

Index

ACCIDENT RECONSTRUCTION EVIDENCE

Personal Injuries, this index

ACCIDENT REPORTS

Generally §§ 4:65 to 4:73

Business records exception to
hearsay rule § 4:73

Diagrams made at scene § 4:72

Hearsay §§ 4:68, 4:73

Opinions in reports § 4:69

Opposing authorities

Generally § 4:71

Business records exception to
hearsay rule § 4:73

Diagrams made at scene § 4:72

Refreshing recollection, report
used to § 4:71

Opposition to motion to exclude
§ 4:141

Refreshing recollection, report used
to § 4:71

Summary § 4:66

Supporting authorities

Generally § 4:67

Hearsay, inadmissible § 4:68

Opinions in reports § 4:69

Other grounds § 4:70

Text of motion, suggested § 4:65

ACCIDENTS

Personal Injuries, this index

ACCIDENT SCENE PHOTOGRAPHS

Gruesome or inflammatory
photographs §§ 4:41, 4:48

ADMISSION, REQUESTS FOR

Discovery Motions, this index

AFFIRMATIVE DEFENSES

Premature rebuttal. Trial, this index

ALCOHOL AND INTOXICATION

Character evidence §§ 7:9, 7:21

Consumption of alcohol §§ 10:87 to
10:96

Lay witness testimony, intoxication
§ 8:42

Percipient witness, sample motion to
exclude evidence of alcoholism
§ 7:59

Personal Injuries, this index

ANTHROPOMORPHIC DUMMIES

Excluding biomechanic evidence
§ 10:129

ARBITRATION AND AWARD

Generally §§ 9:30 to 9:34

Evidence and findings

Generally §§ 9:30 to 9:34

Limitation on arbitration evidence
§ 9:32

Opposing authorities § 9:34

Summary § 9:31

Supporting authorities §§ 9:32,
9:33

Text of motion, suggested § 9:30

Limitation on arbitration evidence
§ 9:32

Testimony of arbitrator § 8:63

ARGUMENTS OF COUNSEL

Golden Rule argument, motion to
preclude. Trial, this index

Improper, motion to exclude

During opening statement § 9:63

Opening statement, motion to
exclude improper argument.

Trial, this index

Sample motions and suggested
motion text, motion to exclude
improper argument § 9:8

ARRESTS

Character evidence §§ 7:10, 7:65

ARRESTS—Cont'd

- Prior arrest, investigation, or criminal charge inadmissible § 7:47
- Prior D.U.I., exclusion of arrests § 10:102

ARTICLES

- Published Articles, this index

ATTORNEYS

- Arguments of Counsel, this index
- Motion to exclude testimony of. Witnesses, this index

AUTHENTICATION OR AUTHENTICITY

- Writings and physical evidence §§ 4:24, 4:25, 4:29, 4:140

AUTOMOBILE ACCIDENTS

- Personal Injuries, this index

BATTERED SPOUSE SYNDROME

- Tests and scientific evidence §§ 5:38, 5:45

BEST AND SECONDARY EVIDENCE

- Writings and physical evidence §§ 4:28, 4:32

BIAS OF WITNESS

- Character evidence §§ 7:18, 7:24
- Emotional bias. Prejudicial Evidence, this index

BIFURCATED TRIAL

- Motion to exclude evidence of damages. Trial, this index

BIOMECHANIC EVIDENCE

- Accident reconstruction and biomechanic evidence. Personal Injuries, this index
- Excluding biomechanic evidence §§ 10:129 to 10:131
- Junk science and related evidence §§ 5:31, 5:32, 5:50
- Sample motions and suggested motion text § 5:55

BLOOD, URINE, AND SALIVA TESTING

- Alcohol consumption § 10:93

BLOOD ALCOHOL TESTS

- Alcohol consumption § 10:93

BRIEFS

- Sample in limine brief § 1:11

BUSINESS VALUE

- Computerized valuations of business, sample motion to exclude § 8:113

CANINE SCENT TRACKING UNIT

- Tests and scientific evidence § 5:37

CAPITAL OFFENSES AND PUNISHMENT

- Penalty phase, motion to exclude prior crime evidence § 7:58

CAUSATION

- Lay witness testimony § 8:35

CHARACTER EVIDENCE

- Generally § 7:1 et seq.
- Admissibility § 7:2
- Alcohol consumption §§ 7:9, 7:21
- Alcoholism of percipient witness, sample motion to exclude evidence of § 7:59
- Arrests § 7:10
- Bias, excluding evidence of § 7:18
- Collateral matters §§ 7:17, 7:25
- Conduct, motion to exclude character evidence used to prove Generally §§ 7:28 to 7:38
- Context evidence § 7:38
- Crimes evidence § 7:33
- Impeachment of witness § 7:37
- Improper character evidence §§ 7:32, 7:33
- Opposing authorities Generally §§ 7:35 to 7:38
- Context evidence § 7:38
- Impeachment of witness § 7:37
- Prior misconduct, admission of § 7:35
- Relevant to material issue § 7:36
- Prior misconduct, admission of § 7:35
- Relevant to material issue § 7:36

INDEX

CHARACTER EVIDENCE—Cont'd

- Conduct, motion to exclude character evidence used to prove—Cont'd
 - Sample motions
 - Generally § 7:58 et seq.
 - Juvenile adjudication § 7:63
 - Marital infidelity § 7:61
 - Prescription drug abuse § 7:64
 - Summary § 7:29
 - Supporting authorities
 - Generally §§ 7:30 to 7:34
 - Crimes evidence § 7:33
 - Improper character evidence §§ 7:32, 7:33
 - Irrelevant evidence § 7:31
 - Other grounds § 7:34
 - Prejudicial evidence § 7:30
 - Text of motion, suggested § 7:28
- Context evidence § 7:38
- Details of prior convictions §§ 7:44, 7:54
- Drug use §§ 7:11, 7:20, 7:64
- Exclusion, character evidence subject to § 7:3
- Fraudulent acts § 7:13
- Good character of witness § 7:14
- Impeachment, motion to exclude character evidence used for
 - Generally §§ 7:4 to 7:27, 7:37
 - Alcohol consumption §§ 7:9, 7:21
 - Arrests § 7:10
 - Bias of witness §§ 7:18, 7:24
 - Collateral matters §§ 7:17, 7:25
 - Drug use §§ 7:11, 7:21
 - Fraudulent acts § 7:13
 - Good character of witness § 7:14
 - Opening the door doctrine § 7:27
 - Opposing authorities
 - Generally §§ 7:20 to 7:27
 - Alcohol or drug use by witness § 7:21
 - Bias of witness § 7:24
 - Collateral matters § 7:25
 - Facts at issue § 7:21
 - Impeachment, generally § 7:22
 - Opening the door doctrine § 7:27
 - Religious beliefs § 7:26

CHARACTER EVIDENCE—Cont'd

- Impeachment, motion to exclude character evidence used for—Cont'd
 - Opposing authorities—Cont'd
 - Veracity of witness § 7:23
 - Prior convictions § 7:12
 - Religious belief §§ 7:15, 7:26
 - Sexual preference or behavior § 7:16
- Summary § 7:5
- Supporting authorities
 - Generally §§ 7:6 to 7:19
 - Alcohol consumption § 7:9
 - Arrests § 7:10
 - Bias, excluding evidence of § 7:18
 - Collateral issues § 7:17
 - Drug use § 7:11
 - Fraudulent acts § 7:13
 - Good character of witness § 7:14
 - Improper impeachment evidence § 7:8
 - Irrelevant evidence § 7:7
 - Other grounds § 7:19
 - Prejudicial evidence § 7:6
 - Prior convictions § 7:12
 - Religious belief § 7:15
 - Sexual preference or behavior § 7:16
- Text of motion, suggested § 7:4
- Veracity of witness § 7:23
- Opening the door doctrine § 7:27
- Overview § 7:1
- Prescription drug abuse § 7:64
- Prior convictions § 7:12
- Prior crime evidence
 - Generally §§ 7:33, 7:39 to 7:58
 - Arrest, investigation, or criminal charge inadmissible § 7:47
 - Capital cases, penalty phase § 7:58
 - Civil cases §§ 7:49, 7:53
 - Details of prior convictions §§ 7:44, 7:54
 - Guilty findings admissible in criminal cases § 7:56

CHARACTER EVIDENCE—Cont'd

- Prior crime evidence—Cont'd
 - Municipal violations §§ 7:46, 7:57, 7:60
 - No discretion § 7:52
 - Opposing authorities
 - Generally §§ 7:51 to 7:58
 - Capital cases, penalty phase § 7:58
 - Civil and criminal cases, prior convictions admissible § 7:53
 - Details of prior convictions § 7:54
 - Guilty findings admissible in criminal cases § 7:56
 - Municipal violations § 7:57
 - No discretion § 7:52
 - Plea evidence admissible in criminal cases § 7:55
 - Statutory provisions § 7:51
 - Plea evidence admissible in criminal cases § 7:55
 - Statutory provisions § 7:51
 - Summary § 7:40
 - Supporting authorities
 - Generally §§ 7:41 to 7:50
 - Character evidence, improper § 7:45
 - Civil cases, prior criminal pleas inadmissible § 7:49
 - Codefendants, conviction of § 7:48
 - Crime evidence, exclusion, generally § 7:43
 - Irrelevant evidence § 7:42
 - Municipal ordinance violations inadmissible § 7:46
 - Other grounds § 7:50
 - Prejudicial evidence § 7:41
 - Prior arrest, investigation, or criminal charge inadmissible § 7:47
 - Underlying details inadmissible § 7:44
 - Text of motion, suggested § 7:39
 - Prior misconduct, admission of § 7:35
 - Relevant to material issue § 7:36

CHARACTER EVIDENCE—Cont'd

- Religious belief §§ 7:15, 7:26
- Sample motions
 - Generally § 7:58 et seq.
- Inflammatory evidence, opposition to motion to exclude § 7:66
- Juvenile adjudication, motion to exclude improper character evidence § 7:63
- Prescription drug abuse, motion to exclude § 7:64
- Prior arrest of witness, motion to exclude § 7:65
- Religious beliefs, motion to exclude § 7:62
- Sexual preference or behavior § 7:16
- Veracity of witness § 7:23

CHILDREN AND MINORS

- Child support action, mediator, motion to exclude testimony § 8:64
- Incompetent witness, motion to exclude testimony §§ 8:52, 8:57

CHILD SUPPORT ACTION

- Motion to exclude testimony of mediator § 8:64

CHIROPRACTORS

- Non-chiropractor giving opinion on necessity of chiropractic treatment, sample motion to preclude § 8:112

COLLATERAL ACTS OR MATTERS

- Irrelevant evidence §§ 3:14, 3:17, 3:24
- Payments. Collateral Source Payments, this index
- Tests and scientific evidence § 5:10

COLLATERAL SOURCE PAYMENTS

- Generally §§ 10:1 to 10:15
- Disability benefits § 10:8
- Governmental benefits based on financial need § 10:11
- Gratuitous payments §§ 10:6, 10:14
- Medical or liability policy payments § 10:7

INDEX

COLLATERAL SOURCE PAYMENTS—Cont'd

- Opposing authorities
 - Generally §§ **10:13 to 10:15**
 - Gratuitous payments, split of authority § **10:14**
 - Relevant to issue in case § **10:15**
- Prejudicial evidence § **10:3**
- Summary § **10:2**
- Supporting authorities
 - Generally §§ **10:3 to 10:12**
 - Collateral source evidence § **10:5**
 - Disability benefits § **10:8**
 - Governmental benefits based on financial need § **10:11**
 - Gratuitous payments § **10:6**
 - Irrelevant evidence § **10:4**
 - Medical or liability policy payments § **10:7**
 - Other grounds § **10:12**
 - Prejudicial evidence § **10:3**
 - Wage payments § **10:10**
 - Workers' compensation benefits § **10:9**
- Text of motion, suggested § **10:1**
- Wage payments § **10:10**
- Workers' compensation benefits § **10:9**

COMPENSATION

- Collateral source payments § **10:10**

COMPROMISE OR SETTLEMENT

- Settlement, this index

CONDUCT

- Character Evidence, this index

CRIMES AND OFFENSES

- Prior crime evidence. Character Evidence, this index
- Privilege Against Self-Incrimination, this index
- Sample motions and suggested motion text, motion to exclude prior crime evidence § **7:39**
- Tests and scientific evidence
 - New scientific evidence § **5:23**
 - Not generally accepted § **5:5**

CUMULATIVE ACTS OR MATTERS

- Expert witnesses, cumulative testimony §§ **8:18, 8:25**
- Hearsay cumulative of admissible evidence § **8:109**
- Letters § **4:80**
- Motion to exclude or limit cumulative evidence. Prejudicial Evidence, this index

DAMAGES

- Bifurcated trial, motion to exclude evidence of damages. Trial, this index
- Improper damage evidence, generally §§ **10:175 to 10:188**
- Junk science and related evidence, opposing authorities, hedonic damages § **5:42**
- Lay witness testimony § **8:43**
- Personal Injuries, this index
- Punitive Damages, this index
- Sample motions and suggested motion text
 - Bifurcated trial, motion to exclude evidence of damages §§ **9:35, 9:61**
 - Damages in bifurcated trial §§ **9:35, 9:61**

DEATH PENALTY

- Motion to exclude prior crime evidence § **7:58**

DEFAULT JUDGMENT

- Discovery sanction
- Motion for order § **6:60**

DEFENSES

- Affirmative defenses. Trial, this index

DEMONSTRATIVE OR REAL EVIDENCE

- Demonstrations and experiments § **4:133**
- Maps, Models, Charts, Exhibits and Demonstrative Evidence, this index
- Sample motions and suggested motion text § **4:86**

DEPOSITIONS

Discovery Motions, this index

DESCRIPTION OF MOTION

Generally § 1:1

DESTROYED EVIDENCE

Lost or Destroyed Evidence, this index

DIAGRAMS, CHARTS, OR EXHIBITS

Maps, Models, Charts, Exhibits and Demonstrative Evidence, this index

DISABILITY BENEFITS

Collateral source payments § 10:8

DISABLED OR INCAPACITATED PERSONS

Collateral source payments, disability benefits § 10:8

DISCOVERY MOTIONS

Generally §§ 6:1 to 6:60

Admission, requests for

Conclusively establishing admitted matters

Generally §§ 6:34 to 6:39

Exclusion of evidence § 6:38

Opposing authorities § 6:39

Purpose of rule § 6:37

Summary § 6:35

Text of motion, suggested § 6:34

Conclusively establishing admitted matters, supporting authorities

Generally § 6:36

Exclusion of evidence § 6:38

Purpose of rule § 6:37

Sanctions motions

Generally §§ 6:20 to 6:22

Exclusion of evidence § 6:21

Non-responsive matters, deeming admitted §§ 6:22, 6:32

Rule 59.01 § 6:20

Appropriateness of sanction to level of misconduct § 6:27

Available sanctions § 6:3

DISCOVERY MOTIONS—Cont'd

Claims denied or changed during discovery

Generally §§ 6:40 to 6:45

Exclusion of evidence §§ 6:42, 6:43

Opposing authorities § 6:45

Prejudicial evidence § 6:42

Sample motion to exclude evidence §§ 6:52, 6:53, 6:55

Summary § 6:41

Supporting authorities

Generally § 6:42

Exclusion of evidence §§ 6:42, 6:43

Other grounds § 6:44

Prejudicial evidence § 6:42

Text of motion, suggested § 6:40

Deadline, motion to exclude evidence produce beyond § 6:55

Deem matters admitted, motion to § 6:56

Depositions

Generally § 6:8

Evidence sanctions § 6:9

Improper expert deposition. Expert witnesses, below

Opposing authorities § 6:29

Rule 61.01 § 6:8

Terminating sanctions § 6:10

Evidence sanctions § 6:4

Expert witnesses

Duty to supplement witness exchange § 6:49

Faulty expert designations or declarations, motion for sanctions § 6:24

Improper expert witness exchange or expert deposition, motions concerning

Generally §§ 6:46 to 6:51, 6:48 to 6:50

Duty to supplement § 6:49

Exclusion of evidence § 6:50

Opposing authorities, expert testimony admitted § 6:51

Summary § 6:47

Text of motion, suggested § 6:46

INDEX

DISCOVERY MOTIONS—Cont'd

- Expert witnesses—Cont'd
 - Limiting plaintiff's expert's opinions, sample opposition to defendants' motion § 6:59
 - Matters not disclosed § 6:58
- Interrogatories
 - Generally § 6:11
 - Evidence sanctions § 6:12
 - Issue sanctions § 6:13
 - Opposing authorities § 6:30
 - Rule 61.01 § 6:11
 - Terminating sanctions § 6:14
- Issue sanctions § 6:5
- Medical bills for service obtained after [date], motion to exclude evidence of § 6:53
- Mental and physical examination §§ 6:18, 6:19
- Order rendering default judgment
 - Sanction discovery § 6:60
- Production requests
 - Generally § 6:15
 - Evidence sanctions § 6:16
 - Opposing authorities § 6:31
 - Terminating sanctions § 6:17
- Reasonable alternative remedy § 6:28
- Sanctions, motion for
 - Establishing facts § 6:57
- Sanctions, motion for
 - Generally §§ 6:1 to 6:45
 - Admission, requests for, above
 - Appropriateness of sanction to level of misconduct § 6:27
 - Available sanctions § 6:3
 - Depositions, above
 - Establishing facts, motion for § 6:57
 - Evidence sanctions § 6:4
 - Expert designations or declarations, faulty § 6:24
 - Issue sanctions § 6:5
 - Mental and physical examination §§ 6:18, 6:19
 - Opposing authorities
 - Generally §§ 6:26 to 6:33
 - Admitted, matters deemed § 6:32

DISCOVERY MOTIONS—Cont'd

- Sanctions, motion for—Cont'd
 - Opposing authorities—Cont'd
 - Depositions § 6:29
 - Interrogatories § 6:30
 - Production, requests for § 6:31
 - Reasonable alternative remedy § 6:28
 - Sanction should be appropriate to level of misconduct § 6:27
 - Witnesses, failure to disclose identity § 6:33
 - Prior order unnecessary § 6:7
 - Reasonable alternative remedy § 6:28
 - Summary § 6:2
 - Supporting authorities
 - Generally §§ 6:3 to 6:25
 - Available sanctions § 6:3
 - Evidence sanctions § 6:4
 - Expert designations or declarations, faulty § 6:24
 - Issue sanctions § 6:5
 - Mental and physical examination §§ 6:18, 6:19
 - Other grounds § 6:25
 - Prior order unnecessary § 6:7
 - Terminating sanctions § 6:6
 - Witnesses, failure to disclose identity §§ 6:23, 6:24
 - Text of motion, suggested § 6:1
 - Witnesses, failure to disclose identity §§ 6:23, 6:24, 6:33
- Undisclosed witnesses
 - Sample motion to exclude testimony § 6:54
 - Sanctions, failure to disclose identity of witnesses §§ 6:23, 6:24

DIVORCE AND SEPARATION

- Mediator, motion to exclude testimony § 8:64

DRAFTING SUGGESTIONS

- Generally § 1:8
- Be succinct § 1:10
- Facts, file motions supported by § 1:9

DRIVERS' LICENSES

Unlicensed driver. Personal Injuries, this index

DRIVING WHILE INTOXICATED

Prior D.U.I. Personal Injuries, this index

DRUGS AND NARCOTICS

Character evidence, drug use §§ 7:11, 7:21, 7:64

ESTOPPEL AND WAIVER

Exclusion of improper damage evidence § 10:181

Unpleaded issues § 3:18

EVIDENCE

Accident reconstruction evidence. Personal Injuries, this index

Arbitration and Award, this index

Best and secondary evidence §§ 4:28, 4:32

Biomechanic Evidence, this index

Character Evidence, this index

Demonstrative or Real Evidence, this index

Expert Witnesses, this index

Hypnosis Evidence, this index

Irrelevant Evidence, this index

Lost or Destroyed Evidence, this index

Maps, Models, Charts, Exhibits and Demonstrative Evidence, this index

Medical bills and services obtained after, motion to exclude § 6:53

Opposition to motion to exclude Confuse the jury § 2:43

Personal Injuries, this index

Polygraph Examination, this index

Poverty, motion to exclude evidence of defendant's § 2:41

Prejudicial Evidence, this index

Prescription drug abuse, motion to exclude § 7:64

Preservation of objections § 1:4

Rebuttal Evidence, this index

Speculative Evidence, this index

Spoliation of evidence § 9:25

EVIDENCE—Cont'd

Tests and Scientific Evidence, this index

Videotape Evidence, this index

Witnesses, this index

Writings and Physical Evidence, this index

EXAMINATIONS AND EXAMINERS

Mental and physical examination §§ 6:18, 6:19

Polygraph examination, motion to exclude § 5:52

Sanctions, discovery motions §§ 6:18, 6:19

EXCLUSION OF EVIDENCE

Opposition to motion

Confuse the jury § 2:43

EXCLUSION OF IMPROPER ARGUMENT

Motion to

During opening statement § 9:63

EXCLUSION OF TESTIMONY

Motion to

Incompetent witness § 8:118

EXHIBITS

Maps, Models, Charts, Exhibits and Demonstrative Evidence, this index

EXPERIMENTS OR TESTS

Demonstrations and experiments § 4:133

Polygraph examination, motion to exclude § 5:52

Sample motions and suggested motion text § 5:1

Tests and Scientific Evidence, this index

Writings and physical evidence, experiments, improper foundation § 4:10

EXPERT WITNESSES

Common experience, matters of § 8:11

Conjecture § 8:13

INDEX

EXPERT WITNESSES—Cont'd

- Cumulative testimony §§ 8:18, 8:25
- Examples, improper qualifications § 8:29
- Foundation
 - Improper § 4:12
 - Inadequate § 8:4
- Hearsay §§ 8:6 to 8:8, 8:21, 8:22
- Hypothetical questions §§ 8:5, 8:22, 8:23
- Improper expert opinion
 - Generally §§ 8:1 to 8:25
 - Common experience, matters of § 8:11
 - Conjecture § 8:13
 - Cumulative testimony §§ 8:18, 8:25
 - Hearsay §§ 8:6 to 8:8, 8:21, 8:22
 - Hypothetical questions §§ 8:5, 8:23
 - Jury function, usurping § 8:14
 - Legal questions vs. ultimate issues §§ 8:10, 8:24
 - Not reasonably relied upon by experts § 8:12
 - Opinions or statements of others §§ 8:7, 8:22
- Opposing authorities
 - Generally §§ 8:20 to 8:25
 - Cumulative testimony § 8:25
 - Hearsay §§ 8:21, 8:22
 - Hypothetical questions § 8:23
 - Legal questions vs. ultimate issues § 8:24
 - Statements of others § 8:22
- Profile evidence, improper § 8:16
- Specialty or expertise, outside area of § 8:17
- Speculation §§ 8:13, 8:110
- Supporting authorities
 - Generally §§ 8:3 to 8:19
 - Common experience, matters of § 8:11
 - Conjecture § 8:13
 - Cumulative testimony § 8:18
 - Foundation, inadequate § 8:4
 - Hearsay, inadmissible §§ 8:6 to 8:8

EXPERT WITNESSES—Cont'd

- Improper expert opinion—Cont'd
 - Supporting authorities—Cont'd
 - Hypothetical questions § 8:5
 - Irrelevant matters § 8:15
 - Jury function, usurping § 8:14
 - Legal questions vs. ultimate issues §§ 8:9, 8:10
 - Not reasonably relied upon by experts § 8:12
 - Opinions or statements of others § 8:7
 - Other grounds § 8:19
- Profile evidence, improper § 8:16
- Specialty or expertise, outside area of § 8:17
- Speculation §§ 8:13, 8:110
- Treatises, documents and texts § 8:8
- Ultimate issues, legal questions compared § 8:10
- Text of motion, suggested § 8:1
- Treatises, documents and texts § 8:8
- Ultimate issues, legal questions compared §§ 8:10, 8:24
- Jury function, usurping § 8:14
- Legal questions vs. ultimate issues §§ 8:10, 8:24
- Non-qualified expert, motion to exclude testimony
 - Generally §§ 8:26 to 8:31
- Examples, improper qualifications § 8:29
- Opposing authorities §§ 8:31, 8:120
- Summary § 8:27
- Supporting authorities
 - Generally §§ 8:28 to 8:30
 - Examples, improper qualifications § 8:29
 - Other grounds § 8:30
 - Text of motion, suggested § 8:26
- Not reasonably relied upon by experts § 8:12
- Opinions or statements of others §§ 8:7, 8:22
- Profile evidence, improper § 8:16

EXPERT WITNESSES—Cont'd

Sample motions and suggested
motion text §§ 5:54, 8:120
Specialty or expertise, outside area of
§ 8:17
Speculation §§ 8:13, 8:110
Statements of others §§ 8:7, 8:22
Tests and scientific evidence, expert
not qualified to testify on subject
§ 5:3
Treatises, documents and texts § 8:8
Ultimate issues, legal questions
compared §§ 8:10, 8:24

FIFTH AMENDMENT

Privilege Against Self-Incrimination,
this index

FINANCIAL STATUS OF PARTY

Personal Injuries, this index

**FINITE ELEMENT ANALYSIS
TESTS**

Excluding biomechanic evidence
§ 10:130

FOUNDATION

Expert witnesses §§ 4:12, 8:4
Personal injuries, accident
reconstruction and biomechanic
evidence §§ 10:124, 10:140
Tests and Scientific Evidence, this
index
Writings and Physical Evidence, this
index

FRAUD AND DECEIT

Character evidence, fraudulent acts as
§ 7:13

GOLDEN RULE ARGUMENT

Motion to preclude. Trial, this index
Prejudicial evidence § 2:22

**GRUESOME OR
INFLAMMATORY
PHOTOGRAPHS**

Accident scene photographs §§ 4:41,
4:48

HEARSAY

Generally §§ 8:95 to 8:109

HEARSAY—Cont'd

Accident reconstruction evidence,
excluding § 10:123
Accident reports §§ 4:68, 4:73
Admissible evidence, hearsay
cumulative of § 8:109
Business records exception
Accident reports § 4:73
Letters § 4:84
Medical records, reports or bills
§ 4:118
Expert witnesses §§ 8:6 to 8:8, 8:21,
8:22
Impeaching witness credibility, use of
hearsay § 8:108
Letters § 4:78
Medical records, reports or bills
§§ 4:106, 4:111
Multiple hearsay §§ 8:102, 8:107
Non-assertive conduct § 8:106
Non-hearsay evidence § 8:105
Opposing authorities
Generally §§ 8:103 to 8:108
Admissible evidence, cumulative
of § 8:109
Impeaching witness credibility, use
of hearsay § 8:108
Multiple hearsay § 8:107
Non-assertive conduct § 8:106
Non-hearsay evidence § 8:105
Purpose of exceptions § 8:104
Physical evidence §§ 4:26, 4:27, 4:31
Published articles §§ 4:60, 4:64
Purpose of rule and exceptions
§§ 8:98, 8:104
Statements of others §§ 8:7, 8:22
Summary § 8:96
Supporting authorities
Generally §§ 8:97 to 8:102
Multiple hearsay § 8:102
Purpose of rule § 8:98
Written hearsay §§ 8:99 to 8:101
Text of motion to exclude, suggested
§ 8:95
Treatises, documents and texts § 8:8
Writings and physical evidence
§§ 4:26, 4:27, 4:31
Written hearsay §§ 8:99 to 8:101

INDEX

HYPNOSIS EVIDENCE

Motion to exclude §§ 5:29, 5:46

Sample motion to exclude § 5:53

IMMIGRATION STATUS

Sample motion to exclude irrelevant evidence § 3:21

IMPEACHMENT

Generally §§ 7:4 to 7:27

Hearsay used to impeach witness credibility § 8:108

Motion to exclude character evidence used for. Character Evidence, this index

Personal Injuries, this index

IMPROPER ARGUMENT

During opening statement

Motion to exclude § 9:63

INCOMPETENT OR INSANE PERSONS

Incompetent witness. Witnesses, this index

Lay witness testimony, sanity and mental condition § 8:40

INCOMPETENT WITNESS

Motion to exclude testimony § 8:118

INDIGENT PEOPLE

Defendant's, evidence of § 2:41

INSURANCE

Liability Insurance, this index

Medical insurance policy, collateral source payments § 10:7

Sample motion to exclude irrelevant evidence in case § 3:23

INTERROGATORIES

Discovery Motions, this index

IRRELEVANT EVIDENCE

Generally §§ 3:1 to 3:25

Admissibility despite uncontested issue § 3:20

Admitted or uncontroverted matters § 3:13

Collateral issues §§ 3:14, 3:17, 3:24

Estoppel, unpleaded issues § 3:18

IRRELEVANT EVIDENCE—Cont'd

Immigration status, sample motion to exclude irrelevant evidence § 3:21

Insurance case, sample motion to exclude irrelevant evidence § 3:23

Letters §§ 4:79, 4:85

Matters not in controversy

Generally §§ 3:10 to 3:20

Admissibility despite uncontested issue § 3:20

Admitted or uncontroverted matters § 3:13

Collateral issues §§ 3:14, 3:17

Estoppel, unpleaded issues § 3:18

Opposing authorities

Generally § 3:16

Admissibility despite uncontested issue § 3:20

Collateral issues § 3:17

Estoppel, unpleaded issues § 3:18

Relevance to other issues § 3:19

Other issues, relevance to § 3:19

Summary § 3:11

Supporting authorities

Generally § 3:12

Admitted or uncontroverted matters § 3:13

Collateral issues § 3:14

Unpleaded issues § 3:15

Text of motion, suggested § 3:10

Unpleaded issues §§ 3:15, 3:18

No unlimited inquiry § 3:4

Opposing authorities § 3:9

Other issues, relevance to § 3:19

Outside pleadings § 3:5

Photographs, gruesome or inflammatory § 4:36

Physical conditions not at issue, sample motion to exclude § 3:21

Prejudicial § 3:6

Remoteness § 3:8

Sample motions

Generally §§ 3:21 to 3:25

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

IRRELEVANT EVIDENCE—Cont'd

Sample motions—Cont'd

Immigration status, motion to
exclude irrelevant evidence of
§ 3:21

Insurance cases, motion to exclude
irrelevant evidence of § 3:23

Physical conditions not at issue,
motion to exclude evidence of
§ 3:22

Unpleaded issues, motion to
exclude § 3:25

Speculative evidence § 3:7

Summary § 3:2

Supporting authorities

Generally § 3:3

No unlimited inquiry § 3:4

Outside pleadings § 3:5

Prejudicial § 3:6

Speculative evidence § 3:7

Too remote § 3:8

Text of motion, suggested §§ 3:1,
3:10

Too remote § 3:8

Unpleaded issues §§ 3:15, 3:18, 3:25

JUDGES

Opposition to motion

Exclude evidence

Confuse the jury § 2:43

Testimony of § 8:62

JUDGMENT

Default, Motion for order

Discovery sanction § 6:60

JURORS

Appeal to jurors as taxpayers,
improper § 10:162

Confusion

Opposition to motion, exclude evi-
dence § 2:43

Improper voir dire § 9:62

Missing evidence instruction, opposi-
tion to motion for § 9:64

Voir dire improper. Trial, this index

Witness, juror as, motion to exclude
testimony §§ 8:66, 8:73

JUVENILE ADJUDICATION

Motion to exclude improper character
evidence § 7:63

LEGAL OPINIONS

Lay witness testimony §§ 8:36,
10:171

LEGAL SEPARATION ACTION

Motion to exclude testimony of
mediator § 8:64

LETTERS

Generally §§ 4:74 to 4:85

Business records exception to
hearsay rule § 4:87

Cumulative § 4:80

Foundation, lack of § 4:81

Hearsay §§ 4:78, 4:84

Motion to exclude written letters,
sample § 4:134

Opposing authorities

Generally § 4:83

Business records exception to
hearsay rule § 4:87

Relevant § 4:85

Relevance §§ 4:79, 4:85

Summary § 4:75

Supporting authorities

Generally §§ 4:76, 4:77

Cumulative § 4:80

Foundation, lack of § 4:81

Hearsay § 4:78

Irrelevant § 4:79

Other grounds § 4:82

Text of motion, suggested § 4:74

LIABILITY INSURANCE

Collateral source payments § 10:7

Motion to exclude evidence of insur-
ance §§ 10:16 to 10:27

Personal Injuries, this index

**LOCAL RULES AND
REGULATIONS**

Caution regarding motions in limine
§ 1:7

**LOST OR DESTROYED
EVIDENCE**

Generally §§ 9:20 to 9:29

INDEX

LOST OR DESTROYED

EVIDENCE—Cont'd

- Intentional destruction § 9:24
- Missing evidence instruction, opposition to motion for § 9:64
- Negative presumption § 9:26
- Opposing authorities
 - Generally § 9:28
 - Other remedies § 9:29
- Prejudicial evidence § 9:22
- Sample motion § 9:58
- Spoliation of evidence § 9:25
- Summary § 9:21
- Supporting authorities
 - Generally §§ 9:22 to 9:27
 - Exclusion of lost or destroyed evidence § 9:23
 - Intentional destruction § 9:24
 - Negative presumption § 9:26
 - Other grounds § 9:27
 - Prejudicial evidence § 9:22
 - Spoliation of evidence § 9:25
 - Suppression of evidence § 9:24
- Suppression of evidence § 9:24
- Text of motion, suggested § 9:20

LOST PROFITS

- Exclusion of improper damage evidence § 10:181
- Motion to exclude improper damage evidence (speculative evidence) § 10:201

MALPRACTICE BY MEDICAL PROFESSION

- Lay witness testimony, common knowledge exception § 8:47

MAPS, MODELS, CHARTS, EXHIBITS AND DEMONSTRATIVE EVIDENCE

- Generally §§ 4:86 to 4:101
- Demonstrations §§ 4:92, 4:100, 4:101
- Diagrams §§ 4:93, 4:99
- Discretion of court §§ 4:89, 4:97
- Exhibits § 4:91
- Illustrations §§ 4:93, 4:99
- Injury, demonstration of § 4:101

MAPS, MODELS, CHARTS, EXHIBITS AND DEMONSTRATIVE EVIDENCE—Cont'd

- Maps, models or charts §§ 4:90, 4:98
- Opposing authorities
 - Generally § 4:95
 - Demonstrations §§ 4:100, 4:101
 - Diagrams § 4:99
 - Discretion of court § 4:97
 - Illustrations § 4:99
 - Injury, demonstration of § 4:101
 - Maps, models, or charts § 4:98
 - Relevant to issues § 4:96
- Relevant to issues § 4:96
- Summary § 4:87
- Supporting authorities
 - Generally § 4:88
 - Demonstrations § 4:92
 - Diagrams § 4:93
 - Discretion of court § 4:89
 - Exhibits § 4:91
 - Illustrations § 4:93
 - Maps, models or charts § 4:90
 - Other grounds § 4:94
- Text of motion, suggested § 4:86

MEDIATION

- Motion to exclude, sample § 9:59
- Witness, mediator as, motion to exclude testimony §§ 8:63, 8:64

MEDICAL CARE OR TREATMENT

- Medical Records, Reports or Bills, this index
- Mental and physical examination, sanctions, discovery motions §§ 6:18, 6:19

MEDICAL INSURANCE POLICY

- Collateral source payments § 10:7

MEDICAL MALPRACTICE

- Lay witness testimony, common knowledge exception § 8:47

MEDICAL RECORDS, REPORTS OR BILLS

- Generally §§ 4:102 to 4:121

**MEDICAL RECORDS, REPORTS
OR BILLS—Cont’d**

Billing records
 Foundation, lack of § 4:112
 Motion to exclude evidence of
 after [date] § 6:53
 Proof of medical expenses § 4:113
 Reasonableness of charges § 4:121
 Business records exception § 4:118
 Diagnosis and treatment, opinion
 used in § 4:117
 Foundation, improper § 4:105
 Hearsay §§ 4:106, 4:111
 Medical history §§ 4:110, 4:111,
 4:119, 4:120
 Observations of physician § 4:119
 Opposing authorities
 Generally § 4:115
 Authentication, proper § 4:116
 Billing records, reasonableness of
 charges § 4:121
 Business records exception § 4:118
 Opinion used in formation of diag-
 nosis and treatment § 4:117
 Patient history
 Medical diagnosis, pertinent to
 § 4:120
 Observations of physician
 § 4:119
 Personal knowledge, lack of § 4:107
 Sample motions and suggested
 motion text §§ 4:102, 4:135
 Self-serving opinions § 4:109
 Speculation § 4:108
 Summary § 4:103
 Supporting authorities
 Generally § 4:104
 Billing records
 Foundation, lack of § 4:112
 Proof of medical expenses
 § 4:113
 Foundation, improper § 4:105
 Hearsay
 Medical history § 4:111
 Medical opinions § 4:106
 Medical opinions, improper
 hearsay § 4:106

**MEDICAL RECORDS, REPORTS
OR BILLS—Cont’d**

Supporting authorities—Cont’d
 Opinions of others
 Lack of personal knowledge
 § 4:107
 Self-serving § 4:109
 Speculation § 4:108
 Other grounds § 4:114
 Patient medical history §§ 4:110,
 4:111
 Text of motion, suggested § 4:102

**MENTAL AND PHYSICAL
EXAMINATION**

Sanctions, discovery motions
 §§ 6:18, 6:19

**MENTAL CAPACITY OR
CONDITION**

Incompetent witness, motion to
 exclude testimony §§ 8:53, 8:58
 Lay witness testimony, sanity and
 mental condition § 8:40

MESSAGES

Text, Motion to exclude § 4:142

MINORS

Child support action, mediator,
 motion to exclude testimony
 § 8:64
 Incompetent witness, motion to
 exclude testimony §§ 8:52, 8:57

MODELS AND PROTOTYPES

Maps, Models, Charts, Exhibits and
 Demonstrative Evidence, this
 index

MOTION PICTURES

Improper foundation § 4:11

**MUNICIPAL CORPORATIONS
AND OTHER POLITICAL
SUBDIVISIONS**

Excluding prior crime evidence
 §§ 7:46, 7:57, 7:60
 Prior D.U.I., exclusion of municipal
 violations § 10:103

NON-CALLED WITNESSES

Witnesses, this index

INDEX

OBJECTIONS

Preservation of § 1:4

OBJECTS OR THINGS

Improper foundation § 4:15

ORDERS

Motion for

Discovery sanction

Rendering default judgment
§ 6:60

Evidentiary sanctions

Serve answers/objections to
interrogatories § 6:61

Sample in limine order § 1:12

PATTERN OF INJURY TESTS

Excluding biomechanic evidence
§ 10:131

PERSONAL INJURIES

Generally § 10:1 et seq.

Accident reconstruction and
biomechanic evidence

Generally §§ 10:119 to 10:146

Accident reconstruction evidence

Generally §§ 10:121 to 10:127,
10:139

Competent facts § 10:140

Foundation § 10:140

Foundation, improper § 10:124

Hearsay § 10:123

Incomplete facts § 10:122

Observation of others, reliance
on § 10:123

Opinion, proper basis for
§ 10:139

Photographs depicting “no dam-
age” to vehicles § 10:145

Point of impact § 10:144

Point of impact determinations
§ 10:125

Qualification, improper
§ 10:124

Reaction time determinations
§ 10:126

Skid mark analysis § 10:142

Speculation § 10:122

Speed of vehicle § 10:141

Stopping distances § 10:143

PERSONAL INJURIES—Cont’d

Accident reconstruction and

biomechanic evidence—Cont’d

Accident reconstruction evidence
—Cont’d

Vehicle speed determinations
§ 10:127

Anthropomorphic dummies
§ 10:129

Biomechanic evidence

Admitting § 10:146

Excluding §§ 10:128 to 10:131

Biomechanic evidence, excluding

Generally §§ 10:128 to 10:131

Anthropomorphic dummies
§ 10:129

Finite element analysis tests
§ 10:130

Pattern of injury tests § 10:131

Competent facts § 10:140

Finite element analysis tests
§ 10:130

Foundation §§ 10:124, 10:140

Hearsay § 10:123

Human crash test dummy
testimony § 10:135

Incomplete facts § 10:122

Low-speed impact automobile
cases

Generally §§ 10:132 to 10:137

Human crash test dummy
testimony § 10:135

Other unreliable tests § 10:137

Photographs depicting “no dam-
age” to vehicles § 10:136

Plopping into a chair testimony,
challenging § 10:134

Opinion, proper basis for § 10:139

Opposing authorities

Biomechanic evidence, cases
where admitted § 10:146

Competent facts § 10:140

Opinion, proper basis for
§ 10:139

Photographs depicting “no dam-
age” to vehicles § 10:145

Skid mark analysis § 10:142

Stopping distances § 10:143

PERSONAL INJURIES—Cont’d

- Accident reconstruction and biomechanic evidence—Cont’d
- Opposing authorities—Cont’d
 - Tests and scientific testimony § 10:138
- Pattern of injury tests § 10:131
- Photographs depicting “no damage” to vehicles §§ 10:136, 10:145
- Point of impact determinations §§ 10:125, 10:144
- Reaction time determinations § 10:126
- Skid mark analysis § 10:142
- Speculation § 10:122
- Stopping distances § 10:143
- Summary § 10:120
- Supporting authorities
 - Anthropomorphic dummies § 10:129
 - Finite element analysis tests § 10:130
 - Foundation, improper § 10:124
 - Hearsay § 10:123
 - Incomplete facts § 10:122
 - Pattern of injury tests § 10:131
 - Point of impact determinations § 10:125
 - Reaction time determinations § 10:126
 - Speculation § 10:122
 - Vehicle speed determinations § 10:127
- Text of motion, suggested § 10:119
- Vehicle speed determinations §§ 10:127, 10:141
- Alcohol consumption
 - Generally §§ 10:87 to 10:96
 - Blood alcohol level tests § 10:93
 - Irrelevant evidence § 10:90
 - Opposing authorities
 - Generally § 10:95
 - Relevant to issues § 10:95
 - Witness perceptions § 10:96
 - Passenger, consumption by § 10:92
 - Prejudicial evidence § 10:89
 - Relevant to issues § 10:95

PERSONAL INJURIES—Cont’d

- Alcohol consumption—Cont’d
 - Summary § 10:88
 - Supporting authorities
 - Generally §§ 10:89 to 10:94
 - Alcohol evidence § 10:91
 - Blood alcohol level tests § 10:93
 - Irrelevant evidence § 10:90
 - Other grounds § 10:94
 - Passenger, consumption by § 10:92
 - Prejudicial evidence § 10:89
 - Text of motion, suggested § 10:87
 - Witness perceptions § 10:96
- Collateral source payments
 - Generally §§ 10:1 to 10:15
 - Disability benefits § 10:8
 - Governmental benefits based on financial need § 10:11
 - Gratuitous payments §§ 10:6, 10:14
 - Medical or liability policy payments § 10:7
- Opposing authorities
 - Generally §§ 10:13 to 10:15
 - Gratuitous payments, split of authority § 10:14
 - Relevant to issue in case § 10:15
- Prejudicial evidence § 10:3
- Summary § 10:2
- Supporting authorities
 - Generally §§ 10:3 to 10:12
 - Collateral source evidence § 10:5
 - Disability benefits § 10:8
 - Governmental benefits based on financial need § 10:11
 - Gratuitous payments § 10:6
 - Irrelevant evidence § 10:4
 - Medical or liability policy payments § 10:7
 - Other grounds § 10:12
 - Prejudicial evidence § 10:3
 - Wage payments § 10:10
 - Workers’ compensation benefits § 10:9
- Text of motion, suggested § 10:1
- Wage payments § 10:10

INDEX

PERSONAL INJURIES—Cont'd

Collateral source payments—Cont'd

Workers' compensation benefits
§ 10:9

Damage evidence, improper

Generally §§ 10:175 to 10:188

Court's discretion § 10:183

Denied claims §§ 10:183, 10:185

Estoppel § 10:184

Lost profits § 10:181

Opposing authorities

Generally § 10:183

Court's discretion § 10:183

Denied claims §§ 10:183,
10:185

Estoppel § 10:184

Punitive damages § 10:188

Reasonably certain damages
§ 10:187

Speculative damages § 10:186

Unpleaded claims § 10:183

Punitive damages §§ 10:182,
10:188

Reasonably certain damages
§ 10:187

Speculative damages §§ 10:180,
10:186, 10:201

Summary § 10:176

Supporting authorities

Generally §§ 10:177 to 10:182

Lost profits § 10:181

Punitive damages § 10:182

Speculative damages § 10:180

Surprise claims § 10:179

Undisputed matters § 10:178

Unpleaded matters § 10:177

Surprise claims § 10:179

Text of motion, suggested
§ 10:175

Undisputed matters § 10:178

Unpleaded matters §§ 10:177,
10:183

Evidence, see more specific groups in
this index topic

Financial status of party

Generally §§ 10:147 to 10:157

Defendant's financial status
§ 10:153

PERSONAL INJURIES—Cont'd

Financial status of party—Cont'd

Opposing authorities

Generally § 10:156

Punitive damages claim, neces-
sary to support § 10:157

Relevant to issues § 10:156

Plaintiff's, motion to exclude,
sample § 10:198

Plaintiff's financial status § 10:152

Relevant to issues § 10:156

Sample motions and suggested
motion text §§ 10:147,
10:198, 10:204

Summary § 10:148

Supporting authorities

Generally §§ 10:149 to 10:155

Defendant's financial status
§ 10:153

Financial status evidence
§ 10:151

Irrelevant evidence § 10:150

Other grounds § 10:155

Plaintiff's financial status
§ 10:152

Prejudicial evidence § 10:149

Punitive damages cases
§§ 10:154, 10:157

Text of motion, suggested
§ 10:147

Impeachment

Prior D.U.I. §§ 10:101, 10:107,
10:108

Subsequent repairs § 10:62

Liability insurance

Generally §§ 10:16 to 10:27

Cross-examination § 10:23

Evidence of, sample motion to
exclude § 10:197

Incidental reference to insurance
§ 10:25

Irrelevant evidence § 10:19

Lack of insurance, evidence of
§ 10:21

Non-prejudicial references to
insurance § 10:26

Opposing authorities

Generally §§ 10:23 to 10:27

Cross-examination § 10:23

PERSONAL INJURIES—Cont’d

- Liability insurance—Cont’d
 - Opposing authorities—Cont’d
 - Incidental reference to insurance § 10:25
 - Non-prejudicial references to insurance § 10:26
 - Ownership or employment, proving § 10:27
 - Relevant to other issues or otherwise admissible § 10:24
 - Ownership or employment, proving § 10:27
 - Prejudicial evidence § 10:18
 - Relevant to other issues or otherwise admissible § 10:24
 - Summary § 10:17
 - Supporting authorities
 - Generally §§ 10:18 to 10:22
 - Irrelevant evidence § 10:19
 - Lack of insurance, evidence of § 10:21
 - Liability insurance evidence § 10:20
 - Other grounds § 10:22
 - Prejudicial evidence § 10:18
- Liability or fault evidence
 - Generally §§ 10:165 to 10:174
 - Admitted matters §§ 10:169, 10:170, 10:174
 - Legal opinions by lay witnesses, inadmissible § 10:171
 - Opposing authorities
 - Generally § 10:173
 - Admission of fault § 10:174
 - Relevance § 10:173
 - Relevance § 10:173
 - Settlement negotiations, admissions made during § 10:170
 - Summary § 10:165
 - Supporting authorities
 - Generally §§ 10:167 to 10:172
 - Admitted matters §§ 10:169, 10:170
 - Irrelevant evidence § 10:168
 - Legal opinions by lay witnesses, inadmissible § 10:171
 - Other grounds § 10:172

PERSONAL INJURIES—Cont’d

- Liability or fault evidence—Cont’d
 - Supporting authorities—Cont’d
 - Prejudicial evidence § 10:167
 - Settlement negotiations, admissions made during § 10:170
 - Text of motion, suggested § 10:165
- Motion to exclude evidence regarding party’s prior injuries § 10:213
- Other accidents, claims, or lawsuits
 - Generally §§ 10:40 to 10:54
 - Opposing authorities
 - Generally §§ 10:49 to 10:54
 - Subsequent accidents, evidence of § 10:54
 - Prior accident evidence
 - Absence of prior accidents §§ 10:44, 10:49
 - Dangerous condition §§ 10:46, 10:51
 - Defective products §§ 10:46, 10:51
 - Exclusion, sample motion §§ 10:49, 10:202
 - Negligence, prior accident evidence used to prove § 10:45
 - Notice § 10:52
 - Relevant to issues in case § 10:53
 - Similarity §§ 10:46, 10:51
 - Subsequent accidents, evidence of § 10:54
- Summary § 10:41
- Supporting authorities
 - Generally §§ 10:42 to 10:48
 - Irrelevant evidence § 10:43
 - Other claims or lawsuits § 10:47
 - Other grounds § 10:48
 - Prejudicial evidence § 10:42
 - Text of motion, suggested § 10:40
- Party’s health or injuries, motion to exclude where not at issue
 - Generally §§ 10:110 to 10:118
 - Demonstrations §§ 10:117, 10:118
 - Irrelevant evidence § 10:113

INDEX

PERSONAL INJURIES—Cont'd

- Party's health or injuries, motion to exclude where not at issue—Cont'd
- Opposing authorities
 - Generally §§ **10:116 to 10:118**
 - Demonstration of injury § **10:117**
 - Other demonstrations § **10:118**
 - Relevant to issues in case § **10:116**
- Prejudicial evidence § **10:112**
- Relevant to issues in case § **10:116**
- Summary § **10:111**
- Supporting authorities
 - Generally §§ **10:112 to 10:115**
 - Health or injuries where not at issue, exclusion of evidence § **10:114**
 - Irrelevant evidence § **10:113**
 - Other grounds § **10:115**
 - Prejudicial evidence § **10:112**
 - Text of motion, suggested § **10:110**
- Prior D.U.I.
 - Generally §§ **10:97 to 10:109**
 - Arrests § **10:102**
 - Impeachment §§ **10:101, 10:107, 10:108**
 - Improper conduct, exclusion of D.U.I. evidence where used to prove § **10:104**
 - Irrelevant evidence § **10:100**
 - Municipal ordinance violations § **10:103**
 - Opposing authorities
 - Generally §§ **10:106 to 10:109**
 - Impeachment §§ **10:107, 10:108**
 - Relevant to issues § **10:109**
 - Prejudicial evidence § **10:99**
 - Relevant to issues § **10:109**
 - Summary § **10:98**
 - Supporting authorities
 - Generally §§ **10:99 to 10:105**
 - Arrests § **10:102**
 - Impeachment, crimes evidence used for § **10:101**
 - Improper conduct, exclusion of D.U.I. evidence where used to prove § **10:104**

PERSONAL INJURIES—Cont'd

- Prior D.U.I.—Cont'd
- Supporting authorities—Cont'd
 - Irrelevant evidence § **10:100**
 - Municipal ordinance violations § **10:103**
 - Other grounds § **10:105**
 - Prejudicial evidence § **10:99**
 - Text of motion, suggested § **10:97**
- Seat belts, failure to wear
 - Generally §§ **10:80 to 10:86**
 - Irrelevant evidence § **10:83**
 - Mitigation, admissible as § **10:86**
 - Opposing authorities, admissible as mitigation § **10:86**
 - Prejudicial evidence § **10:82**
 - Summary § **10:81**
 - Supporting authorities
 - Generally §§ **10:82 to 10:85**
 - Irrelevant evidence § **10:83**
 - Other grounds § **10:85**
 - Prejudicial evidence § **10:82**
 - Seat belt evidence § **10:84**
 - Text of motion, suggested § **10:80**
- Settlement evidence
 - Generally §§ **10:28 to 10:39**
 - Admission against interest § **10:39**
 - Co-defendants, settlement with § **10:35**
 - Irrelevant evidence § **10:31**
 - Liability, settlement evidence used to show § **10:32**
 - Negotiations § **10:34**
 - Offer to compromise § **10:36**
 - Opposing authorities
 - Generally § **10:38**
 - Admission against interest § **10:39**
 - Prejudicial evidence § **10:30**
 - Prior settlements § **10:33**
 - Summary § **10:29**
 - Supporting authorities
 - Generally §§ **10:30 to 10:37**
 - Co-defendants, settlement with § **10:35**
 - Irrelevant evidence § **10:31**
 - Offer to compromise § **10:36**
 - Other grounds § **10:37**

PERSONAL INJURIES—Cont’d

- Settlement evidence—Cont’d
 - Supporting authorities—Cont’d
 - Prejudicial evidence § 10:30
 - Prior settlements § 10:33
 - Settlement evidence used to show liability § 10:32
 - Settlement negotiations § 10:34
 - Text of motion, suggested § 10:28
- Settlement evidence, motion to exclude, sample § 10:196
- Speculative evidence, motion exclude improper damage evidence § 10:201
- Statute violation
 - Generally §§ 10:65 to 10:74
 - Injury not one statute meant to prevent § 10:70
 - Irrelevant evidence § 10:68
 - Negligence per se §§ 10:70, 10:74
 - Not proximate cause § 10:70
 - Opposing authorities
 - Generally § 10:73
 - Negligence per se § 10:74
 - Presumption of negligence § 10:74
 - Traffic citation, admission of § 10:73
 - Prejudicial evidence § 10:67
 - Presumption of negligence § 10:74
 - Protected class, party not within § 10:71
- Summary § 10:66
- Supporting authorities
 - Generally §§ 10:67 to 10:72
 - Injury not one statute meant to prevent § 10:70
 - Irrelevant evidence § 10:68
 - Negligence per se not applicable § 10:70
 - Not proximate cause § 10:70
 - Other grounds § 10:72
 - Prejudicial evidence § 10:67
 - Protected class, party not within § 10:71
 - Traffic citation evidence § 10:69
 - Text of motion, suggested § 10:65
 - Traffic citation evidence §§ 10:69, 10:73

PERSONAL INJURIES—Cont’d

- Statute violation, sample motion to exclude § 10:194
- Subsequent accidents, evidence of § 10:54
- Subsequent repairs
 - Generally §§ 10:55 to 10:63
 - Impeachment § 10:62
 - Irrelevant evidence § 10:58
 - Negligence, exclusion of subsequent repair evidence to show § 10:59
- Non-parties § 10:61
- Opposing authorities
 - Generally § 10:61
 - Impeachment § 10:62
 - Non-parties § 10:61
 - Relevant to issues § 10:63
 - Sample motions § 10:203
 - Strict products liability § 10:64
- Prejudicial evidence § 10:57
- Relevant to issues § 10:63
- Sample motion to exclude §§ 10:193, 10:203
- Strict products liability § 10:64
- Summary § 10:56
- Supporting authorities
 - Generally §§ 10:57 to 10:60
 - Irrelevant evidence § 10:58
 - Negligence, exclusion of subsequent repair evidence to show § 10:59
 - Other grounds § 10:60
 - Prejudicial evidence § 10:57
 - Text of motion, suggested § 10:55
- Tax evidence
 - Generally §§ 10:158 to 10:164
 - Jurors, improper appeal to as taxpayers § 10:162
 - Opposing authorities, relevant to issues § 10:164
 - Relevant to issues § 10:164
 - Summary § 10:159
 - Supporting authorities
 - Generally §§ 10:160 to 10:163
 - Irrelevant evidence § 10:161
 - Jurors, improper appeal to as taxpayers § 10:162

INDEX

PERSONAL INJURIES—Cont'd

- Tax evidence—Cont'd
 - Supporting authorities—Cont'd
 - Other grounds § 10:163
 - Prejudicial evidence § 10:160
 - Text of motion, suggested §§ 10:158 to 10:164
- Unlicensed driver
 - Generally §§ 10:76 to 10:80
 - Opposing authorities, relevant to issues § 10:79
 - Summary § 10:76
 - Supporting authorities §§ 10:77, 10:78
 - Text of motion, suggested § 10:75

PHOTOGRAPHS

- Accident reconstruction evidence, photographs depicting “no damage” to vehicles §§ 10:136, 10:145
- Accident scene photographs §§ 4:41, 4:48
- Cumulative evidence, motion to exclude or limit §§ 2:30, 2:37
- Enlarged photographs § 4:45
- Foundation §§ 4:8, 4:44
- Gruesome or inflammatory
 - Generally §§ 4:33 to 4:48
 - Accident scene photographs §§ 4:41, 4:48
 - Enlarged photographs § 4:45
 - Inflaming jurors’ emotions, purpose to § 4:38
- Opposing authorities
 - Generally § 4:43
 - Accident scene photographs § 4:48
 - Enlarged photographs § 4:45
 - Foundation, adequate § 4:44
 - Gruesome photographs § 4:46
 - Photographs, generally § 4:43
 - X-rays § 4:47
- Sample motions §§ 4:132, 4:137
- Summary § 4:34
- Supporting authorities
 - Generally § 4:35
 - Accident scene photographs § 4:41

PHOTOGRAPHS—Cont'd

- Gruesome or inflammatory—Cont'd
 - Supporting authorities—Cont'd
 - Gruesome or inflammatory photographs § 4:37
 - Inflaming jurors’ emotions, purpose to § 4:38
 - Irrelevant evidence § 4:36
 - Other grounds § 4:42
 - Photographs, exclusion of, generally § 4:39
 - Prejudicial evidence § 4:35
 - X-rays § 4:40
- Text of motion, suggested § 4:33
- X-rays §§ 4:40, 4:47
- Inflammatory. Gruesome or inflammatory, above
- X-rays §§ 4:40, 4:47

PHYSICAL APPEARANCE OR CONDITION

- Sample motion to exclude physical conditions not at issue § 3:21

PHYSICAL CONDITIONS

- Sample motion to exclude physical conditions not at issue § 3:21

PHYSICAL OR MENTAL EXAMINATION

- Sanctions, discovery motions §§ 6:18, 6:19

PICTURES AND PHOTOGRAPHS

- Photographs, this index

POLYGRAPH EXAMINATION

- Motion to exclude § 5:52
- Tests and Scientific Evidence, this index

POVERTY

- Defendant’s, evidence of § 2:41

PREJUDICE OR BIAS

- Bias, this index

PREJUDICE OR BIAS OF WITNESS

- Character evidence §§ 7:18, 7:24

PREJUDICIAL EVIDENCE

- Generally §§ 2:1 to 2:44

PREJUDICIAL EVIDENCE

—Cont’d

- Confusing or misleading evidence
 - Generally §§ 2:12 to 2:16
 - Limiting instruction § 2:16
- Opposing authorities
 - Generally § 2:15
 - Limiting instruction § 2:16
- Sample motion § 2:38
- Summary § 2:13
- Supporting authorities § 2:14
- Cumulative evidence, motion to exclude or limit
 - Generally §§ 2:24 to 2:37
- Letters § 4:80
- Number of witnesses §§ 2:29, 2:35
- Opposing authorities
 - Generally §§ 2:34 to 2:37
- Number of witnesses § 2:35
- Photographs § 2:37
- Videotape evidence § 2:36
- Photographs §§ 2:30, 2:37
- Rebuttal testimony § 2:33
- Sample motion § 2:39
- Summary § 2:25
- Supporting authorities
 - Generally §§ 2:26, 2:27
 - Articles and letters § 2:28
 - Number of witnesses § 2:29
 - Photographs § 2:30
 - Rebuttal testimony § 2:33
 - Videotape evidence § 2:32
 - Witness testimony § 2:31
- Text of motion, suggested § 2:24
- Videotape evidence § 2:32
- Witnesses §§ 2:29, 2:31, 2:35
- Discretion § 2:7
- Emotional bias, motion to exclude evidence used to create
 - Generally §§ 2:5, 2:17 to 2:23
- Golden Rule argument § 2:22
- Opposing authorities § 2:23
- Photographs, gruesome or inflammatory § 4:38
- Summary § 2:18
- Supporting authorities
 - Generally §§ 2:19, 2:20
 - Golden Rule argument § 2:22

PREJUDICIAL EVIDENCE

—Cont’d

- Emotional bias, motion to exclude evidence used to create—Cont’d
- Supporting authorities—Cont’d
 - Taxpayers, jurors’ self-interest as § 2:21
 - Taxpayers, jurors’ self-interest as § 2:21
- Text of motion, suggested § 2:17
- Golden Rule argument § 2:22
- Irrelevant evidence § 3:6
- Motion for order
 - Rendering default judgment
 - Discovery sanction § 6:60
- Motion to exclude improper argument during opening statement § 9:63
- Motion to exclude prejudicial evidence § 2:40
- Motion to exclude testimony of incompetent witness § 8:118
- Opposing authorities
 - Generally § 2:6
 - Broad discretion § 2:7
- Opposition to motion
 - Confuse the jury
 - Exclude evidence § 2:43
- Opposition to motion to exclude prejudicial evidence § 2:42
- Photographs, gruesome or inflammatory §§ 4:35, 4:137
- Poverty, motion to exclude evidence of defendant’s § 2:41
- Prejudice defined § 2:4
- Summary § 2:2
- Supporting authorities
 - Generally § 2:3
 - Emotional bias § 2:5
 - Exclusion of prejudicial evidence § 2:3
 - Prejudice defined § 2:4
- Text messages
 - Motion to exclude § 4:142
- Text of motion, suggested § 2:1
- Time wasting evidence
 - Generally §§ 2:8 to 2:11
 - Opposing authorities § 2:11

INDEX

PREJUDICIAL EVIDENCE

—Cont'd

- Time wasting evidence—Cont'd
 - Summary § 2:9
 - Supporting authorities §§ 2:10, 2:26
 - Text of motion, suggested § 2:8
- Videotape evidence §§ 2:32, 2:36
- Witnesses, motion to exclude or limit cumulative evidence §§ 2:29, 2:31

PREMATURE REBUTTAL

- Rebuttal evidence
 - Affirmative defenses
 - Generally §§ 9:14 to 9:19
 - Affirmative defenses, motion to bar § 9:65

PRESERVATION OF OBJECTIONS

- Generally § 1:4

PRIOR CONVICTIONS

- Defendant's prior DWI, motion to exclude, sample § 10:199
- Impeachment, use for § 7:12

PRIOR CRIME EVIDENCE

- Character Evidence, this index

PRIVILEGE AGAINST SELF-INCRIMINATION

- Allowable comments in criminal matters § 8:85
- Civil consequences of silence § 8:86
- Comment on exercise of privilege
 - Generally §§ 8:82 to 8:86
 - Allowable comments in criminal matters § 8:85
 - Civil consequences of silence § 8:86
 - No comment rule § 8:84
 - Opposing authorities §§ 8:85, 8:86
 - Summary § 8:83
 - Supporting authorities § 8:84
- No comment rule § 8:84
- Silence, civil consequences § 8:86

PROCEDURAL REQUIREMENTS

- Generally §§ 1:6, 1:7
- Local rules, caution regarding § 1:7

PRODUCTION OF DOCUMENTS AND THINGS

- Discovery Motions, this index

PRODUCTS LIABILITY

- Strict liability, motion to exclude evidence of subsequent repairs § 10:64

PROFITS

- Lost Profits, this index

PROPERTY VALUE

- Lay witness testimony § 8:43

PROXIMATE CAUSE

- Lay witness testimony § 8:35

PSYCHIATRY AND PSYCHOLOGY

- Motion to exclude tests and syndromes §§ 5:28, 5:44

PSYCHOLOGICAL TESTS AND SYNDROMES

- Tests and scientific evidence §§ 5:28, 5:44

PUBLISHED ARTICLES

- Generally §§ 4:57 to 4:64, 4:136
- Hearsay §§ 4:60, 4:64
- Opposition authorities
 - Non hearsay § 4:64
 - Relevant to issues § 4:63
- Prejudicial § 4:61
- Sample motion to exclude § 4:136
- Summary § 4:58
- Supporting authorities
 - Generally § 4:59
 - Hearsay § 4:60
 - Other grounds § 4:62
 - Prejudicial § 4:61
- Text of motion, suggested § 4:57

PUNITIVE DAMAGES

- Exclusion of improper damage evidence §§ 10:182, 10:188
- Party's financial status, evidence of §§ 10:154, 10:157

PURPOSE OF MOTION

- Generally § 1:1

RAPE TRAUMA SYNDROME

Motion to exclude §§ 5:28, 5:44

REBUTTAL EVIDENCE

Affirmative defenses, premature rebuttal

Generally §§ 9:14 to 9:19

Cumulative evidence, motion to exclude or limit § 2:33

REFRESHING RECOLLECTION

Accident report used for purpose of § 4:71

RELEVANCY

Irrelevant Evidence, this index

RELIGIOUS BELIEFS

Character evidence §§ 7:15, 7:26, 7:62

Motion to exclude improper character evidence § 7:62

REMOTENESS

Irrelevant evidence § 3:8

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT

Generally §§ 2:38 to 2:44

Accident report

Opposition to motion to exclude § 4:141

Accident report § 4:65

Admitted matters, motion to

Conclusively establish § 6:34

Deem § 6:56

Affirmative defenses, motion to bar premature rebuttal § 9:14

Alcohol consumption § 10:87

Alcoholism of percipient witness § 7:59

Arbitration evidence and findings § 9:30

Bifurcated trial, motion to exclude evidence of damages §§ 9:35, 9:61

Biomechanic evidence, motion to exclude § 5:55

Brief, sample § 1:11

Character evidence

Conduct, motion to exclude evidence used to prove § 7:28

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT

—Cont'd

Character evidence—Cont'd

Impeachment, motion to exclude evidence used for § 7:4

Juvenile adjudication, motion to exclude § 7:63

Marital infidelity, motion to exclude § 7:61

Prescription drug abuse, motion to exclude § 7:64

Prior crime evidence, motion to exclude § 7:39

Claim denied during discovery

Motion to exclude evidence § 6:40

Sample motion to exclude evidence § 6:52

Collateral evidence, motion to exclude § 3:24

Collateral source payments §§ 10:1, 10:189

Computerized valuations of business, motion to exclude evidence § 8:113

Conduct, motion to exclude character evidence used to prove § 7:28

Confusing evidence § 2:38

Cumulative evidence

Excluding or limiting § 2:24

Sample motion to exclude § 2:39

Damage evidence, improper § 10:175

Damages in bifurcated trial §§ 9:35, 9:61

Deem matters admitted, motion to § 6:56

Defendant's prior DWI, motion to exclude § 10:199

Demonstration, motion to exclude § 4:133

Discovery, motion for evidentiary sanctions § 6:1

Discovery deadline, motion to exclude evidence produce beyond § 6:55

D.U.I., prior § 10:97

Emotion bias, motion to exclude evidence used to create § 2:17

INDEX

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT

—Cont'd

Evidentiary sanctions for failure
 Serve answers/objections to inter-
 rogatories § 6:61

Exclude improper argument
 During opening statement § 9:63

Exclude testimony of incompetent
 Witness § 8:118

Exclude text messages § 4:142

Exclusion of witness from courtroom
 prior to testifying §§ 8:74, 8:115

Experts
 Expert witness exchange or expert
 deposition, improper § 6:46

 Improper expert opinion, motion to
 exclude § 8:1

 Opposition to motion to exclude
 § 8:120

 Speculative opinion § 8:110

 Witnesses, limiting plaintiff's
 § 6:59

Financial status of party §§ 10:147,
 10:198, 10:204

Firearm residue laboratory testing,
 admission § 10:191

Foundation, motion to exclude evi-
 dence lacking § 4:1

Golden Rule argument, motion to
 preclude § 9:60

Hypnosis evidence, motion to
 exclude § 5:53

Immigration status, sample motion to
 exclude irrelevant evidence
 § 3:21

Impeachment, motion to exclude
 character evidence used for
 § 7:4

Improper voir dire § 9:62

Incompetent witness § 8:49

Inflammatory evidence, opposition to
 motion to exclude § 7:66

Insurance case, sample motion to
 exclude irrelevant evidence
 § 3:23

Irrelevant evidence § 3:1

Irrelevant evidence, exclusion of
 §§ 3:23, 3:24

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT

—Cont'd

Judge, arbitrator, mediator, attorney
 or juror § 8:60

Junk science and related evidence
 § 5:20

Lack of personal knowledge of
 subject matter, motion to exclude
 testimony § 8:116

Lay witness testimony
 Motion to exclude § 8:33

 Opposition to motion to exclude
 § 8:119

Letters § 4:74

Liability insurance, motion to
 exclude evidence of § 10:16

Liability insurance evidence, motion
 to exclude § 10:197

Liability or fault evidence §§ 10:165,
 10:190

Lost or destroyed evidence, motion to
 exclude reference to §§ 9:20,
 9:58

Lost profits, motion to exclude
 improper damage evidence
 (speculative evidence) § 10:201

Maps, models, charts, exhibits and
 demonstrative evidence § 4:86

Matters not disclosed, motion to
 exclude § 6:58

Matters not in controversy § 3:10

Mediation evidence, motion to
 exclude § 9:59

Mediator testimony
 Motion to exclude § 8:117

Medical bills for service obtained
 after [date], motion to exclude
 evidence of § 6:53

Medical doctor, motion to exclude
 testimony and opinions § 8:114

Medical history of plaintiff, motion
 to exclude § 4:135

Medical records, reports or bills
 § 4:102

Missing evidence instruction, opposi-
 tion to motion for § 9:64

Motion to bar premature rebuttal to
 affirmative defense § 9:65

**SAMPLE MOTIONS AND
SUGGESTED MOTION TEXT**

—Cont’d

Motion to exclude
Evidence regarding witness8217s
mental health § **7:71**

Motion to exclude, evidence regard-
ing witness8217s mental health
§ **7:71**

Municipal ordinance violation § **7:60**

Newspaper article, motion to exclude
§ **4:136**

Non-called witnesses, motion to
exclude evidence of §§ **8:87,**
8:111

Non-chiropractor giving opinion on
necessity of chiropractic treat-
ment, sample motion to preclude
§ **8:112**

Opening statement, motion to
exclude improper argument
§ **9:8**

Opposition to motion to exclude
Inflammatory evidence § **7:66**

Jury confusion § **2:42**

Evidence § **2:43**

Prejudicial evidence § **2:44**

Order, sample § **1:12**

Other accidents, claims, or lawsuits
§ **10:40**

Photographs, gruesome or inflamma-
tory §§ **4:33, 4:132, 4:137**

Physical conditions not at issue
§ **3:22**

Poverty, motion to exclude evidence
of defendant’s § **2:41**

Prejudicial evidence §§ **2:1, 2:7**

Prior
Accident evidence, exclusion
§ **10:202**

Arrest of witness, motion to
exclude § **7:65**

Crime evidence § **7:39**

Municipal ordinance violation,
sample motion to exclude
evidence of § **7:60**

Published article, motion to exclude
§ **4:136**

**SAMPLE MOTIONS AND
SUGGESTED MOTION TEXT**

—Cont’d

Rendering default judgment

Motion for order
Discovery sanction § **6:60**

Sanction for establishing facts,
motion for § **6:57**

Sanctions, evidentiary § **6:1**

Seat belt, exclusion of evidence of
failure to wear § **10:80**

Settlement evidence § **10:28**

Settlement evidence, motion to
exclude § **10:196**

Social media
Motions to exclude § **4:139**

Opposition to motion to exclude
§ **4:143**

Statistical analysis, sample motion to
exclude § **5:51**

Statute violation, evidence of § **10:65**

Subsequent repairs §§ **10:55, 10:203**

Surveillance video, sample motion to
exclude § **10:192**

Tattoo, excluding demonstration of
§ **4:138**

Taxes, motion to exclude evidence of
failure to pay § **10:195**

Terminology, improper § **9:47**

Tests, experiments and related
testimony § **5:1**

Text messages
Opposition to motion to exclude
§ **4:145**

Time wasting evidence § **2:8**

Traffic citations, motion to exclude
evidence of § **10:200**

Undisclosed witnesses, motion to
exclude testimony of § **6:54**

Unlicensed driver § **10:75**

Unpleaded issues, motion to exclude
§ **3:25**

Videotape or film
Prejudicial § **4:59**

Unauthenticated § **4:140**

Voir dire, improper, motion to
prevent § **9:1**

Witnesses, non-called §§ **8:87, 8:111**

Writings § **4:20**

INDEX

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT —Cont’d

Written letter, motion to exclude
§ 4:134

SANCTIONS

Discovery Motions, this index

SANITY

Lay witness testimony § 8:40

SCIENCE AND SCIENTIFIC MATTERS

Generally §§ 5:20 to 5:50

Tests and Scientific Evidence, this
index

SEAT BELTS, FAILURE TO WEAR

Personal Injuries, this index

SECONDARY EVIDENCE

Writings and physical evidence
§§ 4:28, 4:32

SELF-INCRIMINATION

Privilege Against Self-Incrimination,
this index

SETTLEMENT

Admissions made during settlement
negotiations § 10:169

Motion to exclude settlement evi-
dence §§ 10:28 to 10:39, 10:196

Personal Injuries, this index

SEXUAL PREFERENCE OR BEHAVIOR

Character evidence § 7:16

SOCIAL MEDIA

Generally §§ 4:122 to 4:131, 4:139,
4:143

Opposition citations §§ 4:129 to
4:131

Sample motions

Motion to exclude § 4:139

Opposition to motion to exclude
§ 4:143

Supporting authorities §§ 4:124 to
4:128

Text of motion, suggested § 4:122

SPECULATION

Improper expert opinion §§ 8:13,
8:110

Motion to exclude § 3:7

SPECULATIVE EVIDENCE

Improper expert opinion §§ 8:13,
8:110

Motion to exclude § 3:7

SPEED

Lay witness testimony, speed of
vehicles § 8:44

SPOILIATION OF EVIDENCE

Generally § 9:25

STATISTICAL EVIDENCE

Tests and Scientific Evidence, this
index

STATUTES

Personal Injuries, this index

SUBSEQUENT ACTS OR MATTERS

Repairs. Personal Injuries, this index

TAPE RECORDINGS

Improper foundation § 4:9

TATTOO

Physical evidence, sample motion
excluding § 4:138

TAXATION

Jurors’ self-interest as taxpayers,
motion to exclude evidence
intended to inflame emotions
§ 2:21

Motion to exclude evidence of failure
to pay § 10:195

Personal Injuries, this index

TESTIMONY

Motion to exclude

Incompetent witness § 8:118

TESTS AND SCIENTIFIC EVIDENCE

Generally §§ 5:1 to 5:55

Accident reconstruction evidence
§§ 5:30, 5:50

Approved tests § 5:41

**TESTS AND SCIENTIFIC
EVIDENCE—Cont’d**

Battered spouse syndrome §§ 5:38,
5:45
Biomechanic evidence §§ 5:31, 5:32,
5:50
Canine scent tracking unit § 5:37
Careless testing § 5:18
Collateral issues § 5:10
Conjectural § 5:9
Discretion of court § 5:13
Foundation
 Improper § 4:10
 Lack of § 5:11
Frye requirements §§ 5:19, 5:40
Hedonic damage evidence §§ 5:24,
5:42
Hypnosis evidence §§ 5:29, 5:46
Junk science and related evidence
 Generally §§ 5:20 to 5:50
 Accident reconstruction evidence
 §§ 5:30, 5:50
 Approved tests § 5:41
 Battered spouse syndrome §§ 5:38,
5:45
 Biomechanic evidence §§ 5:31,
5:32, 5:50
 Canine scent tracking unit § 5:37
 Hedonic damage evidence §§ 5:24,
5:42
 Hypnosis evidence §§ 5:29, 5:46
 New scientific evidence §§ 5:22,
5:23
Opposing authorities
 Generally § 5:39
 Accident reconstruction evi-
 dence § 5:50
 Approved tests § 5:41
 Battered spouse syndrome
 § 5:45
 Biomechanic evidence § 5:50
 Frye test not required § 5:40
 Hedonic damages § 5:42
 Hypnosis evidence, exceptions
 to inadmissibility § 5:46
 Polygraph evidence, exceptions
 in inadmissibility § 5:43
 Psychological tests § 5:44
 Rape trauma syndrome § 5:44

**TESTS AND SCIENTIFIC
EVIDENCE—Cont’d**

Junk science and related evidence
 —Cont’d
Polygraph evidence §§ 5:26, 5:27,
5:43
Psychological tests and syndromes
 §§ 5:28, 5:44
Rape trauma syndrome §§ 5:28,
5:44
Summary § 5:21
Supporting authorities
 Generally § 5:22
 Accident reconstruction evi-
 dence § 5:30
 Battered spouse syndrome
 § 5:38
 Biomechanic evidence §§ 5:31,
5:32
 Canine scent tracking unit
 § 5:37
 Hedonic damage evidence
 § 5:24
 Hypnosis evidence § 5:29
 Low-speed impact cases § 5:32
 New scientific evidence §§ 5:22,
5:23
 Polygraph evidence §§ 5:26,
5:27
 Psychological tests and
 syndromes § 5:28
 Rape trauma syndrome § 5:28
 Truth serum evidence § 5:25
Text of motion, suggested § 5:20
Truth serum evidence § 5:25
Low-speed impact cases § 5:32
New scientific evidence
 Civil cases § 5:22
 Criminal cases § 5:23
Not generally accepted
 Acceptance in scientific com-
 munity §§ 5:15, 5:16
 Civil cases § 5:4
 Criminal cases § 5:5
Polygraph evidence
 Generally § 5:26
 Exceptions to inadmissibility
 § 5:43
Refusal to take § 5:26

INDEX

TESTS AND SCIENTIFIC EVIDENCE—Cont'd

- Psychological tests and syndromes
§§ 5:28, 5:44
- Published precedent § 5:15
- Rape trauma syndrome §§ 5:28, 5:44
- Reliability, lack of § 5:7
- Sample motions and suggested
motion text
 - Biomechanic evidence, motion to
exclude § 5:55
 - Expert testimony, motion to
exclude § 5:54
 - Hypnosis, motion to exclude evi-
dence of § 5:53
 - Polygraph examination, motion to
exclude evidence of § 5:52
 - Statistical analysis, motion to
exclude evidence of § 5:51
- Scientific procedures not proper § 5:8
- Speculative § 5:9
- Statistical evidence
 - Generally § 5:33
 - Confusing evidence § 5:33
 - Disapproved statistics evidence
§ 5:34
 - Employment discrimination cases
§ 5:36
 - General acceptance § 5:47
 - Judicial notice § 5:49
 - Negligence cases § 5:35
 - Products liability cases § 5:35
 - Sample motion to exclude evi-
dence of statistical analysis
§ 5:51
 - Weight vs. admissibility § 5:48
- Substantially similar conditions
§§ 5:6, 5:14
- Tests, experiments and related
testimony
 - Generally §§ 5:1 to 5:19
 - Careless testing § 5:18
 - Collateral issues § 5:10
 - Conjectural § 5:9
 - Discretion of court § 5:13
 - Expert not qualified to testify on
subject § 5:3
 - Frye requirements, outside realm
of § 5:19

TESTS AND SCIENTIFIC EVIDENCE—Cont'd

- Tests, experiments and related
testimony—Cont'd
 - Not generally accepted, above
§ 5:4
- Opposing authorities
 - Generally § 5:13
 - Careless testing § 5:18
 - Discretion of court § 5:13
 - Frye requirements, outside
realm of § 5:19
 - General acceptance § 5:15
 - Level of acceptance in scientific
community § 5:16
 - Published precedent § 5:15
 - Substantially similar conditions
requirement § 5:14
 - Weight vs. admissibility § 5:17
- Published precedent § 5:15
- Reliability, lack of § 5:7
- Scientific procedures not proper
§ 5:8
- Speculative § 5:9
- Substantially similar conditions
§§ 5:6, 5:14
- Summary § 5:2
- Supporting authorities
 - Generally § 5:3
 - Collateral issues § 5:10
 - Conjectural § 5:9
 - Expert not qualified to testify on
subject § 5:3
 - Foundation, lack of § 5:11
 - Not generally accepted §§ 5:4,
5:5
 - Not reliable § 5:7
 - Other grounds § 5:12
 - Scientific procedures not proper
§ 5:8
 - Speculative § 5:9
 - Substantially similar conditions,
not made under § 5:6
 - Too time consuming § 5:10
- Text of motion, suggested § 5:1
- Too time consuming § 5:10
- Weight vs. admissibility § 5:17
- Too time consuming § 5:10

**TESTS AND SCIENTIFIC
EVIDENCE—Cont’d**

Truth serum evidence § 5:25
Weight vs. admissibility § 5:17

TEXT MESSAGES

Motion to exclude § 4:142
Sample motions
 Opposition to motion to exclude
 § 4:145
Writings and physical evidence
 Opposition to motion to exclude
 § 4:145

TIMING

Motion, timing of § 1:5

TRAFFIC CITATIONS

Admission or exclusion §§ 10:69,
 10:73
Sample motion to exclude evidence
of § 10:200

TRAFFIC STOPS

Admission or exclusion §§ 10:69,
 10:73

TRIAL

Generally §§ 9:1 to 9:63
Affirmative defenses, motion to bar
 premature rebuttal
 Generally §§ 9:14 to 9:19
 Opposing authorities § 9:19
 Order of proof § 9:17
 Prejudicial evidence § 9:16
 Summary § 9:15
 Supporting authorities
 Generally §§ 9:16 to 9:18
 Order of proof § 9:17
 Other grounds § 9:18
 Prejudicial evidence § 9:16
 Text of motion, suggested § 9:14
Bifurcated trial, motion to exclude
 evidence of damages
 Generally §§ 9:35 to 9:40
 Opposing authorities § 9:40
 Policy considerations § 9:38
 Sample motions and suggested
 motion text § 9:61
 Statutory authority § 9:37
 Summary § 9:36

TRIAL—Cont’d

Bifurcated trial, motion to exclude
 evidence of damages—Cont’d
Supporting authorities
 Generally §§ 9:37 to 9:39
 Other grounds § 9:39
 Policy considerations § 9:38
 Statutory authority § 9:37
Text of motion, suggested § 9:35
Confusing evidence § 9:49
Golden Rule argument, motion to
 preclude
 Generally §§ 9:41 to 9:46, 9:60
Inflaming jurors’ emotions, exclu-
 sion of evidence § 2:22
Opposing authorities § 9:46
Rejection of argument § 9:44
Summary § 9:42
Supporting authorities
 Generally §§ 9:43 to 9:45
 Other grounds § 9:45
 Prejudicial evidence § 9:43
 Rejection of argument § 9:44
Text of motion, suggested § 9:41
Mediation evidence, motion to
 exclude § 9:59
Motion to exclude
 Improper argument
 During opening statement
 § 9:63
Opening statement, motion to
 exclude improper argument
 Generally §§ 9:8 to 9:13
Opposing authorities § 9:13
Prejudicial matter § 9:11
Summary § 9:9
Supporting authorities
 Generally §§ 9:10 to 9:12
 Other grounds § 9:12
 Prejudicial matter § 9:11
Text of motion, suggested § 9:8
Terminology, improper
 Generally §§ 9:47 to 9:57
Confusing evidence § 9:49
Legal conclusions §§ 9:50, 9:57
Legal questions vs. ultimate issues
 §§ 9:51, 9:52, 9:56

INDEX

TRIAL—Cont'd

- Terminology, improper—Cont'd
 - Opposing authorities
 - Generally §§ 9:55 to 9:57
 - Legal conclusions compared § 9:57
 - Legal questions vs. ultimate issues § 9:56
- Preconditioning jury § 9:53
- Summary § 9:48
- Supporting authorities
 - Generally §§ 9:49 to 9:54
 - Confusing evidence § 9:49
 - Legal conclusions, terms including § 9:50
- Preconditioning jury § 9:53
- Ultimate issue opinions §§ 9:51, 9:52
- Usurping jury function § 9:54
- Text of motion, suggested § 9:47
- Usurping jury function § 9:54
- Voir dire, improper, motion to prevent
 - Generally §§ 9:1 to 9:7
 - Educating jury on law § 9:5
 - Opposing authorities § 9:7
 - Preconditioning § 9:4
 - Summary § 9:2
 - Supporting authorities
 - Generally §§ 9:3 to 9:7
 - Educating jury on law § 9:5
 - Other grounds § 9:6
 - Preconditioning § 9:4
 - Text of motion, suggested § 9:1

TYPICAL USE OF MOTION

- Generally § 1:3
- Preservation of objections § 1:4

UNPLEADED ISSUES

- Irrelevant evidence §§ 3:15, 3:18

VIDEOTAPE EVIDENCE

- Cumulative evidence, motion to exclude or limit §§ 2:32, 2:36
- Foundation
 - Adequate § 4:56
 - Improper § 4:11
- Prejudicial film or videotapes
 - Generally §§ 4:49 to 4:56

VIDEOTAPE EVIDENCE—Cont'd

- Prejudicial film or videotapes—Cont'd
 - Opposing authorities
 - Generally § 4:54
 - Foundation, adequate § 4:56
 - Relevance § 4:55
 - Summary § 4:50
 - Supporting authorities §§ 4:51 to 4:53
 - Text of motion, suggested § 4:49
- Relevance § 4:55
- Unauthenticated video recording, motion to exclude § 4:140

VOIR DIRE

- Motion to prevent improper. Trial, this index

WAGES

- Collateral source payments § 10:10

WITNESSES

- Generally §§ 8:1 to 8:120
- Arbitrator or mediator, motion to exclude testimony §§ 8:63, 8:64
- Causation, lay witness testimony § 8:35
- Children §§ 8:52, 8:57
- Cumulative evidence, motion to exclude or limit §§ 2:29, 2:31, 2:35
- Damages, lay witness testimony § 8:43
- Excluding witness from courtroom prior to testifying
 - Generally §§ 8:74 to 8:81, 8:115
- Admission of witness testimony § 8:80
- Discretionary decision § 8:78
- Opposing authorities
 - Generally §§ 8:78 to 8:81
 - Admission of witness testimony § 8:80
 - Discretionary decision § 8:78
 - Party cannot be excluded § 8:79
 - Purpose of rule § 8:81
- Party cannot be excluded § 8:79
- Purpose of rule § 8:81
- Summary § 8:75

WITNESSES—Cont'd

- Excluding witness from courtroom prior to testifying—Cont'd
- Supporting authorities
 - Generally § **8:76**
 - Exclusion of testimony for violation of rule § **8:77**
 - Text of motion, suggested § **8:74**
 - Violation of rule, excluding testimony § **8:77**
- Expert Witnesses, this index
- Foundation, improper, lay witness testimony § **4:13**
- Health, lay witness testimony § **8:41**
- Impeachment
 - Generally §§ **7:4 to 7:27**
 - Hearsay used to impeach witness credibility § **8:108**
 - Motion to exclude character evidence used for. Character Evidence, this index
 - Personal Injuries, this index
 - Use for, motions in limine § **7:12**
- Incompetent witness, motion to exclude testimony
 - Generally §§ **8:49 to 8:59**
 - Children §§ **8:52, 8:57**
 - Insanity §§ **8:53, 8:58**
 - Mental competence §§ **8:53, 8:58**
- Opposing authorities
 - Generally §§ **8:56 to 8:59**
 - Children § **8:57**
 - Insanity § **8:58**
 - Mental competence § **8:58**
 - Personal knowledge of subject matter, lack of § **8:59**
- Personal knowledge of subject matter, lack of §§ **8:54, 8:59**
- Statutory provisions § **8:51**
- Summary § **8:50**
- Supporting authorities
 - Generally §§ **8:51 to 8:55**
 - Children § **8:52**
 - Insanity § **8:53**
 - Mental competence, lack of § **8:53**
 - Other grounds § **8:55**

WITNESSES—Cont'd

- Incompetent witness, motion to exclude testimony—Cont'd
- Supporting authorities—Cont'd
 - Personal knowledge of subject matter, lack of § **8:54**
 - Statutory provisions § **8:51**
 - Text of motion, suggested § **8:49**
- Injury, lay witness testimony § **8:41**
- Insanity, motion to exclude testimony §§ **8:53, 8:58**
- Intoxication, lay witness testimony § **8:42**
- Judge, arbitrator, mediator, attorney or juror, motion to exclude testimony
 - Generally § **8:60**
 - Arbitrator or mediator §§ **8:63, 8:64**
 - Attorney testimony
 - Generally §§ **8:65, 8:68**
 - Other attorney in firm or office, testimony of § **8:72**
 - Substantial hardship § **8:71**
 - Uncontested matter § **8:69**
 - Value of legal services § **8:70**
 - Judge as witness § **8:62**
 - Juror as witness §§ **8:66, 8:73**
- Opposing authorities
 - Generally §§ **8:67 to 8:73**
 - Arbitrator as witness § **8:67**
 - Juror as witness § **8:73**
- Summary § **8:61**
- Supporting authorities
 - Generally §§ **8:62 to 8:66**
 - Arbitrator or mediator §§ **8:63, 8:64**
 - Attorney as witness § **8:65**
 - Judge as witness § **8:62**
 - Juror as witness § **8:66**
 - Legal separation and child support actions, mediator in § **8:64**
- Juror as witness, motion to exclude testimony §§ **8:66, 8:73**
- Lack of personal knowledge of subject matter, motion to exclude testimony § **8:116**

INDEX

WITNESSES—Cont'd

- Lay witness testimony
 - Generally §§ 8:32 to 8:48
 - Causation § 8:35
 - Damages § 8:43
 - Health § 8:41
 - Helpful to jury § 8:46
 - Improper foundation § 4:13
 - Injury § 8:41
 - Intoxication § 8:42
 - Legal opinions §§ 8:36, 10:171
 - Medical malpractice, common knowledge exception § 8:47
 - Mental condition § 8:40
- Opposing authorities
 - Generally §§ 8:39 to 8:48
 - Damages § 8:43
 - Health § 8:41
 - Helpful to jury § 8:46
 - Injury § 8:41
 - Intoxication § 8:42
 - Medical malpractice, common knowledge exception § 8:47
 - Mental condition § 8:40
 - Perceptions of witness § 8:39
 - Point of impact § 8:44
 - Property value § 8:43
 - Sanity § 8:40
 - Speed of vehicles § 8:44
 - Summary of conditions § 8:48
- Opposition to motion to exclude § 8:119
- Perceptions of witness § 8:39
- Point of impact § 8:44
- Property value § 8:43
- Sanity § 8:40
- Speed of vehicles § 8:44
- Summary § 8:33
- Summary of conditions § 8:48
- Supporting authorities
 - Generally §§ 8:34 to 8:38
 - Causation § 8:35
 - Legal opinions § 8:36
 - Other grounds § 8:38
 - Ultimate issue, opinion on § 8:37
- Text of motion, suggested § 8:32

WITNESSES—Cont'd

- Lay witness testimony—Cont'd
 - Ultimate issue, opinion on § 8:37
- Legal opinions, lay witness testimony § 8:36
- Mediator, motion to exclude testimony of mediator § 8:117
- Medical doctor, sample motion to exclude testimony and opinions § 8:114
- Medical malpractice, common knowledge exception § 8:47
- Mental competence §§ 8:53, 8:58
- Mental condition, lay witness testimony § 8:40
- Motion to exclude
 - Testimony of incompetent § 8:118
- Non-called witnesses
 - Generally §§ 8:87 to 8:94
 - Cumulative nature of testimony § 8:91
 - Material witness, non-calling § 8:94
- Opposition citations
 - Generally § 8:93
 - Material witness, non-calling § 8:94
- Otherwise inadmissible testimony § 8:91
- Prejudicial evidence § 8:89
- Sample motion § 8:111
- Summary § 8:88
- Supporting authorities
 - Generally §§ 8:89 to 8:92
 - Cumulative nature of testimony § 8:91
 - Other grounds § 8:92
 - Otherwise inadmissible testimony § 8:91
 - Prejudicial evidence § 8:89
 - Witness equally available to testify § 8:90
- Witness equally available to testify § 8:90
- Perceptions of witness § 8:39
- Personal knowledge of subject matter, lack of §§ 8:54, 8:59
- Point of impact, lay witness testimony § 8:44

WITNESSES—Cont’d

- Property value, lay witness testimony § 8:43
- Sanctions, failure to disclose identity of witnesses §§ 6:23, 6:24, 6:33
- Sanity, lay witness testimony § 8:40
- Speed of vehicles § 8:44
- Ultimate issue, opinion on § 8:37
- Undisclosed witnesses
 - Sample motion to exclude testimony § 6:54
 - Sanctions, failure to disclose identity of witnesses §§ 6:23, 6:24

WORKERS’ COMPENSATION BENEFITS

- Collateral source payments § 10:9

WRITINGS AND PHYSICAL EVIDENCE

- Generally § 4:1 et seq.
- Accident reports
 - Generally §§ 4:65 to 4:73
- Authentication §§ 4:24, 4:25, 4:29
- Conditional admissibility § 4:17
- Experiments, improper foundation § 4:10
- Expert witnesses, improper foundation § 4:12
- Foundation, motion to exclude evidence lacking
 - Generally §§ 4:1 to 4:19
 - Conditional admissibility § 4:17
 - Experiments § 4:10
 - Expert witnesses § 4:12
 - Improper foundation
 - Generally § 4:7
 - Experiments § 4:10
 - Expert witnesses § 4:12
 - Lay witness testimony § 4:13
 - Letters § 4:81
 - Motion pictures § 4:11
 - Objects or things § 4:15
 - Opposing authorities
 - Generally § 4:16
 - Conditional admissibility § 4:17
 - Outside juror’s presence § 4:18
 - Weight vs. admissibility § 4:19

WRITINGS AND PHYSICAL EVIDENCE—Cont’d

- Foundation, motion to exclude evidence lacking—Cont’d
- Photographs § 4:8
- Preliminary facts
 - Generally § 4:4
 - Definitions § 4:4
 - Determination out of jury presence § 4:5
 - Inadmissibility of evidence § 4:6
 - Suggested motion text § 4:1
 - Summary § 4:2
 - Supporting authorities
 - Generally §§ 4:2 to 4:15
 - Tape recordings § 4:9
 - Tests § 4:10
 - Text of motion, suggested § 4:1
 - Videotapes § 4:11
 - Weight vs. admissibility § 4:19
 - Writings § 4:14
 - Hearsay and exceptions §§ 4:26, 4:27, 4:31
 - Lay witness testimony, improper foundation § 4:13
 - Letters
 - Generally §§ 4:74 to 4:85
 - Sample motion to exclude § 4:134
 - Maps, models, charts, exhibits and demonstrative evidence §§ 4:86 to 4:101
 - Medical records, reports or bills §§ 4:102 to 4:121
 - Motion pictures, improper foundation § 4:11
 - Objects or things, improper foundation § 4:15
 - Photographs, gruesome or inflammatory §§ 4:33 to 4:48
 - Published articles §§ 4:57 to 4:64, 4:136
 - Secondary evidence §§ 4:28, 4:32
 - Social media
 - Motion to exclude § 4:139
 - Opposition to motion to exclude § 4:143
 - Tape recordings, improper foundation § 4:9

INDEX

WRITINGS AND PHYSICAL EVIDENCE—Cont'd

- Tattoo, excluding demonstration of
§ 4:138
- Tests, improper foundation § 4:10
- Text messages
 - Opposition to motion to exclude
§ 4:145
- Videotape or film
 - Improper foundation § 4:11
 - Prejudicial §§ 4:49 to 4:56
 - Unauthenticated recording, motion
to exclude § 4:140
- Weight vs. admissibility, improper
foundation § 4:19
- Writings
 - Generally §§ 4:20 to 4:32
 - Authentication §§ 4:24, 4:25, 4:29
 - Foundational requirements
 - Adequacy of foundation
§§ 4:23, 4:30
 - Improper foundation § 4:14
 - Hearsay and exceptions §§ 4:26,
4:27, 4:31
 - Opposing authorities
 - Generally § 4:29

WRITINGS AND PHYSICAL EVIDENCE—Cont'd

- Writings—Cont'd
 - Opposing authorities—Cont'd
 - Authentication § 4:29
 - Foundations, adequate § 4:30
 - Hearsay exceptions § 4:31
 - Secondary evidence § 4:32
 - Secondary evidence §§ 4:28, 4:32
 - Summary § 4:21
 - Supporting authorities
 - Generally § 4:22
 - Foundation, inadequate § 4:23
 - Hearsay, inadmissible §§ 4:26,
4:27
 - Secondary evidence, inadmis-
sible § 4:28
 - Unauthenticated writings
§§ 4:24, 4:25
 - Writing, defined § 4:22
 - Text of motion, suggested § 4:20

X-RAYS

- Photographs, gruesome or inflamma-
tory §§ 4:40, 4:47