

Index

ACCIDENT RECONSTRUCTION EVIDENCE

Competent facts/foundation, **10:162**
Hearsay, **10:145**
Improper foundation or qualification,
10:146
Low-speed impact automobile cases
generally, **10:154, 10:169**
“Delta-V” testimony, **10:155**
“human crash test dummy”
testimony, **10:157**
miscellaneous tests, **10:159**
photographs depicting “no dam-
age” to vehicles, **10:158,**
10:167
“popping into a chair” testimony,
10:156
Observations of others, reliance on,
10:145
Opinion, proper basis for, **10:161**
Opposing authorities, **10:160 to**
10:169
Point of impact, **10:147, 10:166**
Reaction time, **10:148**
Skid mark analysis, **10:164**
Speed. Vehicle speed, below
Stopping distances, **10:165**
Suggested text, **10:142**
Summary of motion, **10:143**
Supporting authorities, **10:144 to**
10:159
Vehicle speed, **10:149, 10:163**

ACCIDENT REPORTS

Diagrams, **4:72**
Hearsay
generally, **4:68**
business records exception, **4:73**
public records exception, **4:74**
motion to exclude, sample motions,
4:138
Opposing authorities, **4:71 to 4:74**
Refresh recollections using, **4:71**

ACCIDENT REPORTS—Cont’d

Statement and opinions in, **4:69**
Suggested text, **4:65**
Summary of motion, **4:66**
Supporting authorities, **4:67 to 4:70**

ACCIDENTS, CLAIMS OR LAWSUITS

Dangerous condition/defective
products, **10:49, 10:52, 10:56,**
10:61
Prior
absence, **10:47, 10:54**
court’s discretion, **10:55**
dangerous condition/defective
products, above
expert opinion based on, **10:59**
impeachment, **10:60**
irrelevant, **10:46**
negligence proved through, **10:48**
notice, **10:57**
opposing authorities, **10:54 to**
10:61
relevance to issues in case, **10:58**
suggested text, **10:43**
summary of motion, **10:44**
supporting authorities, **10:45 to**
10:53
unreliable or speculative, **10:50**
Subsequent
generally, **10:51**
dangerous condition cases, above

ACCIDENT SCENE

Gruesome or inflammatory
photographs, **4:46**

ADMISSIBILITY

Generally, **1:3**
Alcohol consumption, **10:119**
Character evidence, **7:1**
Immigration status, **10:228**
Lack of foundation, conditional
admissibility, **4:16**

ADMISSIONS

- Fault evidence, **10:198**
- Requests for Admissions** (this index)
- Settlement evidence, **10:37**

ADMITTED MATTERS

- Conclusive establishment, **6:37**
- Liability evidence, **10:197**
- Motion to deem matters admitted, **6:57**
- Sanctions, **6:34**
- Suggested text, **6:35**
- Summary of motion, **6:36**
- Supporting authorities, **6:37**

AFFIRMATIVE DEFENSE

- Motion to bar premature rebuttal to affirmative defense, **9:69**

AFFIRMATIVE DEFENSES

- Trial** (this index)

ALCOHOL CONSUMPTION

- Admissible evidence of drinking habit, **10:119**
- Automobile cases
 - consumption by driver where no impairment, **10:109**
 - consumption by passenger, **10:110**
- Blood alcohol level and tests
 - generally, **10:112**
 - irrelevant evidence, **10:115**
 - lack of foundation, **10:108, 10:114**
 - testing delay, **10:113**
- Character evidence, impeachment uses, **7:9, 7:24**
- Driver of automobile, **10:109**
- Driving Under the Influence** (this index)
- Exclusion
 - Generally, **10:106**
- Intemperance, habit of, **10:111**
- Irrelevant, **10:105**
- Lack of foundation/proof of inebriation, **10:107**
- Opposing authorities, **10:117 to 10:119**
- Relevancy, **10:117**
- Sample motions, **7:58, 7:60**

ALCOHOL CONSUMPTION

—Cont’d

- Suggested text for motions to exclude evidence, **10:102**
- Summary of motion to exclude evidence, **10:103**
- Supporting authorities, **10:104 to 10:116**
- Witness perceptions, **10:118**

ARBITRATOR

- Witness** (this index)

ARREST

- Character evidence, **7:10, 7:50, 7:65**
- Crimes, **7:50**
- Prior driving under the influence, **10:125**

ARTICLES

- Published Articles** (this index)

ATTORNEY

- Generally, **8:66**
- Crime or injury prevented, **8:74**
- Extraordinary circumstances, **8:75**
- Opposing authorities, **8:70 to 8:75**
- Supporting authorities, **8:66**
- Testimony of other attorney in firm or office, **8:73**
- Uncontested matter, **8:70**
- Value of legal services, **8:72**

ATTORNEY GENERAL

- witness, opposing authorities, **8:70**

AUTHENTICATION

- Medical records, reports, or bills, **4:110**
- Writings, **4:21, 4:30**

AUTHORITY

- Motion in limine, **1:2**

AUTOMOBILE CASES

- Alcohol consumption, **10:109**
- Driving Under the Influence** (this index)
- Low-speed impact
 - generally, **10:154, 10:169**
 - “Delta-V” testimony, **10:155**

INDEX

AUTOMOBILE CASES—Cont'd

Low-speed impact—Cont'd
“human crash test dummy”
testimony, **10:157**
miscellaneous tests, **10:159**
photographs depicting “no damage” to vehicles, **10:158, 10:167**
“plopping into a chair” testimony, **10:156**

Seat Belts (this index)

BATTERED WOMAN SYNDROME

Generally, **5:40, 5:50**

BEST EVIDENCE RULE

Writings, **4:28, 4:29**

BIAS

Emotional Bias (this index)
Settlement evidence, **10:38**

BIFURCATED TRIAL

Authority, **9:33**
Damages, **9:37**
Opposing authorities, **9:36 to 9:38**
Policy considerations, **9:34**
Small overlap approved, **9:38**
Suggested text, **9:31**
Summary of motion, **9:32**
Supporting authorities, **9:33 to 9:35**

BILLS

Medical Records, Reports, Or Bills
(this index)

BIOMECHANIC EVIDENCE

Anthropomorphic dummies, **10:151**
“Finite element analysis” tests, **10:152**
Low-speed impact automobile cases
generally, **10:154, 10:169**
“Delta-V” testimony, **10:155**
“human crash test dummy”
testimony, **10:157**
miscellaneous tests, **10:159**
photographs depicting “no damage” to vehicles, **10:158, 10:167**
“plopping into a chair” testimony, **10:156**

BIOMECHANIC EVIDENCE —Cont'd

“Pattern of injury” tests, **10:153**
Suggested text, **10:142**
Summary of motion, **10:143**
Supporting authorities, **10:150 to 10:153**

BIOMETRIC EVIDENCE

motion to exclude, **5:60**

BLOOD ALCOHOL LEVEL AND BLOOD TESTS

Alcohol Consumption (this index)

BRIEF

In limine, **1:12**

BUSINESS RECORDS EXCEPTION

Accident reports, **4:73**
Letters, **4:85**
Medical records, reports or bills, **4:111**
Writings, **4:26**

CHALLENGED EVIDENCE

Generally, **1:3**

CHARACTER

Defined, **7:1**

CHARACTER EVIDENCE

Admissible, **7:1**
Alcoholism, **7:58, 7:60**
Conduct. Prove conduct, below
Crimes (this index)
Criminal cases, statutory limitations
on use in, **7:3**
Exclusions, **7:2**
Impeachment (this index)
Improper
generally, **7:32**
care or skill in negligence cases, **7:33**
crimes, **7:34, 7:48**
Improper character evidence, motion
to exclude, **7:61, 7:63**
Irrelevant
impeachment uses, **7:7, 7:8**
prove conduct, **7:31**
Juvenile adjudication, motion to
exclude, **7:63**

CHARACTER EVIDENCE—Cont'd

Marital infidelity, motion to exclude,
7:61

Prove conduct

court's discretion, 7:36

improper evidence, 7:32

opposing authorities, 7:36 to 7:39

prior driving under the influence,
10:128

relevancy to material issue, 7:37

suggested text, 7:28

summary of motion, 7:29

supporting authorities, 7:30 to
7:35

trait at issue, 7:39

witness impeachment, 7:38

Religious beliefs, motion to exclude,
7:62

CHARTS

**Maps, Models, Charts, Exhibits,
and Demonstrative Evidence**
(this index)

CHILDREN

Incompetent witness, 8:54, 8:59

**CHILD SEXUAL ABUSE
ACCOMMODATION
SYNDROME**

Generally, 5:29

**CHILD SEXUAL ABUSE
ACCOMMODATION
SYNDROME**

Generally, 5:49

CIVIL CASES

Witness privilege not to testify, com-
ment on exercise of, 8:88

CLAIMS

Accidents, Claims or Lawsuits (this
index)

**CLAIMS DENIED OR NOT
RAISED DURING
DISCOVERY**

Opposing authorities, 6:44

Sample motion, 6:56

Suggested text, 6:38

Summary of motion, 6:39

**CLAIMS DENIED OR NOT
RAISED DURING
DISCOVERY—Cont'd**

Supporting authorities, 6:40 to 6:43

Unfair surprise, 6:41

COLLATERAL EVIDENCE

Sample motions, 3:27

COLLATERAL ISSUES

Crimes, 7:53

Irrelevant evidence, 3:17

Tests and experiments, 5:11

**COLLATERAL SOURCE
PAYMENTS**

Generally, 10:5 to 10:8

Gratuitous payments, 10:6

Irrelevant, 10:4

Medical or liability policy payments,
10:7

Opposing authorities, 10:10

Sample motion, 10:229

Suggested text, 10:1

Summary of motion, 10:2

Supporting authorities, 10:3 to 10:9

Workers compensation benefits, 10:8

COMMERCIAL PUBLICATIONS

Published articles, 4:63

COMPUTER DATABASES

**Maps, Models, Diagrams, and
Charts** (this index)

CONDUCT

Character Evidence (this index)

**CONFUSING OR MISLEADING
EVIDENCE**

Improper terminology, 9:46

Limiting instruction, 2:16

Opposing authorities, 2:15, 2:16

Sample motion, 2:42

Suggested text, 2:12

Summary of motion, 2:13

Supporting authorities, 2:14

CONJECTURE

Expert witness opinion based on,
exclusion, 8:16

INDEX

CONVICTIONS

Character evidence, impeachment uses, **7:10, 7:12**

Felony Convictions (this index)

Remote, prior crimes, **7:49, 7:55**

CREDENTIALS

Cumulative evidence, **2:30**

CREDIBILITY

Crimes (this index)

CRIMES

Generally, **7:44**

Arrest conviction, **7:50**

Character evidence, **7:34**

Collateral issues, **7:53**

Criminal pleas. Prior criminal pleas, below

Dishonesty, **7:47**

Irrelevant, **7:43**

Juvenile adjudications, **7:50**

“Moral turpitude,” **7:47**

Non vult contendere, **7:51**

Opposing authorities, **7:55 to 7:57**

Prior convictions

generally, **7:45**

dishonesty crimes, **7:47**

improper character evidence, **7:48**

“moral turpitude” crimes, **7:47**

prejudicial impact of evidence, **7:46**

Remote convictions, below

Prior criminal pleas, **7:56**

Remote convictions, **7:49, 7:55**

Suggested text, **7:40**

Summary of motion, **7:41**

Supporting authorities, **7:42 to 7:54**

Uncharged offenses, **7:52, 7:57**

CRIMINAL CASES

Character evidence in, statutory limitations on use of, **7:3**

CROSS-EXAMINATION

Liability insurance, **10:19**

CUMULATIVE EVIDENCE

Credentials, **2:30**

Emails, **4:80**

Expert witness. Witnesses, below

CUMULATIVE EVIDENCE

—**Cont’d**

Letters, **2:29, 4:80**

Opposing authorities

generally, **2:37**

photographs, **2:41**

repetition of testimony, **2:40**

videotape evidence, **2:39**

witnesses, **2:38**

Photographs

opposing authorities, **2:41**

supporting authorities, **2:32**

Published articles, **4:59**

Repetition of testimony, **2:36, 2:40**

Reports, **2:33**

Suggested text, **2:25**

Summary of motion, **2:26**

Supporting authorities

generally, **2:28**

number of witnesses, **2:31, 2:38**

photographs, above

repetitive testimony, **2:36**

reports, **2:33**

witness testimony, **2:34**

Text messages, **4:80**

Time-wasting evidence, **2:27**

Videotape evidence, **2:39**

Witnesses

expert, **8:23**

opposing authorities, **2:38**

supporting authorities, **2:34**

DAMAGES

Amounts in excess of stated damages, **10:207**

Bifurcated Trial (this index)

Court’s discretion, **10:214**

Denied claims, **10:215**

Drunk driver, **10:210**

Estoppel, **10:215**

Limitations, **10:210**

Lost profits, **10:212**

Opposing authorities, **10:214 to 10:219**

Punitive

generally, **10:213, 10:219**

financial status, **10:178, 10:181**

DAMAGES—Cont’d

- Speculative
 - generally, **10:208, 10:209, 10:216**
 - evidence relating to, **10:209**
 - “reasonably certain,” **10:218**
 - weight vs. admissibility, **10:217**
- Statutory limitations, **10:210, 10:211**
- Suggested text, **10:202**
- Summary of motion, **10:203**
- Supporting authorities, **10:204 to 10:213**
- Surprise claims, **10:206**
- Tax evidence, **10:186**
- Undisputed matters, **10:204, 10:205**
- Uninsured vehicle owner or operator, **10:211**
- Unpleaded matters, **10:204, 10:214**

DANGEROUS

CONDITION/DEFECTIVE PRODUCTS

- Accidents, Claims or Lawsuits** (this index)

DATABASES

- Maps, Models, Diagrams, and Charts** (this index)

DEFAULT JUDGMENT

- Order rendering, discovery sanction, sample motions, **6:63**

DELTA-V

- Biomechanic evidence, low-speed impact automobile cases, **10:155**

DEMONSTRATIONS

- Maps, Models, Diagrams, and Charts** (this index)
- Sample motions, **4:127**

DEPOSITIONS

- Expert
 - continuance, **6:51**
 - re-depose, opportunity, **6:55**
 - topic outside of pleading, **6:48, 6:53**
- Sanctions** (this index)

DESTROYED EVIDENCE

- Lost or Destroyed Evidence** (this index)

DISCOVERY

Claims Denied or Not Raised During Discovery (this index)

- Evidence produced after deadline, motion to exclude, **6:59**
- expert testimony not disclosed during discovery, motion to exclude, sample motions, **6:62**
- Motion for discovery sanction establishing facts, **6:60**
- motion to dismiss action, discovery sanctions, **6:65**
- Sanctions** (this index)

DISHONESTY CRIMES

- Prior convictions, **7:47**

DOCUMENTS

- Expert opinion, **8:29**

DRIVER’S LICENSE

- Unlicensed Driver** (this index)

DRIVING UNDER THE INFLUENCE

- Negligence, **10:117**
- Prior
 - arrests, **10:125**
 - impeachment, **10:124 to 10:127, 10:131**
 - improper conduct, **10:128**
 - irrelevant, **10:123**
 - opposing authorities, **10:130 to 10:132**
 - probative value outweighed by undue prejudice risk, **10:127**
 - relevancy, **10:132**
 - suggested text, **10:120**
 - summary of motion, **10:121**
 - supporting authorities, **10:122 to 10:129**

DRUG ABUSE

- Motion to exclude evidence of, **7:64**

DRUG EVIDENCE

- Blood alcohol level and tests, lack of foundation, **10:108**
- Exclusion
 - Generally, **10:106**
- Impeachment, **7:27**

INDEX

DRUG EVIDENCE—Cont'd

- Lack of foundation/proof of inebriation, **10:107**
- Suggested motion text for motions to exclude evidence, **10:102**
- Supporting authorities, **10:107**

DRUNK DRIVER

- Damages, statutory limitations, **10:210**

ELECTRONIC PENILE PLETHYSMOGRAPH TEST

- Junk science, **5:30**

EMAILS

- Cumulative evidence, **4:80**
- Foundation, lack of, **4:81**
- Hearsay
 - generally, **4:78**
 - exceptions, **4:78**
 - relevance, **4:79**

EMOTIONAL BIAS

- “Golden rule” argument, **2:22**
- Jurors
 - emotions, inflaming of, **2:20 to 2:23**
 - self-interest as taxpayers, **2:21**
- Opposing authorities, **2:24**
- Poverty as motive, **2:23**
- Prejudicial evidence, **2:5**
- Suggested text, **2:17**
- Summary of motion, **2:18**
- Supporting authorities, **2:19 to 2:23**

EMOTIONS OF JURORS

- Jurors** (this index)

EMPLOYMENT

- Statistical evidence, **5:39**

ESTOPPEL

- Damages, **10:215**
- Matters not in controversy, irrelevant evidence, **3:21**

EVIDENCE

- Accident Reconstruction Evidence** (this index)
- Arbitration Evidence** (this index)
- Biomechanic Evidence** (this index)

EVIDENCE—Cont'd

- Collateral Source Payments** (this index)
- Confusing or Misleading Evidence** (this index)
- Crime** (this index)
- Cumulative Evidence** (this index)
- Damages** (this index)
- Fault Evidence** (this index)
- Financial Status** (this index)
- Irrelevant Evidence** (this index)
- Liability Evidence** (this index)
- Lost or Destroyed Evidence** (this index)
- Party's Health or Injuries Evidence** (this index)
- Physical Evidence** (this index)
- Polygraph Evidence** (this index)
- Prejudicial Evidence** (this index)
- Settlement Evidence** (this index)
- Speculative Evidence** (this index)
- Statistical Evidence** (this index)
- Tax Evidence** (this index)
- Time-wasting Evidence** (this index)
- Videotapes** (this index)
- Witness** (this index)

EVIDENTIARY SANCTIONS

- Sanctions** (this index)

EXHIBITS

- Maps, Models, Charts, Exhibits, and Demonstrative Evidence** (this index)

EXPERIMENTS

- Tests and Experiments** (this index)

EXPERT TESTIMONY

- Continuance to depose expert, **6:51**
- Cumulative, **8:23**
- Expert Witness** (this index)
- Lacking foundation for admission, **4:11**
- Motion to exclude, **5:58**
 - credibility of witness, **5:59**
- not disclosed during discovery, motion to exclude, sample motions, **6:62**
- Opposing authorities, **6:50 to 6:55**

EXPERT TESTIMONY—Cont'd

- Sample Motions** (this Index)
- Seat belt, failure to wear, **10:95**
- Suggested text, **6:45**
- Summary of motion, **6:46**
- Supporting authorities, **6:47 to 6:49**
- Tests and experiments, **5:3**
- Topic outside of pleadings
 - no follow-up by deposing party, **6:53**
 - precise compensation or prior testimony information, **6:54**
 - supporting authorities, **6:48**
- Undisclosed witnesses, **6:47**

EXPERT WITNESS

- Deposition, this index
- Faulty designations or declarations, sanctions, **6:25**
- Identification, **6:49**
- Improper opinion. Opinions, below
- Irrelevant, **8:20**
- Non-qualified
 - opposing authorities, **8:39**
 - summary of motion, **8:35**
 - supporting authorities, **8:36 to 8:38**
 - ultimate issues and, **9:50, 9:56**
- Opinions
 - improper
 - conjecture, **8:16**
 - cumulative, **8:24**
 - expert's perceptions, **8:32**
 - hearsay, **8:6 to 8:9, 8:27 to 8:29**
 - hypothetical questions, **8:5, 8:30**
 - irrelevant matters, **8:20**
 - legal questions, **8:10, 8:11, 8:31**
 - matters of common experience, **8:12**
 - not perceived or personally known, **8:14**
 - not reasonably relied on by experts, **8:13**
 - opinions of others used, **8:7**
 - opposing authorities, **8:26 to 8:33**
 - outside specialty or expertise, **8:22, 8:23**
 - precluded by law, **8:15**

EXPERT WITNESS—Cont'd

- Opinions—Cont'd
 - improper—Cont'd
 - profile evidence, **8:21**
 - speculative, **8:16, 8:117**
 - standards of care, **8:23, 8:33**
 - statements of others, **8:8**
 - suggested text, **8:1**
 - summary of motion, **8:2**
 - supporting authorities, **8:3 to 8:25**
 - too many variables, **8:17**
 - treatises, documents and texts, **8:8, 8:29**
 - ultimate issues, **8:31**
 - uncooperative witness, **8:18**
 - usurping jury function, **8:19**
 - perceptions as basis for, **8:32**
 - prior accidents as basis for, **10:59**
- Perceptions, opinion based on, **8:32**
- Sample Motions** (this Index)
- Supplemental, sample motion, **6:57**
- Terminology, trial, **9:48**
- Ultimate issue, **9:48, 9:49, 9:55**
- Uncooperative, **8:18**
- Undisclosed, **6:47**

FAILURE TO WEAR SEAT BELTS

- Seat Belts** (this index)

FAULT EVIDENCE

- Admissions, **10:23, 10:198**
- Lay witness legal opinions, inadmissibility, **10:199**
- Settlement negotiations, **10:198**
- Supporting authorities, **10:198, 10:199**

FELONY CONVICTIONS

- Crimes** (this index)
- Impeachment, **7:12**
- Prior driving under the influence, **10:131**
- Sample motion, **7:59**

FILM

- Prejudicial Film** (this index)

FINANCIAL STATUS

- Generally, **10:174**
- Defendant, **10:176**

INDEX

FINANCIAL STATUS—Cont'd

- Irrelevant, **10:173**
- Opposing authorities, **10:180, 10:181**
- Plaintiff, **10:175**
- Punitive damages, **10:178, 10:181**
- Relevancy, **10:180**
- Suggested text, **10:170**
- Summary of motion, **10:171**
- Supporting authorities, **10:172 to 10:179**
- Wrongful death cases, **10:177**

FINITE ELEMENT ANALYSIS

- Biomechanic evidence, **10:152**

FIREARM RESIDUE

- Sample motions, admissibility of laboratory testing, **10:232**

FOUNDATION

- Lack of Foundation** (this index)

FRAUD

- Character evidence, impeachment, **7:13**

FRYE STANDARD

- Junk science, **5:42**
- Tests and experiments, **5:5**

GOLDEN RULE ARGUMENT

- motion to exclude, **9:64**
- Rejection, **9:42**
- Suggested text, **9:39**
- Summary of motion, **9:40**
- Supporting authorities, **9:41 to 9:43**

GOOD CHARACTER

- Impeachment, **7:14, 7:26**

GRUESOME OR INFLAMMATORY PHOTOGRAPHS

- Generally, **4:41, 4:44**
- Accident scene, **4:46**
- Enlarged, **4:43**
- Exclusion of photographs, supporting authorities, **4:39**
- Foundation, adequate, **4:42**
- Inflame jurors' emotions, **4:38**
- Irrelevant, **4:36**
- Motion to exclude evidence, **4:132**

GRUESOME OR INFLAMMATORY PHOTOGRAPHS—Cont'd

- Opposing authorities, **4:41 to 4:46**
- Prejudicial evidence, **4:35**
- Sample motion, **4:125, 4:132**
- Suggested text, **4:33**
- Summary of motion, **4:34**
- Supporting authorities, **4:35 to 4:40**
- X-rays, **4:45**

HEALTH

- Party's Health or Injuries Evidence** (this index)

HEARSAY

- Accident reconstruction evidence, **10:145**

Accident Reports (this index)

- Broad discretion, **8:116**

Exceptions

- generally, **8:109**
- business records, **4:73**
- examples, **8:110**
- multiple hearsay, **8:114**
- non-assertive conduct, **8:113**
- purpose, **8:111**

- Expert opinion based on improper material, **8:6 to 8:9, 8:27 to 8:29**

General authority, **8:103**

- in general, supporting authorities, **8:106**

Letters (this index)

Medical Records, Reports or Bills (this index)

Multiple, **8:114**

Opposing authorities

- generally, **8:109**
- exceptions, above
- non-hearsay evidence, **8:112**

Published articles, **4:60**

Purpose, **8:104**

Suggested text, **8:101**

Summary of motion, **8:102**

- Supporting authorities, **8:103 to 8:108**

Writings (this index)

- Written, **8:105, 8:107**

HEDONIC DAMAGES

Generally, **5:23, 5:44**

HISTORY

Medical Records, Reports, or Bills
(this index)

HYPNOSIS

Sample motions, **5:57**

HYPNOSIS EVIDENCE

Generally, **5:31, 5:51**

HYPOTHETICAL QUESTIONS

Expert testimony, **8:5, 8:30**

IMMIGRATION STATUS

Generally, **10:222**

Admissibility, **10:228**

Exclusion, supporting authorities,
10:225

Irrelevant, **10:223**

Liability, **10:226**

Opposing authorities, **10:228**

Residency in employment, **10:227**

Suggested text, **10:220**

Summary of motion, **10:221**

Supporting authorities, **10:222 to**
10:227

Unpleaded issues, **10:224**

IMPEACHMENT

Generally, **7:21**

Alcohol consumption, **7:9, 7:24,**
10:119

Arrests or misdemeanor convictions,
7:10

Collateral issues, **7:17**

Drug use, **7:27**

Facts at issue, **7:19**

Felony Convictions (this index)

Fraudulent acts, **7:13**

Good character, **7:14**

Hearsay for, **8:115**

Irrelevant, **7:7, 7:8**

Opening the door doctrine, **7:26**

Opposing authorities, **7:19 to 7:27**

Prior accidents, **10:60**

Prior driving under the influence,
10:124 to 10:127, 10:131

Religious belief, **7:15, 7:25**

IMPEACHMENT—Cont'd

Sexual preference or behavior, **7:16**

Statute violations, **10:80**

Subsequent repairs, **10:69**

Suggested text, **7:4**

Summary of motion, **7:5**

Supporting authorities, **7:6 to 7:18**

Traffic citations, **10:75**

Witness

bias, **7:23**

perceptions, **7:20**

veracity, **7:22**

**IMPROPER CHARACTER
EVIDENCE**

Character Evidence (this index)

IMPROPER FOUNDATION

Lack of Foundation (this index)

IMPROPER OPINION

Expert Witness (this index)

IMPROPER TERMINOLOGY

Trial (this index)

IMPROPER VOIR DIRE

Voir Dire (this index)

INADMISSIBLE HEARSAY

Hearsay (this index)

INCOME TAX RETURNS

Personal injury, failure to file income
tax returns, sample motions,
10:237

INCOMPETENT WITNESS

Witnesses (this index)

INCONSISTENT STATEMENTS

Letters, **4:88**

**INFLAMMATORY
PHOTOGRAPHS**

Gruesome or Inflammatory
Photographs (this index)

INJURIES

Party's Health or Injuries Evidence
(this index)

Seat belts used to reduce, **10:99**

INDEX

IN LIMINE

Brief, **1:12**

Order, **1:13**

8220IN MEMORY OF8221

VIDEOTAPES

Sample motions, **4:126**

INSANITY

Incompetent witness, **8:55, 8:60**

INSURANCE

Liability Insurance (this index)

INTERROGATORIES

Sanctions (this index)

IRRELEVANT EVIDENCE

Generally, **3:1 to 3:12, 7:31, 10:14**

Alcohol consumption, **10:105**

Collateral source payments, **10:4**

Court's discretion, **3:10**

Crimes, **7:43**

Financial status, **10:173**

Gruesome or inflammatory
photographs, **4:36**

Immigration status, **3:24, 10:223**

Insurance case, sample motion, **3:26**

Liability evidence, **10:196**

Liability insurance, **10:15, 10:17**

Matters Not in Controversy (this
index)

Matters not in dispute, **3:5**

No unlimited inquiry, **3:6**

Opposing authorities, **3:12, 10:19 to
10:24**

Outside pleadings, **3:7**

party's health or injuries evidence,
10:136

Prejudicial evidence, **3:8**

Prior accidents, **10:46**

Prior crimes, **7:43**

Prior driving under the influence,
10:123

Relevant evidence, defined, **3:3**

Repairs. Subsequent repairs, below

Sample motions, **3:24, 3:26, 3:27**

Seat belts, failure to wear, **10:93**

Settlement evidence, **10:28**

Speculative, **3:9**

IRRELEVANT EVIDENCE—Cont'd

Statute violations, **10:74**

Subsequent repairs, **10:65**

Suggested text, **3:1**

Summary of motion, **3:2**

Supporting authorities, **3:3 to 3:11**

Tax evidence, **10:185**

Too remote, **3:11**

ISSUE SANCTIONS

Sanctions (this index)

JUDGE

Witness (this index)

JUNK SCIENCE

Accident reconstruction evidence,
5:33, 5:35, 5:54

Approved tests, **5:43**

Battered woman syndrome, **5:40,
5:50**

Biomechanic evidence, **5:34**

Child sexual abuse accommodation
syndrome, **5:29**

Electronic penile plethysmograph
test, **5:30**

Frye test, **5:42**

Hedonic damages, **5:23, 5:44**

Hypnosis evidence, **5:31, 5:51**

Low-speed impact automobile cases,
10:154

Opposing authorities, **5:41 to 5:54,
10:160**

Polygraph evidence, **5:45, 5:46**

Polygraph Evidence (this index)

Psychological tests and syndromes
generally, **5:27**

battered woman syndrome, above
child sexual abuse accommodation
syndrome, **5:29, 5:49**

psychological opinions vs., **5:47**

rape trauma syndrome, below

Rape trauma syndrome, **5:28, 5:48**

Statistical Evidence (this index)

Suggested text, **5:20**

Summary of motion, **5:21**

Supporting authorities, **5:22 to 5:39**

“Truth-serum” evidence, **5:24**

Voiceprint identification, **5:32**

JURORS

- Emotions, inflaming of
 - gruesome or inflammatory photographs, **4:37**
 - prejudicial evidence, **2:20 to 2:23**
- improper, voir dire, opposition to motion, sample motions, **9:67**
- Lack of foundation determinations, out of jury presence, **4:5, 4:17**
- Questionnaire
 - opposing authorities, **9:60**
 - suggested text, **9:57**
 - summary of motion, **9:58**
 - supporting authorities, **9:59**
 - voir dire, sample motion, **9:62**
- Taxpayers
 - improper appeal to jurors as, **10:189**
 - self-interest as, **2:21**
- Voir dire, **9:6**
- Witness** (this index)

JURY

- Lack of foundation determinations, out of jury presence, **4:5**
- Preconditioning** (this index)
- Usurping function of, **8:19, 9:53**

JUVENILE ADJUDICATION

- Sample motion to exclude, **7:63**

JUVENILE ADJUDICATIONS

- Crimes, **7:50**

LACK OF FOUNDATION

- Accident reconstruction evidence, **10:146**
- Admissibility, **4:16**
- Alcohol consumption
 - blood alcohol level and tests, **10:108**
 - proof of inebriation, **10:107**
- Conditional admissibility, **4:16**
- Determination, outside of jury presence, **4:5, 4:17**
- Drug evidence
 - blood alcohol level and tests, **10:108**
- Experiments. Tests and experiments, below

LACK OF FOUNDATION—Cont'd

- Film, **4:55**
- Jury presence during determination, **4:5, 4:17**
- Medical records or reports, **4:14**
- Motion pictures, **4:10**
- Opposing authorities, **4:15 to 4:17**
- Photographs, **4:7**
- Prejudicial evidence, **4:15**
- Preliminary facts, **4:4, 4:5**
- Suggested text, **4:1**
- Summary of motion, **4:2**
- Supporting authorities, **4:3 to 4:14**
- Tape recordings, **4:8**
- Tests and experiments, **4:9, 5:12**
- Videotapes, **4:10**
- Witness testimony, **4:11, 4:12**
- Writings, **4:13**

LAWSUITS

- Accidents, Claims or Lawsuits** (this index)

LAY WITNESS

- Witness** (this index)

LETTERS

- Generally, **4:77**
- Cumulative, **2:29, 4:80**
- Hearsay
 - generally, **4:78**
 - business records exceptions, **4:85**
 - exceptions, **4:78, 4:84 to 4:86**
 - public records exceptions, **4:86**
 - relevance, **4:79**
- Inconsistent statements, **4:88**
- Opposing authorities, **4:83 to 4:88**
- Relevant, **4:87**
- Suggested text, **4:75**
- Summary of motion, **4:76**
- Supporting authorities, **4:77 to 4:82**

LIABILITY EVIDENCE

- Admitted matters, **10:197**
- Defendant, sample motion, **10:230**
- Immigration status, **10:226, 10:227**
- Irrelevant, **10:196**
- Opposing authorities, **10:201**
- Settlement Evidence** (this index)
- Suggested text, **10:193**

INDEX

LIABILITY EVIDENCE—Cont'd

- Summary of motion, **10:194**
- Supporting authorities, **10:195 to 10:200**

LIABILITY INSURANCE

- Admission of fault, **10:23**
- Cross-examination, **10:19**
- Defendant's lack of, **10:16**
- Incidental reference to insurance, **10:21**
- Irrelevant evidence, **10:14, 10:17**
- Non-prejudicial references, **10:22**
- Ownership or employment, **10:24**
- Suggested text, **10:11**
- Summary of motion, **10:12**
- Supporting authorities, **10:13 to 10:18**

LIBEL

- Relevancy, **4:64**

LICENSE

- Unlicensed Driver** (this index)

LOST OR DESTROYED EVIDENCE

- Generally, **9:23**
- Accidental destruction, **9:24**
- Intentional destruction, **9:25**
- Negative presumption, **9:27**
- Opposing authorities, **9:29, 9:30**
- Sample motion, **9:61**
- Spoilation before litigation, **9:26**
- Suggested text, **9:20**
- Summary of motion, **9:21**
- Supporting authorities, **9:22 to 9:28**

LOST PROFITS

- Damages, **10:212**

LOW-SPEED IMPACT

AUTOMOBILE CASES

- Accident Reconstruction Evidence** (this index)

MAPS, MODELS, DIAGRAMS, AND CHARTS

- Generally, **4:93, 4:97**
- Accident reports, **4:72**
- Computer databases, **4:98**
- Court's discretion, **4:92**

MAPS, MODELS, DIAGRAMS, AND CHARTS—Cont'd

- Databases, **4:98**
- Demonstrations, **4:94, 4:100**
- Exclusions, **4:91**
 - sample motions, **4:136**
- Exhibits, **4:99**
- Illustrative purposes, **4:96**
- Opposing authorities, **4:96 to 4:100**
- Suggested text, **4:89**
- Summary of motion, **4:90**
- Supporting authorities, **4:91 to 4:95**

MARKET REPORTS

- Published articles, **4:63**

MATTERS NOT IN CONTROVERSY

- Admissibility despite uncontested issue, **3:23**
- Admitted matters, **3:16**
- Collateral issues, **3:17, 3:20**
- Estoppel, **3:21**
- Opposing authorities, **3:19 to 3:23**
- Physical conditions not at issue, sample motion, **3:25**
- Sample motion, **3:25**
- Suggested text, **3:13**
- Summary of motion, **3:14**
- Supporting authorities, **3:15 to 3:18**
- Uncontroverted matters, **3:16**
- Unpleaded issues, **3:18**

MEDIATOR

- witness, motion to exclude testimony, **8:126**
- Witness** (this index)

MEDICAL DOCTOR

- Physicians** (this Index)

MEDICAL HISTORY

- Medical Records, Reports, or Bills** (this index)

MEDICAL MALPRACTICE CASES

- Lay witness, **8:48**

MEDICAL RECORDS, REPORTS OR BILLS

- Authentication, **4:110**

**MEDICAL RECORDS, REPORTS
OR BILLS—Cont’d**

Billing records, lack of foundation,
4:108
Business records exception, **4:111**
Foundation, improper, **4:104**
Hearsay
 medical opinions, **4:105**
 patient medical history, **4:107**
Lack of foundation, **4:108**
Medical history. Patient history,
 below
motion to exclude, **4:141**
Opinions
 hearsay, **4:105**
 lack of personal knowledge, **4:106**
 medical, **4:105**
 of others, **4:106**
Opposing authorities, **4:110 to 4:114**
Patient history
 generally, **4:107, 4:112**
 hearsay, **4:107**
 medical diagnosis, pertinent, **4:114**
 physician observations, **4:113**
Sample motions
 medical bills, **10:231**
 medical history, **4:129**
Suggested text, **4:101**
Summary of motion, **4:102**
Supporting authorities, **4:103 to**
 4:109

MENTAL COMPETENCE

Incompetent witness, **8:55, 8:60**

MENTAL EXAMINATION

Sanctions, failure to comply with
discovery order, **6:19, 6:20**

MENTAL HEALTH

Evidence of witness, motion to
exclude, **7:66**

MISDEMEANOR

Character evidence, **7:10, 7:50**
Crimes, **7:50**

MISLEADING EVIDENCE

Prejudicial Evidence (this index)

MODELS

**Maps, Models, Charts, Exhibits,
and Demonstrative Evidence**
(this index)

MORAL TURPITUDE CRIMES

Prior convictions, **7:47**

MOTION IN LIMINE

Authority, **1:2**
Description, **1:1**
Drafting
 facts to support, **1:10**
 overview, **1:9**
 succinctness, **1:11**
Facts to support, **1:10**
Local rules, **1:8**
Procedural requirements, **1:7**
Purpose, **1:1**
Scope, **1:6**
Timing, **1:5**
Types, **1:3**
Uses, **1:3, 1:4**

MOTION PICTURES

Lack of foundation, exclusions for,
4:10

MOTION SUMMARY

Accident reconstruction evidence,
10:143
Accident reports, **4:66**
Admitted matters, **6:36**
Affirmative defenses, premature
 rebuttal, **9:16**
Alcohol consumption, **10:103**
Bifurcated trial, **9:32**
Biomechanic evidence, **10:143**
Character evidence to prove conduct,
7:29
Claims denied or not raised during
discovery, **6:39**
Collateral source payments, **10:2**
Confusing or misleading evidence,
2:13
Crimes, **7:41**
Cumulative evidence, **2:26**
Damages, **10:203**
Drug consumption, **10:103**
Emotional bias, **2:18**

INDEX

MOTION SUMMARY—Cont'd

Evidence
 accident reconstruction, above
 biomechanic, above
 character, above
 confusing or misleading, above
 cumulative, above
 irrelevant, below
 liability, below
 lost or destroyed, below
 party's health or injuries, below
 prejudicial, below
 settlement, below
 tax, below
 time-wasting, below
Expert testimony, **6:46**
Financial status, **10:171**
Golden rule argument, **9:40**
Gruesome or inflammatory
 photographs, **4:34**
Hearsay, **8:102**
Immigration status, **10:221**
Impeachment, **7:5**
Improper argument in opening state-
 ment, **9:10**
Improper opinion by expert witness,
 8:2
Irrelevant evidence, **3:2**
Judge, witness, **8:63**
Junk science, **5:21**
Juror
 questionnaire, **9:58**
 witness, **8:63**
Lack of foundation, **4:2**
Lay witness, **8:41**
Letters, **4:76**
Liability evidence, **10:194**
Liability insurance, **10:12**
Lost or destroyed evidence, **9:21**
Maps, models, diagrams, and charts,
 4:90
Matters not in controversy, **3:14**
Medical records, reports or bills,
 4:102
Non-qualified expert witness, **8:35**
Party's health or injuries evidence,
 10:134
Prejudicial evidence, **2:2**

MOTION SUMMARY—Cont'd

Prejudicial film, **4:48**
Prejudicial videotapes, **4:48**
Prior accidents, claims or lawsuits,
 10:44
Prior driving under the influence,
 10:121
Published articles, **4:57**
Sanctions, **6:2**
Seat belts, **10:91**
Settlement evidence, **10:26**
Statute violations, **10:72**
Subsequent repairs, **10:63**
Tax evidence, **10:183**
Terminology, improper, **9:45**
Tests and experiments, **5:2**
Time-wasting evidence, **2:9**
Unlicensed driver, **10:85**
Voir dire, **9:2**
Witness
 courtroom sequestration prior to
 testifying, **8:77**
 incompetent, **8:52**
 judge, **8:63**
 juror, **8:63**
 lay, above
 non-called, **8:92**
 non-qualified expert, **8:35**
 privilege not to testify, comment
 on exercise of, **8:85**
Writings, **4:19**

NEGLIGENCE

Driving under the influence of
 alcohol as proof of, **10:117**
Improper character evidence, **7:33**
Prior accident evidence, **10:48**
Seat belts, failure to wear, **10:101**
Statistical evidence, **5:38**
Statute violations, **10:82**
Subsequent Repairs (this index)
Unlicensed driver, **10:86**

NEGOTIATIONS

Settlement, **10:31, 10:198**

NEWSPAPERS

Motion to exclude article, **4:130**

NON-CALLED WITNESSES

Witness (this index)

NON-QUALIFIED EXPERT

Expert Witness (this index)

OFFICER

Police Officer (this index)

OPENING STATEMENT

Improper argument in
suggested text, **9:9**
summary of motion, **9:10**
supporting authorities, **9:11 to 9:13**
Opposing authorities, **9:14**
Prejudicial evidence, **9:12**

OPINIONS

Accident reconstruction evidence,
10:161
Expert Witness (this index)
Medical Records, Reports, or Bills
(this index)
Psychological, **5:47**
Tests and Experiments (this index)

ORDER

In limine, **1:13**
Sanctions (this index)

**PARTY'S HEALTH OR INJURIES
EVIDENCE**

Demonstration of injury, **10:140,**
10:141
Irrelevant, **10:136**
Opposing authorities, **10:139 to**
10:141
Relevant to case, **10:139**
Suggested text, **10:133**
Summary of motion, **10:134**
Supporting authorities, **10:135 to**
10:138

PATIENT HISTORY

Medical Records, Reports, Or Bills
(this index)

PERSONAL INJURY

Accident Reconstruction Evidence
(this index)
Accidents, Claims or Lawsuits (this
index)

PERSONAL INJURY—Cont'd

Biomechanic Evidence (this index)
Collateral Source Payments (this
index)
Driving Under the Influence (this
index)
Financial Status (this index)
Liability Insurance (this index)
Party's Health or Injuries Evidence
(this index)
Sample Motions (this index)
Seat Belts (this index)
Statute Violations (this index)
Unlicensed Driver (this index)

PERSONAL KNOWLEDGE

Incompetent witness, **8:56, 8:61**
Medical records, reports or bills,
opinions, **4:106**

PHOTOGRAPHS

Generally, **4:41**
Cumulative Evidence (this index)
Gruesome or Inflammatory
Photographs (this index)
Lacking foundation for admission,
4:7

PHYSICAL EVIDENCE

Evidence (this index)

PHYSICAL EXAMINATION

Sanctions, failure to comply with
discovery order, **6:19, 6:20**

PHYSICIANS

Identification of treating physician,
6:49
Sample motion to exclude testimony
and opinions of medical doctor,
8:120

**PLOPPING INTO A CHAIR
TESTIMONY**

Biomechanic evidence, low-speed
impact automobile cases, **10:156**

POINT OF IMPACT

Accident reconstruction evidence,
10:147, 10:166

POLYGRAPH EVIDENCE

Generally, **5:25, 5:45**

INDEX

POLYGRAPH EVIDENCE—Cont'd

- Investigative purposes, **5:46**
- Refusal to take polygraph test, **5:26**
- Sample motion to exclude polygraph examination, **5:56**

POVERTY

- Emotional bias, **2:23**

PRECONDITIONING

- Terminology, improper, **9:52**
- Voir dire, improper, **9:4, 9:5**

PREJUDICIAL EVIDENCE

- Broad discretion, **2:7**
- Confusing or Misleading Evidence** (this index)
- Crimes, **7:46**
- Cumulative Evidence** (this index)
- Emotional bias, **2:5**
- Emotional Bias** (this index)
- Exclusion
 - opposing authorities, **2:6, 2:7**
 - suggested text, **2:1**
 - summary of motion, **2:2**
 - supporting authorities, **2:3 to 2:5**
- Gruesome or inflammatory photographs, **4:35**
- Irrelevant evidence, **3:8**
- Lacking foundation, **4:15**
- Opening statement, **9:12**
- Photographs, motion to exclude evidence of, **4:131**
 - opposition to, **4:135**
- Prejudice, defined, **2:4**
- Time-wasting Evidence** (this index)
- Unlicensed driver, **10:88**

PREJUDICIAL FILM

- Lack of foundation, **4:55**
- Limiting instruction, **4:54**
- Opposing authorities, **4:52 to 4:55**
- Relevance, **4:53**
- Suggested text, **4:47**
- Summary of motion, **4:48**
- Supporting authorities, **4:49 to 4:51**

PREMATURE REBUTTAL

AFFIRMATIVE DEFENSES

- Trial** (this index)

PRESCRIPTION DRUG ABUSE

- Sample motion to exclude, **7:64**

PRIOR ACCIDENTS

- Accidents, Claims or Lawsuits** (this index)

PRIOR CONVICTIONS

- Crimes** (this index)

PRIOR CRIMES

- Crimes** (this index)

PRIOR DRIVING UNDER THE INFLUENCE

- Driving Under the Influence** (this index)

PRIOR TRAFFIC VIOLATIONS

- Motion to exclude evidence of, **10:243**
- Statute violations, **10:77**

PRODUCTION REQUESTS

- opposing authorities, **6:33**
- Sanctions** (this index)

PRODUCTS LIABILITY

- Statistical evidence, **5:38**

PROVE CONDUCT

- Character Evidence** (this index)

PROXIMATE CAUSE

- Statute Violations** (this index)

PSYCHOLOGICAL TESTS AND SYNDROMES

- Junk Science** (this index)

PUBLIC RECORDS EXCEPTION

- Accident reports, **4:74**
- Letters, **4:86**
- Writings, **4:27**

PUBLISHED ARTICLES

- Commercial publications, **4:63**
- Cumulative, **4:59**
- Exclusions, **4:59 to 4:61**
- Hearsay exclusion, **4:60**
- Market reports, **4:63**
- Opposing authorities, **4:62 to 4:64**
- Relevancy, **4:64**
- Self-authentication, **4:62**

PUBLISHED ARTICLES—Cont’d

- Suggested text, **4:56**
- Summary of motion, **4:57**
- Supporting authorities, **4:58 to 4:61**

PUBLISHED PRECEDENT

- Tests and experiments, **5:16**

PUNITIVE DAMAGES

- Damages** (this index)

QUESTIONNAIRE

- Jurors** (this index)

RAPE TRAUMA SYNDROME

- Generally, **5:28, 5:48**

REACTION TIME

- Accident reconstruction evidence, **10:148**

REBUTTAL

- Motion to bar premature rebuttal to affirmative defense, **9:69**

RECORDS

- Medical Records, Reports or Bills** (this index)

RELIGIOUS BELIEFS

- Character evidence, impeachment, **7:15, 7:25**
- Sample motion to exclude, **7:62**

REPAIRS

- Subsequent Repairs** (this index)

REPETITIVE TESTIMONY

- Cumulative evidence, **2:36**

REPORTS

- Accident Reports** (this index)
- Cumulative evidence, **2:33**
- Medical Records, Reports or Bills** (this index)

REQUESTS FOR ADMISSIONS

- Sanctions** (this index), **6:34**

REQUESTS FOR PRODUCTION

- Sanctions** (this index)

RESIDENCY IN EMPLOYMENT

- Immigration status, **10:227**

SAMPLE MOTIONS

- accident reports, motion to exclude, **4:138**
- Alcoholism, **7:58, 7:60**
- Biometric evidence, **5:60**
- Claims denied or not raised during discovery, **6:56**
- Collateral evidence, **3:27**
- Collateral source payments, **10:229**
- Confusing or misleading evidence, **2:42**
- Cumulative
 - exclude evidence, **2:45**
 - testimony witness, **2:46**
- Defendant, liability evidence, **10:230**
- Demonstrations, **4:127**
- discovery sanction
 - dismissal of actions, **6:65**
- evidence of defendants poverty, exclude, **2:49**
- Evidence produced beyond discovery deadline, motion to exclude, **6:59**
- Exclude evidence that will confuse jury, **2:43**
- Exclude improper damage evidence, **10:244**
- Expert testimony, motion to exclude, **5:58**
 - credibility of witness, **5:59**
- expert testimony not disclosed during discovery, motion to exclude, **6:62**
- Failure to serve answers, motion for evidentiary sanctions
 - interrogatories, **6:64**
 - objections, **6:64**
- Felony convictions, **7:59**
- Firearm residue, admissibility of laboratory testing, **10:232**
- Frye* hearing regarding validity of methodology, **8:119**
- Gruesome or inflammatory photographs, **4:125**
- Hypnosis, **5:57**
- improper argument during opening statement, motion to exclude, **9:68**

INDEX

SAMPLE MOTIONS—Cont'd

Improper character evidence, motion to exclude, **7:61, 7:63, 7:64**
improper voir dire, opposition to motion, **9:67**
Income tax returns, failure to file, **10:237**
Inflammatory and prejudicial photographs, motion to exclude, **4:131**
Inflammatory evidence, motion to exclude, **7:67**
Interrogatories, failure to serve answers, motion for evidentiary sanctions, **6:64**
Irrelevant evidence, **3:24, 3:26, 3:27**
Juvenile adjudication, motion to exclude, **7:63**
Lost or destroyed evidence, **9:61**
Maps, models, diagrams, and charts, exclusions, **4:136**
Marital infidelity, motion to exclude, **7:61**
Matters admitted
 motion to deem matters admitted, **6:57**
Matters not in controversy, **3:25**
Mediation evidence, motion to exclude, **9:63**
medical bill exclusion, **4:141**
Medical doctor, motion to exclude testimony and opinions of, **8:120**
Medical records, reports or bills
 medical bills, **10:231**
 medical history, **4:129**
Mental health evidence of witness, motion to exclude, **7:66**
Missing evidence instruction, opposition to motion, **9:65**
Motion for discovery sanction establishing facts, **6:60**
Motion to exclude evidence that driver was unlicensed, **10:247**
Newspaper article, motion to exclude, **4:130**
Non-called witness, **8:118**
Objections, failure to serve answers, motion for evidentiary sanctions, **6:64**

SAMPLE MOTIONS—Cont'd

Opposition to defendants motion to limit plaintiff expert opinions, **6:61**
opposition to motion to exclude defendants financial status, **10:241**
Opposition to motion to exclude confuse the jury, **2:44**
Order rendering default judgment as discovery sanction, **6:63**
Personal injury
 collateral source payments, **10:229**
 defendant, liability evidence, **10:230**
 financial status, plaintiff, **10:240**
 firearm residue, admissibility of laboratory testing, **10:232**
 income tax returns, failure to file, **10:237**
 liability insurance evidence, motion to exclude, **10:239**
 medical bills, **10:231**
 opposition to motion to exclude evidence, prior accident, **10:245**
 prior DUI, **10:242**
 prior injuries, motion to exclude evidence of party's, **10:246**
 prior traffic citations, **10:243**
 settlement evidence, motion to exclude, **10:238**
 statute violation, **10:236**
 subsequent remedial measures, **10:234**
 surveillance video, **10:233**
Photographs, prejudicial, opposition to motion to exclude, **4:135**
Polygraph examination, **5:56**
Prejudicial evidence, exclude, **2:47**
 opposition to motion, **2:48**
Prejudicial videotapes, **4:126**
Premature rebuttal to affirmative defense, motion to exclude, **9:69**
Prescription drug abuse, motion to exclude, **7:64**
Prior arrest of witness, motion to exclude, **7:65**
Prior injuries, motion to exclude evidence of party's, **10:246**

SAMPLE MOTIONS—Cont'd

- Religious beliefs, motion to exclude, **7:62**
- Social media
 - motion to exclude, **4:133**
 - opposition to motion to exclude, **4:134**
- Speculative expert witness opinion, **8:117**
- Statistical evidence, **5:55**
- Supplemental expert witness, **6:57**
- Tattoo, motion to exclude demonstration of, **4:132**
- Text messages
 - motion to exclude, **4:139**
 - opposition to motion to exclude, **4:140**
- Unauthenticated video recording, motion to exclude, **4:137**
- Unpleaded issues, **3:28**
- Videotapes** (this index)
- Voir dire, juror questionnaire use during, **9:62**
- Witness evidence
 - expert witness testimony, opposition to motion to exclude testimony, **8:123**
 - Frye* hearing regarding validity of methodology, **8:119**
 - intemperance, **7:60**
 - lay witness
 - causation, motion to exclude, **8:121**
 - opposition to motion to exclude testimony, **8:121**
 - medical doctor, motion to exclude testimony and opinions of, **8:120**
 - non-called witness, **8:118**
 - non-qualified expert witness testimony, opposition to motion to exclude testimony, **8:125**
 - speculative expert witness opinion, **8:117**
 - supplemental expert witness, **6:57**
 - undisclosed witness, motion to exclude testimony of, **6:58**

SAMPLE MOTIONS—Cont'd

- Written letter, motion to exclude, **4:128**

SANCTIONS

- Depositions
 - generally, **6:9**
 - evidence sanction, **6:10**
 - opposing authorities, **6:31**
 - termination or default, **6:11**
- Discovery
 - failure to comply with discovery order, **6:23**
 - misuse, **6:3**
- Evidentiary
 - depositions, **6:9**
 - interrogatories, **6:13**
 - production requests, **6:16**
 - supporting authorities, **6:4**
- Faulty expert designations or declarations, **6:25**
- General authority, **6:3**
- Harsher
 - depositions, **6:11**
 - interrogatories, **6:14**
- Identity of witnesses, failure to disclosure, **6:24**
- Interrogatories
 - generally, **6:12**
 - evidentiary sanctions, **6:13, 6:64**
 - opposing authorities, **6:32**
 - terminating sanctions, **6:14**
- Issue
 - production requests, **6:17**
 - supporting authorities, **6:5**
- Matters deemed admitted, **6:34**
- Mental examination, **6:20**
- Misconduct level and, correlation between, **6:28**
- Opposing authorities, **6:27 to 6:34**
- Order
 - discovery, **6:9**
 - prior order unnecessary, **6:7**
- Physical examination, **6:20**
- Prior order unnecessary, **6:7**
- Production requests, **6:15 to 6:18**
 - opposing authorities, **6:33**
- Reasonable alternative remedy, **6:29**

INDEX

SANCTIONS—Cont'd

- Requests for admissions
 - generally, **6:21, 6:34**
 - failure to comply with discovery order, **6:23**
 - non-responsive matters admitted, **6:22**
- Requests for production. Production requests, *above*
- Suggested text, **6:1**
- Summary of motion, **6:2**
- Supporting authorities, **6:3 to 6:26**
- Terminating
 - depositions, **6:11**
 - general authority, **6:6**
 - production requests, **6:16**
 - supporting authorities, **6:6**
- Willfulness, **6:30**

SANITY

- Lay witness, **8:48**

SCIENTIFIC EVIDENCE

- Generally, **5:22**
- Junk Science** (this index)

SEAT BELTS

- Defendant's burden unchanged, **10:97**
- Exclusion of evidence, **10:94 to 10:97**
- Expert testimony required, **10:95**
- Injuries reduced by using, **10:99**
- Irrelevant, **10:93**
- Mandatory laws, **10:100**
- Negligence, **10:101**
- Opposing authorities, **10:99 to 10:101**
- Strict liability cases, **10:96**
- Suggested text, **10:90**
- Summary of motion, **10:91**
- Supporting authorities, **10:92 to 10:98**

SELF-AUTHENTICATION

- Published articles, **4:62**

SETTLEMENT EVIDENCE

- Admission against interest, **10:37**
- Bias, **10:38**

SETTLEMENT EVIDENCE—Cont'd

- Co-defendants, settlement with, **10:32, 10:40**
- Contract issues, **10:39**
- Irrelevant, **10:28**
- Liability
 - generally, **10:29**
 - compromise offer, **10:34**
 - offer made prior to litigation, **10:33**
 - prior settlements, **10:30**
 - settlement negotiations, **10:31, 10:198**
 - settlement with co-defendants, **10:32, 10:40**
- Offers
 - before litigation, **10:33**
 - compromise, **10:34**
 - insurance cases, **10:42**
- Opposing authorities, **10:36 to 10:42**
- Prior settlements, **10:30**
- State of mind, **10:41**
- Suggested text, **10:25**
- Summary of motion, **10:26**
- Supporting authorities, **10:27 to 10:35**

SEXUAL PREFERENCE OR BEHAVIOR

- Character evidence, impeachment, **7:16**

SKID MARK ANALYSIS

- Accident reconstruction evidence, **10:164**

SOCIAL MEDIA EVIDENCE

- Generally, **4:115 et seq.**
- Exclusion of, **4:118**
- Exclusion of prejudicial evidence, **4:117**
- Foundation or authentication
 - lack of, **4:120**
 - proper, **4:124**
- Grounds, **4:121**
- Hearsay, **4:119, 4:123**
- Motion summary, **4:116**
- Motion to exclude and opposition, samples, **4:133, 4:134**

SOCIAL MEDIA EVIDENCE

—Cont’d

Nonhearsay, **4:123**
Opposing authorities, **4:122 et seq.**
Suggested motion text, **4:115**
Supporting authorities, **4:117 et seq.**

SPECULATION

Expert witness opinion based on,
exclusion, **8:16, 8:117**
Irrelevant evidence, **3:9**
Non-called witness, **8:95**

SPECULATIVE DAMAGES

Damages (this index)

SPOILIATION

Lost or destroyed evidence, **9:26**

STANDARDS OF CARE

Expert witness opinions, **8:23, 8:33**

STATISTICAL EVIDENCE

Confusion caused by, **5:36**
Disapproved, **5:37**
Employment cases, **5:39**
General acceptance, **5:52**
Judicial notice, **5:53**
Products liability or negligence cases,
5:38
Sample motion, **5:55**

STATUTE VIOLATIONS

Impeachment, **10:80**
Irrelevant, **10:74**
Not proximate cause of injury, **10:76, 10:77**
Opposing authorities, **10:81**
Prior traffic violations, **10:77**
Proximate cause
generally, **10:81**
gatekeeping provisions, **10:83**
negligence per se, **10:82**
Sample motions, **10:236**
Suggested text, **10:71**
Summary of motion, **10:72**
Supporting authorities, **10:73 to 10:79**
Traffic citations, **10:75**

STOPPING DISTANCES

Accident reconstruction evidence,
10:165

STRICT LIABILITY

Failure to wear seat belt, exclusion,
10:96

SUBSEQUENT REPAIRS

Impeachment, **10:69**
Irrelevant, **10:65**
Negligence, inadmissibility, **10:66**
Opposing authorities, **10:68**
Relevancy, **10:70**
Suggested text, **10:62**
Summary of motion, **10:63**
Supporting authorities, **10:64 to 10:68**

SUGGESTED MOTION TEXT

Accident reconstruction evidence,
10:142
Accident reports, **4:65**
Admitted matters, **6:35**
Affirmative defenses, premature
rebuttal, **9:15**
Alcohol consumption, **10:102**
Bifurcated trial, **9:31**
Biomechanic evidence, **10:142**
Character evidence to prove conduct,
7:28
Claims denied or not raised during
discovery, **6:38**
Collateral source payments, **10:1**
Confusing or misleading evidence,
2:12
Crimes, **7:40**
Cumulative evidence, **2:25**
Damages, **10:202**
Drug evidence, **10:102**
Emotional bias, **2:17**
Evidence
accident reconstruction, above
biomechanic, above
character, above
confusing or misleading, above
cumulative, above
irrelevant, below
liability, below
lost or destroyed, below

INDEX

SUGGESTED MOTION TEXT

—Cont'd

Evidence—Cont'd
party's health or injuries, below
prejudicial, below
settlement, below
tax, below
time-wasting, below
Expert testimony, **6:45**
Financial status, **10:170**
Golden rule argument, **9:39**
Gruesome or inflammatory
photographs, **4:33**
Hearsay, **8:101**
Immigration status, **10:220**
Impeachment, **7:4**
Improper argument in opening state-
ment, **9:9**
Improper opinions by expert witness,
8:1
Irrelevant evidence, **3:1**
Judge, witness, **8:62**
Junk science, **5:20**
Juror
questionnaire, **9:57**
witness, **8:62**
Lack of foundation, **4:1**
Lay witness, **8:40**
Letters, **4:75**
Liability evidence, **10:193**
Liability insurance, **10:11**
Lost or destroyed evidence, **9:20**
Maps, models, diagrams, and charts,
4:89
Matters not in controversy, **3:13**
Medical records, reports or bills,
4:101
Party's health or injuries evidence,
10:133
Prejudicial evidence, **2:1**
Prejudicial film, **4:47**
Prejudicial videotapes, **4:47**
Prior accidents, claims or lawsuits,
10:43
Prior driving under the influence,
10:120
Published articles, **4:56**
Sanctions, **6:1**

SUGGESTED MOTION TEXT

—Cont'd

Seat belts, **10:90**
Settlement evidence, **10:25**
Statute violations, **10:71**
Subsequent repairs, **10:62**
Tax evidence, **10:182**
Terminology, improper, **9:44**
Tests and experiments, **5:1**
Time-wasting evidence, **2:8**
Unlicensed driver, **10:84**
Voir dire, **9:1**
Witness
courtroom sequestration prior to
testifying, **8:76**
incompetent, **8:51**
judge, **8:62**
juror, **8:62**
lay, above
non-called, **8:91**
non-qualified expert, **8:34**
privilege not to testify, comment
on exercise of, **8:84**
Writings, **4:18**

SURVEILLANCE VIDEO

Videotapes (this Index)

TAPE RECORDINGS

Lacking foundation for admission,
4:8

TATTOO

Motion to exclude demonstration of
defendant's, **4:132**

TAX EVIDENCE

Damages, tax implications, **10:186**
Irrelevant, **10:185**
Jurors as taxpayers, improper appeal
to, **10:189**
Opposing authorities, **10:191, 10:192**
Suggested text, **10:182**
Summary of motion, **10:183**
Supporting authorities, **10:184 to**
10:190
Tax returns, **10:187, 10:237**
Wrongful death cases, **10:188,**
10:192

TERMINATING SANCTIONS

Sanctions (this index)

TERMINOLOGY

Trial (this index)

TESTIMONY

Attorney (this index)

Cumulative evidence exclusion, **2:28**

Expert Testimony (this index)

Lay, **4:12**

Repetitive, cumulative evidence,
2:36, 2:40

Sequestration order violations, **8:82**

Witness (this index)

TESTS AND EXPERIMENTS

Acceptance

level of acceptance in scientific
community, **5:17**

not generally accepted

generally, **5:4**

Frye standard, former, **5:5**

published precedent, **5:16**

Approved, **5:43**

Collateral issues, **5:11**

Court's discretion, **5:14**

Expert not qualified to testify on
subject, **5:3**

Expert testimony, motion to exclude,
5:58

credibility of witness, **5:59**

Hypnosis, **5:57**

Identical conditions, **5:15**

Lack of foundation, **4:9, 5:12**

Lay, **8:45**

Low-speed impact automobile cases,
accident reconstruction evi-
dence, **10:159**

Not generally accepted. Acceptance,
above

Opinion based on legitimate matters,
5:19

Opposing authorities, **5:14 to 5:19**

Reliability, **5:7**

Scientific community acceptance,
5:17

Scientific procedures not proper, **5:8**

Speculative or conjectural, **5:9**

TESTS AND EXPERIMENTS

—**Cont'd**

“Substantially identical” conditions,
5:6

Suggested text, **5:1**

Summary of motion, **5:2**

Supporting authorities, **5:3 to 5:13**

Too many variables, **5:10**

Too time consuming, **5:11**

Weight vs. admissibility, **5:18**

TEXT MESSAGES

Cumulative evidence, **4:80**

Foundation, lack of, **4:81**

Hearsay

generally, **4:78**

exceptions, **4:78**

relevance, **4:79**

Motion to exclude, sample motions,
4:139

Opposition to motion to exclude,
sample motions, **4:140**

TIME-WASTING EVIDENCE

Cumulative evidence, **2:28**

Opposing authorities, **2:11**

Suggested text, **2:8**

Summary of motion, **2:9**

Supporting authorities, **2:10**

TRAFFIC CITATIONS

Prior traffic citations, motion to
exclude evidence, **10:243**

Statute violations, personal injury,
10:75

TREATISES

Expert opinion, **8:8, 8:29**

TRIAL

Affirmative defenses, premature
rebuttal

opposing authorities, **9:19**

order of proof, **9:18**

suggested text, **9:15**

summary of motion, **9:16**

supporting authorities, **9:17, 9:18**

Bifurcated Trial (this index)

damages, bifurcated trial, motion to
exclude, **9:66**

INDEX

TRIAL—Cont'd

- golden rule argument, motion to exclude, **9:64**
- Golden Rule Argument** (this index)
- Improper terminology. Terminology, below
- Missing evidence instruction, opposition to motion, **9:65**
- Opening Statement** (this index)
- Premature rebuttal affirmative defenses. Affirmative defenses, above
- Terminology, improper
 - confusing evidence, **9:46**
 - legal conclusions, **9:47**
 - meaning of statute, **9:54**
 - misused terms, **9:51**
 - opposing authorities, **9:55**
 - suggested text, **9:44**
 - summary of motion, **9:45**
 - supporting authorities, **9:46 to 9:54**
 - ultimate issues, **9:48, 9:49**
 - usurping jury function, **9:53**
- Voir Dire** (this index)

“TRUTH-SERUM” EVIDENCE

- Generally, **5:24**

ULTIMATE ISSUE

- Expert testimony, **9:48, 9:49, 9:55**
- Non-experts, **9:50, 9:56**

UNAUTHENTICATED VIDEO RECORDING

- Motion to exclude, **4:137**

UNCHARGED OFFENSES

- Character evidence, crimes, **7:52, 7:57**

UNDISCLOSED WITNESS

- Motion to exclude testimony, **6:58**

UNINSURED VEHICLE OWNER OR OPERATOR

- Damages, statutory limitations, **10:211**

UNLICENSED DRIVER

- Lack of prejudice, **10:88**

UNLICENSED DRIVER—Cont'd

- License suspension or revocation
 - evidence not evidence of negligence, **10:86**
- Negligence, not evidence of, **10:86**
- Opposing authorities, **10:88, 10:89**
- Relevancy, **10:89**
- Suggested text, **10:84**
- Summary of motion, **10:85**
- Supporting authorities, **10:86, 10:87**

UNPLEADED ISSUES

- motion to exclude, **3:28**

UNPLEADED MATTERS

- Damages, **10:204, 10:214**
- Immigration status, **10:224**
- Matters not in controversy, irrelevant evidence, **3:18**

VEHICLE SPEED

- Accident reconstruction evidence, exclusion, **10:149**

VIDEOTAPES

- Generally, **4:50**
- Cumulative evidence, **2:39**
- 8220In memory of8221 videotapes, **4:126**
- Lack of foundation, **4:10**
- Prejudicial
 - generally, **4:50**
 - lack of foundation, **4:55**
 - limiting instruction, **4:54**
 - opposing authorities, **4:52 to 4:55**
 - relevance, **4:53**
 - sample motion, **4:126**
 - suggested text, **4:47**
 - summary of motion, **4:48**
 - supporting authorities, **4:49 to 4:51**
- Sample motion
 - 8220in memory of8221 videotapes, **4:126**
 - personal injury, surveillance video, **10:233**
- Unauthenticated video recording, motion to exclude, **4:137**

VOICEPRINT IDENTIFICATION

- Junk science, **5:32**

VOIR DIRE

- improper, opposition to motion, sample motions, **9:67**
- Juror questionnaire use during, sample motion, **9:62**
- Jurors understanding of the law, **9:6**
- Opposing authorities, **9:8**
- Preconditioning, **9:4, 9:5**
- Suggested text, **9:1**
- Summary of motion, **9:2**
- Supporting authorities, **9:3 to 9:7**

WAIVER

- Privilege not to testify, **8:89**

WITNESS

- Alcohol consumption, **10:118**
- Arbitrator as witness, **8:65, 8:69**
- Attorney General
 - opposing authorities, **8:70**
- Attorney** (this index)
- Bias, character evidence for impeachment, **7:23**
- Character evidence, impeachment, **7:14, 7:20, 7:23, 7:38**
- Courtroom sequestration prior to testifying
 - cannot exclude party, **8:81**
 - criminal cases, **8:79**
 - discretionary decision, **8:80**
 - exclusion of testimony, **8:82**
 - opposing authorities, **8:80 to 8:83**
 - purpose, **8:83**
 - suggested text, **8:76**
 - summary of motion, **8:77**
 - supporting authorities, **8:78, 8:79**
- Cumulative Evidence** (this index)
 - exclude from courtroom prior to testifying
 - sample motion, **8:122**
- Expert witness, opposition to motion to exclude testimony, **8:125**
- Expert Witness** (this index)
- Good character, **7:14, 7:26**
- Identity, sanctions for failure to disclose, **6:24**
- Impeachment** (this index)
- Incompetent
 - children, **8:54, 8:59**

WITNESS—Cont'd

- Incompetent—Cont'd
 - inability to express self or tell truth, **8:53**
 - lack of personal knowledge of subject matter, **8:56, 8:61**
 - mental competence, **8:55, 8:60**
 - opposing authorities, **8:58 to 8:61**
 - suggested text, **8:51**
 - summary of motion, **8:52**
 - supporting authorities, **8:53 to 8:57**
- Incompetent witness, motion to exclude testimony, **8:127**
- Judge
 - opposing authorities, **8:68**
 - suggested text, **8:62**
 - summary of motion, **8:63**
 - supporting authorities, **8:64**
- Juror
 - suggested text, **8:62**
 - summary of motion, **8:63**
 - supporting authorities, **8:67**
- Lay
 - assist in understanding testimony, **8:49**
 - causation, **8:43**
 - motion to exclude, **8:121**
 - exclude from courtroom prior to testifying, **8:122**
 - lack of foundation, **4:12**
 - lay experiments, **8:45**
 - legal opinions, **8:44, 10:199**
 - medical malpractice cases, **8:48**
 - opposing authorities, **8:47 to 8:50**
 - opposition to motion to exclude testimony, **8:121**
 - perceptions, **8:47, 8:48**
 - sanity, **8:48**
 - suggested text, **8:40**
 - summary of motion, **8:41**
 - supporting authorities, **8:42 to 8:46**
- Material, non-called, **8:100**
- mediator, motion to exclude testimony, **8:126**
- Mediator as witness, **8:65, 8:69**

INDEX

WITNESS—Cont'd

motion to exclude testimony, lack of subject matter, **8:123**

Non-called

adequate testimony, **8:96**

comments would invite speculation, **8:95**

material witness, **8:100**

opposing authorities, **8:99, 8:100**

reason for unavailability would be prejudicial, **8:97**

sample motion, **8:118**

suggested text, **8:91**

summary of motion, **8:92**

supporting authorities, **8:93 to 8:98**

witness was equally available to testify, **8:94**

Non-party, **8:78**

Non-qualified expert

opposing authorities, **8:39**

qualifications, improper, **8:37**

suggested text, **8:34**

summary of motion, **8:35**

supporting authorities, **8:36 to 8:38**

Non-qualified expert witness, opposition to motion to exclude testimony, **8:125**

Perceptions, character evidence for impeachment, **7:20**

Privilege not to testify, comment on exercise of

civil cases, **8:88**

inferences allowed, **8:87**

no-comment, **8:86**

opposing authorities, **8:87 to 8:90**

premature, **8:90**

suggested text, **8:84**

summary of motion, **8:85**

supporting authorities, **8:86**

waiver, **8:89**

Sample Motions (this Index)

WITNESS—Cont'd

Testimony

cumulative evidence, **2:31, 2:34**

Lacking foundation for admission, **4:11, 4:12**

privilege not to testify, above

Sample Motions (this Index)

Undisclosed, **6:47**

Veracity, impeachment, **7:22**

WORKERS COMPENSATION

Collateral source payments, **10:8**

WRITINGS

Accident Reports (this index)

Authentication, **4:21, 4:30**

Best evidence rule, **4:28, 4:29**

Confusing, **4:22**

Defined, **4:20**

Foundation

adequate, **4:31**

inadequate, **4:13**

Hearsay

generally, **4:23, 4:24, 8:105**

business records exception, **4:26**

examples, **4:25**

multiple, **8:108**

opposing authorities, **4:30, 4:32**

public records exception, **4:27**

Lacking foundation for admission.

Foundation, above

Opposing authorities, **4:30, 4:32**

Published Articles (this index)

Suggested text, **4:18**

Summary of motion, **4:19**

Supporting authorities, **4:20 to 4:29**

Unauthenticated, **4:21, 4:22**

WRONGFUL DEATH

Financial status, **10:177**

Tax evidence, **10:188, 10:192**

X-RAYS

Gruesome or inflammatory photographs, **4:45**