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- § 3:2 Wrongful death of 29-year-old father of three minor children; defendant general contractor and its employee, driver of a forklift shifting bundles of metals on to flatbed trucks, drops 1500 pounds of metal on the

decedent causing his death some hour and a half later at a local hospital; negligence; stipulated course and scope; vicarious liability; comparative fault of decedent; allegations of unlicensed forklift operator; negligent supervision and training by corporate employer; survival claim for pain and suffering under California Code of Civil Procedure § 377.30; use of animated simulations as demonstrative evidence; special verdict form

- § 3:3 This is the first of the California Judicial Council Coordinated Proceedings trial and bellwether case focused on whether social media companies can be held liable for harm to minors who have allegedly been harmed by their platform designs; plaintiff alleged that defendants knew or should have known that she was a minor and encouraged their usage without considering the risk of harm; plaintiff began using social media at age 10 and alleged she became addicted; harm caused was with respect to her mental health, she engaged in self-harm, low self-esteem, and other psychological deficits; defendants relied heavily on the immunity afforded them by federal law for third party content; special verdict forms masterfully crafted to assist jurors in their decision-making; focus was not on immunity, but on platform designs that encouraged excessive use as a novel plaintiff's theory
- § 3:4 School district held liable for the sexual abuse of two sixth graders by their teacher in 1991; teacher, now serving a 52 year sentence for his abuse of his students from age 11 until their sophomore year in high school, was hired by district officials after his teaching license had been revoked due to a child endangerment conviction; school district admitted liability as to negligent hiring and supervision, but disputed causation for damages, placing blame on the parents as causing lifelong depression, anxiety, PTSD suffered by plaintiffs; presumption of negligence per se for violation of the Child Abuse Reporting Act; governmental liability for violation of a mandatory act; special instructions
- § 3:5 Food delivery service driver accepts a delivery order for three large teas from major coffee company and goes through the drive-through; upon placing his order, he proceeded through the drive-through window; plaintiff observed that all three cups were placed in the same tray and the tray was handed to him by an employee. Upon turning his body to place the tray on the front seat, two hot teas fell out of the tray and spilled into his lap and groin areas sustaining significant injury to

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plaintiff's genitals; the alleged negligence was failure of the coffee company's employee to secure the tea containers in the tray properly; the tray was structurally unsound; defendant company alleged significant comparative negligence by plaintiff; bifurcated trial on liability and damages

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CHAPTER 4. PROFESSIONAL NEGLIGENCE

- § 4:1 A 23-year old college student became unresponsive at home and was taken via ambulance to the UC Davis Medical Center; a certified advanced, primary stroke center; treating physicians did not activate the stroke protocol which would have required a CT angiogram to be performed fell below the standard of care; plaintiff is diagnosed 26 hours later with a cerebral artery embolism resulting in a stroke; severe and permanent neurological injury, paralysis, speech impairment and cognitive dysfunction followed; life care plan needed as no full recovery is possible; defendants contended that the proximate cause of plaintiff's injuries were not attributable to the failure to activate the stroke protocol, because tests showed that plaintiff's injuries occurred at least six hours prior and activation of the stroke protocol would not have affected outcome; medical negligence standard of care issues; special verdict form
- § 4:2 During a upper endoscopy/esophagogastroduodenoscopy (EGD) and colonoscopy procedure, plaintiff required intubation by defendant Certified Registered Nurse Anesthetist (CRNA) and an ambulance was summoned; defendant paramedics transported plaintiff to a hospital where the doctor who performed the EGD and colonoscopy procedure had privileges, instead of a closer hospital; in route, the paramedics also did not hear left lung sounds during transport, so they extubated and reintubated Merlo to readjust the endotracheal tube; plaintiff suffered brain anoxia as a result and is in a permanent vegetative state; paramedic malpractice; CRNA malpractice; physician malpractice; loss of consortium; gross negligence; failure to obtain informed consent; apportionment of responsibility; legal relationship not disputed; economic and noneconomic damages sought
- § 4:3 Attorney, CPA, and investment advisor defrauds his clients and decades long friends by taking an \$18,000,000 inheritance and using his knowledge and

skill to defraud the plaintiffs; causes of action for intentional infliction of emotional distress, breach of fiduciary duty (attorney-client), false promise, misrepresentation, reliance, civil fraud, and elder abuse; bifurcated punitive damages phases; special instructions crafted and given as to a lawyer's fiduciary duties; instruction sanction for discovery abuses prior to trial

- § 4:4 Plaintiff, a skilled college athlete preparing to become an NFL punter suffered injuries during a collegiate football game; after a hard tackle, he felt drunk; he continued to have symptoms; plaintiff sought treatment with defendant, who represented that he was a specialist in Chiropractic Neurology; plaintiff did not improve and his condition worsened; he sought treatment from another chiropractor resulting in additional injuries; a board-certified brain injury specialist diagnosed a significant brain stem injury, which resulted in Cervical Medullary Syndrome. Cervical Medullary Syndrome is a clinical condition that occurs as a result of inflammation, deformity, or compression of the lower part of the brain (i.e., the brain stem); plaintiff alleged that he now suffers from elevated pain/spasms in his neck and back; chronic migraines, tinnitus, double vision, TMJ, elevated blood pressure, extremity numbness, swallowing difficulties, light sensitivity, incontinence, and imbalance issues; bifurcated trial on issue of the statute of limitations from liability/damages; medical negligence; non-party tortfeasors with apportionment of liability; duty of care as a chiropractic doctor; incorrect instruction regarding burdens of the party to reduce damages to present cash value
- § 4:5 Plaintiff, an investment group that purchases vacant office buildings for refurbishment and leasing, purchased a building in Spring 2022; prior to that purchase and as a condition of the purchase, plaintiffs asked defendant broker to approach insurers, apply, and provide insurance coverage; the building to be purchased was vacant, had no fire sprinklers, and was a known squatter's location; agent represented on the application to the proposed insurance company that the building was occupied and had fire sprinklers; defendant recommended \$2.4 million in coverage; plaintiff was never shown the policy application nor did they sign it; insurance company issued a policy for \$2.18 million based upon representations in the application; in January 2023 arsonists started a fire that enveloped the building, completely destroying the

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commercial property; plaintiff sued on a single count of professional negligence; theory was errors and omissions on behalf of the defendant broker; fraud and misrepresentation alleged; request for prejudgment interest; defendant claimed plaintiffs were comparatively negligent for never advising of the building's condition and known location for squatters; defendant argued prejudgment interest was not warranted because they paid, pretrial, the balance on the mortgage of the building; jury found zero comparative negligence and prejudgment interest was warranted with a \$2.4 million verdict; jury instructions and verdict used found in CACI 400 and 600 series to craft a simple special verdict

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CHAPTER 5. PREMISES LIABILITY

- § 5:1 Cross complainant, an electrician was called to defendants' premises because of flickering lights; while checking the main panel, an explosion occurred with an arch electrical flash; plaintiff suffered third and second degree burns and his wife sued for loss of consortium; negligence per se alleged with special instructions related to building codes and regulations; multiple layers of ownership and control of premises issues; cross-complaints; negligence and premises liability alleged; removal of claims and parties; special verdict forms
- § 5:2 Plaintiff, counselor for children with autism, leaves work late with co-workers; carpets were being cleaned by company hired by building owner and property manager company; plaintiff's shoes became wet at the start of the stairs which were previously not epoxied correctly, slips and falls down a flight of stairs, hitting her head; treatment sought the following day; traumatic brain injury, severe headaches, declined cognitive impairment in the form of memory loss, lack of ability to engage in executive functions such as multi-tasking, dizziness, nausea, depression; negligence; comparative negligence; vicarious responsibility; apportionment of fault; custom and practice; failure to warn; construction defect; special verdict form
- § 5:3 Costumer for popular television series sustains injury on set; production company rented the stage/premises from a pictures corporation; during a night filming, the plaintiff was required to bring items to the Set Costumer on one of the stages; after doing so, she was

directed to the exit by monitors; although in the dark she saw a lighted doorway and walked through it; as she walked, she fell into an exposed floor opening; fracturing ribs and sacrum; the plaintiff contended that the pictures corporation had as a landlord, had a duty to the tenant production to company to make the premises safe; issues of control of the premises; duty to post signs; duty to repair; post remedial measures; constructive notice; vicarious liability; susceptible plaintiff; multiple theories of recovery; and residual injuries

§ 5:4 Site representative/supervisor of defendant owner of well-known home used to host large events, photo shots and movies, falls off an unguarded, cantilevered platform that juttred out over a hillside suffering multiple injuries; unguarded platform and poor security for the large crowd on tour were contended to be dangerous, despite plaintiff's over 250 times on the platform at previous events; premises liability; comparative fault of plaintiff and others; economic and noneconomic damages; negligence; negligence per se due to code violations

§ 5:5 Plaintiff and his family went to defendant's business location to engage in batting practice (baseball) with cages equipped with automatic pitching machines; plaintiff was instructed to pick up all the balls in his cage by defendant's employee; in the process of doing so, the pitching machine, with no safety device, lobbed a ball traveling 60 to 80 miles per hour, hitting plaintiff in the eye; permanent eye damage, lost past and future wages, medical expenses, and damages for pain and suffering were requested; theory of premises liability was inadequate supervision of the cages and the controls on the pitching machines; plaintiff alleged an "adolescent" was responsible for overseeing the machines; standard of care for a minor instruction given; newly revised CACI 472. Primary Assumption of Risk—Exception to Nonliability—Facilities Owners and Operators and Event Sponsors given; blend of template verdict between premises liability and negligence

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CHAPTER 6. PRODUCTS LIABILITY

§ 6:1 Father of four suffers fatal blast injuries in front of his three daughters and wife; starting a popular watercraft resulted in an explosion; watercraft had repairs under warranty from manufacturer and

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- retailer; partial disassembly of engine done during repairs; manufacturing defect, strict liability, negligence and breach of warranty theories of recovery; dealer not found as a cause of plaintiffs' injuries; replacement under warranty was determination of the jury as the breach of the warranty; plaintiffs suffered loss of companionship, consortium, wages, guidance, and financial support; multiple stipulated facts as part of trial; comparative negligence alleges against decedent for intoxication
- § 6:2 Popular electric car manufacturer is sued for an accident allegedly caused by defective autopilot features (software) and defective airbag systems; plaintiff was using the autopilot features when her car did not recognize a median strip and the car crashed into, causing air bags to deploy; plaintiff sustained a broken jaw in three places, loss of multiple teeth, hand and arm injuries; plaintiff contended either the airbags should not have been deployed at all because of the defective software, but deployed, did not "plume" but sling shot out; products liability based upon design defect with consumer expectation test that the automobile was safer with these features; intentional misrepresentation, concealment; reliance; comparative negligence of plaintiff; defense verdict
- § 6:3 First bellwether case in California's coordinated litigation against a major talcum powder producer; two cases from two separate judicial districts tried in third; after decades of use of defendant's talcum powder products, plaintiffs were diagnosed with ovarian cancer and underwent significant and painful treatment; one plaintiff's husband joined the suit, requesting loss of consortium damages; plaintiffs alleged that talc used contained asbestos; theories sued upon included negligence, failure to warn, negligent design defect, failure in manufacturing and testing; plaintiff also alleged a safer ingredient was declined for profit reasons; three negligence per se instructions based upon three separate regulations; special verdict form consolidating all plaintiffs and theories of recovery provide an excellent template for these types of cases; defendant's "but-for" causation instruction denied by trial court
- § 6:4 Plaintiff sued a manufacturer of a herbicide that he used on a monthly basis for 20 years for his exposure and resulting terminal illness, mycosis fungoides, a blood disorder that caused changes to his skin; plaintiff sued on four theories: negligence, negligent failure to warn, design defect, and strict liability/

failure to warn plus sought punitive damages; plaintiff alleged that defendants knew that the herbicide was not safe for humans and failed to warn of its dangers; split decision by jury on theories of liability; special verdict form

- § 6:5 Plaintiff was life-long research scientist and professor of biological sciences who worked at labs throughout the United States; his research involved labs with asbestos containing lab equipment; the specific equipment was gloves/mittens manufactured by the defendant laboratory; injuries were a diagnosis of peritoneal mesothelioma caused by exposure to asbestos; multiple tortfeasors (13) non-parties in the case but alleged to have contributed to plaintiff's injuries; comparative negligence of plaintiff and others; negligence, strict liability, failure to refit/retrofit; loss of consortium

Bibliography

CHAPTER 7. INTENTIONAL TORTS

- § 7:1 Plaintiff truck driver for defendant, a large retail store, is rear-ended while driving for them; plaintiff is injured and placed on medical leave with restrictions regarding driving, bending, and lifting; plaintiff goes on two preplanned vacations; third party administrator observed plaintiff sub rosa driving, stooping, and lifting; report sent to defendant and investigation ensued; investigation was flawed; plaintiff was advised that he had engaged in an integrity violation of company policy, which was cause for immediate termination; this was allegedly repeated throughout the company; plaintiff developed a major depressive disorder; defamation with a labor/employment cross-over component; defamation per quod; publication and liability for foreseeable republication special instruction; affirmative defense because statement(s) were true; common law privilege re malice; bifurcated liability, damages, and punitive damages
- § 7:2 Handyman of commercial tenant is assaulted and battered by handymen used by property management company's owner because of the improper filling up of a dumpster on the premises; negligence alleged on basis of the assault and battery incited by the property manager; traumatic brain injury; tonic pupil; vicarious responsibility; property owner dismissed; property management company's owner dismissed individually; perpetrators of assault and battery dismissed; comparative negligence admitted by plaintiff; only noneconomic damages claimed; special verdict form

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- § 7:3 Contractor's bulldozer struck a utility's gas pipeline and the explosion killed the driver and seriously injured two nearby; utility company sought to enjoin the contractor from excavating in the county; utility company allegedly wrote news articles and letters citing the contractor's negligence; responsibility for the death and injury; contractor cross-complained for defamation; defense verdict; intricate and detailed verdict form that set forth 8 alleged defamatory statements; defamation per quod; defamation per se; limited public figure and private issue; special instructions relating to laws of excavation and safety requirements; unusually susceptible plaintiff
- § 7:4 Plaintiff, now adult heiress of international fashion and jewelry magnate, alleged she was a victim of sexual abuse/battery at the hands of defendant, her stepfather, starting at age 6; plaintiff further alleged that defendants, her mother and grandmother, knew about it; discouraged her by threats of disinheritance if she reported it; plaintiff suffered severe psychological trauma involving suicide attempts, obsessive bathing, and hair-pulling which are on-going; allegations of (1) negligence against all defendants for breach of duty of care; (2) sexual battery under Civil Code Section 1798.5 against all defendants; (3) intentional Infliction of emotional distress against all defendants; and (4) gender violence under Civil Code Section 52.4 against all defendants; plaintiff sought general and special damages; treble damages for cover-up pursuant to Code of Civil Procedure 340.1(b)(1), punitive damages, and attorney's fees, costs; removal of parties and claims; bifurcation of punitive damages; special verdict form for Phase 1

Bibliography

CHAPTER 8. BUSINESS LITIGATION

- § 8:1 Textile companies cross sue one another for breach of contract based upon the sale and receipt of fabrics among themselves; causes of action for breach of contract, account stated, request for reasonable value of good received; common counts for goods received; open book account; defenses of laches, statute of limitations, breach of the implied warranty of merchantability; defense of no valid third party beneficiary relationship; interest on damages requested
- § 8:2 Lawyer plaintiff sues partner defendant for breach of contract, breach of fiduciary duty, conversion, elder abuse, unjust enrichment with a request for damages

related to unjust profits, emotional distress, and punitive damages arising out of partner's actions taken during plaintiff's temporary, undiagnosed medical condition causing confusion and memory loss; temporary conservatorship initiated by plaintiff's sister limited to consent to medical treatment only; plaintiff never deemed incapacitated regarding legal, financial, and contractual matters; plaintiff's State Bar standing remained intact as a qualified member; defendant, as one of two stockholders with plaintiff, removed plaintiff by his sole and only vote, becoming the owner of all the firm's shares; punitive damages bifurcated; unclean hands defense alleged; special instructions related to theft and a lawyer's duty of professional responsibility; both jury instructions and verdict forms are excellent exemplars for trial courts and counsel

- § 8:3 Heirs of a founder of a fresh juice company in 1935 bearing his name and likeness sue two major soda manufacturers for using his name and likeness without their consent to sell their products in present day; an intellectual property trust had been established and registered prior to the sale of the juice company business to defendants; soda company defendants used founder's name and story to market its products when it purchased two business run by founder's heirs; in-depth look at California Civil Code §§ 3344 and 3341; deceased personality qualifications; intellectual property rights; multiple special instructions; First Amendment freedom of speech as affirmative defense; claims of Misappropriation of Right of Publicity (California Civil Code section 3344.1) and declaratory and injunctive relief
- § 8:4 Chemical company sues former senior salesman and his new company for 1. Breach of Written Contract; 2. Breach of Fiduciary Duties and Obligations; 3. Interference With Contractual Relations; 4. Interference With Prospective Economic Advantage; 5. Fraud and Deceit; 6. Conversion; 7. Misappropriation of Trade Secrets; 8. Breach of Undivided Loyalty; and 9. Unfair Competition for Violation of Business and Professions Code Section 17200 Et Seq. when defendant salesman resigns, moves to another chemical company and allegedly used trade secrets to lure away his former company's customers; lost profits damages based on multiple legal theories; defendant files a cross-complaint for unpaid wages, interest, and waiting time penalties; special verdict form with 64 questions plus multiple subparts for case in chief; multiple special instructions

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- § 8:5 Plaintiff, a marijuana “grow” expert, alleges that he entered into an oral partnership agreement with defendant and defendant’s business entity, a then defunct marijuana collective and that defendant breached the terms of the oral contract; stipulated damages; dissolution of partnership; breach of fiduciary duty; joint venture agreement; advisory verdict; breach of implied covenant of good faith and fair dealing; special verdict form; template verdict form exemplar

Bibliography

CHAPTER 9. LANDLORD/TENANT

- § 9:1 Elderly tenant plaintiff of 19 years accuses defendant apartment manager of Negligence, Breach of the Warranty of Habitability - Tort, Breach of the Covenant of Quiet Enjoyment, Intentional Infliction of Emotional Distress, and Violation of California Civil Code 1942.4; plaintiff alleges that manager retaliated against her after she called the city to report code violations by demolishing a patio/common area used by plaintiff; plaintiff alleges harassing letters left for her by defendant; plaintiff suffers from an incurable disease and is in a protected class; defendant’s actions made her physical and mental conditions worsen; rent reimbursement sought; out-of-pocket damages sought; special instructions given regarding the warranty of habitability and harassment; special verdict form with unique “Summary Section”
- § 9:2 Plaintiff was tenant in defendants’ building living with her boyfriend; the unit they were living in was alleged to have no heat and no carbon monoxide detector devices; after using an outdoor grill, the boyfriend moved it into the apartment; without any detectors, plaintiff and her partner were exposed to carbon monoxide; plaintiff became unconscious, fell to the floor and regained consciousness the next morning laying next to her deceased boyfriend; plaintiff claims that landlord breached their covenant of habitability by failing to have heat and carbon monoxide detectors; negligence per se; comparative fault of plaintiff and others
- § 9:3 Plaintiff, a long-term disabled tenant, sued new owners of building where he had rented a room since 2005; complaint alleged violations of the San Francisco Rent Stabilization Ordinance, assault and battery, conversion, emotional distress, harassment, and wrongful eviction under both State and City laws;

defendants were brothers with the non-owner acting as the owner's agent; multiple evictions attempted ending in dismissals; defendant brother with felony conviction for fraud and on parole threatened violence; locks were changed, utilities were shut off; property allegedly removed; access to entire property as previously permitted denied; multiple special instructions based upon the San Francisco Rent Stabilization Ordinance and California Civil, Civil Procedure, and Health and Safety Code sections given; special verdict form as to each defendant; punitive damages bifurcated; after finding that defendants acted with malice, oppression, and fraud, punitive damage issued settled day after Phase I; plaintiff awarded treble damages, costs, and fees

- § 9:4 Family of four (husband/wife/two minor children) claim a roof leak caused dangerous mold to grow in their rental property; insect infestation; lack of hot water; constructive/actual eviction; landlord/tenant; habitability; lease-residential requirements; trespass/nuisance; premises liability; negligent repair/maintenance/ breach of implied warranty of habitability, breach of implied covenant of quiet enjoyment; damages for respiratory issues; running nose; itchy eyes; headaches; skin infections; severe stress and anxiety; relocation costs; special verdict form

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CHAPTER 10. EMPLOYMENT

- § 10:1 Investigative assistant for county public defender's office received unsolicited and unwelcome sexually explicit video message from her supervisor; supervisor advised her immediately it was an error and to erase the message; weeks later, the supervisor started nitpicking plaintiff's work, make false accusations against her, and threatened her; plaintiff reported supervisor's conduct to human resources department and an in-house investigation was conducted; supervisor's improper conduct was partially substantiated; work place harassment in violation of FEHA; whistleblower retaliation in violation of California Labor Code § 1102.5; constructive discharge due to intolerable working conditions; defendants allege no severe or persuasive harassment; delay in reporting; all immediate actions taken for correction; affirmative defense of avoidable consequences

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- § 10:2 Plaintiff, aged 75, worked for defendant pharmaceutical company for 17 years; her work changed from sitting to standing for long periods; despite a doctor's note, her manager refused her medical treatment, claimed she was not injured, and falsely claimed that she tendered her resignation; plaintiff sued on five theories: failure to reasonably accommodate, failure to engage in the interactive process, disability discrimination, age discrimination, and failure to take all reasonable steps necessary to prevent discrimination; numerous special instructions given; bifurcation of punitive damages from liability
- § 10:3 Plaintiff worked for defendant insurance company from 1985 to June 2016 when she was terminated from the position of Senior Case Manager; plaintiff consistently received positive reviews throughout her long career; conflicts arose with a regional claims manager resulting in her taking disability leave for stress; after returning from disability leave, she was rated as "needs improvement" as instructed by the regional manager to her immediate supervisor; plaintiff filed multiple complaints about her regional manager's treatment of long-term employees to upper management and human resources citing the motive of hiring younger employees for less pay; no response was received to these complaints; plaintiff's termination centered upon an alleged failure to do a social media check on a claimant; with that social media check missing from the file, she performed one and agreed that she had mischaracterized the filing of the check; a Customer Service Award she received was categorized as "luck" by the regional manager; plaintiff was accused of speaking negatively about the company; she was labelled a "negative influence" on the other workers; ostracized and given more work; plaintiff went on leave for hypertension, coronary artery disease, hyperlipidemia, and panic attacks related to work-related stress and depression, and subsequently applied for short-term disability leave; upon return from her leave, she was terminated; plaintiff filed twelve causes of action based upon age-based discrimination and harassment, FEHA retaliation, disability discrimination, wrongful termination, breach of employment contracts, Labor Code violations, and intentional infliction of emotional distress; a nine-year battle ensued when the trial court granted defendant's motion for summary judgment which was overturned on appeal; bifurcated trial on punitive damages; hybrid general

- “verdict with special findings” used; believed the largest age discrimination verdict in history
- § 10:4 Two employees of a large utility company accused parent company and subsidiary corporation of fostering a hostile work environment, sexual harassment, harassment in the form of threats, assault and battery, intimation, actual wrongful discharge, constructive discharge and retaliation after reporting upper management supervisors of failing to investigate and encouraging the alleged unlawful employment practices; violations of Government Code §§ 12940(h), 12923, 12940(K), 12940(J), 12940(t); allegation of an “integrated enterprise” between parent and subsidiary corporations; off property harassing conduct; bifurcated punitive damages allegations; affirmative defense of failure to take advantage of HR processes to investigate abuse; economic and noneconomic damages sought; present value tables submitted to jury; masterful verdict forms in a complex case
- § 10:5 Director of admissions at a skilled nursing facility complains about the quality of nursing at the facility; advises executive director that she and her family members may sue over poor treatment of her father at the facility; advises that she could no longer do her job of recruiting families to place their loved one in the facilities; plaintiff is terminated, but before her separation, alleged defamatory statement are made about her work ethic and accusations of her violating HIPPA and removing files; wrongful termination as a Whistleblower; affirmative defenses based on same decision; defamation; failure to pay wages and provide rest/meal breaks; interest requested; punitive damages; special verdict form

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CHAPTER 11. MISCELLANEOUS TORTS

- § 11:1 Principals of a solar panel company fraudulently pretend to manufacture and lease mobile solar generators using money invested by plaintiffs; defendants allegedly represented to 11 plaintiffs (banks, investment companies, insurance companies, paint company) that they were investing in 13,900 solar generators worth over \$2 billion when 9700 did not exist; defendant remaining in this lawsuit made those false representations in a conspiracy to aid and abet the solar company; conspiracy, prejudgment interest, punitive damages, fraud and deceit; hybrid special general verdict form

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- § 11:2 Plaintiffs own an autobody repair shop and commercial property; defendants bought an adjacent property; demolished the structure in order to build luxury apartments; plaintiffs alleged that the demolition damaged their property; workers and crane activities significantly interfered with their business operations; defendant's workers trespassed; contractor negligence, emotional distress, negligence, nuisance, false promises, trespass, punitive damages alleged; defendants asserted a non-party was at fault; vicarious liability; bifurcated liability and damages from punitive damages
- § 11:3 Plaintiff was the assignee of a bad faith claim; she was injured in a car accident which, was the fault of defendant's insured; two policy limit demands were made and ignored by defendant; stipulated damages; single claim for the breach of the covenant of good faith and fair dealing; plaintiff alleged that defendant failed to conduct a reasonable investigation into her claims; special jury instruction; modified special verdict
- § 11:4 Plaintiff, an elder resident of defendant's skilled nursing facility and memory care, was evacuated and taken to another facility due to wildfires; while at that facility, plaintiff was unsupervised and suffered two falls resulting in a broken arm; deprived of pain medication and her hearing aids; transported to a hospital leaving whereabouts unknown to family members; negligence; physical elder abuse; elder abuse abduction; negligence per se for violations of many state statutes, ordinances, and regulations relating to skilled nursing facilities; unusually susceptible plaintiff; punitive damages for individual and entity assessed; unique special verdict forms detailing each cause of action with requisite burden of proof
- § 11:5 Plaintiff, aged 41, was admitted to defendant hospital after suffering a pulmonary embolism resulting in paralysis and severe respiratory distress requiring intubation and tracheostomy; in the ICU, she was heavily sedated but aware, yet unable to speak, she was completely dependent on hospital staff; night nurse employed by hospital, repeatedly raped her nightly for over 6 weeks; plaintiff reported it to hospital authorities who promised an investigation; believed she was hallucinating; told that nurse had no criminal record; defendant hospital facilitated closing of police inquiry; plaintiff alleged (1) Sexual Battery against all defendants under Civil Code

§ 1708.5; (2) Intentional Infliction of Emotional Distress against all defendants; (3) Fraud against Methodist Hospital for misrepresenting investigation and Harms' history; (4) Violation of Civil Code § 51.9 for sexual harassment in a business relationship; (5) Dependent Adult Abuse/Neglect under Welfare & Institutions Code; and (6) Negligence against Methodist Hospital for failure to supervise; defendant hospital remaining defendant; general and special damages awarded; punitive damages awarded; attorneys fees and costs awarded and prejudgment interest; comparative fault found between nurse and hospital; defendant nurse now serving time for sexual assault on plaintiff and two other victims

- § 11:6 Plaintiffs, Parent of missing daughter (decedent) sue her husband (defendant) for her wrongful death; daughter was married for two years when she and her husband took a purported business trip to Taipei, Taiwan; defendant husband returned from trip without plaintiff's daughter; defendant advised everyone that his wife had "left" him; plaintiffs conducted an investigation lasting years; they discovered and proved that defendant caused decedent's death in the Taroko National Park in Taiwan; plaintiffs alleged wrongful death, negligence, and false personation; California Criminal jury instructions used; unique circumstances of proof from a foreign country for trial in California; unusual label of "Civil Homicide"

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CHAPTER 12. CONCLUDING INSTRUCTIONS

- § 12:1 How to Use This Chapter
- § 12:2 Post Trial Admonitions to Give Before Substantive Instructions
- § 12:3 Evidence Instructions to Give Before Substantive Instructions
- § 12:4 Final Post Trial Admonitions to Give After Substantive Instructions
- § 12:5 General and Special Verdict Forms
- § 12:6 Final Instructions

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