

Table of Contents

CHAPTER 1. ABUSE OF PROCESS ACTIONS

I. TEXT

- § 1:1 Elements of action
- § 1:2 Authority
- § 1:3 Remedies—Compensatory damages
- § 1:4 —Punitive damages
- § 1:5 Limitation of actions—Statute of limitations
- § 1:6 Defenses—Limitations
- § 1:7 —No misuse of process
- § 1:8 —Advice of counsel
- § 1:9 —Judicial statements privilege
- § 1:10 Checklists

II. FORMS

- § 1:11 Sample trial court documents—Sample complaint
- § 1:12 —Sample answer containing affirmative defenses

CHAPTER 2. ANIMAL ACTIONS—DOG BITES

I. TEXT

- § 2:1 Elements of action
- § 2:2 Authority
- § 2:3 Remedies—Compensatory damages
- § 2:4 —Punitive damages
- § 2:5 Limitation of actions—Statute of limitations
- § 2:6 Defenses—Limitations
- § 2:7 —Contributory negligence
- § 2:8 —Assumption of risk
- § 2:9 Checklists

II. FORMS

- § 2:10 Sample trial court documents—Sample complaint
- § 2:11 Jury verdict summaries—\$3500 verdict in dog bite case
- § 2:12 —\$56K verdict in case involving dog bite of minor
- § 2:13 —\$50K settlement in dog bite case

CHAPTER 3. BUSINESS TORTS— INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS

I. TEXT

- § 3:1 Elements of action
- § 3:2 Authority
- § 3:3 Verdict forms
- § 3:4 Remedies—Compensatory damages
- § 3:5 —Punitive damages
- § 3:6 Limitation of actions—Statute of limitations
- § 3:7 Defenses—Limitations
- § 3:8 —Good faith
- § 3:9 —Privilege
- § 3:10 —Noerr-Pennington Doctrine
- § 3:11 Checklists

II. FORMS

- § 3:12 Sample trial court documents—Sample complaint
- § 3:13 —Sample answer containing affirmative defenses
- § 3:14 —Sample counterclaim
- § 3:15 Sample jury instructions (including special verdict form)

CHAPTER 4A. CONTRACT ACTIONS— BREACH OF CONTRACT

I. TEXT

- § 4A:1 Elements of action
- § 4A:2 Authority
- § 4A:3 Verdict forms
- § 4A:4 Remedies—Compensatory damages
- § 4A:5 —Punitive damages
- § 4A:6 Limitation of actions—Statute of limitations
- § 4A:7 Defenses—Arbitration
- § 4A:8 —Limitations
- § 4A:9 —Waiver of breach
- § 4A:10 —Discharge of contract by breach
- § 4A:11 —Lack of consideration
- § 4A:12 —Other defenses
- § 4A:13 Checklists

II. FORMS

- § 4A:14 Sample trial court documents—Sample complaint

TABLE OF CONTENTS

- § 4A:15 —Sample answer and counterclaim
- § 4A:16 —Sample answer containing affirmative defenses
- § 4A:17 —Sample jury instructions
- § 4A:18 —Sample jury instructions and jury verdict form
- § 4A:19 Jury verdict summaries—\$4.1M verdict for plaintiff
in breach of contract and fraud case in connection
with a land lease
- § 4A:20 —\$180K verdict for plaintiff in breach of contract
and fraud case in connection with a home
construction contract
- § 4A:21 —Defense verdict on claim for breach of contract in
connection with insurance policy

CHAPTER 4B. CONTRACT ACTIONS— PROMISSORY ESTOPPEL

I. TEXT

- § 4B:1 Elements of action
- § 4B:2 Authority
- § 4B:3 Verdict forms
- § 4B:4 Remedies—Compensatory damages
- § 4B:5 —Punitive damages
- § 4B:6 Limitation of actions—Statute of limitations
- § 4B:7 Defenses—Limitations
- § 4B:8 —Lack of reasonable reliance
- § 4B:9 —Lack of promise
- § 4B:10 Checklists

II. FORMS

- § 4B:11 Sample trial court documents—Sample complaint
- § 4B:12 —Sample answer and containing affirmative
defenses
- § 4B:13 —Sample jury instructions
- § 4B:14 —Sample jury verdict form

CHAPTER 5. DRAM SHOP LIABILITY ACTIONS

I. TEXT

- § 5:1 Elements of action
- § 5:2 Authority
- § 5:3 Remedies—Compensatory damages
- § 5:4 —Punitive damages
- § 5:5 Limitation of actions—Statute of limitations
- § 5:6 Defenses—Limitations

- § 5:7 —Contributory negligence
- § 5:8 Checklists

II. FORMS

- § 5:9 Sample trial court documents—Sample complaint
- § 5:10 —Sample answer containing affirmative defenses
- § 5:11 —Sample jury instructions
- § 5:12 Jury verdict summaries—\$2 million verdict for plaintiff in case involving dram shop liability
- § 5:13 —\$10.5M settlement in wrongful death case involving tavern negligence
- § 5:14 —Intoxicated teenager on side of interstate killed by drunk driver

CHAPTER 6. EMPLOYMENT ACTIONS—WRONGFUL DISCHARGE

I. TEXT

- § 6:1 Elements of action
- § 6:2 Authority
- § 6:3 Verdict forms
- § 6:4 Remedies—Compensatory damages
- § 6:5 —Punitive damages
- § 6:6 Limitation of actions—Statute of limitations
- § 6:7 Defenses—Limitations
- § 6:8 —After-acquired evidence of wrongdoing
- § 6:9 Checklists

II. FORMS

- § 6:10 Sample trial court documents—Sample complaint
- § 6:11 —Sample answer containing affirmative defenses
- § 6:12 —Sample jury instructions and special verdict form
- § 6:13 Jury verdict summaries—\$120K verdict in wrongful discharge of police officer
- § 6:14 —\$59K verdict in wrongful discharge of female comptroller
- § 6:15 —\$770K verdict in case involving wrongful discharge and age discrimination of female flight attendant

CHAPTER 7. FALSE IMPRISONMENT

I. TEXT

- § 7:1 Elements of action
- § 7:2 Authority
- § 7:3 Remedies—Compensatory damages

TABLE OF CONTENTS

- § 7:4 —Punitive damages
- § 7:5 Limitation of actions—Statute of limitations
- § 7:6 Defenses—Limitations
- § 7:7 —Existence of probable cause
- § 7:8 —Existence of authority or duty
- § 7:9 —Judicial process
- § 7:10 —Means of escape
- § 7:11 —Shopkeepers' privilege
- § 7:12 Checklists

II. FORMS

- § 7:13 Sample trial court documents—Sample complaint
- § 7:14 —Sample answer containing affirmative defenses
- § 7:15 —Sample jury instructions
- § 7:16 Jury verdict summaries—\$1K verdict for plaintiff
falsely accused of jumping airport security
- § 7:17 —\$5K verdict for plaintiff falsely accused of stealing
clothing
- § 7:18 —Defense verdict against plaintiff who alleged that
she was improperly detained and humiliated by store
personnel

CHAPTER 8. BREACH OF FIDUCIARY DUTIES

I. TEXT

- § 8:1 Elements of action
- § 8:2 Authority
- § 8:3 —Corporate opportunity doctrine
- § 8:4 Remedies—Compensatory damages
- § 8:5 —Punitive damages
- § 8:6 Limitation of actions—Statute of limitations
- § 8:7 Defenses—Limitations
- § 8:8 Checklists

II. FORMS

- § 8:9 Sample trial court documents—Sample complaint
- § 8:10 —Sample answer containing affirmative defenses
- § 8:11 —Sample answer and counterclaim
- § 8:12 —Sample jury instructions

CHAPTER 9. FRAUD ACTIONS

I. TEXT

- § 9:1 Elements of action

- § 9:2 Authority
- § 9:3 Verdict forms
- § 9:4 Remedies—Compensatory damages
- § 9:5 —Punitive damages
- § 9:6 Limitation of actions—Statute of limitations
- § 9:7 Defenses—Limitations
- § 9:8 —Unreasonable reliance
- § 9:9 —Lack of causation
- § 9:10 Checklists

II. FORMS

- § 9:11 Sample trial court documents—Sample complaint
- § 9:12 —Sample answer
- § 9:13 —Sample answer containing affirmative defenses
- § 9:14 —Sample answer and counterclaim
- § 9:15 —Sample jury instructions
- § 9:16 —Sample jury verdict form
- § 9:17 Jury verdict summaries—\$28.4M verdict for plaintiff
for fraud in connection with insurance policy limits
- § 9:18 —\$6.8M verdict for plaintiff in connection with bank
financing agreement
- § 9:19 —\$12K settlement for fraud in connection with sale of
real estate

CHAPTER 10. GOVERNMENT TORT LIABILITY

I. TEXT

- § 10:1 Elements of action
- § 10:2 Authority
- § 10:3 Remedies—Compensatory damages
- § 10:4 —Punitive damages
- § 10:5 Limitation of actions—Statute of limitations
- § 10:6 Defenses—Limitations
- § 10:7 —Immunity
- § 10:8 *Ex parte Young* exception
- § 10:9 Checklists

II. FORMS

- § 10:10 Sample trial court documents—Sample complaint
- § 10:11 —Sample answer
- § 10:12 —Sample answer containing affirmative defenses
- § 10:13 —Sample jury instructions
- § 10:14 Jury verdict summaries—\$44K verdict for plaintiff in
premises liability case

TABLE OF CONTENTS

- § 10:15 —\$120.5K verdict for plaintiff in wrongful discharge
of police officer

CHAPTER 11. INSURANCE BAD FAITH ACTIONS

I. TEXT

- § 11:1 Elements of action
§ 11:2 Authority
§ 11:3 Verdict forms
§ 11:4 Remedies—Compensatory damages
§ 11:5 —Punitive damages
§ 11:6 Limitation of actions—Statute of limitations
§ 11:7 Defenses—Limitations
§ 11:8 —Conduct of insured
§ 11:9 —Misrepresentation of insured
§ 11:10 —Advice of counsel
§ 11:11 Checklists

II. FORMS

- § 11:12 Sample trial court documents—Sample complaint
§ 11:13 —Sample answer containing affirmative defenses
§ 11:14 —Sample jury instructions and jury verdict form
§ 11:15 Jury verdict summaries—\$30K verdict for plaintiff in
bad faith case involving delay in tender of policy
limits
§ 11:16 —\$3.8M verdict for plaintiff where insurer delayed
payment in medical malpractice case
§ 11:17 —\$278K verdict for plaintiff where insurer refused to
pay suspicious burglary claim
§ 11:18 —Defense verdict where injuries were unrelated to
accident
§ 11:19 —Defense verdict where medical treatment neither
reasonable or necessary

CHAPTER 12. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (OUTRAGE)

I. TEXT

- § 12:1 Elements of action
§ 12:2 Authority
§ 12:3 Verdict forms
§ 12:4 Remedies—Compensatory damages
§ 12:5 —Punitive damages
§ 12:6 Limitation of actions—Statute of limitations

- § 12:7 Defenses—Limitations
- § 12:8 Checklists

II. FORMS

- § 12:9 Sample trial court documents—Sample complaint
- § 12:10 —Sample answer containing affirmative defenses
- § 12:11 —Sample jury instructions
- § 12:12 —Sample jury verdict form
- § 12:13 Jury verdict summaries—\$126K verdict for plaintiff including \$75K in punitive damages for tortious sale of pet horse
- § 12:14 —\$75K verdict for plaintiff in sexual harassment case
- § 12:15 —\$130K verdict for plaintiff in case involving Fair Credit Reporting Act

CHAPTER 13. LIBEL AND SLANDER ACTIONS (DEFAMATION)

I. TEXT

- § 13:1 Elements of action
- § 13:2 Authority
- § 13:3 Verdict forms
- § 13:4 Remedies—Compensatory damages
- § 13:5 —Punitive damages
- § 13:6 Limitation of actions—Statute of limitations
- § 13:7 Defenses—Limitations
- § 13:8 —Truth of statement; opinion
- § 13:9 —Privilege
- § 13:10 —Uniform Public Expression Protection Act (UPEPA) anti-SLAPP law
- § 13:11 Slander of title to property
- § 13:12 Checklists

II. FORMS

- § 13:13 Sample trial court documents—Sample complaint
- § 13:14 —Sample answer containing affirmative defenses
- § 13:15 —Sample counterclaim
- § 13:16 —Sample jury instructions
- § 13:17 —Sample jury verdict form
- § 13:18 Jury verdict summaries—\$35K verdict for plaintiff on defamation claim
- § 13:19 —Defense verdict; good faith and belief that allegation was true
- § 13:20 —Defense verdict; actual malice standard applied in claim involving defamation of television talk show host

TABLE OF CONTENTS

CHAPTER 14. MALICIOUS PROSECUTION

I. TEXT

- § 14:1 Elements of action
- § 14:2 Authority
- § 14:3 Verdict forms
- § 14:4 Remedies—Compensatory damages
- § 14:5 —Punitive damages
- § 14:6 Limitation of actions—Statute of limitations
- § 14:7 Defenses—Limitations
- § 14:8 —Advice of counsel
- § 14:9 —Existence of probable cause
- § 14:10 —Judicial statements privilege
- § 14:11 Checklists

II. FORMS

- § 14:12 Sample trial court documents—Sample complaint
- § 14:13 —Sample answer
- § 14:14 —Sample counterclaim
- § 14:15 —Sample jury instructions
- § 14:16 —Sample jury instructions and jury verdict form
- § 14:17 Jury verdict summaries—\$2.2M verdict for plaintiff against insurance company in connection with fire insurance claim
- § 14:18 —\$43K verdict for plaintiff for malicious prosecution in connection with a verbal altercation
- § 14:19 —Defense verdict in case of malicious prosecution for improper handling of money in connection with condominium council
- § 14:20 —Defense verdict in connection with presentment of bad checks

CHAPTER 15. MEDICAL MALPRACTICE

I. TEXT

- § 15:1 Elements of action
- § 15:2 Authority
- § 15:3 Verdict forms
- § 15:4 Remedies—Compensatory damages
- § 15:5 —Loss of consortium damages
- § 15:6 —Punitive damages
- § 15:7 Limitation of actions—Statute of limitations
- § 15:8 Defenses—Limitations
- § 15:9 —Contributory negligence
- § 15:10 —Assumption of risk
- § 15:11 Checklists

II. FORMS

- § 15:12 Sample trial court documents—Sample complaint
- § 15:13 —Sample answer
- § 15:14 —Sample answer containing affirmative defenses
- § 15:15 —Sample jury instructions
- § 15:16 —Sample jury verdict form
- § 15:17 Jury verdict summaries—Defense verdict in medical negligence case involving perforated esophagus

CHAPTER 16. NEGLIGENCE ACTIONS

I. TEXT

- § 16:1 Elements of action
- § 16:2 Authority
- § 16:3 Verdict forms
- § 16:4 Remedies—Compensatory damages
- § 16:5 —Punitive damages
- § 16:6 Limitation of actions—Statute of limitations
- § 16:7 Defenses—Limitations
- § 16:8 —Comparative negligence
- § 16:9 —Sudden emergency doctrine
- § 16:10 —“Firefighter’s rule”
- § 16:11 —Release
- § 16:12 Limitation of actions—Defenses—Open and obvious doctrine
- § 16:13 Checklists

II. FORMS

- § 16:14 Sample trial court documents—Sample complaint
- § 16:15 —Sample answer containing affirmative defenses
- § 16:16 —Sample jury instructions
- § 16:17 —Sample jury verdict form
- § 16:18 Jury verdict summaries—\$40K verdict for plaintiff less 75% comparative fault in slip and fall case
- § 16:19 —\$4K verdict for plaintiff reduced 60% for comparative fault for soft-tissue symptoms in rear-ender
- § 16:20 —\$60K verdict for injured pedestrian less 85% comparative fault

CHAPTER 17. NUISANCE ACTIONS

I. TEXT

- § 17:1 Elements of action
- § 17:2 Authority
- § 17:3 Remedies—Compensatory damages

TABLE OF CONTENTS

- § 17:4 —Punitive damages
- § 17:5 Limitation of actions—Statute of limitations
- § 17:6 Defenses—Limitations
- § 17:7 —Estoppel
- § 17:8 Checklists

II. FORMS

- § 17:9 Sample trial court documents—Sample complaint
- § 17:10 —Sample answer containing affirmative defenses
- § 17:11 —Sample counterclaim
- § 17:12 —Sample jury instructions

CHAPTER 18. PREMISES LIABILITY

I. TEXT

- § 18:1 Elements of action
- § 18:2 Authority
- § 18:3 Verdict forms
- § 18:4 Remedies—Compensatory damages
- § 18:5 —Punitive damages
- § 18:6 Limitation of actions—Statute of limitations
- § 18:7 Limitation of actions—Personal jurisdiction
- § 18:8 Defenses—Limitations
- § 18:9 —Contributory negligence
- § 18:10 —Recreational use
- § 18:11 —Firefighter's Rule
- § 18:12 Checklists

II. FORMS

- § 18:13 Sample trial court documents—Sample complaint
- § 18:14 —Sample answer
- § 18:15 —Sample answer containing affirmative defenses
- § 18:16 —Sample jury instructions
- § 18:17 —Sample jury verdict form
- § 18:18 Jury verdict summaries—\$300K verdict for plaintiff reduced 85% for comparative fault for trip and fall resulting from gas station's failure to maintain property
- § 18:19 —\$308.9K verdict for plaintiff reduced 60% for comparative fault in premises liability case
- § 18:20 —\$43.5K verdict for plaintiff who tripped on steps at restaurant

CHAPTER 19. PRIVACY ACTIONS

I. TEXT

- § 19:1 Elements of action

- § 19:2 Authority
- § 19:3 Remedies—Compensatory damages
- § 19:4 —Punitive damages
- § 19:5 Limitation of actions—Statute of limitations
- § 19:6 Defenses—Limitations
- § 19:7 —Consent
- § 19:8 —Public record
- § 19:9 —Immunity
- § 19:10 Checklists

II. FORMS

- § 19:11 Sample trial court documents—Sample complaint
- § 19:12 —Sample answer containing affirmative defenses
- § 19:13 —Sample jury instructions
- § 19:14 Jury verdict summaries—Defense verdict in defamation/invasion of privacy case
- § 19:15 Jury verdict summaries—Defense verdict in case against private security company for invasion of privacy and fraud
- § 19:16 Jury verdict summaries—\$40K verdict for plaintiff in invasion of privacy case against tanning salon
- § 19:17 —\$9K verdict for plaintiff in invasion of privacy case involving psychologist and patient

CHAPTER 20. PRODUCTS LIABILITY

I. TEXT

- § 20:1 Elements of action
- § 20:2 Authority
- § 20:3 Verdict forms
- § 20:4 Remedies—Compensatory damages
- § 20:5 —Punitive damages
- § 20:6 Limitation of actions—Statute of limitations
- § 20:7 Defenses—Limitations
- § 20:8 —Contributory negligence
- § 20:9 —Comparative fault
- § 20:10 —Middleman statute
- § 20:11 —Preemption
- § 20:12 Checklists

II. FORMS

- § 20:13 Sample trial court documents—Sample complaint
- § 20:14 —Sample answer containing affirmative defenses
- § 20:15 —Sample jury instructions
- § 20:16 —Sample jury instructions and jury verdict form
- § 20:17 Jury verdict summaries—\$11.6M verdict for plaintiff less 10% comparative fault in SUV rollover

TABLE OF CONTENTS

- § 20:18 —\$6M verdict for plaintiff less 10% comparative fault
in products liability case
- § 20:19 —\$2.3M verdict for plaintiff in asbestos exposure case

CHAPTER 21. WRONGFUL DEATH/ SURVIVAL ACTIONS

I. TEXT

- § 21:1 Elements of action
- § 21:2 Authority
- § 21:3 Remedies—Compensatory damages
- § 21:4 —Punitive damages
- § 21:5 Limitation of actions—Statute of limitations
- § 21:6 Defenses—Limitations
- § 21:7 —Contributory negligence
- § 21:8 —Statutory
- § 21:9 Checklists

II. FORMS

- § 21:10 Sample trial court documents—Sample complaint
- § 21:11 —Sample answer containing affirmative defenses
- § 21:12 —Sample jury instructions
- § 21:13 Jury verdict summaries—\$9M verdict for plaintiff in
wrongful death case involving negligent surgery
- § 21:14 —\$20M verdict in nursing home negligence case
- § 21:15 —Defense verdict in wrongful death case involving
inmate who suffocated on her own vomit

Table of Laws and Rules

Table of Cases

Index