

TABLE OF CONTENTS

INTRODUCTORY MATERIAL

General Directions for Use

Colorado Rules of Civil Procedure Relating to Jury Instructions

Statutes and Rules of Civil Procedure Governing Qualifications of Jurors

CHAPTER 1. GENERAL INSTRUCTIONS PRIOR TO OR DURING TRIAL AND UPON DISCHARGE OF JURY

A. JURY ORIENTATION

- 1:1 Introductory Remarks to Jury Panel
- 1:2 Explanation to Jury Panel of Voir Dire
- 1:3 Remarks to Jury Panel on Voir Dire
- 1:4 Jurors' Conduct During Trial — Pre-Deliberation Discussions, Prohibition on Communications with Others
- 1:5 Jurors' Conduct During Trial — Prohibition on Outside Information and Electronic Communications
- 1:6 Pretrial Publicity
- 1:7 General Outline of Trial Procedures to Jury
- 1:8 Note-Taking by Jurors
- 1:9 Juror Notebooks
- 1:10 Admonition at Recess

B. INSTRUCTIONS DURING TRIAL

- 1:11 Evidence Admissible for Particular Purpose Only
- 1:12 Stricken Evidence
- 1:13 Stipulation or Admission of a Fact
- 1:14 Stipulation Concerning Witness's Testimony
- 1:15 Directions Upon Authorized Jury View
- 1:16 Court's Questions to Witnesses
- 1:17 Questions by Jurors of Witnesses

C. DISCHARGE OF JURY

- 1:18 Mandatory Instruction Upon Discharge

D. OATHS

- 1:19 Oath on Voir Dire
- 1:20 Oath of Jurors
- 1:21 Oath or Affirmation of Witnesses
- 1:22 Oath of Interpreter
- 1:23 Oath of Bailiff on Retirement of Jury

CHAPTER 2. STATEMENT OF THE CASE TO BE DETERMINED

- 2:1 Liability in Issue — No Counterclaim
- 2:2 Liability in Issue — Counterclaim
- 2:3 Liability in Issue — Third-Party Complaint
- 2:4 Admitted Liability
- 2:5 Directed Verdict as to Liability — Damages Only in Issue — General
- 2:6 Directed Verdict as to Liability — Damages Only in Issue — Negligence

CHAPTER 3. EVIDENCE

A. BURDENS OF PROOF

- 3:1 Burden of Proof and Preponderance of Evidence —Defined
- 3:2 Clear and Convincing Evidence — Defined
- 3:3 Reasonable Doubt — Defined
- 3:4 No Speculation

B. PRESUMPTIONS AND PARTICULAR INFERENCES

- 3:5 Permissible Inference Arising from Rebuttable Presumption
- 3:5A Inference Arising from Invocation of Fifth Amendment Privilege
- 3:6 Statutory Presumptions That Shift the Burden of Proof
- 3:7 Constructive Knowledge Based on Duty to Inquire

C. WEIGHING OF EVIDENCE

- 3:8 Evidence in the Case — Stipulations — Judicial Notice —Inferences Permitted and Defined
- 3:9 Direct and Indirect (Circumstantial) Evidence — Defined
- 3:10 Depositions as Evidence

- 3:11 Testimony Read from Transcript
- 3:12 Preponderance Not Determined by Number of Witnesses
- 3:13 Adverse Inference from the Loss or Destruction of Evidence
- 3:14 Sympathy — Prejudice
- 3:15 Expert Witnesses
- 3:16 Determining Credibility of Witnesses
- 3:17 Highlighted Exhibits

CHAPTER 4. JURY DELIBERATIONS; VERDICT FORMS

A. DELIBERATIONS

- 4:1 Summary Closing Instruction
- 4:1A Applying Law to the Evidence
- 4:2 Duties Upon Retiring — Selection of Foreperson
- 4:2A Questions During Deliberations
- 4:3 Instruction When Jury Appears Deadlocked or Deliberations Are Unusually Prolonged

B. VERDICTS

- 4:4 Verdict Form for Plaintiff — Single Plaintiff and Single Defendant — Actual or Nominal Damages Only
- 4:5 Verdict Form for Plaintiff — Single Plaintiff and Single Defendant — Actual and Punitive Damages
- 4:6 Verdict Form for Defendant — Single Plaintiff and Single Defendant
- 4:7 Verdict Forms for Single Plaintiff and Multiple Defendants, Multiple Plaintiffs and Single Defendant, and Multiple Plaintiffs and Multiple Defendants
- 4:8 Verdict Form for Plaintiff on Counterclaim
- 4:9 Verdict Form for Defendant on Counterclaim
- 4:10 Verdict Form for Third-Party Plaintiff
- 4:11 Verdict Form for Third-Party Defendant
- 4:12 Verdict Form for Cross-Claimant
- 4:13 Verdict Form Against Cross-Claimant
- 4:14 Rendering a Sealed Verdict
- 4:15 Special Verdict (or Special Interrogatories) — Sample of Mechanics for Submitting
- 4:16 Special Verdict (or Special Interrogatories) Form — Sample
- 4:17 Reserved for Future Use
- 4:18 Reserved for Future Use

- 4:19 Reserved for Future Use
- 4:20 Model Unified Verdict Form

CHAPTER 5. GENERAL INSTRUCTIONS RELATING TO DAMAGES

- 5:1 Damages Not to Be Inferred
- 5:2 Affirmative Defense — Failure to Mitigate
- 5:3 Affirmative Defense — Nonuse of Safety Belt
- 5:4 Exemplary or Punitive Damages
- 5:5 Determining Life Expectancy — Mortality Table
- 5:6 Uncertainty as to Amount of Damages
- 5:7 Damages for Wrong of Another

CHAPTER 6. DAMAGES FOR INJURIES TO PERSONS OR PROPERTY

Introductory Note

A. PERSONAL INJURIES

- 6:1 Personal Injuries — Adults
- 6:1A Special Interrogatories to the Jury to Determine the Amount of Damages Awarded for Economic and Noneconomic Losses or Injuries and for Physical Impairment or Disfigurement — Mechanics for Submitting
- 6:1B Answers to Special Interrogatories to the Jury Set Forth in Instruction 6:1A
- 6:2 Personal Injuries — Minor Child
- 6:3 Personal Injuries — Minor Child — Measure of Parents' Damages
- 6:4 Personal Injuries — Minor Child — Loss of Earnings — Distinction Between Parents' and Child's Claims
- 6:5 Loss of Consortium — Elements of Liability
- 6:6 Loss of Consortium — Defined — Damages
- 6:7 Personal Injuries — Non-Reduction of Damages — “Thin Skull” Doctrine
- 6:8 Aggravation of Preexisting Condition
- 6:9 Damages Caused by Unrelated Second Event
- 6:10 Effect Of Income Tax and Other Economic Factors on Award of Damages

B. DAMAGES FOR LOSS OR DESTRUCTION OF PERSONAL PROPERTY

- 6:11 Personal Property — Difference in Market Value
- 6:12 Personal Property — Cost of Repairs

6:13 Personal Property — Loss of Use

C. MULTIPLE RECOVERY

6:14 Multiple Recovery Prohibited (When Plaintiff Suing on Alternative But Duplicative Claims for Relief)

CHAPTER 7. LEGAL RELATIONSHIPS

A. MINORS

7:1 Minor Child — Defined — Right to Sue or Defend

7:2 Emancipation — Defined

B. PARTNERSHIPS AND JOINT VENTURES

7:3 General Partnership — Defined

7:4 Joint Venture — Defined

7:5 Joint Venture in Operation of Vehicle or Other Instrumentality — Defined

7:6 Joint Venture — Imputing Negligence Among Joint Venturers

C. ENTITIES

7:7 Entity Acts Through Individuals

CHAPTER 8. LIABILITY BASED ON AGENCY AND RESPONDEAT SUPERIOR

A. DEFINITIONS

8:1 Agency Relationship — Defined

8:2 Disclosed or Unidentified Principal — Defined

8:3 Undisclosed Principal — Defined

8:4 Employer and Employee — Defined

8:5 Independent Contractor — Definition

8:6 Loaned Employee

8:7 Loaned Employee — Determination

8:8 Scope of Employment of Employee — Defined

8:9 Scope of Authority of Agent — Defined

8:9A Actual Authority

- 8:9B Express Authority
- 8:10 Incidental Authority — Defined
- 8:11 Implied Authority — Defined
- 8:12 Apparent Authority (Agency by Estoppel) — Definition and Effect
- 8:13 Scope of Authority or Employment — Departure
- 8:14 Ratification — Definition and Effect
- 8:15 Knowledge of Agent Imputable to Principal
- 8:16 Termination of Agent’s Authority
- 8:17 Termination of Agent’s Authority — Notice to Third Parties

B. LIABILITY ARISING FROM AGENCY

- 8:18 Principal and Agent — Both Parties Sued — Issue as to Relationship and/or Scope of Authority
- 8:19 Principal and Agent — Both Parties Sued — No Issue as to Relationship and Scope of Authority
- 8:20 Principal and Agent — Only Principal Sued — Issue as to Relationship and/or Scope of Authority
- 8:21 Principal and Agent — Only Principal Sued — No Issue as to Relationship and Scope of Authority

C. LIABILITY ARISING FROM RESPONDEAT SUPERIOR

- 8:22 Employer and Employee — Both Parties Sued — Issue as to Relationship and/or Scope of Employment
- 8:23 Employer and Employee — Both Parties Sued — No Issue as to Relationship and Scope of Employment
- 8:24 Employer and Employee — Only Employer Sued — Issue as to Relationship and/or Scope of Employment
- 8:25 Employer and Employee — Only Employer Sued — No Issue as to Relationship and Scope of Employment

CHAPTER 9. NEGLIGENCE — GENERAL CONCEPTS

Introductory Note

A. NEGLIGENCE AND DUTY OF CARE

- 9:1 Elements of Liability — No Negligence of the Plaintiff
- 9:2 Negligent Infliction of Emotional Distress — Elements of Liability

- 9:3 Negligent Misrepresentation Causing Physical Harm — Elements of Liability
- 9:4 Negligent Misrepresentation Causing Financial Loss in a Business Transaction — Elements of Liability
- 9:5 Negligent Misrepresentation Causing Financial Loss in a Business Transaction — Unreasonable Reliance — Defined
- 9:6 Negligence — Defined (Including Assumption of the Risk and Comparative Negligence Cases)
- 9:7 Negligence — Defined — Inherently Dangerous Activities
- 9:7A Ultrahazardous Activities Resulting in Strict Liability
- 9:8 Reasonable Care — Defined
- 9:9 Children — Standard of Care — Negligence (Including Comparative Negligence Cases)
- 9:10 Volunteer — Duty of Care
- 9:11 Sudden Emergency
- 9:12 Happening of Accident Not Presumptive Negligence
- 9:13 Looking But Failing to See as Negligence
- 9:14 Negligence Per Se — Violation of Statute or Ordinance
- 9:15 Conduct in Compliance with Statute or Ordinance and Justifiable Violation of Statute
- 9:16 Unknowing Violation of Statute or Ordinance
- 9:17 Res Ipsa Loquitur — Permissible Inference Arising from Rebuttable Presumption of Negligence

B. CAUSATION

Special Note

- 9:18 Cause When Only One Cause Is Alleged — Defined
- 9:19 Concurrent Causes (Excluding Designated Nonparty Fault Cases)
- 9:20 Cause — Concurrent Causes — Intervening Causes
- 9:21 Cause — Foreseeability Limitation

C. COMPARATIVE NEGLIGENCE AND COMPARATIVE FAULT

Special Note

- 9:22 Elements of Liability — Comparative Negligence
- 9:23 Affirmative Defense — Comparative Negligence of the Plaintiff
- 9:24 Affirmative Defense — Negligence or Fault of Designated Nonparty
- 9:25 Negligence of Parents Not Imputable to Children
- 9:26 Comparative Negligence of Plaintiff — Single Defendant — No Designated Nonparty Involved

- 9:26A Special Verdict Questions — Mechanics for Submitting — Comparative Negligence of the Plaintiff — Single Defendant — No Designated Nonparty
- 9:26B Special Verdict Forms — Comparative Negligence of the Plaintiff — No Counterclaim — Single Defendant — No Designated Nonparty — Forms A and B
- 9:26C Special Verdict Questions — Mechanics for Submitting — Comparative Negligence of the Plaintiff — No Counterclaim — Single Defendant — No Designated Nonparty (Alternative to Instruction 9:26A)
- 9:26D Special Verdict Forms — Comparative Negligence of the Plaintiff — No Counterclaim — Single Defendant — No Designated Nonparty — Forms A and B (Alternative to Instruction 9:26B)
- 9:27 Comparative Negligence of the Plaintiff — Multiple Defendants — No Designated Nonparty Involved
- 9:27A Special Verdict Questions — Mechanics for Submitting — Comparative Negligence of the Plaintiff — Multiple Defendants — No Designated Nonparty
- 9:27B Special Verdict Forms — Comparative Negligence of the Plaintiff — Multiple Defendants — No Designated Nonparty — Forms A and B
- 9:27C Special Verdict Questions — Mechanics for Submitting — Comparative Negligence of the Plaintiff — Multiple Defendants — No Designated Nonparty (Alternative to Instruction 9:27A)
- 9:27D Special Verdict Forms — Comparative Negligence of the Plaintiff — Multiple Defendants — No Designated Nonparty — Forms A and B (Alternative to Instruction 9:27B)
- 9:28 Comparative Negligence of Plaintiff — Single Defendant or Multiple Defendants — Designated Nonparty or Nonparties Involved
- 9:28A Special Verdict Questions — Mechanics for Submitting — Comparative Negligence of the Plaintiff — Single Defendant or Multiple Defendants — Designated Nonparty or Nonparties Involved
- 9:28B Special Verdict Forms — Comparative Negligence of the Plaintiff — Single Defendant or Multiple Defendants — Designated Nonparty or Nonparties Involved — Forms A and B
- 9:28C Special Verdict Questions — Mechanics for Submitting — Comparative Negligence of the Plaintiff — Single Defendant or Multiple Defendants — Designated Nonparty or Nonparties Involved (Alternative to Instruction 9:28A)
- 9:28D Special Verdict Forms — Comparative Negligence of the Plaintiff — Single Defendant or Multiple Defendants — Designated Nonparty or Nonparties Involved — Forms A and B (Alternative to Instruction 9:28B)
- 9:29 Elements — Multiple Defendants or One or More Defendants and One or More Designated Nonparties — No Negligence or Fault of Plaintiff
- 9:29A Special Verdict Questions — Mechanics for Submitting — Multiple Defendants or One or More Defendants and One or More Designated Nonparties — No Negligence or Fault of Plaintiff

9:29B Special Verdict Forms — Multiple Defendants or One or More Defendants and One or More Designated Nonparties — No Negligence or Fault of Plaintiff — Forms A and B

D. WILLFUL AND WANTON NEGLIGENCE

9:30 Willful and Wanton Conduct or Willful and Reckless Disregard — Defined

E. SUBJECTS ON WHICH NO SEPARATE INSTRUCTIONS HAVE BEEN PREPARED

9:31 Contributory Negligence, Contributory Negligence of (Spouse) (Parent) (Child), and Assumption of Risk

F. SUBJECTS ON WHICH NO SEPARATE INSTRUCTIONS SHOULD BE GIVEN

9:32 Rescue Doctrine, Unavoidable Accident, and Last Clear Chance

CHAPTER 10. WRONGFUL DEATH

10:1 Contributory Negligence of a Decedent

10:2 Contributory Negligence of a Plaintiff

10:3 Damages for Wrongful Death

10:4 Wrongful Death of Child — Determining Pecuniary Loss

CHAPTER 11. MOTOR VEHICLES AND HIGHWAY TRAFFIC

A. DUTY OF CARE

11:1 Duty to Maintain Lookout

11:2 Duty of Care of Driver Having Right of Way

11:3 Duty of Care of Pedestrian or Bicycle Operator Having Right of Way

11:4 Pedestrian in Crosswalk

11:5 Duty of Care of Minor Operating Motor Vehicle

11:6 Duty of Care of Physically or Mentally Handicapped Driver

11:7 Duty of Care of Unlicensed Driver

11:8 Duty of Care as to Speed of Vehicle

11:9 Right to Assume Others Will Obey the Law

11:10 Driving on Wrong Side of Road as Negligence

11:11 Right to Assume That Driver on Wrong Side of Road Will Return

11:12 Rear-End Collision — Presumption of Negligence

- 11:13 Brake or Other Equipment Failure
- 11:14 Driving Under the Influence — Defined

B. RESERVED FOR FUTURE USE

C. VICARIOUS LIABILITY — MOTOR VEHICLES

- 11:15 Family Car Doctrine
- 11:16 Head of Household — Defined
- 11:17 Household or Family — Defined
- 11:18 Imputation of Driver's Negligence to Owner or Co-Owner — Presumption of Control

CHAPTER 12. PREMISES LIABILITY

Introductory Note

A. PERSONS INJURED ON THE PREMISES

- 12:1 Liability of Owner or Occupant to a Trespasser Injured on Premises — Elements of Liability
- 12:2 Liability of Owner or Occupant to a Licensee Injured on Premises — Elements of Liability
- 12:3 Liability of Owner or Occupant to an Invitee Injured on Premises — Elements of Liability
- 12:4 Liability of Owner or Occupant to Children Injured on Premises — Attractive Nuisance Doctrine — Elements of Liability
- 12:5 Attractive Nuisance Doctrine — Child Between 14 and 18 — Presumption of Competency

B. PERSONS INJURED OFF THE PREMISES

- 12:6 Liability of Owner or Occupant to Persons Injured Off the Premises — Elements of Liability
- 12:7 Duty of Owner or Occupant to Persons Injured Off the Premises

C. LESSOR'S DUTY OF CARE

- 12:8 No Implied Warranty of Fitness
- 12:9 Lessor's Liability for Injury from Latent Defect

- 12:10 Lessor's Liability for Injury When Premises Leased for Public or Semi-Public Use and Were Defective at Time of Lease
- 12:11 Lessor's Liability as Affected By Lessor's Promise to Repair Premises
- 12:12 Liability of Lessor Who Commences Repair of Premises

D. AMUSEMENT PARK DEVICES — SKI LIFTS — OPERATOR'S DUTY OF CARE

- 12:13 Amusement Devices and Ski Lifts — Duty of Care Where User Lacks Freedom of Movement

E. LATERAL AND SUBJACENT SUPPORT

- 12:14 Landowner's Right to Lateral and Subjacent Support

F. PUBLIC PLACES

- 12:15 Colorado Governmental Immunity Act
- 12:16 Duty of Care By User of Public Way
- 12:17 Negligent Choice of Route

G. VIOLATION OF STATUTE OR ORDINANCE

- 12:18 Violation of Statute or Ordinance — Evidence of Failure to Exercise Reasonable Care

CHAPTER 13. ANIMALS

- 13:1 Domestic Animals — Dangerous or Vicious Tendencies — Elements of Liability
- 13:2 Wild Animals — Elements of Liability
- 13:3 Serious Bodily Injury or Death Resulting from Being Bitten by a Dog — Elements of Liability
- 13:4 Serious Bodily Injury — Defined
- 13:5 Damages

CHAPTER 14. PRODUCT LIABILITY

Introductory Note

A. STRICT PRODUCT LIABILITY

- 14:1 Elements of Liability

- 14:2 Manufacturer — Defined
- 14:3 Defective, Unreasonably Dangerous — Defined
- 14:4 Warnings and Instructions
- 14:5 Presumptions — Noncompliance with Governmental Standards
- 14:5A Presumptions — Compliance with Governmental Standards
- 14:5B Presumptions — Ten-Year Use of Product
- 14:6 State-of-the-Art
- 14:7 Damage Alone Not Proof Product Was Defective or Unreasonably Dangerous

B. PRODUCT LIABILITY FOR BREACH OF WARRANTY

- 14:8 Breach of Express Warranty Under U.C.C. — Elements of Liability
- 14:9 Express Warranty — Defined
- 14:10 Breach of Implied Warranty of Merchantability — Elements of Liability
- 14:11 Implied Warranty of Merchantability — Defined
- 14:12 Implied Warranty of Wholesomeness of Food — Defined
- 14:13 Breach of Implied Warranty of Fitness for a Particular Purpose — Elements of Liability
- 14:14 Implied Warranty of Fitness for a Particular Purpose — Defined
- 14:15 Notice of Breach of Warranty — What Constitutes
- 14:16 Implied Warranties — Creation and Exclusion or Modification

C. PRODUCT LIABILITY FOR NEGLIGENCE

- 14:17 Manufacturer's Liability Based on Negligence — Elements of Liability
- 14:18 Manufacturer's Duty as to Parts Obtained from Other Sources
- 14:19 Manufacturer's/Seller's Duty to Warn
- 14:20 Liability for Injury from Food or Beverage in Sealed Container — Elements of Liability
- 14:21 Prima Facie Negligence Liability for Injury from Food or Beverage in Sealed Container (Res Ipsa Loquitur)

D. STRICT PRODUCT LIABILITY FOR MISREPRESENTATION

- 14:22 Elements of Liability
- 14:23 Misrepresentation of Material Fact — Defined
- 14:24 Reasonable Reliance — Defined

E. AFFIRMATIVE DEFENSES AND DEFENSE CONSIDERATIONS

- 14:25 Affirmative Defense — Unreasonable, Knowing Use of Defective Product or Product Not in Compliance with Warranty
- 14:26 Affirmative Defense — Risk of an Unavoidably Unsafe Product
- 14:27 Affirmative Defense — Misuse of Product
- 14:28 Affirmative Defense — Comparative Fault Based on Unreasonable, Knowing Use of Product Involving Negligently Created Risk, Product Not in Compliance with Warranty, or Defective or Misrepresented Product
- 14:29 Affirmative Defense — Comparative Fault Based on Negligence
- 14:30 Comparative Fault — Elements and Effect — No Counterclaim — Single Defendant
- 14:30A Special Verdict — Mechanics for Submitting — No Counterclaim — Single Defendant
- 14:30B Special Verdict Forms — No Counterclaim — Single Defendant — Forms A, B, and C
- 14:31 Comparative Fault — Elements and Effect — No Counterclaim — Multiple Defendants
- 14:31A Special Verdict — Mechanics for Submitting — No Counterclaim — Multiple Defendants
- 14:31B Special Verdict Forms — No Counterclaim — Multiple Defendants — Forms A, B, and C
- 14:32 Comparative Fault — Elements and Effect — No Counterclaim — Single Defendant — Designated Nonparty or Nonparties Involved
- 14:32A Special Verdict — Mechanics for Submitting — No Counterclaim — Single Defendant — Designated Nonparty or Nonparties Involved
- 14:32B Special Verdict Forms — No Counterclaim — Single Defendant — Designated Nonparty or Nonparties Involved — Forms A, B, and C
- 14:33 Comparative Fault — Elements and Effect — Multiple Defendants — Designated Nonparty or Nonparties Involved
- 14:33A Special Verdict — Mechanics for Submitting — No Counterclaim — Multiple Defendants — Designated Nonparty or Nonparties Involved
- 14:33B Special Verdict Forms — No Counterclaim — Multiple Defendants — Designated Nonparty or Nonparties Involved — Forms A, B, and C

CHAPTER 15. PROFESSIONAL LIABILITY

I. PHYSICIANS AND PRACTITIONERS OF OTHER HEALING ARTS

A. MALPRACTICE

- 15:1 Elements of Liability

- 15:2 Negligence — Nonspecialist — Defined
- 15:3 Negligence — Specialist or One Who Has or Claims to Have Special Skill — Defined
- 15:4 No Implied Warranty of Successful Outcome
- 15:5 Referral of Patient to Another Physician
- 15:6 Contributory Negligence of Patient — Defined

B. BATTERY

- 15:7 Operation or Treatment Without Consent of Patient
- 15:8 Affirmative Defense — Consent, Express or Implied
- 15:9 Affirmative Defense — Implied Consent Based on Emergency

C. UNINFORMED CONSENT

- 15:10 Uninformed Consent — Elements of Liability
- 15:11 Information Required
- 15:12 Substantial Risk — Defined
- 15:13 Proof of Negligent Failure to Obtain Informed Consent

D. DAMAGES INSTRUCTIONS AND SPECIAL VERDICTS IN ACTIONS AGAINST HEALTH CARE PROFESSIONALS OR HEALTH CARE INSTITUTIONS

- 15:14 Special Verdict — Mechanics For Submitting — Tort Actions Against Health Care Professionals or Health Care Institutions
- 15:15 Special Verdict Forms — Tort Actions Against Health Care Professionals or Health Care Institutions — Forms A and B
- 15:16 Determining Present Value of Future Damages
- 15:17 Determining Lifelong Future Damages — Shortened Life Expectancy

II. ATTORNEYS — MALPRACTICE

- 15:18 Elements of Liability of Attorneys — Not Involving an Underlying Claim or Case
- 15:19 Elements of Liability of Attorneys — Involving an Underlying Matter (Case-Within-a-Case)
- 15:20 Elements of Liability of Attorneys — Involving an Underlying Matter (Case-Within-a-Case) — Determining Whether Plaintiff Should Have Prevailed in the Underlying Matter
- 15:21 Negligence — Attorneys — Defined
- 15:22 No Implied Warranty of Successful Outcome
- 15:23 Referral of Client to Another Attorney

15:24 Contributory Negligence of Client — Defined

III. OTHER PROFESSIONAL MALPRACTICE (ACCOUNTANTS, ARCHITECTS, ETC.)

15:25 Elements of Liability — Accountants, Architects, Etc.

15:26 Negligence — Other Professionals — Defined

15:27 Causation — Real Estate Brokers — Transactional Malpractice — Defined

15:28 No Implied Warranty of Successful Outcome — Other Professionals

15:29 Referral of Client to Another Professional Person

15:30 Contributory Negligence of Client — Defined

CHAPTER 16. BAILORS AND BAILEES

16:1 Bailment — Bailor — Bailee — Defined

16:2 Bailor Not Liable to Third Persons for Negligence of Bailee

16:3 Gratuitous Bailment — Duty of Bailor to Warn Bailee — Definition of Negligence

16:4 Non-Gratuitous Bailment — Duty of Non-Commercial Bailor to Bailee — Definition of Negligence

16:5 Duty of Bailee to Bailor

16:6 Failure of Bailee to Return Property or Return It in Undamaged Condition —
Presumption of Negligence

CHAPTER 17. MALICIOUS PROSECUTION AND ABUSE OF PROCESS

A. MALICIOUS PROSECUTION

17:1 Elements of Liability

17:2 Probable Cause — Defined

17:3 Probable Cause Not Dependent on Result of Criminal Case

17:4 Presence of Malice

17:5 Proof of Malice

17:6 Lack of Probable Cause Not to Be Inferred from Malice Alone

17:7 Affirmative Defense — Advice of Attorney

17:8 Affirmative Defense — Advice of Prosecuting Attorney

17:9 Actual Damages

B. ABUSE OF PROCESS

- 17:10 Elements of Liability
- 17:11 Actual Damages
- 17:12 Ulterior Purpose — Defined

CHAPTER 18. TRESPASS TO LAND

- 18:1 Trespass — Elements of Liability
- 18:2 Intentionally — Defined
- 18:3 Consent
- 18:4 Actual or Nominal Damages

CHAPTER 19. DECEIT BASED ON FRAUD

- 19:1 False Representation — Elements of Liability
- 19:2 Nondisclosure or Concealment — Elements of Liability
- 19:3 False Representation — Defined
- 19:4 Material Fact — Defined
- 19:5 Nondisclosure — Duty to Disclose
- 19:6 Concealment — Defined
- 19:7 False Representation — Reliance — Defined
- 19:8 Justifiable Reliance on False Representation — Defined
- 19:9 Justifiable Reliance — Nondisclosure or Concealment — Defined
- 19:10 Justifiable Reliance — No General Duty to Investigate
- 19:11 Reliance After Investigation
- 19:12 Statements of Future Intention or Promises as False Representations
- 19:13 Statements About the Future as False Representations
- 19:14 Statements of Law as False Representations
- 19:15 Statements of Opinion as False Representations
- 19:16 Affirmative Defense — Waiver by Plaintiff Before Plaintiff's Complete Performance
- 19:17 Actual Damages

CHAPTER 20. ASSAULT AND BATTERY

A. ASSAULT

- 20:1 Elements of Liability

- 20:2 Apprehension — Defined
- 20:3 Intent to Place Another in Apprehension — Defined
- 20:4 Actual or Nominal Damages

B. BATTERY

- 20:5 Elements of Liability
- 20:6 Contact — Defined
- 20:7 Intent — Defined
- 20:8 Transferred Intent
- 20:9 Actual or Nominal Damages

C. AFFIRMATIVE DEFENSES

- 20:10 Words Alone Do Not Justify
- 20:11 Consent
- 20:12 Self-Defense of Person
- 20:13 Self-Defense — Force Calculated to Inflict Death or Serious Bodily Injury
- 20:14 Defense of Another Person
- 20:15 Battery Defenses — Defense of Real Property
- 20:16 Battery Defenses — Defense of Personal Property
- 20:17 Battery Defenses — Recapture of Personal Property

CHAPTER 21. FALSE IMPRISONMENT OR ARREST

A. LIABILITY

- 21:1 Elements of Liability
- 21:2 Restriction of Freedom of Movement — Defined
- 21:3 Intent — Defined
- 21:4 Intent to Restrict by Failure to Release
- 21:5 Actual or Nominal Damages

B. AFFIRMATIVE DEFENSES

- 21:6 Consent
- 21:7 Statutory Privilege to Detain for Investigation
- 21:8 Common-Law Privilege to Detain for Investigation

- 21:9 Privilege to Defend Person or Property
- 21:10 Privilege of Any Person to Arrest Without a Warrant
- 21:11 Privilege of Peace Officer to Arrest Without a Warrant
- 21:12 Arrest — Defined
- 21:13 Reasonable Grounds for Believing and Probable Cause to Believe — Defined
- 21:14 Fresh Pursuit — Defined
- 21:15 Privilege to Arrest with a Warrant
- 21:16 Indication of Intent to Arrest — When Excused
- 21:17 Valid Warrant or Warrant Fair on Its Face — Defined
- 21:18 Guilt of Person Arrested
- 21:19 Abuse of a Privilege to Arrest

CHAPTER 22. DEFAMATION (LIBEL AND SLANDER)

Introductory Note

- 22:1 Libel or Slander Per Se — Where the Plaintiff Is a Public Official or Public Person or, If a Private Person, the Statement Pertained to a Matter of Public Interest or General Concern — Elements of Liability
- 22:2 Libel or Slander Per Quod — Where the Plaintiff Is a Public Official or Public Person or, If a Private Person, the Statement Pertained to a Matter of Public Interest or General Concern — Elements of Liability
- 22:3 Reckless Disregard Defined — Where the Plaintiff Is a Public Official or Public Person or, If a Private Person, the Statement Pertained to a Matter of Public Interest or General Concern
- 22:4 Libel or Slander Per Se — In a Private Matter Where Plaintiff Is a Private Person — Elements of Liability
- 22:5 Libel or Slander Per Quod — In a Private Matter Where Plaintiff Is a Private Person — Elements of Liability
- 22:6 Incremental Harm
- 22:7 Published — Defined
- 22:8 Defamatory — Defined
- 22:9 About the Plaintiff — Defined
- 22:10 Determination of Meaning of Statement — How Understood by Others
- 22:11 Determination of Meaning of Statement — Publication to Be Considered as a Whole
- 22:12 Determination of Meaning of Statement — Publication to Be Considered In Light of Surrounding Circumstances
- 22:13 False — Defined
- 22:14 Special Damages — Defined

- 22:15 Actual Damage — Defined
- 22:16 Affirmative Defense — Substantial Truth
- 22:17 Affirmative Defense — Absolute Privilege
- 22:18 Affirmative Defense — Qualified Privilege — When Lost
- 22:19 Affirmative Defense — Privilege to Report Official or Public Meeting Proceedings
- 22:20 Affirmative Defense — Privilege to Provider of Means of Communication
- 22:21 Affirmative Defense — Fair Comment
- 22:22 Affirmative Defense — Consent
- 22:23 Affirmative Defense — Statute of Limitations
- 22:24 Repetition by Third Persons as an Element of Damages
- 22:25 Damages — Recovery of
- 22:26 Circumstances That Mitigate Damages
- 22:27 Exemplary or Punitive Damages

CHAPTER 23. EXTREME AND OUTRAGEOUS CONDUCT — EMOTIONAL DISTRESS

- 23:1 Elements of Liability
- 23:2 Extreme and Outrageous Conduct — Defined
- 23:3 Recklessly or with Intent — Defined
- 23:4 Severe Emotional Distress — Defined
- 23:5 Exercising Legal Rights in Permissible Manner
- 23:6 Actual Damages

CHAPTER 24. INTENTIONAL INTERFERENCE WITH CONTRACTUAL OBLIGATIONS

- 24:1 Elements of Liability
- 24:2 Intentional Conduct — Defined
- 24:3 Improper — Defined
- 24:4 Interference — Defined
- 24:5 Contracts Terminable at Will or Voidable
- 24:6 Affirmative Defense — Privilege — When Existent — When Lost
- 24:7 Actual or Nominal Damages

CHAPTER 25. BAD FAITH BREACH OF INSURANCE CONTRACT

- 25:1 Elements of Liability — Third-Party Claims
- 25:2 Elements of Liability — First-Party Common-Law Claims
- 25:3 Unreasonable Conduct/Unreasonable Position — Common-Law Claims — Defined
- 25:4 Elements of Liability — First-Party Statutory Claims
- 25:5 Unreasonable Delay or Denial
- 25:6 Unreasonable Conduct/Unreasonable Position — Statutory Violations — Defined
- 25:7 Reckless Disregard — Defined
- 25:8 Duty of Good Faith and Fair Dealing
- 25:9 Actual Damages — Common-Law Claims
- 25:10 Benefit Amount — First-Party Statutory Claims
- 25:11 Punitive Damages

CHAPTER 26. BREACH OF FIDUCIARY DUTY

- 26:1 Elements of Liability
- 26:2 Fiduciary Relationship — Defined
- 26:3 Fiduciary Relationship Arising Out of a Confidential Relationship
- 26:4 Confidential Relationship — Defined
- 26:5 Actual Damages

CHAPTER 27. CIVIL CONSPIRACY

- 27:1 Elements of Liability
- 27:2 Unlawful Means — Defined
- 27:3 Unlawful Goal — Defined

CHAPTER 28. INVASION OF PRIVACY

- 28:1 Invasion of Privacy by Intrusion — Elements of Liability
- 28:2 Intrusion — Very Offensive to a Reasonable Person — Defined
- 28:3 Intentional Intrusion — Defined
- 28:4 Invasion of Privacy by Appropriation — Elements of Liability
- 28:5 Invasion of Privacy by Public Disclosure of Private Facts — Elements of Liability
- 28:6 Public Statement or Disclosure — Defined
- 28:7 About the Plaintiff — Defined

- 28:8 Private Facts — Defined
- 28:9 Public Disclosure of Private Facts — Very Offensive to a Reasonable Person — Defined
- 28:10 Invasion of Privacy by Publicity Placing Plaintiff in a False Light
- 28:11 Invasion of Privacy — Affirmative Defense — Privilege
- 28:12 Invasion of Privacy — Affirmative Defense — Statute of Limitations
- 28:13 Invasion of Privacy — Affirmative Defense — Consent
- 28:14 Invasion of Privacy — Damages
- 28:15 Invasion of Privacy — Exemplary or Punitive Damages

CHAPTER 29. THE COLORADO CONSUMER PROTECTION ACT

Introductory Note

- 29:1 Elements of Liability
- 29:2 Deceptive Trade Practices — Defined
- 29:3 False Representation/Misrepresentation — Defined
- 29:4 Significant Impact on the Public — Defined
- 29:5 Actual Damages
- 29:6 Treble Damages

CHAPTER 30. CONTRACTS

Introductory Note

A. CONTRACT FORMATION

- 30:1 Contract Formation — In Dispute
- 30:2 Contract Formation — Need Not Be in Writing
- 30:3 Contract Formation — Offer
- 30:4 Contract Formation — Revocation of Offer
- 30:5 Contract Formation — Counteroffer
- 30:6 Contract Formation — Acceptance
- 30:7 Contract Formation — Consideration
- 30:8 Contract Formation — Modification
- 30:9 Contract Formation — Third-Party Beneficiary

B. CONTRACT PERFORMANCE

- 30:10 Contract Performance — Breach of Contract — Elements of Liability

- 30:11 Contract Performance — Breach of Contract Defined
- 30:12 Contract Performance — Substantial Performance
- 30:13 Contract Performance — Anticipatory Breach
- 30:14 Contract Performance — Time of Performance
- 30:15 Contract Performance — Conditions Precedent
- 30:16 Contract Performance — Implied Duty of Good Faith and Fair Dealing — Non-Insurance Contract
- 30:17 Contract Performance — Assignment

C. DEFENSES

Introductory Note

- 30:18 Defense — Fraud in the Inducement
- 30:19 Defense — Undue Influence
- 30:20 Defense — Duress
- 30:21 Defense — Minority
- 30:22 Defense — Mental Incapacity
- 30:23 Defense — Impossibility of Performance
- 30:24 Defense — Inducing a Breach by Words or Conduct
- 30:25 Defense — Waiver
- 30:26 Defense — Statute of Limitations
- 30:27 Defense — Cancellation by Agreement
- 30:28 Defense — Accord and Satisfaction (Later Contract)
- 30:29 Defense — Novation

D. CONTRACT INTERPRETATION

Introductory Note

- 30:30 Contract Interpretation — Disputed Term
- 30:31 Contract Interpretation — Parties' Intent
- 30:32 Contract Interpretation — Contract as a Whole
- 30:33 Contract Interpretation — Ordinary Meaning
- 30:34 Contract Interpretation — Use of Technical Words in a Contract
- 30:35 Contract Interpretation — Construction Against Drafter
- 30:36 Contract Interpretation — Specific and General Clauses

E. DAMAGES

Introductory Note

- 30:37 Damages — Introduction
- 30:38 Damages — General
- 30:39 Damages — Special
- 30:40 Damages — Liquidated
- 30:41 Damages — Nominal
- 30:42 Damages — Purchaser's for Breach of Land Purchase Contract
- 30:43 Damages — Seller's for Breach of Land Purchase Contract
- 30:44 Damages — Employer's for Employee's Breach of Personal Service Contract
- 30:45 Damages — Builder's for Breach of Construction Contract by Owner Prior to Completion
- 30:46 Damages — Builder's for Substantial Though Not Complete Performance of Construction Contract
- 30:47 Definition — Contract Price Agreed Upon
- 30:48 Damages — Builder's for Owner's Partial Breach — Failure to Make Installment Payment
- 30:49 Damages — Owner's for Breach of Construction Contract by Builder
- 30:50 Damages — Owner's for Delay in Completion of Construction Contract
- 30:51 Damages — Broker's for Breach of Real Estate Commission Contract
- 30:52 Damages — Owner's for Wrongful Deprivation of Use of a Chattel
- 30:53 Damages — Owner's for Breach of a Covenant Against Encumbrances

F. PARTICULAR CONTRACTS

- 30:54 Claim — Building Contractor's Breach of Implied Warranty — Elements of Liability
- 30:55 Definition — Building Contractor's Implied Warranties
- 30:56 Claim — Real Estate Commission — Elements of Liability

CHAPTER 31. WRONGFUL DISCHARGE

A. BREACH OF CONTRACT CLAIMS

- 31:1 Breach of Employment Contract for a Definite Period of Time — Elements of Liability
- 31:2 Employment Contract Providing for Fixed Term Salary — Cautionary Instruction
- 31:3 Breach of Employment Contract for an Indefinite Period of Time Requiring Good or Just Cause for Termination — Elements of Liability

- 31:4 Breach of Implied Contract Based on Violation of Employer’s Termination Policies or Procedures — Elements of Liability
- 31:5 At-Will Employment — Defined
- 31:6 Good or Just Cause — Defined
- 31:7 General Damages for Wrongful Discharge — Breach of Contract Claim
- 31:8 Mitigation of Damages for Wrongful Discharge
- 31:9 Constructive Discharge — Defined
- 31:10 Constructive (Implied) Discharge
- 31:11 Affirmative Defense to Contract Claim — After-Acquired Evidence of Fraud or Other Misconduct

B. TORT CLAIMS

- 31:12 Tort Claim for Wrongful Discharge Based on Violations of Public Policy — Employer’s Retaliation Against an Employee for Refusal to Comply with Employer’s Improper Directive — Elements of Liability
- 31:13 Tort Claim for Wrongful Discharge Based on Violations of Public Policy — Employer’s Retaliation Against an Employee for Exercising a Right or Performing a Public Duty — Elements of Liability
- 31:14 Advisory Instruction on Wrongful Discharge in Violation of Public Policy
- 31:15 Damages for Wrongful Discharge — Tort Claim
- 31:16 Affirmative Defense to Damages for Public-Policy Discharge Claim — After-Acquired Evidence of Fraud or Other Misconduct

CHAPTER 32. PERSONAL PROPERTY

A. CONVERSION

- 32:1 Elements of Liability
- 32:2 Intentional and Substantial Interference — Defined
- 32:3 Damages

B. CIVIL THEFT

- 32:4 Elements of Liability
- 32:5 Intentional and Knowingly — Defined
- 32:6 Damages — Actual
- 32:7 Damages — Statutory

CHAPTER 33. RESERVED FOR FUTURE USE

CHAPTER 34. WILLS

- 34:1 Will Contest — Statement of the Case
- 34:2 Elements of Proof of Properly Executed, Signed, and Witnessed or Acknowledged Will — All Wills Except Self-Proved and Holographic
- 34:3 Conscious Presence — Defined
- 34:4 Witness Having an Interest Under the Will
- 34:5 Elements of Proof of Properly Executed Will — Self-Proved Will
- 34:6 Elements of Proof of Properly Executed Will — Holographic Will
- 34:7 Testamentary Intent — Defined
- 34:8 Revocation by Burning, Tearing, Cancelling, Obliterating, or Destroying — Defined
- 34:9 Presumption of Revocation of Lost Will or of Will or Part(s) of Will Found Burned, Torn, Cancelled, Obliterated, or Destroyed
- 34:10 Burden of Proof on Issues of Sound Mind and Memory (Testamentary Capacity) and Undue Influence
- 34:11 Testamentary Capacity and Sound Mind — Defined
- 34:12 Insane Delusion — Defined
- 34:13 Effect of Attestation of Will by Witnesses
- 34:14 Undue Influence — Defined
- 34:15 Factors to Be Considered in Determining Undue Influence
- 34:16 Undue Influence — Presumption When Beneficiary in a Confidential or Fiduciary Relationship
- 34:17 Undue Influence — Permissible Inference When Presumption of Undue Influence Is Rebutted
- 34:18 Confidential Relationship — Defined
- 34:19 Fiduciary Relationship — Defined
- 34:20 Verdict Form for Proponent
- 34:21 Verdict Form for Contestant

CHAPTER 35. MENTAL HEALTH — PROCEEDINGS FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND TREATMENT OF THE MENTALLY ILL UNDER C.R.S. TITLE 27, ARTICLE 65

- 35:1 Statement of the Case and Mechanics for Submitting Special Verdict — Short-Term Treatment

- 35:2 Statement of the Case and Mechanics for Submitting Special Verdict — Long-Term Care and Treatment
- 35:3 Person with a Mental Illness or Mental Health Disorder — Defined
- 35:4 Gravely Disabled — Defined
- 35:5 Danger to Self or Others — Defined
- 35:6 Expert Witness — Court-Appointed Professional Person
- 35:7 Special Verdict Form — Short-Term Treatment
- 35:8 Special Verdict Form — Long-Term Care and Treatment

CHAPTER 36. EMINENT DOMAIN

- 36:1 Instruction to Commissioners as to Duties
- 36:2 Burden of Proof as to Issues
- 36:3 Ascertainment of Value of Property Taken
- 36:4 Ascertainment of Damages and Specific Benefits to Residue
- 36:5 Ascertainment of Damages to Residue — Limitations
- 36:6 Ascertainment of Market Value, Damages, or Specific Benefits — Most Advantageous Uses
- 36:7 Approaches to Valuation
- 36:8 Sales of Comparable Properties
- 36:9 Cost Approach
- 36:10 Income Approach
- 36:11 Report of Commissioners or Verdict Form

CHAPTER 37. RESERVED FOR FUTURE USE

CHAPTER 38. RESERVED FOR FUTURE USE

CHAPTER 39. RESERVED FOR FUTURE USE

CHAPTER 40. CHILDREN’S CODE — JUVENILE DELINQUENCY

Introductory Note

- 40:1 Introductory Remarks to Jury Panel
- 40:2 General Outline of Trial Procedures to Jury
- 40:3 Summary Closing Instruction

CHAPTER 41. CHILDREN’S CODE — DEPENDENCY AND NEGLECT

- 41:1 Introductory Remarks to Jury Panel
- 41:2 General Outline of Trial Procedures to Jury
- 41:3 Explanation of Dependency and Neglect Proceedings
- 41:4 Statement of the Case and Requirements for Establishing Child Dependent and Neglected
- 41:5 Adjudication of No Fault
- 41:6 Abandonment — Defined
- 41:7 Proper Parental Care — Defined
- 41:8 Mistreatment or Abuse — Defined
- 41:9 Mistreatment or Abuse — Includes Emotional Abuse
- 41:10 Environment Injurious to Child’s Welfare — Defined
- 41:11 Treatment of Other Child or Children
- 41:12 Custody Not Required
- 41:13 Run Away from Home — Defined
- 41:14 Pattern of Habitual Abuse — Defined
- 41:15 Prospective Harm
- 41:16 Dependency and Neglect Because of Abandonment — Elements
- 41:17 Dependency and Neglect Because of Mistreatment or Abuse — Elements
- 41:18 Dependency and Neglect Because of Lack of Proper Parental Care — Elements
- 41:19 Dependency and Neglect Because of Injurious Environment — Elements
- 41:20 Dependency and Neglect Because of Failure to Provide Necessary Subsistence, Education, Medical Care, or Other Necessary Care — Elements
- 41:21 Dependency and Neglect Because of Homelessness or Lack of Proper Care — Elements
- 41:22 Dependency and Neglect Due to Not Living with His or Her Parent, Guardian, or Legal Custodian — Elements
- 41:23 Dependency and Neglect Because of Having Run Away or Being Beyond Control of the Respondent — Elements
- 41:24 Dependency and Neglect Because of Testing Positive at Birth for Schedule I or Schedule II Controlled Substance — Elements
- 41:25 Dependent and Neglected Because of Pattern of Habitual Abuse — Elements
- 41:26 Special Verdict — Mechanics for Submitting
- 41:27 Special Verdict Form
- 41:28 Use of Present Tense — Dependency and Neglect