

Index

ACCIDENT RECONSTRUCTION EVIDENCE

Personal Injuries, this index

ACCIDENT REPORTS

Generally §§ 4:65 to 4:73

Business records exception to
hearsay rule § 4:73

Diagrams made at scene § 4:72

Hearsay §§ 4:68, 4:73

Opinions in reports § 4:69

Opposing authorities

Generally § 4:71

Business records exception to
hearsay rule § 4:73

Diagrams made at scene § 4:72

Refreshing recollection, report
used to § 4:71

Opposition to motion to exclude
§ 4:141

Refreshing recollection, report used
to § 4:71

Summary § 4:66

Supporting authorities

Generally § 4:67

Hearsay, inadmissible § 4:68

Opinions in reports § 4:69

Other grounds § 4:70

Text of motion, suggested § 4:65

ACCIDENTS

Personal Injuries, this index

ACCIDENT SCENE PHOTOGRAPHS

Gruesome or inflammatory
photographs §§ 4:41, 4:48

ADMISSION, REQUESTS FOR

Discovery Motions, this index

AFFIRMATIVE DEFENSES

Premature rebuttal. Trial, this index

ALCOHOL AND INTOXICATION

Character evidence §§ 7:9, 7:21

Consumption of alcohol §§ 10:87 to
10:96

Lay witness testimony, intoxication
§ 8:42

Percipient witness, sample motion to
exclude evidence of alcoholism
§ 7:59

Personal Injuries, this index

ANTHROPOMORPHIC DUMMIES

Excluding biomechanic evidence
§ 10:129

ARBITRATION AND AWARD

Generally §§ 9:30 to 9:34

Evidence and findings

Generally §§ 9:30 to 9:34

Limitation on arbitration evidence
§ 9:32

Opposing authorities § 9:34

Summary § 9:31

Supporting authorities §§ 9:32,
9:33

Text of motion, suggested § 9:30

Limitation on arbitration evidence
§ 9:32

Testimony of arbitrator § 8:63

ARGUMENTS OF COUNSEL

Golden Rule argument, motion to
preclude. Trial, this index

Improper, motion to exclude

During opening statement § 9:63

Opening statement, motion to
exclude improper argument.

Trial, this index

Sample motions and suggested
motion text, motion to exclude
improper argument § 9:8

ARRESTS

Character evidence §§ 7:10, 7:65

ARRESTS—Cont'd

- Prior arrest, investigation, or criminal charge inadmissible § 7:47
- Prior D.U.I., exclusion of arrests § 10:102

ARTICLES

- Published Articles, this index

ATTORNEYS

- Arguments of Counsel, this index
- Motion to exclude testimony of. Witnesses, this index

AUTHENTICATION OR AUTHENTICITY

- Writings and physical evidence §§ 4:24, 4:25, 4:29, 4:140

AUTOMOBILE ACCIDENTS

- Personal Injuries, this index

BATTERED SPOUSE SYNDROME

- Tests and scientific evidence §§ 5:38, 5:45

BEST AND SECONDARY EVIDENCE

- Writings and physical evidence §§ 4:28, 4:32

BIAS OF WITNESS

- Character evidence §§ 7:18, 7:24
- Emotional bias. Prejudicial Evidence, this index

BIFURCATED TRIAL

- Motion to exclude evidence of damages. Trial, this index

BIOMECHANIC EVIDENCE

- Accident reconstruction and biomechanic evidence. Personal Injuries, this index
- Excluding biomechanic evidence §§ 10:129 to 10:131
- Junk science and related evidence §§ 5:31, 5:32, 5:50
- Sample motions and suggested motion text § 5:55

BLOOD, URINE, AND SALIVA TESTING

- Alcohol consumption § 10:93

BLOOD ALCOHOL TESTS

- Alcohol consumption § 10:93

BRIEFS

- Sample in limine brief § 1:11

BUSINESS VALUE

- Computerized valuations of business, sample motion to exclude § 8:113

CANINE SCENT TRACKING UNIT

- Tests and scientific evidence § 5:37

CAPITAL OFFENSES AND PUNISHMENT

- Penalty phase, motion to exclude prior crime evidence § 7:58

CAUSATION

- Lay witness testimony § 8:35

CHARACTER EVIDENCE

- Generally § 7:1 et seq.
- Admissibility § 7:2
- Alcohol consumption §§ 7:9, 7:21
- Alcoholism of percipient witness, sample motion to exclude evidence of § 7:59
- Arrests § 7:10
- Bias, excluding evidence of § 7:18
- Collateral matters §§ 7:17, 7:25
- Conduct, motion to exclude character evidence used to prove
 - Generally §§ 7:28 to 7:38
 - Context evidence § 7:38
 - Crimes evidence § 7:33
 - Impeachment of witness § 7:37
 - Improper character evidence §§ 7:32, 7:33
- Opposing authorities
 - Generally §§ 7:35 to 7:38
 - Context evidence § 7:38
 - Impeachment of witness § 7:37
 - Prior misconduct, admission of § 7:35
 - Relevant to material issue § 7:36
- Prior misconduct, admission of § 7:35
- Relevant to material issue § 7:36

INDEX

CHARACTER EVIDENCE—Cont'd

- Conduct, motion to exclude character evidence used to prove—Cont'd
 - Sample motions
 - Generally § 7:58 et seq.
 - Juvenile adjudication § 7:63
 - Marital infidelity § 7:61
 - Prescription drug abuse § 7:64
 - Summary § 7:29
 - Supporting authorities
 - Generally §§ 7:30 to 7:34
 - Crimes evidence § 7:33
 - Improper character evidence §§ 7:32, 7:33
 - Irrelevant evidence § 7:31
 - Other grounds § 7:34
 - Prejudicial evidence § 7:30
 - Text of motion, suggested § 7:28
- Context evidence § 7:38
- Details of prior convictions §§ 7:44, 7:54
- Drug use §§ 7:11, 7:20, 7:64
- Exclusion, character evidence subject to § 7:3
- Fraudulent acts § 7:13
- Good character of witness § 7:14
- Impeachment, motion to exclude character evidence used for
 - Generally §§ 7:4 to 7:27, 7:37
 - Alcohol consumption §§ 7:9, 7:21
 - Arrests § 7:10
 - Bias of witness §§ 7:18, 7:24
 - Collateral matters §§ 7:17, 7:25
 - Drug use §§ 7:11, 7:21
 - Fraudulent acts § 7:13
 - Good character of witness § 7:14
 - Opening the door doctrine § 7:27
 - Opposing authorities
 - Generally §§ 7:20 to 7:27
 - Alcohol or drug use by witness § 7:21
 - Bias of witness § 7:24
 - Collateral matters § 7:25
 - Facts at issue § 7:21
 - Impeachment, generally § 7:22
 - Opening the door doctrine § 7:27
 - Religious beliefs § 7:26

CHARACTER EVIDENCE—Cont'd

- Impeachment, motion to exclude character evidence used for—Cont'd
 - Opposing authorities—Cont'd
 - Veracity of witness § 7:23
 - Prior convictions § 7:12
 - Religious belief §§ 7:15, 7:26
 - Sexual preference or behavior § 7:16
- Summary § 7:5
- Supporting authorities
 - Generally §§ 7:6 to 7:19
 - Alcohol consumption § 7:9
 - Arrests § 7:10
 - Bias, excluding evidence of § 7:18
 - Collateral issues § 7:17
 - Drug use § 7:11
 - Fraudulent acts § 7:13
 - Good character of witness § 7:14
 - Improper impeachment evidence § 7:8
 - Irrelevant evidence § 7:7
 - Other grounds § 7:19
 - Prejudicial evidence § 7:6
 - Prior convictions § 7:12
 - Religious belief § 7:15
 - Sexual preference or behavior § 7:16
- Text of motion, suggested § 7:4
- Veracity of witness § 7:23
- Opening the door doctrine § 7:27
- Overview § 7:1
- Prescription drug abuse § 7:64
- Prior convictions § 7:12
- Prior crime evidence
 - Generally §§ 7:33, 7:39 to 7:58
 - Arrest, investigation, or criminal charge inadmissible § 7:47
 - Capital cases, penalty phase § 7:58
 - Civil cases §§ 7:49, 7:53
 - Details of prior convictions §§ 7:44, 7:54
 - Guilty findings admissible in criminal cases § 7:56

CHARACTER EVIDENCE—Cont'd

- Prior crime evidence—Cont'd
 - Municipal violations §§ 7:46, 7:57, 7:60
 - No discretion § 7:52
 - Opposing authorities
 - Generally §§ 7:51 to 7:58
 - Capital cases, penalty phase § 7:58
 - Civil and criminal cases, prior convictions admissible § 7:53
 - Details of prior convictions § 7:54
 - Guilty findings admissible in criminal cases § 7:56
 - Municipal violations § 7:57
 - No discretion § 7:52
 - Plea evidence admissible in criminal cases § 7:55
 - Statutory provisions § 7:51
 - Plea evidence admissible in criminal cases § 7:55
 - Statutory provisions § 7:51
 - Summary § 7:40
 - Supporting authorities
 - Generally §§ 7:41 to 7:50
 - Character evidence, improper § 7:45
 - Civil cases, prior criminal pleas inadmissible § 7:49
 - Codefendants, conviction of § 7:48
 - Crime evidence, exclusion, generally § 7:43
 - Irrelevant evidence § 7:42
 - Municipal ordinance violations inadmissible § 7:46
 - Other grounds § 7:50
 - Prejudicial evidence § 7:41
 - Prior arrest, investigation, or criminal charge inadmissible § 7:47
 - Underlying details inadmissible § 7:44
 - Text of motion, suggested § 7:39
 - Prior misconduct, admission of § 7:35
 - Relevant to material issue § 7:36

CHARACTER EVIDENCE—Cont'd

- Religious belief §§ 7:15, 7:26
- Sample motions
 - Generally § 7:58 et seq.
 - Inflammatory evidence, opposition to motion to exclude § 7:66
 - Juvenile adjudication, motion to exclude improper character evidence § 7:63
 - Prescription drug abuse, motion to exclude § 7:64
 - Prior arrest of witness, motion to exclude § 7:65
 - Religious beliefs, motion to exclude § 7:62
 - Sexual preference or behavior § 7:16
 - Veracity of witness § 7:23

CHILDREN AND MINORS

- Child support action, mediator, motion to exclude testimony § 8:64
- Incompetent witness, motion to exclude testimony §§ 8:52, 8:57

CHILD SUPPORT ACTION

- Motion to exclude testimony of mediator § 8:64

CHIROPRACTORS

- Non-chiropractor giving opinion on necessity of chiropractic treatment, sample motion to preclude § 8:112

COLLATERAL ACTS OR MATTERS

- Irrelevant evidence §§ 3:14, 3:17, 3:24
- Payments. Collateral Source Payments, this index
- Tests and scientific evidence § 5:10

COLLATERAL SOURCE PAYMENTS

- Generally §§ 10:1 to 10:15
- Disability benefits § 10:8
- Governmental benefits based on financial need § 10:11
- Gratuitous payments §§ 10:6, 10:14
- Medical or liability policy payments § 10:7

INDEX

COLLATERAL SOURCE PAYMENTS—Cont'd

- Opposing authorities
 - Generally §§ **10:13 to 10:15**
 - Gratuitous payments, split of authority § **10:14**
 - Relevant to issue in case § **10:15**
- Prejudicial evidence § **10:3**
- Summary § **10:2**
- Supporting authorities
 - Generally §§ **10:3 to 10:12**
 - Collateral source evidence § **10:5**
 - Disability benefits § **10:8**
 - Governmental benefits based on financial need § **10:11**
 - Gratuitous payments § **10:6**
 - Irrelevant evidence § **10:4**
 - Medical or liability policy payments § **10:7**
 - Other grounds § **10:12**
 - Prejudicial evidence § **10:3**
 - Wage payments § **10:10**
 - Workers' compensation benefits § **10:9**
- Text of motion, suggested § **10:1**
- Wage payments § **10:10**
- Workers' compensation benefits § **10:9**

COMPENSATION

- Collateral source payments § **10:10**

COMPROMISE OR SETTLEMENT

- Settlement, this index

CONDUCT

- Character Evidence, this index

CRIMES AND OFFENSES

- Prior crime evidence. Character Evidence, this index
- Privilege Against Self-Incrimination, this index
- Sample motions and suggested motion text, motion to exclude prior crime evidence § **7:39**
- Tests and scientific evidence
 - New scientific evidence § **5:23**
 - Not generally accepted § **5:5**

CUMULATIVE ACTS OR MATTERS

- Expert witnesses, cumulative testimony §§ **8:18, 8:25**
- Hearsay cumulative of admissible evidence § **8:109**
- Letters § **4:80**
- Motion to exclude or limit cumulative evidence. Prejudicial Evidence, this index

DAMAGES

- Bifurcated trial, motion to exclude evidence of damages. Trial, this index
- Improper damage evidence, generally §§ **10:175 to 10:188**
- Junk science and related evidence, opposing authorities, hedonic damages § **5:42**
- Lay witness testimony § **8:43**
- Personal Injuries, this index
- Punitive Damages, this index
- Sample motions and suggested motion text
 - Bifurcated trial, motion to exclude evidence of damages §§ **9:35, 9:61**
 - Damages in bifurcated trial §§ **9:35, 9:61**

DEATH PENALTY

- Motion to exclude prior crime evidence § **7:58**

DEFAULT JUDGMENT

- Discovery sanction
- Motion for order § **6:60**

DEFENSES

- Affirmative defenses. Trial, this index

DEMONSTRATIVE OR REAL EVIDENCE

- Demonstrations and experiments § **4:133**
- Maps, Models, Charts, Exhibits and Demonstrative Evidence, this index
- Sample motions and suggested motion text § **4:86**

DEPOSITIONS

Discovery Motions, this index

DESCRIPTION OF MOTION

Generally § 1:1

DESTROYED EVIDENCE

Lost or Destroyed Evidence, this index

DIAGRAMS, CHARTS, OR EXHIBITS

Maps, Models, Charts, Exhibits and Demonstrative Evidence, this index

DISABILITY BENEFITS

Collateral source payments § 10:8

DISABLED OR INCAPACITATED PERSONS

Collateral source payments, disability benefits § 10:8

DISCOVERY MOTIONS

Generally §§ 6:1 to 6:60

Admission, requests for

Conclusively establishing admitted matters

Generally §§ 6:34 to 6:39

Exclusion of evidence § 6:38

Opposing authorities § 6:39

Purpose of rule § 6:37

Summary § 6:35

Text of motion, suggested § 6:34

Conclusively establishing admitted matters, supporting authorities

Generally § 6:36

Exclusion of evidence § 6:38

Purpose of rule § 6:37

Sanctions motions

Generally §§ 6:20 to 6:22

Exclusion of evidence § 6:21

Non-responsive matters, deeming admitted §§ 6:22, 6:32

Rule 59.01 § 6:20

Appropriateness of sanction to level of misconduct § 6:27

Available sanctions § 6:3

DISCOVERY MOTIONS—Cont'd

Claims denied or changed during discovery

Generally §§ 6:40 to 6:45

Exclusion of evidence §§ 6:42, 6:43

Opposing authorities § 6:45

Prejudicial evidence § 6:42

Sample motion to exclude evidence §§ 6:52, 6:53, 6:55

Summary § 6:41

Supporting authorities

Generally § 6:42

Exclusion of evidence §§ 6:42, 6:43

Other grounds § 6:44

Prejudicial evidence § 6:42

Text of motion, suggested § 6:40

Deadline, motion to exclude evidence produce beyond § 6:55

Deem matters admitted, motion to § 6:56

Depositions

Generally § 6:8

Evidence sanctions § 6:9

Improper expert deposition. Expert witnesses, below

Opposing authorities § 6:29

Rule 61.01 § 6:8

Terminating sanctions § 6:10

Evidence sanctions § 6:4

Expert witnesses

Duty to supplement witness exchange § 6:49

Faulty expert designations or declarations, motion for sanctions § 6:24

Improper expert witness exchange or expert deposition, motions concerning

Generally §§ 6:46 to 6:51, 6:48 to 6:50

Duty to supplement § 6:49

Exclusion of evidence § 6:50

Opposing authorities, expert testimony admitted § 6:51

Summary § 6:47

Text of motion, suggested § 6:46

INDEX

DISCOVERY MOTIONS—Cont'd

- Expert witnesses—Cont'd
 - Limiting plaintiff's expert's opinions, sample opposition to defendants' motion § 6:59
 - Matters not disclosed § 6:58
- Interrogatories
 - Generally § 6:11
 - Evidence sanctions § 6:12
 - Issue sanctions § 6:13
 - Opposing authorities § 6:30
 - Rule 61.01 § 6:11
 - Terminating sanctions § 6:14
- Issue sanctions § 6:5
- Medical bills for service obtained after [date], motion to exclude evidence of § 6:53
- Mental and physical examination §§ 6:18, 6:19
- Order rendering default judgment
 - Sanction discovery § 6:60
- Production requests
 - Generally § 6:15
 - Evidence sanctions § 6:16
 - Opposing authorities § 6:31
 - Terminating sanctions § 6:17
- Reasonable alternative remedy § 6:28
- Sanctions, motion for
 - Establishing facts § 6:57
- Sanctions, motion for
 - Generally §§ 6:1 to 6:45
 - Admission, requests for, above
 - Appropriateness of sanction to level of misconduct § 6:27
 - Available sanctions § 6:3
 - Depositions, above
 - Establishing facts, motion for § 6:57
 - Evidence sanctions § 6:4
 - Expert designations or declarations, faulty § 6:24
 - Issue sanctions § 6:5
 - Mental and physical examination §§ 6:18, 6:19
 - Opposing authorities
 - Generally §§ 6:26 to 6:33
 - Admitted, matters deemed § 6:32

DISCOVERY MOTIONS—Cont'd

- Sanctions, motion for—Cont'd
 - Opposing authorities—Cont'd
 - Depositions § 6:29
 - Interrogatories § 6:30
 - Production, requests for § 6:31
 - Reasonable alternative remedy § 6:28
 - Sanction should be appropriate to level of misconduct § 6:27
 - Witnesses, failure to disclose identity § 6:33
 - Prior order unnecessary § 6:7
 - Reasonable alternative remedy § 6:28
 - Summary § 6:2
 - Supporting authorities
 - Generally §§ 6:3 to 6:25
 - Available sanctions § 6:3
 - Evidence sanctions § 6:4
 - Expert designations or declarations, faulty § 6:24
 - Issue sanctions § 6:5
 - Mental and physical examination §§ 6:18, 6:19
 - Other grounds § 6:25
 - Prior order unnecessary § 6:7
 - Terminating sanctions § 6:6
 - Witnesses, failure to disclose identity §§ 6:23, 6:24
 - Text of motion, suggested § 6:1
 - Witnesses, failure to disclose identity §§ 6:23, 6:24, 6:33
- Undisclosed witnesses
 - Sample motion to exclude testimony § 6:54
 - Sanctions, failure to disclose identity of witnesses §§ 6:23, 6:24

DIVORCE AND SEPARATION

- Mediator, motion to exclude testimony § 8:64

DRAFTING SUGGESTIONS

- Generally § 1:8
- Be succinct § 1:10
- Facts, file motions supported by § 1:9

DRIVERS' LICENSES

Unlicensed driver. Personal Injuries, this index

DRIVING WHILE INTOXICATED

Prior D.U.I. Personal Injuries, this index

DRUGS AND NARCOTICS

Character evidence, drug use §§ 7:11, 7:21, 7:64

ESTOPPEL AND WAIVER

Exclusion of improper damage evidence § 10:181

Unpleaded issues § 3:18

EVIDENCE

Accident reconstruction evidence. Personal Injuries, this index

Arbitration and Award, this index

Best and secondary evidence §§ 4:28, 4:32

Biomechanic Evidence, this index

Character Evidence, this index

Demonstrative or Real Evidence, this index

Expert Witnesses, this index

Hypnosis Evidence, this index

Irrelevant Evidence, this index

Lost or Destroyed Evidence, this index

Maps, Models, Charts, Exhibits and Demonstrative Evidence, this index

Medical bills and services obtained after, motion to exclude § 6:53

Opposition to motion to exclude

Confuse the jury § 2:43

Personal Injuries, this index

Polygraph Examination, this index

Poverty, motion to exclude evidence of defendant's § 2:41

Prejudicial Evidence, this index

Prescription drug abuse, motion to exclude § 7:64

Preservation of objections § 1:4

Rebuttal Evidence, this index

Speculative Evidence, this index

Spoliation of evidence § 9:25

EVIDENCE—Cont'd

Tests and Scientific Evidence, this index

Videotape Evidence, this index

Witnesses, this index

Writings and Physical Evidence, this index

EXAMINATIONS AND EXAMINERS

Mental and physical examination §§ 6:18, 6:19

Polygraph examination, motion to exclude § 5:52

Sanctions, discovery motions §§ 6:18, 6:19

EXCLUSION OF COMMENT

Motion to

Exercise of privilege § 8:121

EXCLUSION OF EVIDENCE

Opposition to motion

Confuse the jury § 2:43

EXCLUSION OF IMPROPER ARGUMENT

Motion to

During opening statement § 9:63

EXCLUSION OF TESTIMONY

Motion to

Incompetent witness § 8:118

EXERCISE OF PRIVILEGE

Motion to exclude comment § 8:121

EXHIBITS

Maps, Models, Charts, Exhibits and Demonstrative Evidence, this index

EXPERIMENTS OR TESTS

Demonstrations and experiments § 4:133

Polygraph examination, motion to exclude § 5:52

Sample motions and suggested motion text § 5:1

Tests and Scientific Evidence, this index

INDEX

EXPERIMENTS OR TESTS

—Cont'd

Writings and physical evidence,
experiments, improper founda-
tion § 4:10

EXPERT WITNESSES

Common experience, matters of
§ 8:11

Conjecture § 8:13

Cumulative testimony §§ 8:18, 8:25

Examples, improper qualifications
§ 8:29

Foundation

Improper § 4:12

Inadequate § 8:4

Hearsay §§ 8:6 to 8:8, 8:21, 8:22

Hypothetical questions §§ 8:5, 8:22,
8:23

Improper expert opinion

Generally §§ 8:1 to 8:25

Common experience, matters of
§ 8:11

Conjecture § 8:13

Cumulative testimony §§ 8:18,
8:25

Hearsay §§ 8:6 to 8:8, 8:21, 8:22

Hypothetical questions §§ 8:5,
8:23

Jury function, usurping § 8:14

Legal questions vs. ultimate issues
§§ 8:10, 8:24

Not reasonably relied upon by
experts § 8:12

Opinions or statements of others
§§ 8:7, 8:22

Opposing authorities

Generally §§ 8:20 to 8:25

Cumulative testimony § 8:25

Hearsay §§ 8:21, 8:22

Hypothetical questions § 8:23

Legal questions vs. ultimate
issues § 8:24

Statements of others § 8:22

Profile evidence, improper § 8:16

Specialty or expertise, outside area
of § 8:17

Speculation §§ 8:13, 8:110

EXPERT WITNESSES—Cont'd

Improper expert opinion—Cont'd

Supporting authorities

Generally §§ 8:3 to 8:19

Common experience, matters of
§ 8:11

Conjecture § 8:13

Cumulative testimony § 8:18

Foundation, inadequate § 8:4

Hearsay, inadmissible §§ 8:6 to
8:8

Hypothetical questions § 8:5

Irrelevant matters § 8:15

Jury function, usurping § 8:14

Legal questions vs. ultimate
issues §§ 8:9, 8:10

Not reasonably relied upon by
experts § 8:12

Opinions or statements of others
§ 8:7

Other grounds § 8:19

Profile evidence, improper
§ 8:16

Specialty or expertise, outside
area of § 8:17

Speculation §§ 8:13, 8:110

Treatises, documents and texts
§ 8:8

Ultimate issues, legal questions
compared § 8:10

Text of motion, suggested § 8:1

Treatises, documents and texts
§ 8:8

Ultimate issues, legal questions
compared §§ 8:10, 8:24

Usurps jury function, motion to
exclude § 8:122

Jury function, usurping § 8:14

Legal questions vs. ultimate issues
§§ 8:10, 8:24

Motion to exclude

Testimony on unreliable principles
and methods § 5:56

Usurps jury function, improper
opinion § 8:122

Non-qualified expert, motion to
exclude testimony

Generally §§ 8:26 to 8:31

EXPERT WITNESSES—Cont'd

- Non-qualified expert, motion to exclude testimony—Cont'd
- Examples, improper qualifications § 8:29
- Opposing authorities §§ 8:31, 8:120
- Summary § 8:27
- Supporting authorities
 - Generally §§ 8:28 to 8:30
 - Examples, improper qualifications § 8:29
 - Other grounds § 8:30
- Text of motion, suggested § 8:26
- Not reasonably relied upon by experts § 8:12
- Opinions or statements of others §§ 8:7, 8:22
- Profile evidence, improper § 8:16
- Sample motions and suggested motion text §§ 5:54, 8:120
- Specialty or expertise, outside area of § 8:17
- Speculation §§ 8:13, 8:110
- Statements of others §§ 8:7, 8:22
- Testimony on unreliable principles and methods, motion to exclude § 5:56
- Tests and scientific evidence, expert not qualified to testify on subject § 5:3
- Treatises, documents and texts § 8:8
- Ultimate issues, legal questions compared §§ 8:10, 8:24

FIFTH AMENDMENT

- Privilege Against Self-Incrimination, this index

FINANCIAL STATUS OF PARTY

- Personal Injuries, this index

FINITE ELEMENT ANALYSIS TESTS

- Excluding biomechanic evidence § 10:130

FOUNDATION

- Expert witnesses §§ 4:12, 8:4
- Personal injuries, accident reconstruction and biomechanic

FOUNDATION—Cont'd

evidence §§ 10:124, 10:140

Tests and Scientific Evidence, this index

Writings and Physical Evidence, this index

FRAUD AND DECEIT

Character evidence, fraudulent acts as § 7:13

GOLDEN RULE ARGUMENT

Motion to preclude. Trial, this index

Prejudicial evidence § 2:22

GRUESOME OR INFLAMMATORY PHOTOGRAPHS

Accident scene photographs §§ 4:41, 4:48

HEARSAY

Generally §§ 8:95 to 8:109

Accident reconstruction evidence, excluding § 10:123

Accident reports §§ 4:68, 4:73

Admissible evidence, hearsay cumulative of § 8:109

Business records exception

Accident reports § 4:73

Letters § 4:84

Medical records, reports or bills § 4:118

Expert witnesses §§ 8:6 to 8:8, 8:21, 8:22

Impeaching witness credibility, use of hearsay § 8:108

Letters § 4:78

Medical records, reports or bills §§ 4:106, 4:111

Multiple hearsay §§ 8:102, 8:107

Non-assertive conduct § 8:106

Non-hearsay evidence § 8:105

Opposing authorities

Generally §§ 8:103 to 8:108

Admissible evidence, cumulative of § 8:109

Impeaching witness credibility, use of hearsay § 8:108

Multiple hearsay § 8:107

Non-assertive conduct § 8:106

INDEX

HEARSAY—Cont'd

- Opposing authorities—Cont'd
 - Non-hearsay evidence § 8:105
 - Purpose of exceptions § 8:104
- Physical evidence §§ 4:26, 4:27, 4:31
- Published articles §§ 4:60, 4:64
- Purpose of rule and exceptions §§ 8:98, 8:104
- Statements of others §§ 8:7, 8:22
- Summary § 8:96
- Supporting authorities
 - Generally §§ 8:97 to 8:102
 - Multiple hearsay § 8:102
 - Purpose of rule § 8:98
 - Written hearsay §§ 8:99 to 8:101
- Text of motion to exclude, suggested § 8:95
- Treatises, documents and texts § 8:8
- Writings and physical evidence §§ 4:26, 4:27, 4:31
- Written hearsay §§ 8:99 to 8:101

HYPNOSIS EVIDENCE

- Motion to exclude §§ 5:29, 5:46
- Sample motion to exclude § 5:53

IMMIGRATION STATUS

- Sample motion to exclude irrelevant evidence § 3:21

IMPEACHMENT

- Generally §§ 7:4 to 7:27
- Hearsay used to impeach witness credibility § 8:108
- Motion to exclude character evidence used for. Character Evidence, this index
- Personal Injuries, this index

IMPROPER ARGUMENT

- During opening statement
- Motion to exclude § 9:63

INCOMPETENT OR INSANE PERSONS

- Incompetent witness. Witnesses, this index
- Lay witness testimony, sanity and mental condition § 8:40

INCOMPETENT WITNESS

- Motion to exclude testimony § 8:118

INDIGENT PEOPLE

- Defendant's, evidence of § 2:41

INSURANCE

- Liability Insurance, this index
- Medical insurance policy, collateral source payments § 10:7
- Sample motion to exclude irrelevant evidence in case § 3:23

INTERROGATORIES

- Discovery Motions, this index

IRRELEVANT EVIDENCE

- Generally §§ 3:1 to 3:27
- Admissibility despite uncontested issue § 3:20
- Admitted or uncontroverted matters § 3:13
- Collateral issues §§ 3:14, 3:17, 3:24
- Estoppel, unpleaded issues § 3:18
- Immigration status, sample motion to exclude irrelevant evidence § 3:21
- Insurance case, sample motion to exclude irrelevant evidence § 3:23
- Letters §§ 4:79, 4:85
- Matters not in controversy § 3:27
- Matters not in controversy
 - Generally §§ 3:10 to 3:20
 - Admissibility despite uncontested issue § 3:20
 - Admitted or uncontroverted matters § 3:13
 - Collateral issues §§ 3:14, 3:17
 - Estoppel, unpleaded issues § 3:18
 - Opposing authorities
 - Generally § 3:16
 - Admissibility despite uncontested issue § 3:20
 - Collateral issues § 3:17
 - Estoppel, unpleaded issues § 3:18
 - Relevance to other issues § 3:19
 - Other issues, relevance to § 3:19
 - Summary § 3:11

IRRELEVANT EVIDENCE—Cont'd

Matters not in controversy—Cont'd

- Supporting authorities
 - Generally § 3:12
 - Admitted or uncontroverted matters § 3:13
 - Collateral issues § 3:14
 - Unpleaded issues § 3:15
- Text of motion, suggested § 3:10
- Unpleaded issues §§ 3:15, 3:18
- No unlimited inquiry § 3:4
- Opposing authorities § 3:9
- Other issues, relevance to § 3:19
- Outside pleadings § 3:5
- Photographs, gruesome or inflammatory § 4:36
- Physical conditions not at issue, sample motion to exclude § 3:21
- Prejudicial § 3:6
- Remoteness § 3:8
- Sample motions
 - Generally §§ 3:21 to 3:27
 - Collateral and irrelevant evidence, motion to exclude § 3:24
 - Immigration status, motion to exclude irrelevant evidence of § 3:21
 - Insurance cases, motion to exclude irrelevant evidence of § 3:23
 - Matters not in controversy, motion to exclude § 3:27
 - Physical conditions not at issue, motion to exclude evidence of § 3:22
 - Speculative evidence, motion to exclude § 3:25
 - Unpleaded issues, motion to exclude § 3:26
- Speculative evidence § 3:25
- Speculative evidence § 3:7
- Summary § 3:2
- Supporting authorities
 - Generally § 3:3
 - No unlimited inquiry § 3:4
 - Outside pleadings § 3:5
 - Prejudicial § 3:6
 - Speculative evidence § 3:7
 - Too remote § 3:8

IRRELEVANT EVIDENCE—Cont'd

Text of motion, suggested §§ 3:1, 3:10

- Too remote § 3:8
- Unpleaded issues §§ 3:15, 3:18, 3:26

JUDGES

- Opposition to motion
- Exclude evidence
 - Confuse the jury § 2:43
- Testimony of § 8:62

JUDGMENT

- Default, Motion for order
- Discovery sanction § 6:60

JURORS

- Appeal to jurors as taxpayers, improper § 10:162
- Confusion
 - Opposition to motion, exclude evidence § 2:43
- Improper voir dire § 9:62
- Missing evidence instruction, opposition to motion for § 9:64
- Voir dire improper. Trial, this index
- Witness, juror as, motion to exclude testimony §§ 8:66, 8:73

JUVENILE ADJUDICATION

- Motion to exclude improper character evidence § 7:63

LEGAL OPINIONS

- Lay witness testimony §§ 8:36, 10:171

LEGAL SEPARATION ACTION

- Motion to exclude testimony of mediator § 8:64

LETTERS

- Generally §§ 4:74 to 4:85
- Business records exception to hearsay rule § 4:87
- Cumulative § 4:80
- Foundation, lack of § 4:81
- Hearsay §§ 4:78, 4:84
- Motion to exclude written letters, sample § 4:134
- Opposing authorities
 - Generally § 4:83

INDEX

LETTERS—Cont'd

- Opposing authorities—Cont'd
 - Business records exception to hearsay rule § 4:87
 - Relevant § 4:85
- Relevance §§ 4:79, 4:85
- Summary § 4:75
- Supporting authorities
 - Generally §§ 4:76, 4:77
 - Cumulative § 4:80
 - Foundation, lack of § 4:81
 - Hearsay § 4:78
 - Irrelevant § 4:79
 - Other grounds § 4:82
- Text of motion, suggested § 4:74

LIABILITY INSURANCE

- Collateral source payments § 10:7
- Motion to exclude evidence of insurance §§ 10:16 to 10:27
- Personal Injuries, this index

LOCAL RULES AND REGULATIONS

- Caution regarding motions in limine § 1:7

LOST OR DESTROYED EVIDENCE

- Generally §§ 9:20 to 9:29
- Intentional destruction § 9:24
- Missing evidence instruction, opposition to motion for § 9:64
- Negative presumption § 9:26
- Opposing authorities
 - Generally § 9:28
 - Other remedies § 9:29
- Prejudicial evidence § 9:22
- Sample motion § 9:58
- Spoliation of evidence § 9:25
- Summary § 9:21
- Supporting authorities
 - Generally §§ 9:22 to 9:27
 - Exclusion of lost or destroyed evidence § 9:23
 - Intentional destruction § 9:24
 - Negative presumption § 9:26
 - Other grounds § 9:27
 - Prejudicial evidence § 9:22
 - Spoliation of evidence § 9:25

LOST OR DESTROYED

EVIDENCE—Cont'd

- Supporting authorities—Cont'd
 - Suppression of evidence § 9:24
- Suppression of evidence § 9:24
- Text of motion, suggested § 9:20

LOST PROFITS

- Exclusion of improper damage evidence § 10:181
- Motion to exclude improper damage evidence (speculative evidence) § 10:201

MALPRACTICE BY MEDICAL PROFESSION

- Lay witness testimony, common knowledge exception § 8:47

MAPS, MODELS, CHARTS, EXHIBITS AND DEMONSTRATIVE EVIDENCE

- Generally §§ 4:86 to 4:101
- Demonstrations §§ 4:92, 4:100, 4:101
- Diagrams §§ 4:93, 4:99
- Discretion of court §§ 4:89, 4:97
- Exhibits § 4:91
- Illustrations §§ 4:93, 4:99
- Injury, demonstration of § 4:101
- Maps, models or charts §§ 4:90, 4:98
- Opposing authorities
 - Generally § 4:95
 - Demonstrations §§ 4:100, 4:101
 - Diagrams § 4:99
 - Discretion of court § 4:97
 - Illustrations § 4:99
 - Injury, demonstration of § 4:101
 - Maps, models, or charts § 4:98
 - Relevant to issues § 4:96
- Relevant to issues § 4:96
- Summary § 4:87
- Supporting authorities
 - Generally § 4:88
 - Demonstrations § 4:92
 - Diagrams § 4:93
 - Discretion of court § 4:89
 - Exhibits § 4:91
 - Illustrations § 4:93

**MAPS, MODELS, CHARTS,
EXHIBITS AND
DEMONSTRATIVE
EVIDENCE—Cont'd**

Supporting authorities—Cont'd
Maps, models or charts § **4:90**
Other grounds § **4:94**
Text of motion, suggested § **4:86**

MEDIATION

Motion to exclude, sample § **9:59**
Witness, mediator as, motion to
exclude testimony §§ **8:63, 8:64**

**MEDICAL CARE OR
TREATMENT**

Medical Records, Reports or Bills,
this index
Mental and physical examination,
sanctions, discovery motions
§§ **6:18, 6:19**

MEDICAL INSURANCE POLICY

Collateral source payments § **10:7**

MEDICAL MALPRACTICE

Lay witness testimony, common
knowledge exception § **8:47**

**MEDICAL RECORDS, REPORTS
OR BILLS**

Generally §§ **4:102 to 4:121**
Billing records
Foundation, lack of § **4:112**
Motion to exclude evidence of
after [date] § **6:53**
Proof of medical expenses § **4:113**
Reasonableness of charges § **4:121**
Business records exception § **4:118**
Diagnosis and treatment, opinion
used in § **4:117**
Foundation, improper § **4:105**
Hearsay §§ **4:106, 4:111**
Medical history §§ **4:110, 4:111,**
4:119, 4:120
Observations of physician § **4:119**
Opposing authorities
Generally § **4:115**
Authentication, proper § **4:116**
Billing records, reasonableness of
charges § **4:121**

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

Opposing authorities—Cont'd
Business records exception § **4:118**
Opinion used in formation of diag-
nosis and treatment § **4:117**
Patient history
Medical diagnosis, pertinent to
§ **4:120**
Observations of physician
§ **4:119**
Personal knowledge, lack of § **4:107**
Sample motions and suggested
motion text §§ **4:102, 4:135**
Self-serving opinions § **4:109**
Speculation § **4:108**
Summary § **4:103**
Supporting authorities
Generally § **4:104**
Billing records
Foundation, lack of § **4:112**
Proof of medical expenses
§ **4:113**
Foundation, improper § **4:105**
Hearsay
Medical history § **4:111**
Medical opinions § **4:106**
Medical opinions, improper
hearsay § **4:106**
Opinions of others
Lack of personal knowledge
§ **4:107**
Self-serving § **4:109**
Speculation § **4:108**
Other grounds § **4:114**
Patient medical history §§ **4:110,**
4:111
Text of motion, suggested § **4:102**

**MENTAL AND PHYSICAL
EXAMINATION**

Sanctions, discovery motions
§§ **6:18, 6:19**

**MENTAL CAPACITY OR
CONDITION**

Incompetent witness, motion to
exclude testimony §§ **8:53, 8:58**
Lay witness testimony, sanity and
mental condition § **8:40**

INDEX

MESSAGES

Text, Motion to exclude § 4:142

MINORS

Child support action, mediator,
motion to exclude testimony
§ 8:64

Incompetent witness, motion to
exclude testimony §§ 8:52, 8:57

MODELS AND PROTOTYPES

Maps, Models, Charts, Exhibits and
Demonstrative Evidence, this
index

MOTION PICTURES

Improper foundation § 4:11

MOTION TO DISMISS

Action as discovery sanction § 6:62

MUNICIPAL CORPORATIONS AND OTHER POLITICAL SUBDIVISIONS

Excluding prior crime evidence
§§ 7:46, 7:57, 7:60

Prior D.U.I., exclusion of municipal
violations § 10:103

NON-CALLED WITNESSES

Witnesses, this index

OBJECTIONS

Preservation of § 1:4

OBJECTS OR THINGS

Improper foundation § 4:15

ORDERS

Motion for
Discovery sanction
Rendering default judgment
§ 6:60

Evidentiary sanctions
Serve answers/objections to
interrogatories § 6:61

Sample in limine order § 1:12

PATTERN OF INJURY TESTS

Excluding biomechanic evidence
§ 10:131

PERSONAL INJURIES

Generally § 10:1 et seq.

PERSONAL INJURIES—Cont'd

Accident reconstruction and
biomechanic evidence

Generally §§ 10:119 to 10:146

Accident reconstruction evidence
Generally §§ 10:121 to 10:127,
10:139

Competent facts § 10:140

Foundation § 10:140

Foundation, improper § 10:124

Hearsay § 10:123

Incomplete facts § 10:122

Observation of others, reliance
on § 10:123

Opinion, proper basis for
§ 10:139

Photographs depicting “no dam-
age” to vehicles § 10:145

Point of impact § 10:144

Point of impact determinations
§ 10:125

Qualification, improper
§ 10:124

Reaction time determinations
§ 10:126

Skid mark analysis § 10:142

Speculation § 10:122

Speed of vehicle § 10:141

Stopping distances § 10:143

Vehicle speed determinations
§ 10:127

Anthropomorphic dummies
§ 10:129

Biomechanic evidence

Admitting § 10:146

Excluding §§ 10:128 to 10:131

Biomechanic evidence, excluding

Generally §§ 10:128 to 10:131

Anthropomorphic dummies
§ 10:129

Finite element analysis tests
§ 10:130

Pattern of injury tests § 10:131

Competent facts § 10:140

Finite element analysis tests
§ 10:130

Foundation §§ 10:124, 10:140

Hearsay § 10:123

PERSONAL INJURIES—Cont’d

Accident reconstruction and
biomechanic evidence—Cont’d
Human crash test dummy
testimony § **10:135**
Incomplete facts § **10:122**
Low-speed impact automobile
cases
Generally §§ **10:132 to 10:137**
Human crash test dummy
testimony § **10:135**
Other unreliable tests § **10:137**
Photographs depicting “no dam-
age” to vehicles § **10:136**
Plopping into a chair testimony,
challenging § **10:134**
Opinion, proper basis for § **10:139**
Opposing authorities
Biomechanic evidence, cases
where admitted § **10:146**
Competent facts § **10:140**
Opinion, proper basis for
§ **10:139**
Photographs depicting “no dam-
age” to vehicles § **10:145**
Skid mark analysis § **10:142**
Stopping distances § **10:143**
Tests and scientific testimony
§ **10:138**
Pattern of injury tests § **10:131**
Photographs depicting “no dam-
age” to vehicles §§ **10:136,**
10:145
Point of impact determinations
§§ **10:125, 10:144**
Reaction time determinations
§ **10:126**
Skid mark analysis § **10:142**
Speculation § **10:122**
Stopping distances § **10:143**
Summary § **10:120**
Supporting authorities
Anthropomorphic dummies
§ **10:129**
Finite element analysis tests
§ **10:130**
Foundation, improper § **10:124**
Hearsay § **10:123**
Incomplete facts § **10:122**

PERSONAL INJURIES—Cont’d

Accident reconstruction and
biomechanic evidence—Cont’d
Supporting authorities—Cont’d
Pattern of injury tests § **10:131**
Point of impact determinations
§ **10:125**
Reaction time determinations
§ **10:126**
Speculation § **10:122**
Vehicle speed determinations
§ **10:127**
Text of motion, suggested § **10:119**
Vehicle speed determinations
§§ **10:127, 10:141**
Alcohol consumption
Generally §§ **10:87 to 10:96**
Blood alcohol level tests § **10:93**
Irrelevant evidence § **10:90**
Opposing authorities
Generally § **10:95**
Relevant to issues § **10:95**
Witness perceptions § **10:96**
Passenger, consumption by
§ **10:92**
Prejudicial evidence § **10:89**
Relevant to issues § **10:95**
Summary § **10:88**
Supporting authorities
Generally §§ **10:89 to 10:94**
Alcohol evidence § **10:91**
Blood alcohol level tests § **10:93**
Irrelevant evidence § **10:90**
Other grounds § **10:94**
Passenger, consumption by
§ **10:92**
Prejudicial evidence § **10:89**
Text of motion, suggested § **10:87**
Witness perceptions § **10:96**
Collateral source payments
Generally §§ **10:1 to 10:15**
Disability benefits § **10:8**
Governmental benefits based on
financial need § **10:11**
Gratuitous payments §§ **10:6,**
10:14
Medical or liability policy pay-
ments § **10:7**

INDEX

PERSONAL INJURIES—Cont'd

Collateral source payments—Cont'd

Opposing authorities

Generally §§ 10:13 to 10:15

Gratuitous payments, split of authority § 10:14

Relevant to issue in case § 10:15

Prejudicial evidence § 10:3

Summary § 10:2

Supporting authorities

Generally §§ 10:3 to 10:12

Collateral source evidence § 10:5

Disability benefits § 10:8

Governmental benefits based on financial need § 10:11

Gratuitous payments § 10:6

Irrelevant evidence § 10:4

Medical or liability policy payments § 10:7

Other grounds § 10:12

Prejudicial evidence § 10:3

Wage payments § 10:10

Workers' compensation benefits § 10:9

Text of motion, suggested § 10:1

Wage payments § 10:10

Workers' compensation benefits § 10:9

Damage evidence, improper

Generally §§ 10:175 to 10:188

Court's discretion § 10:183

Denied claims §§ 10:183, 10:185

Estoppel § 10:184

Lost profits § 10:181

Opposing authorities

Generally § 10:183

Court's discretion § 10:183

Denied claims §§ 10:183, 10:185

Estoppel § 10:184

Punitive damages § 10:188

Reasonably certain damages § 10:187

Speculative damages § 10:186

Unpleaded claims § 10:183

Punitive damages §§ 10:182, 10:188

PERSONAL INJURIES—Cont'd

Damage evidence, improper—Cont'd

Reasonably certain damages § 10:187

Speculative damages §§ 10:180, 10:186, 10:201

Summary § 10:176

Supporting authorities

Generally §§ 10:177 to 10:182

Lost profits § 10:181

Punitive damages § 10:182

Speculative damages § 10:180

Surprise claims § 10:179

Undisputed matters § 10:178

Unpleaded matters § 10:177

Surprise claims § 10:179

Text of motion, suggested § 10:175

Undisputed matters § 10:178

Unpleaded matters §§ 10:177, 10:183

Evidence, see more specific groups in this index topic

Financial status of party

Generally §§ 10:147 to 10:157

Defendant's financial status § 10:153

Opposing authorities

Generally § 10:156

Punitive damages claim, necessary to support § 10:157

Relevant to issues § 10:156

Plaintiff's, motion to exclude, sample § 10:198

Plaintiff's financial status § 10:152

Relevant to issues § 10:156

Sample motions and suggested motion text §§ 10:147, 10:198, 10:204

Summary § 10:148

Supporting authorities

Generally §§ 10:149 to 10:155

Defendant's financial status § 10:153

Financial status evidence § 10:151

Irrelevant evidence § 10:150

Other grounds § 10:155

PERSONAL INJURIES—Cont’d

Financial status of party—Cont’d
 Supporting authorities—Cont’d
 Plaintiff’s financial status
 § 10:152
 Prejudicial evidence § 10:149
 Punitive damages cases
 §§ 10:154, 10:157
 Text of motion, suggested
 § 10:147
 Impeachment
 Prior D.U.I. §§ 10:101, 10:107,
 10:108
 Subsequent repairs § 10:62
 Liability insurance
 Generally §§ 10:16 to 10:27
 Cross-examination § 10:23
 Evidence of, sample motion to
 exclude § 10:197
 Incidental reference to insurance
 § 10:25
 Irrelevant evidence § 10:19
 Lack of insurance, evidence of
 § 10:21
 Non-prejudicial references to
 insurance § 10:26
 Opposing authorities
 Generally §§ 10:23 to 10:27
 Cross-examination § 10:23
 Incidental reference to insurance
 § 10:25
 Non-prejudicial references to
 insurance § 10:26
 Ownership or employment,
 proving § 10:27
 Relevant to other issues or
 otherwise admissible
 § 10:24
 Ownership or employment, prov-
 ing § 10:27
 Prejudicial evidence § 10:18
 Relevant to other issues or
 otherwise admissible § 10:24
 Summary § 10:17
 Supporting authorities
 Generally §§ 10:18 to 10:22
 Irrelevant evidence § 10:19
 Lack of insurance, evidence of
 § 10:21

PERSONAL INJURIES—Cont’d

Liability insurance—Cont’d
 Supporting authorities—Cont’d
 Liability insurance evidence
 § 10:20
 Other grounds § 10:22
 Prejudicial evidence § 10:18
 Liability or fault evidence
 Generally §§ 10:165 to 10:174
 Admitted matters §§ 10:169,
 10:170, 10:174
 Legal opinions by lay witnesses,
 inadmissible § 10:171
 Opposing authorities
 Generally § 10:173
 Admission of fault § 10:174
 Relevance § 10:173
 Relevance § 10:173
 Settlement negotiations, admis-
 sions made during § 10:170
 Summary § 10:165
 Supporting authorities
 Generally §§ 10:167 to 10:172
 Admitted matters §§ 10:169,
 10:170
 Irrelevant evidence § 10:168
 Legal opinions by lay witnesses,
 inadmissible § 10:171
 Other grounds § 10:172
 Prejudicial evidence § 10:167
 Settlement negotiations, admis-
 sions made during § 10:170
 Text of motion, suggested
 § 10:165
 Motion to exclude
 Evidence regarding party’s prior
 injuries § 10:205
 Motion to exclude evidence regard-
 ing party’s prior injuries
 § 10:205
 Motion to exclude that driver was
 unlicensed § 10:206
 Other accidents, claims, or lawsuits
 Generally §§ 10:40 to 10:54
 Opposing authorities
 Generally §§ 10:49 to 10:54
 Subsequent accidents, evidence
 of § 10:54

INDEX

PERSONAL INJURIES—Cont'd

- Other accidents, claims, or lawsuits—Cont'd
 - Prior accident evidence
 - Absence of prior accidents §§ 10:44, 10:49
 - Dangerous condition §§ 10:46, 10:51
 - Defective products §§ 10:46, 10:51
 - Exclusion, sample motion §§ 10:49, 10:202
 - Negligence, prior accident evidence used to prove § 10:45
 - Notice § 10:52
 - Relevant to issues in case § 10:53
 - Similarity §§ 10:46, 10:51
 - Subsequent accidents, evidence of § 10:54
- Summary § 10:41
- Supporting authorities
 - Generally §§ 10:42 to 10:48
 - Irrelevant evidence § 10:43
 - Other claims or lawsuits § 10:47
 - Other grounds § 10:48
 - Prejudicial evidence § 10:42
- Text of motion, suggested § 10:40
- Party's health or injuries, motion to exclude where not at issue
 - Generally §§ 10:110 to 10:118
 - Demonstrations §§ 10:117, 10:118
 - Irrelevant evidence § 10:113
- Opposing authorities
 - Generally §§ 10:116 to 10:118
 - Demonstration of injury § 10:117
 - Other demonstrations § 10:118
 - Relevant to issues in case § 10:116
- Prejudicial evidence § 10:112
- Relevant to issues in case § 10:116
- Summary § 10:111
- Supporting authorities
 - Generally §§ 10:112 to 10:115
- Health or injuries where not at issue, exclusion of evidence § 10:114

PERSONAL INJURIES—Cont'd

- Party's health or injuries, motion to exclude where not at issue—Cont'd
 - Supporting authorities—Cont'd
 - Irrelevant evidence § 10:113
 - Other grounds § 10:115
 - Prejudicial evidence § 10:112
 - Text of motion, suggested § 10:110
 - Prior D.U.I.
 - Generally §§ 10:97 to 10:109
 - Arrests § 10:102
 - Impeachment §§ 10:101, 10:107, 10:108
 - Improper conduct, exclusion of D.U.I. evidence where used to prove § 10:104
 - Irrelevant evidence § 10:100
 - Municipal ordinance violations § 10:103
 - Opposing authorities
 - Generally §§ 10:106 to 10:109
 - Impeachment §§ 10:107, 10:108
 - Relevant to issues § 10:109
 - Prejudicial evidence § 10:99
 - Relevant to issues § 10:109
 - Summary § 10:98
 - Supporting authorities
 - Generally §§ 10:99 to 10:105
 - Arrests § 10:102
 - Impeachment, crimes evidence used for § 10:101
 - Improper conduct, exclusion of D.U.I. evidence where used to prove § 10:104
 - Irrelevant evidence § 10:100
 - Municipal ordinance violations § 10:103
 - Other grounds § 10:105
 - Prejudicial evidence § 10:99
 - Text of motion, suggested § 10:97
- Sample motions
 - Evidence of failure to properly secure child in safety seat, motion to exclude § 10:207
 - Motion to exclude that driver was unlicensed § 10:206
 - Seat belts, failure to wear
 - Generally §§ 10:80 to 10:86

PERSONAL INJURIES—Cont'd

Seat belts, failure to wear—Cont'd
Irrelevant evidence § 10:83
Mitigation, admissible as § 10:86
Opposing authorities, admissible
as mitigation § 10:86
Prejudicial evidence § 10:82
Summary § 10:81
Supporting authorities
Generally §§ 10:82 to 10:85
Irrelevant evidence § 10:83
Other grounds § 10:85
Prejudicial evidence § 10:82
Seat belt evidence § 10:84
Text of motion, suggested § 10:80
Settlement evidence
Generally §§ 10:28 to 10:39
Admission against interest § 10:39
Co-defendants, settlement with
§ 10:35
Irrelevant evidence § 10:31
Liability, settlement evidence used
to show § 10:32
Negotiations § 10:34
Offer to compromise § 10:36
Opposing authorities
Generally § 10:38
Admission against interest
§ 10:39
Prejudicial evidence § 10:30
Prior settlements § 10:33
Summary § 10:29
Supporting authorities
Generally §§ 10:30 to 10:37
Co-defendants, settlement with
§ 10:35
Irrelevant evidence § 10:31
Offer to compromise § 10:36
Other grounds § 10:37
Prejudicial evidence § 10:30
Prior settlements § 10:33
Settlement evidence used to
show liability § 10:32
Settlement negotiations § 10:34
Text of motion, suggested § 10:28
Settlement evidence, motion to
exclude, sample § 10:196

PERSONAL INJURIES—Cont'd

Speculative evidence, motion exclude
improper damage evidence
§ 10:201
Statute violation
Generally §§ 10:65 to 10:74
Injury not one statute meant to
prevent § 10:70
Irrelevant evidence § 10:68
Negligence per se §§ 10:70, 10:74
Not proximate cause § 10:70
Opposing authorities
Generally § 10:73
Negligence per se § 10:74
Presumption of negligence
§ 10:74
Traffic citation, admission of
§ 10:73
Prejudicial evidence § 10:67
Presumption of negligence § 10:74
Protected class, party not within
§ 10:71
Summary § 10:66
Supporting authorities
Generally §§ 10:67 to 10:72
Injury not one statute meant to
prevent § 10:70
Irrelevant evidence § 10:68
Negligence per se not applicable
§ 10:70
Not proximate cause § 10:70
Other grounds § 10:72
Prejudicial evidence § 10:67
Protected class, party not within
§ 10:71
Traffic citation evidence § 10:69
Text of motion, suggested § 10:65
Traffic citation evidence §§ 10:69,
10:73
Statute violation, sample motion to
exclude § 10:194
Subsequent accidents, evidence of
§ 10:54
Subsequent repairs
Generally §§ 10:55 to 10:63
Impeachment § 10:62
Irrelevant evidence § 10:58

INDEX

PERSONAL INJURIES—Cont'd

- Subsequent repairs—Cont'd
 - Negligence, exclusion of subsequent repair evidence to show § 10:59
- Non-parties § 10:61
- Opposing authorities
 - Generally § 10:61
 - Impeachment § 10:62
 - Non-parties § 10:61
 - Relevant to issues § 10:63
 - Sample motions § 10:203
 - Strict products liability § 10:64
- Prejudicial evidence § 10:57
- Relevant to issues § 10:63
- Sample motion to exclude §§ 10:193, 10:203
- Strict products liability § 10:64
- Summary § 10:56
- Supporting authorities
 - Generally §§ 10:57 to 10:60
 - Irrelevant evidence § 10:58
 - Negligence, exclusion of subsequent repair evidence to show § 10:59
 - Other grounds § 10:60
 - Prejudicial evidence § 10:57
 - Text of motion, suggested § 10:55
- Tax evidence
 - Generally §§ 10:158 to 10:164
- Jurors, improper appeal to as taxpayers § 10:162
- Opposing authorities, relevant to issues § 10:164
- Relevant to issues § 10:164
- Summary § 10:159
- Supporting authorities
 - Generally §§ 10:160 to 10:163
 - Irrelevant evidence § 10:161
 - Jurors, improper appeal to as taxpayers § 10:162
 - Other grounds § 10:163
 - Prejudicial evidence § 10:160
 - Text of motion, suggested §§ 10:158 to 10:164
- Unlicensed driver
 - Generally §§ 10:76 to 10:80

PERSONAL INJURIES—Cont'd

- Unlicensed driver—Cont'd
 - Opposing authorities, relevant to issues § 10:79
 - Summary § 10:76
 - Supporting authorities §§ 10:77, 10:78
 - Text of motion, suggested § 10:75

PHOTOGRAPHS

- Accident reconstruction evidence, photographs depicting “no damage” to vehicles §§ 10:136, 10:145
- Accident scene photographs §§ 4:41, 4:48
- Cumulative evidence, motion to exclude or limit §§ 2:30, 2:37
- Enlarged photographs § 4:45
- Foundation §§ 4:8, 4:44
- Gruesome or inflammatory
 - Generally §§ 4:33 to 4:48
- Accident scene photographs §§ 4:41, 4:48
- Enlarged photographs § 4:45
- Inflaming jurors’ emotions, purpose to § 4:38
- Opposing authorities
 - Generally § 4:43
- Accident scene photographs § 4:48
- Enlarged photographs § 4:45
- Foundation, adequate § 4:44
- Gruesome photographs § 4:46
- Photographs, generally § 4:43
- X-rays § 4:47
- Sample motions §§ 4:132, 4:137
- Summary § 4:34
- Supporting authorities
 - Generally § 4:35
- Accident scene photographs § 4:41
- Gruesome or inflammatory photographs § 4:37
- Inflaming jurors’ emotions, purpose to § 4:38
- Irrelevant evidence § 4:36
- Other grounds § 4:42

PHOTOGRAPHS—Cont’d

- Gruesome or inflammatory—Cont’d
- Supporting authorities—Cont’d
- Photographs, exclusion of, generally § 4:39
- Prejudicial evidence § 4:35
- X-rays § 4:40
- Text of motion, suggested § 4:33
- X-rays §§ 4:40, 4:47
- Inflammatory. Gruesome or inflammatory, above
- X-rays §§ 4:40, 4:47

PHYSICAL APPEARANCE OR CONDITION

- Sample motion to exclude physical conditions not at issue § 3:21

PHYSICAL CONDITIONS

- Sample motion to exclude physical conditions not at issue § 3:21

PHYSICAL OR MENTAL EXAMINATION

- Sanctions, discovery motions §§ 6:18, 6:19

PICTURES AND PHOTOGRAPHS

- Photographs, this index

POLYGRAPH EXAMINATION

- Motion to exclude § 5:52
- Tests and Scientific Evidence, this index

POVERTY

- Defendant’s, evidence of § 2:41

PREJUDICE OR BIAS

- Bias, this index

PREJUDICE OR BIAS OF WITNESS

- Character evidence §§ 7:18, 7:24

PREJUDICIAL EVIDENCE

- Generally §§ 2:1 to 2:44
- Confusing or misleading evidence
- Generally §§ 2:12 to 2:16
- Limiting instruction § 2:16
- Opposing authorities
- Generally § 2:15
- Limiting instruction § 2:16

PREJUDICIAL EVIDENCE

—Cont’d

- Confusing or misleading evidence
- Cont’d
- Sample motion § 2:38
- Summary § 2:13
- Supporting authorities § 2:14
- Cumulative evidence, motion to exclude or limit
- Generally §§ 2:24 to 2:37
- Letters § 4:80
- Number of witnesses §§ 2:29, 2:35
- Opposing authorities
- Generally §§ 2:34 to 2:37
- Number of witnesses § 2:35
- Photographs § 2:37
- Videotape evidence § 2:36
- Photographs §§ 2:30, 2:37
- Rebuttal testimony § 2:33
- Sample motion § 2:39
- Summary § 2:25
- Supporting authorities
- Generally §§ 2:26, 2:27
- Articles and letters § 2:28
- Number of witnesses § 2:29
- Photographs § 2:30
- Rebuttal testimony § 2:33
- Videotape evidence § 2:32
- Witness testimony § 2:31
- Text of motion, suggested § 2:24
- Videotape evidence § 2:32
- Witnesses §§ 2:29, 2:31, 2:35
- Discretion § 2:7
- Emotional bias, motion to exclude evidence used to create
- Generally §§ 2:5, 2:17 to 2:23
- Golden Rule argument § 2:22
- Opposing authorities § 2:23
- Photographs, gruesome or inflammatory § 4:38
- Summary § 2:18
- Supporting authorities
- Generally §§ 2:19, 2:20
- Golden Rule argument § 2:22
- Taxpayers, jurors’ self-interest as § 2:21
- Taxpayers, jurors’ self-interest as § 2:21

INDEX

PREJUDICIAL EVIDENCE

—Cont'd

- Emotional bias, motion to exclude evidence used to create—Cont'd
 - Text of motion, suggested § 2:17
- Golden Rule argument § 2:22
- Irrelevant evidence § 3:6
- Motion for order
 - Rendering default judgment
 - Discovery sanction § 6:60
- Motion to exclude improper argument during opening statement § 9:63
- Motion to exclude prejudicial evidence § 2:40
- Motion to exclude testimony of incompetent witness § 8:118
- Opposing authorities
 - Generally § 2:6
 - Broad discretion § 2:7
- Opposition to motion
 - Confuse the jury
 - Exclude evidence § 2:43
- Opposition to motion to exclude prejudicial evidence § 2:42
- Photographs, gruesome or inflammatory §§ 4:35, 4:137
- Poverty, motion to exclude evidence of defendant's § 2:41
- Prejudice defined § 2:4
- Summary § 2:2
- Supporting authorities
 - Generally § 2:3
 - Emotional bias § 2:5
 - Exclusion of prejudicial evidence § 2:3
 - Prejudice defined § 2:4
- Text messages
 - Motion to exclude § 4:142
- Text of motion, suggested § 2:1
- Time wasting evidence
 - Generally §§ 2:8 to 2:11
 - Opposing authorities § 2:11
 - Summary § 2:9
 - Supporting authorities §§ 2:10, 2:26
 - Text of motion, suggested § 2:8
- Videotape evidence §§ 2:32, 2:36

PREJUDICIAL EVIDENCE

—Cont'd

- Witnesses, motion to exclude or limit cumulative evidence §§ 2:29, 2:31

PREMATURE REBUTTAL

- Rebuttal evidence
 - Affirmative defenses
 - Generally §§ 9:14 to 9:19
 - Affirmative defenses, motion to bar § 9:65

PRESERVATION OF OBJECTIONS

- Generally § 1:4

PRIOR CONVICTIONS

- Defendant's prior DWI, motion to exclude, sample § 10:199
- Impeachment, use for § 7:12

PRIOR CRIME EVIDENCE

- Character Evidence, this index

PRIVILEGE AGAINST SELF-INCRIMINATION

- Allowable comments in criminal matters § 8:85
- Civil consequences of silence § 8:86
- Comment on exercise of privilege
 - Generally §§ 8:82 to 8:86
 - Allowable comments in criminal matters § 8:85
 - Civil consequences of silence § 8:86
 - No comment rule § 8:84
 - Opposing authorities §§ 8:85, 8:86
 - Summary § 8:83
 - Supporting authorities § 8:84
- No comment rule § 8:84
- Silence, civil consequences § 8:86

PROCEDURAL REQUIREMENTS

- Generally §§ 1:6, 1:7
- Local rules, caution regarding § 1:7

PRODUCTION OF DOCUMENTS AND THINGS

- Discovery Motions, this index

PRODUCTS LIABILITY

Strict liability, motion to exclude evidence of subsequent repairs
§ 10:64

PROFITS

Lost Profits, this index

PROPERTY VALUE

Lay witness testimony § 8:43

PROXIMATE CAUSE

Lay witness testimony § 8:35

PSYCHIATRY AND PSYCHOLOGY

Motion to exclude tests and syndromes §§ 5:28, 5:44

PSYCHOLOGICAL TESTS AND SYNDROMES

Tests and scientific evidence §§ 5:28, 5:44

PUBLISHED ARTICLES

Generally §§ 4:57 to 4:64, 4:136
Hearsay §§ 4:60, 4:64
Opposition authorities
Non hearsay § 4:64
Relevant to issues § 4:63
Prejudicial § 4:61
Sample motion to exclude § 4:136
Summary § 4:58
Supporting authorities
Generally § 4:59
Hearsay § 4:60
Other grounds § 4:62
Prejudicial § 4:61
Text of motion, suggested § 4:57

PUNITIVE DAMAGES

Exclusion of improper damage evidence §§ 10:182, 10:188
Party's financial status, evidence of §§ 10:154, 10:157

PURPOSE OF MOTION

Generally § 1:1

RAPE TRAUMA SYNDROME

Motion to exclude §§ 5:28, 5:44

REBUTTAL EVIDENCE

Affirmative defenses, premature rebuttal
Generally §§ 9:14 to 9:19
Cumulative evidence, motion to exclude or limit § 2:33

REFRESHING RECOLLECTION

Accident report used for purpose of § 4:71

RELEVANCY

Irrelevant Evidence, this index

RELIGIOUS BELIEFS

Character evidence §§ 7:15, 7:26, 7:62
Motion to exclude improper character evidence § 7:62

REMOTENESS

Irrelevant evidence § 3:8

SAMPLE MOTIONS

Evidence of failure to properly secure child in safety seat, motion to exclude § 10:207
Motion to exclude
Evidence regarding party's prior injuries § 10:205
Motion to exclude that driver was unlicensed § 10:206

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT

Generally §§ 2:38 to 2:44
Accident report
Opposition to motion to exclude § 4:141
Accident report § 4:65
Action as discovery sanction, motion to dismiss § 6:62
Admitted matters, motion to
Conclusively establish § 6:34
Deem § 6:56
Affirmative defenses, motion to bar premature rebuttal § 9:14
Alcohol consumption § 10:87
Alcoholism of percipient witness § 7:59
Arbitration evidence and findings § 9:30

INDEX

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT

—Cont'd

Bifurcated trial, motion to exclude evidence of damages §§ **9:35, 9:61**

Biomechanic evidence, motion to exclude § **5:55**

Brief, sample § **1:11**

Character evidence

- Conduct, motion to exclude evidence used to prove § **7:28**
- Impeachment, motion to exclude evidence used for § **7:4**
- Juvenile adjudication, motion to exclude § **7:63**
- Marital infidelity, motion to exclude § **7:61**
- Prescription drug abuse, motion to exclude § **7:64**
- Prior crime evidence, motion to exclude § **7:39**

Claim denied during discovery

- Motion to exclude evidence § **6:40**
- Sample motion to exclude evidence § **6:52**

Collateral evidence, motion to exclude § **3:24**

Collateral source payments §§ **10:1, 10:189**

Computerized valuations of business, motion to exclude evidence § **8:113**

Conduct, motion to exclude character evidence used to prove § **7:28**

Confusing evidence § **2:38**

Cumulative evidence

- Excluding or limiting § **2:24**
- Sample motion to exclude § **2:39**

Damage evidence, improper § **10:175**

Damages in bifurcated trial §§ **9:35, 9:61**

Deem matters admitted, motion to § **6:56**

Defendant's prior DWI, motion to exclude § **10:199**

Demonstration, motion to exclude § **4:133**

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT

—Cont'd

Discovery, motion for evidentiary sanctions § **6:1**

Discovery deadline, motion to exclude evidence produce beyond § **6:55**

D.U.I., prior § **10:97**

Emotion bias, motion to exclude evidence used to create § **2:17**

Evidentiary sanctions for failure

- Serve answers/objections to interrogatories § **6:61**

Exclude comment regarding exercise of privilege § **8:121**

Exclude improper argument

- During opening statement § **9:63**

Exclude testimony of incompetent Witness § **8:118**

Exclude text messages § **4:142**

Exclusion of witness from courtroom prior to testifying §§ **8:74, 8:115**

Experts

- Expert witness exchange or expert deposition, improper § **6:46**
- Improper expert opinion, motion to exclude § **8:1**
- Opposition to motion to exclude § **8:120**
- Speculative opinion § **8:110**
- Witnesses, limiting plaintiff's § **6:59**

Expert testimony based on unreliable principles and methods, motion to exclude § **5:56**

Financial status of party §§ **10:147, 10:198, 10:204**

Firearm residue laboratory testing, admission § **10:191**

Foundation, motion to exclude evidence lacking § **4:1**

Golden Rule argument, motion to preclude § **9:60**

Hypnosis evidence, motion to exclude § **5:53**

Immigration status, sample motion to exclude irrelevant evidence § **3:21**

**SAMPLE MOTIONS AND
SUGGESTED MOTION TEXT**

—Cont’d

Impeachment, motion to exclude character evidence used for § 7:4

Improper expert opinion (usurps jury function), motion to exclude § 8:122

Improper terminology, motion to exclude § 9:66

Improper voir dire § 9:62

Incompetent witness § 8:49

Inflammatory evidence, opposition to motion to exclude § 7:66

Insurance case, sample motion to exclude irrelevant evidence § 3:23

Irrelevant evidence § 3:1

Irrelevant evidence, exclusion of §§ 3:23, 3:24

Judge, arbitrator, mediator, attorney or juror § 8:60

Junk science and related evidence § 5:20

Lack of personal knowledge of subject matter, motion to exclude testimony § 8:116

Lay witness testimony
Motion to exclude § 8:33
Opposition to motion to exclude § 8:119

Letters § 4:74

Liability insurance, motion to exclude evidence of § 10:16

Liability insurance evidence, motion to exclude § 10:197

Liability or fault evidence §§ 10:165, 10:190

Lost or destroyed evidence, motion to exclude reference to §§ 9:20, 9:58

Lost profits, motion to exclude improper damage evidence (speculative evidence) § 10:201

Maps, models, charts, exhibits and demonstrative evidence § 4:86

Matters not disclosed, motion to exclude § 6:58

Matters not in controversy § 3:10

**SAMPLE MOTIONS AND
SUGGESTED MOTION TEXT**

—Cont’d

Matters not in controversy, motion to exclude § 3:27

Mediation evidence, motion to exclude § 9:59

Mediator testimony
Motion to exclude § 8:117

Medical bills, motion to exclude § 4:145

Medical bills for service obtained after [date], motion to exclude evidence of § 6:53

Medical doctor, motion to exclude testimony and opinions § 8:114

Medical history of plaintiff, motion to exclude § 4:135

Medical records, reports or bills § 4:102

Missing evidence instruction, opposition to motion for § 9:64

Motion to bar premature rebuttal to affirmative defense § 9:65

Motion to exclude
Evidence regarding witness’s mental health § 7:71

Motion to exclude, evidence regarding witness’s mental health § 7:71

Municipal ordinance violation § 7:60

Newspaper article, motion to exclude § 4:136

Non-called witnesses, motion to exclude evidence of §§ 8:87, 8:111

Non-chiropractor giving opinion on necessity of chiropractic treatment, sample motion to preclude § 8:112

Opening statement, motion to exclude improper argument § 9:8

Opposition to motion to exclude
Inflammatory evidence § 7:66
Jury confusion § 2:42
Evidence § 2:43
Prejudicial evidence § 2:44

Order, sample § 1:12

INDEX

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT

—Cont'd

Other accidents, claims, or lawsuits
§ 10:40

Photographs, gruesome or inflammatory §§ 4:33, 4:132, 4:137

Physical conditions not at issue
§ 3:22

Poverty, motion to exclude evidence of defendant's § 2:41

Prejudicial evidence §§ 2:1, 2:7

Prior

- Accident evidence, exclusion
§ 10:202
- Arrest of witness, motion to exclude § 7:65
- Crime evidence § 7:39
- Municipal ordinance violation, sample motion to exclude evidence of § 7:60

Published article, motion to exclude
§ 4:136

Rendering default judgment

- Motion for order
- Discovery sanction § 6:60

Sanction for establishing facts, motion for § 6:57

Sanctions, evidentiary § 6:1

Seat belt, exclusion of evidence of failure to wear § 10:80

Settlement evidence § 10:28

Settlement evidence, motion to exclude § 10:196

Social media

- Motions to exclude § 4:139
- Opposition to motion to exclude
§ 4:143

Speculative evidence, motion to exclude § 3:25

Statistical analysis, sample motion to exclude § 5:51

Statute violation, evidence of § 10:65

Subsequent repairs §§ 10:55, 10:203

Surveillance video, sample motion to exclude § 10:192

Tattoo, excluding demonstration of
§ 4:138

SAMPLE MOTIONS AND SUGGESTED MOTION TEXT

—Cont'd

Taxes, motion to exclude evidence of failure to pay § 10:195

Terminology, improper § 9:47

Tests, experiments and related testimony § 5:1

Text messages

- Opposition to motion to exclude
§ 4:144

Time wasting evidence § 2:8

Traffic citations, motion to exclude evidence of § 10:200

Undisclosed witnesses, motion to exclude testimony of § 6:54

Unlicensed driver § 10:75

Unpleaded issues, motion to exclude
§ 3:26

Videotape or film

- Prejudicial § 4:59
- Unauthenticated § 4:140

Voir dire, improper, motion to prevent § 9:1

Witnesses, non-called §§ 8:87, 8:111

Writings § 4:20

Written letter, motion to exclude
§ 4:134

SANCTIONS

Discovery Motions, this index

SANITY

Lay witness testimony § 8:40

SCIENCE AND SCIENTIFIC MATTERS

Generally §§ 5:20 to 5:50

Tests and Scientific Evidence, this index

SEAT BELTS, FAILURE TO WEAR

Personal Injuries, this index

SECONDARY EVIDENCE

Writings and physical evidence
§§ 4:28, 4:32

SELF-INCRIMINATION

Privilege Against Self-Incrimination, this index

SETTLEMENT

- Admissions made during settlement negotiations § 10:169
- Motion to exclude settlement evidence §§ 10:28 to 10:39, 10:196
- Personal Injuries, this index

SEXUAL PREFERENCE OR BEHAVIOR

- Character evidence § 7:16

SOCIAL MEDIA

- Generally §§ 4:122 to 4:131, 4:139, 4:143
- Opposition citations §§ 4:129 to 4:131
- Sample motions
 - Motion to exclude § 4:139
 - Opposition to motion to exclude § 4:143
- Supporting authorities §§ 4:124 to 4:128
- Text of motion, suggested § 4:122

SPECULATION

- Improper expert opinion §§ 8:13, 8:110
- Motion to exclude § 3:7

SPECULATIVE EVIDENCE

- Improper expert opinion §§ 8:13, 8:110
- Motion to exclude § 3:7

SPEED

- Lay witness testimony, speed of vehicles § 8:44

SPOILIATION OF EVIDENCE

- Generally § 9:25

STATISTICAL EVIDENCE

- Tests and Scientific Evidence, this index

STATUTES

- Personal Injuries, this index

SUBSEQUENT ACTS OR MATTERS

- Repairs. Personal Injuries, this index

TAPE RECORDINGS

- Improper foundation § 4:9

TATTOO

- Physical evidence, sample motion excluding § 4:138

TAXATION

- Jurors' self-interest as taxpayers, motion to exclude evidence intended to inflame emotions § 2:21
- Motion to exclude evidence of failure to pay § 10:195
- Personal Injuries, this index

TESTIMONY

- Motion to exclude
 - Incompetent witness § 8:118

TESTS AND SCIENTIFIC EVIDENCE

- Generally §§ 5:1 to 5:56
- Accident reconstruction evidence §§ 5:30, 5:50
- Approved tests § 5:41
- Battered spouse syndrome §§ 5:38, 5:45
- Biomechanic evidence §§ 5:31, 5:32, 5:50
- Canine scent tracking unit § 5:37
- Careless testing § 5:18
- Collateral issues § 5:10
- Conjectural § 5:9
- Discretion of court § 5:13
- Foundation
 - Improper § 4:10
 - Lack of § 5:11
- Frye requirements §§ 5:19, 5:40
- Hedonic damage evidence §§ 5:24, 5:42
- Hypnosis evidence §§ 5:29, 5:46
- Junk science and related evidence
 - Generally §§ 5:20 to 5:50
 - Accident reconstruction evidence §§ 5:30, 5:50
 - Approved tests § 5:41
 - Battered spouse syndrome §§ 5:38, 5:45
 - Biomechanic evidence §§ 5:31, 5:32, 5:50
 - Canine scent tracking unit § 5:37

INDEX

TESTS AND SCIENTIFIC EVIDENCE—Cont'd

Junk science and related evidence
—Cont'd
Hedonic damage evidence §§ 5:24,
5:42
Hypnosis evidence §§ 5:29, 5:46
New scientific evidence §§ 5:22,
5:23
Opposing authorities
Generally § 5:39
Accident reconstruction evi-
dence § 5:50
Approved tests § 5:41
Battered spouse syndrome
§ 5:45
Biomechanic evidence § 5:50
Frye test not required § 5:40
Hedonic damages § 5:42
Hypnosis evidence, exceptions
to inadmissibility § 5:46
Polygraph evidence, exceptions
in inadmissibility § 5:43
Psychological tests § 5:44
Rape trauma syndrome § 5:44
Polygraph evidence §§ 5:26, 5:27,
5:43
Psychological tests and syndromes
§§ 5:28, 5:44
Rape trauma syndrome §§ 5:28,
5:44
Summary § 5:21
Supporting authorities
Generally § 5:22
Accident reconstruction evi-
dence § 5:30
Battered spouse syndrome
§ 5:38
Biomechanic evidence §§ 5:31,
5:32
Canine scent tracking unit
§ 5:37
Hedonic damage evidence
§ 5:24
Hypnosis evidence § 5:29
Low-speed impact cases § 5:32
New scientific evidence §§ 5:22,
5:23

TESTS AND SCIENTIFIC EVIDENCE—Cont'd

Junk science and related evidence
—Cont'd
Supporting authorities—Cont'd
Polygraph evidence §§ 5:26,
5:27
Psychological tests and
syndromes § 5:28
Rape trauma syndrome § 5:28
Truth serum evidence § 5:25
Text of motion, suggested § 5:20
Truth serum evidence § 5:25
Low-speed impact cases § 5:32
New scientific evidence
Civil cases § 5:22
Criminal cases § 5:23
Not generally accepted
Acceptance in scientific com-
munity §§ 5:15, 5:16
Civil cases § 5:4
Criminal cases § 5:5
Polygraph evidence
Generally § 5:26
Exceptions to inadmissibility
§ 5:43
Refusal to take § 5:26
Psychological tests and syndromes
§§ 5:28, 5:44
Published precedent § 5:15
Rape trauma syndrome §§ 5:28, 5:44
Reliability, lack of § 5:7
Sample motions and suggested
motion text
Biomechanic evidence, motion to
exclude § 5:55
Expert testimony, motion to
exclude § 5:54
Expert testimony based on unreli-
able principles and methods,
motion to exclude § 5:56
Hypnosis, motion to exclude evi-
dence of § 5:53
Polygraph examination, motion to
exclude evidence of § 5:52
Statistical analysis, motion to
exclude evidence of § 5:51
Scientific procedures not proper § 5:8
Speculative § 5:9

**TESTS AND SCIENTIFIC
EVIDENCE—Cont’d**

Statistical evidence
 Generally § 5:33
 Confusing evidence § 5:33
 Disapproved statistics evidence
 § 5:34
 Employment discrimination cases
 § 5:36
 General acceptance § 5:47
 Judicial notice § 5:49
 Negligence cases § 5:35
 Products liability cases § 5:35
 Sample motion to exclude evi-
 dence of statistical analysis
 § 5:51
 Weight vs. admissibility § 5:48
 Substantially similar conditions
 §§ 5:6, 5:14
 Tests, experiments and related
 testimony
 Generally §§ 5:1 to 5:19
 Careless testing § 5:18
 Collateral issues § 5:10
 Conjectural § 5:9
 Discretion of court § 5:13
 Expert not qualified to testify on
 subject § 5:3
 Frye requirements, outside realm
 of § 5:19
 Not generally accepted, above
 § 5:4
 Opposing authorities
 Generally § 5:13
 Careless testing § 5:18
 Discretion of court § 5:13
 Frye requirements, outside
 realm of § 5:19
 General acceptance § 5:15
 Level of acceptance in scientific
 community § 5:16
 Published precedent § 5:15
 Substantially similar conditions
 requirement § 5:14
 Weight vs. admissibility § 5:17
 Published precedent § 5:15
 Reliability, lack of § 5:7
 Scientific procedures not proper
 § 5:8

**TESTS AND SCIENTIFIC
EVIDENCE—Cont’d**

Tests, experiments and related
 testimony—Cont’d
 Speculative § 5:9
 Substantially similar conditions
 §§ 5:6, 5:14
 Summary § 5:2
 Supporting authorities
 Generally § 5:3
 Collateral issues § 5:10
 Conjectural § 5:9
 Expert not qualified to testify on
 subject § 5:3
 Foundation, lack of § 5:11
 Not generally accepted §§ 5:4,
 5:5
 Not reliable § 5:7
 Other grounds § 5:12
 Scientific procedures not proper
 § 5:8
 Speculative § 5:9
 Substantially similar conditions,
 not made under § 5:6
 Too time consuming § 5:10
 Text of motion, suggested § 5:1
 Too time consuming § 5:10
 Weight vs. admissibility § 5:17
 Too time consuming § 5:10
 Truth serum evidence § 5:25
 Weight vs. admissibility § 5:17

TEXT MESSAGES

Motion to exclude § 4:142
 Sample motions
 Opposition to motion to exclude
 § 4:144
 Writings and physical evidence
 Opposition to motion to exclude
 § 4:144

TIMING

Motion, timing of § 1:5

TRAFFIC CITATIONS

Admission or exclusion §§ 10:69,
 10:73
 Sample motion to exclude evidence
 of § 10:200

INDEX

TRAFFIC STOPS

Admission or exclusion §§ 10:69, 10:73

TRIAL

Generally §§ 9:1 to 9:66

Affirmative defenses, motion to bar premature rebuttal

Generally §§ 9:14 to 9:19

Opposing authorities § 9:19

Order of proof § 9:17

Prejudicial evidence § 9:16

Summary § 9:15

Supporting authorities

Generally §§ 9:16 to 9:18

Order of proof § 9:17

Other grounds § 9:18

Prejudicial evidence § 9:16

Text of motion, suggested § 9:14

Bifurcated trial, motion to exclude evidence of damages

Generally §§ 9:35 to 9:40

Opposing authorities § 9:40

Policy considerations § 9:38

Sample motions and suggested motion text § 9:61

Statutory authority § 9:37

Summary § 9:36

Supporting authorities

Generally §§ 9:37 to 9:39

Other grounds § 9:39

Policy considerations § 9:38

Statutory authority § 9:37

Text of motion, suggested § 9:35

Confusing evidence § 9:49

Golden Rule argument, motion to preclude

Generally §§ 9:41 to 9:46, 9:60

Inflaming jurors' emotions, exclusion of evidence § 2:22

Opposing authorities § 9:46

Rejection of argument § 9:44

Summary § 9:42

Supporting authorities

Generally §§ 9:43 to 9:45

Other grounds § 9:45

Prejudicial evidence § 9:43

Rejection of argument § 9:44

TRIAL—Cont'd

Golden Rule argument, motion to preclude—Cont'd

Text of motion, suggested § 9:41

Mediation evidence, motion to exclude § 9:59

Motion to exclude

Improper argument

During opening statement § 9:63

Improper terminology § 9:66

Opening statement, motion to exclude improper argument

Generally §§ 9:8 to 9:13

Opposing authorities § 9:13

Prejudicial matter § 9:11

Summary § 9:9

Supporting authorities

Generally §§ 9:10 to 9:12

Other grounds § 9:12

Prejudicial matter § 9:11

Text of motion, suggested § 9:8

Terminology, improper

Generally §§ 9:47 to 9:57

Confusing evidence § 9:49

Legal conclusions §§ 9:50, 9:57

Legal questions vs. ultimate issues §§ 9:51, 9:52, 9:56

Opposing authorities

Generally §§ 9:55 to 9:57

Legal conclusions compared § 9:57

Legal questions vs. ultimate issues § 9:56

Preconditioning jury § 9:53

Summary § 9:48

Supporting authorities

Generally §§ 9:49 to 9:54

Confusing evidence § 9:49

Legal conclusions, terms including § 9:50

Preconditioning jury § 9:53

Ultimate issue opinions §§ 9:51, 9:52

Usurping jury function § 9:54

Text of motion, suggested § 9:47

Usurping jury function § 9:54

TRIAL—Cont'd

- Voir dire, improper, motion to prevent
 - Generally §§ 9:1 to 9:7
 - Educating jury on law § 9:5
 - Opposing authorities § 9:7
 - Preconditioning § 9:4
 - Summary § 9:2
 - Supporting authorities
 - Generally §§ 9:3 to 9:7
 - Educating jury on law § 9:5
 - Other grounds § 9:6
 - Preconditioning § 9:4
 - Text of motion, suggested § 9:1

TYPICAL USE OF MOTION

- Generally § 1:3
- Preservation of objections § 1:4

UNPLEADED ISSUES

- Irrelevant evidence §§ 3:15, 3:18

VIDEOTAPE EVIDENCE

- Cumulative evidence, motion to exclude or limit §§ 2:32, 2:36
- Foundation
 - Adequate § 4:56
 - Improper § 4:11
- Prejudicial film or videotapes
 - Generally §§ 4:49 to 4:56
 - Opposing authorities
 - Generally § 4:54
 - Foundation, adequate § 4:56
 - Relevance § 4:55
 - Summary § 4:50
 - Supporting authorities §§ 4:51 to 4:53
 - Text of motion, suggested § 4:49
 - Relevance § 4:55
 - Unauthenticated video recording, motion to exclude § 4:140

VOIR DIRE

- Motion to prevent improper. Trial, this index

WAGES

- Collateral source payments § 10:10

WITNESSES

- Generally §§ 8:1 to 8:122

WITNESSES—Cont'd

- Arbitrator or mediator, motion to exclude testimony §§ 8:63, 8:64
- Causation, lay witness testimony § 8:35
- Children §§ 8:52, 8:57
- Cumulative evidence, motion to exclude or limit §§ 2:29, 2:31, 2:35
- Damages, lay witness testimony § 8:43
- Excluding witness from courtroom prior to testifying
 - Generally §§ 8:74 to 8:81, 8:115
- Admission of witness testimony § 8:80
- Discretionary decision § 8:78
- Opposing authorities
 - Generally §§ 8:78 to 8:81
 - Admission of witness testimony § 8:80
 - Discretionary decision § 8:78
 - Party cannot be excluded § 8:79
 - Purpose of rule § 8:81
 - Party cannot be excluded § 8:79
 - Purpose of rule § 8:81
- Summary § 8:75
- Supporting authorities
 - Generally § 8:76
 - Exclusion of testimony for violation of rule § 8:77
- Text of motion, suggested § 8:74
- Violation of rule, excluding testimony § 8:77
- Expert Witnesses, this index
- Foundation, improper, lay witness testimony § 4:13
- Health, lay witness testimony § 8:41
- Impeachment
 - Generally §§ 7:4 to 7:27
- Hearsay used to impeach witness credibility § 8:108
- Motion to exclude character evidence used for. Character Evidence, this index
- Personal Injuries, this index
- Use for, motions in limine § 7:12

INDEX

WITNESSES—Cont'd

- Incompetent witness, motion to exclude testimony
 - Generally §§ 8:49 to 8:59
- Children §§ 8:52, 8:57
- Insanity §§ 8:53, 8:58
- Mental competence §§ 8:53, 8:58
- Opposing authorities
 - Generally §§ 8:56 to 8:59
 - Children § 8:57
 - Insanity § 8:58
 - Mental competence § 8:58
 - Personal knowledge of subject matter, lack of § 8:59
- Personal knowledge of subject matter, lack of §§ 8:54, 8:59
- Statutory provisions § 8:51
- Summary § 8:50
- Supporting authorities
 - Generally §§ 8:51 to 8:55
 - Children § 8:52
 - Insanity § 8:53
 - Mental competence, lack of § 8:53
 - Other grounds § 8:55
 - Personal knowledge of subject matter, lack of § 8:54
 - Statutory provisions § 8:51
- Text of motion, suggested § 8:49
- Injury, lay witness testimony § 8:41
- Insanity, motion to exclude testimony §§ 8:53, 8:58
- Intoxication, lay witness testimony § 8:42
- Judge, arbitrator, mediator, attorney or juror, motion to exclude testimony
 - Generally § 8:60
 - Arbitrator or mediator §§ 8:63, 8:64
- Attorney testimony
 - Generally §§ 8:65, 8:68
 - Other attorney in firm or office, testimony of § 8:72
 - Substantial hardship § 8:71
 - Uncontested matter § 8:69
 - Value of legal services § 8:70
- Judge as witness § 8:62

WITNESSES—Cont'd

- Judge, arbitrator, mediator, attorney or juror, motion to exclude testimony—Cont'd
- Juror as witness §§ 8:66, 8:73
- Opposing authorities
 - Generally §§ 8:67 to 8:73
 - Arbitrator as witness § 8:67
 - Juror as witness § 8:73
- Summary § 8:61
- Supporting authorities
 - Generally §§ 8:62 to 8:66
 - Arbitrator or mediator §§ 8:63, 8:64
 - Attorney as witness § 8:65
 - Judge as witness § 8:62
 - Juror as witness § 8:66
 - Legal separation and child support actions, mediator in § 8:64
- Juror as witness, motion to exclude testimony §§ 8:66, 8:73
- Lack of personal knowledge of subject matter, motion to exclude testimony § 8:116
- Lay witness testimony
 - Generally §§ 8:32 to 8:48
 - Causation § 8:35
 - Damages § 8:43
 - Health § 8:41
 - Helpful to jury § 8:46
 - Improper foundation § 4:13
 - Injury § 8:41
 - Intoxication § 8:42
 - Legal opinions §§ 8:36, 10:171
 - Medical malpractice, common knowledge exception § 8:47
 - Mental condition § 8:40
 - Opposing authorities
 - Generally §§ 8:39 to 8:48
 - Damages § 8:43
 - Health § 8:41
 - Helpful to jury § 8:46
 - Injury § 8:41
 - Intoxication § 8:42
 - Medical malpractice, common knowledge exception § 8:47

WITNESSES—Cont’d

- Lay witness testimony—Cont’d
 - Opposing authorities—Cont’d
 - Mental condition § 8:40
 - Perceptions of witness § 8:39
 - Point of impact § 8:44
 - Property value § 8:43
 - Sanity § 8:40
 - Speed of vehicles § 8:44
 - Summary of conditions § 8:48
 - Opposition to motion to exclude § 8:119
 - Perceptions of witness § 8:39
 - Point of impact § 8:44
 - Property value § 8:43
 - Sanity § 8:40
 - Speed of vehicles § 8:44
 - Summary § 8:33
 - Summary of conditions § 8:48
 - Supporting authorities
 - Generally §§ 8:34 to 8:38
 - Causation § 8:35
 - Legal opinions § 8:36
 - Other grounds § 8:38
 - Ultimate issue, opinion on § 8:37
 - Text of motion, suggested § 8:32
 - Ultimate issue, opinion on § 8:37
- Legal opinions, lay witness testimony § 8:36
- Mediator, motion to exclude testimony of mediator § 8:117
- Medical doctor, sample motion to exclude testimony and opinions § 8:114
- Medical malpractice, common knowledge exception § 8:47
- Mental competence §§ 8:53, 8:58
- Mental condition, lay witness testimony § 8:40
- Motion to exclude
 - Testimony of incompetent § 8:118
- Non-called witnesses
 - Generally §§ 8:87 to 8:94
 - Cumulative nature of testimony § 8:91
 - Material witness, non-calling § 8:94

WITNESSES—Cont’d

- Non-called witnesses—Cont’d
 - Opposition citations
 - Generally § 8:93
 - Material witness, non-calling § 8:94
 - Otherwise inadmissible testimony § 8:91
 - Prejudicial evidence § 8:89
 - Sample motion § 8:111
 - Summary § 8:88
 - Supporting authorities
 - Generally §§ 8:89 to 8:92
 - Cumulative nature of testimony § 8:91
 - Other grounds § 8:92
 - Otherwise inadmissible testimony § 8:91
 - Prejudicial evidence § 8:89
 - Witness equally available to testify § 8:90
 - Witness equally available to testify § 8:90
- Perceptions of witness § 8:39
- Personal knowledge of subject matter, lack of §§ 8:54, 8:59
- Point of impact, lay witness testimony § 8:44
- Property value, lay witness testimony § 8:43
- Sanctions, failure to disclose identity of witnesses §§ 6:23, 6:24, 6:33
- Sanity, lay witness testimony § 8:40
- Speed of vehicles § 8:44
- Ultimate issue, opinion on § 8:37
- Undisclosed witnesses
 - Sample motion to exclude testimony § 6:54
 - Sanctions, failure to disclose identity of witnesses §§ 6:23, 6:24

**WORKERS’ COMPENSATION
BENEFITS**

- Collateral source payments § 10:9

**WRITINGS AND PHYSICAL
EVIDENCE**

- Generally § 4:1 et seq.

INDEX

WRITINGS AND PHYSICAL EVIDENCE—Cont'd

- Accident reports
 - Generally §§ 4:65 to 4:73
- Authentication §§ 4:24, 4:25, 4:29
- Conditional admissibility § 4:17
- Experiments, improper foundation § 4:10
- Expert witnesses, improper foundation § 4:12
- Foundation, motion to exclude evidence lacking
 - Generally §§ 4:1 to 4:19
 - Conditional admissibility § 4:17
 - Experiments § 4:10
 - Expert witnesses § 4:12
 - Improper foundation
 - Generally § 4:7
 - Experiments § 4:10
 - Expert witnesses § 4:12
 - Lay witness testimony § 4:13
- Letters § 4:81
- Motion pictures § 4:11
- Objects or things § 4:15
- Opposing authorities
 - Generally § 4:16
 - Conditional admissibility § 4:17
 - Outside juror's presence § 4:18
 - Weight vs. admissibility § 4:19
- Photographs § 4:8
- Preliminary facts
 - Generally § 4:4
 - Definitions § 4:4
 - Determination out of jury presence § 4:5
 - Inadmissibility of evidence § 4:6
- Suggested motion text § 4:1
- Summary § 4:2
- Supporting authorities
 - Generally §§ 4:2 to 4:15
- Tape recordings § 4:9
- Tests § 4:10
- Text of motion, suggested § 4:1
- Videotapes § 4:11
- Weight vs. admissibility § 4:19
- Writings § 4:14

WRITINGS AND PHYSICAL EVIDENCE—Cont'd

- Hearsay and exceptions §§ 4:26, 4:27, 4:31
- Lay witness testimony, improper foundation § 4:13
- Letters
 - Generally §§ 4:74 to 4:85
 - Sample motion to exclude § 4:134
- Maps, models, charts, exhibits and demonstrative evidence §§ 4:86 to 4:101
- Medical bills, motion to exclude § 4:145
- Medical records, reports or bills §§ 4:102 to 4:121
- Motion pictures, improper foundation § 4:11
- Objects or things, improper foundation § 4:15
- Photographs, gruesome or inflammatory §§ 4:33 to 4:48
- Published articles §§ 4:57 to 4:64, 4:136
- Secondary evidence §§ 4:28, 4:32
- Social media
 - Motion to exclude § 4:139
 - Opposition to motion to exclude § 4:143
- Tape recordings, improper foundation § 4:9
- Tattoo, excluding demonstration of § 4:138
- Tests, improper foundation § 4:10
- Text messages
 - Opposition to motion to exclude § 4:144
- Videotape or film
 - Improper foundation § 4:11
 - Prejudicial §§ 4:49 to 4:56
 - Unauthenticated recording, motion to exclude § 4:140
- Weight vs. admissibility, improper foundation § 4:19
- Writings
 - Generally §§ 4:20 to 4:32
 - Authentication §§ 4:24, 4:25, 4:29

**WRITINGS AND PHYSICAL
EVIDENCE—Cont'd**

Writings—Cont'd
 Foundational requirements
 Adequacy of foundation
 §§ 4:23, 4:30
 Improper foundation § 4:14
 Hearsay and exceptions §§ 4:26,
 4:27, 4:31
 Opposing authorities
 Generally § 4:29
 Authentication § 4:29
 Foundations, adequate § 4:30
 Hearsay exceptions § 4:31
 Secondary evidence § 4:32
 Secondary evidence §§ 4:28, 4:32
 Summary § 4:21

**WRITINGS AND PHYSICAL
EVIDENCE—Cont'd**

Writings—Cont'd
 Supporting authorities
 Generally § 4:22
 Foundation, inadequate § 4:23
 Hearsay, inadmissible §§ 4:26,
 4:27
 Secondary evidence, inadmis-
 sible § 4:28
 Unauthenticated writings
 §§ 4:24, 4:25
 Writing, defined § 4:22
 Text of motion, suggested § 4:20

X-RAYS

 Photographs, gruesome or inflamma-
 tory §§ 4:40, 4:47