Chap	oter 1		
Negl	igenc	ce and Duty—General Concept	1
1-	1	WHAT IS NEGLIGENCE?	1
		Civil Jury Charge 5.10A	2
1-	2	EXISTENCE OF A DUTY—A MATTER OF LAW	3
1-	.3	FORESEEABILITY AS A FACTOR FOR THE JURY TO CONSIDER	5
		Civil Jury Charge 5.10B	7
1-	4	ASSUMPTION OF RISK CONCEPT DISCARDED	7
1-	.5	PLAINTIFF'S BURDEN OF PROOF—PREPONDERANCE OF EVIDENCE	8
M G	<i>lodel</i> ENER	Civil Jury Charge $1.12(G)$ , $(H)$ , $(I)$ RAL 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	
R	ES IPS	Civil Jury Charge 5.10DSA LOQUITUR (Approved 10/90)	
		ACTS OF GOD	
		Civil Jury Charge 5.10E F GOD (Approved before 1984)	
1-	8	SUDDEN EMERGENCY CLAIMS	
1-	.9	PARENTAL IMMUNITY AND ITS EXCEPTIONS	20
•	10	DUTIES VOLUNTARILY ASSUMED	
M	<i>lodel</i> NDEF	Civil Jury Charge 5.10C	22 21)
		PER SE NEGLIGENCE	
		Civil Jury Charge 5.10J	
		NCE OF AND PER SE NEGLIGENCE (04/2016)	
1-	12	GROSS NEGLIGENCE	25

Cnapter			
	ite Cause		27
2-1		IMATE CAUSE DEFINED	27
	2-1:1	Required Proof of Proximate Cause—Routine	
		Tort Case	28
	2-1:2	Non-Routine Tort Case—Substantial Factor Test	
		Where There are Concurrent Causes of Harm	
		y Charge 6.10	30
		AUSE—GENERAL CHARGE 18; Revised 01/2019)	
Mode Mode	ovea 03/199 ol Civil Inc	ν, Charge 6.11	31
PROX	IMATE CA	AUSE—ROUTINE TORT CASE WHERE NO ISSUES OF	51
CONG	CURRENT	OR INTERVENING CAUSES, OR FORESEEABILITY	
OF IN	IJURY OR	HARM (Approved 08/99; Revised 04/16)	
Mode	el Civil Jur	y Charge 6.12 AUSE—WHERE THERE IS CLAIM THAT	32
CONG	IMATE CA	AUSE—WHERE THERE IS CLAIM THAT CAUSES OF HARM WERE PRESENT (Approved 5/98)	
		\ \ \frac{1}{2}	22
2-2		ESTIONS FOR FUTURE CASES	
2-3		RVENING OR SUPERSEDING CAUSES	
Mode	el Civil Jur	y Charge 6.14 AUSE—WHERE THERE IS CLAIM OF INTERVENING	34
		NG CAUSE FOR JURY'S CONSIDERATION	
		9; Revised 09/2021)	
2-4		IMATE CAUSE AND FORESEEABILITY—DO THEY	
2 .		NG TOGETHER?	35
Mode		y Charge 6.13	
PROX	IMATE CA	AUSE—WHERE THERE IS CLAIM THAT	
		CAUSES OF HARM ARE PRESENT <u>AND</u> CLAIM	
		C HARM WAS NOT FORESEEABLE	
		8; Revised 09/2021)	
Chapter			
Compar	ative Negl		39
3-1	BASIC	STATUTORY PRINCIPLES	
	3-1:1		
	3-1:2		
	3-1:3	Damage Reduction and Responsibilities	
3-2		MATE OUTCOME—HOW THE JURY IS INSTRUCTED	
		MPARATIVE NEGLIGENCE CASES	
Mode	el Civil Jur	y Charge 7.31	42
		E NEGLIGENCE/FAULT: ULTIMATE OUTCOME	
(Appr	ovea 03/200	0; Revised 09/2018) y Charge 7.32	15
		y Cnarge 7.32 E NEGLIGENCE: INTERROGATORIES	43
	oved before		
, II		,	

	3-3	COMPARATIVE NEGLIGENCE IN AUTO CASES	49
	COMPA	Civil Jury Charge 7.30 ARATIVE NEGLIGENCE (AUTO)—ALL ISSUES ed 6/1989; Revised 12/2011)	50
	3-4	CHILDREN CHARGED WITH	
		COMPARATIVE NEGLIGENCE	55
	Model	Civil Jury Charge 7.11	56
	CARE I	REQUIRED OF CHILDREN (Approved 5/91)	
	3-5	COMPARATIVE NEGLIGENCE AS TO A PASSENGER	
		IN AN AUTO	58
	Model	Civil Jury Charge 7.12	58
	DUTY	OF PASSENGER IN AUTOMOBILE (Approved 5/91)	
	3-6	INTOXICATION OF A PLAINTIFF	
		AND COMPARATIVE NEGLIGENCE	
	Model	Civil Jury Charge 7.13	59
	NEGLI	GENCE—INTOXICATION (Approved 5/91)	
	3-7	PHYSICAL DISABILITY OR MENTAL IMPAIRMENT	
		AND COMPARATIVE NEGLIGENCE	
	Model	Civil Jury Charge 7.14	61
		GENCE—EFFECT OF PHYSICAL IMPAIRMENT (Approved 5/91)	
	3-8	PEDESTRIANS ON A SIDEWALK	
		AND COMPARATIVE NEGLIGENCE	
	Model	Civil Jury Charge 7.15	61
		GENCE—CARE REQUIRED OF PEDESTRIAN DEWALK (Approved 5/91)	
	3-9	INTENTIONAL ACTS AND COMPARATIVE	(2)
	16 11	NEGLIGENCE	
	Model	Civil Jury Charge 7.16 TIONMENT WHERE THE ACTS, OR INACTIONS, OF AN	62
		DUAL OR ENTITY SUBSTANTIALLY CONTRIBUTED	
		E ALLEGED HARM (Approved 10/1991; Revised 09/2018)	
Cł	apter 4		
		in Personal Injury Cases	65
	4-1	OVERVIEW	
	<del></del> -1	4-1:1 Actual Out-of-Pocket Losses	
		4-1:2 Unliquidated Damages	
		4-1:2.1 Counsel Prohibited From Mentioning	
		Dollar Amount and Other Improper	
		Comments By Counsel	67
		4-1:3 Remittitur and Additur	
	4.0		/0
	4-2	DISABILITY, IMPAIRMENT, LOSS OF ENJOYMENT	
		OF LIFE, PAIN AND SUFFERING	

Model	Civil Jury Charge 8.11E	73
DAMA	GES CHARGES—GENERAL	
	ILITY, IMPAIRMENT AND LOSS OF THE ENJOYMENT	
OF LIF	E, PAIN AND SUFFERING (Approved 12/1996; Revised 05/2017)	
4-3	PERMANENT INJURY, LIFE EXPECTANCY,	
	AND ENHANCED RISK OF FUTURE HARM	75
Model	Civil Jury Charge 8.11G	
	GES CHARGES—GENERAL	70
	XPECTANCY (Approved 2/96)	
4-4	PRE-EXISTING CONDITIONS AND ASSESSMENT	
4-4		70
16 11	OF DAMAGES	
Model	Civil Jury Charge 8.11F	79
DAMA	GES CHARGES—GENERAL AVATION OF THE PREEXISTING DISABILITY (Approved 1/97)	
		00
Model	Civil Jury Charge 8.11J	80
	WHERE THE INITIAL TORTFEASOR SETTLES BEFORE TRIAL	
	ved 11/2022)	
` 11	<i>'</i>	
4-5	A PLAINTIFF'S DUTY TO MITIGATE DAMAGES	
	BY MEDICAL TREATMENT	
	Civil Jury Charge 8.11B	83
	GES CHARGES—GENERAL	
	TO MITIGATE DAMAGES BY MEDICAL AND	
	CAL TREATMENT (Adopted 12/96; Revised 10/00)	
4-6	MEDICAL EXPENSES AS AN ELEMENT OF DAMAGES	
	Civil Jury Charge 8.11A	86
DAMA	GES CHARGES—GENERAL	
MEDIC	CAL EXPENSES (NON-AUTO) (Approved 12/96; Revised 09/2021)	
Model	Civil Jury Charge 8.20	88
MEDIC	CAL EXPENSES (AUTO) (Approved 12/1996; Revised 01/2017)	
	4-6:1 Future Medical Monitoring Expenses	
4-7	PAST AND FUTURE LOSS OF INCOME	89
Model	Civil Jury Charge 8.11C	
DAMA	GES CHARGES—GENERAL	
LOSS C	OF EARNINGS (Approved 12/88; Revised 7/10)	
4-8	DAMAGE TO A SPOUSE FOR LOSS OF SERVICES,	
. 0	SOCIETY AND CONSORTIUM	95
Model	Civil Jury Charge 8.30B	
DAMA	GES—PER QUOD	93
LOSS	OF SPOUSE'S SERVICES, SOCIETY AND CONSORTIUM (Approved 2/96)	
4-9	PARENTAL LOSS WHEN CHILD IS INJURED(Applicated 270)	06
Model	Civil Jury Charge 8.30C	9/
DAMA	GES—PÉR QUOD OF CHILD'S SERVICES AND EARNINGS (Approved 2/96)	
LOSS C	A CITLD 3 SERVICES AND EARININGS (APPROVED 4/90)	

4-1		D'S LOSS OF SERVICES AND CONSORTIUM	
		A PARENT IS INJURED	
4-1		GENT INFLICTION OF EMOTIONAL DISTRESS AN	
		NDER DAMAGE FROM WITNESSING AN INJURY	
Ma	odel Civil Jury	Charge 5.10F	99
		EMOTIONAL DISTRESS FROM WITNESSING SERIOUS NTIMATE FAMILY MEMBER (Approved 5/84)	
		·	100
		AXABILITY OF PERSONAL DAMAGE AWARDS	
MIC TA	oaei Civii Jury X CONSFOLIE	Charge 8.48 NCES OF PERSONAL INJURY AWARD	101
(Ad	lopted 1/97; Rev	ised 3/01)	
4-1	•	ΓΙΟΝΜΈΝΤ OF DAMAGES BETWEEN PLAINTIFF	
		EFENDANTS AND AMONG DEFENDANTS	101
Chapt			
_		ons and Repose	103
5-1		ASIC STATUTORY RULE	
5-2		BLIGATION TO TIMELY RAISE THE DEFENSE	
٠ –			103
5-3		SCOVERY RULE AND THE STATUTE	100
- 4		ITATIONS	106
5-4		GFUL DEATH CASES, SURVIVORSHIP CLAIMS,	107
		HE STATUTE OF LIMITATIONS	107
5-5		IOUS NAME OR 'JOHN DOE' PLEADINGS	100
		END THE STATUTE OF LIMITATIONS	108
Chapt			
0 0	gence on the I	·	109
6-1		AL PRINCIPLES OF ROADWAY CONDUCT	
Mo	odel Civil Jury	Charge 5.30A	110
		OWING (Approved 8/99)	
6-2		COMMON LAW PRINCIPLES OF DRIVING	
1.6	6-2:1	T - T - T - T - T - T - T - T - T - T -	
Mo	odel Civil Jury	Charge 5.30G.1 MOBILE DRIVER TO MAKE OBSERVATIONS	111
		983; Revised 03/2021)	
	R TRAFFIC C	ONDITIONS	
	6-2:2	The Duty to Look Out for Pedestrians	112
Ma	odel Civil <mark>J</mark> ury	Charge 5.30G.2	112
		MOBILE DRIVER TO MAKE OBSERVATIONS	
	proved before 19 R PEDESTRIA		
10.	6-2:3	Driver's Duty Where the View Is Obstructed	
		at an Intersection	113

	y Charge 5.30G.3	113
DUTY OF AUTO	DMOBILE DRIVER TO MAKE OBSERVATIONS	
(Approved before		
WHERE VIEW C	DBSTRUCTED AT INTERSECTION	
6-2:4	2 day which there is an impairment to a 21 vis of the second	
Model Civil Jur	y Charge 5.30G.4	114
<b>DUTY OF AUTO</b>	OMOBILE DRIVER TO MAKE OBSERVATIONS	
(Approved before	1983)	
WHERE VISION	IMPAIRED	
6-2:5	The Driver's Duty in the Instance	
	of Temporary Blindness	
Model Civil Jur	y Charge 5.30G.5	115
DUTY OF AUTO	OMOBILE DRIVER TO MAKE OBSERVATIONS	
	1983; Revised 03/2021)	
TEMPORARY B	LINDNESS OF DRIVER AS AFFECTING DUTY	
6-2:6	A Driver's Duty Regarding Obstacles or Defects	
	in the Road	116
Model Civil Jur	y Charge 5.30G.6	116
DUTY OF AUTO	OMOBILE DRIVER TO MAKE OBSERVATIONS	
(Approved before		
DUTY AS TO OI	BSTACLES AND DEFECTS IN STREETS	
6-2:7	A Driver's Response to a Disabled or Drunk Person,	
	or Infant in the Roadway	116
Model Civil Jur	y Charge 5.30G.7	
DUTY OF AUTO	OMOBILE DRIVER TO MAKE OBSERVATIONS	
(Approved before	1983)	
	ERSONS UNDER DISABILITY	
6-2:8	A Driver's Obligation to Observe Traffic Conditions	
	When Going Through a Green Light	117
Model Civil Jur	y Charge 5.30J	
	PROCEEDING THROUGH INTERSECTION WITH	
	[THE FAVORED DRIVER] (Approved 1977)	
6-3 STATU	TORY DEFINITIONS OF PROPER	
ROAD'	WAY CONDUCT	119
6-3:1	Duty to Observe Emergency Vehicles and Duty	
	of the Emergency Vehicle Driver	121
Model Civil Jur	y Charge 5.31B	
	E BY EMERGENCY VEHICLE (Approved 1977)	122
6-3:2	Following Too Closely or Tailgating	123
Model Civil Jur	y Charge 5.30D	
	TRAFFIC ACT (Approved 8/99)	
6-3:3	Improper Passing	125
6-3:4	Improper Lane Changes	
6-3:5	Requirement to Keep to the Right	

6-3:6 Improper Rates of Speed	127
6-3:7 Failure to Obey a Traffic Sign or Signal	128
Model Civil Jury Charge 5.30H	129
DUTY OF CARÉ: DRIVER OF MOTOR VEHICLE PROCEEDING TH	łROUGH
AN INTERSECTION CONTROLLED BY A STOP SIGN/FLASHING	
TRAFFIC CONTROL DEVICE (Approved before 2007; Revised 03/202	
Model Civil Jury Charge 5.30I	130
DUTY OF CARE: DRIVER OF MOTOR VEHICLE PROCEEDING	EEIC
THROUGH AN INTERSECTION WITH A FLASHING AMBER TRA CONTROL DEVICE (Revised 6/07)	FFIC
6-3:8 Driving Too Slowly	130
6-3:9 Statutory Careless Driving	
6-3:10 Statutory Laws Regarding Pedestrians	121
Model Civil Jury Charge 5.32BDUTY OF A PEDESTRIAN WHEN CROSSING AT A POINT	133
OTHER THAN A CROSSWALK (Approved before 1983; Revised 4/02)	
Model Civil Jury Charge 5.32C	135
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	135
6-3:12 Bicyclist Obligations	
Model Civil Jury Charge 5.32A	
DUTY OF PEDESTRIANS AND BICYCLISTS TO MAKE	
OBSERVATIONS (Approved 2/92)	
6-4 DRIVER MAKING A U-TURN	137
Model Civil Jury Charge 5.30B	
U-TURN (Approved 8/99)	
6-5 DRIVER MAKING A LEFT-HAND TURN	138
Model Civil Jury Charge 5.30C	
LEFT-HAND TURN (Approved 3/91)	
6-6 DRIVER WITH SUDDEN MEDICAL EMERGENCY	Y 140
Model Civil Jury Charge 5.30E	
EFFECT OF BLACK OUT (Approved before 1984)	140
6-7 DRIVER CLAIMS OF MECHANICAL DEFECT	141
Model Civil Jury Charge 5.30F	
LIABILITY FOR INJURY DUE TO MECHANICAL DEFECT OR FAI	142
(Approved before 1984)	LUKE
6-8 SEAT BELT USAGE AND ITS IMPACT	145
Model Civil Jury Charge 5.30K	
NONUSE OF SEATBELT ON ISSUE OF NEGLIGENCE	14/
(Approved 6/89)	
Model Civil Jury Charge 8.21	147
NONUSE OF SEATBELT INCLUDING ULTIMATE OUTCOME	
(Approved 12/2009: Revised 11/2022)	

	6-9	DRIVER INTOXICATION	152
	EFFEC	Civil Jury Charge 5.30LT OF INTOXICATION ON DUTY OWING (BY AUTOMOBILE DRIVER) red before 1983)	153
	6-10	THE LAWSUIT LIMITATION OR THRESHOLD	154
		6-10:1 The Limitation on Lawsuit Policy Option	. 154
		6-10:2 Meeting the Lawsuit Limitation Threshold	
		6-10:3 Physician's Certification	
		6-10:4 Case Law Interpretation	
	<i>Model</i> LIMITA	Civil Jury Charge 5.33	
		6-10:5 Pre-Existing Conditions	. 161
	6-11	DUTIES AT RAILROAD AND HIGHWAY	171
	16 11	GRADE CROSSINGS	
	DUTY	Civil Jury Charge 5.21OF RAILROAD AT PUBLIC HIGHWAY GRADE CROSSING red before 1983)	
	6-12	PLAINTIFF REQUIRED TO HAVE INSURANCE	164
C	hapter 7	•	
		Liability	165
	7-1	OVERVIEW	165
	7-2	BUSINESS PROPRIETORS	
	. —	Civil Jury Charge 5.20E	
	ACTIV	ITY OF OWNER/OCCUPIER AS DISTINGUISHED FROM (TION OF PREMISES, DUTY OWED (Approved 3/00)	107
	Model	Civil Jury Charge 5.20F(5)	170
	INVITE	OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2014) EE—DEFINED AND GENERAL DUTY OWED (12/88)	
	Model	Civil Jury Charge 5.20F(6)	172
	IMDI II	OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2014) ED INVITATION (Approved 5/1970, Revised 12/2014)	
	DUTY	Civil Jury Charge 5.20F(7)	174
		Civil Jury Charge 5.20F(8)	175
	DUTY NOTIC	OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2014) E OF PARTICULAR DANGER AS CONDITION OF LIABILITY	
	DUTY NOTIC	Civil Jury Charge 5.20F(9)	176
	<i>Model</i> DUTY	Civil Jury Charge 5.20F(10)  OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 09/2021)  AL AND CONSTRUCTIVE NOTICE DEFINED	177

Model Civil Jury Charge 5.20F(11) DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 03/2017)	Ι///
MODE OF OPERATION RULE	
Model Civil Jury Charge 5.20F(12)	180
7-3 BUSINESS OWNER'S AND LANDLORD'S DUTY	
TO PROTECT AGAINST CRIMINAL ACTIVITY	
Model Civil Jury Charge 5.72  NEGLIGENCE—PROPRIETOR'S DUTY OF CARE TO PATRONS AGAINST CRIMINAL ACTIVITY OF THIRD PERSONS (Approved 11/99)	187
7-4 SOCIAL GUESTS AND LICENSEES	. 188
Model Civil Jury Charge 5.20F(4)  DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2019) SOCIAL GUEST—DEFINED AND GENERAL DUTY OWED (03/2000; Revised 12/2019)	189
7-5 TRESPASSERS	. 192
Model Civil Jury Charge 5.20E	192
Model Civil Jury Charge 5.20F(1)	193
DUTY OWED—CONDITION OF PREMISES	
(Approved 03/2000, Revised 12/2014) ADULT TRESPASSER—DEFINED AND GENERAL DUTY OWED	
Model Civil Jury Charge 5.20F(2)	10/
DUTY OWED—CONDITION OF PREMISES	1)7
(Approved 03/2000, Revised 12/2014)	
INFANT TRESPASSER—DEFINED AND GENERAL DUTY OWED (10/2003)	• • • •
Model Civil Jury Charge 5.20F(3)	. 200
DUTY OWED—CONDITION OF PREMISES (Approved 03/2000, Revised 12/2014) LICENSEE, DEFINED AND GENERAL DUTY OWED (03/2000; Revised 12/2014)	
7-6 RESIDENTIAL LANDLORD'S DUTY TO TENANTS	. 201
Model Civil Jury Charge 5.20D	202
DUTY OF OWNER OF MULTI-FAMILY HOUSE TO TENANTS	
AND OTHERS (Approved 5/97)	
Model Civil Jury Charge 5.20C(A)	206
DUTY OF OWNER TO TENANT LEASING ENTIRE PREMISES	
AND TO OTHERS ON PREMISES (Approved 5/77) RESIDENTIAL PREMISES	
Model Civil Jury Charge 5.20C(B)	207
DUTY OF OWNER TO TENANT LEASING ENTIRE PREMISES	- /
AND TO OTHERS ON PREMISES (Approved 5/77)	
REPAIRS BY LANDLORD OF RESIDENTIAL PREMISES	

	7-7	COMMERCIAL LANDLORD OBLIGATIONS	208
	Model	Civil Jury Charge 5.20C(C)	208
	DUTY	OF OWNER TO TENANT LEASING ENTIRE PREMISES	
		O OTHERS ON PREMISES (Approved 5/77)	
		ESIDENTIAL LAND AND BUILDINGS	• • • •
	Model	Civil Jury Charge 5.20C(D)	209
	ANDT	OF OWNER TO TENANT LEASING ENTIRE PREMISES O OTHERS ON PREMISES (Approved 5/77)	
	REPAII	RS BY LANDLORD OF NON-RESIDENTIAL LAND AND BUILDINGS	
	7-8	ABUTTING PUBLIC SIDEWALKS	209
	, 0	Civil Jury Charge 5.20B	
	LIABIL	ITY FOR DEFECTS IN PUBLIC STREETS AND SIDEWALKS	211
		red 11/99; Revised 11/2022)	
	Model	Civil Jury Charge 5.20G	217
	LIABIL	ITY OF FORMER OWNER OF COMMERCIAL PROPERTY	
		EFECTS OR OTHER DANGEROUS CONDITIONS IN	
		TING SIDEWALKS (Approved 5/84)	
	7-9	LANDOWNERS' LIABILITY ACT FOR UNDEVELOPED	
		AND RURAL LAND	
	7-10	UTILITY POLES ON OR NEAR ROADWAYS	220
C	hapter 8		
		ion and Multiple Employer Work Site Accidents	221
	8-1	OVERVIEW	221
	8-2	WORKPLACE ACCIDENTS AND OSHA VIOLATIONS	
	8-3	CONSTRUCTION INDUSTRY PRACTICES	223
	8-3		224
	14.1.1	AND STANDARDS	
	Model	Civil Jury Charge 5.10G ARDS OF CONSTRUCTION, CUSTOM AND USAGE	224
		USTRY OR TRADE (3/10)	
_			
	hapter 9	Negligence and Battery	227
٧.	9-1	INTRODUCTION	
			221
	9-2	ARBITRATION CLAUSES AND MEDICAL	220
		NEGLIGENCE CLAIMS	
	9-3	THE THREE KEY STEPS IN CASE EVALUATION	
		9-3:1 Determining Deviation	
		9-3:2 Linking the Deviation to Damage	
		9-3:3 Determining the Economic Feasibility of the Case	229
	9-4	THE AFFIDAVIT OF MERIT STATUTORY	
		REQUIREMENT	
		9-4:1 Contents of Affidavit	233

	9-4:2	When an Affidavit of Merit Is or Is Not	
		Necessary-Common Knowledge	235
	9-4:3	2004 Medical Care Access Statute and the More	
		Stringent Affidavit of Merit Requirement	235
9-5		TATUTE OF LIMITATIONS	
	AND T	THE DISCOVERY RULE	239
9-6	THE L	EARNED TREATISE EVIDENCE RULE	241
9-7	THE G	ENERAL DUTY OF A MEDICAL PRACTITIONER	243
9-8	THE M	IEDICAL JUDGMENT ISSUE	244
9-9	THE D	OUTY OF A SPECIALIST	
	OR A	GENERAL PRACTITIONER	245
Mode	l Civil Jur	y Charge 5.50A	246
DUTY	AND NE	GLIGENCE (Approved 3/02)	2.40
Mode	l Civil Jur	y Charge 5.50G	248
MEDI 9-10		EQUIREMENT OF EXPERT TESTIMONY AND	
9-10		COMMON KNOWLEDGE MAY FURNISH	
		TANDARD OF CARE	249
Mode		y Charge 5.50B	
COMN	MON KNO	OWLEDGE MAY FURNISH STANDARD OF CARE	
	ved 3/02)		
		OUTY TO OBTAIN INFORMED CONSENT	
Mode	l Civil Jur	y Charge 5.50C	255
		NSENT (COMPETENT ADULT AND NO EMERGENCY) Revised 3/02)	
9-12		MPACT OF A PRE-EXISTING CONDITION	
9-12		OXIMATE CAUSE	257
	9-12:1		
Mode		y Charge 5.50E	
PRE-E	XISTING	CONDITION—INCREASED RISK/LOSS OF	200
		XIMATE CAUSE (Approved 10/2014; Revised 03/2021)	
9-13		IM FOR WRONGFUL BIRTH AND LIFE	
Mode	l Civil Jur	y Charge 5.50F	266
		RTH AND LIFE (UPDATED) (Approved 7/02)	
9-14		MEDICAL BATTERY CAUSE OF ACTION	
9-15		RED OR MISSING MEDICAL RECORDS	
Mode	l Civil Jur	y Charge 5.50H DF MEDICAL RECORDS (Approved 7/02)	272
Mode	l Civil Inn	y Charge 5.50I	273
FRAU	DULENT	CONCEALMENT OF MEDICAL RECORDS (Approved 7/02)	413
9-16		ING HOME NEGLIGENCE	274

9-17	PLAINTIFF'S OBLIGATION TO UNDERGO AN INVASIVE	
	DEFENSE MEDICAL EXAMINATION	276
9-18	PLAINTIFF'S ACCESS IN DISCOVERY TO PROCURE	
	MEDICAL REVIEW COMMITTEE DOCUMENTS	276
9-19	HEALTH INSURANCE CARRIER OR	
	HMO MALPRACTICE	278
9-20	DEFENSE REQUEST FOR EX PARTE INTERVIEW WITH	
	A TREATING PHYSICIAN AND USING A TREATING	
	DOCTOR AS A FACT OR CAUSATION WITNESS	278
9-21	PSYCHIATRISTS' AND OTHER MENTAL HEALTH	
	PROVIDERS' LIMITED IMMUNITY FROM PATIENT'S	
	ACTS OF PHYSICAL HARM TO SELF AND OTHERS	279
9-22	CLAIMS AGAINST HOSPITALS AND PROFESSIONALS	
	WHO WORK WITH HOSPITALS	280
Mod	lel Civil Jury Charge 5.50ARENT AUTHORITY CHARGE (Approved 6/10)	280
APP	ARENT AUTHORITY CHARGE (Approved 6/10)	
Chapte		
	Negligence and Other Non-Medical,	
Profess		283
10-1	INTRODUCTION	283
10-2		
	10-2:1 Breach of Duty to Non-Client Third Party	
	10-2:2 Damages Caused by Legal Malpractice	287
	10-2:3 The Statute of Limitations in Legal Malpractice	
	Cases and the Entire Controversy Doctrine	
10-3		
	10-3:1 Whether Claimant Should Get Double Recovery	
	10-3:2 Prejudgment Interest	
Mod	lel Civil Jury Charge 5.51A	290
	AL MALPRACTICE (Approved 06/1979; Revised 10/2022) ERAL DUTY OWING	
	lel Civil Jury Charge 5.51B	295
PRO	XIMATE CAUSE IN LEGAL MALPRACTICE INVOLVING INADEQUATE	
OR I	NCOMPLETE LEGAL ADVICE (Approved 01/1997; Revised 10/2022)	
10-4	O I I E I I O I O I I I E E I E I I E O E I E O E I O E I O E I O E I O E I O E I O E I O E I O E I O E I O E I	
	ARCHITECTS, ENGINEERS AND ACCOUNTANTS	
	10-4:1 Ten Year Statute of Repose	297
	10-4:2 What Constitutes Breach of Duty by Architects	• • •
	and Engineers	
Mod	lel Civil Jury Charge 5.52	298
PKO	FESSIONAL LIABILITY OF AN ARCHITECT/ENGINEER (Approved 11/95)	

Chapter			
Abnorm	ally Dange	erous Activities and Nuisance	303
11-1	ABNOI	RMALLY DANGEROUS ACTIVITIES	303
	11-1:1	Determination of Whether an Activity	
		Is Abnormally Dangerous	303
	11-1:2	Additional Jury Instruction About Heightened	
		Risk and Duty	
DANG	GEROUS IN	v Charge 5.20H NSTRUMENTALITIES OR CONDITIONS	304
	oved before 1		
		NCE	
		v Charge 5.75	307
	` 11	proved 12/87)	
Chapter		on Nacional Hima Nacional Enterestment	
		or, Negligent Hiring, Negligent Entrustment, pility for Independent Contractors	309
		NDEAT SUPERIOR	
		v Charge 5.10I	
		ved 4/2002; Revised 8/2011)	310
12-2		GENT HIRING AND NEGLIGENT	
12-2		JSTMENT	312
	12-2:1		
Mode		v Charge 5.76	
		RING (4/07)	
12-3	A PRIN	ICIPAL'S VICARIOUS LIABILITY FOR THE ACTS	
	OF AN	INDEPENDENT CONTRACTOR	317
	12-3:1	Determination of Principal's Liability	317
	12-3:2	Negligent Hiring of an Independent Contractor	318
Chapter	13		
Alcohol	Service by	Taverns and Restaurants and Social Hosts	319
13-1	INTRO	DUCTION	319
13-2	TAVERN AND RESTAURANT LIABILITY		319
	13-2:1	Exclusive Remedy	
	13-2:2	Proof Required—Comparative Negligence	
		v Charge 5.71	321
		ERS SERVING MINORS AND INTOXICATED	
	ONS (3/10)		
13-3		L HOSTS SERVING ALCOHOL TO THOSE GAL AGE	227
	13-3:1	Definition of Social Host	
	13-3:1	Extent of Liability and Proof Required	
	13-3.2	Comparative Negligence	
	15-5.5	Comparative regiscine	549

13-4	SOCIAL HOSTS SERVING ALCOHOL TO MINORS	329
13-5	OTHER COMMON LAW NEGLIGENCE	
	APPLYING TO ALCOHOL	330
Chapter	14	
	Carriers: The High Degree of Care Owed	
	ns of Railroads, Buses and Airplanes	331
14-1	INTRODUCTION	331
14-2	NATURE OF DUTY OWED	332
14-3	NON-PASSENGERS	333
<i>Mode</i> CARR	l Civil Jury Charge 5.73 HERS FOR HIRE (Approved 6/88)	333
Chapter	15	
Intention	nal Torts Causing Personal Injury	341
15-1	INTRODUCTION	
	15-1:1 Scope of Chapter	
	15-1:2 Intentional Torts in Matrimonial Litigation	
	15-1:3 Insurance Coverage for Intentional Torts	
	15-1:4 Comparative Negligence	
15-2	ASSAULT	343
15-3	BATTERY	
	l Civil Jury Charge 3.10	344
	ULT AND BATTERY (Approved prior to 1984; Revised 03/2015)	
15-4	INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS	
	15-4:1 What Must Be Proven	
Mode	l Civil Jury Charge 3.30F NTIONAL INFLICTION OF EMOTIONAL DISTRESS (Approved 11/99)	349
15-5	INVASION OF PRIVACY	240
100	l Civil Jury Charge 3.14	
INVAS	SION OF PRIVACY (Approved 01/16)	330
Chapter		
Death C		355
16-1	INTRODUCTION	355
16-2	SURVIVAL ACTION—THE PERIOD OF TIME	
	THE DECEDENT WAS ALIVE	
	l Civil Jury Charge 8.42 IVAL ACTION (Approved 2/96)	357
16-3	A SPOUSE'S LOSS OF SERVICES, SOCIETY AND CONSORTIUM IN A DEATH CASE	250
16.4		
16-4	THE WRONGFUL DEATH ASPECT OF A DEATH CLAIM	
	16-4:1 What Constitutes Pecuniary Damages	339

	16-4:2	Where the Decedent is a Child	359
	16-4:3	Discounting the Award for Present Value on Inflation	360
		v Charge 8.43 EATH (3/10)	361
16-5	TECHN	NICAL REQUIREMENTS IN A DEATH CLAIM	367
Chapter	17		
	Damages		369
17-1	OVERV	TEW	369
17-2	DETER	RMINING THE AMOUNT OF PUNITIVE	
	DAMA	GES AWARDED	370
	17-2:1	Whether Amount Awarded Is Reasonable and Justified	370
	17-2:2	Cap on Punitive Damages Award: Exceptions	371
17-3	NATUI	RE OF PROOF—CLEAR AND	
	CONVI	NCING STANDARD	
	17-3:1	Factors to Be Considered	
	17-3:2	Drunk Driving and Punitive Damages	373
17-4		UNITIVE DAMAGES MODEL CIVIL	
		CHARGE—SINGLE EXEMPTION	
		ERTAIN PRODUCTS	
Mode	l Civil Jury	v Charge 8.60AGES ACTIONS—GENERAL (Approved 3/2000; Revised 12/2011)	374
		AGES ACTIONS—GENERAL (Approved 3/2000; Revised 12/2011)	
Chapter		LU- E-44 - The Total Claims And	270
	O	ablic Entities: The Tort Claims Act	379
18-1		TEW	
	18-1:1 18-1:2	What Is Viable and What Is Not Under the Act Requirements for Bringing Claims Against	3/9
	18-1:2	Public Entities	280
	18-1:3	Which Public Entities Are Entitled to Protection	
18-2		OTICE REQUIREMENT	
10-2	18-2:1	When the Notice Must Be Filed	
	18-2:2	Application to File Late Notice of Claim	
	18-2:3	Contents of Notice of Claim	383
	18-2:4	Presentation of Notice of Claim	
18-3	THE H	EIGHTENED DAMAGE REQUIREMENT	385
	18-3:1	What Constitutes Permanent Loss of a Bodily	
		Function, Permanent Disfigurement or	
		Dismemberment	385
		18-3:1.1 Gilhooley, Kahrar, Ponte, and Knowles	386
			388

	18-3:3		of Economic Losses Absent Proof	•
3.5.1	1 00 11 7		ent Injury	
TORT	CLAIMS A	y <i>Charge 8.70</i> ACT THRESHO SUFFERING	OLD FOR RECOVERY OF DAMAGES	389
18-4			IABILITY CLAIMS ARE PERMISSIBLE	
10-4			T CLAIMS ACT	202
	18-4:1		ission of Public Employee	
	18-4:1		emises	
	18-4:3		temptions from Liability for Public	372
	10 4.5		nder the Act	393
	18-4:4		as for Public Employees	
	10 111		Correction and Police Activities	
		18-4:4.2	Public Medical and Mental Institutions	575
		10 4.4.2	and Their Employees	306
10 5	LIADII	ITV EOD D	ANGEROUS CONDITIONS	330
18-5			ERTY	207
	18-5:1		Facilities	
	18-5:2		Proofs on Dangerous Conditions	39 /
	16-3.2		Property	209
		10 5.2 1	Actual or Constructive Notice	200
Mode	l Civil Iva		A	
DANG	TEROUS C	ONDITION O	F PUBLIC PROPERTY (Approved 2/96)	399
Di II (C	JERO CB C		Immunities Even from	
		10 3.2.2	Dangerous Conditions	403
10.6	EMED	CENICY CAL	LL OR 911 IMMUNITY	
18-6		JENCY CAI	LL OR 911 IMMUNITY	404
Chapter				
<b>Duty of</b>		rsonnel to a S		407
19-1	INTRO	DUCTION.		407
19-2	THE C	HARITABL	E IMMUNITY ACT	
	AND T	HE TORT C	LAIMS ACT	407
19-3	ORDIN	JARY NEGI	IGENCE AND THE DUTY OF CARE	408
Mode				
DUTY	OF TEAC oved 9/80)	HERS AND S	CHOOL PERSONNEL TO STUDENT	
Chapter	, i			
		ligence Clair	ns, Immunities, and Restrictions	411
20-1		_		
20-1			NJURIES CAUSED BY ANIMALS	
20-2	20-2:1			
	∠∪-∠.1	Dog Ditt L	Liability	411

Model	Civil Jury Charge 5.60A	412
	TORY OWNER—DOG BITE LIABILITY (N.J.S.A. 4:19-16)	
(Approv	ved 12/2009; Revised 10/2022)	
	20-2:2 Non-Bite Situations	
Model	Civil Jury Charge 5.60B	414
	AL WITH VICIOUS OR DANGEROUS TRAIT OR PROPENSITY R THAN AN OWNER DOG BITE CASE) (Approved 9/80)	
(OTHE	20-2:3 Keeping Wild Animals Deemed a Nuisance	115
Model	Civil Jury Charge 5.75	
	NCE (Approved 12/87)	413
20-3	CHARITABLE IMMUNITY	417
	20-3:1 Exceptions	
	20-3:2 What Type of Entity Qualifies for Immunity	
	20-3:3 Other Qualifiers for Charitable Immunity	419
20-4	SPORTS AND RECREATION INJURIES	420
	20-4:1 Exculpatory Releases, Arbitration Clauses, and	
	Mediation	422
20-5	ROLLER RINK INJURIES	424
20-6	EQUINE ANIMAL ACTIVITIES	424
20-7	SKI SLOPES	
20-8	SEXUAL ABUSE BY AN ADULT OF A CHILD	426
20-9	CARNIVAL—AMUSEMENT RIDES	427
20-10	SPOLIATION OF EVIDENCE OR FRAUDULENT	
	CONCEALMENT	428
20-11	PORT AUTHORITY OF NEW YORK AND NEW JERS	SEY
	AND DELAWARE RIVER PORT AUTHORITY	
	CLAIMS	430
20-12	VOLUNTEER FIRST AID SQUAD MEMBERS,	
	NATIONAL SKI PATROL SYSTEM MEMBERS,	
	AND CIVIL DEFENSE VOLUNTEERS	430
20-13	MORE IMMUNITIES FOR SPECIFIC SERVICES:	
	EMERGENCY MEDICAL TECHNICIANS,	
	COACHES, SPORTS SPONSORS, AND THE LIKE	431
20-14	THE 'FIREMAN'S RULE' STATUTORILY ABROGATI	ED434
20-15	EMPLOYER IMMUNITY AND THE WORKERS'	
	COMPENSATION BAR	434
	20-15:1 The Workers' Compensation Bar and 'Special	
	Employees' 'Borrowed Employees' or 'Co-Empl	•
20-16	AREAS NOT COVERED BY THIS WORK	436

Chapter :		
	Issues in Personal Injury Litigation and Trials	437
21-1	INTRODUCTION	437
21-2	BEST PRACTICES, DISCOVERY MANAGEMENT, AND	
	SANCTIONS	
21-3	PRETRIAL PUBLICITY AND JURY SELECTION	438
21-4	ADVERSE INFERENCES BY COUNSEL	
	IN SUMMATION	438
21-5	ETHICS AND CANDOR TO THE TRIBUNAL	438
21-6	WHEN DID YOU FIRST CONTACT YOUR LAWYER?	439
21-7	LACK OF PRIOR ACCIDENTS TO DEFEND AN UNSAFE	
	PROPERTY OR PRODUCTS CLAIM	440
21-8	PHOTOS OF DAMAGED VEHICLES	441
Model	l Civil Jury Charge 5.34	442
	OGRAPHIC EVIDENCE IN MOTOR VEHICLE ACCIDENTS (10/09)	
21-9	LACK OF A GOVERNMENT INVESTIGATION	442
21-10	POLICE REPORTS, POLICE OPINIONS, AND EXPERT	
	BOOTSTRAPPING HEARSAY OPINIONS	
21-11	IN LIMINE MOTIONS	
21-12	WORK PRODUCT CLAIMS AND WITNESS STATEMENTS.	443
Chapter		
The New	Jury Selection Rules and Personal Injury Cases	445
22-1	INTRODUCTION	445
22-2	THE NEW COURT DIRECTIVES	446
22-3	SOME SUGGESTED VOIR DIRE QUESTIONS	
	FOR INJURY CASES	448
Appendix	A: Directive #21-06, Approved Jury Selection Standards,	
	Including Model Voir Dire Questions	451
Appendix	B: Directive #4-07, Jury Selection – Model Voir Dire Questions	
	Promulgated by Directive #21-06 – Revised Procedures and	
	Questions	475
Chapter	23	
Product 1	Liability	493
23-1	INTRODUCTION	493
23-2	THE STATUTE IN PLAIN LANGUAGE	
	23-2:1 Proof That a Product Was Not Reasonably Fit,	
	Suitable or Safe	494

	23-2:2	Defenses	495
	23-2:3	Exemption of a Product Seller	
23-3	PROVIN	IG A MANUFACTURING DEFECT	498
23-4	FAILUR	E TO WARN	499
23-5	DESIGN	N DEFECT	501
	23-5:1	Consumer Expectations Test	501
	23-5:2	The Risk-Utility Analysis or Test	502
	23-5:3	Reasonable Safer Design Test	
23-6	MORE (	ON THE SPECIAL STATUTORY DEFENSES	503
23-7	PRODU	CT SELLER AND DISTRIBUTOR DEFINED	504
23-8	MOTOR	VEHICLE CRASHWORTHINESS	505
23-9	WORKE	PLACE INJURIES AND PRODUCT LIABILITY	506
23-10	THE MO	ODEL CIVIL JURY CHARGES	
	ON PRO	DUCT LIABILITY	507
Model	Civil Jury	Charge 5.40A (Introduction)	507
		ILITY—INTRODUCTION: CAVEATS TO JUDGES (3/10)	500
MANII	C <i>ivii Jury</i> Facturii	Charge 5.40B NG DEFECT (Approved 10/1998; Revised 8/2011)	509
		Charge 5.40C	512
<b>FAILUF</b>	RE TO WA	RN/INSTRUCT (Approved 3/00; Revised 09/2021)	
Model	Civil Jury	Charge 5.40(D-1)	518
DESIGI	N DEFECT	GENERALLY (Approved 4/99; Revised 5/10)	521
Model Civil Jury Charge 5.40(D-2) DESIGN DEFECT—INTRODUCTORY STATEMENT TO JURY			
	ASES) (3/10		
Model	Civil Jury	Charge 5.40(D-3)	521
		C—LEGAL TESTS OF PRODUCT DEFECT (Approved 4/99)	
Model Civil Jury Charge 5.40(D-4)			
		—DEFENSES (Approved 4/99; Revised 10/01)  Charge 5.40E	536
		NESS—SPECIAL ISSUES (Approved 5/01)	550
		Charge 5.40F	539
<b>DEFEC</b>	T BEFORI	ESALE	
Model	Civil Jury	Charge 5.40G	540
		SE OR ALTERATION (Approved 12/93)	<i>5 1</i> 1
		Charge 5.40H USER OR VICTIM (Approved 2/89)	541
		Charge 5.401	542
PROXIN	MATE CAU	JSE (Approved 2/89)	
		Charge 5.40J	543
COMPARATIVE FAULT (9/09)			
		Charge 5.40K	544
<b>SUMM</b>	ARY (Appr	ovea 2/89)	

Model Civil Jury Charge 5.40L	544
NEGLIGENCE (Approved 8/86)	
Model Civil Jury Charge 5.40M	547
EXPRESS WARRANTY (Approved 8/86)	
Model Civil Jury Charge 8.62	548
PUNITIVE DAMAGES ACTIONS—PRODUCTS LIABILITY	
(Approved 1/1997; Revised 12/2011)	
Table of Cases	551
Index	619