

Index

ACT OF GOD

Assignment of fault, **5:18**

ACTING IN CONCERT

Joint and several liability, **4:6**

ADDITUR

Civil procedure, **12:11**

ADMIRALTY

McIntyre decision, **1:2**

ALCOHOL

Assignment of fault, social host, **5:22**

ALTERATION OR MODIFICATION

Civil procedure, alter or amend motion, **12:12**

AMENDMENT OF PLEADINGS

Assignment of fault, amending complaint, **5:6**

AMENDMENTS

Assignment of fault, amending answer, **12:5**

ANIMALS

Assignment of fault, **5:19**

APPORTIONMENT AND ALLOCATION

Causation, apportionment of damages, **6:7**

ASSIGNMENT OF FAULT

Generally, **5:1-5:25**

Acts of God, **5:18**

Allocations against nonparties

Generally, **5:12-5:20**

Conduct not cause in fact or proximate cause, **5:22**

Duty not owed to plaintiff, **5:21**

Unidentified person, **5:23**

Amending complaint, **5:6**

Animals, **5:19**

ASSIGNMENT OF FAULT—Cont'd

Charitable immunity, **5:16**

Conduct not cause in fact or proximate cause, **5:22**

Duty not owed to plaintiff, **5:21**

Expiration of statute of repose, those granted immunity by, **5:12**

General sessions court, **5:10**

Governmental entities, **5:13**

Health care providers, **5:24**

History of nonparty liability

McIntyre decision, **5:4**

Tenn. R. Civ. P. 8.03, amendment, **5:6**

Interspousal immunity, **5:15**

Limitations on defendant's ability to allege fault of nonparty

Generally, **5:10, 5:11**

Ridings v. Ralph M. Parsons Co., **5:11**

Snyder v. Ltg Lufttechnische GmbH, **5:11**

McIntyre decision, **5:4**

Nonparties immune from suit

Generally, **5:12-5:20**

Acts of God, **5:18**

Animals, **5:19**

Charitable immunity, **5:16**

Governmental entities, **5:13**

Interspousal immunity, **5:15**

Parental immunity, **5:14**

Simple negligence, not gross negligence, **5:17**

Wrongful death beneficiaries, **5:20**

Options available to plaintiff after defendant alleged fault of nonparty

Generally, **5:9, 5:10**

Deciding not to sue, **5:9**

General sessions court, **5:10**

Summary judgment, **5:11**

Parental immunity, **5:14**

ASSIGNMENT OF FAULT—Cont'd

- Plaintiff, **5:2**
- Procedure for assigning fault to nonparty, **5:4**
- Ridings v. Ralph M. Parsons Co., **5:11**
- Simple negligence, not gross negligence, **5:17**
- Snyder v. Ltg Lufttechnische GmbH, **5:11**
- Social host, alcohol provided by, **5:22**
- Statutes of repose, **5:18**
- Summary judgment, **5:9**
- T.C.A. § 20-1-119
 - Adoption and limitations of, **5:5**
 - Triggering of, Federal Court, **5:8**
 - Triggering of, State court, **5:7**
- Tenn. R. Civ. P. 8.03, amendment, **5:6**
- Unidentified person, **5:23**
- Workers' compensation, **5:5**
- Wrongful death beneficiaries, **5:20**

ASSUMPTION OF RISK

- Generally, **7:1-7:5**
- After adoption of comparative fault, **7:2**
- Express, **7:3**
- Implied, **7:4**
- Prior to adoption of comparative fault, **7:1**

BIFURCATION

- Causation, Grandstaff v. Hawks, bifurcated fault allocation, **6:9**

CASE LAW

- Grandstaff v. Hawks, **6:9**
- Ridings v. Ralph M. Parsons Co., **5:11**
- Significant cases in Tennessee law of comparative fault, **App. A**
- Snyder v. Ltg Lufttechnische GmbH, **5:11**

CAUSATION

- Generally, **6:1-6:11**
- Alcohol provided by social host, **5:22**
- Apportionment of damages, **6:7**
- Bifurcated fault allocation-grandstaff v. hawks, **6:9**

CAUSATION—Cont'd

- Conduct not cause in fact or proximate cause, assignment of fault, **5:22**
- Criminal acts of third persons, **6:10**
- Grandstaff v. hawks, **6:9**
- In fact, **6:3**
- Intervening cause, **6:6**
- Legal cause
 - Generally, **6:4-6:8**
 - Apportionment of damages, **6:7**
 - Intervening, **6:6**
 - Public policy exclusions, **6:8**
 - Superseding, **6:6**
 - Unforeseeable consequences, **6:5**
 - Public policy exclusions, **6:8**
- Social host, alcohol provided by, **5:22**
- Superseding cause, **6:6**
- Unforeseeable consequences, **6:5**

CHARITIES AND CHARITABLE ORGANIZATIONS

- Assignment of fault, charitable immunity, **5:16**

CHILDREN AND MINORS

- Parents, immunity, **5:14**
- Persons under disabilities, **13:1, 13:2**

CIVIL PROCEDURE

- Generally, **12:1-12:19**
- Additur, **12:11**
- Alter or amend motion, **12:12**
- Answer, amendment to, **12:5**
- Collateral estoppel, **12:14**
- Counterclaims, **12:2**
- Court findings of fact, **12:16**
- Directed verdict motion, **12:9**
- Discretionary costs, **12:15**
- Fault percentages, **12:11**
- General sessions court, **12:18**
- Judgment notwithstanding the verdict motion, **12:10**
- Jury findings of fact, **12:17**
- Jury instructions, **12:13**
- Motions, **12:9, 12:10, 12:12**
- Pleadings, **12:19**
- Remittitur, **12:11**
- Summary judgment motion, **12:9**

INDEX

CIVIL PROCEDURE—Cont'd

Tenn. R. Civ. P.8.03, **12:1**

Tenn. R. Civ. P.15

Generally, **12:3-12:6**

15.01, **12:4**

15.02, **12:5**

15.03, **12:6**

Tenn. R. Civ. P.16, **12:7**

Tenn. R. Civ. P.19, **12:8**

COLLATERAL ESTOPPEL

Civil procedure, **12:14**

COMMON LAW TORT DOCTRINES

Generally, **10:1-10:20**

Doctrines addressed since McIntyre decision, **10:3-10:17**

Established physical facts rule, effect of comparative fault, **10:19**

Family purpose doctrine, **10:7**

Fraud, **10:12**

Gross negligence, **10:11**

Intentional conduct, **10:10**

Last clear chance doctrine, **10:2**

Legal malpractice actions, **10:20**

Medical negligence, liability of original tortfeaser for subsequent, **10:16**

Negligence per se, **10:6**

Negligent entrustment, **10:18**

Negligent misrepresentation, **10:12**

Nuisance, **10:14**

Punitive damages, **10:15**

Reckless and wanton acts, **10:11**

Remote contributory negligence, **10:2**

Res ipsa loquitur, **10:9**

Rescue doctrine, **10:3**

Strict liability on non-products cases, **10:13**

Subrogation rights, **10:17**

Sudden emergency doctrine, **10:3**

Sudden incapacitation doctrine, **10:5**

Unavoidable accident, **10:4**

Vicarious liability, **10:8, 10:18**

COMPROMISE AND SETTLEMENT

Generally, **11:1-11:8**

COMPROMISE AND SETTLEMENT—Cont'd

Damages, **11:6**

Financial impact of settlement with one tortfeaser on liability of remaining tortfeaser, **11:6**

Impact of comparative fault on, **11:3**

Issues after McIntyre, **11:4**

Joint and several liability, **11:7**

Prior to adoption of comparative fault, **11:2**

Release, effect of giving, **11:5**

CONCERT OF ACTION

Contribution, **16:5**

CONSORTIUM AND LOSS OF CONSORTIUM

Generally, **14:1-14:4**

Impact of comparative fault, **14:2**

Prior to adoption of comparative fault, **14:1**

Unresolved issues, **14:3**

CONTRIBUTION

Generally, **16:1-16:6**

After McIntyre decision, **16:3**

Concerted action, **16:5**

Contribution action, **3:3, 16:6**

McIntyre decision, contribution action, **3:3**

Prior to McIntyre decision, **16:2**

Strict liability, **16:4**

Uncollectibility of judgment from one of three or more tortfeasers in contribution action, **16:6**

CONTRIBUTORY NEGLIGENCE

McIntyre decision, **1:3-1:5**

COUNTERCLAIM, RECOUPMENT, AND SETOFF

Civil procedure, **12:2**

COURTS

Civil procedure, court findings of fact, **12:16**

CRIMINAL ACTS OF THIRD PERSONS

Causation, **6:10**

DAMAGES

Additur, Civil procedure, **12:11**
Causation, apportionment, **6:7**
Common law tort doctrines, punitive,
10:15
Remittitur, Civil procedure, **12:11**
Settlement issues, **11:6**

DIRECTED VERDICT

Civil procedure, directed verdict
motion, **12:9**

DISCRETION

Civil procedure, discretionary costs,
12:15

ENTRUSTMENT

Common law tort doctrines, negligent
entrustment, **10:18**

ESTABLISHED PHYSICAL FACTS

RULE

Effect of comparative fault, **10:19**

EXPRESS ASSUMPTION OF RISK

Assumption of risk, **7:3**

FAMILY PURPOSE DOCTRINE

Common law tort doctrines, **10:7**

FAULT

Civil procedure, fault percentages,
12:11

**FEDERAL EMPLOYER'S
LIABILITY ACT (FELA)**

McIntyre decision, admiralty, **1:2**

FORESEEABILITY

Causation, unforeseeable conse-
quences, **6:5**

FRAUD AND DECEIT

Common law tort doctrines, **10:12**
Products liability, **9:7**

GENERAL SESSIONS COURT

Assignment of fault, **5:10**
Civil procedure, **12:18**

**GOVERNMENT AND
GOVERNMENTAL BODIES**

Assignment of fault, **5:13**

GRANDSTAFF V. HAWKS

Causation, **6:9**

GROSS NEGLIGENCE

Common law tort doctrines, **10:11**
McIntyre decision, contributory
negligence, **1:3**

HEALTH CARE PROVIDERS

Assignment of fault, **5:24**
Common law tort doctrines, liability
of original tortfeasor for
subsequent medical negligence,
10:16

IMPLIED ASSUMPTION OF RISK

Generally, **7:4**

**IMPLIED WARRANTY OF
MERCHANTABILITY**

Products liability, **9:5**

INDEMNITY

Generally, **16:1, 16:7-16:9**
After McIntyre decision, **16:8**
Prior to McIntyre decision, **16:7**
Unanswered questions, **16:9**

INSTRUCTIONS TO JURY

Civil procedure, **12:13**

INTENT

Common law tort doctrines,
intentional conduct, **10:10**
Joint and several liability, intentional
and negligent tortfeasers, **4:7**

INTERSPOUSAL IMMUNITY

Assignment of fault, **5:15**

INTERVENTION

Causation, **6:6**

INTOXICATING LIQUORS

Assignment of fault, social host, **5:22**

JOINT AND SEVERAL LIABILITY

Generally, **4:1-4:9**
Acting in concert, **4:6**
Intentional and negligent tortfeasers,
4:7
McIntyre decision
Acting in concert, **4:6**
Impact of, **4:3**

INDEX

JOINT AND SEVERAL LIABILITY
—Cont’d
McIntyre decision—Cont’d
 Intentional and negligent tortfeasers, 4:7
 Strict liability, 4:4
 Vicarious liability, 4:5
Settlement issues, 11:7
Strict liability, 4:4
Unresolved issues, 4:8
Vicarious liability, 4:5

JUDGMENT NOTWITHSTANDING VERDICT
Civil procedure, motion, 12:10

JURY AND JURY TRIAL
Findings of fact, 12:17

JURY INSTRUCTIONS
Civil procedure, 12:13

LAST CLEAR CHANCE
Common law tort doctrines, 10:2

LEGAL MALPRACTICE
Common law tort doctrines, 10:20

LOSS OF CONSORTIUM AND SERVICE CLAIMS
Generally, 14:1-14:4
Impact of comparative fault, 14:2
Prior to adoption of comparative fault, 14:1
Unresolved issues, 14:3

MCINTYRE DECISION
Generally, 1:1-3:4
Admiralty, 1:2
Assignment of fault, 5:4
Common law tort doctrines addressed since, 10:2-10:17
Contribution, 3:3, 16:2, 16:3
Contributory negligence, 1:3-1:5
Description of, 2:1, 2:2
Federal Employer’s Liability Act (FELA) and admiralty, 1:2
Gross negligence, impact on contributory negligence, 1:3
Indemnity, 16:7, 16:8
Nonparty, 3:4

MCINTYRE DECISION—Cont’d
Pre-McIntyre law
 Generally, 1:1-1:5
 Admiralty, 1:2
 Attacks on contributory negligence, 1:5
 Contribution, 16:2
 Contributory negligence, 1:3-1:5
 Federal Employer’s Liability Act (FELA) and admiralty, 1:2
 Gross negligence, impact on contributory negligence, 1:3
 Indemnity, 16:7
 Remote contributory negligence, 1:4
 Remote contributory negligence, 1:4
Transitional cases
 Generally, 3:1-3:5
 Contribution action, 3:3
 Development of, 3:2
 Nonparty, 3:4

MEDICAL CARE
Assignment of fault, 5:24
Common law tort doctrines, liability of original tortfeaser for subsequent medical negligence, 10:16

MENTAL CAPACITY OR CONDITION
Persons under disabilities, 13:3, 13:4

MERCHANTABILITY WARRANTY
Products liability, 9:5

MINORS
Persons under disabilities, 13:1, 13:2

MOTIONS
Civil procedure, 12:9, 12:10, 12:12

NEGLIGENCE
Common law tort doctrines, negligence per se, 10:6
Products liability, 9:6

NEGLIGENT ENTRUSTMENT
Common law tort doctrines, 10:18

NEGLIGENT MISREPRESENTATION
Common law tort doctrines, **10:12**

NONPARTIES
McIntyre decision, **3:4**

NUISANCE
Common law tort doctrines, **10:14**

“OPEN AND OBVIOUS” RULE
Premises liability, **8:2**

PARENTAL IMMUNITY
Assignment of fault, **5:14**

PERSONS UNDER DISABILITIES
Generally, **13:1-13:4**
Mental disabilities, **13:3, 13:4**
Minors, **13:1, 13:2**
Physical disabilities, **13:3, 13:4**

PHYSICAL APPEARANCE OR CONDITION
Persons under physical disabilities, **13:3, 13:4**

PLEADINGS
Civil procedure, **12:19**

PREMISES LIABILITY
Generally, **8:1, 8:2**
“Open and obvious” rule, **8:2**

PRIOR TO ADOPTION OF COMPARATIVE FAULT
Assumption of risk, **7:1**
Loss of consortium and service claims, **14:1**
Products liability, **9:2**
Settlement issues, **11:2**
Wrongful death, **15:1**

PRODUCTS LIABILITY
Generally, **9:1-9:9**
After adoption of comparative fault, **9:3-9:8**
Allegations of fault against others, **9:8**
Fraudulent misrepresentation, **9:7**
Implied warranty of merchantability, **9:5**
Negligence, **9:6**

PRODUCTS LIABILITY—Cont’d
Prior to adoption of comparative fault, **9:2**
Strict liability, **9:4**
Unresolved issues, **9:9**
Warranty of merchantability, **9:5**

PROXIMATE CAUSE
Intervention, **6:6**
Superseding cause, **6:6**

PUBLIC POLICY
Causation, public policy exclusions, **6:8**

PUNITIVE DAMAGES
Common law tort doctrines, **10:15**

RECKLESSNESS
Common law tort doctrines, reckless and wanton acts, **10:11**

RELEASE OR DISCHARGE
Settlement issues, **11:5**

REMITTITUR
Civil procedure, **12:11**

REMOTE CONTRIBUTORY NEGLIGENCE
Common law tort doctrines, **10:2**
McIntyre decision, **1:4**

RES IPSA LOQUITUR
Common law tort doctrines, **10:9**

RESCUE DOCTRINE
Common law tort doctrines, **10:3**

RIDINGS V. RALPH M. PARSONS CO.
Assignment of fault, **5:11**

SETTLEMENT ISSUES
Generally, **11:1-11:8**
Damages, **11:6**
Financial impact of settlement with one tortfeasor on liability of remaining tortfeasor, **11:6**
Impact of comparative fault on, **11:3**
Issues after McIntyre, **11:4**
Joint and several liability, **11:7**
Prior to adoption of comparative fault, **11:2**

INDEX

SETTLEMENT ISSUES—Cont'd
Release, effect of giving, 11:5

SIMPLE NEGLIGENCE
Assignment of fault, 5:17

SNYDER V. LTG LUFTTECHNISCHE GMBH
Assignment of fault, 5:11

SOCIAL HOST
Assignment of fault, 5:22

STATUTE OF REPOSE
Assignment of fault, 5:18

STRICT LIABILITY
Common law tort doctrines, non-products cases, 10:13
Contribution, 16:4
Joint and several liability, 4:4
Products liability, 9:4

SUBROGATION
Common law tort doctrines, subrogation rights, 10:17

SUDDEN EMERGENCY DOCTRINE
Common law tort doctrines, 10:3

SUDDEN INCAPACITATION DOCTRINE
Common law tort doctrines, 10:5

SUICIDE
Wrongful death, 15:7

SUMMARY JUDGMENT
Assignment of fault, 5:9
Civil procedure, summary judgment motion, 12:9

SUPERSEDING ACTS AND MATTERS
Causation, superseding cause, 6:6

TENN. R. CIV. P.8.03
Assignment of fault, 5:6
Civil procedure, 12:1

TENN. R. CIV. P.16
Civil procedure, 12:7

TENN. R. CIV. P.19
Civil procedure, 12:8

THIRD PERSONS
McIntyre decision, 3:4

UNAVOIDABLE ACCIDENT
Common law tort doctrines, 10:4

UNFORESEEABLE CONSEQUENCES
Causation, 6:5

UNIDENTIFIED PERSON
Assignment of fault, 5:23

UNRESOLVED ISSUES
Issues after McIntyre, 11:4
Joint and several liability, 4:8
Loss of consortium and service claims, 14:3
Products liability, 9:9

VICARIOUS LIABILITY
Common law tort doctrines, 10:8, 10:18
Joint and several liability, 4:5

WARRANTIES
Implied warranties, products liability generally, 9:5
Merchantability warranty, products liability, 9:5

WORKERS' COMPENSATION LAW
Assignment of fault, third parties, 5:5

WRONGFUL DEATH
Generally, 15:1-15:8
After the adoption of comparative fault, 15:2
Beneficiaries, assignment of fault, 5:20
Prior to the adoption of comparative fault, 15:1
Suicide, 15:7
Types of cases
Generally, 15:3-15:6
Combining fault of decedent and beneficiary, 15:6
Minor, 15:5
Spouse, 15:4

