

Table of Contents

PART I. USING NY PJI TO STRUCTURE AND DEVELOP YOUR CASE

CHAPTER 1. INTRODUCTION

- § 1:1 A brief history of NY PJI and its intended use
- § 1:2 Content of NY PJI
- § 1:3 Litigation planning in general; knowing in advance how you want to finish

CHAPTER 2. NY PJI AS A RESEARCH AND PLANNING TOOL

- § 2:1 Case evaluation—Limitations
- § 2:2 —Distilling the base elements of your case
- § 2:3 —Quality and availability of evidence
- § 2:4 —Projecting damages
- § 2:5 Drafting pleadings
- § 2:6 Targeting discovery
- § 2:7 Planning for trial—How many trials?
- § 2:8 —Openings and closings
- § 2:9 —Law concerning juries and jury selection

CHAPTER 3. DRAFTING PROPOSED JURY CHARGES AND VERDICT SHEETS

- § 3:1 Drafting—In general
- § 3:2 —When you cannot find a charge matching your case
- § 3:3 —Special verdicts and verdict sheets
- § 3:4 Practical considerations—Preservation of the record
- § 3:5 —Post-charge

PART II. PARTICULAR TYPES OF CASES; WITH FINDING AIDS AND SAMPLE CHARGES

CHAPTER 4. NEGLIGENCE/MOTOR VEHICLE ACCIDENTS

A. FINDING THE APPLICABLE LAW AND INSTRUCTIONS

§ 4:1 NY PJI Tables

B. ILLUSTRATIVE CASES

- § 4:2 Head-on collision; contributory negligence—Liability only
- § 4:3 Personal injury: wrist and shoulder fractures; body lacerations; permanent scarring
- § 4:4 Collision; merging traffic/Personal injury: facial scarring, jaw injuries, knee injury/motorcyclist plaintiff
- § 4:5 Collision; left-turning vehicle struck from behind on driver's side; numerous orthopedic injuries (including no-fault)
- § 4:6 Left turning vehicle hit on passenger side front quarter
- § 4:7 Bicycle collision with taxicab/Clavicle fracture
- § 4:8 Negligent maintenance of roadway; crushed leg
- § 4:9 Personal injury: herniated disc, loss of services
- § 4:10 Personal injury: reflex sympathetic dystrophy syndrome (RSD)
- § 4:11 Personal injury: two cervical herniated discs and one lumbar herniated disc/Town and truck driver defendants
- § 4:12 Utility company negligence/Personal injury: compression fracture and herniated disc
- § 4:13 Personal injury: herniated disc, complicated by MS/Governmental defendant
- § 4:14 Pedestrian struck by taxi/Personal injury: head injuries and cognitive difficulties/Plaintiff-guardian on behalf of infant
- § 4:15 Bus hitting pedestrian/Foot and elbow fractures, torn ligaments in arm/Two governmental defendants
- § 4:16 Broadside collision; stop sign/disc herniations, torn shoulder tendon

TABLE OF CONTENTS

§ 4:17	Motorcyclist struck by automobile/Shoulder dislocation
§ 4:18	Rear-end collision/Bus company and driver defendants
§ 4:19	No-fault law
§ 4:20	No-fault law; rear-end collision
§ 4:21	No-fault law; rear-end collision with stationary disabled car seriously injuring pedestrian offering assistance
§ 4:22	Ricochet; wrong way on one-way street damages only
§ 4:23	Police transport; no seatbelt
§ 4:24	Collision with municipal snow plow salting roads
§ 4:25	Collision with municipal snow plow
Appendix 4A.	Outline of PJI Comments on Negligence/Motor Vehicle Accidents

CHAPTER 5. MALPRACTICE

A. FINDING THE APPLICABLE LAW AND INSTRUCTIONS

§ 5:1	NY PJI Tables
-------	---------------

B. ILLUSTRATIVE CASES

§ 5:2	Stroke/treatment
§ 5:3	Failure to detect lymphoma; wrongful death
§ 5:4	Knee ligament surgery
§ 5:5	Secondary bleeding from tonsillectomy
§ 5:6	Surgery for bladder injury, infertility, systemic infection, myofascitis
§ 5:7	Arthroscopy surgery for nerve injury; quadriceps atrophy; myofascitis
§ 5:8	Treatment of wrist fracture (improper healing)
§ 5:9	Rhinoplasty
§ 5:10	Failure to diagnose colonic perforation secondary to diverticulitis; wrongful death
§ 5:11	Failure to diagnose aortic dissection in descending aorta; wrongful death
§ 5:12	Failure to properly restrain involuntarily committed patient
§ 5:13	Obstetrics; Injuries at birth
§ 5:14	Cardiology; treatment of heart attack victim; wrongful death
§ 5:15	Cardio-thoracic surgery; wrongful death and conscious pain while living
§ 5:16	Enterectomy surgery; wrongful death
§ 5:17	Ophthalmic surgery

- § 5:18 Dilation and evacuation surgery
- § 5:19 Negligent insertion of feeding tube (PEG)
- § 5:20 Medical malpractice/Orthopedic surgery/ruptured biceps tendon/delay compounded by negligent surgery
- § 5:21 Angioplasty; excessive X-ray radiation exposure
- § 5:22 Hospital care and treatment; medication overdose, failure to diagnose and delay in transfer of patient to intensive care unit
- § 5:23 Pre-natal treatment; wrongful death of infant
- § 5:24 Pre-natal care and delivery; stillbirth
- § 5:25 Failure to diagnose ovarian cancer; wrongful death
- § 5:26 Neurology: Diagnosis and treatment of multifocal motor neuropathy
- § 5:27 Radiologist failure to diagnose lung cancer

Appendix 5A. Outline of PJI Comments on Malpractice

CHAPTER 6. PREMISES LIABILITY

A. FINDING THE APPLICABLE LAW AND INSTRUCTIONS

- § 6:1 NY PJI Tables

B. ILLUSTRATIVE CASES

- § 6:2 Slip and fall; stepping into hole containing scalding hot water
- § 6:3 Window shutting unexpectedly
- § 6:4 Lead paint poisoning
- § 6:5 Construction ramp collapse
- § 6:6 Slip and fall; improper maintenance of roadway
- § 6:7 Slip and fall; stairway; loose step
- § 6:8 Wheelchair ramp; nerve injury
- § 6:9 Leaky pipes leading to flooded elevator
- § 6:10 Maintenance of bicycle path
- § 6:11 Slip and fall; single-step riser in restaurant lobby
- § 6:12 Flash fire; burns/Two plaintiffs, one defendant; one third-party plaintiff, two third-party defendants
- § 6:13 Slip and fall; restaurant stairway
- § 6:14 Escalator malfunction
- § 6:15 Unsafe inside stairway in restaurant
- § 6:16 Slip and fall on icy sidewalk; delivery driver, duplex
- § 6:17 Slip and fall; traplike condition at railway station

Appendix 6A. Outline of PJI Comments on Premises Liability

TABLE OF CONTENTS

CHAPTER 7. ANIMALS

A. FINDING THE APPLICABLE LAW AND INSTRUCTIONS

§ 7:1 NY PJI coverage

B. ILLUSTRATIVE CASES

§ 7:2 Escaped security dog

Appendix 7A. Outline of PJI Comment on Injuries Caused by Animals

**CHAPTER 8. PRODUCTS LIABILITY/
BREACH OF WARRANTY**

A. FINDING THE APPLICABLE LAW AND INSTRUCTIONS

§ 8:1 NY PJI Tables

B. ILLUSTRATIVE CASES

§ 8:2 Asbestos; unsafe workplace; power plant

§ 8:3 Asbestos; manufacturer of brakes, clutches

§ 8:4 Rezulin diabetes drug

§ 8:5 Forklift brake

§ 8:6 Contamination of wells by gasoline additive [proposed federal instructions]

Appendix 8A. Outline of PJI Comments on Products Liability and Breach of Warranty

**CHAPTER 9. INJURED EMPLOYEES;
CONSTRUCTION ACCIDENTS**

A. FINDING THE APPLICABLE LAW AND INSTRUCTIONS

§ 9:1 NY PJI Tables

B. ILLUSTRATIVE CASES

§ 9:2 Electrical shock

§ 9:3 Asbestos exposure

§ 9:4 Trip over debris while fighting fire

§ 9:5 Slip and fall on allegedly wet floor

- § 9:6 Collapse of building
 - § 9:7 Installation of ceiling fan in apartment
 - § 9:8 Alleged improper loading of truck; wrongful death
 - § 9:9 Unsafe hoist
 - § 9:10 Fall from roof leading to spinal cord injury
 - § 9:11 Elevator accident
 - § 9:12 Motor vehicle accident; worker in bed of pickup truck
- Appendix 9A. Outline of PJI Comments on Injured Employees

CHAPTER 10. SPORTS-RELATED INJURIES

- § 10:1 Wrestling team practice

CHAPTER 11. INTENTIONAL TORTS

A. FINDING THE APPLICABLE LAW AND INSTRUCTIONS

- § 11:1 NY PJI Tables

B. ILLUSTRATIVE CASES

- § 11:2 Intentional infliction of emotional distress by employer
- § 11:3 Defamation with intentional infliction of emotional distress; employment discrimination context
- § 11:4 False arrest by police
- § 11:5 Battery in performance of official police duty; civil rights; wrongful death
- § 11:6 False Arrest and Malicious Prosecution; Outrageous Police Conduct
- § 11:7 Civil rights; use of excessive force by police; unlawful imprisonment

Appendix 11A. Outline of PJI Comments on Torts Other Than Negligence

CHAPTER 12. INTENTIONAL TORTS; PRISON-RELATED INJURIES

- § 12:1 Assault by another inmate
- § 12:2 Assault by group of inmates

CHAPTER 13. CONTRACT AND QUASI-CONTRACT

A. FINDING THE APPLICABLE LAW AND INSTRUCTIONS

- § 13:1 NY PJI Tables

TABLE OF CONTENTS

B. ILLUSTRATIVE CASES

- § 13:2 Fraudulent inducement
 - § 13:3 Trust indenture; breach of fiduciary duty
 - § 13:4 Breach of contract for use of trademark
 - § 13:5 Breach of contract: insurance coverage
 - § 13:6 Contractual misrepresentation and conversion; sale of business
 - § 13:7 Breach of contract and unjust enrichment/construction contract; owner suit against contractor
 - § 13:8 Breach of contract for services rendered by broker
- Appendix 13A. Outline of PJI Comments on Contracts

CHAPTER 14. EMPLOYMENT DISCRIMINATION

A. FINDING THE APPLICABLE LAW AND INSTRUCTIONS

- § 14:1 NY PJI Tables

B. ILLUSTRATIVE CASES

- § 14:2 Gender discrimination; hostile work environment/retaliation
 - § 14:3 Gender and disability discrimination
- Appendix 14A. Outline of PJI Comments on Employment Discrimination

Index