## CHAPTER 1. MOTION IN LIMINE LAW

#### I. OVERVIEW

#### A. IN LIMINE LAW AND PROCEDURE

- § 1:1 Description and purpose of motion
- § 1:2 Authority for motion
- § 1:3 Typical use of motion
- § 1:4 —Limitations on use
- § 1:5 Timing of motion
- § 1:6 Scope of motion
- § 1:7 Procedural requirements
- § 1:8 —Caution regarding local rules

#### B. DRAFTING SUGGESTIONS

- § 1:9 Overview
- § 1:10 —File motions supported by facts
- § 1:11 —Be succinct

#### II. SAMPLES

- § 1:12 Sample in limine brief
- § 1:13 Sample in limine order

## CHAPTER 2. PREJUDICIAL EVIDENCE

#### I. MOTION AUTHORITIES

# A. MOTION TO EXCLUDE PREJUDICIAL EVIDENCE, GENERALLY

- § 2:1 Suggested motion text
- § 2:2 Motion summary
- § 2:3 Supporting authorities—Exclusion of prejudicial evidence
- § 2:4 —Prejudice defined
- § 2:5 —"Emotional bias"
- § 2:6 Opposing authorities—Generally
- § 2:7 —Broad discretion

# B. MOTION TO EXCLUDE EVIDENCE THAT WILL WASTE COURT'S TIME

- § 2:8 Suggested motion text § 2:9 Motion summary § 2:10 Supporting authorities—Exclusion of time-wasting
- evidence § 2:11 Opposing authorities

# C. MOTION TO EXCLUDE CONFUSING OR MISLEADING EVIDENCE

- § 2:12 Suggested motion text
- § 2:13 Motion summary
- § 2:14 Supporting authorities—Exclusion of confusing or misleading evidence
- § 2:15 Opposing authorities
- § 2:16 —Limiting instruction

# D. MOTION TO EXCLUDE EVIDENCE USED TO CREATE AN EMOTIONAL BIAS

- § 2:17 Suggested motion text
- § 2:18 Motion summary
- § 2:19 Supporting authorities—Exclusion of prejudicial evidence, generally
- § 2:20 —Exclusion of evidence intended to inflame jurors' emotions
- § 2:21 Jurors' self interest as taxpayers
- § 2:22 ——"Golden rule" argument
- § 2:23 ——Evidence of poverty as motive
- § 2:24 Opposing authorities

# E. MOTION TO EXCLUDE OR LIMIT CUMULATIVE EVIDENCE

- § 2:25 Suggested motion text
- § 2:26 Motion summary
- § 2:27 Supporting authorities—Exclusion of time-wasting evidence
- § 2:28 —Exclusion of cumulative evidence
- § 2:29 ——Letters
- § 2:30 ——Credentials
- § 2:31 ——Number of witnesses
- § 2:32 ——Photographs
- § 2:33 ——Reports

- $\S~2:34$  —Witness testimony
- § 2:35 — Video/audio tape evidence
- § 2:36 —Repetitive testimony
- § 2:37 Opposing authorities—General authority
- § 2:38 —Number of witnesses
- § 2:39 —Video/audio tape evidence
- § 2:40 —Repetition of testimony
- § 2:41 —Photographs

#### II. SAMPLE MOTIONS

- § 2:42 Motion to exclude confusing evidence
- § 2:43 Motion to exclude evidence that will confuse jury
- § 2:44 Opposition to motion to exclude evidence that will confuse the jury
- § 2:45 Motion to exclude cumulative evidence
- § 2:46 Opposition to motion to exclude cumulative witness testimony
- § 2:47 Motion to exclude prejudicial evidence
- § 2:48 Opposition to motion to exclude prejudicial evidence
- § 2:49 Motion to exclude evidence of defendant's poverty

#### CHAPTER 3. IRRELEVANT EVIDENCE

### I. MOTION AUTHORITIES

# A. MOTION TO EXCLUDE IRRELEVANT EVIDENCE

- § 3:1 Suggested motion text
- § 3:2 Motion summary
- § 3:3 Supporting authorities—Definition of "relevant evidence"
- § 3:4 —Exclusion of irrelevant evidence, generally
- § 3:5 —Matters not in dispute
- § 3:6 ——No unlimited inquiry
- § 3:7 ——Outside pleadings
- § 3:8 ——Prejudicial
- § 3:9 ——Speculative evidence
- § 3:10 ——Court's discretion
- § 3:11 ——Too remote
- § 3:12 Opposing authorities

# B. MOTION TO EXCLUDE EVIDENCE OF MATTERS NOT IN CONTROVERSY

§ 3:13 Suggested motion text

§ 3:14	Motion summary
§ 3:15	Supporting authorities—Exclusion of irrelevant evidence, generally
§ 3:16	——Admitted or uncontroverted matters
§ 3:17	——Collateral issues
§ 3:18	— — Unpleaded issues
§ 3:19	Opposing authorities
§ 3:20	—Collateral issues
§ 3:21	—Estoppel: unpleaded issues
§ 3:22	—Where relevant to other issues
§ 3:23	—Admissibility of evidence despite uncontested issue

## II. SAMPLE MOTIONS

§ 3:24	Motion to exclude irrelevant evidence (immigration
\$ 2.05	status)
§ 3:25	Motion to exclude evidence of physical conditions not at issue
§ 3:26	Motion to exclude irrelevant evidence (insurance case)
§ 3:27	Motion to exclude collateral and irrelevant evidence
§ 3:28	Motion to exclude evidence relating to unpleaded issues
§ 3:29	Motion to exclude speculative evidence

# CHAPTER 4. WRITINGS & PHYSICAL EVIDENCE

## I. MOTION AUTHORITIES

# A. MOTION TO EXCLUDE EVIDENCE LACKING FOUNDATION

$\S~4:1$	Suggested motion text
$\S 4:2$	Motion summary
§ 4:3	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 4:4	—Preliminary facts
$\S~4:5$	— Determination out of jury presence
§ 4:6	—Improper foundation, generally
§ 4:7	——Photographs
§ 4:8	——Tape recordings
§ 4:9	——Tests and experiments
§ 4:10	— Videotapes and motion pictures
§ 4:11	— —Witness testimony—Experts
§ 4:12	— — —Lay
§ 4:13	— —Writings

§ 4:14	— — Medical reports
§ 4:15	Opposing authorities—General
§ 4:16	—Conditional admissibility
§ 4:17	—Outside juror's presence
В.	MOTION TO EXCLUDE WRITINGS, GENERALLY
§ 4:18	Suggested motion text
§ 4:19	Motion summary
$\S 4:20$	Supporting authorities—"Writing" defined
§ 4:21	—Unauthenticated writings—General authentication requirement
34:22	— Exclusion of unauthenticated writings
§ 4:23	—Hearsay
34:24	— —Hearsay generally
34:25	— —Examples of inadmissible written hearsay
§ 4:26	— —Business records exception
$\S 4:27$	——Public records exception
§ 4:28	—Best Evidence Rule
§ 4:29	——Secondary evidence
§ 4:30	Opposing authorities—Authentication
§ 4:31	— —Adequate foundations—Examples
§ 4:32	—Hearsay
C.	MOTION TO EXCLUDE GRUESOME OR INFLAMMATORY PHOTOGRAPHS
§ 4:33	Suggested motion text
§ 4:34	Motion summary
3 4:35	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 4:36	—Exclusion of irrelevant evidence, generally
§ 4:37	—Gruesome or inflammatory photographs
4:38	—Purpose to inflame jurors' emotions
4:39	—Exclusion of photographs, generally
§ 4:40	—Other grounds
§ 4:41	Opposing authorities—Photographs, generally
§ 4:42	——Adequate foundation
§ 4:43	— Enlarged photographs
§ 4:44	—Gruesome photographs
§ 4:45	—X-rays
§ 4:46	—Accident scene photographs
D.	MOTION TO EXCLUDE PREJUDICIAL FILM OR VIDEOTAPES

§	4:48	Motion summary
§	4:49	Supporting authorities—Exclusion of prejudicial evidence, generally
Ş	4:50	Exclusion of videotape evidence
	4:51	—Other grounds
	4:52	Opposing authorities—Generally
§	4:53	—Relevance
§	4:54	—Limiting instruction
§	4:55	—Adequate foundation
	E.	MOTION TO EXCLUDE PUBLISHED ARTICLES
§	4:56	Suggested motion text
§	4:57	Motion summary
§	4:58	Supporting authorities—Exclusion of prejudicial evidence, generally
§	4:59	—Exclusion of published articles—Cumulative
§	4:60	— —Hearsay
	4:61	— — Other grounds
	4:62	Opposition authorities—Self-authentication
§	4:63	—Market reports, commercial publications
§	4:64	—Where relevant to issues—Libel
	F.	MOTION TO EXCLUDE ACCIDENT REPORTS
	4:65	Suggested motion text
§	4:65 4:66	Suggested motion text Motion summary
§	4:65	Suggested motion text Motion summary Supporting authorities—Exclusion of prejudicial evidence, generally
§ §	4:65 4:66 4:67 4:68	Suggested motion text Motion summary Supporting authorities—Exclusion of prejudicial evidence, generally —Inadmissible hearsay
§ § § §	4:65 4:66 4:67 4:68 4:69	Suggested motion text Motion summary Supporting authorities—Exclusion of prejudicial evidence, generally —Inadmissible hearsay —Statements and opinions in reports
\$ \$ \$ \$	4:65 4:66 4:67 4:68 4:69 4:70	Suggested motion text Motion summary Supporting authorities—Exclusion of prejudicial evidence, generally —Inadmissible hearsay —Statements and opinions in reports —Other grounds
\$ \$ \$ \$	4:65 4:66 4:67 4:68 4:69	Suggested motion text Motion summary Supporting authorities—Exclusion of prejudicial evidence, generally —Inadmissible hearsay —Statements and opinions in reports
	4:65 4:66 4:67 4:68 4:69 4:70 4:71	Suggested motion text Motion summary Supporting authorities—Exclusion of prejudicial evidence, generally —Inadmissible hearsay —Statements and opinions in reports —Other grounds Opposing authorities—Report used to refresh recollection —Diagrams made at scene
	4:65 4:66 4:67 4:68 4:69 4:70 4:71	Suggested motion text Motion summary Supporting authorities—Exclusion of prejudicial evidence, generally —Inadmissible hearsay —Statements and opinions in reports —Other grounds Opposing authorities—Report used to refresh recollection —Diagrams made at scene —Business records exception
	4:65 4:66 4:67 4:68 4:69 4:70 4:71	Suggested motion text Motion summary Supporting authorities—Exclusion of prejudicial evidence, generally —Inadmissible hearsay —Statements and opinions in reports —Other grounds Opposing authorities—Report used to refresh recollection —Diagrams made at scene
	4:65 4:66 4:67 4:68 4:69 4:70 4:71 4:72 4:73	Suggested motion text Motion summary Supporting authorities—Exclusion of prejudicial evidence, generally —Inadmissible hearsay —Statements and opinions in reports —Other grounds Opposing authorities—Report used to refresh recollection —Diagrams made at scene —Business records exception
	4:65 4:66 4:67 4:68 4:69 4:70 4:71 4:72 4:73 4:74	Suggested motion text Motion summary Supporting authorities—Exclusion of prejudicial evidence, generally —Inadmissible hearsay —Statements and opinions in reports —Other grounds Opposing authorities—Report used to refresh recollection —Diagrams made at scene —Business records exception —Public records exception  MOTION TO EXCLUDE LETTERS, EMAIL, AND
	4:65 4:66 4:67 4:68 4:69 4:70 4:71 4:72 4:73 4:74 G.	Suggested motion text Motion summary Supporting authorities—Exclusion of prejudicial evidence, generally —Inadmissible hearsay —Statements and opinions in reports —Other grounds Opposing authorities—Report used to refresh recollection —Diagrams made at scene —Business records exception —Public records exception  MOTION TO EXCLUDE LETTERS, EMAIL, AND TEXT MESSAGES
	4:65 4:66 4:67 4:68 4:69 4:70 4:71 4:72 4:73 4:74 G.	Suggested motion text Motion summary Supporting authorities—Exclusion of prejudicial evidence, generally —Inadmissible hearsay —Statements and opinions in reports —Other grounds Opposing authorities—Report used to refresh recollection —Diagrams made at scene —Business records exception —Public records exception  MOTION TO EXCLUDE LETTERS, EMAIL, AND TEXT MESSAGES Suggested motion text

§ 4:81 § 4:82 § 4:83 § 4:84	<ul> <li>— Cumulative</li> <li>— Lack of foundation</li> <li>— Other grounds</li> <li>Opposing authorities—Generally</li> <li>— Exceptions to hearsay rule</li> </ul>
§ 4:85 § 4:86 § 4:87 § 4:88	
H.	MOTION TO EXCLUDE MAPS, MODELS, CHARTS, EXHIBITS AND DEMONSTRATIVE EVIDENCE
§ 4:89	Suggested motion text
§ 4:90	Motion summary
§ 4:91	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 4:92	—Court's discretion
§ 4:93	-Exclusion of maps, models, diagrams or charts
§ 4:94	—Demonstrative evidence
§ 4:95	—Other grounds
§ 4:96	Opposing authorities—Illustrative purposes
§ 4:97	—Maps, models, diagrams or charts generally
§ 4:98	—Computer databases
§ 4:99 § 4:100	-Exhibits -Demonstrative evidence
§ 4.100	—Demonstrative evidence
I.	MOTION TO EXCLUDE IMPROPER MEDICAL RECORDS, REPORTS OR BILLS
§ 4:101	Suggested motion text
§ 4:102	Motion summary
§ 4:103	Supporting authorities—Exclusion of prejudicial matter, generally
§ 4:104	—Improper foundation, generally
§ 4:105	—Medical opinions—Improper hearsay evidence
§ 4:106	— — Opinions of others—Lack of personal knowledge
§ 4:107	—Patient medical history
§ 4:108	—Billing records—Lack of foundation
§ 4:109	—Other grounds
§ 4:110	Opposition citations—Proper authentication
§ 4:111	—Business records exception
§ 4:112	—Patient history

§ 4:113	— — Observations of physician
§ 4:114	——Pertinent to medical diagnosis
J.	MOTION TO EXCLUDE SOCIAL MEDIA EVIDENCE
§ 4:115	Suggested motion text
3 4:116	Motion summary
§ 4:117	Supporting authorities—Exclusion of prejudicial evidence, generally
3 4:118	—Exclusion of social media evidence—Generally
§ 4:119	— —Hearsay
§ 4:120	— —Lack of foundation or authentication
§ 4:121	—Other grounds
§ 4:122	Opposing authorities—Generally
§ 4:123	—Nonhearsay
3 4:124	—Proper foundation or authentication
II. SA	AMPLE MOTIONS
3 4:125	Motion to exclude gruesome photographs
3 4:126	Motion to exclude evidence of inflammatory and
	prejudicial photographs
§ 4:127	Opposition to motion to exclude prejudicial photographs
\$ 4:128	Motion to admit videotape evidence
3 4:129	Motion to exclude demonstration
§ 4:130	Motion to exclude written letter
§ 4:131	Motion to exclude plaintiff's medical history
§ 4:132	Motion to exclude newspaper article
§ 4:133	Motion to exclude demonstration of defendant's tatto
§ 4:134	Motion to exclude social media evidence
§ 4:135	Opposition to motion to exclude social media evidence
§ 4:136	Motion to exclude map
§ 4:137	Motion to exclude unauthenticated video recording
§ 4:138	Motion to exclude accident report
3 4:139	Motion to exclude text messages
§ 4:140	Opposition to motion to exclude text messages
3 4:141	Motion to exclude medical bills

# CHAPTER 5. TESTS & SCIENTIFIC EVIDENCE

## I. MOTION AUTHORITIES

# A. MOTION TO EXCLUDE TESTS, EXPERIMENTS AND RELATED TESTIMONY

§ 5:1	Suggested motion text
§ 5:2	Motion summary
§ 5:3	Supporting authorities—Expert not qualified to testify on subject
§ 5:4	—Not generally accepted
§ 5:5	
§ 5:6	—Not made under "substantially identical" conditions
§ 5:7	—Not reliable
§ 5:8	—Scientific procedures not proper
§ 5:9	—Speculative or conjectural
§ 5:10	—Too many variables
§ 5:11	—Too time-consuming; collateral issues
§ 5:12	—Lack of foundation
§ 5:13	—Other grounds
§ 5:14	Opposing authorities—Court's discretion
§ 5:15	—Identical conditions requirement
§ 5:16	—General acceptance—Published precedent
§ 5:17	— — Level of acceptance in scientific community
§ 5:18	—Weight vs. admissibility
§ 5:19	—Opinion based on legitimate matters

# B. MOTION TO EXCLUDE JUNK SCIENCE AND RELATED EVIDENCE

§ 5:20	Suggested motion text
§ 5:21	Motion summary
§ 5:22	Supporting authorities—Exclusion of new scientific
	evidence; generally
§ 5:23	—Hedonic damage evidence
§ 5:24	—"Truth serum" evidence
§ 5:25	—Polygraph evidence
§ 5:26	— Refusal to take polygraph test
§ 5:27	—Psychological tests and syndromes—In general
§ 5:28	——Rape trauma syndrome
§ 5:29	<ul> <li>— Child sexual abuse accommodation syndrome</li> </ul>
§ 5:30	<ul> <li>— Electronic penile plethysmograph test</li> </ul>
§ 5:31	—Hypnosis evidence

§ 5:32	—Voiceprint identification
§ 5:33	—Accident reconstruction evidence
§ 5:34	—Biomechanic evidence
§ 5:35	— —Low-speed impact cases
§ 5:36	-Statistical evidence-Exclusion of confusing evidence
§ 5:37	— — Disapproved statistics evidence, generally
§ 5:38	——Statistics in products liability or negligence cases
§ 5:39	——Statistics in employment cases
§ 5:40	—Battered Women's Syndrome
§ 5:41	Opposing authorities—In general
§ 5:42	— — Where <i>Frye</i> test not required
§ 5:43	——Approved tests
§ 5:44	—Hedonic damages
§ 5:45	—Polygraph evidence
§ 5:46	U 1 1
§ 5:47	—Psychological tests—Compare: psychological tests vs psychological opinion
§ 5:48	——Rape Trauma Syndrome—Where not used to show rape occurred
§ 5:49	——Child Sexual Abuse Accommodation Syndrome
§ 5:50	——"Battered Woman Syndrome"
§ 5:51	—Hypnosis evidence
§ 5:52	—Statistics evidence—General acceptance
§ 5:53	— —Judicial notice
§ 5:54	—Accident reconstruction and biomechanic evidence
II. S	AMPLE MOTIONS

- § 5:55 Motion to exclude evidence of statistical analysis
- § 5:56 Motion to exclude evidence of polygraph examination
- § 5:57 Motion to exclude evidence of hypnosis
- § 5:58 Motion to exclude expert testimony
- § 5:59 Motion to exclude expert testimony (credibility of witness)
- § 5:60 Motion to exclude biomechanic evidence

## **CHAPTER 6. DISCOVERY MOTIONS**

## I. MOTION AUTHORITIES

## A. MOTION FOR EVIDENTIARY SANCTIONS

- § 6:1 Suggested motion text
- § 6:2 Motion summary
- § 6:3 Supporting authorities—General authority [R. 4:23]— Misuse of discovery process

§ (	6:4	——Evidence sanction
ş (	6:5	——Issue sanction
§ (	6:6	——Terminating sanction
§ (	6:7	— — When prior order unnecessary
§ (	6:8	— — Willfulness requirement
§ (	6:9	—Depositions [R. 4:23-2, R. 4:23-4]—Failure to comply
		with discovery order
ş (	6:10	— Evidence exclusion
ş (	6:11	— — Harsher sanctions—Termination or default
ş (	6:12	—Interrogatories [R. 4:23-1, R. 4:23-2]—Failure to
		comply with discovery order
_	6:13	— — Evidentiary sanctions
-	6:14	— — Harsher sanctions—Dismissal
ş (	6:15	—Production requests [R. 4:23-2, R. 4:23-4, R.
		4:23-5]—Failure to comply with discovery order
-	6:16	— — Evidentiary sanctions
ş (	6:17	——Issue sanctions
ş (	6:18	— —Terminating sanctions
ş (	6:19	—Mental and physical examinations [R. 4:19, R.
		4:23-2, R. 4:23-5(a)]—Failure to comply with
		discovery order
_	6:20	——Sanctions
ş (	6:21	—Requests for admission [R. 4:22-1]
ş (	6:22	——Deeming non-responsive matters admitted
ş (	6:23	—Requests for admission [N.J.R.E. 4:22-1]—Failure to
		comply with discovery order
	6:24	—Failure to disclose identity of witnesses, generally
ş (	6:25	— —Compare: faulty expert designations or
		declarations
_	6:26	—Other grounds
•	6:27	Opposing authorities—Generally
ş (	6:28	——Sanction should be appropriate to level of
		misconduct
ş (	6:29	——Reasonable alternative remedy
ş (	6:30	— — Willfulness requirement
ş (	6:31	—Depositions
ş (	6:32	—Interrogatories
ş (	6:33	—Production requests
§ (	6:34	—Matters deemed admitted
	В.	MOTION TO CONCLUSIVELY ESTABLISH

# ADMITTED MATTERS

- Suggested motion text Motion summary § 6:35
- § 6:36

§ 6:37 Supporting authorities—Conclusive establishment of admitted matters [R. 4:22-2]

# C. MOTION TO EXCLUDE EVIDENCE OF CLAIMS DENIED DURING DISCOVERY

- § 6:38 Suggested motion text
- § 6:39 Motion summary
- § 6:40 Supporting authorities—Exclusion of prejudicial evidence, generally
- § 6:41 ——Unfair surprise
- § 6:42 Where privilege raised during discovery
- § 6:43 —Other grounds
- § 6:44 Opposing authorities

# D. MOTIONS RE IMPROPER EXPERT WITNESS EXCHANGE OR EXPERT DEPOSITION

- § 6:45 Suggested motion text
- § 6:46 Motion summary
- § 6:47 Supporting authorities—Undisclosed witnesses
- § 6:48 —Expert testimony on topic outside pleadings / deposition
- § 6:49 —Must identify experts or treating physicians
- § 6:50 Opposing authorities—Undisclosed witnesses
- § 6:51 ——Continuance to depose expert
- § 6:52 —Situations where expert may deviate from disclosure
- § 6:53 No effort to follow up by deposing party
- § 6:54 ——Precise compensation or prior testimony information
- § 6:55 — Opportunity to re-depose experts

#### II. SAMPLE MOTIONS

- § 6:56 Motion to exclude evidence of claim denied during discovery
- § 6:57 Motion to deem matters admitted
- § 6:58 Motion to exclude testimony of undisclosed witness
- § 6:59 Motion to exclude evidence produced beyond discovery deadline
- § 6:60 Motion for discovery sanction establishing facts
- § 6:61 Motion to exclude expert testimony relating to matters not disclosed during discovery
- § 6:62 Opposition to defendants' motion to limit plaintiff's expert's opinions
- § 6:63 Motion for order rendering default judgment as discovery sanction

- § 6:64 Motion for evidentiary sanctions for failure to serve answers orobjections to interrogatories
- § 6:65 Motion to dismiss action as discovery sanction

#### CHAPTER 7. CHARACTER EVIDENCE

#### I. MOTION AUTHORITIES

#### A. OVERVIEW OF CHARACTER EVIDENCE

- § 7:1 Admissible character evidence
- § 7:2 Character evidence subject to exclusion
- § 7:3 Statutory limitations on use in criminal cases

# B. MOTION TO EXCLUDE CHARACTER EVIDENCE USED FOR IMPEACHMENT

- § 7:4 Suggested motion text
- § 7:5 Motion summary
- § 7:6 Supporting authorities—Exclusion of prejudicial evidence, generally
- § 7:7 —Exclusion of irrelevant evidence, generally
- § 7:8 —Exclusion of improper impeachment evidence, generally
- § 7:9 ——Alcohol consumption
- § 7:10 ——Arrests and misdemeanor convictions
- § 7:11 ——Drug use
- § 7:12 ——Felony convictions
- § 7:13 ——Fraudulent acts
- § 7:14 ——Good character of witness
- § 7:15 ——Religious belief
- § 7:16 ——Sexual preference or behavior
- § 7:17 ——Collateral issues
- § 7:18 —Other grounds
- § 7:19 Opposing authorities—Facts at issue
- § 7:20 —Witness perceptions
- § 7:21 —Impeachment, generally
- § 7:22 Witness veracity
- § 7:23 ——Witness bias
- § 7:24 —Alcohol consumption
- § 7:25 —Religious beliefs
- § 7:26 —Good character—Opening the door doctrine
- § 7:27 —Drug use

# C. MOTION TO EXCLUDE CHARACTER EVIDENCE USED TO PROVE CONDUCT

§ 7:28 Suggested motion text

§ 7:29	Motion summary
§ 7:30	Supporting authorities—Exclusion of prejudicial
§ 7:31	evidence, generally —Exclusion of irrelevant evidence, generally
§ 7:32	Exclusion of improper character evidence
§ 7:33	——Care or skill in negligence cases
§ 7:34	——Crimes evidence, generally
§ 7:35	—Other grounds
§ 7:36	Opposing authorities—Court's discretion
§ 7:37	—Relevant to material issue
§ 7:38	—Witness impeachment
§ 7:39	—Trait at issue
D.	MOTION TO EXCLUDE PRIOR CRIME EVIDENCE
§ 7:40	Suggested motion text
§ 7:41	Motion summary
§ 7:42	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 7:43	—Exclusion of irrelevant evidence, generally
§ 7:44	—Exclusion of crime evidence, generally
§ 7:45	—Prior convictions
§ 7:46	——Balancing prejudicial impact of evidence
§ 7:47	——Crimes of dishonesty; "moral turpitude" crimes
§ 7:48	——Improper character evidence
§ 7:49	——Remote convictions
§ 7:50 § 7:51	—Prior arrests, juvenile adjudications
§ 7.51 § 7:52	—Prior criminal pleas / non vult contendere —Uncharged offenses
§ 7.52 § 7:53	—Collateral issues
§ 7:54	—Other grounds
§ 7:55	Opposing authorities—Remoteness of conviction
§ 7:56	—Admissible plea evidence
§ 7:57	—Uncharged offenses
II. SA	AMPLE MOTIONS
§ 7:58	Motion to exclude evidence of alcoholism of percipient
3 1.00	witness
§ 7:59	Motion to exclude evidence of prior felony conviction
§ 7:60	Motion to exclude evidence of witness's habit of intemperance
§ 7:61	Motion to exclude improper character evidence
0	(marital infidelity)
§ 7:62	Motion to exclude evidence of religious beliefs

- § 7:63 Motion to exclude improper character evidence (juvenile adjudication)
   § 7:64 Motion to exclude improper character evidence (prescription drug abuse)
   § 7:65 Motion to exclude evidence of prior arrest of witness
   § 7:66 Motion to exclude evidence regarding witness's mental health
- § 7:67 Opposition to motion to exclude inflammatory evidence

#### CHAPTER 8. WITNESS EVIDENCE

#### I. MOTION AUTHORITIES

# A. MOTION TO EXCLUDE IMPROPER EXPERT OPINION

§ 8:1 Suggested motion text § 8:2 Motion summary § 8:3 Supporting authorities—Exclusion of improper opinion, generally § 8:4 — —Inadequate foundation § 8:5 —Hypothetical questions § 8:6 —Inadmissible hearsay § 8:7 ——Opinions of others § 8:8 ——Statements of others § 8:9 — — Treatises, documents & texts § 8:10 —Legal questions § 8:11 — —Compare: ultimate issues § 8:12 —Matters of common experience § 8:13 —Not reasonably relied upon by experts § 8:14 —Not perceived or personally known -Precluded by law § 8:15 § 8:16 —Speculation or conjecture § 8:17 —Too many variables § 8:18 —Uncooperative witness § 8:19 —Usurping jury function § 8:20 —Irrelevant matters —Improper profile evidence § 8:21 § 8:22 —Outside area of specialty or expertise § 8:23 ——Specialists' differing standards of care § 8:24 —Cumulative testimony —Other grounds § 8:25 Opposing authorities—Generally § 8:26 § 8:27 -Hearsay ——Statements of others § 8:28

§ 8:29	——Treatises, documents and text
	—Hypothetical questions
§ 8:31	
§ 8:32	9 1
§ 8:33	
, 0.00	(chiropractors)
	,
В	. MOTION TO EXCLUDE TESTIMONY OF NON- QUALIFIED EXPERT
§ 8:34	Suggested motion text
§ 8:35	
§ 8:36	·
	experts
§ 8:37	—Improper qualifications: examples
§ 8:38	—Other grounds
§ 8:39	Opposing authorities—Generally
C	. MOTION TO EXCLUDE LAY WITNESS TESTIMONY
§ 8:40	Suggested motion text
§ 8:41	
§ 8:42	·
§ 8:43	——Causation
-	— —Legal opinions
§ 8:45	
§ 8:46	· -
§ 8:47	Opposing authorities—Perceptions of witness
§ 8:48	
§ 8:49	·
§ 8:50	—Medical malpractice cases—"Common knowledge"
, 0.00	exception
Г	MOTION TO EXCLUDE TESTIMONY OF INCOMPETENT WITNESS
§ 8:51	Suggested motion text
§ 8:52	Motion summary
§ 8:53	Supporting authorities—Inability to express self or tell
	truth
§ 8:54	— — Children
§ 8:55	—Lack of mental competence / insanity
§ 8:56	—Lack of personal knowledge of subject matter
§ 8:57	—Other grounds

TABLE OF	CONTENTS
	Opposing authorities—General authority —Children —Mental competence / insanity —Lack of personal knowledge of subject matter
E.	MOTION TO EXCLUDE TESTIMONY OF JUDGE, ARBITRATOR, MEDIATOR, ATTORNEY OR JUROR
\$ 8:67 \$ 8:68 \$ 8:69 \$ 8:70 \$ 8:71 \$ 8:72 \$ 8:73 \$ 8:74	Suggested motion text Motion summary Supporting authorities—Judge as witness —Arbitrator or mediator as witness —Attorney as witness —Juror as witness Opposing authorities—Judge as witness —Arbitrator or mediator as witness —Arbitrator or mediator as witness —Attorney testimony—Generally — —Uncontested matter — Value of legal services — Testimony of other attorney in firm or office — —Allowed to prevent a crime or injury — Extraordinary circumstances
F.	
§ 8:76 § 8:77 § 8:78	Suggested motion text Motion summary Supporting authorities—Exclusion of non-party witnesses from courtroom
\$ 8:79 \$ 8:80 \$ 8:81 \$ 8:82 \$ 8:83	<ul> <li>—Criminal cases</li> <li>Opposing authorities—Discretionary decision</li> <li>—Cannot exclude party</li> <li>—Exclusion of testimony improper remedy</li> <li>—Purpose of rule</li> </ul>
G.	MOTION TO EXCLUDE COMMENT ON EXERCISE OF PRIVILEGE (NOT TO TESTIFY)
\$ 8:84 \$ 8:85 \$ 8:86 \$ 8:87 \$ 8:88 \$ 8:89	Suggested motion text Motion summary Supporting authorities—No-comment rule Opposing authorities—Allowable inferences —Civil consequences of silence —Waiver

8	8:90	—Premature

## MOTION TO EXCLUDE EVIDENCE OF NON-CALLED WITNESSES

0.01	
§ 8:91	Suggested motion text
§ 8:92	Motion summary
§ 8:93	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 8:94	—Where witness was equally available to testify
§ 8:95	—Where comments would invite speculation
§ 8:96	—Where other adequate testimony
§ 8:97	—Where reason for unavailability would be prejudicial
§ 8:98	—Other grounds
§ 8:99	Opposition citations—Generally
§ 8:100	—Non-calling of material witness
I.	MOTION TO EXCLUDE HEARSAY EVI

### DENCE

- § 8:101 Suggested motion text
- § 8:102 Motion summary
- § 8:103 Supporting authorities—General authority for exclusion
- § 8:104 —Purpose of rule
- § 8:105 —Hearsay—Generally
- -Written hearsay-General authority for exclusion § 8:106
- § 8:107 ——Examples
- § 8:108 — — Multiple hearsay
- § 8:109 Opposing authorities—Hearsay exceptions, generally
- § 8:110 — —Examples
- § 8:111 ——Purpose of exceptions to hearsay rule
- § 8:112 —Non-hearsay evidence
- § 8:113 —Non-assertive conduct
- § 8:114 -Multiple hearsay
- § 8:115 —Hearsay used to impeach witness credibility
- —Broad discretion § 8:116

#### II. SAMPLE MOTIONS

- § 8:117 Motion to exclude speculative expert opinion
- § 8:118 Motion to exclude reference to non-called witnesses
- § 8:119 Motion to exclude evidence of computerized valuations of plaintiff's business, with alternative motion for a Frye hearing regarding the validity of the methodology

§ 8:120	Motion to exclude testimony and opinions of medical doctor
§ 8:121	Motion to exclude lay witness testimony (causation)
§ 8:122	Motion to exclude witness from courtroom prior to testifying
§ 8:123	Motion to exclude testimony of witness for lack of personal knowledge of subject matter
§ 8:124	Opposition to motion to exclude lay witness evidence
§ 8:125	Opposition to motion to exclude expert witness testimony (non-qualified)
§ 8:126	Motion to exclude testimony of mediator
§ 8:127	Motion to exclude testimony of incompetent witness
§ 8:128	Motion to exclude comment regarding exercise of privilege

## **CHAPTER 9. TRIAL PRESENTATION**

#### I. MOTION AUTHORITIES

#### A. MOTION TO PREVENT IMPROPER VOIR DIRE

§ 9:1	Suggested motion text
§ 9:2	Motion summary
_	

- § 9:3 Supporting authorities—Improper voir dire
- § 9:4 —Preconditioning
- $\S~9:5~$  ——Preconditioning regarding dollar amount of damages
- § 9:6 —Educating jury on the law
- § 9:7 —Other grounds
- § 9:8 Opposing authorities—Generally

# B. MOTION TO EXCLUDE IMPROPER ARGUMENT IN OPENING STATEMENT

- § 9:9 Suggested motion text
- § 9:10 Motion summary
- § 9:11 Supporting authorities—Exclusion of prejudicial evidence, generally
- § 9:12 —Exclusion of prejudicial matter in opening statement
- § 9:13 —Other grounds
- § 9:14 Opposing authorities

# C. MOTION TO BAR PREMATURE REBUTTAL TO AFFIRMATIVE DEFENSES

§ 9:15 Suggested motion text

§	9:16	Motion summary
§	9:17	Supporting authorities—Exclusion of prejudicial evidence, generally
Ş	9:18	—Order of proof
	9:19	Opposing authorities
	D.	MOTION TO EXCLUDE REFERENCE TO LOST OR DESTROYED EVIDENCE
§	9:20	Suggested motion text
§	9:21	Motion summary
§	9:22	Supporting authorities—Exclusion of prejudicial evidence, generally
§	9:23	—Exclusion of lost or destroyed evidence
§	9:24	— — Accidental destruction of evidence
§	9:25	— —Intentional destruction or suppression of evidence
§	9:26	— —A note on tort of spoliation of evidence
§	9:27	—Negative presumption
	9:28	—Other grounds
§	9:29	Opposition citations—Generally
§	9:30	—Other remedies
	E.	MOTION TO EXCLUDE EVIDENCE OF DAMAGES IN BIFURCATED TRIAL
Ş	9:31	Suggested motion text
	9:32	Motion summary
	9:33	Supporting authorities—Statutory authority
	9:34	—Policy considerations
	9:35	—Other grounds
	9:36	Opposing authorities
	9:37	—Liability issues relevant to damages
_	9:38	—Small overlap approved
	F.	MOTION TO PRECLUDE "GOLDEN RULE ARGUMENT"
Ş	9:39	Suggested motion text
_	9:40	Motion summary
_	9:41	Supporting authorities—Exclusion of prejudicial
Ŭ		evidence, generally
	9:42	—Rejection of "golden rule argument"
8	9:43	—Other grounds
	G.	MOTION TO EXCLUDE IMPROPER TERMINOLOGY

xxxii

§ 9:44

Suggested motion text

defense:

§ 9:45	Motion summary
§ 9:46	Supporting authorities—Confusing evidence
§ 9:47	—Terms containing legal conclusions
§ 9:48	—Testimony on ultimate issues—Exclusion of ultimate issue evidence
§ 9:49	— —General admissibility of ultimate issue opinions
§ 9:50	——Compare: ultimate issues and non-experts
§ 9:51	—Misused terms
§ 9:52	—Preconditioning jury
§ 9:53	—Usurping jury function
§ 9:54	—Meaning of statute
§ 9:55	Opposing authorities—Legal questions vs. ultimate issues
§ 9:56	——Compare: ultimate issues and non-experts
Н.	MOTION TO SUBMIT JUROR QUESTIONNAIRE
§ 9:57	Suggested motion text
§ 9:58	Motion summary
§ 9:59	Supporting authorities—Generally
§ 9:60	Opposing authorities—Court's discretion
II. S	AMPLE MOTIONS
§ 9:61	Motion to exclude reference to lost or destroyed evidence
§ 9:62	Opposition to motion for missing evidence instruction
§ 9:63	Motion to allow use of jury questionnaire during voir dire
§ 9:64	Motion to exclude mediation evidence
§ 9:65	Motion to preclude golden rule argument
§ 9:66	Motion to exclude evidence of damages in bifurcated trial
§ 9:67	Motion to prevent improper voir dire (preconditioning)
§ 9:68	Motion to exclude improper argument during opening statement
§ 9:69	Motion to bar premature rebuttal to affirmative

## CHAPTER 10. PERSONAL INJURY **MOTIONS**

#### I. MOTION AUTHORITIES

A.	MOTION TO EXCLUDE EVIDENCE OF
	COLLATERAL SOURCE PAYMENTS

	COLLAI ERAL SOURCE TATMENTS
§ 10:1	Suggested motion text
§ 10:2	Motion summary
§ 10:3	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 10:4	—Exclusion of irrelevant evidence, generally
§ 10:5	—Exclusion of collateral source evidence, generally
§ 10:6	——Gratuitous payments
§ 10:7	— — Medical or liability policy payments
§ 10:8	— — Workers compensation benefits & life insurance policies
§ 10:9	—Other grounds
§ 10:10	Opposing authorities
В.	MOTION TO EXCLUDE EVIDENCE OF LIABILITY INSURANCE

- § 10:11 Suggested motion text § 10:12 Motion summary Supporting authorities—Exclusion of prejudicial § 10:13 evidence, generally § 10:14 —Exclusion of irrelevant evidence, generally § 10:15 -Exclusion of liability insurance evidence — Evidence of defendant's lack of insurance § 10:16 § 10:17 —Irrelevant § 10:18 -Other grounds § 10:19 Opposing authorities—Cross-examination § 10:20 —Where relevant to issues or otherwise admissible § 10:21 —Incidental reference to insurance § 10:22 —Non-prejudicial references to insurance
- § 10:23 —Admission of fault
- § 10:24 —To prove ownership or employment

## C. MOTION TO EXCLUDE SETTLEMENT **EVIDENCE**

- § 10:25 Suggested motion text
- § 10:26 Motion summary
- Supporting authorities—Exclusion of prejudicial § 10:27 evidence, generally

§ 10:28	-Exclusion of irrelevant evidence, generally
§ 10:29	—Exclusion of settlement evidence used to show liability
§ 10:30	——Prior settlements
§ 10:31	——Settlement negotiations
§ 10:32	——Settlement with co-defendants
§ 10:33	— —Where offer made prior to litigation
§ 10:34	——Offer to compromise
§ 10:35	—Other grounds
§ 10:36	Opposing authorities—Purpose other than to show liability
§ 10:37	— —Admission against interest
§ 10:38	——Bias or prejudice
§ 10:39	——Contract issues
§ 10:40	——Settlement with co-defendant: pro tanto reduction of verdict
§ 10:41	——State of mind
§ 10:42	——Settlement offers in insurance cases
D.	MOTION TO EXCLUDE EVIDENCE OF OTHER ACCIDENTS, CLAIMS OR LAWSUITS
§ 10:43	Suggested motion text
§ 10:44	Motion summary
§ 10:45	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 10:46	—Exclusion of irrelevant evidence, generally
§ 10:47	—Exclusion of prior-accident evidence—Absence of prior accidents
§ 10:48	— Prior accident evidence used to prove negligence
§ 10:49	<ul> <li>— Lack of similarity: dangerous condition / defective products</li> </ul>
§ 10:50	— —Unreliable or speculative
§ 10:51	—Exclusion of subsequent accident evidence— Generally
§ 10:52	——Dangerous condition cases
§ 10:53	—Other grounds
§ 10:54	Opposing authorities—Evidence of prior accidents— Absence of prior accidents
§ 10:55	——Court's discretion
§ 10:56	——Similarity: dangerous condition / defective
	products
§ 10:57	— —Notice
\$ 10.50	
§ 10:58	——Relevant to issues in case (e.g., similar injuries)
§ 10:58 § 10:59 § 10:60	<ul> <li>— Relevant to issues in case (e.g., similar injuries)</li> <li>— Prior accidents as basis for expert opinion</li> <li>— Other possible exceptions / impeachment</li> </ul>

§ 10:61	—Evidence of subsequent accidents—Dangerous condition
E.	MOTION TO EXCLUDE EVIDENCE OF SUBSEQUENT REPAIRS
§ 10:62	Suggested motion text
§ 10:63	Motion summary
§ 10:64	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 10:65	—Exclusion of irrelevant evidence, generally
§ 10:66	—Exclusion of subsequent repair evidence—
	Inadmissible to show negligence
§ 10:67	—Other grounds
§ 10:68	—Opposing authorities
§ 10:69	——Impeachment
§ 10:70	——Relevant to issues
F.	MOTION TO EXCLUDE EVIDENCE OF STATUTE VIOLATION
§ 10:71	Suggested motion text
§ 10:72	Motion summary
§ 10:73	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 10:74	—Exclusion of irrelevant evidence, generally
§ 10:75	—Exclusion of traffic citation evidence, generally
§ 10:76	—Not proximate cause
§ 10:77	——Prior traffic violations
§ 10:78	—Party not within protected class
§ 10:79	—Other grounds
§ 10:80	Opposing authorities—Impeachment
§ 10:81	—Proximate cause
§ 10:82	— Negligence per se
§ 10:83	——Movant's reply argument: gatekeeping provisions
G.	MOTION TO EXCLUDE EVIDENCE THAT DRIVER WAS UNLICENSED
§ 10:84	Suggested motion text
§ 10:85	Motion summary
§ 10:86	Supporting authorities—Exclusion of evidence of
	license suspension or revocation not evidence of negligence
§ 10:87	—Other grounds
§ 10:88	Opposing authorities—Lack of prejudice

§ 10:89 —Relevant to	issues
----------------------	--------

# H. MOTION TO EXCLUDE EVIDENCE OF FAILURE TO WEAR SEAT BELT

§ 10:90	Suggested motion text
§ 10:91	Motion summary
§ 10:92	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 10:93	—Exclusion of irrelevant evidence, generally
§ 10:94	—Exclusion of seat-belt evidence
§ 10:95	——Expert testimony required
§ 10:96	——Exclusion in strict liability cases
§ 10:97	——Defendant's burden unchanged by seatbelt laws
§ 10:98	—Other grounds
§ 10:99	Opposing authorities—Where use would have reduced injuries
§ 10:100	—Mandatory seatbelt laws
§ 10:101	— —Violation of seatbelt statute as evidence of negligence

# I. MOTION TO EXCLUDE EVIDENCE OF ALCOHOL OR DRUG CONSUMPTION

§ 10:102	Suggested motion text for motions to exclude evidence of alcohol or drug evidence
§ 10:103	Motion summary to exclude evidence of alcohol or drug consumption
§ 10:104	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 10:105	Exclusion of irrelevant evidence, generally
§ 10:106	—Exclusion of alcohol or drug evidence, generally
§ 10:107	——Lack of foundation/proof of inebriation
§ 10:108	— —Lack of foundation—Blood Alcohol Tests
§ 10:109	-Exclusion in automobile cases-Consumption by
	driver where no impairment
§ 10:110	——Consumption by passenger
§ 10:111	—Habit of general intemperance
§ 10:112	—Blood alcohol level and blood tests, generally
§ 10:113	——Delay in testing
§ 10:114	— —Lack of foundation
§ 10:115	— —Irrelevant evidence
§ 10:116	—Other grounds
§ 10:117	Opposing authorities—Where relevant to issues of driving under the influence as proof of negligence
§ 10:118	—Where relevant to issues of witness perceptions

§ 10:119	—Admissible evidence of drinking habit where used for impeachment
J.	MOTION TO EXCLUDE EVIDENCE OF PRIOR D.U.I.
§ 10:120	Suggested motion text
§ 10:121	Motion summary
§ 10:122	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 10:123	—Exclusion of irrelevant evidence, generally
§ 10:124	—Exclusion of crimes evidence used for
	impeachment—Generally
§ 10:125	——Exclusion of arrests
§ 10:126	·
§ 10:127	——Where probative value outweighed by risk of
0.10.100	undue prejudice
§ 10:128	—Exclusion of D.U.I. evidence where used to prove
§ 10:129	improper conduct—Generally —Other grounds
§ 10.12 <i>9</i> § 10:130	Opposing authorities—Generally
§ 10:130	—Impeachment
§ 10.131	—Relevant to issues
8 10.132	—Relevant to issues
K.	MOTION TO EXCLUDE EVIDENCE OF PARTY'S HEALTH OR INJURIES WHERE NOT AT ISSUE
§ 10:133	Suggested motion text
§ 10:134	Motion summary
§ 10:135	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 10:136	—Exclusion of irrelevant evidence, generally
§ 10:137	—Exclusion of evidence of party's health or injuries
	where not at issue
§ 10:138	—Other grounds
§ 10:139	Opposing authorities—Relevant to issues in Case
§ 10:140	——Demonstration of injury
§ 10:141	— — Other demonstrations
L.	MOTION TO EXCLUDE ACCIDENT RECONSTRUCTION AND BIOMECHANIC EVIDENCE
§ 10:142	Suggested motion text
§ 10:142	
	Supporting authorities—Excluding accident

	reconstruction evidence—Incomplete facts /
0 10 1 15	speculation
§ 10:145	——Reliance on observations of others (hearsay)
§ 10:146	——Improper foundation or qualification
§ 10:147	——Point of impact determinations
§ 10:148	——Reaction time determinations
§ 10:149	— Vehicle speed determinations
§ 10:150	—Excluding biomechanic evidence
§ 10:151	——Anthropomorphic dummies
§ 10:152	——"Finite Element Analysis" tests
§ 10:153	——"Pattern of Injury" tests
§ 10:154	—Low-speed impact automobile cases
§ 10:155	— —Excluding "Delta V" testimony
§ 10:156	——Challenging "plopping into a chair" testimony
§ 10:157	——"Human crash test dummy" testimony
§ 10:158	——Photographs depicting "no damage" to vehicles
§ 10:159	— Other unreliable tests
§ 10:160	Opposition—Tests and scientific testimony, generally
§ 10:161	—Accident reconstruction evidence—Proper basis for
	opinion
§ 10:162	——Competent facts / foundation
§ 10:163	— —Vehicle speed
§ 10:164	——Skid mark analysis
§ 10:165	——Stopping distances
§ 10:166	— —Point of impact
§ 10:167	— — Photographs depicting "no damage" to vehicles
§ 10:168	—Biomechanic evidence cases where admitted
§ 10:169	—A note on opposing motions to exclude low-impact
	tests
ъ.	MODION DO ENGLIDE EMBENCE OF
M.	MOTION TO EXCLUDE EVIDENCE OF
	PARTY'S FINANCIAL STATUS
§ 10:170	Suggested motion text
§ 10:171	Motion summary
§ 10:172	Supporting authorities—Exclusion of prejudicial
	evidence, generally
§ 10:173	—Exclusion of irrelevant evidence, generally
§ 10:174	-Exclusion of financial status evidence, generally
§ 10:175	——Plaintiff's financial status
§ 10:176	— — Defendant's financial status
§ 10:177	— —Wrongful death cases
§ 10:178	—Punitive damages cases
§ 10:179	—Other grounds
§ 10:180	Opposing authorities—Relevant to issues—
J - :	Generally

§ 10:181	——Necessary to support punitive damages claim
N.	MOTION TO EXCLUDE TAX EVIDENCE
§ 10:182	Suggested motion text
§ 10:183	Motion summary
§ 10:184	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 10:185	—Exclusion of irrelevant evidence, generally
§ 10:186	—Exclusion of tax evidence—Tax implications on damages
§ 10:187	——Failure to file a tax return
§ 10:188	——Tax implications in wrongful death cases
§ 10:189	—Improper appeal to jurors as taxpayers
§ 10:190	—Other grounds
§ 10:191	Opposing authorities—In general
§ 10:192	—Tax implications in wrongful death cases
0.	MOTION TO EXCLUDE LIABILITY OR FAULT EVIDENCE
§ 10:193	Suggested motion text
§ 10:194	Motion summary
§ 10:195	Supporting authorities—Exclusion of prejudicial evidence, generally
§ 10:196	—Exclusion of irrelevant evidence, generally
§ 10:197	—Admitted matters, generally
§ 10:198	—Admission of fault—Admissions made during settlement negotiations
§ 10:199	<ul> <li>— Inadmissible legal opinions by lay witnesses</li> </ul>
§ 10:200	—Other grounds
§ 10:201	Opposing authorities—Relevance
P.	MOTION TO EXCLUDE IMPROPER DAMAGE EVIDENCE
§ 10:202	Suggested motion text
§ 10:203	Motion summary
§ 10:204	Supporting authorities—Unpleaded, undisputed or surprise claims—Unpleaded matters
§ 10:205	— —Undisputed matters
§ 10:206	— —Surprise claims
§ 10:207	——Amounts in excess of stated damages
§ 10:208	—Speculative damages, generally
§ 10:209	——Exclusion of evidence relating to speculative
5 = - <b>.=</b> - 5	damages

§	10:210	—Statutory limitations on damages—Injury to
	10.011	drunk driver [N.J.S.A. 39:6A-4.5]
	10:211	——Injury to uninsured vehicle owner or operator
	10:212	—Lost profits
	10:213	—Punitive damages
_	10:214	Opposing authorities—Unpleaded or denied claims— Court's discretion
	10:215	— —Estoppel / denied claims
§	10:216	—Speculative damages—Generally
§	10:217	— — Weight vs. admissibility
§	10:218	——"Reasonably certain" damages
§	10:219	—Punitive damages
	Q.	MOTION TO EXCLUDE EVIDENCE OF PARTY'S IMMIGRATION STATUS
§	10:220	Suggested motion text
§	10:221	Motion summary
§	10:222	Supporting authorities—Exclusion of prejudicial evidence, generally
§	10:223	—Exclusion of irrelevant evidence, generally
§	10:224	— — Unpleaded issues
	10:225	—Exclusion of immigration status, generally
_	10:226	—Immigration status is irrelevant to issue of liability
ξ	10:227	— Residency in employment matters
-	10:228	Opposing authorities—Admissible where relevant
I	I. SA	MPLE MOTIONS
§	10:229	Motion to exclude evidence of collateral source payments
Ş	10:230	Motion to exclude evidence of defendant's liability
	10:231	Motion to exclude evidence of medical bills for services obtained after [date]
§	10:232	Motion to admit evidence of laboratory testing regarding firearm residue
Ş	10:233	Motion to exclude surveillance video
	10:234	Motion to exclude evidence of subsequent remedial
		measures
	10:235	Opposition to motion to exclude evidence of subsequent repairs
-	10:236	Motion to exclude evidence of statute violation
§	10:237	Motion to exclude evidence of failure to file income tax returns
§	10:238	Motion to exclude settlement evidence

## New Jersey Motions in Limine

§ 10:239	Motion to exclude liability insurance evidence
§ 10:240	Motion to exclude evidence of plaintiff's financial status
§ 10:241	Opposition to motion to exclude evidence of defendant's financial status
§ 10:242	Motion to exclude evidence of defendant's prior DUI
§ 10:243	Motion to exclude evidence of prior traffic citations
§ 10:244	Motion to exclude improper damage evidence (speculative evidence of lost profits)
$\S 10:245$	Motion to exclude evidence regarding prior accident
§ 10:246	Motion to exclude evidence regarding party's prior injuries
§ 10:247	Motion to exclude evidence that driver was unlicensed

**Table of Laws and Rules** 

**Table of Cases** 

Index