

Index

ABSENCE OF PRIOR ACCIDENTS

See index heading OTHER ACCIDENTS,
EVIDENCE OF

ACCEPTANCE

Tests and scientific evidence. See
index heading TESTS AND SCIENTIFIC
EVIDENCE

ACCIDENT RECONSTRUCTION AND BIOMECHANIC EVIDENCE

Generally, § 10:134-10:143

Dummies. See index heading DUMMIES

Junk science and related evidence

opposing authorities, § 5:34

supporting authorities, § 5:25

Opposing authorities, § 10:145

Suggested motion text, § 10:134

Summary of motion, § 10:135

Supporting authorities

anthropomorphic dummies,
§ 10:137

biomechanic evidence

generally, § 10:136

anthropomorphic dummies,
§ 10:137

finite element analysis test,
§ 10:138

Delta V testimony, excluding,
§ 10:140

finite element analysis test,
§ 10:138

human crash test dummy
testimony, § 10:142

junk science and related evidence,
§ 5:25

low speed impact motor vehicle
cases, generally, § 10:139

miscellaneous unreliable tests,
§ 10:144

photographs depicting no damage
to motor vehicles, § 10:143

ACCIDENT RECONSTRUCTION AND BIOMECHANIC EVIDENCE—Cont'd

Supporting authorities—Cont'd
plopping into a chair testimony,
challenging, § 10:141

ACCIDENT REPORTS

Generally, § 4:40-4:43

Hearsay, inadmissible accident
reports, § 4:44

Suggested motion text, § 4:40

Summary of motion, § 4:41

Supporting authorities

hearsay, inadmissible, § 4:44

miscellaneous grounds, § 4:45

prejudicial evidence, exclusion of,
§ 4:42

vehicle code, exclusion based on,
§ 4:43

ACCIDENTS

Destroyed evidence, reference to,
§ 9:19

Other accidents, evidence of
generally, § 10:41-10:59

for detailed treatment see index
heading OTHER ACCIDENTS, EVIDENCE OF

Subsequent accidents. See index
heading SUBSEQUENT ACCIDENTS

ACCURACY

Maps, models, and charts, accuracy
not disputed, § 4:60

ADMISSIBILITY

harmless error, § 1:11

ADMISSION AGAINST INTEREST

Settlement evidence, opposing
authorities, § 10:38

ADMISSIONS, REQUEST FOR

Discovery motions, opposition
authorities, § 6:12

“ADVERSE INFERENCE”

Jury instruction, opposition to motion for, § 9:47

**AFFIRMATIVE DEFENSES,
PREMATURE REBUTTAL TO**

Generally, § 9:11-9:14

Suggested motion text, § 9:11

Summary of motion, § 9:12

Supporting authorities

order of proof, § 9:14

prejudicial matter, exclusion of, § 9:13

ALCOHOL CONSUMPTION

Generally, § 10:91-10:98

Blood alcohol content. See index heading BLOOD ALCOHOL CONTENT

Character or reputation, exclusion of improper impeachment evidence, § 7:10

Impeachment evidence, exclusion of, § 7:10

Irrelevant evidence

exclusion of, supporting authorities, § 10:93

opposing authorities, relevance to issues, § 10:97, 10:98

Motion to exclude evidence of, § 10:155

Opposing authorities

miscellaneous grounds, § 10:96

relevance to issues, § 10:97, 10:98

witness perceptions, relevance to issues, § 10:98

Prior DUI

generally, § 10:99-10:106

for detailed treatment see index heading PRIOR D. U. I.

Suggested motion text, § 10:91

Summary of motion, § 10:92

Supporting authorities

generally, § 10:93 et seq.

alcohol evidence, exclusion of, § 10:95

prejudicial evidence, exclusion of, § 10:94

ANTHROPOMORPHIC DUMMIES

Accident reconstruction and biomechanic evidence, § 10:137

APPEAL

reversible error, standard and scope of review, § 1:10

standard and scope of review, § 1:10

ARBITRATION

Lost or destroyed evidence, reference to, arbitration evidence and findings, § 9:26

testimony, § 11:6

ARBITRATOR AS WITNESS

Generally, § 8:53 et seq.

For detailed treatment see index heading JUDGE, ARBITRATOR, MEDIATOR, OR JUROR AS WITNESS

ARRESTS

Character or reputation, exclusion of improper impeachment evidence, § 7:11

ARTICLES

Cumulative evidence, exclusion of, § 2:23

AUTHENTICATION

Motion to exclude writings

opposing authorities, § 4:19

supporting authorities, general authentication requirement, § 4:13

Social media evidence, motion to exclude, § 4:76, 4:80

AUTOMOBILES

See index heading MOTOR VEHICLES

AVAILABILITY

Hearsay. See index heading HEARSAY

Noncalled witnesses, equal availability of witness, § 8:68

**BALLISTIC MATCHING
EVIDENCE**

Tests and scientific evidence, § 5:36

BEST EVIDENCE RULE

Sample memoranda, § 11:3

BIAS OR PREJUDICE

Emotional bias

generally, § 2:14-2:18

INDEX

BIAS OR PREJUDICE—Cont'd

- Emotional bias—Cont'd
 - for detailed treatment see index heading **EMOTIONAL BIAS**
- Settlement evidence, opposing authorities, § 10:39

BIFURCATED TRIAL, EVIDENCE OF DAMAGES IN

- Generally, § 9:27-9:30
- Suggested motion text, § 9:27
- Summary of motion, § 9:28
- Supporting authorities
 - authority, § 9:30
 - statutory authority, § 9:29

BILLS

- Medical bills
 - generally, § 4:62-4:67
 - for detailed treatment see index heading **MEDICAL RECORDS, REPORTS, OR BILLS**

BIOMECHANIC EVIDENCE

- Generally, § 10:134-10:143
- For detailed treatment see index heading **ACCIDENT RECONSTRUCTION AND BIOMECHANIC EVIDENCE**

BLOOD ALCOHOL CONTENT

- Junk science and related evidence
 - opposing authorities, § 5:29
 - supporting authorities, § 5:16

BUSINESS RECORDS

- Hearsay exception, § 4:53

CHAIR

- Plopping into a chair testimony, accident reconstruction and biomechanic evidence, § 10:141

CHARACTER OR REPUTATION

- Generally, § 7:1-7:25
- Admissible character evidence, § 7:1
- Alcohol consumption, exclusion of improper impeachment evidence, § 7:10
- Arrests, exclusion of improper impeachment evidence, § 7:11

CHARACTER OR REPUTATION —Cont'd

- Conduct, character evidence used to prove
 - improper character evidence, motion to exclude evidence of, § 7:34
- irrelevant evidence
 - opposing authorities, relevant to material issue, § 7:28
 - supporting authorities, § 7:24
- juvenile adjudication, motion to exclude evidence of, § 7:34
- marital infidelity, motion to exclude improper character evidence, § 7:31
- opposing authorities
 - relevant to material issue, § 7:28
 - trait at issue, § 7:29
- religious beliefs, motion to exclude evidence of, § 7:33
- suggested motion text, § 7:22
- summary of motion, § 7:23
- supporting authorities
 - improper character evidence, exclusion of, § 7:26
 - irrelevant evidence, exclusion of, § 7:24
 - miscellaneous grounds, § 7:27
 - prejudicial evidence, exclusion of, § 7:25
- tattoo, motion to exclude demonstration of, § 7:32
- trait at issue, opposing authorities, § 7:29
- Convictions, admissibility of for impeachment of credibility, § 7:20
- Criminal convictions, exclusion of improper impeachment evidence, § 7:12
- Defendant's tattoo, motion to exclude demonstration of, § 7:32
- Exclusion, character evidence subject to, § 7:2
- Fraudulent acts, exclusion of improper impeachment evidence, § 7:13

CHARACTER OR REPUTATION

—Cont’d

- Good character of witness, exclusion of improper impeachment evidence, § 7:14
- Habit or custom evidence, § 7:3
- Impeachment of credibility
 - alcohol consumption, exclusion of improper impeachment evidence, § 7:10
 - arrests, exclusion of improper impeachment evidence, § 7:11
 - convictions, admissibility of, § 7:20
 - criminal convictions, exclusion of improper impeachment evidence, § 7:12
 - exclusion of improper impeachment evidence
 - generally, § 7:9
 - alcohol consumption, § 7:10
 - arrests, § 7:11
 - criminal convictions, § 7:12
 - fraudulent acts, § 7:13
 - good character of witness, § 7:14
 - religious belief, § 7:15
 - facts at issue, opposing authorities, § 7:17
 - fraudulent acts, exclusion of improper impeachment evidence, § 7:13
 - good character of witness, exclusion of improper impeachment evidence, § 7:14
 - irrelevant evidence, exclusion of, § 7:7
 - miscellaneous grounds, § 7:16
 - opposing authorities
 - convictions, admissibility of, § 7:20
 - facts at issue, § 7:17
 - impeachment, generally, § 7:19
 - prior declaration of witness, § 7:21
 - witness perceptions, § 7:18
 - prejudicial evidence, exclusion of, § 7:8

CHARACTER OR REPUTATION

—Cont’d

- Impeachment of credibility—Cont’d
 - religious belief, exclusion of improper impeachment evidence, § 7:15
 - suggested motion text, § 7:5
 - summary of motion, § 7:6
 - witness perceptions, opposing authorities, § 7:18
- Improper character evidence, motion to exclude evidence of, § 7:34
- Inflammatory character evidence, opposition to motion to exclude, § 7:30
- Irrelevant evidence
 - conduct. See “Conduct, character evidence used to prove” under this heading
 - impeachment of credibility, § 7:7
- Irrelevant evidence, pre-trial motion, § 7:4
- Juvenile adjudication, motion to exclude evidence of, § 7:34
- Marital infidelity, motion to exclude improper character evidence, § 7:31
- Overview
 - admissible character evidence, § 7:1
 - exclusion, character evidence subject to, § 7:2
 - habit or custom evidence, § 7:3
- Prejudicial evidence, exclusion of
 - conduct, character evidence used to prove, supporting authorities, § 7:25
 - impeachment of credibility, § 7:8
- Religious belief, exclusion of improper impeachment evidence, § 7:15
- Religious beliefs, motion to exclude evidence of, § 7:33
- Suggested motion text
 - balancing inquiry, § 7:4
 - conduct, character evidence used to prove, § 7:22
 - impeachment of credibility, § 7:5

INDEX

CHARACTER OR REPUTATION —Cont'd

- Suggested motion text—Cont'd
irrelevant evidence, pre-trial
motion, § 7:4
- Witness perceptions, opposing
authorities, impeachment of
credibility, § 7:18

CHARTS

- Generally, § 4:55-4:59
- For detailed treatment see index
heading MAPS, MODELS, AND
CHARTS

CHILD ABUSE SYNDROME

- Psychological tests and syndromes,
supporting authorities, § 5:21

CHILDREN

- Incompetent witness
opposing authorities, § 8:48
supporting authorities, § 8:42

CODEFENDANTS

- Settlement with, liability, settlement
evidence used to show, § 10:34

COLLATERAL SOURCE PAYMENTS

- Generally, § 10:1-10:14
- Disability payments, exclusion of
collateral source evidence, sup-
porting authorities, § 10:8
- Gratuitous payments, exclusion of
collateral source evidence, sup-
porting authorities, § 10:6
- Irrelevant evidence
opposing authorities, relevant to
issues in case, § 10:12
supporting authorities, § 10:3
- Liability policy payments, exclusion
of collateral source evidence,
supporting authorities, § 10:7
- Malingering, opposing authorities,
§ 10:13
- Medical policy payments, exclusion
of collateral source evidence,
supporting authorities, § 10:7
- Opposing authorities
malingering, § 10:13
prejudice, lack of, § 10:14

COLLATERAL SOURCE PAYMENTS—Cont'd

- Opposing authorities—Cont'd
relevant to issues in case, § 10:12
- Prejudice, lack of, opposing authori-
ties, § 10:14
- Suggested motion text, § 10:1
- Summary of motion, § 10:2
- Supporting authorities
disability payments, exclusion of
collateral source evidence,
§ 10:8
exclusion of collateral source evi-
dence
generally, § 10:5
disability payments, § 10:8
gratuitous payments, § 10:6
liability policy payments, § 10:7
medical policy payments, § 10:7
wage payments, § 10:10
workers compensation benefits,
§ 10:9
gratuitous payments, exclusion of
collateral source evidence,
§ 10:6
irrelevant evidence, exclusion of,
§ 10:3
liability policy payments, exclu-
sion of collateral source evi-
dence, § 10:7
medical policy payments, exclu-
sion of collateral source evi-
dence, § 10:7
miscellaneous grounds, § 10:11
prejudicial evidence, exclusion of,
§ 10:4
wage payments, exclusion of col-
lateral source evidence,
§ 10:10
workers compensation benefits,
exclusion of collateral source
evidence, § 10:9
- Wage payments, exclusion of collat-
eral source evidence, supporting
authorities, § 10:10
- Workers compensation benefits,
exclusion of collateral source
evidence, supporting authorities,
§ 10:9

COMMON EXPERIENCE

Expert witnesses. See index heading
EXPERT WITNESSES

COMMUNICATE, ABILITY TO

Incompetent witness, opposing
authorities, § 8:50

COMPETENCE OF WITNESS

Generally, § 8:38 et seq.
For detailed treatment see index
heading INCOMPETENT WITNESS

COMPROMISE

Generally, § 10:27-10:39
For detailed treatment see index
heading SETTLEMENT EVIDENCE

CONCLUSIONS

Legal conclusions, terms containing,
supporting authorities, § 9:40

CONDITIONAL ADMISSIBILITY

Foundation, lack of, supporting
authorities, § 4:4

CONDUCT

Character evidence used to prove.
See index heading CHARACTER OR
REPUTATION

Prior D. U. I., improper conduct, evi-
dence used to prove, § 10:104

CONFLICTING EVIDENCE

Ultimate issues, testimony on, § 9:45

**CONFUSING OR MISLEADING
EVIDENCE**

Generally, § 2:10-2:13
Exclusion of confusing or misleading
evidence, § 2:12
Improper terminology, exclusion of,
supporting authorities, generally,
§ 9:39
Opposing authorities, § 2:13
Suggested motion text, § 2:10
Summary of motion, § 2:11
Supporting authorities, § 2:12

CONJECTURE

See index heading SPECULATION OR
CONJECTURE

CONTROL

Subsequent repairs, evidence of,
opposing authorities, § 10:72

**CONTROVERSY, MATTERS NOT
IN**

Generally, § 3:10
Suggested motion text, § 3:10

CONVICTIONS

Admissibility of for impeachment of
credibility, § 7:20
Character or reputation, exclusion of
improper impeachment evi-
dence, § 7:12

**COURTROOM, EXCLUSION OF
WITNESS FROM, PRIOR TO
TESTIFYING**

Generally, § 8:57 et seq.
Opposing authorities, § 8:60
Suggested motion text, § 8:57
Summary of motion, § 8:58
Supporting authorities, § 8:59

CRASH TEST DUMMY

Human crash test dummy testimony,
accident reconstruction and
biomechanic evidence, § 10:142

CREDIBILITY

Impeachment of credibility. See
index heading CHARACTER OR REP-
UTATION
Ultimate issues, testimony on,
improper credibility assessment,
§ 9:44

CRIMINAL CONVICTIONS

Character or reputation, exclusion of
improper impeachment evi-
dence, § 7:12

CROSS EXAMINATION

Liability insurance, opposing authori-
ties, § 10:23

**CUMULATIVE EVIDENCE,
MOTION TO EXCLUDE OR
LIMIT**

Generally, § 2:19-2:28
Articles, supporting authorities,
§ 2:23

INDEX

CUMULATIVE EVIDENCE, MOTION TO EXCLUDE OR LIMIT—Cont'd

- Demonstration, motion to exclude, § 2:29
- Inflammatory and prejudicial photographs, § 2:32
- Letters, supporting authorities, § 2:23
- Number of witnesses, supporting authorities, § 2:24
- Opposing authorities
 - general authority, § 2:27
 - witness testimony, § 2:28
- Photographs, supporting authorities, § 2:25
- Prejudicial evidence, motion to exclude, § 2:30, 2:31
- Suggested motion text, § 2:19
- Summary of motion, § 2:20
- Supporting authorities
 - exclusion of cumulative evidence
 - generally, § 2:22
 - articles, § 2:23
 - letters, § 2:23
 - number of witnesses, § 2:24
 - photographs, § 2:25
 - witness testimony, § 2:26
 - time wasting evidence, § 2:21
 - witness testimony. See “Witness testimony” under this heading
- Time wasting evidence, supporting authorities, § 2:21
- Waste of court’s time, supporting authorities, § 2:21
- Witness testimony
 - number of witnesses, supporting authorities, § 2:24
 - opposing authorities, § 2:28
 - supporting authorities
 - exclusion of cumulative evidence, § 2:26
 - number of witnesses, § 2:24
- Witness testimony, motion to exclude, § 2:33

CUSTOM

- Evidence of used to show or attack character or reputation, § 7:3

DAMAGES

- Bifurcated trial, evidence of damages in
 - generally, § 9:27-9:30
 - for detailed treatment see index heading BIFURCATED TRIAL, EVIDENCE OF DAMAGES IN
- Hedonic damage evidence. See index heading HEDONIC DAMAGE EVIDENCE
- Motor vehicles. See index heading MOTOR VEHICLES
- New trial limited to, liability evidence where liability not at issue, § 10:127
- Punitive damages, financial status of party, necessary to support claim, § 10:122
- Voir dire, dollar amount of damages, preconditioning regarding, § 9:4

DANGEROUS CONDITION

- Other accidents. See index heading OTHER ACCIDENTS, EVIDENCE OF

DEFECTIVE PRODUCTS

- See index heading PRODUCTS LIABILITY

DEFENSES

- Affirmative defenses, premature rebuttal to
 - generally, § 9:11-9:14
 - for detailed treatment see index heading AFFIRMATIVE DEFENSES, PREMATURE REBUTTAL TO

DEFINITIONS

- Writing, § 4:12

“DELTA V” TESTIMONY

- Accident reconstruction and biomechanic evidence, excluding, § 10:140

DEMONSTRATION EVIDENCE

- Motion to exclude, sample, § 2:29

DESCRIPTION OF MOTION

- Law, § 1:1

DESTROYED EVIDENCE, REFERENCE TO

- Generally, § 9:15-9:26

DESTROYED EVIDENCE,

REFERENCE TO—Cont’d

For detailed treatment see index
heading LOST OR DESTROYED EVIDENCE, REFERENCE TO

DISABILITY PAYMENTS

Collateral source evidence, exclusion
of, supporting authorities, § 10:8

DISCOVERY MOTIONS

Generally, § 6:1 et seq.
Admissions, request for, opposition
authorities, § 6:12
Authorities
generally, § 6:1
opposition authorities. See
“Opposition authorities”
under this heading
Dismissal of claim, sanctions, § 6:2
Expert witness testimony. See index
heading EXPERT WITNESSES
New trial, § 6:4
Opposition authorities
admissions, request for, § 6:12
expert witness testimony. See
index heading EXPERT WIT-
NESSES
sanctions, § 6:9
undisclosed witnesses, motion to
exclude testimony of, § 6:13
Plaintiff’s undisclosed evidence,
motion to exclude, § 6:14
Preclusion of evidence, sanctions,
§ 6:3
Sample motions
plaintiff’s undisclosed evi-
dence, motion to exclude,
§ 6:14
undisclosed witnesses, motion to
exclude testimony of, § 6:13
Sanctions
dismissal of claim, § 6:2
opposition authorities, § 6:9
preclusion of evidence, § 6:3
Summary of motion, § 6:1
Undisclosed witnesses, motion to
exclude testimony of, § 6:13

DISCRETION OF COURT

Other accidents, evidence of, oppos-
ing authorities, § 10:53

DISMISSAL OF CLAIM

Discovery motions, sanctions, § 6:2

DISPUTE

See index heading CONTROVERSY, MAT-
TERS NOT IN

DOCUMENTARY EVIDENCE

See index heading WRITINGS AND PHYSI-
CAL EVIDENCE

DOCUMENTS

Expert witnesses, reliance on others,
opposing authorities, § 8:20

DO UNTO OTHERS

See index heading GOLDEN RULE ARGU-
MENT

DRAFTING SUGGESTIONS

Generally, § 1:12
Briefing requirements, local rules,
§ 1:15
Facts, file motions supported by,
§ 1:13
Succinctness, § 1:14

DRIVING UNDER INFLUENCE

Prior D. U. I.
generally, § 10:99-10:106
for detailed treatment see index
heading PRIOR D. U. I.

DUMMIES

Anthropomorphic dummies, accident
reconstruction and biomechanic
evidence, § 10:137
Human crash test dummy testimony,
accident reconstruction and
biomechanic evidence, § 10:142

DYING DECLARATION

Generally, § 8:83

E-MAIL MESSAGES

Irrelevant, motion to exclude, § 3:11

EMOTIONAL BIAS

Generally, § 2:14-2:18
Opposing authorities, § 2:18

INDEX

EMOTIONAL BIAS—Cont'd

- Suggested motion text, § 2:14
- Summary of motion, § 2:15
- Supporting authorities
 - jurors' emotions, exclusion of evidence intended to inflame, § 2:17
 - prejudicial evidence, exclusion of, § 2:16

EMPLOYMENT

- Liability insurance, exclusion of evidence of, proof of employment, § 10:26
- Termination, § 11:4

EQUAL AVAILABILITY

- Noncalled witnesses, evidence of, § 8:68

EXPENSES

- Offer to pay, exclusion of evidence of, § 10:36

EXPERT WITNESSES

- Generally, § 8:1 et seq.
- Common experience, matters of
 - opposing authorities, § 8:22
 - supporting authorities, § 8:9
- Conjecture. See "Speculation or conjecture" under this heading
- Discovery motions
 - fair scope rule. See "Fair scope rule" under this heading
 - identification of expert. See "Identification of expert" under this heading
 - opposition authorities
 - fair scope rule, § 6:11
 - identification of expert, § 6:10
 - spoliation of evidence, § 6:8
- Documents, reliance on others, opposing authorities, § 8:20
- Fair scope rule
 - generally, § 6:7
 - opposition authorities, § 6:11
- Foundation, lack of
 - exclusion of expert witnesses, supporting authorities, § 4:7
 - exclusion of lay witness, supporting authorities, § 4:6

EXPERT WITNESSES—Cont'd

- Hearsay. See index heading HEARSAY
- Hypothetical questions. See index heading HYPOTHETICAL QUESTIONS
- Identification of expert
 - generally, § 6:6
 - opposition authorities, § 6:10
- Improper expert opinion
 - common experience, matters of.
 - See "Common experience, matters of" under this heading
 - conjecture. See "Speculation or conjecture" under this heading
 - opposing authorities
 - common experience, matters of, § 8:22
 - hypotheticals, § 8:17
 - legal questions v. ultimate issues, § 8:21
 - proper foundation, § 8:24
 - proper subject of testimony, § 8:26
 - reliance on others. See "Reliance on others" under this heading
 - speculation, § 8:23
 - usurping jury function, § 8:25
 - reliance. See "Reliance on others" under this heading
 - speculation. See "Speculation or conjecture" under this heading
 - suggested motion text, § 8:1
 - summary of motion, § 8:2
 - supporting authorities
 - common experience, matters of, § 8:9
 - hearsay. See index heading HEARSAY
 - hypothetical questions, § 8:3
 - irrelevant matters, § 8:15
 - legal questions, § 8:7, 8:8
 - miscellaneous grounds, § 8:16
 - not perceived or personally known, § 8:11
 - not reasonably relied upon by experts, § 8:10

EXPERT WITNESSES—Cont’d

- Improper expert opinion—Cont’d
 - supporting authorities—Cont’d
 - personal knowledge, lack of, § 8:11
 - speculation or conjecture, § 8:12
 - ultimate issues, legal questions compared, § 8:8
 - usurping jury function, § 8:14
 - variables, too many, § 8:13
- Irrelevant matters, improper expert opinion, supporting authorities, § 8:15
- Lay witness
 - foundation, lack of, exclusion of lay witnesses, supporting authorities, § 4:6
 - opposing authorities
 - expert not required, § 8:37
 - perceptions of witness, § 8:36
 - perceptions of. See “Perceptions of lay witness” under this heading
 - speed of vehicle, motion to exclude, § 11:14
 - suggested motion text, § 8:31
 - summary of motion, § 8:32
 - supporting authorities
 - foundation, lack of, exclusion of lay witnesses, § 4:6
 - miscellaneous grounds, § 8:35
 - perceptions of witness, § 8:33
 - subject for expert, § 8:34
- Legal questions
 - supporting authorities, improper expert opinion, § 8:7, 8:8
 - ultimate issues compared. See “Ultimate issues compared to legal questions” under this heading
- Medical opinions
 - exclusion of improper medical records, or bills, supporting authorities, § 4:65
 - medical expert opinion testimony, § 11:13
- Nonexpert. See “Lay witness” under this heading

EXPERT WITNESSES—Cont’d

- Nonqualified expert. See “Qualifications” under this heading
- Non-qualified expert testimony, motion to exclude, § 8:87
- Not perceived or personally known, improper expert opinion, supporting authorities, § 8:11
- Not reasonably relied upon by experts, improper expert opinion, supporting authorities, § 8:10
- Others
 - hearsay, inadmissible, opinions of others, § 8:5
 - reliance on. See “Reliance on others” under this heading
- Perceptions of lay witness
 - opposing authorities, § 8:36
 - supporting authorities, § 8:33
- Personal knowledge, lack of, supporting authorities, § 8:11
- Proper subject of testimony, opposing authorities, § 8:26
- Qualifications
 - opposing authorities, § 8:30
 - suggested motion text, § 8:27
 - summary of motion, § 8:28
 - supporting authorities, § 8:29
 - tests and scientific evidence. See index heading TESTS AND SCIENTIFIC EVIDENCE
- Reasonable reliance by experts, improper expert opinion, supporting authorities, § 8:10
- Reliance on others
 - not reasonably relied upon by experts, supporting authorities, § 8:10
 - opinions of others, opposing authorities, § 8:18-8:20
 - statements of others, reliance on, opposing authorities, § 8:19
 - supporting authorities, not reasonably relied upon by experts, § 8:10
 - treatises, documents, and texts, opposing authorities, § 8:20

INDEX

EXPERT WITNESSES—Cont'd

- Speculation or conjecture
 - opposing authorities, § 8:23
 - supporting authorities, § 8:12
- Spoliation of evidence, discovery motions, § 6:8
- Statements of others, reliance on, opposing authorities, § 8:19
- Subject for expert, lay witness, supporting authorities, § 8:34
- Suggested motion text
 - improper expert opinion, § 8:1
 - lay witness, § 8:31
 - qualifications, § 8:27
- supplemental expert reports, § 6:5
- Testimony, motion to exclude as hearsay, § 8:85
- testimony, sample memoranda, § 11:1, 11:2
- Texts
 - hearsay, improper expert opinion, supporting authorities, § 8:6
 - reliance on others, opposing authorities, § 8:20
- Treatises
 - hearsay, improper expert opinion, supporting authorities, § 8:6
 - reliance on others, opposing authorities, § 8:20
- Ultimate issues compared to legal questions
 - opposing authorities, § 8:21
 - supporting authorities, § 8:8
- Usurping jury function, supporting authorities, § 8:14
- Variables, too many, supporting authorities, § 8:13
- Witness perceptions. See “Perceptions of lay witness” under this heading

EYEWITNESS IDENTIFICATION

- Motion to exclude “junk science” and related evidence, § 5:35

FACTS

- Drafting suggestions, file motions supported by facts, § 1:13

FAIR SCOPE RULE

- Expert witnesses. See index heading
EXPERT WITNESSES

FEASIBILITY

- Subsequent repairs, evidence of, opposing authorities, § 10:70

FILM

- Motion to exclude prejudicial film or videotapes
 - generally, § 4:27-4:30
 - for detailed treatment see index heading PHOTOGRAPHS

FINANCIAL STATUS OF DEFENDANT

- Motion to exclude evidence of, § 10:154

FINANCIAL STATUS OF PARTY

- Generally, § 10:115-10:122
- Exclusion of wealth or financial status, generally, § 10:119, 10:120
- Irrelevant evidence, exclusion of, supporting authorities, § 10:117
- Miscellaneous grounds, supporting authorities, § 10:121
- Motion to exclude, opposition to, § 10:159
- Opposing authorities, § 10:122
- Prejudicial evidence, exclusion of, supporting authorities, § 10:118
- Punitive damages claim, necessary to support, opposing authorities, § 10:122
- Suggested motion text, § 10:115
- Summary of motion, § 10:116
- Supporting authorities
 - irrelevant evidence, exclusion of, § 10:117
 - miscellaneous grounds, § 10:121
 - prejudicial evidence, exclusion of, § 10:118
 - tax evidence, exclusion of, § 10:120
 - wealth or financial status, exclusion of, generally, § 10:119, 10:120

FINANCIAL STATUS OF PARTY
—Cont’d

Tax evidence, exclusion of, supporting authorities, § 10:120

FINITE ELEMENT ANALYSIS TEST

Biomechanic evidence, supporting authorities, § 10:138

FOUNDATION, LACK OF

Generally, § 4:1-4:9

Conditional admissibility, supporting authorities, § 4:4

Documentary evidence, exclusion of, supporting authorities, § 4:5

Expert witnesses. See index heading
EXPERT WITNESSES

Lay witnesses, exclusion of, supporting authorities, § 4:6

Opposing authorities, § 4:9

Scientific evidence, exclusion of, supporting authorities, § 4:8

Social media evidence, motion to exclude, § 4:76, 4:80

Suggested motion text, § 4:1

Summary of motion, § 4:2

Supporting authorities

generally, § 4:3

conditional admissibility, § 4:4

documentary evidence, exclusion of, § 4:5

expert witnesses, exclusion of, § 4:7

lay witnesses, exclusion of, § 4:6

scientific evidence, exclusion of, § 4:8

FRAUDULENT ACTS

Character or reputation, exclusion of improper impeachment evidence, § 7:13

GATEKEEPING PROVISIONS

Statute violation, movant’s reply argument, § 10:82

GOLDEN RULE ARGUMENT

Generally, § 9:31-9:36

Miscellaneous grounds, supporting authorities, § 9:35

GOLDEN RULE ARGUMENT
—Cont’d

Opposition citations, § 9:36

Prejudicial evidence, exclusion of, supporting authorities, § 9:33

Rejection of golden rule argument, supporting authorities, § 9:34

Suggested motion text, § 9:31

Summary of motion, § 9:32

Supporting authorities

miscellaneous grounds, § 9:35

prejudicial evidence, exclusion of, § 9:33

rejection of golden rule argument, § 9:34

GOOD CHARACTER OF WITNESS

Exclusion of improper impeachment evidence, § 7:14

GPS

data, hearsay, § 8:84

GRATUITOUS PAYMENTS

Collateral source evidence, exclusion of, supporting authorities, § 10:6

GRUESOME OR INFLAMMATORY PHOTOGRAPHS

Generally, § 4:20-4:24

Irrelevant evidence, exclusion of, supporting authorities, § 4:23

Opposing authorities, § 4:26

Prejudicial evidence, exclusion of, supporting authorities, § 4:22

Suggested motion text, § 4:20

Summary of motion, § 4:21

Supporting authorities

gruesome or inflammatory photographs, § 4:24

irrelevant evidence, exclusion of, § 4:23

miscellaneous grounds, § 4:25

prejudicial evidence, exclusion of, § 4:22

HABIT

Evidence of used to show or attack character or reputation, § 7:3

INDEX

HARMLESS ERROR

Seat belt, failure to wear, opposing authorities, § 10:90

HEALTH OR INJURIES NOT AT ISSUE

Generally, § 10:107-10:114

Impeachment, opposing authorities, § 10:114

Irrelevant evidence

opposing authorities, relevant to issues in case, § 10:113

supporting authorities, exclusion of irrelevant evidence, § 10:109

Miscellaneous grounds, supporting authorities, § 10:112

Opposing authorities

impeachment, § 10:114

relevant to issues in case, § 10:113

Prejudicial evidence, exclusion of, supporting authorities, § 10:110

Relevant to issues in case, opposing authorities, § 10:113

Suggested motion text, § 10:107

Summary of motion, § 10:108

Supporting authorities

exclusion of evidence of party's health or injuries where not at issue, § 10:111

irrelevant evidence, exclusion of, § 10:109

miscellaneous grounds, § 10:112

prejudicial evidence, exclusion of, § 10:110

HEARSAY

Accident reports, inadmissible, supporting authorities, § 4:44

Availability of declarant

immaterial, witness evidence, opposing authorities, § 8:79

unavailable declarant, witness evidence, opposing authorities, § 8:81

Business records, hearsay exception, § 4:53

Documents, improper expert opinion, supporting authorities, § 8:6

HEARSAY—Cont'd

Examples of inadmissible written hearsay, supporting authorities, § 4:17

Expert opinion, improper, supporting authorities

generally, § 8:4

others, opinions of, § 8:5

treatises, documents, and texts, § 8:6

Expert testimony, motion to exclude, § 8:85

General authority for exclusion, witness evidence, § 8:75

GPS data, § 8:84

Lay witness evidence, opposition to motion to exclude, § 8:86

Lay witness testimony on causation, motion to exclude, § 8:88

Letters. See index heading LETTERS

Multiple hearsay, witness evidence, opposing authorities, § 8:82

Necessary, testimony of declarant as, opposing authorities, § 8:80

Non-qualified expert testimony, motion to exclude, § 8:87

Others, opinions of, improper expert opinion, supporting authorities, § 8:5

Pennsylvania Rules Of Evidence, hearsay exceptions, witness evidence, opposing authorities generally, § 8:79 et seq.

for detailed treatment see index heading PENNSYLVANIA RULES OF EVIDENCE

Published articles, motion to exclude opposition authorities, nonhearsay, § 4:39

supporting authorities, § 4:36

Purpose of hearsay exceptions, witness evidence, opposing authorities, § 8:78

Purpose of rule, witness evidence, supporting authorities, § 8:76

Social media evidence, motion to exclude, § 4:75

Suggested motion text, witness evidence, § 8:73

HEARSAY—Cont'd

- Texts, improper expert opinion, supporting authorities, § 8:6
- Treatises, improper expert opinion, supporting authorities, § 8:6
- Unavailable declarant, witness evidence, opposing authorities, § 8:81
- Witness evidence
 - generally, § 8:73 et seq.
 - lay witness testimony on causation, motion to exclude, § 8:88
 - non-qualified expert testimony, motion to exclude, § 8:87
 - opposing authorities
 - availability of declarant immaterial, § 8:79
 - hearsay exceptions, generally, § 8:77
 - lay witness evidence, motion to exclude, § 8:86
 - multiple hearsay, § 8:82
 - necessary, testimony of declarant as, § 8:80
 - Pennsylvania Rules Of Evidence, hearsay exceptions pursuant to, § 8:79 et seq.
 - purpose of hearsay exceptions, § 8:78
 - unavailable declarant, § 8:81
 - Pennsylvania Rules Of Evidence, hearsay exceptions, opposing authorities
 - generally, § 8:79 et seq.
 - for detailed treatment see index heading PENNSYLVANIA RULES OF EVIDENCE
 - suggested motion text, § 8:73
 - summary of motion, § 8:74
 - supporting authorities
 - general authority for exclusion, § 8:75
 - purpose of rule, § 8:76
- Writings, motion to exclude
 - improper expert opinion, documents, supporting authorities, § 8:6
 - published articles. See “Published articles, motion to exclude”

HEARSAY—Cont'd

- Writings, motion to exclude—Cont'd
 - under this heading
 - supporting authorities
 - generally, § 4:16
 - examples of inadmissible hearsay, § 4:17

HEDONIC DAMAGE EVIDENCE

- Junk science and related evidence
 - opposing authorities, § 5:30
 - supporting authorities, § 5:17

HISTORY

- Patient medical histories, exclusion of improper medical records, or bills, § 4:67

HUMAN CRASH TEST DUMMY TESTIMONY

- Accident reconstruction and biomechanic evidence, supporting authorities, § 10:142

HYPNOSIS EVIDENCE

- Junk science and related evidence
 - motion to exclude, § 5:38
 - opposing authorities, § 5:33
 - supporting authorities, § 5:23

HYPOTHETICAL QUESTIONS

- Opposing authorities, improper expert opinion, § 8:17
- Supporting authorities, improper expert opinion, § 8:3

IDENTIFICATION

- Expert. See index heading EXPERT WITNESSES

IMPEACHMENT

- Character or reputation. See index heading CHARACTER OR REPUTATION
- Health or injuries not at issue, opposing authorities, § 10:114
- Prior D. U. I., supporting authorities, § 10:103
- Subsequent repairs, evidence of, opposing authorities, § 10:68

IMPROPER CHARACTER EVIDENCE

- Motion to exclude evidence of, § 7:34

INDEX

INCOMPETENT WITNESS

- Generally, § 8:38 et seq.
- Children. See index heading CHILDREN
- Communicate, ability to, opposing authorities, § 8:50
- General authority, opposing authorities, § 8:46
- Inability to express self or tell truth, supporting authorities, § 8:40
- Insanity, supporting authorities, § 8:43
- Memory. See index heading MEMORY
- Mental competence
 - opposing authorities, § 8:49
 - supporting authorities, § 8:43
- Miscellaneous grounds, supporting authorities, § 8:45
- Motion to exclude testimony, § 8:52
- Opposing authorities
 - children, § 8:48
 - communicate, ability to, § 8:50
 - general authority, § 8:46
 - memory, § 8:47
 - mental competence, § 8:49
 - personal knowledge, lack of, § 8:51
- Personal knowledge, lack of
 - opposing authorities, § 8:51
 - supporting authorities, § 8:44
- Sanity, supporting authorities, § 8:43
- Suggested motion text, § 8:38
- Summary of motion, § 8:39
- Supporting authorities
 - children, § 8:42
 - inability to express self or tell truth, § 8:40
 - memory, impaired, § 8:41
 - mental competence, lack of, § 8:43
 - miscellaneous grounds, § 8:45
 - personal knowledge of subject matter, lack of, § 8:44
 - sanity, § 8:43
- Truth, inability to tell, supporting authorities, § 8:40

INFERENCES

- See index heading PRESUMPTIONS AND INFERENCES

INFLAMMATORY AND PREJUDICIAL PHOTOGRAPHS

- Motion to exclude or limit, § 2:32

INFLAMMATORY CHARACTER EVIDENCE

- Opposition to motion to exclude, § 7:30

INFLAMMATORY PHOTOGRAPHS

- Generally, § 4:20-4:24
- For detailed treatment see index heading GRUESOME OR INFLAMMATORY PHOTOGRAPHS

INJURIES

- Not at issue
 - generally, § 10:107-10:114
 - for detailed treatment see index heading HEALTH OR INJURIES NOT AT ISSUE
- Other accidents, similar injuries, relevant to issues in case, § 10:56
- Personal injury motions
 - generally, § 10:1 et seq.
 - for detailed treatment see index heading PERSONAL INJURY MOTIONS

INSANITY

- Incompetent witness, supporting authorities, § 8:43

INSURANCE

- Disability payments, collateral source evidence, exclusion of, supporting authorities, § 10:8
- Liability insurance
 - generally, § 10:15-10:26
 - for detailed treatment see index heading LIABILITY INSURANCE
- Medical policy payments, collateral source evidence, exclusion of, supporting authorities, § 10:7

INTENTIONAL DESTRUCTION OR SUPPRESSION OF EVIDENCE

- Lost or destroyed evidence, reference to, supporting authorities, § 9:20

INTOXICATING BEVERAGES

See index heading ALCOHOL CONSUMPTION

IRRELEVANT EVIDENCE

Generally, § 3:1 et seq.

Admissibility, limited, § 3:9

Alcohol consumption. See index heading ALCOHOL CONSUMPTION

Authorities for motion to exclude

opposing authorities, § 3:7

suggested motion text, § 3:1

summary of motion, § 3:2

supporting authorities. See “Supporting authorities” under this heading

Collateral source payments. See index heading COLLATERAL SOURCE PAYMENTS

Conduct, character evidence used to prove. See index heading CHARACTER OR REPUTATION

Controversy, matters not in, § 3:10

e-mail message, motion to exclude, § 3:11

Expert witnesses, improper expert opinion, supporting authorities, § 8:15

failure to plead, § 3:8

Financial status of party, supporting authorities, § 10:117

Gruesome or inflammatory photographs, supporting authorities, § 4:23

Health or injuries not at issue. See index heading HEALTH OR INJURIES NOT AT ISSUE

Liability evidence where liability not at issue, supporting authorities, § 10:125

Liability insurance. See index heading LIABILITY INSURANCE

Limited admissibility, § 3:9

Maps, models, and charts relevant to issues, opposing authorities, § 4:61

Medical malpractice actions, exclusion of irrelevant evidence, § 3:6

IRRELEVANT EVIDENCE—Cont’d

Motion to exclude, sample motions

e-mail message, irrelevant, § 3:11

text messages, irrelevant, § 3:13

Opposing authorities, § 3:7

Opposition to motion to exclude video surveillance evidence, § 3:12

Other accidents. See index heading

Pre-trial motion to exclude, § 2:4, 7:4

Prior D. U. I., supporting authorities, § 10:101

Sample motions

generally, § 3:11-3:13

irrelevant e-mail message, motion to exclude, § 3:11

irrelevant text messages, motion to exclude, § 3:13

video surveillance evidence, opposition to motion to exclude, § 3:12

Seat belt, failure to wear, supporting authorities, § 10:85

Settlement evidence, supporting authorities, § 10:29

Speculative evidence, supporting authorities, § 3:5

Statute violation, supporting authorities, § 10:75

Subsequent repairs. See index heading

Suggested motion text, authorities for motion to exclude, § 3:1

Supporting authorities

exclusion of irrelevant evidence, generally, § 3:3

expert witnesses, improper expert opinion, § 8:15

financial status of party, § 10:117

gruesome or inflammatory photographs, § 4:23

liability evidence where liability not at issue, § 10:125

medical malpractice actions, exclusion of irrelevant evidence, § 3:6

prior D. U. I., § 10:101

seat belt, failure to wear, § 10:85

settlement evidence, § 10:29

INDEX

IRRELEVANT EVIDENCE—Cont'd

- Supporting authorities—Cont'd
 - speculative evidence, § 3:5
 - statute violation, § 10:75
 - tests and scientific evidence, § 5:8
- Tests and scientific evidence, supporting authorities, § 5:8
- Text messages, motion to exclude, § 3:13
- Video surveillance evidence, opposition to motion to exclude, § 3:12

JUDGE, ARBITRATOR, MEDIATOR, OR JUROR AS WITNESS

- Generally, § 8:53 et seq.
- Suggested motion text, § 8:53
- Summary of motion, § 8:54
- Supporting authorities
 - judge as witness, § 8:55
 - juror as witness, § 8:56

JUNK SCIENCE AND RELATED EVIDENCE

- Generally, § 5:13 et seq.
- Accident reconstruction. See index heading ACCIDENT RECONSTRUCTION AND BIOMECHANIC EVIDENCE
- Approved tests, opposing authorities, § 5:28
- Blood alcohol content. See index heading BLOOD ALCOHOL CONTENT
- Hedonic damage evidence. See index heading HEDONIC DAMAGE EVIDENCE
- Hypnosis, motion to exclude, § 5:38
- Hypnosis evidence. See index heading HYPNOSIS EVIDENCE
- New scientific evidence, exclusion of, generally, § 5:15
- Opposing authorities
 - generally, § 5:28
 - accident reconstruction, § 5:34
 - approved tests, generally, § 5:28
 - ballistic matching evidence, § 5:37
 - blood alcohol content evidence, § 5:29
 - eyewitness identification, § 5:35, 5:37
 - hedonic damage evidence, § 5:30

JUNK SCIENCE AND RELATED EVIDENCE—Cont'd

- Opposing authorities—Cont'd
 - hypnosis evidence, § 5:33
 - polygraph evidence, § 5:31
 - psychological tests and syndromes, § 5:32
- Polygraph evidence. See index heading POLYGRAPH EVIDENCE
- Polygraph examination, motion to exclude, § 5:37
- Psychological tests and syndromes. See index heading PSYCHOLOGICAL TESTS AND SYNDROMES
- Statistical evidence, supporting authorities, § 5:26
- Suggested motion text, § 5:13
- Summary of motion, § 5:14
- Supporting authorities
 - accident reconstruction evidence, § 5:25
 - blood alcohol content evidence, § 5:16
 - hedonic damage evidence, § 5:17
 - hypnosis evidence, § 5:23
 - new scientific evidence, exclusion of, generally, § 5:15
 - polygraph evidence, § 5:19
 - psychological tests and syndromes generally, § 5:20-5:20
 - for detailed treatment see index heading PSYCHOLOGICAL TESTS AND SYNDROMES
 - statistical evidence, § 5:26
 - truth serum evidence, § 5:18
 - voiceprint identification, § 5:24
- Truth serum evidence, supporting authorities, § 5:18
- Voiceprint identification, supporting authorities, § 5:24

JUROR AS WITNESS

- Generally, § 8:53 et seq.
- For detailed treatment see index heading JUDGE, ARBITRATOR, MEDIATOR, OR JUROR AS WITNESS

JURY

- “Adverse inference” instruction, § 9:47

JURY—Cont’d

- Emotions of jurors, exclusion of evidence intended to inflame, § 2:17
- Expert testimony usurping jury function, § 8:25
- Usurping jury function. See index heading USURPING JURY FUNCTION
- Voir dire
 - generally, § 9:1-9:6
 - for detailed treatment see index heading VOIR DIRE

JUVENILE ADJUDICATION

- Motion to exclude evidence of, § 7:34

KNOWLEDGE

- Personal knowledge. See index heading PERSONAL KNOWLEDGE, LACK OF

LAW

- Generally, § 1:1-1:12
- Authority for motion, § 1:2
- Caution regarding local rules, § 1:8
- Description of motion, § 1:1
- Drafting suggestions. See index heading DRAFTING SUGGESTIONS
- Non-precedential decisions, § 1:9
- Procedural requirements, § 1:8
- Purpose of motion, § 1:1
- Scope of motion, § 1:7
- Statute violation
 - generally, § 10:73-10:82
 - for detailed treatment see index heading STATUTE VIOLATION
- Timing of motion, § 1:6
- Typical use of motion
 - generally, § 1:3-1:5
 - for detailed treatment see index heading TYPICAL USE OF MOTION

LAY WITNESS

- See index heading EXPERT WITNESSES

LEGAL CONCLUSIONS

- Improper terminology, exclusion of, supporting authorities, § 9:40

LEGAL QUESTIONS

- Expert witnesses. See index heading EXPERT WITNESSES

LETTERS

- Generally, § 4:46-4:52
- Business records exception, hearsay, § 4:53
- Cumulative evidence, exclusion of, supporting authorities, § 2:23
- Hearsay exception
 - generally, § 4:51
 - business records exception, § 4:53
 - public records exception, § 4:54
 - regularly conducted activity exception, § 4:52
- Miscellaneous grounds, supporting authorities, § 4:50
- Opposing authorities, hearsay exception. See “Hearsay exception” under this heading
- Prejudicial evidence, exclusion of, supporting authorities, § 4:48
- Public records exception, hearsay, § 4:54
- Regularly conducted activity exception, hearsay exception, § 4:52
- Suggested motion text, § 4:46
- Summary of motion, § 4:47
- Supporting authorities
 - exclusion, generally, § 4:49
 - miscellaneous grounds, § 4:50
 - prejudicial evidence, exclusion of, § 4:48

LIABILITY

- Expert testimony, sample memoranda, § 11:1, 11:2
- Settlement evidence used to show
 - generally, § 10:31
 - for detailed treatment see index heading SETTLEMENT EVIDENCE

LIABILITY EVIDENCE WHERE LIABILITY NOT AT ISSUE

- Generally, § 10:123-10:129
- Irrelevant evidence, exclusion of, supporting authorities, § 10:125
- Miscellaneous grounds, supporting authorities, § 10:128
- New trial limited to damages, supporting authorities, § 10:127
- Opposing authorities, § 10:129

INDEX

LIABILITY EVIDENCE WHERE LIABILITY NOT AT ISSUE

—Cont'd

- Prejudicial evidence, exclusion of,
supporting authorities, § 10:126
- Suggested motion text, § 10:123
- Summary of motion, § 10:124
- Supporting authorities
 - irrelevant evidence, exclusion of,
§ 10:125
 - miscellaneous grounds, § 10:128
 - new trial limited to damages,
§ 10:127
 - prejudicial evidence, exclusion of,
§ 10:126

LIABILITY INSURANCE

- Generally, § 10:15-10:26
- Collateral source evidence, exclusion
of, supporting authorities, § 10:7
- Cross examination, opposing authori-
ties, § 10:23
- Employment, proof of, opposing
authorities, § 10:26
- Irrelevant evidence
 - opposing authorities, relevant to
issues or otherwise admis-
sible, § 10:24
 - supporting authorities, § 10:17,
10:20
- Miscellaneous grounds for exclusion
of evidence of, § 10:22
- Motion to exclude evidence of,
§ 10:153
- Nonprejudicial references to insur-
ance, opposing authorities,
§ 10:25
- Opposing authorities
 - cross examination, § 10:23
 - employment, proof of, § 10:26
 - nonprejudicial references to insur-
ance, § 10:25
 - ownership, proof of, § 10:26
 - relevant to issues or otherwise
admissible, § 10:24
- Ownership, proof of, opposing
authorities, § 10:26
- Prejudicial evidence
 - opposing authorities,
nonprejudicial references to

LIABILITY INSURANCE—Cont'd

- Prejudicial evidence—Cont'd
 - insurance, § 10:25
 - supporting authorities, § 10:18,
10:21
- Relevant evidence. See “Irrelevant
evidence” under this heading
- Suggested motion text, § 10:15
- Summary of motion, § 10:16
- Supporting authorities
 - exclusion of liability insurance
evidence, § 10:19-10:21
 - irrelevant evidence, § 10:17, 10:20
 - miscellaneous grounds, § 10:22
 - prejudicial evidence, exclusion of,
§ 10:18, 10:21

LIE DETECTOR

- See index heading POLYGRAPH EVIDENCE

LIMITATIONS ON USE OF MOTION

- Generally, § 1:4

LOCAL RULES

- Briefing requirements, § 1:15
- Caution regarding, § 1:8

LOST OR DESTROYED EVIDENCE, REFERENCE TO

- Generally, § 9:15-9:26
- Accidental destruction of evidence,
supporting authorities, § 9:19
- Arbitration evidence and findings,
motion to exclude, § 9:26
- Intentional destruction or suppression
of evidence, supporting authori-
ties, § 9:20
- Missing witness, adverse inference
rule, opposing authorities,
§ 9:24
- Opposing authorities, missing wit-
ness, adverse inference rule,
§ 9:24
- Opposition citations, generally,
§ 9:25
- Prejudicial evidence, supporting
authorities, § 9:17
- Spoilation of evidence, note on tort
of, exclusion of lost or destroyed
evidence, § 9:21

**LOST OR DESTROYED
EVIDENCE, REFERENCE TO
—Cont'd**

- Suggested motion text, § 9:15
- Summary judgment, supporting authorities, § 9:23
- Summary of motion, § 9:16
- Supporting authorities
 - exclusion of lost or destroyed evidence
 - generally, § 9:18
 - accidental destruction of evidence, § 9:19
 - intentional destruction or suppression of evidence, § 9:20
 - spoliation of evidence, note on tort of, § 9:21
 - miscellaneous grounds, § 9:22
 - prejudicial evidence, exclusion of, § 9:17
 - summary judgment, § 9:23

**LOW SPEED IMPACT MOTOR
VEHICLE CASES**

- Accident reconstruction and biomechanic evidence, supporting authorities, § 10:139

MALINGERING

- Collateral source payments, opposing authorities, § 10:13

MANDATORY SEAT BELT LAWS
Opposing authorities, § 10:89

MAPS, MODELS, AND CHARTS

- Generally, § 4:55-4:59
- Accuracy not disputed, opposing authorities, § 4:60
- Miscellaneous grounds, supporting authorities, § 4:59
- Motion to exclude, § 4:84
- Opposing authorities
 - accuracy not disputed, § 4:60
 - relevant to issues, § 4:61
- Prejudicial evidence, exclusion of, supporting authorities, § 4:57
- Relevant to issues, opposing authorities, § 4:61
- Suggested motion text, § 4:55

**MAPS, MODELS, AND CHARTS
—Cont'd**

- Summary of motion, § 4:56
- Supporting authorities
 - exclusion of maps, models, or charts, § 4:58
 - miscellaneous grounds, § 4:59
 - prejudicial evidence, exclusion of, § 4:57

MARITAL INFIDELITY

- Motion to exclude improper character evidence, § 7:31

MARY CARTER AGREEMENTS

- Settlement evidence, opposing authorities, § 10:40

MEDIATOR AS WITNESS

- Generally, § 8:53 et seq.
- For detailed treatment see index
 - heading JUDGE, ARBITRATOR, MEDIATOR, OR JUROR AS WITNESS

MEDICAL MALPRACTICE

- Irrelevant evidence, exclusion of, § 3:6

MEDICAL POLICY PAYMENTS

- Collateral source evidence, exclusion of, supporting authorities, § 10:7

**MEDICAL RECORDS, REPORTS,
OR BILLS**

- Generally, § 4:62-4:67
- medical expert opinion testimony, § 11:13
- Miscellaneous grounds, exclusion of improper medical records, or bills, § 4:68
- Opposing authorities, § 4:69
- Patient medical histories, exclusion of improper medical records, or bills, supporting authorities, § 4:67
- Prejudicial evidence, exclusion of, supporting authorities, § 4:64
- Suggested motion text, § 4:62
- Summary of motion, § 4:63
- Supporting authorities
 - medical bills, § 4:66
 - medical opinions, § 4:65

INDEX

MEDICAL RECORDS, REPORTS, OR BILLS—Cont'd

Supporting authorities—Cont'd
miscellaneous grounds, § 4:68
patient medical histories, § 4:67
prejudicial evidence, exclusion of,
§ 4:64

MEMORY

Incompetent witness
opposing authorities, § 8:47
supporting authorities, impaired
memory, § 8:41

MENTAL COMPETENCE

Witness. See index heading
INCOMPETENT WITNESS

MESSAGES

Irrelevant e-mail messages, motion to
exclude, § 3:11
Text. See index heading TEXT MES-
SAGES

MISLEADING EVIDENCE

Generally, § 2:10-2:13
For detailed treatment see index
heading CONFUSING OR MISLEADING
EVIDENCE

MISSING WITNESS

Adverse inference rule, lost or
destroyed evidence, reference to,
§ 9:24

MODELS

Generally, § 4:55-4:59
For detailed treatment see index
heading MAPS, MODELS, AND
CHARTS

MOTOR VEHICLES

Accident reports, exclusion based on
vehicle code, § 4:43
Damage evidence, improper
generally, § 10:130-10:133
opposing authorities, § 10:133
suggested motion text, § 10:130
summary of motion, § 10:131
supporting authorities, § 10:132
Low speed impact motor vehicle
cases, accident reconstruction

MOTOR VEHICLES—Cont'd

and biomechanic evidence,
§ 10:139
Photographs depicting no damage to
motor vehicles, accident
reconstruction and biomechanic
evidence, § 10:143
Seat belt, failure to wear
generally, § 10:83-10:90
for detailed treatment see index
heading SEAT BELT, FAILURE TO
WEAR
speed, lay testimony, § 11:14
Vehicle code, accident reports, exclu-
sion based on vehicle code,
§ 4:43

MULTIPLE HEARSAY

Witness evidence, opposing authori-
ties, § 8:82

NECESSITY

Hearsay, testimony of declarant as
necessary, § 8:80

NEGLIGENCE

Prior accident evidence to prove,
§ 10:46
Subsequent repairs, inadmissibility to
show negligence, § 10:64

NEGLIGENCE PER SE

Statute violation, opposing authori-
ties, § 10:81

NEGOTIATIONS

Settlement evidence used to show
liability, § 10:33

NEW SCIENTIFIC EVIDENCE

Exclusion of, generally, § 5:15

NEWSPAPER

Motion to exclude, suggested text,
§ 4:70

NEW TRIAL

Discovery motions, § 6:4
Liability evidence where liability not
at issue, new trial limited to
damages, § 10:127

**NONCALLED WITNESSES,
EVIDENCE OF**

Generally, § 8:65 et seq.
For detailed treatment see index
heading WITNESSES

NON-PRECEDENTIAL DECISIONS

generally, § 1:9

NOTICE

Other accidents, evidence of, § 10:55

NUMBER OF WITNESSES

Cumulative evidence, exclusion of,
§ 2:24

OBJECTIONS

Preservation of objections, typical
use of motion, § 1:5

OFFERS

Expenses, exclusion of evidence of
offer to pay, § 10:36
Offer made prior to litigation used to
show liability, exclusion of evi-
dence of, § 10:35

OPENING STATEMENT

Generally, § 9:7-9:10
Motion to exclude improper argu-
ment, § 9:48
Suggested motion text, § 9:7
Summary of motion, § 9:8
Supporting authorities
exclusion of prejudicial matter in
opening statement, § 9:10
prejudicial evidence, exclusion of,
§ 9:9

OPINIONS

Expert opinions. See index heading
EXPERT WITNESSES
Medical opinions, exclusion of
improper medical records, or
bills, § 4:65

ORDER OF PROOF

Affirmative defenses, premature
rebuttal to, supporting authori-
ties, § 9:14

**OTHER ACCIDENTS, EVIDENCE
OF**

Generally, § 10:41-10:59
Absence of prior accidents
opposing authorities, § 10:52
supporting authorities, § 10:45
Dangerous condition
opposing authorities, § 10:54
supporting authorities, § 10:47
Defective products. See index head-
ing PRODUCTS LIABILITY
Discretion of court, opposing authori-
ties, § 10:53
Irrelevant evidence
opposing authorities, relevant to
issues in case, § 10:56
supporting authorities, § 10:43,
10:48
Miscellaneous grounds, supporting
authorities, § 10:51
Negligence, prior accident evidence
to prove, supporting authorities,
§ 10:46
Notice, opposing authorities, § 10:55
Opposing authorities
absence of prior accidents, gener-
ally, § 10:52
dangerous condition, § 10:54
defective products, § 10:54
discretion of court, § 10:53
notice, § 10:55
prior accidents, generally, § 10:52
relevant to issues in case, § 10:56
similar injuries, relevant to issues
in case, § 10:56
similarity, § 10:54
strict product liability, § 10:57
subsequent accidents. See index
heading SUBSEQUENT ACCIDENTS,
EVIDENCE OF
Prejudicial evidence, supporting
authorities, § 10:44
Prior accidents, opposing authorities,
generally, § 10:52
Products liability. See index heading
PRODUCTS LIABILITY
Relevant evidence.. See “Irrelevant
evidence” under this heading

INDEX

OTHER ACCIDENTS, EVIDENCE OF—Cont'd

Similarity

injuries, similar, relevant to issues in case, opposing authorities, § 10:56

lack of, supporting authorities, § 10:47

opposing authorities, § 10:54, 10:56

Speculative evidence, supporting authorities, § 10:49

Strict product liability, opposing authorities, § 10:57

Subsequent accidents. See index heading SUBSEQUENT ACCIDENTS

Suggested motion text, § 10:41

Summary of motion, § 10:42

Supporting authorities

absence of prior accidents, § 10:45

dangerous condition, § 10:47

defective products, § 10:47

irrelevant evidence, § 10:43, 10:48

miscellaneous grounds, § 10:51

negligence, prior accident evidence to prove, § 10:46

prejudicial evidence, exclusion of, § 10:44

similarity, lack of, § 10:47

speculative evidence, § 10:49

subsequent accident evidence, exclusion of, generally, § 10:50

unreliable evidence, § 10:49

Unreliable evidence, supporting authorities, § 10:49

OWNERSHIP

Liability insurance, exclusion of evidence of, proof of ownership, § 10:26

Subsequent repairs, evidence of, § 10:72

PENNSYLVANIA RULES OF EVIDENCE

Hearsay exceptions, witness evidence, opposing authorities generally, § 8:79 et seq.

PENNSYLVANIA RULES OF EVIDENCE—Cont'd

Hearsay exceptions, witness evidence, opposing authorities —Cont'd

availability of declarant immaterial, § 8:79

declarant unavailable, § 8:81

testimony of declarant necessary, § 8:80

PERCEPTIONS

Witness perceptions. See index heading WITNESS PERCEPTIONS

PERSONAL INJURY MOTIONS

Generally, § 10:1 et seq.

Accident reconstruction and biomechanic evidence

generally, § 10:134-10:142

for detailed treatment see index

heading ACCIDENT RECONSTRUCTION AND BIOMECHANIC EVIDENCE

Alcohol consumption

generally, § 10:91-10:98

for detailed treatment see index

heading ALCOHOL CONSUMPTION

Alcohol consumption, motion to

exclude evidence of, § 10:155

Collateral source payments

generally, § 10:1-10:14

for detailed treatment see index

heading COLLATERAL SOURCE PAYMENTS

Defendant's financial status, opposition to motion to exclude,

§ 10:159

Financial status of defendant, motion to exclude evidence of, § 10:154

Financial status of party

generally, § 10:115-10:122

for detailed treatment see index

heading FINANCIAL STATUS OF PARTY

Government standards, motion to

exclude evidence of, § 10:146 et seq.

Health or injuries not at issue

generally, § 10:107-10:114

PERSONAL INJURY MOTIONS

—Cont’d

Health or injuries not at issue

—Cont’d

for detailed treatment see index

heading HEALTH OR INJURIES NOT
AT ISSUE

Industry standards, motion to exclude
evidence of, § 10:146 et seq.

Liability evidence where liability not
at issue

generally, § 10:123-10:129

for detailed treatment see index

heading LIABILITY EVIDENCE
WHERE LIABILITY NOT AT ISSUE

Liability insurance, evidence of

generally, § 10:15-10:26

for detailed treatment see index

heading LIABILITY INSURANCE

Liability insurance, motion to
exclude evidence of, § 10:153

Mediation and/or settlement evi-
dence, motion to exclude,
§ 10:152

Motor vehicles. See index heading
MOTOR VEHICLES

Other accidents, evidence of

generally, § 10:41-10:59

for detailed treatment see index

heading OTHER ACCIDENTS, EVI-
DENCE OF

Prior D. U. I.

generally, § 10:99-10:106

for detailed treatment see index

heading PRIOR D. U. I.

Prior DUI, motion to exclude evi-
dence of, § 10:156

Prior traffic citations, motion to
exclude evidence of, § 10:157

Seat belt, failure to wear

generally, § 10:83-10:90

for detailed treatment see index

heading SEAT BELT, FAILURE TO
WEAR

Settlement evidence

generally, § 10:27-10:39

for detailed treatment see index

heading SETTLEMENT EVIDENCE

PERSONAL INJURY MOTIONS

—Cont’d

Statute violation

generally, § 10:73-10:82

for detailed treatment see index

heading STATUTE VIOLATION

Statute violation, motion to exclude
evidence of, § 10:151

Subsequent remedial measures,
motion to exclude evidence of,
§ 10:150

Subsequent repairs, evidence of

generally, § 10:60-10:72

for detailed treatment see index

heading SUBSEQUENT REPAIRS,
EVIDENCE OF

Subsequent repairs, motion to
exclude evidence of, § 10:158

PERSONAL KNOWLEDGE, LACK OF

Expert opinion, supporting authori-
ties, § 8:11

Incompetent witness. See index head-
ing INCOMPETENT WITNESS

PHOTOGRAPHS

Accident reconstruction and
biomechanic evidence,
photographs depicting no dam-
age to motor vehicles, § 10:143

Cumulative evidence, motion to
exclude or limit, supporting
authorities, § 2:25

Gruesome or inflammatory
photographs

generally, § 4:20-4:24

for detailed treatment see index

heading GRUESOME OR INFLAM-
MATORY PHOTOGRAPHS

Inflammatory and prejudicial
photographs, motion to exclude,
§ 2:32

Motion to exclude prejudicial film or
videotapes

generally, § 4:27-4:30

miscellaneous grounds, supporting
authorities, § 4:31

opposing authorities, § 4:32

INDEX

PHOTOGRAPHS—Cont'd

- Motion to exclude prejudicial film or videotapes—Cont'd
 - prejudicial evidence, exclusion of, generally, § 4:29
 - suggested motion text, § 4:27
 - summary of motion, § 4:28
 - supporting authorities
 - miscellaneous grounds, § 4:31
 - prejudicial evidence, exclusion of, generally, § 4:29
 - videotape evidence, exclusion of, § 4:30
- Prejudicial evidence, exclusion of, generally, supporting authorities, § 4:29
- Social media, motion to exclude, § 4:83

PHYSICAL EVIDENCE

- Generally, § 4:1-4:80
- For detailed treatment see index heading WRITINGS AND PHYSICAL EVIDENCE

PLAINTIFFS

- Rebuttal to plaintiff's evidence, opposing authorities, § 10:150
- Recording of plaintiff testimony, arbitration, § 11:6
- Undisclosed evidence, motion to exclude, § 6:14

PLEAS AND RELATED STATEMENTS

- Statute violation, exclusion of evidence of, § 10:79

PLOPPING INTO A CHAIR TESTIMONY

- Accident reconstruction and biomechanic evidence, § 10:141

POLYGRAPH EVIDENCE

- Junk science and related evidence
 - motion to exclude evidence, § 5:37
 - opposing authorities, § 5:31
 - supporting authorities, § 5:19

PRECLUSION OF EVIDENCE

- Discovery motions, sanctions, § 6:3

PRECONDITIONING JURY

- Voir dire, supporting authorities, § 9:4

PREJUDICE

- See index heading BIAS OR PREJUDICE

PREJUDICIAL EVIDENCE

- Generally, § 2:1-2:28
- Accident reports, supporting authorities, § 4:42
- Affirmative defenses, premature rebuttal to, supporting authorities, § 9:13
- Alcohol consumption, supporting authorities, § 10:94
- Authorities for motion to exclude balancing inquiry, § 2:4
 - exclusion of prejudicial evidence, § 2:3
 - irrelevant evidence, pre-trial, § 2:4
 - opposing authorities, § 2:5
 - suggested motion text, § 2:1
 - summary of motion, § 2:2
- Character or reputation. See index heading CHARACTER OR REPUTATION
- Collateral source payments, lack of prejudice, opposing authorities, § 10:14
- Confusing or misleading evidence generally, § 2:10-2:13
 - for detailed treatment see index heading CONFUSING OR MISLEADING EVIDENCE
- Cumulative evidence, motion to exclude or limit generally, § 2:19-2:28
 - for detailed treatment see index heading CUMULATIVE EVIDENCE, MOTION TO EXCLUDE OR LIMIT
- Cumulative witness testimony, opposition to motion to exclude, § 2:33
- Emotional bias, supporting authorities, § 2:16
- Film or videotapes, supporting authorities, § 4:29
- Financial status of party, supporting authorities, § 10:118

PREJUDICIAL EVIDENCE

—Cont’d

- Golden rule argument, supporting authorities, § 9:33
- Gruesome or inflammatory photographs, supporting authorities, § 4:22
- Health or injuries not at issue, supporting authorities, § 10:110
- Irrelevant evidence, pre-trial motion to exclude, § 2:4
- Letters, supporting authorities, § 4:48
- Liability evidence where liability not at issue, supporting authorities, § 10:126
- Liability insurance. See index heading LIABILITY INSURANCE
- Lost or destroyed evidence, reference to, supporting authorities, § 9:17
- Maps, models, and charts, supporting authorities, § 4:57
- Medical records, reports, or bills, supporting authorities, § 4:64
- Motion to exclude and opposition, samples, § 2:30, 2:31
- Noncalled witnesses, evidence of, § 8:67
- Opening statement, supporting authorities, § 9:9, 9:10
- Other accidents, evidence of, supporting authorities, § 10:44
- Prior D. U. I., supporting authorities, § 10:102
- Published articles. See index heading PUBLISHED ARTICLES
- Seat belt, failure to wear, supporting authorities, § 10:86
- Settlement evidence, supporting authorities, § 10:30
- Social media evidence
 - motion to exclude, § 4:73
 - opposition to motion to exclude, § 4:83
- Statute violation, supporting authorities, § 10:76
- Subsequent repairs, evidence of, supporting authorities, § 10:63
- Waste of court’s time
 - generally, § 2:6-2:9

PREJUDICIAL EVIDENCE

—Cont’d

- Waste of court’s time—Cont’d
 - for detailed treatment see index heading WASTE OF COURT’S TIME

PRESERVATION OF OBJECTIONS

- Typical use of motion, § 1:5

PRESUMPTIONS AND INFERENCES

- Missing witness, adverse inference rule, lost or destroyed evidence, reference to, § 9:24
- Negligence, presumption of, statute violation, negligence per se, § 10:81

PRIOR ACCIDENTS

- absence of prior similar incidents, memorandum in support of motion to exclude, § 11:12
- Opposing authorities, generally, § 10:52

PRIOR D. U. I.

- Generally, § 10:99-10:106
- Impeachment, exclusion of crimes evidence used for, generally, § 10:103
- Improper conduct, exclusion of D. U. I. evidence used to prove, generally, § 10:104
- Irrelevant evidence, exclusion of, supporting authorities, § 10:101
- Miscellaneous grounds, supporting authorities, § 10:105
- Motion to exclude evidence of, § 10:156
- Opposing authorities, improper conduct, § 10:106
- Prejudicial evidence, exclusion of, supporting authorities, § 10:102
- Suggested motion text, § 10:99
- Summary of motion, § 10:100
- Supporting authorities
 - impeachment, exclusion of crimes evidence used for, generally, § 10:103
 - improper conduct, exclusion of D. U. I. evidence where used to

INDEX

PRIOR D. U. I.—Cont'd

- Supporting authorities—Cont'd
 - prove, generally, § 10:104
 - irrelevant evidence, exclusion of, § 10:101
 - miscellaneous grounds, § 10:105
 - prejudicial evidence, exclusion of, § 10:102

PRIOR SETTLEMENTS

- Liability, settlement evidence used to show, § 10:32

PRIOR TRAFFIC CITATIONS

- Motion to exclude evidence of, § 10:157

PRIVILEGE NOT TO TESTIFY, COMMENT ON

- Generally, § 8:61 et seq.
- Opposing authorities, § 8:64
- Suggested motion text, § 8:61
- Summary of motion, § 8:62
- Supporting authorities, § 8:63

PROCEDURAL REQUIREMENTS

- Generally, § 1:8

PRODUCT DESIGN DEFECT

- Subsequent repairs, inadmissibility to show, supporting authorities, § 10:65

PRODUCTS LIABILITY

- Other accidents, evidence of opposing authorities
 - defective products, § 10:54
 - strict product liability, § 10:57
- strict product liability, opposing authorities, § 10:57
- supporting authorities, § 10:47

PROXIMATE CAUSE

- Statute violation, supporting authorities, § 10:78

PSYCHOLOGICAL TESTS AND SYNDROMES

- Opposing authorities, § 5:32
- Supporting authorities
 - generally, § 5:20-5:20
 - child abuse syndrome, § 5:21

PSYCHOLOGICAL TESTS AND SYNDROMES—Cont'd

- Supporting authorities—Cont'd
 - rape trauma syndrome, § 5:22

PUBLIC RECORDS

- Letters, hearsay exception, § 4:54

PUBLISHED ARTICLES

- Generally, § 4:33-4:37
- Hearsay. See index heading HEARSAY
- Miscellaneous grounds, supporting authorities, § 4:38
- Prejudicial articles, exclusion of, supporting authorities, § 4:37
- Prejudicial evidence, exclusion of, generally, supporting authorities, § 4:35
- Suggested motion text, § 4:33
- Summary of motion, § 4:34
- Supporting authorities
 - hearsay, § 4:36
 - miscellaneous grounds, § 4:38
 - opposition authorities, § 4:39
 - prejudicial articles, exclusion of, § 4:37
 - prejudicial evidence, exclusion of, generally, § 4:35

PUNITIVE DAMAGES

- Financial status of party, necessary to support punitive damages claim, § 10:122

PURPOSE OF MOTION

- Generally, § 1:1

QUALIFICATIONS

- Expert witnesses. See index heading EXPERT WITNESSES

RAPE TRAUMA SYNDROME

- Psychological tests and syndromes, supporting authorities, § 5:22

REASONABLE RELIANCE

- Experts, not reasonably relied upon by, improper expert opinion, § 8:10

REBUTTAL

- Affirmative defenses, premature rebuttal to
 - generally, § 9:11-9:14

REBUTTAL—Cont’d

Affirmative defenses, premature rebuttal to—Cont’d
for detailed treatment see index
heading AFFIRMATIVE DEFENSES, PREMATURE REBUTTAL TO
Industry or government standards, motion to exclude evidence of, § 10:149

RECONSTRUCTION

Accident reconstruction and biomechanic evidence
generally, § 10:134-10:143
for detailed treatment see index
heading ACCIDENT RECONSTRUCTION AND BIOMECHANIC EVIDENCE
accidents, § 11:7

RECORDS

Business records, hearsay exception, § 4:53
Medical records
generally, § 4:62-4:67
for detailed treatment see index
heading MEDICAL RECORDS, REPORTS, OR BILLS
Public records, letters, hearsay exception, § 4:54

REGULARLY CONDUCTED ACTIVITY

Letters, hearsay exception, § 4:52

RELEVANT EVIDENCE

Generally, § 3:1 et seq.
For detailed treatment see index
heading IRRELEVANT EVIDENCE

RELIABILITY

Other accidents, evidence of, supporting authorities, unreliable evidence, § 10:49

RELIANCE

Expert witnesses. See index heading EXPERT WITNESSES

RELIGIOUS BELIEF

Character or reputation, improper impeachment evidence, § 7:15

RELIGIOUS BELIEFS

Motion to exclude evidence of, § 7:33

REPAIRS

Subsequent repairs, evidence of
generally, § 10:60-10:72
for detailed treatment see index
heading SUBSEQUENT REPAIRS, EVIDENCE OF

REPORTS

Accident reports
generally, § 4:40-4:43
for detailed treatment see index
heading ACCIDENT REPORTS
Medical reports
generally, § 4:62-4:67
for detailed treatment see index
heading MEDICAL RECORDS, REPORTS, OR BILLS

REPUTATION EVIDENCE

Generally, § 7:1-7:25
For detailed treatment see index
heading CHARACTER OR REPUTATION

RULES OF EVIDENCE

See index heading PENNSYLVANIA RULES OF EVIDENCE

SAMPLE MEMORANDA

generally, § 11:1-11:15
absence of prior similar incidents, motion to exclude evidence, § 11:12
accident reconstructionist, § 11:7
arbitration, § 11:6
best evidence rule, motion to exclude, § 11:3
discovery sanctions, motion in support, § 11:9
employment termination, motion to exclude, § 11:4
evidence of damages in bifurcated trial, motion to exclude, § 11:11
expert testimony (non-qualified), motion to exclude, § 11:15
lay testimony, vehicle speed, § 11:14
liability expert, motion to exclude, § 11:1

INDEX

SAMPLE MEMORANDA—Cont'd

- medical expert opinion testimony,
motion to exclude evidence,
§ 11:13
- prior arrest, motion to exclude,
§ 11:10
- speed of vehicle, lay testimony,
§ 11:14
- surveyor expert, motion to exclude,
§ 11:2
- termination of employment, motion
to exclude, § 11:4
- unpled issues, motion to exclude,
§ 11:8
- vehicle speed, lay testimony, § 11:14
- videotape, § 11:5
- written lease, motion to exclude,
§ 11:3

SANCTIONS

- Discovery motions. See index head-
ing DISCOVERY MOTIONS

SANITY

- Incompetent witness, supporting
authorities, § 8:43

SCIENTIFIC EVIDENCE

- Generally, § 5:1 et seq.
- For detailed treatment see index
heading TESTS AND SCIENTIFIC EVI-
DENCE

SCOPE OF MOTION

- Law, § 1:7

SEAT BELT, FAILURE TO WEAR

- Generally, § 10:83-10:90
- Harmless error, opposing authorities,
§ 10:90
- Irrelevant evidence, exclusion of,
supporting authorities, § 10:85
- Mandatory seat belt laws, opposing
authorities, § 10:89
- Miscellaneous grounds, supporting
authorities, § 10:88
- Opposing authorities
harmless error, § 10:90
- mandatory seat belt laws, § 10:89
- Prejudicial evidence, exclusion of,
supporting authorities, § 10:86
- Suggested motion text, § 10:83

SEAT BELT, FAILURE TO WEAR —Cont'd

- Summary of motion, § 10:84
- Supporting authorities
irrelevant evidence, exclusion of,
§ 10:85
- miscellaneous grounds, § 10:88
- prejudicial evidence, exclusion of,
§ 10:86
- seat belt evidence, exclusion of,
§ 10:87

SECONDARY EVIDENCE

- Writings, motion to exclude, support-
ing authorities, § 4:18

SELF EXPRESSION

- Incompetent witness, inability to
express self, supporting authori-
ties, § 8:40

SETTLEMENT EVIDENCE

- Generally, § 10:27-10:39
- Admission against interest, opposing
authorities, § 10:38
- Bias or prejudice, opposing authori-
ties, § 10:39
- Codefendants, settlement with,
liability, settlement evidence
used to show, § 10:34
- Expenses, exclusion of offer to pay,
§ 10:36
- Irrelevant evidence, exclusion of,
supporting authorities, § 10:29
- Liability, settlement evidence used to
show
generally, § 10:31
- codefendants, settlement with,
§ 10:34
- negotiations, § 10:33
- offer made prior to litigation,
§ 10:35
- prior settlements, § 10:32
- Mary Carter agreements, opposing
authorities, § 10:40
- Miscellaneous grounds, supporting
authorities, § 10:37
- Negotiations, liability, settlement
evidence used to show, § 10:33
- Offer made prior to litigation,
liability, settlement evidence

SETTLEMENT EVIDENCE

—Cont’d

- used to show, § 10:35
- Offer to pay expenses, exclusion of, § 10:36
- Opposing authorities
 - admission against interest, § 10:38
 - bias or prejudice, § 10:39
 - Mary Carter agreements, § 10:40
- Prejudicial evidence, exclusion of, supporting authorities, § 10:30
- Prior settlements, liability, settlement evidence used to show, § 10:32
- Suggested motion text, § 10:27
- Summary of motion, § 10:28
- Supporting authorities
 - irrelevant evidence, exclusion of, § 10:29
 - liability. See “Liability, settlement evidence used to show” under this heading
 - miscellaneous grounds, § 10:37
 - offer to pay expenses, exclusion of, § 10:36
 - prejudicial evidence, exclusion of, § 10:30

SEXUAL ASSAULT

- Rape trauma syndrome, psychological tests and syndromes, § 5:22

SIMILARITY

- Other accidents. See index heading OTHER ACCIDENTS, EVIDENCE OF
- Tests and scientific evidence. See index heading TESTS AND SCIENTIFIC EVIDENCE

SOCIAL MEDIA EVIDENCE

- Generally, § 4:71 et seq.
- Authentication, § 4:76, 4:80
- Exclusion, generally, § 4:75
- Foundation
 - lack of, § 4:76
 - proper, § 4:80
- Grounds to exclude evidence, § 4:77
- Hearsay, exclusion of, § 4:76
- Map, motion to exclude, § 4:84
- Motion to exclude, § 4:71 et seq.
- Nonhearsay, § 4:79

SOCIAL MEDIA EVIDENCE

—Cont’d

- Opposing authorities, § 4:78 et seq.
- Opposition to motion to exclude, § 4:82
- Prejudicial evidence, exclusion, § 4:74
- Prejudicial photographs, opposition to motion to exclude, § 4:83
- Suggested motion text, motion to exclude, § 4:71
- Summary of motion, § 4:72
- Supporting authorities, § 4:73 et seq.

SPECULATION

- Noncalled witnesses, comments would invite speculation, § 8:69

SPECULATION OR CONJECTURE

- Expert witnesses. See index heading EXPERT WITNESSES
- Irrelevant evidence, motion to exclude, § 3:5
- Other accidents, evidence of, § 10:49

SPOILIATION OF EVIDENCE

- Expert witnesses, discovery motions, § 6:8
- Lost or destroyed evidence, exclusion of, § 9:21

STATISTICAL EVIDENCE

- Junk science and related evidence, supporting authorities, § 5:26

STATUTE VIOLATION

- Generally, § 10:73-10:82
- Gatekeeping provisions, movant’s reply argument, opposing authorities, § 10:82
- Irrelevant evidence, exclusion of, supporting authorities, § 10:75
- Miscellaneous grounds, supporting authorities, § 10:80
- Motion to exclude evidence of, § 10:151
- Negligence per se, opposing authorities, § 10:81
- Opposing authorities
 - gatekeeping provisions, movant’s reply argument, § 10:82
 - negligence per se, § 10:81

INDEX

STATUTE VIOLATION—Cont'd

- Opposing authorities—Cont'd
 - presumption of negligence,
 - negligence per se, § 10:81
- Pleas and related statements, exclusion of, § 10:79
- Prejudicial evidence, exclusion of, supporting authorities, § 10:76
- Presumption of negligence,
 - negligence per se, opposing authorities, § 10:81
- Proximate cause, supporting authorities, § 10:78
- Suggested motion text, § 10:73
- Summary of motion, § 10:74
- Supporting authorities
 - irrelevant evidence, exclusion of, § 10:75
 - miscellaneous grounds, § 10:80
 - pleas and related statements, exclusion of, § 10:79
 - prejudicial evidence, exclusion of, § 10:76
 - proximate cause, § 10:78
 - traffic citation evidence, § 10:77
- Traffic citation evidence, supporting authorities, § 10:77

STRICT PRODUCT LIABILITY

- Other accidents, evidence of, opposing authorities, § 10:57

SUBJECT

- Expert, subject for, lay witness, supporting authorities, § 8:34
- Proper subject of testimony, opposing authorities, § 8:26

SUBSEQUENT ACCIDENTS

- Opposing authorities
 - generally, § 10:58
 - dangerous condition, § 10:58
 - impeachment, § 10:59
- Supporting authorities, exclusion of subsequent accident evidence, generally, § 10:50

SUBSEQUENT REMEDIAL MEASURES

- Motion to exclude evidence of, § 10:150

SUBSEQUENT REPAIRS

- Motion to exclude evidence of, § 10:158

SUBSEQUENT REPAIRS, EVIDENCE OF

- Generally, § 10:60-10:72
- Control, opposing authorities, § 10:72
- Feasibility, opposing authorities, § 10:70
- Impeachment, opposing authorities, § 10:68
- Irrelevant evidence
 - opposing authorities, relevant to issues, § 10:69
 - supporting authorities, § 10:62, 10:66
- Miscellaneous grounds, supporting authorities, § 10:67
- Negligence, inadmissibility to show, supporting authorities, § 10:64
- Opposing authorities
 - control, § 10:72
 - feasibility, § 10:70
 - impeachment, § 10:68
 - ownership, § 10:72
 - relevant to issues, § 10:69
 - third parties, subsequent repair rule inapplicable to, § 10:71
- Ownership, opposing authorities, § 10:72
- Prejudicial evidence, exclusion of, supporting authorities, § 10:63
- Product design defect, inadmissibility to show, supporting authorities, § 10:65
- Relevant evidence. See “Irrelevant evidence” under this heading
- Suggested motion text, § 10:60
- Summary of motion, § 10:61
- Supporting authorities
 - irrelevant evidence, § 10:62, 10:66
 - miscellaneous grounds, § 10:67
 - negligence, inadmissibility to show, § 10:64
 - prejudicial evidence, exclusion of, § 10:63

**SUBSEQUENT REPAIRS,
EVIDENCE OF—Cont’d**

Supporting authorities—Cont’d
product design defect, inadmissibility to show, § 10:65
Third parties, subsequent repair rule inapplicable to, opposing authorities, § 10:71

SUCCINCTNESS

Drafting suggestions, § 1:14

SUGGESTED MOTION TEXT

Accident reconstruction and biomechanic evidence, § 10:134
Accident reports, § 4:40
Affirmative defenses, premature rebuttal to, § 9:11
Alcohol consumption, § 10:91
Bifurcated trial, evidence of damages in, § 9:27
Character or reputation. See index heading CHARACTER OR REPUTATION
Collateral source payments, § 10:1
Confusing or misleading evidence, § 2:10
Controversy, matters not in, § 3:10
Courtroom, exclusion of witness from, prior to testifying, § 8:57
Cumulative evidence, motion to exclude or limit, § 2:19
Emotional bias, § 2:14
Expert witnesses. See index heading EXPERT WITNESSES
Financial status of party, § 10:115
Foundation, lack of, § 4:1
Golden rule argument, § 9:31
Gruesome or inflammatory photographs, § 4:20
Health or injuries not at issue, § 10:107
Hearsay, witness evidence, § 8:73
Improper terminology, exclusion of, § 9:37
Incompetent witness, § 8:38
Industry or government standards, motion to exclude evidence of, § 10:146
Irrelevant evidence, authorities for motion to exclude, § 3:1

**SUGGESTED MOTION TEXT
—Cont’d**

Judge, arbitrator, mediator, or juror as witness, § 8:53
Junk science and related evidence, § 5:13
Letters, § 4:46
Liability evidence where liability not at issue, § 10:123
Liability insurance, exclusion of evidence of, § 10:15
Lost or destroyed evidence, reference to, § 9:15
Maps, models, and charts, § 4:55
Medical records, reports, or bills, § 4:62
Motor vehicles, improper damage evidence, § 10:130
Newspaper article, motion to exclude, § 4:70
Opening statement, § 9:7
Other accidents, evidence of, § 10:41
Photographs, motion to exclude prejudicial film or videotapes, § 4:27
Prejudicial evidence, authorities for motion to exclude, § 2:1
Prior D. U. I., § 10:99
Privilege not to testify, comment on, § 8:61
Published articles, § 4:33
Seat belt, failure to wear, § 10:83
Settlement evidence, § 10:27
Statute violation, § 10:73
Subsequent repairs, evidence of, § 10:60
Tests and scientific evidence, § 5:1
Voir dire, § 9:1
Waste of court’s time, § 2:6
Writings, motion to exclude, § 4:10

SUMMARY JUDGMENT

Lost or destroyed evidence, reference to, § 9:23

SUPPRESSION OF EVIDENCE

Lost or destroyed evidence, reference to, § 9:20

INDEX

SURVEILLANCE

Video, opposition to motion to exclude, § 3:12

SURVEYOR EXPERT

Sample memoranda, testimony, § 11:2

TATTOO

Motion to exclude demonstration of, § 7:32

TAX

Financial status of party, exclusion of tax evidence, § 10:120

TERMINATION

Employment, § 11:4

TERMINOLOGY

“Adverse inference” jury instruction, § 9:47

Improper terminology, exclusion of generally, § 9:37-9:48

“adverse inference” jury instruction, § 9:47

confusing evidence, supporting authorities, generally, § 9:39

improper argument during opening statement, § 9:48

legal conclusions, terms containing, supporting authorities, § 9:40

opposing authorities, § 9:46, 9:47

suggested motion text, § 9:37

summary of motion, § 9:38

supporting authorities

confusing evidence, generally, § 9:39

legal conclusions, terms containing, § 9:40

ultimate issues. See index heading **ULTIMATE ISSUES, TESTIMONY ON**

ultimate issues. See index heading **ULTIMATE ISSUES, TESTIMONY ON**

Opening statement, motion to exclude improper argument, § 9:48

TESTS AND SCIENTIFIC EVIDENCE

Generally, § 5:1 et seq.

Acceptance

level of acceptance in scientific community, opposing authorities, § 5:11

not generally accepted, supporting authorities, § 5:5

Foundation, lack of, exclusion of scientific evidence, supporting authorities, § 4:8

gatekeeper function, trial court, § 5:6

Hypnosis, motion to exclude, § 5:38

Irrelevant, supporting authorities, § 5:8

Junk science and related evidence generally, § 5:13-5:36

for detailed treatment see index heading **JUNK SCIENCE AND RELATED EVIDENCE**

Level of acceptance in scientific community, opposing authorities, § 5:11

Miscellaneous grounds, supporting authorities, § 5:9

Not generally accepted, supporting authorities, § 5:5

Opposing authorities

Frye hearing, burden on party requesting, § 5:10

level of acceptance in scientific community, § 5:11

sufficiently similar conditions, § 5:12

Polygraph examination, motion to exclude, § 5:37

Psychological tests and syndromes. See index heading **PSYCHOLOGICAL TESTS AND SYNDROMES**

Qualifications, supporting authorities expert witness not qualified to testify on subject, § 5:3

lay witness not qualified to testify on subject, § 5:4

Similarity

substantially similar conditions, supporting authorities, § 5:7

TESTS AND SCIENTIFIC EVIDENCE—Cont’d

- Similarity—Cont’d
 - sufficiently similar conditions, opposing authorities, § 5:12
- Substantially similar conditions, supporting authorities, § 5:7
- Sufficiently similar conditions, opposing authorities, § 5:12
- Suggested motion text, § 5:1
- Summary of motion, § 5:2
- Supporting authorities
 - foundation, lack of, exclusion of scientific evidence, § 4:8
 - irrelevant, § 5:8
 - miscellaneous grounds, § 5:9
 - not generally accepted, § 5:5
 - qualifications. See “Qualifications” under this heading
 - substantially similar conditions, § 5:7

TEXT MESSAGES

- irrelevant, motion to exclude, § 3:13
- motion to exclude writings, § 4:14, 4:15

TEXTS

- Expert witnesses. See index heading
EXPERT WITNESSES

THIRD PARTIES

- Subsequent repair rule inapplicable to, opposing authorities, § 10:71

TIME OF COURT, WASTE OF

- Generally, § 2:6-2:9
- For detailed treatment see index
heading WASTE OF COURT’S TIME

TIMING OF MOTION

- Generally, § 1:6

TRAFFIC CITATION EVIDENCE

- Supporting authorities, statute violation, § 10:77

TRAIT AT ISSUE

- Character evidence used to prove conduct, opposing authorities, § 7:29

TREATISES

- Expert witnesses. See index heading
EXPERT WITNESSES

TRIAL PRESENTATION

- Generally, § 9:1-9:48
- Affirmative defenses, premature rebuttal to
 - generally, § 9:11-9:14
 - for detailed treatment see index
heading AFFIRMATIVE DEFENSES,
PREMATURE REBUTTAL TO
- Bifurcated trial, evidence of damages in
 - generally, § 9:27-9:30
 - for detailed treatment see index
heading BIFURCATED TRIAL, EVIDENCE OF DAMAGES IN
- Golden rule argument
 - generally, § 9:31-9:36
 - for detailed treatment see index
heading GOLDEN RULE ARGUMENT
- Improper terminology, exclusion of
 - generally, § 9:37-9:48
 - for detailed treatment see index
heading TERMINOLOGY
- Lost or destroyed evidence, reference to
 - generally, § 9:15-9:26
 - for detailed treatment see index
heading LOST OR DESTROYED EVIDENCE, REFERENCE TO
- Opening statement
 - generally, § 9:7-9:10
 - for detailed treatment see index
heading OPENING STATEMENT
- Ultimate issues, testimony on
 - generally, § 9:41-9:45
 - for detailed treatment see index
heading ULTIMATE ISSUES, TESTIMONY ON
- Voir dire
 - generally, § 9:1-9:6
 - for detailed treatment see index
heading VOIR DIRE

TRUTH

- Incompetent witness, inability to tell truth, supporting authorities, § 8:40

INDEX

TRUTH SERUM EVIDENCE

Junk science and related evidence,
supporting authorities, § 5:18

TYPICAL USE OF MOTION

Generally, § 1:3-1:5
Limitations on use, § 1:4
Preservation of objections, § 1:5

ULTIMATE ISSUES, TESTIMONY ON

Generally, § 9:41-9:45
Conflicting evidence, § 9:45
Credibility assessment, improper,
§ 9:44
Exclusion of ultimate issue evidence,
generally, § 9:41-9:45
Expert witnesses. See index heading
EXPERT WITNESSES
Usurping jury function, § 9:43

UNDISCLOSED EVIDENCE

Plaintiff, motion to exclude, § 6:14

UNDISCLOSED WITNESSES

Motion to exclude testimony of,
§ 6:13

UNDISPUTED MATTERS

See index heading CONTROVERSY, MAT-
TERS NOT IN

UNRELIABLE EVIDENCE

Other accidents, evidence of, sup-
porting authorities, § 10:49

USURPING JURY FUNCTION

Expert witnesses, improper expert
opinion, supporting authorities,
§ 8:14
Ultimate issues, testimony on, § 9:43

VARIABLES

Expert opinion, too many variables,
§ 8:13

VEHICLE CODE

Accident reports, exclusion based on
vehicle code, supporting
authorities, § 4:43

VIDEO SURVEILLANCE

Opposition to motion to exclude,
§ 3:12

VIDEOTAPES

Motion to exclude prejudicial film or
videotapes
generally, § 4:27-4:30
for detailed treatment see index
heading PHOTOGRAPHS
Opposition to motion to exclude
video surveillance evidence,
§ 3:12

VIOLATION OF STATUTE

Generally, § 10:73-10:82
For detailed treatment see index
heading STATUTE VIOLATION

VOICEPRINT IDENTIFICATION

Junk science and related evidence,
supporting authorities, § 5:24

VOIR DIRE

Generally, § 9:1-9:6
Dollar amount of damages,
preconditioning regarding, sup-
porting authorities, § 9:4
Improper voir dire, supporting
authorities, § 9:3
Miscellaneous grounds, supporting
authorities, § 9:5
Opposition citations, § 9:6
Preconditioning, supporting authori-
ties, § 9:4
Suggested motion text, § 9:1
Summary of motion, § 9:2
Supporting authorities
dollar amount of damages,
preconditioning regarding,
§ 9:4
improper voir dire, § 9:3
miscellaneous grounds, § 9:5
preconditioning, § 9:4

WAGE PAYMENTS

Collateral source evidence, exclusion
of, supporting authorities,
§ 10:10

WASTE OF COURT'S TIME

Generally, § 2:6-2:9
Cumulative evidence, motion to
exclude or limit, supporting
authorities, § 2:21

WASTE OF COURT'S TIME

—Cont'd

- Exclusion of time wasting evidence,
§ 2:8
- Opposing authorities, § 2:9
- Suggested motion text, § 2:6
- Summary of motion, § 2:7
- Supporting authorities, § 2:8

WEALTH

- See index heading FINANCIAL STATUS OF
PARTY

WITNESSES

- Generally, § 8:1 et seq.
- Arbitrator as witness
 - generally, § 8:53 et seq.
 - for detailed treatment see index
 - heading JUDGE, ARBITRATOR,
MEDIATOR, OR JUROR AS WITNESS
- Courtroom, exclusion of witness
 - from, prior to testifying
 - generally, § 8:57 et seq.
 - for detailed treatment see index
 - heading COURTROOM, EXCLUSION
OF WITNESS FROM, PRIOR TO
TESTIFYING
- Cumulative evidence. See index
 - heading CUMULATIVE EVIDENCE,
MOTION TO EXCLUDE OR LIMIT
- Expert witnesses
 - generally, § 8:1 et seq.
 - for detailed treatment see index
 - heading EXPERT WITNESSES
- Hearsay
 - generally, § 8:73 et seq.
 - for detailed treatment see index
 - heading HEARSAY
- Incompetent witness
 - generally, § 8:38 et seq.
 - for detailed treatment see index
 - heading INCOMPETENT WITNESS
- Judge, arbitrator, mediator, or juror
 - generally, § 8:53 et seq.
 - for detailed treatment see index
 - heading JUDGE, ARBITRATOR,
MEDIATOR OR JUROR AS WITNESS
- Juror as witness
 - generally, § 8:53 et seq.

WITNESSES—Cont'd

- Juror as witness—Cont'd
 - for detailed treatment see index
 - heading JUDGE, ARBITRATOR,
MEDIATOR, OR JUROR AS WITNESS
- Lay witness evidence, motion to
 - exclude, § 8:86, 8:88
- Noncalled witnesses, evidence of
 - generally, § 8:65 et seq.
 - opposing authorities, § 8:72
 - suggested motion text, § 8:65
 - summary of motion, § 8:66
 - supporting authorities
 - equal availability of witness to
testify, § 8:68
 - miscellaneous grounds, § 8:71
 - other adequate testimony, § 8:70
 - prejudicial evidence, exclusion
of, § 8:67
 - speculation, comments would
invite, § 8:69
- Number of witnesses, exclusion of
 - cumulative evidence, supporting
authorities, § 2:24
- Opposition to motion to exclude
 - cumulative witness testimony,
§ 2:33
- Perceptions. See index heading WIT-
NESS PERCEPTIONS
- Privilege not to testify, comment on
 - generally, § 8:61 et seq.
 - for detailed treatment see index
 - heading PRIVILEGE NOT TO
TESTIFY, COMMENT ON
- Undisclosed witnesses, motion to
 - exclude testimony of, § 6:13

WITNESS PERCEPTIONS

- Alcohol consumption, relevance to
 - issues, opposing authorities,
§ 10:98
- Character or reputation, impeachment
 - of credibility, opposing authori-
ties, § 7:18
- Lay witness. See index heading
EXPERT WITNESSES

WORKERS COMPENSATION BENEFITS

- Collateral source evidence, exclusion
 - of, § 10:9

INDEX

WRITINGS AND PHYSICAL EVIDENCE

- Generally, § **4:1-4:80**
- Accident reports
 - generally, § **4:40-4:43**
 - for detailed treatment see index
 - heading ACCIDENT REPORTS
- Authentication. See index heading AUTHENTICATION
- Foundation, lack of
 - generally, § **4:1-4:9**
 - for detailed treatment see index
 - heading FOUNDATION, LACK OF
- Hearsay. See index heading HEARSAY
- Letters
 - generally, § **4:46-4:52**
 - for detailed treatment see index
 - heading LETTERS
- Maps, models, and charts
 - generally, § **4:55-4:59**
 - for detailed treatment see index
 - heading MAPS, MODELS, AND CHARTS
- Medical records, reports, or bills
 - generally, § **4:62-4:67**
 - for detailed treatment see index
 - heading MEDICAL RECORDS, REPORTS, OR BILLS

WRITINGS AND PHYSICAL EVIDENCE—Cont'd

- Motion to exclude writings
 - generally, § **4:10-4:17**
 - authentication. See index heading AUTHENTICATION
 - opposing authorities, § **4:15, 4:19**
 - suggested motion text, § **4:10**
 - summary of motion, § **4:11**
 - supporting authorities
 - authentication, general requirement, § **4:13**
 - definition of “writing,” § **4:12**
 - hearsay. See index heading HEARSAY
 - secondary evidence, inadmissible, § **4:18**
 - text messages, § **4:14**
 - unauthenticated writings, § **4:13**
 - text messages, § **4:14, 4:15**
 - Photographs. See index heading PHOTOGRAPHS
 - Published articles
 - generally, § **4:33-4:37**
 - for detailed treatment see index
 - heading PUBLISHED ARTICLES
- ### WRITTEN LEASE
- Sample memoranda, § **11:3**