Table of Contents

CHAPTER 1. MOTIONS IN LIMINE LAW

I. OVERVIEW

Α.	IN	LIMINE	I AW AND	PROCEDURE
Α.	LIN		LAW AND	- FINCHOLDUINE

- § 1:2 Authority for motion
- § 1:3 Typical use of motion
- § 1:4 —Limitations on use
- § 1:5 —Preservation of objections
- § 1:6 Timing of motion
- § 1:7 Scope of motion
- § 1:8 Procedural requirements—Caution regarding local rules
- § 1:9 Non-precedential decisions
- § 1:10 Standard and scope of review on appeal—Reversible error
- § 1:11 Admissibility of evidence—Overview—Harmless error

B. DRAFTING SUGGESTIONS

- § 1:12 Overview
- § 1:13 —File motions supported by facts
- § 1:14 —Be succinct
- § 1:15 Local rules—Briefing requirements

CHAPTER 2. PREJUDICIAL EVIDENCE

I. MOTION AUTHORITIES

A. MOTION TO EXCLUDE PREJUDICIAL EVIDENCE, GENERALLY

- § 2:1 Suggested motion text
- § 2:2 Motion summary
- § 2:3 Supporting authorities—Exclusion of prejudicial evidence
- § 2:4 Balancing inquiry; pre-trial irrelevant evidence
- § 2:5 Opposing authorities

B. MOTION TO EXCLUDE EVIDENCE THAT WILL WASTE COURT'S TIME

§ 2:6 Suggested motion text

§ 2:7 Motion summary § 2:8 Supporting authorities—Exclusion of time-wasting evidence § 2:9 Opposing authorities C. MOTION TO EXCLUDE CONFUSING OR MISLEADING EVIDENCE § 2:10 Suggested motion text Motion summary § 2:11 § 2:12 Supporting authorities—Exclusion of confusing or misleading evidence § 2:13 Opposing authorities D. MOTION TO EXCLUDE EVIDENCE USED TO CREATE AN EMOTIONAL BIAS § 2:14 Suggested motion text § 2:15 Motion summary Supporting authorities—Exclusion of prejudicial § 2:16 evidence, generally -Exclusion of evidence intended to inflame jurors' § 2:17 emotions § 2:18 Opposing authorities E. MOTION TO EXCLUDE OR LIMIT CUMULATIVE EVIDENCE § 2:19 Suggested motion text § 2:20 Motion summary § 2:21 Supporting authorities—Exclusion of time-wasting evidence § 2:22 -Exclusion of cumulative evidence ——Articles and letters § 2:23 — Number of witnesses § 2:24 § 2:25 ——Photographs — —Witness testimony § 2:26 Opposing authorities—General authority § 2:27 —Witness testimony § 2:28 F. FORMS

Motion to exclude demonstration

prejudicial photographs

Motion to exclude prejudicial evidence

Opposition to motion to exclude prejudicial evidence Motion to exclude evidence of inflammatory and

§ 2:29

§ 2:30

§ 2:31

§ 2:32

§ 2:33 Opposition to motion to exclude cumulative witness testimony

CHAPTER 3. IRRELEVANT EVIDENCE

I. MOTION AUTHORITIES

A. MOTION TO EXCLUDE IRRELEVANT EVIDENCE

- § 3:1 Suggested motion text
- § 3:2 Motion summary
- § 3:3 Supporting authorities—Exclusion of irrelevant evidence, generally
- § 3:4 ——Collateral issues
- § 3:5 ——Speculative evidence
- § 3:6 —Exclusion of irrelevant evidence—Medical malpractice actions
- § 3:7 Opposing authorities
- § 3:8 Supporting authorities—Failure to plead
- § 3:9 Opposing authorities—Limited Admissibility

B. MOTION TO EXCLUDE EVIDENCE OF MATTERS NOT IN CONTROVERSY

§ 3:10 Suggested motion text

II. SAMPLE MOTIONS

- § 3:11 Motion to exclude irrelevant e-mail message
- § 3:12 Opposition to motion to exclude video surveillance evidence
- § 3:13 Motion to exclude irrelevant text messages

CHAPTER 4. WRITINGS & PHYSICAL EVIDENCE

I. MOTION AUTHORITIES

A. MOTION TO EXCLUDE EVIDENCE LACKING FOUNDATION

- § 4:1 Suggested motion text
- § 4:2 Motion summary
- § 4:3 Supporting authorities—Exclusion of evidence lacking foundation, generally
- § 4:4 ——Conditional admissibility

Ş	4:5	——Exclusion of documentary evidence
-		——Exclusion of lay witnesses
		——Exclusion of expert witnesses
8	4:8	——Exclusion of scientific evidence
§	4:9	Opposing authorities
	В	· · · · · · · · · · · · · · · · · · ·
		GENERALLY
§	4:10	Suggested motion text
§	4:11	Motion summary
§	4:12	Supporting authorities—"Writing" defined
§	4:13	—Unauthenticated writings—General authentication requirement
§	4:14	—Text messages
	4:15	Opposing authorities—Text messages
§	4:16	Supporting authorities—Inadmissible hearsay— Generally
Ş	4:17	——Examples of inadmissible written hearsay
	4:18	—Inadmissible secondary evidence
§	4:19	Opposing authorities—Authentication
	С	. MOTION TO EXCLUDE GRUESOME OR INFLAMMATORY PHOTOGRAPHS
§	4:20	Suggested motion text
§	4:21	Motion summary
§	4:22	Supporting authorities—Exclusion of prejudicial evidence, generally
§	4:23	—Exclusion of irrelevant evidence, generally
Ş	4:24	—Gruesome or inflammatory photographs
§	4:25	—Other grounds
§	4:26	Opposing authorities
§	4:27	Opposition to motion to exclude prejudicial
		photographs
	D	. MOTION TO EXCLUDE PREJUDICIAL FILM OR VIDEOTAPES
Ş	4:28	Suggested motion text
-	4:29	Motion summary
_	4:30	Supporting authorities—Exclusion of prejudicial
v		evidence, generally
§	4:31	—Exclusion of videotape evidence
	4:32	—Other grounds
	4:33	Opposing authorities

§ 4:60 —Other grounds

§ 4:62 —Relevant to issues § 4:63 Motion to exclude map

	E.	MOTION TO EXCLUDE PUBLISHED ARTICLES
§	4:34	Suggested motion text
§	4:35	Motion summary
§	4:36	Supporting authorities—Exclusion of prejudicial evidence, generally
§	4:37	—Exclusion of published articles—Hearsay
	4:38	— Prejudicial
§	4:39	— Other grounds
§	4:40	Opposition authorities—Nonhearsay
	F.	MOTION TO EXCLUDE ACCIDENT REPORTS
§	4:41	Suggested motion text
§	4:42	Motion summary
§	4:43	Supporting authorities—Exclusion of prejudicial evidence, generally
§	4:44	—Exclusion based upon vehicle code
§	4:45	—Inadmissible hearsay
§	4:46	—Other grounds
	G.	MOTION TO EXCLUDE LETTERS
§	4:47	Suggested motion text
§	4:48	Motion summary
§	4:49	Supporting authorities—Exclusion of prejudicial evidence, generally
_	4:50	—Exclusion, generally
	4:51	—Other grounds
	4:52	Opposing authorities—Exceptions to hearsay rule
_	4:53	——Records of regularly conducted activity exception
	4:54	——Business records exception
§	4:55	——Public records exception
	Н.	MOTION TO EXCLUDE MAPS, MODELS & CHARTS
	4:56	Suggested motion text
_	4:57	Motion summary
§	4:58	Supporting authorities—Exclusion of prejudicial evidence, generally
§	4:59	—Exclusion of maps, models or charts

§ 4:61 Opposing authorities—Where accuracy not disputed

I. MOTION TO EXCLUDE IMPROPER MEDICAL RECORDS, REPORTS OR BILLS

§ 4:64	Suggested motion text
§ 4:65	Motion summary
§ 4:66	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 4:67	Exclusion of improper medical records, reports or bills—Medical opinions
§ 4:68	— — Medical bills
§ 4:69	— — Patient medical histories
§ 4:70	— — Other grounds
§ 4:71	Opposing authorities
§ 4:72	Motion to exclude newspaper article

J. MOTION TO EXCLUDE SOCIAL MEDIA EVIDENCE AND OTHER DIGITAL EVIDENCE

§ 4:73	Suggested motion text
§ 4:74	Motion summary
§ 4:75	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 4:76	-Exclusion of social media evidence-Generally
$\S 4:77$	— —Hearsay
§ 4:78	 —Lack of foundation or authentication
§ 4:79	—Other grounds
§ 4:80	Opposing authorities—Generally
§ 4:81	—Nonhearsay
§ 4:82	—Proper foundation or authentication
8 4.83	Motion to exclude social media evidence

CHAPTER 5. TESTS & SCIENTIFIC EVIDENCE

§ 4:84 Opposition to motion to exclude social media evidence

I. MOTION AUTHORITIES

A. MOTION TO EXCLUDE TESTS, EXPERIMENTS AND RELATED TESTIMONY

3 9:T	Suggested motion text
§ 5:2	Motion summary
5:3	Supporting authorities—Witness not qualified to
	testify on subject—Expert witness not qualified to
	testify on subject
§ 5:4	——Lay witness not qualified to testify on subject

TABLE OF CONTENTS

§ 5:37

§ 5:38

§ 5:5	—Not generally accepted
§ 5:6	—Gatekeeper function of trial court
§ 5:7	—Not made under "substantially similar conditions"
§ 5:8	—Not relevant
§ 5:9	—Other grounds
§ 5:10	Opposing authorities—Burden on party requesting Frye hearing
§ 5:11	—Level of acceptance in scientific community
§ 5:12	—Sufficiently similar conditions
В.	MOTION TO EXCLUDE "JUNK SCIENCE" AND RELATED EVIDENCE
§ 5:13	Suggested motion text
§ 5:14	Motion summary
§ 5:15	Supporting authorities—Exclusion of new scientific evidence—Generally
§ 5:16	—Blood alcohol content evidence
5:17	—Hedonic damage evidence
§ 5:18	—Truth serum evidence
§ 5:19	—Polygraph evidence
§ 5:20	—Psychological tests and syndromes
§ 5:21	— — Child abuse syndrome
§ 5:22	——Rape trauma syndrome
§ 5:23	—Hypnosis evidence
§ 5:24	—Voiceprint identification
§ 5:25	—Accident reconstruction evidence
§ 5:26	—Statistical evidence
§ 5:27	Supporting Authorities—Hair Microscopy
§ 5:28	Opposing authorities—Generally—Approved tests
§ 5:29	—Blood alcohol content evidence
§ 5:30	—Hedonic damage evidence
§ 5:31	—Polygraph evidence
§ 5:32	—Psychological tests and syndromes
§ 5:33	—Hypnosis evidence
§ 5:34	—Accident reconstruction
§ 5:35	Opposing Authorities—Eyewitness identification
§ 5:36	—Ballistic matching evidence
II. SA	AMPLE MOTIONS

Motion to exclude evidence of polygraph examination

Motion to exclude evidence of hypnosis

CHAPTER 6. DISCOVERY MOTIONS

I. MOTION AUTHORITIES

	6:1	Motion	summar
--	-----	--------	--------

A. DISCOVERY SANCTIONS

- § 6:2 Dismissal of claim
- § 6:3 Preclusion of evidence
- § 6:4 New trial

B. EXPERT WITNESS TESTIMONY

- § 6:5 Supplemental expert reports
- § 6:6 Identification of expert
- § 6:7 Fair scope rule
- § 6:8 Spoliation of evidence

C. OPPOSITION AUTHORITIES

- § 6:9 Discovery sanctions
- § 6:10 Expert witness testimony—Identification of expert
- § 6:11 —Fair scope rule
- § 6:12 Request for admissions

II. SAMPLE MOTIONS

- § 6:13 Motion to exclude testimony of undisclosed witness
- § 6:14 Motion to exclude plaintiff's undisclosed evidence

CHAPTER 7. CHARACTER EVIDENCE

I. MOTION AUTHORITIES

A. OVERVIEW OF CHARACTER EVIDENCE

- § 7:1 Admissible character evidence
- § 7:2 Character evidence subject to exclusion
- § 7:3 Habit or custom evidence
- § 7:4 Balancing inquiry—Pre-trial irrelevant evidence

B. MOTION TO EXCLUDE CHARACTER EVIDENCE USED FOR IMPEACHMENT OF CREDIBILITY

- § 7:5 Suggested motion text
- § 7:6 Motion summary

Table of Contents

§	7:7	Exclusion of irrelevant evidence, generally
§	7:8	Exclusion of prejudicial evidence, generally
§	7:9	Exclusion of improper impeachment evidence,
		generally
	7:10	—Alcohol consumption
_	7:11	—Arrests
_	7:12	—Criminal convictions
_	7:13	—Fraudulent acts
-	7:14	—Good character of witness
_	7:15	—Religious belief
_	7:16	Other grounds
_	7:17	Opposing authorities—Facts at issue
_	7:18	—Witness perceptions
_	7:19	—Impeachment, generally
_	7:20	—Admission of convictions
§	7:21	Opposing Authorities—Prior declaration of a witness
	C.	MOTION TO EXCLUDE CHARACTER EVIDENCE USED TO PROVE CONDUCT
§	7:22	Suggested motion text
§	7:23	Motion summary
§	7:24	Supporting authorities—Exclusion of irrelevant evidence, generally
Ş	7:25	—Exclusion of prejudicial evidence, generally
Š	7:26	—Exclusion of improper character evidence
ş	7:27	—Other grounds
§	7:28	Opposing authorities—Relevant to material issue— Exception for bad acts
§	7:29	— —Trait at issue
§	7:30	Opposition to motion to exclude inflammatory character evidence
§	7:31	Motion to exclude improper character evidence (marital infidelity)
§	7:32	Motion to exclude demonstration of defendant's tattoo
_	7:33	Motion to exclude evidence of religious beliefs
_	7:34	Motion to exclude improper character evidence (juvenile adjudication)

CHAPTER 8. WITNESS EVIDENCE

I. MOTION TO EXCLUDE IMPROPER EXPERT OPINION

 $\S~8:1$ Suggested motion text

§ 8:2 Motion summary § 8:3 Supporting authorities—Hypothetical questions § 8:4 —Inadmissible hearsay — — Opinions of others § 8:5 — — Treatises, documents & texts § 8:6 § 8:7 —Legal questions § 8:8 — —Compare: ultimate issues § 8:9 -Matters of common experience § 8:10 —Not reasonably relied upon by experts —Not perceived or personally known § 8:11 § 8:12 —Speculation or conjecture § 8:13 —Too many variables § 8:14 —Usurping jury function —Irrelevant matters § 8:15 § 8:16 -Other grounds § 8:17 Opposing authorities—Hypotheticals § 8:18 —Reliance on others—Opinions of others ——Statements of others § 8:19 — — Treatises, documents & texts § 8:20 —Legal questions vs. ultimate issues § 8:21 § 8:22 —Matters of common experience § 8:23 —Speculation § 8:24 Opposing Authorities—Proper Foundation —Usurping jury function § 8:25 § 8:26 —Proper subject of testimony

II. MOTION TO EXCLUDE TESTIMONY OF NON-QUALIFIED EXPERT

- § 8:27 Suggested motion text
- § 8:28 Motion summary
- § 8:29 Supporting authorities
- § 8:30 Opposing authorities

III. MOTION TO EXCLUDE OPINION OF NON-EXPERT

- § 8:31 Suggested motion text
- § 8:32 Motion summary
- § 8:33 Supporting authorities—Perceptions of witness
- § 8:34 —Subject for expert
- § 8:35 —Other grounds
- § 8:36 Opposing authorities—Perceptions of witness
- § 8:37 —Expert not required

IV. MOTION TO EXCLUDE TESTIMONY OF INCOMPETENT WITNESS

§ 8:38	Suggested motion text
§ 8:39	Motion summary
§ 8:40	Supporting authorities—Inability to express self or tell truth
§ 8:41	—Impaired memory
§ 8:42	—Children
§ 8:43	—Lack of mental competence/sanity
§ 8:44	—Lack of personal knowledge of subject matter
§ 8:45	—Other grounds
§ 8:46	Opposing authorities—General authority
§ 8:47	—Memory
§ 8:48	—Children
§ 8:49	—Mental competence
§ 8:50	—Ability to communicate
§ 8:51	—Lack of personal knowledge

V. MOTION TO EXCLUDE TESTIMONY OF JUDGE, ARBITRATOR, MEDIATOR OR JUROR

Motion to exclude testimony of incompetent witness

- § 8:53 Suggested motion text
- § 8:54 Motion summary

§ 8:52

- § 8:55 Supporting authorities—Judge as witness
- § 8:56 —Juror as witness

VI. MOTION TO EXCLUDE WITNESS FROM COURTROOM PRIOR TO TESTIFYING

- § 8:57 Suggested motion text
- § 8:58 Motion summary
- § 8:59 Supporting authorities
- § 8:60 Opposing authorities

VII. MOTION TO EXCLUDE COMMENT ON EXERCISE OF PRIVILEGE (NOT TO TESTIFY)

- § 8:61 Suggested motion text
- § 8:62 Motion summary
- § 8:63 Supporting authorities
- § 8:64 Opposing authorities

VIII. MOTION TO EXCLUDE EVIDENCE OF NON-CALLED WITNESSES

§ 8:65 Suggested motion text

§ 8:66	Motion summary
§ 8:67	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 8:68	—Where witness was equally available to testify
§ 8:69	—Where comments would invite speculation
§ 8:70	—Where other adequate testimony
§ 8:71	—Other grounds
§ 8:72	Opposing authorities
IX. M	MOTION TO EXCLUDE HEARSAY EVIDENCE
§ 8:73	Suggested motion text
§ 8:74	Motion summary
§ 8:75	Supporting authorities—General authority for exclusion
§ 8:76	—Purpose of rule
§ 8:77	Opposing authorities—Hearsay exceptions, generally
§ 8:78	—Purpose of exceptions to hearsay rule
§ 8:79	—Hearsay exceptions pursuant to Pennsylvania Rules of Evidence—Hearsay exceptions: availability of declarant immaterial
§ 8:80	— —Hearsay exceptions: testimony of declarant necessary
§ 8:81	— — Hearsay exceptions: declarant unavailable
§ 8:82	—Multiple hearsay
§ 8:83	—Dying declaration
§ 8:84	—GPS data
§ 8:85	Motion to exclude expert testimony
§ 8:86	Opposition to motion to exclude lay witness evidence
§ 8:87	Motion to exclude expert testimony (non-qualified)
§ 8:88	Motion to exclude lay witness testimony (causation)
CHA	PTER 9. TRIAL PRESENTATION
I. MO	OTION AUTHORITIES
A.	MOTION TO PREVENT IMPROPER VOIR DIR
901	

\mathbf{E}

- § 9:1 Suggested motion text § 9:2 Motion summary
- Supporting authorities—Improper voir dire § 9:3
- —Preconditioning—Preconditioning regarding dollar § 9:4 amount of damages
- —Other grounds § 9:5
- § 9:6 Opposition citations

B. MOTION TO EXCLUDE IMPROPER ARGUMENT IN OPENING STATEMENT

	ANGEMENT IN OFERING STATEMENT
9:7	Suggested motion text
9:8	Motion summary
9:9	Supporting authorities—Exclusion of prejudicial
,	evidence, generally
9:10	—Exclusion of prejudicial matter in opening statement
C.	MOTION TO BAR PREMATURE REBUTTAL TO AFFIRMATIVE DEFENSES
9:11	Suggested motion text
9:12	Motion summary
9:13	Supporting authorities—Exclusion of prejudicial evidence, generally
9:14	—Order of proof
D.	MOTION TO EXCLUDE REFERENCE TO LOST OR DESTROYED EVIDENCE
9:15	Suggested motion text
9:16	Motion summary
9:17	Supporting authorities—Exclusion of prejudicial evidence, generally
9:18	—Exclusion of lost or destroyed evidence
9:19	——Accidental destruction of evidence
9:20	— —Intentional destruction or suppression of evidence
9:21	——A note on tort of spoliation of evidence
9:22	—Other grounds
9:23	—Summary judgment
9:24	Opposing authorities—Missing witness adverse inference rule
9:25	Opposition citations—Generally
9:26	Motion to Exclude Arbitration Evidence and Findings
E.	MOTION TO EXCLUDE EVIDENCE OF DAMAGES IN BIFURCATED TRIAL
9:27	Suggested motion text
9:28	Motion summary
9:29	Supporting authorities—Statutory authority
9:30	—Authority

F. MOTION TO PRECLUDE "GOLDEN RULE ARGUMENT"

§ 9:31 Suggested motion text

§ 9:32	Motion summary
§ 9:33	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 9:34	—Rejection of "golden rule argument"
§ 9:35	—Other grounds
§ 9:36	Opposition citations
G.	MOTION TO EXCLUDE IMPROPER TERMINOLOGY
§ 9:37	Suggested motion text
§ 9:38	Motion summary
§ 9:39	Supporting authorities—Confusing evidence, generally
§ 9:40	—Terms containing legal conclusions
§ 9:41	—Testimony on ultimate issues—Exclusion of ultimate
	issue evidence
§ 9:42	———Generally
§ 9:43	— — — Usurping jury function
§ 9:44	— — —Improper credibility assessment
§ 9:45	———Conflicting evidence
§ 9:46	Opposing authorities
§ 9:47	Opposition to motion for "adverse inference" jury

CHAPTER 10. PERSONAL INJURY MOTIONS

§ 9:48 Motion to exclude improper argument during opening

I. MOTION AUTHORITIES

statement

A. MOTION TO EXCLUDE EVIDENCE OF COLLATERAL SOURCE PAYMENTS

§ 10:1	Suggested motion text
§ 10:2	Motion summary
§ 10:3	Supporting authorities—Exclusion of irrelevant evidence, generally
§ 10:4	—Exclusion of prejudicial evidence, generally
§ 10:5	—Exclusion of collateral source evidence, generally
§ 10:6	— —Gratuitous payments
§ 10:7	 — Medical or liability policy payments
§ 10:8	——Disability payments
§ 10:9	— —Worker's compensation benefits
§ 10:10	— —Wage payments
§ 10:11	—Other grounds

Table of Contents

§ 10:12 § 10:13 § 10:14	Opposing authorities—Relevant to issues in case — —Malingering —No prejudice
В.	MOTION TO EXCLUDE EVIDENCE OF LIABILITY INSURANCE
§ 10:15	Suggested motion text
§ 10:16	Motion summary
§ 10:17	Supporting authorities—Exclusion of irrelevant evidence, generally
§ 10:18	-Exclusion of prejudicial evidence, generally
§ 10:19	—Exclusion of liability insurance evidence
§ 10:20	—Irrelevant
§ 10:21	—Prejudicial
§ 10:22	—Other grounds
§ 10:23	Opposing authorities—Cross-examination
§ 10:24	—Where relevant to issues or otherwise admissible
§ 10:25	—Non-prejudicial references to insurance
§ 10:26	—To prove ownership or employment
C.	MOTION TO EXCLUDE SETTLEMENT EVIDENCE
§ 10:27	Suggested motion text
§ 10:28	Motion summary
§ 10:29	Supporting authorities—Exclusion of irrelevant evidence, generally
§ 10:30	—Exclusion of prejudicial evidence, generally
§ 10:31	—Exclusion of settlement evidence used to show liability
§ 10:32	——Prior settlements
§ 10:33	——Settlement negotiations
§ 10:34	——Settlement with co-defendants
§ 10:35	— —Where offer made prior to litigation
§ 10:36	——Exclusion of offer to pay expenses
§ 10:37	—Other grounds
§ 10:38	Opposing authorities—Admission against interest
	——Bias or Prejudice
§ 10:40	— —Mary Carter Agreements
D.	MOTION TO EXCLUDE EVIDENCE OF OTHER ACCIDENTS
§ 10:41	Suggested motion text
§ 10:42	Motion summary

§ 10:43	Supporting authorities—Exclusion of irrelevant
0 10 11	evidence, generally
§ 10:44	Exclusion of prejudicial evidence, generally
§ 10:45	—Exclusion of prior accident evidence—Absence of prior accidents
§ 10:46	——Prior accident evidence used to prove negligence
§ 10:47	 — Lack of similarity: dangerous condition/defective products
§ 10:48	— —Irrelevant
§ 10:49	— —Unreliable or speculative
§ 10:50	—Exclusion of subsequent accident evidence— Generally
§ 10:51	—Other grounds
§ 10:52	Opposing authorities—Evidence of prior accidents—Absence of prior accidents—Absence of prior accidents—Generally
§ 10:53	——Court's discretion
§ 10:54	 — Similarity: dangerous condition/defective products
§ 10:55	— Notice
§ 10:56	——Relevant to issues in case (e.g., similar injuries)
§ 10:57	——Strict product liability
§ 10:58	—Evidence of subsequent accidents—Dangerous condition
§ 10:59	——Impeachment
E.	MOTION TO EXCLUDE EVIDENCE OF SUBSEQUENT REPAIRS
§ 10:60	Suggested motion text
§ 10:61	Motion summary
§ 10:62	Supporting authorities—Exclusion of irrelevant evidence, generally
§ 10:63	-Exclusion of prejudicial evidence, generally
§ 10:64	—Exclusion of subsequent repair evidence— Inadmissible to show negligence
§ 10:65	——Inadmissible to show product design defect
§ 10:66	— —Irrelevant
§ 10:67	—Other grounds
§ 10:68	Opposing authorities—Impeachment
§ 10:69	—Relevant to issues
§ 10:70	—Feasibility
§ 10:71	—Subsequent repair rule inapplicable to third parties
§ 10:72	—Ownership or control
	- · ·

§ 10:99

Suggested motion text

F. MOTION TO EXCLUDE EVIDENCE OF STATUTE VIOLATION

§ 10:73	Suggested motion text
§ 10:74	Motion summary
§ 10:75	Supporting authorities—Exclusion of irrelevant evidence, generally
§ 10:76	—Exclusion of prejudicial evidence, generally
§ 10:77	—Exclusion of traffic citation evidence
§ 10:78	—Not proximate cause
§ 10:79	—Exclusion of pleas and related statements
§ 10:80	—Other grounds
§ 10:81	Opposing authorities—Negligence per se— Presumption of negligence
§ 10:82	—Movant's reply argument: gatekeeping provisions
G.	MOTION TO EXCLUDE EVIDENCE OF FAILURE TO WEAR SEATBELT
§ 10:83	Suggested motion text
§ 10:84	Motion summary
§ 10:85	Supporting authorities—Exclusion of irrelevant evidence, generally
§ 10:86	—Exclusion of prejudicial evidence, generally
§ 10:87	—Exclusion of seatbelt evidence
§ 10:88	—Other grounds
§ 10:89	Opposing authorities—Mandatory seatbelt laws
§ 10:90	—Harmless error
Н.	MOTION TO EXCLUDE EVIDENCE OF ALCOHOL CONSUMPTION
§ 10:91	Suggested motion text
§ 10:92	Motion summary
§ 10:93	Supporting authorities—Exclusion of irrelevant evidence, generally
§ 10:94	—Exclusion of prejudicial evidence, generally
§ 10:95	—Exclusion of alcohol evidence, generally
§ 10:96	—Other grounds
§ 10:97	Opposing authorities—Where relevant to issues
§ 10:98	— —Witness perceptions
I.	MOTION TO EXCLUDE EVIDENCE OF PRIOR D.U.I.

§ 10:100	Motion summary
§ 10:101	Supporting authorities—Exclusion of irrelevant evidence, generally
§ 10:102	Exclusion of prejudicial evidence, generally
§ 10:103	Exclusion of crimes evidence used for
	impeachment, generally
§ 10:104	—Exclusion of D.U.I. evidence where used to prove improper conduct, generally
§ 10:105	—Other grounds
§ 10:106	Opposing authorities—Improper conduct
J.	MOTION TO EXCLUDE EVIDENCE OF PARTY'S HEALTH OR INJURIES WHERE NOT AT ISSUE
§ 10:107	Suggested motion text
§ 10:108	Motion summary
§ 10:109	Supporting authorities—Exclusion of irrelevant evidence, generally
§ 10:110	—Exclusion of prejudicial evidence, generally
§ 10:111	 Exclusion of evidence of party's health or injuries where not at issue
§ 10:112	—Other grounds
§ 10:113	Opposing authorities—Relevant to issues in case
§ 10:114	—Impeachment
K.	MOTION TO EXCLUDE EVIDENCE OF PARTY'S FINANCIAL STATUS
§ 10:115	Suggested motion text
§ 10:116	Motion summary
§ 10:117	Supporting authorities—Exclusion of irrelevant evidence, generally
§ 10:118	—Exclusion of prejudicial evidence, generally
§ 10:119	—Exclusion of financial status—Exclusion of defendant's wealth, generally
§ 10:120	——Exclusion of tax evidence
§ 10:121	—Other grounds
§ 10:122	Opposing authorities—Necessary to support punitive damages claim
L.	MOTION TO EXCLUDE LIABILITY EVIDENCE (LIABILITY NOT AT ISSUE)
§ 10:123	Suggested motion text
§ 10:124	Motion summary
§ 10:125	Supporting authorities—Exclusion of irrelevant evidence, generally

TABLE	OF	Contents
LADLE	Or	CONTENTS

§ 10:126 § 10:127 § 10:128 § 10:129	 Exclusion of prejudicial evidence, generally New trial limited to damages Other grounds Opposing authorities
M.	MOTION TO EXCLUDE IMPROPER DAMAGE EVIDENCE (MOTOR VEHICLE CASES)
§ 10:130	Suggested motion text
§ 10:131	Motion summary
§ 10:132	Supporting authorities
\$ 10:133	Opposing authorities
N.	MOTION TO EXCLUDE ACCIDENT RECONSTRUCTION AND BIOMECHANIC EVIDENCE
§ 10:134	Suggested motion text
§ 10:135	Motion summary
§ 10:136	Supporting authorities—Biomechanic evidence, generally
§ 10:137	— — Anthropomorphic dummies
§ 10:138	— —"Finite Element Analysis" test
§ 10:139	—Low-speed impact motor vehicle cases, generally
§ 10:140	——Excluding "Delta V" testimony
§ 10:141	— — Challenging "plopping into a chair" testimony
§ 10:142	——"Human crash test dummy" testimony
§ 10:143	 — Photographs depicting "no damage" to motor vehicles
§ 10:144	— — Other unreliable tests
§ 10:145	Opposing authorities—Generally
О.	MOTION TO EXCLUDE EVIDENCE OF INDUSTRY OR GOVERNMENT STANDARDS
§ 10:146	Suggested Motion Text
§ 10:147	Motion summary
§ 10:148	Supporting authorities—Exclusion of industry or government standards
§ 10:149	Opposing authorities—Rebuttal to plaintiff's evidence

II. SAMPLE MOTIONS

§ 10:150 Motion to exclude evidence of subsequent remedial measures

Motion to exclude evidence of statute violation § 10:151 Motion to exclude mediation and/or settlement § 10:152 Motion to exclude liability insurance evidence § 10:153 § 10:154 Motion to exclude evidence of defendant's financial Motion to exclude evidence of alcohol consumption § 10:155 § 10:156 Motion to exclude evidence of defendant's prior DUI § 10:157 Motion to exclude evidence of prior traffic citations § 10:158 Motion to exclude evidence of subsequent repairs Opposition to motion to exclude evidence of § 10:159 defendant's financial status

CHAPTER 11. SAMPLE MEMORANDA OF LAW IN SUPPORT OF MOTIONS AND OPPOSITIONS TO MOTIONS

I. MOTIONS IN LIMINE

§ 11:1	Memorandum in support of motion to exclude testimony—Liability expert
§ 11:2	—Surveyor expert
§ 11.2	Memorandum in support of motion to exclude
8 11.0	evidence regarding alleged written lease (best evidence rule)
§ 11:4	Memorandum in support of motion to exclude evidence regarding termination of employment
§ 11:5	Memorandum in support of motion to preclude evidence of videotape
§ 11:6	Memorandum in support of motion to preclude evidence by defendant, and recording of plaintiff testimony, at arbitration
§ 11:7	Memorandum in support of motion to preclude expert opinion of defendant's accident reconstructionist
§ 11:8	Memorandum in support of motion to exclude evidence relating to unpled issues
§ 11:9	Memorandum in support of motion for discovery sanctions
§ 11:10	Memorandum in support of motion to exclude evidence of prior arrest
§ 11:11	Memorandum in support of motion to exclude evidence of damages in bifurcated trial
§ 11:12	Memorandum in support of motion to exclude evidence of absence of prior similar incidents
§ 11:13	Memorandum in support of motion to exclude evidence of medical expert opinion testimony

II. RESPONSES IN OPPOSITION TO MOTIONS IN LIMINE

- § 11:14 Memorandum in support of opposition to motion to exclude lay witness testimony as to speed of vehicle
- § 11:15 Memorandum in support of opposition to motion to exclude expert testimony (non-qualified)

Table of Laws and Rules

Table of Cases

Index