Index

ABNORMALLY DANGEROUS

Railroads, duty to warn of abnormally dangerous crossing, 1805

ABSOLUTE LIABILITY

Owners and occupiers of land, ultrahazardous activities, 1108

ABUSE OF PROCESS

Generally, **416**Burden of proof, claim for damages based upon abuse of process, **416**

ACCEPTANCE OR REJECTION

Contracts, this index Offer and Acceptance, this index UCC Sales Contracts, this index

ACCORD AND SATISFACTION

Contracts, accord and satisfaction as defense, **2431**

ACQUISITION

Rules of the road, right of way, 909

ACT OF GOD

Negligence, 611

ACTING IN CONCERT

Employment, 713

ACTION OR PROCEEDINGS

UCC sales contracts, damages in action for price, **2525**

ADDITION OR ADDITIONAL MATTERS

Negligence, res ipsa loquitur in addition to specified acts of, 610

UCC sales contracts, additional terms in acceptance or confirmation, **2505**

ADMITTED LIABILITY

Generally, 210

ADVERSE INFERENCE

Generally, 106A

ADVICE OF COUNSEL

Malicious prosecution, defense of acting upon advice of counsel, 415

AFFIRMATIVE DEFENSE

Burden of proof, **206**

AGENCY

Generally, **701**, **704** to **708**Burden of proof, agent, **209**Comparative Fault, this index
Definitions, **701**, **702**Deviation from route, **704**Imputed conduct, independent contractor, **708**Independent contractors, **707** to **709**

Inherently dangerous work, independent contractor, **708**

Minor driver's parent as passenger, **706**

Motor vehicles

Deviation from route, **704**Minor driver's parent as passenger, **706**

Owner of vehicle as passenger, 705

Passenger in vehicle, 705, 706
Route, deviation from, 704
Owner of vehicle as passenger, 705
Passenger in vehicle, 705, 706
Route, deviation from, 704

AGGRAVATION

Damages, aggravation of pre-existing condition, 2203

ALCOHOLIC BEVERAGES

Intoxication, this index

ALTERATION OF INSTRUMENTS

Bank deposits and collections, negligence, 3006

AMBIGUITY

Contract language, 2412

ANIMALS

Generally, 1601 to 1604

Comparative fault, liability for dangerous animals, **1604**

Custodian, duty of, 1601

Dangerous animals, liability for

Generally, 1602 to 1604

Comparative fault, 1604

Defenses, 1603

Defenses, liability for dangerous animals, 1603

Duty of owner or custodian, 1601

Owner, duty of, 1601

ANTICIPATION

Negligence, duty to anticipate behavior of children, **604**

APPLIANCES

Safety Appliance and Boiler Inspection Acts, **Chapter 20**

APPROPRIATION

Invasion of privacy by appropriation, claim for damages based upon, 421

APPROVAL

Consent or Approval, this index

ARCHITECT

Construction work, standard of care, 1204

ASSAULT AND BATTERY

Generally, 417, 418

Burden of proof, claim for based upon assault and battery, **417**, **418**

ASSIGNMENT

Franchise Practices Act, definition of assignment, **2807**

ASSUMPTION OF RISK

Defined, 306

ATTEMPTED RESCUE

Negligence, 612

ATTORNEYS

Malicious prosecution, defense of acting upon advice of counsel, 415

Malpractice and breach of fiduciary duty, attorney negligence, **1510**, **1511**

ATTRACTIVE NUISANCE

Owners and occupiers of land, burden of proof, 1109

AT-WILL DOCTRINE

Employment, 3107

AUTHORITY AND AUTHORIZATION

Employment, scope of authority, 702

AUTOMOBILE INSURANCE

Uninsured Motorist Coverage, this index

AUTOMOBILES

Motor Vehicles, this index

BAD FAITH

Good Faith, this index

BANK DEPOSITS AND COLLECTIONS

Generally, 3001 to 3006

Alteration of instrument, negligence contributing to, 3006

Damages

Improper payment of check by bank, 3001

Ordinary care, failure to exercise, 3002

Defense, failure to promptly notify, loss allocation, 3003

Definitions

Good faith, 3005

Ordinary care, 3004

Forged signature, negligence contributing to, 3006

Good faith defined, 3005

Improper payment of check by bank, 3001

Negligence contributing to forged signature or alteration of instrument. **3006**

Index-2

BANK DEPOSITS AND COLLECTIONS—Cont'd

Ordinary care

Damages for failure to exercise, 3002

Definitions, 3004

BATTERY

Assault and Battery, this index

BEHAVIOR OF CHILDREN

Negligence, duty to anticipate behavior of children, **604**

BELLS

Railroad crossing, duty to sound bell for, 1801

BOILERS

Safety Appliance and Boiler Inspection Acts, **Chapter 20**

BORROWED SERVANT

Employment, 707A

BREACH OF CONTRACT

Contracts, this index

BREACH OF FIDUCIARY DUTY

Malpractice and Breach of Fiduciary Duty, this index

BREACH OF UCC WARRANTY

UCC Sales Contracts, this index

BURDEN OF PROOF

Abuse of process, claim for damages based upon, **416**

Affirmative defenses, 206

Agent, 209

Assault and battery, claim for based upon, **417**, **418**

Attractive nuisance, 1109

Damages, claim for based on negligence, 203

Defenses, affirmative defenses, **206** Definitions

Burden of proof, 202

Preponderance of evidence, 202

Eminent domain, 2001

Imputed conduct, 207, 208

Independent contractor, 209

Insurance, this index

BURDEN OF PROOF—Cont'd

Intentional Torts, this index

Malicious prosecution, claim for damages based upon, **413**

Malpractice and Breach of Fiduciary

Duty, this index

Multiple claims, 205

Negligence

Claim for damages based on, 203

Complaint based on, 204

Counterclaim based on, 204

Fault, complaint and counterclaim based on, 204

Owners and occupiers of land, attractive nuisance, **1109**

Preponderance of evidence defined, 202

Products Liability, this index

Proximate cause, 503

Relationship admitted, 208

Standards of care, varying, 205

Uninsured or underinsured motorist coverage, 2301 to 2303

Varying standards of care, **205**

BUSINESS EXPECTANCY

Intentional torts, interference with business expectancy, 403, 404

CANCELLATION

Contracts, cancellation as defense, 2430

Franchise Practices Act, damages for cancellation, **2800**

CAPACITY OR INCAPACITY

Comparative fault, representative capacity, **2102**

Damages, loss of capacity to earn, 2207

CARETAKING

Damages, past and future caretaking expenses, 2209

CARRIERS

Common Carriers, this index Railroads, this index

CAUSE OF ACTION

Damages, this index

Proximate Cause, this index

CAUTIONARY INSTRUCTION

Additional cautionary instructions, closing instructions, **3502**

Introductory instructions, generally, 101

Recesses, duty of jury during, 102
Respective duties of judge and jury,
103

CHANGE

Modification, this index

CHILDREN OR MINORS

Agency, minor driver's parent as passenger, **706**

Anticipating behavior of children, duty as to, **604**

Damages, this index

Destruction of property by minor as willful or malicious, liability imposed by statute, **801**

Failure to sign license application, permitting minor under 18 to drive, **804**

Liability imposed by statute

Generally, **801** to **804**

Destruction of property by minor as willful or malicious, **801**

Malicious destruction of property by minor, **801**

Motor vehicles, below

Property, willful or malicious destruction by minor, **801**

Willful destruction of property by minor, **801**

Licenses. Motor vehicles, below Malicious destruction of property by minor, liability imposed by statute, **801**

Motor vehicles

Agency, minor driver's parent as passenger, **706**

Failure to sign license application, permitting minor under 18 to drive, **804**

Permitting minor to drive, liability imposed by statute, **802**, **804**

Responsibility of person signing application of child for operator's license, liability

CHILDREN OR MINORS—Cont'd

Motor vehicles—Cont'd imposed by statute, **803**

Negligence

Anticipating behavior of children, duty as to, **604**

Responsibility to control minor children, **605**

Ordinary care of minors, 304

Passenger, minor driver's parent as, 706

Permitting minor to drive, liability imposed by statute, **802**, **804**

Property, willful or malicious destruction by minor, **801**

Responsibility

Motor vehicles, responsibility of person signing application of child for operator's license, **803**

Negligence, responsibility to control minor children, **605**

Signatures. Motor vehicles, above Unmarried minor, damages for wrongful death, **2217**

Willful destruction of property by minor, liability imposed by statute, **801**

CIRCUMSTANTIAL EVIDENCE

Introductory instructions, 108

CLAIMS

Damages, this index

Intentional Torts, this index

Introductory instructions, separate rights of two or more claimants, 109

Malpractice and Breach of Fiduciary Duty, this index

Products liability, claims involving two or more theories of liability, 1013

CLOSING INSTRUCTIONS

Generally, 3501 to 3503

Additional cautionary instructions, 3502

Deadlocked jury, 3503

CLOTHING

Damages, 2229

COLLATERAL SOURCES

Damages, 2215

COLLISIONS

Motor Vehicles, this index

COMMON CARRIERS

Generally, 1701, 1702

Passengers, duty to, **1701, 1702**

Third persons, duty to protect passengers from, 1702

COMMON LAW

Rules of the Road, this index

COMPARATIVE FAULT

Animals, liability for dangerous animals, **1604**

Complaint, 2103 to 2107

Counterclaims, 2101, 2103 to 2107

Defenses, products liability, 1014

General verdict

Generally, 2101 to 2110

Complaint, 2103 to 2107

Counterclaims, 2101, 2103 to 2107

Imputed negligence, 2108 to 2110

Joint tortfeasors, 2108, 2110

Multiple claims, 2108 to 2110

Principal and agent

Complaints, 2104, 2106, 2107

Counterclaims, 2104

Representative capacity, plaintiff

suing in, **2102**

Imputed negligence, 2108 to 2110

Joint tortfeasors, 2108, 2110

Multiple claims, 2108 to 2110

Principal and agent. General verdict, above

Products liability, evidence, 1014

Representative capacity, 2102

Verdict. General verdict, above

COMPETENCY OR INCOMPETENCY

Employer's liability for employment of incompetent independent contractor, **709**

COMPLIANCE

National Electrical Safety Code, duty to comply with, **1403**

COMPOSITION

Contracts, more than one document, **2420**

CONCEALMENT

Deceptive trade practices, damages based on concealment of material fact, 2902

Fraudulent concealment to suspend running of statute of limitations, **211**

CONCERT, ACTING IN

Employment, 713

CONCURRING PROXIMATE CAUSE

Generally, 501, 502

CONDEMNATION

Eminent Domain, this index

CONDUCT

Imputed Conduct, this index Negligence, duty to anticipate behavior of children, **604**

Willful or Wanton Conduct, this index

CONFIRMATION

UCC sales contracts, additional terms in confirmation, **2505**

CONSENT OR APPROVAL

Informed consent. Malpractice and Breach of Fiduciary Duty, this index

Invasion of privacy, consent as defense, **424**

Malpractice and Breach of Fiduciary Duty, this index

Minor permitted to drive, liability imposed by statute, **802**, **804**

CONSEQUENTIAL DAMAGES

Contracts, 2443

CONSIDERATION

Contracts, consideration defined, **2406**

CONSORTIUM, LOSS OF

Damages, 2211

CONSPIRACY, CIVIL

Generally, 714

CONSTRUCTION OR INTERPRETATION

Contracts, this index

CONSTRUCTION WORK

Generally, **1201** to **1208**

Architect, standard of care, 1204 Contractor, standard of care, 1203 Definition of habitability, 1208 Duties

Highway contractor, duty to maintain safe passage, **1202**

Traveler with knowledge of construction activity, duty of care, 1201

Eminent domain, temporary construction easement, **2010**

Engineer, standard of care, 1204

Highway contractor, duty to maintain safe passage, 1202

Implied warranties of habitability, sound workmanship, and proper construction

Breach of warranty, generally, 1205

Definition of habitability, **1208**Exclusion or waiver of warranty, **1207**

Extension of warranty to subsequent purchaser, **1206**

Notice or knowledge, traveler with knowledge of construction activity, **1201**

Standard of care, 1203, 1204

Traveler with knowledge of construction activity, duty of care, 1201

CONTAGIOUS DISEASE

Malpractice and breach of fiduciary duty, duty to prevent spread of contagious disease, **1505**

CONTRACTORS

Construction work, standard of care, 1203

CONTRACTS

Generally, 2401 to 2445

Acceptance or rejection

Defenses, waiver of breach by acceptance of benefits, **2437**

Offer and acceptance, below

UCC Sales Contracts, this index

Accord and satisfaction as defense, **2431**

Ambiguity in language, 2412

Breach of contract, generally, **2401**

Cancellation as defense, 2430

Composition, more than one document, **2420**

Consequential damages, 2443

Consideration defined, 2406

Construction. Interpretation, below

Counteroffer, 2409

Course of dealing, interpretation of, 2416, 2418

Course of performance, interpretation of, **2415**

Custom in the trade, interpretation of, 2417, 2418

Damages

Generally, **2442**, **2443**

Consequential damages, 2443

Tacit agreement rule, 2443

Defenses

Generally, **2430 to 2441**

Acceptance of benefits, waiver of breach by, **2437**

Accord and satisfaction, 2431

Cancellation, 2430

Disabling illness, 2440

Duress, **2435**

Estoppel. Waiver or estoppel, below

Fraud in inducement, 2433

Impossibility of performance, 2439

Inducement, fraud in, 2433

Performance, prevention of, 2441

Prevention of performance, 2441

Release, 2432

Undue influence, 2434

Definitions

Consideration, 2406

Offer and acceptance, 2405

CONTRACTS—Cont'd	CONTRACTS—Cont'd
Definitions—Cont'd	Implied covenant of good faith and
Reasonably certain, 2407	fair dealing, 2426
Disabling illness as defense, 2440	Impossibility of performance as
Disputes, existence of contract, 2403	defense, 2439
Drafting contract, construction	Inducement, fraud in inducement as defense, 2433
against one who drafted	Interference with contractual relation-
contract, 2424	ship, intentional torts, 403 , 404
Duration of offer, 2408	Interpretation
Duress as defense, 2435	Generally, 2412 to 2424
Estoppel. Waiver or estoppel, below	Ambiguity in language, 2412
Existence of contract	Composition, more than one docu-
Generally, 2403	ment, 2420
UCC sales contracts, 2502	Construction against one who
Express contract, 2404	drafted contract, 2424
Express terms, interpretation of, 2418	Course of dealing, 2416 , 2418
Fair dealing, implied covenant of, 2426	Course of performance, 2415
Formation of contract	Custom in the trade, 2417 , 2418
Generally, 2401 to 2411	Drafting, construction against one
Acceptance. Offer and acceptance,	who drafted contract, 2424
below	Express terms, 2418 General provisions, 2421
Consideration defined, 2406	Language of contract interpreted as
Counteroffer, 2409	whole, 2419
Definitions	Ordinary meaning, 2413
Consideration, 2406	Performance, course of, 2415
Offer and acceptance, 2405	Preprinted forms, written or type-
Reasonably certain, 2407	written provisions control
Disputes, existence of contract,	provisions of, 2422
2403	Reasonable time, 2423
Duration of offer, 2408	Specific and general provisions,
Existence of contract, 2403	2421
Express contract, 2404	Time not expressed, 2423
Implied contract, 2404	Typewritten provisions control provisions of preprinted
Offer and acceptance, below	forms, 2422
Reasonably certain defined, 2407	Whole, language of contract
Third party beneficiary statute,	interpreted as, 2419
2410, 2411	Words or phrases of particular
UCC sales contracts, 2501	trade or occupation, 2414
Fraud in inducement as defense, 2433	Written provisions control provi-
General provisions, interpretation of, 2421	sions of preprinted forms, 2422
Good faith, implied covenant of, 2426	Language of contract interpreted as whole, 2419
Illustrative sets of instructions, basic	Modification
contract dispute, Chapter 36.IV	Generally, 2425
Implied contract 2404	LICC Sales Contracts this index

CONTRACTS—Cont'd CONTRACTS—Cont'd Offer and acceptance Time—Cont'd Reasonable time, interpretation of, Counteroffer, 2409 2423 Defined, 2405 Typewritten provisions control provi-Duration of offer, 2408 sions of preprinted forms, 2422 Formation of contract UCC Sales Contracts, this index Counteroffer, 2409 Undue influence as defense, 2434 Defined, 2405 Unjust enrichment, 2445 Duration of offer, 2408 Waiver or estoppel Ordinary meaning, **2413** Generally, 2436 to 2438 Performance or breach Acceptance of benefits, waiver of Generally, 2425 to 2429 breach by, 2437 Defenses, prevention of perfor-Whole, language of contract mance, 2441 interpreted as, 2419 Good faith and fair dealing, Words or phrases of particular trade implied covenant of, 2426 or occupation, interpretation of, Implied covenant of good faith and 2414 fair dealing, 2426 Written provisions control provisions Interpretation, course of perforof preprinted forms, 2422 mance, **2415** Modification of contract, 2425 CONTROL Substantial performance, 2428 Rules of the road, common law rules Tender, 2428 of the road, 901 UCC sales contracts, course of CONVERSION performance, 2511 Damages based upon conversion of Preprinted forms, written or typewritpersonal property, claim for, 425 ten provisions control provisions of, 2422 **COSTS AND EXPENSES** Prevention of performance as Damages, this index defense, 2441 Promissory estoppel, 2444, 2445 COUNTEROFFER Reasonable time, interpretation of, Contracts, 2409 2423 COURSE OF DEALING Reasonably certain defined, 2407 Contracts, interpretation of course of Rejection. Acceptance or rejection, dealing, 2416, 2418 above UCC Sales Contracts, this index Release as defense, 2432 Restitution implied in fact, 2445 **COURSE OF PERFORMANCE** Specific and general provisions, inter-Interpretation of course of perforpretation of, 2421 mance, 2415 Substantial performance, 2428 UCC sales contracts, 2511 Tacit agreement rule, damages, 2443 CREDIBILITY OF WITNESSES Tender, 2428 Introductory instructions, 105 Third party beneficiary statute, 2410, 2411 **CROPS** Time Damage to crops, 2226 Duration of offer, 2408 **CROSSINGS** Interpretation, time not expressed,

Railroads, this index

2423

CUSTODY AND CUSTODIANS

Animals, duty of custodian, 1601

CUSTOMS IN THE TRADE

Contracts, interpretation of custom in the trade, **2417**, **2418**

DAMAGE TO PROPERTY

Damages, this index

DAMAGES

Generally, 2201 to 2231

Abuse of process, claim for damages based upon, 416

Aggravation of pre-existing condition, **2203**

Assault and battery, claim for damages based upon, 417, 418

Bank Deposits and Collections, this index

Burden of proof, claim for damages based on negligence, 203

Capacity to earn, loss of, 2207

Caretaking expenses, past and future, 2209

Cause of action

Parent and child, 2212 to 2214 Wrongful death, 2216

Children. Parent and child, below Clothing or personal effects, 2229

Collateral sources, 2215

Consortium, loss of, 2211

Contracts, this index

Costs. Expenses, below

Crops, damage to, 2226

Damage to property. Property damage, below

Death. Wrongful death, below

Deceptive trade practices, 2900, 2902

Defamation, claim for damages based on, 407 to 410

Definitions

Fair market value, 2221

Present value, 2220

Destruction of improvements on realty, 2225

Disfigurement, results of injury, 2208

Duration of injury, 2202

Earnings

Capacity to earn, loss of, 2207

DAMAGES—Cont'd

Earnings—Cont'd

Past and future loss of, 2206

Eminent Domain, this index

Exemplary damages, 2218, 2218A

Expenses

Caretaking expenses, past and future, 2209

Medical expenses, past and future, 2204

Extent of injury, 2202

Fair market value defined, 2221

Franchise Practices Act, this index

Future matters

Caretaking expenses, 2209

Earnings or profits, loss of, 2206

Medical expenses, 2204

Mental anguish, 2205

Pain and suffering, 2205

Profits, loss of, 2206

General instruction, 2201

Improvements to real property, destruction of, 2225

Intentional Torts, this index

Invasion of privacy, claim for damages based upon, 420 to 423

Loss of consortium, 2211

Malicious prosecution, 413, 2231

Malpractice and Breach of Fiduciary Duty, this index

Measure of damages

Securities fraud, 2706

Trade secrets, misappropriation of, 2604

Medical expenses, past and future, 2204

Mental anguish, past and future, 2205

Mitigation of damages, real and personal property, 2230

Mortality tables, purpose of, 2219

Nature of injury, 2202

No salvage, 2228

Owners and occupiers of land, offpremises injuries, 1110

Pain and suffering, past and future, 2205

Parent and child

Cause of action, 2212 to 2214

DAMAGES—Cont'd	DAMAGES—Cont'd
Parent and child—Cont'd	Securities Fraud, this index
Wrongful death, unmarried minor,	
2217	Temporary damage to real property, 2224
Past	Time
Caretaking expenses, 2209	Duration of injury, 2202
Earnings, loss of, 2206	Future matters, above
Medical expenses, 2204	Prior matters. Past, above
Mental anguish, 2205	Real property, temporary damage
Pain and suffering, 2205	to, 2224
Profits, loss of, 2206	Trade secrets, misappropriation of,
Permanency	2600, 2604
Injury, permanency of, 2202	UCC Sales Contracts, this index
Real property, 2223	Unmarried minor, wrongful death,
Personal property	2217
Generally, 2227 to 2230	Value or valuation. Definitions, above
Clothing or personal effects, 2229	Vehicle, damage to, 2210
Conversion of personal property,	Visible results of injury, 2208
claim for damages based	Whistle-blowers, 3106
upon, 425	Wrongful death
General instruction, 2222	Cause of action, 2216
Mitigation of damages, 2230	Unmarried minor, 2217
No salvage, 2228	
Salvage, 2228	DANGER OR DANGEROUS CONDITIONS
Pre-existing condition, aggravation	Absolute liability, owners and
of, 2203	occupiers of land, 1108
Present value defined, 2220	Animals, this index
Prior matters. Past, above	Electricity, duty to warn of danger,
Profits, past and future loss of, 2206	1404
Property damage	Owners and occupiers of land, ultra-
Generally, 2222 to 2230	hazardous activities, 1108
Personal property, above	Railroads, duty to warn of
Real property, below	abnormally dangerous crossing,
Punitive damages, 2218, 2218A	1805
Real property	Unreasonably dangerous defined,
Crops, damage to, 2226	1017
Destruction of improvements on	DEADLOCKED JURY
realty, 2225	Closing instructions, 3503
General instruction, 2222	•
Improvements, destruction of,	DEATH
2225	Damages, this index
Mitigation of damages, 2230	Mortality tables, 2219
Permanency, 2223	DECEPTIVE TRADE PRACTICES
Repairable, 2224	Generally, 2900 to 2903
Temporary, 2224	Concealment of material fact, dam-
Repairs, real property, 2224	ages based on, 2902
Salvage, personal property, 2228	Damages, 2900 , 2902
Scars, results of injury, 2208	Definitions, 2901
,,,,	

DECEPTIVE TRADE PRACTICES

—Cont'd

False pretense, damages based on, 2902

Imputed liability, 2903

Omission of material fact, damages based on, 2902

Sale transactions, damages, 2902 Suppression of material fact, damages based on, 2902

DEFAMATION

Generally, 407 to 412

Claim for damages based on, 407 to 410

Damages, claim for based on defamation, **407 to 410**

Defamatory defined, 411

Definitions

Defamatory, 411

Published and publication, 412

Meetings, claim for damages based on defamation, 410

Official proceeding report, claim for damages based on defamation, 410

Private figure, claim for damages based on defamation, **407**, **410**

Public figures, claim for damages based upon defamation, **408**, **409**

Public meeting report, claim for damages based on defamation, **410**

Published and publication defined, 412

Qualified privilege, claim for damages based on defamation, **410**

Report of official proceeding or public meeting, claim for damages based on defamation, **410**

DEFAMATORY

Defined, 411

DEFENSES

Affirmative Defense, this index Animals, defenses, liability for dangerous, **1603**

Bank deposits and collections, failure to promptly notify, 3003

DEFENSES—Cont'd

Burden of proof, affirmative defenses, **206**

Construction work, waiver of implied warranties of habitability, sound workmanship, and proper construction, 1207

Contracts, this index

Disabling illness as defense, contracts, **2440**

Invasion of privacy, defense of consent, **424**

Malicious prosecution, advice of counsel, **415**

Negligence, this index

Products Liability, this index

Securities fraud, 2702

UCC sales contracts, exclusion or modification of implied warranties, **2514**

Whistle-blowers, 3105

DEFINITIONS

Agency, 701, 702

Assumption of risk, **306**

Bank Deposits and Collections, this index

Burden of Proof, this index

Contracts, this index

Damages, this index

Deceptive trade practices, 2901

Defamation, this index

Eminent Domain, this index

Employment, **701**, **702**, **712**

Fair market value, **2006**, **2221**

Fault, **301**

Fiduciary duty, 1513

Franchise Practices Act, this index

Good Faith, this index

Habitability, 1208

Intentional Torts, this index

Intoxication, 606

Negligence, 302

Ordinary care, 303

Partnership, 710

Probable cause, 414

Products Liability, this index

Proximate cause, 501, 503

Right of way, 909

DEFINITIONS—Cont'd

Securities fraud, 2703
Trade Secrets, this index
UCC Sales Contracts, this index
Willful or wanton conduct, 1101

DELIVERY

UCC Sales Contracts, this index

DENTISTS

Malpractice and Breach of Fiduciary Duty, this index

DESTRUCTION

Children or minors, destruction of property by minor as willful or malicious, **801**

Damages, destruction of improvements on realty, **2225**

Introductory instructions, destruction of evidence as intentional, **106**

DESTRUCTION OF EVIDENCE

Introductory instructions, destruction of evidence as intentional, **106**

DEVIATION

Agency, deviation from route, 704

DISABLING ILLNESS

Contracts, disabling illness as defense, 2440

DISCLOSURE

Invasion of privacy by public disclosure of private facts, claim for damages based upon, **422**

DISEASES

Malpractice and breach of fiduciary duty, duty to prevent spread of contagious diseases, **1505**

DISFIGUREMENT

Damages, results of injury, 2208

DISPUTES

Contract existence, 2403

DISTINCTIONS

Contracts, interpretation of words or phrases of particular trade or occupation, 2414

Definitions, this index

DISTINCTIONS—Cont'd

Owners and occupiers of land, distinction between trespasser or licensee and invitee. 1107

DRAFTING CONTRACT

Construction against one who drafted contract, **2424**

DRAM SHOP LIABILITY

Intoxicated persons, sales to, 1902 Minors, sales to, 1901

DURATION

Contracts, 2408

Contracts, lapse of offer, **2504** Damages, duration of injury, **2202** Offer, **2408**, **2504**

Statute of limitations, duration of suspension of running of, 212 UCC sales contracts, lapse of offer, 2504

DURESS

Contracts, duress as defense, 2435

DUTIES

Animals, duty of owner or custodian, 1601

Children, duty as to anticipating behavior of, **604**

Construction Work, this index Electricity, this index

Electricity, this index

Malpractice and Breach of Fiduciary Duty, this index

Ordinary care, duty to use, 305

Owners and Occupiers of Land, this index

Railroads, this index Warning Duty, this index

EARNINGS

Damages, this index

EASEMENTS

Eminent Domain, this index

ELECTRICITY

Generally, 1401 to 1405

Compliance, duty to comply with National Electrical Safety Code, 1403

Danger, duty to warn of, 1404

ELECTRICITY—Cont'd	EMINENT DOMAIN—Cont'd
Duties	Evidence—Cont'd
Inspection duties, 1401	Purchase price of property taken,
Installation duties, 1401	2012
Insulation duties, 1402	Fair market value
Isolation of electric wires, 1402	Definition, 2006
National Electrical Safety Code,	Factors to consider, 2008
duty to comply with, 1403	Owner's testimony, 2009
Repair duties, 1401	Highest and best use, definition, 2007
Warning of danger, 1404	Nature of action, 2001
Inspection duties, 1401	Owner's testimony, fair market value
Installation duties, 1401	2009
Insulation duties, 1402	Partial taking
Isolation of electric wires, duty as to, 1402	By entity other than sovereign, 2003, 2004
National Electrical Safety Code, duty	By sovereign, 2002
to comply with, 1403	Purchase price of property taken,
Repair duties, 1401	2012
Res ipsa loquitur, 1405	Temporary construction easement,
Warning of danger duty, 1404	2010
EMERGENCY VEHICLES	EMPLOYMENT
Rules of the Road, this index	Generally, 701 to 713
EMINENT DOMAIN	Acting in concert, 713
	Adverse action defined, 3102
Burden of proof, 2001	Agency, this index
Comparable properties, sales and leases of, 2011	Arkansas Whistle-blower Act, 3101
Complete taking, damages, 2005	At-will doctrine, 3107
Damages	Authority, scope of, 702
Complete taking, 2005	Borrowed servant, 707A
Easements, 2004	Concert, acting in, 713
Partial taking	Conspiracy, civil, 714
2	Damages, 3106
By entity other than sovereign, 2003, 2004	Defense, 3105
By sovereign, 2002	Definitions
Temporary construction easement,	Adverse action, 3102
2010	Employee, 701
Definitions	Good faith, 3103
Fair market value, 2006	Joint enterprise, 712
Highest and best use, 2007	•
Easements	Scope of employment, 702
	Waste, 3104
Damages, 2004	Good faith defined, 3103
Temporary construction easement, 2010	Handbook exception to at-will doctrine, 3107
Evidence	Incompetent independent contractor,
Burden of proof, 2001	liability of employer for
Comparable properties, sales and	employment of, 709
leases of. 2011	Independent Contractors, this index

EMPLOYMENT—Cont'd

Joint enterprise, definition and effect, 712

Negligent hiring, supervision, or retention of employee, liability of employer for, **709A**

Partnership, this index Scope of authority, **702**

Scope of employment, 702, 703

Vehicle of employer, employee driving, **703**

Waste defined, 3104

Whistle-blowers, 3101 to 3107

Wrongful termination, 3107

ENGINEERS AND ENGINEERING

Construction work, standard of care, **1204**

ENTRUSTMENT

Negligent entrustment, 608

EQUIPMENT

Machinery and Equipment, this index

ESTOPPEL

Waiver or Estoppel, this index

EVIDENCE

Burden of Proof, this index Circumstantial evidence, **108**

Comparative fault, 1014

Eminent Domain, this index

Introductory Instructions, this index

Negligence, this index

Ordinances, this index

Presumptions. Burden of Proof, this index

Rules of the road, violation of statute or ordinance as evidence of negligence, 903

UCC sales contracts, evidence of market price, **2528**

EXCLUSION

UCC sales contracts, exclusion of implied warranties as defense, **2514**

EXEMPLARY DAMAGES

Generally, 2218, 2218A

EXISTENCE

Contracts, this index

Partnership, tests of existence of relationship, **711**

EXPENSES

Damages, this index

EXPERIENCES

Introductory instructions, personal observations and experiences, 104

EXPERT WITNESSES

Introductory instructions, 107

EXPLOSIVES

Negligence in use of, 1301

EXPRESS CONTRACTS

Generally, 2404

EXPRESS TERMS

Interpretation of, 2418

EXPRESS WARRANTIES

Products liability, breach of express warranty, **1012**

UCC sales contracts, 2508

EXTENT OF INJURY

Damages, 2202

FAIR DEALING

Contracts, implied covenant of fair dealing, **2426**

FAIR MARKET VALUE

Defined, 2006, 2221

Eminent Domain, this index

FALSE LIGHT

Invasion of privacy, claim for damages based upon false light, **423**

FALSE PRETENSE

Deceptive trade practices, damages based on false pretense, **2902**

FAULT

Defined, 301

Nonparty fault, 307

FIDUCIARIES

Malpractice and Breach of Fiduciary Duty, this index

FIRST PARTY INSURANCE (MEDPAY DENIAL)

Illustrative sets of instructions, **Chapter 36.V**

FITNESS FOR PARTICULAR PURPOSE

Products liability, implied warranty of fitness for particular purpose, 1011

UCC sales contracts, implied warranty of fitness for particular purpose, 2513

FOOD

Products liability, food vendor's duty, 1007

FOREIGN OBJECT OR SUBSTANCE

Owners and occupiers of land, duty owed to admitted invitee, 1106

FORGERY

Bank deposits and collections, negligence contributing to forged signature, **3006**

FORMATION OF CONTRACT

Contracts, this index

FORWARD VEHICLE

Rules of the road, superior right of forward vehicle, **902**

FOUR-WAY STOP INTERSECTIONS

Rules of the road, right of way, 906

FRANCHISE

Defined, 2801

FRANCHISE PRACTICES ACT

Generally, **2800 to 2807**Assignment defined, **2807**Cancellation, damages for, **2800**Damages
Cancellation, damages for, **2800**

Misleading or fraudulent schemes in sale or purchase of

FRANCHISE PRACTICES ACT

-Cont'd

Damages—Cont'd franchise, **2806**

Renewal failure, damages for, **2800**

Termination, damages for, **2800** Unlawful practices of franchisors, **2805**

Definitions

Assignment, 2807 Franchise, 2801 Franchisee, 2803 Franchisor, 2803 Good cause, 2802 Good faith, 2804

Person, **2803**

Sales, **2807** Transfer, **2807**

Franchise defined, 2801

Franchisee defined, 2803

Franchisor defined, 2803

Fraudulent schemes in sale or purchase of franchise, damages for, **2806**

Good cause defined, 2802

Good faith defined, 2804

Misleading or fraudulent schemes in sale or purchase of franchise, damages for, **2806**

Person defined, 2803

Renewal failure, damages for, **2800** Sale

Damages based on misleading or fraudulent schemes in sale or purchase of franchise, **2806**

Defined, 2807

Termination, damages for, 2800

Transfer defined, 2807

Unlawful practices of franchisors, damages for, **2805**

FRANCHISEE

Defined, 2803

FRANCHISOR

Defined, 2803

FRAUD AND DECEIT

Concealment, this index

FRAUD AND DECEIT—Cont'd

Contracts, fraud in inducement as defense, 2433

Deceptive Trade Practices, this index Franchise Practices Act, damages for fraudulent schemes in sale or purchase of franchise, **2806**

Intentional torts, claim for damages based on fraud and deceit, 402

Securities Fraud, this index

Statute of limitations, fraudulent concealment to suspend running of, **211**

Trade practices. Deceptive Trade Practices, this index

FRAUD IN INDUCEMENT

Contracts, fraud in inducement as defense, 2433

FRAUDULENT CONCEALMENT

Statute of limitations, fraudulent concealment to suspend running of, **211**

FUTURE MATTERS

Damages, this index

GENERAL INSTRUCTION

Damages, **2201**

GENERAL PROVISIONS

Contracts, interpretation of general provisions, **2421**

GENERAL VERDICT

Comparative Fault, this index Concurring proximate cause, **502** Principal and agent. Comparative Fault, this index

Proximate cause, 502

GOOD CAUSE

Franchise Practices Act, good cause defined, **2802**

GOOD FAITH

Bank deposits and collections, 3005 Contracts, implied covenant of good faith, 2426

Definitions

Good faith, 2804, 3005, 3103

GOOD FAITH—Cont'd

Franchise Practices Act, good faith defined, 2804

Insurance, tort of bad faith by insurance company, 2304

Intentional Torts, this index

Whistle-blowers, good faith defined, 3103

GOODS

UCC sales contracts, acceptance of goods, **2517**

GRADE CROSSING

Railroads, this index

HABITABILITY

Implied warranty of habitability.

Construction Work, this index

HIGHWAYS, STREETS, AND BRIDGES

Construction work, highway contractor's duty to maintain safe passage, **1202**

Motor Vehicles, this index Rules of the Road, this index

HOSPITALS

Malpractice and breach of fiduciary duty, **1504**

ILLNESS

Sickness or Illness, this index

ILLUSTRATIVE SETS OF INSTRUCTIONS

Contract dispute, Chapter 36.IV

First party insurance (MedPay denial), **Chapter 36.V**

Malpractice, Chapter 36.III

Multiparty automobile collision, **Chapter 36.II**

Right-angle automobile collision, **Chapter 36.I**

IMPLIED CONTRACT

Generally, 2404

IMPLIED COVENANT

Contracts, implied covenant of good faith and fair dealing, **2426**

IMPLIED WARRANTY

Construction Work, this index Fitness for Particular Purpose, this index

Habitability, sound workmanship, and proper construction. Construction Work, this index Merchantability, this index Products Liability, this index UCC Sales Contracts, this index

IMPOSSIBILITY OF PERFORMANCE

Contracts, impossibility of performance as defense, **2439**

IMPROPER DELIVERY

UCC sales contracts, buyer's rights on improper delivery, **2515**

IMPROPRIETY

Interference with contractual relationship or business expectancy, **404**

IMPROVEMENTS

Damages for destruction to real property improvements, **2225**

IMPUTED CONDUCT

Burden of proof, **207**, **208**Independent contractors, **708**Malpractice and breach of fiduciary duty, **1503**

IMPUTED LIABILITY

Deceptive trade practices, 2903 Securities fraud, 2704, 2705

INCIDENTAL DAMAGES

UCC sales contracts, 2522, 2527

INCOMPETENCY

Competency or Incompetency, this index

INDEPENDENT CONTRACTORS

Generally, **707 to 709**Burden of proof, **209**Imputed conduct, **708**Incompetent independent contractor, liability of employer for employment of, **709**Inherently dangerous work, **708**

INDUCEMENT

Contracts, fraud in inducement as defense, **2433**

INFANTS

Children or Minors, this index

INFORMED CONSENT

Malpractice and Breach of Fiduciary Duty, this index

INFRINGEMENT

UCC sales contracts, implied warranty against infringements, **2512**

INHERENTLY DANGEROUS WORK

Independent contractors, 708

INSPECTION AND INSPECTORS

Electricity, inspection duties, **1401**Products liability, inspection duty of vendor, **1006**

Safety Appliance and Boiler Inspection Acts, **Chapter 20**

INSTALLATION

Electricity, installation duties, 1401

INSULATION

Electricity, insulation duties, 1402

INSURANCE

Generally, 2301 to 2305

Automobile insurance. Uninsured Motorist Coverage, this index

Bad faith by insurance company, 2304

Burden of proof

Tort of bad faith by insurance company, 2304

Uninsured or underinsured motorist coverage, 2301 to 2303

Valued policy law, claim for policy limit under, 2305

Illustrative sets of instructions,

Chapter 36.V

Motor vehicles. Uninsured Motorist Coverage, this index

Tort of bad faith by insurance company, 2304

INSURANCE—Cont'd

Uninsured or Underinsured Motorist Coverage, this index

Valued policy law, claim for policy limit under, 2305

INTENT

Evidence, intentional destruction of, 106

Torts. Intentional Torts, this index

INTENTIONAL TORTS

Generally, 401 to 425

Abuse of Process, this index

Assault and Battery, this index

Battery. Assault and Battery, this index

Burden of proof

Abuse of process, 416

Assault, 417

Battery, 418

Business expectancy, interference with, 403

Contractual relationship, interference with, **403**

Damages based upon intentional tort, generally, **419**

Deceit, claim for damages based on, **402**

Definition, interference with contractual relationship or business expectancy, **404**

Fraud and deceit, claim for damages based on, **402**

Impropriety, interference with contractual relationship or business expectancy, **404**

Interference with contractual relationship or business expectancy, **403**, **404**

Malicious prosecution, 413 Outrage, 401

Business expectancy, interference with, **403**, **404**

Claim for damages. Damages, below Contractual relationship, interference with, **403**, **404**

Conversion of personal property, claim for damages based upon, 425

INTENTIONAL TORTS—Cont'd

Damages

Abuse of process, 416

Actual damages, 419

Assault, 417

Battery, 418

Burden of proof, above

Conversion of personal property, **425**

Conversion of personal property, claim for damages based upon, **425**

Defamation, 407, 408, 409, 410

Invasion of privacy, **420**, **421**, **422**,

Malicious prosecution, 413

Defamation, this index

Definitions

Defamatory, 411

Improper, 404

Interference with contractual relationship or business expectancy, **404**

Probable cause, 414

Published and publication, 412

Fraud and deceit, claim for damages based on, **402**

Impropriety, interference with contractual relationship or business expectancy, **404**

Interference with contractual relationship or business expectancy, 403, 404

Invasion of Privacy, this index

Malicious Prosecution, this index

Outrage, burden of proof, 401

Personal property, claim for damages based upon conversion of, **425**

Privacy. Invasion of Privacy, this index

INTERFERENCE

Intentional torts, interference with contractual relationship or business expectancy, **403**, **404**

INTERPRETERS

Introductory instructions, 111

INTERROGATORIES

Multiple defendants, nonparties involved, **307A**Submission of case on interrogatories. **201**

INTERSECTIONS

Right of Way, this index

INTERVENTION

Proximate cause, intervening proximate cause, **503**

INTOXICATION

Definition, **606**Dram Shop Liability, this index
Negligence
Generally, **607**Definition, **606**

INTRODUCTORY INSTRUCTIONS

Cautionary Instruction, this index Circumstantial evidence, **108** Claimants, separate rights of two or more, **109**

Credibility of witnesses, 105
Defendants, separate rights of two or more, 110

Destruction of evidence as intentional, 106

Evidence

Circumstantial evidence, 108 Intentional destruction or suppression of, 106

Experiences, personal observations and, **104**

Expert witnesses, 107

Intentional destruction of evidence, 106

Interpreters, 111

Judge, respective duties of, 103
Observations, personal experiences and, 104

Overview of the trial, 101A

Personal observations and av

Personal observations and experiences, 104

Recesses, duty of jury during, 102
Respective duties of judge and jury,
103

Separate rights of two or more claimants or defendants, **109**, **110**

INTRODUCTORY INSTRUCTIONS

-Cont'd

Suppression of evidence, **106** Witnesses, this index

INVASION OF PRIVACY

Generally, 420 to 424

Appropriation, claim for damages based upon invasion of privacy by, **421**

Claim for damages based upon invasion of privacy, **420 to 423**

Consent as defense, 424

Damages, claim for damages based upon invasion of privacy, **420 to 423**

Defense of consent, 424

Disclosure, claim for damages based upon invasion of privacy by public disclosure of private facts, **422**

False light invasion of privacy, claim for damages based upon, **423**

Private facts, claim for damages based upon invasion of privacy by public disclosure of, **422**

Public disclosure of private facts, claim for damages based upon invasion of privacy by, **422**

Seclusion, claim for damages based upon invasion of privacy by intrusion upon, **420**

INVITEE

Owners and Occupiers of Land, this index

ISOLATION

Electric wires, duty as to duty as to isolation of, **1402**

JOINT ENTERPRISE

Definition and effect, 712

JUDGES

Introductory instructions, respective duties of judges, 103

LANDLORD AND TENANT

Owners and occupiers of land, landlord's duty of care to repair or maintain property, **1105**

LANGUAGE

Contract language interpreted as whole, 2419

LIABILITY

Children or Minors, this index Concurring proximate cause, **502** Imputed Liability, this index Proximate cause, concurring, **502** Statutes, generally, **801 to 804** Statutory Liability, this index

LIBEL OR SLANDER

Defamation, this index

LICENSES

Children or Minors, this index Owners and Occupiers of Land, this index

LIMITATIONS OR RESTRICTIONS

Statute of Limitations, this index UCC sales contracts, limitation of remedies for breach of warranty, **2529**

LISTENING DUTY

Railroads, listening duty of motorist at grade crossings, **1804**

LOOK AND LISTEN DUTY

Railroads, look and listen duty of motorist at grade crossings, 1804

LOOKOUT

Railroads, duty to keep lookout, **1802**Rules of the road, common law rules
of the road, **901**

LOSS OF CONSORTIUM

Damages, 2211

MACHINERY AND EQUIPMENT

Safety Appliance and Boiler Inspection Acts, **Chapter 20**

MAINTENANCE

Repairs, this index

MALICE

Children or minors, malicious destruction of property by minor, **801**

Prosecution. Malicious Prosecution, this index

MALICIOUS PROSECUTION

Generally, 413 to 415

Advice of counsel, defense of acting upon, 415

Attorney, defense of acting upon advice of, **415**

Burden of proof, claim for damages based upon malicious prosecution, 413

Claim for damages based upon malicious prosecution, 413

Damages, 413, 2231

Defense, advice of counsel, **415**Definition of probable cause, **414**Probable cause defined, **414**

MALPRACTICE AND BREACH OF FIDUCIARY DUTY

Generally, 1501 to 1513

Attorney negligence, 1510, 1511

Burden of proof

Informed consent, claim for damages based on, **1507**

Medical injury, claim for damages based on, **1506**

Claim for damages. Damages, below Contagious disease, duty to prevent spread of, **1505**

Damages

Breach of fiduciary duty, claim for damages based upon, **1512**

Informed consent, claim for damages based on, 1507

Medical injury, claim for damages based on, **1506**

Definition, fiduciary duty, **1513** Dentists

Generally, 1501

Referring dentist, duty of, 1502

Diseases, duty to prevent spread of contagious, 1505

Hospital, duty of, 1504

Index-20

MALPRACTICE AND BREACH OF FIDUCIARY DUTY—Cont'd

Illustrative sets of instructions,

Chapter 36.III

Imputed conduct, 1503

Informed consent

Duty to obtain, 1508

Medical injury, claim for damages based on, **1506**

Negligence, claim for damages based on informed consent, 1507

Proximate cause, 1509

Medical care or treatment

Generally, 1501

Claim for damages based on medical injury, **1506**

Contagious disease, duty to prevent spread of, **1505**

Dentists, above

Hospital, duty of, 1504

Nursing home, duty of, 1504

Physicians and surgeons, below Sanitarium, duty of, **1504**

Negligence

Attorney negligence, **1510**, **1511** Informed consent, claim for damages based on, **1507**

Nursing home, duty of, 1504

Physicians and surgeons

Generally, 1501

Referring physician and surgeon, duty of, **1502**

Proximate cause

Attorney negligence, 1511

Informed consent, 1509

Referring physician, surgeons or dentist, duty of, **1502**

Relationship undisputed, definition of fiduciary duty, **1513**

Sanitarium, duty of, 1504

Undisputed relationship, definition of fiduciary duty, **1513**

MANUFACTURERS AND MANUFACTURING

Products Liability, this index

MARKETS AND MARKETING

Fair market value defined, 2221

MARKETS AND MARKETING

-Cont'd

UCC sales contracts, evidence of market price, 2528

MATERIAL FACT

Deceptive trade practices, damages based on concealment, suppression, or omission of material fact in sale transaction, **2902**

MEASURE OF DAMAGES

Damages, this index

MEDICAL CARE OR TREATMENT

Malpractice and Breach of Fiduciary Duty, this index

MEDICAL EXPENSES

Damages for medical expenses past and future, 2204

MEETINGS

Defamation, claim for damages based on, **410**

MENTAL ANGUISH

Damages for mental anguish past and future, 2205

MERCHANT

Defined, 2506

MERCHANTABILITY

Products liability, implied warranty of merchantability, **1010**

UCC sales contracts, implied warranty of merchantability, **2509**

MINORS

Children or Minors, this index

MISAPPROPRIATION

Trade Secrets, this index

MISLEADING OR FRAUDULENT SCHEMES

Franchise Practices Act, damages for misleading or fraudulent schemes in sale or purchase of franchise, 2806

MITIGATION OF DAMAGES

Personal injuries, 2214

MITIGATION OF DAMAGES —Cont'd

Real and personal property, 2230

MODIFICATION

Contracts, this index

MORTALITY TABLES

Damages, purpose of mortality tables, 2219

MOTOR VEHICLES

Agency, this index

Automobile insurance. Uninsured Motorist Coverage, this index Children or Minors, this index

Collisions

Multiparty automobile collision, illustrative sets of instructions, **Chapter 36.II**

Right-angle automobile collision, illustrative sets of instructions, **Chapter 36.I**

Damage to vehicle, 2210

Emergency vehicles. Rules of the Road, this index

Employee driving vehicle of employer, **703**

Forward vehicle, superior right of, **902**

Insurance. Uninsured Motorist Coverage, this index

Multiparty automobile collision, illustrative sets of instructions,

Chapter 36.II

Passengers, this index

Right-angle automobile collision, illustrative sets of instructions,

Chapter 36.I

Rules of the Road, this index Uninsured Motorist Coverage, this index

MULTIPARTIES

Automobile collision, illustrative sets of instructions, **Chapter 36.II**

Negligence, fault and ordinary care, illustrative interrogatories, **307A**

MULTIPLE CLAIMS

Burden of proof, 205

NATIONAL ELECTRICAL SAFETY CODE

Duty to comply with, 1403

NEGLIGENCE

Generally, **601 to 612**

Act of God, 611

Addition or additional matters, res ipsa loquitur in addition to specified acts of negligence, **610**

Alcoholic beverages. Intoxication, this index

Anticipation, duty to anticipate behavior of children, **604**

Attempted rescue, 612

Bank deposits and collections, negligence contributing to forged signature or alteration of instrument, 3006

Behavior of children, duty to anticipate, **604**

Burden of Proof, this index Children or Minors, this index

Comparative Fault, this index

Defenses, generally, 601 to 612 Defined, 302

Definitions, intoxication, 606

Employment, negligent hiring, supervision, or retention of employee, **709A**

Entrustment, negligent, 608

Evidence of negligence

Rules of the road, violation of statute or ordinance as evidence of negligence, **903**

Violation of statute or ordinance as, **601**

Explosives, use of, 1301

Intoxication, this index

Malpractice and Breach of Fiduciary Duty, this index

Minors. Children or Minors, this index

Obey laws, right to assume others will, **602**

Ordinances, this index

Ordinary care, right to assume others will use, **602**

NEGLIGENCE—Cont'd

Presumptions, no presumption of fault from happening of injury, 603

Products Liability, this index

Res Ipsa Loquitur, this index

Rescue attempted, 612

Responsibility to control minor children, **605**

Rules of the road, violation of statute or ordinance as evidence of negligence, 903

Statutes, violation of as evidence of negligence, **601**

Violation of statute or ordinance as evidence of negligence, **601**

NO SALVAGE

Damages, 2228

NONACCEPTANCE

UCC sales contracts, damages for nonacceptance by buyer, **2524**

NONDELIVERY

UCC sales contracts, damages for nondelivery, **2519**

NOTICE OR KNOWLEDGE

Bank deposits and collections, failure to promptly notify, 3003

Construction activity, traveler with knowledge of, 1201

NUISANCES

Owners and occupiers of land, attractive nuisance, 1109

NURSING HOME

Malpractice and breach of fiduciary duty, **1504**

OBEDIENCE

Negligence, right to assume others will obey laws, **602**

OBSERVATIONS

Introductory instructions, personal experiences and observations, 104

OCCUPIERS OF LAND

Owners and Occupiers of Land, this index

OFFER AND ACCEPTANCE

Contracts, this index
Duration, **2408**Lapse of offer, **2504**UCC Sales Contracts, this index

OFFICIAL PROCEEDINGS

Defamation, claim for damages based on official proceeding report, 410

OFF-PREMISES INJURIES OR DAMAGES

Owners and occupiers of land, 1110

OMISSION OF MATERIAL FACT

Deceptive trade practices, damages, 2902

ORDINANCES

Negligence, violation of as evidence of, generally, **601**

Rules of the road, violation of ordinance as evidence of negligence, **903**

ORDINARY CARE

Bank Deposits and Collections, this index

Defined, 303, 3004

Duty to use, 305

Minors, ordinary care of, 304

Negligence, right to assume others will use ordinary care, **602**

Rules of the road, 912

ORDINARY MEANING

Contracts, 2413

OUTRAGE

Intentional torts, burden of proof, 401

OWNERS AND OCCUPIERS OF LAND

Generally, 1101 to 1110

Absolute liability, ultrahazardous activities, 1108

Attractive nuisance, burden of proof, 1109

Burden of proof, attractive nuisance, 1109

Damages, off-premises injuries or, 1110

OWNERS AND OCCUPIERS OF LAND—Cont'd

Definitions, willful or wanton conduct, 1101

Distinction between trespasser or licensee and invitee, duty owed to each, 1107

Duties

Distinction between trespasser or licensee and invitee, 1107

Foreign object or substance, duty owed to admitted invitee, 1106

Invitee, below

Landlord's duty of care to repair and maintain property, 1105

Licensee, below

Off-premises injuries or damages, 1110

Trespasser, below

Eminent domain, owner's testimony of fair market value, 2009

Foreign object or substance, duty owed to admitted invitee, 1106 Invitee

Distinction between trespasser or licensee and invitee, duty owed to each, 1107

Duty owed to, generally, 1104 Foreign object or substance, duty

owed to admitted invitee,

1106

Landlord's duty of care to repair and maintain property, 1105

Licensee

Distinction between trespasser or licensee and invitee, duty owed to each, 1107

Duty owed to, generally, 1103 Nuisances, attractive nuisance, 1109 Off-premises injuries or damages, 1110

Trespasser

Distinction between trespasser or licensee and invitee, duty owed to each, 1107

Duty owed to, generally, 1102 Ultrahazardous activities, absolute liability, 1108

OWNERS AND OCCUPIERS OF LAND—Cont'd

Willful or wanton conduct, definition, 1101

OWNERSHIP

Title and Ownership, this index

PAIN AND SUFFERING

Damages for past and future, 2205

PARENT AND CHILD

Children or Minors, this index

PARTNERSHIP

Generally, 710, 711

Definition, 710

Existence of relationship, tests of, 711

Tests of existence of relationship, 711

PASSENGERS

Agency, passenger in vehicle, 705, 706

Common carriers' duty to, 1701, 1702

Rules of the road, duty to use ordinary care, 912

PAST

Damages, this index

PEDESTRIANS

Rules of the road, common right to use streets and highways, 911

PERFORMANCE OR BREACH

Contracts, this index

Course of Performance, this index

PERMANENCY

Damages, this index

PERMISSION

Consent or Approval, this index

PERSON

Franchise Practices Act, person defined, 2803

PERSONAL OBSERVATIONS AND **EXPERIENCES**

Introductory instructions, 104

PERSONAL PROPERTY

Damages, this index

PHYSICIANS AND SURGEONS

Malpractice and Breach of Fiduciary Duty, this index

PRE-EXISTING CONDITION

Damages, aggravation of pre-existing condition, 2203

PREPONDERANCE OF EVIDENCE

Defined, 202

PREPRINTED FORMS

Contracts, written or typewritten provisions control provisions of preprinted forms, **2422**

PRESENT VALUE

Defined, 2220

PRESUMPTIONS

Burden of Proof, this index Negligence, no presumption of fault from happening of injury, **603**

PREVENTION

Contracts, prevention of performance as defense, **2441**

PRICE

Eminent domain, purchase price of property taken, 2012
UCC Sales Contracts, this index

PRINCIPAL AND AGENT

Agency, this index

PRINTED FORMS

Contracts, written or typewritten provisions control provisions of preprinted forms, **2422**

PRIOR MATTERS

Damages, this index

PRIVACY

Invasion of Privacy, this index

PRIVATE FIGURE

Defamation, claim for damages based on, **407**, **410**

PROBABLE CAUSE

Defined, 414

PROCESS

Abuse of Process, this index

PRODUCTS LIABILITY

Generally, 1001 to 1017

Burden of proof

Fitness for particular purpose, implied warranty of, **1011** Merchantability, implied warranty of, **1010**

Strict liability in tort, 1008 Claims involving two or more theo-

ries of liability, **1013**Comparative fault, evidence, **1014**Compliance with law, **1015**

Defective condition defined, **1016**Defenses

Comparative fault, **1014**Unavoidably unsafe products, **1009**

Definitions

Defective condition, 1016
Unreasonably dangerous, 1017
Express warranty, breach of, 1012
Fitness for particular purpose,
implied warranty of, 1011
Food vendor's duty, 1007
Implied warranty. Warranty, below
Inspection duty of vendor, 1006

Manufacturers and manufacturing Generally, 1001 to 1004 Duty, generally, 1001 Instruction duty, 1003 Vendor assuming role of manufacturer, 1004

Warning duty of manufacturer, 1002

Merchantability, implied warranty of, 1010

Strict liability in tort, 1008 Unavoidably unsafe products, defenses, 1009

Unreasonably dangerous defined, **1017**

Vendors

Food vendor's duty, **1007**Inspection duty of vendor, **1006**Warning duty of vendor, **1005**Warning duty of vendor, **1005**

PRODUCTS LIABILITY—Cont'd

Warranty

Burden of proof, above
Express warranty, breach of, **1012**Fitness for particular purpose,
implied warranty of, **1011**Merchantability, implied warranty
of, **1010**

PRODUCTS LIABILITY, WARNING DUTY OF VENDOR

Electricity, warning of danger duty, 1404

PROFITS

Damages, past and future loss of profits, **2206**

PROMISSORY ESTOPPEL

Contracts, 2444, 2445

PROPERTY

Children or minors, willful or malicious destruction by minor, **801**

Damage to property. Damages, this index

Personal property. Damages, this index

Real Property, this index

PROPERTY DAMAGE

Damages, this index

PROSECUTION

Malicious Prosecution, this index

PROXIMATE CAUSE

Generally, **501 to 503**

Burden of proof, 503

Concurring proximate cause, **501**, **502**

Definition, 501, 503

General verdict, concurring proximate cause, **502**

Intervening proximate cause, 503

Liability, concurring proximate cause, **502**

Malpractice and Breach of Fiduciary Duty, this index

Verdict, concurring proximate cause, **502**

PUBLIC DISCLOSURE

Invasion of privacy by public disclosure of private facts, claim for damages based upon, **422**

PUBLIC FIGURES

Defamation, claim for damages based upon, **408**, **409**

PUBLIC MEETING REPORT

Defamation, claim for damages based on, **410**

PUBLISHED AND PUBLICATION

Defined, 412

PUNITIVE DAMAGES

Generally, 2218, 2218A

QUALIFIED PRIVILEGE

Defamation, claim for damages based on, **410**

RAILROADS

Generally, 1801 to 1805

Abnormally dangerous crossing, duty to warn, **1805**

Bell, duty to sound bell for crossing, **1801**

Crossings. Grade crossing, below Duty

Crossing, duty to sound bell or whistle for, **1801**

Lookout, duty to keep, 1802

Warning duty, below

Grade crossing

Abnormally dangerous crossing, duty to warn, **1805**

Bell or whistle, duty to sound for crossing, **1801**

Look and listen duty of motorist, 1804

Listening duty of motorist at grade crossings, 1804

Look and listen duty of motorist at grade crossings, 1804

Lookout, duty to keep, 1802

Speed of train, 1803

Warning duty

Abnormally dangerous crossing, duty to warn, **1805**

RAILROADS—Cont'd

Warning duty—Cont'd
Bell or whistle, duty to sound for crossing, **1801**

Whistle, duty to sound whistle for crossing, **1801**

REAL PROPERTY

Damages, this index Eminent Domain, this index Owners and Occupiers of Land, this index

REASONABLENESS

Contracts, interpretation of reasonable time, 2423

REASONABLY CERTAIN

Defined, 2407

RECESSES

Duty of jury during, 102

REFERRALS

Malpractice, duty of referring physician, surgeons or dentist, **1502**

REJECTION

Acceptance or Rejection, this index

RELATIONSHIPS

Burden of proof, relationship admitted. 208

Malpractice and breach of fiduciary duty, relationship undisputed, 1513

RELEASE

Contracts, release as defense, 2432

REMEDIES

UCC Sales Contracts, this index

RENEWAL

Franchise Practices Act, damages for renewal failure, **2800**

REPAIRS

Electricity, repair duties, **1401**Landlord's duty of care to repair and maintain property, **1105**Real property, damages, **2224**

REPORTS

Official proceeding report, claim for damages based on defamation, 410

REPUDIATION

UCC sales contracts, damages for repudiation by buyer, **2524**

RES IPSA LOQUITUR

Addition to specified acts of negligence, **610**

Electricity, 1405

Negligence

Generally, 609

Addition to specified acts of negligence, **610**

RESALE

UCC sales contracts, damages for resale of goods, **2526**

RESCUE

Negligence, attempted rescue, 612

RESPECTIVE DUTIES OF JUDGE AND JURY

Introductory instructions, 103

RESPONSIBILITY

Children or Minors, this index

RESTITUTION IMPLIED IN FACT

Contracts, 2445

RESTRICTIONS

Limitations or Restrictions, this index

REVOCATION OR SUSPENSION

Statute of Limitations, this index UCC Sales Contracts, this index

RIGHT OF WAY

Generally, 904 to 909

Acquisition, 909

Definitions, 909

Four-way stop intersections, **906**Rules of the road, generally, **904 to 909**

Signal light intersection, 907

Stop intersection

Generally, 905

Four-way stop intersections, 906

RIGHT OF WAY—Cont'd

Uncontrolled intersections, **904** Use, **909**

Yield intersection, 908

RIGHT-ANGLE AUTOMOBILE COLLISION

Illustrative sets of instructions, **Chapter 36.I**

ROUTE

Agency, deviation from route, 704

RULES OF THE ROAD

Generally, 901 to 914

Acquisition, right of way, 909

Common law rules of the road, generally, **901**

Control, common law rules of the road, **901**

Definitions, right of way, 909

Emergency vehicles

Duty of drivers of other vehicles, 914

Special privileges, 913

Evidence of negligence, violation of statute or ordinance as, 903

Forward vehicle, superior right of, 902

Four-way stop intersections, right of way, **906**

Lookout, common law rules of the road, **901**

Negligence, violation of statute or ordinance as evidence of, 903

Ordinance, violation of as evidence of negligence, 903

Ordinary care, passenger, 912

Passenger, duty to use ordinary care, 912

Pedestrians, common right to use streets and highways, **911**

Right of Way, this index

Signal light intersection, right of way, **907**

Special privileges, emergency vehicles, **913**

Speed, common law rules of the road, **901**

RULES OF THE ROAD—Cont'd

Statute, violation of statute as evidence of negligence, **903**

Stop intersection. Right of Way, this index

Superior right of forward vehicle, 902

Uncontrolled intersections, right of way, 904

Unsafe vehicle, operation of, **910** Use

Pedestrians and motorists, common right to use streets and highways, 911

Right of way, 909

Yield intersection, right of way, 908

SAFETY

Rules of the road, operation of unsafe vehicle, **910**

SAFETY APPLIANCE AND BOILER INSPECTION ACTS

Generally, Chapter 20

SALES

Deceptive trade practices, damages, **2902**

Dram Shop Liability, this index Eminent domain, sales of comparable properties, **2011**

Franchise Practices Act, this index Implied warranties of habitability, sound workmanship, and proper construction in sale of house. Construction Work, this index

Intoxicating liquors. Dram Shop Liability, this index

UCC Sales Contracts, this index

SALVAGE

Damages, no salvage, 2228

SANITARIUM, DUTY OF

Malpractice and breach of fiduciary duty, **1504**

SCARS

Damages, results of injury, 2208

SCOPE OF AUTHORITY

Employment, 702

SCOPE OF EMPLOYMENT

Employment, 702, 703

SECLUSION

Invasion of privacy by intrusion upon seclusion, claim for damages based upon, **420**

SECURITIES

Fraud and deceit. Securities Fraud, this index

SECURITIES FRAUD

Generally, 2700 to 2706

Damages

Generally, **2700**, **2701** Measure of damages, **2706**

Defenses, 2702

Definitions, 2703

Imputed liability, 2704, 2705

Measure of damages, 2706

SEPARATE RIGHTS

Introductory instructions, separate rights of two or more, **109**, **110**

SICKNESS OR ILLNESS

Contagious diseases, duty to prevent spread of, **1505**

Contracts, disabling illness as defense, 2440

SIGNAL LIGHTS

Rules of the road, right of way, 907

SIGNATURE

Bank deposits and collections, negligence contributing to forged signature, 3006

Children or Minors, this index

SPECIAL PRIVILEGES

Emergency vehicles, rules of the road, **913**

SPECIFICITY

Contracts, interpretation of specific and general provisions, **2421**

SPEED

Railroads, speed of train, **1803** Rules of the road, **901**

STANDARD OF CARE

Burden of proof, varying standards of care, 205

Construction work, 1203, 1204

STATUTE OF LIMITATIONS

Duration of suspension of running of, 212

Fraudulent concealment to suspend running of, **211**

STATUTES

Automobiles. Children or Minors, this index

Children or Minors, this index

Liability, generally, 801 to 804

Limitation of actions. Statute of Limitations, this index

Motor vehicles. Children or Minors, this index

Negligence, violation of statute as evidence of, **601**

Rules of the road, violation of statute as evidence of negligence, 903

Willful or malicious destruction of property by minor, **801**

STOP INTERSECTION

Right of Way, this index

STRICT LIABILITY IN TORT

Products liability, 1008

SUBMISSION

Interrogatories, submission of case on, **201**

SUBSTANTIAL PERFORMANCE

Contracts, 2428

SUPERIOR RIGHT OF FORWARD VEHICLE

Rules of the road, 902

SUPPRESSION OF EVIDENCE

Introductory instructions, 106

SUPPRESSION OF MATERIAL

FACT

Deceptive trade practices, damages, 2902

SUSPENSION

Revocation or Suspension, this index

TACIT AGREEMENT RULE

Contracts, damages, 2443

TEMPORARY MATTERS

Eminent domain, temporary construction easement, **2010**Real property, temporary damage to, **2224**

TENDER

Contracts, 2428

TERMINATION

Franchise Practices Act, damages for termination, 2800

TESTS OR TESTING

Partnership, tests of existence of relationship, **711**

THIRD PARTY

Contracts, third party beneficiary statute, **2410**, **2411**

THIRD PERSONS

2224

Common carriers' duty to protect passengers from, 1702

TIME

Contracts, this index
Damages, this index
Future matters. Damages, this index
Past. Damages, this index
Real property, temporary damage to,

TITLE AND OWNERSHIP

Agency, owner of vehicle as passenger, **705**

Animals, duty of owner, 1601

Realty. Owners and Occupiers of Land, this index

UCC sales contracts, implied warranty of title, **2512**

TORTS

Intentional Torts, this index

TRADE

Deceptive Trade Practices, this index Secrets. Trade Secrets, this index

TRADE SECRETS

Generally, 2600 to 2604

TRADE SECRETS—Cont'd

Damages, misappropriation of trade secrets, **2600**, **2604**

Definitions

Misappropriation, **2601** Trade secret, **2602**

Measure of damages, misappropriation of trade secrets, **2604**

Misappropriation of trade secrets

Damages, 2600, 2604

Defined, 2601

Measure of damages, 2604

TRANSFER

Franchise Practices Act, transfer defined, **2807**

TRAVELER

Construction activity, duty of care of traveler with knowledge of, 1201

TRESPASSER

Owners and Occupiers of Land, this index

TYPEWRITTEN PROVISIONS

Contracts, typewritten provisions control provisions of preprinted forms, 2422

UCC SALES CONTRACTS

Generally, 2501 to 2529

Acceptance or rejection

Generally, 2503

Additional terms in acceptance or confirmation, **2505**

Breach of warranty, accepted goods, **2520**

Damages, below

Goods, acceptance of, 2517

Rejection of goods, generally, **2516**

Revocation of acceptance, 2518

Action for price, damages, 2525

Additional terms in acceptance or confirmation, **2505**

Breach of UCC warranty. Warranties, below

Confirmation, additional terms in, **2505**

Index-30

UCC SALES CONTRACTS—Cont'd	UCC SALES CONTRACTS—Cont'd
Course of dealing	Implied warranties—Cont'd
Generally, 2511	Infringements, implied warranty
Implied warranty from course of	against, 2512
dealing, 2510 Course of performance, 2511	Merchantability, implied warranty of, 2509
Damages	Title, implied warranty of, 2512
Breach of warranty, accepted goods, 2520	Improper delivery, buyer's rights on, 2515
Incidental damages, 2522 , 2527	Incidental damages, 2522, 2527
Market price, proof of, 2528	Infringements, implied warranty
Nonacceptance by buyer, 2524	against, 2512
Nondelivery, damages for, 2519	Lapse of offer, 2504
Price, below	Limitation of remedies for breach of warranty, 2529
Proof of market price, 2528	Market price, proof of, 2528
Rejection, damages for, 2519	Merchant defined, 2506
Repudiation by buyer, 2524 Resale of goods, 2526	Merchantability, implied warranty of, 2509
Revocation, damages for, 2519	Modification
Defense, exclusion or modification of implied warranties, 2514	Defense, modification of implied warranties as, 2514
Definitions	Remedies for breach of warranty,
Course of dealing, 2511	modification of, 2529
Merchant, 2506	Nonacceptance by buyer, damages
Usage of trade, 2511	for, 2524
Delivery	Nondelivery, damages for, 2519
Damages for nondelivery, 2519	Offer
Improper delivery, buyer's rights on, 2515	Generally, 2503
Evidence of market price, damages,	Acceptance or rejection, above
2528	Lapse of offer, 2504
Exclusion of implied warranties as	Performance, course of performance, 2511
defense, 2514	Price
Existence of contract, 2502	Action for price, damages, 2525
Express warranties, 2508	Damages
Fitness for particular purpose,	Action for price, 2525
implied warranty of, 2513	Market price, proof of, 2528
Formation, 2501	Proof of market price, damages,
Goods, acceptance of, 2517	2528
Implied warranties	Proof of market price, damages, 2528
Course of dealing or usage of	Rejection. Acceptance or rejection,
trade, implied warranty from,	above
2510	Remedies
Defense, exclusion or modification of implied warranties, 2514	Limitation or modification of remedies for breach of warranty, 2529
Fitness for particular purpose, implied warranty of, 2513	Seller's remedies, generally, 2523
	senerally, zero

UCC SALES CONTRACTS—Cont'd

Repudiation by buyer, damages for, 2524

Resale of goods, damages for, **2526** Revocation

Acceptance, revocation of, **2518** Damages for, **2519**

Seller's remedies, generally, **2523** Title, implied warranty of, **2512**

Usage of trade

Generally, 2511

Implied warranty from usage of trade. **2510**

Warranties

Breach of UCC warranty, generally, **2507**

Damages for accepted goods, breach of warranty, **2520**

Express warranties, 2508

Implied warranties, above

Limitation or modification of remedies for breach of warranty, **2529**

ULTRAHAZARDOUS ACTIVITIES

Owners and occupiers of land, absolute liability, **1108**

UNAVOIDABLY UNSAFE PRODUCTS

Defenses, products liability, 1009

UNCONTROLLED INTERSECTIONS

Rules of the road, right of way, 904

UNDISPUTED RELATIONSHIP

Definition of fiduciary duty, 1513

UNDUE INFLUENCE

Contracts, undue influence as defense, **2434**

UNINSURED OR UNDERINSURED MOTORIST COVERAGE

Generally, **2301 to 2303**Burden of proof, **2301 to 2303**

UNJUST ENRICHMENT

Contracts, 2445

UNLAWFUL PRACTICES

Franchise Practices Act, damages for unlawful practices of franchisors, 2805

UNMARRIED MINOR

Damages, wrongful death, 2217

USE

Rules of the Road, this index UCC Sales Contracts, this index

VALUE OR VALUATION

Damages, this index Fair Market Value, this index Present value defined, **2220**

VARYING STANDARDS OF CARE

Burden of proof, 205

VEHICLES

Motor Vehicles, this index

VENDORS

Products Liability, this index

VERDICT

Comparative Fault, this index Concurring proximate cause, **502** General Verdict, this index Principal and agent. Comparative Fault, this index

VISIBLE RESULTS OF INJURY

Damages, **2208**

WAIVER OR ESTOPPEL

Construction work, waiver of implied warranties of habitability, sound workmanship, and proper construction, 1207

Contracts, this index

WARNING DUTY

Products liability, warning duty of vendor, **1005**Railroads, this index

WARRANTIES

Construction Work, this index Express Warranties, this index Fitness for Particular Purpose, this index Implied Warranty, this index

INDEX

WARRANTIES—Cont'd

Products Liability, this index UCC Sales Contracts, this index

WASTE

Whistle-blowers, waste defined, 3104

WHISTLE

Railroad crossing, duty to sound whistle for, 1801

WHISTLE-BLOWERS

Employment, 3101 to 3107

WHOLE

Contract language interpreted as, 2419

WILLFUL OR WANTON CONDUCT

Children or minors, liability imposed by statute for willful destruction of property by minor, **801**

WILLFUL OR WANTON CONDUCT—Cont'd

Definition, 1101

WITNESSES

Credibility of witnesses, **105** Expert witnesses, **107**

WORDS AND PHRASES

Distinctions, this index

WRITINGS OR WRITTEN INSTRUMENTS

Contracts, written provisions control provisions of preprinted forms, 2422

WRONGFUL DEATH

Damages, this index

WRONGFUL TERMINATION

Employment, 3107

YIELD INTERSECTION

Rules of the road, right of way, 908