

# Index

## **ADEQUACY OF INSTRUCTIONS**

Generally, **8:1**

## **ADMIRALTY**

Jones Act, this index

## **AFFIRMATIVE DEFENSES**

Burden of proof, **7:2**

## **ALTER EGO DOCTRINE**

Generally, **7:1, 7:5**

## **ANIMALS**

Premises liability and liability for things in custody, **6:9**

## **ASSAULT**

Intentional tort, **5:2**

Negligence, sexual assault, **5:7**

## **ATTORNEYS**

Comments of attorney as evidence, **1:7, 1:17, 1:20, 2:8, 4:3, 6:4**

Conduct of attorney, **4:1, 6:5, 7:4**

Fees. Attorneys' Fees, this index

Legal Malpractice, this index

## **ATTORNEYS' FEES**

Intentional torts, **5:1**

Jones Act, **8:4**

Redhibition, **4:6**

Vehicle negligence, **1:9**

## **AUTOMOBILE ACCIDENT**

Vehicle negligence, **1:1**

## **AUTOMOBILE ACCIDENTS**

Vehicle Negligence, this index

## **BAD FAITH**

Breach of contract, **7:4, 7:9, 8:8**

## **BATTERY**

Intentional tort, **5:2**

## **BICYCLE ACCIDENT**

Multiple plaintiffs, multiple defendants, comparative fault, **1:14, 1:15**

## **BREACH OF CONTRACT**

Generally, **7:1 to 7:10**

Adequacy and thoroughness of instructions, **8:1**

All persons equal language, **7:1, 7:4**

Alter ego doctrine, **7:1, 7:5**

Anticipatory breach, **7:9**

Attorney conduct, **7:4**

Bad faith, **7:4, 8:8**

Burden of proof, **7:2 to 7:5, 7:9, 7:10**

Circumstantial evidence, **7:4, 7:9**

Commercial supplier plaintiff, purchaser defendant, reconventional demand alleging breach of contract, fraud, unfair trade practices, and unjust enrichment, **7:4**

Commutative contracts, **7:9**

Comparative fault, **7:3, 7:7**

Consortium, loss of, **7:2**

Creation of contract, **7:2**

Credibility of witnesses, **7:5, 7:9, 7:10**

Creditor plaintiff, sole stockholder and former stockholder defendants, piercing the corporate veil, **7:1**

Damages, **7:1, 7:2, 7:5, 7:6, 7:9, 7:10**

Default, **7:9**

Definition of contract, **7:9**

Detrimental reliance, **7:9**

Disability benefits, **7:8**

Equitable estoppel, **7:9**

Expert witnesses, **7:3, 7:5 to 7:7, 7:9, 7:10**

Fraud, **7:6**

**BREACH OF CONTRACT—Cont'd**

- Good and bad faith obligors, measure of damages, **7:1**
- Good faith standard for performance, **7:4, 7:9**
- Homeowner plaintiff and municipality and construction company defendant, **7:6**
- Immunity, **7:6**
- Insurance policy, **7:8, 8:8**
- Interpretation of contract, **7:5, 7:6, 7:8 to 7:10**
- Joint and several liability, **7:1**
- Jury deliberations, **7:2, 7:9**
- Lease law, **7:5**
- Measure of damages, **7:2**
- Mineral lease, royalties, contract interpretation, alter ego doctrine, **7:5**
- Negligence, **7:6**
- Nursing home resident and family plaintiffs, nursing home defendant, breach of contract claim, negligence claim, alleged breach of resident's bill of rights, comparative fault, **7:2**
- Open account, **7:4**
- Prior inconsistent statements, **7:4, 7:9**
- Reconventional demand, **7:4, 7:10**
- Royalties, mineral lease, **7:5**
- Special and general damages, **7:2**
- Specific performance, **7:10**
- Subrogation, **7:3**
- Sureties, **7:9**
- Tax consequences of award, **7:4**
- Third party beneficiaries, **7:6**
- Tortious interference with contract, **7:5**
- Unfair Trade Practices Act violation, **7:9**

**BURDEN OF PROOF**

- Affirmative defenses, **7:2**
- Breach of contract, **7:2 to 7:5, 7:9, 7:10**
- Comparative fault, **7:2**
- Employment termination, **8:5**
- Expropriation, **8:2, 8:3**

**BURDEN OF PROOF—Cont'd**

- Federal Employers Liability Act, railroad employer, **8:7**
- Hazardous working conditions, **5:8**
- Insurer penalties, breach of contract, **8:8**
- Intentional torts, **5:1, 5:6**
- Legal malpractice, **3:1 to 3:3**
- Medical malpractice, **2:1, 2:4 to 2:9, 2:14, 2:15**
- Negligence, **5:8, 5:12**
- Premises liability and liability for things in custody, **6:3, 6:4, 6:6, 6:7, 6:9, 6:10**
- Products liability, **4:2 to 4:5**
- Property damage, **5:10**
- Redhibition, **4:6**
- Vehicle negligence, **1:4, 1:7, 1:10 to 1:12, 1:16 to 1:18, 1:20 to 1:22**

**BYSTANDER RECOVERY**

- Medical malpractice, **2:12, 2:14**

**CAUSATION**

- Federal Employers Liability Act, railroad employer, **8:7**
- Gym injuries, **5:12**
- Hazardous working conditions, **5:8**
- Homeowner plaintiff and municipality and construction company defendant, breach of contract, **7:6**
- Intentional torts, **5:6, 5:13**
- Jones Act, **8:4**
- Legal malpractice, **3:1 to 3:3**
- Medical malpractice, **2:2, 2:4 to 2:6, 2:8, 2:9, 2:14, 2:15**
- Premises liability and liability for things in custody, **6:2 to 6:6, 6:9, 6:10**
- Products liability, **4:1, 4:4**
- Property damage, **5:10**
- Substantial factor standard, **1:16, 2:9, 2:10, 2:14, 7:2**
- Vehicle negligence, **1:7, 1:11, 1:12, 1:15 to 1:17, 1:20 to 1:22**

**CIRCUMSTANTIAL EVIDENCE**

- Breach of contract, **7:4, 7:9**
- Legal malpractice, **3:2**

## INDEX

### **CIRCUMSTANTIAL EVIDENCE**

#### **—Cont'd**

- Medical malpractice, **2:4, 2:8, 2:14**
- Premises liability and liability for things in custody, **6:3, 6:4**
- Products liability and redhibition, **4:2, 4:5**
- Vehicle negligence, **1:12, 1:20**

### **CIVIL RIGHTS VIOLATIONS**

- Generally, **5:1**

### **COLLATERAL SOURCE RULE**

- Vehicle negligence, **1:17**

### **COMMUNITY PROPERTY**

- Legal malpractice, **3:3**

### **COMPARATIVE FAULT**

- Generally, **5:1, 5:4, 5:5**
- Breach of contract, **7:3, 7:7**
- Burden of proof, **7:2**
- Federal Employers Liability Act, railroad employer, **8:7**
- Gym members, **5:12**
- Hazardous working conditions, **5:8**
- Intentional torts, **5:6**
- Jones Act, **8:4**
- Legal malpractice, **3:1, 3:2**
- Medical malpractice, **2:6 to 2:8**
- Nursing home, action against, **7:2**
- Premises liability and liability for things in custody, **6:1 to 6:5, 6:7, 6:8**
- Products liability, **4:1, 4:2**
- Things in custody, liability for, **6:5, 6:7**
- Vehicle negligence, **1:10 to 1:12, 1:14, 1:15, 1:17 to 1:20**

### **CONSORTIUM, LOSS OF**

- Breach of contract, **7:2**
- Medical malpractice, **2:8**
- Premises liability, **6:3**
- Products liability, **4:4**
- Vehicle negligence case, **1:2, 1:5, 1:9, 1:10, 1:15, 1:18, 1:19, 1:21**

### **CONTRACTS**

- Breach of Contract, this index

### **CORPORATIONS**

- Alter ego doctrine, **7:1**
- Breach of contract, **7:1, 7:5**
- Creditor plaintiff, sole stockholder and former stockholder defendants, piercing the corporate veil, **7:1**
- Fraud actions in director and officer context, **7:1**

### **CREDIBILITY OF WITNESSES**

- Breach of contract, **7:5, 7:9, 7:10**
- Expropriation, **8:3**
- Federal Employers Liability Act, railroad employer, **8:7**
- Hazardous working conditions, **5:8**
- Insurer penalties, breach of contract, **8:8**
- Intentional torts, **5:6**
- Legal malpractice, **3:3**
- Medical malpractice, **2:4 to 2:8, 2:15**
- Possessory action, **8:9**
- Premises liability and liability for things in custody, **6:7, 6:9**
- Products liability, **4:2 to 4:4**
- Property damage, **5:10**
- Vehicle negligence, **1:4, 1:11, 1:16, 1:17, 1:21, 1:22**

### **CUSTODY**

- Premises Liability and Liability for Things in Custody, this index

### **DAMAGES**

- Generally, **5:1, 5:5, 5:12**
- Breach of contract, **7:1, 7:2, 7:5, 7:6, 7:9, 7:10**
- Expropriation, **8:3**
- Federal Employers Liability Act, railroad employer, **8:7**
- Hazardous working conditions, **5:8**
- Insurer penalties, breach of contract, **8:8**
- Intentional torts, **5:1, 5:2, 5:6, 5:13**
- Jones Act, **8:4**
- Legal malpractice, **3:1 to 3:3**
- Medical Malpractice, this index
- Premises liability and liability for things in custody, **6:1 to 6:3, 6:5, 6:6, 6:9, 6:10**

**DAMAGES—Cont'd**

- Products liability, **4:1 to 4:6**
- Property damage, **5:10**
- Redhibition, **4:6**
- Severance damages, **8:2**
- Torts, generally, **5:2, 5:3, 5:7, 5:8**
- Vehicle Negligence, this index
- Whistleblower statute, **8:5**

**DEAD BODIES**

- Medical malpractice, negligent destruction of remains, **2:11**

**DEFAMATION**

- Legal malpractice, **3:3**

**DEFAULT**

- Breach of contract, **7:9**

**DEPOSITION TESTIMONY**

- Hazardous working conditions, **5:8**
- Intentional torts, **5:6**
- Jones Act, **8:4**
- Legal malpractice, **3:1**
- Medical malpractice, **2:2, 2:5, 2:7, 2:8, 2:14**
- Negligent supervision, **5:7**
- Premises liability and liability for things in custody, **6:4**
- Vehicle negligence, **1:4, 1:16, 1:20**

**DETRIMENTAL RELIANCE**

- Negligence, **5:11**

**DISABILITY BENEFITS**

- Breach of contract, **7:8**

**DISPLACEMENT**

- Generally, **8:2**

**DRUG COMPANIES**

- Products liability and redhibition, **4:5**

**EMERGENCIES**

- Property damage, emergency preparedness, **5:10**
- Vehicle Negligence, this index

**EMINENT DOMAIN**

- Expropriation, this index

**EMOTIONAL AND MENTAL DISTRESS**

- Homeowner plaintiff and municipality and construction company defendant, breach of contract, **7:6**
- Legal malpractice, **3:1**
- Medical malpractice, **2:5**
- Negligence, slip and fall, **5:9**
- Negligent supervision on school bus, **5:7**
- Premises liability and liability for things in custody, **6:4**
- Products liability and redhibition, **4:1 to 4:4, 4:6**
- Vehicle negligence, **1:3, 1:6, 1:7, 1:9, 1:15, 1:16**

**EMPLOYMENT**

- Automobile accident, tortfeasor in course and scope of employment, **1:1, 1:2 to 1:4**
- Fair Labor Standards Act, **8:5**
- Federal Employers Liability Act, **8:7**
- Hazardous working conditions, **5:8**
- Intentional and negligent torts, **5:3**
- Job loss, vehicle negligence, **1:14**
- Legal malpractice, hostile work environment, **3:3**
- Overtime, **8:5**
- Railroads, **8:7**
- Respondeat superior, **5:7, 5:12**
- Unfair Trade Practices Act, **8:6**
- Whistleblower statute, **8:5**

**ENJOYMENT OF LIFE, LOSS OF**

- Hazardous working conditions, **5:8**
- Intentional torts, **5:2**
- Jones Act, **8:4**
- Legal malpractice, **3:1**
- Medical malpractice, **2:3 to 2:5, 2:7, 2:8, 2:10**
- Negligence, slip and fall, **5:9**
- Premises liability and liability for things in custody, **6:2, 6:5, 6:10**
- Products liability, **4:1, 4:3**
- Vehicle negligence, **1:1, 1:5, 1:6, 1:9, 1:11, 1:15, 1:17, 1:19, 1:20**

## INDEX

### EXPERT WITNESSES

- Breach of contract, **7:3, 7:5 to 7:7, 7:9, 7:10**
- Expropriation, **8:3**
- Federal Employers Liability Act, railroad employer, **8:7**
- Intentional torts, **5:1, 5:6**
- Jones Act, **8:4**
- Medical malpractice, **2:1, 2:2, 2:4 to 2:6, 2:8, 2:9, 2:14, 2:15**
- Negligence, **5:7, 5:12**
- Premises liability and liability for things in custody, **6:2, 6:4, 6:5, 6:9, 6:10**
- Products liability and redhibition, **4:1 to 4:5**
- Vehicle negligence, **1:4, 1:7, 1:11, 1:12, 1:16 to 1:18, 1:20, 1:21**

### EXPROPRIATION

- Generally, **8:2**
- All persons equal language, **8:2, 8:3**
- Burden of proof, **8:2, 8:3**
- Credibility of witnesses, **8:3**
- Damages, **8:3**
- Economic loss, **8:3**
- Expert witnesses, **8:3**
- Highest and best use, **8:2**
- Jury deliberations, **8:2, 8:3**
- Partial taking, **8:3**
- Set-off against damages, **8:3**
- Severance damages, **8:3**
- Tax consequences of award, **8:3**
- Value and valuation, **8:2, 8:3**
- Verdict form, **8:2, 8:3**
- Written jury instructions, viewing, **8:3**

### FAIR LABOR STANDARDS ACT

- Generally, **8:5**

### FALSE IMPRISONMENT

- Intentional torts, **5:1, 5:6**

### FEDERAL EMPLOYERS LIABILITY ACT

- Generally, **8:7**

### FETUS

- Wrongful death, medical malpractice, **2:12**

### FRAUD

- Commercial supplier plaintiff, purchaser defendant, reconventional demand alleging breach of contract, fraud, unfair trade practices, and unjust enrichment, **7:4**
- Director and officer context, fraud actions, **7:1**
- Homeowner plaintiff and municipality and construction company defendant, **7:6**
- Legal malpractice, **3:2**
- Medical Assistance Programs Integrity Law, fraudulent violation of, **4:5**

### FUNERAL EXPENSES

- Vehicle negligence, **1:18**

### FUNERAL HOMES

- Medical malpractice, negligent destruction of remains, **2:11**

### GAMBLING

- Riverboat gaming, **8:6**

### GOVERNMENTAL IMMUNITY

- Negligence, **5:11**

### GYMS

- Respondeat superior, **5:12**

### HEARSAY

- Medical malpractice, **2:8**

### HOSPITALS

- Medical malpractice, hospital liability, **2:8, 2:10, 2:11, 2:14**

### HOUSLEY PRESUMPTION

- Vehicle negligence, **1:10**

### INSURANCE

- Breach of contract, **7:8, 8:8**
- Premises liability, property owner and insurer defendants, **6:2, 6:4**

### INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

- Legal malpractice, **3:3**

**INTERPRETATION OF  
CONTRACT**

Breach of contract, **7:5, 7:6, 7:8 to  
7:10**

**JOINT AND SEVERAL LIABILITY**

Breach of contract, **7:1**

**JONES ACT**

Admiralty-type claims, **8:4**  
All persons equal language, **8:4**  
Attorneys' fees, **8:4**  
Causation, **8:4**  
Comparative negligence, **8:4**  
Damages, labeling special or general,  
**8:4**  
Deposition testimony, **8:4**  
Earning capacity, **8:4**  
Enjoyment of life, loss of, **8:4**  
Expert witnesses, **8:4**  
Lost wages, **8:4**  
Maintenance and cure, **8:4**  
Medical findings, **8:4**  
Mitigation of damages, **8:4**  
Negligence, **8:4**  
Objective knowledge, **8:4**  
Seaman status, **8:4**  
Thirty percent rule, **8:4**  
Unseaworthiness, **8:4**  
Verdict form, **8:4**

**JUROR RESPONSIBILITY**

Breach of contract, **7:2, 7:3**  
Federal Employers Liability Act,  
railroad employer, **8:7**  
Medical malpractice action, **2:1, 2:4,  
2:5, 2:15**  
Vehicle negligence action, **1:7, 1:11,  
1:15 to 1:17, 1:21, 1:22**

**LEASE LAW**

Breach of contract, **7:5**

**LEGAL MALPRACTICE**

All persons equal language, **3:1 to  
3:3**  
Attorney-client relationship, exist-  
ence of, **3:2, 3:3**  
At-will employment, **3:3**  
Burden of proof, **3:1 to 3:3**  
Causation, **3:1 to 3:3**

**LEGAL MALPRACTICE—Cont'd**

Circumstantial evidence, **3:2**  
Client plaintiff, attorney defendant,  
negligence and violation of rules  
of professional responsibility,  
**3:2**  
Community property, **3:3**  
Comparative negligence, **3:1, 3:2**  
Credibility of witnesses, **3:3**  
Damages, **3:1 to 3:3**  
Defamation, **3:3**  
Deposition testimony, **3:1**  
Direct evidence, **3:1, 3:2**  
Elements of claim, **3:2**  
Enjoyment of life, loss of, **3:1**  
Fault, **3:1, 3:3**  
Fraud, **3:2**  
Hindsight, **3:2**  
Hostile work environment, **3:3**  
Insurer defendant, **3:1**  
Intentional infliction of emotional  
distress, **3:3**  
Interference with contract, **3:3**  
Juror responsibility, **3:3**  
Jury deliberations, **3:3**  
Lost profits, **3:2**  
Lost wages award, **3:1, 3:3**  
Mental distress damages, **3:1**  
Mitigation of damages, **3:3**  
Multiple attorney defendants, **3:1**  
Prescriptive period, **3:2**  
Res judicata, **3:2**  
Rules of professional responsibility,  
violation of, **3:2**  
Spouse and children plaintiffs,  
multiple attorney defendants,  
insurer defendant, **3:1**  
Spouse plaintiffs, business partner  
defendants, community prop-  
erty, **3:3**  
Standard of care, **3:2, 3:3**  
Stipulations, **3:3**  
Underlying claim, probability of suc-  
cess, **3:1, 3:3**  
Verdict form, **3:1, 3:2**  
Waiver, **3:2**

**LIFE EXPECTANCY**

Vehicle negligence, **1:17**

## INDEX

### LOST CHANCE OF FULL RECOVERY

Medical malpractice, **2:6**

### LOST CHANCE OF SURVIVAL

Medical malpractice, **2:9**

### LOST PROFITS

Legal malpractice, **3:2**

### LOST WAGES

Jones Act, **8:4**

Legal malpractice, **3:1, 3:3**

Medical malpractice, **2:10**

Premises liability, **6:3**

Products liability, **4:1, 4:4**

Torts, **5:2**

### MALPRACTICE

Legal Malpractice, this index

Medical Malpractice, this index

### MEDICAL EXPENSES

Hazardous working conditions, **5:8**

Intentional torts, **5:2**

Medical Malpractice, this index

Negligence, slip and fall, **5:9**

Negligent supervision, **5:7**

Premises liability and liability for things in custody, **6:6, 6:10**

Products liability, **4:2**

Vehicle Negligence, this index

### MEDICAL MALPRACTICE

Generally, **2:1 to 2:18**

Acceptable practice standard of care, **2:2**

Aggravation of existing defect, **2:10**

All persons equal language, **2:2, 2:4, 2:7, 2:10, 2:14**

Alternate methods of treatment, **2:2, 2:8**

Apportionment of fault, **2:7, 2:8, 2:10**

Attorney's comments as evidence, **2:8**

Burden of proof, **2:1, 2:4 to 2:9, 2:14, 2:15**

Bystander recovery, **2:12, 2:14**

Causation, **2:2, 2:4 to 2:9, 2:14, 2:15**

Chance of survival, **2:2**

### MEDICAL MALPRACTICE

—Cont'd

Child plaintiffs, **2:17**

child and parent plaintiffs, physician and hospital defendants, **2:8**

spouse and child plaintiffs, below wrongful death, **2:1**

Circumstantial evidence, **2:4, 2:8, 2:14**

Comparative fault, **2:6 to 2:8**

Consortium, loss of, **2:8**

Credibility of witnesses, **2:4 to 2:8, 2:15**

Damages

generally, **2:1, 2:4 to 2:6, 2:8, 2:9, 2:14**

labeling "special" or "general," **2:4, 2:5, 2:7, 2:8, 2:10, 2:14**

punishment, damages as, **2:15**

Dead bodies, negligent destruction of remains, **2:11**

Degree of care exercised by physicians in defendant's specialty, **2:2**

Deposition testimony, **2:2, 2:5, 2:7, 2:8, 2:14**

Destruction of remains, negligent, **2:11**

Earning capacity, loss of, **2:7, 2:8**

Enjoyment of life, loss of, **2:3 to 2:5, 2:7, 2:8, 2:10**

Expert witnesses, **2:1, 2:2, 2:4 to 2:6, 2:8, 2:9, 2:14, 2:15**

Facility and management company defendants, **2:18**

Fault, defined, **2:2, 2:15**

Fetus, wrongful death of, **2:12**

Foreseeability, **2:10**

Funeral home, negligent destruction of remains, **2:11**

General physicians, **2:9**

Gross and wanton negligence, **2:15**

Hearsay, **2:8**

Hospitals, **2:8, 2:10, 2:11, 2:14**

Impeachment of witnesses, **2:8**

Informed consent, **2:5, 2:7**

Intervening acts, **2:10**

**MEDICAL MALPRACTICE**

—Cont'd

- Juror responsibility, **2:1, 2:4, 2:5, 2:15**
- Jury deliberations, **2:5, 2:6, 2:8, 2:14, 2:15**
- Jury interrogatories, **2:9**
- Locality rule, **2:2, 2:9**
- Loss of consortium, **2:8**
- Lost chance of full recovery, **2:6**
- Lost chance of survival, **2:9**
- Medical corporation defendant, vicarious liability for negligent conduct of nurse, **2:10**
- Medical expenses, generally, **2:3, 2:5, 2:7, 2:8, 2:10**
- Medical review panel, **2:4, 2:5, 2:7 to 2:10**
- Mental distress, **2:5**
- Nurse, vicarious liability for negligent conduct, **2:10, 2:13**
- Nursing home negligence, **2:17**
- Objections, **2:8**
- Pain and suffering, **2:3, 2:5, 2:14**
- Parent plaintiffs
  - physician and hospital defendants, generally, **2:8**
  - wrongful death of fetus, **2:12**
- Patient plaintiff
  - generally, **2:3**
  - informed consent, physician defendant, **2:5**
  - lost chance of full recovery, specialist physician, **2:6**
  - medical corporation defendant, vicarious liability for negligent conduct of nurse, **2:10**
  - with spouse, single specialist physician defendant, **2:4**
  - with spouse and minor children plaintiffs, specialist surgeon and surgical group defendants, comparative fault, issues of informed consent, **2:7**
- Physician defendants
  - generally, **2:3**

**MEDICAL MALPRACTICE**

—Cont'd

- Physician defendants—Cont'd
  - specialist physicians, **2:2, 2:4, 2:6 to 2:8**
  - survival action, **2:9**
  - with hospital, **2:8**
- Pre-existing condition, **2:15**
- Presumption of negligence, injury does not raise, **2:4, 2:7, 2:9, 2:10, 2:15**
- Prior inconsistent statement, **2:8 to 2:10**
- Quotient verdict, **2:7, 2:14, 2:15**
- Sepsis, **2:18**
- Specialist physicians, **2:2, 2:4, 2:6 to 2:8**
- Spouse and child plaintiffs
  - physician defendant, survival action, **2:9**
  - single specialist physician defendant, wrongful death and survival action, **2:2**
  - specialist surgeon and surgical group defendants, comparative fault, issues of informed consent, **2:7**
  - state and hospital defendants, wrongful death, survival action, and bystander recovery, **2:14**
- Spouse plaintiff, **2:18**
  - hospital and funeral home defendants, negligent destruction of remains, **2:11**
  - with child. Spouse and child plaintiffs, below
  - with patient. Patient plaintiff, above
- Standard of care
  - generally, **2:2**
  - nurses, **2:10**
- Stipulated facts, **2:14**
- Subsequent treatment as factor, **2:8**
- Substantial factor standard, **2:8 to 2:10, 2:14**
- Surgical group defendants, comparative fault, issues of informed consent, **2:7**

## INDEX

### MEDICAL MALPRACTICE

#### —Cont'd

- Survival action, **2:1, 2:2, 2:9, 2:14, 2:16**
- Taking victim as you find him, **2:2, 2:7**
- Treating physician, testimony of, **2:7**
- Unfortunate outcome, **2:10**
- Verdict form, **2:1, 2:2, 2:5, 2:8, 2:15**
- Vicarious liability, **2:8, 2:10**
- Written jury instructions, viewing, **2:4**
- Wrongful death, **2:1, 2:2, 2:12, 2:14, 2:16, 2:17, 2:18**

### MENTAL DISTRESS

- Emotional and Mental Distress, this index

### MOTORCYCLE ACCIDENT

- Multiple plaintiffs, multiple defendants, comparative fault, **1:14, 1:15**

### MUNICIPALITIES

- Automobile accident
  - multiple plaintiffs, tortfeasor and city defendants, comparative fault, city failure to property maintain traffic control device, **1:19**
  - single plaintiff, city defendant, **1:20**

### NEGLIGENCE

- Burden of proof, **5:8, 5:12**
- Comparative Fault, this index
- Defenses, **5:8**
- Defined, **7:2**
- Detrimental reliance, **5:11**
- Duty/risk analysis, **5:1, 5:8**
- Emotional distress, negligent infliction of, **5:7**
- Employment, this index
- Federal Employers Liability Act, railroad employer, **8:7**
- Force, negligence in use of, **5:6**
- Governmental immunity, **5:11**
- Homeowner plaintiff and municipality and construction company

### NEGLIGENCE—Cont'd

- defendant, breach of contract, **7:6**
- Legal Malpractice, this index
- Medical Malpractice, this index
- Non-party tortfeasor, **5:7**
- Nursing home resident and family plaintiffs, nursing home defendant, breach of contract claim, negligence claim, alleged breach of resident's bill of rights, comparative fault, **7:2**
- Premises liability and liability for things in custody, **6:7**
- Products liability, **4:2**
- Property Damage, this index, this index
- Respondeat superior, **5:7, 5:12**
- Sexual assault, **5:7**
- Slip and fall, **5:9**
- Standard of care, **5:8**
- Substantial factor standard, **5:8**
- Supervision, **5:6, 5:7, 6:6**
- Survival action, **5:5**
- Training, **5:6**
- Vehicle Negligence, this index
- Whistleblower statute, **8:5**
- Wrongful death, **5:4, 5:5**

### NURSING HOMES

- Private right of action, **7:2**
- Resident and family plaintiffs, nursing home defendant, breach of contract claim, negligence claim, alleged breach of resident's bill of rights, comparative fault, **7:2**
- Standard of care, **7:2**

### OBJECTIONS

- Medical malpractice, **2:8**

### OBSTRUCTED VIEW

- Heightened duty of care, **1:19**

### OPEN ACCOUNT

- Breach of contract, **7:4**

### OPTIONS CONTRACT

- Breach of contract, **7:10**

**OVERTIME**

Employment, **8:5**

**PAIN AND SUFFERING**

Hazardous working conditions, **5:8**  
 Medical malpractice, **2:3, 2:5, 2:14**  
 Vehicle negligence, **1:1, 1:3, 1:5, 1:6, 1:9, 1:10, 1:13, 1:14, 1:17, 1:20**

**PARTIAL TAKING**

Generally, **8:2**

**PHYSICIANS AND SURGEONS**

Medical Malpractice, this index  
 Weight of physician’s testimony, **1:7, 6:4**

**PIERCING CORPORATE VEIL**

Creditor plaintiff, sole stockholder and former stockholder defendants, piercing the corporate veil, **7:1**

**POSSESSORY ACTION**

Generally, **8:9**

**PREMISES LIABILITY AND LIABILITY FOR THINGS IN CUSTODY**

Generally, **6:2 to 6:11**  
 Accident history of defect, **6:5**  
 Act of God defense, **6:5**  
 All persons equal language, **6:2 to 6:6**  
 Animals, domesticated animals, **6:9**  
 Attorney conduct, **6:5**  
 Burden of proof, **6:3, 6:4, 6:6, 6:7, 6:9, 6:10**  
 Causation, **6:2 to 6:6, 6:9, 6:10**  
 Cause-in-fact, **6:5**  
 Circumstantial evidence, **6:3, 6:4**  
 Comparative fault, **6:1 to 6:5, 6:7, 6:8, 6:11**  
 Consortium, loss of, **6:3**  
 Credibility of witnesses, **6:7, 6:9**  
 Damages, **6:1 to 6:3, 6:5, 6:6, 6:9, 6:10**  
 Defenses, **6:5, 6:9**  
 Deposition testimony, **6:4**  
 Direct and circumstantial evidence, **6:3**

**PREMISES LIABILITY AND LIABILITY FOR THINGS IN CUSTODY—Cont’d**

Domesticated animals, **6:9**  
 Elements of claim, things in custody liability, **6:5, 6:6**  
 Enjoyment of life, loss of, **6:2, 6:5, 6:10**  
 Expert testimony, **6:2, 6:4, 6:5, 6:9, 6:10**  
 Fault, **6:10**  
 Federal Employers Liability Act, liability for things in custody, **8:7**  
 Health care providers, injuries caused by, **6:3**  
 Irregularity or imperfection language, **6:5**  
 Jury deliberations, **6:4**  
 Length of time condition must exist, **6:3**  
 Lost wages award, **6:3**  
 Medical expenses, standard of proof, **6:6, 6:10**  
 Medical review panel, **6:3**  
 Mental distress and anguish, **6:4**  
 Merchant breach, **6:3, 6:5**  
 Mitigation of damages, victim’s duty, **6:2**  
 No presumption from injury, **6:2**  
 Pain and suffering, **6:5**  
 Property owner defendant, **6:11**  
 Quotient verdict, **6:4, 6:5, 6:8**  
 Slip and fall, **6:3, 6:5, 6:8**  
 Standard of care, **6:2, 6:5**  
 Stipulations, **6:4**  
 Subsequent remedial measures, **6:5**  
 Taking victim as you find him, **6:3, 6:4**  
 Tax consequences of award, **6:6**  
 Things in custody, generally, **6:5 to 6:9**  
 Unreasonable risk of harm, **6:4**  
 Verdict form, **6:5, 6:10**  
 Victim plaintiff, **6:11**  
     act of God defense, **6:5**  
     comparative fault, **6:2, 6:3, 6:5, 6:8**

## INDEX

### **PREMISES LIABILITY AND LIABILITY FOR THINGS IN CUSTODY—Cont'd**

- Victim plaintiff, **6:11**—Cont'd
  - family. Victim and family plaintiffs, below
    - negligent supervision, **6:6**
    - property owner, parish, and insurer defendants, **6:10**
    - property owner and insurer defendants, **6:2, 6:4**
    - property owner defendant, **6:1, 6:5, 6:6**
    - slip and fall, comparative fault, **6:5, 6:8**
  - Victim and family plaintiffs
    - property owner defendant, comparative fault, **6:3**
    - tortfeasor and State defendants, comparative fault, **6:7**
- Weight of physician's testimony, **6:4**

### **PRESCRIPTIVE PERIOD**

- Legal malpractice, **3:2**

### **PRIOR INCONSISTENT STATEMENTS**

- Breach of contract, **7:4, 7:9**
- Medical malpractice, **2:8 to 2:10**
- Products liability and redhibition, **4:5**
- Torts, generally, **5:3**
- Vehicle negligence, **1:16**

### **PRODUCTS LIABILITY AND REDHIBITION**

- Generally, **4:1 to 4:6**
- All persons equal language, **4:1, 4:3, 4:4, 4:6**
- Attorney conduct, **4:1**
- Attorneys' fees, **4:6**
- Burden of proof, **4:2 to 4:5**
- Causation, **4:1, 4:4**
- Circumstantial evidence, **4:2, 4:5**
- Comparative fault, **4:1, 4:2**
- Consortium, loss of, **4:4**
- Credibility of witnesses, **4:2 to 4:4**
- Damages, **4:1 to 4:6**
- Drug companies, **4:5**
- Enjoyment of life, loss of, **4:1, 4:3, 4:4**

### **PRODUCTS LIABILITY AND REDHIBITION—Cont'd**

- Expert witnesses, **4:1 to 4:5**
- Fraudulent violation of Medical Assistance Programs Integrity Law, **4:5**
- Jury deliberations, **4:3**
- Knowledge of defect, **4:6**
- Lost wages award, **4:1, 4:4**
- Medical Assistance Programs Integrity Law, fraudulent violation of, **4:5**
- Medical expenses, **4:2**
- Mental distress, **4:1 to 4:4, 4:6**
- Mitigation of damages, **4:1, 4:6**
- Negligence, **4:2**
- Non-apparent defects, **4:6**
- Quotient verdict, **4:6**
- Reasonably anticipated use, **4:1, 4:3**
- Redhibition, purchaser plaintiff, seller defendant, **4:6**
- Res ipsa loquitur, **4:1**
- Sale, defined, **4:6**
- Sophisticated user, **4:3**
- Standard of care, **4:1, 4:4**
- State of the art defense, **4:2**
- Survival action, **4:2**
- Unreasonably dangerous construction or design, **4:1 to 4:3**
- Verdict form, **4:4**
- Verdict sheet, **4:1**
- Victim plaintiffs
  - family. Victim and family plaintiffs, below
    - unreasonably dangerous design, inadequate warning, sophisticated user, **4:3**
  - Victim and family plaintiffs
    - unreasonably dangerous in construction or composition, inadequate warning, comparative fault, **4:1**
    - unreasonably dangerous in design, inadequate warning, state of the art defense, comparative fault, **4:2**
- Warning, inadequate, **4:1, 4:3, 4:4**
- Warranties, **4:6**

**PRODUCTS LIABILITY AND  
REDHIBITION—Cont'd**

Written jury instructions, viewing,  
**4:1**

Wrongful death, **4:2**

**PROPERTY DAMAGE**

Generally, **5:8**

Automobile collision with residence,  
**1:16**

Homeowner plaintiff and municipal-  
ity and construction company  
defendant, breach of contract,  
**7:6**

Vehicle negligence, **1:9**

**PUNITIVE DAMAGES**

Automobile collision with residence,  
**1:16**

Vehicle negligence, **1:17**

**QUOTIENT VERDICT**

Verdict, this index

**RAILROADS**

Employer liability, **8:7**

**REDHIBITION**

Products Liability and Redhibition,  
this index

**RELOCATION BENEFITS**

Generally, **8:2**

**RES IPSA LOQUITUR**

Products liability, **4:1**

**RES JUDICATA**

Legal malpractice, **3:2**

**RESPONDEAT SUPERIOR**

Generally, **5:7, 5:12**

**RIVERBOAT GAMING**

Generally, **8:6**

**ROYALTIES**

Mineral lease, breach of contract, **7:5**

**SCHOOL BUS**

Negligent supervision, **5:7**

**SEVERANCE DAMAGES**

Partial taking, **8:2**

**SEXUAL ASSAULT**

Negligent supervision on school bus,  
**5:7**

**SEXUAL MOLESTATION**

Generally, **5:13**

**SLIP AND FALL**

Generally, **5:9, 6:3, 6:5, 6:8**

**SPECIAL USE PROPERTY**

Generally, **8:2**

**SPECIFIC PERFORMANCE**

Breach of contract, **7:10**

**STATUTORY IMMUNITY**

Homeowner plaintiff and municipal-  
ity and construction company  
defendant, breach of contract,  
**7:6**

**STIPULATIONS**

Intentional torts, **5:1**

Legal malpractice, **3:3**

Medical malpractice, **2:14**

Premises liability and liability for  
things in custody, **6:4**

Products liability and redhibition, **4:5**

Vehicle negligence, **1:9, 1:17, 1:20,**  
**1:22**

**STOCKHOLDERS**

Creditor plaintiff, sole stockholder  
and former stockholder  
defendants, piercing the  
corporate veil, **7:1**

**SURVIVAL ACTIONS**

Generally, **5:1, 5:4, 5:5**

Medical malpractice, **2:1, 2:2, 2:9,**  
**2:14, 2:16**

Products liability, **4:2**

**TAX CONSEQUENCES OF AWARD**

Expropriation, **8:3**

Premises liability and liability for  
things in custody, **6:6**

Vehicle negligence, **1:12**

**THINGS IN CUSTODY**

Premises Liability and Liability for  
Things in Custody, this index

## INDEX

### THOROUGHNESS OF INSTRUCTIONS

Generally, **8:1**

### TORTS

All persons equal language, **5:7, 5:8**

Assault, this index

Battery, intentional tort, **5:2**

Causation, **5:7, 5:8, 5:13**

Comparative Fault, this index

Confinement, unlawful, **5:1**

Contracts, tortious interference with contract, **3:3, 7:5**

Damages, this index

Deposition testimony, **5:7, 5:8**

Enjoyment of life, loss of, **5:2, 5:8**

Expert witnesses, **5:1, 5:7, 5:8**

False imprisonment, **5:1, 5:6**

Fault, allocating, **5:7, 5:8, 5:10**

Intentional torts, **5:1 to 5:3, 5:6, 5:13**

Juror deliberations, **5:8, 5:10**

Juror responsibility, **5:8, 5:10**

Lost wages, **5:2, 5:8**

Medical expenses, standard of proof, **5:2, 5:7, 5:8**

Negligence, this index

Premises Liability and Liability for Things in Custody, this index

Products Liability and Redhibition, this index

Quotient verdict, **5:7**

Verdict form, **5:2, 5:3, 5:7, 5:8, 5:10**

Vicarious Liability, this index

Wrongful Death, this index

### TRAFFIC CONTROL

Automobile accident, multiple plaintiffs, tortfeasor and city defendants, comparative fault, city failure to property maintain traffic control device, **1:18, 1:19**

### UNFAIR TRADE PRACTICES

Generally, **8:6**

Breach of contract, **7:9**

Commercial supplier plaintiff, purchaser defendant, reconventional demand alleging breach of contract, fraud, unfair

### UNFAIR TRADE PRACTICES

—Cont'd

trade practices, and unjust enrichment, **7:4**

### UNJUST ENRICHMENT

Commercial supplier plaintiff, purchaser defendant, reconventional demand alleging breach of contract, fraud, unfair trade practices, and unjust enrichment, **7:4**

### VALUE AND VALUATION

Expropriation, **8:2, 8:3**

### VEHICLE NEGLIGENCE

Generally, **1:1 to 1:24**

Allocation of fault, **1:19**

All persons equal language, **1:12, 1:15, 1:19**

Attorney's comments as evidence, **1:7, 1:17, 1:20**

Attorneys' fees, **1:9**

Automobile accident

comparative fault, **1:23**

intoxication, **1:24**

multiple plaintiffs, **1:23**

tortfeasor and insurer, **1:24**

tortfeasor and insurer defendants, **1:23**

victim and family plaintiffs, **1:24**

Automobile accident, **1:1**

Automobile accident,

highway and construction

company defendant

trial courts omission of specific jury instructions, **1:1**

personal injury plaintiffs tortfeasor in course and scope of employment

highway and construction company defendant, **1:1**

Bicycle accident, **1:14, 1:15**

Burden of proof, **1:4, 1:7, 1:10 to 1:12, 1:16 to 1:18, 1:20 to 1:22**

Bus passenger plaintiff, **1:3**

Causation, **1:7, 1:11, 1:12, 1:15 to 1:17, 1:20 to 1:22**

Cause-in-fact, **1:19**

**VEHICLE NEGLIGENCE—Cont'd**

Child plaintiffs, victim and, **1:6**  
 Circumstantial evidence, **1:12, 1:20**  
 City defendant, **1:19, 1:20**  
 Collateral source rule, **1:17**  
 Comparative fault, **1:10 to 1:12, 1:14, 1:15, 1:17 to 1:20**  
 Consortium, loss of, **1:2, 1:5, 1:9, 1:10, 1:15, 1:18, 1:19, 1:21**  
 Credibility of witnesses, **1:4, 1:11, 1:16, 1:17, 1:21, 1:22**  
 Damages  
     generally, **1:1, 1:3 to 1:5, 1:7, 1:9 to 1:13, 1:17, 1:18, 1:20 to 1:22**  
     labeling “special” or “general,” **1:7, 1:11, 1:16, 1:17, 1:19, 1:20**  
     mental distress damages, **1:12, 1:15, 1:16**  
     punitive damages, **1:16, 1:17**  
 Defendants  
     city, **1:18 to 1:20**  
     insurer, tortfeasor and, **1:4 to 1:9, 1:11, 1:16, 1:17**  
     residence, collision with, negligent driver and insurer defendants, **1:16**  
     tortfeasor in course and scope of employment and insurer, **1:2 to 1:4**  
 Defenses, **1:17**  
 Deposition testimony, **1:4, 1:16, 1:20**  
 Depreciation of vehicle, **1:9**  
 Disability, **1:2, 1:3, 1:9, 1:13, 1:14**  
 Earning capacity, loss of, **1:9, 1:10, 1:17**  
 Emergency  
     duty of care of emergency responders, **1:20**  
     sudden emergency, **1:12, 1:15**  
 Employment, tortfeasor in course and scope, **1:1, 1:2 to 1:4**  
 Enjoyment of life, loss of, **1:5, 1:6, 1:9, 1:11, 1:15, 1:17, 1:19, 1:20**  
 Expert witnesses, **1:4, 1:7, 1:11, 1:12, 1:16 to 1:18, 1:20, 1:21**  
 Fault, **1:11, 1:12, 1:16, 1:17, 1:19, 1:20**

**VEHICLE NEGLIGENCE—Cont'd**

Funeral expenses, **1:18**  
 Future medical expenses, **1:3, 1:9, 1:10, 1:12, 1:20**  
 Highway and construction company defendant  
     tortfeasor in course and scope of employment, **1:1**  
 Housley presumption, **1:10**  
 Impeachment of witnesses, **1:17**  
 Job loss, **1:14**  
 Juror responsibility, **1:7, 1:11, 1:15 to 1:17, 1:20**  
 Jury deliberations, **1:4, 1:11, 1:15, 1:16, 1:20 to 1:22**  
 Life expectancy, **1:17**  
 Limitations on communications, **1:14**  
 Loss of use of vehicle, **1:9**  
 Medical expenses  
     generally, **1:6**  
     excessive expenses, **1:15**  
     future medical expenses, **1:3, 1:5, 1:9, 1:10, 1:12, 1:13, 1:20**  
     past medical expenses, **1:3, 1:9, 1:10**  
     pre-death, **1:18**  
     present medical expenses, **1:3**  
     standard of proof, **1:11, 1:17**  
 Mental anguish, **1:3, 1:5, 1:6, 1:9, 1:13, 1:14, 1:17**  
 Mental distress damages, **1:3, 1:7, 1:15, 1:16**  
 Mitigation of damages, victim’s duty, **1:11, 1:17**  
 Motorcycle accident, **1:14, 1:15**  
 Multiple plaintiffs, tortfeasor and city defendants, comparative fault, city failure to properly maintain traffic control device, **1:18, 1:19**  
 Obstructed view, heightened duty of care, **1:19**  
 Pain and suffering, **1:3, 1:5, 1:6, 1:9, 1:10, 1:13, 1:14, 1:17, 1:18, 1:20**  
 Past medical expenses, **1:3, 1:9, 1:10**  
 Pedestrian victim, **1:17**  
 Personal injury plaintiffs, **1:1**  
 Pre-death medical expenses, **1:18**  
 Pre-existing condition, **1:10**

## INDEX

### VEHICLE NEGLIGENCE—Cont'd

Present medical expenses, **1:3**  
Prior inconsistent statement, **1:16**  
Property damage, **1:5, 1:9, 1:13**  
Proximate cause, **1:10**  
Punitive damages, **1:17**  
Punitive damages, collision with residence, **1:16**  
Rear-end collision, **1:5, 1:8**  
Rental expenses, **1:9**  
Residence, collision with, property owner plaintiff, negligent driver and insurer defendants, property damage, punitive damages, **1:16**  
Right-of-way, missing stop sign, **1:19**  
Single plaintiff  
generally, **1:8, 1:9, 1:21, 1:22**  
city defendant, **1:20**  
tortfeasor and insurer defendants  
generally, **1:7, 1:9, 1:10**  
comparative fault, **1:11, 1:17**  
Stipulations, **1:9, 1:17, 1:20, 1:22**  
Stop signs, **1:10**  
Substantial factor standard, **1:16**  
Sudden emergency, **1:12, 1:15**  
Trial courts omission of specific jury instructions, **1:1**  
Unavoidable or inevitable accident, **1:19**  
Verdict form, **1:11, 1:15, 1:19, 1:21**  
Victim, tortfeasor taking as he finds him, **1:4, 1:11, 1:12, 1:17, 1:19, 1:20**  
Victim and family plaintiffs  
generally, **1:3**  
children, **1:6**  
spouse, **1:2**  
tortfeasor in course and scope of employment and defendants, **1:1**  
tortfeasor in course and scope of employment and insurer defendants, only amount of damages at issue, **1:2 to 1:5**  
Wage loss, **1:3, 1:5, 1:10, 1:13, 1:14, 1:17, 1:18**  
Weight of physician's testimony, **1:7**  
Work life expectancy, **1:17**

### VERDICT

Form  
adequacy and thoroughness, **8:1**  
breach of contract, **7:6, 7:10, 8:8**  
expropriation, **8:2, 8:3**  
insurer penalties, breach of contract, **8:8**  
intentional tort, **5:2**  
Jones Act, **8:4**  
legal malpractice, **3:1, 3:2**  
medical malpractice, **2:1, 2:2, 2:5, 2:8, 2:15**  
negligent supervision, **5:7**  
possessory action, **8:9**  
premises liability, **6:5, 6:10**  
products liability, **4:1**  
sexual molestation, **5:13**  
vehicle negligence, **1:4, 1:11, 1:15, 1:21, 1:22**  
whistleblower statute, **8:5**  
Quotient verdict  
medical malpractice, **2:7, 2:14, 2:15**  
negligent supervision, **5:7**  
premises liability, **6:4, 6:5, 6:8**  
redhibition, **4:6**  
vehicle negligence, **1:20, 1:21**

### VICARIOUS LIABILITY

Generally, **5:3**  
Nurse's negligent conduct, **2:10, 2:13**  
Nursing home employees, **7:2**  
Physicians, **2:8**

### WAGE LOSS

Vehicle negligence, **1:3, 1:5, 1:10, 1:13, 1:14, 1:17, 1:18**

### WAIVER

Breach of contract, **7:10**  
Legal malpractice, **3:2**

### WARNING

Products liability, inadequate warning, **4:1, 4:3, 4:4**

### WARRANTIES

Adequacy and thoroughness of instructions, **8:1**  
Breach of contract, **7:7**  
Redhibition, **4:6**

LOUISIANA CIVIL JURY INSTRUCTION COMPANION HANDBOOK

**WHISTLEBLOWER STATUTE**

Generally, **8:5**

**WITNESSES**

Credibility of Witnesses, this index

Expert Witnesses, this index

**WRONGFUL DEATH**

Generally, **5:1, 5:4, 5:5**

Damages, **3:1**

Medical malpractice actions, **2:1, 2:2,**  
**2:12, 2:14, 2:16**

Products liability, **4:2**