

# Index

## **ABUSE OF PROCESS**

- Generally, **14:1 to 14:3**
- Elements, **14:1**
- Jury instructions, **14:3**
- Malicious prosecution distinguished, **14:1**
- Statute of limitations, **14:2**

## **ACCOUNTING (OR AUDIT), EQUITABLE ACTION**

- Generally, **4:1 to 4:3**
- Admissibility of evidence, **4:3**
- Compensation, auditor's, taxing as costs of suit, **4:3**
- Damages sought, use of auditor's findings, **4:3**
- Elements, **4:2**
- Exceptions to auditor's report, **4:3**
- Historical background, **4:1**
- How accounting should work, **4:3**
- Other causes of action, effect on, **4:3**
- Setting aside auditor's report, **4:3**

## **ACCOUNTS AND ACCOUNTING**

- Accounting (or Audit), Equitable Action, this index
- Jury instructions
  - malpractice, **58:3**
  - sworn account, suit on, **7:3**
- Malpractice
  - generally, **58:1 to 58:3**
  - causation, **58:1**
  - elements, **58:1**
  - jury instructions, **58:3**
  - statute of limitations, **58:2**
- Statutes of limitation
  - malpractice, **58:2**
  - sworn account, suit on, **7:2**
- Sworn Account, Suit on, this index

## **AFFIRMATIVE DEFENSES**

- Answer, **2:6**
- Battery, **17:1**
- Tortious interference with existing business relations, **11:1**

## **ALCOHOLIC BEVERAGES**

- Dram Shop Actions, this index

## **ANIMALS**

- Generally, **5:1 to 5:9**

## **ANIMALS—Cont'd**

- Court documents, sample, **5:9**
- Damages for injuries to animals, **5:1**
- Dangerous animals, generally, **5:3, 5:4, 5:6, 5:8**
- Dangerous Dog Act, **5:6**
- Duty of reasonable care, **5:2**
- Ferae naturae, doctrine of, **5:4**
- Handling of animal, negligent, **5:2**
- Injuries by animals
  - generally, **5:2 to 5:7**
  - Dangerous Dog Act, **5:6**
  - domestic animals, dangerous, **5:3**
  - negligent handling of animal, **5:2**
  - statutes of limitation, **5:7**
  - tenant on landlord's premises, animal-caused injury, **5:5**
  - wild animals, dangerous, **5:4**
- Injuries to animals, **5:1**
- Jury instructions
  - generally, **5:8**
  - malpractice by veterinarians, **60:3**
- Negligent handling of animal, **5:2**
- Sample court documents, **5:9**
- Statute of limitations
  - injuries by animals, **5:7**
  - malpractice by veterinarians, **60:2**
- Strict liability
  - domestic animals, dangerous, **5:3**
  - wild animals, dangerous, **5:4**
- Tenant on landlord's premises, animal-caused injury, **5:5**
- Veterinarians, this index

## **ANSWER**

- Generally, **2:1 to 2:8**
- Affirmative defenses, **2:6**
- Counterclaims, **2:7**
- Cross-claims, **2:7**
- Dilatory pleas, **2:2**
- Draft answer, **2:8**
- General denial, **2:4**
- Numbered paragraphs, **2:1**
- Special exceptions, **2:3**
- Specific denial, **2:5**
- Third-party claims, **2:7**
- Verified denials, **2:5**

**APPEARANCES**

Special appearance, use of, **2:2**

**APPROPRIATION, INVASION OF  
PRIVACY BY**

Elements, **29:1**

Jury instructions, **29:3**

Statute of limitations, **29:2**

**ARCHITECTS AND ENGINEERS**

Malpractice

generally, **57:1 to 57:3**

causation, **57:1**

elements, **57:1**

jury instructions, **57:3**

statute of limitations, **57:2**

**ASSAULT**

Generally, **16:1 to 16:3**

Civil and criminal, **16:1**

Elements, **16:1**

Jury instructions, **16:3**

Statute of limitations, **16:2**

**ASSUMPSIT**

Generally, **9:1 to 9:3**

Contract, existence of, **9:1**

Elements, **9:1**

Historical background, **9:1**

Jury instructions, **9:3**

Limitations on use of remedy, **9:1**

Other equitable remedies, **9:1**

Statute of limitations, **9:2**

**ATTACHMENT**

Generally, **34:1, 34:2**

Statute of limitations, **34:2**

**ATTORNEYS**

Fees, shareholder derivative suits, **51:3**

Malpractice. Legal Malpractice, this  
index

**ATTORNEY'S FEES**

Shareholder derivative suits, **51:3**

**ATTRACTIVE NUISANCE**

Generally, **42:4**

**AUDITS**

Accounting (or Audit), Equitable Action,  
this index

**AUTOMOBILES**

Negligent entrustment of, **68:1 to 68:3**

**BATTERY**

Generally, **17:1 to 17:3**

Affirmative defenses, **17:1**

Civil and criminal, **17:1**

**BATTERY—Cont'd**

Elements, **17:1**

Jury instructions, **17:3**

Self-defense, **17:1**

Statute of limitations, **17:2**

**BOTNETS**

Spyware, this index

**BREACH OF COVENANT**

Implied Covenant to Protect Premises

Against Drainage, this index

**BREACH OF FIDUCIARY DUTY**

Elements, **24:1**

Jury instructions, **24:3**

Statute of limitations, **24:2**

**BREACH OF WARRANTY**

Implied Warranty of Fitness for a Partic-  
ular Purpose, this index

Implied Warranty of Merchantability,  
this index

**BURDEN OF PROOF**

Generally, **1:2**

**BURDENS**

Affirmative defenses, **2:6**

Pleading, production, and proof, **1:2**

Tortious interference with existing busi-  
ness relations, prima facie burden,  
**11:1**

**BUSINESS DISPARAGEMENT**

Generally, **31:1 to 31:3**

Damages, **31:1**

Elements, **31:1**

Jury instructions, **31:3**

Malice, **31:1**

Privilege, **31:1**

Publication, **31:1**

Statute of limitations, **31:2**

**BUSINESS RELATIONS**

Tortious Interference with Existing  
Business Relations, this index

Tortious Interference with Prospective  
Business Relations, this index

**CAUSE-IN-FACT**

Negligence, **22:1**

**CLOSELY HELD CORPORATIONS**

Shareholder derivative suits, **51:2**

**COMPUTERS**

Harmful access by

Generally, **71:1 to 71:5**

damages, **71:2**

elements, **71:1**

## INDEX

### COMPUTERS—Cont'd

- Harmful access by—Cont'd
  - jury instructions, **71:5**
  - preemption, **71:4**
  - statute of limitations, **71:3**

### CONFIDENTIAL INFORMATION

- Spyware, this index
- Trade secret misappropriation, elements, **23:1**
- Unreasonable publicity invasion of privacy, **28:1**

### CONFLICT OF LAWS

- Fraudulent transfers, **48:2**

### CONSPIRACY

- Generally, **18:1 to 18:3**
- Civil conspiracy, **18:1**
- Derivative tort, **18:1**
- Elements, **18:1**
- Jury instructions, **18:3**
- Prima facie claim, **18:1**
- Specific intent, **18:1**
- Statute of limitations, **18:2**

### CONSTRUCTIVE TRUSTS

- Unjust enrichment, **10:1**

### CONTRACT ACTIONS

- Generally, **6:1 to 6:3**
- Elements, **6:1**
- Jury instructions, **6:3**
- Quantum Meruit, this index
- Statute of limitations, **6:2**

### CONVERSION

- Generally, **19:1 to 19:4**
- Damages, **19:1**
- Debtor-creditor relationship, **19:2**
- Elements
  - generally, **19:1**
  - conversion of money, **19:2**
- General debt, money represented by, **19:2**
- Good faith, **19:1**
- Intent, **19:1**
- Jury instructions, **19:4**
- Money, conversion of, generally, **19:2**
- Prima facie case, conversion of money, **19:2**
- Repudiation of plaintiff's rights, **19:1**
- Statute of limitations, **19:3**

### CORPORATIONS

- Fraud, transactions involving corporate stock, **21:2**
- Shareholder Derivative Suits, this index

### COSTS

- Compensation, auditor's, taxing as costs of suit, **4:3**

### COUNTERCLAIMS

- Generally, **2:7**

### COUNTIES

- Specific requirements by jurisdiction, **3:1**

### COVENANTS NOT TO COMPETE

- Generally, **50:1 to 50:3**
- Elements, **50:1**
- Jury instructions, **50:3**
- Statute of limitations, **50:2**

### CRIMINAL OFFENSES

- Assault, **16:1**
- Battery, **17:1**

### CROSS-CLAIMS

- Generally, **2:7**

### DAMAGES

- Auditor's findings, use of, **4:3**
- Business disparagement, **31:1**
- Conversion, **19:1**
- Funeral director malpractice, **59:1**
- Harmful access by computer, **71:2**
- Implied warranty of fitness for a particular purpose, breach of, **64:1**
- Implied warranty of merchantability, breach of, **63:1**
- Injuries to animals, **5:1**
- Interception of communication, **73:2**
- Legal malpractice, **56:1**
- Medical malpractice, damage caps, **54:3**
- Slander of title, **32:1**
- Trespass to real property, **61:1**
- Trespass to try title/suit to quiet title, **33:1**
- Unlawful diversion of water, **72:2**
- Veterinarian malpractice, **60:1**
- Workers' compensation, **66:1**

### DEATH ACTIONS

- Wrongful Death, this index

### DECEIT

- Generally. Fraud or Deceit, this index

### DECEPTIVE TRADE PRACTICES

- Generally, **47:1 to 47:3**
- Causation, **47:1**
- Consumer defined, **47:1**
- Elements, **47:1**
- Goods defined, **47:1**
- Jury instructions, **47:3**
- Services defined, **47:1**

**DECEPTIVE TRADE PRACTICES**

**—Cont'd**

Statute of limitations, **47:2**

Unconscionable acts, **47:1**

**DECLARATORY JUDGMENT**

Generally, **46:1 to 46:3**

Elements, **46:1**

Jury instructions, **46:3**

Parties, **46:1**

Statute of limitations, **46:2**

**DEFAMATION**

Generally, **30:1 to 30:3**

Constitutional law, **30:1**

Definition, **30:1**

Elements, **30:1**

Jury instructions, **30:3**

Malice, **30:1**

Prima facie claim, **30:1**

Publication, **30:1**

Statute of limitations, **30:2**

Unreasonable publicity invasion of  
privacy compared, **28:1**

**DEFENSE**

Interception of communication, **73:4**

**DENIALS**

General denial, **2:4**

Verified denial, **2:5**

**DERIVATIVE SUITS**

Shareholder Derivative Suits, this index

**DILATORY PLEAS**

Answer, **2:2**

**DISCHARGE FROM EMPLOYMENT**

Wrongful Employee Discharge, this  
index

**DOGS**

Generally. Animals, this index

Dangerous Dog Act, **5:6**

**DRAM SHOP ACTIONS**

Generally, **43:1 to 43:3**

Jury instructions, **43:3**

Statute of limitations, **43:2**

**EAVESDROPPING**

Unreasonable intrusion invasion of  
privacy, **27:1**

**EMPLOYMENT**

Covenants Not to Compete, this index

Discharge from employment. Wrongful  
Employee Discharge, this index

**EMPLOYMENT—Cont'd**

Sexual exploitation by mental health  
service provider, employer liability,  
**55:3**

**ENGINEERS**

Architects and Engineers, this index

**ENVIRONMENTAL ACTIONS**

Generally, **13:1**

**EVIDENCE**

Admissibility, auditor's report, **4:3**

Tortious interference with prospective  
business relations, evidentiary  
showing required, **12:1**

**EXPERT WITNESSES**

Medical malpractice, **54:4**

**FALSE IMPRISONMENT**

Generally, **20:1 to 20:3**

Elements, **20:1**

Intent, **20:1**

Jury instructions, **20:3**

Process, arrest or detention pursuant to,  
**20:1**

Statute of limitations, **20:2**

**FALSE LIGHT**

Invasion of privacy, **26:1**

**FIDUCIARY DUTY**

Breach of Fiduciary Duty, this index

**FINANCIAL EXPLOITATION OF A  
VULNERABLE ADULT**

Elements, **69:1**

Jury instructions, **69:3**

Statute of Limitations, **69:2**

**FITNESS FOR A PARTICULAR  
PURPOSE**

Implied Warranty of Fitness for a Partic-  
ular Purpose, this index

**FORESEEABILITY**

Negligence, **22:1**

**FRAUD OR DECEIT**

Generally, **21:1 to 21:4**

Common law fraud, **21:1**

Elements

common law fraud, **21:1**

deceptive trade practices, **47:1**

fraudulent transfers, **48:1**

Internet fraud, **52:1**

statutory fraud, **21:2**

Four-part test, **21:1**

Internet Fraud, this index

## INDEX

### **FRAUD OR DECEIT—Cont'd**

- Jury instructions
  - generally, **21:4**
  - deceptive trade practices, **47:3**
  - fraudulent transfers, **48:4**
  - Internet fraud, **52:3**
- Oil and gas lease reformation, **62:1**
- Prima facie case, statutory fraud, **21:2**
- Real estate transactions, **21:2**
- Statutes of limitation
  - generally, **21:3**
  - deceptive trade practices, **47:2**
  - fraudulent transfers, **48:3**
  - Internet fraud, **52:2**
- Statutory fraud, **21:2**
- Trade practices. Deceptive Trade Practices, this index
- Transfers. Fraudulent Transfers, this index

### **FRAUDULENT TRANSFERS**

- Generally, **48:1 to 48:4**
- Conflict of laws, **48:2**
- Debtor defined, **48:1**
- Elements, **48:1**
- Jury instructions, **48:4**
- Statute of limitations, **48:3**

### **FUNERAL DIRECTORS**

- Malpractice
  - generally, **59:1 to 59:3**
  - causation, **59:1**
  - damages, **59:1**
  - elements, **59:1**
  - jury instructions, **59:3**
  - statute of limitations, **59:2**

### **GARNISHMENT**

- Generally, **36:1, 36:2**
- Definition, **36:1**
- Statute of limitations, **36:2**

### **GENERAL DENIAL**

- Answer, **2:4**

### **GOOD FAITH**

- Breach of fiduciary duty, **24:1**
- Conversion, **19:1**

### **HARMFUL ACCESS BY COMPUTER**

- Generally, **71:1 to 71:5**
- Damages, **71:2**
- Elements, **71:1**
- Jury instructions, **71:5**
- Preemption, **71:4**
- Statute of limitations, **71:3**

### **HEALTH CARE**

- Malpractice. Medical Malpractice, this index
- Sexual Exploitation by Mental Health Service Provider, this index

### **IMPLIED COVENANT TO PROTECT PREMISES AGAINST DRAINAGE**

- Generally, **65:1 to 65:3**
- Breach, generally, **65:1 to 65:3**
- Elements, **65:1**
- Jury instructions, **65:3**
- Statute of limitations, **65:2**

### **IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE**

- Generally, **64:1 to 64:3**
- Breach, generally, **64:1 to 64:3**
- Damages, **64:1**
- Elements, **64:1**
- Jury instructions, **64:3**
- Notice, **64:1**
- Statute of limitations, **64:2**

### **IMPLIED WARRANTY OF MERCHANTABILITY**

- Generally, **63:1 to 63:3**
- Breach, generally, **63:1 to 63:3**
- Damages, **63:1**
- Elements, **63:1**
- Jury instructions, **63:3**
- Notice, **63:1**
- Proximate cause, **63:1**
- Statute of limitations, **63:2**

### **INSTRUCTIONS TO JURY**

- Jury Instructions, this index

### **INTENT**

- Conspiracy, specific intent, **18:1**
- Conversion, actionable intent, **19:1**
- False imprisonment, willful detention, **20:1**
- Oil and gas lease reformation, **62:1**
- Trespass to real property, **61:1**
- Unreasonable intrusion invasion of privacy, **27:1**

### **INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS**

- Elements, **25:1**
- Jury instructions, **25:3**
- Statute of limitations, **25:2**

### **INTERCEPTION OF COMMUNICATION**

- Generally, **73:1 to 73:4**
- Damages, **73:2**

**INTERCEPTION OF**

**COMMUNICATION—Cont'd**

Elements, **73:1**

Statutes of limitation, **73:3**

**INTERNET FRAUD**

Generally, **52:1 to 52:3**

Elements, **52:1**

Jury instruction, **52:3**

Statute of limitations, **52:2**

**INTOXICATING LIQUORS**

Dram Shop Actions, this index

**INVASION OF PRIVACY**

Appropriation, Invasion of Privacy by, this index

Statute of limitations, **26:2**

Types, generally, **26:1**

Unreasonable Intrusion, this index

Unreasonable Publicity, this index

**JOINT STOCK COMPANIES**

Fraud, transactions involving stock, **21:2**

**JURISDICTION**

Mandamus, **39:3**

**JURISDICTIONS**

County-specific requirements, **3:1**

**JURY INSTRUCTIONS**

Abuse of process, **14:3**

Accounts and Accounting, this index

Animals, this index

Appropriation, **29:3**

Architects and engineers, malpractice, **57:3**

Assault, **16:3**

Assumpsit, **9:3**

Battery, **17:3**

Business disparagement, **31:3**

Conspiracy, **18:3**

Contract actions, **6:3**

Conversion, **19:4**

Covenants not to compete, **50:3**

Deceptive trade practices, **47:3**

Declaratory judgment, **46:3**

Defamation, **30:3**

Dram shop actions, **43:3**

False imprisonment, **20:3**

Fiduciary duty, breach of, **24:3**

Financial exploitation of a vulnerable adult, **69:3**

Fraud, **21:4**

Fraudulent transfers, **48:4**

Funeral directors, malpractice, **59:3**

Harmful access by computer, **71:5**

**JURY INSTRUCTIONS—Cont'd**

Implied covenant to protect premises against drainage, breach of, **65:3**

Implied warranty of fitness for a particular purpose, breach of, **64:3**

Implied warranty of merchantability, breach of, **63:3**

Intentional infliction of emotional distress, **25:3**

Internet fraud, **52:3**

Intrusion, unreasonable, **27:3**

Legal malpractice, **56:3**

Liquor law violations, **43:3**

Malicious prosecution, **15:3**

Medical malpractice, **54:5**

Negligence, **22:3**

Negligent entrustment of motor vehicle, **68:3**

Nuisance, **41:3**

Oil and gas lease reformation, **62:3**

Premises liability, **42:6**

Publicity, unreasonable, **28:3**

Quantum meruit, **8:3**

Sexual exploitation by mental health service provider, **55:5**

Shareholder derivative suits, **51:5**

Slander of title, **32:3**

Spyware, **53:3**

Survival actions, **44:2**

Sworn account, suit on, **7:3**

Tortious interference with existing business relations, **11:3**

Tortious interference with prospective business relations, **12:3**

Trade secret misappropriation, **23:3**

Trespass to real property, **61:3**

Unjust enrichment, **10:3**

Unreasonable intrusion, **27:3**

Unreasonable publicity, **28:3**

Veterinarian malpractice, **60:3**

Wrongful death, **45:3**

Wrongful employee discharge, **49:3**

**LANDLORD AND TENANT**

Animal-caused injury to tenant on landlord's premises, **5:5**

**LEGAL MALPRACTICE**

Generally, **56:1 to 56:3**

Causation, **56:1**

Damages, **56:1**

Elements, **56:1**

Jury instructions, **56:3**

Standard of care, **56:1**

Statute of limitations, **56:2**



## INDEX

### **LIBEL**

Defamation, this index

### **LIQUOR LAW VIOLATIONS**

Dram Shop Actions, this index

### **MALICIOUS PROSECUTION**

Generally, **15:1 to 15:3**  
Abuse of process distinguished, **14:1**  
Elements, **15:1**  
Jury instructions, **15:3**  
Presumptions, **15:1**  
Probable cause inquiry, **15:1**  
Statute of limitations, **15:2**

### **MALPRACTICE**

Accounts and Accounting, this index  
Architects and Engineers, this index  
Funeral Directors, this index  
Legal Malpractice, this index  
Medical Malpractice, this index  
Veterinarians, this index

### **MANDAMUS**

Generally, **39:1 to 39:3**  
Jurisdiction, **39:3**  
Procedural requirements, **39:3**

### **MEDICAL CARE**

Generally. Health Care, this index

### **MEDICAL MALPRACTICE**

Generally, **54:1 to 54:5**  
Causation, **54:1**  
Damage caps, **54:3**  
Definitions, **54:1**  
Elements, **54:1**  
Expert witnesses, **54:4**  
Jury instructions, **54:5**  
Standard of care, **54:1**  
Statute of limitations, **54:2**  
Veterinarians, this index

### **MENTAL HEALTH**

Sexual Exploitation by Mental Health  
Service Provider, this index

### **MERCHANTABILITY**

Implied Warranty of Merchantability,  
this index

### **MISTAKE**

Oil and gas lease reformation, **62:1**

### **MONEY**

Conversion of money, **19:2**

### **MOTOR VEHICLES**

Negligent entrustment of, **68:1 to 68:3**

### **NAME**

Appropriation, invasion of privacy by,  
**29:1**

### **NEGLIGENCE**

Generally, **22:1 to 22:3**  
Animal, negligent handling, **5:2**  
Automobile, negligent entrustment of,  
**68:1 to 68:3**  
Cause-in-fact, **22:1**  
Duty, **22:1**  
Elements, **22:1**  
Foreseeability, **22:1**  
Jury instructions, **22:3**  
Malpractice, this index  
Statute of limitations, **22:2**

### **NONCOMPETITION COVENANTS**

Covenants Not to Compete, this index

### **NOTICE OR KNOWLEDGE**

Implied warranty of fitness for a particu-  
lar purpose, breach of, **64:1**  
Implied warranty of merchantability,  
breach of, **63:1**  
Negligent entrustment of motor vehicle,  
**68:1**

### **NUISANCE**

Generally, **41:1 to 41:3**  
Attractive nuisance, **42:4**  
Jury instructions, **41:3**  
Statute of limitations, **41:2**

### **OIL AND GAS LEASE**

Drainage. Implied Covenant to Protect  
Premises Against Drainage, this  
index  
Reformation  
generally, **62:1 to 62:3**  
elements, **62:1**  
fraud, **62:1**  
intent, **62:1**  
jury instructions, **62:3**  
mistake, **62:1**  
statutes of limitation, **62:2**

### **PERSONAL PROPERTY**

Conversion, this index

### **PETITION**

Generally, **1:1 to 1:3**  
Burden continuum, **1:2**  
Numbered paragraphs, **1:1**  
Sample state court petition, **1:3**

### **PETS**

Animals, this index

**PHISHING**

Internet fraud, **52:1**  
Spyware, **53:1**

**PREEMPTION**

Harmful access by computer, **71:4**

**PREMISES LIABILITY**

Generally, **42:1 to 42:6**  
Attractive nuisance, **42:4**  
Invitees, liability to, **42:1**  
Jury instructions, **42:6**  
Licensees, liability to, **42:2**  
Statute of limitations, **42:5**  
Trespassers, liability to, **42:3**

**PRESUMPTIONS**

Malicious prosecution, **15:1**  
Negligent entrustment of motor vehicle,  
**68:1**  
Oil and gas lease reformation, **62:1**  
Unreasonable publicity invasion of  
privacy, **28:1**

**PRIVACY**

Invasion of Privacy, this index

**PROCESS**

Abuse of Process, this index  
False imprisonment, arrest or detention  
pursuant to process, **20:1**

**PROSPECTIVE BUSINESS  
RELATIONS**

Tortious Interference with Prospective  
Business Relations, this index

**PROXIMATE CAUSE**

Implied warranty of merchantability,  
breach of, **63:1**  
Negligent entrustment of motor vehicle,  
**68:1**

**QUANTUM MERUIT**

Generally, **8:1 to 8:3**  
Contract and quasi-contract theories, **8:1**  
Elements, **8:1**  
Jury instructions, **8:3**  
Statute of limitations, **8:2**

**QUESTIONS OF LAW**

Breach of fiduciary duty, **24:1**

**QUO WARRANTO**

Generally, **40:1 to 40:3**  
Availability, **40:2**  
Procedural requirements, **40:3**

**REAL ESTATE TRANSACTIONS**

Fraud, **21:2**

**RECEIVERSHIP**

Generally, **37:1, 37:2**  
Statute of limitations, **37:2**

**REPORTS AND REPORTING**

Auditor's report, **4:3**  
Sexual exploitation by mental health  
service provider, duty to report,  
**55:2**

**RESTATEMENT OF TORTS  
(SECOND)**

Tortious interference with prospective  
business relations, **12:1**

**RESTITUTION**

Unjust enrichment, **10:1**

**SABINE-PILOT DOCTRINE**

Wrongful employee discharge, **49:1**

**SELF-DEFENSE**

Battery, **17:1**

**SEQUESTRATION**

Generally, **35:1, 35:2**  
Statute of limitations, **35:2**

**SEXUAL EXPLOITATION BY  
MENTAL HEALTH SERVICE  
PROVIDER**

Generally, **55:1 to 55:5**  
Definitions, **55:1**  
Elements, **55:1**  
Employer liability, **55:3**  
Jury instructions, **55:5**  
Reporting duty, **55:2**  
Statute of limitations, **55:4**

**SHAREHOLDER DERIVATIVE SUITS**

Generally, **51:1 to 51:5**  
Attorney's fees and expenses, **51:3**  
Closely held corporations, **51:2**  
Elements, **51:1**  
Jury instructions, **51:5**  
Statute of limitations, **51:4**

**SLANDER**

Defamation, this index

**SLANDER OF TITLE**

Generally, **32:1 to 32:3**  
Damages, **32:1**  
Definition, **32:1**  
Elements, **32:1**  
Jury instructions, **32:3**  
Malice, **32:1**  
Publication, **32:1**  
Statute of limitations, **32:3**



## INDEX

### **SPECIAL APPEARANCE**

Use of, **2:2**

### **SPECIAL EXCEPTIONS**

Answer, **2:3**

### **SPECIFIC DENIAL**

Answer, **2:5**

### **SPECIFIC INTENT**

Conspiracy, **18:1**

### **SPYWARE**

Generally, **53:1 to 53:3**

Elements, **53:1**

Jury instructions, **53:3**

Statute of limitations, **53:2**

### **STALKING**

Generally, **70:1 to 70:3**

Defense, **70:2**

Elements, **70:1**

Statute of limitations, **70:3**

### **STATUTES OF LIMITATION**

Abuse of process, **14:2**

Accounts and Accounting, this index

Animals, this index

Appropriation, **29:2**

Architects and engineers, malpractice, **57:2**

Assault, **16:2**

Assumpsit, **9:2**

Attachment, **34:2**

Battery, **17:2**

Business disparagement, **31:2**

Conspiracy, **18:2**

Contract actions, **6:2**

Conversion, **19:3**

Covenants not to compete, **50:2**

Deceptive trade practices, **47:2**

Declaratory judgment, **46:2**

Defamation, **30:2**

Dram shop actions, **43:2**

False imprisonment, **20:2**

Fiduciary duty, breach of, **24:2**

Financial exploitation of a vulnerable adult, **69:2**

Fraud, **21:3**

Fraudulent transfers, **48:3**

Funeral directors, malpractice, **59:2**

Garnishment, **36:2**

Harmful access by computer, **71:3**

Implied covenant to protect premises against drainage, breach of, **65:2**

Implied warranty of fitness for a particular purpose, breach of, **64:2**

### **STATUTES OF LIMITATION—Cont'd**

Implied warranty of merchantability, breach of, **63:2**

Injuries by animals, **5:7**

Intentional infliction of emotional distress, **25:2**

Interception of communication, **73:3**

Internet fraud, **52:2**

Invasion of privacy, **26:2**

Legal malpractice, **56:2**

Liquor law violations, **43:2**

Malicious prosecution, **15:2**

Medical malpractice, **54:2**

Negligence, **22:2**

Negligent entrustment of motor vehicle, **68:2**

Nuisance, **41:2**

Oil and gas lease reformation, **62:2**

Premises liability, **42:5**

Privacy, invasion of, **26:2**

Publicity, unreasonable, **28:2**

Quantum meruit, **8:2**

Receivership, **37:2**

Sequestration, **35:2**

Sexual exploitation by mental health service provider, **55:4**

Shareholder derivative suits, **51:4**

Slander of title, **32:3**

Spyware, **53:2**

Stalking, **70:3**

Survival actions, **44:2**

Sworn account, suit on, **7:2**

Temporary injunction/temporary restraining order, **38:2**

Tortious interference with existing business relations, **11:2**

Tortious interference with property rights, **67:2**

Tortious interference with prospective business relations, **12:2**

Trade secret misappropriation, **23:2**

Trespass to real property, **61:2**

Trespass to try title/suit to quiet title, **33:2**

Unjust enrichment, **10:2**

Unlawful diversion of water, **72:3**

Unreasonable intrusion, **27:2**

Unreasonable publicity, **28:2**

Veterinarian malpractice, **60:2**

Workers' compensation, **66:2**

Wrongful death, **45:2**

Wrongful employee discharge, **49:2**

### **STOCK**

Fraud, transactions involving stock, **21:2**

Shareholder Derivative Suits, this index

**STRICT LIABILITY**

Dangerous animals, domestic and wild,  
5:3, 5:4

**SURFACE WATER**

Unlawful diversion of water, 72:4

**SURVIVAL ACTIONS**

Generally, 44:1 to 44:3

Jury instructions, 44:2

Statute of limitations, 44:2

**SWORN ACCOUNT, SUIT ON**

Generally, 7:1 to 7:3

Contractual or quasi-contractual claim,  
7:1

Elements, 7:1

Jury instructions, 7:3

Prima facie case, 7:1

Statute of limitations, 7:2

**TEMPORARY**

**INJUNCTION/TEMPORARY  
RESTRAINING ORDER (TRO)**

Generally, 38:1, 38:2

Statute of limitations, 38:2

**TERMINATION OF EMPLOYMENT**

Wrongful Employee Discharge, this  
index

**THIRD-PARTY CLAIMS**

Generally, 2:7

**TORTIOUS INTERFERENCE WITH  
EXISTING BUSINESS  
RELATIONS**

Generally, 11:1 to 11:3

Affirmative defenses, 11:1

Elements, 11:1

Excuse, 11:1

Jury instructions, 11:3

Justification defense, 11:1

Prima facie burden, 11:1

Statute of limitations, 11:2

Terminable-upon-notice status of  
contract, 11:1

**TORTIOUS INTERFERENCE WITH  
PROPERTY RIGHTS**

Generally, 67:1, 67:2

Elements, 67:2

Statute of limitation, 67:2

**TORTIOUS INTERFERENCE WITH  
PROSPECTIVE BUSINESS  
RELATIONS**

Generally, 12:1 to 12:3

Elements, 12:1

Evidentiary showing required, 12:1

**TORTIOUS INTERFERENCE WITH  
PROSPECTIVE BUSINESS  
RELATIONS—Cont'd**

Jury instructions, 12:3

Justification, 12:1

Privilege, 12:1

Restatement of Torts (Second), 12:1

Statute of limitations, 12:2

**TRADE SECRET**

**MISAPPROPRIATION**

Defined, 23:1

Elements, 23:1

Jury instructions, 23:3

Statute of limitations, 23:2

**TRESPASS TO REAL PROPERTY**

Generally, 61:1 to 61:3

Damages, 61:1

Elements, 61:1

Intent, 61:1

Jury instructions, 61:3

Premises liability, 42:3

Statute of limitations, 61:2

**TRESPASS TO TRY TITLE/SUIT TO  
QUIET TITLE**

Generally, 33:1, 33:2

Damages, 33:1

Elements, 33:1

Improvements, 33:1

Joinder of parties, 33:1

Statute of limitations, 33:2

**UNJUST ENRICHMENT**

Generally, 10:1 to 10:3

Constructive trusts, 10:1

Contract, existence of, 10:1

Elements, 10:1

Jury instructions, 10:3

Restitution, 10:1

Statute of limitations, 10:2

Theory of recovery, 10:1

**UNLAWFUL DIVERSION OF WATER**

Generally, 72:1 to 72:4

Damages, 72:2

Elements, 72:1

Statutes of limitation, 72:3

Surface water, 72:4

**UNREASONABLE INTRUSION**

Elements, 27:1

Jury instruction, 27:3

Statute of limitations, 27:2

**UNREASONABLE PUBLICITY**

Elements, 28:1

## INDEX

### UNREASONABLE PUBLICITY

#### —Cont'd

Jury instruction, **28:3**

Statute of limitations, **28:2**

### VERIFIED DENIALS

When required, **2:5**

### VETERINARIANS

#### Malpractice

generally, **60:1 to 60:3**

causation, **60:1**

damages, **60:1**

elements, **60:1**

jury instructions, **60:3**

standard of care, **60:1**

statute of limitations, **60:2**

value, **60:1**

### WORKERS' COMPENSATION

Generally, **66:1, 66:2**

Damages, **66:1**

### WORKERS' COMPENSATION

#### —Cont'd

Elements, **66:1**

Statute of limitation, **66:2**

Wrongful employee discharge, **49:1, 66:1**

### WRONGFUL DEATH

Generally, **45:1 to 45:3**

Jury instructions, **45:3**

Statute of limitations, **45:2**

### WRONGFUL EMPLOYEE

#### DISCHARGE

Generally, **49:1 to 49:3**

Elements, **49:1**

Jury instructions, **49:3**

Statute of limitations, **49:2**

Workers' compensation, **49:1, 66:1**

### ZOMBIES

Spyware, this index