ 2:168	Opposition to motion to dismiss—Defendant city
3 2:169	Opposition to motion to amend answer—Affirmative defense
$\frac{5}{2}:170$	—Plaintiffs' memorandum in opposition to defendant
	inc.'s motion and memorandum to amend answer
0.0454	and assert counterclaim for negligent supervision
\$ 2:171	Opposition to motion to dismiss Rule 14 complaint
\$ 2:172	Opposition to motion to dismiss amended complaint
§ 2:173	Plaintiffs' memorandum in support of their opposition to defendant's motion to dismiss
§ 2:174	Plaintiff's memorandum objecting to motion for judgement on the pleadings—Negligent supervision—City
§ 2:175	Motion to compel joinder of parties needed for just adjudication
§ 2:176	Statement of reasons in support of motion to amend complaint
§ 2:177	Service of complaint—Motion to extend time for service in foreign country
§ 2:178	—Motion to extend time for service when identity of defendant is unknown
§ 2:179	Motion for attachment and accompanying affidavit
2:180	Service—Affidavit in compliance with Rule 4(f)
3 2:181	Motion to amend complaint—Add cause of action
§ 2:182	—Add party
§ 2:183	——Concealed information
§ 2:184	—Misnomer and additional parties
2:185	Motion 1 to amend complaint—Substitute party
32:186	Motion 2 to amend complaint—Substitute party
$\S 2:187$	Motion to Amend Complaint—Add a Party Defendant
2:188	Motion for leave to file second amended complaint
$\S 2:189$	Assented to motion to substitute party plaintiff
§ 2:190	Motion to substitute plaintiff
§ 2:191	Motion and memorandum to remand action from federal district court to state trial court
§ 2:192	Motion for admission to practice pro hac vice
§ 2:193	Motion for relief from automatic stay

 \$ 2:194 Assented to motion to withdraw plaintiffs' first amended complaint and reinstate plaintiffs' ini complaint \$ 2:195 Motion to revoke order of transfer \$ 2:196 Motion for default—MCAD \$ 2:197 Motion to strike affirmative defenses—Form 	
§ 2:196 Motion for default—MCAD § 2:197 Motion to strike affirmative defenses—Form	tial
§ 2:197 Motion to strike affirmative defenses—Form	
•	
§ 2:198 Opposition to motion for change of venue	
§ 2:199 Opposition to motion to sequester plaintiff's husb during deposition	oand
§ 2:200 Motion for sanctions—Frivolous lawsuit	
§ 2:201 Opposition to motion to intervene and oppose plaintiff's motion to amend complaint	
§ 2:202 Motion for an order of notice	
§ 2:203 Plaintiff's rule 14(a) claim against third-party defendant	
§ 2:204 Memorandum in support of plaintiffs' motion for issuance of order nunc pro tunc approving serv defendant by registered mail, or in the alternat to allow plaintiffs to re-serve defendant by registered mail	ice on
§ 2:205 Joint motion to consolidate for purposes of disco- only and to revise tracking orders	very

CHAPTER 3. FORMAL DISCOVERY

A. GENERALLY

- § 3:1 Introduction
 § 3:2 Discovery checklist—generally
 § 3:3 —Products liability
- § 3:4 —Medical malpractice
- § 3:5 —Premises liability
- § 3:6 —Automobile injury
- § 3:7 Initial disclosures under Fed. R. Civ. P. Rule 26
- $\S 3:8$ Rule 26(a)(1) Disclosure—Elevator company
- § 3:9 Joint scheduling order—Elevator company

B. INTERROGATORIES

1. IN GENERAL

- § 3:10 Introduction
- § 3:11 Products liability—Industrial machine manufacturer
- § 3:12 —Toy manufacturer
- § 3:13 —Swimming pool manufacturer
- § 3:14 —Sledding tube
- § 3:15 —Air gun manufacturer
- § 3:16 —Drug manufacturer

§ 3:17	—Flammable fabrics manufacturer
§ 3:18	—Gas company
§ 3:19	—Stove company
§ 3:20	—Industrial product manufacturer
§ 3:21	—Industrial container
§ 3:22	—Smoke alarm manufacturer
§ 3:23	—Vehicle fiberglass roof manufacturer
§ 3:24	—Machine manufacturer
§ 3:25	—Disposable cigarette lighter manufacturer
§ 3:26	-Motor vehicle manufacturer-Transmission system
§ 3:27	——Occupant restraint system
§ 3:28	——Passenger seat/cargo door
§ 3:29	—Electronic monitoring device manufacturer
§ 3:30	—Exercise equipment manufacturer
§ 3:31	—Industrial machine manufacturer
§ 3:32	—Bicycle
§ 3:33	—Gun
§ 3:34	—Weight loss drug
§ 3:35	—Bath seat
§ 3:36	—Crib
§ 3:37	—Defective medical device
§ 3:38	—Sneakers
§ 3:39	—Car seat manufacturer
§ 3:40	Product liability—Bungee cord
§ 3:41	—Coffee urn
§ 3:42	Products Liability—Industrial equipment—Bale
	handling & dewiring system
§ 3:43	Medical malpractice—Hospital
§ 3:44	—Physician
§ 3:45	——Infectious Disease/HIV
§ 3:46	——Infection Disease/HIV
§ 3:47	—Dentist
§ 3:48	—Abortion
§ 3:49	—Failure to inform/diagnose
§ 3:50	—Cervical cancer treatment
§ 3:51	—Health plan
§ 3:52	Premises liability
§ 3:53	—Dangerous storage of merchandise
§ 3:54	—Wrongful death—Hotel
§ 3:55	—Operation of pallet jack
§ 3:56	Interrogatories—Negligent maintenance of
J	construction site
§ 3:57	Statutory violation—Lead Poisoning Prevention and Control Act

Volume 2

§ 3:58 —Dram shop

§ 3:59	Discrimination—Age
§ 3:60	—MCAD—Company
§ 3:61	Discrimination and wrongful discharge—National
	origin and sexual orientation
§ 3:62	Negligence—Operator of motor vehicle
§ 3:63	—Registered owner of motor vehicle
§ 3:64	—Contractor—Industrial accident
§ 3:65	—Factory accident
§ 3:66	—Government
§ 3:67	—Slip and fall
§ 3:68	—Chiropractor
§ 3:69	—Negligent supervision—Camp
§ 3:70	——School facility
§ 3:70	——Day care
§ 3.71	Negligent supervision—City
§ 3.72 § 3:73	
§ 3:73 § 3:74	—Department of Corrections
	—Hospital
§ 3:75	—Police department
§ 3:76	Negligence—Horse farm
§ 3:77	—Soccer Association
§ 3:78	—Electric company
§ 3:79	—Health club
§ 3:80	—Negligent supervision—Swimming pool
§ 3:81	—Negligent maintenance of construction site
§ 3:82	—Premises liability
§ 3:83	—Product liability
§ 3:84	—Corporation—Appliance
§ 3:85	—Travel service
§ 3:86	—Gas line fire service
§ 3:87	Assets
§ 3:88	Sexual harassment
§ 3:89	Wrongful termination
2.	EXCERPTS FROM INTERROGATORIES
§ 3:90	Receipt of required notice
§ 3:91	Physical condition and health of defendant
§ 3:92	Defendant's account of incident
§ 3:93	History of complaints
§ 3:94	History of prior litigation
§ 3:95	History of prior medical malpractice actions
§ 3:96	Knowledge of conditions
§ 3.90 § 3:97	
-	Witnesses and reports
§ 3:98	Plaintiff's interrogatories to elevator company
§ 3:99	Contributory negligence or assumption of risk
§ 3:100	Existence of liability insurance
§ 3:101	Presence of safety devices on industrial machine

§ 3:102	Repair and maintenance of equipment
§ 3:103	Control and maintenance of electric power lines and poles
§ 3:104	Maintenance of parking lot
§ 3:105	Control and maintenance of store entrance
§ 3:106	Circumstances of automobile collision
§ 3:107	Circumstances of ship collision
§ 3:108	Authoritativeness of medical research materials
§ 3:109	Landlord liability—Injury caused by stove
§ 3:110	Vehicle owner liability—Injury caused by operator
§ 3:111	Municipality and contractor liability—Death of child on public playground
§ 3:112	Skylight installer liability
§ 3:113	Foam insulation installer liability
§ 3:114	Corporate successor liability
§ 3:115	Experts to be called as witnesses
§ 3:116	Use of experts
§ 3:117	Damages—Automobile collision
§ 3:118	Trust
§ 3:119	Jurisdiction—Form

C. DEPOSITIONS

1. IN GENERAL

§ 3:120	Introduction
§ 3:121	Notice of deposition—Flammable fabrics
§ 3:122	—Medical device
§ 3:123	—Premises liability
§ 3:124	Notice of taking deposition 30(b)(6)—Premises liability
§ 3:125	—Product liability
§ 3:126	—Car seat manufacturer
§ 3:127	Notice of taking deposition 30(b)(6) corporation—Gas dryer manufacturer
§ 3:128	—Gas dryer installer
§ 3:129	Plaintiff's notice of taking Rule 30(B)(6) deposition of defendant—Transit authority
§ 3:130	—Transit Associates
§ 3:131	Plaintiff's notice of taking Rule 30(B)(6) deposition of defendant
§ 3:132	Plaintiff's notice of taking rule 30(b)(6) deposition of defendant—City
§ 3:133	—Department of Corrections
§ 3:134	—Police Department
§ 3:135	—Hospital
§ 3:136	Notice of taking deposition 30(b)(6)—Gas service company

§ 3:137	—Travel service
§ 3:138	—Hospital
§ 3:139	—Plumbing & heating service company
§ 3:140	—Construction company
§ 3:141	Re-notice of taking deposition Rule 30(b)(6)
§ 3:142	—Health club
§ 3:143	Motion to require simultaneous exchange of
	information as condition of taking deposition
§ 3:144	Application for letter rogatory to take deposition outside the state
§ 3:145	Letter rogatory to take deposition outside the state
§ 3:146	Letter rogatory of school representative
§ 3:147	Letter rogatory to out-of-state school
§ 3:148	Stipulations at outset of deposition
§ 3:149	Motion for issuance of commission to take out of state deposition
§ 3:150	Motion for sanctions—Violations of Rule 30
§ 3:151	Opposition to motion for reconsideration of motion for leave to take expert depositions
§ 3:152	Opposition to motion to take expert depositions
§ 3:153	Plaintiff's opposition to motion for leave to depose plaintiff's expert witness
§ 3:154	Motion to take audio visual deposition
§ 3:155	Commission to take deposition out of state
§ 3:156	Opposition to motion for reconsideration to allow audio-visual deposition
2.	EXCERPTS FROM DEPOSITIONS
§ 3:157	Deponent's authority
§ 3:158	Seller's knowledge of product
§ 3:159	Testing practices
§ 3:160	—Tests conducted by seller
§ 3:161	—Tests conducted by manufacturer
§ 3:162	—Failure to test
§ 3:163	— —Another example
§ 3:164	Safety standards
§ 3:165	—Defendant's safety procedures
§ 3:166	—Defendant's safety reputation
§ 3:167	-Employee's safety responsibilities
§ 3:168	—Availability of safety devices
§ 3:169	Warnings
§ 3:103	—Location of warnings
§ 3.170 § 3:171	—Visibility of warning
§ 3:171 § 3:172	
_	—Adequacy of warnings
§ 3:173	—Continuing duty to warn
§ 3:174	Marketing—Targeting children

§	3:175	—Without adequate testing or warning
§	3:176	Design defects
§	3:177	—Prior knowledge of defect—Motor vehicle restraint
		system
_	3:178	—Post-accident design change
_	3:179	Design and maintenance defect—Entrance way
_	3:180	Care of medical patient
_	3:181	Medical malpractice
	3:182	Circumstances of automobile collision
§	3:183	Franchisor's control over franchisee—Premises liability
§	3:184	Cause of slip and fall
§	3:185	Defendant's knowledge of security problem—Premises liability
§	3:186	Defendant's knowledge and understanding of standard of responsibility—Premises liability
8	3:187	Defendant's failure to publicize safer design
_	3:188	Deponent's bias
_		
). RE	QUESTS TO PRODUCE
§	3:189	Introduction
§	3:190	Products liability—Intrauterine contraceptive device (IUD)—First request
§	3:191	——Second request
§	3:192	—Airplane manufacturer
§	3:193	—Snowmobile manufacturer
§	3:194	—Sledding tube
§	3:195	—Punch press manufacturer
§	3:196	—Electric blanket manufacturer
§	3:197	—Water heater control manufacturer
§	3:198	—Automobile and seat belt manufacturer
§	3:199	—Automobile manufacturer—Design defect
§	3:200	— — Occupant restraint system
§	3:201	—Car seat manufacturer
§	3:202	Second request—Products liability—Car seat manufacturer
8	3:203	Products liability—Tobacco company
	3:204	—Vehicle roof manufacturer
	3:205	—Electronic monitoring device manufacturer
_	3:206	—Toy manufacturer
_	3:207	—Drain cleaner manufacturer
	3:208	—Swimming pool manufacturer
_	3:209	—Air gun manufacturer
_	3:210	—Product advertising material
_	3:211	—Gas company
_	3:212	—Elevator company
-		* *

```
§ 3:213
         —Exercise equipment manufacturer
         -Industrial machine manufacturer
§ 3:214
§ 3:215
         —Industrial container
§ 3:216
         —Pajama manufacturer
§ 3:217
         —Gun manufacturer
         —Weight loss drug
§ 3:218
§ 3:219
         -Bath seat
§ 3:220
         —Crib
         -Sneakers
§ 3:221
§ 3:222
         -Inflatable rock wall
§ 3:223
         --- Photograh
§ 3:224
         -Coffee urn
         Products Liability—Industrial equipment—Bale
§ 3:225
          handling & dewiring system
§ 3:226
         Medical malpractice—Physician
§ 3:227
         -Surgeon
§ 3:228
         —Plastic surgeon
§ 3:229
         —Dentist
§ 3:230
         —Health plan
§ 3:231
         —Hospital
         —Abortion
§ 3:232
§ 3:233
         —Failure to diagnose
         -Physician-Failure to diagnose-Infectious
§ 3:234
          disease/HIV
§ 3:235
         Premises liability—Structural soundness
§ 3:236
         —Hospital
§ 3:237
         —Inadequate building security
§ 3:238
         —Hazardous storage of merchandise
§ 3:239
         -Wrongful death-Hotel
         —Operation of pallet jack
§ 3:240
§ 3:241
         —Apartment complex
         Statutory violation—lead poisoning
§ 3:242
§ 3:243
         —Dram shop
§ 3:244
         Negligence—Electric utility
§ 3:245
         —Operation of motor vehicle
         —Operation of bus—Transit Authority
§ 3:246
§ 3:247
         — —Transit associates
§ 3:248
         -Industrial accident
§ 3:249
         -Factory accident
§ 3:250
         -Government
         -Chiropractor
§ 3:251
         —Slip and fall
§ 3:252
§ 3:253
         -Negligent maintenance of construction site
         —Fall at construction site
§ 3:254
§ 3:255
         Negligent supervision—School facility
§ 3:256
         —Travel services
```

§ 3:257	Second request—Negligence—Negligent supervision—
8 5:257	Travel services
§ 3:258	Negligence—Negligent supervision—Swimming pool
, 0.200	#1
§ 3:259	Negligent supervision—Day care center
§ 3:260	Negligence—Negligent supervision—Swimming pool
	#2
§ 3:261	——City
§ 3:262	— —Hospital
§ 3:263	——Police Department
§ 3:264	Assault and battery
§ 3:265	Discrimination—Age
§ 3:266	—MCAD-company
§ 3:267	Sexual harassment
§ 3:268	Discrimination and constructive discharge—National origin and sexual orientation
§ 3:269	Negligence—Horse farm
§ 3:270	—Soccer Association
§ 3:271	Wrongful termination
§ 3:272	Negligence—Electric company
§ 3:273	—Appliance
§ 3:274	—Gas line fire—Gas company
§ 3:275	Second request—Negligence—Gas equipment and
	services
	services
§ 3:276	Requests to Produce—Negligence—Health club
§ 3:276 § 3:277	
§ 3:277	Requests to Produce—Negligence—Health club Subpoena requiring production of documents
§ 3:277	Requests to Produce—Negligence—Health club
§ 3:277 E. RE § 3:278	Requests to Produce—Negligence—Health club Subpoena requiring production of documents QUEST FOR ADMISSIONS Introduction
§ 3:277 E. RE § 3:278 § 3:279	Requests to Produce—Negligence—Health club Subpoena requiring production of documents QUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request
§ 3:277 E. RE § 3:278	Requests to Produce—Negligence—Health club Subpoena requiring production of documents RQUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request ——Second request
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281	Requests to Produce—Negligence—Health club Subpoena requiring production of documents RQUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — —Second request — Swimming pool manufacturer
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282	Requests to Produce—Negligence—Health club Subpoena requiring production of documents QUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — Second request —Swimming pool manufacturer —Mobile home manufacturer
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282 \$ 3:283	Requests to Produce—Negligence—Health club Subpoena requiring production of documents QUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — —Second request — Swimming pool manufacturer — Mobile home manufacturer — Flammable fabric manufacturer
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282 \$ 3:283 \$ 3:283	Requests to Produce—Negligence—Health club Subpoena requiring production of documents QUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — —Second request — Swimming pool manufacturer — Mobile home manufacturer — Flammable fabric manufacturer — Water heater control manufacturer
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282 \$ 3:283 \$ 3:284 \$ 3:285	Requests to Produce—Negligence—Health club Subpoena requiring production of documents RQUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — Second request —Swimming pool manufacturer —Mobile home manufacturer —Flammable fabric manufacturer —Water heater control manufacturer —Household drain cleaner manufacturer
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282 \$ 3:283 \$ 3:283	Requests to Produce—Negligence—Health club Subpoena requiring production of documents QUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — Second request — Swimming pool manufacturer — Mobile home manufacturer — Flammable fabric manufacturer — Water heater control manufacturer — Household drain cleaner manufacturer — Smoke alarm manufacturer
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282 \$ 3:283 \$ 3:284 \$ 3:285 \$ 3:286 \$ 3:287	Requests to Produce—Negligence—Health club Subpoena requiring production of documents QUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — Second request — Swimming pool manufacturer — Mobile home manufacturer — Flammable fabric manufacturer — Water heater control manufacturer — Household drain cleaner manufacturer — Smoke alarm manufacturer — Swimming pool filter manufacturer
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282 \$ 3:283 \$ 3:284 \$ 3:285 \$ 3:286 \$ 3:287 \$ 3:288	Requests to Produce—Negligence—Health club Subpoena requiring production of documents QUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — Second request — Swimming pool manufacturer — Mobile home manufacturer — Flammable fabric manufacturer — Water heater control manufacturer — Household drain cleaner manufacturer — Smoke alarm manufacturer — Swimming pool filter manufacturer — Motor vehicle manufacturer
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282 \$ 3:283 \$ 3:284 \$ 3:285 \$ 3:286 \$ 3:287 \$ 3:288 \$ 3:289	Requests to Produce—Negligence—Health club Subpoena requiring production of documents QUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — Second request — Swimming pool manufacturer — Mobile home manufacturer — Flammable fabric manufacturer — Water heater control manufacturer — Household drain cleaner manufacturer — Smoke alarm manufacturer — Swimming pool filter manufacturer — Motor vehicle manufacturer — Motor vehicle manufacturer — Tool manufacturer
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282 \$ 3:283 \$ 3:284 \$ 3:285 \$ 3:286 \$ 3:287 \$ 3:288 \$ 3:289 \$ 3:290	Requests to Produce—Negligence—Health club Subpoena requiring production of documents QUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — Second request — Swimming pool manufacturer — Mobile home manufacturer — Flammable fabric manufacturer — Water heater control manufacturer — Household drain cleaner manufacturer — Smoke alarm manufacturer — Swimming pool filter manufacturer — Motor vehicle manufacturer — Motor vehicle manufacturer — Tool manufacturer — Bicycle manufacturer
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282 \$ 3:283 \$ 3:284 \$ 3:285 \$ 3:286 \$ 3:287 \$ 3:288 \$ 3:289 \$ 3:290 \$ 3:291	Requests to Produce—Negligence—Health club Subpoena requiring production of documents RQUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — Second request — Swimming pool manufacturer — Mobile home manufacturer — Flammable fabric manufacturer — Water heater control manufacturer — Household drain cleaner manufacturer — Smoke alarm manufacturer — Swimming pool filter manufacturer — Motor vehicle manufacturer — Motor vehicle manufacturer — Tool manufacturer — Bicycle manufacturer — Industrial product
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282 \$ 3:283 \$ 3:284 \$ 3:285 \$ 3:286 \$ 3:286 \$ 3:287 \$ 3:288 \$ 3:290 \$ 3:291 \$ 3:292	Requests to Produce—Negligence—Health club Subpoena requiring production of documents RQUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — Second request — Swimming pool manufacturer — Mobile home manufacturer — Flammable fabric manufacturer — Water heater control manufacturer — Household drain cleaner manufacturer — Smoke alarm manufacturer — Swimming pool filter manufacturer — Motor vehicle manufacturer — Motor vehicle manufacturer — Tool manufacturer — Bicycle manufacturer — Industrial product — Industrial container
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282 \$ 3:283 \$ 3:284 \$ 3:285 \$ 3:286 \$ 3:287 \$ 3:288 \$ 3:289 \$ 3:290 \$ 3:291 \$ 3:292 \$ 3:293	Requests to Produce—Negligence—Health club Subpoena requiring production of documents RQUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — Second request — Swimming pool manufacturer — Mobile home manufacturer — Flammable fabric manufacturer — Water heater control manufacturer — Household drain cleaner manufacturer — Household drain cleaner manufacturer — Smoke alarm manufacturer — Swimming pool filter manufacturer — Motor vehicle manufacturer — Tool manufacturer — Bicycle manufacturer — Industrial product — Industrial container — Propane tank
\$ 3:277 E. RE \$ 3:278 \$ 3:279 \$ 3:280 \$ 3:281 \$ 3:282 \$ 3:283 \$ 3:284 \$ 3:285 \$ 3:286 \$ 3:286 \$ 3:287 \$ 3:288 \$ 3:290 \$ 3:291 \$ 3:292	Requests to Produce—Negligence—Health club Subpoena requiring production of documents RQUEST FOR ADMISSIONS Introduction Products liability—Toy manufacturer—First request — Second request — Swimming pool manufacturer — Mobile home manufacturer — Flammable fabric manufacturer — Water heater control manufacturer — Household drain cleaner manufacturer — Smoke alarm manufacturer — Swimming pool filter manufacturer — Motor vehicle manufacturer — Motor vehicle manufacturer — Tool manufacturer — Bicycle manufacturer — Industrial product — Industrial container

§ 3:296 -Bath seat —Herbal supplement § 3:297 § 3:298 —Crib § 3:299 —Defective medical device -Inflatable rock wall § 3:300 § 3:301 —Defective car door latch § 3:302 —Defective car seat § 3:303 Negligence—Corporation—Appliance § 3:304 —Appliance Medical malpractice § 3:305 § 3:306 —Another example § 3:307 Hospital—For-profit Negligence—Electric utility § 3:308 § 3:309 -Industrial accident § 3:310 —Dog bite § 3:311 —Motor vehicle accident § 3:312 -Industrial explosion § 3:313 —Gas explosion; City § 3:314 —Property owner—Defective smoke alarm § 3:315 —Property manager—Swimming pool—Death § 3:316 Premises liability—First request § 3:317 —Second request § 3:318 -Franchisor liability for rape and murder on franchisee's premises § 3:319 Dram shop § 3:320 Spoliation of evidence § 3:321 Relationship between defendants—Parent company § 3:322 Premises liability—Hazardous stacking of products § 3:323 -Wrongful death-Hotel F. DISCOVERY MOTIONS § 3:324 Introduction § 3:325 Joint statement pursuant to local rule 16.1(D) § 3:326 Motion to compel interrogatory answers—Product labelling and alteration—Prior complaint § 3:327 ——Brief in support of motion § 3:328 —Product testing and inspection ——Brief in support of motion § 3:329 § 3:330 —Prior lawsuits § 3:331 —Prior medical malpractice lawsuits § 3:332 Motion to compel answers to interrogatories and supporting memorandum—Jurisdiction § 3:333 Motion to compel interrogatory answers and document production—Medical malpractice— Protection under Mass. Gen. L. ch. 11, § 204 § 3:334 Motion to compel document production—Product

testing

§ 3:335	Motion for order compelling information and documents—Additional documents identified by witnesses in deposition
§ 3:336	Motion to compel document production—Product design, development and testing—Other complaints
§ 3:337	Motion to compel—DSS compliance with records subpoena
§ 3:338	Motion to compel interrogatory answers and document production—Another example
§ 3:339	Motion to compel document production—Criminal files
§ 3:340	—Committee minutes
§ 3:341	Motion to compel interrogatory answers and document production—Product alteration, packaging, testing, and investigation—Similar accidents—Prior lawsuits—Advertising—Post-sale recall and warnings
§ 3:342	—Other complaints
§ 3:343	Motion to compel document production—Hospital standards and procedures
§ 3:344	—Privilege
§ 3:345	—Documents identified at deposition
§ 3:346	—Engineering information—Relevance
§ 3:347	Plaintiff's motion for order compelling information and documents
§ 3:348	Motion to compel discovery—Successor liability and time frame of requests
§ 3:349	—Substantially similar products
§ 3:350	Motion to compel—Other accidents
§ 3:351	—Privilege log
§ 3:352	—Inspection
§ 3:353	Motion to Compel—Inspection, responses to interrogatories, and requests for production of documents
§ 3:354	Motion to compel further discovery responses
§ 3:355	Motion to compel supplemental discovery responses
§ 3:356	Opposition to motion to compel inspection—Car
§ 3:357	Motion to compel production of documents from privilege log
§ 3:358	Motion to compel compliance with records subpoena
§ 3:359	Motion to compel—Photographs
§ 3:360	—Wealth
§ 3:361	—Deponent
§ 3:362	Memorandum in support of motion to compel
გ თ.თ02	document production—Responsive unprivileged documents
§ 3:363	Plaintiff's motion to compel recording and or transcript

§	3:364	Plaintiff's opposition to travel agency's motion to compel
§	3:365	Opposition to motion to compel document production—Work product doctrine
Ş	3:366	—Reciprocal discovery
_	3:367	Plaintiffs' opposition to defendant's motion to compel production of the department of children and families records
§	3:368	Motion to compel payment of expenses—Refusal to admit facts
§	3:369	Plaintiff's opposition to motion to compel IME
§	3:370	Opposition to motion to compel physical examination
§	3:371	Plaintiffs' opposition to defendants' proposed protocol for a Rule 35 examination of plaintiff child
§	3:372	Plaintiffs' memorandum in opposition to defendants' motion to compel Rule 35 examinations of plaintiff child and extend deadlines relating to defendants' supplemental disclosures
§	3:373	Plaintiffs' motion to extend Rule 35 protocol deadlines
§	3:374	Opposition to motion to compel product production
§	3:375	Plaintiff's reply memorandum to defendant's opposition to plaintiff's motion for order compelling information and documents
§	3:376	Opposition to motion to compel records from State Department of Protective and Regulatory Services— Fishing expedition
§	3:377	Opposition to motion to compel production of original x-ray films
§	3:378	Opposition to motion to compel HIPAA compliant medical authorizations and authorization for release of social security records
§	3:379	Partial opposition to defendant's motion to compel plaintiff's attendance at a medical examination
§	3:380	Memorandum in opposition to motion to compel physical examination outside presence of plaintiff's counsel
§	3:381	Opposition to motion for access to psychiatric treatment records
§	3:382	Limited Opposition to Motion Requesting Plaintiff's Statutorily Protected Medical Records—Medical and psychological records
§	3:383	Motion for protective order—Deposition locale
_	3:384	-Minor/fifth amendment
_	3:385	—Minor
_	3:386	Motion and memorandum to quash subpoena for
Ð		production of documents and for protective order— Privileged information
§	3:387	Opposition to motion to compel psychological evaluation records

\$ 3:388	Opposition to motion for protective order—Deposition locale
§ 3:389	—Relevance—Preservation
\$ 3:390	—Undue hardship
\$ 3:391	—Premises liability—Rape—Name and information of rape victim in prior civil action
§ 3:392	Opposition to defendant's motion for protection—11th hour delay tactic
§ 3:393	Opposition to defendant's motion for protective order—Confidentiality
§ 3:394	Opposition to protective order precluding plaintiff from contacting former patients
§ 3:395	Opposition to motion for protective order—Doctor
§ 3:396	—Department of children and family records
§ 3:397	—Expert witness
§ 3:398	—Non-party doctor witness
§ 3:399	Plaintiffs' opposition to motion to quash and protective order
§ 3:400	Memorandum in support of opposition to motion for protective order—Deposition locale
§ 3:401	Memorandum in opposition to motion for confidentiality order
$\S 3:402$	Motion for protective order—Minor
§ 3:403	—Minor with psychological issues
§ 3:404	—Telephone depositions—Out-of-state plaintiffs
§ 3:405	Stipulated protective order regarding protected and proprietary information to be produced
§ 3:406	Opposition to defendant's motion for protective order and statement of reasons
§ 3:407	Motion to strike and for further answers to interrogatories—Identity of person with most knowledge
§ 3:408	——Brief in support of motion
§ 3:409	Opposition to motion to strike—Admission requests
§ 3:410	Motion to strike—Liability reference in medical records
§ 3:411	—Public records exception
§ 3:412	Motion to default—Failure to produce as promised
§ 3:413	—Continued failure to produce documents
§ 3:414	——Brief in support of motion
§ 3:415	 Memorandum in support of entry of judgment motion
§ 3:416	—Memorandum and order—Failure to produce documents
§ 3:417	—Failure to plead or defend
\$ 3:418	—Sanction based on special master's review of document production
§ 3:419	—Spoliation
	=

§ 3:420	Defendant's assented to motion to vacate default judgement
§ 3:421	Motion to default—Opposition to motion to remove
	default
§ 3:422	— —Brief in opposition to motion to remove default
§ 3:423	Other motions—Plaintiffs' statement of opposition to motion to perform tests
§ 3:424	—Motion to enlarge time in which to respond to discovery request
8 2.425	
§ 3:425	—Motion to shorten time to answer interrogatories
§ 3:426	—Motion for order to bar taking of deposition immediately before scheduled date of trial
§ 3:427	—Emergency motion to quash taking of depositions after expiration of discovery deadline
§ 3:428	—Motion and memorandum to obtain District
8 0.420	Attorney's file
§ 3:429	—Order requiring District Attorney to make files
8 0.429	available
§ 3:430	—Plaintiff's emergency motion to substitute experts
§ 3:431	Plaintiff's objection to expedited pretrial order
§ 3:432	Motion to defer factual discovery until after case
8 0.402	management conference
§ 3:433	Motion for relief from automatic stay
§ 3:434	Opposition to petition for relief under peer review
\$ 0.404	committee privilege—Mass. Gen. L. ch. 231 § 118
§ 3:435	Memorandum in support of motion to conduct further disassembly of subject product
§ 3:436	Motion for sanctions
§ 3:437	Motion to compel deposition testimony—Fifth Amendment
\$ 2,420	
§ 3:438	Motion to compel deposition—Medical malpractice
§ 3:439	Motion to compel continued deposition testimony and allow computer forensic inspection
§ 3:440	Opposition to motion to compel—Work product
§ 3:441	Opposition to motion to conduct mental examination of Plaintiff under Mass. R. Civ. P. 35 or, in the alternative, to bar any psychiatric evidence at trial
§ 3:442	Opposition to motion for physical and/or mental examination
§ 3:443	Motion to conduct non-destructive analysis on product
§ 3:444	Motion for issuance of letters rogatory
§ 3:445	Motion to compel depositions
§ 3:446	Motion for capias writ
§ 3:447	Motion to revoke stipulation limiting damages
§ 3:448	Motion request subpoena to depose nonparty law firm
	and attorney
§ 3:449	Motion to compel further discovery and inspect computer and phone records

§ 3:450	Petition for leave to intervene
§ 3:451	Opposition to motion for return of inadvertently disclosed, attorney-client privileged e-mail
§ 3:452	Opposition to motion for reconsideration of court
0	order allowing plaintiff's motion to compel a more
	complete answer to interrogatories
§ 3:453	Opposition to cross motion to extend protective order until completion of criminal trial
§ 3:454	Motion for sanctions—Refusal to attend previously scheduled depositions and refusal to comply with
	deposition subpoenas
§ 3:455	—Failure to produce medical records
§ 3:456	Opposition to motion to stay discovery
§ 3:457	Limited opposition to motion to stay discovery
\$ 0. 1 01	pending resolution of Rule 12 motions
§ 3:458	Opposition to motion to submit to a medical
, 0.100	examination by a non-physician
§ 3:459	Motion to quash the subpoena and deposition notice
	seeking production and removal of pathology slides
§ 3:460	Opposition to motion for production and use of the
	department of children and families records
§ 3:461	Opposition to motion to compel access to plaintiffs' social media accounts
§ 3:462	Plaintiff's motion to compel discoverable information
§ 3:463	Motion to compel further document responses and production
§ 3:464	Motion for sanctions for noncompliance with court's
	discovery orders
§ 3:465	Other motions—Motion for leave to take deposition of pre-trial jail detainee
§ 3:466	—Motion to preclude evidence of litigation costs
§ 3:467	—Motion for court order compelling non-party
	witness deposition
§ 3:468	—Joint motion of the parties to be relieved from
	complying with current discovery schedule and to
	suspend trial date due to criminal prosecution of key witness
8 2,460	
§ 3:469	—Plaintiff's opposition to defendants' motion to quash the subpoena duces tecum and for a protective order
	preventing the deposition of expert witness
§ 3:470	—Opposition to motion allowing further discovery of
, 0.110	expert witnesses and to continue trial
§ 3:471	—Motion for a jury view
§ 3:472	—Request for inspection of premises
§ 3:473	(Unopposed) Motion to extend factual discovery—New defendant
§ 3:474	Other Motions—Opposition to motion allowing
	destructive testing

Volume 3

CHAPTER 4. NEGOTIATION AND SETTLEMENT

A	CI	דאה	TO	A T	т.	3 7
Α.	(TI	VIV.	$\mathbf{E}\mathbf{R}$.AI	4	ıΥ

0 4 4	T . 1	
8 4:1	Introd	luction

- § 4:2 Economist's report on replacement costs
- § 4:3 Psychiatrist's report on future of burn victim

B. SETTLEMENT

§ 4:4 Introduc	tion
----------------	------

- § 4:5 Settlement letter on behalf of burn victim
- § 4:6 Settlement letter releasing one of multiple defendants
- § 4:7 Agreement to release some defendants while reserving rights against the defendant
- § 4:8 Settlement letter where damages exceed insurance coverage
- § 4:9 Settlement letter to insurance company
- § 4:10 Narrative settlement
- § 4:11 Memorandum of settlement
- § 4:12 Insurance company letter—Notice of unfair business claim—Unreasonable failure to settle
- § 4:13 Plaintiff's assented to motion for approval of settlement
- § 4:14 Joint petition for settlement approval
- § 4:15 Authorization to reject offer
- § 4:16 Authorization to accept offer
- § 4:17 Products liability—Car seat manufacturer
- § 4:18 Opposition to motion for reconsideration of modified motion concerning petition for approval of minor's settlement
- § 4:19 Relator's settlement challenge
- § 4:20 Motion to enforce settlement

C. MEDIATION

- § 4:21 Mediation summary—Defective wood-burning stove
- § 4:22 —Defective truck lift gate
- § 4:23 —Defective snow tube
- § 4:24 ——Negligence
- § 4:25 —Negligent supervision—Nursing home
- § 4:26 —Discrimination, harassment, retaliation
- § 4:27 —Negligent maintenance of construction site
- § 4:28 Relator's mediation brief—Qui tam action

- § 4:29 Mediation Summary—Negligent supervision— Swimming pool
- § 4:30 Mediation summary—Negligence—Health club
- § 4:31 Assented to motion to continue trial

D. ARBITRATION

§ 4:32 Arbitration brief—Motor vehicle accident

E. DISMISSAL

- § 4:33 Dismissal—Stipulation
- § 4:34 —Notice
- § 4:35 Tolling agreement
- § 4:36 Motion to enforce alternative dispute resolution and allow claim

CHAPTER 5. PRE-TRIAL PREPARATION

A. GENERALLY

- § 5:1 Introduction
- § 5:2 Brief in support of motion to preclude expert testimony
- § 5:3 Brief in opposition to motion for bifurcation
- § 5:4 Plaintiffs' opposition to defendant's motion to bifurcate trial
- § 5:5 Filing of expert reports
- § 5:6 Motion for appointment of guardian ad litem
- § 5:7 Order appointing guardian ad litem
- § 5:8 Motion and supporting affidavit for real estate attachment
- § 5:9 Offer of proof
- § 5:10 —Another example
- § 5:11 Motion for a speedy trial
- $\S 5:12$ —Another example
- § 5:13 Motion opposing bifurcation of liability and damages and exclusion of plaintiff from courtroom
- § 5:14 Opposition to choice of law
- § 5:15 Motion to continue trial
- § 5:16 Motion for preliminary injunction
- § 5:17 Memorandum in support of position that defendant's are not entitled to set off
- § 5:18 Memorandum in support of motion for relief from automatic stay pursuant to rule 26
- § 5:19 Confidentiality agreement
- § 5:20 Confidentiality Agreement—Another option
- § 5:21 Opposition to defendant's request for medical malpractice tribunal

§	5:22	Motion to consolidate cases
§	5:23	Motion for In Camera review of documents
§	5:24	Motion to waive or stay civil litigation anniversary fee
§	5:25	Motion to file documents under seal—Documents attached to plaintiff's opposition to defendant's motion for protective order
§	5:26	Assented to motion to continue medical malpractice tribunal
§	5:27	Joint agreement regarding preservation of evidence
E	B. SU	JMMARY JUDGMENT
§	5:28	Opposition to summary judgment—Government tort claims action
§	5:29	Opposition to partial summary judgment
§	5:30	Plaintiff's opposition to defendant's motion for partial summary judgment and statement of reasons
§	5:31	Opposition to motion for summary judgment
§	5:32	—Product liability
§	5:33	Plaintiff's opposition to defendant's motion for summary judgment—Product liability
Ü	5:34	Opposition to motion for summary judgment and statements of reasons—Manufacturer
§	5:35	Plaintiff's opposition to defendant's motion for summary judgement and statement of reasons— Negligence—Operation of bus
§	5:36	Opposition to defendant's motion for summary judgment and statement of reasons—Negligence—Gas equipment and services
§	5:37	Plaintiff's memorandum in opposition to travel agency's motion for summary judgment
§	5:38	Plaintiff's memorandum in opposition to defendant's motion for summary judgement—Department of Corrections—Gross negligence
§	5:39	Opposition to defendants' motion for summary judgment—Torts
§	5:40	Memorandum in support of their opposition to defendants' motion for summary judgment and to preclude experts—Product liability
§	5:41	Memorandum in support of opposition to defendants' motion for summary judgment
§	5:42	Opposition to summary judgment—Jurisdiction
§	5:43	— —Another example
§	5:44	—Attorney's affidavit
§	5:45	—Liability of successor corporation
§	5:46	—Premature
	5:47	—Dual persona doctrine
_	5:48	—Negligence—Playground maintenance

TIMBLE OF	CONTENTS
§ 5:49	—Products liability
§ 5:50	—Spoliation of evidence
§ 5:51	—Negligent oversight-liability of parent company
§ 5:52	—General Aviation Revitalization Act of 1994
§ 5:53	—City's right to control and ambiguous release
§ 5:54	Motion for partial summary judgment—Good
	Samaritan affirmative defense
§ 5:55	Memorandum in opposition to motion for partial
8 5 50	summary judgment of defendants'
§ 5:56	Plaintiff's memorandum in support of opposition to the
	defendant's motion for summary judgment— Contractor control over work and proximate cause
8 5.57	-
§ 5:57	Plaintiff's joint opposition to defendants' motions for summary judgment—Dram Shop
§ 5:58	Plaintiff's opposition to defendant's motion to strike
8 9.90	affidavits of plaintiff's experts in support of motion
	for summary judgement
	101 Summary Judgement
C. Pl	RE-TRIAL MEMORANDA AND MOTIONS
§ 5:59	Introduction
§ 5:60	Plaintiff's memorandum
§ 5:61	—Another example
§ 5:62	Plaintiff's pre-trial memorandum—Medical
, 0.02	malpractice
§ 5:63	Joint memorandum—Multiple defendants
§ 5:64	—Another example
§ 5:65	Joint pretrial memorandum—Life expectancy
_	evidence and future medical expenses of plaintiff
§ 5:66	Petition for allowance of attorneys' fee in excess of
	limitations set forth in rule 4-1.5(f)(4)(b)(ii)
§ 5:67	Application for circuit court authorization of fee
_	division
§ 5:68	Petition to set aside fraudulent transfer
§ 5:69	Suggestion of death
§ 5:70	Motion for sanctions—Spoliation of evidence
§ 5:71	Petition for writ of habeas corpus
§ 5:72	Emergency motion to voluntarily dismiss all federal
	law claims—Age discrimination
§ 5:73	Application for court authorization of fee division
§ 5:74	Motion to enlarge tracking order deadlines
§ 5:75	Motion to remand
§ 5:76	Emergency motion to continue trial
§ 5:77	Motion to adopt trial procedures
§ 5:78	Opposition to motion for venue transfer
§ 5:79	Rule 11 motion for sanctions
§ 5:80	Motion for relief automatic stay pursuant to 11

Motion for relief automatic stay pursuant to 11 U.S.C. § 362(D)(1), and for expedited determination, and to limit service

§ 5:81	Motion to waive civil litigation fee
§ 5:82	Emergency motion to waive or reduce tribunal bond
§ 5:83	Motion to strike demand for medical malpractice tribunal
§ 5:84	Opposition to motion to vacate tribunal findings and substitute panel physician
§ 5:85	Opposition to motion in limine to exclude expert opinion and for a Rule 104(a) hearing
§ 5:86	Opposition to <i>Daubert</i> motion to preclude expert opinion that defendant caused plaintiff harm
§ 5:87	Motion to quash subpoena of doctor
§ 5:88	Subpoena—Construction
§ 5:89	Motion to remand case back to state superior court
§ 5:90	Motion and memorandum for approval of real estate attachment
§ 5:91	Motion and supporting affidavit for real estate attachment—Liquor and entertainment license
§ 5:92	Memorandum in support of for temporary restraining order or preliminary injunction
§ 5:93	Opposition to compel parties to share costs
§ 5:94	Offer of proof—Misdiagnosed cancer
§ 5:95	Motion to remand and supporting memorandum
§ 5:96	—Procedural defect
§ 5:97	Motion to transfer venue
§ 5:98	Stipulation of relief from automatic stay regarding personal injury claim
§ 5:99	Emergency motion to reduce tribunal bond
§ 5:100	Memorandum in support of opposition to motion to strike exhibits
§ 5:101	Opposition to motion to withdraw
§ 5:102	Opposition to motion to stay proceedings pending issuance of a transfer order
§ 5:103	Opposition to Motion to Strike Plaintiff's Expert Disclosure from Pretrial Memorandum and Limit Plaintiff's Expert Testimony Appropriate 30B Disclosures
§ 5:104	Opposition to motion to strike expert report and preclude expert testimony

CHAPTER 6. TRIAL MATTERS

A. GENERALLY

- § 6:1 Introduction
- § 6:2 Demonstrative evidence

B. TRIAL BRIEFS

- 1. IN GENERAL
- § 6:3 Introduction

TABLE OF	CONTENTS
§ 6:4	Medical malpractice—Physicians
§ 6:5	— —Infectious disease/HIV
§ 6:6	——Consent
§ 6:7	Products liability—Gas explosion
§ 6:8	—Motor vehicle
§ 6:9	—Prescription drugs
§ 6:10	—Smoke detector
§ 6:11	Negligence—Faulty wiring/carpet
§ 6:12	—Common carrier collision
§ 6:13	—Medical malpractice—Subsequent medical treatment resulting in additional injury
§ 6:14	Trial Brief—Gross negligence
§ 6:15	Premises liability/defective store design
2.	TRIAL BRIEF EXCERPTS
§ 6:16	Admissibility of evidence—Mortality/life tables
§ 6:17	—Hospital/medical records
§ 6:18	—Safety standards and codes
§ 6:19	—Test reports
§ 6:20	—Photographs
§ 6:21	—Investigative reports
§ 6:22	—Technical and scientific articles
§ 6:23	—School records
§ 6:24	—Catalogue advertisements
§ 6:25	—Other products
§ 6:26	—Expert testimony
§ 6:27	—Medical bills and expenses
§ 6:28	—Medical treatises
§ 6:29	—Damage evidence
§ 6:30	—Pre- and post-occurrence materials
§ 6:31	—Other occurrences
§ 6:32	—Deposition testimony—Defendant's former employee
§ 6:33	— Taken in connection with another action
§ 6:34	Warranty
§ 6:35	Damages—Products liability—Burn injury
-	— Back injury
C. M	OTIONS IN LIMINE
§ 6:37	Introduction
§ 6:38	Collateral source benefits
§ 6:39	—Another example
§ 6:40	—Settlement
§ 6:41	Exclusion of certain facts
§ 6:42	Brief in support of motion
§ 6:43	O.S.H.A. or A.N.S.I. regulations

6.0	4.4	Ta : 1 : 4:00 : 1
§ 6:4	14	Evidence in plaintiff's possession subsequent to
8 6.	1 =	occurrence—Relevance
§ 6:4		Negative evidence
§ 6:4		Police report and opinion—Hearsay
§ 6:4		Statistics—Confusing and misleading
§ 6:4		Medical evidence—Unfair surprise
§ 6:4		—Breach patient confidentiality
§ 6:5		Prior incidents
§ 6:5	01	Opposition to motion in limine—Pre-occurrence advertising
§ 6:5	52	—Psychiatric treatment
§ 6:5	53	—Medical records
§ 6:5	54	—Economic testimony
§ 6:5	55	—Lawn dart
§ 6:5	56	—Demand letter as admission
§ 6:8	57	—Product performance report
§ 6:8	58	—Other accidents
§ 6:8	59	Opposition to motion to preclude—Pain and suffering
§ 6:6	30	Expert testimony—Failure to supplement discovery
§ 6:6	31	—No foundation; not relevant
§ 6:6	32	—Unreliable
§ 6:6	33	—Unreliable; standard of care
§ 6:6	34	— — Memorandum
§ 6:6	35	—Inadmissible hearsay
§ 6:6	36	Expert Testimony—Limit Testimony to Matters in Original Expert Report
§ 6:6	37	Settlement and other claims
§ 6:6		Bad character evidence
§ 6:6		Defense evidence—Failure to answer interrogatories
§ 6:		Photographs
§ 6:		—Opposition to motion to preclude admission
§ 6:		Related lawsuit
§ 6:		Prior claims
§ 6:		Day in life video
§ 6:		Recall
§ 6:		Alcohol and drug consumption
§ 6:7		Prior settlements
§ 6:		Prior criminal record
§ 6:		Gratuitous medical services
§ 6:8		Tax returns
§ 6:8		Accident reconstruction expert
§ 6:8		Former defendants and settlements
§ 6:8		—Work Orders; Patent
§ 6:8		—Bar defendant's from characterizing city employees'
5 0.0		conduct as causal negligence
§ 6:8	35	Defendants' insurance coverage—Punitive damages
_		5

. <u>:</u>
ive
rd
n
ns
\$
re
_

§ 6:123	—Lack of testing plaintiff for HIV by other physicians
§ 6:124	Motion in limine—Subsequent remedial measures
§ 6:125	—Motion to strike deposition testimony
§ 6:126	—Communications with attorneys
§ 6:127	—Marital difficulties
§ 6:128	—Standard of care
§ 6:129	Motion in limine to exclude medical records
§ 6:130	Opposition to motion in limine to exclude evidence
§ 6:131	Opposition to motion in limine to exclude expert testimony
§ 6:132	Opposition to motion in limine—Memo in support of allowing evidence as to the general size and position on [NAME] in the marketplace
§ 6:133	Response to defendants' objections to plaintiffs' medical record designation
D. VO	DIR DIRE

§ 6:134	Introduction
§ 6:135	Motion to examine jurors on voir dire
§ 6:136	Motion to request voir dire of the jury venire
§ 6:137	Plaintiff's motion for attorney conducted voir dire
§ 6:138	Plaintiff's proposed areas of inquiry for voir dire
§ 6:139	Personal knowledge or bias
§ 6:140	Attitudes toward awarding large amounts
§ 6:141	Consumer protection attitudes
§ 6:142	Insurance interests
§ 6:143	Medical malpractice
§ 6:144	Attitudes toward legislation on product liability

E. OPENING STATEMENT

§ 6:145 Motion to remove juror for cause

- § 6:146 Introduction
- § 6:147 Opening statement—Products liability—Hair dryer

F. EXAMINATION OF WITNESS

§ 6:148	Introduction
§ 6:149	Direct examination—Plaintiff
§ 6:150	—Plaintiff's witness
§ 6:151	—Plaintiff's technical expert
§ 6:152	—Plaintiff's physician
§ 6:153	—Incorporator of defendant
§ 6:154	—Officer of defendant
§ 6:155	Cross-examination—Defendant's technical expert
§ 6:156	—Defendant's medical expert

xlviii

§ 6:157	—Officer of defendant
§ 6:158	—Merchandise manager of defendant
§ 6:159	—Corporate employee—product identification
§ 6:160	Opposition to motion to compel non-party's testimony in breach of confidentiality
§ 6:161	Opposition to motion to call expert witness out of order
§ 6:162	Opposition to motion to exclude expert testimony
§ 6:163	Memorandum of law regarding causation and the admissibility of expert's testimony

G. CLOSING ARGUMENTS

§ 6:164	Introduction
§ 6:165	Products liability—Toy
§ 6:166	—Swimming pool
§ 6:167	Motion to certify question of law

H. DIRECTED VERDICT

§ 6:168	Introduction
§ 6:169	Opposition to motion for directed verdict—Products
	liability
§ 6:170	Motion for judgment as a matter of law

I. JURY INSTRUCTION REQUESTS

§ 6:171	Introduction
§ 6:172	General instructions
§ 6:173	Witness instructions
§ 6:174	Breach of warranty
§ 6:175	Burden of proof
§ 6:176	Negligence—Duty of care
§ 6:177	— —Corporations
§ 6:178	——Land owner
§ 6:179	—Agency, vicarious liability, thin skull theory
§ 6:180	—Vehicle collision
§ 6:181	—Live electrical wire
§ 6:182	Products liability—Design defect
§ 6:183	—Another example
§ 6:184	—Product research and testing
§ 6:185	—Warnings and instructions
§ 6:186	—Failure to warn
§ 6:187	—Toy
§ 6:188	—Corporate admissions
§ 6:189	—Marketing defect
§ 6:190	Damages
§ 6:191	Medical malpractice

§ 6:192	—Another example
§ 6:193	•
§ 6:194	Deposition testimony
§ 6:195	Objection to jury instructions on intervening and superseding causes
J. VI	ERDICT
§ 6:196	Introduction
$\S 6:197$	Special verdict questions—Generally
§ 6:198	v
§ 6:199	
§ 6:200	Verdict questions—Amount of damages
§ 6:201	—Employee negligence
§ 6:202 § 6:203	Interrogatories pursuant to Mass. R. Civ. P. 69 Opposition to motion to preclude expert testimony
§ 6:204	Motion for interlocutory injunction
§ 6:205	Plaintiff's opposition to insurance company's motion
0	to intervene
CHA	PTER 7. POST-TRIAL MATTERS
A. M	OTIONS
§ 7:1	Introduction
§ 7:2	Memorandum in opposition to judgment n.o.v
§ 7:3	Motion for new trial
§ 7:4	Motion and memorandum for new trial
§ 7:5	Motion and supporting memorandum for new trial-additur
§ 7:6	Motion and memorandum for a new trial—Damages
§ 7:7	Opposition to motion for new trial
§ 7:8	—Supporting brief
§ 7:9	Motion to amend judgment
§ 7:10	Motion to clarify judgment
§ 7:11	Bill Of Costs Pursuant To F.R.A.P., Rule 39
§ 7:12	Post-trial certification of a question of law—Brief
B. C	OLLECTION OF ASSETS
§ 7:13	Opposition to motion for an award of costs
§ 7:14	Opposition to motion for judgment notwithstanding the verdict
§ 7:15	Opposition to motion for JNOV—Another example
§ 7:16	Opposition to motion for new trial
§ 7:17	Petition for approval of settlement on behalf of minor
§ 7:18	Motion for entry of default judgment and assessment of damages pursuant to rules 54 & 55

§ 7:19	Opposition to motion for recovery of tribunal bond
§ 7:20	Opposition to stay mandate
§ 7:21	Motion to enforce payment of judgment
§ 7:22	Objection to motion to substitute letter of credit for supersedeas bond
§ 7:23	Opposition to application to stay execution pending review of certiorari
§ 7:24	Plaintiff's motion to file a surreply to defendants' reply to the motion for remittitar followed by plaintiff's surreply
§ 7:25	Opposition to motion for recovery of tribunal bond
§ 7:26	Opposition to motion to remittur
§ 7:27	Opposition to motion for new trial
§ 7:28	Motion and memorandum to alter or amend judgment
§ 7:29	Clarification of court order that defendant's cost be paid by plaintiff's prior counsel
§ 7:30	Motion and memorandum to alter or amend the judgment
§ 7:31	Motion to compel reimbursement of expenses and request for attorneys' fees and costs
§ 7:32	Opposition to motion for attorney's fees
§ 7:33	Motion for remand
§ 7:34	Post judgment interrogatories—Medical malpractice— Physician—Infectious disease/HIV
§ 7:35	Post judgment—Medical malpractice—Physician— Infectious disease/HIV

CHAPTER 8. ILLUSTRATIVE APPELLATE REVIEW

- § 8:1 Plaintiff's brief—Evidence and instructions
- § 8:2 —Summary judgment
- § 8:3 —Negligence and unincorporated associations
- § 8:4 —Spoliation, jury instructions, evidence
- § 8:5 Plaintiff's appellate brief—Collateral source income
- § 8:6 Application for further appellate review
- § 8:7 Interlocutory appeal—Motion and memorandum
- § 8:8 —Order
- § 8:9 —Request for oral argument

Index