

Table of Contents

PART I. DAMAGES, GENERALLY

CHAPTER 1. PRELIMINARY CONSIDERATIONS

- § 1:1 Introduction; scope
- § 1:2 Damages defined; elements of cause of action
- § 1:3 Jurisdiction
- § 1:4 Mississippi Long Arm Statute
- § 1:5 Injury without wrong; *damnum absque injuria*
- § 1:6 General principles of recovery
- § 1:7 Conflict of laws
- § 1:8 Election of remedies
- § 1:9 Double damages prohibited
- § 1:10 Time of vesting of right to damages
- § 1:11 Federal law
- § 1:12 Jury instructions

CHAPTER 2. COMPENSATORY DAMAGES

- § 2:1 Compensation as the standard of recovery
- § 2:2 General and special damages
- § 2:3 Tort actions; proximate cause
- § 2:4 Contract actions; natural consequences of breach
- § 2:5 Remote, consequential or speculative damages
- § 2:6 Inflation
- § 2:7 Certainty as to causation and amount
- § 2:8 Anticipated profits
- § 2:9 Avoidable consequences; mitigation of damages
- § 2:10 Economic and non-economic damages

CHAPTER 3. NOMINAL DAMAGES

- § 3:1 Generally
- § 3:2 Tort actions
- § 3:3 Contract actions

CHAPTER 4. LIQUIDATED DAMAGES

- § 4:1 Liquidated and unliquidated damages distinguished
- § 4:2 Liquidated damages and penalties; statutory provisions
- § 4:3 Liquidated damages and agreed penalties distinguished
- § 4:4 Real estate sales contracts; earnest money
- § 4:5 Liquidated damages under the Uniform Commercial Code

CHAPTER 5. STATUTORY PENALTIES

- § 5:1 Definition

- § 5:2 General principles affecting application of statutory penalties
- § 5:3 Aggravated and vindictive damages distinguished from statutory penalties

CHAPTER 6. AMOUNT OF DAMAGES

- § 6:1 Requirement of certainty
- § 6:2 Damages after filing suit
- § 6:3 Measure of damages in general
- § 6:4 Jury discretion as to amount
- § 6:5 Excessive or inadequate damages
- § 6:6 Post-verdict remedies of additur, remittitur, and new trial

CHAPTER 7. INTEREST

- § 7:1 Classification of interest as to damages
- § 7:2 Unliquidated damages where measure is unascertainable
- § 7:3 —Contracts
- § 7:4 Verdict in cases of unliquidated damages where measure is ascertainable
- § 7:5 Liquidated damages, generally
- § 7:6 Pleading interest
- § 7:7 Rate of interest
- § 7:8 Usury
- § 7:9 Judgments
- § 7:10 Interest on interest

CHAPTER 8. ATTORNEY'S FEES

- § 8:1 Generally
- § 8:2 Contract cases
- § 8:3 Breach of agreements to loan money
- § 8:4 Breach of insurance contracts: punitive and extracontractual damages
- § 8:5 Breach of covenants of seisin and power to sell
- § 8:6 Promissory notes
- § 8:7 Slander of title to real property
- § 8:8 Suits on open accounts
- § 8:9 Workers' compensation
- § 8:10 Adoption cases
- § 8:11 Awarded as sanctions
- § 8:12 Divorce proceedings
- § 8:13 Warranty actions
- § 8:14 Indemnity actions
- § 8:15 Probate proceedings
- § 8:16 Groundless and frivolous claims

CHAPTER 9. APPORTIONMENT OF DAMAGES

- § 9:1 Apportionment, generally
- § 9:2 Joint tortfeasors and joint and several liability
- § 9:3 Joint and several liability in contract

TABLE OF CONTENTS

- § 9:4 Verdict
- § 9:5 Contribution in tort
- § 9:6 Contribution in contract
- § 9:7 Indemnity in tort
- § 9:8 Indemnity in contract
- § 9:9 Contributory and comparative negligence
- § 9:10 Preexisting injury

CHAPTER 10. PLEADING AND PRACTICE CONSIDERATIONS

- § 10:1 Scope of work; general considerations
- § 10:2 Pleading damages
- § 10:3 Demand for judgment
- § 10:4 Default judgment
- § 10:5 Claim for damages
- § 10:6 Special damages
- § 10:7 Wealth of parties
- § 10:8 Minor's claim for damages
- § 10:9 Effect of defendant's bankruptcy
- § 10:10 General and special verdicts
- § 10:11 Offers of judgment
- § 10:12 Directed verdicts

CHAPTER 11. EVIDENCE

- § 11:1 Value of personal and real property
- § 11:2 —Lay opinion
- § 11:3 —Expert opinion
- § 11:4 —Cost
- § 11:5 —Commercial lists, trade journals, and other records
- § 11:6 —Comparable sales
- § 11:7 Physical injury evidence
- § 11:8 Offers of compromise
- § 11:9 Subsequent remedial measures
- § 11:10 Payment of medical bills and similar expenses
- § 11:11 Collateral source rule
- § 11:12 Lost profits
- § 11:13 Wrongful death

PART II. DAMAGES RELATING TO PARTICULAR SUBJECT AREAS

CHAPTER 12. ATTACHMENT, EXECUTION, AND GARNISHMENT

I. ATTACHMENT

- § 12:1 Definition and background

- § 12:2 Statutory considerations for attachment in chancery
- § 12:3 Matters for which issued
- § 12:4 By whom issued
- § 12:5 Attachment bond executed by the plaintiff
- § 12:6 Replevy bond executed by defendant
- § 12:7 Property upon which attachment may be levied
- § 12:8 Third-party claim

II. EXECUTION

- § 12:9 When execution shall be issued
- § 12:10 Time for execution and return
- § 12:11 Indemnity bond
- § 12:12 Third-party claim
- § 12:13 Damages against unsuccessful third-party claimant
- § 12:14 Forfeiture of bond by unsuccessful third-party claimant
- § 12:15 Sheriff's liability in execution
- § 12:16 Liability of purchaser at execution sale
- § 12:17 Failure of title as to property transferred at execution sale

III. GARNISHMENT

- § 12:18 Definition and use
- § 12:19 Prejudgment
- § 12:20 Postjudgment
- § 12:21 Wrongful garnishment

CHAPTER 13. BUSINESS ASSOCIATIONS

I. IN GENERAL

- § 13:1 Scope of chapter

II. CORPORATIONS

- § 13:2 Liability of directors and officers to shareholders generally
- § 13:3 Liability of directors and officers to creditors; piercing the corporate veil
- § 13:4 Liability of directors and officers in tort
- § 13:5 Shareholder liability
- § 13:6 Shareholders' action
- § 13:7 Successor liability

III. PARTNERSHIPS

- § 13:8 Actions between partners
- § 13:9 Limited partnerships
- § 13:10 Liabilities to third persons

IV. BANKS AND BANKING

- § 13:11 Conversion or mishandling of an instrument or its proceeds

TABLE OF CONTENTS

- § 13:12 Dishonor of an instrument for payment of money
- § 13:13 Violation of customer's stop payment order
- § 13:14 Warranty liability

V. INVESTMENT SECURITIES

- § 13:15 Delay, failure, or refusal to register transfer

VI. LIMITED LIABILITY COMPANIES

- § 13:16 Liability of members of limited liability companies

CHAPTER 14. COMMON AND CONTRACT CARRIERS

- § 14:1 Duty owed by common carriers of property
- § 14:2 Duty owed by contract carriers
- § 14:3 Measure of damages for loss of or injury to property
- § 14:4 Measure of damages for injury to passenger
- § 14:5 Delay in the delivery of goods
- § 14:6 Liability of initial and connecting carriers
- § 14:7 Statutory liability of carriers based on issuance of bill of lading
- § 14:8 Statutory penalty for carrier's failure to settle or pay claim
- § 14:9 Liability of railroads for negligence
- § 14:10 Common carrier's liability for injury to livestock
- § 14:11 Ejectment of passenger
- § 14:12 Enforcement of carrier's lien
- § 14:13 Limitation of liability and damages

CHAPTER 15. CONDEMNATION

I. IN GENERAL

- § 15:1 Requirement of just compensation for "taking" or "damaging" private property
- § 15:2 —What constitutes a "taking"
- § 15:3 —What constitutes "damaging"
- § 15:4 Importance of whether there is a "taking" or a "damaging"
- § 15:5 Finality of judgments

II. MEASURE OF DAMAGES

- § 15:6 Generally
- § 15:7 Leasehold interest
- § 15:8 Future interest
- § 15:9 Certificates of public convenience
- § 15:10 Interest
- § 15:11 Business-relocation expenses and relocation benefits
- § 15:12 Consequential damages
- § 15:13 Property that can be repaired

III. PERSONS ENTITLED TO COMPENSATION

§ 15:14 Generally

IV. EVIDENCE

- § 15:15 Who may testify as to value
- § 15:16 Burden of proof as to value
- § 15:17 Burden of proof as to right to take
- § 15:18 Sufficiency
- § 15:19 Value of land for particular purpose
- § 15:20 Value or sale of same or similar property
- § 15:21 View by jury of property condemned as evidence

V. REMEDIES OF PROPERTY OWNERS

- § 15:22 Generally
- § 15:23 Actions for damages

CHAPTER 16. CONTRACTS AND RELATED MATTERS

I. CONTRACTS

- § 16:1 Measure of recovery, generally
- § 16:2 Measure of recovery for contracts implied in fact under a quantum meruit theory or based on unjust enrichment
- § 16:3 Election between contract and quantum meruit recoveries
- § 16:4 Rescission
- § 16:5 Illegal and unenforceable contracts
- § 16:6 Accord and satisfaction
- § 16:7 State liability for breach
- § 16:8 Settlement and release
- § 16:9 Indemnity and contribution
- § 16:10 Parol or oral contracts as affected by statutes of frauds

II. CONTRACT-RELATED MATTERS

- § 16:11 Accounts and accounting
- § 16:12 Arbitration and award
- § 16:13 Auctions and auctioneers
- § 16:14 Bailments
- § 16:15 Contractors
- § 16:16 Factors and commission merchants
- § 16:17 Fraud
- § 16:18 Official bonds

CHAPTER 17. COSTS

- § 17:1 Generally
- § 17:2 Costs in discovery

TABLE OF CONTENTS

- § 17:3 Costs in groundless or frivolous claims
- § 17:4 Costs on appeal
- § 17:5 Costs on frivolous appeal
- § 17:6 Indigents

CHAPTER 18. DOCUMENTS OF TITLE

- § 18:1 Standard of care and limitations of liability
- § 18:2 Recovery for nonreceipt or misdescription of goods
- § 18:3 Recovery for damage to goods from improper loading
- § 18:4 Issuance of bill of lading as a basis for liability
- § 18:5 Enforcement of lien by warehouseman or carrier
- § 18:6 Overissuance, failure of identification, and lost, stolen or destroyed documents

CHAPTER 19. DOMESTIC LAW

- § 19:1 Husband and wife
- § 19:2 Child support
- § 19:3 Seduction
- § 19:4 Loss of consortium
- § 19:5 Parent and child, generally
- § 19:6 Parent's liability for torts of child
- § 19:7 Intra-family immunity

CHAPTER 20. EMPLOYMENT RELATIONS

I. CONTRACT OF EMPLOYMENT ACTIONS

- § 20:1 Wrongful discharge
- § 20:2 Intentional infliction of emotional distress
- § 20:3 Action by third party
- § 20:4 Employment discrimination; federal statutes

II. WORK-RELATED INJURIES

- § 20:5 Injuries to employees
- § 20:6 Injuries to third persons
- § 20:7 Workers' compensation and common law remedies compared
- § 20:8 Workers' compensation benefits

CHAPTER 21. ESTATES AND TRUSTS

I. EXECUTORS AND ADMINISTRATORS

- § 21:1 Generally
- § 21:2 Liability for negligence and mismanagement
- § 21:3 Suits by or against representatives of estate

II. TRUSTS AND TRUSTEES

- § 21:4 Liability for negligence and mismanagement

- § 21:5 Trustee's liability on contracts
- § 21:6 Personal use and investment of trust funds by trustee
- § 21:7 Expenses of trustee
- § 21:8 Jurisdiction in suits involving trusts
- § 21:9 Implied trusts

CHAPTER 22. GOVERNMENTAL UNITS

- § 22:1 Governmental immunity
- § 22:2 Governmental liability in tort
- § 22:3 Post judgment interest against governmental entities
- § 22:4 Governmental entities exempt from liability based on certain claims
- § 22:5 Notice as a condition precedent to recovery
- § 22:6 Damages and attorney's fees for wrongful felony conviction

CHAPTER 23. GUARANTY AND SURETYSHIP

- § 23:1 Generally
- § 23:2 Liability of the guarantor or surety; right to reimbursement
- § 23:3 Contribution among guarantors and sureties
- § 23:4 Judgment against principal as affecting liability of guarantor or surety
- § 23:5 Security given for benefit of obligee

CHAPTER 24. GUARDIAN AND WARD

- § 24:1 Generally
- § 24:2 Attorney's fees
- § 24:3 Surplus money of ward

CHAPTER 25. HIGHWAYS, ROADS, AND STREETS

- § 25:1 Acquisition of property for public road purposes
- § 25:2 Control of outdoor advertising
- § 25:3 Highway construction contracts
- § 25:4 Liability for injuries

CHAPTER 26. INSURANCE

- § 26:1 Generally
- § 26:2 Life, health, and disability insurance
- § 26:3 Motor vehicle insurance, generally
- § 26:4 —Recovery under uninsured motorist coverage
- § 26:5 Liability of insurer for refusal to pay
- § 26:6 Mississippi Insurance Guaranty Association
- § 26:7 Subrogation
- § 26:8 Voluntary payment doctrine

CHAPTER 27. LANDLORD AND TENANT

I. LANDLORD'S RESPONSIBILITIES FOR REPAIR

- § 27:1 Duty to make repairs
- § 27:2 Duty under express covenant

II. LANDLORD'S LIABILITY IN TORT

- § 27:3 Duty, generally
- § 27:4 Latent defects
- § 27:5 Negligent repairs
- § 27:6 Premises in control of landlord
- § 27:7 Liability to third persons entering the premises under tenant's title
- § 27:8 Exculpatory lease provisions limiting liability
- § 27:9 Independent contractors

III. TENANT'S REMEDIES

- § 27:10 Generally
- § 27:11 Compensatory damages
- § 27:12 Tenant's right to possession and damages

IV. TENANT'S LIABILITY FOR RENT

- § 27:13 Duty to pay rent
- § 27:14 Measure of landlord's recovery when suing for rent
- § 27:15 Original tenant's liability for rent after assignment
- § 27:16 Prohibitions against subletting
- § 27:17 Abandonment by tenant

V. LIABILITIES UPON TERMINATION

- § 27:18 Condemnation
- § 27:19 Dispossessing the tenant improperly in possession
- § 27:20 Damages for tenant's wrongful possession under unlawful detainer
- § 27:21 Attachment by landlord upon tenant's property

VI. TENANT'S LIABILITY WHEN PREMISES ARE DAMAGED OR DESTROYED

- § 27:22 Generally

CHAPTER 28. MISCELLANEOUS STATUTORY DAMAGES

- § 28:1 Common law principles
- § 28:2 Statutory liens
- § 28:3 Consumer credit
- § 28:4 Unfair methods of competition and trade

- § 28:5 Housing
- § 28:6 Social welfare

CHAPTER 29. MOTOR VEHICLE AND RELATED INJURIES

- § 29:1 Generally
- § 29:2 Recovery by automobile guest
- § 29:3 Vicarious liability
- § 29:4 Proximate cause
- § 29:5 Joint and several liability
- § 29:6 Contributory negligence; seat belts

CHAPTER 30. NUISANCES

I. IN GENERAL

- § 30:1 Damages, generally
- § 30:2 Damages after commencement of suit
- § 30:3 Injury to realty
- § 30:4 Injury to person and family

II. ACTIONS FOR DAMAGES

- § 30:5 Right to recover
- § 30:6 Person entitled to sue
- § 30:7 Defenses
- § 30:8 Parties
- § 30:9 Pleading, petition or complaint
- § 30:10 Presumptions and burden of proof
- § 30:11 Admissibility of evidence
- § 30:12 Trial, questions of law and facts

CHAPTER 31. PRODUCTS LIABILITY

I. IN GENERAL

- § 31:1 Development of Mississippi law
- § 31:2 Mississippi Product Liability Act
- § 31:3 Mississippi Products Liability Act—Prima facie case requirements
- § 31:4 —Design defect cases
- § 31:5 — —Inherently dangerous characteristics
- § 31:6 —Failure to adequately warn or instruct
- § 31:7 —Economic tort rule
- § 31:8 —Seller or designer liability
- § 31:9 —Punitive damages
- § 31:10 Successor corporation's liability under the "products line liability theory"
- § 31:11 Prescription drug liability

TABLE OF CONTENTS

II. LIABILITY FOR NEGLIGENCE

- § 31:12 Food and drugs
- § 31:13 Adulteration of food
- § 31:14 Defenses

III. BREACH OF WARRANTY

- § 31:15 Generally
- § 31:16 Express warranty
- § 31:17 Implied warranties

CHAPTER 32. REAL PROPERTY

- § 32:1 Damages, generally
- § 32:2 Damages for trespass, generally
- § 32:3 Damages for trespass to trees and timber
- § 32:4 Damages to crops
- § 32:5 Vendee's remedies for vendor's breach of sales contract
- § 32:6 Vendor's remedies for vendee's breach of sales contract
- § 32:7 Covenants and warranties of title
- § 32:8 Title insurance
- § 32:9 Foreclosure, generally
- § 32:10 Wrongful foreclosure
- § 32:11 Implied warranty on sale of new house
- § 32:12 Mines and mineral leases, generally
- § 32:13 Premises liability
- § 32:14 Project engineer's liability
- § 32:15 Disclosure requirements

CHAPTER 33. RESTITUTION

- § 33:1 Generally
- § 33:2 Criminal practice
- § 33:3 Money had and received

CHAPTER 34. SALES

I. IN GENERAL

- § 34:1 Uniform Commercial Code
- § 34:2 Remedies
- § 34:3 Risk of loss
- § 34:4 Ascertainment of damages
- § 34:5 Limitation or liquidation of damages
- § 34:6 Rescission of the sales contract

II. SELLER'S REMEDIES UPON BUYER'S BREACH

- § 34:7 Generally
- § 34:8 Resale of goods
- § 34:9 Resale of unidentified or unfinished goods

- § 34:10 Suit for damages without resale
- § 34:11 Lost profits
- § 34:12 Suit for the price

III. BUYER'S REMEDIES UPON SELLER'S BREACH

- § 34:13 Generally
- § 34:14 Right to "cover"
- § 34:15 Suit for damages based upon nondelivery or repudiation
- § 34:16 Specific performance
- § 34:17 Replevin
- § 34:18 Buyer's damages after acceptance of goods

CHAPTER 35. TORTS

- § 35:1 General damages principles in tort actions
- § 35:2 Types of damages
- § 35:3 Pain and suffering and medical expenses
- § 35:4 Lost earnings and loss of earning capacity
- § 35:5 Emotional distress
- § 35:6 Harm to animals
- § 35:7 Harm by animals
- § 35:8 Alienation of affections
- § 35:9 Assault and battery
- § 35:10 Attractive nuisance
- § 35:11 Bad faith
- § 35:12 Dead bodies
- § 35:13 Defamation
 - § 35:14 —Actionable words
 - § 35:15 —Slander
 - § 35:16 —Libel
- § 35:17 False imprisonment
- § 35:18 Fraud and deceit
 - § 35:19 —Misrepresentation
- § 35:20 Interference with contractual relations
- § 35:21 Malicious prosecution
- § 35:22 Malicious use and abuse of process
- § 35:23 Professional malpractice, generally
 - § 35:24 —Legal malpractice
 - § 35:25 —Medical malpractice
- § 35:26 Privacy
- § 35:27 Trespass to personalty or chattel
- § 35:28 Trover and conversion
- § 35:29 Dram shop liability
- § 35:30 Trade secrets
- § 35:31 Tortious interference with business

CHAPTER 36. WRONGFUL DEATH

- § 36:1 Generally

TABLE OF CONTENTS

- § 36:2 Parties who may bring action
- § 36:3 Pain and suffering
- § 36:4 Elements of damages and limitations on recovery
- § 36:5 —Measurement of damages
- § 36:6 —Funeral, medical, and other expenses
- § 36:7 Statute of Limitations
- § 36:8 Attorney's fees

PART III. AGGRAVATED, VINDICTIVE, EXEMPLARY, AND PUNITIVE DAMAGES

CHAPTER 37. HISTORY OF PUNITIVE DAMAGES

- § 37:1 Ancient foundations
- § 37:2 English common law history
- § 37:3 American common law history
- § 37:4 Mississippi common law history
- § 37:5 Mississippi statutory history

CHAPTER 38. STATUTORY PROVISIONS ON PUNITIVE DAMAGES

- § 38:1 Generally
- § 38:2 Standard of proof
- § 38:3 Standard of conduct
- § 38:4 Compensatory damages, generally
- § 38:5 Bifurcation of trial mandatory where plaintiff seeks punitive damages
- § 38:6 Amount of the punitive award
- § 38:7 Prejudgment review
- § 38:8 —Excessiveness
- § 38:9 —Reasonable and rational relationship between award and purpose of punitive damages
- § 38:10 Innocent retailers and wholesalers
- § 38:11 Specific pleading and prayer requirement
- § 38:12 Comparative negligence; effect on punitive damages award
- § 38:13 Statutory violations, punitive damages for
- § 38:14 Telephone and telegraph companies—Discrimination against because of union affiliation
- § 38:15 —Breach of duty to deliver messages
- § 38:16 Consumer loan brokers
- § 38:17 Coastal Wetland Protection Act
- § 38:18 Vulnerable Adult Act violations
- § 38:19 Interception of wire or oral communications
- § 38:20 Individual On-Site Wastewater Disposal System Law violations

- § 38:21 Avoidance of charges for telecommunications services
- § 38:22 Unauthorized copying, sale or distribution of recordings
- § 38:23 Mississippi Streetgang Act
- § 38:24 Racketeer Influenced and Corrupt Organization Act
- § 38:25 Mississippi Tort Claims Act
- § 38:26 Uniform Commercial Code
- § 38:27 Misappropriation of trade secrets
- § 38:28 Wrongful death

CHAPTER 39. CONSTITUTIONAL ISSUES REGARDING PUNITIVE DAMAGES

- § 39:1 State and federal constitutional challenges
- § 39:2 Initial development of United States Supreme Court jurisprudence
- § 39:3 Federal constitutional challenges based on state action theory
- § 39:4 Federal due process concerns—Comparison of procedural and substantive due process
- § 39:5 —Substantive due process challenges
- § 39:6 —Procedural due process challenges
- § 39:7 Eighth Amendment “excessive fines” and “cruel and unusual punishment” challenges
- § 39:8 Equal protection challenges
- § 39:9 “Double jeopardy” challenges
- § 39:10 First Amendment “free speech” challenges
- § 39:11 Mississippi due process challenges
- § 39:12 Mississippi “excessive fines” clause challenges

CHAPTER 40. PRE-TRIAL LITIGATION CONSIDERATIONS FOR PUNITIVE DAMAGES

- § 40:1 Recovery limited to real party in interest
- § 40:2 —Assignee
- § 40:3 —Estate of deceased plaintiff
- § 40:4 —No vested right to recover
- § 40:5 —No vested right to sue
- § 40:6 —Retroactivity
- § 40:7 Direct and vicarious liability
- § 40:8 —Joint tortfeasors
- § 40:9 —Governmental entities and employees
- § 40:10 —Estate of decedent
- § 40:11 —Municipal corporations
- § 40:12 —Public service corporation
- § 40:13 —Surety
- § 40:14 Dual standards of assessing punitive damages
- § 40:15 Requisite standard of conduct, generally
- § 40:16 —Negligence insufficient
- § 40:17 —Nature of tortfeasor’s act controls
- § 40:18 —Insurer’s post-filing-of-suit conduct

TABLE OF CONTENTS

§ 40:19	—Defendant’s state of mind
§ 40:20	—“Malice”
§ 40:21	—“Gross negligence”
§ 40:22	—“Fraud”
§ 40:23	—“Wantonness”
§ 40:24	Statutory penalties
§ 40:25	Statute of limitations
§ 40:26	Choice of law
§ 40:27	Complaint
§ 40:28	Answer
§ 40:29	Default
§ 40:30	Discovery
§ 40:31	Jurisdictional amount in diversity suit involving multiple plaintiffs
§ 40:32	—Jurisdictional amount in diversity suit involving single plaintiff
§ 40:33	Summary judgment
§ 40:34	Federal law, generally

CHAPTER 41. CAUSES OF ACTION

§ 41:1	Applicability of punitive damages to various causes of action
§ 41:2	Actions in equity
§ 41:3	Attorney’s fees
§ 41:4	Violations of court orders; contempt
§ 41:5	Contracts
§ 41:6	Intentional torts
§ 41:7	—Assault and battery
§ 41:8	—Breach of fiduciary duty
§ 41:9	—Conversion and trover
§ 41:10	—False imprisonment, false arrest, malicious arrest
§ 41:11	—Fraud
§ 41:12	—Intentional infliction of emotional distress
§ 41:13	—Invasion of privacy
§ 41:14	—Libel and slander
§ 41:15	—Malicious prosecution
§ 41:16	—Malicious use and abuse of process
§ 41:17	Negligent misconduct, generally
§ 41:18	Torts involving motor vehicles and common carriers
§ 41:19	—Motor vehicle, generally
§ 41:20	— —Drunk driving
§ 41:21	— —Negligent entrustment
§ 41:22	— —Speeding
§ 41:23	— —Wrongfully causing death
§ 41:24	—Negligent hiring and retention
§ 41:25	Partnership liability
§ 41:26	Private nuisance
§ 41:27	Products liability
§ 41:28	Professional malpractice

- § 41:29 Interference with contract
- § 41:30 Interference with business
- § 41:31 Trespass
- § 41:32 Eminent domain
- § 41:33 Wrongful death
- § 41:34 Wrongful foreclosure
- § 41:35 Wrongful garnishment
- § 41:36 Wrongful attachment
- § 41:37 Wrongful repossession
- § 41:38 Wrongful replevin
- § 41:39 Interference with property; generally

CHAPTER 42. TRIAL CONSIDERATIONS

- § 42:1 Bifurcation
- § 42:2 Burden of proof
- § 42:3 Evidentiary considerations
- § 42:4 —Presumptions and inferences
- § 42:5 —Presumptions and malice
- § 42:6 —Similar conduct
- § 42:7 —Other claims
- § 42:8 —Guilty pleas
- § 42:9 —Nolo contendere pleas
- § 42:10 —Convictions
- § 42:11 —Punishment
- § 42:12 —Financial condition and net worth
- § 42:13 —Surrounding circumstances accompanying breach of duty
- § 42:14 —Collateral source rule
- § 42:15 —Attorney's fees and litigation expenses
- § 42:16 —Defenses and mitigation of damages
- § 42:17 Prejudgment interest
- § 42:18 Directed verdict
- § 42:19 Province of the jury
- § 42:20 Opening and closing arguments
- § 42:21 Jury charges
- § 42:22 Verdict
- § 42:23 Trial judge as trier of fact

CHAPTER 43. POST-TRIAL CONSIDERATIONS REGARDING PUNITIVE DAMAGES

- § 43:1 Additur and remittitur
- § 43:2 Judgment notwithstanding the verdict
- § 43:3 Setting aside awards
- § 43:4 —Excessiveness
- § 43:5 — —Ratio of punitive to compensatory damages
- § 43:6 — —Ratio of punitive damages to net worth
- § 43:7 — —Undue passion or prejudice
- § 43:8 — —Constitutionally excessive
- § 43:9 —Absence of compensatory award

TABLE OF CONTENTS

- § 43:10 —Sufficiency of nominal damages
- § 43:11 —Insufficient evidence of egregious conduct
- § 43:12 —Insufficient proof of amount of actual damages
- § 43:13 —Uncertainty whether awarded for compensatory or punitive damages
- § 43:14 Insurability of punitive damages awards; liability coverage
- § 43:15 —Uninsured motorist coverage
- § 43:16 Bankruptcy

Table of Laws and Rules

Table of Cases

Index