

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ABANDONMENT

Construction contracts, liquidated damages, abandonment of work, Com 4:20 (V2B p323)
Medical malpractice, abandonment of treatment, Com 2:150 (V1B p66)
Prima facie tort, intentional interference with person or property, abandonment of business, Com 3:7 (V2A p97)

ABANDONMENT OF PERSON

Child Abandonment (this index)
Emotional distress, outrageous conduct causing, Com 3:6 (V2A p71)
Spouses (this index)

ABANDONMENT OF PROPERTY

Conversion of property, Com 3:10 (V2A p127)
Fire insurance, increase of risk, Com 4:48 (V2B p529)
Motor Vehicles (this index)
Railroads, duty to public, persons on or near tracks, motorbikes, Com 2:176 (V1B p253)

ABILITY

Assault, ability to carry out threat, Com 3:2 (V2A p6)

ABNORMALLY DANGEROUS CONDUCT

Blasting, possessor's strict liability to persons outside land, Chg 2:112 (V1A p811); Com 2:112 (V1A p812-813)
Nuisance, Com 3:16 (V2A p158); Intro preceding Chg 3:16 (V2A p152-154)
Trespass to land, intentional tort, Com 3:8 (V2A p103, 107)

ABNORMALLY DANGEROUS WORK

Independent contractor, Intro preceding Chg 2:255 (V1B p888-890)

ABORTION

Damages generally, Com 2:280 (V1B p1056)
derivative action re child, expenses incurred, Com 2:318 (V1B p1146-1147)
Emotional Distress (this index)
mitigation of damages, failure to have abortion, Com 2:325 (V1B p1184)

Emotional Distress (this index)

Medical malpractice
birth defects, failure to perform abortion, Com 2:150 (V1B p75)
emotional distress, Com 2:150 (V1B p75, 77)
informed consent, Com 2:150A (V1B p121)
in utero injuries, incomplete abortion, Com 2:150 (V1B p78)
wrongful life or wrongful conception, negligently performed abortion, Com 2:150 (V1B p74)
Proximate cause, Com 2:72 (V1A p485)

ABSENCE OF MISTAKE OR ACCIDENT

Circumstantial evidence, general instructions not applicable to all cases, habit, Com 1:71 (V1A p126)

ABSENCE OF PERSON

Death, presumption after 3 years' absence, Com 1:63 (V1A p104)

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ABSENTEEISM

Employment discrimination based on disability, Com 9:4 (V2B p1043-1044)

ABSOLUTE DUTY

Electric companies, installation of transmission wires, insulation, Com 2:200 (V1B p291)
Railroads, fencing statutes, duty to public, Com 2:177 (V1B p255-256)
Wild animals, injury by, generally, Com 2:220 (V1B p670)

ABSOLUTE IMMUNITY

Constitutional Torts (this index)
Malicious Prosecution (this index)

ABSOLUTE LIABILITY

Animals, common carriers, Com 2:220 (V1B p670)
Apportionment of liability, joint or concurrent negligence, Com 2:275 (V1B p941)
Boiler Inspection Act, Com 2:181 (V1B p272-276)
Common carriers
 animals, Com 2:220 (V1B p670)
 federal safety statute, duty under, Chg 2:181 (V1B p271); Com 2:181 (V1B p273-274)
 Railroads (this index)
Contributory negligence no bar to recovery, Com 2:36 (V1A p382)
Conversion of property, wrongful taking, checks, Com 3:10 (V2A p138)
Dram Shop Act, violation of, Chg 2:28 (V1A p354); Com 2:28 (V1A p355, 360)
Federal Occupational Safety and Health Act, Com 2:180 (V1B p265)
Federal Safety Appliance Acts, Com 2:180 (V1B p260, 265); Com 2:181 (V1B p272-276)
Forged or altered checks, bank's liability, Com 4:87 (V2B p732-733)
Independent contractors, danger inherent in work, Com 2:256 (V1B p896)
Insurance, absolute liability under statute, judgment creditor's action

ABSOLUTE LIABILITY—Cont'd

 against insurer, Com 4:66 (V2B p598)
 Labor Law. Safe Place To Work (this index)
 Liability for conduct of another, employer-employee, scope of employment, Com 2:235 (V1B p838)
 Municipal liability
 assumption of special duty, Com 2:24 (V1A p335)
 gratuitous promises, Com 2:24 (V1A p339)
 Railroads (this index)
 Safe Place To Work (this index)
 Schools, respondeat superior, Com 2:229 (V1B p814-815)
 Statutory standard of care
 generally, Com 2:24 (V1A p338);
 Intro preceding Chg 2:25 (V1A p339, 342)
 special statutory actions, Com 2:28 (V1A p355, 360)
 Strict Liability or Negligence Per Se (this index)
 Violations of statutes
 generally, Intro preceding Chg 2:25 (V1A p339)
 cause of action created by statute
 imposing absolute liability, Com 2:28 (V1A p355)
 Dram Shop Act, Chg 2:28 (V1A p354); Com 2:28 (V1A p355, 360)
 Safe Place To Work (this index)
 Warsaw Convention and Montreal Agreement, Com 2:171 (V1B p238)
ABSOLUTE NUISANCE OR NUISANCE PER SE
Nuisance (this index)

ABSOLUTE PRIVILEGE
Defamation (this index)
 Judicial proceedings, injurious falsehood, Com 3:31 (V2A p453); Com 3:55 (V2A p631)
 Legislative proceedings, injurious falsehood, Com 3:55 (V2A p631)

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ABSOLUTE PRIVILEGE—Cont'd
Official proceedings, injurious falsehood, Com 3:55 (V2A p631)
Spouses, injurious falsehood, Com 3:55 (V2A p631)

ABUSE OF CHILDREN
Child Abuse (this index)

ABUSE OF PATIENTS
Residential health care facility, defamation, qualified privilege, Com 3:32 (V2A p474)

ABUSE OF PROCESS
Generally, Chg 3:51 (V2A p608); Com 3:51 (V2A p611); Intro preceding Chg 3:51 (V2A p608)
Absolute immunity, service of process, Com 3:51 (V2A p620)
Attachment, warrant of, Com 3:51 (V2A p619)
Attorneys' fees, Com 3:51 (V2A p619)
Bankruptcy proceeding, Com 3:51 (V2A p619)
Burden of proof, Chg 3:51 (V2A p608)
Constitutional torts, 42 USC § 1983, action for deprivation of federally secured rights, state and federal jurisdiction, Com 3:60 (V2A p742)
Damages
 generally, Chg 3:51 (V2A p609); Com 3:51 (V2A p619)
 legal expenses, Com 3:51 (V2A p619)
 \$100,000 sought but obtaining judgment of only \$75,000, SV 3:51 (V2A p610); Intro preceding Chg 3:51 (V2A p608)
 punitive damages, Com 3:51 (V2A p620)
Debt collection, Com 3:51 (V2A p616)
Default judgment, Com 3:51 (V2A p615)
Defenses, Com 3:51 (V2A p620)
Disciplinary proceeding, Com 3:51 (V2A p619)
District attorney
 absolute immunity, Com 3:51 (V2A p620)

ABUSE OF PROCESS—Cont'd
District attorney—Cont'd
 request of district attorney to appear, Com 3:51 (V2A p615)
Elements of, Chg 3:51 (V2A p608); Com 3:51 (V2A p610, 612-613)
Extortion of money, Com 3:51 (V2A p616)
Favorable termination, Com 3:51 (V2A p613)
Frivolous claims and suits, Com 3:51 (V2A p613, 620)
Incompetence, declaration of, Com 3:51 (V2A p617)
Landlord and Tenant (this index)
Legal process, Com 3:51 (V2A p613)
Lis pendens, Com 3:51 (V2A p618)
Malicious prosecution distinguished, Com 3:51 (V2A p611)
Mechanic's lien, Com 3:51 (V2A p618)
Provisional remedies, Com 3:51 (V2A p619)
Punitive damages, Com 3:51 (V2A p620)
Quasi judicial functions, absolute immunity, Com 3:51 (V2A p620)
Replevin, Com 3:51 (V2A p618)
Reversal of judgment, Com 3:51 (V2A p618)
Special damages, Com 3:51 (V2A p619)
Special verdicts, SV 3:51 (V2A p610)
State and federal jurisdiction, constitutional torts, 42 USC § 1983, action for deprivation of federally secured rights, Com 3:60 (V2A p742)
Statute of limitations, Com 3:51 (V2A p620)
Subpoenas
 generally, Com 3:51 (V2A p616-617)
 absolute immunity, Com 3:51 (V2A p620)
Ulterior purpose and collateral advantage, Com 3:51 (V2A p615)

ABUSIVE LANGUAGE
Defamation, qualified privilege, abuse of, Com 3:32 (V2A p490)

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ACCELERATED LUMP SUM PAYMENT

Medical malpractice, structured judgments, Com 2:277 (V1B p1016)

ACCEPTANCE

Bailments, contracts, Com 4:93 (V2B p752)
existence of relationship in issue, Chg 4:93.1 (V2B p753)

Passengers riding free, contractual limitation of liability, acceptance of ticket, Com 2:170 (V1B p235)

Workers compensation benefits, exclusive remedy against employer, Intro preceding Chg 2:215 (V1B p302-303)

ACCIDENT

Release, mutual mistake, contracts, Com 4:11 (V2B p258)

ACCIDENTAL DEATH INSURANCE POLICY

Generally, Chg 4:56 (V2B p544); Com 4:56 (V2B p545)

Accidental means defined, Com 4:56 (V2B p545)

Accident defined, Com 4:56 (V2B p545)

Exclusion in statute, Com 4:57 (V2B p555)

Proximate cause, Com 4:56 (V2B p547)

Sole or proximate cause, accident as, Com 4:56 (V2B p547)

ACCIDENT AND SICKNESS INSURANCE

Condition precedent, waiver and estoppel to use defenses, Com 4:79 (V2B p709)

Notice, form of, Com 4:77 (V2B p667)

Warranty, defense of breach of, materiality, Com 4:76 (V2B p642)

ACCIDENT DISABILITY RETIREMENT BENEFITS

Collateral sources, Com 2:301 (V1B p1113)

ACCIDENT RECONSTRUCTION

Expert and opinion evidence, Com 1:90 (V1A p214)

ACCIDENT REPORT

Evidence admitted for limited purpose, Letendre rule, Com 1:66 (V1A p117)

Police Accident Report (this index)

Uninsured motorists, Chg 4:65 (V2B p556-557); Com 4:65 (V2B p558)

ACCOUNTANT MALPRACTICE

General instruction, Chg 2:154 (V1B p203); Com 2:154 (V1B p203)

Continuous representation, statute of limitations, Com 2:154 (V1B p205)

Error of judgment, Chg 2:154 (V1B p203)

Fraud and deceit, Com 2:154 (V1B p203)

Generally accepted accounting principles and generally accepted auditing standards, Com 2:154 (V1B p204)

Proximate cause, Com 2:154 (V1B p204)

Retainer, scope of, Com 2:154 (V1B p204)

Services rendered, action for, statute of limitations, Com 4:35 (V2B p440)

Standard of care, Chg 2:154 (V1B p203); Com 2:154 (V1B p204)

Statute of limitations

generally, Com 2:154 (V1B p205); Intro preceding Chg 2:149 (V1B p34, 45)

continuous representation, Intro preceding Chg 2:149 (V1B p46-47)

contracts, Com 4:1 (V2B p128)

services rendered, action for, Com 4:35 (V2B p440)

tax deficiency assessment, accrual of action, Intro preceding Chg 2:149 (V1B p47)

work product, Intro preceding Chg 2:149 (V1B p47)

ACCOUNTANTS

Audit (this index)

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ACCOUNTANTS—Cont'd
Fiduciary duty, breach of, Com 3:6
(V2A p724)
Fraud and deceit
 justifiable reliance, Com 3:20 (V2A
 p218)
 malpractice, Com 2:154 (V1B p203)
 scienter, Com 3:20 (V2A p214)
Malpractice. Accountant Malpractice
(this index)
Negligent misrepresentation, Com 3:21
(V2A p261-262, 264-265)
Services Rendered, Action For (this
index)

ACCOUNTING
Fiduciary duty, breach of
 claim for accounting, Com 3:59
(V2A p731)
 equitable remedy, Com 3:59 (V2A
 p716)
Negligent misrepresentation, Com 3:21
(V2A p261)

ACCOUNTS
Accountant malpractice, Chg 2:154
(V1B p203)

ACCOUNT STATED
Generally, Com 4:1 (V2B p191)
Defined, Com 4:1 (V2B p191)
Implied, Com 4:1 (V2B p192)
Receipt and retention of another party's
 invoices, Com 4:1 (V2B p192)
Statute of limitations, Com 4:1 (V2B
p193)

ACID
Independent contractor, danger inherent
 in work, Com 2:256 (V1B p896)

**ACQUIRED IMMUNE
 DEFICIENCY SYNDROME**
AIDS and HIV (this index)

ACT OF GOD
Proximate cause, Com 2:72 (V1A p490)

ACTUAL HARM
Checks, wrongful dishonor of, Com
4:85 (V2B p726)

ACTUAL HARM—Cont'd
Defamation (this index)
Malicious prosecution, punitive damages, Chg 3:50 (V2A p568)
Privacy, right of, damages, Chg 3:46
(V2A p557, 559); Com 3:46 (V2A
p560)

AD DAMNUM CLAUSE
Comments by counsel during closing
 remarks, Com 2:277A (V1B p1025-
 1026)
Increase in amount of damages, Com
2:277 (V1B p1007)
Motion to increase, elements of charge,
 Intro preceding Chg 1:1 (V1A p5)

ADDITIONAL CARE
Disability, persons under, Com 2:11
(V1A p275)

ADDITIONAL INSURANCE
Agents and brokers, duty to obtain
 additional coverage, Com 4:45 (V2B
p516)

ADDITIONAL INSURED
Insurance (this index)

ADDITIONAL JURORS
Discharge of, Chg 1:31 (V1A p73)
Post-trial charge where pretrial charge
 has been given, Chg 1:31 (V1A p73);
 Com 1:31 (V1A p73)
Substitution of, Chg 1:32 (V1A p74);
 Com 1:32 (V1A p74)

**ADEQUACY OF
 CONSIDERATION**
Economic duress, contract, Com 4:15
(V2B p271)

ADEQUATE LEGAL REMEDY
Economic duress, contract, Com 4:15
(V2B p271-272)

AD HOC EMPLOYEES
Special Employees (this index)

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ADJOINING LANDOWNERS

Common law standard of care, negligence, breach of duty, Com 2:10 (V1A p254)
Premises liability
 conduct of others, possessor's liability for, Chg 2:114 (V1A p818)
 defective conditions, Com 2:90 (V1A p711)
 highways, duties of owners of property adjoining, possessor's liability to persons outside land, Com 2:110 (V1A p777)
 lateral support, possessor's liability to persons outside land, Chg 2:113 (V1A p815)
 lessor's liability to persons outside land, Chg 2:116 (V1A p822)
 persons outside land, possessor's liability to, Chg 2:110 (V1A p775); Chg 2:113 (V1A p815)
 possessor's liability to persons outside land, Com 2:110 (V1A p776-779)
 sidewalk
 Administrative Code of New York City, duty of abutting landowners, Com 2:111 (V1A p780); Com 2:225A (V1B p750)
 duties of owners of property adjoining, possessor's liability to persons outside land, Com 2:110 (V1A p778)
 snow and ice, Com 2:111A (V1A p794)
 special use, possessor's liability to persons on sidewalk, Com 2:111 (V1A p780)
 vegetation, duty to control, Com 2:90 (V1A p713); Com 2:110 (V1A p777)
 vendor's liability to persons outside land, Chg 2:118 (V1A p826)
Sidewalk. Premises liability, *supra*
Vegetation, duty to control, Com 2:90 (V1A p713); Com 2:110 (V1A p777)

ADJOURNMENT IN CONTEMPLATION OF DISMISSAL (ACD)

Malicious prosecution, favorable termination, Com 3:50 (V2A p578)

ADJUSTERS **Insurance** (this index)

ADMINISTRATIVE AGENCIES

Defamation, absolute privilege, Com 3:31 (V2A p458)
Punitive damages, Com 2:278 (V1B p1041, 1050)

ADMINISTRATIVE CODE OF NEW YORK CITY

Conversion of property, wrongful taking, Com 3:10 (V2A p141)

Firefighters and police officers, injured employees' rights, *Intro* preceding Chg 2:215 (V1B p321)

Municipal and state liability, written notice of defect, public premises and ways, Com 2:225 (V1B p731-732)

Nuisance, public nuisance, private action based on intentional and unreasonable interference with use and enjoyment of land, Com 3:17 (V2A p177)

Premises Liability (this index)

Products Liability (this index)

Public nuisance

 generally, Com 3:17 (V2A p176)
 private action based on intentional and unreasonable interference with use and enjoyment of land, Com 3:17 (V2A p177)

 private action based on intentional unlawful conduct (absolute nuisance), Com 3:18 (V2A p181)

Sidewalk

 abutting landowners, duty to maintain, Com 2:225A (V1B p750)

 city absolved of liability, Com 2:111 (V1A p780)

Statutory standard of care, violations of regulations, Com 2:29 (V1A p370-371)

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ADMINISTRATIVE CODE OF NEW YORK CITY—Cont'd

Violations

governmental entity, violation by,
Intro preceding Chg 2:25 (V1A
p337)

some evidence of negligence, Intro
preceding Chg 2:25 (V1A p343)

Workers Compensation (this index)

ADMINISTRATIVE LAW JUDGE

Defamation, fair and true report,
absolute privilege, Com 3:31 (V2A
p445)

Malicious prosecution, probable cause,
driver's license revocation proceeding,
Com 3:50 (V2A p586)

ADMINISTRATIVE REGULATION, VIOLATION OF

Brokers, action for services rendered,
Com 4:31 (V2B p405)

ADMINISTRATORS

Fiduciary duty, breach of, Com 3:59
(V2A p727)

ADMIRALTY

Maritime Law (this index)

ADMISSION AGAINST INTEREST

Admissibility, Com 1:55 (V1A p78)

Destruction of evidence, Com 1:56
(V1A p83)

No-fault law, payment of benefits, Com
1:56 (V1A p84)

Presumptive reliability, Com 1:55 (V1A
p78)

Settlement, Com 1:55 (V1A p79); Com
1:56 (V1A p83)

ADMISSIONS

Battery, Com 3:3 (V2A p12)

Brokers, services rendered, action for,
Com 4:31 (V2B p424)

Conduct, admission by, general instruc-
tions, Chg 1:56 (V1A p82); Com
1:56 (V1A p83)

Counsel's admission on behalf of client,
Com 1:55 (V1A p80)

ADMISSIONS—Cont'd

Employers and employees, Com 1:55
(V1A p79); Com 2:90 (V1A p686)

Evidence admitted for limited purpose,
Com 1:65 (V1A p109)

Insurance (this index)

Interviewing employees of adverse
corporate party and admission against
interest, Com 1:55 (V1A p80)

Limited purpose, evidence admitted for,
Com 1:65 (V1A p109); Com 1:66
(V1A p113)

Pleadings in prior or separate action,
statement made in, Com 1:55 (V1A
p81)

Scope of relationship and existence of
relationship, agent or employee's
statement within, Com 1:55 (V1A
p79)

Statement, admission by, general
instructions, Chg 1:55 (V1A p77);
Com 1:55 (V1A p77)

Statute of frauds, essential terms and
existence of oral contract, Com 4:1
(V2B p98)

Stipulation of facts, Com 1:78 (V1A
p165)

ADOPTION OF CHILDREN

Constitutional torts, 42 USC § 1983,
action for deprivation of federally
secured rights, Adoption Assistance
and Child Welfare Act, Com 3:60
(V2A p741)

ADULT CHILDREN

Wrongful death, parent's pecuniary
loss, death of child, Com 2:320 (V1B
p1167)

ADULT EDUCATIONAL REHABILITATION PROGRAM

Municipal and state liability, Com
2:227 (V1B p663)

ADULTERATED FOOD

Injurious falsehood, Com 3:55 (V2A
p626-627)

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ADULTERY

Defamation

defamatory import of “adulterer,”
Com 3:24 (V2A p342)
finding, fair and true report, absolute
privilege, Com 3:31 (V2A p448)
slander per se, Com 3:24 (V2A
p373)

Privileged communications, failure to
call witness, Com 1:76 (V1A p142)

Will contests, testamentary capacity,
insane delusion, Com 7:49 (V2B
p808)

ADULT SURVIVORS ACT

Special relationship sufficiently pleaded
giving rise to duty of care, Com 2:10
(V1A p264)

ADVANCE SCRIPTS

Defamation, multiple defendants within
same organization, publication, Com
3:26 (V2A p391)

ADVANTAGE

Interference With Economic Relations (this index)

ADVERSE POSSESSION

Clear and convincing evidence, Com
1:64 (V1A p107)

ADVERTISING

Common law standard of care, duty to
investigate, Com 2:10 (V1A p266)

Contracts, damages, Chg 4:20 (V2B
p275); Com 4:20 (V2B p282)

False Advertising (this index)

Injurious falsehood, Com 3:55 (V2A
p626)

Offer, advertisement for sale of goods
as, Com 4:1 (V2B p10)

Privacy, Right of (this index)

Products Liability (this index)

Warranties, manufacturer's liability for
breach of express warranty, Com
2:140 (V1A p919)

ADVICE

Insurance, excess liability for bad faith
settlement or failure to settle, Com
4:67 (V2B p611)

Medical Malpractice (this index)

ADVICE OF COUNSEL

Insurance (this index)

Malicious Prosecution (this index)

AERIAL APPARATUS

Safe place to work, Arts and Cultural
Affairs Law, Intro preceding Chg
2:216 (V1B p336)

AERIAL BASKETS

Labor Law, liability for conduct of
another, Com 2:216A (V1B p531)

AFFECTION

Love and Affection (this index)

AFFIRMATIVE DEFENSES

Burden of proof, Com 1:60 (V1A p86)

Comparative negligence, amendment of
pleadings, Com 2:36 (V1A p388)

Constitutional torts, 42 USC § 1983,
action for deprivation of federally
secured rights, qualified immunity as
affirmative defense, Com 3:60 (V2A
p778)

Defamation, truth as affirmative defense
at common law, Com 3:27 (V2A
p394)

Hostile environment, harassment; New
York State Human Rights Law, Com
9:5 (V2B p1065)

Products liability, plaintiff's culpable
conduct, Chg 2:120 (V1A p866)

Workers' compensation, exclusive rem-
edy against employer, Intro preceding
Chg 2:215 (V1B p299)

AFTER ACQUIRED EVIDENCE

Employment discrimination, mixed
motive cases, Com 9:2 (V2B p1027-
1028); Intro preceding Chg 9:1 (V2B
p940)

AGE

Assumption of risk, age of participant
as factor in assessing awareness of,

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

AGE—Cont'd

Chg 2:55.1 (V1A p421); Com 2:55 (V1A p420)

Employment Discrimination (this index)

Fraud in execution of contract, negligence of signer, Com 4:10 (V2B p249)

Insurance

age requirement for purchasing, Intro preceding Chg 4:45 (V2B p469)

misrepresentation of age, defense of, Com 4:75 (V2B p621)

Juror, qualification of, Intro preceding Chg 1:1 (V1A p23)

Wrongful Death (this index)

AGED PERSONS

Common law standard of care, care required of persons under disability, Chg 2:22 (V1A p324)

Comparative negligence, persons under disability

mental deficiency, Chg 2:46 (V1A p403); Com 2:46 (V1A p403); Com 2:47 (V1A p404)

physical defects, Chg 2:47 (V1A p404)

Discrimination in employment.

Employment Discrimination (this index)

Employment Discrimination (this index)

Will contests, testamentary capacity, Chg 7:51 (V2B p815); Com 7:51 (V2B p815)

AGENCY

Apparent authority, Com 4:1 (V2B p32-33)

Conflict of interest, validity of contract, Com 4:1 (V2B p32)

Contracts, Com 4:1 (V2B p30)

Conversion, wrongful detention, intentional tort, Com 3:11 (V2A p145)

Creation of agency and binding affect on principal, Com 4:1 (V2B p32)

Defamation (this index)

AGENCY—Cont'd

Disclosed principal, oral insurance binders, Com 4:45 (V2B p512)

Fiduciary duty, breach of, Chg 3:59 (V2A p698); Com 3:59 (V2A p701, 703, 711)

Fraudulent acts, principal's liability for agent's, Com 3:20 (V2A p190)

Insurance, failure to give notice, knowledge of agent, Com 4:77 (V2B p656)

Interference with contract, inducing breach, Com 3:56 (V2A p643)

Liability of owner of vehicle, permission, express or implied, Com 2:245 (V1B p872)

Limitations of liability, bailments, Com 4:93 (V2B p756)

Medical Malpractice (this index)

Parental liability for tort of child, liability for conduct of another, Com 2:260 (V1B p911-912)

Property transfer agreement, written authorization requirement for, Com 4:1 (V2B p31)

Safe place to work, Labor Law, Intro preceding Chg 2:216 (V1B p344, 349-354)

Spouses, tort immunity, exception, Com 2:260 (V1B p914)

Third party and individual acting on behalf of principal not in existence at time contract entered into, validity of contract, Com 4:1 (V2B p31)

Third party's obligation to determine scope of agent's authority, Com 4:1 (V2B p32)

Warranties, authority of agent, manufacturer's liability for breach of express warranty, parol evidence, Com 2:140 (V1A p920)

AGENCY BY ESTOPPEL

Medical malpractice, hospitals, Com 2:150 (V1B p104)

AGGRAVATION OF INJURY

Apportionment Of Fault (this index)

Damages, Chg 2:282 (V1B p1066); Chg 2:306 (V1B p1121); Com 2:282

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

AGGRAVATION OF INJURY

—Cont'd

(V1B p1066); Com 2:306 (V1B p1122)

Medical Malpractice (this index)

No-fault law, serious injury, Intro preceding Chg 2:88A (V1A p22)

Pain and suffering, Com 2:280 (V1B p1053)

Workers Compensation (this index)

AGORAPHOBIA

Employment discrimination based on disability, Com 9:4 (V2B p1043)

AGREED FACTS

General instruction, Chg 1:78 (V1A p164); Com 1:78 (V1A p165)

AGREEMENT TO AGREE

Brokers, services rendered, action for, Com 4:31 (V2B p420)

AGRICULTURE

Farms and Farmers (this index)

AIDES

Medical malpractice, standard of care, general hospital, Chg 2:151 (V1B p127)

AIDING AND ABETTING

Battery, Com 3:3 (V2A p15)

Breach of contract, Com 4:1 (V2B p36)

Defamation, slander per se, Com 3:24 (V2A p374)

Employment discrimination, in, Intro preceding Chg 9:1 (V2B p958)

Fiduciary duty, breach of, Com 3:59 (V2A p707-708)

Fraud and deceit

actual knowledge, Com 3:20 (V2A p236)

elements for claiming, Com 3:20 (V2A p235)

Interference with economic relations, Com 3:57 (V2A p667)

AIDS AND HIV

Battery, statute of limitations, Com 3:3 (V2A p22)

AIDS AND HIV—Cont'd

Defamation, gross irresponsibility, private figure and speech of public concern, Com 3:28A (V2A p404, 406)

Emotional distress, Com 2:284 (V1B p1078-1079); Com 3:6 (V2A p76)

Medical malpractice, statute of limitations, HIV contamination of blood, Intro preceding Chg 2:149 (V1B p9)

Privacy, right of physician-patient privilege, Com 3:45 (V2A p554)

AIR BRAKES

Railroads, duty under federal safety statute, Com 2:181 (V1B p273)

AIR CONDITIONING

Fraud and deceit, justifiable reliance, Com 3:20 (V2A p218)

Safe place to work, Labor Law § 240(1), protective devices, Com 2:217 (V1B p568, 602, 605-606, 618)

AIRCRAFT

Conversion, asserting lien in excess of contract price, Com 3:11 (V2A p144)

Insurance, warranty, defense of breach of, Com 4:76 (V2B p640)

Intoxicating beverages, statutory cause of action, federal preemption, Com 2:28 (V1A p361)

Liens, bailments, repair, maintenance, or improvement, Com 4:93 (V2B p759)

Passengers, duty to generally, Chg 2:161 (V1B p210) equipment, maintenance in safe condition, Chg 2:164 (V1B p219)

gratuitous or free service, contractual limitation of liability, Com 2:170 (V1B p233-236)

limitation of liability under Warsaw Convention and Montreal Agreement, Chg 2:171 (V1B p236)

Trespass to land, Com 3:8 (V2A p107, 109)

Warsaw Convention and Montreal Agreement (this index)

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

AIR GUN

Proximate cause, Com 2:72 (V1A p489)

AIR HANDLERS

Safe place to work, Labor Law
§ 240(1), protective devices, Com 2:217 (V1B p597, 602, 605); Intro preceding Chg 2:216 (V1B p360)

AIRLINES

Common carriers, duty to passengers, disabled passenger, federal law, Com 2:162 (V1B p215)

Equipment, maintenance of, duty to passengers, Federal Aviation Act of 1958, Com 2:164 (V1B p221)

AIR POLLUTION

Safe place to work, rules of Commissioner of Labor, failure to test for contaminants, Com 2:216A (V1B p420)

ALCOHOLIC BEVERAGES

Intoxicating Beverages (this index)

ALCOHOLICS

Common law standard of care, persons under disability, Com 2:11 (V1A p277)

Consortium, loss of, Com 2:315 (V1B p1136)

Employment discrimination based on disability, Com 9:4 (V2B p1039-1040, 1043-1044)

Foreseeability, Com 2:12 (V1A p296)

Guardian, proceeding for appointment of, mental incapacity, Chg 8:1 (V2B p851)

Medical malpractice, duty to general public, alcoholism clinic, Com 2:150 (V1B p70)

ALIBI

Malicious prosecution, probable cause, failure to investigate, Com 3:50 (V2A p589)

ALIENS

Employment contract between undocumented alien worker and employer, Com 4:1 (V2B p111)

ALIENS—Cont'd

Immigration Reform and Control Act of 1986, Intro preceding Chg 2:216 (V1B p377)

Retaliatory personnel action; whistleblower law, Com 4:21 (V2B p350)

Safe place to work, protection of undocumented aliens, Intro preceding Chg 2:216 (V1B p354, 377)

ALIGHTING

Boarding or Alighting (this index)

ALIMONY

Structured judgments, Com 2:277 (V1B p1017)

ALLEN CHARGE

Jury unable to agree, Com 1:100 (V1A p240-241)

ALLEYS

Premises liability, leased premises, control retained, Com 2:105 (V1A p760)

ALL RISK POLICY

Generally, Intro preceding Chg 4:45 (V2B p499)

ALL TERRAIN VEHICLES

Municipal liability, Com 2:225B (V1B p770)

No-fault law

covered defendants, Intro preceding Chg 2:75 (V1A p510)

covered plaintiff, Intro preceding Chg 2:75 (V1A p506)

Parental liability for tort of child, liability for conduct of another, negligent entrustment, Com 2:260 (V1B p910, 912)

Premises liability, undeveloped land, statutory limitation of liability, Intro preceding Chg 2:90 (V1A p652)

Undeveloped land, statutory limitation of liability, Intro preceding Chg 2:90 (V1A p652)

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ALTERATIONS

Checks. **Forged or Altered Check** (this index)
Safe place to work, Labor Law, protective devices, activities to which § 240(1) applies, Com 2:217 (V1B p597-602)

ALTERNATE JURORS

Discharge of, Com 1:31 (V1A p73)
Post-trial charge where pretrial charge has been given, Com 1:31 (V1A p73)
Pretrial charges
 generally, Chg 1:13B (V1A p49); Com 1:13A (V1A p50)
 discharge of alternate or additional jurors, Com 1:31 (V1A p73)
 post-trial charge where pretrial charge has been given, Chg 1:31 (V1A p73); Com 1:31 (V1A p73)
Qualifications same as regular jurors, Com 1:13B (V1A p50)
Removal of complaining juror without further inquiry, Com 1:100 (V1A p241)
Sex offenders requiring confinement, involuntary retention of dangerous, Chg 8:8.4 (V2B p909)
Substitution of, Chg 1:32 (V1A p74); Com 1:32 (V1A p74)
Verdicts, less than six jurors, Com 1:95 (V1A p226)

Voir dire selection of jury
 allocation of challenges, Intro preceding Chg 1:1 (V1A p22)
 differences between methods of selection, Intro preceding Chg 1:1 (V1A p21)
 general principles applicable to jury selection, Intro preceding Chg 1:1 (V1A p16)
 nondesignated alternates, Intro preceding Chg 1:1 (V1A p21)
Struck method of selection, Intro preceding Chg 1:1 (V1A p18, 20)
White's method of selection, Intro preceding Chg 1:1 (V1A p18)

ALTERNATE ROUTE

Common carrier's duty to passengers safe place to get on or off, duty to provide, Com 2:166 (V1B p229)

ALTERNATIVE PROCEDURES

Medical malpractice, informed consent, Chg 2:150A (V1B p116-118); Com 2:150A (V1B p122-123)

ALTRUISM

Interference with contract, inducing breach, justification, Com 3:56 (V2A p648)

AMBIGUITY

Brokers, services rendered, action for, Com 4:31 (V2B p419-420)

Construction or interpretation of contracts, Com 4:1 (V2B p67)

Insurance (this index)

At will employment, breach of contract and damages, limitation on right to discharge, Com 4:21 (V2B p343)

AMBULANCE

Emergency Vehicles (this index)

AMENDMENT OF PLEADINGS

Apportionment of fault
 exceptions to limitation of liability, Com 2:275 (V1B p977)
 release, effect of, Com 2:275A (V1B p994)

Comparative negligence, bifurcated trial, Com 2:36 (V1A p388)

Elements of charge, Intro preceding Chg 1:1 (V1A p4)

Theory of case, Com 1:85 (V1A p169)

Variance between pleadings and proof, elements of charge, Intro preceding Chg 1:1 (V1A p4)

Workers compensation, raising board's jurisdiction in common law action, Intro preceding Chg 2:215 (V1B p310-311)

AMENDMENT OF VERDICT

Correcting defective verdict in excess of jurisdiction, Com 1:102 (V1A p244)

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

AMERICANS WITH DISABILITIES ACT

Employment discrimination, Com 9:4 (V2B p1038, 1046-1047)
Statutory duties to disabled students, Com 2:227 (V1B p807)

AMNESIA

Memory Loss (this index)
Split or bifurcated trial, nature and extent of injuries, Com 1:2C (V1A p35)

AMNIOCENTESIS

Medical malpractice, wrongful life or wrongful conception, Com 2:150 (V1B p72)

AMPUTATION

Release, mutual mistake, contracts, Com 4:11 (V2B p258)

Workers Compensation (this index)

AMUSEMENTS AND RECREATION

Assumption of risk, Com 2:55 (V1A p446)

Exculpatory agreements, Com 2:10A (V1A p273-274); Com 4:93 (V2B p756); Intro preceding Chg 2:90 (V1A p648)

Golf (this index)

Insurance, exclusions; amusement devices, Intro preceding Chg 4:45 (V2B p482)

Motorized vehicles, municipal and state liability, parks, Com 2:225A (V1B p755)

Municipal and state liability, liability considerations, Com 2:225A (V1B p755)

Premises Liability (this index)

Safe place to work, Arts and Cultural Affairs Law, aerial apparatus, Intro preceding Chg 2:216 (V1B p336)

ANATOMICAL GIFTS

Organ Transplants (this index)

ANESTHESIA

Insurance (this index)

ANESTHESIA—Cont'd

Medical malpractice
general hospitals, state regulations, standards mandated by, Com 2:151 (V1B p129)
res ipsa loquitur, Com 2:150 (V1B p92)

ANGER

Assault, threatened act or gesture, Com 3:2 (V2A p6)

ANIMALS

Absolute liability, common carriers, Com 2:220 (V1B p670)

Assumption of risk
generally, Com 2:220 (V1B p669)
dogs, Com 2:55 (V1A p414)
donkey, Com 2:220 (V1B p669)
Donkey (this index)
horses, Com 2:220 (V1B p669)
recreational or sporting activity involving animals, Com 2:220 (V1B p669)
sporting activity involving animals, Com 2:220 (V1B p669)

Children

generally, Com 2:220 (V1B p664)
horses, Com 2:220 (V1B p668)

Dogs (this index)

Domestic animals, injuries by
general instruction, Chg 2:220 (V1B p655); Com 2:220 (V1B p657)
assumption of risk, *supra*
definition of domestic animal, Com 2:220 (V1B p657)
vicious propensities, Com 2:220 (V1B p658)
wild animals versus, Com 2:220 (V1B p657)

Donkey (this index)

Emotional distress, malicious or negligent destruction of animals, Com 2:284 (V1B p1080); Com 2:311 (V1B p1128); Com 2:312 (V1B p1131)

Highways, municipal and state liability, Com 2:225B (V1B p768)

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ANIMALS—Cont'd

Judicial notice
chimpanzee, definition of domestic animal, Com 2:220 (V1B p657)
wild animals, vicious propensities of, Com 2:220 (V1B p657)

Leased premises, liability
vicious propensity, Com 2:220 (V1B p666)
wild animals, injury by, Com 2:220 (V1B p667)

Liens, bailments, repair, maintenance, or improvement, Com 4:93 (V2B p759)

Municipal and State Liability (this index)

Nuisance, private nuisance, damages, cattle, Com 3:16 (V2A p168)

Presumptions and inferences, Com 2:220 (V1B p668)

Railroads, fencing statutes, duty to public, Chg 2:177 (V1B p254); Com 2:177 (V1B p255-256)

Rear end collision, animal in car interfering with operation of vehicle, Com 2:82 (V1A p573)

Strict liability
generally, Com 2:220 (V1B p656)
leasing premises to tenant with vicious dog, Com 2:220 (V1B p666)
vicious propensity, Com 2:220 (V1B p661)

Trespass to land, Com 3:8 (V2A p106, 110, 113)

Vicious propensity
generally, Chg 2:220 (V1B p655); Com 2:220 (V1B p659)
breed or kind of domestic animal with, Com 2:220 (V1B p664)
definition, Com 2:220 (V1B p659)

Dogs (this index)

horses, Com 2:220 (V1B p668)
leash law violation, Com 2:220 (V1B p666)

notice or knowledge
generally, Chg 2:220 (V1B p655); Com 2:220 (V1B p663)

ANIMALS—Cont'd

Vicious propensity—Cont'd
notice or knowledge—Cont'd
constructive or actual notice, Com 2:220 (V1B p661, 663)
domestic animals, Com 2:220 (V1B p661)
owner's knowledge of, Com 2:220 (V1B p663-664)
prior acts, proof of, Com 2:220 (V1B p660)
proclivity to act in way harmful to others, Com 2:220 (V1B p662)
restraining animal and manner in which animal confined or restrained as consideration, Com 2:220 (V1B p662)
strict liability, Com 2:220 (V1B p658, 661)
thoroughbreds, Com 2:220 (V1B p660)
traffic, dog's habit of chasing vehicles or interfering with, Com 2:220 (V1B p662)

ANIMATIONS

Simulations, demonstrative evidence, Com 1:90 (V1A p190)

ANNOYANCE

Emotional distress, outrageous conduct causing, Com 3:6 (V2A p65)
Private nuisance, Chg 3:16 (V2A p156); Com 3:16 (V2A p161-163)

ANNUITIES

Condition precedent, waiver and estoppel to use defenses, Com 4:79 (V2B p709)

Misrepresentation, defense of, Com 4:75 (V2B p621-622)

Total and permanent disability, Com 4:55 (V2B p538)

Warranty, defense of breach of, materiality, Com 4:76 (V2B p642)

ANNULMENT OF MARRIAGE

Children, fraudulent premarital promise to have, Com 4:10 (V2B p251)

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ANNULMENT OF MARRIAGE

—Cont'd

Mental incapacity to understand effect and consequences of marriage, Com 8:1 (V2B p857)

Quasi contracts, necessities supplied to spouse, Com 4:4 (V2B p242)

ANONYMOUS TELEPHONE CALL

Defamation, constitutional malice, public official and public figure, Com 3:28 (V2A p400)

ANTENNA

Electric power lines, Com 2:200 (V1B p290)

ANTICIPATORY REPUDIATION OF CONTRACT

Generally, Chg 4:1.2 (V2B p61); Chg 4:1.3 (V2B p63); Com 4:1 (V2B p55)

Attempt to avoid obligations, Com 4:1 (V2B p58)

Bilateral contracts, Com 4:1 (V2B p57)

Burden of proof, Chg 4:1.2 (V2B p62); Chg 4:1.3 (V2B p63)

Clear and unqualified refusal to perform, Com 4:1 (V2B p55)

Damages, Chg 4:1.2 (V2B p61); Com 4:1 (V2B p55)

Defined, Chg 4:1.3 (V2B p63)

Determination of, Chg 4:1.2 (V2B p61); Chg 4:1.3 (V2B p63)

Disability insurance, disclaimer, Com 4:55 (V2B p540)

Goods, sale of, Com 4:1 (V2B p58)

Insurer's improper disclaimer, Com 4:1 (V2B p61)

Landlord and tenant, Com 4:1 (V2B p59)

Real property sales contracts, Com 4:1 (V2B p59)

Statute of limitations, Com 4:1 (V2B p124)

Testamentary provision, contract to make, Com 4:1 (V2B p61)

Wrongful repudiation of contract, Com 4:1 (V2B p56)

ANTICYBERSQUATTING CONSUMER PROTECTION ACT

Trademarks, Intro preceding Chg 3:58 (V2A p681)

ANTIQUES

Damages, property without market value, Com 2:312 (V1B p1131)

ANTIQUES SHOW

Products liability, services distinguished from sales, Intro preceding Chg 2:120 (V1A p843)

ANTI-SCALPING LAW

Illegal contracts, Com 4:1 (V2B p103)

ANTI-SEMITISM

Defamation

defamatory import, epithets, satire, parody, and hyperbole, Com 3:24 (V2A p362)

qualified privilege, common interest of publisher and recipient, Com 3:32 (V2A p476)

slander per se, trade, business, or occupation, incompetence in, Com 3:24 (V2A p370)

Emotional distress, outrageous conduct causing, Com 3:6 (V2A p68, 70)

ANTITRUST LAWS

Monopolies and Restraints of Trade (this index)

APARTMENTS

Generally as to multiple dwellings.

Multiple Dwellings (this index)

Common law standard of care, foreseeability, Com 2:12 (V1A p293)

Condominiums and Cooperative Apartments (this index)

Electric companies, interruption of service, standard of care, Com 2:195 (V1B p288)

Foreseeability, Com 2:12 (V1A p281)

Garage, apartment over attached; single-family dwelling qualified as two-family dwelling, Intro preceding Chg 2:216 (V1B p367)

Premises Liability (this index)

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

APARTMENTS—Cont'd

Public nuisance, private action based on intentional and unreasonable interference with use and enjoyment of land, Com 3:17 (V2A p175)

Safe place to work, Labor Law, apartment house being converted to one family dwelling, Intro preceding Chg 2:216 (V1B p367)

APOPLEXY

Will contests, testamentary capacity, Com 7:53 (V2B p819)

APPEAL PENDING

Malicious Prosecution (this index)

APPEARANCE

Criminal court, false arrest and false imprisonment, Com 3:5 (V2A p33)

False arrest and false imprisonment, appearance in criminal court, Com 3:5 (V2A p33)

APPEARANCE TICKET

Abuse of process, statute of limitations, Com 3:51 (V2A p620)

False arrest and false imprisonment, Com 3:5 (V2A p33)

Malicious prosecution, Com 3:50 (V2A p572)

APPLIANCES

Safe place to work, Workers Compensation Law and Employers Liability Law, Chg 2:215 (V1B p330)

APPOINTMENT OF COUNSEL

Guardian, proceeding for appointment of, mental incapacity, right to representation by counsel, Com 8:1 (V2B p854)

APPORTIONMENT OF FAULT

General instruction, Chg 2:275 (V1B p937); Com 2:275 (V1B p937)

Aggravation of injuries generally, Com 2:275 (V1B p942)
release
effect of, Com 2:275A (V1B p992)

APPORTIONMENT OF FAULT

—Cont'd

Aggravation of injuries—Cont'd
release—Cont'd
liability for conduct of another, contribution remedy, Com 2:275A (V1B p999)

Amendment of pleadings
exceptions to limitation of liability, Com 2:275 (V1B p977)
release, effect of, Com 2:275A (V1B p994)

Attorneys' fees, Com 2:275 (V1B p952, 961)

Bifurcated trial. Split or bifurcated trial, infra

Brain injury, Chg 2:275.4 (V1B p986); Com 2:275 (V1B p986)

Burden of proof
limitation of liability, Com 2:275 (V1B p974, 977)
nonsettling defendant, Com 2:275C (V1B p1002)

preponderance of evidence, infra
reckless disregard, limitations on joint and several liability, exception, supplemental charge, Chg 2:275.2 (V1B p980)

release, effect of, Com 2:275A (V1B p992)

supplemental instruction
Articles 14 and 16, comparative fault, Chg 2:275.1 (V1B p975)

exceptions, Com 2:275 (V1B p976)

reckless disregard, limitations on joint and several liability, exception, Chg 2:275.2 (V1B p980)

Child, injuries to, comparative fault, Com 2:275 (V1B p944)

Circumventing equitable apportionment, mechanisms for, Com 2:275 (V1B p946)

Comparative fault. See more specific lines under this index heading

Concerted action. Knowingly or intentionally, and in concert, infra

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

APPORTIONMENT OF FAULT

—Cont'd

- Consortium, loss of, limitations on joint and several liability, Com 2:275 (V1B p965)
- Conspiracy
 - joint or concurrent negligence, comparative fault, Com 2:275 (V1B p941)
 - knowingly or intentionally, and in concert, exceptions to limitation on joint and several liability, Com 2:275 (V1B p983)
- Construction, alteration, repair or maintenance of buildings and structures, indemnity, Com 2:275 (V1B p953)
- Contracts
 - ambiguous contract, Com 2:275 (V1B p951)
 - broad indemnity agreements, Com 2:275 (V1B p950)
 - implied contract, indemnification, Com 2:275 (V1B p957)
 - liquidation agreements, effect of release, Com 2:275A (V1B p997)
 - release before trial, nonavailability of contribution in contract actions, Com 2:275A (V1B p997)
- Contribution and Indemnity** (this index)
- Costs, Com 2:275 (V1B p952, 961)
- Counterclaims, actions through, Com 2:275 (V1B p937, 947)
- Credibility of witnesses, released defendant testifying, Com 2:275B (V1B p1000)
- Criminal acts, indemnity agreement, Com 2:275 (V1B p944, 952)
- Cross claims, actions through, Com 2:275 (V1B p937, 947)
- Degree of fault, general instruction, Chg 2:275 (V1B p937)
- Derivative claims, effect of release, Com 2:275A (V1B p997)
- Dram Shop Act, Com 2:275 (V1B p939-941, 944)
- Due diligence, whether nonparty could have been joined, limitations on joint and several liability, Com 2:275

APPORTIONMENT OF FAULT

—Cont'd

- (V1B p966-967, 970, 981)
- Economic losses
 - breach of contract, contribution and indemnity, Com 2:275 (V1B p943)
 - noneconomic loss, *infra*
- Equitable apportionment, mechanisms for circumventing, Com 2:275 (V1B p946)
- Exculpatory agreement, effect of release, Com 2:275A (V1B p995)
- Facial disfigurement, permanent and severe; supplemental charge, Com 2:275 (V1B p986)
- Family members, contribution from plaintiff's, Com 2:275 (V1B p944)
- Federal Employer's Liability Act, railroads, negligent injury or death of employee, Chg 2:180 (V1B p259-260)
- General Obligations Law Section 5-322.1, Com 2:275 (V1B p953)
- Good faith, effect of release before trial, Com 2:275A (V1B p996)
- Grave injury exception and limitations on joint and several liability, Com 2:275 (V1B p984)
- Hazardous substances, limitations on joint and several liability, Com 2:275 (V1B p976)
- Illegal acts, indemnity agreement, Com 2:275 (V1B p944, 952)
- Impeachment purposes, released defendant testifying, Com 2:275B (V1B p1000)
- Impleaders, actions through, Com 2:275 (V1B p937, 947)
- Implied assumption of risk, Chg 2:55 (V1A p409)
- Implied contract, indemnification, Com 2:275 (V1B p957)
- Independent obligation to prevent foreseeable harm, Com 2:275 (V1B p939)
- Intentional conduct. Knowingly or intentionally, and in concert, *infra*

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

APPORTIONMENT OF FAULT

—Cont'd

- Intentional torts
 - joint or concurrent negligence, comparative fault, Com 2:275 (V1B p941)
 - limitations on joint and several liability, Com 2:275 (V1B p979)
- Joint and several liability. Limitations on joint and several liability, infra
- Joint or concurrent negligence, comparative fault, Com 2:275 (V1B p941)
- Judgment; release
 - charge after trial, one defendant subsequently satisfying judgment, Com 2:275C (V1B p1002)
 - effect of, before trial
 - agreement that judgment not to be entered until after trial, Com 2:275A (V1B p992)
 - post judgment settlement, applicability of GOL § 15-108 to, Com 2:275A (V1B p995)
- Jurisdiction of nonparty could not be obtained, limitations on joint and several liability, products liability, Com 2:275 (V1B p981)
- Knowingly or intentionally, and in concert, exceptions to limitation on joint and several liability
 - generally, Com 2:275 (V1B p980)
 - multiple defendants, one acted intentionally, Com 2:275 (V1B p979)
 - special verdict, Com 2:275 (V1B p982)
 - supplemental instruction, Chg 2:275.3 (V1B p982); Com 2:275 (V1B p980, 982)
- Landlord and tenant
 - indemnity agreement, Com 2:275 (V1B p952)
 - liability for conduct of another, Com 2:275 (V1B p959)
- Lease agreement exempting lessor from liability for its own acts of

APPORTIONMENT OF FAULT

—Cont'd

- negligence, voiding, Com 2:275 (V1B p956)
- Liability for conduct of another
 - implied indemnity, Com 2:275 (V1B p958-960)
 - indemnitee, settlement by, Com 2:275 (V1B p961)
- Labor Law actions, Com 2:275 (V1B p962)
- limited liability, Com 2:275 (V1B p979)
- release, Com 2:275A (V1B p998)
- vehicle owner, Com 2:275 (V1B p958)
- Limitations on joint and several liability
 - generally, Com 2:275 (V1B p965)
 - bankruptcy, Com 2:275 (V1B p968)
 - burden of proof, *supra*
 - exceptions, Com 2:275 (V1B p977-978)
 - grave injury exception, Com 2:275 (V1B p984)
 - intent, actions requiring proof of, Com 2:275 (V1B p979)
 - intentional or knowing conduct exception, Chg 2:275.3 (V1B p982)
 - knowingly or intentionally, and in concert, exceptions to limitation on joint and several liability, *supra*
 - multiple party hybrid situation, Com 2:275 (V1B p979)
 - municipal and state liability, Com 2:275 (V1B p968, 978-979)
 - non-parties, fault of, Com 2:275 (V1B p967)
 - plaintiff's fault, effect of, Com 2:275 (V1B p967)
 - pleadings, Com 2:275 (V1B p977)
 - reckless disregard exception, *infra*
 - severing third-party action for contribution from main action, Com 2:275 (V1B p968)
 - special verdict, *infra*

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

APPORTIONMENT OF FAULT

—Cont'd

- Liquidated damages
 - contracts, apportionment of liability, Com 4:20 (V2B p324-325)
 - release, effect of, Com 2:275A (V1B p997)
- Medical malpractice, joint or concurrent negligence; comparative fault, Com 2:275 (V1B p941)
- Mental anguish, limitations on joint and several liability, Com 2:275 (V1B p965)
- Mitigation of damages, effect of release during trial, Com 2:275B (V1B p1000)
- Motor vehicles
 - contributory fault not imputed, Com 2:250 (V1B p884)
 - limitations on joint and several liability, Com 2:275 (V1B p976, 979)
- Municipal and state liability
 - limitations on joint and several liability, Com 2:275 (V1B p968, 978-979)
 - settlement with state, effect on right to sue state employee, Com 2:275A (V1B p999)
 - traffic study, adequacy of, Chg 2:225B (V1B p767)
- No-Fault Law** (this index)
- Nondelegable duty, limitations on joint and several liability, Com 2:275 (V1B p978, 980)
- Noneconomic loss
 - limitations on joint and several liability, Com 2:275 (V1B p965-966)
 - special verdicts, Com 2:275 (V1B p969)
- Nuisance, abnormally dangerous conduct, Intro preceding Chg 3:16 (V2A p154)
- Pain and suffering
 - effect of release, Com 2:275A (V1B p993)
 - limitations on joint and several liability, Com 2:275 (V1B p965)

APPORTIONMENT OF FAULT

—Cont'd

- Passenger, negligence of, Com 2:87 (V1A p594)
- Percentage figures
 - liability over, comparative fault, generally, Chg 2:275 (V1B p937)
 - split or bifurcated trial, comparative fault, Chg 2:36.1 (V1A p378); Chg 2:36 (V1A p378); Com 2:36 (V1A p378)
- Physician-patient privilege, waiver of, Com 1:76 (V1A p146)
- Pleadings; limitations on joint and several liability, Com 2:275 (V1B p977)
- Premises liability; liability for conduct of another, Com 2:275A (V1B p998)
- Preponderance of evidence
 - limitation of liability, Com 2:275 (V1B p974, 977)
 - supplemental instruction
 - apportionment of fault between defendants, Chg 2:275.1 (V1B p975)
 - comparative fault, Chg 2:275.1 (V1B p975)
 - reckless disregard, limitations on joint and several liability, exception, Chg 2:275.2 (V1B p980)
- Prior inconsistent statements, effect of release during trial, Com 2:275B (V1B p1000)
- Prisoner beaten by fellow inmate, Com 2:275 (V1B p979)
- Procedural considerations, Com 2:275 (V1B p947)
- Products Liability** (this index)
- Proximate cause, Com 2:71 (V1A p482)
- Public policy considerations, Com 2:275 (V1B p944)
- Questions of law and fact
 - comparative fault, apportionment of fault between defendants, Com 2:275 (V1B p947)
 - reckless disregard exception, limitations on joint and several liability, Com 2:275 (V1B p980)

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

APPORTIONMENT OF FAULT

—Cont'd

Reckless disregard exception, limitations on joint and several liability generally, Chg 2:275.2 (V1B p980); Com 2:275 (V1B p980) supplemental instruction, Chg 2:275.2 (V1B p980); Com 2:275 (V1B p980)

Release

 aggravation of injuries, *supra* effect of

 after trial, Chg 2:275C (V1B p1001); Com 2:275C (V1B p1001)

 aggravation of injuries, Com 2:275A (V1B p992)

 burden of proof, Com 2:275A (V1B p992)

Mitigation of Damages (this index)

 before trial, Chg 2:275A (V1B p989); Com 2:275A (V1B p989)

 during trial, Chg 2:275B (V1B p1000); Com 2:275B (V1B p1000)

 wrongful death, Com 2:275A (V1B p993)

instances in which GOL § 15-108 does not apply, Com 2:275A (V1B p994)

judgment

 charge after trial, one defendant subsequently satisfying judgment, Com 2:275C (V1B p1002)

 effect of, before trial

 agreement that judgment not to be entered until after trial, Com 2:275A (V1B p992)

 post judgment settlement, applicability of GOL § 15-108 to, Com 2:275A (V1B p995)

liability for conduct of another, Com 2:275A (V1B p998)

APPORTIONMENT OF FAULT

—Cont'd

Release—Cont'd

 before trial, effect of, comparative fault, Com 2:275A (V1B p994)

Res Judicata and Collateral Estoppel (this index)

Respondeat superior; limitations on joint and several liability, Com 2:275 (V1B p978)

Safe place to work, Labor Law

 limitations on joint and several liability, exceptions, Article 10, Com 2:275 (V1B p981)

subcontractors

 liability for conduct of another release, Com 2:275A (V1B p998)

Same injury, parties liable in tort for release before trial, instances in which GOL § 15-108 applies, Com 2:275A (V1B p998)

Seat belts, passenger, interrogatories to jury, comparative negligence, Chg 2:87.2 (V1A p599)

Settlement. Release, *supra*

Special verdict

 contribution claim, Com 2:275 (V1B p948)

 economic and noneconomic losses, Com 2:275 (V1B p969)

 facial disfigurement, permanent and severe, Com 2:275 (V1B p987)

forms

 brain injury, Com 2:275 (V1B p986)

 facial disfigurement, permanent and severe, Com 2:275 (V1B p987)

limitations on joint and several liability

 generally, Com 2:275 (V1B p971)

 exceptions

 generally, Com 2:275 (V1B p974)

forms

 intentional acts, exceptions,

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

APPORTIONMENT OF FAULT

—Cont'd

- Special verdict—Cont'd
 - limitations on joint and several liability—Cont'd
 - forms—Cont'd
 - Com 2:275 (V1B p982)
 - noneconomic loss, Com 2:275 (V1B p969)
 - requirement, Intro preceding Chg 1:1 (V1A p4)
- Split or bifurcated trial
 - generally, Chg 2:36 (V1A p378); Com 1:2C (V1A p36); Com 2:275 (V1B p948)
 - damages stage, supplemental instruction, Chg 2:36.2 (V1A p378); Chg 2:36.3 (V1A p379); Com 2:36 (V1A p379)
 - percentages of negligence, Chg 2:36.1 (V1A p378); Chg 2:36 (V1A p378); Com 2:36 (V1A p378)
- Spouses
 - municipal liability, limitations on joint and several liability, Com 2:275 (V1B p978)
- State, liability of. Municipal and state liability, *supra*
- State officers and employees, limitations on joint and several liability, Com 2:275 (V1B p969)
- Statute of limitations, Com 2:275 (V1B p964)
- Structured settlements, effect of release before trial, Com 2:275A (V1B p990)
- Successive tortfeasor
 - contribution from, Com 2:275 (V1B p941)
 - negligence of, Com 2:275 (V1B p942-943)
 - original tortfeasor recovering from, Com 2:275 (V1B p961)
- Supplemental instruction
 - burden of establishing comparative fault, Articles 14 and 16, Chg 2:275.1 (V1B p975)
 - burden of proof; exceptions, Com 2:275 (V1B p976)

APPORTIONMENT OF FAULT

—Cont'd

- Supplemental instruction—Cont'd
 - calculation of damages award, Chg 2:36.3 (V1A p379)
 - exceptions; burden of proof, Com 2:275 (V1B p976)
 - facial disfigurement, permanent and severe, Chg 2:275.5 (V1B p987); Com 2:275 (V1B p986)
 - knowingly or intentionally, and in concert, Chg 2:275.3 (V1B p982); Com 2:275 (V1B p980-982)
 - reckless disregard, Chg 2:275.2 (V1B p980); Com 2:275 (V1B p980)
 - split or bifurcated trial, damages stage, Chg 2:36.2 (V1A p378); Chg 2:36.3 (V1A p379); Com 2:36 (V1A p379)
- Third party practice
 - comparative fault, apportionment of fault between defendants, Com 2:275 (V1B p946)
 - workers compensation, grave injury, Com 2:275 (V1B p984)
- Unclean hands doctrine and, Com 2:275 (V1B p947)
- Uninsured defendant, effect of release, Com 2:275A (V1B p996)
- Unjust enrichment, implied indemnification to prevent, Com 2:275 (V1B p957)
- Volunteer Firefighter's Benefit Law provisions, Com 2:275 (V1B p984)
- Workers compensation
 - comparative fault, apportionment of fault between defendants, Com 2:275 (V1B p946)
 - grave injury, Com 2:275 (V1B p964)
 - joint and several liability, limitations on, Com 2:275 (V1B p976)
 - protection of employers from suits other than contract based, Com 2:275 (V1B p984)
 - third party practice, grave injury, Com 2:275 (V1B p984)

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

APPORTIONMENT OF FAULT

—Cont'd

Workers compensation—Cont'd
 Volunteer Firefighter's Benefit Law
 provisions, Com 2:275 (V1B
 p984)
Wrongful death, effect of release, Com
2:275A (V1B p991, 993)

APPREHENSION OF IMMINENT HARMFUL OR OFFENSIVE CONTACT

Assault, Chg 3:2 (V2A p4-5); Com 3:2
(V2A p5-6, 8)

APPROACHES

Safe Place To Work (this index)

ARBITRATION

Abuse of process, enforcement of
award, Com 3:51 (V2A p616)
Architects, mandatory arbitration clause
in contracts with; malpractice issues,
Com 2:153 (V1B p200, 203)
Attorneys' fees
 action for services rendered, Chg
 4:30 (V2B p369); Com 4:30
 (V2B p395)
 attorney malpractice, Com 2:152
 (V1B p194)
 contracts, Com 4:1 (V2B p184)
Collective bargaining agreement, Com
4:21 (V2B p365)
Consent, Com 4:1 (V2B p200)
Construction or interpretation of
contracts, Com 4:1 (V2B p200)
Consumer goods, voiding arbitration
clause in contract for sale or purchase
of, Com 4:1 (V2B p206)
Contracts
 generally, Com 4:1 (V2B p200)
 attorneys' fees, Com 4:1 (V2B
 p184)
 clickwrap agreements, Com 4:1
 (V2B p203)
 collective bargaining agreement,
 Com 4:21 (V2B p365)
 construction or interpretation of
 contracts, Com 4:1 (V2B p200)

ARBITRATION—Cont'd

Contracts—Cont'd
 consumer goods, voiding arbitration
 clause in contract for sale or
 purchase of, Com 4:1 (V2B p206)
 enforcement of arbitration agree-
 ments, Com 4:1 (V2B p201)
 equitable estoppel, Com 4:1 (V2B
 p203)
 fraud claim affecting validity of
 arbitration clause, Com 4:1 (V2B
 p203)
 New York law, agreements
 governed by, Com 4:1 (V2B
 p201)
 public policy favoring enforcement
 of arbitration agreement, Com 4:1
 (V2B p201)
 stay of arbitration, Com 4:1 (V2B
 p205)
 unsigned agreement, enforceability
 of, Com 4:1 (V2B p203)
 vacating award, Com 4:1 (V2B
 p206)
 waiver of right to arbitration, Com
 4:1 (V2B p205)
 wrongful death action, Com 4:1
 (V2B p204)
Defamation
 absolute privilege, Com 3:31 (V2A
 p458)
Delegation provision, severability, Com
4:1 (V2B p201)
Employment discrimination claim, Intro
preceding Chg 9:1 (V2B p933, 935)
Federal Arbitration Act, Com 4:1 (V2B
p200)
No-fault law, Intro preceding Chg 2:75
(V1A p516)
Preemption of state law under Federal
Arbitration Act, Com 4:1 (V2B p200-
201); Intro preceding Chg 9:1 (V2B
p934)
Sex discrimination, Intro preceding Chg
9:1 (V2B p934)
Stay
 application to, Com 4:1 (V2B p205)
 Uninsured motorists, Com 4:65
 (V2B p559)

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ARBITRATION—Cont'd

Unfair competition, enforcement of
 Donnelly Act, monopoly, Com 3:58
 (V2A p696)

Uninsured Motorists (this index)

ARCHITECT MALPRACTICE

General instruction, Chg 2:153 (V1B p199); Com 2:153 (V1B p200)

Arbitration clause in contract, mandatory, Com 2:153 (V1B p200, 203)

Breach of contract, statute of limitations, Com 4:1 (V2B p128)

Building code, Chg 2:153 (V1B p199);
 Intro preceding Chg 2:149 (V1B p34, 42)

Certificate of occupancy, cause of action commencing after issuance of, Intro preceding Chg 2:149 (V1B p44)

Damages, Com 2:153 (V1B p200, 202)

Design, Com 2:153 (V1B p201)

Expert and opinion evidence, Com 2:153 (V1B p201)

Indemnification agreement, Com 2:153 (V1B p201)

Inspections, Chg 2:153 (V1B p200)

Maps, Com 2:153 (V1B p201)

Plans and specifications, Com 2:153 (V1B p201)

Products liability, strict liability, Com 2:153 (V1B p201)

Property damage, Com 2:153 (V1B p202)

Reasonably prudent person, Chg 2:153 (V1B p200)

Reliance, Com 2:153 (V1B p201)

Services rendered, action for, breach of contract to perform, statute of limitations, Com 4:35 (V2B p440)

Standard of care, Chg 2:153 (V1B p199-200); Com 2:153 (V1B p201)

Statute of limitations, Com 2:153 (V1B p200); Com 4:1 (V2B p128); Intro preceding Chg 2:149 (V1B p34, 42-44)

Supervision, Chg 2:153 (V1B p200)

Warranties, Com 2:153 (V1B p201)

ARCHITECTS

Construction contracts

 delay damages, Com 4:20 (V2B p310)

 valid reason for breach or deviation, consequential damages, failure to obtain architect's approval, Com 4:20 (V2B p302)

Emotional distress, outrageous conduct causing, Com 3:6 (V2A p71)

Expert testimony, Com 1:90 (V1A p182, 202); Com 2:153 (V1B p201)

Liquidating agreements, Com 4:20 (V2B p324)

Malpractice. **Architect Malpractice** (this index)

Safe place to work, Labor Law, Com 2:216A (V1B p413, 418); Com 2:216 (V1B p402); Intro preceding Chg 2:216 (V1B p353, 371)

Services Rendered, Action For (this index)

Tort and breach of contract, Com 4:1 (V2B p53)

AREA

Motor vehicles, limitation on area, liability for conduct of another, acts of operator, owner's liability for, Chg 2:246 (V1B p876); Com 2:246 (V1B p876)

ARENA

Safe place to work, Labor Law, lessee, Intro preceding Chg 2:216 (V1B p346)

ARGUMENTS OF COUNSEL

Consider only testimony and exhibits, post-trial charge where pretrial charge has been given, Chg 1:25 (V1A p61)

Damages, reference to amount of, pain and suffering, Com 2:280 (V1B p1059)

Opening Statements (this index)

Pain and suffering, amount of damages, Com 2:277A (V1B p1026); Com 2:280 (V1B p1059)

Summation (this index)

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ARMORED VAN

Insurance, warranty, defense of breach of, vicious propensities, Com 4:76 (V2B p640)

ARRANGEMENT OF INSTRUCTIONS

General principles, Intro preceding Chg 1:1 (V1A p1)

ARREST

Assault, probable cause, Com 3:2 (V2A p7)

Battery

private person directed to assist peace officer, Com 3:4 (V2A p28)

public duty or authority, performance of, Chg 3:4 (V2A p23-24); Com 3:4 (V2A p26-29)

Resisting Arrest (this index)

Citizen's Arrest (this index)

Constitutional Torts (this index)

Emotional distress, outrageous conduct causing, arrest in front of coworkers, Com 3:6 (V2A p70)

Employment discrimination based on arrest and conviction records, prohibition against, Intro preceding Chg 9:1 (V2B p990)

Fair Chance Act and prohibition against employment discrimination based on arrest and conviction records, Intro preceding Chg 9:1 (V2B p990)

False arrest. **False Imprisonment and False Arrest** (this index)

Malicious Prosecution (this index)

Private person directed to assist peace officer, battery, Com 3:4 (V2A p28)

Warrant, arrest under

abuse of process, Com 3:51 (V2A p613)

malicious prosecution, Com 3:50 (V2A p572, 589)

Warrantless arrest

false arrest, Chg 3:5 (V2A p31)

malicious prosecution, Com 3:50 (V2A p572)

ARREST SHEET

Constitutional torts, 42 USC § 1983, action for deprivation of federally secured rights, failure to remove arrest sheet and photograph, Com 3:60 (V2A p740)

ARSON

Battery, performance of public duty or authority, Com 3:4 (V2A p28)

Clear and convincing evidence, Com 1:64 (V1A p108)

Defamation, qualified privilege, Com 3:32 (V2A p474)

Emotional distress, outrageous conduct causing, Com 3:6 (V2A p68)

Fire insurance

generally, Com 4:80 (V2B p716)
burden of proof, Com 4:80 (V2B

p715)

circumstantial evidence, fraud, Com 4:80 (V2B p716)

ART DEALER

Defamation, opinions, defamatory import, Com 3:24 (V2A p357)

ARTICLE 78 PROCEEDING

Abuse of process, Com 3:51 (V2A p615)

Constitutional torts, 42 USC § 1983, action for deprivation of federally secured rights

collateral estoppel, Com 3:60 (V2A p742)

taxation, Com 3:60 (V2A p743)

Employment contract, breach of contract and damages, Com 4:21 (V2B p338)

At will employment, breach of contract and damages, limitation on right to discharge, Com 4:21 (V2B p342)

ARTIFICIAL INSEMINATION

Insurance, exclusions, Intro preceding Chg 4:45 (V2B p481)

ARTISANS

Liens, bailments, repair, maintenance, or improvement, Com 4:93 (V2B p759)

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ARTISANS' TOOLS

Damages, property without market value, Com 2:312 (V1B p1131)

ARTISTIC PRODUCTIONS

Privacy, right of, Com 3:45 (V2A p550)

ART WORKS

Expert witness, Chg 1:90 (V1A p173)

Market value, property with, damages, Com 2:311 (V1B p1129)

ASBESTOS

Architect malpractice, statute of limitations, Intro preceding Chg 2:149 (V1B p44)

Brake dust from gaskets, Com 1:90 (V1A p210-211)

Damages, cancerphobia, Com 2:284 (V1B p1073)

Employee-father's exposure to chemicals at work site, duty to protect employee's spouse, Com 2:216 (V1B p396)

Employee's clothes, harm from asbestos dust carried off premises in, Com 2:114 (V1A p820)

Fear-of-cancer damages claim by plaintiff suffering from asbestosis, duty under FELA, Chg 2:180.1 (V1B p267); Com 2:180 (V1B p262, 267); Com 2:284 (V1B p1073)

“Glove box test” for talc powder, Com 1:90 (V1A p210)

Insurance

aggregation of occurrences, Intro preceding Chg 4:45 (V2B p490)

construction or interpretation, Intro preceding Chg 4:45 (V2B p456, 461, 466)

Product-hazard exclusion in insurance policy, Intro preceding Chg 4:45 (V2B p467)

Products Liability (this index)

Safe place to work, Labor Law

construction site accidents covered by § 240(1), Com 2:217 (V1B p564)

ASBESTOS—Cont'd

Safe place to work, Labor Law—Cont'd persons protected under § 200(1), Intro preceding Chg 2:216 (V1B p358)

persons protected under § 240, statutory negligence, Intro preceding Chg 2:216 (V1B p358)

persons protected under § 240(1) and § 241(1-5), Intro preceding Chg 2:216 (V1B p358)

persons protected under § 241(6), Intro preceding Chg 2:216 (V1B p358)

statutory negligence, persons protected under § 240, Intro preceding Chg 2:216 (V1B p358)

Statute of limitations, asbestos property damage claim, Intro preceding Chg 2:120 (V1A p852)

AS IS SALE

Generally, Com 4:1 (V2B p153)

Fraud

disclaimer, Com 3:20 (V2A p226) inspection of public records, Com 3:20 (V2A p223)

Oil Spill Prevention, Control and Compensation Act, as is clause, action v actual discharger, Com 10:4 (V2B p1125)

ASSAULT

Generally, Chg 3:2 (V2A p4); Com 3:2 (V2A p5)

Apportionment of fault, knowingly or intentionally, and in concert, exceptions to limitation on joint and several liability, Com 2:275 (V1B p983)

Common carriers, duty to protect passenger from injury by third person, Com 2:163 (V1B p217)

Common law standard of care, Com 2:10 (V1A p268); Com 2:24 (V1A p330)

Constitutional torts, 42 USC § 1983, action for deprivation of federally secured rights, assault on prisoner, Com 3:60 (V2A p745)

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ASSAULT—Cont'd

False imprisonment, Com 3:5 (V2A p59)
Federal Employer's Liability Act, railroads, negligent injury or death of employee, Com 2:180 (V1B p261)
Firefighters and police officers, injured employees' rights, Intro preceding Chg 2:215 (V1B p321)
Insurance, exclusions, Intro preceding Chg 4:45 (V2B p485-486, 488)
Intentional conduct, Chg 3:2 (V2A p4); Com 3:2 (V2A p5)
Liability for conduct of another corrections officer use of force on inmate, Com 2:235 (V1B p837)
employer-employee, Com 2:235 (V1B p836-837); Com 2:237 (V1B p847)
parent's liability for tort of child, failure to restrain, Chg 2:261 (V1B p915)
statute of limitations, Com 3:2 (V2A p8)
Municipal and state liability limitations on governmental liability, Intro preceding Chg 2:225 (V1B p680)
one year and 90 days, commencement of action within; statute of limitations, Com 3:2 (V2A p8)
park, assault in, Com 2:225A (V1B p754)
prison inmates, attacks by fellow inmates, Intro preceding Chg 2:225 (V1B p712)
statute of limitations, Com 3:2 (V2A p8)
Parent and child, failure to restrain, liability of parent for tort of child, Com 2:261 (V1B p915)
Premises liability protection from criminal activity, generally, Com 2:90 (V1A p720)
Prison inmates apportionment of fault, prisoner beaten by fellow inmate, Com 2:275 (V1B p979)

ASSAULT—Cont'd

Prison inmates—Cont'd constitutional torts, 42 USC § 1983, action for deprivation of federally secured rights, Com 3:60 (V2A p745)
municipal and state liability, attacks by fellow inmates, Intro preceding Chg 2:225 (V1B p712)
Punitive damages, Com 2:278 (V1B p1035); Com 3:2 (V2A p8)
School, liability of, inadequate supervision, Com 2:227 (V1B p789, 800, 803-804)
Workers Compensation (this index)
ASSEMBLY, PLACES OF Public Assembly (this index)
ASSESSED VALUATIONS
Presumption, Com 1:63 (V1A p102)
ASSESSMENTS
Economic duress, contract, Com 4:15 (V2B p272)
Real Property Taxes and Assessments (this index)
ASSIGNMENT
Generally, Com 4:1 (V2B p176)
Fire insurance policy, consent, Com 4:47 (V2B p524)
Fraud claims, Com 4:1 (V2B p176)
Leases, Com 4:1 (V2B p155, 177)
Lender holding exercisable security interest as assignee, Com 4:1 (V2B p215)
Mortgages, Com 4:1 (V2B p178)
Non-assignment clause, Com 4:1 (V2B p177)
Requirements, Com 4:1 (V2B p176)
Surety, to, Com 4:1 (V2B p178)
Workers compensation, assignment of cause of action to compensation carrier, Chg 2:219 (V1B p652); Com 2:219 (V1B p652)
ASSISTANCE
Common law standard of care, voluntarily assumed duty, Chg 2:24 (V1A p327)

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ASSISTANTS

Medical malpractice, resident assisting doctor during medical procedure, Com 2:150 (V1B p62)

ASSISTED LIVING FACILITIES

Residential health care facilities distinguished, Com 2:151D (V1B p163)

AS SOON AS PRACTICABLE

Underinsurance contracts, Com 4:77 (V2B p668)

AS SOON AS REASONABLY POSSIBLE

Insurance (this index)

ASSUMPTION OF RISK

Age of participant as factor in assessing awareness of risk, Chg 2:55.1 (V1A p421); Com 2:55 (V1A p420)

Amusement rides and water parks, Com 2:55 (V1A p446)

Baseball, Com 2:55 (V1A p417, 426, 447)

Basketball, Com 2:55 (V1A p412, 422, 429)

Bicycles, Com 2:55 (V1A p418, 424, 431-432); Com 2:56 (V1A p453)

Bobsledding, Com 2:55 (V1A p37)

Bowling, Com 2:55 (V1A p422, 445)

Boxing, Com 2:55 (V1A p438)

Brawls and fights, voluntary participation in, Com 2:55 (V1A p419)

Breach of duty to provide reasonable supervision, Com 2:55 (V1A p425)

Burden of proof

pre-occurrence warning, Chg 2:55A (V1A p450)

primary assumption of risk, Chg 2:55.1 (V1A p421-422); Com 2:55 (V1A p449)

Cheerleading, Com 2:55 (V1A p432)

Children

age of participant as factor in assessing awareness of risk, Chg 2:55.1 (V1A p421); Com 2:55 (V1A p420)

ASSUMPTION OF RISK—Cont'd

Children—Cont'd

four years of age, child under, Com 2:55A (V1A p451)

supervised children's activities, Com 2:55 (V1A p425)

Comparative fault

bifurcated trial, Com 2:36 (V1A p384)

implied assumption of risk distinguished, Com 2:55 (V1A p411)

reasonable care, failure to use, Com 2:36 (V1A p384)

voluntary encounter with known risk of harm, Com 2:36 (V1A p384)

Complete defense, as, Com 2:36 (V1A p384)

Concealed or unreasonably increased risks, Com 2:55 (V1A p422)

Correctional facility, direction of superior, risk assumed under, Com 2:56 (V1A p453)

Dance lessons, Com 2:55 (V1A p441)

Direction of superior, risk assumed under, Chg 2:56 (V1A p452); Com 2:56 (V1A p453)

Dogs, Com 2:55 (V1A p414)

Drunk driving, passenger in vehicle, Com 2:55 (V1A p418)

Emergency situation, implied assumption of risk, Com 2:55 (V1A p415)

Exercise apparatus, Com 2:55 (V1A p439)

Express assumption of risk generally, Intro preceding Chg 2:36 (V1A p375)

defined, Com 2:55 (V1A p412)

distinguished, Com 2:55 (V1A p411)

implied assumption of risk distinguished, Com 2:55 (V1A p412)

pre-occurrence warning, Chg 2:55A (V1A p450); Com 2:55A (V1A p451)

Federal Employer's Liability Act, railroads, negligent injury or death of

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ASSUMPTION OF RISK—Cont'd

employee, Com 2:180 (V1B p264)
Fences, Com 2:55 (V1A p414)
Fights and brawls, voluntary participation in, Com 2:55 (V1A p419)
Football, Com 2:55 (V1A p426)
Go-cart riding, Com 2:55 (V1A p446)
Golf, Com 2:55 (V1A p413, 417, 443-445)
Golf cart used improperly on golf course, Com 2:55 (V1A p445)
Gratuitous or free service, common carriers, duty to passengers, contractual limitation of liability, Chg 2:170 (V1B p233); Com 2:170 (V1B p233-236)
Gymnastics, Com 2:55 (V1A p439)
Handball, Com 2:55 (V1A p430)
Handrail, sliding down, Com 2:55 (V1A p419)
Hiking, Com 2:55 (V1A p443)
Hockey, Com 2:55 (V1A p437)
Horses, Com 2:55 (V1A p415, 417-418, 441); Com 2:56 (V1A p453); Com 2:220 (V1B p669)
House bordering on golf course, Com 2:55 (V1A p445)
Ice skating, Com 2:55 (V1A p437)
Implied assumption of risk generally, Chg 2:55 (V1A p409, 414); Com 2:36 (V1A p380); Com 2:55 (V1A p410); Com 2:87 (V1A p594); Intro preceding Chg 2:36 (V1A p375)
apportionment of fault, Chg 2:55 (V1A p409)
burden of proof, Chg 2:55 (V1A p409)
comparative negligence distinguished, Com 2:55 (V1A p411)
defined, Com 2:55 (V1A p411)
dogs, Com 2:55 (V1A p414)
express assumption of risk distinguished, Com 2:55 (V1A p412)
failure to appreciate risk, Com 2:55 (V1A p411)
fences, Com 2:55 (V1A p414)

ASSUMPTION OF RISK—Cont'd

Implied assumption of risk—Cont'd historical background, Com 2:55 (V1A p410)
primary assumption of risk distinguished, Com 2:55 (V1A p412-414)
Turcotte rule, Com 2:36 (V1A p384); Com 2:55 (V1A p412)
wrongful death, Com 2:55 (V1A p411)
Jogging, Com 2:55 (V1A p445)
Jones Act, negligent injury or death of employee, Com 2:180 (V1B p271)
Jungle gym, primary assumption of risk, Com 2:55 (V1A p419)
Labor Law § 200 and 241(6) cases, Com 2:55 (V1A p450)
Lacrosse, Com 2:55 (V1A p433, 447)
Martial arts, Com 2:55 (V1A p438)
Monkey bars, climbing, Com 2:55 (V1A p419)
Obstacle course of balance beams, running through, Com 2:55 (V1A p419)
Pedestrian struck by vehicle while crossing street, Com 2:55 (V1A p413)
Premises liability primary assumption of risk, Com 2:90 (V1A p684)
Primary assumption of risk generally, Chg 2:55.1 (V1A p421); Com 2:55 (V1A p411, 415)
age of participant as factor in assessing awareness of risk, Chg 2:55.1 (V1A p421); Com 2:55 (V1A p420)
application of, Com 2:55 (V1A p410)
awareness of risk, plaintiff's, Com 2:55 (V1A p419)
baseball, Com 2:55 (V1A p417, 427, 447)
basketball, Com 2:55 (V1A p429)
bicycling, Com 2:55 (V1A p431-432)
bicyclists on bicycle trail, Com 2:55 (V1A p424)
bobsledding, Com 2:55 (V1A p37)

INDEX

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ASSUMPTION OF RISK—Cont'd

Primary assumption of risk—Cont'd
bowling, Com 2:55 (V1A p422, 445)
boxing, Com 2:55 (V1A p438)
breach of duty to provide reasonable supervision, Com 2:55 (V1A p425)
burden of proof, Chg 2:55.1 (V1A p421-422); Com 2:55 (V1A p449)
cheerleading, Com 2:55 (V1A p432)
children
age of participant as factor in assessing awareness of risk, Chg 2:55.1 (V1A p421); Com 2:55 (V1A p420)
supervised children's activities, Com 2:55 (V1A p425)
concealed or unreasonably increased risks, Com 2:55 (V1A p422)
dance lessons, Com 2:55 (V1A p441)
dangerous conditions over and above usual dangers, Com 2:55 (V1A p417)
drunk driving, passenger in vehicle, Com 2:55 (V1A p418)
exercise apparatus, Com 2:55 (V1A p439)
football, Com 2:55 (V1A p426)
golf, Com 2:55 (V1A p413, 417, 443)
gymnastics, Com 2:55 (V1A p439)
handball, Com 2:55 (V1A p430)
handrail, sliding down, Com 2:55 (V1A p419)
hiking, Com 2:55 (V1A p443)
historical background, Com 2:55 (V1A p411)
horses, Com 2:55 (V1A p415, 417-418, 441)
ice skating, Com 2:55 (V1A p437)
implied assumption of risk
distinguished, Com 2:55 (V1A p412-414)
jogging, Com 2:55 (V1A p445)
jungle gym, Com 2:55 (V1A p419)

ASSUMPTION OF RISK—Cont'd

Primary assumption of risk—Cont'd
Labor Law § 200 and 241(6) cases, Com 2:55 (V1A p450)
lacrosse, Com 2:55 (V1A p433, 447)
less than optimal conditions, Com 2:55 (V1A p424)
martial arts, Com 2:55 (V1A p438)
monkey bars, climbing, Com 2:55 (V1A p419)
obstacle course of balance beams, running through, Com 2:55 (V1A p419)
pedestrian struck by vehicle while crossing street, Com 2:55 (V1A p413)
plaintiff's awareness of risk, Com 2:55 (V1A p419)
playground, Com 2:55 (V1A p419)
pleading and proving defense, burden of, Com 2:55 (V1A p449)
premises liability, Com 2:90 (V1A p684)
preponderance of evidence, Chg 2:55.1 (V1A p421-422)
products liability, Intro preceding Chg 2:120 (V1A p859)
racquetball, Com 2:55 (V1A p430)
risks not assumed by participants, Com 2:55 (V1A p422)
rollerblading, Com 2:55 (V1A p413, 445)
roller skating, Com 2:55 (V1A p422, 437)
rugby, Com 2:55 (V1A p433)
running, Com 2:55 (V1A p445)
schools, Com 2:55 (V1A p425-426)
skating, Com 2:55 (V1A p437)
skiing, Chg 2:55.1 (V1A p421); Com 2:55 (V1A p37, 424-425, 435)
sledding, Com 2:55 (V1A p437)
soccer, Com 2:55 (V1A p433)
softball, Com 2:55 (V1A p427)
spectators, Com 2:55 (V1A p447)
sporting events, Com 2:55 (V1A p412, 415-418, 424-426)

PATTERN JURY INSTRUCTIONS

*References are to Charges (Chg) or to Comments (Com).
Parentheticals refer to volume (V) and page numbers (p).*

ASSUMPTION OF RISK—Cont'd

Primary assumption of risk—Cont'd
stickball, Com 2:55 (V1A p427)
strict liability, as defense to, Com
2:55 (V1A p450)
supervised children's activities,
Com 2:55 (V1A p425)
swings on play ground, Com 2:55
(V1A p426)
tennis, Com 2:55 (V1A p430)
tobogganing, Com 2:55 (V1A p37)
training, work-related, Com 2:55
(V1A p419)
trampoline, Com 2:55 (V1A p413,
418)
treadmill, Com 2:55 (V1A p418,
440)
tubing, Com 2:55 (V1A p37)
Turcotte rule, Com 2:55 (V1A p412,
424)
unreasonably increased risks, Com
2:55 (V1A p422)
volleyball, Com 2:55 (V1A p433)
water sports, Com 2:55 (V1A p441)
weightlifting, Com 2:55 (V1A
p439-440)
Private nuisance, Com 3:16 (V2A p165)
Products liability, Intro preceding Chg
2:120 (V1A p859)
Public nuisance
 private action based on intentional
 and unreasonable interference
 with use and enjoyment of land,
 Com 3:17 (V2A p176)
 private action based on intentional
 unlawful conduct (absolute
 nuisance), Com 3:18 (V2A p182)
Questions of law or fact, direction of
superior, risk assumed under, Com
2:56 (V1A p454)
Racquetball, Com 2:55 (V1A p430)
Railroads (this index)
Rollerblading, Com 2:55 (V1A p413,
445)
Roller skating, Com 2:55 (V1A p422,
437)
Rugby, Com 2:55 (V1A p433)
Running, Com 2:55 (V1A p445)

ASSUMPTION OF RISK—Cont'd

Schools, Com 2:55 (V1A p419, 425-
426); Com 2:56 (V1A p453)
Self-defense tournament, participation
in school's, Com 2:55 (V1A p439)
Skating, Com 2:55 (V1A p437)
Skiing, Com 2:55 (V1A p37, 424-425,
435)
Sledding, Com 2:55 (V1A p437)
Snowboarding, Com 2:55 (V1A p37)
Snow tubing, Com 2:55 (V1A p422)
Soccer, Com 2:55 (V1A p433)
Social worker, direction of superior,
risk assumed under, Com 2:56 (V1A
p453)
Softball, Com 2:55 (V1A p426); Com
2:56 (V1A p453)
Spectators, Com 2:55 (V1A p447)
Sports
 generally, Com 2:36 (V1A p384);
 Com 2:55 (V1A p412); Intro pre-
 ceding Chg 2:36 (V1A p375)
 another participant, assumption of
 risk of, Com 2:55 (V1A p424)
 baseball, Com 2:55 (V1A p417,
 426, 447)
 basketball, Com 2:55 (V1A p412,
 422, 429)
 bobsledding, Com 2:55 (V1A p37)
 bowling, Com 2:55 (V1A p422,
 445)
 boxing, Com 2:55 (V1A p438)
 breach of duty to provide reasonable
 supervision, Com 2:55 (V1A
 p425)
 cheerleading, Com 2:55 (V1A p432)
 concealed or unreasonably increased
 risks, Com 2:55 (V1A p422)
 football, Com 2:55 (V1A p426)
 golf, Com 2:55 (V1A p417, 443)
 gymnastics, Com 2:55 (V1A p439)
 handball, Com 2:55 (V1A p430)
 ice skating, Com 2:55 (V1A p437)
 lacrosse, Com 2:55 (V1A p433)
 martial arts, Com 2:55 (V1A p438)
 premises liability, Com 2:90 (V1A
 p684)