

# Index

## **ABANDONMENT**

- Copyrights, § 15:96
- Trademarks, this index

## **ABBREVIATIONS**

- Trademarks, § 16:42

## **ACCEPTANCE**

- Chapter 11 reorganization plans, § 32:22
- Sales, “Battle of the Forms,” § 8:32 to 8:40
- Secured transactions, default and enforcement, § 10:189 to 10:191

## **ACCESS TO SITES**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:7

## **ACCESSIONS**

- Secured transactions, priority, § 10:105

## **ACCOMMODATION**

- Digital Millennium Copyright Act, § 16B:52

## **ACCOUNTS**

- Secured Transactions, this index

## **ADHESION CONTRACTS**

- Public policy, unenforceability, § 7:75

## **ADMINISTRATIVE DISSOLUTION**

- Corporations, § 30:12
- Limited partnerships, § 31:25

## **ADMISSIBILITY OF EVIDENCE**

- Fraud and deceit, § 34:99

## **ADOPTION OF WRITING**

- Contracts, § 7:94

## **ADVERTISING**

- Generally, § 20:1 to 20:51
- Causation of injury, § 20:32
- Characteristics of goods, misrepresentation of, § 20:11
- Commercial speech
  - Generally, § 20:25 to 20:29
  - Commercial competition with plaintiff, § 20:27
  - Dissemination to relevant purchasing public, § 20:29
  - Influencing customers to buy, § 20:28

**ADVERTISING—Cont'd**

Contracts, § 7:6

Defenses

Generally, § 20:39 to 20:43

Inexcusable delay, § 20:41

Laches, § 20:41, 20:42

Prejudice, § 20:42

Statute of limitations, § 20:40

Unclean hands, § 20:43

Unreasonable delay, § 20:41

Fact, false statement of

Generally, § 20:10 to 20:22

Examples, § 20:21

Fact vs. opinion, § 20:12

“False by necessary implication,” § 20:19

Falsity, § 20:10

Implied falsity, § 20:18

Intent to deceive, § 20:22

Liability, § 20:14

Literal falsity

Generally, § 20:15

Avis Rent A Car System, § 20:17

Unsubstantiated claims, § 20:16

Misrepresentation of the nature, characteristics, qualities or geographic origin of goods, § 20:11

Necessary implication, false by, § 20:19

Opinion vs. fact, § 20:12

Proving falsity, § 20:20

Puffery, § 20:13

False advertising

Eighth Circuit, elements, § 20:8

Elements, § 20:6, 20:8, 20:9

Materiality, § 20:24

Ninth Circuit, elements, § 20:9

Second and Third Circuits, elements, § 20:7

Substantial segment of audience deceived, § 20:23

False association, § 20:49

False endorsement, § 20:49, 20:50

False representations, Lanham Act, § 20:2

Federal Trade Commission

Authority, § 20:44

Scope of regulation, FTC act, § 20:45

Trade regulation rules and guides, § 20:46

First Amendment issues, § 20:50

Food, Drug and Cosmetic Act and FDA, regulation of food labels, § 20:51

Food labels regulated under Food, Drug and Cosmetic Act and FDA, § 20:51

Geographic origins of goods, misrepresentation of, § 20:11

Injury to intermediate purchasers, § 20:31

## INDEX

### **ADVERTISING—Cont'd**

- Intermediate purchasers, § 20:30, 20:31
- Internet advertising and disclosures, § 20:48
- Lanham Act
  - False representations, § 20:2
- National Advertising Division (NAD), § 20:47
- National Advertising Review Board (NARB), § 20:47
- Nature of goods, misrepresentation of, § 20:11
- Pleading standard, § 20:5
- Prima facie elements of false advertising, § 20:6
- Qualities of goods, misrepresentation of, § 20:11
- Remedies for false advertising
  - Generally, § 20:33 to 20:38
  - Attorneys' fees, § 20:38
  - Monetary damages, § 20:35
  - Preliminary injunction, § 20:37
  - Punitive damages, § 20:36
  - Section 35 remedies available to Section 43(a) plaintiffs, § 20:34
- Standing, generally, § 20:4
- Statutory standing, § 20:4
- Trademarks
  - Dilution, identifying a competitor's product in comparative advertising, § 16:158
  - Identifying competitor's product in comparative advertising, § 16:158
  - Lanham Act, above
- Unfair competition, § 20:49

### **AFFIDAVITS**

- Executions and supplementary proceedings, form, § 38:8
- Preliminary attachment order, form, § 38:53
- Replevin, form, § 38:69

### **AFFIRMATIVE ACTION**

- Employment, this index

### **AFFIRMATIVE DEFENSE**

- Fraud and deceit, § 34:6, 34:91

### **AFTER-ACQUIRED PROPERTY**

- Secured transactions, § 10:36

### **AGC FACTORS**

- Monopolies and antitrust, § 22A:6

### **AGE DISCRIMINATION**

- Employment, § 13:31

### **AGENCY**

- Franchise, distinguished, § 21:36
- Fraud and deceit, agent liability, § 34:94
- Partnerships, § 4:16

**AGENCY—Cont'd**

Uniform Limited Partnership Act of 2001, service of process, § 5:10

**AGENTS**

Securities regulation, § 27:47

**AGREEMENTS**

Contracts, this index

**AGRICULTURAL LIENS**

Secured transactions, choice of law, § 10:61

**ALCOHOL TESTING**

Employment, this index

**AMENDMENT OR MODIFICATION**

Contracts, sales, § 8:89

Corporations, this index

Employment, noncompete clauses, § 12:12

Fourth Amendment issues, Minnesota cannabis regulation, § 14:2

Lease of personal property, § 9:12

Limited liability companies, articles, § 3:17

Secured transactions, § 10:124, 10:150

Stock and Stockholders, this index

Uniform Limited Partnership Act of 2001, certificate, § 5:12

**ANNUAL REPORTS**

Securities Exchange Act of 1934, § 26D:20

**ANNUITIES**

Securities, definition, § 26:53

**ANTICIPATORY BREACH**

Contracts, § 7:122

**ANTI-CIRCUMVENTION**

Digital Millennium Copyright Act, § 16B:59

**ANTI-GOLDEN PARACHUTE STATUTE**

Takeovers, § 28:12, 28:14

**ANTI-GREENMAIL STATUTE**

Takeovers, § 28:12, 28:13

**ANTITRUST**

Monopolies and Antitrust, this index

**APPARENT AUTHORITY**

Corporations, officers, § 2:23

**APPEAL AND REVIEW**

Comprehensive Environmental Response, Compensation, and Liability Act,  
§ 24:20

Patents, appeal to federal circuit, § 17:43

## INDEX

### APPLICATIONS

- Preliminary attachment order, form, § 38:52
- Trademarks, federal registration, § 16:52 to 16:63

### ARBITRATION

- Employment, this index
- Fraud and deceit, § 34:82

### ARTICLES OF INCORPORATION

- Corporations, this index

### ARTICLES OF PARTNERSHIP

- Limited partnerships, § App. 5A

### ASSET TRANSFERS

- Form, asset purchase agreement, § App. 8C

### ASSIGNMENTS

- Contracts, sales, § 8:90
- Patents, § 17:7
- Publicity, § 19:6
- Secured Transactions, this index

### ATTACHMENT

- Generally, § 38:46 to 38:60
- Affidavit for preliminary attachment order, form, § 38:53
- Application for preliminary attachment order, form, § 38:52
- Availability, § 38:47
- Bonds, § 38:48, 38:60
- Forms
  - Affidavit for preliminary attachment order, § 38:53
  - Application for preliminary attachment order, § 38:52
  - Bond, § 38:60
  - Memorandum in support of motion for attachment order, § 38:58
  - Motion for attachment order, § 38:56
  - Notice of hearing, § 38:55, 38:57
  - Order of attachment, § 38:54, 38:59
  - Preliminary attachment order, § 38:54
- Memorandum in support of motion for attachment order, form, § 38:58
- Motion for attachment order, form, § 38:56
- Notice of hearing, form, § 38:55, 38:57
- Order of attachment, form, § 38:54, 38:59
- Preliminary attachment order, form, § 38:54
- Procedure, § 38:50
- Property that may be attached, § 38:49
- Rights of respondent, § 38:51
- Secured Transactions, this index

### ATTORNEY GENERAL

- Corporations, involvement in actions against corporations, officers and directors, § 36:8

**ATTORNEY GENERAL—Cont'd**

Involuntary dissolution, action for, § 30:11

**ATTORNEYS**

Attorney General, this index

Executions and supplementary proceedings, summary execution of judgment debts, § 38:3

Fees. Attorneys' Fees, this index

Privacy and personal information

Electronic communications, § 16B:79

**ATTORNEYS' FEES**

Copyrights, § 15:126

False advertising, § 20:38

Patent infringement

Sanctions, § 17:37

Publicity, § 19:12

Stock and stockholders, derivative actions, § 36:6

Trade secrets, misappropriation, § 18:41

**AT-WILL EMPLOYMENT**

Generally, § 12:1

**AUTHENTICATION**

Security agreements, § 10:32

**AUTOMATIC STAY**

Bankruptcy, § 32:7

**AVOIDANCE POWERS**

Bankruptcy, this index

**BAD FAITH**

Good Faith, this index

**BANK INSTRUMENTS**

Securities, definition, § 26:56

**BANKRUPTCY**

Generally, § 32:1 to 32:33

Automatic stay, § 32:7

Avoidance powers

Generally, § 32:8 to 32:14

Equitable subordination, § 32:14

Fraudulent transfers, § 32:12

State Fraudulent transfers, § 32:13

Strong-arm clause, Section 544(a), § 32:9

Successor to creditors, Section 544(b), § 32:10

Voidable preferences, § 32:11

Chapter 7 Liquidations, this index

Chapter 11 Reorganizations, this index

Consequences of filing of petition, § 32:5 to 32:7

## INDEX

### **BANKRUPTCY—Cont'd**

- Creation of estate, § 32:5
- Equitable subordination, § 32:14
- Executory contracts, § 32:6
- Filing of petition, § 32:3
- Fraudulent transfers, § 32:12
- Involuntary filing of petition, § 32:4
- Jurisdiction, § 32:2
- Liquidations. Chapter 7 Liquidations, this index
- Reorganizations. Chapter 11 Reorganizations, this index
- State fraudulent transfers, § 32:13
- Strong-arm clause, Section 544(a), § 32:9
- Structure of U.S. Bankruptcy Code, § 32:1
- Successor to creditors, Section 544(b), § 32:10
- Voidable preferences, § 32:11
- Voluntary filing of petition, § 32:3

### **BENEFICIAL OWNERS**

- Generally, § 6A:4 to 6A:7
- Corporate transparency act, § 6A:4
- Disclosure of Information, § 6A:6
- Information Report, § 6A:5
- Sample report, § 6A:7

### **BILLS OF SALE**

- Generally, § App. 8F

### **“BLANK CHECK” CAPITAL STOCK**

- Takeovers, § 28:18

### **BLUE SKY LAWS**

- Securities Regulation, this index
- Uniform Securities Act (2002), § App. 27A

### **BLURRING**

- Trademarks, dilution, § 16:148

### **BONDS AND NOTES**

- Secured transactions, pledge and security agreement, form, § App. 10G

### **BONDS AND UNDERTAKINGS**

- Attachment, § 38:48, 38:60
- Replevin, § 38:66, 38:71

### **BOOKS**

- Records and Books, this index

### **BRANCH SALES MANAGER**

- Employment agreement, form, § App. 12B

### **BREACH**

- Breach and repudiation. Sales, this index
- Contracts, this index

**BROKERAGE PAYMENTS**

Robinson-Patman Act, Section 2(c), § 22:195

**BROKER-DEALERS**

Securities regulation, § 27:47

**BROWSEWRAPS/ SHRINKWRAPS/ SCROLLWRAPS CONTRACTS**

Internet, § 16B:80

**BUILDING DESIGNS**

Trademarks, § 16:27

**BURDEN OF PROOF**

Patents

Proving infringement, § 17:20

Trade secrets, misappropriation, § 18:34

**BUSINESS COMBINATION ACT**

Generally, § 28:6 to 28:10

Constitutionality, § 28:10

Disinterested committee approval, § 28:7

Exception, § 28:7

Grandfather exclusions, § 28:9

Opt-out provisions, § 28:8

**BUSINESS JUDGMENT RULE**

Corporations, directors, § 2:19

**BUSINESS OPPORTUNITIES**

Corporations, directors, § 2:17

Franchises, § 21:8, 21:12

**BUSINESS TORTS**

Defamation, this index

Invasion of privacy, § 33E:1 to 33E:7

Appropriation, § 33E:5

False light publicity, § 33E:6

Four species, § 33E:2

Intrusion upon seclusion, § 33E:3

Nuisance, § 33E:21

Publication of private matters, § 33E:4

Trespass, § 33E:20

**BYLAWS**

Corporations, § 2:8, App. 2A

Takeovers, this index

**CANNABIS**

Employment, this index

Law issues, Employment, § 14:11

Management, office of, § 14:13

Possession & home cultivation, personal adult use, § 14:10

Work rules and nonwork activities, § 14:11

## INDEX

### **CAPACITY**

Contracts, § 7:3

### **CARE, DUTY OF**

Corporations, directors, § 2:18

### **CELEBRITIES**

Publicity, this index

### **CERCLA**

Comprehensive Environmental Response, Compensation, and Liability Act,  
below

### **CERTAINTY**

Contracts, damages, § 7:128

### **CERTIFICATES AND CERTIFICATION**

Copyrights, registration, § 15:60

Secured transactions, choice of law, § 10:63

Stock, § 2:34

Uniform Limited Partnership Act of 2001, § 5:11, 5:12

Voluntary dissolution by shareholders, certificate of dissolution, § 30:6

### **CERTIFICATES OF DEPOSIT**

Securities, definition, § 26:56

### **CHANGE IN CIRCUMSTANCES**

Contracts, § 7:54

### **CHAPTER 13**

Reorganization, individuals, § 32:33

### **CHAPTER 7 LIQUIDATIONS**

Generally, § 32:27 to 32:32

Conversion, § 32:30

Discharge, § 32:32

Dismissal, § 32:31

Eligibility, § 32:28

Trustees, § 32:29

### **CHAPTER 11 REORGANIZATIONS**

Generally, § 32:15 to 32:26

Acceptance, § 32:22

Confirmation, § 32:23

Conversion, § 32:26

Cram down, § 32:24

Discharge, § 32:25

Disclosure, § 32:21

Dismissal, § 32:26

Effects of confirmation, discharge, § 32:25

Elements of plan, § 32:20

First meeting of creditors, § 32:18

Lease of property, § 32:16

**CHAPTER 11 REORGANIZATIONS—Cont'd**

- Operation of business, § 32:15
- Persons who may file plan, § 32:19
- Plans, § 32:19 to 32:25
- Post petition financing, § 32:17
- Sale of property, § 32:16
- Solicitation, § 32:21
- Use of property, § 32:16

**CHATTEL PAPER OR INSTRUMENTS**

- Secured Transactions, this index

**CHECKLISTS**

- Franchise agreement, preparation of, § 21:45
- Garnishment, procedure, § 38:29

**CHECK-THE-BOX REGULATIONS**

- Taxation, § 6:2

**CHILDREN AND MINORS**

- Child support, executions and supplementary proceedings, forms, § 38:14, 38:21, 38:22
- Children's Online Privacy Protection Act
  - Privacy and personal information, § 16B:77
- Internet, this index

**CHILDREN'S ONLINE PRIVACY PROTECTION ACT**

- Internet
  - Privacy and personal information, § 16B:77

**CHOICE OF ENTITY**

- Generally, § 1:1 to 1:8
- Closely-held corporations, § 1:7
- Comparison chart, § 1:8
- Corporations, § 1:6, 1:7
- Limited liability companies, § 1:5
- Limited liability partnerships, § 1:3
- Limited partnerships, § 1:4
- Partnerships, § 1:2

**CHOICE OF LAW**

- Contracts, public policy, unenforceability, § 7:71
- Franchises, § 21:7
- Secured Transactions, this index

**CITIZEN SUITS**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:8, 24:22

**CIVIL LITIGATION**

- Minnesota drug and alcohol testing, § 14:14

INDEX

**CIVIL RIGHTS ACT OF 1964**

Employment, § 13:2

**CIVIL RIGHTS ACT OF 1991**

Employment, § 13:3

**CLASS VOTING**

Stock and stockholders, amendment of articles of incorporation, § 2:5

**CLASSIFIED BOARD**

Corporations, article provision establishing, form, § App. 2A

**CLAYTON ACT**

Monopolies and Antitrust, this index

**CLEAN AIR ACT**

Generally, § 23:5

**CLEAN WATER ACT**

Generally, § 23:4

**CLEANUP GUIDANCE**

Comprehensive Environmental Response, Compensation, and Liability Act,  
§ 24:9

**CLOSELY-HELD CORPORATIONS**

Choice of entity, § 1:7

**COLLATERAL CONTRACT DOCTRINE**

Scope of contractual obligations, § 7:96

**COLLECTIONS**

Attachment, this index

Executions and Supplementary Proceedings, this index

Garnishment, this index

Replevin, this index

Supplementary proceedings. Executions and Supplementary Proceedings, this  
index

**COLLECTIVE WORKS**

Copyrights, this index

**COMBINATION MARKS**

Trademarks, § 16:21

**COMMERCIAL REASONABLENESS**

Secured transactions, default and enforcement, § 10:196

**COMMERCIAL SPEECH**

Advertising, § 20:25 to 20:29

**COMMINGLED GOODS**

Secured transactions, priority, § 10:105

**COMMODITIES**

Managed accounts, securities, § 26:52

**COMMON ENTERPRISE TEST**

Securities regulation, § 27:12

**COMMON LAW**

Employment, test of, § 11:3, 11:6

Environmental Law, this index

**COMMUNICATIONS**

Internet, this index

Securities Act of 1933, this index

Stock and Stockholders, this index

**COMMUNICATIONS DECENCY ACT**

Internet, § 16B:66 to 16B:76

**COMMUNITY OF INTEREST**

Franchises, § 21:65

**COMPARATIVE FAULT OR NEGLIGENCE**

Fraud and deceit, § 34:83

**COMPENSATION**

Corporations, directors, § 2:12

Executive compensation disclosure, § 26D:52 et seq.

**COMPLAINTS**

Advertising, prudential standing, pleading standard, § 20:5

Controlling the Assault of Non-Solicited Pornography and Marketing Act, pleadings, § 16B:114

Fraud and deceit, § 34:97 et seq:

Replevin, form, § 38:70

Trade secrets, § 18:5

**COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION,  
AND LIABILITY ACT**

Generally, § 24:1 to 24:28

Authority, grant to president, § 24:6 to 24:8

Citizen suits, § 24:22

Contribution, § 24:18

Cost recovery, § 24:10, 24:21

Defenses to liability, § 24:17

Divisibility of harm, § 24:14

Exclusions from scope of statute, § 24:15

Exemptions, § 24:5, 24:16

Framework for implementation, § 24:3

Goals, § 24:2

History, § 24:1

Intervention standard, § 24:24

Joint and several liability, § 24:14

Judicial review of settlements, § 24:20

Jurisdiction, § 24:28

Jury trials, § 24:27

## INDEX

### **COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT—Cont'd**

#### Liability

- Generally, § 24:11 to 24:18
- Contribution, § 24:18
- Defenses to liability, § 24:17
- Divisibility of harm, § 24:14
- Exclusions from scope of statute, § 24:15
- Exemptions from liability, § 24:16
- Joint and several liability, § 24:14
- Potentially responsible parties, § 24:12
- Retroactive liability, § 24:13
- Scope of liability, § 24:14
- Strict liability elements, § 24:11
- National Contingency Plan and cleanup guidance, § 24:9
- Natural resource damage claims, § 24:23
- Potentially responsible parties, § 24:12
- President, grant of authority to, § 24:6 to 24:8
- Private party response actions, § 24:8
- Removal and remedial actions, § 24:6
- Reporting requirements, § 24:4, 24:5
- Retroactive liability, § 24:13
- Scope of liability, § 24:14
- Settlements, § 24:19, 24:20
- Site access and cleanup, § 24:7
- Sovereign immunity, § 24:25
- Statute of limitations, § 24:26
- Strict liability elements, § 24:11
- Takings, § 24:25

### **COMPUTER SOFTWARE**

- Copyrights, this index

### **CONCEALMENT**

- Fraudulent concealment, § 34:78

### **CONDEMNATION**

- Comprehensive Environmental Response, Compensation, and Liability Act,  
§ 24:25

### **CONDITIONS**

- Contracts, this index

### **CONDUCT**

- Anticompetitive conduct. Monopolies and Antitrust, this index

### **CONFIDENTIALITY**

- Trade secrets, § 18:21 to 18:23

### **CONFIRMATION**

- Chapter 11 reorganizations plans, § 32:23, 32:25

**CONFIRMATION—Cont'd**

Sales, “Battle of the Forms,” § 8:32 to 8:40

**CONFUSION**

Internet

Domain names

Confusion, likelihood of, § 16B:14

**CONGLOMERATE MERGERS**

Monopolies and antitrust, § 22:173

**CONSENT OR APPROVAL**

Patent infringement, consent judgments, § 17:32

Trade secrets, disclosure or use, § 18:32

**CONSEQUENTIAL DAMAGES**

Lease of personal property, § 9:21

Sales, § 8:215, 8:217, 8:231

**CONSERVATION**

Environmental Law, this index

**CONSIDERATION**

Generally, § 7:20, 7:30 to 7:33

Stock, § 2:31

**CONSIGNMENTS**

Secured Transactions, this index

**CONSPIRACY**

Monopolies and antitrust, § 22:125

**CONSTITUTIONAL LAW**

Business Combination Act, § 28:10

Comprehensive Environmental Response, Compensation, and Liability Act,  
§ 24:25

First Amendment issues, false endorsement and false advertising, § 20:50

**CONSTRUCTION AND INTERPRETATION**

Contracts, § 7:91

Lease of personal property, § 9:9, 9:10

Patent infringement claim, § 17:22

**CONSTRUCTIVE FRAUD**

Generally, § 34:7, 34:58

**CONSUMER GOODS AND TRANSACTIONS**

Secured transactions, § 10:183, 10:198

**CONTRACTS**

Generally, § 7:1 et seq.

Acceptance

Generally, § 7:20 to 7:22

Manifestation and manner of, § 7:20

## INDEX

### **CONTRACTS—Cont'd**

#### Acceptance—Cont'd

Offer defines, § 7:8

Terminating power of, § 7:21

Unilateral contracts, acceptance through performance, § 7:22

Adoption of writing, effect of, § 7:94

Anticipatory breach, § 7:122

Assignment of rights, § 7:150

Bankruptcy, executory contracts, § 32:6

Breach. Performance and breach, below

Business torts. Tortious interference with contract, below

Capacity to contract, § 7:3

Certainty of damages, § 7:128

Changed circumstances, § 7:54

Collateral Contract Doctrine, § 7:96

#### Conditions

Generally, § 7:110 to 7:113

Non-occurrence, effect of, § 7:112

Precedent, § 7:110, 7:111

Waiver, § 7:113

Written agreement as condition precedent, § 7:111

Consideration, this index

Construction of contracts, § 7:91

Corporations, samples, § App. 2C

Defined, § 7:1

Delegation of performance, § 7:150

Duration, indefinite, § 7:153

Duress and undue influence, generally, § 7:57 to 7:60

Economic duress, § 7:59

Employment, this index

Equitable estoppel, § 7:151

Executory contracts, bankruptcy, § 32:6

Expectation damages, § 7:125

Foreseeability, § 7:126

#### Formation

##### Acceptance

Generally, § 7:20 to 7:22

Manifestation and manner of, § 7:20

Offer defines, § 7:8

Terminating power of, § 7:21

Unilateral contracts, acceptance through performance, § 7:22

Capacity to contract, § 7:3

##### Consideration

Generally, § 7:30 to 7:33

Adequacy of, § 7:31

Implied contracts, § 7:33

Mutuality of obligation, § 7:31

**CONTRACTS—Cont'd**

Formation—Cont'd

Consideration—Cont'd

Option contracts, § 7:32

Promissory estoppel, § 7:33

Quasi-contracts, § 7:33

Reliance, § 7:33

Requirement, § 7:30

Unjust enrichment, § 7:33

Implied contracts, § 7:33

Mutual assent, § 7:4

Offer

Generally, § 7:4 to 7:9

Acceptance, defines, § 7:8

Advertising, § 7:6

Auctions, § 7:7

Bids, § 7:7

Expiration of, § 7:9

Preliminary negotiations, § 7:6

Quasi-contracts, § 7:33

Statute of frauds, below

Unjust enrichment, § 7:33

Fraud and misrepresentation, § 7:55, 7:56, 34:43

Frauds, statute of. Statute of frauds, below

Frustration of purpose, § 7:54

Good faith, covenant of, § 7:93

Implied contracts, § 7:33

Impossibility, § 7:54

Impracticality, § 7:54

Injunctive relief, § 7:132

Internet, this index

Joint and several liability, § 7:133

Land, statute of frauds, § 7:44

Lease of Personal Property, this index

Liquidated damages, § 7:131

Misrepresentation and fraud, § 7:55, 7:56

Mistakes

Generally, § 7:50 to 7:53

Misunderstanding, § 7:51

Mutual mistake, § 7:50

Risk of mistake, § 7:53

Unilateral mistake, § 7:52

Voidable contract, creation of, § 7:52

Misunderstandings, § 7:51

Mitigation of damages, § 7:127

Mutual assent, § 7:4

Mutual mistake, § 7:50

Mutuality of obligation, § 7:31

INDEX

**CONTRACTS—Cont'd**

- Non-occurrence of conditions, effect of, § 7:112
- Offer
  - Generally, § 7:4 to 7:9
  - Acceptance, defines, § 7:8
  - Advertising, § 7:6
  - Auctions, § 7:7
  - Bids, § 7:7
  - Expiration of, § 7:9
  - Preliminary negotiations, § 7:6
- Option contracts, § 7:32
- Other provisions, Statute of frauds, § 7:46
- Parol evidence rule, scope of contractual obligations, § 7:94
- Parol modification, § 7:95
- Partnerships, § 4:7, 4:8, App. 4A, App. 4B
- Performance and breach
  - Generally, § 7:120 to 7:133
  - Anticipatory breach, § 7:122
  - Certainty of damages, § 7:128
  - Delegation of performance, § 7:150
  - Equitable estoppel, § 7:151
  - Expectation damages, § 7:125
  - Foreseeability, § 7:126
  - Injunctive relief, § 7:132
  - Joint and several liability, § 7:133
  - Liquidated damages, § 7:131
  - Mitigation of damages, § 7:127
  - Purpose of, § 7:124
  - Reformation, § 7:130
  - Reliance damages, § 7:129
  - Remedies, generally, § 7:123 to 7:133
  - Repudiation, § 7:122
  - Rescission, § 7:130
  - Restitution, § 7:130
  - Specific performance, § 7:132
  - Substantial performance, § 7:121
- Promissory estoppel, § 7:33
- Public policy, unenforceability
  - Generally, § 7:70 to 7:76
  - Adhesion, § 7:75
  - Choice of law, § 7:71
  - Exculpatory provisions, § 7:74
  - Forum selection clauses, § 7:71
  - Indemnification and indemnity, § 7:76
  - Noncompete agreements, § 7:72
  - Penalty provisions, § 7:73
  - Releases, § 7:74

**CONTRACTS—Cont'd**

- Public policy, unenforceability—Cont'd
  - Waivers, § 7:74
- Quasi-contracts, § 7:33
- Reformation, § 7:130
- Reliance
  - Consideration, § 7:33
  - Damages, § 7:129
- Remedies. Performance and breach, above
- Repudiation, § 7:122
- Rescission, § 7:130
- Restitution, § 7:130
- Risk of mistake, § 7:53
- Sales, this index
- Scope of contractual obligations
  - Generally, § 7:90 to 7:97
  - Adoption of writing, effect of, § 7:29
  - Collateral Contract Doctrine, § 7:96
  - Construction, rules of, § 7:91
  - Construction of contracts, § 7:91
  - Good faith, covenant of, § 7:93
  - Parol evidence rule, § 7:94 to 7:96
  - Parol modification, § 7:95
  - Specific interpretive rules, § 7:92
  - Unconscionability, § 7:97
- Secured Transactions, this index
- Sources of contract law, § 7:2
- Specific performance, § 7:132
- Statute of frauds
  - Generally, § 7:41 to 7:45
  - Fully executed contracts, § 7:42
  - Interest in land, conveyances of, § 7:44
  - Leases, § 7:44
  - Minnesota, § 7:40
  - One year, not to be performed within, § 7:43
  - Other provisions, § 7:46
  - Part performance, § 7:42
  - Sale of land, § 7:44
  - Writing, § 7:45
- Statute of limitations, § 7:50, 7:152
- Stock and Stockholders, this index
- Substantial performance, § 7:121
- Termination, § 7:153
- Third-party beneficiaries, § 7:154
- Unconscionability, § 7:97
- Undue influence, generally, § 7:60
- Unilateral contracts, acceptance through performance, § 7:22

## INDEX

### **CONTRACTS—Cont'd**

- Unjust enrichment, § 7:33
- Voidable contracts, mistakes, § 7:52
- Voluntary dissolution by shareholders, contractual obligations incurred during dissolution proceedings, § 30:7
- Waiver of conditions, § 7:113
- Writings. Statute of frauds, above
- Written agreement as condition precedent, § 7:111

### **CONTRIBUTION**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:18
- Copyright ownership, contribution to a collective work, § 15:16
- Securities Exchange Act of 1934, this index

### **CONTRIBUTIONS OF FUNDS**

- Limited Liability Companies, this index
- Limited partnerships, dissolution, § 31:26
- Partnerships, winding up, § 31:16
- Uniform Limited Partnership Act of 2001, this index

### **CONTROL AGREEMENTS**

- Stock and stockholders, § 2:50, App. 2C

### **CONTROL OF COLLATERAL**

- Secured Transactions, this index

### **CONTROL SHARE ACQUISITION ACT**

- Generally, § 28:3 to 28:5
- Acquiring person, defined, § 28:4
- Control share acquisition, defined, § 28:4
- Definitions, § 28:4
- Issuing public corporation, defined, § 28:4

### **CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING ACT**

- Internet, § 16B:96 to 16B:114

### **CONVERSION**

- Chapter 7 liquidations, § 32:30
- Chapter 11 reorganizations, § 32:26
- Partnerships, § 4:31

### **COPYRIGHT ALTERNATIVE IN SMALL-CLAIMS ENFORCEMENT ACT (CASE)**

- Copyrights, § 15:129

### **COPYRIGHTS**

- Generally, § 15:1 to 15:129
- Abandonment, § 15:96
- Access to work, infringement, § 15:63
- Architectural works, copyrightable subject matter, § 15:9

**COPYRIGHTS—Cont'd**

- Attorney's fees, § 15:126
- Audiovisual works, copyrightable subject matter, § 15:7
- CASE Act, § 15:129
- Case law. Substantial similarity, below
- Certificate of registration, § 15:60
- Choreographic works, copyrightable subject matter, § 15:5
- Collective works
  - Copyrightable subject matter, § 15:10
  - Ownership of copyright, § 15:16
- Compilations, collective works and derivative works, copyrightable subject matter, § 15:10
- Computer software
  - Development and license agreement, form, § App. 15A
  - Fair use, § 15:94
  - License and service agreement, form, § App. 15B
  - Substantial similarity, § 15:75
- Contributory and vicarious liability
  - Generally, § 15:119
  - Contributory infringement, § 15:120
  - Vicarious copyright liability, § 15:121
- Copyright Alternative in Small-Claims Enforcement Act (CASE), § 15:129
- Costs and attorney's fees, § 15:126
- Criminal offenses, § 15:127
- Defenses to infringement
  - Generally, § 15:89 to 15:98
  - Abandonment, § 15:96
  - Computer programs, fair use, § 15:94
  - Fair use, § 15:89 to 15:94
  - Fraud, § 15:96
  - Misuse, § 15:96
  - Notice, lack of, § 15:95
  - Statute of limitations, § 15:97
- Derivative works
  - Copyrightable subject matter, § 15:10
  - Exclusive right to prepare, § 15:26
- Digital Millennium Copyright Act of 1998, § 15:128
- Distribution
  - Copies of the work, § 15:27
  - Inducement of infringement, § 15:124
- Dramatic works, copyrightable subject matter, § 15:4
- Duration of registration, § 15:54, 15:55
- Exclusive rights
  - Generally, § 15:24
  - Copies of the work, right to reproduce, § 15:25
  - Derivative works, right to prepare, § 15:26
  - Distribution of copies of the work, § 15:27
  - Public display of work, § 15:29

INDEX

**COPYRIGHTS—Cont'd**

Exclusive rights—Cont'd

Public performance of work, § 15:28

Reproduction of copies of the work, § 15:25

Fair use

Generally, § 15:89

Amount of portion used, § 15:92

Character of use, § 15:90

Computer programs, § 15:94

Effect on the market for the copyrighted work, § 15:93

Nature of copyrighted work, § 15:91

Purpose of use, § 15:90

Substantiality of portion used, § 15:92

First sale doctrine, § 15:37

Forms

Software development and license agreement, § App. 15A

Software license and service agreement, § App. 15B

Fraud, § 15:96

Graphic works, copyrightable subject matter, § 15:6

Inducement of infringement

Generally, § 15:122

Acts of infringement and causation, § 15:125

Distribution of device/product/service, § 15:124

Promoting use to infringe copyright, § 15:123

Infringement

Access to work, § 15:63

Defenses to infringement, above

Elements of infringement, introduction, § 15:61

Inducement of infringement, above

Musical compositions, § 15:62

Substantial similarity, § 15:64 to 15:75

Initial ownership, § 15:13

Injunctions, § 15:110

Innocent infringer, § 15:115

Internet, this index

Joint ownership/joint works, § 15:15

Licenses

Computer software, development and license agreement, form, § App. 15A

Transfers of ownership, § 15:20

Limitations on copyrightable subject matter

Computer programs, § 15:38

First sale doctrine, § 15:37

Idea-expression dichotomy, § 15:35

Transfer of material objects and first sale doctrine, § 15:37

Utilitarian works, § 15:36

Literary works, copyrightable subject matter, § 15:3

Misuse, § 15:96

**COPYRIGHTS—Cont'd**

Moral rights, § 15:46

Motion pictures and other audiovisual works, copyrightable subject matter,  
§ 15:7

Musical works

Copyrightable subject matter, § 15:4

Infringement, § 15:62

Non-copyrightable subject matter, § 15:12

Notice

Defenses to infringement, lack of notice, § 15:95

Registration of copyright, § 15:59

Ownership of copyright

Contribution to a collective work, § 15:16

Distinction of ownership of copyright from ownership of material object,  
§ 15:17

Initial ownership, § 15:13

Joint ownership/joint works, § 15:15

Ownership of material object distinguished, § 15:17

Transfers of ownership, below

Works made for hire, § 15:14

Pantomime and choreographic works, copyrightable subject matter, § 15:5

Pictorial, graphic and sculptural works, copyrightable subject matter, § 15:6

Public display of work, § 15:29

Public performance of work, § 15:28

Registration and preregistration

Generally, § 15:47

Cancellation of registration, § 15:50

Certificate of registration, § 15:60

Duration, § 15:54, 15:55

Notice of copyright, § 15:59

Preregistration, § 15:48

Reconsideration procedure for refusals to register, § 15:49

Refusal to register, reconsideration procedure, § 15:49

Works created before January 1, 1978, § 15:55

Works created on or after January 1, 1978, § 15:55

Remedies

Actual damages, § 15:112

Damages, § 15:113

Impoundment, § 15:111

Infringement of copyright, § 15:109

Injunctions, § 15:110

Innocent infringer, § 15:115

Profits of infringer, § 15:112

Statutory damages, § 15:113

Willful infringement, § 15:114

Reproduction of copies of the work, § 15:25

Restored works, copyrightable subject matter, § 15:11

Sculptural works, copyrightable subject matter, § 15:6

## INDEX

### **COPYRIGHTS—Cont'd**

- Software. Computer software, above
- Sound recordings, copyrightable subject matter, § 15:8
- Statute of limitations, § 15:97
- Subject matter that is copyrightable, § 15:2 to 15:11
- Substantial similarity
  - Generally, § 15:64
  - Analytical dissection, § 15:65
  - Apple Computer, analytical dissection, § 15:65
  - Benay v. Warner Bros., Ninth Circuit cases, § 15:67
  - Bethea v. Burnett, Ninth Circuit cases, § 15:69
  - Cavalier v. Random House, Ninth Circuit cases, § 15:68
  - Computer software, § 15:75
  - De minimis defense, § 15:74
  - Funky films, Ninth Circuit cases, § 15:67
  - Metcalf v. Bochco, Ninth Circuit cases, § 15:70
  - Ninth Circuit cases, § 15:67 to 15:70
  - Procedural issues, § 15:66
  - Six Feet Under, Ninth Circuit cases, § 15:67
  - Stock themes, § 15:71
  - “Thin” copyrights and “virtually identical” test, § 15:73
- Trade secrets, § 18:13, 18:28
- Transfers of ownership
  - Generally, § 15:18
  - Licenses, § 15:20
  - Writing requirement, § 15:19
- Willful infringement, § 15:114
- Works created before January 1, 1978, registration, § 15:55
- Works created on or after January 1, 1978, registration, § 15:55
- Works made for hire, § 15:14
- Writing requirement, transfers of ownership, § 15:19

### **CORPORATE TRANSPARENCY ACT**

- Generally, § 6A:1 to 6A:7
- Beneficial owner
  - Information Disclosure, § 6A:6
  - Information Report, required, § 6A:5
  - Sample report, § 6A:7
- Beneficial owner, § 6A:4
- Disclosure of beneficial ownership information, § 6A:6
- Filing deadlines, § 6A:2
- Reporting companies, § 6A:3
- Required information for the beneficial ownership information report, § 6A:5
- Sample beneficial ownership information (BOI) report, § 6A:7

### **CORPORATIONS**

- Generally, § 2:1 to 2:62, 36:1 to 36:19

**CORPORATIONS—Cont'd**

- Actions against corporations, officers and directors
  - Generally, § **36:1 to 36:20**
  - Attorney general, involvement of, § **36:8**
  - Derivative actions by shareholders. Stock and Stockholders, this index
  - Indemnification, below
  - Nature of available relief, § **36:10**
  - Piercing of corporate veil, § **36:11, 36:12**
  - Reverse piercing of corporate veil, § **36:12**
  - Service of process on corporations, § **36:7**
  - Stock and Stockholders, this index
- Additional topics, § **2:62**
- Agreements, samples, § **App. 2C**
- Amendment of articles of incorporation
  - Generally, § **2:3 to 2:7**
  - Articles of amendment, § **2:7**
  - Class or series voting on amendments, § **2:5**
  - Dissenters, rights of, § **2:6**
  - Procedure, § **2:3**
  - Super-majority voting on amendments, § **2:4**
- Antitrust. Monopolies and Antitrust, this index
- Apparent authority of officers, § **2:23**
- Articles of amendment of articles of incorporation, § **2:7**
- Articles of incorporation
  - Generally, § **2:2, App. 2A**
  - Amendment of articles of incorporation, above
  - Takeovers, this index
- Attorney general, involvement in actions against corporations, officers and directors, § **36:8**
- Books and records, § **2:51**
- Business judgment rule, directors, § **2:19**
- Bylaws, generally, § **2:8, App. 2A**
- Care, duty of directors, § **2:18**
- Cash dividend, board resolution, form, § **App. 2B**
- Choice of Entity, this index
- Classified board, article provision establishing, form, § **App. 2A**
- Compensation of directors, § **2:12**
- Corporate opportunities, directors, § **2:17**
- Cumulative voting/non-cumulative voting, directors, § **2:11**
- Defective corporate acts, § **2:9**
- Defective formation, § **2:1**
- Directors
  - Generally, § **2:10 to 2:12, 2:15 to 2:20**
  - Actions against corporations, officers and directors, above
  - Business judgment rule, § **2:19**
  - Care, duty of, § **2:18**
  - Committees, § **2:14**
  - Compensation, § **2:12**

INDEX

**CORPORATIONS—Cont'd**

Directors—Cont'd

- Corporate opportunities, § **2:17**
- Cumulative voting/non-cumulative voting, § **2:11**
- Form, board resolutions, § **App. 2B**
- Limitation of liability, § **2:20**
- Loyalty, duty of, § **2:16, 2:17**
- Meetings, § **2:13**
- Removal, § **2:12**
- Resignation, § **2:12**
- Standard of conduct, § **2:15**
- Takeovers, § **28:2**
- Term, § **2:12**
- Transactions with interested directors, § **2:16**
- Vacancies, § **2:12**

Dissolution, this index

Distributions

- Generally, § **2:55 to 2:60**
- Reacquired shares, status of, § **2:59**
- Restrictions and limitations on distributions, § **2:58**
- Taxation, § **6:7**
- Types of transfers constituting distributions, § **2:55**
- Unlawful distributions, liability for, § **2:60**
- Validity, determination of, § **2:56**

Dividends, board resolution, § **2:29, App. 2B**

Emergency powers, § **2:9**

Employment contracts, officers, § **2:24**

Exculpation, indemnification, § **36:19**

Express authority of officers, § **2:22**

Federal securities law limitations on indemnification, § **36:18**

Financial assistance, § **2:54**

Financial statements, § **2:53**

Formation, § **2:1**

Forms

- Articles, § **App. 2A**
- Board resolutions, § **App. 2B**
- Bylaws, § **App. 2A**
- Cash dividend, board resolution, § **App. 2B**
- Classified board, article provision establishing, § **App. 2A**
- Common stock plus blank check preferred stock, article provision establishing, § **App. 2A**
- Online (PDF) forms, § **App. 2F**
- Share dividend, board resolution, § **App. 2B**
- Single class of stock, article provision establishing, § **App. 2A**

Forum selection clauses, § **36:20**

Guaranties, § **2:54**

Implied authority of officers, § **2:23**

Income tax, § **6:6**

**CORPORATIONS—Cont'd**

Indemnification

Generally, § **36:13 et seq.**

Corporate modification of statutory indemnification provisions, § **36:15**

Exculpation, § **36:19**

Federal securities law limitations, § **36:18**

Insurance, § **36:19**

Mandatory indemnification, § **36:14**

Optional indemnification, § **36:16**

Reimbursement, § **36:16**

Reporting of indemnification, § **36:17**

Inspection rights, § **2:52**

Insurance, indemnification, § **36:19**

Limitation of liability of directors, § **2:20**

Limitations on distributions, § **2:58**

Liquidations, taxation, § **6:8**

Loans, § **2:54**

Loyalty, duty of directors, § **2:16, 2:17**

Monopolies and Antitrust, this index

Officers

Generally, § **2:21 to 2:26**

Actions against corporations, officers and directors, above

Apparent authority, § **2:23**

Employment contract, § **2:24**

Express authority, § **2:22**

Implied authority, § **2:23**

Removal, § **2:25**

Resignation, § **2:25**

Standard of conduct, § **2:26**

Vacancies, § **2:25**

Online (PDF) forms, § **App. 2F**

Optional indemnification, § **36:16**

Piercing of corporate veil, § **36:11, 36:12**

Powers, § **2:9**

Public benefit corporations, § **2:61**

Reacquired shares, status of, § **2:59**

Records and books, § **2:51**

Redemptions, taxation, § **6:7**

Reimbursement, indemnification, § **36:16**

Removal of directors and officers, § **2:12, 2:25**

Reporting of indemnification, § **36:17**

Resignation of directors and officers, § **2:12, 2:25**

Resolutions of board, samples, § **App. 2B**

Restrictions on distributions, § **2:58**

Reverse piercing of corporate veil, § **36:12**

S Corporations, this index

Securities law limitations on indemnification, § **36:18**

## INDEX

### **CORPORATIONS—Cont'd**

- Service of process on corporations, § 36:7
- Share dividend, board resolution, form, § App. 2B
- Standard of conduct of directors and officers, § 2:15, 2:26
- Stock and Stockholders, this index
- Structure, § 2:1
- Takeovers, this index
- Taxation
  - Generally, § 6:4 to 6:8
  - Distributions, § 6:7
  - Formation of C corporation, § 6:5
  - Income tax, § 6:6
  - Liquidations, § 6:8
  - Redemptions, § 6:7
  - S Corporations, this index
- Term of directors, § 2:12
- Transactions with interested directors, § 2:16
- Ultra vires, § 2:9
- Unlawful distributions, liability for, § 2:60
- Vacancies, directors and officers, § 2:12, 2:25

### **CORRECTION STATEMENT**

- Secured transactions, filing, § 10:156

### **COSTS AND EXPENSES**

- Comprehensive Environmental Response, Compensation, and Liability Act,  
§ 24:10, 24:21
- Copyrights, § 15:126

### **COVENANTS NOT TO COMPETE**

- Trade secrets, § 18:24

### **COVERED BUSINESS METHOD**

- Patents, transitional program for, § 17:46

### **CRAM DOWN**

- Chapter 11 reorganizations, § 32:24

### **CREDITORS' RIGHTS**

- Sales, § 8:120, 8:122
- Uniform Limited Partnership Act of 2001, § 5:47

### **CRIMINAL OFFENSES**

- Copyrights, § 15:127

### **CROPS**

- Secured transactions, priority, § 10:104

### **CROWDUNDING**

- Securities Act of 1933, this index

### **CRYPTOCURRENCIES**

- Securities, definition, § 26:57

**CUMULATIVE VOTING**

Corporations, directors, § 2:11

**CURRENT REPORTS**

Securities Exchange Act of 1934, § 26D:23, 26D:24

**CYBERSQUATTING**

Internet, § 16B:26 to 16B:44

**DAMAGES**

Advertising, this index

Environmental Law, this index

Fraud and Deceit, this index

Lease of personal property, § 9:20 to 9:22

Liquidated Damages, this index

Publicity, § 19:11

Remedies

Accepted goods, § 8:214

Consequential, § 8:215, 8:217, 8:231

Incidental, § 8:198, 8:215, 8:216

Liquidated, § 8:230

Mitigation, § 8:212

Securities Act of 1933, this index

Trade secrets, misappropriation, § 18:40

Warranties, § 8:107

**DATE**

Time and Date, this index

**DEATH**

Postmortem right of publicity, § 19:7

Publicity, survival of right, § 19:7

Uniform Limited Partnership Act of 2001, power of estate of deceased partner,  
§ 5:48

**DECEIT**

Fraud and Deceit, this index

**DECEPTIVE TRADE PRACTICES ACT**

Advertising, this index

**DEDICATION RULE**

Patent infringement, disclosure, § 17:28

**DEFAMATION**

Generally, § 33B:1 to 33B:106

Air Wisconsin Airlines Corp. v. Hoeper, § 33B:24

Anderson v. Liberty Lobby, Inc., § 33B:20

Associated Press v. Walker, § 33B:6

Bose Corp. v. Consumers Union of United States, Inc., § 33B:17

Curtis Pub. Co. v. Butts, § 33B:5

Doe v. McMillan, § 33B:11

## INDEX

### **DEFAMATION—Cont'd**

- Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc., § 33B:18
- Garrison v. Louisiana, § 33B:3
- Gertz v. Robert Welch, Inc., § 33B:12
- Harte-Hanks Commc'ns, Inc. v. Connaughton, § 33B:21
- Herbert v. Lando, § 33B:14
- Hutchinson v. Proxmire, § 33B:15
- Masson v. New Yorker Magazine, Inc., § 33B:23
- Milkovich v. Lorain Journal Co., § 33B:22
- Minnesota defamation law, this index
- Monitor Patriot Co. v. Roy, § 33B:8
- New York Times Co. v. Sullivan, § 33B:2
- Philadelphia Newspapers, Inc. v. Hepps, § 33B:19
- Rosenblatt v. Baer, § 33B:4
- Rosenbloom v. Metromedia, Inc., § 33B:10
- St. Amant v. Thompson, § 33B:7
- Summary and collection of noteworthy rules or holdings, § 33B:25
- Time, Inc. v. Firestone, § 33B:13
- Time, Inc. v. Pape, § 33B:9
- Time v. Hill, § 33B:6
- Wolston v. Reader's Digest Ass'n, Inc., § 33B:16

### **DEFAULT**

- Garnishment, § 38:31
- Lease of personal property, § 9:19 to 9:22
- Secured Transactions, this index

### **DEFEND TRADE SECRETS ACT OF 2016**

- Trade secrets
  - Generally, § 18:43 to 18:57
  - Acquisition of a trade secret, Improper, § 18:49
  - Civil seizure, § 18:54
  - Definitions, § 18:44
  - Disclosure or use of a trade secret, Improper, § 18:50
  - Effective date, § 18:56
  - Elements, overview, § 18:45
  - Existence of a trade secret, § 18:47
  - Misappropriation of a trade secret, § 18:48
  - Other, § 18:52
  - Other matters, § 18:57
  - Pleading, § 18:46
  - Remedies, § 18:53
  - Retroactive application, § 18:56
  - Statute of Limitations, § 18:53
  - Whistleblower provisions, § 18:55

### **DEFENSE EVIDENCE**

- Monopolies and antitrust
- Mergers
  - Clayton Act, section 7, § 22:167

**DEFENSES**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:17
- Copyrights, this index
- Employment, this index
- Fraud and Deceit, this index
- Monopolies and antitrust, price discrimination and preferential treatment, § 22:199
- Patent infringement, § 17:38
  - Equitable defenses, § 17:39
  - Unenforceability defenses, § 17:39
- Publicity, § 19:8, 19:9
- Secured transactions, third party rights, § 10:122, 10:123
- Securities regulation, fraud, § 27:57
- Trade secrets, misappropriation, § 18:35
- Trademarks, this index

**DEFICIENCIES**

- Secured transactions, default and enforcement, § 10:177, 10:184, 10:185, 10:195

**DELIVERY**

- Lease of personal property, damages for breach, § 9:20 to 9:22
- Seller's tender of, performance, sales, § 8:142
- Uniform Limited Partnership Act of 2001, secretary of state, § 5:15

**DEPOSIT ACCOUNTS**

- Secured Transactions, this index

**DERIVATIVE ACTIONS**

- Stock and Stockholders, this index

**DERIVATIVE WORKS**

- Copyrights, this index

**DESCRIPTION**

- Secured transactions, collateral, § 10:34

**DESCRIPTIVE USE**

- 2nd Circuit, trademarks, § 16:127
- Trademarks, § 16:128

**DESIGN PATENTS**

- Infringement, § 17:30

**DIGITAL MILLENNIUM COPYRIGHT ACT**

- Generally, § 16B:46 to 16B:61
  - Introduction, § 16B:46
- Accommodation, Digital Millennium Copyright Act, § 16B:52
- Anti-circumvention under Digital Millennium Copyright Act, § 16B:59
- Anti-trafficking under Digital Millennium Copyright Act, § 16B:60
- Civil remedies under Digital Millennium Copyright Act, § 16B:61

## INDEX

### **DIGITAL MILLENNIUM COPYRIGHT ACT—Cont'd**

#### Copyright

Contributory infringement, § **16B:55**

Copyright management information, § **16B:53**

Direct infringement, § **16B:54**

Safe harbors, § **16B:57**

Vicarious infringement, § **16B:56**

Directories and hyperlinks, § **16B:51**

Information location tools, § **16B:51**

Internet, this index

Internet service provider

Caching liability, § **16B:49**

Conduit liability, § **16B:48**

Liability, background, § **16B:47**

Stationary content posted by third parties, liability for, § **16B:50**

Misrepresentation, Digital Millennium Copyright Act, § **16B:52**

Perfect 10, Inc. v. CCBill LLC, § **16B:58**

Privacy and subpoenas, Digital Millennium Copyright Act, § **16B:52**

Privileged communications, Digital Millennium Copyright Act, § **16B:52**

Removing content, Digital Millennium Copyright Act, § **16B:52**

Subpoenas, Digital Millennium Copyright Act, § **16B:52**

Terminating subscribers, Digital Millennium Copyright Act, § **16B:52**

### **DIGITAL TOKENS**

Securities, definition, § **26:57**

### **DILUTION**

Trademarks, this index

### **DIRECTORS**

Corporations, this index

### **DISABILITY DISCRIMINATION**

Employment, this index

### **DISCHARGE OR TERMINATION**

Chapter 7 liquidations, § **32:32**

Chapter 11 reorganizations, § **32:25**

Contracts, § **7:153**

Garnished employees, § **38:34**

S corporations, § **6:19**

Secured transactions, § **10:125, 10:151**

Trade secrets, ownership, § **18:19**

Uniform Limited Partnership Act of 2001, statement of termination, § **5:13**

### **DISCLAIMERS**

Employment contracts, § **12:4**

Fraud and deceit, § **34:43**

Trademarks, § **16:131**

**DISCLOSURES**

- Chapter 11 reorganizations, § **32:21**
- Disclosure of Beneficial Ownership Information, § **6A:6**
- Disclosure-dedication rule, patents, § **17:28**
- Executions and Supplementary Proceedings, this index
- Executive compensation disclosure, § **26D:52 et seq.**
- Franchises, § **21:5**
- Garnishment, § **38:30, 38:41**
- Patents, § **17:15**
- Takeover Disclosure Act, § **28:23**

**DISCOVERY**

- Executions and supplementary proceedings, § **38:7**

**DISCRIMINATION**

- Employment, this index

**DISEASES**

- Health, this index

**DISMISSAL**

- Chapter 7 liquidations, § **32:31**
- Chapter 11 reorganizations, § **32:26**

**DISPARATE TREATMENT AND DISPARATE IMPACT**

- Employment discrimination, § **13:5, 13:6**

**DISSENTERS**

- Asset Transfers, this index
- Stock and stockholders, amendment of articles of incorporation, § **2:6**

**DISSOCIATION**

- Limited liability company members, § **3:39**
- Partnerships, this index
- Uniform Limited Partnership Act of 2001, this index

**DISSOLUTION**

- Generally, § **30:1 to 30:13**
- Administrative Dissolution, this index
- Attorney general, action for involuntary dissolution brought by, § **30:11**
- Barred claims, voluntary dissolution by shareholders, § **30:6**
- Certificate of dissolution, voluntary dissolution by shareholders, § **30:6**
- Contractual obligations incurred during dissolution proceedings, voluntary dissolution by shareholders, § **30:7**
- Involuntary dissolution
  - Generally, § **30:9 to 30:11**
  - Attorney general, action brought by, § **30:11**
  - Shareholders, action brought by, § **30:10**
- Limited Liability Companies, this index
- Limited Partnerships, this index
- Notice to creditors and claimants, voluntary dissolution by shareholders, § **30:4, 30:5**

## INDEX

### **DISSOLUTION—Cont'd**

- Partnerships, this index
- Post-dissolution procedure, § 30:13
- Receivers, § 30:9
- Reopened claims, voluntary dissolution by shareholders, § 30:6
- Shareholders, action for involuntary dissolution brought by, § 30:10
- Supervised voluntary dissolution, § 30:8
- Voluntary dissolution by incorporators or directors, § 30:2
- Voluntary dissolution by shareholders
  - Generally, § 30:3 to 30:8
  - Barred claims, § 30:6
  - Certificate of dissolution, § 30:6
  - Contractual obligations incurred during dissolution proceedings, § 30:7
  - Notice to creditors and claimants, § 30:4, 30:5
  - Procedure, § 30:4, 30:5
  - Reopened claims, § 30:6
  - Supervised voluntary dissolution, § 30:8

### **DISTINCTIVENESS**

- Trademarks, this index

### **DISTRIBUTION OF PRODUCTS**

- Generally, § 21:1 to 21:68
- Copyrights, this index
- Franchises, this index
- Modes of distribution, § 21:2
- Sales representatives, § 21:62

### **DISTRIBUTIONS**

- Corporations, this index
- In kind distributions, § 4:20, 5:34
- Limited liability companies, § 3:32
- Uniform Limited Partnership Act of 2001, this index

### **DIVIDENDS**

- Corporations, board resolution, § 2:29, App. 2B
- Stock and stockholders, § 2:29

### **DIVISIBILITY OF HARM**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:14

### **DIVISION OF SHARES**

- Stock and stockholders, § 2:29

### **DOCTRINE OF PROGRESSIVE ENCROACHMENT**

- Trademarks, § 16:135

### **DOMAIN NAMES**

- Internet, this index

**DRAMATIC WORKS**

Copyrightable subject matter, § 15:4

**DRAWINGS**

Patents, § 17:3

**DRUG TESTING**

Employment, this index

**DUAL MONOPOLIES**

Monopolies and antitrust, § 22:129

**DURATION**

Contracts, indefinite, § 7:153

Limited liability companies, § 3:7

Trademarks, federal registration, § 16:90, 16:91

**DURESS**

Contracts, this index

**DUTY AND BREACH OF DUTY**

Determining whether a duty exists, § 33:11

Duty and foreseeability, § 33:12

Examples of courts, § 33:13, 33:14

Duties imposed by contract, § 33:82

Examples of where plaintiff plausibly alleged an independent duty, § 33:84

Independent duty rule, § 33:83

Duties of innkeepers and bar owners, § 33:88

Duties of landlords, § 33:86, 33:87

Duties of landowners, premises liability, § 33:60 to 33:70

Dangerous conditions, § 33:63 to 33:70

Duties of landowners, § 33:62

Landowners duties, § 33:61

Duty is a threshold issue, § 33:10

Duty of parent to control a child's conduct, § 33:85

Duty of reasonable care for operators of motor vehicles, § 33:80 to 33:90

Duty to protect another from harm, § 33:15

Foreseeability

Duty to warn, § 33:44

When defendant's own conduct creates a dangerous situation, § 33:45

Misfeasance vs. nonfeasance, § 33:41

Misfeasance vs. nonfeasance,

Examples, § 33:42

Special relationships, § 33:16 to 33:25

Duty of care when a person takes charge of another with dangerous propensities, § 33:22

Duty of one who takes charge of another who is helpless, § 33:21

Lack of special relationship between an insurance agent and customer, § 33:25

No special relationship between school and students without an in loco parentis relationship, § 33:24

## INDEX

### **DUTY AND BREACH OF DUTY—Cont'd**

- Duty to protect another from harm, § 33:15—Cont'd
- Special relationships, § 33:16 to 33:25—Cont'd
  - Parking ramps vs. parking lots, § 33:23
  - Voluntarily accepting responsibility to protect another, § 33:20
  - When defendant's own conduct constitutes misfeasance, § 33:40 to 33:45

### **ECONOMIC DURESS**

- Contracts, § 7:59

### **ECONOMIC ESPIONAGE ACT OF 1996**

- Trade secrets, § 18:42

### **ECONOMIC LOSSES**

- Fraud and deceit, § 34:93 et seq:

### **ECONOMIC REALITIES TEST**

- Employment, determination of status as employees or independent contractors, § 11:4

### **ECONOMIC VALUE**

- Trade secrets, § 18:8

### **ELECTION**

- S corporation status, § 6:15

### **ELECTRONIC RECORDS/SIGNATURES**

- Limited liability companies, § 3:15

### **ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT**

- Internet, § 16B:82

### **E-MAIL**

- Internet, this index

### **EMERGENCY POWERS**

- Corporations, § 2:9

### **EMINENT DOMAIN**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:25

### **EMOTIONAL DISTRESS**

- Infliction of emotional distress
  - Generally, § 33D:30 to 33D:39
  - Elements, § 33D:31
  - Plaintiff reasonably feared for her own safety, § 33D:33
    - Plaintiff suffered severe emotional distress with attendant physical manifestation, § 33D:34
      - Attendant physical manifestations, § 33D:35
      - Examples, § 33D:36, 33D:37
      - Serious injury, § 33D:38

**EMOTIONAL DISTRESS—Cont'd**

Infliction of emotional distress—Cont'd

Plaintiff was within the zone of danger of physical impact, defendant's negligence, § 33D:32

**EMPLOYMENT**

Generally, § 11:1 to 11:13, 12:1 to 12:20, 13:1 to 13:31

Administrative procedure, SOX whistleblower provisions, § 14:72

Affirmative action

Generally, § 13:7 to 13:9

Mandatory affirmative action plans, § 13:9

Voluntary affirmative action plans, § 13:8

Age discrimination, § 13:31

Alcohol testing, § 14:1

At-will employment, § 12:1

Books. Records and books, below

Branch sales manager, employment agreement, form, § App. 12B

Cannabis

Employment law issues, § 14:11

Possession & home cultivation, § 14:10

Work rules and nonwork activities, § 14:11

Civil Rights Act of 1964, § 13:2

Civil Rights Act of 1991, § 13:3

Common law test of employment, § 11:3, 11:6

Contracts

Generally, § 12:1 to 12:20

Arbitration, above

At-will employment, § 12:1

Branch sales manager, employment agreement, form, § App. 12B

Corporations, officers, § 2:24

Defenses, § 12:4

Disclaimers, § 12:4

Elements required, § 12:3

Fair dealing, implied covenant, § 12:8

Forms, employment agreements, § App. 12A, App. 12B

Good faith, implied covenant, § 12:8

Loyalty, duty of, § 12:20

Misconduct of employee, § 12:20

Noncompete agreements, public policy, unenforceability, § 7:72

Noncompete clauses, below

Oral contracts, § 12:6

Personnel manuals and documents, § 12:2

Promissory estoppel, § 12:7

Remedies, § 12:5

Settlement agreements, below

Statute of limitations, § 12:4

Trade secrets, protection of, § 12:15, 18:21

Written contracts, § 12:2 to 12:5

INDEX

**EMPLOYMENT—Cont'd**

Covenants not to compete (noncompete clauses) are void, § 12:10

Defenses

Contracts, § 12:4

Disability discrimination, § 13:23, 13:25

Discrimination, disparate treatment and disparate impact, § 13:5

Defining the relationship

Generally, § 11:1 to 11:13

Independent contractors, distinguished, below

Industry-specific Minnesota statutes defining worker status, § 11:12

Status as employer, § 11:13

Disability discrimination

Generally, § 13:19 to 13:29

Defenses, § 13:23, 13:25

Exclusions, § 13:21

Medical inquiries and examinations, § 13:27, 13:28

Pre-employment medical inquiries and examinations, § 13:27

Pre-employment tests, § 13:26

Prohibited discrimination, § 13:22

Protected individuals, § 13:20

Reasonable accommodation, § 13:24, 13:25

Statutory structure, § 13:19

Disclaimers, contracts, § 12:4

Discrimination

Generally, § 13:1 to 13:31

Affirmative actions, above

Age discrimination, § 13:31

Civil Rights Act of 1964, § 13:2

Civil Rights Act of 1991, § 13:3

Defenses, disparate treatment and disparate impact, § 13:5

Disability discrimination, above

Disparate treatment and disparate impact, § 13:5, 13:6

Employees or independent contractors, determination of status, § 11:9

Enforcement, disparate treatment and disparate impact, § 13:6

Exemptions, disparate treatment and disparate impact, § 13:6

Gender discrimination, below

Human Rights Act, § 13:4

Marital status, § 13:17

Race discrimination, § 13:10

Religious discrimination, § 13:30

Remedies, disparate treatment and disparate impact, § 13:6

Sexual harassment, below

Sexual orientation, gender identity, § 13:18

Disparate treatment and disparate impact, discrimination, § 13:5, 13:6

Drug and alcohol testing

Generally, § 14:1 to 14:14

Authorized, § 14:5

**EMPLOYMENT—Cont'd**

- Drug and alcohol testing—Cont'd
  - Cannabis for personal adult use, § 14:10
  - Certain prohibitions, § 14:12
  - Civil litigation, § 14:14
  - Comparing MDATWA with the ADA, MHRA, and other misc. statutes products, § 14:8
  - Employment law issues, § 14:11
  - Fourth amendment issues, § 14:2
  - Lawful consumable products, § 14:7
  - Limitations on employee discharge, discipline, discrimination, § 14:6
  - MDATWA, § 14:3
  - Medical cannabis program, § 14:9
  - Office of Cannabis Management, § 14:13
  - Possession & home cultivation, cannabis, § 14:10
  - Requirements for testing, § 14:4
  - Work rules and nonwork activities, § 14:11
- Drug testing, § 14:1
- Economic realities test, determination of status as employees or independent contractors, § 11:4
- Effects of failure to exhaust administrative remedies with OSHA, § 14:73
- Elements of a SOX whistleblower claim, § 14:75
- Employees or independent contractors, determination of status
  - Generally, § 11:2 to 11:13
  - Application of tests, § 11:7 to 11:11
  - Common law test, § 11:3, 11:6
  - Economic realities test, § 11:4
  - Fair Labor Standards Act, § 11:11
  - Federal discrimination statutes, § 11:9
  - Human Rights Acts, § 11:10
  - Tax codes, § 11:7
  - Tests, § 11:5
  - Workers' Compensation Act, § 11:8
- Enforcement, disparate treatment and disparate impact, § 13:6
- Exclusions, disability discrimination, § 13:21
- Exemptions, disparate treatment and disparate impact, § 13:6
- Fair dealing, implied covenant, § 12:8
- Fair Labor Standards Act, determination of status as employees or independent contractors, § 11:11
- Familial status, discrimination, § 13:17
- Federal whistleblower laws, § 14:70
- Forms
  - Branch sales manager, employment agreement, § App. 12B
  - Employment agreement, § App. 12A, App. 12B
- Franchise, distinguished, § 21:35
- Fraud, false statement to induce entering into employment, § 34:79
- Gender discrimination
  - Generally, § 13:11

## INDEX

### EMPLOYMENT—Cont'd

- Gender discrimination—Cont'd
  - Sexual harassment, below
- Good faith, implied covenant, § 12:8
- Human Rights Act, § 11:10, 13:4
- Independent contractors. Employees or independent contractors, determination of status, above
- Interference tort action against new employer, noncompete clauses, § 12:14
- Loyalty, duty of, § 12:20
- Mandatory affirmative action plans, § 13:9
- Marital status, discrimination, § 13:17
- MDATWA
  - Authorized testing, § 14:5
  - Basic requirements for testing, § 14:4
  - Discharge, discipline, discrimination, limitations on employee, § 14:6
- Medical inquiries and examinations, disability discrimination, § 13:27, 13:28
- Minnesota cannabis regulation
  - Generally, § 14:1 to 14:14
- Minnesota personnel records statute, § 14:30
  - MGDPA, Minnesota Government Data Practices Act, § 14:31
- Minnesota whistleblower laws
  - Generally, § 14:50 to 14:56
  - Whistleblower statute, § 14:51
  - Wrongful discharge in violation of public policy, § 14:50
- Misconduct of employee, § 12:20
- Noncompete clauses
  - Generally, § 12:9 to 12:13
  - Enforceability, § 12:11
  - Interference tort action against new employer, § 12:14
  - Modification of unenforceable clauses, § 12:12
  - Remedies, § 12:13
- Occupational Safety and Health Act, below
- Oral contracts, § 12:6
- Personnel manuals and documents, contracts, § 12:2
- Personnel records statute, § 14:30
- Post-employment retaliation, § 14:74
- Pre-employment medical inquiries and examinations, disability discrimination, § 13:27
- Pre-employment tests, disability discrimination, § 13:26
- Promissory estoppel, contracts, § 12:7
- Race discrimination, § 13:10
- Reasonable accommodation, disability discrimination, § 13:24, 13:25
- Records and books
  - Personnel records statute, § 14:30
  - Retention of records, § 14:33
- Religious discrimination, § 13:30
- Remedies
  - Contracts, § 12:5

**EMPLOYMENT—Cont'd**

Remedies—Cont'd

Discrimination, disparate treatment and disparate impact, § 13:6

Noncompete clauses, § 12:13

Retention of records, § 14:33

Same sex harassment, § 13:15

Sarbanes-Oxley Act whistleblower provisions, § 14:71

Sexual discrimination

Generally, § 13:12 to 13:18

Sexual harassment

Generally, § 13:12 to 13:16

Employers and supervisors, liability of, § 13:14

Nonemployees, harassment by, § 13:16

Same sex harassment, § 13:15

Types of sexual harassment, § 13:13

Sexual orientation, discrimination

Gender identity, § 13:18

Social security numbers, § 14:32

SOX whistleblower claim

Contributing factor to adverse employment action, § 14:79

Knowledge of decision-maker and unfavorable personnel action, § 14:78

Other, § 14:80

Protected activity, § 14:76

Reasonable belief, § 14:77

Rights and remedies, § 14:82

Statute of limitations, § 14:81

Statute of limitations, contracts, § 12:4

Tax codes, determination of status as employees or independent contractors,  
§ 11:7

Trade secrets, § 12:15, 18:17, 18:21

Voluntary affirmative action plans, § 13:8

Whistleblower statute

Additional employer obligations, § 14:55

Other substantive issues, § 14:56

Procedural issues, § 14:52

Remedies, defenses, § 14:54

Statute of limitations, § 14:53

Whistleblowers, § 14:50 to 14:56

Workers' Compensation, this index

Written contracts, § 12:2 to 12:5

**ENVIRONMENTAL LAW**

Generally, § 23:1 to 23:7, 25:1 to 25:70

Causation, toxic torts, § 25:50

Claims and liability, toxic torts, § 25:43

Clean Air Act, § 23:5

Clean Water Act, § 23:4

Common law claims, § 25:1 to 25:41

## INDEX

### **ENVIRONMENTAL LAW—Cont'd**

- Comprehensive Environmental Response, Compensation, and Liability Act, this index
- Damages, toxic torts, § 25:70
- Dauber, toxic torts, § 25:50
- Expert testimony, toxic torts, § 25:50
- Liability issues, toxic torts, § 25:43
- Major environmental statutes, generally, § 23:2
- Minnesota Environmental Response and Liability Act, this index
- National Environmental Policy Act, § 23:7
- Negligence, § 25:30
- Negligence claims in other jurisdictions, § 25:31
- Negligence per se, § 25:40
- Nuisance, § 25:70
  - Other jurisdictions, § 25:21
  - Product liability context, § 25:19
  - Statute of limitations, § 25:20
- Oil Pollution Act, § 23:6
- Private Nuisance
  - Courts finding an absence, § 25:12
  - Examples of actionable claims, § 25:11
  - Remedies, § 25:13
- Public Nuisance
  - Generally, § 25:14
  - Special injury rule, § 25:15
    - Examples of insufficient showing, § 25:17
    - Examples of sufficient showing, § 25:16
    - Public health nuisance, § 25:18
- Resource Conservation and Recovery Act, § 23:3
- Strict liability, § 25:41
- Toxic torts, § 25:51 to 25:55
  - Damages, § 25:70 to 25:75
- Toxic torts, § 25:42 to 25:70
- Trespass, § 25:2

### **EQUIPMENT LEASES**

- Lease of Personal Property, this index

### **EQUITABLE ACTIONS**

- Stock and stockholders, § 36:9

### **EQUITABLE ESTOPPEL**

- Contracts, § 7:151
- Sales, § 8:57

### **EQUITABLE SUBORDINATION**

- Bankruptcy, § 32:14

### **EQUIVALENTS, DOCTRINE OF**

- Patents, § 17:25

**ERRORS OR OMISSIONS**

- Secured transactions, filing, § 10:144
- Securities Act of 1933, this index

**ESTOPPEL**

- Waiver and Estoppel, this index

**EVIDENCE**

- Patent infringement
  - Proving, § 17:20
- Publicity, infringement, § 19:4, 19:5
- Secured transactions, assignment, § 10:125
- Trade secrets, burden of proof, § 18:34

**EXCLUSIONS**

- Employment, disability discrimination, § 13:21
- Franchises, Federal Trade Commission rules, § 21:13
- Trademark dilution, § 16:151

**EXCLUSIVE RIGHTS**

- Copyrights, this index

**EXCLUSIVITY**

- Copyrights, exclusive rights, § 15:24 to 15:29

**EXCULPATION**

- Corporations, indemnification, § 36:19

**EXECUTIONS AND SUPPLEMENTARY PROCEEDINGS**

- Generally, § 38:1 to 38:23
- Affidavit and order, form, § 38:8
- Attorney's summary execution of judgment debts, § 38:3
- Child support, forms, § 38:14, 38:21, 38:22
- Disclosures. Forms, below
- Discovery and supplementary proceedings against judgment debtor, § 38:7
- Earnings execution disclosure, form, § 38:13, 38:14
- Exemptions, § 38:6, 38:12, 38:15, 38:18, 38:19
- Financial institutions execution disclosure and exemption notice, form, § 38:15
- Forms
  - Affidavit and order, § 38:8
  - Child support, § 38:14, 38:21, 38:22
  - Disclosures
    - Child support, § 38:14, 38:21, 38:22
    - Earnings execution disclosure, § 38:13, 38:14
    - Financial institutions execution disclosure, § 38:15
    - Levy and disclosure on other than earnings, § 38:22
    - Levy on earnings and disclosure, § 38:20, 38:21
    - Notice of third party levy and disclosure, § 38:17
  - Earnings execution disclosure, § 38:13, 38:14
  - Exemption from execution, § 38:12, 38:15, 38:18, 38:19
  - Financial institutions execution disclosure and exemption notice, § 38:15

## INDEX

### **EXECUTIONS AND SUPPLEMENTARY PROCEEDINGS—Cont'd**

#### Forms—Cont'd

Intent to levy on earnings, § 38:12

Levy and disclosure on other than earnings, § 38:22

Levy on earnings and disclosure, § 38:20, 38:21

Levy on garnishee, § 38:23

#### Notice

Child support, levy on earnings and disclosure, § 38:21, 38:22

Execution, § 38:11

Exemption from execution, § 38:12, 38:15, 38:18, 38:19

Intent to levy on earnings, § 38:12

Levy and disclosure on other than earnings, § 38:22

Levy on earnings and disclosure, § 38:20, 38:21

Levy on garnishee, § 38:23

Summary execution by attorney, exemption from execution, § 38:19

Third party levy and disclosure, § 38:17

Oath of referee in supplementary proceedings, § 38:9

Objection to exemption claim, § 38:16, 38:18

Return of writ of execution, § 38:10

Summary execution by attorney, exemption from execution, § 38:19

Third party levy and disclosure, § 38:17

Writ of execution, § 38:10

Intent to levy on earnings, form, § 38:12

Levy and disclosure on other than earnings, form, § 38:22

Levy on earnings and disclosure, forms, § 38:20, 38:21

Levy on garnishee, form, § 38:23

Manner of issuance, § 38:1

Notice. Forms, above

Oath of referee in supplementary proceedings, form, § 38:9

Objection to exemption claim, forms, § 38:16, 38:18

Procedure, § 38:2

Redemption right, § 38:5

Return of writ of execution, form, § 38:10

Sales, § 38:4

Summary execution of judgment debts by attorney, § 38:3, 38:19

Third party levy and disclosure, form, § 38:17

Time for issuance, § 38:1

Writ of execution, form, § 38:10

### **EXECUTORY CONTRACTS**

Bankruptcy, § 32:6

### **EXEMPTIONS**

Comprehensive Environmental Response, Compensation, and Liability Act,  
§ 24:5, 24:16

Employment, disparate treatment and disparate impact, § 13:6

Executions and supplementary proceedings, § 38:6, 38:12, 38:15, 38:18, 38:19

Franchises, Federal Trade Commission rules, § 21:13

Garnishment, § 38:32, 38:37, 38:42 to 38:45

**EXEMPTIONS—Cont'd**

Securities Act of 1933, this index  
Securities regulation, § 27:30 to 27:34

**EXPECTATION DAMAGES**

Contracts, § 7:125

**EXPENSES**

Costs and Expenses, this index

**EXPERT TESTIMONY**

Environmental law, § 25:50

**FAIR DEALING**

Employment, implied covenant, § 12:8

**FAIR LABOR STANDARDS ACT**

Employees or independent contractors, determination of status as, § 11:11

**“FAIR PRICE” PROVISIONS**

Takeovers, § 28:11

**FAIR USE**

Copyrights, this index  
Trademarks, this index

**FALSE ADVERTISING**

Advertising, this index

**FALSE ASSOCIATION**

Advertising, § 20:49

**“FALSE BY NECESSARY IMPLICATION”**

Advertising, § 20:19

**FALSE ENDORSEMENT**

Advertising, § 20:49, 20:50  
First Amendment issues, § 20:50

**FALSE STATEMENT**

Fact  
Generally, § 20:10 to 20:22  
Falsity, fact, § 20:10

**FAMILIAL STATUS**

Employment discrimination, § 13:17

**FARMERS**

Merchants, sales, statute of frauds, § 8:64

**FAST ACT MODERNIZATION AND SIMPLIFICATION**

Securities act of 1933, § 26A:11

**FEDERAL SECURITIES REGULATION**

Generally, § 26:1, 26A:1 to 26A:17  
Corporations, limitations on indemnification, § 36:18

## INDEX

### **FEDERAL SECURITIES REGULATION—Cont'd**

- Jumpstart Our Business Startups (JOBS) Act, § 26A:7
  - Emerging growth companies, § 26A:8
  - General solicitations, Regulation D and Rule 144A, § 26A:9
- Registration. Securities Act of 1933, this index
- Securities Act of 1933, this index
- Securities Exchange Act of 1934, this index

### **FEDERAL TRADE COMMISSION**

- Advertising, § 20:44 to 20:46
- Advertising, this index
- Franchises, this index
- Scope of regulation, FTC act, § 20:45

### **FEES**

- Attorneys' Fees, this index

### **FIDUCIARY DUTIES**

- Limited liability companies, § 3:11

### **FILING**

- Bankruptcy petitions, § 32:3, 32:4
- Deadlines, corporate transparency act, § 6A:2
- Limited Liability Companies, this index
- Partnerships, § 4:10
- Patents, § 17:6
- Secured Transactions, this index
- Uniform Limited Partnership Act of 2001, this index

### **FINANCE LEASE**

- Generally, § 9:4

### **FINANCIAL STATEMENTS**

- Corporations, § 2:53
- Stock and stockholders, § 2:53

### **FIRM OFFERS**

- Lease of personal property, § 9:11

### **FIRST AMENDMENT**

- False endorsement and false advertising, § 20:50
- Publicity, defenses, § 19:9

### **FIRST MEETING OF CREDITORS**

- Chapter 11 reorganizations, § 32:18

### **FIRST SALE DOCTRINE**

- Copyrights, § 15:37

### **FIXTURES**

- Secured Transactions, this index

### **FLEXIBLE (“BLANK CHECK”) CAPITAL STOCK**

- Takeovers, § 28:18

**FOOD AND DRUG ADMINISTRATION**

Labels and labeling, § 20:51

**FOREIGN WORDS**

Trademarks, § 16:42

**FORESEEABILITY**

Contracts, § 7:126

**FORMS**

Attachment, this index

Copyrights, this index

Corporations, this index

Employment, this index

Executions and Supplementary Proceedings, this index

Garnishment, this index

Internet, this index

Lease of Personal Property, this index

Limited Liability Companies, this index

Limited liability partnerships, articles, § App. 5A

Partnerships, this index

Replevin, this index

Sales, this index

Secured Transactions, this index

Stock and Stockholders, this index

Trade Secrets, this index

Trademarks, short form license agreement, § App. 16A

**FORUM SELECTION**

Contracts, public policy, unenforceability, § 7:71

Corporations, § 36:20

Sales, § 8:37

**FRACTIONAL SHARES**

Stock and stockholders, § 2:35

**FRANCHISES**

Generally, § 21:3 et seq:

Agency, distinguished, § 21:36

Avoiding application of franchise laws

Generally, § 21:63 to 21:66

Franchise fee element, § 21:66

Marketing plan or community of interest element, § 21:65

Trademark element, § 21:64

Business opportunities, § 21:8, 21:12

Checklist for preparation of franchise agreement, § 21:68

Choice of law, § 21:7

Community of interest element, avoidance of, § 21:65

Definition of franchise under Minnesota Franchise Act, § 21:51

Definitions, § 21:4, 21:11

## INDEX

### FRANCHISES—Cont'd

- Disclosures, § 21:5
- Distributorships, distinguished, § 21:34
- Employment, distinguished, § 21:35
- Enforcement of franchise laws, § 21:66
- Exclusions from coverage, Federal Trade Commission rules, § 21:13
- Exemption from coverage, Federal Trade Commission rules, § 21:13
- Federal Trade Commission rules
  - Generally, § 21:9 to 21:13
  - Business opportunity ventures, § 21:12
  - Definition of franchising, § 21:11
  - Exemption and exclusions from coverage, § 21:13
  - “Package” and “product” franchising, § 21:10
  - 2007 FTC Rule, below
- Fee element, avoidance of, § 21:66
- Joint venture, distinguished, § 21:36
- Licensing, distinguished, § 21:33
- Marketing plan element, avoidance of, § 21:65
- Minnesota Franchise Act
  - Generally, § 21:50
  - Antiwaiver provisions, § 21:55
  - Attorney’s fees, § 21:59
  - Civil liability, § 21:61
  - Definition of franchise, § 21:51
  - Disclosure of material changes, § 21:56
  - Enforcement, § 21:60
  - Franchise fee, § 21:52
  - Other pro-franchisee provisions, § 21:58
  - Penalties, § 21:60
  - Prohibited practices, § 21:57
  - Renewal of material changes, § 21:56
  - Statute of limitations, § 21:54
- “Package” and “product” franchising, Federal Trade Commission rules, § 21:10
- Partnership, distinguished, § 21:36
- Registration, § 21:5
- State franchise relationship laws, § 21:6
- State law, § 21:50 to 21:62
- Trademark element, avoidance of, § 21:64
- 2007 FTC Rule
  - Generally, § 21:14 to 21:23
  - Broker disclosures eliminated, § 21:19
  - Delivery rules, § 21:16
  - Exemptions, § 21:23
  - Internet disclosure, § 21:15
  - Item 20 (new), § 21:21
  - Item 19 and earnings claims, § 21:20
  - Item 3 disclosure, § 21:18

**FRANCHISES—Cont'd**

- 2007 FTC Rule—Cont'd
  - No disclaimer rule, § 21:22
  - Parent company disclosure, § 21:17
  - Uniform Franchise Offering Circular, § 21:30

**FRAUD AND DECEIT**

- Admissibility of evidence, § 34:99
- Advertising, Lanham Act, § 20:2
- Affirmative defense, fraud as, § 34:6, 34:91
- Agent liability, § 34:94
- Arbitration, § 34:82
- Clear and convincing evidence, punitive damages, § 34:53
- Common law fraud, generally, § 34:1 et seq:
- Comparative fault or negligence, § 34:83
- Concealment, fraudulent concealment, § 34:78
- Constructive fraud, § 34:7, 34:58
- Contracts, § 7:55, 7:56, 34:43
- Copyrights, § 15:96
- Damages, common law fraud
  - Generally, § 34:47 to 34:54
    - Clear and convincing evidence, punitive damages, § 34:53
    - Fiduciary relationship, punitive damages, § 34:51
    - Out-of-pocket rule, § 34:48, 34:49
    - Punitive damages, § 34:50 to 34:54
    - Purpose and policy, punitive damages, § 34:52
- Defenses
  - Generally, § 34:81 et seq:
  - Affirmative defense, fraud as, § 34:91
  - Arbitration, § 34:82
  - Comparative fault or negligence, § 34:83
  - Failure to discover, investigate, or verify the truth, § 34:92
  - In pari delicto, § 34:85
  - Laches, § 34:86, 34:89
  - Mitigation of damages, failure to mitigate, § 34:84
  - Statute of limitations, § 34:86, 34:88, 34:90
- Definitions
  - Fraud, § 34:5
  - Materiality, § 34:28
- Disclaimers, § 34:43
- Economic loss doctrine, § 34:93 et seq:
- Elements of common law fraud, § 34:10 et seq:
- Employment, false statement to induce entering into, § 34:79
- Failure to discover, investigate, or verify the truth, § 34:92
- Falsity as element of common law fraud, § 34:14
- Fiduciary duty, breach of, § 34:7
- Fiduciary relationship, existence of, § 34:57, 34:58
- Fiduciary relationship, punitive damages, § 34:51

INDEX

**FRAUD AND DECEIT—Cont'd**

- History of the tort of fraud, § 34:3
- Hoyt Properties decision, representations of mixed law and fact, § 34:25
- Indirect representations, § 34:45
- Innocent misrepresentations, § 34:80
- In pari delicto, § 34:85
- Integration clauses, § 34:43
- Intent to deceive, § 34:33
- Intent to deceive, common law fraud, § 34:22
- Intent to induce action
  - Element of common law fraud, § 34:34
  - Reliance, action taken, § 34:36
- Joint fraud-feasors, § 34:95
- Jury instructions guide, § 34:10
- Justifiable reliance as element of common law fraud
  - Generally, § 34:35 to 34:46
  - Action induced, § 34:36
  - Actual, justifiable reliance, § 34:37
  - Failure to prove reliance, § 34:46
  - Indirect representations, § 34:45
  - Knowledge and experience of parties, § 34:41
  - Opportunity to investigate or verify, § 34:42
  - Reasonable reliance compared, § 34:39
  - Relationship of the parties, § 34:44
  - Representations by third parties, § 34:45
  - Totality of circumstances, § 34:40
  - Written agreements and integration clauses, § 34:43
- Knowledge and experience of parties, § 34:41
- Knowledge of falsity as element of common law fraud
  - Generally, § 34:32
  - Fraudulent intent, § 34:33
- Laches, § 34:86, 34:89
- Law, statements of, § 34:24
- Materiality as element of common law fraud
  - Generally, § 34:27 to 34:30
  - Definition of materiality, § 34:28
  - Objective-subjective standard, § 34:30
  - Reliance, § 34:29
- Mitigation of damages, failure to mitigate, § 34:84
- Mixed law and fact, representations of, § 34:25
- Negligent Misrepresentation, this index
- Objective-subjective standard, § 34:30
- Opinions and puffery, § 34:19
- Opportunity to investigate or verify, § 34:42
- Out-of-pocket rule, damages, § 34:48, 34:49
- Past or present fact as element of common law fraud
  - Generally, § 34:15 to 34:26

**FRAUD AND DECEIT—Cont'd**

Past or present fact as element of common law fraud—Cont'd

Exceptions for certain future conduct, § 34:17

Hoyt Properties decision, § 34:25

Intent to deceive, § 34:22

Law, statements of, § 34:24

Mixed law and fact, representations of, § 34:25

Opinions and puffery, § 34:19

Policy, statement of, § 34:26

Present fact, generally, § 34:16

Safety, opinions about a product's safety, § 34:21

Vague or indefinite statements, § 34:20

Value, statements of, § 34:23

Pleading, § 34:97 et seq:

Policy, statement of, § 34:26

Proximate cause as element of common law fraud, § 34:55

Public policy, § 34:8

Puffery, § 34:19

Punitive damages, § 34:50 to 34:54

Purpose and policy, punitive damages, § 34:52

Reasonable reliance, § 34:39

Reckless misrepresentation, § 34:59 to 34:63

Relationship of the parties, § 34:44, 34:56 et seq:

Reliance, materiality, § 34:29

Rental transactions, § 34:80

Representation as element of common law fraud, § 34:11 to 34:13

Representations by third parties, § 34:45

Safety, opinions about a product's safety, § 34:21

Sales transactions, § 34:80

Securities Regulation, this index

Silence as representation, § 34:13

Statute of limitations, § 34:87 to 34:89

Susceptible of knowledge as element of common law of fraud, § 34:31

Totality of circumstances, § 34:40

Vague, general, or indefinite statements, § 34:12, 34:20

Value, statements of, § 34:23

Written agreements and integration clauses, § 34:43

**FRAUDS, STATUTE OF**

Statute of Frauds, this index

**FRAUDULENT TRANSFERS**

Bankruptcy, § 32:12

Bankruptcy, State, § 32:13

**FREEDOM OF INFORMATION ACT**

Trade secrets, § 18:58

**FRUSTRATION OF PURPOSE**

Contracts, § 7:54

## INDEX

### **FUTURE ADVANCES**

Secured transactions, priority, § 10:94

### **GAMING**

Massive multiplayer online role-playing game (MMPORG), § 16B:115

### **GARNISHMENT**

Generally, § 38:24 to 38:44

Availability, § 38:25 to 38:27

Checklist, procedure, § 38:29

Default, § 38:31

Discharge of garnished employee, § 38:34

Disclosures, § 38:30, 38:41

Exemptions, § 38:32, 38:37, 38:42 to 38:45

Financial institution, exemption notice regarding funds in, form, § 38:42

Forms

Disclosure of earnings, § 38:41

Exemption, notice, § 38:37, 38:42 to 38:45

Financial institution, exemption notice regarding funds in, § 38:42

Hearing, notice of, § 38:44, 38:45

Intent to garnish earnings, notice, § 38:43

Judgment debtor, notice to, § 38:39

Notice

Exemption, § 38:37, 38:38, 38:42 to 38:45

Financial institution, funds in, § 38:42

Hearing, § 38:44, 38:45

Intent to garnish earnings, § 38:43

Notice of intent, § 38:39

Prejudgment garnishment, exemption, § 38:38

Objection to claim of exemption, § 38:42

Prejudgment garnishment, exemption notice, § 38:38

Release of garnishee, § 38:36

Summons to debtor, § 38:40

Hearing, notice of, form, § 38:44, 38:45

Intent to garnish earnings, notice, form, § 38:43

Limitations, § 38:27

Notice. Forms, above

Notice of intent, form, § 38:39

Objection to claim of exemption, form, § 38:42

Penalty for improper garnishment, § 38:35

Possession of garnished property, procedure to obtain, § 38:33

Postjudgment availability, § 38:26

Prejudgment availability, § 38:25

Procedure, § 38:29, 38:33

Prohibition, § 38:27

Property subject to garnishment, § 38:28

Release of garnishee, form, § 38:36

Summons to debtor, form, § 38:40

**GENDER DISCRIMINATION**

Employment, this index

**GENERIC TERMS**

Trademarks, § 16:10

**GEOGRAPHIC TERMS**

Trademarks, § 16:41

**GLOBAL AND NATIONAL COMMERCE, E-SIGN ACT**

Internet, § 16B:82

**GOLDEN PARACHUTES**

Takeovers, § 28:12, 28:14

**GOOD FAITH**

Contracts, § 7:93

Employment, implied covenant, § 12:8

Sales, § 8:4, 8:123

**GOODS**

Advertising, false statement of fact, § 20:11

Sales, this index

**GOPHER TIRE**

Securities regulation, § 27:13

**GOVERNANCE TEMPLATES**

Limited liability companies, § 3:4

**GRANDFATHER EXCLUSIONS**

Business Combination Act, § 28:9

**GRAPHIC WORKS**

Copyrightable subject matter, § 15:6

**GREENMAIL**

Takeovers, § 28:12, 28:13

**GUARANTIES**

Corporations, § 2:54

**HEALTH**

Occupational Safety and Health Act, this index

**HEALTHCARE INSURANCE RECEIVABLES**

Secured transactions, restrictions on assignment, § 10:127

**HEARINGS**

Garnishment, forms, § 38:44, 38:45

**HORIZONTAL MERGERS**

Monopolies and antitrust, § 22:152

**HOUSE MARKS**

Trademarks, § 16:22

## INDEX

### **HUMAN RIGHTS ACT**

Employment, § 11:10, 13:4

### **HYBRID TRANSACTIONS**

Sales, § 8:21, 8:22

### **IDENTIFICATION**

Lease of personal property, § 9:14

Sales, § 8:140, 8:192

Secured transactions, assignment, § 10:125

### **IMPLIED AUTHORITY**

Corporations, officers, § 2:23

### **IMPRACTICALITY**

Contracts, § 7:54

### **IN KIND DISTRIBUTIONS**

Partnerships, § 4:20

Uniform Limited Partnership Act of 2001, § 5:34

### **INCIDENTAL DAMAGES**

Lease of personal property, § 9:21

Sales, § 8:198, 8:215, 8:216

### **INCOME TAXES**

Corporations, § 6:6

Partnerships, § 6:11

S corporations, § 6:16

### **INDECENCY**

Internet, this index

### **INDEMNIFICATION**

Contracts, public policy, unenforceability, § 7:76

Corporations, this index

Limited liability companies, § 3:33

Securities Exchange Act of 1934, this index

### **INDEPENDENT CONTRACTORS**

Employee status, industry-specific Minnesota statutes defining worker status,  
§ 11:12

Employment, this index

### **INDEXING ERRORS**

Secured transactions, filing, § 10:155

### **INDIRECT PURCHASER STANDING**

Monopolies and antitrust, § 22A:8

### **INDIRECT REPRESENTATIONS**

Fraud and deceit, reliance, § 34:45

### **INDUCEMENT OF INFRINGEMENT**

Copyrights, this index

**INEVITABLE DISCLOSURE DOCTRINE**

Trade secrets, § 18:25

**INFANTS**

Children and Minors, this index

**INFLICTION OF EMOTIONAL DISTRESS**

Generally, § 33D:1 to 33D:39

Defenses, § 33D:11

IIED claim is merely a relabelling of a defamation claim, § 33D:12

Official immunity, § 33D:13

Statute of limitations, § 33D:14

Emotional distress

Generally, § 33D:30 to 33D:39

Elements, § 33D:31

Plaintiff reasonably feared for her own safety, § 33D:33

Plaintiff suffered severe emotional distress with attendant physical manifestation, § 33D:34

Attendant physical manifestations, § 33D:35

Examples, § 33D:36, 33D:37

Serious injury, § 33D:38

Plaintiff was within the zone of danger of physical impact, defendant's negligence, § 33D:32

Intentional infliction

Elements

Generally, § 33D:2 to 33D:15

Defendant's conduct

Extreme and outrageous, § 33D:3

Intentional or reckless, § 33D:6

Plaintiff's emotional distress, § 33D:7

Examples, § 33D:4, 33D:5

Plaintiff's emotional distress

Examples of courts finding sufficient evidence of severe emotional distress, § 33D:9, 33D:10

Severe, § 33D:8

Remedies, § 33D:15

**INFRINGEMENT**

Copyrights, this index

Patents, this index

Publicity, evidence, § 19:4, 19:5

Trademarks, this index

**INJUNCTIONS**

Contracts, § 7:132

Copyrights, § 15:110

Patent infringement, § 17:31

Publicity, § 19:10

Trade secrets, misappropriation, § 18:39

Trademarks, § 16:120, 16:142, 16:155

## INDEX

### **INNOCENT INFRINGER**

Copyrights, § 15:115

### **INNOCENT MISREPRESENTATIONS**

Fraud and deceit, § 34:80

### **IN PARI DELICTO**

Fraud and deceit, § 34:85

### **INSOLVENCY**

Bankruptcy, this index

Seller's remedies, § 8:191

### **INSPECTIONS**

Corporations, § 2:52

Stock and stockholders, § 2:52

### **INSTRUMENTS**

Secured Transactions, this index

### **INSURANCE**

Corporations, indemnification, § 36:19

Lease of personal property, insurable interests, § 9:15

Limited liability companies, § 3:33

### **INTANGIBLES**

Secured Transactions, this index

### **INTEGRATION CLAUSES**

Fraud and deceit, reliance, § 34:43

### **INTELLECTUAL PROPERTY**

Copyrights, this index

Internet, this index

Patents, this index

Publicity, this index

Trade Secrets, this index

Trademarks, this index

### **INTENT**

Executions and supplementary proceedings, levy on earnings, form, § 38:12

Fraud and deceit, common law fraud, § 34:22, 34:33, 34:34

Garnishment, notice, form, § 38:43

### **INTERFERENCE TORT ACTION**

Employment, noncompete clauses, § 12:14

### **INTERIM DISTRIBUTIONS**

Uniform Limited Partnership Act of 2001, § 5:33

### **INTERMEDIATE PURCHASERS**

False advertising, § 20:30, 20:31

### **INTERNET**

Generally, § 16B:1 to 16B:124

**INTERNET—Cont'd**

- Accommodation, Digital Millennium Copyright Act, § **16B:52**
- Adult website
  - Age verification of visitors, § **16B:120**
- Advertising and disclosures, § **20:48**
- Anti-circumvention under Digital Millennium Copyright Act, § **16B:59**
- Anti-trafficking under Digital Millennium Copyright Act, § **16B:60**
- Attorney client privilege, electronic communications, § **16B:79**
- Blurring boundaries between copyright and trademark, § **16B:62**
- Bragg v. Linden Research, Inc. case
  - Court ruling, § **16B:118**
- Children and minors
  - Children's Online Privacy Protection Act, § **16B:77**
  - Obscenity and indecency, § **16B:75**
- Children's Online Privacy Protection Act, § **16B:77**
- Civil remedies under Digital Millennium Copyright Act, § **16B:61**
- Clickwraps contracts, § **16B:80 to 16B:82**
- Communications Decency Act
  - Generally, § **16B:66 to 16B:76**
  - Claims covered, § **16B:70**
  - Immunity, Intellectual property rights, § **16B:71**
  - Immunity, interactive computer service, § **16B:67**
  - Information content provider, § **16B:69**
  - Intellectual property rights, immunity, § **16B:71**
  - Obscenity and indecency, § **16B:74**
  - Prostitution, promotion of, § **16B:72**
- Controlling the Assault of Non-Solicited Pornography and Marketing Act
  - Generally, § **16B:96 to 16B:114**
  - Adversely affected requirement, § **16B:113**
  - Aggravated violations related to commercial email, § **16B:106**
  - Automated creation of multiple email accounts, § **16B:107**
  - Businesses promoted with false or misleading information, § **16B:110**
  - Commercial emails, § **16B:98 to 16B:100**
  - Deceptive subject headings, § **16B:102**
  - False or misleading transmission information, § **16B:100, 16B:101**
  - Identifier in commercial email, § **16B:105**
  - Internet service provider standing, § **16B:112**
  - Objections to commercial email, § **16B:104**
  - Opt-out in commercial email, § **16B:105**
  - Physical address in commercial email, § **16B:105**
  - Pleadings, § **16B:114**
  - Relay or retransmission through unauthorized access, § **16B:108**
  - Return address or comparable mechanism, § **16B:103**
  - Sender defined, § **16B:99**
  - Sexually oriented material, warning labels, § **16B:109**
  - Standing, § **16B:111**
  - Transactional or relationship messages, § **16B:98**

## INDEX

### INTERNET—Cont'd

Controlling the Assault of Non-Solicited Pornography and Marketing Act  
—Cont'd

Unauthorized access, relay or retransmission through, § **16B:97**

Warning labels on sexually oriented material, § **16B:109**

Copyright

Generally, § **16B:45**

Anti-circumvention under Digital Millennium Copyright Act, § **16B:59**

Anti-trafficking under Digital Millennium Copyright Act, § **16B:60**

Blurring boundaries between copyright and trademark, § **16B:62**

Civil remedies under Digital Millennium Copyright Act, § **16B:61**

Contributory infringement, § **16B:55**

Copyright management information, § **16B:53**

Digital Millennium Copyright Act, § **16B:46 to 16B:61**

Direct infringement, § **16B:54**

Framing, § **16B:63**

Linking, § **16B:63**

Perfect 10, Inc. v. CCBill LLC, § **16B:58**

Pop-up windows, § **16B:63**

Safe harbors, § **16B:57**

Trademark, distinctions between, § **16B:62**

Vicarious infringement, § **16B:56**

Websites, protectability, § **16B:64**

Cybersquatting, § **16B:26 to 16B:44**

Cybersquatting

Generally, § **16B:26 to 16B:44**

Bad faith intent, § **16B:28 to 16B:38**

Cancellation of domain names, § **16B:41**

Factors analyzed, § **16B:29 to 16B:38**

Forfeiture of domain names, § **16B:41**

Multi-factor analysis of bad faith, § **16B:29 to 16B:38**

Other issues, § **16B:44**

Overview, § **16B:27**

Registry liability, limitations, § **16B:42**

Registry liability limitations, § **16B:42**

In rem actions, § **16B:41**

Remedies, § **16B:43**

Safe harbor, § **16B:40**

Transfer of domain names, § **16B:41**

Digital Millennium Copyright Act, § **16B:46 to 16B:61**

Directories and hyperlinks, § **16B:51**

Domain names

Confusion, likelihood of, § **16B:14**

Protecting, § **16B:13**

Purchase agreement, § **16B:144**

Top-level domains, § **16B:12**

Trademarks, § **16B:11**

Web site hosting agreement, § **16B:145**

**INTERNET—Cont'd**

- Electronic communications, attorney client privilege, § **16B:79**
- Electronic Communications Privacy Act, § **16B:78**
- Electronic signatures, § **16B:82**
- E-Sign Act, Electronic Signatures in Global and National Commerce Act, § **16B:82**
- Franchises, 2007 FTC Rule, Internet disclosure, § **21:15**
- Hybrid passive and interactive web sites, § **16B:95**
- Indecency. Obscenity and indecency, below
- Information location tools, § **16B:51**
- Interactive and passive web sites, § **16B:93 to 16B:95**
- Internet service provider
  - Caching liability, § **16B:49**
  - Conduit liability, § **16B:48**
  - Liability, background, § **16B:47**
  - Stationary content posted by third parties, liability for, § **16B:50**
- Massive multiplayer online role-playing game (MMPORG), § **16B:115**
- Misrepresentation, Digital Millennium Copyright Act, § **16B:52**
- MMORPGs, Bragg v. Linden Research, Inc. case
  - Background, § **16B:116**
  - Virtual property, § **16B:117**
- Obscenity and indecency, § **16B:73 to 16B:75**
- Online contracts
  - Generally, § **16B:80 to 16B:82**
  - Electronic signatures, § **16B:82**
  - E-Sign Act, Electronic Signatures in Global and National Commerce Act, § **16B:82**
  - Uniform Computing Information Transaction Act, § **16B:81**
  - Uniform Electronic Transactions Act, § **16B:81**
- Passive and interactive web sites
  - Generally, § **16B:93**
  - Hybrid web sites, § **16B:95**
  - Passive vs interactive, § **16B:94**
  - Personal jurisdiction, § **16B:93 to 16B:95**
- Perfect 10, Inc. v. CCBill LLC, § **16B:58**
- Personal jurisdiction
  - Generally, § **16B:83**
  - Background, § **16B:83**
  - General and specific jurisdiction, § **16B:84**
  - Hybrid web sites, passive and interactive, § **16B:95**
  - Passive and interactive web sites, above
  - Purposeful availment/direction, effects test
    - Generally, § **16B:85 to 16B:92**
    - Claims arising out of or relating to defendant's forum, § **16B:90**
    - Express aiming, § **16B:88**
    - Foreseeable harm, § **16B:89**
    - Intentional act, § **16B:87**
    - Reasonableness, § **16B:91**

## INDEX

### INTERNET—Cont'd

- Personal jurisdiction—Cont'd
  - Specific jurisdiction, § **16B:85 to 16B:92**
- Privacy and personal information
  - Generally, § **16B:76 to 16B:79**
  - Attorney client privilege, electronic communications, § **16B:79**
  - Children's Online Privacy Protection Act, § **16B:77**
  - Electronic Communications Privacy Act, § **16B:78**
- Privacy and subpoenas, Digital Millennium Copyright Act, § **16B:52**
- Privacy policy
  - Long form, § **16B:141**
  - Short form, § **16B:140**
- Privileged communications, Digital Millennium Copyright Act, § **16B:52**
- Prostitution, promotion of, § **16B:72**
- Removing content, Digital Millennium Copyright Act, § **16B:52**
- Shrinkwraps/browsewraps/scrollwraps contracts, § **16B:80**
- "Take it Down Act"
  - Generally, § **16B:119**
- Terminating subscribers, Digital Millennium Copyright Act, § **16B:52**
- Terms and conditions of sale, website, § **16B:142**
- Top-level domains, § **16B:12**
- Trade secrets, § **18:14**
- Trademarks
  - Generally, § **16B:10 to 16B:29**
  - Blurring boundaries between copyright and trademark, § **16B:62**
  - Contributory trademark infringement, § **16B:15**
  - Copyright and trademarks, boundaries between, § **16B:62**
  - Domain names, § **16B:11**
  - Framing, § **16B:17**
  - Linking, § **16B:16**
  - Metatags
    - Generally, § **16B:18**
    - Infringement and registration, § **16B:22**
    - North American Medical, § **16B:19**
    - Registration and infringement, § **16B:22**
    - Second Circuit precedent distinguished, § **16B:21**
    - "Use in commerce," § **16B:20, 16B:22**
  - Pop-up windows, § **16B:24**
  - Protected speech, § **16B:25**
  - Protecting domain names, § **16B:13**
  - Sponsored links, § **16B:24**
- Uniform Computing Information Transaction Act, § **16B:81**
- Uniform Electronic Transactions Act, § **16B:81**
- Virtual property, § **16B:117**
- Website purchase agreement, § **16B:143**

### INTERNET SERVICE PROVIDER

- Internet, this index

**INTERPRETATION**

Construction and Interpretation, this index

**INTERVENTION**

Comprehensive Environmental Response, Compensation, and Liability Act,  
§ 24:24

**INVALIDITY DEFENSES**

Patent infringement, § 17:38

**INVASION OF PRIVACY**

Appropriation, § 33E:5  
Business torts, § 33E:1 to 33E:7  
False light publicity, § 33E:6  
Four species, § 33E:2  
Intrusion upon seclusion, § 33E:3  
Nuisance, § 33E:21  
Publication of private matters, § 33E:4  
Trespass, § 33E:20

**INVESTMENT ADVISERS**

Securities regulation, § 27:47

**INVESTMENT PROPERTY**

Secured Transactions, this index

**INVOLUNTARY DISSOLUTION**

Dissolution, this index

**JOINT AND SEVERAL LIABILITY**

Comprehensive Environmental Response, Compensation, and Liability Act,  
§ 24:14  
Contracts, § 7:133

**JOINT FRAUD-FEASORS**

Generally, § 34:95

**JOINT OWNERSHIP/JOINT WORKS**

Copyrights, § 15:15

**JOINT TORTFEASORS**

Negligence, § 33:209

**JOINT VENTURE**

Franchise, distinguished, § 21:36

**JUDICIAL INTERVENTION**

Limited partnerships, dissolution, § 31:18

**JUMPSTART OUR BUSINESS STARTUPS (JOBS) ACT**

Generally, § 26A:7  
Emerging growth companies, § 26A:8  
General solicitations, Regulation D and Rule 144A, § 26A:9

## INDEX

### **JURISDICTION**

- Bankruptcy, § 32:2
- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:28
- Internet, this index
- Securities regulation, § 27:90

### **JURY INSTRUCTION**

- Fraud and deceit, common law fraud, § 34:10

### **JURY TRIALS**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:27

### **JUSTIFIABLE RELIANCE**

- Fraud and Deceit, this index

### **KNOWLEDGE**

- Common law fraud, § 34:31 to 34:33, 34:41
- Securities regulation, fraud, § 27:54
- Uniform Limited Partnership Act of 2001, § 5:3

### **LABELS AND LABELING**

- Food, Drug and Cosmetic Act and FDA, regulation of food label advertising, § 20:51
- Trademarks, § 16:131

### **LACHES**

- False advertising, § 20:42
  - Defenses
    - Dealy, inexcusable, unreasonable, § 20:41
- Fraud and deceit, § 34:87, 34:89
- Publicity, § 19:8
- Trademarks, § 16:132 to 16:135

### **LANHAM ACT**

- Advertising, this index

### **LAPSE**

- Secured transactions, financing statement, § 10:153

### **LEASE OF PERSONAL PROPERTY**

- Generally, § 9:1 to 9:22
- Chapter 11 reorganizations, § 32:16
- Computation of damages, § 9:20
- Consequential damages, § 9:21
- Construction of leases, § 9:9, 9:10
- Damages for breach, § 9:20 to 9:22
- Default, § 9:19 to 9:22
- Definitions, § 9:3
- Delivery, damages for breach, § 9:20 to 9:22
- Enforceability, § 9:7

**LEASE OF PERSONAL PROPERTY—Cont'd**

- Finance lease, § 9:4
- Firm offers, § 9:11
- Formation of contract, § 9:5
- Forms
  - Equipment lease, § App. 9C
  - Lease, § App. 9A
  - Master agreement of lease, § App. 9B
- Frauds, statute of, § 9:8
- Identification, § 9:14
- Incidental damages, § 9:21
- Insurable interests, § 9:15
- Master agreement of lease, form, § App. 9B
- Modification, § 9:12
- Parol evidence, § 9:9
- Performance of contract, § 9:18
- Possession of goods, § 9:17
- Remedies to lessor, § 9:22
- Repudiation, damages for breach, § 9:20 to 9:22
- Rescission, § 9:12
- Risk of loss, § 9:16
- Secured transactions, restrictions on creation or enforcement of security interest, § 10:126
- Security interests disguised as leases, § 9:6
- Specific performance, § 9:21
- Statute of frauds, § 9:8
- Title to goods, § 9:17
- True leases, § 9:6
- UCC Article 2A, three key issues, § 9:2
- Waiver, § 9:12
- Warranties, § 9:13, 9:20 to 9:22

**LETTERS OF CREDIT**

- Secured Transactions, this index

**LIBEL**

- Defamation, this index

**LICENSES AND LICENSING**

- Copyrights, this index
- Franchise, distinguished, § 21:33
- Patents, § 17:7
- Publicity, § 19:6

**LIKELIHOOD OF CONFUSION**

- Trademarks, § 16:112, 16A:4

**LIMITATION OF LIABILITY**

- Contracts, expectation damages, § 7:125
- Corporations, directors, § 2:20

## INDEX

### **LIMITATION OF LIABILITY—Cont'd**

Secured transactions, default and enforcement, § 10:197

Securities regulation, § 27:71

### **LIMITATIONS AND RESTRICTIONS**

Copyrights, this index

### **LIMITATIONS OF ACTIONS**

Statute of Limitations, this index

### **LIMITED LIABILITY COMPANIES**

Generally, § 3:1 to 3:39

Actions by members, § 3:36

Amendment of articles, § 3:17

Annual renewal, § 3:14

Articles

Amending/restating articles, § 3:17

LLC formation, § 3:16

Board-managed LLC

Generally, § 3:27

Management, § 3:28

Chapter 302A, relevance, § 3:3

Chapter 322B, former law, § 3:3

Choice of Entity, this index

Contributions, § 3:32

Definitions, § 3:5

Dissociation of members, § 3:39

Dissolution

Generally, § 3:39, 31:27 to 31:38

Action by Attorney General, § 31:36

Administrative termination, § 31:34

Annual renewal, § 31:37

Dissolution events, § 31:31

Distribution of assets in winding up, § 31:35

Effect of member's dissociation, § 31:30

Events causing dissociation, § 31:29

Known claims against dissolved LLC, § 31:33

Member's dissociation, § 31:28 to 31:30

Winding up, § 31:32

Distributions, § 3:32

Duration, § 3:7

Electronic records/signatures, § 3:15

Fiduciary duties, § 3:11

Filing, § 3:29

Foreign LLCs, § 3:35

Governance templates, § 3:4

Indemnification, § 3:33

Information

Manager-managed LLC, § 3:26

**LIMITED LIABILITY COMPANIES—Cont'd**

Information—Cont'd

Member-managed LLC, § 3:20

Insurance, § 3:33

Knowledge, § 3:6

Liability shield, § 3:30

Management

Board-managed LLC, § 3:28

Manager-managed LLC, § 3:23 to 3:26

Manager-managed LLCs, § 3:24

Member-managed LLC, § 3:18 to 3:22

Manager-managed LLC

Generally, § 3:23

Information, § 3:26

Management, § 3:24

Standards of conduct, § 3:25

Member-managed LLC

Generally, § 3:18 to 3:22

Information, § 3:20

Management, § 3:18

Oppressive conduct, § 3:21

Standards of conduct, § 3:18

Members and membership

Actions by members, § 3:36

Becoming member, § 3:31

Dissociation, § 3:39

Operating agreement, § 3:12

Miscellaneous provisions, § 3:38

Name of LLC, § 3:8

Nature of LLC, § 3:7

Nonprofit LLCs, § 3:37

Notice, § 3:6

Operating agreement

Generally, § 3:9

Authorized provisions, § 3:10

Fiduciary duties, § 3:11

Performance, § 3:12

Potential members, § 3:12

Third parties, § 3:13

Oppressive conduct, member-managed LLC, § 3:21

Piercing veil, § 3:30

Purpose, § 3:7

Records, § 3:15, 3:29

Registered agent, § 3:14

Registered office, § 3:14

Renewal, § 3:14

Restating of articles, § 3:17

## INDEX

### **LIMITED LIABILITY COMPANIES—Cont'd**

- Service of process, § 3:14
- Signature, § 3:29
- Standards of conduct
  - Manager-managed LLC, § 3:25
  - Member-managed LLC, § 3:18
- Third parties, effect of operating agreement, § 3:13
- Transferable interests, § 3:34
- Transition provisions, § 3:2
- Winding up, dissolution, § 31:32

### **LIMITED LIABILITY LIMITED PARTNERSHIPS**

- Uniform Limited Partnership Act of 2001, § 5:66

### **LIMITED LIABILITY PARTNERSHIPS**

- Choice of Entity, this index
- Form, articles of partnership, § App. 5A
- Uniform Limited Partnership Act of 2001, § 5:62 to 5:66

### **LIMITED PARTNERSHIPS**

- Administrative dissolution, § 31:25
- Articles of partnership, § App. 5A
- Binding of partnership by general partner and person dissociated as general partner after dissolution, § 31:20
- Choice of Entity, this index
- Contributions, dissolution, § 31:26
- Disposition of assets, dissolution, § 31:26
- Dissolution
  - Generally, § 31:17 to 31:26
  - Administrative dissolution, § 31:25
  - Binding of partnership by general partner and person dissociated as general partner after dissolution, § 31:20
  - Contributions, requirement of, § 31:26
  - Disposition of assets, § 31:26
  - Judicial dissolution, § 31:18
  - Known claims against dissolved limited partnership, § 31:22
  - Liability of general partner and person dissociated as general partner after dissolution, § 31:21, 31:24
  - Nonjudicial dissolution, § 31:17
  - Other claims against dissolved limited partnership, § 31:23
  - Reinstatement following administrative dissolution, § 31:25
  - Winding up, § 31:19
- Judicial dissolution, § 31:18
- Liability of general partner and person dissociated as general partner after dissolution, § 31:21, 31:24
- Nonjudicial dissolution, § 31:17
- Reinstatement following administrative dissolution, § 31:25
- Uniform Limited Partnership Act of 2001, this index
- Winding up, dissolution, § 31:19

**LINKING**

Internet, this index

**LIQUIDATED DAMAGES**

Contracts, § 7:131

Sales, § 8:230

**LIQUIDATIONS**

Corporations, taxation, § 6:8

Partnerships, taxation, § 6:13

S corporations, § 6:18

**LOANS AND OBLIGATIONS**

Corporations, § 2:54

**LOST PROFITS**

Patent infringement, § 17:35

**LOYALTY, DUTY OF**

Corporations, directors, § 2:16, 2:17

Employment, § 12:20

**MADRID PROTOCOL**

Trademark registration, § 16:56

**MANAGERS AND MANAGEMENT**

Limited Liability Companies, this index

Uniform Limited Partnership Act of 2001, § 5:27

**MARIJUANA**

Medical cannabis program, Minnesota drug and alcohol testing, § 14:9

**MARITAL STATUS**

Employment discrimination, § 13:17

**MARKET PARTICIPANT REQUIREMENT**

Monopolies and antitrust, § 22A:7

**MARKET TRADING**

Securities Act of 1933, this index

**MASSIVE MULTIPLAYER ONLINE ROLE-PLAYING GAME (MMPORG)**

Internet, § 16B:115

**MASTER AGREEMENT**

Lease of personal property, form, § App. 9B

**MATERIALITY**

Fraud and deceit, common law fraud, § 34:27 to 34:30

**MDATWA**

ADA, MHRA, other misc. statutes, comparing with, § 14:8

Authorized testing, § 14:5

Lawful consumable products, § 14:7

Limitations on employee discharge, discipline, discrimination, § 14:6

## INDEX

### **MDATWA—Cont'd**

Requirements for testing, § 14:4

### **MEANS-PLUS-FUNCTION**

Patent infringement claims, § 17:29

### **MEDICAL INQUIRIES AND EXAMINATIONS**

Employment, disability discrimination, § 13:27, 13:28

### **MEETINGS**

Stock and Stockholders, this index

### **MEMBERS AND MEMBERSHIP**

Limited Liability Companies, this index

### **MEMORANDUM**

Attachment order, motion for, form, § 38:58

Confirmation, sales, statute of frauds, § 8:63

### **MERGERS**

Monopolies and Antitrust, this index

Partnerships, § 4:15, 4:30

### **MINNESOTA ANTITRUST LAW**

Generally, § 22A:1 to 22A:24

### **MINNESOTA CANNABIS REGULATION**

Alcohol testing, § 14:1

Cannabis

Employment law issues, § 14:11

Possession & home cultivation, § 14:10

Work rules and nonwork activities, § 14:11

Drug and alcohol testing

Generally, § 14:1 to 14:14

Authorized, § 14:5

Cannabis for personal adult use, § 14:10

Certain prohibitions, § 14:12

Civil litigation, § 14:14

Comparing MDATWA with the ADA, MHRA, and other misc. statutes  
products, § 14:8

Employment law issues, § 14:11

Fourth amendment issues, § 14:2

Lawful consumable products, § 14:7

Limitations on employee discharge, discipline, discrimination, § 14:6

MDATWA, § 14:3

Medical cannabis program, § 14:9

Office of Cannabis Management, § 14:13

Possession & home cultivation, cannabis, § 14:10

Requirements for testing, § 14:4

Work rules and nonwork activities, § 14:11

Drug testing, § 14:1

**MINNESOTA CANNABIS REGULATION—Cont'd**

MDATWA

Authorized testing, § 14:5

Basic requirements for testing, § 14:4

Discharge, discipline, discrimination, limitations on employee, § 14:6

Minnesota cannabis regulation

Generally, § 14:1 to 14:14

**MINNESOTA CONSUMER FRAUD ACT**

Generally, § 35:1 to 35:27

Private actions

Generally, § 35:3 to 35:10

Elements, § 35:4

Causation, § 35:9

Causation,

Proximate cause, § 35:9

In connection with, sale, merchandise, “personal, family, household, or agricultural purposes,” § 35:7

“Consumer,” plaintiff, § 35:5

Defendant violated the MCFA, § 35:6

Defendant’s MCFA violation and plaintiff’s injury, nexus, § 35:9

Plaintiff suffered an “injury,” § 35:8

Pleading standard, § 35:10

Private enforcement

Overview, public enforcement, § 35:20 to 35:27

Private Attorney General Statute, § 35:20

Elements

Generally, § 35:22

“causation,” § 35:24

intent, § 35:26

“legal nexus,” § 35:24

public benefit, § 35:23

reliance, § 35:25

Rebutting causation/reliance, § 35:27

Standing, § 35:21

Statutory overview, § 35:1

Intent, legislative, § 35:2

**MINNESOTA DEFAMATION LAW**

Generally, § 33B:40 to 33B:105

Defenses

Business defamation, § 33B:106

Commercial disparagement, § 33B:106

Privileges, § 33B:82 to 33B:89

Absolute privilege for high-ranking government officials, § 33B:89

Expose v. Thad Wilkerson & Assocs, § 33B:87

Judicial and quasi-judicial immunity, § 33B:85

Mahoney & Hagberg v. Newgard, § 33B:86

4-Prong Test, § 33B:88

## INDEX

### MINNESOTA DEFAMATION LAW—Cont'd

#### Defenses—Cont'd

Privileges, § 33B:82 to 33B:89—Cont'd

Restatement (second) of torts, § 33B:83

Qualified privileges, § 33B:100 to 33B:105

Trade libel, § 33B:106

Truth, § 33B:81

#### Elements, § 33B:40

Actual malice, § 33B:67 to 33B:73

Bahr v.Boise Cascade Corp, § 33B:71

Good faith vs. bad faith, § 33B:72

Showing actual malice by a corporation, § 33B:73

Communication (publication) of the statement, § 33B:60

Defamatory meaning, § 33B:61

Harm and injury, § 33B:62

False statement of fact, § 33B:50

Fact vs. opinion, § 33B:51

Four-factor test, § 33B:52

False statement must be of or concerning the plaintiff, § 33B:53

Falsity vs. substantial truth, § 33B:50

Matters of public concern, § 33B:66

Pleading with a certain degree of specificity, § 33B:41

Public figures, § 33B:64

Limited purpose, § 33B:65

### MINNESOTA DRUG AND ALCOHOL TESTING

Alcohol testing, § 14:1

#### Cannabis

Employment law issues, § 14:11

Possession & home cultivation, § 14:10

Work rules and nonwork activities, § 14:11

#### Drug and alcohol testing

Generally, § 14:1 to 14:14

Authorized, § 14:5

Cannabis for personal adult use, § 14:10

Certain prohibitions, § 14:12

Civil litigation, § 14:14

Comparing MDATWA with the ADA, MHRA, and other misc. statutes  
products, § 14:8

Employment law issues, § 14:11

Fourth amendment issues, § 14:2

Lawful consumable products, § 14:7

Limitations on employee discharge, discipline, discrimination, § 14:6

MDATWA, § 14:3

Medical cannabis program, § 14:9

Office of Cannabis Management, § 14:13

Possession & home cultivation, cannabis, § 14:10

Requirements for testing, § 14:4

**MINNESOTA DRUG AND ALCOHOL TESTING—Cont'd**

Drug and alcohol testing—Cont'd

Work rules and nonwork activities, § 14:11

Drug testing, § 14:1

MDATWA

Authorized testing, § 14:5

Basic requirements for testing, § 14:4

Discharge, discipline, discrimination, limitations on employee, § 14:6

Minnesota cannabis regulation

Generally, § 14:1 to 14:14

**MINNESOTA FRANCHISE ACT**

Generally, § 21:50 to 21:62

**MINNESOTA PERSONNEL RECORDS STATUTE**

Employment, § 14:30

MGDPA, Minnesota Government Data Practices Act, § 14:31

**MINNESOTA STATUTES CHAPTER 80A**

Securities regulation, § 27:3

**MINNESOTA TRADEMARK LAW**

Generally, § 16A:1 to 16A:6

Actions, § 16A:5

Antidilution statute, § 16A:6

Cancellation, § 16A:2

Liability, § 16A:5

Likelihood of confusion, § 16A:4

Registration, § 16A:2

Remedies, § 16A:5

Unregistrable subject matter, § 16A:3

**MINORS**

Children and Minors, this index

**MISAPPROPRIATION**

Trade Secrets, this index

**MISREPRESENTATION**

Digital Millennium Copyright Act, § 16B:52

False Advertising. See Advertising, this index

Fraud and Deceit, this index

**MISSPELLINGS**

Trademarks, § 16:42

**MISSTATEMENTS**

Securities Act of 1933, this index

**MISTAKES**

Contracts, this index

## INDEX

### **MISUNDERSTANDINGS**

Contracts, § 7:51

### **MISUSE**

Copyrights, § 15:96

### **MITIGATION OF DAMAGES**

Contracts, § 7:127

Fraud and deceit, § 34:84

### **MIXED LAW AND FACT**

Fraud and deceit, common law fraud, § 34:25

### **MODIFICATION**

Amendment or Modification, this index

### **MONOPOLIES AND ANTITRUST**

Generally, § 22:111 to 22:173

Anticompetitive conduct

Generally, § 22:113 to 22:119

Section 2 of Sherman Act, § 22:113

Attempt to monopolize, Section 2 of Sherman Act

Generally, § 22:121 to 22:124

Conspiracy to monopolize, § 22:125

Dangerous probability of achieving monopoly, § 22:124

Obtaining a monopoly, § 22:114

Bad faith assertions of patent infringement, § 22A:24

Brokerage payments, Section 2(c) of Robinson-Patman Act, § 22:195

Clayton Act, generally. Mergers, below

Conduct. Anticompetitive conduct, above

Conglomerate mergers, § 22:173

Conspiracy to monopolize, § 22:125

Circuit, third, eight and ninth, § 22:125 to 22:128

Damages, penalties and limitations, § 22A:23

Defenses available to sellers, price discrimination and preferential treatment,  
§ 22:199

Dual monopolies, § 22:129

Exemptions, § 22A:22

Federal Trade Commission Act, section 5, § 22:174

General principles, antitrust

Generally, § 22:1 to 22:8

Price v. non-price restraints, § 22:6

‘Non-price’ restraints, § 22:8

‘Price’ restraints, § 22:7

Relevant market

Generally, § 22:2

Geographic market, § 22:5

Product and submarkets, § 22:3 to 22:4

Horizontal mergers

Generally, § 22:152 to 22:154

**MONOPOLIES AND ANTITRUST—Cont'd**

Horizontal mergers—Cont'd

- Geographic market, § **22:154**
- Market concentration, § **22:156**
- Prima facie case, § **22:171**
- Product market, § **22:153**
- Rebuttal, § **22:171**

Limitations, penalties and damages, § **22A:23**

Mergers

- Generally, § **22:151 to 22:155**
- Clayton Act, section 7, § **22:156 to 22:173**
  - Analytical tools
    - Degree of competition, § **22:168**
    - Market concentration, § **22:170**
    - Market definition, § **22:169**
    - Market share, § **22:170**

Guideline

- Competing buyers, involves, § **22:165**
- Elimination of competition between firms, § **22:157**
- Entrenches or extends dominant position, § **22:161**
- Industry consolidation, § **22:162**
- Multiple acquisitions, part of series, § **22:163**
- Multisided platform, § **22:164**
- Partial ownership or minority interests, § **22:166**
- Potential entrant in concentrated market, § **22:159**
- Products or services rivals use to compete, § **22:160**
- Risk of coordination, § **22:158**
- Rebuttal and defense evidence, § **22:167**
- Clayton Act, section 3 and 4, § **22:150**
- Conglomerate mergers, § **22:173**
- Horizontal mergers, above
- Super-majority voting, § **28:17**
- Vertical mergers, § **22:172**

Monopolies, § **22A:21**

Penalties, damages, and limitations, § **22A:23**

Preferential treatment. Price discrimination and preferential treatment, below

Price discrimination and preferential treatment

- Generally, § **22:190 to 22:194**
  - Availability requirement, § **22:197**
  - Brokerage payments, Section 2(c) of Robinson-Patman Act, § **22:195**
  - Competitive injury, § **22:193**
  - Defenses available to sellers, § **22:199**
  - Functional discounts, § **22:194**
  - Promotional allowances and services, Sections 2(d) and 2(e) of Robinson-Patman Act, § **22:196 to 22:200**
  - Proportionally equal terms requirement, § **22:198**
  - Section 2(a), § **22:191 to 22:194**
  - Section 2(c) of Robinson-Patman Act, § **22:195**

INDEX

**MONOPOLIES AND ANTITRUST—Cont'd**

- Price discrimination and preferential treatment—Cont'd
  - Sections 2(d) and 2(e) of Robinson-Patman Act, § **22:196 to 22:200**
  - Violations by buyers, § **22:200**
- Private actions, § **22:131**
- Promotional allowances and services, Sections 2(d) and 2(e) of Robinson-Patman Act, § **22:196**
- Robinson-Patman Act. Price discrimination and preferential treatment, above Section 2 of Sherman Act
  - Generally, § **22:110 to 22:128**
  - Anticompetitive conduct, § **22:113**
  - Attempt to monopolize, above
  - Essential facilities doctrine, § **22:116**
  - Examples, anticompetitive conduct, § **22:119**
  - Exclusionary or predatory refusals to deal, § **22:115**
  - General intent, § **22:120**
  - Leveraging, § **22:117**
  - Market power and relevant market, § **22:112**
  - Monopolization, § **22:110 to 22:128**
  - Predatory pricing, § **22:114**
  - Vertical integration, § **22:118**
- Shared monopolies, § **22:129**
- Sherman Act
  - Generally, § **22:20 to 22:130**
  - Horizontal-vertical ‘hybrid’ agreements, § **22:89**
  - Price v. non-price restraints, above
  - “Rule of reason” analysis, above
  - Section 1, horizontal agreements
    - Allocation of markets, § **22:62**
    - Bid-rigging, § **22:63**
    - Certification programs, § **22:68**
    - Covenants not to compete, § **22:64**
    - Exchange of information, § **22:61**
    - Group boycotts and concerted refusals, § **22:65**
      - Refusal to deal, § **22:66**
    - Joint ventures, § **22:67**
    - Price fixing
      - Generally, § **22:60 to 22:68**
    - Standard-setting, § **22:68**
    - Trade Associations, § **22:68**
  - Section 1, vertical agreements
    - Price fixing
      - Generally, § **22:80 to 22:89**
      - Distributorship terminations, § **22:83**
      - Dual distributorships, § **22:84**
      - Exclusive dealing arrangements, § **22:87**
      - Group boycotts, § **22:83**
      - Market allocation agreements, § **22:82**

**MONOPOLIES AND ANTITRUST—Cont'd**

Sherman Act—Cont'd

Section 1, vertical agreements—Cont'd

Price fixing—Cont'd

Reciprocal dealing arrangements, § 22:86

Requirements contracts, § 22:88

Resale price maintenance, § 22:80

'Suggestions' versus price 'maintenance,' § 22:81

Tying arrangements, § 22:85

Section 2, above

Statute of limitations, § 22:130

Sherman Act, Section 1

Generally, § 22:20 to 22:89

Agreement

Concerted action and parallel conduct

Generally, § 22:25 to 22:28

Oligopolies, § 22:28

'Plus' factors, § 22:27

Horizontal vs. vertical agreements, § 22:23

Single business enterprises, § 22:24

Elements, claim, § 22:21

Agreement, § 22:22

Anticompetitive purpose, § 22:29

Unlawful objective, § 22:29

Unreasonable restraints on trade or competition

Generally, § 22:30 to 22:37

Per se analysis, § 22:36

'Quick look' analysis, § 22:37

Wrongful intent, § 22:29

Standing

Generally, § 22A:2

AGC factors, § 22A:6

Broad principles, § 22A:3

Directly or indirectly, § 22A:5

Indirect purchaser standing, § 22A:8

Injury-in-fact, § 22A:4

Market participant requirement, § 22A:7

State antitrust law, § 22A:1 to 22A:24

Statute of limitations, Sherman Act, § 22:130

Unreasonable restraints on trade, § 22A:20

Vertical mergers, § 22:172

**MORAL RIGHTS**

Copyrights, § 15:46

**MORTGAGES**

Secured transactions, financing statement, § 10:141

INDEX

**MOTION PICTURES AND OTHER AUDIOVISUAL WORKS**

Copyrightable subject matter, § 15:7

**MOTIONS**

Attachment, form, § 38:56

**MULTIPLAYER GAMING**

Massive multiplayer online role-playing game (MMPORG), § 16B:115

**MUSICAL WORKS**

Copyrights, this index, § 15:4

**MUTUAL ASSENT**

Contracts, § 7:4

**MUTUAL MISTAKE**

Contracts, § 7:50

**NAME**

Limited liability companies, § 3:8

Partnerships, continued use after dissolution, § 31:9

Secured Transactions, this index

Uniform Limited Partnership Act of 2001, § 5:5, 5:6

**NATIONAL ADVERTISING DIVISION (NAD)**

Advertising, § 20:47

**NATIONAL ADVERTISING REVIEW BOARD (NARB)**

Advertising, § 20:47

**NATIONAL CONTINGENCY PLAN**

Comprehensive Environmental Response, Compensation, and Liability Act,  
§ 24:9

**NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)**

Generally, § 23:7

**NEGLIGENCE**

Generally, § 33:1 to 33:210

Assumption of risk, § 33:160

Comparative fault

Contributory negligence, § 33:168

Minnesota Comparative Fault Act, § 33:167 to 33:182

Overlap between contributory negligence and primary assumption of risk,  
§ 33:169

Secondary assumption of risk, § 33:166

Defenses and immunities, § 33:130 to 33:144

Common law official immunity, § 33:135

Examples of

Discretionary functions, § 33:137

Ministerial functions or ministerial duties, § 33:136

Malice, § 33:138

Vicarious immunity, § 33:139

**NEGLIGENCE—Cont'd**

Defenses and immunities, § 33:130 to 33:144—Cont'd

Emergency rule, § 33:131

Common law official immunity, § 33:134

Examples of cases

Emergency rule was disallowed, § 33:132

Upholding application of the emergency rule, § 33:131

Immunity for volunteers at nonprofit firms, § 33:133

Official immunity, § 33:134

Statutory immunity, § 33:134

Statutory immunity, § 33:140

Examples of

Operational-level decision-making, § 33:142

Planning-level or policy-level decision-making, § 33:141

Healthcare peer-review immunity, § 33:144

Immunity under the Reporting of Maltreatment of Minors Act (RMMA),  
§ 33:143

Duty and breach of duty

Determining whether a duty exists, § 33:11

Duty and foreseeability, § 33:12

Examples of courts, § 33:13, 33:14

Duties imposed by contract, § 33:82

Examples of where plaintiff plausibly alleged an independent duty, § 33:84

Independent duty rule, § 33:83

Duties of innkeepers and bar owners, § 33:88

Duties of landlords, § 33:86, 33:87

Duties of landowners, premises liability, § 33:60 to 33:70

Dangerous conditions, § 33:63 to 33:70

Duties of landowners, § 33:62

Landowners duties, § 33:61

Duty is a threshold issue, § 33:10

Duty of parent to control a child's conduct, § 33:85

Duty of reasonable care for operators of motor vehicles, § 33:80 to 33:90

Duty to protect another from harm, § 33:15

Foreseeability

Duty to warn, § 33:44

When defendant's own conduct creates a dangerous situation, § 33:45

Misfeasance vs. nonfeasance, § 33:41

Misfeasance vs. nonfeasance,

Examples, § 33:42

Special relationships, § 33:16 to 33:25

Duty of care when a person takes charge of another with dangerous  
propensities, § 33:22

Duty of one who takes charge of another who is helpless, § 33:21

Lack of special relationship between an insurance agent and customer,  
§ 33:25

No special relationship between school and students without an in loco  
parentis relationship, § 33:24

## INDEX

### NEGLIGENCE—Cont'd

#### Duty and breach of duty—Cont'd

Duty to protect another from harm, § 33:15—Cont'd

Special relationships, § 33:16 to 33:25—Cont'd

Parking ramps vs. parking lots, § 33:23

Voluntarily accepting responsibility to protect another, § 33:20

When defendant's own conduct constitutes misfeasance, § 33:40 to 33:45

Necessity of a breach, § 33:90

Special duty of municipalities, § 33:81

Statutory duties, § 33:89

Employer negligence, § 33:203

Environmental law, § 25:30, 25:40

Hiring, § 33:204

Injury and damages, § 33:112

Joint and several liability, § 33:210

Joint enterprise, § 33:208

Joint tortfeasors, § 33:209

Primary assumption of risk, § 33:161

Examples of courts applying primary assumption of risk, § 33:162

Specific examples, § 33:163 to 33:165

Proximate causation, § 33:100 to 33:110

Circumstantial evidence, § 33:105

Contrasting proximate cause with acts that merely create an occasion for injury, § 33:104

Multiple substantial factors, concurring causes, § 33:103

Normally a question of fact for the jury, § 33:101

Professional malpractice, § 33:110

Substantial factor test, § 33:102

Superseding intervening acts, superseding causes, § 33:106

Role of foreseeability of harm, § 33:109

Specific examples of courts finding a lack of a superseding cause, § 33:108

Specific examples of superseding causes, § 33:107

Res ipsa loquitur, § 33:111

Retention, § 33:205

Selection of an independent contractor, § 33:207

Standard of reasonable care, § 33:1 to 33:6

Objective standard, § 33:4

Sources for establishing, § 33:5

Standard of care for professionals, § 33:6

Supervision, § 33:206

Vicarious liability, § 33:201 to 33:202

Apparent authority, § 33:202

Respondeat superior, § 33:201

### NEGLIGENT MISREPRESENTATION

Generally, § 34:64 to 34:77

Caritas, § 34:70

Direct and indirect information, § 34:76

**NEGLIGENT MISREPRESENTATION—Cont'd**

- Duty of care requirement, § 34:68, 34:72, 34:73
- Florenzano v. Olson, § 34:67
- Full disclosure duty, § 34:69, 34:72, 34:73
- Jury instructions, § 34:66
- Omission, misrepresentation by, § 34:71
- Restatement of Torts, § 34:65
- Sophisticated equals, § 34:74
- Third parties, claims against, § 34:75

**NEW DEBTORS**

- Secured Transactions, this index

**NONCOMPETE CLAUSES**

- Employment, this index

**NONOBVIOUSNESS**

- Patents, § 17:14

**NONPROFIT LIMITED LIABILITY COMPANIES**

- Generally, § 3:37

**NOTES**

- Bonds and Notes, this index

**NOTICE**

- Asset Transfers, this index
- Attachment, hearing, form, § 38:55, 38:57
- Copyrights, this index
- Executions and Supplementary Proceedings, this index
- Garnishment, this index
- Partnerships, § 4:4
- Replevin, hearings, forms, § 38:67, 38:68
- Sales, § 8:2, 8:65
- Secured Transactions, this index
- Stock and Stockholders, this index
- Takeovers, shareholders' meetings, § 28:19
- Uniform Limited Partnership Act of 2001, § 5:3
- Voluntary dissolution by shareholders, notice to creditors and claimants, § 30:4, 30:5

**NOVELTY**

- Patents, § 17:13
- Trade secrets, § 18:9

**NUISANCE**

- Environmental law, § 25:70

**OATH**

- Supplementary proceedings, referee's oath in, form, § 38:9

## INDEX

### **OBJECTIONS**

- Executions and supplementary proceedings, exemption claim, forms, § **38:16, 38:18**
- Garnishment, claim of exemption, form, § **38:42**

### **OBLIGATIONS**

- Loans and Obligations, this index

### **OBSCENITY**

- Internet, this index

### **OBVIOUSNESS**

- Patents, § **17:14**

### **OFFER AND ACCEPTANCE**

- Contracts
  - Generally, § **7:4 to 7:22**
  - Acceptance, defines, § **7:8**
  - Advertising, § **7:6**
  - Auctions, § **7:7**
  - Bids, § **7:7**
  - Expiration of, § **7:9**
  - Preliminary negotiations, § **7:6**
  - Terminating power of, § **7:21**
  - Unilateral contracts, acceptance through performance, § **7:22**
- Securities regulation, § **27:17**

### **OFFICERS**

- Corporations, this index

### **OIL POLLUTION ACT**

- Generally, § **23:6**

### **OMISSIONS**

- Errors or Omissions, this index

### **ONLINE (PDF) FORMS**

- Stock and stockholders, § **App. 2F**

### **OPINIONS**

- Fraud and deceit, common law fraud, § **34:19**

### **OPTION CONTRACTS**

- Generally, § **7:32**

### **OPT-OUT PROVISIONS**

- Business Combination Act, § **28:8**

### **ORAL CONTRACTS**

- Employment, § **12:6**
- Sales, statute of frauds, § **8:62**

### **ORDERS**

- Attachment, form, § **38:54, 38:59**

**ORDERS—Cont'd**

Executions and supplementary proceedings, form, § 38:8  
Replevin, § 38:65, 38:72

**ORDINARY SKILL**

Patents, § 17:21

**OSHA**

Occupational Safety and Health Act, this index

**OUT-OF-POCKET RULE**

Fraud and deceit, damages, § 34:48, 34:49

**OWNERSHIP**

Title and Ownership, this index

**“PACKAGE” AND “PRODUCT” FRANCHISING**

Federal Trade Commission rules, § 21:10

**PANTOMIME AND CHOREOGRAPHIC WORKS**

Copyrightable subject matter, § 15:5

**PARODIES**

First Amendment, Defenses, § 16:129

**PAROL EVIDENCE**

Contractual obligations, effect of adoption of a writing, § 7:94 to 7:96  
Lease of personal property, § 9:9  
Sales, this index

**PARTNERSHIPS**

Generally, § 4:1 to 4:31  
Actions by and against partnership, § 4:27, 4:28  
Agent, partner as, § 4:16  
Agreements, § 4:7, 4:8, App. 4A, App. 4B  
Authority of partnership, statement, § 4:11  
Binding of partnership by dissociated partner, § 31:6  
Binding of partnership by partner after dissolution, § 31:13  
Central role of partnership agreements, § 4:7  
Choice of Entity, this index  
Continuation beyond definite term or particular undertaking, § 4:29  
Continuation of partnership after dissolution, § 31:11  
Contributions among partners, winding up partnership business, § 31:16  
Conversions, § 4:31  
Definite term, partnership agreement for, form, § App. 4B  
Definitions, § 4:3  
Denial, statement, § 4:12  
Dissociation of partners. Dissolution, below  
Dissolution  
    Generally, § 31:1 to 31:16  
    Agreement to liquidate partnership interests, form, § App. 31A  
    Binding of partnership by dissociated partner, § 31:6

## INDEX

### **PARTNERSHIPS—Cont'd**

#### Dissolution—Cont'd

- Dissociation of partners, § **31:1 et seq:**
  - Effect of dissociation, § **31:4**
  - Events causing dissociation, § **31:2**
  - Liability to partnership of dissociated partner, § **31:6**
  - Liability to third persons of dissociated partner, § **31:7**
  - Limited Partnerships, this index
  - Name of partnership, continued use of, § **31:9**
  - Power of partner to dissociate, § **31:3**
  - Purchase of dissociated partner's interest, § **31:5**
  - Statement of dissociation, § **4:13, 31:8**
  - Statement of dissolution, § **4:14, 31:14**
  - Taxation, § **6:13**
  - Winding up partnership business, below
  - Wrongful dissociation, § **31:3**

#### Distributions in kind, § **4:20**

#### Filing statements, § **4:10**

#### Formation, § **4:5, 4:6**

#### Forms

- Definite term, partnership agreement for, § **App. 4B**
- General partnership agreement, § **App. 4A**
- Liquidation of partnership interests, agreement, § **App. 31A**

#### Franchise, distinguished, § **21:36**

#### Income tax, § **6:11**

#### Information, rights and duties with respect to, § **4:21**

#### In kind, distributions, § **4:20**

#### “Knowledge,” § **4:4**

#### “Know(s),” § **4:4**

#### Liability

- Acts of partner, liability of partner for, § **4:17**
- Dissociated partner, liability to partnership of, § **31:6**
- Dissolution, liability of partner to other partners after, § **31:15**
- Third persons. liability of dissociated partner, § **31:7**

#### Limited Liability Partnerships, this index

#### Limited Partnerships, this index

#### Management of business, § **4:19**

#### Mergers, § **4:15, 4:30**

#### Name of partnership, continued use after dissolution, § **31:9**

#### Nonwaivable provisions, partnership agreements, § **4:8**

#### “Notice,” § **4:4**

#### Property of partnership

- Generally, § **4:23 to 4:26**
- Defined, § **4:23**
- Interest of partner, § **4:26**
- Recovery, § **4:25**
- Transfers, § **4:24**

**PARTNERSHIPS—Cont'd**

- Purchase of dissociated partner's interest, § 31:5
- Recovery of property of partnership, § 4:25
- Relations of partners to each other and to partnership
  - Generally, § 4:18 to 4:22
  - Distributions in kind, § 4:20
  - Information, rights and duties with respect to, § 4:21
  - Management of business, § 4:19
  - Rights and duties of partners, generally, § 4:18
  - Standards of conduct, § 4:22
- Settlement of accounts, winding up partnership business, § 31:16
- Standards of conduct of partners, § 4:22
- Statements
  - Generally, § 4:9 to 4:15
  - Authority of partnership, § 4:11
  - Denial, § 4:12
  - Dissociation, § 4:13, 31:8
  - Dissolution, § 4:14, 31:14
  - Filing statements, § 4:10
  - Merger, § 4:15
- Taxation
  - Generally, § 6:9 to 6:13
  - Formation of partnership, § 6:10
  - Income tax, § 6:11
  - Liquidation, § 6:13
  - Operations, § 6:12
- Transfers of property of partnership, § 4:24
- Winding up partnership business
  - Generally, § 31:10 to 31:16
  - Binding of partnership by partner after dissolution, § 31:13
  - Continuation of partnership after dissolution, § 31:11
  - Contributions among partners, § 31:16
  - Events causing dissolution and winding up, § 31:10
  - Liability of partner to other partners after dissolution, § 31:15
  - Right to wind up partnership business, § 31:12
  - Settlement of accounts, § 31:16
  - Statement of dissolution, § 31:14
- Wrongful dissociation, § 31:3

**PATENT TRIAL AND APPEAL BOARD (PTAB)**

- Generally, § 17:41

**PATENTS**

- Generally, § 17:1 to 17:46
- Appeal to the federal circuit, § 17:43
- Assignment, § 17:7
- Attorneys' fees, infringement
  - Sanctions, § 17:37

## INDEX

### **PATENTS—Cont'd**

- Chain of appeals, infringement, § 17:18
- Claims, § 17:3
- Consent judgments, infringement, § 17:32
- Construction of infringement claim, § 17:22
- Covered Business Method patents, transitional program for, § 17:46
- Defenses, infringement, § 17:38
  - Equitable defenses, § 17:39
  - Unenforceability defenses, § 17:39
- Derivation, § 17:42
- Design patents, infringement, § 17:30
- Disclosure, § 17:15
- Disclosure-dedication rule, infringement, § 17:28
- Drawings, § 17:3
- Enforcement, infringement, § 17:17 to 17:20
- Equivalents, doctrine of, § 17:25
- Evidence of infringement
  - Proving infringement, § 17:20
- Filing date, § 17:6
- Formal requirements, § 17:15
- Infringement
  - Generally, § 17:17 et seq.
  - Attorneys' fees
    - Sanctions, § 17:37
  - Chain of appeals, where to sue, § 17:18
  - Consent judgments, § 17:32
  - Construction of claim, § 17:22
  - Defenses, § 17:38, 17:40
    - Equitable defenses, § 17:39
    - Unenforceability defenses, § 17:39
  - Design patents, § 17:30
  - Disclosure-dedication rule, § 17:28
  - Equivalents, doctrine of, § 17:25
  - Evidence of infringement
    - Proving infringement, § 17:20
  - Injunctions, § 17:31
  - Invalidity defenses, § 17:38
  - Literal infringement, § 17:24
  - Lost profits, § 17:35
  - Marking and notice, § 17:33
  - Means-plus-function claims, § 17:29
  - Patentability vs. infringement standards, § 17:5
  - Prior art, § 17:26
  - Prior commercial use, § 17:40
  - Prosecution history estoppel, § 17:27
  - Reading claims on accused device, § 17:23
  - Remedies, § 17:31 to 17:37

**PATENTS—Cont'd**

Infringement—Cont'd

- Royalties, payment of reasonable, § 17:34
- Types of infringement, § 17:19
- Where to sue, § 17:18
- Willfulness, enhanced damages for, § 17:36
- Infringement, Standing, § 17:17
- Injunctions, infringement, § 17:31
- Inter partes review (IPR), § 17:44
- Invalidity defenses, infringement, § 17:38
- Licenses, § 17:7
- Literal infringement, § 17:24
- Loss of right to patent, § 17:13
- Lost profits, infringement, § 17:35
- Marking and notice, infringement, § 17:33
- Means-plus-function infringement claims, § 17:29
- Nonobviousness, § 17:14
- Novelty, § 17:13
- Obviousness, § 17:14
- Ordinary skill, level of, § 17:21
- Ownership, § 17:7
- Patent Trial and Appeal Board (PTAB), § 17:41
- Patentability requirements, § 17:8
- Patentability vs. infringement standards, § 17:5
- Persons who may obtain patent, § 17:10
- Post grant review, § 17:45
- Prior art, infringement, § 17:26
- Prior commercial use, defense to infringement, § 17:40
- Process for patent prosecution, § 17:9
- Proof of infringement, § 17:20
- Prosecution history estoppel, infringement, § 17:27
- Reading infringement claims on accused device, § 17:23
- Reexamination, § 17:16
- Reissue, § 17:16
- Remedies. Infringement, above
- Rights conferred to patent owner, § 17:4
- Royalties, payment for infringement, § 17:34
- Specification, § 17:3
- Structure of patent, § 17:3
- Subject matter, § 17:11
- Term of patent, § 17:6
- Trade secrets, § 18:12, 18:28
- Transitional program for Covered Business Method patents, § 17:46
- Unenforceability defenses, infringement
  - Equitable defenses, § 17:39
- Utility, § 17:12
- Where to sue for infringement, § 17:18

## INDEX

### **PATENTS—Cont'd**

Willfulness, enhanced damages for infringement, § 17:36

### **PAYMENT**

Buyer's obligations, § 8:146

Stock, § 2:31

### **PENALTIES**

Garnishment, improper, § 38:35

### **PENSIONS**

Securities, definition, § 26:54

### **PERFECTION**

Secured Transactions, this index

### **PERFORMANCE**

Contracts, this index

Sales, this index

### **PERSONNEL MANUALS AND DOCUMENTS**

Employment contracts, § 12:2

### **PERSONNEL RECORDS**

Employment, § 14:30

### **PICTORIAL, GRAPHIC AND SCULPTURAL WORKS**

Copyrightable subject matter, § 15:6

### **PIERCING THE CORPORATE VEIL**

Corporations, § 2:36, 36:11, 36:12

Limited liability companies, § 3:30

### **PLAIN ENGLISH RULE**

Overview, § 26D:111

Prospectus preparation, § 26D:112

### **PLANS**

Chapter 11 reorganizations, § 32:19 to 32:25

### **PLEADINGS**

Defend Trade Secrets Act, § 18:46

False advertising, § 20:5

Fraud with particularity, § 34:97 et seq.

Internet, this index

Replevin, complaints, form, § 38:70

Trade secrets, § 18:5

### **POISON PILLS**

Takeovers, this index

### **POP-UP WINDOWS**

Internet, § 16B:24, 16B:63

**POSSESSION**

- Home cultivation, Cannabis, § 14:10
- Lease of personal property, § 9:17
- Secured Transactions, this index

**PRE-EMPLOYMENT MEDICAL INQUIRIES AND EXAMINATIONS**

- Employment, disability discrimination, § 13:27

**PRE-EMPLOYMENT TESTS**

- Employment, disability discrimination, § 13:26

**PREEMPTION**

- Publicity, § 19:9

**PREEMPTIVE RIGHTS**

- Stock and stockholders, § 2:33, App. 2D

**PREFERENTIAL TREATMENT**

- Antitrust. Monopolies and Antitrust, this index

**PRELIMINARY ATTACHMENT**

- Order, form, § 38:54

**PRELIMINARY INJUNCTION**

- False advertising, § 20:37

**PREREGISTRATION**

- Copyrights, this index

**PRESIDENT**

- Comprehensive Environmental Response, Compensation, and Liability Act, grant of authority, § 24:6 to 24:8

**PRICE DISCRIMINATION**

- Monopolies and Antitrust, this index

**PRICE-FIXING**

- Monopolies and Antitrust, this index

**PRIMA FACIE CASE**

- Publicity, § 19:4
- Trademarks, dilution, § 16:150

**PRIMA FACIE EVIDENCE**

- Monopolies and antitrust, horizontal mergers, § 22:171

**PRINCIPAL AND AGENT**

- Agency, this index

**PRIOR ART**

- Patent infringement, § 17:26

**PRIORITY**

- Secured Transactions, this index

## INDEX

### **PRIVACY**

- Internet, this index
- Invasion of Privacy, this index
- Publicity, § 19:2

### **PRIVATE ACTIONS**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:8, 24:22

### **PRIVILEGED COMMUNICATIONS**

- Digital Millennium Copyright Act, § 16B:52

### **PROCEEDS**

- Secured Transactions, this index

### **PRODUCT CONFIGURATION**

- Federal trademark law, § 16:24
- Trademark law, Federal, § 16:25

### **PRODUCTS LIABILITY**

- Generally, § 33A:1 to 33A:122
- Defenses, § 33A:80 to 33A:85
- Design defects, § 33A:50 to 33A:54
  - Availability of a feasible, safer alternative design, § 33A:53
  - Defective and unreasonably dangerous condition of product, § 33A:52
  - Expert testimony, § 33A:54
- Failure to warn, § 33A:70 to 33A:85
  - Duty to warn, § 33A:71
    - Adequacy of warnings, § 33A:73
    - Improper use, § 33A:74
    - Post-sale duty to warn, § 33A:77
    - Reasonably foreseeable users, § 33A:75
    - Special duties, § 33A:78, 33A:79
    - Standard for determination, § 33A:72
    - Suppliers of goods, § 33A:76
- Manufacturing defects, § 33A:100 to 33A:105
  - Circumstantial evidence, § 33A:104
  - Elements of a claim, § 33A:101
    - Existence, § 33A:102
  - Food products, § 33A:105
  - Strict liability vs negligence, § 33A:103
- Minnesota supreme court cases
  - Early cases, § 33A:3 to 33A:26
  - Modern cases, § 33A:27 to 33A:31
- Policies underlying, § 33A:2
- Proximate causation, § 33A:120 to 33A:122

### **PROGRESSIVE ENCROACHMENT DOCTRINE**

- Trademarks, § 16:135

**PROHIBITIONS**

Minnesota drug and alcohol testing, § 14:12

**PROMISSORY ESTOPPEL**

Contracts, § 7:33

Employment contracts, § 12:7

Sales, § 8:58

**PROMISSORY NOTES**

Secured Transactions, this index

**PROPERTY**

Internet, virtual property, § 16B:117

Lease of Personal Property, this index

Partnerships, this index

Secured transactions, default and enforcement, § 10:174

Securities, definition, § 26:55

Statute of frauds, § 7:44

**PROPRIETORSHIPS**

Taxation, § 6:3

**PROSPECTUSES**

Securities Act of 1933, this index

**PROSTITUTION**

Promotion of, Communications Decency Act, § 16B:72

**PROTECTIVE ORDERS**

Trade secrets, misappropriation, § 18:38

**PROXIES**

Stock and stockholders, § 2:47

**PROXIMATE CAUSATION**

Generally, § 33:100 to 33:110

Circumstantial evidence, § 33:105

Contrasting proximate cause with acts that merely create an occasion for injury, § 33:104

Multiple substantial factors, concurring causes, § 33:103

Normally a question of fact for the jury, § 33:101

Professional malpractice, § 33:110

Substantial factor test, § 33:102

Superseding intervening acts, superseding causes, § 33:106

Role of foreseeability of harm, § 33:109

Specific examples of courts finding a lack of a superseding cause, § 33:108

Specific examples of superseding causes, § 33:107

Products Liability, § 33A:120 to 33A:122

**PROXIMATE CAUSE**

Common law fraud, § 34:55

Securities regulation, fraud, § 27:56

## INDEX

### **PUBLIC BENEFIT CORPORATIONS**

Generally, § 2:61

### **PUBLIC DISPLAY**

Copyright, § 15:29

### **PUBLIC PERFORMANCE**

Copyright, § 15:28

### **PUBLIC POLICY**

Contracts, unenforceability, § 7:70 to 7:76

Fraud and deceit, § 34:8

### **PUBLICITY**

Generally, § 19:1 to 19:13

Assignment of right, § 19:6

Attorneys' fees, § 19:12

Damages, § 19:11

Death of celebrity, survival of right, § 19:7

Defenses, § 19:8, 19:9

Evidence of infringement, § 19:4, 19:5

Evolution of right, § 19:1, 19:2, 19:13

First Amendment, § 19:9

Infringement, evidence of, § 19:4, 19:5

Injunctions, § 19:10

Laches, § 19:8

License of right, § 19:6

Policy behind right of publicity, § 19:3

Postmortem right of, § 19:7

Preemption, § 19:9

Prima facie case, § 19:4

Privacy, right of, § 19:2

Remedies, § 19:9 to 19:12

Right of publicity v. appropriation tort, § 19:20, 19:21

Statute of limitations, § 19:8

Waiver, § 19:8

### **PUFFERY**

Advertising, false statement of fact, § 20:13

Fraud and deceit, common law fraud, § 34:19

### **PUNITIVE DAMAGES**

Fraud and deceit, § 34:50 to 34:54

### **PURCHASE MONEY SECURITY INTERESTS**

Secured transactions, priority, § 10:95

### **PURCHASE ORDER**

Form, § App. 8G

### **PURCHASER**

Securities regulation, § 27:18

**QUARTERLY REPORTS**

Securities Exchange Act of 1934, § 26D:22

**QUORUM**

Stock and stockholders, § 2:46

**RACE DISCRIMINATION**

Employment, § 13:10

**REACQUIRED SHARES**

Corporations, status, § 2:59

**REAL PROPERTY**

Property, this index

**REASONABLE ACCOMMODATION**

Employment, disability discrimination, § 13:24, 13:25

**REASONABLE RELIANCE**

Fraud and deceit, common law fraud, § 34:39

**REBUTTAL**

Monopolies and antitrust

Mergers

Clayton Act, section 7, § 22:167

Monopolies and antitrust, horizontal mergers, § 22:171

**RECEIVABLES**

Secured transactions, § 10:6

**RECKLESS MISREPRESENTATION**

Fraud and deceit, § 34:59 to 34:63

**RECONSIDERATION**

Copyright registration, procedure for refusals to register, § 15:49

**RECORDS AND BOOKS**

Corporations, § 2:51

Employment, this index

Limited liability companies, § 3:15, 3:29

Stock and stockholders, § 2:51

**RECORDS RETENTION**

Employment law issues, § 14:33

**REDEMPTION**

Corporations, taxation, § 6:7

Executions and supplementary proceedings, § 38:5

S corporations, § 6:18

Secured transactions, collateral, § 10:192

**REEXAMINATION**

Patents, § 17:16

## INDEX

### **REFORMATION**

Contracts, § 7:130

### **REGISTERED AGENT**

Limited liability companies, § 3:14

### **REGISTERED OFFICE**

Limited liability companies, § 3:14

### **REGISTRATION**

Copyrights, this index

Franchises, § 21:5

Minnesota trademark law, § 16A:2

Securities Act of 1933, this index

Securities Exchange Act of 1934, § 26D:2 to 26D:5

Securities regulation, § 27:41 to 27:46

Trademarks, this index

### **REGULATION CROWDUNDING**

Securities Act of 1933, this index

### **REIMBURSEMENT**

Corporations, indemnification, § 36:16

### **REINSTATEMENT**

Limited partnerships, administrative dissolution, § 31:25

### **RELATIONSHIP OF THE PARTIES**

Fraud and deceit, § 34:44, 34:56 et seq;

### **RELEASES**

Settlement Agreements and Releases, this index

### **RELIANCE**

Contracts, this index

### **RELIGIOUS DISCRIMINATION**

Employment, § 13:30

### **REMEDIES**

Collection remedies, § 38:1 to 38:71

Comprehensive Environmental Response, Compensation, and Liability Act,  
§ 24:6

Contracts, this index

Copyrights, this index

Defend Trade Secrets Act of 2016, § 18:53

Employment, this index

False advertising, § 20:33 to 20:38

Patents, this index

Publicity, § 19:9 to 19:12

Sales, this index

Trade secrets, misappropriation, § 18:38 to 18:41

Trademarks, this index

**REMOVAL**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:6
- Corporations, directors and officers, § 2:12, 2:25
- Digital Millennium Copyright Act, removal of content from internet, § 16B:52

**RENEWAL**

- Limited liability companies, § 3:14
- Trademarks, federal registration, § 16:90, 16:92

**RENTAL TRANSACTIONS**

- Fraud and deceit, § 34:80

**REOPENED CLAIMS**

- Voluntary dissolution by shareholders, § 30:6

**REPLEVIN**

- Generally, § 38:61 to 38:72
- Affidavit, form, § 38:69
- Bonds, § 38:66, 38:71
- Complaint, form, § 38:70
- Forms
  - Affidavit, § 38:69
  - Bond, § 38:71
  - Complaint, § 38:70
  - Notice of hearing, § 38:67, 38:68
  - Order, § 38:72
- Notice of hearing, forms, § 38:67, 38:68
- Orders, § 38:65, 38:72
- Procedure, summary of, § 38:63
- Recovery of possession prior to notice and hearing, § 38:64
- Sales, remedies, § 8:218
- Venue, § 38:62

**REPORTING COMPANIES**

- Corporate transparency act, § 6A:3

**REPORTS**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:4, 24:5
- Corporations, indemnification, § 36:17
- Reporting Companies under the CTA, § 6A:3
- Required information for the beneficial ownership information report under the CTA, § 6A:5
- Sample beneficial ownership information (BOI) report, § 6A:7
- Securities Exchange Act of 1934, § 26D:10 et seq.

**REPUDIATION**

- Contracts, § 7:122
- Lease of personal property, damages for breach, § 9:20 to 9:22

## INDEX

### **RESCISSION**

- Contracts, § 7:130, 8:89
- Lease of personal property, § 9:12
- Securities regulation, § 27:80

### **RESERVATION OF NAME**

- Uniform Limited Partnership Act of 2001, § 5:6

### **RESIGNATION**

- Corporations, directors and officers, § 2:12, 2:25

### **RESOLUTIONS**

- Corporations, board, samples, § App. 2B

### **RESOURCE CONSERVATION AND RECOVERY ACT**

- Generally, § 23:3

### **RESPONDEAT SUPERIOR**

- Business Torts, this index

### **RESTATEMENT**

- Uniform Limited Partnership Act of 2001, certificate, § 5:12

### **RESTATEMENT (FIRST) OF TORTS**

- Trade secrets, § 18:2

### **RESTITUTION**

- Contracts, § 7:130

### **RETROACTIVE LIABILITY**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:13

### **RETURNS**

- Writ of execution, form, § 38:10

### **REVERSE PIERCING OF CORPORATE VEIL**

- Corporations, § 36:12

### **REVIEW AND APPEAL**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:20
- Patents, appeal to federal circuit, § 17:43

### **REVISED ARTICLE 9**

- Secured Transactions, this index

### **RISK CAPITAL TEST**

- Securities regulation, § 27:14

### **RISK OF LOSS**

- Lease of personal property, § 9:16
- Performance, sales, § 8:145

### **RISK OF MISTAKE**

- Contracts, § 7:53

**ROLE-PLAYING GAMES**

Massive multiplayer online role-playing game (MMPORG), § 16B:115

**ROYALTIES**

Patents, payment for infringement, § 17:34

**“RULE OF REASON” ANALYSIS**

Monopolies and Antitrust, this index

**S CORPORATIONS**

Generally, § 6:14 to 6:19

Election of S corporation status, § 6:15

Income tax, § 6:16

Liquidations, § 6:18

Operations, § 6:17

Redemptions, § 6:18

Taxation, generally, § 6:14 to 6:19

Termination, § 6:19

**SAFETY**

Fraud and deceit, opinions about a product’s safety, § 34:21

Occupational Safety and Health Act, this index

**SALES**

Generally, § 8:1 to 8:251

Acceptance of goods, buyer

Generally, § 8:170 to 8:172

Breach after, § 8:171

Effect of, § 8:171

Revocation of, § 8:172

Accepted goods, § 8:214

Adequate assurance, right to, § 8:173

Admissions, § 8:55

Anticipatory repudiation, § 8:173

Approval, sale on, § 8:120

Asset Transfers, this index

Assignment, § 8:90

“Battle of the Forms”

Generally, § 8:32 to 8:40

Conduct recognizing existence of contract, § 8:40

Dealing, course of, § 8:38

Forum selection, § 8:37

Hardship, § 8:38

Material alteration, § 8:35 to 8:38

Surprise, § 8:38

Bills of sale, § 8:251, App. 8F

Breach and repudiation

Generally, § 8:173 to 8:175

Adequate assurance, right to, § 8:173

Anticipatory repudiation, § 8:173

INDEX

**SALES—Cont'd**

Breach and repudiation—Cont'd

Buyer

Generally, § 8:160 to 8:164

Acceptance of goods, buyer, § 8:171

Improper delivery, § 8:160

Merchant buyer's duties, rejected goods, § 8:162

Rejection of goods, § 8:160 to 8:162, 8:164

Right to cure, seller's, § 8:163

Salvage, § 8:164

Installment contract breach, § 8:174

Remedies, § 8:194, 8:196, 8:213

Breach of contract, § 8:196

Chapter 11 reorganizations, property, § 32:16

Conduct recognizing existence of contract, § 8:40

Confirmatory memoranda, § 8:63

Conflicts, express, implied, § 8:109

Consequential damages, § 8:215, 8:217, 8:231

Creditors, rights of, § 8:120, 8:122

Damages

Accepted goods, § 8:214

Consequential, § 8:215, 8:217, 8:231

Incidental, § 8:198, 8:215, 8:216

Liquidated, § 8:230

Mitigation, § 8:212

Warranties, § 8:107

Dealing, course of, § 8:3, 8:38, 8:85

Definitions

Generally, § 8:20 to 8:23

Goods, § 8:21

Goods severed from realty, § 8:23

Hybrid transactions, § 8:21, 8:22

Recording, § 8:23

Sale, § 8:20

Sale of goods, § 8:20

Transactions in goods, § 8:21

Delegation, § 8:90

Display and sale of merchandise, contract between seller and retailer, form,

§ App. 8E

Duration, § 8:87

Equitable estoppel, § 8:57

Exclusion or modification, § 8:105 to 8:107

Executions and supplementary proceedings, § 38:4

Express warranties, § 8:102, 8:109

Extrinsic evidence admission, § 8:82

Farmers, § 8:64

Final expression of agreement, § 8:81

Formal requirements of contracts, § 8:31 to 8:40

**SALES—Cont'd**

Forms

Asset purchase agreement, § **App. 8C, App. 8D**

Bill of sale, § **App. 8F**

Display and sale of merchandise, contract between seller and retailer, § **App. 8E**

General sales agreement, § **App. 8A**

Long form, sales agreement, § **App. 8B**

Purchase order, § **App. 8G**

Forum selection, § **8:37**

Fraud and deceit, § **34:80**

General sales agreement, form, § **App. 8A**

Good faith

Provision, § **8:4**

Purchasers, rights of, § **8:123**

Goods

Acceptance of goods, buyer, above

Breach and repudiation, above

Damages, § **8:214**

Definitions, § **8:21, 8:23**

Identification, § **8:192**

Hardship, § **8:38**

Hybrid transactions, § **8:21, 8:22**

Identification, § **8:140, 8:192**

Implied warranty of fitness for a particular purpose, § **8:104**

Implied warranty of merchantability, § **8:103**

Improper delivery, § **8:160**

Incidental damages, § **8:198, 8:215, 8:216**

Insolvency, buyer's, § **8:191**

Installment contract breach, § **8:174**

Insurable interests, § **8:140**

Integrated agreements, § **8:83, 8:84**

Knowledge, § **8:2**

Liquidated damages, § **8:230**

Location, § **8:87**

Long form, sales agreement, § **App. 8B**

Material alteration, § **8:35 to 8:38**

Merchants

Buyer's duties, rejected goods, § **8:162**

Exceptions, § **8:60 to 8:65**

Provision, § **8:5**

Mitigation of damages, § **8:212**

Modification, § **8:89**

Non-acceptance, § **8:194**

Non-delivery, § **8:212**

Notice, § **8:2, 8:65**

Obligations and construction of contracts

Assignment, § **8:90**

INDEX

**SALES—Cont'd**

Obligations and construction of contracts—Cont'd

- Delegation, § 8:90
- Duration, § 8:87
- Gap-filling provisions, § 8:87
- Location, § 8:87
- Modification, § 8:89
- Price, § 8:87
- Quantity, § 8:87
- Rescission, § 8:89
- Timing, § 8:87
- Unconscionability, § 8:88
- Waiver, § 8:89

Oral agreement, preexisting, required, § 8:62

Parol evidence

- Generally, § 8:80 to 8:85
- Dealing, course of, § 8:85
- Extrinsic evidence admission, § 8:82
- Final expression of agreement, § 8:81
- Integrated agreements, § 8:83, 8:84
- Performance, course of, § 8:85
- Usage of trade, § 8:85

Partial performance, § 8:55

Payment, buyer's obligations, § 8:146

Performance

- Generally, § 8:140 to 8:144
- Buyer's rights to goods, § 8:142
- Course of, § 8:3, 8:85
- Identification, § 8:140
- Insurable interests, § 8:140
- Partial, § 8:56
- Risk of loss, § 8:145
- Shipment by seller, § 8:144
- Tender of delivery, seller's, § 8:143

Performance, course of, § 8:3, 8:85

Price, § 8:87

Price, action for, § 8:197, 8:198

Promissory estoppel, § 8:58

Provisions

- Generally, § 8:1 to 8:6
- Buyer, § 8:5
- Consequential damages, § 8:231
- Dealing, course of, § 8:3
- Good faith, § 8:4
- Knowledge, § 8:2
- Liquidated damages, § 8:230
- Merchant, § 8:5

**SALES—Cont'd**

Provisions—Cont'd

Notice, § 8:2

Performance, course of, § 8:3

Reasonableness, § 8:4

Sales, § 8:5

Seller, § 8:5

UCC provisions, § 8:250

Usage of trade, § 8:3

Purchase order, form, § App. 8G

Quantity, § 8:87

Reasonableness, § 8:4

Rejection of goods, § 8:160 to 8:162, 8:164

Remedies

Buyer

Generally, § 8:210 to 8:218

Accepted goods, damages for, § 8:214

Consequential damages, § 8:215, 8:217

Incidental damages, § 8:215, 8:216

Mitigation of damages, § 8:212

Non-delivery, § 8:212

Replevin, § 8:218

Repudiation, § 8:212

Specific performance, § 8:218

§ 2-712, § 8:211

Seller

Generally, § 8:190 to 8:198

Breach of contract, § 8:196

Identification of goods, § 8:192

Incidental damages, § 8:198

Insolvency, buyer's, § 8:191

Non-acceptance, § 8:194

Price, action for, § 8:197, 8:198

Repudiation, § 8:194

Resale, § 8:193

Stoppage, § 8:193

Replevin, § 8:218

Repudiation. Breach and repudiation, above

Resale, § 8:193

Rescission, § 8:89

Returns, § 8:120

Right to cure, seller's, § 8:163

Risk of loss, § 8:145

Salvage, § 8:164

Securities regulation, § 27:17

Shipment by seller, § 8:144

Specific performance, § 8:218

## INDEX

### **SALES—Cont'd**

- Specifically manufactured goods, § 8:54
- Statute of frauds
  - Generally, § 8:50 to 8:65
  - Applicability, § 8:51
  - Exceptions
    - Generally, § 8:53 to 8:65
    - Admissions, § 8:55
    - Confirmatory memoranda, § 8:63
    - Equitable estoppel, § 8:57
    - Farmers, § 8:64
    - Merchant exceptions, § 8:60 to 8:65
    - Notice of objection, § 8:65
    - Oral agreement, preexisting, required, § 8:62
    - Partial performance, § 8:55
    - Promissory estoppel, § 8:58
    - Specifically manufactured goods, § 8:54
    - Timing, § 8:61
    - Waiver, § 8:59
  - Signature requirement, § 8:52 to 8:65
  - Writing requirement, § 8:52 to 8:65
- Statute of limitations, § 8:240, 8:241
- Stoppage, § 8:193
- Surprise, § 8:38
- Tender of delivery, seller's, § 8:143
- Third party beneficiaries, § 8:108
- Timing, § 8:61, 8:87
- Title, § 8:101
- Tolling, statute of limitations, § 8:241
- Transactions in goods, § 8:21
- Transfers of assets. Asset Transfers, this index
- UCC provisions, § 8:250
- Unconscionability, § 8:88
- Usage of trade, § 8:3, 8:85
- Waiver, § 8:59, 8:89
- Warranties
  - Generally, § 8:100 to 8:111
  - Conflicts, express, implied, § 8:109
  - Damages, § 8:107
  - Exclusion or modification, § 8:105 to 8:107
  - Express, § 8:102, 8:109
  - Implied warranty of fitness for a particular purpose, § 8:104
  - Implied warranty of merchantability, § 8:103
  - Third party beneficiaries, § 8:108
  - Title, § 8:101

### **SALES REPRESENTATIVES**

- Distribution, § 21:62

**SAME SEX HARASSMENT**

Employment, § 13:15

**SARBANES OXLEY ACT**

Administrative procedure, § 14:72

Contributing factor to adverse employment action, § 14:79

Decision maker and unfavorable personnel action, Knowledge of, § 14:78

Effects of failure to exhaust administrative remedies with OSHA, § 14:73

Elements, § 14:75

Overview of SOX 806, § 14:71

Post-employment retaliation, § 14:74

Protected activity, § 14:76

Reasonable belief, § 14:77

Rights and remedies, § 14:82

Statute of limitations, § 14:81

Whistleblower

Generally, § 14:71 to 14:82

Administrative procedure, § 14:72

Contributing factor to adverse employment action, § 14:79

Decision maker and unfavorable personnel action, Knowledge of, § 14:78

Effects of failure to exhaust administrative remedies with OSHA, § 14:73

Elements, § 14:75

Overview of SOX 806, § 14:71

Post-employment retaliation, § 14:74

Protected activity, § 14:76

Reasonable belief, § 14:77

Rights and remedies, § 14:82

Statute of limitations, § 14:81

**SCROLLWRAPS/ BROWSEWRAPS/ SHRINKWRAPS CONTRACTS**

Internet, § 16B:80

**SECONDARY DISTRIBUTIONS**

Securities Act of 1933, this index

**SECONDARY LIABILITY**

Securities Exchange Act of 1934, this index

**SECONDARY MEANING**

Trademarks, § 16:11, 16:80

**SECONDARY OBLIGOR**

Secured transactions, default and enforcement, § 10:175

**SECONDARY OBLIGORS**

Secured transactions, default and enforcement, § 10:187

**SECRETARY OF STATE**

Stock and stockholders, name standard, § App. 2E

Uniform Limited Partnership Act of 2001, delivery to and filing of records,  
§ 5:15

## INDEX

### SECURED TRANSACTIONS

- Generally, § 10:1 to 10:203
- Acceptance of collateral, default and enforcement, § 10:189 to 10:191
- Accessions, priority, § 10:105
- Accounts
  - Generally, § 10:6
  - Security agreement, form, § App. 10F
- After-acquired property, § 10:36
- Agricultural liens, choice of law, § 10:61
- Agricultural liens, filing requirements to perfect security interest, § 10:67
- Agricultural liens using same collateral, priority among, § 10:93
- Amendment of financing statement, filing, § 10:150
- Amendments of 2010, transition provisions, § 10:203
- Article 2 or 2A, security interests arising out of, § 10:4
- Assignments. Third party rights, below
- Attachment. Creation and attachment, below
- Authentication and creation of valid security agreement, § 10:32
- Buyer of accounts, chattel paper, payment intangibles or promissory notes, default and enforcement, § 10:171
- Buyer of goods, priority, § 10:92
- Certificates of title, choice of law, § 10:63
- Chattel paper or instruments
  - Generally, § 10:6
  - Priority, § 10:101
- Choice of law
  - Generally, § 10:60 to 64
  - Agricultural liens, § 10:61
  - Certificates of title, § 10:63
  - Deposit accounts, § 10:61
  - Letter of credit rights, § 10:62
  - Location of debtor, § 10:64
- Collateral, indication of, § 10:143
- Commercial reasonableness of conduct, default and enforcement, § 10:196
- Commingled goods, priority, § 10:105
- Compulsory disposition of collateral, default and enforcement, § 10:189
- Consignments
  - Generally, § 10:8
  - Default and enforcement, consignor of accounts, chattel paper, payment intangibles or promissory notes, § 10:171
- Consumer goods and transactions, § 10:183, 10:198
- Control or possession of collateral
  - Breach of the peace, § 10:178
  - Right of secured party to take possession, § 10:178
  - Rights and duties, § 10:51
- Correction statement, filing, § 10:156
- Creation and attachment
  - Generally, § 10:30 to 20
  - After-acquired property, § 10:36

**SECURED TRANSACTIONS—Cont'd**

Creation and attachment—Cont'd

- Attaching future advances, § **10:37**
- Authentication and creation of valid security agreement, § **10:32**
- Cross-collateralization clauses, § **10:37**
- Description of collateral, § **10:34**
- Dragnet clauses, § **10:37**
- Giving value, § **10:33**
- Perfection, § **10:66**
- Proceeds, § **10:38**
- Rights in collateral, § **10:35**
- Security agreements and security interests, § **10:31**
- Supporting obligations and underlying collateral, § **10:39**
- Title to collateral is immaterial, § **10:40**

Crops, priority, § **10:104**

Default and enforcement

- Generally, § **10:170 to 10:197**
- Acceptance of collateral, § **10:189 to 10:191**
- Agreement on standards concerning rights and duties, § **10:173**
- Breach of the peace, § **10:178**
- Buyer of accounts, chattel paper, payment intangibles or promissory notes, § **10:171**
- Collection and enforcement by secured party, § **10:176**
- Commercial reasonableness of conduct, § **10:196**
- Compulsory disposition of collateral, § **10:189**
- Consignor of accounts, chattel paper, payment intangibles or promissory notes, § **10:171**
- Consumer goods transactions, notice of disposition of collateral, § **10:183**
- Deficiencies, § **10:177, 10:184, 10:185, 10:195**
- Disposition of collateral, § **10:179 to 10:183, 10:189**
- Explanation of calculation of deficiency or surplus, § **10:185**
- Failure of secured party to comply with article, § **10:194**
- Fixtures, procedure, § **10:174**
- Judicial enforcement, § **10:171**
- Limitation of liability of secured party, § **10:197**
- Nonliability of secured party, § **10:197**
- Notice
  - Acceptance of collateral, proposal, § **10:190**
  - Disposition of collateral, notice before, § **10:180 to 10:183**
- Possession, right of secured party to take, § **10:178**
- Proceeds of collection or enforcement, application of, § **10:177, 10:184**
- Real property, procedure, § **10:174**
- Redemption of collateral, § **10:192**
- Rights after default, § **10:171**
- Secondary obligor, § **10:175**
- Secondary obligors, rights and duties of, § **10:187**
- Standards concerning rights and duties, agreement on, § **10:173**
- Surpluses, § **10:177, 10:184, 10:185, 10:195**

## INDEX

### SECURED TRANSACTIONS—Cont'd

#### Default and enforcement—Cont'd

Timeliness of notification before disposition of collateral, § **10:181**

Title, transfer of, § **10:188**

Transferee of collateral, rights of, § **10:186**

Unknown debtors, § **10:175**

Variance of rights and duties, § **10:172**

Waiver, § **10:172, 10:193**

Defenses, third party rights, § **10:122, 10:123**

Deficiencies, default and enforcement, § **10:177, 10:184, 10:185, 10:195**

Definitions, § **10:5**

#### Deposit accounts

Generally, § **10:11**

Choice of law, § **10:61**

Priority, § **10:98, 10:103**

Description of collateral, § **10:34**

Discharge of account debtor, § **10:125**

Disposition of collateral, perfection, § **10:73**

Duration of financing statement, § **10:153**

Duties of parties. Rights and duties of parties, below

Enforcement. Default and enforcement, above

Equipment lease agreement, form, § **App. 10D**

Errors or omissions, filing, § **10:144**

Evidence of assignment, § **10:125**

Explanation of calculation of deficiency or surplus, default and enforcement, § **10:185**

#### Filing

Generally, § **10:140 to 10:156**

Amendment of financing statement, § **10:150**

Assignment of powers of secured party of record, § **10:152**

Certain events, effect on effectiveness of financing statement, § **10:145**

Collateral, indication of, § **10:143**

Contents of financing statement, § **10:141**

Correction statement, § **10:156**

Duration of financing statement, § **10:153**

Effectiveness of filed record, § **10:145, 10:146, 10:148, 10:153, 10:154**

Errors or omissions, § **10:144**

Inaccurate record, § **10:156**

Indexing errors, § **10:155**

Lapse of financing statement, § **10:153**

Mortgage record as financing statement, § **10:141**

Name of debtor, § **10:142**

New debtor bound by security agreement, effectiveness of financing statement, § **10:146**

Office housekeeping rules, § **10:157**

Omissions or errors, § **10:144**

Persons entitled to file record, § **10:147**

Secured party of record, § **10:149**

**SECURED TRANSACTIONS—Cont'd**

Filing—Cont'd

- Termination statement, § **10:151**
- Time of filing financing statement, § **10:141**
- Transition provisions, § **10:201**
- Wrongfully filed record, § **10:156**

Financial assets under Article 8, priority, § **10:102**

Fixtures

- Default and enforcement, § **10:174**
- Priority, § **10:104**

Forms

- Accounts, security agreement, § **App. 10F**
- Equipment lease agreement, § **App. 10D**
- Long form security agreement, § **App. 10B**
- Notes and stock, pledge and security agreement, § **App. 10G**
- Official UCC forms under Revised Article 9, § **App. 10Z**
- Personal property, security agreement, § **App. 10E**
- Promissory note, secured, § **App. 10H**
- Retail installment sales contract, § **App. 10C**
- Short form security agreement, § **App. 10A**

Future advances, priority, § **10:94**

Governing law, perfection following change in, § **10:74**

Healthcare insurance receivables, restrictions on assignment of, § **10:127**

Identification of assignment, § **10:125**

Indexing errors, filing, § **10:155**

Instruments. Chattel paper or instruments, above

Intangibles

- Generally, § **10:6**
- Restrictions on assignment, § **10:127**

Investment property

- Priority, § **10:99**

Judicial enforcement, § **10:171**

Lapse of financing statement, § **10:153**

Lease of personal property, disguise as, § **9:6**

Leasehold interest, restrictions on creation or enforcement of security interest in, § **10:126**

Letter of credit rights

- Choice of law, § **10:62**
- Priority, § **10:100**
- Restrictions on assignment, § **10:128**

Limitation of liability of secured party, default and enforcement, § **10:197**

Location of debtor, choice of law, § **10:64**

Long form security agreement, form, § **App. 10B**

Maintaining perfection, § **10:74**

Modifications of assigned contracts, § **10:124**

Mortgage record as financing statement, § **10:141**

Name of debtor, filing, § **10:142**

INDEX

**SECURED TRANSACTIONS—Cont'd**

New debtors

Financing statement, effectiveness of, § **10:146**

Priority of security interests, § **10:97**

Notes and stock, pledge and security agreement, form, § **App. 10G**

Notice

Assignment, § **10:125**

Default and enforcement, above

Office housekeeping rules regarding filing, § **10:157**

Official UCC forms under Revised Article 9, § **App. 10Z**

Omissions or errors, filing, § **10:144**

Perfection

Generally, § **10:65 to 10:38**

Agricultural liens, filing requirements, § **10:67**

Assignment of perfected interest, § **10:75**

Attachment, § **10:66**

Control, § **10:70**

Disposition of collateral, rights on, § **10:73**

Filing requirements, § **10:67**

Governing law, change in, § **10:74**

Maintaining perfection, § **10:74**

Possession, § **10:69**

Possession and control of chattel paper, § **10:71**

Proceeds, rights to, § **10:73**

Property subject to statutes, regulations and treaties, § **10:68**

Temporary perfection, § **10:74**

Transition provisions, § **10:200**

U.C.C. Sec. 9-312, § **10:72**

Personal property, security agreement, form, § **App. 10E**

Persons entitled to file record, § **10:147**

Possession of collateral. Control or possession of collateral, above

Priority

Generally, § **10:90 to 10:106**

Accessions, § **10:105**

Agricultural liens using same collateral, § **10:93**

Buyer of goods, § **10:92**

Chattel paper or instruments, § **10:101**

Commingled goods, § **10:105**

Conflicting security interests using same collateral, § **10:93**

Crops, § **10:104**

Deposit accounts, § **10:98, 10:103**

Financial assets under Article 8, § **10:102**

Fixtures, § **10:104**

Future advances, § **10:94**

Interests taking priority over or taking free of security interest or agricultural lien, § **10:91**

Investment property, § **10:99**

Letter of credit rights, § **10:100**

**SECURED TRANSACTIONS—Cont'd**

Priority—Cont'd

- Miscellaneous provisions, § 10:106
- New debtor, security interests created by, § 10:97
- Purchase money security interests, § 10:95
- Purchasers of instruments, documents and securities under other articles, § 10:102
- Security entitlements under Article 8, § 10:102
- Transfer of money, § 10:103
- Transferred collateral, § 10:96
- Transition provisions, § 10:202

Proceeds

- Collection or enforcement, application of proceeds, § 10:177, 10:184
- Creation and attachment, § 10:38
- Perfection, § 10:73

Promissory notes

- Generally, § 10:6
- Restrictions on assignment, § 10:127
- Secured note, form, § App. 10H

Property subject to statutes, regulations and treaties, perfection of security interest, § 10:68

Purchase money security interests, priority, § 10:95

Real property, default and enforcement, § 10:174

Receivables, § 10:6

Redemption of collateral, § 10:192

Residual interest of lessor, restrictions on creation or enforcement of security interest in, § 10:126

Restrictions on certain assignments, § 10:125

Retail installment sales contract, form, § App. 10C

Revised Article 9 (2024)

Control of

- Deposit accounts, § 10:12
- Electronic copy of record evidencing chattel paper, § 10:13
- Electronic money, § 10:13
- Controllable account, § 10:13
- Controllable payment intangible, § 10:13
- Introduction, § 10:2
- Purchase-money security interests, § 10:10

Revised Article 9, scope of, § 10:3

Rights and duties of parties

- Generally, § 10:50 to 10:52
- Possession or control of collateral, secured party with, § 10:51
- Title is immaterial, § 10:22
- Void restrictions, § 10:52

Scope and introduction

- Generally, § 10:1 to 10:11
- Accounts, chattel paper, payment intangibles, promissory notes and other receivables, § 10:6

## INDEX

### SECURED TRANSACTIONS—Cont'd

#### Scope and introduction—Cont'd

Consignments, § 10:8

Deposit accounts, § 10:11

Non-Article 9 transactions, obligations secured by, § 10:9

Tort claims, § 10:10

Transfer of ownership in sales of receivables, § 10:7

Secondary obligor, default and enforcement, § 10:175

Secondary obligors, default and enforcement, § 10:187

Short form security agreement, form, § App. 10A

Standards concerning rights and duties, default and enforcement, § 10:173

Supporting obligations and underlying collateral, § 10:39

Surpluses, default and enforcement, § 10:177, 10:184, 10:185, 10:195

Temporary perfection, § 10:74

Termination statement, filing, § 10:151

#### Third party rights

Generally, § 10:120 to 10:128

Claims against assignee, § 10:123

Contract of debtor, § 10:121

Defenses, agreement not to assert against assignee, § 10:122

Defenses against assignee, § 10:123

Discharge of account debtor, § 10:125

Evidence of assignment, § 10:125

General intangibles, restrictions on assignment of, § 10:127

Healthcare insurance receivables, restrictions on assignment of, § 10:127

Identification of assignment, § 10:125

Leasehold interest, restrictions on creation or enforcement of security interest in, § 10:126

Letter of credit rights, restrictions on assignment of, § 10:128

Modifications of assigned contracts, § 10:124

Notification of assignment, § 10:125

Perfected interest, assignment of, § 10:75

Powers of secured party of record, assignment of, § 10:152

Promissory notes, restrictions on assignment of, § 10:127

Residual interest of lessor, restrictions on creation or enforcement of security interest in, § 10:126

Restrictions on certain assignments, § 10:125

Rights acquired by assignee, § 10:123

Tort of debtor, § 10:121

#### Time

Disposition of collateral, notice before, § 10:181

Filing of financing statement, § 10:141

#### Title

Transfer of title, § 10:188

Tort claims, § 10:10, 10:121

#### Transfer of collateral

Priority, § 10:96, 10:103

Receivables, ownership in sales of, § 10:7

**SECURED TRANSACTIONS—Cont'd**

- Transfer of collateral—Cont'd
  - Rights of transferee, § **10:186**
- Transition provisions
  - Generally, § **10:199 to 10:203**
  - Amendments of 2010, § **10:203**
  - Amendments of 2022, § **10:204**
  - Filing, § **10:201**
  - Perfection, § **10:200**
  - Priority, § **10:202**
  - 2010 amendments, § **10:203**
  - 2022 amendments, § **10:204**
- 2010 amendments, transition provisions, § **10:203**
- 2022 amendments, transition provisions, § **10:204**
- U.C.C. Sec. 9-312, perfection under, § **10:72**
- Unknown debtors, default and enforcement, § **10:175**
- Value, creation and attachment, § **10:33**
- Variance of rights and duties, default and enforcement, § **10:172**
- Waiver, default and enforcement, § **10:172, 10:193**

**SECURITIES**

- Definition
  - Generally, § **26:1 to 26:58**
  - Bank instruments, § **26:56**
  - Cryptocurrency, § **26:57**
  - Digital tokens, § **26:57**
  - Distributorships, § **26:51**
  - Investment contracts, § **26:3 to 26:8**
    - Common enterprise, § **26:6**
    - Expectation of profit, § **26:7**
    - Investment of money, § **26:5**
    - Profits solely from others, § **26:8**
    - Test, § **26:4**
  - Leases, § **26:51**
  - Life settlements, § **26:53**
  - LLC interests, § **25:24 to 25:35**
  - Managed commodity trading accounts, § **26:52**
  - Notes as securities, Reves test, § **25:40 to 25:45**
  - Pension plans, § **26:54**
  - Ponzi schemes, § **26:50 to 26:58**
  - Pyramid schemes, § **26:50 to 26:58**
  - Real estate investments, § **26:55**
  - Sale-leasebacks, § **26:51**
  - Statutory definition, § **26:2**
  - Variable annuities, § **26:53**
  - Viatical settlements, § **26:53**
  - Williamson v. Tucker, § **26:20 to 26:23**

## INDEX

### **SECURITIES ACT OF 1933**

Generally, § **26A:1 to 26A:79**

Communications. Prospectuses and communications, below

Criminal liability for securities fraud, § **27:81**

Crowdfunding. Exemptions from registration, below

Definitions, § **26A:21 to 26A:32**

Accredited investor, § **26A:31**

Dealer, § **26A:29**

Emerging growth company, § **26A:31**

Issuer, § **26A:22**

Offer, § **26A:21**

Prospectus, § **26A:30**

Sale, § **26A:21**

Sell, § **26A:21**

Underwriter, § **26A:23 to 26A:28**

Exemptions

Generally, § **26B:1 to 26B:108**

Accredited investors, § **26B:52**

Church pensions, § **26B:44**

Crowdfunding, § **26B:60 to 26B:65**

Educational, § **26B:21**

Insurance policies, § **26B:24**

Intrastate offerings, § **26B:40 to 26B:42**

Nonprofessionals, § **26B:100**

Private placements, § **26B:51**

Railroad trusts, § **26B:22**

Receivers, Chapter 11, § **26B:23**

Regulation A, § **26B:70 to 26B:75**

Regulation D, § **26B:80 to 26B:87**

Reorganizations, § **26B:26**

Rule 701, § **26B:90 to 26B:95**

Rule 144, secondary transactions, § **26B:101 to 26B:103**

Rule 152, integration of offerings, § **26B:108**

Rule 144A, private placements with institutional investors, § **26B:104**

Savings and loans, § **26B:43**

Section 3, § **26B:2**

Section 3(a)(2), § **26B:3 to 26B:9**

Section 3(a)(3), § **26B:20**

Section 3(a)(4), § **26B:21**

Section 3(a)(5), § **26B:7 to 26B:9**

Section 3(a)(6), § **26B:22**

Section 3(a)(7), § **26B:23**

Section 3(a)(8), § **26B:24**

Section 3(a)(9), § **26B:25**

Section 3(a)(10), § **26B:26**

Section 3(a)(11), § **26B:40 to 26B:42**

Section 3(a)(12), § **26B:43**

**SECURITIES ACT OF 1933—Cont'd**

Exemptions—Cont'd

- Section 3(a)(13), § **26B:44**
- Section 3(a)(14), § **26B:44**
- Section 4(a)(1), § **26B:100**
- Section 4(a)(2), § **26B:51**
- Section 4(a)(3), § **26B:107**
- Section 4(a)(5), § **26B:51**
- Section 4(a)(7), § **26B:105, 26B:106**
- Security futures, § **26B:44**
- Small issues, § **26B:50**

FAST Act Modernization and Simplification, § **26A:11**

Liabilities and remedies

- Generally, § **26C:1 to 26C:73**
- Control-person liability, § **26C:72**
- Private remedies, § **26C:1**
- Section 11
  - Defenses, § **26C:40 to 26C:53**
  - Elements, § **26C:10 to 26C:31**
  - Introduction, § **26C:2 to 26C:4**

Section 12(a)(1)

- Defenses, § **26C:60 to 26C:71**

Section 17, § **26C:73**

Market trading. Secondary distributions and market trading, below

Misstatements and omissions

Plaintiff's pleading and proof in Section 11 claims. Claims, above

Omissions. Misstatements and omissions, above

Prospectuses and communications

Preparation of, Plain English rules in Securities Exchange Act of 1934,  
§ **26D:112**

Registration

2005 Securities offering reform, § **26A:3 to 26A:6**

Generally, § **26A:1 to 26A:79**

Exemptions from registration, above

FAST Act Modernization and Simplification, § **26A:11**

IPO process

- Generally, § **26A:60 to 26A:73**
- Alternatives, § **26A:77 to 26A:79**
- Emerging growth companies, § **26A:76**
- Integrated disclosure, § **26A:74**
- Post-effective period, § **26A:72**
- Pre-filing period, § **26A:68, 26A:69**
- Pre-IPO financing, § **26A:61**
- Pros and cons, § **26A:62**
- Registration statements and prospectus, § **26A:65, 26A:66**
- Scaled disclosure, § **26A:75**
- Solicitations, expansion, § **26A:73**
- Testing-the-waters, § **26A:73**

## INDEX

### **SECURITIES ACT OF 1933—Cont'd**

#### Registration—Cont'd

##### IPO process—Cont'd

Three time periods, § **26A:67**

Traditional process, § **26A:63**

Underwriting process, § **26A:64**

Waiting period, § **26A:70, 26A:71**

SEC enforcement, § **26A:2**

##### Section 5

Generally, § **26A:40 to 26A:45**

Comparing SEC actions and private actions under Section 12(a)(1),  
§ **26A:44**

Elements, violation, § **26A:43, 26A:44**

Exemptions, § **26A:45**

Policies, § **26A:42**

Safe harbors, § **26A:45**

Time periods, § **26A:41**

Regulation Crowdfunding. Exemptions from registration, above

Section 11. Misstatements and omissions, above

Section 12. Prospectuses and communications, above

Structure, § **26A:20 to 26A:32**

### **SECURITIES EXCHANGE ACT OF 1934**

Generally, § **26D:1 to 26D:112**

#### Accounting obligations

Financial and accounting data

Generally, § **26D:100 to 26D:108**

Annual reports, § **26D:20**

Contribution. Secondary liability, contribution and indemnification, below

#### Corporate governance

Generally, § **26D:109**

Current reports, § **26D:23, 26D:24**

Deregistration, § **26D:3**

Electronic delivery, disclosures, § **26D:90**

Enforcement, registration and reporting, § **26D:110**

Exchange listed securities, § **26D:2**

#### Executive compensation disclosure

Generally, § **26D:52 to 26D:58**

Certain specific disclosures, § **26D:53**

Disclosure of hedging by officers and directors, § **26D:54**

Historical background, § **26D:57**

Item 601, Exhibits, § **26D:83**

Item 701, Sales of unregistered securities, § **26D:85**

Item 702, Disclosure of indemnification of directors and officers, § **26D:86**

Item 801, Securities Act industry guides, § **26D:87**

Item 802, Exchange Act Industry Guides, § **26D:88**

Item 405 and 408, Disclosure of insider share transactions, § **26D:63**

**SECURITIES EXCHANGE ACT OF 1934—Cont'd**

Executive compensation disclosure—Cont'd

Item 405 and 408, Disclosure of insider trading arrangements and policies,  
§ **26D:63**

Item 501, Cover page, § **26D:68 et seq.**

SEC's interpretive responses, § **26D:69**

Item 505, Determination of offering price, § **26D:73**

Item 506, Dilution, § **26D:74**

Item 512, Disclosing certain undertakings, § **26D:81 et seq.**

Item 511, Disclosing expenses of issuance and distribution, § **26D:80**

Item 510, Disclosing SEC's position on indemnification, § **26D:79**

Item 406, Disclosure of codes of ethics, § **26D:64**

Item 407, Disclosure of corporate governance, § **26D:65 et seq.**

Item 509, Interests of named experts, § **26D:78**

Item 402 of Regulation S-K, § **26D:52 et seq.**

Item 403 of Regulation S-K, Ownership of securities, § **26D:59 et seq.**

Item 404 of Regulation S-K, Transactions with related persons, § **26D:61 et seq.**

Item 508, Plan of distribution, § **26D:77**

Item 503, Prospectus summary, § **26D:71**

Item 507, Selling security holders, § **26D:75 et seq.**

Item 502, Table of contents, § **26D:70**

Item 504, Use of proceeds, § **26D:72**

Other items, § **26D:89**

Say on pay, § **26D:56**

SEC's interpretive responses, § **26D:58**

Shareholder Approval of Executive Compensation & Golden Parachute  
Compensation, § **26D:55**

Exemption from registration requirement, § **26D:5**

Indemnification. Secondary liability, contribution and indemnification, below  
Management's discussion and analysis of financial condition and results of  
operations (MD&A), § **26D:42**

Periodic and continuous disclosure and reporting, § **26D:10**

Periodic disclosure, annual reports, § **26D:20 to 26D:25**

Plain English rule of the SEC, § **26D:111**

Prospectus, rules on preparation of, § **26D:112**

Proxy regulations, reporting under, § **26D:11**

Quarterly reports, § **26D:22**

Registration, § **26D:2**

Procedure, § **26D:4**

Regulation FD, selective disclosure

Regulation S-K, § **26D:52 et seq.**

Regulation S-K, disclosure requirements

Generally, § **26D:30 et seq.**

Reporting, § **26D:10 to 26D:15**

Reporting requirements, periodic and continuous disclosure, § **26D:10 to 26D:15**

Required registrants, § **26D:2**

Sarbanes-Oxley Act of 2002, § **26D:21, 26D:23, 26D:24**

INDEX

**SECURITIES EXCHANGE ACT OF 1934—Cont'd**

- Section 15(d), reporting under, § **26D:14**
- Section 13(d) and 16(a), reporting under, § **26D:13**
- Tender offer regulations, reporting under, § **26D:12**
- Timing of registration, § **26D:3**
- Voluntary reporting, § **26D:15**

**SECURITIES REGULATION**

- Generally, § **27:1 to 27:90**
- Administration and judicial review, § **27:89**
- Agents, § **27:47**
- Asset Transfers, this index
- Broker-dealers, § **27:47**
- Civil liability
  - Joint and several liability, § **27:77**
  - Rescission offers, § **27:80**
  - Section 509, § **27:71 et seq.**
  - Section 509(c) liability, § **27:76**
  - Statute of limitations, § **27:79**
- Criminal liability for securities fraud, § **27:81**
- Definitions, § **27:10 to 27:19**
- Disposition table, § **27:4**
- Exemptions
  - Generally, § **27:30 to 27:34**
  - Integrated offerings, § **27:34**
  - MNvest registration exemption, § **27:33**
  - Securities exempted, § **27:31**
  - Transactions exempted, § **27:32**
- Federal Securities Regulation, this index
- Fraud
  - Generally, § **27:52 to 27:58**
  - Anti-fraud provisions, § **27:52 to 27:58**
  - Criminal liability, § **27:81**
  - Defenses, § **27:57**
  - Elements essential, § **27:53**
  - General fraud, Section 501, § **27:58**
  - “In connection with,” § **27:55**
  - Proximate cause and loss causation, § **27:56**
  - Scienter vs negligence, § **27:54**
- Investment advisers, § **27:47**
- Jurisdiction, § **27:90**
- Minnesota Statutes Chapter 80A, § **27:3**
- Offer to sell, defined, § **27:17**
- Purchaser, defined, § **27:18**
- Registration
  - Coordination, § **27:44**
  - Federal covered securities, § **27:42**
  - Minnesota Statutes Chapter 80A, § **27:46**

**SECURITIES REGULATION—Cont'd**

- Registration—Cont'd
  - Qualification, § 27:45
  - Requirement, § 27:41
  - Small corporation offering registration, § 27:43
- Registration. Securities Act of 1933, this index
- Sales, defined, § 27:17
- Securities
  - Generally, § 27:10 to 27:16
  - Common enterprise test, § 27:12
  - Defined, § 27:10
  - Definitions, § 27:10 to 27:19
  - Gopher Tire test, § 27:13
  - Notes as securities, § 27:15
  - Official comments, § 27:11
  - Risk capital test, § 27:14
  - Samples, § 27:16
- Securities Act of 1933, this index
- Securities Exchange Act of 1934, this index
- Service of process, § 27:90
- Takeovers, this index
- Uniform Securities Act (2002), § App. 27A
- Uniform Securities Act of 2002, § 27:1, 27:2

**SEIZURE OF PERSON OR PROPERTY**

- Trade secrets, § 18:54

**SELECTIVE DISCLOSURE**

- Securities Exchange Act of 1934, this index

**SERVICE MARKS**

- Minnesota Trademark Law, this index

**SERVICE OF PROCESS**

- Corporations, § 36:7
- Limited liability companies, § 3:14
- Securities regulation, § 27:90
- Uniform Limited Partnership Act of 2001, office and agent, § 5:10

**SETTLEMENT AGREEMENTS AND RELEASES**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:19, 24:20
- Employment, this index
- Garnishee, form, § 38:36
- Life settlements, securities, § 26:53
- Partnership, winding up, § 31:16
- Viatical settlements, securities, § 26:53

**SEX DISCRIMINATION**

- Employment, this index

## INDEX

### **SEXUAL HARASSMENT**

Employment, this index

### **SEXUAL ORIENTATION**

Employment, discrimination, § 13:18

Gender identity, § 13:18

### **SHARED MONOPOLIES**

Monopolies and antitrust, § 22:129

### **SHERMAN ACT**

Monopolies and Antitrust, this index

### **SHRINKWRAPS/ BROWSEWRAPS/ SCROLLWRAPS CONTRACTS**

Internet contracts, § 16B:80

### **SIGNATURES**

Limited liability companies, electronic signatures, § 3:15

Statute of Frauds. Sales, this index

Uniform Limited Partnership Act of 2001, signing of records, § 5:14

### **SILENCE**

Acquiescence, § 8:86

Fraud and deceit, common law fraud, § 34:13

### **SIMILARITY**

Substantial similarity and infringement. Copyright, this index

### **SLANDER**

Defamation, this index

### **SOCIAL SECURITY NUMBERS**

Employer use, § 14:32

### **SOFTWARE**

Copyrights, this index

### **SOLICITATION**

Chapter 11 reorganizations, § 32:21

### **SOUND RECORDINGS**

Copyrightable subject matter, § 15:8

### **SOVEREIGN IMMUNITY**

Comprehensive Environmental Response, Compensation, and Liability Act,  
§ 24:25

### **SPECIAL LITIGATION COMMITTEES**

Stock and stockholders, derivative actions, § 36:5

### **SPECIAL MEETINGS**

Stock and stockholders, § 2:40

### **SPECIFIC PERFORMANCE**

Contracts, § 7:132

Lease of personal property, § 9:21

**SPECIFIC PERFORMANCE—Cont'd**

Sales, remedies, § 8:218

**SPECIFICATION**

Patents, § 17:3

**STAGGERED BOARDS**

Takeovers, § 28:16

**STANDING**

False advertising, § 20:4

**STATEMENTS**

Partnerships, this index

**STATUTE OF FRAUDS**

Contracts, this index

Lease of personal property, § 9:8

Sales, this index

**STATUTE OF LIMITATIONS**

Comprehensive Environmental Response, Compensation, and Liability Act,  
§ 24:26

Contracts, § 7:152

Copyrights, § 15:97

Defend Trade Secrets Act of 2016

Remedies, § 18:53

Employment contracts, § 12:4

False advertising, § 20:41

Fraud and deceit, § 34:87, 34:88

Monopolies and antitrust, Sherman Act, § 22:130

Publicity, § 19:8

Sales, § 8:240, 8:241

Securities regulation, § 27:79

Trade secrets, misappropriation, § 18:37

**STATUTORY IMMUNITY**

Defenses and immunities, § 33:140

Examples of

Operational-level decision-making, § 33:142

Planning-level or policy-level decision-making, § 33:141

Healthcare peer-review immunity, § 33:144

Immunity under the Reporting of Maltreatment of Minors Act (RMMA),  
§ 33:143

**STOCK AND STOCKHOLDERS**

Generally, § 2:27 to 2:51

Actions against corporations, officers and directors

Derivative actions, below

Equitable actions by shareholders, § 36:9

Agreements of stockholders

Generally, § 2:48 to 2:50

INDEX

**STOCK AND STOCKHOLDERS—Cont'd**

- Agreements of stockholders—Cont'd
  - Contractual requirements to submit matters to shareholders, § 2:45
  - Control agreements, § 2:50
  - Voting agreements, § 2:49
  - Voting trusts, § 2:48
- Amendment of articles of incorporation
  - Dissenters, rights of, § 2:6
  - Series or class voting, § 2:5
  - Super-majority voting, § 2:4
- Attorneys' fees, derivative actions, § 36:6
- Books and records, § 2:51
- Certificates of stock, § 2:34
- Class voting, amendment of articles of incorporation, § 2:5
- Combination of shares, § 2:29
- Communications. Meetings, communications and actions, below
- Consideration for shares, § 2:31
- Contracts. Agreements of stockholders, above
- Control agreements, § 2:50, App. 2C
- Definitions, § 2:27
- Derivative actions
  - Generally, § 36:1 to 36:6
  - Attorneys' fees, § 36:6
  - Direct actions, distinguished, § 36:2
  - Procedural prerequisites, § 36:4
  - Special litigation committees, § 36:5
- Dissenters, amendment of articles of incorporation, § 2:6
- Dividends, § 2:29
- Division of shares, § 2:29
- Equitable actions by shareholders, § 36:9
- Financial statements, § 2:53
- Forms
  - Control agreement, § App. 2C
  - Exercise of preemptive rights, notice of, § App. 2D
  - Notices to shareholders, § App. 2D
  - Preemptive rights, notice of, § App. 2D
  - Subscription agreement, § App. 2C
  - Waiver of preemptive rights, § App. 2D
- Fractional shares, § 2:35
- Inspection rights, § 2:52
- Involuntary dissolution, action brought by shareholders, § 30:10
- Issuance of shares, § 2:28
- Liability, § 2:31, 2:36
- Meetings, communications and actions
  - Generally, § 2:38 to 2:46
  - Actions without meeting, § 2:44
  - Agreements of stockholders, above

**STOCK AND STOCKHOLDERS—Cont'd**

Meetings, communications and actions—Cont'd

Contractual requirements to submit matters to shareholders, § 2:45

Notice of meetings, § 2:42, 2:43

Proposals by stockholders, § 2:46

Proxies, § 2:47

Quorum, § 2:46

Regular meetings, § 2:39

Remote communications for meetings, § 2:41

Special meetings, § 2:40

Takeovers, advance notice requirements, § 28:19

Voting and voting rights, § 2:46

Waiver of notice of meetings, § 2:43

Name standard, Secretary of State, § App. 2E

Notice

Exercise of preemptive rights, notice of, form, § App. 2D

Forms, § App. 2D

Meetings, § 2:42, 2:43

Preemptive rights, notice of, form, § App. 2D

Online (PDF) forms, § App. 2F

Payment for shares, § 2:31

Piercing the veil, § 2:36

Preemptive rights, § 2:33, App. 2D

Proposals by stockholders, § 2:46

Proxies, § 2:47

Quorum, § 2:46

Records and books, § 2:51

Remote communications for meetings, § 2:41

Restrictions on transfer or registration, § 2:37

Rights to purchase shares, § 2:32

Secretary of State name standard, § App. 2E

Secured transactions, pledge and security agreement, form, § App. 10G

Series voting, amendment of articles of incorporation, § 2:5

Special litigation committees, derivative actions, § 36:5

Special meetings, § 2:40

Subscriptions, § 2:30, App. 2C

Super-majority voting, amendment of articles of incorporation, § 2:4

Terms of shares, § 2:28

Trusts, voting, § 2:48

Uncertificated shares, § 2:34

Value of shares, § 2:31

Voting and voting rights, § 2:46, 2:48, 2:49

Waiver

Notice of meetings, § 2:43

Preemptive rights, form, § App. 2D

## INDEX

### **STRICT LIABILITY**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:11
- Environmental law, § 25:41

### **STRONG-ARM CLAUSE**

- Bankruptcy, Section 544(a), § 32:9

### **SUBJECT MATTER**

- Unregistrable, minnesota trademark law, § 16A:3

### **SUBPOENAS**

- Digital Millennium Copyright Act, § 16B:52

### **SUBSCRIPTIONS**

- Stock and stockholders, § 2:30, App. 2C

### **SUBSTANTIAL PERFORMANCE**

- Contracts, § 7:121

### **SUBSTANTIAL SIMILARITY**

- Copyrights, this index

### **SUCCESSOR TO CREDITORS**

- Bankruptcy, Section 544(b), § 32:10

### **SUMMARY EXECUTION**

- Attorney, judgment debts, § 38:3, 38:19

### **SUMMONS**

- Garnishment, judgment debtor, form, § 38:40

### **SUPER-MAJORITY VOTING**

- Mergers and other fundamental changes, § 28:17
- Stock and stockholders, amendment of articles of incorporation, § 2:4

### **SUPERVISION**

- Corporations, voluntary dissolution, § 30:8
- Sexual harassment in employment, liability of supervisors, § 13:14

### **SUPPLEMENTARY PROCEEDINGS**

- Executions and Supplementary Proceedings, this index

### **SUPPORT OF CHILDREN**

- Executions and supplementary proceedings, forms, § 38:14, 38:21, 38:22

### **SURNAMES**

- Trademarks, § 16:40

### **SURPLUSES**

- Secured transactions, default and enforcement, § 10:177, 10:184, 10:185, 10:195

### **TAKEOVERS**

- Generally, § 28:1 to 28:23
- Advance notice requirements for shareholders' meetings, § 28:19
- Anti-golden parachute statute, § 28:12, 28:14

**TAKEOVERS—Cont'd**

- Anti-greenmail statute, § 28:12, 28:13
- Articles of incorporation and bylaws
  - Generally, § 28:16 to 28:19
  - Advance notice requirements for shareholders' meetings, § 28:19
  - Flexible ("blank check") capital stock, § 28:18
  - Staggered or classified boards, § 28:16
  - Super-majority voting for mergers and other fundamental changes, § 28:17
- "Blank check" capital stock, § 28:18
- Business Combination Act, this index
- Bylaws. Articles of incorporation and bylaws, above
- Classified boards, § 28:16
- Control Share Acquisition Act, this index
- Demand for special meeting for business combination, § 28:15
- Directors, duties of, § 28:2
- Disclosure, Takeover Disclosure Act, § 28:23
- "Fair price" provisions, § 28:11
- Flexible ("blank check") capital stock, § 28:18
- Golden parachutes, § 28:12, 28:14
- Greenmail, § 28:12, 28:13
- Notice requirements for shareholders' meetings, § 28:19
- Poison pills
  - Generally, § 28:20 to 28:22
  - Validity of poison pills, § 28:21
  - Validity of refusal to redeem poison pills, § 28:22
- Proposal for takeover, duties of directors in responding to, § 28:2
- Staggered boards, § 28:16
- Super-majority voting for mergers and other fundamental changes, § 28:17
- Takeover Disclosure Act, § 28:23
- Threat of takeover, duties of directors in responding to, § 28:2

**TAKINGS**

- Comprehensive Environmental Response, Compensation, and Liability Act, § 24:25

**TARNISHMENT**

- Trademarks, dilution, § 16:149

**TAXATION**

- Generally, § 6:1 to 6:19
- Check-the-box regulations, § 6:2
- Corporations, this index
- Employees or independent contractors, determination of status as, § 11:7
- Income Taxes, this index
- Partnerships, this index
- Proprietorships, § 6:3
- S Corporations, this index

**TEMPORARY PERFECTION**

- Secured transactions, § 10:74

## INDEX

### TERMINATION

Discharge or Termination, this index

### THIRD PARTIES

Contracts, beneficiaries, § 7:154

Limited liability companies, operating agreement, § 3:13

Representations by, fraud and deceit, § 34:45

Secured Transactions, this index

### THREATS

Takeovers, duties of directors in responding to threats, § 28:2

### TIME AND DATE

Executions and supplementary proceedings, issuance, § 38:1

Sales, statute of frauds, § 8:61

Secured Transactions, this index

Statute of Limitations, this index

### TITLE AND OWNERSHIP

Copyrights, this index

Lease of personal property, § 9:17

Patents, § 17:7

Sales, § 8:101, 8:121

Secured Transactions, this index

Trade Secrets, this index

Trademarks, § 16:111, 16:154

### TORTIOUS INTERFERENCE

Generally, § 33C:1 to 33C:93

Contract

Alleged wrongdoer's knowledge of contract, § 33C:17

Elements, § 33C:5

The existence of a contract, § 33C:10 to 33C:16

Agreements to agree, acceptance of bids, options contracts, § 33C:13

Competitor's privilege, § 33C:11

Contracts subject to a condition precedent, § 33C:12

Statute of frauds, § 33C:14

Void contracts, § 33C:15

Voidable contracts, § 33C:15

History and background

Nomenclature, § 33C:2

Historical evolution, § 33C:3

Judicial policies underlying the tort, § 33C:4

Intentional procurement of its breach

Generally, § 33C:30 to 33C:35

Anticipatory breach, § 33C:33

Anticipatory repudiation, § 33C:33

Breach, § 33C:31

Material breach, § 33C:32

Procurement, proximate cause of breach, § 33C:35

**TORTIOUS INTERFERENCE—Cont'd**

Contract—Cont'd

Wrongful or improper interference

Damages, loss causation, § 33C:50 to 33C:54

Statute of limitations, § 33C:60, 33C:61

Without justification, § 33C:40 to 33C:43

Damages, § 33C:89

Economic advantage, elements

Benefit, § 33C:88

Defendant's knowledge of that expectation, § 33C:83

Intentional interference, § 33C:84 to 33C:87

Reasonable expectation, § 33C:81

Identity of third parties, § 33C:82

Economic advantage, examples, § 33C:70 to 33C:75

Interference among competitors, § 33C:91 to 33C:93

Interference by (former) employer, § 33C:90

**TORTS**

Business Torts, this index

Secured transactions, § 10:10, 10:121

**TOTALITY OF CIRCUMSTANCES**

Fraud and deceit, reliance, § 34:40

**TOXIC TORTS**

Environmental Law, this index

**TRADE DRESS**

Federal trademark law, § 16:26

Trademark dilution, § 16:152

Trademark law, federal, § 16:24

**TRADE SECRETS**

Generally, § 18:1 to 18:58

Acquisition by improper means, § 18:31

Attorneys' fees, misappropriation, § 18:41

Burden of proof, misappropriation, § 18:34

Circumstantial evidence of misappropriation, Defend Trade Secrets Act of 2016,  
§ 18:51

Confidentiality, § 18:21 to 18:23

Consent, disclosure or use without, § 18:32

Copyrights, § 18:13, 18:28

Covenants not to compete, § 18:24

Damages, misappropriation, § 18:40

Defend Trade Secrets Act of 2016

Generally, § 18:43 to 18:57

Acquisition of a trade secret, Improper, § 18:49

Circumstantial evidence of misappropriation, § 18:51

Civil seizure, § 18:54

Definitions, § 18:44

## INDEX

### TRADE SECRETS—Cont'd

- Defend Trade Secrets Act of 2016—Cont'd
  - Disclosure or use of a trade secret, Improper, § **18:50**
  - Effective date, § **18:56**
  - Elements, overview, § **18:45**
  - Existence of a trade secret, § **18:47**
  - Misappropriation of a trade secret, § **18:48**
  - Other, § **18:52**
  - Other matters, § **18:57**
  - Pleading, § **18:46**
  - Remedies, § **18:53**
  - Retroactive application, § **18:56**
  - Statute of Limitations, § **18:53**
  - Whistleblower provisions, § **18:55**
- Defenses, misappropriation, § **18:35**
- Defined, § **18:2 to 18:4**
- Definition of misappropriation claim, § **18:30**
- Definitions
  - Defend Trade Secrets Act of 2016, § **18:44**
- Disclosure or use Improper, Defend Trade Secrets Act, § **18:50**
- Duration, § **18:15**
- Economic Espionage Act of 1996, § **18:42**
- Economic value, § **18:8**
- Elements, § **18:5 to 18:9**
  - Defend Trade Secrets Act of 2016, § **18:45**
- Eligibility for status, § **18:10**
- Employee agreements, § **12:15, 18:21**
- Employee work and submissions, ownership, § **18:17**
- Existence of a trade secret, Defend Trade Secrets Act, § **18:47**
- Forms
  - Alternative provision for detailed enumeration of receiving party's obligations, § **App. 18D**
  - Mutual confidentiality agreement, § **App. 18A**
  - Mutual nondisclosure agreement, § **App. 18B**
  - Unilateral nondisclosure agreement, § **App. 18C**
- Freedom of Information Act, § **18:58**
- Identification of trade secrets with specificity, misappropriation, § **18:33**
- Implied duty of confidentiality, § **18:23**
- Importance, § **18:1**
- Improper acquisition, Defend Trade Secrets Act, § **18:49**
- Inevitable disclosure doctrine, § **18:25**
- Injunctions, misappropriation, § **18:39**
- Internet and trade secrets, § **18:14**
- Loss of protection
  - Generally, § **18:26 to 18:29**
  - Patents or copyrights, disclosure in, § **18:28**
  - Public disclosure, § **18:26**
  - Sale of products incorporating secret information, § **18:27**

**TRADE SECRETS—Cont'd**

Minnesota Trade Secrets Act, § 18:4

Misappropriation

Generally, § 18:30 to 18:41

Acquisition by improper means, § 18:31

Attorneys' fees, § 18:41

Burden of proof, § 18:34

Consent, disclosure or use without, § 18:32

Damages, § 18:40

Defenses, § 18:35

Definition of misappropriation claim, § 18:30

Identification of trade secrets with specificity, § 18:33

Injunctions, § 18:39

Other theories of law, recovery under, § 18:36

Protective orders, § 18:38

Remedies, § 18:38 to 18:41

Statute of limitations, § 18:37

Misappropriation, Defend Trade Secrets Act, § 18:48

Mutual confidentiality agreement, form, § App. 18A

Mutual nondisclosure agreement, form, § App. 18B

Nondisclosure agreements, § 18:21, 18:22

Not generally known or readily ascertainable, § 18:6

Novelty, § 18:9

Other, Defend Trade Secrets Act, § 18:52

Outside entities, agreements with, § 18:22

Ownership

Generally, § 18:16 to 18:19

Employee work and submissions, § 18:17

Non-employee submissions, § 18:18

Termination of employment, § 18:19

Patents, § 18:12, 18:28

Pleading, § 18:5

Protection, § 18:20 to 18:25

Protective orders, misappropriation, § 18:38

Public disclosure, loss of protection, § 18:26

Reasonable efforts to maintain secrecy, § 18:7

Remedies, misappropriation, § 18:38 to 18:41

Restatement (First) of Torts, § 18:2

Sale of products incorporating secret information, loss of protection, § 18:27

Seizure of person or property, § 18:54

Statute of limitations, misappropriation, § 18:37

Termination of employment, ownership, § 18:19

Uniform Trade Secrets Act, § 18:3

Unilateral nondisclosure agreement, form, § App. 18C

Whistleblowers, § 18:55

**TRADEMARKS**

Generally, § 16:1 to 16:158

INDEX

**TRADEMARKS—Cont'd**

Abandonment

- Generally, § **16:100**
- Affirmative acts of owner, § **16:102**
- Defenses to infringement, § **16:126**
- Loss of trademark rights, § **16:100 to 16 :102**
- Non-use, § **16:101**

Abbreviations, § **16:42**

Acquisition of trademark rights other than through federal registration, § **16:43**

Advertising, this index

Antidilution state law, § **16A:6**

Appeal to Trademark Trial and Appeal Board, § **16:83**

Applications for trademark registration

- Allegations of use in I.T.U. applications, § **16:63**
- Bases for filing, § **16:52**
- Completing the application, § **16:57**
- Declaration, § **16:61**
- Foreign applications, § **16:55**
- Intent-to-use applications, § **16:54**
- International registration of marks, § **16:56**
- The Madrid Protocol, § **16:56**
- Oath, § **16:61**
- Specimens of use, § **16:60**
- TEAS Plus application, § **16:58**
- TEAS RF application, § **16:59**
- Use-based applications, § **16:53**

Arbitrary marks, § **16:5**

Blurring, dilution by, § **16:148**

Building designs, § **16:27**

Cancellation, § **16A:2**

Combination marks, § **16:21**

Common types of trademarks, § **16:20**

Competing goods, dilution by, § **16:157**

Contributory infringement, § **16:113**

Damages, infringement, § **16:121**

Defenses

- Dilution, § **16:151**
- Infringement. Defenses to infringement, below

Defenses to infringement

- Generally, § **16:125**
- Abandonment, § **16:126**
- Descriptive use of mark, § **16:128**
- Disclaimers, § **16:131**
- Fair use and descriptive use of mark, § **16:128**
- Labeling, § **16:131**
- Laches, § **16:132 to 16:135**
- Limited geographic use, § **16:130**

**TRADEMARKS—Cont'd**

Defenses to infringement—Cont'd

Nominative fair use in Ninth and Third Circuits, § **16:128**

Parodies, first Amendment, § **16:129**

Descriptive marks

Generally, § **16:7**

Achieving trademark status, § **16:9**

Distinctiveness of marks, generally, § **16:7 to 16:9**

Suggestive marks compared, § **16:8**

Descriptive use of mark, § **16:127, 16:128**

Designations functioning as marks

Combination marks, § **16:21**

Common types of trademarks, § **16:20**

Family of marks, § **16:23**

House marks, § **16:22**

Designs functioning as marks

Building designs, § **16:27**

Dilution

Generally, § **16:141 to 16:158, 16A:6**

Additional remedies, § **16:153**

Blurring, dilution by, § **16:148**

Competing goods, dilution by, § **16:157**

Defenses, § **16:151**

Defined, § **16:140**

Elements of prima facie case, § **16:150**

Exclusions, § **16:151**

“Famous” marks, § **16:143, 16:144, 16:146**

Identifying a competitor’s product in comparative advertising, § **16:158**

Injunctions, § **16:142, 16:155**

Monetary relief, § **16:156**

“Non-famous” marks, § **16:145, 16:146**

Ownership of valid registration as complete bar to action, § **16:154**

Post-TDRA caselaw, analysis, § **16:147**

Prima facie case, § **16:150**

Prospective application, § **16:155, 16:156**

Tarnishment, § **16:149**

Tarnishment, dilution by, § **16:149**

Trade dress, § **16:152**

Trademark Dilution Revision Act or 2006, § **16:141 et seq.**

Disclaimers, § **16:131**

Distinctiveness of marks

Generally, § **16:2**

Achieving trademark status, descriptive marks, § **16:9**

Arbitrary marks, § **16:5**

Descriptive marks, generally, § **16:7 to 16:9**

Descriptive marks vs suggestive marks, § **16:8**

Fanciful marks, § **16:4**

INDEX

**TRADEMARKS—Cont'd**

Distinctiveness of marks—Cont'd

Generic terms, § 16:10

Reverse confusion, § 16:12

Secondary meaning, § 16:11

Strength of marks, § 16:3

Suggestive marks, § 16:6

Suggestive marks vs descriptive marks, § 16:8

Doctrine of progressive encroachment, § 16:135

Duration, federal registration, § 16:90, 16:91

Examination of applications

Actions by T.T.A.B., § 16:87

Appeal to Trademark Trial and Appeal Board, § 16:83

Cancellations, § 16:86

Ex parte expungement, § 16:87

Federal registration, examination within P.T.O., § 16:51

Initial Examination and Office actions, § 16:81

Oppositions, § 16:85

P.T.O. examination, § 16:51

Publication, § 16:84

Responses to Office action, § 16:82

Exclusions, dilution, § 16:151

Fair use and descriptive use of mark

2nd Circuit, § 16:127

Nominative fair use in Ninth and Third Circuits, § 16:128

Family of marks, § 16:23

“Famous” marks, dilution, § 16:143, 16:144, 16:146

Federal registration

Generally, § 16:50

Applications for federal registration, above

Duration, § 16:90, 16:91

Examination of applications, § 16:51

Grounds for refusal to register, below

P.T.O. examination, § 16:51

Renewal, § 16:90, 16:92

Secondary meaning, proof of, § 16:80

Foreign words, § 16:42

Form, short form license agreement, § App. 16A

Generic terms, § 16:10

Geographic terms, § 16:41

Grounds for refusal to register

Confusing similarity to registered mark, § 16:71

Deceptive matter, § 16:73

Deceptively misdescriptive mark, § 16:77

Deceptively misdescriptive matter, § 16:74

Disparaging matter, § 16:75

Geographically descriptive or misdescriptive mark, § 16:78

**TRADEMARKS—Cont'd**

Grounds for refusal to register—Cont'd

Immoral subject matter, § 16:72

Merely descriptive mark, § 16:77

Primarily a surname, § 16:79

Proposed mark does not function as trademark, § 16:70

Scandalous subject matter, § 16:72

Surname, primarily, § 16:79

Unregistrable subject matter, § 16:70 to 16:76

House marks, § 16:22

Identifying a competitor's product in comparative advertising, § 16:158

Infringement

Generally, § 16:110 to 16:113

Contributory, § 16:113

Defenses to infringement, above

Likelihood of confusion, § 16:112, 16A:4

Ownership of mark, § 16:111

Remedies, § 16:120, 16:121

“Use in commerce,” § 16:110

Initial Examination and Office actions, § 16:81

Injunctions

Dilution, § 16:142, 16:155

Infringement, § 16:120

International registration of marks, § 16:56

Internet

Contributory trademark infringement, § 16B:15

Internet, § 16B:10 to 16B:29

Labeling, § 16:131

Laches as defense to infringement

Generally, § 16:132

Doctrine of progressive encroachment, § 16:135

Prejudice to accused infringer, § 16:134

Progressive encroachment doctrine, § 16:135

Unreasonable delay, § 16:133

Liability, state law, § 16A:5

Likelihood of confusion, § 16:112, 16A:4

Limited geographic use as defense to infringement, § 16:130

Loss of trademark rights

Abandonment, § 16:100 to 16:102

Affirmative acts by owner to abandon trademark, § 16:102

Genericide, § 16:103

Non-use, abandonment by, § 16:101

Madrid Protocol, § 16:56

Minnesota Trademark Law, § 16A:1 to 16A:6

Misspellings, § 16:42

Monetary relief, dilution, § 16:156

2nd Circuit, § 16:127

## INDEX

### TRADEMARKS—Cont'd

- “Non-famous” marks, dilution, § 16:145, 16:146
- Ownership of mark, § 16:111
- Ownership of valid registration as complete bar to dilution action, § 16:154
- Parodies, first Amendment, § 16:129
- Prejudice to accused infringer, § 16:134
- Preservation of trademark rights, § 16:104
- Prima facie case, dilution, § 16:150
- Prima facie case of dilution, elements, § 16:150
- Product configuration and trade dress, § 16:24 to 16:26
  - Product configuration, § 16:24, 16:25
  - Trade dress, § 16:24, 16:26
- Progressive encroachment doctrine, § 16:135
- Prospective application, dilution, § 16:155, 16:156
- Protectable marks, generally, § 16:2
- Registration
  - Acquiring rights other than through federal registration, § 16:43
  - Federal registration, above
  - International registration of marks, § 16:56
  - State law, § 16A:2
- Registrations. Federal registration, above
- Remedies
  - Damages, § 16:121
  - Dilution, § 16:153
  - Infringement, § 16:120, 16:121
  - Injunctions, § 16:120
  - State law, § 16A:5
- Renewal, federal registration, § 16:90
- Responses to Office action, § 16:82
- Reverse confusion, § 16:12
- Rights
  - Loss of trademark rights, above
  - Preservation, § 16:104
- Secondary meaning, § 16:11
- Selection of trademark, § 16:105
- Special kinds of marks, § 16:40 to 16:42
- Surnames, § 16:40
- Tarnishment, dilution by, § 16:149
- Trade dress, dilution, § 16:152
- Trademark Dilution Revision Act of 2006, § 16:141 et seq:
- Trademark Trial and Appeal Board
  - Actions by, § 16:87
  - Appeal to, § 16:83
- Unreasonable delay, § 16:133
- Unregistrable subject matter, § 16A:3

### TRANSFER OF COLLATERAL

- Secured Transactions, this index

**TRANSFERABLE INTERESTS**

Limited liability companies, § 3:34

**TRANSITION PROVISIONS**

Secured Transactions, this index

Uniform Limited Partnership Act of 2001, § 5:2

**TRUSTS AND TRUSTEES**

Chapter 7 liquidations, § 32:29

Stock and stockholders, voting trusts, § 2:48

**TYING ARRANGEMENTS**

Monopolies and antitrust, § 22:85

**ULPA**

Uniform Limited Partnership Act of 2001, this index

**ULTRA VIRES**

Corporations, § 2:9

**UNCONSCIONABILITY**

Contracts, § 7:97, 8:88

**UNDERTAKINGS**

Bonds and Undertakings, this index

**UNDUE INFLUENCE**

Contracts, this index

**UNENFORCEABILITY DEFENSES**

Patent infringement, § 17:39

Equitable defenses, § 17:39

Unenforceability defenses, § 17:39

**UNFAIR COMPETITION**

Advertising, § 20:49

**UNIFORM COMMERCIAL CODE**

Secured Transactions, this index

**UNIFORM COMPUTING INFORMATION TRANSACTION ACT**

Internet, § 16B:81

**UNIFORM ELECTRONIC TRANSACTIONS ACT**

Internet, § 16B:81

**UNIFORM FRANCHISE OFFERING CIRCULAR**

Franchises, § 21:30

**UNIFORM LIMITED PARTNERSHIP ACT OF 2001**

Generally, § 5:1 to 5:50

Agent for service of process, § 5:10

Amendment of certificate, § 5:12

Annual renewal for secretary of state, § 5:17

Business transactions of partner with partnership, § 5:9

INDEX

**UNIFORM LIMITED PARTNERSHIP ACT OF 2001—Cont'd**

- Certificate of limited partnership, § 5:11, 5:12
- Contributions and distributions
  - Generally, § 5:31 to 5:37
  - Dissociation, no distribution due to, § 5:33
  - Interim distributions, § 5:33
  - In kind distributions, § 5:34
  - Liability for contribution, § 5:32
  - Liability for improper distribution, § 5:37
  - Limitations on distribution, § 5:36
  - Right to distribution, § 5:35
  - Sharing of distributions, § 5:33
- Creditors, rights of, § 5:47
- Deceased partner, power of estate of, § 5:48
- Delivery of records to secretary of state, § 5:15
- Dissociation
  - Generally, § 5:38 to 5:44
  - Distributions, § 5:33
  - Effect of dissociation, § 5:39, 5:42
  - General partners, § 5:40 to 5:44
  - Limited partners, § 5:38, 5:39
  - Power to bind and liability to limited partnership before dissolution of partnership of person dissociated as general partner, § 5:43
  - Power to dissociate as general partner, § 5:41
  - Third persons, liability of person dissociated as general partner to, § 5:44
  - Wrongful dissociation as general partner, § 5:41
- Distributions. Contributions and distributions, above
- Dual capacity, business transactions of partner with partnership, § 5:9
- Duration, § 5:4
- Effect of partnership agreement, § 5:7
- False information in filed record, liability for, § 5:16
- Filings
  - Generally, § 5:11 to 5:17
  - Amendment of certificate, § 5:12
  - Annual renewal for secretary of state, § 5:17
  - Certificate of limited partnership, § 5:11, 5:12
  - Delivery of records to secretary of state, § 5:15
  - False information in filed record, liability for, § 5:16
  - Formation of limited partnership, § 5:11
  - Restatement of certificate, § 5:12
  - Secretary of state, delivery to and filing of records by, § 5:15
  - Signing of records, § 5:14
  - Termination, statement of, § 5:13
- Foreign limited liability partnerships, § 5:65
- Formation of limited liability partnerships, § 5:63
- Formation of limited partnership, filings, § 5:11
- General partners
  - Generally, § 5:23 to 5:30

**UNIFORM LIMITED PARTNERSHIP ACT OF 2001—Cont'd**

General partners—Cont'd

- Actions by and against partners and partnership, § 5:26
- Dissociation, § 5:40 to 5:44
- Information, right to, § 5:28
- Liability of general partner, § 5:25
- Liability of limited partnership for conduct of general partner, § 5:24
- Management rights, § 5:27
- Standards of conduct, § 5:29
- Transfer of partnership property, § 5:30
- Improper distribution, liability for, § 5:37
- Information, right to, § 5:20, 5:28
- Interim distributions, § 5:33
- In kind distributions, § 5:34
- Knowledge, § 5:3
- Limitations on distribution, § 5:36
- Limited liability limited partnerships, § 5:66
- Limited liability partnerships, § 5:62 to 5:66
- Limited partners
  - Generally, § 5:18 to 5:22
  - Dissociation, § 5:38, 5:39
  - Duties, § 5:21
  - Information, right to, § 5:20
  - Liability for limited partnership obligations, lack of, § 5:19
  - Person erroneously believing self to be limited partner, § 5:22
- Management rights, general partners, § 5:27
- Miscellaneous provisions, § 5:50
- Name, § 5:5, 5:6
- Nature, § 5:4
- Nonwaivable provisions, § 5:7
- Notice, § 5:3
- Office for service of process, § 5:10
- Partner's liability in limited liability partnerships, § 5:64
- Powers, § 5:4
- Purpose, § 5:4
- Required information, § 5:8
- Reservation of name, § 5:6
- Restatement of certificate, § 5:12
- Secretary of state, delivery to and filing of records by, § 5:15
- Service of process, office and agent for, § 5:10
- Sharing of distributions, § 5:33
- Signing of records, filings, § 5:14
- Standards of conduct, general partners, § 5:29
- Termination, statement of, § 5:13
- Third persons, liability of person dissociated as general partner to, § 5:44
- Transfers of interests of partners, § 5:30, 5:45 to 5 to 47
- Transition rules, § 5:2

INDEX

**UNIFORM LIMITED PARTNERSHIP ACT OF 2001—Cont'd**

Wrongful dissociation as general partner, § 5:41

**UNIFORM SECURITIES ACT OF 2002**

Securities regulation, § 27:1

**UNIFORM TRADE SECRETS ACT**

Generally, § 18:3

**UNKNOWN DEBTORS**

Secured transactions, default and enforcement, § 10:175

**UTILITY**

Patents, § 17:12

**VACANCIES**

Corporations, directors and officers, § 2:12, 2:25

**VAGUE, GENERAL, OR INDEFINITE STATEMENTS**

Fraud and deceit, common law fraud, § 34:12, 34:20

**VALUE, STATEMENTS OF**

Fraud and deceit, common law fraud, § 34:23

**VENUE**

Replevin, § 38:62

**VERTICAL MERGERS**

Monopolies and antitrust, § 22:172

**VICARIOUS LIABILITY**

Business Torts, this index

Copyrights, this index

Employment, this index

**VOIDABLE CONTRACTS**

Mistakes, § 7:52

**VOIDABLE PREFERENCES**

Bankruptcy, § 32:11

**VOLUNTARY DISSOLUTION**

Dissolution, this index

**VOLUNTARY REPORTING**

Securities Exchange Act of 1934, § 26D:15

**VOTING AND VOTING RIGHTS**

Stock and stockholders, § 2:46, 2:48, 2:49

Super-Majority Voting, this index

**WAIVER AND ESTOPPEL**

Contracts

Conditions, § 7:113

Construction, § 8:89

Public policy, unenforceability, § 7:74

**WAIVER AND ESTOPPEL—Cont'd**

- Lease of personal property, § 9:12
- Patent infringement, prosecution history estoppel, § 17:27
- Promissory Estoppel, this index
- Publicity, § 19:8
- Sales, § 8:57 to 8:59
- Secured transactions, default and enforcement, § 10:172, 10:193
- Stock and Stockholders, this index

**WARRANTIES**

- Lease of personal property, § 9:13, 9:20 to 9:22
- Sales, this index

**WHISTLEBLOWERS**

- Additional employer obligations, § 14:55
- Employment, § 14:50 to 14:56
- Federal laws, § 14:70
- Minnesota Laws
  - Generally, § 14:50 to 14:56
  - Additional employer obligations, § 14:55
  - Defenses, remedies, § 14:54
  - Employment, § 14:50 to 14:56
  - Other substantive issues, § 14:56
  - Procedural issues, § 14:52
  - Remedies, defenses, § 14:53
  - Statute, § 14:51
  - Statute of limitations, § 14:53
  - Trade secrets, § 18:55
- Other substantive issues, § 14:56
- Procedural issues, § 14:52
- Remedies, defenses, § 14:53
- Sarbanes oxley act
  - Generally, § 14:71 to 14:82
  - Administrative procedure, § 14:72
  - Contributing factor to adverse employment action, § 14:79
  - Decision maker and unfavorable personnel action, Knowledge of, § 14:78
  - Effects of failure to exhaust administrative remedies with OSHA, § 14:73
  - Elements, § 14:75
  - Overview of SOX 806, § 14:71
  - Post-employment retaliation, § 14:74
  - Protected activity, § 14:76
  - Reasonable belief, § 14:77
  - Rights and remedies, § 14:82
  - Statute of limitations, § 14:81
- Statute, § 14:51
- Statute of limitations, § 14:53
- Trade secrets, § 18:55

INDEX

**WILLFULNESS**

Copyright infringement, § 15:114

Patents, enhanced damages for infringement, § 17:36

**WINDING UP**

Limited liability companies, dissolution, § 31:32

Limited partnerships, dissolution, § 31:19

Partnerships, this index

**WORKERS' COMPENSATION**

Employees or independent contractors, determination of status as, § 11:8

**WORKS MADE FOR HIRE**

Copyrights, § 15:14

**WRITS**

Execution, form, § 38:10

**WRONGFUL DISSOCIATION**

Partnerships, § 31:3

Uniform Limited Partnership Act of 2001, § 5:41