

Index

AFFIDAVITS

- Dismissal, affidavit of plaintiff in opposition to motion, **5:86**
- Personal jurisdiction, lack of, affidavit in support of motion to dismiss, **4:40**
- Service of process, insufficient, affidavit in support of motion to dismiss, **4:45**
- Summary judgment. See index heading SUMMARY JUDGMENT

AFFIRMATIVE DEFENSES

- Summary judgment, **1:37, 1:89**

ANTI-SLAPP

- Dismissal, memorandum of points and authorities in support of motion for, **5:92, 5:93**

APPEARANCES

- General and special appearances, lack of personal jurisdiction and related waivable defenses, **4:5, 4:29**

APPELLATE REVIEW

- Failure to prosecute, **5:50, 5:51**
- Failure to state claim. See index heading FAILURE TO STATE CLAIM
- Forum non conveniens, **5:29, 5:30**
- Jurisdictional challenges. See index heading JURISDICTION
- Motions to strike. See index heading MOTION TO STRIKE
- Personal jurisdiction, lack of, **4:25, 4:27, 4:37**
- Process and service of process, insufficiency, **4:26, 4:28, 4:37**
- Summary judgment. See index heading SUMMARY JUDGMENT

ASSAULT AND BATTERY

- Jurisdiction, motion to dismiss for lack of, workers' compensation, **2:36**

AUTOMOBILES

- See index heading NO FAULT AUTOMOBILE INSURANCE ACT

BRIEFS

- See index heading SAMPLE SUPPORTING AND OPPOSITION BRIEFS

BURDEN OF PROOF

- Forum non conveniens. See index heading FORUM NON CONVENIENS
- Personal jurisdiction, lack of, and related waivable defenses, burden of showing, **4:12, 4:30**
- Summary judgment. See index heading SUMMARY JUDGMENT

COMMON ENTERPRISE

- Employer and employee, **1:10**
- Jurisdiction, **2:19**
- Summary judgment, memorandum of points and authorities in opposition, **1:116**

COMPLAINT

- Motion to strike, sample supporting and opposition briefs
 - immaterial matter, **3:39**
 - impertinent matter, **3:39**
 - improper matter, **3:39**
 - Scandalous matter, **3:39**

CONSTITUTIONAL LAW

- Summary judgment in constitutional cases, **1:8, 1:66**

CONTINUANCES

- See index heading SUMMARY JUDGMENT

CONTRACTS

- Summary judgment, **1:11, 1:69, 1:119**

COUNTERCLAIMS

- Motion to strike, sample supporting and opposition briefs, **3:38**

COUNTERCLAIMS—Cont'd

Summary judgment, burden of proof, **1:41**

DEPOSITIONS

Summary judgment, admissible supporting evidence, **1:49**

DISCOVERY

Motion to strike. See index heading **MOTION TO STRIKE**

Personal jurisdiction, lack of, plaintiff's right to discovery, **4:31**

DISCRIMINATION

Summary judgment, discrimination cases, **1:10, 1:68**

DISMISSAL MOTIONS

Generally, **5:1 to 5:95**

Affidavit of plaintiff in opposition to motion, **5:86**

Anti-SLAPP action, memorandum of points and authorities in support of motion to dismiss, **5:93**

Failure to prosecute generally, **5:40 to 5:58**

for detailed treatment see index heading **FAILURE TO PROSECUTE**

Failure to state claim generally, **5:2 to 5:17**

for detailed treatment see index heading **FAILURE TO STATE CLAIM**

Forum non conveniens generally, **5:18 to 5:39**

for detailed treatment see index heading **FORUM NON CONVENIENS**

Indispensable party, failure to join generally, **5:73 to 5:83**

for detailed treatment see index heading **PARTIES**

Rule or order of court, dismissal for failure to comply

generally, **5:59 to 5:72**
 court's inherent power, **5:63**
 court's own motion, **5:65, 5:71**
 dismissal with prejudice, **5:66**
 due process considerations, **5:70**
 general policy, **5:68**
 Minn.R.Civ.P. 5.04, **5:62**

DISMISSAL MOTIONS—Cont'd

Rule or order of court, dismissal for failure to comply—Cont'd notice, **5:64**

opposition citations generally, **5:68 to 5:72**
 court's own motion, **5:71**

due process, **5:70**
 factors considered, **5:69**

general policy, **5:68**
 procedural considerations, **5:70, 5:71**

representative cases, **5:72**

overview of motion, **5:60**

primary authorities, **5:61, 5:63**

procedural considerations, **5:64 to 5:66, 5:70, 5:71**

representative cases, **5:67, 5:72**

supporting citations generally, **5:61 to 5:67**

court's inherent power, **5:63**

court's own motion, **5:65**

dismissal with prejudice, **5:66**

Minn.R.Civ.P. 5.04, **5:62**

notice, **5:64**

primary authorities, **5:61, 5:63**

procedural considerations, **5:67 to 5:66**

representative cases, **5:67**

text of motion, suggested, **5:59**

Summary of motions, **5:1**

DUE PROCESS

Failure to comply with rule or order of court, dismissal based on, due process considerations, **5:70**

Failure to prosecute, dismissal based on, due process considerations, **5:56**

Personal jurisdiction, lack of, and related waivable defenses, due process considerations, **4:4**

ECONOMIC LOSS RULE

Memorandum of points and authorities in support of motion to dismiss, **5:88**

EMOTIONAL DISTRESS

Negligent infliction of, summary judgment, **1:118**

INDEX

EMPLOYER AND EMPLOYEE

Summary judgment, **1:10, 1:68, 1:119**

EVIDENCE

See index heading SUMMARY JUDGMENT

FAILURE TO PROSECUTE

Generally, **5:40 to 5:58**
Appellate review, **5:50, 5:51**
Burden, **5:48**
Court's inherent power to dismiss, **5:43**
Court's own motion, **5:47, 5:57**
Discretion of court, **5:44, 5:51**
Dismissal with prejudice, **5:49**
Due process considerations, **5:56**
Factors, **5:45, 5:55**
Memorandum of points and authorities in support of motion to dismiss, **5:92**
Notice, **5:46**
Opposition citations, motion to dismiss
generally, **5:53 to 5:58**
court's own motion, **5:57**
discretion of court, **5:54**
factors considered, **5:55**
general authorities, **5:53, 5:54**
procedural considerations, **5:56, 5:57**
representative cases, **5:58**
Overview of motion to dismiss, **5:41**
Points and authorities in support of motion to dismiss, **5:92**
Procedural considerations, **5:46 to 5:49, 5:56, 5:57**
Representative cases, **5:52, 5:58**
Rules provisions, **5:42**
Standard of review, **5:51**
Supporting citations, motion to dismiss
generally, **5:42 to 5:52**
appellate review, **5:50, 5:51**
burden, **5:48**
court's own motion, **5:47**
discretionary nature of decision, **5:44**
dismissal with prejudice, **5:49**

FAILURE TO PROSECUTE

—Cont'd

Supporting citations, motion to dismiss—Cont'd
factors, **5:45**
inherent power of court, **5:43**
notice, **5:46**
primary authorities, **5:42 to 5:44**
procedural considerations, **5:46 to 5:49**
representative cases, **5:52**
rules provisions, **5:42**
standard of review, **5:51**
Text of motion to dismiss, suggested, **5:40**

FAILURE TO STATE CLAIM

Generally, **5:1 to 5:17**
Anti-SLAPP, defendant's memorandum of points and authorities in support of motion to dismiss for failure to prosecute, **5:92**
Appellate review, motion to dismiss
generally, **5:10, 5:15**
standard of review, **5:11, 5:16**
Authority for motion to dismiss, **5:5**
Burden, **5:6, 5:14**
Forum non conveniens, sample supporting and opposition briefs
affidavit in opposition to motion to dismiss, **5:86**
notice of motion to dismiss, **5:85**
opposition to motion to dismiss, **5:94**
Fraud plead with particularity, sample supporting and opposition briefs, **5:90**
Memorandum of points and authorities in support of motion to dismiss, **5:87 to 5:91, 5:93**
Minn. R. Civ. P. 5.04, memorandum of points and authorities in support of motion to dismiss, **5:91**
Motion to dismiss
memorandum of points and authorities in support, **5:96**
Notice of motion to dismiss, **5:84, 5:85**

FAILURE TO STATE CLAIM

—Cont’d

- Opposition citations, motion to dismiss
 - generally, **5:13 to 5:17**
 - appellate review, **5:15, 5:16**
 - burden, **5:14**
 - overview, **5:13**
 - representative cases, **5:17**
 - standard of review, **5:16**
- Overview, **5:3, 5:4, 5:13**
- Pleading fraud with particularity, sample supporting and opposition briefs, **5:90**
- Points and authorities in support of motion to dismiss, **5:87 to 5:89, 5:91**
- Procedural considerations, **5:7 to 5:9**
- Representative cases, **5:12, 5:17**
- Sample supporting and opposition briefs
 - anti-SLAPP, defendant’s memorandum of points and authorities in support of motion to dismiss, **5:92**
 - defendant’s memorandum of points and authorities in support of motion to dismiss, **5:87 to 5:89, 5:93**
 - forum non conveniens
 - affidavit in opposition to motion to dismiss, **5:86**
 - notice of motion to dismiss, **5:85**
 - opposition to motion to dismiss, **5:94**
 - fraud plead with particularity, memorandum of points and authorities in support of motion to dismiss, **5:90**
 - Minn. R. Civ. P. 5.04, memorandum of points and authorities in support of motion to dismiss, **5:91**
 - notice of motion to dismiss, **5:84, 5:85**
 - State tort claims act exception, **5:95**
 - Summary judgment motion, when treated as, **5:8**

FAILURE TO STATE CLAIM

—Cont’d

- Supporting citations, motion to dismiss
 - generally, **5:4 to 5:12**
 - appellate review, **5:10, 5:11**
 - authority for motion, **5:5**
 - burden, **5:6**
 - motion specifics, **5:9**
 - overview, **5:4**
 - procedural considerations, **5:7 to 5:9**
 - representative cases, **5:12**
 - standard of review, **5:11**
 - state tort claims act exception, **5:95**
 - summary judgment motion, when treated as, **5:8**
 - timing, **5:7**
- Text of motion to dismiss, suggested, **5:2**
- Timing, motion to dismiss, **5:7**
- FIRST AMENDMENT**
 - Exercise of religion, lack of jurisdiction, motion to dismiss, **2:31**
- FORUM NON CONVENIENS**
 - Generally, **5:18 to 5:39**
 - Appellate review, **5:29, 5:30**
 - Burden
 - generally, **5:25, 5:36**
 - forum selection clauses, **5:28, 5:38**
 - Discretionary nature of decision, **5:22, 5:33**
 - Factors weighed by court
 - generally, **5:23, 5:34**
 - dismissal, factors favoring, **5:24**
 - retention of jurisdiction, factors favoring, **5:35**
 - Forum selection clauses
 - generally, **5:27, 5:37**
 - burden, **5:27, 5:38**
 - Notice of motion to dismiss, **5:85**
 - Opposition citations
 - generally, **5:32 to 5:39**
 - burden, **5:36, 5:38**
 - discretionary nature of decision, **5:33**

INDEX

FORUM NON CONVENIENS

—Cont'd

- Opposition citations—Cont'd
 - factors weighed by court, **5:34, 5:35**
 - forum selection clauses, **5:37, 5:38**
 - representative cases, **5:39**
 - retention of jurisdiction, factors favoring, **5:35**
- Opposition to motion to dismiss, **5:94**
- Order, **5:26**
- Overview of motion to dismiss, **5:19**
- Plaintiff's opposition to motion to dismiss, **5:94**
- Representative cases, **5:31, 5:39**
- Sample supporting and opposition briefs
 - failure to state claim, **5:85, 5:94**
 - notice of motion to dismiss, **5:85**
 - plaintiff's opposition to motion, **5:94**
- Standard of review, **5:30**
- Supporting citations
 - generally, **5:20 to 5:31**
 - appellate review, **5:29, 5:30**
 - burden, **5:25**
 - description, **5:21**
 - discretionary nature of decision, **5:22**
 - dismissal, factors favoring, **5:24**
 - factors weighed by court, **5:23, 5:24**
 - forum selection clauses, **5:27, 5:28**
 - order, **5:26**
 - primary authorities, **5:20 to 5:24**
 - procedural considerations, **5:25, 5:26**
 - purpose, **5:21**
 - representative cases, **5:31**
 - standard of review, **5:30**
- Text of motion to dismiss, suggested, **5:18**

FRAUD

- Failure to state claim, pleading fraud with particularity, **5:90**

FREEDOM OF RELIGION

- Jurisdictional challenges, **2:31**

HEARSAY

- Summary judgment motion, **1:97**

HOUSING COURT

- Memorandum of law in support of defendant's motion to dismiss for lack of subject matter jurisdiction, **2:33**

IMMUNITY

- Recreational-use immunity, memorandum in support of defendant's motion for summary judgment, **1:113**
- Summary judgment, memorandum of points and authorities in opposition, **1:117**

INDISPENSABLE PARTY, FAILURE TO JOIN

- Generally, **5:73 to 5:83**
- For detailed treatment see index heading **PARTIES**

INFERENCES

- Summary judgment, **1:50, 1:92**

INSURANCE

- Automobiles. See index heading **NO FAULT AUTOMOBILE INSURANCE ACT**
- Summary judgment, insurance cases, **1:12, 1:70**

JOINDER

- Indispensable party, failure to join generally, **5:73 to 5:83**
- for detailed treatment see index heading **PARTIES**

JUDICIAL NOTICE

- Summary judgment motions. See index heading **SUMMARY JUDGMENT**

JURISDICTION

- Administrative decisions, review of, **2:12, 2:24**
- Appearances, general and special, **4:5, 4:29**
- Challenges to court's jurisdiction generally, **2:1 to 2:37**
- administrative decisions, review of, **2:12, 2:24**

JURISDICTION—Cont'd

Challenges to court's jurisdiction
—Cont'd

- appellate review
 - generally, **2:15, 2:27**
 - interlocutory appeal, **2:16**
 - standard of review, **2:17**
- authorities for motion, **2:3, 2:4, 2:18**
- briefs. See "Sample supporting and opposition briefs" under this subheading
- evidence on motion, **2:14**
- exclusive jurisdiction in other court, **2:11, 2:23**
- hypothetical or abstract questions, **2:10, 2:22**
- interlocutory appeal, **2:16**
- invoking jurisdiction, **2:13, 2:25**
- mootness, **2:10, 2:22**
- nonjusticiable questions, **2:10, 2:22**
- notice of motion to dismiss for lack of jurisdiction, **2:28**
- order of dismissal, **2:37**
- overview of motion, **2:2**
- political questions, **2:10, 2:22**
- procedural considerations, **2:26**
- religion, **2:9, 2:21**
- religious freedom under First Amendment, memorandum of law in support of motion to dismiss for lack of jurisdiction, **2:31**
- sample supporting and opposition briefs
 - generally, **2:28 to 2:37**
 - housing court jurisdiction, **2:33**
 - memorandum of law in opposition of motion to dismiss, **2:35, 2:36**
 - memorandum of law in support of motion to dismiss, **2:29 to 2:32**
 - motion to dismiss for lack of subject matter jurisdiction, **2:29 to 2:33**
 - No Fault Automobile Insurance Act, **2:32**

JURISDICTION—Cont'd

Challenges to court's jurisdiction
—Cont'd

- sample supporting and opposition briefs—Cont'd
 - notice of motion to dismiss for lack of jurisdiction, **2:28**
 - order of dismissal, **2:37**
 - religion, first amendment, **2:31**
 - specific performance, **2:29**
 - standing, lack of, **2:34**
 - tribal sovereignty, **2:35**
 - workers' compensation, **2:30**
 - workers' compensation assault, **2:36**
- sovereign immunity, **2:8, 2:20**
- standard of review, **2:17**
- standing, lack of, **2:10, 2:22, 2:34**
- subject matter jurisdiction
 - case authorities, **2:7**
 - constitutional provisions, **2:5**
 - housing court jurisdiction, **2:33**
 - memorandum of law in support of motion to dismiss, **2:29 to 2:32**
 - motion to dismiss for lack of subject matter jurisdiction, **2:29 to 2:33**
- No Fault Automobile Insurance Act, **2:32**
- opposition citations, **2:19**
- religion, first amendment, **2:31**
- specific performance, **2:29**
- standing, lack of, **2:34**
- statutory provisions, **2:6**
- tribal sovereignty, **2:35**
- workers' compensation, **2:30**
- workers' compensation assault, **2:36**
- text of motion, suggested, **2:1**
- tribal courts, **2:8, 2:20, 2:35**
- Exclusive jurisdiction in other court, **2:11, 2:23**
- Forum selection clauses, **4:16**
- Hypothetical or abstract questions, **2:10, 2:22**
- Invoking jurisdiction, **2:13, 2:25**

INDEX

JURISDICTION—Cont'd

- Lack of jurisdiction. See “Challenges to court’s jurisdiction” under this heading
- Minimum contacts, **4:15, 4:33**
- Mootness, **2:10, 2:22**
- Nonjusticiable questions, **2:10, 2:22**
- Personal jurisdiction, lack of
 - generally, **4:6, 4:11**
 - affidavit in support of motion to dismiss, **4:40**
 - appearances, general and special, **4:5, 4:29**
 - briefs. See “Sample supporting and opposition briefs” under this subheading
 - burden of showing, **4:12, 4:29**
 - consent, **4:16**
 - discovery on jurisdiction issue, plaintiff’s right to, **4:31**
 - due process considerations, **4:4**
 - forum selection clauses, **4:16**
 - general authorities, **4:3 to 4:5, 4:29 to 4:31**
 - general jurisdiction, **4:13**
 - memorandum of points and authorities in support of motion to dismiss, **4:39**
 - minimum contacts, **4:15, 4:33**
 - notice of motion to dismiss, **4:38**
 - opposition to defendant’s motion to dismiss, waiver, **4:47**
 - overview of motion, **4:2**
 - points and authorities in support of motion to dismiss, **4:39**
 - procedural considerations, **4:8 to 4:10, 4:32**
 - proof of jurisdiction, **4:9**
 - review of motion
 - interlocutory appeal, **4:25**
 - standard of review, **4:27**
 - sample supporting and opposition briefs
 - affidavit in support of motion to dismiss, **4:40**
 - memorandum of points and authorities in support of motion to dismiss, **4:39**

JURISDICTION—Cont'd

- Personal jurisdiction, lack of
 - Cont’d
 - sample supporting and opposition briefs—Cont’d
 - notice of motion to dismiss, **4:38**
 - specific jurisdiction, **4:14**
 - text of motion, suggested, **4:1**
 - timing of motion, **4:8**
 - waiver
 - jurisdictional defects, **4:10, 4:32**
 - not effective, **4:17**
 - Political questions, **2:10**
- ### **LEGAL MALPRACTICE**
- Summary judgment, legal malpractice cases, **1:13, 1:71**
- ### **MEDICAL MALPRACTICE**
- Summary judgment, medical malpractice cases, **1:14, 1:72**
- ### **MOOTNESS**
- Jurisdiction, challenge to, **2:10, 2:22**
- ### **MOTION TO DISMISS**
- Failure to state claim
 - memorandum of points and authorities in support, **5:96**
- ### **MOTION TO STRIKE**
- Generally, **3:1 to 3:39**
 - Appellate review
 - generally, **3:19**
 - insufficient defense, **3:21**
 - redundant, immaterial, impertinent, or scandalous material, **3:22**
 - sanctions for discovery abuse, **3:23**
 - sham or false pleadings, **3:20**
 - Discovery abuse, arising from, **3:7**
 - Discovery sanctions
 - generally, **3:12, 3:13, 3:28**
 - appellate review, **3:23**
 - appropriateness to level of misconduct, **3:29**
 - opposition citations, **3:28 to 3:31**
 - reasonable alternative remedy, **3:30**
 - willfulness requirement, **3:14, 3:31**
 - Dispositive motions, **3:16**

MOTION TO STRIKE—Cont'd

- Grounds and authority for motion, **3:8 to 3:14**
- Insufficient defense
 - generally, **3:5, 3:10, 3:26**
 - appellate review, **3:21**
 - opposition citations, **3:26**
- Non-dispositive motions, **3:15**
- Not in conformity with law
 - generally, **3:3, 3:8, 3:24**
 - insufficient defense, **3:5, 3:10**
 - opposition citations, **3:24**
 - sham or false pleadings, **3:4, 3:9**
- Overview of motion, **3:2**
- Pleadings. See “Sham or false pleadings” under this heading
- Procedural requirements
 - generally, **3:15 to 3:18**
 - dispositive motions, **3:16**
 - non-dispositive motions, **3:15**
 - timing, **3:17**
- Redundant, immaterial, impertinent, or scandalous material
 - generally, **3:6, 3:11, 3:27**
 - appellate review, **3:22**
 - opposition citations, **3:27**
- Safe harbor, sham or false pleadings, **3:18**
- Sample supporting and opposition briefs, complaint
 - immaterial matter, **3:39**
 - impertinent matter, **3:39**
 - improper matter, **3:39**
 - Scandalous matter, **3:39**
- Sample supporting and opposition briefs, discovery abuse
 - generally, **3:32 to 3:37**
 - affidavit in support of motion, **3:34**
 - motion to strike, **3:33**
 - notice of motion to strike, **3:32**
 - order granting motion, **3:37**
 - response and affidavit in opposition to motion, **3:35, 3:36**
- Sample supporting and opposition briefs, untimely counterclaim, **3:38**
- Sham or false pleadings
 - generally, **3:4, 3:9, 3:25**

MOTION TO STRIKE—Cont'd

- Sham or false pleadings—Cont'd
 - appellate review, **3:20**
 - opposition citations, **3:25**
 - safe harbor, **3:18**
- Text of motion, suggested, **3:1**
- Timing, **3:17**
- Typical use of motion, **3:3 to 3:7**

MOTOR VEHICLES

- See index heading NO FAULT AUTOMOBILE INSURANCE ACT

NATIVE AMERICANS

- Jurisdictional challenges, tribal sovereignty, **2:35**

NO FAULT AUTOMOBILE INSURANCE ACT

- Forum non conveniens, **5:31**
- Motion to dismiss for lack of subject matter jurisdiction, defendant’s memorandum of law in support of, **2:32**
- Subject matter jurisdiction, **2:19**
- Summary judgment, **1:12, 1:70**

NONJUSTICIABLE QUESTIONS

- Jurisdiction, challenges to, **2:10, 2:22**

PARTIES

- Indispensable party, failure to join
 - generally, **5:73 to 5:83**
 - determination, **5:79**
 - grounds for motion, **5:78**
 - non-indispensable parties, **5:82**
 - not jurisdictional defect, **5:81**
- opposition citations
 - non-indispensable parties, **5:82**
 - not jurisdictional defect, **5:81**
 - review of order, **5:83**
- overview of motion, **5:74**
- representative cases, **5:80**
- review of order, **5:83**
- rules provisions, **5:75 to 5:77**
- statutory factors, **5:78**
- supporting citations
 - generally, **5:75 to 5:80**
 - determination, **5:79**
 - grounds for motion, **5:78**
 - primary authorities, **5:75 to 5:77**

INDEX

PARTIES—Cont'd

- Indispensable party, failure to join—Cont'd
 - supporting citations—Cont'd
 - representative cases, **5:80**
 - rules provisions, **5:75 to 5:77**
 - statutory factors, **5:78**
 - text of motion, suggested, **5:73**

PERSONAL INJURIES

- Summary judgment, **1:9, 1:67**

PERSONAL JURISDICTION

- Lack of. See index heading JURISDICTION

PLEADINGS

- Failure to state claim, pleading fraud with particularity, **5:90**
- Sham or false pleadings. See index heading MOTION TO STRIKE
- Summary judgment, acceptable and unacceptable use of pleadings, **1:46**

POLITICAL QUESTIONS

- Jurisdiction, challenge to, **2:10, 2:22**

PREEMPTION

- Summary judgment, memorandum in support of defendant's motion for, **1:112**

PROCESS AND SERVICE OF PROCESS AND PAPERS

- Insufficiency of process and service of process
 - generally, **4:7**
 - affidavit in support of motion to dismiss, **4:45**
 - appellate review
 - generally, **4:26, 4:37**
 - standard of review, **4:28**
 - due process considerations, **4:3 to 4:5**
 - general authorities, **4:3 to 4:5, 4:29**
 - memorandum of points and authorities in support of motion to dismiss
 - generally, **4:44**
 - substituted service, **4:46**

PROCESS AND SERVICE OF PROCESS AND PAPERS

—Cont'd

- Insufficiency of process and service of process—Cont'd
 - notice of motion to dismiss, **4:43**
 - opposition to motion to dismiss, **4:41**
 - order denying motion to dismiss, **4:42**
 - overview of motion, **4:2**
 - procedural considerations, **4:8 to 4:10, 4:32**
- process, insufficiency
 - generally, **4:18, 4:34**
 - examples of defective process, **4:20**
 - overview, **4:18**
 - waiver, **4:19**
- sample supporting and opposition briefs
 - generally, **4:38 to 4:46**
 - affidavit in support of motion to dismiss, **4:45**
 - memorandum of points and authorities in support of motion to dismiss
 - generally, **4:44**
 - substituted service, **4:46**
 - notice of motion to dismiss, **4:43**
 - opposition to motion to dismiss, **4:41**
 - order denying motion to dismiss, **4:42**
- service of process, insufficiency
 - generally, **4:21, 4:35**
 - actual notice and substantial compliance, **4:24, 4:36**
 - affidavit in support of motion to dismiss, **4:45**
 - examples of ineffective service, **4:23**
 - memorandum of points and authorities in support of motion to dismiss
 - generally, **4:44**
 - substituted service, **4:46**

**PROCESS AND SERVICE OF
PROCESS AND PAPERS**

—Cont'd

- Insufficiency of process and service of process—Cont'd
 - service of process, insufficiency—Cont'd
 - notice of motion to dismiss, **4:43**
 - order denying motion to dismiss, **4:42**
 - overview, **4:21**
 - waiver, **4:22**
 - text of motion, suggested, **4:1**
 - timing of motion, **4:8**
 - waiver
 - jurisdictional defects, **4:10, 4:32**
 - service of process, insufficiency, **4:22**
- Plaintiff's opposition to defendant's motion to dismiss for insufficient service of process (substitute service of process), **4:48**
- Substituted service, memorandum of points and authorities in support of motion to dismiss, **4:46**

PROPERTY DAMAGES

- Summary judgment, **1:9, 1:67**

RECREATIONAL-USE

- Immunity, memorandum in support of defendant's motion for summary judgment, **1:113**

RELIGION

- Jurisdiction of court, challenges to, **2:9, 2:21**
- Lack of jurisdiction and First Amendment, memorandum of law in support of motion to dismiss, **2:31**

RES JUDICATA

- Sample brief in support of summary judgment, **1:108**

RULES OF COURT

- Dismissal for failure to comply generally, **5:59 to 5:72**

RULES OF COURT—Cont'd

- Dismissal for failure to comply—Cont'd
 - for detailed treatment see index heading DISMISSAL MOTIONS

**SAMPLE SUPPORTING AND
OPPOSITION BRIEFS**

- Anti-SLAPP actions, memorandum of points and authorities in support of motion to dismiss, **5:93**
- Dismissal of action, affidavit of plaintiff in opposition to motion, **5:86**
- Failure to prosecute, memorandum of points and authorities in support of motion to dismiss, **5:92**
- Failure to state claim
 - defendant's memorandum of points and authorities in support of motion to dismiss, **5:87 to 5:89, 5:91**
 - economic loss rule, memorandum of points and authorities in support of motion to dismiss, **5:88**
 - Minn. R. Civ. P. 5.04, memorandum of points and authorities in support of motion to dismiss, **5:91**
 - notice of motion to dismiss, **5:84**
 - underinsured motorists, memorandum of points and authorities in support of motion to dismiss, **5:89**
- Forum non conveniens
 - affidavit in opposition to motion to dismiss, **5:86**
 - notice of motion to dismiss, **5:85**
 - plaintiff's opposition to motion, **5:94**
- Jurisdictional challenges
 - generally, **2:28 to 2:37**
 - for detailed treatment see index heading JURISDICTION
- Motion to strike
 - generally, **3:32 to 3:39**
 - for detailed treatment see index heading MOTION TO STRIKE

INDEX

SAMPLE SUPPORTING AND OPPOSITION BRIEFS—Cont'd

- Personal jurisdiction, lack of
 - generally, **4:38 to 4:47**
 - for detailed treatment see index heading JURISDICTION
- Plaintiff's opposition, motion to dismiss
 - action based upon state sovereign immunity, **5:97**
- Service of process, insufficiency
 - generally, **4:38 to 4:47**
 - for detailed treatment see index heading PROCESS AND SERVICE OF PROCESS AND PAPERS
- Summary judgment
 - generally, **1:104 to 1:122**
 - for detailed treatment see index heading SUMMARY JUDGMENT

SANCTIONS

- Summary judgment, **1:59, 1:102**

SERVICE OF PROCESS

- See index heading PROCESS AND SERVICE OF PROCESS AND PAPERS

SOVEREIGN IMMUNITY

- Jurisdiction, challenges to, **2:8, 2:20**
- Plaintiff's opposition, motion to dismiss
 - action based upon state, **5:97**

STANDING

- Lack of, challenge to court's jurisdiction, **2:10, 2:22, 2:24**

STATUTE OF LIMITATIONS

- Sample brief in support of summary judgment, **1:109**

STIPULATIONS

- Admissible supporting evidence, summary judgment motion, **1:52**

STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION (SLAPP)

- Dismissal, memorandum of points and authorities in support of motion for, **5:92, 5:93**

STRIKE

- See index heading MOTION TO STRIKE

SUBSTITUTED SERVICE

- Actual notice and substantial compliance, **4:24, 4:36**
- Insufficiency of process and service of process, **4:21**
- Memorandum of points and authorities in support of motion to dismiss, **4:46**

SUMMARY JUDGMENT

- Generally, **1:1 to 1:122**

Affidavits

- generally, **1:25 to 1:28, 1:82**
- admissible supporting evidence, **1:48**
- bad faith affidavits, **1:28**
- defects, **1:26, 1:83**
- incompetent affidavits, **1:54**
- opposition to motion to dismiss, **5:86**
- sample affidavit in support of motion, **1:111**
- when affidavits unavailable, **1:27**

Affirmative defenses, 1:37, 1:89

Appellate review

- generally, **1:60 to 1:62, 1:103**
- direct appeal, **1:60**
- interlocutory appeal, **1:61**
- standard of review, **1:62**

Authority for motion, 1:3 to 1:5

Bad faith affidavits, 1:28

Brief in support of motion, 1:107

Briefs. See "Sample supporting and opposition briefs" under this heading

Bringing motion, timing, 1:17

Burden of proof

- generally, **1:35 to 1:42, 1:86 to 1:90**

affirmative defenses, 1:37, 1:89

cross-motions, 1:42

defendant's counterclaim, 1:41

defense motion

- generally, **1:36, 1:87**

affirmative defenses, 1:37, 1:89

SUMMARY JUDGMENT—Cont'd

Burden of proof—Cont'd
 defense motion—Cont'd
 negating plaintiff's case, **1:36, 1:88**
 shifting burden to plaintiff, **1:38**
 negating plaintiff's case, **1:36, 1:88**
 plaintiff's motion
 generally, **1:39, 1:90**
 against defendant's counterclaim, **1:41**
 shifting burden to defendant, **1:40**
 shifting burden, **1:38, 1:40**
 Case not fully adjudicated, **1:34**
 Common enterprise, memorandum of points and authorities in opposition, **1:116**
 Conclusory statements, **1:99**
 Constitutional cases, **1:8, 1:66**
 Continuances
 generally, **1:29 to 1:32, 1:84**
 additional discovery, need for, **1:30, 1:84**
 discretion of court, **1:32**
 liberally granted, **1:85**
 opposing continuance, **1:31**
 Contract cases, **1:11, 1:69**
 Counterclaims, **1:41**
 Cross-motions, burden of proof, **1:42**
 Defects in affidavits, **1:26**
 Defendant's motion for summary judgment, **1:112**
 Depositions, admissible supporting evidence, **1:49**
 Description, **1:4**
 Discovery
 continuance, need for additional discovery, **1:30**
 specific references to discovery or other instruments, **1:22**
 Discrimination cases, **1:10, 1:68**
 Employment cases, **1:10, 1:68**
 Evidence
 generally, **1:43 to 1:58, 1:91 to 1:102**
 affidavits, **1:48, 1:95, 1:107**
 conclusory statements, **1:99**

SUMMARY JUDGMENT—Cont'd

Evidence—Cont'd
 depositions, **1:49**
 exhibits, improper, **1:56**
 genuine issue of material fact, **1:93**
 hearsay, **1:97**
 incompetent affidavits, **1:54**
 inferences, **1:50, 1:92**
 judicial notice, **1:51, 1:100**
 nonmoving party
 inferences and doubts resolved in favor of, **1:92**
 viewing in light most favorable to, **1:44**
 objections, **1:58, 1:101**
 opposition evidence, attacking
 generally, **1:53 to 1:57**
 exhibits, improper, **1:56**
 incompetent affidavits, **1:54**
 speculation or conjecture, **1:55**
 untimely filed evidence, **1:57**
 personal knowledge, declarant lacks, **1:96**
 pleadings, acceptable and unacceptable use, **1:45, 1:46**
 speculation or conjecture, **1:55, 1:98**
 stipulations, **1:52**
 supporting evidence, admissible
 generally, **1:47 to 1:52**
 affidavits, **1:48**
 depositions, **1:49**
 inferences, **1:50**
 judicial notice, request for, **1:51**
 stipulations, **1:52**
 supporting evidence, attacking
 generally, **1:94 to 1:100**
 affidavits, incompetent, **1:95**
 conclusory statements, **1:99**
 hearsay, **1:97**
 judicial notice, improper, **1:100**
 personal knowledge, declarant lacks, **1:96**
 speculation or conjecture, **1:98**
 untimely filed evidence, **1:57**
 Exhibits, improper, **1:56**
 Failure to file opposition, **1:80**

INDEX

SUMMARY JUDGMENT—Cont'd

- Failure to state claim, motion to dismiss treated as motion for summary judgment, **5:8**
- Format and content of motion, **1:21 to 1:24**
- Genuine issues of material fact
 - evidence on motion, **1:93**
 - opposition citations, **1:65**
 - opposition to motion, **1:7**
 - supporting citations, **1:6**
- Granted with caution, **1:5, 1:64**
- Hearsay, **1:97**
- Immunity, opposition, memorandum of points and authorities, **1:117**
- Inferences, **1:50, 1:92**
- Insurance cases, **1:12, 1:70**
- Interlocutory appeals, **1:61**
- Judicial notice
 - improper, **1:100**
 - request for, **1:51, 1:110**
- Legal malpractice cases, **1:13, 1:71**
- Liberal construction of opposition papers, **1:65**
- Medical malpractice cases, **1:14, 1:72**
- Memorandum in opposition to defendant's motion
 - assumption of risk, recreational skiing, no extention, **1:120**
- Memorandum in support of defendant's motion for summary judgment, **1:112, 1:113**
- Memorandum in support of defendant's motion for summary judgment (lack of foreseeable risk), **1:114**
- Memorandum of points and authorities in opposition to defendant's motion, **1:115 to 1:119**
- Miscellaneous cases, **1:15, 1:73**
- Negating plaintiff's case, **1:36, 1:88**
- Negligent infliction of emotional distress, **1:118**
- Nonmoving party
 - inferences and doubts resolved in favor of, **1:92**
 - viewing evidence in light most favorable to, **1:44**

SUMMARY JUDGMENT—Cont'd

- Notice of motion
 - inadequate, **1:76**
 - sample, **1:104**
 - timing, **1:18**
- Objections to evidence, **1:58, 1:101**
- Opposing citations
 - generally, **1:63 to 1:101**
 - affidavits and testimony, **1:82, 1:83**
 - burden of proof. See "Burden of proof" under this heading
 - constitutional cases, **1:66**
 - continuances, **1:84, 1:85**
 - contract cases, **1:69**
 - discrimination cases, **1:68**
 - employment cases, **1:68**
 - evidence. See "Evidence" under this heading
 - failure to file opposition, **1:80**
 - format and content of motion and opposing papers
 - generally, **1:78**
 - failure to file opposition, **1:80**
 - reply, improper, **1:81**
 - statement of material facts, **1:79**
 - granted with caution, **1:64**
 - legal malpractice cases, **1:71**
 - liberal construction of opposition papers, **1:65**
 - miscellaneous cases, **1:73**
 - personal injury cases, **1:67**
 - procedure. See "Procedural considerations" under this heading
 - property damage cases, **1:67**
 - reply, improper, **1:81**
 - statement of material facts, **1:79**
 - wrongful death cases, **1:67**
- Opposition and reply, timing, **1:19**
- Oral argument, **1:33**
- Orders
 - denying motion, **1:122**
 - entry of summary judgment, **1:121**
- Overview of motion, **1:2**
- Page limitations, **1:24**
- Personal injury cases, **1:9, 1:67**

SUMMARY JUDGMENT—Cont'd

- Personal knowledge, declarant lacks, **1:96**
- Pleadings, acceptable and unacceptable use, **1:45, 1:46**
- Points and authorities in opposition to defendant's motion, **1:115 to 1:119**
- Preemption, memorandum in support of defendant's motion for summary judgment, **1:112**
- Procedural considerations
 - generally, **1:16 to 1:34, 1:74 to 1:85**
 - affidavits. See "Affidavits" under this heading
 - bringing motion, timing, **1:17**
 - case not fully adjudicated, **1:34**
 - continuances. See "Continuances" under this heading
 - discovery or other instruments, specific references, **1:22**
 - format and content of motion, **1:21 to 1:24**
 - notice of motion, timing, **1:18**
 - opposition and reply, timing, **1:19**
 - oral argument, **1:33**
 - page limitations, **1:24**
 - specific grounds, **1:21**
 - statement of material facts, **1:23**
 - timing. See "Timing" under this heading
- Property damage cases, **1:9, 1:67**
- Purpose, **1:4**
- Recreational-use immunity, memorandum in support of defendant's motion for summary judgment, **1:113**
- Reply
 - improper, **1:81**
 - timing, **1:19**
- Res judicata, sample brief in support of summary judgment, **1:108**
- Resolving inferences and doubts resolved in favor of nonmoving party, **1:92**
- Sample supporting and opposition briefs
 - generally, **1:104 to 1:122**

SUMMARY JUDGMENT—Cont'd

- Sample supporting and opposition briefs—Cont'd
 - affidavit in support of motion, **1:111**
 - breach of employment contract, **1:119**
 - brief in support of motion, **1:107**
 - judicial notice in support of motion, request for, **1:110**
 - motion and brief in support of motion, **1:105, 1:106**
 - notice of motion, **1:104**
 - orders, **1:121, 1:122**
 - plaintiff's opposition to defendant's motion, **1:118, 1:119**
 - points and authorities in opposition to defendant's motion, **1:115 to 1:119**
 - res judicata, brief in support of summary judgment, **1:108**
 - statute of limitations, brief and memorandum in support of summary judgment, **1:11**
 - statute of limitations, brief in support of summary judgment, **1:109**
- Sanctions, **1:59, 1:102**
- Shifting burden, **1:38, 1:40**
- Speculation or conjecture, **1:55, 1:98**
- Standard of review, **1:62**
- Statement of material facts, **1:23, 1:79**
- Statute of limitations, sample brief in support of summary judgment, **1:109**
- Stipulations, admissible supporting evidence, **1:52**
- Supporting citations
 - generally, **1:3 to 1:62**
 - affidavits. See "Affidavits and testimony, form of" under this heading
 - authority for motion, **1:3 to 1:5**
 - burden of proof. See "Burden of proof" under this heading
 - case not fully adjudicated, **1:34**
 - constitutional cases, **1:8**

INDEX

SUMMARY JUDGMENT—Cont'd

Supporting citations—Cont'd
continuances. See “Continuances”
under this heading
contract cases, **1:11**
description, **1:4**
discrimination cases, **1:10**
employment cases, **1:10**
evidence. See “Evidence” under
this heading
genuine issues of material fact,
1:6, 1:7
granted with caution, **1:5**
insurance cases, **1:12**
legal malpractice cases, **1:13**
medical malpractice cases, **1:14**
miscellaneous cases, **1:15**
oral argument, **1:33**
personal injury cases, **1:9**
procedure. See “Procedural
considerations” under this
heading
property damage cases, **1:9**
purpose, **1:4**
review. See “Appellate review”
under this heading
sanctions, **1:59**

SUMMARY JUDGMENT—Cont'd

Supporting citations—Cont'd
timing. See “Timing” under this
heading
wrongful death cases, **1:9**
Text of motion, suggested, **1:1, 1:2**
Timing
generally, **1:17 to 1:19, 1:74 to
1:77**
bringing motion, **1:17**
evidence, untimely filed, **1:57**
motion, untimely filed, **1:75**
notice of motion, **1:18, 1:76**
opposition and reply, **1:19, 1:77**
Wrongful death cases, **1:9, 1:67**

TRIBAL COURTS

Challenges to court’s jurisdiction,
2:8, 2:20, 2:35

UNDERINSURED MOTORISTS

Memorandum of points and authori-
ties in support of motion to
dismiss, **5:89**

WORKERS’ COMPENSATION

Jurisdiction, motion to dismiss for
lack of, **2:30, 2:36**

WRONGFUL DEATH

Summary judgment, **1:9, 1:67**