Index

ABSENTIA
Evidence, **5:112, 5:114**

ACCIDENT REPORTS
Costs of action, **1:33**
Cross-examination, **5:106**
Diagrams and charts, **5:108**
Evidence, **5:104 to 5:108**
Investigation of accident, **1:92**
Traumatic brain injuries, **10:24**

AD DAMNUM CLAUSE
General treatment, **2:30 to 2:34**
Cap on amount of judgment, federal procedure, **2:31**
Drunk driving cases, **15:20, 15:45**
Insurance coverage, suit for more than, **2:34, 15:45**
Modification of amount sued for, **2:33**

ADDITUR AND REMITTITUR
Appeal, standard of review of remittitur on appeal, **8:79**
Comparison analysis not valid measure of excessiveness of verdict, **8:78**
Entry of judgment, time of, **8:81**
New trial, generally, **8:73, 8:74, 8:84**
Punitive damages, **8:80**
Standard for grant of remittitur, **8:77**
Time for entry of judgment, **8:81**

ADMISSION, REQUESTS FOR
General treatment, **2:135 et seq.**
Drafting of response, **2:151, 2:152**
Form of requests for admissions, **2:236**
Genuineness of documents, **2:138 to 2:140**
Lack of information or knowledge, **2:152**
Matters admitted, **2:141 to 2:143**
Medical bills, presumption as to authenticity and reasonableness of, **2:139**
Preparation of requests, **2:137**
Purposes, **2:136**
Sanctions for failure to admit, **2:143, 5:71**
Trial exhibits, genuineness of, **2:140**

ADMISSIONS
Cross-examination, obtaining admissions on, **5:87, 6:58 to 6:60**
Intoxication, admission by defendant of liability, **5:137**

ADMISSIONS—Cont'd
Medical evidence, obtaining admissions from defendant's physician or medical expert, **6:58 to 6:60**
Requests for admission
general treatment, **2:135 et seq.**
for detailed treatment see index heading ADMISSION, REQUESTS FOR

AFFIDAVITS
Electronic service and filing, **2:78**
Evidence. See index heading EVIDENCE
Hospital or medical facility custodian of records, affidavit of (Va. Code Ann. § 16.1-88.2), **5:200**
Service of process and papers, **2:59, 2:64, 2:65, 2:67, 2:78, 2:228**
Treating or examining health care provider, affidavit of (Va. Code Ann. § 16.1-88.2), **5:199**

AGE
Children. See index heading CHILDREN AND MINORS

ALCOHOLIC BEVERAGES
See index heading INTOXICATION

AMNESIA
Traumatic brain injuries, **10:4**

ANALOGIES
Expert witnesses, use by, **5:57**
Low impact, soft tissue injuries, **9:28**

APPEAL AND REVIEW
Attorneys' fees, **1:51**
Costs of action, **1:33**
Nonsuit, time for filing nonsuited action after appeal affirming nonsuit order, **2:97**
Remittitur, standard of review of remittitur on appeal, **8:79**

APPEARANCE
Compulsory general appearance by defendant, failure to object to defect in service of process waives one year time limit, **2:48**
Voluntary general appearance by defendant waives one year time limit for service of process, **2:47**

APPOINTMENT BOOKS
Medical evidence of defendant, subpoena duces tecum, **6:35**

APPROVAL
See index heading CONSENT AND APPROVAL

ARBITRATION
Low impact, soft tissue injuries, **9:18**

ARMED FORCES
See index heading MILITARY SERVICE

ASSOCIATION OF TRIAL LAWYERS OF AMERICA (ATLA)
Structured settlements, attorneys' fees, **14:114**

ATTENTION SPAN
Traumatic brain injuries, **10:9**

ATTORNEY GENERAL
Compromise of liens of state, **1:110**
Liens on recovery, proposal for compromise of lien, **1:111**

ATTORNEYS
Advice to client, **1:31 to 1:43**
Authorizations
general treatment, **1:53 to 1:58**
for detailed treatment see index heading AUTHORIZATIONS
Calendar of events, keeping by client, **1:41**
Communication by client with others, advice against, **1:40**
Costs to pursue claim, **1:33**
Decision whether to take case, **1:26 to 1:30**
Discovery process, participation of client in, **1:38**
Electronic service and filing. See index heading ELECTRONIC SERVICE AND FILING
E-mail address of counsel, **2:75**
Ethics. See index heading ETHICS
Evaluation of case
general treatment, **1:154 to 1:199**
for detailed treatment see index heading EVALUATION OF CASE
Fees
general treatment, **1:44 to 1:52**
for detailed treatment see index heading ATTORNEYS' FEES
Forms
basic instructions to clients, **1:228**
consent to representation of driver and passenger after full disclosure, letter confirming, **1:226**
non-engagement letter, **1:227**
Instructions to jury, preparation of, **8:19 to 8:22**
Interview of client
general treatment, **1:1 to 1:25**
for detailed treatment see index heading INTERVIEW OF CLIENT
Investigation of case
general treatment, **1:77 to 1:153**
for detailed treatment see index heading INVESTIGATION OF CASE
Management of case
general treatment, **1:59 to 1:76**
for detailed treatment see index heading MANAGEMENT OF CASE
Medical bills, instructions to client regarding, **1:42**
Mistrial motion based on improper statements by counsel, **8:50**
Negotiations and settlement
general treatment, **1:200 to 1:221**
for detailed treatment see index heading NEGOTIATIONS AND SETTLEMENT

ATTORNEYS—Cont'd
New trial, prejudicial conduct of counsel during trial, **8:59**
Nonsuit, assessment of attorney fees, **2:91**
Paralegals, role of, **1:39**
Privileged work product, requests for production of documents and things, **2:124, 2:125**
Statute of limitations, **1:36**
Subpoena duces tecum, attorney issued (form), **2:234**
Subpoena issued by attorney, **2:127, 2:239**
Time required to bring case to end, **1:34 to 1:37**
''User ID'' of attorney constitutes signature, **2:76**

ATTORNEYS' FEES
General treatment, **1:44 to 1:52**
Appeal or collection efforts, **1:51**
Contingent fees, **1:46**
Costs, payment of, **1:48 to 1:50**
Deposit, requirement of, **1:49**
Execution of fee agreement, **1:52**
Federal employees, actions against, **13:27**
Form for retainer agreement, **1:229**
Liens on recovery, **1:127, 1:128**
Structured settlements
general treatment, **14:111 to 14:123**
for detailed treatment see index heading STRUCTURED SETTLEMENTS
Types of fee agreements, **1:45**

AUDIO/VIDEO RECORDINGS
Demonstrative evidence, **5:75**
Depositions. See index heading DEPOSITIONS
Injuries to plaintiff, proof of, **5:151**
Investigation of accident, **1:86**
Low impact, soft tissue injuries, **9:29, 9:31**
Traumatic brain injuries, **10:47**

AUTHENTICATION
Computer animations, **12:28, 12:36**

AUTHORIZATIONS
General treatment, **1:53 to 1:58**
Assignment language, **1:57**
Employment information, release of, **1:58, 1:231**
Forms
employment authorization, **1:231**
lost wages statement to be sent to client's employer, **1:232**
medical authorization, **1:230**
Medical information, release of, **1:54 to 1:57, 1:230**
Revocation of prior authorizations, **1:55**

AUTOPSIES
Interview of client, charges against defendants, **1:15**

BAD FAITH
General treatment, **1:220**

"BAD FAITH" REFUSAL TO SETTLE
General treatment, **1:250**
Low impact, soft tissue injuries, **9:36**

BALANCE DEFICITS
Traumatic brain injuries, **10:14**

BANKRUPTCY
Medical bills discharged in bankruptcy, admissibility of medical expenses when, **5:156**
Settlement proceeds from personal injury claim received by plaintiff-debtor in, **1:126**

BATSON
General treatment, **3:56 et seq.**
For detailed treatment see index heading PEREMPTORY CHALLENGES

BEAMS
Traumatic brain injuries, **10:43**

BEHAVIORAL CHANGES
Traumatic brain injury, symptoms of, **10:21**

BIAS AND PREJUDICE
Closing arguments, **7:16**
Computer animations, **12:14, 12:15, 12:22, 12:32**
Medical evidence of defendant, challenges to
general treatment, **6:28 to 6:41**
for detailed treatment see index heading MEDICAL EVIDENCE OF DEFENDANT
New trial, prejudicial conduct of counsel during trial, **8:59**
Peremptory challenges, supporting strike of contested juror, **3:68**
Selection of jury, **3:53 to 3:55**

BIFURCATION
Drunk driving cases, **5:138, 15:23, 15:26, 15:27**

BIOGRAPHICAL INFORMATION
Interview of client, **1:24**

BLOOD TESTS
General treatment, **5:126 to 5:130, 15:8, 15:9, 15:11, 15:22, 15:30**
Punitive or exemplary damages, unreasonable refusal to submit to test, **5:136**

BONDS AND UNDERTAKINGS
Costs of action, **1:33**

BRAIN ELECTRICAL ACTIVITY MAPPING (BEAM)
Traumatic brain injuries, assessment of, **10:43**

BRAIN INJURIES
General treatment, **10:1 et seq.**
For detailed treatment see index heading Traumatic Brain Injuries

BRIEFS
Motions, filing and service of briefs, **2:107**

BURDEN OF PROOF
See index heading Presumptions and Burden of Proof

BUSINESS RECORDS
Hearsay, exception to, **5:168**

CALENDAR OF EVENTS
Keeping by client, **1:41**

CALENDARS OF COURT
See index heading Dockets and Calendars of Courts

CAUSE, CHALLENGES FOR
Selection of jury, **3:53 to 3:55**

CENTER LINE, CROSSING OF
Judgment as matter of law, **8:12**

CERTIFICATE OF SERVICE
Electronic service and filing, **2:80**

CHARTS
See index heading Diagrams and Charts

CHILDREN AND MINORS
Motions in limine, competency to testify concerning speed of vehicle, **3:16**
Structured settlements, **14:26, 14:30, 14:110**

CHIROPRACTORS
Damages, use to prove, **5:29**
Injuries to plaintiff, proof of, **5:150**

CLERKS OF COURT
Costs of action, **1:33**
Electronic service and filing, annotation by clerk not required on pleading, **2:74**

CLOSING ARGUMENTS
General treatment, **7:1 et seq.**
Abusive personal remarks regarding opposition, **7:27**
Aids in preparation of effective closing argument, **7:46**
Attributes of effective closing argument, **7:44**
Checklists
elements of effective closing argument, **7:48**
outline of sample plaintiff's closing argument, **7:49**
Content of closing arguments, **7:8 to 7:29**
Control by court, **7:3 to 7:7**
Curing of improper remarks and conduct, **7:33, 7:34**

CLOSING ARGUMENTS—Cont'd
Damages, discussion of, **7:24, 7:25, 7:38**
Delivery of effective closing argument, **7:45**
Demonstrative aids, use of, **7:12**
Effectiveness of argument, **7:36 to 7:48**
Failure to testify or present evidence, comment on, **7:26**
Figures of speech, use of, **7:11**
Financial condition of party, discussion of, **7:18**
Goals of effective closing argument, **7:42**
"Golden rule," **7:19**
Inferences and deductions fairly drawn from evidence, **7:8**
Instructions to jury, **7:9, 7:34**
Insurance coverage, discussion of, **7:17**
Length of closing arguments, **7:4, 7:5**
Low impact, soft tissue injuries
general treatment, **9:61 to 9:84**
for detailed treatment see index heading LOW IMPACT, SOFT TISSUE INJURIES
Medical evidence of defendant, challenges to, **6:43**
Misstatement of evidence or law, **7:14**
New matters, discussion of, **7:15**
New trial after improper closing argument, **7:35**
Nonjury trials, **7:2**
Number of attorneys involved in presentation of closing arguments, **7:6**
Objections, **7:30 to 7:32**
Opinion of counsel, **7:22**
Opposition, comments on conduct of, **7:26 to 7:28**
Pain and suffering, formula to calculate, **7:25**
Parts of effective closing argument, **7:43**
Passion or prejudice, appeals to, **7:16**
Preparation for closing arguments, **7:39, 7:40, 7:46**
Provoked or invited argument, **7:29**
Rebuttal, importance of, **7:41**
Right to make closing argument, **7:1, 7:2**
Right to open and close, **7:7**
Straying from evidence, **7:21**
Stricken evidence, reference to, **7:23**
Themes of case, restatement of, **7:37**
"Tried and true" arguments, **7:47**
Truthfulness of witnesses, **7:28**
Vouching for witness, **7:22**

CLOTHING
Interview of client, evidence at scene, **1:17**

COMPROMISE
General treatment, **1:200 to 1:221**
For detailed treatment see index heading NEGOTIATIONS AND SETTLEMENT

COMPROMISE OF LIEN
See index heading LIENS ON RECOVERY

COMPUTER ANIMATIONS
General treatment, **12:1 et seq.**
Authentication, **12:28, 12:36**
Checklists
discovery requests to learn about an animation, **12:53**
exclusion of computer animation, possible grounds for, **12:54**
Collection of relevant data, **12:7**
Creation of computer animations, **12:6 to 12:12**
Dangers associated with computer animations, **12:13 to 12:15**
Demonstrative evidence, admission to illustrate expert testimony, **12:43, 12:44**
Direct and cross-examination, use of, **12:46 to 12:48**
Discovery, use to learn about animation, **12:39, 12:53**
Experts
admissibility of computer animations as demonstrative evidence to illustrate expert testimony, **12:43**
comparing expert testimony and computer animated reconstructive evidence, **12:4**
opposition to computer animations, calling your own experts
qualifications, **12:21, 12:33**
Federal court, evidentiary principles in, **12:16 to 12:28**
Hearsay, **12:23 to 12:25, 12:34**
Helpfulness, **12:20, 12:31**
Input of data, **12:9**
Instructions to jury, submission of limiting, **12:49**
Motion to exclude animation, **12:40 to 12:42**
Opposition to computer animations
general treatment, **12:38 to 12:52**
demonstrative evidence, admission to illustrate expert testimony, **12:43, 12:44**
direct and cross-examination, use of, **12:46 to 12:48**
discovery, use to learn about animation, **12:39, 12:53**
experts, calling your own, **12:48**
instructions to jury, submission of limiting, **12:49**
motion to exclude animation, **12:40 to 12:42**
understand and utilize all possible grounds for exclusion, **12:38**
Prejudicial effect, **12:14, 12:15, 12:22, 12:32**
Reconstruction evidence, **12:4**
Recording of videotape or film, **12:12**
Relevance, **12:19, 12:30**
Rendering, **12:11**
Scientific evidence, **12:26, 12:27, 12:35**
Scripting of motion, **12:10**
State court, evidentiary principles in, **12:29 to 12:37**
"Stealth witness," computer animation as, **12:5**
Storyboard, development of, **12:8**

CONFESSION OF JUDGMENT
Generally, **2:222**
Nonsuit may be taken after rejecting, **2:87**

CONFLICT OF LAWS
Evaluation of case, **1:167**

CONSCIOUSNESS, LOSS OF
Traumatic brain injuries, **10:3**

CONSENT AND APPROVAL
"John Doe" cases, consent to settlement provisions in UM policy, **11:9**
Structured settlements, **14:50, 14:110**

CONSTITUTIONAL LAW
Intoxication, constitutional defenses, **15:37, 15:38**
Peremptory challenges, remedy for unconstitutional exercise of, **3:73**

CONTINGENT FEES
General treatment, **1:46**

CONTRIBUTORY NEGLIGENCE
"John Doe" cases, **11:17**
Judgment as matter of law, presumptions favoring plaintiff when defendant alleges contributory negligence, **8:13**

CORPORATIONS
Service of process and papers, **2:55 to 2:59**

CORROBORATING WITNESSES
Dead man's statute, failure to present corroborating testimony under, **8:9**
"John Doe" cases, **11:15, 11:16**

COSTS AND EXPENSES
General treatment, **1:33, 1:48 to 1:50**
Accident reports, **1:33**
Admission, sanction for failure to admit, **5:71**
Discovery, generally, **2:206**
Duty to save costs, **2:227**
Expert witnesses, **1:33**
Motion to compel discovery, **2:206**
New trial, **8:88**
Nonsuit, **2:91**
Post-trial motions, **8:86 to 8:89**
Prejudgment interest, **8:87**
Service of process and papers, **1:33**

COUNSEL
See index heading ATTORNEYS

COURT REPORTERS
Costs of action, **1:33**

CRIMINAL RECORDS
Evaluation of case, **1:199**
Interview of client, biographical information, **1:24**

CROSS-EXAMINATION
General treatment, **5:83 to 5:93**
Accident report, use of, **5:106**
Admissions, obtaining, **5:87, 6:58 to 6:60**
Challenging witness as liar, **5:86**
Computer animations, **12:46 to 12:48**
Discrediting of witness, **5:85 to 5:88**
Favorable testimony, obtaining, **5:91**
Federal court rules, **5:89**
Low impact, soft tissue injuries, sample cross-examination of defense orthopedic, **9:88**
Medical evidence of defendant, challenges to
general treatment, **6:7, 6:8, 6:42 to 6:61**
for detailed treatment see index heading MEDICAL EVIDENCE OF DEFENDANT
Persuasiveness of witness, limiting, **5:90**
Prior inconsistent statements, **5:88**
Purposes, **5:84 to 5:91**
Reputation of witness for truth and veracity, **5:92**

CUMULATIVE OR DUPLICATIVE MATTERS
Cumulative testimony, **5:13**

CURRICULUM VITAE
Medical evidence of defendant, challenges to, **6:25**

DAMAGES
General treatment, **5:140 to 5:193**
Closing arguments, **7:24, 7:25, 7:38**
Driving while intoxicated. See index heading INTOXICATION
Evaluation of case
general treatment, **1:170 et seq.**
for detailed treatment see index heading EVALUATION OF CASE
Evidence, **5:140 to 5:193**
Expert witnesses, **5:29 to 5:31**
Instructions to jury, **8:39**
Lay witnesses, proof of injuries, **5:143 to 5:146**
Lost earnings
general treatment, **5:175 to 5:193**
for detailed treatment see index heading LOST EARNINGS
Low impact, soft tissue injuries
general treatment, **9:38 et seq.**
for detailed treatment see index heading LOW IMPACT, SOFT TISSUE INJURIES
Medical bills, proof of injuries, **5:154**
Medical expenses
general treatment, **5:155 to 5:174**
for detailed treatment see index heading MEDICAL EXPENSES

DAMAGES—Cont'd
Medical expenses—Cont'd
write-offs, **5:163**
Models and illustrations, proof of injuries, **5:152**
New trial on basis of inadequate damages, **8:69**
Non-monetary damages, adequacy of award for, **8:62**
Opening statements, **4:11**
Physicians, proof of injuries, **5:147 to 5:150**
Punitive damages. See index heading PUNITIVE DAMAGES
Relatives, friends and acquaintances, proof of injuries, **5:145**
Special damages. See index heading SPECIAL DAMAGES
Tangible evidence, proof of injuries, **5:151 to 5:153**
Traumatic brain injuries
general treatment, **10:1 et seq.**
for detailed treatment see index heading TRAUMATIC BRAIN INJURIES
Treating physician, proof of injuries and expenses, **5:147 to 5:149, 5:165, 5:166**
Voir dire, prepare jurors to award full and fair damages, **3:31**
X-rays and medical devices and appliances, proof of injuries, **5:153**

DATE
See index heading TIME AND DATE

DAY-IN-THE-LIFE VIDEOTAPES
Injuries to plaintiff, proof of, **5:151**

DEAD MAN'S STATUTE
Corroborating testimony, failure to present, **8:9**

DECLARATIONS AGAINST INTEREST
Investigating officer, testimony of, **5:110**

DEFAULT JUDGMENT
Participation by carrier in negligence action on behalf of defendant driver, **1:140**

DEFERRED PAYMENT
Structured settlements, **14:19**

DEFINITIONS
Low impact, soft tissue injuries, **9:3 to 9:5, 9:39**
Minor impact, soft tissue injuries, **9:3 to 9:5**
Served, **2:108**
Structured settlements
generally, **14:2 to 14:23**
for detailed treatment see index heading STRUCTURED SETTLEMENTS

DEMEANOR
Expert witnesses, **5:54**

DEMONSTRATIVE AIDS
Closing arguments, **7:12**

DEMONSTRATIVE EVIDENCE
General treatment, **5:72 to 5:78**

DEMONSTRATIVE EVIDENCE—Cont'd
For detailed treatment see index heading REAL AND DEMONSTRATIVE EVIDENCE

DEMURRER
Punitive damages, asserting claims for punitive damages sufficient to survive demurrer, **2:38**

DEPOSITIONS
General treatment, **2:128 to 2:134, 2:159 to 2:201**
Audio/video recordings
generally, **2:183**
editing, **2:185**
errata sheets, use of, **2:198 to 2:201**
filing transcripts, **2:187**
procedures, **2:184**
written transcripts, **2:186**
Client, preparation for depositions, **2:159 to 2:166**
Errata sheets
generally, **2:192**
audio/video recordings, **2:198 to 2:201**
impeachment, original responses used for, **2:195**
majority federal court view on changes by errata sheet, **2:193 to 2:196**
minority federal court view on changes by errata sheet, **2:197**
reasons for changes, stating, **2:194**
reopening original deposition, **2:196**
Evidence, use as, **5:8, 5:16, 5:68, 5:69**
Forms
notice of deposition, **2:235**
pre-deposition instructions to clients, **2:238**
Inconsistencies, use of, **2:178**
Leading questions, use of, **2:176**
Limitation or termination of examination at deposition, **2:132**
Low impact, soft tissue injuries, **9:31, 9:32**
Medical evidence of defendant, challenges to, **6:26, 6:27**
Medical practitioners, requests for disclosures from, **2:181**
Notice of examination, **2:172, 2:173**
Number of depositions, **2:134**
Objections to examination at deposition, **2:131**
Offers of proof, **5:101**
Persons to depose, **2:133**
Place for depositions, **2:171**
Preparation for depositions, **2:159 et seq., 2:238**
Procedure, **2:130 to 2:132, 2:169 to 2:173**
Production of documents, request for, **2:173, 2:180**
Purpose, **2:129**
Review of information before depositions, **2:163, 2:164**
Role play before depositions, **2:161 to 2:165**
Signing of deposition, **2:188 to 2:191**
Specificity of questions, **2:175, 2:177**

DEPOSITIONS—Cont'd
Strategy, **2:174 to 2:178**
Telephone depositions of witnesses, **2:182**
Time and date
general treatment, **2:170**
determination of times, **2:177**
signing of deposition, **2:191**
Videotaped depositions, use of errata sheets, **2:198 to 2:201**
Waiver of signing of deposition, **2:189, 2:190**
Witnesses, **2:179 to 2:183**

DIAGRAMS AND CHARTS
Accident reports, **5:108**
Closing arguments, **7:12**
Demonstrative evidence, **5:75**
Expert witnesses, use by, **5:35, 5:47**
Investigating officer, testimony of, **5:110**
Traumatic brain injuries, **10:48**

DIRECTED VERDICT
General treatment, **8:1 to 8:17**
For detailed treatment see index heading JUDGMENT AS MATTER OF LAW

DIRECT EXAMINATION
General treatment, **5:80 to 5:82**
Computer animations, **12:46 to 12:48**
Expert witnesses, **5:32 to 5:39**

DISCOVERY
General treatment, **2:110 to 2:209**
Admission, requests for
general treatment, **2:135 et seq.**
for detailed treatment see index heading ADMISSION, REQUESTS FOR
Attorney issued subpoena, production of documents and things, **2:127**
Client participation in preparation of response to written requests, **2:146**
Computer animations, **12:39, 12:53**
Depositions
general treatment, **2:128 to 2:134, 2:159 to 2:201**
for detailed treatment see index heading DEPOSITIONS
Drafting of response to written requests, **2:147 to 2:152**
Drunk driving cases, **15:14**
Evasive or incomplete answers, **2:205**
Expenses of motion to compel discovery, award of, **2:206**
Expert testimony, federal court rules for supplementing disclosures of, **2:154, 2:155**
Form of answers under Virginia court rules, **2:149**
Insurance coverage of defendant, **1:149**
Interrogatories
general treatment, **2:112 to 2:117**
for detailed treatment see index heading INTERROGATORIES

DISCOVERY—Cont'd
Low impact, soft tissue injuries, **9:24, 9:31, 9:32**
Malpractice, Rule 4:10 examination, **2:203**
Medical examinations, court ordered, **2:202**
Motions to compel discovery
general treatment, **2:204 to 2:209**
evasive or incomplete answers, **2:205**
expenses, payment of, **2:209**
expenses of motion, award of, **2:206**
failure to comply with order compelling discovery, **2:207**
sanctions for failure to make required disclosures, **2:208, 2:209**
Objections
subpoena duces tecum, **2:158**
written requests, **2:157**
Participation of client, **1:38**
Production of documents and things, requests for
general treatment, **2:118 to 2:127**
for detailed treatment see index heading PRODUCTION OF DOCUMENTS AND THINGS
Responding to written requests, **2:144 to 2:156**
Sanctions for failure to make required disclosures, **2:208, 2:209**
Supplementation of response to written requests, **2:153, 2:156**
Supplementation or correction of response to written requests, **2:156**
Time frame for response to written requests, **1:37**
Written discovery requests
expert testimony, federal court rules for supplementing disclosures of, **2:154, 2:155**
form of answers under Virginia court rules, **2:149**

DISCREPANCIES IN DATA
Investigation of case, **1:102**

DISCRIMINATION
General treatment, **3:56 et seq.**
For detailed treatment see index heading PEREMPTORY CHALLENGES

DISMISSAL
Nonsuit, exclusion of parties or claims dismissed from original action, **2:93**
Service, special appearance to file motion to dismiss for failure to obtain timely service, **2:49 to 2:52**

DIVERSITY
Federal court jurisdiction, **2:22**

DIVISION OF MOTOR VEHICLE
Investigation of case, **1:92**

DIZZINESS
Traumatic brain injury, symptoms of, **10:14**

DOCKETS AND CALENDARS OF COURTS
Structured settlements, **14:68**

DOCKETS AND CALENDARS OF COURTS—Cont'd
Time required to bring suit to end, **1:37**

DRIVING WHILE INTOXICATED
General treatment, **5:124 to 5:139, 15:1 et seq.**
For detailed treatment see index heading INTOXICATION

DRUGS
See index heading INTOXICATION

DUPLICATING FEES
Costs of action, **1:33**

DUPLICATIVE MATTERS
See index heading CUMULATIVE OR DUPLICATIVE MATTERS

DYNAMISM
Expert witnesses, credibility of, **5:43**

EARNING CAPACITY, LOSS OF
General treatment, **5:178, 5:186 to 5:193**
For detailed treatment see index heading LOST EARNINGS

ECONOMISTS
Damages, proof of, **5:29**
Future lost earnings, proof of, **5:184**
Lost earnings, **5:190**
Structured settlements, **14:48**

ELECTROENCEPHALOGRAPHY (EEG)
Traumatic brain injuries, assessment of, **10:41**

ELECTRONIC SERVICE AND FILING
General treatment, **2:72 to 2:82**
Annotation by clerk not required on pleading, **2:74**
Certificate of service, **2:80**
E-mail address of counsel, inclusion of, **2:75**
Non-electronically filed cases, electronic service in, **2:81**
Orders, decrees and notices, service of, **2:82**
Service of documents on counsel, generally, **2:79 to 2:82**
Sworn pleadings and affidavits, **2:78**
Time for acting after electronic service, **2:77**
"User ID" of attorney constitutes signature, **2:76**

EMERGENCIES AND UNEXPECTED CONTINGENCIES
Structured settlements, **14:44, 14:64**

EMERGENCY MEDICAL TECHNICIANS
See index heading RESCUE PERSONNEL

EMOTIONAL CHANGES
Traumatic brain injury, symptoms of, **10:21**

EMOTIONAL DISTRESS
Structured settlements, **14:74**

EMPLOYMENT AND EMPLOYMENT RECORDS
Authorizations, **1:58, 1:231**
Defendant, who to sue, **2:8, 2:9**
Evaluation of case, **1:179**
Federal employees
general treatment, **13:26 et seq.**
for detailed treatment see index heading FEDERAL EMPLOYEES
Future lost earnings, proof of, **5:184**
Interview of client, **1:21**
Low impact, soft tissue injuries, **9:14**
Traumatic brain injury, assessment of, **10:26**

ERGONOMISTS
Expert witnesses, use to prove liability, **5:26**

ERISA
Subrogation, **1:124 to 1:129**

ERRATA SHEETS
Depositions, **2:192 to 2:201**

ETHICS
Closing arguments, expressing opinion or vouching for witness, **7:22**
Communication with jury after discharge, **8:51**
ERISA lien and reimbursement rights, cases asserting, **1:129**
Opening statements, ethical constraints, **4:6**
Representation of both driver and passenger, **1:27, 1:226**
Structured settlements, attorneys' fees, **14:119**
Voir dire, **3:36**

EVALUATION OF CASE
General treatment, **1:154 to 1:199**
Checklists
damages for pain and suffering, **1:223**
negotiation and settlement, **1:224**
Client/plaintiff, evaluation of, **1:156**
Conflict of laws analysis, **1:167**
Criminal record of client, **1:199**
Daily life of plaintiff, impact of injuries on, **1:178**
Damages, **1:170 et seq.**
Defendant(s), evaluation of, **1:157**
Demonstration of injuries to jury, **1:173**
Duration and consistency of treatment, **1:175**
Employment of plaintiff, impact of injuries on, **1:179**
Evidence
general treatment, **1:162 to 1:164, 1:170 et seq.**
daily life of plaintiff, impact of injuries on, **1:178**

EVALUATION OF CASE—Cont'd
Evidence—Cont'd
damages, **1:170 et seq.**
demonstration of injuries to jury, **1:173**
duration and consistency of treatment, **1:175**
employment of plaintiff, impact of injuries on, **1:179**
expert testimony, below
objective vs. subjective proof of injuries, **1:172**
pain and anguish, **1:180, 1:223**
permanent injuries, **1:176**
permanent or partial disability, **1:177**
physical evidence, **1:163**
police officer's investigation, **1:164**
special damages, **1:181**
time when injuries were reported, **1:171**
visible injuries, **1:174**
Expert testimony
general treatment, **1:186 to 1:192**
defendant's expert, **1:189**
plaintiff's expert, calling by defendant, **1:190**
treating doctor, **1:187, 1:188**
Financial condition of client, **1:196**
Governing law, **1:167**
Insurance coverage, impact of, **1:191**
Liability, evaluation of, **1:159**
"Net" recovery by client, **1:193**
Pain and anguish, **1:180, 1:223**
Permanent injuries, **1:176**
Permanent or partial disability, **1:177**
Personal financial responsibility of defendant, **1:192**
Physical evidence, **1:163**
Police officer's investigation, **1:164**
Preexisting medical conditions of client, **1:197**
Prior or subsequent accidents of client, **1:198**
Punitive damages, availability of, **1:182, 1:184**
Relationship between plaintiff and defendant, **1:158**
Special damages, **1:181**
Time when injuries were reported, **1:171**
Venue, effect of, **1:185**
Visible injuries, **1:174**
Willful and wanton conduct, punitive damages, **1:184**
Willingness of client to go to court, **1:195**
Witnesses, evaluation of, **1:165**

EVASIVE ANSWERS
Discovery, **2:205**

EVIDENCE
General treatment, **5:1 et seq.**

EVIDENCE—Cont'd
Absentia, finding guilt, **5:112, 5:114**
Accident reports, **5:104 to 5:108**
Admission, use of requests for, **5:71**
Affidavits
Hospital or medical facility custodian of records, affidavit of (Va. Code Ann. § 16.1-88.2), **5:199**
Treating or examining health care provider, affidavit of (Va. Code Ann. § 16.1-88.2), **5:199**
Burden of proof. See index heading PRESUMPTIONS AND BURDEN OF PROOF
Checklists
lost earnings, future lost earnings and loss of earning capacity, proof of, **5:198**
medical expenses, proof of, **5:197**
presenting the evidence, **5:194**
real and demonstrative evidence, **5:196**
testimonial evidence, **5:195**
Computer animations
general treatment, **12:1 et seq.**
for detailed treatment see index heading COMPUTER ANIMATIONS
Corroborating witnesses. See index heading CORROBORATING WITNESSES
Costs of action, **1:33**
Cross-examination
general treatment, **5:83 to 5:93**
for detailed treatment see index heading CROSS-EXAMINATION
Cumulative testimony, **5:13**
Damages
general treatment, **5:140 to 5:193**
for detailed treatment see index heading DAMAGES
Defendant, calling as witness, **5:14 to 5:16**
Demonstrative evidence
general treatment, **5:72 to 5:78**
for detailed treatment see index heading REAL AND DEMONSTRATIVE EVIDENCE
Depositions, use of, **5:8, 5:16, 5:68, 5:69**
Diagram of accident scene, accident reports, **5:108**
Direct examination
general treatment, **5:80 to 5:82**
for detailed treatment see index heading DIRECT EXAMINATION
Evaluation of case
general treatment, **1:162 to 1:164, 1:170 et seq.**
for detailed treatment see index heading EVALUATION OF CASE
Expert witnesses
general treatment, **5:17 to 5:66**
for detailed treatment see index heading EXPERT WITNESSES
Guilty plea or nolo contendere plea, **5:112 to 5:114**
Hearsay. See index heading HEARSAY
Instructions to jury, **8:39**
Interview of client, **1:12, 1:13, 1:17**

EVIDENCE—Cont'd
Intoxication and intoxicating liquors
general treatment, **5:124 to 5:139**
for detailed treatment see index heading INTOXICATION
Investigating officer, **5:109, 5:110**
Lay witnesses
questionnaire and evaluation, **1:248**
testimony, **5:12**
Leading questions. See index heading LEADING QUESTIONS
Leaving scene of accident, admissibility of evidence as to, **5:116**
Lost earnings
general treatment, **5:175 to 5:193**
for detailed treatment see index heading LOST EARNINGS
Medical bills discharged in bankruptcy, admissibility of medical expenses when, **5:156**
Medical evidence of defendant, challenges to
general treatment, **6:1 et seq.**
for detailed treatment see index heading MEDICAL EVIDENCE OF DEFENDANT
Medical expenses
general treatment, **5:155 to 5:174**
for detailed treatment see index heading MEDICAL EXPENSES
Medical witnesses, number of, **5:7**
New trial, grounds for, **8:58**
Number of witnesses to call, **5:6 to 5:8**
Objections, **5:94**
Offers of proof
general treatment, **5:96 to 5:102**
for detailed treatment see index heading OFFERS OF PROOF
Order of presentation
general treatment, **5:1 to 5:10**
depositions, use of, **5:8**
linking the evidence, **5:9**
medical witnesses, number of, **5:7**
number of witnesses to call, **5:6 to 5:8**
plaintiff, opening or closing with, **5:4, 5:5**
right to open and close, **5:10**
strength of beginning and ending, **5:2 to 5:5**
Precautions with using tangible evidence, **5:78**
Preparation for direct examination, **5:82**
Presumptions. See index heading PRESUMPTIONS AND BURDEN OF PROOF
Production of documents and things, requests for, **2:126**
Real and demonstrative evidence
generally, **5:72 to 5:78**
for detailed treatment see index heading REAL AND DEMONSTRATIVE EVIDENCE
Reconstruction of accidents
general treatment, **5:117 to 5:123**
for detailed treatment see index heading RECONSTRUCTION OF ACCIDENTS
Service of process, proof of, **2:70**

EVIDENCE—Cont'd
Stipulations, **5:70**
Traffic citations and trials, **5:111 to 5:115**
Traumatic brain injuries
general treatment, **10:30 to 10:48, 10:50**
for detailed treatment see index heading TRAUMATIC BRAIN INJURIES
Voir dire
general treatment, **3:23 to 3:52**
for detailed treatment see index heading VOIR DIRE

EXEMPLARY DAMAGES
See index heading PUNITIVE DAMAGES

EXHIBITS
Admission, requests for, **2:140**
Costs of action, **1:33**

EXPENSES
General treatment, **1:33, 1:48 to 1:50**
For detailed treatment see index heading COSTS AND EXPENSES

EXPERT WITNESSES
General treatment, **5:17 to 5:66**
Admissibility, **5:18 to 5:31**
Analogies, use to explain complex concepts, **5:57**
Bases of opinion testimony, **5:37**
Chiropractors. See index heading CHIROPRACTORS
Communication skills of expert, **5:60 to 5:62**
Computer animation. See index heading COMPUTER ANIMATION
Costs of action, **1:33**
Credentials of expert, **5:41 to 5:43, 5:66**
Damages, proof of, **5:29 to 5:31**
Demeanor, conveyance of certainty through, **5:54**
Demonstrative evidence, use to bolster expert, **5:47**
Direct examination, **5:32 to 5:39**
Discovery, federal court rules for supplementing disclosures of expert testimony, **2:154, 2:155**
Economists. See index heading ECONOMISTS
Engineering experts, **5:27**
Evaluation of case
general treatment, **1:186 to 1:192**
for detailed treatment see index heading EVALUATION OF CASE
Federal court
admissibility of expert testimony, **5:21 to 5:24**
discovery, federal court rules for supplementing disclosures of expert testimony, **2:154, 2:155**
Forthrightness on cross-examination, **5:53**
Foundation, **5:34**
Giving opinion testimony, **5:36, 5:38**
Hearsay matters of opinion, **5:38, 5:39**

EXPERT WITNESSES—Cont'd
Human context for expert's testimony, **5:45**
Lay testimony, support expert by use of, **5:44 to 5:46**
Leading questions, **5:59**
Liability, proof of, **5:26 to 5:28**
Medical evidence of defendant, challenges to
general treatment, **6:1 to 6:8**
for detailed treatment see index heading MEDICAL EVIDENCE OF DEFENDANT
Medical experts, **5:30**
Nurses. See index heading NURSES
Objections to expert testimony, **5:95**
Objectivity, gain juror trust through, **5:50 to 5:52**
Peer review of publications, **5:64**
Physical therapists. See index heading PHYSICAL THERAPISTS
Plain language, use of, **5:55**
Preparation and presentation of testimony, **2:215, 5:49 to 5:66**
Psychiatrists and psychologists. See index heading PSYCHIATRISTS AND PSYCHOLOGISTS
Publications by expert, maximization of significance of, **5:63 to 5:65**
Qualifications, **5:33**
Reconstruction of accidents
general treatment, **5:117 to 5:123**
for detailed treatment see index heading RECONSTRUCTION OF ACCIDENTS
Sequence of law and expert testimony, **5:46**
Speculative testimony, **5:19**
Strategies, **5:40 to 5:48**
Texts, use of, **5:48**
Toxicologists. See index heading SCToxicologists and Toxicology Reports
Trial preparation, **2:213 to 2:215**
Vocational rehabilitation experts. See index heading VOCATIONAL REHABILITATION EXPERTS

FAMILY AND RELATIVES
Damages, **5:145**

FATIGUE
Traumatic brain injuries, **10:16**

FEDERAL EMPLOYEES
General treatment, **13:26 et seq.**
Amount of claim, **13:29, 13:30**
Attorneys' fees, limitation on, **13:27**
Filing requirements, **13:28**
Form 95, **13:31**
Jury trial, unavailability of, **13:34**
Place to file suit, **13:33**
Time requirements, **13:31, 13:32**
Uninsured motorists, applicability of sovereign immunity, **13:35**

FEDERAL TORT CLAIMS ACT
General treatment, **13:26 et seq.**
For detailed treatment see index heading FEDERAL EMPLOYEES

FIGURES OF SPEECH
Closing arguments, **7:11**

FILES AND FILING
Depositions, audio/video recordings, **2:187**
Electronic filing
general treatment, **2:72 to 2:82**
for detailed treatment see index heading ELECTRONIC SERVICE AND FILING
Federal employees, actions against, **13:28**
Medical evidence of defendant, subpoena duces tecum, **6:32**
Nonsuit (voluntary)
general treatment, **2:83 to 2:97**
for detailed treatment see index heading NONSUIT

FINANCIAL CONDITION
Closing arguments, **7:18**
Evaluation of case, **1:196**

FINE MOTOR SKILLS
Traumatic brain injuries, **10:20**

FOREIGN CORPORATIONS
Service of process and papers, **2:56 to 2:59**

FORENSIC ENGINEERS
Expert witnesses, use to prove liability, **5:26**

FORM 1099
Medical evidence of defendant, subpoena duces tecum, **6:34**

FOUNDATION
Expert witnesses, **5:34**
Reconstruction of accidents, **5:121**

GIG ECONOMY
Generally, **16:1 to 16:8**
Auto cases, **16:1 to 16:8**
Definition, **16:1**
Overview, **16:1**
Ride share cases
generally, **16:1 to 16:8**
special considerations, **16:2**
Vehicle share cases
generally, **16:1 to 16:8**
special considerations, **16:2**

"GOLDEN RULE"
Closing arguments, **7:19**

GOOD FAITH
"Bad faith" refusal to settle. See index heading "BAD FAITH" REFUSAL TO SETTLE

GRIP STRENGTH
Traumatic brain injuries, reduction in grip strength, **10:20**

GROSS NEGLIGENCE
State and local governments, **13:11**

GUILTY PLEA
Evidence, **5:112 to 5:114**

HEADACHES
Traumatic brain injuries, **10:6**

HEALTH CARE PROVIDERS
Affidavit of treating or examining health care provider (Va. Code Ann. § 16.1-88.2), **5:199**

HEARING PROBLEMS
Traumatic brain injuries, **10:15, 10:19**

HEARSAY
Computer animations, **12:23 to 12:25, 12:34**
Expert witnesses, **5:38, 5:39**
Medical expenses, **5:167, 5:168**

HIT AND RUN
Punitive or exemplary damages
statutory law, **15:4, 15:5**

HOSPITAL RECORDS
Affidavit of hospital or medical facility custodian of records (Va. Code Ann. § 16.1-88.2), **5:200**
Proof of medical expenses, **5:159 to 5:161**

HUMAN FACTORS ENGINEERS
Expert witnesses, use to prove liability, **5:26**

IDENTITY OR IDENTIFICATION
Defendants, identification of, **1:14**
"John Doe" cases, identification of "John Doe," **11:10, 11:11**
Tolling of limitations period when driver misrepresents identity, **2:6**
Witnesses, identification of, **1:12**

ILLUSTRATIONS
Damages, **5:152**

IMPEACHMENT
Depositions and errata sheets, original responses used for impeachment, **2:195**

INFANTS
See index heading CHILDREN AND MINORS

INFLATION
Structured settlements, **14:45, 14:56, 14:65**

IN LIMINE MOTIONS
General treatment, **3:1 to 3:22**
For detailed treatment see index heading MOTIONS IN LIMINE

INSTRUCTIONS TO JURY
General treatment, **8:18 to 8:45**
Attorneys, role in preparation of instructions, **8:19 to 8:22**
Checklists
preparing and arguing jury instructions, **8:92**
strategies for handling jury instructions at trial, **8:93**
Closing arguments, **7:9, 7:34**
Computer animations, **12:49**
Damages, **8:39**
Drunk driving cases, **15:25, 15:39, 15:51, 15:53 to 15:55**
Evidence, **8:39**
Exchange of proposed instructions not required, **8:30**
Federal court practice, **8:21, 8:22, 8:35 to 8:37**
Form for instructions, **8:29**
Judgment as matter of law, summary of general principles governing jury instructions, **8:38**
Low impact, soft tissue injuries, **9:75, 9:76**
Medical evidence of defendant, challenges to, **6:39**
Model jury instructions, **8:26**
New trial, grounds for, **8:58**
Objections
general treatment, **8:31 to 8:37**
federal courts, **8:35 to 8:37**
record, making objections on, **8:33**
sufficiency of objections, **8:37**
time, **8:36**
Record, making objections on, **8:33**
Refusal by court to give proffered instruction, **8:34**
Request for instructions, **8:24**
Sources for instructions, **8:26, 8:27**
Time and date
objections to instructions, **8:36**
submission of instructions, **8:28**
Verdicts, **8:39**
Waiver, **8:25**

INSURANCE AND INSURANCE COVERAGE
Closing arguments, **7:17**
Discovery, **1:149**
Evaluation of case, **1:191**

INSURANCE AND INSURANCE COVERAGE—Cont'd
First party benefits
settlement and release, effect on insurer's obligation to pay medical expenses, **1:135**
stacking of medical payments, circumstances where stacking not allowed, **1:137**
write-offs on plaintiff's recovery of medical expenses from insurer, effect of, **1:134**
Interview of client, **1:20**
Investigation of case, **1:94 to 1:97, 1:131 to 1:153**
Production of documents, insurance reports, **2:123 to 2:125**
Settlement and release, effect on insurer's obligation to pay medical expenses, **1:135**
Stacking of medical payments, circumstances where stacking not allowed, **1:137**
Uninsured and underinsured motorists. See index heading UNINSURED AND UNDERINSURED MOTORISTS
Write-offs of medical expenses, **1:134, 5:163**

INTERROGATORIES
General treatment, **2:112 to 2:117**
Drafting of answers, **2:148**
Forms
instructions to clients on answering interrogatories, **2:237**
plaintiff's first set of interrogatories to defendant, **2:232**
Number of interrogatories, **2:114**
Scope of inquiry, **2:115**
Service with complaint, **2:113**

INTERVIEW OF CLIENT
General treatment, **1:1 to 1:25**
Account of accident, **1:9 to 1:12, 1:225**
Amount of recovery, determination of, **1:6**
Biographical information, **1:24**
Candor, insistence on, **1:4**
Charges against defendants, **1:15**
Control of interview, **1:3 to 1:8**
Defendants, identification of, **1:14**
Departure from scene, **1:18**
Employment of client, **1:21**
Evidence at scene, **1:17**
Form for client interview/ information sheet, **1:225**
Insurance coverage, **1:20**
Medical records and bills, **1:19**
Occupants of vehicles, **1:13**
"Principle," trial of case on, **1:7**
Prior litigation or claims, **1:22**
Statements made at scene, **1:16**
Statements made by client to others, **1:25**
Time and place of accident, **1:10**

INTERVIEW OF CLIENT—Cont'd
Trust and confidence, **1:2**
Vehicles involved, **1:11**
Witnesses, **1:12, 1:13**

INTOXICATION
General treatment, **5:124 to 5:139, 15:1 et seq.**
Ad damnum amount, **15:20, 15:45**
Admissibility of alcohol or drug content of blood results, **5:127**
Admission by defendant of intoxication, **5:137**
Alcoholism as evidence, **5:133**
Amount of award, **15:55**
Bifurcation, **5:138, 15:23, 15:26, 15:27**
Blood tests, **5:126 to 5:130, 15:8, 15:9, 15:11, 15:22, 15:30**
Chemical testing to determine alcohol or drug content of blood, **5:126 to 5:130**
Community, jurors' responsibility to the community, **15:34 to 15:36**
Complaint, punitive damages case, **15:47**
Conclusiveness of blood test result, **5:130**
Constitutional defenses, **15:37, 15:38**
Damages
  jury instructions, **15:25**
  punitive or exemplary damages, below
Defenses, **15:37, 15:38, 15:40 to 15:45**
Discovery, effective use of, **15:14**
Driving record of defendant, investigating, **15:13**
Evidence, generally, **5:124 to 5:139**
Exemplary damages. Punitive or exemplary damages, below
Failure to properly test blood for alcohol or drug content, **5:128**
Focusing on misconduct of defendant, **15:33**
Forms
  generally, **15:47 to 15:55**
  amount of award, jury instructions, **15:55**
  jury instructions, punitive damages, **15:51, 15:53 to 15:55**
  motion for judgment, punitive damages case, **15:52**
  punitive damages. Punitive or exemplary damages, below
  reconsider, motion to, **15:50**
  wrongful death, jury instructions, **15:54**
Interview of client, charges against defendants, **1:15**
Jury instructions, **15:25, 15:39, 15:51, 15:53 to 15:55**
Knowledge of dangers of drinking and driving, **15:16**
"Mere odor of alcohol" as evidence, **5:131**
Multiple plaintiffs, punitive damages case, **15:48**
Negotiations, avoiding counterproductive negotiations from the outset, **15:12**
Opening statement, **15:29**
Pedestrians, punitive damages, **15:49**
Pleading punitive damages, **15:18**
Preparing the case for trial, **15:10 to 15:46**
Preserving evidence of defendant's BAC, **15:11**

INTOXICATION—Cont'd
Prior DUI convictions, punitive or exemplary damages, **5:139**
Punitive or exemplary damages
general treatment, **5:134 to 5:139, 15:1 to 15:55**
ad damnum amount, choosing, **15:20**
admission by defendant of liability, **5:137**
case law, **15:3**
common law punitive damages claim, establishing, **15:19**
complaint, **15:47**
evidence to support award, **15:15 to 15:17, 15:22, 15:30**
forms
generally, **15:47 to 15:55**
amount of award, jury instructions, **15:55**
complaint, **15:47**
jury instructions, **15:51, 15:53 to 15:55**
motion for judgment, **15:52**
multiple plaintiffs, **15:48**
pedestrians, **15:49**
reconsider, motion to, **15:50**
wrongful death, **15:54**
jury instructions, **15:51, 15:53 to 15:55**
multiple plaintiffs, **15:48**
pleading punitive damages, **15:18**
prior DUI convictions, **5:139**
reconsider, motion to, **15:50**
refusal to submit to blood alcohol test, **15:8, 15:9**
statutory law, **5:135, 15:4, 15:5**
toxicologists, use of to prove punitive damages case, **15:30**
uninsured and underinsured motorist carriers, **15:21, 15:43**
willful or wanton conduct, **15:6, 15:7**
Quantity of alcohol consumed, determining, **5:132**
Reconsider, punitive damages case, **15:50**
Rescue personnel, testimony of, **15:17**
Serving alcohol, no liability for those who serve alcohol, **15:2**
Themes in drunk driving cases, **15:32**
Time
bifurcation lengthens time required to resolve issues, **15:26**
chemical testing to determine alcohol or drug content of blood, **5:129**
Toxicologists, use of expert witnesses, **5:28, 15:30, 15:31**
Uninsured and underinsured motorist carriers, **15:21, 15:40 to 15:45**
Voir dire, **15:24, 15:28**
Wrongful death, jury instructions, **15:54**

INTUITIVE FEELINGS
Peremptory challenges, supporting strike of contested juror, **3:69**

INVESTIGATION OF CASE
General treatment, **1:77 to 1:153**

INVESTIGATION OF CASE—Cont'd
Agency investigations of accident, **1:85**
Amount of UIM coverage available, determining, **1:146**
Assets of defendant, identification of, **1:153**
Attorney General, compromise of liens of state, **1:110**
Bankruptcy, settlement proceeds from personal injury claim received by plaintiff-debtor in, **1:126**
Collectively bargained plans, subrogation, **1:130**
Compromise of liens of state, **1:109 to 1:112**
Discrepancies in data, **1:102**
Division of Motor Vehicle documents, **1:92**
Drunk driving cases, investigating the defendant's driving record, **15:13**
ERISA and self-insured plans, subrogation, **1:124 to 1:129**
First party insurance benefits, identification of, **1:132 to 1:147**
Forms
accident investigation report, letter requesting from governmental agency, **1:237**
accident report, letter requesting, **1:243**
final report, medical report and itemized treatment bill of physician, letter requesting, **1:242**
hospital record, letter requesting, **1:238, 1:239**
initial report of physician, letter requesting, **1:240**
lay witness questionnaire and evaluation, **1:248**
liability carrier for defendant, letter requesting name of, **1:245**
liens on recovery, below
medical records chart, **1:246**
notes and itemized treatment bill of physician, letter requesting, **1:241**
physician's records, letter requesting, **1:240 to 1:242**
traffic court disposition, request for, **1:244**
In-house investigation, **1:79**
Insurance coverage, **1:94 to 1:97, 1:131 to 1:153**
Joint and concurrent tortfeasors, passenger's right to both liability coverage and UIM coverage under a single policy, **1:145**
Lay witness questionnaire and evaluation, **1:248**
Liability insurance coverage of defendant, identification of, **1:150**
Liens on recovery
general treatment, **1:105 to 1:130**
for detailed treatment see index heading liens on recovery
Limits of liability under policy, determining, **1:151**
Low impact, soft tissue injuries
general treatment, **9:6 to 9:15, 9:22 to 9:24**
for detailed treatment see index heading LOW IMPACT, SOFT TISSUE INJURIES
Media reports, **1:86**
Medical payments or medical expenses coverage, first party insurance benefits, **1:132, 1:133**
Medical reports, bills and records, **1:88 to 1:91, 1:99, 1:100, 1:120, 1:121, 1:123**
Military facilities, liens for treatment received at, **1:106**
Notice of lien, **1:108, 1:121**

INVESTIGATION OF CASE—Cont'd
Notice to defendant's insurance carrier, **1:96**
Notice to employer before settlement of third-party tort claim, **1:117**
Official documents, **1:93**
Outside investigation, **1:80**
Participation by carrier in negligence action on behalf of defendant driver, **1:139, 1:140**
Physical evidence, procurement and preservation of, **1:84**
Review and analysis of data, **1:98 to 1:104**
Scene of accident, visit to, **1:82**
Stacking of medical payments coverage, **1:136**
State, liens of, **1:107 to 1:115**
Statements from witnesses, **1:83**
Subpoena of medical records, authority to, **1:91**
Subrogation, **1:122 to 1:130**
Uninsured/underinsured motorist coverage, identification of, **1:138 to 1:147**
Weather reports, **1:87**
Workers' compensation, liens on recovery, **1:116, 1:117**

INVITED ARGUMENT
Closing arguments, **7:29**

"JOHN DOE" CASES
General treatment, **11:1 et seq.**
Burden of proof of defendant, **11:12**
Checklists, **11:19**
Consent to settlement in UM policy are binding, **11:9**
Contact between vehicles, absence of, **11:3 to 11:5, 11:15**
Contributory negligence, **11:17**
Corroborating witnesses, absence or presence of, **11:15, 11:16**
Defense strategies, **11:14 to 11:17**
Identification of ''John Doe,'' **11:10, 11:11**
Service of process, **11:6 to 11:9**
Settlement, **11:9, 11:13**
Statutory obligations, **11:2 to 11:12**
Summary of issues, **11:18**
Waiver of service of process, **11:8**

JOINT AND CONCURRENT TORTFEASORS
Passenger's right to both liability coverage and UIM coverage under a single policy, **1:145**

JOINT LIFE OR SURVIVORSHIP OPTIONS
Structured settlements, **14:22**

JUDGMENT AS MATTER OF LAW
General treatment, **8:1 to 8:17**
Attorney's decision to take case, effect of judgment in separate action against tortfeasor, **1:28**
Consequences if motion is denied, **8:7**

JUDGMENT AS MATTER OF LAW—Cont'd
Dead man's statute, failure to present corroborating testimony under, **8:9**
Evidence viewed most favorably as to nonmoving party, **8:11**
Federal practice, **8:14 to 8:17**
Forms
motion to strike defendant's evidence, **8:94**
order striking defendant's evidence, **8:95**
Grounds for motion to strike evidence, **8:8**
Inferences favoring plaintiff, **8:12**
Jury instructions, summary of general principles governing, **8:38**
Presumptions favoring plaintiff when defendant alleges contributory negligence, **8:13**
Striking of evidence, generally, **8:3 to 8:7**
Summary judgment if motion is sustained, **8:6**
Taking case from jury, motion to strike evidence as prerequisite for, **8:4**
Test for sustaining motion, **8:10 to 8:13, 8:17**
Time for motion, **8:5, 8:16**

JURISDICTION
General treatment, **2:19 to 2:23**
Diversity, federal court jurisdiction, **2:22**
Federal court jurisdiction, **2:21 to 2:23**
Removal from state court, preventing, **2:23**
State court jurisdiction, **2:20**

JURY AND JURY TRIAL
Federal employees, actions against, **13:34**
Instructions to jury
general treatment, **8:18 to 8:45**
for detailed treatment see index heading INSTRUCTIONS TO JURY
Reseated juror not subject to subsequent peremptory strike, **3:74**
Selection of jury
general treatment, **3:53 to 3:76**
for detailed treatment see index heading SELECTION OF JURY
Settlement after jury award, **14:93**
Trial preparation, **2:218**

LAWYERS
See index heading ATTORNEYS

LEADING QUESTIONS
Depositions, **2:176**
Expert witnesses, **5:59**

LEAVING SCENE OF ACCIDENT
Admissibility of evidence, **5:116**

LIENS ON RECOVERY
General treatment, **1:105 to 1:130**
Attorney General
compromise of liens of state, **1:110**

LIENS ON RECOVERY—Cont'd
Attorney General—Cont'd
proposal for compromise of lien, **1:111**
Collectively bargained plans, subrogation, **1:130**
Compromise of lien
Attorney General, proposal for compromise of lien, **1:111**
state, liens of, **1:109 to 1:112**
ERISA
self-insured plans, subrogation, **1:124 to 1:129**
Forms
reduction of medical lien, petition for, **1:247**
Medical bills, **1:120, 1:121**
Military facilities, treatment received at, **1:106**
Notice of lien, **1:108, 1:121**
State, liens of, **1:107 to 1:115**
Subrogation, **1:122 to 1:130**
Third-party claims, court approval of settlement of, **1:119**
Workers' compensation, **1:116, 1:117, 1:119**

LIFE CARE
Future life care expenses, **5:174**

LIFE CARE PLANNERS
Expert witnesses, use to prove damages, **5:29**

LIGHT SENSITIVITY
Traumatic brain injuries, hypersensitivity to light, **10:15**

LIMITATION OF ACTIONS
General treatment, **1:36, 1:63 to 1:65, 2:2 to 2:6**
For detailed treatment see index heading STATUTE OF LIMITATIONS
Accrual of cause of action, **2:3**
Amended complaint, effect of filing, **2:5**

LIQUIDITY, NEED FOR
Structured settlements, **14:28**

LOCAL GOVERNMENTS
General treatment, **13:1 to 13:25**
For detailed treatment see index heading STATE AND LOCAL GOVERNMENTS

LOCATION
See index heading PLACE OR LOCATION

LOST EARNINGS
General treatment, **5:175 to 5:193**
Causation, proof of, **5:179**
Checklist, proof of future lost earnings and loss of earning capacity, **5:198**
Earning capacity, loss of
general treatment, **5:178, 5:186 to 5:193**
economist expert, use of, **5:190**
present employment or income status, insignificance of, **5:191**

LOST EARNINGS—Cont'd
Earning capacity, loss of—Cont'd
present value, reduction to, **5:193**
speculation, **5:187 to 5:193**
vocational rehabilitation expert, use of, **5:189**
Economist expert, use of, **5:190**
Evidence, **5:175 to 5:193**
Future lost earnings, generally, **5:177, 5:183 to 5:185, 5:198**
Pre-accident wage history, **5:182**
Present value of future lost earnings, **5:185**
Receipt of salary during disability after accident, admissibility of evidence of lost earnings, **5:181**
Vocational rehabilitation expert, use of, **5:189**

LOW IMPACT, SOFT TISSUE INJURIES
General treatment, **9:1 et seq.**
Analogies, use by medical experts, **9:28**
Arbitration, **9:18**
Audio-visuals, use of medical experts, **9:29, 9:31**
Bad faith claims, **9:36**
Body position at impact, **9:51 to 9:53**
Bumper braces and shocks, damage to, **9:48**
Checklists
proving injuries in low impact, soft tissue injury cases, **9:86**
strategy in low impact, soft tissue injury cases, **9:85**
Closing arguments. Opening and closing arguments, below
Complex terminology, avoidance in opening and closing arguments, **9:70**
Credibility, opening and closing arguments, **9:63, 9:67 to 9:70, 9:81, 9:82**
Damages
general treatment, **9:38 et seq.**
before and after lay witnesses, **9:56**
body position at impact, **9:51 to 9:53**
bumper braces and shocks, damage to, **9:48**
closing arguments, helping jury understand elements of damages, **9:77**
extent of injuries, **9:55 to 9:59**
front end and tire alignment, damage to, **9:46**
hood, trunk and doors, damage to, **9:44**
interior of vehicle, damage to, **9:47**
jury, selection of, **9:60**
muffler, tail pipe and related parts, damage to, **9:45**
neuropsychologist, testimony by, **9:59**
older cars, damage to, **9:49**
photograph vehicular damage, **9:41**
physical therapist, testimony by, **9:58**
plaintiff, testimony by, **9:57**
roof line, damage to, **9:43**
susceptibility to serious injury, **9:54**
vehicular damage, use of, **9:40 to 9:50**

LOW IMPACT, SOFT TISSUE INJURIES—Cont'd
Damages—Cont'd
witness accounts of impact, **9:50**
Defense techniques, **9:16 to 9:18**
Definition, **9:3 to 9:5, 9:39**
Depositions, **9:31, 9:32**
Discovery, **9:24, 9:31, 9:32**
Economical ways to represent client, **9:30 to 9:32**
Education of courts, **9:35**
Education of public, **9:34**
Employment of plaintiff, **9:14**
Forms
sample cross-examination of defense orthopedic, **9:88**
sample questions asked by insurer in plaintiff's recorded statement, **9:87**
Front end and tire alignment, damage to, **9:46**
Hood, trunk and doors, damage to, **9:44**
Instruction to jury regarding damage, **9:75, 9:76**
Insurance company investigation
general treatment, **9:6 to 9:15**
course of treatment for injuries, **9:12**
details concerning accident and extent of injuries, **9:11**
employment of plaintiff, **9:14**
insurance coverage of plaintiff, **9:15**
intensive investigation, **9:8**
low settlement offer, **9:9**
previous accidents or claims, **9:13**
recorded statement of plaintiff, **9:7, 9:10 to 9:15**
Interior of vehicle, damage to, **9:47**
Investigation
generally, **9:6 to 9:15, 9:22 to 9:24**
insurance company investigation, above
Jury, selection of, **9:60**
Knowledge and experience of jury, appeal to, **9:69**
Mediation, **9:18**
Medical experts, use of, **9:26 to 9:29**
Muffler, tail pipe and related parts, damage to, **9:45**
Neuropsychologist, testimony by, **9:59**
Objective findings, emphasis on, **9:25**
Older cars, damage to, **9:49**
Opening and closing arguments
general treatment, **9:61 to 9:84**
closing argument, generally, **9:71, 9:73 to 9:83**
complex terminology, avoidance of, **9:70**
counter defense tactics, preparation for, **9:62, 9:63**
credibility, **9:63, 9:67 to 9:70, 9:81, 9:82**
damages, helping jury understand elements of, **9:77**
effective arguments, formulation of, **9:64 to 9:71**

LOW IMPACT, SOFT TISSUE INJURIES—Cont'd
Opening and closing arguments—Cont'd
initial closing argument, **9:74 to 9:76**
instruction to jury regarding damage, **9:75, 9:76**
knowledge and experience of jury, appeal to, **9:69**
opening statement, generally, **9:71, 9:72**
overall defense approach, flaws in, **9:80**
rebuttal closing argument, **9:78 to 9:83**
strengths and weaknesses of case, identification of, **9:66**
theme, development of, **9:65**
Photograph damage to vehicles, **9:23, 9:41**
Physical therapist, testimony by, **9:58**
Previous accidents or claims, **9:13**
Recorded statement of plaintiff, **9:7, 9:10 to 9:15, 9:87**
Response by plaintiff, **9:19 to 9:32**
Roof line, damage to, **9:43**
Settlement
low settlement offer, **9:9**
''problem'' cases, settle ''problem'' cases early, **9:20**
Telephone depositions, **9:32**
Videotape depositions of physicians, **9:31**
Witness accounts of impact, **9:50**

MALPRACTICE
Discovery, Rule 4:10 examination, **2:203**

MANAGEMENT OF CASE
General treatment, **1:59 to 1:76**
Addresses of witnesses, **1:71**
Checklists, use of, **1:72**
Forms
liability carrier for defendant, notice to, **1:234**
liability notice/letter of representation, **1:233**
medical payments claims, notice to client's insurance of, **1:235, 1:236**
Initial tasks, **1:62 to 1:69**
Insurance carrier, revocation of authority given by client to defendant's, **1:68**
Liability notice/letter of representation, **1:67, 1:68**
Notice of claim requirements, **1:66, 1:69**
Opening the file, **1:60, 1:61**
Organizing the file, **1:61**
Organizing the medical records, **1:100**
Relations with client, **1:73 to 1:76**
Statute of limitations
general treatment, **1:63 to 1:65**
personal injuries, **1:64**
wrongful death, **1:65**

MAPS
Demonstrative evidence, **5:75**

MARITAL RELATIONSHIPS
Structured settlement, appropriateness of, **14:31**

MECHANICAL ENGINEERS
Expert witnesses, use to prove liability, **5:26**

MEDIA REPORTS
Investigation of case, **1:86**

MEDIATION
Low impact, soft tissue injuries, **9:18**

MEDICAL BILLS, RECORDS AND REPORTS
Costs of action, **1:33**
Damages, **5:154**
Instructions to client, **1:42**
Interview of client, **1:19**
Investigation of case, **1:88 to 1:91, 1:99, 1:100, 1:120, 1:121, 1:123**
Medical expenses, proof of, **5:167**
Presumption as to authenticity and reasonableness, **2:139**
Proof of medical expenses, **5:159 to 5:161**

MEDICAL CARE AND TREATMENT
Affidavits
Hospital or medical facility custodian of records, affidavit of (Va. Code Ann. § 16.1-88.2), **5:200**
Treating or examining health care provider, affidavit of (Va. Code Ann. § 16.1-88.2), **5:199**
Authorizations, **1:54 to 1:57, 1:230**
Depositions, requests for disclosures from medical practitioners, **2:181**
Discovery, medical examinations, **2:202**
Medical Care Recovery Act, lien for treatment received in military facilities, **1:106**
Medical devices and appliances, damages, **5:153**

MEDICAL EVIDENCE OF DEFENDANT
General treatment, **6:1 et seq.**
Accident, knowledge of details of, **6:75**
Appointment books, issuance of subpoena duces tecum, **6:35**
Bias and motive of defendant's physician
general treatment, **6:28 to 6:41**
appointment books, issuance of subpoena duces tecum, **6:35**
cross-examination, **6:48 to 6:51, 6:80**
defending subpoena duces tecum, **6:38**
fee schedule, issuance of subpoena duces tecum, **6:37**
file on plaintiff, issuance of subpoena duces tecum, **6:32**
Form 1099, issuance of subpoena duces tecum, **6:34**
"independent" examination, prevention of use of term, **6:40**
invoices and bills, issuance of subpoena duces tecum, **6:33**
jury instruction, offer of, **6:39**
separating motive and bias, **6:30**

MEDICAL EVIDENCE OF DEFENDANT—Cont'd
Bias and motive of defendant's physician—Cont'd
subpoena duces tecum, issuance of, **6:31 to 6:37**
tax returns, issuance of subpoena duces tecum, **6:36**
Checklists
cross-examination of defendant's medical expert, **6:79**
limited opportunity to form opinion, cross-examination of medical expert to elicit evidence of, **6:81**
motive, cross-examination of medical expert to elicit evidence of, **6:80**
Closing argument, **6:43**
Cooperation of plaintiff with examination, **6:16**
Credibility of expert, attacks on, **6:4, 6:5**
Cross-examination of defendant's physician or medical expert
general treatment, **6:7, 6:8, 6:42 to 6:61**
admissions, obtaining, **6:58 to 6:60**
bias, establishment of, **6:49 to 6:51**
checklist, **6:79**
closing argument, keep in mind, **6:43**
conversational nature of examination, **6:45**
disagreements between experts, **6:61**
frequency of opinions in conflict with treating physicians, **6:50**
history and condition, opportunity to ascertain, **6:52, 6:53**
limited opportunity to form opinion, **6:81**
motive, establishment of, **6:48**
motive of defendant's physician, **6:80**
purpose of examination, **6:54 to 6:56**
referral by defense, **6:51**
timing of physician's contact with plaintiff, **6:55**
treating physicians, contrast with, **6:57 to 6:60**
Cross-examination of plaintiff's treating physician, **6:19 to 6:21**
Curriculum vitae of defendant's physician, review of, **6:25**
Deposition of defendant's physician, **6:26, 6:27**
Examination of plaintiff
general treatment, **6:9 to 6:17**
cooperation of plaintiff, **6:16**
notes, taking of, **6:15**
order of court for examination, **6:11 to 6:13, 6:41**
preparation for defendant's physician, **6:9**
preparation of plaintiff, **6:14 to 6:17**
questions, answering by plaintiff, **6:17**
report, delivery to counsel for both parties, **6:12**
voluntary agreement to examination, **6:10 to 6:13**
Favorable report, dealing with, **6:6**
Fee schedule, issuance of subpoena duces tecum, **6:37**
File on plaintiff, issuance of subpoena duces tecum, **6:32**
Form 1099, issuance of subpoena duces tecum, **6:34**
Form of order for Rule 4:10 examination, **2:240, 6:2**
General concessions from defendant's physician, **6:74**

MEDICAL EVIDENCE OF DEFENDANT—Cont'd
Impairment vs. disability, **6:76, 6:77**
''Independent'' examination, show absence of, **6:3, 6:40**
Invoices and bills, issuance of subpoena duces tecum, **6:33**
Jury instruction, offer of, **6:39**
Motive. Bias and motive of defendant's physician, above
Negative findings, challenges to, **6:67 to 6:69**
Notes, examination of plaintiff, **6:15**
Opinion of expert, challenges to, **6:3**
Preparation of treating physicians, **6:18 to 6:27**
Records, knowledge of, **6:73**
Re-injury, susceptibility to, **6:78**
Report of defendant's physician, **6:12, 6:22 to 6:25**
Role of defendant's medical expert, **6:1**
Rule 4:10, generally, **2:240, 6:2**
Rule 35, Federal Rules of Civil Procedure, generally, **6:2**
Specialty of defendant's physician, determination of, **6:24**
Subjective symptoms, **6:70 to 6:72**
Subpoena duces tecum, issuance of, **6:31 to 6:37**
Tax returns, issuance of subpoena duces tecum, **6:36**
Timing of physician's contact with plaintiff, **6:55**
Treating physicians, working with, **6:18 to 6:27**
Treatises, use of, **6:63, 6:64**
X-rays, challenges to negative findings, **6:68**

MEDICAL EXPENSES
General treatment, **5:155 to 5:174**
Authenticity, proof of, **5:158 to 5:161**
Business records exception, hearsay, **5:169**
Checklist, proof of medical expenses, **5:197**
Evidence, **5:155 to 5:174**
Future life care expenses, **5:174**
Future medical expenses, **5:170 to 5:173**
Hearsay, **5:168, 5:169**
Hospital records, admissibility, **5:159 to 5:161**
Medical bills, introduction of, **5:167**
Medical reports, admissibility, **5:159 to 5:161**
Necessity and causal relationship, proof of, **5:164 to 5:166, 5:171**
Present value of future medical expenses, **5:173**
Reasonableness, proof of, **5:162, 5:171**
Write-offs, **1:134, 5:163**

MEDICAL ILLUSTRATIONS
Traumatic brain injuries, **10:46**

MILEAGE
Costs of action, **1:33**

MILITARY SERVICE
Interview of client, biographical information, **1:24**

MILITARY SERVICE—Cont'd
Liens for treatment received at military facilities, **1:106**

MINORS
See index heading CHILDREN AND MINORS

MISREPRESENTATION
Tolling of limitations period when driver misrepresents identity, **2:6**

MIST CASES
General treatment, **9:1 et seq.**
For detailed treatment see index heading LOW IMPACT, SOFT TISSUE INJURIES

MISTRIAL
General treatment, **8:49 to 8:53**
Attorney communication with jurors after discharge, **8:51 to 8:53**
Evidence rules, attorney communication with jurors after discharge, **8:53**
Improper statements by counsel, motion based on, **8:50**

MODELS
Damages, **5:152**
Demonstrative evidence, **5:75**
Expert witnesses, use by, **5:35, 5:47**
Traumatic brain injuries, **10:34**

MOTION FOR JUDGMENT
General treatment, **2:35 to 2:40**
Federal jurisdiction, **2:40, 2:45**
Forms
intersection collision, **2:225**
punitive damages case, **15:47**
rear end collision, **2:224**

MOTIONS
Generally, **2:104 to 2:109**
Briefs, filing and service of, **2:107, 2:108**
Definition of ''served,'' **2:108**
Hearings on motions, **2:105, 2:109**
In limine. See index heading MOTIONS IN LIMINE
Judgment, motion for. See index heading MOTION FOR JUDGMENT
Notice, reasonable notice to other counsel, **2:106**
Scheduling of hearings, **2:105**

MOTIONS IN LIMINE
General treatment, **3:1 to 3:22**
Accident reconstruction testimony, **3:13**
Blood alcohol level of plaintiff, **3:17**
Cautions against use, **3:5 to 3:7**
Child, competency to testify concerning speed of vehicle, **3:16**
Forms
motion in limine, **3:78, 3:79**
notice of hearing, **3:80**

MOTIONS IN LIMINE—Cont'd
Forms—Cont'd
order in limine, **3:81**
Insurance adjuster, statements to, **3:19**
Medical examination of plaintiff, reference to as ''independent'' examination, **6:40**
Objection to evidence at trial after ruling on motion in limine, **3:22**
Opening statement, use relative to, **3:8**
Police officer, testimony of, **3:18**
Prejudicial background, protection from effect of, **3:20**
Primary purpose, **3:2**
Prior claims, evidence of, **3:10**
Prior injuries, evidence of, **3:11**
Seat belt use, **3:14**
Tax return, failure to file, **3:21**
Unsubstantiated fact or opinion testimony by lay witness, **3:16**
Uses, **3:3 to 3:22**

MOVIES
See index heading AUDIO/VIDEO RECORDINGS

MUNICIPALITIES
General treatment, **13:1 to 13:25**
For detailed treatment see index heading STATE AND LOCAL GOVERNMENTS

NAUSEA
Traumatic brain injuries, **10:7**

NEGLIGENT ENTRUSTMENT
Owner of vehicle, suit for negligent entrustment, **2:16, 2:17**

NEGOTIATIONS AND SETTLEMENT
General treatment, **1:200 to 1:221**
Bad faith, **1:220**
''Bad faith'' letter, **1:250**
Checklist, **1:224**
Drunk driving cases, avoiding counterproductive negotiations from the outset, **15:12**
Firm, but flexible, **1:214**
Forms
''bad faith'' letter, **1:250**
settlement agreement and release, **1:249**
''John Doe'' cases, **11:9, 11:13**
Liens of state, **1:109 to 1:112, 1:117**
Low impact, soft tissue injuries. See index heading LOW IMPACT, SOFT TISSUE INJURIES
Medical expenses, effect of settlement and release on insurer's obligation to pay, **1:135**
Notes, keeping of, **1:215**
Notice to witnesses, **2:216**

NEGOTIATIONS AND SETTLEMENT—Cont'd
Opening offer of adjuster, **1:213**
Order granting, **8:102**
medical liens, **8:103**
minors, approval for, **8:104**
Patience, **1:203**
Preparation of settlement package and demand letter, **1:204 to 1:206**
Range of settlement, determination of, **1:211**
Strengths, knowledge of, **1:210**
Structured settlements
general treatment, **1:218, 1:219, 14:1 et seq.**
for detailed treatment see index heading STRUCTURED SETTLEMENTS
Top offer, **1:216, 1:217**
Workers' compensation liens, **1:116, 1:117**

NEWLY DISCOVERED EVIDENCE
New trial, grounds for, **8:58, 8:85**

NEW TRIAL
General treatment, **8:56 et seq.**
Additur. See index heading ADDITUR AND REMITTITUR
Adequacy of verdict, generally, **8:60, 8:63**
Bowers v Sprouse rule, **8:71**
Closing arguments, new trial after improper closing argument, **7:35**
Costs, motion for, **8:88**
Damages
inadequacy of award, defendant seeking new trial claiming, **8:72**
limiting new trial to issues of, **8:63**
non-monetary damages, adequacy of award for, **8:62**
special damages, adequacy of award for, **8:61**
Evidence, **8:64 to 8:69**
Federal practice, **8:82 to 8:85**
Forms
motion for new trial, **8:99**
notice of hearing, **8:100**
order granting new trial, **8:101**
Grounds for new trial, generally, **8:58**
Medical and special damages, verdict for exact amount of, **8:70**
Non-monetary damages, adequacy of award for, **8:62**
Number of new trials that may be granted, **8:57**
Prejudicial conduct of counsel during trial, **8:59**
Remittitur. See index heading ADDITUR AND REMITTITUR
Special damages, adequacy of award for, **8:61**

NOISE
Traumatic brain injuries, hypersensitivity to noise, **10:15**

NOLO CONTENDERE
Evidence, **5:112 to 5:114**

NONJURY TRIALS
Closing arguments, **7:2**

NONSUIT
General treatment, **2:83 to 2:97**
Appeal affirming nonsuit order, time for filing nonsuited action after, **2:97**
Attorney fees, **2:91**
Confession of judgment, nonsuit may be taken after rejecting, **2:87**
Costs, **2:91**
Counterclaims, effect of, **2:85**
Dismissal of parties or claims from original action, exclusion of, **2:93**
Process, right to nonsuit not contingent on whether defendant was served with, **2:86**
Refiling the nonsuited action, **2:92 to 2:97**
Sanctions, entry of nonsuit will not preclude a ruling on a motion for sanctions, **2:88**
Third-party claims, effect of, **2:85**
Time for refiling action, **2:94 to 2:97**
Tolling of limitations period, **2:95, 2:96**
When nonsuit may be taken, **2:84 to 2:87**

NOTES
Negotiations and settlement, **1:215**

NOTICES
Commencement of action, **2:226**
Defendant's insurance carrier, notice to, **1:96**
Depositions, **2:172, 2:173, 2:235**
Electronic service, **2:82**
Liens, **1:108, 1:117, 1:121**
Management of case, **1:66**
Motions, reasonable notice to other counsel, **2:106**
Parties, suit against parent not notice to subsidiary, **2:15**

NURSES
Damages, proof of, **5:29**
Injuries to plaintiff, proof of, **5:150**

OATHS
Electronic service and filing, sworn pleadings and affidavits, **2:78**

OBJECTIONS
Closing arguments, **7:30 to 7:32**
Compulsory general appearance by defendant, failure to object to defect in service of process waives one year time limit, **2:48**
Depositions, **2:131**
Discovery, **2:157**
Evidence, **5:94**
Expert testimony, **5:95**
Instructions to jury
general treatment, **8:31 to 8:37**

OBJECTIONS—Cont'd
Instructions to jury—Cont'd
for detailed treatment see index heading INSTRUCTIONS TO JURY
Opening statements, objections to improper statements in, **4:5**
Subpoena duces tecum, **2:158**
Verdict, form of, **8:44, 8:45**

OBJECTIVITY
Expert witnesses, credibility of, **5:43**

OFFERS OF PROOF
General treatment, **5:96 to 5:102**
Deposition, proffer by, **5:101**
Methods of proffers, **5:98 to 5:102**
Mutual stipulations, **5:102**
Summary by counsel, **5:99**
Testimony outside presence of fact finder, **5:100**
Timing of proffers, **5:97**

OPENING STATEMENTS
General treatment, **4:1 et seq.**
Checklists
do's and don'ts in opening statements, **4:25**
law of opening statements, **4:21**
persuasion in opening statements, **4:24**
practical considerations, **4:22**
tactical considerations, **4:23**
Comfort, **4:20**
Control of court, **4:4**
Credibility, **4:19**
Damages, theme for, **4:11**
Diffuse weaknesses, **4:14**
Drunk driving cases, **15:29**
Empathy and sympathy for plaintiff, **4:13**
Ethical constraints, **4:6**
Importance of opening statement, **4:7 to 4:20**
Low impact, soft tissue injuries
general treatment, **9:61 to 9:84**
for detailed treatment see index heading LOW IMPACT, SOFT TISSUE INJURIES
Motions in limine, **3:8**
Objections to improper statements in opening, **4:5**
Overview of case, presentation of, **4:8**
Personalize plaintiff, **4:12 to 4:14**
Persuasion in opening statements, checklist, **4:24**
Positive image, projecting, **4:16 to 4:18**
Presentation, techniques for, **4:7 to 4:20**
Purpose, **4:2**
Right to make opening statement, **4:1**
Scope, **4:3 to 4:6**

OPENING STATEMENTS—Cont'd
Style and presentation, **4:2, 4:15 to 4:20**
Sympathy for plaintiff, evoking, **4:13**
Themes of case, presentation of, **4:9 to 4:11**

OPINION
Closing arguments, **7:22**

OSTEOPATHS
Injuries to plaintiff, proof of, **5:150**

OWNERSHIP
Negligent entrustment, suit against owner of vehicle for, **2:16, 2:17**
Structured settlements, ownership of annuity, **14:95**

PAIN AND SUFFERING
Closing arguments, **7:25**
Evaluation of case, **1:180, 1:223**

PARALEGALS
General treatment, **1:39**

PARKS AND RECREATION FACILITIES
Immunity in collisions caused by municipal vehicles engaged in maintenance or operation of, **13:21**

PARTIES
Defendants, generally, **2:8, 2:9, 2:16 to 2:18**
Misnomer in pleading, **2:12, 2:13**
Notice, suit against parent not notice to subsidiary, **2:15**
Owner of vehicle, suit for negligent entrustment, **2:16, 2:17**
Vicarious liability, identify corporate entity when suing under theory of, **2:11, 2:12, 2:15**
Wrong party named in pleading, **2:13, 2:14**

PASSION
Closing arguments, **7:16**
Expert witnesses, **5:54**

PAST RECOLLECTION RECORDED
Accident reports, use as past recollection recorded, **5:107**

PEREMPTORY CHALLENGES
General treatment, **3:56 et seq.**
Assertion of Batson challenge, **3:59 to 3:61**
Batson, **3:56 et seq.**
Court's determination of motive behind strike, **3:72**
Discrimination, **3:56 et seq.**
Establishing application of Batson, **3:62 to 3:64**
Failure to strike other jurors with similar characteristics, **3:70**
Guidelines and reasons to support strike, **3:67 to 3:70**
Membership in juror's group, **3:58**
Opposing strike of contested juror, **3:65**

PEREMPTORY CHALLENGES—Cont'd
Partiality, supporting strike of contested juror, **3:68**
Remedy for unconstitutional exercise of, **3:73**
Reseated juror not subject to subsequent peremptory strike, **3:74**
Supporting strike of contested juror, **3:66 to 3:72**
Visceral or intuitive feelings, supporting strike of contested juror, **3:69**
Voir dire, **3:32**

PERIODIC PAYMENT ACT OF 1982
Structured settlements, **14:88 to 14:90**

PERMANENT OR PARTIAL DISABILITY
Evaluation of case, **1:177**

PERSONAL INJURY
Venue, **2:27**

PHOTOGRAPHS
Demonstrative evidence, **5:75**
Injuries to plaintiff, proof of, **5:151**
Low impact, soft tissue injuries, **9:23, 9:41**
Traumatic brain injuries, **10:24, 10:33, 10:35**

PHYSICAL THERAPISTS
Damages, proof of, **5:29**
Injuries to plaintiff, proof of, **5:150**
Low impact, soft tissue injuries, **9:58**

PLACE OR LOCATION
Depositions, **2:171**
Federal employees, actions against, **13:33**
Interview of client, **1:10**
Venue, **2:24 to 2:29**

PLAIN LANGUAGE
Expert witnesses, **5:55**

PLEADINGS
Drunk driving cases, punitive damages, **15:18**
Electronic filing. See index heading ELECTRONIC SERVICE AND FILING
Interrogatories, service with complaint, **2:113**
Misnomer in pleading, **2:12, 2:13**
Plaintiff's complaint, **2:35, 2:38**
Punitive damages case, complaint, **15:47**
Wrong party named in pleading, **2:13, 2:14**

POLICE OFFICERS AND REPORTS
Evaluation of case, **1:164**
Evidence, **5:107**
Gross negligence, police pursuit cases, **13:20**
Interview of client, identification of witnesses, **1:12**
Motions in limine, **3:18**

POLLING OF JURY
General treatment, **8:46 to 8:48**

POST-TRIAL MOTIONS
General treatment, **8:46 to 8:90**
Costs, motion for, **8:86 to 8:89**
Federal practice, **8:47, 8:90**
Forms
final order, **8:105**
motion to set aside verdict, **8:96**
notice of hearing, **8:97**
order setting aside verdict, **8:98**
settlement, order granting, **8:102**
medical lien language, **8:103**
minors, approval for, **8:104**
Mistrial
general treatment, **8:49 to 8:53**
for detailed treatment see index heading MISTRIAL
New trial
general treatment, **8:56 et seq.**
for detailed treatment see index heading NEW TRIAL
Polling of jury, **8:46 to 8:48**
Renewal of trial motions, **8:54**
Setting aside of verdict, **8:55**
Uninsured motorist insurer, liability for costs, **8:89**

PREEXISTING INJURIES AND DISEASES
Evaluation of case, **1:197**
Motions in limine, **3:11**

PREJUDICE
See index heading BIAS AND PREJUDICE

PRESUMPTIONS AND BURDEN OF PROOF
Closing arguments, right to open and close, **7:7**
Instructions to jury, **8:39**
"John Doe" cases, **11:12**
Judgment as matter of law, presumptions favoring plaintiff when defendant alleges contributory negligence, **8:13**
Medical bills, reasonableness of, **5:162**
Right to open and close evidence, **5:10**

PRETRIAL CONFERENCE
Generally, **2:99**
Final pretrial conference, **2:220**

PRETRIAL PLANNING AND DISCLOSURE REQUIREMENTS
Initial disclosures required in federal court proceedings, **2:102, 2:103**
Meeting required under federal court rules
generally, **2:101**
form, report of parties planning meeting, **2:231**

PRETRIAL PLANNING AND DISCLOSURE REQUIREMENTS—Cont'd
Report of parties planning meeting, form, **2:231**
Time for making initial disclosures required by federal rules, **2:103**

PRIOR INCONSISTENT STATEMENTS
Cross-examination, **5:88**

PRIVILEGED WORK PRODUCT
Production of documents and things, requests for, **2:124, 2:125**

PRODUCTION OF DOCUMENTS AND THINGS
General treatment, **2:118 to 2:127**
Attorney issued subpoena, **2:127**
Drafting of response, **2:150**
Form for plaintiff's first request for production of documents and things to defendant, **2:233**
Insurers, reports of defendant's insurer, **2:123, 2:125**
Nonparty, request for production by, **2:126, 2:180**
Presumption that reports are made in ordinary course of business and not privileged, **2:124**
Privileged work product, **2:124, 2:125**
Procedure, **2:121**
Purpose of requests, **2:119**
Scope of requests, **2:120**
Specific requests, **2:122**

PROVOKED ARGUMENT
Closing arguments, **7:29**

PSYCHIATRISTS AND PSYCHOLOGISTS
Emotional distress, use to show, **5:31**
Injuries to plaintiff, proof of, **5:150**

PUNITIVE DAMAGES
Demurrer, asserting claims for punitive damages sufficient to survive demurrer, **2:38**
Evaluation of case, **1:182 to 1:184**
Intoxication and intoxicating liquors
general treatment, **5:134 to 5:139, 15:3 to 15:9**
for detailed treatment see index heading INTOXICATION
New trial motion, **8:80**
Structured settlements, **14:73, 14:75**
Willful and wanton conduct, **1:184, 15:6, 15:7**

QUALIFICATIONS
Expert witnesses, **5:33**

QUANTITATIVE ELECTROENCEPHALOGRAMS (QEEGs)
Traumatic brain injuries, **10:42**

REAL AND DEMONSTRATIVE EVIDENCE
General treatment, **5:72 to 5:78**

REAL AND DEMONSTRATIVE EVIDENCE—Cont'd
Checklist, **5:196**
Computer animations, **12:43, 12:44**
Expert witnesses, **5:47**
Photographs. See index heading PHOTOGRAPHS
Traumatic brain injuries, **10:30 to 10:48, 10:50**
Uses of demonstrative evidence, **5:77**

RECONSIDER, MOTION TO
Intoxication, punitive damages case, **15:50**

RECONSTRUCTION OF ACCIDENTS
General treatment, **5:117 to 5:123**
Computer analysis in accident reconstruction, **5:122**
Computer animations
general treatment, **12:1 et seq.**
for detailed treatment see index heading COMPUTER ANIMATIONS
Expert witnesses, use to prove liability, **5:26**
Foundation, **5:121**
Motions in limine, **3:13**

REINSURANCE
Structured settlements, **14:41**

RELATIVES
See index heading FAMILY AND RELATIVES

RELEVANCE
Computer animations, **12:19, 12:30**

RELIABILITY
Expert witnesses, credibility of, **5:43**

REMITTITUR
See index heading ADDITUR AND REMITTITUR

REPUTATION
Cross-examination, **5:92**
Evaluation of treating physician, **1:188**

RESCUE PERSONNEL
Drunk driving cases, **15:17**
Interview of client, identification of witnesses, **1:12**

RESIDENCE
Plaintiff's residence, venue, **2:28**
Venue, **2:27, 2:28**

REVIEW
See index heading APPEAL AND REVIEW

REVOCATION
Prior authorizations, **1:55**

RIDE SHARE CASES
Gig economy
special considerations, **16:2**

SANCTIONS
Admission, requests for, **2:143, 5:71**
Discovery, sanctions for failure to make required disclosures, **2:208, 2:209**
Nonsuit, entry of nonsuit will not preclude a ruling on a motion for sanctions, **2:88**

SCARS
Damages, proof of, **1:174**

SCENE OF ACCIDENT
Investigation of case, **1:82**

SCHEDULING ORDERS
Generally, **2:100**

SCIENTIFIC EVIDENCE
Computer animations, **12:26, 12:27, 12:35**

SEAT BELTS
Motions in limine, **3:14**

SECRETARY OF COMMONWEALTH
Service of process on, **2:228**

SELECTION OF JURY
General treatment, **3:53 to 3:76**
Bias and prejudice, **3:53 to 3:55**
Cause, challenges for, **3:53, 3:54**
Low impact, soft tissue injuries, **9:60**
Peremptory challenges
general treatment, **3:56 et seq.**
for detailed treatment see index heading PEREMPTORY CHALLENGES
Reseated juror not subject to subsequent peremptory strike, **3:74**
Timing of objections, **3:75, 3:76**
Unconstitutional exercise of peremptory strike, remedy for, **3:73**
Voir dire
general treatment, **3:23 to 3:52**
for detailed treatment see index heading VOIR DIRE

SENSORY OVERLOAD
Traumatic brain injury, **10:18**

SERVICE OF PROCESS AND PAPERS
General treatment, **2:41 to 2:82, 2:227**
Affidavits, **2:59, 2:64, 2:65, 2:67, 2:78, 2:228**
Compulsory general appearance by defendant, failure to object to defect in service of process waives one year time limit, **2:48**
Corporations, **2:55 to 2:59**
Costs of action, **1:33**

SERVICE OF PROCESS AND PAPERS—Cont'd
Dismissal for failure to obtain timely service, special appearance to file motion, **2:49 to 2:52**
Domestic corporations, **2:55**
Due diligence, **2:46**
Electronic service
general treatment, **2:72 to 2:82**
for detailed treatment see index heading ELECTRONIC SERVICE AND FILING
Federal court actions, **2:71**
Foreign corporations, **2:56 to 2:59**
Individual defendants, **2:60 to 2:69**
Interrogatories, **2:113**
"John Doe" cases, **11:6 to 11:9**
Known address, affidavit not required against nonresident driver with known address, **2:65**
Nonresident individual defendants, **2:63 to 2:67**
Nonsuit, right to nonsuit not contingent on whether defendant was served with process, **2:86**
Personal service, **2:57, 2:61**
Persons who may be served, **2:54**
Persons who may serve process, **2:53**
Proof of service, **2:70**
Resident individual defendants, **2:61, 2:62**
Secretary of Commonwealth, service on, **2:228**
Substituted service, **2:58**
Underinsured defendants, **2:69**
Uninsured defendants, **2:68**
Venue
where agent appointed to receive service of process, **2:27**
where defendant resides, **2:27**
Voluntary general appearance by defendant waives one year time limit for service of process, **2:47**
Waiver, **2:47, 2:226, 2:227, 11:8**

SETTING ASIDE OF VERDICT
General treatment, **8:55**

SETTLEMENT
General treatment, **1:200 to 1:221**
For detailed treatment see index heading NEGOTIATIONS AND SETTLEMENT

SHORT TERM MEMORY IMPAIRMENT
Traumatic brain injuries, **10:10**

SIGNATURES
Depositions, **2:188 to 2:191**
Electronic service and filing, "User ID" of attorney constitutes signature, **2:76**
Structured settlements, **14:97**

SINGLE PHOTON EMISSION COMPUTERIZED TOMOGRAPHY (SPECT)
Traumatic brain injuries, assessment of, **10:40**

SKID MARKS
Interview of client, evidence at scene, **1:17**

SMALL BUSINESS JOB PROTECTION ACT OF 1996
Structured settlements, **14:76**

SMELL, SENSE OF
Traumatic brain injuries, impairment of ability to smell, **10:13**

SOVEREIGN IMMUNITY
General treatment, **13:1 et seq.**
For detailed treatment see index headings FEDERAL EMPLOYEES; STATE AND LOCAL GOVERNMENTS

SPECIAL DAMAGES
Adequacy of award, **8:61**
Evaluation of case, **1:181**
New trial, **8:70**

SPECIFIC PERFORMANCE
ERISA plan, reimbursement provisions of, **1:125**

SPECT SCANS
Traumatic brain injuries, **10:40**

SPEECH AND LANGUAGE IMPAIRMENT
Traumatic brain injury, symptoms of, **10:11**

STACKING OF MEDICAL PAYMENTS
Generally, **1:136**
Circumstances where stacking not allowed, **1:137**

STATE AND LOCAL GOVERNMENTS
General treatment, **13:1 to 13:25**
Adequacy of notice of claim against the Commonwealth, **13:6**
Control and discretion exercised over employee by government, degree of, **13:18**
Discretionary vs. ministerial functions, **13:13, 13:14**
Factors in determining whether sovereign immunity applies, **13:15 et seq.**
Gross negligence, **13:11, 13:12, 13:20**
Interest and involvement of government in function, extent of, **13:17**
Limiting amount of recovery, **13:4**
Nature of function performed by employee, **13:16**
Notice of claim required prior to suit against government entities, **13:5 to 13:8**
Parks and recreation facilities, immunity in collisions caused by municipal vehicles engaged in maintenance or operation of, **13:21**
Pleading case against government employee, **13:9 et seq.**
Police pursuit cases, gross negligence, **13:20**
Public policy issues supporting sovereign immunity, **13:2**
Simple negligence, extent of sovereign immunity, **13:10 to 13:12**

STATE AND LOCAL GOVERNMENTS—Cont'd
Sovereign immunity, **13:3 to 13:35**
Sovereign immunity, **13:1 et seq.**
Timeliness of notice of claim against the Commonwealth, **13:8**
Uninsured motorists, applicability of sovereign immunity, **13:35**

STATUTE OF LIMITATIONS
General treatment, **1:36, 1:63 to 1:65, 2:2 to 2:6**
Accrual of cause of action, **2:3**
Filing suit, **2:6**
Nonsuit, tolling of limitations period, **2:95, 2:96**

STIPULATIONS
Evidence, **5:70**
Form of pretrial procedure stipulations, **2:229**
Pretrial procedure stipulations, **2:98, 2:229**

STOPPING VEHICLE ON ROAD
Judgment as matter of law, **8:12**

STORYBOARD
Computer animations, **12:8**

STRUCTURED SETTLEMENTS
General treatment, **1:218, 1:219, 14:1 et seq.**
Actual or constructive receipt of periodic payments, **14:78 to 14:81**
Advantages and disadvantages, **14:51 to 14:70, 14:126**
Appropriateness of structured settlement
general treatment, **14:24 to 14:32**
age, **14:26**
infant settlements, **14:30**
liquidity, need for, **14:28**
prudence of plaintiff, **14:29**
size of settlement, **14:27**
tenuous marital relationships, **14:31**
type of injury, **14:25**
Approval of court, **14:50, 14:110**
Association of Trial Lawyers of America (ATLA), attorneys' fees, **14:114**
Attorneys' fees
general treatment, **14:111 to 14:123**
Association of Trial Lawyers of America (ATLA), **14:114**
calculation of fee, **14:111 to 14:119**
cost of settlement, calculation of fee based on, **14:112**
ethical considerations, **14:119**
greater than normal fee, receipt of, **14:116**
percentage of present value, **14:117**
present value, determination of, **14:115**
structuring of fee, **14:118**
tax considerations, **14:120 to 14:123**
Calendars of courts, clearing of, **14:68**

STRUCTURED SETTLEMENTS—Cont'd
Checklists
advantages and disadvantages of using structured settlement, **14:126**
deciding whether to use a structured settlement, **14:124**
payments under structured settlements, **14:125**
Collapse of assignee or annuity company, **14:38 to 14:43, 14:66**
Creditors of assignee, protection of annuity from, **14:43, 14:98**
Deferred payment option, **14:19**
Definitions
generally, **14:2 to 14:23**
annuity based settlement, **14:4**
funding asset, **14:11**
future lump sum payments, **14:14**
guaranteed period annuity, **14:18**
life annuity, **14:16**
period certain annuity, **14:17**
periodic payments, **14:13**
structured settlement, **14:3**
trust based settlement, **14:5**
Drafting of necessary documents
general treatment, **14:91 to 14:110**
constructive receipt language, avoidance of, **14:94 to 14:96**
creditors of assignee, protection of annuity from, **14:98**
''full accord and satisfaction,'' current or up front payment as, **14:101**
indemnity, **14:105**
minors and other incompetents, approval by court, **14:110**
model forms, **14:99 to 14:105**
ownership of annuity, **14:95**
payment, **14:104, 14:108**
''release any and all claims,'' **14:100**
''release of defendant(s) and insurer(s) upon assignment,'' **14:103, 14:109**
''rights no greater than those of a general creditor,'' **14:102, 14:107**
signature of authorized representative of insurance carrier, **14:97**
tax expert, assistance of, **14:91**
Uniform Qualified Assignment and Release, **14:106 to 14:109**
Economists, consultation with, **14:48**
Educational endowment, **14:55**
Emergencies and unexpected contingencies, **14:44, 14:64**
Emotional distress, exclusion of damages received for personal injuries from gross income, **14:74**
Ethical considerations, attorneys' fees, **14:119**
Experts, consultation with, **14:46 to 14:48**
Flexibility, **14:54 to 14:58**
''Full accord and satisfaction,'' current or up front payment as, **14:101**
Funding asset, **14:11**
Future lump sum payments, **14:14, 14:21**
Future payments, **14:12 to 14:14**
Gross income, exclusion of damages received for personal injuries, **14:71 et seq.**

STRUCTURED SETTLEMENTS—Cont'd
Guaranteed period annuities, **14:18**
Historical background, **14:1**
Increasing payment annuities, **14:20**
Indemnity, **14:105**
Inflation, **14:45, 14:56, 14:65**
Insurance, potential reduction in costs of, **14:70**
Investment risks, elimination of, **14:61**
Joint life or survivorship options, **14:22**
Jury award, settlement after, **14:93**
Life annuities, **14:16**
Life insurance, **14:58**
Liquidity, need for, **14:28**
Management fees, avoidance of, **14:60**
Marital relationships, appropriateness of structured settlement, **14:31**
Medical experts, consultation with, **14:47**
Minors and other incompetents, **14:26, 14:30, 14:110**
Model forms, **14:99 to 14:105**
Multiple annuities, **14:23**
Negotiation of structured settlement
general treatment, **14:33 to 14:50**
approval of court, **14:50**
economists, consultation with, **14:48**
experts, consultation with, **14:46 to 14:48**
general creditors of assignee, prevention from reaching annuity contract, **14:43**
inflation, **14:45**
information needed to evaluate settlement, **14:36, 14:37**
initial considerations, **14:33 to 14:50**
medical experts, consultation with, **14:47**
rating of annuity company, **14:40**
reinsurance, use of, **14:41**
reserve for emergencies or unexpected contingencies, **14:44**
risk of collapse of annuity company, minimization of, **14:38 to 14:43**
satisfaction of needs of client, **14:35**
secured creditor rights, creation in plaintiff, **14:42**
structured settlement specialty companies, **14:37**
O'Gilvie v United States, effect of ruling in, **14:75**
Ownership of annuity, **14:95**
Payment, **14:104, 14:108, 14:125**
Period certain annuities, **14:17**
Periodic Payment Act of 1982, **14:88 to 14:90**
Periodic payments, **14:13**
Present value, attorneys' fees, **14:115**
Prudence of plaintiff, **14:29**
Punitive damages, **14:73, 14:75**
Qualified assignment, **14:7 to 14:10**
Rated policies, **14:57**

STRUCTURED SETTLEMENTS—Cont'd
Rating of annuity company, **14:40**
Reinsurance, use of, **14:41**
"Release any and all claims," **14:100**
"Release of defendant(s) and insurer(s) upon assignment," **14:103, 14:109**
"Rights no greater than those of a general creditor," **14:102, 14:107**
Secured creditor rights, creation in plaintiff, **14:42**
Self-protection and security, **14:53**
Signature of authorized representative of insurance carrier, **14:97**
Small Business Job Protection Act of 1996, **14:76**
Tax considerations
general treatment, **14:52, 14:71 to 14:90**
actual or constructive receipt of periodic payments, **14:78 to 14:81**
attorneys' fees, **14:120 to 14:123**
economic benefit, exclusion from gross income periodic payments, **14:82**
emotional distress, exclusion of damages received for personal injuries from gross income, **14:74**
estate of recipient, payments made to, **14:85**
gross income, exclusion of damages received for personal injuries, **14:71 et seq.**
increasing annual payments, **14:86**
IRS rulings, **14:83 to 14:87**
loss of income, damages for, **14:87**
Periodic Payment Act of 1982, **14:88 to 14:90**
periodic payments, exclusion from gross income, **14:77 to 14:79**
punitive damages, **14:73, 14:75**
Small Business Job Protection Act of 1996, **14:76**
Tax expert, assistance of, **14:91**
Types of annuities, **14:15 to 14:23**
Uniform Qualified Assignment and Release, **14:106 to 14:109**
Weak liability case, settlement of, **14:62**
Worry-free nature, **14:59**

SUBPOENA DUCES TECUM
Attorney issued (form), **2:234**
Medical evidence of defendant, challenges to, **6:31 to 6:37**
Production of documents and things, attorney-issued subpoena, **2:127**

SUBPOENAS
Costs of action, **1:33**
Medical records, **1:91**
Witness, attorney-issued subpoena for, **2:239**

SUBROGATION
General treatment, **1:122 to 1:130**
Uninsured and underinsured motorist carriers, **15:44**

SUBSTITUTED SERVICE
Service of process and papers, **2:58**

SUMMONS
Generally, **2:39**

SUPPLEMENTATION
Discovery, responses to requests, **2:153, 2:156**

TASTE, SENSE OF
Traumatic brain injuries, impairment of ability to taste, **10:13**

TAXATION
Medical evidence of defendant, subpoena duces tecum, **6:36**
Motions in limine, failure to file tax return, **3:21**
Structured settlements
general treatment, **14:52, 14:71 to 14:90**
for detailed treatment see index heading STRUCTURED SETTLEMENTS

TELEPHONES
Costs of action, **1:33**
Depositions, **2:182, 9:32**
Low impact, soft tissue cases, **9:32**

TEXTS
Expert witnesses, **5:48**

THIRD-PARTY CLAIMS
Liens on recovery, court approval of settlement of third-party claims, **1:119**
Nonsuit (voluntary), **2:85**

TIME AND DATE
Chemical testing to determine alcohol or drug content of blood, **5:129**
Depositions. See index heading DEPOSITIONS
Discovery, **2:145**
Driving while intoxicated. See index heading INTOXICATION
Electronic service and filing, time for acting after electronic service, **2:77**
End, time required to bring case to, **1:34 to 1:37**
Entry of judgment, additur and remittitur, **8:81**
Federal employees, actions against, **13:31, 13:32**
Initiation of suit, **2:1 to 2:7**
Instructions to jury. See index heading INSTRUCTIONS TO JURY
Interview of client, **1:10**
Judgment as matter of law, motion for, **8:5, 8:17**
Nonsuit, time for refiling action, **2:94 to 2:97**
Offers of proof, **5:97**
Pretrial planning and disclosure requirements, time for making initial disclosures required by federal rules, **2:103**
Selection of jury, **3:75, 3:76**
Settlement, inability to reach, **2:7**
Statute of limitations
general treatment, **1:36, 1:63 to 1:65, 2:2 to 2:6**
for detailed treatment see index heading STATUTE OF LIMITATIONS

TOXICOLOGISTS AND TOXICOLOGY REPORTS
General treatment, **5:28, 15:30, 15:31**
Interview of client, charges against defendants, **1:15**

TRAFFIC CITATIONS
Evidence, **5:111 to 5:115**

TRAUMATIC BRAIN INJURIES
General treatment, **10:1 et seq.**
Accident report and photographs, **10:24**
Amnesia, **10:4**
Assessment and testing
general treatment, **10:22 to 10:29**
accident report and photographs, **10:24**
history of symptoms, **10:25**
information needed, **10:23 to 10:27**
neuropsychological testing, **10:28, 10:29**
pre-injury level of functioning, **10:26, 10:27**
Attention span, changes in, **10:9**
Balance deficits, **10:14**
BEAMs, **10:43**
Behavioral changes, **10:21**
Checklists
demonstrative evidence in mild traumatic brain injury cases, examples, **10:49**
symptoms of traumatic brain injury, **10:49**
Cognitive inefficiency, **10:12**
Consciousness, loss of, **10:3**
Demonstrative evidence, **10:30 to 10:48, 10:50**
Diagrams and charts, **10:48**
Divided attention, **10:17**
EEGs, **10:41**
Emotional changes, **10:21**
Evidence
general treatment, **10:30 to 10:48, 10:50**
BEAMs, **10:43**
biomechanical aspects of trauma, **10:32 to 10:35**
brain function or activity, tests of, **10:39 to 10:43**
demonstrative evidence, **10:30 to 10:48, 10:50**
diagrams and charts, **10:48**
EEGs, **10:41**
medical illustrations, **10:46**
models of head and brain, **10:34**
neurodiagnostic tests, **10:36 et seq.**
neuroimaging tests, **10:38**
neuropsychological tests, **10:44, 10:45**
photographs, **10:33, 10:35**
SPECT scans, **10:40**
videotapes, **10:47**

TRAUMATIC BRAIN INJURIES—Cont'd
Fatigue, **10:16**
Fine motor skills, reduction in, **10:20**
Grip strength, reduction in, **10:20**
Headaches, **10:6**
Hearing problems, **10:15, 10:19**
History of symptoms, **10:25**
Language impairment, **10:11**
Light, hypersensitivity to, **10:15**
Medical illustrations, **10:46**
Mental status, alteration in, **10:5**
Models of head and brain, **10:34**
Nausea and vomiting, **10:7**
Neurodiagnostic tests, **10:36 et seq.**
Neuroimaging tests, **10:38**
Neuropsychological tests, **10:28, 10:29, 10:44, 10:45**
Noise, hypersensitivity to, **10:15**
Photographs, **10:24, 10:33, 10:35**
Post-acute symptoms, **10:8 to 10:21**
QEEGs, **10:42**
Sensory overload, **10:18**
Short term memory impairment, **10:10**
Smell, impairment of ability to, **10:13**
SPECT scans, **10:40**
Speech impairment, **10:11**
Symptoms, **10:2 to 10:21**
Taste, impairment of ability to, **10:13**
Testing. Assessment and testing, above
Videotapes, **10:47**
Vomiting, **10:7**

TREATISES
Hearsay, statements in certain publications relied upon by expert not excludable as, **5:39**
Medical evidence of defendant, challenges to, **6:63, 6:64**

TRIAL PREPARATION
General treatment, **2:210 to 2:222**
Confession of judgment by a defendant, **2:222**
Drunk driving cases, **15:10 to 15:46**
Expert witnesses, **2:213 to 2:215**
Fees of expert witnesses, payment of, **2:214**
Final pretrial conference, **2:220**
Interviews of witnesses, **2:211**
Jury investigation prior to trial, **2:218**
Notebook, prepare a trial notebook, **2:221, 2:223**
Order of witnesses, **2:212**
Plaintiff, preparation of, **2:217**
Report of parties planning meeting, form, **2:231**

TRIAL PREPARATION—Cont'd
Scheduling orders, uniform pretrial scheduling order, form, **2:230**
Settlement, notice to witnesses of release from subpoena, **2:216**
Uniform pretrial scheduling order, form, **2:230**
Witnesses, **2:210 to 2:216**

TRUSTWORTHINESS
Expert witnesses, credibility of, **5:43**

UNIFORM QUALIFIED ASSIGNMENT AND RELEASE
Structured settlements, **14:106 to 14:109**

UNINSURED AND UNDERINSURED MOTORISTS
Drunk driving cases, **15:21, 15:40 to 15:45**
Investigation of case, **1:138 to 1:147**
"John Doe" cases
general treatment, **11:1 et seq.**
for detailed treatment see index heading "JOHN DOE" CASES
Service of process and papers, **2:68, 2:69**
Sovereign immunity, applicability of, **13:35**

VEHICLE SHARE CASES
Gig economy
ride-share customers, mandatory arbitration, **16:6**
special considerations, **16:2**

VENUE
General treatment, **2:24 to 2:29**
Administrator, appointed for the estate of a decedent, **2:27**
Agent appointed to receive service of process, **2:27**
Cause of action, place of arising of, **2:26**
Circuit courts, **2:25 to 2:28**
Evaluation of case, **1:185**
Federal jurisdiction, **2:29**
General district courts, **2:25 to 2:28**
Principle office or principle place of business, **2:27**
Residence, defendant, **2:27**
Residence, plaintiff, **2:28**
Wrongful death or personal injury, **2:27**

VERDICTS
General treatment, **8:40 to 8:45**
Federal court practice, **8:43, 8:82, 8:83**
Form of verdict, **8:40 to 8:43**
General verdict, **8:41**
Instructions to jury, **8:39**
Itemization of damages, **8:45**
Objection to form of verdict, **8:44, 8:45**
Special findings, **8:42**

VERTIGO
Traumatic brain injury, symptoms of, **10:14**

VICARIOUS LIABILITY
Identify corporate entity when suing under theory of, **2:11, 2:12, 2:15**

VIDEO RECORDINGS
See index heading AUDIO/VIDEO RECORDINGS

VISCERAL FEELINGS
Peremptory challenges, supporting strike of contested juror, **3:69**

VOCATIONAL REHABILITATION EXPERTS
Damages, proof of, **5:29**
Earning capacity, proof of loss of, **5:189**
Future lost earnings, proof of, **5:184**
Lost earnings, **5:189**

VOIR DIRE
General treatment, **3:23 to 3:52**
Checklist, **3:77**
Conversation, being a good conversationalist, **3:46**
Damages, prepare jurors to award full and fair damages, **3:31**
Disapproval, avoid showing, **3:43**
Draw jurors out, **3:45**
Dress down for voir dire, **3:50**
Drunk driving cases, **15:24, 15:28**
Effective use, **3:29 to 3:32**
Ethics, lecturing of jurors, **3:36**
Examination, generally, **3:26, 3:28**
Follow-up questions, use of, **3:44 to 3:48**
Form for sample voir dire, **3:82**
Getting jurors to talk, generally, **3:34, 3:49**
Group discussion, voir dire as, **3:52**
Impaneling of venire, **3:24, 3:25**
Judge, assistance of, **3:49**
Jury lists, **3:25**
Justification of questions, **3:47, 3:48**
Lecturing of jurors, **3:35 to 3:38**
Open-ended questions, use of, **3:40, 3:41**
Peremptory challenges, gathering of information for, **3:32**
Potential problems in case, preparation of jury for, **3:30**
Preliminary voir dire information, **3:27**
Purposes, **3:23**
Rehearsal of voir dire, **3:51**
Strategies and techniques, **3:33 to 3:38**
Techniques for voir dire questioning, generally, **3:39 to 3:52**
Watch and listen, **3:42, 3:43**

VOMITING
Traumatic brain injuries, **10:7**

VOUCHING FOR WITNESS
Closing arguments, **7:22**

WAIVER
Compulsory general appearance by defendant, failure to object to defect in service of process waives one year time limit, **2:48**
Deposition, signing of, **2:189, 2:190**
Instructions to jury, **8:25**
''John Doe'' cases, service of process, **11:8**
Objections to evidence, **5:94**
Right to open and close evidence, **5:10**
Service of process, **2:47, 2:226, 2:227, 11:8**
Voluntary general appearance by defendant waives one year time limit for service of process, **2:47**

WEATHER REPORTS
Investigation of case, **1:87**

WILLFUL AND WANTON CONDUCT
Punitive damages, **1:184, 15:6, 15:7**

WITNESSES
See index heading EVIDENCE

WORKERS' COMPENSATION
Liens on recovery, **1:116, 1:117**

WORK PRODUCT
Production of documents and things, requests for, **2:124, 2:125**

WRITE-OFFS
Medical expenses, **1:134, 5:163**

WRONGFUL DEATH
Venue, **2:27**

X-RAYS
Damages, proof of, **5:153**
Expert witnesses, use by, **5:47**
Medical evidence of defendant, challenges to, **6:68**