

# Index

## ABANDONMENT

- Divorce, §§ 14:11, 14:12
- Pleadings, verified complaint form, § 15:7

## ABSENCE OR PRESENCE

- Spousal maintenance, presence of children, § 6:44

## ABUSE OF PERSONS

- Cruel and Inhuman Treatment (this index)
- Custody of children, § 20:19

## ACADEMIC DEGREES

- Equitable Distribution (this index)

## ACKNOWLEDGMENT

- Separation agreements, § 10:36
- Trial practice, acknowledgement of stipulation form, § 18:55

## ADDITIONAL ACTS OR MATTERS

- Separation agreements, additional instruments, § 10:25

## ADDRESS

- Separation agreements, notification of address change, boiler plate provisions, § 10:24

## ADJUSTMENTS

- Child support, § 7:62

## ADMINISTRATIVE ACTS OR MATTERS

- Child Support Standards Act (CSSA), § 7:58
- Equitable Distribution (this index)

## ADOPTION

- Child support, termination of, § 7:10

## ADULTERY

- Divorce (this index)
- Pleadings, verified complaint form, § 15:9

## ADVERSE EXPERT

- Expert witnesses, cross-examination, § 19:15

## AFFIDAVITS

- Enforcement of Awards (this index)
- Matrimonial Litigation (this index)
- Modification of awards, affidavit in support of application for modification form, § 9:22
- Pendente lite motions, forms, §§ 17:44, 17:45

## AGE

- Custody of children, age of parent, § 20:5
- Equitable distribution, age of parties, marital property distribution, § 3:31

## AGE OF MAJORITY

- Child support, § 7:7

## AGREEMENTS

- Contracts and Agreements (this index)

## ALIMONY

- Limitations, § 6:33

## ALTERATION

- Child Support Standards Act (CSSA) (this index)
- Equitable Distribution (this index)

## AMENDMENT, MODIFICATION, OR CHANGE

- Awards
  - Enforcement of Awards (this index)
  - Modification of Awards (this index)
- Child Support Standards Act (CSSA) (this index)
- Circumstances, Change in (this index)
- Enforcement of Awards (this index)
- Equitable Distribution (this index)
- Spousal Maintenance (this index)

## AMOUNT OR QUANTITY

- Child Support Standards Act (CSSA), amounts awarded under cost-allocation approach, § 7:15

## ANCILLARY ACTS OR MATTERS

- Equitable distribution, ancillary relief checklist for preconsultation client intake, § 12:11

**ANSWER**

Pleadings, form and content of, §§ **15:12, 15:13**

**APPEAL AND ERROR**

Child support, § **7:5**, § **7:62**  
Equitable distribution, marital property distribution, § **3:46**  
Spousal maintenance, § **6:51**

**APPEARANCE**

**Matrimonial Litigation** (this index)

**APPOINTMENT**

Enforcement of awards, appointment of receiver, form, § **8:20**

**APPRECIATION OF PROPERTY**

**Equitable Distribution** (this index)

**ARBITRATION**

Equitable distribution, § **12:29**

**ARREARS**

**Enforcement of Awards** (this index)  
Modification of awards, § **9:4**

**ASSET/LIABILITY WORKSHEET**

Equitable distribution, § **12:24**

**ATTENDANCE**

**Witnesses** (this index)

**ATTORNEY-CLIENT COMMUNICATIONS**

Trial practice, § **18:37**

**ATTORNEYS AT LAW**

Expert witnesses, § **19:8**

**ATTORNEYS' FEES**

Enforcement of awards, § **8:39**  
**Pendente Lite Motions** (this index)  
Temporary counsel fees. **Pendente Lite Motions** (this index)

**ATTORNEY'S WORK PRODUCT**

Disclosure, exemptions, § **16:6**

**AUTHORITY AND AUTHORIZATION**

Disclosure, sources of authority, § **16:2**

**AVAILABILITY**

Custody of children, availability of parent, § **20:18**

**AWARDS**

Awards. **Modification of Awards** (this index)

**Child Support** (this index)

**Enforcement of Awards** (this index)

**Modification of Awards** (this index)

**BANKRUPTCY**

Equitable distribution, marital property distribution, § **3:51**

**BARRIERS**

**Obstacles or Barriers** (this index)

**BEST INTEREST OF CHILD**

Custody of children, § **20:2**

**BIFURCATION**

**Equitable Distribution** (this index)

**BINDING ACTS OR MATTERS**

Separation agreements, binding effect of boiler plate provisions, § **10:19**

**BODEN RULE**

Child support award, modification of, § **9:13**

**BOILER PLATE PROVISIONS**

**Separation Agreements** (this index)

**BRAIMAN RULE**

Joint custody, §§ **21:3, 21:4**

**BREACH OF CONTRACT OR AGREEMENT**

**Separation Agreements** (this index)

**BRIEFS**

**Expert Witnesses** (this index)

**BUSINESS AND PROFESSIONAL INTERESTS**

Equitable distribution, marital property, § **3:26**

**BUSINESS ENTERPRISES**

Equitable distribution, § **5:22**

**BUSINESS RECORDS**

Trial practice, evidentiary issues, § **18:50**

**BUSINESS VALUATORS**

**Expert Witnesses** (this index)

**CALENDAR CONTROL CONFERENCE**

Trial practice, § **18:13**

## INDEX

### CALENDAR PRACTICE

**Trial Practice** (this index)

### CASE MANAGEMENT

Equitable distribution, § 12:20

### CATCH-ALL PROVISIONS

Equitable distribution, marital property distribution, § 3:42

Spousal maintenance, § 6:49

### CERTIFICATES AND CERTIFICATION

**Equitable Distribution** (this index)

Matrimonial litigation, default judgments, certificate of dissolution form, § 13:35

### CHANGE

**Amendment, Modification, or Change** (this index)

### CHANGE OF ADDRESS

Separation agreements, § 10:24

### CHILD CARE

Child Support Standards Act (CSSA), child care expenses, § 7:24

### CHILD CARE CREDIT

Tax consequences, § 11:23

### CHILDREN AND MINORS

**Custody of Children** (this index)

Spousal maintenance, presence of, § 6:44

Support. **Child Support** (this index)

### CHILD SUPPORT

Generally, §§ 7:1-7:63

Adjustment, review and, § 7:62

Adoption, termination of child support, § 7:10

Age of majority, § 7:7

Alteration. Modification of award, below

Appellate review, § 7:5, § 7:62

Award

Child Support Standards Act (CSSA), amounts awarded under cost-allocation approach, § 7:15

denial of matrimonial relief, § 7:4

form of, § 7:6

modification of award, below

retroactivity, § 7:3

Boden rule, modification of award, § 9:13

Change. Modification of award, below

### CHILD SUPPORT—Cont'd

Changed circumstances, time period measuring, § 9:15

**Child Support Standards Act (CSSA)** (this index)

Circumstances, time period measuring changed, § 9:15

Content of decision, § 7:5

Costs and expenses. **Child Support Standards Act (CSSA)** (this index)

Custody negotiation and litigation, § 7:60

Death of payor as basis termination, § 7:10

Deductions. **Child Support Standards Act (CSSA)** (this index)

Education. **Child Support Standards Act (CSSA)** (this index)

Effective date, § 7:3

Emancipation of child, § 7:8

Equitable distribution, § 1:20

Form of award, § 7:6

Inclusions. **Child Support Standards Act (CSSA)** (this index)

Income. **Child Support Standards Act (CSSA)** (this index)

Joint and split custody, § 7:59

Judicial review, § 7:5

Liability, parameters of, §§ 7:7-7:10

Litigation. Negotiation and litigation, below

Mandatory acts or matters. **Child Support Standards Act (CSSA)** (this index)

Matrimonial negotiations, § 7:61

Modification of award

generally, §§ 9:13-9:15

Boden rule, § 9:13

changed circumstances, time period measuring, § 9:15

**Child Support Standards Act (CSSA)** (this index)

circumstances, time period measuring changed, § 9:15

standard for modification, §§ 9:14, 9:15

time period measuring changed circumstances, § 9:15

Motions. **Pendente Lite Motions** (this index)

Negotiation and litigation

Child Support Standards Act (CSSA), self-support reserve and lower

**CHILD SUPPORT—Cont'd**

- Negotiation and litigation—Cont'd
  - income litigants, § 7:57
  - custody of child, § 7:60
  - matrimonial negotiations, § 7:61
- Orders. **Child Support Standards Act (CSSA)** (this index)
- Parameters of liability, §§ 7:7-7:10
- Parental income. **Child Support Standards Act (CSSA)** (this index)
- Pendente Lite Motions** (this index)
- Retroactivity of award, § 7:3
- Review and adjustment, § 7:62
- Scope, § 7:1
- Split custody, § 7:59
- Standard for modification of award, §§ 9:14, 9:15
- Standards Act. **Child Support Standards Act (CSSA)** (this index)
- Statutory reference points, § 7:2
- Stepparent liability, § 7:9
- Tax Consequences** (this index)
- Temporary acts or matters
  - Child Support Standards Act (CSSA), temporary orders, § 7:56
- Pendente Lite Motions** (this index)
- Termination, other bases for, § 7:10
- Time or date
  - Pendente Lite Motions** (this index)
  - period measuring changed circumstances, § 9:15
  - temporary acts or matters, above
- Uniform Interstate Family Support Act, § 7:63

**CHILD SUPPORT STANDARDS ACT (CSSA)**

- Generally, §§ 7:11-7:58
- Add-ons
  - generally, §§ 7:23-7:26
  - child care expenses, § 7:24
  - educational expenses, § 7:26
  - health care expenses, §§ 7:25, 7:41
- Administrative matters, § 7:58
- Alteration. Modification, below
- Alternative approaches to child support, §§ 7:13-7:19
- Alternative methodologies, § 7:20
- Amendment. Modification, below
- Amounts awarded under cost-allocation approach, § 7:15

**CHILD SUPPORT STANDARDS ACT (CSSA)—Cont'd**

- Analysis of, §§ 7:20-7:58
- Applicability, § 7:12
- Applying child support percentages, § 7:22
- Change. Modification, below
- Child care expenses, § 7:24
- Cost-allocation approach, § 7:14, § 7:15
- Costs and expenses
  - child care expenses, § 7:24
  - educational expenses, § 7:26, § 7:41
  - health care expenses, §§ 7:25, 7:41
  - parental income, determination of, employee business expenses, mandatory deductions, § 7:32
  - visitation expenses, § 7:48
- Deductions
  - employee business expenses, mandatory deductions, § 7:32
  - self-employment deductions, recapture of, § 7:31
- Defaults, § 7:53
- Delaware Melson formula, § 7:18
- Disclosure, financial, § 7:52
- Discretionary imputed income inclusions, § 7:29
- Disparity in parental income, § 7:46
- Earning capacity, mandatory imputed income inclusions, § 7:30
- Education
  - educational expenses, § 7:26, § 7:41
  - needs of parent, § 7:45
- Employee business expenses, mandatory deductions, § 7:32
- Employers and employees
  - parental income, determination of, employee business expenses, mandatory deductions, § 7:32
  - self-employment deductions, recapture of, § 7:31
- Expenses. Costs and expenses, above
- Factors. Variance factors, below
- FICA, § 7:34
- Financial disclosure, § 7:52
- Financial resources of parents and child, § 7:40
- Formula amount as rebuttable presumption, § 7:36
- Formula method, § 7:21

**CHILD SUPPORT STANDARDS ACT  
(CSSA)—Cont'd**

Health care and health care expenses,  
§§ 7:25, 7:41

Inclusions

- discretionary imputed income inclu-  
sions, § 7:29
- earning capacity, mandatory imputed  
income inclusions, § 7:30
- mandatory imputed income inclusions,  
§§ 7:30, 7:31
- mandatory income inclusions, § 7:28

Income

- income equalization theory, § 7:19
- income-sharing models, § 7:16
- parental income, below

Legislative history, § 7:11

Lower income litigants, self-support  
reserve and, § 7:57

Maintenance and child support, § 7:33

Mandatory acts or matters

- deductions, employee business  
expenses, § 7:32
- earning capacity, mandatory imputed  
income inclusions, § 7:30
- employee business expenses, manda-  
tory deductions, § 7:32
- imputed income inclusions, §§ 7:30,  
7:31
- income inclusions, § 7:28

Modification

- post-CSSA orders, § 7:55
- pre-CSSA orders, § 7:54

Municipal earnings taxes, § 7:34

Nonmonetary contributions, § 7:44

Nonrecurring payments, § 7:35

Nonsubject children of support provider,  
§ 7:47

Opt-out agreements, § 7:50

Orders

- post-CSSA orders, modification, § 7:55
- pre-CSSA orders, modification, § 7:54
- temporary orders, § 7:56
- written order requirement, variance  
from the formula, § 7:38

Other relevant factors, § 7:49

Parental income

- determination of, §§ 7:27-7:34
- discretionary imputed income inclu-  
sions, § 7:29
- disparity in, § 7:46

**CHILD SUPPORT STANDARDS ACT  
(CSSA)—Cont'd**

Parental income—Cont'd

- earning capacity, mandatory imputed  
income inclusions, § 7:30
- employee business expenses, manda-  
tory deductions, § 7:32

FICA, § 7:34

- income equalization theory, § 7:19
- income-sharing models, § 7:16
- lower income litigants, self-support  
reserve and, § 7:57
- maintenance and child support, § 7:33
- mandatory deductions, § 7:32
- mandatory imputed income inclusions,  
§§ 7:30, 7:31
- mandatory income inclusions, § 7:28
- municipal earnings taxes, § 7:34
- public assistance, § 7:34
- self-employment deductions, recapture  
of, § 7:31

SSI, § 7:34

Pending actions, § 7:12

Percentages, application of child support,  
§ 7:22

Pre-separation standard of living, § 7:42

Presumptions, formula amount as rebutta-  
ble presumption, § 7:36

Public assistance, § 7:34

Purposes, § 7:12

Rebuttable presumption, formula amount  
as, § 7:36

Recapture of self-employment deductions,  
§ 7:31

Schools. Education, above

Self-employment deductions, recapture  
of, § 7:31

Self-support reserve and lower income  
litigants, § 7:57

Special needs of child, § 7:41

SSI, § 7:34

Tax consequences, § 7:43

Temporary orders, § 7:56

Unrepresented parties, § 7:51

Variance factors, §§ 7:39-7:49

Variance from the formula, § 7:37, § 7:38

Visitation expenses, § 7:48

Wisconsin formula, § 7:17

Written order requirement, variance from  
the formula, § 7:38

**CIRCUMSTANCES, CHANGE IN**

Awards. **Modification of Awards** (this index)

Child support award, time period, § 9:15

Maintenance awards, §§ 9:8, 9:9

**Modification of Awards** (this index)

**CLASS OR CLASSIFICATION**

**Equitable Distribution** (this index)

**CLERGY-COMMUNICANT**

Trial practice, § 18:41

**CLIENT INTAKE**

**Equitable Distribution** (this index)

**CLOSELY-HELD BUSINESSES AND PROFESSIONAL PRACTICES**

**Equitable Distribution** (this index)

**CLOSING STATEMENTS**

Equitable distribution, §§ 12:27, 12:28

**COHABITATION**

Modification of awards, § 9:17

**COMMENCEMENT PROCEDURE**

Contempt, enforcement of awards, § 8:32

Modification of awards, § 9:18

**COMMUNITY PROPERTY**

Equitable distribution, § 1:3

**COMPULSORY ACTS OR MATTERS**

Disclosure, motions to compel disclosure and sanctions, § 16:27

Equitable distribution, compulsory financial disclosure, § 1:17

Motions to compel disclosure and sanctions, § 16:27

**Witnesses** (this index)

**COMPUTATIONAL METHOD**

Spousal maintenance, § 6:12

**CONCLUSIONS OF LAW**

**Findings of Fact and Conclusions of Law** (this index)

**CONSTITUTIONAL LAW**

**Equitable Distribution** (this index)

**CONSTRUCTION AND INTERPRETATION**

Divorce, initial cruelty interpretations, § 14:5

**Equitable Distribution** (this index)

**CONSTRUCTIVE TRUST**

Equitable distribution, § 1:5

**CONTEMPT**

**Enforcement of Awards** (this index)

**CONTENT**

Child support, content of decision, § 7:5

Equitable distribution, content of decision, marital property distribution, § 3:46

**Pendente Lite Motions** (this index)

**Pleadings** (this index)

Spousal maintenance, content of decision, § 6:50

**CONTRACTS AND AGREEMENTS**

Divorce, separation pursuant to agreement, grounds, § 14:18

**Equitable Distribution** (this index)

**Opt-Out Agreements** (this index)

**Separation Agreements** (this index)

Spousal maintenance, modification of agreements, § 6:15

**CONTRIBUTIONS**

Equitable distribution, marital property distribution, § 3:35

**CONVERSION ACTIONS**

Enforcement of awards, conversion of proceeds by employer, income deduction order, § 8:27

Equitable distribution, cooperative conversions, § 3:11

Pendente lite motions, direct use of summary judgment in matrimonial actions, § 17:53

**CONVEYANCE OF PROPERTY**

Enforcement of awards, conveyance of property interest to satisfy arrears, § 8:42

**COOPERATIVE CONVERSIONS**

Equitable distribution, § 3:11

**CORROBORATION**

Divorce, corroboration of cruel and inhuman treatment, § 14:9

**COST-ALLOCATION APPROACH**

Child Support Standards Act (CSSA), § 7:14, § 7:15



## INDEX

### **COST-EFFECTIVENESS**

Equitable distribution, § 12:4

### **COSTS AND EXPENSES**

**Child Support Standards Act (CSSA)**  
(this index)

Enforcement of awards, counsel fees and expenses, § 8:39

**Pendente Lite Motions** (this index)  
Spousal maintenance, family expenses,  
§ 6:16

Tax consequences, medical expenses,  
§ 11:24

### **COSTS OF ACTIONS**

**Attorneys' Fees** (this index)

### **COUNSEL FEES**

[@00fa]ttorneys' Fees (this index)

### **COUNTERCLAIM**

Equitable distribution, Part B, effective date, § 2:10

Pleadings, form, § 15:13

### **“COURTROOM READY”**

Expert witnesses, § 19:13

### **CROSS-EXAMINATION**

Business valuations. **Expert Witnesses**  
(this index)

Trial practice, § 18:30

### **CROSS-MOTIONS**

Generally, §§ 17:7, 17:8

### **CRUEL AND INHUMAN TREATMENT**

**Divorce** (this index)

Pleadings, verified complaint form, § 15:6

### **CUSTODY OF CHILDREN**

Generally, §§ 20:1-20:24

Abuse and neglect, § 20:19

Age of parent, § 20:5

Alcohol and drug abuse, § 20:8

Availability of parent, § 20:18

Best interest of child standard, § 20:2

Brothers, separation of, § 20:17

Child's preference, § 20:13

**Child Support** (this index)

Determining factors, §§ 20:4-20:22

Domestic violence factor, § 20:24

Drug abuse, § 20:8

Emotional stability, § 20:7

Factors, §§ 20:4-20:22

### **CUSTODY OF CHILDREN—Cont'd**

Financial condition, § 20:12

Health

mental and emotional stability, § 20:7

physical health, § 20:6

Home environment, nature and quality,  
§ 20:16

Homosexuality, § 20:11

**Joint Custody** (this index)

Marital misconduct, § 20:9

Mental and emotional stability, § 20:7

Moral character, § 20:10

Nature of home environment, § 20:16

Neglect and abuse, § 20:19

Negotiation and litigation of custody,  
§ 7:60

Noncustodial parent, willingness to foster  
relationship with, § 20:15

No prima facie right to custody, § 20:3

Parent, availability of, § 20:18

Parent's age, § 20:5

Physical health, § 20:6

Preference of child, § 20:13

Primary caretaker, § 20:22

Proposals for statutory factors, § 20:23

Quality of home environment, § 20:16

Racial considerations, § 20:20

Religious considerations, § 20:14

Scope of chapter, § 20:1

Separation agreements, drafting, § 10:33

Separation of siblings, § 20:17

Siblings, separation of, § 20:17

Sisters, separation of, § 20:17

Split custody. **Joint Custody** (this index)

Stability, § 20:21

Statutory factors, proposals for, § 20:23

Support of children. **Child Support** (this  
index)

Tender years presumption, § 20:3

Totality of circumstances, § 20:4

Traditional standard, best interest of child,  
§ 20:2

**Visitation** (this index)

Willingness to foster relationship with  
noncustodial parent, § 20:15

### **DAVIS RULE**

Tax consequences, property transfers,  
§ 11:5

## DEATH OF PERSONS

Child support, death of payor as basis  
termination, § 7:10

## DEBT

Equitable distribution, debt consideration  
as barrier to remarriage, § 3:45

## DECREES

**Judgments and Decrees** (this index)

## DECRETAL AWARDS

Modification of awards  
no surviving separation agreement,  
§ 9:7  
surviving separation agreement, award  
based upon, § 9:10  
No surviving separation agreement, § 9:7  
Surviving separation agreement, award  
based upon, § 9:10

## DEDUCTIONS

**Child Support Standards Act (CSSA)**  
(this index)  
Income deduction order. **Enforcement of  
Awards** (this index)  
Tax consequences, medical expenses,  
§ 11:24

## DEFAULT

Child Support Standards Act (CSSA),  
§ 7:53  
Judgments. **Default Judgments** (this  
index)  
Spousal maintenance, statutory temporary  
and post-divorce maintenance,  
§ 6:14, § 6:27

## DEFAULT JUDGMENTS

**Matrimonial Litigation** (this index)

## DEFENDANTS

Matrimonial litigation, appearance by  
defendant, §§ 13:19, 13:20

## DEFENSES

**Divorce** (this index)  
Enforcement of awards, money judg-  
ments, denial of visitation, § 8:7

## DELAWARE MELSON FORMULA

Child Support Standards Act (CSSA),  
§ 7:18

## DEMAND

**Trial Practice** (this index)

## DENIAL

**Refusal or Denial** (this index)

## DEPOSITIONS

Generally, §§ 16:12-16:20  
Document production at, § 16:22  
Forms  
notice of demand for signature, § 16:19  
notice of examination before trial,  
§ 16:14  
Location of, § 16:15  
Mode of examination, § 16:16  
Notice  
form, notice of demand for signature,  
§ 16:19  
form, notice of examination before  
trial, § 16:14  
priority and, § 16:13  
Objections, § 16:17  
Oral depositions, §§ 16:12-16:20  
Place of, § 16:15  
Priority and notice, § 16:13  
Transcripts, § 16:18  
Use of, § 16:20

## DEVICES

**Disclosure** (this index)

## DIRECT EXAMINATION

Business valutors. **Expert Witnesses**  
(this index)  
Trial practice, §§ 18:28, 18:29

## DISCLOSURE

Generally, §§ 16:1-16:34  
Attorney's work product, exemptions,  
§ 16:6  
Authority, sources of, § 16:2  
Burden of proof, exemptions, § 16:8  
Child Support Standards Act (CSSA),  
financial disclosure, § 7:52

**Depositions** (this index)

Devices

generally, §§ 16:12-16:27  
interrogatories, §§ 16:25, 16:26  
motions to compel disclosure and sanc-  
tions, § 16:27  
physical and mental examinations,  
§ 16:24

**Production of Documents and  
Tangible Things** (this index)

Equitable distribution, financial  
disclosure, § 1:17



## INDEX

### **DISCLOSURE—Cont'd**

- Evidence, burden of proof, exemptions, § 16:8
- Examinations, physical and mental, § 16:24
- Exemptions
  - generally, §§ 16:4-16:8
  - attorney's work product, § 16:6
  - burden of proof, § 16:8
  - litigation, material prepared for, § 16:7
  - privileged matter, § 16:5
- Financial disclosure
  - generally, §§ 16:30-16:33
  - Child Support Standards Act (CSSA), § 7:52
  - equitable distribution, § 1:17
  - nonparties, § 16:31
  - separation agreements, impact on disclosure, § 16:32
  - specificity requirements, § 16:33
- Forms
  - Depositions** (this index)
    - interrogatories, § 16:26
  - Interrogatories, §§ 16:25, 16:26
  - Judicial supervision, § 16:11
  - Litigation, material prepared for, exemptions, § 16:7
  - Maintenance, spousal, statutory temporary and post-divorce maintenance, §§ 6:14, 6:27
  - Matrimonial actions, § 16:28
  - Mental examinations, § 16:24
  - Merits, disclosure on the, § 16:29
  - Method of obtaining, § 16:10
  - Motions to compel disclosure and sanctions, § 16:27
  - Nonparties, financial disclosure, § 16:31
  - Persons subject to, § 16:9
  - Physical and mental examinations, § 16:24
  - Presumptions and burden of proof, exemptions, § 16:8
  - Privileged matter, § 16:5
  - Production of Documents and Tangible Things** (this index)
  - Protective orders, § 16:11
  - Sanctions, motions to compel disclosure and, § 16:27
  - Scope of disclosure, § 16:3
  - Separation agreements, impact on financial disclosure, § 16:32

### **DISCLOSURE—Cont'd**

- Sources of authority, § 16:2
- Specific issues, §§ 16:28-16:34
- Spousal maintenance, statutory temporary and post-divorce maintenance, § 6:14, § 6:27
- Statutory temporary and post-divorce maintenance, § 6:14, § 6:27
- Suggested approach to matrimonial disclosure, § 16:34

### **DISCONTINUANCE OR DISMISSAL**

- Equitable distribution, discontinued and dismissed actions, § 3:9

### **DISCOVERY**

- Depositions** (this index)
- Interrogatories, §§ 16:25, 16:26
- Nunc pro tunc, modification of awards, increase based on newly discovered evidence, § 9:5
- Production of Documents and Tangible Things** (this index)

### **DISCRETIONARY ACTS OR MATTERS**

- Child Support Standards Act (CSSA), discretionary imputed income inclusions, § 7:29

### **DISTRIBUTIVE AWARD**

- Equitable distribution, marital property, § 3:47

### **DIVORCE**

- Abandonment, §§ 14:11, 14:12
- Adultery
  - generally, §§ 14:14-14:16
  - defenses, § 14:16
  - proof of, § 14:15
- Agreement, separation pursuant to, grounds, § 14:18
- Alimony, limitations, § 6:33
- Attorneys' Fees** (this index)
- Child Support** (this index)
- Corroboration of cruel and inhuman treatment, § 14:9
- Cruel and inhuman treatment
  - generally, §§ 14:4-14:10
  - corroboration, § 14:9
  - defenses, § 14:10
  - Hessen approach, § 14:6
  - initial cruelty interpretations, § 14:5

**DIVORCE—Cont'd**

Cruel and inhuman treatment—Cont'd  
post-EDL cruelty actions, § 14:8  
post-Hessen determinations, § 14:7

**Custody of Children** (this index)

Defenses

abandonment, § 14:12  
adultery, § 14:16  
cruel and inhuman treatment, § 14:10

Evidence of adultery, § 14:15

Grounds

generally, §§ 14:3-14:18  
abandonment, §§ 14:11, 14:12  
agreement, separation pursuant to,  
§ 14:18  
cruel and inhuman treatment, above  
imprisonment, § 14:13  
judgment, separation pursuant to,  
§ 14:17  
legislative revision of, § 14:19

Hessen approach

generally, § 14:6  
post-Hessen determinations, § 14:7

Imprisonment as grounds, § 14:13

Inhuman treatment. Cruel and inhuman  
treatment, above

Initial cruelty interpretations, § 14:5

Irretrievable breakdown of marriage,  
§ 14:2

Judgment, separation pursuant to, § 14:17

Legislative revision of grounds, § 14:19

**Pendente Lite Motions** (this index)

Post-divorce maintenance. **Spousal  
Maintenance** (this index)

Post-EDL cruelty actions, § 14:8

Prison, imprisonment as grounds, § 14:13

Scope of chapter, § 14:1

**Separation Agreements** (this index)

**Spousal Maintenance** (this index)

**DOCUMENTS**

**Production of Documents and Tangible  
Things** (this index)

**DOMESTIC RELATIONS LAW**

**SECTION 243**

Enforcement of awards, form, § 8:19

**DOMESTIC RELATIONS LAW**

**SECTION 244**

Enforcement of awards, form, § 8:12

**DOMESTIC RELATIONS TAX**

**REFORM OF 1984 (DRTR)**

**Tax Consequences** (this index)

**DOMESTIC VIOLENCE**

Custody of children, § 20:24

**DOMICILE**

**Residence or Domicile** (this index)

**DRAFTING AGREEMENTS**

**Separation Agreements** (this index)

**DRUG ABUSE**

Custody of children, § 20:8

**DUAL CERTIFICATION**

Equitable distribution, § 12:23

**DUAL REPRESENTATION**

Separation agreements, § 10:12

**DURATION**

Enforcement of awards, income deduction  
order, § 8:26

Equitable distribution, duration of mar-  
riage, § 3:31

Pendente lite motions, duration of  
pendente lite award, temporary child  
support, § 17:30

**Spousal Maintenance** (this index)

**EARLY INTERVENTION**

Equitable distribution, § 12:21

**EARNING CAPACITY**

Child Support Standards Act (CSSA),  
mandatory imputed income inclu-  
sions, § 7:30

Spousal maintenance, § 6:41

**EAVESDROPPING**

Trial practice, § 18:44

**ECONOMIC PROVISIONS**

**Separation Agreements** (this index)

**EDUCATION**

**Child Support Standards Act (CSSA)**  
(this index)

**Equitable Distribution** (this index)

**Schools and Education** (this index)

**EFFECTIVE DATE**

Child support, § 7:3

**Equitable Distribution** (this index)

**Spousal Maintenance** (this index)

## INDEX

### **EFFECTIVE DATE—Cont'd**

Tax consequences, interspousal transfers,  
§ 11:9

### **EFFECTIVE PRACTICE TEAM**

Equitable distribution, § 12:3

### **EMANCIPATION OF CHILD**

Child support, § 7:8

### **EMOTIONAL MATTERS**

Custody of children, emotional stability,  
§ 20:7

### **EMPLOYEE BUSINESS EXPENSES**

Child Support Standards Act (CSSA),  
mandatory deductions, § 7:32

### **EMPLOYERS AND EMPLOYEES**

**Child Support Standards Act (CSSA)**  
(this index)

**Enforcement of Awards** (this index)

### **ENFORCEMENT OF AWARDS**

Generally, §§ 8:1-8:57

#### **Affidavits**

contempt, affidavit in support of  
application to punish for, form,  
§ 8:37

mistake of fact, affidavit in support of  
application asserting, § 8:54

money judgments, affidavit in support  
of application pursuant to Domes-  
tic Relations Law Section 244  
form, § 8:12

security and sequestration, affidavit in  
support of application pursuant to  
Domestic Relations Law Section  
243 form, § 8:19

#### **Amendment or change**

money judgments, §§ 8:4, 8:5

New York State Support Enforcement  
Act of 1985, related amendments  
to domestic relations law enforce-  
ment provisions, § 8:56

Appointment of receiver, form, security  
and sequestration, § 8:20

#### **Arrears**

conveyance of property interest to  
satisfy, § 8:42

money judgments, below

Attorneys' fees, § 8:39

Change. Amendment or change, above

### **ENFORCEMENT OF AWARDS—Cont'd**

Commencement procedure, contempt,  
§ 8:32

#### **Contempt**

generally, §§ 8:28-8:38

affidavit in support of application to  
punish for contempt form, § 8:37

availability of remedy, § 8:28

basis for remedy, § 8:30

commencement procedure, § 8:32

determination, hearing and, § 8:33

exhaustion of remedies, § 8:29

forms. Punishment, forms, below in  
this group

hearing and determination, § 8:33

jurisdiction, § 8:32

nature of remedy, § 8:28

notice of motion, § 8:35

#### **orders**

contempt order, form, § 8:38

service of underlying judgment or  
order, form, § 8:31

show cause order, form, § 8:36

#### **punishment, forms**

generally, §§ 8:34-8:38

affidavit in support of application to  
punish for contempt form,  
§ 8:37

contempt, order of, § 8:38

notice of motion, § 8:35

show cause order, § 8:36

#### **remedies**

availability of remedy, § 8:28

basis for remedy, § 8:30

exhaustion of remedies, § 8:29

service of underlying order or judg-  
ment, § 8:31

show cause order, § 8:36

underlying order or judgment, service  
of, § 8:31

willful default, § 8:30

Conversion of proceeds by employer,  
income deduction order, § 8:27

Conveyance of property interest to satisfy  
arrears, § 8:42

Counsel fees and expenses, § 8:39

Defenses, money judgments, denial of  
visitation, § 8:7

Domestic Relations Law Section 243,  
form, § 8:19

**ENFORCEMENT OF AWARDS—Cont'd**

Domestic Relations Law Section 244, form, § 8:12

Duration, income deduction order, § 8:26

Employers and employees  
income deduction order, employer's conversion of proceeds, § 8:27

New York State Support Enforcement Act of 1985, duties of employer or income payor, § 8:49

Exhaustion of remedies, contempt, § 8:29

Expenses, counsel fees and expenses, § 8:39

Family court, enforcement in, § 8:41

Forms  
contempt, above  
income execution for support enforcement form, § 8:52  
money judgments, below  
security and sequestration, below

Fraudulent conveyances, § 8:40

Hearings, contempt, § 8:33

Implied waiver of child support prohibited, new York State Support Enforcement Act of 1985, § 8:57

Income  
deduction order. Income deduction order, below  
New York State Support Enforcement Act of 1985, below

Income deduction order  
generally, §§ 8:21-8:27  
basis for relief, § 8:23  
conversion of proceeds by employer, § 8:27  
duration of order, § 8:26  
employer's conversion of proceeds, § 8:27  
income subject to deduction order, § 8:22  
jurisdiction and procedure, § 8:25  
procedure, § 8:25  
remedies, nature and scope, § 8:21  
support collection unit, § 8:24

Interest, money judgments, § 8:6

Judgments and decrees. Money judgments, below

Jurisdiction and procedure  
contempt, § 8:32  
income deduction order, § 8:25  
money judgments, below

**ENFORCEMENT OF AWARDS—Cont'd**

Jurisdiction and procedure—Cont'd  
security and sequestration, below

Labor and employment. Employers and employees, above

Limitation of actions, money judgments, § 8:8

Mistake of fact. New York State Support Enforcement Act of 1985, below

Modification. Amendment or change, above

Money judgments  
generally, §§ 8:3-8:14  
arrears  
pendency, arrears accruing during, § 8:6  
reduction of arrearage to money judgment, § 8:3  
defenses, denial of visitation, § 8:7  
denial of visitation as defense, § 8:7  
forms  
affidavit in support of application pursuant to Domestic Relations Law Section 244 form, § 8:12  
Domestic Relations Law Section 244 form, affidavit in support of application pursuant to, § 8:12  
matrimonial judgment, § 8:9  
money judgment, § 8:14  
order directing entry of money judgment, § 8:13  
show cause order, § 8:11  
interest, § 8:6  
jurisdiction and procedure  
generally, §§ 8:10-8:14  
affidavit in support of application pursuant to Domestic Relations Law Section 244 form, § 8:12  
Domestic Relations Law Section 244 form, affidavit in support of application pursuant to, § 8:12  
money judgment form, § 8:14  
orders, below in this group  
limitation of actions, § 8:8  
modification, §§ 8:4, 8:5  
orders  
entry of money judgment, order directing, § 8:13  
show cause order, § 8:11  
other enforcement devices, § 8:5

## INDEX

### ENFORCEMENT OF AWARDS—Cont'd

- Money judgments—Cont'd
  - pendency, arrears accruing during, § 8:6
  - procedure. Jurisdiction and procedure, above in this group
  - reduction of arrearage to money judgment, § 8:3
  - statute of limitations, § 8:8
  - waiver, § 8:8
- New York State Support Enforcement Act of 1985
  - generally, §§ 8:43-8:57
  - affidavit in support of application asserting mistake of fact, § 8:54
  - amendments to domestic relations law enforcement provisions, § 8:56
  - amount of deduction, § 8:50
  - application asserting mistake of fact, § 8:53
  - domestic relations law enforcement provisions, amendments to, § 8:56
  - duties of employer or income payor, § 8:49
  - employer or income payor, duties of, § 8:49
  - forms, income execution for support enforcement, § 8:52
  - implied waiver of child support prohibited, § 8:57
  - income execution for support enforcement
    - generally, §§ 8:44-8:50
    - amount of deduction, § 8:50
    - duties of employer or income payor, § 8:49
    - form, § 8:52
    - mistake of fact, § 8:47
    - notice, § 8:45
    - service, § 8:46
    - vacatur, § 8:48
  - income payable by state
    - generally, §§ 8:51-8:54
    - affidavit in support of application asserting mistake of fact, § 8:54
    - amendments to domestic relations law enforcement provisions, § 8:56
    - application asserting mistake of fact, § 8:53

### ENFORCEMENT OF AWARDS—Cont'd

- New York State Support Enforcement Act of 1985—Cont'd
  - income payable by state—Cont'd
    - forms, income execution for support enforcement, § 8:52
    - implied waiver of child support prohibited, § 8:57
    - income deduction order under Act, § 8:55
    - income execution for support enforcement form, § 8:52
    - mistake of fact, affidavit in support of application asserting, §§ 8:53, 8:54
    - notice of motion, § 8:53
    - related amendments to domestic relations law enforcement provisions, § 8:56
  - mistake of fact
    - application asserting, § 8:53
    - income execution for support enforcement, § 8:47
    - income payable by state, affidavit in support of application asserting, § 8:54
  - notice
    - income execution for support enforcement, § 8:45
    - income payable by state, § 8:53
  - service, income execution for support enforcement, § 8:46
  - state. Income payable by state, above in this group
  - statutory scheme, § 8:43
  - vacatur, income execution for support enforcement, § 8:48
- Notice
  - contempt, notice of motion form, § 8:35
  - income execution for support enforcement, § 8:45
- New York State Support Enforcement Act of 1985, above
- Orders
  - contempt, above
  - income deduction order, above
  - money judgments, above
  - New York State Support Enforcement Act of 1985, income deduction order under, § 8:55
  - security and sequestration, below

## ENFORCEMENT OF AWARDS—Cont'd

- Orders—Cont'd
  - show cause orders, below
- Part B, awards under, § 8:2
- Pendency, arrears accruing during, § 8:6
- Process. Service of process, below
- Property interest, conveyance to satisfy arrears, § 8:42
- Receivers, order directing sequestration and appointing receiver form, § 8:20
- Remedies
  - contempt, above
  - income deduction order, § 8:21
- Scope, § 8:1
- Security and sequestration
  - generally, §§ 8:15-8:20
  - affidavit in support of application pursuant to Domestic Relations Law Section 243 form, § 8:19
  - appointment of receiver, form, § 8:20
  - basis for relief, § 8:16
  - Domestic Relations Law Section 243 form, affidavit in support of application pursuant to, § 8:19
- forms
  - affidavit in support of application pursuant to Domestic Relations Law Section 243, § 8:19
  - appointment of receiver, § 8:20
  - Domestic Relations Law Section 243, § 8:19
  - order directing sequestration and appointing receiver, § 8:20
  - show cause order, § 8:18
- jurisdiction and procedure
  - generally, §§ 8:17-8:20
  - affidavit in support of application pursuant to Domestic Relations Law Section 243 form, § 8:19
  - sequestration and appointing receiver, order directing, § 8:20
  - show cause order, form, § 8:18
- nature of relief, § 8:15
- orders
  - sequestration and appointing receiver, order directing, § 8:20
  - show cause order, § 8:18
- procedure. Jurisdiction and procedure, above in this group

## ENFORCEMENT OF AWARDS—Cont'd

- Security and sequestration—Cont'd
  - receivers, order directing sequestration and appointing receiver form, § 8:20
  - scope of relief, § 8:15
- Separation Agreements** (this index)
- Sequestration. Security and sequestration, above
- Service of process
  - New York State Support Enforcement Act of 1985, income execution for support enforcement, § 8:46
  - underlying order or judgment, contempt, § 8:31
- Show cause orders
  - contempt, § 8:36
  - money judgments, § 8:11
  - security and sequestration, § 8:18
- Statute of limitations, money judgments, § 8:8
- Support collection unit, income deduction order, § 8:24
- Time, duration of income deduction order, § 8:26
- Underlying order or judgment, service of, contempt, § 8:31
- Vacatur, New York State Support Enforcement Act of 1985, income execution for support enforcement, § 8:48
- Visitation, denial of, money judgments, § 8:7
- Waiver
  - money judgments, § 8:8
  - New York State Support Enforcement Act of 1985, implied waiver of child support prohibited, § 8:57
- Willful default, contempt, § 8:30

## ENHANCED EARNINGS

- Equitable distribution, educational degrees and professional licenses, § 5:30
- Spousal maintenance, no longer marital property, § 6:5

## EQUITABLE DISTRIBUTION

- Generally, §§ 1:1-1:23
- Academic degrees. Educational degrees and professional licenses, below
- Actions and proceedings
  - discontinued and dismissed actions, § 3:9



**EQUITABLE DISTRIBUTION—Cont'd**

- Actions and proceedings—Cont'd
  - foreign judgments, proceedings following, § 1:23
  - Part B, below
  - prior actions, § 1:13
  - qualifying matrimonial actions, § 3:9
  - statute, actions governed by, § 2:4
- Active-passive distinction, appreciation of separate property, § 3:18
- Additional insights, § 1:10
- Administration of equitable distribution cases
  - generally, §§ 12:1-12:30
  - arbitration, fee disputes and, § 12:29
  - asset/liability worksheet, sample form, § 12:24
  - case management issues, § 12:20
  - closing statement, §§ 12:27, 12:28
  - cost-effectiveness, use of technology for, § 12:4
  - dual certification, sample form, § 12:23
  - early judicial intervention, § 12:21
  - effective practice team, development of, § 12:3
  - expert witnesses, § 12:26
  - fee disputes and arbitration, § 12:29
  - forms. Sample forms, below in this group
  - initial consultation. Preconsultation client intake, below
  - multiple alternative clauses, retainer agreement, § 12:19
  - net worth statement, preparation of, § 12:22
  - new practice environment, § 12:2
  - nonrefundable retainer fees, § 12:17
  - preconsultation client intake, below
  - retainer agreement, sample form/ multiple alternative clauses, § 12:19
  - sample forms
    - asset/liability worksheet, § 12:24
    - closing statement, § 12:28
    - dual certification, § 12:23
    - retainer agreement, § 12:19
    - state of net worth, § 12:25
  - scope of chapter, § 12:1
  - security interests, § 12:18
  - sexual relationship with client, § 12:30

**EQUITABLE DISTRIBUTION—Cont'd**

- Administration of equitable distribution cases—Cont'd
  - statement of net worth, preparation of, § 12:22
  - state of net worth, sample form, § 12:25
  - technology, use for cost-effectiveness, § 12:4
  - witnesses, expert, § 12:26
  - written retainer agreements, § 12:16
- Age of parties, marital property distribution, § 3:31
- Agreements. Contracts and agreements, below
- Alteration. Amendment or modification, below
- Amendment or modification
  - generally, § 1:22
  - bifurcation, structure of amended statute, §§ 1:12, 2:2
  - constitutionality and retroactivity of amended statute, §§ 2:1-2:10
  - Part B, amendment of pre-equitable distribution pleadings, § 2:7
  - retroactivity of amended statute, constitutionality and, §§ 2:1-2:10
  - transmutation, below
- Ancillary relief checklist, preconsultation client intake, § 12:11
- Appellate review, marital property distribution, § 3:46
- Appreciation of separate property
  - generally, §§ 3:17-3:21
  - active-passive distinction, § 3:18
  - burden of proof, § 3:19
  - price doctrine in application, § 3:21
  - time frame, appreciation of, § 3:20
- Approaches to property distribution, §§ 1:2-1:6
- Arbitration, fee disputes and, § 12:29
- Asset/liability worksheet, sample form, § 12:24
- Bankruptcy considerations, marital property distribution, § 3:51
- Barriers to remarriage, §§ 3:44, 3:45
- Bifurcation
  - statute, § 1:12
  - structure of amended statute, § 2:2
- Burden of proof. Presumptions and burden of proof, below

**EQUITABLE DISTRIBUTION—Cont'd**

- Business and professional interests as marital property, § 3:26, § 5:21
- Business enterprises, § 5:22
- Case management issues, § 12:20
- Catch-all factor, marital property distribution, § 3:42
- Certificates and certification
  - dual certification, sample form, § 12:23
  - educational degrees and professional licenses, post O'Brien status of degrees and certifications, § 5:29
- Change. Amendment or modification, above
- Child support, § 1:20
- Classification of marital and separate property
  - generally, §§ 3:2-3:27
  - appreciation of separate property, above
  - construction and interpretation. Judicial construction of marital property, below in this group
  - cooperative conversions, § 3:11
  - discontinued and dismissed actions, § 3:9
  - during marriage, property acquired, § 3:6
  - exchanges of separate property, § 3:16
  - gifts, inheritance, § 3:14
  - Hartog case, § 3:22
  - inheritance, §§ 3:13-3:15
  - judicial construction of marital property
    - generally, §§ 3:3-3:10
    - discontinued and dismissed actions, § 3:9
    - during marriage, property acquired, § 3:6
    - postcommencement acquisitions, § 3:8
    - presumption in favor of marital property, § 3:7
    - prior to marriage, property acquired, § 3:5
    - qualifying matrimonial actions, § 3:9
    - "source of funds" approach, § 3:10
    - time of acquisition, §§ 3:4-3:6, 3:8
    - types of assets covered, §§ 3:3-3:10
  - personal injury, compensation for, § 3:15
  - postcommencement acquisitions, § 3:8

**EQUITABLE DISTRIBUTION—Cont'd**

- Classification of marital and separate property—Cont'd
  - presumption in favor of marital property, § 3:7
  - prior to marriage, property acquired, § 3:5
  - qualifying matrimonial actions, § 3:9
  - reduction of separate property debt using marital funds, § 3:27
  - source, separate property by, § 3:12
  - "source of funds" approach, § 3:10
  - special issues, § 3:11
  - time of acquisition, §§ 3:4-3:6, 3:8
  - transmutation, below
  - types of assets covered, §§ 3:3-3:10
- Client intake. Preconsultation client intake, below
- Closely-held businesses and professional practices
  - generally, §§ 5:21-5:25
  - business and professional interests as marital property, § 5:21
  - distribution of business and professional interests, § 5:25
  - equitable distribution, professional practice subject to, § 5:23
  - growth of business enterprise, § 5:22
  - inception of business enterprise, § 5:22
  - valuation of business and professional interests, § 5:24
- Closing statement, §§ 12:27, 12:28
- Community property, § 1:3
- Compulsory financial disclosure, § 1:17
- Conferment of educational degrees and professional licenses, time of, § 5:31
- Consideration of debt as barrier to remarriage, § 3:45
- Constitutional catalyst, § 1:7
- Constitutionality and retroactivity of amended statute, §§ 2:1-2:10
- Construction and interpretation. Classification of marital and separate property, above
- Constructive trust, § 1:5
- Content of decision, marital property distribution, § 3:46
- Contracts and agreements
  - parties, agreements between, § 1:16
  - retainer agreements, below

**EQUITABLE DISTRIBUTION—Cont'd**

- Contributions, marital property distribution, § 3:35
- Cooperative conversions, § 3:11
- Cost-effectiveness, use of technology for, § 12:4
- Custodial need for marital residence, marital property distribution, § 3:32
- Date. Time or date, below
- Debt consideration as barrier to remarriage, § 3:45
- Deferred compensation plans. Pensions and deferred compensation plans, below
- Degrees. Educational degrees and professional licenses, below
- Difficulty of evaluation, marital property distribution, § 3:38
- Disclosure, compulsory financial, § 1:17
- Discontinued and dismissed actions, § 3:9
- Disposition of property, § 1:18
- Distribution of marital property. Marital property distribution, below
- Distributive award, marital property, § 3:47
- Dual certification, sample form, § 12:23
- Duration of marriage, marital property distribution, § 3:31
- During marriage, property acquired, § 3:6
- Early judicial intervention, § 12:21
- Educational degrees and professional licenses
  - generally, §§ 5:26-5:34
  - conferment of license or degree, time of, § 5:31
  - distributability, § 5:27
  - distributive analysis, § 5:32
  - enhanced earning capacity, § 5:30
  - O'Brien v. O'Brien, §§ 5:28-5:34
  - post O'Brien status of degrees and certifications, § 5:29
  - security for award, § 5:33
  - student spouse-working spouse, § 5:26
  - tax impact, § 5:34
  - time of conferment of license or degree, § 5:31
- Effective date of Part B. Part B, effective date of, below
- Effective practice team, development of, § 12:3

**EQUITABLE DISTRIBUTION—Cont'd**

- Encumbrances, fraudulent, marital property distribution, § 3:41
- Enforcement and modification, § 1:22
- Enhanced earning capacity, educational degrees and professional licenses, § 5:30
- Equal division, equitable distribution not necessarily, §§ 3:29-3:51
- Evaluation, difficulty of, marital property distribution, § 3:38
- Evidence
  - pensions and deferred compensation plans, § 5:17
  - presumptions and burden of proof, below
- Exchanges of separate property, § 3:16
- Expert witnesses, § 12:26
- Federal preemption, pensions and deferred compensation plans, § 5:18
- Fees
  - disputes and arbitration, § 12:29
  - preconsultation client intake, § 12:15
- Financial disclosure, compulsory, § 1:17
- Foreign judgments, proceedings following, § 1:23
- Forms
  - administration of equitable distribution cases, above
  - ancillary relief checklist, § 12:11
  - asset/liability worksheet, § 12:24
  - dual certification, § 12:23
  - intake sheet, § 12:8
  - preconsultation client intake, below
  - retainer agreements, § 12:19
  - state of net worth, § 12:25
- Fraudulent transfers and encumbrances, marital property distribution, § 3:41
- Future financial circumstances, marital property distribution, § 3:37
- Genesis of law, §§ 1:7-1:10
- Gifts, inheritance, § 3:14
- Hartog case, § 3:22
- Health of parties, marital property distribution, § 3:31
- Inception of business enterprise, § 5:22
- Income and property of parties, marital property distribution, § 3:30
- Inheritance
  - generally, §§ 3:13-3:15
  - gifts, § 3:14

**EQUITABLE DISTRIBUTION—Cont'd**

Inheritance—Cont'd  
 loss of, § 3:33  
 personal injury, compensation for, § 3:15  
 Initial consultation. Preconsultation client intake, below  
 Judgments, proceedings following foreign judgments, § 1:23  
 Judicial power, limitations on, marital property distribution, § 3:49  
 Legislative history, § 1:8  
 Legislative intent, § 1:9  
 Licenses and permits. Educational degrees and professional licenses, above  
 Liens and encumbrances, fraudulent, marital property distribution, § 3:41  
 Liquidity considerations, marital property distribution, § 3:36  
 Loss of inheritance and pension rights, marital property distribution, § 3:33  
 Maintenance  
 generally, § 1:19  
 interrelationship of marital property distribution with, § 3:34  
 pensions and deferred compensation plans, relationship between maintenance and, § 5:13  
 Majauskas benchmark, pensions and deferred compensation plans, § 5:7  
 Manner. Method or mode, below  
 Marital fault, marital property distribution, § 3:43  
 Marital property distribution  
 generally, §§ 3:28-3:51  
 age of parties, § 3:31  
 appellate review, § 3:46  
 bankruptcy considerations, § 3:51  
 barriers to remarriage, §§ 3:44, 3:45  
 catch-all factor, § 3:42  
 consideration of debt as barrier to remarriage, § 3:45  
 content of decision, § 3:46  
 contributions, § 3:35  
 custodial need for marital residence, § 3:32  
 debt consideration as barrier to remarriage, § 3:45  
 difficulty of evaluation, § 3:38

**EQUITABLE DISTRIBUTION—Cont'd**

Marital property distribution—Cont'd  
 disposition and distribution, effect of statement of proposed, § 3:50  
 distributive award, § 3:47  
 duration of marriage, § 3:31  
 encumbrances, fraudulent, § 3:41  
 equal division, equitable distribution not necessarily, §§ 3:29-3:51  
 fraudulent transfers and encumbrances, § 3:41  
 future financial circumstances, § 3:37  
 health of parties, § 3:31  
 income and property of parties, § 3:30  
 inheritance, loss of, § 3:33  
 interrelationship with maintenance, § 3:34  
 judicial power, limitations on, § 3:49  
 limitations on judicial power, § 3:49  
 liquidity considerations, § 3:36  
 loss of inheritance and pension rights, § 3:33  
 maintenance, interrelationship with, § 3:34  
 manner of distribution, § 3:48  
 marital fault, § 3:43  
 marital residence, custodial need for, § 3:32  
 pension rights, loss of, § 3:33  
 proposed disposition and distribution, effect of statement of, § 3:50  
 remarriage, barriers to, §§ 3:44, 3:45  
 residence, custodial need for marital, § 3:32  
 statement of proposed disposition and distribution, effect of, § 3:50  
 tax consequences, § 3:39  
 transfers and encumbrances, fraudulent, § 3:41  
 wasteful dissipation of marital property, § 3:40  
 Marital residence, custodial need for, § 3:32  
 Marketing considerations, preconsultation client intake, § 12:12  
 Method or mode  
 marital property distribution, manner of, § 3:48  
 pensions and deferred compensation plans, § 5:10

**EQUITABLE DISTRIBUTION—Cont'd**

- Method or mode—Cont'd
  - valuation of marital property, § 4:5, § 4:7
- Minors, support of, § 1:20
- Mode. Method or mode, above
- Modification. Amendment or modification, above
- Multiple alternative clauses, retainer agreement, § 12:19
- Net worth
  - statement, preparation of, § 12:22
  - state of net worth, sample form, § 12:25
- New practice environment, § 12:2
- Nonrefundable retainer fees, § 12:17
- Nonvested pension interests, § 5:8
- O'Brien v. O'Brien, educational degrees and professional licenses, §§ 5:28-5:34
- Overview, §§ 1:11-1:23
- Part B
  - abandoned actions, § 2:9
  - actions
    - abandoned actions, effective date of, § 2:9
    - counterclaims and counteractions, effective date of, § 2:10
    - discontinuance of pending actions, effective date of, § 2:8
    - types of actions governed, § 1:15
  - counterclaims and counteractions, § 2:10
  - discontinuance of pending actions, § 2:8
  - DRL Section 236, see lines throughout this group
  - effective date
    - generally, §§ 2:5-2:10
    - abandoned actions, § 2:9
    - amendment of pre-equitable distribution pleadings, § 2:7
    - counterclaims and counteractions, § 2:10
    - discontinuance of pending actions, § 2:8
    - retroactive application of Part B, § 2:6
  - enforcement of awards under, § 8:2
  - pre-equitable distribution pleadings, amendment of, § 2:7

**EQUITABLE DISTRIBUTION—Cont'd**

- Part B—Cont'd
  - retroactive application of Part B, § 2:6
  - time or date. Effective date, above in this group
  - types of actions governed, § 1:15
- Parties, agreements between, § 1:16
- Pensions and deferred compensation plans
  - generally, §§ 5:1-5:20
  - determination and distribution of pension awards, § 5:9
  - employment-related benefits, additional, § 5:20
  - evidence and information, valuation of pensions, § 5:17
  - federal preemption, § 5:18
  - maintenance, relationship between pension award and, § 5:13
  - Majauskas benchmark, § 5:7
  - methods of distribution, § 5:10
  - nature of, §§ 5:5, 5:6
  - nonvested pension interests, § 5:8
  - optional retirement dates, valuation of pensions, § 5:16
  - other employment-related benefits, § 5:20
  - property, valuation of, § 5:2
  - qualified domestic relations order, § 5:19
  - rights, loss of, § 3:33
  - security of deferred pension awards, § 5:12
  - stock options, § 5:11
  - tax impacts, § 5:15
  - terminology, § 5:6
  - tuition benefits, valuation of, § 5:3
  - valuation
    - evidence and information, § 5:17
    - optional retirement dates, § 5:16
    - pensions, §§ 5:14-5:17
    - property, § 5:2
    - retirement dates, optional, § 5:16
    - tax impacts, § 5:15
    - tuition benefits, § 5:3
- Personal injury, compensation for, § 3:15
- Postcommencement acquisitions, § 3:8
- Post O'Brien status of degrees and certifications, § 5:29
- Preconsultation client intake
  - generally, §§ 12:5-12:8

**EQUITABLE DISTRIBUTION—Cont'd**

Preconsultation client intake—Cont'd  
 ancillary relief checklist, sample form, § 12:11  
 fees and billing issues, discussion of, § 12:15  
 forms  
 ancillary relief checklist, sample form, § 12:11  
 intake sheet, § 12:8  
 foundation laying, § 12:10  
 initial consultation  
 generally, §§ 12:9-12:15  
 ancillary relief checklist, sample form, § 12:11  
 fees and billing issues, discussion of, § 12:15  
 foundation laying, § 12:10  
 laying foundation, § 12:10  
 marketing considerations, § 12:12  
 sample form, ancillary relief checklist, § 12:11  
 “selling” team approach, § 12:13  
 “selling” technology advantage, § 12:14  
 intake sheet, §§ 12:7, 12:8  
 laying foundation, § 12:10  
 marketing considerations, § 12:12  
 sample form. Forms, above in this group  
 “selling” team approach, § 12:13  
 “selling” technology advantage, § 12:14  
 Preemption, federal, pensions and deferred compensation plans, § 5:18  
 Presumptions and burden of proof  
 appreciation of separate property, § 3:19  
 in favor of marital property, § 3:7  
 transmutation, § 3:24  
 valuation of marital property, § 4:3  
 Price doctrine in application, appreciation of separate property, § 3:21  
 Prior acts or matters  
 actions or proceedings, § 1:13  
 Part B, amendment of pre-equitable distribution pleadings, § 2:7  
 property acquired prior to marriage, § 3:5  
 Proceedings. Actions and proceedings, above

**EQUITABLE DISTRIBUTION—Cont'd**

Professional licenses. Educational degrees and professional licenses, above  
 Professional practices. Closely-held businesses and professional practices, above  
 Property and property division  
 generally, §§ 3:1-3:51  
 approaches to property distribution, §§ 1:2-1:6  
 classification of marital and separate property, above  
 closely-held businesses and professional practices, § 5:21  
 community property, § 1:3  
 distribution systems, §§ 1:2-1:6  
 marital property distribution, above  
 pensions and deferred compensation plans, valuation of property, § 5:2  
 separate property, below  
 valuation of marital property, below  
 Proposed disposition and distribution of marital property, effect of statement of, § 3:50  
 Qualified domestic relations order, pensions and deferred compensation plans, § 5:19  
 Qualifying matrimonial actions, § 3:9  
 Reduction of separate property debt using marital funds, § 3:27  
 Reform legislation, scope of, § 1:11  
 Remarriage, barriers to, §§ 3:44, 3:45  
 Residence, custodial need for marital, § 3:32  
 Retainer agreements  
 multiple alternative clauses, § 12:19  
 nonrefundable retainer fees, § 12:17  
 sample forms, § 12:19  
 written retainer agreements, § 12:16  
 Retainer fees, nonrefundable, § 12:17  
 Retroactivity of amended statute, constitutionality and, §§ 2:1-2:10  
 Schools and education  
 educational degrees and professional licenses, above  
 tuition benefits, valuation, pensions and deferred compensation plans, § 5:3  
 Scope, § 1:1, § 2:1  
 Security for award, educational degrees and professional licenses, § 5:33



## INDEX

### **EQUITABLE DISTRIBUTION—Cont'd**

- Security interests, § 12:18
- Security of deferred pension awards, § 5:12
- “Selling” team approach, § 12:13
- “Selling” technology advantage, § 12:14
- Separate property
  - appreciation of separate property, above
  - classification of marital and separate property, above
- Sexual relationship with client, § 12:30
- Source, separate property by, § 3:12
- “Source of funds” approach, § 3:10
- Special relief, § 1:21
- Statements
  - closing statement, §§ 12:27, 12:28
  - net worth, preparation of statement, § 12:22
  - proposed disposition and distribution of marital property, effect of, § 3:50
- State of net worth, sample form, § 12:25
- Statutes
  - actions governed by, § 2:4
  - bifurcation, §§ 1:12, 2:2
  - constitutionality and retroactivity of amended statute, §§ 2:1-2:10
  - retroactivity of amended statute, constitutionality and, §§ 2:1-2:10
  - statutory terminology, § 1:14
- Stock options, pensions and deferred compensation plans, § 5:11
- Student spouse-working spouse, educational degrees and professional licenses, § 5:26
- Support of child, § 1:20
- Tax consequences
  - educational degrees and professional licenses, § 5:34
  - marital property distribution, § 3:39
  - pensions and deferred compensation plans, valuation, § 5:15
- Technology
  - cost-effectiveness, use for, § 12:4
  - “selling” technology advantage, § 12:14
- Terminology. Words and phrases, below
- Time or date
  - acquisition of property, §§ 3:4-3:6, 3:8
  - appreciation of time frame, § 3:20

### **EQUITABLE DISTRIBUTION—Cont'd**

- Time or date—Cont'd
  - duration of marriage, marital property distribution, § 3:31
  - during marriage, property acquired, § 3:6
  - educational degrees and professional licenses, conferment of, § 5:31
  - effective date of Part B. Part B, above
  - future financial circumstances, marital property distribution, § 3:37
  - inception of business enterprise, § 5:22
  - initial consultation. Preconsultation client intake, above
  - Part B, above
  - postcommencement acquisitions, § 3:8
  - post O'Brien status of degrees and certifications, § 5:29
  - prior acts or matters, above
  - retirement dates, optional, valuation of pensions, § 5:16
  - retroactivity of amended statute, constitutionality and, §§ 2:1-2:10
- Title distribution, § 1:4
- Transfers and encumbrances, fraudulent, § 3:41
- Transmutation
  - generally, §§ 3:23-3:27
  - burden of proof, § 3:24
  - business and professional interests, § 3:26
  - equitable distribution, § 3:25
- Tuition benefits, valuation, pensions and deferred compensation plans, § 5:3
- Types of actions governed by Part B, § 1:15
- Valuation of marital property
  - generally, §§ 4:1-4:7
  - burden of proof, § 4:3
  - closely-held business interests, § 4:6
  - date selection, § 4:4
  - excess earnings-return on net tangible assets, § 4:7
  - methodologies, § 4:5
  - methods of valuation, § 4:7
  - Revenue Ruling 59-60, § 4:6
  - scope of chapter, § 4:1
  - valuation date selection, § 4:4
- Value and valuation
  - business and professional interests, § 5:24

**EQUITABLE DISTRIBUTION—Cont'd**

Value and valuation—Cont'd  
 closely-held businesses and professional practices, § 5:24  
 marital property. Valuation of marital property, above  
 pensions and deferred compensation plans, above  
 Wasteful dissipation of marital property, § 3:40  
 Witnesses, expert, § 12:26  
 Words and phrases  
 pensions and deferred compensation plans terminology, § 5:6  
 statutory terminology, § 1:14  
 Written retainer agreements, § 12:16

**ERROR**

Appeal and Error (this index)

**ESTATE TAX**

Tax consequences, interspousal transfers, § 11:7

**EVIDENCE**

Burden of proof. **Presumptions and Burden of Proof** (this index)  
 Disclosure, burden of proof, exemptions, § 16:8  
 Divorce, evidence of adultery, § 14:15  
**Equitable Distribution** (this index)  
**Expert Witnesses** (this index)  
 Matrimonial litigation, proof of service of summons and appearance, §§ 13:17, 13:18  
 Modification of awards, nunc pro tunc increase based on newly discovered, § 9:5  
**Presumptions and Burden of Proof** (this index)  
 Proof of service of summons and appearance, matrimonial litigation, §§ 13:17, 13:18  
**Trial Practice** (this index)  
 Witnesses. **Expert Witnesses** (this index)

**EXAMINATION OR EXAMINATIONS**

**Cross-Examination** (this index)  
**Depositions** (this index)  
**Direct Examination** (this index)  
 Disclosure, physical and mental examinations, § 16:24  
**Expert Witnesses** (this index)

**EXAMINATION OR EXAMINATIONS—Cont'd**

Physical and mental examinations, disclosure, § 16:24

**EXCLUSIVE ACTS OR MATTERS**

**Pendente Lite Motions** (this index)  
 Use and possession of marital property. **Pendente Lite Motions** (this index)

**EXECUTION**

Separation agreements, § 10:36

**EXEMPTIONS**

Dependency exemptions. **Tax Consequences** (this index)  
**Disclosure** (this index)  
**Tax Consequences** (this index)

**EXHAUSTION OF REMEDIES**

Enforcement of awards, contempt, § 8:29

**EXPEDITED ACTS OR MATTERS**

Matrimonial litigation, expedient service of summons and appearance, § 13:15

**EXPENSES**

**Costs and Expenses** (this index)

**EXPERT WITNESSES**

Generally, §§ 18:45-18:49  
 Adverse expert, cross-examination, § 19:15  
 Attorney and expert, § 19:8  
 Basis of opinion, § 18:47  
 Briefs  
 lack of marketability/minority interest discount, sample point brief, § 19:21  
 pretrial preparation, trial briefs, § 19:12  
 sample point brief, below  
 Business valuator  
 cross-examination, § 19:18  
 direct examination, §§ 19:18, 19:19  
 “Courtroom ready” making expert, § 19:13  
 Cross-examination  
 adverse expert, § 19:15  
 business valuator, § 19:18  
 direct and, paradigm, § 19:17  
 general techniques, adverse expert, § 19:15  
 impeachment, § 19:16  
 Date. Time or date, below

## INDEX

### EXPERT WITNESSES—Cont'd

- Direct examination
  - generally, § 19:14
  - business valuator, §§ 19:18, 19:19
  - cross-examination and, paradigm, § 19:17
  - real estate expert, § 18:49
- Direct examination questions for real estate expert, § 18:49
- Equitable distribution, § 12:26
- Examination
  - cross-examination, above
  - direct examination, above
- Factual predicates for expert opinion, § 19:5
- Handling, generally, §§ 19:1-19:21
- Hypothetical questions, § 18:48, § 19:6
- Impeachment, cross-examination, § 19:16
- Initial conference, pretrial preparation, § 19:10
- Interim conferences, pretrial preparation, § 19:11
- Lack of marketability/minority interest discount, sample point brief, § 19:21
- Lay witness, opinion testimony of, § 19:2
- Opinion testimony
  - generally, § 19:3
  - factual predicates, § 19:5
  - lay witness, § 19:2
  - trial practice, basis of opinion, § 18:47
- Pendente lite motions, temporary counsel fees and litigation expenses, § 17:40
- Preparation. Pretrial preparation, below
- Presentation of, § 18:48
- Pretrial preparation
  - generally, §§ 18:18, 19:10-19:13
  - “courtroom ready” making expert, § 19:13
  - initial conference, § 19:10
  - interim conferences, § 19:11
  - trial briefs, § 19:12
- Qualifications, § 18:46, § 19:4
- Real estate expert, direct examination questions for, § 18:49
- Sample point brief
  - lack of marketability/minority interest discount, § 19:21
  - tax consequences, § 19:20
- Scope of chapter, § 19:1
- Selection of right expert, § 19:9
- Synergistic unit, § 19:8

### EXPERT WITNESSES—Cont'd

- Tax consequences, sample point brief, § 19:20
- Time or date
  - pendente lite motions, temporary counsel fees and litigation expenses, § 17:40
  - pretrial preparation, above
- Trial briefs, pretrial preparation, § 19:12
- Ultimate issue rule, § 19:7

### FAMILY COURT

- Enforcement of awards, § 8:41

### FAMILY EXPENSES

- Spousal maintenance, § 6:16

### FAULT

- Pendente lite motions, direct use of summary judgment in matrimonial actions, § 17:52
- Spousal maintenance, marital fault, § 6:49

### FEDERAL PREEMPTION

- Equitable distribution, pensions and deferred compensation plans, § 5:18

### FEES

- Attorneys' Fees** (this index)
- Equitable Distribution** (this index)

### FICA

- Child Support Standards Act (CSSA), § 7:34

### FINANCES

- Custody of children, § 20:12
- Disclosure** (this index)
- Equitable distribution, future financial circumstances, marital property distribution, § 3:37
- Maintenance awards, change in financial circumstances, § 9:9
- Separation agreements, obtaining financial information, § 10:9

### FINANCIAL DISCLOSURE

- Disclosure** (this index)

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

- Default judgments, form, §§ 13:29-13:32
- Trial practice, § 18:56

### FOREIGN JUDGMENTS

- Equitable distribution, § 1:23

**FOREIGN STATE**

**Matrimonial Litigation** (this index)

**FORM OR FORMAT**

**Pendente Lite Motions** (this index)

**Pleadings** (this index)

Spousal maintenance, form of maintenance award, § **6:51**, § **6:54**

**FORMS**

**Depositions** (this index)

**Disclosure** (this index)

**Enforcement of Awards** (this index)

**Equitable Distribution** (this index)

**Matrimonial Litigation** (this index)

**Pendente Lite Motions** (this index)

**Pleadings** (this index)

Separation agreements, statement of premises, § **10:15**

**Trial Practice** (this index)

**Witnesses** (this index)

**FORMULAE**

Spousal maintenance, deviation from formulae, § **6:23**

**FRAUDULENT CONVEYANCES**

Enforcement of awards, § **8:40**

**FRAUDULENT TRANSFERS AND ENCUMBRANCES**

Equitable distribution, marital property distribution, § **3:41**

**FREEDOM FROM CONTROL**

Separation agreements and, § **10:17**

**FUTURE ACTS OR MATTERS**

Equitable distribution, future financial circumstances, marital property distribution, § **3:37**

**GEOGRAPHIC RELOCATION**

Visitation, § **21:12**

**GIFTS**

Equitable distribution, § **3:14**

**GIFT TAX**

Interspousal transfers, § **11:7**

**GOVERNING LAW OR AUTHORITY**

Separation agreements, § **10:23**

Trial practice, calendar practice, § **18:2**

**GRANDPARENTS AND GRANDCHILDREN**

Joint custody, § **21:14**

**HARTOG CASE**

Equitable distribution, § **3:22**

**HEAD OF HOUSEHOLD STATUS**

Tax consequences, § **11:22**

**HEALTH AND HEALTH MATTERS**

Child Support Standards Act (CSSA), health care expenses, §§ **7:25**, **7:41**

**Custody of Children** (this index)

Equitable distribution, marital property distribution, § **3:31**

Parents. **Custody of Children** (this index)

**HEARINGS**

Contempt, enforcement of awards, § **8:33**

Modification of awards, §§ **9:20-9:22**

**HESSEN APPROACH**

**Divorce** (this index)

**“HOLD HARMLESS” PROVISION**

Separation agreements, § **10:29**

**HOMOSEXUALITY**

Custody of children, § **20:11**

**HOUSE OR HOME**

Custody of children, nature and quality of home environment, § **20:16**

**HYPOTHETICAL QUESTIONS**

Expert witnesses, § **19:6**

**IMMUNITIES**

**Privileges and Immunities** (this index)

**IMPEACHMENT**

Expert witnesses, cross-examination, § **19:16**

Trial practice, § **18:51**

**IMPLIED WAIVER**

Enforcement of awards, implied waiver of child support prohibited, New York State Support Enforcement Act of 1985, § **8:57**

**IMPRISONMENT**

Divorce, grounds, § **14:13**

**INCLUSIONS**

**Child Support Standards Act (CSSA)** (this index)

## INDEX

### INCOME

**Child Support Standards Act (CSSA)**  
(this index)

Deduction order. **Enforcement of Awards** (this index)

**Enforcement of Awards** (this index)  
Spousal maintenance, § 6:39

### INCOME DEDUCTION ORDER

**Enforcement of Awards** (this index)

### INHERITANCE

**Equitable Distribution** (this index)

### INHUMAN TREATMENT

**Cruel and Inhuman Treatment** (this index)

### INITIAL ACTS OR MATTERS

Consultation. **Equitable Distribution**  
(this index)

Divorce, initial cruelty interpretations,  
§ 14:5

**Equitable Distribution** (this index)  
Expert witnesses, initial conference, pretrial preparation, § 19:10

### INNOCENT SPOUSE RULE

Tax consequences, § 11:25

### IN PERSONAM JURISDICTION

Matrimonial litigation, § 13:3

### IN REM JURISDICTION

**Matrimonial Litigation** (this index)

### INSURANCE

**Life Insurance** (this index)

**Medical Insurance** (this index)

**Pendente Lite Motions** (this index)

**Spousal Maintenance** (this index)

### INTEREST

Enforcement of awards, money judgments, § 8:6

### INTERFERENCE

Modification of awards, interference with visitation, § 9:16

Visitation, interference with, § 21:11

### INTERIM ACTS OR MATTERS

Expert witnesses, interim conferences, pretrial preparation, § 19:11

**Pendente Lite Motions** (this index)

### INTERPRETATION

**Construction and Interpretation** (this index)

### INTERROGATORIES

Disclosure, §§ 16:25, 16:26

### INTERSPOUSAL TRANSFERS

**Tax Consequences** (this index)

### IRC SECTION 1041

Tax consequences, application and election under interspousal transfers, §§ 11:8, 11:9

### IRRETRIEVABLE BREAKDOWN OF MARRIAGE

Generally, § 14:2

### JOINT CUSTODY

Generally, §§ 21:2-21:5

Braiman rule, §§ 21:3, 21:4

Concept and practicality of, § 21:2

Grandparent's rights, § 21:14

Parent vs. nonparent, §§ 21:13-21:15

Practice implications, § 7:59

Siblings' rights, § 21:15

Superiority of natural parent's right, § 21:13

Termination or modification of joint custody arrangements, § 21:5

### JOINT TAX RETURNS

Tax consequences, § 11:21

### JUDGMENTS AND DECREES

Default judgments. **Matrimonial Litigation** (this index)

Divorce, separation pursuant to judgment, § 14:17

**Enforcement of Awards** (this index)

Equitable distribution, proceedings following foreign judgments, § 1:23

Money judgments. **Enforcement of Awards** (this index)

**Pendente Lite Motions** (this index)

**Separation Judgments** (this index)

### JUDICIAL ACTS OR MATTERS

Disclosure, judicial supervision, § 16:11

Equitable distribution, limitations on judicial power, § 3:49

### JUDICIAL REVIEW

**Appeal and Error** (this index)

## JURISDICTION

**Enforcement of Awards** (this index)  
**Matrimonial Litigation** (this index)  
 Modification of awards, § 9:18

## JURY AND JURY TRIAL

Calendar practice, demand for trial by jury, § 18:12  
 Selection of jury, § 18:24

## KNOWLEDGE

**Notice or Knowledge** (this index)

## LABOR AND EMPLOYMENT

**Employers and Employees** (this index)

## LAY WITNESS

Expert witnesses, opinion testimony of lay witness, § 19:2

## LEGISLATIVE INTENT

Equitable distribution, § 1:9

## LESTER RULE

Tax consequences, support payments, § 11:14

## LIABILITY

Child support, §§ 7:7-7:10

## LICENSES AND PERMITS

**Equitable Distribution** (this index)

## LIENS AND ENCUMBRANCES

Equitable distribution, fraudulence, § 3:41

## LIFE INSURANCE

Pendente lite motions, interim award, § 17:32  
 Separation agreements, economic provisions, § 10:35  
 Spousal maintenance, § 6:53

## LIMITATION OF ACTIONS

Enforcement of awards, money judgments, § 8:8  
 Matrimonial litigation, § 13:23

## LIMITATIONS AND RESTRICTIONS

Actions. **Limitation of Actions** (this index)  
 Alimony, § 6:33  
 Equitable distribution, limitations on judicial power, marital property distribution, § 3:49  
 Spousal maintenance, § 6:33

## LIMITATIONS AND RESTRICTIONS

### —Cont'd

Statute of limitations. **Limitation of Actions** (this index)  
 Visitation, supervised and restricted, denial of visitation, § 21:9

## LIQUIDATION

Equitable distribution, liquidity considerations, marital property distribution, § 3:36

## LITIGATION

**Child Support** (this index)  
 Custody of children, § 7:60  
 Disclosure, exemption of material prepared for litigation, § 16:7  
 Expenses. **Pendente Lite Motions** (this index)  
 Expert witnesses, pendente lite motions, temporary counsel fees and litigation expenses, § 17:40  
**Matrimonial Litigation** (this index)  
**Pendente Lite Motions** (this index)

## LOCATION

**Place or Location** (this index)

## LOW INCOME

Child Support Standards Act (CSSA), self-support reserve and lower income litigants, § 7:57

## MAIL

**Matrimonial Litigation** (this index)

## MAINTENANCE

Awards. **Modification of Awards** (this index)  
 Disclosure, §§ 6:14, 6:27  
**Equitable Distribution** (this index)  
**Modification of Awards** (this index)  
**Pendente Lite Motions** (this index)  
**Spousal Maintenance** (this index)  
 Temporary maintenance. **Pendente Lite Motions** (this index)

## MAJASKAS

Equitable distribution, pensions and deferred compensation plans, § 5:7

## MANDATORY ACTS OR MATTERS

**Child Support Standards Act (CSSA)** (this index)



## INDEX

### MARITAL PROPERTY

Distribution. **Equitable Distribution** (this index)

**Equitable Distribution** (this index)

### MARKETING

Equitable distribution, preconsultation client intake, § 12:12

### MATRIMONIAL LITIGATION

Generally, §§ 13:1-13:35

Affidavits

default judgments, below  
service of summons and appearance,  
affidavit of service form, § 13:18

Appearance. Service of summons and appearance, below

Default judgments

generally, §§ 13:24-13:35

affidavits

Domestic Relations Law Section  
75-j, affidavit pursuant to, form,  
§ 13:28

plaintiff affidavit of merit form,  
§ 13:27

affirmation of regularity form, § 13:26

certificate of dissolution form, § 13:35

Domestic Relations Law Section 75-j,  
affidavit pursuant to, form,  
§ 13:28

findings of fact and conclusions of law  
form, §§ 13:29-13:32

forms

affirmation of regularity, § 13:26  
certificate of dissolution, § 13:35  
Domestic Relations Law Section  
75-j, affidavit pursuant to,  
§ 13:28

findings of fact and conclusions of  
law, §§ 13:29-13:32

judgment, §§ 13:32-13:34

plaintiff affidavit of merit, § 13:27

judgment form, §§ 13:32-13:34

matrimonial judgments, uniform rules,  
§ 13:33

plaintiff affidavit of merit form,  
§ 13:27

referee's report, §§ 13:31, 13:34

supporting papers, § 13:25

uniform rules

findings of fact and conclusions of  
law, §§ 13:30, 13:32

### MATRIMONIAL LITIGATION—Cont'd

Default judgments—Cont'd  
uniform rules—Cont'd

judgment form, §§ 13:33, 13:34

Defendant, appearance by, §§ 13:19,  
13:20

Evidence, proof of service of summons  
and appearance, §§ 13:17, 13:18

Expedient service of summons and  
appearance, § 13:15

Forms

default judgments, above  
service of summons and appearance,  
below

In personam jurisdiction, § 13:3

In rem jurisdiction

generally, §§ 13:6, 13:7

quasi in rem jurisdiction through  
sequestration, § 13:7

sequestration, quasi in rem jurisdiction  
through, § 13:7

Judgments. Default judgments, above  
Jurisdiction

generally, §§ 13:2-13:7

in personam jurisdiction, § 13:3

in rem jurisdiction, above

out-of-state service which obtains  
personal jurisdiction, below

Supreme Court jurisdiction, § 13:2

Limitation of actions, § 13:23

Mail

nail and mail, § 13:14

service of summons and appearance,  
§ 13:12

Matrimonial summons, service of,  
§§ 13:8, 13:9

Methods of service of summons and  
appearance, §§ 13:10-13:16

Nail and mail, service of summons and  
appearance, § 13:14

Notice

appearance, notice of, form, § 13:20

summons with notice, form, § 13:9

Out-of-state service which obtains  
personal jurisdiction

generally, § 13:4

long-arm jurisdiction, § 13:5

Personal delivery of summons and  
appearance, § 13:11

## MATRIMONIAL LITIGATION—Cont'd

Personal jurisdiction. Out-of-state service which obtains personal jurisdiction, above

Process and service of process. Service of summons and appearance, below

Proof of service of summons and appearance, §§ **13:17, 13:18**

Publication, service of summons by, § **13:16**

Residency requirements, § **13:21**

Service of summons and appearance generally, §§ **13:8-13:20**  
affidavit of service form, § **13:18**  
appearance by defendant, §§ **13:19, 13:20**  
expedient service, § **13:15**  
forms  
affidavit of service, § **13:18**  
notice of appearance, § **13:20**  
summons with notice, § **13:9**  
mail, §§ **13:12, 13:14**  
matrimonial summons, §§ **13:8, 13:9**  
methods of service, §§ **13:10-13:16**  
nail and mail, § **13:14**  
notice of appearance form, § **13:20**  
personal delivery, § **13:11**  
proof of service, §§ **13:17, 13:18**  
publication, service by, § **13:16**  
summons with notice, form, § **13:9**

Statute of limitations, § **13:23**

Summons. Service of summons and appearance, above

Supreme Court jurisdiction, § **13:2**

Threshold considerations, §§ **13:1-13:35**

Uniform rules. Default judgments, above

Venue, § **13:22**

## MEDICAL EXPENSES

Tax consequences, deductions, § **11:24**

## MEDICAL INSURANCE

Pendente lite motions, interim award, § **17:32**

Spousal maintenance, § **6:52**

## MENTAL HEALTH

Custody of children, § **20:7**

## MERITS

Disclosure on the merits, § **16:29**

Pendente lite award, affect on, § **17:27**

## METHOD OR MODE

Depositions, mode of examination, § **16:16**

Disclosure, method of obtaining, § **16:10**

**Equitable Distribution** (this index)

Matrimonial litigation, methods of service of summons and appearance, §§ **13:10-13:16**

Spousal maintenance, statutory temporary and post-divorce maintenance, § **6:8, 6:21**

## MINORS

**Children and Minors** (this index)

## MISCONDUCT

Custody of children, marital misconduct, § **20:9**

## MISTAKE OF FACT

**Enforcement of Awards** (this index)

## MODE

**Method or Mode** (this index)

## MODIFICATION

Generally. **Amendment, Modification, or Change** (this index)

Awards. **Modification of Awards** (this index)

## MODIFICATION OF AWARDS

Generally, §§ **9:1-9:22**

Affidavit in support of application for modification form, hearing, § **9:22**

Arrears, § **9:4**

Catholic church. **Decretal Awards** (this index)

Child support. **Child Support** (this index)

Circumstances, change in  
financial circumstances, § **9:9**  
maintenance awards, §§ **9:8, 9:9**  
substantial change, § **9:8**

Cohabitation, remarriage and, § **9:17**

Commencement procedure, jurisdiction and, § **9:18**

**Decretal Awards** (this index)

Evidence, nunc pro tunc increase based on newly discovered, § **9:5**

Hearings, §§ **9:20-9:22**

Interference with visitation, § **9:16**

Jurisdiction, § **9:18**

Maintenance awards  
generally, §§ **9:7-9:12**

## INDEX

### MODIFICATION OF AWARDS—Cont'd

- Maintenance awards—Cont'd
  - change in financial circumstances, § 9:9
  - circumstances, change in, §§ 9:8, 9:9
  - decretal awards, above
  - financial circumstances, change in, § 9:9
  - no surviving separation agreement, § 9:7
  - pre-equitable distribution modification of judgments incorporating surviving agreements, § 9:11
  - substantial change in circumstances, § 9:8
- Newly discovered evidence, nunc pro tunc increase based on, § 9:5
- Nunc pro tunc increase based on newly discovered evidence, § 9:5
- Opposing papers, supporting and, § 9:19
- Order to show cause form, hearing, § 9:21
- Papal letters. **Decretal Awards** (this index)
- Pre-EDL judgments, § 9:6
- Procedural aspects, §§ 9:18-9:22
- Property awards, § 9:3
- Remarriage and cohabitation, § 9:17
- Scope of chapter, § 9:1
- Show cause order form, hearing, § 9:21
- Statutory provisions, § 9:2
- Supporting and opposing papers, § 9:19
- Visitation, interference with, § 9:16

### MONEY JUDGMENTS

- Enforcement of Awards** (this index)

### MORAL CHARACTER

- Custody of children, § 20:10

### MOTION PRACTICE

- Generally, §§ 17:1-17:54
- Checklist, § 17:14
- Child support. **Pendente Lite Motions** (this index)
- Content. **Pendente Lite Motions** (this index)
- Costs and expenses. **Pendente Lite Motions** (this index)
- Counsel fees. **Pendente Lite Motions** (this index)
- Cross-motions, §§ 17:7, 17:8
- Decision and order, §§ 17:11, 17:12

### MOTION PRACTICE—Cont'd

- Exclusive use and possession of property. **Pendente Lite Motions** (this index)
- Form and content of motion papers. **Pendente Lite Motions** (this index)
- Forms
  - notice of cross-motion and opposition to main motion, § 17:8
  - notice of motion, § 17:4
  - request for judicial intervention, § 17:5
  - show cause orders, § 17:6
- Insurance. **Pendente Lite Motions** (this index)
- Interim awards. **Pendente Lite Motions** (this index)
- Judgments and decrees. **Pendente Lite Motions** (this index)
- Litigation expenses. **Pendente Lite Motions** (this index)
- Local rule and custom, § 17:9
- Maintenance. **Pendente Lite Motions** (this index)
- Notice and service requirements
  - generally, §§ 17:3-17:6
  - notice of cross-motion and opposition to main motion form, § 17:8
  - notice of motion form, § 17:4
  - order to show cause form, § 17:6
  - request for judicial intervention form, § 17:5
- Orders
  - decision and, §§ 17:11, 17:12
  - form, § 17:12
  - prior orders, motions affecting, § 17:13
  - show cause orders, § 17:6
- Pendente Lite Motions** (this index)
- Possession of marital property. **Pendente Lite Motions** (this index)
- Practical checklist, § 17:14
- Prior orders, motions affecting, § 17:13
- Property. **Pendente Lite Motions** (this index)
- Scope of chapter, § 17:1
- Service of process. Notice and service requirements, above
- Show cause orders, § 17:6
- Situs of motion, § 17:2
- Submission of motions, argument for, § 17:10
- Summary judgment. **Pendente Lite Motions** (this index)

**MOTION PRACTICE—Cont'd**

- Temporary child support. **Pendente Lite Motions** (this index)
- Temporary counsel fees and litigation expenses. **Pendente Lite Motions** (this index)
- Temporary exclusive use and possession of marital property. **Pendente Lite Motions** (this index)
- Temporary maintenance. **Pendente Lite Motions** (this index)
- Time or date. **Pendente Lite Motions** (this index)
- Transfers, § 17:13

**MOTIONS**

- Disclosure, motions to compel disclosure and sanctions, § 16:27

**MOTION TO STRIKE NOTE OF ISSUE**

- Trial practice, § 18:9

**MULTIPLE**

- Equitable distribution, multiple alternative clauses, retainer agreement, § 12:19

**MUNICIPAL EARNINGS TAXES**

- Child Support Standards Act (CSSA), § 7:34

**MUTUAL RELEASES**

- Separation agreements, § 10:18

**NAIL AND MAIL**

- Matrimonial litigation, service of summons and appearance, § 13:14

**NEGOTIATION OR NEGOTIATIONS**

- [@00fc]hild Support (this index)
- Custody of children, negotiation and litigation of, § 7:60
- Separation Agreements (this index)

**NET WORTH**

- Equitable Distribution (this index)

**NEWLY DISCOVERED EVIDENCE**

- Modification of awards, nunc pro tunc increase based on, § 9:5

**NEW PRACTICE ENVIRONMENT**

- Equitable distribution, § 12:2

**NEW YORK STATE SUPPORT AND ENFORCEMENT ACT OF 1985**

- Enforcement of Awards (this index)

**NONCUSTODIAL PARENT**

- Custody of children, § 20:15

**NONDISCLOSURE**

- Spousal maintenance, statutory temporary and post-divorce maintenance, § 6:14, § 6:27

**NONMONETARY CONTRIBUTIONS**

- Child Support Standards Act (CSSA), § 7:44

**NONPARTIES**

- Disclosure, financial disclosure, § 16:31

**NONRECURRING PAYMENTS**

- Child Support Standards Act (CSSA), § 7:35

**NONSUBJECT CHILDREN OF SUPPORT PROVIDER**

- Child Support Standards Act (CSSA), § 7:47

**NONVESTED PENSION INTERESTS**

- Equitable distribution, § 5:8

**NOTE OF ISSUE**

- Trial Practice (this index)

**NOTICE OR KNOWLEDGE**

- Depositions (this index)
- Enforcement of Awards (this index)
- Matrimonial Litigation (this index)
- Separation agreements, notification of address change, § 10:24
- Witnesses, notice to produce, § 18:22

**NUNC PRO TUNC**

- Modification of awards, increase based on newly discovered evidence, § 9:5

**OBJECTIONS**

- Depositions, § 16:17
- Trial practice, § 18:31

**O'BRIEN V. O'BRIEN**

- Equitable distribution, educational degrees and professional licenses, §§ 5:28-5:34

**OBSTACLES OR BARRIERS**

- Equitable distribution, barriers to remarriage, §§ 3:44, 3:45
- Remarriage, barriers to, §§ 3:44, 3:45, 6:29

## INDEX

### **OBSTACLES OR BARRIERS—Cont'd**

Spousal maintenance, barriers to remarriage, § 6:29

### **OPINION TESTIMONY**

**Expert Witnesses** (this index)

### **OPT-OUT AGREEMENTS**

Child Support Standards Act (CSSA), § 7:50

Pendente lite award, affect on, § 17:28

### **OPT-OUT RIGHT**

Spousal maintenance, statutory temporary and post-divorce maintenance, §§ 6:6, 6:13, 6:19, 6:26

### **ORDERS**

**Child Support Standards Act (CSSA)** (this index)

**Enforcement of Awards** (this index)

**Show Cause Orders** (this index)

Spousal maintenance, modification of statutory temporary and post-divorce maintenance, § 6:15, § 6:28

### **OUT-OF-STATE**

**Matrimonial Litigation** (this index)

### **OVER-THE-CAP PAYOR INCOME**

Spousal maintenance, §§ 6:9, 6:22, § 6:22

### **PAPAL LETTERS**

**Decretal Awards** (this index)

### **PARENT-CHILD COMMUNICATIONS**

Trial practice, § 18:42

### **PAROL ACTS OR MATTERS**

Depositions, oral, §§ 16:12-16:20

Oral depositions, §§ 16:12-16:20

### **PART B**

Enforcement of awards, § 8:2

**Equitable Distribution** (this index)

### **PARTIAL ACTS OR MATTERS**

Pendente lite motions, §§ 17:50, 17:54

Separation agreements, partial invalidity, § 10:22

### **PENDENTE LITE MOTIONS**

Generally, §§ 17:15-17:54

Affidavits, forms, §§ 17:44, 17:45

Attorney fees. Temporary counsel fees and litigation expenses, below

### **PENDENTE LITE MOTIONS—Cont'd**

Child support. Temporary child support, below

Content. Form and content of motion papers, below

Conversion actions, direct use of summary judgment in matrimonial actions, § 17:53

Costs and expenses. Temporary counsel fees and litigation expenses, below

Counsel fees. Temporary counsel fees and litigation expenses, below

Decrees. Judgments and decrees, below

Disposition of marital property, § 17:48

Duration of pendente lite award, temporary child support, § 17:30

Exclusive use and possession of marital property. Temporary exclusive use and possession of marital property, below

Expenses. Costs and expenses, above

Expert witnesses, temporary counsel fees and litigation expenses, § 17:40

Fault grounds, direct use of summary judgment in matrimonial actions, § 17:52

Form and content of motion papers

generally, §§ 17:43-17:46

affidavit in support of motion, § 17:44

affidavit of attorney, § 17:45

statement of net worth form, § 17:46

Format, § 17:16

Form of award

temporary child support, § 17:29

temporary maintenance, § 17:22

Insurance

life insurance, interim award for, § 17:32

medical insurance, interim award for, § 17:32

Interim awards

generally, § 17:37

medical and life insurance, § 17:32

Judgments and decrees

summary judgment in matrimonial actions, below

temporary child support, affect of separation judgments on pendente lite award, § 17:28

temporary maintenance, affect of separation judgments on pendente

**PENDENTE LITE MOTIONS—Cont'd**

Judgments and decrees—Cont'd  
     lite award, § 17:21  
 Life insurance, interim award for, § 17:32  
 Litigation expenses. Temporary counsel fees and litigation expenses, below  
 Maintenance. Temporary maintenance, below  
 Medical insurance, interim award for, § 17:32  
 Merits, affect on pendente lite award, § 17:27  
 Nature, § 17:15  
 Opting-out agreements, affect on pendente lite award, § 17:28  
 Partial summary judgment in matrimonial actions, § 17:50  
 Possession of marital property. Temporary exclusive use and possession of marital property, below  
 Presumptions, rebuttable presumption, § 17:37  
 Pretrial restraints on property transfers, § 17:47  
 Property  
     disposition of marital property, § 17:48  
     pretrial restraints on property transfers, § 17:47  
     temporary exclusive use and possession of marital property, below  
 Rebuttable presumption, § 17:37  
 Reverse partial summary judgment, § 17:54  
 Role, § 17:15  
 Separation judgments, affect on pendente lite award, § 17:28  
 Standards and determinants of allowance, temporary child support, § 17:26  
 Summary judgment in matrimonial actions  
     generally, §§ 17:49-17:54  
     conversion actions, direct use in, § 17:53  
     fault grounds, direct use on, § 17:52  
     partial, § 17:50  
     practical reasons for use, § 17:51  
     reverse partial summary judgment, § 17:54  
 Temporary child support  
     generally, §§ 17:25-17:31

**PENDENTE LITE MOTIONS—Cont'd**

Temporary child support—Cont'd  
     duration of pendente lite award, § 17:30  
     form of award, § 17:29  
     interrelationship between pendente lite award and trial determination, § 17:31  
     merits, affect on pendente lite award, § 17:27  
     opting-out agreements, affect on pendente lite award, § 17:28  
     separation judgments, affect on pendente lite award, § 17:28  
     standards and determinants of allowance, § 17:26  
     trial determination, interrelationship between pendente lite award and, § 17:31  
 Temporary counsel fees and litigation expenses  
     generally, §§ 17:36, 17:38-17:42  
     actions in which award authorized, § 17:38  
     experts, allowance for, § 17:40  
     merits, effect on pendente lite award, § 17:41  
     opting-out agreement, effect on pendente lite award, § 17:42  
     standards and determinants for allowance, § 17:39  
 Temporary exclusive use and possession of marital property  
     generally, §§ 17:33-17:35  
     marital residence, § 17:34  
     personalty, § 17:35  
 Temporary maintenance  
     generally, §§ 17:17-17:24  
     duration of pendente lite award, § 17:23  
     form of award, § 17:22  
     formula, § 17:18  
     interrelationship between pendente lite award and trial determination, § 17:24  
     merits, affect on pendente lite award, § 17:20  
     opting-out agreements, affect on pendente lite award, § 17:21  
     standards and determinants for allowance, § 17:19



## INDEX

### **PENDENTE LITE MOTIONS—Cont'd**

- Temporary maintenance—Cont'd
  - temporary maintenance formula,  
§ 17:18
  - trial determination, interrelationship  
between pendente lite award and,  
§ 17:24
- Time or date
  - fees and expenses. Temporary counsel  
fees and litigation expenses, above
  - interim awards, above
  - maintenance. Temporary maintenance,  
above
  - use and possession of marital property.  
Temporary exclusive use and pos-  
session of marital property, above
- Timing, § 17:16
- Trial determination, interrelationship  
between pendente lite award and,  
§ 17:31
- Use, occupancy, and enjoyment.  
Temporary exclusive use and posses-  
sion of marital property, above
- Witnesses, expert, temporary counsel fees  
and litigation expenses, § 17:40

### **PENDING ACTIONS**

- Child Support Standards Act (CSSA),  
§ 7:12
- Pendente Lite Motions** (this index)

### **PENSIONS AND DEFERRED COMPENSATION PLANS**

- Equitable Distribution** (this index)

### **PERCENTAGES**

- Child Support Standards Act (CSSA),  
application of child support percent-  
ages, § 7:22

### **PERSONAL DELIVERY**

- Matrimonial litigation, personal delivery  
of summons and appearance, § 13:11

### **PERSONAL INJURY**

- Equitable distribution, compensation,  
§ 3:15

### **PERSONAL JURISDICTION**

- Matrimonial Litigation** (this index)

### **PHYSICAL AND MENTAL EXAMINATIONS**

- Disclosure, § 16:24

### **PHYSICAL HEALTH**

- Custody of children, § 20:6

### **PHYSICIAN-CLIENT PRIVILEGE**

- Trial practice, § 18:39

### **PHYSICIAN-PATIENT PRIVILEGE**

- Trial practice, § 18:38

### **PLACE OR LOCATION**

- Depositions, § 16:15
- Motion practice, § 17:2
- Separation agreements, § 10:23
- Visitation, geographic relocation, § 21:12

### **PLEADINGS**

- Generally, §§ 15:1-15:16
- Abandonment, verified complaint form,  
§ 15:7
- Adultery, verified complaint form, § 15:9
- Answer, form and content of, §§ 15:12,  
15:13
- Checklist, verified complaint, § 15:5
- Content. Form and content, below
- Counterclaim, form, § 15:13
- Cruel and inhuman treatment, verified  
complaint form, § 15:6
- Form and content
  - generally, § 15:3
  - answer, §§ 15:12, 15:13
  - reply, §§ 15:14, 15:15
- Forms. Verified complaint, below
- General concepts, § 15:2
- Particularity in matrimonial pleadings,  
§ 15:4
- Reply, form and content, §§ 15:14, 15:15
- Scope of chapter, § 15:1
- Separation agreements, verified complaint  
form, § 15:11
- Separation judgment, pursuant to, verified  
complaint form, § 15:10
- Strategic considerations, § 15:16
- Verified complaint
  - checklist, § 15:5
  - forms
    - generally, §§ 15:6-15:11
    - abandonment, § 15:7
    - adultery, § 15:9
    - cruel and inhuman treatment, § 15:6
    - imprisonment, § 15:8
    - separation agreement, pursuant to,  
§ 15:11

**PLEADINGS—Cont’d**

Verified complaint—Cont’d  
forms—Cont’d  
separation judgment, pursuant to,  
§ 15:10

**POSSESSION OF MARITAL  
PROPERTY**

**Pendente Lite Motions** (this index)

**POSTCOMMENCEMENT  
ACQUISITIONS**

Equitable distribution, § 3:8

**POST-EQUITABLE DISTRIBUTION  
AGREEMENTS**

Separation agreements, validity and  
enforceability, § 10:5

**PRACTICE AND PROCEDURE**

**Enforcement of Awards** (this index)  
Modification of awards, §§ 9:18-9:22

**PRECONSULTATION CLIENT  
INTAKE**

**Equitable Distribution** (this index)

**PREEMPTION**

Equitable distribution, federal preemp-  
tion, pensions and deferred  
compensation plans, § 5:18

**PRE-EQUITABLE DISTRIBUTION  
AGREEMENTS**

Separation agreements, validity and  
enforceability, § 10:4

**PREEXISTING INSTRUMENT**

Tax consequences, form, § 11:11

**PREFERENCES AND PRIORITIES**

Custody of children, child’s preference,  
§ 20:13  
Depositions, § 16:13  
Trial practice, calendar practice, § 18:8  
Visitation, preference of child, § 21:8

**PREJUDICE OR BIAS**

Spousal maintenance without prejudice to  
post-divorce maintenance award,  
§ 6:17

**PRE-SEPARATION ACTS OR  
MATTERS**

Child Support Standards Act (CSSA),  
pre-separation standard of living,  
§ 7:42

**PRESERVATION OF RIGHTS**

Spousal maintenance, preservation of opt-  
out right, §§ 6:6, 6:19, 6:26

**PRESUMPTIONS AND BURDEN OF  
PROOF**

Child Support Standards Act (CSSA),  
formula amount as rebuttable  
presumption, § 7:36  
Custody of children, tender years  
presumption, § 20:3  
Disclosure, exemptions, § 16:8  
**Equitable Distribution** (this index)  
Pendente lite motions, rebuttable  
presumption, § 17:37  
**Rebuttable Presumptions** (this index)

**PRETRIAL ACTS OR MATTERS**

**Expert Witnesses** (this index)  
Pendente lite motions, pretrial restraints  
on property transfers, § 17:47  
**Trial Practice** (this index)

**PRETRIAL CONFERENCE**

Trial practice, § 18:14

**PRICE DOCTRINE**

Equitable distribution, appreciation of  
separate property, § 3:21

**PRIMA FACIE**

Custody of children, no prima facie right  
to, § 20:3

**PRIMARY CARETAKER**

Custody of children, § 20:22

**PRIOR ACTS OR MATTERS**

**Equitable Distribution** (this index)

**PRIOR INCONSISTENT STATEMENTS**

Trial practice, § 18:52

**PRIORITIES**

**Preferences and Priorities** (this index)

**PRIVILEGES AND IMMUNITIES**

Disclosure, § 16:5  
Physician-client privilege, § 18:39  
Physician-patient privilege, § 18:38  
Self-incrimination privilege, § 18:35  
Social worker-client privilege, § 18:40  
Trial practice, evidentiary issues,  
§§ 18:34-18:43

## INDEX

### PROCESS AND SERVICE OF PROCESS AND PAPERS

Enforcement of Awards (this index)

Matrimonial Litigation (this index)

### PRODUCTION OF DOCUMENTS AND TANGIBLE THINGS

Generally, §§ 16:21-16:23

Deposition, document production at,  
§ 16:22

Discovery and production, § 16:23

### PROFESSIONAL LICENSES

Equitable Distribution (this index)

### PROFESSIONAL PRACTICES

Equitable Distribution (this index)

### PROOF

Evidence (this index)

### PROPERTY

Appreciation of property. **Equitable Dis-  
tribution** (this index)

**Equitable Distribution** (this index)

Modification of awards, property awards,  
§ 9:3

**Pendente Lite Motions** (this index)

Spousal maintenance, § 6:39

**Tax Consequences** (this index)

### PROPERTY INTEREST

Enforcement of awards, conveyance to  
satisfy arrears, § 8:42

### PROPOSALS

Custody of children, proposals for statu-  
tory factors, § 20:23

Equitable distribution, effect of statement  
of proposed disposition and distribu-  
tion of marital property, § 3:50

### PROTECTIVE ORDERS

Disclosure, § 16:11

### PUBLIC ASSISTANCE

Child Support Standards Act (CSSA),  
§ 7:34

### PUBLICATION

Matrimonial litigation, service of sum-  
mons by publication, § 13:16

### QUALIFICATION OR DISQUALIFICATION

Expert witnesses, § 19:4

### QUALIFIED DOMESTIC RELATIONS ORDER

Equitable distribution, pensions and  
deferred compensation plans, § 5:19

### QUALITY

Custody of children, quality of home  
environment, § 20:16

### RACE

Custody of children, racial considerations,  
§ 20:20

### READINESS

Trial practice, readiness requirements in  
matrimonial actions, § 18:5

### REBUTTABLE PRESUMPTIONS

Child Support Standards Act (CSSA),  
§ 7:36

Pendente lite motions, § 17:37

### RECAPTURE RULE

**Tax Consequences** (this index)

### RECEIVERS AND RECEIVERSHIP

Enforcement of awards, order directing  
sequestration and appointing receiver  
form, § 8:20

### REFUSAL OR DENIAL

Child support award where matrimonial  
relief denied, § 7:4

Spousal maintenance, denial of matrimo-  
nial relief, § 6:37

**Visitation** (this index)

### REHABILITATION

Spousal maintenance, rehabilitative role  
of maintenance, § 6:34

### RELIGION AND RELIGIOUS MATTERS

Custody of children, religious  
considerations, § 20:14

### RELOCATION

Visitation, geographic relocation, § 21:12

### REMARRIAGE

Equitable distribution, barriers, §§ 3:44,  
3:45

Modification of awards, § 9:17

Obstacles or barriers to, §§ 3:44, 3:45,  
6:29

Spousal maintenance, barriers to remar-  
riage, § 6:29

**REPLY**

Pleadings, §§ 15:14, 15:15

**RESIDENCE OR DOMICILE**

Equitable distribution, custodial need for marital residence, § 3:32

Matrimonial litigation, residency requirements, § 13:21

Pendente lite motions, temporary exclusive use and possession of marital residence, § 17:34

**RESTRICTED VISITATION**

Generally, § 21:9

**RESTRICTIONS**

**Limitations and Restrictions** (this index)

**RETAINER AGREEMENTS**

**Equitable Distribution** (this index)

**RETAINER FEES**

Equitable distribution, nonrefundable, § 12:17

**RETIREMENT**

**Equitable Distribution** (this index)

Pensions and deferred compensation plans. **Equitable Distribution** (this index)

Spousal maintenance, modification based on retirement, § 6:30

**RETROACTIVE ACTS OR MATTERS**

Child support award, § 7:3

Equitable distribution, constitutionality and retroactivity of amended statute, §§ 2:1-2:10

Spousal maintenance, retroactivity of award, § 6:35

**REVERSE PARTIAL SUMMARY JUDGMENT**

Pendente lite motions, § 17:54

**SANCTIONS**

Disclosure, motions to compel disclosure and sanctions, § 16:27

**SCHOOLS AND EDUCATION**

**Child Support Standards Act (CSSA)** (this index)

**Equitable Distribution** (this index)

**SECURITY**

**Enforcement of Awards** (this index)

**SECURITY—Cont'd**

Equitable distribution, security for award, educational degrees and professional licenses, § 5:33

**SECURITY INTERESTS**

Equitable distribution, § 12:18

**SELF-EMPLOYMENT**

Child Support Standards Act (CSSA), recapture of self-employment deductions, § 7:31

**SELF-INCRIMINATION PRIVILEGE**

Trial practice, § 18:35

**SELF-SUFFICIENCY**

Spousal maintenance, preparation for self-sufficiency, § 6:43

**SELF-SUPPORT**

Child Support Standards Act (CSSA), lower income litigants, self-support reserve, § 7:57

**Spousal Maintenance** (this index)

**“SELLING” TEAM APPROACH**

Equitable distribution, § 12:13

**“SELLING” TECHNOLOGY ADVANTAGE**

Equitable distribution, § 12:14

**SEPARATE ABODES AND FREEDOM FROM CONTROL**

Generally, § 10:17

**SEPARATE ACTS OR MATTERS**

Agreements. **Separation Agreements** (this index)

**Equitable Distribution** (this index)

**SEPARATION AGREEMENTS**

Acknowledgment and execution, § 10:36

Additional instruments, boiler plate provisions, § 10:25

Address change, notification of, boiler plate provisions, § 10:24

Binding effect of boiler plate provisions, § 10:19

Boiler plate provisions

generally, §§ 10:16-10:29

additional instruments, § 10:25

address change, notification of, § 10:24

binding effect, § 10:19

breach, § 10:21

**SEPARATION AGREEMENTS—Cont’d**

Boiler plate provisions—Cont’d  
change of address, notification of, § 10:24  
division of debts of “hold harmless” provision, § 10:29  
freedom from control, separate abodes and, § 10:17  
governing law, situs and, § 10:23  
“hold harmless” provision, division of debts of, § 10:29  
legal representation, voluntary execution statement of and, § 10:26  
mutual releases, § 10:18  
notification of address change, § 10:24  
partial invalidity, § 10:22  
separate abodes and freedom from control, § 10:17  
side agreements, enforceability, § 10:20  
situs and governing law, § 10:23  
statement of legal representation, voluntary execution and, § 10:26  
subsequent divorce and incorporation, § 10:27  
voluntary execution and statement of legal representation, § 10:26  
waiver of estate claims, § 10:28

Breach  
boiler plate provisions, § 10:21  
negotiation and preparation, § 10:6

Change of address, notification of, boiler plate provisions, § 10:24

Child custody, drafting agreements, § 10:33

Client, preparation for negotiations, § 10:8

Custody of children, drafting agreements, § 10:33

Date. Time or date, below

Disclosure, impact on financial, § 16:32

Division of debts of “hold harmless” provision, § 10:29

Drafting  
generally, §§ 10:13-10:36  
boiler plate provisions, above  
child custody and visitation, § 10:33  
economic provisions, below  
execution and acknowledgment, § 10:36  
form, statement of premises, § 10:15  
premises, statement of, §§ 10:14, 10:15

**SEPARATION AGREEMENTS—Cont’d**

Drafting—Cont’d  
statement of premises, §§ 10:14, 10:15  
style, § 10:13  
visitation, child custody and, § 10:33

Dual representation, § 10:12

Economic provisions  
generally, §§ 10:30-10:32  
child support, § 10:34  
disposition of property, § 10:31  
life insurance, § 10:35  
maintenance, § 10:32  
special relief, § 10:35

Enforcement and enforceability  
boiler plate provisions, side agreements, § 10:20  
negotiation and preparation, § 10:6  
post-equitable distribution agreements, § 10:5  
pre-equitable distribution agreements, § 10:4

Financial information, obtaining, § 10:9

Form, statement of premises, § 10:15

Freedom from control, separate abodes and, § 10:17

Governing law, situs and, § 10:23  
“Hold harmless” provision, division of debts of, § 10:29

Legal representation, voluntary execution statement of and, § 10:26

Mutual releases, boiler plate provisions, § 10:18

Negotiation and preparation  
generally, §§ 10:1-10:36  
breach, § 10:6  
client, preparation for negotiations, § 10:8  
dual representation, § 10:12  
enforcement, § 10:6  
financial information, obtaining, § 10:9  
nature, § 10:2  
objectives, determination of, § 10:10  
post-equitable distribution agreements, validity and enforceability, § 10:5  
practitioner, preparation for marital negotiations, § 10:7  
pre-equitable distribution agreements, validity and enforceability, § 10:4  
psychology of negotiations, § 10:11  
purposes, § 10:2  
statutory framework, § 10:3

**SEPARATION AGREEMENTS—Cont’d**

- Negotiation and preparation—Cont’d
  - validity and enforceability, §§ **10:4**, **10:5**
- Notification of address change, boiler plate provisions, § **10:24**
- Objectives, determination of, § **10:10**
- Partial invalidity, boiler plate provisions, § **10:22**
- Pleadings, verified complaint form, § **15:11**
- Post-equitable distribution agreements, validity and enforceability, § **10:5**
- Practitioner, preparation for marital negotiations, § **10:7**
- Pre-equitable distribution agreements, validity and enforceability, § **10:4**
- Premises, statement of, §§ **10:14**, **10:15**
- Preparation. Negotiation and preparation, above
- Psychology of negotiations, § **10:11**
- Separate abodes and freedom from control, boiler plate provisions, § **10:17**
- Side agreements, enforceability, boiler plate provisions, § **10:20**
- Situs and governing law, boiler plate provisions, § **10:23**
- Statement
  - premises, statement of, §§ **10:14**, **10:15**
  - voluntary execution and statement of legal representation and, § **10:26**
- Statutory framework, negotiation and preparation, § **10:3**
- Style, § **10:13**
- Subsequent divorce and incorporation, boiler plate provisions, § **10:27**
- Time or date
  - post-equitable distribution agreements, validity and enforceability, § **10:5**
  - pre-equitable distribution agreements, validity and enforceability, § **10:4**
- Validity or invalidity
  - boiler plate provisions, partial invalidity, § **10:22**
  - partial invalidity, § **10:22**
  - post-equitable distribution agreements, § **10:5**
  - pre-equitable distribution agreements, § **10:4**
- Visitation, child custody and, § **10:33**

**SEPARATION AGREEMENTS—Cont’d**

- Voluntary execution and statement of legal representation, boiler plate provisions, § **10:26**
- Waiver of estate claims, boiler plate provisions, § **10:28**

**SEPARATION JUDGMENTS**

- Pendente lite motions, affect on pendente lite award, § **17:28**
- Pleadings, verified complaint form, § **15:10**

**SEQUESTRATION**

- Enforcement of Awards** (this index)

**SETTLEMENT**

- Trial practice, stipulations of settlement, §§ **18:54**, **18:55**

**SEX AND SEXUAL MATTERS**

- Equitable distribution, sexual relationship with client, § **12:30**

**SHOW CAUSE ORDERS**

- Enforcement of Awards** (this index)
- Modification of awards, hearing, § **9:21**
- Motion practice, notice and service requirements, § **17:6**

**SIBLINGS**

- Custody of children, separation of siblings, § **20:17**
- Joint custody, § **21:15**

**SIDE AGREEMENTS**

- Separation agreements, enforceability, § **10:20**

**SITUS**

- Place or Location** (this index)

**SIX-YEAR RULE AND RECAPTURE**

- Tax consequences, support payments, § **11:16**

**SOCIAL WORKER-CLIENT PRIVILEGE**

- Trial practice, § **18:40**

**SOURCE**

- Equitable distribution, separate property by source, § **3:12**

**“SOURCE OF FUNDS” APPROACH**

- Equitable distribution, § **3:10**



## INDEX

### **SPECIAL NEEDS OF CHILD**

Child Support Standards Act (CSSA),  
§ 7:41

### **SPLIT CUSTODY**

**Joint Custody** (this index)

### **SPOUSAL COMMUNICATIONS**

Trial practice, § 18:36

### **SPOUSAL MAINTENANCE**

Generally, §§ 6:2-6:51

Alimony, limitations, § 6:33

Allocation of family expenses, § 6:16

Amendment or modification

DRL § 248, § 6:31

statutory temporary and post-divorce  
maintenance, below

Appellate review, § 6:51

Barriers to remarriage, § 6:29

Catch-all provision, § 6:49

Change. Amendment or modification,  
above

Children, presence of, § 6:44

Computational method, deviations from,  
§ 6:12

Content of decision, § 6:50

Date. Time or date, below

Defaults and non-disclosure, statutory  
temporary and post-divorce maintenance,  
§ 6:14, § 6:27

Definitions, §§ 6:2, 6:7, 6:20

Denial of matrimonial relief, maintenance  
award, § 6:37

Disclosure, statutory temporary and post-  
divorce maintenance, § 6:14, § 6:27

Duration

maintenance award, § 6:36

marriage, § 6:40

post-divorce maintenance award,  
§ 6:24

temporary maintenance, § 6:11

Earning capacity of each party, § 6:41

Effective date

award, § 6:35

statutory temporary and post-divorce  
maintenance, § 6:32

Enhanced earnings no longer marital  
property, § 6:5

Family expenses, allocation of, § 6:16

Form of awards, §§ 6:51, 6:54

Formulae, deviation from, § 6:23

### **SPOUSAL MAINTENANCE—Cont'd**

Income and property, § 6:39

Insurance

life insurance, § 6:53

medical insurance, § 6:52

Life insurance, § 6:53

Limitations of alimony, § 6:33

Maintenance determinations

generally, §§ 6:38-6:49

catch-all provision, § 6:49

children, presence of, § 6:44

duration of marriage, § 6:40

earning capacity of each party, § 6:41

income and property, § 6:39

marital fault, § 6:49

marital standard of living, § 6:45

preparation or self-sufficiency, § 6:43

presence of children, § 6:44

property and income, § 6:39

self-sufficiency, preparation for, § 6:43

self-supporting capacity, § 6:42

spousal contributions, § 6:47

standard of living during marriage,  
§ 6:45

status of parties, § 6:40

tax consequences, § 6:46

wasteful dissipation of family assets,  
§ 6:48

Marital fault, § 6:49

Marital standard of living, § 6:45

Medical insurance, § 6:52

Methodology, statutory temporary and  
post-divorce maintenance, § 6:8,  
§ 6:21

Modification. Amendment or modifica-  
tion, above

Modification. Statutory temporary and  
post-divorce maintenance, below

Non-disclosure, statutory temporary and  
post-divorce maintenance, § 6:14,  
§ 6:27

Opt-out right, statutory temporary and  
post-divorce maintenance, §§ 6:6,  
6:13, 6:19, 6:26

Opt-out right preserved, statutory  
temporary and post-divorce mainte-  
nance, §§ 6:6, 6:19, 6:26

Orders, modification of statutory  
temporary and post-divorce mainte-  
nance, § 6:15, § 6:28

Over-the-cap payor income, §§ 6:9, 6:22

**SPOUSAL MAINTENANCE—Cont'd**

Post-divorce maintenance. Statutory temporary and post-divorce maintenance, below

Prejudice to post-divorce maintenance award, absence of, § 6:17

Preparation or self-sufficiency, § 6:43

Presence of children, § 6:44

Preservation of opt-out right, §§ 6:6, 6:19, 6:26

Property and income, § 6:39

Purpose, § 6:2

Rehabilitative role of maintenance, § 6:34

Remarriage, barriers to, § 6:29

Retirement, modification based on, § 6:30

Retroactivity of award, § 6:35

Right to opt-out, §§ 6:6, 6:13, 6:19, 6:26

Self-sufficiency, preparation for, § 6:43

Self-supporting capacity, § 6:42

reserve, § 6:10

Special relief, §§ 6:52-6:54

Spousal contributions, § 6:47

Standard of living during marriage, § 6:45

Status of parties, § 6:40

Statutory factors, § 6:38

Statutory temporary and post-divorce maintenance

agreements, modification of, §§ 6:15, 6:28

allocation of family expenses, § 6:16

amendment of DRL § 248, § 6:31

barriers to remarriage, § 6:29

computational method, deviations from, § 6:12

dates, effective dates, § 6:32

defaults and non-disclosure, § 6:14, § 6:27

definitional change, § 6:4

definitions, § 6:7, § 6:20

duration

post-divorce maintenance award, § 6:24

temporary maintenance, § 6:11

effective dates, § 6:32

enhanced earnings no longer marital property, § 6:5

family expenses, allocation of, § 6:16

formulae, deviation from, § 6:23

limitations of alimony, § 6:33

methodology, § 6:8, § 6:21

**SPOUSAL MAINTENANCE—Cont'd**

Statutory temporary and post-divorce maintenance—Cont'd

modification

agreements, §§ 6:15, 6:28

orders and agreements, §§ 6:15, 6:28

retirement, modification based on, § 6:30

non-disclosure, § 6:14, § 6:27

opt-out right, §§ 6:6, 6:13, 6:19, 6:26

opt-out right preserved, §§ 6:6, 6:19, 6:26

orders, modification of, §§ 6:15, 6:28

over-the-cap payor income, §§ 6:9, 6:22

post-divorce maintenance, § 6:18

prejudice to post-divorce maintenance award, absence of, § 6:17

preservation of opt-out right, §§ 6:6, 6:19, 6:26

remarriage, barriers to, § 6:29

retirement, modification based on, § 6:30

right to opt-out, §§ 6:6, 6:13, 6:19, 6:26

self-support reserve, § 6:10

underrepresented parties, § 6:25

Tax consequences, § 6:46

Temporary maintenance. Statutory temporary and post-divorce maintenance, below

Time or date

duration, above

effective date, above

post-divorce maintenance. Statutory temporary and post-divorce maintenance, above

retroactivity of award, § 6:35

2015 Statutory temporary and post-divorce maintenance. Statutory temporary and post-divorce maintenance, above

Underrepresented parties, § 6:25

Wasteful dissipation of family assets, § 6:48

**SSI**

Child Support Standards Act (CSSA), § 7:34

**STANDARD OF LIVING**

Child Support Standards Act (CSSA), pre-separation standard of living, § 7:42

## INDEX

### **STANDARD OF LIVING—Cont'd**

Spousal maintenance, § 6:45

### **STATEMENTS**

**Equitable Distribution** (this index)

**Separation Agreements** (this index)

### **STATE OF NET WORTH**

Sample form, § 12:25

### **STATUTE OF LIMITATIONS**

**Limitation of Actions** (this index)

### **STATUTES**

Child support, statutory reference points,  
§ 7:2

Custody of children, proposals for statu-  
tory factors, § 20:23

**Equitable Distribution** (this index)

### **STATUTORY ACTS OR MATTERS**

Disclosure, statutory temporary and post-  
divorce maintenance, § 6:14, § 6:27

Separation agreements, statutory  
framework, § 10:3

Spousal maintenance, factors, § 6:38

Tax consequences, statutory contempla-  
tion, § 11:3

Temporary and post-divorce maintenance.  
**Spousal Maintenance** (this index)

### **STEPPARENTS AND STEPCHILDREN**

Child support, liability, § 7:9

### **STIPULATIONS**

Trial practice, settlement, §§ 18:54, 18:55

### **STOCK OPTIONS**

Equitable distribution, pensions and  
deferred compensation plans, § 5:11

### **STUDENT SPOUSE-WORKING SPOUSE**

Equitable distribution, educational  
degrees and professional licenses,  
§ 5:26

### **SUBPOENA**

Witnesses, compulsory attendance of,  
form, § 18:20

### **SUBPOENA DUCES TECUM**

Witnesses, compulsory attendance of,  
form, § 18:21

### **SUBSEQUENT ACTS OR MATTERS**

Separation agreements, subsequent  
divorce and incorporation, § 10:27

### **SUBSTANCE ABUSE**

Custody of children, abuse of alcohol and  
drugs, § 20:8

### **SUMMARY JUDGMENT**

**Pendente Lite Motions** (this index)

### **SUMMONS**

**Matrimonial Litigation** (this index)

### **SUPERVISED AND RESTRICTED VISITATION**

Generally, § 21:9

### **SUPPORT COLLECTION UNIT**

Enforcement of awards, income deduction  
order, § 8:24

### **SUPPORT OF PERSONS**

**Child Support** (this index)

### **SUPPORT PAYMENTS**

**Tax Consequences** (this index)

### **SUPREME COURT**

Matrimonial litigation, jurisdiction, § 13:2

### **TAX CONSEQUENCES**

Generally, §§ 11:1-11:25

Child care credit, § 11:23

Child support

Child Support Standards Act (CSSA),  
§ 7:43

excess front loading and recapture  
under Tax Reform Act of 1986,  
§ 11:18

unallocated spousal and child support,  
§ 11:14

Child Support Standards Act (CSSA),  
§ 7:43

Date. Time or date, below

Davis rule, property transfers, § 11:5

Dependency exemptions

child care credit, § 11:23

deductions for medical expenses,  
§ 11:24

entitlement under DRTR, § 11:20

head of household status, § 11:22

innocent spouse rule, § 11:25

marital status and joint returns, § 11:21

**TAX CONSEQUENCES—Cont'd**

Dependency exemptions—Cont'd  
     medical expenses, deductions for, § 11:24  
     pre-DRTR rules, § 11:19  
 Domestic Relations Tax Reform of 1984 (DRTR), generally, §§ 11:4, 11:6-11:11  
 Effective date, interspousal transfers, § 11:9  
**Equitable Distribution** (this index)  
 Estate tax treatment, interspousal transfers, § 11:7  
 Excess front-loading, support payments, §§ 11:16-11:18  
 Exemptions. Dependency exemptions, above  
 Expert witnesses, sample point brief, § 19:20  
 Gift tax treatment, interspousal transfers, § 11:7  
 Head of household status, § 11:22  
 Innocent spouse rule, § 11:25  
 Interspousal transfers  
     generally, §§ 11:6-11:11  
     DRTR of 1984, §§ 11:6-11:11  
     effective dates, § 11:9  
     gift and estate tax treatment, § 11:7  
     IRC Section 1041, application and election under, §§ 11:8, 11:9  
     preexisting instrument, election regarding, form, § 11:11  
     transfers after 1983, election regarding, form, § 11:10  
     transition period, § 11:9  
 IRC Section 1041, application and election under interspousal transfers, §§ 11:8, 11:9  
 Joint returns, marital status and, § 11:21  
 Lester rule, support payments, § 11:14  
 Marital status and joint returns, § 11:21  
 Medical expenses, deductions for, § 11:24  
 Pre-Domestic Relations Tax Reform rules, § 11:19  
     support payments, treatment of, §§ 11:13, 11:14  
     transfers, § 11:5  
 Preexisting instrument, election regarding, form, § 11:11  
 Property transfers  
     generally, §§ 11:5-11:11

**TAX CONSEQUENCES—Cont'd**

Property transfers—Cont'd  
     Davis rule, § 11:5  
     interspousal transfers, above  
     pre-DRTR transfers, § 11:5  
 Recapture rule  
     child support, § 11:18  
     excess front loading, §§ 11:17, 11:18  
     six-year rule, § 11:16  
     support payments, §§ 11:16-11:18  
 Returns, joint, § 11:21  
 Role of tax law in matrimonial practice, § 11:2  
 Scope of chapter, § 11:1  
 Six-year rule and recapture, support payments, § 11:16  
 Spousal maintenance, § 6:46  
 Statutory contemplation of, § 11:3  
 Support payments  
     generally, §§ 11:12-11:18  
     child support, payments treated as, excess front loading and recapture under Tax Reform Act of 1986, § 11:18  
     excess front-loading and recapture, §§ 11:16-11:18  
     historical perspective, § 11:12  
     Lester rule, § 11:14  
     pre-DRTR treatment, §§ 11:13, 11:14  
     six-year rule and recapture, § 11:16  
     treatment of support payments under DRTR, §§ 11:15, 11:16  
     unallocated spousal and child support, § 11:14  
 Time or date  
     interspousal transfers, effective date, § 11:9  
     pre-Domestic Relations Tax Reform, above  
 Transfers  
     interspousal transfers, above  
     property transfers, above  
 Treatment of support payments under DRTR, §§ 11:15, 11:16  
 Unallocated spousal and child support, § 11:14  
 Witnesses, expert, sample point brief, § 19:20

**TECHNOLOGY**

**Equitable Distribution** (this index)

## INDEX

### TEMPORARY ACTS OR MATTERS

- Child Support** (this index)
- Counsel fees. **Pendente Lite Motions** (this index)
- Exclusive use and possession of marital property. **Pendente Lite Motions** (this index)
- Litigation expenses. **Pendente Lite Motions** (this index)
- Maintenance. **Pendente Lite Motions** (this index)
- Pendente Lite Motions** (this index)
- Use and possession of marital property. **Pendente Lite Motions** (this index)

### TENDER YEARS PRESUMPTION

- Custody of children, § 20:3

### TERMINATION OR CANCELLATION

- Child support, other bases for termination, § 7:10
- Joint custody arrangements, § 21:5

### THERAPY

- Visitation in conjunction with therapy, § 21:10

### TIME OR DATE

- Business valuations. **Expert Witnesses** (this index)
- Child Support** (this index)
- Duration** (this index)
- Effective Date** (this index)
- Enforcement of awards, duration of income deduction order, § 8:26
- Equitable Distribution** (this index)
- Initial Acts or Matters** (this index)
- Interim Acts or Matters** (this index)
- Pendente Lite Motions** (this index)
- Postcommencement acquisitions, equitable distribution, § 3:8
- Post-equitable distribution agreements, separation agreements, § 10:5
- Pretrial Acts or Matters** (this index)
- Retroactive Acts or Matters** (this index)
- Separation Agreements** (this index)
- Spousal Maintenance** (this index)
- Tax Consequences** (this index)
- Temporary Acts or Matters** (this index)

### TIMING

- Pendente lite motions, § 17:16

### TITLE AND OWNERSHIP

- Equitable distribution, title distribution, § 1:4

### TOTALITY OF CIRCUMSTANCES

- Custody of children, § 20:4

### TRADE SECRETS

- Trial practice, § 18:43

### TRANSCRIPTS

- Depositions, § 16:18

### TRANSFERS

- Equitable distribution, fraudulent transfers and encumbrances, § 3:41
- Interspousal. **Tax Consequences** (this index)
- Tax Consequences** (this index)

### TRANSMUTATION

- Equitable Distribution** (this index)

### TRIAL BRIEFS

- Expert witnesses, pretrial preparation, § 19:12

### TRIAL DETERMINATION

- Pendente lite motions, interrelationship between pendente lite award and, § 17:31

### TRIAL PRACTICE

- Generally, §§ 18:1-18:56
- Acknowledgement of stipulation form, § 18:55
- Attorney-client communications, § 18:37
- Business records, evidentiary issues, § 18:50
- Calendar control conference, § 18:13
- Calendar practice
  - generally, §§ 18:2-18:14
  - calendar control conference, § 18:13
  - demand
    - note of issue, demand for filing, § 18:10
    - trial by jury, § 18:12
  - governing authority, § 18:2
  - jury, demand for trial by, § 18:12
  - motion to strike note of issue, § 18:9
  - note of issue
    - generally, §§ 18:3-18:7
    - demand for filing, § 18:10
    - forms, §§ 18:4, 18:7
    - motion to strike note of issue, § 18:9

**TRIAL PRACTICE—Cont'd**

Calendar practice—Cont'd  
 note of issue—Cont'd  
     readiness requirements in matrimonial actions, § 18:5  
     statement of proposed disposition, §§ 18:6, 18:7  
 pretrial conference, § 18:14  
 readiness requirements in matrimonial actions, note of issue, § 18:5  
 statement of proposed disposition, note of issue, §§ 18:6, 18:7  
 trial preference, § 18:8  
 Clergy-communicant, § 18:41  
 Clients  
     attorney-client communications, § 18:37  
     physician-client privilege, § 18:39  
     pretrial preparation, § 18:16  
     social worker-client privilege, § 18:40  
 Closure of matrimonial trials, § 18:53  
 Cross-examination, § 18:30  
 Demand. Calendar practice, above  
 Direct examination, §§ 18:28, 18:29  
 Eavesdropping evidence, § 18:44  
 Evidentiary issues  
     generally, §§ 18:33-18:51  
     authority, § 18:33  
     business records, § 18:50  
     eavesdropping evidence, § 18:44  
     **Expert Witnesses** (this index)  
     impeachment evidence, § 18:51  
     prior inconsistent statements, § 18:52  
     privileges, §§ 18:34-18:43  
     **Witnesses** (this index)  
 File organization, pretrial preparation, § 18:15  
 Findings of fact and conclusions of law, § 18:56  
 Forms  
     acknowledgement of stipulation, § 18:55  
     note of issue, §§ 18:4, 18:7  
     statement of proposed disposition, § 18:7  
     **Witnesses** (this index)  
 Governing authority, calendar practice, § 18:2  
 Impeachment evidence, § 18:51  
**Jury and Jury Trial** (this index)  
 Motion to strike note of issue, § 18:9

**TRIAL PRACTICE—Cont'd**

Note of issue. Calendar practice, above  
 Objections, § 18:31  
 Outline, §§ 18:26, 18:27  
 Parent-child communications, § 18:42  
 Physician-client privilege, § 18:39  
 Physician-patient privilege, § 18:38  
 Preferences, calendar practice, § 18:8  
 Pretrial conference, § 18:14  
 Pretrial preparation  
     generally, §§ 18:15-18:23  
     client preparation, § 18:16  
     compulsory attendance of witnesses.  
     **Witnesses** (this index)  
     file organization, § 18:15  
     preparation of client, § 18:16  
     **Witnesses** (this index)  
 Prior inconsistent statements, § 18:52  
 Privileges, evidentiary issues, §§ 18:34-18:43  
 Proposed findings of fact and conclusions of law, § 18:56  
 Readiness requirements in matrimonial actions, § 18:5  
 Sample direct examination, § 18:29  
 Sample trial outline, § 18:27  
 Scope of chapter, § 18:1  
 Self-incrimination privilege, § 18:35  
 Sequence, § 18:25  
 Settlement, stipulations of, §§ 18:54, 18:55  
 Social worker-client privilege, § 18:40  
 Spousal communications, § 18:36  
 Statements  
     prior inconsistent statements, § 18:52  
     statement of proposed disposition, §§ 18:6, 18:7  
 Stipulations of settlement, §§ 18:54, 18:55  
 Submission of proposed findings, §§ 18:55, 18:56  
 Trade secrets, § 18:43  
 Trial, generally, §§ 18:24-18:32  
 Trial motions, § 18:32  
**Witnesses** (this index)

**TUITION**

Equitable distribution, valuation of tuition benefits, pensions and deferred compensation plans, § 5:3



## INDEX

### ULTIMATE ISSUE RULE

Expert witnesses, § 19:7

### UNDERREPRESENTED PARTIES

Spousal maintenance, § 6:25

### UNIFORM INTERSTATE FAMILY SUPPORT ACT

Generally, § 7:63

### UNIFORM RULES

**Matrimonial Litigation** (this index)

### UNREPRESENTED PARTIES

Child Support Standards Act (CSSA), § 7:51

### USE, OCCUPANCY AND ENJOYMENT

**Pendente Lite Motions** (this index)

### VACATUR

Enforcement of awards, New York State Support Enforcement Act of 1985, income execution for support enforcement, § 8:48

### VALIDITY OR INVALIDITY

**Separation Agreements** (this index)

### VALUE AND VALUATION

Business valuations. **Expert Witnesses** (this index)

**Equitable Distribution** (this index)

### VENUE

Matrimonial litigation, § 13:22

### VERIFIED COMPLAINT

**Pleadings** (this index)

### VISITATION

Generally, §§ 21:6-21:12

Child's preference, § 21:8

Denial of visitation

generally, §§ 21:7-21:10

child's preference, § 21:8

enforcement of awards, defenses, § 8:7

money judgments, § 8:7

preference of child, § 21:8

supervised and restricted visitation, § 21:9

therapy, visitation in conjunction with, § 21:10

Enforcement of awards, denial of visitation as defense, § 8:7

Geographic relocation, § 21:12

### VISITATION—Cont'd

Interference with visitation, § 21:11

Preference of child, § 21:8

Supervised and restricted visitation, § 21:9

Therapy, visitation in conjunction with, § 21:10

### VOLUNTARY ACTS OR MATTERS

Separation agreements, voluntary execution and statement of legal representation, § 10:26

### WAIVER

**Enforcement of Judgments** (this index)

Separation agreements, waiver of estate claims, § 10:28

### WASTE

Equitable distribution, wasteful dissipation of marital property, § 3:40

Spousal maintenance, wasteful dissipation of family assets, § 6:48

### WILLFUL ACTS OR MATTERS

Enforcement of awards, willful default, contempt, § 8:30

### WISCONSIN FORMULA

Child Support Standards Act (CSSA), § 7:17

### WITNESSES

Attendance. Compulsory attendance of witnesses, below

Compulsory attendance of witnesses generally, §§ 18:19-18:21

legal preparation, § 18:23

notice to produce, § 18:22

subpoena duces tecum form, § 18:21

subpoena form, § 18:20

**Expert Witnesses** (this index)

Forms

subpoena, § 18:20

subpoena duces tecum form, § 18:21

Pretrial preparation

compulsory attendance of witnesses, above

expert witnesses, § 18:18

nonparty witnesses, §§ 18:17, 18:18

Subpoena duces tecum form, § 18:21

Subpoena form, § 18:20

**WORDS AND PHRASES**

**Equitable Distribution** (this index)  
Spousal maintenance, §§ **6:2, 6:7, 6:20**

**WRITINGS AND WRITTEN**

**INSTRUMENTS**

Child Support Standards Act (CSSA),  
written order requirement, § **7:38**

**WRITINGS AND WRITTEN**

**INSTRUMENTS—Cont'd**

Equitable distribution, written retainer  
agreements, § **12:16**