

Index

ABSENCE OF PRIOR ACCIDENTS

See also OTHER ACCIDENTS EVIDENCE
Opposing authorities, § 10:63
Supporting authorities, § 10:55

ACCIDENT RECONSTRUCTION

Generally, §§ 10:148 to 10:175
Basis for opinions
 opposing authorities, § 10:168
 supporting authorities, § 10:152
Crash test dummy opinions, § 10:163
Delta V opinions, § 10:161
Factual deficiencies
 opposing authorities, § 10:168
 supporting authorities, § 10:152
Foundation challenges
 opposing authorities, § 10:169
 supporting authorities, § 10:154
Hearsay evidence, § 10:153
Impact point opinions, § 10:172
Incomplete facts
 opposing authorities, § 10:168
 supporting authorities, § 10:152
Junk science challenges
 opposing authorities, § 5:55
 supporting authorities, § 5:33
Low-speed impact cases
 opposing authorities, § 10:175
 supporting authorities, § 10:160
Opposing authorities
 generally, §§ 10:166; 10:175
 basis for opinions, §§ 10:168;
 10:169
 factual deficiencies, § 10:168
 foundation challenges, § 10:169
 impact point opinions, § 10:172
 incomplete facts, § 10:168
 junk science challenges, § 5:55
 low-speed impact cases, § 10:175
 photographs, no damage, § 10:174
 point of impact opinions, § 10:172
 skid mark analyses, § 10:171

ACCIDENT RECONSTRUCTION

—Cont'd
Opposing authorities—Cont'd
 speculation, § 10:168
 speed opinions, § 10:170
 tests, § 10:166
Photographs, no damage
 opposing authorities, § 10:174
 supporting authorities, § 10:164
Plopping into a chair opinions,
 § 10:162
Point of impact opinions, § 10:172
Qualification challenges, § 10:154
Reliance on observations of others,
 § 10:153
Skid mark analyses, § 10:171
Speculation
 opposing authorities, § 10:168
 supporting authorities, § 10:152
Speed opinions
 opposing authorities, § 10:170
 supporting authorities, § 10:155
Suggested motion text, § 10:148
Summary of motion, § 10:149
Supporting authorities
 generally, §§ 10:150 to 10:155;
 10:160 to 10:165
 basis for opinions, § 10:152
 crash test dummy opinions,
 § 10:163
 Delta V opinions, § 10:161
 factual deficiencies, § 10:152
 foundation challenges, § 10:154
 hearsay evidence, § 10:153
 incomplete facts, § 10:152
 junk science challenges, § 5:33
 low-speed impact cases, § 10:160
 photographs, no damage, § 10:164
 plopping into a chair opinions,
 § 10:162
 qualification challenges, § 10:154

ACCIDENT RECONSTRUCTION

—Cont’d

Supporting authorities—Cont’d
reliance on observations of others,
§ 10:153
speculation, § 10:152
speed opinions, § 10:155
Tests, § 10:166

ACCIDENT REPORT

Motion to exclude, § 4:140

ACCIDENT REPORTS

Generally, §§ 4:68 to 4:78
See also ACCIDENT RECONSTRUCTION
Diagrams made at scene, § 4:76
Hearsay objection

business records exception, § 4:77
opposing authorities, §§ 4:77; 4:78
public records exception, § 4:78
supporting authorities, § 4:72
Opinions in reports, § 4:73
Opposing authorities
generally, §§ 4:75 to 4:78
business records exception, § 4:77
diagrams made at scene, § 4:76
expert accident reconstruction
opinions, § 5:55
hearsay objection, §§ 4:77; 4:78
public records exception, § 4:78
refreshing recollection, use for,
§ 4:75

Refreshing recollection, use for,
§ 4:75

Statements in reports, § 4:73

Statutory exclusion, § 4:71

Suggested motion text, § 4:68

Summary of motion, § 4:69

Supporting authorities
generally, §§ 4:70 to 4:74
expert accident reconstruction
opinions, § 5:33
hearsay objection, § 4:72
opinions in reports, § 4:73
statements in reports, § 4:73
statutory exclusion, § 4:71

ACCIDENTS

Absence of other accidents. See
index heading ABSENCE OF OTHER
ACCIDENTS

ACCIDENTS—Cont’d

Other accidents. See index heading
OTHER ACCIDENTS EVIDENCE
Reconstruction. See index heading
ACCIDENT RECONSTRUCTION
Reports. See index heading ACCIDENT
REPORTS
Subsequent accidents. See index
heading SUBSEQUENT ACCIDENT
EVIDENCE

ADMISSIBLE IN PART

Conditional admission. See index
heading CONDITIONAL ADMISSION
Limited admissibility. See index
heading LIMITED ADMISSIBILITY

ADMISSIONS

Discovery practice
amending, § 6:26
depositions, binding admissions at,
§ 6:36
sanction motions
evidence exclusions, § 6:25
opposing authorities, § 6:34
supporting authorities, §§ 6:23
to 6:26
waivers by party seeking admissions,
§ 6:35
Motion in limine practice
generally, §§ 3:13; 3:14
bifurcated trial based on admitted
liability, damages evidence
exclusion in, § 9:40
binding admissions at depositions,
§ 6:36
claims denied during discovery,
exclusion motions
generally, §§ 6:37 to 6:44
opposing authorities, §§ 6:43;
6:44
prejudicial evidence, § 6:39
privileged evidence, § 6:41
suggested motion text, § 6:37
summary of motion, § 6:38
supporting authorities, §§ 6:39
to 6:42
surprise evidence
opposing authorities, § 6:44
supporting authorities, § 6:40

INDEX

ADMISSIONS—Cont'd

Motion in limine practice—Cont'd
depositions, binding admissions at, § 6:36
irrelevant evidence as to admitted liability, § 10:199
liability, admitted, exclusion motions generally, §§ 10:196 to 10:202
damages evidence exclusion in bifurcated trial, § 9:40
irrelevant evidence, § 10:199
opposing authorities, § 10:202
prejudicial evidence, § 10:198
sample motion, § 10:210
suggested motion text, § 10:196
summary of motion, § 10:197
supporting authorities, §§ 9:40; 10:198 to 10:201
nonbinding admissions, relevancy of evidence as to, § 3:21
prejudicial evidence where liability admitted, § 10:198
settlement evidence as admission against interests, § 10:45
suggested motion text
claims denied during discovery, exclusion of, § 6:37
liability evidence, exclusion of, § 10:196
summary of motion
claims denied during discovery, exclusion of, § 6:38
liability evidence, exclusion of, § 10:197

AFFIRMATIVE DEFENSES

Premature rebuttal, §§ 9:16 to 9:21

ALCOHOL CONSUMPTION EVIDENCE

Generally, §§ 10:111 to 10:121
Blood alcohol evidence
opposing authorities, § 10:135
supporting authorities, § 10:126
Character evidence
opposing authorities, impeaching, § 7:21
sample exclusion motion, § 7:54

ALCOHOL CONSUMPTION

EVIDENCE—Cont'd

Character evidence—Cont'd
supporting authorities, impeaching, § 7:9
Driver consumption, supporting authorities, § 10:116
Driver's license suspensions. See index heading DRIVER'S LICENSE SUSPENSION EVIDENCE
DUI as proof of negligence, § 10:120
Impeachment by
opposing authorities, § 7:21
supporting authorities, § 7:9
Irrelevant evidence, §§ 10:114; 10:115
Negligence, DUI as proof of, § 10:120
Opposing authorities
generally, §§ 10:120; 10:121
blood alcohol evidence, § 10:135
character evidence, alcohol consumption to impeach, § 7:21
DUI as proof of negligence, § 10:120
Passenger's consumption, § 10:117
Past alcohol use, § 10:118
Prejudicial evidence, § 10:113
Sample motion, § 7:54
Suggested motion text, § 10:111
Summary of motion, § 10:112
Supporting authorities
generally, §§ 10:113 to 10:119
blood alcohol evidence, § 10:126
character evidence, alcohol consumption to impeach, § 7:9
driver consumption, § 10:116
irrelevant evidence, §§ 10:114; 10:115
passenger consumption, § 10:117
past alcohol use, § 10:118
prejudicial evidence, § 10:113
Witness perceptions, effect on, §§ 7:21; 10:121

APPELLATE REVIEW

Frye rulings, § 5:11

APPELLATE REVIEW—Cont'd

Preservation of objections after in limine motion rulings, § 1:13

ARBITRATION EVIDENCE AND FINDINGS

Generally, §§ 9:32 to 9:35

Testimony of arbitrator, motion to exclude, §§ 8:48 to 8:55

ARGUMENT

Golden rule. See index heading GOLDEN RULE ARGUMENT

Improper, opening statement, § 9:74

Juror influences. See index heading JURORS, MATTER INFLUENCING

Liability insurance protection references

incidental references, § 10:29

non-prejudicial references, § 10:30

Lost or destroyed evidence. See index heading LOST OR DESTROYED EVIDENCE, REFERENCES TO

Non-called witnesses, exclusion of references to, §§ 8:70 to 8:77

Opening statement, argument in, §§ 9:10; 9:74

Terminology, improper. See index heading TERMINOLOGY, IMPROPER

Witnesses, not called, exclusion of references to, §§ 8:70 to 8:77

ARTICLES, PUBLISHED

See also PUBLISHED MATERIAL

Cumulative evidence, § 2:24

ATTORNEY-CLIENT PRIVILEGE

See also PRIVILEGED INFORMATION

Opposing authorities, § 6:76

Supporting authorities, § 6:65

AUTHENTICATION OF EVIDENCE

See index heading FOUNDATION CHALLENGES

BEST EVIDENCE RULE

Opposing authorities, § 4:34

Supporting authorities, § 4:29

BIAS AND PREJUDICE

Emotional bias. See index heading

EMOTIONAL BIAS

Juror influences. See index heading

JURORS, MATTER INFLUENCING

Prejudice. See index heading PREJUDICE

BIFURCATED TRIALS

Damages, evidence of, sample motions and suggested motion text, § 9:72

Damages evidence where liability admitted, § 9:40

Liability evidence where liability admitted

generally, §§ 10:196 to 10:202

irrelevant evidence, § 10:199

opposing authorities, § 10:202

prejudicial evidence, § 10:198

sample motion, § 10:210

suggested motion text, § 10:196

summary of motion, § 10:197

supporting authorities, §§ 10:198 to 10:201

Prior findings of fact, exclusion based upon, § 9:41

BILLS, MEDICAL

See also MEDICAL RECORDS AND REPORTS

Failure to pay evidence, § 4:112

Foundation challenges, § 4:111

BIOMECHANICAL EVIDENCE

Generally, §§ 10:148 to 10:175

Anthropomorphic dummies, § 10:157

Crash test dummy opinions, § 10:163

Finite element analysis, § 10:158

Junk science challenges

opposing authorities, § 5:55

supporting authorities, § 5:34

Low-speed impact cases

opposing authorities, § 10:175

supporting authorities, §§ 5:35; 10:160

Opposing authorities

generally, §§ 10:166; 10:173

junk science challenges, § 5:55

low-speed impact cases, § 10:175

INDEX

BIOMECHANICAL EVIDENCE

—Cont'd

- Opposing authorities—Cont'd
 - photographs, no damage, § 10:174
 - tests, § 10:166
- Pattern of injury tests, § 10:159
- Photographs, no damage
 - opposing authorities, § 10:174
 - supporting authorities, § 10:164
- Plopping into a chair opinions, § 10:162
- Suggested motion text, § 10:148
- Summary of motion, § 10:149
- Supporting authorities
 - generally, §§ 10:156 to 10:165
 - anthropomorphic dummies, § 10:157
 - crash test dummy opinions, § 10:163
 - finite element analysis, § 10:158
 - junk science challenges, § 5:34
 - low-speed impact cases, §§ 5:35; 10:160
 - pattern of injury tests, § 10:159
 - photographs, no damage, § 10:164
 - plopping into a chair opinions, § 10:162
- tests, §§ 10:158; 10:159

Tests

- opposing authorities, § 10:166
- sample motions and suggested motion text, § 5:61
- supporting authorities, §§ 10:158; 10:159

BLOOD HOUND EVIDENCE

See EXPERT OPINIONS

BOOKS

See index heading PUBLISHED MATERIAL

BRIEFS ON MOTION

- Generally, § 1:25
- Collateral evidence exclusion, § 10:206
- Collateral source rule, § 10:204

BUSINESS RECORDS

Accident reports, § 4:77

BUSINESS RECORDS—Cont'd

- Charts as, § 4:102
- Letters as, § 4:91
- Maps and models as, § 4:102
- Medical records, § 4:116
- Police reports, § 4:77

CAUSATION

- See index heading EXPERT OPINIONS
- Lay witness testimony, motion to exclude, § 8:96

CHARACTER EVIDENCE

- Generally, §§ 7:1 to 7:61
- Admissibility rules, §§ 7:1; 7:2
- Alcohol consumption to impeach
 - opposing authorities, § 7:21
 - supporting authorities, § 7:9
- Arrest, to impeach, § 7:10
- Care to prove conduct in negligence case, § 7:30
- Conduct, use to prove
 - generally, §§ 7:25 to 7:37
 - opposing authorities, §§ 7:33 to 7:37
 - suggested motion text, § 7:25
 - summary of motion, § 7:26
 - supporting authorities, §§ 7:27 to 7:32

Crimes evidence to prove conduct, § 7:31

Criminal cases, limitations on use in, § 7:3

Drug use, to impeach, § 7:11

Exclusion generally as to conduct, § 7:29

Exclusion generally as to impeachment, § 7:8

Exclusion rules, § 7:2

Facts at issue, to impeach, § 7:20

Felony convictions, to impeach

for detailed treatment see FELONY CONVICTION EVIDENCE

opposing authorities, § 7:22

supporting authorities, § 7:12

Fraudulent acts, to impeach, § 7:13

Good character, § 7:14

Good reputation, § 7:23

CHARACTER EVIDENCE—Cont'd

Impeachment, use for
generally, §§ 7:4 to 7:24
opposing authorities, §§ 7:18 to
7:24; 7:35
suggested motion text, § 7:4
summary of motion, § 7:5
supporting authorities, §§ 7:6 to
7:17
Improper evidence
motion to exclude, § 7:55
to impeach, § 7:8
to prove conduct, § 7:29
Inflammatory evidence exclusion,
opposition, § 7:61
Irrelevancy of felony conviction,
§ 7:49
Irrelevant evidence, to impeach
opposing authorities, § 7:20
supporting authorities, § 7:7
Irrelevant evidence, to prove conduct
opposing authorities, § 7:34
supporting authorities, § 7:28
Juvenile adjudication evidence,
exclusion, § 7:57
Misdemeanor conviction, to impeach,
§ 7:10
Opposing authorities
alcohol consumption to impeach,
§ 7:21
conduct, use to prove, §§ 7:33 to
7:37
facts at issue, to impeach, § 7:20
felony convictions, to impeach,
§ 7:22
good reputation, § 7:23
impeachment, use for, §§ 7:18 to
7:24; 7:35
irrelevant evidence, to impeach,
§ 7:20
irrelevant evidence, to prove
conduct, § 7:34
relevancy, to impeach, § 7:20
relevant to material issue, § 7:34
religious belief, § 7:24
statute, admissible by, § 7:37
trait at issue, to prove conduct,
§ 7:36
veracity, to impeach, § 7:19

CHARACTER EVIDENCE—Cont'd

Opposing authorities—Cont'd
witness impeachment, § 7:35
Prejudicial evidence
impeach, § 7:6
prove conduct, § 7:27
Prescription drug abuse, exclusion,
§ 7:58
Prior arrest of witness, § 7:59
Relevancy
Irrelevant evidence, above
to material issue, § 7:34
Religious belief
opposing authorities, § 7:24
supporting authorities, § 7:15
Religious beliefs evidence, exclusion,
§ 7:56
Sample motions
alcoholism exclusion, § 7:54
inflammatory evidence exclusion,
opposition, § 7:61
prior arrest of witness, motion to
exclude, § 7:59
Sexual preference or behavior, § 7:16
Skill to prove conduct in negligence
case, § 7:30
Statute, admissible by, § 7:37
Statutory limitations on use in crimi-
nal cases, § 7:3
Suggested motion text
conduct, use to prove, § 7:25
felony conviction evidence, § 7:38
impeachment, use for, § 7:4
Summary of motion
conduct, use to prove, § 7:26
impeachment, use for, § 7:5
Supporting authorities
generally, §§ 7:6 to 7:17
alcohol consumption to impeach,
§ 7:9
arrest, to impeach, § 7:10
care to prove conduct in
negligence case, § 7:30
conduct, use to prove, §§ 7:27 to
7:32
crimes evidence to prove conduct,
§ 7:31
drug use, to impeach, § 7:11

INDEX

CHARACTER EVIDENCE—Cont'd
Supporting authorities—Cont'd
exclusion generally to impeach,
§ 7:8
exclusion generally to prove
conduct, § 7:29
felony convictions, to impeach,
§ 7:12
fraudulent acts, to impeach, § 7:13
good character, § 7:14
impeachment, use for, §§ 7:6 to
7:17
improper evidence to impeach,
§ 7:8
improper evidence to prove
conduct, § 7:29
irrelevancy of felony conviction,
§ 7:49
irrelevant evidence, to impeach,
§ 7:7
irrelevant evidence, to prove
conduct, § 7:28
misdemeanor conviction, to
impeach, § 7:10
prejudicial evidence, to impeach,
§ 7:6
prejudicial evidence, to prove
conduct, § 7:27
religious belief, § 7:15
sexual preference or behavior,
§ 7:16
skill to prove conduct in
negligence case, § 7:30
Trait at issue, to prove conduct,
§ 7:36
Veracity, to impeach, § 7:19
Witness impeachment, § 7:35

CHARTS
See index heading MAPS, MODELS, AND
CHARTS

**CHILD MOLESTATION
SYNDROME EVIDENCE**
See also EXPERT OPINIONS
Opposing authorities, § 5:50
Supporting authorities, § 5:29

CHILDREN
Competency to testify
opposing authorities, § 8:46

CHILDREN—Cont'd
Competency to testify—Cont'd
supporting authorities, § 8:42

CITATION
Motion practice
important considerations, § 1:19

CLERGY PRIVILEGE
See also PRIVILEGED INFORMATION
Opposing authorities, § 6:71
Supporting authorities, § 6:61

CLOSING ARGUMENT
See index heading PREJUDICIAL CLOS-
ING ARGUMENT

COLLATERAL MATTER
Generally, §§ 3:15; 3:18
See also IRRELEVANT EVIDENCE
Physical condition not at issue,
§ 3:23
Sample motion to exclude,
§§ 10:205; 10:206

**COLLATERAL SOURCE
PAYMENTS**
Generally, §§ 10:1 to 10:18
Contract cases exception, § 10:17
Exclusion rule, § 10:5
Free medical services exception,
§ 10:16
Gratuitous payments, § 10:6
Independence of source, § 10:12
Irrelevant evidence
opposing authorities, § 10:13
supporting authorities, § 10:4
Legal malpractice cases exception,
§ 10:15
Medical malpractice cases exception,
§ 10:18
Medicare benefits, §§ 10:203; 10:204
Opposing authorities
generally, §§ 10:11 to 10:18
exceptions to rule, §§ 10:14 to
10:18
independence of source, § 10:12
irrelevant evidence, § 10:13
Paternity cases exception, § 10:14
Prejudicial evidence, §§ 10:3 to
10:10

COLLATERAL SOURCE PAYMENTS—Cont'd

Sample motion
generally, **§ 10:209**
Medicare benefits, §§ **10:203; 10:204**
Suggested motion text, **§ 10:1**
Summary of motion, **§ 10:2**
Supporting authorities
disability benefits, **§ 10:7**
exclusion rule, **§ 10:5**
gratuitous payments, **§ 10:6**
irrelevant evidence, **§ 10:4**
prejudicial evidence, **§ 10:3**
wage payments, **§ 10:8**
Wage payments, **§ 10:8**

COMPETENCY OF WITNESSES

Generally, §§ **8:39 to 8:47**
Arbitrators, §§ **8:48 to 8:55**
Attorney, **§ 8:54**
Children
opposing authorities, **§ 8:46**
supporting authorities, **§ 8:42**
Incompetent witness, testimony, **§ 8:101**
Insanity, **§ 8:47**
Judges, §§ **8:48 to 8:55**
Jurors, §§ **8:48 to 8:55**
Mediators, §§ **8:48 to 8:55**
Mental competency, **§ 8:47**
Motion to exclude testimony, incompetent witness, **§ 8:101**
Opposing authorities, §§ **8:45 to 8:47**
Personal knowledge, lack of, **§ 8:43**
Sanity, **§ 8:47**
Special witness doctrine, **§ 8:53**
Suggested motion text, **§ 8:39**
Summary of motion, **§ 8:40**
Supporting authorities, §§ **8:41 to 8:44**

COMPROMISE AND SETTLEMENT

See index heading **SETTLEMENT EVIDENCE**

COMPUTERIZED VALUATIONS

Motion to exclude evidence of computerized valuations of

COMPUTERIZED VALUATIONS

—Cont'd
plaintiff's business, **§ 8:94**

CONDITIONAL ADMISSION

Foundation challenged evidence, **§ 4:22**

CONFUSING OR MISLEADING EVIDENCE

Generally, §§ **2:9 to 2:12**
Opposing authorities, **§ 2:12**
Other accidents evidence, **§ 10:59**
Sample motion, **§ 2:34**
Statistics, **§ 5:36**
Suggested motion text, **§ 2:9**
Summary of motion, **§ 2:10**
Supporting authorities, §§ **2:11; 5:36; 9:54**

Terminology, improper, **§ 9:54**

CRIMES AND CRIMINAL PROCEDURE

Character evidence
arrest, to impeach, **§ 7:10**
crimes evidence to prove conduct, **§ 7:31**
felony convictions, to impeach
opposing authorities, **§ 7:22**
supporting authorities, **§ 7:12**
limitations on use in, **§ 7:3**
misdemeanor conviction, to
impeach, **§ 7:10**
supporting authorities, §§ **7:12; 7:31**

Felony convictions
opposing authorities
prior DUI conviction evidence, §§ **10:139; 10:140**
to impeach, **§ 7:22**
supporting authorities
prior DUI conviction evidence, **§ 10:130**
to impeach, **§ 7:12**

to impeach
opposing authorities, **§ 7:22**
supporting authorities, **§ 7:12**
Felony convictions. See index heading **FELONY CONVICTION EVIDENCE**

INDEX

CRIMES AND CRIMINAL PROCEDURE—Cont'd
Medical records, challenges to, § 4:107
Misdemeanor convictions
prior DUI conviction evidence, § 10:129
supporting authorities, § 10:129
Police reports. See index heading POLICE REPORTS
Prior DUIs. See index heading PRIOR DUI CONVICTION EVIDENCE
Self-incrimination privilege, motion to exclude comment on, §§ 8:63 to 8:69

CUMULATIVE EVIDENCE
Generally, §§ 2:20 to 2:33
See also IRRELEVANT EVIDENCE; TIME-WASTING EVIDENCE
Articles, § 2:24
Documents, § 2:24
Exclusion authorities generally, § 2:23
Expert credentials
opposing authorities, § 2:33
supporting authorities, § 2:25
Letters, supporting authorities, § 2:24
Limitation generally, § 2:20
Opposing authorities
generally, §§ 2:30 to 2:33
expert credentials, § 2:33
videotapes, § 2:32
witnesses, numbers of, § 2:31
Photographs, numbers of, § 2:27
Published material, § 4:62
Reports and records, § 2:28
Sample motion, § 2:35
Suggested motion text, § 2:20
Summary of motion, § 2:21
Supporting authorities
generally, §§ 2:22 to 2:29
articles, § 2:24
documents, § 2:24
exclusion authorities generally, § 2:23
expert credentials, § 2:25
letters, § 2:24
photographs, numbers of, § 2:27

CUMULATIVE EVIDENCE
—Cont'd
Supporting authorities—Cont'd
published material, § 4:62
reports and records, § 2:28
time-wasting, § 2:22
videotapes, § 2:29
witnesses, numbers of, § 2:26
Videotapes
opposing authorities, § 2:32
supporting authorities, § 2:29
Witnesses, numbers of
opposing authorities, § 2:31
supporting authorities, § 2:26

DAMAGES
Bifurcated trials, damages evidence in generally, §§ 9:36 to 9:44
case authority, § 9:39
discretion of court, § 9:44
liability admission, damages exclusion based on, § 9:40
liability issues relevant to damages, § 9:43
opposing authorities, §§ 9:43 to 9:45
prior findings of fact, exclusion based upon, § 9:41
sample motions and suggested motion text, § 9:72
stipulated facts, § 9:45
suggested motion text, § 9:36
summary of motion, § 9:37
supporting authorities, §§ 9:38 to 9:42
Biomechanical evidence. See index heading BIOMECHANICAL EVIDENCE
Collateral source rule. See index heading COLLATERAL SOURCE PAYMENTS
Discretion of court, bifurcated trials, damages evidence in, § 9:44
Financial status. See index heading FINANCIAL STATUS EVIDENCE
Health matters not at issue. See index heading HEALTH MATTERS NOT AT ISSUE

DAMAGES—Cont'd

Hedonic damage evidence generally, §§ 5:23; 5:45 for detailed treatment see EXPERT OPINIONS
Liability admission, damages evidence exclusion in bifurcated trial based on, § 9:40
Liability insurance. See index heading LIABILITY INSURANCE PROTECTION
Liability issues relevant to damages, § 9:43
Opposing authorities bifurcated trials, damages evidence in, §§ 9:43 to 9:45 hedonic damages, §§ 5:23; 5:45 voir dire, preconditioning jury as to damages, § 9:9
Seat belt violations. See index heading SEAT BELT VIOLATION EVIDENCE
Supporting authorities bifurcated trials, damages evidence in, §§ 9:38 to 9:42 voir dire, preconditioning jury as to damages, § 9:5
Tax evidence. See index heading TAX EVIDENCE
Voir dire, preconditioning jury as to damages opposing authorities, § 9:9 supporting authorities, § 9:5

DEFAULT JUDGMENT

Motion for order, discovery sanction, § 6:87

DEFINITIONS

See index heading TERMINOLOGY, IMPROPER

DELAY

See index heading TIME-WASTING EVIDENCE

DEMONSTRATIVE EVIDENCE

Generally, §§ 4:1 to 4:145
Conditional admissibility to resolve foundation challenges, § 4:22
Exclude, motion to, § 4:131
Film. See index heading PHOTOGRAPHS

DEMONSTRATIVE EVIDENCE

—Cont'd

Foundation challenges generally, §§ 4:1 to 4:23 conditional admissibility to resolve, § 4:22 inadmissibility of evidence lacking foundation, § 4:8 judicial notice, § 4:21 jury, determinations outside of presence of, § 4:6 offers of proof, §§ 4:5; 4:23 opposing authorities generally, § 4:19 judicial notice to resolve, § 4:21 photographs, § 4:9 suggested motion text, § 4:1 summary of motion, § 4:2 supporting authorities generally, §§ 4:3 to 4:16 photographs, § 4:9
Judicial notice as to foundation matters, § 4:21
Maps, models, and charts. See index heading MAPS, MODELS, AND CHARTS
Offers of proof, §§ 4:5; 4:23
Opposing authorities foundation challenges, §§ 4:19 to 4:23 judicial notice to resolve foundation challenges, § 4:21
Photographs. See index heading PHOTOGRAPHS
Published material. See index heading PUBLISHED MATERIAL
Suggested motion text, § 4:1
Summary of motion, § 4:2
Supporting authorities generally, §§ 4:7 to 4:18 foundation challenges, §§ 4:3 to 4:16 photographs, § 4:9 rule of completeness not applied, § 4:7
Videotapes. See index heading VIDEOTAPES

INDEX

DEPOSITIONS

See index heading DISCOVERY PRACTICE

DESTROYED EVIDENCE

See index heading LOST OR DESTROYED EVIDENCE, REFERENCES TO

DIAGRAMS

Accident and police reports, diagrams made at scene, **§ 4:76**

DISCOVERY PRACTICE

Generally, **§§ 6:1 to 6:89**

Admissions. See index heading ADMISSIONS

Claims denied during, exclusion

motions

generally, **§§ 6:37 to 6:44**

opposing authorities, **§§ 6:43; 6:44**

prejudicial evidence, **§ 6:39**

privileged evidence, **§ 6:41**

suggested motion text, **§ 6:37**

summary of motion, **§ 6:38**

supporting authorities, **§§ 6:39 to 6:42**

surprise evidence

opposing authorities, **§ 6:44**

supporting authorities, **§ 6:40**

Continuance to depose or retain expert, **§ 6:52**

Court intervention, resolving discovery disputes without, **§ 6:7**

Deadline, motion to exclude evidence produced beyond, **§ 6:82**

Deem matters admitted, motion to, **§ 6:83**

Default judgment, motion for order, **§ 6:87**

Depositions, binding admissions at, **§ 6:36**

Depositions sanctions, motions for evidence exclusions, **§ 6:12**
opposing authorities, **§ 6:31**
supporting authorities, **§§ 6:9 to 6:12**

Evidence sanctions

generally, **§ 6:4**

admissions misconduct, **§ 6:25**

DISCOVERY PRACTICE—Cont'd

Evidence sanctions—Cont'd
deposition misconduct, **§ 6:12**
interrogatory misconduct, **§ 6:16**
supporting authorities, **§ 6:16**

Experts, discovery of
generally, **§§ 6:45 to 6:56**
continuance to depose or retain, **§ 6:52**

improper disclosure
exclusion of opinion, **§ 8:4**
sanctions, **§ 6:47**

insufficient disclosure, **§ 6:48**
re-deposition of experts, **§ 6:56**
sanctions

opposing authorities, **§ 6:51**
suggested motion text, **§ 6:45**
summary of motion, **§ 6:46**
supporting authorities, **§§ 6:47 to 6:50**

treating physician, **§ 6:53**
undisclosed opinions, **§ 6:50**

Interrogatories sanctions
evidence exclusions, **§ 6:16**
opposing authorities, **§ 6:32**
supporting authorities, **§§ 6:13 to 6:16**

Irrelevant evidence, **§ 6:75**

Issue sanctions, **§ 6:5**

Medical bills for services obtained after [date], motion to exclude, **§ 6:80**

Mental and physical examinations
sanctions, motions for, **§ 6:20**

Privileges

generally, **§§ 6:57 to 6:78**
for detailed treatment see
PRIVILEGED INFORMATION
claims denied during, exclusion
motions, **§ 6:41**
relevancy, **§ 6:75**

Production request sanctions,
motions for
opposing authorities, **§ 6:33**
supporting authorities, **§§ 6:17 to 6:19**

Relevancy challenges, **§ 6:75**

DISCOVERY PRACTICE—Cont'd

Sanctions motions
 generally, §§ 6:1 to 6:36
 admission requests
 evidence exclusion, § 6:25
 opposing authorities, § 6:34
 supporting authorities, §§ 6:23 to 6:26
 alternative remedies, § 6:29
 default judgment, motion for order, § 6:87
 depositions
 evidence exclusion, § 6:12
 opposing authorities, § 6:31
 supporting authorities, §§ 6:9 to 6:12
 establishing facts, § 6:84
 evidence sanctions, § 6:4
 expert discovery
 opposing authorities, §§ 6:51 to 6:56
 supporting authorities, §§ 6:47 to 6:50
 interrogatories
 evidence exclusion, § 6:16
 opposing authorities, § 6:32
 supporting authorities, §§ 6:13 to 6:16
 issue sanctions, § 6:5
 mental and physical examinations, § 6:20
 opposing authorities
 generally, §§ 6:28 to 6:36
 admission requests, § 6:34
 controlled witnesses, compelling attendance, § 6:30
 depositions, § 6:31
 expert discovery, §§ 6:51 to 6:56
 interrogatories, § 6:32
 parties, compelling attendance, § 6:30
 production requests, § 6:33
 other remedies, § 6:29
 production requests
 opposing authorities, § 6:33
 supporting authorities, §§ 6:17 to 6:19

DISCOVERY PRACTICE—Cont'd

Sanctions motions—Cont'd
 Rule 213, § 6:13
 Rule 214, § 6:17
 Rule 215, § 6:20
 Rule 216, § 6:23
 Rule 219, § 6:3
 suggested motion text, § 6:1
 summary of motion, § 6:2
 supporting authorities
 generally, §§ 6:3 to 6:26
 admissions requests, §§ 6:23 to 6:26
 controlled witnesses, compelling attendance, § 6:8
 depositions, §§ 6:9 to 6:12
 evidence sanctions, § 6:4
 expert discovery, §§ 6:47 to 6:50
 interrogatories, §§ 6:13 to 6:16
 issue sanctions, § 6:5
 mental and physical examinations, §§ 6:20 to 6:22
 misuse of process, § 6:3
 parties, compelling attendance, § 6:8
 production requests, §§ 6:17 to 6:19
 terminating sanctions, § 6:6
 terminating sanctions, § 6:6
 Suggested motion text
 claims denied during discover, exclusion motions, § 6:37
 sanctions, § 6:1
 Summary of motion
 claims denied during, exclusion, § 6:38
 sanctions, § 6:2
 Surprise evidence, motion to exclude
 opposing authorities, § 6:44
 supporting authorities, § 6:40
 Terminating sanctions, § 6:6
 Treating physician discovery, § 6:53
 Wage loss claim denied, motion to exclude, § 6:79
 Witnesses, compelling attendance, §§ 6:8; 6:30

INDEX

DOCUMENTS

Best evidence. See index heading
BEST EVIDENCE RULE
Cumulative evidence challenges,
§ 2:24
Letters. See index heading LETTERS
Medical. See index heading MEDICAL
RECORDS AND REPORTS
Published material. See index heading
PUBLISHED MATERIAL
Writings. See index heading WRITINGS

DONALDSON DECISION

Generally, § 5:5
See also EXPERT OPINIONS

DRIVER'S LICENSE SUSPENSION EVIDENCE

Generally, §§ 10:93 to 10:98
See also STATUTORY VIOLATION EVIDENCE
Alcohol consumption. See index heading ALCOHOL CONSUMPTION EVIDENCE
Opposing authorities, § 10:98
Prior DUIs. See index heading PRIOR DUI CONVICTION EVIDENCE
Sample motion, § 10:208
Suggested motion text, § 10:93
Summary of motion, § 10:94
Supporting authorities, §§ 10:95 to 10:97

DRUG USE

Character evidence, to impeach,
§ 7:11
Prescription drug abuse, sample motion to exclude improper character evidence, § 7:58

ECONOMIC DAMAGES

Speculative evidence of lost profits, motion to exclude, § 10:223

EMAILS

Generally, §§ 4:79 to 4:93
Foundational challenges, supporting authorities, § 4:16
Prejudice objection, § 4:81
Suggested motion text, § 4:79
Summary of motion, § 4:80

EMOTIONAL BIAS

Generally, §§ 2:13 to 2:19
See also JURORS, MATTER INFLUENCING
Consumers, appeals to jurors' self interests as, § 2:17
Golden rule argument, § 2:18
Opposing authorities, § 2:19
Prejudicial nature generally, § 2:15
Suggested motion text, § 2:13
Summary of motion, § 2:14
Supporting authorities generally, §§ 2:15 to 2:18
consumers, appeals to jurors' self interests as, § 2:17
golden rule argument, § 2:18
jurors' emotions, appeals to, § 2:16
prejudicial nature of evidence generally, § 2:15
taxpayers, appeals to jurors' self interests as, §§ 2:17; 10:193
Taxpayers, appeals to jurors' self interests as, §§ 2:17; 10:193

ESTOPPEL

Unpledged and stipulated issues, § 3:19

EVIDENCE

Mental health
motion to exclude, evidence regarding witness, § 7:60
Motion for evidentiary sanctions
failure to serve answers/objections to interrogatories, § 6:86
Motion to exclude
mental health, evidence regarding witness, § 7:60

EXAMINATIONS OF PARTIES

See index heading DISCOVERY PRACTICE

EXPERIMENTS

See index heading EXPERT OPINIONS

EXPERT OPINIONS

Generally, §§ 5:1 to 5:61
See also LAY OPINIONS
Acceptance in scientific community, § 5:16
Approved tests, § 5:43

EXPERT OPINIONS—Cont'd

Biomechanics. See index heading
 BIOMECHANICAL EVIDENCE
Blood hound evidence, § 5:39
Child molestation syndrome
 opposing authorities, § 5:50
 supporting authorities, § 5:29
Common experience, opinions as to,
 § 8:13
Computerized valuations of business,
 § 8:94
Conjecture, opinion containing
 supporting authorities, §§ 5:9;
 8:16
Continuance to depose or retain
 export, § 6:52
Crash test dummy opinions, § 10:163
Credentials
 cumulative evidence, § 2:33
 opposing authorities, § 2:33
Credentials as cumulative, § 2:25
Credibility of witness, motion to
 exclude expert testimony, § 5:60
Delta V opinions, § 10:161
Discovery
 generally, §§ 6:45 to 6:56
 continuance to depose or retain,
 § 6:52
 improper disclosure
 exclusion of opinion, § 8:4
 sanctions, § 6:47
 insufficient disclosure, § 6:48
 re-deposition of experts, § 6:56
 sanctions
 opposing authorities, § 6:51
 suggested motion text, § 6:45
 summary of motion, § 6:46
 supporting authorities, §§ 6:47
 to 6:50
 treating physician, § 6:53
 undisclosed opinions, § 6:50
Donaldson decision, § 5:5
Employment discrimination cases,
 statistical evidence in, § 5:38
Exclusion motions
 generally, §§ 8:1 to 8:23
 common experience, opinions as
 to, § 8:13

EXPERT OPINIONS—Cont'd

Exclusion motions—Cont'd
 computerized valuations of busi-
 ness, § 8:94
 disclosure, improper, § 8:4
 hearsay in opinion, §§ 8:7; 8:9;
 8:19
 hypotheticals, §§ 8:6; 8:20
 medical doctor, §§ 8:21; 8:95
 non-qualified expert witness
 testimony, § 8:104
 opposing authorities, §§ 8:18 to
 8:23
 others, opinions of, §§ 8:8; 8:22
 qualifications challenges, § 8:5
 reliability challenges, § 8:14
 secondhand opinions, §§ 8:8; 8:22
 suggested motion text, § 8:1
 summary, § 8:2
 supporting authorities, §§ 8:3 to
 8:17
 treatises, § 8:10
 ultimate issue opinions, §§ 8:12;
 8:21
Experiments
 foundation challenges, § 4:11
 lay persons' experiments, § 8:34
 supporting authorities, §§ 4:11;
 8:34
Frye test
 appellate review of rulings, § 5:11
 opposing authorities, §§ 5:19; 5:42
 sample motion, §§ 8:94; 10:212
 supporting authorities, § 5:11
General acceptance standard
 opposing authorities, § 5:15
 supporting authorities, § 5:4
Hearsay in opinion
 opposing authorities, § 8:19
 supporting authorities, §§ 8:7; 8:9
Hedonic damage evidence
 opposing authorities, § 5:45
 supporting authorities, § 5:23
Hypnosis evidence
 opposing authorities, § 5:51
 supporting authorities, § 5:31
Hypotheticals
 opposing authorities, § 8:20

INDEX

EXPERT OPINIONS—Cont'd

Hypotheticals—Cont'd
 supporting authorities, § 8:6

Identical conditions requirements for tests
 opposing authorities, § 5:14
 supporting authorities, § 5:6

Impact point opinions, § 10:172

Improper testing and weight of testimony, § 5:18

Judicial notice as to scientific test or experiment, § 5:44

Junk science challenges
 opposing authorities, §§ 5:40 to 5:55
 suggested motion text, § 5:20
 summary of motion, § 5:21
 supporting authorities, §§ 5:22 to 5:39

Legal opinions
 opposing authorities, § 8:21
 supporting authorities, § 8:11

Level of acceptance in scientific community, § 5:16

Limitation on opinions, opposition to motion for, § 6:88

Low-speed impact cases
 opposing authorities, § 10:175
 supporting authorities, § 10:160

Matters not disclosed during discovery, § 6:85

Opposing authorities
 generally, §§ 5:13 to 5:19; 5:40 to 5:55
 child molestation syndrome, § 5:50
 exclusion motions, §§ 8:18 to 8:23
 Frye test, §§ 5:19; 5:42
 general acceptance standard, § 5:15
 hearsay in opinion, § 8:19
 hedonic damage evidence, § 5:45
 hypnosis evidence, § 5:51
 hypotheticals, § 8:20
 identical conditions requirements for tests, § 5:14
 impact point opinions, § 10:172
 junk science challenges, §§ 5:40 to 5:55
 legal opinions, § 8:21

EXPERT OPINIONS—Cont'd

Opposing authorities—Cont'd
 low-speed impact cases, § 10:175
 not speculative, § 8:23
 other accidents evidence as basis for, § 10:68
 others, opinions of, § 8:22
 point of impact opinions, § 10:172
 polygraph evidence
 investigative purposes, use for, § 5:48
 stipulation to, § 5:47
 psychological profiling, § 5:54
 psychological tests, § 5:49
 qualification challenges, § 8:28
 rape trauma syndrome, § 5:49
 secondhand opinions, § 8:22
 skid mark analyses, § 10:171
 speed of vehicle opinions, § 10:170
 statistical evidence
 general acceptance standard, § 5:52
 weight vs admissibility argument, § 5:53
 substantially similarity of test conditions, § 5:14
 tests, similarity of conditions, § 5:14
 truth serum evidence, § 5:46
 ultimate issue opinions, § 8:21
 vehicle speed opinions, § 10:170

Opposition to motion to exclude testimony, § 2:41

Other accidents evidence as basis for, § 10:68

Others, opinions of
 opposing authorities, § 8:22
 supporting authorities, § 8:8

Penile plethysmograph test, § 5:30

Physician's assistant, medical qualifications, § 8:90

Point of impact opinions, § 10:172

Polygraph evidence
 generally, § 5:25
 investigative purposes, use for, § 5:48
 opposing authorities, §§ 5:47; 5:48

EXPERT OPINIONS—Cont'd

Polygraph evidence—Cont'd
 stipulation to, § 5:47
 supporting authorities, §§ 5:25; 5:26
 test refusal evidence, § 5:26
 Psychological profiling, § 5:54
 Psychological tests
 opposing authorities, § 5:49
 supporting authorities, § 5:27
 Qualification challenges
 generally, §§ 8:24 to 8:28
 accident reconstruction, § 10:154
 exclusion motions, § 8:5
 opposing authorities, § 8:28
 physician's assistant, medical qualifications, § 8:90
 registered nurse, medical qualifications, § 8:91
 suggested motion text
 generally, § 8:24
 physician's assistant, medical qualifications, § 8:90
 registered nurse, medical qualifications, § 8:91
 summary of motion, § 8:25
 supporting authorities, §§ 8:26; 8:27; 10:154
 Rape trauma syndrome
 opposing authorities, § 5:49
 supporting authorities, § 5:28
 Registered nurse, medical qualifications, § 8:91
 Reliability, supporting authorities, §§ 5:7; 8:14
 Sample Frye motion, § 10:212
 Sample motion to exclude opinion, §§ 5:56; 5:59
 Sample motion to exclude speculative opinion, § 8:92
 Scientific community, level of acceptance in, § 5:16
 Scientific procedures, improper, supporting authorities, § 5:8
 Secondhand opinions
 opposing authorities, § 8:22
 supporting authorities, § 8:8
 Skid mark analyses, § 10:171

EXPERT OPINIONS—Cont'd

Speculativeness
 sample motion to exclude, § 8:92
 supporting authorities, §§ 5:9; 8:16
 Speed of vehicle opinions
 opposing authorities, § 10:170
 supporting authorities, § 10:155
 Statistical evidence
 confusing statistics, § 5:36
 employment discrimination cases, § 5:38
 general acceptance standard, § 5:52
 opposing authorities, §§ 5:52; 5:53
 supporting authorities, §§ 5:36; 5:37
 weight vs admissibility argument, § 5:53
 Substantially similarity of test conditions
 opposing authorities, § 5:14
 supporting authorities, § 5:6
 Suggested motion text
 generally, § 5:1
 exclusion motions, § 8:1
 junk science challenges, § 5:20
 qualification challenges
 generally, § 8:24
 physician's assistant, medical qualifications, § 8:90
 registered nurse, medical qualifications, § 8:91
 Summary of motion
 generally, § 5:2
 exclusion of improper opinion, § 8:2
 junk science challenges, § 5:21
 qualification challenges, § 8:25
 Supporting authorities
 generally, §§ 5:3 to 5:12
 biomechanical factors, § 5:35
 blood hound evidence, § 5:39
 child molestation syndrome, § 5:29
 common experience, opinions as to, § 8:13
 conjecture, opinion containing, §§ 5:9; 8:16

INDEX

EXPERT OPINIONS—Cont'd

Supporting authorities—Cont'd
crash test dummy opinions,
§ 10:163
credentials as cumulative, § 2:25
Donaldson decision, § 5:5
employment discrimination cases,
statistical evidence in, § 5:38
exclusion motions, §§ 8:3 to 8:17
Frye test, § 5:11
general acceptance standard, § 5:4
hearsay in opinion, §§ 8:7; 8:9
hedonic damage evidence, § 5:23
hypnosis evidence, § 5:31
hypotheticals, § 8:6
identical conditions requirements
for tests, § 5:6
junk science challenges, §§ 5:22 to
5:39
legal opinions, § 8:11
low-speed impact cases, §§ 5:35;
10:160
others, opinions of, § 8:8
penile plethysmograph test, § 5:30
plopping into a chair opinions,
§ 10:162
polygraph evidence
generally, § 5:25
test refusal evidence, § 5:26
procedures, improper, § 5:8
psychological tests, § 5:27
qualification challenges, §§ 8:26;
8:27
rape trauma syndrome, § 5:28
reliability, §§ 5:7; 8:14
scientific procedures, improper,
§ 5:8
secondhand opinions, § 8:8
speculativeness, §§ 5:9; 8:16
speed of vehicle opinions,
§ 10:155
statistical evidence
generally, § 5:37
confusing statistics, § 5:36
employment discrimination
cases, § 5:38
substantially similarity of test
conditions, § 5:6

EXPERT OPINIONS—Cont'd

Supporting authorities—Cont'd
tests, similarity of conditions, § 5:6
time-wasting objection, § 5:10
treatises, § 8:10
truth serum evidence, § 5:24
ultimate issue opinions, § 8:12
vehicle speed opinions, § 10:155
voiceprint identification, § 5:32
Tests
accident reconstruction, § 10:166
approved tests, § 5:43
biomechanical evidence, § 10:166
foundation challenges, § 4:11
Polygraph evidence, above
psychological tests
opposing authorities, § 5:49
supporting authorities, § 5:27
similarity of conditions
opposing authorities, § 5:14
supporting authorities, § 5:6
supporting authorities, § 4:11
weight of testimony, improper test-
ing and, § 5:18
Time-wasting objection, § 5:10
Treating physician discovery, § 6:53
Treatises, supporting authorities,
§ 8:10
Truth serum evidence
opposing authorities, § 5:46
supporting authorities, § 5:24
Ultimate issue opinions
opposing authorities, § 8:21
supporting authorities, § 8:12
Undisclosed opinions, § 6:50
Vehicle speed opinions
opposing authorities, § 10:170
supporting authorities, § 10:155
Voiceprint identification, § 5:32
Weight of testimony, improper testing
and, § 5:18
Weight vs admissibility of opinion,
§§ 5:17; 5:41; 5:53

FELONY CONVICTION EVIDENCE

Generally, §§ 7:38 to 7:53

FELONY CONVICTION
EVIDENCE—Cont'd
Admissibility generally, §§ 7:40; 7:51
Annulled felony, § 7:43
Appeal still pending
 opposing authorities, § 7:53
 supporting authorities, § 7:45
Balancing prejudicial impact, § 7:41
Certificate of rehabilitation, § 7:43
Civil cases, rule in, § 7:48
Credibility, conviction not reflecting on, § 7:47
Dissimilar behavior, § 7:46
FRE 609 statutory exceptions, § 7:42
Juvenile adjudications, § 7:44
Nonfinal convictions
 opposing authorities, § 7:53
 supporting authorities, § 7:45
Opposing authorities
 generally, §§ 7:51 to 7:53
 appeal still pending, § 7:53
 nonfinal convictions, § 7:53
 pendency of appeal, § 7:53
 statutory exceptions, § 7:52
Pardoned felony, § 7:43
Pendency of appeal
 opposing authorities, § 7:53
 supporting authorities, § 7:45
Prejudicial evidence, § 7:41
Rehabilitation, § 7:43
Remoteness, § 7:42
Statutory exceptions
 opposing authorities, § 7:52
 supporting authorities, § 7:42
Suggested motion text, § 7:38
Summary of motion, § 7:39
Supporting authorities
 generally, §§ 7:41 to 7:50
 annulled felony, § 7:43
 appeal still pending, § 7:45
 certificate of rehabilitation, § 7:43
 civil cases, rule in, § 7:48
 credibility, conviction not reflecting on, § 7:47
 dissimilar behavior, § 7:46
 FRE 609 statutory exceptions, § 7:42

FELONY CONVICTION
EVIDENCE—Cont'd
Supporting authorities—Cont'd
 irrelevant character evidence, § 7:49
 juvenile adjudications, § 7:44
 nonfinal convictions, § 7:45
 pardoned felony, § 7:43
 pendency of appeal, § 7:45
 prejudicial evidence, § 7:41
 rehabilitation, § 7:43
 remoteness, § 7:42
 statutory exceptions, § 7:42

FILMS
See also **VIDEOTAPES**
Foundation challenges, § 4:12

FINANCIAL STATUS EVIDENCE
Generally, §§ 10:176 to 10:186
See also **TAX EVIDENCE**
Defendant's status
 generally, § 10:182
 poverty, motion to exclude evidence of, § 2:37
Irrelevant evidence, § 10:179
Opposing authorities
 generally, § 10:185
 punitive damages claims, § 10:186
Plaintiff's status, motion to exclude, §§ 10:181; 10:220
Prejudicial evidence, § 10:178
Punitive damages claims
 opposing authorities, § 10:186
 supporting authorities, § 10:183
Suggested motion text, § 10:176
Summary of motion, § 10:177
Supporting authorities
 generally, §§ 10:178 to 10:184
 defendant's status, § 10:182
 irrelevant evidence, § 10:179
 plaintiff's status, § 10:181
 prejudicial evidence, § 10:178
 punitive damages claims, § 10:183

FIREARM RESIDUE
Motion to admit evidence of laboratory testing regarding, § 10:213

INDEX

FORMS

See index heading SAMPLE MOTIONS AND SUGGESTED TEXT

FOUNDATION CHALLENGES

Accident reconstruction
 opposing authorities, § 10:169
 supporting authorities, § 10:154
Conditional admissibility to resolve, § 4:22
Definitions, § 4:4
Determination outside of jury presence, § 4:6
Emails, supporting authorities, § 4:16
Experiments, § 4:11
Films, § 4:12
Inadmissibility of evidence lacking foundation, § 4:8
Judicial notice improper, § 4:18
Judicial notice of foundation, § 4:21
Jury, determinations outside of presence of, § 4:6
Jury presence, determination outside of, § 4:6
Letters, § 4:85
Medical bills, § 4:111
Medical records and reports, § 4:106
Motion pictures, § 4:12
Offers of proof, § 4:5
Opinions
 expert, § 4:13
 lay, § 4:14
Opposing authorities
 generally, §§ 4:19 to 4:23
 accident reconstruction, § 10:169
 conditional admissibility to resolve, § 4:22
 judicial notice to resolve, § 4:21
 prior DUI conviction evidence, § 10:137
Photographs, § 4:9
Prior DUI conviction evidence
 opposing authorities, § 10:137
 supporting authorities, § 10:127
Published material. See index heading PUBLISHED MATERIAL
Recordings, § 4:10
Social media, foundation or authentication, §§ 4:125; 4:129

FOUNDATION CHALLENGES

—Cont'd

Suggested motion text, § 4:1
Summary of motion, § 4:2
Supporting authorities
 generally, §§ 4:3 to 4:16
 accident reconstruction, § 10:154
 experiments, § 4:11
 films, § 4:12
 judicial notice improper, § 4:18
 letters, § 4:85
 medical bills, § 4:111
 medical records, §§ 4:17; 4:106
 motion pictures, § 4:12
 photographs, § 4:9
 recordings, § 4:10
 tests, § 4:11
 videotapes, § 4:12
 writings, § 4:15
Tape recordings, § 4:10
Tests, § 4:11
Videotapes, § 4:12
Writings
 authentication requirement, §§ 4:27; 4:28; 4:33
 opposing authorities, § 4:33
 supporting authorities, §§ 4:15; 4:27

FRAUD

Impeachment by evidence of fraudulent acts, § 7:13

FRYE TEST

See index heading EXPERT OPINIONS

GOLDEN RULE ARGUMENT

Generally, §§ 9:46 to 9:51
Emotional bias evidence, § 2:18
Motion summary, § 9:47
Motion to preclude, § 9:71
Opposing authorities, § 9:51
Other grounds, § 9:50
Prejudicial evidence exclusion, § 9:48
Rejection of, § 9:49
Suggested motion text, § 9:46
Supporting authorities, §§ 2:18; 9:48 to 9:51

GOOD CHARACTER

Generally, **§ 7:14**

See also CHARACTER EVIDENCE

GOOD REPUTATION

Generally, **§ 7:23**

See also CHARACTER EVIDENCE

HEALTH MATTERS NOT AT ISSUE

Generally, **§§ 10:141 to 10:147**

See also MEDICAL RECORDS AND REPORTS

Irrelevant evidence

 opposing authorities, **§ 10:147**

 supporting authorities, **§ 10:144**

Opposing authorities, **§ 10:147**

Prejudicial evidence, **§ 10:143**

Suggested motion text, **§ 10:141**

Summary of motion, **§ 10:142**

Supporting authorities

 generally, **§§ 10:143 to 10:146**

 irrelevant evidence, **§ 10:144**

 prejudicial evidence, **§ 10:143**

HEARSAY

Accident reconstruction, **§ 10:153**

Accident reports

 business records exception, **§ 4:77**

 opposing authorities, **§§ 4:77; 4:78**

 public records exception, **§ 4:78**

 supporting authorities, **§ 4:72**

Authentication of writings

 opposing authorities, **§ 4:33**

 supporting authorities, **§ 4:27**

Business records exception, **§ 4:77**

Conduct, non-assertive, **§§ 4:39; 8:84**

Contents, hearsay not offered for proof of, **§ 4:37**

Definition, **§ 4:26**

Exceptions to hearsay rule, **§§ 4:42; 8:87 to 8:89**

Expert opinion including

 opposing authorities, **§ 8:19**

 supporting authorities, **§§ 8:7; 8:9**

General authority for exclusion, **§ 8:80**

HEARSAY—Cont'd

Impeachment, hearsay offered for opposing authorities, **§§ 4:36; 8:86**
testimony, **§ 8:86**
writings, **§ 4:36**

Inadmissible written hearsay
 opposing authorities, **§ 4:35**
 supporting authorities, **§ 4:30**

Inconsistent statement, letter offered as, **§ 4:93**

Letters
 generally, **§§ 4:83; 4:90**
 business records exception, **§ 4:91**
 opposing authorities, **§§ 4:87; 4:90 to 4:92**

 public records exception, **§ 4:92**
 supporting authorities, **§ 4:83**

Medical records, opinions in
 opposing authorities, **§§ 4:115 to 4:118**

 supporting authorities, **§ 4:108**

Multiple hearsay
 opposing authorities, **§§ 4:40; 8:85**

Non-assertive conduct, **§§ 4:39; 8:84**

Non-hearsay evidence, **§ 8:83**

Opinions including
 opposing authorities, **§ 8:19**
 supporting authorities, **§§ 8:7; 8:9**

Opposing authorities
 accident reports, **§§ 4:77; 4:78**
 business records exception, **§ 4:77**
 conduct, non-assertive, **§§ 4:39; 8:84**

contents, hearsay not offered for proof of, **§ 4:37**

exceptions to hearsay rule, **§§ 4:42; 8:87 to 8:89**

expert opinion including, **§ 8:19**
impeachment, hearsay offered for, **§§ 4:36; 8:86**

inconsistent statement, letter offered as, **§ 4:93**

letters, **§§ 4:87; 4:90 to 4:92**

multiple hearsay, **§§ 4:40; 8:85**

non-assertive conduct, **§ 4:39**

opinion including, **§ 8:19**

police reports, **§§ 4:77; 4:78**

public records exception, **§ 4:78**

INDEX

HEARSAY—Cont'd

Opposing authorities—Cont'd
published material, **§ 4:67**
purpose of exceptions, **§ 8:88**
testimony, **§§ 8:82 to 8:89**
writings, **§§ 4:33; 4:33 to 4:42**

Police reports
business records exception, **§ 4:77**
opposing authorities, **§§ 4:77; 4:78**
public records exception, **§ 4:78**
supporting authorities, **§ 4:72**

Public records exception
generally, **§ 4:78**
letters, **§ 4:92**

Published material
opposing authorities, **§ 4:67**
supporting authorities, **§ 4:63**

Purpose of exceptions, **§ 8:88**

Purpose of rule, **§ 8:81**

Social media evidence, **§§ 4:124; 4:128**

Suggested motion text
testimonial hearsay, **§ 8:78**
written hearsay, **§ 4:24**

Summary of motion
testimonial hearsay, **§ 8:79**
written hearsay, **§ 4:25**

Supporting authorities
accident reconstruction, **§ 10:153**
accident reports, **§ 4:72**
expert opinion including, **§ 8:7**
general authority for exclusion, **§ 8:80**
letters, **§ 4:83**
medical records, opinions in, **§ 4:108**
opinion including, **§§ 8:7; 8:9**
police reports, **§ 4:72**
published material, **§ 4:63**
purpose of rule, **§ 8:81**
testimony, **§§ 8:80; 8:81**
writings
generally, **§§ 4:26 to 4:32**
authentication requirement, **§ 4:27**
inadmissible written hearsay, **§§ 4:30 to 4:32**

HEARSAY—Cont'd

Testimony
generally, **§§ 8:78 to 8:89**
exception to hearsay rule, **§§ 8:87 to 8:89**
general authority for exclusion, **§ 8:80**
impeachment, hearsay offered for, **§ 8:86**
opposing authorities
generally, **§§ 8:82 to 8:89**
exception to hearsay rule, **§§ 8:87 to 8:89**
impeachment, hearsay offered for, **§ 8:86**
purpose of exceptions, **§ 8:88**
purpose of rule, **§ 8:81**
suggested motion text, **§ 8:78**
summary of motion, **§ 8:79**
supporting authorities, **§§ 8:80; 8:81**

Writings
generally, **§§ 4:24 to 4:42**
authentication requirement
opposing authorities, **§ 4:33**
supporting authorities, **§ 4:27**
contents, hearsay not offered for proof of, **§ 4:37**
definition, **§ 4:26**
impeachment, hearsay offered for, **§ 4:36**
inadmissible written hearsay
opposing authorities, **§ 4:35**
supporting authorities, **§ 4:30**
multiple hearsay, **§ 4:40**
opposing authorities
generally, **§§ 4:33 to 4:42**
authentication requirement, **§ 4:33**
conduct, non-assertive, **§ 4:39**
contents, hearsay not offered for proof of, **§ 4:37**
exception to hearsay rule, **§ 4:42**
impeachment, hearsay offered for, **§ 4:36**
multiple hearsay, **§ 4:40**
non-assertive conduct, **§ 4:39**
non-hearsay evidence, **§ 4:38**

HEARSAY—Cont'd

Writings—Cont'd
secondary evidence of
 opposing authorities, § 4:34
 supporting authorities, § 4:29
suggested motion text, § 4:24
summary of motion, § 4:25
supporting authorities
 generally, §§ 4:26 to 4:32; 4:30
 authentication requirement,
 §§ 4:27; 4:28
 inadmissible written hearsay,
 §§ 4:30 to 4:32

HEDONIC DAMAGE EVIDENCE

Generally, §§ 5:23; 5:45
See also EXPERT OPINIONS

HISTORIES, MEDICAL

Generally, § 4:110
See also MEDICAL RECORDS AND REPORTS

HYPNOSIS EVIDENCE

See also EXPERT OPINIONS
Motion to exclude evidence of,
 § 5:58
Opposing authorities, § 5:51
Supporting authorities, § 5:31

HYPOTHETICALS

Generally, §§ 8:6; 8:20
See also EXPERT OPINIONS

ILLINOIS RULES OF EVIDENCE

Motion practice, § 1:3

IMPEACHMENT EVIDENCE

Character evidence. See index heading CHARACTER EVIDENCE
Convictions, ruling on motion as impeachment, § 1:7
Hearsay offered for impeachment,
 §§ 4:36; 8:86
Letters offered for, § 4:89
Liability insurance protection,
 § 10:27
Opposing authorities
 hearsay offered for impeachment,
 §§ 4:36; 8:86

IMPEACHMENT EVIDENCE

—Cont'd

Opposing authorities—Cont'd
 liability insurance protection,
 § 10:27
 other accidents evidence, § 10:69
 prior DUI conviction evidence,
 § 10:138
 settlement evidence, § 10:48
 statutory violation evidence,
 § 10:89
 subsequent repairs evidence,
 § 10:79
Other accidents evidence, § 10:69
Prior DUI conviction evidence
 opposing authorities, § 10:138
 supporting authorities, § 10:128
Settlement evidence, § 10:48
Statutory violation evidence, § 10:89
Subsequent repairs evidence, § 10:79
Supporting authorities, § 10:128

INCOMPETENT WITNESSES

See index heading COMPETENCY OF WITNESSES

INFORMANTS

Privilege, § 6:66

INJURIES

Damages. See index heading DAMAGES
Health matters not at issue. See index heading HEALTH MATTERS NOT AT ISSUE
Medical records. See index heading MEDICAL RECORDS AND REPORTS

INSANITY

See index heading SANITY

INSURANCE

Collateral source rule. See index heading COLLATERAL SOURCE PAYMENTS
Lack of insurance, evidence as to,
 § 10:24
Liability insurance. See index heading LIABILITY INSURANCE PROTECTION

INDEX

INTERROGATORIES

See index heading DISCOVERY PRACTICE

IRRELEVANT EVIDENCE

Generally, §§ 3:1 to 3:26
See also TIME-WASTING EVIDENCE
Admissions, nonbinding, § 3:21
Admitted matter
 Matters not in dispute, below
 Alcohol consumption evidence, §§ 10:114; 10:115
Character, irrelevancy of felony conviction to, § 7:49
Character evidence, to impeach opposing authorities, § 7:20
 supporting authorities, § 7:7
Character evidence, to prove conduct opposing authorities, § 7:34
 supporting authorities, § 7:28
Charts, § 4:101
Claims denied during discovery, exclusion motions
 generally, §§ 6:37 to 6:44
 for detailed treatment see ADMIS-
 SIONS
Collateral matter
 Matters not in dispute, below
 opposing authorities, § 3:18
 supporting authorities, § 3:15
Collateral source payments
 opposing authorities, § 10:13
 supporting authorities, § 10:4
Dispute, matters beyond. Matters not in dispute, below
Estoppel as to unpledged and stipulated issues, § 3:19
Financial status evidence, § 10:179
Gruesome or inflammatory photographs, § 4:46
Health matters not at issue
 opposing authorities, § 10:147
 supporting authorities, § 10:144
Judicial admissions, nonbinding, § 3:21
Laws of other states, § 3:6
Letters
 opposing authorities, § 4:88
 supporting authorities, § 4:84

IRRELEVANT EVIDENCE—Cont'd

Liability, admitted, exclusion motions, § 10:199
Liability insurance protection
 opposing authorities, § 10:28
 supporting authorities, §§ 10:22; 10:25
Limitation of inquiries, § 3:5
Maps and models, § 4:101
Matters not in dispute
 motion summary, § 3:12
 suggested motion text, § 3:11
 supporting authorities, §§ 3:4; 3:5; 3:13; 3:13 to 3:16; 3:14
Motion to exclude, § 3:24
Nonbinding judicial admissions, § 3:21
Opposing authorities
 generally, §§ 3:10; 3:17 to 3:21
 admissions, nonbinding, § 3:21
 character evidence, to impeach, § 7:20
 character evidence, to prove conduct, § 7:34
 charts, § 4:101
 collateral matter, § 3:18
 collateral source payments, § 10:13
 estoppel as to stipulated issues, § 3:19
 estoppel as to unpledged and stipulated issues, § 3:19
 health matters not at issue, § 10:147
 judicial admissions, nonbinding, § 3:21
 letters, § 4:88
 liability insurance protection, § 10:28
 maps and models, § 4:101
 nonbinding judicial admissions, § 3:21
 other accidents evidence, § 10:67
 other issues, relevancy as to, § 3:20
 prior DUI conviction evidence, § 10:136
 relevancy of writing, § 4:41

IRRELEVANT EVIDENCE—Cont'd

Opposing authorities—Cont'd
 seat belt violation evidence,
§ 10:108
 subsequent repairs evidence,
§ 10:80
 tax evidence, **§ 10:195**
 unpledaded issues, **§ 3:19**
 writings, **§ 4:41**
 Other accidents evidence
 opposing authorities, **§ 10:67**
 supporting authorities, **§§ 10:54; 10:58**
 Other issues, relevancy as to, **§ 3:20**
 Other state laws, **§ 3:6**
 Physical condition not at issue,
§ 3:23
 Pleadings, questions as to matter
 outside, **§ 3:7**
 Prejudicial matter, **§ 3:8**
 Prior DUI conviction evidence
 opposing authorities, **§ 10:136**
 supporting authorities, **§ 10:125**
 Sample motions, **§ 3:22**
 Scope of matter, questions exceeding,
§ 3:5
 Seat belt violation evidence
 opposing authorities, **§ 10:108**
 supporting authorities, **§ 10:102**
 Settlement evidence, **§ 10:37**
 Speculation, **§ 3:9**
 Statutory violation evidence, **§ 10:85**
 Stipulated issues
 Matters not in dispute, above
 supporting authorities, **§ 3:19**
 Subsequent repairs evidence
 opposing authorities, **§ 10:80**
 supporting authorities, **§ 10:76**
 Suggested motion text
 generally, **§ 3:1**
 matters not in dispute, **§ 3:11**
 Summary of motion
 generally, **§ 3:2**
 matters not in dispute, **§ 3:12**
 Supporting authorities
 generally, **§§ 3:3 to 3:9**
 admitted matter, **§§ 3:13; 3:14**

IRRELEVANT EVIDENCE—Cont'd

Supporting authorities—Cont'd
 alcohol consumption evidence,
§§ 10:114; 10:115
 character, irrelevancy of felony
 conviction to, **§ 7:49**
 character evidence, to impeach,
§ 7:7
 character evidence, to prove
 conduct, **§ 7:28**
 collateral matter, **§ 3:15**
 collateral source payments, **§ 10:4**
 dispute, matters beyond, **§§ 3:4; 3:5; 3:13 to 3:16**
 financial status evidence, **§ 10:179**
 gruesome or inflammatory
 photographs, **§ 4:46**
 health matters not at issue,
§ 10:144
 laws of other states, **§ 3:6**
 letters, **§ 4:84**
 liability, admitted, exclusion
 motions, **§ 10:199**
 liability insurance protection,
§§ 10:22; 10:25
 matters not in dispute, **§§ 3:4; 3:5; 3:13 to 3:16**
 other accidents evidence,
§§ 10:54; 10:58
 other state laws, **§ 3:6**
 photographs, gruesome or inflammatory, **§ 4:46**
 pleadings, questions as to matter
 outside, **§ 3:7**
 prejudicial matter, **§ 3:8**
 prior DUI conviction evidence,
§ 10:125
 scope of matter, questions exceeding,
§ 3:5
 seat belt violation evidence,
§ 10:102
 settlement evidence, **§ 10:37**
 speculation, **§ 3:9**
 statutory violation evidence,
§ 10:85
 stipulated issues, **§ 3:19**
 subsequent repairs evidence,
§ 10:76
 tax evidence, **§ 10:190**

INDEX

IRRELEVANT EVIDENCE—Cont'd

- Supporting authorities—Cont'd
 - uncontroverted matter, § 3:14
 - unpledged issues, § 3:16
- Tax evidence
 - opposing authorities, § 10:195
 - supporting authorities, § 10:190
- Uncontroverted matter
 - Matters not in dispute, above supporting authorities, § 3:14
- Unpledged issues
 - Matters not in dispute, above opposing authorities, § 3:19
 - supporting authorities, § 3:16
- Unpledged issues, motion to exclude, § 3:25
- Writings, § 4:41

JUDGES

- Motion to exclude testimony of, §§ 8:48 to 8:55

JUDICIAL NOTICE

- Foundation matters, § 4:21
- Scientific test or experiment, § 5:44

JUNK SCIENCE

- See index heading EXPERT OPINIONS

JURORS, MATTER INFLUENCING

- See also EMOTIONAL BIAS
- Consumers, appeals to jurors' self interests as, § 2:17
- Damages preconditioning
 - opposing authorities, § 9:9
 - supporting authorities, § 9:5
- Foundation challenges, determination outside of jury presence, § 4:6
- Inflammatory evidence, § 7:61
- Inflammatory language, § 9:60
- Inflammatory photographs
 - generally, §§ 4:43 to 4:50
 - opposing authorities, § 4:50
 - purpose to inflame jurors, § 4:48
 - relevancy, § 4:46
 - sample motion, § 4:130
 - suggested motion text, § 4:43
 - summary of motion, § 4:44
 - supporting authorities, §§ 4:45 to 4:49

JURORS, MATTER INFLUENCING—Cont'd

- Law, educating jury as to during voir dire, § 9:6
- Motion to exclude testimony of, §§ 8:48 to 8:55
- Opposing authorities
 - damages preconditioning, § 9:9
 - inflammatory photographs, § 4:50
- Preconditioning jury
 - during voir dire, §§ 9:4; 9:5
 - through improper terminology, § 9:58
- Presence of jury, foundation challenges, § 4:6
- Purpose of admission of inflammatory photographs, § 4:48
- Sample motions
 - inflammatory evidence, § 7:61
 - inflammatory photographs, § 4:130
 - missing evidence instruction, opposition, § 9:76
- Suggested motion text
 - inflammatory photographs, § 4:43
 - voir dire, improper, § 9:1
- Summary of motion
 - inflammatory photographs, § 4:44
 - voir dire, improper, § 9:2
- Supporting authorities
 - consumers, appeals to jurors' self interests as, § 2:17
 - damages preconditioning, § 9:5
 - inflammatory photographs, §§ 4:45 to 4:49
 - law, educating jury as to during voir dire, § 9:6
 - preconditioning jury during voir dire, §§ 9:4; 9:5
 - preconditioning jury through improper terminology, § 9:58
 - purpose of admission of inflammatory photographs, § 4:48
 - taxpayers, appeals to jurors' self interests as, §§ 2:17; 10:193
 - voir dire, improper, §§ 9:3 to 9:9
- Taxpayers, appeals to jurors' self interests as, §§ 2:17; 10:193
- Terminology, improper inflammatory language, § 9:60

JURORS, MATTER INFLUENCING

—Cont'd

Terminology, improper—Cont'd
 preconditioning through, § 9:58
 usurping jury function, § 9:59
 Usurping jury function through
 improper terminology, § 9:59
 Voir dire, improper
 generally, §§ 9:1 to 9:9
 damages preconditioning, §§ 9:5;
 9:9
 law, educating jury as to, § 9:6
 liability insurance protection refer-
 ences, § 10:33
 opposing authorities, § 10:33
 preconditioning, §§ 9:4; 9:5
 suggested motion text, § 9:1
 summary of motion, § 9:2
 supporting authorities, §§ 9:3 to
 9:9

JURY CONFUSION

Motion to exclude evidence, § 2:38
 Opposition to motion, exclude evi-
 dence, § 2:39

JUVENILE ADJUDICATION

Sample motion to exclude improper
 character evidence, § 7:57

LAY OPINIONS

See also EXPERT OPINIONS
 Accident reports, opinions in, § 4:73
 Causation, § 8:96
 Common experience, opinions as to,
 § 8:13
 Exclusion motions
 generally, §§ 8:1 to 8:23; 8:29 to
 8:38
 causation opinions, § 8:32
 common experience, opinions as
 to, § 8:13
 experiments by lay persons, § 8:34
 hearsay in opinion, §§ 8:7; 8:9;
 8:19
 helpful lay opinions, § 8:38
 legal opinions, § 8:33
 mental state opinions, § 8:37
 opposing authorities, §§ 8:18 to
 8:23; 8:36 to 8:38

LAY OPINIONS—Cont'd

Exclusion motions—Cont'd
 others, opinions of, §§ 8:8; 8:22
 perception based opinions, § 8:36
 perception challenges, § 8:15
 personal knowledge challenges,
 § 8:15
 sanity, § 8:37
 secondhand opinions, §§ 8:8; 8:22
 suggested motion text, §§ 8:1;
 8:29
 summary, §§ 8:2; 8:30
 supporting authorities, §§ 8:3 to
 8:17; 8:31 to 8:35
 ultimate issue opinions, §§ 8:12;
 8:21
 understanding, lay opinions helpful
 to, § 8:38

Experiments by lay persons, § 8:34

Foundation challenges, § 4:14

Hearsay in opinion

opposing authorities, § 8:19
 supporting authorities, §§ 8:7; 8:9

Helpfulness, § 8:38

Medical records, opinions in
 business records exception,
 § 4:116
 diagnosis, opinion pertinent to,
 § 4:118
 diagnosis opinion formed for,
 § 4:115
 hearsay objection, § 4:108
 personal knowledge objection,
 § 4:109
 physician's observations in,
 § 4:117
 supporting authorities, §§ 4:108;
 4:109

Mental state opinions, § 8:37

Motion to exclude lay witness evi-
 dence, § 8:96

Opposing authorities

business records exception,
 § 4:116
 diagnosis, opinion pertinent to,
 § 4:118
 diagnosis opinion formed for,
 § 4:115

INDEX

LAY OPINIONS—Cont'd

Opposing authorities—Cont'd
exclusion motions, §§ 8:18 to
8:23; 8:36 to 8:38
hearsay in opinion, § 8:19
helpful lay opinions, § 8:38
mental state opinions, § 8:37
not speculative, § 8:23
others, opinions of, § 8:22
perception, opinions based on,
§ 8:36
physician's observations in medi-
cal records, § 4:117
sanity opinions, § 8:37
secondhand opinions, § 8:22
ultimate issue opinions, § 8:21
Opposition to motion to exclude lay
witness evidence, § 8:103
Others, opinions of
opposing authorities, § 8:22
supporting authorities, § 8:8
Perception, opinions based on, § 8:36
Personal knowledge challenges,
§ 8:15
Police reports, opinions in, § 4:73
Sanity opinions, § 8:37
Secondhand opinions
opposing authorities, § 8:22
supporting authorities, § 8:8
Speculativeness, supporting authori-
ties, §§ 5:9; 8:16
Suggested motion text, exclusion
motions, §§ 8:1; 8:29
Summary of motion, §§ 8:2; 8:30
Supporting authorities
accident reports, opinions in,
§ 4:73
causation challenges, § 8:32
exclusion motions, §§ 8:3 to 8:17;
8:31 to 8:35
experiments by lay persons, § 8:34
hearsay in opinion, §§ 8:7; 8:9
legal opinions, § 8:33
medical records, opinions in,
§§ 4:108; 4:109
others, opinions of, § 8:8
perception challenges, § 8:15

LAY OPINIONS—Cont'd

Supporting authorities—Cont'd
personal knowledge challenges,
§ 8:15
police reports, opinions in, § 4:73
secondhand opinions, § 8:8
speculativeness, §§ 5:9; 8:16
ultimate issue opinions, § 8:12
understanding, lay opinions helpful
to, § 8:38
Ultimate issue opinions
opposing authorities, § 8:21
supporting authorities, § 8:12
Understanding, lay opinions helpful
to, § 8:38
Undisclosed opinions, § 6:50
Undisclosed witness, sample motion
to exclude, § 6:81

LEGAL OPINIONS

See also EXPERT OPINIONS
Terminology, legal conclusions
contained in
opposing authorities, § 9:62
supporting authorities, § 9:55

LETTERS

Generally, §§ 4:79 to 4:93
Business records, letters as, § 4:91
Cumulative evidence, § 2:24
Emailed letters, motion to exclude,
§ 4:132
Foundation challenges, § 4:85
Hearsay objection
generally, §§ 4:83; 4:90
business records exception, § 4:91
inconsistent statement, letter
offered as, § 4:93
opposing authorities, §§ 4:87; 4:90
to 4:92
public records exception, § 4:92
supporting authorities, § 4:83
Impeachment, evidence offered for,
§ 4:89
Opposing authorities
generally, §§ 4:87 to 4:93
hearsay objection, §§ 4:87; 4:90 to
4:92

LETTERS—Cont'd

Opposing authorities—Cont'd
 impeachment, evidence offered for,
 § 4:89
 inconsistent statement, letter
 offered as, § 4:93
 relevancy objection, § 4:88
Prejudice objection, §§ 4:81; 4:82
Public records, letters as, § 4:92
Relevancy objection
 opposing authorities, § 4:88
 supporting authorities, § 4:84
Suggested motion text, § 4:79
Summary of motion, § 4:80
Supporting authorities
 generally, §§ 4:81 to 4:86
 cumulative evidence, § 2:24
 foundation challenges, § 4:85
 hearsay objection, § 4:83
 prejudice objection, §§ 4:81; 4:82
 relevancy objection, § 4:84

LIABILITY INSURANCE

PROTECTION

Generally, §§ 10:19 to 10:33
Adverse witness, issue raised by,
 § 10:32
Argument references
 incidental, § 10:29
 non-prejudicial, § 10:30
Element of case, admission to prove,
 § 10:31
Exclusion rule, § 10:23
Impeachment evidence, § 10:27
Incidental references, § 10:29
Irrelevant evidence
 opposing authorities, § 10:28
 supporting authorities, §§ 10:22;
 10:25
Lack of insurance, evidence as to,
 § 10:24
Motion to exclude evidence of,
 § 10:219
Opened-door admission, § 10:32
Opening statement references
 incidental references, § 10:29
 non-prejudicial references, § 10:30
Opposing authorities
 generally, §§ 10:27 to 10:33

LIABILITY INSURANCE

PROTECTION—Cont'd

Opposing authorities—Cont'd
 adverse witness, issue raised by,
 § 10:32
 element of case, admission to
 prove, § 10:31
 impeachment evidence, § 10:27
 incidental references, § 10:29
 irrelevant evidence, § 10:28
 opened-door admission, § 10:32
 prejudicial evidence, § 10:30
 voir dire questioning, § 10:33
Prejudicial evidence
 opposing authorities, § 10:30
 supporting authorities, § 10:21
Suggested motion text, § 10:19
Summary of motion, § 10:20
Supporting authorities
 generally, §§ 10:21 to 10:26
 exclusion rule, § 10:23
 irrelevant evidence, §§ 10:22;
 10:25
 lack of insurance, evidence as to,
 § 10:24
 prejudicial evidence, § 10:21
Voir dire questioning, § 10:33

LICENSES

See index heading **DRIVER'S LICENSE**
 SUSPENSION EVIDENCE

LIMITED ADMISSIBILITY

Cumulative evidence, §§ 2:20 to
 2:33

LOCAL RULES

Motion practice, §§ 1:17; 1:18

LOST OR DESTROYED

EVIDENCE, REFERENCES TO

Generally, §§ 9:22 to 9:31
Accidental destruction, § 9:26
Authority for evidence sanctions,
 § 9:25
Intentional destruction of suppression, § 9:27
Opposing authorities, § 9:31
Presumptions, § 9:29
Sample motion, § 9:69

INDEX

LOST OR DESTROYED EVIDENCE, REFERENCES TO —Cont'd

Sanctions, authority for evidence sanctions, **§ 9:25**
Spoliation, generally, **§ 9:28**
Suggested motion text, **§ 9:22**
Summary motion, **§ 9:23**
Supporting authorities, §§ **9:24 to 9:30**

LOST PROFITS

Motion to exclude improper damage evidence, speculative evidence, **§ 10:223**

MAPS, MODELS, AND CHARTS

Generally, §§ **4:94 to 4:102**
Accuracy not disputed, **§ 4:100**
Business records, admissibility as, **§ 4:102**
Demonstrative purposes, admission for, **§ 4:99**
Motion to exclude, sample, **§ 4:138**
Opposing authorities
accuracy not disputed, **§ 4:100**
business records, admissibility as, **§ 4:102**
demonstrative purposes, admission for, **§ 4:99**
relevant to issues, **§ 4:101**
Prejudice objection, §§ **4:96; 4:97**
Relevant to issues, **§ 4:101**
Suggested motion text, **§ 4:94**
Summary of motion, **§ 4:95**
Supporting authorities
generally, §§ **4:96 to 4:98**
prejudice objection, §§ **4:96; 4:97**

MARIJUANA USE EVIDENCE

Sample motion, **§ 10:207**

MARITAL INFIDELITY

Sample motion to exclude improper character evidence, **§ 7:55**

MARITAL PRIVILEGE

See also **PRIVILEGED INFORMATION**
Opposing authorities, **§ 6:72**
Supporting authorities, **§ 6:63**

MATTERS NOT IN DISPUTE

See index heading **IRRELEVANT EVIDENCE**

MEDIATION EVIDENCE

Motion to exclude mediation evidence, **§ 9:70**
Motion to exclude testimony of mediators, §§ **8:48 to 8:55**

MEDICAL OPINIONS

See index heading **EXPERT OPINIONS**

MEDICAL RECORDS AND REPORTS

Generally, §§ **4:103 to 4:119**
Bills
discovery motions, **§ 6:80**
foundation challenges, **§ 4:111**
nonpayment, **§ 4:112**
opposing authorities, **§ 4:119**
reasonableness of charges, **§ 4:119**
supporting authorities, §§ **4:111; 4:112**
Business records, **§ 4:116**
Civil vs criminal cases, **§ 4:107**
Diagnosis, opinion pertinent to, §§ **4:115; 4:118**
Foundation challenges
medical bills, **§ 4:111**
opposing authorities, **§ 4:114**
supporting authorities, §§ **4:17; 4:106; 4:111**
Hearsay objection to opinions in supporting authorities, **§ 4:108**
Histories, **§ 4:110**
Opinions in
business records treatment, **§ 4:116**
diagnosis, opinion pertinent to, §§ **4:115; 4:118**
hearsay objection, **§ 4:108**
personal knowledge objection, **§ 4:109**
physician's observations in, **§ 4:117**
supporting authorities, §§ **4:108; 4:109**
Opposing authorities
generally, §§ **4:114 to 4:119**
billing records, **§ 4:119**

MEDICAL RECORDS AND REPORTS—Cont'd

Opposing authorities—Cont'd

- business records treatment, § 4:116
- diagnosis, opinion formed for, § 4:115
- diagnosis, opinion pertinent to, § 4:118
- foundation challenges, § 4:114
- opinions in, §§ 4:115 to 4:118
- physician's observations in, § 4:117

Personal knowledge objection to opinions in, § 4:109

Physician's observations in, § 4:117

Plaintiff, motion to exclude medical history, § 4:133

Prejudice objection, § 4:105

Reasonableness of charges, § 4:119

Suggested motion text, § 4:103

Summary of motion, § 4:104

Supporting authorities

- generally, §§ 4:105 to 4:113
- bills
 - foundation challenges, § 4:111
 - nonpayment, § 4:112
- civil vs criminal cases, § 4:107
- foundation challenges, §§ 4:17; 4:106
- foundation challenges to bills, § 4:111
- hearsay objection to opinions in, § 4:108
- histories, § 4:110
- opinions in, §§ 4:108; 4:109
- personal knowledge objection to opinions in, § 4:109
- prejudice objection, § 4:105

MEDICAL STUDIES ACT PRIVILEGE

See also PRIVILEGED INFORMATION

Opposing authorities, § 6:74

Supporting authorities, § 6:62

MENTAL HEALTH

Motion to exclude evidence regarding witness, § 7:60

MENTAL STATE

Examinations. See index heading DISCOVERY PRACTICE

Opinions as to, § 8:37

Witness competency challenges, § 8:47

MISLEADING EVIDENCE

See index heading CONFUSING OR MISLEADING EVIDENCE

MODELS

See index heading MAPS, MODELS, AND CHARTS

MOTION PICTURES

See also VIDEOTAPES

Foundation challenges, § 4:12

MOTION PRACTICE

Generally, §§ 1:1 to 1:26

See also SAMPLE MOTIONS AND SUGGESTED TEXT

Authority for motion, § 1:2

Brief on motion, form of

- generally, § 1:25
- collateral evidence exclusion, § 10:206
- collateral source rule, § 10:204

Clarity of motion, § 1:21

Court's options, § 1:6

Description of motion, § 1:1

Drafting suggestions, §§ 1:20 to 1:24

Forms

- brief on motion
 - generally, § 1:25
 - collateral evidence exclusion, § 10:206
 - collateral source rule, § 10:204
 - order on motion, § 1:26

Grounds for, inclusion of, §§ 1:24; 1:25

How to preserve error, § 1:12

Illinois Rules of Evidence, § 1:3

Important citation considerations, § 1:19

Inclusion of supporting grounds, §§ 1:24; 1:25

Legal basis for motion, § 1:23

Limitations on use of motion, § 1:5

INDEX

MOTION PRACTICE—Cont'd

- Local rules, §§ 1:17; 1:18
- Oral motions, § 1:16
- Orders on motions
 - generally, § 1:8
 - form, § 1:26
 - violations, § 1:9
- Preservation of objections
 - generally, §§ 1:10 to 1:13
 - appellate review, § 1:13
 - civil cases, § 1:10
 - criminal cases, § 1:11
 - how to preserve error, § 1:12
- Procedural requirements, §§ 1:16 to 1:18
- Purpose of motion, § 1:1
- Rulings on motions
 - generally, § 1:6
 - impeachment, ruling on motion regarding defendant's convictions as, § 1:7
 - witnesses, explaining rulings to, § 1:8
- Sanctions, § 1:9
- Scope of motion, § 1:15
- Succinctness of motion, § 1:22
- Supporting grounds, inclusion of, §§ 1:24; 1:25
- Timing of motion, § 1:14
- Use of motion, §§ 1:4 to 1:13
- Violations of orders, § 1:9
- Witnesses, advise to re rulings, § 1:8

MOTION TO BAR

- Premature rebuttal to affirmative defense, § 9:75

NEGLIGENCE

- Alcohol consumption. See index heading ALCOHOL CONSUMPTION EVIDENCE
- Care and skill to prove conduct, § 7:30
- Driver's license suspensions. See index heading DRIVER'S LICENSE SUSPENSION EVIDENCE
- Other accidents. See index heading OTHER ACCIDENTS EVIDENCE
- Per se negligence, § 10:91
- Presumptive negligence, § 10:91

NEGLIGENCE—Cont'd

- Prior DUIs. See index heading PRIOR DUI CONVICTION EVIDENCE
- Seat belt violations. See index heading SEAT BELT VIOLATION EVIDENCE
- Statutory violations. See index heading STATUTORY VIOLATION EVIDENCE
- Subsequent repairs. See index heading SUBSEQUENT REPAIRS EVIDENCE

NEGOTIATIONS

- See also SETTLEMENT EVIDENCE
- Exclusion of evidence of, § 10:40

OBJECTIONS

- See index heading PRESERVATION OF OBJECTIONS

OFFERS OF PROOF

- Physical evidence, foundation challenges, §§ 4:5; 4:23

OPENING STATEMENTS

- Generally, §§ 9:10 to 9:15
- Improper argument, motion to exclude, § 9:74
- Juror influences. See index heading JURORS, MATTER INFLUENCING
- Liability insurance protection references
 - incidental references, § 10:29
 - non-prejudicial references, § 10:30
- Lost or destroyed evidence. See index heading LOST OR DESTROYED EVIDENCE, REFERENCES TO
 - Motion to exclude, improper argument, § 9:74
- Non-called witnesses, references to, §§ 8:70 to 8:77
- Opposing authorities, § 9:15
- Prejudicial evidence references, §§ 9:12; 9:13
- Suggested motion text, § 9:10
- Summary of motion, § 9:11
- Supporting authorities, §§ 9:12 to 9:14
- Terminology, improper. See index heading TERMINOLOGY, IMPROPER

OPINIONS

Experts. See index heading EXPERT OPINIONS
Lay. See index heading LAY OPINIONS

ORDERS

Form of order on in limine motion,
§ 1:26
Motion for order, default judgment,
§ 6:87

OTHER ACCIDENTS EVIDENCE

Generally, §§ 10:51 to 10:72
Absence of prior accidents
 opposing authorities, § 10:63
 supporting authorities, § 10:55
Confusing evidence, § 10:59
Dangerous condition, admission to
 prove
 generally, §§ 10:57; 10:65
 opposing authorities, §§ 10:65;
 10:71
 supporting authorities, §§ 10:57;
 10:61
Defectiveness of product, admission
 to prove
 opposing authorities, § 10:65
 supporting authorities, § 10:57
Discretion of court
 opposing authorities, § 10:64
 subsequent accidents, § 10:70
Expert opinion, basis for, § 10:68
Impeachment evidence, § 10:69
Injuries, similarity of, § 10:67
Irrelevant evidence
 opposing authorities, § 10:67
 supporting authorities, §§ 10:54;
 10:58
Negligence, admission to prove,
 § 10:56
Notice, admission to show, § 10:66
Opposing authorities
 generally, §§ 10:63 to 10:72
 absence of prior accidents, § 10:63
 dangerous condition, admission to
 prove, § 10:65
 dangerous condition cases, § 10:71
 defective product admission to
 prove, § 10:65

OTHER ACCIDENTS EVIDENCE

—Cont'd

Opposing authorities—Cont'd
 discretion of court, § 10:64
 expert opinion, basis for, § 10:68
 impeachment evidence, § 10:69
 injuries, similarity of, § 10:67
 irrelevant evidence, § 10:67
 notice, admission to show, § 10:66
 similarity of conditions, § 10:65
 similarity of injuries, § 10:67
 subsequent accident evidence
 dangerous condition cases,
 § 10:71
 impeachment use, § 10:72
 Prejudicial evidence, § 10:53
 Similarity of conditions
 opposing authorities, § 10:65
 supporting authorities, § 10:57
 Similarity of injuries, § 10:67
 Subsequent accident evidence
 generally, § 10:60
 dangerous condition cases,
 §§ 10:61; 10:71
 impeachment use, § 10:72
 opposing authorities, §§ 10:71;
 10:72
 supporting authorities, §§ 10:60;
 10:61
 Suggested motion text, § 10:51
 Summary of motion, § 10:52
 Supporting authorities
 generally, §§ 10:53 to 10:62
 absence of prior accidents, § 10:55
 confusing evidence, § 10:59
 dangerous condition, admission to
 prove, § 10:57
 dangerous condition cases, § 10:61
 defective product admission to
 prove, § 10:57
 irrelevant evidence, §§ 10:54;
 10:58
 negligence, admission to prove,
 § 10:56
 prejudicial evidence, § 10:53
 similarity of conditions, § 10:57
 subsequent accident evidence
 generally, § 10:60

INDEX

OTHER ACCIDENTS EVIDENCE

—Cont'd

Supporting authorities—Cont'd
subsequent accident evidence
—Cont'd
dangerous condition cases,
§ 10:61

PENILE PLETHYSMOGRAPH TEST

Generally, **§ 5:30**

See also EXPERT OPINIONS

PER SE NEGLIGENCE

Generally, **§ 10:91**

See also STATUTORY VIOLATION EVIDENCE

PERSONAL INJURY PRACTICE

Accident reconstruction. See index heading ACCIDENT RECONSTRUCTION

Alcohol consumption. See index heading ALCOHOL CONSUMPTION EVIDENCE

Biomechanics. See index heading BIOMECHANICAL EVIDENCE

Collateral source rule. See index heading COLLATERAL SOURCE PAYMENTS

Driver's license suspensions. See index heading DRIVER'S LICENSE SUSPENSION EVIDENCE

Financial status. See index heading FINANCIAL STATUS EVIDENCE

Health matters not at issue. See index heading HEALTH MATTERS NOT AT ISSUE

Liability evidence not contested. See index heading LIABILITY EVIDENCE NOT CONTESTED

Liability insurance. See index heading LIABILITY INSURANCE PROTECTION

Other accidents. See index heading OTHER ACCIDENTS EVIDENCE

Prior DUIs. See index heading PRIOR DUI CONVICTION EVIDENCE

Seat belt violations. See index heading SEAT BELT VIOLATION EVIDENCE

PERSONAL INJURY PRACTICE

—Cont'd

Settlements. See index heading SETTLEMENT EVIDENCE

Statutory violations. See index heading STATUTORY VIOLATION EVIDENCE

Subsequent repairs. See index heading SUBSEQUENT REPAIRS EVIDENCE

Tax evidence. See index heading TAX EVIDENCE

PHOTOGRAPHS

Generally, **§ 4:43**

Cumulative evidence, **§ 2:27**

Foundation challenges, **§ 4:9**

Gruesome or inflammatory generally, §§ 4:43 to 4:50

irrelevant evidence challenge,

§ 4:46

opposing authorities, **§ 4:50**

purpose to inflame jurors, **§ 4:48**

relevancy, **§ 4:46**

sample motion, **§ 4:130**

suggested motion text, **§ 4:43**

summary of motion, **§ 4:44**

supporting authorities, §§ 4:45 to

4:49

Irrelevant evidence, **§ 4:46**

Opposing authorities

gruesome or inflammatory, **§ 4:50**

vehicle damage, **§ 10:174**

Prejudicial, opposition to motion to exclude, §§ 4:135; 4:144

Purpose to inflame jurors, **§ 4:48**

Sample motion, **§ 4:130**

Suggested motion text, **§ 4:43**

Summary of motion, **§ 4:44**

Supporting authorities

cumulative evidence, **§ 2:27**

foundation challenges, **§ 4:9**

gruesome or inflammatory, §§ 4:45

to 4:49

purpose to inflame jurors, **§ 4:48**

relevancy of gruesome or inflammatory photographs, **§ 4:47**

vehicle damage, **§ 10:164**

Vehicle damage

opposing authorities, **§ 10:174**

PHOTOGRAPHS—Cont'd

Vehicle damage—Cont'd
supporting authorities, § 10:164

PHYSICAL CONDITION NOT AT ISSUE

Sample motion, § 3:23

PHYSICAL EVIDENCE

Generally, §§ 4:1 to 4:145

Conditional admissibility to resolve
foundation challenges, § 4:22

Film. See index heading PHOTOGRAPHS

Foundation challenges

generally, §§ 4:1 to 4:23

conditional admissibility to
resolve, § 4:22

inadmissibility of evidence lacking
foundation, § 4:8

judicial notice, § 4:21

jury, determinations outside of
presence of, § 4:6

offers of proof, § 4:5

opposing authorities

generally, §§ 4:19 to 4:23

judicial notice to resolve, § 4:21

suggested motion text, § 4:1

summary of motion, § 4:2

supporting authorities, §§ 4:3 to
4:18

Judicial notice as to foundation,
§ 4:21

Maps, models, and charts. See index
heading MAPS, MODELS, AND
CHARTS

Offers of proof, § 4:5

Opposing authorities

foundation challenges, §§ 4:19 to
4:23

judicial notice to resolve founda-
tion challenges, § 4:21

Photographs. See index heading
PHOTOGRAPHS

Published material. See index head-
ing PUBLISHED MATERIAL

Suggested motion text, § 4:1

Summary of motion, § 4:2

Supporting authorities, §§ 4:3 to 4:18
generally, §§ 4:7 to 4:18

PHYSICAL EVIDENCE—Cont'd

Supporting authorities, §§ 4:3 to 4:18

—Cont'd

rule of completeness not applied,
§ 4:7

Videotapes. See index heading
VIDEOTAPES

PHYSICAL EXAMINATIONS

See index heading DISCOVERY
PRACTICE

PHYSICIAN-PATIENT PRIVILEGE

See also PRIVILEGED INFORMATION

Opposing authorities, § 6:73

Supporting authorities, § 6:64

PHYSICIANS

Discovery practice, § 6:53

Experts. See index heading EXPERT
OPINIONS

Medical records. See index heading
MEDICAL RECORDS AND REPORTS

PHYSICIAN'S ASSISTANT

Medical qualifications, § 8:90

PLEADINGS

Irrelevant questions as to matter
outside, § 3:7

Unpledged issues. See index heading
UNPLEADED ISSUES

POINTS AND AUTHORITIES

See index heading BRIEFS ON MOTION

POLICE REPORTS

Generally, §§ 4:68 to 4:78

See also CRIMES AND CRIMINAL PROCE-
DURE; PUBLIC RECORDS

Diagrams made at scene, § 4:76

Hearsay objection

business records exception, § 4:77
opposing authorities, §§ 4:77; 4:78

public records exception, § 4:78

supporting authorities, § 4:72

Opinions in reports, § 4:73

Opposing authorities, §§ 4:75 to 4:78

Refreshing recollection, use for,
§ 4:75

Statements in reports, § 4:73

Statutory exclusion, § 4:71

INDEX

POLICE REPORTS—Cont'd

Suggested motion text, § 4:68
Summary of motion, § 4:69
Supporting authorities, §§ 4:70 to 4:74

POLYGRAPH EVIDENCE

Generally, § 5:25
See also EXPERT OPINIONS
Motion to exclude evidence of, § 5:57

PREJUDICE

Generally, §§ 2:1 to 2:41
Accident report
 motion to exclude, § 4:140
Alcohol consumption evidence, § 10:113
Articles as cumulative, § 2:24
Character evidence, to impeach, § 7:6
Character evidence, to prove conduct, § 7:27
Charts, §§ 4:96; 4:97
Claims denied during discovery, exclusion motions, § 6:39
Closing argument. See index heading PREJUDICIAL CLOSING ARGUMENT
Collateral source payments, § 10:3
Consumers, appeals to jurors' self interests as, § 2:17
Cumulative evidence as
 opposing authorities, §§ 2:30 to 2:33
 supporting authorities, §§ 2:22 to 2:29
Demonstrative evidence, § 4:3
Documents as cumulative, § 2:24
Emails
 generally, § 4:81
Emotional bias evidence
 opposing authorities, § 2:19
 supporting authorities, §§ 2:15 to 2:18
Expert credentials as cumulative
 opposing authorities, § 2:33
 supporting authorities, § 2:25
Felony conviction evidence, § 7:41
Financial status evidence, § 10:178
Golden rule argument, §§ 2:18; 9:48

PREJUDICE—Cont'd

Health matters not at issue, § 10:143
Irrelevant prejudicial matter, § 3:8
Letters
 generally, §§ 4:81; 4:82
 cumulative, § 2:24
Liability, admitted, exclusion motions, § 10:198
Liability insurance protection
 opposing authorities, § 10:30
 supporting authorities, § 10:21
Maps and models, §§ 4:96; 4:97
Medical records, § 4:105
Non-called witnesses, exclusion of references to, § 8:72
Opening statements references to, supporting authorities, §§ 9:12; 9:13
Opposing authorities
 generally, § 2:4
 confusing evidence, § 2:12
 cumulative evidence as, §§ 2:30 to 2:33
 emotional bias evidence, § 2:19
 expert credentials as cumulative, § 2:33
 liability insurance protection, § 10:30
 misleading evidence, § 2:12
 prejudicial photographs, motion to exclude, § 4:144
 settlement evidence, § 10:46
 time-wasting evidence, § 2:8
 videotapes
 generally, §§ 4:56 to 4:58
 cautionary admonition, admission subject to, § 4:58
 cumulative, § 2:32
 relevancy outweighing prejudice, § 4:57
 witnesses, numbers of as cumulative, § 2:31
Other accidents evidence, § 10:53
Photographs
 numbers of as cumulative, § 2:27
 opposition to motion to exclude, § 4:144
Physical evidence, § 4:3

PREJUDICE—Cont'd

Prior DUI conviction evidence, §§ **10:124; 10:131**
Probative value weighing, § **10:131**
Published material, §§ **4:61; 4:64**
Reports and records as cumulative, § **2:28**
Sample motions, §§ **2:34 to 2:41**
Sample motions and suggested motion text
exclusion of prejudicial evidence, § **2:36**
motion to exclude prejudicial evidence, opposition to, § **2:40**
Seat belt violation evidence, § **10:101**
Settlement evidence
opposing authorities, § **10:46**
supporting authorities, § **10:36**
Social media, exclusion of prejudicial evidence, § **4:122**
Statutory violation evidence, § **10:84**
Subsequent repairs evidence, § **10:75**
Suggested motion text, § **4:51**
Suggested text, § **2:1**
Summary of motion
generally, § **2:2**
videotapes, § **4:52**
Supporting authorities
generally, § **2:3**
alcohol consumption evidence, § **10:113**
articles as cumulative, § **2:24**
character evidence, to conduct, § **7:27**
character evidence, to impeach, § **7:6**
charts, §§ **4:96; 4:97**
claims denied during discovery, exclusion motions, § **6:39**
collateral source payments, § **10:3**
confusing evidence, § **2:11**
consumers, appeals to jurors' self interests as, § **2:17**
cumulative evidence as, §§ **2:22 to 2:29**
demonstrative evidence, § **4:3**
documents as cumulative, § **2:24**
emails, § **4:81**

PREJUDICE—Cont'd

Supporting authorities—Cont'd
emotional bias evidence, §§ **2:15 to 2:18**
expert credentials as cumulative, § **2:25**
felony conviction evidence, § **7:41**
financial status evidence, § **10:178**
golden rule argument, §§ **2:18; 9:48**
health matters not at issue, § **10:143**
irrelevant prejudicial matter, § **3:8**
letters, §§ **4:81; 4:82**
liability, admitted, exclusion motions, § **10:198**
liability insurance protection, § **10:21**
maps and models, §§ **4:96; 4:97**
medical records, § **4:105**
misleading evidence, § **2:11**
non-called witnesses, exclusion of references to, § **8:72**
opening statements references to, §§ **9:12; 9:13**
other accidents evidence, § **10:53**
photographs, numbers of as cumulative, § **2:27**
physical evidence, § **4:3**
prior DUI conviction evidence, §§ **10:124; 10:131**
published material, §§ **4:61; 4:64**
reports and records as cumulative, § **2:28**
seat belt violation evidence, § **10:101**
settlement evidence, § **10:36**
statutory violation evidence, § **10:84**
subsequent repairs evidence, § **10:75**
tax evidence, § **10:189**
taxpayers, appeals to jurors' self interests as, §§ **2:17; 10:193**
time-wasting evidence, §§ **2:7; 2:22**
videotapes as cumulative, § **2:29**
witnesses, numbers of as cumulative, § **2:26**

INDEX

PREJUDICE—Cont'd

Supporting authorities—Cont'd writings, **§ 4:3**
Tax evidence, **§ 10:189**
Taxpayers, appeals to jurors' self interests as, **§§ 2:17; 10:193**
Time-wasting evidence, **§§ 2:7; 2:22**
Videotapes
generally, **§§ 4:51 to 4:58**
cumulative
opposing authorities, **§ 2:32**
supporting authorities, **§ 2:29**
opposing authorities
generally, **§§ 2:32; 4:56**
cautionary admonition, admission subject to, **§ 4:58**
relevancy outweighing prejudice, **§ 4:57**
suggested motion text, **§ 4:51**
summary of motion, **§ 4:52**
supporting authorities, **§§ 2:29; 4:53 to 4:55**

Witnesses, excessive numbers of opposing authorities, **§ 2:31**
supporting authorities, **§ 2:26**
Writings, **§ 4:3**

PREJUDICIAL CLOSING ARGUMENT

Generally, **§§ 9:63 to 9:68**
Exclusion of, **§ 9:66**
Motion summary, **§ 9:64**
Opposing authorities, **§ 9:68**
Other grounds, **§ 9:67**
Prejudicial evidence exclusion, **§ 9:65**
Suggested motion text, **§ 9:63**

PRESCRIPTION DRUG ABUSE

Sample motion to exclude improper character evidence, **§ 7:58**

PRESERVATION OF OBJECTIONS

Generally, **§ 1:12**
In limine rulings, preservation after generally, **§§ 1:10 to 1:13**
appellate review, **§ 1:13**
civil cases, **§ 1:10**
criminal cases, **§ 1:11**
how to preserve error, **§ 1:12**

PRESUMPTIONS

Lost or destroyed evidence, **§ 9:29**

PRESUMPTIVE NEGLIGENCE

Generally, **§ 10:91**

See also STATUTORY VIOLATION EVIDENCE

PRIOR ACCIDENT EVIDENCE

Sample motion to exclude, **§ 10:224**

PRIOR ARREST EVIDENCE

Sample motion to exclude, **§ 7:59**

PRIOR DUI CONVICTION EVIDENCE

Generally, **§§ 10:122 to 10:140**

Arrests, **§ 10:129**

Blood alcohol evidence

opposing authorities, **§ 10:135**

supporting authorities, **§ 10:126**

Conduct, admission to show, **§ 10:132**

Driver's license suspensions. See index heading **DRIVER'S LICENSE SUSPENSION EVIDENCE**

Felony convictions

opposing authorities, **§§ 10:139; 10:140**

supporting authorities, **§ 10:130**

Foundation challenge

opposing authorities, **§ 10:137**

supporting authorities, **§ 10:127**

Impeachment evidence

opposing authorities, **§ 10:138**

supporting authorities, **§ 10:128**

Irrelevant evidence

opposing authorities, **§ 10:136**

supporting authorities, **§ 10:125**

Misdemeanor convictions, **§ 10:129**

Motion to exclude, sample, **§ 10:221**

Opposing authorities

generally, **§§ 10:134 to 10:140**

blood alcohol evidence, **§ 10:135**

felony convictions, **§§ 10:139; 10:140**

foundation challenge, **§ 10:137**

impeachment evidence, **§ 10:138**

irrelevant evidence, **§ 10:136**

PRIOR DUI CONVICTION
EVIDENCE—Cont'd
Prejudicial evidence, §§ 10:124; 10:131
Suggested motion text, § 10:122
Summary of motion, § 10:123
Supporting authorities
 generally, §§ 10:124 to 10:133
 arrests, § 10:129
 blood alcohol evidence, § 10:126
 conduct, admission to show, § 10:132
 felony convictions, § 10:130
 foundation challenge, § 10:127
 impeachment evidence, § 10:128
 irrelevant evidence, § 10:125
 misdemeanor convictions, § 10:129
 prejudicial evidence, §§ 10:124; 10:131

PRIVILEGED INFORMATION
Generally, §§ 6:57 to 6:74
Attorney-client privilege
 opposing authorities, § 6:76
 supporting authorities, § 6:65
Claims denied during discovery, exclusion motions, § 6:41
Clergy privilege
 opposing authorities, § 6:71
 supporting authorities, § 6:61
Discovery, claims raised during, § 6:41
Informant's privilege
 opposing authorities, §§ 6:69; 6:77
 supporting authorities, § 6:66
Marital privilege
 opposing authorities, § 6:72
 supporting authorities, § 6:63
Medical Studies Act privilege
 opposing authorities, § 6:74
 supporting authorities, § 6:62
Opposing authorities
 attorney-client privilege, § 6:76
 clergy privilege, § 6:71
 informant's privilege, §§ 6:69; 6:77
 marital privilege, § 6:72

PRIVILEGED INFORMATION
—Cont'd
Opposing authorities—Cont'd
 Medical Studies Act privilege, § 6:74
 physician-patient privilege, § 6:73
 relevancy, § 6:75
 spousal privilege, § 6:72
 surveillance location, § 6:78
 therapist's privilege, § 6:70
 work product privilege, § 6:76
Physician-patient privilege
 opposing authorities, § 6:73
 supporting authorities, § 6:64
Self-incrimination privilege, motion to exclude comment on, §§ 8:63 to 8:69
Settlements. See index heading SETTLEMENT EVIDENCE
Spousal privilege
 opposing authorities, § 6:72
 supporting authorities, § 6:63
Suggested motion text, § 6:57
Summary of motion, § 6:58
Supporting authorities
 generally, §§ 6:59 to 6:65
 attorney-client privilege, § 6:65
 clergy privilege, § 6:61
 informant's privilege, § 6:66
 marital privilege, § 6:63
 Medical Studies Act privilege, § 6:62
 physician-patient privilege, § 6:64
 reporters privilege, § 6:67
 spousal privilege, § 6:63
 surveillance location, § 6:68
 therapist's privilege, § 6:60
 work product privilege, § 6:65
Surveillance location
 opposing authorities, § 6:78
 supporting authorities, § 6:68
Therapist's privilege
 opposing authorities, § 6:70
 supporting authorities, § 6:60
Work product privilege
 opposing authorities, § 6:76
 supporting authorities, § 6:65

INDEX

PROCEDURES, IMPROPER
Expert opinion challenges, § 5:8

PRODUCTION OF DOCUMENTS
See index heading DISCOVERY PRACTICE

PRODUCTS LIABILITY
Other accidents. See index heading OTHER ACCIDENTS EVIDENCE
Seat belt violations. See index heading SEAT BELT VIOLATION EVIDENCE
Subsequent repairs. See index heading SUBSEQUENT REPAIRS EVIDENCE

PSYCHOLOGICAL PROFILING
Generally, § 5:54
See also EXPERT OPINIONS

PSYCHOLOGICAL TESTS
See also EXPERT OPINIONS
Opposing authorities, § 5:49
Supporting authorities, § 5:27

PUBLIC RECORDS
Accident reports. See index heading ACCIDENT REPORTS
Letters as, § 4:92
Police reports. See index heading POLICE REPORTS

PUBLISHED MATERIAL
Generally, §§ 4:59 to 4:67
Cumulative evidence objection, § 4:62
Hearsay objection
 opposing authorities, § 4:67
 supporting authorities, § 4:63
Opposing authorities
 hearsay objection, § 4:67
 nonhearsay argument, § 4:67
 relevancy to issues, § 4:66
Prejudice objection, §§ 4:61; 4:64
Sample motion to exclude newspaper article, § 4:134
Suggested motion text, § 4:59
Summary of motion, § 4:60
Supporting authorities
 generally, §§ 4:61 to 4:65
 cumulative evidence objection, § 4:62

PUBLISHED MATERIAL—Cont'd
Supporting authorities—Cont'd
 hearsay objection, § 4:63
 prejudice objection, §§ 4:61; 4:64

RAPE TRAUMA SYNDROME EVIDENCE
See also EXPERT OPINIONS
Opposing authorities, § 5:49
Supporting authorities, § 5:28

RECONSTRUCTION OF ACCIDENTS
See index heading ACCIDENT RECONSTRUCTION

RECORDINGS
See also PHYSICAL EVIDENCE
Foundation challenges, § 4:10

RECORDS
Business records. See index heading BUSINESS RECORDS
Cumulative evidence, § 2:28
Hearsay objection
 business records exception, § 4:77
 opposing authorities, §§ 4:77; 4:78
 public records exception, § 4:78
 supporting authorities, § 4:72
Letters. See index heading LETTERS
Medical records. See index heading MEDICAL RECORDS AND REPORTS
Public. See index heading PUBLIC RECORDS

REFRESHING RECOLLECTION
Writing used for, § 4:75

REGISTERED NURSE
Medical qualifications, § 8:91

RELEVANCY
See also IRRELEVANT EVIDENCE
Multiple issues, relevancy as to some, § 3:20
Privilege, relevance of evidence claimed as, § 6:75
Published material, admission for relevancy to issues, § 4:66

RELIGIOUS BELIEF
See also CHARACTER EVIDENCE

RELIGIOUS BELIEF—Cont'd

Opposing authorities, § 7:24
Supporting authorities, § 7:15

RELIGIOUS BELIEFS

Sample motion to exclude improper character evidence, § 7:56

REPAIRS

Subsequent repairs. See index heading SUBSEQUENT REPAIRS EVIDENCE

REPORTERS

Privileged information supporting authorities, § 6:67

REPORTS

Accident reports. See index heading ACCIDENT REPORTS

Cumulative evidence, § 2:28

Medical reports. See index heading MEDICAL RECORDS AND REPORTS

Opinions in reports, § 4:73

Police reports. See index heading POLICE REPORTS

Refreshing recollection, use for, § 4:75

RULES

Local rules on motion practice, §§ 1:17; 1:18

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT

Accident reconstruction, § 10:148

Accident report, motion to exclude, § 4:140

Accident reports, § 4:68

Admissions of liability, exclusion motions after, § 10:196

Affirmative defenses, premature rebuttal, § 9:16

Alcohol consumption evidence, §§ 7:54; 10:111

Arbitration evidence and findings, § 9:32

Bifurcated trial, damages evidence in, § 9:36

Bills, medical, § 4:103

Biomechanical evidence, §§ 5:61; 10:148

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT

—Cont'd

Brief on in limine motion, form of generally, § 1:25

collateral evidence exclusion, § 10:206

collateral source rule, § 10:204

Character evidence

alcoholism exclusion, § 7:54

conduct, use to prove, § 7:25

impeachment, use for, § 7:4

improper character evidence (marital infidelity) exclusion, § 7:55

inflammatory evidence exclusion, opposition, § 7:61

juvenile adjudication, motion to exclude improper character evidence, § 7:57

marital infidelity, motion to exclude improper character evidence, § 7:55

prescription drug abuse, motion to exclude improper character evidence, § 7:58

prior arrest of witness, motion to exclude, § 7:59

religious beliefs, motion to exclude improper character evidence, § 7:56

Claims denied during discovery, exclusion motions, § 6:37

Collateral and irrelevant evidence, motion to exclude, § 3:24

Collateral evidence, §§ 10:205; 10:206

Collateral source payments generally, §§ 10:1; 10:209

Medicare benefits, §§ 10:203; 10:204

Comment regarding exercise of privilege, exclude, § 8:102

Competency of witnesses, § 8:39

Computerized valuations of plaintiff's business, motion to exclude evidence of, § 8:94

Conduct, character evidence to prove, § 7:25

INDEX

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT
—Cont’d

Confusing or misleading evidence, §§ 2:9; 2:34

Cumulative evidence, §§ 2:20; 2:35

Damages evidence in bifurcated trial, §§ 9:36; 9:72

Deem matters admitted, motion to, § 6:83

Default judgment, motion for order, § 6:87

Defendant’s poverty, motion to exclude evidence, § 2:37

Defendant’s prior DUI, motion to exclude, § 10:221

Demonstration evidence, motion to exclude, § 4:131

Demonstrative evidence, foundation challenge, § 4:1

Discovery sanctions

- default judgment, § 6:87
- motion text, § 6:1

Drafting suggestions, §§ 1:20 to 1:24

Driver’s license suspension evidence, §§ 10:93; 10:208

Driver was unlicensed, § 10:226

Emailed letter, motion to exclude, § 4:132

Emails, § 4:79

Emotional bias evidence, § 2:13

Evidence produced beyond discovery deadline, motion to exclude, § 6:82

Evidentiary sanctions

- failure to serve answers/objections to interrogatories, § 6:86

Exclusion of testimony, incompetent witness, § 8:101

Expert opinions

- generally, §§ 5:1; 5:56; 5:59
- credibility of witness, motion to exclude, § 5:60
- exclusion, § 8:1

Frye motion, § 10:212

junk science challenges, § 5:20

matters not disclosed during discovery, § 6:85

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT
—Cont’d

Expert opinions—Cont’d

qualification challenges

- generally, § 8:24
- physician’s assistant, medical qualifications, § 8:90
- registered nurse, medical qualifications, § 8:91

Expert testimony, credibility of witness, motion to exclude, § 5:60

Expert witnesses’ testimony, opposition to motion to exclude evidence, § 2:41

Failure to file income tax returns, motion to exclude evidence of, § 10:217

Felony conviction evidence, § 7:38

Financial status evidence, § 10:176

Firearm residue, motion to admit evidence of laboratory testing regarding, § 10:213

Foundation challenge to demonstrative evidence, § 4:1

Frye motion, § 10:212

Golden rule argument, § 9:46

Golden rule argument, motion to preclude, § 9:71

Gruesome or inflammatory photographs, §§ 4:43; 4:130

Health matters not at issue, § 10:141

Hearsay

- testimony, § 8:78
- written hearsay, § 4:24

Hypnotic interview, motion to exclude evidence of, § 5:58

Impeachment use of character evidence, § 7:4

Improper argument, opening statement, § 9:74

Improper voir dire, § 9:73

Incompetent witness, exclusion of testimony, § 8:101

Inflammatory evidence exclusion, opposition, § 7:61

Inflammatory photographs, §§ 4:43; 4:130; 4:135

**SAMPLE MOTIONS AND
SUGGESTED MOTION TEXT**
—Cont'd

Irrelevant evidence
generally, §§ 3:22; 3:23
matters not in dispute, § 3:11

Jury confusion
motion to exclude evidence, § 2:38
opposition to motion, exclude evidence, § 2:39

Juvenile adjudication, motion to exclude improper character evidence, § 7:57

Lay opinions, § 8:1

Lay witness evidence, opposition to motion to exclude, § 8:103

Lay witness testimony, motion to exclude, § 8:96

Letters, § 4:79

Liability evidence exclusion, § 10:210

Liability insurance evidence, motion to exclude, § 10:219

Liability insurance protection, § 10:19

Lost or destroyed evidence, references to, §§ 9:22; 9:69

Map, motion to exclude, § 4:138

Maps, models, and charts, § 4:94

Marijuana use evidence, § 10:207

Marital infidelity, motion to exclude improper character evidence, § 7:55

Matters not in dispute, § 3:11

Mediation evidence, motion to exclude, § 9:70

Mediation evidence, opposition to motion to exclude, § 8:100

Mediator testimony, opposition to motion to exclude, § 8:99

Medical bills, motion to exclude, § 4:142

Medical bills for services obtained after [date], motion to exclude, § 6:80

Medical doctor, motion to exclude testimony and opinions of, § 8:95

**SAMPLE MOTIONS AND
SUGGESTED MOTION TEXT**
—Cont'd

Medical history of plaintiff, motion to exclude, § 4:133

Medical records, § 4:103

Medicare as collateral source payments, §§ 10:203; 10:204

Mental health evidence regarding witness, § 7:60

Missing evidence instruction, opposition to motion for, § 9:76

Motion to dismiss action as discovery sanction, § 6:89

Newspaper article, § 4:134

Non-called witness, exclusion of references to, §§ 8:71; 8:93

Non-qualified expert witness testimony, § 8:104

Opening statements, §§ 9:10; 9:74

Opposing authorities text messages, motion to exclude, § 4:145

Opposition to motion to exclude evidence of defendants financial status, § 10:228

subsequent repairs, § 10:227

Order on in limine motion, form of, § 1:26

Other accidents evidence, § 10:51

Partys' prior injuries, § 10:225

Personal knowledge, lack of, motion to exclude witness testimony of witness, § 8:98

Photographs, gruesome or inflammatory, §§ 4:43; 4:130

Physical condition not at issue, § 3:23

Physical evidence, foundation for, § 4:1

Plaintiff's financial status, motion to exclude, § 10:220

Police reports, § 4:68

Polygraph examination, motion to exclude evidence of, § 5:57

Prejudicial closing argument, § 9:63

Prejudicial evidence generally, §§ 2:1; 2:34; 2:36

confusing evidence, § 2:34

INDEX

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT
—Cont’d

Prejudicial evidence—Cont’d
motion to exclude, opposition to,
§ 2:40
photographs, § 4:135
videotape, § 4:51
Premature rebuttal to affirmative defense, § 9:75
Prescription drug abuse, motion to exclude improper character evidence, § 7:58
Prior arrest of witness, motion to exclude, § 7:59
Prior DUI conviction evidence, § 10:122
Prior traffic citations, motion to exclude, § 10:222
Privileged information, § 6:57
Published material, § 4:59
Sanction establishing facts, motion for, § 6:84
Seat belt violation evidence, § 10:99
Self-incrimination privilege, motion to exclude comment on, § 8:63
Sequestration of witnesses, § 8:56
Settlement evidence, § 10:34
Settlement evidence, motion to exclude, § 10:218
Social media evidence, motion to exclude, § 4:137
Speculative evidence, motion to exclude, § 3:26
Speculative evidence of lost profits, motion to exclude improper damage evidence, § 10:223
Speculative opinion, § 8:92
Statistical evidence, § 5:56
Statute violation, motion to exclude, § 10:216
Statutory violation evidence, § 10:82
Subsequent medical treatment evidence, § 10:211
Subsequent remedial measures, motion to exclude, § 10:215
Subsequent repairs evidence, § 10:73
Surveillance video, motion to exclude, § 10:214

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT
—Cont’d

Tattoos, demonstration of defendant’s, § 4:136
Tax evidence, § 10:187
Terminology, improper, § 9:52
Testimonial hearsay, § 8:78
Testimony of undisclosed witness, exclusion motion, § 6:81
Text messages, motion to exclude, § 4:141
Time-wasting evidence, § 2:5
Unauthenticated video recording, motion to exclude, § 4:139
Unpledged issues, motion to exclude, § 3:25
Videotape, prejudicial, § 4:51
Wage loss claim denied during discovery, motion to exclude, § 6:79
Witnesses, sequestration of, § 8:56
Witness not called, exclusion of references to, §§ 8:71; 8:93
Witness presence in court room prior to testifying, motion to exclude, § 8:97
Writings, foundation for, § 4:1
Written hearsay, § 4:24

SANCTIONS

Discovery, default judgment, § 6:87
Establishing facts, motion for, § 6:84
In limine order violations, § 1:9
Lost or destroyed evidence, § 9:25

SANITY

Examinations. See index heading EXPERT OPINIONS
Opinions as to, § 8:37
Witness competency challenges, § 8:47

SCIENTIFIC EVIDENCE

See index heading EXPERT OPINIONS

SCOPE OF LITIGATION

See index heading IRRELEVANT EVIDENCE

**SEAT BELT VIOLATION
EVIDENCE**

Generally, §§ 10:99 to 10:110
See also STATUTORY VIOLATION EVIDENCE
Burden of defendant, § 10:106
Exclusion rule, § 10:103
Expert testimony requirements, § 10:104
Injury reduction, § 10:109
Irrelevant evidence
 opposing authorities, § 10:108
 supporting authorities, § 10:102
Mandatory seat belt laws, § 10:110
Opposing authorities
 generally, §§ 10:108 to 10:110
 injury reduction, § 10:109
 irrelevant evidence, § 10:108
 mandatory seat belt laws, § 10:110
Prejudicial evidence, § 10:101
Strict liability cases, § 10:105
Suggested motion text, § 10:99
Summary of motion, § 10:100
Supporting authorities
 generally, §§ 10:101 to 10:107
 burden of defendant, § 10:106
 exclusion rule, § 10:103
 expert testimony requirements, § 10:104
 irrelevant evidence, § 10:102
 prejudicial evidence, § 10:101
 strict liability cases, § 10:105

**SELF-INCRIMINATION
PRIVILEGE**

Motion to exclude comment on, §§ 8:63 to 8:69

**SEQUESTRATION OF WITNESS
MOTIONS**

Generally, § 8:56
Discretion of court, § 8:60
Non-party witnesses, § 8:58
Opposing authorities, §§ 8:59 to 8:62
Party witnesses, § 8:61
Related witnesses, § 8:61
Suggested text, § 8:56
Summary, § 8:57
Supporting authorities, § 8:58

SEQUESTRATION OF WITNESS

MOTIONS—Cont'd

Violations of orders, § 8:62
SETTLEMENT EVIDENCE
Generally, §§ 10:34 to 10:50
Admissions against interests, § 10:45
Bar to claim, evidence offered as, § 10:50
Co-defendant settlement, § 10:41
Contract issues, § 10:47
Discretion of court, § 10:43
Impeachment evidence, § 10:48
Irrelevant evidence, § 10:37
Liability, evidence probative of, § 10:38
Motion to exclude, § 10:218
Negotiations, § 10:40
Offer made prior to litigation, § 10:42
Opposing authorities
 generally, §§ 10:45 to 10:50
 admissions against interests, § 10:45
 bar to claim, evidence offered as, § 10:50
 contract issues, § 10:47
 impeachment evidence, § 10:48
 prejudicial evidence, § 10:46
 purpose of admission, § 10:45
 set-off to claim, evidence offered as, § 10:50
 state-of-mind evidence, § 10:49
Prejudicial evidence
 opposing authorities, § 10:46
 supporting authorities, § 10:36
Prior settlements, § 10:39
Set-off to claim, evidence offered as, § 10:50
State-of-mind evidence, § 10:49
Suggested motion text, § 10:34
Summary of motion, § 10:35
Supporting authorities
 generally, §§ 10:36 to 10:44
 co-defendant settlement, § 10:41
 discretion of court, § 10:43
 irrelevant evidence, § 10:37
 liability, evidence probative of, § 10:38

INDEX

SETTLEMENT EVIDENCE

—Cont’d

Supporting authorities—Cont’d
negotiations, § 10:40
offer made prior to litigation,
§ 10:42
prejudicial evidence, § 10:36
prior settlements, § 10:39

SEXUAL PREFERENCE OR BEHAVIOR

Generally, § 7:16

See also CHARACTER EVIDENCE

SOCIAL MEDIA

Generally, §§ 4:120 to 4:129
Exclusion of evidence, § 4:123
Foundation or authentication
lack of, § 4:125
proper, § 4:129
Hearsay, § 4:124
Motion text, suggested, § 4:120
Motion to exclude, sample motion,
§§ 4:137; 4:143
Nonhearsay, § 4:128
Opposing authorities, §§ 4:127 to
4:129; 4:143
Prejudicial evidence, exclusion of,
§ 4:122
Supporting authorities, §§ 4:122 to
4:126

SPECULATIVE EVIDENCE OF LOST PROFITS

Motion to exclude improper damage
evidence, § 10:223

SPECULATIVE MATTER

Accident reconstruction
opposing authorities, § 10:168
supporting authorities, § 10:152
Irrelevant evidence challenge, § 3:9
Non-called witnesses, exclusion of
references to, § 8:74
Opinion as speculative, §§ 5:9; 8:16
Opposing authorities, § 10:168
Sample motion to exclude speculative
medical option, § 8:92
Supporting authorities
accident reconstruction, § 10:152

SPECULATIVE MATTER—Cont’d

Supporting authorities—Cont’d
irrelevant evidence challenge,
§ 3:9
opinion as speculative, §§ 5:9;
8:16

SPOLIATION

Generally, § 9:28

See also LIMITED ADMISSIBILITY
Intentional destruction of suppression,
§ 9:27
Presumptions, § 9:29

SPOUSAL PRIVILEGE

See also PRIVILEGED INFORMATION
Opposing authorities, § 6:72
Supporting authorities, § 6:63

STATISTICAL EVIDENCE

See also EXPERT OPINIONS
Confusing statistics, § 5:36
Employment discrimination cases,
§ 5:38
General acceptance standard, § 5:52
Opposing authorities, § 5:52
Sample motion, § 5:56
Supporting authorities, §§ 5:36; 5:37
Weight vs admissibility argument,
§ 5:53

STATUTORY VIOLATION EVIDENCE

Generally, §§ 10:82 to 10:92
Driver’s license suspensions. See
index heading DRIVER’S LICENSE
SUSPENSION EVIDENCE
Gatekeeping reply argument, § 10:92
Impeachment evidence, § 10:89
Irrelevant evidence, § 10:85
Opposing authorities
generally, §§ 10:89 to 10:92
impeachment evidence, § 10:89
per se negligence, § 10:91
presumptive negligence, § 10:91
proximate cause challenge, § 10:90
Per se negligence, § 10:91
Prejudicial evidence, § 10:84
Presumptive negligence, § 10:91

STATUTORY VIOLATION
EVIDENCE—Cont'd

Prior DUIs. See index heading **PRIOR DUI CONVICTION EVIDENCE**

Prior violations, **§ 10:87**

Proximate cause challenge

- opposing authorities, **§ 10:90**
- supporting authorities, **§ 10:86**

Reply argument, **§ 10:92**

Sample motion to exclude, **§ 10:216**

Seat belt violations. See index heading **SEAT BELT VIOLATION EVIDENCE**

Suggested motion text, **§ 10:82**

Summary of motion, **§ 10:83**

Supporting authorities

- generally, **§§ 10:84 to 10:88**
- irrelevant evidence, **§ 10:85**
- prejudicial evidence, **§ 10:84**
- prior violations, **§ 10:87**
- proximate cause challenge, **§ 10:86**
- reply argument, **§ 10:92**

STIPULATIONS

See also **IRRELEVANT EVIDENCE**

Bifurcated trials, damages evidence in, **§ 9:45**

Estoppel as to, **§ 3:19**

SUBSEQUENT ACCIDENT
EVIDENCE

Generally, **§ 10:60**

See also **OTHER ACCIDENTS EVIDENCE**

Dangerous condition cases

- opposing authorities, **§ 10:71**
- supporting authorities, **§ 10:61**

Impeachment use, **§ 10:72**

Opposing authorities, **§§ 10:71; 10:72**

Supporting authorities, **§ 10:61**

SUBSEQUENT REPAIRS
EVIDENCE

Generally, **§§ 10:73 to 10:81**

Impeachment evidence, **§ 10:79**

Irrelevant evidence

- opposing authorities, **§ 10:80**
- supporting authorities, **§ 10:76**

Negligence, inadmissibility to show, **§ 10:77**

SUBSEQUENT REPAIRS
EVIDENCE—Cont'd

Opposing authorities

- generally, **§§ 10:79 to 10:81**
- impeachment evidence, **§ 10:79**
- irrelevant evidence, **§ 10:80**

Prejudicial evidence, **§ 10:75**

Sample motion to exclude, **§ 10:215**

Strict products liability, **§ 10:81**

Suggested motion text, **§§ 10:73; 10:74**

Summary of motion, **§ 10:74**

Supporting authorities

- generally, **§§ 10:75 to 10:78**
- irrelevant evidence, **§ 10:76**
- negligence, inadmissibility to show, **§ 10:77**
- prejudicial evidence, **§ 10:75**

SUGGESTED TEXT

See index heading **SAMPLE MOTIONS AND SUGGESTED TEXT**

SURPRISE EVIDENCE

Opposing authorities, **§ 6:44**

Supporting authorities, **§ 6:40**

SURVEILLANCE VIDEO

Sample motion to exclude, **§ 10:214**

TAPE RECORDINGS

See also **RECORDINGS**

Foundation challenges, **§ 4:10**

TATTOOS

Sample motions, demonstration of defendant's tattoos, **§ 4:136**

TAX EVIDENCE

Generally, **§§ 10:187 to 10:195**

See also **FINANCIAL STATUS EVIDENCE**

Damages, tax implications on, **§ 10:191**

Emotional appeals to jurors as tax payers, **§§ 2:17; 10:193**

Failure to file, **§ 10:192**

Failure to file income tax return, motion to exclude evidence of, **§ 10:217**

Irrelevant evidence

opposing authorities, **§ 10:195**

INDEX

TAX EVIDENCE—Cont'd

Irrelevant evidence—Cont'd
 supporting authorities, § 10:190
Jurors, emotional appeals to as tax
 payers, §§ 2:17; 10:193
Opposing authorities, § 10:195
Prejudicial evidence, § 10:189
Returns, failure to file, § 10:192
Suggested motion text, § 10:187
Summary of motion, § 10:188
Supporting authorities
 generally, §§ 10:189 to 10:194
 damages, tax implications on,
 § 10:191
 failure to file, § 10:192
 irrelevant evidence, § 10:190
 prejudicial evidence, § 10:189
 returns, failure to file, § 10:192

TERMINOLOGY, IMPROPER

Generally, §§ 9:52 to 9:62
Acceptable terms, § 9:61
Confusing evidence, § 9:54
Legal conclusions, terms containing
 opposing authorities, § 9:62
 supporting authorities, § 9:55
Misused terms, § 9:57
Opposing authorities, §§ 9:61; 9:62
Preconditioning jury, § 9:58
Suggested motion text, § 9:52
Summary of motion, § 9:53
Supporting authorities, §§ 9:54 to
 9:60
Ultimate issue testimony
 opposing authorities, § 9:62
 supporting authorities, § 9:56
Usurping jury function, § 9:59

TESTIMONY

Competency of witnesses. See index
 heading COMPETENCY OF WIT-
 NESSES
Hearsay. See index heading HEARSAY
Sequestration of witnesses. See index
 heading SEQUESTRATION OF WIT-
 NESSES
Witnesses. See index heading WIT-
 NESSES

TESTS

See index heading EXPERT OPINIONS

TEXT MESSAGES

Motion to exclude, sample motion,
 § 4:141
Opposing authorities
 motion to exclude, sample motion,
 § 4:145

THERAPIST'S PRIVILEGE

See also PRIVILEGED INFORMATION
Opposing authorities, § 6:70
Supporting authorities, § 6:60

TIME-WASTING EVIDENCE

Generally, §§ 2:5 to 2:8
See also CUMULATIVE EVIDENCE; IRREL-
EVANT EVIDENCE
Cumulative evidence as, § 2:22
Expert opinion challenged as, § 5:10
Opposing authorities, § 2:8
Suggested motion text, § 2:5
Summary of motion, § 2:6
Supporting authorities
 generally, §§ 2:7; 2:22
 cumulative evidence, § 2:22
 expert opinion challenged as,
 § 5:10

TRAFFIC CITATIONS

Sample motions to exclude evidence
 of prior traffic citations,
 § 10:222

TREATING PHYSICIANS

Discovery practice, § 6:53
Experts. See index heading EXPERT
 OPINIONS
Medical records. See index heading
 MEDICAL RECORDS AND REPORTS

TREATISES

Published material. See index head-
 ing PUBLISHED MATERIAL

TRIAL DELAY

See index heading TIME-WASTING Evi-
 DENCE

TRUTH SERUM EVIDENCE

Generally, §§ 5:24; 5:46

TRUTH SERUM EVIDENCE

—Cont'd

See also EXPERT OPINIONS

ULTIMATE ISSUE OPINIONS

See also EXPERT OPINIONS

Opposing authorities, § 9:62
Supporting authorities, § 9:56

UNAUTHENTICATED VIDEO RECORDING

Sample motion to exclude, § 4:139

UNCONTROVERTED MATTER

Generally, § 3:14

See also IRRELEVANT EVIDENCE

UNPLEADED ISSUES

Generally, §§ 3:16; 3:19

See also IRRELEVANT EVIDENCE

VIDEOTAPES

Generally, § 4:51

Cumulative evidence

 opposing authorities, § 2:32
 supporting authorities, § 2:29

Foundation challenges, § 4:12

Opposing authorities

 cumulative evidence, § 2:32

 prejudicial

 generally, §§ 4:56 to 4:58

 cautionary admonition, admission subject to, § 4:58

 relevancy outweighing prejudice, § 4:57

Prejudicial evidence

 generally, §§ 4:51 to 4:58

 opposing authorities

 generally, § 4:56

 cautionary admonition, admission subject to, § 4:58

 relevancy outweighing prejudice, § 4:57

 suggested motion text, § 4:51

 summary of motion, § 4:52

 supporting authorities, §§ 4:53 to 4:55

Suggested motion text, § 4:51

Summary of motion, § 4:52

Supporting authorities

 cumulative evidence, § 2:29

VIDEOTAPES—Cont'd

Supporting authorities—Cont'd
 foundation challenges, § 4:12
 prejudicial evidence objection,
 §§ 4:53 to 4:55

Surveillance video, motion to
 exclude, § 10:214

Unauthenticated video recording,
 sample motion to exclude,
 § 4:139

VOICEPRINT IDENTIFICATION

Generally, § 5:32

See also EXPERT OPINIONS

VOIR DIRE

See index heading JURORS, MATTER
 INFLUENCING

Motion to exclude, § 9:73

WAGE LOSS CLAIM

Motion to exclude claim denied during discovery, § 6:79

WASTING TIME

See index heading TIME-WASTING EVIDENCE

WITNESSES

Alcohol affecting perceptions,
 §§ 7:21; 10:121

Arbitrators, motion to exclude
 testimony of, §§ 8:48 to 8:55

Attendance, compelling
 opposition authorities, § 6:30
 supporting authorities, § 6:8

Attorney as witness, § 8:54

Character evidence, impeachment use
 generally, §§ 7:4 to 7:24

 for detailed treatment see
 CHARACTER EVIDENCE

Competency of witnesses. See index
 heading COMPETENCY OF WITNESSES

Experts. See index heading EXPERT OPINIONS

Good character, § 7:14

Good reputation, § 7:23

Hearsay. See index heading HEARSAY

Impeachment, character evidence for
 generally, §§ 7:4 to 7:24

INDEX

WITNESSES—Cont'd

Impeachment, character evidence for
—Cont'd
for detailed treatment see
CHARACTER EVIDENCE
Judges, motion to exclude testimony
of, **§§ 8:48 to 8:55**
Jurors, motion to exclude testimony
of, **§§ 8:48 to 8:55**
Lay opinions. See index heading LAY
OPINIONS
Mediators, motion to exclude
testimony of, **§§ 8:48 to 8:55**
Non-called witnesses, exclusion of
references to, **§§ 8:70 to 8:77**
Numbers of as cumulative
opposing authorities, **§ 2:31**
supporting authorities, **§ 2:26**
Personal knowledge, lack of
generally, **§ 8:43**
opinions, **§§ 4:109; 8:15**
sample motions and suggested
motion text, **§ 8:98**
Presence in court room prior to
testifying, motion to exclude,
§ 8:97
Self-incrimination privilege, motion
to exclude comment on, **§§ 8:63**
to 8:69
Sequestration of witnesses. See index
heading SEQUESTRATION OF WIT-
NESSES
Special witness doctrine, **§ 8:53**
Terminology, improper. See index
heading TERMINOLOGY, IMPROPER
Ultimate issue testimony
opposing authorities, **§ 9:62**
supporting authorities, **§ 9:56**
Undisclosed witness, sample motion
to exclude lay opinion of, **§ 6:81**

WORDS AND PHRASES

See index heading TERMINOLOGY,
IMPROPER

WORK PRODUCT PRIVILEGE

See also PRIVILEGED INFORMATION
Opposing authorities, **§ 6:76**
Supporting authorities, **§ 6:65**

WRITINGS

Generally, **§§ 4:24 to 4:42**
Accident reports. See index heading
ACCIDENT REPORTS
Authentication requirement
opposing authorities, **§ 4:33**
supporting authorities, **§§ 4:27;**
4:28
Best evidence rule objections,
§§ 4:29; 4:34
Conditional admissibility to resolve
foundation challenges, **§ 4:22**
Conduct, non-assertive, **§ 4:39**
Email, foundational challenges and
supporting authorities, **§ 4:16**
Exception to hearsay rule, **§ 4:42**
Foundation challenges
generally, **§§ 4:1 to 4:23**
authentication requirement, **§ 4:28**
opposing authorities, **§ 4:33**
supporting authorities, **§ 4:27**
conditional admissibility to
resolve, **§ 4:22**
email, supporting authorities,
§ 4:16
inadmissibility of evidence lacking
foundation, **§ 4:8**
judicial notice, **§ 4:21**
jury, determinations outside of
presence of, **§ 4:6**
offers of proof, **§ 4:5**
opposing authorities
generally, **§§ 4:19 to 4:23**
judicial notice to resolve, **§ 4:21**
suggested motion text, **§ 4:1**
summary of motion, **§ 4:2**
supporting authorities, **§§ 4:3 to**
4:18
Hearsay
contents, hearsay not offered for
proof of, **§ 4:37**
impeachment, hearsay offered for,
§ 4:36
multiple hearsay, **§ 4:40**
opposing authorities
conduct, non-assertive, **§ 4:39**
contents, hearsay not offered for
proof of, **§ 4:37**

WRITINGS—Cont'd

Hearsay—Cont'd
opposing authorities—Cont'd
exception to hearsay rule, § 4:42
impeachment, hearsay offered
for, § 4:36
multiple hearsay, § 4:40
non-assertive conduct, § 4:39
non-hearsay evidence, § 4:38
suggested motion text, § 4:24
Inadmissible written hearsay
opposing authorities, § 4:35
supporting authorities, §§ 4:30 to
4:32
Judicial notice as to foundation,
§ 4:21
Maps, models, and charts. See index
heading MAPS, MODELS, AND
CHARTS
Medical records. See index heading
MEDICAL RECORDS AND REPORTS
Multiple hearsay, § 4:40
Non-assertive conduct, § 4:39
Non-hearsay evidence, § 4:38
Offers of proof, § 4:5
Opinions in reports, § 4:73
Opposing authorities
generally, §§ 4:33 to 4:42
authentication requirement, § 4:33
conduct, non-assertive, § 4:39
exception to hearsay rule, § 4:42
foundation challenges, §§ 4:19 to
4:23
judicial notice to resolve founda-
tion challenges, § 4:21
multiple hearsay, § 4:40

WRITINGS—Cont'd

Opposing authorities—Cont'd
non-assertive conduct, § 4:39
non-hearsay evidence, § 4:38
refreshing recollection, use for,
§ 4:75
relevancy, § 4:41
secondary evidence of, § 4:34
Police reports. See index heading
POLICE REPORTS
Published material. See index head-
ing PUBLISHED MATERIAL
Refreshing recollection, use for,
§ 4:75
Relevancy, § 4:41
Secondary evidence of
opposing authorities, § 4:34
supporting authorities, § 4:29
Suggested motion text, § 4:1
Summary of motion
generally, § 4:25
foundation challenges, § 4:2
Supporting authorities
generally, §§ 4:7 to 4:18; 4:26 to
4:32
authentication requirement,
§§ 4:27; 4:28
foundation challenges, §§ 4:3 to
4:18; 4:15
inadmissible written hearsay,
§ 4:32
opinions in reports, § 4:73
rule of completeness not applied,
§ 4:7
secondary evidence of, § 4:29
Text messages, motion to exclude,
§ 4:141