

Index

ABBREVIATIONS USED IN TOXIC TORT CLAIMS

Generally, **App 29D**

ABETTOR LIABILITY

See **Concert of Action Liability** (this index)

ABNORMALLY DANGEROUS ACTIVITIES

See **Dangerous Activities** (this index)

ACCIDENTS

Generally, **31:27**

Conduct of insured, **31:29**

Distinguishing mass accidents from toxic torts, **2:2, 2:3**

Insurance coverage. See **Insurance Coverage** (this index)

Long-term exposure problem, **31:28**

ACCOUNTANTS

Activity giving rise to liability exposure, **3:38**

Staff bulletin on loss contingencies, **App 3G**

ACRONYMS USED IN TOXIC TORT CLAIMS

Generally, **App 29D**

ACTIVITY GIVING RISE TO TOXIC TORT LIABILITY EXPOSURE

Generally, **3:1**

Accountants' services, **3:38, App 3G**

All Appropriate Inquiries final rule, **App 3X**

Appropriate inquiries, standards and practices for, **App 3O**

Architects and engineers services, **3:37**

Bystander claims, product sales, **3:13**

CERCLA

Defining lender liability under CERCLA, **App 3B, App 3C**

Interim guidance regarding criteria landowners must meet, CERCLA liability limitations, **App 3M**

Landowner liability under, **App 3A**

Lenders and government entities that acquire property involuntarily, policy on CERCLA enforcement against, **App 3H**

Security interests in contaminated property, CERCLA's effects on lenders holding, **App 3K**

Chemicals, product sales, **3:4**

Climate change disclosure guidance, **App 3Q**

Component parts, product sales, **3:12**

Consumer products sales

Generally, **3:9**

ACTIVITY GIVING RISE TO TOXIC TORT LIABILITY EXPOSURE—Cont'd

Consumer products sales—Cont'd

Labeling initiative, **App 3J**

Lead poisoning claims, **3:10**

Notice of project initiation, **App 3J**

Contiguous property owner

Interim enforcement discretion guidance regarding, **App 3N**

Disclosure obligations

GAO report on environmental disclosure, **App 3L**

Securities, **3:43**

Disposal of hazardous wastes, **3:24**

Electric and magnetic fields (EMF), radiation, product sales, **3:18**

Enforcement guidance, CERCLA criteria, bona fide prospective

Purchasers, contiguous, innocent property owners, **App 3M**

Engineers services, **3:37**

Environmental marketing claims, Green Guides, **App 3D**

Exposure rule, statute of limitation, **12:2**

Financial institutions

Generally, **3:33**

Defining lender liability under CERCLA, **App 3B, App 3C**

Lenders and government entities that acquire property involuntarily, policy on CERCLA enforcement against, **App 3H**

Minimizing liability exposure for, **3:35**

Security interests in contaminated property, CERCLA's effects on lenders holding, **App 3K**

Trustees, **3:34**

Underground storage tanks, lender liability, **App 3I**

Fracking rule, **App 3W**

GAO report on environmental disclosure, **App 3L**

Generation of hazardous wastes, **3:9, 3:24**

Green Guides for use of environmental marketing claims, **App 3D**

Hazardous wastes

Generally, **3:23**

Generation and disposal of wastes, **3:9, 3:24**

Minimizing liability exposure for, **3:27**

Sales of waste, **3:26**

Treatment and storage of wastes, **3:25, App 3I**

ACTIVITY GIVING RISE TO TOXIC TORT LIABILITY EXPOSURE—Cont'd

Hydraulic fracturing, minimizing liability exposure for, **3:22**
 Indoor air quality, **App 3F**
 Industrial materials, product sales, **3:6**
 Industry-wide litigation, anticipatory subrogation, **3:14**
 Inquiries, standards and practices for all appropriate, **App 3O**
 Labeling initiative, product sales, **App 3J**
 Lead poisoning claims, product sales, **3:10**
 Lender liability. Financial institutions, above
 Loss contingencies, staff accounting bulletin, **App 3G**
 Marketing liabilities, Green Guides to environmental marketing claims, **App 3D**
 Minimizing liability exposure for
 Financial institutions, **3:35**
 Hazardous wastes, **3:27**
 Hydraulic fracturing, **3:22**
 Offshore drilling activities, **3:21**
 Product sales, **3:19**
 Real property ownership, **3:32**
 Transportation services, **3:29**
 Modernization of Cosmetics Regulation Act, **3:20**
 Mold claims, **3:11**
 Nanotechnology
 Application, FDA guidance, **App 3T**
 Cosmetics, FDA guidance, **App 3V**
 Foods, FDA guidance, **App 3U**
 Nanomaterials technical fact sheet, **App 3Y**
 Nanotechnology-based products, **3:7**
 Notice of project initiation, **App 3J**
 Offshore drilling activities, minimizing liability exposure for, **3:21**
 Other responsible parties, generally, **3:40**
 Pesticides, product sales, **3:5**
 Pharmaceutical products sales, **3:3**
 Power-line frequency. Electric and magnetic fields (EMF), above
 Product sales activity giving rise to liability exposure. See **Product Sales Activity Giving Rise to Liability Exposure** (this index)
 Professional services
 Generally, **3:36**
 Accountants, **3:38, App 3G**
 Architects, **3:37**
 Engineers, **3:37**
 Real estate brokers, **3:39**
 Project initiation notice, consumer products, **App 3J**
 Real estate brokers services, **3:39**
 Real property ownership
 Generally, **3:30**

ACTIVITY GIVING RISE TO TOXIC TORT LIABILITY EXPOSURE—Cont'd

Real property ownership—Cont'd
 Guidance on landowner liability under CERCLA Section 107(a)(1), **App 3A**
 Lenders and government entities that acquire property involuntarily, policy on CERCLA enforcement against, **App 3H**
 Minimizing liability exposure for, **3:32**
 Sick building claims, **3:31**
 Sales. See **Product Sales Activity Giving Rise to Liability Exposure** (this index)
 SEC Legal Bulletin, **App 3P**
 Secondary tobacco smoke, EPA report, **App 3E**
 Securities disclosure obligations
 Generally, **3:41**
 Background, **3:42**
 Business description and legal proceedings, Regulation S-K, **3:44**
 Disclosure, **3:43**
 Management, Regulation S-K, **3:45**
 Material environmental liabilities
 Generally, **3:46**
 Green Guides to use of environmental marketing claims, **App 3D**
 Past, present, and future liabilities, **3:47**
 Regulation S-K, **3:44, 3:45**
 Security interests in contaminated property, CERCLA's effects on lenders holding, **App 3K**
 Settlement, supertort litigation, **3:16**
 Settlements, guidance on, **App 3A**
 Shareholder proposals, SEC legal bulletin, **App 3P**
 Sick building claims, **3:31**
 Standards and practices for all appropriate inquiries, **App 3O**
 Statute of limitation, exposure rule, **12:2**
 Storage
 Hazardous wastes, **3:25, App 3I**
 Tanks underground, lender liability, **App 3I**
 Supertorts, **3:15**
 Toll processing, product sales, **3:7**
 Transportation services
 Generally, **3:28**
 Minimizing liability exposure for, **3:29**
 Treatment of hazardous wastes, **3:25, App 3I**
 Trustees, **3:34**
 Underground storage tanks, lender liability, **App 3I**
ADMISSIONS, REQUEST FOR
 Generally, **22:9**
**AETNA CASUALTY & SURETY CO.,
 CHEMICAL LEAMAN TANK LINES,
 INC. v.**
 See **Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co.** (this index)

**AETNA CASUALTY & SURETY CO.,
WESTINGHOUSE CORP. v.**

See **Westinghouse Corp. v. Aetna Casualty & Surety Co.** (this index)

AFFIRMATIVE DEFENSES

Generally, **11:13, App 11A**

**AGENCY FOR TOXIC SUBSTANCES AND
DISEASE REGISTRY (ATSDR)**

Generally, **29:13**

Lead profile, **App 29A**

Minimum risk levels of ATSDR, **App 29O**

AGREEMENTS

Alternative dispute resolution

Class action arbitration procedures, **16:13, 20:18**

Mediation agreement, **App 16D**

Attorney-client relationship

Joint defense agreement, **19:12, App 19M**

Retainer agreement, **App 19F**

Services agreement, **App 19G**

Share counsel, agreement to, **App 19D**

Class action arbitration procedures, **16:13, 20:18**

Codefendant indemnification agreements in lieu of settlement, **18:23**

Confidential discovery information, settlement agreement on confidentiality, **25:7**

Consultant, services agreement, **App 19H, App 19I**

Contractor services agreement, **App 19J**

Contribution and indemnity

Generally, **18:20, App 18A**

Codefendant indemnification agreements in lieu of settlement, **18:23**

Mary Carter agreements, **18:25**

Corporate integrity agreement, **App 32R**

Deepwater Horizon debarment agreement, **App 32U**

Defense and standstill agreement, insurance coverage, **31:97, App 31D**

Funding agreement, cooperative efforts among parties, **App 19A**

Indemnity. Contribution and indemnity, above Insurance coverage

Defense agreement, **31:97, App 31E**

Insurance settlement and release agreement, **App 31G**

Nonwaiver agreement, **App 31F**

Release agreement, **App 31G**

Standstill agreement, **31:97, App 31D**

Insurance settlement and release agreement, **App 31G**

Joint defense agreements, **19:12, App 19M**

Mary Carter agreements, **18:25**

Mediation agreement, **App 16D**

AGREEMENTS—Cont'd

Releases. See **Releases** (this index)

Settlements. See **Settlements** (this index)

Standstill and defense agreements, insurance coverage, **31:97, App 31D**

Statutes of limitation, agreement tolling, **App 12A**

Tobacco litigation settlement agreement

Attorneys General, **App 19L**

Class action, **App 19K**

Statutory claims regarding tobacco-related injuries, diseases and illnesses caused by tobacco companies, **App 8D**

Tolling statutes of limitation, **App 12A**

Vioxx settlement agreement, **App 19R**

AIDER AND ABETTOR LIABILITY

See **Concert of Action Liability** (this index)

AIR QUALITY

Airways disease syndrome, **7:36**

Clean Air Act

Criminal liability under, **32:11**

Federal toxic substances regulatory schemes, **8:7**

Criminal liability, **32:11**

Environmental Crimes Handbook—A Guide for Law Enforcement Personnel, **App 32P**

Federal toxic substances regulatory schemes, **8:7**

Indoor air quality, activity giving rise to liability, **App 3F**

Reactive airways disease syndrome, **7:36**

Regulatory schemes, federal, **8:7**

AIRWAYS DISEASE SYNDROME, REACTIVE

Generally, **7:36**

ALIEN TORT STATUTE

Liability under statutory claims, **8:14**

ALL APPROPRIATE INQUIRY

Checklist and final rule summary, **App 3X**

ALLOCATION OR PRORATION

Asbestos cases management, **App 20K**

Burden of proof, **18:18**

Causation, **18:16**

Comparative fault, **18:15**

Contribution doctrine

Generally, **18:12**

Burden of proof, **18:18**

Causation, **18:16**

Comparative fault, **18:15**

Gore amendment, **18:13**

Per capita, **18:17**

Statutory, **18:7**

Volumetric allocation, **18:14**

Gore amendment, **18:13**

ALLOCATION OR PRORATION—Cont'd

- Insurance coverage (“other insurance” clauses), **31:66**
- Per capita, **18:17**
- Statutory contribution, **18:7**
- Volumetric allocation, **18:14**

ALTERNATIVE DISPUTE RESOLUTION

- Class action arbitration procedures, **16:13, 20:18**
- Guide for using in federal court litigation, **App 16C**
- Mediation agreement, **App 16D**
- Using, generally, **16:12**

ALTERNATIVES

- Class action, alternatives to, **20:19**
- Criminal liability sanctions, alternative fines, **32:21**
- Dispute resolution. See **Alternative Dispute Resolution** (this index)
- Liability theories, alternative liability, **6:4**

AMENDMENTS

- First Amendment, discovery issues, **25:4**
- FRCP 1993 amendments, expert discovery under, **23:8**
- Gore amendment, contribution doctrine, **18:13**
- Seventh Amendment, right to jury, **15:3**

**AMERICAN HOME ASSURANCE CO.,
TOWNSHIP OF JACKSON V.**

- See **Township of Jackson v. American Home Assurance Co.** (this index)

APPEALS

- Class action certification appeals, **20:13**
- Multidistrict consolidation, **21:4**

ARCHITECTS

- Activity giving rise to toxic tort liability exposure, **3:37**

ARSON

- RICO action, **6:20**

ASBESTOS

- Class actions, case management manual, **App 20K**
- Consolidation of claims, case order, **App 20D**
- Insurance coverage cases
 - California Court of Appeals decision in, **App 31M**
 - Supreme Court decision in, **App 31C**

ASBESTOS INSURANCE COVERAGE CASES

- Court of Appeals decision in, **App 31M**
- Supreme Court decision in, **App 31C**

ASSAULT LIABILITY

- Generally, **4:11**

ASSESSMENTS

- All Appropriate Inquiry checklist and final rule summary, **App 3X**

ASSUMPTION OF RISK

- Generally, **11:2**

ATSDR

- See **Agency for Toxic Substances and Disease Registry (ATSDR)** (this index)

ATTORNEY-CLIENT PRIVILEGE

- Generally, **24:1**
- Crime fraud exception, **24:2**
- In camera review, **24:4**
- Limitations on waiver, proposed revised Rule 502, **24:11**
- New York Privilege Log Rule, adoption, **App 24A**
- Procedure for resolving privilege and waiver questions
 - In camera review, **24:4**
 - Rule 26(b)(5), **24:3**
- Rule 26(b)(5), **24:3**
- Scope of, **24:5**
- Waiver, **24:11**

ATTORNEY-CLIENT RELATIONSHIP

- Class action, adequate representation, **20:7**
- Joint defense agreement, **19:12, App 19M**
- Retainer agreement, **App 19F**
- Services agreement, **App 19G**
- Sharing counsel agreement, **App 19D**

ATTORNEYS

- Misconduct complaints under RICO, **App 26B**
- Supervision of trial counsel's preparation, **16:5**

ATTORNEY'S FEES

- Retainer agreement, **App 19F**
- RICO claims, **6:31**

ATTORNEY WORK PRODUCT

- Generally, **24:6**
- Critical self-examination, **24:7**
- Investigations conducted by counsel, disclosure of, **24:8**

AUTHORIZATION FOR RELEASE

- Employment and background information, **22:21, App 22I**

**BACKGROUND INFORMATION ON
CLAIMANT**

- Medical questionnaire provision, **22:18**

BANKRUPTCY

- Asbestos case management, **App 20K**
- Class actions, options other than, **20:20**
- Insurance coverage, **31:75**

BATTERY LIABILITY

Generally, **4:11**

BELLWETHER CASES

Use of, **20:20**

BIAS OF EPIDEMIOLOGICAL EVIDENCE

Generally, **28:10, 28:15**

Confounding bias, **28:11**

Information bias, **28:13**

Reporting bias, **28:14**

Selection bias, **28:12**

BIFURCATION

Consolidated claims, generally, **20:22**

Increased risk of future injury cause of action, **7:15**

Punitive damages, **9:14**

BIOASSAYS

Long-term, **28:8**

Short term, **29:9**

BONA FIDE PROSPECTIVE PURCHASER

Interim guidance regarding criteria landowners must meet, CERCLA liability, **App 3M**

BRADFORD HILL CRITERIA

Epidemiological evidence analysis, **28:27**

BREACH OF WARRANTY

Duty to warn failure, **5:4**

BREAST IMPLANTS

National Science Panel's Breast Implant Report, **App 30A**

Questionnaire, **App 15D**

Silicone gel breast implant litigation, case management order, **App 20C**

BROKERS

Real estate brokers' activity, liability exposure, **3:39**

BUILDINGS

Sick building claims, ownership liability, **3:31**

BULK PRODUCT SUPPLIERS

Warning intermediaries, **5:16**

BURDEN OF PROOF

Causation, **27:2**

Contribution, allocation factor, **18:18**

Insurance coverage

Insurance industry statements, **31:45**

Lost insurance policies, **31:15**

Punitive damages, **9:12**

BUSINESS DAMAGES

RICO claims, environmental and toxic tort litigation, **6:33**

BUSINESS DESCRIPTION

Securities disclosure obligations, **3:44**

BUSINESS ORGANIZATIONS

Criminal liability, principles of federal prosecution, **App 32K, App 32O**

BUSINESS RECORDS

Discovery stipulation, **App 22D**

BUSINESS RISK INSURANCE COVERAGE EXCLUSION

Generally, **31:49**

BYSTANDER CLAIMS

Product sales activity giving rise to toxic tort liability exposure, **3:13**

CALIFORNIA

Asbestos, California Court of Appeals decision in insurance coverage case, **App 31M**

CANCER

Cancerphobia emotional distress, **7:9, 7:25**

Policy, generis, **29:4**

Promotion claims. See **Cancer Promotion Claims** (this index)

Risk assessment

Carcinogens, guidance or guidelines, **App 29L**

Working paper for draft revisions to EPA's guidelines, **App 29J**

CANCERPHOBIA

Generally, **7:9, 7:25**

CANCER PROMOTION CLAIMS

Generally, **7:16**

Advantages to claimants, **7:18**

Answering specifics of promotion claim, **7:23**

Attacking legal sufficiency of claim, **7:26**

Challenging legal sufficiency of human cancer promotion theories, **7:20**

Compelling explanation of basic mechanism of promotion, **7:22**

Emotional distress, cancerphobia, **7:9, 7:25**

Emphasizing lack of epidemiological support, **7:25**

EPA guidelines on risk assessment, **App 29J**

Epidemiological support, emphasizing lack of, **7:25**

Expert witness qualification, challenging, **7:21, 30:4**

Explanation of basic mechanism of promotion, compelling, **7:22**

Guidelines on risk assessment, **App 29L**

Identifying legal weaknesses of promotion claim, **7:24**

Insurance policy, cancer, **29:4**

Legal sufficiency of

Claim, attacking, **7:26**

CANCER PROMOTION CLAIMS—Cont'd

- Legal sufficiency of—Cont'd
 - Human cancer promotion theories, challenging, **7:20**
- Legal weaknesses of promotion claim, identifying, **7:24**
- Nature of claims, **7:17**
- Recognizing the claim, **7:19**
- Risk assessment
 - Carcinogens, guidelines, **App 29L**
 - EPA guidelines, **App 29J**
- Strategies for combating claims, generally, **7:19 to 7:26**

CARCINOGENS

- See also **Cancer** (this index)
- Risk assessment—carcinogens, guidelines or guidance, **App 29L**

CASE LAW

- Asbestos Insurance Coverage Cases
 - Court of Appeals decision in, **App 31M**
 - Supreme Court decision in, **App 31C**
- Bellwether cases, use of, **20:20**
- Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co.
 - Interrogatories provided to jury in, **App 31J**
 - Jury charges used in, **App 31I**
- Hoechst Celanese Corp. v. National Union Fire Insurance Co., jury instructions in, **App 31O**
- Silicone gel breast implant litigation, case management order, **App 20C**
- Texas Eastern Transmission Corp. v. Fidelity & Casualty Co. of New York, **App 31B**
- Township of Jackson v. American Home Assurance Co. (multiple occurrences insurance coverage), **App 31H**
- Westinghouse Corp. v. Aetna Casualty & Surety Co., **App 31A**

CAUSATION

- Generally, **27:1**
- Application of traditional cause-in-fact analysis
 - Generally, **27:4**
 - Product identification, **27:5**
- Burden of proof, **27:2**
- Circumventing causation difficulties, modern methods, **27:3**
- Contribution statutes, allocation factor, **18:16**
- Deposition outline for medical causation expert, **App 23A**
- Duty to warn and right-to-know laws
 - Demonstration requirement, **5:22**
 - Difference between inadequate warning and other product defects, **5:21**
 - Heeding presumption, **5:23**
- Emotional distress defense, **7:5**
- Epidemiological studies, **28:28, 28:29**

CAUSATION—Cont'd

- Medical causation expert
 - Deposition outline, **App 23A**
 - Report based on exposure to hazardous substances, **App 22B**
- Scientific evidence method, **27:6**

CERCLA

- See **Comprehensive Environmental Response Compensation and Liability Act (CERCLA)** (this index)

CERTIFICATION

- Attorney certification of documents, imposing sanctions
 - Rule 11, attorney certification, **26:4**
 - Rule 26(g), discovery certification, **26:2**
- Class actions. See **Class Actions** (this index)
- Discovery certification, Rule 26(g), **26:2**

CGL POLICY

- See **Comprehensive General Liability (CGL) Policy** (this index)

CHARACTERISTICS OF TOXIC TORTS

- Generally, **2:2**
- Bureau of Justice statistics
 - 1992 civil jury cases and verdicts in large counties, **App 2A**
 - 1996 civil jury cases and verdicts in large counties, **App 2B**
 - 2005 civil trials, **App 2C**
- Mass accidents distinguished, **2:2, 2:3**

CHEMICAL LEAMAN TANK LINES, INC. v. AETNA CASUALTY & SURETY CO.

- Jury charges used in, **App 31I**
- Jury interrogatories in, **App 31J**

CHEMICALS

- Activity giving rise to toxic tort liability
 - exposure, product sales, **3:4**
- Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co.
 - Jury charges used in, **App 31I**
 - Jury interrogatories in, **App 31J**
- Damage theories
 - Immune system dysregulation and dysfunction claims, chemically induced, **7:27**
 - Multiple chemical sensitivity, **7:28**
- Dioxins
 - EPA report of reassessment, **App 29M**
 - Peers review of documents report, **App 29N**
- Immune system dysregulation and dysfunction claims, chemically induced, **7:27**
- Jury charges used in Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co., **App 31I**

CHEMICALS—Cont'd

- Jury interrogatories used in Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co., **App 31J**
- Multiple chemical sensitivity, **7:28**
- Nanomaterials technical fact sheet, **App 3Y**
- Pesticides, product sales activity giving rise to toxic liability exposure, **3:5**
- Polychlorinated biphenyl congeners (PBCs), EPA workshop report, **App 29G**
- Sales, activity giving rise to toxic tort liability exposure, **3:4**
- Sensitivity to chemicals, **7:28**

CHOICE OF LAW

- Insurance coverage claims, **31:76**

CIGARETTE CASES

- See **Tobacco Litigation** (this index)

CIVIL LITIGATION MANUAL

- Generally, **App 20G**

CIVIL RULE 11

- Generally, **26:7**
- Avoiding imposition, **26:11**
- Basis for imposition, **26:4, 26:8**
- Procedural considerations under pre-1993 Rule 11, **26:9**
- Special issues in toxic tort litigation, **26:10**
- Verified adversary complaint, **26:4, App 26A**

CIVIL RULE 26(G)

- Certification of documents, **26:2**

CIVIL RULE 37

- Discovery abuses sanctions, **26:1**

CLASS ACTION FAIRNESS ACT OF 2005

- Generally, **20:17, App 10B**

CLASS ACTIONS

- Generally, **20:3**
- See also **Consolidation of Claims** (this index)
- Adequate representation, **20:7**
- Alternatives to class actions, **20:19**
- Appeals, class action certification, **20:13**
- Arbitration procedures, **16:13, 20:18**
- Asbestos case management manual, **App 20K**
- Bankruptcy option, **20:20**
- Binding effect of decisions denying class certification, **20:14**
- Certification
 - Appeals, **20:13**
 - Binding effect of decisions denying class certification, **20:14**
 - Resolution of disputes, **20:10**
- Certification appeals, **20:13**
- Class Action Fairness Act, **App 10B**
- Common questions, generally, **20:3, 20:5**

CLASS ACTIONS—Cont'd

- Complaints
 - Asbestos cases management, **App 20K**
 - Lead paint exposure injuries, **App 10A**
 - Removal of state class actions, **10:3**
- Consolidation. See **Consolidation of Claims** (this index)
- Decisions, toxic tort class action, **20:15**
- Fairness hearing, medical monitoring, **App 20H**
- Hearings, medical monitoring, **App 20H**
- Injunctions, Rule 23(b)(2) injunction classes, **20:12**
- Limited fund class actions, **10:11**
- Medical monitoring
 - Fairness hearing, **App 20H**
 - Rule 23(b)(2) injunction classes, **20:12**
 - Settlement agreement, **App 20J**
- New Jersey rejection of mass tort claim, **App 20F**
- Numerosity, **20:4**
- Predomination of common questions, **20:8**
- Removal of state class actions, **10:3, 20:17**
- Rule 23(b)(2) injunction classes, medical monitoring, **20:12**
- Settlement agreement, medical monitoring, **App 20J**
- Standard for resolving certification disputes, **20:10**
- Superiority of class action, **20:9**
- Tobacco litigation settlement agreement, **App 19K**
- Tolling statute of limitation, **12:11**
- Trial plan, **App 20N**
- Typicality, **20:6**

CLEAN AIR ACT

- Criminal liability under, **32:11**
- Federal toxic substances regulatory schemes, **8:7**

CLEANUP

- CERCLA actions. See **Comprehensive Environmental Response Compensation and Liability Act (CERCLA)** (this index)
- Contribution doctrine, **18:8, 18:9**
- Expenses
 - CERCLA response actions, EPA rule on costs recovery, **App 8A**
 - Contribution doctrine, **18:8, 18:9**
 - Government expenses, **31:52**
 - Insurance coverage, **31:52, 31:53**
- Government expenses, **31:52**
- Insurance coverage, **31:52, 31:53**
- NJ Dept. Environmental Protection, risk assessment standards preliminary draft, **App 29F**
- Risk assessment standards
 - Preliminary draft NJ Dept. Environmental Protection, **App 29F**

CLEANUP—Cont'd

- Risk assessment standards—Cont'd
- Superfund guidelines, **App 29E**
- Superfund
 - Common law contribution doctrine, **18:8, 18:9**
 - Federal toxic tort statutes, claims basis, **8:2**
 - Right to jury in superfund actions, **15:2**
 - Risk assessment guidelines, **App 29E**
 - Voluntary efforts, **31:53, 32:20, App 32C**

CLEAN WATER ACT

- Criminal liability, Deepwater Horizon debarment agreement, **App 32U**

CLIMATE CHANGE

- Disclosure guidance, toxic tort liability exposure, **App 3Q**

CLINICAL TRIALS

- Epidemiological evidence, **28:3**

COLLATERAL ESTOPPEL

- Generally, **17:1**
- Applicable rules, **17:4**
- Duty to warn cases, **17:7**
- Full and fair opportunity to litigate prior judgment, **17:8**
- Future of in toxic tort litigation, **17:9**
- Identity of issues, **17:6, 17:7**
- Offensive collateral estoppel, **17:3**
- Res judicata distinguished, **17:2**
- Special considerations in toxic tort litigation, generally, **17:5 to 17:8**

COMMON BENEFIT FUND

- Order, cooperative efforts among parties, **App 19T**

COMMON LAW CONTRIBUTION DOCTRINE

- Limitations on contribution, **18:4**
- Superfund, contribution under, **18:8, 18:9**

COMMUNITY TRIALS

- Epidemiological evidence, **28:3**

COMPARATIVE FAULT

- Generally, **18:15**

COMPARATIVE NEGLIGENCE

- Generally, **11:1**

COMPEL

- Cancer promotion claims, compelling explanation of basic mechanism of promotion, **7:22**

COMPLAINTS

- Class actions. See **Class Actions** (this index)
- Cross claims, generally, **11:14, App 11B**
- Defense issues. See **Defense Issues** (this index)
- Drafting tips, **10:1**

COMPLAINTS—Cont'd

- Duty to defend allegations in complaint, comparison test, **31:20**
- Lead paint exposure injuries, class action, **App 10A**
- Litigation funding, **10:4**
- Medicaid reimbursement on tobacco-related injuries' diseases and illnesses, **App 8C**
- Removal of action. See **Removal** (this index)
- RICO
 - "Attorney Misconduct," **App 26B**
 - Pleadings. See **RICO** (this index)
- Verified adversary complaint, Rule 11 sanctions, **26:4, App 26A**

COMPLIANCE

- Monitors, selection and use in deferred prosecution and non-prosecution agreements with corporations, **App 32Q**

COMPONENT PARTS

- Activity giving rise to toxic tort liability exposure, **3:12**

COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT (CERCLA)

- Costs recovery in CERCLA response actions, EPA rule on, **App 8A**
- Criminal liability, **32:10**
- De minimis settlements under CERCLA Section 122(g)(1)(B), **App 3A**
- Interim guidance regarding criteria landowners must meet, CERCLA liability limitations, **App 3M**
- Involuntarily acquiring property, policy on enforcement against lenders and government entities, **App 3H**
- Landowner liability, **App 3A**
- Lender liability, defining, **App 3B, App 3C**
- Lenders and government entities that acquire property involuntarily, policy on CERCLA enforcement against, **App 3H**
- Medical surveillance damage claims recovery, **7:12**
- Security interests in contaminated property, CERCLA's effects on lenders holding, **App 3K**

COMPREHENSIVE GENERAL LIABILITY (CGL) POLICY

- Generally, **31:5, 31:7**
- Duty to indemnify and defend, limitation on, **31:10**
- Named insured, **31:8**
- Standard CGL language, **31:11**
- Summary judgment, judicial attitudes toward, **31:6**
- Time period for coverage, **31:9**

COMPUTERS

Discovery of information on and seizure of computers, **22:7, App 22J**

CONCERT OF ACTION LIABILITY

Generally, **6:2**

Aider and abettor, **6:2**

Contribution doctrine. See **Contribution Doctrine** (this index)

Criminal liability for conspiracy, **32:16**

Indemnity. See **Indemnity** (this index)

Joint liability. See **Joint and Several Liability** (this index)

Several liability. See **Joint and Several Liability** (this index)

CONFERENCE

Discovery conference, **22:4, App 22C**

CONFIDENTIALITY

Cooperative efforts among parties, **19:18**

Discovery of confidential information

Generally, **25:1**

Arguments against, **25:3**

Arguments favoring, **25:2**

First amendment issues, **25:4**

Multi-tiered confidentiality order, **App 25D**

Need for judicial intervention, **25:5**

Order regarding discovery confidentiality, below

Settlement agreements, confidential, **25:7**

Standards for confidentiality orders, **25:6**

Stipulation as to business records produced in discovery, **App 22D**

Stipulation of confidentiality of discovery information, below

First amendment issues, **25:4**

Insurance coverage, determining whether to maintain an coverage action, **31:88**

Multi-tiered discovery order providing different levels of protection for different types of information, **App 25D**

Need for judicial intervention, **25:5**

Order regarding discovery confidentiality

Arguments against, **25:3**

Arguments favoring, **25:2**

Detailed with security of data provision, **App 25C**

Multi-tiered order, **App 25D**

Need for judicial intervention, **25:5**

Opiate litigation, **App 25E**

Standards for judicial approval, **25:6**

Standards for confidentiality order, **25:6**

Stipulation of confidentiality of discovery information

Complex form, **App 25B**

Simple form, **App 25A**

CONFIDENTIALITY—Cont'd

Trial, confidentiality and privilege issues, **16:11**

CONSOLIDATION OF CLAIMS

Generally, **20:1**

Appeals, class action certification, **20:13**

Asbestos case order, **App 20D**

Bellwether cases, use of, **20:20**

Bifurcation

Generally, **20:22**

Increased risk of future injury cause of action, **7:15**

Punitive damages, **9:14**

Civil litigation manual, **App 20G**

Class action

As to class actions, generally. See **Class Action** (this index)

Generally, **20:3**

Adequate representation, **20:7**

Alternatives to class actions, **20:19**

Binding effect of decisions denying class certification, **20:14**

Certification appeals, **20:13**

Common question class actions, **20:3 to 20:9**

Common questions, generally, **20:5**

Injunctions, Rule 23(b)(2) injunction classes, **20:12**

Limited fund class actions, **10:11**

Numerosity, **20:4**

Predomination of common questions, **20:8**

Statutory claims, actions based on, **20:16**

Superiority of class action, **20:9**

Toxic tort class action decisions, **20:15**

Typicality, **20:6**

Complex case management procedures

Generally, **20:25**

Mass torts

Case management order, **App 20B**

Table of contents, **App 20A**

Consolidation, **20:26**

Federal rules applicable, **20:2**

Injunctions, Rule 23(b)(2) injunction classes, **20:12**

Liaison committees

Report of New Jersey Mass Tort Advisory Committee, **App 20E**

Use of, generally, **20:24**

Limited fund class actions, **10:11**

Mass torts

Case management order, **App 20B**

Table of contents, **App 20A**

Multicounty litigation guidelines, **App 20O**

Multidistrict consolidation

Appeal, trial consolidation, **21:4**

Guide to Multidistrict Litigation, **App 21A**

CONSOLIDATION OF CLAIMS—Cont'd

- Multidistrict consolidation—Cont'd
 - Guide to Multidistrict Product Liability Litigation, **App 21B**
 - Judicial Panel on Multidistrict Litigation, **21:1**
 - Litigation practice, multidistrict, **21:3**
 - Standards for consolidation, **21:2**
 - Trial consolidation, **21:4**
- New Jersey rejection of mass tort claim, **App 20F**
- Orders
 - Asbestos case order, **App 20D**
 - Silicone gel breast implant litigation, case management order, **App 20C**
- Report of New Jersey Mass Tort Advisory Committee, **App 20E**
- Rule 23(b)(2) injunction classes, **20:12**
- Silicone gel breast implant litigation, case management order, **App 20C**
- Summary jury trials, **20:23**
- Trial plan, **App 20N**

CONSPIRACY

- Concert of action liability, generally, **6:2**
- Criminal liability, **32:16**

CONSTITUTIONAL LAW

- Due process
 - Personal jurisdiction standard, **18:3**
 - Right to jury, **15:5**
- First Amendment, discovery issues, **25:4**
- Seventh Amendment, right to jury, **15:3**

CONSULTANTS

- Services agreement, **App 19H, App 19I**

CONSUMER FRAUD

- Negligence, diminished value claims, **6:38**

CONSUMER PRODUCTS SALES

- Generally, **3:9**
- Labeling initiative, **App 3J**
- Lead poisoning claims, **3:10**
- Notice of project initiation, **App 3J**

CONTIGUOUS PROPERTY OWNER

- Interim enforcement discretion guidance regarding, **App 3N**
- Interim guidance regarding criteria landowners must meet, CERCLA liability, **App 3M**

CONTRACTORS

- Services agreement, **App 19J**

CONTRIBUTION DOCTRINE

- Allocation factors
 - Generally, **18:12**
 - Burden of proof, **18:18**
 - Causation, **18:16**
 - Comparative fault, **18:15**

CONTRIBUTION DOCTRINE—Cont'd

- Allocation factors—Cont'd
 - Gore amendment, **18:13**
 - Per capita, **18:17**
 - Statutory, **18:7**
 - Volumetric allocation, **18:14**
- Availability to joint tortfeasors, **18:5**
- Burden of proof, **18:18**
- Causation, allocation factors, **18:16**
- Common law
 - Limitations on contribution, **18:4**
 - Superfund, contribution under, **18:8, 18:9**
- Comparative fault allocation, **18:15**
- Contractual contribution, **18:20**
- Distinguished from indemnity, **18:3**
- Gore amendment, allocation, **18:13**
- Impact of contribution protection, **18:11**
- Joint and several liability
 - Generally, **18:1**
 - Availability to joint tortfeasors, **18:5, 18:21**
 - Releases, effect of, **18:21, 18:22**
- Limitations on contribution, common law, **18:4**
- Mary Carter agreements, **18:25**
- Medicare liens, satisfaction requirements, **18:26**
- Per capita allocation, **18:17**
- Protection, **18:10, 18:11**
- Punitive damages, **18:24**
- Rationale for, **18:2**
- Releases, effect of, **18:21, 18:22**
- Statutes regarding contribution, **18:6 to 18:9**
- Superfund, contribution under, **18:8, 18:9**
- Volumetric allocation, **18:14**

CONVERSION OR EQUIVALENCY RISK ASSESSMENT FACTORS

- Generally, **29:3, App 29C**

COOPERATIVE EFFORTS AMONG PARTIES

- Generally, **19:1**
- Alternative dispute resolution
 - Class action arbitration procedures, **16:13, 20:18**
 - Guide for using in federal court litigation, **App 16C**
 - Mediation agreement, **App 16D**
 - Using, generally, **16:12**
- Areas of cooperation, **19:3**
- Attorney
 - Billing codes and categories, **App 19P**
 - Division of responsibility among, **19:21**
 - Funding agreement, **App 19A**
 - Joint defense agreement, **19:12, App 19M**
 - Retainer agreement, **App 19F**
 - Retaining, generally, **19:9**
 - Services agreement, **App 19G**
 - Share counsel, agreement, **App 19D**

COOPERATIVE EFFORTS AMONG PARTIES

—Cont'd

- Billing, **19:10**
- Budgeting
 - Billing, and expense activities, **19:25**
 - Defence budget form, **App 19U**
- Common Benefit Fund order, **App 19T**
- Confidentiality, **19:18**
- Consultant
 - Payment term restrictions, **App 19I**
 - Retaining, generally, **19:17**
 - Services agreement, **App 19H, App 19I**
- Contractor services agreement, **App 19J**
- Crossclaims, **19:19**
- Deepwater Horizon Emergency Claims Facility protocol, **App 19S**
- Defence budget form, **App 19U**
- Discovery
 - Cross-party discovery, **19:23**
 - Protocol, **App 19E**
- Dow Corning Corporation, amended plan of reorganization, **App 19Q**
- DuPont Value Protection Program, **App 19O**
- Experts, selection of, **19:16**
- Funding
 - Generally, **19:11**
 - Agreement, **App 19A**
 - Common Benefit Fund order, **App 19T**
- Identification of additional parties, **19:13**
- Joint defense agreements, **19:12, App 19M**
- Orders
 - Case management order, preliminary, **App 19N**
 - Sample pretrial order, **App 19C**
 - Special orders, obtaining, **19:20**
- Parties cooperating, **19:2**
- Planning for the future, the issue book, **19:26**
- Pretrial research efforts
 - Coordinated legal research, **19:14**
 - Pre-interview questionnaire, **19:15, App 19B**
 - Selection of experts, **19:16**
- Recalcitrants, dealing with
 - Direct efforts, **19:5**
 - Judicial intervention, **19:8**
 - Nature of the problem, **19:4**
 - Settlement option, **19:7**
 - Withholding of benefits, **19:6**
- Remedial activity, value protection plans, **19:24**
- Settlement, **19:7, 19:21**
- Tobacco litigation settlement agreement
 - Attorneys General, **App 19L**
 - Class action, **App 19K**
- Trial coordination, **19:27**
- Trial logistics, **19:28**

COOPERATIVE EFFORTS AMONG PARTIES

—Cont'd

- Trust distribution procedures, North American refractories, **App 19V**

CORONAVIRUS

- Claims, insurance coverage, **31:3**

CORPORATIONS

- Criminal liability
 - Corporate liability, **32:18**
 - Corporate officer, individual liability, **32:19**
 - Federal prosecution of corporations, **App 32J**
 - Selection and use of monitors in deferred prosecution and non-prosecution agreements with corporations, **App 32Q**
- Directors and officers liability
 - Generally, **32:19**
 - Insurance policy coverage, **31:71**
- Dow Corning Corporation, amended plan of reorganization, **App 19Q**
- Federal criminal prosecution of corporations, **App 32J**
- Individual liability, **31:71, 32:19**
- Integrity agreement, **App 32R**
- Internal corporate investigations, **24:10**
- Investigations, privilege, **24:10**
- Liability
 - Corporate, **32:18**
 - Insurance policy, **31:71**
 - Officer, **31:71, 32:19**
- Preservation of corporate documents, instruction, **App 22N**
- Privilege, internal corporate investigations, **24:10**
- Reorganization plan, Dow Corning Corporation, **App 19Q**
- Revised corporate charging guidelines, **App 32S**
- Wrongdoing, individual accountability for, Yates Memo, **App 32T**

COSMETICS

- Modernization of Cosmetics Regulation Act, **3:20**

COSTS

- See **Expenses** (this index)

COURT-APPOINTED EXPERTS

- Generally, **30:11**
- Testimony, **30:11**

COURT-APPOINTED SPECIAL MASTERS

- Generally, **22:25**

COURTOOM TECHNOLOGY MANUAL

- Selected excerpts, **App 16A**

COVID-19

- Claims, insurance coverage, **31:3**
- Federal toxic substance regulatory schemes, **8:11**

CRIME VICTIMS' RIGHTS ACT

Enforcement of federal criminal laws, **32:28**

CRIMINAL LIABILITY

Generally, **32:1, 32:2**

Advisory Panel Recommendations to US Sentencing Commission on Environmental Crimes, **App 32E**

Applicable statutes

Generally, **32:2**

Environmental statutes, below
Federal criminal laws

Generally, **32:14**

Conspiracy, **32:16**

Mail fraud, **6:19, 32:15**

RICO, **32:16**

Food and drug statutes, **32:5**

Nuisance statutes, **32:3**

Reckless endangerment statutes, **32:4**

Attorney-client privilege, crime fraud exception, **24:2**

Bluesheet Revision to U.S. Attorney's Manual on Environmental Crimes, **App 32G**

Business organizations, principles of federal prosecution, **App 32K, App 32O**

CERCLA, **32:10**

Clean Air Act, **32:11**

Conspiracy, **32:16**

Corporate liability, **32:18**

Corporate officer, individual liability, **32:19**

Corporate wrongdoing, individual accountability for, Yates Memo, **App 32T**

Corporations, federal prosecution of, **App 32J**

Debarment, **32:24**

Deferred prosecution, **32:25, App 32M**

Disclosure efforts of violator

Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations, **App 32H**

Justice Department Guidelines, Factors in Decisions on Criminal Prosecution for Environmental Violations regarding significant voluntary compliance or disclosure efforts of violator, **App 32C**

Double jeopardy, **32:23**

Enforcement of federal criminal laws

Generally, **32:27**

Business organizations, principles of federal prosecution, **App 32K, App 32O**

Environmental Crimes Handbook—A Guide for Law Enforcement Personnel, **App 32P**

EPA Staff Guidelines on Criminal Enforcement, **App 32F**

Justice Department Guidelines, Factors in Decisions on Criminal Prosecution for Environmental Violations regarding significant voluntary compliance or

CRIMINAL LIABILITY—Cont'd

Enforcement of federal criminal laws—Cont'd
disclosure efforts of violator, **App 32C**

Monitors, selection and use in deferred prosecution and non-prosecution agreements with corporations, **App 32Q**

Parallel proceedings policy, **App 32I**

U.S. Attorney's Manual on Environmental Crimes

Bluesheet Revision to, **App 32G**

Justice Department's Directive Amending, **App 32D**

Environmental Crimes Handbook—A Guide for Law Enforcement Personnel, **App 32P**

Environmental statutes

Generally, **32:6**

CERCLA, **32:10**

Clean Air Act, **32:11**

Clean Water Act, Deepwater Horizon debarment agreement, **App 32U**

Criminal provisions of environmental laws, **App 32B**

Federal Water Pollution Control Act, **32:8**

Occupational Safety and Health Act (OSHA), **32:13**

Refuse Act of 1899, **32:7**

Resource Conservation Recovery Act (RCRA), **32:9**

Toxic Substances Control Act (TSCA), **32:12**

EPA Staff Guidelines on Criminal Enforcement, **App 32F**

Federal criminal laws

Generally, **32:14**

Conspiracy, **32:16**

Mail fraud, **6:19, 32:15**

RICO, **32:16**

Federal prosecution of corporations, **App 32J**

Federal sentencing guidelines, **32:22, App 32A, App 32E, App 32L**

Federal Water Pollution Control Act, **32:8**

Fines, **32:21**

Food and drug statutes, **32:5**

Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations, **App 32H**

Individual liability, **32:19**

Judicial review of plea bargains, **32:26**

Justice Department Guidelines: Factors in Decisions on Criminal Prosecution for Environmental Violations regarding significant voluntary compliance or disclosure efforts of violator, **App 32C**

Justice Department's Directive Amending U.S. Attorney's Manual on Environmental Crimes, **App 32D**

Mail fraud, **6:19, 32:15**

CRIMINAL LIABILITY—Cont'd

- Manual on Environmental Crimes, U.S. Attorney's
 - Bluesheet Revision to, **App 32G**
 - Justice Department's Directive Amending, **App 32D**
- Mens rea requirements, **32:17**
- Monitors, selection and use in deferred prosecution and non-prosecution agreements with corporations, **App 32Q**
- Murder, RICO claims, **6:21**
- Nuisance statutes, **32:3**
- OSHA provisions, **32:13**
- Parallel proceedings policy, enforcement of federal criminal laws, **App 32I**
- Parties liable
 - Corporate liability, **32:18**
 - Corporate officer, individual liability, **32:19**
 - Individual liability, **32:19**
 - Mens rea requirements, **32:17**
 - Voluntary compliance, effect of, **32:20, App 32C**
- Plea bargains, judicial review, **32:26**
- Portions of organizational sentencing guidelines applicable to environmental offenses, **App 32L**
- Prosecution
 - Business organizations, principles of federal prosecution, **App 32K, App 32O**
 - Corporations, federal prosecution of, **App 32J**
 - Deferred prosecution, sanctions, **32:25, App 32M**
 - Enforcement of federal criminal laws, above
 - Justice Department Guidelines, Factors in Decisions on Criminal Prosecution for Environmental Violations regarding significant voluntary compliance or disclosure efforts of violator, **App 32C**
 - Selection and use of monitors in deferred prosecution and non-prosecution agreements with corporations, **App 32Q**
- Provisions of environmental laws, **App 32B**
- Reckless endangerment statutes, **32:4**
- Refuse Act of 1899, **32:7**
- Resource Conservation Recovery Act (RCRA), **32:9**
- RICO, **32:16**
- Sanctions
 - Alternative fines, **32:21**
 - Debarment, **32:24**
 - Deferred prosecution, **32:25, App 32M**
 - Double jeopardy, **32:23**
 - Judicial review of plea bargains, **32:26**
 - Plea bargains, judicial review, **32:26**
 - Sentencing, below
- Self-Policing Incentives, **App 32H**

CRIMINAL LIABILITY—Cont'd

- Sentencing
 - Generally, **32:22**
 - Advisory Panel Recommendations to US Sentencing Commission on Environmental Crimes, **App 32E**
 - Federal sentencing guidelines, **32:22, App 32A, App 32E, App 32L**
- Toxic Substances Control Act (TSCA), **32:12**
- U.S. Attorney's Manual on Environmental Crimes
 - Bluesheet Revision to, **App 32G**
 - Justice Department's Directive Amending, **App 32D**
- Voluntary compliance
 - Effect of, **32:20**
 - Justice Department Guidelines, Factors in Decisions on Criminal Prosecution for Environmental Violations regarding significant voluntary compliance or disclosure efforts of violator, **App 32C**
- W.R. Grace indictment, **App 32N**
- Yates Memo, individual accountability for corporate wrongdoing, **App 32T**

CROSS CLAIMS

- Generally, **11:14, App 11B**

DAMAGES

- Generally, **7:1**
- Business damages, RICO claims, **6:33**
- Cancer promotion claims. See **Cancer Promotion Claims** (this index)
- Chemically induced Immune system dysregulation and dysfunction claims, **7:27**
- Class action limited fund, **10:11**
- Contribution doctrine. See **Contribution Doctrine** (this index)
- Emotional distress
 - Increased risk of future injury, **7:8**
 - Mitigation of damages, **7:6**
- Emotional distress. See **Emotional Distress** (this index)
- Endocrine disruption claims. See **Endocrine Disruption Claims** (this index)
- Fear of future injury, **7:8**
- Immune system dysregulation and disjunction claims, chemically induced, **7:27**
- Increased risk of future injury
 - Generally, **7:14**
 - Emotional distress, **7:8**
 - Splitting causes of action, **7:15**
- Indemnity. See **Indemnity** (this index)
- Joint liability. See **Joint and Several Liability** (this index)
- Limitations
 - Class action limited fund, **10:11**

DAMAGES—Cont'd

Limitations—Cont'd

RICO claims, business or property damages,
6:33

Medical monitoring claims, duty to defend, **31:25**

Medical questionnaire, **22:23**

Medical surveillance

Generally, **7:10**

CERCLA, recovery under, **7:12**

Defense issues, **7:11**

Mitigation of damages, **7:6**

Multiple chemical sensitivity, **7:28**

Promoters, generally, **7:29**

Property damages, RICO claims, **6:33**

Punitive damages. See **Punitive Damages** (this index)

Quality of life, **7:13**

Reactive airways disease syndrome, generally,
7:36

RICO claims

Business or property damages, limited, **6:33**

Treble damages, **6:30**

Several liability. See **Joint and Several Liability** (this index)

Stigma damages, **7:30**

Treble damages, RICO claims, **6:30**

DANGEROUS ACTIVITIES

Reckless endangerment, criminal liability, **32:4**

Strict liability, **4:10**

Ultrahazardous or abnormally dangerous activities, **4:9, 4:10**

DEBARMENT

Criminal liability sanctions, **32:24**

DECEIT

See **Fraud or Deceit** (this index)

DEEPWATER HORIZON DEBARMENT AGREEMENT

Environmental statutes, criminal liability, **App 32U**

DEEPWATER HORIZON EMERGENCY CLAIMS FACILITY PROTOCOL

Cooperative efforts among parties, **App 19S**

DEFENSE ISSUES

Affirmative defenses, **11:13, App 11A**

Assumption of risk, **11:2**

Comparative negligence, **11:1**

Compliance with statutes and regulations, **11:6**

Contribution doctrine. See **Contribution Doctrine** (this index)

Cross claims, **11:14, App 11B**

Federal preemption

Generally, **11:8**

Express, **11:9**

DEFENSE ISSUES—Cont'd

Federal preemption—Cont'd

Implied, **11:10**

Government specification, **11:5**

Idiosyncratic defense, duty to warn and right-to-know, **5:3**

Joint defense agreements, **19:12, App 19M**

Jurisdiction

Personal jurisdiction. See **Personal Jurisdiction** (this index)

Primary jurisdiction, **11:11**

Jury entitlement. See **Jury** (this index)

Personal jurisdiction. See **Personal Jurisdiction** (this index)

Preemption. Federal preemption, above

Preemption memorandum, **App 11C**

Primary jurisdiction, **11:11**

Product identification, **11:3**

Product specification, **11:4**

Remoteness, **11:12**

Standing, **11:12**

Statutory defenses, **11:6, 11:7**

Summary judgment

Availability, **14:2**

Standard, **14:1**

DEFERRED PROSECUTION

Criminal liability, sanctions, **32:25, App 32M, App 32Q**

DEFINITIONS

Acronyms and abbreviations, toxic tort claims,
App 29D

Collateral estoppel, **17:2**

Landowner liability under CERCLA, **App 3A**

Lender liability under CERCLA, **App 3B, App 3C**

Res judicata, **17:2**

Statistical significance, **28:17**

Toxic tort, **2:1 to 2:3**

DEMAND LETTERS

Duty to defend, **31:24**

DE MINIMIS

Settlements under CERCLA Section 122(g)(1)(B), **App 3A**

DEPARTMENT OF INTERIOR

Rule on natural resource damage assessments,
App 8B

DEPARTMENT OF JUSTICE

Computer searches and seizures guide, **App 22J**

Disclosure efforts of violator, guide, **App 32C**

Manual on Environmental Crimes, Directive Amending, **App 32D**

DEPOSITION

- Generally, **22:8**
- Carriers, notice of taking deposition of, **App 31L**
- Claimant/plaintiff discovery responses, **App 22E, App 22G**
- Experts
 - Hydrogeological expert, **App 23C**
 - Medical causation expert, **App 23A**
 - Psychological expert, **App 23B**
- Guidelines, **App 22F**
- Hydrogeological expert, **App 23C**
- Insurance coverage questions, **App 31K, App 31L**
- Insureds, notice of taking deposition, **App 31K**
- Medical causation expert, **App 23A**
- Notice of taking deposition
 - Carriers, coverage questions for, **App 31L**
 - Insureds, coverage questions for, **App 31K**
 - Plaintiffs' discovery responses, **App 22E**
 - Rule 30(b)(6) forms, **App 31K, App 31L**
- Outline of deposition
 - Claimant, **App 22G**
 - Hydrogeological expert, **App 23C**
 - Medical causation expert, **App 23A**
 - Psychological expert, **App 23B**
- Protocol, **App 22O**
- Psychological expert, **App 23B**
- Rule 30(b)(6) forms on notice, **App 31K, App 31L**

DETAILED JUROR QUESTIONNAIRE

- Generally, **App 15B**

DIMINISHED VALUE CLAIMS

- Negligence, consumer fraud, **6:38**

DIOXINS

- EPA report of reassessment, **App 29M**
- Peers' review of documents, report, **App 29N**

DISCLOSURE

- Climate-related disclosures, SEC proposed rule, **App 3Z**
- Confidentiality. See **Confidentiality** (this index)
- Discovery. See **Discovery** (this index)
- Investigations conducted by counsel, **24:8**
- Liability exposure. See **Activity Giving Rise to Toxic Tort Liability** (this index)
- RICO claims, disclosure order, **App 6A**
- Securities. See **Securities Disclosure Obligations** (this index)

DISCOVERY

- Admissions, request for, **22:9**
- Applicable rules
 - Generally, **22:1**
 - Local rules, **22:2**

DISCOVERY—Cont'd

- Applicable rules—Cont'd
 - Rule 26 conference and mandatory disclosure, **22:4**
 - Sanctions, above
 - Special orders, **22:3**
- Asbestos case management manual, **App 20K**
- Background information
 - Generally, **22:18**
 - Authorization for release of employment and background information, **22:21, App 22I**
- Concurrent, expert witnesses, **23:10**
- Conference, **22:4, App 22C**
- Confidential information. See **Confidentiality** (this index)
- Deposition. See **Deposition** (this index)
- Document production and inspection, **22:6, 22:7, App 22M**
- Electronic discovery supplement, **App 22L**
- Electronic materials
 - Generally, **22:7**
 - Department of Justice Guidelines for searching and seizing computers, **App 22J**
 - Electronic discovery supplement, **App 22L**
 - Wire fraud, RICO claims, **6:19**
- Employees
 - Generally, **22:21**
 - Authorization for release of employment and background information, **App 22I**
 - Expert employees and fact witnesses, **23:4**
 - Former employee, **22:11**
 - Medical questionnaires, employment history, **22:21**
- Experts. See **Expert Witnesses** (this index)
- Exposure history
 - Medical questionnaire, **22:22**
 - Report (outline) from medical causation and medical surveillance expert, based on exposure to hazardous substances, **App 22B**
- First amendment issues, **25:4**
- Former employee discovery, **22:11**
- FRCP Form 52, Report of parties' planning meeting, **App 22C**
- Inspection of documents
 - Generally, **22:6, 22:7**
 - Electronic materials, above
- Interrogatories, **22:5**
- Lone pine decision, **App 22A**
- Lone pine orders, **22:26**
- Mandatory disclosure, **22:4**
- Masters, use of special, **22:25**
- Medical authorizations
 - Generally, **22:24**
 - Authorization for release of medical information, **22:24, App 22H**

DISCOVERY—Cont'd

- Medical questionnaires
 - Generally, **22:16**
 - Background information, **22:18**
 - Damage claims, **22:23**
 - Employment history, **22:21**
 - Exposure history, **22:22**
 - Format, generally, **22:17 to 22:24**
 - Instructions, **22:17**
 - Medical authorizations, **22:24, App 22H**
 - Medical claim, **22:19**
 - Treatment history, **22:20**
- Need for judicial intervention, **25:5**
- Notice of deposition regarding plaintiffs' discovery responses, **App 22E**
- Order regarding confidentiality. See **Confidentiality** (this index)
- Outline deposition queries. See **Deposition** (this index)
- Outline of report from medical causation and medical surveillance expert, based on exposure to hazardous substances, **App 22B**
- Penalties for noncompliance, **22:12**
- Preservation of corporate documents, instruction, **App 22N**
- Privilege. See **Privilege** (this index)
- Purpose of toxic tort discovery
 - Defendant's perspective, **22:14**
 - Plaintiff's perspective, **22:13**
- Release of medical information, **22:24, App 22H**
- Report (outline) from medical causation and medical surveillance expert, based on exposure to hazardous substances, **App 22B**
- Report of parties' planning meeting, FRCP Form 52, **App 22C**
- Requests to admit, **22:9**
- Rule 26 conference and mandatory disclosure, **22:4, App 22C**
- Sanctions
 - Attorney certification, **26:4, App 26A**
 - Avoiding Rule 11 sanctions, **26:11**
 - Basis for Rule 11 sanctions, **26:4, 26:8**
 - Comparable state rules, **26:5**
 - Inherent power of the court, **26:6**
 - Multiplication of proceedings, 22 USC 1927, **26:3**
 - Penalties for noncompliance, **22:12**
 - Procedural considerations under pre-1993 Rule 11, **26:9**
 - Rule 11 sanctions, generally, **26:7**
 - Rule 26(g), discovery certification, **26:2**
 - Rule 37, discovery abuses, **26:1**
 - Sources for imposition of sanctions, generally, **26:1 to 26:6**
 - Special Rule 11 issues in toxic tort litigation, **26:10**

DISCOVERY—Cont'd

- Sanctions—Cont'd
 - Verified adversary complaint, **26:4, App 26A**
- Settlement agreements, confidential, **25:7**
- Sources of information, **22:15**
- Special masters, use of, **22:25**
- Spoliation of evidence, **22:27**
- Standards for judicial approval of confidentiality orders, **25:6**
- Statute of limitations, discovery rule, **12:4 to 12:7**
- Statutes of limitation, discovery rule, **12:4 to 12:7**
- Stipulation as to business records produced in discovery, **App 22D**
- Stipulation of confidentiality
 - Complex form, **App 25B**
 - Simple form, **App 25A**
- Summary jury trial discovery case management order, **App 20M**
- Third party discovery, **22:10**
- Wire fraud, **6:19**
- Work product. See **Work Product** (this index)

DISCRETION OF COURT

- Discovery sanctions, **26:6**

DISEASE OR ILLNESS

- Cancer. See **Cancer** (this index)
- Endocrine disruption. See **Endocrine Disruption Claims** (this index)
- Epidemiological evidence. See **Epidemiological Evidence** (this index)
- Reactive airways disease syndrome, **7:36**
- Registry. See **Agency for Toxic Substances and Disease Registry (ATSDR)** (this index)
- Sick building claims, ownership liability, **3:31**

DISPOSAL OF HAZARDOUS WASTES

- Activity giving rise to toxic tort liability exposure, **3:24**
- Epidemiological evidence, use in litigation, **28:36**
- Personal jurisdiction, **18:8**

DISTINGUISHING BETWEEN TOXIC TORTS AND MASS ACCIDENTS

- Generally, **2:2, 2:3**

DISTRESS

- See **Emotional Distress** (this index)

DIVERSITY IN DEFENDANTS

- Asbestos cases management, **App 20K**

DIVERSITY OF CITIZENSHIP

- Removal of state case to federal court, **10:2**

DOUBLE JEOPARDY

- Generally, **32:23**

DOW CORNING CORPORATION

Amended plan of reorganization, **App 19Q**

DRAFTING TIPS

Cancer risk assessment, working paper for draft revisions to EPA's guidelines, **App 29J**

Complaint, **10:1**

DRINKING WATER

Safe Drinking Water Act, generally, **8:6**

DRUGS

Criminal liability, food and drug statutes, **32:5**

Pharmaceuticals, activity giving rise to toxic tort liability exposure, **3:3**

DUE PROCESS

Personal jurisdiction standard, **18:3**

Right to jury trial, personal injury action, **15:5**

DUTY TO DEFEND

Generally, **31:18**

Affirmative claims, insurer obligation to pay, **31:26**

Allegations in complaint, comparison test, **31:20**

Comparison test, generally, **31:19, 31:20**

Demand letters, governmental, **31:24**

Environmental investigation costs as defense expenses, **31:23**

Extrinsic evidence, **31:21**

Medical monitoring claims, **31:25**

Policy limits, **31:10, 31:22**

DUTY TO WARN AND RIGHT-TO-KNOW

Generally, **5:1**

Adequacy of warning, **5:10, 5:21**

Basis for imposing duty. Basis for imposing duty to warn, above

Basis for imposing duty to warn

Breach of warranty, **5:4**

Idiosyncratic defense, **5:3**

Innocent misrepresentation, **5:5**

Negligence, **5:6**

Right-to-know laws, **5:7**

Strict products liability, **5:2**

Breach of warranty, **5:4**

Bulk product suppliers, **5:16**

Causation issue

Demonstration requirement, **5:22**

Difference between inadequate warning and other product defects, **5:21**

Heeding presumption, **5:23**

Content of warning, **5:10**

Continuing duty, **5:9**

Defense, state of the art, **5:17 to 5:20**

Demonstration requirement, **5:22**

Disclosure obligations under state laws, **5:32**

Expert standard, **5:8**

DUTY TO WARN AND RIGHT-TO-KNOW

—Cont'd

Federal standard, impact of right-to-know laws, **5:30**

Heeding presumption, **5:23**

Idiosyncratic defense, **5:3**

Impact of right-to-know laws

Disclosure obligations under state laws, **5:32**

Duty to warn litigation, impact on, **5:34**

Federal standard, **5:30**

Preemption, **5:33**

State laws, **5:31**

Impact of right-to-know laws on duty to warn litigation, **5:34**

Inadequate warning distinguished from other product defects, **5:21**

Innocent misrepresentation, **5:5**

Intermediaries, warning

Generally, **5:12**

Bulk product suppliers, **5:16**

Learned intermediary doctrine, **5:13 to 5:15**

Learned intermediary doctrine, **5:13 to 5:15**

Negligence

Basis for imposing duty to warn, **5:6**

Strict liability and negligence, applying, **5:27**

Subsequent remedial measures, **5:25, 5:27**

Preemption, impact of right-to-know laws, **5:33**

Presumption, **5:23**

Remedial measures. Subsequent remedial measures, below

Rule 407's effect on duty to warn cases, **5:28**

State laws on impact of right-to-know laws, **5:31**

Strict liability

Generally, **5:2**

Applying both negligence and, **5:27**

Subsequent remedial measures, **5:26, 5:27**

Subsequent remedial measures

Applicable rule, **5:24**

Cases where both strict liability and negligence alleged, **5:27**

Negligence actions, **5:25, 5:27**

Other basis for excluding, **5:29**

Rule 407's effect on duty to warn cases, **5:28**

Strict liability actions, **5:26, 5:27**

Summary judgment availability, **5:11**

Warranty, breach of, **5:4**

ELECTRIC AND MAGNETIC FIELDS (EMF)

Radiation, product sales liability, **3:18**

ELECTRONIC DISCOVERY SUPPLEMENT

Generally, **App 22L**

ELECTRONIC MATERIALS

Discovery Guidelines of Justice Department, **App 22J**

Discovery of, generally, **22:7**

ELECTRONIC MATERIALS—Cont'd

- Electronic discovery supplement, **App 22L**
- Seizure of computers for discovery purposes, **22:7, App 22J**
- Supplement, electronic discovery supplement, **App 22L**
- Wire fraud, RICO claim, **6:19**

EMF

- See **Electric and Magnetic Fields (EMF)** (this index)

EMOTIONAL DISTRESS

- Generally, **7:2**
- Cancerphobia, **7:9, 7:25**
- Causation defense, **7:5**
- Fear of future injury, **7:8**
- Mitigation, **7:6**
- Nature of claim, **7:3**
- Physical impact or injury requirement, **7:4**
- Post-traumatic stress disorder, **7:7**

EMPLOYERS AND EMPLOYEES

- Authorization for release of employment and background information, **22:21, App 22I**
- Employment history questionnaire, **22:21**
- Expert employee witness, **23:4**
- Former employee, **22:11**
- Judicial use of epidemiological evidence, workplace and product exposure, **28:33**
- OSHA. See **Occupational Safety and Health Act** (this index)

ENDOCRINE DISRUPTION CLAIMS

- Generally, **7:31**
- Chemically induced immune system dysregulation and disjunction claims, **7:27**
- Legal issues, **7:35**
- Nature of claims, **7:32**
- Reports of EPA on environmental disruption
 - An effects assessment and analysis, **App 7A**
 - Screening program, **App 7B**
- Scientific issues, **7:34**
- Toxic tort implications, **7:33**

ENFORCEMENT OF CERCLA

- Criteria for bona fide prospective purchasers, contiguous, innocent property owners, **App 3M**
- Lenders and government entities acquiring property involuntarily, **App 3H**

ENFORCEMENT OF FEDERAL CRIMINAL LAWS

- Generally, **32:27**
- Business organizations, principles of federal prosecution, **App 32K, App 32O**
- Coordinated federal/state civil enforcement proceedings, **8:10, App 8E**

ENFORCEMENT OF FEDERAL CRIMINAL LAWS—Cont'd

- Crime Victims' Rights Act, **32:28**
- EPA Staff Guidelines on Criminal Enforcement, **App 32F**
- Justice Department Guidelines, Factors in Decisions on Criminal Prosecution for Environmental Violations regarding significant voluntary compliance or disclosure efforts of violator, **App 32C**
- Parallel proceedings policy, **App 32I**
- U.S. Attorney's Manual on Environmental Crimes
 - Bluesheet Revision to, **App 32G**
 - Justice Department's Directive Amending, **App 32D**

ENGINEERS

- Activity giving rise to toxic tort liability exposure, **3:37**

ENTERPRISE LIABILITY UNDER RICO

- See **RICO Claims** (this index)

ENVIRONMENTAL COVERAGE ACTION

- See **Insurance Coverage** (this index)

ENVIRONMENTAL CRIMES HANDBOOK

- Guide for Law Enforcement Personnel, **App 32P**

ENVIRONMENTAL IMPAIRMENT POLICIES

- Generally, **31:70**

ENVIRONMENTAL STATUTES, CRIMINAL LIABILITY

- Generally, **32:6**
- CERCLA, **32:10**
- Clean Air Act, **32:11**
- Clean Water Act, Deepwater Horizon debarment agreement, **App 32U**
- Federal Water Pollution Control Act, **32:8**
- Occupational Safety and Health Act (OSHA), **32:13**
- Provisions of environmental laws, **App 32B**
- Refuse Act of 1899, **32:7**
- Resource Conservation Recovery Act (RCRA), **32:9**
- Toxic Substances Control Act (TSCA), **32:12**

EPIDEMIOLOGICAL EVIDENCE

- Generally, **28:1, 28:23, 29:5**
- Analytical issues
 - Generally, **28:23**
 - Attributable risk, **28:25**
 - Bradford hill criteria, **28:27**
 - Henle koch postulates, **28:26**
 - Purpose for which study is offered, **28:23**
 - Relative risk, **28:24**
- Attributable risk, **28:25**

EPIDEMIOLOGICAL EVIDENCE—Cont'd

- Bias issues
 - Generally, **28:10, 28:15**
 - Confounding bias, **28:11**
 - Information bias, **28:13**
 - Reporting bias, **28:14**
 - Selection bias, **28:12**
- Bradford hill criteria, **28:27**
- Cancer promotion claims, **7:25**
- Cigarette cases, **28:32**
- Clinical trials, **28:3**
- Community trials, **28:3**
- Concurrent prospective studies, **28:5**
- Confounding bias, **28:11**
- Cross-sectional studies, **28:8**
- Disposal of hazardous wastes, **28:36**
- Epidemiological studies, meta-analysis of, **28:22**
- Epidemiology reference guides, **App 28A**
- Evaluation of studies on causation, **28:28, 28:29**
- Experimental and observational studies, **28:2**
- Henle koch postulates, **28:26**
- How statistical significance is measured, **28:18**
- Importance of statistical significance, **28:19, 28:20**
- Information bias, **28:13**
- Judicial use of epidemiological evidence
 - Generally, **28:31**
 - Recent trends, **28:35**
 - Swine flu cases, **28:34**
 - Tobacco cases, **28:32**
 - Workplace and product exposure, **28:33**
- Meta-analysis of epidemiological studies, **28:22**
- Methodological issues
 - Clinical and community trials, **28:3**
 - Cross-sectional studies, **28:8**
 - Experimental and observational studies, **28:2**
 - Prospective/retrospective debate, **28:9**
 - Prospective studies
 - Generally, **28:4**
 - Concurrent, **28:5**
 - Non-concurrent, **28:6**
 - Prospective/retrospective debate, **28:9**
 - Reference guides, below
 - Retrospective studies
 - Generally, **28:7**
 - Prospective/retrospective debate, **28:9**
 - Non-concurrent prospective studies, **28:6**
 - Null hypothesis, statistics, **28:21**
 - Observational studies, **28:2**
 - Presentation issues, generally, **28:30**
 - Prospective/retrospective studies debate, **28:9**
 - Prospective studies, generally, **28:4 to 28:9**
 - Purpose for which study is offered, **28:23**
 - P values, statistics, **28:20**
 - Recent trends, **28:35**

EPIDEMIOLOGICAL EVIDENCE—Cont'd

- Reference guides
 - Epidemiology, **App 28A**
 - Statistics, **App 28B**
- Relative risk, **28:24**
- Reporting bias, **28:14**
- Restrictions on use of epidemiological evidence, **28:29**
- Retrospective/prospective studies debate, **28:9**
- Retrospective studies, generally, **28:7**
- Selection bias, **28:12**
- Statistical issues
 - Generally, **28:16**
 - How statistical significance is measured, **28:18**
 - Importance of statistical significance, **28:19, 28:20**
 - Null hypothesis, **28:21**
 - P values, **28:20**
 - Reference guide on statistics, **App 28B**
 - What statistical significance is, **28:17**
- Swine flu cases, **28:34**
- Tobacco cases, **28:32**
- Use in waste disposal cases, generally, **28:36**
- Utilization of studies on causation
 - Evaluation of studies, **28:28**
 - Restrictions on use of epidemiological evidence, **28:29**
 - What statistical significance is, **28:17**
- Workplace and product exposure, **28:33**

EPIDEMIOLOGICAL STUDIES

- Meta-analysis, **28:22**

EQUIVALENCY FACTORS FOR TOXICITY

- Generally, **29:3, App 29C**

ESTOPPEL, COLLATERAL

- See **Collateral Estoppel** (this index)

ETHICS OF EXPERT WITNESSES

- Occupational and environmental medicine experts, **App 30B**
- Testimony, professional obligations of experts, **30:12**

EVIDENCE

- Generally, **29:1**
- Acronyms and abbreviations list, **App 29D**
- Agency for Toxic Substances and Disease Registry (ATSDR), toxicological profiles
 - Generally, **29:13**
 - Lead, **App 29A**
 - Minimum risk levels of ATSDR, **App 29O**
- Aggregate evidence, use to prove particular facts, **29:15**
- Bioassays
 - Long-term bioassays, **29:8**
 - Short term bioassays, **28:9**

EVIDENCE—Cont'd

- Breast implant, National Science Panel's report, **App 30A**
- Cancer policy, generis, **29:4**
- Cancer promotion claims. See **Cancer Promotion Claims** (this index)
- Cancer risk assessment, EPA's guidelines, **App 29J**
- Causation
 - Generally, **27:1**
 - Application of traditional cause-in-fact analysis
 - Generally, **27:4**
 - Product identification, **27:5**
 - Burden of proof, **27:2**
 - Circumventing causation difficulties, modern methods, **27:3**
 - Scientific evidence method, **27:6**
- Cleanup standards
 - Preliminary draft NJ Dept. Environmental Protection, **App 29F**
 - Superfund guidelines, risk assessment, **App 29E**
- Conversion or equivalency factors, **29:3, App 29C**
- Cumulative risk/exposure assessments, **29:11**
- Developmental toxicity guidelines, **App 29H**
- Dioxin reassessment
 - Documents review by peers, report on, **App 29N**
 - Report of EPA, **App 29M**
- Duty to defend, extrinsic evidence, **31:21**
- Epidemiological evidence. See **Epidemiological Evidence** (this index)
- Equivalency factors for toxicity, **29:3, App 29C**
- Expert witnesses. See **Expert Witnesses** (this index)
- Exposure assessments
 - Generally, **29:10**
 - Cumulative risk/exposure assessments, **29:11**
 - Proposed guidelines for exposure-related measurements, **App 29B**
- Extrinsic evidence, duty to defend, **31:21**
- Genetic evidence
 - Individual genetic testing, **29:6**
 - Toxicogenomics, **28:13, 29:7**
- Guidelines. See **Guides or Guidelines** (this index)
- Health risk assessment. See **Risk Assessment** (this index)
- Interim genomics policy, **App 29P**
- Judicial notice of statutes and regulations, **29:12**
- Lead, toxicological profile, **App 29A**
- List of acronyms and abbreviations, **App 29D**
- Minimum risk levels of ATSDR, **App 29O**

EVIDENCE—Cont'd

- Polychlorinated biphenyl congeners (PBCs), EPA workshop report, **App 29G**
- Probabilistic evidence, use to prove particular facts, **29:15**
- Reference guide
 - Statistics, **App 29B**
 - Toxicity, **App 29K**
- Reports of government
 - Generally, **28:14**
 - Breast implant report, National Science Panel's, **App 30A**
 - Dioxin reassessment, documents review by peers report, **App 29N**
 - Dioxin reassessment report of EPA, **App 29M**
 - Polychlorinated biphenyl congeners (PBCs), EPA workshop report, **App 29G**
- Spoliation of evidence, **22:27**
- Superfund guidelines, **App 29E**
- Survey evidence, use to prove particular facts, **28:15**
- Toxicogenomics, **28:13, 29:7**

EX PARTE CONTACTS

- Expert witnesses, **23:1**

EXPENSES

- Attorneys. See **Attorney's Fee and Costs** (this index)
- CERCLA response actions, EPA rule on costs recovery, **App 8A**
- Cleanup expenses
 - CERCLA response actions, EPA rule on costs recovery, **App 8A**
 - Contribution doctrine, **18:8, 18:9**
 - Government expenses, **31:52**
 - Insurance coverage, **31:52, 31:53**
- Contribution doctrine, cleanup Expenses, **18:8, 18:9**
- Duty to defend, environmental investigation costs as defense expenses, **31:23**
- Funding, litigation, **10:4**
- Government expenses for cleanup, **31:52**
- Insurance coverage for cleanup, **31:52, 31:53**
- Insurance defense investigation costs, **31:23**
- Litigation funding, **10:4**
- Medicaid costs reimbursement
 - Complaint on tobacco-related injuries, **App 8C**
 - State toxic tort law, **8:13**
- Reimbursement
 - CERCLA response actions, EPA rule on costs recovery, **App 8A**
 - Medicaid costs reimbursement, above

EXPERT PANEL WORKSHOP

- Report on psychological responses to hazardous substances, **App 7C**

EXPERT WITNESSES

- Asbestos case management, **App 20K**
- Basis for testimony, **30:6**
- Breast implant report, National Science Panel's, **App 30A**
- Cancer promotion claims, challenging expert witness qualification, **7:21, 30:4**
- Conclusion, testimony, **30:13**
- Concurrent discovery, **23:10**
- Conflict and screening questionnaire, **App 30C**
- Court-appointed experts, testimony, **30:11**
- Deposition outline
 - Hydrogeological expert, **App 23C**
 - Medical causation expert, **App 23A**
 - Psychological expert, **App 23B**
- Discovery
 - Generally, **23:1**
 - Deposition outline, above
 - Duty to supplement answers, **23:7**
 - Ex parte contacts, **23:1**
 - Expected to be called at trial, duty to supplement answers, **23:7**
 - Expert employees and fact witnesses, **23:4**
 - Former Rule 26(b)(4), **23:2, 23:3**
 - FRCP 1993 amendments, expert discovery under, **23:8**
 - Hydrogeological expert, **App 23C**
 - Medical causation expert, **App 23A**
 - Not retained in anticipation of litigation, **23:5**
 - Psychological expert, **App 23B**
 - Report (outline) from medical causation and medical surveillance expert, based on exposure to hazardous substances, **App 22B**
 - Retained but not expected to be called as witnesses, **23:6**
- Duty to supplement answers, **23:7**
- Duty to warn standard, **5:8**
- Employees and fact witnesses, **23:4**
- Environmental coverage action, factor considered in maintaining, **31:87**
- Ethics
 - Guidelines for occupational and environmental medicine expert witness, **App 30B**
 - Testimony of experts, professional obligations of experts, **30:12**
- Ex parte contacts, **23:1**
- Expected to be called at trial, duty to supplement answers, **23:7**
- Former Rule 26(b)(4), **23:2, 23:3**
- FRCP 1993 amendments, expert discovery under, **23:8**
- Helpfulness of testimony, **30:2, 30:3**
- Hydrogeological expert, **App 23C**
- Insurance coverage, expert witness identification, **31:87**

EXPERT WITNESSES—Cont'd

- Judicial control of expert testimony, **30:8 to 30:10**
- Judicial use of expert tutorials, **23:9**
- Medical causation and medical surveillance expert, **App 22B**
- Medical causation expert, **App 23A**
- Not retained in anticipation of litigation, **23:5**
- Opinions "upon the subject," **30:7**
- Permissive judicial attitudes toward introduction of expert testimony, **30:10**
- Professional obligations of experts, testimony, **30:12, App 30B**
- Proof of toxic tort claims, generally, **30:1 to 30:13, App 30A**
- Psychological expert, **App 23B**
- Qualifications of expert
 - Generally, **30:4**
 - Challenging, **7:21**
- Report (outline) from medical causation and medical surveillance expert, based on exposure to hazardous substances, **App 22B**
- Retained but not expected to be called as witnesses, **23:6**
- Right-to-know standard, **5:8**
- Screening questionnaire, **App 30C**
- Selection of experts, pretrial research efforts, **19:16**
- Summary testimony, **30:5**
- Testimony
 - Generally, **30:1**
 - Basis for, **30:6**
 - Breast implant report, National Science Panel's, **App 30A**
 - Conclusion, **30:13**
 - Court-appointed experts, **30:11**
 - Ethical guidelines for occupational and environmental medicine expert witness, **App 30B**
 - Formation of opinions "upon the subject," **30:7**
 - Helpfulness, **30:2, 30:3**
 - Judicial control of expert testimony, **30:8 to 30:10**
 - Permissive judicial attitudes toward introduction of expert testimony, **30:10**
 - Professional obligations of experts, **30:12, App 30B**
 - Qualifications of expert, **7:21, 30:4**
 - Summary testimony, **30:5**
 - Use restrictions, **30:9**
- Tutorials, judicial use, **23:9**
- Use restrictions, **30:9**

EXPOSURE ACTIVITY

- See **Activity Giving Rise to Exposure** (this index)

EXPOSURE ASSESSMENTS GUIDES

Generally, **29:10**
Cumulative risk/exposure assessments, **29:11**
Proposed guidelines for exposure-related measurements, **App 29B**

EXPOSURE HISTORY

Medical questionnaire provision, **22:22**

EXPOSURE RULE

Statutes of limitation, **12:2**

EXTENT OF DUTY TO WARN

Continuing duty, **5:9**
Expert standard, **5:8**

EXTRINSIC EVIDENCE

Duty to defend, **31:21**

FAIRNESS HEARING

Class actions, medical monitoring class action fairness hearing, **App 20H**

FEAR OF FUTURE INJURY

Emotional distress, **7:8**
Increased risk, **7:14, 7:15**
Splitting cause of action for future injury, **7:15**

FEDERAL PREEMPTION

Generally, **11:8**
Defense memorandum, **App 11C**
Duty to warn and right-to-know laws, **5:33**
Express, **11:9**
Implied, **11:10**

FEDERAL WATER POLLUTION CONTROL ACT

Generally, **8:5**

FIDELITY & CASUALTY CO. OF NEW YORK, TEXAS EASTERN TRANSMISSION CORP. v.

See **Texas Eastern Transmission Corp. v. Fidelity & Casualty Co. of New York** (this index)

FILIP MEMO

Revised corporate charging guidelines, **App 32S**

FINANCIAL INSTITUTIONS

Generally, **3:33**
Defining lender liability under CERCLA, **App 3B, App 3C**
Lenders and government entities that acquire property involuntarily, policy on CERCLA enforcement against, **App 3H**
Minimizing liability exposure for, **3:35**
Security interests in contaminated property, CERCLA's effects on lenders holding, **App 3K**
Trustees liability, **3:34**

FINANCIAL INSTITUTIONS—Cont'd

Underground storage tanks, lender liability, **App 3I**

FINES

Criminal liability sanctions, alternative fines, **32:21**

FIRST AMENDMENT

Discovery of confidential information, First Amendment issues, **25:4**

FOCUSED JUROR QUESTIONNAIRE

Generally, **App 15C**

FOOD

Criminal liability, food and drug statutes, **32:5**
Nanotechnology and toxic torts, FDA guidance, **App 3U**

FOREIGN PARTY

Conduct, sufficiency for personal jurisdiction, **18:6**
Forum non conveniens, **18:11**

FORMER EMPLOYEES

Discovery, **22:11**

FORUM NON CONVENIENS

Generally, **18:10**
Choosing the forum, **31:38**
Foreign parties, **18:11**
Insurance coverage disputes, **31:38, 31:72**

FRACKING

All appropriate inquiries final rule, **App 3X**
Toxic tort liability exposure, **App 3W**

FRAUD OR DECEIT

Generally, **4:11**
Attorney-client privilege, crime fraud exception, **24:2**
Consumer fraud, diminished value claims—negligence, **6:38**
Innocent misrepresentation, duty to warn, **5:5**
Mail fraud, **6:19, 32:15**
RICO claims, mail or wire fraud, **6:19**
Wire fraud, **6:19**

FUNDING

Generally, **19:11**
Agreement, **App 19A**
Common Benefit Fund order, **App 19T**
Litigation, **10:4**

FUTURE

Collateral estoppel, future of in toxic tort litigation, **17:9**
Cooperative efforts among parties, the issue book, **19:26**
Emotional distress damages, fear of future injury, **7:8**

FUTURE—Cont'd

- Increased risk of future injury, damage theory, **7:14, 7:15**
- Securities disclosure obligations, future liabilities, **3:47**
- Splitting causes of action, increased risk of future injury, **7:15**

GENERATION OF HAZARDOUS WASTES

- Activity giving rise to toxic tort liability exposure, **3:24**
- Personal jurisdiction, **18:8**

GENETICS

- Individual genetic testing, **29:6**
- Toxicogenomics, **28:13, 29:7**

GENOMICS

- Interim genomics policy, **App 29P**

GEOLOGY

- Hydrogeological expert, deposition outline, **App 23C**

GORE AMENDMENT

- Contribution doctrine, allocation, **18:13**

GUIDES OR GUIDELINES

- Acronyms and abbreviations, **App 29D**
- Alternative dispute resolution, guide for using in federal court litigation, **App 16C**
- Cancer risk assessment
 - Carcinogens, exposure, **App 29L**
 - Working paper for draft revisions to EPA's guidelines, **App 29J**
- Complex litigation. Manual for Complex Litigation, below
- Computer searches and seizures, Department of Justice guidelines, **App 22J**
- Contiguous owners
 - Interim enforcement discretion guidance regarding, **App 3N**
 - Interim guidance regarding criteria landowners must meet, CERCLA liability, **App 3M**
- Criminal liability
 - Environmental law provisions, **App 32B**
 - EPA guidelines on enforcement of federal criminal laws, **App 32F**
 - Federal sentencing guidelines, **32:22, App 32A, App 32E, App 32L**
 - Justice Department guidelines on voluntary compliance or disclosure efforts of violator, **App 32C**
 - Manual on Environmental Crimes, U.S. Attorney's, **App 32D, App 32G**
- Depositions, guidelines, **App 22F**
- Developmental toxicity guidelines, **App 29H**
- Disclosure efforts of violator, Justice Department Guidelines, **App 32C**

GUIDES OR GUIDELINES—Cont'd

- Discovery
 - Depositions, guidelines, **App 22F**
- Electronic materials, Department of Justice Guidelines for searching and seizing computers, **App 22J**
- Electronic materials, Department of Justice guidelines for searching and seizing computers, **App 22J**
- Environmental marketing claims, Green Guides, **App 3D**
- Epidemiology reference guides, **App 28A**
- Ethical guidelines for occupational and environmental medicine expert witness, **App 30B**
- Expert witnesses testimony, ethical guidelines for occupational and environmental medicine expert witness, **App 30B**
- Exposure assessments
 - Generally, **29:10**
 - Cumulative risk/exposure assessments, **29:11**
 - Proposed guidelines for exposure-related measurements, **App 29B**
- Federal sentencing guidelines, **32:22, App 32A, App 32E, App 32L**
- Green Guides for use of environmental marketing claims, **App 3D**
- Interim enforcement discretion guidance regarding, **App 3N**
- Justice Department
 - Computer searches and seizures, **App 22J**
 - Disclosure efforts of violator, **App 32C**
 - Manual on Environmental Crimes, Directive Amending, **App 32D**
- Landowner liability under CERCLA Section 107(a)(1), guidance on, **App 3A**
- Manual on Environmental Crimes, U.S. Attorney's
 - Bluesheet Revision to, **App 32G**
 - Justice Department's Directive Amending, **App 32D**
- Marketing liabilities, guides for use of environmental marketing claims, **App 3D**
- Mass torts
 - Case management order, **App 20B**
 - Table of contents, **App 20A**
- MultiCounty Litigation Guidelines, **App 20O**
- MultiCounty Litigation Resource Book of New Jersey, **App 20I**
- Multidistrict litigation
 - Litigation, generally, **App 21A**
 - Product liability litigation, **App 21B**
- Nanomaterials, technical fact sheet, **App 3Y**
- Occupational and environmental medicine expert witness, ethical guidelines, **App 30B**
- Reference guides
 - Criminal liability enforcement, **App 32F**

GUIDES OR GUIDELINES—Cont'd

Reference guides—Cont'd

Epidemiology, **App 28A**Manual on Environmental Crimes, **App 32D, App 32G**Mass torts, **App 20A, App 20B**Statistics, **App 28B**Toxicity risk assessment, **App 29K**Revised corporate charging guidelines, **App 32S**Sentencing guidelines, federal, **32:22, App 32A, App 32E, App 32L**Settlements of toxic tort liability exposure, guidance on, **App 3A**Statistics reference guides, **App 28B**Superfund guidelines, risk assessment, **App 29E**Toxicity. See **Toxicity Risk Assessment Guides** (this index)Voluntary compliance or disclosure efforts of violator, Justice Department Guidelines, **App 32C****GULF OF MEXICO**Deepwater Horizon debarment agreement, **App 32U****HAZARDOUS WASTES OR SUBSTANCES**

Activity giving rise to toxic tort liability exposure

Generally, **3:23**Generation and disposal of wastes, **3:9, 3:24**Minimizing liability exposure for, **3:27**Sales of waste, **3:26**Treatment and storage of wastes, **3:25, App 3I**Discovery of report (outline) from medical causation and medical surveillance expert, based on exposure to hazardous substances, **App 22B**

Disposal of hazardous wastes

Activity giving rise to toxic tort liability exposure, **3:24**Epidemiological evidence, use in litigation, **28:36**Personal jurisdiction, **18:8**Environmental Crimes Handbook—A Guide for Law Enforcement Personnel, **App 32P**Epidemiological evidence, use in litigation, **28:36**

Evidence

Epidemiological evidence, **28:36**Medical causation and medical surveillance expert, **App 22B**Expert, medical causation and medical surveillance, **App 22B**Expert Panel Workshop's report on psychological responses to hazardous substances, **App 7C**

Generation of hazardous wastes

Activity giving rise to toxic tort liability exposure, **3:24**Personal jurisdiction, **18:8****HAZARDOUS WASTES OR SUBSTANCES—Cont'd**Medical causation and medical surveillance expert, **App 22B**Minimizing liability exposure for, **3:27**Personal jurisdiction for liability claims, **18:8**Psychological responses to hazardous substances, Expert Panel Workshop's report on, **App 7C**Sales of hazardous wastes, liability, **3:26**Storage activity liability, **3:25, App 3I**Treatment activity liability, **3:25, App 3I**Ultrahazardous and abnormally dangerous activities, strict liability, **4:9, 4:10**Underground storage tanks, lender liability, **App 3I****HEARINGS**Class actions, medical monitoring class action fairness hearing, **App 20H****HENLE KOCH POSTULATES**Epidemiological evidence analysis, **28:26****HOECHST CELANESE CORP. v. NATIONAL UNION FIRE INSURANCE CO.**Jury instructions in, **App 31O****HYDRAULIC FRACTURING**Minimizing liability exposure for, **3:22****HYDROGEOLOGICAL EXPERT**Deposition outline, **App 23C****HYPOTHESIS, NULL**Epidemiological statistics, **28:21****IDENTIFICATION OF PRODUCT**Defense issue, **11:3, 11:4****IDIOSYNCRATIC DEFENSE**Duty to warn and right-to-know, **5:4****IMMUNE SYSTEM**See **Endocrine Disruption Claims** (this index)**IMPLANTS**Breast. See **Breast Implants** (this index)**IMPLIED FEDERAL PREEMPTION**Generally, **11:10****INADEQUATE WARNING**Adequacy of warning, **5:10**Distinguished from other product defects, **5:21****IN CAMERA REVIEW**Privilege disputes, **24:4****INCREASED RISK OF FUTURE INJURY**Generally, **7:14**Emotional distress damages, **7:8**Splitting causes of action, **7:15**

INDEMNITY

- Availability to joint tortfeasors, **18:19**
- Contractual indemnity
 - Generally, **18:20**
 - In lieu of settlement, **18:23**
 - Mary Carter agreements, **18:25**
 - Medicare liens, satisfaction requirements, **18:26**
- Distinguished from contribution, **18:3**
- Indemnity agreement, **App 18A**
- In lieu of settlement, codefendant indemnification agreements, **18:23**
- Joint and several liability
 - Generally, **18:1**
 - Availability to joint tortfeasors, **18:19**
 - Release, effect of, **18:21**
- Mary Carter agreements, **18:25**
- Medicare liens, satisfaction requirements, **18:26**
- Rationale for, **18:2**
- Releases, effect of, **18:21, 18:22**

INDEPENDENT THIRD PARTY

- Criminal liability, selection and use of monitors in deferred prosecution and non-prosecution agreements with corporations, **App 32Q**

INDICTMENTS

- Criminal liability, W.R. Grace indictment, **App 32N**

INDOOR AIR QUALITY

- Activity giving rise to toxic tort liability exposure, **App 3F**

INDUSTRIAL MATERIALS

- Product sales activity giving rise to toxic tort liability exposure, **3:6**

INJUNCTIVE RELIEF

- Consolidation of claims, Rule 23(b)(2) injunction classes, **20:12**
- Insurance coverage, property damage, **31:54**
- RICO claims, uncertain injunctive relief, **6:34**

INNOCENT LANDOWNER

- Interim guidance regarding criteria landowners must meet, CERCLA liability, **App 3M**

INNOCENT MISREPRESENTATION

- Duty to warn, **5:5**

INSPECTION OF DOCUMENTS

- Generally, **22:6, 22:7**
- Electronic materials. See **Electronic Materials** (this index)

INSURANCE COVERAGE

- Generally, **31:1, 31:2**
- Accidents, coverage for
 - Generally, **31:27**

INSURANCE COVERAGE—Cont'd

- Accidents, coverage for—Cont'd
 - Conduct of insured, **31:29**
 - Distinguishing mass accidents from toxic torts, **2:2, 2:3**
 - Long-term exposure problem, **31:28**
- Affirmative claims, insurer obligation to pay, **31:26**
- Asbestos insurance coverage cases
 - California Court of Appeals decision in, **App 31M**
 - Supreme Court decision in, **App 31C**
- Bankruptcy, **31:75**
- Bodily injury
 - Generally, **31:56**
 - Exposure, **31:58**
 - Injury in fact, **31:61**
 - Manifestation, **31:59**
 - Procedure for determining triggers, **31:62**
 - Triggers for coverage, generally, **31:57 to 31:62**
 - Triple trigger, **31:60**
- Burden of proof
 - Insurance industry statements, **31:45**
 - Lost policies, amount of secondary evidence needed to sustain burden, **31:15**
- Cancer policy, generis, **29:4**
- CGL policy, judicial attitudes toward
 - Generally, **31:5, 31:7**
 - Named insured, **31:8**
 - Standard CGL language, **31:11**
 - Summary judgment, **31:6**
 - Time period for coverage, **31:9**
- Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co.
 - Interrogatories provided to jury in, **App 31J**
 - Jury charges used in, **App 31I**
- Choice of law, generally, **31:76**
- Choosing the forum, **31:38**
- Comprehensive general liability policy. CGL policy, above
- Coronavirus claims, **31:3**
- COVID-19 claims, **31:3**
- Defense agreement, **31:97, App 31E**
- Demand letters, duty to defend, **31:24**
- Deposition notices, Rule 30(b)(6) forms
 - Carriers, coverage questions for, **App 31L**
 - Insureds, coverage questions for, **App 31K**
- Determining whether to maintain an environmental coverage action
 - Generally, **31:77**
 - Choosing the forum, **31:38**
 - Confidentiality issues, **31:88**
 - Data assembly process, **31:80**
 - Data organization, **31:85**
 - Expert witness identification, **31:87**

INSURANCE COVERAGE—Cont'd

- Determining whether to maintain an environmental coverage action—Cont'd
 - Goals of litigation, determining, **31:79**
 - Key witnesses, **31:86**
 - Obtaining necessary data, **31:83, 31:84**
 - Personnel and budgeting issues, **31:83**
 - Policies, **31:81**
 - Risks involved, **31:78**
 - Sites, **31:82**
- Directors and officers liability policies, generally, **31:71**
- Distinguishing mass accidents from toxic torts, **2:2, 2:3**
- Duty to defend
 - Generally, **31:18**
 - Affirmative claims, insurer obligation to pay, **31:26**
 - Allegations in complaint, comparison test, **31:20**
 - Comparison test, generally, **31:19, 31:20**
 - Demand letters, governmental, **31:24**
 - Environmental investigation costs as defense expenses, **31:23**
 - Extrinsic evidence, **31:21**
 - Medical monitoring claims, **31:25**
 - Policy limits, **31:10, 31:22**
- Environmental impairment policies, generally, **31:70**
- Exclusions
 - Business risk/product withdrawal exclusion, **31:49**
 - Care, custody, or control (“Owned property”) exclusion, **31:47**
 - Completed operations/product hazard exclusion, **31:48**
 - Pollution exclusion, below
- Expert witness identification, **31:87**
- Extent of coverage triggers
 - Generally, **31:64**
 - Number of occurrences, **31:65**
 - Proration/allocation of coverage (other insurance clauses), **31:66**
 - Self-insured periods, liability for, **31:68**
 - Stacking of limits, **31:67**
- Extrinsic evidence, **31:21**
- Forum non conveniens
 - Generally, **31:72**
 - Choosing the forum, **31:38**
- General comprehensive liability (GCL) policy
 - Generally, **31:5**
 - Summary judgment, **31:6**
- Hoechst Celanese Corp. v. National Union Fire Insurance Co. (jury instructions in), **App 31O**
- Impairment policies, generally, **31:70**

INSURANCE COVERAGE—Cont'd

- Insurance industry statements
 - Generally, **31:41**
 - Absolute pollution exclusion, **31:46**
 - Briefs, **31:44**
 - Burden of proof, **31:45**
 - Newspaper reports, **31:42**
 - Representations to governmental authorities, insurer’s, **31:43**
- Interrogatories provided to jury in Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co., **App 31J**
- Investigation costs as defense expenses, **31:23**
- Jury charges used in Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co., **App 31I**
- Jury instructions in Hoechst Celanese Corp. v. National Union Fire Insurance Co., **App 31O**
- Jury interrogatories in Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co., **App 31J**
- Known loss doctrine
 - Generally, **31:33**
 - Application of doctrine, **31:36**
 - Known risk doctrine, **31:35**
 - Loss in progress, doctrine, **31:34**
- Known risk doctrine, **31:35**
- Limitations
 - CGL policy limitation on duty to indemnify and defend, **31:10**
 - Duty to indemnify and defend, **31:10, 31:22**
 - Policy limits, **31:10, 31:22**
 - Stacking of coverage limits, **31:67**
- Litigation issues
 - Bankruptcy impact, **31:75**
 - Direct actions, **31:74**
 - Discovery, **31:73**
 - Forum non conveniens, **31:72**
- Lost policies
 - Generally, **31:12**
 - Amount of secondary evidence needed to sustain burden, **31:15**
 - Best evidence, **31:12**
 - Permissible secondary evidence, **31:14**
 - Sources of secondary evidence, **31:16**
 - Standard of proof, **31:13**
- Managing an environmental coverage action
 - Case management orders
 - Generally, **31:90**
 - Carrier discovery, **31:92**
 - Exemplar sites, **31:91**
 - Settlement issues, **31:93**
- Medical monitoring claims, duty to defend, **31:25**
- Nonwaiver agreement, **App 31F**

INSURANCE COVERAGE—Cont'd

- Notice
 - Generally, **31:17**
 - Claim notice letter, **App 31N**
 - Deposition notices, above
- Occurrences, coverage for
 - Generally, **31:30**
 - Expected or intended from insured's standpoint, **31:31**
 - Meaning of occurrence, **31:32**
- Personal injury, generally, **31:50**
- Policy limits, **31:10, 31:22**
- Pollution exclusion
 - Generally, **31:37**
 - Absolute exclusion, **31:46**
 - Judicial attitudes, **31:38**
 - Judicial interpretations
 - Cases finding coverage, **31:39**
 - Cases finding no coverage, **31:40**
- Property damage
 - Generally, **31:51**
 - Cleanup expenses of government, **31:52**
 - Injunctions, **31:54**
 - Toxic tort/environmental damage, **31:55**
 - Triggers for coverage, **31:63**
 - Voluntary cleanup efforts, **31:53**
- Punitive damages, insurability, **9:16**
- Release agreement, **App 31G**
- Self-insured periods, liability for, **31:68**
- Settlement issues
 - Generally, **31:93, 31:94**
 - Agreement, insurance settlement and release, **App 31G**
- Sites or location
 - Case management orders, exemplar sites, **31:91**
 - Consideration in maintaining an environmental coverage action
 - Sites, **31:82**
- Special problems of toxic tort coverage claims, **31:2**
- Standard of policy interpretation, generally, **31:69**
- Standstill agreement, **31:97, App 31D**
- Summary judgment, judicial attitudes toward CGL policy, **31:6**
- Texas Eastern Transmission Corp. v. Fidelity & Casualty Co. of New York, **App 31B**
- Township of Jackson v. American Home Assurance Co. (multiple occurrences), **App 31H**
- Trial issues
 - Generally, **31:95**
 - Opening statements, **31:96**
 - Standstill and defense agreements, **31:97**
- Triggers for coverage
 - Bodily injury, **31:57 to 31:62**

INSURANCE COVERAGE—Cont'd

- Triggers for coverage—Cont'd
 - Extent of coverage triggers, above
 - Property damage, **31:63**
- Westinghouse Corp. v. Aetna Casualty & Surety Company, **App 31A**

INSURANCE INDUSTRY STATEMENTS

- Generally, **31:41**
- Absolute pollution exclusion, **31:46**
- Briefs, **31:44**
- Burden of proof, **31:45**
- Newspaper reports, **31:42**
- Representations to governmental authorities, insurer's, **31:43**

INTEGRITY

- Corporate integrity agreement, **App 32R**

INTENT

- Mens rea, criminal liability requirement, **32:17**

INTERIM GENOMICS POLICY

- Evidence, **App 29P**

INTERIOR DEPARTMENT

- See **Department of Interior** (this index)

INTERMEDIARIES, DUTY TO WARN

- Generally, **5:12**
- Bulk product suppliers, **5:16**
- Learned intermediary doctrine, **5:13 to 5:15**

INTERNAL CORPORATE INVESTIGATIONS

- Privilege, **24:10**

INTERROGATORIES

- Discovery method, **22:5**
- Juror interrogatories used in Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co., **App 31J**

INTERVENTION BY COURT

- See **Judicial Intervention** (this index)

INVESTIGATIONS

- All Appropriate Inquiry checklist and final rule summary, **App 3X**
- Attorney work product, **24:8**
- Duty to defend, investigation costs as defense expenses, **31:23**
- Internal corporate investigations, privilege, **24:10**

INVESTMENTS

- Racketeering derived income, **6:14**

INVOLUNTARILY ACTS

- Acquiring property, policy on CERCLA enforcement against lenders and government entities, **App 3H**

JOINT AND SEVERAL LIABILITY

- Contribution doctrine
 - Generally, **18:1**
 - Availability to joint tortfeasors, **18:5, 18:21**
 - Releases, effect of, **18:21, 18:22**
- Indemnity
 - Generally, **18:1**
 - Availability to joint tortfeasors, **18:19**
 - Release, effect of, **18:21**

JOINT DEFENSE AGREEMENTS

- Generally, **19:12, App 19M**

JUDGES

- Expert tutorials, judicial use, **23:9**

JUDGMENT

- Prior judgment, collateral estoppel, **17:8**
- Summary judgment. See **Summary Judgment** (this index)

JUDICIAL CHAMBERS

- Procedure for resolving privilege and waiver questions, in camera review, **24:4**

JUDICIAL DISCRETION

- Discovery sanctions, **26:6**

JUDICIAL INTERVENTION

- Discovery of confidential information, **25:5**
- Recalcitrants, dealing with, **19:8**

JUDICIAL NOTICE

- Proof of toxic tort claims, judicial notice of statutes and regulations, **29:12**

JUDICIAL REVIEW

- Plea bargains, criminal liability, **32:26**

JUDICIAL USE OF EPIDEMIOLOGICAL EVIDENCE

- Generally, **28:31**
- Recent trends, **28:35**
- Swine flu cases, **28:34**
- Tobacco cases, **28:32**
- Workplace and product exposure, **28:33**

JURISDICTION

- Defense issues, primary jurisdiction, **11:11**
- Diversity of citizenship, removal of state case to federal court, **10:2**
- Forum non conveniens. See **Forum non Conveniens** (this index)
- Multiparty, Multiforum Trial Jurisdiction Act of 2002, **8:3**
- Personal jurisdiction. See **Personal Jurisdiction** (this index)

JURY TRIAL

- Charges to jury in Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co., **App 31I**
- Detailed juror questionnaire, **App 15B**
- Entitlement. Right to jury trial, below
- Focused juror questionnaire, **App 15C**
- Interrogatories to jurors in Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co., **App 31J**
- New Jersey bench manual on jury selection, **App 15E**
- Questionnaires
 - Detailed questionnaire, prospective jurors, **App 15B**
 - Focused juror questionnaire, **App 15C**
- Right to jury trial
 - Generally, **15:1**
 - Complexity exception, **15:4**
 - Due process exception, **15:5**
 - Other jury issues, **15:7**
 - Personal injury actions, **15:3 to 15:5**
 - Seventh amendment, **15:3**
 - Superfund actions, **15:2**
 - Toxic tort actions, **15:6**
 - Voir dire of jurors, **15:8**
- Superfund actions, right to jury, **15:2**
- Toxic tort actions
 - Generally, **15:6**
 - Outline for juror voir dire, **App 15A**
- Voir dire of jurors
 - Generally, **15:8**
 - Outline, **App 15A**

JUSTICE DEPARTMENT

- See **Department of Justice** (this index)

KNOWN LOSS DOCTRINE

- See **Insurance Coverage** (this index)

KNOWN RISK DOCTRINE

- Insurance coverage, **31:35**

LABELS AND LABELING

- Activity giving rise to toxic tort liability exposure, **App 3J**

LANDOWNER LIABILITY

- See **Real Property Ownership** (this index)

LAW ENFORCEMENT PERSONNEL

- Environmental Crimes Handbook—A Guide for Law Enforcement Personnel, **App 32P**

LEAD

- Activity giving rise to liability exposure, lead poisoning claims, **3:10**
- Class action complaint regarding lead paint exposure injuries, **App 10A**

LEAD—Cont'd

Toxicological profiles of the Agency for Toxic Substances and Disease Registry (ATSDR), proving lead toxic tort claim, **App 29A**

LEARNED INTERMEDIARY DOCTRINE

Generally, **5:13 to 5:15**

LENDER LIABILITY

See **Financial Institutions** (this index)

LIABILITY EXPOSURE

Generally. See **Activity Giving Rise to Toxic Tort Liability Exposure** (this index)

LIABILITY THEORIES

Aider and abettor liability, **6:2**

Alternative liability, **6:4**

Assault and battery, **4:11**

Concert of action liability, **6:2**

Contribution of risk, **6:3**

Duty to warn. See **Duty to Warn and Right-to-know** (this index)

Enterprise liability. **RICO Claims** (this index)

Fraud. See **Fraud or Deceit** (this index)

Joint liability. See **Joint and Several Liability** (this index)

Market share liability, **6:1**

Multiple chemical sensitivity, **7:28**

Negligence. See **Negligence** (this index)

Nuisance, **4:5, 4:6, 32:3**

RICO claims. See **RICO Claims** (this index)

Several liability. See **Joint and Several Liability** (this index)

Special toxic tort considerations, **6:6**

Statutory claims. See **Statutory Claims** (this index)

Strict liability. See **Strict Liability** (this index)

Successor liability, **4:12**

Trespass, **4:1, 4:2**

Vicarious liability, punitive damages, **9:11**

LIMITATION OF LIABILITY

Interim guidance regarding criteria landowners must meet, innocent landowner limitations, **App 3M**

LIMITATIONS

Action or suit. See **Statutes of Limitation** (this index)

Class action limited fund, **10:11**

Contribution doctrine, common law, **18:4**

Damages

Class action limited fund, **10:11**

RICO claims, business or property damages, **6:33**

Insurance coverage

CGL policy limitation on duty to indemnify and defend, **31:10**

LIMITATIONS—Cont'd

Insurance coverage—Cont'd

Policy limits, **31:22**

Stacking of coverage limits, **31:67**

LISTS

Acronyms and abbreviations list, toxic tort claims, **App 29D**

LITIGATION FUNDING

Tort complaints, **10:4**

LOCATION

See **Site or Location** (this index)

LONE PINE

Decision, **App 22A**

Orders, **22:26**

LOSS CONTINGENCIES

Staff accounting bulletin, **App 3G**

LOST DOCUMENTS

Insurance policy lost, burden of proof to sustain coverage, **31:15**

MAGNETIC FIELDS

See **Electric and Magnetic Fields (EMF)** (this index)

MAIL FRAUD

Criminal liability, generally, **32:15**

RICO claim, **6:19**

MANIFESTATION RULE

Statutes of limitation, **12:3**

MANUAL FOR ASBESTOS CASES

MANAGEMENT

Generally, **App 20K**

MANUAL FOR CIVIL LITIGATION

Generally, **App 20G**

MANUAL ON ENVIRONMENTAL CRIMES, U.S. ATTORNEY'S

Bluesheet Revision to, **App 32G**

Justice Department's Directive Amending, **App 32D**

MARKETING LIABILITIES

Green Guides for use of environmental marketing claims, **App 3D**

MARKET SHARE LIABILITY

Generally, **6:1**

MARY CARTER AGREEMENTS

Generally, **18:25**

MASS ACCIDENTS

Distinguished from toxic tort, **2:2, 2:3**

MASS TORT COURT

New Jersey's rejection of, **App 20F**

MASS TORTS

Case management order, **App 20B**

Table of contents, **App 20A**

MASTERS

Use of special masters, **22:25**

MEDIA

Trial, how to work with media, **App 16B**

MEDICAID COSTS REIMBURSEMENT

Complaint regarding tobacco-related injuries,
App 8C

State toxic tort statutes, **8:13**

MEDICAL AUTHORIZATIONS

Generally, **22:24, App 22H**

MEDICAL CAUSATION AND MEDICAL SURVEILLANCE EXPERT

Generally, **App 22B**

MEDICAL CAUSATION EXPERT

Generally, **App 23A**

MEDICAL CLAIM

Generally, **22:19**

MEDICAL MONITORING

Class actions, **20:12, App 20H, App 20J**

Duty to defend, **31:25**

Fairness hearing, **App 20H**

Rule 23(b)(2) injunction classes, **20:12**

MEDICAL QUESTIONNAIRES

Generally, **22:16**

Background information, **22:18**

Damage claims, **22:23**

Employment history, **22:21**

Exposure history, **22:22**

Format, generally, **22:17 to 22:24**

Instructions, **22:17**

Medical authorizations, **22:24, App 22H**

Medical claim, **22:19**

Treatment history, **22:20**

MEDICAL SURVEILLANCE DAMAGES

Generally, **7:10**

CERCLA, recovery under, **7:12**

Defense issues, **7:11**

MEDICAL TREATMENT HISTORY

Generally, **22:20**

MEDICAL WASTE

Environmental Crimes Handbook—A Guide for
Law Enforcement Personnel, **App 32P**

MEDICARE

Indemnity, satisfaction of Medicare liens, **18:26**

MENS REA

Criminal liability requirement, **32:17**

META-ANALYSIS

Epidemiological studies, **28:22**

MINIMIZING LIABILITY EXPOSURE

Financial institutions, **3:35**

Hazardous wastes, **3:27**

Hydraulic fracturing, **3:22**

Offshore drilling activities, **3:21**

Product sales, **3:19**

Real property ownership, **3:32**

Transportation services, **3:29**

MISCONDUCT

Attorney misconduct complaints under RICO,
App 26B

MISREPRESENTATION

See **Fraud or Deceit** (this index)

MITIGATION OF DAMAGES

Emotional distress, **7:6**

MODERNIZATION OF COSMETICS REGULATION ACT

2022, **3:20**

MOLD CLAIMS

Product sales activity giving rise to liability
exposure, **3:11**

MONITORS

Criminal liability, selection and use of monitors
in deferred prosecution and non-prosecution
agreements with corporations, **App 32Q**

MULTICOUNTY LITIGATION

New Jersey MultiCounty Litigation Resource
Book, **App 20I**

MULTIDISTRICT LITIGATION

Appeal, trial consolidation, **21:4**

Guide for multidistrict litigation, **App 21A**

Judicial Panel on Multidistrict Litigation, **21:1**

Practice and procedure, **21:3**

Product liability litigation guide, **App 21B**

Standards for consolidation, **21:2**

Trial consolidation, **21:4**

MULTIPARTY, MULTIFORUM TRIAL JURISDICTION ACT OF 2002

Generally, **8:3**

MULTIPLE CHEMICAL SENSITIVITY

Damage theory, **7:28**

MULTIPLE OCCURRENCES

Insurance coverage, Township of Jackson v. American Home Assurance Co., **App 31H**

MULTIPLICATION OF PROCEEDINGS, 22 USC 1927

Attorney sanctions, **26:3**

MULTI-TIERED CONFIDENTIALITY

Discovery order, **App 25D**

MURDER

RICO claims, **6:21**

NANOTECHNOLOGY BASED PRODUCTS

Activity giving rise to toxic tort liability exposure, **3:7**

Applications, FDA guidance, **App 3T**

Cosmetics, FDA guidance, **App 3V**

Foods, FDA guidance, **App 3U**

Technical Fact Sheet, nanomaterials, **App 3Y**

NATIONAL SCIENCE PANEL'S BREAST IMPLANT REPORT

Generally, **App 30A**

NATIONAL UNION FIRE INSURANCE CO., HOECHST CELANESE CORP. v.

See **Hoechst Celanese Corp. v. National Union Fire Insurance Co.** (this index)

NATURAL RESOURCE DAMAGE ASSESSMENTS

Department of Interior's rule on, **App 8B**

NATURE OF CLAIM

Cancer promotion claims, **7:17**

Emotional distress, **7:3**

Endocrine disruption claims, **7:32**

Personal jurisdiction, **18:4**

Publicity, nature of litigation information to be disclosed, **16:9**

Recalcitrants, dealing with, **19:4**

NEGLIGENCE

Generally, **4:3, 4:4**

Basis for imposing duty to warn, **5:6**

Comparative negligence defense, **11:1**

Consumer fraud/diminished value claims, **6:38**

Diminished value claims, **6:38**

Duty to warn and right-to-know

Basis for imposing duty, **5:6**

Strict liability and negligence, applying both, **5:27**

Subsequent remedial measures, **5:25, 5:27**

Elements, **4:3**

Marketing claims, **6:37**

Strict liability and negligence, applying both, **5:27**

Subsequent remedial measures, **5:25, 5:27**

NEW JERSEY

Asbestos case management manual, **App 20K**

Jury trial, New Jersey bench manual on jury selection, **App 15E**

Mass tort court, New Jersey's rejection of, **App 20F**

MultiCounty Litigation Resource Book, **App 20I**

NEWS MEDIA

See **Publicity about Litigation** (this index)

NEW YORK

Adoption of New York Privilege Log Rule, **App 24A**

NEXUS

RICO claims, nexus between enterprise and pattern of racketeering activity, **6:11**

NOTICE

Claim notice letter, **App 31N**

Deposition notices

Carriers, coverage questions for, **App 31L**

Insureds, coverage questions for, **App 31K**

Plaintiffs' discovery responses, **App 22E**

Rule 30(b)(6), **App 31K, App 31L**

Insurance coverage

Generally, **31:17**

Claim notice letter, **App 31N**

Deposition notices under Rule 30(b)(6), **App 31K, App 31L**

Judicial notice of statutes and regulations, **29:12**

Plaintiffs' discovery responses, deposition notice, **App 22E**

Project initiation, **App 3J**

NUISANCE LIABILITY

Application, **4:6**

Criminal liability, **32:3**

Elements, **4:5**

NULL HYPOTHESIS

Epidemiological statistics, **28:21**

NUMEROSITY

Class action, **20:4**

OBSERVATIONAL STUDIES

Epidemiological evidence, **28:2**

OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)

Generally, **8:8**

Criminal liability, **32:13**

Expert witness's ethics, **App 30B**

OFFSHORE DRILLING

Minimizing liability exposure for, **3:21**

OPENING STATEMENTS

Generally, **31:96**

OPIATES

Litigation confidentiality order, **App 25E**

OPINIONS

Expert witnesses, opinions “upon the subject,” **30:7**

ORDERS

Case management orders
 Generally, **31:90**
 Carrier discovery, **31:92**
 Exemplar sites, **31:91**
 Silicone gel breast implant litigation, **App 20C**
 Discovery confidentiality. See **Confidentiality**
 (this index)
 Lone pine order, **22:26**

PCBS

See **Polychlorinated Biphenyl Congeners**
 (PBCs) (this index)

PENALTIES

Discovery noncompliance, **22:12**

PER CAPITA ALLOCATION

Contribution doctrine, **18:17**

PERSONAL INJURY

Emotional distress requirement, **7:4**
 Insurance coverage
 Generally, **31:56**
 Exposure, **31:58**
 Injury in fact, **31:61**
 Manifestation, **31:59**
 Procedure for determining triggers, **31:62**
 Triggers for coverage, generally, **31:57 to 31:62**
 Triple trigger, **31:60**
 Right to jury
 Complexity exception, **15:4**
 Due process exception, **15:5**
 Seventh amendment, **15:3**

PERSONAL JURISDICTION

Generally, **18:1**
 Disposal of hazardous waste, **18:8**
 Due process standard, **18:3**
 Foreign party
 Conduct, sufficiency of, **18:6**
 Forum non conveniens, **18:11**
 Forum non conveniens
 Generally, **18:10**
 Choosing the forum, **31:38**
 Foreign parties, **18:11**
 Insurance coverage disputes, **31:38, 31:72**
 General jurisdiction, **18:5**
 Generation of hazardous waste, **18:8**
 Hazardous waste, **18:8**
 Method of analysis, **18:2**

PERSONAL JURISDICTION—Cont’d

Nature of claims, **18:4**
 New liability theories, **18:9**
 Product suppliers, **18:7**
 Special jurisdiction, **18:5**

PESTICIDES

Product sales activity giving rise to toxic tort liability exposure, **3:5**

PHARMACEUTICS

Activity giving rise to toxic tort liability exposure, **3:3**

PLACE OR LOCATION

See **Site or Location** (this index)

PLEA BARGAINS

Judicial review, criminal liability, **32:26**

PLEADINGS

Complaint. See **Complaint** (this index)
 RICO claims. See **RICO Claims** (this index)

POLYCHLORINATED BIPHENYL CONGENERS (PBCS)

EPA workshop report, **App 29G**

POST-TRAUMATIC STRESS DISORDER

Generally, **7:7**

POWER-LINE FREQUENCY

See **Electric and Magnetic Fields (EMF)** (this index)

PREEMPTION

See **Federal Preemption** (this index)

PRESUMPTION

Duty to warn and right-to-know laws, **5:23**

PRETRIAL PREPARATION

See **Trial** (this index)

PRIOR JUDGMENT

Full and fair opportunity to litigate, **17:8**

PRIVILEGE

Generally, **24:1**
 Attorney-client privilege
 Crime fraud exception, **24:2**
 Scope of, **24:5**
 Waiver, **24:11**
 Crime fraud exception, **24:2**
 In camera review, **24:4**
 Insurance coverage, **24:9**
 Internal corporate investigations, **24:10**
 Limitations on waiver of attorney-client privilege, proposed revision of Rule 502, **24:11**
 Procedure for resolving privilege and waiver questions
 In camera review, **24:4**

PRIVILEGE—Cont’d

- Procedure for resolving privilege and waiver questions—Cont’d
- Rule 26(b)(5), **24:3**
- Trial, confidentiality and privilege issues, **16:11**
- Waiver of attorney-client privilege, **24:11**

PRIVILEGE LOG

- New York Privilege Log Rule, adoption, **App 24A**

PRODUCT IDENTIFICATION

- Defense issue, **11:3**

PRODUCT SALES ACTIVITY GIVING RISE TO LIABILITY EXPOSURE

- Generally, **3:2**
- Bystander claims, **3:13**
- Chemicals, **3:4**
- Component parts, **3:12**
- Consumer products
 - Generally, **3:9**
 - Labeling initiative, **App 3J**
 - Lead poisoning claims, **3:10**
 - Notice of project initiation, **App 3J**
- EMF radiation claims, **3:18**
- Hazardous wastes, **3:26**
- Industrial materials, **3:6**
- Industry-wide litigation, anticipatory subrogation, **3:14**
- Labeling initiative, **App 3J**
- Lead poisoning claims, **3:10**
- Litigation guide for product liability, **App 21B**
- Minimizing liability exposure for, **3:19**
- Mold claims, **3:11**
- Notice of project initiation, **App 3J**
- Pesticides, **3:5**
- Pharmaceutical products, **3:3**
- Project initiation notice, consumer products, **App 3J**
- Supertorts, **3:15**
- Toll processing, **3:8**

PRODUCT SPECIFICATION

- Defense issue, **11:4**

PROFESSIONAL SERVICES LIABILITY

- Generally, **3:36**
- Accountants, **3:38, App 3G**
- Architects, **3:37**
- Engineers, **3:37**
- Real estate brokers, **3:39**

PROJECT INITIATION NOTICE

- Form, **App 3J**

PROMOTERS

- Damages, generally, **7:29**

PROMOTION OF CANCER CLAIMS

- See **Cancer Promotion Claims** (this index)

PROOF OF TOXIC INJURY

- See **Evidence** (this index)

PROOF OF TOXIC TORT CLAIMS

- See **Evidence** (this index)

PROPERTY DAMAGES

- RICO claims, **6:33**

PRORATION

- See **Allocation or Proration** (this index)

PROSECUTION

- See **Criminal Liability** (this index)

PROSPECTIVE STUDIES

- Epidemiological evidence, **28:4 to 28:9**

PSYCHOLOGICAL EXPERT

- Deposition outline, **App 23B**

PSYCHOLOGICAL RESPONSES

- Expert Panel Workshop’s report on psychological responses to hazardous substances, **App 7C**

PUBLICITY ABOUT LITIGATION

- Generally, **16:6**
- Communicating with the public, **16:8**
- Insurance industry statements, newspaper reports, **31:42**
- Nature of information to be disclosed, **16:9**
- Risks involved in toxic tort litigation, public perception, **16:7**
- Useful public communication techniques, **16:10**

PUBLIC RELATIONS

- See **Publicity about Litigation** (this index)

PUNITIVE DAMAGES

- Generally, **9:1**
- Academic and judicial criticism of, **9:7**
- Bifurcation, **9:14**
- Burden of proof, **9:12**
- Contribution for punitive damages, **18:24**
- Deterrence of defendant, **9:4**
- Deterrence of third parties, **9:5**
- Imposition of punitive damages
 - Standard of liability, **9:10**
 - Vicarious and other new liability theories, **9:11**
- Insurability, **9:16**
- Judicial acceptance of, **9:8**
- Judicial control of awards
 - Bifurcation, **9:14**
 - Miscellaneous techniques, **9:13**
 - Relationship rules, **9:15**
- Judicial criticism of, **9:7**
- Other new liability theories, **9:11**
- Punishment of wrongdoer, **9:3**

PUNITIVE DAMAGES—Cont'd

Rationale

Generally, **9:2**Deterrence of defendant, **9:4**Deterrence of third parties, **9:5**Other rationales, **9:6**Punishment of wrongdoer, **9:3**Relationship rules, **9:15**Standard of liability, **9:10**Vicarious and other new liability theories, **9:11****P VALUES**Epidemiological evidence, statistics, **28:20****QUALIFICATIONS OF EXPERTS**Generally, **30:4**Challenging, **7:21****QUALITY OF LIFE**Damage theory, **7:13****QUESTIONNAIRES**Generally, **22:16**Background information, **22:18**Breast implant questionnaire, **App 15D**Cooperative efforts among parties, pre-interview questionnaire, **19:15, App 19B**Damage claims, **22:23**Employment history, **22:21**Expert witnesses, conflict and screening questionnaire, **App 30C**Exposure history, **22:22**Format, generally, **22:17 to 22:24**Instructions, **22:17**Jurors. See **Jury Trial** (this index)Medical authorizations, **22:24, App 22H**Medical claim, **22:19**Medical treatment history, **22:20**Particular facts, proving through use of aggregate evidence, **28:15****RACKETEERING**See **RICO Claims** (this index)**RADIATION**Electric and magnetic fields (EMF), **3:18****RCRA**See **Resource Conservation Recovery Act (RCRA)** (this index)**REACTIVE AIRWAYS DISEASE SYNDROME**Generally, **7:36****REAL ESTATE BROKERS**Activity giving rise to toxic tort liability exposure, **3:39****REAL PROPERTY**Brokers' activity, liability exposure, **3:39****REAL PROPERTY—Cont'd**Ownership liability. See **Real Property Ownership** (this index)**REAL PROPERTY OWNERSHIP**Generally, **3:30**Guidance on landowner liability under CERCLA Section 107(a)(1), **App 3A**Lenders and government entities that acquire property involuntarily, policy on CERCLA enforcement against, **App 3H**Minimizing liability exposure for landowners, **3:32**Sick building claims, **3:31****RECALCITRANTS**Judicial intervention, **19:8****RECKLESS ENDANGERMENT**Criminal liability statutes, **32:4****RECOMMENDATIONS**Monitors, selection and use in deferred prosecution and non-prosecution agreements with corporations, **App 32Q****REFERENCE GUIDES**Criminal liability enforcement, **App 32F**Epidemiology, **App 28A**Manual on Environmental Crimes, **App 32D, App 32G**Mass torts, **App 20A, App 20B**Statistics, **App 28B**Toxicity risk assessment, **App 29K****REFRACTORIES**Cooperative efforts among parties, trust distribution procedures, **App 19V****REFUSE ACT OF 1899**Criminal liability, **32:7****REGISTRY, TOXIC SUBSTANCES AND DISEASE**See **Agency for Toxic Substances and Disease Registry (ATSDR)** (this index)**REGULATION S-K**Securities disclosure obligations, **3:44, 3:45****REIMBURSEMENT**CERCLA response actions, EPA rule on costs recovery, **App 8A**

Medicaid reimbursement

Complaint on tobacco-related injuries, **App 8C**State toxic tort law, **8:13****RELEASES**Contribution or indemnity claims, **18:21, 18:22**Employment and background information, authorization for release of, **22:21, App 22I**

RELEASES—Cont'd

- Insurance settlement and release agreement, **App 31G**
- Medical information, authorization for release of, **22:24, App 22H**
- Plaintiff's claims against joint tortfeasors, **18:21**

REMEDIAL MEASURES

- Injunctions. See **Injunctive Relief** (this index)
- Subsequent measures. See **Subsequent Remedial Measures** (this index)

REMOTENESS

- Defense issue, **11:12**

REMOVAL

- Complaints
 - State case removed to federal court, diversity of citizenship, **10:2**
 - State class actions, **10:3**
- Diversity of citizenship, removal of state case to federal court, **10:2**
- State class actions, **10:3, 20:17**

REPORTS

- Breast implant report, National Science Panel's, **App 30A**
- Consolidation of claims, Report of New Jersey Mass Tort Advisory Committee, **App 20E**
- Dioxin reassessment
 - Documents review by peers report, **App 29N**
 - Report of EPA, **App 29M**
- Disclosure, GAO report on environmental, **App 3L**
- Discovery
 - FRCP Form 52, Report of parties' planning meeting, **App 22C**
 - Report (outline) from medical causation and medical surveillance expert, based on exposure to hazardous substances, **App 22B**
- Endocrine disruption claims reports
 - An effects assessment and analysis, **App 7A**
 - Screening program, **App 7B**
- EPA reports
 - Endocrine disruption claims, **App 7A, App 7B**
 - Polychlorinated biphenyl congeners (PBCs), **App 29G**
 - Secondary tobacco smoke, **App 3E**
- Epidemiological evidence, reporting bias, **28:14**
- Expert Panel Workshop's report on psychological responses to hazardous substances, **App 7C**
- Insurance industry statements on coverage, newspaper reports, **31:42**
- Loss contingencies, staff accounting bulletin, **App 3G**
- Monitors, selection and use in deferred prosecution and non-prosecution agreements with corporations, **App 32Q**

REPORTS—Cont'd

- New Jersey Mass Tort Advisory Committee, report on consolidation of claims, **App 20E**
- Polychlorinated biphenyl congeners (PBCs), EPA workshop report, **App 29G**
- Secondary tobacco smoke, EPA report, **App 3E**

REPOSE, STATUTES OF

- Generally, **12:12**

RES JUDICATA

- Distinguished from collateral estoppel, **17:2**

RESOURCE CONSERVATION RECOVERY ACT (RCRA)

- Criminal liability, **32:9**

RESOURCE (NATURAL) DAMAGE ASSESSMENTS

- Department of Interior's rule on, **App 8B**

RETROSPECTIVE STUDIES

- Epidemiological evidence, **28:7, 28:9**

RICO CLAIMS

- Generally, **6:7**
- Acquiring interest in enterprise through racketeering activity, **6:15**
- Advantages for using RICO in environmental and toxic tort litigation
 - Generally, **6:29**
 - Attorney's fee and costs, **6:31**
 - Avoidance of tort theory, **6:32**
 - Treble damages, **6:30**
- Arson, **6:20**
- Attorney misconduct complaint, **App 26B**
- Attorney's fee and costs, **6:31**
- Business or property damages, limited damages, **6:33**
- Concurrent jurisdiction, **6:28**
- Conducting affairs of enterprise through pattern of racketeering activity, **6:16**
- Conspiring to violate subsections (a), (b) or (c), **6:17**
- Control of enterprise through racketeering activity, **6:15**
- Criminal liability, **32:16**
- Damages
 - Limited business or property damages, **6:33**
 - Treble damages, **6:30**
- Disadvantages for using RICO in environmental and toxic tort litigation
 - Generally, **6:29**
 - Judicial hostility, **6:35**
 - Limited damages, business or property damages, **6:33**
 - Rule 11, **6:36**
 - Uncertain injunctive relief, **6:34**
- Disclosure order, **App 6A**

RICO CLAIMS—Cont'd

- Elements of cause of action
 - Generally, **6:8**
 - Existence of enterprise, **6:10**
 - Illegal activities under RICO, below
 - Injury, **6:12**
 - Nexus between enterprise and pattern of racketeering activity, **6:11**
 - Pattern of racketeering, **6:9, 6:11**
- Enterprise
 - Existence requirement, **6:10**
 - Illegal activities, below
 - Liability, generally, **6:5**
 - Nexus to pattern of racketeering activity, **6:11**
- Existence of enterprise, requirement, **6:10**
- Fraud, mail or wire, **6:19**
- Illegal activities under RICO
 - Generally, **6:13**
 - Acquiring interest in enterprise through racketeering activity, **6:15**
 - Conducting affairs of enterprise through pattern of racketeering activity, **6:16**
 - Conspiring to violate subsections (a), (b) or (c), **6:17**
 - Control of enterprise through racketeering activity, **6:15**
 - Criminal liability, **32:16**
 - Investing in enterprise with racketeering derived income, **6:14**
- Injury requirement, **6:12**
- Investing in enterprise with racketeering derived income, **6:14**
- Jurisdiction, concurrent, **6:28**
- Mail fraud, **6:19**
- Murder, **6:21**
- Nexus between enterprise and pattern of racketeering activity, **6:11**
- Pattern of racketeering, **6:9, 6:11**
- Pleading environmental RICO action
 - Generally, **6:18**
 - Arson, **6:20**
 - Fraud, mail or wire, **6:19**
 - Jurisdiction, **6:28**
 - Murder, **6:21**
 - Other predicate acts, **6:22**
 - Restrictions, **6:23 et seq.**
 - Standing, **6:24**
 - Statutes of limitations, **6:23**
- Property damages, limited, **6:33**
- Restrictions on pleading environmental RICO action
 - Concurrent jurisdiction, **6:28**
 - Pleading, **6:26, 6:27**
 - Standing, **6:24**
- Rule 11 as disadvantage for using RICO, **6:36**
- Standing, **6:24**

RICO CLAIMS—Cont'd

- Statutes of limitations, **6:23**
- Treble damages, **6:30**
- Uncertain injunctive relief, **6:34**
- Wire fraud, **6:19**

RICO DISCLOSURE ORDER

- Generally, **App 6A**

RIGHT TO JURY TRIAL

- See **Jury Trial** (this index)

RISK ASSESSMENT

- Generally, **29:2**
- Agency for Toxic Substances and Disease Registry (ATSDR), toxicological profiles
 - Generally, **29:13**
- Lead, **App 29A**
- Minimum risk levels of ATSDR, **App 29O**
- Bioassays, **28:9, 29:8**
- Breast implant, National Science Panel's report, **App 30A**
- Cancer risk assessment, working paper for considering draft revisions to EPA's guidelines, **App 29J**
- Carcinogen risk assessment, **App 29L**
- Causation. See **Causation** (this index)
- Cleanup standards
 - Preliminary draft NJ Dept. Environmental Protection, **App 29F**
 - Superfund guidelines, risk assessment, **App 29E**
- Conversion or equivalency factors, **29:3, App 29C**
- Cumulative risk/exposure assessments, **29:11**
- Developmental toxicity guidelines, **App 29H**
- Dioxin reassessment
 - Documents review by peers, report on, **App 29N**
 - Report of EPA, **App 29M**
- Epidemiological evidence. See **Epidemiological Evidence** (this index)
- Equivalency factors for toxicity, **29:3, App 29C**
- Exposure assessments
 - Generally, **29:10**
 - Cumulative risk/exposure assessments, **29:11**
 - Proposed guidelines for exposure-related measurements, **App 29B**
- Genetics. See **Genetics** (this index)
- Guidelines. See **Guides or Guidelines** (this index)
- Polychlorinated biphenyl congeners (PBCs), EPA workshop report, **App 29G**
- Superfund guidelines, **App 29E**
- Toxicity equivalency factors, **29:3, App 29C**
- Toxicity reference guide, **App 29K**

SAFE DRINKING WATER ACT (SDWA)

Generally, **8:6**

SALES OF PRODUCTS

See **Product Sales Activity Giving Rise to Toxic Tort Liability Exposure** (this index)

SANCTIONS

Alternative fines, criminal liability, **32:21**

Avoiding Rule 11 sanctions, **26:11**

Basis for Rule 11 sanctions, **26:4, 26:8**

Certification of documents

Rule 11, attorney certification, **26:4**

Rule 26(g), discovery certification, **26:2**

Comparable state rules, **26:5**

Criminal liability

Alternative fines, **32:21**

Debarment, **32:24**

Double jeopardy, **32:23**

Monitors, **App 32Q**

Sentencing, below

Debarment, **32:24**

Discovery (this index)

Double jeopardy, **32:23**

Inherent power of the court, **26:6**

Multiplication of proceedings, 22 USC 1927, **26:3**

Penalties for discovery noncompliance, **22:12**

RICO claims, Rule 11 as disadvantage for using RICO, **6:36**

Rule 11 sanctions

Generally, **26:7**

Avoiding imposition, **26:11**

Basis for imposition, **26:4, 26:8**

Procedural considerations under pre-1993 Rule 11, **26:9**

Special issues in toxic tort litigation, **26:10**

Verified adversary complaint, **26:4, App 26A**

Rule 26(g), discovery certification, **26:2**

Rule 37, discovery abuses, **26:1**

Sentencing

Advisory Panel Recommendations to US

Sentencing Commission on

Environmental Crimes, **App 32E**

Federal sentencing guidelines, **32:22, App 32A, App 32E, App 32L**

Guidelines, generally, **32:22**

Sources for imposition of sanctions

Comparable state rules, **26:5**

Inherent power of the court, **26:6**

Multiplication of proceedings, 22 USC 1927, **26:3**

Rule 11, attorney certification, **26:4**

Rule 26(g), discovery certification, **26:2**

Rule 37, discovery abuses, **26:1**

Verification of adversary complaint, **26:4, App 26A**

SANCTIONS—Cont'd

Verified adversary complaint, **26:4, App 26A**

SCIENTIFIC EVIDENCE

Causation determination, **27:6**

Endocrine disruption claims, **7:34**

Epidemiological evidence. See **Epidemiological Evidence** (this index)

SCREENING QUESTIONNAIRE

Expert witnesses, **App 30C**

SECONDARY TOBACCO SMOKE

EPA report, **App 3E**

SECURITIES DISCLOSURE OBLIGATIONS

Generally, **3:41, 3:43**

Background, **3:42**

Business description and legal proceedings, Regulation S-K, **3:44**

Climate-related disclosures for investors, proposed rule, **App 3Z**

Disclosure, generally, **3:43**

Management, Regulation S-K, **3:45**

Material environmental liabilities

Generally, **3:46**

Past, present, and future liabilities, **3:47**

Regulation S-K, **3:44, 3:45**

Shareholder proposals, legal bulletin, **App 3P**

SECURITY

CERCLA's effects on lenders holding security interests in contaminated property, **App 3K**

Discovery, order of confidentiality with security of data provision, **App 25C**

Lender liability. See **Financial Institutions** (this index)

SEIZURE

Computers, seizure for discovery purposes, **22:7, App 22J**

SELECTION OF EXPERTS

Expert witnesses, pretrial research efforts, **19:16**

SELF-INSURED

Liability, **31:68**

SELF-POLICING INCENTIVES

Criminal liability, **App 32H**

SENSITIVITY TO CHEMICALS

Damage theory, **7:28**

SENTENCING

Generally, **32:22**

Advisory Panel Recommendations to US

Sentencing Commission on Environmental Crimes, **App 32E**

Federal sentencing guidelines, **32:22, App 32A, App 32E, App 32L**

SETTLEMENTS

- Agreement of settlement
 - Codefendant indemnification agreements in lieu of settlement, **18:23**
 - Discovery of confidential information, **25:7**
 - Insurance coverage disputes, insurance settlement and release agreement, **App 31G**
 - Medical monitoring, class action, **App 20J**
 - Tobacco litigation settlement agreement, below CERCLA Section 122(g)(1)(B), de minimis settlements under, **App 3A**
- Codefendant indemnification agreements in lieu of settlement, **18:23**
- Cooperative efforts among parties
 - Generally, **19:7, 19:21**
 - Recalcitrants, dealing with by settlement option, **19:7**
- De minimis settlements under CERCLA Section 122(g)(1)(B), **App 3A**
- Discovery of confidential information, settlement agreements, **25:7**
- Guidance on, **App 3A**
- Insurance coverage disputes
 - Generally, **31:93, 31:94**
 - Agreement, insurance settlement and release, **App 31G**
- Medical monitoring, class action settlement agreement, **App 20J**
- Medicare liens, requirements for satisfaction, **18:26**
- Prospective purchasers of contaminated property, **App 3A**
- Supertort litigation, **3:16**
 - Texas Two Step, **3:17**
- Tobacco litigation settlement agreement
 - Attorneys General, **App 19L**
 - Class action, **App 19K**
 - Statutory claims regarding tobacco-related injuries, diseases and illnesses caused by tobacco companies, **App 8D**
- Vioxx settlement agreement, **App 19R**

SEVENTH AMENDMENT

- Right to jury in personal injury actions, **15:3**

SICK BUILDING CLAIMS

- Real property ownership liability, **3:31**

SILICONE GEL BREAST IMPLANT LITIGATION

- Case management order, **App 20C**

SITE OR LOCATION

- Case management orders, exemplar sites, **31:91**
- Consideration in maintaining an environmental coverage action, **31:82**
- Exemplar sites, **31:91**
- Insurance coverage factors, **31:82, 31:91**

SITE OR LOCATION—Cont'd

- Trial supplies and services, **16:3**
- Workplace exposure, epidemiological evidence, **28:33**

SOLID WASTE

- Environmental Crimes Handbook—A Guide for Law Enforcement Personnel, **App 32P**

SPECIAL MASTERS

- Asbestos case management, duties, **App 20K**
- Use of, **22:25**

SPECIFICATION OF PRODUCT

- Defense issue, **11:3, 11:4**

SPOILIATION OF EVIDENCE

- Generally, **22:27**

STANDARDS

- Activity giving rise to toxic tort liability exposure, standards and practices for all appropriate inquiries, **App 30**
- Class actions, resolution of certification disputes, **20:10**
- Cleanup standards
 - Preliminary draft NJ Dept. Environmental Protection, **App 29F**
 - Superfund guidelines, risk assessment, **App 29E**
- Consolidation of claims, multidistrict, **21:2**
- Discovery of confidential information, judicial approval of confidentiality orders, **25:6**
- Due process, personal jurisdiction standard, **18:3**
- Duty to warn, expert standard, **5:8**
- Insurance policy interpretation, generally, **31:69**
- Lost policies, standard of proof of insurance coverage, **31:13**
- Multidistrict litigation, standards for consolidation, **21:2**
- Personal jurisdiction, due process standard, **18:3**
- Punitive damages, imposition of, **9:10**
- Right-to-know laws' impact, federal standard, **5:30**
- Summary judgment standard, **14:1**

STANDING

- Defense issue, **11:12**
- RICO claims, restrictions on pleading, **6:24**
- Causation, **6:25**

STANDSTILL AND DEFENSE AGREEMENTS (INSURANCE COVERAGE)

- Generally, **31:97, App 31D**

STATISTICS

- Generally, **28:16**
- How statistical significance is measured, **28:18**
- Importance of statistical significance, **28:19, 28:20**

STATISTICS—Cont'd

- Null hypothesis, **28:21**
- P values, **28:20**
- Reference guide, **App 28B**
- What statistical significance is, **28:17**

STATUTES OF LIMITATION

- Generally, **12:1**
- Agreement tolling statute, **App 12A**
- Application and interpretation of, **12:10**
- Class action, tolling statute, **12:11**
- Discovery rule, **12:4 to 12:7**
- Exposure rule, **12:2**
- Federal statutes, **12:9**
- Injury, cause, and parties liable, discovery of, **12:7**
- Injury, discovery of, **12:5**
- Injury and cause, discovery of, **12:6**
- Manifestation rule, **12:3**
- Repose, statutes of, **12:12**
- RICO claims, **6:23**
- State statutes, **12:8**
- Tolling statute of limitation
 - Agreement of tolling, **App 12A**
 - Class action, **12:11**

STATUTORY CLAIMS

- Generally, **8:1**
- Alien Tort Statute, liability under, **8:14**
- CERCLA response actions, EPA rule on costs recovery, **App 8A**
- Clean Air Act, **8:7, 32:11**
- Coordinated federal/state civil enforcement proceedings, **8:10, App 8E**
- Federal toxic substances regulatory schemes
 - Generally, **8:4**
 - Clean Air Act, **8:7, 32:11**
 - Coordinated federal/state civil enforcement proceedings, **8:10, App 8E**
 - COVID-19 claims, **8:11**
 - Federal Water Pollution Control Act, **8:5**
 - Occupational Safety and Health Act, **8:8**
 - Safe Drinking Water Act, **8:6**
 - Toxic Substances Control Act, **8:9**
- Federal toxic tort statutes
 - Generally, **8:1**
 - Multiparty, Multiforum Trial Jurisdiction Act of 2002, **8:3**
 - Superfund, **8:2**
- Federal Water Pollution Control Act, **8:5**
- Joint state/federal environmental enforcement litigation, guidelines for, **App 8E**
- Medicaid cost recovery, state toxic tort statutes, **8:13**
- Multiparty, Multiforum Trial Jurisdiction Act of 2002, **8:3**

STATUTORY CLAIMS—Cont'd

- Natural resource damage assessments, Department of Interior's rule on, **App 8B**
- Occupational Safety and Health Act (OSHA), **8:8**
- Safe Drinking Water Act, **8:6**
- State toxic tort statutes
 - Generally, **8:12**
 - Medicaid cost recovery, **8:13**
- Superfund, **8:2**
- Tobacco-related injuries, diseases and illnesses caused by tobacco companies
 - Medicaid reimbursement complaint, **App 8C**
 - Settlement, proposed, **App 8D**
- Toxic Substances Control Act (TSCA), **8:9, 32:12**

STATUTORY DEFENSES

- Generally, **11:7**
- Compliance with statutes and regulations, **11:6**

STIGMA DAMAGE THEORY

- Generally, **7:30**

STIPULATIONS

- Business records produced in discovery, **App 22D**
- Confidentiality of discovery information
 - Complex form, **App 25B**
 - Simple form, **App 25A**

STORAGE, UNDERGROUND TANKS

- Lender liability, **App 3I**

STORAGE OF HAZARDOUS WASTES

- Activity giving rise to toxic tort liability exposure, **3:25**
- Lender liability for underground storage tanks, **App 3I**

STRESS

- See **Emotional Distress** (this index)

STRICT LIABILITY

- Duty to warn violations
 - Generally, **5:2**
 - Applying both negligence and, **5:27**
 - Subsequent remedial measures, **5:26, 5:27**
- Product sales, generally, **4:7, 4:8**
- Subsequent remedial measures, **5:26, 5:27**
- Ultrahazardous and abnormally dangerous activities, generally, **4:9, 4:10**

SUBSEQUENT REMEDIAL MEASURES

- Applicable rule, **5:24**
- Cases where both strict liability and negligence alleged, **5:27**
- Negligence actions, **5:25, 5:27**
- Other basis for excluding, **5:29**
- Rule 407's effect on duty to warn cases, **5:28**
- Strict liability actions, **5:26, 5:27**

SUCCESSOR LIABILITY

Generally, **4:12**

SUMMARY JUDGMENT

Availability, **14:2**

Duty to warn and right-to-know, **5:11**

Judicial attitudes toward CGL insurance policy, **31:6**

Standard, **14:1**

SUMMARY JURY TRIAL

Case management order, **App 20L**

Discovery, case management order, **App 20M**

SUMMARY TESTIMONY

Expert witnesses, **30:5**

SUPERFUND

Common law contribution doctrine, **18:8, 18:9**

Federal toxic tort statutes, claims basis, **8:2**

Right to jury in superfund actions, **15:2**

Risk assessment guidelines, **App 29E**

SUPERTORTS

Activity giving rise to toxic tort liability exposure, **3:17**

Settlements, **3:16**

Texas Two Step, **3:17**

SWINE FLU

Epidemiological evidence, swine flu cases, **28:34**

TECHNICAL FACT SHEET

Nanomaterials, **App 3Y**

TESTIMONY OF EXPERT WITNESSES

See **Expert Witnesses** (this index)

TEXAS EASTERN TRANSMISSION CORP. V. FIDELITY & CASUALTY CO. OF NEW YORK

Generally, **App 31B**

TEXAS TWO STEP

Supertorts, settlements, **3:17**

THEORIES OF LIABILITY

See **Liability Theories** (this index)

THIRD PARTIES

Discovery, **22:10**

Monitors, selection and use in deferred prosecution and non-prosecution agreements with corporations, **App 32Q**

Punitive damages deterrence, **9:5**

TOBACCO LITIGATION

Attorneys General settlement agreement, **App 19L**

Class action, settlement agreement, **App 19K**

Complaint for Medicaid reimbursement on tobacco-related injuries, diseases and ill-

TOBACCO LITIGATION—Cont'd

nesses caused by tobacco companies, **App 8C**

Epidemiological evidence, **28:32**

Medicaid reimbursement

Complaint on tobacco-related injuries, **App 8C**

State toxic tort law, **8:13**

Secondary tobacco smoke, EPA report, **App 3E**

Settlements. See **Settlements** (this index)

Statutory claims settlement agreement, **App 8D**

TOLLING STATUTE OF LIMITATION

Agreement of tolling, **App 12A**

Class action, **12:11**

TOLL PROCESSING

Activity giving rise to toxic tort liability exposure, **3:8**

TORT COURT

New Jersey's rejection of mass tort court, **App 20F**

TOWNSHIP OF JACKSON v. AMERICAN HOME ASSURANCE CO.

Multiple occurrences insurance coverage, **App 31H**

TOXICITY RISK ASSESSMENT GUIDES

Carcinogens guidelines, **App 29J, App 29L**

Development toxicity guidelines, **App 29H**

Epidemiology reference guides, **App 28A**

Exposure assessments guidelines, **App 29B**

Landowner liability under CERCLA Section 107(a)(1), guidance on, **App 3A**

Reference guide, **App 29K**

Statistics reference guides, **App 28B**

Superfund guidelines, **App 29E**

TOXICOGENOMICS

Generally, **28:13, 29:7**

TOXIC SUBSTANCES AND DISEASE REGISTRY

See **Agency for Toxic Substances and Disease Registry (ATSDR)** (this index)

TOXIC SUBSTANCES CONTROL ACT (TSCA)

Generally, **8:9**

Criminal liability, **32:12**

First year implementation plan, **App 8F**

TRANSPORTATION SERVICES

Activity giving rise to toxic tort liability exposure, generally, **3:28**

Minimizing liability exposure, **3:29**

TREATMENT OF WASTES

Activity giving rise to toxic tort liability exposure, **3:25, App 3I**

TREBLE DAMAGES

RICO claims, **6:30**

TRESPASS LIABILITY

Application, **4:2**

Elements, **4:1**

TRIAL

Bifurcation, **9:14, 20:22**

Confidentiality and privilege issues, **16:11**

Courtroom Technology Manual, excerpts, **App 16A**

Insurance coverage issues, generally, **31:95, 31:96**

Jurisdiction. See **Personal Jurisdiction** (this index)

Jury trials. See **Jury Trial** (this index)

Logistics

Generally, **16:2**

Staff preparation, **16:4**

Supervision of trial counsel's preparation, **16:5**

Trial site supplies and services, **16:3**

Media relations, how to work with media, **App 16B**

Multiparty, Multiforum Trial Jurisdiction Act of 2002, **8:3**

Opening statements, **31:96**

Plan, **App 20N**

Preparation, importance of case theory and direct approach, **16:1**

Public relations concerns

Generally, **16:6**

Communicating with the public, **16:8**

Confidentiality and privilege issues, **16:11**

Media relations, how to work with media, **App 16B**

Nature of information to be disclosed, **16:9**

Risks involved in toxic tort litigation, public perception, **16:7**

Useful public communication techniques, **16:10**

Site supplies and services, **16:3**

Staff preparation, **16:4**

Supervision of trial counsel's preparation, **16:5**

TRUSTEES

Activity giving rise to toxic tort liability exposure, **3:34**

TSCA

See **Toxic Substances Control Act (TSCA)** (this index)

TUTORIALS

Judicial use of expert tutorials, **23:9**

ULTRAHAZARDOUS AND ABNORMALLY DANGEROUS ACTIVITIES

See **Dangerous Activities** (this index)

UNDERGROUND STORAGE TANKS

Lender liability, **App 3I**

USE RESTRICTIONS

Disposal of hazardous wastes epidemiological evidence, **28:36**

Epidemiological evidence, **28:29, 28:36**

Expert witnesses testimony, **30:9**

VERIFICATION

Adversary complaint, Rule 11 sanctions, **26:4, App 26A**

VICARIOUS LIABILITY

Punitive damages, **9:11**

VIOXX

Settlement agreement, **App 19R**

VOIR DIRE OF JURORS

Generally, **15:8**

Outline for toxic tort actions, **App 15A**

VOLUMETRIC ALLOCATION

Contribution doctrine, **18:14**

VOLUNTARY CLEANUP EFFORTS

Generally, **31:53, 32:20, App 32C**

WAIVER

Attorney-client privilege

Generally, **24:11**

In camera review, procedure for resolving privilege and waiver questions, **24:4**

Limitations on waiver, proposed revised Rule 502, **24:11**

Rule 26(b)(5), procedure for resolving privilege and waiver questions, **24:3**

Insurance coverage, nonwaiver agreement, **App 31F**

WARRANTY, BREACH OF

Duty to warn failure, **5:4**

WATER

Environmental Crimes Handbook—A Guide for Law Enforcement Personnel, **App 32P**

Federal Water Pollution Control Act, **8:5**

Hydrogeological expert, deposition outline, **App 23C**

Safe Drinking Water Act, **8:6**

WESTINGHOUSE CORP. v. AETNA CASUALTY & SURETY CO.

Generally, **App 31A**

WETLANDS

Environmental Crimes Handbook—A Guide for Law Enforcement Personnel, **App 32P**

WIRE FRAUD

RICO claim, **6:19**

WORKPLACE

Epidemiological evidence, workplace and product exposure, **28:33**

WORK PRODUCT OF ATTORNEY

See **Attorney Work Product** (this index)

YATES MEMO

Criminal liability, individual accountability for corporate wrongdoing, **App 32T**