

Table of Contents

Volume 1

PART 1. INTERROGATORIES

A. IN GENERAL

CHAPTER 1. HOW TO HANDLE WRITTEN INTERROGATORIES—RULE 33

- § 1:1 Overview
- § 1:2 Rule 33 verbatim
- § 1:3 Advantages of interrogatories
- § 1:4 Disadvantages of interrogatories
- § 1:5 Procedures and strategy
- § 1:6 Drafting interrogatories
- § 1:7 Subject matters
- § 1:8 Answering interrogatories
- § 1:9 Supplementation of interrogatories
- § 1:10 Use at trial

B. MOTOR VEHICLE ACCIDENTS

CHAPTER 2. GENERAL CIRCUMSTANCES AND CONDITIONS

I. PERSONS INVOLVED/SOURCES OF INFORMATION

- § 2:1 Identification of deponent
- § 2:2 Identification of firm or corporation
- § 2:3 Identification of fiduciary in death action
- § 2:4 Identification of agent
- § 2:5 Operator of vehicle
- § 2:6 Owner of vehicle
- § 2:7 Passengers
- § 2:8 Attendants
- § 2:9 Traffic controllers/Policemen
- § 2:10 Highway contractor
- § 2:11 Inspectors and maintenance persons

- § 2:12 Third parties
- § 2:13 Witnesses to occurrence
- § 2:14 Sources of knowledge about occurrence

II. PLACE OF OCCURRENCE

- § 2:15 Location
- § 2:16 Road surface
- § 2:17 Traffic controls
- § 2:18 Defective or dangerous conditions
- § 2:19 Warnings
- § 2:20 Weather
- § 2:21 Visibility and lighting

III. VEHICLE

- § 2:22 Description of each vehicle
- § 2:23 Equipment and safety features
- § 2:24 Maintenance, inspections and repairs
- § 2:25 Government standards and regulations
- § 2:26 Industry, professional and trade association standards
- § 2:27 Insurance

IV. EVENTS/CIRCUMSTANCES PRECEDING OCCURRENCE

- § 2:28 Medical history of party
- § 2:29 Physical and mental condition and lifestyle of party
- § 2:30 Trip
- § 2:31 Occupants of vehicle
- § 2:32 Distractions
- § 2:33 Other vehicles
- § 2:34 Traffic controls
- § 2:35 Plaintiff's knowledge
- § 2:36 Defendant's knowledge
- § 2:37 Precautions
- § 2:38 Warnings
- § 2:39 Malfunctions

V. THE OCCURRENCE

- § 2:40 Time of occurrence
- § 2:41 Description of occurrence
- § 2:42 Party's conduct
- § 2:43 Use of brakes
- § 2:44 Skid marks
- § 2:45 Lighting on vehicles
- § 2:46 Speed and direction of vehicles

TABLE OF CONTENTS

- § 2:47 Courses and distances
- § 2:48 Triangle of plaintiff's vehicle, defendant's vehicle, and the point of impact
- § 2:49 Plan

VI. INJURIES, DAMAGES AND LOSSES

- § 2:50 Prior illness, injury or disability
- § 2:51 Financial losses from prior illness, injury or disability
- § 2:52 Injuries due to occurrence
- § 2:53 Mental or emotional suffering
- § 2:54 Financial losses due to occurrence
- § 2:55 Death action—Conscious suffering
- § 2:56 Avoidable consequences
- § 2:57 Property damage

VII. EVENTS SUBSEQUENT TO OCCURRENCE

- § 2:58 Emergency assistance
- § 2:59 Medical treatment for injury
- § 2:60 Inspections and tests after occurrence
- § 2:61 Conversations and oral admissions
- § 2:62 Written statements and reports
- § 2:63 Subsequent accidents/civil actions

VIII. REGARDING THE LAWSUIT

- § 2:64 Notice of occurrence or claim
- § 2:65 Expert witness employed or consulted by party
- § 2:66 Expert witness as deponent
- § 2:67 Tangible evidence
- § 2:68 Other claims resulting from occurrence
- § 2:69 Proof of negligence
- § 2:70 Defenses and denials

CHAPTER 3. COMPREHENSIVE SETS OF INTERROGATORIES

- § 3:1 Personal injuries—Plaintiff to defendant
- § 3:2 —Defendant to plaintiff
- § 3:3 Consequential damages—Plaintiff to defendant
- § 3:4 —Defendant to plaintiff
- § 3:5 Spousal loss of consortium
- § 3:6 Child's loss of parental consortium
- § 3:7 Loss of consortium of deceased spouse
- § 3:8 Child's loss of consortium of deceased parent
- § 3:9 Wrongful death compensatory damages—Defendant to plaintiff fiduciary

- § 3:10 Personal injuries and property damage—Plaintiff to defendant
- § 3:11 —Defendant to plaintiff
- § 3:12 Property damage—Plaintiff to defendant
- § 3:13 —Defendant to plaintiff

CHAPTER 4. SPECIFIC CIRCUMSTANCES AND OCCURRENCES

- § 4:1 Alcohol and drugs—Plaintiff to defendant
- § 4:2 —Defendant to plaintiff
- § 4:3 Backing up—Plaintiff to defendant
- § 4:4 —Defendant to plaintiff
- § 4:5 Bicycle—Plaintiff to defendant
- § 4:6 —Defendant to plaintiff
- § 4:7 Brakes, failure of—Plaintiff to defendant
- § 4:8 —Defendant to plaintiff
- § 4:9 Defective mechanical equipment—Plaintiff to defendant
- § 4:10 —Defendant to plaintiff
- § 4:11 Depression or excavation—Plaintiff to defendant
- § 4:12 —Defendant to plaintiff
- § 4:13 Dram shop liability—Plaintiff to defendant bar owner
- § 4:14 —Defendant bar owner to plaintiff
- § 4:15 —Plaintiff to intoxicated defendant
- § 4:16 Driverless vehicle—Plaintiff to defendant
- § 4:17 —Defendant to plaintiff
- § 4:18 Emergency vehicle—Plaintiff to defendant
- § 4:19 —Defendant to plaintiff
- § 4:20 Entering traffic—Plaintiff to defendant
- § 4:21 —Defendant to plaintiff
- § 4:22 Fixed object or obstruction—Plaintiff to defendant
- § 4:23 —Defendant to plaintiff
- § 4:24 Head on—Plaintiff to defendant
- § 4:25 —Defendant to plaintiff
- § 4:26 Highway contractor—Plaintiff to defendant
- § 4:27 —Defendant to plaintiff
- § 4:28 Intersection—Plaintiff to defendant
- § 4:29 —Defendant to plaintiff
- § 4:30 Motorcycle—Plaintiff to defendant
- § 4:31 —Defendant to plaintiff
- § 4:32 Multiple vehicle—Plaintiff to defendant
- § 4:33 —Defendant to plaintiff
- § 4:34 Parallel vehicle—Plaintiff to defendant
- § 4:35 —Defendant to plaintiff
- § 4:36 Parked/standing vehicle, adequacy of lighting—
Plaintiff to defendant

TABLE OF CONTENTS

§ 4:37 —Defendant to plaintiff
§ 4:38 Passing—Plaintiff to defendant
§ 4:39 —Defendant to plaintiff
§ 4:40 Pedestrian—Plaintiff to defendant
§ 4:41 —Defendant to plaintiff
§ 4:42 Public way; Defect, excavation or construction—
Plaintiff to defendant
§ 4:43 —Defendant to plaintiff
§ 4:44 Rear end/tailgating—Plaintiff to defendant
§ 4:45 —Defendant to plaintiff
§ 4:46 Roadside hazard—Plaintiff to defendant
§ 4:47 —Defendant to plaintiff
§ 4:48 Turning—Plaintiff to defendant
§ 4:49 —Defendant to plaintiff
§ 4:50 Vehicle stopped in road—Plaintiff to defendant
§ 4:51 —Defendant to plaintiff
§ 4:52 Racing on highway—Plaintiff to defendant
§ 4:53 —Defendant to plaintiff
§ 4:54 Jackknifing of commercial vehicle—Plaintiff to
defendant
§ 4:55 —Defendant to plaintiff
§ 4:56 Motorboat accident—Plaintiff to defendant
§ 4:57 —Defendant to plaintiff
§ 4:58 Sleeping driver—Plaintiff to defendant
§ 4:59 —Defendant to plaintiff
§ 4:60 Defective tires—Plaintiff to defendant
§ 4:61 —Defendant to plaintiff
§ 4:62 Collision with emergency vehicle—Plaintiff to
defendant
§ 4:63 —Defendant to plaintiff
§ 4:64 Railroad crossing accidents—Plaintiff to defendant
§ 4:65 —Defendant to plaintiff
§ 4:66 Stalled or disabled vehicle—Plaintiff to defendant
§ 4:67 —Defendant to plaintiff
§ 4:68 Uninsured motorist claim—Plaintiff to defendant
§ 4:69 —Defendant to plaintiff
§ 4:70 Jackknifing/turning vehicle—Plaintiff to defendant
§ 4:71 Jackknifing/turning vehicle—Defendant to plaintiff
§ 4:72 Hit and run accident—Plaintiff to defendant
§ 4:73 —Defendant to plaintiff
§ 4:74 Cell phone use cause of accident—Plaintiff to
defendant
§ 4:75 —Defendant to plaintiff
§ 4:76 Carrier negligence—boarding and alighting—Plaintiff to
defendant
§ 4:77 —Defendant to plaintiff
§ 4:78 Proving identity of driver—Plaintiff to defendant

- § 4:79 —Defendant to plaintiff
- § 4:80 Physical examination of commercial driver—Plaintiff to defendant
- § 4:81 —Defendant to plaintiff
- § 4:82 Driver's liability for injury to child going to or from school bus—Plaintiff to defendant
- § 4:83 —Defendant to plaintiff
- § 4:84 Liability for sudden loss of consciousness while driving—Plaintiff to defendant
- § 4:85 —Defendant to plaintiff
- § 4:86 Nonairworthiness of light aircraft—Plaintiff to defendant
- § 4:87 —Defendant to plaintiff
- § 4:88 Negligence of adult pedestrian struck by motor vehicle—Plaintiff to defendant
- § 4:89 —Defendant to plaintiff
- § 4:90 Liability of motor vehicle passenger for accident—Plaintiff to defendant
- § 4:91 —Defendant to plaintiff

C. PRODUCTS LIABILITY

CHAPTER 5. GENERAL CIRCUMSTANCES AND OCCURRENCES—TO MANUFACTURER

I. PEOPLE INVOLVED

- § 5:1 Due and diligent inquiry of employees and agents
- § 5:2 Due and diligent search of records
- § 5:3 Identification of deponent
- § 5:4 Identification of firm or corporation
- § 5:5 Identification of deponent—Agent
- § 5:6 Prior awareness of hazard or danger
- § 5:7 Relationship to legal action
- § 5:8 Relationship to product
- § 5:9 Sources of knowledge about occurrence

II. PRODUCTION PROCESSES

- § 5:10 Component parts
- § 5:11 Description and composition of product
- § 5:12 Design of product
- § 5:13 Installation and servicing
- § 5:14 Manufacture, fact of
- § 5:15 Production process
- § 5:16 Raw materials

TABLE OF CONTENTS

§ 5:17 Storage and warehousing

III. TESTING, INSPECTION, ETC.

§ 5:18 Alterations of the product or similar products

§ 5:19 Defect or defective condition

§ 5:20 Examination and inspection after the alleged occurrence

§ 5:21 Operation and use

§ 5:22 Quality certificates

§ 5:23 Repairs, recalls, maintenance

§ 5:24 Scienier

§ 5:25 Standards and regulations—Governmental

§ 5:26 Standards—Industry, professional and trade association

§ 5:27 Tests and inspections

IV. MARKETING

§ 5:28 Advertising and promotion of product

§ 5:29 Distribution

§ 5:30 Patents and trademarks

§ 5:31 Publications—Technical literature

§ 5:32 —Consumer reports and others

§ 5:33 Sale, fact of

§ 5:34 Warnings, instructions, labels or directions

§ 5:35 Warranties

V. REGARDING THE LAWSUIT

§ 5:36 Assumption of risk and product misuse

§ 5:37 Contributory or comparative negligence

§ 5:38 Conversations and admissions

§ 5:39 Expert witnesses

§ 5:40 Insurance

§ 5:41 Notice

§ 5:42 Prior occurrences and claims

§ 5:43 Settlement of other claims or actions

§ 5:44 Subsequent occurrences and claims

CHAPTER 6. GENERAL CIRCUMSTANCES AND OCCURRENCES—TO PLAINTIFF

I. PRELIMINARY MATTERS

§ 6:1 People involved/sources of information

§ 6:2 Place of occurrence

II. VEHICLE

§ 6:3 Defect or defective condition

- § 6:4 Description and identification of product
- § 6:5 Warranties
- § 6:6 Written warnings, instructions, labels or directions

III. EVENTS/CIRCUMSTANCES PRECEDING OCCURRENCE

- § 6:7 Alterations and modifications
- § 6:8 Appreciation of danger
- § 6:9 Assumption of risk and product misuse
- § 6:10 Experience or knowledge of plaintiff
- § 6:11 Inspection or sampling by plaintiff
- § 6:12 Maintenance and repairs
- § 6:13 Manner of purchase
- § 6:14 Oral warnings
- § 6:15 Prior use of product
- § 6:16 Purchase or acquisition of product
- § 6:17 Reliance on advertisements
- § 6:18 Scierter
- § 6:19 Transportation of product and storage prior to use
- § 6:20 Unpackaging, inspection and installation prior to use

IV. OCCURRENCE AND DAMAGES

- § 6:21 The occurrence
- § 6:22 Injuries, damages and losses

V. EVENTS SUBSEQUENT TO OCCURRENCE

- § 6:23 Availability of product for inspection
- § 6:24 Subsequent condition of product
- § 6:25 Tests and inspections

VI. LITIGATION

- § 6:26 Regarding the lawsuit

Volume 2

CHAPTER 7. COMPREHENSIVE SETS OF INTERROGATORIES

- § 7:1 Brakes—Plaintiff to defendant manufacturer
- § 7:2 —Defendant manufacturer to plaintiff
- § 7:3 Harmful substance—Plaintiff to defendant manufacturer
- § 7:4 —Defendant manufacturer to plaintiff
- § 7:5 Seat belts—Plaintiff to defendant manufacturer

TABLE OF CONTENTS

§ 7:6 —Defendant manufacturer to plaintiff
§ 7:7 Second collision design—Plaintiff to defendant
manufacturer
§ 7:8 —Defendant manufacturer to plaintiff
§ 7:9 Tires—Plaintiff to defendant manufacturer
§ 7:10 —Defendant manufacturer to plaintiff
§ 7:11 Transmission—Plaintiff to defendant manufacturer
§ 7:12 —Defendant manufacturer to plaintiff
§ 7:13 Exhaust systems—Plaintiff to defendant manufacturer
§ 7:14 —Defendant manufacturer to plaintiff
§ 7:15 Safety glass—Plaintiff to defendant manufacturer
§ 7:16 —Defendant manufacturer to plaintiff
§ 7:17 Vehicle doors—Plaintiff to defendant manufacturer
§ 7:18 —Defendant manufacturer to plaintiff
§ 7:19 Accelerator—Plaintiff to defendant manufacturer
§ 7:20 —Defendant manufacturer to plaintiff
§ 7:21 Fuel system—Plaintiff to defendant manufacturer
§ 7:22 —Defendant manufacturer to plaintiff
§ 7:23 Steering system—Plaintiff to defendant manufacturer
§ 7:24 —Defendant manufacturer to plaintiff
§ 7:25 Engines—Plaintiff to defendant manufacturer
§ 7:26 —Defendant manufacturer to plaintiff
§ 7:27 Axle and chassis—Plaintiff to defendant manufacturer
§ 7:28 —Defendant manufacturer to plaintiff
§ 7:29 All terrain vehicle—Plaintiff to defendant
§ 7:30 —Defendant to plaintiff
§ 7:31 Vehicle rollover—Plaintiff to defendant
§ 7:32 —Defendant to plaintiff
§ 7:33 Fork lift truck accident—Plaintiff to defendant
§ 7:34 —Defendant to plaintiff
§ 7:35 Golf cart—Plaintiff to defendant
§ 7:36 —Defendant to plaintiff
§ 7:37 Defective door latch—Plaintiff to defendant
manufacturer
§ 7:38 —Defendant manufacturer to plaintiff
§ 7:39 Defective or improper lights—Plaintiff to defendant
manufacturer
§ 7:40 —Defendant manufacturer to plaintiff
§ 7:41 Fuel containment defect—Plaintiff to defendant manufacturer
§ 7:42 —Defendant manufacturer to plaintiff
§ 7:43 Vehicle warranty—Plaintiff to defendant manufacturer
§ 7:44 —Defendant manufacturer to plaintiff
§ 7:45 Defective ignition switch—Plaintiff to defendant manufacturer
§ 7:46 —Defendant manufacturer to plaintiff
§ 7:47 Defective exhaust system—Plaintiff to defendant
manufacturer
§ 7:48 —Defendant manufacturer to plaintiff

- § 7:49 Diesel engine emissions—Plaintiff to defendant manufacturer
- § 7:50 —Defendant manufacturer to plaintiff
- § 7:51 Defective airbags—Plaintiff to defendant manufacturer
- § 7:52 —Defendant manufacturer to plaintiff
- § 7:53 Boating accident, operator error—Plaintiff to defendant
- § 7:54 —Defendant to plaintiff

PART 2. REQUESTS FOR PRODUCTION AND ADMISSIONS

CHAPTER 8. REQUESTS FOR PRODUCTION OF DOCUMENTS—RULE 34

I. INTRODUCTION

- § 8:1 Rule 34 of the Federal Rules of Civil Procedure
- § 8:2 How Rule 34 works
- § 8:3 Drafting and serving the Rule 34 document request
- § 8:4 Responding to the Rule 34 document request
- § 8:5 General—Plaintiff to defendant
- § 8:6 Medical records—Plaintiff to defendant
- § 8:7 Employment records—Plaintiff to defendant
- § 8:8 General—Defendant to plaintiff
- § 8:9 Personal injury—Defendant to plaintiff
- § 8:10 Motor vehicle accident—Defendant to plaintiff
- § 8:11 Medical records—Defendant to plaintiff
- § 8:12 Employment records—Defendant to plaintiff
- § 8:13 Education records—Defendant to plaintiff
- § 8:14 Minor plaintiff in school—Defendant to plaintiff
- § 8:15 Damages and losses—Defendant to plaintiff
- § 8:16 Decedent—Defendant to plaintiff

II. PRODUCT LIABILITY REQUESTS FOR PRODUCTION OF DOCUMENTS

- § 8:17 Fact of sale—Plaintiff to defendant
- § 8:18 Manufacturer—Plaintiff to defendant
- § 8:19 Installation and servicing—Plaintiff to defendant
- § 8:20 Warranties and representations—Plaintiff to defendant
- § 8:21 Composition of product—Plaintiff to defendant
- § 8:22 Alteration/design changes—Plaintiff to defendant
- § 8:23 Defective condition—Plaintiff to defendant
- § 8:24 Maintenance, repairs, recalls—Plaintiff to defendant
- § 8:25 Intended/foreseeable use of product—Plaintiff to defendant
- § 8:26 Scierter—Plaintiff to defendant

TABLE OF CONTENTS

- § 8:27 Precautions—Plaintiff to defendant
- § 8:28 Written warnings, instructions, labels, directions—
Plaintiff to defendant
- § 8:29 Production process—Plaintiff to defendant
- § 8:30 Use of component parts—Plaintiff to defendant
- § 8:31 Tests and inspections performed by defendant—
Plaintiff to defendant
- § 8:32 Packaging—Plaintiff to defendant
- § 8:33 Distribution—Plaintiff to defendant
- § 8:34 Design of the product—Plaintiff to defendant
- § 8:35 Patents and trademarks—Plaintiff to defendant
- § 8:36 Government standards and regulations—Plaintiff to
defendant
- § 8:37 Industry, Professional and Trade Association
Standards—Plaintiff to defendant
- § 8:38 Proposed Industry, Professional and Trade Association
Standards—Plaintiff to defendant
- § 8:39 Advertising and promotion—Plaintiff to defendant
- § 8:40 Technical literature and publications—Plaintiff to
defendant
- § 8:41 Consumer reports and others—Plaintiff to defendant
- § 8:42 Independent quality certificates—Plaintiff to defendant
- § 8:43 Prior occurrences and claims—Plaintiff to defendant
- § 8:44 Subsequent occurrences and claims—Plaintiff to
defendant
- § 8:45 Written statements and reports—Plaintiff to defendant
- § 8:46 Examination and inspection after the occurrence—
Plaintiff to defendant
- § 8:47 Notice—Plaintiff to defendant
- § 8:48 Comprehensive set—Plaintiff to defendant
manufacturer
- § 8:49 Product—Defendant to plaintiff
- § 8:50 Purchase or acquisition—Defendant to plaintiff
- § 8:51 Warranties—Defendant to plaintiff
- § 8:52 Advertisements—Defendant to plaintiff
- § 8:53 Written warnings, instructions, labels, directions—
Defendant to plaintiff
- § 8:54 Packaging—Defendant to plaintiff
- § 8:55 Inspections and tests—Defendant to plaintiff
- § 8:56 Medical records—Defendant to plaintiff
- § 8:57 Employment records—Defendant to plaintiff
- § 8:58 Education records—Defendant to plaintiff
- § 8:59 Decedent's records—Defendant to plaintiff
- § 8:60 Comprehensive set—Defendant manufacturer to
plaintiff

CHAPTER 9. REQUESTS FOR ADMISSION OF FACTS—RULE 36

- § 9:1 Overview

- § 9:2 Strategy
- § 9:3 Advantages and disadvantages
- § 9:4 Drafting and service
- § 9:5 Sanctions for improper refusal to admit
- § 9:6 Use of admissions at trial
- § 9:7 Responding to requests
- § 9:8 Pattern forms

PART 3. DEPOSITION CHECKLISTS

A. IN GENERAL

CHAPTER 10. HOW TO HANDLE A DEPOSITION—RULES 27–32

I. OVERVIEW

- § 10:1 Introduction
- § 10:2 Purposes
- § 10:3 Deposing the adverse party
- § 10:4 Deposing witnesses
- § 10:5 Deposing one's own client
- § 10:6 When to take depositions
- § 10:7 Preparation by examining counsel
- § 10:8 Preparation by counsel for deponent

II. PREPARATION OF DEONENTS

- § 10:9 General instructions for deponents
- § 10:10 Suggestion sheet for deposition witnesses
- § 10:11 Preparation of plaintiff for deposition—Common “traps”
- § 10:12 Do's and don'ts of testimony

III. PRE-DEPOSITION MATTERS

- § 10:13 Production of documents and records
- § 10:14 Pre-deposition protective orders
- § 10:15 Scheduling procedures, notice and stipulations
- § 10:16 Subpoena duces tecum

IV. CONDUCTING THE EXAMINATION

- § 10:17 Thoroughness
- § 10:18 Demeanor of examining counsel
- § 10:19 Making an accurate record
- § 10:20 Preliminary statement to deponent

TABLE OF CONTENTS

- § 10:21 Leading questions to adverse party
- § 10:22 False answers—Possibility of error
- § 10:23 Letting the witness ramble
- § 10:24 Chronological questioning vs. skipping around
- § 10:25 How to ask questions
- § 10:26 Deponent's answers
- § 10:27 Prior inconsistent statements
- § 10:28 Repetition
- § 10:29 Objections and refusal to answer questions
- § 10:30 Off-the-record comments
- § 10:31 Reading into the record
- § 10:32 Using an interpreter
- § 10:33 Deposition exhibits
- § 10:34 Concluding the questioning
- § 10:35 Cross-examination by deponent's counsel

V. DEPOSITIONS OF EXPERTS

- § 10:36 Deposing an expert under the federal rules
- § 10:37 Preparation of the retained expert for deposition—
Generally
- § 10:38 The retained expert's familiarity with the case, past
writings, statements and testimony
- § 10:39 Materials for expert to bring (or not) to the deposition
- § 10:40 Expected areas of inquiry
- § 10:41 Do's and don'ts of expert testimony—A letter from
counsel to the retained expert
- § 10:42 Deposing the opposing expert—Generally
- § 10:43 Discovery of relevant facts and obtaining leads from
opposing expert
- § 10:44 The opposing expert's opinion and the bases for that
opinion
- § 10:45 Preparation for cross-examination and impeachment
of opposing expert
- § 10:46 Use of the retained expert in preparation for the
deposition of the opposing expert
- § 10:47 Use of hypothetical questions to opposing expert
- § 10:48 Deposition checklist for deposition of opposing expert

VI. OTHER DEPOSITIONS

- § 10:49 The non-expert treating physician's deposition
- § 10:50 Depositions of agents, officers and record keepers
- § 10:51 The non-party witness deposition
- § 10:52 The videotape deposition

VII. POST DEPOSITION FOLLOW-UP

- § 10:53 Post deposition procedures

- § 10:54 Further investigation
- § 10:55 Motion for summary judgment
- § 10:56 Interrogatories
- § 10:57 Request for admission of facts

VIII. USE OF DEPOSITIONS AT TRIAL

- § 10:58 Use at trial—Generally
- § 10:59 Impeachment
- § 10:60 Reading the deposition without objection

B. MOTOR VEHICLE ACCIDENTS

CHAPTER 11. GENERAL CIRCUMSTANCES AND OCCURRENCES

I. PERSONS INVOLVED/SOURCES OF INFORMATION

- § 11:1 Identification of deponent
- § 11:2 Identification of firm or corporation
- § 11:3 Identification of executor or administrator
- § 11:4 Identification of agent
- § 11:5 Operator of vehicle
- § 11:6 Owner of vehicle
- § 11:7 Passengers
- § 11:8 Attendants
- § 11:9 Traffic controllers/policemen
- § 11:10 Highway contractor
- § 11:11 Inspectors and maintenance persons
- § 11:12 Third parties
- § 11:13 Witnesses to occurrence
- § 11:14 Sources of knowledge about occurrence

II. PLACE OF OCCURRENCE

- § 11:15 Location
- § 11:16 Road surface
- § 11:17 Traffic controls
- § 11:18 Defective or dangerous conditions
- § 11:19 Warnings
- § 11:20 Weather
- § 11:21 Visibility and lighting

III. VEHICLE

- § 11:22 Description of each vehicle
- § 11:23 Equipment and safety features

TABLE OF CONTENTS

- § 11:24 Maintenance, inspections and repairs
- § 11:25 Government Standards and Regulations
- § 11:26 Industry, Professional and Trade Association Standards
- § 11:27 Insurance

IV. EVENTS/CIRCUMSTANCES PRECEDING OCCURRENCE

- § 11:28 Medical history of party
- § 11:29 Physical and mental condition and lifestyle of party
- § 11:30 Alcohol and drugs
- § 11:31 Trip
- § 11:32 Occupants of vehicle
- § 11:33 Distractions
- § 11:34 Obstructions
- § 11:35 Other vehicles
- § 11:36 Traffic controls
- § 11:37 Plaintiff's knowledge
- § 11:38 Defendant's knowledge
- § 11:39 Defendant's scienter
- § 11:40 Precautions
- § 11:41 Warnings
- § 11:42 Malfunctions

V. THE OCCURRENCE

- § 11:43 Date and time of occurrence
- § 11:44 Description of occurrence
- § 11:45 Plaintiff's conduct
- § 11:46 Defendant's conduct
- § 11:47 Deponent's conduct
- § 11:48 Use of brakes
- § 11:49 Skid marks
- § 11:50 Lighting on vehicles
- § 11:51 Speed and direction of vehicles
- § 11:52 Triangle of plaintiff's vehicle, defendant's vehicle and the point of impact
- § 11:53 Instrumentality of occurrence
- § 11:54 Plan

VI. INJURIES, DAMAGES AND LOSSES

- § 11:55 Prior illness, injury or disability
- § 11:56 Financial losses from prior illness, injury or disability
- § 11:57 Injuries due to occurrence
- § 11:58 Mental or emotional suffering
- § 11:59 Financial losses due to occurrence

- § 11:60 Death action—Conscious suffering
- § 11:61 Avoidable consequences
- § 11:62 Property damage

VII. EVENTS SUBSEQUENT TO OCCURRENCE

- § 11:63 Emergency assistance
- § 11:64 Medical treatment for injury
- § 11:65 Inspections and tests after occurrence
- § 11:66 Conversations and oral admissions
- § 11:67 Written statements and reports
- § 11:68 Subsequent accidents/Civil actions
- § 11:69 Subsequent illness, injury or disability

VIII. REGARDING THE LAWSUIT

- § 11:70 Notice of occurrence or claim
- § 11:71 Expert witness employed or consulted by party
- § 11:72 Expert witness as deponent
- § 11:73 Tangible evidence
- § 11:74 Other claims resulting from occurrence
- § 11:75 Asserted basis for liability
- § 11:76 Defenses and denials

CHAPTER 12. SPECIFIC CIRCUMSTANCES AND OCCURRENCES

- § 12:1 Alcohol and drugs—Plaintiff to defendant
- § 12:2 —Defendant to plaintiff
- § 12:3 Backing up—Plaintiff to defendant
- § 12:4 —Defendant to plaintiff
- § 12:5 Bicyclist—Plaintiff to defendant
- § 12:6 —Defendant to plaintiff
- § 12:7 Brakes, failure of—Plaintiff to defendant
- § 12:8 —Defendant to plaintiff
- § 12:9 Defective mechanical equipment—Plaintiff to defendant
- § 12:10 —Defendant to plaintiff
- § 12:11 Depression and excavation—Plaintiff to defendant
- § 12:12 —Defendant to plaintiff
- § 12:13 Dram shop liability—Plaintiff to defendant bar owner
- § 12:14 —Defendant to plaintiff
- § 12:15 —Plaintiff to intoxicated defendant
- § 12:16 Driverless vehicle—Plaintiff to defendant
- § 12:17 —Defendant to plaintiff
- § 12:18 Emergency vehicles—Plaintiff to defendant
- § 12:19 —Defendant to plaintiff
- § 12:20 Entering vehicles—Plaintiff to defendant

TABLE OF CONTENTS

§ 12:21 —Defendant to plaintiff
§ 12:22 Fixed object or obstruction—Plaintiff to defendant
§ 12:23 —Defendant to plaintiff
§ 12:24 Head on collision—Plaintiff to defendant
§ 12:25 —Defendant to plaintiff
§ 12:26 Highway contractor—Plaintiff to defendant
§ 12:27 —Defendant to plaintiff
§ 12:28 Intersection—Plaintiff to defendant
§ 12:29 —Defendant to plaintiff
§ 12:30 Motorcycle accident—Plaintiff to defendant
§ 12:31 —Defendant to plaintiff
§ 12:32 Multiple vehicle—Plaintiff to defendant
§ 12:33 —Defendant to plaintiff
§ 12:34 Parallel vehicle—Plaintiff to defendant
§ 12:35 —Defendant to plaintiff
§ 12:36 Parked or standing vehicle—Plaintiff to defendant
§ 12:37 —Defendant to plaintiff
§ 12:38 Passing—Plaintiff to defendant
§ 12:39 —Defendant to plaintiff
§ 12:40 Pedestrian—Plaintiff to defendant
§ 12:41 —Defendant to plaintiff
§ 12:42 Rear end/tailgating—Plaintiff to defendant
§ 12:43 —Defendant to plaintiff
§ 12:44 Roadside hazard—Plaintiff to defendant
§ 12:45 —Defendant to plaintiff
§ 12:46 Stopped in road—Plaintiff to defendant
§ 12:47 —Defendant to plaintiff
§ 12:48 Turning—Plaintiff to defendant
§ 12:49 —Defendant to plaintiff
§ 12:50 Racing on highway—Plaintiff to defendant
§ 12:51 —Defendant to plaintiff
§ 12:52 Jackknifing of commercial vehicle—Plaintiff to
defendant
§ 12:53 —Defendant to plaintiff
§ 12:54 Motorboat accident—Plaintiff to defendant
§ 12:55 —Defendant to plaintiff
§ 12:56 Sleeping driver—Plaintiff to defendant
§ 12:57 —Defendant to plaintiff
§ 12:58 Defective tire—Plaintiff to defendant
§ 12:59 —Defendant to plaintiff
§ 12:60 Collision with emergency vehicle—Plaintiff to
defendant
§ 12:61 —Defendant to plaintiff
§ 12:62 Railroad crossing accident—Plaintiff to defendant
§ 12:63 —Defendant to plaintiff
§ 12:64 Stalled or disabled vehicle—Plaintiff to defendant
§ 12:65 —Defendant to plaintiff

PATTERN DISCOVERY: MOTOR VEHICLES

- § 12:66 Uninsured motorist claim—Plaintiff to Defendant
- § 12:67 Uninsured motorist claim—Defendant to Plaintiff
- § 12:68 Jackknifing/turning vehicle—Plaintiff to defendant
- § 12:69 —Defendant to plaintiff
- § 12:70 Hit-and-run accident—Plaintiff insured to defendant insurer
- § 12:71 —Defendant insurer to plaintiff insured
- § 12:72 Cell phone use cause of accident—Plaintiff to defendant
- § 12:73 —Defendant to plaintiff
- § 12:74 Carrier negligence—boarding and alighting—Plaintiff to defendant
- § 12:75 —Defendant to plaintiff
- § 12:76 Boating accident, operator error—Plaintiff to defendant
- § 12:77 —Defendant to plaintiff
- § 12:78 Proving identity of driver—Plaintiff to defendant
- § 12:79 —Defendant to plaintiff
- § 12:80 Physical examination of commercial driver—Plaintiff to defendant
- § 12:81 —Defendant to plaintiff
- § 12:82 Driver's liability for injury to child going to or from school bus—Plaintiff to defendant
- § 12:83 —Defendant to plaintiff
- § 12:84 Liability for sudden loss of consciousness while driving—Plaintiff to defendant
- § 12:85 —Defendant to plaintiff
- § 12:86 Nonairworthiness of light aircraft—Plaintiff to defendant
- § 12:87 —Defendant to plaintiff
- § 12:88 Negligence of adult pedestrian struck by motor vehicle—Plaintiff to defendant
- § 12:89 —Defendant to plaintiff
- § 12:90 Liability of motor vehicle passenger for accident—Plaintiff to defendant
- § 12:91 —Defendant to plaintiff

C. PRODUCTS LIABILITY

CHAPTER 13. GENERAL CIRCUMSTANCES AND OCCURRENCES—TO MANUFACTURER

I. PERSONS INVOLVED/SOURCES OF INFORMATION

- § 13:1 Relationship to product

TABLE OF CONTENTS

II. PLACE OF OCCURRENCE

- § 13:2 Description of place of occurrence
- § 13:3 Control of place of occurrence or objects involved in occurrence

III. PRODUCT

- § 13:4 Description of product
- § 13:5 Component parts and ingredients
- § 13:6 Raw materials
- § 13:7 Design
- § 13:8 Manufacture
- § 13:9 Post-manufacture stage
- § 13:10 Production process

IV. EVENTS/CIRCUMSTANCES PRECEDING OCCURRENCE

- § 13:11 Tests and inspections prior to occurrence
- § 13:12 Packaging
- § 13:13 Storage
- § 13:14 Installation
- § 13:15 Operation and use
- § 13:16 Warranties, representations and disclaimers
- § 13:17 Warnings, instructions or directions
- § 13:18 Service and maintenance
- § 13:19 Alterations
- § 13:20 Product defect and dangers
- § 13:21 Recalls
- § 13:22 Quality certification
- § 13:23 Standards and regulations
- § 13:24 Distribution
- § 13:25 Advertising and promotion
- § 13:26 Sales or lease
- § 13:27 Trademarks and brand names
- § 13:28 Patents and licenses
- § 13:29 Publications and reports

V. OCCURRENCE AND DAMAGES

- § 13:30 The occurrence
- § 13:31 Injuries, damages and losses

VI. EVENTS SUBSEQUENT TO OCCURRENCE

- § 13:32 Examination of the product after occurrence

VII. REGARDING THE LAWSUIT

- § 13:33 Contention of alteration, misuse or defect caused by another

Volume 3

CHAPTER 14. GENERAL CIRCUMSTANCES AND OCCURRENCES—TO PLAINTIFF

I. PERSONS INVOLVED/SOURCES OF INFORMATION

§ 14:1 Relationship of deponent to product

II. PLACE OF OCCURRENCE

§ 14:2 Generally

III. PRODUCT

§ 14:3 Description of product

§ 14:4 Ownership of product prior to occurrence

IV. EVENTS/CIRCUMSTANCES PRIOR TO OCCURRENCE

§ 14:5 Selection of product

§ 14:6 Reliance on advertisements

§ 14:7 Warranties and disclaimers

§ 14:8 Transportation of product

§ 14:9 Installation of product

§ 14:10 Oral warnings and instructions

§ 14:11 Written warnings and instructions

§ 14:12 Storage and maintenance

§ 14:13 Repairs of product prior to occurrence

§ 14:14 Alteration of product prior to occurrence

§ 14:15 Understanding of uses of product

§ 14:16 Prior uses of product by plaintiff or owner

§ 14:17 Prior uses of product by others

V. THE OCCURRENCE

§ 14:18 User of product at time of occurrence

§ 14:19 Use of product at time of occurrence

VI. DAMAGES

§ 14:20 Injuries, damages and losses

VII. EVENTS SUBSEQUENT TO OCCURRENCE

§ 14:21 Inspections and tests of product after occurrence

§ 14:22 Subsequent condition of product

TABLE OF CONTENTS

- § 14:23 Subsequent repairs and alterations
- § 14:24 Present location of product

VIII. REGARDING THE LAWSUIT

- § 14:25 Contention of product defect or breach of warranty

CHAPTER 15. SPECIFIC CIRCUMSTANCES AND OCCURRENCES

- § 15:1 Brakes—Plaintiff to defendant manufacturer
- § 15:2 —Defendant manufacturer to plaintiff
- § 15:3 Seat belts—Plaintiff to defendant manufacturer
- § 15:4 —Defendant manufacturer to plaintiff
- § 15:5 Second collision design defect—Plaintiff to defendant manufacturer
- § 15:6 —Defendant manufacturer to plaintiff
- § 15:7 Tires—Plaintiff to defendant manufacturer
- § 15:8 —Defendant manufacturer to plaintiff
- § 15:9 Transmission—Plaintiff to defendant manufacturer
- § 15:10 —Defendant manufacturer to plaintiff
- § 15:11 Exhaust system—Plaintiff to defendant manufacturer
- § 15:12 —Defendant manufacturer to plaintiff
- § 15:13 Safety glass—Plaintiff to defendant manufacturer
- § 15:14 —Defendant manufacturer to plaintiff
- § 15:15 Automobile doors—Plaintiff to defendant manufacturer
- § 15:16 —Defendant manufacturer to plaintiff
- § 15:17 Accelerator—Plaintiff to defendant manufacturer
- § 15:18 —Defendant manufacturer to plaintiff
- § 15:19 Fuel system—Plaintiff to defendant manufacturer
- § 15:20 —Defendant manufacturer to plaintiff
- § 15:21 Steering system—Plaintiff to defendant manufacturer
- § 15:22 —Defendant manufacturer to plaintiff
- § 15:23 Engine—Plaintiff to defendant manufacturer
- § 15:24 —Defendant manufacturer to plaintiff
- § 15:25 Axle and chassis—Plaintiff to defendant manufacturer
- § 15:26 —Defendant manufacturer to plaintiff
- § 15:27 All terrain vehicle—Plaintiff to defendant
- § 15:28 —Defendant to plaintiff
- § 15:29 Vehicle rollover—Plaintiff to defendant
- § 15:30 —Defendant to plaintiff
- § 15:31 Forklift truck accident—Plaintiff to defendant
- § 15:32 —Defendant to plaintiff
- § 15:33 Golf cart—Plaintiff to defendant
- § 15:34 —Defendant to plaintiff

- § 15:35 Defective door latch—Plaintiff to defendant manufacturer
- § 15:36 —Defendant manufacturer to plaintiff
- § 15:37 Defective or Improper Lights—Plaintiff to Defendant Manufacturer
- § 15:38 —Defendant Manufacturer to Plaintiff
- § 15:39 Fuel containment defect—Plaintiff to defendant manufacturer
- § 15:40 —Defendant manufacturer to plaintiff
- § 15:41 Vehicle Warranty—Plaintiff to Defendant Manufacturer
- § 15:42 Vehicle warranty—Defendant manufacturer to plaintiff
- § 15:43 Defective ignition switch—Plaintiff to defendant manufacturer
- § 15:44 —Defendant manufacturer to plaintiff
- § 15:45 Defective exhaust system—Plaintiff to defendant manufacturer
- § 15:46 —Defendant manufacturer to plaintiff
- § 15:47 Diesel engine emissions—Plaintiff to defendant manufacturer
- § 15:48 —Defendant manufacturer to plaintiff
- § 15:49 Defective airbags—Plaintiff to defendant manufacturer
- § 15:50 —Defendant manufacturer to plaintiff

CHAPTER 16. UNIQUE ASPECTS OF MOTOR VEHICLE ACCIDENT CASES

- § 16:1 Overview
- § 16:2 Outline of the legal process—Introduction
- § 16:3 —Complaint and answer
- § 16:4 —Interrogatories
- § 16:5 —Depositions
- § 16:6 —Experts
- § 16:7 —Trial
- § 16:8 —Directed verdict or nonsuit
- § 16:9 —Jury instructions
- § 16:10 —Appeal
- § 16:11 —Jury verdicts
- § 16:12 —Settlement
- § 16:13 Criteria for successful plaintiff's case—General
- § 16:14 —Positive characteristics—Checklist
- § 16:15 —Negative characteristics—Checklist
- § 16:16 How court action will affect plaintiff and plaintiff's family—Time requirements
- § 16:17 —Plaintiff's report form—Checklist
- § 16:18 —Checklist for plaintiff's counsel
- § 16:19 How court action will affect defendant—General
- § 16:20 —Things not to do immediately—Checklist
- § 16:21 —Things to do immediately—Checklist

TABLE OF CONTENTS

- § 16:22 —Defendant’s report form—Checklist
- § 16:23 —Time requirements
- § 16:24 —Defense counsel
- § 16:25 —Settlement

CHAPTER 17. LEGAL DOCTRINES

I. LEGAL DOCTRINES OF MOTOR VEHICLE ACCIDENT LIABILITY

- § 17:1 Overview—Legal doctrines
- § 17:2 Basis of liability—Scope; Basis of liability
- § 17:3 Negligence—Definition
- § 17:4 —Negligent entrustment
- § 17:5 —Agency
- § 17:6 —Res ipsa loquitur
- § 17:7 Violation of statute or ordinance—Overview
- § 17:8 —Rules of the road and other regulations
- § 17:9 —Drunk driving
- § 17:10 —Dramshop legislation
- § 17:11 —Sales of intoxicants to minors
- § 17:12 —Guest statutes
- § 17:13 —Other statutes
- § 17:14 Worker’s compensation
- § 17:15 Product liability
- § 17:16 Governmental entity liability
- § 17:17 Legal causation of injury—Burden of proof
- § 17:18 —Hypothetical questions for proof of causation
- § 17:19 —Source of professional misunderstanding
- § 17:20 Punitive damages

II. DEFENSES TO MOTOR VEHICLE ACCIDENT LIABILITY

- § 17:21 Overview
- § 17:22 Plaintiff’s burden of proof
- § 17:23 Defendant’s burden of persuasion
- § 17:24 Improper or inadequate expert opinions
- § 17:25 Contributory or comparative negligence—
Contributory negligence
- § 17:26 —Last clear chance
- § 17:27 —Comparative negligence
- § 17:28 —Seat belt defense
- § 17:29 Assumption of risk
- § 17:30 Intervening cause
- § 17:31 Statutes of limitations
- § 17:32 Release

- § 17:33 Denial of administration
- § 17:34 Immunity
- § 17:35 Aggravation of preexisting condition
- § 17:36 Trial to empty chair
- § 17:37 Damages—Objective v. Subjective, and punitive

CHAPTER 18. PLAINTIFF’S CASE

I. THE NEW CASE—REPRESENTING THE PLAINTIFF

- § 18:1 Overview
- § 18:2 Initial meeting with plaintiff—Preparation for initial meeting
- § 18:3 —Preliminary advice for new client from plaintiff’s attorney—Checklist
- § 18:4 —Interviewing the client—Checklist
- § 18:5 —Relations with the client
- § 18:6 —After the initial meeting—Checklist
- § 18:7 —Further investigation
- § 18:8 Case finances and client communication
- § 18:9 —Fee arrangements, client contract, and billing—Checklist
- § 18:10 —Communicating with the client
- § 18:11 Matters referred from other counsel
- § 18:12 Maintaining docket and calendar
- § 18:13 Matters involving multiple clients and attorneys
- § 18:14 Preliminary legal research
- § 18:15 Evaluating the merit and value of plaintiff’s case

II. PREPARING THE PLAINTIFF’S CASE

- § 18:16 Overview—Checklist
- § 18:17 — —General considerations
- § 18:18 — —Ethical and legal restrictions on bringing suit
- § 18:19 Choosing the defendant(s)
- § 18:20 Choosing a forum—Checklist
- § 18:21 Drafting the complaint—Checklist
- § 18:22 — —Overview
- § 18:23 — —Form of the complaint
- § 18:24 — —Stating the factual basis for the complaint
- § 18:25 — —Request for monetary relief
- § 18:26 Filing the complaint—Checklist
- § 18:27 — —Filing with the court
- § 18:28 — —Service of process
- § 18:29 Voluntary dismissal—Checklist
- § 18:30 Amending the complaint, motion to strike for insufficient defense, and reply to answer

TABLE OF CONTENTS

- § 18:31 Plaintiff's comprehensive interview and investigative checklist for a motor vehicle accident case
- § 18:32 Plaintiff's interview and investigative checklist for minor child
- § 18:33 Plaintiff's personal representative's interview and investigative checklist for decedent

CHAPTER 19. DEFENDANT'S CASE

I. THE NEW CASE—REPRESENTING THE DEFENDANT

- § 19:1 Overview
- § 19:2 Defense counsel's early activity—Checklist
- § 19:3 Early contact with the defendant—Preparation for initial meeting
- § 19:4 —Interviewing the client
- § 19:5 —The recorded statement—Checklist
- § 19:6 —Other investigation—Checklist
- § 19:7 —The nonprofit defendant
- § 19:8 —The corporate defendant
- § 19:9 —After the initial meeting
- § 19:10 Role of insurance company—Overview
- § 19:11 —Knowledge of details of coverage
- § 19:12 —Early inquiry into coverage details
- § 19:13 —Insurance policy
- § 19:14 —Conduct by insurance company—Checklist
- § 19:15 —Claim handling by insurance company claim representative—Checklist
- § 19:16 —Personal counsel—Inadequate coverage—Demand for settlement within the policy limits
- § 19:17 Role of defense counsel
- § 19:18 Choice of counsel and fee arrangements
- § 19:19 Role of defense counsel—Intellectual approach
- § 19:20 —Maintaining docket and calendar—Checklist
- § 19:21 —Use of personnel and equipment
- § 19:22 Matters involving multiple parties and attorneys
- § 19:23 Contact with plaintiff's attorney
- § 19:24 Medicolegal library

II. PREPARING THE DEFENDANT'S CASE

- § 19:25 Overview
- § 19:26 Reviewing complaint—Checklist
- § 19:27 Alternative responses: Dispositive and non-dispositive motions
- § 19:28 —Motion to dismiss—Checklist
- § 19:29 —Motion for more definite statement—Checklist

- § 19:30 —Motion for judgment on pleadings—Checklist
- § 19:31 —Motion to strike—Checklist
- § 19:32 Answering complaint and jury demand—Checklist
- § 19:33 Counterclaims, cross claims, third-party practice, impleader, joinder of parties, and claims
- § 19:34 —Counterclaims and cross claims—Checklist
- § 19:35 —Third-party practice and impleader—Checklist
- § 19:36 —Joinder of parties and claims—Checklist
- § 19:37 Consolidation, severance, transfer, and removal of case
- § 19:38 —Consolidation of cases—Checklist
- § 19:39 —Severance of claims or parties—Checklist
- § 19:40 —Transfer of case—Checklist
- § 19:41 —Removal of case—Checklist
- § 19:42 Defendant’s comprehensive interview and investigative checklist for a motor vehicle accident case
- § 19:43 Selected bibliography

CHAPTER 20. INVESTIGATION AND EVALUATION

- § 20:1 Preliminary investigation
- § 20:2 —Overview—Checklist
- § 20:3 —Preliminary witness interviews
- § 20:4 —Contacting employees and former employees of a corporate defendant
- § 20:5 —Investigating damages
- § 20:6 —Evaluating the case and estimating damages
- § 20:7 —Pretrial strategy
- § 20:8 Information gathering—General
- § 20:9 —Conducting the investigation
- § 20:10 —Information from the client
- § 20:11 —Accident scene
- § 20:12 —Preserving physical evidence
- § 20:13 —The product
- § 20:14 —Publicly available information—Checklist
- § 20:15 —Illustrative investigation checklist of physical facts
- § 20:16 Interviewing witnesses—General
- § 20:17 —Discovering witnesses
- § 20:18 —Conducting the interview
- § 20:19 —Illustrative letter and questionnaire to lay witness
- § 20:20 Researching codes and standards—Overview
- § 20:21 —Investigating codes and standards
- § 20:22 —Standards organizations
- § 20:23 —Federal statutes
- § 20:24 —Government agency reports

TABLE OF CONTENTS

- § 20:25 Determining insurance coverage
- § 20:26 Chronology
- § 20:27 Understanding medical records
- § 20:28 Experts
- § 20:29 Pattern automobile accident investigation checklist

CHAPTER 21. DISCOVERY

I. DISCOVERY—GENERALLY

- § 21:1 Overview
- § 21:2 Discovery options—Checklist—Oral depositions
- § 21:3 — —Document requests
- § 21:4 — —Interrogatories
- § 21:5 — —Mental or physical examination
- § 21:6 — —Deposition on written questions
- § 21:7 — —Requests for admissions
- § 21:8 Discovery strategy—Checklist
- § 21:9 Sequence and timing—Checklist
- § 21:10 Scope of discovery and privileges—Checklist
- § 21:11 Judicial regulation of discovery and pretrial activities—General
- § 21:12 —Discovery and scheduling conferences and orders—Checklist

II. OTHER SOURCES

- § 21:13 Overview
- § 21:14 Records useful to plaintiff/defendant—Records useful to plaintiff
- § 21:15 —Defendant’s investigation of plaintiff
- § 21:16 Prior cases
- § 21:17 Other sources of information—Information on plaintiff’s care
- § 21:18 —Litigation resources

III. SANCTIONS

- § 21:19 Overview
- § 21:20 Protective orders
- § 21:21 Motions to compel discovery
- § 21:22 —Moving directly for sanctions without filing a motion to compel
- § 21:23 —Drafting the motion
- § 21:24 —Service of motion
- § 21:25 —Expenses for obtaining orders to compel discovery
- § 21:26 Sanctions motions—Sanctions for failure to comply with court order under Rule 37

- § 21:27 —Expenses on failure to admit to genuineness of documents or matters which were subject of request for admissions
- § 21:28 —Drafting motion for sanctions
- § 21:29 Sanctions for violation of Rule 26(g)
- § 21:30 —Requirements of Rule 26(g)
- § 21:31 —Consequences of failure to comply
- § 21:32 Duty to supplement discovery responses— Requirements of Rule 26(e)
- § 21:33 —Consequences of failure to supplement responses
- § 21:34 —Drafting supplemental responses
- § 21:35 Pattern form

IV. APPEALING RULINGS

- § 21:36 Overview
- § 21:37 —Who can hear the appeal
- § 21:38 —Effect of order
- § 21:39 —Client’s interests
- § 21:40 —Preparing the appeal
- § 21:41 Pattern form

V. REFERENCES

- § 21:42 Selected bibliography

CHAPTER 22. DISCOVERY—OPTIONS

I. WRITTEN INTERROGATORIES—RULE 33

- § 22:1 Overview
- § 22:2 Subject matters—Checklists

II. REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY UPON LAND—RULE 34

- § 22:3 Introduction to Rule 34
- § 22:4 Pattern request in a motor vehicle accident case
- § 22:5 Use of subpoena duces tecum

III. PHYSICAL AND MENTAL EXAMINATION—RULE 35

- § 22:6 Overview—Checklist
- § 22:7 Use in motor vehicle accident cases
- § 22:8 Pattern form

TABLE OF CONTENTS

**IV. DEPOSITION ON ORAL QUESTIONS—RULES
26–30**

- § 22:9 Overview
- § 22:10 Deposition by plaintiff’s counsel of defendant
- § 22:11 Expected deposition questions for defendant—
Checklist
- § 22:12 — —Identification
- § 22:13 — —Identification of all persons and records involved
- § 22:14 — —Your preparation for your deposition testimony
- § 22:15 — —Your alleged liability
- § 22:16 — —Plaintiff’s comparative negligence
- § 22:17 — —Liability of others
- § 22:18 — —Causation
- § 22:19 — —Defense experts
- § 22:20 — —Defense counsel
- § 22:21 — —Expected deposition questions for defendant—
Checklist
- § 22:22 Deposition by defense counsel of plaintiff
- § 22:23 Pattern questions to plaintiff—Checklist

**V. DEPOSITION ON WRITTEN QUESTIONS—RULE
31**

- § 22:24 Overview—Checklist
- § 22:25 Advantages/Disadvantages—Checklist
- § 22:26 When to use Rule 31 depositions on written questions
- § 22:27 Pattern form

VI. REQUESTS FOR ADMISSION

- § 22:28 Overview—Checklist
- § 22:29 Pattern requests in a motor vehicle accident case

VII. REFERENCES

- § 22:30 Selected bibliography

CHAPTER 23. EXPERTS

- § 23:1 Introduction
- § 23:2 Deciding to use an expert witness—General
- § 23:3 Expert witness roles—General considerations—
Overview
- § 23:4 — —Legal requirements
- § 23:5 — —Selection and preparation
- § 23:6 Locating an expert witness—General
- § 23:7 Selecting an expert witness—General
- § 23:8 Expert witness and pretrial preparation—Checklist

- § 23:9 Preliminary conference with expert witness—General
- § 23:10 Clarification of terminology and definitions
- § 23:11 Technique for using defense expert in a motor vehicle accident case
- § 23:12 Pretrial discovery of experts—Checklist
- § 23:13 Preparing expert for deposition—Checklist
- § 23:14 Deposing opponent’s expert—Checklist
- § 23:15 Cross-examination—Checklist
- § 23:16 Deposing plaintiff’s attending physician
- § 23:17 Objections to expert testimony—General
- § 23:18 —Federal Rule of Civil Procedure 26(b)(4) (“Rule 26”)
- § 23:19 —Inappropriate subject matter for expert testimony
- § 23:20 —Qualifications
- § 23:21 —Hypothetical questions
- § 23:22 —Improper standards
- § 23:23 —Causation
- § 23:24 Use of expert during trial preparation—General
- § 23:25 Direct examination of experts—Overview
- § 23:26 —Qualifying the expert—Checklist
- § 23:27 —Direct examination—Checklist
- § 23:28 Preparation of the expert for cross-examination—General
- § 23:29 Cross-examination of opposing expert—Checklist
- § 23:30 Direct examination of hypothetical medical expert—Author’s comments
- § 23:31 Direct examination of defense hypothetical expert—Checklist
- § 23:32 Direct examination of treating physician—Checklist
- § 23:33 Cross-examination of hypothetical physician—Checklist
- § 23:34 Cross-examination of plaintiff’s hypothetical expert—Checklist
- § 23:35 Selected bibliography

CHAPTER 24. EXAMINATION OF OTHER WITNESSES

- § 24:1 Direct examination—Overview
- § 24:2 Cross-Examination—Overview
- § 24:3 Basic cross-examination procedure, tactics, and strategy—Checklist
- § 24:4 Impeaching the witness—Checklist
- § 24:5 Direct examination of plaintiff—Checklist
- § 24:6 Direct examination of defendant—Checklist
- § 24:7 Selected bibliography

CHAPTER 25. NEGOTIATIONS AND SETTLEMENT

- § 25:1 Overview

TABLE OF CONTENTS

§ 25:2	Communications with client
§ 25:3	Classical approaches to evaluation—Practical limits
§ 25:4	—Median verdict discounted by liability
§ 25:5	—Verdict by special questions to jury
§ 25:6	—Special damages evaluation
§ 25:7	—Small case evaluation
§ 25:8	Evaluation for settlement—General
§ 25:9	—Elements of cause of action—Checklist
§ 25:10	—Other potentially significant factors—Checklist
§ 25:11	Negotiations—Checklist—Overview
§ 25:12	— —Preparation
§ 25:13	— —Conditions of a substantial settlement offer in a motor vehicle accident case
§ 25:14	— —Commonly used negotiation techniques
§ 25:15	— —Negotiation preparation form
§ 25:16	— —Conduct of counsel
§ 25:17	— —Amount of opening demand or offer
§ 25:18	— —Continuing negotiation
§ 25:19	— —The demand letter and settlement brochure
§ 25:20	— —Information not to be disclosed
§ 25:21	— —Settlement timing
§ 25:22	— —Structured settlements
§ 25:23	— —Offer of judgment
§ 25:24	— —The Settlement conference
§ 25:25	— —The settlement agreement
§ 25:26	Alternative dispute resolution
§ 25:27	Selected bibliography

CHAPTER 26. TRIAL—GENERALLY

§ 26:1	Overview
§ 26:2	Trial procedure
§ 26:3	Bifurcated trials
§ 26:4	Trial preparation strategy
§ 26:5	Trial exhibit preparation—Checklist
§ 26:6	Trial preparation schedule—Checklist
§ 26:7	Selected bibliography

CHAPTER 27. MOTIONS

§ 27:1	Options, strategy, and procedures—Checklist
§ 27:2	Motion for summary judgment
§ 27:3	Brief in support of motion for summary judgment— Pattern form
§ 27:4	Pretrial conferences
§ 27:5	Trial and posttrial motion practice
§ 27:6	Motion in limine
§ 27:7	Motion to bifurcate

- § 27:8 Motion for mistrial
- § 27:9 Motion to dismiss
- § 27:10 Motion for directed verdict
- § 27:11 Motion for judgment notwithstanding verdict—
J.N.O.V
- § 27:12 Motion for new trial
- § 27:13 Motion to amend judgment
- § 27:14 Motion to disqualify judge
- § 27:15 Motion to re-open record
- § 27:16 Motion for continuance
- § 27:17 Selected bibliography

CHAPTER 28. JURY—SELECTION AND INSTRUCTIONS

I. SELECTION OF JURY

- § 28:1 General
- § 28:2 Investigating the panel—Checklist
- § 28:3 Voir dire strategy and procedure—Checklist
- § 28:4 Questioning the jurors—Checklist
- § 28:5 Peremptory challenges
- § 28:6 Jury chart
- § 28:7 After selection

II. JURY INSTRUCTIONS

- § 28:8 General—Checklist
- § 28:9 Preliminary instructions
- § 28:10 Plaintiff's pattern jury instructions—Checklist—
Overview
- § 28:11 — —Negligence
- § 28:12 — —Multiple defendants—Joint and several liability
- § 28:13 — —Admissions
- § 28:14 — —Plaintiff's burden of proof
- § 28:15 — —Causation
- § 28:16 — —Contributory or comparative negligence
- § 28:17 — —Statute of limitations
- § 28:18 — —Take plaintiff as you find him or her
- § 28:19 — —Credibility of witnesses and experts
- § 28:20 — —Damages—General
- § 28:21 — — —Loss of earning capacity
- § 28:22 — — —Loss of consortium
- § 28:23 — — —Death action
- § 28:24 — —Punitive damages
- § 28:25 — —Strict liability
- § 28:26 — —Breach of warranty

TABLE OF CONTENTS

§ 28:27	— — Misrepresentation
§ 28:28	— — Negligence
§ 28:29	— — Plaintiff's burden of proof
§ 28:30	— — Causation
§ 28:31	— — Statute of limitations
§ 28:32	— — Punitive damages
§ 28:33	Defendant's pattern jury instructions—Checklist— Overview
§ 28:34	— — Negligence
§ 28:35	— — Violation of statute—Some evidence of negligence
§ 28:36	— — New and independent cause
§ 28:37	— — Admissions
§ 28:38	— — Contributory or comparative negligence
§ 28:39	— — Assumption of the risk
§ 28:40	— — Statute of limitations
§ 28:41	— — Jury not to use hindsight or retrospective judgment
§ 28:42	— — Defendants to be judged separately
§ 28:43	— — Burden of proof—No speculation
§ 28:44	— — Preponderance of evidence
§ 28:45	— — Liability to be decided first
§ 28:46	— — Expert testimony
§ 28:47	— — Credibility of witnesses
§ 28:48	— — Plaintiff's bias or prejudice
§ 28:49	— — Proximate cause requirement
§ 28:50	— — Two or more probable causes
§ 28:51	— — Prohibition against punitive damages
§ 28:52	— — Damages
§ 28:53	— — Strict liability
§ 28:54	— — Negligence
§ 28:55	— — Conditions beyond defendant's control
§ 28:56	— — New and independent Cause
§ 28:57	— — Substantial change in product
§ 28:58	— — Misuse
§ 28:59	— — State of the art
§ 28:60	— — Assumption of the risk
§ 28:61	— — Burden of proof
§ 28:62	— — Proximate cause requirement
§ 28:63	Special Questions for Jury
§ 28:64	Selected bibliography

CHAPTER 29. OPENING STATEMENT AND CLOSING ARGUMENT

I. OPENING STATEMENT

§ 29:1	Overview
--------	----------

- § 29:2 Purpose
- § 29:3 Importance
- § 29:4 Comparison of opening statement to final summation
- § 29:5 The law and court rules
- § 29:6 Preparation of opening statement
- § 29:7 Contents of opening statement—Checklist
- § 29:8 Techniques of effective presentation—Checklist—Use positive approach
- § 29:9 — —Avoid common mistakes
- § 29:10 — —Demeanor of counsel
- § 29:11 — —Anticipating adversary’s statements
- § 29:12 — —Handling weaknesses and problems
- § 29:13 — —Explaining complex matters
- § 29:14 — —Handling burden of proof
- § 29:15 — —Insist on recording opening statement
- § 29:16 — —Lawyer talk and decision-making timing

II. CLOSING ARGUMENT

- § 29:17 Overview
- § 29:18 Delivery
- § 29:19 Objections
- § 29:20 Common argument structures
- § 29:21 Argument techniques

III. REFERENCES

- § 29:22 Selected bibliography

CHAPTER 30. EVIDENCE AND OBJECTIONS

I. OTHER EVIDENCE

- § 30:1 Overview
- § 30:2 Real evidence
- § 30:3 Demonstrative evidence
- § 30:4 Documentary exhibits
- § 30:5 Learned treatises
- § 30:6 Cumulative evidence
- § 30:7 Judicial notice
- § 30:8 Presumptions
- § 30:9 Proving official records
- § 30:10 Proving foreign law
- § 30:11 Views by court and jury

II. OBJECTIONS

- § 30:12 Overview

TABLE OF CONTENTS

§ 30:13	Tactics of making objections—Purposes of objections
§ 30:14	—Anticipating objections
§ 30:15	—Whether to object
§ 30:16	—Ethics of objections
§ 30:17	Procedure for making objections—Overview
§ 30:18	—Timeliness
§ 30:19	—Manner of objecting
§ 30:20	—Form of objection
§ 30:21	—General objection
§ 30:22	—Specific objection
§ 30:23	—Arguing objection in and out of jury presence
§ 30:24	—Be sure to obtain ruling
§ 30:25	—Do not bicker with judge following adverse ruling
§ 30:26	—Motion to strike
§ 30:27	—Continuing objection
§ 30:28	Objection to form of question—Leading
§ 30:29	—Argumentative
§ 30:30	—Ambiguous and/or unintelligible
§ 30:31	—Compound
§ 30:32	—Narrative or too broad
§ 30:33	—Asked and answered
§ 30:34	—Misquoting witness or prior evidence
§ 30:35	—Assumes facts not in evidence
§ 30:36	—Improper hypothetical or opinion question
§ 30:37	Objections to substance of evidence—Irrelevant and immaterial
§ 30:38	—Incompetent
§ 30:39	—Hearsay
§ 30:40	—Inadmissible opinion
§ 30:41	—Insufficient foundation
§ 30:42	—Improper impeachment
§ 30:43	—Not the best evidence
§ 30:44	—Beyond scope of prior examinations
§ 30:45	—Privileged communication
§ 30:46	—Document speaks for itself
§ 30:47	—Violation of court order or court rule
§ 30:48	—Improper conduct of counsel
§ 30:49	—Improper witness conduct
§ 30:50	—Improper juror conduct
§ 30:51	—Statement or action of court
§ 30:52	—Prejudicial evidence
§ 30:53	Grounds for objections to expert testimony
§ 30:54	Tactics of responding to objections—General
§ 30:55	—Whether to respond
§ 30:56	—How to respond
§ 30:57	Rulings on objections—Voir Dire

- § 30:58 —Offer of proof
- § 30:59 —Request for ruling
- § 30:60 —Disposition of objection
- § 30:61 —Reserved or de bene rulings
- § 30:62 Particular situations—Jury voir dire examination
- § 30:63 —Objections to opening statements and closing arguments
- § 30:64 —Objections to demonstrative evidence
- § 30:65 —Offering evidence for limited purpose
- § 30:66 —Objections to jury instructions and deliberations
- § 30:67 Perfecting the record

III. REFERENCES

- § 30:68 Selected bibliography

CHAPTER 31. VERDICT AND JUDGMENT

- § 31:1 Proposed findings of fact and conclusions of law
- § 31:2 Verdict and judgment—Overview
- § 31:3 Verdict
- § 31:4 Judgment
- § 31:5 Appeal timing
- § 31:6 Selected bibliography

CHAPTER 32. POSTTRIAL ACTIVITIES

- § 32:1 Posttrial briefs
- § 32:2 Amending pleadings to conform to proof
- § 32:3 Petitions for fees and costs
- § 32:4 Securing the judgment
- § 32:5 Satisfaction of the judgment
- § 32:6 Execution of the judgment
- § 32:7 Stays pending appeal
- § 32:8 Relief from judgment
- § 32:9 Action on the judgment
- § 32:10 Interest on the judgment
- § 32:11 Default judgment
- § 32:12 Appeals—General
- § 32:13 Interlocutory appeals
- § 32:14 Appeal of right after judgment
- § 32:15 Selected Bibliography

TABLE OF CONTENTS

PART 4. SPECIAL STUDIES

**CHAPTER 33. MOTOR VEHICLE
INTERSECTION ACCIDENT**

I. INTRODUCTION

§ 33:1 Generally

II. LAW

§ 33:2 Duty of care, generally

§ 33:3 Questions of law and fact

§ 33:4 Intersection of through highway with stop highway

§ 33:5 Intersection controlled by traffic lights or traffic
officers

§ 33:6 Uncontrolled intersection—Where one vehicle enters
intersection first

§ 33:7 —Where vehicles enter intersection at same time

**III. CLIENT INTERVIEW AND INVESTIGATIVE
CHECKLISTS**

§ 33:8 Accident

§ 33:9 Identification of vehicles

§ 33:10 Information from driver

§ 33:11 Information from all witnesses

IV. PLEADINGS

§ 33:12 Intersection collision—Negligent operation alleged
generally by owner-driver against owner-driver

§ 33:13 —Negligent operation alleged generally by owner and
driver against owner and driver

V. INTERROGATORIES

§ 33:14 Generally

§ 33:15 Intersection collision interrogatories

VI. DEPOSITION CHECKLISTS

§ 33:16 Generally

**VII. REQUESTS FOR PRODUCTION OF
DOCUMENTS**

§ 33:17 Generally

VIII. REQUESTS FOR ADMISSION OF FACTS

§ 33:18 Generally

IX. SETTLEMENT

- § 33:19 Sample settlement presentation to defendant's insurance carrier; multiple injuries in intersection collision

X. JURY INSTRUCTIONS

- § 33:20 Passing within specified distance of intersection

CHAPTER 34. REAR-END COLLISION ACCIDENTS

I. INTRODUCTION

- § 34:1 In general
- § 34:2 Significance of location of collision
- § 34:3 Significance of circumstances of collision
- § 34:4 Prospects of success in rear-end collision cases
- § 34:5 Legal considerations
- § 34:6 Pleadings; In general
- § 34:7 Chain collision—Complaint
- § 34:8 Causes of action

II. LAW

- § 34:9 In general
- § 34:10 Tailgating; Following too closely; Proper distance
- § 34:11 Speed; Braking; Skidmarks
- § 34:12 Overtaking and passing

III. CLIENT INTERVIEW AND INCIDENT INVESTIGATION

A. INTERVIEWING THE CLIENT

- § 34:13 In general
- § 34:14 Matters particularly applicable to plaintiff
- § 34:15 Matters particularly applicable to the defendant
- § 34:16 Setting the fee and estimating litigation costs
- § 34:17 Checklist
- § 34:18 In general
- § 34:19 Recurring factors—Defendant's speed before impact
- § 34:20 Damage to plaintiff's vehicle
- § 34:21 Traffic signs
- § 34:22 Defenses commonly relied on—In general
- § 34:23 Unexpected failure of brakes or headlights
- § 34:24 Limited visibility
- § 34:25 Slippery pavement

TABLE OF CONTENTS

IV. DEPOSITION CHECKLISTS

§ 34:26 In general

V. INTERROGATORIES

§ 34:27 In general

VI. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 34:28 In general

VII. REQUESTS FOR ADMISSION OF FACTS

§ 34:29 In general

VIII. JURY INSTRUCTIONS

§ 34:30 In general

CHAPTER 35. PEDESTRIAN ACCIDENTS

I. INTRODUCTION

§ 35:1 Generally

II. LAW

A. PEDESTRIAN—IN GENERAL

§ 35:2 Relative rights of pedestrians and motorists

§ 35:3 Negligence of pedestrians, generally

§ 35:4 Nature and extent of pedestrian's duty

§ 35:5 Exercise of ordinary care and safety

§ 35:6 Anticipation of presence and actions of motorists

§ 35:7 Effect of pedestrian's being on sidewalk or in crosswalk

§ 35:8 Person lying in road

§ 35:9 Breach of duty; Proximate cause

§ 35:10 Doctrine of last clear chance

§ 35:11 Evidence of pedestrian's negligence; Burden of proof

§ 35:12 Elements of proof

§ 35:13 In general

§ 35:14 Modern trends; Statistics

§ 35:15 Unique problems

§ 35:16 Duty of driver

§ 35:17 Contributory negligence of child

§ 35:18 Comparative negligence and children

§ 35:19 Parental negligence

- § 35:20 Last clear chance
- § 35:21 Other factors
- § 35:22 Evidentiary considerations
- § 35:23 Defense considerations
- § 35:24 Police report of accident
- § 35:25 Elements of proof
- § 35:26 Damages
- § 35:27 Introduction
- § 35:28 Duty of motorist toward children; Presence of school bus
- § 35:29 Requisite care of motorist driving near school bus; Negligence
- § 35:30 Regulation of motor vehicles approaching or passing school bus
- § 35:31 Elements of proof
- § 35:32 Introduction
- § 35:33 Motorist must anticipate children darting out
- § 35:34 Requisite care; Negligence
- § 35:35 Particular circumstances affecting liability
- § 35:36 Sudden emergency rule
- § 35:37 Demonstrative or documentary evidence/accident reconstruction
- § 35:38 Elements of proof/damages

III. CLIENT INTERVIEWS AND INVESTIGATIVE CHECKLISTS

- § 35:39 Client interview
- § 35:40 Investigating the facts
- § 35:41 Interview with parents in child-pedestrian accident
- § 35:42 Interview with injured child
- § 35:43 Interview with other relatives
- § 35:44 Interview checklist
- § 35:45 Locating and interviewing witnesses
- § 35:46 Examining the defendant-driver
- § 35:47 Medical experts
- § 35:48 Hospital records

IV. PLEADINGS

- § 35:49 Complaint—Plaintiff
- § 35:50 Answer—Defendant

V. INTERROGATORIES

- § 35:51 Generally
- § 35:52 Child pedestrian—Defendant to plaintiff
- § 35:53 School bus accident—Plaintiff to defendant

TABLE OF CONTENTS

§ 35:54 Child dart-out—Plaintiff to defendant

VI. DEPOSITION CHECKLISTS

§ 35:55 Generally

VII. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 35:56 Generally

VIII. REQUESTS FOR ADMISSION OF FACTS

§ 35:57 Generally

IX. SETTLEMENT

§ 35:58 Compromise of claims of minors in pedestrian accident cases—Court supervision

§ 35:59 Judicially supervised settlement conferences

§ 35:60 Factors used by court to evaluate amount of settlement

§ 35:61 Evaluation of attorneys' fees, costs and other payments from proceeds

§ 35:62 Distribution of net settlement proceeds; Blocked accounts

§ 35:63 Obtaining final court approval

§ 35:64 Petition to compromise minor's claim

§ 35:65 Withdrawal of funds at later date, before minor's age of majority

X. JURY INSTRUCTIONS

§ 35:66 Summation

§ 35:67 Sample voir dire—Plaintiff

§ 35:68 —Defendant

§ 35:69 Pattern jury instructions for plaintiff

§ 35:70 Pattern jury instructions for defendants

Volume 4

CHAPTER 36. DEFECTIVE SAFETY RESTRAINTS

I. INTRODUCTION

§ 36:1 In general

II. LAW

§ 36:2 Technical background—In general

- § 36:3 Safety restraints—Generally
- § 36:4 Types of seatbelts
- § 36:5 Passive restraints
- § 36:6 Child passenger restraint
- § 36:7 Airbags
- § 36:8 Technical concerns
- § 36:9 Legal background—In general
- § 36:10 Strict liability
- § 36:11 Negligence
- § 36:12 Breach of warranty
- § 36:13 Crashworthiness doctrine
- § 36:14 Design liability; Checklist
- § 36:15 Enhanced injury concept; Apportionment
- § 36:16 Causation
- § 36:17 Federal safety standards
- § 36:18 Consumer protection against inferior belts
- § 36:19 Plaintiff's negligence; Misuse of seatbelt
- § 36:20 Circumstantial evidence
- § 36:21 Seatbelt defense
- § 36:22 Elements of proof

III. CLIENT INTERVIEW AND INVESTIGATIVE CHECKLISTS

- § 36:23 In general
- § 36:24 Child-seat case investigation
- § 36:25 Seatbelt misuse
- § 36:26 Litigation expenses; Attorney fees
- § 36:27 Checklist
- § 36:28 General investigation checklist
- § 36:29 Recall notices—Generally

IV. PLEADINGS

- § 36:30 Strict liability checklist
- § 36:31 Illustrative complaints
- § 36:32 Jurisdiction of foreign manufacturer
- § 36:33 Discovery plan; Depositions

V. INTERROGATORIES

- § 36:34 In general
- § 36:35 Plaintiff to defendant
- § 36:36 Plaintiff to defendant manufacturer
- § 36:37 Defendant to plaintiff

VI. DEPOSITION CHECKLISTS

- § 36:38 Discovery Plan Checklist

TABLE OF CONTENTS

- § 36:39 Checklist—Expert witness
- § 36:40 —Installation defects

VII. REQUEST FOR PRODUCTION OF DOCUMENTS

- § 36:41 Generally

VIII. REQUESTS FOR ADMISSION OF FACTS

- § 36:42 Generally

IX. JURY INSTRUCTIONS

- § 36:43 In general
- § 36:44 Strict liability—Defective seatbelt
- § 36:45 Crashworthiness theory
- § 36:46 Negligence
- § 36:47 Breach of warranty—Express warranty
- § 36:48 Implied warranty of fitness for particular purpose
- § 36:49 Breach of implied warranty of merchantability
- § 36:50 Mitigation of damages
- § 36:51 Special verdict and interrogatories

CHAPTER 37. DRIVING UNDER THE INFLUENCE

I. INTRODUCTION

- § 37:1 Generally

II. LAW

- § 37:2 In general
- § 37:3 Elements of offense
- § 37:4 Constitutional issues and problems
- § 37:5 Drugs
- § 37:6 Absorption and elimination of alcohol by the body
- § 37:7 Other cause or condition giving appearance of intoxication
- § 37:8 Legal presumption from chemical evidence
- § 37:9 Suppression of chemical evidence
- § 37:10 Implied consent; Effect of refusal to give chemical sample
- § 37:11 Prior convictions
- § 37:12 Suspension of driver's license or vehicle registration
- § 37:13 Chemical tests
- § 37:14 Sobriety checkpoints and field sobriety tests
- § 37:15 Failure to detain drunk driver

- § 37:16 Responsibility of the social host
- § 37:17 Contributory negligence of passenger accepting ride
with driver
- § 37:18 Elements of proof

III. CLIENT INTERVIEW AND INVESTIGATION

- § 37:19 Client interview—Generally
- § 37:20 Case investigation

IV. PLEADINGS

- § 37:21 Objection to introduction of results of breath test
- § 37:22 Pretrial motions
- § 37:23 Demand for production

V. INTERROGATORIES

- § 37:24 Plaintiff to intoxicated motorist
- § 37:25 Plaintiff to defendant guest
- § 37:26 Plaintiff to defendant host
- § 37:27 Plaintiff to defendant bar owner
- § 37:28 Plaintiff to law enforcement agency official
- § 37:29 Defendant motorist to plaintiff

VI. DEPOSITION CHECKLISTS

- § 37:30 Plaintiff to defendant
- § 37:31 Defendant to plaintiff

VII. REQUESTS FOR PRODUCTION OF DOCUMENTS

- § 37:32 Document requests—Generally

VIII. REQUESTS FOR ADMISSION OF FACTS

- § 37:33 In general

IX. JURY INSTRUCTIONS

- § 37:34 Jury instructions—Generally
- § 37:35 Checklists of points to include in jury instructions

CHAPTER 38. HIGHWAY DEFECTS

I. INTRODUCTION

- § 38:1 Generally

II. LAW

- § 38:2 In general

TABLE OF CONTENTS

- § 38:3 Highway design standards
- § 38:4 Application of engineering principles and proximate cause
- § 38:5 Highway agency's notice of defect
- § 38:6 Duty as to road shoulder
- § 38:7 Shoulder hazards
- § 38:8 Close proximity rule
- § 38:9 Barriers and guardrails
- § 38:10 Median barriers
- § 38:11 Warning devices
- § 38:12 Inadequate warning device
- § 38:13 Liability for hazardous placement of warning device
- § 38:14 Duty of private persons
- § 38:15 Defense considerations
- § 38:16 Negligence in road design—Degree of curvature
- § 38:17 Damages to vehicle
- § 38:18 Elements of proof
- § 38:19 Human factors expert

III. CLIENT INTERVIEW AND INVESTIGATION

- § 38:20 Client interview—Generally
- § 38:21 Investigation—In general
- § 38:22 Common engineering terms relating to highways

IV. PLEADINGS

- § 38:23 Notice to file claim against state for injury sustained on highway
- § 38:24 Petition—Negligent construction of curve
- § 38:25 Complaint—Highway shoulder
- § 38:26 —Unguarded embankment
- § 38:27 —Failure to place warning signs or signals on highway under repair
- § 38:28 —Negligence

V. INTERROGATORIES

- § 38:29 Plaintiff to defendant
- § 38:30 Defendant to plaintiff

VI. DEPOSITION CHECKLISTS

- § 38:31 Plaintiff to defendant
- § 38:32 Defendant to plaintiff

VII. REQUESTS FOR PRODUCTION OF DOCUMENTS

- § 38:33 Document requests—Generally

VIII. REQUESTS FOR ADMISSION OF FACTS

§ 38:34 In general

IX. JURY INSTRUCTIONS

§ 38:35 General forms

§ 38:36 Design defect

§ 38:37 Duty of highway agency to provide safeguards and notices

§ 38:38 Duty of highway agency to keep roadways safe

CHAPTER 39. BACKING UP ACCIDENT

I. INTRODUCTION

§ 39:1 In general

II. LAW

§ 39:2 Duty of care as to backing—On public street

§ 39:3 —From private property into public street

§ 39:4 —On private property

§ 39:5 —From parking space; Over sidewalks

§ 39:6 Duty to maintain proper lookout—Generally

§ 39:7 —Failure to maintain proper lookout

§ 39:8 —Characteristics and abilities of driver

§ 39:9 Proximate cause

§ 39:10 Effect of statutes—Statutes governing backing vehicle

§ 39:11 —Direct action statute

§ 39:12 Applicability of last clear chance doctrine

§ 39:13 Defense considerations

§ 39:14 Elements of proof

III. CLIENT INTERVIEW AND INVESTIGATION OF OCCURRENCE

§ 39:15 Plaintiff interview

§ 39:16 Defendant interview

§ 39:17 Investigation of occurrence

IV. PLEADINGS

§ 39:18 Improper backing—Specific samples—Generally

§ 39:19 — —Failure to give warning

§ 39:20 — —From parked position

§ 39:21 — —On highway

§ 39:22 — —Pedestrian standing on curb

§ 39:23 — —Out of driveway—Injury to pedestrian on sidewalk

TABLE OF CONTENTS

- § 39:24 — —In yard—Injury to child
- § 39:25 — —Injury to person directing backing
- § 39:26 Backing from curb—Complaint
- § 39:27 Backing out of driveway—Complaint

V. DEPOSITION CHECKLISTS

- § 39:28 Plaintiff to defendant
- § 39:29 Defendant to plaintiff

VI. INTERROGATORIES

- § 39:30 Generally
- § 39:31 Plaintiff to defendant
- § 39:32 Defendant to plaintiff

VII. REQUESTS FOR PRODUCTION OF DOCUMENTS

- § 39:33 Plaintiff's request
- § 39:34 Defendant's request

VIII. REQUESTS FOR ADMISSION OF FACTS

- § 39:35 Generally
- § 39:36 —Requests for admission
- § 39:37 —Plaintiff's request
- § 39:38 —Defendant's request

IX. JURY INSTRUCTIONS

- § 39:39 Sample instructions
- § 39:40 —Generally
- § 39:41 —Specific causes

CHAPTER 40. BICYCLES

A. INTRODUCTION

- § 40:1 In general

B. LAW

- § 40:2 General legal considerations
- § 40:3 Motorist's duty of care
- § 40:4 Bicyclist's duty of care
- § 40:5 Stability and control of bicycle
- § 40:6 Regulation of bicyclists and bicycles
- § 40:7 Specific types of motor vehicle-bicycle accidents
- § 40:8 Special problems presented by trails and sidewalks

- § 40:9 Ability of motorists—Effect on liability
- § 40:10 Last clear chance
- § 40:11 Defense considerations
- § 40:12 Damages
- § 40:13 Elements of proof

C. CLIENT INTERVIEW AND INVESTIGATION OF OCCURRENCE

- § 40:14 Case intake and investigation
- § 40:15 Client interview

D. PLEADINGS

- § 40:16 Complaint—Generally
- § 40:17 Form complaints

E. DEPOSITION CHECKLISTS

- § 40:18 Plaintiff to defendant
- § 40:19 Defendant to plaintiff

F. INTERROGATORIES

- § 40:20 Plaintiff to defendant
- § 40:21 Defendant to plaintiff

G. REQUESTS FOR PRODUCTIONS OF DOCUMENTS

- § 40:22 Document requests—Generally

H. REQUESTS FOR ADMISSION OF FACTS

- § 40:23 Requests for admissions—Generally

I. JURY INSTRUCTIONS

- § 40:24 Pattern jury instructions for plaintiff
- § 40:25 Pattern jury instructions for defendant

CHAPTER 41. OBSTRUCTION OF VIEW OF INTERSECTION

A. INTRODUCTION

- § 41:1 In general

B. LAW

- § 41:2 Duty of landowners—Generally

TABLE OF CONTENTS

- § 41:3 Violation of ordinance or statute
- § 41:4 Injury caused by natural conditions
- § 41:5 Injury caused by artificial conditions
- § 41:6 Liability under general negligence principles
- § 41:7 Intersection at railroad crossing
- § 41:8 Driver's negligence
- § 41:9 Obstruction to visibility constitutes nuisance
- § 41:10 Proper lookout at intersection—Generally
- § 41:11 Defense considerations
- § 41:12 Elements of proof

C. CLIENT INTERVIEW AND INVESTIGATION OF OCCURRENCE

- § 41:13 Client interview—Generally
- § 41:14 Preliminary investigation

D. PLEADINGS

- § 41:15 Form complaints

E. DEPOSITION CHECKLISTS

- § 41:16 Plaintiff to defendant
- § 41:17 Defendant to plaintiff

F. INTERROGATORIES

- § 41:18 Plaintiff to defendant
- § 41:19 Defendant to plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

- § 41:20 Document requests—Generally
- § 41:21 Plaintiff's request
- § 41:22 Defendant's request

H. REQUESTS FOR ADMISSION OF FACTS

- § 41:23 Rule 36 requests—Generally

I. JURY INSTRUCTIONS

- § 41:24 Sample instructions

CHAPTER 42. ALL-TERRAIN VEHICLE DESIGN HAZARD

A. INTRODUCTION

- § 42:1 In general

B. LAW

- § 42:2 Consent decree
- § 42:3 Design hazards
- § 42:4 Causes of action and liability
- § 42:5 Evidence considerations
- § 42:6 Defense considerations
- § 42:7 Damages
- § 42:8 Elements of proof

C. CLIENT INTERVIEW AND INVESTIGATION

- § 42:9 Client interview—In general
- § 42:10 Expert witness and other costs
- § 42:11 Technical investigation
- § 42:12 Accident investigation

D. PLEADINGS

- § 42:13 Complaint—General form
- § 42:14 Jurisdiction of foreign manufacturer

E. DEPOSITION CHECKLISTS

- § 42:15 Plaintiff to defendant
- § 42:16 Defendant to plaintiff

F. INTERROGATORIES

- § 42:17 Plaintiff to defendant manufacturer
- § 42:18 Defendant to plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

- § 42:19 Document requests—Generally
- § 42:20 Plaintiff to defendant manufacturer

H. REQUESTS FOR ADMISSION OF FACTS

- § 42:21 Requests for admissions—Generally

I. JURY INSTRUCTIONS

- § 42:22 Jury instructions—In general
- § 42:23 Strict liability—ATV design hazard
- § 42:24 Negligence—Manufacturer or seller
- § 42:25 Breach of warranty—Express warranty
- § 42:26 Implied warranty of fitness for particular purpose
- § 42:27 Breach of implied warranty of merchantability

TABLE OF CONTENTS

CHAPTER 43. ROLLOVER ACCIDENTS

A. INTRODUCTION

§ 43:1 In general

B. LAW

- § 43:2 Legal background—In general
- § 43:3 Strict liability
- § 43:4 Negligence
- § 43:5 Breach of warranty
- § 43:6 Crashworthiness doctrine
- § 43:7 Design liability—Checklist
- § 43:8 Rollover rating system
- § 43:9 Enhanced injury concept; apportionment
- § 43:10 Causation
- § 43:11 Federal safety standards
- § 43:12 Defense considerations
- § 43:13 Damages
- § 43:14 Elements of proof

C. CLIENT INTERVIEW AND INVESTIGATION

- § 43:15 In general
- § 43:16 Vehicle instability causing rollover
- § 43:17 Litigation expenses; attorney fees
- § 43:18 Client interview checklist
- § 43:19 General investigation checklist
- § 43:20 Recall notices—Generally

D. PLEADINGS

- § 43:21 Complaint form—Generally
- § 43:22 Jurisdiction of foreign manufacturer

E. DEPOSITION CHECKLISTS

- § 43:23 Plaintiff to defendant
- § 43:24 Defendant to plaintiff

F. INTERROGATORIES

- § 43:25 Plaintiff to defendant
- § 43:26 Defendant to plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

- § 43:27 Requests for production—In general

H. REQUESTS FOR ADMISSION OF FACTS

§ 43:28 Requests for admission—In general

I. JURY INSTRUCTIONS

- § 43:29 Jury instructions—In general
- § 43:30 Strict liability—Motor vehicle defective design
- § 43:31 Negligence—Manufacturer or seller
- § 43:32 Breach of warranty—Express warranty
- § 43:33 Implied warranty of fitness for particular purpose
- § 43:34 Breach of implied warranty of merchantability

CHAPTER 44. CRASHWORTHINESS

A. INTRODUCTION

§ 44:1 In general

B. LAW

- § 44:2 Crashworthiness doctrine
- § 44:3 Defendant-manufacturer's liability for enhanced injury
- § 44:4 Plaintiff's burden of proof of enhanced injury
- § 44:5 Testing and experimental evidence
- § 44:6 Computer simulation evidence
- § 44:7 Industry or government standards
- § 44:8 Recall evidence
- § 44:9 Expert testimony
- § 44:10 Defense considerations
- § 44:11 Damages

C. CLIENT INTERVIEW AND INVESTIGATION

- § 44:12 Client interview
- § 44:13 Initial investigation

D. PLEADINGS

- § 44:14 Complaint—Model form
- § 44:15 Answer—Model form

E. DEPOSITION CHECKLISTS

- § 44:16 Plaintiff to defendant manufacturer
- § 44:17 Defendant manufacturer to plaintiff

F. INTERROGATORIES

- § 44:18 Plaintiff to defendant manufacturer

TABLE OF CONTENTS

§ 44:19 Defendant manufacturer to plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 44:20 Document requests—Generally

§ 44:21 Plaintiff to defendant manufacturer

H. REQUESTS FOR ADMISSION OF FACTS

§ 44:22 Requests for admission of facts—Generally

I. JURY INSTRUCTIONS

§ 44:23 Jury instructions—Generally

§ 44:24 Crashworthiness theory

§ 44:25 Mitigation of damages

CHAPTER 45. THE SEATBELT DEFENSE

A. INTRODUCTION

§ 45:1 In general

B. LAW

§ 45:2 The seatbelt defense—Generally

§ 45:3 Types of seatbelts

§ 45:4 Effectiveness of seatbelts

§ 45:5 Seatbelt crash protection—Injuries

§ 45:6 Government regulation of seatbelts

§ 45:7 Elements of the seatbelt defense

§ 45:8 Expert testimony

§ 45:9 Defense considerations

C. CLIENT INTERVIEW AND INVESTIGATION

§ 45:10 Client interview

§ 45:11 Initial investigation

§ 45:12 Seatbelt experts

D. PLEADINGS

§ 45:13 Pleading the seatbelt defense

§ 45:14 Model answer

E. DEPOSITION CHECKLISTS

§ 45:15 Plaintiff to defendant

§ 45:16 Defendant to plaintiff

F. INTERROGATORIES

§ 45:17 Plaintiff to defendant

§ 45:18 Defendant to plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 45:19 Requests to produce by plaintiff

H. REQUESTS FOR ADMISSION OF FACTS

§ 45:20 Requests for admissions by plaintiff

I. JURY INSTRUCTIONS

§ 45:21 Jury instructions

§ 45:22 Special interrogatories to jury

CHAPTER 46. DEFECTIVE AIRBAG SYSTEM

A. INTRODUCTION

§ 46:1 In general

§ 46:2 Airbag basics

B. LAW

§ 46:3 Legal background

§ 46:4 Standards of care

§ 46:5 Causation

§ 46:6 Defense considerations

§ 46:7 Elements of proof

C. CLIENT INTERVIEW AND INVESTIGATION

§ 46:8 Client interview

§ 46:9 Case investigation

D. PLEADINGS

§ 46:10 Model complaint

§ 46:11 Model answer

E. DEPOSITION CHECKLISTS

§ 46:12 Plaintiff to defendant manufacturer

§ 46:13 Defendant manufacturer to plaintiff

F. INTERROGATORIES

§ 46:14 Plaintiff to defendant manufacturer

TABLE OF CONTENTS

§ 46:15 Defendant manufacturer to plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 46:16 Requests to produce by plaintiff

H. REQUESTS FOR ADMISSION OF FACTS

§ 46:17 Requests for Admissions—Generally

I. JURY INSTRUCTIONS

§ 46:18 In general

§ 46:19 Illustrative instructions

CHAPTER 47. INADEQUATE WARNING—ROAD CONSTRUCTION

A. INTRODUCTION

§ 47:1 In general

§ 47:2 Common construction hazards

§ 47:3 Common methods of contracting for road repair services

§ 47:4 Government contract or industry standards governing use of warning devices

B. LAW

§ 47:5 Duty of governmental entity performing construction

§ 47:6 Duty of contractor to warn

§ 47:7 Determining when warning is defective

§ 47:8 Other theories; nuisance; res ipsa loquitur; breach of contract

§ 47:9 Admissibility of standards manuals

§ 47:10 Expert witnesses

§ 47:11 Defenses

§ 47:12 Elements of proof

C. CLIENT INTERVIEW AND INVESTIGATION

§ 47:13 Client interview

§ 47:14 Investigating the case

D. PLEADINGS

§ 47:15 Model complaint

E. DEPOSITION CHECKLISTS

§ 47:16 Plaintiff to defendant

§ 47:17 Defendant to plaintiff

F. INTERROGATORIES

§ 47:18 Plaintiff to defendant

§ 47:19 Defendant to plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 47:20 Requests to produce by plaintiff

H. REQUESTS FOR ADMISSION OF FACTS

§ 47:21 Requests for admissions—Generally

I. JURY INSTRUCTIONS

§ 47:22 In general

CHAPTER 48. LEMON LAW

A. INTRODUCTION

§ 48:1 Generally

B. LAW

§ 48:2 In general

§ 48:3 Statutory Motor Vehicle Warranty Law—General principles

§ 48:4 Other claims

§ 48:5 Expert review

§ 48:6 Defenses

§ 48:7 Damages

§ 48:8 Elements of proof—Checklist

C. CLIENT INTERVIEW

§ 48:9 Client interview and fee arrangement

D. PLEADINGS

§ 48:10 Complaint—Model form

E. INTERROGATORIES

§ 48:11 Plaintiff to Defendant Manufacturer

§ 48:12 Defendant Manufacturer to Plaintiff

F. DEPOSITION CHECKLISTS

§ 48:13 Plaintiff to Defendant Manufacturer

TABLE OF CONTENTS

§ 48:14 Defendant Manufacturer to Plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 48:15 Document requests—Generally

H. REQUESTS FOR ADMISSION OF FACTS

§ 48:16 Requests to admit—Generally

§ 48:17 —Model form to Manufacturer

I. JURY INSTRUCTIONS

§ 48:18 Warranty—General forms

CHAPTER 49. SUDDEN UNINTENDED ACCELERATION

I. INTRODUCTION

§ 49:1 Generally

II. LAW

§ 49:2 Overview of causes of action for bodily injury

§ 49:3 Causes of action

§ 49:4 Defenses

§ 49:5 Damages

III. CLIENT INTERVIEW AND INVESTIGATION

§ 49:6 Client interview

§ 49:7 Case investigation

§ 49:8 Expert witnesses

§ 49:9 Documents

IV. PLEADINGS

§ 49:10 Complaint—Model form

V. INTERROGATORIES

§ 49:11 Plaintiff to defendant manufacturer

§ 49:12 Defendant manufacturer to plaintiff

VI. DEPOSITION CHECKLISTS

§ 49:13 Plaintiff to defendant manufacturer

§ 49:14 Defendant manufacturer to plaintiff

VII. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 49:15 Plaintiff to defendant manufacturer

VIII. REQUESTS FOR ADMISSION OF FACTS

§ 49:16 Requests to admit—Model form to manufacturer

IX. JURY INSTRUCTIONS

§ 49:17 Jury instructions—Generally

CHAPTER 50. NEGLIGENCE IN MOTOR VEHICLE REPAIR

A. INTRODUCTION

§ 50:1 In general

B. LAW

§ 50:2 Proximate cause; Foreseeability; Passage of time

§ 50:3 Parties liable

§ 50:4 Contributory negligence and assumption of risk

§ 50:5 Evidence; Burden of proof; Res ipsa loquitur

§ 50:6 Particular repairs

§ 50:7 Other repairs

§ 50:8 Elements of damages—Guide and checklist

§ 50:9 Elements of proof of negligence in making motor vehicle repairs—Guide and checklist

C. CLIENT INTERVIEW AND CASE INVESTIGATION

§ 50:10 Client interview

§ 50:11 Investigating the case

D. PLEADINGS

§ 50:12 Model complaint

§ 50:13 Model answer

E. DEPOSITION CHECKLISTS

§ 50:14 Plaintiff to defendant

§ 50:15 Defendant to plaintiff

F. INTERROGATORIES

§ 50:16 Plaintiff to defendant

TABLE OF CONTENTS

§ 50:17 Defendant to plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 50:18 Requests to produce by plaintiff

H. REQUESTS FOR ADMISSION OF FACTS

§ 50:19 Requests for admission—Generally

I. JURY INSTRUCTIONS

§ 50:20 In general

§ 50:21 Illustrative instructions

CHAPTER 51. LIABILITY IN MOTORBOAT PROPELLER ACCIDENT

A. INTRODUCTION

§ 51:1 In General

B. LAW

§ 51:2 Applicability of Enhanced Injury Doctrine

§ 51:3 Selecting the Remedy

§ 51:4 Parties

§ 51:5 Selecting the Forum

§ 51:6 Choice of Law

§ 51:7 Plaintiff's Case

§ 51:8 Defense Considerations

C. CLIENT INTERVIEW AND CASE INVESTIGATION

§ 51:9 Client Interview

§ 51:10 Investigating the Case

D. PLEADINGS

§ 51:11 Model Complaint

§ 51:12 Federal Preemption

E. DEPOSITION CHECKLISTS

§ 51:13 Plaintiff to Defendant Manufacturer

§ 51:14 Defendant Manufacturer to Plaintiff

F. INTERROGATORIES

§ 51:15 Plaintiff to Defendant Manufacturer

§ 51:16 Defendant Manufacturer to Plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 51:17 Form Document Requests by Plaintiff

H. REQUESTS FOR ADMISSION OF FACTS

§ 51:18 Requests for Admission—Generally

I. JURY INSTRUCTIONS

§ 51:19 In General

§ 51:20 Form Instructions

CHAPTER 52. DEFECTIVE MOTORCYCLE

A. INTRODUCTION

§ 52:1 In general

§ 52:2 Motorcycle types and defects

B. LAW

§ 52:3 Products liability law

§ 52:4 Causes of action

§ 52:5 Possible defenses

C. CLIENT INTERVIEW AND INVESTIGATION

§ 52:6 Client interview

§ 52:7 Case investigation

D. PLEADINGS

§ 52:8 Model complaint

§ 52:9 Model answer and affirmative defenses

E. DEPOSITION CHECKLISTS

§ 52:10 Plaintiff to defendant manufacturer

§ 52:11 Defendant manufacturer to plaintiff

F. INTERROGATORIES

§ 52:12 Plaintiff to defendant manufacturer

§ 52:13 Defendant manufacturer to plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 52:14 Requests to produce by plaintiff

TABLE OF CONTENTS

H. REQUESTS FOR ADMISSION OF FACTS

- § 52:15 Plaintiff's requests for admissions to defendant
- § 52:16 Defendant's requests for admissions to plaintiff

I. JURY INSTRUCTIONS

- § 52:17 In general
- § 52:18 Illustrative instructions

CHAPTER 53. LARGE TRUCK ACCIDENTS

A. INTRODUCTION

- § 53:1 In general

B. LAW

- § 53:2 Federal motor carrier safety regulations
- § 53:3 Common causes of truck accidents
- § 53:4 Documenting facts
- § 53:5 Outset of case
- § 53:6 Selecting the forum
- § 53:7 Parties to the action
- § 53:8 Causes of action

C. CLIENT INTERVIEW AND CASE INVESTIGATION

- § 53:9 Client interview
- § 53:10 Investigating the case

D. PLEADINGS

- § 53:11 Model complaint
- § 53:12 Model answer

E. DEPOSITION CHECKLISTS

- § 53:13 Plaintiff to defendant manufacturer
- § 53:14 Defendant manufacturer to plaintiff

F. INTERROGATORIES

- § 53:15 Plaintiff to defendant manufacturer
- § 53:16 Defendant manufacturer to plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

- § 53:17 Form document requests by plaintiff

H. REQUESTS FOR ADMISSION OF FACTS

§ 53:18 Requests for admission—Generally

I. JURY INSTRUCTIONS

§ 53:19 In general

CHAPTER 54. DEFECTIVE VEHICLE CYBER SECURITY SYSTEM

A. INTRODUCTION

§ 54:1 In general

B. LAW

§ 54:2 Private personal information breaches

§ 54:3 Statutes governing vehicle technical system breaches

§ 54:4 Preventing and handling private personal information
breaches

§ 54:5 Negligence; negligence *per se*

§ 54:6 Use of expert technology witnesses; checklist

C. CLIENT INTERVIEW AND CASE INVESTIGATION

§ 54:7 Client interview

§ 54:8 Investigating the case

D. PLEADINGS

§ 54:9 Model complaint

§ 54:10 Model answer

E. DEPOSITION CHECKLISTS

§ 54:11 Plaintiff to defendant manufacturer

§ 54:12 Defendant manufacturer to plaintiff

F. INTERROGATORIES

§ 54:13 Plaintiff to defendant manufacturer

§ 54:14 Defendant manufacturer to plaintiff

G. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 54:15 Form document requests by plaintiff

H. REQUESTS FOR ADMISSION OF FACTS

§ 54:16 Requests for admission—Generally

TABLE OF CONTENTS

I. JURY INSTRUCTIONS

§ 54:17 In general

**CHAPTER 55. SUDDEN EMERGENCY
DEFENSE IN MOTOR VEHICLE ACCIDENT**

A. INTRODUCTION

§ 55:1 In General

B. LAW

§ 55:2 Situations amounting to sudden emergencies

§ 55:3 Related defenses

§ 55:4 Abolition of doctrine

**C. CLIENT INTERVIEW AND CASE
INVESTIGATION**

§ 55:5 Client interview

§ 55:6 Investigating the case

D. PLEADINGS

§ 55:7 In general

§ 55:8 Model answer with affirmative defenses

§ 55:9 Model third-party complaint

E. INTERROGATORIES

§ 55:10 Defendant to plaintiff

§ 55:11 Defendant/third-party plaintiff to individual third-party defendant

§ 55:12 Defendant/third-party plaintiff to third-party defendant trucking company

§ 55:13 Defendant/third-party plaintiff to insurance company/third-party defendant

F. DEPOSITION CHECKLISTS

§ 55:14 Plaintiff to defendant

§ 55:15 Defendant to plaintiff

**G. REQUESTS FOR PRODUCTION OF
DOCUMENTS**

§ 55:16 In general

§ 55:17 Model document requests—In general

H. REQUESTS FOR ADMISSION OF FACTS

§ 55:18 Requests for Admissions—In general

I. JURY INSTRUCTIONS

- § 55:19 In general
- § 55:20 Form Instructions

CHAPTER 56. CHAIN REACTION ACCIDENT LIABILITY

I. INTRODUCTION

- § 56:1 In general

II. LAW

- § 56:2 Theories of liability
- § 56:3 Procedural matters
- § 56:4 Parties
- § 56:5 Defenses
- § 56:6 Evidence and witnesses

III. CLIENT INTERVIEW AND CASE INVESTIGATION

- § 56:7 Client interview
- § 56:8 Investigating the case

IV. PLEADINGS

- § 56:9 Complaint
- § 56:10 Answer

V. INTERROGATORIES

- § 56:11 Generally
- § 56:12 Sample definitions
- § 56:13 Plaintiff to defendant
- § 56:14 Defendant to plaintiff
- § 56:15 Defendant/third-party plaintiff to third-party defendant

VI. DEPOSITION CHECKLISTS

- § 56:16 Plaintiff to defendant
- § 56:17 Defendant to plaintiff

VII. REQUESTS FOR PRODUCTION OF DOCUMENTS

- § 56:18 In general
- § 56:19 Model document requests

TABLE OF CONTENTS

VIII. REQUESTS FOR ADMISSION OF FACTS

§ 56:20 Requests for admissions—In general

IX. JURY INSTRUCTIONS

§ 56:21 In general

§ 56:22 Form instructions

**CHAPTER 57. DEFECTIVE WHEELCHAIR
LOADING DEVICES ON PUBLIC
TRANSPORTATION**

A. INTRODUCTION

§ 57:1 In general

B. LAW

§ 57:2 Product liability

§ 57:3 Sovereign immunity

§ 57:4 Theories of liability

§ 57:5 Multiple party liability

§ 57:6 Damages

§ 57:7 Statute of limitations

**C. CLIENT INTERVIEW AND CASE
INVESTIGATION**

§ 57:8 Client interview

§ 57:9 Case investigation

D. PLEADINGS

§ 57:10 Model complaint

§ 57:11 Defensive considerations

E. INTERROGATORIES

§ 57:12 Generally

§ 57:13 Defendant to plaintiff

F. DEPOSITION CHECKLISTS

§ 57:14 Plaintiff to defendant

§ 57:15 Defendant to plaintiff

**G. REQUESTS FOR PRODUCTION OF
DOCUMENTS**

§ 57:16 Plaintiff to defendant

H. REQUESTS FOR ADMISSION OF FACTS

§ 57:17 Requests for admissions—In general

I. JURY INSTRUCTIONS

§ 57:18 In general

CHAPTER 58. HELICOPTER ACCIDENT LITIGATION

I. INTRODUCTION

§ 58:1 In general

§ 58:2 Definitions; glossary of terms

§ 58:3 Helicopter aerodynamics

§ 58:4 Helicopter performance

§ 58:5 Pilot knowledge; precautionary measures: Avoiding and handling critical conditions

§ 58:6 Flight maneuvers

§ 58:7 Helicopter types and accidents

II. LAW

§ 58:8 Theory of the case

§ 58:9 The prima facie case

§ 58:10 Situations and relationships

§ 58:11 Death on the High Seas Act

§ 58:12 Disclosure

III. CLIENT INTERVIEW AND CASE INVESTIGATION

§ 58:13 Client interview

§ 58:14 Case investigation

IV. PLEADINGS

§ 58:15 Pretrial procedural considerations

§ 58:16 Model complaint

§ 58:17 Defense considerations

V. INTERROGATORIES

§ 58:18 Plaintiff to defendant

§ 58:19 Defendant to plaintiff

VI. DEPOSITION CHECKLISTS

§ 58:20 Plaintiff to defendant

TABLE OF CONTENTS

§ 58:21 Defendant to plaintiff

VII. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 58:22 Plaintiff to defendant

VIII. REQUESTS FOR ADMISSION OF FACTS

§ 58:23 Requests for admissions—In general

IX. JURY INSTRUCTIONS

§ 58:24 In general

CHAPTER 59. RECREATIONAL BOATING LAW AND LIABILITY

I. INTRODUCTION

§ 59:1 In general

II. LAW

- § 59:2 Law of boating
- § 59:3 Inland Navigational Rules
- § 59:4 State statutes and local ordinances concerning operation of recreational watercraft
- § 59:5 Insurance coverage and issues
- § 59:6 Limitation of liability
- § 59:7 Civil causes of action
- § 59:8 State or federal court
- § 59:9 Jury or bench trial
- § 59:10 Burden of proof and presumptions
- § 59:11 Defenses
- § 59:12 Monetary damages

III. CLIENT INTERVIEW AND CASE INVESTIGATION

- § 59:13 Client interview
- § 59:14 Case investigation

IV. PLEADINGS

- § 59:15 Model complaints
- § 59:16 Model answer

V. INTERROGATORIES

- § 59:17 Plaintiff to defendant

§ 59:18 Defendant to plaintiff

VI. DEPOSITION CHECKLISTS

§ 59:19 Plaintiff to defendant

§ 59:20 Defendant to plaintiff

VII. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 59:21 Plaintiff to defendant

§ 59:22 Defendant to plaintiff

VIII. REQUESTS FOR ADMISSION OF FACTS

§ 59:23 Requests for admissions—In general

IX. JURY INSTRUCTIONS

§ 59:24 In general

CHAPTER 60. CRUISE SHIP PASSENGER SLIP AND FALL ON STAIRWELL INJURY CLAIM

I. INTRODUCTION

§ 60:1 In general

II. LAW

§ 60:2 Maritime law

§ 60:3 Elements of negligence—Generally

§ 60:4 Parties

§ 60:5 Joint and several liability

§ 60:6 Vicarious liability

§ 60:7 Defenses

§ 60:8 Procedural matters

§ 60:9 Burden of proof

§ 60:10 Remedies for relief

III. CLIENT INTERVIEW AND CASE INVESTIGATION

§ 60:11 Client interview

§ 60:12 Case investigation

§ 60:13 Plaintiff's sample expert report—Design engineer

IV. PLEADINGS

§ 60:14 Model complaint

TABLE OF CONTENTS

§ 60:15 Model answer

V. INTERROGATORIES

§ 60:16 Plaintiff to defendant

§ 60:17 Defendant to plaintiff

§ 60:18 Defendant to plaintiff's expert witness

VI. DEPOSITION CHECKLISTS

§ 60:19 Plaintiff to defendant

§ 60:20 Defendant to plaintiff

VII. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 60:21 Plaintiff to defendant

§ 60:22 Defendant to plaintiff

VIII. REQUESTS FOR ADMISSION OF FACTS

§ 60:23 Requests for admissions—In general

IX. JURY INSTRUCTIONS

§ 60:24 In general

CHAPTER 61. MOTOR VEHICLE WARRANTY LITIGATION

I. INTRODUCTION

§ 61:1 In general

II. LAW

§ 61:2 Prerequisites to liability of manufacturer

§ 61:3 Remedies available to consumer

§ 61:4 Manufacturer's defenses—Checklist

III. CLIENT INTERVIEW AND CASE INVESTIGATION

§ 61:5 Client interview

§ 61:6 Case investigation

IV. PLEADINGS

§ 61:7 Pleading considerations

§ 61:8 Model complaint

§ 61:9 Model answer

V. INTERROGATORIES

§ 61:10 Plaintiff to defendant

§ 61:11 Defendant to plaintiff

VI. DEPOSITION CHECKLISTS

§ 61:12 Plaintiff to defendant

§ 61:13 Defendant to plaintiff

VII. REQUESTS FOR PRODUCTION OF DOCUMENTS

§ 61:14 Plaintiff to defendant

§ 61:15 Defendant to plaintiff

VIII. REQUESTS FOR ADMISSION OF FACTS

§ 61:16 Requests for admissions—In general

IX. JURY INSTRUCTIONS

§ 61:17 In general

APPENDIX

Appendix A. Discovery Statutes and Rules

Glossary

Key Number Table

Index