Index

ABATEMENT

Air pollution, see California's Air Resources Statutes (this index)

Porter-Cologne Water Quality Control Act, cleanup and abatement orders, § 7:8

Superfund litigation, abatement actions under CERCLA, § 3:11

ABNORMALLY DANGEROUS ACTIVITIES

Personal Injury and Toxic Torts (this index)

Property-damage toxic torts, strict liability for ultrahazardous or abnormally dangerous activities, § 2:11

Strict Liability (this index)

ACT OF GOD

Superfund litigation, act of God defense to cost recovery actions, §§ 3:56, 3:107

ACT OF WAR

Superfund litigation, act of war defense to cost recovery actions, §§ 3:57, 3:108

AFFIRMATIVE DEFENSES

California Environmental Quality Act (CEQA) (this index)

Citizen Suits (this index)

Personal Injury Toxic Torts (this index)

Property-Damage Toxic Torts (this index)

Proposition 65 Litigation (this index)

AFFIRMATIVE DEFENSES

-Cont'd

Superfund Litigation (this index)

AGRICULTURE

Air pollution, § 7:68.50

AIDERS AND ABETTORS

Citizen suits, § 6:13

AIR POLLUTION

Agricultural sources, § 7:68.50
California's Air Resources
Statutes (this index)

AIR RESOURCES STATUTES

California's Air Resources Statutes (this index)

ALTERNATIVE LIABILITY

Personal-injury toxic torts, § 1:23

APPEAL AND REVIEW

California Environmental Quality Act (CEQA), review by Appellate Courts, § 8:33.50

ARBITRATION

Hazardous Substance Account Act (this index)

Superfund Litigation (this index)

ARRANGERS

Superfund Litigation (this index)

"AS IS" PROVISIONS

Property-damage toxic torts, § 2:10

ASSUMPTION OF RISK

Personal-injury toxic torts, § 1:40

ATTORNEY FEES

California Environmental Quality Act (CEQA), postjudgment proceedings, § 8:39

Citizen suits, § 6:31

Insurance coverage litigation, actions against insurers, § 5:46

Personal-injury toxic torts, § 1:34

Property-Damage Toxic Torts (this index)

Superfund litigation, extent of liability of PRPs in federal "Superfund" litigation, § 3:50

BANKRUPTCY CONSIDERATIONS

Generally, §§ 10:1 to 10:12

Abandonment of contaminated property by trustee, § 10:11 Administrative priorities, § 10:7

Automatic stay, scope and effect, §§ 10:9, 10:10

Classification of environmental claims in bankruptcy determining when claim arises,

§ 10:3

future claims, § 10:6 post-petition claims, § 10:5 pre-petition claims, § 10:4

Compliance requirements, effect of automatic stay on environmental compliance requirements, § 10:10

Considerations in equitable actions, § 10:2

Defining a claim, § 10:2

Effect of bankruptcy on environmental claim abandonment of contaminated property by trustee, § 10:11

administrative priorities, § 10:7 automatic stay, scope and effect,

§§ 10:9, 10:10

BANKRUPTCY CONSIDERATIONS

—Cont'd

Effect of bankruptcy on environmental claim

—Cont'd

compliance requirements, effect of automatic stay on environmental compliance requirements, § 10:10

punitive criminal fines are not administrative expenses that are entitled to priority status, § 10:8

EPA guidance regarding pursuit of claims against debtors in bankruptcy, § 10:12

Equitable actions, considerations in, § 10:2

Future claims, § 10:6

Goals, conflicting goals of bankruptcy and environmental law, § 10:1

Post-petition claims, § 10:5

Pre-petition claims, § 10:4

Punitive criminal fines are not administrative expenses that are entitled to priority status, § 10:8

Timing, determining when claim arises, § 10:3

BIFURCATION

Federal "Superfund" litigation, § 3:80

BOARD OF ENVIRONMENTAL SAFETY

Generally, § 7:96.50

BROWNFIELDS

Superfund Litigation (this index)

BULK SUPPLIER DEFENSE

Personal-injury toxic torts, § 1:44

BURDEN OF PROOF

Mercury in dental fillings, Proposition 65 enforcement, § 4:12

INDEX

BURDEN OF PROOF—Cont'd

Proposition 65 enforcement, mercury in dental fillings, § 4:12

BURNING

Hazardous Waste Control Act, § 7:127

CALIFORNIA COASTAL ACT OF 1976

Cease and desist orders administrative penalties, see Administrative enforcement (this group)

Civil penalties, see Judicial review and enforcement (this group)

Governing law, see Law, governing (this group)

Local coastal programs (LCP), see Planning and regulation (this group)

Permitting process, see Planning and regulation (this group)

Writs of mandate, see Judicial review and enforcement (this group)

CALIFORNIA CORPORATE CRIMINAL LIABILITY ACT

Criminal penalties and considerations, § 9:6

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Organizational chart, § 7:183

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Generally, §§ 8:1 to 8:54 Administering agencies, § 8:5 Affirmative defenses, see *Forms* (this group)

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) —Cont'd

Applicability of CEQA, actions involving

activities defined as projects, § 8:7

categorical exemptions, § 8:10 certified regulatory programs, § 8:12

discretionary projects, § 8:8 exemptions

categorical exemptions, § 8:10

certified regulatory programs, § 8:12

notice of exemption, § 8:11 statutory exemptions, § 8:9 housing projects, exemptions, § 8:9.50

notice of exemption, § 8:11 projects subject to CEQA activities defined as projects, § 8:7

discretionary projects, § 8:8 projects within areas with approved sustainable communities strategies, Environmental Impact Reports (EIRs), § 8:17.50

statutory exemptions, § 8:9
Attorney fees, postjudgment proceedings, § 8:39

Certified exempt programs, checklist, § 8:45

Challenges, specific actions to challenge CEQA decisions attorney fees, postjudgment proceedings, § 8:39 declaratory relief actions, § 8:35

injunction during pendency of actions, § 8:36

CALIFORNIA CALIFORNIA ENVIRONMENTAL ENVIRONMENTAL QUALITY ACT (CEQA) QUALITY ACT (CEQA) —Cont'd -Cont'd Challenges, specific actions to Challenges, specific actions to challenge CEQA decisions challenge CEQA decisions —Cont'd —Cont'd postjudgment proceedings writ of mandate proceedings attorney fees, § 8:39 -Cont'd types of mandamus proceedongoing jurisdiction of court, § 8:38 ings, § 8:31 provisional relief during pendency of actions certified exempt programs, § 8:45 effect on proposed project of procedural checklist for action challenging petitioner in CEQA litigaenvironmental impact report, § 8:37 tion, § 8:46 injunction, § 8:36 Defenses stay, § 8:36 collateral estoppel, § 8:44 stay during pendency of failure to exhaust administrative remedies, §§ 8:43, 8:53 actions, § 8:36 temporary restraining during indispensable parties, failure to pendency of actions, join, § 8:44 § 8:36 laches, §§ 8:44, 8:54 temporary restraining order, mootness, §§ 8:44, 8:52 § 8:36 standing, lack of, § 8:42 writ of mandate proceedings statutes of limitations, §§ 8:41, contents of writ of mandate, 8:51 § 8:33 waiver, § 8:44 other relief, § 8:34 Environmental impact report petition for ordinary requirement, actions involvmandamus against government entity chalenvironmental impact reports lenging entity's decision approval of project, § 8:23 to carry out project contents of report required, without complying with § 8:19 CEQA, Form, § 8:47 determination regarding sigpetition for ordinary nificance of project's mandamus against pubenvironmental effect, lic agency and applicant § 8:17 challenging agency's master and focused reports approval of project for subsequent projects, without compliance with § 8:21 CEQA, Form, § 8:48 notice of determination, standard of review in mandamus actions, § 8:24 § 8:32 preparation process, § 8:18

CALIFORNIA CALIFORNIA ENVIRONMENTAL ENVIRONMENTAL QUALITY ACT (CEQA) QUALITY ACT (CEQA) —Cont'd -Cont'd Environmental impact report Forms—Cont'd requirement, actions involvchallenging entity's decision to carry out project ing—Cont'd environmental impact reports without complying with -Cont'd CEQA, § 8:47 petition for ordinary mandamus subsequent reports, § 8:20 against public agency and timing of report, § 8:22 applicant challenging land use statute litigation, agency's approval of proj-§ 8:19.50 ect without compliance negative declarations with CEQA, § 8:48 initial study as basis, § 8:13 Governing law, see Law, governnotice of determination, ing (this group) § 8:16 Implementing agencies, § 8:6 preparation and contents of Laches, §§ 8:44, 8:54 declaration, § 8:14 Land use statute litigation, timing of declaration, § 8:15 program environmental projects within areas with impact reports (EIRs), approved sustainable com-§ 8:19.50 munities strategies, Law, governing § 8:17.50 legal effect of CEQA Environmental impact reports guidelines, § 8:4 (EIRs), projects within areas nature of regulation, § 8:2 with approved sustainable policies underlying statute, communities strategies, § 8:17.50 § 8:1 Exemptions, see Applicability of relationship to NEPA and other CEQA, actions involving statutes, § 8:3 (this group) "Lead agencies," § 8:6 **Forms** Mootness, §§ 8:44, 8:52 affirmative defenses National Environmental Policy failure to exhaust administra-Act (NEPA), relation of tive remedies, § 8:53 CEQA, § 8:3 laches, § 8:54 Negative declarations, see mootness, § 8:52 Environmental impact report statute of limitations, § 8:51 requirement, actions involvallegation of inadequacy of ing (this group) environmental impact Office of Planning and Research, report, § 8:49 § 8:5 petitioner's request for prepara-Postjudgment proceedings, see tion of record, § 8:50 Challenges, specific actions petition for ordinary mandamus to challenge CEQA decisions against government entity (this group)

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) —Cont'd

Procedural considerations and requirements in CEQA actions

authority for CEQA actions, § 8:25

checklist for petitioner in CEQA litigation, § 8:46

hearing request, § 8:29

mandatory settlement meeting, § 8:28

mediation, § 8:25

notification of Attorney General, § 8:26

preference in setting, § 8:30 record, preparation of, § 8:27

service of process, § 8:26

setting, preference in, § 8:30

Projects subject to CEQA, see Applicability of CEQA, actions involving (this group)

Projects within areas with approved sustainable communities strategies, Environmental Impact Reports (EIRs), § 8:17.50

Provisional relief during pendency of actions, see Challenges, specific actions to challenge CEQA decisions (this group)

"Responsible agencies," § 8:6

Review by Appellate Courts, § 8:33.50

Sustainable communities strategies, projects within, Environmental Impact Reports (EIRs), **§ 8:17.50**

Writ of mandate proceedings, see Challenges, specific actions to challenge CEQA decisions (this group)

CALIFORNIA LAND USE REVITALIZATION ACT OF 2004

Applicability, § 3:85.50

CALIFORNIA'S AIR RESOURCES STATUTES

Generally, §§ 7:55 to 7:95

Abatement orders, see Enforcement by air quality management districts and air pollution control districts (this group)

Agricultural sources of air pollution, § 7:68.50

Air quality planning and regulation under statutes, § 7:55

Civil penalties, § 7:84

Climate change and global warming, §§ 7:55.20, 7:55.50

Criminal liability, § 7:85

Districts, California air pollution control and air quality management districts, § 7:185

Enforcement by air quality management districts and air pollution control districts

abatement orders

form of abatement order, § 7:58

issuance of abatement order, § 7:57

assessment of administrative civil liability, § 7:78

civil liability, assessment of administrative civil liability, § 7:78

civil penalties, § 7:84

criminal liability, § 7:85

hearings

permits (this group)

practice and procedure before district hearing boards (this group)

injunctive relief, § 7:88

CALIFORNIA'S AIR CALIFORNIA'S AIR RESOURCES STATUTES RESOURCES STATUTES —Cont'd -Cont'd Enforcement by air quality Enforcement by air quality management districts and air management districts and air pollution control districts pollution control districts —Cont'd -Cont'd judicial enforcement permits-Cont'd suspension and reinstatement, civil penalties, § 7:84 § 7:71 criminal liability, § 7:85 temporary permit, § 7:68 injunctive relief, § 7:88 practice and procedure before publication of violations, district hearing boards penalties, and rewards, decisions, § 7:82 § 7:87 hearing boards and rewards for informants, procedures, § 7:79 § 7:86 notice requirements, § 7:80 orders and permits witnesses and testimony, abatement orders (this group) § 7:81 permits (this group) publication of violations, penalpermits ties, and rewards, § 7:87 Air Pollution Permit review of variances by state air Streamlining Act, § 7:76 board, § 7:83 contaminants near school, rewards for informants, § 7:86 public notice required, variances § 7:69 application, § 7:59 denial, suspension, and revocriteria for granting variance, cation hearings, § 7:72 § 7:62 disclosure of information, emergency variance, § 7:61 § 7:70 imposition of additional duration of permit, § 7:67 requirements, § 7:63 fees, § 7:75 Interim variance, § 7:60 hearings modification, § 7:65 denial, suspension, and notice and hearing requirerevocation hearings, ments, § 7:64 § 7:72 period of variance, § 7:66 hearing board powers, review by state air board, § 7:74 § 7:83 public hearing to contest revocation, § 7:65 issuance of permit, writ of mandate proceedings § 7:73 purpose of permit, § 7:67 record on review, § 7:90 reinstatement, § 7:71 timeliness of review, § 7:89 review of applicant's compli-Federal Clean Air Act, relationship ance history, § 7:77 of statutes to, § 7:56

CALIFORNIA'S AIR RESOURCES STATUTES —Cont'd

Hearings, see Enforcement by air quality management districts and air pollution control districts (this group)

Injunctive relief, § 7:88

Judicial enforcement, see Enforcement by air quality management districts and air pollution control districts (this group)

Permits, see Enforcement by air quality management districts and air pollution control districts (this group)

Publication of violations, penalties, and rewards, § 7:87

Rewards for informants, § 7:86

Statutory scheme overview

air quality planning and regulation under statutes, § 7:55

Federal Clean Air Act, relationship of statutes to, § 7:56

Transportation provisions, § 7:55.50

Variances, see Enforcement by air quality management districts and air pollution control districts (this group)

Writ of mandate proceedings, see Enforcement by air quality management districts and air pollution control districts (this group)

CALIFORNIA STORM WATER ENFORCEMENT ACT

Porter-Cologne Water Quality Control Act (this index)

CASE MANAGEMENT ORDERS

Federal "Superfund" litigation, § 3:77

CEASE AND DESIST ORDERS

Porter-Cologne Water Quality Control Act, § 7:7

CERTIFIED UNIFORM PROGRAM AGENCIES (CUPA)

Hazardous Waste Control Act, § 7:98

CHEMICALS LIST

Proposition 65 litigation, § 4:2

CITIZEN SUITS

Generally, §§ 6:1 to 6:44

Abstention issues, § 6:35

Affirmative defenses, see Defenses (this group)

Aiders and abettors, defendants, § 6:13

Attorney fees, § 6:31

CERCLA removal action underway, defense, § 6:34

Civil penalties, § 6:32

Collateral estoppel, § 6:36

Complaints, see *Forms* (this group)

Consent judgments, limitations, § 6:27

Costs of suit, § 6:31

Damages, § 6:30

Defendants, see Parties to citizen suit (this group)

Defenses

CERCLA removal action underway, § 6:34

collateral estoppel, § 6:36

diligent prosecution by govern-

ment, § 6:33

estoppel, § **6:40**

laches, § 6:39

lack of intent, § 6:38

mootness, § 6:37

negligence, § 6:38

non-duplication of government prosecution, § 6:33

RCRA removal action

underway, § 6:34

reliance on EPA or state agency, § 6:40

CITIZEN SUITS—Cont'd	CITIZEN SUITS—Cont'd
Defenses—Cont'd	Parties to citizen suit—Cont'd
res judicata, § 6:36	defendants, identifying proper
self defense, § 6:42	—Cont'd
statute of limitations, § 6:41	officials, federal and state, § 6:10
"upset" defense, § 6:38	partnerships, § 6:9
Diligent prosecution by government, defense, § 6:33	public trust doctrine
	defendants in public trust
Estoppel, § 6:40 Grounds for citizen suits, § 6:5	doctrine suits, § 6:12
Grounds for citizen suits, § 6:5	persons in violation of
establishing	public trust doctrine,
retroactive application of statu-	§ 6:8
tory provisions for citizen	shareholders, § 6:9
suits, § 6:6	states, § 6:11
statutory grounds	statutory violations, persons
generally, § 6:3	in violation of statutes,
specific grounds in specific	§ 6:7
acts, § 6:4	Tribes, § 6:11
Injunctive relief, § 6:29	United States, § 6:11
Intervention	plaintiffs, establishing proper
officials, right of federal and	"citizens" not limited to
state officials, § 6:26	citizens, § 6:14
requirements for intervention,	standing, establishing, § 6:15
§ 6:25	statutory right to bring suit,
Jurisdictional issues, § 6:34	establishing, § 6:14
Laches, § 6:39	public trust doctrine, see
Lack of intent, defense, § 6:38	defendants, identifying
Mootness, defense, § 6:37	proper (this group)
Nature of citizen suits, § 6:1	shareholders, defendants, § 6:9
Negligence, defense, § 6:38	standing, establishing standing
Non-duplication of government	of plaintiff, § 6:15
prosecution, § 6:33	Plaintiffs
Notice prior to filing suit. Presuit	checklist, procedural require-
notices (this group)	ments for plaintiff in citizen suit, § 6:43
Officials, federal and state officials	· -
defendants, federal and state officials as, § 6:10	proper plaintiffs, see Parties to citizen suit (this group)
right of intervention, § 6:26	Pleadings
Parties to citizen suit	•
	complaints, see <i>Forms</i> (this group)
aiders and abettors, defendants, § 6:13	service of pleadings, § 6:24
	sufficiency of pleadings, § 6:23
defendants, identifying proper aiders and abettors, § 6:13	Presuit notices
corporate entities, § 6:9	generally, § 6:16

federal Clean Water Act,

§ 7:5

CITIZEN SUITS—Cont'd CITIZEN SUITS—Cont'd Presuit notices-Cont'd Retroactive application of statuconsequences of inadequate tory provisions for citizen notice, § 6:20 suits, § 6:6 Self defense, § 6:42 content of notice, § 6:17 formality, requirement of formal Service of pleadings, § 6:24 rather than actual notice, Standing, establishing standing of § 6:19 plaintiff, § 6:15 Forms (this group) Statute of limitations, § 6:41 service of notice, § 6:18 Statutes containing citizen suit Procedural considerations provisions, § 6:2 Statutory grounds, see Grounds checklist, procedural requirefor citizen suits, establishing ments for plaintiff in citizen suit, § 6:43 (this group) Subject matter jurisdiction, § 6:21 consent judgments, limitations, "Upset" defense, § 6:38 § 6:27 intervention, see Intervention Venue, § 6:22 (this group) **CIVIL PENALTIES** jurisdiction, subject matter, Citizen suits. § 6:32 § 6:21 Hazardous Substance Account notice prior to filing suit, see Act, § 7:164 Presuit notice (this group) Judicial enforcement pleadings, see Pleadings (this **Hazardous Waste Control Act** group) (this index) presuit notice, see Presuit notice Superfund litigation, extent of (this group) liability of PRPs in federal venue, § 6:22 "Superfund" litigation, Public trust doctrine, § 6:5 § 3:51 RCRA removal action underway, Underground storage tanks, defense, § 6:34 administrative civil penalties, Reliance on EPA or state agency, local agency enforcement, defense, § 6:40 § 7:50 Remand, § 6:44 CIVIL RIGHTS AND Remedies DISCRIMINATION attorney fees, § 6:31 Prisons and prisoners, toxic torts, civil penalties, § 6:32 § 1:25.50 costs of suit, § 6:31 damages, § 6:30 **CLASS ACTIONS** enforcement nature of remedies, Personal injury and toxic torts, § 6:28 § 1:51.50 injunctive relief, § 6:29 **CLEAN WATER ACT** Res judicata, § 6:36 Resource Conservation and Porter-Cologne Water Ouality Recovery Act (RCRA) Control Act, relationship to

defenses, RCRA removal action

underway, § 6:34

INDEX

CLEAN WATER ACT—Cont'd Wetlands Regulation Under Federal Clean Water Act (this index)

CLIMATE CHANGE

Regulatory proceedings, §§ 7:55.20, 7:55.50

COLLATERAL ESTOPPEL

Citizen suits, § 6:36

COMMON LAW

Citizen suits, grounds for, § 6:5

COMPARATIVE NEGLIGENCE

Personal-injury toxic torts, § 1:39 Property-damage toxic torts, §§ 2:29, 2:46

COMPREHENSIVE

ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA)

Private rights to sue under, § 3:5

Superfund Litigation (this index)

COMPREHENSIVE GENERAL LIABILITY (CGL) INSURANCE

Insurance Coverage Litigation (this index)

CONCERT OF ACTION LIABILITY

Personal-injury toxic torts, § 1:24

CONSENT

Property-damage toxic torts, defense of consent, §§ 2:26, 2:48

CONSENT DECREES

Citizen suits, limitations on consent judgments, § 6:27

Superfund Litigation (this index)

CONSOLIDATION OF CIVIL ACTIONS

Underground storage tanks, § 7:54

"CONTIGUOUS PROPERTY" DEFENSE

Superfund litigation, cost recovery actions in federal "Superfund" litigation, § 3:63

CONTRACTS

Superfund litigation, contract defenses to actions by other PRPs, § 3:65

CONTRACTUAL RIGHTS

Property-damage toxic torts, §§ 2:8, 2:10

CONTRIBUTION

Hazardous Substance Account Act (this index)

Superfund Litigation (this index)

CORRECTIVE ACTION ORDERS

Hazardous Substance Account Act (this index)

Hazardous Waste Control Act (this index)

Underground storage tanks, local agency enforcement, practice note, § 7:49

COSTS OF SUIT

Citizen suits, § 6:31

CRIMINAL PENALTIES AND CONSIDERATIONS

Generally, §§ 9:1 to 9:10

California Corporate Criminal Liability Act, § 9:6

Checklist of considerations for practitioner whose client may be subject to criminal liability, § 9:10

Consequences of criminal liability penalties, other liabilities, § 9:7

CRIMINAL PENALTIES AND CONSIDERATIONS

-Cont'd

Consequences of criminal liability
—Cont'd

sentencing guidelines, § 9:8

Elements of and theories for imposing criminal liability

California Corporate Criminal Liability Act, § 9:6

respondeat superior liability, § 9:4

responsible corporate officer doctrine, § 9:5

state of mind, § 9:3

Penalties and other liabilities, § 9:7

Porter-Cologne Water Quality Control Act, § 7:28

Respondent superior liability, § 9:4

Sentencing guidelines, § 9:8
Significance of criminal
considerations for
environmental litigator, § 9:1

State of mind, § 9:3

Statute of limitations, § 9:9

Statutes, environmental statutes giving rise to potential criminal liability, § 9:2

CUMIS COUNSEL

Insurance carrier duties, § 5:25

DAMAGES

Citizen suits, § 6:30

Personal Injury and Toxic Torts (this index)

Property-Damage Toxic Torts (this index)

DECLARATORY RELIEF

Insurance Coverage Litigation (this index)

Property-damage toxic torts, §§ 2:24, 2:37, 2:39

DEFAMATION

Personal injury, § 1:26.50

DEFENSES

California Environmental Quality Act (CEQA) (this index)

Personal Injury and Toxic Torts (this index)

Property-Damage Toxic Torts (this index)

Superfund Litigation (this index)

DEPARTMENT OF TOXIC SUBSTANCE CONTROL (DTSC)

Hazardous Substance Account Act (this index)

Hazardous Waste Control Act (this index)

DIMINUTION OF PROPERTY VALUE

Property-damage toxic torts, damages, § 2:19

DISCHARGE PROHIBITION

Proposition 65 Litigation (this index)

EIRs

Environmental Impact Reports (this Index)

ELEMENTS OF LIABILITY

Mercury in dental fillings, Proposition 65 enforcement, § 4:12

EMOTIONAL DISTRESS

Personal Injury and Toxic Torts (this index)

ENHANCED RISK OF HEALTH PROBLEMS

Personal-injury toxic torts, damages, § 1:32

ENJOYMENT

Personal-injury toxic torts, damages for loss of enjoyment, § 1:29

INDEX

ENVIRONMENTAL IMPACT REPORTS

California Environmental Quality Act (CEQA) (this index) Land use statute litigation, § 8:19.10

ENVIRONMENTAL IMPAIRMENT LIABILITY (EIL) INSURANCE

Insurance Coverage Litigation (this index)

EPIDEMIOLOGICAL STUDIES

Personal-injury toxic torts, evidentiary issues, § 1:49

ESTOPPEL

Citizen suits, § 6:40

EVIDENCE

Personal Injury and Toxic Torts (this index)

EXEMPLARY DAMAGES

Punitive Damages (this index)

EXPERIMENTAL EVIDENCE

Personal-injury toxic torts, § 1:48

FORUM SELECTION

Property-damage toxic torts, § 2:16

FRAUD AND MISREPRESENTATION

Property-damage toxic torts, §§ 2:9, 2:35

GASOLINE SERVICE SYSTEMS

Superfund litigation, defense to cost recovery actions, §§ 3:62, 3:113

GLOBAL WARMING

Regulatory proceedings, § 7:55.50

GOOD FAITH AND FAIR DEALING

Insurance coverage litigation, insurance carrier's duty on

GOOD FAITH AND FAIR DEALING—Cont'd

third party claims, § 5:24

GOVERNMENT CONTRACTOR DEFENSE

Personal-injury toxic torts, § 1:42

HAZARDOUS SUBSTANCE ACCOUNT ACT

Generally, §§ 7:133 to 7:182

Administrative enforcement agreement for remedial action, § 7:147

authority to gather relevant information, § 7:139

city or county, remedial action by, § 7:152

cleanup orders, procedures and protective considerations, § 7:150

disclosure of records, § 7:137 endangerment orders, § 7:140 fees for remedial action, § 7:154

financial assurance requirement, § 7:145

inspection of property, § 7:137 notice of hazardous substances on property, § 7:138

notice of remedial action by DTSC, § 7:151

order for remedial action, § 7:147

penalties, administrative proceeding to recover penalties, § 7:142

permit requirements, exclusion of remedial action from permit requirements, § 7:153

preparation of remedial action plan, § 7:144

remedial actions, see removal and remedial actions (this group)

ACCOUNT ACT-Cont'd Administrative enforcement -Cont'd removal and remedial actions generally, § 7:143 agreement for remedial action, § 7:147 city or county, remedial action by, § 7:152 cleanup orders, procedures and protective considerations, § 7:150 fees for remedial action, § 7:154 financial assurance requirement, § 7:145 notice of remedial action by DTSC, § 7:151 order for remedial action, § 7:147 permit requirements, exclusion of remedial action from permit requirements, § 7:153 preparation of remedial action plan, § 7:144 scope of remedial action by DTSC, § 7:148 timing of remedial action by DTSC, § 7:149 scope of remedial action by DTSC, § 7:148 secure site orders, § 7:141 timing of remedial action by DTSC, § 7:149 Apportionment of costs, actions to recover costs and expenses,

HAZARDOUS SUBSTANCE

HAZARDOUS SUBSTANCE ACCOUNT ACT—Cont'd

Arbitration proceedings—Cont'd satisfaction of liability, § 7:158 selection and powers of arbitrators, § 7:156

Attorney General, action by, § 7:162

Civil penalties, § 7:164
Compensation for losses
generally, § 7:173
compensable losses, § 7:175
conditions for recovery, § 7:174
filing claim, § 7:176
hearing and determination,
§ 7:177

Contribution and indemnity contribution defendant, treble damages from, § 7:166

Costs and expenses, actions to recover, see Judicial enforcement (this group)

Definitions, § 7:134

Department of Toxic Substance Control (DTSC)

enforcement, see Administrative enforcement (this group) sites, selection and ranking of sites, § 7:135

Good faith, evidence of good faith in arbitration, § 7:159

"Hazardous substance," definition, § 7:134

Injunctive relief, § 7:163
Judicial enforcement

apportionment of costs, actions to recover costs and expenses, § 7:170

Attorney General, action by, § 7:162

civil penalties, § 7:164 contribution defendant, treble

damages from, § 7:166 costs and expenses, actions to recover

apportionment of costs, § 7:170

§ 7:170

Arbitration proceedings

§ 7:157

apportionment of liability,

good faith, evidence of, § 7:159

release from liability, § 7:160

remedies, additional, § 7:161

request for arbitration, § 7:155

HAZARDOUS SUBSTANCE

ACCOUNT ACT—Cont'd ACCOUNT ACT—Cont'd Judicial enforcement—Cont'd Limitations periods, actions to costs and expenses, actions to recover costs and expenses, § 7:168 recover—Cont'd Nature and scope of statute, lien on responsible party's real property, § 7:172 § 7:133 limitations periods, § 7:168 Orphan Share Reimbursement nature and scope, § 7:167 Trust Fund generally, § 7:178 residential property owners, determination of orphan share, restriction on liability, § 7:180 § 7:169 filing claim for orphan share, statute of limitations, § 7:168 § 7:179 injunctive relief, § 7:163 lien, payment from Fund constilien on responsible party's real tutes lien, § 7:182 property, actions to recover recovery of costs expended costs and expenses, from Fund, § 7:181 § 7:172 "Release," definition, § 7:134 limitations periods, actions to Remedial actions, see Administrarecover costs and tive enforcement (this group) expenses, § 7:168 Removal and remedial actions, see residential property owners, Administrative enforcement restriction on liability of (this group) residential property owners Residential property owners, in actions to recover costs restriction on liability of resiand expenses, § 7:169 dential property owners in statute of limitations, actions to actions to recover costs and recover costs and expenses, § 7:169 expenses, § 7:168 treble damages community survey and advisory contribution defendant, treble group following selecting damages from, § 7:166 and ranking of sites, failure to provide remedial § 7:136 action, § 7:165 secure site orders, § 7:141 Lien on responsible party's real selection and ranking of sites, § 7:135 property, actions to recover costs and expenses, § 7:172 Statute of limitations, actions to Liens recover costs and expenses, § 7:168 lien on responsible party's real Treble damages, see Actions to property in actions to recover costs and expenses recover costs and (this group) expenses, § 7:172 HAZARDOUS SUBSTANCES Orphan Share Reimbursement Trust Fund, payment from Prisons and prisoners, civil rights Fund constitutes lien, and discrimination, torts, § 7:182 § 1:25.50

HAZARDOUS SUBSTANCE

sions, § 7:122

HAZARDOUS WASTE HAZARDOUS WASTE **CONTROL ACT** CONTROL ACT—Cont'd Burning and incinerating, offense, Generally, §§ 7:96 to 7:132 § 7:127 Administrative enforcement Certified Uniform Program Agenadministrative penalties, cies (CUPA), § 7:98 § 7:103 Corrective action orders, see corrective action orders Administrative enforcement corrective action by DTSC, (this group) § 7:109 Definitions, § 7:97 nature and scope, § 7:107 Department of Toxic Substance notice, statement, hearing, Control (DTSC) and review, § 7:108 generally, § 7:96 disclosure to local officials, administrative enforcement, required, § 7:101 § 7:100 DTSC, see Department of Toxic corrective action by DTSC, Substance Control (DTSC) § 7:109 (this group) information, authority of DTSC enforcers, who may enforce to gather relevant informastandards and regulations, tion, § 7:102 § 7:99 Disposal, treatment, and storage, information, authority of DTSC offense, § 7:126 to gather relevant informa-Document and reporting violation, § 7:102 tions, offense, § 7:129 inspections "Hazardous waste," definition, adjacent property, inspection § 7:97 of, § 7:106 "Hazardous waste of concern," nature and scope, § 7:105 definition, § 7:97 minor violations, § 7:104 Inspections, see Administrative monitoring and testing orders, enforcement (this group) §§ 7:110, 7:111 Interference with official duties, notices to comply, § 7:104 offense, § 7:131 permit actions Judicial enforcement disclosure statement, § 7:116 burning and incinerating, grounds for suspension, revooffense, § 7:127 cation, or denial, § 7:114 civil penalties procedure, § 7:115 intentional or negligent acts, report of convictions, judg-§ 7:123 ments, and settlements, liability for costs and § 7:117 expenses, § 7:125 quarantine orders, §§ 7:112, multiple violations, 7:113 additional penalties, Administrative penalties, § 7:103 § 7:123.50 Board of Environmental Safety, nature and scope of provi-

§ 7:96.50

HAZARDOUS WASTE CONTROL ACT—Cont'd Judicial enforcement—Cont'd civil penalties-Cont'd unintentional or nonnegligent acts, § 7:124 disposal, treatment, and storage, offense, § 7:126 document and reporting violations, offense, § 7:129 injunctive relief, § 7:119 interference with official duties, offense, § 7:131 misdemeanor violations, offense, § 7:132 offenses burning and incinerating, § 7:127 disposal, treatment, and storage, § 7:126 document and reporting violations, § 7:129 interference with official duties, § 7:131 misdemeanor violations, § 7:132 reckless acts, § 7:130 transportation, § 7:128 procedure, § 7:118 reckless acts, offense, § 7:130 report of proceedings to Attorney General, § 7:121 reward for informants, § 7:120 transportation, offense, § 7:128 Management plan, § 7:97.50 Minor violations, § 7:104 Misdemeanor violations, offense, § 7:132 Monitoring and testing orders, §§ 7:110, 7:111 Nature and scope of statute, § 7:96 Notices to comply, § 7:104 Penalties, administrative, § 7:103

Permit actions, see Administrative enforcement (this group)

HAZARDOUS WASTE CONTROL ACT—Cont'd

Quarantine orders, §§ 7:112, 7:113 Reckless acts, offense, § 7:130 Reward for informants, § 7:120 Transportation, offense, § 7:128 Unified hazardous waste and hazardous materials management regulatory program, § 7:98

HOUSING

California Environmental Quality Act (CEQA), exemptions, § 8:9.50

INCINERATING

Hazardous Waste Control Act, § 7:127

INDEMNIFICATION

Insurance coverage litigation, insurance carrier's duty to indemnify third party claims, § 5:21

INJUNCTIVE RELIEF

Air pollution, California's air resources statutes, § 7:88
Citizen suits, § 6:29
Hazardous Substance Account Act, § 7:163
Personal-injury toxic torts, § 1:35
Porter-Cologne Water Quality Control Act, § 7:25
Property-damage toxic torts, § 2:23
Proposition 65 litigation, § 4:9
Underground storage tanks, § 7:51

INNOCENT LANDOWNERS

Superfund litigation, defense to cost recovery actions in federal "Superfund" litigation, §§ 3:59, 3:110

INSURANCE COVERAGE LITIGATION

Generally, §§ 5:1 to 5:54

exclusions, § 5:32

INSURANCE COVERAGE INSURANCE COVERAGE LITIGATION—Cont'd LITIGATION—Cont'd Absolute pollution exclusion, third Declaratory judgment actions, see party claims, § 5:16 **Forms** Defense, duty to defend, see Third Actions against insurers party claims (this group) attorney fees, § 5:46 Discovery, notice of deposition declaratory judgment, §§ 5:44, from insured to insurer, 5:51 Form, § 5:53 jurisdiction, § 5:43 **Environmental Impairment** procedural requirements Liability (EIL) insurance, see generally, § 5:40 Third party claims (this complaint, §§ 5:42, 5:51 group) jurisdiction, § 5:43 Environmental insurance coverage notice, § 5:41 issues, generally, § 5:1 remedies First party claims attorney fees, § 5:46 "all risk" policies, property damages, § 5:47 insurance, §§ 5:28, 5:32 declaratory judgment, causation, property insurance, §§ 5:44, 5:51 § 5:34 order to pay defense costs, conditions, property insurance, § 5:45 § 5:35 tactical considerations covered peril, property insurconsultants, environmental ance, § 5:31 and scientific, § 5:38 covered property, property developing plan, § 5:37 insurance, § 5:30 discovery strategy, § 5:39 debris removal clause, property insurance, § 5:33 policy review, § 5:36 direct physical loss, property Alienated Premises Exclusion, insurance, § 5:29 third party claims, § 5:18 exclusions, property insurance Attorney fees, actions against all-risk policy exclusions, insurers, § 5:46 § 5:32 Complete pollution exclusion, "named peril" policies, propthird party claims, § 5:16 erty insurance, § 5:28 Comprehensive General Liability property insurance (CGL) insurance, see Third "all risk" policies, §§ 5:28, party claims (this group) 5:32 Cooperation, insured's duty to causation, § 5:34 cooperate on third-party conditions, § 5:35 claim, § 5:20 covered peril, § 5:31 Coverage, checklist for insured covered property, § 5:30 seeking coverage from insurer, § 5:48 debris removal clause, § 5:33 direct physical loss, § 5:29 Cumis counsel, insurance carrier duties on third party claims, exclusions, all-risk policy

§ 5:25

INSURANCE COVERAGE LITIGATION—Cont'd

First party claims—Cont'd property insurance—Cont'd "named peril" policies, \$ 5:28

third party claims, difference between first party and third party claims, § 5:26 trigger of coverage, § 5:27

Forms

allegations, see complaints and allegations (this group) appendix, insurance services office standard policy language, § 5:54

complaints and allegations insured's declaratory judgment action, complaint by insured for declaratory judgment establishing insurer's duty to defend and indemnify insured against third party claim, § 5:51

insurer's declaratory judgment action, complaint by insurer for declaratory judgment establishing that insurer has no duty to defend or indemnify insured against third party claim, § 5:50

joint and several liability, insured's allegations of joint and several liability on part of multiple insurers, § 5:52

declaratory judgment actions insured's declaratory judgment action, complaint by insured for declaratory judgment establishing insurer's duty to defend and indemnify insured against third

INSURANCE COVERAGE LITIGATION—Cont'd

Forms—Cont'd
declaratory judgment actions
—Cont'd
party claim, § 5:51
insurer's declaratory judgment action, complaint
by insurer for declaratory judgment establishing that insurer has no
duty to defend or
indemnify insured
against third party claim,
§ 5:50

discovery, notice of deposition from insured to insurer, § 5:53

joint and several liability, insured's allegations of joint and several liability on part of multiple insurers, § 5:52

notice from insured to insurer of claim or action against insured under occurrence type policy, § 5:49

Good faith and fair dealing, insurance carrier's duty on third party claims, § 5:24

Indemnification, insurance carrier's duty to indemnify third party claims, § 5:21

Joint and several liability, insured's allegations of joint and several liability on part of multiple insurers, *Form*, § 5:52

Judicial interpretation of insurance contracts, § 5:3

Jurisdiction, actions against insurers, § 5:43

Standard ISO pollution exclusion, third party claims, § 5:14

Third party claims

absolute pollution exclusion, § 5:16

of claim or action

INSURANCE COVERAGE INSURANCE COVERAGE LITIGATION—Cont'd LITIGATION—Cont'd Third party claims—Cont'd Third party claims—Cont'd Alienated Premises Exclusion, **Environmental Impairment** § 5:18 Liability (EIL) insurance complete pollution exclusion, —Cont'd § 5:16 pretation, § 5:12 Comprehensive General exclusions Liability (CGL) insurance absolute pollution exclusion, known loss doctrine, § 5:10 § 5:16 "legally obligated to pay as alienated premises exclusion, damages," interpreta-§ 5:18 tion, § 5:5 Alienated Premises Excluoccurrence, interpretation of, sion, § 5:18 § 5:9 complete pollution exclusion, policy language, appendix, § 5:16 § 5:54 insuring clause, claim falling policy period, damage within, without, § 5:13 § 5:8 Owned Property Exclusion, property damage, bodily § 5:17 injury, or personal Standard ISO pollution injury, requirement that exclusion, § 5:14 claim be because of, Traveler's Pollution Exclu-§ 5:7 sion, § 5:15 requirement that party be an good faith and fair dealing, insured, § 5:4 insurance carrier's duty, trigger of coverage, § 5:8 § 5:24 willful acts of insured, § 5:6 indemnification, insurance carcooperation, insured's duty to rier's duty to indemnify, cooperate, § 5:20 § 5:21 Cumis counsel, insurance carinsurance carrier duties rier duties, § 5:25 Cumis counsel. § 5:25 defense, duty to defend, see defense, duty to defend insurance carrier duties primary insurer, § 5:22 (this group) secondary and umbrella duties insurers, § 5:23 insurance carrier duties (this good faith and fair dealing, group) duty of, § 5:24 insured's duties, see policy indemnification, duty to conditions and duties of indemnify, § 5:21 insured (this group) insuring clause, claim falling **Environmental Impairment** without, § 5:13 Liability (EIL) insurance notice nature of EIL policies, § 5:11 duty to notify insurer, § 5:19 "neither expected nor notice from insured to insurer

intended" clause, inter-

INSURANCE COVERAGE LITIGATION—Cont'd

Third party claims—Cont'd notice-Cont'd

> against insured under occurrence type policy, Form, § 5:49

Owned Property Exclusion, § 5:17

policy conditions and duties of insured

cooperation, insured's duty to cooperate, § 5:20

duty to notify insurer, § 5:19

Standard ISO pollution exclusion, § 5:14

Traveler's Pollution Exclusion, § 5:15

Traveler's Pollution Exclusion, third party claims, § 5:15

Types of insurance policies, generally, § 5:2

INTENTIONAL INFLICTION OF **EMOTIONAL DISTRESS**

Personal Injury and Toxic Torts (this index)

INTERVENTION

Citizen Suits (this index)

JOINT AND SEVERAL LIABILITY

Insurance coverage litigation, insured's allegations of joint and several liability on part of multiple insurers, Form, § 5:52

JUDICIAL ENFORCEMENT

Air pollution, see California's Air **Resources Statutes** (this index)

California's Air Resources **Statutes** (this index)

Hazardous Substance Account Act (this index)

JUDICIAL ENFORCEMENT —Cont'd

Hazardous Waste Control Act (this index)

Porter-Cologne Water Quality Control Act (this index)

Underground Storage Tanks (this index)

Water, see Porter-Cologne Water Quality Control Act (this index)

JURISDICTION

Citizen suits, § 6:34

Insurance coverage litigation, actions against insurers, § 5:43

Personal-injury toxic torts, affirmative defense, § 1:46

Superfund Litigation (this index)

JURY TRIAL

Superfund litigation, right to jury trial in cost recovery actions in federal "Superfund" litigation, § 3:81

"KELLY-FRYE"

Personal-injury toxic torts, evidentiary issues, § 1:47

LACHES

California Environmental Quality Act (CEQA), §§ 8:44, 8:54

Citizen suits, § 6:39

Superfund litigation, Form, § 3:120

LANDLORD AND TENANT

Property-damage toxic torts, lease enforcement, §§ 2:8, 2:30 to 2:37

LAND USE STATUTE LITIGATION

Generally, §§ 8:1 to 8:54

California Environmental Quality Act (CEQA) (this index)

LAND USE STATUTE LITIGATION—Cont'd

Endangered Species Acts (this index)

Guidelines, practice note, **§ 8:4** Program environmental impact reports (EIRs), **§ 8:19.10**

Wetlands Regulation Under Federal Clean Water Act (this index)

LENDERS

Superfund litigation, liability under CERCLA for lenders acting as lenders, § 3:40

LIENS

Hazardous Substance Account Act (this index)

LIMITATIONS

Statute of Limitations (this index)

MANUFACTURING DEFECTS

Personal-injury toxic torts, strict products liability, § 1:13

MAPS

California air pollution control and air quality management districts, § 7:185

California water quality regions, § 7:184

MARKET SHARE LIABILITY

Personal-injury toxic torts, § 1:22

MEDICAL MONITORING

Personal-injury toxic torts, damages for future medical monitoring, § 1:31

METHANE CONTROL SYSTEMS

Superfund litigation, defense to cost recovery actions against operators in federal "Superfund" litigation, §§ 3:61, 3:112

MOOTNESS

California Environmental Quality Act (CEQA), §§ 8:44, 8:52 Citizen suits, § 6:37

MOTIONS IN LIMINE

Forms (this group)

MUNICIPALITIES

Superfund litigation, liability under CERCLA, § 3:35

NATIONAL CONTINGENCY PLAN

Superfund Litigation (this index)

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

California Environmental Quality Act (CEQA), relation of CEQA to NEPA, § 8:3

NATURAL RESOURCES DAMAGES

Superfund Litigation (this index)

NECESSITY DEFENSE

Property-damage toxic torts, § 2:28

NEGLIGENCE

Citizen suits, defense of negligence, § 6:38

Personal Injury and Toxic Torts (this index)

Property-Damage Toxic Torts (this index)

NEGLIGENCE PER SE

Personal Injury and Toxic Torts (this index)

Property-damage toxic torts, §§ 2:4, 2:40

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

Personal Injury and Toxic Torts (this index)

INDEX

NUISANCE

Personal Injury and Toxic Torts (this index)

Property-Damage Toxic Torts (this index)

OFFICE OF PLANNING AND RESEARCH

California Environmental Quality Act (CEQA), § 8:5

OIL-SPILLS

Personal-injury toxic torts, strict liability, § 1:21

ORPHAN SHARE REIMBURSEMENT TRUST **FUND**

Hazardous Substance Account Act (this index)

PAIN AND SUFFERING

Personal-injury toxic torts, damages, § 1:28

PARENT COMPANIES

Superfund litigation, liability under CERCLA, § 3:37

PARTIES

California Environmental Quality Act (CEQA), failure to join indispensable parties, § 8:44

Citizen Suits (this index)

Superfund Litigation (this index)

PERSONAL INJURY AND **TOXIC TORTS**

Generally, §§ 1:1 to 1:55

Abnormally dangerous activities allegation of strict liability for abnormally dangerous activity for use in complaint alleging personal injury from toxic tort, Form, § 1:52

liability, see Theories of liability (this group)

PERSONAL INJURY AND TOXIC TORTS—Cont'd

Affirmative defenses assumption of risk, § 1:40 bulk supplier defense, § 1:44 comparative negligence, § 1:39 government contractor defense. § 1:42

jurisdictional issues, § 1:46 preemption, § 1:45 qualified immunity, § 1:41 single cause of action principle, § 1:37

sophisticated user defense, § 1:44

sovereign immunity, § 1:41 state-of-the-art defense. § 1:43 statute of limitations, § 1:36 workers' compensation as exclusive remedy, § 1:38

Allegations, see Forms (this group)

Alternative liability, § 1:23 Assumption of risk, § 1:40 Attorney fees, § 1:34

Bulk supplier defense, § 1:44 Class actions, § 1:51.50

Comparative negligence, § 1:39 Complaints, see Forms (this group)

Concert of action liability, § 1:24 Damages, see Remedies (this group)

Defamation, § 1:26.50

Defenses, see Affirmative defenses (this group)

Emotional distress

damages, § 1:30

liability, see Theories of liability (this group)

Enhanced risk of health problems, damages, § 1:32

Enjoyment, damages for loss of enjoyment, § 1:29

PERSONAL INJURY AND TOXIC TORTS—Cont'd

Epidemiological studies, evidentiary issues, § 1:49

Evidentiary issues

epidemiological studies, § 1:49 experimental evidence, § 1:48 expert-testimony admissibility,

§ 1:47

"Kelly-Frye" issues, § 1:47 motions in limine, § 1:50

Experimental evidence, § 1:48

Expert-testimony admissibility, § 1:47

Forms

abnormally dangerous activity, allegation of strict liability for abnormally dangerous activity for use in complaint alleging personal injury from toxic tort, § 1:52

allegations, see complaints and allegations (this group)

complaint by residents of building against building owner and contractor for damages caused by exposure to asbestos, § 1:51

motions in limine

defendant's motion in limine to exclude testimony of plaintiff's expert on product design or inadequate warning, § 1:53

memorandum of points and authorities in support of motion in limine to exclude testimony, § 1:54

order excluding testimony of plaintiff's expert on product design or inadequate warning, § 1:55

Government contractor defense, § 1:42

PERSONAL INJURY AND TOXIC TORTS—Cont'd

Hazardous substances, prisons and prisoners, civil rights and discrimination, § 1:25.50

Inadequate warning, strict products liability, § 1:15

Injunctions, § 1:35

Intentional infliction of emotional distress

complaint by residents of building against building owner and contractor for damages caused by exposure to asbestos, *Form*, § 1:51

liability, see Theories of liability (this group)

Jurisdictional issues, affirmative defense, § 1:46

"Kelly-Frye" issues, evidentiary issues, § 1:47

Liability theories, see Theories of liability (this group)

Manufacturing defect, strict products liability, § 1:13

Market share liability, § 1:22

Medical monitoring, damages for future medical monitoring, § 1:31

Motions in limine

generally, § 1:50

Forms (this group)

Negligence

complaint by residents of building against building owner and contractor for damages caused by exposure to asbestos, *Form*, § 1:51

liability, see Theories of liability (this group)

Negligence per se

complaint by residents of building against building owner and contractor for damages caused by exposure to asbestos, *Form*, § 1:51

PERSONAL INJURY AND TOXIC TORTS—Cont'd	PERSONAL INJURY AND TOXIC TORTS—Cont'd
Negligence per se—Cont'd	Remedies—Cont'd
liability, see Theories of liability	medical monitoring, damages
(this group)	for future medical monitor-
Negligent infliction of emotional	ing, § 1:31
distress, see Theories of	pain and suffering, damages,
liability (this group)	§ 1:28
Nuisance, see Theories of liability	punitive damages, § 1:33
(this group)	quality-of-life damages, § 1:29
Oil-spills, strict liability, § 1:21	Risk, damages for enhanced risk
Pain and suffering damages,	of health problems, § 1:32
§ 1:28	Single cause of action principle,
Preemption, § 1:45	§ 1:37
Punitive damages, § 1:33	Sophisticated user defense, § 1:44
Qualified immunity, § 1:41	Sovereign immunity, § 1:41
Quality-of-life damages, § 1:29	Spoliation of evidence, § 1:20
Racketeer Influenced and Corrupt	State-of-the-art defense, § 1:43
Organizations Act (RICO),	Statute of limitations, § 1:36
§ 1:26	Strict liability for abnormally
Remedies	dangerous activities, see The-
attorney fees, § 1:34	ories of liability (this group)
damages	Strict liability for oil spills, § 1:21
emotional distress, § 1:30	Strict products liability, see Theo-
enhanced risk of health	ries of liability (this group)
problems, § 1:32	Successor liability, § 1:25
future medical monitoring,	Theories of liability
§ 1:31	abnormally dangerous activi- ties, see strict liability for
loss of enjoyment, § 1:29	abnormally dangerous
measuring damages, § 1:27	activities (this group)
medical monitoring, damages	alternative liability, § 1:23
for future medical moni-	asbestos-containing material
toring, § 1:31	(ACM), strict products
pain and suffering, § 1:28	liability, § 1:12
1	concert of action liability,
punitive damages, § 1:33	§ 1:24
quality of life, § 1:29	emotional distress
emotional distress, damages,	intentional infliction of emo-
§ 1:30	tional distress (this
enhanced risk of health	group)
problems, § 1:32	negligent infliction of emo-
enjoyment, damages for loss of	tional distress (this
enjoyment, § 1:29	group)
future medical monitoring,	inadequate warning, strict
§ 1:31	products liability, § 1:15

PERSONAL INJURY AND PERSONAL INJURY AND TOXIC TORTS—Cont'd TOXIC TORTS—Cont'd Theories of liability—Cont'd Theories of liability—Cont'd intentional infliction of emostrict liability for abnormally tional distress dangerous activities elements of cause of action, -Cont'd § 1:18 elements of cause of action, § 1:10 relationship to negligent infliction of emotional strict liability for oil spills, distress, § 1:19 § 1:21 manufacturing defect, strict strict products liability products liability, § 1:13 asbestos-containing material (ACM), § 1:12 market share liability, § 1:22 design defect, § 1:14 negligence elements of cause of action, applicability of negligence in § 1:12 toxic tort cases, § 1:2 inadequate warning, § 1:15 custom as evidence, § 1:5 manufacturing defect, § 1:13 elements of cause of action, unavoidably safe, yet socially § 1:3 desirable products, foreseeability, § 1:4 exception for, § 1:14 negligence per se successor liability, § 1:25 elements of cause of action, unavoidably safe, yet socially § 1:7 desirable products, excepstatutory basis, § 1:6 tion from strict products liability for, § 1:14 nuisance Toxic torts overview, § 1:1 definition, § 1:8 Warnings, strict products liability elements of cause of action, based on inadequate warning, § 1:8 § 1:15 public nuisance, advantages Workers' compensation as of action for, § 1:9 exclusive remedy, § 1:38 oil spills, strict liability, § 1:21 PETROLEUM EXCLUSION physical impact or injury not **Superfund Litigation** (this index) required, § 1:17 Racketeer Influenced and Cor-PORTER-COLOGNE WATER rupt Organizations Act **QUALITY CONTROL ACT** (RICO), § 1:26 Generally, §§ 7:1 to 7:185 relationship to negligence, Assessment of administrative civil § 1:16 liability, see enforcement by spoliation of evidence, § 1:20 state and regional boards (this strict liability for abnormally group) dangerous activities **Boards** activities that are abnormally enforcement, see enforcement dangerous, determining, by state and regional § 1:11 boards (this group)

PORTER-COLOGNE WATER PORTER-COLOGNE WATER QUALITY CONTROL ACT QUALITY CONTROL ACT -Cont'd —Cont'd Boards—Cont'd Enforcement by state and regional review, see review by state boards—Cont'd board (this group) orders-Cont'd time schedule orders, § 7:6 California Storm Water Enforcement Act practice and procedure in adjudicatory proceedings generally, § 7:37 before boards enforcement, § 7:38 evidentiary considerations, Cease and desist orders, § 7:7 § 7:15 Checklist of events in proceedings prehearing conferences, before water boards, § 7:33 § 7:14 Civil monetary remedies, § 7:26 procedure, see practice and pro-Criminal liability, § 7:28 cedure in adjudicatory Enforcement by state and regional proceedings before boards (this group) assessment of administrative time schedule orders, § 7:6 civil liability "waste," § 7:4 amount of assessment, § 7:11 Federal Clean Water Act, relationdefenses to administrative ship to, § 7:5 civil liability based on Forms discharge of hazardous citizen group's petition to state waste, § 7:12 board for review of grounds for assessment of regional board's action or liability, § 7:9 inaction, § 7:35 procedure for assessing discharger's petition to state liability, § 7:10 board for review of order recovery of contribution from from regional board to third party, § 7:13 discharger, § 7:34 regional board hearing state board panels, § 7:13.50 citizen group's petition to cease and desist orders, § 7:7 state board for review of civil liability, see assessment of regional board's action administrative civil or inaction, § 7:35 liability (this group) discharger's petition to state cleanup and abatement orders, board for review of § 7:8 order from regional liability, see assessment of board to discharger, administrative civil § 7:34 liability (this group) superior court, petition for writ of mandate pursuant to cease and desist orders, § 7:7 Code Civ. Proc. 1094.5, § 7:36 cleanup and abatement orders, § 7:8 Injunctive relief, § 7:25

PORTER-COLOGNE WATER QUALITY CONTROL ACT —Cont'd

Judicial enforcement of statute civil monetary remedies, § 7:26 criminal liability, § 7:28 injunctive relief, § 7:25 procedural considerations in civil enforcement actions, § 7:27

Map of California water quality regions, § 7:184

Orders, see enforcement by state and regional boards (this group)

Procedure

checklist of events in proceedings before water boards, § 7:33

procedural considerations in civil enforcement actions, § 7:27

state and regional boards, see enforcement by state and regional boards (this group)

Regional boards, see enforcement by state and regional boards (this group)

Regions, map of California water quality regions, § 7:184

Review by state board

contents of petition for review, § 7:18

final action by state board with regard to regional board's action or failure to act, § 7:22

grounds for review, § 7:16 powers of board to affirm or modify order setting administrative civil liability, § 7:23

record on review, § 7:21 response to petition for review, § 7:19

PORTER-COLOGNE WATER QUALITY CONTROL ACT —Cont'd

Review by state board—Cont'd stay of regional board's action, § 7:20

timeliness of review, § 7:17 workshop meetings before final action by state board, § 7:24

State board

enforcement, see enforcement by state and regional boards (this group)

forms (this group)

review, see review by state board (this group)

Stormwater, laws relating to, § 7:38.50

Workshop meetings before final action by state board, § 7:24

Writ of mandate proceedings actions subject to review, § 7:28 effect on availability of challenge to administrative order in judicial proceedings to enforce order, § 7:32

independent judgment standard of review, § 7:31
petition for writ of mandate pursuant to Code Civ.
Proc. 1094.5, Form, § 7:36
record on review, § 7:30
timeliness of judicial review, § 7:29

PREEMPTION

Personal-injury toxic torts, § 1:45 Proposition 65 litigation, warning requirement, §§ 4:8, 4:18

PRESCRIPTIVE RIGHTS

Property-damage toxic torts, prescriptive right to discharge pollutant, *Form*, **§ 2:49**

PRISONS AND PRISONERS

Civil rights and discrimination, toxic torts, § 1:25.50

PROCEDURE

Porter-Cologne Water Quality Control Act (this index)

Property-damage Toxic Torts (this index)

Property-Damage Toxic Torts (this index)

Superfund Litigation (this index)

PROGRAM ENVIRONMENTAL IMPACT REPORTS (EIRs)

Land use statute litigation, § 8:19.10

PROPERTY-DAMAGE TOXIC TORTS

Generally, §§ 2:1 to 2:49

Abnormally dangerous activities, strict liability for ultrahazardous or abnormally dangerous activities, § 2:11

Affirmative defenses, see Defenses (this group)

"As is" provisions, effect of, § 2:10

Attorney fees, see Remedies (this group)

Causes of action

common law, see Common law causes of action (this group)

statutory causes of action, see Statutory causes of action (this group)

Common law causes of action abnormally dangerous activities, strict liability for ultrahazardous or abnormally dangerous activities, § 2:11

"as is" provisions, effect of, § 2:10

PROPERTY-DAMAGE TOXIC TORTS—Cont'd

Common law causes of action
—Cont'd

contractual rights enforcement, § 2:8

fraud and misrepresentation, § 2:9

negligence

generally, § 2:3

negligence per se, § 2:4

negligence per se, § 2:4

nuisance

applicability of nuisance theory, § 2:5

continuing nature of nuisance, § 2:6

definition, § 2:5

permanent nuisance, § 2:6

strict liability for ultrahazardous or abnormally dangerous activities, § 2:11

trespass, § 2:7

ultrahazardous activities, strict liability for ultrahazardous or abnormally dangerous activities, § 2:11

Comparative negligence, §§ 2:29, 2:46

Consent, defense of, §§ 2:26, 2:48 Contractual rights enforcement, §§ 2:8, 2:10

Damages, see Remedies (this group)

Declaratory relief, §§ 2:24, 2:37, 2:39

Defenses

CERCLA discovery rule, preemption, statute of limitations, § 2:25

comparative negligence, § 2:29

consent, § 2:26

necessity, § 2:28

statute of limitations, § 2:25

statutory authorization, § 2:27

PROPERTY-DAMAGE TOXIC TORTS—Cont'd

Defenses—Cont'd zoning regulation authorization, § 2:27

Diminution of property value, damages, § 2:19

Examples of property damage and kinds issues and claims that arise, § 2:1

Forms

affirmative defenses

comparative negligence, § 2:46

consent, § 2:48

prescriptive right, § 2:49

statute of limitations, § 2:45

statutory and regulatory authorization, § 2:47

allegations, see complaints and allegations (this group)

complaints and allegations

declaratory relief

cause of action for declaratory relief in action by lessor against lessee for contamination of leased property, § 2:37

release, allegation for declaratory relief in landowner's action against former owner where landowner had released former owner from liability without knowledge of the contamination, § 2:39

fraud, cause of action alleging fraud in action by lessor against lessee for contamination of leased property, § 2:36

hazardous substances, lessor's complaint for property damage caused

PROPERTY-DAMAGE TOXIC TORTS—Cont'd

Forms—Cont'd

complaints and allegations

—Cont'd

by lessee's release of hazardous substances into soil, § 2:30

indemnity, cause of action alleging indemnity in action by lessor against lessee for contamination of leased property, § 2:35

negligence, cause of action alleging negligence in action by lessor against lessee for contamination of leased property, § 2:33

nuisance, cause of action alleging nuisance in action by lessor against lessee for contamination of leased property, § 2:31

prior owner, property owner's complaint against prior owner for property damage caused by prior owner's release of hazardous substances into soil, § 2:38

regulation, cause of action alleging negligence in action by lessor against lessee for contamination of leased property when the release of toxic materials violates statute or regulation, § 2:34

trespass, cause of action alleging trespass in action by lessor against lessee for contamination of leased property, § 2:32

PROPERTY-DAMAGE TOXIC TORTS—Cont'd	PROPERTY-DAMAGE TOXIC TORTS—Cont'd
Forms—Cont'd	Procedure
jury instructions	discovery considerations, § 2:17
damages, instructions regard-	forum selection, § 2:16
ing measure of damages,	Relationships and interactions of
§ 2:44	state and federal laws, § 2:2
negligence per se, instruc-	Remedies
tions regarding	attorney fees
negligence per se for violation of	California law, § 2:20
environmental statute,	federal law, § 2:21
§ 2:40	damages
nuisance, § 2:42	diminution of property value,
trespass, § 2:43	§ 2:19
	jury instruction, Form, § 2:44
waste, § 2:41	
prescriptive right to discharge	repair costs, § 2:18
pollutant, affirmative defense, § 2:49	declaratory relief, § 2:24
Forum selection, § 2:16	diminution of property value,
· -	damages, § 2:19
Fraud and misrepresentation, §§ 2:9, 2:35	injunctive relief, § 2:23
Injunctive relief, § 2:23	repair costs, damages, § 2:18
	Repair costs, damages, § 2:18
Necessity, defense of, § 2:28	Statute of limitations, §§ 2:25,
Negligence	2:45
cause of action alleging	Statutory authorization, § 2:27
negligence in action by lessor against lessee for	Statutory causes of action
contamination of leased	California statutes
property, Form, § 2:33	underground storage tanks,
liability, see Common law	§ 2:13
causes of action (this	waste, § 2:12
group)	federal statutes, generally,
Negligence per se, §§ 2:4, 2:40	§ 2:14
	underground storage tanks, Cal-
Nuisance	ifornia statutes, § 2:13
cause of action alleging	waste, California statutes,
nuisance in action by lessor against lessee for	§ 2:12
contamination of leased	•
property, Form, § 2:31	Strict liability for ultrahazardous or abnormally dangerous
jury instructions, Form, § 2:42	activities, § 2:11
•	· -
liability, see Common law	Trespass, §§ 2:7, 2:35, 2:43
causes of action (this	Ultrahazardous activities, strict
group)	liability for ultrahazardous or
Prescriptive right to discharge	abnormally dangerous activi-
pollutant, Form, § 2:49	ties, § 2:11

manufacturer's failure to

PROPOSITION 65 LITIGATION PROPERTY-DAMAGE TOXIC TORTS—Cont'd —Cont'd Enforcement of Proposition 65 Underground storage tanks, California statutory causes of -Cont'd action, § 2:13 injunctions, § 4:9 Waste mercury in dental fillings, California statutory causes of burden of proof, § 4:12 action, § 2:12 penalties, § 4:9 jury instruction, Form, § 2:41 private enforcement, § 4:10 Zoning regulation authorization, remedial statute, broadly § 2:27 enforced, § 4:1 safe use determinations, effects, **PROPOSITION 65 LITIGATION** § 4:13 Generally, §§ 4:1 to 4:20 Exemptions Applicability of statute, § 4:3 discharge prohibition, § 4:4 Burden of proof, enforcement of noncarcinogenic chemical, Proposition 65, § 4:12 warning requirement, § 4:6 Chemicals list, § 4:2 warning requirement, § 4:6 Complaints, see Forms (this Forms group) affirmative defenses Course of doing business, discharge prohibition exempapplicability to persons in tions course of doing business, discharge occurred within § 4:3 20 months of listing, Discharge prohibition § 4:16 generally, § 4:4 discharge was not signifidefinition, § 4:4 cant and was in exemptions, § 4:4 conformity with other Forms (this group) laws, § 4:17 "knowingly," meaning of, § 4:5 warning requirement exemp-"no observable effect level," tions § 4:5 exposure occurred within potential litigation issues, § 4:5 12 months of listing, "significant amount," meaning § 4:19 of, § 4:5 exposure poses no signifi-Doing business, applicability to cant risk, § 4:20 persons in course of doing preemption, § 4:18 business, § 4:3 complaints Elements of liability, enforcement discharge prohibition, comof Proposition 65, § **4:12** plaint against Enforcement of Proposition 65 manufacturer who generally, § 4:1 discharges chemical into burden of proof, § 4:12 drinking water, § 4:14 elements of liability, § 4:12 warning requirement, comexamples of enforcement plaint based on

actions, § 4:11

PROPOSITION 65 LITIGATION

exemptions, § 4:6

-Cont'd -Cont'd Warning requirement—Cont'd Forms-Cont'd complaints-Cont'd Forms (this group) warn of exposure to lead noncarcinogenic chemical, from product, § 4:15 § 4:6 discharge prohibition preemption, § 4:8 affirmative defenses (this safe harbor warnings, § 4:7 group) complaint against manufacturer who Superfund Litigation (this index) discharges chemical into **PUNITIVE DAMAGES** drinking water, § 4:14 warning requirement Personal-injury toxic torts, § 1:33 affirmative defenses (this Superfund litigation, extent of group) liability of PRPs in federal complaint based on "Superfund" litigation, manufacturer's failure to § 3:52 warn of exposure to lead **QUALITY-OF-LIFE DAMAGES** from product, § 4:15 Implementation and enforcement Personal-injury toxic torts, § 1:29 of Proposition 65, generally, **OUARANTINE ORDERS** § 4:1 Injunctions, enforcement of Prop-Hazardous Waste Control Act, osition 65, § 4:9 §§ 7:112, 7:113 "Knowingly," meaning of, § 4:5 RACKETEER INFLUENCED Mercury in dental fillings, burden AND CORRUPT of proof, enforcement of **ORGANIZATIONS ACT** Proposition 65, § 4:12 (RICO) "No observable effect level." § 4:5 Personal-injury toxic torts, § 1:26 Penalties, enforcement of Proposi-REGULATORY PROCEEDINGS tion 65, § **4:9** Generally, §§ 7:1 to 7:185 Preemption, warning requirement, §§ 4:8, 4:18 Air, see California's Air Private enforcement of Proposi-**Resources Statutes** (this tion 65, § 4:10 index) Safe harbor warnings, § 4:7 California Environmental Protec-Safe use determinations, effect on tion Agency, organizational enforcement of Proposition chart, § 7:183 65, § **4:13** California's Air Resources "Significant amount," meaning of, **Statutes** (this index) § 4:5 **Hazardous Substance Account** Warning requirement Act (this index) generally, § 4:6 **Hazardous Waste Control Act**

PROPOSITION 65 LITIGATION

(this index)

REGULATORY PROCEEDINGS —Cont'd

Orders

administrative review of orders, § 7:2

issuance of orders for compliance, § 7:1

Porter-Cologne Water Quality Control Act (this index)

Underground storage tanks, regulatory proceedings pursuant to statutes governing, see **Underground Storage Tanks** (this index)

Waste control, see Hazardous
Waste Control Act (this index)

Water, see Porter-Cologne Water Quality Control Act (this index)

Writ of mandate proceedings, § 7:3

RELEASES

Superfund litigation, federally permitted releases to cost recovery actions, § 3:60

REMEDIES

California "Superfund" litigation, § 3:94

Citizen Suits (this index)

Personal Injury and Toxic Torts (this index)

Property-Damage Toxic Torts (this index)

REPAIR COSTS

Property-damage toxic torts, damages, § 2:18

RESIDENTIAL PROPERTY OWNERS

Hazardous Substance Account Act, restriction on liability of residential property owners in actions to recover costs and expenses, § 7:169

RESIDENTIAL PROPERTY OWNERS—Cont'd

Superfund litigation, liability under CERCLA, § 3:42

RES JUDICATA

Citizen suits, § 6:36

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

Citizen Suits (this index)

RESPONDEAT SUPERIOR LIABILITY

Criminal penalties and considerations, § 9:4

RESPONSE COSTS

Superfund Litigation (this index)

RESPONSIBLE CORPORATE OFFICER DOCTRINE

Criminal penalties and considerations, § 9:5

REWARDS FOR INFORMANTS

California's air resources statutes, § 7:86

Hazardous Waste Control Act, § 7:120

RISK

Personal-injury toxic torts, damages for enhanced risk of health problems, § 1:32

SENTENCING GUIDELINES

Criminal penalties and considerations, § 9:8

SERVICE OF PLEADINGS

Citizen suits, § 6:24

SETTLEMENTS AND CONSENT DECREES

Superfund Litigation (this index)

SHAREHOLDERS

Superfund litigation, liability under CERCLA, § 3:37

INDEX

SINGLE CAUSE OF ACTION PRINCIPLE

Personal-injury toxic torts, § 1:37

SOPHISTICATED USER DEFENSE

Personal-injury toxic torts, § 1:44

STANDING

Citizen suits, establishing standing of plaintiff, § 6:15

STATE OF MIND

Criminal penalties and considerations, § 9:3

STATE-OF-THE-ART DEFENSE

Personal-injury toxic torts, § 1:43

STATUTE OF LIMITATIONS

Citizen suits, § 6:41

Criminal penalties and considerations, § 9:9

Hazardous Substance Account Act, actions to recover costs and expenses, § 7:168

Personal-injury toxic torts, § 1:36 Property-damage toxic torts,

§§ 2:25, 2:45

CERCLA discovery rule, preemption, § 2:25

Superfund Litigation (this index)

STATUTORY AUTHORIZATION

Property-damage toxic torts, defense of statutory authorization, § 2:27

STORMWATER

Regulatory proceedings pursuant to Porter-Cologne Water Quality Control Act, § 7:38.50

STRICT LIABILITY

Abnormally dangerous activities personal injuries, see **Personal Injury and Toxic Torts**(this index)

STRICT LIABILITY—Cont'd

Abnormally dangerous activities
—Cont'd

products liability, see **Strict Products Liability** (this index)

property-damage toxic torts, strict liability for ultrahazardous or abnormally dangerous activities, § 2:11

Oil spills, personal-injury toxic torts, § 1:21

Property-damage toxic torts, strict liability for ultrahazardous or abnormally dangerous activities, § 2:11

STRICT PRODUCTS LIABILITY

Personal Injury and Toxic Torts (this index)

SUCCESSOR LIABILITY

Personal-injury toxic torts, § 1:25

SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT (SARA)

Superfund litigation, § 3:1

SUPERFUND LITIGATION

Generally, §§ 3:1 to 3:121

Abatement actions under CERCLA, § 3:11

Act of God, defense to cost recovery actions, §§ 3:56, 3:107

Act of war, defense to cost recovery actions, §§ 3:57, 3:108

Affirmative defenses, see *Forms* (this group)

Allocations among parties liable under CERCLA, § 3:43

Arbitration

California "Superfund" litigation, arbitration to apportion liability, § 3:98

Comprehensive Environmental

Response, Compensation,

SUPERFUND LITIGATION SUPERFUND LITIGATION -Cont'd —Cont'd California "Superfund" litigation Arbitration—Cont'd federal "Superfund" litigation, -Cont'd § 3:79 liability, nature and elements Arrangers, see Federal —Cont'd "Superfund" litigation (this release of hazardous substance, § 3:91 Bifurcation, federal "Superfund" petroleum exclusion, § 3:92 litigation, § 3:80 remedies, overview, § 3:94 Brownfields residential property owner, California "Superfund" litigadefense, § 3:96 tion, § 3:85 settlements and consent decrees federal, see Federal authority to enter into agree-"Superfund" litigation ments, § 3:99 (this group) effect of settlements, § 3:100 Brownfields Amendments, see statute overview Federal "Superfund" litigabrownfields, § 3:85 tion (this group) California Hazardous Sub-California Land Use Revitalizastances Account Act. tion Act of 2004, § 3:85.50 § 3:83 California "Superfund" litigation Carpenter-Presley-Tanner arbitration to apportion liability, Hazardous Substances § 3:98 Account Act (HSAA), § 3:83 brownfields, § 3:85 management of cleanups, checklist for plaintiff in HSAA contribution or indemnity § 3:85 nature and scope of statute, action, § 3:102 § 3:83 consent decrees, see Settlements Orphan Share Reimburseand consent decrees (this ment Trust Fund, § 3:84 group) site identification, listing and defenses ranking, § 3:84 generally, § 3:95 statutes of limitations, § 3:97 residential property owner, Case management orders, federal § 3:96 "Superfund" litigation, statutes of limitations, § 3:97 § 3:77 legal actions under HSAA Civil penalties, extent of liability abatement actions, § 3:87 of PRPs in federal private actions, § 3:89 "Superfund" litigation, right to sue, § 3:86 § 3:51 state cost recovery actions, Combination suits, suits combin-§ 3:88 ing CERCLA and other remeliability, nature and elements dies, § 3:17 generally, § 3:90

petroleum exclusion, § 3:92

SUPERFUND LITIGATION

act of war, defense to cost

3:108

recovery actions, §§ 3:57,

-Cont'd -Cont'd Federal "Superfund" litigation and Liability Act (CERCLA), § 3:5 —Cont'd Comprehensive Environmental allocations among parties liable under CERCLA, § 3:43 Response, Compensation and Liability Information System, arbitration, § 3:79 placement of site on, § 3:8 arrangers, see Parties liable Consent decrees under CERCLA (this California "Superfund" litigagroup) tion (this group) attorney fees, extent of liability federal. Federal "Superfund" of PRPs, § 3:50 litigation (this group) bifurcation, § 3:80 "Contiguous Property" defense, brownfields cost recovery actions in amendments to CERCLA, federal "Superfund" litigasee Brownfields Amendtion, § 3:63 ments (this group) Contracts, defenses to actions by definition, § 3:12 other PRPs, § 3:65 Brownfields Amendments Contribution, § Environ § 3:53 generally, § 3:1 Contribution actions under "Contiguous Property" CERCLA, see Federal defense, § 3:63 "Superfund" litigation (this De Micromis exemption group) under the 2002 Cost recovery actions, § Environ Brownfield Amend-§ 3:53 ments, § 3:32 Cost recovery actions, see Federal case management orders, § 3:77 "Superfund" litigation (this civil penalties, extent of liability group) of PRPs, § 3:51 Defenses claims against Superfund under California "Superfund" litiga-CERCLA, § 3:16 tion (this group) combination suits, suits combinfederal, see Federal ing CERCLA and other "Superfund" litigation remedies, § 3:17 (this group) Comprehensive Environmental *Forms* (this group) Response, Compensation Federal "Superfund" litigation and Liability Information abatement actions under System, placement of site CERCLA, § 3:11 on, § 3:8 act of God, defense to cost consent decrees, see settlements and consent decrees (this recovery actions, §§ 3:56, 3:107 group)

SUPERFUND LITIGATION

"Contiguous Property" defense,

cost recovery actions,

§ 3:63

SUPERFUND LITIGATION SUPERFUND LITIGATION -Cont'd —Cont'd Federal "Superfund" litigation Federal "Superfund" litigation -Cont'd -Cont'd defenses-Cont'd contracts, defenses to actions by other PRPs, § 3:65 cost recovery actions contribution actions under —Cont'd **CERCLA** methane control systems, generally, § 3:14 operators, § 3:61 statute of limitations, § 3:55 releases, federally permitted releases, § 3:60 cost recovery actions statute of limitations, checklist for plaintiff in § 3:53 CERCLA cost recovery third-party defense, § 3:58 action, § 3:101 equitable defenses to liability, defenses (this group) cost recovery actions, EPA actions under CERCLA, § 3:64 § 3:12 Forms (this group) statute of limitations, § 3:53 gasoline service systems, current owners and operators, defense to cost recovery liability under CERCLA, actions, § 3:62 § 3:29 landowners and would-be defenses purchasers, defense to actions by other PRPs cost recovery actions, contracts, § 3:65 § 3:59 settlements, § 3:66 limitations, see statute of limact of God, defense to cost itations (this group) recovery actions, § 3:56 methane control systems, act of war, defense to cost defense to cost recovery recovery actions, § 3:57 actions against opera-"Contiguous Property" tors, § 3:61 releases, federally permitted defense, cost recovery actions, § 3:63 releases to cost recovery contracts, defenses to actions actions, § 3:60 by other PRPs, § 3:65 settlements, defenses to actions by other PRPs, cost recovery actions § 3:66 act of God, § 3:56 statute of limitations (this act of war, § 3:57 group) "Contiguous Property" directors of company, liability defense, § 3:63 under CERCLA, § 3:37 equitable defenses to elements of liability liability, § **3:64** generally, § 3:20 gasoline service systems, environment, § 3:27 § 3:62 facility, § 3:26 landowners and would-be purchasers, § 3:59 hazardous substances, § 3:23

SUPERFUND LITIGATION	SUPERFUND LITIGATION
—Cont'd	—Cont'd
Federal "Superfund" litigation —Cont'd	Federal "Superfund" litigation —Cont'd
elements of liability—Cont'd	hazardous substances, elements
petroleum exclusion, § 3:24	of liability, § 3:23
products in buildings, exclu-	health assessment or health
sion for, § 3:25	effects study, extent of
release, § 3:22	liability of PRPs, § 3:49
response costs incurred, § 3:28	individuals, liability under CERCLA, § 3:36
environment, elements of	initial site identification, § 3:7
liability, § 3:27	jurisdiction
equitable defenses to liability,	exclusive federal court juris-
cost recovery actions,	diction, § 3:6
§ 3:64	supplemental jurisdiction,
exclusions	§ 3:76
petroleum exclusion, § 3:24	jury trial, right to jury trial in
products in buildings, exclu-	cost recovery actions,
sion for, § 3:25	§ 3:81
extent of liability of PRPs	landowners and would-be
attorney fees, § 3:50	purchasers, defense to cost recovery actions, §§ 3:59,
civil penalties, § 3:51	3:110
health assessment or health	lenders acting as lenders,
effects study, § 3:49	liability under CERCLA,
National Contingency Plan, consistency with, § 3:47	§ 3:40°
natural resources damages,	liability
§ 3:48	elements of liability (this
punitive damages, § 3:52	group)
response costs, § 3:46	extent of liability of PRPs
facility, elements of liability,	(this group)
§ 3:26	parties liable under CERCLA
federal government, liability	(this group)
under CERCLA, § 3:34	theories of liability under
former owners and operators,	CERCLA (this group)
liability under CERCLA,	liability scheme under CERCLA, § 3:3
§ 3:30	
gasoline service systems,	limitations, see statute of limitations (this group)
defense to cost recovery actions, §§ 3:62, 3:113	methane control systems,
generators, see Parties liable	defense to cost recovery
under CERCLA (this	actions against operators,
group)	§§ 3:61, 3:112
government rights to sue under	municipalities, liability under
CERCLA, § 3:4	CÉRCLA, § 3:35

SUPERFUND LITIGATION SUPERFUND LITIGATION -Cont'd —Cont'd Federal "Superfund" litigation Federal "Superfund" litigation -Cont'd -Cont'd parent companies, liability National Contingency Plan under CERCLA, § 3:37 generally, § 3:1 parties liable under CERCLA extent of liability of PRPs, consistency with allocations, § 3:43 National Contingency arrangers Plan, § 3:47 generally, § 3:31 National Priorities List, place-De Micromis exemption ment of site on, §§ 3:9, under the 2002 3:10 Brownfield Amendnatural resources damages ments, § 3:32 extent of liability of PRPs, generators, § 3:31 § 3:48 current owners and operators, statute of limitations, § 3:54 § 3:29 notice of potential liability directors of company, § 3:37 Section 104 letters, § 3:44 federal government, § 3:34 special notice letters, § 3:45 former owners and operators, notice of private cost recovery § 3:30 action, § 3:75 generators, see arrangers (this officers of company, liability group) under CERCLA, § 3:37 individuals, § 3:36 overview of Comprehensive lenders acting as lenders, Environmental Response, § 3:40 Compensation and municipalities, § 3:35 Liability Act (CERCLA) officers of company, § 3:37 generally, § 3:1 Brownfields Amendments, parent companies, § 3:37 § 3:1 partnerships, § 3:39 government rights to sue potentially liable parties, under CERCLA, § 3:4 § 3:42.50 jurisdiction, exclusive federal residential property owners, court jurisdiction, § 3:6 § 3:42 liability scheme under shareholders, § 3:37 **CERCLA**, § 3:3 states, § 3:35 National Contingency Plan, successors, § 3:38 § 3:1 transporters, § 3:33 private rights to sue under trusts and trustees, § 3:41 **CERCLA, § 3:5** partnerships, liability under PRPs, § 3:3 CERCLA, § 3:39 purpose of CERCLA, § 3:2 petroleum exclusion, § 3:24 Superfund Amendments and Reauthorization Act preemption, statute of limita-(SARA), § 3:1 tions, personal injury,

SUPERFUND LITIGATION SUPERFUND LITIGATION -Cont'd —Cont'd Federal "Superfund" litigation Federal "Superfund" litigation -Cont'd —Cont'd residential property owners, property damages, § 3:55.50 liability under CERCLA, § 3:42 private cost recovery actions under CERCLA, § 3:13 response costs private rights to sue under element of liability, § 3:28 **CERCLA, § 3:5** extent of liability of PRPs, procedural considerations § 3:46 Section 104 letters, notice of arbitration, § 3:79 potential liability, § 3:44 bifurcation, § 3:80 settlements and consent decrees case management orders, § 3:77 defenses to actions by other jurisdiction, supplemental PRPs, settlements, § 3:66 jurisdiction, § 3:76 de micromis settlements, jury trial, right to jury trial in § 3:71 cost recovery actions, § 3:81 de minimis landowners, notice of private cost § 3:70 recovery action, § 3:75 de minimis settlements genspecial masters, use of, erally, § 3:68 § 3:78 de minimis waste contribustandards of judicial review, tors, § 3:69 § 3:82 effects of settlement, § 3:72 supplemental jurisdiction, general authority for settle-§ 3:76 ments and consent products in buildings, exclusion decrees, § 3:67 for, § 3:25 public comment on proposed **PRPs** settlements and consent generally, § 3:3 decrees, § 3:74 liability, see Extent of stipulated penalties, § 3:73 liability of PRPs (this shareholders, liability under group) CERCLA, § 3:37 parties, see Parties liable sites, identifying Superfund under CERCLA (this sites group) Comprehensive punitive damages, extent of Environmental liability of PRPs, § 3:52 Response, Compensarelease, elements of liability, tion and Liability Infor-§ 3:22 mation System, placement on, § 3:8 releases, federally permitted releases to cost recovery initial site identification, actions, § 3:60 § 3:7

UPERFUND LITIGATION	SUPERFUND LITIGATION
—Cont'd	—Cont'd
Federal "Superfund" litigation	Federal "Superfund" litigation
—Cont'd	—Cont'd
sites, identifying Superfund	types of litigation under
sites—Cont'd	CERCLA—Cont'd
National Priorities List,	claims against Superfund,
placement on, §§ 3:9,	§ 3:16
3:10	combination suits, suits
special masters, use of, § 3:78	combining CERCLA
special notice letters, notice of	and other remedies,
potential liability, § 3:45	§ 3:17
standards of judicial review,	contribution actions, § 3:14
§ 3:82	cost recovery actions brought
states, liability under CERCLA,	by EPA, § 3:12
§ 3:35	private cost recovery actions,
statute of limitations	§ 3:13
contribution actions, § 3:55	Forms
cost recovery actions, § 3:53	act of God, § 3:107
natural resources damages,	act of war, § 3:108
actions for, § 3:54	affirmative defenses
preemption, personal injury,	act of God, § 3:107
property damages,	act of war, § 3:108
§ 3:55.50	estoppel, § 3:119
successors, liability under	innocent landowner, § 3:110
CERCLA, § 3:38	laches, § 3:120
Superfund Amendments and	· -
Reauthorization Act	mitigation, failure to mitigate
(SARA), § 3:1	damages, § 3:121
theories of liability under	permitted release under
CERCLA	federal or state law, § 3:111
joint and several liability,	•
§ 3:19	service station dealer, § 3:113
retroactivity, § 3:20	settlement with United States,
strict liability, § 3:18	§ 3:114
third-party defense, cost	single family residence of five acres or less,
recovery actions, §§ 3:58,	§ 3:115
3:109	~
transporters, liability under	third-party defense, § 3:109
CERCLA, § 3:33	unclean hands, § 3:117
	unknowing transportation of
trusts and trustees, liability under CERCLA, § 3:41	hazardous waste to solid
	waste facility, § 3:116
types of litigation under CERCLA	waiver, § 3:118
	complaint by private party seek-
abatement actions, § 3:11	ing cost recovery and con-

group)

SUPERFUND LITIGATION SUPERFUND LITIGATION -Cont'd —Cont'd Forms—Cont'd Jury trial, right to jury trial in cost recovery actions in federal tribution from private party under CERCLA and "Superfund" litigation, HSAA, § 3:103 § 3:81 defenses, see affirmative Laches, Form, § 3:120 defenses (this group) Landowners and would-be estoppel, § 3:119 purchasers, defense to cost recovery actions in federal innocent landowner, § 3:110 "Superfund" litigation, interrogatories submitted to §§ 3:59, 3:110 PRP by plaintiff or other Lenders acting as lenders, liability defendant in CERCLA under CERCLA, § 3:40 action involving disposal Methane control systems, defense of hazardous waste, to cost recovery actions § 3:105 against operators in federal laches, § 3:120 "Superfund" litigation, mitigation, failure to mitigate §§ 3:61, 3:112 damages, § 3:121 Municipalities, liability under notice to Director of Depart-**CERCLA, § 3:35** ment of Toxic Substances National Contingency Plan, see Control of action pursuant Federal "Superfund" litigato California Superfund tion (this group) statute, § 3:104 Natural resources damage, permitted release under federal § Environ § 3:53 or state law, § 3:111 Natural resources damages, see service station dealer, § 3:113 Federal "Superfund" litigasettlement with United States, tion (this group) § 3:114 Parent companies, liability under **CERCLA, § 3:37** single family residence of five acres or less, § 3:115 Parties liable under CERCLA, see Federal "Superfund" litigathird-party defense, § 3:109 tion (this group) unclean hands, § 3:117 Partnerships, liability under unknowing transportation of **CERCLA**, § 3:39 hazardous waste to solid Petroleum exclusion waste facility, § 3:116 California "Superfund" litigawaiver, § 3:118 tion, § 3:92 Gasoline service systems, defense federal "Superfund" litigation, to cost recovery actions, § 3:24 §§ 3:62, 3:113 Private cost recovery actions Identification, correct claims, under CERCLA, § 3:13 § 3:15 Private rights to sue under Jurisdiction, see Federal CERCLA, § 3:5 "Superfund" litigation (this Procedural considerations, see

Federal "Superfund" litiga-

SUPERFUND LITIGATION —Cont'd

tion (this group)

Products in buildings, exclusion for, § 3:25

PRPs, see Federal "Superfund" litigation (this group)

Punitive damages, extent of liability of PRPs in federal "Superfund" litigation, § 3:52

Releases, federally permitted releases to cost recovery actions, § 3:60

Remedies, overview of California "Superfund" litigation, § 3:94

Residential property owners, liability under CERCLA, § 3:42

Response costs, see Federal "Superfund" litigation (this group)

Section 104 letters, notice of potential liability in federal "Superfund" litigation, § 3:44

Settlements and consent decrees California "Superfund" litigation (this group)

federal. Federal "Superfund" litigation (this group)

federal "Superfund" litigation (this group)

Shareholders, liability under CERCLA, § 3:37

Sites

California "Superfund" litigation, site identification, listing and ranking, § 3:84

federal, see Federal
"Superfund" litigation
(this group)

Statute of limitations

California "Superfund" litigation, § 3:97

SUPERFUND LITIGATION —Cont'd

Statute of limitations—Cont'd federal, see Federal "Superfund" litigation (this group)

Successors, liability under CERCLA, § 3:38

Superfund Amendments and Reauthorization Act (SARA), § 3:1

Third-party defense, cost recovery actions, §§ 3:58, 3:109

Transporters, liability under CERCLA, § 3:33

Trusts and trustees, liability under CERCLA, § 3:41

Unclean hands, Form, § 3:117
Waiver, affirmative defense, Form,
§ 3:118

SUSTAINABLE COMMUNITIES STRATEGIES

California Environmental Quality Act (CEQA), § 8:17.50

THIRD-PARTY DEFENSE

Superfund litigation, cost recovery actions, §§ 3:58, 3:109

TOXIC TORTS

Personal Injury and Toxic Torts (this index)

Property-Damage Toxic Torts (this index)

TRANSPORTERS AND TRANSPORTATION

Climate change and global warming law, special transportation provisions, § 7:55.50

Superfund litigation, liability under CERCLA, § 3:33

TREBLE DAMAGES

Hazardous Substance Account Act (this index)

TRESPASS

Property-damage toxic torts, §§ 2:7, 2:35, 2:43

TRUSTS AND TRUSTEES

Superfund litigation, liability under CERCLA, § 3:41

ULTRAHAZARDOUS ACTIVITIES

Property-damage toxic torts, strict liability for ultrahazardous or abnormally dangerous activities, § 2:11

UNCLEAN HANDS

Superfund litigation, affirmative defense of unclean hands, *Form*, § 3:117

UNDERGROUND STORAGE TANKS

Administrative civil penalties, local agency enforcement, § 7:50

Agencies, implementing and enforcing agencies, § 7:40

Consolidation of civil actions, § 7:54

Corrective action orders, local agency enforcement, § 7:49

Cost recovery actions, § 7:53 Injunctive relief, § 7:51

Judicial enforcement, see Regulatory proceedings pursuant to statutes governing underground storage tanks (this group)

Local agency enforcement, see Regulatory proceedings pursuant to statutes governing underground storage tanks (this group)

Penalties, § 7:52

Property-damage toxic torts, California statutory causes of action, § 2:13

UNDERGROUND STORAGE TANKS—Cont'd

Regulatory proceedings pursuant to statutes governing underground storage tanks generally, §§ 7:39 to 7:54 administrative civil penalties, local agency enforcement, § 7:50

agencies, implementing and enforcing agencies, § 7:40 consolidation of civil actions, § 7:54

corrective action orders, local agency enforcement, § 7:49

cost recovery actions, § 7:53 injunctive relief, § 7:51 judicial enforcement

consolidation of civil actions, § 7:54

cost recovery actions, § 7:53 injunctive relief, § 7:51 penalties, § 7:52 venue, § 7:54

local agency enforcement administrative civil penalties, § 7:50

corrective action orders, § 7:49

penalties, § 7:52 regulatory program closure, § 7:48

construction and design standards, § 7:44

financial responsibility requirements, § 7:47

monitoring, inspection, and reporting requirements, § 7:46

operating requirements, § 7:45

permit process, § 7:42 upgrade compliance certificate, § 7:43

UNDERGROUND STORAGE

TANKS—Cont'd

Regulatory proceedings pursuant to statutes governing underground storage tanks —Cont'd

regulatory program—Cont'd upgrade compliance certificate, repeal, § 7:43

statutory overview

applicability, § 7:41

definitions, § 7:41

implementing and enforcing agencies, § 7:40

relevant state and federal statutes, § 7:39

venue, § 7:54

Venue, regulatory proceedings pursuant to statutes governing underground storage tanks, § 7:54

"UPSET" DEFENSE

Citizen suits, § 6:38

VENUE

Citizen suits, § 6:22

Underground storage tanks, regulatory proceedings pursuant to statutes governing underground storage tanks, § 7:54

WAIVER

Superfund litigation, affirmative defense of waiver, *Form*, § 3:118

WARNINGS

Personal-injury toxic torts, strict products liability based on inadequate warning, § 1:15

Proposition 65 Litigation (this index)

WASTE

Property-Damage Toxic Torts (this index)

WASTE CONTROL

Hazardous Waste Control Act (this index)

WORKERS' COMPENSATION

Personal-injury toxic torts, workers' compensation as exclusive remedy, § 1:38

WRIT OF MANDAMUS PROCEEDINGS

California Environmental Quality Act (CEQA) (this index)

California's Air Resources Statutes (this index)

Porter-Cologne Water Quality Control Act (this index)

ZONING REGULATIONS

Property-damage toxic torts, zoning regulation authorization, § 2:27