

# Index

## ACCIDENT RECONSTRUCTION EVIDENCE

- Cumulative, **10:146**
- Expert opinions, **10:130, 10:144**
- Facts, incomplete, **10:131**
- Improper foundation or qualification, **10:132**
- Low-speed impact automobile cases
  - Generally, **10:137, 10:152**
  - “Delta-V” testimony, **10:138**
  - “Human crash test dummy” testimony, **10:140**
  - Miscellaneous tests, **10:142**
  - Photographs depicting “no damage” to vehicles, **10:140, 10:141, 10:150**
  - “Popping into a chair” testimony, **10:139**
- Opposing authorities, **10:143 to 10:152**
- Point of impact, **10:149**
- Skid mark analysis, **10:148**
- Speculation, **10:131**
- Speed. Vehicle speed, below
- Suggested text, **10:128**
- Summary of motion, **10:129**
- Supporting authorities, **10:130 to 10:133**
- Tests not offered as, **10:145**
- Vehicle speed, **10:133, 10:147**

## ACCIDENT REPORTS

- Diagrams, **4:70, 4:73**
- Hearsay
  - Generally, **4:68**
  - Business records exception, **4:74**
  - Excited utterance exception, **4:76**
  - Prior inconsistent statement exception, **4:75**
- Opposing authorities, **4:72 to 4:76**
- Prejudicial evidence, exclusion, **4:67**
- Refresh recollections using, **4:72**
- Sample motion to exclude, **4:144**

## ACCIDENT REPORTS—Cont’d

- Statement and opinions in, **4:69**
- Suggested text, **4:65**
- Summary of motion, **4:66**
- Supporting authorities, **4:67 to 4:71**

## ACCIDENTS, CLAIMS OR LAWSUITS

- Admissibility, **10:57, 10:58**
- Dangerous condition/defective products, **10:47, 10:53, 10:55, 10:56**
- Prior
  - Absence, **10:45**
  - Court’s discretion, **10:52**
  - Dangerous condition/defective products, above
  - Injuries, **10:221**
  - Irrelevant, **10:44, 10:48**
  - Motion to exclude evidence regarding, **10:220**
  - Negligence proved through, **10:46**
  - Notice, **10:54**
  - Opposing authorities, **10:52 to 10:58**
  - Suggested text, **10:41**
  - Summary of motion, **10:42**
  - Supporting authorities, **10:43 to 10:51**
- Subsequent
  - Generally, **10:49**
  - Dangerous condition cases, above

## ACCIDENT SCENE

- Gruesome or inflammatory photographs, **4:39, 4:46**

## ACQUITTED OFFENSES

- Opposing authorities, crimes, **7:60**

## ADMISSIBILITY

- Generally, **1:3**
- Accidents, claims or lawsuits, **10:57, 10:58**

**ADMISSIBILITY—Cont'd**

- Alcohol consumption, **10:106**
- Character evidence, **7:1**
- Immigration status, **10:206**
- Lack of foundation, conditional admissibility, **4:16**

**ADMISSIONS**

- Fault evidence, **10:177, 10:181**
- Requests for admissions, sanctions, **6:19, 6:29**
- Settlement evidence, **10:36**

**ADMITTED MATTERS**

- Conclusive establishment, **6:32**
- Discovery, **6:33**
- Liability evidence, **10:176**
- Opposing authorities, **6:34**
- Sanctions, **6:29**
- Suggested text, **6:30**
- Summary of motion, **6:31**
- Supporting authorities, **6:32, 6:33**

**AFFIRMATIVE DEFENSES**

- Trial** (this index)

**ALCOHOL CONSUMPTION**

- Generally, **10:94**
- Admissible evidence of drinking habit, **10:106**
- Automobile cases
  - Consumption by driver where no impairment, **10:96**
  - Inebriation as cause of accident, **10:97**
- Blood alcohol level and tests
  - Generally, **10:99**
  - Expert opinion, **10:102**
  - Lack of foundation, **10:95, 10:101**
  - Other grounds, **10:103**
  - Testing delay, **10:100**
- Character evidence, **7:8, 7:64**
- Driver of automobile, **10:96**
- Driving Under the Influence** (this index)
- Instruction on intoxication, **10:107**
- Intemperance, habit of, **7:64, 10:98**
- Irrelevant, **10:93**
- Opposing authorities, **10:104 to 10:107**

**ALCOHOL CONSUMPTION**

**—Cont'd**

- Percipient witness, exclusion of evidence, **7:63**
- Relevancy, **10:104**
- Suggested text, **10:90**
- Summary of motion, **10:91**
- Supporting authorities, **10:92 to 10:103**
- Witness perceptions/impeachment, **10:105, 10:106**

**ARBITRATION EVIDENCE**

- Limitations, **9:30**
- Mediation evidence, motion to exclude, **9:61**
- Opposing authorities, **9:32**
- Suggested text, **9:28**
- Summary of motion, **9:29**
- Supporting authorities, **9:30, 9:31**

**ARBITRATOR**

- Witness** (this index)

**ARREST**

- Character evidence, **7:9, 7:47**
- Crimes, **7:47**
- Prior driving under the influence, **10:113**

**ARTICLES**

- Published Articles** (this index)

**ATTORNEY**

- Generally, **8:63**
- Crime or injury prevented, **8:70**
- Non-adversarial proceedings, **8:69**
- Opposing authorities, **8:65 to 8:70**
- Substantial hardship on client, **8:67**
- Supporting authorities, **8:63**
- Testimony of other attorney in firm or office, **8:68**
- Uncontested matter, **8:65**
- Value of legal services, **8:66**

**AUTHENTICATION**

- Medical records, reports, or bills, **4:118**
- Social media, **4:128, 4:132**
- Writings, **4:23, 4:28**

## INDEX

### AUTHORITY

Motion in limine, **1:2**

### AUTOMOBILE CASES

Alcohol consumption, **10:96**

**Driving Under the Influence** (this index)

Low-speed impact

Generally, **10:137, 10:152**

“Delta-V” testimony, **10:138**

“Human crash test dummy” testimony, **10:140**

Miscellaneous tests, **10:142**

Photographs depicting “no damage” to vehicles, **10:140, 10:141, 10:150**

“Popping into a chair” testimony, **10:139**

**Seat Belts** (this index)

### BAIL FORFEITURE

Character evidence, crimes, **7:49**

### BATTERED WOMAN SYNDROME

Generally, **5:36, 5:44**

### BIAS

**Emotional Bias** (this index)

Settlement evidence, **10:37**

### BIFURCATED TRIAL

Authority, **9:35**

Damages, **9:38**

Damages evidence, motion to exclude, **9:63**

Opposing authorities, **9:38**

Policy considerations, **9:36**

Suggested text, **9:33**

Summary of motion, **9:34**

Supporting authorities, **9:35 to 9:37**

### BILLS

**Medical Records, Reports, Or Bills** (this index)

### BIOMECHANIC EVIDENCE

“Finite element analysis” tests, **10:135**

Low-speed impact automobile cases

Generally, **10:137, 10:152**

“Delta-V” testimony, **10:138**

### BIOMECHANIC EVIDENCE

—Cont’d

Low-speed impact automobile cases

—Cont’d

“Human crash test dummy” testimony, **10:140**

Miscellaneous tests, **10:142**

Photographs depicting “no damage” to vehicles, **10:140, 10:141, 10:150**

“Popping into a chair” testimony, **10:139**

Opposing authorities, **10:151**

“Pattern of injury” tests, **10:136**

Suggested text, **10:128**

Summary of motion, **10:129**

Supporting authorities, **10:134 to 10:136**

### BLOOD ALCOHOL LEVEL AND BLOOD TESTS

**Alcohol Consumption** (this index)

### BRIEF

In limine, **1:13**

### BUSINESS RECORDS EXCEPTION

Accident reports, **4:74**

### CHALLENGED EVIDENCE

Generally, **1:3**

### CHARACTER

Defined, **7:1**

### CHARACTER EVIDENCE

Admissible, **7:1**

Alcoholism, **7:8, 7:63**

Conduct. Prove conduct, below

**Crimes** (this index)

Exclusions, **7:2**

**Impeachment** (this index)

Improper

Generally, **7:29**

Crimes, **7:30, 7:45**

Juvenile adjudication, motion to exclude, **7:68**

Prescription drug use, **7:69**

Sample motion to exclude, **7:66 to 7:68**

Intemperance, witness’ habit of, **7:64**

**CHARACTER EVIDENCE—Cont'd**

- Irrelevant
  - Impeachment uses, **7:6, 7:7**
  - Prove conduct, **7:28**
- Marital infidelity, sample motion to exclude, **7:66**
- Prescription drug use, **7:69**
- Prove conduct
  - Court's discretion, **7:32**
  - Improper evidence, **7:29**
  - Opposing authorities, **7:32 to 7:36**
  - Prejudicial evidence, **7:27**
  - Prior driving under the influence, **10:115**
  - Relevancy to material issue, **7:33**
  - Suggested text, **7:25**
  - Summary of motion, **7:26**
  - Supporting authorities, **7:27**
  - Trait at issue, **7:36**
  - Victim's violent character, **7:34**
  - Witness impeachment, **7:35**
- Religious beliefs, motion to exclude, **7:67**
- Restrictions, **7:2**
- Violence, **7:34**

**CHARTS**

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

**CHILDREN**

- Incompetent witness, **8:52, 8:57**

**CIVIL CASES**

- Witness privilege not to testify, comment on exercise of, **8:85**

**CLAIMS**

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

**CLAIMS DENIED OR NOT RAISED DURING DISCOVERY**

- Opposing authorities, **6:40**
- Prejudicial evidence, exclusion, **6:37**
- Sample motion, **6:49**
- Suggested text, **6:35**
- Summary of motion, **6:36**
- Supporting authorities, **6:37 to 6:39**

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

- Unfair surprise, **6:38**

**COLLATERAL ISSUES**

- Crimes, **7:52**
- Irrelevant evidence, **3:15**
- Sample motion, **3:25**
- Tests and experiments, **5:7**

**COLLATERAL SOURCE PAYMENTS**

- Generally, **10:5 to 10:10**
- Disability benefits, **10:8**
- Irrelevant, **10:4**
- Malingering, **10:15**
- Medical malpractice cases, **10:12**
- Medical or liability policy payments, **10:7**
- Not "wholly independent" source, **10:13**
- Opposing authorities, **10:12 to 10:15**
- Prior judgment, **10:6**
- Relevant to issues, **10:14**
- Sample motion, **10:207**
- Suggested text, **10:1**
- Summary of motion, **10:2**
- Supporting authorities, **10:3 to 10:11**
- Workers compensation benefits, **10:9**

**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, **2:38, 2:44**
  - Exclusion, **2:44, 2:45**
  - Opposition to motion, **2:45**
- Suggested text, **2:12**
- Summary of motion, **2:13**
- Supporting authorities, **2:14**

**CONJECTURE**

- Expert witness opinion based on, exclusion, **8:14**

## INDEX

### CONVICTIONS

Character evidence, impeachment uses, **7:9, 7:10**

**Felony Convictions** (this index)

Remote, prior crimes, **7:46, 7:56**

### CREDIBILITY

**Crimes** (this index)

### CRIMES

Generally, **7:41**

Acquitted offenses, **7:60**

Arrest conviction, **7:47**

Bail forfeiture, **7:49**

Capital cases, **7:62**

Character evidence, **7:30**

Collateral issues, **7:52**

Credibility, **7:44, 7:55**

Criminal plea

Guilty, **7:58**

Nolo contendere, **7:48**

Felony, **7:42, 7:54**

Impeachment, **7:54**

Improper character evidence, **7:45**

Irrelevant, **7:40**

Opposing authorities, **7:54 to 7:62**

Prejudicial impact of evidence, **7:43**

Remote convictions, **7:46, 7:56**

Suggested text, **7:37**

Summary of motion, **7:38**

Supporting authorities, **7:38 to 7:53**

Uncharged offenses, **7:50, 7:59**

Violent character, **7:51, 7:61**

### CROSS-EXAMINATION

Liability insurance, **10:24**

### CUMULATIVE EVIDENCE

Accident reconstruction evidence, **10:146**

Expert witness. Witnesses, below Jurisdictions, examples, **2:31**

Letters, **4:83**

Medical records, reports, or bills, **4:115**

Opposing authorities

Generally, **2:34**

Photographs, **2:37**

Videotape evidence, **2:36**

Witnesses, **2:35**

### CUMULATIVE EVIDENCE

—Cont'd

Photographs

Opposing authorities, **2:37**

Supporting authorities, **2:29**

Sample motion, **2:39, 2:43**

Suggested text, **2:24**

Summary of motion, **2:25**

Supporting authorities

Generally, **2:27**

Jurisdiction examples, **2:31**

Number of witnesses, **2:28, 2:35**

Photographs, above

Rebuttal testimony, **2:33**

Repetitive testimony, **2:32**

Reports, above

Witness testimony, **2:30**

Time-wasting evidence, **2:26**

Videotape evidence, **2:36**

Witnesses

Expert, **8:22, 8:32**

Opposing authorities, **2:35**

Opposition to motion to exclude, **2:43**

Supporting authorities, **2:30**

### DAMAGES

Amounts in excess of stated damages, **10:187**

**Bifurcated Trial** (this index)

Court's discretion, **10:193**

Denied claims, **10:195**

Estoppel, **10:194**

Improper damage evidence, motion to exclude, **10:219**

Limitations, **10:189**

Lost profits, **10:191**

Opposing authorities, **10:193 to 10:199**

Punitive

Financial status, **10:159, 10:162**

Statutory limitations, **10:189**

Speculative

Generally, **10:188, 10:196**

"Reasonably certain," **10:198**

Weight vs. admissibility, **10:197**

Suggested text, **10:182**

Summary of motion, **10:183**

**DAMAGES—Cont’d**

- Supporting authorities, **10:184 to 10:192**
- Surprise claims, **10:186**
- Tax evidence, **10:167**
- Undisputed matters, **10:185**
- Unpleaded matters, **10:184, 10:193**
- Wrongful death, statutory limitations, **10:190**

**DEFENDANT**

- Motion to exclude demonstration of defendant’s tattoo, **4:140**

**DELTA-V**

- Biomechanic evidence, low-speed impact automobile cases, **10:138**

**DEMONSTRATIONS**

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

**DEPOSITIONS**

- Expert, continuance to depose, **6:47**
- Sanctions** (this index)

**DESTROYED EVIDENCE**

- Lost or Destroyed Evidence** (this index)

**DIAGRAMS**

- Generally, **4:103**

**DISABILITY BENEFITS**

- Collateral source payments, **10:8**

**DISCOVERY**

- Admitted, motion to deem matters, **6:54**
- Admitted matters, **6:33, 6:54**
- Claims Denied or Not Raised During Discovery** (this index)
- Evidence produced beyond, motion to exclude, **6:53**
- Expert testimony relating to matters not disclosed during discovery, motion to exclude, **6:56**
- Misuse, sanctions, **6:3**
- Sanction establishing facts, motion for, **6:55**

**DOCUMENTS**

- Expert opinion, **8:8, 8:27**

**DRIVER’S LICENSE**

- Unlicensed Driver** (this index)

**DRIVING UNDER THE INFLUENCE**

- Negligence, **10:104**
- Prior
  - Arrests, **10:113**
  - Felony convictions, **10:119**
  - Impeachment, **10:112 to 10:114, 10:117 to 10:119**
  - Improper conduct, **10:115**
  - Irrelevant, **10:111**
  - Misdemeanor conviction, **10:113**
  - Opposing authorities, **10:117 to 10:120**
  - Probative value outweighed by undue prejudice risk, **10:114**
  - Relevancy, **10:120**
  - Sample motion to exclude evidence of defendant’s, **10:217**
  - Suggested text, **10:108**
  - Summary of motion, **10:109**
  - Supporting authorities, **10:110 to 10:116**

**DRUG USE**

- Prescription, sample motion to exclude, **7:69**

**EMOTIONAL BIAS**

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

**EMOTIONS OF JURORS**

- Jurors** (this index)

**EMPLOYMENT**

**DISCRIMINATION**

- Statistical evidence, **5:35**

**ESTOPPEL**

- Damages, **10:194**

## INDEX

### **ESTOPPEL—Cont'd**

Matters not in controversy, irrelevant evidence, **3:19**

### **EVIDENCE**

**Accident Reconstruction Evidence** (this index)

Admitted, motion to deem matters, **6:54**

**Arbitration Evidence** (this index)

**Biomechanic Evidence** (this index)

**Character Evidence** (this index)

**Collateral Source Payments** (this index)

**Confusing or Misleading Evidence** (this index)

**Crimes** (this index)

**Cumulative Evidence** (this index)

Damages in bifurcated trial, motion to exclude, **9:63**

**Damages** (this index)

Discovery, evidence produced beyond, **6:53**

**Fault Evidence** (this index)

**Financial Status** (this index)

Hypnosis evidence, **5:27, 5:45, 5:52**

**Irrelevant Evidence** (this index)

**Liability Evidence** (this index)

**Lost or Destroyed Evidence** (this index)

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

Missing evidence instruction, opposition to motion, **9:67**

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

**Physical Evidence** (this index)

**Polygraph Evidence** (this index)

**Prejudicial Evidence** (this index)

**Settlement Evidence** (this index)

**Social Media** (this index)

**Speculative Evidence** (this index)

**Statistical Evidence** (this index)

**Tax Evidence** (this index)

**Tests and Experiments** (this index)

**Time-wasting Evidence** (this index)

**Videotapes** (this index)

### **EVIDENTIARY SANCTIONS**

**Sanctions** (this index)

### **EXCITED UTTERANCE**

#### **EXCEPTION**

Accident reports, **4:76**

### **EXHIBITS**

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

### **EXPERIMENTS**

**Tests and Experiments** (this index)

### **EXPERT TESTIMONY**

Continuance to depose expert, **6:47**

Credibility of witness, **5:54**

Cumulative, **8:22**

Exchange, **6:43, 6:46**

**Expert Witness** (this index)

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

Medical doctor, motion to exclude opinions of, **8:112**

Opposing authorities, **6:46 to 6:48**

Opposition to motion to exclude testimony, **8:119**

Sample motion to exclude, **5:53, 5:54**

Suggested text, **6:41**

Summary of motion, **6:42**

Supporting authorities, **6:43 to 6:45**  
Tests and experiments, **5:3, 5:53, 5:54**

Written report, **6:48**

### **EXPERT WITNESS**

Improper opinion. Opinions, below Irrelevant, **8:18**

Medical doctor, motion to exclude opinion testimony, **8:112**

Motion to exclude, **8:119**

Non-qualified

Opposing authorities, **8:38**

Opposition to motion to exclude, **8:119**

Qualifications, improper, **8:36**

Sample motion, **8:110**

Suggested text, **8:29**

Summary of motion, **8:34**

**EXPERT WITNESS—Cont'd**

- Non-qualified—Cont'd
  - Supporting authorities, **8:35 to 8:37**
- Opinions
  - Blood alcohol level and blood tests, **10:102**
- Improper
  - Conjecture, **8:14**
  - Cumulative, **8:22, 8:32**
  - Hearsay, **8:6 to 8:8, 8:25 to 8:27**
  - Hypothetical questions, **8:5, 8:28**
  - Irrelevant matters, **8:18**
  - Legal questions, **8:9, 8:10, 8:29**
  - Matters of common experience, **8:11**
  - Not perceived or personally known, **8:13**
  - Not reasonably relied on by experts, **8:12**
  - Opinions of others used, **8:7**
  - Opposing authorities, **8:24 to 8:32**
  - Outside specialty or expertise, **8:20, 8:21**
  - Profile evidence, **8:19**
  - Speculative, **8:14, 8:108**
  - Standards of care, **8:21, 8:30, 8:31**
  - Suggested text, **8:1**
  - Summary of motion, **8:2**
  - Supporting authorities, **8:3 to 8:23**
  - Too many variables, **8:15**
  - Treatises, documents and texts, **8:8, 8:27**
  - Ultimate issues, **8:29**
  - Uncooperative witness, **8:16**
  - Usurping jury function, **8:17**
  - Not referenced in prior discovery, **6:45**
- Opposition to motion to exclude testimony, **8:119**
- Privilege
  - Opposition to motion to exclude, exercise of, **8:120**
- Supplemental, sample motion, **6:50**

**EXPERT WITNESS—Cont'd**

- Terminology, trial, **9:48**
- Ultimate issue, **9:48, 9:49, 9:53**
- Uncooperative, **8:16**
- Undisclosed witness, **6:44**

**FAILURE TO WEAR SEAT BELTS**

**Seat Belts** (this index)

**FAULT EVIDENCE**

- Admissions, **10:176, 10:177, 10:181**
- Lay witness legal opinions, inadmissibility, **10:178**
- Opposing authorities, **10:181**
- Settlement negotiations, **10:177**
- Supporting authorities, **10:176 to 10:178**

**FELONY CONVICTIONS**

- Crimes** (this index)
- Impeachment, **7:10, 7:54**
- Prior driving under the influence, **10:119**
- Sample motion, **7:65**

**FILM**

- Prejudicial
  - Cautionary admonition, **4:54**
  - Lack of foundation, **4:55**
  - 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**

**FINANCIAL STATUS**

- Generally, **10:157**
- Defendant, **10:158**
- Defendant's financial status, opposition to motion to exclude evidence of, **10:223**
- Exclusion of computerized valuation of plaintiff's business, sample motion, **8:111**
- Irrelevant, **10:156**
- Lanigan hearing, sample motion, **8:111**
- Opposing authorities, **10:160 to 10:162**
- Punitive damages, **10:159, 10:162**



## INDEX

### **FINANCIAL STATUS—Cont'd**

- Relevancy, **10:161**
- Sample motion to exclude evidence of plaintiff's, **10:216**
- Suggested text, **10:153**
- Summary of motion, **10:154**
- Supporting authorities, **10:155 to 10:160**

### **FINITE ELEMENT ANALYSIS**

- Biomechanic evidence, **10:135**

### **FOUNDATION**

- Lack of Foundation** (this index)

### **FRAUD**

- Character evidence, impeachment, **7:11**

### **GOLDEN RULE ARGUMENT**

- Motion to preclude, **9:62**
- Prejudicial evidence, exclusion, **9:41**
- Rejection, **9:42**
- Suggested text, **9:39**
- Summary of motion, **9:40**
- Supporting authorities, **9:41 to 9:43**

### **GOOD CHARACTER**

- Impeachment, **7:12, 7:24**

### **GRUESOME OR**

#### **INFLAMMATORY**

#### **PHOTOGRAPHS**

- Generally, **4:38, 4:41, 4:44**
- Accident scene, **4:39, 4:46**
- Enlarged, **4:43**
- Foundation, adequate, **4:42**
- Inflame jurors' emotions, **4:37**
- Irrelevant, **4:35**
- Motion to exclude evidence of, **4:139**
- Opposing authorities, **4:41 to 4:46**
- Prejudicial evidence, **4:34**
- Sample motion, **4:133**
- Suggested text, **4:32**
- Summary of motion, **4:33**
- Supporting authorities, **4:34 to 4:40**
- X-rays, **4:45**

### **HEALTH**

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

### **HEARSAY**

#### **Accident Reports** (this index)

- Broad discretion, **8:107**
- Exceptions
  - Generally, **8:101**
  - Business records, **4:74**
  - Excited utterance, **4:76**
  - Multiple hearsay, below
  - Non-assertive conduct, **8:104**
  - Prior inconsistent statement, **4:75**
  - Purpose, **8:102**
- Expert opinion based on improper material, **8:6 to 8:8, 8:25 to 8:27**

- General authority, **8:97**

#### **Letters** (this index)

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

- Multiple, **8:105**
- Opposing authorities
  - Generally, **8:101 to 8:107**
  - Exceptions, above
  - Non-hearsay evidence, **8:103**
- Published articles, **4:60**
- Purpose, **8:98**
- Social media evidence, motion to exclude, **4:127, 4:131**
- Suggested text, **8:95**
- Summary of motion, **8:96**
- Supporting authorities, **8:97 to 8:100**
- Writings** (this index)
- Written, **8:99, 8:100**

### **HEDONIC DAMAGES**

- Generally, **5:21, 5:40**

### **HISTORY**

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

### **HYPNOSIS EVIDENCE**

- Generally, **5:27, 5:45**
- Motion to exclude, sample, **5:52**

### **HYPOTHETICAL QUESTIONS**

- Expert testimony, **8:5, 8:28**

### **ILLUSTRATIONS**

- Generally, **4:103**

**IMMIGRATION STATUS**

Generally, **10:202**  
Admissibility, **10:206**  
Irrelevant, **10:203**  
Liability, **10:205**  
Limiting instruction, **10:206**  
Opposing authorities, **10:206**  
Suggested text, **10:200**  
Summary of motion, **10:201**  
Supporting authorities, **10:202 to 10:205**  
Unpleaded issues, **10:204**

**IMPEACHMENT**

Generally, **7:20**  
Alcohol consumption, **7:8, 10:106**  
Arrests or misdemeanor convictions, **7:9**  
Bias, excluding evidence of, **7:16**  
Collateral issues, **7:15**  
Facts at issue, **7:18**  
**Felony Convictions** (this index)  
Fraudulent acts, **7:11**  
Good character, **7:12**  
Hearsay for, **8:106**  
Irrelevant, **7:6, 7:7**  
Opening the door doctrine, **7:24**  
Opposing authorities, **7:18 to 7:24, 7:54 to 7:62**  
Prior driving under the influence, **10:112 to 10:114, 10:118**  
Religious belief, **7:13, 7:23**  
Settlement evidence, **10:39**  
Sexual preference or behavior, **7:14**  
Suggested text, **7:3**  
Summary of motion, **7:4**  
Supporting authorities, **7:5 to 7:17**  
Traffic citations, **10:71**  
Witness  
Bias, **7:21**  
Perceptions, **7:19**  
Settlement evidence, **10:39**

**IMPROPER DAMAGE EVIDENCE**

Motion to exclude, **10:219**

**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)

**INCOMPETENT WITNESS**

**Witnesses** (this index)

**INCONSISTENT STATEMENTS**

Letters, **4:88**

**INEBRIATION**

Alcohol consumption, automobile cases, **10:97**

**INFLAMMATORY EVIDENCE**

Exclusion motion, sample opposition, **7:72**

**Gruesome or Inflammatory Photographs** (this index)

**INJURIES**

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

Seat belts used to reduce, **10:88**

**IN LIMINE**

Brief, **1:13**

Order, **1:14**

**INSANITY**

Incompetent witness, **8:53, 8:58**

**INSURANCE**

**Liability Insurance** (this index)

**INTERROGATORIES**

**Sanctions** (this index)

**IRRELEVANT EVIDENCE**

Generally, **3:1 to 3:10, 7:28, 10:19**

Alcohol consumption, **10:93**

Collateral source payments, **10:4**

Crimes, **7:40**

Financial status, **10:156**

Gruesome or inflammatory photographs, **4:35**

Immigration status, **3:22, 10:203**

## INDEX

### IRRELEVANT EVIDENCE—Cont'd

Insurance case, sample motion, **3:24**  
Liability evidence, **10:175**  
Liability insurance, **10:20, 10:22**  
**Matters Not in Controversy** (this index)  
Matters not in dispute, **3:4**  
No unlimited inquiry, **3:5**  
Opposing authorities, **3:10, 10:24 to 10:27**  
Outside pleadings, **3:6**  
Party's health or injuries evidence, **10:124**  
Prejudicial evidence, **3:7**  
Prior accidents, **10:44, 10:48, 10:220**  
Prior crimes, **7:40**  
Prior driving under the influence, **10:111**  
Repairs. Subsequent repairs, below  
Sample motions, **3:22, 3:24**  
Seat belts, failure to wear, **10:84**  
Settlement evidence, **10:31**  
Speculative, **3:8**  
Statute violations, **10:70**  
Subsequent repairs, **10:62**  
Suggested text, **3:1**  
Summary of motion, **3:2**  
Supporting authorities, **3:3 to 3:9**  
Tax evidence, **10:166**  
Too remote, **3:9**

### JUDGE

**Witness** (this index)

### JUNK SCIENCE

Accident reconstruction evidence, **5:29, 5:31, 5:49**  
Approved tests, **5:39**  
Battered woman syndrome, **5:36, 5:44**  
Biomechanic evidence, **5:30**  
Hedonic damages, **5:21, 5:40**  
Hypnosis evidence, **5:27, 5:45**  
Lanigan requirements, **5:38**  
Low-speed impact automobile cases, **10:137**  
Opposing authorities, **5:37 to 5:49, 10:143**  
**Polygraph Evidence** (this index)

### JUNK SCIENCE—Cont'd

Psychological tests and syndromes  
Generally, **5:25**  
Battered woman syndrome, above  
Rape trauma syndrome, below  
Rape trauma syndrome, **5:26, 5:43**  
**Statistical Evidence** (this index)  
Suggested text, **5:18**  
Summary of motion, **5:19**  
Supporting authorities, **5:20 to 5:36**  
"Truth-serum" evidence, **5:22**  
Voiceprint identification, **5:28**

### JURORS

Emotions, inflaming of  
Gruesome or inflammatory photographs, **4:36**  
Prejudicial evidence, **2:20 to 2:22**  
Lack of foundation determinations, out of jury presence, **4:5, 4:17**  
**Preconditioning** (this index)  
Questionnaire  
Individual questioning required, **9:57**  
Opposing authorities, **9:58**  
Suggested text, **9:54**  
Summary of motion, **9:55**  
Supporting authorities, **9:56, 9:57**  
Voir dire, sample motion, **9:60**  
Tax evidence, improper appeal, **10:169**  
Usurping function of jury, **8:17, 9:51**  
Voir dire, **9:6**  
**Witness** (this index)

### JUVENILE ADJUDICATION

Sample motion to exclude, **7:68**

### LACK OF FOUNDATION

Accident reconstruction evidence, **10:132**  
Admissibility  
Conditional, **4:16**  
Weight vs., **4:18**  
Alcohol consumption, blood alcohol level and tests, **10:95**  
Conditional admissibility, **4:16**  
Definitions, **4:4**  
Determination, outside of jury presence, **4:5, 4:17**

**LACK OF FOUNDATION—Cont'd**

- Experiments. Tests and experiments, below
- Film, **4:55**
- Inadmissibility of evidence, **4:6**
- Jury presence during determination, **4:5, 4:17**
- Medical records or reports, **4:14**
- Opposing authorities, **4:15 to 4:18**
- Photographs, **4:8**
- Prejudicial evidence, **4:15**
- Preliminary facts, **4:4 to 4:6**
- Recordings, **4:9**
- Social media
  - Lack of foundation, **4:128**
  - Proper foundation, **4:132**
- Social media evidence, motion to exclude, **4:128**
- Suggested text, **4:1**
- Summary of motion, **4:2**
- Supporting authorities, **4:3 to 4:14**
- Tests and experiments, **4:10, 5:10**
- Weight vs. admissibility, **4:18**
- Witness testimony, **4:11, 4:12**
- Writings, **4:13, 4:22**

**LANIGAN REQUIREMENTS**

- Junk science, **5:38**
- Tests and experiments, **5:17**
- Valuation, sample motion for hearing on methodology, **8:111**

**LAWSUITS**

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

**LAY WITNESS**

- Witness** (this index)

**LETTERS**

- Generally, **4:79**
- Cumulative, **4:83**
- Hearsay
  - Generally, **4:80**
  - Exceptions, **4:81, 4:86**
- Inconsistent statements, **4:88**
- Irrelevant, **4:82**
- Opposing authorities, **4:85 to 4:88**
- Relevant, **4:87**
- Sample motion to exclude, **4:136**

**LETTERS—Cont'd**

- Suggested text, **4:77**
- Summary of motion, **4:78**
- Supporting authorities, **4:79 to 4:84**

**LIABILITY EVIDENCE**

- Admitted matters, **10:176**
- Defendant, sample motion, **10:208**
- Immigration status, **10:205**
- Irrelevant, **10:175**
- Opposing authorities, **10:179 to 10:181**
- Settlement negotiations, **10:33, 10:176**
- Suggested text, **10:172**
- Summary of motion, **10:173**
- Supporting authorities, **10:174 to 10:179**

**LIABILITY INSURANCE**

- Cross-examination, **10:24**
- Defendant's lack of, **10:21**
- Irrelevant evidence, **10:19, 10:22**
- Non-prejudicial references, **10:26**
- Ownership or employment, **10:27**
- Relevant to issues or otherwise admissible, **10:15**
- Sample motion to exclude evidence, **10:215**
- Suggested text, **10:16**
- Summary of motion, **10:17**
- Supporting authorities, **10:18 to 10:23**

**LIBEL**

- Relevancy, **4:63**

**LICENSE**

- Unlicensed Driver** (this index)

**LISTS**

- Generally, **4:101**

**LOST OR DESTROYED EVIDENCE**

- Generally, **9:23**
- Mediation evidence, motion to exclude, **9:61**
- Missing evidence instruction, opposition to motion, **9:67**
- Opposing authorities, **9:26, 9:27**

## INDEX

### **LOST OR DESTROYED**

#### **EVIDENCE—Cont'd**

- Prejudicial evidence, exclusion, **9:22**
- Sample motion, **9:59**
- Spoilation before litigation, **9:24**
- Suggested text, **9:20**
- Summary of motion, **9:21**
- Supporting authorities, **9:22 to 9:25**

### **LOST PROFITS**

- Damages, **10:191**
- Speculative evidence of, motion to exclude, **10:219**

### **LOW-SPEED IMPACT**

#### **AUTOMOBILE CASES**

- Accident Reconstruction Evidence**  
(this index)

### **MALINGERING**

- Collateral source payments, **10:15**

### **MAPS, MODELS, DIAGRAMS, AND CHARTS**

- Generally, **4:93, 4:102**
- Accident reports, **4:70, 4:73**
- Accuracy not disputed, **4:98**
- Court's discretion, **4:92, 4:100**
- Demonstrations
  - Opposing authorities for motion to exclude, **4:104**
  - Sample motion to exclude, **4:135**
  - Supporting authorities for motion to exclude, **4:94**
- Exclusions, **4:93, 4:142**
- Illustrations, **4:103**
- Illustrative purposes, **4:97**
- Lists, **4:101**
- Motion to exclude, **4:142**
- Opposing authorities, **4:97 to 4:104**
- Relevant to issue, **4:99**
- Suggested text, **4:89**
- Summary of motion, **4:90**
- Supporting authorities, **4:91 to 4:96**

### **MARITAL INFIDELITY**

- Sample motion to exclude, **7:66**

### **MATTERS NOT IN CONTROVERSY**

- Admissibility despite uncontested issue, **3:21**

### **MATTERS NOT IN**

#### **CONTROVERSY—Cont'd**

- Admitted matters, **3:14**
- Collateral issues, **3:15, 3:18**
- Estoppel, **3:19**
- Opposing authorities, **3:17 to 3:21**
- Physical conditions not at issue,  
sample motion, **3:23**
- Sample motion, **3:23**
- Suggested text, **3:11**
- Summary of motion, **3:12**
- Supporting authorities, **3:13 to 3:16**
- Uncontroverted matters, **3:14**
- Unpleaded issues, **3:16**

### **MEDIATION EVIDENCE**

- Motion to exclude, **8:116**
- Motion to exclude, **9:61**

### **MEDIATOR**

- Witness** (this index)

### **MEDICAL HISTORY**

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

### **MEDICAL MALPRACTICE CASES**

- Collateral source payments, **10:12**
- Lay witness, **8:48**

### **MEDICAL RECORDS, REPORTS OR BILLS**

- Authentication, **4:118**
- Billing records
  - Hearsay, **4:114**
  - Reasonableness of charges, **4:122**
- Cumulative, **4:115**
- Doctor, motion to exclude opinion testimony, **8:112**
- Exclusion of bills for services,  
sample motions, **6:51**
- Foundation, improper, **4:108**
- Hearsay
  - Billing records, **4:114**
  - Medical opinions, **4:110**
  - M.G.L.A. 23 0167 79G exception,  
**4:109**
  - Patient medical history, **4:113**
- Lay testimony, opposition to motion to exclude, **8:113**

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

- Medical history. Patient history,  
below
- Misleading, **4:116**
- Motion to exclude patient's medical  
history, sample, **4:137**
- Opinions
  - Diagnosis and treatment, **4:119**
  - Hearsay, **4:110**
  - Lack of personal knowledge, **4:111**
  - Medical, **4:110**
  - Of others, **4:111, 4:119**
- Opposing authorities, **4:118 to 4:121**
- Patient history
  - Generally, **4:112**
  - Hearsay, **4:113**
  - Medical diagnosis, pertinent, **4:121**
  - Physician observations, **4:120**
- Prejudicial evidence, exclusion,  
**4:107**
- Suggested text, **4:105**
- Summary of motion, **4:106**
- Supporting authorities, **4:107 to  
4:117**

**MENTAL COMPETENCE**

- Incompetent witness, **8:53, 8:58**

**MENTAL EXAMINATION**

- Sanctions, failure to comply with  
discovery order, **6:17, 6:18**

**MENTAL HEALTH**

- Witness, motion to exclude, **7:71**

**MISDEMEANOR**

- Character evidence, **7:9, 7:47**
- Crimes, **7:47**
- Prior driving under the influence,  
**10:113**

**MISLEADING EVIDENCE**

- Confusing or Misleading Evidence**  
(this index)

**MISSING EVIDENCE**

- Instruction, opposition to motion,  
**9:67**

**MODELS**

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

**MOTION IN LIMINE**

- Advantages of, **1:1**
- Authority, **1:2**
- Description, **1:1**
- Drafting
  - Facts to support, **1:11**
  - Overview, **1:10**
  - Succinctness, **1:12**
- Facts to support, **1:11**
- Local rules, **1:8**
- Objections, **1:9**
- Objections, preservation, **1:5**
- Premature, **1:4**
- Procedural requirements, **1:8**
- Purpose, **1:1**
- Scope, **1:7**
- Timing, **1:6**
- Types, **1:3**
- Uses, **1:3, 1:4**

**NEGLIGENCE**

- Driving under the influence of  
alcohol as proof of, **10:104**
- Prior accident evidence, **10:46,  
10:220**
- Statistical evidence, **5:34**
- Subsequent Repairs** (this index)
- Unlicensed driver, **10:77**

**NEGOTIATIONS**

- Settlement, **10:33, 10:176**

**NEWSPAPER ARTICLES**

- Sample motion to exclude, **4:138**

**NON-CALLED WITNESSES**

- Witness** (this index)

**NON-QUALIFIED EXPERT**

- Expert Witness** (this index)

**OFFICER**

- Police Officer** (this index)

**OPENING STATEMENT**

- Improper argument in  
Prejudicial evidence, **9:11**

## INDEX

### **OPENING STATEMENT—Cont'd**

- Improper argument in—Cont'd
  - Sample motions, **9:65**
  - Suggested text, **9:9**
  - Summary of motion, **9:10**
  - Supporting authorities, **9:11 to 9:13**
- Improper argument, motion to exclude, **9:65**
- Opposing authorities, **9:14**
- Prejudicial evidence, **9:12**

### **OPINIONS**

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

### **ORDER**

- In limine, **1:14**
- Sanctions** (this index)

### **PARTY'S HEALTH OR INJURIES EVIDENCE**

- Irrelevant, **10:124**
- Opposing authorities, **10:127**
- Relevant to case, **10:127**
- Suggested text, **10:121**
- Summary of motion, **10:122**
- Supporting authorities, **10:123 to 10:126**

### **PATIENT HISTORY**

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

### **PERSONAL INJURY**

- Accident Reconstruction Evidence** (this index)
- Accidents, Claims or Lawsuits** (this index)
- 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)
- Seat Belts** (this index)
- Statute Violations** (this index)

### **PERSONAL INJURY—Cont'd**

- Subsequent Repairs** (this index)
- Unlicensed Driver** (this index)

### **PERSONAL KNOWLEDGE**

- Incompetent witness, **8:54, 8:59**
- Medical records, reports or bills, opinions, **4:111**
- Subjectmatter, motion to exclude testimony for lack of personal knowledge of, **8:115**

### **PHOTOGRAPHS**

- Generally, **4:38, 4:41**
- Cumulative Evidence** (this index)
- Gruesome or Inflammatory Photographs** (this index)
- Lacking foundation for admission, **4:8**
- Prejudicial Evidence** (this index)

### **PHYSICAL EVIDENCE**

- Evidence** (this index)

### **PHYSICAL EXAMINATION**

- Sanctions, failure to comply with discovery order, **6:17, 6:18**

### **PLOPPING INTO A CHAIR TESTIMONY**

- Biomechanic evidence, low-speed impact automobile cases, **10:139**

### **POINT OF IMPACT**

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

### **POLYGRAPH EVIDENCE**

- Generally, **5:23, 5:41**
- Investigative purposes, **5:42**
- Refusal to take polygraph test, **5:24**
- Sample motion to exclude, **5:51**

### **POVERTY**

- Evidence of defendant's, motion to exclude, **2:41**

### **PRECONDITIONING**

- Terminology, improper, **9:50**
- Voir dire, improper, **9:4, 9:5**

### **PREJUDICIAL EVIDENCE**

- Accident reports, exclusion of, **4:67**

**PREJUDICIAL EVIDENCE**

—Cont'd

- Alcohol consumption, **10:92**
- Broad discretion, **2:7**
- Character evidence to prove conduct, exclusion, **7:27**
- Claims denied during discovery, exclusion, **6:37**
- Collateral source payments, **10:3**
- Confusing or Misleading Evidence** (this index)
- Crimes, **7:43**
- Cumulative Evidence** (this index)
- Emotional Bias** (this index)
- Exclusion
  - Opposing authorities, **2:6, 2:7**
  - Poverty, evidence of defendant's, **2:41**
  - Sample motion, **2:40**
  - Sample opposition to motion, **2:42**
  - Suggested text, **2:1**
  - Summary of motion, **2:2**
  - Supporting authorities, **2:3 to 2:5**
- Fault evidence, **10:174**
- Financial status, **10:155**
- “Golden Rule Argument,” exclusion, **9:41**
- Gruesome or inflammatory photographs, **4:34**
- Health or injuries of party, **10:123**
- Immigration status, exclusion of evidence regarding, **10:202**
- Improper argument in opening statement, exclusion, **9:11**
- Irrelevant evidence, **3:7**
- Lacking foundation, **4:15**
- Liability insurance, **10:18**
- Lost or destroyed evidence, exclusion of reference to, **9:22**
- Map, motion to exclude, **4:142**
- Medical records, reports or bills, exclusion, **4:107**
- Non-called witnesses, exclusion, **8:89**
- Opening statement, **9:12**
- Other accidents, claims or lawsuits, **10:43**
- Photographs
  - Motion to exclude, **4:139**

**PREJUDICIAL EVIDENCE**

—Cont'd

- Photographs—Cont'd
    - Opposition to motion to exclude, **4:147**
  - Prejudice, defined, **2:4**
  - Prior crimes, **7:43**
  - Prior D.U.I., **10:110**
  - Published articles, exclusion of, **4:58**
  - Sample motions, **2:40, 2:42**
  - Seat belt, failure to wear, **10:83**
  - Settlement evidence, **10:30**
  - Statute violation, **10:69**
  - Subsequent repairs, **10:61**
  - Tax evidence, **10:165**
  - Time-wasting Evidence** (this index)
  - Unauthenticated video recording, motion to exclude, **4:143**
- PREMATURE REBUTTAL AFFIRMATIVE DEFENSES**
- Trial** (this index)
- PRESCRIPTION DRUG USE**
- Sample motion to exclude, **7:69**
- PRIOR ACCIDENTS**
- Accidents, Claims or Lawsuits** (this index)
- PRIOR CRIMES**
- Crimes** (this index)
- PRIOR DRIVING UNDER THE INFLUENCE**
- Driving Under the Influence** (this index)
- PRIOR INCONSISTENT STATEMENT EXCEPTION**
- Accident reports, **4:75**
- PRIOR INJURIES**
- Accidents, Claims or Lawsuits** (this index)
- PRODUCTION REQUESTS**
- Sanctions** (this index)
- PRODUCTS LIABILITY**
- Statistical evidence, **5:34**



## INDEX

### **PROVE CONDUCT**

**Character Evidence** (this index)

### **PROXIMATE CAUSE**

Statute violations, **10:74**

### **PSYCHOLOGICAL TESTS AND SYNDROMES**

**Junk Science** (this index)

### **PUBLISHED ARTICLES**

Exclusions, **4:58 to 4:62**  
Hearsay exclusion, **4:60**  
Nonhearsay, **4:64**  
Opposing authorities, **4:63, 4:64**  
Prejudicial evidence, exclusion, **4:58**  
Relevancy, **4:63**  
Suggested text, **4:56**  
Summary of motion, **4:57**  
Supporting authorities, **4:58 to 4:62**

### **PUNITIVE DAMAGES**

**Damages** (this index)

### **QUESTIONNAIRE**

**Jurors** (this index)

### **RAPE TRAUMA SYNDROME**

Generally, **5:26, 5:43**

### **REBUTTAL TESTIMONY**

Cumulative evidence, **2:33**

### **RECORDINGS**

Lacking foundation for admission, **4:9**  
Unauthenticated video recording, motion to exclude, **4:143**

### **RECORDS**

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

### **RELIGIOUS BELIEFS**

Character evidence, impeachment, **7:13, 7:23, 7:67**

### **REPAIRS**

**Subsequent Repairs** (this index)

### **REPETITIVE TESTIMONY**

Cumulative evidence, **2:32**

### **REPORTS**

**Accident Reports** (this index)

### **REPORTS—Cont'd**

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

### **REQUESTS FOR ADMISSIONS**

Sanctions, **6:19, 6:29**

### **REQUESTS FOR PRODUCTION**

**Sanctions** (this index)

### **SAMPLE MOTIONS**

Exclude medical bills, **4:149**

### **SANCTIONS**

Depositions  
Generally, **6:8**  
Evidence sanction, **6:9**  
Opposing authorities, **6:26**  
Termination or default, **6:10**  
Discovery  
Motion for order rendering default judgment, **6:57**  
Motion to dismiss action, **6:59**  
Discovery, misuse, **6:3**  
Evidentiary  
Depositions, **6:8**  
Interrogatories, **6:12**  
Production requests, **6:15**  
Supporting authorities, **6:4**  
General authority, **6:3**  
Harsher  
Depositions, **6:10**  
Interrogatories, **6:13**  
Identity of witnesses, failure to disclosure, **6:20**  
Interrogatories  
Generally, **6:11**  
Evidentiary sanctions, **6:12**  
Evidentiary sanctions, failure to serve answers or objections, **6:58**  
Opposing authorities, **6:27**  
Terminating sanctions, **6:13**  
Matters deemed admitted, **6:29**  
Mental examination, **6:18**  
Misconduct level and, correlation between, **6:23**  
Opposing authorities, **6:22 to 6:29**  
Order  
Discovery, **6:8**

**SANCTIONS—Cont'd**

- Order—Cont'd
  - Prior order unnecessary, **6:6**
  - Physical examination, **6:18**
  - Prior order unnecessary, **6:6**
  - Production requests, **6:14 to 6:16, 6:28**
  - Reasonable alternative remedy, **6:24**
  - Requests for admissions, **6:19, 6:29**
  - Requests for production. Production requests, above
  - Suggested text, **6:1**
  - Summary of motion, **6:2**
  - Supporting authorities, **6:3 to 6:21**
  - Terminating
    - Depositions, **6:10**
    - General authority, **6:5**
    - Mental and physical examinations, **6:18**
    - Production requests, **6:16**
    - Supporting authorities, **6:5**
    - Willfulness, **6:25**

**SANITY**

- Lay witness, **8:46**

**SCIENTIFIC EVIDENCE**

- Generally, **5:20**
- Junk Science** (this index)

**SEAT BELTS**

- Defendant's burden unchanged, **10:86**
- Exclusion of evidence, **10:85**
- Injuries reduced by using, **10:88**
- Irrelevant, **10:84**
- Mandatory laws, **10:89**
- Mitigation of damages. Damages, above
- Opposing authorities, **10:88, 10:89**
- Suggested text, **10:81**
- Summary of motion, **10:82**
- Supporting authorities, **10:83 to 10:87**

**SETTLEMENT EVIDENCE**

- Admission against interest, **10:36**
- Bias, **10:37**
- Contract issues, **10:38**
- Impeachment, witness, **10:39**

**SETTLEMENT EVIDENCE**

**—Cont'd**

- Irrelevant, **10:31**
- Liability
  - Generally, **10:32**
  - Settlement negotiations, **10:33, 10:176**
- Opposing authorities, **10:36 to 10:40**
- Sample motion to exclude, **10:214**
- State of mind, **10:40**
- Suggested text, **10:28**
- Summary of motion, **10:29**
- Supporting authorities, **10:30 to 10:34**
- Third party, **10:34**

**SEXUAL PREFERENCE OR BEHAVIOR**

- Character evidence, impeachment, **7:14**

**SKID MARK ANALYSIS**

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

**SOCIAL MEDIA**

- Generally, **4:123 et seq.**
- Authentication
  - Lack of, **4:128**
  - Proper, **4:132**
- Exclusion, generally, **4:126 to 4:128**
- Foundation
  - Lack of, **4:128**
  - Proper, **4:132**
- Hearsay, **4:127**
- Motion summary, **4:124**
- Nonhearsay, **4:131**
- Opposing authorities, **4:130 to 4:132**
- Opposition to sample motion to exclude, **4:146**
- Prejudicial evidence, exclusion of, **4:125**
- Sample motion to exclude, **4:141**
- Suggested motion text, **4:123**
- Supporting authorities, **4:125 to 4:129**

**SPECULATION**

- Accident reconstruction evidence, **10:131**

## INDEX

### **SPECULATION—Cont'd**

- Expert witness opinion based on, exclusion, **8:14, 8:108**
- Irrelevant evidence, **3:8**
- Speculative evidence of lost profits, motion to exclude, **10:219**

### **SPECULATIVE DAMAGES**

- Damages** (this index)

### **SPECULATIVE EVIDENCE**

- Sample motions, **3:27**

### **SPOILIATION**

- Lost or destroyed evidence, **9:24**

### **STANDARDS OF CARE**

- Expert witness opinions, **8:21, 8:30, 8:31**

### **STATISTICAL EVIDENCE**

- Confusion caused by, **5:32**
- Disapproved, **5:33**
- Employment discrimination cases, **5:35**
- General acceptance, **5:46**
- Judicial notice, **5:48**
- Products liability or negligence cases, **5:34**
- Sample motion, **5:50**
- Weight vs. admissibility, **5:47**

### **STATUTE VIOLATIONS**

- Irrelevant, **10:70**
- Not proximate cause of injury, **10:72**
- Opposing authorities, **10:74**
- Proximate cause, **10:74**
- Sample motion to exclude, **10:212**
- Suggested text, **10:67**
- Summary of motion, **10:68**
- Supporting authorities, **10:69 to 10:73**
- Traffic citations, **10:71**

### **STRICT PRODUCTS LIABILITY**

- Subsequent repairs, personal injury, **10:66**

### **SUBSEQUENT REPAIRS**

- Irrelevant, **10:62**
- Negligence, inadmissibility, **10:63**
- Opposing authorities, **10:65, 10:66**

### **SUBSEQUENT REPAIRS—Cont'd**

- Opposition to motion to exclude, **10:222**
- Relevancy, **10:65**
- Sample motion to exclude, **10:211**
- Strict products liability, **10:66**
- Suggested text, **10:59**
- Summary of motion, **10:60**
- Supporting authorities, **10:61 to 10:64**

### **SUMMARY JUDGMENT**

- Generally, **1:4**

### **SURVEILLANCE VIDEO**

- Motion to exclude, **10:210**

### **TATTOO**

- Motion to exclude demonstration of defendant's tattoo, **4:140**

### **TAX EVIDENCE**

- Damages, tax implications, **10:167**
- Irrelevant, **10:166**
- Opposing authorities, **10:171**
- Relevancy, **10:171**
- Sample motion to exclude failure to pay, **10:213**
- Suggested text, **10:163**
- Summary of motion, **10:164**
- Supporting authorities, **10:165 to 10:170**
- Tax returns, **10:168**
- Wrongful death cases, **10:169**

### **TERMINATING SANCTIONS**

- Sanctions** (this index)

### **TERMINOLOGY**

- Trial** (this index)

### **TESTIMONY**

- Attorney** (this index)
- Cumulative evidence exclusion, **2:27**
- Expert Testimony** (this index)
- Lay, **4:12**
- Rebuttal, cumulative evidence, **2:33**
- Repetitive, cumulative evidence, **2:32**
- Sequestration order violations, **8:76, 8:79**
- Witness** (this index)

**TESTS AND EXPERIMENTS**

- Generally, **4:95**
- Accident reconstruction evidence, **10:145**
- Approved, **5:39**
- Collateral issues, **5:7**
- Court’s discretion, **5:12**
- Credibility of expert witness, **5:54**
- Exclusion of expert testimony, sample motion, **5:53, 5:54**
- Expert testimony, **5:3, 5:53, 5:54**
- General acceptance, **5:14**
- Identical conditions, **5:13**
- Laboratory tests on firearm residue, sample motion to admit, **10:209**
- Lack of foundation, **4:10, 5:10**
- Lanigan requirements, **5:17**
- Low-speed impact automobile cases, accident reconstruction evidence, **10:142**
- Not generally accepted, **5:4**
- Opposing authorities, **5:12 to 5:17**
- Reliability, **5:6**
- Scientific procedures not proper, **5:7**
- Speculative or conjectural, **5:8**
- “Substantially identical” conditions, **5:5**
- Suggested text, **5:1**
- Summary of motion, **5:2**
- Supporting authorities, **4:95, 5:3 to 5:9**
- Too time consuming, **5:7**
- Weight vs. admissibility
  - Generally, **5:15**
  - Careless testing, **5:16**
- Witness credibility, expert testimony, **5:54**

**TEXT MESSAGES**

- Opposition to sample motion to exclude, **4:148**
- Sample motion to exclude, **4:145**

**THIRD PARTY**

- Settlement evidence, **10:34**

**TIME-WASTING EVIDENCE**

- Cumulative evidence, **2:26**
- Opposing authorities, **2:11**
- Suggested text, **2:8**

**TIME-WASTING EVIDENCE**

—Cont’d

- Summary of motion, **2:9**
- Supporting authorities, **2:10**

**TRAFFIC CITATIONS**

- Sample motion to exclude evidence of plaintiff’s, **10:218**
- Statute violations, personal injury, **10:71**

**TREATISES**

- Expert opinion, **8:8, 8:27**

**TRIAL**

- Affirmative defenses, premature rebuttal
  - Opposing authorities, **9:19**
  - Order of proof, **9:18**
  - Sample motions, **9:66**
  - Suggested text, **9:15**
  - Summary of motion, **9:16**
  - Supporting authorities, **9:17, 9:18**
- Bifurcated Trial** (this index)
- Golden Rule Argument** (this index)
- Improper terminology. Terminology, below
- Opening Statement** (this index)
- Premature rebuttal affirmative defenses. Affirmative defenses, above
- Terminology, improper
  - Confusing evidence, **9:46**
  - Legal conclusions, **9:47**
  - Meaning of statute, **9:52**
  - Opposing authorities, **9:53**
  - Suggested text, **9:44**
  - Summary of motion, **9:45**
  - Supporting authorities, **9:46 to 9:52**
  - Ultimate issues, **9:48, 9:49**
  - Usurping jury function, **9:51**
- Voir Dire** (this index)

**“TRUTH-SERUM” EVIDENCE**

- Generally, **5:22**

**ULTIMATE ISSUE**

- Expert testimony, **9:48, 9:49, 9:53**

## INDEX

### UNCHARGED CRIMES

Character evidence, impeachment,  
7:18

### UNCHARGED OFFENSES

Character evidence, crimes, 7:50,  
7:59

### UNDISCLOSED WITNESS

Sample motion, 6:52

### UNLICENSED DRIVER

Motion to exclude driver, 10:224  
Negligence, not evidence of, 10:77  
Opposing authorities, 10:79, 10:80  
Relevancy, 10:80  
Suggested text, 10:75  
Summary of motion, 10:76  
Supporting authorities, 10:77, 10:78

### UNPLEADED ISSUES

Sample motions, 3:26

### UNPLEADED MATTERS

Damages, 10:183, 10:184, 10:193  
Immigration status, 10:204  
Matters not in controversy, irrelevant  
evidence, 3:16

### VALUATION

**Financial Status** (this index)

### VEHICLE SPEED

Accident reconstruction evidence,  
exclusion, 10:133

### VIDEOTAPES

Generally, 4:50  
Cumulative evidence, 2:36  
Prejudicial  
Generally, 4:50  
Cautionary admonition, 4:54  
Lack of foundation, 4:55  
Opposing authorities, 4:52 to 4:55  
Relevance, 4:53  
Sample motion, 4:134  
Suggested text, 4:47  
Summary of motion, 4:48  
Supporting authorities, 4:49 to  
4:51  
Surveillance video, motion to  
exclude, 10:210

### VIDEOTAPES—Cont'd

Unauthenticated video recording,  
motion to exclude, 4:143

### VIOLENT CHARACTER

Character evidence, crimes, 7:51,  
7:61  
Victim, prove conduct, 7:34

### VOICEPRINT IDENTIFICATION

Junk science, 5:28

### VOIR DIRE

Improper, motion to prevent, 9:64  
Juror questionnaire use during,  
sample motion, 9:60  
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, 8:86

### WITNESS

Alcohol consumption, 10:105  
Arbitrator. Judge, below  
**Attorney** (this index)  
Bias, character evidence for impeach-  
ment, 7:21  
Character evidence, impeachment,  
7:12, 7:19, 7:21, 7:35  
Courtroom sequestration prior to  
testifying  
Cannot exclude party, 8:78  
Criminal cases, 8:75  
Discretionary decision, 8:77  
Exclusion of testimony, 8:76, 8:79  
Opposing authorities, 8:77 to 8:80  
Purpose, 8:80  
Suggested text, 8:72  
Summary of motion, 8:73  
Supporting authorities, 8:74, 8:74  
to 8:76  
Credibility, motion to exclude expert  
testimony, 5:54  
**Cumulative Evidence** (this index)

**WITNESS—Cont'd**

- Exclude lay witness from courtroom prior to testifying, motion to, **8:114**
- Expert Witness** (this index)
  - Good character, **7:12, 7:24**
  - Identity, sanctions for failure to disclose, **6:20**
- Impeachment** (this index)
  - Incompetent
    - Children, **8:52, 8:57**
    - Inability to express self or tell truth, **8:51**
    - Lack of personal knowledge of subject matter, **8:54, 8:59, 8:115**
    - Mental competence, **8:53, 8:58**
    - Opposing authorities, **8:56 to 8:59**
    - Suggested text, **8:49**
    - Summary of motion, **8:50**
    - Supporting authorities, **8:51 to 8:55**
  - Judge
    - Opposing authorities, **8:71**
    - Suggested text, **8:60**
    - Summary of motion, **8:61**
    - Supporting authorities, **8:62**
  - Juror
    - Suggested text, **8:60**
    - Summary of motion, **8:61**
    - Supporting authorities, **8:64**
  - Lay
    - Causation, **8:42**
    - Clear understanding provided by, **8:47**
    - Exclude from courtroom prior to testifying, motion to, **8:114**
    - Lack of foundation, **4:12**
    - Legal opinions, **8:43, 10:177**
    - Medical malpractice cases, **8:48**
    - Medical records, reports or bills, **8:113**
    - Motion to exclude evidence, **8:118**
    - Opposing authorities, **8:45 to 8:48**
    - Perceptions, **8:45, 8:46**
    - Sanity, **8:46**
    - Suggested text, **8:39**
    - Summary of motion, **8:40**

**WITNESS—Cont'd**

- Lay—Cont'd
  - Supporting authorities, **8:41 to 8:44**
- Mediator
  - Motion to exclude, **8:116**
- Mediator. Judge, above
- Mental health
  - Motion to exclude, **7:71**
- Non-called
  - Adequate testimony, **8:92**
  - Opposing authorities, **8:94**
  - Prejudicial evidence, exclusion of, **8:89**
  - Sample motion, **8:109**
  - Suggested text, **8:87**
  - Summary of motion, **8:88**
  - Supporting authorities, **8:89 to 8:93**
  - Witness was equally available to testify, **8:90**
- Non-party, **8:74**
- Non-qualified expert
  - Opposing authorities, **8:38**
  - Qualifications, improper, **8:36**
  - Suggested text, **8:33**
  - Summary of motion, **8:34**
  - Supporting authorities, **8:35 to 8:37**
- Perceptions, character evidence for impeachment, **7:19**
- Personal knowledge of subjectmatter, motion to exclude testimony for lack of, **8:115**
- Prior arrest
  - Motion to exclude, **7:70**
- Privilege not to testify, comment on exercise of
  - Civil cases, **8:85**
  - Inferences allowed, **8:84**
  - No-comment, **8:83**
  - Opposing authorities, **8:84 to 8:86**
  - Suggested text, **8:81**
  - Summary of motion, **8:82**
  - Supporting authorities, **8:83**
  - Waiver, **8:86**

INDEX

**WITNESS—Cont'd**

- Testimony
  - Motion to exclude
    - Incompetent witness, **8:117**
- Testimony
  - Cumulative evidence, **2:28, 2:30**
  - Lacking foundation for admission, **4:11, 4:12**
  - Privilege not to testify, above
  - Undisclosed witness, sample motion to exclude, **6:52**

**WORKERS COMPENSATION**

- Collateral source payments, **10:9**

**WRITINGS**

- Accident Reports** (this index)
- Authentication, **4:23, 4:28**
- Confusing, **4:24**
- Defined, **4:21**
- Foundation
  - Adequate, **4:29**
  - Inadequate, **4:13, 4:22**
- Hearsay
  - Generally, **4:25, 8:99**

**WRITINGS—Cont'd**

- Hearsay—Cont'd
  - Examples, **4:26**
  - Exceptions, **4:30**
  - Multiple, **8:100**
  - Opposing authorities, **4:28 to 4:31**
- Lacking foundation for admission, foundation above
- Letters, sample motion to exclude, **4:136**
- Opposing authorities, **4:28 to 4:31**
- Published Articles** (this index)
- Secondary evidence, **4:27, 4:31**
- Suggested text, **4:19**
- Summary of motion, **4:20**
- Supporting authorities, **4:21 to 4:27**
- Unauthenticated, **4:23, 4:24**

**WRONGFUL DEATH**

- Damages, statutory limitations, **10:190**
- Tax evidence, **10:169**

**X-RAYS**

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