

Index

ABSOLUTE PROTECTION

Generally, § 2:2

ACCOUNTS AND ACCOUNTING

Legal and accounting services,
lawyer who is accountant,
§ 7:11

Taxation, certified public
accountants, § 3:22

ADVERSE PARTIES

Joint clients subsequently becoming
adversaries, § 4:33

ADVICE OR ASSISTANCE

Legal Advice or Assistance (this
index)

ADVOCATES

Victims of sexual assault, § 3:25

AGENTS AND REPRESENTATIVES

Attorney's agent
generally, § 3:3
agent's obligation to preserve
confidentiality of client,
§ 3:7

assistance, need for, § 3:4, 3:6
supervision by attorney, § 3:5

Client's agents, § 4:2

Communications (this index)

Corporations, § 4:18, 4:19

Executor of estate or trust, waiver
of privilege, § 9:17

Foreign patent agents, § 3:20

Patent agents, § 3:19, 3:20

Tax practitioners, enrolled agents
and actuaries, § 3:22

Trademark agents, § 3:23

AGENTS AND

REPRESENTATIVES

—Cont'd

Trusts and Trustees (this index)

Waiver of privilege

agents of individual client, § 9:2

attorney as agent of client,
§ 9:10

executor of estate or trust,
§ 9:17

AGREEMENTS

Contracts and Agreements (this
index)

APPEAL AND REVIEW

Generally, § 11:28 to 11:40

Civil contempt distinguished from
criminal contempt, § 11:31

Collateral order doctrine, § 11:36

Contempt, § 11:30, 11:31

District judges' decisions, gener-
ally, § 11:29 et seq.

Final judgments, § 11:29

Interlocutory appeal, certification
of, § 11:32

Last link or probative link error,
§ 4:7

Magistrates' decisions, § 11:28

Mandamus, § 11:33 to 11:35

Mootness, § 11:39

Perlman exception, § 11:37

Petitioner's burden, § 11:34

Prohibition, § 11:33 to 11:35

Standard of review, § 11:38

ASSERTION OF CLAIM

Generally, § 11:1 to 11:9

Affidavits, § 11:12

Burden of persuasion, § 11:10

ASSERTION OF CLAIM

—Cont'd

Constitutionality of ex parte, in camera inspection, § 11:17
Document production, § 11:7
Establishing privilege claims, generally, § 11:10 to 11:13
Evidentiary support for factual assertion, § 11:11
Ex parte inspection of materials, § 11:15 to 11:17
Form and content of objection, § 11:4
Government possession of documents, § 11:19
Grand jury investigations, § 11:19
Hearing, § 11:18
In camera inspection of materials, § 11:15 to 11:17
Index of privilege claims, § 11:8
Interrogatory answers, § 11:7
Intervention, § 11:2
Masters, reference to, § 11:20
Objections, § 11:3 to 11:7
Redaction to excise partially privileged documents, § 11:21
Resolution of privilege claims, generally, § 11:14 to 11:20
Sample affidavit, § 11:13
Sample privilege index, § 11:9
Standing, § 11:1, 11:2
Testimony, objections, § 11:5

ASSISTANCE OF COUNSEL

Constitutional right to effective counsel, § 10:6

ATTORNEYS

Generally, § 1:4, 3:1 to 3:24
Client, attorney as, § 4:3 to 4:5

ATTORNEYS' FEES

Confidentiality of fee information, § 6:18, 6:19

BAILMENTS

Evidence, bailee of, § 3:8

BANKRUPTCY

Conflict of laws, special cases of bankruptcy, § 12:14
Corporation in bankruptcy proceedings, § 4:42
Trustees
 Corporations (this index)
 Waiver and Estoppel (this index)

BAR MEMBERSHIP

Generally, § 3:2

BARRISTERS

Generally, § 1:4

BENEFACTORS

Generally, § 4:6, 4:7

BILL OF DISCOVERY

Scope of privilege, effect on, § 1:6, 1:8

BURDEN OF PERSUASION

Presumptions and Burden of Proof (this index)

BUSINESSES

Associates, § 3:9
Legal advice or assistance, intent of client, § 7:2
Presumption of legal advice from business associate, § 7:31

CERTIFICATES AND CERTIFICATION

Interlocutory appeals, certification of, § 11:32
Taxation, certified public accountants, § 3:22

CHOICE OF LAW

Conflict of Laws (this index)

CIVIL ACTIONS

Appeal and review, civil contempt distinguished from criminal

INDEX

CIVIL ACTIONS—Cont'd

- contempt, § 11:31
- Conflict of laws, civil suits and Rule 501, § 12:12, 12:13

CLIENTS

- Generally, § 4:1 to 4:52

COLLATERAL ESTOPPEL

- Generally, § 11:27

COLLATERAL ORDER DOCTRINE

- Generally, § 11:36

COMITY

- Conflict of laws, § 12:20 to 12:22

COMMON DEFENSE

- Joint Defense** (this index)

COMMUNICATIONS

- Generally, § 5:1 to 5:21
- Advice of attorney, client's decisions based on, § 5:14
- Agents
 - anticipation of communications with attorney, communication with clients in, § 5:15
 - cooperative communications, § 5:16
 - derivative protection, § 5:5 to 5:7
 - disclosing confidential client communications to agent, § 5:7
- Bank records maintained by attorney, § 5:9
- Cocounsel, communications with, § 5:8
- Confidentiality** (this index)
- Cooperative communications, § 5:16
- Derivative protection
 - advice of attorney, client's decisions based on, § 5:14
 - attorney's agent, communications with, § 5:5

COMMUNICATIONS—Cont'd

- Derivative protection—Cont'd
 - attorney to client communications, § 5:2
 - bank records maintained by attorney for client, § 5:9
 - cocounsel communicating with attorney, § 5:8
 - disclosing confidential client communications to agent, § 5:7
 - discovery from attorney, § 5:13
 - documents authored by attorney, § 5:11
 - file, communications from attorney to, § 5:8
 - implications of, § 5:3, 5:4
 - legal advice given by attorney among client's agents, § 5:7
 - notes revealing contents of nonprivileged pre-existing documents, § 5:10
 - third parties, drafts of documents being prepared for dissemination to, § 5:12
- Direct protection for client to attorney communications, § 5:2
- Disclosing confidential client communications to agent, § 5:7
- Discovery from attorney, § 5:13
- Documents. Records and reports, *infra*
- Drafts, status of, § 5:12
- E-mail, § 5:20
- Faxes, § 5:20
- Forms of communications, generally, § 5:17 to 5:20
- Implications of derivative protection, § 5:3, 5:4
- Information as not protected, § 5:1
- Joint defenses, cooperative communications by agent, § 5:16

ATTORNEY CLIENT PRIVILEGE IN THE UNITED STATES

COMMUNICATIONS—Cont'd

- Knowledge of attorney acquired from client communications, § 5:14
- Legal advice, what relationship must communication have to seek, § 5:21
- Notes, annotations, and interlineations on pre-existing privileged documents, § 5:19
- Pre-existing documents, § 5:10, 5:13, 5:18
- Preparatory communications, § 5:15
- Records and reports
 - attorney's files or records, generally, § 5:8
 - bank records maintained by attorney, § 5:9
 - documents authored by attorney, § 5:11
 - drafts, status of, § 5:12
 - notes revealing contents of nonprivileged pre-existing documents, § 5:10
 - pre-existing documents, § 5:10, 5:13, 5:18
- Texts, § 5:20
- Third parties, drafts of documents being prepared for dissemination to, § 5:12

COMMUNITY OF INTEREST STRATEGY

- Corporate clients, § 4:22

COMPLIANCE COUNSEL

- Generally, § 3:21

CONDUIT THEORY

- Confidentiality, § 6:9 to 6:13

CONFIDENTIALITY

- Generally, § 6:1 to 6:32
- Address and telephone number of client, § 6:20

CONFIDENTIALITY—Cont'd

- Agents, disclosing confidential communications to, § 5:7
- Agreements, generally, § 11:25
- Bankruptcy application preparation, § 6:13
- Conduct of client toward attorney, § 6:28
- Conduit theory, § 6:9 to 6:13
- Confidential communication exception, § 6:16
- Consultation, subject of, § 6:22
- Court dates, information about notice of, § 6:29
- Deficiency, information about notice of, § 6:29
- Description or identity
 - attorney and client, § 6:15 to 6:17
 - benefactors, § 6:19
- E-mail and digital communications, reasonableness of expectation of confidentiality, § 6:8
- Exceptions, § 6:16
- Existence of attorney-client relationship, fact of, § 6:21
- Expectation of confidentiality, § 6:2
- Factual circumstances surrounding communication, § 6:7
- Fee information, § 6:18, 6:19
- General nature of legal work performed, § 6:22
- History of requirement, § 6:3
- Identity. Description or identity, *supra*
- Information
 - fee information, § 6:18, 7:19
 - notices, information as to, § 7:29
 - privilege as not protecting, § 6:2
 - technical information within attorney-client com-

INDEX

CONFIDENTIALITY—Cont'd

- Information—Cont'd
 - munications, § 6:30
- Instructions to attorney, details of, § 6:23
- Last link exception, § 6:17
- Legal advice exception, § 6:16
- Logical imperative, § 6:4
- Meetings, details of, § 6:23
- Notices, information as to, § 6:29
- Objective reasonableness of client's expectation of, § 6:6 to 6:30
- Observations of attorney
 - generally, § 6:24
 - physical appearance of client, § 6:27
 - psychological state of client, § 6:25
 - signature of client, § 6:26
- Patent application preparation, § 6:13
- Penalties, notice of, § 6:29
- Physical appearance of client, § 6:27
- Presumption of confidentiality, § 6:32
- Probative link exception, § 6:17
- Psychological state of client, § 6:25
- Public information within attorney-client communications, § 6:30
- Requirement of confidentiality, generally, § 6:1 to 6:4
- Retention of attorney-client relationship, fact of, § 6:21
- Securities registration preparation, § 6:13
- Services sought by client, nature of, § 6:9
- Signature of client observed by attorney, § 6:26
- Subjective expectations, § 6:5
- Subsequent confidentiality, § 6:31

CONFIDENTIALITY—Cont'd

- Tax return preparation, § 6:13
- Technical information within attorney-client communications, § 6:30
- Test of confidentiality, conduit theory, § 6:12, 6:13
- Time or date
 - court dates, information about notice of, § 6:29
 - subsequent confidentiality, § 6:31
- Types of information communicated, generally, § 6:14 to 6:30

CONFLICT OF LAWS

- Generally, § 12:1 to 12:24
- Bankruptcy, special cases of, § 12:14
- Burden of persuasion, § 12:24
- Civil suits and Rule 501, § 12:12, 12:13, 12:17 to 12:19
- Comity, § 12:20 to 12:22
- Conflicting Federal statutes, Rule 501, § 12:8
- Criminal prosecutions, Federal, § 12:10, 12:11
- Diversity cases, § 12:17
- Federal Circuit's special problems, § 12:9
- Federal courts, conflicts between, § 12:23
- Federal criminal prosecutions, § 12:10, 12:11
- Federal law, § 12:3
- Federal Rules of Evidence, choice prior to enactment of, § 12:5
- Foreign privilege law, Rule 501, § 12:22
- Habeas corpus, special cases of, § 12:14
- Jurisdiction, § 12:14
- Mixture of Federal and State claims, § 12:13
- Practicality of solutions, § 12:4

CONFLICT OF LAWS—Cont’d

Prerequisites to application of
Rule 501, § 12:7
Rule 501, generally, § 12:6 to
12:24
State law, § 12:2
Venue, special problems with,
§ 12:19

CONSENT AND APPROVAL

Monitoring compliance with
consent decrees, § 7:22

CONSTITUTIONAL LAW

Generally, § 10:1 to 10:7
Assertion of claim, constitutional-
ity of in camera inspection,
§ 11:17
Assistance of counsel, § 10:6
Confronting witnesses, § 10:7
Due process, § 10:5
Free speech, § 10:2
Search and seizure, § 10:3
Self-incrimination, § 10:4

CONTEMPT

Appeal and review, § 11:30, 11:31

CONTEST OF WILLS

Exceptions to privilege, § 8:26

**CONTRACTS AND
AGREEMENTS**

Confidentiality agreements,
§ 11:25
Corporations, status of indepen-
dent contractors, § 4:19
Subrogee to rights of another,
§ 4:43

COPIES AND DUPLICATES

Telephonic and electronic com-
munications, § 5:20

CORPORATIONS

Generally, § 4:9 to 4:27
Agents, protection under privilege,
§ 4:19, 4:21

CORPORATIONS—Cont’d

Assertion of privilege, § 4:20
Attorney of corporation, waiver of
privilege, § 9:8
Availability of privilege, § 4:10
Bankruptcy
 corporation in, § 4:42
 trustees, § 4:27, 9:9
Board members, § 4:27
Communications
 control group test, § 4:12 to
 4:14
 parent communicating with sub-
 sidiary corporations,
 § 4:24
 present employees discussing
 matters predating employ-
 ment, § 4:17
 subject matter test, § 4:14
 to whose communications does
 privilege extend, § 4:11
Community of interest strategy,
§ 4:22
Control group test, § 4:12 to 4:14
Directors. Officers and directors,
 infra
Employees
 former employees, communica-
 tions with, § 4:18
 interviewing corporate employ-
 ees, § 4:16
 present employees discussing
 matters predating employ-
 ment, § 4:17
 waiver of privilege, § 9:7
Ethical restrictions, § 4:16
Exceptions to privilege
 director’s counsel versus
 corporation’s counsel,
 § 8:25
 extension of Garner rule, § 8:23
 Garner rule, generally, § 8:20 to
 8:23
 limitations on applicability of
 Garner rule, § 8:20

INDEX

CORPORATIONS—Cont'd

- Exceptions to privilege—Cont'd
 - rejection of Garner balancing approach, § 8:21
 - shareholder actions against directors, generally, § 8:18 to 8:20
- Former employees, communications with, § 4:18
- Independent contractors, status of, § 4:19
- Interviewing corporate employees, § 4:16
- Introduction, § 4:9
- Joint client strategy, § 4:23
- Joint defenses, § 4:22
- Joint representation of officers and directors, § 4:32
- Knowledge of seeking legal advice, § 4:15
- Legal advice or assistance, intent of client, § 7:2
- Notice and knowledge of seeking legal advice, § 4:15
- Officers and directors
 - generally, § 4:26, 4:27
 - director's counsel versus corporation's counsel, § 8:25
 - joint representation of, § 4:32
 - waiver of privilege, § 9:5, 9:6
- Outside agents, status of, § 4:19
- Parent company communicating with subsidiary corporations, § 4:24
- Present employees discussing matters predating employment, § 4:17
- Scope of privilege, generally, § 4:11 to 4:14
- Shareholders
 - actions against directors. Exception to privilege, *supra*
 - clients, generally, § 4:8

CORPORATIONS—Cont'd

- Shareholders—Cont'd
 - expanding influence of Garner in stockholder actions, § 8:22
- Subject matter test, § 4:14
- Subsidiary corporations, parent company communicating with, § 4:24
- Succeeding officers, § 4:27
- Successors in interest, § 4:27
- Trustees, bankruptcy, § 4:27, 9:9
- Unincorporated Entities** (this index)
- Waiver of privilege
 - generally, § 4:25 to 4:27, 9:5 to 9:9
 - attorney of corporation, § 9:8
 - bankruptcy trustee, § 9:9
 - employees, past and present, § 9:7
 - officers and directors, § 9:5, 9:6

COURT ORDERS

- Judgments, Orders, and Decrees** (this index)

CRIME FRAUD EXCEPTION

- Generally, § 8:2 to 8:16

CUSTODIANS

- Legal advice or assistance, custodian of items, § 7:12

DATE

- Time or Date** (this index)

DEATH AND DEATH ACTIONS

- Client's death affecting privilege, § 2:6

DECREES

- Judgments, Orders, and Decrees** (this index)

DEFENSES

- Joint Defenses** (this index)

ATTORNEY CLIENT PRIVILEGE IN THE UNITED STATES

DEFINITIONS

Generally, § 2:1

DEPOSITIONS

Discovery and Depositions (this index)

DERIVATIVE EVIDENCE

Generally, § 10:10

DESCRIPTION OR IDENTITY

Confidentiality, § 6:15 to 6:17, 6:19

DIGITAL COMMUNICATIONS

Confidentiality, reasonableness of expectation, § 6:8

DIRECTIONS OR INSTRUCTIONS

Confidentiality, details of instructions to attorney, § 6:23

DISCLOSURE

Agents, disclosing confidential client communications to, § 5:7

Anticipated fraud, ethical obligation of attorney to disclose, § 8:3

Reservations, disclosures with, § 11:26

Waiver and Estoppel (this index)

DISCOVERY AND DEPOSITIONS

Assertion of claim, document production and interrogatory answers, § 11:6

Bill of discovery, effect on scope of privilege, § 1:6, 1:8

Communications, discovery from attorney, § 5:13

Exceptions to privilege, § 8:14, 8:15

DIVERSITY ACTIONS

Conflict of laws, § 12:17

DRAFTING DOCUMENTS

Legal Advice and Assistance (this index)

DUE PROCESS OF LAW

Generally, § 10:5

E-MAIL

Communications, § 5:20

Confidentiality, reasonableness of expectation, § 6:8

Document to be withheld, nature and extent of, § 11:7

Legal advice or assistance communication, § 7:3

EMPLOYER AND EMPLOYEE

Corporations (this index)

ETHICS

Corporate clients, § 4:16

EVIDENCE AND WITNESSES

Assertion of claim, evidentiary support for factual assertion, § 11:11

Bailee of evidence, § 3:8

Client, witness as, generally, § 4:52

Constitutional right to confront witnesses, § 10:7

Derivative evidence, exclusion of, § 10:10

Discovery and Depositions (this index)

Exceptions to Privilege (this index)

Federal Rules of Evidence, choice prior to enactment of, § 12:5

Fruit of the poisonous tree, § 10:10

Joint clients, exception to privilege, § 4:34

Last link or probative link error, § 4:7

Law of witnesses and emergence of privilege, § 1:2

INDEX

EVIDENCE AND WITNESSES

—Cont'd

Presumptions and Burden of Proof (this index)

Waiver and Estoppel (this index)

Witnesses, generally, § 3:24

EXCEPTIONS TO PRIVILEGE

Generally, § 8:1 et seq.

Abuse of attorney-client relationship, generally, § 8:2 to 8:16

Alexander v United States, § 8:15

Anticipated fraud, ethical obligation of attorney to disclose, § 8:3

Burden of persuasion, § 8:4 to 8:10, 8:24

Confidentiality exceptions, generally, § 6:15 to 6:17, 6:19

Corporations (this index)

Crime-fraud exception, generally, § 8:2 to 8:16

Death of client affecting privilege, § 2:6

Demonstration of crime, fraud, or tort, scope of discovery, § 8:14

Discovery, § 8:14, 8:15

Ethical obligation of attorney to disclose anticipated fraud, § 8:3

Evidence

communications in question, evidence independent of, § 8:9

consideration of, § 8:8

discovery, § 8:8

prima facie standard as element of exception, § 8:6

Expanding influence of Garner in stockholder actions, § 8:22

Fiduciary duty owed to individuals, generally, § 8:18 to 8:25

Findings, consequence of, § 8:10

Fraud exception, generally, § 8:2 to 8:16

EXCEPTIONS TO PRIVILEGE

—Cont'd

Good cause exception as not allowed, § 8:1

In camera inspection of contested communication, § 8:9

Inequitable conduct, § 8:12

Inspection of contested communication in camera, § 8:9

Joint clients, § 4:34, 8:17

Knowledge of attorney as element of fraud exception, § 8:6

Necessity exception as not allowed, § 8:1

Open meeting laws, § 8:27

Patent laws, § 8:12

Perlman exception, § 11:37

Preclusion of application of privilege, § 8:11, 8:12

Prima facie standard as element of fraud exception, § 8:7

Public meeting laws, § 8:27

Satisfaction of burden of persuasion, § 8:7

Sunshine laws, § 8:27

Time or date

client's acts and consultation with attorney, timing of, § 8:16

death of client affecting privilege, § 2:6

Tort, scope of discovery after demonstration of, § 8:14

Unavailability exception as not allowed, § 8:1

Will contests, § 8:26

Wrongful conduct precluding application of privilege, § 8:11 to 8:13

EXECUTORS AND ADMINISTRATORS

Waiver of privilege, executor of estate or trust, § 9:17

FAXES

Communications, § 5:20

ATTORNEY CLIENT PRIVILEGE IN THE UNITED STATES

FEDERAL RULES OF EVIDENCE

Conflict of laws prior to enactment of, § 12:5

FIFTH AMENDMENT

Generally, § 10:4, 10:5

FINES AND PENALTIES

Confidentiality, notice of penalties, § 6:29

FIRST AMENDMENT

Generally, § 10:2

FOREIGN STATE OR COUNTRY

Attorneys, generally, § 3:10
Conflict of laws, § 12:23
Foreign patent agents, § 3:20

FOURTH AMENDMENT

Generally, § 10:3

FRAUD, DECEIT, AND MISREPRESENTATION

Exceptions to privilege, § 8:2 to 8:16

FREE SPEECH

Generally, § 10:2

FRIENDS AND RELATIVES

Generally, § 3:11

FRUIT OF THE POISONOUS TREE

Generally, § 10:10

GARNER RULE

Exceptions to privilege, § 8:20 to 8:23

GENERAL PRINCIPLES

Generally, § 2:1 to 2:7

GOVERNMENT AGENCIES OR ENTITIES

Generally, § 4:28
Assertion of claim, possession of documents, § 11:19

GOVERNMENT AGENCIES OR ENTITIES—Cont'd

Waiver of privilege, § 9:20

GOVERNMENT ATTORNEYS

Generally, § 3:12
Victim, relationship with, § 4:51

GRAND JURY

INVESTIGATIONS

Assertion of claim, § 11:19

HABEAS CORPUS

Conflict of laws, special cases of habeas corpus, § 12:13, 12:16

HEARINGS

Assertion of claim, § 11:18

HEIRS

Waiver of privilege, § 9:18

HISTORY OF PRIVILEGE

Generally, § 1:1 to 1:13

IDENTITY OR DESCRIPTION

Confidentiality, § 6:15 to 6:17, 6:19

IMPOSTORS

Generally, § 3:13

INDEPENDENT CONTRACTORS

Corporations, status of independent contractors, § 4:19

INFORMATION

Communications, information as not protected, § 5:1
Conduit of information or materials, lawyer serving as, § 7:21
Confidentiality (this index)

IN-HOUSE COUNSEL

Generally, § 3:14
Consultation with outside counsel, § 4:4

INDEX

INSPECTIONS AND INSPECTORS

- Assertion of claim, in camera inspection of materials, § 11:15 to 11:17
- Fraud exception, in camera inspection of contested communication, § 8:9

INSTRUCTIONS OR DIRECTIONS

- Confidentiality, details of instructions to attorney, § 6:23

INSURANCE

- Generally, § 4:29

INTENT OR MOTIVE

- Legal advice or assistance, § 7:2, 7:33

INTERLOCUTORY APPEALS

- Certification of, § 11:32

INTERROGATORIES

- Assertion of claim, § 11:6

INVESTIGATION AND INVESTIGATORS

- Generally, § 3:21
- Legal advice or assistance, § 7:17 to 7:19

JAILHOUSE LAWYERS

- Generally, § 3:15

JOINT CLIENTS

- Generally, § 4:30
- Adverse parties, joint clients subsequently becoming, § 4:33
- Corporate clients, strategies, § 4:23
- Corporate officers and directors, joint representation of, § 4:32
- Exceptions to privilege, § 4:34, 8:17
- Requirement, § 4:31
- Waiver and Estoppel** (this index)

JOINT CLIENTS—Cont'd

- Witnesses, exception to privilege, § 4:34

JOINT DEFENSE

- Burden of persuasion, § 4:37
- Community of interests, § 4:36
- Corporate clients, § 4:22
- Participants in joint defense, generally, § 4:35 to 4:38
- Shared communications, reason for, § 4:38
- Waiver of privilege by common defense participants, § 9:3, 9:4

JUDGES

- Generally, § 3:16
- Appeal and review, district judges' decisions, § 11:29 et seq.

JUDGMENTS, ORDERS, AND DECREES

- Consent decrees, monitoring compliance with, § 7:22
- Final judgments, § 11:29
- For attorney's eyes only orders, § 11:24
- Protective Orders** (this index)
- Stay of execution of judgment, standard of review, § 11:40

JURISDICTION

- Conflict of laws, § 12:13

LAST LINK

- Benefactors, generally, § 4:7

LAW STUDENTS

- Generally, § 3:17

LEGAL ADVICE OR ASSISTANCE

- Generally, § 7:1 to 7:33
- Accounting and legal services, § 7:11
- Business associates, § 7:31

LEGAL ADVICE OR

ASSISTANCE—Cont'd

Business context, intent of client in, § 7:2

Conduit of information or materials, lawyer serving as, § 7:21

Consent decrees, monitoring compliance with, § 7:22

Consultation
generally, § 7:1, 7:2
primary purpose, § 7:6 to 7:9
requests by client, necessity of, § 7:32

Corporation, intent of client, § 7:2

Custodian or repository of items, § 7:12

Drafting
generally, § 7:13
press releases, § 7:14
real estate conveyances, § 7:15
wills, § 7:16

E-mail technology, § 7:3

Final judgments, monitoring compliance with, § 7:22

In-house counsel, § 7:30

Insurance claims investigated, § 7:19

Intent or motive
corporate or business context, § 7:2
seeking legal advice, § 7:33

Internal investigations of illegal activities, § 7:18

Investigative services
generally, § 7:17
insurance claims, § 7:19
internal investigations of illegal activities, § 7:18

Legislative services, § 7:20

Means of communication, § 7:8

Messenger, lawyer serving as, § 7:21

Ministerial services, § 7:21

Mixture of legal and nonlegal services affecting status of

LEGAL ADVICE OR

ASSISTANCE—Cont'd

confidentiality, § 7:4, 7:5

Monitoring compliance with judgments or decrees, § 7:22

Motive. Intent or motive, supra

Negotiations, § 7:23

Nonsegregable parts of communication, § 7:9

Other services not constituting legal assistance, generally, § 7:27

Outside counsel, § 7:29

Partial privilege of legal and non-legal communications, § 7:5, 7:9

Patent application preparation and prosecution, § 7:24

Preparation of tax return, confidentiality, § 7:26

Press releases, drafting of, § 7:14

Presumption of legal advice, § 7:29 to 7:31

Primary purpose requirement, § 7:6 to 7:9

Real estate conveyances, drafting of, § 7:15

Repository of items, § 7:12

Scrivener, lawyer serving as, § 7:21

Self-initiated legal advice, § 7:32

Special expertise, lack of as not defeating privilege, § 7:28

Tax advice and services, § 7:25, 7:26

Technology, effect on confidentiality, § 7:3

Types of advice or services, generally, § 7:11 to 7:27

What constitutes, generally, § 7:10

Wills, drafting of, § 7:16

Witness, lawyer serving as, § 7:21

LEGISLATURE

Legal advice or assistance, § 7:20

INDEX

LIMITATIONS AND RESTRICTIONS

Exceptions to privilege, limitation
on applicability of Garner
rule, § 8:20

Limited liability companies,
§ 4:39

Litigation limitations in America,
short-lived, § 1:13

Partnerships, § 4:49

Waiver and Estoppel (this index)

LIMITED LIABILITY COMPANIES

Generally, § 4:39

LIMITED PARTNERSHIPS

Generally, § 4:49

MAGISTRATES

Appeal and review, magistrates'
decisions, § 11:28

MAILS AND MAILING

E-mail, communications by,
§ 5:20

MANDAMUS

Generally, § 11:33 to 11:35

MASTERS

Generally, § 3:21

Assertion of claim, reference to
master, § 11:20

MONITORS

Generally, § 3:21

MOTIVE

Intent or Motive (this index)

NAME AND ADDRESS

Confidentiality, § 6:20

NOTICE AND KNOWLEDGE

Communications with client,
knowledge of attorney
acquired from, § 5:14

Confidentiality, information as to
notices, § 6:29

NOTICE AND KNOWLEDGE

—Cont'd

Fraud exception, knowledge of
attorney as element of, § 8:6

Waiver and Estoppel (this index)

OBJECTIONS AND EXCEPTIONS

Assertion of claim, § 11:3 to 11:7

Bill of discovery, exception to,
§ 1:8

OFFICERS AND DIRECTORS

Corporations (this index)

OPEN MEETING LAWS

Exceptions to privilege, § 8:27

ORDERS

Judgments, Orders, and Decrees
(this index)

PARENT AND CHILD

Generally, § 3:18

PARTIAL PRIVILEGE

Legal and nonlegal communica-
tions, § 7:5, 7:9

Resolution of claim, redaction to
excise partially privileged
documents, § 11:21

PARTNERSHIPS

Generally, § 4:47

Commencement of attorney-client
relationship for, § 4:50

Limited partnerships, § 4:49

PATENTS

Agents, § 3:19, 3:20

Confidentiality, patent application
preparation, § 6:12

Exceptions to privilege, § 8:12

Legal assistance in preparation
and prosecution, § 7:24

PRESUMPTIONS AND BURDEN OF PROOF

Appeal and review, petitioner's
burden, § 11:34

**PRESUMPTIONS AND BURDEN
OF PROOF—Cont'd**

Assertion of claim, § 10:8, 10:9,
11:10

Choice of law, § 12:24

Confidentiality, presumption of,
§ 6:32

Exceptions to privilege, § 8:4 to
8:10, 8:24

Joint defenses, burden of persua-
sion, § 4:37

Legal advice, presumption of,
§ 7:29 to 7:31

PROCEDURAL MATTERS

Generally, § 11:1 to 11:40

**PRODUCTION OF
DOCUMENTS**

Assertion of claim, § 11:6

PROHIBITION WRIT

Generally, § 11:33 to 11:35

PROSPECTIVE CLIENTS

Generally, § 4:40

PROTECTIVE ORDERS

For attorney's eyes only orders,
§ 11:24

Procedure, § 11:22 to 11:24

Sample order, § 11:23

PUBLIC MEETING LAWS

Exceptions to privilege, § 8:27

**RECEIVERS AND
RECEIVERSHIP**

Waiver of privilege, § 9:16

RECORDS AND REPORTS

Certificates and Certification
(this index)

Communications (this index)

**RELIANCE ON ADVICE OF
COUNSEL**

Waiver, § 9:46 to 9:51

RESTRICTIONS

Limitations and Restrictions
(this index)

SCOPE OF PRIVILEGE

Generally, § 1:5 to 1:11

Bill of discovery' limitation on,
§ 1:6

Exception to bill of discovery,
§ 1:8

Expansion of attorney's privilege,
§ 1:11

Radcliffe v Fursman, privilege
after, § 1:7 to 1:11

Retrenchment of attorney's privi-
lege, § 1:10

SEARCH AND SEIZURE

Generally, § 10:3

SELF-DEFENSE EXCEPTION

Waiver and Estoppel (this index)

SELF-INCRIMINATION

Generally, § 10:4

SEXUAL ASSAULT

Victims' advocates, § 3:25

SIGNING AND SIGNATURE

Confidentiality, attorney observing
signature of client, § 6:26

SIXTH AMENDMENT

Generally, § 10:6, 10:7

SOLICITORS

Generally, § 1:4

SPECIAL COUNSEL

Generally, § 3:21

SPECIAL MASTERS

Generally, § 3:21

STANDING TO ASSERT CLAIM

Generally, § 11:1, 11:2

**STAY OF EXECUTION OF
JUDGMENT**

Standard of review, § 11:40

INDEX

STOCKS AND

STOCKHOLDERS

Corporations (this index)

SUBROGATION

Generally, § 4:43

SUBSIDIARIES

Parent company communicating with, § 4:24

SUCCESSORS IN INTEREST

Generally, § 4:41

Corporate clients, § 4:27

SUNSHINE LAWS

Exceptions to privilege, § 8:27

TAXATION

Certified public accountants, § 3:22

Confidentiality, tax return preparation, § 6:13

TECHNOLOGY

Effect on confidentiality, generally, § 7:3

E-Mail (this index)

Telephone number of client, confidentiality of, § 6:20

TELEPHONES

Confidentiality of client's telephone number, § 6:20

TESTATORS

Generally, § 4:44

TESTS AND EXPERIMENTS

Control group test, § 4:12 to 4:14

Subject matter test, § 4:14

TEXTS

Communications, § 5:20

TIME OR DATE

Beginning and end of privilege, § 2:4

Confidentiality (this index)

TIME OR DATE—Cont'd

Exceptions to privilege, § 2:6, 8:16

Partnerships, commencement of attorney-client relationship, § 4:50

Waiver and Estoppel (this index)

TORTS

Exceptions to privilege, § 8:14

TRADEMARK AGENTS

Generally, § 3:23

TRUSTS AND TRUSTEES

Generally, § 4:45

Bankruptcy (this index)

UNINCORPORATED ENTITIES

Generally, § 4:46 to 4:50

Client, who is, § 4:48

Members, entities existing for and owned by, § 4:47

Partnerships (this index)

Trade associations, § 4:47

VENUE

Conflict of laws, § 12:19

VICTIMS

Government attorney's relationship with victim, § 4:51

WAIVER AND ESTOPPEL

Generally, § 9:1 to 9:97

Agents

attorney as agent of client, § 9:10

executor of estate or trust, § 9:17

individual clients, § 9:2

Asserting claim making attorney-client communications relevant, § 9:52 to 9:55

Attacks on counsel. Self-defense exception, *infra*

Bankruptcy examiner, debtor in possession, § 9:15

WAIVER AND ESTOPPEL

—Cont'd

- Bankruptcy trustees
 - generally, § 9:12
 - corporate trustees, § 9:9
 - individual debtors, § 9:14
 - successor-in-interest to management of corporate debtor, § 9:13
- Collateral estoppel, § 11:27
- Common defense participants, § 9:3, 9:4
- Corporate clients, § 4:25 to 4:27
- Corporations** (this index)
- Criminal defendant, waiver of joint privilege by, § 9:4
- Debtor and creditor. Bankruptcy trustees, *supra*
- Devisees, § 9:18
- Disclosures
 - inadvertent disclosures, *infra*
 - scope of waiver extending beyond disclosed communication, § 9:84 to 9:88
 - voluntary disclosures, *infra*
- Evidence and witnesses
 - generally, § 9:35 to 9:38
 - privileged communications, evidentiary use of, § 9:35 to 9:38
 - refreshing recollection with attorney-client communications, § 9:39 to 9:44
- Exceptions to waiver by voluntary disclosure
 - generally, § 9:68 to 9:79
 - inadvertent disclosures, *infra*
- Executor of estate or trust, § 9:17
- Heirs, § 9:18
- Implied authority to waive, § 9:2
- Inadvertent disclosures
 - exceptions to waiver by, generally, § 9:72 to 9:79

WAIVER AND ESTOPPEL

—Cont'd

- Individual clients, generally, § 9:1, 9:2
 - Injecting attorney-client communications into litigation, § 9:45 to 9:67
 - Joint clients
 - generally, § 9:3, 9:4
 - Legatees, § 9:18
 - Limited waiver
 - generally, § 9:90 to 9:96
 - Receivers, § 9:16
 - Refreshing recollection with attorney-client communications, § 9:39 to 9:44
 - Reliance on advice of counsel, § 9:46 to 9:51
 - Scope of waiver, generally, § 9:80 to 9:97
 - Selective waiver
 - scope extending beyond disclosed communication, § 9:84 to 9:88
 - Self-defense exception
 - generally, § 9:56 to 9:61
 - third party actions against attorney, § 9:57 to 9:59
 - Successor-in-interest to management of corporate debtor, bankruptcy trustee as, § 9:13
 - Third parties
 - generally, § 9:11 to 9:19.50
 - bankruptcy trustees, *supra*
 - governmental entities, § 9:20
 - Trusts and trustees, generally, § 9:17
 - Voluntary disclosure
 - generally, § 9:29 to 9:44
 - exceptions to waiver by voluntary disclosure, *supra*
- ## WILLS
- Duration of privilege, § 2:6
 - Exceptions to privilege, § 8:26
 - Testator as client, § 4:44