

# Table of Contents

---



---

<b>Chapter 1</b>	
<b>Negligence and Duty—General Concept</b>	<b>1</b>
1-1 WHAT IS NEGLIGENCE? .....	1
<i>Model Civil Jury Charge 5.10A</i> .....	2
NEGLIGENCE AND ORDINARY CARE—GENERAL (Approved before 1984)	
1-2 EXISTENCE OF A DUTY—A MATTER OF LAW .....	3
1-3 FORESEEABILITY AS A FACTOR FOR THE JURY TO CONSIDER .....	5
<i>Model Civil Jury Charge 5.10B</i> .....	6
FORESEEABILITY (AS AFFECTING NEGLIGENCE) (Approved before 1984; Revised 09/2021)	
1-4 ASSUMPTION OF RISK CONCEPT DISCARDED .....	7
1-5 PLAINTIFF’S BURDEN OF PROOF—PREPONDERANCE OF EVIDENCE .....	7
<i>Model Civil Jury Charge 1.12(G), (H), (I)</i> .....	9
GENERAL PROVISIONS FOR STANDARD CHARGE (Approved 11/98)	
1-6 NET OPINIONS AND <i>RES IPSA LOQUITUR</i> —THE THING SPEAKS FOR ITSELF .....	11
1-6:1 Requirements Necessary to Invoke Res Ipsa .....	14
<i>Model Civil Jury Charge 5.10D</i> .....	15
<i>RES IPSA LOQUITUR</i> (Approved 10/90)	
1-7 ACTS OF GOD .....	17
<i>Model Civil Jury Charge 5.10E</i> .....	18
ACT OF GOD (Approved before 1984)	
1-8 SUDDEN EMERGENCY CLAIMS .....	19
1-9 PARENTAL IMMUNITY AND ITS EXCEPTIONS .....	20
1-10 DUTIES VOLUNTARILY ASSUMED .....	21
<i>Model Civil Jury Charge 5.10C</i> .....	21
UNDERTAKING VOLUNTARILY ASSUMED (Approved before 1984; Revised 09/2021)	
1-11 PER SE NEGLIGENCE .....	22
EVIDENCE OF AND <i>PER SE</i> NEGLIGENCE (04/2016) .....	22
1-12 GROSS NEGLIGENCE.....	24

## Table of Contents

### Chapter 2

<b>Proximate Cause</b>	<b>25</b>
2-1 PROXIMATE CAUSE DEFINED .....	25
2-1:1 Required Proof of Proximate Cause—Routine Tort Case .....	26
2-1:2 Non-Routine Tort Case—Substantial Factor Test Where There are Concurrent Causes of Harm.....	27
<i>Model Civil Jury Charge 6.10</i> .....	28
PROXIMATE CAUSE—GENERAL CHARGE (Approved 05/1998; Revised 01/2019)	
<i>Model Civil Jury Charge 6.11</i> .....	29
PROXIMATE CAUSE—ROUTINE TORT CASE WHERE NO ISSUES OF CONCURRENT OR INTERVENING CAUSES, OR FORESEEABILITY OF INJURY OR HARM (Approved 08/99; Revised 04/16)	
<i>Model Civil Jury Charge 6.12</i> .....	30
PROXIMATE CAUSE—WHERE THERE IS CLAIM THAT CONCURRENT CAUSES OF HARM WERE PRESENT (Approved 5/98)	
2-2 SUGGESTIONS FOR FUTURE CASES .....	31
2-3 INTERVENING OR SUPERSEDING CAUSES .....	31
<i>Model Civil Jury Charge 6.14</i> .....	32
PROXIMATE CAUSE—WHERE THERE IS CLAIM OF INTERVENING OR SUPERSEDING CAUSE FOR JURY'S CONSIDERATION (Approved 08/1999; Revised 09/2021)	
2-4 PROXIMATE CAUSE AND FORESEEABILITY—DO THEY BELONG TOGETHER?.....	33
<i>Model Civil Jury Charge 6.13</i> .....	34
PROXIMATE CAUSE—WHERE THERE IS CLAIM THAT CONCURRENT CAUSES OF HARM ARE PRESENT <u>AND</u> CLAIM THAT SPECIFIC HARM WAS NOT FORESEEABLE (Approved 05/1998; Revised 09/2021)	

### Chapter 3

<b>Comparative Negligence</b>	<b>37</b>
3-1 BASIC STATUTORY PRINCIPLES .....	37
3-1:1 Action Against One Defendant.....	37
3-1:2 Action Against More Than One Defendant.....	37
3-1:3 Damage Reduction and Responsibilities .....	38
3-2 ULTIMATE OUTCOME—HOW THE JURY IS INSTRUCTED IN COMPARATIVE NEGLIGENCE CASES .....	39
<i>Model Civil Jury Charge 7.31</i> .....	40
COMPARATIVE NEGLIGENCE/FAULT: ULTIMATE OUTCOME (Approved 03/2000; Revised 09/2018)	
<i>Model Civil Jury Charge 7.32</i> .....	43
COMPARATIVE NEGLIGENCE: INTERROGATORIES (Approved before 1985)	

## Table of Contents

3-3	COMPARATIVE NEGLIGENCE IN AUTO CASES.....	47
	<i>Model Civil Jury Charge 7.30</i> .....	48
	COMPARATIVE NEGLIGENCE (AUTO)—ALL ISSUES (Approved 6/1989; Revised 12/2011)	
3-4	CHILDREN CHARGED WITH COMPARATIVE NEGLIGENCE.....	52
	<i>Model Civil Jury Charge 7.11</i> .....	53
	CARE REQUIRED OF CHILDREN (Approved 5/91)	
3-5	COMPARATIVE NEGLIGENCE AS TO A PASSENGER IN AN AUTO.....	55
	<i>Model Civil Jury Charge 7.12</i> .....	56
	DUTY OF PASSENGER IN AUTOMOBILE (Approved 5/91)	
3-6	INTOXICATION OF A PLAINTIFF AND COMPARATIVE NEGLIGENCE.....	57
	<i>Model Civil Jury Charge 7.13</i> .....	57
	NEGLIGENCE—INTOXICATION (Approved 5/91)	
3-7	PHYSICAL DISABILITY OR MENTAL IMPAIRMENT AND COMPARATIVE NEGLIGENCE.....	58
	<i>Model Civil Jury Charge 7.14</i> .....	59
	NEGLIGENCE—EFFECT OF PHYSICAL IMPAIRMENT (Approved 5/91)	
3-8	PEDESTRIANS ON A SIDEWALK AND COMPARATIVE NEGLIGENCE.....	59
	<i>Model Civil Jury Charge 7.15</i> .....	59
	NEGLIGENCE—CARE REQUIRED OF PEDESTRIAN ON SIDEWALK (Approved 5/91)	
3-9	INTENTIONAL ACTS AND COMPARATIVE NEGLIGENCE.....	60
	<i>Model Civil Jury Charge 7.16</i> .....	60
	APPORTIONMENT WHERE THE ACTS, OR INACTIONS, OF AN INDIVIDUAL OR ENTITY SUBSTANTIALLY CONTRIBUTED TO THE ALLEGED HARM (Approved 10/1991; Revised 09/2018)	
 <b>Chapter 4</b>		
	<b>Damages in Personal Injury Cases</b>	<b>63</b>
4-1	OVERVIEW.....	63
	4-1:1 Actual Out-of-Pocket Losses .....	64
	4-1:2 Unliquidated Damages .....	64
	4-1:2.1 Counsel Prohibited From Mentioning Dollar Amount and Other Improper Comments By Counsel.....	65
	4-1:3 Remittitur and Additur.....	68
4-2	DISABILITY, IMPAIRMENT, LOSS OF ENJOYMENT OF LIFE, PAIN AND SUFFERING.....	70

## Table of Contents

<i>Model Civil Jury Charge 8.11E</i> .....	71
DAMAGES CHARGES—GENERAL	
DISABILITY, IMPAIRMENT AND LOSS OF THE ENJOYMENT OF LIFE, PAIN AND SUFFERING (Approved 12/1996; Revised 05/2017)	
4-3 PERMANENT INJURY, LIFE EXPECTANCY, AND ENHANCED RISK OF FUTURE HARM.....	73
<i>Model Civil Jury Charge 8.11G</i> .....	74
DAMAGES CHARGES—GENERAL	
LIFE EXPECTANCY (Approved 2/96)	
4-4 PRE-EXISTING CONDITIONS AND ASSESSMENT OF DAMAGES.....	74
<i>Model Civil Jury Charge 8.11F</i> .....	77
DAMAGES CHARGES—GENERAL	
AGGRAVATION OF THE PREEXISTING DISABILITY (Approved 1/97)	
4-5 A PLAINTIFF'S DUTY TO MITIGATE DAMAGES BY MEDICAL TREATMENT .....	78
<i>Model Civil Jury Charge 8.11B</i> .....	79
DAMAGES CHARGES—GENERAL	
DUTY TO MITIGATE DAMAGES BY MEDICAL AND SURGICAL TREATMENT (Adopted 12/96; Revised 10/00)	
4-6 MEDICAL EXPENSES AS AN ELEMENT OF DAMAGES .....	80
<i>Model Civil Jury Charge 8.11A</i> .....	82
DAMAGES CHARGES—GENERAL	
MEDICAL EXPENSES (NON-AUTO) (Approved 12/96; Revised 09/2021)	
<i>Model Civil Jury Charge 8.20</i> .....	84
MEDICAL EXPENSES (AUTO) (Approved 12/1996; Revised 01/2017)	
4-6:1 Future Medical Monitoring Expenses.....	84
4-7 PAST AND FUTURE LOSS OF INCOME .....	85
<i>Model Civil Jury Charge 8.11C</i> .....	86
DAMAGES CHARGES—GENERAL	
LOSS OF EARNINGS (Approved 12/88; Revised 7/10)	
4-8 DAMAGE TO A SPOUSE FOR LOSS OF SERVICES, SOCIETY AND CONSORTIUM .....	91
<i>Model Civil Jury Charge 8.30B</i> .....	91
DAMAGES—PER QUOD	
LOSS OF SPOUSE'S SERVICES, SOCIETY AND CONSORTIUM (Approved 2/96)	
4-9 PARENTAL LOSS WHEN CHILD IS INJURED .....	92
<i>Model Civil Jury Charge 8.30C</i> .....	93
DAMAGES—PER QUOD	
LOSS OF CHILD'S SERVICES AND EARNINGS (Approved 2/96)	
4-10 A CHILD'S LOSS OF SERVICES AND CONSORTIUM WHEN A PARENT IS INJURED .....	93
4-11 NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS AND BYSTANDER DAMAGE FROM WITNESSING AN INJURY .....	94

## Table of Contents

<i>Model Civil Jury Charge 5.10F</i> .....	95
NEGLIGENCE—EMOTIONAL DISTRESS FROM WITNESSING SERIOUS INJURY TO AN INTIMATE FAMILY MEMBER (Approved 5/84)	
4-12 NON-TAXABILITY OF PERSONAL DAMAGE AWARDS .....	96
<i>Model Civil Jury Charge 8.48</i> .....	97
TAX CONSEQUENCES OF PERSONAL INJURY AWARD (Adopted 1/97; Revised 3/01)	
4-13 APPORTIONMENT OF DAMAGES BETWEEN PLAINTIFF AND DEFENDANTS AND AMONG DEFENDANTS .....	97
 <b>Chapter 5</b>	
<b>Statute of Limitations and Repose</b> .....	<b>99</b>
5-1 THE BASIC STATUTORY RULE .....	99
5-2 THE OBLIGATION TO TIMELY RAISE THE DEFENSE .....	101
5-3 THE DISCOVERY RULE AND THE STATUTE OF LIMITATIONS.....	102
5-4 WRONGFUL DEATH CASES, SURVIVORSHIP CLAIMS, AND THE STATUTE OF LIMITATIONS .....	103
5-5 FICTITIOUS NAME OR ‘JOHN DOE’ PLEADINGS TO EXTEND THE STATUTE OF LIMITATIONS .....	103
 <b>Chapter 6</b>	
<b>Negligence on the Roadways</b> .....	<b>105</b>
6-1 GENERAL PRINCIPLES OF ROADWAY CONDUCT.....	105
<i>Model Civil Jury Charge 5.30A</i> .....	106
GENERAL DUTY OWING (Approved 8/99)	
6-2 SOME COMMON LAW PRINCIPLES OF DRIVING.....	107
6-2:1 Specific Duties to Make Observations.....	107
<i>Model Civil Jury Charge 5.30G.1</i> .....	107
DUTY OF AUTOMOBILE DRIVER TO MAKE OBSERVATIONS (Approved before 1983; Revised 03/2021) FOR TRAFFIC CONDITIONS	
6-2:2 The Duty to Look Out for Pedestrians .....	108
<i>Model Civil Jury Charge 5.30G.2</i> .....	108
DUTY OF AUTOMOBILE DRIVER TO MAKE OBSERVATIONS (Approved before 1983) FOR PEDESTRIANS	
6-2:3 Driver’s Duty Where the View Is Obstructed at an Intersection .....	109
<i>Model Civil Jury Charge 5.30G.3</i> .....	109
DUTY OF AUTOMOBILE DRIVER TO MAKE OBSERVATIONS (Approved before 1983) WHERE VIEW OBSTRUCTED AT INTERSECTION	
6-2:4 Duty When There Is an Impairment to a Driver’s Vision .....	110

## Table of Contents

<i>Model Civil Jury Charge 5.30G.4</i> .....	110
DUTY OF AUTOMOBILE DRIVER TO MAKE OBSERVATIONS (Approved before 1983) WHERE VISION IMPAIRED	
6-2:5    The Driver’s Duty in the Instance of Temporary Blindness.....	111
<i>Model Civil Jury Charge 5.30G.5</i> .....	111
DUTY OF AUTOMOBILE DRIVER TO MAKE OBSERVATIONS (Approved before 1983; Revised 03/2021) TEMPORARY BLINDNESS OF DRIVER AS AFFECTING DUTY	
6-2:6    A Driver’s Duty Regarding Obstacles or Defects in the Road .....	112
<i>Model Civil Jury Charge 5.30G.6</i> .....	112
DUTY OF AUTOMOBILE DRIVER TO MAKE OBSERVATIONS (Approved before 1983) DUTY AS TO OBSTACLES AND DEFECTS IN STREETS	
6-2:7    A Driver’s Response to a Disabled or Drunk Person, or Infant in the Roadway .....	112
<i>Model Civil Jury Charge 5.30G.7</i> .....	113
DUTY OF AUTOMOBILE DRIVER TO MAKE OBSERVATIONS (Approved before 1983) DUTY AS TO PERSONS UNDER DISABILITY	
6-2:8    A Driver’s Obligation to Observe Traffic Conditions When Going Through a Green Light.....	113
<i>Model Civil Jury Charge 5.30J</i> .....	114
DUTY OF CARE PROCEEDING THROUGH INTERSECTION WITH GREEN LIGHT [THE FAVORED DRIVER] (Approved 1977)	
6-3    STATUTORY DEFINITIONS OF PROPER ROADWAY CONDUCT.....	115
6-3:1    Duty to Observe Emergency Vehicles and Duty of the Emergency Vehicle Driver .....	117
<i>Model Civil Jury Charge 5.31B</i> .....	118
DUTY OF CARE BY EMERGENCY VEHICLE (Approved 1977)	
6-3:2    Following Too Closely or Tailgating .....	119
<i>Model Civil Jury Charge 5.30D</i> .....	119
VIOLATION OF TRAFFIC ACT (Approved 8/99)	
6-3:3    Improper Passing.....	121
6-3:4    Improper Lane Changes .....	122
6-3:5    Requirement to Keep to the Right .....	122
6-3:6    Improper Rates of Speed .....	123
6-3:7    Failure to Obey a Traffic Sign or Signal .....	124
<i>Model Civil Jury Charge 5.30H</i> .....	125
DUTY OF CARE: DRIVER OF MOTOR VEHICLE PROCEEDING THROUGH AN INTERSECTION CONTROLLED BY A STOP SIGN/FLASHING RED TRAFFIC CONTROL DEVICE (Approved before 2007; Revised 03/2021)	

## Table of Contents

<i>Model Civil Jury Charge 5.30I</i> .....	126
DUTY OF CARE: DRIVER OF MOTOR VEHICLE PROCEEDING THROUGH AN INTERSECTION WITH A FLASHING AMBER TRAFFIC CONTROL DEVICE (Revised 6/07)	
6-3:8 Driving Too Slowly .....	126
6-3:9 Statutory Careless Driving.....	127
6-3:10 Statutory Laws Regarding Pedestrians.....	127
<i>Model Civil Jury Charge 5.32B</i> .....	129
DUTY OF A PEDESTRIAN WHEN CROSSING AT A POINT OTHER THAN A CROSSWALK (Approved before 1983; Revised 4/02)	
<i>Model Civil Jury Charge 5.32C</i> .....	131
DUTY OF DRIVERS AND PEDESTRIANS CROSSING AT MARKED OR UNMARKED CROSSWALK (Approved 6/2010; Revised 03/2021)	
6-3:11 Cell Phone Use When Driving .....	131
6-3:12 Bicyclist Obligations .....	131
<i>Model Civil Jury Charge 5.32A</i> .....	132
DUTY OF PEDESTRIANS AND BICYCLISTS TO MAKE OBSERVATIONS (Approved 2/92)	
6-4 DRIVER MAKING A U-TURN .....	133
<i>Model Civil Jury Charge 5.30B</i> .....	133
U-TURN (Approved 8/99)	
6-5 DRIVER MAKING A LEFT-HAND TURN .....	134
<i>Model Civil Jury Charge 5.30C</i> .....	135
LEFT-HAND TURN (Approved 3/91)	
6-6 DRIVER WITH SUDDEN MEDICAL EMERGENCY.....	136
<i>Model Civil Jury Charge 5.30E</i> .....	136
EFFECT OF BLACK OUT (Approved before 1984)	
6-7 DRIVER CLAIMS OF MECHANICAL DEFECT .....	137
<i>Model Civil Jury Charge 5.30F</i> .....	138
LIABILITY FOR INJURY DUE TO MECHANICAL DEFECT OR FAILURE (Approved before 1984)	
6-8 SEAT BELT USAGE AND ITS IMPACT.....	141
<i>Model Civil Jury Charge 5.30K</i> .....	143
NONUSE OF SEATBELT ON ISSUE OF NEGLIGENCE (Approved 6/89)	
<i>Model Civil Jury Charge 8.21</i> .....	143
NONUSE OF SEATBELT INCLUDING ULTIMATE OUTCOME (12/09)	
6-9 DRIVER INTOXICATION.....	147
<i>Model Civil Jury Charge 5.30L</i> .....	147
EFFECT OF INTOXICATION ON DUTY OWING (BY AUTOMOBILE DRIVER) (Approved before 1983)	
6-10 THE LAWSUIT LIMITATION OR THRESHOLD.....	148
6-10:1 The Limitation on Lawsuit Policy Option.....	148
6-10:2 Meeting the Lawsuit Limitation Threshold.....	150
6-10:3 Physician's Certification .....	150

**Table of Contents**

6-10:4 Case Law Interpretation ..... 152  
*Model Civil Jury Charge 5.33* ..... 153  
 LIMITATION ON LAWSUIT OPTION (Approved 11/2000; Revised 04/2018)  
 6-10:5 Pre-Existing Conditions ..... 155

6-11 DUTIES AT RAILROAD AND HIGHWAY  
 GRADE CROSSINGS ..... 155  
*Model Civil Jury Charge 5.21* ..... 156  
 DUTY OF RAILROAD AT PUBLIC HIGHWAY GRADE CROSSING  
 (Approved before 1983)

**Chapter 7**

**Premises Liability 159**

7-1 OVERVIEW ..... 159

7-2 BUSINESS PROPRIETORS ..... 160  
*Model Civil Jury Charge 5.20E* ..... 163  
 ACTIVITY OF OWNER/OCCUPIER AS DISTINGUISHED FROM  
 CONDITION OF PREMISES, DUTY OWED (Approved 3/00)  
*Model Civil Jury Charge 5.20F(5)* ..... 164  
 DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2014)  
 INVITEE—DEFINED AND GENERAL DUTY OWED (12/88)  
*Model Civil Jury Charge 5.20F(6)* ..... 166  
 DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2014)  
 IMPLIED INVITATION (Approved 5/1970, Revised 12/2014)  
*Model Civil Jury Charge 5.20F(7)* ..... 167  
 DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2014)  
 DUTY TO INSPECT OWED TO INVITEE  
*Model Civil Jury Charge 5.20F(8)* ..... 169  
 DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2014)  
 NOTICE OF PARTICULAR DANGER AS CONDITION OF LIABILITY  
*Model Civil Jury Charge 5.20F(9)* ..... 170  
 DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2014)  
 NOTICE NOT REQUIRED WHEN CONDITION IS CAUSED  
 BY DEFENDANT  
*Model Civil Jury Charge 5.20F(10)* ..... 171  
 DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 09/2021)  
 ACTUAL AND CONSTRUCTIVE NOTICE DEFINED  
*Model Civil Jury Charge 5.20F(11)* ..... 171  
 DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 03/2017)  
 MODE OF OPERATION RULE  
*Model Civil Jury Charge 5.20F(12)* ..... 174  
 DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 03/2017)  
 NOTICE TO INVITEE OR OBVIOUSNESS OF DEFECT

7-3 BUSINESS OWNER’S AND LANDLORD’S DUTY  
 TO PROTECT AGAINST CRIMINAL ACTIVITY ..... 180



## Table of Contents

<p><i>Model Civil Jury Charge 5.72</i> ..... 181</p> <p>NEGLIGENCE—PROPRIETOR’S DUTY OF CARE TO PATRONS AGAINST CRIMINAL ACTIVITY OF THIRD PERSONS (Approved 11/99)</p> <p>7-4 SOCIAL GUESTS AND LICENSEES ..... 182</p> <p><i>Model Civil Jury Charge 5.20F(4)</i> ..... 183</p> <p>DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2019)</p> <p>SOCIAL GUEST—DEFINED AND GENERAL DUTY OWED (03/2000; Revised 12/2019)</p> <p>7-5 TRESPASSERS ..... 186</p> <p><i>Model Civil Jury Charge 5.20E</i> ..... 186</p> <p>ACTIVITY OF OWNER/OCCUPIER AS DISTINGUISHED FROM CONDITION OF PREMISES, DUTY OWED (Approved 3/00)</p> <p><i>Model Civil Jury Charge 5.20F(1)</i> ..... 187</p> <p>DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2014)</p> <p>ADULT TRESPASSER—DEFINED AND GENERAL DUTY OWED</p> <p><i>Model Civil Jury Charge 5.20F(2)</i> ..... 188</p> <p>DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2014)</p> <p>INFANT TRESPASSER—DEFINED AND GENERAL DUTY OWED (10/2003)</p> <p><i>Model Civil Jury Charge 5.20F(3)</i> ..... 194</p> <p>DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2014)</p> <p>LICENSEE, DEFINED AND GENERAL DUTY OWED (03/2000; Revised 12/2014)</p> <p>7-6 RESIDENTIAL LANDLORD’S DUTY TO TENANTS ..... 195</p> <p><i>Model Civil Jury Charge 5.20D</i> ..... 196</p> <p>DUTY OF OWNER OF MULTI-FAMILY HOUSE TO TENANTS AND OTHERS (Approved 5/97)</p> <p><i>Model Civil Jury Charge 5.20C(A)</i> ..... 200</p> <p>DUTY OF OWNER TO TENANT LEASING ENTIRE PREMISES AND TO OTHERS ON PREMISES (Approved 5/77)</p> <p>RESIDENTIAL PREMISES</p> <p><i>Model Civil Jury Charge 5.20C(B)</i> ..... 201</p> <p>DUTY OF OWNER TO TENANT LEASING ENTIRE PREMISES AND TO OTHERS ON PREMISES (Approved 5/77)</p> <p>REPAIRS BY LANDLORD OF RESIDENTIAL PREMISES</p> <p>7-7 COMMERCIAL LANDLORD OBLIGATIONS ..... 202</p> <p><i>Model Civil Jury Charge 5.20C(C)</i> ..... 201</p> <p>DUTY OF OWNER TO TENANT LEASING ENTIRE PREMISES AND TO OTHERS ON PREMISES (Approved 5/77)</p> <p>NON-RESIDENTIAL LAND AND BUILDINGS</p> <p><i>Model Civil Jury Charge 5.20C(D)</i> ..... 203</p> <p>DUTY OF OWNER TO TENANT LEASING ENTIRE PREMISES AND TO OTHERS ON PREMISES (Approved 5/77)</p> <p>REPAIRS BY LANDLORD OF NON-RESIDENTIAL LAND AND BUILDINGS</p>	<p>181</p> <p>182</p> <p>183</p> <p>186</p> <p>186</p> <p>187</p> <p>188</p> <p>194</p> <p>195</p> <p>196</p> <p>200</p> <p>201</p> <p>202</p> <p>201</p> <p>203</p>
--	--

## Table of Contents

7-8	ABUTTING PUBLIC SIDEWALKS .....	203
	<i>Model Civil Jury Charge 5.20B</i> .....	206
	LIABILITY FOR DEFECTS IN PUBLIC STREETS AND SIDEWALKS (Approved 11/99)	
	<i>Model Civil Jury Charge 5.20G</i> .....	210
	LIABILITY OF FORMER OWNER OF COMMERCIAL PROPERTY FOR DEFECTS OR OTHER DANGEROUS CONDITIONS IN ABUTTING SIDEWALKS (Approved 5/84)	
7-9	LANDOWNERS' LIABILITY ACT FOR UNDEVELOPED AND RURAL LAND .....	212
7-10	UTILITY POLES ON OR NEAR ROADWAYS.....	213
<b>Chapter 8</b>		
<b>Construction and Multiple Employer Work Site Accidents</b>		<b>215</b>
8-1	OVERVIEW.....	215
8-2	WORKPLACE ACCIDENTS AND OSHA VIOLATIONS .....	217
8-3	CONSTRUCTION INDUSTRY PRACTICES AND STANDARDS.....	218
	<i>Model Civil Jury Charge 5.10G</i> .....	218
	STANDARDS OF CONSTRUCTION, CUSTOM AND USAGE IN INDUSTRY OR TRADE (3/10)	
<b>Chapter 9</b>		
<b>Medical Negligence and Battery</b>		<b>221</b>
9-1	INTRODUCTION.....	221
9-2	ARBITRATION CLAUSES AND MEDICAL NEGLIGENCE CLAIMS.....	222
9-3	THE THREE KEY STEPS IN CASE EVALUATION.....	222
	9-3:1 Determining Deviation .....	222
	9-3:2 Linking the Deviation to Damage.....	223
	9-3:3 Determining the Economic Feasibility of the Case .....	223
9-4	THE AFFIDAVIT OF MERIT STATUTORY REQUIREMENT .....	225
	9-4:1 Contents of Affidavit .....	227
	9-4:2 When an Affidavit of Merit Is or Is Not Necessary-Common Knowledge.....	229
	9-4:3 2004 Medical Care Access Statute and the More Stringent Affidavit of Merit Requirement.....	229
9-5	THE STATUTE OF LIMITATIONS AND THE DISCOVERY RULE .....	233
9-6	THE LEARNED TREATISE EVIDENCE RULE .....	234
9-7	THE GENERAL DUTY OF A MEDICAL PRACTITIONER .....	236

## Table of Contents

9-8	THE MEDICAL JUDGMENT ISSUE.....	237
9-9	THE DUTY OF A SPECIALIST OR A GENERAL PRACTITIONER .....	239
	<i>Model Civil Jury Charge 5.50A</i> .....	239
	DUTY AND NEGLIGENCE (Approved 3/02)	
	<i>Model Civil Jury Charge 5.50G</i> .....	241
	MEDICAL JUDGMENT (06/2014)	
9-10	THE REQUIREMENT OF EXPERT TESTIMONY AND WHEN COMMON KNOWLEDGE MAY FURNISH THE STANDARD OF CARE .....	243
	<i>Model Civil Jury Charge 5.50B</i> .....	244
	COMMON KNOWLEDGE MAY FURNISH STANDARD OF CARE (Approved 3/02)	
9-11	THE DUTY TO OBTAIN INFORMED CONSENT.....	246
	<i>Model Civil Jury Charge 5.50C</i> .....	248
	INFORMED CONSENT (COMPETENT ADULT AND NO EMERGENCY) (Approved 10/00; Revised 3/02)	
9-12	THE IMPACT OF A PRE-EXISTING CONDITION ON PROXIMATE CAUSE.....	250
	9-12:1 Substantial Factor Test .....	251
	<i>Model Civil Jury Charge 5.50E</i> .....	253
	PRE-EXISTING CONDITION—INCREASED RISK/LOSS OF CHANCE—PROXIMATE CAUSE (Approved 10/2014; Revised 03/2021)	
9-13	A CLAIM FOR WRONGFUL BIRTH AND LIFE .....	258
	<i>Model Civil Jury Charge 5.50F</i> .....	260
	WRONGFUL BIRTH AND LIFE (UPDATED) (Approved 7/02)	
9-14	THE MEDICAL BATTERY CAUSE OF ACTION .....	263
9-15	ALTERED OR MISSING MEDICAL RECORDS.....	265
	<i>Model Civil Jury Charge 5.50H</i> .....	265
	ALTERATION OF MEDICAL RECORDS (Approved 7/02)	
	<i>Model Civil Jury Charge 5.50I</i> .....	267
	FRAUDULENT CONCEALMENT OF MEDICAL RECORDS (Approved 7/02)	
9-16	NURSING HOME NEGLIGENCE.....	268
9-17	PLAINTIFF’S OBLIGATION TO UNDERGO AN INVASIVE DEFENSE MEDICAL EXAMINATION .....	270
9-18	PLAINTIFF’S ACCESS IN DISCOVERY TO PROCURE MEDICAL REVIEW COMMITTEE DOCUMENTS.....	270
9-19	HEALTH INSURANCE CARRIER OR HMO MALPRACTICE .....	271
9-20	DEFENSE REQUEST FOR EX PARTE INTERVIEW WITH A TREATING PHYSICIAN AND USING A TREATING DOCTOR AS A FACT OR CAUSATION WITNESS.....	272

## Table of Contents

9-21	PSYCHIATRISTS' AND OTHER MENTAL HEALTH PROVIDERS' LIMITED IMMUNITY FROM PATIENT'S ACTS OF PHYSICAL HARM TO SELF AND OTHERS .....	273
9-22	CLAIMS AGAINST HOSPITALS AND PROFESSIONALS WHO WORK WITH HOSPITALS .....	274
	<i>Model Civil Jury Charge 5.50</i> .....	274
	APPARENT AUTHORITY CHARGE (Approved 6/10)	

### Chapter 10

#### Lawyer Negligence and Other Non-Medical,

#### Professional Negligence Leading to Personal Injury

277

10-1	INTRODUCTION.....	277
10-2	ATTORNEY NEGLIGENCE OR MALPRACTICE.....	280
10-2:1	Breach of Duty to Non-Client Third Party.....	281
10-2:2	Damages Caused by Legal Malpractice .....	281
10-2:3	The Statute of Limitations in Legal Malpractice Cases and the Entire Controversy Doctrine .....	282
10-3	ATTORNEY FEES IN ATTORNEY NEGLIGENCE CASES.....	283
10-3:1	Whether Claimant Should Get Double Recovery.....	283
10-3:2	Prejudgment Interest.....	284
	<i>Model Civil Jury Charge 5.51A</i> .....	284
	LEGAL MALPRACTICE (Approved 6/79)	
	GENERAL DUTY OWING	
10-4	OTHER NON-MEDICAL PROFESSIONAL NEGLIGENCE: ARCHITECTS, ENGINEERS AND ACCOUNTANTS .....	288
10-4:1	Ten Year Statute of Repose.....	289
10-4:2	What Constitutes Breach of Duty by Architects and Engineers .....	289
	<i>Model Civil Jury Charge 5.52</i> .....	290
	PROFESSIONAL LIABILITY OF AN ARCHITECT/ENGINEER (Approved 11/95)	

### Chapter 11

#### Abnormally Dangerous Activities and Nuisance

295

11-1	ABNORMALLY DANGEROUS ACTIVITIES .....	295
11-1:1	Determination of Whether an Activity Is Abnormally Dangerous.....	295
11-1:2	Additional Jury Instruction About Heightened Risk and Duty .....	296
	<i>Model Civil Jury Charge 5.20H</i> .....	296
	DANGEROUS INSTRUMENTALITIES OR CONDITIONS (Approved before 1983)	
11-2	NUISANCE .....	298
	<i>Model Civil Jury Charge 5.75</i> .....	299
	NUISANCE (Approved 12/87)	

**Chapter 12**

**Respondeat Superior, Negligent Hiring, Negligent Entrustment,  
and Vicarious Liability for Independent Contractors 301**

12-1 RESPONDEAT SUPERIOR ..... 301  
*Model Civil Jury Charge 5.10I*..... 302  
 AGENCY (Approved 4/2002; Revised 8/2011)

12-2 NEGLIGENT HIRING AND NEGLIGENT  
 ENTRUSTMENT ..... 304  
 12-2:1 Proof Required for a Negligent Hiring Claim ..... 304  
*Model Civil Jury Charge 5.76* ..... 305  
 NEGLIGENT HIRING (4/07)

12-3 A PRINCIPAL'S VICARIOUS LIABILITY FOR THE ACTS  
 OF AN INDEPENDENT CONTRACTOR ..... 308  
 12-3:1 Determination of Principal's Liability ..... 309  
 12-3:2 Negligent Hiring of an Independent Contractor ..... 310

**Chapter 13**

**Alcohol Service by Taverns and Restaurants and Social Hosts 311**

13-1 INTRODUCTION ..... 311

13-2 TAVERN AND RESTAURANT LIABILITY ..... 311  
 13-2:1 Exclusive Remedy ..... 312  
 13-2:2 Proof Required—Comparative Negligence ..... 312  
*Model Civil Jury Charge 5.71* ..... 313  
 TAVERN KEEPERS SERVING MINORS AND INTOXICATED  
 PERSONS (3/10)

13-3 SOCIAL HOSTS SERVING ALCOHOL TO THOSE  
 OF LEGAL AGE ..... 319  
 13-3:1 Definition of Social Host ..... 319  
 13-3:2 Extent of Liability and Proof Required ..... 320  
 13-3:3 Comparative Negligence ..... 321

13-4 SOCIAL HOSTS SERVING ALCOHOL TO MINORS ..... 321

13-5 OTHER COMMON LAW NEGLIGENCE  
 APPLYING TO ALCOHOL ..... 322

**Chapter 14**

**Common Carriers: The High Degree of Care Owed  
to Patrons of Railroads, Buses and Airplanes 323**

14-1 INTRODUCTION ..... 323

14-2 NATURE OF DUTY OWED ..... 324

14-3 NON-PASSENGERS ..... 325  
*Model Civil Jury Charge 5.73* ..... 325  
 CARRIERS FOR HIRE (Approved 6/88)

## Table of Contents

### Chapter 15

<b>Intentional Torts Causing Personal Injury</b>	<b>333</b>
15-1 INTRODUCTION.....	333
15-1:1 Scope of Chapter.....	333
15-1:2 Intentional Torts in Matrimonial Litigation.....	334
15-1:3 Insurance Coverage for Intentional Torts.....	334
15-1:4 Comparative Negligence.....	335
15-2 ASSAULT.....	335
15-3 BATTERY.....	336
<i>Model Civil Jury Charge 3.10</i> .....	336
ASSAULT AND BATTERY (Approved prior to 1984; Revised 03/2015)	
15-4 INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS.....	339
15-4:1 What Must Be Proven.....	340
<i>Model Civil Jury Charge 3.30F</i> .....	341
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (Approved 11/99)	
15-5 INVASION OF PRIVACY.....	341
<i>Model Civil Jury Charge 3.14</i> .....	342
INVASION OF PRIVACY (Approved 01/16)	

### Chapter 16

<b>Death Cases</b>	<b>347</b>
16-1 INTRODUCTION.....	347
16-2 SURVIVAL ACTION—THE PERIOD OF TIME THE DECEDENT WAS ALIVE.....	348
<i>Model Civil Jury Charge 8.42</i> .....	349
SURVIVAL ACTION (Approved 2/96)	
16-3 A SPOUSE’S LOSS OF SERVICES, SOCIETY AND CONSORTIUM IN A DEATH CASE.....	350
16-4 THE WRONGFUL DEATH ASPECT OF A DEATH CLAIM.....	350
16-4:1 What Constitutes Pecuniary Damages.....	351
16-4:2 Where the Decedent is a Child.....	351
16-4:3 Discounting the Award for Present Value on Inflation.....	352
<i>Model Civil Jury Charge 8.43</i> .....	353
WRONGFUL DEATH (3/10)	
16-5 TECHNICAL REQUIREMENTS IN A DEATH CLAIM.....	359

### Chapter 17

<b>Punitive Damages</b>	<b>361</b>
17-1 OVERVIEW.....	361
17-2 DETERMINING THE AMOUNT OF PUNITIVE DAMAGES AWARDED.....	362
17-2:1 Whether Amount Awarded Is Reasonable and Justified.....	362

**Table of Contents**

17-2:2 Cap on Punitive Damages Award: Exceptions ..... 363

17-3 NATURE OF PROOF—CLEAR AND CONVINCING STANDARD ..... 364

17-3:1 Factors to Be Considered..... 364

17-3:2 Drunk Driving and Punitive Damages..... 365

17-4 THE PUNITIVE DAMAGES MODEL CIVIL JURY CHARGE—SINGLE EXEMPTION FOR CERTAIN PRODUCTS ..... 365

*Model Civil Jury Charge 8.60* ..... 366

PUNITIVE DAMAGES ACTIONS—GENERAL (Approved 3/2000; Revised 12/2011)

**Chapter 18**

**Claims Against Public Entities: The Tort Claims Act 371**

18-1 OVERVIEW ..... 371

18-1:1 What Is Viable and What Is Not Under the Act..... 371

18-1:2 Requirements for Bringing Claims Against Public Entities..... 372

18-1:3 Which Public Entities Are Entitled to Protection..... 372

18-2 THE NOTICE REQUIREMENT ..... 373

18-2:1 When the Notice Must Be Filed..... 373

18-2:2 Application to File Late Notice of Claim ..... 374

18-2:3 Contents of Notice of Claim ..... 375

18-2:4 Presentation of Notice of Claim ..... 376

18-3 THE HEIGHTENED DAMAGE REQUIREMENT ..... 377

18-3:1 What Constitutes Permanent Loss of a Bodily Function, Permanent Disfigurement or Dismemberment ..... 377

18-3:1.1 *Gilhooley, Kahrar, Ponte, and Knowles* ..... 378

18-3:1.2 Permanent Disfigurement..... 380

18-3:2 Other Damage Limitations ..... 380

18-3:3 Recovery of Economic Losses Absent Proof of Permanent Injury ..... 381

*Model Civil Jury Charge 8.70* ..... 381

**TORT CLAIMS ACT THRESHOLD FOR RECOVERY OF DAMAGES FOR PAIN AND SUFFERING (3/10)**

18-4 WHAT TYPE OF LIABILITY CLAIMS ARE PERMISSIBLE UNDER THE TORT CLAIMS ACT ..... 384

18-4:1 Act or Omission of Public Employee ..... 384

18-4:2 Unsafe Premises..... 384

18-4:3 Specific Exemptions from Liability for Public Entities Under the Act ..... 385

18-4:4 Exemptions for Public Employees..... 386

## Table of Contents

18-4:4.1	Correction and Police Activities .....	387
18-4:4.2	Public Medical and Mental Institutions and Their Employees.....	388
18-5	LIABILITY FOR DANGEROUS CONDITIONS ON PUBLIC PROPERTY .....	389
18-5:1	Recreation Facilities.....	389
18-5:2	Plaintiff’s Proofs on Dangerous Conditions on Public Property .....	390
18-5:2.1	Actual or Constructive Notice .....	391
	<i>Model Civil Jury Charge 5.20A</i> .....	391
	DANGEROUS CONDITION OF PUBLIC PROPERTY (Approved 2/96)	
18-5:2.2	Immunities Even from Dangerous Conditions .....	395
18-6	EMERGENCY CALL OR 911 IMMUNITY.....	396
<b>Chapter 19</b>		
<b>Duty of School Personnel to a Student</b> .....		<b>399</b>
19-1	INTRODUCTION.....	399
19-2	THE CHARITABLE IMMUNITY ACT AND THE TORT CLAIMS ACT .....	399
19-3	ORDINARY NEGLIGENCE AND THE DUTY OF CARE .....	400
	<i>Model Civil Jury Charge 5.74</i> .....	400
	DUTY OF TEACHERS AND SCHOOL PERSONNEL TO STUDENT (Approved 9/80)	
<b>Chapter 20</b>		
<b>Other Special Negligence Claims, Immunities, and Restrictions</b> .....		<b>403</b>
20-1	INTRODUCTION.....	403
20-2	DOG BITES AND INJURIES CAUSED BY ANIMALS .....	403
20-2:1	Dog Bite Liability .....	403
	<i>Model Civil Jury Charge 5.60A</i> .....	404
	STATUTORY OWNER—DOG BITE LIABILITY ( <i>N.J.S.A. 4:19-16</i> ) (12/09)	
20-2:2	Non-Bite Situations .....	406
	<i>Model Civil Jury Charge 5.60B</i> .....	406
	ANIMAL WITH VICIOUS OR DANGEROUS TRAIT OR PROPENSITY (OTHER THAN AN OWNER DOG BITE CASE) (Approved 9/80)	
20-2:3	Keeping Wild Animals Deemed a Nuisance.....	407
	<i>Model Civil Jury Charge 5.75</i> .....	407
	NUISANCE (Approved 12/87)	
20-3	CHARITABLE IMMUNITY .....	409
20-3:1	Exceptions .....	409
20-3:2	What Type of Entity Qualifies for Immunity .....	410
20-3:3	Other Qualifiers for Charitable Immunity.....	411



## Table of Contents

20-4	SPORTS AND RECREATION INJURIES.....	412
20-4:1	Exculpatory Releases and Arbitration Clauses.....	414
20-5	ROLLER RINK INJURIES .....	416
20-6	EQUINE ANIMAL ACTIVITIES.....	416
20-7	SKI SLOPES.....	417
20-8	SEXUAL ABUSE BY AN ADULT OF A CHILD .....	418
20-9	CARNIVAL—AMUSEMENT RIDES.....	419
20-10	SPOILIATION OF EVIDENCE OR FRAUDULENT CONCEALMENT.....	420
20-11	PORT AUTHORITY OF NEW YORK AND NEW JERSEY AND DELAWARE RIVER PORT AUTHORITY CLAIMS .....	421
20-12	VOLUNTEER FIRST AID SQUAD MEMBERS, NATIONAL SKI PATROL SYSTEM MEMBERS, AND CIVIL DEFENSE VOLUNTEERS.....	422
20-13	MORE IMMUNITIES FOR SPECIFIC SERVICES: EMERGENCY MEDICAL TECHNICIANS, COACHES, SPORTS SPONSORS, AND THE LIKE .....	422
20-14	THE ‘FIREMAN’S RULE’ STATUTORILY ABROGATED .....	425
20-15	EMPLOYER IMMUNITY AND THE WORKERS’ COMPENSATION BAR.....	426
20-15:1	The Workers’ Compensation Bar and ‘Special Employees’ ‘Borrowed Employees’ or ‘Co-Employees’.....	427
20-16	AREAS NOT COVERED BY THIS WORK.....	428
<b>Chapter 21</b>		
<b>Common Issues in Personal Injury Litigation and Trials</b>		<b>429</b>
21-1	INTRODUCTION.....	429
21-2	BEST PRACTICES, DISCOVERY MANAGEMENT, AND SANCTIONS.....	429
21-3	PRETRIAL PUBLICITY AND JURY SELECTION .....	430
21-4	ADVERSE INFERENCES BY COUNSEL IN SUMMATION .....	430
21-5	ETHICS AND CANDOR TO THE TRIBUNAL.....	430
21-6	WHEN DID YOU FIRST CONTACT YOUR LAWYER?.....	431
21-7	LACK OF PRIOR ACCIDENTS TO DEFEND AN UNSAFE PROPERTY OR PRODUCTS CLAIM .....	432
21-8	PHOTOS OF DAMAGED VEHICLES.....	433

## Table of Contents

<i>Model Civil Jury Charge 5.34</i> .....	434
PHOTOGRAPHIC EVIDENCE IN MOTOR VEHICLE ACCIDENTS (10/09)	
21-9 LACK OF A GOVERNMENT INVESTIGATION .....	434
21-10 POLICE REPORTS, POLICE OPINIONS, AND EXPERT BOOTSTRAPPING HEARSAY OPINIONS .....	434
21-11 IN LIMINE MOTIONS .....	435
21-12 WORK PRODUCT CLAIMS AND WITNESS STATEMENTS .....	435
<b>Chapter 22</b>	
<b>The New Jury Selection Rules and Personal Injury Cases</b>	<b>437</b>
22-1 INTRODUCTION .....	437
22-2 THE NEW COURT DIRECTIVES .....	438
22-3 SOME SUGGESTED VOIR DIRE QUESTIONS FOR INJURY CASES .....	440
<b>Appendix A: Directive #21-06, Approved Jury Selection Standards, Including Model Voir Dire Questions</b>	<b>443</b>
<b>Appendix B: Directive #4-07, Jury Selection – Model Voir Dire Questions Promulgated by Directive #21-06 – Revised Procedures and Questions</b>	<b>467</b>
<b>Chapter 23</b>	
<b>Product Liability</b>	<b>485</b>
23-1 INTRODUCTION .....	485
23-2 THE STATUTE IN PLAIN LANGUAGE .....	486
23-2:1 Proof That a Product Was Not Reasonably Fit, Suitable or Safe .....	486
23-2:2 Defenses .....	487
23-2:3 Exemption of a Product Seller .....	488
23-3 PROVING A MANUFACTURING DEFECT .....	490
23-4 FAILURE TO WARN .....	491
23-5 DESIGN DEFECT .....	493
23-5:1 Consumer Expectations Test .....	493
23-5:2 The Risk-Utility Analysis or Test .....	494
23-5:3 Reasonable Safer Design Test .....	495
23-6 MORE ON THE SPECIAL STATUTORY DEFENSES .....	495
23-7 PRODUCT SELLER AND DISTRIBUTOR DEFINED .....	496
23-8 MOTOR VEHICLE CRASHWORTHINESS .....	497
23-9 WORKPLACE INJURIES AND PRODUCT LIABILITY .....	498
23-10 THE MODEL CIVIL JURY CHARGES ON PRODUCT LIABILITY .....	499

## Table of Contents

<i>Model Civil Jury Charge 5.40A (Introduction)</i> .....	499
PRODUCTS LIABILITY—INTRODUCTION: CAVEATS TO JUDGES (3/10)	
<i>Model Civil Jury Charge 5.40B</i> .....	501
MANUFACTURING DEFECT (Approved 10/1998; Revised 8/2011)	
<i>Model Civil Jury Charge 5.40C</i> .....	504
FAILURE TO WARN/INSTRUCT (Approved 3/00; Revised 09/2021)	
<i>Model Civil Jury Charge 5.40(D-1)</i> .....	510
DESIGN DEFECT—GENERALLY (Approved 4/99; Revised 5/10)	
<i>Model Civil Jury Charge 5.40(D-2)</i> .....	513
DESIGN DEFECT—INTRODUCTORY STATEMENT TO JURY (ALL CASES) (3/10)	
<i>Model Civil Jury Charge 5.40(D-3)</i> .....	513
DESIGN DEFECT—LEGAL TESTS OF PRODUCT DEFECT (Approved 4/99)	
<i>Model Civil Jury Charge 5.40(D-4)</i> .....	523
DESIGN DEFECT—DEFENSES (Approved 4/99; Revised 10/01)	
<i>Model Civil Jury Charge 5.40E</i> .....	528
CRASHWORTHINESS—SPECIAL ISSUES (Approved 5/01)	
<i>Model Civil Jury Charge 5.40F</i> .....	531
DEFECT BEFORE SALE	
<i>Model Civil Jury Charge 5.40G</i> .....	532
PRODUCT MISUSE OR ALTERATION (Approved 12/93)	
<i>Model Civil Jury Charge 5.40H</i> .....	533
FORESEEABLE USER OR VICTIM (Approved 2/89)	
<i>Model Civil Jury Charge 5.40I</i> .....	534
PROXIMATE CAUSE (Approved 2/89)	
<i>Model Civil Jury Charge 5.40J</i> .....	535
COMPARATIVE FAULT (9/09)	
<i>Model Civil Jury Charge 5.40K</i> .....	536
SUMMARY (Approved 2/89)	
<i>Model Civil Jury Charge 5.40L</i> .....	536
NEGLIGENCE (Approved 8/86)	
<i>Model Civil Jury Charge 5.40M</i> .....	539
EXPRESS WARRANTY (Approved 8/86)	
<i>Model Civil Jury Charge 8.62</i> .....	540
PUNITIVE DAMAGES ACTIONS—PRODUCTS LIABILITY (Approved 1/1997; Revised 12/2011)	
<b>Table of Cases</b>	<b>543</b>
<b>Index</b>	<b>609</b>

