

Contents

Chapter 1

Agency or Fiduciary Causes of Action

1-A	Introduction to Agency or Fiduciary Causes of Action.....	1
1-1	Agent Breaching Fiduciary Duty to Principal	2
1-2	Agent Negligent In Collecting Debt.....	2
1-3	Agent's Liability for Principal's Obligation.....	3
1-4	Agent's Negligence Causing Harm to Others.....	3
1-5	Agent's Personal Liability on Contract.....	4
1-6	Bailments	4
1-7	Caring for Collateral or Security	5
1-8	Charitable Organization Liable for Wrongdoing.....	6
1-9	Consignee Liability for Damaged Art	6
1-10	Co-Sureties Contributing on Debt Default.....	6
1-11	Escrow Agent Improperly Disbursing Funds	7
1-12	Faithless Servant Doctrine.....	7
1-13	Fiduciary Breaching Duty.....	12
1-14	Fiduciary Relationship	13
1-15	Fraudulent Concealment by Fiduciary	14
1-16	Obligor Aiding Agent Disloyalty to Principal	14
1-17	Warehouseman or Carrier Liability for Goods.....	15
1-18	Warehouseman or Carrier Lien on Goods	15
1-19	Warehouseman Elements.....	16

Chapter 2

Attorney and Legal Services Causes of Action

2-A	Introduction to Attorney and Legal Services Causes of Action	17
2-1	Attorney Malpractice	17

2-2	Attorney Increasing Inadequate Contingency Fee	19
2-3	Claim for Attorney's Fees	20
2-4	Judiciary Law § 487 (Attorney Deceit).....	20
2-5	Legal Fraud	21
2-6	Legal Malpractice in Criminal Cases.....	22

Chapter 3

Banking, Commercial Paper and Creditor Causes of Action

3-A	Introduction to Banking, Commercial Paper and Creditor Causes of Action.....	25
3-1	Bank Leaving Funds Transfer Incomplete	25
3-2	Bank Misconduct When Relying on Power of Attorney	26
3-3	Bank Mishandling Funds Transfer	26
3-4	Bankrupt's Voiding of Preferential Transfer of Property	26
3-5	Bank's Wrongful Dishonor of Negotiable Instrument	27
3-6	Bank's Wrongful Payment of Negotiable Instrument	27
3-7	Bounced Check Causing Damage.....	27
3-8	Certified or Cashier's Check Wrongfully Dishonored	28
3-9	Checking Account Funds Misappropriated by Fiduciary	29
3-10	Collecting Bank Late Objection to Negotiable Instrument	30
3-11	Collecting Bank Mishandling Negotiable Instrument	30
3-12	Credit Issuer Dishonoring or Repudiating.....	30
3-13	Debtor Lying to Creditor About Assets.....	31
3-14	Debtor's Fraudulent Conveyance	31
3-15	Electronic Fund Transfer Privacy or Safety Violation.....	32
3-16	Enforcement of Security Interest Delegating Seller's Performance	32
3-17	Fraudulent Negotiable Instrument Paid or Taken	32
3-18	Lessee's Default on Lease of Goods.....	32
3-19	Lessor's Breach of Implied Warranty on Goods.....	33
3-20	Lessor's Breach of Express Warranty on Goods	34
3-21	Lessor's Default on Lease of Goods	34
3-22	Letter of Credit Obligation Breached.....	35

3-23	Mistaken Payment on Draft Returned	35
3-24	Mortgage Contingency Loan Exacting Illegal Commission.....	36
3-25	Mortgage Exacting Illegal Points and Prepayments Fees.....	36
3-26	Mortgage Holder Breaching Escrow Obligations.....	37
3-27	Mortgagee Failing to Cancel Redeemed Mortgage	37
3-28	Negotiable Instrument	39
3-29	Negotiable Instrument Forged or Stolen.....	39
3-30	Negotiable Instrument Signed for Accommodation.....	40
3-31	Noncompliance With Secured Transactions Laws.....	40
3-32	Spouse Liable for Other Spouse's Debt	40
3-33	Registration of Investment Security Transfer Denied.....	41
3-34	Summary Judgment in Lieu of Complaint (New York Civil Practice Law and Rules § 3213).....	42

Chapter 4

Constitutional Causes of Action

4-A	Introduction to Constitutional Causes of Action	43
4-1	Challenging Condemnation.....	43
4-2	Grand Jury Proceedings Unlawfully Disclosed	44
4-3	Inverse Condemnation.....	45
4-4	Privacy Invasion.....	45
4-5	Revenge Porn	46
4-6	State Constitutional Rights Violation.....	46
4-7	State Destruction of Private Property	47
4-8	State Taking Land Requiring Compensation	47
4-9	Taking.....	48
4-10	De Facto Taking	49
4-11	Regulatory Taking.....	49

Chapter 5

Contract or Quasi-Contract Causes of Action

5-A	Introduction to Contract or Quasi-Contract Causes of Action	51
5-1	Accounting.....	51

5-2	Account Stated.....	52
5-3	Anticipatory Breach of Contract.....	52
5-4	Breach of Contract Causing Damage	53
5-5	Breach of Implied Covenant of Good Faith and Fair Dealing.....	55
5-6	Buyer Recovering Specifically Identified Goods	57
5-7	Careless Contractual Work	57
5-8	Child's Right to Rescind Contract	58
5-9	Confusing Language in Written Contract.....	58
5-10	Constructive Fraud in Contract	59
5-11	Consumer Contract Containing Unlawful Provision	59
5-12	Consumer Credit Billing Error	60
5-13	Consumer Goods Leased Under Unconscionable Circumstances.....	61
5-14	Consumer Loan Broker Acting Improperly	62
5-15	Contract.....	62
5-16	Contract Performance Interfered With by Outsider.....	63
5-17	Contract Rescission	63
5-18	Coverage for Causes Extending From Insured Risk.....	64
5-19	Duress Permitting Contract Rescission.....	65
5-20	Fraud by Others Outside Contract	65
5-21	Fraud Permitting Reformation or Rescission	66
5-22	Goods Sold and Delivered.....	66
5-23	Guaranty.....	67
5-24	Implied Contract.....	68
5-25	Insane Party Rescinding Contract.....	68
5-26	Insolvent Buyer Having Bought Goods.....	69
5-27	Insolvent Lessor Having Leased Goods.....	69
5-28	Insolvent Seller Having Sold Goods	69
5-29	Intentional Interference With Contractual Relationship	70
5-30	Intentional Interference With Prospective Economic Advantage	70
5-31	Limited Partnership Certificate Containing Falsehood.....	71
5-32	Malicious Interference With Contract Rights	71

5-33	Malicious Interference With Prospective Economic Advantage	72
5-34	Money Had and Received	72
5-35	Mutual Mistake in Contract.....	72
5-36	Obligation to Pay Services Sought for Other	73
5-37	Overpayment on Contract Recovered	73
5-38	Promise Causing Detrimental Reliance.....	74
5-39	Promissory Estoppel.....	74
5-40	Quantum Meruit.....	75
5-41	Quasi-Contract.....	76
5-42	Recoupment for Contract Breach Harming Outsider	76
5-43	Reliance on Another’s Conduct (Estoppel)	76
5-44	Rescission and Cancellation of Written Instruments (Fraud).....	77
5-45	Rescission and Cancellation of Written Instruments (Misrepresentations).....	77
5-46	Sale of Goods Breached by Buyer	77
5-47	Sale of Goods Breached by Seller	78
5-48	Sale of Personal Property	78
5-49	Statute of Frauds	79
5-50	Substantial Performance of Contract Allowing Recovery	80
5-51	Third-Party Beneficiary	80
5-52	Unconscionability Permitting Contract Rescission	81
5-52:1	Substantive Unconscionability.....	82
5-52:2	Procedural Unconscionability	82
5-53	Unilateral Mistake in Contract	82
5-54	Unjust Enrichment.....	83
5-55	Warranty on Goods Breached by Seller.....	84

Chapter 6

Corporate and Partnership Causes of Action

6-A	Introduction to Corporate and Partnership Causes of Action	85
6-1	Association and Membership Liability	86
6-2	Association Membership Wrongfully Interfered With	86

6-3	Avoiding the Corporate Liability Shield or Piercing the Corporate Veil	86
6-4	Business Judgment Rule	88
6-5	Business Partner Breaching Fiduciary Duty to Co-Partner.....	88
6-6	Corporate Officer Participating in Tort.....	89
6-7	Cost of Defending Against Derivative Suit	89
6-8	Demand Futility.....	90
6-9	Director's Liability to Shareholders.....	90
6-10	Dissolution for Deadlock	90
6-11	Dissolution of Limited Liability Company	91
6-12	Dissolution for Oppression	92
6-13	Improperly Buying Securities During Corporate Takeover	92
6-14	Member Liability in Joint Enterprise	93
6-15	Minority Shareholder Freeze-Out.....	93
6-16	Partner Breaching Duty to Co-Partner.....	94
6-17	Partnership Liability for Debts.....	94
6-18	Partnership Liability for Injury	94
6-19	Principal/Promoter Liability for Post-Incorporation Debt	95
6-20	Principal's/Promoter's Bad Faith Liability for Real Estate Broker's Commission	95
6-21	Redeeming Shares in Company Merger Or Sale.....	96
6-22	Right of Inspection.....	96
6-23	Sales Commission Due From Principal.....	96
6-24	Successor Corporation Liable for Predecessor	97
6-25	Usurpation of Corporate Opportunity	97

Chapter 7

Damage-Related Causes of Action

7-A	Introduction to Damage-Related Causes of Action	99
7-1	Breach of Contract Lost Profits Damages.....	99
7-2	Contribution.....	100
7-3	Economic Loss Rule	100
7-4	Indemnification From Person Ordering Tort.....	101

7-5 Interest Awarded on Damages 102

7-6 Punitive Damages Due From Tortfeasor 102

7-7 Recovery or Contribution From Tortfeasor 103

7-8 Tortious Conduct Lost Profits Damages 104

Chapter 8
Employer-Employee Causes of Action

8-A Introduction to Employer-Employee Causes of Action 105

8-1 Competition With Employer or Principal 105

8-1:1 Claim for Employee Breach of Fiduciary Duty 106

8-1:2 Claim for Misappropriation and Unfair Competition..... 107

8-2 Contractual Covenant Not to Compete Violated 107

8-3 Employer Breach of Employee Manual..... 107

8-4 Employer Improperly Handling Employee Wages..... 108

8-5 Employer Liability for Employee Act..... 109

8-6 Employer Retaliation Against Employee 109

8-7 Hostile Work Environment—Sexual Harassment 110

8-8 Negligent Hiring..... 110

8-9 New York City Human Rights Law..... 111

8-10 New York Labor Law § 193..... 112

8-11 New York State Human Rights Law 112

8-12 Quid Pro Quo Sexual Harassment..... 113

8-13 Sex Discrimination in Wage Payment 113

8-14 Work Environment Harassment 114

8-15 Work, Labor and Services (Quantum Meruit)..... 115

8-16 Wrongful Discharge in Violation of Company Policy..... 115

Chapter 9
Equitable Causes of Action

9-A Introduction to Equitable Causes of Action 117

9-1 Equitable Estoppel 117

9-2 Equitable Fraud 118

9-3 Equitable Subrogation 118

9-4	Estoppel by Deed	118
9-5	Estoppel in Pais.....	118
9-6	Incorporation (or Corporation) By Estoppel.....	119
9-7	Implied Indemnification.....	119
9-8	Impounding Property to Pay Debt	120
9-9	Impress a Trust	120
9-10	Reformation of Written Instruments	120
9-11	Restitution Despite Contract Breach	121
9-12	Resulting Trust	121
9-13	Specific Performance	122

Chapter 10

Family and Matrimonial Causes of Action

10-A	Introduction to Family and Matrimonial Causes of Action.....	123
10-1	Adoption.....	123
10-2	Annulment	124
10-2A	Conditional Gift Recovery	126
10-3	Custody and Visitation.....	127
10-3:1	Custody.....	127
10-3:2	Visitation Rights of Sibling	127
10-3:3	Visitation of Grandparents	128
10-3:4	Enforcement of Visitation.....	128
10-3:5	Enforcement of Visitation—Temporary Order.....	129
10-3:6	Parental Alienation	130
10-4	Divorce.....	130
10-4:1	No-Fault Divorce	130
10-4:2	Fault Divorce.....	131
10-4:3	Abandonment	131
10-4:4	Adultery	132
10-4:5	Cruel and Inhuman Treatment.....	133
10-4:6	Imprisonment	134
10-4:7	Living Apart Pursuant to Separation Agreement.....	134
10-4:8	Living Apart Pursuant to Separation Decree.....	136

10-5	Guardianship	136
10-5:1	Guardianship of Minor	136
10-5:2	Guardianship of Mentally Retarded/Developmentally Disabled	139
10-5:3	Guardianship of Adult	139
10-5:4	Waste of Assets	141
10-6	Prenuptial Agreements	142
10-7	Separation From Bed and Board	142
10-8	Paternity	143
10-9	Matrimonial Emergency Applications.....	144
10-9:1	Automatic Orders.....	144
10-9:2	General Requirements for Matrimonial Motions.....	144
10-9:3	Temporary Maintenance	144
10-9:4	Temporary Child Support.....	145
10-9:5	Temporary Custody.....	146
10-9:6	Relocation	147
10-9:7	Orders of Protection	148
10-9:8	Restraint of Assets	149
10-9:9	Exclusive Use and Occupancy	150
10-9:10	Counsel and Expert Fees	151
10-10	Religious Marriage Contracts	152

Chapter 11

Insurance Causes of Action

11-A	Introduction to Insurance Causes of Action.....	153
11-1	Insurance Policy	153
11-2	Insurance Broker Liability.....	154
11-3	Insurance Broker Malpractice.....	155
11-4	Insurance Carrier Defrauded or Exploited	155
11-5	Insurance Carrier Supplying Defense of Suit	156
11-6	Insurance Carrier's Bad Faith.....	156
11-7	Insurance Claim Wrongfully Delayed or Denied.....	157
11-8	Insurance Policy Rescission.....	158
11-9	Insurance Policy Terminated Without Notice to Insured	158

11-10	Insurer Wrongfully Disclosing Confidential Information.....	158
11-11	Life or Health Insurance Obtained by Fraud.....	159
11-12	New York State Disclaimer Statute.....	159
11-13	Disclaimer for Lack of Cooperation	160
11-14	New York State Prompt Pay Law.....	160
11-15	No-Fault Claim.....	160
11-16	Subrogation.....	161

Chapter 12

Judicial Causes of Action

12-A	Introduction to Judicial Causes of Action.....	163
12-1	Abuse of Process.....	163
12-2	Capias Ad Respondendum	164
12-3	Concealment or Destruction of Evidence (Spoliation of Evidence).....	164
12-4	Concert of Action.....	165
12-5	Contempt	165
12-6	Court Sanctions for Delay	166
12-7	Malicious Abuse of Legal Process (Malicious Prosecution)	166
12-8	Notary Public Officer Liable for Negligent Acknowledgment.....	167

Chapter 13

Real Property Causes of Action

13-A	Introduction to Real Property Causes of Action.....	169
13-1	Land-Related Causes of Action	169
13-1:1	Abnormal Dangers on Land	169
13-1:2	Adverse Possession of Property	170
13-1:3	Broker's Liability for Injury at Open House.....	171
13-1:4	Buyer In Breach Liable for Real Estate Broker's Commission	171
13-1:5	Buyer Recovering Costs Due to Title Defect.....	171
13-1:6	Co-Tenant's Share of Profits and Expenses	172
13-1:7	Covenant in Deed Violated	172
13-1:8	Customer Injured Off Leased Premises.....	173
13-1:9	Discharge of Mortgage.....	173

13-1:10	Doctrine of Practical Location.....	173
13-1:11	Easement After Property Divided	174
13-1:12	Easement by Implication	174
13-1:13	Easement by Necessity	175
13-1:14	Easement by Prescription.....	175
13-1:15	Ejectment (Ejectment for Wrongful Possession of Claim On Land).....	175
13-1:16	Foreclosure.....	176
13-1:17	Fraudulent Deregulation	176
13-1:18	Injury Off Owner's Land.....	177
13-1:19	Injury on Owner's Land	177
13-1:20	Landlord's Failure to Repair.....	178
13-1:21	Landowner Excluding Patron for Discriminatory Reasons.....	178
13-1:22	Landowner's Servant or Contractor Causing Injury	178
13-1:23	Private Nuisance	179
13-1:24	Public Nuisance	179
13-1:25	Real Estate Broker's Commission Due After Termination	180
13-1:26	Real Property Defect Concealed by Seller.....	180
13-1:27	Slander of Title	180
13-1:28	Voluntary Payment Doctrine in Foreclosure	181
13-1:29	Warranty of Habitability by Home Seller.....	181
13-1:30	Waste.....	181
13-2	Landlord-Tenant Causes of Action	182
13-2:1	Constructive Eviction of Tenant.....	182
13-2:2	Eviction for Illegal Occupancy	182
13-2:3	Landlord Failing to Protect Tenant From Crime	183
13-2:4	Landlord's Retaliatory Eviction of Tenant	183
13-2:5	Rent Implied by Tenant's Occupation	183
13-2:6	Security Deposit Not Returned To Tenant.....	184
13-2:7	Subtenant Liable to Landlord for Rent	184
13-2:8	Tenant Equitable Relief for Renewal Options	184

13-2:9	Tenant Unlawfully Evicted	185
13-2:10	Warranty of Habitability.....	186
13-2:11	Yellowstone Injunctions.....	187

Chapter 14

Statutory Causes of Action

14-A	Introduction to Statutory Causes of Action	189
14-1	ChamPERTY and Maintenance	189
14-2	Construction or Mechanics Lien Law.....	190
14-3	Consumer Fraud	191
14-4	Deceptive Trade Practices and False Advertising	191
14-5	Dram-Shop Act	192
14-6	Emergency Aid Not Given or Not Properly Given (Good Samaritan Law)	192
14-7	Fair Credit Reporting Act.....	193
14-8	Martin Act Claims.....	193
14-9	New York Anti-SLAPP Law.....	194
14-10	New York Arts and Cultural Affairs Law.....	195
14-11	New York Antitrust Statute—Donnelly Act.....	196
14-12	New York City Victims of Gender-Motivated Violence Protection Law	196
14-13	New York City Snow and Ice Claims.....	197
14-14	New York Equal Access to Justice Act	198
14-15	New York Franchise Law.....	198
14-16	New York Labor Law § 240.....	198
14-17	New York Labor Law § 241	200
14-18	New York Workplace Violence Prevention Law	200
14-19	Physician Violating Patient Confidentiality	201
14-20	Shopkeeper Action Against Suspected Shoplifters	201
14-21	Social Host Liability.....	202
14-22	Son of Sam Law.....	202
14-23	Theft of Personal Identifying Information/Identity Theft	202
14-24	Trademark and Trade Dress Dilution.....	203

14-25	Trademark and Trade Dress Infringement	203
14-26	Voluntary Rescuer Injured by Negligence of Other (Rescue Doctrine)	204
14-27	Medical, Dental or Podiatric Malpractice Based on Lack of Informed Consent	204

Chapter 15

Tort Causes of Action

15-A	Introduction to Tort Causes of Action	205
15-1	Business Torts.....	205
15-1:1	Accountant Malpractice.....	205
15-1:2	Business Intentionally Interfered With by Outsider	206
15-1:3	Computer Malpractice	206
15-1:4	Unfair Competition	207
15-1:5	Professional or Tradesperson Malpractice.....	207
15-1:6	Usury	208
15-2	Defamation Torts.....	208
15-2:1	Defamation by Implication.....	208
15-2:2	Defamatory Injury to Reputation	209
15-2:3	Injurious Falsehood	210
15-2:4	Libel and Slander	210
	15-2:4.1 Libel.....	210
	15-2:4.2 Slander	211
15-2:5	Product Disparagement.....	211
15-2:6	Negligent Misrepresentation Causing Harm	212
15-2:7	Right of Publicity	212
15-2:8	Words Negligently Spoken	213
15-3	Fraud Torts	213
15-3:1	Conversion	213
15-3:2	Deceit	215
15-3:3	Breach of Fiduciary Duty	216
15-3:4	Fraud and Deceit.....	217
15-4	Intellectual Property Torts	218
15-4:1	Artist's Common Law Copyright Violated.....	218
15-4:2	Idea Misappropriation.....	218

	15-4:2.1	Property Claims	218
	15-4:2.2	Contract Claims	219
	15-4:3	Trade Secret Disclosed or Used Wrongfully	219
	15-4:4	Trafficking Counterfeit Trade or Service Marks.....	220
15-5		Motor Vehicle/Boat Torts	220
	15-5:1	Automobile Damaged at Parking Facility	220
	15-5:2	Negligent Entrustment	221
15-6		Personal Injury Torts	222
	15-6:1	Animal Attack Cause of Action.....	222
	15-6:2	Assault	222
	15-6:3	Battery	223
	15-6:4	Dental Malpractice	223
	15-6:5	Emotional Distress (Intentionally Inflicted)	224
	15-6:6	Emotional Distress (Negligently Inflicted)	225
	15-6:7	Exposing Another to Disease or Toxic Substances Negligently.....	225
	15-6:8	Failure to Warn and Protect From a Violent Patient	226
	15-6:9	False Arrest and Imprisonment	227
	15-6:10	Future Earning Capacity Damaged by Tort.....	227
	15-6:11	Future Injury From Present Tortious Personal Injury	228
	15-6:12	Future Medical Expenses Resulting From Tort.....	228
	15-6:13	Intentional or Malicious Harm to Another (Prima Facie Tort).....	228
	15-6:14	Loss of Consortium	229
	15-6:15	Lost Capacity in Living Resulting From Tort	229
	15-6:16	Malpractice (or Malfeasance)	229
	15-6:17	Medical Malpractice.....	230
	15-6:18	Medical Provider Liability to Third Parties	231
	15-6:19	Negligence	232
	15-6:20	Negligently Caused Economic Loss.....	233
	15-6:21	Right of Sepulcher.....	234
	15-6:22	Motor Scooter, Skateboard and Hover Board Liability	234
	15-6:23	Survivorship	235

15-6:24	Wrongful Birth.....	235
15-6:25	Wrongful Death	236
15-6:26	Wrongful Life	237
15-6:27	Foul Ball Liability.....	237
15-7	Personal Property Torts	237
15-7:1	Cruelty to Animals.....	237
15-7:2	Hotel Liability for Personalty Loss	238
15-7:3	Lost Property to Be Returned to True Owner.....	238
15-7:4	Property Disparagement	238
15-7:5	Property Tortiously Damaged	238
15-7:6	Recovery of a Chattel (Replevin)	239
15-7:7	Repossessing/Reclamation of Goods	239
15-7:8	Trespass	239
15-7:9	Trespass on Land	240
15-7:10	Trespass to Personal Property/Chattel	240
15-7:11	Trover	241
15-8	Status Torts.....	241
15-8:1	Administrative Negligence.....	241
15-8:2	Aiding and Abetting the Commission of Tort.....	242
15-8:3	Alternative Liability	242
15-8:4	Bystander Emotional Distress	242
15-8:5	Car Renter Liable for Injury.....	243
15-8:6	Common Carrier Liability.....	244
15-8:7	Conspiracy	244
15-8:8	Conspiracy to Commit a Tort	245
15-8:9	Indivisible Harm Caused by Separate Tortfeasors	245
15-8:10	Municipal Liability	246
15-8:11	Negligent Advice Causing Damage.....	247
15-8:12	Negligent Entrustment	247
15-8:13	Opioid Crisis Tort Claims	248
15-8:14	Public Utility Liability	248
15-8:15	Respondeat Superior	249
15-8:16	Vicarious Liability	249
15-8:17	Witness to Injury Suffering Emotional Distress	250

Chapter 16

Trust and Estate Causes of Action

16-A	Introduction to Trust and Estate Causes of Action.....	251
16-1	Breach of Fiduciary Duty by Trustee of Religious Corporation	251
16-2	Constructive Trust	252
16-3	Curtesy	253
16-4	Dower.....	253
16-5	Elective Share	253
16-6	Expected Gift Maliciously Interfered With by Other.....	254
16-7	Gifts Causa Mortis.....	254
16-8	Gifts Inter Vivos.....	254
16-9	Mismanagement of Trust Assets by Trustee.....	255
16-10	Presumption of Death From Absence	256
16-11	Promise to Make a Will	256
16-12	Undue Influence Over Testator or Settlor.....	256
16-13	Wasting Another's Property or Inheritance.....	257

Chapter 17

Defenses

17-A	Introduction to Defenses.....	259
17-1	Absolute or Qualified Privilege.....	260
17-1:1	Absolute Privilege	260
17-1:2	Fair and True Report Privilege.....	260
17-1:3	Qualified Privilege	260
17-2	Accord and Satisfaction	261
17-3	Act of God Doctrine	261
17-4	Adverse Possession.....	262
17-5	Assumption of Risk.....	263
17-6	Collateral Estoppel	263
17-7	Economic Interest Defense	265
17-8	Emergency Doctrine	265
17-9	Emergency Vehicle Driver Defense.....	265
17-10	“Empty Chair”	266
17-11	Equitable Estoppel	266

17-12	Force Majeure.....	267
17-13	Frustration of Purpose Doctrine.....	268
17-14	General Release	269
17-15	Illegality Doctrine	270
17-16	Impossibility of Performance.....	270
17-17	In Pari Delicto	271
17-18	Judicial or Litigation Privilege	273
17-19	Laches.....	273
17-20	Lack of Insurance Coverage	274
17-21	Lack of Standing	275
17-22	Ministerial Exception	275
17-23	New York City Pet Law	276
17-24	Novation.....	276
17-25	Res Adjudicata	277
17-26	Stale Rent	277
17-27	Statute of Limitations.....	278
17-28	Statute of Repose	279
17-29	Storm In Progress.....	280
17-30	Wagoner Rule	281
17-31	Waiver.....	281

Chapter 18

Provisional Remedies

18-A	Introduction to Provisional Remedies.....	283
18-1	Attachment	283
18-2	Order to Show Cause.....	285
18-3	Preliminary Injunctions	287
18-4	Provisional Remedies in the Appellate Division, First Department.....	288
18-4:1	Stays Under New York Civil Practice Law and Rules § 5519(c) or Temporary Restraining Orders/ Preliminary Injunctions Under New York Civil Practice Law and Rules § 5518.....	289
18-4:2	Review of <i>Ex Parte</i> Orders Under New York Civil Practice Law and Rules § 5704(a)	290

18-5	Receivership Appointments.....	291
18-5:1	“Necessity” Receiver.....	291
18-5:2	Receiver Under “Receiver Clause”.....	291
18-5:3	Temporary Receivership.....	292
18-6	Restraining Notice.....	293
18-7	Seizure of Chattel Under New York Civil Practice Law and Rules § 7102 Before Judgment	294
18-8	Stay of Arbitration.....	295
18-9	Stay/Vacatur of Judgment or Order	296
18-10	“Yellowstone” Injunction	298
	Index to Causes of Action	301
	Table of Statutes.....	415
	Table of Cases	425