TABLE OF INSTRUCTIONS

Volume 1

		PART	1	GENERAL INSTRUCTIONS
Inst. N	lo.			Pag
BAJI	0.50	Pre-Tria	l Ac	dmonition
		A. IN	TR	ODUCTORY INSTRUCTIONS
BAJI	1.00	Respe	ectiv	re Duties of Judge and Jury
BAJI	1.00.1	Mann	er o	of Recording Instruction of No Significance— Source Only Governs
BAJI	1.00.5	Inve	estig	rbidden to Make Any Independent gation1
BAJI	1.01	Instru	ictic	ons to Be Considered as a Whole1
BAJI	1.02			nts of Counsel—Stipulation to a Fact—Evidence of Out—Insinuations of Questions1
BAJI		Entity	y No	ot to Be Prejudiced as Such1
BAJI	1.04	Conce	rniı	ng Insurance and Insurance Companies1
		В. І	NS'	TRUCTION TERMINOLOGY
BAJI	1.10			orm Includes Corporation, Public Entity, or Association1
	C.	PART	ΥI	DESIGNATIONS IN PLEADINGS
BAJI	1.20			and "Defendant" Applies to Each Similarly
BAJI	1.21			plaint—Designation of Parties2
BAJI	1.22			ed Actions—Designation of Parties2
BAJI	1.23			on of Parties and Claims2
BAJI	1.24	Jury N Partie	ot to	o Speculate as to Removal of Claims or2
BAJI	1.25	Sign La	angu	uage or CART Interpreter in Jury Room2
				D. DEFINITIONS
BAJI	1.30	Intenti	onal	—Defined2
	PA	RT 2	EV	VIDENCE AND GUIDES FOR ITS CONSIDERATION
			A	. GENERAL RULES
BAJI	2.00	Direct	and	Circumstantial Evidence—Inferences3
				xli

		CALIFORNIA JURY INSTRUCTIONS—CIVIL
Inst. N	o	Page
BAJI	2.01	Weighing Conflicting Testimony33
BAJI		Failure to Produce Available Stronger Evidence34
BAJI	2.03	Willful Acts to Preclude Use of Evidence35
BAJI	2.04	Failure to Deny or Explain Adverse Evidence37
BAJI	2.05	Limited Admission of Evidence—Parties or Purpose38
BAJI	2.06	Deposition Testimony39
BAJI	2.07	Interrogatories
BAJI	2.08	Requests for Admissions41
BAJI	2.09	Stipulated Testimony
		B. EVALUATION OF EVIDENCE
BAJI	2.20	Believability of Witness43
BAJI	2.21	Discrepancies in Testimony46
BAJI	2.22	Witness Wilfully False47
BAJI	2.24	Believability of Witness—Conviction of a Felony48
BAJI	2.25	Extrajudicial Admissions—Cautionary Instruction50
BAJI	2.26	Admissions Implied From Silence or Evasion51
BAJI	2.27	No Unfavorable Inference From Exercise of a Privilege53
BAJI	2.28	Limited Purpose of Evidence of Settlement With Witness
		C. EXPERT TESTIMONY
BAJI		Expert Testimony—Qualifications of Expert56
BAJI		Weighing Conflicting Expert Testimony59
BAJI		Hypothetical Questions60
BAJI	2.43	Statements Made by Patient to Physician61
D.	\mathbf{BU}	RDEN OF PROOF AND PREPONDERANCE OF
		EVIDENCE
BAJI		Burden of Proof and Preponderance of Evidence63
BAJI		Admitted Liability68
BAJI	2.62	Burden of Proof and Clear and Convincing Evidence69
	PA	RT 3 NEGLIGENCE—CONTRIBUTORY NEGLIGENCE—CAUSATION
		NEGLIGENCE—CAUSATION
		A. LIABILITY FOR NEGLIGENCE
BAJI	3.00	Negligence—Essential Elements73
	В.	NEGLIGENCE—STANDARD OF CARE
		(a) Negligence and Ordinary Care
BAJI	3.10	Negligence and Ordinary Care—Definitions75

	TABLE OF INSTRUCTIONS
Inst. No	Page
BAJI 3.11 A T	est for Determining the Question of Negligence78
	ount of Caution Varies79
	ht to Assume Others' Good Conduct
	ty to Anticipate Criminal Conduct of Third Person .82
	ht to Assume Others' Normal Faculties
	dence of Custom in Relation to Ordinary Care87
(b) Care	Required by Minors and Persons Under Disability
BAJI 3.35 Stan	dard of Conduct for Minor89
	ired Physical Faculties—Amount of Caution91
,	c) Care Required for Minors
BAJI 3.38 Care	Required for Safety of Minor92
	Care Required in Special Situations
	n Person Must Work in Dangerous Situation94
	fic Application of Duty in Dangerous Activity95
	in Handling Electricity96
	Required by Law Enforcement Officers in Using adly Force-Prior Tactical Conduct and Decisions97
(e) Viola	tion of Statute, etc.—Negligence Per Se
	gence Per Se—Violation of Statute, Ordinance, or ety Order100
C.	CONTRIBUTORY NEGLIGENCE
	(a) Generally
	ributory Negligence—Definition105
	ributory Negligence—Forgetfulness of Known nger
	very for Intentional Harm Not Diminished by atributory Negligence108
	ributory Negligence of Decedent109
	(b) Infants
BAJI 3.60 Cont Fiv	ributory Negligence—Suit Only for Injury to Minor e Years or Older110
BAJI 3.61 Cont	ributory Negligence—Suit Only for Injury to Minor der Five Years of Age113
BAJI 3.62 Cont	ributory Negligence—Suit for Injury to Minor Five rs or Older and Parents' Special Damages115
	1

		CALIFORNIA JURY INSTRUCTIONS—CIVIL
Inst. N	0	Page
BAJI	3.63	Contributory Negligence—Suit for Injury to Minor Under Five Years of Age and for Parents' Special Damages117
		(c) Driver—Passenger
BAJI	3.72	Duty of Passenger for Own Safety119
		D. CAUSATION
BAJI	3.76	Cause—Substantial Factor Test121
BAJI	3.77	Concurring Causes
BAJI	3.78	Asbestos Causation
BAJI	3.79	When Third Party's Intervening Negligence Is Not a Superseding Cause
BAJI	3.80	When Precise Cause Cannot Be Identified
E.	NEG	GLIGENT TRANSMISSION OF COMMUNICABLE DISEASE
BAJI	3 90	Negligent Transmission Of Hiv/Other Sexually
DAUI	0.00	Transmitted Disease
	F.	NEGLIGENT HIRING, SUPERVISION OR RETENTION
BAJI	3.92	Negligent Hiring134
BAJI		Negligent Supervision
BAJI		Negligent Retention
		G. NEGLIGENT UNDERTAKING
BAJI	3.95	Negligent Undertaking143
	PA	RT 4 TORT LAW—SPECIAL DOCTRINES
		A. RES IPSA LOQUITUR
BAJI	4.00	Res Ipsa Loquitur—Necessary Conditions for Application
BAJI	4.01	Res Ipsa Loquitur—Necessary Conditions for Application—Injury or Accident Denied
BAJI	4.02	Res Ipsa Loquitur—Permissible Inference of
BAJI	4.03	Negligence
		B. ASSUMPTION OF RISK
BAJI	4.30	Express Assumption of Risk
		C. IMMINENT PERIL
BAJI	4.40	Duty of One in Imminent Peril161
		xliv

	TABLE OF INSTRUCTIONS
Inst. No	Page
Ι	O. CAUSING PERILOUS SITUATION
	Responsibility of One Causing the Perilous Situation164
	E. "GOOD SAMARITAN" RULE
BAJI 4.45	Voluntary Undertaking—"Good Samaritan" Rule165
BAJI 4.45.5	Voluntary Undertaking—Scene of Emergency168
BAJI 4.45.6	Voluntary Undertaking—Scene of Emergency— Exceptions to Immunity170
\mathbf{F}	SALE OF ALCOHOLIC BEVERAGE
BAJI 4.50	Selling Liquor to an Obviously Intoxicated Minor—
	Essential Elements
	G. RESCUE DOCTRINE
BAJI 4.60	The Rescue Doctrine—Liability to Rescuer176
BAJI 4.61	Exceptions to Fireman's Rule—Willful or Negligent Acts
	Causing Injury—Essential Elements
BAJI 4.62	Exception to Fireman's Rule—Independent Cause183
	H. ACTIVE SPORTING EVENTS
BAJI 4.70	Liability to Co-Participant/Instructor—Essential
BAJI 4.71	Elements
21201 1111	Fault
	I. MISCELLANEOUS DOCTRINES
BAJI 4.90	Completed and Accepted Doctrine—Exception to General Rule of Non-liability191
BAJI 4.91	Gross Negligence Defined194
	PART 5 MOTOR VEHICLES
	A. GENERAL PRINCIPLES
BAJI 5.00	Duty of the Driver of Vehicle on Public Highway199
	B. RIGHT OF WAY
BAJI 5.10	Right-of-Way Defined201
	Right of Way May Be Waived202
BAJI 5.12	Through Highway Intersection—Vehicle Having Right of Way as a Hazard203
BAJI 5.13	Yield Right of Way Intersection—Vehicle Having Right of
2101 0.10	Way as a Hazard204
	1

		CALIFORNIA JURY INSTRUCTIONS—CIVIL	
Inst. N	0		Page
		C. TURNING VEHICLE	
BAJI	5.20	Turning a Vehicle	.205
BAJI	5.21	Left Turn—Vehicle Having Right of Way as a Hazard.	.207
BAJI	5.22	Entering Highway—Vehicle Having Right of Way as a Hazard	
		D. SPEED	
BAJI	5.30	Basic Speed Law	.209
BAJI	5.31	The Prima Facie Speed Limits	.211
BAJI	5.32	The Maximum Speed Limit	.214
		E. INTOXICATION	
BAJI		Influence of Alcoholic Beverage or Drug—Driver	.215
BAJI	5.41	Influence of Alcoholic Beverage—Circumstances to Consider	217
BAJI	5.42	Influence of Alcoholic Beverage—Non-Driver	.218
		F. MOTORIST—PEDESTRIAN	
BAJI	5.50	Duty of Motorists and Pedestrians Using Public	990
BAJI	5.51	Highway	.220 ver
		and Pedestrian	.222
BAJI	5.52.1	Pedestrian Crossing at Crosswalk	
	5.52.2	Pedestrian on Roadway Outside Crosswalk	.226
BAJI	5.53	Definition—Immediate Hazard to Pedestrian— Unmarked Crosswalk	227
BAJI	5 54	Pedestrian—Change of Signal After Crossing Begun	
BAJI		Roadway—Definition of	
		G. EMERGENCY VEHICLES	
BAJI	5.80	Authorized Emergency Vehicle Exemption	.230
BAJI	5.81	Test of an Emergency	
BAJI	5.82	Licensed Physician Answering Emergency Call	
BAJI	5.83	Exemption of Rubbish or Garbage Truck	
BAJI	5.90	Seat Belt Defense	
BAJI	5.91	Passenger In Truck Sleeping Berth—Seat Belt Available	.238
	DΛ	RT 6 OTHER NEGLIGENCE ACTIONS	
	FA	ati 6 Other negligence actions	
A.	INTR	ODUCTORY INSTRUCTIONS—PROFESSION NEGLIGENCE	IAL
BAJI	6.00	Professional Negligence—Introductory—Essential	0.15
		Elements	.242
		1 '	

	TABLE OF INSTRUCTIONS	
Inst. No	Р	age
	B. MEDICAL NEGLIGENCE	
(a) D	outies and Liabilities of Physicians and Surgeon	S
BAJI 6.00		244
BAJI 6.00	Warn Patient of Danger Posed by Patient's Physica or Emotional Condition	ıl 247
BAJI 6.00	Duty of Psychotherapist to Warn Third Persons of Threatened Violent Behavior by Patient	249
BAJI 6.01	Duty of Specialist	251
BAJI 6.02	Medical Perfection Not Required	253
BAJI 6.03	Alternative Methods of Diagnosis or Treatment2	254
BAJI 6.04	Duty to Refer to Specialist	256
BAJI 6.05	Duration of Physician's Responsibility	257
BAJI 6.06	Liability of Surgeon for Negligence of Assistants and Nurses.	
BAJI 6.08		
	(b) Consent	
BAJI 6.10		
BAJI 6.10	Necessary	
BAJI 6.11		
BAJI 6.11	· · · · · · · · · · · · · · · · · · ·	ty
BAJI 6.12	Who Was Authorized to Consent for Patient	274
BAJI 6.13	When Consent to an Operation Is Not Necessary?	275
BAJI 6.14		
BAJI 6.15	-	
BAJI 6.16		
	(c) Duties and Liabilities of Hospital	
BAJI 6.20	Duty of a Hospital	280
BAJI 6.21	Liability of Hospital for Negligence of Physician or Nurse	282
	(d) Duty of Nurse	
BAJI 6.25		284
	(e) Duty of Patient	
BAJI 6.28	Patient's Duty to Follow Instructions	285

		CALIFORNIA JURY INSTRUCTIONS—CIVIL	
Inst. N	0	Pa	age
	(f) Determination of Standard of Care	
BAJI	6.30	Medical Negligence—Standard of Care Determined by Expert Testimony	87
BAJI	6.35	Medical Negligence—Conditional Res Ipsa Loquitur2	91
BAJI		Medical Negligence—Necessity of Causal Relation Between Treatment and Injury—Res Ipsa Loquitur2	
C	C. PI	ROFESSIONAL NEGLIGENCE OTHER THAN MEDICAL	
BAJI	6 37	Duty of a Professional2	96
	6.37.1	Duty of Specialist	
	6.37.2	Professional Perfection Not Required	
	6.37.3		
BAJI	6.37.4		d
BAJI	6.37.5		
RA.II	6.37.6	Transactional Malpractice—But for Causation3	
BAJI		Duty of Licensed Real Estate Broker	
	6.38.1	v	
		D. RAILROAD CROSSINGS	
		(a) Duty of Person Crossing	
BAJI	6.40	Duty of One Crossing Tracks	14
BAJI	6.41	Obstructed View	16
BAJI	6.42	When Duty to Stop	
BAJI	6.43	Mechanical Devices, Etc., Failure of	18
		(b) Duty of Railroad	
BAJI	6.45	Duty of Railroad Company at Crossings	20
BAJI	6.46	Speed—Private Right of Way3	
BAJI	6.47	Speed—Public Highway Crossings	
BAJI	6.48	Ordinance or Regulation Fixes Minimum Care Required of Railroad	
		E. COMMON CARRIERS	
BAJI	6.50	Defendant—A Common Carrier	25
BAJI		Duty of Common Carrier	
BAJI		Safe Place to Board and Alight	
BAJI		Duty of Passenger of Common Carrier3	
	6.54.5	Boarding Moving Railroad Car3	
		1	

		TABLE OF INSTRUCTIONS	
Inst. N	0		Page
BAJI	6.55	When Relationship Begins and Ends—Passenger an	d
		Common Carrier	332
		F. ULTRAHAZARDOUS ACTIVITIES	
BAJI	6.60	Ultrahazardous Activity	335
		G. DANGEROUS ANIMALS	
BAJI		Naturally Dangerous Animal	337
BAJI		Animal With Vicious Propensities	
BAJI	6.67	Dog Bite Statute	341
		PART 7 INTENTIONAL TORTS	
		A. DEFAMATION—LIBEL/SLANDER	
BAJI		Defamation, Libel, Slander—Definition of	
	7.00.1	Opinion—When Defamation	
BAJI		Libel/Slander—Effect on Average Reader/Listener	
BAJI		Publication	
	7.02.1	Multiple Publications	
BAJI		Libel/Slander—Publication to Plaintiff	356
BAJI	7.04	Public Official/Figure—Public Matters—Essential Elements	257
BAJI	7.04.1	Private-Figure Plaintiff/Public-Figure Plaintiff—Priv Matters—Essential Elements	ate
BAJI	7.05	Conditional Privilege/Matter of Law/Abuse	
BAJI	7.05.1	Conditional Privilege—Jury Determines Facts/Abuse	
BAJI	7.07	Libel/Slander—Truth as a Defense	370
BAJI	7.08	Defamation—Invasion of Privacy—By Newspaper or Radio/Television Broadcaster	372
BAJI	7.09	Defamation—Actionable Per Se	375
BAJI	7.10	Libel/Slander—General or Compensatory Damages.	379
BAJI	7.10.1	Presumed General Damages	
BAJI	7.11	Libel/Slander—Special Damages	383
BAJI	7.12	Libel/Slander—Punitive Damages/Media Defendant (Trial Not Bifurcated)	384
BAJI	7.12.1	Libel/Slander—Punitive Damages/Media Defendant (Trial Bifurcated)—First Phase	386
BAJI	7.12.2	Libel/Slander—Punitive Damages/Media Defendant (Trial Bifurcated)—Second Phase	388
BAJI	7.15	Trade Libel	
		B. RIGHT OF PRIVACY	
BAJI	7.20	Right of Privacy—Intrusion Into Private Affairs— Essential Elements	393

		CALIFORNIA JURY INSTRUCTIONS—CIVIL
Inst. N	0	Page
BAJI	7.21	Right of Privacy—Public Disclosure of Private Facts—
BAJI	7.22	Essential Elements
BAJI	7.23	Right of Privacy—Common Law, Appropriation of Name, Picture or Identity—Essential Elements404
BAJI	7.24	Appropriation of Right of Publicity for Commercial Purposes
BAJI	7.24.1	Right of Publicity—First Amendment Defense410
-	7.24.2	First Amendment Defense—A Helpful Test412
	7.25.1	Violation of State Constitutional Right of Privacy413
	7.25.2	Defense of Justification to State Constitutional Right of Privacy
BAJI	7.26	Right of Privacy—Damages (Intrusion—
		Appropriation—Public Disclosure)417
BAJI	7.27	Invasion of Privacy by False Light—Damages419
BAJI	7.28	Civil Code § 3344—Damages421
BAJI	7.29	Physical Invasion of Privacy423
BAJI	7.29.10	Constructive Invasion of Privacy
BAJI	7.29.20	
BAJI	7.29.25	
	7.29.30	
BAJI	7.29.40	Defenses to Civil Code Section 1708.85, Subdivision (a) Action
BAJI	7.29.50	
BAJI	7.29.55	State Agency Violation of Information Practices Act (IPA)
BAJI	7.29.56	Invasion of Privacy Resulting from a Violation of the Information Practices Act (IPA)446
С.	MALI	CIOUS PROSECUTION OF CRIMINAL ACTION OR CIVIL PROCEEDING
BAJI	7 30	Malicious Prosecution—Essential Elements449
BAJI		Favorable Termination
BAJI		Probable Cause for Criminal/Civil Prosecution457
BAJI		"Malice" and "Malicious" Defined460
BAJI		Probable Cause for Prosecution—Advice of Counsel463
		D. ELDER ABUSE
BAJI	7.40	Elder/Dependent Adult Abuse465
BAJI	7.41	Neglect—Defined470
		•

		TABLE OF INSTRUCTIONS	
Inst. N	0		Page
BAJI	7.42	Physical Abuse—Defined	473
BAJI	7.43	Financial Abuse—Defined	
BAJI	7.43.1	Financial Abuse—Elder/Dependent Adult—Lacks	
		Capacity/of Unsound Mind	478
BAJI	7.44	Care Custodian—Defined	
BAJI	7.45	Necessary Goods and Services—Defined	481
BAJI	7.46	Additional Remedies	482
BAJI	7.46.1	Financial Abuse—Additional Remedies	484
BAJI	7.47	Elder Abuse-Additional Remedies—Definitions	485
BAJI	7.48	Additional Remedies Against Principal for Acts of	
		Agent	487
		E. BATTERY	
BAJI	7.50	Battery	489
BAJI	7.51	Offensive Contact—Defined	491
BAJI	7.52	Battery—Consent, Actual and Apparent	
BAJI	7.54	Use of Force by Police in Making an Arrest or a	
		Detention—Excessive Force as Battery	494
BAJI	7.55	Self-Defense—Defense of Others	497
		F. SEXUAL BATTERY	
BAJI	7.56	Sexual Battery	498
BAJI		Consent Not a Defense	
		G. STALKING	
BAJI	7.58	Stalking	502
	н. г	ALSE ARREST OR FALSE IMPRISONMENT	1
BAJI	7.60	False Imprisonment/Arrest—Essential Elements	507
BAJI	7.63	Arrest by Peace Officer Without Warrant	
BAJI	7.64	Arrest by Private Person	513
BAJI	7.65	Right of Reasonable Detention by Property Owner	514
BAJI	7.66	Reasonable Cause for Arrest/Detention	
		I. ABUSE OF PROCESS	
BAJI	7 70	Abuse of Process—Essential Elements	517
		Abuse of Process—Defined	
		Abuse of Process—Mere Ill Will Is Not Improper	
D1101		Motive	521
J.	INTE	ERFERENCE WITH CONTRACT, BUSINESS,	OR
		INHERITANCE	
BAJI	7.80	Inducing Breach of Contract	522
		li	

		CALIFORNIA JURY INSTRUCTIONS—CIVIL	
Inst. N	0		Page
BAJI	7.81	Interference With Contractual Relations	525
BAJI	7.82	Intentional Interference With Prospective Economic Advantage	
BAJI	7.82.1	Negligent Interference With Prospective Economic Advantage	
BAJI	7.82.2	Intentional Interference With Expected Inheritance	
BAJI	7.83	Inference of Intent	538
BAJI	7.86	Privilege of Competition	539
BAJI	7.86.1	Wrongful [Means] [Conduct]—Defined	
BAJI	7.87	Defense of Justification	
BAJI	7.89	Damages	
		K. CIVIL RIGHTS VIOLATION	
BAJI	7.90	California Civil Rights Violation (Bane Act)	548
BAJI	7.91	Sexual Harassment	
BAJI	7.92	Unruh Act Violation	553
BAJI	7.92.1	Unruh Act—ADA Violation	559
BAJI	7.92.2	ADA Disability Defined	563
BAJI	7.92.3	Gender Violence	
BAJI	7.92.4	Sexual Orientation Violence	568
BAJI	7.93	Violent Civil Rights Violations	570
BAJI	7.94	Punitive Damages	
BAJI	7.95.1	California Disabled Persons Act Violation (DAP)	575
BAJI	7.95.2	Violation of Construction-Related Standards Prevent Access to Places of Public Accommodation	
BAJI	7.95.3	Interference with Ingress to or Egress from a Facility	585
		L. DOMESTIC VIOLENCE	
BAJI	7.96	Tort of Domestic Violence	588
BAJI	7.97	Intentional Interference with Parental Consortium Ferson without Right of Custody	Зу
BAJI	7.97.1	Intentional Interference with Parental Consortium & Person with Right of Custody	у
BAJI	7.97.2	Damages	595
BAJI	7.97.5	Defense or Rescue From Violence	596
		M. DEFENSES	
BAJI	7.98	Mistake of Fact	598
		l ii	

		TABLE OF INSTRUCTIONS
Inst. No		Page
PA	RT 8	OWNERS, OCCUPANTS OR LESSORS OF LAND
A.	OWN	ERS', OCCUPANTS' OR LESSORS' LIABILITY
		(a) To Persons Generally
BAJI 8	3.00	Negligence of Owner, Occupant or Lessor—Essential Elements
BAJI 8	3.01	Duty of Owner, Occupant or Lessor of Premises604
BAJI 8	3.01.1	Recreational Use Immunity610
BAJI 8	3.02	Unreasonable Risk of Harm—Defined612
BAJI 8	3.03	Unreasonable Risk of Harm Defined—Landlord-Tenant613
BAJI 8	3.05	Store Owner's Duty of Care—Essential Elements 614
BAJI 8		Concerning Owner's, Occupant's or Lessor's Knowledge of Defective Condition
BAJI 8	.20.1	Lessor of Commercial Property's Duty of Care619
BAJI 8	3.21	Imputation of Knowledge of Condition to Owner, Occupant or Lessor
BAJI 8	3.22	Duty of Landlord to Protect Tenant From Criminal Acts of Third Persons
BAJI 8	5.23	Duty of Care of Proprietor of Business624
BAJI 8	5.24	Store Owner's Duty of Care—Liability for Dangerous or Defective Condition—Actual and Constructive Notice—Inference of Constructive Notice
		(b) To Workmen
BAJI 8	3.30	Hirer's Retention of Control Over Work Site630
BAJI 8	3.31	Liability to Employee of Independent Contractor—
		Concealed Hazardous Conditions
	В.	SIDEWALK AND ABUTTING OWNER
BAJI 8	5.50	Duty of Owner of Property Adjacent to Sidewalk638
BAJI 8	5.50.1	Liability of Owner of Property for Injuries on Adjacent Sidewalk Caused By Condition on Owner's Property640
BAJI 8	5.51	Liability of Owner for Creating Hazard on Adjacent Sidewalk
BAJI 8	3.52	Pedestrian's Rights and Duties as to Sidewalks644
BAJI 8	3.60	Private Nuisance—Essential Elements—Damages 645

		CALIFORNIA JURY INSTRUCTIONS—CIVIL	
Inst. N	0	Ра	ge
		PART 9 PRODUCTS LIABILITY	
		A. STRICT LIABILITY	
		(a) Generally	
BAJI	9.00	Products Liability—Introductory6	
BAJI	9.00.3	Manufacturing Defect—Essential Elements6	62
BAJI	9.00.5	Design Defect—Essential Elements6	64
BAJI	9.00.6	Products Liability—Strict Liability and Torts—Design	
		Defect—When Manufacturer or Seller Is Exempt From	
T) A TT	0.00 =	Liability	10
BAJI	9.00.7	Products Liability—Strict Liability for Failure to Warn Essential Elements6	— 72
BAJI	9 01	Products Liability—Transition Instruction—Strict	• 4
D1101	0.01	Liability in Tort	79
BAJI	9.02	"Economic Loss" Rule—Component-to-Component	
		"Economic Loss" Rule—Component-to-Component Damage—"Other Property" Defined6	80
		(b) Comparative Fault	
BAJI	0 U3	Products Liability—Negligence—Comparative Fault6	83
BAJI		Products Liability—Reduction of Damages Because of	99
DA01	5.04	Comparative Fault—General Verdict Only	85
BAJI	9.06	Sophisticated User Defense	87
BAJI		Obvious Danger Defense	
BAJI		Sophisticated Intermediary Defense69	
BAJI		Component Parts Defense	
BAJI	9.10	Bulk Supplier Defense6	
		B. NEGLIGENCE LIABILITY	
BAJI	0.10	Products Liability—Transition Instruction Negligence	
DA01	9.19	Liability	94
BAJI	9.20	Products Liability—Negligent Failure to Warn—	
		Essential Elements6	96
BAJI	9.21	Products Liability—Negligence—Duty of	
T) / II		Manufacturer	00
BAJI	9.22	Products Liability—Negligence—Duty of Maker of a Component Part	ഹ
BAJI	0.99	Component Part	
DAJI	9.43	Manufacturer	
BAJI	9.24	Products Liability—Negligence—Seller's Duty to Inspec	ct.
27101	0.21	as to Defects	
BAJI	9.25	Products Liability—Negligence by	
		Lessor/Bailor—Introductory7	06
BAJI	9.25.1	Products Liability—Negligence—Duty of Lessor or	
		Bailor for Hire7	08

		TABLE OF INSTRUCTIONS
Inst. N	0	Page
BAJI	9.26	Products Liability—Negligence—Duty of Bailor of Article Other Than for Use709
BAJI	9.27	Products Liability—Negligence—Bailment for Hire or Gratuitous
C	. TI	HE GOVERNMENT CONTRACTOR DEFENSE
BAJI	9.30	Government Contractor Defense—Military Equipment.711
		D. WARRANTY LIABILITY
		(a) In General
BAJI	9.40	Transition Instruction713
BAJI	9.41	Definition of Sale714
BAJI	9.42	Definition of Goods715
BAJI	9.43	Definition of Seller and Buyer716
BAJI	9.44	Warranty in General—Sale717
	9.44.5	Definition of Affirmation of Fact718
BAJI	9.45	Warranty in General in Contracts Other Than Sales .719
		(b) Express Warranty
BAJI	9 50	Express Warranty
BAJI		Statement of Opinion
		(c) Implied Warranty of Fitness
BAJI	9 55	Implied Warranty of Fitness
BAJI		Implied Warranty of Fitness of Food
	(d) Implied Warranty of Merchantability
BAJI	•	Implied Warranty of Merchantability726
BAJI		Implied Warranty of Merchantability in Contracts Other Than Sales
BAJI	9.62	Warranty Implied by the Usage of Trade729
BAJI		Privity—When Not Required
		•
D A II	0.65	(1) Commercial Code Warranties
BAJI	9.65	Commercial Code Section 2312 Warranties
	(2)	
BAJI		Song-Beverly Act—Repair or Replace Motor Vehicle733
	9.67.1	Song-Beverly Act Expiration of Warranty Period739
BAJI	9.67.2	Presumption of Reasonable Number of Attempts741
		(e) Scope of Warranty
BAJI	9.70	Effect of User's Allergy744

		CALIFORNIA JURY INSTRUCTIONS—CIVIL	
Inst. N	0		Page
BAJI	9.71	Effect of Improper Use	.745
BAJI	9.72	Effect of Buyer's Examination	
		(f) Exclusion of Warranties	
BAJI	9.80	Exclusion or Modification of Express Warranties by Agreement	748
BAJI	9.81	Disclaimer of Implied Warranties	
BAJI		Effect of Custom	
BAJI		Effect of Use After Defect Is or Should Be Known	
BAJI		Breach of Warranty—Defined	
BAJI		Song-Beverly Act—Repair or Replace Motor Vehicle [renumbered as 9.67] [Replaced]	
BAJI	9.86.1	_	
BAJI	9.87	Presumption of Reasonable Number of Attempts [renumbered as 9.67.2] [Replaced]	
		(g) Notice of Breach	
BAJI	9.90	Notice of Breach	.759
		(h) Damages	
BAJI	9.92	Breach of Warranty—Measure of Damages	.761
	PAF	RT 10 CONTRACTUAL RELATIONSHIPS	
		I WRONGFUL TERMINATION	
		A. GENERAL INSTRUCTIONS	
BAJI	10.00	Employment Contract—Definition	.767
BAJI	10.02	Actual/Constructive Termination of	
		Employment—Definition	.768
BAJI	10.03	Breach of Contract of Employment for Unspecified Term—Introductory—Essential Elements—Defined.	.770
BAJI	10.04	Breach of Contract of Employment for a Specified Term—Introductory—Essential Elements—Defined.	.772
BAJI	10.05	Breach of Implied Covenant of Good Faith—Employm Contract— Introductory—Essential Elements— Defined	
BAJI	10.06	Wrongful Termination—Violation of Public Policy— Introductory—Essential Elements—Defined	.775

		TABLE OF INSTRUCTIONS	
Inst. N	0	P	age
		B. BREACH OF EMPLOYMENT	
		(a) Term Not Specified	
BAJI	10.10	Employment Contract—Term Not Specified—Termination—Duration	777
BAJI	10.11	Employment Contract—Term Not Specified—Express Agreement Not to Terminate Except for Good Cause	8
BAJI	10.12	Employment Contract—Term Not Specified—Implied Agreement Not to Terminate Except for Good Cause	
BAJI	10.13	Good Cause—Term Not Specified—Definition	
BAJI	10.13.1	-	
BAJI	10.14	Employment Contract—Term Not Specified—Breach Covenant Not to Discharge Except for Good Cause	of
BAJI	10.15	Breach of Employment Contract—Term Not Specified—Damages	
BAJI	10.16	Breach of Employment Contract—Employee's Duty to Mitigate Damages	
BAJI	10.17	[Partial] Defense of After-Acquired Evidence of Wrongdoing	791
		(b) Specified Term	
BAJI	10.31	Employment Contract—Specified Term—When Terminable	79 3
BAJI	10.32	Good Cause—Specified Term—Definition	794
BAJI	10.33	Breach of Employment Contract—Specified Term	795
BAJI	10.34	Breach of Employment Contract—Specified Term—Damages	796
(c)	Bread	ch of Implied Covenant of Good Faith and Fa Dealing	ir
BAJI	10.35	Implied Covenant of Good Faith and Fair Dealing— Employment Contracts—Definition—Liability for Breach	797
BAJI	10.37	Termination of Employee—Good Faith Mistaken Belief	798
BAJI	10.38	Implied Covenant of Good Faith and Fair Dealing— Damages for Breach	

		CALIFORNIA JURY INSTRUCTIONS—CIVIL	
Inst. N	o		Page
	C.	TORTIOUS WRONGFUL TERMINATION OF EMPLOYMENT	
		(a) Violation of Public Policy	
BAJI	10.41	Wrongful Termination—Violation of Public	
D 4 II	10.40	Policy—Definition	
	10.42 10.42.	Wrongful Termination—Violation of Public Policy	
	10.42.	.1 Wrongful Constructive Termination	606
DAUL	10.40	Policy—Damages	807
		II CONTRACTS (INTRODUCTION)	
		A. NATURE OF CONTRACT	
BAJI	10.55	Contract Defined/Elements	809
BAJI	10.56	Express or Implied Contracts	
	10.57	Oral and Written Contracts	
	10.58	Oral Agreement to Be Reduced to Writing	
BAJI	10.59	Third Party Beneficiary Contract	816
		B. ELEMENTS OF A CONTRACT	
BAJI	10.60	Mutual Consent	818
BAJI	10.61	Consideration	820
		C. FORMATION OF A CONTRACT	
BAJI	10.65	Offer	
	10.66	Uncertainty	
	10.67	Revocation	
	10.68	Acceptance	
BAJI	10.69	Modification	830
		D. IMPLIED IN LAW CONTRACTS	
	10.70	Money Had and Received	832
BAJI	10.71	Reasonable Value of Services (Quantum Meruit)	834
		E. INTERPRETATION	
BAJI	10.75	. Interpretation	836
		F. PERFORMANCE	
BAJI	10.80	Conditions Precedent and Subsequent	837
BAJI	10.81		
BAJI	10.82	Failure of Consideration	841

		TABLE OF INSTRUCTIONS	
Inst. N	0		Page
BAJI	10.83	Discharge by Performance	843
BAJI	10.84	Tender	
		G. BREACH OF CONTRACT	
BAJI	10.85	Breach—Essential Elements	846
BAJI	10.86	Total/Partial Breach	
BAJI	10.87	Actual and Anticipatory Breach	850
BAJI	10.88	Waiver of Breach	852
		H. DAMAGES	
BAJI	10.90	General Damages/Breach of Contract	853
BAJI	10.90.1	Nominal Damages	
BAJI	10.91	General Damages/Loss of Profits	
BAJI	10.92	Special Damages/Breach of Contract	
BAJI	10.93	Obligation to Pay Money Only	
BAJI	10.94	Measure of Damages—Sale of Land	
BAJI	10.95	Measure of Damages—Purchase of Land	862
		I. ASSIGNMENTS	
BAJI	10.96	Assignment—Generally	864
J	MIS	CELLANEOUS WARRANTY INSTRUCTIONS	\mathbf{S}
BAJI	10.97	Breach of Implied Warranty of Correctness	866
BAJI	10.97.1	Breach of Implied Warranty of Correctness—Failur Disclose Material Information	
BAJI	10.97.2		
	10.97.3		
BAJI	10.97.4	Damages Recoverable for Breach of an Agent's Imp	lied
		Warranty of Authority	876
		PART 11 STATUTORY ACTIONS	
	A.	FEDERAL EMPLOYERS' LIABILITY ACT	
		(a) Introductory	
BAJI	11.00	FELA—Introductory Instruction—Railroad and Thir	
BAJI	11.01	Party Defendant	
(b)	Whe	n Claim of Liability Is Founded on Negliger	ice
` ′	11.05	FELA—Introductory—Railroad Only Defendant	
	11.06	FELA—Introductory—Italia only Belefidant FELA—Introductory—Railroad and Third Party Defendant	

		CALIFORNIA JURY INSTRUCTIONS—CIVIL	
Inst. N	0	P	age
BAJI	11.07	FELA—The Rule of Liability—Injury, Not Death8	888
	11.08	FELA—The Rule of Liability—Death	
BAJI	11.09	FELA—A Carrier's Negligence Is the Negligence of Its	,
		Servants	391
BAJI	11.10	FELA—Duty Re Place to Work	
BAJI	11.11	FELA—Duty Re Tools, Appliances, Etc	395
BAJI	11.12	FELA—When Employee Is Engaged in the Duties of H Employment	
BAJI	11.13	FELA—Scope of Employment as a Matter of Law8	398
BAJI	11.14	FELA—Cause	399
BAJI	11.15	FELA—Concurring Causes	901
BAJI	11.16	FELA—Negligence of Defendant Need Not Be Sole Cause	902
BAJI	11.17	FELA—Employer Not Insurer of Employee's Safety	
BAJI	11.18	FELA—Duty of Employee	
(c)	When	n Claim of Liability Is Founded on Violation o Statute	of
BAJI	11.30	FELA—Transitional Instruction—Federal Employers'	
DΛΠ	11.31	Liability Act to Safety Appliance Acts	<i>9</i> 00
DAJI	11.51	Acts	മവ
DΛΠ	11.32	FELA—Safety Appliance Acts—The Rule of Liability .9	
	11.33	FELA—The Particular Safety Appliance Act Violation	<i>J</i> 0 <i>J</i>
		Charged	
	11.34	FELA—Duty of Carrier as to Hand Brakes	
	11.35	FELA—Duty of Carrier as to Automatic Couplers9	
BAJI	11.36	FELA—Breaking Coupler Requires Finding of Defective Coupler	
		(d) Measure of Damages	
BAJI	11.40	FELA—Measure of Damages—Personal Injury	914
	11.41	FELA—Measure of Damages—Death—No Contribute	
		Negligence	
BAJI	11.42	FELA—Measure of Damages—Death—Contributory Negligence an Issue	
RA.II	11.43	FELA—How to Determine Economic Loss	
	11.43.1	FELA—Wrongful Death—Award Not Taxable	
	11.44	FELA—Medical Expense—Death Case	
	11.44	FELA—Medical Expense—Death Case	<i>)</i> 4
DA91	11.40	Deceased	925
BAJI	11.46	FELA—Concerning Allocation of Damages—Death Case	

		TABLE OF INSTRUCTIONS	
Inst. No	D		Page
		A-1. MISCELLANEOUS ACTIONS	
BAJI	11.47	Identity Theft	.928
	11.48	Drug Dealer Liability—Plaintiff Non-User	
	11.48.1	Drug Dealer Liability—Plaintiff User	
	11.48.2	Drug Dealer Liability—Damages—Plaintiff Non-User	
BAJI	11.48.5	Independent Wholesale Sales Representatives	
	11.48.6	Receiver of Stolen Property—Civil Liability	
	11.48.7	Swap Meet Vendor—Receiver of Stolen Property—Civil Liability	_
BAJI	11.49	Whistleblower Retaliation	.953
	11.49.00		
	11.49.00		
RA.II	11.49.01		965
	11.49.1	Defense to Whistleblower Claim	
	11.49.5	Willful and Wrongful Taking of Bees	
	11.49.6	Human Trafficking	
	11.49.7	Commercial Exploitation of a Minor Civil	.510
DAJI	11.49.7	Penalty	.977
В.	PUB	LIC ENTITIES AND PUBLIC EMPLOYMEN	\mathbf{T}
		(a) Introductory	
RA.II	11.50	Public Entity, Public Employee, Private Party—	
D1101	11.00	Distinction Between Bases of Liability	980
BAJI	11.50.1	Liability of Public Official—When Exempt	
(b)	Public	Entities and Employees Thereof—Liability	for
		Negligence	
BAJI	11.51	Public Entity Liability—Negligent Conduct of Publi Employee	c .983
BAJI	11.51.1	Public School Duty to Supervise	
	11.51.2	Negligent Hiring by School District	
	11.51.3	Negligent Supervision by a School District	
	11.51.4	Negligent Retention by School District	
	11.52	Public Entity Liability—Failure to Discharge a	.000
DAJI	11.02	Mandatory Duty	.998
(c)	Public	Entities and Employees Thereof—Liability	for
		Dangerous Condition	
BAJI	11.53	Public Entity Liability—Dangerous Condition of Publ Property—What Plaintiff Must Prove Against Public Entity	\mathbf{c}

		CALIFORNIA JURY INSTRUCTIONS—CIVIL
Inst. N	0	Page
BAJI	11.54	What Is a Dangerous Condition of Public Property?1004
	11.55	"Property of Public Entity"—Definitions
	11.56	Public Entity—Actual Notice of Dangerous
		Condition
BAJI	11.57	Public Entity—Constructive Notice of Dangerous
		Condition
BAJI	11.58	Reasonable Time to Take Protective Measures1013
BAJI	11.59	Failure to Provide Regulatory Traffic Signs and Signals
BAJI	11.60	Failure to Provide Warning Signs Authorized by Vehicle
		Code
	11.61	Dangerous Condition Created by Reasonable Act1018
BAJI	11.62	Reasonable Action to Protect Against Dangerous
		Condition
BAJI	11.63	Changes in Public Property After Accident1017
(d)	Publi	c Employees Liability for Dangerous Condition
		of Public Property
BAJI	11.65	Public Employee Liability—Dangerous Condition of Public Property— What Plaintiff Must Prove Against
DΛΠ	11.66	Public Employee
DAJI	11.00	Condition
DΛΠ	11.67	Public Employee—Constructive Notice of Dangerous
DAGI	11.07	Condition
RA.II	11.68	Design Immunity
	11.68.5	Natural Condition Immunity
D1191	11.00.0	·
		C. EMINENT DOMAIN
		(a) Introductory
BAJI	11.70	Power of Eminent Domain1028
BAJI	11.71	Just Compensation
		(b) Fair Market Value
BAJI	11.72	Just Compensation—Fair Market Value—Valuation
		Date
BAJI	11.72.3	Land and Improvements to Be Valued as a Whole1032
	11.72.5	Compensation for Machinery or Equipment103
	11.72.7	Compensation for Improvements Removed or
		Destroyed
BAJI	11.72.9	Improvements Made After Service of Summons1038
	11.73	Fair Market Value—Defined
	-	
		lvii

		TABLE OF INSTRUCTIONS	
Inst. N	0	P	age
BAJI	11.74	Highest and Best Use10	038
	11.75	Value of Use to Parties Not Test10	
BAJI	11.77	Exclusion of Increase or Decrease in Value Caused by	
		Extraneous Factors1	
BAJI	11.78	Fair Market Value—Easement10	043
BAJI	11.79	Value Depreciation Caused by Cloud of Condemnation10	045
		(c) Expert Witnesses	
RAJI	11.80	Eminent Domain—Opinion of Witnesses as to Value.10	047
	11.81	Eminent Domain—Weighing Expert Opinion—Evidence of Comparable Sales	ee
RA.II	11.82	Eminent Domain—Weighing Expert Opinion—Evidence	
D1101	11.02	of Matters Relied Upon	
		(d) Severance Damages	
BAJI	11.85	Severance Damages—Fee Being Taken10	054
BAJI	11.85.3	Severance Damages—Easement Being Taken10	
	11.86	Elements Not Included in Severance Damages10	058
	11.87	Loss of Access10	
	11.88	Diversion of Traffic10	
BAJI	11.89	Inconvenience of Traffic Regulation10	062
		(e) Special Benefits	
	11.90	Freeway Access Excluded	
	11.91	Loss of Goodwill10	
	11.95	Benefits10	
BAJI	11.96	Separate Assessment of Elements of Compensation 10	068
		(f) Burden of Proof—Costs	
	11.98	Eminent Domain—Burden of Proof10	
BAJI	11.99	Eminent Domain—Costs	071
		Volume 2	
	P	ART 12 MISCELLANEOUS ACTIONS	
	A.]	FAIR EMPLOYMENT AND HOUSING ACT	
BAJI	12.00	Employment Discrimination—Introductory	5
BAJI	12.01	Employment Discrimination—Disparate Treatment	
	12.01.1		
BAJI	12.02	Defense of Bona Fide Occupational Qualification	
		lxiii	

	(CALIFORNIA JURY INSTRUCTIONS—CIVIL	
Inst. N	0		Page
BAJI	12.05	Hostile Environment Harassment	15
BAJI	12.05.1	Prompt Corrective Action	
BAJI	12.06	"Quid Pro Quo" Sexual Harassment	
BAJI	12.08	Definitions	
BAJI	12.10	Retaliation	31
BAJI	12.11	Failure to Take Reasonable Steps to Prevent Discrimination	
BAJI	12.12	Employment Discrimination—Disability	38
BAJI	12.12.5	Employment Discrimination—Disability—Failure to Make Reasonable Accommodation	
BAJI	12.12.6	Employment Discrimination—Disability—Failure to Engage) 44
BAJI	12.12.7	Failure To Accommodate/Failure To Engage—Defenses	
BAJI	12.12.8	Employment Discrimination—Pregnancy Discrimination—Failure to Make Reasonable Accommodation	
BAJI	12.13	Disability Discrimination—Definitions of "Medical Condition"—Mental/"Physical Disability"	
BAJI	12.14	Disability Discrimination—Reasonable Accommodate Essential Functions—Defined	tion/
BAJI	12.15	Disability Discrimination—Reasonable Accommodation—Defense of Undue Hardship	59
BAJI	12.16	Disability Discrimination—Defense of Health or Safety	
BAJI	12.17	Health or Safety Defense—Factors to Consider	
BAJI	12.20	Harassment/Respondeat Superior	65
BAJI	12.20.1	Avoidable Consequences	
BAJI	12.21	Personal Liability—Directly and as Aider and Abettor	
BAJI	12.22	Employment Discrimination—Disparate Impact	
BAJI	12.23	Disparate Impact—Defense of Business Necessity .	
BAJI	12.25	Employment Discrimination—Damages	76
BAJI	12.26	Mixed-Motive Affirmative Defense	78
BAJI	12.27	Business Judgment	
	A-1.		
	12.28.1		
BAJI	12.28.2	Peer or Other Harassment	83
BAJI	12.28.3	Sexual Harassment/Orientation—Defined	85
D 4 **	10.00	A-2. CHILD HARASSMENT	0.0
BAJI	12.29	Child or Ward Harassment	86

		TABLE OF INSTRUCTIONS
Inst. No		Page
		B. FRAUD AND DECEIT
		(a) Introductory
BAJI 1	2.30	Fraud and Deceit—Introductory Instruction88
		(b) Intentional Misrepresentation
BAJI 1	2.31	Fraud and Deceit—Intentional Misrepresentation90
BAJI 1	2.32	Fraud and Deceit—Expression of Opinion92
		(c) Concealment
BAJI 1	2.35	Fraud and Deceit—Concealment95
BAJI 1	2.36	Fraud and Deceit—Nondisclosure of Known Facts 98
BAJI 1	2.37	Fraud and Deceit—Active Concealment of Known Facts
BAJI 1	2.37.1	Negligent Nondisclosure By Fiduciary98
		(d) False Promise
BAJI 1	2.40	Fraud and Deceit—False Promise100
BAJI 1	2.41	Fraud and Deceit—Proof of Intent Not to Perform102
		(e) Negligent Misrepresentation
BAJI 1	2.45	Fraud and Deceit—Negligent Misrepresentation103
		(f) Persons Affected
BAJI 1	2.50	Fraud and Deceit—Persons in/Not in Privity With Defendant
BAJI 1	2.50.1	Fraud and Deceit—Professionals—Persons to Whom Representation Made
		(g) Reliance
BAJI 1	2.51	Fraud and Deceit—Reliance109
BAJI 1	2.52	Fraud and Deceit—Right to Rely110
BAJI 1	2.53	Fraud and Deceit—Effect of Independent Investigation
		(h) Damages
BAJI 1	2.56	Fraud and Deceit—Damages—Out of Pocket Rule113
BAJI 1	2.57	Fraud and Deceit—Damages—Benefit of the Bargain Rule11
BAJI 1	2.57.1	Fraud and Deceit—Concealment—Duplicate Damages
		1

	CALIFORNIA JURY INSTRUCTIONS—CIVIL	_
Inst. No	Pag	је
	C. IMPLIED INDEMNITY	
D	(a) Introductory	
BAJI 12.60	Implied Indemnity—Introductory Instruction12	3
	(b) Implied Contractual Indemnity	
BAJI 12.61	Implied Contractual Indemnity—General Rule12	5
BAJI 12.62	Implied Contractual Indemnity—Contractual Relationship in Issue	6
BAJI 12.63	Implied Contractual Indemnity—Contractual Relationship Admitted	
BAJI 12.64	Implied Contractual Indemnity—Duty to Use Care12	
(c) I	mplied Indemnity—Indemnitee's Negligence	
BAJI 12.69	Implied Indemnity—Comparative Fault Among	
DA91 12.03	Defendants	9
	D. EMOTIONAL DISTRESS	
	D. EMOTORE DISTRESS	
	(a) Intentional Infliction	
BAJI 12.70	Intentional Infliction of Emotional Distress13	1
BAJI 12.71	Intentional Infliction of Emotional Distress—Fear of Cancer/AIDS	
BAJI 12.72	Emotional Distress—Defined	6
BAJI 12.73	Severe—Defined	
BAJI 12.74	Extreme and Outrageous Conduct—Defined13	
BAJI 12.75	Effect of Relationship of Parties13	
BAJI 12.76	Susceptibility of Plaintiff14	
BAJI 12.77	Intentional and Reckless—Defined14	1
BAJI 12.78	Privilege	2
	(b) Negligent Infliction	
BAJI 12.80	Negligent Infliction of Emotional Distress14	3
BAJI 12.80.1		
BAJI 12.80.2		
BAJI 12.81	Causes of Nervous Shock	2
(c) En	notional Distress Caused by Injury to Another	
BAJI 12.83		3
	-	

		TABLE OF INSTRUCTIONS	
Inst. N	0	F	Page
(d) BAJI		ional Distress Resulting From Financial Inju Emotional Distress Resulting From Financial Injury	
BAJI	12.88	(e) Damages—Emotional Distress Damages—Emotional Distress	158
	E .	INSURANCE COMPANY'S OBLIGATIONS	
		(a) In General	
BAJI	12.90	Insurance Company's Obligations—Implied Obligation Good Faith	ı of 160
		(b) Duty as to First Party Claims	
BAJI	12.92	Bad Faith—Elements of Claim for Withholding Payme of Benefits	
	12.93	Evaluation of Reasonableness	
BAJI	12.94	Insurance Company's Obligations—Factors to Consider	167
		(c) Duty as to Third Party Claims	
BAJI	12.95	Bad Faith—Duty to Accept Reasonable Settlement Offer to Settle Third Party Claim	170
BAJI	12.95.1	Bad Faith—Unreasonable Refusal to Defend Against Third Party Claim	t
BAJI	12.96	Insurance Company's Obligations—Considering Interest of Insured Equally to Its Own	176
BAJI	12.97	Insurance Company's Obligations—Rejection of	
D A II	12.98	Settlement Offer Without Consideration Insurance Company's Obligations—Factors to	178
DAJI	12.90	Consider	179
		(d) Defenses	
BAJI	12.98.1		181
BAJI	12.98.2	Defense of Failure to Give Notice/Proof of Loss	
F.	INTE	NTIONAL INTERFERENCE WITH PROPERT	Y
	12.99	Conversion—Essential Elements—Damages	
BAJI	12.99.1	Trespass to Personal Property	189
	PA	RT 13 VICARIOUS RESPONSIBILITY	
	A. P :	RINCIPAL AND AGENT—EMPLOYER AND EMPLOYEE	
BAJI	13.00	Agent—Definition of	196

	(CALIFORNIA JURY INSTRUCTIONS—CIVIL	
Inst. N	0	Pa	ige
BAJI	13.01	Scope of Authority/Employment—Meaning	98
	13.02	When Agent Attends to Personal Affairs	
	13.02.1	Going and Coming—Special Errand	
	13.02.2	Going and Coming—Required Vehicle Exception2	
	13.02.3	Going and Coming—Work Risk Exception20	
	13.03	Directed Imputation Against a Defendant Principal—	
		Both Principal and Agent Sued—No Issue as to Agency or Scope of Employment	
BAJI	13.04	Directed Imputation Against a Defendant Principal—	
		Principal Sued But Not Agent—No Issue as to	
		Agency or Scope of Employment2	10
BAJI	13.05	Directed Imputation of Agent's Contributory	
		Negligence to Plaintiff2	11
BAJI	13.06	Contested Issue of Imputation to Defendant—Both	
		Principal and Agent Sued2	
BAJI	13.06.02	2 Contested Issue of Imputation to Defendant Employer—Intentional Misconduct	
		Employer—Intentional Misconduct	13
В	. EMI	PLOYER OF INDEPENDENT CONTRACTOR	
BAJI	13.07	Contested Issue of Imputation to Defendant—Principal	al
		Sued But Not Agent2	
BAJI	13.20	Agent or Independent Contractor—Distinction 2	
	13.20.5	Ostensible Agent	
	13.20.6	Ostensible Agency—Hospital and Physician2	
	13.21	Employer of Independent Contractor—Liability for	20
DA01	10.21	Work With Peculiar Risk of Harm	28
RA.II	13.21.4	"Peculiar Risk" "Special Risk"—Defined	
	13.22	Employer of Independent Contractor—Liability for	ΟI
D1101	10.22	Nondelegable Duty2	33
		C. CORPORATION	
DΛΠ	19 90		
DAJI	13.30	Corporation Acts Through Its Officers and Employees	35
		Employees	აა
		D. PARTNERSHIP	
BAJI	13.35	Partner—Imputation of Negligence	36
		E. JOINT ENTERPRISE	
BAJI	13.40	Joint Enterprise Liability—Definition	37
BAJI	13.41	Imputation of Negligence to Plaintiff or Defendant—	
		Contested Issue of Joint Enterprise	39
		F. MOTOR VEHICLE OWNER	
BAJI	13.50	Liability of Owner for Permissive Use of Vehicle2	42
		lxviii	

		TABLE OF INSTRUCTIONS	_
Inst. N	o	Pag	је
	13.51 13.52	Liability of Owner—No Issue as to Permission24-Liability of Owner—Contested Issue as to Permission	
BAJI	13.53	Limited Permissive Use—Effect of Use Beyond Scope of Permission	
		G. DRIVER—RIDER	
BAJI	13.60	Direction Against Imputation of Driver's Negligence to Plaintiff Rider24	9
BAJI	13.61	Imputation of Driver's Negligence to Plaintiff Rider— Contested Issue of Agency	
н.	PARE	ENTS OF MINOR MOTOR VEHICLE OPERATOR	2
	13.65	Liability of Parents for Minor's Permissive Use—No Issue as to Permission	
BAJI	13.66	Liability of Parents for Minor's Permissive Use—Issue as to Permission	s
BAJI	13.67		
		I. PARENTS—GENERALLY	
BAJI	13.75	General Rule of Parental Liability25	4
BAJI	13.76	Parents' Duty to Protect Minor Child25	
		J. NEGLIGENT ENTRUSTMENT	
BAJI	13.80	Negligent Entrustment of Vehicle—Special Findings25	7
BAJI	13.81	Negligent Entrustment of an Instrumentality26	
		K. CONSPIRATORS	
BAJI	13.85	Conspiracy—Definition/Introductory26	3
	13.86	Conspiracy—Joint Responsibility26	5
BAJI	13.87	Conspiracy—Proof of Express Agreement Not	_
DΛΠ	13.88	Necessary	1
DAJI	15.00	Conspiracy	8
BAJI	13.89	Acquaintance With All Co-Conspirators Not Necessary	
BAJI	13.90	When Conspirators Not Liable for Act of	
BAJI	13.91	Co-Conspirator	
BAJI	13.92	Non-Conspirator	
BAJI	13.93	Not Itself Prove Membership in Conspiracy27 Joining Conspiracy after Its Formation27	
		1 .	

		CALIFORNIA JURY INSTRUCTIONS—CIVIL	
Inst. N	0	Paç	ge
	13.94 13.95	Withdrawal From Conspiracy	
BAJI	13.96	Conspiracy	
BAJI	13.97	Determination of Admissibility of Co-Conspirator's Statements	
		PART 14 DAMAGES	
		A. COMPENSATORY DAMAGES	
BAJI	14.00	Compensatory Damages—Personal Injury and Property Damage—Introductory for General Verdict28	
BAJI	14.01	Compensatory Damages—Personal Injury and Property Damage—Introductory for General Verdict (Admitted Liability)	
BAJI	14.02	Compensatory Damages—Personal Injury and Property Damage—Introductory for Special Verdict28	
		B. MEASURE OF DAMAGES	
		(a) Personal Injury	
BAJI	14.10	Measure of Damages—Personal Injury—Expenses Incurred	38
BAJI	14.10.1	Medical Monitoring Costs	
	14.11	Measure of Damages—Personal Injury—Loss of Earnings	
BAJI	14.12	Measure of Damages—Personal Injury—Loss of Earning Capacity29	
BAJI	14.13	Measure of Damages—Personal Injury—Pain and Suffering	
		(b) Property Damaged	
BAJI	14.20		۱1
BAJI	14.21	Damaged	
BAJI	14.22	Measure of Damages—Personal Property—Loss of Use	
BAJI	14.23	Measure of Damages—Brandt Attorney Fees30	
		(c) Injury to Minor	
BAJI	14.30	Damages—Injury to Minor—Suit by Parents and Minor)8
l		1	

TABLE OF INSTRUCTIONS		
Inst. No	Page	
BAJI 14.31	Measure of Damages—Injury to Minor—Minor's	
BAJI 14.32	Damages	
DA II 14 40	(d) Loss of Consortium	
BAJI 14.40	Measure of Damages—Loss of Consortium314	
	(e) Wrongful Death	
BAJI 14.50	Measure of Damages—Death of Adult317	
BAJI 14.51	Death of Adult—Damages Not to be Allocated321	
BAJI 14.52	Measure of Damages—Death of Child323	
C. MI	SCELLANEOUS DAMAGES INSTRUCTIONS	
	(a) Personal Injury	
BAJI 14.60	Speculative Damages Not Permitted326	
BAJI 14.60.5		
BAJI 14.61	Personal Injury—No Punitive Damages328	
BAJI 14.62	Pleadings or Argument—Not Evidence of Damages329	
BAJI 14.64	Settlement With Joint Tortfeasor—Court Deducts330	
BAJI 14.65	Damages—Aggravation of Preexisting Condition332	
BAJI 14.66	Damages—Additional Harm Resulting From Original Injury	
BAJI 14.67	Damages—Personal Injury—Duty to Mitigate335	
BAJI 14.67.1	Contributory Negligence337	
BAJI 14.68	Damages—Personal Property—Duty to Mitigate339	
BAJI 14.69	Damages—Life Expectancy341	
BAJI 14.70	Present Cash Value—Meaning of343	
	(b) Punitive Damages	
BAJI 14.71	Punitive Damages—Recovery of and Measure—Trial Not Bifurcated	
BAJI 14.71.1	Punitive Damages—Out-of-State Conduct351	
BAJI 14.71.2	Consider	
BAJI 14.72.1	First Phase)	
BAJI 14.72.2	Second Phase)357	
BAJI 14.73	Punitive Damages Against Principal for Acts of Agent—When Permitted (Non-Bifurcated Trial)	
	1 .	

		CALIFORNIA JURY INSTRUCTIONS—CIVIL
Inst. N	0	Page
BAJI	14.73.1	Punitive Damages Against Principal for Acts of Agent—When Permitted (Bifurcated Trial—First Phase)363
BAJI	14.74	Managing Agent—Defined365
	14.75	Driving When Intoxicated—Actual Malice—Punitive Damages367
BAJI	14.76	Definition of Economic and Non-Economic Damages.369
D.	DETH	ERMINING DAMAGES UNDER COMPARATIVE NEGLIGENCE
BAJI	14.90	Reduction of Damages Because of Contributory Negligence—General Verdict370
BAJI	14.91	Guidelines in Determining Comparative Negligence373
	PAI	RT 15 CONCLUDING INSTRUCTIONS
		A. MULTIPLE PARTIES
BAJI	15.00	Two or More Plaintiffs—Case of Each Separate377
BAJI	15.01	Contributory Negligence as to Certain Plaintiffs378
BAJI	15.02	Each Defendant Entitled to Separate Consideration.379
BAJI	15.03	General Verdict—Economic and Non-Economic Damages380
BAJI	15.03.1	
	В. С	ONCERNING WORKERS' COMPENSATION BENEFITS
BAJI	15.10	When Employee Receives Workers' Compensation and Sues Third Party for Same Injury384
BAJI	15.12	Jurisdiction—Civil Court or Workers' Compensation Appeals Board
BAJI	15.13	Liability of Employer to Employee—Exceptions to General Rule
BAJI	15.14	"Power Press" Exception—Elements—Definitions393
		C. CAUTIONARY INSTRUCTIONS
BAJI	15.20	Jury Not to Take Cue From Judge395
BAJI	15.21	Judge's Comment on Evidence396
BAJI	15.22	All Instructions Not Necessarily Applicable398
		D. JURORS' DUTIES
BAJI	15.30	Jurors to Deliberate399
BAJI	15.31	How Jurors Should Approach Their Task400
BAJI	15.33	Chance or Quotient Verdict Prohibited401
BAJI	15.35	Electronic Communication Devices—Prohibition402
		1::

lxxii

TABLE OF INSTRUCTIONS			
Inst. No)	Page	
BAJI	15.40	Separation Admonition	
		E. CONCLUDING INSTRUCTIONS	
BAJI	15.50	Concluding Instruction—General Verdict Without Special Findings404	
BAJI	15.51	Concluding Instruction—General Verdict With Special Findings	
BAJI	15.52	Concluding Instruction—Special Verdict408	
BAJI	15.53.1	Jury Questions410	
BAJI	15.53.2	Read Back Procedures41	
BAJI	15.54	Concluding Instruction—Bifurcated Trial—Liability Issue	
BAJI	15.55	Concluding Instruction—Bifurcated Trial—Damage Issue	
BAJI	15.56	Substitution of Juror After Deliberations Begun414	
BAJI	15.60	Deadlocked Jury Admonition418	
P	ART 1	16 FORMS AND JUDGMENT ON SPECIAL VERDICT	
BAJI	16.00	Form of Special Verdict—Negligence422	
BAJI		Form of Special Verdict—Medical Malpractice426	
	16.01.1	Form of Special Verdict—Lack of Informed Consent .432	
BAJI		Form of Special Verdict—Owners, Occupant's or Lessor's Liability	
BAJI	16.04	Form of Special Verdict—Peculiar Risk Doctrine439	
BAJI		Form of Special Verdict—Scene of an Emergency 443	
BAJI	16.10	Form of Special Verdict—Products Liability— Comparative Fault	
BAJI	16.11	Form of Special Verdict—Negligence and Products Liability—Comparative Fault452	
BAJI	16.12	Form of Special Verdict—Products Liability— Comparative Fault and Comparative Implied Indemnity Between Defendants	
BAJI	16.13	Form of Special Verdict—Products Liability—Warranty463	
BAJI	16.14	Form of Special Verdict—Store Owner's Duty of Care	
BAJI	16.15	Form of Special Verdict–Products Liability–Strict Liability for Failure to Warn–Essential Elements .469	
BAJI	16.16	Form of Special Verdict–Products Liability–Negligent Failure to Warn–Essential Elements473	
BAJI	16.17	Form of Special Verdict-Private Nuisance-Essential Elements-Damages	
BAJI	16.20	Form of Special Verdict—FELA—Negligence480	
		lxxiii	

	CALIFORNIA JURY INSTRUCTIONS—CIVIL		
Inst. N	o	Page	
BAJI	16.20.1	Form of Special Verdict—Violation of Safety Appliance Act	
BAJI	16.25	Form of Special Verdict—Elder/Dependent Adult Abuse	
BAJI	16.26.1	Form of Special Verdict—Inducing Breach of Contract	
BAJI	16.26.2	Form of Special Verdict—Interference With Contractual Relations	
BAJI	16.26.3	Form of Special Verdict—Intentional Interference With Prospective Economic Advantage502	
BAJI	16.26.4	Form of Special Verdict—Negligent Interference With Prospective Economic Advantage506	
BAJI	16.26.5	Form of Special Verdict—Privilege of Competition510	
BAJI	16.26.6	Form of Special Verdict—Trade Libel512	
	16.28	Form of Special Verdict—Identity Theft515	
BAJI	16.30	Form of Special Verdict—Liability for Dangerous Condition of Public Property519	
BAJI	16.32	Form of Special Verdict—Negligent Undertaking522	
BAJI	16.40	Form of Special Verdict—Drug Dealer Liability— Plaintiff Non-User-Direct Sale525	
BAJI	16.40.1	Form of Special Verdict—Drug Dealer Liability— Plaintiff Non-User-Indirect Sale527	
BAJI	16.40.2	Form of Special Verdict—Drug Dealer Liability— Plaintiff User-Direct Sale530	
BAJI	16.41	Form of Special Verdict—Battery533	
	16.43	Form of Special Verdict—Independent Wholesale Sales Representatives	
BAJI	16.50	Form of Special Verdict—Intentional Misrepresentation	
BAJI	16.50.1	Form of Special Verdict—Concealment544	
BAJI	16.50.2	Form of Special Verdict—False Promise547	
	16.50.3	Form of Special Verdict—Negligent Misrepresentation	
BAJI	16.51	Form of Special Verdict—Intentional Infliction of Emotional Distress	
BAJI	16.52	Form of Special Verdict—Negligent Infliction of Emotional Distress	
BAJI	16.53	Form of Special Verdict—Bystander Recovery of Emotional Distress	
BAJI	16.55	Form of Special Verdict—Employment Discrimination—Disparate Treatment	
BAJI	16.55.1	Form of Special Verdict—Employment Discrimination— Disparate Treatment—Mixed Motive Defense565	
BAJI	16.55.2	Form of Special Verdict—Employment Discrimination—	
		lxxiv	

	TABLE OF INSTRUCTIONS		
Inst. No	Page		
	Disparate Treatment—Bona Fide Occupational		
BAJI 16.55.3	Qualification Defense599 Form of Special Verdic—Employment		
	Discrimination—Retaliation572		
BAJI 16.55.4	Form of Special Verdict—Employment Discrimination—Whistleblower Retaliation		
BAJI 16.55.5	Form of Special Verdict—Labor Code § 1102.5, Subdivision (c) Retaliation		
BAJI 16.60	Form of Special Verdict—Vicarious Responsibility— Principal and Agent		
BAJI 16.60.1	Form of Special Verdict—Vehicle Permissive User587		
BAJI 16.61	Form of Special Verdict—Breach of Warranty of Authority		
BAJI 16.61.1	Form of Special Verdict—Bad Faith Breach of		
BAJI 16.62	Warranty of Authority590 Form of Special Verdict—Breach of Contract of		
BAJI 16.62.1	Employment—Unspecified Term593 Form of Special Verdict—Breach of Contract of		
	Employment—Specified Term596		
BAJI 16.62.2	Form of Special Verdict—Breach of Covenant of Good Faith—Employment Contract599		
BAJI 16.62.3	Form of Special Verdict—Wrongful Termination in Violation of Public Policy602		
BAJI 16.64.1	Form of Special Verdict—Physical Invasion of		
BAJI 16.64.2	Privacy		
BAJI 16.64.3	Form of Special Verdict—Assault/False Imprisonment With Intent to Violate Privacy		
BAJI 16.64.4	Form of Special Verdict—Right of Privacy—Intrusion		
BAJI 16.64.5	Form of Special Verdict—Right of Privacy—Public Disclosure of Private Facts		
BAJI 16.64.6	Form of Special Verdict—Right of Privacy—Placing Plaintiff in False Light		
BAJI 16.64.7	Form of Special Verdict—Directing, Soliciting, Etc., An Invasion of Privacy		
BAJI 16.64.8	Form of Special Verdict—State Agency Violation of Information Practices Act (IPA)		
BAJI 16.64.9	Form of Special Verdict—Invasion of Privacy Resulting from a Violation of the Information Practices Act (IPA)		
BAJI 16.65	Form of Special Verdict—Eavesdropping or Recording Confidential Communication		
BAJI 16.66	Form of Special Verdict—Child or Ward Harassment		

lxxv

CALIFORNIA JURY INSTRUCTIONS—CIVIL		
Inst. N	0	Page
BAJI	16.67	Form of Special Verdict—Willful and Wrongful Taking of Bees
BAJI	16.68	Form of Special Verdict—Human Trafficking638
BAJI	16.69	Form of Special Verdict—California Civil Rights Violation (Bane Act)641
BAJI	16.69.1	Form of Special Verdict—Sexual Harassment643
l	16.69.2	Form of Special Verdict—Unruh Act Violation646
BAJI	16.69.3	Form of Special Verdict—Unruh Act—ADA Violation650
BAJI	16.69.4	Form of Special Verdict—Gender Violence653
BAJI	16.69.5	Form of Special Verdict—Sexual Orientation Violence656
	16.69.6	Form of Special Verdict—Violent Civil Rights Violations
BAJI	16.69.7	Form of Special Verdict—Calif. Disabled Persons Act
l	16.69.8	Form of Special Verdict—Domestic Violence663
	16.69.9	Form of Special Verdict—Interference with Ingress to or Egress from a Facility
BAJI	16.72	Form of Special Verdict—Comparative Implied Indemnity—Multiple Defendants—Negligence by Plaintiff's Employer
BAJI	16.73	Form of Special Verdict—Comparative Implied Indemnity—Multiple Defendants—Contributory Negligence an Issue
BAJI	16.75	Form of Special Verdict—Employee Receives Workers' Compensation and Sues One Defendant Third Party for Same Injury—Third Party Claims Employer's Concurrent Negligence
BAJI	16.81	Punitive Damages—Bifurcated Trial—Phase I684
BAJI	16.82	Punitive Damages—Bifurcated Trial—Phase II686
BAJI	16.90	Judgment on Special Verdict688
BAJI	16.91	Special Finding Form—Comparative Fault—Economic and Non-Economic Damages
BAJI	16.92	Special Finding Form—Permissive User Agent of Owner
BAJI	16.93	Special Finding Form—Negligent Entrustment of Vehicle
	1	PART 17 ANNOTATIONS TO CACI
		EVIDENCE
200.	Obliga	tion to Prove—More Likely True Than Not True707
211.	Prior (Conviction of a Felony708
		lxxvi
ı		ΙΛΛΥΙ

	TABLE OF INSTRUCTIONS	
Inst. No		Page
215.	Exercise of a Communication Privilege	.709
219.	Expert Witness Testimony	.710
221.	Conflicting Expert Testimony	
	CONTRACTS	
301.	Third-Party Beneficiary	.712
302.	Contract Formation—Essential Factual Elements	.713
305.	Implied-in-fact Contract	
323.	Waiver of Condition Precedent	
352.	Loss of Profits—No Profits Earned	
361.	Plaintiff May Not Recover Duplicate Contract and Tort Damages	
370.	Common Count: Money Had and Received	
371.	Common Count: Goods and Services Rendered	.719
	NEGLIGENCE	
401.	Basic Standard of Care	.720
405.	Comparative Fault by Plaintiff	
406.	Apportionment of Responsibility	.722
408.	Primary Assumption of Risk—Liability of Coparticipant in Sport or Other Activity	
411.	Reliance on Good Conduct of Others	
417.	Special Doctrines: Res ipsa loquitur	
418.	Presumption of Negligence Per Se	
420.	Negligence per se: Rebuttal of the Presumption of Negliger (Violation Excused)	nce
423 .	Public Entity Liability for Failure to Perform Mandatory Duty	
425 .	"Gross Negligence" Explained	
426.	Negligent Hiring, Supervision, or Retention of Employee	
430.	Causation: Substantial Factor	
440.	Unreasonable Force by Law Enforcement Officer in Arrest Other Seizure—Essential Factual Elements	or
441.	Negligent Use of Deadly Force by Peace Officer—Essential Factual Elements	
450A.	Good Samaritan—Nonemergency	
450C.	Negligent Undertaking	
451 .	Affirmative Defense — Contractual Assumption of Risk	
452.	Sudden Emergency	
462.	Strict Liability for Injury Caused by Domestic Animal With Dangerous Propensities—Essential Factual Elements	h
463.	Dog Bite Statute (Civ. Code § 3342)—Essential Factual Elements	

	CALIFORNIA JURY INSTRUCTIONS—CIVIL	
Inst. No		Page
470.	Primary Assumption of Risk—Exception to Nonliability—	740
471.	Coparticipant in Sport or Other Recreational Activity Primary Assumption of Risk—Exception to Nonliability—	
472 .	Instructors, Trainers, or Coaches	
414.	Facilities Owners and Operators and Event Sponsors	
	MEDICAL NEGLIGENCE	
501.	Standard of Care for Health Care Professionals	745
506.	Alternative Methods of Care	746
509.	Abandonment of Patient	
518.	Medical Malpractice: Res Ipsa Loquitur	
530B.	Medical Battery—Conditional Consent	749
	PROFESSIONAL NEGLIGENCE	
600.	Standard of Care	
601.	Damages for Negligent Handling of Legal Matter	752
606.	Legal Malpractice Causing Criminal Conviction—Actual Innocence.	753
	MOTOR VEHICLES AND HIGHWAY SAFETY	
700.	Basic Standard of Care	754
712.	Affirmative Defense—Failure to Wear a Seat Belt	
720.	Motor Vehicle Owner Liability — Permissive Use of Vehicle	756
724.	Negligent Entrustment of Motor Vehicle	757
	COMMON CARRIERS	
900.	Introductory Instruction	
901.	Status of Common Carrier Disputed	
902.	Duty of Common Carrier	
907.	Status of Passenger Disputed	761
	PREMISES LIABILITY	
1000.	Premises Liability—Essential Factual Elements	
1001.	Basic Duty of Care	
1002.	Extent of Control Over Premises Area	
1003.	Unsafe Conditions	
1004.	Obviously Unsafe Conditions	
1005.	Business Proprietor's or Property Owner's Liability for the Criminal Conduct of Others	he 768
1006.	Landlord's Duty	
1008.	Liability for Adjacent Altered Sidewalk—Essential Factu Elements	
	lxxviii	
	122 / 111	

	TABLE OF INSTRUCTIONS
Inst. No	Page
1009A.	Liability to Employees of Independent Contractors for Unsafe Concealed Conditions
1009B.	Liability to Employees of Independent Contractors for Unsafe Conditions—Retained Control
1009C.	Liability to Employees of Independent Contractor for Unsafe Conditions—Nondelegable Duty775
1011.	Constructive Notice Regarding Dangerous Conditions on Property
DA	NGEROUS CONDITION OF PUBLIC PROPERTY
1100.	Dangerous Condition of Public Property—Essential Factual
1100	Elements
1102. 1103.	Definition of "Dangerous Condition"
1105. 1110.	Affirmative Defense—Natural Conditions
1123.	Affirmative Defense—Design Immunity
	PRODUCTS LIABILITY
1200.	Strict Liability—Essential Factual Elements783
1203.	Strict Liability—Design Defect—Consumer Expectation Test— Essential Factual Elements
1204.	Strict Liability—Design Defect—Risk-Benefit Test—Essential Factual Elements—Shifting Burden of Proof
1205.	Strict Liability—Failure to Warn—Essential Factual Elements
1206.	Strict Liability—Failure to Warn—Product Containing Allergens (Not Prescription Drugs)—Essential Elements 789
1222.	Negligence—Manufacturer or Supplier—Duty to Warn— Essential Factual Elements790
1231.	Implied Warranty of Merchantability—Essential Factual Elements
1232.	Implied Warranty of Fitness for a Particular Purpose— Essential Factual Elements
1244.	Affirmative Defense—Sophisticated User794
	ASSAULT AND BATTERY
1305.	Battery by Peace Officer—Essential Factual Elements795
1306.	Sexual Battery—Essential Factual Elements796
1320.	Intent
	FALSE IMPRISONMENT
1402.	False Arrest Without Warrant—Affirmative Defense—Peace Officer—Probable Cause to Arrest798
1408.	Affirmative Defense—Police Officer's Lawful Authority to Detain
	1

CALIFORNIA JURY INSTRUCTIONS—CIVIL		
Inst. No	Pa	age
	MALICIOUS PROSECUTION	
1500.	Former Criminal Proceeding—Essential Factual Elements .8	00
1501.	Wrongful Use of Civil Proceedings8	
	EMOTIONAL DISTRESS	
1620.	Negligent Infliction of Emotional Distress—Direct Victim— Essential Factual Elements8	03
1621.	Negligence—Recovery of Damages for Emotional Distress—N Physical Injury—Bystander—Essential Factual Elements.8	Тo
	DEFAMATION	
1700.	Defamation per se—Essential Factual Elements (Public Officer/Figure and Limited Public Figure)8	05
1702.	Defamation per se—Essential Factual Elements (Private Figure—Matter of Public Concern)8	07
1723.	Common Interest Privilege—Malice8	
1730.	Slander of Title—Essential Factual Elements8	
	RIGHT OF PRIVACY	
1800.	Intrusion Into Private Affairs8	10
1801.	Public Disclosure of Private Facts8	12
1809.	Recording of Confidential Information8	13
1821.	Damages Under Civil Code Section 33448	
VF-180	•	
	FRAUD OR DECEIT	
1900.	Intentional Misrepresentation8	16
1901.	Concealment8	
1902.	False Promise8	18
1923.	Damages—"Out of Pocket" Rule8	19
1924.	Damages—"Benefit-of-the-Bargain" Rule	
	TRESPASS	
2021.	Private Nuisance—Essential Factual Elements8	22
	CONVERSION	
2100.	Conversion—Essential Factual Elements8	23
2101.	Trespass to Chattels—Essential Factual Elements8	24
2102.	Presumed Measure of Damages for Conversion8	
	ECONOMIC INTERFERENCE	
2200.	Inducing Breach of Contract8	26
	lxxx	

	TABLE OF INSTRUCTIONS	
Inst. No	F	Page
2201 . 2202 .	Intentional Interference With Contractual Relations Intentional Interference With Prospective Economic	
2204.	Relations—Essential Factual Elements	
VF-2200 VF-2202	0. Inducing Breach of Contract	.830
	INSURANCE LITIGATION	
2300.	Breach of Contractual Duty to Pay a Covered Claim— Essential Factual Elements	.832
2331.	Breach of the Implied Obligation of Good Faith and Fair Dealing—Failure or Delay in Payment (First Party)— Essential Factual Elements	833
2334.	Bad Faith (Third Party)—Refusal to Accept Reasonable Settlement Within Liability Policy Limits—Essential Fact Elements	ual
2336.	—Unreasonable Failure to Defend—Essential Factual Elements	
2350.	Damages for Bad Faith	
	WRONGFUL TERMINATION	
2401.	Breach of Employment Contract—Unspecified Term—Actual Constructive Discharge—Essential Factual Elements	.837
2430.	Wrongful Discharge in Violation of Public Policy—Essential Factual Elements	
2433.	Wrongful Discharge in Violation of Public Policy—Damages	.839
	FAIR EMPLOYMENT AND HOUSING ACT	
2500.	Disparate Treatment—Essential Factual Elements	840
2505.	Retaliation—Essential Factual Elements	
2511.	Adverse Action Made by Decision Maker Without Animus (Cat's Paw)	
2520.	Quid pro quo Sexual Harassment-Essential Factual Elements	.845
2521A.	Hostile Work Environment Harassment—Conduct Directe at Plaintiff—Essential Factual Elements—Employer or Entity Defendant	
2521B.	Work Environment Harassment—Conduct Directed at Others—Essential Factual Elements—Employer or Entit Defendant	848
2522A.	Hostile Work Environment Harassment—Conduct Directe	d
	1	
	lxxxi	

	CALIFORNIA JURY INSTRUCTIONS—CIVIL
Inst. No	Page
	at Plaintiff—Essential Factual Elements—Individual
	Defendant858
2525.	Harassment—"Supervisor" Defined
2527.	Failure to Prevent Harassment, Discrimination, or Retaliation—Essential Factual Elements—Employer or Entity Defendant852
2540.	Disability Discrimination—Disparate Treatment—Essential Factual Elements853
2541.	Disability Discrimination—Reasonable Accommodation— Essential Factual Elements854
2544.	Disability Discrimination—Affirmative Defense—Health or Safety Risk855
2580.	Pregnancy Discrimination—Failure to Accommodate— Essential Factual Elements856
	LABOR CODE ACTIONS
2710.	Solicitation of Employee by Misrepresentation—Essential Factual Elements
	WORKERS' COMPENSATION
2804.	Removal or Noninstallation of Power Press Guards—Essential Factual Elements
	CIVIL RIGHTS
3020.	Unruh Civil Rights Act—Essential Factual Elements859
3021.	Discrimination in Business Dealings—Essential Factual Elements860
3023A.	Acts of Violence—Ralph Act—Essential Factual Elements861
3024.	Sexual Harassment in Defined Relationship—Essential Factual Elements862
3060.	Unruh Civil Rights Act—Essential Factual Elements863
3066.	Bane Act—Essential Factual Elements
VF-3030	0. Unruh Civil Rights Act866
E	LDER ABUSE AND DEPENDENT ADULT CIVIL PROTECTION ACT
3100.	Financial Abuse—Essential Factual Elements867
3103.	Neglect—Essential Factual Elements868
3104.	Neglect—Enhanced Remedies Sought869
3113.	"Recklessness" Explained870
٤	SONG-BEVERLY CONSUMER WARRANTY ACT
3200.	Failure to Purchase or Replace Consumer Good After
	lxxxii

	TABLE OF INSTRUCTIONS
Inst. No	Page
	Reasonable Number of Repair Opportunities—Essential Factual Elements
3201.	Failure to Promptly Repurchase or Replace New Motor Vehicle After Reasonable Number of Repair Opportunities—Essential Factual Elements
3210.	Breach of Implied Warranty of Merchantability—Essential Factual Elements
3231.	Continuation of Express or Implied Warranty During Repair
3240. 3241.	Reimbursement Damages—Consumer Goods
	EMINENT DOMAIN
3503. 3513.	Change in Zoning or Land Use Restriction
	VICARIOUS RESPONSIBILITY
3700. 3704. 3705. 3708. 3709. 3722.	Introduction
3724. 3735.	Going-and-Coming Rule
	DAMAGES
3902. 3903A. 3903C. 3903D. 3903P.	Economic and Noneconomic Damages
3905A.	Physical Pain, Mental Suffering, and Emotional Distress (Noneconomic Damages)894
3932. 3934. 3940.	Life Expectancy
3942.	Bifurcated
3943.	Punitive Damages Against Employer or Principal for Conduct of a Specific Agent or Employee—Trial Not Bifurcated899
	lxxxiii

	CALIFORNIA JURY INSTRUCTIONS—CIVIL	
Inst. No		Page
3945.	Punitive Damages—Entity Defendant—Trial Not	
3946.	Bifurcated Punitive Damages—Entity Defendant—Bifurcated Trial (First Phase)	
3947.	Punitive Damages—Individual and Entity Defendants— Not Bifurcated	Trial
3948.	Punitive Damages—Individual and Corporate Defendant (Corporate Liability Based on Acts of Named Individual Bifurcated Trial (First Phase)	s l)—
3949.	Punitive Damages—Individual and Corporate Defendant (Corporate Liability Based on Acts of Named Individual Bifurcated Trial (Second Phase)	s l)—
3963.	Affirmative Defense—Employee's Duty To Mitigate Damages	
	BREACH OF FIDUCIARY DUTY	
4107.	Duty of Disclosure by Real Estate Broker to Client	907
	CONSTRUCTION LAW	
4500.	Breach of Implied Warranty of Correctness of Plans and Specifications—Essential Factual Elements	908
	WHISTLEBLOWER PROTECTION	
4603. 4604.	Whistleblower Protection—Essential Factual Elements Affirmative Defense—Same Decision	
	CONCLUDING INSTRUCTIONS	
5009. 5011. 5013. Append		912 913 914
Append Append		ble
Append Append	lix D. Special Verdicts	926
Table o	of Laws and Rules	R-1
Table o	of Cases	es-1
Key Nu	umber Table Key Num T	bl-1
Index.	Ind	ex-1
	lxxxiv	
	= :	