Index

ABUSE, CHILD
Reporting, statutory immunity, **10:55**

ABUSE, SEXUAL
Limitation of actions, **10:41**

ABUSE OF PROCESS
Generally, **18:4**

AFFECTION AND COMPANIONSHIP OF MINOR CHILD, LOSS OF
Generally, **20:3**

AGENTS
Independent contractors distinguished, **11:6**
Respondeat superior. See RESPONDEAT SUPERIOR
State
Negligence actions, immunity, **10:53**
Vicarious liability. See VICARIOUS LIABILITY

ANIMALS
Intentional infliction of emotional distress, **5:2**
Strict liability for harm done by
Cattle, trespassing, **12:4**
Definitions, **12:2**
Dogs, **12:5**
Domestic, **12:3**
Wild, **12:2**

ASSAULT
Generally, **Ch 3**
Elements
Offer of defendant to carry out contact, **3:4**
Present, apparent ability of defendant to carry out contact, **3:3**

ASSAULT—Cont'd
Fear or apprehension of contact, plaintiff's, **3:2**
Nature, **3:1**
Reasonable person standard, **3:2**

ATTORNEYS
Advice of counsel as defense to malicious prosecution actions, **18:2**
Civil proceedings, wrongful use of, **18:3**
Defamation actions, absolute privilege, **15:8**
Malicious prosecution actions, advice of counsel as defense to, **18:2**
Malpractice by
Limitation of actions, **10:38, 10:39**
Privity of contract, **10:18**
Standard of care, **10:18**

AUTOMOBILE ACCIDENTS
See MOTOR VEHICLE ACCIDENTS

BAILMENTS
Vicarious liability, **11:9**

BATTERY
Generally, **Ch 2**
Nature, **2:1**

BUSINESS RELATIONSHIPS, INTERFERENCE WITH
Generally, **17:1 to 17:4**
Competition, interference with, **17:4**
Damages
Prospective contractual relations, intentional interference with, **17:3**

BUSINESS RELATIONSHIPS, INTERFERENCE WITH —Cont'd
Intentional interference with
Business of another, **17:4**
Performance by another of own contract, **17:2**
Performance of contract by third person, **17:1**
Prospective contractual relations, **17:3**

CAUSATION
Intervening and superseding. See NEGLIGENCE
Proximate. See NEGLIGENCE

CHATTELS, TRESPASS TO
See TRESPASS TO CHATTELS

CHILDREN
See MINORS

CIRCUMSTANTIAL EVIDENCE
Product liability actions, manufacturing defects, **13:6**
Res ipsa loquitur, **10:23**

CITIES
Negligence actions, immunity
Generally, **10:48**
Joint city-county agencies, **10:50**

CIVIL PROCEEDINGS, WRONGFUL USE OF
Generally, **18:3**
Abuse of process distinguished, **18:4**
Defined, **18:1**

CONFINEMENT
False imprisonment. See FALSE IMPRISONMENT

CONSENT
Defense, as
Defamation, to, **15:7**
Intentional torts, to. See INTENTIONAL TORTS, at Defenses, subheading Consent

CONSORTIUM, LOSS OF
Generally, **20:4**
Marital relationship, interference with; effect of abolishment, **17:5**

CONSTITUTION, UNITED STATES
Defamation actions. See DEFAMATION, at Constitutional requirements
First amendment. See FIRST AMENDMENT

CONTRACTS
Independent contractors. See INDEPENDENT CONTRACTORS
Intentional interference with
Performance by another of own contract, **17:2**
Performance of contract by third person, **17:1**
Prospective contractual relations, **17:3**
Privity. See PRIVITY OF CONTRACT

CONVERSION
Generally, **Ch 8**
Damages, **8:1**
Elements
Generally, **8:1**
Intent to exercise control over property, **8:2**
Serious interference with property, **8:3**
Insurance proceeds, **8:4**
Property able to be converted, **8:4**
Public policy concerns, **8:4**
Trespass to chattels distinguished, **7:1, 8:1**

CORPORATIONS
Municipal. See MUNICIPAL CORPORATIONS
Private corporations, state agencies operating as; negligence actions, **10:54**

CORPORATIONS—Cont'd
Successor corporations, product liability, **13:12**

COUNTIES
Negligence actions, immunity
Generally, **10:49**
Joint city-county agencies, **10:50**

CRIMINAL PROCEEDINGS, WRONGFUL USE OF
See MALICIOUS PROSECUTION

DAMAGES
Affection and companionship of minor child, loss of, **20:3**
Civil proceedings, wrongful use of, **18:3**
Consortium, loss of, **20:4**
Contractual relations, intentional interference with prospective, **17:3**
Conversion, **8:1**
Defamation
Broadcast defamation, **15:19**
Individual members of defamed groups, **15:5**
Private figures, of, **15:22**
Fraudulent misrepresentation, **19:1**
Loss of affection and companionship of minor child, **20:3**
Loss of consortium, **20:4**
Malicious prosecution, **18:2**
Misrepresentation, fraudulent, **19:1**
Nuisances
Private, **14:3**
Public, **14:2**
Punitive, **10:85**
Punitive
Excessive, **10:85**
Malice defined, **10:85**
Private nuisances, **10:85**
Trespass to land
Generally, **6:1**
Subjective intent, **6:2**
Wrongful death
Generally, **20:1**

DAMAGES—Cont'd
Wrongful death—Cont'd
Loss of affection and companionship of minor child, **20:3**

DEADLY WEAPONS, DEATH CAUSED BY
Generally, **20:2**

DECEIT
Generally, **19:1**
See also MISREPRESENTATION

DEFAMATION
Generally, **Ch 15**
Absolute privileges. See Privilege as defense, this heading
Actual malice defined, **15:21**
Broadcast defamation, **15:19**
Communications Decency Act, **15:23**
Conditional privileges. See Privilege as defense, this heading
Consent as defense, **15:7**
Constitutional requirements
Generally, **15:1, 15:20**
Actual malice defined, **15:21**
Private figures, **15:22**
Public figures, **15:21**
Public officials, **15:21**
Damages
Broadcast defamation, **15:19**
Individual members of defamed groups, **15:5**
Private figures, defamation of, **15:22**
Defenses
Consent, **15:7**
Privilege. See Privilege as defense, this heading
Truth, **15:6**
Definitions
Generally, **15:1, 15:2**
Actual malice, **15:21**
Publication, **15:3**
Disclaimers, effect, **15:4**
Elements
Generally, **15:1**

DEFAMATION—Cont'd
Elements—Cont'd
Defamatory statement, **15:2**
Identification of plaintiff in statement, **15:4**
Publication, **15:3**
First amendment rights. See Constitutional requirements, this heading
Group defamation, **15:5**
Identification of plaintiff in statement, **15:4**
Individual members of defamed groups, damages, **15:5**
Internet, on, **15:23**
Libel, **15:1**
Limitation of actions, **15:3**
Media, by
Generally, **15:19**
Actual malice defined, **15:21**
First amendment rights. See Constitutional requirements, this heading
Internet service providers as publishers, **15:23**
Privilege, fair reporting, **15:19**
Republishing defamation, **15:19**
Opinions, actionability, **15:2**
Privacy invasion distinguished
Generally, **16:1**
False light, portrayal in, **16:5**
Public disclosure of private matters, **16:4**
Private figures, **15:22**
Privilege as defense
Generally, **15:7**
Absolute privileges
Administrative officers, **15:10**
Executive officers, **15:10**
Federal officials, **15:10**
Husband and wife, **15:11**
Judicial proceedings, **15:8**
Legislators and legislative bodies, **15:9**
Publication required by law, **15:12**

DEFAMATION—Cont'd
Privilege as defense—Cont'd
Absolute privileges—Cont'd
Wife and husband, **15:11**
Conditional privileges
Generally, **15:13**
Administrative officers, **15:10**
Common interest, **15:16**
Family members, **15:11, 15:17**
Public interest, protection, **15:18**
Publisher's interest, protection, **15:14**
Recipient's interest, protection, **15:15**
Third person's interest, protection, **15:15**
Consent, **15:7**
Fair reporting by media, **15:19**
Republishing defamation, **15:19**
Public figures, **15:21**
Public officials, **15:21**
Publication
Generally, **15:3**
Internet service providers as publishers, **15:23**
Malicious reporting by media, **15:19**
Republishing defamation, privilege, **15:19**
Required by law, absolute privilege, **15:12**
Qualified privileges. See Privilege as defense, at Conditional privileges, this heading
Republishing defamation, privilege, **15:19**
Slander, **15:1**
Survival of actions, **15:1**
Truth as defense, **15:6**
Vicarious liability, **15:3**

DEFENSES
Abuse of process, **18:4**
Civil proceedings, wrongful use of
Probable cause, **18:3**
Consent. See CONSENT

DEFENSES—Cont'd
Defamation
Consent, **15:7**
Privilege. See DEFAMATION, at Privilege as defense
Truth, **15:6**
False imprisonment by shopkeepers and peace officers, **4:5**
Intentional torts. See also INTENTIONAL TORTS
Malicious prosecution
Advice of counsel, **18:2**
Probable cause, **18:2**
Negligence. See NEGLIGENCE
Nuisances. See NUISANCES
Privacy, invasion of, truth, **16:1, 16:4**
Privilege, defamation. See DEFAMATION, at Privilege as defense
Product liability, state of the art defense, design defects, **13:7**
Self defense. See SELF DEFENSE

DEFINITIONS
Actual malice, **15:21**
Civil proceedings, wrongful use of, **18:1**
Defamation. See DEFAMATION
Domestic animal, **12:2**
Fault, **10:59**
Fraudulent misrepresentation, **19:1**
Intent, **1:1**
Intervening causation, **10:33**
Invitee, **10:73**
Licensee, **10:73**
Malice, **10:85**
Malicious prosecution, **18:1**
Misrepresentation, fraudulent, **19:1**
Negligence, **See also NEGLIGENCE:, 10:1**
Nuisance, public, **14:2**
Outrageous conduct, **5:2**
Public nuisance, **14:2**
Wild animal, **12:2**

DISABLED PERSONS
Negligence actions, effect of disability on, **10:10**

DISCLOSURE
Misrepresentation, failure to disclose as, **19:2**
Privacy invasion, public disclosure of private matters as, **16:4**

DISCOVERY RULE
Dangerous substances and products, **10:40**
Malpractice, **10:38, 10:39**
Sexual abuse, **10:41**

DISCRIMINATION
Race or gender, effect on reasonable person standard, **10:15**

DOCTORS
See PHYSICIANS

E-MAIL
Respondeat superior, **11:3**

EMOTIONAL DISTRESS, INTENTIONAL INFLICTION OF
Generally, **Ch 5**
Elements
Generally, **5:1**
Intent, **5:3**
Outrageous conduct, **5:2**
Severe emotional distress, **5:4**
Limitation of actions, **5:1**
Outrageous conduct defined, **5:2**
Vulnerable plaintiff, **5:2**

EMOTIONAL DISTRESS, NEGLIGENT INFLICTION OF
Foreseeability principles, **10:64**
Impact rule, **10:62**
Zone of danger test, **10:63**

EMPLOYERS AND EMPLOYEES
Discrimination actions, effect of race or gender on reasonable person standard, **10:15**

EMPLOYERS AND EMPLOYEES —Cont'd
Respondeat superior. See RESPONDEAT SUPERIOR
State employees, negligence actions, immunity, **10:53**
Vicarious liability. See VICARIOUS LIABILITY

EVIDENCE
Circumstantial
Product liability actions, manufacturing defects, **13:6**
Res ipsa loquitur, **10:23**
Product liability, admissibility of design changes, **13:7**

FALSE IMPRISONMENT
Generally, **Ch 4**
Defenses, **4:5**
Elements
Direct or indirect confinement, **4:3**
Knowledge of confinement, **4:4**
Intent to confine, **4:2**
Nature, **4:1**
Peace officers, by; defense, **4:5**
Shopkeepers, by; defense, **4:5**
Substantial certainty standard, **4:2**

FIRST AMENDMENT
Defamation actions. See DEFAMATION, at Constitutional requirements
Privacy invasion actions
Commercial appropriation of name or likeness, **16:3**
Public disclosure of private matters, **16:4**

FRAUD
Generally, **19:1**
See also MISREPRESENTATION

GENDER
Negligence actions, effect on reasonable person standard in, **10:15**

GOVERNMENTAL IMMUNITY
See SOVEREIGN IMMUNITY

HANDICAPPED PERSONS
Negligence actions, effect of disability on, **10:10**

HAZARDOUS WASTE DISPOSAL
Abnormally dangerous activity, as, **12:6**

HEALTH FACILITIES AND SERVICES
Independent contractors, vicarious liability for, **11:4**
Malpractice. See MALPRACTICE, at Medical

HOSPITALS
See HEALTH FACILITIES AND SERVICES

HUSBAND AND WIFE
Death of spouse caused by deadly weapon, recovery for, **20:2**
Defamation actions, absolute privilege, **15:11**
Loss of consortium, **20:4**
Marital relationship, interference with; effect of abolishment, **17:5**
Marital relationship, interference with, **17:5**
Negligence actions, spousal immunity, **10:45**

IMMUNITY
See also SOVEREIGN IMMUNITY
Intentional torts, applicability of governmental immunity to, **10:51**
Negligence actions
Charitable, **10:47**
Child abuse, reporting, **10:55**
Governmental
Generally, **10:48 to 10:54**
Board of claims legislation as waiver, **10:44, 10:49, 10:51 to 10:53**

IMMUNITY—Cont'd
Negligence actions—Cont'd
Governmental—Cont'd
Purchase of liability insurance as waiver, **10:49, 10:52, 10:54**
Motor vehicle accidents, family exclusion clauses, **10:45, 10:46**
Parental, **10:46**
Sovereign
Generally, **10:48 to 10:54**
Board of claims legislation as waiver, **10:44, 10:49, 10:51 to 10:53**
Purchase of liability insurance as waiver, **10:49, 10:52, 10:54**
Spousal, **10:45**
Statutory, **10:55**
Volunteers, **10:55**

INDEPENDENT CONTRACTORS
Vicarious liability for
Generally, **11:2, 11:6**
Agents distinguished, **11:6**
Apparent authority to act, **11:4**

INSURANCE
See LIABILITY INSURANCE

INTENTIONAL TORTS
Generally, **Ch 1 to Ch 9**
See also particular tort concerned.
Defenses
Generally, **Ch 9**
Consent
Generally, **9:1**
Conditional, **9:2**
Duress, given under, **9:3**
Illegal act, to, **9:4**
Misrepresentation, induced by, **9:3**
Mistake, induced by, **9:3**
Discipline by parent or school employee, **9:11**
Governmental immunity, applicability, **10:51**

INTENTIONAL TORTS—Cont'd
Defenses—Cont'd
Legal authority, **9:10**
Private necessity, **9:9**
Public necessity, **9:8**
Self defense
Generally, **9:5**
Defense of others, **9:6**
Defense of property, **9:7**
Sovereign immunity, applicability, **10:51**
Governmental immunity, applicability, **10:51**
Intent defined, **1:1**
Mental illness, effect, **1:2**
Respondeat superior, applicability, **11:3**
Sovereign immunity, applicability, **10:51**
Transferred intent, **1:3**

INTERFERENCE WITH RELATIONSHIPS
Business. See BUSINESS RELATIONSHIPS, INTERFERENCE WITH
Marital, **17:5**

INVASION OF PRIVACY
See PRIVACY, INVASION OF

JUDICIAL PROCEEDINGS
Defamation actions, absolute privilege, **15:8**

JURY INSTRUCTIONS
Negligence actions. See NEGLIGENCE, at Jury instructions on duty owed to plaintiffs
Product liability actions
Defective design, **13:7**
Failure to warn, **13:8**

LAND
See REAL PROPERTY
Trespass to. See TRESPASS TO LAND

LESSORS
Duty owed by. See NEGLIGENCE, at Lessors, duty owed by
Product liability, commercial lessors, **13:10**

LIABILITY INSURANCE
Agents
Negligence, standard of care, **10:19**
Motor vehicle
Family exclusion clauses, **10:45, 10:46**
Minors, vicarious liability for, **11:8**
Proceeds, conversion, **8:4**
Waiver of governmental immunity, purchase of insurance as, **10:49, 10:52, 10:54**

LIBEL
Generally, **15:1**
See also DEFAMATION.

LIMITATION OF ACTIONS
Defamation, **15:3**
Discovery rule
Dangerous substances and products, **10:40**
Malpractice, **10:38, 10:39**
Sexual abuse, **10:41**
Emotional distress, intentional infliction of, **5:1**
Malpractice, **10:38, 10:39**
Motor vehicle accidents, **10:37**
Negligence
Defenses. See NEGLIGENCE, at Defenses, subheading Limitation of actions
Product liability, **10:40, 13:4**
Sexual abuse, **10:41**
Trespass to chattels, **7:1**
Trespass to land, **6:1**
Workers' compensation, **10:42**

LOANED SERVANT DOCTRINE
Generally, **11:5**

LOSS OF AFFECTION AND COMPANIONSHIP OF MINOR CHILD
Generally, **20:3**

LOSS OF CONSORTIUM
Generally, **20:4**
Marital relationship, interference with; effect of abolishment, **17:5**

MAGAZINES
See MEDIA

MALICE
Actual malice
Definition, **15:21**
Portrayal in false light actions, **16:5**
Definitions
Actual malice, **15:21**
Punitive damages, **10:85**

MALICIOUS PROSECUTION
Generally, **Ch 18**
Abuse of process distinguished, **18:4**
Civil proceedings. See CIVIL PROCEEDINGS, WRONGFUL USE OF
Defenses
Advice of counsel, **18:2**
Probable cause, **18:2**
Defined, **18:1**
Double jeopardy, effect on, **18:2**
Elements, **18:2**

MALPRACTICE
Discovery rule, **10:38, 10:39**
Legal
Limitation of actions, **10:38, 10:39**
Privity of contract, **10:18**
Standard of care, **10:18**
Limitation of actions, **10:38, 10:39**
Medical
Informed consent, **10:20**
Reasonable medical practitioner standard of proof, **10:22**

MALPRACTICE—Cont'd
Medical—Cont'd
Informed consent, **10:20**
—Cont'd
Reasonable person standard of proof, **10:21**
Written consent, requirement, **10:22**
Limitation of actions, **10:38, 10:39**
Standard of care, **10:17, 10:21, 10:22**

MARITAL RELATIONSHIP, INTERFERENCE WITH
Generally, **17:5**

MEDIA
Defamation by
Generally, **15:19**
Actual malice defined, **15:21**
Constitutional requirements
Generally, **15:1, 15:20**
Actual malice defined, **15:21**
Private figures, **15:22**
Public figures, **15:21**
Public officials, **15:21**
Internet service providers as publishers, **15:23**
Privilege, fair reporting, **15:19**
Republishing defamation, **15:19**
Privacy invasion by
Public disclosure of private matters, **16:4**

MENTAL HEALTH PROFESSIONALS
Duty to warn about patients, **10:68**

MENTAL ILLNESS
Intent, effect on, **1:2**
Negligence actions, effect on, **10:10**

MERCHANTS
False imprisonment of shoplifters, defense to, **4:5**
Product liability
Generally, **13:9**
Used goods, **13:11**

MERCHANTS—Cont'd
Puffing as fraudulent misrepresentation, **19:1**

MINORS
Affection and companionship of minor child, loss of, **20:3**
Child abuse, reporting
Statutory immunity, **10:55**
Death of parent
Deadly weapon causing, recovery for, **20:2**
Loss of consortium claim, **20:4**
Loss of affection and companionship of minor child, **20:3**
Negligence actions
Attractive nuisances
Generally, **10:81**
Recreational use statutes, **10:82**
Dram shop or social host liability, **10:34**
Parental immunity, **10:46**
Standard of care, **10:13**
Vicarious liability for, motor vehicle accidents, **11:8**
Wrongful death
Action against parent by child's estate, **20:1**
Action by parent for child's wrongful death, **20:1**
Death of parent
Deadly weapon causing, recovery for, **20:2**
Loss of consortium claim, **20:4**
Loss of affection and companionship of minor child, **20:3**

MISREPRESENTATION
Generally, **Ch 19**
Concealment, **19:2**
Consent induced by misrepresentation as defense to intentional torts, **9:3**
Damages
Fraudulent misrepresentation, **19:1**
Deceit, **19:1**

MISREPRESENTATION—Cont'd
Disclosure, failure, **19:2**
Fraudulent, **19:1**
Negligent, **19:3**
Nondisclosure, **19:2**
Opinions as fraudulent misrepresentation, **19:1**
Privity of contract, **19:2**
Puffing as fraudulent misrepresentation, **19:1**
Real estate transactions, **19:2**
Sales talk as fraudulent misrepresentation, **19:1**

MOTOR VEHICLE ACCIDENTS
Negligence actions
Family exclusion clauses, **10:45, 10:46**
Limitation of actions, **10:37**
Vicarious liability
Joint enterprise or venture, **11:7**
Minors, for, **11:8**
Respondeat superior, **11:3**

MUNICIPAL CORPORATIONS
Negligence actions, immunity
Generally, **10:48**
Joint city-county agencies, **10:50**

NEGLIGENCE
Generally, **Ch 10, Ch 11**
See also particular tort concerned.
Apportionment of fault. See Comparative negligence, generally, this heading
Attractive nuisances
Generally, **10:81**
Recreational use statutes, **10:82**
Birth, wrongful, **10:66**
Board of claims legislation as waiver of governmental immunity, **10:44, 10:49, 10:51 to 10:53**
Agents and employees of state, **10:53**
Collateral payments, recovery, **10:51**

NEGLIGENCE—Cont'd
Board of claims legislation as waiver of governmental immunity, **10:44, 10:49, 10:51 to 10:53**—Cont'd
Higher education agencies, **10:52**
Intentional torts, applicability to, **10:51**
State government, **10:51**
Statute of repose as defense, **10:44**
Breach of duty owed to plaintiffs
Jury instructions
See also Jury instructions on duty owed to plaintiffs, this heading
Foreseeability of injury, **10:3**
Standard of care, specific instructions on, **10:7 to 10:12**
Negligence per se distinguished from rebuttable presumption, **10:14**
Rebuttable presumption distinguished from negligence per se, **10:14**
Standard of care
Generally, **10:5 to 10:19**
''Acts of God'', **10:8**
Children, **10:13**
Custom, effect, **10:9**
Insurance agents, **10:19**
Jury instructions on, specific
Generally, **10:7 to 10:12**
See also Jury instructions on duty owed to plaintiffs, this heading.
Legal malpractice actions, **10:18**
Medical malpractice actions, **10:17, 10:21, 10:22**
Mental or physical impairment, effect, **10:10**
Ordinance, violation of, **10:14**
Particular circumstances, effect, **10:7 to 10:12**

NEGLIGENCE—Cont'd
Breach of duty owed to plaintiffs —Cont'd
Standard of care—Cont'd
Physical or mental impairment, effect, **10:10**
Professional negligence actions, **10:16 to 10:19**
Public carriers, **10:6**
Reasonable person standard
Generally, **10:5**
See also Reasonable person standard, this heading.
Regulation, violation of, **10:14**
Specific facts, **10:12**
Sporting contests, **10:1**
Statute, violation of, **10:14**
Sudden emergency, effect, **10:8**
Superior knowledge or ability, effect, **10:11**
Burden of persuasion, **10:1**
Causation
Intervening and superseding. See Intervening and superseding causation, this heading
Proximate. See Proximate causation, this heading
Charitable immunity as defense, **10:47**
Child abuse, statutory immunity for reporting, **10:55**
Comparative negligence
Generally, **10:56 to 10:61**
Fault
Defined, **10:59**
Determination, **10:60**
Imputed, **11:10**
Joint and several liability, impact of KRS 411.182 on
Generally, **10:36, 10:60**
Negligent tortfeasor and intentional tortfeasor, apportionment of liability between, **10:59**
Jury instructions, **10:60**

NEGLIGENCE—Cont'd
Comparative negligence—Cont'd
Liability for second accidents, **10:36**
Product liability actions, **10:58**
''Pure'' form, **10:57**
Workers' compensation actions, **10:61**
Conception, wrongful, **10:66**
Contributory negligence
Imputed, **11:10**
Nuisance actions, defense to, **14:1**
Defenses
Charitable immunity, **10:47**
Child abuse, statutory immunity for reporting, **10:55**
Governmental immunity
Agents of state, **10:53**
Board of claims legislation as waiver, **10:44, 10:49, 10:51 to 10:53**
Cities, **10:48**
Counties, **10:49**
Education boards, **10:49**
Employees of state, **10:53**
Higher education agencies, **10:52**
Joint city-county agencies, **10:50**
Municipal corporations, **10:48**
Private corporations, state agencies operating as, **10:54**
Purchase of liability insurance as waiver, **10:49, 10:52, 10:54**
State government, **10:51 to 10:54**
Limitation of actions
Dangerous substances and products, **10:40**
Discovery rule, **10:38 to 10:41**
General torts, **10:38**
Legal malpractice, **10:38, 10:39**

NEGLIGENCE—Cont'd
Defenses—Cont'd
Limitation of actions—Cont'd
Medical malpractice, **10:38, 10:39**
Motor vehicle accidents, **10:37**
Product liability, **10:40, 13:4**
Sexual abuse, **10:41**
Workers' compensation, **10:42**
Parental immunity, **10:46**
Sovereign immunity. See Governmental immunity, this subheading
Spousal immunity, **10:45**
Statute of repose
Generally, **10:43**
Board of claims legislation, **10:44**
Workers' compensation act, **10:44**
Statutory immunity, **10:55**
Volunteers, statutory immunity, **10:55**
Definitions
Generally, **10:1**
Fault, **10:59**
Intervening causation, **10:33**
Invitee, **10:73**
Licensee, **10:73**
Duty owed to plaintiffs
Generally, **10:3**
Breach. See Breach of duty owed to plaintiffs, this heading
Emotional distress, negligent infliction of, **10:62 to 10:64**
Foreseeability of injury, effect
Generally, **10:3**
See also Foreseeability of injury, generally, this heading.
Emotional distress, negligent infliction of, **10:64**
Jury instructions. See Jury instructions on duty owed to plaintiffs, this heading

NEGLIGENCE—Cont'd
Duty owed to plaintiffs—Cont'd
Landowners, by. See Landowners and occupiers, duty owed by, this heading
Lessors, by. See Lessors, duty owed by, this heading
Misfeasance distinguished from nonfeasance, **10:65**
Privity of contract
Generally, **10:4**
Legal malpractice actions, **10:18**
Product liability actions, **13:2**
Rescue, duty to, **10:65**
Warn, duty to
Generally, **10:67**
Mental health professionals, **10:68**
Elements
Generally, **10:2**
Causation
Intervening and superseding. See Intervening and superseding causation, this heading
Proximate. See Proximate causation, this heading
Duty. See Duty owed to plaintiffs, this heading
Foreseeability of injury
Duty owed to plaintiff, effect on determining
Generally, **10:3**
Emotional distress, negligent infliction of, **10:64**
Jury instructions, **10:3**
Intervening and superseding causation, effect on
Generally, **10:33**
Dram shop or social host liability, **10:34**
Liability for second accidents, **10:35**
Gender, effect on reasonable person standard, **10:15**
Good samaritan statute, **10:65**

NEGLIGENCE—Cont'd
Governmental immunity as defense. See Defenses, this heading
Immunity. See particular type of immunity, this heading
Informed consent, **10:20**
Standard of proof
Reasonable medical practitioner, **10:22**
Reasonable person, **10:21**
Written consent, requirement, **10:22**
Intervening and superseding causation
Generally, **10:33**
Defined, **10:33**
Dram shop or social host liability, **10:34**
Jury instructions, **10:33**
Liability for second accidents, **10:35**
KRS 411.182, impact, **10:36**
Joint and several liability, impact of KRS 411.182 on
Generally, **10:36, 10:60**
Negligent tortfeasor and intentional tortfeasor, apportionment of liability between, **10:59**
Jury instructions on duty owed to plaintiffs
Comparative negligence, **10:60**
Defective products
Defective design, **13:7**
Failure to warn, **13:8**
Foreseeability of injury, **10:3**
Intervening causation, **10:33**
Standard of care, specific instructions on
Generally, **10:7 to 10:12**
''Acts of God'', **10:8**
Custom, **10:9**
Mental impairment, **10:10**
Ordinance, violation of, **10:14**
Physical impairment, **10:10**
Professional negligence, **10:16 to 10:19**

NEGLIGENCE—Cont'd
Jury instructions on duty owed to plaintiffs—Cont'd
Standard of care, specific instructions on—Cont'd
Public carriers, **10:6**
Regulation, violation of, **10:14**
Specific facts, **10:12**
Statute, violation of, **10:14**
Sudden emergency, **10:8**
Superior knowledge or ability, **10:11**
Superseding causation, **10:33**
Landowners and occupiers, duty owed by
Artificial conditions, **10:69**
Common law distinctions, **10:70**
Invitees, **10:73, 10:75**
Licensees, **10:73, 10:74**
Trespassers, **10:71, 10:72**
Firefighters, **10:84**
Invitees, **10:75**
Defined, **10:73**
Licensees, **10:74**
Defined, **10:73**
Natural conditions, **10:69**
Police officers, **10:84**
Trespassers, **10:71, 10:72**
Volunteer firefighters, **10:84**
Lessors, duty owed by
Generally, **10:76**
Common areas, control, **10:80**
Covenant to repair, **10:78**
Statutory violations, **10:79**
Undisclosed dangerous conditions, **10:77**
Life, wrongful, **10:66**
Malpractice. See MALPRACTICE
Mental illness, effect, **10:10**
Minors. See MINORS
Misfeasance distinguished from nonfeasance, **10:65**
Misrepresentation, negligent, **19:3**
Negligence per se distinguished from rebuttable presumption, **10:14**

NEGLIGENCE—Cont'd
Nonfeasance distinguished from misfeasance, **10:65**
Nuisances
Attractive
Generally, **10:81**
Recreational use statutes, **10:82**
Negligence principles, applicability, **14:1**
Ordinance, violation of, **10:14**
Parental immunity as defense, **10:46**
Physical impairment, effect, **10:10**
Pleadings, sufficiency, **10:1**
Privity of contract
Generally, **10:4**
Legal malpractice actions, **10:18**
Product liability actions, **13:2**
Product liability actions
Generally, **13:2**
Comparative negligence, **10:58**
Defective products, applicability to
Generally, **13:5**
Design defects, **13:7**
Failure to warn, **13:8**
Medical devices, federal preemption of state law claims, **13:14, 13:15**
Jury instructions
Defective design, **13:7**
Failure to warn, **13:8**
Limitation of actions, **10:40**
Proximate causation
Generally, **10:24 to 10:32**
Concurrent, **10:30**
Concert of action theory, **10:31**
''Industry wide liability'' theory, **10:31**
Market share theory, **10:32**
Public policy reasons, **10:31**
''In fact'' causation distinguished, **10:24**
Loss of chance of survival
Generally, **10:25**

NEGLIGENCE—Cont'd
Proximate causation—Cont'd
Loss of chance of survival—Cont'd
Greater than 50%, survival chance, **10:26**
Less than 50%, survival chance, **10:27**
Reasonable medical probability standard, **10:28**
Risk of future harm, **10:29**
Substantial factor test, **10:24**
Punitive damages
Collateral source rule, **10:86**
Excessive, **10:85**
Malice defined, **10:85**
Purchase of liability insurance as waiver of governmental immunity, **10:49, 10:52, 10:54**
Race, effect on reasonable person standard, **10:15**
Reasonable person standard
Generally, **10:5**
Professional negligence actions
Generally, **10:16 to 10:19**
Informed consent, **10:21, 10:22**
Race and gender, effect, **10:15**
Rebuttable presumption distinguished from negligence per se, **10:14**
Regulation, violation of, **10:14**
Res ipsa loquitur, **10:23**
Rescue, duty to, **10:65**
Second accidents, liability for
Foreseeability, **10:35**
KRS 411.182, impact, **10:36**
Sovereign immunity as defense. See Defenses, this heading, at Governmental immunity
Spousal immunity as defense, **10:45**
Standard of care. See Breach of duty owed to plaintiffs, this heading
Statute, violation of, **10:14**
Statute of repose as defense
Generally, **10:43**

NEGLIGENCE—Cont'd
Statute of repose as defense —Cont'd
Board of claims legislation, **10:44**
Workers' compensation act, **10:44**
Statutory immunity, **10:55**
Vicarious liability, **See also VICARIOUS LIABILITY:, Ch 11**
Volunteers, statutory immunity, **10:55**
Warn, duty to
Generally, **10:67**
Mental health professionals, **10:68**
Workers' compensation. See WORKERS' COMPENSATION
Wrongful conception, birth, or life actions, **10:66**

NEWSPAPERS
See MEDIA

NUISANCES
Generally, **Ch 14**
Agricultural operations, **14:4**
Attractive
Generally, **10:81**
Recreational use statutes, **10:82**
Coming to nuisance as defense, **14:4**
Damages
Collateral source rule, **10:86**
Private nuisances, **14:3**
Public nuisances, **14:2**
Punitive, **10:85**
Defenses
Coming to nuisance, **14:4**
Contributory negligence, **14:1**
Prescriptive easement, **14:4**
Negligence principles, applicability, **14:1**
Permanent, **14:3**
Prescriptive easement as defense, **14:4**

NUISANCES—Cont'd
Private, **14:3**
Public, **14:2**
Standing to bring suit, private nuisances, **14:3**
Temporary, **14:3**
Trespass to land distinguished, **6:3, 14:3**

OPINIONS
Defamation, **15:2**
Fraudulent misrepresentation, **19:1**

OUTRAGEOUS CONDUCT
See EMOTIONAL DISTRESS, INTENTIONAL INFLICTION OF

PARENT AND CHILD
Affection and companionship of minor child, loss of, **20:3**
Death of parent
Deadly weapon causing, child's recovery for, **20:2**
Loss of consortium claim, **20:4**
Intentional torts
Discipline of child as defense, **9:11**
Loss of affection and companionship of minor child, **20:3**
Negligence actions
Parental immunity, **10:46**
Wrongful death
Abandoned child, **20:1**
Action against by child's estate, **20:1**
Action for child's wrongful death, **20:1**
Death of parent
Deadly weapon causing, child's recovery for, **20:2**
Loss of consortium claim, **20:4**
Loss of affection and companionship of minor child, **20:3**

PEACE OFFICERS
False imprisonment by, defense, **4:5**

PERSONAL PROPERTY
Conversion. See CONVERSION
Trespass. See TRESPASS TO CHATTELS

PHYSICIANS
Malpractice by
Informed consent, **10:20**
Reasonable medical practitioner standard of proof, **10:22**
Reasonable person standard of proof, **10:21**
Written consent, requirement, **10:22**
Limitation of actions, **10:38, 10:39**
Standard of care, **10:17, 10:21, 10:22**
Wrongful conception, birth, or life actions, **10:66**

PLEADINGS
Negligence actions, **10:1**

PRINCIPAL AND AGENT
See also AGENTS
Respondeat superior. See RESPONDEAT SUPERIOR
Vicarious liability. See VICARIOUS LIABILITY

PRIVACY, INVASION OF
Generally, **Ch 16**
Actual malice standard, portrayal in false light actions, **16:5**
Appropriation of name or likeness, commercial, **16:3**
Commercial appropriation of name or likeness, **16:3**
Defamation distinguished, **16:1**
False light, portrayal in, **16:5**
Public disclosure of private matters, **16:4**
Defenses
Truth, **16:1, 16:4**
Disclosure of private matters, public, **16:4**
Eavesdropping, **16:2**

PRIVACY, INVASION OF —Cont'd
False light, portrayal in, **16:5**
First amendment considerations
Commercial appropriation of name or likeness, **16:3**
Public disclosure of private matters, **16:4**
Intrusion, unreasonable, **16:2**
Names of rape victims, publication, **16:4**
Portrayal in false light, **16:5**
Public disclosure of private matters, **16:4**
Public places, in, **16:2**
Rape victims, publication of names, **16:4**
Rationale, **16:1**
Truth as defense, **16:1, 16:4**
Unreasonable intrusion, **16:2**
Workplaces, in, **16:2**

PRIVILEGES
Defamation actions, as defense to. See DEFAMATION, at Privilege as defense

PRIVITY OF CONTRACT
Misrepresentation by real estate vendors, **19:2**
Negligence actions
Generally, **10:4**
Legal malpractice, **10:18**
Product liability, **13:2**
Product liability actions. See PRODUCT LIABILITY

PROBABLE CAUSE
Civil proceedings, wrongful use of, **18:3**
Malicious prosecution actions, **18:2**

PRODUCT LIABILITY
Generally, **Ch 13**
Admissibility of design changes, **13:7**
Circumstantial evidence to prove manufacturing defects, **13:6**
Commercial lessors, liability, **13:10**

PRODUCT LIABILITY—Cont'd
Consumer expectations test, design defects, **13:7**
Corporations, successor; liability, **13:12**
Defective products
Generally, **13:4, 13:5**
Design defects, **13:7**
Failure to warn, **13:8**
Jury instructions
Defective design, **13:7**
Failure to warn, **13:8**
Manufacturing defects, **13:6**
Medical devices, federal preemption of state law claims, **13:14, 13:15**
Negligence principles, applicability
Generally, **13:5**
Design defects, **13:7**
Failure to warn, **13:8**
Medical devices, federal preemption of state law claims, **13:14, 13:15**
Occasional sellers, **13:4**
Defendants other than manufacturers
Generally, **13:9 to 13:14**
Commercial lessors, **13:10**
Franchisors, **13:13**
Successor corporations, **13:12**
Used goods, sellers of, **13:11**
Defenses
Design defects, state of the art defense, **13:7**
Design defects, **13:7**
Discovery rule, **10:40**
Distributors, liability, **13:9**
Evidence
Admissibility of design changes, **13:7**
Circumstantial evidence to prove manufacturing defects, **13:6**
Failure to warn, **13:8**
Foreseeable misuse of product, duty to warn, **13:8**

PRODUCT LIABILITY—Cont'd
Franchisors, liability, **13:13**
Imminently dangerous products, **13:2**
Jury instructions, defective products
Defective design, **13:7**
Failure to warn, **13:8**
Knowledgeable manufacturer test, design defects, **13:7**
Lessors, commercial; liability, **13:10**
Limitation of actions, **10:40, 13:4**
Manufacturers, defendants other than, **13:9 to 13:14**
Manufacturing defects, **13:6**
Medical devices, federal preemption of state law claims, **13:14, 13:15**
Misuse of product, foreseeable
Duty to warn of, **13:8**
Negligence theory
Generally, **13:2**
Comparative negligence, **10:58**
Defective products, applicability to
Generally, **13:5**
Design defects, **13:7**
Failure to warn, **13:8**
Medical devices, federal preemption of state law claims, **13:14, 13:15**
Jury instructions
Defective design, **13:7**
Failure to warn, **13:8**
Limitation of actions, **10:40**
Privity of contract
Manufacturer's liability, barring, **13:9**
Negligence actions, **13:2**
Strict liability
In tort, **13:4**
Warranty liability under Uniform Commercial Code, **13:3**
Retailers, liability
Generally, **13:9**

PRODUCT LIABILITY—Cont'd
Retailers, liability—Cont'd
Used goods, **13:11**
Risk-utility test, design defects, **13:7**
Sellers, liability
Generally, **13:9**
Used goods, of, **13:11**
State of the art defense, design defects, **13:7**
Strict liability
Defective products. See Defective products, generally, this heading
In tort, **13:4**
Medical devices, federal preemption of state law claims, **13:14, 13:15**
Warranty liability under Uniform Commercial Code, **13:3**
Successor corporations, liability, **13:12**
Unreasonably dangerous products, **13:6**
Used goods, sellers of; liability, **13:11**
Vicarious liability of successor corporations, **13:12**
Warn, failure to, **13:8**
Wholesalers, liability, **13:9**

PUFFING
Fraudulent misrepresentation, as, **19:1**

PUNITIVE DAMAGES
Excessive, **10:85**
Private nuisances, **10:85**

RACE
Negligence actions, effect on reasonable person standard in, **10:15**

RADIO
See MEDIA

REAL ESTATE
See REAL PROPERTY

REAL PROPERTY
Duty owed by landowners. See NEGLIGENCE, at Landowners and occupiers, duty owed by
Misrepresentation by vendors, **19:2**
Slander of title, **15:1**
Trespass. See TRESPASS TO LAND

RES IPSA LOQUITUR
Generally, **10:23**

RESPONDEAT SUPERIOR
Apparent authority of employee to act, **11:4**
Independent contractors, **11:2**
Intentional torts, applicability to, **11:3**
Loaned servant doctrine, **11:5**
Negligent hiring, **11:3**
Scope of employment or authority, **11:3**
Vicarious liability, **11:2**

RETAILERS
See MERCHANTS

SALES TALK
Fraudulent misrepresentation, as, **19:1**

SCHOOLS AND SCHOOL BOARDS
Employees
Discipline by, as defense to intentional tort, **9:11**
Governmental immunity, **10:49**

SELF DEFENSE
Intentional torts
Generally, **9:5**
Defense of others, **9:6**
Defense of property, **9:7**

SEXUAL ABUSE
Limitation of actions, **10:41**

SHOPLIFTING
False imprisonment by shopkeepers, defense, **4:5**

SLANDER
Generally, **15:1**
See also DEFAMATION.

SOVEREIGN IMMUNITY
Board of claims legislation as waiver
Generally, **10:44, 10:49, 10:51 to 10:53**
Agents and employees of state, **10:53**
Collateral payments, recovery, **10:51**
Higher education agencies, **10:52**
Intentional torts, applicability to, **10:51**
State government, **10:51**
Statute of repose as defense, **10:51**
Intentional torts, applicability to, **10:51**
Negligence actions
Generally, **10:48 to 10:54**
Board of claims legislation as waiver of immunity, **10:44, 10:49, 10:51 to 10:53**
Purchase of liability insurance as waiver of immunity, **10:49, 10:52, 10:54**
Purchase of liability insurance as waiver, **10:49, 10:52, 10:54**

SPOUSAL IMMUNITY
Negligence actions, **10:45**

STANDING
Private nuisance actions, **14:3**

STATE GOVERNMENT
Negligence actions, immunity, **10:51 to 10:54**
Agents and employees of state, **10:53**
Board of claims legislation as waiver, **10:51**

STATE GOVERNMENT—Cont'd
Negligence actions, immunity, **10:51 to 10:54**—Cont'd
Higher education agencies, **10:52**
Joint city-county agencies, **10:50**
Private corporations, agencies operating as, **10:54**

STATUTE OF LIMITATIONS
See LIMITATION OF ACTIONS

STATUTE OF REPOSE
Negligence actions, **10:43**
Board of claims legislation, **10:44**
Workers' compensation act, **10:44**

STRICT LIABILITY
Generally, **Ch 12**
Abnormally dangerous activities, **12:6**
Animals, harm done by
Cattle, trespassing, **12:4**
Definitions, **12:2**
Dogs, **12:5**
Domestic, **12:3**
Wild, **12:2**
Dangerous activities, abnormally, **12:6**
Hazardous waste disposal as abnormally dangerous activity, **12:6**
Immunity of wrongdoer, effect of, **11:1**
Product liability. See PRODUCT LIABILITY
Vicarious liability compared, **11:1**

TELEVISION
See MEDIA

TORTS
See particular tort concerned

TRESPASS TO CHATTELS
Generally, **Ch 7**
Conversion distinguished, **7:1, 8:1**

TRESPASS TO CHATTELS —Cont'd
Elements
Generally, **7:1**
Intent to intermeddle with property, **7:2**
Future possessory rights, effect on, **7:3**
Limitation of actions, **7:1**

TRESPASS TO LAND
Generally, **Ch 6**
Cattle, strict liability for harm done by, **12:4**
Damages, **6:1**
Subjective intent, **6:2**
Elements, **6:1**
Entry onto land, **6:3**
Intent to enter land, **6:2**
Landowners, duty owed to trespassers by, **10:71, 10:72**
Limitation of actions, **6:1**
Negligence actions, duty owed to trespassers by landowners, **10:71, 10:72**
Nuisance distinguished, **6:3, 14:3**

UNIFORM COMMERCIAL CODE
Warranties, strict liability for defective products
Generally, **13:3**
Strict liability in tort compared, **13:4**

VICARIOUS LIABILITY
Apparent authority to act, **11:4**
Bailments, **11:9**
Comparative negligence, imputed, **11:10**
Contributory negligence, imputed, **11:10**
Corporations, successor; product liability actions, **13:12**
Defamation, **15:3**
Health facilities and services, liability for independent contractors, **11:4**

VICARIOUS LIABILITY—Cont'd
Independent contractors, for, **11:6**
Generally, **11:2**
Agents distinguished, **11:6**
Apparent authority to act, **11:4**
Joint enterprise or venture, **11:7**
Loaned servant doctrine, **11:5**
Motor vehicle accidents
Joint enterprise or venture, **11:7**
Minors, **11:8**
Respondeat superior, **11:3**
Product liability actions, liability of successor corporations, **13:12**
Respondeat superior
Generally, **11:2**
Apparent authority of employee to act, **11:4**
Independent contractors, **11:2**
Intentional torts, applicability to, **11:3**
Loaned servant doctrine, **11:5**
Negligent hiring, **11:3**
Scope of employment or authority, **11:3**
Statutory, **11:8**
Strict liability compared, **11:1**
Successor corporations, product liability actions, **13:12**

VOLUNTEERS
Firefighters, duty owed to by landowners and occupiers, **10:84**
Statutory immunity, **10:55**

WAIVER
Governmental immunity
Board of claims legislation as waiver, **10:44, 10:49, 10:51 to 10:53**
Purchase of liability insurance as waiver, **10:49, 10:52, 10:54**

WARN, DUTY TO
Negligence actions
Generally, **10:67**
Mental health professionals, **10:68**
Product liability actions, **13:8**

WARRANTIES
Uniform Commercial Code, strict liability for defective products, **13:3**
Strict liability in tort compared, **13:4**

WASTE DISPOSAL, HAZARDOUS
Abnormally dangerous activity, as, **12:6**

WEAPONS, DEADLY; DEATH CAUSED BY
Generally, **20:2**

WIFE AND HUSBAND
Death of spouse caused by deadly weapon, recovery for, **20:2**
Defamation actions, absolute privilege, **15:11**
Loss of consortium
Generally, **20:4**
Marital relationship, interference with; effect of abolishment, **17:5**
Marital relationship, interference with, **17:5**
Negligence actions, spousal immunity, **10:45**

WORKERS' COMPENSATION
Negligence actions
Comparative negligence, **10:61**
Limitation of actions, **10:42**
Statute of repose as defense, **10:44**

WRONGFUL CONCEPTION, BIRTH, OR LIFE ACTIONS
Generally, **10:66**

WRONGFUL DEATH
Generally, **Ch 20**
Affection and companionship of minor child, loss of, **20:3**
Consortium, loss of, **20:4**

WRONGFUL DEATH—Cont'd
Damages, **20:1**
Loss of affection and companionship of minor child, **20:3**
Deadly weapons, death caused by, **20:2**
Establishment of tort, **20:1**
Loss of affection and companionship of minor child, **20:3**
Loss of consortium, **20:4**
Minors
Abandoned child, **20:1**
Action against parent by child's estate, **20:1**
Action by parent for child's wrongful death, **20:1**
Death of parent
Deadly weapon causing, recovery for, **20:2**
Loss of consortium, **20:4**
Loss of affection and companionship of minor child, **20:3**
Parents
Action against by child's estate, **20:1**
Action for child's wrongful death, **20:1**
Death of parent
Deadly weapon causing, child's recovery for, **20:2**
Loss of consortium, **20:4**
Loss of affection and companionship of minor child, **20:3**
Spouses
Death of spouse caused by deadly weapon, recovery for, **20:2**
Loss of consortium, **20:4**

WRONGFUL USE OF PROCEEDINGS
Civil. See CIVIL PROCEEDINGS, WRONGFUL USE OF
Criminal. See MALICIOUS PROSECUTION