

Table of Contents

Volume 1

PART A. INTRODUCTION

CHAPTER 1. ORGANIZATION AND SCOPE OF THIS BOOK

§ 1:1 Generally

CHAPTER 2. WHAT IS A “TOXIC TORT”?

§ 2:1 Introduction

§ 2:2 Characteristics of a toxic tort

§ 2:3 Mass accidents distinguished

APPENDIX 2A. Bureau of Justice Statistics, U.S. Dep’t of Justice, Civil Justice Survey of State Courts, 1992 Civil Jury Cases and Verdicts in Large Counties (1995)

APPENDIX 2B. Bureau of Justice Statistics, U.S. Department of Justice, Civil Justice Survey of State Courts, 1996, Civil Trial Cases and Verdicts in Large Counties, 1996 (1999)

APPENDIX 2C. Bureau of Justice Statistics—2005 Civil Trials

APPENDIX 2D. Bureau of Justice Statistics—2001 Civil Trials

CHAPTER 3. ACTIVITY GIVING RISE TO TOXIC TORT LIABILITY EXPOSURE

I. INTRODUCTION

§ 3:1 Generally

II. PRODUCT SALES

A. IN GENERAL

§ 3:2 Introduction

§ 3:3 Pharmaceutical products

§ 3:4 Chemicals

§ 3:5 Pesticides

§ 3:6 Industrial materials

§ 3:7 Nanotechnology based products

§ 3:8 Toll processing

§ 3:9 Consumer products

§ 3:10 —Lead poisoning claims

§ 3:11 Mold claims

§ 3:12 Component parts

§ 3:13 Bystander claims

§ 3:14 Industry-wide litigation—Anticipatory subrogation

- § 3:15 Supertorts
- § 3:16 Settlement of Supertort litigation
- § 3:17 Supertort settlements: The role of the “Texas Two Step”

B. SPECIFIC ISSUES

- § 3:18 EMF radiation claims
- § 3:19 Minimizing toxic tort liability exposure for product sales
- § 3:20 Modernization of Cosmetics Regulation Act of 2022

C. OFF SHORE DRILLING ACTIVITIES

- § 3:21 Offshore drilling activities

D. HYDRAULIC FRACTURING

- § 3:22 Hydraulic fracturing

III. HAZARDOUS WASTES

- § 3:23 Introduction
- § 3:24 Generation and disposal of wastes
- § 3:25 Treatment and storage
- § 3:26 Waste sales
- § 3:27 Minimizing toxic tort liability exposure for hazardous waste-related conduct

IV. TRANSPORTATION SERVICES

- § 3:28 Generally
- § 3:29 Minimizing toxic tort liability exposure for transportation services

V. REAL PROPERTY OWNERSHIP

- § 3:30 Generally
- § 3:31 Sick building claims
- § 3:32 Minimizing toxic tort liability exposure for real property ownership

VI. FINANCIAL INSTITUTIONS

- § 3:33 Generally
- § 3:34 Trustees
- § 3:35 Minimizing toxic tort liability exposure for financial services

VII. PROFESSIONAL SERVICES

- § 3:36 Introduction
- § 3:37 Architects and engineers
- § 3:38 Accountants
- § 3:39 Real estate brokers

VIII. OTHER “RESPONSIBLE” PARTIES

- § 3:40 Generally

IX. SECURITIES DISCLOSURE OBLIGATIONS

- § 3:41 Generally

TABLE OF CONTENTS

- § 3:42 Background
- § 3:43 Disclosure
- § 3:44 Regulation S-K—Business description, legal proceedings
- § 3:45 —Management discussion
- § 3:46 Material environmental liabilities
- § 3:47 Past, present, and future liabilities

- APPENDIX 3A. Guidance on Landowner Liability under § 107(a)(1) of CERCLA, *De Minimis* Settlements under § 122(g)(1)(B) of CERCLA, and Settlements with Prospective Purchasers of Contaminated Property
- APPENDIX 3B. EPA Proposed Rule Defining Lender Liability Under CERCLA (June 24, 1991)
- APPENDIX 3C. EPA Final Rule Defining Lender Liability under CERCLA (April 29, 1992)
- APPENDIX 3D. Guides for the Use of Environmental Marketing Claims
- APPENDIX 3E. EPA Report on Secondary Tobacco Smoke
- APPENDIX 3F. 1994 OSHA Proposed Air Quality Rules
- APPENDIX 3G. Staff Accounting Bulletin: Loss Contingencies
- APPENDIX 3H. Policy on CERCLA Enforcement Against Lenders and Government Entities That Acquire Property Involuntarily (Oct. 6, 1995)
- APPENDIX 3I. Underground Storage Tanks—Lender Liability, 60 Fed. Reg. 46692 to 46715 (Sept. 7, 1995)
- APPENDIX 3J. Office of Prevention, Pesticides and Toxic Substances, Environmental Protection Agency, Consumer Labeling Initiative (1995) and Notice of Project Initiation, 61 Fed. Reg. 12012 (March 22, 1995)
- APPENDIX 3K. EPA Quick Reference Fact Sheet for CERCLA’s Effects on Lenders Holding Security Interests in Contaminated Property (August 1996)
- APPENDIX 3L. GAO Report on Environmental Disclosure
- APPENDIX 3M. Enforcement Discretion Guidance Regarding Statutory Criteria for Those Who May Qualify as CERCLA Bona Fide Prospective Purchasers, Contiguous Property Owners, or Innocent Landowners (“Common Elements”)
- APPENDIX 3N. Interim Enforcement Discretion Guidance Regarding Contiguous Property Owners
- APPENDIX 3O. Standards and Practices for All Appropriate Inquiries
- APPENDIX 3P. SEC Legal Bulletin Regarding Shareholder Proposals
- APPENDIX 3Q. Climate Change Disclosure Guidance
- APPENDIX 3R. FDA Draft Guidance re Drug Products Containing Nanomaterials
- APPENDIX 3S. Guidance for Industry: Assessing the Effects of Significant Manufacturing Process Changes, Including Emerging Technologies, on the Safety and Regulatory Status of Food Ingredients and Food Contact Substances, Including Food Ingredients that are Color Additives
- APPENDIX 3T. Guidance for Industry: Safety of Nanomaterials in Cosmetic Products

- APPENDIX 3U. Report on Fracking Fluids
- APPENDIX 3V. All Appropriate Inquiry Checklist and Final Rule Summary
- APPENDIX 3W. Nanomaterials Fact Sheet
- APPENDIX 3X. Table of Contents of Securities and Exchange Commission
Proposed Rule: The Enhancement and Standardization of
Climate-Related Disclosures for Investors

PART B. TOXIC TORT LIABILITY THEORIES

CHAPTER 4. TRADITIONAL LIABILITY THEORIES

I. TRESPASS

- § 4:1 Elements
- § 4:2 Application in toxic tort area

II. NEGLIGENCE

- § 4:3 Elements
- § 4:4 Application in toxic tort area

III. NUISANCE

- § 4:5 Public and private nuisance distinguished
- § 4:6 Application in toxic tort area

IV. STRICT LIABILITY

- § 4:7 Product sales
- § 4:8 Application in toxic tort area
- § 4:9 Ultrahazardous and abnormally dangerous activities
- § 4:10 Application in toxic tort area

V. MISCELLANEOUS THEORIES OF RECOVERY: ASSAULT AND BATTERY/FRAUD AND DECEIT

- § 4:11 Generally

VI. SUCCESSOR LIABILITY

- § 4:12 Generally

CHAPTER 5. DUTY TO WARN AND RIGHT-TO-KNOW

I. IMPACT UPON TOXIC TORT LITIGATION

- § 5:1 Generally

II. BASIS FOR IMPOSING DUTY TO WARN

- § 5:2 Strict products liability
- § 5:3 —Idiosyncratic defense
- § 5:4 Breach of warranty

TABLE OF CONTENTS

- § 5:5 Innocent misrepresentation
- § 5:6 Negligence
- § 5:7 Right-to-know laws

III. EXTENT OF DUTY TO WARN

- § 5:8 Expert standard
- § 5:9 Continuing duty

IV. CONTENT AND ADEQUACY OF WARNING

- § 5:10 Generally

V. AVAILABILITY OF SUMMARY JUDGMENT

- § 5:11 Generally

VI. WARNING INTERMEDIARIES

- § 5:12 Generally
- § 5:13 Learned intermediary doctrine
- § 5:14 Exceptions to learned intermediary doctrine
- § 5:15 Future of learned intermediary doctrine
- § 5:16 Bulk product suppliers

VII. STATE OF THE ART—UNKNOWABLE RISKS

- § 5:17 State of the art defense
- § 5:18 Cases accepting state of the art defense
- § 5:19 Cases rejecting state of the art defense
- § 5:20 Recent developments

VIII. CAUSATION ISSUE

- § 5:21 Difference between inadequate warning and other product defects
- § 5:22 Requirement of demonstrating causation—Sophisticated users
- § 5:23 Heeding presumption

IX. SUBSEQUENT REMEDIAL MEASURES

- § 5:24 Applicable rule
- § 5:25 Negligence actions
- § 5:26 Strict liability actions
- § 5:27 Cases in which both strict liability and negligence are alleged
- § 5:28 Effect of Rule 407 on duty to warn cases
- § 5:29 Other basis for excluding subsequent remedial measures

X. IMPACT OF RIGHT-TO-KNOW LAWS

- § 5:30 Federal right-to-know standard
- § 5:31 State right-to-know laws
- § 5:32 Disclosure obligations imposed under state right-to-know laws
- § 5:33 Preemption
- § 5:34 Impact of state and federal right-to-know laws on duty to warn litigation

CHAPTER 6. NEW LIABILITY THEORIES

I. GENERAL LIABILITY THEORIES

- § 6:1 Market share/commingled product liability
- § 6:2 Concert of action/aider and abettor liability
- § 6:3 Risk contribution
- § 6:4 Alternative liability
- § 6:5 Enterprise liability
- § 6:6 Special toxic tort considerations

II. RICO CLAIMS

A. INTRODUCTION

- § 6:7 Generally

B. ELEMENTS OF A CIVIL RICO CAUSE OF ACTION

- § 6:8 Introduction
- § 6:9 Pattern of racketeering
- § 6:10 Existence of an enterprise
- § 6:11 Nexus between enterprise and pattern of racketeering activity
- § 6:12 Injury
- § 6:13 Illegal activities under RICO
- § 6:14 —Investing racketeering derived income in an enterprise
- § 6:15 —Acquiring an interest in, or control of an enterprise through racketeering activity
- § 6:16 —Conducting the affairs of an enterprise through a pattern of racketeering activity
- § 6:17 —Conspiring to violate subsections (a), (b) or (c)

C. PREDICATE OFFENSES WHICH COULD BE PLEAD IN AN ENVIRONMENTAL RICO ACTION

- § 6:18 Generally
- § 6:19 Mail fraud and wire fraud
- § 6:20 Arson
- § 6:21 Murder
- § 6:22 Other predicate acts

D. RESTRICTIONS ON RICO CLAIMS

- § 6:23 Statutes of limitations for RICO claims
- § 6:24 Standing for purposes of § 1962(a)
- § 6:25 —Causation
- § 6:26 Pleading
- § 6:27 —Fraud
- § 6:28 Concurrent jurisdiction

E. THE PROS AND CONS OF USING RICO IN ENVIRONMENTAL AND TOXIC TORT LITIGATION

- § 6:29 Generally

TABLE OF CONTENTS

1. Advantages

- § 6:30 Treble damages
- § 6:31 Attorneys' fee and costs
- § 6:32 Avoidance of tort theory

2. Disadvantages

- § 6:33 Damages limited to business or property damages
- § 6:34 Uncertain injunctive relief
- § 6:35 Judicial hostility
- § 6:36 Rule 11

III. NEGLIGENT MARKETING CLAIMS

- § 6:37 Generally
- § 6:38 Consumer fraud/diminished value claims

APPENDIX 6A. RICO Disclosure Order

CHAPTER 7. NEW DAMAGE THEORIES

I. INTRODUCTION

- § 7:1 Generally

II. EMOTIONAL DISTRESS AND SIMILAR CLAIMS

- § 7:2 Generally
- § 7:3 Emotional distress—Nature of the claim
- § 7:4 —Physical impact or injury requirement
- § 7:5 —Causation defense
- § 7:6 —Mitigation
- § 7:7 Post-traumatic stress disorder
- § 7:8 Fear of future injury
- § 7:9 Cancerphobia

III. MEDICAL MONITORING

- § 7:10 In general
- § 7:11 Defense issues
- § 7:12 Recovery under CERCLA

IV. QUALITY OF LIFE

- § 7:13 Generally

V. INCREASED RISK OF FUTURE INJURY

- § 7:14 In general
- § 7:15 Splitting causes of action

VI. CANCER PROMOTION CLAIMS

- § 7:16 Introduction
- § 7:17 The nature of cancer promotion claims
- § 7:18 Advantages to toxic tort claimants

- § 7:19 Strategies for effectively combatting cancer promotion claims—Recognize the claims
- § 7:20 ——Challenge the legal sufficiency of human cancer promotion theories
- § 7:21 ——Challenge the qualifications of the particular expert witness
- § 7:22 ——Compel an explanation of the basic mechanism of promotion
- § 7:23 ——Answer the specifics of the promotion claim
- § 7:24 ——Identify the legal weaknesses of the promotion claims
- § 7:25 ——Emphasize the lack of epidemiological support
- § 7:26 ——Attack the legal sufficiency of the claim

VII. EFFECTS ON IMMUNE SYSTEM AND CHEMICAL SENSITIVITY

- § 7:27 Chemically induced immune system dysregulation and dysfunction claims
- § 7:28 Multiple chemical sensitivity

VIII. PROMOTERS

- § 7:29 Generally

IX. STIGMA DAMAGES

- § 7:30 Generally

X. ENDOCRINE DISRUPTION CLAIMS

- § 7:31 In general
- § 7:32 The nature of endocrine disrupter claims
- § 7:33 Toxic tort implications of endocrine disrupter claims
- § 7:34 Scientific issues
- § 7:35 Legal issues

XI. REACTIVE AIRWAYS DISEASE SYNDROME

- § 7:36 Generally

- APPENDIX 7A. Special Report on Environmental Endocrine Disruption: An Effects Assessment and Analysis
- APPENDIX 7B. Environmental Protection Agency Endocrine Disrupter Screening Program Report to Congress
- APPENDIX 7C. Report of the Expert Panel Workshop on the Psychological Responses to Hazardous Substances
- APPENDIX 7D. ATSDR Criteria For Medical Monitoring Programs

CHAPTER 8. STATUTORY CLAIMS

I. FEDERAL TOXIC TORT STATUTES

- § 8:1 In general
- § 8:2 Superfund
- § 8:3 Multiparty, Multiforum Trial Jurisdiction Act of 2002

II. FEDERAL TOXIC SUBSTANCE REGULATORY SCHEMES

- § 8:4 Introduction

TABLE OF CONTENTS

- § 8:5 Federal Water Pollution Control Act
- § 8:6 Safe Drinking Water Act
- § 8:7 Clean Air Act
- § 8:8 Occupational Safety and Health Act
- § 8:9 Toxic Substances Control Act
- § 8:10 Coordinated federal/state civil enforcement proceedings
- § 8:11 COVID-19 claims

III. STATE TOXIC TORT STATUTES

- § 8:12 In general
- § 8:13 Medicaid cost recovery

IV. ALIEN TORT STATUTE

- § 8:14 Liability under the Alien Tort Statute
- APPENDIX 8A. EPA Proposed Rule Governing Recovery of Costs for CERCLA Response Actions (August 6, 1992)
- APPENDIX 8B. Department of the Interior's Rule Governing Natural Resource Damage Assessments (May 7, 1996)
- APPENDIX 8C. Model Medicaid Reimbursement Complaint Alleging Tobacco-Related Injuries, Diseases and Illnesses Caused by Various Tobacco Companies
- APPENDIX 8D. Proposed Tobacco Settlements
- APPENDIX 8E. Guidelines for Joint State/Federal Environmental Enforcement Litigation
- APPENDIX 8F. TSCA First Year Implementation Plan
- APPENDIX 8G. PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024
- APPENDIX 8H. Key EPA Actions to Address PFAS
- APPENDIX 8I. PFAS Strategic Roadmap: Second Annual Progress Report
- APPENDIX 8J. PFAS Strategic Roadmap Three Years of Progress

CHAPTER 9. PUNITIVE DAMAGES

I. INTRODUCTION

- § 9:1 Constitutionality

II. RATIONALE

- § 9:2 Generally
- § 9:3 Punishment of the wrongdoer
- § 9:4 Deterrence of the defendant
- § 9:5 Deterrence of third parties
- § 9:6 Other rationales

III. ACADEMIC AND JUDICIAL CRITICISM OF PUNITIVE DAMAGES

- § 9:7 Academic and judicial criticism of punitive damages

§ 9:8 Judicial acceptance of punitive damages

IV. IMPOSITION OF PUNITIVE DAMAGES

- § 9:9 Punitive damages in toxic tort actions
- § 9:10 Standard of liability—In general
- § 9:11 — —Vicarious and other new liability theories
- § 9:12 Burden of proof
- § 9:13 Judicial control of punitive damage awards—Miscellaneous techniques
- § 9:14 — —Bifurcation
- § 9:15 — —Relationship rules

V. INSURABILITY

§ 9:16 Generally

CHAPTER 10. TOXIC TORT COMPLAINTS

- § 10:1 Tips for drafting toxic tort complaints
- § 10:2 Removal—Generally
- § 10:3 Removal of state class actions
- § 10:4 Litigation funding
- APPENDIX 10A. Model Class Action Complaint with Respect to Toxic Injuries
Allegedly Related to Lead Paint Exposure
- APPENDIX 10B. Report on Class Action Fairness Act
- APPENDIX 10C. Litigation Financing Disclosure Order

PART C. DEFENSE ISSUES

CHAPTER 11. SUBSTANTIVE DEFENSES

- § 11:1 Contributory and comparative negligence
- § 11:2 Assumption of the risk
- § 11:3 Product identification
- § 11:4 Product specification
- § 11:5 Government specification
- § 11:6 Compliance with statutes and regulations
- § 11:7 Statutory defenses
- § 11:8 Federal preemption—Introduction
- § 11:9 —Express preemption
- § 11:10 —Implied preemption
- § 11:11 Primary jurisdiction
- § 11:12 Standing/Remoteness
- § 11:13 Pleading issues—Affirmative defenses
- § 11:14 —Cross claims
- APPENDIX 11A. Affirmative Defenses
- APPENDIX 11B. Cross Claims
- APPENDIX 11C. Preemption Memorandum

CHAPTER 12. STATUTES OF LIMITATION

§ 12:1 Introduction

TABLE OF CONTENTS

- § 12:2 Exposure rule
- § 12:3 Manifestation rule
- § 12:4 Discovery rule
- § 12:5 —Discovery of injury
- § 12:6 —Discovery of injury and cause
- § 12:7 —Discovery of injury, cause, and parties liable
- § 12:8 Special toxic tort statutes of limitation—State statutes
- § 12:9 —Federal 1986 SARA provision
- § 12:10 Issues in application and interpretation
- § 12:11 Class action tolling of statute of limitations
- § 12:12 Statutes of repose

APPENDIX 12A. Tolling Agreement

CHAPTER 13. PERSONAL JURISDICTION

I. IN GENERAL

- § 13:1 Introduction
- § 13:2 Method of analysis
- § 13:3 Due process standard

II. PERSONAL JURISDICTION IN TOXIC TORT CASES

- § 13:4 Nature of the claims
- § 13:5 General and specific jurisdiction
- § 13:6 Sufficiency of foreign party conduct
- § 13:7 Unique factual settings—Product suppliers
- § 13:8 —Generation and disposal of hazardous waste
- § 13:9 —New liability theories

III. FORUM NON CONVENIENS

- § 13:10 In general
- § 13:11 Foreign parties

CHAPTER 14. SUMMARY JUDGMENT

- § 14:1 Summary judgment standard
- § 14:2 Availability of summary judgment

Volume 2

CHAPTER 15. RIGHT TO A JURY

- § 15:1 Introduction
- § 15:2 Superfund actions
- § 15:3 Personal injury actions—Seventh Amendment
- § 15:4 —Complexity exception
- § 15:5 —Due process exception
- § 15:6 Toxic tort actions
- § 15:7 Other jury issues
- § 15:8 Juror's voir dire

APPENDIX 15A. Jury Voir Dire Outline to Be Used in Toxic Tort Actions

- APPENDIX 15B. Detailed juror questionnaire
- APPENDIX 15C. Focused juror questionnaire
- APPENDIX 15D. Breast implant questionnaire
- APPENDIX 15E. New Jersey Bench Manual on Jury Selection

CHAPTER 16. PRACTICAL TRIAL PREPARATION

I. IMPORTANCE OF CASE THEORY AND DIRECT APPROACH

- § 16:1 Generally

II. TRIAL LOGISTICS

- § 16:2 In general—Billing issues
- § 16:3 Trial site supplies and services
- § 16:4 Staff preparation
- § 16:5 Supervision of trial counsel's preparation

III. DEALING WITH PUBLIC RELATIONS CONCERNS

- § 16:6 Introduction
- § 16:7 Public perception of risks involved in toxic tort litigation
- § 16:8 Communicating with the public
- § 16:9 The nature of the information to be disclosed
- § 16:10 Useful public communication techniques
- § 16:11 Confidentiality and privilege issues

IV. ALTERNATIVE DISPUTE RESOLUTION (ADR)

- § 16:12 Use of alternative dispute resolution in toxic tort cases
- § 16:13 Class action arbitration procedures
- APPENDIX 16A. Excerpts from Courtroom Technology Manual
- APPENDIX 16B. How to work with the media
- APPENDIX 16C. Guidance on the Use of Alternative Dispute Resolution for Litigation in the Federal Courts
- APPENDIX 16D. Mediation Agreement

PART D. COORDINATION ISSUES

CHAPTER 17. COLLATERAL ESTOPPEL

- § 17:1 Introduction
- § 17:2 Res judicata distinguished
- § 17:3 Offensive collateral estoppel
- § 17:4 Applicable collateral estoppel rules
- § 17:5 Special considerations in toxic tort litigation
- § 17:6 —Identity of issue—In general
- § 17:7 —Duty to warn cases
- § 17:8 —Full and fair opportunity to litigate—The prior judgment
- § 17:9 The future of collateral estoppel in toxic tort litigation

CHAPTER 18. CONTRIBUTION AND INDEMNITY

- § 18:1 Joint and several liability

TABLE OF CONTENTS

§ 18:2	Rationale for contribution and indemnity
§ 18:3	Difference between contribution and indemnity
§ 18:4	Common law limitations upon contribution
§ 18:5	Making contribution available to joint tortfeasors
§ 18:6	Contribution statutes
§ 18:7	Statutory allocations of liability
§ 18:8	Special Environmental Contribution Statutes—Common law contribution under Superfund
§ 18:9	—Statutory contribution under Superfund
§ 18:10	—Contribution protection
§ 18:11	—Impact of contribution protection
§ 18:12	—Allocation factors
§ 18:13	—The Gore Amendment
§ 18:14	—Volumetric allocation
§ 18:15	—Comparative fault
§ 18:16	—Causation
§ 18:17	—Per capita
§ 18:18	—Burden of proof
§ 18:19	Availability of indemnity to joint tortfeasors
§ 18:20	Contractual indemnification and contribution
§ 18:21	Effect of releases—Plaintiff's claims against joint tortfeasors
§ 18:22	—Contribution or indemnity claims
§ 18:23	Co-defendant indemnification agreements in lieu of settlement
§ 18:24	Contribution for punitive damages
§ 18:25	Mary Carter agreements
§ 18:26	Settlement issues: Requirements for the satisfaction of Medicare liens

APPENDIX 18A. Indemnity Agreement

CHAPTER 19. COOPERATIVE EFFORTS AMONG PARTIES

§ 19:1	Introduction
§ 19:2	Parties cooperating
§ 19:3	Areas of cooperation
§ 19:4	Dealing with recalcitrants—Nature of the problem
§ 19:5	—Direct efforts
§ 19:6	—Withholding of benefits
§ 19:7	—Settlement option
§ 19:8	—Judicial intervention
§ 19:9	Retaining counsel
§ 19:10	Billing
§ 19:11	Funding
§ 19:12	Joint defense agreements
§ 19:13	Identification of additional parties
§ 19:14	Pretrial research efforts—Coordinated legal research
§ 19:15	—Pre-interview questionnaires
§ 19:16	—Selection of experts
§ 19:17	Retaining consultants
§ 19:18	Confidentiality
§ 19:19	Crossclaims
§ 19:20	Obtaining special orders
§ 19:21	Settlement

- § 19:22 Division of responsibility among counsel
- § 19:23 Cross-party discovery
- § 19:24 Remedial activity: Value protection plans
- § 19:25 Budgeting, billing and expense categories
- § 19:26 Planning for the future—The issue book
- § 19:27 Trial coordination
- § 19:28 Trial logistics
- APPENDIX 19A. Funding Agreement
- APPENDIX 19B. Pre-Interview Questionnaire
- APPENDIX 19C. Pretrial Order
- APPENDIX 19D. Agreement to Share Counsel
- APPENDIX 19E. Discovery Protocol
- APPENDIX 19F. Retainer Agreement
- APPENDIX 19G. Attorney Services Agreement
- APPENDIX 19H. Consulting Services Agreement
- APPENDIX 19I. —Payment Term Restrictions
- APPENDIX 19J. Contractor Services Agreement
- APPENDIX 19K. Tobacco Litigation Settlement Agreement—Class Action
- APPENDIX 19L. —Attorneys General
- APPENDIX 19M. Joint Defense Agreement
- APPENDIX 19N. Preliminary Case Management Order
- APPENDIX 19O. DuPont Value Protection Program
- APPENDIX 19P. Counsel Billing Codes and Categories
- APPENDIX 19Q. Amended Plan of Reorganization of Dow Corning Corporation
- APPENDIX 19R. Vioxx Settlement Agreement
- APPENDIX 19S. Deepwater Horizon Emergency Claims Facility Protocol
- APPENDIX 19T. Common Benefit Fund Order
- APPENDIX 19U. Defence Budget Form
- APPENDIX 19V. Trust Distribution Procedures—North American Refractories

CHAPTER 20. CLASS ACTIONS AND OTHER CLAIM CONSOLIDATION PROCEDURES

- § 20:1 Introduction
- § 20:2 Applicable federal rules
- § 20:3 Common question class actions
- § 20:4 —Numerosity
- § 20:5 —Common questions
- § 20:6 —Typicality
- § 20:7 —Adequate representation
- § 20:8 —Predomination of common questions
- § 20:9 —Superiority of class action
- § 20:10 The standard for resolving disputed issues with respect to class certification
- § 20:11 Limited fund class actions
- § 20:12 Rule 23(b)(2) injunction classes—Medical monitoring

TABLE OF CONTENTS

§ 20:13	Class action certification appeals
§ 20:14	Binding effect of decisions denying class certification
§ 20:15	Toxic tort class action decisions
§ 20:16	Toxic torts class actions based on statutory claims
§ 20:17	Removal of state class actions
§ 20:18	Class action arbitration procedures
§ 20:19	Alternatives to class actions
§ 20:20	The bankruptcy option
§ 20:21	Use of “bellwether” cases
§ 20:22	Bifurcation
§ 20:23	Summary jury trials
§ 20:24	Use of liaison committees
§ 20:25	Complex case management procedures
§ 20:26	Consolidation
APPENDIX 20A.	Federal Judicial Center—Mass Torts Table of Contents
APPENDIX 20B.	Federal Judicial Center—Mass Torts Case Management Order
APPENDIX 20C.	Case Management Order: Silicone Gel Breast Implant Litigation (N.J. Super. Ct. Law Div.)
APPENDIX 20D.	Asbestos Case Order
APPENDIX 20E.	Report of New Jersey Mass Tort Advisory Committee
APPENDIX 20F.	New Jersey Rejection of Mass Tort Court
APPENDIX 20G.	Civil Litigation Manual
APPENDIX 20H.	Medical Monitoring Class Action Fairness Hearing
APPENDIX 20I.	New Jersey MultiCounty Litigation Resource Book
APPENDIX 20J.	Medical Monitoring Class Action Settlement Agreement
APPENDIX 20K.	New Jersey Case Management Manual For Asbestos Cases
APPENDIX 20L.	Summary Jury Trial CMO
APPENDIX 20M.	Summary Jury Trial Discovery CMO
APPENDIX 20N.	Trial Plan
APPENDIX 20O.	Multicounty Litigation Guidelines

Volume 3

CHAPTER 21. MULTIDISTRICT CONSOLIDATION

§ 21:1	The judicial panel on multidistrict litigation
§ 21:2	Consolidation standards
§ 21:3	Multidistrict litigation practice
§ 21:4	Trial consolidation—Appeal
APPENDIX 21A.	Multidistrict Litigation Guide
APPENDIX 21B.	Multidistrict Litigation Product Liability Guide

PART E. DISCOVERY ISSUES

CHAPTER 22. SPECIAL PROBLEMS IN TOXIC TORT DISCOVERY

§ 22:1	Applicable rules—Introduction
--------	-------------------------------

- § 22:2 —Local rules
- § 22:3 —Special orders
- § 22:4 Rule 26 conference and mandatory disclosure
- § 22:5 Interrogatories
- § 22:6 Document production and inspection
- § 22:7 —Discovery of electronic materials
- § 22:8 Depositions
- § 22:9 Requests to admit
- § 22:10 Third-party discovery
- § 22:11 Former employee discovery
- § 22:12 Penalties for non-compliance
- § 22:13 Purpose of toxic tort discovery—Plaintiff’s perspective
- § 22:14 —Defendant’s perspective
- § 22:15 Sources of information
- § 22:16 Medical questionnaires—Introduction
- § 22:17 —Format of questionnaire—Instructions
- § 22:18 — —Background information
- § 22:19 — —Medical claim
- § 22:20 — —Treatment history
- § 22:21 — —Employment history
- § 22:22 — —Exposure history
- § 22:23 — —Damage claims
- § 22:24 — —Medical authorizations
- § 22:25 Use of special masters
- § 22:26 “Lone Pine” orders
- § 22:27 Spoliation of evidence

APPENDIX 22A. Lone Pine Decision

APPENDIX 22B. Outline of Report From Medical Causation and Medical Surveillance Expert—Based on Exposure To Hazardous Substances

APPENDIX 22C. Federal Rules of Civil Procedure Form 52—Report of the Parties’ Planning Meeting

APPENDIX 22D. Form Stipulation As to Business Records Produced in Discovery

APPENDIX 22E. Form Notice of Deposition Regarding Plaintiffs’ Discovery Responses

APPENDIX 22F. Deposition Guidelines

APPENDIX 22G. Deposition Outline—Claimant

APPENDIX 22H. Authorization for the Release of Medical Information

APPENDIX 22I. Authorization for the Release of Employment and Other Background Information

APPENDIX 22J. Department of Justice Guidelines for Searching and Seizing Computers

APPENDIX 22K. Sample Interrogatories with Respect to Electronic Data

APPENDIX 22L. Rule 16 Electronic Discovery Supplement

APPENDIX 22M. Document Production Protocol

APPENDIX 22N. Instruction for Preservation of Corporate Documents

APPENDIX 22O. Deposition Protocol

CHAPTER 23. DISCOVERY OF EXPERTS

- § 23:1 Introduction—Ex parte contacts
- § 23:2 Discovery prior to Rule 26(b)(4)
- § 23:3 Former Rule 26(b)(4)
- § 23:4 Expert employees and fact witnesses
- § 23:5 Experts not retained in anticipation of litigation
- § 23:6 Experts retained but not expected to be called as witnesses
- § 23:7 Experts expected to be called at trial—Duty to supplement answers
- § 23:8 Expert discovery under the 1993 amendments to the federal rules of civil procedure
- § 23:9 Judicial use of expert tutorials
- § 23:10 Concurrent expert discovery
- APPENDIX 23A. Deposition Outline—Medical Causation Expert
- APPENDIX 23B. Deposition Outline—Psychological Expert
- APPENDIX 23C. Deposition Outline—Hydrogeological Expert
- APPENDIX 23D. Notice re Tutorial

CHAPTER 24. PRIVILEGE AND WORK PRODUCT

- § 24:1 Privilege
- § 24:2 Crime fraud exception
- § 24:3 Procedure for resolving privilege and waiver questions—Rule 26(b)(5)
- § 24:4 —In camera review
- § 24:5 Scope of attorney-client privilege
- § 24:6 Work product
- § 24:7 Critical self-examination
- § 24:8 Disclosure of investigations conducted by counsel
- § 24:9 Privilege and insurance coverage
- § 24:10 Internal corporate investigations
- § 24:11 Waiver
- APPENDIX 24A. New York Privilege Log Rule

CHAPTER 25. CONFIDENTIALITY ORDERS

- § 25:1 Introduction
- § 25:2 Arguments favoring confidentiality orders
- § 25:3 Arguments against confidentiality orders
- § 25:4 First amendment issues
- § 25:5 Confidentiality order practice—Need for judicial intervention
- § 25:6 —Standards for judicial approval of confidentiality orders
- § 25:7 Confidential settlement agreements
- APPENDIX 25A. Form Confidentiality Stipulations: Simple Form
- APPENDIX 25B. Form Confidentiality Stipulations: More Complex Form
- APPENDIX 25C. Detailed Confidentiality Order with Provision for Security of Data
- APPENDIX 25D. Multi-Tiered Confidentiality Order Providing for Different Levels of Protection for Different Types of Information
- APPENDIX 25E. Opiate Litigation Confidentiality Order

CHAPTER 26. ATTORNEY SANCTIONS

- § 26:1 Sources for the imposition of sanctions—Rule 37—Discovery abuses

- § 26:2 —Rule 26(g)—Discovery certification
- § 26:3 —Multiplication of proceedings—28 U.S.C.A. § 1927
- § 26:4 —Rule 11—Attorney certification
- § 26:5 —Comparable state rules
- § 26:6 —Inherent power of the court
- § 26:7 Rule 11 sanctions
- § 26:8 Basis for the imposition of Rule 11 sanctions
- § 26:9 Procedural considerations under the pre-1993 Rule 11
- § 26:10 Special attorney sanction issues in toxic tort litigation
- § 26:11 Avoiding the imposition of Rule 11 sanctions

APPENDIX 26A. Verified Adversary Complaint

APPENDIX 26B. RICO “Attorney Misconduct” Complaint

APPENDIX 26C. General Motors Ignition Switch Litigation RICO Claims

APPENDIX 26D. RICO Complaint Against Asbestos Plaintiffs’ Firm

PART F. PROOF OF TOXIC TORT CLAIMS

CHAPTER 27. CAUSATION

- § 27:1 Introduction
 - § 27:2 Burden of proof
 - § 27:3 Modern methods of circumventing causation difficulties
 - § 27:4 Application of traditional cause-in-fact analysis—In general
 - § 27:5 —Product identification
 - § 27:6 New methods of scientific proof—Reference manual on scientific evidence
- APPENDIX 27A. Reference Guide on Exposure Assessment

CHAPTER 28. EPIDEMIOLOGICAL EVIDENCE

I. INTRODUCTION

- § 28:1 Generally

II. METHODOLOGICAL ISSUES

- § 28:2 Experimental and observational studies
- § 28:3 Clinical and community trials
- § 28:4 Prospective, retrospective, and cross sectional studies—Prospective studies
- § 28:5 —Concurrent prospective studies
- § 28:6 —Non-concurrent prospective studies
- § 28:7 —Retrospective studies
- § 28:8 —Cross sectional studies
- § 28:9 —The prospective/retrospective debate
- § 28:10 Bias issues
- § 28:11 —Confounding bias
- § 28:12 —Selection bias
- § 28:13 —Information bias
- § 28:14 —Reporting bias
- § 28:15 —Bias generally

III. STATISTICAL ISSUES

- § 28:16 Introduction
- § 28:17 Statistical significance—What statistical significance is
- § 28:18 —How statistical significance is measured
- § 28:19 —Importance of statistical significance—In general
- § 28:20 — —P values
- § 28:21 —The null hypothesis
- § 28:22 Meta-analysis of epidemiological studies

IV. ANALYTICAL ISSUES

- § 28:23 Introduction—Purpose for which the study is offered
- § 28:24 Relative risk
- § 28:25 Attributable risk
- § 28:26 Henle Koch Postulates
- § 28:27 Bradford Hill criteria

V. UTILIZATION OF EPIDEMIOLOGICAL STUDIES ON THE ISSUE OF CAUSATION

- § 28:28 Evaluation of studies
- § 28:29 Proposals for restrictions upon use of epidemiological evidence

VI. PRESENTATION ISSUES

- § 28:30 Generally

VII. JUDICIAL USE OF EPIDEMIOLOGICAL EVIDENCE

- § 28:31 Introduction
- § 28:32 Cigarette cases
- § 28:33 Workplace and product exposure
- § 28:34 Swine flu cases
- § 28:35 Recent trends

VIII. USE OF EPIDEMIOLOGICAL EVIDENCE IN WASTE DISPOSAL CASES

- § 28:36 Generally

APPENDIX 28A. Reference Guide on Epidemiology

APPENDIX 28B. Reference Guide on Statistics

CHAPTER 29. OTHER METHODS OF PROVING TOXIC INJURY

- § 29:1 Introduction
- § 29:2 Risk assessment
- § 29:3 Toxicity equivalency factors
- § 29:4 Generic cancer policy
- § 29:5 Epidemiological evidence
- § 29:6 Genetic evidence—Individualized genetic testing
- § 29:7 —Toxicogenomics
- § 29:8 Long term bioassays

- § 29:9 Short term bioassays
- § 29:10 Exposure assessments
- § 29:11 Cumulative risk/exposure assessments
- § 29:12 Judicial notice of statutes and regulations
- § 29:13 Toxicological profiles of the Agency for Toxic Substances and Disease Registry (ATSDR)
- § 29:14 Government records and reports
- § 29:15 Proving particular facts through the use of aggregate evidence
- APPENDIX 29A. Toxicological Profile for Lead—Agency for Toxic Substances and Disease Registry (ATSDR)
- APPENDIX 29B. Proposed Guidelines for Exposure-Related Measurements
- APPENDIX 29C. Conversion Factors
- APPENDIX 29D. List of Acronyms and Abbreviations
- APPENDIX 29E. Risk Assessment Guidance Document for Superfund
- APPENDIX 29F. Preliminary Draft Cleanup Standards—New Jersey Dept. of Environmental Protection
- APPENDIX 29G. EPA Workshop Report on Toxicity Equivalency Factors for Polychlorinated Biphenyl Congeners, June 1991
- APPENDIX 29H. Guidelines for Developmental Toxicity Risk Assessment
- APPENDIX 29I. Guidelines for Exposure Assessment (May 29, 1992)
- APPENDIX 29J. Working Paper for Considering Draft Revisions to the U.S. EPA Guidelines for Cancer Risk Assessment (November 1992)
- APPENDIX 29K. Reference Guide on Toxicology
- APPENDIX 29L. Guidelines for Carcinogen Risk Assessment
- APPENDIX 29M. EPA Dioxin Reassessment Report
- APPENDIX 29N. Report on Peer Review of Dioxin Reassessment Documents
- APPENDIX 29O. ATSDR Minimal Risk Levels
- APPENDIX 29P. EPA Interim Genomics Policy

Volume 4

CHAPTER 30. STANDARDS FOR EXPERT TESTIMONY

- § 30:1 Introduction
- § 30:2 Helpfulness—Generally
- § 30:3 —Helpfulness with respect to particular matters
- § 30:4 Expert qualifications
- § 30:5 Summary testimony
- § 30:6 Basis for expert testimony
- § 30:7 Formation of opinions “upon the subject”
- § 30:8 Judicial control of expert testimony—Introduction
- § 30:9 —Judicial restrictions on the use of expert testimony
- § 30:10 —Permissive judicial attitudes toward the introduction of expert testimony
- § 30:11 Court appointed experts
- § 30:12 Professional obligations of the expert witness
- § 30:13 Conclusion

TABLE OF CONTENTS

- APPENDIX 30A. National Science Panel Breast Implant Report
- APPENDIX 30B. Ethical Guidelines for Occupational and Environmental
Medicine Expert Witnesses
- APPENDIX 30C. Conflict and Bias Screening Questionnaire

PART G. INSURANCE COVERAGE

CHAPTER 31. INSURANCE COVERAGE

I. IN GENERAL

- § 31:1 Introduction
- § 31:2 Special problems raised by toxic tort coverage claims
- § 31:3 Coronavirus/Covid 19 claims
- § 31:4 Per- and polyfluoroalkyl substances (PFAS)

II. JUDICIAL ATTITUDES TOWARD THE COMPREHENSIVE GENERAL LIABILITY (CGL) POLICY

- § 31:5 In general
- § 31:6 Summary judgment

III. THE COMPREHENSIVE GENERAL LIABILITY (CGL) POLICY

- § 31:7 Generally
- § 31:8 Named insured
- § 31:9 Time period of coverage/Non-assignment clauses
- § 31:10 Limitation on duty to indemnify and defend
- § 31:11 Standardizing the CGL language

IV. LOST POLICIES

- § 31:12 Introduction—Best evidence
- § 31:13 Standard of proof
- § 31:14 Permissible secondary evidence
- § 31:15 Amount of secondary evidence necessary to sustain burden
- § 31:16 Sources of secondary evidence

V. NOTICE

- § 31:17 Generally

VI. DUTY TO DEFEND

- § 31:18 Introduction
- § 31:19 Comparison test—In general
- § 31:20 —Allegations of the complaint
- § 31:21 Extrinsic evidence
- § 31:22 Policy limits
- § 31:23 Environmental investigation costs as defense expenses
- § 31:24 Governmental “demand letters”
- § 31:25 Medical monitoring claims
- § 31:26 Insurer obligation to pay for affirmative claims

VII. COVERAGE FOR “ACCIDENTS”

- § 31:27 Generally
- § 31:28 Long-term exposure problem
- § 31:29 Conduct of the insured

VIII. COVERAGE FOR “OCCURRENCES”

- § 31:30 Generally
- § 31:31 Expected or intended from the standpoint of the insured
- § 31:32 Meaning of occurrence

IX. KNOWN LOSS

- § 31:33 “Known loss” doctrine
- § 31:34 “Loss in progress” doctrine
- § 31:35 “Known risk” doctrine
- § 31:36 Application of the doctrines

X. POLLUTION EXCLUSION

- § 31:37 Introduction
- § 31:38 Judicial attitudes toward the interpretation of the pollution exclusion
- § 31:39 Judicial interpretations—Cases finding coverage
- § 31:40 —Cases finding no coverage
- § 31:41 Insurance industry statements
- § 31:42 —Newspaper reports
- § 31:43 —Insurer representations to governmental authorities
- § 31:44 —Briefs
- § 31:45 Burden of proof
- § 31:46 The absolute pollution exclusion

XI. OTHER EXCLUSIONS

- § 31:47 Care, custody, or control (“owned property”) exclusion
- § 31:48 Completed operations/product hazard exclusion
- § 31:49 Business risk/product withdrawal exclusion

XII. PERSONAL INJURY INSURANCE COVERAGE

- § 31:50 Generally

XIII. PROPERTY DAMAGE

- § 31:51 Introduction
- § 31:52 Government cleanup expenses
- § 31:53 Voluntary cleanup efforts
- § 31:54 Injunctions
- § 31:55 Coverage for toxic tort/environmental damage

XIV. BODILY INJURY

- § 31:56 Generally
- § 31:57 Bodily injury coverage triggers
- § 31:58 —Exposure

TABLE OF CONTENTS

- § 31:59 —Manifestation
- § 31:60 —Triple trigger
- § 31:61 —Injury in fact
- § 31:62 Procedure for determining bodily injury coverage trigger issues

XV. PROPERTY DAMAGE COVERAGE TRIGGERS

- § 31:63 Generally

XVI. EXTENT OF COVERAGE TRIGGERED

- § 31:64 Generally
- § 31:65 Number of occurrences
- § 31:66 Proration/Allocation of coverage—Other insurance clauses
- § 31:67 Stacking of limits
- § 31:68 Liability for self-insured periods

XVII. STANDARD OF POLICY INTERPRETATION

- § 31:69 Generally—Contra proferentem

XVIII. ENVIRONMENTAL IMPAIRMENT POLICIES

- § 31:70 Generally

XIX. DIRECTORS AND OFFICERS LIABILITY POLICIES

- § 31:71 Generally

XX. LITIGATION ISSUES

- § 31:72 Forum non conveniens
- § 31:73 Discovery
- § 31:74 Direct actions
- § 31:75 Bankruptcy impact

XXI. CHOICE OF LAW

- § 31:76 Generally

XXII. DETERMINING WHETHER TO MAINTAIN AN ENVIRONMENTAL COVERAGE ACTION

- § 31:77 Introduction
- § 31:78 The risks involved
- § 31:79 Determining the litigation goals
- § 31:80 The data assembly process
- § 31:81 The policies
- § 31:82 The sites
- § 31:83 Obtaining the necessary data—Personnel and budgeting issues
- § 31:84 Other data relating to claims
- § 31:85 Data organization
- § 31:86 The key witnesses
- § 31:87 Expert witness identification
- § 31:88 Confidentiality issues

§ 31:89 Choosing the forum

XXIII. MANAGING AN ENVIRONMENTAL COVERAGE ACTION

§ 31:90 Case management orders

§ 31:91 —Exemplar sites

§ 31:92 —Carrier discovery

§ 31:93 Settlement issues

XXIV. SETTLEMENT ISSUES

§ 31:94 Generally

XXV. TRIAL ISSUES

§ 31:95 Generally

§ 31:96 Opening statements

XXVI. STANDSTILL AND DEFENSE AGREEMENTS

§ 31:97 Generally

APPENDIX 31A. Decision in *Westinghouse Corp. v. Aetna Casualty and Surety Company*

APPENDIX 31B. Decision in *Texas Eastern Transmission Corp. v. Fidelity and Casualty Company of New York*

APPENDIX 31C. Decision in *Asbestos Insurance Coverage Cases*

APPENDIX 31D. Insurance Standstill Agreement

APPENDIX 31E. Defense Agreement

APPENDIX 31F. Non-Waiver Agreement

APPENDIX 31G. Insurance Settlement Agreement and Release

APPENDIX 31H. Multiple Occurrences: *Township of Jackson v. American Home Assurance Co.*

APPENDIX 31I. Jury Charges Used in *Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co.*

APPENDIX 31J. Interrogatories Provided to the Jury in *Chemical Leaman Tank Lines, Inc. v. Aetna Casualty & Surety Co.*

APPENDIX 31K. Forms for Rule 30(b)(6) Deposition Notices: Coverage Questions for Insureds

APPENDIX 31L. Forms for Rule 30(b)(6) Deposition Notices: Coverage Questions for Carriers

APPENDIX 31M. California Court of Appeals Decision in *Asbestos Insurance Coverage Cases*

APPENDIX 31N. Insurance Claim Notice Letter

APPENDIX 31O. Jury Instructions from *Hoechst Celanese Corp. v. National Union Fire Insurance Co.*

PART H. CRIMINAL LIABILITY

CHAPTER 32. CRIMINAL LIABILITY

I. INTRODUCTION

§ 32:1 Introduction

II. APPLICABLE STATUTES

- § 32:2 Generally
- § 32:3 Nuisance statutes
- § 32:4 Reckless endangerment statutes
- § 32:5 Food and drug statutes
- § 32:6 Environmental statutes
- § 32:7 —Refuse Act of 1899
- § 32:8 —Federal Water Pollution Control Act
- § 32:9 —Resource Conservation Recovery Act
- § 32:10 —Comprehensive Environmental Response Compensation and Liability Act
- § 32:11 —Clean Air Act
- § 32:12 —Toxic Substances Control Act
- § 32:13 —Occupational Safety and Health Act
- § 32:14 Federal criminal laws
- § 32:15 —Mail fraud
- § 32:16 —Conspiracy and RICO

III. PARTIES LIABLE

- § 32:17 Mens rea requirements
- § 32:18 Corporate liability
- § 32:19 Individual liability—Responsible corporate officer
- § 32:20 Effect of voluntary compliance

IV. CRIMINAL SANCTIONS

- § 32:21 Alternative fines
- § 32:22 Sentencing guidelines
- § 32:23 Double jeopardy
- § 32:24 Debarment
- § 32:25 Deferred prosecution
- § 32:26 Judicial review of plea bargains

V. ENFORCEMENT OF FEDERAL ENVIRONMENTAL CRIMINAL LAWS

- § 32:27 Generally
- § 32:28 Crime Victims' Rights Act
- APPENDIX 32A. Federal Sentencing Guidelines
- APPENDIX 32B. Criminal Provisions of Environmental Laws
- APPENDIX 32C. Department of Justice Guidelines: Factors in Decisions on Criminal Prosecution for Environmental Violations in the Context of Significant Voluntary Compliance or Disclosure Efforts by the Violator, July 1, 1991
- APPENDIX 32D. Justice Department Directive Amending United States Attorney's Manual (January 12, 1993)
- APPENDIX 32E. Advisory Panel Recommendations to the United States Sentencing Commission on Environmental Crimes
- APPENDIX 32F. EPA Staff Guidelines on Criminal Enforcement

- APPENDIX 32G. Bluesheet Revision to the U.S. Attorney’s Manual on Environmental Crimes, August 23, 1994
- APPENDIX 32H. Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations, 65 Fed. Reg. 19617 to 19627 (Apr. 11, 2000)
- APPENDIX 32I. Parallel Proceedings Policy
- APPENDIX 32J. Federal Prosecution of Corporations
- APPENDIX 32K. Principles of Federal Prosecution of Business Organizations
- APPENDIX 32L. Portions of Organizational Sentencing Guidelines Applicable to Environmental Offenses
- APPENDIX 32M. Deferred Prosecution Agreement
- APPENDIX 32N. W.R. Grace Indictment
- APPENDIX 32O. Principles of Federal Prosecution of Business Organizations
- APPENDIX 32P. Environmental Crimes Handbook—A Guide For Law Enforcement Personnel
- APPENDIX 32Q. Selection and Use of Monitors in Deferred Prosecution Agreements
- APPENDIX 32R. Corporate Integrity Agreement
- APPENDIX 32S. Filip Memo - Revised Corporate Charging Guidelines
- APPENDIX 32T. Individual Accountability for Corporate Wrongdoing (Yates Memo)
- APPENDIX 32U. Deepwater Horizon Debarment Agreement
- APPENDIX 32V. Federal Victim Assistance Guidelines
- APPENDIX 32W. Memorandum—Prohibition of Settlement Payments To Third Parties
- APPENDIX 32X. Supplemental Deferred Prosecution Agreement Memo
- APPENDIX 32Y. Index to the Department of Justice’s DOJ’s Principles of Federal Prosecution of Business Organizations, and full text of section 9-28.700 (The Value of Cooperation).

Table of Cases

Index