Index

A.B.A. Model Rules of Professional Conduct, 1 Attys §§ 407, 408

Abatement
actions, abatement of, see Survival and abatement of actions
nuisance, see Nuisances
plea in, see Plea in abatement

Abortion
attorneys’ fees in actions involving abortion rights, see Private attorney general doctrine

Abstract of judgment
in general, 7 Judgm § 64
affidavit of identity requirement, 8 Enf Judgm § 70
certification of, 8 Enf Judgm § 70
in forma pauperis suit, see In forma pauperis suit
mistake in information, effect of, 8 Enf Judgm § 70
money judgment, 8 Enf Judgm § 70
omission of information from in general, 8 Enf Judgm § 70
date of entry, correction for, 7 Judgm § 68
recordation, effect of failure in, 8 Enf Judgm § 70

Abuse of process—Cont’d
venue—Cont’d
filing at improper venue as, 5 Plead § 762

Accommodation makers, see Sureties

Accord and satisfaction
answer, as defense in, see Answer
defense, as, see Answer

Account debtor, see Attachment

Account stated
accrual of actions on, 3 Actions § 542
answer, as defense in, 5 Plead § 1094
bill of particulars, 4 Plead § 502
defense, as, 5 Plead § 1094
pleading, 4 Plead § 565

Accountants
California Board of Accountancy, 9 Admin Proc § 194
malpractice
limitation and accrual of action, 3 Actions § 651 et seq.

Accounting
accrual of actions, 3 Actions § 683
appeal of order approving, 9 Appeal § 160
default judgment, amount of, 6 PWT § 153
equitable nature of action, 3 Actions § 129; 5 Plead § 819
final order for, 7 Judgm § 14
fraud, action based on, 3 Actions § 132
instructions to jury, 7 Trial § 284
interlocutory order for, 7 Judgm § 15
jury instructions, 7 Trial § 284
law practice administrator, accounting by, 1 Attys § 87
limitation and accrual of actions, 3 Actions § 683
nature of action, 5 Plead § 819
pleading
in general, 5 Plead § 819 et seq.
elements of cause of action, 5 Plead § 760
statute of limitations, 3 Actions § 553

venue
in general, 3 Actions § 821
Accounting—Cont’d
pleading—Cont’d
fiduciary relationship, 5 Plead § 821
venue of action, 3 Actions § 824

Accounts
account stated, see Account stated
accrual of actions, 3 Actions § 540 et seq.
bill of particulars in action on account, see
Bill of particulars
book accounts
acccrual of actions, 3 Actions § 541
attorneys’ fees in contract action based
on, 7 Judgm § 174
collection of debt, restrictions on action
for, 3 Actions § 515*
defined, 3 Actions § 516
express contract, book account despite,
3 Actions § 518
format, 3 Actions §§ 516, 540
limitation and accrual of actions, 3
Actions § 515 et seq.
permanent records without book, 3
Actions § 517
current accounts, accrual of actions on, 3
Actions § 540
date of last item, effect of, 3 Actions
§ 540 et seq.
instructions to jury, 7 Trial § 284
jury instructions, 7 Trial § 284
limitation and accrual of actions, 3
Actions §§ 484, 515 et seq., 540 et
seq.
long account, reference for examination, 6
PWT § 66
mutual accounts, accrual of actions on, 3
Actions § 540
open accounts, accrual of actions on, 3
Actions § 540
receivable
attachment of, see Attachment
levy on, see Execution and levy
personal property judgment lien on, see
Judgment liens
receivers, by, 6 Prov Rem § 458
statute of limitations, 3 Actions §§ 484,
515 et seq., 540 et seq.
taking account, reference for, 6 PWT § 66

Accrual of actions, see Limitation and
acccrual of actions

Action to free child from parental control
confession of judgment, 6 PWT § 132

Actions
in general, 3 Actions § 1 et seq.
abatement of, see Survival and abatement
of actions
accounting, action for, see Accounting
acccrual of, see Limitation and accrual of
actions
administrative proceedings distinguished,
3 Actions § 62
cancellation of instruments, see Cancellation
of instruments
cause of action, see Cause of action
choice of law, see Conflict of laws
civil and criminal actions distinguished, 3
Actions § 68
classification of, 3 Actions § 63
commencement of, conflict of laws
regarding, see Conflict of laws
conditions precedent to, 3 Actions § 203
et seq.
conflict of laws, see Conflict of laws
contracts, actions based on, see Contract
actions
criminal and civil actions distinguished, 3
Actions § 68
death, effect on, see Survival and abatement
of actions
defined
in general, 3 Actions § 62
involuntary dismissal for delay, defined
for, 6 PWT § 315
demurrer distinguished, 3 Actions § 62
disfavored, 3 Actions § 63
election of remedies, see Election of rem-
edies
equitable, see Legal and equitable actions
exhaustion of remedies
in general, see Exhaustion of remedies
administrative, see Exhaustion of
administrative remedies
contractual, see Exhaustion of contract
or private remedies
judicial, see Exhaustion of judicial rem-
edies
private, see Exhaustion of contract or
private remedies
expungement of public records, see Legal
and equitable actions
forms of
in general, 3 Actions § 118 et seq.
### Actions—Cont’d

**Forms of—Cont’d**
- Conflict of laws regarding, 3 Actions § 46
- Fraud actions, *see* Fraud and deceit
- Government tort claims as prerequisite, *see* Government tort claims
  - *In forma pauperis* suit, *see* In forma pauperis suit
- Interpleader, *see* Interpleader
- Judgment, action on, *see* Enforcement of judgment
- Judicial remedies, *see* Judicial remedies
- Jurisdiction, *see* Jurisdiction
- Legal, *see* Legal and equitable actions
- Limitation of actions, *see* Limitation and accrual of actions
- Lis pendens, *see* Lis pendens
- Moot cases, 3 Actions § 32*
- Partition, *see* Partition
- Preliminary steps, 3 Actions § 203 et seq.
- Process, *see* Process
- Quiet title, *see* Quiet title
- Remedies, *see* Election of remedies;
- Judicial remedies
- Ripeness, 3 Actions §§ 21, 23, 26
- Service of process, *see* Process
- Special proceedings, *see* Special proceedings
- Standing to bring, *see* Standing to bring action
- Statute of limitations, *see* Limitation and accrual of actions
- Survival of, *see* Survival and abatement of actions
- Torts, actions based on, *see* Tort actions
- Venue, *see* Venue

**Additum, see** New trial

### Administration of decedents’ estates

**—Cont’d**
- Settlement of account
  - Appeal of orders regarding, *see* Probate proceedings
- Special proceeding, as, 3 Actions § 65
- Subject matter jurisdiction, 2 Jurisd § 97

### Administrative adjudication

*In general*, 9 Admin Proc § 57 et seq.
- Accusation, 9 Admin Proc § 97 et seq.
- “Adjudicative proceeding” defined, 9 Admin Proc § 63
- Administrative Adjudication Bill of Rights, 9 Admin Proc § 68 et seq.
- Administrative Adjudication Code of Ethics, *see* Administrative law judges
- Administrative mandamus, *see* Administrative mandamus

**Administrative Procedure Act**
*In general, see* Administrative Procedure Act
- Provisions, 9 Admin Proc §§ 57, 63 et seq., 96 et seq.
- Administrative review, 9 Admin Proc § 95
- Agency
  - Conduct of hearing by, 9 Admin Proc § 109
  - Defined, 9 Admin Proc §§ 63, 64
  - Joint and concerted state and local agency, application to, 9 Admin Proc § 164*
  - “Agency head” defined, 9 Admin Proc § 63
- Alternative dispute resolution, 9 Admin Proc § 84 et seq.
- Amendment of accusation or statement of issues, 9 Admin Proc § 99
- Appeal, filing fees for, 2 Courts § 180
- Arbitration, 9 Admin Proc § 84 et seq.
- Award of interest, 2 Courts §§ 61, 62
- Change of venue, 9 Admin Proc § 106
- Client identification, 9 Admin Proc § 90
- Communications
  - Alternative dispute resolution proceeding, 9 Admin Proc § 86
  - Ex parte, 9 Admin Proc §§ 68, 74 et seq.
- Presiding officer, with, *see* presiding officer (this group)
- Consolidation of proceedings, 9 Admin Proc § 101

**Index-3**
Administrative adjudication—Cont’d
contempt, 9 Admin Proc § 94
conversion of proceeding, 9 Admin Proc § 87
decisions
  in general, 9 Admin Proc § 112 et seq.
  adoption by agency, 9 Admin Proc § 113
correction, 9 Admin Proc § 116
declaratory, 9 Admin Proc §§ 82, 83
default, see Default judgment; Relief from judgment
defined, 9 Admin Proc §§ 63, 64
effectiveness, 9 Admin Proc § 117
emergency decision, 9 Admin Proc § 81
enforcement, 9 Admin Proc § 117
filing, 9 Admin Proc § 115
precedential, designation as, 9 Admin Proc §§ 68, 73
reference by agency, 9 Admin Proc § 113
rendition, 9 Admin Proc § 113
requirements for, 9 Admin Proc §§ 68, 71 et seq.
res judicata effect of, see Res judicata
service, 9 Admin Proc §§ 115, 116
statement of reasons, 9 Admin Proc § 113
stay, 9 Admin Proc § 117
time for, 9 Admin Proc § 114
declaratory decisions, 9 Admin Proc §§ 82, 83
default judgment, see Default judgment; Relief from judgment
defense, notice of, 9 Admin Proc § 100
deference to agency statutory interpretation, 9 Admin Proc § 131 et seq.*
definitions, 9 Admin Proc § 63
delaying acts, sanctions for, 9 Admin Proc § 94
disciplinary proceedings, nature of, 3
Actions § 78
discovery
  in general, 9 Admin Proc §§ 102, 103
dismissal for delay, 9 Admin Proc § 114
disqualification of presiding officer
  in general, 9 Admin Proc § 110
  bias, 9 Admin Proc §§ 68, 70
  ex parte communications, 9 Admin Proc § 74
Administrative adjudication—Cont’d
electronically conducted hearings, 9
  Admin Proc § 69
emergency decisions, 9 Admin Proc §§ 80, 81
evidence
  rules, 9 Admin Proc § 93
  ex parte communications, 9 Admin Proc §§ 68, 74 et seq.
filing
  accusation, 9 Admin Proc § 97
decision, 9 Admin Proc § 115
  statement of issues, 9 Admin Proc § 97
  findings, sufficiency of, 9 Admin Proc § 72*
formal procedures, 9 Admin Proc § 96 et seq.
frivolous acts, sanctions for, 9 Admin Proc § 94
governing procedure, right to copy of, 9
  Admin Proc § 68
hearing-impaired, assistance for, 9 Admin Proc § 77
hearings
  in general, 9 Admin Proc §§ 96 et seq., 106 et seq.
  administrative law judge, conduct by, 9
    Admin Proc § 109
  agency, conduct by, 9 Admin Proc § 109
  burden of proof, 9 Admin Proc § 111
  change of venue, 9 Admin Proc § 106
  conduct of, 9 Admin Proc § 109
  continuance, 9 Admin Proc § 108
  discovery, 9 Admin Proc § 114
  disqualification of presiding officer, see disqualification of presiding officer (this group)
electronic means, hearing by, 9 Admin Proc § 92
emergency decision, 9 Admin Proc § 81
evidence, 9 Admin Proc § 111
formal procedures, 9 Admin Proc § 96 et seq.
notice, 9 Admin Proc § 107
officer, county hearing, 9 Admin Proc § 59
open hearing requirement, 9 Admin Proc § 69
place, 9 Admin Proc § 106
Administrative adjudication—Cont’d

powers of presiding officer, 9 Admin Proc § 109
presiding officer, 9 Admin Proc § 109
reporting of, 9 Admin Proc § 109
requirement, 9 Admin Proc § 68
time, 9 Admin Proc § 106
informal hearings, 9 Admin Proc §§ 78, 79
informal proceedings, 9 Admin Proc §§ 78, 79
intervention, 9 Admin Proc § 91
investigation, 9 Admin Proc §§ 102, 103
judicial review

in general, 9 Admin Proc § 148 et seq.
administrative mandamus, 9 Admin Proc § 148 et seq.
apellate court, role of, 9 Admin Proc § 148
arbitration award, 9 Admin Proc § 85
emergency decision, 9 Admin Proc § 81
independent judgment, 9 Admin Proc § 148
limited trial de novo, 9 Admin Proc § 148
permit decisions involving First Amendment, 9 Admin Proc § 153
petition, 9 Admin Proc § 149
private organizations, adjudication by, 9 Admin Proc § 152
record on review, 9 Admin Proc § 151
stay pending review, 9 Admin Proc § 150
transcript, right to, 9 Appeal § 151*
language assistance right, 9 Admin Proc §§ 68, 77
license, reinstatement of, 9 Admin Proc § 119
mandatory provisions, 9 Admin Proc § 66

mediation, 9 Admin Proc § 84 et seq.

notice

in general, 9 Admin Proc § 88
conversion of proceeding, 9 Admin Proc § 87
declaratory decision, 9 Admin Proc § 83
defense, 9 Admin Proc § 100
emergency decision, 9 Admin Proc § 81
hearing, 9 Admin Proc § 107

Administrative adjudication—Cont’d

notice—Cont’d

in general, 9 Admin Proc § 79
requirement, 9 Admin Proc § 68
Office of Administrative Hearings, 9 Admin Proc §§ 58, 202
open hearing requirement, 9 Admin Proc § 69
optional provisions, 9 Admin Proc § 66
“party” defined, 9 Admin Proc § 63
penalty, reduction of, 9 Admin Proc § 119
“person” defined, 9 Admin Proc § 63
precedential value of decision, 9 Admin Proc §§ 68, 73
prehearing conference, 9 Admin Proc § 104
presiding officer
communication with, 9 Admin Proc § 74
defined, 9 Admin Proc § 63
disqualification, see disqualification of presiding officer (this group)
hearings, see hearings (this group)
public proceeding requirement, 9 Admin Proc §§ 68, 69
quashing subpoenas, 9 Admin Proc § 89
“quasi-judicial proceeding” defined, 9 Admin Proc § 90
“quasi-public entities, decisions by, 9 Admin Proc § 64
reconsideration, 9 Admin Proc § 118
regulations governing
in general, 9 Admin Proc §§ 57, 58
conversion of proceeding, 9 Admin Proc § 87
res judicata effect of, see Res judicata
review
administrative review, 9 Admin Proc § 95
judicial review, see judicial review (this group)
sanctions, 9 Admin Proc § 94
scope, 9 Admin Proc § 57
separation of functions requirement for agency, 9 Admin Proc §§ 68, 70
service
in general, 9 Admin Proc § 88
accusation, 9 Admin Proc § 98
correction of decision, 9 Admin Proc § 116
decision, 9 Admin Proc § 115
Administrative adjudication—Cont’d

service—Cont’d
statement of issues, 9 Admin Proc § 98
subpena, 9 Admin Proc § 89
settlement
in general, 9 Admin Proc § 63
communication for purpose of, 9
Admin Proc § 75
conference, 9 Admin Proc §§ 104, 105
severance of proceedings, 9 Admin Proc § 101
sexual misconduct, evidentiary rules, 9
Admin Proc § 93
stare decisis, applicability of, 9 Appeal § 486
statement of factual basis, 9 Admin Proc § 72
statement of issues, 9 Admin Proc § 97 et seq.
statute, specific prevails, 9 Admin Proc § 65
statutory interpretation, deference to agency, 9 Admin Proc § 131
stay
agency, stay by, 9 Admin Proc § 117
judicial review, pending, 9 Admin Proc § 150
subpenas
in general, 9 Admin Proc § 89
investigation, in aid of, 9 Admin Proc § 103
supplementation of accusation or statement of issues, 9 Admin Proc § 99
sympathy expressed to accident victim, evidentiary rules, 9 Admin Proc § 93
translation and interpretation right, 9 Admin Proc §§ 68, 77
vacation of default, 9 Admin Proc § 112
waiver of rights, 9 Admin Proc § 63
“written communication” defined, 9 Admin Proc § 90
written decision requirement, 9 Admin Proc §§ 68, 71 et seq.

Administrative agencies—Cont’d

Administrative Procedure Act, see Administrative Procedure Act
appeal by, 9 Appeal § 55
attorneys’ conflicts of interest, see Attorney-client relationship
Business, Transportation, and Housing Agency, see Business, Transportation, and Housing Agency
California Environmental Protection Agency, see Environmental protection
capacity to be sued, see Capacity to sue and be sued
Commerce Clause limitations, 9 Admin Proc § 4
colors of interest, attorneys’, see Attorney-client relationship
Constitution
creation by, 9 Admin Proc § 2
due process, see Administrative due process
limits on, 9 Admin Proc §§ 3, 4
creation of, 9 Admin Proc § 2
due process requirements, see Administrative due process
Equal Protection Clause limitations, 9 Admin Proc § 4
Health and Human Services Agency, see Health and Human Services Agency
initiative, creation by, 9 Admin Proc § 2
instructions to jury, 7 Trial § 284
Judicial Powers Clause limitations, 9 Admin Proc § 4
judicial review, see Administrative Procedure Act
jury instructions, 7 Trial § 284
Labor and Workforce Development Agency, see Labor and Workforce Development Agency
Legislature, creation by, 9 Admin Proc § 2
local agencies, creation of, 9 Admin Proc § 2
open meeting requirements, see Open meeting requirements
party to action, as, 4 Plead § 69
plaintiffs, state agencies pleading as, 4 Plead § 105*
pleading regarding, see Pleading
practice before by nonlawyers, 1 Attys § 402

Administrative agencies—Cont’d

in general, 9 Admin Proc §§ 1 et seq., 154 et seq.
adjudication, see Administrative adjudication
administrative mandamus, see Administrative mandamus

Administrative adjudication

service
statement of issues, 9 Admin Proc § 98
subpena, 9 Admin Proc § 89
settlement
in general, 9 Admin Proc § 63
communication for purpose of, 9
Admin Proc § 75
conference, 9 Admin Proc §§ 104, 105
severance of proceedings, 9 Admin Proc § 101
sexual misconduct, evidentiary rules, 9
Admin Proc § 93
stare decisis, applicability of, 9 Appeal § 486
statement of factual basis, 9 Admin Proc § 72
statement of issues, 9 Admin Proc § 97 et seq.
statute, specific prevails, 9 Admin Proc § 65
statutory interpretation, deference to agency, 9 Admin Proc § 131
stay
agency, stay by, 9 Admin Proc § 117
judicial review, pending, 9 Admin Proc § 150
subpenas
in general, 9 Admin Proc § 89
investigation, in aid of, 9 Admin Proc § 103
supplementation of accusation or statement of issues, 9 Admin Proc § 99
sympathy expressed to accident victim, evidentiary rules, 9 Admin Proc § 93
translation and interpretation right, 9 Admin Proc §§ 68, 77
vacation of default, 9 Admin Proc § 112
waiver of rights, 9 Admin Proc § 63
“written communication” defined, 9 Admin Proc § 90
written decision requirement, 9 Admin Proc §§ 68, 71 et seq.

Administrative agencies

in general, 9 Admin Proc §§ 1 et seq., 154 et seq.
adjudication, see Administrative adjudication
administrative mandamus, see Administrative mandamus

Index-6
Administrative agencies—Cont’d
public records, see Public records
regulatory interpretation, agency’s own, 9
Admin Proc § 132*
Resources Agency, see Resources Agency
review of, see Administrative Procedure
Act
role of, 9 Admin Proc § 1
rulemaking, see Administrative rulemaking
Separation of Powers Clause limitations,
9 Admin Proc § 4
sovereign immunity, see Capacity to sue
and be sued
State and Consumer Services Agency, see
State and Consumer Services Agency
statutory interpretation, deference to
agency, 9 Admin Proc § 131*
taxpayer’s action against, 4 Plead § 164

Administrative discipline, see
Administrative mandamus; Attorney
discipline

Administrative due process
in general, 9 Admin Proc § 3

Administrative law judges
administrative adjudication, see
Administrative adjudication
administrative due process, 9 Admin Proc
§ 3
appointment, 9 Admin Proc § 58
county, use of by, 9 Admin Proc § 59
ethics
in general, 9 Admin Proc § 58
Administrative Adjudication Code of
Judicial Ethics, 2 Courts §§ 52, 60; 9 Admin Proc § 60
Code of Judicial Ethics, applicability
of, 9 Admin Proc § 60
qualifications, 9 Admin Proc § 58

Administrative mandamus
in general, 8 Writs §§ 32, 85 et seq., 258
et seq.
accrual of action, 3 Actions § 684
administrative adjudication, see
Administrative adjudication
administrative record, trial on, 8 Writs
§§ 323, 324
affidavits, trial on, 8 Writs § 327
agencies subject to, 8 Writs § 264

Administrative mandamus—Cont’d
Alcoholic Beverage Control Board,
review of, 8 Writs §§ 261, 262
answer to petition, 8 Writs § 318
appeal, 8 Writs §§ 336, 337
associations as subject to, 8 Writs §§ 265, 270
beneficial interest requirement, 8 Writs
§ 302
bond as condition for stay of decision, 8
Writs § 317
burden of proof, 8 Writs § 286
“certiorarified” mandamus distinguished,
8 Writs § 251
claims, allowance or payment of, 8 Writs
§§ 90, 91
common law writ review, 8 Writs § 258 et
seq.
corporations as subject to, 8 Writs §§ 265, 270
costs, see Writs
damages, see Writs
declarations, trial on, 8 Writs § 327
declaratory relief, 8 Writs § 332
demurrer to petition, 8 Writs § 319
denial of writ, reasons for, see Writs
discovery, 8 Writs § 326
discretionary acts enforceable by, 8 Writs
§ 92 et seq.
economic interests or privileges, 8 Writs
§ 299
election officials, 8 Writs § 87
enforcement of judgment, 8 Writs § 333
entities subject to, 8 Writs § 264 et seq.
exhaustion of judicial remedies by, see
Exhaustion of judicial remedies
granting petition as final appealable judg-
ment, 9 Appeal § 148*
hospital staff privileges, right to, 8 Writs
§§ 285, 295 et seq.
in forma pauperis, see In forma pauperis
suit
in general, 8 Writs § 278 et seq.
review of penalty, 8 Writs § 287*
trial when rule applies, 8 Writs § 325 et
seq.
indigents, see In forma pauperis suit
judgment, 8 Writs § 331 et seq.
jurisdiction, 8 Writs § 164
land use rights, 8 Writs § 285
Administrative mandamus—Cont’d

legislative powers, controlling exercise of, 8 Writs § 93
license, right to, 8 Writs §§ 285, 294
limitation and accrual of action, 3 Actions § 684; 8 Writs § 304 et seq.
local agencies subject to, 8 Writs § 264
local officials, 8 Writs § 88
mandamus with effect of certiorari distinguished, 8 Writs § 251
ministerial acts enforceable by, 8 Writs § 85 et seq.
nature of review, 8 Writs § 277 et seq.
new evidence, trial on, 8 Writs § 325 et seq.
new trial, availability in proceedings, 8 Attack § 22
nuisance, economic interests or privileges, 8 Writs § 299*
parties, 8 Writs § 302
penalties, review of, 8 Writs §§ 287, 288
permits, right to, 8 Writs §§ 285, 294
petition
in general, 8 Writs § 303 et seq.
time for filing, 8 Writs § 31
probationary teacher, discharge of, 8 Writs § 293
procedure, 8 Writs § 300 et seq.
proceedings reviewable by, 8 Writs § 267 et seq.
public agencies subject to, 8 Writs § 264
public officers and employees, 8 Writs §§ 85 et seq., 285
quasi-legislative acts, applicability to, 8 Writs § 270 et seq.
reasons for denial of writ, see Writs
record of proceedings, 8 Writs § 309 et seq.
replication, 8 Writs § 321
return
challenge to, 8 Writs § 334
compliance with alternative writ, effect of, 8 Writs § 320
review of penalty, 8 Writs § 287* scope of review, 8 Writs § 277 et seq.
service of petition, 8 Writs § 303
state agencies subject to, 8 Writs § 264
state officials, 8 Writs § 85
statute of limitations, 3 Actions § 684; 8 Writs § 304 et seq.
stay of decision, 8 Writs §§ 316, 317

Administrative Procedure Act
in general, 9 Admin Proc § 34 et seq.
adjudications, see Administrative adjudication
administrative discretion, interference with as excess of jurisdiction, 2 Jurisd § 324
Federal Administrative Procedure Act
in general, 9 Admin Proc § 1
jurisdiction of federal courts, effect on, see Federal courts
judicial review of agency actions, see review of agency actions (this group)
review of agency actions
in general, 9 Admin Proc § 120 et seq.
adjudication, review of, see Administrative adjudication
agency procedure, 9 Admin Proc § 137
application of law, 9 Admin Proc §§ 130 et seq., 135
defense to agency’s interpretation, 9 Admin Proc § 131 et seq.
discretion, agency’s exercise of, 9 Admin Proc § 136
exhaustion of administrative remedies, 9 Admin Proc § 125
fact determination, 9 Admin Proc § 134
finality, 9 Admin Proc § 124
forms of relief, 9 Admin Proc § 121
independent judicial review, 9 Admin Proc § 130
interpretation of law, 9 Admin Proc § 130 et seq.
limitations period, 9 Admin Proc § 129
Administrative Procedure Act—Cont’d
review of agency actions—Cont’d
methods for review, 9 Admin Proc § 121
mootness, 9 Admin Proc § 123
nature of review, 9 Admin Proc § 120
primary jurisdiction doctrine, 9 Admin Proc § 126 et seq.
regulation, agency’s interpretation of, 9 Admin Proc §§ 132, 133
ripeness, 9 Admin Proc § 124
rulemaking, review of, see Administrative rulemaking
standards of review, 9 Admin Proc § 130 et seq.
standing, 9 Admin Proc § 122
statute of limitations, 9 Admin Proc § 129
time of review, 9 Admin Proc § 124 et seq.
rulemaking, see Administrative rulemaking

Administrative proceedings—Cont’d
open meetings, see Open meeting requirements
public records, see Public records
record of appeal for, see Record on appeal
review of agency decisions generally, see Administrative Procedure Act
statutes governing, 5 Plead § 898

Administrative rulemaking
in general, 9 Admin Proc § 37 et seq.
Administrative Procedure Act provisions, 9 Admin Proc § 38 et seq.
amendment by interpretation, 9 Admin Proc § 50
authority for, 9 Admin Proc § 37
calendar, 9 Admin Proc § 44
California Code of Regulations, 9 Admin Proc §§ 55, 56
California Regulatory Notice Register, 9 Admin Proc § 55
declaratory relief
in general, 9 Admin Proc § 141 et seq.
evidence, 9 Admin Proc § 143
invalidity, grounds for declaration of, 9 Admin Proc § 144
pleading, 5 Plead § 859
standing, 9 Admin Proc § 142
validity of disapproved regulation, declaration of, 9 Admin Proc § 145
determination by agency, 9 Admin Proc § 47
drafting requirements, 9 Admin Proc § 43
electronic communications, use of, 9 Admin Proc §§ 39, 44
emergency action, 9 Admin Proc §§ 48, 49
filing, 9 Admin Proc § 54
Governor, review by, 9 Admin Proc § 51
hearing, 9 Admin Proc § 46
incorporation by reference, 9 Admin Proc § 42
interim regulations in emergency, 9 Admin Proc § 49
interim regulations to comply with federal legislation, 9 Admin Proc § 49*
Internet
posting by agency, 9 Admin Proc § 44
publication on, 9 Admin Proc § 55
interpretive policies, 9 Admin Proc §§ 41, 50
judicial notice, 9 Admin Proc §§ 54, 55

Administrative proceedings—Cont’d
open meetings, see Open meeting requirements
public records, see Public records
record of appeal for, see Record on appeal
review of agency decisions generally, see Administrative Procedure Act
statutes governing, 5 Plead § 898

Administrative rulemaking
in general, 9 Admin Proc § 37 et seq.
Administrative Procedure Act provisions, 9 Admin Proc § 38 et seq.
amendment by interpretation, 9 Admin Proc § 50
authority for, 9 Admin Proc § 37
calendar, 9 Admin Proc § 44
California Code of Regulations, 9 Admin Proc §§ 55, 56
California Regulatory Notice Register, 9 Admin Proc § 55
declaratory relief
in general, 9 Admin Proc § 141 et seq.
evidence, 9 Admin Proc § 143
invalidity, grounds for declaration of, 9 Admin Proc § 144
pleading, 5 Plead § 859
standing, 9 Admin Proc § 142
validity of disapproved regulation, declaration of, 9 Admin Proc § 145
determination by agency, 9 Admin Proc § 47
drafting requirements, 9 Admin Proc § 43
electronic communications, use of, 9 Admin Proc §§ 39, 44
emergency action, 9 Admin Proc §§ 48, 49
filing, 9 Admin Proc § 54
Governor, review by, 9 Admin Proc § 51
hearing, 9 Admin Proc § 46
incorporation by reference, 9 Admin Proc § 42
interim regulations in emergency, 9 Admin Proc § 49
interim regulations to comply with federal legislation, 9 Admin Proc § 49*
Internet
posting by agency, 9 Admin Proc § 44
publication on, 9 Admin Proc § 55
interpretive policies, 9 Admin Proc §§ 41, 50
judicial notice, 9 Admin Proc §§ 54, 55

Administrative proceedings—Cont’d
open meetings, see Open meeting requirements
public records, see Public records
record of appeal for, see Record on appeal
review of agency decisions generally, see Administrative Procedure Act
statutes governing, 5 Plead § 898

Administrative rulemaking
in general, 9 Admin Proc § 37 et seq.
Administrative Procedure Act provisions, 9 Admin Proc § 38 et seq.
amendment by interpretation, 9 Admin Proc § 50
authority for, 9 Admin Proc § 37
calendar, 9 Admin Proc § 44
California Code of Regulations, 9 Admin Proc §§ 55, 56
California Regulatory Notice Register, 9 Admin Proc § 55
declaratory relief
in general, 9 Admin Proc § 141 et seq.
evidence, 9 Admin Proc § 143
invalidity, grounds for declaration of, 9 Admin Proc § 144
pleading, 5 Plead § 859
standing, 9 Admin Proc § 142
validity of disapproved regulation, declaration of, 9 Admin Proc § 145
determination by agency, 9 Admin Proc § 47
drafting requirements, 9 Admin Proc § 43
electronic communications, use of, 9 Admin Proc §§ 39, 44
emergency action, 9 Admin Proc §§ 48, 49
filing, 9 Admin Proc § 54
Governor, review by, 9 Admin Proc § 51
hearing, 9 Admin Proc § 46
incorporation by reference, 9 Admin Proc § 42
interim regulations in emergency, 9 Admin Proc § 49
interim regulations to comply with federal legislation, 9 Admin Proc § 49*
Internet
posting by agency, 9 Admin Proc § 44
publication on, 9 Admin Proc § 55
interpretive policies, 9 Admin Proc §§ 41, 50
judicial notice, 9 Admin Proc §§ 54, 55

Index-9
Administrative rulemaking—Cont’d
judicial review
in general, 9 Admin Proc § 138 et seq.
declaratory relief, see declaratory relief
(this group)
injunction, 9 Admin Proc § 146
interpretive rules, 9 Admin Proc § 139
joinder of parties, 9 Admin Proc § 138
limited review, 9 Admin Proc § 138
mandamus, 9 Admin Proc § 140
private organizations, rulemaking by, 9
Admin Proc § 147
quasi-legislative rules, 9 Admin Proc § 139
legislative intent, 9 Admin Proc § 38
nature, 9 Admin Proc § 39
notice of proposed action, 9 Admin Proc § 44
Office of Administrative Law
in general, 9 Admin Proc § 204
publication by, 9 Admin Proc § 55
review by, 9 Admin Proc § 51 et seq.
uncodified action as regulation, authority to determine, 9 Admin Proc § 53
petition by interested person, 9 Admin Proc § 45
presumption raised by publication, 9 Admin Proc § 55
private parties and international organization, nondelegation, 9 Admin Proc § 147*
proposed regulation, submission of, 9 Admin Proc § 44
publication, 9 Admin Proc §§ 55, 56
“regulation” defined, 9 Admin Proc § 40
regulatory interpretation, agency’s own, 9 Admin Proc § 132*
repeal, initiation of, 9 Admin Proc § 51
review
in general, 9 Admin Proc §§ 51 et seq., 138 et seq.
administrative review, 9 Admin Proc § 51 et seq.
judicial review, see judicial review (this group)
scope, 9 Admin Proc § 39
statements of reasons, 9 Admin Proc § 44
Tidewater case, 9 Admin Proc § 41
Admission of evidence—Cont’d
conflict of laws, 3 Actions § 46
Admission of evidence—Cont’d
error, 9 Appeal §§ 430, 439, 446
inadmissible evidence, admission of, 9 Appeal §§ 430, 446
law of the case, application of, see Law of the case
Admissions
answer, admissions in, see Answer
delay in trial, effect of admissions on dismissal for, 6 PWT § 421
demurrer, see Demurrer
instruction to jury on, 7 Trial § 303
judicial admissions
in general, 4 Plead § 452 et seq.
answer, see Answer
conclusive nature of, 4 Plead § 454
correction of, 4 Plead § 457
defendant’s admissions, 4 Plead § 456
demurrer sustained, 4 Plead § 458
effect of, 4 Plead §§ 410, 453 et seq.
inconsistent counts or defenses, 4 Plead § 453
leave to amend, denial of, 4 Plead § 458
multiple defendants, effect of, 4 Plead § 453
nature of, 4 Plead § 452
plaintiff’s admissions, 4 Plead § 455
prior inconsistent statement, use as, 4 Plead § 458
provisional admissions of demurrer distinguished, 4 Plead § 453
summary judgment distinguished, 4 Plead § 453*
superseded pleading, 4 Plead §§ 457, 458
jury instruction on, 7 Trial § 303
pleadings, admissions in, see judicial admissions (this group)
request for, see Request for admission
summary judgment, use in, 6 PWT § 229
Adoption
adults and married minors, adoption of
venue, 3 Actions § 814*
agency adoption
venue, 3 Actions § 814
change of venue, see Change of venue
filing fees for proceedings, 4 Plead § 27
Adoption—Cont’d
forms
Judicial Council, see Judicial Council forms (this group)
Hague Adoption Convention, Rules of
Court related to adoptions under, 2
Courts § 193*
independent adoption
venue, see venue (this group)
Indian ancestry
notice of, civil penalty imposed on
attorney related to, see Attorney discipline
intercountry adoption
venue, see venue (this group)
Judicial Council forms
in general, 2 Courts § 400; 5 Plead
§ 898
jurisdiction
in general, 2 Jurisd § 276
limitations periods applicable to, 3
Actions §§ 481, 483
order
limitations periods applicable to, 3
Actions §§ 481, 483
pleading, 5 Plead § 898
public nature of court proceedings, excep-
tion to, 2 Courts § 34
relative, adoption by
venue, see venue (this group)
special proceeding, as, 3 Actions § 65
vacation of adoption
limitations period, 3 Actions § 477*
statute of limitations, 3 Actions § 477*
venue
in general, 3 Actions § 814
adult adoption, 3 Actions § 814*
independent adoption, 3 Actions § 814
intercountry adoption, 3 Actions § 814
nondependent minors, 3 Actions § 814*

ADR, see Alternative dispute resolution

Adult abuse—Cont’d
developmentally disabled persons, see
Developmentally disabled persons
earnings withholding based on, see
Garnishment
Elder Abuse Act
in general, 6 Prov Rem § 315A et seq.*
definitions, 6 Prov Rem § 315B*
firearms, restrictions, 6 Prov Rem
§ 315A*
hearing and determination, 6 Prov Rem
§ 315E*
issuance, service, and enforcement of
order, 6 Prov Rem § 315F*
Judicial Council forms, 6 Prov Rem
§ 315C*
order, 6 Prov Rem §§ 315F*, 315G*
petition, service, and response, 6 Prov
Rem § 315D*
petition brought by County Adult
Protective Service Agency, 6 Prov
Rem § 315A*
renewal, modification, and termination
of order, 6 Prov Rem § 315G*
standing, 6 Prov Rem § 315A*
elders
abuse of, 3 Actions § 484*
edangered adults, protection of, 3
Actions §§ 116, 117
garnishment based on, see Garnishment
injunction against, 6 Prov Rem § 315A et
seq.*
Judicial Council forms, 2 Courts § 413; 6
Prov Rem § 315C*
limitations period
tort action for financial abuse, 3
Actions § 484*
protection against, 3 Actions §§ 116, 117
restraining order, 6 Prov Rem §§ 315F*,
315G*
statute of limitations
tort action for financial abuse, 3
Actions § 484*
wage garnishment based on, see Garnish-
ment

Adverse possession
instructions to jury, 7 Trial § 287
limitations period
in general, 3 Actions §§ 442, 485, 488,
489

Index-11
Adverse possession—Cont’d
limitations period—Cont’d
personal property, see Personal prop-
personal property, see Personal property statute of limitations, see limitations period (this group)

Advertising
attorneys, by, see Attorney conduct false, see False advertising fraud in, see Fraud and deceit

Affidavits
administrative mandamus proceedings, see Administrative mandamus attachment, see Attachment attorney’s affidavit of fault for relief from judgment, see Relief from judgment Bond and Undertaking Law, 6 Prov Rem § 9 et seq. change of venue proceedings, see Change of venue claim and delivery, see Claim and delivery contempt, enforcement of judgment, see Contempt continuance of trial, see Continuance default judgment, see Default judgment; Relief from judgment defined, 6 Prov Rem § 2 examination of judgment debtor, see Examination proceedings identity, affidavit of, 8 Enf Judgm §§ 21, 110 interpleader, 4 Plead § 245 joint debtor proceedings, 8 Enf Judgm § 399 motions, use for, 6 PWT § 41 new trial motion, see New trial peremptory challenge to judge, 2 Courts § 133 personal surety, 6 Prov Rem § 21 preliminary injunctions, see Injunctions provisional remedies, use for, see Provisional remedies receiver, appointment, see Receivers relief from judgment, see Relief from judgment service of process, see Process SLAPP suits, see SLAPP suits

Affidavits—Cont’d
summary judgment, see Summary judgment surety, 6 Prov Rem § 21 temporary restraining orders, 6 Prov Rem § 363 verification of pleadings by, 4 Plead § 462

Affirmative defenses
in general, see Answer

Age discrimination
accrual of actions, 3 Actions § 564 continuing violations, 3 Actions § 564

Agency
breach of contract action against agent, 3 Actions § 173 election of remedies between agent and principal, 3 Actions §§ 181, 199 real party in interest, 4 Plead §§ 140, 141

Agent
attorney as, 1 Attys § 235 election of remedies involving, see Agency small claims court, appearance in, 2 Courts § 276 et seq.

Agreed case
in general, 6 PWT § 78 justiciable controversy, as, 3 Actions § 28; 6 PWT § 78

Agreed statement, see Record on appeal

Agricultural activity
Director of Food and Agriculture, attachment in action by, to recover fees, 6 Prov Rem § 57

Agricultural Labor Relations Board, see Farm labor

Air Force, see Aircraft; Military

Air pollution
injunctions, availability of, 6 Prov Rem § 291 limitation and accrual of actions, 3 Actions § 483 statute of limitations, 3 Actions § 483

Air Resources Board
in general, 9 Admin Proc § 165 open meeting requirement exception for, 9 Admin Proc § 12
**Aircraft**
- nuisance, overflight as, 3 Actions § 602
- overflight as nuisance, 3 Actions § 602

**Airplanes, see Aircraft**

**Alcohol**
- Alcoholic Beverage Control Appeals Board, see Alcoholic Beverage Control Appeals Board
- alcoholic beverage license
- enforcement of judgment against judgment debtor’s interest in, see Enforcement of judgment
- execution of money judgment against liquor license, see Execution and levy
- garnishment of liquor license, see Garnishment
- transfer to receiver to enforce judgment, 8 Enf Judgm § 311
- alcoholism
- civil commitment based on, see Commitment of alcoholics
- Department of Alcoholic Beverage Control
  - in general, 9 Admin Proc § 155 et seq.
  - injunction restraining rules violations, 6 Prov Rem § 291
- enforcement of judgment against judgment debtor’s interest in liquor license, see Enforcement of judgment
- garnishment of liquor license, see Garnishment
- inebriation, civil commitment based on, see Commitment of alcoholics
- liquor license
- execution of money judgment against, see Execution and levy

**Alcoholic Beverage Control Appeals Board**
- counsel, employment of, 1 Attys § 56
- jurisdiction, 2 Courts § 210 et seq.
- liquor license, see Alcohol
- open meeting requirement exception for, 9 Admin Proc § 12
- review of decisions of, 9 Admin Proc § 121
- superior court writ jurisdiction over, 2 Courts § 215

**Alcoholics, commitment of, see Commitment of alcoholics**

**Aliens**
- admission to practice law in California, see Attorneys
- capacity to sue and be sued, 4 Plead § 118
- discipline of attorney based on acts involving, see Attorney discipline
- illegal aliens
  - discipline of attorney based on acts involving, see Attorney discipline
  - State Bar, admission to, see Attorneys

**ALRB, see Farm labor**

**Alternative dispute resolution**
- in general, 6 PWT § 481 et seq.
- administrative adjudication, see Administrative adjudication
- arbitration, see Arbitration
- contractual arbitration, see Arbitration
- defined, 6 PWT § 481
- Dispute Resolution Advisory Council, 6 PWT § 482
- immunity for persons performing, 6 PWT § 484
- judicial arbitration, see Judicial arbitration
- Judicial Council forms, 2 Courts § 401
- judicial standards and rules, 6 PWT § 483
- mediation, see Mediation
- mini-trial, 6 PWT § 494
- negotiation, see Negotiation
- neutral fact-finding or evaluation, 6 PWT § 493
- private judging, see Private judges
- programs, 6 PWT § 482
- public policy considerations, 6 PWT § 500*
- Rules of Court, 6 PWT § 483
- settlement conference, see Settlement conference
- Standards of Judicial Administration, 6 PWT § 483
- waiver of statutory right, 6 PWT § 500*

**Amendment of pleadings**
- in general, 5 Plead § 1186 et seq.
- addition of parties, 5 Plead § 1224 et seq.
- answer, amendment without leave of court, 5 Plead § 1193
- answer to amended complaint, sufficiency of original, 5 Plead § 1189
Amendment of pleadings—Cont’d

- anti-SLAPP motions, effect on, see SLAPP suits
- appeal
  - amendment after reversal on, 5 Plead § 1208
  - augmentation of record, for, 5 Plead § 1033*
  - order denying leave, appeal of, 5 Plead § 1196
  - orders relating to, 9 Appeal §§ 156, 363
  - reversal of judgment, amendment after, 5 Plead § 1208; 9 Appeal §§ 872, 884
- application, 5 Plead § 1240
- attorney disciplinary proceedings, see Attorney discipline
- bill of particulars, 4 Plead § 505
- capacity of party, correction by, 5 Plead §§ 1221, 1222
- case management conference order, 7 Trial § 52
- cause of action, change in, 5 Plead § 1234 et seq.
- changing nature of action, 5 Plead § 1217 et seq.
- class certification denial, addition of plaintiffs after, 5 Plead § 1225
- conditions, imposition of, 5 Plead § 1195
- conforming to proof, amendment for, see Variance
- corrections authorized, 5 Plead § 1186
- default judgment on amended pleading, see Default judgment
- defendants, addition of, 5 Plead § 1226 et seq.
- disbarment, initial ignorance of, see Allegation by, 4 Plead § 480
- delay in service, see Involuntary dismissal for delay
- delay in submitting, effect of, 5 Plead §§ 1201, 1202
- demurrer, after sustaining of, 5 Plead § 988 et seq.
- denial, reasons for, 5 Plead § 1198 et seq.
- discretion of court, 5 Plead § 1194 et seq.
- dismissal, effect of amendment on, see Involuntary dismissal; Involuntary dismissal for delay
- divestment of jurisdiction, effect of, 5 Plead § 1194

Amendment of pleadings—Cont’d

- effect of amended complaint, 5 Plead § 1187 et seq.
- excusable delay in submitting, effect of, 5 Plead § 1202
- failure to remove defect by, effect of, 4 Plead § 449
- failure to submit amendment, effect of, 5 Plead § 1200
- family law pleadings, 5 Plead § 891
- fictitious defendants, to substitute true names, see Fictitious defendants
- filing requirements, 5 Plead § 1241
- improvement of defective statement by, 5 Plead § 1218
- inexcusable delay in submitting, effect of, 5 Plead § 1201
- insufficient amendment, effect of, 5 Plead § 1198
- involuntary dismissal based on, see Involuntary dismissal; Involuntary dismissal for delay
- joinder, amendments relating to, 5 Plead § 1224 et seq.
- judgment
  - amendment after, 5 Plead § 1207
  - amendment before, 5 Plead § 1206
  - judgment on pleadings, leave to amend after, 6 PWT § 197
  - leave of court, 5 Plead §§ 1194 et seq., 1240
  - legal theory, change in, 5 Plead § 1230 et seq.
  - limitations period, effect on, 3 Actions § 736; 5 Plead § 1188
  - limited civil case reclassification, effect on, see Limited civil case
  - mandamus compelling leave to amend, 8 Writs § 107
  - mandamus review of orders, 5 Plead § 1197; 8 Writs § 107
  - name of party, correction by, 4 Plead § 477; 5 Plead §§ 1219, 1220
  - negotiation, effect of inequitable conduct in, 5 Plead § 1203
  - notice of application, 5 Plead § 1240
  - omitted matter from original, effect of, 5 Plead §§ 1190, 1191
  - permission of court, 5 Plead § 1194 et seq.
  - plaintiffs, addition of, 5 Plead §§ 1224, 1225

Index-14
Index

Amendment of pleadings—Cont’d
plea disfavored, effect of, 5 Plead § 1199
procedure, 5 Plead § 1240 et seq.
reclassification of limited civil case, effect
on, see Limited civil case
remedy, change in, 5 Plead § 1229
reversal on appeal, amendment after, 5
Plead § 1208; 9 Appeal §§ 872, 884
right to amend, 5 Plead § 1186
service, 5 Plead § 1242 et seq.
SLAPP suits, effect on, see SLAPP suits
statute of limitations, effect on, 3 Actions
§ 736; 5 Plead § 1188
substitution of parties, 5 Plead §§ 1223,
1228
sufficiency of original answer, 5 Plead
§ 1189
summons, effect on, 3 Actions § 995
superseding effect of, 5 Plead § 1187
tolling of limitations period by, 3 Actions
§ 736
transfer of case, effect on, see Change of
venue
trial, amendment during, 5 Plead §§ 1204,
1205
waiver of error by, after demurrer, 5 Plead
§ 989*
without leave of court, 5 Plead §§ 1192,
1193, 1240

Americans With Disabilities Act
high-frequency litigants
in general, 3 Actions § 370A*
filing fees, 4 Plead § 26*
open meeting requirements, compliance
with, 9 Admin Proc §§ 13, 26
vexatious litigants, see high-frequency
litigants (this group)

Amicus curiae
Attorney General as, 9 Appeal §§ 692,
726, 938
briefs
in general, 9 Appeal §§ 725, 726
copies of, to be filed, 9 Appeal § 698
Supreme Court, 9 Appeal § 938
intervention compared, 4 Plead § 215
oral argument before Supreme Court by, 9
Appeal § 935
permission for filing as, 9 Appeal § 692

Amount in controversy
in general, 2 Jurisd § 22 et seq.
actual recovery, effect of, 2 Jurisd § 23
aggregation of joined claims, 2 Jurisd
§ 37 et seq.
attorneys’ fees, effect of, 2 Jurisd § 26
class actions, 2 Jurisd § 43
complaint, examination of, 2 Jurisd §§ 30,
31
costs, effect of, 2 Jurisd § 25
cross-complaint, effect of, 2 Jurisd §§ 35,
36
exemplary damages, effect of, 2 Jurisd
§ 24
forcible detainer proceedings, 2 Jurisd
§ 34
interest, effect of, 2 Jurisd § 25
joined claims, determination of, 2 Jurisd
§ 37 et seq.
jurisdiction, effect on, 2 Jurisd § 22
limitations period, effect of expiration, 2
Jurisd § 32; 3 Actions § 432
prayer
bad faith, effect of, 2 Jurisd §§ 28, 29
determination by, 2 Jurisd § 23 et seq.
puffing, effect of, 2 Jurisd § 29
punitive damages, effect of, 2 Jurisd § 24
single claim, determination of, 2 Jurisd
§ 23 et seq.
special damages, effect of, 2 Jurisd § 24
treble damages, effect of, 2 Jurisd § 24
unlawful detainer proceedings, 2 Jurisd
§ 34
value of property, 2 Jurisd § 33
waiver of excess recovery, effect of, 2
Jurisd § 27

Animals
dogs
judicial forms, menacing dog, 2 Courts
§ 423A*
menacing dog, judicial forms, 2 Courts
§ 423A*
limitation and accrual of actions for
injuries to, 3 Actions § 481
pleading in action based on injuries from,
4 Plead § 625
statute of limitations for injuries to, 3
Actions § 481

Index-15
Annulment, see Nullity of marriage

Answer—Cont’d defenses—Cont’d
arbitration award as, 5 Plead § 1096
assumption of risk, 5 Plead § 1096
bankruptcy, discharge in, 5 Plead § 1096
capacity to contract lacking, 5 Plead § 1091
collateral estoppel, pleading of, 5 Plead § 1128; 7 Judgm § 413
common counts, defenses to, 5 Plead § 1075
comparative negligence, 5 Plead § 1103
condition subsequent, happening of, 5 Plead § 1096
consent to intentional tort, 5 Plead § 1078
consideration lacking, 5 Plead § 1089
contract actions, 5 Plead §§ 1072 et seq., 1088 et seq.
contract damages, mitigation of, 5 Plead § 1100
contributory negligence, 5 Plead §§ 1103, 1104
cross-complaint distinguished, 5 Plead § 1163
deed is mortgage, 5 Plead § 1079
default of plaintiff in contract action, 5 Plead § 1092
denials, defenses raised by, 5 Plead § 1072 et seq.
discharge of obligation, 5 Plead § 1093 et seq.
duress, 5 Plead § 1090
ejecction, defenses to, 5 Plead §§ 1079, 1109 et seq.
estoppel, 5 Plead § 1122 et seq.
xecuse of defendant in contract action, 5 Plead § 1092
fraud, 5 Plead §§ 1090, 1111
identification of, 4 Plead § 18
illegality of contract, 5 Plead § 1097 et seq.
incompetence as defense in contract action, 5 Plead § 1091
inconsistent, effect of, 5 Plead §§ 1052, 1084 et seq.
injurious torts, 5 Plead § 1078
justification, in tort actions, 5 Plead § 1101
laches, 5 Plead § 1125

Index-16
INDEX

Answer—Cont’d

Answer—Cont’d

defenses—Cont’d

malice, 5 Plead § 1078

minority as defense in contract action, 5 Plead § 1091

mistake, 5 Plead § 1090

nature of, 5 Plead § 1163

negligence, actions based on, 5 Plead § 1077

new matter constituting defense, 5 Plead § 1081 et seq.

novation, 5 Plead § 1094

ownership by defendant in property actions, 5 Plead §§ 1079, 1080

payment, 5 Plead § 1074

personal property, action for recovery of, 5 Plead § 1080

possession, defendant’s right to, 5 Plead §§ 1079, 1080

privilege, in tort actions, 5 Plead § 1101

probable cause, lack of, 5 Plead § 1078

property cases, 5 Plead §§ 1079, 1080, 1108 et seq.

public entity defenses in tort actions, 5 Plead § 1107

public officer defenses in tort actions, 5 Plead § 1107

purchaser’s right in ejectment action, 5 Plead § 1110

quiet title, defenses to, 5 Plead §§ 1079, 1109 et seq.

release, 5 Plead §§ 1093, 1102

res judicata, 5 Plead §§ 1127, 1128

rescission, 5 Plead §§ 1093, 1111

response to, 4 Plead § 4

restitution, 5 Plead § 1111

self-defense, 5 Plead § 1101

separation of, 4 Plead § 18

statute of frauds, 5 Plead § 1072

statute of limitations, see Pleading tort actions, 5 Plead §§ 1077, 1078, 1101 et seq.

tort damages, mitigation of, 5 Plead § 1106

unclean hands, 5 Plead § 1126

undue influence, 5 Plead § 1090

unlawful detainer, see Unlawful detainer

void contract, 5 Plead § 1073

waiver, 5 Plead § 1122 et seq.

workers’ compensation exclusive remedy, 5 Plead § 1105

wrongful termination, mitigation of damages by other income, 5 Plead § 1076

demurrer, see Demurrer

denials

in general, 5 Plead § 1059 et seq.

actual knowledge of defendant, effect of, 5 Plead § 1066

admissions by improper denial or failure to deny, see admissions (this group)

affirmative allegation, denial by, 5 Plead § 1062

affirmative defenses distinguished, 5 Plead § 1081

argumentative denials, 5 Plead § 1082

conjunctive denial, 5 Plead § 1071

defenses raised by, see defenses (this group)

demand or value small, 5 Plead § 1060

general denial, 5 Plead §§ 1059, 1060

information and belief or lack of, 5 Plead § 1064 et seq.

matters of public record, 5 Plead § 1067

negative pregnant, 5 Plead § 1068 et seq.

new matter constituting defense distinguished, 5 Plead § 1081

presumed knowledge of defendant, effect of, 5 Plead § 1066

specific and general qualified denials, 5 Plead § 1063

specific denials, 5 Plead §§ 1061, 1062

unverified complaint, 5 Plead § 1059

verified complaint, 5 Plead § 1061

dissolution of marriage, response in, 5 Plead § 1049

eminent domain, answer in, 5 Plead § 1114

estoppel, pleading of, 5 Plead § 1122 et seq.

form of, 5 Plead § 1047 et seq.

general appearance by, 2 Jurisd § 209

interpleader, see Interpleader

joint answer by several defendants, 5 Plead § 1048
Answer—Cont’d
joint debtor proceedings, answer in, see Joint debtor proceedings
judgment on pleadings, see Judgment on pleadings
Judicial Council forms, 5 Plead §§ 1047, 1049, 1088
laches, pleading, 5 Plead § 1125
legal separation proceeding, response in, 5 Plead § 1049
motion to quash simultaneous with, 2 Jurisd § 219
nature of, 5 Plead § 1045
negative pregnant, 5 Plead § 1068 et seq.
nullity of marriage proceeding, response in, 5 Plead § 1049
partition action
answer in, 5 Plead § 1115
plea in abatement, see Plea in abatement
prayer, requirement of, 5 Plead § 1047
purpose of, 5 Plead § 1045
quiet title action, 5 Plead § 661
res judicata, 5 Plead §§ 1127, 1128
right to answer, 5 Plead § 1046
separate answers by several defendants, 5 Plead § 1048
striking sham or irrelevant matter, see Motion to strike
supplemental answer, 5 Plead § 1254
unclean hands, 5 Plead § 1126
verification, 4 Plead § 467
waiver, pleading, 5 Plead § 1122 et seq.

Anti-SLAPP motion
in general, see SLAPP suits

Antipsychotic medication
administration of, 3 Actions § 85

Appeal
in general, 9 Appeal § 1 et seq.
abandonment, see Dismissal of appeal
abstract question, effect of, see Moot case
acceptance of benefits as waiver
in general, 9 Appeal § 67 et seq.
arbitration award, 9 Appeal § 68
attorneys’ fees, 9 Appeal § 70
benefit as unsubstantial, effect of, 9 Appeal §§ 73, 74
acceptance of benefits as waiver—Cont’d
community property award, 9 Appeal § 70
conditional new trial offer, effect of, 9 Appeal § 76
costs, 9 Appeal § 70
deposit in attorney’s trust account, effect of, 9 Appeal § 74
greater recovery, effect of appeal to seek, 9 Appeal § 71
homestead exemption, effect of policy exception for, 9 Appeal § 77
judgment, 9 Appeal § 67
rent, 9 Appeal § 70
satisfaction of judgment, execution of, 9 Appeal § 78
settlement, 9 Appeal § 69
severable judgment, effect of acceptance on, 9 Appeal § 72
statute preserving right to appeal, effect of, 9 Appeal § 75
administrative mandamus proceeding, see Administrative mandamus
administrative review, review of, 9 Appeal § 384 et seq.
administrators of estates
orders related to, appeal of, see Probate proceedings
representative capacity, appeal in, see representative capacity, appeal by persons in (this group)
admissions by parties, effect of, 9 Appeal §§ 335, 772
advisory opinions, 9 Appeal § 345
affirmance of judgment
changes, affirmance with, see modification of judgment (this group)
cost award on, see Costs on appeal directions, affirmance with, 9 Appeal § 854
general affirmance, 9 Appeal §§ 853, 854
modification of judgment as, see modification of judgment (this group)
Supreme Court, by, 9 Appeal § 941
unqualified affirmance, 9 Appeal §§ 853, 854
aggrieved party
in general, 9 Appeal § 33 et seq.
INDEX

Appeal—Cont’d
aggrieved party—Cont’d
administrative agency as, 9 Appeal § 55
bankruptcy trustee as, 9 Appeal § 37
court as, 9 Appeal § 55
decedent as, 9 Appeal § 53
dependency cases, 9 Appeal § 35
former attorney requesting fees as, 9 Appeal § 38
guardianship cases, 9 Appeal § 35
heir, omitted, as, see Wills
interest injuriously affected requirement, 9 Appeal §§ 33 et seq.
malpractice, attorney potentially liable for as, 9 Appeal § 39
no interest in subject matter, 9 Appeal § 36 et seq.
omitted heir as, see Wills
representative capacity, persons in, see representative capacity, appeal by persons in (this group)
requirement that appellant be aggrieved, 9 Appeal §§ 24, 33 et seq.
agreed statement, see Record on appeal
amendment of pleadings, see Amendment of pleadings
amicus curiae, see Amicus curiae
appealability of judgments and orders, see Appealable judgments and orders
appellants
consent judgment, appealability of, see consent judgment (this group)
error in favor of, effect of, 9 Appeal § 327
judgment in favor of, appealability, 9 Appeal §§ 41, 42
representative capacity, persons in, see representative capacity, appeal by persons in (this group)
requirements for, 9 Appeal § 24 et seq.
appealable disentitlement doctrine, see penalty, loss of right to appeal as (this group)
appealable jurisdiction, see Appellate jurisdiction
applications, routine, 9 Appeal § 730
arbitration
contractual, see Arbitration
judicial, see Judicial arbitration

Appeal—Cont’d
argument
admissions by parties in, effect of, 9 Appeal §§ 335, 772
not raised, 9 Appeal § 476*
oral argument, see oral argument (this group)
Attorney General
amicus curiae, as, 9 Appeal §§ 692, 726
intervention by, 9 Appeal § 30
attorney’s authority regarding, see Attorneys
attorneys’ fees, see Attorneys’ fees
attorney’s representation adverse to client as grounds for, 1 Attys § 104
authority of attorney regarding, 1 Attys §§ 256, 257
authority of prior appellate decision, 9 Appeal § 473*
bankruptcy proceedings, effect on appeal, 9 Appeal §§ 36, 222
briefs, see Briefs
calendar
in general, 9 Appeal §§ 763, 764
advancement on, 9 Appeal § 764
appellate division, see Superior court
Court of Appeal, see Court of Appeal
statutory preferences, 9 Appeal § 764
Supreme Court, see Supreme Court
trial preferences, applicability of, 9 Appeal § 764
California Supreme Court, see Stare decisis; Supreme Court
case information statement, 9 Appeal § 625
certification of attorney as specialist in appellate law, 1 Attys § 10
certification of questions to Supreme Court, see Supreme Court
certiorari, see Certiorari
change in circumstances or law, effect of, 9 Appeal §§ 339, 340
change of address or telephone number, notice of, 9 Appeal § 730
change of venue, see Change of venue
child custody proceedings, stay of, see Stay pending appeal
class actions, see Class actions
collateral attack on judgment by, 8 Attack § 10

Index-19
appeal—cont’d
concurring opinion, see opinion of reviewing court

Conflict of interest by attorney as grounds for, 1 Atty’s § 104
conflicting evidence, review of, see sufficiency of evidence

consent judgment
in general, 6 PWT § 113; 9 appeal § 43 et seq.
agreement for, effect of variance from, 9 appeal § 44
consent to facilitate appeal, effect of, 9 appeal § 46
judgment void on constitutional grounds, effect of, 9 appeal § 45
stipulation for, effect of variance from, 9 appeal § 44
consent to error, waiver by, see errors

Consent to judgment by respondent, 9 appeal § 458
Conservatorship, appeal of orders related to, see Conservatorship;
Conservatorship and guardianship; Conservatorship of gravely disabled persons

Consolidation of cases, 9 appeal § 765
continuance
review of discretion of lower court, 9 appeal § 363
coordination of actions, 4 plead § 374
correctness of judgment, presumption of, 9 appeal § 355
costs on appeal, see costs on appeal
Court of Appeal, see court of appeal; stare decisis
cross-appeal, see cross-appeal
death
court reporter, see new trial
decedents’ estate administration, see probate proceedings
decision
in general, 9 appeal § 773 et seq.
assignment of judge for, 9 appeal § 776
concurrency of qualified majority, 9 appeal § 775 et seq.
division on, 9 appeal § 778
opinion, see opinion of reviewing court

appeal—cont’d

decision—cont’d
reviewability of matters unnecessary to, 9 appeal § 342 et seq.
submission of cause, see court of appeal; supreme court
written opinion, see opinion of reviewing court
default judgment
appealability of, 9 appeal § 47
excessive damages, effect of award of, 9 appeal § 361
order granting relief from, review of, see relief from judgment
preemption in favor of, 9 appeal § 361
relief from, review of trial court’s discretion, 9 appeal § 363
defenses not raised at trial, 9 appeal § 400*
delay of trial, review of dismissal orders, 6 pwt §§ 366, 367
demurrer, see Demurrer
determination of appeal
affirmance, see judgment on appeal
judgment on appeal, see judgment on appeal
modification of judgment, see judgment on appeal
opinion, see opinion of reviewing court
reversal, see judgment on appeal;
reversal of judgment on appeal
dilatory appeals, see frivolous appeals
direct appeal, right to, 9 appeal § 2
direct attack on judgment by, 8 attack § 2
discovery orders, nonappealable, 9 appeal § 158*
dismissal of appeal, see dismissal of appeal
discretion of lower court, review of, 9 appeal § 362 et seq.
discretionary appeal, availability of, 9 appeal § 88
discretionary cost award, separate appeal, 9 appeal § 188*
disentitlement doctrine, see penalty, loss of right to appeal as (this group)
dismissal of appeal, see dismissal of appeal
disqualification of attorney, automatic stay, 9 appeal § 270*
dissolution of marriage, see dissolution of marriage
INDEX

Appeal—Cont’d
earthquake, extension of time based on, 9 Appeal § 16
economic litigation, limited civil cases, 2 Courts § 256
effect of taking appeal, 9 Appeal § 17 et seq.
electronic filing
   in general, 9 Appeal § 12A et seq.*
defined, 9 Appeal § 12C*
service, 9 Appeal §§ 12D et seq.*, 12E*
signatures, 9 Appeal § 12B*
time for, 9 Appeal § 12D*
entry of judgment
   notice of appeal, see Notice of appeal reversal with directions regarding, see Reversal of judgment on appeal reviewability of matters after, 9 Appeal § 336 et seq.
time for appeal, effect on, 7 Judgm § 57
errors, see Errors
estoppel based on error, see Errors
evidence, see Admission of evidence; Exclusion of evidence; Sufficiency of evidence
executors
   orders related to, appeal of, see Probate proceedings
   representative capacity, appeal in, see representative capacity, appeal by persons in (this group)
exercise of discretion by lower court, review of, 9 Appeal § 362 et seq.
expedited jury trial, 7 Trial §§ 6D*, 6H*;
   9 Appeal § 84A*
fact determinations
   in general, 9 Appeal § 309 et seq.
   affirmation of judgment, findings for, 9 Appeal § 314
   conflict in evidence below, effect of, 9 Appeal § 324
   constitutional fact, review of, 9 Appeal § 324
   general reversal, effect of, 9 Appeal §§ 312, 313
   improper determinations, 9 Appeal § 316
   judgment roll appeal, exercise for, 9 Appeal § 311
   jury trial, effect of, 9 Appeal § 316

Appeal—Cont’d
fact determinations—Cont’d
   modification of judgment, findings for, 9 Appeal § 314
   nature of power, 9 Appeal § 309 et seq.
   new evidence on appeal, see new evidence on appeal (this group)
   power exercised, 9 Appeal § 314 et seq.
   power not exercised, 9 Appeal § 311 et seq.
   procedure, 9 Appeal § 317
   question of law distinguished, 9 Appeal § 322
   reversal with directions, findings for, 9 Appeal § 315
   scope of power, 9 Appeal § 309 et seq.
family allowance, see Family protection fees
   costs on appeal, see Costs on appeal filing fees, see filing of papers (this group)
   notice of appeal, see Notice of appeal waiver of filing fees, see filing of papers (this group)
filing of papers
   amicus curiae briefs, see Amicus curiae applications, routine, 9 Appeal § 730
   briefs, see Briefs
   certified questions to Supreme Court, 9 Appeal § 14
defined, 9 Appeal § 12
   electronic filing, see electronic filing (this group)
   fees for, 9 Appeal § 12*
   notice of appeal, see Notice of appeal noticed motions, 9 Appeal § 727
   record on appeal, see Record on appeal waiver of fees, 9 Appeal § 16A*
   final judgment rule, see Appealable judgments and orders
fire, extension of time based on, 9 Appeal § 16
   frivolous appeals, see Frivolous appeals function of appellate court, 9 Appeal § 322 et seq.
government tort claims, review of discretion of lower court, 9 Appeal § 363
   guardians
   orders related to, see Conservatorship and guardianship; Guardianship

Index-21
Appeal—Cont’d

jurisdiction, see Appellate jurisdiction; Jurisdiction
jury trial, expedited, 7 Trial § 6D*; 9
Appeal § 84A*
late notice, see Notice of appeal
law, question of, see question of law (this group)

Appeal—Cont’d

law of the case, see Law of the case
legislative policy, consideration of, 9
Appeal §§ 353, 354
legislative power over, 9 Appeal § 2
limitations periods distinguished from
time to appeal, 3 Actions § 445
limited civil case, see Limited civil case;
Notice of appeal; Record on appeal
mandamus, see Mandamus
media access, reviewable orders, 9
Appeal § 89*
mediation of appeal, 6 PWT § 486
memorandum opinion, see Opinion of
reviewing court
merits, determination on, 9 Appeal § 763
et seq.
mixed question of law and fact, review of,
9 Appeal § 325
modification of judgment
in general, 9 Appeal § 855 et seq.
attorneys’ fees award, 9 Appeal § 867
clerical error, correction by, 9 Appeal
§ 859
community property, division of, 9
Appeal § 867
cost award on, see Costs on appeal
defective judgments, 9 Appeal § 863 et seq.
demand, correction of judgment outside of, 9 Appeal § 863
direct order, by, 9 Appeal § 856
errors corrected by, 9 Appeal § 859 et seq.
evidence, judgment contrary to, 9
Appeal § 865
facts found on appeal, modification for,
9 Appeal § 862
improper modification, 9 Appeal § 868
inadvertence, correction by, 9 Appeal
§ 859

cost award on, see Costs on appeal
defective judgments, 9 Appeal § 863 et seq.
demand, correction of judgment outside of, 9 Appeal § 863
direct order, by, 9 Appeal § 856
errors corrected by, 9 Appeal § 859 et seq.
evidence, judgment contrary to, 9
Appeal § 865
facts found on appeal, modification for,
9 Appeal § 862
improper modification, 9 Appeal § 868
inadvertence, correction by, 9 Appeal
§ 859

judicial economy as ground, 9 Appeal § 4
judicial notice, see Judicial notice

Index-22
Appeal—Cont’d
modification of judgment—Cont’d
issues, correction of judgment outside of, 9 Appeal § 863
judgments, two purported, 9 Appeal § 867
law, judgment erroneous as to, 9 Appeal § 866
nature of power, 9 Appeal § 855
new trial as alternative, 9 Appeal § 857
record, correction of error shown by, 9 Appeal § 860
remand with directions to modify, 9 Appeal § 861
respondent, correction of error admitted by, 9 Appeal § 858
statement of decision, judgment contrary to, 9 Appeal § 864
mootness, effect of, see Moot case
motion
for judgment in court trial, 7 Trial § 435
noticed, see noticed motions (this group)
quash, to, see Motion to quash
strike, to, see Motion to strike
municipal court appeals, see Limited civil case
nature of, 9 Appeal § 1
new evidence on appeal
in general, 9 Appeal § 318 et seq.
costs on appeal, recovery of cost as, see Costs on appeal
cumulative nature of evidence, effect of, 9 Appeal § 320
diligence requirement, 9 Appeal § 321
documentary evidence, 9 Appeal § 319
inadmissibility of evidence, effect of, 9 Appeal § 320
power to take, 9 Appeal § 318
procedure, 9 Appeal § 319
reference for, 9 Appeal § 767
new trial, see New trial
nonappealable orders, see Appealable judgments and orders
nonappealing party, review of error against, 9 Appeal § 328 et seq.
nonsuit, see Nonsuit

Appeal—Cont’d
notice of, see Notice of appeal
noticed motions
in general, 9 Appeal § 727 et seq.
advancement on calendar, 9 Appeal § 764
argument on, 9 Appeal § 770
content, 9 Appeal § 727
copies, 9 Appeal § 727
determination, 9 Appeal § 729
filing, 9 Appeal § 727
form, 9 Appeal § 727
hearing, 9 Appeal § 729
limited civil case appeals, 9 Appeal § 1017
memorandum, 9 Appeal § 727
opposition, 9 Appeal § 728
supporting papers, 9 Appeal § 727
one final judgment rule, see Appealable judgments and orders
opinion, see Opinion of reviewing court
oral argument
in general, 9 Appeal § 770 et seq.
absence of judge, effect of, 9 Appeal § 776
admissions during, effect of, 9 Appeal § 772
limited civil case in Court of Appeal, 9 Appeal § 1031
notice in Court of Appeal, 9 Appeal § 763
practice of, 9 Appeal § 772
right to, 9 Appeal § 770
rules governing, 9 Appeal § 771
Supreme Court, 9 Appeal § 935
telephone, by, 9 Appeal § 770
waiver of, 9 Appeal §§ 770, 776
palimony judgment, 9 Appeal § 242*
partial appeal
in general, 9 Appeal § 56 et seq.
dissolution of marriage judgment, see Dissolution of marriage
fewer than all parties, appeal by, 9 Appeal § 56
severable judgment, appeal from, 9 Appeal § 57 et seq.
parties
in general, 9 Appeal § 24 et seq.
administrator of estate, see representative capacity, appeal by persons in (this group)

Index-23
Appeal—Cont’d

parties—Cont’d
appellants, see appellants (this group)
concurrent tortfeasor, appeal by, 9
Appeal § 40
consent judgment, appealability of, see consent judgment (this group)
death of, 9 Appeal §§ 53, 755
designation of, 4 Plead § 67
executor, see representative capacity,
appeal by persons in (this group)
fewer than all parties, appeal by, 9
Appeal § 56
guardian, appeal by, see representative
capacity, appeal by persons in (this group)
joint debtor, appeal by, 9 Appeal § 40
joint tortfeasor, appeal by, 9 Appeal § 40
new trial motion, becoming party by, 9
Appeal § 27
other parties, appeal of judgment
affecting, 9 Appeal § 40
party to record after judgment, require-
ments for, 9 Appeal § 26 et seq.
probate proceedings, 9 Appeal § 31
representative capacity, persons in, see representative capacity, appeal by persons in (this group)
res judicata effect on nonparty, 9
Appeal § 32
substitution of parties, see substitution
of parties (this group)
trustee, appeal by, see representative
capacity, appeal by persons in (this group)
vacate, motion to, becoming party by, 9
Appeal § 26
penalty, loss of right to appeal as
in general, 9 Appeal § 79 et seq.
constitutionality of, 9 Appeal § 82
contempt, effect of party being in, 9
Appeal § 80
corporation failure to pay taxes, effect
of, 9 Appeal § 79
disentitlement doctrine, 9 Appeal § 81*
misconduct without contempt adjudica-
tion, effect of, 9 Appeal § 81 et seq.
stay in marital proceeding, effect of, 9
Appeal § 84

Appeal—Cont’d

penalty, loss of right to appeal as—Cont’d
trial judge, imposition by, 9 Appeal § 83
point not properly raised below, see
Errors
point not urged, waiver of, 9 Appeal § 702*
points and authorities, references to, 9
Appeal § 695*
power of attorney, see Power of attorney
precedent, see Stare decisis
preliminary injunction, see Injunctions
presumptions in favor of judgment, 9
Appeal § 355 et seq.
prior appellate decision, authority of, 9
Appeal § 473*
prisoner, by, see Prisoners
probate orders, see Probate proceedings
probate proceedings
in general, see Probate proceedings
prohibition, see Prohibition
public emergency, extension of time
based on, 9 Appeal § 16
publication of opinion, see Opinion of
reviewing court
question of law
presented for first time, 9 Appeal § 415*
raising below, requirement, 9 Appeal § 406
review of, 9 Appeal § 322 et seq.
reasons for trial court’s decision, review
of, 9 Appeal § 346 et seq.
receiver
appeal of orders relating to, 6 Prov
Rem § 449
review of discretion of lower court, 9
Appeal § 363
record, reviewability of matters outside, 9
Appeal §§ 334, 335
record on appeal, see Record on appeal
reference, 9 Appeal § 767
rehearing
in general, 9 Appeal §§ 904 et seq.,
948 et seq.
anwer to petition, 9 Appeal §§ 908,
948
argument on petition, 9 Appeal § 770
court conference, 9 Appeal § 949
INDEX

Appeal—Cont’d
rehearing—Cont’d
court’s own motion, order on, 9 Appeal § 907
denial of, 9 Appeal §§ 911, 912, 948
effect of grant, 9 Appeal § 948
granting of, 9 Appeal §§ 910, 948
grounds, 9 Appeal § 905
limited civil case appeal, 9 Appeal § 1019
nature of power, 9 Appeal § 904
new points, raising of, 9 Appeal § 906
order, 9 Appeal §§ 909, 948
petition, 9 Appeal §§ 907, 948
summary denial, 9 Appeal § 912
Supreme Court, 9 Appeal § 948 et seq.
relief from judgment, review of order, see Relief from judgment
remand
directions to modify judgment with remand, 9 Appeal § 858
theory of trial, application of, 9 Appeal § 414
remitittur, see Remittitur
reply briefs, see Briefs
representative capacity, appeal by persons in in general, 9 Appeal § 48 et seq.
administrators, 9 Appeal § 48 et seq.
appellant and respondent, representative as, 9 Appeal § 54
attorney after client’s death, 9 Appeal § 53
beneficiaries, right to appeal of, 9 Appeal § 50
decedent’s right to appeal, exercise of, 9 Appeal § 49
executors, 9 Appeal § 48 et seq.
guardians, 9 Appeal § 48 et seq.
incapacity of client, effect of, 9 Appeal § 53
judgment adverse to estate, appealability of, 9 Appeal § 48
no contest clause, effect of, 9 Appeal § 51
shareholder in derivative suit, appeal by, 9 Appeal § 52
statutory representative, appeal by, 9 Appeal § 48
trustees, 9 Appeal § 48 et seq.
res judicata, see Res judicata

Appeal—Cont’d
respondents, see parties (this group)
retroactive legislation regarding right to, 9 Appeal § 5
reversal, see Reversal of judgment on appeal
reversible error, see Reversible or harmless error
right to appeal in general, 9 Appeal §§ 2, 3, 24 et seq.
loss of, see penalty, loss of right to appeal as (this group)
statutory nature of, see Appealable judgments and orders
waiver or forfeiture of, see waiver or forfeiture of right (this group)
routine or non-routine costs, 9 Appeal §§ 231, 235*
rules governing, see Rules of Court
satisfaction of judgment, effect of, 9 Appeal §§ 64, 338
scope of review, 9 Appeal § 322 et seq.
sealing records, review of discretion of trial court, 9 Appeal § 363
service of papers
applications, routine, 9 Appeal § 730
b briefs, see Briefs
certified questions to Supreme Court, 9 Appeal § 14
defined, 9 Appeal § 12
electronic service, see electronic filing (this group)
notice of appeal, see Notice of appeal record on appeal, see Record on appeal rehearing, service of papers, 9 Appeal §§ 907, 908, 948
sessions, see Court of Appeal; Superior court; Supreme Court
settled statement, see Record on appeal
SLAPP suits, see SLAPP suits
small claims court, see Small claims court
specialist in appellate law, certification of attorney as, 1 Attys § 10
spouse, order determining putative spouse as interlocutory order, 9 Appeal § 136*
stare decisis, see Stare decisis
statute of limitations
distinguished, 3 Actions § 445
statutory right to, 9 Appeal § 2 et seq.
Appeal—Cont’d
stay of enforcement, see Stay; Supersedeas
stay pending appeal, see Stay pending appeal
stipulated judgment, 6 PWT § 113; 9 Appeal § 46*
submission of cause, see Court of Appeal; Supreme Court
substantial error, see Reversible or harmless error
substitution of parties
denial of, appealability of, 9 Appeal §§ 110, 156
effect of, 9 Appeal § 25
orders relating to, appealability of, 9 Appeal § 156
sufficiency of evidence, see Sufficiency of evidence
summary adjudication, 6 PWT § 278
summary judgment, see Summary judgment
superior court appellate division, see Superior court
supersedeas, see Supersedeas
Supreme Court, review in, see Supreme Court
temporary restraining orders, see Injunctions; Temporary restraining orders
time of trial as limiting reviewable errors, see Errors
time for filing of, see Notice of appeal
timeliness of affidavit, 9 Appeal § 400*
transcripts, see Record on appeal
transfer of cases, see Court of Appeal;
Limited civil case; Supreme Court
transmission of record, see Record on appeal
trial judge’s opinion, use of, 9 Appeal § 350 et seq.
trustees
orders related to, appeal of, see Trustees
representative capacity, appeal in, see representative capacity, appeal by persons in (this group)
undertaking, appeal with or without, see Stay pending appeal
United States Supreme Court, see Federal courts
vacating judgment, see Vacating judgment

Appeal—Cont’d
voluntary dismissal, see Dismissal of appeal
waiver
time for filing of, see Notice of appeal;Record on appeal
legal argument, waiver of point not urged, 9 Appeal § 702*
oral argument, see oral argument (this group)
right to appeal, see waiver or forfeiture of right (this group)
waiver or forfeiture of right
in general, 9 Appeal § 63 et seq.
acceptance of benefits, see acceptance of benefits as waiver (this group)
compliance with judgment as, 9 Appeal § 64 et seq.
enforced satisfaction, effect of, 9 Appeal § 66
express waiver, 9 Appeal § 63
penalty, loss of right as, see penalty, loss of right to appeal as (this group)
restitution after reversal impractical, effect of, 9 Appeal § 65
satisfaction of judgment as, 9 Appeal § 64
stipulation to, 9 Appeal § 63
writ
application for, treating appeal as, 9 Appeal § 128 et seq.
discretion of trial court, review on appeal, 9 Appeal § 363
proceedings, see Writs
writs, interpretation of, 9 Appeal § 380 et seq.

Appealable judgments and orders
in general, 9 Appeal § 85 et seq.
accounting, order approving, 9 Appeal § 160
advance health care directives, see Health Care Decisions Law
Agricultural Labor Relations Board enforcement judgment, 9 Appeal § 149
amendment of judgment, effect of, 9 Appeal § 124 et seq.
amendment of pleadings, 9 Appeal § 156
arbitration proceedings, see Arbitration proceedings
### Appealable judgments and orders —Cont’d

**attachment**
- in general, 9 Appeal § 173
- limited civil case, 9 Appeal § 1004
- attorneys’ fees awarded on appeal, 9 Appeal § 180

**bifurcated trial, order in**
- in general, 9 Appeal § 119
- family law case, 9 Appeal § 134

**cause of action, denial of leave to add,** 9 Appeal § 169

**certiorari, see Certiorari**

**class action,** 9 Appeal §§ 112, 157

**collateral matter, final judgment on**
- in general, 9 Appeal § 99 et seq.
- no act ordered, 9 Appeal § 106 et seq.
- sanctions, see sanctions, orders regarding (this group)

**complaint and cross-complaint, partial determination of issues,** 9 Appeal §§ 117, 126

**consent of parties, effect of,** 9 Appeal § 86

**conservatorship, see Conservatorship; Conservatorship and guardianship**

**consolidation of case for trial, effect of,** 9 Appeal § 123

**contempt proceedings, orders in,** 9 Appeal § 147

**correction of judgment**
- appealability of orders regarding, 9 Appeal § 191
- effect of, 9 Appeal § 124 et seq.
- costs, orders affecting, 9 Appeal § 186 et seq.

**cross-complaint**
- complaint and, partial determination of issues, 9 Appeal §§ 117, 126
- striking of, 9 Appeal § 113 et seq.
- decedents’ estate administration, see Probate proceedings
- default judgment, 9 Appeal § 169
- demurrers
  - in general, 9 Appeal §§ 154, 160
- derivative suit, order denying security, 9 Appeal § 169
- determination of appeal
  - new authority, consideration of, 9 Appeal § 769A*

### Appealable judgments and orders —Cont’d

**developmentally disabled adults, sterilization proceedings,** 9 Appeal § 151

**directed verdict,** 9 Appeal §§ 159, 160

**discovery**
- orders related to, 9 Appeal § 158
- sanctions, orders regarding, see sanctions, orders regarding (this group)
- discretionary appeal, availability of, 9 Appeal § 88

**dismissal**
- final judgment, as, 9 Appeal § 144
- involuntary dismissal, 9 Appeal § 144
- nonappealable orders, 9 Appeal §§ 86, 159
- voluntary dismissal, 9 Appeal §§ 90, 121, 135

**disqualification of judge**
- order denying, 9 Appeal § 169

**entry of judgment on,** see Entry of judgment

**enforcement, orders regarding,** 9

**final judgment rule**
- in general, 9 Appeal § 180 et seq.
- different issues requirement, 9 Appeal § 183
- enforcement, orders regarding, 9 Appeal § 185
- finality requirement, 9 Appeal § 184
- relation to judgment or enforcement, requirement of, 9 Appeal §§ 181, 182

**final judgment**
- in general, 9 Appeal § 95 et seq.
- collateral matter, see collateral matter, final judgment on (this group)
- defective judgment, effect of, 9 Appeal § 98
- interim ruling, judgment contingent on, 9 Appeal § 97
- orders affecting final judgment, see final judgment, orders affecting (this group)
- orders preliminary to judgment, 9 Appeal §§ 98, 160
Appealable judgments and orders
—Cont’d
final judgment rule—Cont’d
party, judgment final as to, 9
Appeal § 109 et seq.
reviewable record requirement, 9
Appeal § 98
superseded judgment, effect of, 9
Appeal § 98
guardian ad litem, appointment of, 9
Appeal § 169
guardianship, see Conservatorship and guardianship
habeas corpus
in general, 9 Appeal § 146
denial of, 9 Appeal § 146
health care directives, see Health Care Decisions Law
inconvenient forum, orders regarding, 9
Appeal § 171
injunctions
in general, 9 Appeal § 174 et seq.
limited civil case, 9 Appeal § 1004
modification of, 9 Appeal § 175
permanent injunction, interlocutory order denying, 9 Appeal § 176
interlocutory judgments, appeal from
in general, 9 Appeal §§ 95, 96, 136 et seq.
appealable judgments, 9 Appeal § 138
final judgment mislabeled interlocutory, 9 Appeal § 137
limited civil case, 9 Appeal § 1004
nonappealable judgments, 9 Appeal § 136
permanent injunction, denial of, 9 Appeal § 176
intervention, denial of, 9 Appeal § 110
involuntary dismissal, 9 Appeal § 144
judge, denial of disqualification of, 9 Appeal § 169
judgment
order for, 9 Appeal § 161
pleadings, on, 9 Appeal §§ 154, 160
verdict, notwithstanding, see judgment notwithstanding verdict (this group)
void, 9 Appeal §§ 93, 94
judgment notwithstanding verdict
denial of motion, 9 Appeal § 193
grant of motion, 9 Appeal §§ 159, 160

Appealable judgments and orders
—Cont’d
judgment notwithstanding verdict
—Cont’d
limited civil case, 9 Appeal § 1004
jurisdiction, see Appellate jurisdiction
jury trial, order denying, 9 Appeal § 159
juvenile court postjudgment proceedings, 9 Appeal § 191
juvenile dependency placement order, 9 Appeal § 168
late claim against county, order granting relief, 9 Appeal § 169
limited civil case
in general, 9 Appeal §§ 1004, 1005
jurisdictional reclassification, 9 Appeal § 167
mandamus, see Mandamus
minute order, 9 Appeal § 162
mistrial, 9 Appeal § 159
monetary sanctions, orders regarding, see sanctions, orders regarding (this group)
motion to strike
in general, 9 Appeal § 155
SLAPP suits, 9 Appeal § 172
multiple causes of action
amendment of judgment, effect of, 9 Appeal § 125
correction of judgment, effect of, 9 Appeal § 125
fewer than all determined, 9 Appeal § 118
stipulation to dismiss fewer than all, effect of, 9 Appeal § 121
new trial, see New trial
nonappealable orders
in general, 9 Appeal § 152 et seq.
discovery orders, 9 Appeal § 158*
dismissal of, 9 Appeal § 86
entry of appealable judgment, effect of, 9 Appeal § 153
jurisdictional reclassification, order involving, 9 Appeal § 167
limited civil case, 9 Appeal § 1005
“nonappealable” defined, 9 Appeal § 89
parties, 9 Appeal § 154 et seq.
pleading, 9 Appeal § 154 et seq.
probate proceedings, see Probate proceedings

Index-28
Appealable judgments and orders
—Cont’d
nonappealable orders—Cont’d

review of, see review of nonappealable judgment or order (this group)
theory of nonappealability, 9 Appeal § 152
waiver, order made nonappealable by, 9 Appeal § 166
defense, see Offer to compromise

one final judgment rule, see final judgment rule (this group)

partial determination of issues
in general, 9 Appeal § 117 et seq.
different parties, effect of, 9 Appeal § 122
discretion of court, 9 Appeal § 133
dismissal with prejudice, effect of stipulation for, 9 Appeal § 135

partition action, orders in, 9 Appeal § 138
judgment final as to, 9 Appeal § 109 et seq.
substitution, 9 Appeal §§ 110, 156
placement order in juvenile dependency case, 9 Appeal § 168
power of attorney, see Power of attorney
probate proceedings, see Probate proceedings
process, orders regarding, 9 Appeal § 171
prohibition, see Prohibition
provisional corporate director, order appointing, 9 Appeal § 169
provisional remedies, 9 Appeal § 173 et seq.

public agency permission to enter land to explore condemnation suitability, 9 Appeal § 169
quashing process, orders regarding
in general, 9 Appeal § 171
limited civil case, 9 Appeal § 1004

receivers, orders regarding
in general, 9 Appeal §§ 101, 177, 178, 189
limited civil case, 9 Appeal § 1004
reconsideration, order denying, 3 Actions § 918*; 6 PWT § 46*; 9 Appeal §§ 165, 169
record on appeal, see Record on appeal

Appealable judgments and orders
—Cont’d
referee, appointment of, 9 Appeal § 169
review of nonappealable judgment or order
in general, 9 Appeal § 89 et seq.
certiorari, availability of, see Certiorari
dismissal requested by coparty, appeal from, 9 Appeal § 90
extraordinary writ, review by, see Writs
failure to prosecute, effect of dismissal for, 9 Appeal § 92
mandamus, availability of, see Mandamus
“nonappealable” defined, 9 Appeal § 89
prohibition, availability of, see Prohibition

subsequent judgment or order, appeal from, 9 Appeal §§ 89, 90

ruling, notice of, 9 Appeal § 163
sanctions, orders regarding
in general, 9 Appeal § 102 et seq.
aggregation of orders, 9 Appeal § 105
discovery sanctions, 9 Appeal § 104
interlocutory orders, 9 Appeal § 138
monetary threshold, 9 Appeal § 103
terminating sanctions, grant of, 9 Appeal §§ 160*, 169*

settlement, orders relating to, see Settlement
severed trial, orders in, 9 Appeal § 120
shareholder derivative suit, order denying security, 9 Appeal § 169
SLAPP suit, order on special motion to strike, 9 Appeal § 172
special proceedings, judgments in
in general, 9 Appeal § 139 et seq.
arbitration proceedings, see Arbitration motion as, 9 Appeal § 143
spouse, order determining putative spouse as interlocutory order, 9 Appeal § 136*
statement of decision, appealability from, 9 Appeal § 98
statutory classes, 9 Appeal § 85
sterilization proceedings for developmentally disabled adults, 9 Appeal § 151
stipulated judgment, 6 PWT § 113; 9 Appeal § 43 et seq.

substitution of parties
denial of, 9 Appeal §§ 110, 156
Appealable judgments and orders
—Cont’d
substitution of parties—Cont’d
orders relating to, 9 Appeal § 156
summary judgment, 6 PWT § 260; 9
Appeal §§ 145, 159, 160
support orders, 9 Appeal § 100
tax refund cases, 9 Appeal § 179
terminating sanctions, see sanctions,
orders regarding (this group)
third-party defendant, order striking
special answer by, 9 Appeal § 111
transcript, denial to indigent appellant, 9
Appeal § 169
trial, 9 Appeal § 159
trustees, see Trustees
trusts, see Trusts
unlimited civil case, review of
jurisdictional reclassification, 9
Appeal § 167
vacating judgment, orders regarding
in general, 9 Appeal § 194 et seq.
probate proceedings, see Probate
proceedings
venue, orders regarding
in general, 9 Appeal § 170
limited civil case, 9 Appeal § 1004
verdict, 9 Appeal § 98
void judgment, see judgment (this group)
voluntary dismissal, 6 PWT § 310; 9
Appeal §§ 90, 121, 135
withdrawal of attorney, granting of, 9
Appeal § 169
witnesses, 9 Appeal § 158
writ proceedings, see Writs

Appearance
in general, 2 Jurisd § 192 et seq.
conservator’s right to appear, 2 Jurisd
§ 195
corporation’s right to appear, 2 Jurisd
§ 197
defendant’s right to appear, 2 Jurisd § 194
family law proceedings, 5 Plead § 894
fraud, effect of, see Equitable relief
against judgment
fugitive’s right to appear, 2 Jurisd § 196
general appearance
in general, 2 Jurisd § 192 et seq.
acts not constituting, 6 PWT § 331 et seq.

Appearance—Cont’d
general appearance—Cont’d
ancillary proceeding, effect of general
appearance in, 2 Jurisd § 216
answer as, 2 Jurisd § 209
attorneys’ fees application as, 2 Jurisd
§ 210
continuance, application as, 2 Jurisd
§ 210
defined, 2 Jurisd § 192
delay, effect on dismissal for, 6 PWT
§ 330 et seq.
demurrer as, 2 Jurisd § 209; 5 Plead
§ 950
discovery, initiation of proceedings as,
2 Jurisd § 211
dismissal for delay, effect on, 6 PWT
§ 330 et seq.
effect of, 2 Jurisd § 192 et seq.
ex parte proceeding, effect of participa-
tion in, 2 Jurisd § 215
family law proceedings, 5 Plead § 894
hearing, participation in as, 2 Jurisd
§ 213 et seq.
interrogatories, answers to as, 2 Jurisd
§ 212
judgment, effect of appearance after, 2
Jurisd § 199
motion as, 2 Jurisd § 210
nature of, 2 Jurisd § 192 et seq.
otice of appearance as, 2 Jurisd § 208
personal appearance distinguished, 2
Jurisd § 200
purpose of, 2 Jurisd § 192 et seq.
relief from judgment, motion for as, see
Relief from judgment
scope of, 2 Jurisd § 192
submission to jurisdiction by, 2 Jurisd
§§ 198, 199
trial, participation in as, 2 Jurisd § 213
et seq.
unauthorized appearance, 2 Jurisd
§ 201 et seq.
waiver of defects by, 2 Jurisd §§ 198, 199
guardian’s right to appear, 2 Jurisd § 195
right to appear, 2 Jurisd § 193 et seq.
small claims court, see Small claims court
special appearance
in general, 2 Jurisd § 205 et seq.
INDEX

Appearance—Cont’d
special appearance—Cont’d
ancillary proceeding, attack on, 2 Jurisd §§ 230, 231
attempt to extend time to plead as, 2 Jurisd § 232
designation as, 2 Jurisd §§ 206, 207
failure to return summons, motion to
dismiss as, 2 Jurisd § 229
family law proceedings, 2 Jurisd § 231;
§§ 230, 231
inconvenient forum motion as, 2 Jurisd § 227
interrogatories, objection to as, 2 Jurisd § 233
lack of prosecution, motion to
dismiss as, 2 Jurisd § 228
motions generally, 6 PWT § 8
peremptory challenge to judge, 2 Jurisd
§ 234
purpose, 2 Jurisd § 205
requisites for, 2 Jurisd § 206
unauthorized appearance
attorney discipline, as ground for, see Attorney discipline
jurisdiction based on, 2 Jurisd § 201 et seq.

Appellate jurisdiction—Cont’d
right to appeal distinguished, 9 Appeal §§ 2, 3
superior court, 2 Courts §§ 169, 341
Supreme Court, 2 Courts § 329

Appellate opinion, see Opinion of
reviewing court

Appointment of counsel
in general, 1 Attys § 46 et seq.
alcoholics, commitment proceedings for,
1 Attys § 47
cessation of law practice, appointment for,
1 Attys § 405
civil commitment proceedings, 1 Attys § 47
civil proceedings, 1 Attys § 47 et seq.
compensation, representation without, 1 Attys § 50 et seq.
imminently dangerous persons, commitment
proceedings for, 1 Attys § 47
indigent prisoner defendant in civil
proceedings, 1 Attys § 49
juvenile court proceedings, 1 Attys § 46
narcotics addict, commitment proceedings
for, 1 Attys § 47
protection of party’s interest, assignment
for, 1 Attys § 48
public defender, appointment of, see Public
defender
quasi-criminal proceedings, 1 Attys § 46
unlawful practice of law, appointment
resulting from, see Attorneys
wishes of party, effect of, 1 Attys § 48

Arbitration
abatement, pleading of arbitration clause
as matter in, 5 Plead § 1129
adhesion agreements
in general, 6 PWT § 537
administrative adjudication, see
Administrative adjudication
agreements
in general, 6 PWT § 512 et seq.
appraisal agreement, 6 PWT § 516
arbitration under, see contractual (this
group)
Armendariz case, 6 PWT §§ 518, 539
attorney malpractice, effect on claim, 1 Attys § 331
class arbitration, see class arbitration
(this group)
Arbitration—Cont’d
agreements—Cont’d
collective bargaining agreements, see Collective bargaining agreements
consent to jurisdiction, agreement as, 2
Jurisd § 188
construction, 6 PWT § 513 et seq.
defenses to enforcement, see defenses
to enforcement of agreements (this group)
employer as third-party beneficiary, 6
PWT § 522
employment agreements, 6 PWT § 517 et seq.
enforcement, see enforcement of agree-
ments (this group)
form, 6 PWT § 513 et seq.
illusory, as, 6 PWT § 539A*
labor agreements, 6 PWT § 517 et seq.
oral agreement or modification of writ-
ten agreement, 6 PWT § 514
repudiation, see Contract conditions
and covenants
right of parties to file court action, 6
PWT § 513*
scope, 6 PWT § 513
self-executing agreement, 6 PWT § 523
third persons, binding effect on, 3
Actions § 314
unconscionability, see defenses to
enforcement of agreements (this group)
valuation agreement, 6 PWT § 516
waiver of right under, see waiver of
right under agreement (this group)
amendment of award, 6 PWT § 568
appeal
acceptance of award on, effect of, 9
Appeal § 68
confirmation of award, 6 PWT § 566; 9
Appeal § 169
denial of arbitration, appealability of
order, 9 Appeal § 141
direction of arbitration, appealability of
order, 9 Appeal §§ 140, 169
enforcement of agreement, 6 PWT
§ 526
orders after arbitration, appealability of,
9 Appeal § 142
partial final award, 9 Appeal § 142*
vacation of award, 6 PWT § 573

Arbitration—Cont’d
appeal—Cont’d
waiver of right, agreement explicitly, 9
Appeal § 63*
arbitrators
in general, 6 PWT § 554 et seq.
appointment, 6 PWT § 554
disclosures required, 6 PWT § 556 et seq.
discrimination by, 6 PWT § 556
disqualification, 6 PWT § 556 et seq.
Ethics Standards for Neutral Arbitrators
in Contractual Arbitration, 2
Courts § 198; 6 PWT § 558
immunity, 6 PWT § 555
judges, 2 Courts § 58; 6 PWT § 554
judicial arbitration, see Judicial arbitra-
tion
neutrality of, 6 PWT § 554
powers, 6 PWT § 559
prohibition, restraint by, 8 Writs § 48
Rules of Professional Conduct, lawyer
as temporary court-appointed
arbitrator, 1 Attys § 465KK*
selection, 6 PWT § 554
waiver of right to object to conflict of
interest, 6 PWT § 556
Armendariz case, 6 PWT §§ 518, 539
attachment
availability pending contractual arbitra-
tion, 6 PWT § 529
surety, effect of arbitration provision in
action against, 6 Prov Rem § 74
attorney malpractice, effect of agreement
on, 1 Attys § 331
attorneys’ fees, see Attorneys’ fees
authority of attorney regarding, 1 Attys
§ 252
award
in general, 6 PWT §§ 562 et seq., 566
amendment, 6 PWT § 568
appeal, acceptance of award on, 9
Appeal § 68
attorneys’ fees, see Attorneys’ fees
basis of, 6 PWT § 562
confirmation of, see confirmation (this
group)
content, 6 PWT § 562
continuing jurisdiction over, 2 Jurisd
§ 421
correction, 6 PWT §§ 567, 573

Index-32
Arbitration—Cont’d
award—Cont’d
corruption as grounds for vacating, 6
PWT § 570
costs, 6 PWT §§ 564, 565
defense, pleading award as, see Answer
disclosure by arbitrator, failure as
ground for vacating, 6 PWT § 572
effect of, 6 PWT § 562
exceeding of powers by arbitrator as
ground for vacating, 6 PWT § 571
finality of, 6 PWT § 574 et seq.
form, 6 PWT § 562
fraud as ground for vacating, 6
PWT § 570
judicial review, 6 PWT § 574 et seq.
limitations periods, see Limitation and
accrual of actions
remedies available, 6 PWT § 563
res judicata effect of, see Res judicata
sanctions, availability of, 6 PWT § 563
time for, 6 PWT § 562
undue means as ground for vacating, 6
PWT § 570
vacation of, 6 PWT § 569 et seq.
judicial review, authority of attorney
regarding, 1 Attys § 252
certiorari review of order compelling, 8
Writs § 37
class arbitration
agreements regarding, 6 PWT § 513*
arbitrability of, 6 PWT § 559*
waiver of, see waiver of right under
agreement (this group)
collective bargaining agreements, see
Collective bargaining agreements
condition precedent to suit
in general, 3 Actions § 314 et seq.
waiver, see waiver of right under agree-
ment (this group)
confirmation
in general, 6 PWT § 566
appealability of order, 9 Appeal § 169
statement of decision, 7 Trial § 392*
conflict of laws regarding, 3 Actions § 46
consolidation
pending litigation and arbitration, 6
PWT § 527
separate arbitration proceedings, 6
PWT § 553
Arbitration—Cont’d
consumer arbitrations
arbitrators generally, 6 PWT § 554
disclosure requirements for arbitrators,
6 PWT § 557
continuance of hearing
appealability of order granting, 9
Appeal § 167*
contractual
in general, 6 PWT § 499 et seq.
agreements, see agreements (this
group)
arbitrator, see arbitrators (this group)
attachment lien, availability in, 6 Prov
Rem § 203
award, see award (this group)
commencement of proceeding, 6 PWT
§ 553
consolidation of separate proceedings,
6 PWT § 553
defenses to enforcement of agreements,
see defenses to enforcement of
agreements (this group)
defined, 6 PWT § 499
delay in trial, effect on dismissal for,
see Involuntary dismissal for delay
discovery, see discovery (this group)
revision of agreements, see
enforcement of agreements (this
group)
Ethics Standards for Neutral Arbitrators
in Contractual Arbitration, 2
Courts § 198; 6 PWT § 558*
governing law, 6 PWT § 502 et seq.
hearing, 6 PWT § 561
injunctive relief pending arbitration, 6
PWT § 500
injunction against, see injunction
against contractual arbitration (this
group)
injunctive relief pending arbitration, 6
PWT § 530
judicial arbitration distinguished, 6
PWT §§ 499, 580
offer to compromise, availability of, 6
PWT § 83
preemption of state law by federal law,
6 PWT § 508 et seq.
provisional remedies pending arbitra-
tion, 6 PWT §§ 529, 530
public policy, 6 PWT § 500

Index
Arbitration—Cont’d
contractual—Cont’d
relief from judgment remedy, availability of, see Relief from judgment
subpoenas, 6 PWT § 560
voluntary dismissal, effect on, see Voluntary dismissal
correction of award, 6 PWT § 566
defenses to enforcement of agreements
in general, 6 PWT § 531 et seq.
adhesive contract, 6 PWT § 537 et seq.
controversy not within scope of agreement, 6 PWT § 532
equitable estoppel, 6 PWT § 535
fraud, 6 PWT § 541 et seq.
illegality, 6 PWT § 544
limitations period expiration, 6 PWT § 531
pending litigation, 6 PWT § 536
petitioner or respondent not party to agreement, 6 PWT § 533 et seq.
rescission, grounds for, 6 PWT § 531 et seq.
unconscionable contract, 6 PWT §§ 518, 537 et seq.
unjust provision, 6 PWT § 540
unreasonable provision, 6 PWT § 540
void provisions, 6 PWT § 531
waiver, see waiver of right under agreement (this group)
delay in demanding, effect of, 3 Actions § 316; 6 PWT §§ 546, 549
delay in trial, effect on dismissal for, see Involuntary dismissal for delay
discovery
in general, 6 PWT § 560
defendant’s use of, 6 PWT § 549
filing action for, effect of, 3 Actions § 319; 6 PWT § 548
nonparties, discovery from, 6 PWT § 560*
employment agreements, 6 PWT § 517 et seq.
employment discrimination claims, 6 PWT § 518
enforcement of agreements
in general, 6 PWT § 523 et seq.
appeal, 6 PWT §§ 526, 528*
attorneys’ fees, 6 PWT § 524
Arbitration—Cont’d
enforcement of agreements—Cont’d
consolidation with pending litigation, 6 PWT § 527
defenses, see defenses to enforcement of agreements (this group)
joinder of nonobjecting third party, 6 PWT § 534
petition to compel, 6 PWT § 524 et seq.
provisional remedies pending arbitration, 6 PWT §§ 529, 530
review of order, 6 PWT § 526
self-executing agreement, 6 PWT § 523
service of process, 6 PWT § 524
stay of pending litigation, 6 PWT § 528
venue, 6 PWT § 524
Fair Employment & Housing Act claims, 6 PWT § 518
Federal Arbitration Act, 6 PWT § 506 et seq.
FEHA claims, 6 PWT § 518
foreign attorney participation in, 1 Attys § 387
harassment claims, 6 PWT § 520
health care plans, 6 PWT § 504
home construction contracts, disclosures by arbitrator, 6 PWT § 557
illegality of contract
defense to enforcement, as, 6 PWT § 544
judicial review of award based on, 6 PWT § 578
injunction against contractual arbitration
in general, 6 Prov Rem § 334
modification of injunction, 6 Prov Rem § 399
injunctive relief pending contractual arbitration, 6 PWT § 530
judgment after, res judicata effect of, see Res judicata
judicial arbitration, see Judicial arbitration
labor agreements, 6 PWT § 517 et seq.
limitations periods, see Limitation and accrual of actions
limited civil cases, petitions as, 2 Courts § 243
lis pendens, recording in proceeding, see Lis pendens
medical malpractice, 6 PWT § 504
offer to compromise, availability, 6 PWT § 83
Arbitration—Cont’d
order compelling, certiorari review, 8
Writs § 37
out-of-state attorney participation in, 1
Attys § 387
partial final award, appeal, 9 Appeal § 142*
preliminary injunction, availability pending contractual arbitration, 6 PWT § 529
protective order, availability pending contractual arbitration, 6 PWT § 529
real estate sales contract, arbitration provision, 6 PWT § 505
receiver, appointment pending contractual arbitration, 6 PWT § 529
relief from judgment, availability of remedy, see Relief from judgment
repudiation of agreement for breach, effect of, 3 Actions § 317
securities arbitration, ethics standards for arbitrators, 6 PWT § 558
settlement agreement made in, enforcement of, 6 PWT § 122
sexual harassment claims, 6 PWT § 520
SLAPP statute, applicability of, 5 Plead § 1017
special proceeding, as, 3 Actions §§ 65, 318, 319; 6 PWT §§ 547, 548
statement of decision, 6 PWT § 525A*; 7 Trial § 391*
statute of limitations, see Limitation and accrual of actions
stipulation to arbitration
authority of attorney regarding, 1 Attys § 252
delay in trial, effect of stipulation on dismissal for, 6 PWT § 381
surety, attachment in action against, effect of arbitration provision, 6 Prov Rem § 74
temporary restraining order, availability pending, 6 PWT § 529
third persons, where agreement to arbitrate binds, 3 Actions § 314
tolling of limitations periods, see Limitation and accrual of actions
unconscionable agreements or terms in general, 6 PWT §§ 518, 538 et seq.
uninsured motorist arbitration, see Uninsured motorist proceeding
vacation of award, 6 PWT § 569
Arbitration—Cont’d
waiver of right under agreement in general, 3 Actions §§ 315 et seq.
class, by, 6 PWT § 508*
commencement of litigation, 3 Actions §§ 318, 319; 6 PWT § 547 et seq.
defenses to enforcement, as, 6 PWT § 545 et seq.
delay in demanding, 3 Actions § 316; 6 PWT §§ 546, 549
discovery, filing action solely for, 6 PWT § 548
failure to plead, 3 Actions § 315
filing action, effect of, 3 Actions §§ 318, 319; 6 PWT § 547 et seq.
insurer, waiver by, 6 PWT §§ 551, 552
repudiation for breach, effect of, 3 Actions § 317
settlement, deceptive tactics in, 6 PWT § 550
writ of possession, availability pending contractual arbitration, 6 PWT § 529
Architect
California Architects Board, 9 Admin Proc § 195
malpractice action, certificate of merit requirement in general, 3 Actions § 209
failure to file, demurrer based on, 5 Plead § 978
security for costs, see Security for costs
Argument, see Appeal; Closing arguments
Armenian genocide
tolling of limitations period for victims, 3 Actions § 705
Army, see Military
Arraignment
court commissioner, conduct by, 2 Courts § 344
holidays, conducting on, 2 Courts § 21
Arrest
civil, abolition of, 6 Prov Rem §§ 1, 5; 8 Enf Judgm § 3
enforcement of judgment against property found on arrested person, see Enforcement of judgment
Art and art preservation
copyright, see Copyright
Art and art preservation—Cont’d
infringement, see Copyright
limitation of action for recovery of artwork, see Limitation and accrual of actions

Asbestos
asbestosis
tort actions, effect on accrual of, see Tort actions

Assault and battery
accrual of actions, 3 Actions §§ 553, 554
defense, 5 Plead §§ 766, 1078
federal civil rights legislation, alternative actions under, 3 Actions § 178
instructions to jury
in general, 7 Trial § 286
jury instructions, see instructions to jury (this group)
limitation and accrual of actions, 3 Actions §§ 482, 553, 554
nature of tort action, 5 Plead § 766
process servers, offenses against, 3 Actions § 997
public safety providers, offenses against process servers, 3 Actions § 997
self-defense, see Self-defense
statute of limitations, 3 Actions §§ 482, 553

Assessments
assessors, legal counsel appointed to assist, 1 Attys § 64*

Assignment of choses in action
appeal, effect of assignment on, 9 Appeal § 36

Assignment order—Cont’d

Assignments
attachment lien, effect of assignment on, 6 Prov Rem §§ 188, 189
attorney malpractice claim, see Attorney malpractice
collection of assigned claims as practice of law, see Attorneys
default of assignor, assignee’s entitlement to relief, 8 Attack § 149
enforcement of judgment by assignee, 8 Enf Judgm § 24
instructions to jury, 7 Trial § 284
jury instructions, 7 Trial § 284
real party in interest, see Real party in interest
receiver, appointment regarding assignment of rents, see Receivers
rents, appointment of receiver regarding, see Receivers
right to sue, see Real party in interest
small claims action by assignee, 2 Courts §§ 274, 275

Associations, see Unincorporated associations

Assumption of risk
pleading, 5 Plead § 1104
Attachment

in general, 6 Prov Rem § 46 et seq.
accommodation makers, attachment in action against, see Sureties
“account debtor” defined, 6 Prov Rem § 56
account receivable
attachment of, 6 Prov Rem § 174
defined, 6 Prov Rem § 56
natural person’s, 6 Prov Rem § 78
registered process server, levy by, 6 Prov Rem § 152
action, requirement of, 6 Prov Rem § 47
additional writs
in general, 6 Prov Rem §§ 112, 118 et seq.
claim of exemption, 6 Prov Rem § 120 et seq.
ex parte procedure, 6 Prov Rem §§ 123 et seq., 138, 139
nonresident attachment, 6 Prov Rem § 243
noticed hearing procedure, 6 Prov Rem § 119 et seq.
affidavits
in general, 6 Prov Rem § 89
additional writs, ex parte, 6 Prov Rem § 138
application for order and writ, 6 Prov Rem § 96
ex parte proceedings, 6 Prov Rem §§ 125, 130, 138
exemption, claim by defendant, 6 Prov Rem § 104
nonresident attachment, 6 Prov Rem § 241
opposition by defendant, 6 Prov Rem § 103
temporary protective order, 6 Prov Rem § 142
agricultural activity, action for fees, 6 Prov Rem § 57
alias writs, 6 Prov Rem § 117
amount
attorneys’ fees, 6 Prov Rem §§ 98, 99
costs, 6 Prov Rem §§ 98, 99
levy, motion to reduce amount, 6 Prov Rem § 135 et seq.
minimum requirement, 6 Prov Rem §§ 57, 65

Attachment—Cont’d

amount—Cont’d
plaintiff, reduction for claims against, 6 Prov Rem §§ 98, 100
reduction for claims against plaintiff, 6 Prov Rem §§ 98, 100
secured by writ, 6 Prov Rem § 98 et seq.
undertaking, amount of, 6 Prov Rem § 116
unlawful detainer, 6 Prov Rem § 100
write, inclusion in, 6 Prov Rem § 112
write, secured by, 6 Prov Rem § 98 et seq.
ancillary remedy, as, 6 Prov Rem § 46
appeal
defendant’s, effect on release, 6 Prov Rem § 219
jurisdiction of trial court during pendency of, 9 Appeal § 20
orders, appeal of, 9 Appeal § 173
plaintiff’s, effect on release, 6 Prov Rem § 216
release, appeal of order, 6 Prov Rem § 223
stay pending appeal, 9 Appeal § 248
application
examination of garnishee, 6 Prov Rem § 196
nonresident attachment, 6 Prov Rem §§ 241, 243
order and writ, see application for order and writ (this group)
undertaking, release of attachment by, 6 Prov Rem § 213
application for order and writ
in general, 6 Prov Rem § 95 et seq.
additional writs, 6 Prov Rem §§ 119, 125, 138
claim of exemption, see claim of exemption (this group)
ex parte, 6 Prov Rem §§ 125, 130, 138
noticed hearing procedure for additional writ, 6 Prov Rem § 119
renewed, 6 Prov Rem § 110
temporary protective order, 6 Prov Rem § 142
arbitration, availability pending, 6 PWT § 529
associations, see unincorporated association (this group)
Attachment—Cont’d
Attachment Law, 6 Prov Rem § 52 et seq.
attorneys’ fees
  in general, 6 Prov Rem §§ 98, 99
sureties, actions against, 6 Prov Rem § 228 et seq.
Bond and Undertaking Law, applicability of, 6 Prov Rem § 91
attorneys’ fees
  in general, 6 Prov Rem §§ 98, 99
sureties, actions against, 6 Prov Rem § 228 et seq.
Bond and Undertaking Law, applicability of, 6 Prov Rem § 91
burden of proof
  in general, 6 Prov Rem § 108
claim of exemption, 6 Prov Rem §§ 108, 122
ex parte proceedings, quash or set aside motion, 6 Prov Rem § 137
noticed hearing, 6 Prov Rem §§ 108, 122
business inventory
  in general, 6 Prov Rem §§ 78, 168 et seq.
defined, 6 Prov Rem § 168
lien on, 6 Prov Rem § 184
registered process server, levy by, 6 Prov Rem § 152
temporary protective order, effect of, 6 Prov Rem § 146
capacity to sue requirement, 6 Prov Rem § 47
chattel paper
  defined, 6 Prov Rem § 56
Enforcement of Judgments Law governing levy on, 6 Prov Rem § 158
equipment of going business, levy on as, 6 Prov Rem § 161
lien on, 6 Prov Rem § 184
registered process server, levy by, 6 Prov Rem § 152
Commercial Code definitions, 6 Prov Rem § 56
commercial paper, see instrument (this group)
commercial transaction requirement, 6 Prov Rem §§ 57, 70 et seq.
community property, attachment of, 6 Prov Rem § 79
“complaint” defined, 6 Prov Rem § 55
conditions for attachment, 6 Prov Rem § 57 et seq.
conflict of laws regarding, 3 Acts § 46
corporation
  availability of remedy against, 6 Prov Rem § 71
description of property in application, 6 Prov Rem § 97
foreign, see nonresident attachment (this group)
property of, 6 Prov Rem § 76
controlled substances
  action to recover public funds paid on unlawful sale, 6 Prov Rem §§ 57, 127
contract claim for money, 6 Prov Rem § 106
contract nature of action, 3 Acts § 143
continuance, 6 Prov Rem § 106
costs
  in general, 6 Prov Rem §§ 98, 99; 7 Judgm § 128
creditor’s suit, 6 Prov Rem § 202
court commissioners, authority of
  in general, 2 Courts § 344; 6 Prov Rem § 93
claim of exemption contested, 6 Prov Rem § 106
Index-38
Attachment—Cont’d

creditor’s suit, 6 Prov Rem § 200 et seq.
crops
in general, 6 Prov Rem §§ 78, 168 et seq.
“farm products” defined, 6 Prov Rem § 168
growing crops, 6 Prov Rem § 173
lien on, 6 Prov Rem § 184
registered process server, levy by, 6 Prov Rem § 152

custody
business inventory, 6 Prov Rem § 169
farm products, 6 Prov Rem § 169
levy on attachment, 6 Prov Rem § 154
release from, see release of attachment (this group)

damages
surety, action against, see Sureties
wrongful attachment, see wrongful attachment (this group)

defendant
additional writ, notice to, 6 Prov Rem § 120
appeal by, effect on attachment, 6 Prov Rem § 219
claim of exemption by, see claim of exemption (this group)
defined, 6 Prov Rem § 55
nonresident, see nonresident attachment (this group)
opposition by, notice of, 6 Prov Rem § 103
release of attachment by judgment for, 6 Prov Rem § 215 et seq.
response to application, 6 Prov Rem § 103 et seq.
service on, see service (this group)
definitions
in general, 6 Prov Rem § 55
Commercial Code definitions, 6 Prov Rem § 56
deposit accounts, see Deposit accounts
Director of Food and Agriculture, action for fees by, 6 Prov Rem § 57
discovery, 6 Prov Rem § 90
document of title
defined, 6 Prov Rem § 56
Enforcement of Judgments Law
governing levy, 6 Prov Rem § 158
natural person’s, 6 Prov Rem § 78

Attachment—Cont’d

earnings, exemption for, 6 Prov Rem § 84
election of remedies by, 3 Actions § 187

Enforcement of Judgments Law
Attachment Law conformed to, 6 Prov Rem § 52

levy of property governed by, 6 Prov Rem § 158
property attached but transferred before entry of judgment, 8 Enf Judgm §§ 55, 59
references to parties in, 6 Prov Rem §§ 87, 127, 140, 158
service as governed by, 6 Prov Rem § 88
third-party claims as governed by, 6 Prov Rem § 156
third person’s duties and liabilities as governed by, 6 Prov Rem § 192
equipment of going business
defined, 6 Prov Rem § 161
levy on, see levy on attachment (this group)
lien on, 6 Prov Rem § 184
registered process server, levy by, 6 Prov Rem § 152
estate personal property, interest in attachment of, 6 Prov Rem § 181
registered process server, levy by, 6 Prov Rem § 152
ex parte procedure to obtain writ
in general, 6 Prov Rem § 128 et seq.
additional writs, 6 Prov Rem §§ 123 et seq., 138, 139
affidavit, 6 Prov Rem § 130
application, 6 Prov Rem § 130
claim of exemption, 6 Prov Rem § 140
discharge, motion to, 6 Prov Rem § 132 et seq.
dissolve, motion to, 6 Prov Rem § 132 et seq.
great or irreparable injury requirement, 6 Prov Rem §§ 128, 129, 136
order, 6 Prov Rem § 131
quash writ, motion to, 6 Prov Rem § 135 et seq.
reduce amount of levy, motion to, 6 Prov Rem § 135 et seq.
set aside order, motion to, 6 Prov Rem § 135 et seq.

Index-39
Attachment—Cont’d

ex parte procedure to obtain writ—Cont’d
temporary protective order, 6 Prov Rem § 141 et seq.
writ, 6 Prov Rem § 131
ex parte proceedings
examination of garnishee, application
for, 6 Prov Rem § 196
writ, see ex parte procedure to obtain
writ (this group)
examination of garnishees, 6 Prov Rem § 195 et seq.
excessive attachment
abuse of process action as remedy for,
5 Plead § 761
motion to release, 6 Prov Rem §§ 220, 221
exclusivity of remedy, 6 Prov Rem § 49
exemptions
in general, 6 Prov Rem § 82 et seq.
claim of, see claim of exemption (this group)
earnings, 6 Prov Rem § 84
levy on exempt property, effect of, 6 Prov Rem § 233
property exempt from enforcement of
money judgment, 6 Prov Rem § 82
property necessary for support, 6 Prov Rem § 83
property not made subject to attach-
ment, 6 Prov Rem § 85
wages, exemption for, 6 Prov Rem § 84
express contracts, 6 Prov Rem § 59
“farm products” defined, 6 Prov Rem § 59
fees for attachment of property
business inventory, 6 Prov Rem § 172
commercial coaches, 6 Prov Rem § 166
equipment of going business, 6 Prov Rem § 163
farm products, 6 Prov Rem § 172
mobile homes, 6 Prov Rem § 166
motor vehicles, 6 Prov Rem § 166
safe deposit box contents, 6 Prov Rem § 177
vessels, 6 Prov Rem § 166
fraudulently transferred property, 6 Prov Rem § 81
garnishees
creditor’s suit, 6 Prov Rem § 200 et seq.

Attachment—Cont’d
garnishees—Cont’d
examination of, 6 Prov Rem § 195 et seq.
memorandum, see garnishee’s memo-
randum (this group)
garnishee’s memorandum
in general, 6 Prov Rem §§ 193, 194
safe deposit boxes, 6 Prov Rem §§ 177, 193
gas, attachment of, 6 Prov Rem §§ 78, 173
general intangibles
attachment of, 6 Prov Rem § 174
defined, 6 Prov Rem § 56
natural person’s, 6 Prov Rem § 78
registered process server, levy by, 6 Prov Rem § 152
guarantors, attachment in action against, see Sureties
hearing
in general, 6 Prov Rem § 106 et seq.
burden of proof, 6 Prov Rem § 108
evidence, 6 Prov Rem § 107
homestead, attachment of, 6 Prov Rem §§ 86, 87
implied in fact contracts, 6 Prov Rem § 59
implied in law contractual obligations, 6 Prov Rem §§ 60, 61
injunction in lieu of, 6 Prov Rem § 298
instrument
defined, 6 Prov Rem § 55
disposition of, 6 Prov Rem § 190
Enforcement of Judgments Law
governing levy, 6 Prov Rem § 158
management of, 6 Prov Rem § 190
natural person’s, 6 Prov Rem § 78
intervention in action involving attached
property, 4 Plead § 232
inventory
business inventory, see business inven-
tory (this group)
levy, inventory of, 6 Prov Rem § 155
joinder of defendant in creditor’s suit, 6 Prov Rem § 201
judgments
availability of remedy in actions on, 6 Prov Rem § 62
creditor’s suit, 6 Prov Rem § 202
lien in pending action, effect on judg-
ment, 6 Prov Rem § 208
Attachment—Cont’d
judgments—Cont’d
release of attachment by, 6 Prov Rem § 215 et seq.
Judicial Council forms
in general, 2 Courts § 402; 6 Prov Rem § 92
additional writ, notice of, 6 Prov Rem § 120
ex parte proceedings, order and writ, 6 Prov Rem § 131
garnishee’s memorandum, 6 Prov Rem § 194
nonresident attachment order, 6 Prov Rem § 242
right to attach order, 6 Prov Rem § 111
writ of attachment, 6 Prov Rem § 112
jury trial on creditor’s suit, 6 Prov Rem § 201
levy on attachment
in general, 6 Prov Rem § 149
accounts receivable, levy on, 6 Prov Rem § 174
business inventory, levy on, 6 Prov Rem § 168 et seq.
coaches, levy on, 6 Prov Rem § 164 et seq.
crops, levy on, 6 Prov Rem § 173 et seq.
custody, 6 Prov Rem § 154
deposit accounts, levy on, 6 Prov Rem §§ 175, 176, 178
disposition of property, 6 Prov Rem §§ 190, 191
Enforcement of Judgments Act, property governed by, 6 Prov Rem § 158
equipment of going business, 6 Prov Rem § 161 et seq.
estate personal property interest, levy on, 6 Prov Rem § 181
exempt property, effect of levy on, 6 Prov Rem § 233
farm products, levy on, 6 Prov Rem § 168 et seq.
fee for, 6 Prov Rem § 152
filing requirement for, 6 Prov Rem § 152
general intangibles, levy on, 6 Prov Rem § 174
intangibles, levy on, 6 Prov Rem § 174

Attachment—Cont’d
levy on attachment—Cont’d
inventory of attached property, 6 Prov Rem § 155
inventory of business, levy on, 6 Prov Rem § 168 et seq.
judgments, levy on, 6 Prov Rem § 180
levying officer, see levying officer (this group)
lien of attachment, see lien of attachment (this group)
management of property, 6 Prov Rem §§ 190, 191
minerals, levy on, 6 Prov Rem § 173 et seq.
motor vehicles, levy on, 6 Prov Rem § 164 et seq.
notice, 6 Prov Rem § 153
personal property, 6 Prov Rem § 158 et seq.
postlevy proceedings, 6 Prov Rem § 210 et seq.
property involved in pending action, 6 Prov Rem § 182
registered process server, levy by, 6 Prov Rem §§ 52, 152
release of attachment, see release of attachment (this group)
return, 6 Prov Rem § 155
safe deposit boxes, levy on, 6 Prov Rem §§ 177, 178
securities, levy on, 6 Prov Rem § 179
service, 6 Prov Rem § 153
third-party claims, 6 Prov Rem § 156
third persons, duties and liabilities of, 6 Prov Rem § 192 et seq.
timber, levy on, 6 Prov Rem § 173 et seq.
vessels, levy on, 6 Prov Rem § 164 et seq.
levying officer
defined, 6 Prov Rem § 55
deposit with, 6 Prov Rem § 150
duties of, 6 Prov Rem § 152
filing with, 6 Prov Rem § 152
instructions to, 6 Prov Rem §§ 149, 151
levy by, 6 Prov Rem § 151
liability of, see liability of levying officer (this group)
Attachment—Cont’d
levying officer—Cont’d
liens of, 6 Prov Rem § 150
release by, see release of attachment
(this group)
unauthorized release or sale by, 6 Prov Rem § 157
liability of levying officer
in general, 6 Prov Rem §§ 152, 157
assignment, release on, 6 Prov Rem § 189
bankruptcy, release on, 6 Prov Rem § 189
commercial paper, management and disposition of, 6 Prov Rem § 190
order discharging, release on, 6 Prov Rem § 210
plaintiff’s direction, release on, 6 Prov Rem § 210
liability of plaintiff
 levy, for, 6 Prov Rem § 152
wrongful attachment, see wrongful attachment (this group)
lien of attachment
in general, 6 Prov Rem § 183 et seq.
assignment, effect of, 6 Prov Rem §§ 188, 189
bankruptcy, effect of, 6 Prov Rem §§ 188, 189
business inventory, lien on, 6 Prov Rem § 171
commercial coaches, lien on, 6 Prov Rem § 165
contractual arbitration, availability in, 6 Prov Rem § 203
default of defendant, effect of, 6 Prov Rem § 187
deposit accounts, lien on, 6 Prov Rem § 175
duration, 6 Prov Rem § 187
effect of, 6 Prov Rem § 184
equipment of going business, lien on, 6 Prov Rem § 162
examination of garnishee, lien created by order to appear, 6 Prov Rem § 197
extension of, 6 Prov Rem § 187
farm products, lien on, 6 Prov Rem § 171
labor claims, priority of, 6 Prov Rem § 186

Attachment—Cont’d
lien of attachment—Cont’d
levying officer’s, 6 Prov Rem § 150
mobilehome, lien on, 6 Prov Rem § 165
motor vehicle, lien on, 6 Prov Rem § 165
pending action, lien in, 6 Prov Rem § 203 et seq.
priority, 6 Prov Rem § 184 et seq.
tax liens, priority of, 6 Prov Rem § 186
temporary protective order, created by, 6 Prov Rem § 147
vessel, lien on, 6 Prov Rem § 165
mandamus review of release order, 6 Prov Rem § 223
manufactured timber products, attachment of, 6 Prov Rem § 57
marshal as levying officer, 6 Prov Rem § 55
mechanics lien, effect of, 6 Prov Rem § 69
military personnel, release in actions against, 6 Prov Rem § 210
minerals
attachment of, 6 Prov Rem §§ 78, 173
registered process server, levy by, 6 Prov Rem § 152
mobilehomes
in general, 6 Prov Rem § 164 et seq.
Enforcement of Judgments Law governing levy, 6 Prov Rem § 158
equipment of going business, levy on as, 6 Prov Rem § 161
lien on, 6 Prov Rem § 184
registered process server, levy by, 6 Prov Rem § 152
money judgment
Enforcement of Judgments Law and, 6 Prov Rem § 158
exemption of property from enforcement, 6 Prov Rem §§ 82, 87
final, attachment of, 6 Prov Rem § 180
registered process server, levy by, 6 Prov Rem § 152
motion to set aside and quash
ex parte proceedings, 6 Prov Rem § 132 et seq.
nonresident attachment, 6 Prov Rem § 244

Index-42
Attachment—Cont’d

motor vehicles

in general, 6 Prov Rem § 164 et seq.

Enforcement of Judgments Law
governing levy, 6 Prov Rem § 158
equipment of going business, levy on
as, 6 Prov Rem § 161
lien on, 6 Prov Rem § 184
registered process server, levy by, 6
Prov Rem § 152
multiple writs, 6 Prov Rem §§ 112, 117
natural person, see person (this group)
nonresident attachment

in general, 6 Prov Rem §§ 57, 235 et
seq.

constitutionality, 6 Prov Rem § 236
corporation, foreign, 6 Prov Rem § 240
defendants, 6 Prov Rem §§ 239, 240
money, action for, 6 Prov Rem § 237
natural person, 6 Prov Rem § 239
order, see order (this group)
partnership, foreign, 6 Prov Rem § 240
procedure, 6 Prov Rem § 241 et seq.
property subject to, 6 Prov Rem § 238
purpose, 6 Prov Rem § 235
writ, see writ of attachment (this group)
nonsecured claims, 6 Prov Rem §§ 57, 66
et seq.
noticed hearing

in general, 6 Prov Rem § 95 et seq.
additional writs, 6 Prov Rem § 119 et
seq.
temporary protective orders, see
temporary protective orders (this
group)
oil and gas, attachment of, 6 Prov Rem
§§ 78, 173
opposition, notice of, 6 Prov Rem § 103
order

application for, 6 Prov Rem § 95 et seq.
creditor’s suit, 6 Prov Rem § 202
ex parte proceedings, 6 Prov Rem
§ 131
excessive attachment, motion to
release, 6 Prov Rem § 221
garnishee, examination of, 6 Prov Rem
§§ 198, 199
nonresident attachment, 6 Prov Rem
§ 242
protective orders, temporary, 6 Prov
Rem § 144 et seq.

Attachment—Cont’d

order—Cont’d

release of attachment by order

discharging, 6 Prov Rem § 210 et
seq.

to attach order, 6 Prov Rem § 111
temporary protective orders, 6 Prov
Rem § 144 et seq.
turnover order, 6 Prov Rem § 114
partnership

description of property in application, 6
Prov Rem § 97
individuals as partners, 6 Prov Rem
§§ 71, 80
property of, 6 Prov Rem § 77
pending action, lien in, 6 Prov Rem § 203
et seq.

person

availability of remedy against, 6 Prov
Rem § 71
defined, 6 Prov Rem § 55
description of property in application
by, 6 Prov Rem § 97
nonresident, see nonresident attachment
(this group)
property of, 6 Prov Rem § 78 et seq.

personal property

defined, 6 Prov Rem § 55

Enforcement of Judgments Law
governing levy, 6 Prov Rem § 158
estate personal property, interest in, see
estate personal property, interest in
(this group)

levy on, 6 Prov Rem § 158 et seq.
priority of lien on, 6 Prov Rem § 186
private place, property in, taking
custody of, 6 Prov Rem § 154
registered process server, levy by, 6
Prov Rem § 152

third-party claims, 6 Prov Rem § 156
plaintiff

appeal of, effect on attachment, 6 Prov
Rem § 216
availability of remedy to, 6 Prov Rem
§ 47
debt of, attachment of, 6 Prov Rem
§ 75
defined, 6 Prov Rem § 55

liability for levy, 6 Prov Rem § 152

Index-43
Attachment—Cont’d
plaintiff—Cont’d
  opposition to claim of exemption, 6 Prov Rem § 105
  release of attachment by judgment for, 6 Prov Rem §§ 218, 219
  wrongful attachment, liability for, see wrongful attachment (this group)
post-levy proceedings, 6 Prov Rem § 210 et seq.
prejudgment procedure, 6 Prov Rem § 95 et seq.
“probable validity,” 6 Prov Rem § 108
prohibition, review of release order by, 6 Prov Rem § 223
property
  attachable property, 6 Prov Rem § 75 et seq.
  corporation’s property, attachment of, 6 Prov Rem § 76
  defined, 6 Prov Rem § 55
  depreciating, management and disposition of, 6 Prov Rem § 191
  exemptions from attachment, 6 Prov Rem § 82 et seq.
  nonresident attachment, property subject to, see nonresident attachment (this group)
  not made subject to attachment, exemption for, 6 Prov Rem § 85
  pending action, attachment of property subject to, 6 Prov Rem § 182
  plaintiff’s debt, attachment of, 6 Prov Rem § 75
protective orders
  examination of garnishee, 6 Prov Rem § 199
  temporary, see temporary protective orders (this group)
  “public entity” defined, 6 Prov Rem § 55
  punitive damages in action against surety, see Sureties
  quash, motion to, see motion to set aside and quash (this group)
  quasi-contractual obligations, 6 Prov Rem §§ 60, 61
  quasi in rem jurisdiction obtained by, 2 Jurisd § 247
real property
  defined, 6 Prov Rem § 55
  Enforcement of Judgments Law governing levy, 6 Prov Rem § 158
Attachment—Cont’d
real property—Cont’d
  exemption claim, 6 Prov Rem § 87
  natural person’s, 6 Prov Rem § 78
  priority of lien on, 6 Prov Rem § 186
  registered process server, levy by, 6 Prov Rem § 152
  receiver, depreciating property, management of, 6 Prov Rem § 191
  referees, examination of garnishees, 6 Prov Rem § 198
release of attachment
  in general, 6 Prov Rem § 210 et seq.
  appeal of order, 6 Prov Rem § 223
  assignment, after, 6 Prov Rem § 189
  bankruptcy, after, 6 Prov Rem § 189
  defendant, judgment for, by, 6 Prov Rem § 215 et seq.
  excessive attachment, motion to release, 6 Prov Rem §§ 220, 221
  judgment for defendant, by, 6 Prov Rem § 215 et seq.
  judgment for plaintiff, by, 6 Prov Rem §§ 218, 219
  levying officer, by, unauthorized, 6 Prov Rem § 157
  mandamus review of order, 6 Prov Rem § 223
  military personnel, actions against, 6 Prov Rem § 210
  order discharging, by, 6 Prov Rem § 210 et seq.
  plaintiff, judgment for, by, 6 Prov Rem §§ 218, 219
  plaintiff’s direction, by, 6 Prov Rem § 210 et seq.
  review of order, 6 Prov Rem § 223
  undertaking filed by defendant, 6 Prov Rem §§ 213, 214
return of levy, 6 Prov Rem § 155
right to attach order
  in general, 6 Prov Rem § 111
  lien in pending action, requirement for, 6 Prov Rem § 204
safe deposit boxes
  contents, attachment of, 6 Prov Rem § 177
  registered process server, levy by, 6 Prov Rem § 152
  third person, box in name of, 6 Prov Rem § 178

Index-44
Attachment—Cont’d
sale of property by levying officer, unauthorized, 6 Prov Rem § 157
sales and use tax, action to recover
in general, 6 Prov Rem § 57
ex parte attachment, 6 Prov Rem § 127
secrecy, request for, 6 Prov Rem § 94
Secretary of State, filing notice of attachment with
business inventory, 6 Prov Rem § 170 et seq.
equipment of going business, 6 Prov Rem § 161
farm products, 6 Prov Rem § 170 et seq.
secured claim
defined, 6 Prov Rem §§ 66, 67
exclusion from Attachment Law, 6 Prov Rem § 67 et seq.
mechanics lien, effect of, 6 Prov Rem § 69
“secured party” defined, 6 Prov Rem § 56
security
attachment of, 6 Prov Rem § 179
decreased in value, 6 Prov Rem § 68
defined, 6 Prov Rem § 56
guarantor of secured loan, see Sureties
natural person’s, 6 Prov Rem § 78
valueless, 6 Prov Rem § 68
waiver of, 6 Prov Rem § 67
“security agreement” defined, 6 Prov Rem § 56
security interest
defined, 6 Prov Rem §§ 56, 67
waiver to pursue attachment, 6 Prov Rem § 67
service
in general, 6 Prov Rem § 88
additional writ, notice of, 6 Prov Rem § 120
application for order and writ, notice of, 6 Prov Rem §§ 101, 102
attorney of defendant, service on, 6 Prov Rem § 88
Enforcement of Judgments Law as governing, 6 Prov Rem § 88
exemption, claim of, 6 Prov Rem §§ 104, 121
garnishee, order to appear for examination, 6 Prov Rem § 197
Attachment—Cont’d
service—Cont’d
levy, writ and notice of, 6 Prov Rem § 153
pending action, notice of lien, 6 Prov Rem § 205
temporary protective order, 6 Prov Rem § 144
turnover order, 6 Prov Rem § 114
set aside, motion to, see motion to set aside and quash (this group)
sheriff as levying officer, 6 Prov Rem § 55
small claims court, availability in, 2 Courts § 289; 6 Prov Rem § 93
statutory obligations, availability of remedy in actions on, 6 Prov Rem § 63
stay pending appeal, 9 Appeal § 248
strict construction of remedy, 6 Prov Rem § 48
support, exemption of property necessary for
in general, 6 Prov Rem § 83
ex parte proceedings, claim in, 6 Prov Rem § 140
postlevy proceedings, claim in, 6 Prov Rem § 222
Uniform Fraudulent Transfer Act, attachment under, 6 Prov Rem § 83
support, release of business inventory or farm products necessary for, 6 Prov Rem § 169
sureties, attachment in action against, see Sureties
tangible personal property
defined, 6 Prov Rem § 55
Enforcement of Judgments Law as governing, 6 Prov Rem § 158
tax liens, priority of, 6 Prov Rem § 186
temporary judge, appointment of, 6 Prov Rem § 93
temporary protective orders
in general, 6 Prov Rem § 141 et seq.
lien on property subject to, priority of, 6 Prov Rem § 184
third-party claims
in general, 6 Prov Rem § 156
lien on property held by, priority of, 6 Prov Rem § 184
Attachment—Cont’d

timber
  cut, attachment of timber to be, 6 Prov Rem § 173
manufactured products, attachment of, 6 Prov Rem § 57
registered process server, levy by, 6 Prov Rem § 152
tort, waiver of, 6 Prov Rem § 61
trust, availability of remedy against, 6 Prov Rem § 71
turnover order, 6 Prov Rem § 114
undertakings
  in general, 6 Prov Rem §§ 91, 115, 116
assignment, for release of property after, 6 Prov Rem § 189
bankruptcy, for release of property after, 6 Prov Rem § 189
lien in pending action, 6 Prov Rem § 204
release of attachment by, 6 Prov Rem § 213 et seq.
temporary protective order, to terminate, 6 Prov Rem § 148
wrongful attachment, as limitation of liability for, 6 Prov Rem § 234
Uniform Commercial Code definitions, 6 Prov Rem § 56
Uniform Fraudulent Transfer Act, attachment under
  in general, 6 Prov Rem § 81
property not made subject to attachment, 6 Prov Rem § 85
support, property necessary for, 6 Prov Rem § 83
unincorporated association
  availability of remedy against, 6 Prov Rem § 71
description of property in application, 6 Prov Rem § 97
  member of, 6 Prov Rem § 80
property of, 6 Prov Rem § 77
unlawful detainer actions
  in general, 6 Prov Rem § 59
amount secured by writ, 6 Prov Rem § 100
unsecured claims, 6 Prov Rem §§ 57, 66 et seq.
use fuel tax, ex parte attachment in action to collect, 6 Prov Rem § 127

Attachment—Cont’d
vehicle fuel license tax, ex parte attachment in action to collect, 6 Prov Rem § 127
verified complaint, use of, 6 Prov Rem §§ 89, 103
vessels
  in general, 6 Prov Rem § 164 et seq. actions involving in general, 6 Prov Rem § 57
Enforcement of Judgments Law
governing levy, 6 Prov Rem § 158
equipment of going business, levy on as, 6 Prov Rem § 161
ex parte attachment, 6 Prov Rem § 127
lien on, 6 Prov Rem § 184
registered process server, levy by, 6 Prov Rem § 152
wages, exemption for, 6 Prov Rem § 84
waiver of tort, 6 Prov Rem § 61
writ of attachment
  in general, 6 Prov Rem § 112
  additional writs, see additional writs (this group)
alias writs, 6 Prov Rem § 117
amount of levy, writ restricting, 6 Prov Rem § 113
application for, 6 Prov Rem § 95 et seq.
ex parte proceedings, 6 Prov Rem §§ 131, 139
form, multiple writs in same, 6 Prov Rem § 117
nonresident attachment, 6 Prov Rem §§ 242, 243
wrongful attachment
  in general, 6 Prov Rem § 231 et seq.
Bond and Undertaking Law procedure, 6 Prov Rem § 232
damages, 6 Prov Rem § 234
setoff on plaintiff’s judgment for, 6 Prov Rem § 234
statutory remedy, 6 Prov Rem § 232
tort action, 6 Prov Rem § 231
Attachment Law, 6 Prov Rem § 52 et seq.

Attack on judgment
  in general, 8 Attack § 1 et seq.
appeal, see Appeal
certiorari, see Certiorari
collateral attack, see Collateral attack
coram nobis, see Coram nobis
### Index

**Attack on judgment—Cont’d**
- **direct attack**
  - *in general*, § 1 et seq.
  - appeal, see Appeal
certiorari, see Certiorari
collateral attack distinguished, § 1 et seq.
coram nobis, see Coram nobis
correction of clerical error distinguished, § 1 et seq.
edefined, § 1 et seq.
equitable relief against judgment, see
Equitable relief against judgment habeas corpus, see Habeas corpus jurisdiction, presumption of, § 5, 11
mandamus, see Mandamus
new trial motion, see New trial
prohibition, see Prohibition relief from judgment, see Relief from judgment
reviewing court, attack in and attack of judgment in, § 3
trial court, attack in, § 2
vacation, see Vacating judgment
equitable relief against judgment, see
Equitable relief against judgment mandamus, see Mandamus
new trial, see New trial
prohibition, see Prohibition relief from judgment, see Relief from judgment
vacation and entry of new judgment, see Vacating judgment

**Attorney-client relationship—Cont’d**
- **erally (this group); representation adverse to current client (this group);**
- representation adverse to former client (this group)
agent, attorney as, see Attorneys
appeal, effect of death of client, appeal after, § 53
withdrawal of attorney, order granting, § 169
appointment of counsel criminal proceedings, see Appointment of counsel
association as client, see organization as client (this group)
atorneys’ fees, see Attorneys’ fees
authority of attorney, see Attorneys business dealings with clients
- *in general*, §§ 91 et seq., 436, 437, 465P*
burden of proof, §§ 92, 95
compensation of attorney, contract related to, §§ 97, 98
confidence of client in attorney, effect of loss of, §§ 97, 98
conflict of interest, fee agreement causing, § 98
dependent adult, sale of financial products to, §§ 100
disclosure of, §§ 439
elder adult, sale of financial products to, §§ 100
employment of attorney, contract related to, §§ 97, 98
financial products, sale of to client, §§ 100
nature of rule, §§ 436
presumption of violation of rule against dealings, §§ 91 et seq.
purchase of property, rules regarding, §§ 456
scope of rule, §§ 92, 436
termination of relationship, dealings after, § 99
undue influence, raising by client, § 91
unfair advantage, raising by client, §§ 91, 92

### Attorney-client privilege
- arbitration of fees disputes, see Attorneys’ fees
- cessation of law practice, effect of privilege during, §§ 86
- discharged attorney, effect on privilege, §§ 219
- unlawful practice of law, applicability in court action, §§ 405

### Attorney-client relationship
- *in general*, §§ 42 et seq., adverse counsel, disclosure of relationship with, § 443
- adverse interests to client, see business dealings with clients (this group);
representation adverse to clients gen-
Attorney-client relationship—Cont’d

cessation of law practice
in general, 1 Attys § 82 et seq.
accounting by practice administrator, 1
Attys § 87
adverse action, relief from for client, 1
Attys § 89
application for court’s exercise of juris-
diction, 1 Attys §§ 85, 88
appointed counsel, 1 Attys § 86
attorney-client privilege, see Attorney-
client privilege
deceased attorney, see death of attorney
(this group)
discipline, effect of, see Attorney discipline
dismissal, relief from for client, 1 Attys
§ 89
grounds for court’s exercise of juris-
diction, 1 Attys § 85
hearing on court’s assumption of juris-
diction, 1 Attys §§ 85, 88
incapacitated attorneys, 1 Attys §§ 88, 89
interim court orders, 1 Attys § 85
involuntary inactive status based on,
see State Bar
judgment, relief from for client, 1 Attys
§ 89
jurisdiction of court, 1 Attys § 85 et
seq.
limitations period, effect of cessation
on, 1 Attys § 89
notice of cessation, 1 Attys § 84
notice of discipline, effect of, see
Attorney discipline
order to show cause for court’s exercise
of jurisdiction, 1 Attys § 85
practice administrator, 1 Attys § 87
procedure for court’s exercise of juris-
diction, 1 Attys § 85
relief available to clients, 1 Attys § 89
sale of practice, see Attorneys
statute of limitations, effect of cessation
on, 1 Attys § 89
statutory protection of clients and oth-
ers, 1 Attys § 83 et seq.
client, adverse interest to, see business
dealings with clients (this group);
representation adverse to clients gener-
ally (this group); representation
adverse to current client (this group);

Attorney-client relationship—Cont’d
representation adverse to former cli-
ent (this group)
Client Security Fund, see State Bar
client’s funds account, establishment of, 1
Attys § 453
commingling with client’s funds or prop-
erty
discipline based on, see Attorney discipline
rules against, 1 Attys § 453
communications with clients
in general, 1 Attys § 465WW*
discipline based on, see Attorney discipline
fields of practice and specialization,
communication of, 1 Attys
§ 465LLL*
inadvertently transmitted writings,
duties concerning, 1 Attys
§ 465YY*
information about legal services, 1
Attys § 465-III et seq. *
judges, officials, employees, and jurors,
contact with, 1 Attys § 465PP*
lawyer’s services, communications
concerning, 1 Attys § 465-III*
requirements for, 1 Attys § 445
statements to others, truthfulness in, 1
Attys § 465VV*
with unrepresented person, 1 Attys
§ 465XX*
compensation of attorney, see Attorneys’
fees
compensation to induce employment, 1
Attys §§ 414, 427
competency, acting with, see Competency
of counsel
confidence of client
loss of, see business dealings with
clients (this group)
respect of, 1 Attys § 90
confidentiality
client information, revelation of, 1
Attys §§ 431, 465E et seq. *, 465N*
limited legal services programs, repres-
entation in, 1 Attys § 420A *
conflict of interest
in general, 1 Attys § 465AA *
Attorney General, 1 Attys §§ 54, 55
Attorney-client relationship—Cont’d

conflict of interest—Cont’d

automobile accident cases, 1 Attys §§ 119, 120
class actions, see Class actions
county counsel, conflict in representing judge, see Judges
current clients, conflicts relating to, see representation adverse to current client (this group)
disqualification of attorney based on, see disqualification of attorneys (this group)
dissolution of marriage cases, see Dissolution of marriage
employees, nonattorney, acts of, 1 Attys § 150
expert witnesses, conflicts involving, 1 Attys § 151
fee agreement causing conflict, see business dealings with clients (this group)
former clients, conflicts relating to, see representation adverse to former client (this group)
government attorneys, see government attorney conflicts of interest (this group)
government officials and employees, former and current, special conflicts of interest for, 1 Attys §§ 465BB*, 465CC*
insurance matters, see Insurance limited legal services programs, participation in, 1 Attys § 420A*
marital dissolution cases, see Dissolution of marriage
nonattorney employees, acts of, 1 Attys § 150
peripient witnesses, effect of sharing information with, 1 Attys § 152
potential conflict, effect of, 1 Attys § 109
representation adverse to clients, see representation adverse to clients generally (this group); representation adverse to current client (this group); representation adverse to former client (this group)
consultation with clients, 1 Attys § 5
contract of employment
in general, 1 Attys § 42

Attorney-client relationship—Cont’d

contract of employment—Cont’d

business dealing with client, contract as, see business dealings with clients (this group)
expenses, reimbursement by client, see Attorneys’ fees
corporate attorneys
adverse interests of counsel, 1 Attys §§ 115, 116
former corporate attorney, conflicts of interest of, 1 Attys § 137
officers, representation of, 1 Attys § 116
shareholder conflicts with management, effect of, 1 Attys § 115
subsidy and parent corporations, representation of, 1 Attys § 111
corporation as client, see organization as client (this group)
creation of relationship, 1 Attys § 42 et seq.
death of attorney
effect of generally, 1 Attys § 66
notice of cessation of law practice based on, 1 Attys § 84
sale of practice on, see Attorneys’ fees
discharge of attorney
in general, 1 Attys §§ 75, 76
fees, recovery after, see Attorneys’ fees
lien for attorneys’ fees, effect of discharge on, see Attorneys’ fees
disqualification of attorneys
in general, 1 Attys § 104 et seq.
abuse of motion, 1 Attys § 107
appellate review of order, 1 Attys § 108
automatic stay, appeal, 9 Appeal § 270*
confidential information, effect of exposure to, 1 Attys § 138A*
conflict of interest, effect on law firm, 1 Attys § 114
corporate attorneys, see corporate attorneys (this group)
delay, effect of, 1 Attys § 106
government attorneys, 1 Attys § 144 et seq.
insurance matters, 1 Attys § 117
law firm, effect of conflict of interest on, 1 Attys §§ 114, 135
limited legal services programs, participation in, 1 Attys § 420A*
Attorney-client relationship—Cont’d

disqualification of attorneys—Cont’d
motion, 2 Courts § 156*
motion to disqualify, 1 Atty § 105 et seq.
nonclient standing to seek, 1 Atty §§ 105A*, 138A*
“of counsel” attorney, effect of conflict of interest on, 1 Atty § 114
publicly funded law offices, 1 Atty § 135*
review of order, 1 Atty § 108
trial court, motion to disqualify in, 1 Atty § 105
vicarious disqualification based on conflict of interest, 1 Atty §§ 114, 135, 136
duty to keep client informed, 1 Atty § 102
employee, attorney as, 1 Atty § 43
employees of attorney, client’s relationship with, 1 Atty § 44
employment of attorney
business dealings with clients, see business dealings with clients (this group)
contract of employment, see contract of employment (this group)
disbarred attorney, employment of, 1 Atty § 415
gift to induce, 1 Atty §§ 414, 427
obligation to accept by attorney, 1 Atty § 8
prohibited objectives for, 1 Atty § 434
expenses of client, payment by attorney, 1 Atty §§ 455, 465S*
fees, see Attorneys’ fees
fiduciary obligations of attorneys
in general, 1 Atty § 90 et seq.
breach of, reporting to State Bar, see State Bar
business dealings with clients, see business dealings with clients (this group)
conflict of interest, see conflict of interest (this group); government attorney conflicts of interest (this group)
financial relationships with clients, see business dealings with clients (this group)
insurance matters, see Insurance

Attorney-client relationship—Cont’d

fiduciary obligations of attorneys
—Cont’d
representation adverse to client, see representation adverse to current client (this group); representation adverse to former client (this group)
Rules of Professional Conduct, 1 Atty § 453 et seq.
financial relationships with clients, see business dealings with clients (this group)
gift to induce employment, 1 Atty §§ 414, 427
gifts from clients, 1 Atty § 457
government attorney conflicts of interest in general, 1 Atty § 143 et seq.
collective bargaining rights, enforcement of, 1 Atty § 147
disqualification based on, see disqualification of attorneys (this group)
financial interests, conflict with, 1 Atty § 146
former public attorney, conflicts involving, 1 Atty §§ 148, 465BB*, 465CC*
functions, conflict in, 1 Atty §§ 144, 145
law firm of former public attorney, conflicts involving, 1 Atty § 149
personal interests, conflict with, 1 Atty §§ 146, 147
private attorney becoming public attorney, conflicts involving, 1 Atty § 148
special conflicts of interest for former and current government officials and employees, 1 Atty §§ 465BB*, 465CC*
third party, conflict in function affecting, 1 Atty § 145
government attorneys
Attorney General, see Attorney General
city attorney, see City attorney
conflict of interest, see government attorney conflicts of interest (this group)
contingency fees in contracts with, 1 Atty § 177
county counsel, see County counsel
Attorney-client relationship—Cont’d

government attorneys—Cont’d
district attorney, see District attorney
Legislative Counsel, see Legislative Counsel
public defender, see Public defender
incapacity of attorney
attorneys’ fees recovery, effect of incapacity on, see Attorneys’ fees
cessation of practice based on, see cessation of law practice (this group)
voluntary inactive enrollment in State Bar for, see State Bar
termination based on, see termination of relationship (this group)
independent contractor, attorney as, see Attorneys
insurance, see Insurance
“lawyer” defined, 1 Attys § 411
limited scope representation, see Attorneys
loyalty, attorney’s duty of
in general, 1 Attys § 90
former client, duty to, see representation adverse to former client (this group)
malpractice by attorney, see Attorney malpractice
negligence of attorney, see Attorney malpractice
organization as client
in general, 1 Attys §§ 446 et seq., 465DD*
adverse interest, see representation adverse to current client (this group)
agents, response to acts of, 1 Attys § 447
constituents of organization, relationship with, 1 Attys §§ 448, 449
representation of constituents of organization, 1 Attys § 449
particular case, association for, 1 Attys § 45
partners of attorney, client’s relationship with, 1 Attys § 44
partnership as client, see organization as client (this group)
personal relationship with client, 1 Attys §§ 90, 101
preservation of client’s funds and property, 1 Attys §§ 453, 465EE*

Attorney-client relationship—Cont’d

privity, effect on, see Res judicata
property interest adverse to client, purchase of, 1 Attys § 90
representation adverse to clients generally
in general, 1 Attys §§ 103 et seq., 465 et seq.*
adverse counsel, disclosure of relationship with, 1 Attys § 443
appeal, as grounds for, 1 Attys § 104
attorneys’ fees action, as defense against, 1 Attys § 104
civil action by client based on, 1 Attys § 104
discipline of attorney based on, see Attorney discipline
disqualification of attorney based on, see disqualification of attorneys (this group)
equitable relief from judgment based on, 1 Attys § 104
injunction against, 1 Attys § 104
insurance matters, see Insurance
interest in subject matter, disclosure of, 1 Attys § 439
judgment, motion to set aside based on, 1 Attys § 104
motion against, 1 Attys §§ 104, 105
multiple clients, representation of, 1 Attys § 440
relationships, disclosure of, 1 Attys §§ 439, 443
remedies, 1 Attys § 104
representation adverse to current client, see representation adverse to current client (this group)
representation adverse to former client, see representation adverse to former client (this group)
Rules of Professional Conduct, 1 Attys §§ 438 et seq., 465 et seq.*
sanctions, 1 Attys § 104
standing to bring motion against, 1 Attys § 105*
representation adverse to current client
in general, 1 Attys § 109 et seq.
avtomobile accident cases, 1 Attys §§ 119, 120
class actions, 1 Attys § 127
confidences of client, effect of, 1 Attys § 441

Index-51
Attorney-client relationship—Cont’d

representation adverse to current client
—Cont’d
consent of client, effect of, 1 Attys § 441
corporate attorneys, adverse interests of, 1 Attys §§ 115, 116
disqualification of attorney or law firm based on, see disqualification of attorneys (this group)
dissolution of marriage cases, 1 Attys § 126
insurance matters, see Insurance law firm, effect on, see disqualification of attorneys (this group)
marital dissolution cases, 1 Attys § 126
multiple parties, actions involving, 1 Attys § 128
nonlitigation matters, 1 Attys § 129
parent and subsidiary corporations, see corporate attorneys (this group)
potential client, duty to advise, 1 Attys § 113
public agency with separate divisions, 1 Attys § 131
representation adverse to clients generally, see representation adverse to clients generally (this group)
representation adverse to former client, see representation adverse to former client (this group)
subsidiary and parent corporations, see corporate attorneys (this group)
unrelated matter, effect of representation on, 1 Attys § 110
waiver, 1 Attys § 130
withdrawal from representation, effect on conflict, 1 Attys § 112
representation adverse to former client
in general, 1 Attys § 132 et seq.
confidences of former client, effect of, 1 Attys § 441
consent of client, effect of, 1 Attys §§ 140, 441
disqualification of attorney based on, see disqualification of attorneys (this group)
former corporate attorney, representation by, see corporate attorneys (this group)
imputation of knowledge to firm or individual, 1 Attys § 135

Attorney-client relationship—Cont’d

representation adverse to former client
—Cont’d
joint attorney, effect of, 1 Attys §§ 141, 142
new employment not injurious, effect of, 1 Attys § 139
pecuniary interest, acquisition of adverse to client, 1 Attys §§ 134,ler P* relationship never created, effect of, 1 Attys § 138
representation adverse to clients generally, see representation adverse to clients generally (this group)
representation adverse to current client, see representation adverse to current client (this group)
substantial relationship test, 1 Attys § 133
waiver by client, effect of, 1 Attys § 140 et seq.
res judicata based on, see Res judicata
Rules of Professional Conduct governing relationship, 1 Attys §§ 431 et seq., 465E et seq.*
sale of practice, see Attorneys security fund, see State Bar
settlement, see Attorneys
sexual relationship with client
in general, 1 Attys §§ 101, 433, 465X*
discipline based on, see Attorney discipline
substitution of attorneys
in general, 1 Attys § 78 et seq.
appeal, substitution on, 9 Appeal § 25
application, substitution by, 1 Attys § 80
association of counsel distinguished, 1 Attys § 79
consent, substitution by, 1 Attys § 80
continuance of trial based on, 7 Trial § 14
formal substitution, necessity of, 1 Attys § 79
former attorney, authority of, 1 Attys § 78
hearing date, effect of substitution on, 1 Attys § 81
malpractice liability, effect of substitution on, see Attorney malpractice
motion, substitution by, 1 Attys § 80

Index-52
Attorney-client relationship—Cont’d
substitution of attorneys—Cont’d
new attorney, authority of, 1 Attys § 79
notice to opposing counsel, 1 Attys § 81
procedure, 1 Attys §§ 80, 81
sale of law practice, substitution on, 1 Attys § 428
waiver of substitution, 1 Attys § 79
termination of relationship
in general, 1 Attys §§ 66 et seq., 450 et seq., 465FF*
adverse interests of former client, see representation adverse to former client (this group)
busines dealings with client after, see business dealings with clients (this group)
cessation of law practice, see cessation of law practice (this group)
conflict of interest with former client, see representation adverse to former client (this group)
court, unwarranted discharge by, 1 Attys § 77
death of attorney, see death of attorney (this group)
death of client, effect of, 1 Attys § 67
disharment of attorney, effect of, see Attorney discipline discharge by client, see discharge of attorney (this group)
incapacity of attorney, effect of, 1 Attys § 66
incapacity of client, effect of, 1 Attys § 67
loyalty to former client, see representation adverse to former client (this group)
mandatory withdrawal, effect of, 1 Attys § 451
notice to client, 1 Attys § 450
operation of law, termination by, 1 Attys §§ 66, 67
permission of tribunal, effect of need for, 1 Attys § 450
permissive withdrawal of attorney, see withdrawal from case (this group)
prejudice to client, avoidance of, 1 Attys § 450
property of client, treatment of, 1 Attys § 450

Attorney-client relationship—Cont’d
termination of relationship—Cont’d
representation adverse to former client, see representation adverse to former client (this group)
Rules of Professional Conduct, 1 Attys §§ 450 et seq., 465FF*
substitution of attorneys, see substitution of attorneys (this group)
suspension of attorney, effect of, 1 Attys § 66
withdrawal of attorney, see withdrawal from case (this group)
trust account
discipline based on, see Attorney discipline
establishment of, 1 Attys § 453
unincorporated association as client, see organization as client (this group)
violation of law, advising of, 1 Attys § 435
withdrawal from case
in general, 1 Attys § 68 et seq.
appeal of order granting, 9 Appeal § 169
conflict of interest, effect of withdrawal on, see representation adverse to current client (this group)
continuance of trial based on, 7 Trial § 15
criminal defendant intending to commit perjury, 1 Attys § 73
discretion of court, 1 Attys § 70
ethical considerations, 1 Attys §§ 72, 73
family law litigation, 1 Attys § 71
legal service agency attorney, withdrawal by, 1 Attys § 74
lien for attorney’s fee, effect of withdrawal on, see Attorneys’ fees
minors, cases involving, 1 Attys § 71
motion to withdraw, 1 Attys § 69
order permitting withdrawal, 1 Attys § 69
right to withdraw, 1 Attys § 68 et seq.
Rules of Professional Conduct, 1 Attys §§ 72, 452

Attorney conduct
in general, 1 Attys § 465QQQ*
Attorney conduct—Cont’d

advertising
  in general, 1 Attys §§ 37 et seq., 515 et seq.
“advertise” or “advertisement” defined, 1 Attys § 38
announcements permissible, 1 Attys § 522

Bates case, 1 Attys § 516
certified specialist, advertising as, 1 Attys § 522
definitions, 1 Attys § 38
discipline based on, 1 Attys § 515 et seq.
disclosures required, 1 Attys §§ 39, 40
electronic medium, by, 1 Attys §§ 38, 40, 41, 518
false advertising, 1 Attys §§ 40, 518
First Amendment right, 1 Attys §§ 516, 518
immigration services, requirements for, 1 Attys § 39
“lawyer” defined, 1 Attys § 38
“legal aid,” use of term in, 1 Attys § 39*
listings permissible, 1 Attys § 522
“member” defined, 1 Attys § 38
misleading advertising, 1 Attys §§ 40, 518
naturalization services, requirements for, 1 Attys § 39
personal publicity, disciple based on, see Attorney discipline
prohibitions, 1 Attys § 39
records required, 1 Attys § 39
regulation of, 1 Attys § 37
requirements, 1 Attys § 39
restrictions on, 1 Attys § 517
Rules of Professional Conduct, 1 Attys §§ 465JJJ*, 518
solicitation, see solicitation of clients (this group)
violations, 1 Attys §§ 39, 41
attorney-client privilege, see Attorney-client privilege
attorney-client relationship, see Attorney-client relationship
attorney Guidelines of Civility and Professionalism, 1 Attys § 4*
business dealings with client, see Attorney-client relationship

Attorney conduct—Cont’d

client relationship, see Attorney-client privilege; Attorney-client relationship
communication with represented party
  in general, 1 Attys §§ 465 et seq.*, 465WW*
actual knowledge requirement, 1 Attys § 423
adverse party initiating contact, effect of, 1 Attys § 423
authorized activity, 1 Attys § 422
certified class member in class action, 1 Attys § 423*
discipline based on, see Attorney discipline
fields of practice and specialization, communication of, 1 Attys § 465LLL*
former employees, effect of rule on, 1 Attys § 423
former party, effect of rule on, 1 Attys § 423
inadvertently transmitted writings, duties concerning, 1 Attys § 465YY*
information about legal services, 1 Attys § 465-III et seq.*
intent, effect of, 1 Attys § 423
judges, officials, employees, and jurors, contact with, 1 Attys § 465PP*
lawyer’s services, communications concerning, 1 Attys § 465-III*
new counsel, effect of rule on party seeking, 1 Attys § 423
prohibited activity, 1 Attys § 422
Rules of Professional Conduct governing, 1 Attys §§ 422, 423, 465 et seq.*
stations to others, truthfulness in, 1 Attys § 465VV*
with unrepresented person, 1 Attys § 465XX*
communications, see Attorney discipline
conflict of interest, see Attorney-client relationship
contempts by, see Trial
contributions to officials, 1 Attys § 463
criminal conviction, discipline based on, see Attorney discipline
discipline, see Attorney discipline

Index-54
Attorney conduct—Cont’d
error, misconduct as, 9 Appeal §§ 432, 440
ethics rules, see Rules of Professional Conduct
evidence, suppression of, 1 Attys § 461
fees, see Attorneys’ fees
fraudulent conduct by, reporting to State Bar, see State Bar
gifts to officials, 1 Attys § 463
government attorneys, see Attorneys
judges, communications with, 1 Attys § 463
jurors, contact with, 1 Attys § 464
malpractice by attorney, see Attorney malpractice
misconduct
error, as, 9 Appeal §§ 432, 440
modification or reversal of judgment based on, reporting to State Bar, see State Bar
misrepresentation by, reporting to State Bar, see State Bar
moral turpitude, acts involving, see Attorney discipline
negligence of attorney, see Attorney malpractice
new trial, attorney misconduct as grounds, see New Trial
protective order, bad faith violation of, see Sanctions
publicizing litigation, 1 Attys § 460
sanctions, see Attorney discipline
solicitation of clients
in general, 1 Attys §§ 416 et seq., 523 et seq.
ambulance chasing, 1 Attys § 527 et seq.
attorney referral service distinguished, 1 Attys § 529
cappers, 1 Attys § 527
chaser, acting as, 1 Attys § 527
civil liberties cases distinguished, 1 Attys § 525
claim adjustor organization, 1 Attys § 528
“communication” defined, 1 Attys §§ 416, 518
constitutionality of restrictions, 1 Attys §§ 524, 525
content of, 1 Attys § 417

Attorney conduct—Cont’d
solicitation of clients—Cont’d
definitions, 1 Attys § 416
discovery of evidence distinguished, 1 Attys § 526
family relationship, based on, 1 Attys § 417
form of, 1 Attys § 417
investigation of case distinguished, 1 Attys § 526
others, solicitation through, 1 Attys § 527 et seq.
personal solicitation, 1 Attys § 523 et seq.
professional relationship, based on, 1 Attys § 417
prohibitions, 1 Attys § 417
retention requirements, 1 Attys § 417
Rules of Professional Conduct, 1 Attys §§ 465 et seq., 523, 527
runners, 1 Attys § 527
“solicitation” defined, 1 Attys §§ 416, 518
State Bar standards, 1 Attys § 418
steerers, 1 Attys § 527
touter, acting as, 1 Attys § 527
unlicensed solicitor, use of, 1 Attys § 528
threatening charges to gain advantage in civil dispute, 1 Attys § 458
trial
conduct, rules governing, 1 Attys § 461
liability insurance, effect of reference to, 7 Trial § 217 et seq.
trial sanctions, see Sanctions
witnesses, conduct regarding, 1 Attys § 463

Attorney discipline
in general, 1 Attys § 480 et seq.
account, failure to make to client, see commingling funds or failure to account (this group)
acquittal of crime, effect of, 1 Attys § 482
acts subject to discipline
advertising, see Attorney conduct
moral turpitude, acts involving, see moral turpitude (this group)
nonlawyers, transactions relating to, see nonattorney (this group)
solicitation of clients, see Attorney conduct
Attorney discipline—Cont’d
acts subject to discipline—Cont’d
unlawful practice of law, see Attorneys
admonition of attorney
in general, 1 Attys § 578
termination by, 1 Attys § 596
adoption of Indian child, related civil
penalty, see Indian child adoption
(this group)
adverse interests
acquiring as ground, 1 Attys § 514
contingency fee agreement as, 1 Attys
§ 514*
representing as ground, 1 Attys § 513
adverse party, communication with, see
communication with adverse party
(this group)
advertising, see Attorney conduct
aggravating circumstances, 1 Attys § 543
et seq.
agreement in lieu of, 1 Attys §§ 563, 595
agreement to hide misconduct, 1 Attys
§ 480
Alternative Dispute Resolution Client-
Attorney Mediation Program (ADRCAMP), 1 Attys § 574
appearance, unauthorized as ground, 1
Attys § 480
architect malpractice, 3 Actions § 209
association, representation of, 1 Attys
§ 532 et seq.
Athlete Agents Act, violation as ground, 1
Attys § 480
Attorney Diversion and Assistance
Program, see State Bar
attorneys’ fees, acts relating to as ground,
see fees as ground (this group)
beneficial services performed, effect of,
1 Attys § 551
certificate of merit, noncompliance, 3
Actions § 209
character
attorney, effect of, 1 Attys §§ 544, 545
complainant, effect of, 1 Attys § 551
Chief Trial Counsel
in general, 1 Attys § 562
petition for Supreme Court review by, 1
Attys § 616
child support order or judgment, disobedience of, 1 Attys § 499
civil rights organizations, 1 Attys § 534

Attorney discipline—Cont’d
clear and convincing evidence standard,
applicability of, 1 Attys § 560
client relationship, see Attorney-client
privilege; Attorney-client relationship
closure of inquiry, complaint, or
investigation, 1 Attys § 578
collateral estoppel, applicability of, 1
Attys § 592
commingling funds or failure to account
in general, 1 Attys § 509 et seq.
discovery of financial records, see
discovery (this group)
misappropriation, conduct close to, 1
Attys § 510
misuse of trust account, 1 Attys § 512
technical violation, effect of, 1 Attys
§ 511
communication with adverse party
in general, 1 Attys § 536 et seq.
former corporate employees, commu-
nication with, 1 Attys § 538
Rules of Professional Conduct, 1 Attys
§ 536
violation of rule, 1 Attys § 537
complaint to State Bar
in general, 1 Attys § 571 et seq.
absolute privilege for, 1 Attys § 571
admissibility of, 1 Attys § 593
closure of, 1 Attys § 578
complainants, 1 Attys § 571
informal complaint, 1 Attys § 572
investigation, see investigation (this
group)
notification to attorney, 1 Attys § 571
response by attorney, 1 Attys § 571
response by State Bar, 1 Attys § 573
verification of, 1 Attys § 572
conduct not in capacity as attorney as
ground, 1 Attys § 507
confidential proceedings, 1 Attys § 568
conflicts of interest, see Attorney-client
relationship
contempt, see Trial
costs, imposition of, 1 Attys § 602
courts, discipline by
in general, 1 Attys § 552 et seq.
Court of Appeal, see Supreme Court
(this group)
Index

Attorney discipline—Cont’d

Attorney discipline—Cont’d
courts, discipline by—Cont’d
superior court jurisdiction, 1 Atts § 555
Supreme Court, see Supreme Court
(this group)
courts, wrongs against
in general, 1 Atty § 495 et seq.
courtroom attire, effect of, 1 Attys § 502
disrespectful acts, 1 Attys § 500 et seq.
false pleadings or documents, 1 Attys § 496
fraudulent acts, 1 Attys § 495 et seq.
leaving courtroom, 1 Atty § 503
misleading court, 1 Atty § 497
offensive acts, 1 Atty § 500 et seq.
order, disobedience of, 1 Atty §§ 498, 499
perjury, 1 Atty § 495
privileged criticism distinguished, 1
Atty § 501
suborning perjury, 1 Atty § 495
support order, disobedience of, 1 Atty § 499

Attorney discipline—Cont’d
criminal acts—Cont’d
in general, 1 Atty § 466 et seq.
acquittal, effect of, 1 Atty § 482
admission, effect of acts performed before, 1 Atty § 467
conviction, proceeding based on, 1
Atty § 630
disbarment proceedings based on, 1
Atty §§ 468, 630
federal conviction, effect of, 1 Atty
§ 467
felony, effect of conviction, 1 Atty
§ 479
fraud, 1 Atty § 474
gambling offenses, 1 Atty § 476
hearing after conviction final, 1 Atty
§§ 470, 471
income tax offenses, 1 Atty §§ 476, 478
moral turpitude, crimes of, 1 Atty
§ 466 et seq.
narcotics offenses, 1 Atty § 476
nolo contendere plea, effect of, 1 Atty
§ 467
out-of-state conviction, effect of, 1
Atty § 467

Attorney discipline—Cont’d
criminal acts—Cont’d
pardon, effect of, 1 Atty § 467
perjury, 1 Atty § 475
person, crimes against, 1 Atty § 474
probation, effect of, 1 Atty § 467
property, crimes against, 1 Atty § 474
prosecution for independent of discipline, 1 Atty
§ 556
rules of procedure and practice, 1 Atty
§ 466
sex offenses, 1 Atty § 476
State Bar proceedings, 1 Atty § 468
Supreme Court action, 1 Atty § 468
Supreme Court review, 1 Atty § 471
suspended sentence, effect of, 1 Atty
§ 467
suspension proceedings based on, 1
Atty § 468
temporary suspension for, 1 Atty
§§ 468, 469
criminal proceedings distinguished, 1
Atty § 559
death of attorney, effect of, 1 Atty §§ 599
debt collection, improper methods as
ground, 1 Atty §§ 505, 506
degree of proof required, 1 Atty § 560
disbarment
disbarment
attorney-client relationship, effect on, 1
Atty § 66
criminal acts, proceedings based on,
see criminal acts (this group)
reinstatement proceeding (this group)
Review Department, by, 1 Atty § 607

Index-57
Attorney discipline—Cont’d
disbarment—Cont’d
summary disbarment based on criminal acts, 1 Attys §§ 479, 630
Supreme Court, by, see Supreme Court (this group)
termination of proceedings by, 1 Attys § 595
disciplinary proceedings
  in general, 1 Attys § 552 et seq.
  conduct at, effect of, 1 Attys § 550
Hearing Department, see Hearing Department (this group)
Review Department, see Review Department (this group)
State Bar, see State Bar (this group)
Supreme Court, see Supreme Court (this group)
discovery
  in general, 1 Attys § 584 et seq.
  conference, 1 Attys § 587
  depositions, 1 Attys § 584
discovery statutes, applicability of, 1 Attys § 584
financial records, discovery of, 1 Attys § 586
mental examinations, 1 Attys §§ 585, 635
physical examinations, 1 Attys §§ 585, 635
reinstatement proceeding, see reinstatement proceeding (this group)
related proceedings, discovery in, 1 Attys § 584
report to court, 1 Attys § 587
review of rulings, 1 Attys § 584
sanctions, 1 Attys §§ 584, 587, 595
subpoenas, 1 Attys § 584
time for, 1 Attys § 584
trust fund records, discovery of, 1 Attys § 586
work product, discovery of, 1 Attys § 584
discriminatory conduct in practice, discipline based on, 1 Attys § 430
discriminatory proceedings, effect of, 1 Attys § 551
dismissal
Review Department, by, see Review Department (this group)
Attorney discipline—Cont’d
fees as ground—Cont’d
statutory limits, fees in excess of, 1
Attys § 489
threats related to, 1 Attys § 491
unearned fees, obtaining of, 1 Attys § 488
withholding of without lien, 1 Attys § 491
filing of papers in proceedings, 1 Attys § 564
financial difficulties, effect of, 1 Attys § 547
financial products, sale of as grounds, 1 Attys § 66
format of papers, 1 Attys § 564
fraud as ground
borrowing money from client as, 1 Attys § 486
court, fraudulent acts against, see courts, wrongs against (this group)
creditors of client, defrauding of, 1 Attys § 505
crime of, 1 Attys § 474
insurance company, false claims against, 1 Attys § 505
miscellaneous frauds, 1 Attys § 487
misrepresentations concerning case or performance, 1 Attys § 484
personal interest, concealment of, 1 Attys § 485
State Bar, misrepresentation to, 1 Attys § 495
government agencies, reports to, 1 Attys § 570
gross negligence in performance of duties, 1 Attys § 493
groundless action, maintenance of, 1 Attys § 505
group, representation of, 1 Attys § 532 et seq.
Hearing Department
in general, 1 Attys §§ 562, 579 et seq.
alternative counties, hearings in, 1 Attys § 579
amended pleading, 1 Attys § 582
appointment of counsel, 1 Attys § 583
consolidation of proceedings, 1 Attys § 588
costs, imposition of, 1 Attys § 602
decision in, 1 Attys § 600

Attorney discipline—Cont’d
Hearing Department—Cont’d
discipline, 1 Attys § 601
discovery, see discovery (this group)
Early Neutral Evaluation Conference, 1 Attys § 580
evidence, see evidence (this group)
failure to appear at trial, 1 Attys § 590
interlocutory review, see Review Department (this group)
mandatory status conference, 1 Attys § 589
notice of charges, see notice of discipline (this group)
notice of trial, 1 Attys § 590
order of proof, 1 Attys § 592
pleading, filing of, 1 Attys § 580
post-trial motions, 1 Attys § 600
pretrial conferences, 1 Attys § 589
pretrial statements, 1 Attys § 589
proceedings in, 1 Attys § 579 et seq.
remand from Review Department, see Review Department (this group)
simplification of proof, 1 Attys § 592
stays, see stays (this group)
supplemental pleading, 1 Attys § 582
termination of proceedings, see termination of proceedings in
Hearing Department (this group)
transfer of proceedings, 1 Attys § 588
transfer of venue, 1 Attys § 579
venue, 1 Attys § 579
hearsay, admissibility of, 1 Attys § 560
illegal act as ground, 1 Attys § 508
immigration status of witness or party, reporting of, 1 Attys § 541A
immunity from prosecution, grant to witness, 1 Attys § 592
improper support of client’s cause, 1 Attys § 541
incompetent representation, report to State Bar, 1 Attys § 575
Indian child adoption
civil penalty related to required notice, 1 Attys § 575
report to State Bar of civil penalty imposed in, 2 Courts § 51A
inexperience, effect of, 1 Attys § 547
inquiries regarding, responses to, 1 Attys § 570
insanity, effect of, 1 Attys § 548

Index-59
Attorney discipline—Cont’d
insurance claims as grounds, 1 Attys §§ 480, 505
intent, effect of, 1 Attys § 546
investigation
  in general, 1 Attys § 576 et seq.
  confidentiality, 1 Attys § 576
  criminal history information, 1 Attys § 577
determination, 1 Attys § 578
examination of books and records, 1 Attys § 577
nature of, 1 Attys § 576
reinstatement proceeding, see reinstatement proceeding (this group)
reopening of, 1 Attys § 578
scope of, 1 Attys § 576
State Bar, investigation of complaint by, 1 Attys § 575
involuntary inactive status, see State Bar judges
  in general, 1 Attys § 562
  disqualification of, 1 Attys § 567
judge’s participation, see Judicial ethics
Judicial Nominees Evaluation Commission, reports to, 1 Attys § 570
judicial opinion
criticism in, 1 Attys § 556
reprimand in, 1 Attys § 626
jurisdiction outside California,
misconduct in, 1 Attys § 650
known custom, violation of, 1 Attys § 540
labor unions, 1 Attys § 533
lack of injury or damage, effect of, 1 Attys § 551
law enforcement agencies, reports of misconduct to, 1 Attys § 570
legal services programs, 1 Attys § 534
malpractice judgment, report to State Bar, 1 Attys § 575
mandatory remedial education as discipline, 1 Attys § 601
mediation program, 1 Attys § 574
Miller-Ayala Athlete Agents Act, violation as grounds, 1 Attys § 480
misappropriation of funds or property as ground
  in general, 1 Attys § 483
  conduct close to, see commingling funds or failure to account (this group)

Attorney discipline—Cont’d
misconduct
prosecutor withholding exculpatory evidence, see sanctions (this group)
trial, at, 7 Trial § 210
misrepresentation as ground, see fraud as ground (this group)
misappropriation of funds or property as ground
mitigating circumstances, 1 Attys § 543 et seq.
money sanctions, imposition of, 1 Attys § 602
moral turpitude
  in general, 1 Attys § 480 et seq.
client, wrongs against, 1 Attys § 483 et seq.
court, wrongs against, see courts, wrongs against (this group)
crimes of, see criminal acts (this group)
defined, 1 Attys § 481
fees, acts relating to, see fees as ground (this group)
fraud, see fraud as ground (this group)
mortgage law violation, 1 Attys § 480*
motions, 1 Attys § 564
motive
attorney, effect of, 1 Attys § 546
complainant, effect of, 1 Attys § 551
multiple prosecutions, applicability of rules against, 1 Attys § 559
negligent performance of duties, 1 Attys §§ 492, 493
nonattorney
  aiding practice as ground, 1 Attys §§ 530, 531
  lending name to as ground, 1 Attys § 480
  Rules of Professional Conduct, 1 Attys § 530
notice of discipline
  in general, 1 Attys §§ 82, 580
filing of, 1 Attys §§ 578
  giving of, 1 Attys § 629
issuance after investigation, 1 Attys §§ 577, 578
law practice, effect of notice on, 1 Attys § 82
noncompliance, effect of, 1 Attys § 82
pleas permissible, 1 Attys § 581
proof of compliance, 1 Attys § 82
response to, 1 Attys § 581

Index-60
INDEX

Attorney discipline—Cont’d
notice of discipline—Cont’d
State Bar Rules governing, 1 Atty's § 82
oath, violation of, 1 Atty's § 480
opposing counsel, wrongs against, 1 Atty's §§ 465 et seq.*, 504
order, disobedience of, 1 Atty's §§ 498, 499
papers in disciplinary proceedings, 1 Atty's § 564
perjury and suborning perjury, see courts, wrongs against (this group); criminal acts (this group)
personal difficulties, effect of, 1 Atty's § 547
personal publicity, 1 Atty's § 519 et seq.
pleadings disciplinary proceeding, pleadings in, 1 Atty's § 564
falsity as grounds, 1 Atty's § 496
presumption of innocence, applicability of, 1 Atty's § 559
previous record, effect of, 1 Atty's §§ 544, 545
private reproval, 1 Atty's § 601
privileged communications during proceedings, 1 Atty's § 569
privileged material, receipt of as ground, 1 Atty's § 539
probation early termination of, 1 Atty's § 642
modification of, 1 Atty's § 642
Professional Responsibility Examination as condition, 1 Atty's § 628
Review Department revocation of, 1 Atty's § 611
revocation of, 1 Atty's § 643
Supreme Court, imposition by, 1 Atty's §§ 627, 628
violation of, 1 Atty's § 643
Professional Responsibility Examination probation condition, as, see probation (this group)
reinstatement requirement, as, see reinstatement proceeding (this group)
public nature of proceedings, 1 Atty's § 568
public reproval, 1 Atty's § 601
publicizing litigation, 1 Atty's § 521
quasi-criminal nature of proceeding, 1 Atty's § 560

Attorney discipline—Cont’d
records of discipline expunging of, 1 Atty's § 570
maintenance and retention of, 1 Atty's § 570
sealing of, 1 Atty's § 568
reinstatement proceeding in general, 1 Atty's § 645 et seq.
adverse recommendations, effect of, 1 Atty's § 648
criminal history information requirement, 1 Atty's § 646
discovery, 1 Atty's § 646
fingerprinting of applicant, 1 Atty's § 646
fitness to practice showing required, 1 Atty's § 649
investigation, 1 Atty's § 646
moral qualifications showing required, 1 Atty's § 648
nature of, 1 Atty's § 645
notice of, 1 Atty's § 646
pardon after criminal conviction, effect of, 1 Atty's § 645
petition, 1 Atty's § 646
procedure, 1 Atty's § 646
Professional Responsibility Examination requirement, 1 Atty's § 647
publication of, 1 Atty's § 646
purpose of, 1 Atty's § 645
rehabilitation showing required, 1 Atty's § 648
showing required, 1 Atty's § 647 et seq.
standard of proof required, 1 Atty's § 647
repentance, effect of acts of, 1 Atty's § 550
reporting required to disciplinary agency, 1 Atty's §§ 347, 570, 575
representation adverse to client as ground, see Attorney-client relationship
representation by State Bar officer or employee, 1 Atty's § 566
represented person, communication with in general, 1 Atty's §§ 422, 423
advisory attorney, effect of, 1 Atty's § 423*
party appearing in pro. per., communication with, 1 Atty's § 423*
reprimand in published opinion as punishment, 1 Atty's § 626
reproval, 1 Atty's § 601

Index-61
Attorney discipline—Cont’d
resignation with charges pending
law corporation, effect on name, 1
Attys § 25
perpetuation of testimony proceeding, 1
Attys § 631
termination of proceedings by, 1 Attys
§ 595
restitution, effect of, 1 Attys § 549
retaliation by judge based on cooperation
in, see Judicial ethics
Review Department
in general, 1 Attys §§ 562, 603 et seq.
decisions of, 1 Attys § 605 et seq.
determination, 1 Attys § 603
disbarment, see disbarment (this group)
dismissal by, 1 Attys §§ 606, 608
hearing, 1 Attys § 603
inactive enrollment, order for, 1 Attys
§ 603
increase in recommended punishment
by, 1 Attys § 610
precedent, decisions as, 1 Attys § 605
probation, revocation of, 1 Attys § 611
publication of decisions, 1 Attys
§§ 603, 605
recommendation of Hearing Depart-
ment, effect of, 1 Attys § 606 et seq.
reconsideration, 1 Attys §§ 603, 604
reduction in recommended punishment
by, 1 Attys § 609
remand to Hearing Department, 1 Attys
§§ 588, 608
request for review, 1 Attys § 603
revocation of probation, 1 Attys § 611
scope of review, 1 Attys § 603
summary review, 1 Attys § 604
Rules of Professional Conduct, see Rules
of Professional Conduct
sanctions
report to State Bar, 1 Attys § 575; 2
Courts § 51A*; 7 Trial § 210*
trial sanctions, see Sanctions
sealing of record, 1 Attys § 568
self-incrimination, applicability of privi-
lege, 1 Attys § 560
self-laudatory statements, using media
for, 1 Attys § 520
service of papers
in general, 1 Attys § 564

Attorney discipline—Cont’d
service of papers—Cont’d
petition for review by Supreme Court,
1 Attys § 615 et seq.
settlement, attorney’s role, see Attorneys
sexual relationship with client, 1 Attys
§§ 101, 465X*, 494
solicitation of business, see Attorney
conduct
spousal support order or judgment, dis-
obedience of, 1 Attys § 499
Standards for Attorney Sanctions for
Professional Misconduct, 1 Attys
§ 601
State Bar
in general, 1 Attys § 558 et seq.
annual report by, 1 Attys § 570
authority for, 1 Attys §§ 411, 558
California Constitutional authority for,
1 Attys § 558
complaint to State Bar, see complaint to
State Bar (this group)
criminal acts, proceedings regarding, 1
Attys § 468
Ethics School, completion of, 1 Attys
§ 601
examination of records of, 1 Attys
§ 577
exhaustion of remedies provided by, 1
Attys § 553
involuntary inactive status, see State
Bar
reports by court to, 1 Attys § 575
Rules of Practice, 1 Attys § 558
Rules of Procedure, 1 Attys § 558
State Bar Act, 1 Attys § 558
State Bar Court, see State Bar Court
(this group)
State Bar Court
Chief Trial Counsel, see Chief Trial
Counsel (this group)
Civil Discovery Act, applicability of, 1
Attys § 584
Executive Committee, 1 Attys § 562
function, 1 Attys § 561
Hearing Department, see Hearing
Department (this group)
judges, see judges (this group)
or ganization, 1 Attys § 561
Review Department, see Review
Department (this group)

Index-62
Attorney discipline—Cont’d

State Bar Court—Cont’d

Rules of Practice, 1 Attys § 561
Rules of Procedure, 1 Attys § 561
stays
in general, 1 Attys § 590
interlocutory review, for, 1 Attys § 594
subpenas, 1 Attys § 584
subsequent conduct, effect of, 1 Attys § 550
summary disbarment based on felony, 1 Attys § 479
superior court jurisdiction, 1 Attys § 555
support order or judgment, disobedience of, 1 Attys § 499
Supreme Court
briefs, filing on review, 1 Attys § 615
Committee of Bar Examiners, petition for review by, 1 Attys § 617
contempt for failure to comply with order, 1 Attys § 619
Court of Appeal, review by, 1 Attys § 613
criminal acts, discipline based on, see criminal acts (this group)
disbarment recommendations followed, 1 Attys § 621
dismissal by, 1 Attys § 623
effective dates of orders imposing discipline, 1 Attys § 619
findings and recommendation by State Bar Court, effect of, 1 Attys § 614
grounds for review, 1 Attys § 615
increase in punishment by, 1 Attys § 625
inherent power of, 1 Attys §§ 553, 554
jurisdiction to review, 2 Courts § 330
nature of review by, 1 Attys § 613
nonstatutory grounds for disbarment, 1 Attys § 554
order on review, 1 Attys § 619
petition for review, 1 Attys § 615 et seq.
probation, imposition of, 1 Attys §§ 627, 628
recommendations followed, 1 Attys § 620 et seq.
reduction in punishment by, 1 Attys § 624
remand by, 1 Attys §§ 619, 623
review by, 1 Attys § 613 et seq.

Supreme Court—Cont’d

scope of review power, 1 Attys § 615
standard of review, 1 Attys § 613
summary denial of petition for review, 1 Attys § 618
suspension recommendations followed, 1 Attys § 622
surveyor malpractice, certificate of merit noncompliance, 3 Actions § 209
suspension
attorney-client relationship, effect on, 1 Attys § 66
criminal acts, proceedings based on, see criminal acts (this group)
failure to appear, recommendation based on, 1 Attys § 590
felony, effect of conviction, see criminal acts (this group)
Hearing Department recommendation of, 1 Attys § 601
law practice, effect of suspension on, 1 Attys § 82
relief from, 1 Attys § 622
Supreme Court, by, 1 Attys § 622
temporary suspension on conviction of crime, see criminal acts (this group)
termination of proceedings in Hearing Department
in general, 1 Attys § 595 et seq.
admonition, by, 1 Attys § 596
consolidation, dismissal for, 1 Attys § 595
death of attorney, by, 1 Attys § 599
disbarment, by, 1 Attys § 595
dismissal, by, 1 Attys § 595
resignation, by, 1 Attys § 595
stipulation, by, 1 Attys §§ 597, 598
voluntary dismissal, by, 1 Attys § 595
transcripts of proceedings, 1 Attys § 565
trial, see Hearing Department (this group)
trust account, see commingling funds or failure to account (this group);
discovery (this group)
unauthorized appearance as ground, 1 Attys § 480
unincorporated association, representation of, 1 Attys § 532 et seq.
union counsel, 1 Attys § 533

Index-63
Attorney discipline—Cont’d
venue, see Hearing Department (this group)
voluntary dismissal, 1 Attys § 595
will drafted in attorney’s favor, see Wills
withholding of funds or property
  in general, 1 Attys § 483
summary order for return, 1 Attys § 556
witnesses, immunity grant to, 1 Attys § 592
work product privilege, see Attorney work product
youth, effect of, 1 Attys § 547

Attorney General
  in general, 1 Attys § 54
amicus curiae, as, see Amicus curiae
appeal, involvement in, see Appeal briefs, service on, see Briefs
conflict of interest, see Attorney-client relationship
criminal prosecution, employment of special counsel for, 1 Attys § 64
employment of legal counsel other than Attorney General, 1 Attys §§ 54, 56, 64
escheat
  special counsel for, 1 Attys § 64
governmental agencies, 1 Attys §§ 54, 56*
intervention into appeal by, see Appeal notice of entry of judgment to, 7 Judgm § 57
opinions of
  appellate opinions, citation in, 9 Appeal § 796
private practice by, 1 Attys § 65
quo warranto actions, see Quo warranto special counsel, employment of, 1 Attys § 64
taxpayers’ actions by, see Real party in interest
venue for actions involving state, 3 Actions § 863

Attorney malpractice—Cont’d
appeal by attorney potentially liable for, 9 Appeal § 39
assignment of cause of action, 1 Attys § 285
breach of duty, see duty and breach of duty (this group)
causation and damages
  in general, 1 Attys § 310 et seq.
criminal defendants, actions by, see criminal defendants, actions by (this group)
early causation rule, 1 Attys § 310
intervening negligence of substituted counsel, effect of, see substitution of attorneys (this group)
measure of damages, see measure of damages (this group)
proximate causation rule, 1 Attys § 311
showing of damages requirement, 1 Attys § 313
substituted counsel, effect of negligence of, see substitution of attorneys (this group)
cause of action, elements of, 1 Attys § 285
collateral estoppel, see Collateral estoppel
conflict of interest, see Attorney-client relationship
criminal case malpractice, tolling of limitations period, 3 Actions § 642
criminal defendants, actions by
  in general, 1 Attys § 314 et seq.
actual innocence requirement, 1 Attys §§ 314, 316
attorneys’ fees dispute, see Attorneys’ fees
postconviction relief requirement, 1 Attys §§ 315, 316
public defender, liability of, 1 Attys § 318
public officials, liability of, 1 Attys § 318
Sexually Violent Predator Act (SVPA) proceedings, 1 Attys § 316*
transactionally related offenses, proof requirements regarding, 1 Attys § 316*
damages, see causation and damages (this group); measure of damages (this group)
Attorney malpractice—Cont’d
defenses

in general, 1 Attys § 325 et seq.
arbitration agreement, 1 Attys § 331
conflicting public obligation, 1 Attys § 330
mistake of law, 1 Attys § 326 et seq.
negligence of client, 1 Attys § 325
reasonable exercise of judgment, 1 Attys § 329
unclean hands, 1 Attys § 332
duty and breach of duty

in general, 1 Attys § 290 et seq.
associated attorney, duty to cocounsel, 1 Attys § 308
attorney-client relationship, necessity of, 1 Attys § 292
beneficiary of client, duty to, see duty to client’s beneficiary (this group)
change in law, attorney’s duty to advise client of potential for, 1 Attys § 327
dual attorney-client relationship, effect of, 1 Attys § 293
expert evidence regarding, 1 Attys § 291
fact, as question of, 1 Attys § 290
forwarding attorney, liability of, 1 Attys § 309
law, as question of, 1 Attys § 290
mediator, attorney as, 1 Attys § 292
remedies outside scope of representation, duty to advise of, 1 Attys § 295
specialist, duty to refer to, see specialists (this group)
substitution of attorneys, see substitution of attorneys (this group)
third parties, duty to, see duty to third parties (this group)
third persons, liability for acts of, 1 Attys § 296
duty to client’s beneficiary

in general, 1 Attys § 297 et seq.
executor and sole beneficiary, duty to, 1 Attys § 300
potential beneficiary, duty to, 1 Attys § 298
unidentified beneficiary, duty to, 1 Attys § 299

Attorney malpractice—Cont’d
duty to third parties

in general, 1 Attys § 301 et seq.
attorney for third party, effect of misrepresentation to, 1 Attys § 304
beneficiary of client, see duty to client’s beneficiary (this group)
escrow holder, duty as, 1 Attys § 305
foreseeable reliance on misrepresentation, effect of, 1 Attys § 303
lien against client’s recovery, duty to holder of, 1 Attys § 306
nonliability, general rule of, 1 Attys § 301
emotional distress, recovery for, see measure of damages (this group)
equitable tolling of limitations period, 3
estoppel of attorney from asserting limitations defense, 3
former partner, liability of, 1 Attys § 307
gross negligence in professional capacity, reporting to State Bar, see State Bar indemnity

in general, 1 Attys § 333 et seq.
concurrent counsel, indemnity from, 1 Attys § 336
expert, indemnity claim from, 1 Attys § 337
original tortfeasor, indemnity from, 1 Attys § 335
successor attorneys, claims against, 1 Attys §§ 333, 334
instructions to jury, 7

insurance

in general, 1 Attys § 338
disclosure of, 1 Attys §§ 444A*, 465K*
insurer, required reporting to State Bar by, 1 Attys § 347
intentional tort liability, 1 Attys § 286
judgments, required reporting of, 1 Attys §§ 347, 575
jury instructions, 7
jury trial, 7

law partnership, liability of members, 1 Attys § 307
limitation and accrual of actions

in general, 3

accrual on discovery of facts, 3

Index-65
Attorney malpractice—Cont’d

limitation and accrual of actions—Cont’d
alternative periods of accrual, 3 Actions § 630
delayed accrual, 3 Actions § 627 et seq.
discovery of facts, accrual on, 3
Actions §§ 497, 627 et seq.
tolling, see tolling of limitations period
(this group)
limitation of liability for, 1 Attys § 444
litigational malpractice, tolling of limitations period, 3 Actions § 627 et seq.
Lucas case, 1 Attys §§ 297, 326
measure of damages
in general, 1 Attys § 319 et seq.
contingent fee, effect of, 1 Attys § 321
double recovery prohibition, 1 Attys § 322
emotional distress damages, 1 Attys § 323
punitive damages, 1 Attys § 320
value of claim lost as measure, 1 Attys § 319
missed-filing malpractice, see tolling of limitations period (this group)
nature of liability, 1 Attys § 285
partner, liability of, 1 Attys § 307
pleading, 4 Plead § 616
probation proceedings, action based on, 2
Courts § 316*
proximate cause, see causation and damages (this group)
representation, tolling of limitations period during, see tolling of limitations period (this group)
Rules of Professional Conduct regarding,
1 Attys § 444
scope of liability, 1 Attys § 285
settlement with client for, 1 Attys § 444
specialists
duty to refer client to, 1 Attys § 294
standard of care for, 1 Attys § 288
standard of care, 1 Attys § 288
State Bar, reporting of judgments to, 1
Attys §§ 347, 575
statute of limitations, see limitation and accrual of actions (this group); tolling of limitations period (this group)
subrogation of claim, 1 Attys § 285
substitution of attorneys
effect of, 1 Attys § 309

Attorney malpractice—Cont’d

substitution of attorneys—Cont’d
intervening negligence of substituted counsel, effect of, 1 Attys § 312
third parties, see duty to third parties (this group)
tolling of limitations period
in general, 3 Actions § 631 et seq.
absence from state, tolling during, 3
Actions § 646*
Adams rule, 3 Actions §§ 640, 641
criminal case malpractice, 3 Actions § 642
equitable tolling, 3 Actions § 647
estoppel, 3 Actions § 647
imprisonment of client, tolling during,
3 Actions § 646
ITT rule, 3 Actions § 636 et seq.
Laird rule, 3 Actions §§ 633 et seq., 639
litigational malpractice, 3 Actions § 632 et seq.
missed-filing malpractice, 3 Actions § 639 et seq.
representation, tolling during, 3 Actions § 643 et seq.
transactional malpractice, 3 Actions § 635 et seq.
transactional malpractice, see tolling of limitations period (this group)
voluntary dismissal of action, effect of, 6
PWT § 309

Attorney referral services
in general, 1 Attys § 11 et seq.
American Bar Association Rules, 1 Attys § 11
certification, 1 Attys § 12
fee-splitting, 1 Attys § 13
immunity from liability, 1 Attys § 11
membership, 1 Attys § 12
nature of, 1 Attys § 11
panels, 1 Attys § 12
purpose of, 1 Attys § 11
referral fees, 1 Attys § 13
Rules of Professional Conduct governing,
1 Attys § 11
solicitation of clients distinguished, 1
Attys § 529
standards, 1 Attys § 12
State Bar rules, 1 Attys § 12
violations, 1 Attys § 12
Attorney work product
disciplinary proceeding
discovery in, 1 Attys § 584
expert witness
consultation with another party, 1 Attys § 151

Attorneys
in general, 1 Attys § 1 et seq.
A.B.A. Model Rules of Professional Conduct, see Model Rules of Professional Conduct
admission to practice
in general, 1 Attys § 357 et seq.
Anastoplo case, 1 Attys § 375
applications, 1 Attys § 359
baby bar, see first year students’ examination (this group)
Baird case, 1 Attys § 376
bar examination, see bar examination (this group)
certification for admission, 1 Attys § 377
citizenship requirement, 1 Attys § 358
Committee of Bar Examiners, role of, 1 Attys § 359
confidentiality of applicant information, 1 Attys § 357*
due process requirements, 1 Attys § 357
educational requirements, see bar examination (this group)
false statements regarding, 1 Attys §§ 412, 465NNN*
first year students’ examination, see first year students’ examination (this group)
false statements regarding, 1 Attys §§ 412, 465NNN*
first year students’ examination, see first year students’ examination (this group)
false statements regarding, 1 Attys §§ 412, 465NNN*
frad, revocation of admission based on, 1 Attys § 374
general conditions, 1 Attys § 357
Konisberg case, 1 Attys § 375
loyalty requirements, 1 Attys §§ 357, 375, 376
membership in State Bar, see State Bar
moral character requirements, see moral character requirements for admission to practice (this group)
oath, see Oath
procedure, 1 Attys § 359
registration, 1 Attys § 359
residency requirement, 1 Attys § 358

Attorneys—Cont’d
admission to practice—Cont’d
restrictions on lawyer’s right to practice, 1 Attys § 465FFF*
Rules of Professional Conduct, 1 Attys §§ 465FFF*, 465NNN*
State Bar Rules, see State Bar
Supreme Court jurisdiction to review, 2
Courts § 330
undocumented aliens, 1 Attys §§ 358*, 377*
advertising by, see Attorney conduct
advocacy by, 1 Attys § 5
affidavit of fault, motion for relief from judgment based on, see Relief from judgment
agency of, see authority of attorney (this group)
agreements restricting law practice
in general, 1 Attys § 33 et seq.
general rule and exceptions, 1 Attys § 33
noncompetition agreements, 1 Attys § 33 et seq.
Rule of Professional Conduct governing, 1 Attys § 419
rule of reason, applicability of, 1 Attys § 35
appointment of attorney, see Attorney-client relationship
association of counsel, 1 Attys § 79
attorney-client privilege, see Attorney-client privilege
attorney-client relationship, see Attorney-client relationship
“attorney” defined, 1 Attys § 3
Attorney Guidelines of Civility and Professionalism, 1 Attys § 4*
attorney in fact
distinguished, 1 Attys § 3
attorney of record, authority of, 1 Attys § 239 et seq.
attorneys’ fees, see Attorneys’ fees
authority of attorney
in general, 1 Attys § 235 et seq.
adverse party, authority in dealing with, 1 Attys § 240
affidavit, establishment of authority by, 1 Attys § 235
agency rules, applicability of, 1 Attys § 235
Attorneys—Cont’d
authority of attorney—Cont’d
apparent authority, 1 Attys §§ 243, 244
appeal, authority over, 1 Attys §§ 256, 257; 9 Appeal § 63
arbitration, stipulation to as binding, 1 Attys § 252
attorney of record, effect of attorney’s status as, 1 Attys § 239 et seq.
binding arbitration, stipulation to, 1 Attys § 252
client control, 1 Attys §§ 243, 245
collateral matters to litigation, 1 Attys §§ 258, 259
compromise judgments, authority over, 1 Attys § 246
compromise of claim, authority over, 1 Attys § 242
consent judgments, 1 Attys § 246; 6 PWT §§ 120, 121*
court rule, acts contrary to, 1 Attys § 260 et seq.
defense, giving up of, 1 Attys § 250
enforcement of judgment, authority over, see Enforcement of judgment
family law case, stipulation in, 1 Attys § 253
fraudulent attorney, dismissal entered by, 1 Attys § 262
hearing, giving up right to, 1 Attys § 251
independent contractor, effect of attorney’s status as, 1 Attys §§ 236, 245
inquiry about authority, 1 Attys § 236
judgment, authority over steps after, 1 Attys § 255 et seq.
law, acts contrary to, 1 Attys § 260 et seq.
legal steps, authority over, 1 Attys §§ 239, 243
legally effective acts, authority over, 1 Attys §§ 241, 242
litigation, control over, 1 Attys § 243 et seq.
marital settlement agreements, authority over, see Marital settlement agreements
officer of court, effect of attorney’s status as, 1 Attys §§ 236, 237, 245
ostensible authority, 1 Attys § 248

Attorneys—Cont’d
authority of attorney—Cont’d
presumption of authority, 1 Attys § 237
public policy, acts contrary to, 1 Attys § 260 et seq.
ratification by client, effect of, 1 Attys § 249
settlement, authority regarding, see settlement (this group)
stipulations, authority regarding, see Stipulations
substantive right, authority over giving up of, 1 Attys § 247 et seq.
temporary judge, stipulation for, see Judges
testimony, establishment of authority by, 1 Attys § 235
waiver of right to appeal, authority over, 1 Attys § 257
baby bar, see first year students’ examination (this group)
bad faith actions or tactics, 7 Trial § 227*
bar, see State Bar
bar examination
  in general, 1 Attys §§ 357, 360 et seq.
  application for, 1 Attys § 359
  attorney applicants, 1 Attys § 362
  baby bar, see first year students’ examination (this group)
  first year students’ examination, see first year students’ examination (this group)
foreign attorney applicants, 1 Attys § 362
out-of-state attorney applicants, 1 Attys § 362
requirement of, 1 Attys § 361
student applicants, 1 Attys § 360
Supreme Court approval, 1 Attys § 361*
Supreme Court review, 1 Attys § 363
unaccredited law school applicants, 1 Attys § 360
unsuccessful applicants, rights of, 1 Attys § 363
business dealings with client, see Attorney-client relationship
California State Bar, see State Bar
candor toward tribunal, 1 Attys § 465NN*
certified law students
  in general, 1 Attys § 383 et seq.

Index-68
INDEX

Attorneys—Cont’d

certified law students—Cont’d
activities of, 1 Attys § 385
application for program, 1 Attys § 384
duration of certification, 1 Attys § 384
eligibility for program, 1 Attys § 384
nature of program, 1 Attys § 383
supervising attorney participants,
requirements for, 1 Attys § 384
cessation of practice, see Attorney-client relationship
class actions, see Class actions
client relationship, see Attorney-client privilege; Attorney-client relationship
Client Security Fund, see State Bar Committee of Bar Examiners
admission to practice, role in, see admission to practice (this group)
attorney discipline, role in, see Attorney discipline
moral character, investigation of, see moral character requirements for admission to practice (this group)
compensation of, see Attorneys’ fees
competency of, see Competency of counsel
conduct of, see Attorney conduct
confession of judgment, see Confession of judgment
confidentiality, see Attorney-client relationship
conflict of interest, see Attorney-client relationship
consent judgment, attorney’s authority, 6
PWT §§ 120, 121*
conspiracy action against, order allowing,
3 Actions §§ 211, 212
conspiracy with client, liability for, 1
Attys § 287
consultation with clients, see Attorney-client relationship
contempt during trial, see Trial
contingent fees, see Attorneys’ fees
continuing legal education requirements,
1 Attys § 406
contract of employment, see Attorney-client relationship
corporations, see Law corporations
criminal conviction, discipline based on,
see Attorney discipline

disabled attorney
limitations period, effect on, 3 Actions § 709
disbarment of, see Attorney discipline
discharge of attorney, see Attorney-client relationship
discrimination in practice by, 1
Attys § 430
disqualification of, see Attorney-client relationship
drafting of documents by, 1 Attys § 5
educational requirements for admission to practice, see bar examination (this group)
employment of, see Attorney-client relationship
ethics, see Rules of Professional conduct
examination for admission, see admission to practice (this group)
fee, attorney’s, relief from judgment based on, see Relief from judgment fees, see Attorneys’ fees
fiduciary obligations of, see Attorney-client relationship
financial relationship with client, see Attorney-client relationship
first year students’ examination
application for, 1 Attys § 359
requirement of, 1 Attys § 360
foreign attorneys, see out-of-state attorneys (this group)
fraudulent practice, see Attorney conduct
function of, 1 Attys § 3 et seq.
government attorneys
in general, 1 Attys § 54 et seq.
Attorney General, see Attorney General
city attorney, see City attorney
conflict of interest, see Attorney-client relationship
contingency fees in contracts with, see Attorneys’ fees
county counsel, see County counsel
criminal charges, institution by, 1 Attys § 459
district attorney, see District attorney
districts, representation of, 1 Attys § 63
in-house counsel for state executive agencies, see in-house counsel
(this group)
Attorneys—Cont’d
government attorneys—Cont’d
   Legislative Counsel, see Legislative Counsel
private practice by, 1 Attys § 65
public defender, see Public defender
   schools, see Schools and school districts
special counsel, employment of, 1 Attys § 64
immigration
   discipline based on acts involving, see Attorney discipline
   provision of services related to, see Immigration
in-house counsel
   out-of-state attorney as, see out-of-state attorneys (this group)
state executive agencies, 1 Attys §§ 54, 56*
   wrongful termination action by, 1 Attys § 219
incapacity
   attorney-client relationship, effect on, see Attorney-client relationship
   attorneys’ fees, effect on, see Attorneys’ fees
State Bar status effect on, see State Bar independent contractor status, 1 Attys §§ 43, 236, 245
insurance, representation in matters concerning, see Insurance
intervention by, 4 Plead § 234
involuntary inactive enrollment, see Attorney discipline
judgment, modification or reversal based on misconduct or incompetence of, reporting to State Bar, see State Bar judicial candidate, ethics of attorney as, 1 Attys § 421
jury voir dire by, see Voir dire
   law corporations, see Law corporations law governing, 1 Attys § 2
law partnerships, see Law partnerships
law practice
   in general, 1 Attys § 9 et seq.
   admission to practice, see admission to practice (this group)
agreements restricting, see agreements restricting law practice (this group)

Attorneys—Cont’d
law practice—Cont’d
   certified law students, see certified law students (this group)
   cessation of, see Attorney-Client relationship
foreign attorneys, see out-of-state attorneys (this group)
out-of-state attorneys, see out-of-state attorneys (this group)
   “practice of law” defined, 1 Attys § 397
regulation of, see regulation of law practice (this group)
sale of, see sale of law practice (this group)
unlawful practice, see unlawful practice of law (this group)
legal document assistants, see Legal document assistants
legal services programs, see Legal services programs
lien, see Attorneys’ fees
limited scope representation
   in general, 1 Attys § 5
   Judicial Council forms, 1 Attys § 5
   limited legal services programs, participation in, 1 Attys § 420A*
   Rules of Court governing, 1 Attys § 5
   litigation, control over conduct of, see authority of attorney (this group)
loyalty, attorney’s duty to client, see Attorney-client relationship
malpractice, see Attorney malpractice
   mandatory continuing legal education (MCLE) requirements, 1 Attys § 406
   misconduct, see Attorney conduct;
   Attorney discipline; Attorney malpractice; unlawful practice of law (this group)
moral character requirements for admission to practice
   in general, 1 Attys §§ 357, 364 et seq.
   adverse determination, review of, 1 Attys § 367
application for determination of, 1 Attys § 359
attorney’s duty to aid investigation, 1 Attys § 365
burden of proof, 1 Attys § 368
   Committee of Bar Examiners, investigation by, 1 Attys § 364 et seq.
Attorneys—Cont’d

moral character requirements for admission to practice—Cont’d
confidentiality of investigation, 1 Attys § 364
criminal history investigation, 1 Attys § 364
delay in investigation, effect of, 1 Attys § 366
disclosure requirements for applicants, 1 Attys § 365
due process requirements, 1 Attys § 369
fingerprinting requirement, 1 Attys § 364
fraud, revocation of admission based on, 1 Attys § 374
free speech considerations, 1 Attys § 370
proof of good character, 1 Attys § 368 et seq.
rehabilitation, effect of showing of, 1 Attys § 372
review of Committee’s decision, 1 Attys § 367
school rules violation, effect of, 1 Attys § 364
Supreme Court review, 1 Attys §§ 367, 368
validity of requirement, 1 Attys § 364
moral turpitude, acts involving, see Attorney discipline
motions, see Motions
nature of, 1 Attys § 3 et seq.
negligence of, see Attorney malpractice; Equitable relief against judgment negotiation by, 1 Attys § 5
noncompetition agreements, see agreements restricting law practice (this group)
nonresident attorneys, see out-of-state attorneys (this group)
notice of unavailability of, effect of, 2 Courts § 173*
oath, see Oath
officer of the court
attorney as, 1 Attys § 340
authority of attorney, effect of status as officer of court on, see authority of attorney (this group)
conduct of litigation, effect of status as officer of court on, see authority of attorney

Attorneys—Cont’d

officer of the court—Cont’d
attorney (this group)
defined, 1 Attys § 4
out-of-state attorneys
in general, 1 Attys § 387 et seq.
appointment proceedings, appearance in, 1 Attys § 387
authorization to practice in California, 1 Attys § 387
bar examination, see bar examination (this group)

Birbower case, 1 Attys § 388
consent by court to practice in California, 1 Attys § 387
federal courts, practice in, 1 Attys § 387
foreign legal consultants, certification of, see State Bar
“in California” defined, 1 Attys § 388
in-house counsel, registration of, 1 Attys § 393
judge advocate, appearance by, 1 Attys § 390
legal services attorneys, registration of, 1 Attys § 392
limitations on practice by, 1 Attys § 389
military counsel, appearance by, 1 Attys § 390
pro hac vice, appearance in, see pro hac vice, appearance in (this group)
sanctions, as subject to, 1 Attys § 389
temporary practice by, 1 Attys §§ 394, 395

paralegals, see Paralegals
partnerships, see Law partnerships
peremptory challenge to judge after disqualification as incompetent, 2 Courts § 156
practice administrator
in general, 1 Attys § 87
practice of law, see law practice (this group); Rules of Court; unlawful practice of law (this group)
preventive law, 1 Attys § 6
privilege
attorney-client, see Attorney-client privilege
attorney work product, see Attorney work product
Attorneys—Cont’d
pro hac vice, appearance in
in general, 1 Attys § 389
filing fee for application, 4 Plead § 25*
revocation of status, 1 Attys § 556*
professional activities of, 1 Attys § 5
professional corporations, see Law corporations
public responsibilities of, 1 Attys § 5
receiver, employment by, 6 Prov Rem § 457
referral services, see Attorney referral services
regulation of law practice
in general, 1 Attys § 339 et seq.
court, by, 1 Attys § 340
law governing, 1 Attys § 2
Legislature, by, 1 Attys § 341
State Bar, by, 1 Attys § 341
reinstatement, see Attorney discipline
relief from judgment based on attorney’s fault, see Relief from judgment
resignation with charges pending, see Attorney discipline
Restatement of Law Governing Attorneys, 1 Attys § 2
right to counsel, see Right to counsel
right to practice law, 1 Attys § 339
rules governing
Rules of Court, see Rules of Court
Rules of Professional Conduct, see Attorney discipline; Rules of Professional Conduct
State Bar Rules, see State Bar
Rules of Court governing, see Rules of Court
Rules of Professional Conduct, see Attorney discipline; Rules of Professional Conduct
sale of law practice
in general, 1 Attys § 36
attorney, sale to, 1 Attys § 428
conservator for seller, effect of, 1 Attys § 429
deceased seller, effect of, 1 Attys § 429
fees, effect on, see Attorneys’ fees
guardian for seller, effect of, 1 Attys § 429
law firm, sale to, 1 Attys § 428
Rules of Professional Conduct, 1 Attys § 465GG*

Attorneys—Cont’d
sale of law practice—Cont’d
substitution, effect on, 1 Attys § 428
transfer of responsibility, 1 Attys § 429
service of motion on attorney, see
Motions
service of process on, see Process settlement
aggregate settlement of claims of multiple clients, 1 Attys §§ 440, 465U*
attorney’s role, 1 Attys § 7
authority regarding, 1 Attys §§ 238, 242, 259
communication with client regarding offer, 1 Attys §§ 445, 465J*
duty to inform clients of offers, 1 Attys § 238
limitation of action for wrongful withholding of proceeds, see Limitation and accrual of actions
malpractice claim, see Attorney malpractice
misappropriation of funds by attorney, 1 Attys § 90*
receipt of money in settlement, 1 Attys § 259
Rules of Professional Conduct, 1 Attys §§ 465J*, 465U*
wrongful withholding of proceeds, limitation of action for, see Limitation and accrual of actions
small claims court, appearance in, 2 Courts § 276 et seq.
solicitation of business, see Attorney conduct
specialists
advertising as, 1 Attys § 522
certification of, 1 Attys §§ 9, 10
malpractice involving, see Attorney malpractice
specialty areas, 1 Attys § 10
State Bar, see State Bar
statutory framework, 1 Attys § 2
stipulated judgment, see Consent judgment; Stipulations
stipulations, see Stipulations
substitution of, see Attorney-client relationship
successive representation in derivative action, 1 Attys § 115*

Index-72
Attorneys—Cont’d
suspended attorney, employment of, 1
Attys §§ 415, 465CCC*
temporary judge, serving as, see Judges
tolling of limitations period based on dis-
ability, 3 Actions § 709
unlawful practice of law
in general, 1 Attys § 379 et seq.
administrative agencies, practice before, 1 Attys § 402
aiding in, 1 Attys § 413
appointment of attorney based on, 1
Attys § 405
certified law students, practice by, see
certified law students (this group)
civil liability for, 1 Attys § 404
clerks, practice by, 1 Attys § 396
collection of assigned claims as
practice, 1 Attys § 399
conservators, practice by, 1 Attys § 379
corporations, practice by, 1 Attys § 386
court assumption of jurisdiction over
practice based on, 1 Attys § 405
court commissioners, practice by, 1
Attys § 396
court officials, practice by, 1 Attys
§ 396
criminal penalties based on, 1 Attys
§ 403
deputy sheriffs, practice by, 1 Attys
§ 396
eviction services as practice, 1 Attys
§ 398
executors, practice by, 1 Attys § 379
felony as penalty for, 1 Attys § 403
foreign attorneys, practice by, see out-
of-state attorneys (this group)
heir hunting as practice, 1 Attys § 400
judges, practice by, 1 Attys § 396
law clerks, practice by, 1 Attys § 380
legal document assistants, see Legal
document assistants
misdemeanor as penalty for, 1 Attys
§ 403
out-of-state attorneys, practice by, see
out-of-state attorneys (this group)
paralegals, practice by, 1 Attys § 381
personal representatives, practice by, 1
Attys § 379
power of attorney, effect of, 1 Attys
§§ 379, 401

Attorneys—Cont’d
unlawful practice of law—Cont’d
“practice of law” defined, 1 Attys § 397
Rule of Professional Conduct govern-
ing, 1 Attys §§ 413, 465EEE*
sheriffs, practice by, 1 Attys § 396
spouses, representation of each other, 1
Attys § 379
State Bar action based on, 1 Attys
§ 404
translations, misleading as, 1 Attys
§ 397*
trustees, practice by, 1 Attys § 379
unlicensed persons, practice by, 1 Attys
§ 379 et seq.
unlicensed persons, see unlawful practice
of law (this group)
verification of pleadings, see Verification
of pleadings
veterans, legal assistance to, 1 Attys § 14*
voir dire by, see Voir dire
withdrawal of, see Attorney-client rela-
tionship
witness, attorney as, see Witnesses
work product, see Attorney work product
wrongful termination action by attorney-
employee, 1 Attys § 219

Attorneys’ fees
in general, 1 Attys § 153 et seq.; 7 Judgm
§ 149 et seq.
actions for recovery of compensation
in general, 1 Attys § 208 et seq.
answer, filing as waiver of right to
arbitration, 1 Attys § 227
arbitration of dispute, see arbitration of
fee disputes (this group)
attorney-employee, recovery by, 1
Attys § 219
costs, recovery of after discharge, 1
Attys § 218
discharge of attorney, effect of, 1 Attys
§ 215 et seq.
ethical breach, effect of attorney’s
disqualification for, 1 Attys § 211
incapacity of attorney to complete per-
formance, effect of, 1 Attys § 214
interest, recovery of, 1 Attys §§ 209,
218
limitations period, tolling by arbitra-
tion, 1 Attys § 226
Attorneys’ fees—Cont’d

actions for recovery of compensation
—Cont’d
mediation of dispute, see arbitration of fee disputes (this group)
performance, action based on, 1 Attys § 209
prevention of performance, action based on, 1 Attys § 210
probate proceedings, see Probate proceedings
withdrawal of attorney, voluntary, effect of, 1 Attys §§ 212, 213
administrative determination, proceeding to review
in general, 7 Judgm § 210 et seq.
hospital disciplinary decision, 7 Judgm § 216
welfare determination, 7 Judgm § 215
affordable housing, actions involving, 7 Judgm § 230*
agreements regarding, see fee agreements (this group)
amount in controversy, effect on determining, see Amount in controversy
amount of award
in general, 7 Judgm § 304 et seq.
“clear sailing” agreement, award under, 7 Judgm § 323A*
common fund, fees awarded out of, 7 Judgm § 315
contingency contract, effect on fees, 7 Judgm § 310
contract, fees based on, 7 Judgm § 306 et seq.
federal statutes, award under, 7 Judgm §§ 313, 314
general formula, 7 Judgm § 304
lodestar approach, use of, 7 Judgm § 312
percentage benefit, as multiplier in class action, 7 Judgm § 305
private attorney general doctrine, see
Private attorney general doctrine
shareholder derivative action, fees negotiated in settlement of, 7 Judgm § 323
statute, fees based on, 7 Judgm § 311 et seq.
appeal
acceptance of fees as waiver of, see Appeal

Attorneys’ fees—Cont’d

appeal—Cont’d
award, review of, see review of fee awards (this group)
award on, appealability of, see Appeal
costs on appeal, recovery as, see Appeal
discretion of trial court, review on appeal, see Appeal
former attorney as aggrieved party, 9 Appeal § 38
jurisdiction of trial court pending appeal, see Jurisdiction
modification of judgment, see Appeal
appellate review of awards, see review of fee awards (this group)
arbitration of fee disputes
in general, 1 Attys § 220 et seq.
appearance at hearing, 1 Attys § 228
arbitrators, 1 Attys § 225
attorney-client privilege, effect of at hearing, 1 Attys § 229
attorneys’ fees in arbitration proceeding, 1 Attys § 230
authority of arbitrators, 1 Attys § 225
award, 1 Attys § 230; 6 PWT §§ 564, 565
confirmation of arbitration award, 1 Attys § 230
correction of arbitration award, 1 Attys § 230
costs at trial after arbitration, 1 Attys § 231
counsel, use of, 1 Attys § 228
disqualification of arbitrators, 1 Attys § 225
enforcement of agreement by, 6 PWT § 524
enforcement of arbitration award, see enforcement of fee arbitration award (this group)
evidence at hearing, 1 Attys § 229
exceptions to arbitration requirement, 1 Attys § 223
fees at trial after arbitration, 1 Attys § 231
hearing, 1 Attys § 228
immunity of arbitrators, 1 Attys § 225
jurisdiction, 1 Attys § 224
local bar association arbitration programs, 1 Attys § 222
Attorneys’ fees—Cont’d

arbitration of fee disputes—Cont’d
malpractice exception to arbitration requirement, 1 Attys § 223
mediation, 1 Attys § 220
nature of arbitration program, 1 Attys § 221
notice of right to arbitration, 1 Attys §§ 208, 226
panels, arbitration by, 1 Attys § 225
preexisting arbitration agreement, effect of, 1 Attys § 221*
procedure, 1 Attys § 225 et seq.
purpose of arbitration program, 1 Attys § 221
request for arbitration, 1 Attys §§ 226, 227
rules governing, 1 Attys §§ 222, 232
small claims court jurisdiction over award, 2 Courts § 282
State Bar administration, 1 Attys § 222
stay of attorney’s action, 1 Attys § 226
time of hearing, 1 Attys § 228
trial after arbitration, 1 Attys § 231
vacation of arbitration award, 1 Attys § 230
venue of hearing, 1 Attys § 228
waiver of right to arbitration, 1 Attys § 227
architect malpractice action, 3 Actions § 209; 7 Judgm § 229
attachment, see Attachment
Attorney General, actions by, 7 Judgm § 233
attorney’s action against client, fees for, 7 Judgm § 158
attorney’s lien
in general, 1 Attys § 166 et seq.
annulment of marriage proceedings, 1 Attys § 167
charging liens, 1 Attys § 166
common law liens, 1 Attys § 166
condemnation proceedings, see Eminent domain
contractual liens, see contractual liens (this group)
discipline based on, see Attorney discipline
dissolution of marriage proceedings, see Dissolution of marriage

Attorneys’ fees—Cont’d

attorney’s lien—Cont’d
eminent domain proceedings, see Eminent domain
legal separation proceedings, see Legal separation
marital dissolution proceedings, see Dissolution of marriage
medical lien, priority over, 1 Attys § 172*
nonpossessory liens, 1 Attys § 166
nullity of marriage proceedings, see Nullity of marriage
possessory liens, 1 Attys §§ 166, 175
priority of, 1 Attys § 172
probate proceedings, see Probate proceedings
retaining liens, 1 Attys § 166
settlement, effect of fee agreement on, 1 Attys §§ 173A*, 179
statutory liens, 1 Attys § 167
withholding fees without lien, see Attorney discipline
workers’ compensation proceedings, fees in, see Workers’ compensation procedure
Automobile Sales Finance Act actions, 7 Judgm § 224
bad faith
insurer, fees based on, 7 Judgm § 154 et seq.
tactics, fees for, 7 Judgm § 222
basis of fee, 7 Judgm § 165 et seq.
bills to clients, requirements for, 1 Attys § 156
book account, contract action based on, 7 Judgm § 174
Brandt case, 7 Judgm § 154 et seq.
catalyst theory
federal statutes, rejection under, 7 Judgm § 240
state law, see Private attorney general doctrine
certificate of merit, noncompliance, effect on, 3 Actions § 209
change of venue, effect of stipulation, 3 Actions § 913
civil rights actions, 7 Judgm §§ 223, 242 et seq., 314*
Civil Rights Attorneys’ Fees Awards Act, 7 Judgm § 242 et seq.

Index-75
Attorneys’ fees—Cont’d
  class actions, see Class actions
  “clear sailing” agreement, award under, 7 Judgm § 323A*
  client as recipient, 7 Judgm § 159
  collective bargaining agreement, arbitration under, 7 Judgm § 227
  commercial misappropriation of name or likeness action, 7 Judgm § 229
  common fund recovery
    in general, 7 Judgm § 249 et seq.
    benefits conferred without common fund, 7 Judgm §§ 254, 255
    preservation of common fund, 7 Judgm § 253
  Probate Code, effect of, 7 Judgm § 252
  compromise of minor’s claim, fees in action involving, 1 Attys § 171
  condemnation proceedings, see Eminent domain
  conflict of interest as defense to, see Attorney-client relationship
  conscionability of fee, determination of, 1 Attys § 200
  conservatorship proceedings, fees in, 1 Attys § 159
  construction claim, action for payment under, 7 Judgm § 230
  construction of contract
    in general, 1 Attys § 189 et seq.
    substantial performance by attorney, effect of, 1 Attys § 193
    unanticipated services, 1 Attys §§ 191, 192
  consumer protection actions, 7 Judgm § 224
  Consumers Legal Remedies Act actions, 7 Judgm § 224
  contingent fees
    in general, 1 Attys §§ 176 et seq., 201
    adverse interest to client, as, see Attorney discipline
    agreement, effect of, 7 Judgm § 169
    ambulance chasing, contract secured by, 1 Attys § 177
    capper, contract secured by, 1 Attys § 177
    child support action, validity of agreement, 1 Attys § 177
    criminal cases, validity of agreement, 1 Attys § 177
Attorneys’ fees—Cont’d
contractual liens—Cont’d
independent action for enforcement, 1
Attys § 171
language of, 1 Attys § 174
notice of lien by discharged attorney, 1
Attys § 173
possessory lien, requirements for, 1
Attys § 175
priority of, 1 Attys § 172
withdrawal of attorney, effect on lien, 1
Attys § 170
withholding of fees without, see
Attorney discipline
corporate accountability actions involving, 7 Judgm § 225
costs
appeal, recovery as costs on, see Costs on appeal
attorneys’ fees as, 7 Judgm §§ 119, 150, 165
enforcement of judgment, see Enforcement of judgment
stay of award pending appeal, 9 Appeal § 236
county counsel’s failure to represent county officers or employees, 7
Judgm § 225
county employee’s retirement allowance action, 7 Judgm § 227
criminal defendant, fee dispute with, 1
Attys § 317
damages, as, 7 Judgm §§ 119, 151 et seq.
decedent’s estate, fees for services to, 7
Judgm § 158
default judgment, 6 PWT § 165
defendant, award to, 7 Judgm §§ 234 et seq., 314*
defense of attorney’s action, fees for, 7
Judgm § 157
delay tactics, fees for, 7 Judgm § 222
discipline based on, see Attorney discipline
disputes with clients over, see actions for recovery of compensation (this group)
dissolution of marriage proceedings, see Dissolution of marriage
division of fees between attorneys
in general, 1 Attys §§ 160 et seq., 424 et seq.

Attorneys’ fees—Cont’d
division of fees between attorneys
—Cont’d
association of outside attorney, 1 Attys § 426
construction of agreement, 1 Attys § 160
ethical considerations, 1 Attys § 161
inducements to recommend employment, see Attorney-client relationship
outside attorney as associate, 1 Attys § 426
quantum meruit recovery, 1 Attys § 425
referral fees, 1 Attys § 162
rules of Professional Conduct, 1 Attys § 424 et seq.
drugs, action for injunction against, 7
Judgm § 224
eminent domain proceedings, see Eminent domain
employment benefits, actions to recover, 7
Judgm § 227
employment discrimination actions, 7
Judgm § 227
enforcement of fee arbitration award in general, 1 Attys § 232 et seq.
costs award for failure to comply with award, 1 Attys § 233
grounds for, 1 Attys § 232
involuntary inactive status, placement of attorney on, 1 Attys §§ 232, 234, 352
payment plan, 1 Attys § 233
penalties for failure to comply with award, 1 Attys § 233
request for enforcement, 1 Attys § 233
response to request for enforcement, 1
Attys § 233
rules governing, 1 Attys § 232
enforcement of judgment, see Enforcement of judgment
engineer malpractice, certificate of merit noncompliance, 3 Actions § 209; 7
Judgm § 229
environmental issues, actions involving, 7
Judgm § 230
Equal Access to Justice Act, 7 Judgm § 241
equitable servitude, action to enforce, 7
Judgm § 221
escheat proceedings, 7 Judgm § 232

Index
Attorneys' fees—Cont’d
fee agreements—Cont’d
expedited jury trial
mandatory, 7 Trial §§ 6E*, 6H* voluntary, 7 Trial § 6D*
expenses, reimbursement from client for
in general, 1 Attys § 163 et seq. absence of agreement, effect of, 1 Attys § 164 agreement for, 1 Attys § 163 attorney’s agreement to bear expenses, 1 Attys § 165 costs of suit, recovery of, 1 Attys § 164 hiring of others, recovery for, 1 Attys § 164 personal expenses, recovery of, 1 Attys § 164 travel expenses, recovery of, 1 Attys § 164 expungement of lis pendens, see Lis pendens failure to defend, fees based on, 7 Judgm § 153 Fair Debt Collection Act actions, 7 Judgm § 224 False Claims Act action, 7 Judgm § 222* Family Code, award under in general, 7 Judgm § 158 federal statutes, actions under, 7 Judgm § 239 et seq. fee agreements in general, 1 Attys § 154 et seq.; 7 Judgm § 165 et seq. absence of fees provision, see reciprocity of fee agreements (this group) appeal, fees on, 7 Judgm § 165 association bylaws, 7 Judgm § 167 building contracts, 7 Judgm § 166 contingent fees, see contingent fees (this group) costs, fees as, 7 Judgm § 165 deed of trust, 7 Judgm § 167 division of fees between attorneys, see division of fees between attorneys (this group) effect of, 7 Judgm § 165 enforcement as covered procedure, 7 Judgm § 168 escrow agreement, 7 Judgm § 167 expenses, reimbursement by client, see expenses, reimbursement from client for (this group) fees not paid or incurred, effect of, 7 Judgm § 169 foreign language contract requirements, 1 Attys § 154 formal contract, 1 Attys § 154 free representation, effect of, 7 Judgm § 169 homeowners association documents, 7 Judgm § 167 indemnity agreement, 7 Judgm § 167 informal agreement, 1 Attys § 155 investment agreement, 7 Judgm § 167 leases, 7 Judgm § 167 liens for fees created by contract, see contractual liens (this group) mortgage, 7 Judgm § 167 nature of, 7 Judgm § 165 necessity for fees provision, see reciprocity of fee agreements (this group) oral agreement, 1 Attys § 155 prevailing party, award to, 7 Judgm § 165 proceedings covered, 7 Judgm § 168 promissory notes, 7 Judgm § 167 reasonable value of services, see reasonable value of services (this group) reciprocity, see reciprocity of fee agreements (this group) reimbursement by client for expenses, see expenses, reimbursement from client for (this group) special damages, fees as, 7 Judgm § 165 value of services under, see reasonable value of services (this group) written agreement, when required, 1 Attys § 156 felonious conduct, recovery in tort actions based on, 7 Judgm § 229 fiduciary, fees for attorney serving as, 1 Attys § 159 franchise taxes, actions involving, 7 Judgm § 231 general appearance, application as, 2 Jurisd § 210 general principle, 1 Attys § 153 government accountability, actions involving, 7 Judgm § 225 Index-78
## Attorneys’ fees—Cont’d

<table>
<thead>
<tr>
<th>Section</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government tort claims, awards to defendant based on</td>
<td>7 Judgm § 235 et seq.</td>
</tr>
<tr>
<td>Guardianship proceedings, fees in</td>
<td>1 Attys § 159</td>
</tr>
<tr>
<td>Harassment, temporary restraining order and injunction against</td>
<td>6 Prov Rem § 322</td>
</tr>
<tr>
<td>Home Equity Sales Contract Act, actions under</td>
<td>7 Judgm § 230</td>
</tr>
<tr>
<td>Housing contract, actions based on</td>
<td>7 Judgm § 222</td>
</tr>
<tr>
<td>Housing development, frivolous action involving, fees for</td>
<td>7 Judgm § 164</td>
</tr>
<tr>
<td>Indemnity action, agreement</td>
<td>7 Judgm § 167</td>
</tr>
<tr>
<td>Indemnities to recommend employment, see Attorney-client relationship</td>
<td></td>
</tr>
<tr>
<td>Information Practices Act, actions under</td>
<td>7 Judgm § 225</td>
</tr>
<tr>
<td>Intentional tort actions, interest on award, owner of</td>
<td>7 Judgm § 158</td>
</tr>
<tr>
<td>Intercourse, see Interpleader</td>
<td></td>
</tr>
<tr>
<td>Intervening act, see Inverse condemnation</td>
<td></td>
</tr>
<tr>
<td>Irrevocable trust, transfer of</td>
<td>7 Judgm § 232</td>
</tr>
<tr>
<td>Jury trial, expedited, see expedited jury trial (this group)</td>
<td></td>
</tr>
<tr>
<td>Layperson, sharing fees with</td>
<td>1 Attys §§ 414, 531</td>
</tr>
<tr>
<td>License disciplinary proceedings, see Interpleader</td>
<td>7 Judgm § 224</td>
</tr>
<tr>
<td>Lien for, see attorney’s lien (this group)</td>
<td></td>
</tr>
<tr>
<td>Limited civil action, dispute as, see</td>
<td>2 Courts § 249</td>
</tr>
<tr>
<td>Lis pendens, see Lis pendens</td>
<td></td>
</tr>
<tr>
<td>Malpractice action</td>
<td></td>
</tr>
<tr>
<td>Imposition of for certificate of merit</td>
<td>3 Actions § 209; 7 Judgm § 229</td>
</tr>
<tr>
<td>Marital dissolution proceedings, see Dissolution of marriage</td>
<td></td>
</tr>
<tr>
<td>Mediation of fee dispute, see arbitration of fee disputes (this group)</td>
<td></td>
</tr>
<tr>
<td>Medical malpractice cases, see</td>
<td>1 Attys § 182 et seq.</td>
</tr>
</tbody>
</table>

## Attorneys’ fees—Cont’d

<table>
<thead>
<tr>
<th>Section</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum fee schedules, see</td>
<td>1 Attys § 158</td>
</tr>
<tr>
<td>Minimum wage actions, see</td>
<td>7 Judgm § 227</td>
</tr>
<tr>
<td>Mobilehome Residency Law action, see</td>
<td>7 Judgm § 230</td>
</tr>
<tr>
<td>Motion procedure, see</td>
<td>7 Judgm § 295 et seq.</td>
</tr>
<tr>
<td>Nature of, see</td>
<td>7 Judgm § 150 et seq.</td>
</tr>
<tr>
<td>New trial conditioned on payment of, see</td>
<td></td>
</tr>
<tr>
<td>New trial</td>
<td></td>
</tr>
<tr>
<td>Nonattorney representing himself or herself as recipient, see</td>
<td>7 Judgm § 163</td>
</tr>
<tr>
<td>Nonjudicial foreclosure, actions involving, see</td>
<td></td>
</tr>
<tr>
<td>Obscenity, action for injunction against, see</td>
<td>7 Judgm § 224</td>
</tr>
<tr>
<td>“Of counsel,” attorney represented by, see</td>
<td>7 Judgm § 164A*</td>
</tr>
<tr>
<td>Offer to compromise</td>
<td></td>
</tr>
<tr>
<td>In general, see</td>
<td>6 PWT § 103</td>
</tr>
<tr>
<td>Fair Employment and Housing Act cases, see</td>
<td></td>
</tr>
<tr>
<td>Oral agreements regarding, see</td>
<td>1 Attys §§ 225, 234</td>
</tr>
<tr>
<td>Overtime compensation actions, see</td>
<td>7 Judgm § 227</td>
</tr>
<tr>
<td>Paralegal services, fees for</td>
<td>1 Attys § 159</td>
</tr>
<tr>
<td>Partition action, see</td>
<td>7 Judgm § 219</td>
</tr>
<tr>
<td>Party not properly in action, effect on, see</td>
<td>7 Judgm § 281A*</td>
</tr>
<tr>
<td>Peace officer, bad faith action against, see</td>
<td>7 Judgm § 222</td>
</tr>
<tr>
<td>Personal injury actions, see</td>
<td>7 Judgm § 229</td>
</tr>
<tr>
<td>Political Reform Act, see</td>
<td>7 Judgm § 225</td>
</tr>
<tr>
<td>Presumption against fee shifting, see</td>
<td>7 Judgm § 149</td>
</tr>
<tr>
<td>Prevailing party, see</td>
<td></td>
</tr>
<tr>
<td>Private attorney general theory, see</td>
<td></td>
</tr>
<tr>
<td>Private attorney general doctrine, pro se representation, right to fees,</td>
<td>7 Judgm § 161</td>
</tr>
<tr>
<td>Probate proceedings, see</td>
<td>7 Judgm § 232</td>
</tr>
<tr>
<td>Procedure</td>
<td></td>
</tr>
<tr>
<td>In general, see</td>
<td>7 Judgm § 295 et seq.</td>
</tr>
<tr>
<td>Amount of award, see</td>
<td></td>
</tr>
<tr>
<td>Amount of award (this group)</td>
<td></td>
</tr>
<tr>
<td>Appellate court, timing for fees determined by, see</td>
<td>7 Judgm § 302</td>
</tr>
<tr>
<td>Contract, fees based on, see</td>
<td>7 Judgm § 296</td>
</tr>
<tr>
<td>Damages, fees awarded as, see</td>
<td>7 Judgm § 299</td>
</tr>
</tbody>
</table>

Index-79
Attorneys’ fees—Cont’d
procedure—Cont’d
law, fees authorized by, 7 Judgm § 298
memorandum of costs, uncontested
fees in, 7 Judgm § 295
motion procedure, 7 Judgm § 295 et seq.
pleading of fees in complaint, 7 Judgm
§ 295
private attorney general doctrine, timing for fees determined under, 7 Judgm
§ 303
statute, fees based on, 7 Judgm § 297
timing of motion, 7 Judgm § 300 et seq.
trial court, timing for fees determined by, 7 Judgm § 301
quantum meruit recovery between attorneys, 1 Attys § 425
quasi-contract recovery, 1 Attys § 197
real property, actions involving, 7 Judgm § 230
reasonable value of services
in general, 1 Attys § 194 et seq.
court, independent judgment of, 1 Attys
§ 204
determination of reasonableness, 1 Attys § 199 et seq.
discharge of attorney, recovery after, 1 Attys §§ 194, 216 et seq.
dissolution of marriage proceedings, see Dissolution of marriage
evidence regarding, 1 Attys § 203
examination of witnesses regarding, 1 Attys § 203
expert opinion regarding, 1 Attys §§ 203, 204
express contract, recovery under, 1 Attys § 194
factors in determination of reasonableness, 1 Attys § 199 et seq.
illegal contract, effect of, 1 Attys § 198
implied contract, recovery under, 1 Attys § 194
invalid compensation provision in valid contract, effect of, 1 Attys § 196
jury, independent judgment of, 1 Attys
§ 204
marital dissolution proceedings, see Dissolution of marriage
negligent handling of case, effect of, 1 Attys § 202

Attorneys’ fees—Cont’d
reasonable value of services—Cont’d
performance of contract excused, effect of, 1 Attys § 195
proof of, 1 Attys §§ 203, 204
Rules of Professional Conduct, 1 Attys § 200
success as contingency, 1 Attys § 201
testimony as proof, 1 Attys § 203
unenforceable agreed fee, effect of, 1 Attys § 202
unenforceable contract, effect of, 1 Attys § 197
receivership of public corporation, fees for, 7 Judgm § 158
recipient, attorney as, 7 Judgm § 160 et seq.
reciprocity of fee agreements
in general, 7 Judgm § 170 et seq.
absence of fees provision, effect of, 7 Judgm § 176
action on contract, necessity of, 7 Judgm § 180 et seq.
action unrelated to fee provision, applicability to, 7 Judgm § 173
ambiguous provision, 7 Judgm § 178
book account, contract action based on, 7 Judgm § 174
breach of implied warranty of habitability, applicability to action on lease for, 7 Judgm § 190
contract action reduced to judgment, applicability to, 7 Judgm § 192
costs other than fees, applicability to, 7 Judgm § 170
declaratory relief, applicability to action for, 7 Judgm § 189
equitable relief, applicability to action for, 7 Judgm § 188
fraudulent inducement to contract, effect of, 7 Judgm § 182
judicially established, 7 Judgm § 175
litigation of existence of provision, necessity of, 7 Judgm § 179
mechanics lien foreclosure action, applicability to, 7 Judgm § 183
nature of statute, 7 Judgm § 170
necessity of fees provision, 7 Judgm § 176 et seq.
no contract formed, effect of, 7 Judgm § 180

Index-80
Attorneys’ fees—Cont’d

reciprocity of fee agreements—Cont’d
nonsignatories, availability of fees to or from, 7 Judgm § 206 et seq.
offset for damages on other causes of action based on, 7 Judgm § 193
partition action, 7 Judgm § 189A*
prevailing party, see Prevailing party
purpose of statute, 7 Judgm § 170
rescission of contract, effect of, 7 Judgm § 181
retroactive operation of statute, 7 Judgm § 171
security interest in personal property, applicability to action by party with, 7 Judgm § 191
shareholders’ derivative action, applicability to, 7 Judgm § 172
supplementary document, effect of provision in, 7 Judgm § 177
tort arising out of contract, applicability to, 7 Judgm § 184 et seq.
waiver prohibition for, 7 Judgm § 170
recovery of, actions for, see actions for recovery of compensation (this group)
referral fees, 1 Attys § 162
regulatory action taken without justification, 7 Judgm § 225
reimbursement from client for expenses, see expenses, reimbursement from client for (this group)
relief from judgment, payment as condition for, see Relief from judgment representation adverse to client as defense to, see Attorney-client relationship
review of fee awards
in general, 1 Attys § 205 et seq.
inadequate awards, 1 Attys § 207
large awards, 1 Attys §§ 205, 206
lower court’s discretion to make award, 9 Appeal § 362
revocable trust, claim against property in, 7 Judgm § 232
Rules of Professional Conduct
in general, 1 Attys §§ 200, 454, 465L*, 465M*
compensation from one other than client, 1 Attys § 465T*
division of fees, 1 Attys §§ 424 et seq., 465M*

Attorneys’ fees—Cont’d

Rules of Professional Conduct—Cont’d
third party, acceptance of compensation from, 1 Attys § 442
sale of law practice, effect of, 1 Attys § 428
sales and use tax actions, 7 Judgm § 231
sanction, payment of fees as, see Sanctions
satisfaction of judgment, wrongful refusal to record, 7 Judgm § 222
school district employee, action based on dismissal of, 7 Judgm § 227
security for costs and fees, as, 7 Judgm § 158
self-representation, right on, 7 Judgm § 161
settlement, effect on lien, see attorney’s lien (this group)
settlement agreement, entitlement to attorneys’ fees, 7 Judgm § 167*
shareholder’s derivative action, 7 Judgm § 225
slander of title, actions based on, 7 Judgm § 232
SLAPP suits, see SLAPP suits
small claims trial de novo, 2 Courts § 320; 7 Judgm § 222
statutory regulation of, 1 Attys § 159
sureties, action against, see Sureties
surveyor malpractice, certificate of merit noncompliance, 3 Actions § 209; 7 Judgm § 229
third party, acceptance of compensation from, 1 Attys § 442
trespass on agricultural land, actions based on, 7 Judgm § 230
trust administration, fees for, 7 Judgm § 158
trust proceedings, 7 Judgm § 232
unconscionable fee, prohibition of, 1 Attys § 454
undertaking for injunction, enforcement of liability on, 6 Prov Rem §§ 417, 418
unilateral determination by attorney, propriety of, 1 Attys § 157
uninsured employer, action against, 7 Judgm § 227
unlicensed goods or services, action based on, 7 Judgm § 229

Index-81
Attorneys’ fees—Cont’d
Unruh Civil Rights Act
retail installment sales actions, 7 Judgm § 224
unsafe residential building, action based on, 7 Judgm § 230
value of attorney’s services, see reasonable value of services (this group)
vice, action for injunction against, 7 Judgm § 224
Voting Rights Act, 7 Judgm § 225
wages
action for recovery of, 7 Judgm § 227
water diversion, injunction against, 7 Judgm § 230
well, action based on contribution to, 7 Judgm § 230
withdrawing partner’s right to, 1 Attys § 23
workers’ compensation proceedings, see Workers’ compensation procedure
written agreements regarding, see fee agreements (this group)

Auditor-controller
attorney to assist, appointment of, 1 Attys § 64*

Authentication of writing
electronic form
record or signature, 4 Plead § 22*

Automobiles

Automobile insurance
attorneys’ conflicts of interest, 1 Attys §§ 119, 120
conflicts of interest in attorneys, 1 Attys §§ 119, 120
uninsured motorist proceeding, see Uninsured motorist proceeding

Automobile sales
Automobile Sales Financing Act
attorneys’ fees, see Attorneys’ fees
change of venue, motion requirement, 3 Actions § 907
complaint, requirements for, 4 Plead § 472
venue for actions, 3 Actions § 845
dealers
exhaustion of remedies in actions involving, see Exhaustion of administrative remedies

Bad faith
contract, breach of, see Breach of contract
denial of insurance benefits, see Insurance in forma pauperis suit, see In forma pauperis suit
insurer’s, see Insurance
settlement, insurer’s refusal to make, see Insurance

Bagley-Keene Open Meeting Act, see Open meeting requirements

Bail
appeal, bail pending
in general, 9 Appeal § 834
Bond and Undertaking Law, exclusion from, 6 Prov Rem § 9
court clerk’s duties regarding, 2 Courts § 366

Bailments
bailees
conversion by, see conversion (this group); Conversion of personal property
government, claim against as, see Government tort claims
levy on goods in possession of, see Execution and levy
conversion
accrual of action, by, 3 Actions § 625
contract action based on, 3 Actions § 157
instructions to jury, 7 Trial § 287
interpleader, see Interpleader
jury instructions, 7 Trial § 287

Bank and corporation taxes
appeal, effect of corporation failure to pay taxes on, 9 Appeal § 79
collection
limitation and accrual for actions by government, 3 Actions § 666 et seq.
Bank and corporation taxes—Cont’d
liens, see Tax liens
limitation and accrual of actions, 3
Actions §§ 484, 666 et seq.
statute of limitations, 3 Actions §§ 484, 666 et seq.

Bankruptcy
appeal, effect on
in general, 9 Appeal §§ 36, 222
sanctions for frivolous appeal, effect on, 9 Appeal § 986
attachment lien, effect on, 6 Prov Rem §§ 188, 189
automatic stay, 8 Enf Judgm § 515
Bankruptcy Abuse Prevention and Consumer Protection Act, 8 Enf Judgm § 514
condominium dues as not dischargeable, 8 Enf Judgm § 526
cooperative housing dues as not dischargeable, 8 Enf Judgm § 526
criminal defendant, filing fees and costs assessed against as not dischargeable, 8 Enf Judgm § 529
default judgment debtor, availability of default judgment against, 6 PWT § 137
default judgment
effect on, 6 PWT § 154*
defense
discharge of debt as, 8 Enf Judgm § 531
estoppel to plead, 8 Enf Judgm § 532
pleading of, see Answer

discharge
automatic exclusions from, 8 Enf Judgm § 517
court-determined exclusions, 8 Enf Judgm § 517
debts, effect on, 8 Enf Judgm § 516
defense, pleading of, see Answer
pleading in answer, 5 Plead § 1096
voiding of judgment by, 8 Enf Judgm § 514

dissolution of marriage, debts arising from as not dischargeable, 8 Enf Judgm § 522

Bankruptcy—Cont’d
educational benefit overpayment and loan as not dischargeable, 8 Enf Judgm § 524
embezzlement as not dischargeable, 8 Enf Judgm § 519
evidence outside record, showing dischargeability by, 8 Enf Judgm § 530
exemptions, see Exemptions from execution
false representation as not dischargeable, 8 Enf Judgm § 518
federal jurisdiction over, see Federal courts
finality of orders, see Res judicata
financial institution, misconduct by personnel as not dischargeable, 8 Enf Judgm § 525
fines as not dischargeable, 8 Enf Judgm § 523
fraud as not dischargeable, 8 Enf Judgm §§ 518, 525
fraudulent conveyance, action for, 8 Enf Judgm § 533
harassment, effect of bankruptcy on injunction against, 6 Prov Rem § 318
homeowners association dues as not dischargeable, 8 Enf Judgm § 526
in rem proceeding, as, 2 Jurisd § 245
judgment debtor, effect of bankruptcy of, 8 Enf Judgm § 514 et seq.
judgment lien perfected before bankruptcy, effect of, 8 Enf Judgm § 514
jurisdiction over, see Federal courts
larceny as not dischargeable, 8 Enf Judgm § 519
legal separation, debts arising from as not dischargeable, 8 Enf Judgm § 522
limitations period tolled during, 3 Actions § 721
nondischargeable debts, 8 Enf Judgm § 517 et seq.
penalties as not dischargeable, 8 Enf Judgm § 523
real party in interest, 4 Plead §§ 146, 147
res judicata, see Res judicata
restitution
not dischargeable, 8 Enf Judgm § 523
retirement plan, amounts owed to as not dischargeable, 8 Enf Judgm § 528

Index-83
Bankruptcy—Cont’d
securities violations as not dischargeable, 8 Enf Judgm § 527
specialist, certification of attorney as, 1 Attys § 10
substitution of parties in civil actions, 4 Plead § 262
taxes as not dischargeable, 8 Enf Judgm § 523
tolling of limitations period during, 3 Actions § 721
trial, effect of filing on time for bringing action to, 6 PWT § 394
trustee
bankruptcy cases, 8 Enf Judgm § 514
complaint, naming in, 4 Plead § 476
pleading regarding, see Pleading relief from judgment, see Relief from judgment
small claims action by, 2 Courts §§ 274, 275
undercapitalization as not dischargeable, 8 Enf Judgm § 525
unscheduled debts as not dischargeable, 8 Enf Judgm § 521
wilful and malicious injury as not dischargeable, 8 Enf Judgm § 520

Banks and banking
California Banking Law, 3 Actions § 227*
errors in statement, notice to bank, 3 Actions § 230
exhaustion of administrative remedies in actions involving, see Exhaustion of administrative remedies
Financial Institutions Law, 3 Actions § 227*
instructions to jury, 7 Trial § 284
jury instructions, 7 Trial § 284
limitation and accrual of actions in general, 3 Actions § 481
recovery of money or property, 3 Actions § 489
liquidation, claim against bank in, claim requirements, 3 Actions § 227
statute of limitations, see limitation and accrual of actions (this group)
taxes, see Bank and corporation taxes
venue, federal action, 3 Actions § 816

Bar examination, see Attorneys
Bar of judgment, see Res judicata
Barristers, see Attorneys
Battery, see Assault and battery
Bifurcated trial
appeal of orders in, see Appealable judgments and orders
class actions, see Class actions
delay in trial, effect on dismissal for, 6 PWT § 373
new trial motion, see New trial statement of decision, 7 Trial § 400

Bill of particulars
in general, 4 Plead § 499 et seq.
action on account
account stated as, 4 Plead § 502
contract action as, 4 Plead § 501
limitation to, 4 Plead § 499
quasi-contract action as, 4 Plead § 501
amendment, 4 Plead § 505
default, relief from, 4 Plead § 510
defective bill, 4 Plead § 508
delivery of account, 4 Plead § 504
demand by defendant, 4 Plead § 503
demurrer distinguished, 4 Plead § 500
discovery distinguished, 4 Plead § 500
effect of bill, 4 Plead § 506
failure to comply, effect of, 4 Plead § 507 et seq.
federal rules, 4 Plead § 499
further account in general, 4 Plead § 505
motion for, 4 Plead § 508
late bill, 4 Plead § 509
procedure, 4 Plead § 503 et seq.
statement of damages distinguished, 4 Plead § 500
superseding contract, effect of, 4 Plead § 502

Bill of peace
in general, 4 Plead § 348 et seq.
common interest lacking, effect of, 4 Plead § 350
consolidation of actions, relationship to, 4 Plead §§ 343, 351
equitable nature of, 3 Actions § 129; 4 Plead § 348
INDEX

Bill of peace—Cont’d

nature of remedy, 4 Plead § 348

Board of Education, 9 Admin Proc § 206

Board of Equalization, 9 Admin Proc § 207

Bond, undertaking, or deposit

in general, 6 Prov Rem § 6 et seq.
additional bond, when given, 6 Prov Rem § 32
administrative mandamus, see Administrative mandamus
admitted surety insurers, see Sureties
affidavits

in general, 6 Prov Rem § 15
enforcement of liability on bond to State of California, 6 Prov Rem § 43
service, affidavit of, 6 Prov Rem § 18
alteration of bond after issuance, 6 Prov Rem § 29 et seq.
approval of, 6 Prov Rem § 16
attachment, see Attachment
beneficiary
defined, 6 Prov Rem § 12
enforcement of bond by, 6 Prov Rem § 37 et seq.
statute of limitations for enforcement by, 6 Prov Rem § 40
Bond and Undertaking Law, 6 Prov Rem § 9 et seq.
“bond” defined, 6 Prov Rem § 11
Cancellation of bond, 6 Prov Rem § 34
chambers, approval of bonds and undertakings in, 2 Courts § 23
claim and delivery, see Claim and delivery
Conservatorship bonds, see Conservatorship and guardianship
content, 6 Prov Rem § 16
corporate bonds, see Corporate securities
costs
inclusion in, 6 Prov Rem § 15
security for, see Security for costs
court commissioner, see Commissioners
“court” defined, 6 Prov Rem § 12
definitions, 6 Prov Rem §§ 11, 12
deposit in court, see Deposit in court
deposit in lieu of bond
in general, 6 Prov Rem § 44 et seq.

Bond, undertaking, or deposit—Cont’d

deposit in lieu of bond—Cont’d
enforcement against, 6 Prov Rem § 45
return to principal, 6 Prov Rem § 45
duration, 6 Prov Rem § 19
effective date, 6 Prov Rem § 19
enforcement of judgment of liability on bond, 6 Prov Rem § 41
evidence of bond, 6 Prov Rem § 15
excessive bond, alteration after issuance, 6 Prov Rem § 31
execution, 6 Prov Rem § 16
exemptions from bond requirements, 6 Prov Rem § 13
expungement of lis pendens, see Lis pendens
extensions of time, 6 Prov Rem § 15
filing, 6 Prov Rem § 18
form, 6 Prov Rem § 16
guardianship bonds, see Conservatorship and guardianship
in forma pauperis suit, see In forma pauperis suit
injunctions, see Injunctions
insufficient bond, alteration after issuance, 6 Prov Rem §§ 29, 30
judgment of liability on bond, 6 Prov Rem § 41
Judicial Council forms, 6 Prov Rem § 16
limitations period for enforcement by beneficiary, 6 Prov Rem § 40
lis pendens expungement, see Lis pendens
market value, objection to bond based on, 6 Prov Rem § 27
new bond, when given, 6 Prov Rem § 32
objection to bond, 6 Prov Rem §§ 27, 28
“obligee” defined, 6 Prov Rem § 12
“obligor” defined, 6 Prov Rem § 12
“officer” defined, 6 Prov Rem § 12
payment bond, see Payment bond
peace bond proceeding, 3 Actions § 77
preliminary injunctions, see Injunctions principal
cancellation of bond, effect on, 6 Prov Rem § 34
defined, 6 Prov Rem § 12
deposit in lieu of bond, see deposit in lieu of bond (this group)
liability with surety, see Sureties
withdrawal of surety, effect on, 6 Prov Rem § 34

Index-85
Bond, undertaking, or deposit—Cont’d

purpose of, 6 Prov Rem § 10
receivers, see Receivers
reduction of, 6 Prov Rem § 13
referee, by, 2 Courts § 346
relief from judgment conditioned on, see Relief from judgment
restraining orders, see Temporary restraining orders
security for costs, see Security for costs service
in general, 6 Prov Rem § 18
papers related to, 6 Prov Rem § 15
state, bonds executable to in general, 6 Prov Rem § 14
approval of, 6 Prov Rem § 17
enforcement of liability on, 6 Prov Rem § 43
judgment lien for, 6 Prov Rem § 43
“statute” defined, 6 Prov Rem § 12
statute of limitations for enforcement by beneficiary, 6 Prov Rem § 40
stay pending appeal by undertaking, see Stay pending appeal
supplemental bond, when given, 6 Prov Rem § 32
sureties, see Sureties
temporary restraining orders, see Temporary restraining orders
term, 6 Prov Rem § 19
“undertaking” defined, 6 Prov Rem § 11
waiver of, 6 Prov Rem § 13
wrongful attachment, see Attachment

Bond and Undertaking Law, see Bond, undertaking, or deposit

Book accounts, see Accounts

Braceros
tolling of limitations period for wartime labor, 3 Actions § 705

Breach of contract
accrual of cause of action, see Limitation and accrual of actions
damages, see Contract damages
election of remedies, when required, 3 Actions § 181
executory accord, action for breach, 3 Actions § 172
fraudulent, nature of action, 3 Actions § 161

Breach of contract—Cont’d
inducing, see Inducing breach of contract
jury trial, 7 Trial §§ 84, 91
limitation and accrual of actions, see Limitation and accrual of actions
nature of action, 3 Actions § 146
pleading of
in general, 4 Plead §§ 62 et seq., 515 et seq.
agent, contract made by, 4 Plead § 527
bad faith breach by defendant, 4 Plead § 536
breach by defendant, 4 Plead § 534 et seq.
causation, 4 Plead § 540
conditions precedent, 4 Plead §§ 388, 530
conditions subsequent, 4 Plead § 531
consideration, 4 Plead §§ 387, 521, 525
elements, 4 Plead § 515
general allegations of breach, effect of, 4 Plead § 537
implied contract, 4 Plead § 526
interpretation of contract, 4 Plead § 528
Judicial Council forms, 4 Plead § 517
modification of contract, 4 Plead § 529
negligent performance by defendant, 4 Plead § 535
obligation conditional on event, 4 Plead §§ 538, 539
oral contract, 4 Plead § 522 et seq.
performance by plaintiff, 4 Plead § 530 et seq.
prevention by defendant, 4 Plead § 532
promissory estoppel, 4 Plead § 525
restitution after rescission based on, 4 Plead § 552
statute of frauds, 4 Plead §§ 523, 524
waiver of performance by defendant, 4 Plead § 533
written contract, 4 Plead § 518 et seq.
remedies
in general, 3 Actions § 172
election of, 3 Actions § 181
rescission, see Rescission of contract
secret, accrual of cause of action for breach committed in, 3 Actions § 497
specific performance, see Specific performance

Index-86
Breach of contract—Cont’d
statute of limitations, see Limitation and accrual of actions
tender of performance requirement, 3 Actions § 205
tort action
breach of contract as, 3 Actions § 146 limitation and accrual of action, 3 Actions § 565

Breach of fiduciary duty
accrual of cause of action on discovery of facts, 3 Actions § 497
discovery of facts, accrual of cause of action on, 3 Actions § 497
notice as prerequisite to action, 3 Actions § 223
prospective warranty, accrual of cause of action, 3 Actions §§ 538, 539

Breach of implied covenant of good faith and fair dealing
nature of action, 3 Actions § 171

Breach of warranty
accrual of cause of action, 3 Actions §§ 497, 537 et seq.
discovery of facts, accrual of cause of action on, 3 Actions § 497
notice as prerequisite to action, 3 Actions § 223
prospective warranty, accrual of cause of action, 3 Actions §§ 538, 539

Briefs
in general, 9 Appeal §§ 692 et seq., 936 et seq.
admissions by parties
in general, 9 Appeal § 335
Court of Appeal briefs, 9 Appeal § 704
amicus curiae, see Amicus curiae appellant’s opening brief, 9 Appeal § 716*

Attorney General
amicus curiae, as, see Amicus curiae service on, 9 Appeal § 717
copies to be filed, 9 Appeal § 698
costs on appeal, as recoverable item of, see Costs on appeal

Court of Appeal
in general, 9 Appeal § 692 et seq.
abandonment of appeal by defective brief, 9 Appeal § 711
admissions in, effect of, 9 Appeal § 704

Briefs—Cont’d
Court of Appeal—Cont’d
appellant’s opening brief, 9 Appeal §§ 692, 716 et seq.
argument, 9 Appeal § 701 et seq.
brevity requirement, 9 Appeal § 707
copies to be filed, 9 Appeal § 698
decorum requirement, 9 Appeal § 706
defective briefs, 9 Appeal § 709 et seq.
dismissal of appeal for failure to correct, 9 Appeal § 710
extension of time for filing, 9 Appeal § 713 et seq.
fairness requirement, 9 Appeal § 708
filing, see filing of Court of Appeal briefs (this group)
form, see form of Court of Appeal briefs (this group)
honesty requirement, 9 Appeal § 708
legal argument, 9 Appeal § 701 et seq.
method, 9 Appeal § 701 et seq.
nature of, 9 Appeal §§ 692, 693
opening, 9 Appeal §§ 692, 716 et seq.
party both appellant and respondent, 9 Appeal § 724
reply brief, 9 Appeal §§ 722, 723
research, thoroughness of, 9 Appeal § 703
respondent’s brief, 9 Appeal § 719 et seq.
sealing of, 9 Appeal § 698
service of, 9 Appeal § 698
style, 9 Appeal § 705 et seq.
supplementary, 9 Appeal § 693
types of, 9 Appeal §§ 692, 693
waiver of point not urged, 9 Appeal §§ 701, 702
defined, 9 Appeal § 698
dismissal of appeal
defective brief, for, 9 Appeal § 710
late-filed opening brief, for, 9 Appeal § 718
electronic copies, service of, 9 Appeal § 698
extension of time for filing
Court of Appeal, filing in, 9 Appeal §§ 713 et seq., 724
limited civil case appeal, 9 Appeal § 1015*

filing
in general, 9 Appeal § 698
Briefs—Cont’d
filing—Cont’d
Court of Appeal, see filing of Court of Appeal briefs (this group)
extension of time for, see extension of time for filing (this group)
limited civil case appeal, 9 Appeal § 1015
filing of Court of Appeal briefs
in general, 9 Appeal §§ 698, 712 et seq.
acceptance of appellant’s statement of facts on respondent’s failure to file, 9 Appeal § 720
automatic reversal on respondent’s failure to file, 9 Appeal § 721
dismissal for late filing, 9 Appeal § 718
extension of time, 9 Appeal §§ 713 et seq., 724
good cause for extension of time, 9 Appeal §§ 714, 715
opening brief, 9 Appeal § 717
party both appellant and respondent, 9 Appeal § 724
relief from default, 9 Appeal § 718
respondent’s brief, 9 Appeal § 719 et seq.
stipulation, extension of time by, 9 Appeal § 713
when filing occurs, 9 Appeal § 712
form of
Court of Appeal briefs, see form of Court of Appeal briefs (this group)
form of Court of Appeal briefs
in general, 9 Appeal § 694 et seq.
attachments, length limitations on, 9 Appeal § 700
binding, 9 Appeal § 697
cover, 9 Appeal § 697
format, 9 Appeal § 697
index, 9 Appeal § 696
length limitations, 9 Appeal §§ 699, 700
limited civil case appeals, 9 Appeal § 697
line spacing, 9 Appeal § 697
margins, 9 Appeal § 697
numbering of pages, 9 Appeal § 697
page limit, 9 Appeal § 699
points and hearings, 9 Appeal § 694
record, references to, 9 Appeal § 695
Briefs—Cont’d
form of Court of Appeal briefs—Cont’d
recycled paper, use of, 9 Appeal § 697
rejection of, 9 Appeal § 697
signature, 9 Appeal § 697
table of contents, 9 Appeal § 696
typewritten, 9 Appeal § 697
word limit, 9 Appeal § 699
limited civil case appeals, 9 Appeal §§ 1015, 1030
party both appellant and respondent
Court of Appeal, 9 Appeal § 724
limited civil case appeal, 9 Appeal § 1015
recycled paper, use of, 9 Appeal §§ 697, 1015
reply brief
Court of Appeal, see Court of Appeal (this group)
new trial motion, see New trial Supreme Court, see Supreme Court (this group)
service
in general, 9 Appeal § 698
Attorney General, service on, 9 Appeal §§ 698, 715
limited civil case appeals, 9 Appeal § 717
opening brief, 9 Appeal § 717
public agency, service on, 9 Appeal §§ 698, 717
respondent’s brief, 9 Appeal § 719
Solicitor General, service on, 9 Appeal § 717
Supreme Court
in general, 9 Appeal § 936 et seq.
content, 9 Appeal § 937
copies to be filed, 9 Appeal § 698
Court of Appeal brief, reliance on, 9 Appeal § 936
extension of time, 9 Appeal § 936
form, 9 Appeal § 937
length, 9 Appeal § 937
letter in lieu of, 9 Appeal § 939
opposing party’s brief, 9 Appeal § 936
petitioner’s brief, 9 Appeal § 936
reply brief, 9 Appeal § 936
retransfer, supplemental brief on, 9 Appeal § 945
service, 9 Appeal § 698

Index-88
Briefs—Cont’d
Supreme Court—Cont’d
supplemental brief, 9 Appeal § 936
Bulk sales
accrual of cause of action on discovery of facts, 3 Actions § 497
discovery of facts, accrual of cause of action on, 3 Actions § 497
Burden of proof
administrative mandamus, 8 Writs § 286
attachment proceedings, see Attachment
attorney’s moral character for admission to practice law, see Attorneys
change of venue, see Change of venue
conflict of laws, 3 Actions § 46
conservatorship of gravely disabled persons, 3 Actions §§ 108, 109
expungement of lis pendens, see Lis pendens
instructions to jury, 7 Trial §§ 294, 295
jury instructions on, 7 Trial §§ 294, 295
lis pendens expungement, see Lis pendens
reasonable doubt, see Reasonable doubt
summary judgment, see Summary judgment
venue, see Change of venue
Bureau of Real Estate, see Department of Real Estate
Business, Consumer Services, and Housing Agency
Department of Real Estate within, 9 Admin Proc § 163*
Business, Transportation, and Housing Agency
in general, 9 Admin Proc § 154
Business, Consumer Services, and Housing Agency, renaming as, 2 Courts § 154*
California Housing Finance Agency, see Housing and urban development
Caltrans, see Transportation
Department of Alcoholic Beverage Control, see Alcohol
Department of Corporations, see Department of Corporations
Department of Financial Institutions, 9 Admin Proc § 157
Department of Highway Patrol, see Police and correctional activities
Business, Transportation, and Housing Agency—Cont’d
Department of Housing and Community Development, see Housing and urban development
Department of Managed Health Care, see Health and safety
Department of Motor Vehicles, see Department of Motor Vehicles
Department of Real Estate, 9 Admin Proc § 163
Department of Transportation, see Transportation
Business inventory
attachment, see Attachment
claim and delivery, see Claim and delivery
CACI, see Instructions to jury
CalHR, see State Personnel Board
California, State of, see State
California Architects Board, see Architect
California Banking Law, 3 Actions § 227*
California Board of Accountancy, see Accountants
California Civil Jury Instructions, see Instructions to jury
California Coastal Commission
in general, 9 Admin Proc § 183
California Code of Regulations, see Administrative rulemaking
California Conservatorship Jurisdiction Act
in general, 2 Jurisd § 280*
California Emergency Management Agency, 9 Admin Proc § 154*
California Environmental Protection Agency, see Environmental protection
California Environmental Quality Act
limitation and accrual of actions, 3 Actions §§ 475, 480
statute of limitations, 3 Actions §§ 475, 480

Index-89
California Health Facility Construction Loan Insurance Law receiver, appointment under, 6 Prov Rem § 427

California Housing Finance Agency, see Housing and urban development

California Integrated Waste Management Board, see Integrated Waste Management Board

California Law Enforcement Telecommunications System Judicial Council forms, 2 Courts § 407A*

California Political Reform Act limitation and accrual of actions, 3 Actions § 484

California Public Employees Retirement System, see Pensions and retirement benefits

California Public Records Act in general, 9 Admin Proc § 5 disclosure, 9 Admin Proc § 5 Internet, disclosure on, 9 Admin Proc § 5*

California State Bar, see Attorney discipline; State Bar

California State Board of Pharmacy, see Pharmacists

California State University, see Colleges and universities

California Tort Claims Act, see Government tort claims

California Unemployment Insurance Appeal Board, 9 Admin Proc § 181*

CalPERS, see Pensions and retirement benefits

Caltrans, see Transportation

Campaign judicial ethics regarding, see Judicial ethics

Cancellation of instruments equitable nature of action, 3 Actions § 129 limitation and accrual of actions, 3 Actions § 491

Cancellation of instruments—Cont’d quia timet relief, see Judicial remedies venue for actions, 3 Actions § 828

Capacity children, see Capacity of children and minors to contract; Capacity to sue and be sued contract in general, see Capacity of parties to contract foreign corporations, see Foreign corporations foreign countries and officials, see Capacity to sue and be sued incompetent persons contract, see Capacity of incompetent persons to contract sue and be sued, see Capacity to sue and be sued sue and be sued, see Capacity to sue and be sued

Capacity of children and minors to contract answer, raising lack of capacity by, 5 Plead § 1091 defense, raising lack of capacity as, 5 Plead § 1091 quasi-contract, application to, 3 Actions § 174

Capacity of incompetent persons to contract answer, raising lack of capacity by, see Answer defense, raising lack of capacity as, see Answer

Capacity of parties to contract answer, raising lack of capacity by, see Answer children, see Capacity of children and minors to contract defense, raising lack of capacity as, see Answer incompetent persons, see Capacity of incompetent persons to contract minors, see Capacity of children and minors to contract

Capacity to sue and be sued in general, 4 Plead § 70 et seq. aliens, 4 Plead § 118

Index-90
Capacity to sue and be sued—Cont’d

incompetent persons—Cont’d

conservator, appearance by, 4 Plead § 70
guardian ad litem, see guardian ad litem (this group)
icompetent spouse, 4 Plead § 71
party, incompetent person as, 4 Plead § 71

Indian tribes

in general, 4 Plead § 114 et seq.
commercial activity, 4 Plead § 117
immunity from suit, 4 Plead § 114 et seq.
jurisdiction, 4 Plead § 114
tribal corporation, 4 Plead § 117
tribal officers and agents, 4 Plead § 115
waiver of immunity, 4 Plead § 116
licensee, 5 Plead § 906

married persons

in general, 4 Plead § 86
incompetent spouse, 4 Plead § 71

minors

in general, 3 Actions § 213; 4 Plead § 70 et seq.
conservator, appearance by, 4 Plead § 70

emancipated minor, 4 Plead § 70

guardian ad litem, see guardian ad litem (this group)
injunction, appearance for, 4 Plead § 72
parent, minor as, 4 Plead § 70
party, minor as, 4 Plead § 71
protection order, appearance for, 4 Plead § 72

partnership

in general, 4 Plead § 93 et seq.
allegation of, 5 Plead § 901
defendants, as, 4 Plead §§ 98, 99
fictitious business name, effect of, 4 Plead § 95
foreign limited partnership, 4 Plead § 97

homeowners associations, 4 Plead § 96
joinder of individual members, 4 Plead § 99
plaintiffs, as, 4 Plead § 93 et seq.
tenants’ associations, 4 Plead § 96
personal representative, 5 Plead § 902

plea in abatement, raising lack of capacity by, see Plea in abatement
Capacity to sue and be sued—Cont’d
prisoners, 4 Plead § 119
public entity, allegation, 5 Plead § 905
public officer, allegation, 5 Plead § 904
receivers, 3 Actions § 213
sovereign immunity
Foreign Sovereign Immunities Act, 4
Plead § 110
in rem jurisdiction, effect on, 2 Jurisd
§ 253
personal jurisdiction, effect on, 2 Jurisd
§ 162
state government, see state government
(this group)
subject matter jurisdiction, effect on, 2
Jurisd § 90
United States and federal agencies, 4
Plead § 101
state government
in general, 4 Plead § 105 et seq.
activities in another state, 4 Plead § 107
consent to suit, 4 Plead § 108
defendants, as, 4 Plead § 106 et seq.
plaintiffs, as, 4 Plead § 105
sovereign immunity, 4 Plead § 106 et seq.
unincorporated associations, see partnership (this group)
United States and federal agencies
in general, 4 Plead § 101 et seq.
consent to suit, 4 Plead §§ 101, 102
defendants, as, 4 Plead § 101 et seq.
excess of authority, officers acting in, 4
Plead § 103
federal corporations, 4 Plead § 104
plaintiffs, as, 4 Plead § 100
sovereign immunity, 4 Plead § 101

Capital punishment
insane persons
determination of insanity after sentence, 3 Actions § 79
sanity proceedings
in general, 3 Actions § 79
determination of sanity, see insane persons (this group)

Caption of pleading, see Complaint;
Pleading

Carriers—Cont’d
notice of claim, 3 Actions § 228

Cartwright Act
injunction, 6 Prov Rem § 309
limitation and accrual of actions, 3
Actions § 484
notice requirement, 3 Actions § 227
pleading, 5 Plead § 780
statute of limitations, 3 Actions § 484

Case management
in general, 7 Trial § 42 et seq.
class actions, see Class actions
complex litigation, see Complex litigation
conference, see Case management conference
coordinated actions, see Coordination of actions
differential case management, 7 Trial § 42
fast track, see Trial court delay reduction
Rules of Court, see Rules of Court
trial court delay reduction, see Trial court
delay reduction

Case management conference
in general, 7 Trial § 43 et seq.
additional conference, 7 Trial § 45
amendment of pleadings, effect of order, 7
Trial § 52
attack on pleadings, preclusion by order, 7
Trial § 50
case management conference statement, 7
Trial §§ 40, 45
complex litigation, see Complex litigation
conduct of conference, 7 Trial § 45
effect of order, 7 Trial § 48 et seq.
federal procedure, 7 Trial § 43
initial conference, 7 Trial § 45
judicial arbitration, determination of suitability for, 7
Trial § 45
meet-and-confers requirement, 7 Trial § 45
nature, 7 Trial § 43
order, 7 Trial § 46 et seq.
procedure, 7 Trial § 45
purpose, 7 Trial § 43
statement, 7 Trial § 45
subjects of conference, 7 Trial § 45
trial on different theory, effect of order, 7
Trial § 51

Index-92
“Case or controversy,” see Justiciable controversy

Cause of action

in general, 4 Plead § 30 et seq.
abolition of forms of, 4 Plead § 30 et seq.
accrual, see Limitation and accrual of actions
amendment of pleadings to change, see Amendment of pleadings
animals, injury from, see Animals
appealability of denial of leave to add, 9 Appeal § 169
attorney malpractice action, see Attorney malpractice
breach of contract action, see Breach of contract
common counts, see Common counts
connected acts, cases involving, 4 Plead § 66
construction, latent deficiencies in, 4 Plead § 61
contract actions, see Contract actions
damages, recovery of, 4 Plead § 44
defamation, 4 Plead §§ 52, 53
demurring to, see Demurrer
enforcement of judgment against, see Enforcement of judgment
execution of judgment against, see Execution and levy
fictitious defendants, see Fictitious defendants
first action in federal court, effect of, 4 Plead § 48
flexible view of, 4 Plead § 46
format requirements, 4 Plead § 18
government tort claims, see Government tort claims
invasion of privacy, 4 Plead §§ 52, 53
joinder of, see Joinder
lateral support, removal of, 4 Plead § 60
law and equity
form of action, 4 Plead § 31
relief distinguished, 4 Plead § 41
remedies distinguished, 4 Plead § 41
legal theory of wrong distinguished, 4 Plead § 36 et seq.
libel, 4 Plead §§ 52, 53
multiple causes of action, 4 Plead § 49 et seq.
negligence, see Negligence

Cause of action—Cont’d

nuisance, see Nuisances
personal injury actions, 4 Plead §§ 49 et seq., 54
pleading, effect of forms on, 4 Plead § 33
primary right theory, 4 Plead §§ 34, 35
privity, effect of, 4 Plead § 46
property
continuing injury to, 4 Plead § 57 et seq.
immediate and permanent injury to, 4 Plead §§ 55, 56
injury to, 4 Plead § 54 et seq.
recovery of, 4 Plead § 44
relief distinguished, 4 Plead § 40 et seq.
remedy distinguished, 4 Plead § 40 et seq.
rent, landlord’s action to collect, 4 Plead § 63
restitution after rescission, see Restitution
secured debt, collection of, 4 Plead § 43
separation of, 4 Plead § 18
several defendants causing single injury, 4 Plead § 65
single cause of action, 4 Plead § 49 et seq.
slander, 4 Plead §§ 52, 53
splitting cause of action, rule against
in general, 4 Plead § 45 et seq.
exceptions to rule, 7 Judgm § 406
subrogation, 4 Plead § 133
strict products liability, see Strict products liability
tort actions
contract action, tort action following, 4 Plead § 64
form of action, 4 Plead § 32
legal theory of wrong distinguished, 4 Plead § 37 et seq.
remedies distinguished, 4 Plead § 42
trespass, continuing, 4 Plead § 58
trust, breach of, 4 Plead § 62 et seq.
ultrahazardous activity, see Ultrahazardous activity
Uniform Single Publication Act, see Libel
waiver of objection to splitting, 4 Plead § 47

Cemeteries

plots, exemption from execution for, 8
Enf Judgm § 213

Index-93
Certiorari

Certiorari—Cont’d
denial of writ, reasons for, see Writs
direct attack on judgment by, 8 Attack § 2
discovery proceedings, challenge to, 8
Writs § 246
equitable relief against judgment
compared, 8 Writs § 7
excess of jurisdiction as prerequisite, 8
Writs § 41
extension of time to plead, review of
order, 8 Writs § 37
guardianship orders, 8 Writs § 36
habeas corpus compared, 8 Writs § 10
injunction
contempt order, review of, 6 Prov Rem
§ 209
invalid, challenge to, 8 Writs § 244
review of, 6 Prov Rem § 408
judicial acts reviewable by, 8 Writs § 33
et seq.
judicial determinations of nonjudicial
bodies, review of, 8 Writs § 33
jurisdiction
in general, 8 Writs § 164
compelling assumption of jurisdiction
by, see Jurisdiction
prerequisites, 8 Writs § 41
legislative acts, 8 Writs § 38
limited civil case, order regarding
mandamus or prohibition, 8 Writs
§ 37
mandamatory certiorari, 8 Writs § 241
mandamus
compared, 8 Writs § 9
limited civil case, order regarding, 8
Writs § 37
mandamatory certiorari, 8 Writs § 241
mandamus with effect of certiorari, see
Mandamus
ministerial acts, 8 Writs § 39
nonappealable orders, review of, 8 Writs
§ 33 et seq.; 9 Appeal § 91
order to show cause, 8 Writs § 188
origin of writ, 8 Writs § 5
parental rights, termination order review,
8 Writs § 15
placement of child after termination of
parental rights, review of, 8 Writs
§ 15
probate orders, 8 Writs § 36
procedure, see Writs
Certiorari—Cont’d
prohibition
certiorari as, 8 Writs § 240
compared, 8 Writs § 8
limited civil case, order regarding, 8
Writs § 37
remedy by certiorari, effect of, 8 Writs
§ 71
prohibitory certiorari, 8 Writs § 240
Public Employment Relations Board
proceedings, 8 Writs § 17
public records, court-ordered disclosure, 8
Writs § 16
Public Utilities Commission proceedings,
8 Writs § 17
quasi-judicial determinations of
nonjudicial bodies, review of, 8
Writs § 33
reasons for denial of writ, see Writs
remittitur, recall of compared, 8 Writs § 7
small claims court actions, review of, 8
Writs § 34
special proceeding, as, 3 Actions § 65
State Bar Court review, 8 Writs § 11
stay of pending proceedings, 3 Actions
§ 191
superior court, effect of right to appeal to
appellate division, 8 Writs § 45
supersedeas, effect of availability, 8 Writs
§ 47
Supreme Court jurisdiction, 2 Courts
§ 330
termination of parental rights order,
review of, 8 Writs § 15
trial court remedies, effect of, 8 Writs
§ 47
venue, 8 Writs § 164
verification of petition, 4 Plead § 466
Workers’ Compensation Appeals Board
decisions, 8 Writs § 17

Chance verdict, see Verdict

Change of venue—Cont’d
affidavits—Cont’d
wrong court, see wrong court (this
group)
appeal, 3 Actions §§ 919, 921
attorneys’ fees
stipulation, effect of, 3 Actions § 913
wrong court, motion based on, see
wrong court (this group)
automobile financing actions, 3 Actions
§ 907
burden of proof, 3 Actions §§ 912, 913
cities, actions involving, 3 Actions
§§ 905, 958
consumer obligations actions, motion
requirement for, 3 Actions § 907
convenience of witnesses
in general, 3 Actions §§ 905, 940 et seq.
affidavits, 3 Actions § 943
burden of proof, 3 Actions § 912
costs, 3 Actions § 940
counteraffidavits, 3 Actions § 945
countermotion, 3 Actions § 946
employee, convenience of, 3 Actions
§ 952 et seq.
expert witnesses, convenience of, 3
Actions § 951
notice of motion, 3 Actions § 941
party, convenience of, 3 Actions § 952
et seq.
plaintiff’s showing in opposition, 3
Actions § 944 et seq.
procedure, 3 Actions § 940 et seq.
proper moving party, 3 Actions § 909
retransfer motion, 3 Actions § 947
review of order, 3 Actions § 948 et seq.
time for motion, 3 Actions §§ 940, 942
costs
convenience of witnesses, motion
based on, see convenience of wit-
tnesses (this group)
stipulation, effect of, 3 Actions § 913
wrong court, motion based on, see
wrong court (this group)
counties, actions involving, 3 Actions
§§ 905, 958
default, effect of motion on entry, see
Default judgment
denial of motion
renewal after, 3 Actions §§ 917, 918

Index-95
Change of venue—Cont’d

disqualified judge, 3 Actions §§ 905, 957

in general, 3 Actions § 905
dissolution of marriage

ancillary orders with change, 3 Actions § 915
employee, convenience of, 3 Actions § 952 et seq.
expert witnesses, convenience of, 3 Actions § 951
family law proceedings, 3 Actions § 905
fee for, 4 Plead § 26
general appearance by motion for, 2 Jurisd § 210

grounds, 3 Actions § 905

impartial trial

in general, 3 Actions §§ 905, 955, 956

burden of proof, 3 Actions § 912
procedure, 3 Actions § 955
proper moving party, 3 Actions § 910
sufficiency of showing, 3 Actions § 956
time of motion, 3 Actions § 955

installment contract actions, motion requirement for, 3 Actions § 907

judge disqualified, 3 Actions §§ 905, 957
jurisdiction lacking, transfer for

in general, 2 Jurisd § 399 et seq.
amended complaint beyond jurisdiction, 2 Jurisd § 404

commencement of proceeding, effect of transfer on, 2 Jurisd § 408
complaint beyond jurisdiction, 2 Jurisd § 402
cross-complaint beyond jurisdiction, 2 Jurisd § 403
determination of lack of jurisdiction, 2 Jurisd § 407

mandatory nature of transfer, effect of, 2 Jurisd § 400

nature of statute, 2 Jurisd § 399
procedure, 2 Jurisd § 406 et seq.
purpose of statute, 2 Jurisd § 399
reclassification of limited civil case distinguished, 2 Jurisd § 399
retransfer, 2 Jurisd §§ 409, 410
review of improper transfer, 2 Jurisd § 401

scope of statute, 2 Jurisd § 402 et seq.
subject matter jurisdiction vested elsewhere by statute, 2 Jurisd § 405

jurisdiction lacking, transfer for—Cont’d

legal separation

in general, 3 Actions § 905
ancillary orders with change, 3 Actions § 915

limited civil case, motion requirement for, 3 Actions § 907

local agencies, actions involving, 3 Actions § 905

mandamus review of order, 3 Actions §§ 919, 920; 8 Writs § 105

motion

in general, 3 Actions § 907 et seq.

convenience of witnesses, see convenience of witnesses (this group)
reconsideration after denial, 3 Actions § 918
renewal after denial, 3 Actions §§ 917, 918

wrong court, see wrong court (this group)

neutral county, removal to, 3 Actions § 958

order granting, effect of, 3 Actions § 916

party, convenience of, 3 Actions § 952 et seq.

plaintiff, motion by, 3 Actions § 911

reconsideration after denial, 3 Actions § 918

Rees-Levering Act actions, motion requirement for, 3 Actions § 907

renewal of motion, 3 Actions §§ 917, 918

review of order, 3 Actions § 919 et seq.
sanctions for bad faith, wrong court as ground for motion, 3 Actions § 937

severance with, 3 Actions § 915

state, actions involving, 3 Actions § 905

stipulation to, 3 Actions § 913

suspension of court’s powers by, 3 Actions §§ 914, 915

transfer of case

fee for, 4 Plead § 26

jurisdiction, see jurisdiction lacking, transfer for (this group)

wrong court, see wrong court (this group)

transmission fee, 4 Plead § 26

Index-96
Change of venue—Cont’d
trial, effect on time for bringing action
for, 6 PWT § 391
unlawful detainer, motion requirement
for, 3 Actions § 907
Unruh Act actions, motion requirement
for, 3 Actions § 907
voluntary dismissal, effect of motion on, 6
PWT § 291
waiver
subsequent steps, by, 3 Actions § 908
wrong court as ground for motion, see
wrong court (this group)
wrong court
in general, 3 Actions §§ 905, 906, 922
et seq.
affidavits, 3 Actions § 926 et seq.
attorneys’ fees, 3 Actions § 937
bad faith, sanctions for, 3 Actions § 937
burden of proof, 3 Actions § 912
costs, 3 Actions §§ 937, 938
counteraffidavits, 3 Actions § 930 et seq.
demurrer after denial, 3 Actions § 939
diligence in bringing to hearing, 3
Actions § 934
form of notice of motion, 3 Actions
§ 922
memorandum of points and authorities,
3 Actions § 933
motion to strike after denial, 3 Actions
§ 939
notice of motion, 3 Actions § 922 et seq.
order granting, 3 Actions § 935 et seq.
pleading after denial, 3 Actions § 939
proper moving party, 3 Actions § 909
sanctions for bad faith, 3 Actions § 937
statement of grounds, 3 Actions § 923
time of notice of motion, 3 Actions
§ 924
transfer of case, 3 Actions § 935 et seq.
waiver by failure to comply, 3 Actions
§ 925

Charitable trusts
in general, 8 Enf Judgm § 296
lien created in proceedings, 8 Enf Judgm
§ 98

Charitable trusts—Cont’d
enforcement and supervision
limitations period for enforcement
action, 3 Actions § 488
real party in interest, 4 Plead § 139

Chattels
chattel paper, see Attachment

Child abuse
registry, challenge to placement on, 8
Writs § 285*

Child custody and visitation
abatement of action, 3 Actions § 18
arrearages, interest on, 8 Enf Judgm § 45
bifurcation, 9 Appeal § 99*
commissioner, 2 Courts § 343
confession of judgment, 6 PWT § 131
contempt, use of to enforce orders, see
orders and enforcement (this group)
continuance of proceeding to terminate
parental custody, 7 Trial § 31
cross-complaint, availability in proceed-
ing, 5 Plead § 1170
delay, involuntary dismissal of proceed-
ings for, 6 PWT §§ 317, 318
Department of Child Support Services, 9
Admin Proc § 172
filing fees for proceedings, 4 Plead § 27
garnishment for, see Garnishment
habeas corpus
use of, 2 Jurisd § 87; 3 Actions §§ 73,
74
injunctive relief, 5 Plead § 890
involuntary dismissal of proceedings for
delay, 6 PWT §§ 317, 318
jurisdiction
in general, 2 Jurisd §§ 277 et seq., 283
continuing jurisdiction over, 2 Jurisd
§§ 421, 422
domicile as basis, 2 Jurisd § 277
notice, 2 Jurisd § 279
presence as basis, 2 Jurisd § 277
priority of jurisdiction over, 2 Jurisd
§§ 446 et seq., 450
Uniform Child Custody Jurisdiction
and Enforcement Act, 2 Jurisd
§§ 278, 422
limitations period for action, 3 Actions
§ 492
modification of decree, see Judgments

Index

Change of venue---Cont’d
Child custody and visitation—Cont’d
modification of order pending appeal, 9 Appeal § 229
orders and enforcement
  consent judgment, enforcement of, 6 PWT § 116
  contempt, enforcement by, 8 Enf Judgm § 342
direct deposit accounts, 8 Enf Judgm § 15*
private support collectors, 8 Enf Judgm § 13 et seq.
records maintenance, 8 Enf Judgm § 15*
settlement, enforcement of, 6 PWT § 116
small claims court jurisdiction, 2 Courts § 285
stay pending appeal, see Stay pending appeal
stipulated judgment, enforcement of, 6 PWT § 116
personal jurisdiction based on, 2 Jurisd §§ 151, 153
proceedings in which litigated, 5 Plead § 898
public, exclusion from proceedings, 2 Courts § 34
res judicata, see Res judicata
separate trial of, 7 Trial § 157
stay pending appeal, see Stay pending appeal
supersedeas to stay pending appeal, see Supersedeas
trial setting preference, 7 Trial § 72
Uniform Interstate Family Support Act, see Uniform Interstate Family Support Act
venue
  change, see Change of venue
  voluntary dismissal of custody proceeding, 6 PWT § 292
withholding orders for, see Garnishment

Child labor, see Children and minors

Child molestation
accrual of claims, 3 Actions § 464*
judicial education on, 2 Courts § 396
limitation and accrual of actions based on, 3 Actions § 593 et seq.

Child molestation—Cont’d
public entity, notice of claim against, 3 Actions §§ 240*, 593*
statute of limitations for actions based on, 3 Actions § 593 et seq.

Child sexual abuse, see Child molestation;
Lewd act with child or dependent adult

Child support
abatement of action, 3 Actions § 18
attorney discipline based on noncompliance with, 1 Attys § 499
attorney’s lien on, 1 Attys § 171
collateral attack on retroactive condition in order, 2 Jurisd § 338*
commissioner, 2 Courts § 343
confession of judgment, 6 PWT § 131
contingency fee agreement in support action, see Attorneys’ fees
court-ordered support
  separate trial, 7 Trial § 157
cross-complaint, availability in proceeding, 5 Plead § 1170
delay, involuntary dismissal of proceedings for, 6 PWT §§ 317, 318
Department of Child Support Services in general, 9 Admin Proc § 172*
Hague Convention on International Recovery of Child Support and Other Forms of Family Maintenance, as designated agency for, 8 Enf Judgm § 428C*
discipline of attorney based on noncompliance with, see Attorney discipline
enforcement
  consent judgment, enforcement of, 6 PWT § 116
  settlement, enforcement of, 6 PWT § 116
  small claims court jurisdiction, 2 Courts § 285
  stipulated judgment, enforcement of, 6 PWT § 116
injunctive relief, 5 Plead § 890
involuntary dismissal of proceedings for delay, 6 PWT §§ 317, 318
Index

Child support—Cont’d
jurisdiction
  in general, 2 Jurisd § 283
continuing jurisdiction over, 2 Jurisd §§ 421, 422
priority of jurisdiction over, 2 Jurisd § 450
Uniform Interstate Family Support Act,
  see Uniform Interstate Family Support Act (this group)
limitations period for action, 3 Actions § 492
personal jurisdiction based on, 2 Jurisd §§ 151, 153
preference in trial setting, 7 Trial § 72
proceedings in which litigated, 5 Plead § 898
separate trial, see court-ordered support
  (this group)
setoff, see Setoff
supplemental pleading, see Supplemental pleading
temporary restraining order, 6 Prov Rem § 291
trial setting preference, 7 Trial § 72
Uniform Interstate Family Support Act
  continuance, 7 Trial § 31
  filing fees for proceedings under, 4
    Plead § 27
  jurisdiction, 2 Jurisd § 283*
venue for proceedings, 3 Actions §§ 815, 875

Children and minors—Cont’d
commitment of—Cont’d
  controlled substance users, 3 Actions § 89
LaNterman-Petris-Short Act, commitment under, 3 Actions § 90
compromise of claim
  access to electronic records of proceedings, 2 Courts §§ 40*, 40A*
  appeal, compromise after taken, 9
    Appeal §§ 737, 1016*
attorneys’ fees for action involving, see
  Attorneys’ fees
electronic records of proceedings,
  access to, 2 Courts §§ 40*, 40A*
special proceeding, as, 3 Actions § 65
confidentiality of information about
  minor, 6 Prov Rem § 318*
contempt order against for failure to
  comply with order to attend school, see Contempt
custody, see Child custody and visitation
defense of lack of capacity to contract, 5
  Plead § 1091
delinquency proceedings, see Juvenile delinquency
dependency proceedings, see Juvenile dependency
domicile of, 2 Jurisd §§ 132, 133
emancipation, see Emancipation
employment
discrimination action based on filing
  claim, tolling of limitations period,
  see Limitation and accrual of actions
government tort claims, see Government tort claims
injunction restraining removal, 6 Prov Rem § 291
juvenile court proceedings, see Juvenile court
juvenile delinquency proceedings, see
  Juvenile delinquency
juvenile dependency proceedings, see
  Juvenile dependency
labor of, see employment (this group)
medical malpractice actions by, 3 Actions §§ 586 et seq., 590, 723, 728
personal jurisdiction over, 2 Jurisd §§ 132, 133
preference in trial setting for actions
  involving, 7 Trial § 72

Index-99
Children and minors—Cont’d
service of process on, 3 Actions § 1060
sexual abuse, see Child molestation;
Lewd act with child or dependent adult
small claims court, appearance by guardian ad litem for, 2 Courts § 273
support, see Child support
termination of parental rights, see
Termination of parental rights
tolling of limitations period for, see
Limitation and accrual of actions
Transfers to Minors Act, see Uniform Transfers to Minors Act
trial setting preference for actions involving, 7 Trial § 72
unborn child, see Unborn child
Uniform Transfers to Minors Act, see Uniform Transfers to Minors Act
visitation, see Child custody and visitation
withdrawal by attorney in cases involving minors, see Attorney-client relationship

Children’s Civil Commitment and Mental Health Treatment Act, 3 Actions § 90

Chiropractors
security for costs, see Security for costs

Circumstantial evidence
appeal, sufficiency of
inference from circumstantial evidence, 9 Appeal § 369

Cities
city attorney, see City attorney
jury fees and deposit, exemption from, 4 Plead § 27*
legal representation of, see City attorney
representation of, see City attorney
venue for actions involving, see Venue

Citizenship
domicile, effect on, 2 Juris § 138
State Bar, requirement for admission, see Attorneys

City attorney
in general, 1 Attys § 62
conflict of interest, see Attorney-client relationship
criminal defendant, representation by, 1 Attys § 65

City attorney—Cont’d
misdemeanors, prosecution of, 1 Attys § 62
special counsel, employment of, 1 Attys § 64

Civil commitment
alcoholics, see Commitment of alcoholics
children, see Children and minors
tolling of limitations period for, see Limitation and accrual of actions
developmentally disabled persons, see Commitment of mentally retarded persons
judicial, see Judicial commitments
jury trial, see Jury trial
Lanterman-Petris-Short Act, see Lanterman-Petris-Short Act
mentally disordered persons, see Commitment of mentally disordered persons
mentally retarded persons, see Commitment of mentally retarded persons
narcotics addicts, see Commitment of narcotics addicts

Civil conspiracy, see Joint and contributing tortfeasors

Civil rights
accrual of actions, 3 Actions §§ 553, 558
attorneys’ fees, see Attorneys’ fees;
Private attorney general doctrine
Civil Rights Attorney’s Fees Award Act, 7 Judgm § 242 et seq.
developmentally disabled persons, on commitment, 3 Actions § 94
ecclesiastical controversies involving, 3 Actions § 41
exhaustion of administrative remedies, see Exhaustion of administrative remedies; Fair Employment and Housing Act
Fair Employment and Housing Act, see Fair Employment and Housing Act
federal civil rights laws, see Federal civil rights legislation
FEHA, see Fair Employment and Housing Act
government tort claims requirement applicability, see Government tort claims
injunction to protect, 6 Prov Rem § 314
Index

Civil rights—Cont’d
instructions to jury, 7 Trial § 286
jury instructions, 7 Trial § 286
Lanterman-Petris-Short Act, under, 3
Actions § 86
limitation and accrual of actions, 3
Actions §§ 553, 558
mentally disordered persons, 3
Actions § 86
mentally retarded persons, on commitment, 3
Actions § 94
Ralph Civil Rights Act, see Ralph Civil Rights Act
small claims court, action in, 2
Courts § 282
Unruh Civil Rights Act, see Unruh Civil Rights Act

Claim and delivery—Cont’d
levy and custody—Cont’d
return of writ, 6 Prov Rem § 272
sale, 6 Prov Rem § 270
search and seizure, 6 Prov Rem § 268
service of writ and undertaking, 6 Prov Rem § 269
nature of remedy, 5 Plead §§ 692, 693; 6 Prov Rem § 245
“person” defined, 6 Prov Rem § 251
“plaintiff” defined, 6 Prov Rem § 251
pleading, 5 Plead § 692 et seq.
preliminary injunction, 6 Prov Rem § 267
“probable validity” defined, 6 Prov Rem § 251
property, disposition of, see levy and custody (this group)
“public entity” defined, 6 Prov Rem § 251
relief from judgment, availability of remedy, see Relief from judgment
replevin, 5 Plead §§ 693, 699
search and seizure for levy, 6 Prov Rem § 268
temporary restraining orders
in general, 6 Prov Rem § 265 et seq.
undertaking for, 6 Prov Rem § 254
undertakings
in general, 6 Prov Rem § 254
objection to, 6 Prov Rem §§ 270, 271
service of, 6 Prov Rem § 269
writ of possession, see Writ of possession of personal property

Class Action Fairness Act, 2 Jurisd § 66*; 4 Plead § 273

Class actions
in general, 4 Plead § 267 et seq.
absent persons
attorneys’ fees and costs, imposition on, 4 Plead § 320; 7 Judgm § 84
effect of, 4 Plead § 293
unnamed members, see unnamed members (this group)
adequacy of representation requirement, 4 Plead § 298 et seq.
amount in controversy, see Amount in controversy

Index-101
Class actions—Cont’d

appeal
certification, orders relating to, 4 Plead § 314; 9 Appeal §§ 112, 157
nonappealing class member, effect of error against, 9 Appeal § 328
order terminating, 9 Appeal § 132*
arbitration, see Arbitration
ascertainable class requirement, 4 Plead § 281
attorneys
conflicts of interest, 1 Attys § 127
enforcement of judgment, obligations regarding, 1 Attys § 255*
fees on settlement, 4 Plead § 330
attorneys’ conflicts of interest, 1 Attys § 127
attorneys’ fees on settlement, 4 Plead § 330
benefits of class action insubstantial, effect of, 4 Plead § 285
bifurcation to try liability issue first, propriety of, 4 Plead § 323 et seq.
California cases, 4 Plead § 276
case conference, 4 Plead § 279
case management, 7 Trial § 42
certification
in general, 4 Plead § 307 et seq.
appeal of, or from orders relating to, 4 Plead § 327; 9 Appeal §§ 112, 157
denial, addition of plaintiffs by amendment to pleadings after, 5 Plead § 1225
dismissal based on delay in certification, 4 Plead § 327
notice of action after denial, 4 Plead § 315
renewal of motion, 4 Plead § 314; 6 PWT § 51
choice-of-law issues and agreements, effect of, 4 Plead § 294
Class Action Fairness Act, jurisdiction under, 2 Jurisd § 66*
collateral estoppel, use against members of class, 7 Judgm § 464
common fund or property, 4 Plead § 301
common interest requirement, 4 Plead § 281 et seq.
communication with certified class action class member, see Attorney conduct

Class actions—Cont’d

community of interest requirement, 4 Plead § 281
complaint, form of, 4 Plead § 278
conflict of interest, effect of, 1 Attys § 127; 4 Plead § 286
consumers’ actions, 4 Plead § 302 et seq.
Consumers Legal Remedies Act, 4 Plead § 302 et seq.
Corporate Securities Law enforcement action, 4 Plead § 306
costs
absent class members, award against, 4 Plead § 320; 7 Judgm § 85
allocation of, 4 Plead § 319
counsel, see attorneys (this group)
creditor’s action, 4 Plead § 306
death knell doctrine, 9 Appeal § 157*
decertification motion, 4 Plead § 313
default judgment, availability of, 2 Jurisd § 314; 4 Plead § 326; 6 PWT § 137
defendants’ class actions, 4 Plead §§ 271, 272
delay in certification, dismissal based on, 4 Plead § 327
development of, 4 Plead § 267
developmentally disabled persons, enforcement of rights of, 4 Plead § 306
discovery
interrogatories to unnamed members, 4 Plead § 322
precertification, right to, 4 Plead § 309
unnamed members, from, 4 Plead §§ 280, 322
dismissal based on delay in certification, 4 Plead § 327
distribution options for recovery, 4 Plead §§ 296, 331
Eisen cases, 4 Plead § 275
elections
exclusion from class, 4 Plead § 320
inclusion in class, 4 Plead § 321
enforcement of judgment, see attorneys (this group)
exclusion from class, election, 4 Plead § 320
federal action, superiority of, 4 Plead § 277
federal jurisdiction, 2 Jurisd § 66*

Index-102
Class actions—Cont’d

federal rule
  in general, 4 Plead § 273 et seq.
certification motion, 4 Plead § 307
exclusion election, 4 Plead § 320
notice of action, 4 Plead § 315
state law, effect of, 4 Plead § 273*
fluid class recovery remedy, 4 Plead §§ 296, 297

fraud
  consumers, sales to, 4 Plead § 303
  farm workers, hiring of, 4 Plead § 305
government tort claims, see Government
tort claims
impound accounts, actions involving, 4
Plead § 306
inclusion in class, election of, 4 Plead § 321
individual claim, effect of pursuit of, 4
Plead § 320
individual issues predominate, effect of, 4
Plead § 283
injunction, 6 Prov Rem § 291
interrogatories to unnamed members, 4
Plead § 322
inverse condemnation actions, 4 Plead § 290
judgment
  in general, 4 Plead § 332
effect of, 4 Plead § 270
settlement, judgment on, 4 Plead § 330
judicial arbitration, exclusion from, 6
PWT § 583
jurisdiction over absent parties, necessity
for, 4 Plead § 293
liability issue, propriety of bifurcation to
try first, 4 Plead § 323 et seq.
limited partner, action by, 4 Plead § 306
mandamus review of orders regarding
certification, 4 Plead § 314
mass tort actions
  limitations period, effect on, 3 Actions
  § 735
  personal injury actions, 4 Plead § 291
  medical monitoring, action for, 4 Plead
  § 306
  modification of certification order, 4 Plead
  § 314
  motions
certification, 4 Plead § 307 et seq.
decertification, 4 Plead § 313

Class actions—Cont’d

nationwide classes
  certification of, 4 Plead § 312
  choice-of-law agreements, effect on, 4
  Plead § 294
  showing required for, 4 Plead § 284
  notice
  action, notice of, 4 Plead § 315 et seq.
certification motion, necessity for, 4
Plead § 309
settlement, 4 Plead § 330
nuisance actions, 4 Plead § 290
numerous members without substantial
interest, effect of, 4 Plead § 295 et seq.
orders
  case conference, after, 4 Plead § 279
certification, 4 Plead § 314
rules governing, 4 Plead § 278
origin, 4 Plead § 267
overtime compensation, see Overtime
compensation
partial class, appeal from certification of,
9 Appeal §§ 112, 157
personal jurisdiction, see Jurisdiction
plaintiff’s duty to continue action, 4 Plead
§ 328
plausible cause of action requirement, 4
Plead § 281
practicality requirement, 4 Plead § 292
precertification
discovery, right to, 4 Plead § 309
notice of action, 4 Plead § 316
provisional settlement class, 4 Plead
§ 330
reconsideration of certification motion, 4
Plead § 314
renewal of certification motion, 4 Plead
§ 314; 6 PWT § 51
representation, adequacy requirement for,
4 Plead § 298 et seq.; 5 Plead § 911
representative plaintiffs
  in general, 4 Plead § 300
  involuntary settlement, effect on, 4
  Plead § 298*
  res judicata, use against members of class,
  7 Judgm § 464
retirement benefits, actions involving, 4
Plead § 306
Class actions—Cont’d
review of certification order, 4 Plead § 314
Rules of Court
  in general, 4 Plead §§ 268, 278 et seq.
settlement, 4 Plead § 330
scope, 4 Plead § 269
separate relief sought, effect of, 4 Plead § 287 et seq.
settlement, 4 Plead §§ 329, 330
shareholder’s representative suit distinguished, 4 Plead § 269
solicitation of members by attorney, 4 Plead § 317*
special assessment, action challenging, 4 Plead § 306
stipulation to try liability issue first, effect of, 4 Plead § 324
superiority of federal action, 4 Plead § 277
tax refund, action seeking, 4 Plead § 306
taxpayer’s action, 4 Plead § 306
Truth in Lending Act, action under, 4 Plead § 306
Truth in Lending Act, action under, 4 Plead § 306
unborn remainderpersons, joinder of, 4 Plead § 272
Unfair Competition Law, actions under, 4 Plead § 306
Uniform Class Actions Act, 4 Plead § 268
unnamed members
  discovery from, 4 Plead §§ 280, 322
  interrogatories to, 4 Plead § 322
unpaid residuals, distribution of, 4 Plead § 331
unrepresentative plaintiffs, effect of, 4 Plead § 299
usury action, 4 Plead § 306
virtual representation theory, 4 Plead § 271
voluntary dismissal of, 6 PWT § 292
wage and hour disputes, 4 Plead § 306
waiver of arbitration, see Arbitration
Wal-Mart case, 4 Plead § 275A*
water service, action involving, 4 Plead § 306

Class actions—Cont’d
welfare aid recipient’s action, 4 Plead § 306
Clemency
twice-convicted felon, grant by Supreme Court to, 2 Courts § 330
Clerk of court
  in general, 2 Courts § 358 et seq.
  Court of Appeal, 2 Courts § 359
  entry of judgment, see Entry of judgment
  in forma pauperis suit, see In forma pauperis suit
  practice of law by, 1 Atys § 396
  superior court, see Superior court
  Supreme Court, 2 Courts § 358
Client Security Fund, see State Bar
Closing arguments
  in general, 7 Trial § 163 et seq.
  misleading jury in, 7 Trial § 224
  per diem argument on damages, 7 Trial § 164
  prayer, reference to, 7 Trial § 164
  statements of law, 7 Trial § 164
  waiver, 7 Trial § 165
Closing statements, see Closing arguments
Cloud on title, removal of
  in general, 5 Plead § 671 et seq.
  declaratory relief compared, 5 Plead § 855
  pleading cause of action
    instrument of defendant, 5 Plead § 673
    interest of plaintiff, 5 Plead § 672
    invalidity of instrument, 5 Plead § 674
    title of plaintiff, 5 Plead § 672
    quiet title action distinguished, 5 Plead § 655
Coast Guard, see Military
Coastal Commission, see California Coastal Commission
Code of Judicial Ethics
  in general, 2 Courts § 52 et seq.
  A.B.A. Code of Conduct, 2 Courts § 52
  activities other than judicial proceedings, 2 Courts § 58
  adjudicative responsibilities, 2 Courts § 57
Index-105

Code of Judicial Ethics—Cont’d
administrative responsibilities, 2 Courts § 57
arbitrator, performance as, 2 Courts § 58
attorney discipline, cooperation with, 2 Courts § 57*
avocational activities, 2 Courts § 58
Civic activities, 2 Courts § 58
conduct of proceedings, 2 Courts § 57
courtesy, 2 Courts § 57
disciplinary agencies, cooperation with, 2 Courts § 57*
disciplinary responsibilities, 2 Courts § 57
disqualification responsibilities, 2 Courts § 57
election campaigns
contributions, disclosure of, 2 Courts § 57*
etics for, course on, 2 Courts § 59*
materials for, review of, 2 Courts § 59*
ex parte communication between judges, 2 Courts § 57
fiduciary activities, 2 Courts § 58
financial activities, 2 Courts § 58
governmental activities, 2 Courts § 58
impropriety, 2 Courts § 56
independence, 2 Courts § 55
integrity, 2 Courts § 55
judicial functions performed in private capacity, 2 Courts § 58
mediator, performance as, 2 Courts § 58
membership in organizations, 2 Courts § 56
nature of Code, 2 Courts § 54
political activity, 2 Courts § 59
practice of law, 2 Courts § 58
prestige of office, use of, 2 Courts § 56
public confidence, promotion of, 2 Courts § 56
quasi-judicial activities, 2 Courts § 58
result, effect of commitment to, 2 Courts § 57*
retaliation by judge for cooperation in disciplinary proceedings, 2 Courts § 57*
retired judges, 2 Courts § 60
sanctions for violation of Code, 2 Courts § 61
scope of Code, 2 Courts § 54

Code of Judicial Ethics—Cont’d
settlement conferences, participation in, 2 Courts § 57*

Code pleading, see Pleading

Collateral attack
in general, 8 Attack § 6 et seq.
answer, attack in, 8 Attack § 7
child support, retroactive condition on order, 2 Jurisd § 338*
conclusive determination of jurisdiction, effect of, 8 Attack § 17
consent judgment, 6 PWT § 113
courts of limited or special jurisdiction, presumption of jurisdiction of, 8 Attack § 15
dead person, use of extrinsic evidence to attack judgment against, 8 Attack § 15
direct attack distinguished, 8 Attack §§ 1, 6
dissolved corporation, use of extrinsic evidence to attack judgment against, 8 Attack § 15
enforcement, action to prevent as, 8 Attack § 7
estoppel to challenge jurisdiction, 8 Attack § 17
excess of jurisdiction, 2 Jurisd §§ 332, 336 et seq.; 8 Attack § 12
extrinsic evidence, showing lack of jurisdiction by, 8 Attack § 13 et seq.
foreign judgment, use of extrinsic evidence to attack, 8 Attack § 14
grounds for, 8 Attack § 6
judgment void on its face, 8 Attack § 12
jurisdictional defect, necessity of, 8 Attack § 6
new action ignoring effect of bar, 8 Attack § 7*
partial validity, effect of, 8 Attack § 17
presumption of jurisdiction, 8 Attack § 11 et seq.
receiver, appointment of, 6 Prov Rem § 450
reviewing court, attack in, 8 Attack § 10
sister state judgment, use of extrinsic evidence to attack, 8 Attack § 14
stipulated judgment, 6 PWT § 113
stranger, challenge by, 8 Attack § 17
subsequent action as, 8 Attack § 7
Collateral attack—Cont’d
subsequent motion as, 8 Attack § 8
trial court’s own motion, 8 Attack § 9
unauthorized appearance as grounds, 2
Jurisd § 202
vacating judgment, see Vacating judgment

Collateral estoppel
in general, 7 Judgm § 413 et seq.
admission in pleadings, effect of, 7 Judgm § 447
answer, raising in, see Answer
appellate judgment without opinion, effect of, 7 Judgm § 437
attorney disciplinary proceedings, applicability in, 1 Atys § 592
class actions, applicability to, 7 Judgm § 464
compromise verdict in negligence action, effect of, 7 Judgm § 438
contract actions, application in, 7 Judgm § 420
declaratory relief proceeding on attorneys’ fees, application in, 7 Judgm § 429
default judgment
in general, 7 Judgm § 448 et seq.
dissolution of marriage, effect of default in, 7 Judgm § 451
dependency proceedings, application in, 7 Judgm § 429
determination of issue not essential, effect of, 7 Judgm § 432
different standard of proof, effect of, 7 Judgm § 440
dissolution of marriage actions, application in, 7 Judgm § 425 et seq.
default in, effect of, 7 Judgm § 451
economic litigation in limited civil case, applicability to, 7 Judgm § 413
employees, application in actions by, 7 Judgm § 428
employment laws, application to proceedings to enforce, 7 Judgm § 429*
entry of judgment, effect of acts after, 7 Judgm § 435
environmental actions, 7 Judgm § 429*
exclusion of issue, effect of, 7 Judgm §§ 430, 431
federal tax proceedings, application to, 7 Judgm § 429
finality of judgment for, see Res judicata

Collateral estoppel—Cont’d
general verdict, effect of judgment on, 7 Judgm § 436
identity of issue litigated requirement
in general, 7 Judgm § 414 et seq.
burden of proof, 7 Judgm § 415
court opinions as evidence regarding, 7 Judgm § 418
evidence regarding, 7 Judgm § 417
extrinsic evidence regarding, 7 Judgm § 418
“issue litigated” defined, 7 Judgm § 415
legal theories distinguished, 7 Judgm § 419
nature of first proceeding, 7 Judgm § 416
indemnity, effect of, 7 Judgm § 422
insurance company, application in proceeding to rehabilitate, 7 Judgm § 429
issue not properly triable, effect of, 7 Judgm § 433
judicial arbitration, estoppel effect of award in, 6 PWT § 613
legal malpractice action, application in, 7 Judgm § 423
legal separation action, application in, 7 Judgm § 425 et seq.
new issues or facts, effect of, 7 Judgm § 434
offer to compromise, effect of judgment on, 7 Judgm § 439
pleading of, see Answer
privity, persons in, see Res judicata
probate proceedings, application to, 7 Judgm § 429
property actions, application in, 7 Judgm § 424
question of law
in general, 7 Judgm § 442 et seq.
injustice exception, 7 Judgm § 443
public interest exception, 7 Judgm §§ 444, 445
review not available, exception for, 7 Judgm § 446
qui tam actions, see Qui tam action
res judicata, see Res judicata
reservation of issue, effect of, 7 Judgm §§ 430, 431
Collateral estoppel—Cont’d
sister state court, effect of requiring different elements of proof, 7 Judgm § 441
State Bar action for reimbursement, application to, 7 Judgm § 429*
stranger, collateral estoppel asserted by in general, 7 Judgm § 471 et seq.
Bernhard case, 7 Judgm § 473
derivative liability, 7 Judgm § 472
federal Government, action against, 7 Judgm § 480
mutuality requirement, 7 Judgm §§ 471, 473
offensive use, 7 Judgm § 475 et seq.
tax disputes, application to, 7 Judgm § 441A*
tort actions, application in, 7 Judgm § 421 et seq.
unlawful detainer, 7 Judgm § 431
unpublished appellate opinions, citation of, 9 Appeal §§ 491, 824
voluntary dismissal, effect of, 6 PWT § 308

Collateral source rule
in general, 7 Trial § 221
public entity, action against effect of rule, 8 Enf Judgm § 435

Collective bargaining agreements
arbitration under
condition of suit, as, 3 Actions § 314
enforceability, 6 PWT § 517
claim by employee under, notice of, 3 Actions § 230
government attorneys, conflict of interest in enforcement of, 1 Attys § 147
injunction to enforce, 6 Prov Rem § 308
labor law generally, see Labor law

Colleges and universities
California State University
counsel, employment of, 1 Attys § 56
records, disclosure of, 9 Admin Proc § 5*
tort claims against, 3 Actions §§ 235*, 262*, 267A*, 273A*
community colleges
counsel, employment of, 1 Attys § 63
records, disclosure of, 9 Admin Proc § 5*

Colleges and universities—Cont’d
orders after hearing against violence and threats in, 6 Prov Rem § 330A et seq.*
private, violence and threats in access to electronic records of proceedings, 2 Courts § 40*
Judicial Council forms, see Judicial Council
orders after hearing against, 6 Prov Rem § 330A et seq.*
records, state, disclosure of, 9 Admin Proc § 5*
Richard McKee Transparency Act, 9 Admin Proc § 5*
state records, disclosure of, 9 Admin Proc § 5*
threats in, orders after hearing against, 6 Prov Rem § 330A et seq.*
University of California
counsel, employment of, 1 Attys § 56
records, disclosure of, 9 Admin Proc § 5*
vioence in, orders after hearing against, 6 Prov Rem § 330A et seq.*

Commerce power
administrative agencies, limitations on, 9 Admin Proc § 4

Commercial Code, see Uniform Commercial Code

Commission on Judicial Appointments, 2 Courts § 2

Commission on Judicial Nominees Evaluation
in general, 2 Courts § 5
attorney disciplinary reports to, see Attorney discipline

Commission on Judicial Performance
in general, 2 Courts §§ 69, 71
disciplinary proceedings before, 2 Courts § 80 et seq.
failure to perform judicial duties, presiding judge’s notification responsibilities regarding, 2 Courts § 237
judicial misconduct or disability generally, see Judicial misconduct or disability
legal representation of judge in proceedings before, 1 Attys § 60

Index-107
Commission on Judicial Performance
—Cont’d
mandamus review of determinations, 8
Writs § 164
opinions, publication of, 2 Courts §§ 55 et seq.*, 90A*
publication of opinions of, 2 Courts §§ 55 et seq.*, 90A*
review of determinations, 8 Writs § 164

Commissioner of Financial Institutions
injunction action by, 6 Prov Rem § 309*
receiver, appointment in action by, 6 Prov Rem § 440*
Commissioners
in general, 2 Courts § 343 et seq.
affirmations, administration of, 2 Courts § 344
arraignment, 2 Courts § 344
attachment, authority over, see Attachment
bench warrants, 2 Courts § 344
bonds, approval of, 2 Courts § 344
complaints against, presiding judge’s responsibilities, 2 Courts § 237
disqualification, see Judicial misconduct or disability
duties, 2 Courts § 344
ex parte matters, hearing of, 2 Courts § 344
family law proceedings, 2 Courts § 344
innkeepers lien, enforcement of, 2 Courts § 344
jury commissioner, see Jury
court of office, 2 Courts § 343
oaths, administration of, 2 Courts § 344
paternity proceedings, 2 Courts § 344
peremptory challenge to, see Peremptory challenge to judge
referee, as, 2 Courts § 347
scope of authority, 2 Courts § 345
temporary judge, acting as, 2 Courts §§ 344, 351
uncontested proceedings, 2 Courts § 344
undertaking
approval of, 2 Courts § 344
by, 2 Courts § 343
Commitment of alcoholics
in general, 3 Actions § 88
counsel, appointment of, 1 Attys § 47
Commitment of children, see Children’s
Civil Commitment and Mental Health Treatment Act
Commitment of controlled substance users
in general, 3 Actions § 89
narcotics addicts, see Commitment of narcotics addicts
Commitment of mentally disordered persons
in general, 3 Actions § 80 et seq.
antipsychotic medication
administration of, 3 Actions § 85
civil rights, 3 Actions § 86
constitutional rights, 3 Actions § 86
counsel, right to, 3 Actions §§ 83, 84
detention for observation and evaluation, 3 Actions § 81
due process rights, 3 Actions § 86
habeas corpus
for commitment, 3 Actions §§ 73, 83
immunity for, 3 Actions § 81
intensive treatment, certification for, 3 Actions § 82
jury trial, 3 Actions § 84
outpatient status, 3 Actions § 84
postcertification commitment, 3 Actions § 84
special proceeding, as, 3 Actions § 65
unconditional release, 3 Actions § 84
Commitment of mentally retarded persons
in general, 3 Actions § 92 et seq.
civil rights, 3 Actions § 94
commitment orders, 3 Actions § 93
counsel, right to, 3 Actions § 93
hearing, 3 Actions § 93
jury trial right, 3 Actions § 93
petition, 3 Actions § 93
placement of, 3 Actions § 93
waiver of jury trial, 3 Actions § 93*
Commitment of narcotics addicts
in general, 3 Actions § 91
Commitment of sexually violent predators
in general, 3 Actions § 96

Index-108
Committee of Bar Examiners, 1 Attys § 367 et seq.

Common carriers

§ 367 et seq.

in general, see Carriers

Common counts
defenses to, raising in answer, 5 Plead § 1075

pleading

in general, 4 Plead § 553 et seq.

account stated, see Account stated alternative remedies or theories, effect of, 4 Plead § 570
date of indebtedness, 4 Plead § 560

essential allegations, 4 Plead § 557

express contract, action involving, 4 Plead §§ 554, 555

goods sold and delivered, 4 Plead § 563

money had and received, see Money had and received

money lent or money paid, 4 Plead § 564

promise by defendant, 4 Plead § 559

quantum meruit, see Quantum meruit

quantum valebant, see Quantum valebant

request by defendant, 4 Plead § 558

right to plead, 4 Plead § 553 et seq.

separate counts in one pleading, 4 Plead § 568

superseded pleading, count in, 4 Plead § 569

waiver of tort, action involving, 4 Plead § 556

work and labor, 4 Plead § 562

Common interest developments, see Condominiums and other common interest developments

Common law

rejection of, circumstances for, 9 Appeal § 484

stare decisis distinguished, 9 Appeal § 484

Community and separate property

appeal, acceptance of award as waiver of, 9 Appeal § 70

attachment of community property, 6 Prov Rem § 79

collateral estoppel effect of determination of, 7 Judgm § 426

Community and separate property

—Cont’d
contempt, use of to enforce orders, see Contempt

enforcement of judgment against judgment debtor’s interest in community property, 8 Enf Judgm §§ 55, 58

exemption of marital property from execution of judgment, 8 Enf Judgm § 173

judges’ retirement benefits, see pensions and retirement benefits (this group)

limitations period

avoid instrument action to, 3 Actions § 481

necessaries

tolling of action for, 3 Actions § 719

pensions and retirement benefits

judges’ retirement benefits, 2 Courts § 9

putative spouses, see quasi-marital property (this group)

quasi-marital property

limitation and accrual of action for division, 3 Actions § 678

Community colleges and college districts, see Colleges and universities

Community Redevelopment Law, see Housing and urban development

Community services districts
counsel, employment of, 1 Attys § 63

Comparative negligence

answer, pleading in, 5 Plead §§ 1077, 1078, 1101 et seq.
defense, pleading as, 5 Plead § 1103

Competency
counsel, of, see Competency of counsel incompetency, see Incompetency

mentally disordered persons, of, see Commitment of mentally disordered persons

trial, competency to stand, see Competency to stand trial

Competency of counsel

failure to act competently, effect of, 1 Attys § 432

Rule of Professional Conduct governing, 1 Attys §§ 432, 465E*
Competency of counsel—Cont’d
State Bar, reporting of incompetent representation to, 1 Attys § 575

Competency to stand trial
in general, 3 Actions § 79
incompetence determination, procedure after, 3 Actions § 79

Complaint
in general, 4 Plead § 470 et seq.
allegations, 4 Plead § 471
amendment, see Amendment of pleadings
amount in controversy, effect on determining, see Amount in controversy
associations, naming in, 4 Plead § 474
attachment, defined for, see Attachment
attorney discipline proceedings, see Attorney discipline
attorneys’ fees, pleading of, see Attorneys’ fees
bankruptcy trustee, naming in, 4 Plead § 476
bill of particulars, see Bill of particulars
breach of contract, see Breach of contract
caption
in general, 4 Plead § 471
limited civil case, 4 Plead § 472
claim and delivery, 6 Prov Rem § 251
class actions, see Class actions
commencement of civil action by, 4 Plead § 470
content, 4 Plead § 470 et seq.
contract actions, see Contract actions
corporations, naming in, 4 Plead § 474
damages, statement of, see statement of damages (this group)
defined for involuntary dismissal for delay, 6 PWT § 315
demand for relief, see Prayer
demurrer, see Demurrer
estate administrator, naming in, 4 Plead § 476
executor, naming in, 4 Plead § 476
fictitious defendants, see Fictitious defendants
fictitious plaintiff, 4 Plead § 473*
filing as tolling limitations period, 3 Actions § 735
form, 4 Plead § 470 et seq.
guardian, naming in, 4 Plead § 476

Complaint—Cont’d
interpleader, see Interpleader
intervention, complaint in, see Intervention
limited civil case, 4 Plead §§ 16, 472
limited liability companies, naming in, 4 Plead § 474
mislabeled defendant, effect of, 4 Plead § 477
natural persons, naming in, 4 Plead § 473
nature of, 4 Plead § 470
parties, naming in, 4 Plead § 473 et seq.
partnerships, naming in, 4 Plead § 474
prayer, see Prayer
public entity or officer, naming in, 4 Plead § 475
receiver, naming in, 4 Plead § 476
representative capacity, naming persons in, 4 Plead § 476
Rules of Court, 4 Plead § 470
statement of damages
in general, 4 Plead § 511 et seq.
award, effect on, 4 Plead §§ 513, 514
bill of particulars distinguished, 4 Plead § 500
filing, 4 Plead § 512
Judicial Council forms, 4 Plead § 511
punitive damages, reservation of right to seek, 4 Plead § 514
request for, 4 Plead § 511
service, 4 Plead §§ 511, 512
subject matter jurisdiction as determined by, 2 Jurisd § 14
subscription, 4 Plead § 471
superior court, 4 Plead § 471
supplemental, see Supplemental pleading
tolling limitations period by filing, 3 Actions § 735
trustee in bankruptcy, naming in, 4 Plead § 476
unincorporated associations, naming in, 4 Plead § 474
venue, see Venue
verification, see Verification of pleadings

Complex litigation
in general, 4 Plead § 364; 7 Trial § 6
assignment, 2 Courts § 239
case management conference, 7 Trial § 46
defined, 2 Courts § 239; 4 Plead § 364
discovery, supervision of, 2 Courts § 240
Complex litigation—Cont’d
fee, 4 Plead § 26
management, 7 Trial § 42
meet-and-confer requirement, 7 Trial § 46
superior court management, 2 Courts
§§ 239, 240; 7 Trial § 1

Compromise
children and minors, compromise of claim
after appeal, see Children and minors
mootness of case after, see Moot case
offer to compromise, see Offer to compro-
mise settlement, see Settlement

Concepcion case, 6 PWT § 508*

Conclusions of law
improper pleading, 4 Plead § 384 et seq.
permissible pleading, 4 Plead § 388 et seq.

Condemnation, see Eminent domain;
Inverse condemnation

Conditional judgments
in general, 7 Judgm § 23 et seq.
forfeiture, validity of order resulting in, 7
Judgm § 28
injunction, 7 Judgm § 26
nature of, 7 Judgm § 23
quiet title, 7 Judgm § 24
restitution, 7 Judgm § 27
specific performance, 7 Judgm § 25
strict enforcement, effect of, 7 Judgm
§ 28
substantial right, validity of order deny-
ing, 7 Judgm § 28

Conditions precedent
noncompliance as error, see Errors
pleading, see Cause of action

Condominiums and other common
interest developments
alternative dispute resolution for, 6 PWT
§ 482
assessments
setoff against, 5 Plead § 1166
construction defects, prerequisites to
actions on, 3 Actions § 226
real party in interest for common interest
development association, 4 Plead
§ 152

Condominiums and other common
interest developments—Cont’d
setoff against assessments, 5 Plead § 1166

Confession of judgment
in general, 6 PWT § 128 et seq.
attorney
divorce proceeding, 6 PWT § 129
certificate, 6 PWT §§ 129, 130
confession of judgment by, 6 PWT
§ 128
child support proceedings, 6 PWT § 131
enforcement of judgment in family law
proceedings, 6 PWT § 131
entry of judgment
in general, 6 PWT § 130
family law proceedings, see family law
proceedings (this group)

family law proceedings
in general, 6 PWT §§ 131, 132
child support proceedings, 6 PWT
§ 131
enforcement of judgment in, 6 PWT
§ 131
modification of judgment in, 6 PWT
§ 131
revocation of judgment in, 6 PWT
§ 131
service of judgment in, 6 PWT § 131
termination of parental rights, 6 PWT
§ 132
filing
in general, 6 PWT § 130
family law proceedings, 6 PWT § 131
modification of judgment in family law
proceedings, 6 PWT § 131
nature of, 6 PWT § 128
new trial availability after, 8 Attack § 23
parental rights termination proceedings, 6
PWT § 132
paternity proceedings, 6 PWT § 131
personal jurisdiction, consent to by, 2
Jurisd § 186
procedure, 6 PWT § 130
revocation of judgment in family law
proceedings, 6 PWT § 131
service of judgment in family law
proceedings, 6 PWT § 131
special proceeding, as, 3 Actions § 65
spousal support proceedings, 6 PWT
§ 131
Confession of judgment—Cont’d
statement of defendant, 6 PWT § 130
support proceedings, 6 PWT § 131
termination of parental rights proceed-
ings, see Termination of parental
rights
Confessions
judgment, see Confession of judgment
Conflict of interest
attorneys, see Attorney-client relationship
Conflict of laws
in general, 3 Actions § 42 et seq.
abatement, 3 Actions § 52
commencement of actions, 3 Actions § 46
comparative impairment, 3 Actions § 44
damages, 3 Actions §§ 49, 50
direct-action statute, 3 Actions § 51
federal Rules of Decision Act, application
of, 3 Actions § 45
governmental interest approach, 3 Actions
§ 44
limitation of actions, see Limitation and
accrual of actions
parol evidence rule, 3 Actions § 347
procedural matters
in general, 3 Actions § 46
substantive-procedure dichotomy, 3
Actions § 45
substantive matters in procedural form,
3 Actions § 47 et seq.
Restatement 2d
modern approach, 3 Actions § 43
statute of frauds, 3 Actions § 48
statute of limitations, see Limitation and
accrual of actions
substantive-procedure dichotomy, 3
Actions § 45
substantive matters in procedural form, 3
Actions § 47 et seq.
survival of action, 3 Actions § 52
Consent judgment—Cont’d
collateral attack, 6 PWT § 113
dismissal, 6 PWT § 127
effect of, 6 PWT § 113
enforcement of settlement, 6 PWT § 114
et seq.
entry of judgment, 6 PWT §§ 113, 115 et
seq.; 7 Judgm § 51
family law proceedings, 5 Plead § 897
finality, 3 Actions § 675
indemnity, preservation of right to, 6
PWT § 124
insurance-funded settlement, enforcement
of, 6 PWT § 117
jurisdiction, retention of, 6 PWT § 125
mediation, agreement made in, 6 PWT
§ 123
nature of, 6 PWT § 113
notice of settlement, 6 PWT § 127
oral stipulations, effect of, 6 PWT § 121
res judicata, 7 Judgm § 372
settlement
enforcement of, 6 PWT § 114 et seq.
insurance-funded, enforcement of, 6
PWT § 117
notice of, 6 PWT § 127
plaintiff’s duties after, 6 PWT § 127
sex discrimination, 6 PWT § 121B*
sexual assault and battery, 6 PWT
§ 121B*
sexual harassment, 6 PWT § 121B*
signature requirement, 6 PWT § 119
unauthorized judgment, effect of, 2 Jurisd
§ 318
unauthorized modification, effect of, 2
Jurisd § 311
writing requirement, 6 PWT § 119
Conservatorship
appeals, 9 Appeal § 218
California Conservatorship Jurisdiction
Act, see California Conservatorship
Jurisdiction Act
involuntary, see Lanterman-Petris-Short
Act
jurisdiction
California Conservatorship Jurisdiction
Act, 2 Jurisd § 280*
Lanterman-Petris-Short Act, see Lanter-
man-Petris-Short Act
representation of estate by conservator, 1
Atty’s § 56
Conservatorship—Cont’d
stay of enforcement pending appeal, see Stay pending appeal
undertaking for stay pending appeal, see Stay pending appeal

Conservatorship and guardianship
appealable orders, 9 Appeal § 218
appearance by, 2 Jurisd § 195; 4 Plead § 70
appellate records, electronic access to, see Record on appeal
attorneys’ fees, see Attorneys’ fees bond
limitation and accrual of actions on, 3 Actions §§ 484, 543
capacity to sue and be sued, see Capacity to sue and be sued
certiorari review, 8 Writs § 36
compensation of guardian, conservator, and attorney
paralegal services, 1 Attys § 159
complaint, naming guardian in, 4 Plead § 476
enforcement of judgment against property in conservatorship or guardianship estate, see Enforcement of judgment against property in estate, 8 Enf Judgm § 116
gravely disabled persons, see Conservatorship of gravely disabled persons
ward, see Guardian ad litem
in-forma-pauperis suit, see In forma pauperis suit
involuntary conservatorship, see Lanterman-Petris-Short Act
duties of conservator, 3 Actions § 112
ex parte communications, 3 Actions § 102
exclusionary rule, applicability of, 3 Actions § 110
“gravely disabled” defined, 3 Actions §§ 97, 98
habeas corpus, 3 Actions § 106
hearing, 3 Actions § 102
investigation, 3 Actions § 101
jury instructions, 3 Actions § 104*
jury trial right, 3 Actions §§ 104, 105; 7 Trial § 90
physical restraint of conservatee, 3 Actions § 107
placement of conservatee, 3 Actions § 112
powers of conservator, 3 Actions § 112
preponderence of evidence, proof by, 3 Actions § 117
privacy of proceedings, 3 Actions § 102*
procedure, 3 Actions § 100 et seq.
renewal, 3 Actions § 100

Conservatorship of gravely disabled persons
in general, 3 Actions § 97 et seq.
appeal, 3 Actions § 111
burden of proof, 3 Actions §§ 108, 109
counsel, right to, 3 Actions § 103
duties of conservator, 3 Actions § 112
ex parte communications, 3 Actions § 102
exclusionary rule, applicability of, 3 Actions § 110
“gravely disabled” defined, 3 Actions §§ 97, 98
habeas corpus, 3 Actions § 106
hearing, 3 Actions § 102
investigation, 3 Actions § 101
jury instructions, 3 Actions § 104*
jury trial right, 3 Actions §§ 104, 105; 7 Trial § 90
physical restraint of conservatee, 3 Actions § 107
placement of conservatee, 3 Actions § 112
powers of conservator, 3 Actions § 112
preponderence of evidence, proof by, 3 Actions § 117
privacy of proceedings, 3 Actions § 102*
procedure, 3 Actions § 100 et seq.
renewal, 3 Actions § 100

Index-113
Conservatorship of gravely disabled persons—Cont’d
report, 3 Actions § 101
self-representation, 3 Actions § 103
special proceeding, as, 3 Actions § 65
termination, 3 Actions § 100
waiver of rights
  in general, 3 Actions § 102
  jury trial, 3 Actions § 105
Consideration
lack of, as defense, 5 Plead § 1089

Consolidation of actions—Cont’d
procedure, 4 Plead § 344
small claims trial de novo, 2 Courts § 319
statutory authority, 4 Plead § 342
third-party tortfeasor actions, see Third-party tortfeasor, action against trial
appeal, effect on, 9 Appeal § 123
consolidation for, 4 Plead §§ 341, 347
validation actions, 4 Plead § 342
wrongful death, see Wrongful death

Consolidation of actions
in general, 4 Plead § 341 et seq.
abatement to protect priority of jurisdiction compared, 4 Plead § 343
administrative adjudication, 9 Admin Proc § 101
appeal
  consolidation of cases for, 9 Appeal § 765
  jurisdiction of trial court during pendency of, 9 Appeal § 20*
  order of consolidation, appeal of, 9
    Appeal § 159
  record on appeal, 9 Appeal § 671
  trial, consolidation for, effect of appeal on, 9 Appeal § 123
arbitration, see Arbitration
attorney disciplinary proceedings, 1 Attys § 588
bill of peace, 4 Plead §§ 343, 351
caption of pleadings, 4 Plead § 344
case number, 4 Plead § 344
complete consolidation, 4 Plead §§ 341, 346
coordination, consolidation compared, 4
  Plead § 343
cross-action compared, 4 Plead § 343
delay in trial, effect on dismissal for, 6
  PWT § 409
discretion of trial court, 4 Plead § 345
equitable bill of peace, see Bill of peace federal rule, 4 Plead § 342
interpleader compared, 4 Plead § 343
lead case, 4 Plead § 344
mechanics lien proceedings, 4 Plead § 342
motion, 4 Plead § 344
nature of, 4 Plead § 341
order, filing of, 4 Plead § 344

Constitutional law
exhaustion of remedies, 3 Actions §§ 334, 344
injunctions, constitutionally protected activity, 6 Prov Rem § 318*

Construction industry
defects, civil liability
  cause of action, 4 Plead § 61
  limitation and accrual of action, 3
    Actions §§ 484, 488, 606 et seq.
  notice requirements, 3 Actions § 226
  negligent design and construction of building, venue in, 3 Actions § 801
  security for costs, see Security for costs statutes of limitations, see defects, civil liability (this group)
  venue for negligence action, 3 Actions § 801

Construction of wills
no contest clause in will, appeal, 9 Appeal § 89*

Constructive service, relief from default judgment on, see Relief from judgment

Constructive trusts
accrual of actions, 3 Actions § 680 et seq.
breach of fiduciary duty
  limitation and accrual of actions, 3
    Actions § 680 et seq.
pleading, 5 Plead § 841
Constructive trusts—Cont’d
breach of unenforceable contract, limitation and accrual of actions for, 3 Actions § 680 et seq.

fraud
in general, 3 Actions § 132
family member, pleading fraud by, 5 Plead § 841
limitation and accrual of actions, 3 Actions § 680 et seq.
pleading, 5 Plead §§ 841, 842
limitation and accrual of actions, 3 Actions §§ 488*, 680 et seq.
lis pendens, 3 Actions § 398
mistake as basis of, see Mistake
nature of, 5 Plead § 840

pleading
in general, 5 Plead § 840 et seq.
allegations required, 5 Plead § 840
breach of fiduciary duty, 5 Plead § 841
express trust confused with, 5 Plead § 847
fraud, 5 Plead §§ 841, 842
promise to buy property for plaintiff, 5 Plead § 843
resulting trust confused with, 5 Plead § 848
unenforceable trust, gift on, 5 Plead § 844
promise to buy property, 5 Plead § 843
statute of limitations, 3 Actions §§ 488*, 680 et seq.
unenforceable trust
gift at death, 5 Plead § 844

Consular and diplomatic officers
capacity to sue and be sued, see Capacity to sue and be sued
jurisdiction over, 2 Jurisd § 79
process, immunity from, 3 Actions § 980

Consumer protection laws
attorneys’ fees, 7 Judgm § 224
class actions, see Class actions
Fair Debt Collection Practices Act, see Fair Debt Collection Practices Act
injunction, right to, 6 Prov Rem §§ 291, 310

Consumer Warranty Act
in general, 7 Judgm § 224

Consumer Warranty Act—Cont’d
limitation and accrual of actions, 3 Actions § 519

Consumers
attachment, availability in consumer transactions, 6 Prov Rem § 70
class actions, see Class actions
consumer protection laws, see Consumer protection laws
Consumer Warranty Act, see Consumer Warranty Act

Consumers Legal Remedies Act, see Consumers Legal Remedies Act

Department of Consumer Affairs
in general, 9 Admin Proc § 193
injunctions, see Consumer protection laws
State and Consumer Services Agency, see State and Consumer Services Agency

Consumers Legal Remedies Act
attorneys’ fees, 7 Judgm § 224
class actions, 4 Plead § 302 et seq.
complaint, requirements for, 4 Plead § 472
judgment under, content of, 7 Judgm § 29
notice requirement, 3 Actions § 227
summary judgment, availability of, 6 PWT § 206
venue for actions, 3 Actions § 888

Contempt
in general, 7 Trial § 168 et seq.
absence of attorney, 7 Trial §§ 183, 196
administrative adjudication, see Administrative adjudication
aggressive advocacy, 7 Trial § 190 et seq.
appeal
in general, 9 Appeal § 147
jurisdiction of trial court during pendency of, 9 Appeal § 20
right to, effect of party being in contempt on, 9 Appeal § 80
appealability of orders, 8 Writs § 35
assisting witness to evade subpoena, 7 Trial § 199

attorney conduct, 1 Attys § 461; 7 Trial §§ 189 et seq., 210
authority to punish, 7 Trial §§ 169, 170
brief, failure to file, 7 Trial § 183
certiorari review, 7 Trial § 182; 8 Writs § 35; 9 Appeal § 147

Index-115
Contempt—Cont’d

child, order against for failure to comply with order to attend school, 8 Enf Judgm § 356

child custody order enforcement, 8 Enf Judgm § 342

civil contempt
  in general, 3 Actions § 69; 7 Trial § 173

communications with jury, judge or witness, 7 Trial § 207

continuance of hearing after arrest, 7 Trial § 31

county government, order affecting, 7 Trial § 184

criminal contempt proceeding
  in general, 3 Actions § 69; 7 Trial § 174 et seq.
criminal defendant’s conduct, 7 Trial § 206

damages in civil contempt, 3 Actions § 69
deceiving court, 7 Trial § 195
defense, special prior trial of, 7 Trial § 150 et seq.
delayed order, notice and hearing, 7 Trial § 179
direct contempt, 7 Trial § 177 et seq.
discipline of attorney based on, 1 Attys § 575
disqualification of judge
  in general, 2 Courts § 97
  attempt as contempt, 7 Trial § 194
disrespectful behavior of attorney, 7 Trial § 189
disrespectful behavior of witness, 7 Trial § 205
domestic violence victim’s refusal to testify, 7 Trial § 203
due process concerns, 7 Trial §§ 175, 177
enforcement of judgments and orders
  in general, 8 Enf Judgm § 340 et seq.
  affidavit, 8 Enf Judgm § 343 et seq.
  attorneys’ fees, 8 Enf Judgm § 355
certiorari, review by, 8 Enf Judgm § 363
child custody orders, 8 Enf Judgm § 342

collateral attack, 8 Enf Judgm § 364
community service, 8 Enf Judgm § 355
compensatory damages, availability of, 8 Enf Judgm § 361

Contempt—Cont’d
enforcement of judgments and orders—Cont’d

contempt order, 8 Enf Judgm § 354
costs, 8 Enf Judgm § 355
county governments, limitations on orders against, 8 Enf Judgm § 340
defenses, 8 Enf Judgm § 349 et seq.
denial of litigation rights, 8 Enf Judgm § 359
district attorney, action by, 8 Enf Judgm § 341
examination proceedings, enforcement of orders in, 8 Enf Judgm § 342
family law orders, violation of, 8 Enf Judgm § 340
fine, 8 Enf Judgm § 355
good faith as defense, 8 Enf Judgm § 353
grounds for, 8 Enf Judgm § 340
habeas corpus, review by, 8 Enf Judgm § 363
imprisonment, 8 Enf Judgm § 354 et seq.
inability to comply with order as defense, 8 Enf Judgm § 352
inability to pay support as defense, 8 Enf Judgm § 351
injunctions, see injunctions, enforcement of (this group)
jurisdiction, 8 Enf Judgm § 340
marital property orders, 8 Enf Judgm § 342
multiple punishment for separate acts, 8 Enf Judgm § 362
nature of power, 8 Enf Judgm § 340
no notice or knowledge as defense, 8 Enf Judgm § 350
order to destroy property, 8 Enf Judgm § 360
order to show cause, 8 Enf Judgm § 346 et seq.
order violated was invalid or ineffective as defense, 8 Enf Judgm § 349
punishment, 8 Enf Judgm § 355 et seq.
scope of power, 8 Enf Judgm § 340
failure to appear, 7 Trial §§ 183, 196
habeas corpus remedy, as, 3 Actions § 73; 7 Trial § 182; 8 Writs § 35; 9 Appeal § 147
Contempt—Cont’d
hearing, 7 Trial § 179 et seq.
impugning court’s integrity, 7 Trial §§ 193, 194
indirect contempt, 7 Trial §§ 175, 176, 183
individual responsibility for, 7 Trial § 174
injunctions, enforcement of
    in general, 6 Prov Rem § 396; 8 Enf Judgm § 342
deliberate violation, 6 Prov Rem § 410 et seq.
review of order, 6 Prov Rem § 409 et seq.
stay of contempt order pending appeal,
    6 Prov Rem § 403
instructions to jury, violation as basis, see juror (this group)
jailing counsel during trial, 7 Trial § 178
judge communications with, 7 Trial § 207
temporary, 7 Trial § 177
juror instructions, violation of, 7 Trial § 318*
voir dire, refusal to answer question on,
    7 Trial § 206
jury, communications with, 7 Trial § 207
jury trial right, see Jury trial
late appearance of attorney, 7 Trial §§ 183, 197, 198
late appearance of witness, 7 Trial § 204
legislative regulation, 7 Trial § 172
media publications, 7 Trial §§ 208, 209
minor’s refusal to testify, 7 Trial § 201
nature of proceeding, 3 Actions § 69
notice, 7 Trial § 179
offensive behavior, 7 Trial § 189
order delayed, notice and hearing where, 7 Trial § 179
State Bar, reporting to, see State Bar order to show cause, use of, 6 PWT § 61
perjury distinguished, 7 Trial § 174
persons outside courtroom, conduct of, 7 Trial § 206
power of court, 7 Trial § 168
prohibition enforceability of order by, 8 Writs § 72
trial, contempt during, review of order, 7 Trial § 182
Contempt—Cont’d
provocation by judge, effect of, 7 Trial § 192
punishment, 7 Trial § 188
quasi-criminal proceeding, 3 Actions § 69
reconsideration of motion, contempt based on request for, 6 PWT § 54
review of order, 7 Trial § 182
sexual assault victim’s refusal to testify, 7 Trial § 202
special proceeding, as, 3 Actions § 65
spectator’s conduct, 7 Trial § 206
State Bar, reporting of contempt to, 1 Attys § 575
statutory framework, 7 Trial § 171
summary punishment, 7 Trial § 177
taking advantage of court, 7 Trial § 195
tardiness of attorney, 7 Trial §§ 183, 197, 198
tardiness of witness, 7 Trial § 204
temporary judge’s power, 7 Trial § 170
testimony, refusal to give, see witness (this group)
voir dire of juror, see juror (this group)
witness by, 7 Trial § 200 et seq.
communications with, 7 Trial § 207
Contest of will
delay in service, dismissal for, 6 PWT § 321
involuntary dismissal for delay in service,
    6 PWT § 321
limitations period, 3 Actions § 479
no contest clause
    appeal, effect on, 9 Appeal § 51
proceeding to determine what constitutes contest under, see proceeding to determine what constitutes (this group)
proceeding to determine what constitutes,
    5 Plead § 856
statute of limitations, 3 Actions § 479
summons, 3 Actions § 993
trial, contempt during, see Trial
Contingent fees, see Attorneys’ fees
Continuance
    in general, 7 Trial § 7 et seq.
administrative adjudication, 9 Admin Proc § 108
Continuance—Cont’d
affidavits, 7 Trial § 33
appeal
in general, 9 Appeal § 363
attachment, 6 Prov Rem § 106
declaration, 7 Trial § 33
depositions, see Depositions
discretion of trial judge, 7 Trial § 10 et seq.
evidence
absence of as ground, 7 Trial § 18
expenses, payment of, 7 Trial §§ 34, 35
fast track rules, 2 Courts § 262
general appearance by application for, 2 Jurisd § 210
grounds for, 7 Trial § 13 et seq.
harassment proceedings, see Harassment;
Workplace harassment
judge, absence of as ground, 7 Trial § 21
judicial arbitration proceeding, 6 PWT § 597
Judicial Council rule governing, 7 Trial § 9
Legislature, membership in as ground, 7 Trial § 26 et seq.
limitations, 7 Trial § 8
local agency meetings, 9 Admin Proc § 26
military service as ground, 7 Trial § 30
motion, 7 Trial § 32
nature of, 7 Trial § 7
new trial motion, 8 Attack § 67
notice of by judge, 7 Trial § 56
parties
absence of as ground, 7 Trial §§ 16, 17
changes in as ground, 7 Trial § 25
peremptory challenge to judge after, 2 Courts § 156
pleadings, changes in as ground, 7 Trial § 25
preliminary injunction, hearing on, 6 Prov Rem § 373 seq.; 7 Trial § 31
procedure, 7 Trial § 32 et seq.
resumption of trial after, 7 Trial § 78
Rule of Court governing, 7 Trial § 9
similar proceeding pending as ground, 7 Trial §§ 22, 23
small claims court, for informal resolution, 2 Courts § 302
state agency meetings, 9 Admin Proc § 13
stipulation, 7 Trial § 36

Continuance—Cont’d
substitution of attorney as ground, 7 Trial § 14
summary judgment motion, 6 PWT §§ 252, 253
surprise, 7 Trial § 24
trial court delay reduction rules, 2 Courts § 262
unavailability of attorney as ground, 7 Trial § 13
withdrawal of attorney as ground, 7 Trial § 15
witnesses
unavailability of as ground, 7 Trial §§ 19, 20
workplace harassment proceedings, see Workplace harassment

Contract actions
amendment of pleadings to change legal theory, 5 Plead § 1231
answer, see Answer
artistic infringement, see Copyright
attachment, see Attachment
attorneys’ fees, see Attorneys’ fees
bill of particulars, see Bill of particulars
cause of action, see pleading (this group)
checks, actions based on, 3 Actions § 140
collateral estoppel, 7 Judgm § 420
constructive trusts, see Constructive trusts
copyright infringement, 5 Plead § 707
damages, see Contract damages
default judgment, see Default judgment
defenses
answer, raised by, see Answer
demurrer, raised by, see Demurrer
demand required for, 3 Actions § 204
demurrer, see Demurrer
enforcement of contract, action for, 7 Judgm § 168*
equitable contract actions, 3 Actions § 126
exhaustion of remedies, see Exhaustion of contract or private remedies
injunctions to enforce rights, 6 Prov Rem § 305 et seq.
instructions to jury, 7 Trial § 284
insurance, based on, see Insurance
intentional tort violating contract, 3 Actions § 157 et seq.
INDEX

Contract actions—Cont’d
interference with business relations, 3
Actions § 146
joiner, see Joinder
judgments, actions on, see Enforcement
of judgment
Judicial Council forms, see Judicial
Council
jury instructions, 7 Trial § 284
jury trial, 7 Trial § 84
leases, actions based on, see Leases of
real property
limitation and accrual of actions, see
Limitation and accrual of actions
literary infringement, 5 Plead § 707
nonpayment, pleading, 5 Plead § 913
parol evidence rule, 3 Actions § 167
picketing, 3 Actions § 146
pleading
in general, 4 Plead § 515 et seq.
bill of exchange, action on, 4 Plead
§ 575
breach of contract, see Breach of
contract
check, action on, 4 Plead § 575
common counts, see Common counts
form of action, 4 Plead § 32
promissory notes, see Promissory notes
remedies distinguished, 4 Plead § 42
restitution after rescission, see Restitu-
tion
tort action following contract action, 4
Plead § 64
quasi-contract actions, see Quasi-
contracts
reformation, see Reformation of contract
specific performance, see Specific perfor-
mance
statute of limitations, see Limitation and
accrual of actions
statutory liability, action to enforce, 3
Actions § 143
tort actions
alternative actions, 3 Actions § 144 et
seq.
distinguished, 3 Actions § 139
election allowed, 3 Actions § 145 et
seq.
unlawful detainer, 3 Actions § 142

Contract actions—Cont’d
venue
in general, 3 Actions §§ 831, 834 et
seq.
corporations and associations, actions
against, 3 Actions § 849 et seq.
wrongful discharge or termination, see
Wrongful termination

Contract conditions and covenants
excuse of conditions
repudiation, 3 Actions § 317

Contract damages
in general, 5 Plead § 943 et seq.
failure to award, 9 Appeal § 435
general damages, 5 Plead § 943
liquidated damages, 5 Plead § 945
pleading of, 5 Plead § 943 et seq.
special damages, 5 Plead § 944

Contractors
Contractors’ State License Board, 9
Admin Proc § 196

Contractors’ State License Board
privileged information, 9 Admin Proc
§ 196

Contracts
accounts, see Account stated; Accounts
actions based on, see Contract actions
attorneys and clients
employment contracts, see Attorney-
client relationship
fee agreements, see Attorneys’ fees
bad faith denial of contract, nature of
action, 3 Actions §§ 169, 170
compensation of attorneys, see Attorneys’
fees
covenant
not to compete, see Covenant not to
compete
declaratory relief, see Declaratory relief
different persons, actions against, 3
Actions § 173
election of remedies, see Election of rem-
edies
forum for action, contractual selection of,
see Jurisdiction
fraud, see Fraud in contracting
frauds, statute of, see Statute of frauds

Index-119
Contracts—Cont’d
implied covenant of good faith and fair dealing, see Breach of implied covenant of good faith and fair dealing
inducing breach, see Inducing breach of contract
injunctions to enforce rights, 6 Prov Rem § 305 et seq.
installment contracts, see Retail installment sale
judgment as, 3 Actions § 141
limitations periods, see Limitation and accrual of actions
mandamus, enforcement of contractual obligation by, 8 Writs § 80
negligent violation, 3 Actions §§ 162, 163, 165, 166
parol evidence rule, see Parol evidence rule
quasi-contracts, see Quasi-contracts
receiver’s powers regarding, 6 Prov Rem § 457
remedies, see Election of remedies
retail installment contracts, see Retail installment sale
same person, actions against, 3 Actions § 172
specific performance, see Specific performance
statute of frauds, see Statute of frauds
statute of limitations, see Limitation and accrual of actions
stipulations, see Stipulations
unenforceable contract
nature of action, 3 Actions § 167
venue, fixing in, 3 Actions §§ 785, 786

Contracts conflict of laws
parol evidence rule, 3 Actions § 47

Contractual arbitration, see Arbitration

Contributory negligence
imputed contributory negligence
pleading, 5 Plead § 1103
pleading, 5 Plead §§ 1103, 1104

Controlled substances
instructions to jury, see Instructions to jury
jury instructions, see Instructions to jury

Controversy, see Justiciable controversy

Conversion of personal property
accrual of actions, see Limitation and accrual of actions (this group)
alternative actions for, 3 Actions § 175
contract action based on, 3 Actions § 157
demand required before action, 3 Actions § 204
election of remedies, when required, 3 Actions § 181
fiduciary, accrual of action by, 3 Actions § 625
hotels, property left in, see Innkeepers
limitation and accrual of actions
in general, 3 Actions §§ 477, 619 et seq.
accrual, 3 Actions § 623 et seq.
bail, by, 3 Actions § 625
claims against attorneys for breach of contract, 3 Actions § 629*
fiduciary, by, 3 Actions § 625
lawful possession, effect of, 3 Actions § 624
negotiable instruments, see Negotiable instruments
wrongful act, original, 3 Actions § 623*
motels, property left in, see Innkeepers
negotiable instruments, see Negotiable instruments
quasi-contract action, 3 Actions § 164
special property, accrual of action, 3 Actions § 623
statute of limitations, see Limitation and accrual of actions (this group)
venue, 3 Actions § 822

Conveyance, fraudulent, see Fraudulent transfers

Coordination of actions
in general, 4 Plead § 352 et seq.
“action” defined, 4 Plead § 352
add-on cases
notice of potential cases, 4 Plead § 360
petition to add, 4 Plead § 372
Administrative Office of Courts, administration by, 4 Plead § 352
appeal, 4 Plead § 374
Coordination of actions—Cont’d

assigned judge

coordination motion judge, assignment of, 4 Plead § 361
defined, 4 Plead § 352
peremptory challenge to, 2 Courts § 150; 4 Plead § 355
procedures prescribed by, 4 Plead § 354
case management, 7 Trial § 42
case management conference, 4 Plead § 368; 7 Trial § 43 et seq.
change of venue, propriety of, 4 Plead § 365
“clerk” defined, 4 Plead § 352
common question in different courts test, 4 Plead § 353
complex case, see Complex litigation consolidation compared, 4 Plead § 343
“coordinated action” defined, 4 Plead § 352
coordination motion judge assignment of, 4 Plead § 361
powers and duties of, 4 Plead § 367
“coordination proceeding” defined, 4 Plead § 352
coordination trial judge assignment of, 4 Plead § 365
powers and duties of, 4 Plead § 367
definitions, 4 Plead § 352
delay in trial, effect on dismissal for, 6 PWT § 362
delayed ruling, report on, 4 Plead § 365
electronic submission of papers to Judicial Council, 4 Plead § 356
evidence, 4 Plead §§ 354, 363
extending time, 4 Plead § 354
filing of papers
in general, 4 Plead § 356
notice of submission of petition, 4 Plead § 358
governing law, 4 Plead § 354
hearing
in general, 4 Plead §§ 354, 363
petition to add cases, 4 Plead § 372
stay pending determination, 4 Plead § 362
transfer of action or claim, 4 Plead § 371
“included action” defined, 4 Plead § 352
judgment, entry on termination, 4 Plead § 373

Coordination of actions—Cont’d

Judicial Council

petition to chair of, 4 Plead §§ 357, 358
submission of papers to, 4 Plead § 356
liaison counsel, 4 Plead § 369
location of proceedings, 4 Plead § 367
maintenance of records, 4 Plead § 356
mandamus review of orders, 4 Plead § 374; 8 Writs § 110
motion
in general, 4 Plead § 359
stay pending determination, 4 Plead § 362
transfer of action or claim generally, 4 Plead § 371
transfer of noncomplex action, 4 Plead § 366
nature of, 4 Plead § 352
notice
hearing, 4 Plead § 363
potential add-on cases, 4 Plead § 360
related cases, 4 Plead § 375
submission of petition, 4 Plead § 358
transfer of noncomplex action, motion for, 4 Plead § 366
order
in general, 4 Plead § 365
petition to add cases, 4 Plead § 372
stay pending determination, 4 Plead § 362
termination, 4 Plead § 373
transfer of action or claim generally, 4 Plead § 371
transfer of noncomplex action, 4 Plead § 366
“party” defined, 4 Plead § 352
peremptory challenge to assigned judge, 2 Courts § 150; 4 Plead § 355
petition to chair of Judicial Council, 4 Plead §§ 357, 358
presiding judge, delegation of duties by, 4 Plead § 352
procedure, 4 Plead § 354
proof of service, 4 Plead § 356
related cases, coordination of, 4 Plead § 375
remand of action or claim, 4 Plead § 370
review of order, add-on cases, 4 Plead § 374*
Rules of Court, 4 Plead § 354

Index
Coordination of actions—Cont’d
service of papers
  in general, 4 Plead § 356
  notice of submission of petition, 4
  order, 4 Plead § 365
  shortening time, 4 Plead § 354
  “side” defined, 4 Plead § 352
site of proceedings, 4 Plead § 367
standards for ordering, 4 Plead § 353
stay
  automatic stay on coordination order, 4
  Plead § 367
  pending determination, 4 Plead §§ 357, 362
petition to add cases, 4 Plead § 372
termination of action, 4 Plead § 373
test case, use of, 4 Plead § 367
transfer
  action or claim generally, 4 Plead § 371
  noncomplex action, 4 Plead § 366
trial of coordinated actions
  in general, 4 Plead § 367 et seq.
  coordination trial judge, see coordination trial judge (this group)
writ, review by, 4 Plead § 374

Coram nobis—Cont’d
mandamus, theory applied to, 3 Actions § 76
nature of proceeding, 3 Actions § 75
superior court jurisdiction to issue, 2 Courts § 211
writs generally, see Writs

Coram vobis
civil cases, 8 Attack § 4
writs, generally, see Writs

Coroner
limitation and accrual of actions against, 3 Actions §§ 482, 668
statute of limitations for actions against, 3 Actions §§ 482, 668

Corporate directors and officers
breach of fiduciary duty, pleading, 5 Plead § 783
election of directors
  validation proceeding, 5 Plead § 856
fiduciary relationship with corporation
  breach of, pleading, 5 Plead § 783
fiduciary relationship with shareholders
  breach of, pleading, 5 Plead § 783
law corporations, see Law corporations
legal representation of, see Attorney-client relationship
limitations period for actions against
  in general, 3 Actions §§ 483, 671
accrual of cause of action on discovery of facts, 3 Actions § 497
discovery of facts, accrual of cause of action on, 3 Actions § 497
mandamus based on acts of, 8 Writs § 96
personal jurisdiction based on tort of, 2 Jurisd § 147
verification of pleadings by, 4 Plead § 461

Corporate dissolution and forfeiture
default judgment, availability against dissolved corporation, 6 PWT § 137
delay-in-service statute, applicability to, 6 PWT § 321
dissolved corporation
  capacity to sue and be sued, 4 Plead § 91
  collateral attack on judgment against, see Collateral attack
jurisdiction over, see Jurisdiction
receiver, appointment of, see Receivers
Corporate dissolution and forfeiture—Cont’d
intervention in action, 4 Plead §§ 214, 232
special proceeding, as, 3 Actions § 65
venue for proceeding, 3 Actions §§ 816, 887
verification of complaint, 4 Plead § 466
voluntary dissolution proceeding, 5 Plead § 856

Corporate powers
ultra vires acts
injunction to prevent, 6 Prov Rem § 291

Corporate securities
bonds, limitation and accrual of actions based on, 3 Actions § 486
contractual forum selection for actions involving, 2 Jurisd § 357
Corporate Securities Law, see Corporate Securities Law
disqualification of judge based on ownership, 2 Courts § 110

Corporate Securities Law
class actions, 4 Plead § 306
prospectus, professional liability
limitation and accrual of actions based on, 3 Actions § 483

Corporate shareholders
appeal, standing of nonparty shareholder to, 9 Appeal § 34*
breach of fiduciary duty, pleading, 5 Plead § 783
derivative (representative) actions
appeal, 9 Appeal §§ 52, 169
class actions distinguished, 4 Plead § 269
conflict of interest in, see Attorney-client relationship
demand on directors to act, 3 Actions § 204
demand required before action, 3 Actions § 204
jury trial right, 7 Trial § 86
nature of action, 3 Actions § 129
pleading, 5 Plead § 912
right to bring, allegations relating to, 5 Plead § 912

corporate dissolution and forfeiture—Cont’d
derivative (representative) actions—Cont’d
security for costs, 3 Actions § 361 et seq.
successive representation, 1 Attys § 115*
voluntary dismissal, 6 PWT § 292
fiduciary obligations of controlling shareholders
breach of, leading, 5 Plead § 783
intervention in creditor action, 4 Plead § 214
law corporations, see Law corporations
limitations period for actions against, 3 Actions §§ 483, 671
security for costs, see derivative (representative) actions (this group)

Corporate shares of stock
disqualification of judge based on ownership, 2 Courts § 110
fraud
limitations period based on, 3 Actions §§ 482, 485, 497

Corporations
administrative mandamus, see
Administrative mandamus
agent for service of process
default judgment on constructive service on Secretary of State, relief from, see Relief from judgment
appearance by, 2 Jurisd § 197
attachment against corporation, see Attachment
capacity
sue and be sued, to, see Capacity to sue and be sued
client of attorney, corporation as, see
Attorney-client relationship
complaint, naming in, 4 Plead § 474
corporate counsel, see Attorney-client relationship
default against corporation under fictitious business name, 6 PWT § 136
defunct corporation, see Corporate dissolution and forfeiture
Department of Corporations, see Department of Corporations
derivative actions, see Corporate shareholders
Corporations—Cont’d

directors and officers, see Corporate
directors and officers
disregard of corporate entity, see Disre-
gard of corporate entity
dissolution, see Corporate dissolution and
forfeiture
diversity of citizenship jurisdiction, see
Federal courts
federal corporations, capacity to sue and
be sued, 4 Plead § 104
foreign, see Foreign corporations
fraud
actions against corporations, 5 Plead
§ 712
joinder of, effect on venue, see Venue
jurisdiction over, see Jurisdiction
law corporations, see Law corporations
limitation and accrual of actions
in general, 3 Actions § 480
suspended corporations, limitation of
action against, 3 Actions §§ 434, 452
parent corporation, conflict of interest in
representing, 1 Attys § 111
party to action, as, 4 Plead § 69
personal jurisdiction over, see Jurisdiction
piercing corporate veil, see Disregard of
corporate entity
practice of law by, 1 Attys § 386
receiver, appointment of, see Receivers
representation by attorney, see Attorney-
client relationship
service of process on, see Process; Sum-
mons
shareholder derivative actions, see
Corporate shareholders
shareholders, see Corporate shareholders
shares of stock, see Corporate shares of
stock
statute of limitations, see limitation and
accrual of actions (this group)
subsidiary
conflict of interest in legal representa-
tion of, 1 Attys § 111
suspended corporation
capacity to sue and be sued, 4 Plead
§§ 89, 90
cross-complaint by, limitation of action,
3 Actions § 452

Corporations—Cont’d

suspended corporation—Cont’d
limitation of action against, 3 Actions
§§ 434, 452
taxes, see Bank and corporation taxes
ultra vires acts, see Corporate powers
venue of actions, see Venue

Costs

in general, 6 Prov Rem §§ 98, 99; 7
Judgm §§ 83 et seq., 128
agreement on items allowable, 7 Judgm
§ 117
amount in controversy, effect on
determining, see Amount in
controversy
annulment proceeding, see Nullity of mar-
riage
appeal
in general, 7 Judgm § 147
acceptance of costs as waiver, 9 Appeal
§ 70
costs, see Costs on appeal
discretion of trial court, review of, 9
Appeal § 363
discretionary cost award, separate
appeal, 9 Appeal § 188*
orders relating to costs, appeal of, 9
Appeal § 186 et seq.
postjudgment order fixing, 9 Appeal
§ 341
prevailing party, 9 Appeal § 954 et seq.
record on appeal, see Record on appeal
routine and non-routine costs, 9 Appeal
§§ 231, 235*
stay pending appeal, see Stay pending
appeal
waiver of, see Costs on appeal
apportionment among multiple parties, 7
Judgm § 96
arbitration award
contractual arbitration, 6 PWT §§ 564,
565
judicial arbitration, see Judicial arbitra-
tion
architect malpractice, certificate of merit
noncompliance, 3 Actions § 209
attachment, see Attachment
attorneys’ fees, see Attorneys’ fees
attorneys’ meals, 7 Judgm § 120
award as of right, 7 Judgm § 83 et seq.
bond, see Bond, undertaking, or deposit

Index-124
Costs—Cont’d

burden of proof on challenge to award, 7 Judgm § 146

certiorari, see Writs

challenge to award

in general, 7 Judgm § 144 et seq.

appeal, award of costs on, see Costs on appeal

change of venue, effect of stipulation, 3 Actions § 913

class actions, see Class actions

costs of legal research, 7 Judgm § 130

certification of merit, 3 Actions § 209

depositions, 7 Judgm § 129

discretion of court

appeal of award, 9 Appeal § 188

award in, 7 Judgm § 97 et seq.

dissolution of marriage

in general, 7 Judgm § 104

electronic filing, fees for, see Filing fees

eminent domain, see Eminent domain

enforcement of judgment, costs of, see Enforcement of judgment

gineer malpractice, certificate of merit noncompliance, 3 Actions § 209

equitable actions, 7 Judgm § 102

execution of judgment, recovery of costs of, see Execution and levy

exhibits, 7 Judgm § 131

expedited jury trial, 7 Trial § 6D*; 7 Judgm § 83*

expert witness

fees incurred in assisting, 7 Judgm § 130

fees of, see Expert witnesses

expungement of lis pendens, see Lis pendens

failure to include costs in judgment, effect of, 7 Judgm § 148

Fair Employment and Housing Act, see

Fair Employment and Housing Act

fax charges, 7 Judgm § 122

filing fees, 7 Judgm § 126

government, award against, 7 Judgm § 84

Costs—Cont’d

harassment, temporary restraining order and order after hearing against, 6 Prov Rem § 322

housing development action against public entity, 7 Judgm § 106

improper award or denial as excess of jurisdiction, 2 Jurisd § 321

in forma pauperis, see In forma pauperis suit

incident of judgment, costs as, 7 Judgm § 86

incurred, requirement that costs be, 7 Judgm § 118

injunctive relief, 7 Judgm § 98

interpleader, see Interpleader

interpreter’s fees

in general, 7 Judgm § 136A*

depositions, for, 7 Judgm § 129*

investigation costs, 7 Judgm § 130

items allowable, 7 Judgm § 117 et seq.

judgment, 7 Judgm §§ 147, 148

judicial arbitration, availability in trial de novo after, 7 Judgm § 111

jurisdiction to award, 2 Jurisd § 339*

jury fees and expenses, 7 Judgm § 136

jury trial, expedited, 7 Trial § 6D*; 7 Judgm § 83*

legal separation, 7 Judgm § 104

limited civil case, judgment could have been rendered in, 7 Judgm § 99 et seq.

lis pendens, see Lis pendens

malpractice, certificate of merit noncompliance, 3 Actions § 209

mandamus, see Writs

mediation expenses, 7 Judgm § 125

memorandum of costs, see Memorandum of costs

moot, action rendered as before judgment, 7 Judgm § 107

motion fees, 7 Judgm § 126

motion to strike or tax costs, 7 Judgm § 144 et seq.

necessity requirement, 7 Judgm § 118

new trial conditioned on payment of, see New trial

nullity of marriage proceeding, see Nullity of marriage

offer to compromise, effect of, see Offer to compromise

Index-125
Costs—Cont’d
orders relating to costs, appealability of, 9
Appeal § 186 et seq.
photocopying charges, 7 Judgm § 122
postage, 7 Judgm § 122
postjudgment order fixing, review of, 9
Appeal § 341
pretrial expenses, 7 Judgm § 126 et seq.
prevailing party, see Prevailing party
probate proceedings, 7 Judgm § 103
procedure, 7 Judgm § 139 et seq.
process fee as allowable costs, 3 Actions § 999; 7 Judgm § 127
prohibition, writ of, see Writs
quiet title, effect of disclaimer or default, 7 Judgm § 110
reasonableness requirement, 7 Judgm § 118
receiver’s fees and expenses, 7 Judgm §§ 128, 137
record on appeal, see Record on appeal
recovery from client, see Attorneys’ fees
referee’s fees, 7 Judgm § 123
relief from judgment, payment as condition for, see Relief from judgment
retrial after mistrial, recovery of costs in, 7 Judgm § 111
security for, see Security for costs
separate actions when joinder possible, recovery of costs in, 7 Judgm § 111
SLAPP suits, see SLAPP suits
small claims court, see Small claims court
stay pending appeal, see Stay pending appeal
striking costs, 7 Judgm § 144 et seq.
surety bond premiums, 7 Judgm § 128
surveyor malpractice, certificate of merit noncompliance, 3 Actions § 209
taxing costs, see challenge to award (this group)
telephone charges, 7 Judgm § 122
travel, 7 Judgm § 121
trial costs, 7 Judgm § 131 et seq.
undertaking, see Bond, undertaking, or deposit
unlawful detainer, 7 Judgm § 137; 8 Enf Judgm § 46
validation proceedings, 7 Judgm § 108A*
voluntary dismissal, application on, 6
PWT § 305

Costs—Cont’d
witness
fees, 7 Judgm § 132
mileage, 7 Judgm § 134
writ proceedings, see Writs

Costs on appeal
in general, 9 Appeal § 953 et seq.
abandonment of appeal, effect of, 9
Appeal § 976
affirmance, award on, 9 Appeal §§ 964, 966
apportionment of costs, 9 Appeal § 961
attorneys’ fees, see Appeal
augmentation of record, cost of, 9 Appeal § 969
award, 9 Appeal § 974
briefs, cost of, 9 Appeal §§ 970, 973
challenge to award, 9 Appeal § 977
deposit in lieu of bond, recovery of, 9
Appeal §§ 971, 972
discretion of reviewing court, 9 Appeal § 958 et seq.
enforcement of award, 9 Appeal § 978
entry of award, 9 Appeal § 974
filing fees, recovery of, 9 Appeal § 973
frivolous appeals, sanctions for, see Frivolous appeals
governing law, 9 Appeal § 953
government, award against, 9 Appeal § 957
in forma pauperis suit, costs excused, see In forma pauperis suit
items recoverable, 9 Appeal § 968 et seq.
limited civil case appeals, 9 Appeal § 1018
mandamus
affirmance of order denying, 9 Appeal § 966
public officer, award against, 9 Appeal § 957
memorandum of costs, filing in trial court, 9 Appeal §§ 975, 976
modification, award on, 9 Appeal § 962
money judgment, enforcement of award as, 9 Appeal § 978
new evidence on appeal, cost of, 9 Appeal § 973
notary costs, recovery of, 9 Appeal § 973
prevailing party, see Prevailing party
probate case, 9 Appeal § 967

Index-126
INDEX

**Costs on appeal—Cont’d**
procedure, 9 Appeal § 974 et seq.
public officer, award against, 9 Appeal § 957
record on appeal, see Record on appeal remittitur, entry of award in, 9 Appeal § 974
reversal, award on, 9 Appeal §§ 963, 965
right to recover, 9 Appeal § 953 et seq.
routine or non-routine costs, 9 Appeal §§ 231, 235*
service costs, recovery of, 9 Appeal § 973
Supreme Court, directions regarding, 9 Appeal § 954
surety bond, expenses of, 9 Appeal §§ 971, 972
tax costs, motion for, 9 Appeal § 977
transmission of record, cost of, 9 Appeal § 973
trial court, filing cost bill in, 9 Appeal §§ 975, 976
undertaking, expenses of, 9 Appeal §§ 971, 972
waiver of, 9 Appeal § 16A*

**Cotenants**
real property lien to enforce judgment, subjection of interests to, see Judgment liens

**Counsel**
in general, see Attorneys
appointment of, see Attorney-client relationship
competency of, see Competency of counsel
county, see County counsel
effective assistance of, see Competency of counsel
right to, see Right to counsel

**Counseling**
domestic violence, see Domestic violence prevention
legal, see Attorneys
psychological, see Psychotherapists
social services, see Social workers

**Counterclaim, see Cross-complaint**

**Counties**
assessors, see Assessments
attorneys, see legal representation of (this group)

**Counties—Cont’d**
Board of Supervisors
litigation, control of, 1 Attys § 58
special counsel, employment of, 1 Attys § 64
county counsel, see County counsel
district attorney, see District attorney
jury fees and deposit, exemption from, 4 Plead § 27*
legal representation of
in general, 1 Attys § 58 et seq.
allocation of functions, 1 Attys § 59
Board of Supervisors, see Board of Supervisors (this group)
county counsel, see County counsel
courts, representation of, see Courts
district attorney, see District attorney
judges, representation of, see Judges
small claims court litigation on behalf of, 1 Attys § 58
special counsel, employment of, 1 Attys § 64
public defender, see Public defender
small claims court litigation on behalf of, 1 Attys § 58
venue for actions involving, see Venue

**County counsel**
conflict of interest, see Attorney-client relationship
county, representation of, 1 Attys § 58 et seq.
courts, legal representation of, 1 Attys § 60
judges, legal representation of, see Judges

**Coupons**
state, see State

**Court commissioners**
attachment proceedings, authority in, see Attachment
practice of law, unlawful, by, see Attorneys
subordinate judicial officers, reference to as, 2 Courts § 237*

**Court of Appeal**
in general, 2 Courts § 325 et seq.
adjournments, 2 Courts § 45
administrative mandamus, see Administrative mandamus
administrative staff, 2 Courts § 359
Court of Appeal—Cont’d

appellate division of superior court, see Superior court

appellate jurisdiction, see Appellate jurisdiction

argument, see Appeal

attorney discipline, review of, see Attorney discipline

briefs, see Briefs

calendar, 2 Courts § 334; 9 Appeal §§ 763, 764

certification of small claims trial de novo decision, 2 Courts § 324
certiorari, see Certiorari
circuit-riding sessions, 2 Courts § 334
clerk and clerical staff, 2 Courts § 359
concurrence for judgment, 2 Courts § 331
convening of, 2 Courts § 45
courts generally, see Courts
decision, see Appeal
districts, 2 Courts §§ 331, 332
divisions, 2 Courts §§ 331, 332
electronic filing and service in, see Rules of Court

federal court of appeal, see Federal courts

fees, 2 Courts § 180

hearing after superior court appeal, jurisdiction, 2 Courts § 335

holidays, see Courts

indigent actions, see In forma pauperis suit

internal operation, 2 Courts § 331

judgment of, see Judgment on appeal jurisdiction, see Appellate jurisdiction

justices

abandonment of office, 2 Courts § 14

administrative powers of, 2 Courts § 326

administrative presiding justice, 2 Courts § 333

age as cause for retirement, 2 Courts §§ 14, 15, 79

assignment of, 2 Courts § 11 et seq.

chambers, powers in, 2 Courts § 326

Commission on Judicial Appointments, approval by, 2 Courts § 2

compensation, 2 Courts § 8 et seq.

court conduct, see Judicial misconduct or disability

confirmation election, 2 Courts § 3

Court of Appeal—Cont’d

justices—Cont’d

death of, effect of, 2 Courts § 14

delay in deciding cases, effect on compensation, 2 Courts § 10

disability as cause for retirement, 2 Courts §§ 14, 15, 79

disqualification, 2 Courts § 98 et seq.

election of, 2 Courts § 2

ethics, see Judicial ethics

holding over, effect of, 2 Courts §§ 16, 17

impeachment, 2 Courts § 14

invalid selection, effect of, 2 Courts §§ 16, 17

listing of, locations, 2 Courts § 20

misconduct, see Judicial misconduct or disability

nominees, evaluation of, 2 Courts §§ 5, 6

presiding justices, 2 Courts § 333

progress of case, supervision of, 9 Appeal § 769

recall of, 2 Courts § 14

resignation, 2 Courts § 14

retired, compensation of, 2 Courts § 9

sabbatical for, 2 Courts § 14

selection of, 2 Courts §§ 2, 3

supervisory powers of, 2 Courts § 326

term of office, 2 Courts § 2

termination of service, 2 Courts §§ 14, 15

vacancies, filling, 2 Courts § 2

law of the case, see Law of the case

limited civil case, transfer of, see Limited civil case

local rules, 2 Courts §§ 199, 331

mandamus, see Mandamus

nature of as reviewing court, 2 Courts § 325

opinions, see Opinion of reviewing court; Stare decisis

oral argument, see Appeal

organization, 2 Courts § 331 et seq.

original jurisdiction, 2 Courts § 336; 2 Jurisd §§ 21, 22

precedent, see Stare decisis

preconference hearing, 9 Appeal § 768

pro hac vice, appearance in, 1 Attys § 389

prohibition, writ of, see Prohibition
Index

Court of Appeal—Cont’d
prompt completion, duty to ensure, § 769
publication of opinions, Courts § 331
record on appeal, see Record on appeal
rehearing, see Appeal
remittitur, see Remittitur
research attorneys, Courts § 359
rules, see Rules of Court
sealing records, see Sealing records
sessions, Courts § 334; Appeal §§ 763, 764
stare decisis, see Stare decisis
submission of cause, Appeal § 774
Supreme Court, see Supreme Court
transfer of cases
limited civil case, see Limited civil case
Supreme Court, to and from, see Supreme Court
within divisions, Appeal § 924
United States Courts of Appeal, see Federal courts
venue, see Venue
writs, see Writs

Court reporters
in general, see Reporters of trial courts

Courts
in general, Courts §§ 28 et seq., 161 et seq.
adjournments, Courts § 45
administrative officers, practice of law by, Attys § 396
appeal by, Appeal § 55
attorney discipline based on wrongs against, see Attorney discipline
bias, see Judge
children’s waiting room, Courts § 28
clerks, see Clerk of court; Superior Court; Supreme Court

Code of Ethics for Court Employees, Courts § 342
Commission on the Future of the Courts, Courts § 161
commissioners, see Court commissioners
constitutional system, Courts § 161 et seq.

Courts—Cont’d
convening of, Courts § 45
Court Employee Labor Relations Rules, Courts § 342
Court of Appeal, see Court of Appeal
court reporters, see Reporters of trial courts
courts of record, Courts § 162
defined, Courts § 21
disabilities, accommodation of, Courts § 32
discipline of attorney based on wrongs against, see Attorney discipline
distribution of court business, Trial § 39
domestic violence prevention orders, language of, Courts § 29
English language, use of, Courts § 29
evening hours, Courts § 45
executives, practice of law by, Attys § 396
Family Conciliation Court, see Family Conciliation Court
fees, see Filing fees
furlough days, Courts § 46
gender bias, avoidance of, Courts § 31
holidays
in general, Courts § 46 et seq.
extension of time by, Courts §§ 50, 51
proceeding during, Courts §§ 47, 48
special holidays, Courts § 49
inherent powers of, Courts §§ 173 et seq.
involuntary dismissal for delay, defined for, PWT § 315
judges, see Judges
judicial days, Courts § 45
jurisdiction, see Jurisdiction
justice courts
in general, Courts § 164 et seq.
inherent powers, Courts § 174
juvenile court, see Juvenile court
labor relations, Courts § 342
language used in
English, Courts § 29
gender-neutral, Courts § 31
legal representation of, Attys § 60
legislative powers over, Courts § 167 et seq.
management of court business, Trial § 39
Courts—Cont’d
mandamus to compel acts of, 8 Writs § 99 et seq.
municipal courts, 2 Courts § 164 et seq.
notice of unavailability of counsel, effect of, 2 Courts § 173*
probate court, see Probate court
procedure, legislative powers over, 2 Courts §§ 171, 172
proceedings in, 2 Courts § 28 et seq.
public proceedings, see Public trial
recycled paper, use of, 2 Courts § 30
reporters, see Reporters of trial courts
Rules of Court, see Rules of Court
sealing records, see Sealing records
self-help centers for self-represented litigants, 2 Courts § 28
small claims court, see Small claims court
smoking in, 2 Courts § 28
summons, see Summons
superior court, see Superior court
Supreme Court, see Supreme Court
terms of court, 2 Courts § 45
trial court funding, 2 Courts §§ 178, 179
trial court unification, see Trial court unification

Covenant not to compete
attorneys, agreements by, 1 Attys § 33 et seq.
breach, injunction against, 6 Prov Rem § 307
injunction against breach, 6 Prov Rem § 307

Covenants
breach
covenant of warranty or quiet enjoyment, accrual of, 3 Actions § 526
not to compete, see Covenant not to compete

Credibility
witness
attacking credibility of own witness, 7 Trial § 225
vouching for credibility of own witness, 7 Trial § 225

Credit
sex discrimination
limitations period, 3 Actions § 482

Creditors
in general, see Enforcement of judgment
decedent’s estate, claims against, see Creditor’s claims against estate

Creditor’s action
in general, 8 Enf Judgm § 291 et seq.
conditions for, 8 Enf Judgm § 291
costs, recovery of, 8 Enf Judgm § 295
exemption claim by debtor, 8 Enf Judgm § 294
judgment, 8 Enf Judgm § 295
jury trial right, 8 Enf Judgm § 291
lien created by service of summons, 8 Enf Judgm § 291
nature of action, 8 Enf Judgm § 291
parties, 8 Enf Judgm § 291
payment, order forbidding, 8 Enf Judgm § 293
time for bringing action, 8 Enf Judgm § 292
transfer of property, order forbidding, 8 Enf Judgm § 293
venue, 3 Actions § 826; 8 Enf Judgm § 291

Creditor’s claims against estate
amendment of claim, effect of, 3 Actions § 215
appeal of orders, see Probate proceedings
election of remedies by, 3 Actions § 189
filing requirement
in general, 3 Actions § 215
time for filing, see time for filing claim (this group)
limitations period
action on rejected claim, 3 Actions § 477
subject matter jurisdiction, effect of late claim on, 2 Jurisd § 91
time for filing claim
amended claims, 3 Actions § 215
tolling provision for minors, applicability of, 3 Actions § 215

Criminal act or omission
injunction against, 6 Prov Rem § 335
taxpayer’s action premised on, 4 Plead § 162*

Criminal defendant
attorney malpractice action by, see Attorney malpractice
**Criminal law**

specialist, certification of attorney as, 1
Attys § 10

**Criminal practice and procedure**

appellate records, electronic access to, see Record on appeal
civil actions distinguished, 3 Actions § 68
compentence to stand trial, see Trial
tingent attorneys’ fees agreements, see Attorneys’ fees
controlled substance using defendant, detention for observation of, 3
Actions § 89
developmentally disabled defendant, commitment of, 3
Actions § 93
inebriated defendant, detention for observation of, 3
Actions § 88
mentally retarded defendant, commitment of, 3
Actions § 93
relief from judgment, availability of remedy, see Relief from judgment
trial, see Trial

**Crops**

attachment, see Attachment
claim and delivery, 6 Prov Rem § 251
judgment liens, 8 Enf Judgm § 84
levy on, 8 Enf Judgm §§ 121 et seq., 136
venue of actions for injuries to, 3
Actions § 801

**Cross-appeal**

cross-complaint—Cont’d

appeal—Cont’d
striking of cross-complaint, 9 Appeal § 113 et seq.
child support proceeding, availability in, 5
Plead § 1170
compulsory cross-complaint
in general, 5 Plead § 1177 et seq.
declaratory relief actions, 5 Plead § 1179
failure to plead as bar, 5 Plead § 1177
mandatory dismissal statute, effect of, 5
Plead § 1180
other action pending, effect of, 5 Plead § 1179
party in default, effect of, 5 Plead § 1179
relief from failure to plead, 5 Plead § 1180
small claims court actions, 5 Plead § 1179
special proceedings, 5 Plead § 1179
subject matter jurisdiction lacking, effect of, 5 Plead § 1178
waiver, 5 Plead § 1177
consolidation compared, 4 Plead § 343
counterclaim, 5 Plead § 1154 et seq.
cross-complaint to cross-complaint, 5
Plead § 1175
default judgment on, see Default judgment
defendant, restrictions on cross-complaint against, 5 Plead § 1170A*
defenses distinguished, 5 Plead § 1163
delay in trial, effect on dismissal for, 6
PWT § 361
demurrer, see Demurrer
designation of parties, 4 Plead § 67
eminent domain, availability in proceeding, 5 Plead § 1170
federal rules, 5 Plead § 1154
filing, 5 Plead § 1168
final judgment, effect on filing, 5 Plead § 1168
form of, 5 Plead § 1167
former law, 5 Plead § 1155 et seq.
interpleader, see Interpleader
intervention compared, 4 Plead § 215
joinder
causes of action, 5 Plead § 1174
cross-defendants, 5 Plead § 1171

**Cross-complaint**

in general, 5 Plead § 1154 et seq.
amendment, see Amendment of pleadings
answer to, 5 Plead § 1184
appeal
complaint and cross-complaint, partial determination of issues, 9
Appeal § 117

**Index**
Cross-complaint—Cont’d
Judicial Council forms, 5 Plead § 1169
jurisdiction, see Jurisdiction
leave to file, 5 Plead § 1168
limitation and accrual of actions, see
Limitation and accrual of actions
lis pendens, effect of, 3 Actions § 387
malicious prosecution, see Malicious
prosecution
nature, 5 Plead §§ 1154, 1163
new parties
 cross-complainants, as, 5 Plead § 1173
restrictions on cross-complaint against,
5 Plead §§ 1171, 1172
nonresident, by, effect on security for
costs, see Security for costs
origin, 5 Plead § 1154
partial indemnity, cross-complaint against
new party, 5 Plead § 1171
plaintiff, restrictions on cross-complaint
against, 5 Plead §§ 1169, 1170
quiet title action, 5 Plead § 661
recoupment compared, 5 Plead § 1154
related cause of action, cross-complaint
against new party, 5 Plead § 1171
res judicata effect of, see Res judicata
restitution, summary, availability in, 5
Plead § 1162
revised law, 5 Plead §§ 1159, 1167 et seq.
setoff, see Setoff
statute of limitations, 3 Actions § 448 et
seq.; 5 Plead §§ 1163, 1164
subject matter jurisdiction as determined
by, 2 Jurisd § 14
summary proceedings, availability in, 5
Plead § 1160 et seq.
suspended corporation, by, see Corporations
third-party defendant, special answer by,
5 Plead § 1176
time for filing, 5 Plead § 1168
trial date setting, effect on filing, 5 Plead
§ 1168
unlawful detainer, 5 Plead §§ 1160, 1161
unrestricted cross-complaint
defendant, against, 5 Plead § 1170A*
plaintiff, against, 5 Plead §§ 1169, 1170
verification, see Verification of pleadings
voluntary dismissal, effect on, 6 PWT
§§ 288, 289

Cumis counsel, see Insurance

Custody
attachment, custody of property, see
Attachment
child custody, see Child custody and
visitation
claim and delivery, custody of property,
see Claim and delivery

Damages
amount in controversy, effect on
determining, see Amount in
controversy
appellate review of, 8 Attack § 36
attorney malpractice, see Attorney mal-
practice
attorneys’ fees as damages, see Attorneys’
feyes
certiorari, 8 Writs §§ 211, 212
civil contempt, 3 Actions § 69
conflict of laws regarding, 3 Actions
§§ 49, 50
death of party
 limitations on recovery, 3 Actions § 16
defamation, 5 Plead § 942
default judgment, 6 PWT § 149 et seq.
excessive damages, new trial based on,
see New trial
exemplary damages, see Punitive dam-
ages
fraud, 5 Plead § 941
general damages, pleading of, 5 Plead
§§ 933, 936, 943
government tort claims, see Government
tort claims
inadequate damages, new trial based on,
see New trial
injunctions, see Injunctions
judicial arbitration, inclusion in award, 6
PWT § 606
libel, see Libel
liquidated, see Liquidated damages
mandamus, 8 Writs §§ 211, 212
nature of action, effect on, 3 Actions
§ 137
new trial based on, see New trial
notice of for default judgment, see
Default judgment
personal property, injury to, see Personal
property
pleading of, 5 Plead § 933 et seq.
INDEX

Damages—Cont’d
prayer for, see Prayer prohibition, writ of, 8 Writs §§ 211, 212 real property, injury to, see Real property slander, see Slander special damages, pleading of, 5 Plead §§ 934, 937, 944 statement of decision, 7 Trial § 391 stipulations regarding, 1 Attys § 274 surety, proceedings after judgment, see Sureties theory of trial doctrine applied to, see Errors tort, see Damages for tort trial of, 7 Trial § 154 et seq. writs, 8 Writs §§ 211, 212 wrongful death, see Wrongful death

Damages for personal injuries
exemption from execution for, see Exemptions from execution general damages, pleading of, 5 Plead § 936 pain and suffering death of party, effect on, 3 Actions §§ 16, 17 prayer for, 5 Plead § 933 et seq. special damages, pleading of, 5 Plead § 937

Damages for tort
partial new trial based on, see New trial Tort Claims Act, awards to defendant under, 7 Judgm § 235 et seq. “tort of another” doctrine, 7 Judgm §§ 151, 152 wrongful death, see Wrongful death

Death
abatement of actions, see Survival and abatement of actions appeal of civil action, effect on, see Appeal attachment lien, effect of defendant’s death on, 6 Prov Rem § 187 attorney attorney-client relationship, effect on, see Attorney-client relationship disciplinary proceedings, effect on, see Attorney discipline client, effect on attorney-client relationship, see Attorney-client relationship collateral attack on judgment against dead person, 8 Attack § 15 Court of Appeal justice, effect of, 2 Courts § 14 court reporter, as ground for new trial, 9 Appeal § 674 damages, effect on, 3 Actions §§ 16, 17 delay in trial, effect on dismissal for, 6 PWT §§ 390, 403 enforcement of judgment, effect on, see Enforcement of judgment establishing proceeding for, 5 Plead § 856 special proceeding, as, 3 Actions § 65 establishing and reporting of Judicial Council forms, 2 Courts § 403A* fact of, proceeding to establish, see establishing (this group) homestead, effect of death of owner, see Homestead judge, effect of, 2 Courts § 14 justice of Court of Appeal or Supreme Court, effect of, 2 Courts § 14 law partner, effect on partnership, see Law partnerships mootness of case resulting from, see Moot case notice of Judicial Council forms, 2 Courts § 403A* party to civil action abatement of action, see Survival and abatement of actions appeal, death during, 9 Appeal §§ 53, 755 delay in trial, effect on dismissal for, 6 PWT §§ 390, 403 enforcement of judgment, effect on, see Enforcement of judgment judgment, effect on, see Judgments jurisdiction, effect on, see Jurisdiction nunc pro tunc, as grounds for, see Nunc pro tunc survival of action, see Survival and abatement of actions physician-defendant in medical malpractice action, see Medical malpractice record of Judicial Council forms, 2 Courts § 403A*
Death—Cont’d
record of—Cont’d
proceeding to establish, 5 Plead § 856
sentence of, see Capital punishment
service of process, effect of defendant’s
death, 6 PWT § 342
Supreme Court justice, effect of, 2 Courts § 14
survival of actions, see Survival and
abatement of actions
wrongful, see Wrongful death

Debtor and creditor
account debtor, see Attachment
attachment, see Attachment
child support collection, see Child support
class action by creditor, 4 Plead § 306
collection practice
in general, 8 Enf Judgm § 4 et seq.
child support collection, see Child sup-
port
fair debt collection practice act, see
Fair Debt Collection Practices Act
scope of, 8 Enf Judgm § 4
contract actions by creditors, 3 Actions § 173
corporate creditors
action disregarding entity, nature of
proceeding, 3 Actions § 129
exhaustion of remedies requirement, 3
Actions § 208
creditor’s action, see Creditor’s action
creditor’s suit on attachment, see Attach-
ment
Fair Debt Buying Practices Act, 8 Enf
Judgm § 12A*
Fair Debt Collection Practices Act, see
Fair Debt Collection Practices Act
judgment creditor, see Enforcement of
judgment
quasi-contract actions by creditors, 3
Actions § 174
receiver, appointment of, see Receivers
Rosenthal Fair Debt Collection Practices
Act, 8 Enf Judgm § 5*
summons in proceedings against joint
debtors, 3 Actions § 989
venue for action, 3 Actions § 826

Decedents’ estates
administration, see Administration of
decedents’ estates

Decedents’ estates—Cont’d
attorneys’ fees, see Attorneys’ fees
creditor’s claims against, see Creditor’s
claims against estate
escheat as special proceeding, 3 Actions
§ 65
execution lien on personal property in
estate, see liens
Judicial Council forms, 2 Courts § 410
party to action, as, 4 Plead § 69
writ of execution on personal property in
estate, see Writ of execution

Declarations
form of, 6 Prov Rem §§ 3, 69
Judicial Council forms, 6 Prov Rem § 3
motions, use for, 6 PWT § 41
new trial motion, use for, 8 Attack § 64
provisional remedies, use for, 6 Prov Rem
§ 3
summary judgment, use for, 6 PWT § 224
et seq.
verification of pleadings by, 4 Plead § 462

Declaratory relief
accrual of action, 3 Actions §§ 685, 869
actual present controversy, necessity of, 5
Plead § 861 et seq.
administrative mandamus proceedings, 8
Writs § 332
administrative rulemaking review
proceedings, see Administrative
rulemaking
attorneys’ fees, see Attorneys’ fees
breach of contract, 5 Plead § 869
circumvention of statutory right by, 5
Plead § 874
cloud on title, action to remove compared,
5 Plead § 855
complaint, see pleading (this group)
costs, 7 Judgm § 98
criminal liability, declaration on, 5 Plead
§ 852
demurrer, 5 Plead § 877 et seq.
denial of relief, 5 Plead § 866 et seq.
discretion of trial court, 5 Plead §§ 849,
866, 867
effect of, 5 Plead § 849
equitable nature of action, 3 Actions
§ 129; 5 Plead § 850
executive power, effect of interference
with, 5 Plead § 876

Index-134
Declaratory relief—Cont’d

exhaustion of administrative remedies requirement, 5 Plead § 875
expansion of traditional remedies with declaratory effect, 5 Plead § 858
Federal Declaratory Judgments Act, 5 Plead § 849
form of declaration, 5 Plead § 849
government, availability against, 5 Plead § 851
illegality, effect of, 5 Plead § 876
injunction, effect on, 6 Prov Rem § 294
interpleader compared, 5 Plead § 855
judgment on pleadings, 6 PWT § 190
jurisdiction
conflict, effect of, 5 Plead § 872
subject matter jurisdiction over, 2 Jurisd §§ 52, 53
jury trial rights, 7 Trial §§ 85, 91
justiciable controversy, as, 3 Actions § 28
laches, 5 Plead § 876
legislative power, effect of interference with, 5 Plead § 876
limitation and accrual of action, 3 Actions § 685; 5 Plead § 876
limited civil case, availability in, 2 Courts §§ 245, 249; 4 Plead § 580
mandamus compared, 8 Writs § 26
mislabling action, effect of, 5 Plead § 854
moot case, effect of, 5 Plead § 876
nature of action, 5 Plead § 850
other remedy
availability of, effect of, 5 Plead § 868 et seq.
express prohibition of by statute, effect of, 5 Plead § 873
pleading
in general, 5 Plead § 849 et seq.
actual present controversy, 5 Plead § 861 et seq.
contract, 5 Plead § 858
decree of distribution and trust, 5 Plead § 860
deed, 5 Plead § 860
demurrer, 5 Plead § 878 et seq.
membership, 5 Plead § 860
mislabling, effect of, 5 Plead § 854
oral contract, 5 Plead § 858
ordinance, 5 Plead § 859

Declaratory relief—Cont’d

pleading—Cont’d
probable future controversy, 5 Plead § 865
real property out-of-state, 5 Plead § 860
regulation, 5 Plead § 859
requirements of, 5 Plead § 853
statute, 5 Plead § 859
written contract, 5 Plead § 858
precedence for trial, 5 Plead § 849; 7 Trial § 67
probable future controversy as basis for, 5 Plead § 865
public officer, availability against, 5 Plead § 851
purpose of action, 5 Plead § 850
quiet title action distinguished, 5 Plead §§ 655, 855
reformation compared, 5 Plead § 855
relief available, 5 Plead § 849
res judicata effect of, see Res judicata
scope of action, 5 Plead § 850
setting for trial, 5 Plead § 849; 7 Trial § 67
special kinds of relief, 5 Plead § 856
special statutory procedure, effect of availability of, 5 Plead § 870
statute of limitations, 3 Actions § 685; 5 Plead § 876
statutory basis
in general, 5 Plead § 849
failed claim, effect of, 5 Plead § 876*
subjects of, 5 Plead § 858 et seq.
summary adjudication, effect on, 6 PWT § 274
summary determination of, 5 Plead § 879
summary judgment, availability of, 6 PWT § 205
taxpayer’s action for, 4 Plead § 162
time of declaration, 5 Plead § 849
unclean hands, effect of, 5 Plead § 876
Uniform Declaratory Judgments Act, 5 Plead § 849
venue for action, 3 Actions § 827

Deeds

declaratory relief, 5 Plead § 860
trust deeds, see Deeds of trust
venue of actions, 3 Actions §§ 796, 828

Index-135
Deeds of trust
attorneys’ fees

in general, 7 Judgm § 230
foreclosure
receiver, appointment of, 6 Prov Rem §§ 429, 430
receiver, appointment in foreclosure action, 6 Prov Rem §§ 429, 430
statutory failure to recover, nature of action, 3 Actions § 146
undertaking in lis pendens action, as alternative, 3 Actions § 406
venue of actions, 3 Actions § 797

Defamation
accrual of actions, 3 Actions §§ 550, 551
cause of action, see pleading (this group)
child abuse allegation as basis of action, 5 Plead § 735
damages
complaint, 5 Plead § 942
inducing termination of employment by, 3 Actions § 176
libel, see Libel
limitation and accrual of actions, 3 Actions §§ 550, 551, 721
malice, see Malice
mitigation of damages, see Mitigation of damages
nature of action, 5 Plead § 734
pleading
in general, 4 Plead §§ 52, 53; 5 Plead § 734 et seq.
ambiguity, effect of, 5 Plead § 741 et seq.
broadcast, defamation in, 5 Plead § 737
colloquium, 4 Plead § 391; 5 Plead § 744
elements of cause of action, 5 Plead § 735
false and defamatory matter, publication of, 5 Plead §§ 739, 740
falsity, necessity to plead, 5 Plead § 738
inducement, necessity of, 5 Plead § 741
innuendo, necessity of, 5 Plead § 741 et seq.
malice, 5 Plead § 745
meaning, circumstances affecting, 5 Plead § 744
newspaper, defamation in, 5 Plead § 737

Defamation—Cont’d
pleading—Cont’d
privilege, see privilege (this group)
third person, publication to, 5 Plead § 740
truth as defense, 5 Plead § 1101
preference in trial setting availability of, 7 Trial § 72
privilege
defense, as, 5 Plead § 1101
effect of pleading, 5 Plead § 736
retraction by newspaper or broadcaster demand requirement, 3 Actions § 204
slander, see Slander
summary judgment, 6 PWT § 248
summons, time to answer, 3 Actions § 985
termination of employment, inducing by, 3 Actions § 176
tolling of limitations period for person charged with child abuse, 3 Actions § 721
trial setting, availability of priority, 7 Trial § 72
truth as defense
pleading, 5 Plead § 1101
Uniform Foreign-Country Money Judgments Recognition Act, recognition under, see Uniform Foreign-Country Money Judgments Recognition Act
Uniform Single Publication Act, 3 Actions §§ 551; 4 Plead § 53

Default judgment
in general, 6 PWT § 133 et seq.
accounting action not stating amount claimed, 6 PWT § 153
administrative proceeding, 9 Admin Proc § 112
affidavit
in general, 6 PWT § 161
entry without, effect of, 6 PWT § 180
amended complaint
entry of default on, 6 PWT § 143
waiver of default entered by, 6 PWT § 174
annulment of marriage proceedings, see nullity of marriage proceedings (this group)
answer
entry of default, effect on, 6 PWT §§ 138, 182
Default judgment—Cont’d

answer—Cont’d
  failure to file, effect of, 6 PWT § 141 et seq.
appeal of, see Appeal; Appealable judgments and orders
application
  entry of default by clerk, 6 PWT § 161
  judgment on default, 6 PWT § 164
  attorneys’ fees, 6 PWT § 165
availability, 6 PWT § 137
bankruptcy
  debtor, availability against, 6 PWT §§ 137, 154*
effect on, 6 PWT § 154*
boundary, action to reestablish, availability in, 6 PWT § 137
change of venue
  entry of default, effect of motion on, 6 PWT §§ 138, 146 et seq.
  failure to file motion, effect of, 6 PWT § 141
class actions, see Class actions
clerk’s entry
  appeal, 9 Appeal § 169
  beyond clerk’s power, effect of entry, 6 PWT § 178
default, 6 PWT § 160 et seq.
  judgment, 6 PWT § 165 et seq.
collateral estoppel, see Collateral estoppel
complaint insufficient, effect of, 6 PWT § 183
constructive service, relief from default judgment on, see Relief from judgment
contract actions, entry of judgment on, 6 PWT § 168
corporation
  dissolved, availability against, 6 PWT § 137
  fictitious business name, entry against corporation under, 6 PWT § 136
costs, see Costs
court’s entry of judgment, 6 PWT § 168 et seq.
cross-complaint
  entry of default on, 6 PWT § 142
  entry of judgment on, 6 PWT § 172
damages, notice of, 6 PWT § 149 et seq.
deptor in bankruptcy, availability against, 6 PWT § 137

Default judgment—Cont’d

default
  clerk’s entry of, 6 PWT § 160 et seq.
distinguished, 6 PWT § 134
  entry of, 6 PWT §§ 138 et seq., 165 et seq.
  waiver of, effect of, 6 PWT § 173
delay by clerk in entry of judgment, effect of, 6 PWT § 167
delay in trial, effect of default judgment on dismissal for, 6 PWT §§ 373, 404
demurrer
  entry of default, effect of on, 6 PWT § 138
  failure to file, effect of, 6 PWT § 141 et seq.
destroyed land records, action to reestablish, availability, 6 PWT § 137
discovery sanction, amount of judgment for default based on, 6 PWT § 151
dismissal
  distinguished, 6 PWT § 133
  summons, failure to serve, see summons (this group)
dissolution of marriage proceedings
  in general, 5 Plead § 896
  availability, 6 PWT § 137
  entry of default, 6 PWT § 140
  prayer, effect of, 6 PWT § 152
  effect of, 6 PWT §§ 133, 175 et seq.
employee’s tort, effect of exoneration of employee on employer of, 6 PWT § 135
employer
  exoneration of employee, effect of, 6 PWT § 135
  entry of default, 6 PWT §§ 138 et seq., 163
excess of jurisdiction, judgment in, 2 Jurisd § 313
extension of time for entry, 6 PWT § 139
failure by clerk to enter judgment, effect of, 6 PWT § 167
family law proceedings, 5 Plead § 896
fictitious business name, corporation under, 6 PWT § 136
fictitious defendant
  default against generally, 6 PWT § 137
default improperly taken, effect of, 6 PWT § 177
Default judgment—Cont’d
improperly taken, effect of, 6 PWT § 177
indigent, incarcerated, unrepresented individual, availability against, 6 PWT § 137
joint and several liability, effect of, 6 PWT § 135
judgment on default, 6 PWT § 164 et seq.
judgment outside issues, effect of, 2 Jurisd § 313; 7 Judgm § 29
Judicial Council forms
in general, 5 Plead § 896
availability, 6 PWT § 137
entry of default by clerk on application, 6 PWT § 161
judgment on default, application for, 6 PWT § 164
jurisdiction, effect of motion to stay or dismiss based on, 6 PWT §§ 146, 148
legal separation proceedings
availability, 6 PWT § 137
entry of default, 6 PWT § 140
limitations, pleading after vacation of default, 3 Actions § 434
mandamus
availability of default in action for, 6 PWT § 137
entry of default, effect of petition, 6 PWT §§ 138, 146
memorandum of entry of default, 6 PWT § 163
military service, effect on availability, 6 PWT § 137
misnamed defendant, entry against, 4 Plead § 477
motion to quash coupled with motion to vacate default, 2 Jurisd § 222
nature of, 5 Plead § 896; 6 PWT § 133
new trial availability after, 8 Attack § 23
nominal defendant, availability against, 6 PWT § 137
notice
clerk’s entry of default, 6 PWT § 162
damages, 6 PWT § 149 et seq.
nullity of marriage proceedings
availability of, 6 PWT § 137
entry of default, 6 PWT § 140
personal injury actions, service of statement of damages in, 6 PWT § 154 et seq.

Default judgment—Cont’d
prayer, amount of damages based on, 6 PWT §§ 149, 150, 152
premature entry, effect of, 6 PWT § 178
prohibition action, availability of, 6 PWT § 137
proof of service, entry without, 6 PWT § 181
properly taken, effect of, 6 PWT §§ 175, 176
publication, entry of judgment after service by, 6 PWT § 171
punitive damages, service of notice of damages, 6 PWT §§ 158, 159
quash service of summons
entry of default, effect of motion on, 6 PWT §§ 138, 146, 148
failure to file motion, effect of, 6 PWT § 141
quiet title action, availability of, 6 PWT § 137
real property
entry of judgment involving, after service by publication, 6 PWT § 171
reference, see Referees
relief from, see Relief from judgment
res judicata, see Res judicata
service of process, see Process
service of statement of damages, 6 PWT § 154 et seq.
small claims court, availability in, 6 PWT § 137
statement of damages, 6 PWT § 149 et seq.
stay, effect of motion for based on lack of jurisdiction, 6 PWT §§ 146, 148
strike all or part of pleading
entry of default, effect of motion on, 6 PWT §§ 138, 146 et seq.
failure to file motion, effect of, 6 PWT § 141
subject matter jurisdiction
effect on, 2 Jurisd § 91
lack of, effect of, 6 PWT § 184
summons
failure to serve, effect of dismissal motion based on, 6 PWT §§ 138, 141, 146, 148
notice in, 3 Actions § 986
temporary judge presiding over, 2 Courts § 354 et seq.

Index-138
Default judgment—Cont’d
transfer case, see change of venue (this group)
unlawful detainer proceedings
availability, 6 PWT § 137
clerk’s entry of judgment, 6 PWT § 165
vacation of default
limitations defense, pleading after, 3
Actions § 434
motion to vacate coupled with motion for, 2 Jurisd § 222
waiver by failure to challenge erroneous order vacating, 6 PWT § 174
waiver of right, 6 PWT §§ 173, 174
wrongful death actions, service of statement of damages, 6 PWT § 154 et seq.
wrongly named defendant, effect of default against, 6 PWT § 177

Defendant
alter ego, effect of addition on time for service, 6 PWT § 327
attachment, see Attachment
claim and delivery, see Claim and delivery
defined for involuntary dismissal for delay, 6 PWT § 315

Defenses
appeal, defenses not raised at trial, 9
Appeal § 400*
attorney malpractice action, see Attorney malpractice
statute of limitations, see Limitation and accrual of actions

Deficiency judgment
limitations period for action for, 3 Actions § 477

Delay, dismissal for, see Involuntary dismissal for delay

Delivery, claim and, see Claim and delivery

Demand
complaint, demand in, see Prayer
relief, demand in complaint for, see Prayer
writ petition, see Writs

Demurrer
in general, 5 Plead § 946 et seq.
action distinguished, 3 Actions § 62

Demurrer—Cont’d
administrative mandamus proceedings, 8
Writs § 319
admissions, 5 Plead § 950
amendment of pleading after sustaining of in general, see Amendment of pleadings
answer
demurrer to, 5 Plead § 1181 et seq.
distinguished, 5 Plead § 946
filing with, 5 Plead § 949
appeal
in general, 9 Appeal §§ 154, 160, 348
notice of appeal, specification of order sustaining in, 9 Appeal § 569
sustaining demurrer, review of order, 5
Plead § 1000
architect malpractice, certificate of merit noncompliance, 3 Actions § 209; 5
Plead § 978
bill of particulars distinguished, 4 Plead § 500
capacity to sue lacking, 5 Plead § 970
caption requirement
general demurrer, 5 Plead § 961
special demurrer, 5 Plead § 968
causes of action, demurrer to in general, 5 Plead § 955 et seq.
part of cause of action, 5 Plead § 957
separate causes of action, 5 Plead § 956
single cause of action, 5 Plead § 955
contract action defenses
general demurrer, defenses raised by, 5
Plead § 966
illegality defense, 5 Plead § 966
oral contract, failure to disclose, 5
Plead § 977
cross-complaint, demurrer to, 5 Plead § 1185
default, effect of demurrer on entry, 6
PWT § 138
defects
face of pleading, testing by, 5 Plead §§ 947, 948
general demurrer, raising by, see general demurrer (this group)
special demurrer, raising by, see special demurrer (this group)
sustaining demurrer based on, see sustaining demurrer (this group)
Demurrer—Cont’d

defects—Cont’d
  unsuccessful attempts to correct, 5 Plead § 993
delay in trial, effect on dismissal for, 6 PWT §§ 360, 379
dismissal
  court’s own motion, dismissal on, 5 Plead § 999
  hearing, failure to bring demurrer to, 6 PWT § 480
  new trial motion after dismissal after demurrer sustained, 8 Attack § 23
  sustaining of demurrer, involuntary dismissal after, 5 Plead § 997 et seq.; 6 PWT § 477
  engineer malpractice action, certificate of merit noncompliance, 3 Actions § 209; 5 Plead § 978
etire complaint, demurrer to, 5 Plead § 954
  exhibit attached to complaint, effect of, 5 Plead § 948
failure to demur, effect of, 4 Plead § 445
filing of, 5 Plead § 979
general appearance by, 2 Jurisd § 209; 5 Plead §§ 950, 1008
general demurrer
  in general, 5 Plead §§ 951 et seq., 961 et seq.
  answer, general demurrer to, 5 Plead § 1182
  caption requirement, 5 Plead § 961
  contract action defenses raised by, 5 Plead § 966
defects of form raised by, 5 Plead § 959
  defenses raised by, 5 Plead § 962 et seq.
form of, 5 Plead § 961
  grounds, 5 Plead § 951
  illegality of contract raised by, 5 Plead § 966
  joint memorandum, effect of, 5 Plead § 961
  laches defense raised by, 5 Plead § 963
  nature of, 5 Plead § 952
  privilege, raising in tort actions, 5 Plead § 967
  real party in interest defense raised by, 5 Plead § 964
  res judicata defense raised by, 5 Plead § 965

Demurrer—Cont’d

general demurrer—Cont’d
  statute of frauds defense raised by, 5 Plead § 966
  statute of limitations defense raised by, 5 Plead § 962
  supporting memorandum, 5 Plead § 961

grounds
  in general, 5 Plead § 951
  certificate of merit noncompliance malpractice action, 3 Actions § 209
  general demurrer, see general demurrer (this group)
  special demurrer, see special demurrer (this group)
  hearing, 5 Plead § 981
in pro. per. appearance by plaintiff, effect of, 5 Plead § 946
individual count, demurrer to, 5 Plead §§ 955, 956
interpleader, see Interpleader
involuntary dismissal, see dismissal (this group)
joinder of parties, defects related to, see special demurrer (this group)
judgment of dismissal after sustaining of demurrer
  in general, 5 Plead § 997 et seq.
  res judicata, effect of, see Res judicata
judgment on pleadings compared, 5 Plead § 1002; 6 PWT § 187
judicial admissions, 5 Plead § 950
Judicial Council forms as subject to, 2 Courts § 398; 5 Plead § 952
judicial notice
  effect of, 5 Plead § 948
  request for, 5 Plead § 980
laches defense raised by, 5 Plead § 963
malpractice action, certificate of merit noncompliance, 3 Actions § 209
mandamus
  compelling order sustaining by, 8 Writs § 108
  review of order by, 5 Plead § 1000
meet and confer requirement, 5 Plead §§ 946*, 980*
memorandum supporting, 5 Plead §§ 961, 979, 980
motion to dismiss compared, 5 Plead § 1004 et seq.
**INDEX**

<table>
<thead>
<tr>
<th>Demurrer—Cont’d</th>
<th>Demurrer—Cont’d</th>
</tr>
</thead>
<tbody>
<tr>
<td>motion to quash</td>
<td>special demurrer—Cont’d</td>
</tr>
<tr>
<td>marital proceeding, compared, 5 Plead § 1003</td>
<td>caption requirement, 5 Plead § 968</td>
</tr>
<tr>
<td>simultaneous with, 2 Jurisd § 219</td>
<td>certificate of merit, failure to file, 5 Plead § 978</td>
</tr>
<tr>
<td>motion to strike</td>
<td>defects of form raised by, 5 Plead § 960</td>
</tr>
<tr>
<td>compared, 5 Plead §§ 1008, 1009</td>
<td>form of, 5 Plead § 968</td>
</tr>
<tr>
<td>filing with, 5 Plead §§ 949, 1015</td>
<td>grounds, 5 Plead § 969 et seq.</td>
</tr>
<tr>
<td>use as, 5 Plead §§ 948, 1008</td>
<td>misconduct of parties, 5 Plead § 973</td>
</tr>
<tr>
<td>nature of, 5 Plead § 946 et seq.</td>
<td>nature of, 5 Plead § 953</td>
</tr>
<tr>
<td>notice of hearing, 5 Plead § 979</td>
<td>negligence action, 4 Plead § 602</td>
</tr>
<tr>
<td>notification by clerk, 5 Plead § 983</td>
<td>nonjoinder of parties, 5 Plead § 972</td>
</tr>
<tr>
<td>order, 5 Plead § 982 et seq.</td>
<td>oral contract, failure to disclose, 5 Plead § 977</td>
</tr>
<tr>
<td>other action pending, 5 Plead § 971</td>
<td>overruling demurrer in general, 5 Plead §§ 982, 985</td>
</tr>
<tr>
<td>overruling demurrer</td>
<td>peremptory challenge to judge after, 2 Courts § 156</td>
</tr>
<tr>
<td>in general, 5 Plead §§ 982, 985</td>
<td>partial demurrer, time to plead after ruling on, 5 Plead § 1001</td>
</tr>
<tr>
<td>peremptory challenge to judge after, 2 Courts § 156</td>
<td>prayer, demurrer to, 5 Plead § 957</td>
</tr>
<tr>
<td>partial demurrer, time to plead after ruling on, 5 Plead § 1001</td>
<td>privilege, raising in tort actions, 5 Plead § 967</td>
</tr>
<tr>
<td>pro. per. appearance by plaintiff, effect of, 5 Plead § 946</td>
<td>procedure, 5 Plead § 979 et seq.</td>
</tr>
<tr>
<td>procedure, 5 Plead § 979 et seq.</td>
<td>proposed judgment, filing with, 5 Plead § 979</td>
</tr>
<tr>
<td>proposed judgment, filing with, 5 Plead § 979</td>
<td>provisional admissions of distinguished from judicial admissions, 4 Plead § 453</td>
</tr>
<tr>
<td>provisional admissions of distinguished from judicial admissions, 4 Plead § 453</td>
<td>purpose of, 5 Plead § 946 et seq.</td>
</tr>
<tr>
<td>purpose of, 5 Plead § 946 et seq.</td>
<td>real party in interest defense raised by, 5 Plead § 964</td>
</tr>
<tr>
<td>real party in interest defense raised by, 5 Plead § 964</td>
<td>reconsideration of ruling, 5 Plead § 984</td>
</tr>
<tr>
<td>reconsideration of ruling, 5 Plead § 984</td>
<td>res judicata defense raised by, 5 Plead § 965</td>
</tr>
<tr>
<td>res judicata defense raised by, 5 Plead § 965</td>
<td>review of order, 5 Plead § 1000</td>
</tr>
<tr>
<td>review of order, 5 Plead § 1000</td>
<td>self-representation appearance by plaintiff, effect of, 5 Plead § 946</td>
</tr>
<tr>
<td>self-representation appearance by plaintiff, effect of, 5 Plead § 946</td>
<td>service</td>
</tr>
<tr>
<td>service</td>
<td>demurrer, 5 Plead § 979</td>
</tr>
<tr>
<td>demurrer, 5 Plead § 979</td>
<td>electronic, 5 Plead §§ 981*, 983*</td>
</tr>
<tr>
<td>electronic, 5 Plead §§ 981*, 983*</td>
<td>order, 5 Plead § 983</td>
</tr>
<tr>
<td>order, 5 Plead § 983</td>
<td>speaking demurrer, 5 Plead § 948</td>
</tr>
<tr>
<td>speaking demurrer, 5 Plead § 948</td>
<td>special demurrer in general, 5 Plead §§ 951 et seq., 968 et seq.</td>
</tr>
<tr>
<td>special demurrer in general, 5 Plead §§ 951 et seq., 968 et seq.</td>
<td>answer, special demurrer to, 5 Plead § 1182</td>
</tr>
<tr>
<td>answer, special demurrer to, 5 Plead § 1182</td>
<td>capacity to sue lacking, 5 Plead § 970</td>
</tr>
<tr>
<td>capacity to sue lacking, 5 Plead § 970</td>
<td>statute of frauds defense raised by, 5 Plead § 966</td>
</tr>
<tr>
<td>statute of frauds defense raised by, 5 Plead § 966</td>
<td>statute of limitations</td>
</tr>
<tr>
<td>statute of limitations</td>
<td>raising defense of, 5 Plead § 962</td>
</tr>
<tr>
<td>raising defense of, 5 Plead § 962</td>
<td>striking of demurrer, effect of, 5 Plead § 986</td>
</tr>
<tr>
<td>striking of demurrer, effect of, 5 Plead § 986</td>
<td>subject matter jurisdiction lacking, 5 Plead § 969</td>
</tr>
<tr>
<td>subject matter jurisdiction lacking, 5 Plead § 969</td>
<td>superseded pleading, effect of, 5 Plead § 948</td>
</tr>
<tr>
<td>superseded pleading, effect of, 5 Plead § 948</td>
<td>supporting memorandum, 5 Plead §§ 961, 979, 980</td>
</tr>
<tr>
<td>supporting memorandum, 5 Plead §§ 961, 979, 980</td>
<td>surveyor malpractice action, certificate of merit noncompliance, 3 Actions § 209; 5 Plead § 978</td>
</tr>
<tr>
<td>surveyor malpractice action, certificate of merit noncompliance, 3 Actions § 209; 5 Plead § 978</td>
<td>sustaining demurrer in general, 5 Plead §§ 982, 987 et seq.</td>
</tr>
<tr>
<td>sustaining demurrer in general, 5 Plead §§ 982, 987 et seq.</td>
<td>abuse of discretion in denying leave to amend, 5 Plead § 994 et seq.</td>
</tr>
<tr>
<td>abuse of discretion in denying leave to amend, 5 Plead § 994 et seq.</td>
<td>amendment of pleadings after, see Amendment of pleadings</td>
</tr>
<tr>
<td>amendment of pleadings after, see Amendment of pleadings</td>
<td>appealability of order, 5 Plead § 997; 9 Appeal § 160</td>
</tr>
<tr>
<td>appealability of order, 5 Plead § 997; 9 Appeal § 160</td>
<td>conference after, 5 Plead § 982*</td>
</tr>
<tr>
<td>conference after, 5 Plead § 982*</td>
<td>involuntary dismissal after, 6 PWT § 477</td>
</tr>
<tr>
<td>involuntary dismissal after, 6 PWT § 477</td>
<td>judgment of dismissal, 5 Plead § 997 et seq.</td>
</tr>
<tr>
<td>judgment of dismissal, 5 Plead § 997 et seq.</td>
<td>leave to amend, 5 Plead § 988 et seq.</td>
</tr>
<tr>
<td>leave to amend, 5 Plead § 988 et seq.</td>
<td>mandamus to compel, 8 Writs § 108</td>
</tr>
<tr>
<td>mandamus to compel, 8 Writs § 108</td>
<td>notice of appeal, specification of order in, 9 Appeal § 569</td>
</tr>
</tbody>
</table>
Demurrer—Cont’d
sustaining demurrer—Cont’d
specification of grounds, 5 Plead § 987
voluntary dismissal after, see Voluntary dismissal
without leave to amend, 5 Plead § 991 et seq.
trial, ruling on demurrer as, 7 Trial § 3
uncertainty as ground
in general, 5 Plead § 974 et seq.
nature of ground, 5 Plead § 974
negligence action, sufficiency of pleading against, 4 Plead § 602
waiver of, 5 Plead § 958 et seq.
whole complaint, demurrer to, 5 Plead § 954
writs, see Writs

Department of Aging, 9 Admin Proc § 171

Department of Alcohol Beverage Control, see Alcohol

Department of Business Oversight, 9 Admin Proc §§ 156*, 157*

Department of Child Support Services, see Child support

Department of Conservation, 9 Admin Proc § 184

Department of Consumer Affairs in general, see Consumers

Department of Corporations in general, 9 Admin Proc § 156

Department of Corrections and Rehabilitation, see Division of Adult Institutions

Department of Education
counsel, employment of, 1 Attys § 56

Department of Fair Employment and Housing, 9 Admin Proc § 188

Department of Financial Institutions, 9 Admin Proc § 157

Department of Fish and Game in general, 9 Admin Proc § 185

Department of Fish and Game—Cont’d
Department of Fish and Wildlife, renaming as, 9 Admin Proc § 185*

Department of Fish and Wildlife, see Department of Fish and Game

Department of General Services
claim against state
action on, 3 Actions §§ 266*, 271*
atorneys’ fees in actions reviewing actions by, 7 Judgm § 210*
California State University, claim against, 3 Actions § 267A*
payment of, authorization for, 3 Actions § 272*
presentation of claim to, 3 Actions §§ 255*, 262*, 271*, 272*, 276*, 277*, 282 et seq.*, 293*, 295*, 303*
procedure on agreement, 3 Actions § 271*
rules for, 3 Actions §§ 271*, 272*
counsel, employment of, 1 Attys § 56
request to include claim for reimbursement of warrant, 3 Actions § 235*

Department of Health Care Services, see Health and safety

Department of Highway Patrol, see Police and correctional activities

Department of Housing and Community Development, see Housing and urban development

Department of Human Resources (CalHR)
special counsel, employment of, 1 Attys § 64

Department of Industrial Relations in general, 9 Admin Proc § 179
“Berman” proceedings
Federal Arbitration Act, effect of, 6 PWT § 508*
counsel, employment of, 1 Attys § 56

Department of Insurance, see Insurance

Department of Justice in general, 9 Admin Proc § 210

Index-142
### Index

| Department of Managed Health Care, see Health and safety |
| Department of Mental Health, see Health and safety |
| Department of Motor Vehicles  
  *in general, 9 Admin Proc § 162*  
  director, service of process on, for nonresident motorist, see Process  
  limitations period for review of proceedings, 9 Admin Proc § 129 |
| Department of Parks and Recreation, see Parks and recreation areas |
| Department of Pesticide Regulation, see Pest control |
| Department of Public Health  
  *in general, see Health and safety* |
| Department of Real Estate  
  *in general, 9 Admin Proc § 163*  
  Bureau of Real Estate, renaming as, 9 Admin Proc §§ 56*, 163*  
  Business, Consumer Services, and Housing Agency, within, 9 Admin Proc § 163* |
| Department of Resources Recycling and Recovery  
  *in general, see Environmental protection* |
| Department of Social Services  
  *in general, 9 Admin Proc § 176*  
  limitations period for review of proceedings, 9 Admin Proc § 129 |
| Department of State Hospitals, see Health and safety |
| Department of Toxic Substances Control  
  *in general, 9 Admin Proc § 169*  
  admitted surety insurer, listing in compliance with Federal Resource Conservation and Recovery Act, 6 Prov Rem § 26 |
| Department of Transportation, see Transportation |
| Department of Treasury, 1 Attys § 402 |
| Department of Water Resources  
  *in general, see Water* |
| Dependent adults  
  abuse of, see Adult abuse attorneys, sale of financial products by, see Attorney-client relationship |
| Deposit  
  accounts, see Deposit accounts bond, deposit in lieu of, see Bond, undertaking, or deposit  
  court, deposit in, see Deposit in court |
| Deposit accounts  
  attachment  
  *in general, 6 Prov Rem §§ 175, 176*  
  defined for, 6 Prov Rem § 56  
  temporary protective order, effect of, 6 Prov Rem § 146  
  third person, account in name of, 6 Prov Rem § 178  
  levy on, see Execution and levy |
| Deposit in court  
  *in general, 6 Prov Rem § 461 et seq.*  
  limitations, 6 Prov Rem § 462  
  nature of remedy, 6 Prov Rem § 461  
  procedure, 6 Prov Rem § 463 |
| Depositions  
  attorney disciplinary proceedings, 1 Attys § 584  
  clerk’s transcript on appeal, inclusion in, 9 Appeal § 647  
  continuance, 7 Trial § 33  
  costs, 7 Judgm § 129  
  custody of, 2 Courts § 372  
  destruction of, 2 Courts § 373  
  instructions to jury on, 7 Trial § 293  
  judicial arbitration proceedings, 6 PWT § 603  
  jury instructions on, 7 Trial § 293 |
| Deputy sheriffs, see Sheriffs |
| Derivative actions, see Corporate shareholders |
| Dermatitis  
  tort actions, effect on accrual of, see Tort actions |
| Design professionals  
  architects, see Architect  
  engineers, see Engineers  
  land surveyors, see Surveyors |
Design professionals—Cont’d
patent defects in real property, see Real property
security for costs, see Security for costs

Destroyed Lands Record Relief Law
quiet title action distinguished from action under, 5 Plead § 655

Destroyed writing, see Lost or destroyed writing

Detinue, see Lost or destroyed writing

Developmentally disabled persons
abuse, protection from, see protection of (this group)
class actions to enforce rights of, 4 Plead § 306
commitment of, see Commitment of mentally retarded persons
“disability” defined, 3 Actions § 113
Lanterman Developmental Disabilities Services Act, see Lanterman Developmental Disabilities Services Act
neglect, protection from, see protection of (this group)
protection of in general, 3 Actions § 113 et seq.
immunity of protection agency and employees, 3 Actions § 114
protection and advocacy agency, 3 Actions § 114

Dicta
law of the case, effect on, 9 Appeal § 474
precedential effect of, see Stare decisis
state decisis, effect of, see Stare decisis

Dilatory pleas, see Plea in abatement

Diplomats, see Consular and diplomatic officers

Directed verdict
in general, 7 Trial § 420 et seq.
adjudication of merits, effect as, 7 Trial § 420
appeal of orders relating to, 9 Appeal §§ 159, 160
conflicting evidence, effect of, 7 Trial § 421
discharge of jury, effect of, 7 Trial § 428
distinguished, 8 Attack §§ 18, 39

Directed verdict—Cont’d
error in as ground, 8 Attack § 44
expedited jury trial, 7 Trial §§ 6D*, 420*
grounds, statement of, 7 Trial § 425
judgment, 7 Trial §§ 427, 428
jurors’ duty to comply, 7 Trial § 427
jury trial, expedited, 7 Trial §§ 6D*, 420*
nature of proceeding, 7 Trial § 420
new trial, see New trial
nonsuit compared, 7 Trial § 420
opposition to motion, 7 Trial § 426
partial directed verdict, 7 Trial § 420
procedure, 7 Trial § 424 et seq.
restrictions on granting, 7 Trial § 421 et seq.
statement of grounds, 7 Trial § 425
time for motion, 7 Trial §§ 420, 424
verdict, 7 Trial §§ 427, 428
weight of evidence, effect of, 7 Trial § 421

Director of Food and Agriculture, see Agricultural activity; Food and beverages

Disability discrimination
accrual of action, 3 Actions § 564
continuing violations, 3 Actions § 564
courts, accommodation of disabilities in, 2 Courts § 31
Unruh Civil Rights Act, see Unruh Civil Rights Act
vexatious litigants
Americans With Disabilities Act, see Americans With Disabilities Act
Unruh Civil Rights Act, see Unruh Civil Rights Act

Disbarment, see Attorney discipline

Discharge of judgment
in general, 8 Enf Judgm § 507 et seq.
assignment of judgment, 8 Enf Judgm § 511
bankruptcy of debtor, see Bankruptcy
compelling contribution or repayment, 8 Enf Judgm § 510
compromise by judgment debtor, effect of, 8 Enf Judgm § 507
contribution by joint obligor, 8 Enf Judgm § 508
equitable setoff, 8 Enf Judgm §§ 512, 513

Index-144
Index

**Discharge of judgment—Cont’d**
- joint tortfeasors, procedure for, 8 Enf Judgm § 510
- payment by judgment debtor, effect of, 8 Enf Judgm § 507
- repayment by surety, 8 Enf Judgm § 509
- right of review, effect of payment on, 8 Enf Judgm § 507

**Disclaimer**
- appeal, effect of disclaimer on, 9 Appeal § 36
- eminent domain action, 5 Plead § 1114
- filing fees, 4 Plead § 27

**Discovery**
- administrative adjudication, see Administrative adjudication
  - appeal
    - orders nonappealable, 9 Appeal § 158*
    - referee’s sanction orders, 9 Appeal § 104*
  - arbitration, see Arbitration; Judicial arbitration
  - attachment, 6 Prov Rem § 90
  - attorney disciplinary proceedings, see Attorney discipline
  - bill of particulars distinguished, 4 Plead § 500
  - certiorari
    - challenge to proceedings, 8 Writs § 246
    - misuse of discovery, prevention of, 8 Writs § 246
  - class actions, see Class actions
  - completion before trial, 7 Trial § 74
  - complex cases
    - supervision of, 2 Courts § 240
  - default
    - relief from, see Relief from judgment
  - sanction, as, see Default judgment
  - dismissal as sanction, 6 PWT § 474
  - duty to disclose
    - violation by prosecutor, report to State Bar, see Prosecutor
  - economic litigation in limited civil cases, 2 Courts §§ 253, 254
  - failure to comply with discovery orders as consent to jurisdiction, 2 Jurisd § 191
  - fast track rules, 2 Courts § 262
  - general appearance by initiation of, 2 Jurisd § 211

**Discovery—Cont’d**
- guardian ad litem, powers of, 4 Plead § 78
  - involuntary dismissal based on misuse of, 6 PWT § 474
  - judicial arbitration proceedings, 6 PWT § 594
  - Judicial Council forms, 2 Courts § 411
  - judicial disciplinary proceedings, 2 Courts § 80
  - mandamus
    - annulling orders by, 8 Writs §§ 254, 255
    - compelling by, 8 Writs § 109
  - motions
    - use of products of discovery for, 6 PWT § 42
    - orders nonappealable, 9 Appeal § 158*
    - prohibition
      - misuse of discovery, prevention by, 8 Writs § 246
  - public records
    - in general, 7 Judgm § 225
    - referee’s orders, appeal of, 9 Appeal § 104*
  - reference for disputes, see Referees
  - sanctions
    - in general, 7 Trial § 226
    - appealability of, 9 Appeal § 104
    - referee’s orders, appeal of, 9 Appeal § 104*
  - State Bar disciplinary proceedings, 1 Attys § 575
  - voluntary dismissal, effect of pending motion on, 6 PWT § 303
  - small claims court, availability in, 2 Courts § 289
  - summary judgment, evidence obtained for, 6 PWT § 229
  - trial court delay reduction rules, 2 Courts § 262

**Discrimination**
- attorney, discriminatory conduct in practice by, 1 Attys §§ 430, 465RRR*

**Dismissal**
- in general, 6 PWT § 280 et seq.
- appeal, see Dismissal of appeal
- attorney disciplinary proceedings, see Attorney discipline
Dismissal—Cont’d
cessation of law practice, effect of, see Attorney-client relationship
class actions, 4 Plead § 327
costs, see Costs
default distinguished, 6 PWT § 133
delay, involuntary dismissal for, see Involuntary dismissal for delay
demurrer, after, see Demurrer
entry of judgment on, 7 Judgm § 52
failure to prosecute, see Involuntary dismissal for delay
fast track rules, effect of, 6 PWT § 281
forum non conveniens, see Inconvenient forum
fraudulent attorney, authority to enter dismissal, 1 Atty’s § 262
grounds for, 6 PWT § 281
inconvenient forum, see Inconvenient forum
inherent power of court, 6 PWT § 282
involuntary dismissal, see Involuntary dismissal for delay
lack of prosecution
  in general, see Involuntary dismissal for delay
limitation of actions distinguished, 3 Actions § 445
local rules, 6 PWT § 281
nonsuit distinguished, 7 Trial § 408
rendition of judgment on, see Judgments
res judicata effect of, see Res judicata
settlement, after, 6 PWT § 127
small claims trial de novo, 2 Courts § 319
statute of limitations distinguished, 3 Actions § 445
Trial Court Delay Reduction Act, effect of, 6 PWT § 281
vexatious litigants, see Vexatious litigants voluntary, see Voluntary dismissal

Dismissal of appeal—Cont’d
filing fees, nonpayment of, 9 Appeal § 557
finality of decision, 9 Appeal § 834
involuntary dismissal
  in general, 9 Appeal § 739 et seq.
  examination of record, effect of need for, 9 Appeal §§ 742, 743
frivolous appeal, 9 Appeal §§ 747, 748
grounds, 9 Appeal § 745 et seq.
jurisdiction, lack of as ground, 9 Appeal § 745
limited civil case appeal, 9 Appeal § 1016
misconduct of appellant, effect of, 9 Appeal § 739*
moot case, see Moot case
nature of court’s power, 9 Appeal § 739
no right to appeal as ground, 9 Appeal § 745
procedural defaults as grounds, 9 Appeal § 746
procedure on motion, 9 Appeal § 740 et seq.
untimely appeal as ground, 9 Appeal § 745
vacating order, 9 Appeal § 744
misconduct of appellant, effect of, 9 Appeal § 739*
moot case, see Moot case
notice of settlement, filing of, 9 Appeal § 738
record of appeal, default in, 9 Appeal § 688
Supreme Court, dismissal by, 9 Appeal § 943
voluntary dismissal or abandonment
  in general, 9 Appeal § 731 et seq.
  after record filed, 9 Appeal § 734
  before record filed, 9 Appeal § 731 et seq.
  compromise of claim of minor or incompetent, effect of, 9 Appeal §§ 737, 1016*
costs on appeal, effect on, 9 Appeal § 976
defective brief, abandonment by, 9 Appeal § 711

Index-146
Index

Dismissal of appeal—Cont’d
voluntary dismissal or abandonment
—Cont’d
denial of dismissal, 9 Appeal §§ 735, 736
jurisdiction over property issues
reserved, 9 Appeal § 62
limited civil case appeal, 9 Appeal
§ 1016
notice of settlement, filing of, 9 Appeal
§ 738
partial abandonment, 9 Appeal § 732
reporter’s transcript, effect on, 9 Appeal
§ 642
vacation of abandonment, 9 Appeal
§ 733

Disparagement of title, see Slander of title

Dispute Resolution Advisory Council, see
Alternative dispute resolution

Disqualification
judges, see Judicial misconduct or disabil-
ity

Disregard of corporate entity
nature of action, 5 Plead § 927
pleading, 5 Plead § 927

Dissolution of marriage—Cont’d
case management, 7 Trial § 45
collateral estoppel, see Collateral estoppel
conflicts of interest in attorneys, 1 Attys
§ 126
costs, see Costs
default judgment, see Default judgment
delay, applicability of dismissal for
in general, 6 PWT § 317
trial, delay in, 6 PWT § 363
domicile
after dissolution, 2 Jurisd § 134
basis for jurisdiction, as, 2 Jurisd § 271
entry of judgment, notice of, 7 Judgm
§ 59
entry of judgment nunc pro tunc
in general, 7 Judgm § 63
improper award or denial, effect of, 2
Jurisd § 321
in forma pauperis, see In forma pauperis
suit
interest
judgment, applicability to, see Interest
involuntary dismissal for delay, 6 PWT
§ 317
joinder of parties, 5 Plead § 887 et seq.
judgment
in general, 5 Plead § 897
form and content of, 7 Judgm § 36
Judicial Council forms, 7 Judgm § 36
jurisdiction, judgment in excess of, 2
Jurisd § 322
stipulated, 7 Judgm § 36
jurisdiction, see Jurisdiction to dissolve
marriage
legal separation, see Legal separation
limitation and accrual of actions
in general, 3 Actions § 492
incompetence, setting aside on grounds of, 3 Actions § 678
motions
processes and appearances, 5 Plead
§ 894
nullity proceedings, see Nullity of mar-
riage
order to show cause, use of, 6 PWT § 61
partial appeal
in general, 9 Appeal § 60 et seq.
jurisdiction over property issues
reserved, 9 Appeal § 62

Index-147
Dissolution of marriage—Cont’d
  partial appeal—Cont’d
  property issues severable, 9 Appeal §§ 60, 61

parties
  in general, 5 Plead § 887 et seq.
petition
  in general, 5 Plead § 892
pleadings
  in general, 5 Plead § 891 et seq.
answer, 5 Plead § 1049

protective and restraining orders
  Rules of Court governing, 2 Courts § 193*
  temporary restraining order, 6 Prov Rem § 291
relief available, 5 Plead §§ 890, 891
Rules of Court, 5 Plead §§ 885, 886
same-sex marriage
  venue for, 3 Actions §§ 811*, 813*
sealing of records, 2 Courts § 41
separate trial of issues, 7 Trial § 157
separation, see Legal separation
stipulation for judgment, 5 Plead § 897
summons
  in general, 3 Actions § 992; 5 Plead § 894
  temporary restraining orders, see protective and restraining orders (this group)

trial
  separate trial for, 7 Trial § 157
venue, see Change of venue; Venue

Dissolved corporations, see Corporations

District attorney
  conflict of interest, see Attorney-client relationship
  county, representation of, 1 Attys §§ 58, 59
  criminal defendant, representation by, 1 Attys § 65
disqualification
  judge, disqualification based on previous service as, 2 Courts § 113
private practice by, 1 Attys § 65

Division of Adult Institutions
  in general, 9 Admin Proc § 205

Division of Occupational Safety and Health, see Occupational safety and health

Division of property on dissolution
  appeal
    modification, 9 Appeal § 867
duress as ground for relief from judgment, 8 Attack § 2
financial disclosure
  noncompliance, action based on, 8 Attack § 2
fraud
  ground for relief from judgment, 8 Attack § 2
incapacity as ground for relief from judgment, 8 Attack § 2
mistake as ground for relief from judgment, 8 Attack § 2
modification of judgment on appeal, 9 Appeal § 867
perjury as ground for relief from judgment, 8 Attack § 2

Divorce, see Dissolution of marriage

Doctors
  medical malpractice, see Medical malpractice
  security for costs, see Physicians

Documents of title, see Title

Doe defendants, see Fictitious defendants

Domestic partnerships
  Marvin doctrine, 3 Actions §§ 520, 547
real property acquired, limitation and accrual of action for division, 3 Actions § 678

Domestic violence
  California Courts Self Help Center, 6 Prov Rem § 315
gender-related violence
  limitation and accrual of civil actions based on, 3 Actions §§ 483, 487
injunctive relief, 5 Plead § 890; 6 Prov Rem § 315
judicial education on, 2 Courts § 396
limitation and accrual of civil actions based on, 3 Actions § 483
statute of limitations for civil actions based on, 3 Actions § 483
Index

Domestic violence prevention
Domestic Violence Prevention Act
temporary restraining orders, 6 Prov Rem §§ 291, 315
emergency orders
gun violence restraining orders, see Gun violence restraining orders
gun violence restraining orders, see Gun violence restraining orders Judicial Council forms, 2 Courts § 412 protective orders
gun violence restraining order, see Gun violence restraining orders language of, 2 Courts § 29

Domicile
jurisdiction based on, see Jurisdiction

Driver’s license
suspension
financial irresponsibility, as ground, see Financial Responsibility Law
small claims court judgment unsatisfied, 2 Courts § 307

Driving under the influence
ignition interlock device Judicial Council forms, 2 Courts § 419

Due process
admission to practice law, requirements for, see Attorneys
frivolous appeals, sanctions for, 9 Appeal § 993
in rem jurisdiction, requirements for, 2 Jurisd § 262 et seq.
Lanterman-Petris-Short Act, rights under, 3 Actions § 86
mentally disordered persons, rights of, 3 Actions § 86
personal jurisdiction, requirements for, 2 Jurisd § 109 et seq.
quasi in rem jurisdiction, requirements for, 2 Jurisd § 262 et seq.
sanctions for frivolous appeals, 9 Appeal § 993

Duress
affirmative defense, as, 5 Plead § 1031 et seq.
division of property on dissolution of marriage, grounds for relief from judgment, 8 Attack § 2

Duress—Cont’d
equitable relief against judgment based on, 8 Attack § 235
estoppel to raise limitations defense based on, 3 Actions § 777
limitation and accrual of actions estoppel to raise defense, 3 Actions § 777
money paid under duress, 3 Actions § 657
money paid under, limitation and accrual of actions, 3 Actions § 657

Easement
injury to, limitation and accrual of actions, 3 Actions § 596 et seq.
lis pendens, see Lis pendens
private nuisance, equitable easements, 6 Prov Rem § 304*
statute of limitations for injury to, 3 Actions § 596 et seq.

Ecclesiastical controversies, see Justiciability controversy

Education
529 accounts, enforcement of judgment against, see Exemptions from execution
Department of Education, see Department of Education
execution against funds for, see Exemptions from execution

Ejectment
defenses, raising in answer, see Answer instructions to jury, 7 Trial § 287
jury instructions, 7 Trial § 287
jury trial, 7 Trial § 84
pleading
in general, 5 Plead § 634 et seq.
elements of cause of action, 5 Plead § 635
interest in property, 5 Plead § 636
ownership, 5 Plead § 636
possession by defendant, 5 Plead § 637
quiet title action, effect of, 5 Plead § 634
unlawful detainer action, effect of, 5 Plead § 634
withholding of possession by defendant, 5 Plead § 637
quiet title distinguished, 5 Plead § 655

Index-149
Ejectment—Cont’d
venue of action, 3 Actions § 795

Elder abuse, see Adult abuse; Privilege

Elderly
senior citizens, see Senior citizens

Election of remedies
in general, 3 Actions § 179 et seq.; 4 Plead §§ 406, 409
accrual of cause of action, effect on, 3 Actions §§ 527, 528
agents, actions involving, see Agency
attachment, see Attachment
bar by judgment, see Res judicata
binding election, rule of, 3 Actions §§ 183, 184
breach of contract, see Breach of contract
choice, manifestation of, 3 Actions §§ 183, 184
claim and delivery, see Claim and delivery
commencement of action, election by, 3 Actions § 184
consistent remedies, 3 Actions § 193 et seq.
contract actions
in general, 3 Actions § 144 et seq.
breach of contract, see Breach of contract
election allowed, 3 Actions § 156 et seq.
election denied, 3 Actions §§ 165, 166
fraudulent inducement to contract, see Fraud in contracting
contract provisions affecting, 3 Actions § 201
conversion, see Conversion of personal property
creditor’s claim against estate, see Creditor’s claims against estate
criticism of, 3 Actions § 180
defendant, prejudice to, 3 Actions § 200
different persons, remedies against, 3 Actions § 199
estoppel distinguished, see Equitable estoppel
inapplicability of doctrine, 3 Actions § 191 et seq.
injunctions, see Injunctions
leases, actions involving, see Leases of real property

Election of remedies—Cont’d
manifestation of choice, 3 Actions §§ 183, 184
merger by judgment, 3 Actions § 185
mistaken choice of remedy, 3 Actions § 192
modern theory, 3 Actions § 180 et seq.
nature of doctrine, 3 Actions § 179
prejudice to defendant, 3 Actions § 200
res judicata and, 3 Actions § 185
single remedy available, effect of, 3 Actions § 191
statutory provisions affecting, 3 Actions § 201
tort actions
in general, 3 Actions § 144 et seq.
election allowed, 3 Actions § 145 et seq.
election denied, 3 Actions § 167 et seq.
trespass, see Trespass
waiver, 3 Actions § 202

Elections
appellate court justices, election of, see Court of Appeal; Supreme Court
attorneys’ fees in actions affecting, 7 Judgm §§ 289, 290
contests of special proceeding, as, 3 Actions § 65
summary judgment, availability for, 6 PWT § 206
Court of Appeal justices, election of, see Court of Appeal
filing fees for proceedings involving, 4 Plead § 27
judges, election of, see Judges
officials enforcing duties of, 8 Writs § 87
preference in trial setting, 7 Trial § 72
remedies, see Election of remedies
Supreme Court justices, election of, see Supreme Court
trial setting preference, 7 Trial § 72

Electronic filing and service
in general, 4 Plead § 21 et seq.
appeal, see Appeal
electronic records, public access to, 2 Courts § 40 et seq.*
fees, see Filing fees
motions, see Motions
Index

Emancipation
appeal, waiver of costs of record for, 9
Appeal § 629
domicile after, 2 Jurisd § 132
Judicial Council
forms, 2 Courts § 413B*
mootness of case resulting from, 9 Appeal § 755
new trial availability in proceedings, effect of, 8 Attack § 24
tolling of limitations period for minors, effect on, 3 Actions § 697

Emergency management, see California Emergency Management Agency

Eminent domain
alternative dispute resolution for, 6 PWT § 482
answer in, 5 Plead § 1114
attorneys’ fees
award to defendant, 7 Judgm § 234
lien for, 1 Attys § 167
certiorari review, 8 Writs § 37
collection of award to enforce judgment, see Enforcement of judgment
costs of expert’s fees, 7 Judgm § 124
costs on appeal, 9 Appeal § 956
cross-complaint, availability in proceeding, 5 Plead § 1170
disclaimer, 5 Plead § 1114
instructions to jury, 7 Trial § 287
interlocutory order, 7 Judgm § 21
intervention, 4 Plead §§ 214, 232
inverse condemnation, see Inverse condemnation
judgment, form and content of, 7 Judgm § 35
jury instructions, 7 Trial § 287
jury trial, 7 Trial §§ 84, 97
lis pendens, see Lis pendens
offer to compromise, availability of, 6 PWT § 83
pleading
in general, 5 Plead § 685 et seq.
allegations required, 5 Plead § 685
contemnor plaintiff, naming, 5 Plead § 686
description of land, 5 Plead § 688
map of land, inclusion of, 5 Plead § 688
parties, 5 Plead § 686

Eminent domain—Cont’d
pleading—Cont’d
property owner defendants, naming, 5
Plead § 686
right to take, 4 Plead § 387; 5 Plead § 687
preference in trial setting, 7 Trial § 72
special proceeding, as, 3 Actions § 65
summons, 3 Actions § 987
supplemental pleading, see Supplemental pleading
trial setting, 7 Trial § 72
venue of actions, 3 Actions §§ 800, 879
verification of pleadings, 4 Plead § 466

Eminent Domain Law
nonpayment, effect of, 8 Attack § 2

Emotional distress
accrual of actions, 3 Actions § 574
attorney malpractice, distress resulting from, see Attorney malpractice
bystander’s distress, accrual of action, 3 Actions § 574
instructions to jury, 7 Trial § 286
intentional infliction, see Intentional infliction of emotional distress
jury instructions, 7 Trial § 286
limitation of actions, 3 Actions § 574

Employer and employee
attorneys
agreements not to compete by, see Attorneys
clients, employment by, see Attorney-client relationship
employees, attorneys as, see Attorney-client relationship
collateral estoppel, application to actions by employees, 7 Judgm § 428
collective bargaining agreements, see Collective bargaining agreements
covenant not to compete, see Covenant
default judgment based on employee’s tort, 6 PWT § 135
garnishment of wages, see Garnishment
gender discrimination, see Sex discrimination
joinder in actions involving, 4 Plead § 202
juror, leave to serve as penalizing for, 7 Trial § 118
labor law, see Labor law
Employer and employee—Cont’d
machinery, injunction against use of, 6
PWT § 291
place of employment, injunction against
use of, 6 Prov Rem § 291
real party in interest, injury to employee,
4 Plead § 149
respondeat superior, see Respondeat
superior
sex discrimination, see Sex discrimination
third-party tortfeasor action, see Third-
party tortfeasor, action against
vacation, see Vacation rights of employ-
ees
wages
garnishment, see Garnishment
workers’ compensation, see Workers’
compensation procedure
workplace harassment, see Workplace
harassment

Employment Development Department,
see Labor and Workforce Development
Agency

Employment discrimination
age discrimination, see Age discrimina-
tion
arbitration of claims, 6 PWT § 518
attorneys’ fees, see Attorneys’ fees
disability discrimination, see Disability
discrimination
equal pay, see Sex discrimination
Fair Employment and Housing Act
in general, see Fair Employment and
Housing Act
gender discrimination, see Sex
discrimination
instructions to jury, 7 Trial § 286
jury instructions, 7 Trial § 286
sex discrimination, see Sex discrimination
sexual harassment, see Sexual harassment

Employment regulation
collateral estoppel and, see Collateral
estoppel

Encroachments
private nuisance, 6 Prov Rem § 304*

Endangered adults
protection of, 3 Actions §§ 116, 117

Energy Commission
Supreme Court review of decisions, 2
Courts § 330

Enforcement of judgment
in general, 8 Enf Judgm § 1 et seq.
“account debtor” defined, 8 Enf Judgm
§ 21
“account receivable” defined, 8 Enf
Judgm § 21
accretion of action, 3 Actions §§ 488, 675
action on judgment
in general, 8 Enf Judgm § 436
limitation and accrual of action, 8
Attack § 7
nature of, 3 Actions § 141
action to prevent as collateral attack, 8
Attack § 7
actions to enforce contract, 7 Judgm
§ 168*
administrative mandamus proceedings,
see Administrative mandamus
“affidavit of identity” defined, 8 Enf
Judgm § 21
alcoholic beverage license, enforcement
against interest in, 8 Enf Judgm § 55
appeal of orders relating to, 9 Appeal
§§ 181, 182, 185
arrested person, enforcement against
property found on, 8 Enf Judgm
§§ 60, 63
assignee, enforcement by, 8 Enf Judgm
§ 24
assignment orders, see Assignment order
attachment of property governed by
Enforcement of Judgments Law, see
Attachment
attorney, service of papers on, 8 Enf
Judgm § 26
attorneys’ fees, see costs (this group)
authority of attorney
in general, 1 Attys § 255
ostensible authority, 1 Attys § 248
bond
enforcement against money deposited
as employee’s, 8 Enf Judgm § 60
judgment of liability on, 6 Prov Rem
§ 41
cause of action, enforcement against inter-
est in, 8 Enf Judgm § 55
charging orders, see Charging orders
“chattel paper” defined, 8 Enf Judgm § 21
Enforcement of judgment—Cont’d

child support, see support judgments (this group)
civil arrest, abolition of, 6 Prov Rem §§ 1, 5; 8 Enf Judgm § 3
class actions, see Class actions
collection of debt owed to judgment debtor by public entity
in general, 8 Enf Judgm § 312 et seq.
debt requirement, 8 Enf Judgm § 312
definitions, 8 Enf Judgm § 312
deposit in court, 8 Enf Judgm § 314 et seq.
eminent domain award, collection of, 8 Enf Judgm § 317
execution, debt not subject to, 8 Enf Judgm § 116
exemption claim by debtor, 8 Enf Judgm § 316
filing of abstract or certified copy of judgment, necessity for, 8 Enf Judgm § 313 et seq.
lien, 8 Enf Judgm § 313
lottery prize, collection on lien against, 8 Enf Judgm § 317
nature of remedy, 8 Enf Judgm § 312
notice, 8 Enf Judgm § 313
public agency other than state agency, debt owed by, 8 Enf Judgm § 315
public works contract, debt owed under, 8 Enf Judgm § 319
scope of remedy, 8 Enf Judgm § 312
state agency, debt owed by, 8 Enf Judgm § 314
support judgment enforced against debt, 8 Enf Judgm § 318
tax overpayment, collection of, 8 Enf Judgm § 317

Commercial Code definitions, 8 Enf Judgm § 21
commodity property, enforcement against interest in, 8 Enf Judgm §§ 55, 58
conditional judgment, effect of strict enforcement of, 7 Judgm § 28
confession of judgment, see Confession of judgment
consent judgment, see Consent judgment
conservatorship estate, enforcement against property in, 8 Enf Judgm § 324
contempt, enforcement by, see Contempt
Enforcement of judgment—Cont’d

executory interests, enforcement against, 8 Enf Judgm § 323
exemptions from execution, see Exemptions from execution
extrinsic fraud or mistake
exhaustion of remedies to challenge judgment obtained by, 3 Actions § 47
limitation and accrual of action for equitable relief based on, see Fraud and deceit
Fair Debt Collection Practices Act, see Fair Debt Collection Practices Act
family law judgments
in general, 8 Enf Judgm § 403 et seq.
employee benefit plan, enforcement against, 8 Enf Judgm § 403
period of enforcement, 8 Enf Judgm § 403
support judgments, see support judgments (this group)

writ of execution, enforcement by, 8 Enf Judgm § 404

federal practice, 8 Enf Judgm § 2
“financial institution” defined, 8 Enf Judgm § 21
forms, 8 Enf Judgm § 25
franchise granted by public agency, enforcement against, 8 Enf Judgm § 320
“general intangibles” defined, 8 Enf Judgm § 21
government tort claims requirement applicability, see Government tort claims
governmental entity, enforcement against property of, 8 Enf Judgm §§ 60, 61
guardianship estate, enforcement against property in, 8 Enf Judgm § 324
health care, installment judgment for, see Judgment liens

hearing on third-party claim
in general, 8 Enf Judgm § 378 et seq.
appeal, 8 Enf Judgm § 381
application, 8 Enf Judgm § 378
burden of proof, 8 Enf Judgm § 381
conditions for hearing, 8 Enf Judgm § 381
creditor’s statement opposing claim of secured party, 8 Enf Judgm § 380

Enforcement of judgment—Cont’d

hearing on third-party claim—Cont’d
discovery, availability of, 8 Enf Judgm § 381
dismissal, availability of, 8 Enf Judgm § 381
evidence, 8 Enf Judgm § 381
injunction pending determination, 8 Enf Judgm § 381
judgment, 8 Enf Judgm § 381
jury trial right, 8 Enf Judgm § 381
levying officer, required filing by, 8 Enf Judgm § 379
notice, 8 Enf Judgm § 378
perishable property, preservation of, 8 Enf Judgm § 381
pleadings, 8 Enf Judgm § 381
satisfaction from released property, 8 Enf Judgm § 382
stay pending determination, 8 Enf Judgm § 381
time for hearing, 8 Enf Judgm § 381
immunity from enforcement, effect of, 8 Enf Judgm § 60
in custodia legis, enforcement against property in, 8 Enf Judgm §§ 60, 62
inspection of documents, judgment creditor’s demand for, 8 Enf Judgm § 276
installment judgments
health care, judgment for, see Judgment liens

period for enforcement of, 8 Enf Judgm § 34
support judgments, see support judgments (this group)
instrument
defined, 8 Enf Judgm § 21
endorsement by levying officer, 8 Enf Judgm § 31

judgment creditor
death of, see death, enforcement on (this group)
defined, 8 Enf Judgm §§ 21, 51
service of papers by, 8 Enf Judgm § 27

judgment debtor
death of, see death, enforcement on (this group)
defined, 8 Enf Judgm §§ 21, 51

“judgment” defined, 8 Enf Judgm § 21
judgment liens, see Judgment liens

Index-154
Enforcement of judgment—Cont’d
Judicial Council forms
in general, 2 Courts § 415; 8 Enf Judgm § 25
court judgments, 8 Enf Judgm § 478A*
jurisdiction
Labor Commissioner, action by, 8 Enf Judgm § 52A*
state tax liability action, 8 Enf Judgm § 51*
keeper, installation by levying officer, 8 Enf Judgm § 52A*
Labor Commissioner, by, 8 Enf Judgm § 52A*
leasehold interest in real property, enforcement against, 8 Enf Judgm §§ 55, 56
levying officer, see Execution and levy license, enforcement against
in general, 8 Enf Judgm § 60
alcoholic beverage license, 8 Enf Judgm § 55
liens, see Judgment liens; Lien in pending action or proceeding
limited civil case, enforcement of judgment in, 2 Courts § 247
mandamus for orders relating to, 8 Writs § 114
memorandum of costs for, 7 Judgm § 143
methods of enforcement and discharge, 8 Enf Judgm § 2
money judgments
in general, 8 Enf Judgm § 53 et seq., abstract of judgment, see Abstract of judgment
amount satisfying judgment, 8 Enf Judgm § 53
application of money received, 8 Enf Judgm § 54
attachment of property exempt from, see Attachment
defined, 8 Enf Judgm § 21
execution of, see Execution and levy exemption from requirements for, 8 Enf Judgm § 41
installment judgments, see installment judgments (this group)
interest on, see Interest
levy on, see Execution and levy liens, see Judgment liens

money judgments—Cont’d
personal property liens, see Judgment liens
property subject to enforcement for, 8 Enf Judgm § 55 et seq.
real property liens, see Judgment liens renewal of, see Renewal of judgment support judgments, see support judgments (this group)
tribal court judgments, 8 Enf Judgm §§ 463*, 478A*
unincorporated association, enforcement against interest in money judgment against, 8 Enf Judgm § 55
workers’ compensation award, effect of judgment for on real property lien, 8 Enf Judgm § 72
nonmoney judgments
in general, 8 Enf Judgm § 325 et seq.
collection of included money judgment, 8 Enf Judgm § 328
defenses, invalidity of order, 8 Enf Judgm § 349*
exemption claims, 8 Enf Judgm § 328
nature of law, 8 Enf Judgm § 325
personal property, see personal property, judgment for possession of (this group)
real property, see real property, judgment for possession of (this group)
sale of property, see sale of property, judgment for (this group)
scope of law, 8 Enf Judgm § 325
writ of possession or sale, see writ of possession or sale (this group)
ostensible authority of attorney, see authority of attorney (this group)
payment in installments, 8 Enf Judgm § 431*
period for enforcement
in general, 8 Enf Judgm § 34 et seq.
extension by renewal of judgment, 8 Enf Judgm § 35
“person” defined, 8 Enf Judgm § 21
personal property
defined, 8 Enf Judgm § 21
judgment for possession of, see personal property, judgment for possession of (this group)
judgment lien on, see Judgment liens

Index-155
Enforcement of judgment—Cont’d

personal property, judgment for possession of
in general, 8 Enf Judgm § 329 et seq.
property unable to be taken into custody, 8 Enf Judgm § 330
turnover order, 8 Enf Judgm § 331
writ of possession, 8 Enf Judgm § 329
practice and procedure, 8 Enf Judgm § 22 et seq.
“principal amount of judgment” defined, 8 Enf Judgm § 21
property
attached but transferred before entry of judgment, 8 Enf Judgm §§ 55, 59
defined, 8 Enf Judgm § 21
cumbered property subject to judgment lien, 8 Enf Judgm § 55
general rules, 8 Enf Judgm § 55
immunity from enforcement, effect of, 8 Enf Judgm § 60
not assignable or transferable, enforcement against interest in, 8 Enf Judgm § 60
subject of enforcement for money judgments, 8 Enf Judgm §§ 55 et seq.
transferred property subject to judgment lien, 8 Enf Judgm § 55
public entities
in general, 8 Enf Judgm § 429 et seq.
collateral source payments, reduction for, 8 Enf Judgm § 435
debt owed to judgment debtor, see collection of debt owed to judgment debtor by public entity (this group)
enforcement against property of, 8 Enf Judgm §§ 60, 61
interest rate, 8 Enf Judgm § 430*
judiciary, claims against, 8 Enf Judgm § 429
local public entities, 8 Enf Judgm § 430 et seq.
periodic payments, 8 Enf Judgm § 434
postjudgment settlement conference, 8 Enf Judgm § 433
state, 8 Enf Judgm § 429
University of California, 8 Enf Judgm §§ 429, 430
real property
defined, 8 Enf Judgm § 21

Enforcement of judgment—Cont’d

real property—Cont’d
judgment for possession of, see real property, judgment for possession of (this group)
judgment lien on, see Judgment liens
real property, judgment for possession of
in general, 8 Enf Judgm § 332 et seq.
execution of writ, 8 Enf Judgm § 333
failure to vacate property, effect of, 8 Enf Judgm § 336
personal property, disposition of, effect, 8 Enf Judgm § 337
postjudgment claim of right to possession, 8 Enf Judgm §§ 334, 335
writ of possession, 8 Enf Judgm § 332
receiver, appointment of, see Receivers redemption, 8 Enf Judgm § 20
registered process server
defined, 8 Enf Judgm § 21
fees as costs, 8 Enf Judgm § 48
renewal of judgment, see Renewal of judgment
residual payment of artist, enforcement against, 8 Enf Judgm § 60
rules governing, 8 Enf Judgm § 25
sale of property, judgment for
turnover order, 8 Enf Judgm § 339
writ of sale, 8 Enf Judgm § 338
Secretary of State forms, 8 Enf Judgm § 25
“secured party” defined, 8 Enf Judgm § 21
“security agreement” defined, 8 Enf Judgm § 21
“security” defined, 8 Enf Judgm § 21
“security interest” defined, 8 Enf Judgm § 21
segregated insurance benefit funds, enforcement against, 8 Enf Judgm § 60
service of papers
in general, 8 Enf Judgm § 26 et seq.
manner of service, 8 Enf Judgm § 27
proof of service, 8 Enf Judgm § 28
sister state judgments, see Sister state judgments
small claims court, 2 Courts § 303
spousal support, see Support judgments (this group)
Enforcement of judgment—Cont’d

state tax liability, enforcement of, 8 Enf Judgm §§ 51, 52
stay of, see Stay pending appeal
stipulations regarding, see Stipulations
support judgments
application of money received, 8 Enf Judgm § 54
“child support” defined, 8 Enf Judgm § 21
criminal proceeding, enforcement of
support judgment in, 8 Enf Judgm § 406
execution of, see Execution and levy
governmental enforcement of, 8 Enf Judgm § 405
real property judgment lien, effect of
installment judgment for support
on, 8 Enf Judgm §§ 71, 75
“spousal support” defined, 8 Enf Judgm § 21
Uniform Interstate Family Support Act,
see Uniform Interstate Family Support Act
writ of execution to enforce, see Writ of execution
suspension of driver’s license for lack of financial responsibility, see Financial Responsibility Law
“tangible personal property” defined, 8 Enf Judgm § 21
third-party claim
in general, 8 Enf Judgm § 364 et seq.
conversion action as alternative, 8 Enf Judgm § 365
creditor’s demand that third party file claim, 8 Enf Judgm §§ 383, 384
declaratory relief action as alternative, 8 Enf Judgm § 365
definitions, 8 Enf Judgm § 364
equitable right to property, 8 Enf Judgm § 364
false claims, effect of, 8 Enf Judgm § 364
hearing on claim, see hearing on third-party claim (this group)
injunction of sale that would cloud title as alternative, 8 Enf Judgm § 365
intervention into examination proceedings as alternative, 8 Enf Judgm § 365

Enforcement of judgment—Cont’d

third-party claim—Cont’d

Labor Commissioner, action by, 8 Enf Judgm § 52A*
nature of remedy, 8 Enf Judgm § 364
ownership or possession, claim of, see third-party claim of ownership or possession (this group)
quiet title action as alternative, 8 Enf Judgm § 365
scope of remedy, 8 Enf Judgm § 364
security interest or lien, claims of, see third-party claim of security interest or lien (this group)
specific recovery action as alternative, 8 Enf Judgm § 365
state tax liability enforcement, availability in, 8 Enf Judgm § 52
undertaking by third party to release property, 8 Enf Judgm §§ 385, 386
third-party claim of ownership or possession
in general, 8 Enf Judgm § 367 et seq.
creditor’s undertaking, 8 Enf Judgm § 370
effect of filing claim, 8 Enf Judgm § 369
failure to file, effect of, 8 Enf Judgm § 369
manner of making claim of ownership, 8 Enf Judgm § 368
release of property, 8 Enf Judgm § 371
right to file claim of ownership, 8 Enf Judgm § 367
time for making claim of ownership, 8 Enf Judgm § 368
undertakings for, 8 Enf Judgm §§ 366, 370
third-party claim of security interest or lien
in general, 8 Enf Judgm § 372 et seq.
creditor’s undertaking, 8 Enf Judgm § 375
effect of filing claim, 8 Enf Judgm § 374
failure to file, effect of, 8 Enf Judgm § 374
manner of making claim, 8 Enf Judgm § 373
payment to secured party or lienholder, 8 Enf Judgm § 377
release of property, 8 Enf Judgm § 376
Enforcement of judgment—Cont’d
third-party claim of security interest or lien—Cont’d
right to file claim, 8 Enf Judgm § 372
time for making claim, 8 Enf Judgm § 373
undertaking, action on, 8 Enf Judgm § 375A*
time period for enforcement, see period for enforcement (this group)
tribal court judgments, 8 Enf Judgm §§ 463*, 478A*
trust, enforcement against beneficial interest in, 8 Enf Judgm §§ 55, 57, 321, 322
trust funds, enforcement against, 8 Enf Judgm § 60
unincorporated association
enforcement against interest in money judgment against, 8 Enf Judgm § 55

venue
Labor Commissioner, action by, 8 Enf Judgm § 52A*
state tax liability action, 8 Enf Judgm § 51*
wages of logging employees and itinerant merchants, enforcement against, 8 Enf Judgm § 60
writ
application for, after enforcement period, 8 Enf Judgm § 34
defined, 8 Enf Judgm § 21
liability for neglect or refusal to perform duties under, 8 Enf Judgm § 33
writ of execution, see Writ of execution
writ of possession or sale
delivery of, 8 Enf Judgm § 327
execution of, 8 Enf Judgm § 327
issuance of, 8 Enf Judgm § 326
return of, 8 Enf Judgm § 327
written interrogatories to judgment debtor, 8 Enf Judgm § 275

Enforcement of Judgments Law
in general, 8 Enf Judgm § 18 et seq.
incorporation by other enforcement statutes, 8 Enf Judgm § 23

Engineers—Cont’d
limitation and accrual of action, 3 Actions §§ 488, 675
malpractice action
in general, 3 Actions § 209
failure to file, demurrer based on, 5 Plead § 978
offer to compromise, availability, 6 PWT § 83
security for costs, see Security for costs statute of limitations, 3 Actions §§ 488, 675

English language
court proceedings, use in, 2 Courts § 29
taxpayer’s action to enforce English as official language, 4 Plead § 170

Entrustment of dangerous instrumentality
driving with permission
compulsory joinder of parties, 4 Plead § 193

Entry of judgment
in general, 7 Judgm § 49 et seq.
alteration by clerk, 7 Judgm § 49
annulment of marriage proceedings notice of entry, 7 Judgm § 59
appeal, see Appeal
appealable order, entry on, 9 Appeal § 609 et seq.
Attorney General, notice to, 7 Judgm § 57 clerk
entry by, 7 Judgm § 49 et seq.
notice by, 7 Judgm § 59
confession of judgment, see Confession of judgment
consent judgment, 6 PWT §§ 113, 115 et seq.; 7 Judgm § 51
court trial, time of entry after, 7 Judgm § 55
date of entry
in general, 9 Appeal § 607 et seq.
appealable order, 9 Appeal § 609 et seq.
decree of distribution, 9 Appeal § 608 filing with clerk, effect of, 9 Appeal § 608 judgment book, effect of entry in, 9 Appeal § 608 limited civil case, 9 Appeal § 608

Index-158
INDEX

Entry of judgment—Cont’d

- date of entry—Cont’d
  - minutes, order entered in, 9 Appeal § 609 et seq.
  - nonappealable minute order, 9 Appeal §§ 612, 613
  - permanent minutes, order entered in, 9 Appeal § 609
  - signed order, 9 Appeal §§ 610, 611
- default judgment, 6 PWT §§ 138 et seq., 163
- dismissals, 7 Judgm § 52
- dissolution of marriage proceedings, notice of entry, 7 Judgm § 59
- effectiveness of, 7 Judgm § 50
- family law proceedings, 5 Plead § 897
- file-stamped copy of, use of, 9 Appeal §§ 578, 579
- form of entry, 7 Judgm § 51 et seq.; 8 Attack § 60
- formal written orders, 7 Judgm § 54
- involuntary dismissals, 7 Judgm § 52
- judgment book, entry in, 7 Judgm § 51
- judgment notwithstanding verdict, motion for, 7 Judgm § 55
- jury trial, time of entry after, 7 Judgm § 55
- late entry, true date of, 7 Judgm § 55
- legal separation proceedings, notice of entry, 7 Judgm § 59
- mandamus for orders relating to, 8 Writs § 112
- methods for entry, 7 Judgm § 51
- minute orders, 7 Judgm §§ 54, 56
- nature of, 7 Judgm § 49
- new trial, see New trial
- nonsuits, 7 Judgm § 52
- notation on instrument on entry, 7 Judgm § 49
- notice of entry
  - in general, 7 Judgm § 57 et seq.; 9 Appeal § 575 et seq.
  - appeal, time for filing after, see Notice of appeal
  - clerk, giving by, 9 Appeal § 576
  - court order on, 9 Appeal § 576
  - erroneous notice, effect of, 9 Appeal § 580
  - file-stamped copy of entry, use of, 9 Appeal §§ 578, 579
  - filing of, 9 Appeal § 576

Entry of judgment—Cont’d

- notice of entry—Cont’d
  - inadequate notice, effect of, 9 Appeal § 580
  - notice of appeal, effect on, see Notice of appeal
  - party, giving by, 9 Appeal § 576
  - service of, 9 Appeal § 576
  - sufficiency of, 9 Appeal § 577 et seq.
  - nullity of marriage proceedings, notice of entry, 7 Judgm § 59
  - nunc pro tunc entry, see Nunc pro tunc
  - party, notice by, 7 Judgm § 58
  - place of entry, 7 Judgm § 51 et seq.
  - probate orders, 7 Judgm § 53
  - reversal with directions regarding, see Reversal of judgment on appeal
  - small claims court, see Small claims court
  - statement of decision, entry on, 7 Trial § 399
  - stipulated judgment, 1 Attys § 276; 6 PWT §§ 113, 115 et seq.; 7 Judgm § 51
  - summary judgment, see Summary judgment
  - time of entry, 7 Judgm §§ 55, 56
  - vacating and entry of different judgment, see Vacating judgment
  - voluntary dismissals, 7 Judgm § 52

Environmental protection

California Environmental Protection Agency
  - in general, 9 Admin Proc §§ 154, 165 et seq.
  - Air Resources Board, see Air Resources Board
  - California Integrated Waste Management Board, see Integrated Waste Management Board
  - Department of Pesticide Regulation, see Pest control
  - Department of Toxic Substances Control, see Department of Toxic Substances Control
  - Office of Environmental Health Hazard Assessment, 9 Admin Proc § 166
  - Water Resources Control Board, see Water Resources Control Board
  - California Integrated Waste Management Board, see Integrated Waste Management Board
Environmental protection—Cont’d
intervention in action, 4 Plead § 214
pleadings, service of, 4 Plead § 29
real party in interest, see Real party in
interest

Equal Access to Justice Act, see Attorneys’
fees

Equal protection
administrative agencies, limitations on, 9
Admin Proc § 4
appellate jurisdiction, applicability to, see
Appellate jurisdiction
attorneys
fees provisions, see Attorneys’ fees
intervention in action based on denial of,
4 Plead § 214
jurors, exercise of peremptory challenges
to, 7 Trial § 128

Equitable actions, see Legal and equitable
actions

Equitable bill of peace, see Bill of peace

Equitable bill of review
new trial for newly discovered evidence,
8 Attack § 2

Equitable estoppel
arbitration agreement, defense to enforce-
ment of, 6 PWT § 535
election distinguished, 3 Actions § 186 et
seq.

Equitable indemnity, see Indemnity

Equitable liens
equitable nature of actions involving, 3
Actions § 128
fraud, action based on, 3 Actions § 132
lis pendens, see Lis pendens

Equitable redemption, see Enforcement of
Judgment; Execution and levy

Equitable relief
injunctions, see Injunctions
judgment, against, see Equitable relief
against judgment
unauthorized, effect of, 2 Jurisd §§ 319,
320

Equitable relief against judgment
in general, 5 Plead §§ 880, 881; 8 Attack
§ 215 et seq.

Equitable relief against judgment
—Cont’d
annulment of marriage proceedings, 8
Attack § 216
appearance, fraud preventing as ground
for relief, 8 Attack § 226 et seq.
attorney
incapacity as ground, 8 Attack § 231
negligence as ground, 8 Attack §§ 233,
234
representation adverse to client as
ground, see Attorney-client relation-
ship
bona fide purchaser, protection of, 8
Attack § 216
cause of action, elements of, 5 Plead
§ 880
certiorari compared, 8 Writs § 7
conditions for relief, 8 Attack § 236 et
seq.
conflict of interest by attorney, relief
based on, see Attorney-client rela-
tionship
contest, fraud preventing as ground for
relief, 8 Attack § 226 et seq.
court personnel, reliance on as ground for
relief, 8 Attack § 232
diligence requirement, 8 Attack § 238 et
seq.
direct attack on judgment, as, 8 Attack
§ 218
dissolution of marriage proceedings, 8
Attack § 216
duress as ground for relief, 8 Attack § 235
excuse requirement, 8 Attack § 238
expedited jury trial, 8 Attack § 215*
extrinsic fraud
ground for relief, 8 Attack § 225 et seq.
limitation and accrual of actions, see
Fraud and deceit
meritorious case requirement for, 8
Attack § 236
extrinsic mistake
ground for relief, 8 Attack § 230 et seq.
limitation and accrual of actions, see
Fraud and deceit
meritorious case requirement for, 8
Attack § 236
family law proceedings, 8 Attack § 216
federal practice, 8 Attack § 215*
Equitable relief against judgment
—Cont’d
fraud as ground for relief, 8 Attack §§ 225 et seq., 241, 242
ground for relief, 5 Plead § 880; 8 Attack § 224 et seq.
incapacity of attorney or party as ground for relief, 8 Attack § 231
independent action for, 8 Attack § 218
intrinsic fraud, availability of relief for, 8 Attack §§ 241, 242
intrinsic mistake, availability of relief for, 8 Attack §§ 241, 242
judgment, pleading of, 5 Plead § 880; 8 Attack §§ 222, 223
jury trial
expedited, 8 Attack § 215*
right, 8 Attack § 218
knowledge of right or claim, fraud preventing as ground for relief, 8 Attack § 229
legal separation proceedings, 8 Attack § 216
limited civil cases, jurisdiction of, 2 Courts § 246; 8 Attack §§ 222, 223
marriage, proceedings to nullify, 8 Attack § 216
meritorious case requirement for, 5 Plead § 881; 8 Attack §§ 236, 237
mistake as ground for relief, 8 Attack §§ 230 et seq., 241, 242
motion
in general, 8 Attack § 219 et seq.
denial of effect, 8 Attack § 221
nature of proceeding, 3 Actions § 129; 5 Plead § 880; 8 Attack § 215
party, incapacity of as ground for relief, 8 Attack § 231
persons entitled to relief, 8 Attack § 217
pleading, 5 Plead §§ 880, 881
probate proceedings
extrinsic fraud, effect of, 8 Attack § 227
jurisdiction, 8 Attack § 223
scope of relief, 8 Attack § 216
third person, reliance on as ground for relief, 8 Attack § 232 et seq.
venue, 3 Actions § 829
void judgment
diligence requirement for, 8 Attack § 238

Equitable relief against judgment
—Cont’d
void judgment—Cont’d
ground for relief, as, 8 Attack § 224
meritorious case requirement for, 8 Attack § 237

Equitable relief against torts
torts
in general, 6 Prov Rem § 292
crime enjoinable as tort, 6 Prov Rem § 335
equitable nature of proceeding based on, 3 Actions § 127

Equitable servitudes
attorneys’ fees in action to enforce, see Attorneys’ fees

Equitable setoff, see Discharge of judgment

Equitable subrogation
nature of proceedings, 3 Actions § 124

Equitable tolling, see Government tort claims; Limitation and accrual of actions

Equity
venue for actions in, 3 Actions § 823 et seq.

Errors
appeal
in general, 9 Appeal §§ 327 et seq., 389 et seq.
appellant, error in favor of, 9 Appeal § 327
coparty, error in favor of, 9 Appeal § 328
defensive acts, effect of, 9 Appeal §§ 393, 399
exceptions to, 9 Appeal § 403
harmless, see Reversible or harmless error
invited error, see invited error (this group)
jury instruction, 9 Appeal § 433*
nonappealing party, error against, 9 Appeal § 329 et seq.
point not properly raised below, see point not properly raised below (this group)
reversible, see Reversible or harmless error

Index-161
Errors—Cont’d
appeal—Cont’d
statement of decision, 9 Appeal § 433*
substantial, see Reversible or harmless error
theory of trial, see theory of trial (this group)
unsubstantial, see Reversible or harmless error
waiver of error, see waiver of error (this group)
binding precedent, refusal to follow, 2 Jurisd § 297
confession of error, 9 Appeal § 458
estoppel
  in general, 9 Appeal § 389 et seq.
invited error, see invited error (this group)
point not properly raised below, see
  point not properly raised below (this group)
theory of trial, see theory of trial (this group)
waiver of error, see waiver of error (this group)
evidence
  exclusion of admissible evidence, 2 Jurisd § 308
improper admission of, 2 Jurisd §§ 309, 310
insufficiency of, 2 Jurisd § 292
violation of privilege, 2 Jurisd § 310
excess of jurisdiction
  in general, 2 Jurisd §§ 285, 286, 298 et seq.
appeal, improper dismissal of, 2 Jurisd § 312
condition precedent, noncompliance with, 2 Jurisd § 301
consent judgment, unauthorized modification of, 2 Jurisd § 311
counsel, impairment of right to, 2 Jurisd § 305
dismissal, propriety of, 2 Jurisd § 312
disqualified judge, trial by, 2 Jurisd § 303
evidence, errors related to, see evidence (this group)
fair hearing, denial of, 2 Jurisd § 302 et seq.
jury trial, impairment of right to, 2 Jurisd § 306

Errors—Cont’d
excess of jurisdiction—Cont’d
partial judge, trial by, 2 Jurisd § 303
plead, impairment of right to, 2 Jurisd § 307
pleading defects, see pleading defects (this group)
stipulation for judgment, unauthorized modification of, 2 Jurisd § 311
wrong department of court, 2 Jurisd § 298
harmless error, see Reversible or harmless error
invited error
  in general, 9 Appeal § 389 et seq.
  appellant’s act inducing error, 9 Appeal § 390
defensive acts, effect of, 9 Appeal § 393
objections inducing error, 9 Appeal §§ 391, 392
judgment outside issue in contested case, 2 Jurisd § 291
legislative jurisdiction, lack of, 2 Jurisd § 295
new trial based on, see New trial
nonjurisdictional errors, 2 Jurisd § 287 et seq.
parties, defects in, 2 Jurisd §§ 288, 289; 9 Appeal § 428
pleading defects
  in general, 9 Appeal § 428
  act in excess of jurisdiction, defect resulting in, 2 Jurisd § 300
curing of, 9 Appeal § 436
jurisdictional, 2 Jurisd §§ 299, 300
nonjurisdictional, 2 Jurisd §§ 288, 289
subject matter jurisdiction, defect affecting, 2 Jurisd § 299
variance from pleading, 9 Appeal § 429
point not properly raised below
  in general, 9 Appeal § 400 et seq.
exceptions to requirement, 9 Appeal § 406
formal exceptions, abolition of, 9 Appeal § 403
methods of raising point below, 9 Appeal § 403 et seq.
nature of rule, 9 Appeal § 400 et seq.
new trial motion, requirement of, 9 Appeal § 405

Index-162
Errors—Cont’d
point not properly raised below—Cont’d
public interest, raising of question of, 9
Appeal § 406
question of law, requirement for, 9
Appeal § 406
scope of rule, 9 Appeal § 400 et seq.
trial, raising point during, 9 Appeal
§ 404
procedural error or omission, 2 Jurisd
§ 290
reversible error, see Reversible or harmless error
statute, erroneous interpretation of, 2
Jurisd § 296
substantial error, see Reversible or harmless error
substantive law, errors of, 2 Jurisd § 293 et seq.
theory of trial
in general, 9 Appeal § 407 et seq.
affirmation, disregard of theory for, 9
Appeal § 414
appeal at pleading stage, 9 Appeal
§ 414
change in case law, application of doctrine to, 9
Appeal § 412
damages, application of doctrine to, 9
Appeal § 411
exceptions to doctrine, 9 Appeal
§§ 414, 415
fundamental error, effect of, 9 Appeal
§ 414
legal relationship, application of doctrine to, 9
Appeal § 413
liability, application of doctrine to, 9
Appeal § 413
matters in issue, application of doctrine to, 9
Appeal § 410
nature of doctrine, 9 Appeal §§ 407, 408
pleadings, application of doctrine to, 9
Appeal § 409
purpose for which evidence offered, effect of, 9
Appeal § 414
question of law alone, effect of, 9
Appeal §§ 414, 415
remand, guidance on, 9 Appeal § 414
waiver, doctrine as, 9 Appeal § 408
Errors—Cont’d
unsubstantial error, see Reversible or harmless error
waiver of error
in general, 9 Appeal § 394 et seq.
aquiescence, acts indicating, 9 Appeal
§ 397
concession of liability, effect of, 9
Appeal § 398
defensive acts, effect of, 9 Appeal
§ 399
express waiver, 9 Appeal § 395
failure to object, effect of, 9 Appeal
§ 396
implied waiver, 9 Appeal § 396 et seq.
Escheat
Attorney General, see Attorney General
attorneys’ fees, 7 Judgm § 232
decedent’s property
special proceeding, as, 3 Actions §§ 65, 71
in rem jurisdiction over, 2 Actions §§ 245, 261
intervention, 4 Plead § 214
limitation of actions, 3 Actions §§ 442, 485, 489
lis pendens, see Lis pendens
receiver, appointment of, 6 Prov Rem
§§ 423, 440
special counsel, employment by Attorney General, see Attorney General
statute of limitations, 3 Actions §§ 442, 483, 489
verification of petition claiming property, 4 Plead § 466
Escrow
agents
attorney malpractice involving, see
Attorney malpractice
malpractice involving, see Attorney malpractice
Estate planning
specialist, certification of attorney as, 1
Attys § 10
Estate taxes
collection
limitation and accrual of actions by
government, 3 Actions § 666 et seq.
Estate taxes—Cont’d
Inheritance Tax Department, employment of counsel, 1 Attys § 56
liens, see Tax liens
limitation and accrual of actions, 3
Actions §§ 481, 488, 666 et seq.
statute of limitations, 3 Actions §§ 481, 488, 666 et seq.

Estoppel
appeal, see Errors
arbitration agreement, equitable estoppel as defense to enforcement, 6 PWT § 535
collateral attack on judgment, see Collateral attack
consent to excess of jurisdiction, 2 Jurisd § 333 et seq.
delay, dismissal for
service of process, 6 PWT § 351 et seq.
trial, 6 PWT §§ 418, 419, 434, 437
dismissal for delay, see delay, dismissal for (this group)
election of remedies distinguished, 3
Actions § 186 et seq.
equitable, see Equitable estoppel
error on appeal, see Errors
excess of jurisdiction, see Jurisdiction
government tort claims, see Government tort claims
judicial, see Judicial estoppel
jury trial, right to, in actions involving, see Jury trial
pleading, 5 Plead § 1122 et seq.
promissory, see Promissory estoppel
service of process, dismissal for delay in, 6 PWT § 351 et seq.
statute of limitations, see Limitation and accrual of actions
stipulation, use to enforce, see Stipulations
theory of trial as, see Errors
trial, dismissal for delay in, 6 PWT §§ 418, 419, 434, 437

Estoppel by judgment, see Collateral estoppel

Eviction
eviction services as practice of law, see Attorneys
realtiary, see Retaliatory eviction

Evidence
admission of evidence, see Admission of evidence
appeal, see Appeal
attorney disciplinary proceedings, see Attorney discipline
electronic signature, effect of, 7 Judgm §§ 9*, 47*
errors related to, see Errors
exclusion of, see Exclusion of evidence
expedited jury trial, 7 Trial §§ 6C*, 6G*
harassment, sufficiency of evidence for injunction, 6 Prov Rem § 318*
hearsay, see Hearsay
instructions to jury, see Instructions to jury
insufficiency as ground for new trial, see New trial
introduction of, 7 Trial § 161
invited error, as, 9 Appeal § 390
judge’s comments on, 7 Trial § 253
judicial arbitration proceedings, see Judicial arbitration
jury
instructions to, see Instructions to jury
mandamus to compel production, 8 Writs § 109
modification of judgment contrary to, on appeal, 9 Appeal § 865
motion in limine, see In limine motion
new evidence on appeal, see Appeal
new trial based on, see New trial
production of
mandamus to compel, 8 Writs § 109
public access to, 2 Courts § 39
small claims proceedings, see Small claims court
spoliation, see Spoliation of evidence
stipulations regarding, see Stipulations
sufficiency of, see Sufficiency of evidence
summary judgment, see Summary judgment

Evidence in administrative proceedings
in general, 9 Admin Proc § 111
rules, 9 Admin Proc § 93

Ex parte applications and orders
attachment, see Attachment
availability, 6 PWT § 58
chambers, hearing in, 2 Courts § 23
commissioner, hearing by, 2 Courts § 344
Ex parte applications and orders—Cont’d
general appearance, effect of participation in proceeding, 2 Jurisd § 215
guardian ad litem, appointment of, see Guardian ad litem
intervention, see Intervention
motions, 6 PWT § 58 et seq.
otice requirement, 6 PWT § 59
order to show cause, 6 PWT § 60 et seq.
personal appearance requirement, 6 PWT § 59
preliminary injunctions, see Injunctions
receiver, appointment of, see Receivers
service of papers, 6 PWT § 59
substitution of parties, 4 Plead § 260
supporting papers, 6 PWT § 59
temporary restraining orders, see
Temporary restraining orders
writ of possession of personal property, see Writ of possession of personal property

Examination of witnesses
attorneys’ fees, testimony regarding, see Attorneys’ fees
debtors, see Examination proceedings
garnishee, see Attachment
impairment by judge, 7 Trial § 249
judge
impairment of by, 7 Trial § 249
motions, see Motions
new trial motion, 8 Attack § 69
preliminary injunction, 6 Prov Rem § 381
summary judgment, 6 PWT § 234

Examination proceedings—Cont’d
notice required, 8 Enf Judgm §§ 278, 279
order applying property to satisfaction of judgment, 8 Enf Judgm § 290
privileges applicable to, 8 Enf Judgm § 285
production of documents, appealability of order compelling, 9 Appeal § 185*
protective orders, 8 Enf Judgm § 289
public nature of proceedings, 8 Enf Judgm § 284
referee, appointment of, 8 Enf Judgm § 284
representative of organization, appearance by, 8 Enf Judgm § 284
scope of examination, 8 Enf Judgm § 282A*
self-incrimination privilege, availability of, 8 Enf Judgm § 285
service of order, 8 Enf Judgm §§ 278, 279
settlement negotiations, testimony concerning, 8 Enf Judgm § 286
tax returns, privilege for, 8 Enf Judgm § 285*
temporary judge, appointment of, 8 Enf Judgm § 284
third person, examination of
in general, 8 Enf Judgm § 279 et seq.
adverse claim of third person, 8 Enf Judgm §§ 281, 282
affidavit, 8 Enf Judgm § 279
application, 8 Enf Judgm § 279
exemption, judgment debtor’s claim of, 8 Enf Judgm § 280
intervention by third party, 8 Enf Judgm § 283
issuance of order for, 8 Enf Judgm § 279
Judicial Council forms, 8 Enf Judgm § 279
lien, 8 Enf Judgm § 279
mileage expense reimbursement required for, 8 Enf Judgm § 279
notice required, 8 Enf Judgm § 279
scope, 8 Enf Judgm § 282A*
service of order for, 8 Enf Judgm § 279
turnover order, 8 Enf Judgm § 290
witnesses, examination of, 8 Enf Judgm § 284

Exclusion of evidence
error, 9 Appeal §§ 431, 437, 446
Exclusion of evidence—Cont’d
law of the case, application of, see Law of the case
reviewability of, 9 Appeal §§ 347, 363
Exclusion of illegally obtained evidence
conservatorship of gravely disabled persons proceedings, 3 Actions § 110
Exclusionary rule
administrative proceedings, application to, 9 Admin Proc § 4*
Execution and levy
in general, 8 Enf Judgm § 99 et seq.
accounts receivable
  collection rather than sale of, 8 Enf Judgm § 145
  levy on, 8 Enf Judgm § 135
alcoholic beverage license as not subject to execution, 8 Enf Judgm § 116
attachment, see Attachment
bailee, levy on goods in possession of, 8 Enf Judgm § 124
cause of action in pending action, 8 Enf Judgm § 116
chattel paper
  collection rather than sale of, 8 Enf Judgm § 145
  levy on, 8 Enf Judgm § 129
commercial coaches, levy on, 8 Enf Judgm § 128
conflict of laws regarding, 3 Actions § 46
conservatorship estate, property in, 8 Enf Judgm § 116
custody of levying officer, levy on property in, 8 Enf Judgm §§ 125, 136
decedent’s estate, levy on interest in personal property in, 8 Enf Judgm §§ 136, 138
deposit accounts, levy on, 8 Enf Judgm §§ 132, 134
dwelling, levy on property used as, 8 Enf Judgm § 127
equitable redemption as remedy for debtor, 8 Enf Judgm § 165
executory interest, 8 Enf Judgm § 116
Exclusion of evidence—Cont’d
exemptions, see Exemptions from execution
final money judgment
collection rather than sale of, 8 Enf Judgm § 145
levy on, 8 Enf Judgm § 137
franchise granted by public agency, as not subject to execution, 8 Enf Judgm § 116
garnishment, see Garnishment
general intangibles
  collection rather than sale of, 8 Enf Judgm § 145
  levy on, 8 Enf Judgm § 135
going business, levy on property of, 8 Enf Judgm § 126
goods subject to negotiable document of title, levy on, 8 Enf Judgm § 124
guardianship estate, property not subject to execution, 8 Enf Judgm § 116
improper sale after levy
  damages for, 8 Enf Judgm § 167
  setting aside of, 8 Enf Judgm § 164
instruments
  collection rather than sale of, 8 Enf Judgm § 145
  levy on, 8 Enf Judgm § 130
judgment in favor of debtor before appeal is final, 8 Enf Judgm § 116
levy
in general, 8 Enf Judgm § 117 et seq.
affidavit of identity, service with, 8 Enf Judgm § 117
attachment, levy on, see Attachment
exempt property, effect of levy on, 8 Enf Judgm § 175
exemption list, service with, 8 Enf Judgm § 117
levying officer, see levying officer (this group)
mandamus annulling order preventing,
  8 Writs § 255
methods of, 8 Enf Judgm § 117
motion to quash, 8 Enf Judgm § 163
nature of, 8 Enf Judgm § 117
notice of levy, see Writ of execution
order, levy pursuant to, 8 Enf Judgm § 99
property in private place, levy on, 8 Enf Judgm § 100

Index-166
### Execution and levy—Cont’d

<table>
<thead>
<tr>
<th>Levy—Cont’d</th>
<th>Execution and levy—Cont’d</th>
</tr>
</thead>
<tbody>
<tr>
<td>record ownership, based on, 8 Enf Judgm § 104</td>
<td>levying officer—Cont’d</td>
</tr>
<tr>
<td>recording with county recorder, 8 Enf Judgm §§ 117, 119, 122</td>
<td>taking custody of property, manner of, 8 Enf Judgm § 32</td>
</tr>
<tr>
<td>registered process server, levy by, 8 Enf Judgm § 103</td>
<td>unauthorized sale, liability for, 8 Enf Judgm § 33</td>
</tr>
<tr>
<td>sale after, see sale and collection (this group)</td>
<td>limited liability company interest, 8 Enf Judgm § 116</td>
</tr>
<tr>
<td>service of papers with, 8 Enf Judgm §§ 117, 120, 123</td>
<td>mandamus annulling order preventing, 8 Writs § 253</td>
</tr>
<tr>
<td>tangible personal property, see tangible personal property, levy on (this group)</td>
<td>manufactured homes, levy on, 8 Enf Judgm § 128</td>
</tr>
<tr>
<td>third person’s rights and duties after, see third person’s rights and duties after levy (this group)</td>
<td>military personnel, stay of execution for, 8 Enf Judgm § 162</td>
</tr>
<tr>
<td>writ of execution, service with, 8 Enf Judgm §§ 117, 120, 123</td>
<td>minerals, levy on, 8 Enf Judgm §§ 121 et seq., 136</td>
</tr>
<tr>
<td>writ of possession of personal property, see Writ of possession of personal property</td>
<td>motor vehicles, levy on, 8 Enf Judgm § 128</td>
</tr>
<tr>
<td>levying officer</td>
<td>nature of execution on money judgment, 8 Enf Judgm § 99</td>
</tr>
<tr>
<td>collection of instruments by, 8 Enf Judgm § 31</td>
<td>negotiable documents of title, levy on, 8 Enf Judgm § 131</td>
</tr>
<tr>
<td>costs, see Enforcement of judgment defined, 8 Enf Judgm § 21</td>
<td>notice of release, 8 Enf Judgm § 106</td>
</tr>
<tr>
<td>delayed distribution of proceeds, liability for, 8 Enf Judgm § 159</td>
<td>notice of sale</td>
</tr>
<tr>
<td>deposit to cover expenses of, 8 Enf Judgm § 30</td>
<td>in general, 8 Enf Judgm § 146 et seq.</td>
</tr>
<tr>
<td>electronic transactions, 8 Enf Judgm § 33A*</td>
<td>advertising by creditor or debtor, 8 Enf Judgm § 149</td>
</tr>
<tr>
<td>electronic writ, instructions accompanied by, 8 Enf Judgm § 29*</td>
<td>bidders, notice to, 8 Enf Judgm § 148</td>
</tr>
<tr>
<td>endorsement of instruments by, 8 Enf Judgm § 31</td>
<td>personal property, 8 Enf Judgm § 146</td>
</tr>
<tr>
<td>fax transmission, effect of, 8 Enf Judgm § 33A*</td>
<td>persons requesting notice, notice to, 8 Enf Judgm § 148</td>
</tr>
<tr>
<td>filing paper with, 8 Enf Judgm § 26</td>
<td>real property, 8 Enf Judgm § 147</td>
</tr>
<tr>
<td>improper sale, liability for, 8 Enf Judgm § 33</td>
<td>sale without notice, effect of, 8 Enf Judgm § 150</td>
</tr>
<tr>
<td>instructions from judgment creditor, 8 Enf Judgm § 29</td>
<td>order directing seizure of property in private place, application for, 8 Enf Judgm § 100</td>
</tr>
<tr>
<td>Levying Officer Electronic Transactions Act, 8 Enf Judgm § 33A*</td>
<td>partnership interest</td>
</tr>
<tr>
<td>liability of, 8 Enf Judgm § 33</td>
<td>execution, as not subject to, 8 Enf Judgm § 116</td>
</tr>
<tr>
<td>lien of, 8 Enf Judgm § 30</td>
<td>payment by debtor of judgment debtor, effect of, 8 Enf Judgm § 105</td>
</tr>
<tr>
<td>purchase at sale by, 8 Enf Judgm § 153</td>
<td>pending action, levy on property subject of, 8 Enf Judgm § 136</td>
</tr>
<tr>
<td>release, liability for, 8 Enf Judgm § 106</td>
<td>personal effects exemption</td>
</tr>
<tr>
<td>in general, 8 Enf Judgm § 158 et seq.</td>
<td>law corporation, application to, 1 Attys § 24</td>
</tr>
</tbody>
</table>

**Index-167**
Execution and levy—Cont’d
proceeds of sale—Cont’d
abatement of hearing on conflicting claims, 8 Enf Judgm § 160
conflicting claims to, 8 Enf Judgm § 160
deposit in court of, 8 Enf Judgm § 160
distribution of proceeds, 8 Enf Judgm § 158 et seq.
ex parte application for relief, 8 Enf Judgm § 159
installment payments, 8 Enf Judgm § 159
motion for distribution, 8 Enf Judgm § 160
noncash payments, 8 Enf Judgm § 159
order of distribution, 8 Enf Judgm § 158
time for distribution, 8 Enf Judgm § 159
property not subject to execution, 8 Enf Judgm § 116
property subject to execution, 8 Enf Judgm § 115
property taken into custody, release of, 8 Enf Judgm § 106
real property
delivery of deed on sale of, 8 Enf Judgm § 157
levy on, 8 Enf Judgm §§ 118 et seq., 136
notice of sale of, 8 Enf Judgm § 147
receiver, appointment of, for preservation of property, 8 Enf Judgm § 102
registered process server, levy by, 8 Enf Judgm § 103
release of property, 8 Enf Judgm § 106
restitution after reversal of judgment as remedy for debtor, 8 Enf Judgm § 166
rights and remedies of judgment debtor, 8 Enf Judgm § 161 et seq.
safe deposit boxes, levy on, 8 Enf Judgm §§ 133, 134
sale and collection
in general, 8 Enf Judgm § 144 et seq.
bid, 8 Enf Judgm § 153
certificate of sale, execution of, 8 Enf Judgm § 157
credit bid, 8 Enf Judgm § 154
deed, delivery on sale of real property, 8 Enf Judgm § 157

Execution and levy—Cont’d
sale and collection—Cont’d
default of bidder, effect of, 8 Enf Judgm § 155
delivery of possession, 8 Enf Judgm § 157
effect of sale, 8 Enf Judgm § 156
equitable redemption by debtor, 8 Enf Judgm § 165
improper sale, see improper sale after levy (this group)
interest acquired by purchaser, 8 Enf Judgm § 156
judgment creditor, payment by, 8 Enf Judgm § 154
levying officer liability for, 8 Enf Judgm § 33
lots, sale in, 8 Enf Judgm § 151
manner of sale, 8 Enf Judgm § 151
minimum bid, 8 Enf Judgm § 153
motion for order that property be collected, 8 Enf Judgm § 145
notice of intended sale, 8 Enf Judgm § 145
notice of sale, see notice of sale (this group)
order in which property sold, 8 Enf Judgm § 151
payment, 8 Enf Judgm § 154
place of sale, 8 Enf Judgm § 151
postponed sale, 8 Enf Judgm § 152
preservation of property, sale for, 8 Enf Judgm § 102
proceeds of sale, see proceeds of sale (this group)
property to be collected, not sold, 8 Enf Judgm § 145
separately, sale of property as, 8 Enf Judgm § 151
setting aside of improper sale, 8 Enf Judgm § 164
time of sale, 8 Enf Judgm § 151
securities, levy on, 8 Enf Judgm § 131
stay of execution, 8 Enf Judgm § 162
tangible personal property, levy on in general, 8 Enf Judgm § 124 et seq.
debtor, in possession of, 8 Enf Judgm §§ 124, 136
third person in possession of, 8 Enf Judgm § 124
Execution and levy—Cont’d
third person’s rights and duties after levy
in general, 8 Enf Judgm § 139 et seq.
account debtor, 8 Enf Judgm § 142
garnishee, 8 Enf Judgm §§ 139, 140
obligor under instrument, 8 Enf Judgm § 143
secured party, 8 Enf Judgm § 141
timber, levy on, 8 Enf Judgm §§ 121 et seq., 136
trust, beneficial interest in as not subject to execution, 8 Enf Judgm § 116
turnover order, 8 Enf Judgm § 101
unmatured life insurance, endowment, or annuity policy as not subject to execution, 8 Enf Judgm § 116
unvested interest in property as not subject to execution, 8 Enf Judgm § 116
vessels, levy on, 8 Enf Judgm § 128
writ of execution, see Writ of execution
writ of possession of personal property, see Writ of possession of personal property

Executors and administrators
appeal
orders regarding estate administration, see Probate proceedings
representative capacity, appeal in, see Appeal
undertaking, see Stay pending appeal
capacity to sue and be sued, allegation, 5 Plead § 902
complaint, naming in, 4 Plead § 476
instructions by court
proceeding for, 5 Plead § 856
letters
appeal of orders regarding, see Probate proceedings
limitation of actions
pleading on behalf of estate, 3 Actions § 434; 5 Plead § 1118
real party in interest, see Real party in interest
relief from judgment, see Relief from judgment
representation of estate by, 1 Attys § 379
service of process on, see Process
statute of limitations, see limitation of actions (this group)
venue in actions against, see Venue

Exemplary damages, see Punitive damages

Exemptions from execution
in general, 8 Enf Judgm § 168 et seq.
529 accounts, 8 Enf Judgm § 214A*
adjustments by Judicial Council, 8 Enf Judgm § 179
aid to needy persons exemption, 8 Enf Judgm § 210
appeal from order on claim, 8 Enf Judgm § 180
applicability of statutes, 8 Enf Judgm § 169
art works exemption, 8 Enf Judgm § 191
assignors for benefit of creditors as entitled to, 8 Enf Judgm § 170
bankruptcy, exemptions in, 8 Enf Judgm § 178
business, exemption for personal property used in, 8 Enf Judgm § 193
cemetery plots exemption, 8 Enf Judgm § 213
civil service retirement, federal exemption for, 8 Enf Judgm § 214
claim requirement, 8 Enf Judgm §§ 171, 180 et seq.
constitutional requirements, 8 Enf Judgm § 168
contents of claim, 8 Enf Judgm § 181
dates of adjustments by Judicial Council, 8 Enf Judgm § 179
disability benefits exemption, 8 Enf Judgm § 206
disposable earnings, federal exemption for, 8 Enf Judgm § 214
disposition of property during proceedings, 8 Enf Judgm § 186
education of children, funds set aside for, 8 Enf Judgm § 214A*
exempt property, 8 Enf Judgm § 187 et seq.
extension of time for claim, 8 Enf Judgm § 180
federal exemptions, 8 Enf Judgm § 214
financial aid to students exemption, 8 Enf Judgm § 212
financial statement required with claim, 8 Enf Judgm § 181
form of claim, 8 Enf Judgm § 181
health aids exemption, 8 Enf Judgm § 192
health benefits exemption, 8 Enf Judgm § 206

Index-169
Exemptions from execution—Cont’d

hearing on claim, 8 Enf Judgm § 184

heirlooms exemption, 8 Enf Judgm § 191

homestead exemption, see Homestead

household furnishings and personal

effects exemption, 8 Enf Judgm § 189

inmate’s trust account exemption, 8 Enf

Judgm § 198

jewelry exemption, 8 Enf Judgm § 191

judges’ survivor benefits, federal exemp-

tion for, 8 Enf Judgm § 214

Judicial Council forms

claim of exemption, 8 Enf Judgm § 181

financial statement, 8 Enf Judgm § 181

list of exemptions, 8 Enf Judgm § 179

notice of hearing, 8 Enf Judgm § 184

opposition to claim, 8 Enf Judgm § 183

levy on exempt property, effect of, 8 Enf

Judgm § 175

life insurance policies exemption, 8 Enf

Judgm § 199

lighthouse keepers’ survivor benefits,

federal exemption for, 8 Enf Judgm

§ 214

longshore and harbor workers’ compensa-

tion and benefits, federal exemption

for, 8 Enf Judgm § 214

marital property, application to, 8 Enf

Judgm § 173

materials for repair or improvement of

dwelling exemption, 8 Enf Judgm

§ 190

medal of honor benefits, federal exemp-

tion for, 8 Enf Judgm § 214

military benefits, federal exemption for,

8 Enf Judgm § 214

motor vehicle exemption, 8 Enf Judgm

§§ 188, 193

natural persons as entitled to, 8 Enf

Judgm § 170

nature of exemption statutes, 8 Enf Judgm

§ 168

need, determination of exemption based

on, 8 Enf Judgm § 177

notice of claim, 8 Enf Judgm § 182

notice of hearing, 8 Enf Judgm § 184

opposition to claim, 8 Enf Judgm § 183

order on claim, 8 Enf Judgm § 185

paid earnings exemption, 8 Enf Judgm

§ 194

Exemptions from execution—Cont’d

pension benefits, public, 8 Enf Judgm

§ 200 et seq.

periodic adjustments by Judicial Council,

8 Enf Judgm § 179

personal effects, 1 Atty's § 24

personal injury damages exemption, 8 Enf

Judgm § 207

persons entitled to, 8 Enf Judgm § 170

prisoner’s trust account exemption, 8 Enf

Judgm § 198

procedure for claiming, 8 Enf Judgm

§ 180 et seq.

procedures subject to exemptions, 8 Enf

Judgm § 169

profession, exemption for personal prop-

erty used in, 8 Enf Judgm § 193

public benefit payments, exemption for

deposit account containing, 8 Enf

Judgm § 195 et seq.

public employee vacation credits exemp-

tion, 8 Enf Judgm § 203

public retirement benefits exemption, 8

Enf Judgm § 200 et seq.

publication of list of exemptions, 8 Enf

Judgm § 179

purpose of exemption statutes, 8 Enf

Judgm § 168

railroad retirement benefits, federal

exemption for, 8 Enf Judgm § 214

railroad unemployment insurance, federal

exemption for, 8 Enf Judgm § 214

relocation benefits exemption, 8 Enf

Judgm § 211

restrictions on levying officer during

proceedings, 8 Enf Judgm § 186

retirement benefits exemption, 8 Enf

Judgm § 200 et seq.

scope of statutes, 8 Enf Judgm § 169

Social Security benefits, exemption for, 8

Enf Judgm §§ 195 et seq., 214

state tax liability enforcement, availability

in, 8 Enf Judgm § 52

strike benefits exemption, 8 Enf Judgm

§ 205

support judgments

application to, 8 Enf Judgm § 172

disability benefits applied to, effect of,

8 Enf Judgm § 206

earnings assignment order for support,

effect of, 8 Enf Judgm § 202
Exemptions from execution—Cont’d
support judgments—Cont’d
health benefits applied to, effect of, 8
Enf Judgm § 206
retirement benefits applied to, effect of,
8 Enf Judgm §§ 202, 204
strike benefits applied to, effect of, 8
Enf Judgm § 205
unemployment benefits applied to,
effect of, 8 Enf Judgm § 205
workers’ compensation benefits applied
to, effect of, 8 Enf Judgm § 209
tax debtor as entitled to, 8 Enf Judgm § 170
time limits
determining exemption, 8 Enf Judgm § 176
filing claim, 8 Enf Judgm § 181
hearing on claim, 8 Enf Judgm § 184
opposing claim, 8 Enf Judgm § 183
tracing exempt funds, 8 Enf Judgm § 174
trade, exemption for personal property
used in, 8 Enf Judgm § 193
unemployment benefits exemption, 8 Enf
Judgm § 205
Uniform Exemptions Act, 8 Enf Judgm § 168
veterans’ benefits, federal exemption for,
8 Enf Judgm § 214
waiver of exemption, 8 Enf Judgm § 171
welfare benefit payments, exemption for
deposit account containing, 8 Enf
Judgm § 195 et seq.
workers’ compensation benefits exemp-
tion, 8 Enf Judgm § 209
wrongful death damages exemption, 8 Enf
Judgm § 208

Exhaustion of administrative remedies
—in general, 3 Actions § 325 et seq.
agency decisions, review of, see
Administrative Procedure Act
agricultural rule, action involving, 3
Actions § 331
alternative judicial remedy, effect of, 3
Actions § 343
appellate ruling, administrative enforce-
ment, 3 Actions § 328
automobile dealerships and franchises,
actions involving, 3 Actions § 332
bank, action involving, 3 Actions § 331
civil rights actions, 3 Actions § 346

costal zone regulation exemption claim,
3 Actions § 335
constitutional issues, actions raising, 3
Actions §§ 334, 344
decision of agency known, effect of, 3
Actions §§ 340, 341
declaratory relief, 5 Plead § 875
duplicative remedies, 3 Actions § 327
Fair Employment and Housing Act, see
Fair Employment and Housing Act
irreparable injury, effect of, 3 Actions
§ 342
jurisdiction, agency lacking in, effect of, 3
Actions §§ 338, 339
jurisdictional requirements, 3 Actions
§ 325
Labor Code violations, civil actions for,
3 Actions §§ 326*, 331*, 337*, 339*
lack of effective remedy, effect of, 3
Actions §§ 336, 337
licenses, actions involving, 3 Actions
§ 331
motor vehicle dealerships and franchises,
actions involving, 3 Actions § 332
permits, actions involving, 3 Actions
§ 331
pollution laws, actions under, 3 Actions
§ 331
primary jurisdiction doctrine compared,
3 Actions § 330
prisoners, actions by, 3 Actions §§ 331,
346
public employee’s employment action,
3 Actions § 331
public rights, action involving, 3 Actions
§ 345
rehearing application by administrative
body, 3 Actions § 329
scope of requirement, 3 Actions § 326
state-mandated cost, reimbursement
action, 3 Actions § 331
subject matter jurisdiction, effect on, 2
Jurisd § 92 et seq.
tax proceedings, 3 Actions § 333
zoning challenges, 3 Actions §§ 331, 334

Exhaustion of contract or private
remedies
—in general, 3 Actions § 314 et seq.

Index-171
Exhaustion of contract or private remedies—Cont’d
arbitration, see Arbitration
unincorporated association, internal remedies, see Unincorporated associations

Exhaustion of judicial remedies
in general, 3 Actions § 347 et seq.
administrative mandamus, 3 Actions § 349
extrinsic fraud or mistake, relief from judgment based on, 3 Actions § 347
mandamus, 3 Actions § 347 et seq.
prohibition, 3 Actions § 347
state court remedies in federal actions, 3 Actions § 347
tort actions, 3 Actions §§ 348, 349

Exhaustion of remedies
in general, 3 Actions § 313 et seq.
administrative, see Exhaustion of administrative remedies
contract, see Exhaustion of contract or private remedies
Fair Employment and Housing Act, see Fair Employment and Housing Act
government tort claims, see Government tort claims
judicial, see Exhaustion of judicial remedies
private, see Exhaustion of contract or private remedies
unincorporated association, internal remedies, see Unincorporated associations

Exhibits
appendix on appeal, inclusion in, 9
Appeal § 653
clerk’s transcript on appeal, inclusion in, 9
Appeal § 647
costs, recovery of cost of as, 7 Judgm § 131
custody of, 2 Courts § 372
destruction of, 2 Courts § 373
pleadings, in, see Pleading

Expert witnesses—Cont’d
compensation
in general, 7 Judgm § 133
compromise, offer to recovery of export witness fees, 6 PWT § 112
conflicts of interest involving, see Attorney-client relationship
costs
offer to compromise, 6 PWT § 112
recovery of fees as, 7 Judgm §§ 121, 129
Department of Fair Employment and Housing, 9 Admin Proc § 188
deposition of
use in summary judgment, 6 PWT § 229
fees
recovery of, as costs, see costs (this group)
instructions to jury, see Instructions to jury
limitation and accrual of actions, 3 Actions §§ 481, 564, 668
offer to compromise, effect of nonacceptance, 6 PWT § 111
statute of limitations, 3 Actions §§ 481, 668
summary judgment, use of deposition in, 6 PWT § 229
venue of actions, 3 Actions § 886

Expungement
criminal records, action for, see Legal and equitable actions
lis pendens, see Lis pendens

Extrinsic fraud
equitable relief against judgment, as ground for, see Equitable relief against judgment

Extrinsic mistake
equitable relief against judgment, as ground for, see Equitable relief against judgment

529 accounts
enforcement of judgment against, see Exemptions from execution

Fair Debt Buying Practices Act, 8 Enf Judgm § 12A*

Fair Debt Collection Practices Act
in general, 8 Enf Judgm § 5 et seq.
Fair Debt Collection Practices Act
—Cont’d
attorneys, applicability to, 8 Enf Judgm § 5
attorneys’ fees, 7 Judgm § 224
automobile repair shop, exclusion of, 8 Enf Judgm § 7
communications, use of, 8 Enf Judgm § 8
consumer debt, sale by creditor, 8 Enf Judgm § 10*
debtor
identity theft claim by, effect of, 8 Enf Judgm § 10
responsibilities, 8 Enf Judgm § 11
violation as defense to creditor’s violation, 8 Enf Judgm § 12
disclosures, use of, 8 Enf Judgm § 8
false representations, use of, 8 Enf Judgm § 8
federal law
failure to comply with, 8 Enf Judgm § 8
preemption by, 8 Enf Judgm §§ 5, 6
harassment, use of, 8 Enf Judgm § 8
identity theft claim by debtor, effect of, 8 Enf Judgm § 10
judicial proceedings, use of, 8 Enf Judgm § 8
nature of Act, 8 Enf Judgm § 5
notice of rights, 8 Enf Judgm § 9
notice required before action, 3 Actions § 204
overreaching by collector, 8 Enf Judgm § 8
prohibited practices, 8 Enf Judgm § 8
Rosenthal Fair Debt Collection Practices Act, 8 Enf Judgm § 5*
scope of Act, 8 Enf Judgm § 5
threats, use of, 8 Enf Judgm § 8
violation
remedies for, 8 Enf Judgm § 12
waiver of rights, enforceability of, 8 Enf Judgm § 12

Fair Employment and Housing Act
—Cont’d
exhaustion of administrative remedies, 3 Actions §§ 225, 331
government tort claims requirement
applicability, 3 Actions § 246
housing claims, 3 Actions § 225
limitation and accrual of actions, 3 Actions §§ 481, 564, 668
statute of limitations, 3 Actions §§ 481, 668
venue of actions, 3 Actions § 886

Fair Employment and Housing Commission, 9 Admin Proc § 188

Fair Employment and Housing Council, 9 Admin Proc § 188*

Fair Political Practices Commission, 9 Admin Proc § 208

False advertising
injunction against, 6 Prov Rem § 310
limitation and accrual of actions in general, 3 Actions § 483
accrual of cause of action on discovery of facts, 3 Actions § 497
discovery of facts, accrual of cause of action on, 3 Actions § 497
pleading, 5 Plead §§ 716, 781
restitution for, 6 Prov Rem § 310
Unauthorized Insurers False Advertising Process Act, 3 Actions § 1024

False arrest
false imprisonment, see False imprisonment

False Claims Act
attorneys’ fees, see Attorneys’ fees
federal jurisdiction, 2 Jurisd § 82*
limitations period, 3 Actions § 486*
statute of limitations, 3 Actions § 486*

False imprisonment
arrest
allegations regarding, 5 Plead §§ 764, 765
government tort claims, see Government tort claims
tolling of limitations period during criminal proceedings, 3 Actions § 721
False imprisonment—Cont’d
arrest with warrant
pleading, 5 Plead § 765
government tort claims, see Government
tort claims
instructions to jury, 7 Trial § 286
jury instructions, 7 Trial § 286
limitation and accrual of actions, 3
Actions §§ 481, 549
malicious prosecution distinguished, 5
Plead §§ 763
nature of action, 5 Plead § 763
pleading
in general, 5 Plead § 763 et seq.
arrest with warrant, 5 Plead § 765
arrest without warrant, 5 Plead § 764
privilege, effect of, 5 Plead § 763
statute of limitations, 3 Actions § 481
tolling of limitations period during crimi-
nal proceedings, 3 Actions § 721
venue, see Venue
warrantless arrest, allegation of, 5 Plead
§ 764

Family Conciliation Court
Conciliation Court fee, 4 Plead § 26
counselor, 2 Courts § 343
jurisdiction of, 2 Courts §§ 218, 232
nature of court, 2 Courts § 218
public, exclusion from proceedings under,
2 Courts § 34

Family law
abatement of actions, 3 Actions § 18
adoption, see Adoption
appearance, 5 Plead § 894
appellate records, electronic access to, see
Record on appeal
attorney’s authority, see Attorneys
attorneys’ fees
in general, 7 Judgm § 158
stay of award pending appeal, see Stay
pending appeal
authority of attorney, see Attorneys
community and separate property, see
Community and separate property
costs, stay of award pending appeal, see
Stay pending appeal
default, see Default judgment
dissolution of marriage, see Dissolution of
marriage

family law—Cont’d
enforcement of judgment, see Enforce-
ment of judgment
execution of judgment, see Execution and
levy
exemptions to execution of judgment, see
Exemptions from execution
Family Conciliation Court, see Family
Conciliation Court
fast track rules, exclusion from, 2 Courts
§ 257
federal jurisdiction over, 2 Jurisd § 85
filing fees, 2 Courts § 180
foreign domestic relations judgments,
enforceability of, see Uniform
Foreign-Country Money Judgments
Recognition Act; Uniform Foreign-
Money Claims Act
forum non conveniens, see Inconvenient
forum
in forma pauperis suit fees, see In forma
pauperis suit
inconvenient forum, see Inconvenient
forum
injunctive relief available, 5 Plead § 890
joinder of parties, 5 Plead § 887 et seq.
judgment, 5 Plead § 897
judicial arbitration, proceedings excluded
from, 6 PWT § 583
Judicial Council forms, 2 Courts § 416; 4
Plead § 382
judicial education on, 2 Courts § 396
jurisdiction, transferring, 2 Jurisd § 406*;
3 Actions § 916*
lis pendens, see Lis pendens
motions, 5 Plead § 895
offer to compromise, availability of, 6
PWT § 83
parties
in general, 5 Plead § 887 et seq.
designation of, 4 Plead § 67; 5 Plead
§ 887
peremptory challenge to judge in proceed-
ings, 2 Courts § 154
petition, 5 Plead § 892
pleadings, 4 Plead § 4; 5 Plead § 891 et
seq.
public proceedings, exceptions for, 2
Courts § 34
receiver, appointment of, see Receivers
relief available, 5 Plead §§ 890, 891
Family law—Cont’d

renewal of judgment, see Renewal of judgment
rules, see Rules of Court
sanctions for violations of Rules of Court, see Rules of Court
specialist, certification of attorney as, 1
Attys § 10
stipulation
authority of attorney, see Stipulations for judgment, see Stipulations
summons, 3 Actions § 992; 5 Plead § 894
trial court delay reduction rules, exclusion from, 2 Courts § 257
trial of family law issues, see Trial
withdrawal by attorney, see Attorney-client relationship

Family law proceedings

filing fees
military servicemember, 4 Plead § 27
judgment
form of judgment, 5 Plead § 897
notice of entry of judgment, 5 Plead § 897
request for judgment, 5 Plead § 897
stipulating for judgment, 5 Plead § 897
Judicial Council forms
in general, 2 Courts § 416; 4 Plead § 382
marriage, 2 Courts § 403A*

Family protection

appeal of orders, 9 Appeal § 216
family allowance
appeal of orders regarding, 9 Appeal § 216
stay pending appeal, see Stay pending appeal
setting aside probate homestead
appeal of orders regarding, see Probate proceedings

Farm labor

Agricultural Labor Relations Board
in general, 9 Admin Proc § 177
appeal of enforcement judgment, 9
Appeal § 149
certiorari review, 8 Writs § 12 et seq.
judicial review, see judicial review (this group)

Farm labor—Cont’d

Agricultural Labor Relations Board
—Cont’d
jurisdiction, see jurisdiction (this group)
limitations period for review of proceedings, 9 Admin Proc § 129
review of proceedings, 8 Writs §§ 12 et seq., 266; 9 Admin Proc § 121
fraud in hiring farm workers, class action, 4 Plead § 305
judicial review
Agricultural Labor Relations Board, judgment of, 9 Appeal § 150
jurisdiction
Agricultural Labor Relations Board, 2
Courts § 211

Farm products, see Crops

Fast track, see Trial court delay reduction

Fax
cover sheet, 4 Plead § 20
filing agency, filing pleadings through, 4
Plead § 20
filing pleadings by, 4 Plead § 20

Federal Arbitration Act, 6 PWT §§ 506, 508*

Federal civil rights legislation

accrual of actions, 3 Actions §§ 553, 558, 665
alternative actions under, 3 Actions § 178
exhaustion of administrative remedies, see Exhaustion of administrative remedies
imprisonment, effect on tolling of limitations period, 3 Actions § 703
jurisdiction over, 2 Jurisd § 82
limitation and accrual of actions, 3
Actions §§ 553, 558, 665, 703

Federal courts
in general, 2 Jurisd § 56 et seq.
Administrative Procedure Act, effect on jurisdiction, 2 Courts § 74*
admiralty cases, jurisdiction over, 2 Jurisd §§ 75, 81
ancillary jurisdiction, 2 Jurisd §§ 72, 73
armed forces, court of appeals for, 2
Jurisd § 64

Index-175
Federal courts—Cont’d
bankruptcy cases and proceedings, jurisdiction over, 2 Jurisd § 76
certification of questions to California Supreme Court, see Supreme Court civil jurisdiction, 2 Jurisd § 65 et seq.
civil rights cases, jurisdiction over, 2 Jurisd § 82
class actions, see Class actions compact, jurisdiction over, 2 Jurisd § 74 concurrent jurisdiction with state courts, 2 Jurisd §§ 81 et seq., 432, 435 et seq.
copyright cases, jurisdiction over, 2 Jurisd § 77 court of appeals, 2 Jurisd § 58 Court of Federal Claims, 2 Jurisd § 61 Court of International Trade, 2 Jurisd § 62 court system, 2 Jurisd § 57 et seq.
criminal jurisdiction, 2 Jurisd § 80 diplomatic missions, jurisdiction over proceedings against members of, 2 Jurisd § 79 discretionary appeal, availability of, 9 Appeal § 88 district court, 2 Jurisd § 57 diversity of citizenship jurisdiction in general, 2 Jurisd § 66 et seq. corporations, 2 Jurisd § 67 partnerships, 2 Jurisd § 68 political subdivisions of state, 2 Jurisd § 70 unincorporated associations, 2 Jurisd § 69 domestic relations cases, jurisdiction over, 2 Jurisd § 85 equitable relief against judgment, see Equitable relief against judgment exclusive jurisdiction, 2 Jurisd § 74 et seq.
family law cases, jurisdiction over, 2 Jurisd § 85 Federal Employers’ Liability Act cases, jurisdiction over, 2 Jurisd § 82 federal question jurisdiction, 2 Jurisd § 65 foreign attorneys, practice in, see Attorneys foreign consuls, jurisdiction over proceedings against, 2 Jurisd § 79 interference with state proceedings, 2 Jurisd §§ 86, 87 Federal courts—Cont’d
joinder, denial of jurisdiction based on, 2 Jurisd § 85 judicial power, 2 Jurisd § 56 maritime cases, jurisdiction over, 2 Jurisd § 75 Medicare Act, jurisdiction over cases under, 2 Jurisd § 74 notice of appeal, time for filing, see Notice of appeal out-of-state attorneys, practice in, see Attorneys parties, jurisdiction based on, 2 Jurisd § 71 patent cases, jurisdiction over, 2 Jurisd § 77 pendent jurisdiction, 2 Jurisd §§ 72, 73 pension claims, jurisdiction over, 2 Jurisd § 85 precedential effect of California court decisions on, see Stare decisis prize cases, jurisdiction over, 2 Jurisd § 75 probate cases, jurisdiction over, 2 Jurisd § 85 refusal to assume jurisdiction in general, 2 Jurisd § 363 et seq. Burford abstention, 2 Jurisd § 364 political questions, effect of, 2 Jurisd § 366 state law or policy, actions involving, 2 Jurisd § 364 state remedy not exhausted, effect of, 2 Jurisd § 365 Supreme Court, see Supreme Court (this group) removal to federal court cases removable, 2 Jurisd § 83 procedure, 2 Jurisd § 84 time to plead, effect on, 4 Plead § 7 res judicata, see Res judicata stare decisis effect of California court decisions on, see Stare decisis state judgment, effect of, 7 Judgm § 354 state law, determination by California Supreme Court on request of, 2 Courts § 330 state officer, action against, 2 Jurisd § 74 state proceedings, interference with, 2 Jurisd § 86

Index-176
Federal courts—Cont’d
statute, jurisdiction over recovery or enforcement of fine, penalty or forfeiture under, 2 Jurisd § 78
subject matter jurisdiction, 2 Jurisd § 70
Supreme Court
appellate jurisdiction, 2 Jurisd § 60
finality of decisions for, 9 Appeal § 840
mootness, 9 Appeal § 750
original jurisdiction, 2 Jurisd § 59
recall of remittitur as response to remand by, 9 Appeal § 851
refusal of original jurisdiction, 2 Jurisd § 367
review of writ decisions by, 8 Writs § 222
Tax Court, 2 Jurisd § 63
trademark cases, jurisdiction over, 2 Jurisd § 82
Federal Employers’ Liability Act (FELA) jurisdiction over, 2 Jurisd § 81
pleading, 5 Plead § 928
venue, agreement limiting to particular state, 3 Actions § 785

Federal Resource Conservation and Recovery Act, 6 Prov Rem § 26

Fees, see Attorneys’ fees; Filing fees

FEHA, see Fair Employment and Housing Act

FELA, see Federal Employers’ Liability Act (FELA)

Felonies
limitation of actions, see Limitation and accrual of actions
personal injury action against felon, limitations period, 3 Actions §§ 481, 488

Fictitious business names
corporation
default against, 6 PWT § 136
small claims court action, use in, 2 Courts § 293

Fictitious defendants—in general, 4 Plead § 478 et seq.
actual ignorance, effect of, 4 Plead § 481

Fictitious defendants—Cont’d
amendment of pleadings to substitute true name
in general, 4 Plead § 489 et seq.; 5 Plead § 1219
application, 4 Plead § 489
change of venue pending, effect of, 4 Plead § 491
delay in seeking, effect of, 4 Plead § 490
effect of amendment, 4 Plead § 493
ex parte proceedings, 6 PWT § 58
failure to amend, effect of, 4 Plead § 494
order, 4 Plead § 489
pending action requirement, 4 Plead § 492
appearance, 4 Plead § 488
cause of action, ignorance of, 4 Plead § 484 et seq.
delay in service, effect on discretionary dismissal for, 6 PWT § 444
excusable ignorance requirement, 4 Plead § 482
form of allegation, 4 Plead § 487
ignorance, allegation of, 4 Plead § 480
procedure, 4 Plead § 487 et seq.
public entity defendant, 4 Plead § 486
service, 4 Plead § 488
speculative listing of, 4 Plead § 483
substitution of true name, see amendment of pleadings to substitute true name (this group)
summons, 3 Actions §§ 983, 991
true name
amendment to substitute, see amendment of pleadings to substitute true name (this group)
known, effect of, 4 Plead § 479
not known, effect of, 4 Plead §§ 481, 482
venue, effect of joinder on, 3 Actions § 900

Fictitious plaintiff, see Complaint

Fiduciaries
attorneys as, see Attorney-client relationship; Attorneys’ fees
breach of duty, see Breach of fiduciary duty
constructive trust, see Constructive trusts
Fiduciaries—Cont’d
conversion by, 3 Actions § 625
delayed accrual of actions against, 3
  Actions § 679
fiduciary shield doctrine, 2 Jurisd §§ 147, 156, 157
fraud by
  legal nature of action, 3 Actions § 124
jury trial in action against fiduciary to recover secret profit, 7 Trial § 85
pleading regarding, 4 Plead § 386
res judicata, effect of representation by, see Res judicata

Filing fees
in general, 2 Courts § 180; 4 Plead § 25 et seq.
additional fees, 4 Plead § 26
adoption proceedings, 4 Plead § 27
amended complaint or cross-complaint, 4
  Plead § 25
collection of, 2 Courts § 367
credit cards, paying with, 4 Plead § 19
criminal action, 4 Plead § 27
criminal conduct, civil action based on, 4
  Plead § 27
custody proceedings, 4 Plead § 27
disclaimer, 4 Plead § 27
distribution of fees, 4 Plead § 28
election proceedings, 4 Plead § 27
electronic filing, payment of, 4 Plead § 22
electronic filing and service
  payment of, 4 Plead § 22
  recovery of as costs, 7 Judgm §§ 126*, 127*
exemptions, 4 Plead § 27
failure to pay, effect of, 4 Plead § 19
Family Code actions, 4 Plead § 27
first pleading or paper, 4 Plead § 25
governmental exemption, 4 Plead § 27
high-frequency litigants, see Americans With Disabilities Act; Unruh Civil Rights Act
in forma pauperis suit, 3 Actions § 418
jurisdiction, effect on, 2 Jurisd § 102
military service, effect of, 4 Plead § 27
notice of appeal, see Notice of appeal plaintiff’s first pleading or paper, 4 Plead § 25

Filing fees—Cont’d
pleadings, paying with, 4 Plead § 19
posted schedule, 4 Plead § 25
pro hac vice, fee to appear as, 1 Attys § 389; 4 Plead § 25*
protective order, enforcement of, 4 Plead § 27
small claims court, see Small claims court
stipulation for appointment of judge, 4
  Plead § 27
subsequent pleadings, 4 Plead § 25
support proceedings, 4 Plead § 27
uniform civil fees
  in general, 2 Courts § 180; 4 Plead § 25
  additional fees, limitation on, 4 Plead § 26
  small claims court, 2 Courts §§ 180, 290
unlawful detainer, 4 Plead § 26

Financial institutions
Department of Financial Institutions, see Department of Financial Institutions

Financial Institutions Law, 3 Actions § 227*

Financial Responsibility Law
in general, 8 Enf Judgm § 437 et seq.
admission to bar, 8 Enf Judgm § 440
driver’s license suspension
  in general, 8 Enf Judgm § 441 et seq.
duration, 8 Enf Judgm § 441
employment purposes exception, 8 Enf Judgm § 441
evidence at hearing, 8 Enf Judgm § 442
exceptions, 8 Enf Judgm § 441
false evidence of financial responsibility, suspension for providing, 8
  Enf Judgm § 443
good faith belief of insurance, effect of, 8 Enf Judgm § 441
health care exception, 8 Enf Judgm § 441
hearing, 8 Enf Judgm § 442
notice, 8 Enf Judgm § 442
postjudgment suspension, effect of, 8
  Enf Judgm § 441
scope, 8 Enf Judgm § 441
time for decision, 8 Enf Judgm § 442
transporting minor dependent to school, exception for, 8 Enf Judgm § 441
Financial Responsibility Law—Cont’d
driver’s license suspension—Cont’d
unsatisfied judgment, suspension following, 8 Enf Judgm § 444
evidence of financial responsibility requirement, 8 Enf Judgm § 440

Fire
insurance
limitations period for action on policy, 3 Actions § 481
new trial based on loss of papers in, see New trial

Firearms
gun violence restraining orders, see Gun violence restraining orders
harassment enjoined, restriction on possessing, 6 Prov Rem § 319
restraining orders involving gun violence, see Gun violence restraining orders
workplace harassment enjoined, restriction on possessing, 6 Prov Rem § 319

First Amendment
in general, see Freedom of religion;
Freedom of speech, press, and assembly

Fish and game
Department of Fish and Game, 9 Admin Proc § 185

Fixtures
joinder in innocent improver’s removal action, 4 Plead § 193
removal
joinder in innocent improver’s action, 4 Plead § 193

Food and beverages
Director of Food and Agriculture, attachment in action by, for fees, 6 Prov Rem § 57
impurity of, nature of action based on, 3 Actions §§ 165, 166

Forcible entry and detainer
amount in controversy, 2 Jurisd § 34
appeal
new cause of action, effect on, 9
Appeal § 21
stay pending appeal, 9 Appeal §§ 245, 246

Forcible entry and detainer—Cont’d
cause of action, new, effect on appeal, 9
Appeal § 21
continuance, 7 Trial § 31
limited civil case, 2 Courts § 244
new trial, availability in proceedings, 8
Attack § 22
pleading forcible detainer, 5 Plead § 653
pleading forcible entry
in general, 5 Plead § 649 et seq.
damage, 5 Plead § 652
entry by defendant, 5 Plead § 651
possession by plaintiff, 5 Plead § 650
withholding by defendant, 5 Plead § 652
special proceeding as, 3 Actions § 65
stay pending appeal, 9 Appeal §§ 245, 246
summary judgment, availability of, 6
PWT § 204
unlawful detainer, see Unlawful detainer
verification of complaint, 4 Plead § 466

Foreclosure
lien foreclosure, see Liens
mortgage foreclosure, see Mortgages

Foreign corporations
capacity to sue and be sued
in general, 3 Actions § 213; 4 Plead § 88
allegation of, 5 Plead § 900
forum non conveniens, see Inconvenient forum
inconvenient forum, see Inconvenient forum
jurisdiction over, see Jurisdiction personal jurisdiction, see Jurisdiction reorganization, effect on jurisdiction, 2
Jurisd § 176A*
security for costs, see Security for costs
service of process on, see Process
sue and be sued, capacity to, see capacity to sue and be sued (this group)
venue for actions against, 3 Actions § 850 et seq.

Foreign countries
consular officers, see Consular and diplomatic officers
diplomats, see Consular and diplomatic officers
Foreign countries—Cont’d
judgments of, see Foreign judgments
limitation and accrual of actions, see
Limitation and accrual of actions
service of process in, see Process
statute of limitations, see Limitation and
accrual of actions

Foreign judgments
collateral attack on, see Collateral attack
conflict of laws regarding, 3 Actions § 46
enforcement of, conflict of laws regard-
ing, 3 Actions § 46
Foreign Sovereign Immunities Act, 3
Actions § 1006
recognition, conflict of laws regarding, 3
Actions § 46
res judicata, see Res judicata
Uniform Foreign-Country Money Judg-
ments Recognition Act, see Uniform
Foreign-Country Money Judgments
Recognition Act

Foreign Sovereign Immunities Act, 3
Actions § 1006

Forensic evidence
testimony regarding, see Expert witnesses

Forests and timber
injury to, limitation and accrual of
actions, 3 Actions § 485
judgment lien
in general, 8 Enf Judgm § 97
timber as subject to, see Judgment liens
levy on, 8 Enf Judgm §§ 121 et seq., 136
manufactured timber products, attachment
of, 6 Prov Rem § 57

Forfeitures
abatement proceedings as, 3 Actions § 70
proceedings, nature of, 3 Actions § 70

Forum non conveniens
in general, see Inconvenient forum

Foster homes and foster parents
action against foster parent
limitations period in, 3 Actions § 227
notice requirement by Family Home
and Small Family Home Insurance
Fund, 3 Actions § 227
statute of limitations in, 3 Actions
§ 227

Foster homes and foster parents—Cont’d
foster parent, action against, see action
against foster parent (this group)

Franchise
automobile, see Automobile sales
Franchise Relations Act
venue of claims subject to, 3 Actions
§ 785
limitations periods for actions involving,
3 Actions §§ 481, 482, 484
specialist in franchise and distribution
law, certification of attorney as, 1
Atys § 10

Franchise Tax Board
in general, 9 Admin Proc § 189

Franchise taxes
attorneys’ fees in actions involving, see
Attorneys’ fees

Fraud and deceit
accounting action based on, 3 Actions
§ 132
accrual of actions, see limitation and
accrual of actions (this group)
admission to practice law, consideration
in, see Attorneys
advertising, see False advertising
affirmative defense, as, see Answer
alternative actions for, 3 Actions § 175
answer, raising as affirmative defense, see
Answer
arbitration agreement, defense to enforce-
ment of, 6 PWT § 541 et seq.
arbitration award, grounds for vacating, 6
PWT § 570
attorney discipline based on fraud, see
Attorney discipline
breach of contract, fraudulent, see Breach
of contract
conclusion of law, pleading of fraud as, 4
Plead § 384
corporate shares of stock, see Corporate
shares of stock
Fraud and deceit—Cont’d

corporations, see Corporations

in general, 5 Plead § 941
damages

division of property on dissolution of marriage

ground for relief from judgment, 8

Attack § 2
equitable actions based on, 3 Actions § 132

extrinsic

accrual of actions based on, see limitation and accrual of actions (this group)
equitable relief against judgment based on, see Equitable relief against judgment

exhaustion of judicial remedies, 3

Actions § 347

judgment obtained by, see Equitable relief against judgment

fiduciaries, committed by, see Fiduciaries

fraudulent transfers, see Fraudulent transfers

inducement to contract, see Fraud in contracting

instructions to jury, see jury instructions (this group)

judgment obtained by, see Equitable relief against judgment

jury instructions

in general, 7 Trial § 286

jury trial, right to, 7 Trial §§ 84, 86

legal actions based on

in general, 3 Actions § 131

pleading fraud as cause of delayed accrual, 5 Plead § 929

quasi-contract actions, 3 Actions §§ 656, 657
tort actions, 3 Actions § 653

limitation and accrual of actions

in general, 3 Actions §§ 483, 653 et seq.

artwork, action to recover, 3 Actions §§ 486*, 620*, 622A*, 623*, 653*

constructive trusts, 3 Actions § 680 et seq.
discovery of facts, accrual on, 3 Actions §§ 497, 659 et seq.
equitable actions, 3 Actions § 654

equitable relief against judgment based on, see Equitable relief against judgment

fraudulent transfers, see Fraudulent transfers

inducement to contract, see Fraud in contracting

instructions to jury, see jury instructions (this group)

judgment obtained by, see Equitable relief against judgment

jury instructions

in general, 7 Trial § 286

jury trial, right to, 7 Trial §§ 84, 86

legal actions based on

in general, 3 Actions § 131

pleading fraud as cause of delayed accrual, 5 Plead § 929

quasi-contract actions, 3 Actions §§ 656, 657
tort actions, 3 Actions § 653

limitation and accrual of actions

in general, 3 Actions §§ 483, 653 et seq.

artwork, action to recover, 3 Actions §§ 486*, 620*, 622A*, 623*, 653*

constructive trusts, 3 Actions § 680 et seq.
discovery of facts, accrual on, 3 Actions §§ 497, 659 et seq.
equitable actions, 3 Actions § 654

Fraud and deceit—Cont’d

limitation and accrual of actions—Cont’d

late discovery of facts, 3 Actions § 659 et seq.
quasi-contract actions, 3 Actions §§ 656, 657
tort actions, 3 Actions § 653

lis pendens based on, 3 Actions § 400

moral turpitude, see Attorney discipline

negligent misrepresentation

corporations, pleading in actions against, 5 Plead § 712

intent, 5 Plead § 728

knowledge of falsity, 5 Plead § 727

personal jurisdiction over person brought into state by, 2 Jurisd § 125

pleading

in general, 4 Plead § 384; 5 Plead § 709 et seq.

advertising, fraud in, 5 Plead § 716

causation, 5 Plead § 730 et seq.

constructive fraud, 5 Plead § 717

conversion action, 5 Plead § 715
corporations, actions against, 5 Plead § 712
election of remedies, 5 Plead §§ 709, 715

elements of cause of action, 5 Plead § 710

falsity, 5 Plead § 723 et seq.

intent, 5 Plead §§ 728, 729

justifiable reliance, 5 Plead §§ 732, 733

knowledge of falsity, 5 Plead §§ 726, 727

municipalities, actions against, 5 Plead § 713

particularity in pleading requirement, 5

Plead § 711

quasi-contract action, 5 Plead § 715

reformation action, 5 Plead § 715

relance, 5 Plead §§ 730, 732, 733

representation, see pleading of representation (this group)

scienter, 5 Plead §§ 726, 727

specific pleading requirement, 5 Plead § 711 et seq.

specific recovery requirement, 5 Plead § 715

pleading of representation

in general, 5 Plead § 718 et seq.

active concealment, 5 Plead § 722

fact representation, 5 Plead § 719
Fraud and deceit—Cont’d
pleading of representation—Cont’d
false promise, 5 Plead §§ 721, 728
intention, representation of, 5 Plead § 721
opinion, actionable representation of, 5 Plead § 720
suppression, 5 Plead § 722
quasi-contract action based on, see Quasi-contracts
real property recovery actions, see Real property receiver, 6 Prov Rem § 437
reformation based on, see Reformation of contract
relief from judgment, as grounds for, 8 Attack § 151
representation, pleading of, see pleading of representation (this group)
recession
restitution after, see Restitution restitution based on, 3 Actions § 182
spousal support award, see Spousal support statute of limitations, see limitation and accrual of actions (this group)
transfers, fraudulent, see Fraudulent transfers
trusts, nature of actions involving, 3 Actions § 131
venue, 3 Actions § 830
Fraud in contracting
arbitration agreement, defense to enforcement of, 6 PWT § 543
contract remedy, 3 Actions §§ 152 et seq., 156
election of remedies, when required, 3 Actions § 181
enforceable contract, remedies, 3 Actions § 152
illegal contract, remedies, 3 Actions § 153
limitation and accrual of actions, see Fraud and deceit remedies, 3 Actions §§ 152 et seq., 156
statute of frauds, contract in violation of, remedy, 3 Actions § 154
tort remedy, 3 Actions §§ 152 et seq., 156
Frauds, statute of, see Statute of frauds
Fraudulent transfers—Cont’d
attachment of fraudulently transferred property, 6 Prov Rem § 81
bulk sales, 8 Enf Judgm § 504
classes of, 8 Enf Judgm § 479
complaint to set aside, 5 Plead § 882
creditors
choice of remedies, 8 Enf Judgm § 479
effect of, 8 Enf Judgm § 481
fiduciary relationship, effect of, 8 Enf Judgm § 481
former law, Uniform Fraudulent Conveyance Act, 8 Enf Judgm § 483 et seq.
instructions to jury, 7 Trial § 287
limitation and accrual of actions, see Fraud and deceit
nature of, 8 Enf Judgm § 479
personal action against transferee, 8 Enf Judgm § 482
pleading action to set aside, 5 Plead § 882
preference distinguished, 8 Enf Judgm § 480
preferential transfer by assignee for benefit of creditors, avoidance of, 8 Enf Judgm § 505
real property
lien to enforce judgment, effect of transfer on, see Judgment liens unlawful transfers of, 8 Enf Judgm § 506
receiver, appointment of, see Receivers
transfer of exempt property distinguished, 8 Enf Judgm § 480
transfer of personal property without change of possession, 8 Enf Judgm § 503
Uniform Fraudulent Transfer Act
in general, 8 Enf Judgm § 488 et seq.
“asset” defined, 8 Enf Judgm §§ 489, 490
attachment under, see Attachment
“claim” defined, 8 Enf Judgm §§ 489, 490
“creditor” defined, 8 Enf Judgm § 489
“debt” defined, 8 Enf Judgm § 489
“debtor” defined, 8 Enf Judgm § 489
debtor’s location, 8 Enf Judgm § 502A*
“electronic” defined, 8 Enf Judgm § 489*
governing law, 8 Enf Judgm § 502A*
Fraudulent transfers—Cont’d
Uniform Fraudulent Transfer Act
—Cont’d
injury to creditor requirement, 8 Enf Judgm § 497
insolvency, presumption of, 8 Enf Judgm § 490
judgment underlying action as beginning of limitations period, 8 Enf Judgm § 494
“lien” defined, 8 Enf Judgm § 489
limitations period, 8 Enf Judgm § 492 et seq.
“organization” defined, 8 Enf Judgm § 489*
“person” defined, 8 Enf Judgm § 489
“property” defined, 8 Enf Judgm § 489
“record” defined, 8 Enf Judgm § 489*
remedies of creditors, 8 Enf Judgm § 498
restrictions on creditor’s judgment, effect of, 8 Enf Judgm § 500
“sign” defined, 8 Enf Judgm § 489*
statute of limitations, 8 Enf Judgm § 492 et seq.
time of transfer, 8 Enf Judgm § 493
“transfer” defined, 8 Enf Judgm § 489
transfer not voidable, effect of, 8 Enf Judgm § 499
transfer with intent to defraud, 8 Enf Judgm §§ 492, 495
transfer without receipt of reasonably equivalent value, 8 Enf Judgm § 496
undertaking by transferee, 8 Enf Judgm § 502
Uniform Voidable Transactions Act, renaming as, 5 Plead § 882*; 6 Prov Rem §§ 81 et seq.*, 144*, 178*, 425*; 7 Trial § 272*; 8 Enf Judgm §§ 479*, 482*, 483*, 487 et seq.*
“valid lien” defined, 8 Enf Judgm § 489
value for transfer or obligation, 8 Enf Judgm § 491
value given in good faith, effect on rights, 8 Enf Judgm § 501
Uniform Voidable Transactions Act proceedings, see Uniform Fraudulent Transfer Act (this group) voluntary reconveyance, effect of, 8 Enf Judgm § 481

Freedom of religion
ecclesiastical disputes, effect on, 3 Actions § 41
Free Exercise Clause
administrative agencies, limitations on, 9 Admin Proc § 4
SLAPP statute, applicability to acts in furtherance of, 5 Plead § 1017

Freedom of speech, press, and assembly
in general, 9 Admin Proc § 153
admission to practice law, consideration in, see Attorneys advertising, see commercial speech (this group)
anti-SLAPP suits, 5 Plead § 1019*
commercial speech attorneys, advertising and solicitation by, see Attorney conduct solicitation of business by attorneys, see Attorney conduct
expedited review of decisions on permits affecting, 8 Writs § 162
injunctions, see Injunctions
mandamus review of decisions on permits affecting, 8 Writs § 162
permits affecting, mandamus review of decisions on, 8 Writs § 162; 9 Admin Proc § 153
SLAPP suits, see SLAPP suits
temporary restraining orders, see
Temporary restraining orders

Frivolous appeals
in general, 9 Appeal § 983 et seq.
continuation of appeal, sanctions for, 9 Appeal § 985
delay as sole ground for sanctions, 9 Appeal §§ 991, 992
dismissal, 9 Appeal §§ 747, 748
in pro. per. appellants, standards applicable to, 9 Appeal § 990
partially frivolous appeal, sanctions for, 9 Appeal § 984
sanctions
in general, 9 Appeal § 983 et seq.
amount, 9 Appeal § 983
attorney, imposition on, 9 Appeal §§ 987, 988
bankruptcy, effect on, 9 Appeal § 986
continuation of appeal, 9 Appeal § 985
Frivolous appeals—Cont’d
sanctions—Cont’d
delay as sole ground, 9 Appeal §§ 991, 992
due process requirements, 9 Appeal § 993
limited civil case appeals, 9 Appeal § 1018
nature of power to impose, 9 Appeal § 983
noticed motion procedure, 9 Appeal § 994
partially frivolous appeal, 9 Appeal § 984
party, imposition on, 9 Appeal §§ 987, 988
referee, use of, 9 Appeal § 995
standards for determining frivolousness, 9 Appeal §§ 989, 990
tort action based on, see Malicious prosecution

Games and gaming
Indian tribal lands
gambling on, 6 Prov Rem § 291
management contracts, subject matter jurisdiction, 2 Jurisd § 339*

Garnishment—Cont’d
earnings assignment order for support—Cont’d
priority of, 8 Enf Judgm §§ 245, 268
“earnings” defined, 8 Enf Judgm § 243
earnings withholding order for support, 8 Enf Judgm § 252
restrictions on, 8 Enf Judgm § 251
elder or dependent adult financial abuse, withholding for, 8 Enf Judgm §§ 243*, 245*, 274A*
“employee” defined, 8 Enf Judgm § 243
employer defined, 8 Enf Judgm § 243
duties on service of withholding order, 8 Enf Judgm § 257
liability of, 8 Enf Judgm §§ 249, 258
local child support agency, duties regarding order issued by, 8 Enf Judgm § 267
payment of withheld amounts, 8 Enf Judgm § 259
unemployment contributions, delinquent, 8 Enf Judgm § 139
withholding by, 8 Enf Judgm § 258
withholding order for taxes, duties regarding, 8 Enf Judgm § 272
escrow account, garnishment of, 8 Enf Judgm § 139
examination of garnishee, see Attachment
exclusivity of procedure, 8 Enf Judgm § 242
executory letter of credit, garnishment of right to payment under, 8 Enf Judgm § 139
exemption claims, see procedure for exemption claims (this group)
federal minimum wage, effect on amount of exempt earnings, 8 Enf Judgm § 251*
forms, 8 Enf Judgm § 250
full satisfaction of judgment through, 8 Enf Judgm § 246
“disposable earnings” defined, 8 Enf Judgm § 243*
dormant order, termination of, 8 Enf Judgm § 248
earnings assignment order for support in general, 8 Enf Judgm § 268
defined, 8 Enf Judgm § 243

Index-184
Garnishment—Cont’d
interests subject to on execution, 8 Enf Judgm § 139
“judgment creditor” defined, 8 Enf Judgm § 243
“judgment debtor” defined, 8 Enf Judgm § 243
Judicial Council forms, 2 Courts § 435; 8 Enf Judgm §§ 25, 250
levy, garnishee’s rights and duties after, see Execution and levy
liquor license, garnishment of, 8 Enf Judgm § 139
memorandum, garnishee’s, see Attachment
nature of, 6 Prov Rem § 159; 8 Enf Judgm § 241
nonnegotiable promissory note, garnishment of interest in, 8 Enf Judgm § 139
pension payments, garnishment of, 8 Enf Judgm § 139
“person” defined, 8 Enf Judgm § 243
pledged note, garnishment of pledgor’s interest in, 8 Enf Judgm § 139
priority of withholding orders, 8 Enf Judgm § 245
procedure for exemption claims
in general, 8 Enf Judgm § 261 et seq.
appeal, 8 Enf Judgm § 263
conditions for claim, 8 Enf Judgm § 261
failure to oppose, effect of, 8 Enf Judgm § 263
hearing, 8 Enf Judgm § 262
Judicial Council forms, 8 Enf Judgm § 261
making of claim, 8 Enf Judgm § 261
notice of claim, 8 Enf Judgm § 262
opposition to claim, 8 Enf Judgm § 262
recovery of withheld amounts by debtor, 8 Enf Judgm § 264
procedure for withholding orders
in general, 8 Enf Judgm § 252 et seq.
application, 8 Enf Judgm § 252
continuation of order after return of writ, 8 Enf Judgm § 260
employer’s role, see employer (this group)
issuance of order, 8 Enf Judgm § 253
Garnishment—Cont’d
procedure for withholding orders
—Cont’d
modification on claim of exemption, 8 Enf Judgm § 263
new orders, restrictions on, 8 Enf Judgm § 265
payment of withheld amounts, 8 Enf Judgm § 259
service of papers, 8 Enf Judgm § 254 et seq.
termination on claim of exemption, 8 Enf Judgm § 263
quasi in rem jurisdiction obtained by, 2 Jurisd § 248
rental payments, future, garnishment of contingent interest in, 8 Enf Judgm § 139
rules governing, 8 Enf Judgm § 250
satisfaction of judgment before termination of withholding order, effect of, 8 Enf Judgm § 247
spouse’s earnings, effect of, 8 Enf Judgm § 252
suspended withholding order, termination of, 8 Enf Judgm § 248
trust, garnishment of beneficial interest in, 8 Enf Judgm § 139
withholding order for support
in general, 8 Enf Judgm § 266 et seq.
credit for earnings withheld, 8 Enf Judgm § 266
defined, 8 Enf Judgm § 266
local child support agency, issuance by, 8 Enf Judgm § 267
priority of order, 8 Enf Judgm §§ 245, 266
termination, 8 Enf Judgm § 266
withholding order for taxes
in general, 8 Enf Judgm § 269 et seq.
commencement of withholding, 8 Enf Judgm § 274
conditions for order, 8 Enf Judgm § 270
defined, 8 Enf Judgm § 269
employer, duties of, 8 Enf Judgm § 272
form of papers, 8 Enf Judgm § 272
issuance of order, 8 Enf Judgm § 271
priority of order, 8 Enf Judgm §§ 245, 273
service of papers, 8 Enf Judgm §§ 245, 273
Garnishment—Cont’d
withholding order for taxes—Cont’d
state, duties of, 8 Enf Judgm § 272
temporary earnings holding order, 8 Enf Judgm § 271
termination of withholding, 8 Enf Judgm § 274
withholding period, 8 Enf Judgm § 244
writ of execution, see Writ of execution

Government tort claims—Cont’d
agency actions
in general, 3 Actions § 263 et seq.
local public entities, see local agency actions (this group)
state, see state (this group)
allowance of claim
judicial branch entities, by, see judicial branch entities (this group)
local public entities, by, see local agency actions (this group)
state, by, see state (this group)
appeal, 9 Appeal § 363
application to agency on late claim
in general, 3 Actions § 299 et seq.
action by agency, 3 Actions § 302
incapacitated person, 3 Actions § 300
minors, 3 Actions § 301
time limitation, 3 Actions § 299
attorneys’ fees, 7 Judgm § 235
“board” defined, 3 Actions § 233
California State University, claim against, see Colleges and universities
California Tort Claims Act, see Government Claims Act (this group)
childhood sexual abuse claims, 3 Actions §§ 240*, 593*
children, see minors (this group)
civil rights claims, 3 Actions § 245
claim requirement
in general, 3 Actions § 237 et seq.
accrual period for filing claim, see accrual period for filing claim (this group); postponed accrual and tolling (this group)
amendment, 3 Actions § 282
bailee, claim for property held by government as, 3 Actions § 244*
contents, 3 Actions §§ 253, 254
defective compliance, see defective compliance with claim require-
ment (this group)
defects of form, see defects of form (this group)
excluded claims, 3 Actions § 240 et seq.
form, 3 Actions §§ 253, 254
included claims, 3 Actions § 237 et seq.
insurer’s reliance on insured’s claim, 3 Actions § 250

Gas, see Oil and gas

Gender
discrimination, see Sex discrimination
judge, effect of gender bias of, 7 Trial § 246
jury instructions, gender neutrality requirement, 7 Trial § 267
sexual harassment, see Sexual harassment
violence, limitation and accrual of civil actions based on, 3 Actions §§ 483, 487

General appearance, see Appearance

General damages, see Damages

General Services, Department of, see Department of General Services

Gifts
attorneys
gifts from, see Attorney conduct
gifts to, see Attorney-client relationship
judges, acceptance by, 2 Courts § 65

Goods sold and delivered, see Common counts

Government contracts
arbitration
condition precedent to breach of contract action, 3 Actions § 314

Government tort claims
in general, 3 Actions § 231 et seq.
accrual period for filing claim
in general, 3 Actions § 256 et seq.
minor’s claim, 3 Actions § 256
postponed accrual and tolling, see postponed accrual and tolling (this group)
statute of limitations, effect of, 3 Actions § 256
Government tort claims—Cont’d
claim requirement—Cont’d
judicial officers and employees, claims against, see public officers and employees (this group)
late claims, see application to agency on late claim (this group); late-claim procedure (this group); petition to court on late claim (this group)
nature of, 3 Actions §§ 231, 234
noncompliance, estoppel to assert, see estoppel (this group)
pleading, 4 Plead §§ 619, 620
presentation, 3 Actions § 262
public officers and employees, claims against, see public officers and employees (this group)
signature, 3 Actions § 253
substantial compliance, see substantial compliance with claim requirement (this group)
time for filing, see accrual period for filing claim, (this group); postponed accrual and tolling (this group); time for filing (this group)
tolling period for filing claim, see postponed accrual and tolling (this group)
verification, 3 Actions §§ 253, 281
class action claims, 3 Actions § 239
compromise of claim
judicial branch entities, by, see judicial branch entities (this group)
local public entities, by, see local agency actions (this group)
state, by, see state (this group)
constitutionality, 3 Actions § 231
contents of claim, 3 Actions §§ 253, 254
coworker, tort claim against, 3 Actions § 237

damages
claims for, 3 Actions §§ 237, 238
tolling by payment of, 3 Actions § 258
dangerous condition of public property, pleading, 4 Plead §§ 621, 622
defective compliance with claim requirement
in general, 3 Actions § 274 et seq.
substantial compliance, see substantial compliance with claim requirement (this group)

Government tort claims—Cont’d
defects of form
in general, 3 Actions § 282 et seq.
amendment, 3 Actions § 282
waiver of, 3 Actions § 283 et seq.
definitions, 3 Actions § 233
delay in trial, effect of noncompliance with claim requirement on dismissal for, 6 PWT § 391
discretion of trial court, review on appeal, 9 Appeal § 363
equitable relief, claims for, 3 Actions § 237
equitable tolling, 3 Actions §§ 257, 739
estoppel
in general, 3 Actions § 309 et seq.
excusable neglect, see mistake or excusable neglect (this group)
file, complete failure to, 3 Actions §§ 311, 312
noncompliance with claim requirement, 3 Actions § 303
statutory waiver, estoppel to invoke, 3 Actions § 268*
failure by agency to furnish information for claim, 3 Actions § 236
Fair Employment and Housing Act claims, 3 Actions § 246
false arrest, tolling of claim, 3 Actions § 257
federal civil rights claims, 3 Actions § 245
filing fee for claims against state, 3 Actions § 253
form of claim, 3 Actions §§ 253, 254
former law, 3 Actions §§ 232, 233
government bond principal or interest claims, 3 Actions § 240

Government Claims Act
in general, 3 Actions § 233 et seq.
title of act, 3 Actions § 233

Government Tort Claims Act, see Government Claims Act (this group)
incapacity, late claims due to, 3 Actions §§ 288, 289, 300
incidental damages, claims for, 3 Actions § 237
indemnity claims
applicability of claim requirement, 3 Actions § 237
Government tort claims—Cont’d
indemnity claims—Cont’d
cross-claim for indemnity, accrual of filing period, 3 Actions §§ 260, 261
insurer’s reliance on insured’s claim, 3 Actions § 250
intentional tort claims, 3 Actions § 237
judgments against public entities, actions on, 3 Actions § 248
judicial branch entities
action on claim, 3 Actions § 267
applicability of claim requirement, 3 Actions § 235
claims by, 3 Actions § 240
defined, 3 Actions § 233
Judicial Council, payment by, 3 Actions § 273
presentation of claim to, 3 Actions § 262
special claims procedures, 3 Actions § 273
Judicial Council, payment by, 3 Actions § 273
judicial officers, claims against, see public officers and employees (this group)
laborer’s lien claims, 3 Actions § 240
late-claim procedure
in general, 3 Actions § 286 et seq.
application to agency, see application to agency on late claim (this group)
court petition for relief, see petition to court on late claim (this group)
incapacity, 3 Actions §§ 288, 289
minor’s claim, 3 Actions § 287
mistake, see mistake or excusable neglect (this group)
notice of rejection of late claim, 3 Actions § 268*
petition to court, see petition to court on late claim (this group)
relief, court petition for, see petition to court on late claim (this group)
suit after relief granted, see suit after late-claim relief granted (this group)
liability of government, see Governmental tort liability
local agency actions
in general, 3 Actions § 263 et seq.
notice of action taken, 3 Actions § 265

Government tort claims—Cont’d
local agency actions—Cont’d
rejected claim, reexamination, 3 Actions § 264
time for action by agency, 3 Actions § 264
local public entities
actions on claims by, see local agency actions (this group)
applicability of claim requirement, 3 Actions § 235
claims by, 3 Actions § 240
defined, 3 Actions § 233
excluded claims covered by local procedures, 3 Actions § 270
presentation of claim to, 3 Actions § 262
special claims procedures, 3 Actions §§ 269, 270
mandatory duty, claim for enforcement of, 3 Actions § 249
materialperson’s lien claims, 3 Actions § 240
mechanics lien claims, 3 Actions §§ 240, 243
military personnel, tolling of claim by, 3 Actions § 257
minors
accrual period for claim by, 3 Actions § 256
late claim by, 3 Actions §§ 287, 301
sexual abuse, notice of claim, 3 Actions §§ 240*, 593*
tolling of period for claim for, 3 Actions § 697
mistake or excusable neglect
in general, 3 Actions § 290 et seq.
calendar mistake, 3 Actions § 292
cause of action, ignorance of, 3 Actions § 298
defendant, delay attributable to, 3 Actions § 298
defendant, mistake about, 3 Actions §§ 293, 297
filing requirement, ignorance of, 3 Actions § 296
law, mistake of, 3 Actions § 291
other party, claim filed by, 3 Actions § 298
second claim, failure to file, 3 Actions § 295

Index-188
Government tort claims—Cont’d
mistake or excusable neglect—Cont’d
  tactical decision to delay, 3 Actions § 298
time limitation, ignorance of, 3 Actions § 296
trauma, delay due to, 3 Actions §§ 294, 298
money, claims for, 3 Actions §§ 237, 238, 244
motor vehicle torts, pleading, 4 Plead § 618
negligence claims, 3 Actions § 237
notice for late claim, 3 Actions § 269
nuisance claims, 3 Actions § 237
partial rejection of claim, see judicial branch entities (this group); local agency actions (this group); state (this group)
payment of claim, see agency actions (this group)

Pedestrian Mall Law claims, 3 Actions § 240
petition to court on late claim
in general, 3 Actions § 303 et seq.
  contents, 3 Actions § 304
delay, effect of, 3 Actions § 304
determination, 3 Actions § 305
filing, 3 Actions § 304
hearing, 3 Actions § 305
notice of rejection of late claim, 3 Actions § 268*
service, 3 Actions § 304
suit after relief granted, see suit after late-claim relief granted (this group)
pleading, 4 Plead § 617
postponed accrual and tolling
in general, 3 Actions § 257 et seq.
  accrual period for filing claim generally, see accrual period for filing claim (this group)
damages, payment of, 3 Actions § 258
  equitable tolling, 3 Actions § 257
false arrest claims, 3 Actions § 257
imprisonment, effect on tolling, 3 Actions § 703
indemnity cross-claim, 3 Actions §§ 260, 261
insanity, effect on tolling, 3 Actions § 698

Government tort claims—Cont’d
postponed accrual and tolling—Cont’d
late claims, see application to agency on late claim (this group)
military personnel, claims by, 3 Actions § 257
minor, tolling for, 3 Actions § 697
public contract claims, 3 Actions § 257
subrogation claim, 3 Actions § 259
presentation of claim, 3 Actions § 262
public assistance claims, 3 Actions § 240
public contract claims, tolling of, 3 Actions § 257
public officers and employees
  claims against, 3 Actions §§ 251, 252
  wage, fee, or expense claims by, 3 Actions §§ 240, 241
public retirement or pension claims, 3 Actions §§ 240, 242
public works prevailing wage claims, 3 Actions §§ 240, 241
pupil fees, notice of claim for reimbursement, 3 Actions § 240*
purpose of claim requirement, 3 Actions § 231
rejection of claim, see judicial branch entities (this group); local agency actions (this group); state (this group)
revised law, 3 Actions § 233
roster of public agencies, 3 Actions § 236
scope of claim requirement, 3 Actions § 235 et seq.
signing of claim, 3 Actions § 253
special assessment claims, 3 Actions § 240
special claims procedures
in general, 3 Actions § 269 et seq.
  judicial branch entities, see judicial branch entities (this group)
  local public entities, see local public entities (this group)
  state, see state (this group)
specialized claims procedures, 3 Actions § 235
specific recovery claims, 3 Actions § 244
state
  action on claim, 3 Actions § 266
  applicability of claim requirement, 3 Actions § 235

Index-189
Government tort claims—Cont’d

state—Cont’d
California State University, claim against, see Colleges and universities
claims by, 3 Actions § 240
cross-complaints in actions by, 3 Actions § 247
defined, 3 Actions § 233
Department of General Services, see Department of General Services
filing fee for claims, 3 Actions § 253
payment by, 3 Actions § 272
presentation of claim to, 3 Actions § 262
special claims procedures, 3 Actions §§ 271, 272
State Controller, payment by, 3 Actions § 272
time for filing claim against, 3 Actions § 255
warrants, applicability of notice requirements to, 3 Actions § 235*
State Controller, payment by, 3 Actions § 272
student fees, notice of claim for reimbursement, 3 Actions § 259
subrogation claim, tolling of, 3 Actions § 240*
substantial compliance with claim requirement
in general, 3 Actions §§ 275 et seq.
address of claimant, 3 Actions § 279
damage, 3 Actions § 281
date of occurrence, 3 Actions § 281
injury, 3 Actions § 281
loss, 3 Actions § 281
place of accident, 3 Actions § 278
series of writings, 3 Actions § 280
verification, 3 Actions § 281
suit after late-claim relief granted
in general, 3 Actions §§ 306 et seq.
new facts, effect of, 3 Actions § 308
original complaint on file, 3 Actions § 307
time limitations, 3 Actions § 306
tax refund or exemption claims, 3 Actions § 240
time for filing
in general, 3 Actions §§ 255 et seq.

Government tort claims—Cont’d
time for filing—Cont’d
accrual period, see accrual period for filing claim (this group);
postponed accrual and tolling (this group)
death claim, 3 Actions § 255
injury to person or property claim, 3 Actions § 255
late-claim procedure, see application to agency on late claim (this group)
suit after late-claim relief granted, see suit after late-claim relief granted (this group)
Tort Claims Act, see Government Claims Act (this group)
tort liability
distinguished, 3 Actions § 233
unemployment compensation claims, 3 Actions § 240
verification of claim, 3 Actions §§ 253, 281
warrants, applicability of notice requirements to, see state (this group)
welfare claims, 3 Actions § 240
workers’ compensation claims, 3 Actions §§ 240, 250

Government Tort Claims Act, see
Government tort claims

Governmental entities
injunctions involving, see Injunctions

Governmental tort liability
claim requirement distinguished, 3 Actions § 233
governmental tort claim requirement distinguished, 3 Actions § 233
nuisances, 3 Actions § 237

Governor
administrative regulation, review of, 9
Admin Proc § 51

Grand jury
judge
appearing before, legal representation of, 1 Attys § 60
local agency
member testimony before, open meeting requirement exception for, 9
Admin Proc § 24
Gravely disabled persons

commitment of, see Commitment of mentally disordered persons

conservatorship of, see Conservatorship of gravely disabled persons

Guarantors, see Sureties

Guardian ad litem

in general, 4 Plead §§ 70, 74 et seq.
appeal of appointment of, 9 Appeal § 169 appointment

in general, 4 Plead §§ 70, 74 et seq.
appeal of, 9 Appeal § 169 application, 4 Plead § 74 ex parte proceedings, 4 Plead § 76; 6 PWT § 55 order, 4 Plead § 77 time of application, 4 Plead § 75 attorney, employment of, 4 Plead § 79 complaint, naming in, 4 Plead § 476 disaffirmance of judgment for failure to appear, 4 Plead § 83 et seq. failure to appear, effect of, 4 Plead § 83 et seq. limitations period, effect of appointment on tolling, 3 Actions § 699 powers

in general, 4 Plead § 78 et seq. attorney, employment of, 4 Plead § 79 compromise of action, 4 Plead § 80 et seq. control over litigation, 4 Plead § 78 discovery, 4 Plead § 78 dismissal, 4 Plead § 78 settlement, 4 Plead § 80 et seq. quiet title action, appointment for, 5 Plead § 657 small claims court, appearance in, 2 Courts § 273 tolling of limitations period, effect of appointment on, 3 Actions § 699 waiver of right to disaffirm judgment for failure to appear, 4 Plead § 85

Guardianship

appeal

aggrieved party for, 9 Appeal § 35 orders regarding guardianship, 9 Appeal § 218 representative capacity, appeal in, see Appeal

Guardianship—Cont’d

appeal—Cont’d stay of enforcement pending appeal, see Stay pending appeal continuing jurisdiction over, 2 Jurisd § 421 domicile of minor under guardianship, 2 Jurisd § 132 guardian ad litem, see Guardian ad litem liability of guardian, limits of, 2 Courts § 198 proceedings in which established, 5 Plead § 898 Rules of Court appendix on calculation of liability limits, 2 Courts § 198 security for costs, see Security for costs special proceeding, as, 3 Actions § 65

Gun violence restraining orders

in general, 6 Prov Rem §§ 330F et seq.* criminal record search and advisement requirement, 6 Prov Rem § 330F* Department of Justice, notification of, 6 Prov Rem § 330F* domestic violence order violation as ground for ex parte order, 6 Prov Rem § 330J* emergency order, 6 Prov Rem § 330H* ex parte order, 6 Prov Rem § 330-I et seq.* false petition, filing of, 6 Prov Rem § 330F* firearms violation as ground for ex parte order, 6 Prov Rem § 330J* harassing petition, filing of, 6 Prov Rem § 330F* nature and effect of order, 6 Prov Rem § 330F* notice and hearing, issuance on, 6 Prov Rem § 330L et seq.* petition

in general, 6 Prov Rem §§ 330F*, 330L* ex parte order, for, 6 Prov Rem § 330-I et seq.* renewal of order, for, 6 Prov Rem § 330-O* temporary emergency order, for, 6 Prov Rem § 330H* termination of order, for, 6 Prov Rem § 330N*
Gun violence restraining orders—Cont’d
proof of service of order, 6 Prov Rem § 330F*
renewal of order, petition for, 6 Prov Rem § 330N*
return, sale, or transfer of gun or ammunition at expiration, 6 Prov Rem § 330F*
search warrant, issuance of, 6 Prov Rem § 330F*
temporary emergency order, 6 Prov Rem § 330H*
termination of order, petition for, 6 Prov Rem § 330N*
third-party claim to gun or ammunition, 6 Prov Rem § 330F*
violation of order, 6 Prov Rem § 330F*
weapons violation as ground for ex parte order, 6 Prov Rem § 330J*

Habeas corpus
appeal
in general, 9 Appeal § 146
attorneys’ fees, see Private attorney general doctrine
availability of
in general, 3 Actions §§ 73, 74
remedy, 3 Actions §§ 73, 74
certiorari compared, 8 Writs § 10
child custody proceedings, see Child custody and visitation
collateral attack on judgment by, 8 Attack § 10
conservatorship of gravely disabled person, challenge by, see Conservatorship of gravely disabled persons
contempt, review of orders
enforcement of judgment by contempt, 8 Enf Judgm § 363
trial, contempt during, 7 Trial § 182
contempt order enforcing injunction, review of, 6 Prov Rem § 409
developmentally disabled patient proceeding, 3 Actions § 73
direct attack on judgment by, 8 Attack § 2
jurisdiction
compelling assumption of, 2 Jurisd § 360
mentally disordered person commitment proceedings, 3 Actions §§ 73, 83
nature of proceeding, 3 Actions § 73

Habeas corpus—Cont’d
prohibition
compared, 8 Writs § 21
remedy by, effect of, 8 Writs § 71
Supreme Court jurisdiction, 2 Courts § 330
verification of petition, 4 Plead § 466

Habitability, see Implied warranty of habitability

Hague Adoption Convention, see Adoption

Hague Convention on International Recovery of Child Support and Other Forms of Family Maintenance, see Child support

Hague Service Convention, see Process

Harassment
appellate records, electronic access to, see Record on appeal
arbitration of claims, 6 PWT § 520
“course of conduct” defined, 6 Prov Rem § 317
“credible threat of violence” defined, 6 Prov Rem § 317
defamation, constitutionally protected activity, 6 Prov Rem § 318*
definitions, 6 Prov Rem § 317
evidence, sufficiency of for injunction, 6 Prov Rem § 318*
firearm restriction, 6 Prov Rem § 319
free speech protection, 6 Prov Rem § 318
Judicial Council forms, 2 Courts § 406; 6 Prov Rem §§ 320, 322
judicial education on, 2 Courts § 396
order after hearing, see temporary restraining order and order after hearing against (this group)
“petitioner” defined, 6 Prov Rem § 317*
“respondent” defined, 6 Prov Rem § 317*
sanctions based on, 7 Trial § 231
temporary restraining order and order after hearing against in general, 6 Prov Rem § 316 et seq.
anti-SLAPP motion, availability, 6 Prov Rem § 321
applicability, 6 Prov Rem § 316
attorneys’ fees, 6 Prov Rem § 322
bankruptcy law, effect of, 6 Prov Rem § 316
Harassment—Cont’d

temporary restraining order and order after hearing against—Cont’d continuance, 6 Prov Rem § 322*
costs, 6 Prov Rem § 322
definitions, 6 Prov Rem § 317
duration of injunction, 6 Prov Rem § 322
enforcement, 6 Prov Rem § 322
expiration date, lack of, 6 Prov Rem § 322*
filing fee, 6 Prov Rem §§ 321, 322
firearm restriction, 6 Prov Rem § 319
hearing, 6 Prov Rem § 322
hearsay, use of, 6 Prov Rem § 322*
Judicial Council forms, 6 Prov Rem §§ 320, 322
modification sought by person other than protected party, 6 Prov Rem § 322*
motion to strike, availability, 6 Prov Rem § 321
nature of restraining orders, 6 Prov Rem § 321*
notice of hearing, 6 Prov Rem § 321*
petition, 6 Prov Rem § 321
reissuance of order, 6 Prov Rem § 321*
response to petition, 6 Prov Rem § 321
service of order, 6 Prov Rem § 321
speech, protection of, 6 Prov Rem § 318
subsequent restraining order, evidence for, 6 Prov Rem § 322*
sufficiency of evidence, 6 Prov Rem § 322*
termination sought by person other than protected party, 6 Prov Rem § 322*
time for determination of application, 6 Prov Rem § 321*
“unlawful violence” defined, 6 Prov Rem § 317
workplace harassment, see Workplace harassment

Hazardous substances—Cont’d

limitation and accrual of actions—Cont’d
buildings injured by, 3 Actions § 598
statute of limitations, 3 Actions §§ 483, 485

Health and Human Services Agency

in general, 9 Admin Proc §§ 154, 171 et seq.
Department of Aging, 9 Admin Proc § 171
Department of Child Support Services, see Child support
Department of Health Care Services, see Health and safety
Department of Managed Health Care, see Health and safety
Department of Mental Health, see Health and safety
Department of Public Health, see Health and safety
Department of Social Services, see Department of Social Services

Health and safety

Department of Health Care Services, 9
Admin Proc § 173
Department of Managed Health Care, 9
Admin Proc § 161
Department of Mental Health
in general, 9 Admin Proc § 174
Department of Public Health
in general, 9 Admin Proc § 175
Department of State Hospitals
in general, 9 Admin Proc § 174*
Health and Human Services Agency, 9
Admin Proc §§ 154, 171 et seq.

Health Care Decisions Law

appeals in health care directive cases, 9
Appeal § 220
venue for proceedings, 3 Actions § 808

Hearsay

attorney disciplinary proceedings, admissibility in, see Attorney discipline harassment, proceedings regarding, see Harassment; Workplace harassment small claims court, use in, 2 Courts § 301 workplace harassment, proceedings regarding, see Workplace harassment

Heirs

determination of, see Intestate succession
Heirs—Cont’d
hunting of, as practice of law, 1 Attys § 400

High-frequency litigants, see Americans With Disabilities Act; Unruh Civil Rights Act

Highway Patrol, see Police and correctional activities

Holidays
general, 2 Courts § 46
judicial, 2 Courts § 46
limitations period, effect on computation, 3 Actions § 507
new trial motion, effect on time for, see New trial
time to plead, effect on, 4 Plead § 9

Holocaust
misappropriated artwork during, limitations period, 3 Actions § 705
tolling of limitations period for victims, 3 Actions § 705

Homestead
attachment of, 6 Prov Rem §§ 86, 87
automatic exemption
in general, 8 Enf Judgm § 215 et seq.
acceleration clauses, effect of, 8 Enf Judgm § 225
amount of exemption, 8 Enf Judgm § 218
appeal, 8 Enf Judgm § 228
costs, recovery of, 8 Enf Judgm § 228
court order for sale, 8 Enf Judgm § 219 et seq.
default of debtor after sale, 8 Enf Judgm § 223
definitions, 8 Enf Judgm § 216
distribution of proceeds from sale, 8 Enf Judgm § 227
“dwelling” defined, 8 Enf Judgm § 216
extension of time for, 8 Enf Judgm § 228
“family unit” defined, 8 Enf Judgm § 216
“homestead” defined, 8 Enf Judgm § 217
minimum bid required for sale, 8 Enf Judgm § 224
nature of exemption, 8 Enf Judgm § 218

Homestead—Cont’d
automatic exemption—Cont’d
partial ownership by debtor, effect of, 8 Enf Judgm § 226
prepayment penalties, 8 Enf Judgm § 225
proceeds, exemption of, 8 Enf Judgm § 218
sale, exemption from, 8 Enf Judgm § 218
scope of exemption, 8 Enf Judgm § 218
separate residence of spouses, effect of, 8 Enf Judgm § 218
“spouse” defined, 8 Enf Judgm § 216
declared homestead exemption
in general, 8 Enf Judgm §§ 215, 229 et seq.
abandonment declaration, 8 Enf Judgm § 239
creation of, 8 Enf Judgm § 231 et seq.
death of owner, effect of, 8 Enf Judgm § 238
“declared homestead” defined, 8 Enf Judgm § 230
“declared homestead owner” defined, 8 Enf Judgm § 230
definitions, 8 Enf Judgm § 230
disappearance of owner, effect of, 8 Enf Judgm § 239
“dwelling” defined, 8 Enf Judgm § 230
effect of creation of, 8 Enf Judgm § 234 et seq.
encumbrance of property, effect on, 8 Enf Judgm § 234
fraudulently conveyed interest, effect of, 8 Enf Judgm § 233
homestead filing services, regulation of, 8 Enf Judgm § 240
judgment lien, attachment of, 8 Enf Judgm § 235
levy of execution, 8 Enf Judgm § 236
proceeds from sale, effect on, 8 Enf Judgm § 234
recording of declaration, 8 Enf Judgm § 231
residence requirement, 8 Enf Judgm § 232
sale of property, effect on, 8 Enf Judgm § 234
“spouse” defined, 8 Enf Judgm § 230
support exception to attachment of judgment lien, 8 Enf Judgm § 235

Index-194
Homestead—Cont’d
declared homestead exemption—Cont’d
surplus equity exception to attachment of judgment lien, 8 Enf Judgm § 235
tax liens, priority of, 8 Enf Judgm § 237
exemption
in general, 8 Enf Judgm § 215 et seq.
automatic exemption, see automatic exemption (this group)
constitutional requirement, 8 Enf Judgm § 215
declared homestead exemption, see declared homestead exemption (this group)
recording, effect of, 8 Enf Judgm § 215
probate homestead, 8 Enf Judgm § 215
real property lien to enforce judgment, subject to, see Judgment liens

Identity theft—Cont’d
injunction, victim entitled to, 6 Prov Rem §§ 291, 311

Illegal aliens, see Aliens

Imitation of appearance or name
injunction against, 5 Plead § 830
nature of action, 5 Plead § 779

Immigration
attorneys
advertisement for legal services, 1 Attys § 39
certification in immigration and nationality law, 1 Attys § 10
discipline of based on acts involving suspected status of witness or party, see Attorney discipline
reform act services, provision of, 1 Attys § 356A*
undocumented aliens, admission to practice law in California, see Attorneys

Immunity
arbitrators in attorneys’ fee dispute, 1 Attys § 225
attorney disciplinary proceedings, grant to witnesses in, see Attorney discipline filing fees, 3 Actions § 418; 4 Plead § 27
Judicial Council forms, 2 Courts § 417; 3 Actions § 426
Lanterman-Petris-Short Act, see Lanterman-Petris-Short Act
protection and advocacy agency, immunity of, 3 Actions § 115

Implied covenant of good faith and fair dealing
breach of, see Breach of implied covenant of good faith and fair dealing

Implied warranty of habitability
tort action, 3 Actions § 150
unlawful detainer defense, 5 Plead § 1113

In forma pauperis suit
in general, 3 Actions §§ 416 et seq., 429A et seq.*
abstract of judgment, recovery of waived fees, 3 Actions § 429N*
administrative mandamus transcripts, 3 Actions § 419; 8 Writs §§ 312, 313

Index-195
In forma pauperis suit—Cont’d
agreement by counsel to advance costs, effect of, 3 Actions § 429F* appeal, see Notice of appeal; Record on appeal appellate courts in general, 3 Actions § 424A*; 9 Appeal § 16A* application to, requirements for, 3 Actions § 429G*; 9 Appeal § 16A* confidentiality of financial information, 9 Appeal § 16A* costs excused, 3 Actions § 429C* determination of application by, 3 Actions § 429-I*; 9 Appeal §§ 16A*, 558 fees excused, 9 Appeal § 16A* granting of, 9 Appeal § 16A* Judicial Council forms, 9 Appeal § 16A* proceedings in, 3 Actions § 429E* scope of right, 3 Actions § 429B* application in general, 3 Actions §§ 425, 429F et seq.* appeal, application on, 9 Appeal §§ 556, 558 appellate courts, see appellate courts (this group) determination of, 3 Actions §§ 426, 427, 429-I*, 429J* forms, 3 Actions § 426 granting of, 3 Actions §§ 427, 429-I*, 429J* inaction by court, effect of, 3 Actions §§ 427, 429H*, 429-I* prisoner, by, 3 Actions § 429H* trial court, requirements for, 3 Actions § 429G* automatic granting, 3 Actions § 426 bad faith, sanctions for, 3 Actions § 429K* bond, relief from, 3 Actions §§ 420, 421 changed circumstances in general, 3 Actions §§ 426, 427, 429B*, 429K* family law cases, 3 Actions § 429M* clerk, delegation of duties to appellate courts, 3 Actions § 429H* prisoners, actions by, 3 Actions § 429J* In forma pauperis suit—Cont’d clerk, delegation of duties to—Cont’d trial courts, 3 Actions § 429H* confidentiality of financial information, 3 Actions § 429F*; 9 Appeal § 16A* conservatorship cases, 3 Actions §§ 429A*, 429B*, 429E* constitutional right in marital case, 3 Actions § 417 contingent fee, effect of, 3 Actions § 429 costs excused in general, 3 Actions § 429C* appeal, 3 Actions §§ 419, 429C* trial court, 3 Actions §§ 418, 429C* writ proceeding in appellate court, 3 Actions §§ 419, 429C* determination, 3 Actions § 426 discovery referee fees, 3 Actions § 418 eligibility criteria, 3 Actions § 429D* family law cases changed circumstances, 3 Actions § 429M* constitutional right in marital cases, 3 Actions § 417 recovery of waived fees, 3 Actions § 429L* fees filing, see filing fees (this group) waiver, see initial fee waiver (this group) filing fees in general, 3 Actions §§ 392, 393, 399, 418, 429B* installment payment of, 3 Actions § 429B* prisoners, payment by, 3 Actions § 429J* waiver of, see initial fee waiver (this group) forms, 2 Courts § 417; 3 Actions §§ 426, 429E*, 429F* guardianship cases, 3 Actions §§ 429A*, 429B*, 429E* indigence, 3 Actions §§ 428, 429, 429D* initial fee waiver in general, 3 Actions § 429B* family law cases, recovery in, 3 Actions § 429M* injunction bond, 3 Actions § 421 installment payment of fees in general, 3 Actions § 429B*
In forma pauperis suit—Cont’d
installment payment of fees—Cont’d
prisoner, by, 3 Actions § 429J*
judicial council forms
in general, 2 Courts § 417; 3 actions
§§ 426, 429E*, 429f*
appellate courts, see appellate courts
(this group)
jury fees, 3 Actions § 418
lien on recovery for waived fees, 3
actions § 429L*
mandatory acceptance of papers, 3
actions §§ 429H*, 429-I*
marital dissolution actions
constitutional right, 3 actions § 417
service of process fees, 3 actions § 418
nature of right, 3 actions §§ 416, 417,
429A*
notice of rights to applicant, 3 actions
§ 429F*
nullity of marriage actions
constitutional right, 3 actions § 417
service of process fees, 3 actions § 418
prior applications, disclosure of, 3
actions §§ 429H*, 429-I*
prisoners, applications by, 3 actions
§§ 425, 429F*, 429J*
probate cases, 3 actions §§ 429A*,
429B*
procedure, 3 actions §§ 424 et seq., 429E
et seq.*
recovery of fee waivers
in general, 3 actions § 429L et seq.*
enforcement, 3 actions § 429N*
family law cases, 3 actions § 429M*
lien by plaintiff, 3 actions § 429L*
losing party, payment by, 3 actions
§ 429L*
remittance of waived fees, 3 actions
§ 429N*
reporter’s transcript, 3 actions § 423
revised statutes and rules governing, 3
actions § 429A et seq.*
rules of court, 3 actions §§ 429A et
seq.*, 429E*
sanctions for bad faith, 3 actions § 429K*
scope of right, 3 actions §§ 418 et seq.,
429B et seq.*
security for costs, 3 actions § 420
translators, 3 actions § 422

In forma pauperis suit—Cont’d
undertaking, relief from, 3 actions
§§ 420, 421
waiver of fees, see initial fee waiver (this
group)
write of execution, recovery of waived fees
by, 3 actions § 429N*

In limine motion
delay in trial, effect of motion on dismissal, 6 PWT §§ 373, 374

In personam jurisdiction, see Jurisdiction

In propria persona
appellants, standard applicable to, 9
appeal § 990
demurrer, effect of in pro. per. appearance
by plaintiff on use of, 5 plead § 946
gravely disabled person’s rights, 3
actions § 103
judge’s relationship to, 7 trial §§ 254,
255
self-help centers for, 2 courts § 28
vexatious litigants, see Vexatious litigants

In rem jurisdiction
in general, see Jurisdiction

Inadvertence
relief from judgment, as ground for, see
relief from judgment

Incapacity
attorney, incapacity of
attorney-client relationship, effect on,
see attorney-client relationship
attorneys’ fees recovery, effect on, see
attorneys’ fees
cessation of practice based on, see
attorney-client relationship
involuntary inactive enrollment in state
bar based on, see state bar
community property
division on dissolution as ground for
relief from judgment, 8 attack § 2
government tort claims, see government
tort claims

Income taxes
attorney discipline based on offenses, see
attorney discipline

Index-197
Income taxes—Cont’d

in general, 3 Actions § 666 et seq.
collection limitation and accrual of actions by government, 3 Actions § 666 et seq.
liens, see Tax liens
limitation and accrual of actions, 3 Actions §§ 484, 488, 666 et seq.
personal residence, proceeding to determine, 5 Plead § 856
statute of limitations, 3 Actions §§ 484, 488, 666 et seq.

Incompetency

answer, raising lack of capacity to contract as defense, 5 Plead § 1091
capacity to contract, see Capacity of incompetent persons to contract
capacity to make legal decisions, lack of as, 3 Actions § 213*; 4 Plead §§ 70*, 74*, 75*, 80*, 83*
capacity to sue and be sued, see Capacity to sue and be sued
defendant in civil trial, 7 Trial § 158
defense of lack of capacity to contract, 5 Plead § 1091
delay in service, involuntary dismissal for, 6 PWT § 321
domicile of incompetent person, 2 Jurisd § 137
involuntary dismissal for delay in service, 6 PWT § 321
legal decisions, lack of capacity to make as, 3 Actions § 213*; 4 Plead §§ 70*, 74*, 75*, 80*, 83*
small claims court, appearance by guardian ad litem, 2 Courts § 273

Inconvenient forum—Cont’d

election by plaintiff of two forums, effect of, 2 Jurisd § 387
extension of time to plead based on motion to dismiss for, 4 Plead § 10
family law proceedings, 2 Jurisd § 390
federal doctrine, 2 Jurisd § 376
federal statutes, actions under, 2 Jurisd §§ 381, 382
foreign corporation defendant, effect of, 2 Jurisd §§ 388, 389
internal affairs of foreign corporation defendant, effect of, 2 Jurisd § 388
involuntary dismissal based on, 6 PWT § 474
lack of remedy in alternative forum as factor, 2 Jurisd § 379
mandamus review of orders, 8 Writs § 105
motion in general, 2 Jurisd § 380
time for service, 6 PWT § 15
nature of doctrine, 2 Jurisd § 374
nominal plaintiff, effect of, 2 Jurisd § 386
principal place of business for foreign corporation in California, effect of, 2 Jurisd § 389
service of suit provision, effect of, 2 Jurisd § 391
special appearance, motion as, 2 Jurisd § 227
stay based on, 2 Jurisd § 380

Incorporation by reference

in general, 4 Plead § 427 et seq.
ambiguity of instrument, effect of, 4 Plead § 432
counts of same pleading, 4 Plead § 435
effect of, 4 Plead § 429 et seq.
exhibit attached to pleading, 4 Plead § 427 et seq.
expressly incorporated recitals, 4 Plead § 434
form of pleading, 4 Plead § 428
foundation of action or defense, instrument as, 4 Plead § 430 et seq.
inconsistency of recitals with allegations, effect of, 4 Plead § 431
pleadings in same case, 4 Plead § 436
right to plead by, 4 Plead § 427
substitutes for allegations, recitals in instrument as, 4 Plead §§ 430, 433
Index

Incorporation by reference—Cont’d
superseded pleading, 4 Plead § 437

Indemnity
attorney malpractice, see Attorney malpractice
attorneys’ fees, 7 Judgm § 226
collateral estoppel, effect of, 7 Judgm § 422
consent judgment, preservation of right to indemnity, 6 PWT § 124
equitable jury trial right, 7 Trial § 85
medical malpractice, action based on, 3 Actions § 724
patent defect in real property, action based on, 3 Actions §§ 606, 607
express contract, pleading in action based on, 5 Plead § 925
government tort claims, see Government tort claims
latent defect in real property, action based on, see Real property
limited civil action, 2 Courts § 249
nature of cause of action, 5 Plead § 925
patent defect in real property, action based on, 3 Actions § 724
pleading, 5 Plead §§ 925, 926
settlement, preservation of right to indemnity, 6 PWT § 124
stipulated judgment, preservation of right to indemnity, 6 PWT § 124

Independent contractors
attorneys as, see Attorneys

Indian Child Welfare Act
intervention, 4 Plead § 214
Judicial Council forms, 2 Courts § 420

Indians
capacity of tribes to sue and be sued, see Capacity to sue and be sued
commercial activity, entity claiming
sovereign immunity, 4 Plead § 117*
gambling on tribal lands, see Games and gaming
injunction restraining violation of Indians’ rights, 6 Prov Rem § 291
Native American Day, holiday, as, 2 Courts § 46*

Indians—Cont’d
sovereign immunity
commercial activity, entity claiming, 4 Plead § 117*
employee sued in individual capacity, 4 Plead § 115*
statute of limitations for seeking benefits based on taking property in violation of international law, 3 Actions § 488*
tribal courts, enforcement of judgments of, see Enforcement of judgment
tribal officers and agents, employee sued in individual capacity, 4 Plead § 115*

Indigents
suit brought by or against, see In forma pauperis suit

Indispensable parties, see Joinder

Inducing breach of contract
contract action, 3 Actions § 155
injunctive relief, 6 Prov Rem § 305
instructions to jury, 7 Trial § 286
nature of action, 5 Plead § 771
pleading
in general, 5 Plead § 771 et seq.
elements of cause of action, 5 Plead § 772
privilege as defense, 5 Plead § 1101
tort action, 3 Actions § 155

Inebriation, see Commitment of alcoholics

Inferences
summary judgment, conflicting inferences drawn in, 6 PWT § 245

Initiative, referendum, and recall
administrative agencies, creation by initiative, 9 Admin Proc § 2

Injunctions
in general, 6 Prov Rem § 274 et seq.
ability to comply requirement, 6 Prov Rem § 395
adequate remedy, effect of, 6 Prov Rem § 337 et seq.
administrative remedy, effect of, 6 Prov Rem § 339
administrative rulemaking, see Administrative rulemaking
affidavit, complaint used as, 5 Plead § 824
Injunctions—Cont’d

air pollution violation, 5 Plead § 832
alternative dispute resolution, waiver of statutory right to seek, 6 PWT § 500*
antitrust violations, 5 Plead § 830
appeal, 6 Prov Rem § 402 et seq.; 9 Appeal §§ 174 et seq., 363
arbitration proceeding, enjoining of, see Arbitration associations, see unincorporated associations (this group) attachment, injunction in lieu of, 6 Prov Rem § 298 attorneys, injunction against for representation adverse to client, see Attorney-client relationship bad faith, effect of, 6 Prov Rem § 348 board of supervisors, injunction against, 6 Prov Rem § 393 bond requirement permanent injunction, 6 Prov Rem § 288 undertaking, see undertaking (this group) breach of trust, see Trustees burden on interstate commerce, effect of, 6 Prov Rem § 353 business interests, enforcement of, 6 Prov Rem § 309 Cartwright Act combination violating, 5 Plead § 830; 6 Prov Rem § 309 certiorari, review by, 6 Prov Rem § 408 change in circumstances, effect of, 6 Prov Rem §§ 343, 407 children, restraining removal of, 6 Prov Rem § 291 civil rights, injunction to protect, 6 Prov Rem § 314 claim and delivery, see Claim and delivery
class actions, 6 Prov Rem § 291 collection of tax, enjoining of, 6 Prov Rem § 338 collective bargaining agreement, enjoining by, 6 Prov Rem § 308 colleges, violence and threats in, see Colleges and universities Commissioner of Financial Institutions, action by, see Commissioner of Financial Institutions

Injunctions—Cont’d

complaint, see pleading (this group) completed acts, effect of, 6 Prov Rem §§ 350, 351 conditional judgment, 7 Judgm § 26 conflict of laws regarding, 3 Actions § 46 consumer protection laws, 6 Prov Rem §§ 291, 310 contamination by waste, restraining, 6 Prov Rem § 291 contempt, punishment of violation by, see Harassment contract, based on, 3 Actions § 126; 6 Prov Rem § 294* contract rights, 6 Prov Rem § 305 et seq. cooperative marketing contract, 6 Prov Rem § 308 copyright, injunction to prevent infringement, 6 Prov Rem § 309 corporations injunctions issued against, 6 Prov Rem § 392 ultra vires acts of, injunctions against, 6 Prov Rem § 291 costs, 7 Judgm § 98 covenant not to compete, 6 Prov Rem § 307 crime enjoinable as tort, 6 Prov Rem § 335 investigation, 6 Prov Rem § 336 prosecution, 6 Prov Rem § 336 damages adequate remedy, as, effect of, 6 Prov Rem § 337 enforcement of injunction by action for, 6 Prov Rem § 397 dangerous place of employment or machinery, restraining use of, 6 Prov Rem § 291 declaratory judgment, effect of, 6 Prov Rem § 294 defamatory speech, protected activity, 6 Prov Rem § 318* defined, 6 Prov Rem § 274 delay in seeking, effect of, 6 Prov Rem § 295 denial of injunction discretion to deny, 6 Prov Rem § 355* mootness after, 9 Appeal § 752 reasons for, 6 Prov Rem § 337 et seq.
Injunctions—Cont’d
Department of Alcoholic Beverage Control rules, violation of, 6 Prov Rem § 291
dependent adult abuse cases, see Adult abuse
discretion to grant or deny, 6 Prov Rem § 354 et seq.
dissolution of injunction, 6 Prov Rem §§ 406, 407
domestic violence, see Domestic violence elder abuse, see Adult abuse
election of remedies by, 3 Actions § 190
enforcement of injunctions, 6 Prov Rem § 389 et seq.
environmental violations, 5 Plead § 832
equitable nature of proceeding, 3 Actions §§ 126, 127; 6 Prov Rem § 274
extraordinary nature of, 6 Prov Rem § 274
extraordinary writs compared, 6 Prov Rem § 277
false advertising, injunction against, 6 Prov Rem § 310
federal court proceeding, enjoining of, 6 Prov Rem § 333
federal executive remedy, effect of, 6 Prov Rem § 340
foreign country proceedings, 6 Prov Rem § 333*
foreign state
enforcement of injunction of, 6 Prov Rem § 398
judicial proceeding, enjoining of, 6 Prov Rem § 333
franchise agreement, 6 Prov Rem § 308*
free speech protections
in general, 6 Prov Rem § 293
denial of injunction based on, 6 Prov Rem § 352
harassment, see Harassment
temporary restraining orders, 6 Prov Rem § 363
governmental entities, injunctions involving, 6 Prov Rem § 293*
harassment, see Harassment
harm test, 6 Prov Rem § 293
holidays, issuing on, 2 Courts § 48
identity theft, restraining claim against victim, 6 Prov Rem §§ 291, 311
in forma pauperis suit, see In forma pauperis suit

Injunctions—Cont’d
inadequacy of other remedies test, 6 Prov Rem § 294
Indian gaming rights, restraining violations, 6 Prov Rem § 291
inducing breach of contract, 6 Prov Rem § 305
insolvency, effect of, 6 Prov Rem § 294
interim nature of, 6 Prov Rem § 274
interstate commerce, effect of burden on, 6 Prov Rem § 353
invasion of privacy, injunction against, 6 Prov Rem § 314
irreparable injury test
in general, 6 Prov Rem § 295

Judicial Council forms
harassment, 2 Courts § 406; 6 Prov Rem §§ 320, 322
temporary restraining participant
misconduct, 6 Prov Rem § 323
transitional housing participant
workplace harassment, 2 Courts §§ 406, 436; 6 Prov Rem § 328 et seq.
judicial proceeding, enjoining of, 6 Prov Rem § 333
judicial remedy, ineffective, 6 Prov Rem § 339
jurisdiction, 6 Prov Rem §§ 276, 391 et seq.
laches, effect of, 6 Prov Rem § 342
land, injuries involving, 5 Plead § 828; 6 Prov Rem § 299 et seq.
legal questions, 6 Prov Rem § 362
likelihood of success test, 6 Prov Rem §§ 293, 349
limitations period, tolling during, 3 Actions § 720
limited civil case, availability in, 2 Courts § 245; 6 Prov Rem § 276
limited injunctive relief, 6 Prov Rem § 361
local assessment invalid as grounds, 5 Plead § 832
mandamus
availability of, effect of, 6 Prov Rem § 338

Index-201
## Injunctions—Cont’d

**mandamus—Cont’d**

- compared, 6 Prov Rem § 277; 8 Writs § 24
- review by, 6 Prov Rem § 408

**mandatory injunctions**

- in general, 6 Prov Rem § 280 et seq.
- completed acts, 6 Prov Rem § 351
- discretion to grant or deny, 6 Prov Rem § 360
- mandamus compared, 8 Writs § 24
- prohibitory in form, 6 Prov Rem § 281 et seq.
- stay pending appeal, 6 Prov Rem § 403
- minor, appearance for, 4 Plead § 72
- modification of injunction
  - in general, 6 Prov Rem § 399 et seq.
  - appeal from, 9 Appeal § 175
- motor vehicle licensing requirements, restraining violations, 6 Prov Rem § 291
- multiplicity of actions, restraint of, 6 Prov Rem §§ 296, 333
- nature of action, 5 Plead § 822; 6 Prov Rem § 274 et seq.
- notice
  - in general, 6 Prov Rem §§ 368, 369
  - lack of, dissolution based on, 6 Prov Rem § 406
  - modification of injunction, 6 Prov Rem § 399
  - service, notice without, effect of, 6 Prov Rem § 390
- order to show cause, use of, 6 PWT § 61
- ordinances
  - invalid, injunctions against, 5 Plead § 832; 6 Prov Rem §§ 331, 332
  - zoning, injunction against violation, 6 Prov Rem § 359
- partition actions, 6 Prov Rem § 291
- pending judicial proceeding, enjoining of, 6 Prov Rem § 333
- permanent injunctions
  - appeal from interlocutory order denying, 9 Appeal § 176
- conditions for, 6 Prov Rem § 289
- procedural nature of, 6 Prov Rem § 288
- personal jurisdiction requirement, 6 Prov Rem §§ 276, 391

**Injunctions—Cont’d**

**personal property**

- interests, enforcement of, 6 Prov Rem § 309
- possession of, 6 Prov Rem § 338
- personal rights, protection against invasion of, 5 Plead § 832; 6 Prov Rem § 314
- personal services, performance of, 6 Prov Rem §§ 282, 306
- pleading
  - in general, 5 Plead § 822 et seq.
  - affidavit, complaint used as, 5 Plead § 824
  - elements of cause of action, 5 Plead § 823
  - inadequacy of remedy at law, 5 Plead §§ 826, 827
  - irreparable injury, 5 Plead § 826
  - multiplicity of suits threatened, 5 Plead § 827
  - tort, alleging, 5 Plead § 825
  - wrongful act, alleging, 5 Plead § 825
  - possession of land, withholding, 6 Prov Rem § 303
- preliminary injunctions
  - in general, 6 Prov Rem §§ 285 et seq., 368 et seq.
  - affidavits, use of, 6 Prov Rem §§ 378, 380
  - answer, verified, use of, 6 Prov Rem § 379
  - appeal, preliminary injunction pending, 6 Prov Rem § 404
  - application, 6 Prov Rem § 368
  - arbitration, availability of preliminary injunction pending, 6 PWT § 529
  - bond requirement, 6 Prov Rem § 288
  - claim and delivery action, 6 Prov Rem § 267
  - complaint, verified, use of, 6 Prov Rem § 377
  - conditions for, 6 Prov Rem § 289
  - continuance of hearing, 6 Prov Rem § 373 et seq.; 7 Trial § 31
  - counteraffidavits, use of, 6 Prov Rem § 380
  - discretion to grant or deny, 6 Prov Rem § 354 et seq.
  - duration, 6 Prov Rem §§ 285, 286
  - ex parte application, 6 Prov Rem § 368

---

Index-202
Injunctions—Cont’d

probable success test, 6 Prov Rem §§ 293, 349
procedure
preliminary injunctions, see preliminary injunctions (this group)
temporary restraining orders, see Temp restraining orders
prohibition
compared, 6 Prov Rem § 277; 8 Writs § 22
contempt order enforcing injunction, review of, 6 Prov Rem § 409
invalid, challenge to, 8 Writs § 244
review by, 6 Prov Rem § 408
prohibitory injunction
in general, 6 Prov Rem §§ 278, 279
continuing jurisdiction over, 2 Jurisd § 421
discretion to grant, 6 Prov Rem § 357 et seq.
mandatory though prohibitory in form, 6 Prov Rem § 281 et seq.
modification of decree, 7 Judgm § 82
prohibition compared, 8 Writs § 22
self-executing nature of, 9 Appeal § 276
stay pending appeal, 6 Prov Rem § 403
supersedeas refused for, see Supersedeas
property rights and free speech actions, see free speech protections (this group)
prosecution of civil action enjoined, effect of, 6 PWT §§ 393, 394, 434
public interest, effect of, 6 Prov Rem § 344
public nuisance, 5 Plead § 828; 6 Prov Rem § 335
public utilities, restraint of, 6 Prov Rem § 291
purpose, 6 Prov Rem § 275
questions of law, 6 Prov Rem § 362
quo warranto, effect of availability of, 6 Prov Rem § 338
real property
injuries involving, 6 Prov Rem § 299 et seq.
possession of, 6 Prov Rem § 338
reality, taking from, 6 Prov Rem § 300

Injunctions—Cont’d

preliminary injunctions—Cont’d
examination of witnesses, use of, 6 Prov Rem § 381
hearing, 6 Prov Rem § 372 et seq.
interim nature of, 6 Prov Rem §§ 274, 285
limited civil case, availability in, 6 Prov Rem § 276
merits, ruling on, 6 Prov Rem §§ 285, 287
notice, 6 Prov Rem §§ 368, 369
noticed motion, 6 Prov Rem § 368
opposition, showing required, 6 Prov Rem §§ 379, 380
order, 6 Prov Rem §§ 387, 388
order to show cause, 6 Prov Rem § 368
permanent injunction compared, 6 Prov Rem § 288
preference in trial setting, 7 Trial § 72
procedural nature of, 6 Prov Rem § 285
procedure, 6 Prov Rem § 368 et seq.
provisional nature of, 6 Prov Rem §§ 274, 285
purpose, 6 Prov Rem § 275
service of supporting papers, 6 Prov Rem §§ 370, 371
showing required, 6 Prov Rem § 376 et seq.
standing to seek, 6 Prov Rem § 274
statement of decision on, 7 Trial § 392
testimony, use of, 6 Prov Rem § 381
trial setting preference, 7 Trial § 72
undertaking, see undertaking (this group)

Injunctions—Cont’d

verified answer, use of, 6 Prov Rem § 379
verified complaint, use of, 6 Prov Rem § 377
waiver, see waiver (this group)
privacy
harassment, protection of privacy rights, 6 Prov Rem § 314
invasion of, protection against, 6 Prov Rem § 314
private nuisance, 5 Plead § 828; 6 Prov Rem § 304
private postsecondary education institution, violence and threats in, see Colleges and universities
Injunctions—Cont’d
relative hardship doctrine, 6 Prov Rem § 345 et seq.
removal of child, restraining, 6 Prov Rem § 291
restraining orders, see Temporary restraining orders
retaliatory eviction, injunction against, 6 Prov Rem § 291
right to injunction, 6 Prov Rem § 289 et seq.
service
dissolution motion, 6 Prov Rem § 407
modification motion, 6 Prov Rem § 401
order or decree, 6 Prov Rem § 389
supporting papers, 6 Prov Rem §§ 370, 371
services, performance of, 6 Prov Rem §§ 282, 306
sister-state, see foreign state (this group)
SLAPP statute, applicability of, 5 Plead § 1018
standing required, 6 Prov Rem § 274
statutes, invalid, injunctions against, 5 Plead § 832; 6 Prov Rem §§ 331, 332
stay pending appeal, 6 Prov Rem § 403
subdivisions, restraining violations, 6 Prov Rem § 291
successors in interest, restraining violations, 6 Prov Rem § 291
supplemental pleading, see Supplemental pleading
surrender of property or office, 6 Prov Rem § 281
tax refund, effect of availability of, 6 Prov Rem § 338
taxing statutes, injunctions against, 6 Prov Rem § 331
taxpayer’s action, 6 Prov Rem § 312
temporary, see Temporary restraining orders
tolling of limitations period during, 3 Actions § 720
trade libel, injunction against, 6 Prov Rem § 309
trade name, injunction to protect interest in, 5 Plead § 829; 6 Prov Rem § 309
trade secret
injunction against wrongful use, 5 Plead § 829; 6 Prov Rem § 309
Injunctions—Cont’d
trademark, injunction to protect interest in, 5 Plead § 829; 6 Prov Rem § 309
transitional housing participant misconduct, 6 Prov Rem § 323 et seq.
trespasses, repeated acts of, 5 Plead § 828; 6 Prov Rem §§ 296, 302
trust, violation of obligation arising from, 5 Plead § 832; 6 Prov Rem § 309
Truth in Endorsements Law, restraining violations, 6 Prov Rem § 291
ultra vires acts of corporations, restraining, 6 Prov Rem § 291
unclean hands, effect of, 6 Prov Rem § 341
undertaking
in general, 6 Prov Rem § 382 et seq.
forfeiture of, 6 Prov Rem § 383A* liability on, 6 Prov Rem § 414 et seq.
waiver of requirement, 6 Prov Rem § 383A*
unfair competition, 5 Plead § 830; 6 Prov Rem §§ 309, 335
Unfair Practices Act, 6 Prov Rem § 309
unfair trade practices, 5 Plead § 830
unincorporated associations
injunctions issued against, 6 Prov Rem § 392
protection of membership in, 6 Prov Rem § 314
universities, violence and threats in, see Colleges and universities
venue for action, 3 Actions § 825
waiver
notice, preliminary injunction, 6 Prov Rem § 369
service, preliminary injunction, 6 Prov Rem § 371
waste, 5 Plead § 828; 6 Prov Rem §§ 291, 299
water, acts involving, 5 Plead § 828; 6 Prov Rem §§ 291, 301
workplace harassment, see Workplace harassment
writs compared, 6 Prov Rem § 277
zoning ordinance, injunction against violation, 6 Prov Rem § 359
Innkeepers
conversion action against, limitations period, 3 Actions §§ 620, 621
Innkeepers—Cont’d
lien commissioner, enforcement by, 2 Courts § 344
small claims court, enforcement in, 2 Courts § 282
overcharge claim, notice of, 3 Actions § 227
property left in room, limitations period for action, 3 Actions §§ 620, 621

Innocent improver of land
attorneys’ fees, 7 Judgm § 158
interlocutory order in action, 7 Judgm § 21

Insanity
attorney discipline, effect on, see Attorney discipline
capacity
legal decisions, lack of capacity to make as, 3 Actions §§ 582*, 585*, 695*, 698*, 700*; 4 Plead §§ 71*, 74*, 75*
capital punishment, see Capital punishment
involuntary commitment, see Capital punishment
habeas corpus as remedy, 3 Actions § 73
legal decisions, lack of capacity to make as, 3 Actions §§ 582*, 585*, 695*, 698*, 700*; 4 Plead §§ 71*, 74*, 75*
mentally disordered persons, see Commitment of mentally disordered persons
tolling of limitations period based on, 3 Actions §§ 694, 698 et seq.
trial on insanity
in general, 3 Actions § 79
special proceeding, as, 3 Actions § 65

Insolvency
corporation, appointment of receiver for, 6 Prov Rem § 436
injunction, issuance of, effect of insolvenv on, 6 Prov Rem § 294

Installment contracts, see Retail installment sale

Instructions to jury
in general, 7 Trial § 256 et seq.
admissions, see Admissions

Instructions to jury—Cont’d
appeal
basis for, as, see error in instructions (this group)
error, 9 Appeal § 433*
appellate opinions
instructions upheld in, 7 Trial § 270
statements of law from, 7 Trial § 269
approved instructions, 7 Trial §§ 263, 270 et seq.
argumentative instructions, 7 Trial § 312
attorney, proposal by, 7 Trial § 262 et seq.
automatic exception to error, 7 Trial § 304

BAJI
in general, 7 Trial §§ 270, 273 et seq.
coverage, 7 Trial § 274
definitions, 7 Trial § 279
format, 7 Trial § 274
gender neutrality of, 7 Trial § 267
burden of proof, 7 Trial §§ 294, 295

CACI
in general, 7 Trial § 270 et seq.
coverage, 7 Trial § 272
definitions, 7 Trial § 278
format, 7 Trial § 272
gender neutrality of, 7 Trial § 267
verdict forms, 7 Trial § 273

California civil jury instructions, see BAJI (this group); CACI (this group)
cautionary instructions, 7 Trial § 281
circumstantial evidence instructions on, 7 Trial § 291
clerk’s transcript on appeal, designation for, 9 Appeal § 647
commonplace matters, instructions on, 7 Trial § 280
conflicting instructions, 7 Trial § 308
conflicting testimony, instruction on, 7 Trial § 300
conservatorship of gravely disabled persons, see Conservatorship of gravely disabled persons
content errors, 7 Trial § 305
contract action instructions, 7 Trial § 284
contradictory instructions, 7 Trial § 308
court’s own motion, instruction on, 7 Trial § 261
credibility of witness, instructions on, 7 Trial § 299
curing error, 7 Trial § 317; 9 Appeal § 441
### Instructions to jury—Cont’d

- defective verdict, construction in light of instructions to cure, 7 Trial § 367 definitions, 7 Trial § 277 et seq.
- degree of proof, instruction on, 7 Trial §§ 294, 295 deliberations
  - in general, 7 Trial § 281
- demand, instruction on amount of, 7 Trial § 276
depositions, instruction on, 7 Trial § 293 direct evidence, 7 Trial § 291 discretion to instruct, 7 Trial § 261 duties regarding
  - in general, 7 Trial §§ 258, 261
- error in instructions
  - in general, 7 Trial § 304 et seq.
- appeal, use of instruction to raise for, 9
  - Appeal § 404
- curing of, 9 Appeal § 441
- failure to object, effect on appeal, 9
  - Appeal § 397*
- harmless error, see Reversible or harmless error
- invited error, 9 Appeal § 390
- judge, cure by, 9 Appeal § 441
- reversible error, see Reversible or harmless error
- substantial error, 9 Appeal § 447
- verdict, cure by, 9 Appeal § 441
- evidence, 7 Trial § 289 et seq.
- excessive number of instructions, 7 Trial § 309
- experiments by jurors, 7 Trial § 328
- expert witnesses, 7 Trial § 292 failure to instruct, effect of, 9 Appeal §§ 433, 447
- fair procedure, common law right of, 7
  - Trial § 286*
- form errors, 7 Trial § 306
- form of, 7 Trial § 266 et seq.
- format requirements for instructions
  - proposed by attorney, 7 Trial § 263
- formula instructions, 7 Trial §§ 313, 314
- functions of court and jury, 7 Trial § 281
gender neutrality, 7 Trial § 267 grant of instructions proposed by attorney, 7
  - Trial § 264
- harmless error, 9 Appeal § 433
- holidays, giving on, 2 Courts § 48
- impeachment of witness, 7 Trial § 299

### Instructions to jury—Cont’d

- interrogatories, 7 Trial § 293
- invited error, see Reversible or harmless error
- irrelevant instructions, effect of, 7 Trial § 307
- issues to be determined, 7 Trial § 282
- Judicial Council civil instructions, see BAJI (this group); CACI (this group)
- jury not misled by, 7 Trial § 315
- jury room, instructions in during deliberations, 7 Trial § 323
- limited admission of evidence, instruction on, 7 Trial § 296
- local rule format requirements, 7 Trial § 263
- matters not in evidence, instruction on, 7
  - Trial § 297
- modification of requested instructions, 7
  - Trial § 265
- multiple parties, 7 Trial § 288
- nature of, 7 Trial § 256
- negligence, see Negligence
- party designations, 7 Trial § 288
- prejudice
  - instruction on, 7 Trial § 298
- prejudicial instructions, effect of, 7 Trial § 307
- presumption
  - in general, 7 Trial § 300
- proposal by counsel, 7 Trial § 262 et seq.
- reduction to writing, requirement of, 7
  - Trial § 261
- refusal of proposed instructions, 7
  - Trial § 264
- request, necessity of, 7 Trial § 260
- right to instructions, 7 Trial § 258 et seq.
- singling out witness in instructions, 7
  - Trial § 290
- special instructions, 7 Trial § 263
- statutory forms, 7 Trial § 270
- statutory language
  - use of, 7 Trial § 268
- style of, 7 Trial § 266 et seq.
- subjects of, 7 Trial § 275 et seq.
- substantial error, 9 Appeal § 447
- substantive law instructions, 7 Trial § 283 et seq.
- suppression of evidence, 7 Trial § 302
- sympathy, 7 Trial § 298

---

Index-206
Instructions to jury—Cont’d

- time for proposal by attorney, 7 Trial § 262
- tort action instructions, 7 Trial §§ 285, 286
- truisms, instructions on, 7 Trial § 280
- undue emphasis on instructions, 7 Trial § 311
- undue repetition of instructions, 7 Trial § 310
- violation by juror, see Contempt

Insurance

- accrual of cause of action
  - breach of duty to defend, 3 Actions § 523 et seq.
  - damage, on, 3 Actions § 501
- admitted surety insurers, see Sureties
- adverse interests of attorneys
  - in general, 1 Attys § 117 et seq.
  - automobile accident cases, see Automobile insurance
  - disqualification based on, 1 Attys § 117
  - insurer and insured, representation of, 1 Attys § 117
- malpractice cases, 1 Attys § 121
- reservation of rights, see reservation of rights by insurer (this group)
- workers’ compensation cases, see Workers’ compensation procedure
- arbitration
  - waiver by insurer, 6 PWT §§ 551, 552
- attorney discipline based on claims, see Attorney discipline
- attorney malpractice insurance, 1 Attys § 338
  - attorneys
    - adverse interests, see adverse interests of attorneys (this group)
    - conflicts of interest, see adverse interests of attorneys (this group)
- Cumis case, see Cumis counsel (this group)
- fees, see attorneys’ fees (this group)
- in-house counsel, practice of law by, 1 Attys § 386
- insurer and insured, relationship with, 1 Attys §§ 42, 117
Insurance—Cont’d

- duty to defend—Cont’d
  - attorneys’ fees for, see Attorneys’ fees
- exhaustion of administrative remedies in actions involving rules and regulations, see Exhaustion of administrative remedies
- fire insurance, see Fire
- in-house counsel, practice of law by, 1 Attys § 386
- instructions to jury, see bad faith litigation conduct (this group)
- Insurance Commissioner
  - exclusive jurisdiction of, 2 Jurisd § 48
  - intervention based on interest in, 4 Plead § 231
  - investigation by insurer, tolling of limitations period during, 3 Actions § 757
  - jury instructions, see bad faith litigation conduct (this group)
  - malpractice, legal, coverage for, 1 Attys § 338
  - misconduct of attorney by reference to at trial, 7 Trial § 217 et seq.
  - notice of accident or claim, as condition precedent to insurer’s obligations, 3 Actions § 229
- personal jurisdiction based on insurance business, 2 Jurisd § 168
- receiver, appointment in delinquency proceedings, 6 Prov Rem § 423
- refusal to settle by insurer, see bad faith refusal to settle by insurer (this group)
- regulation
  - exhaustion of administrative remedies in actions involving, see Exhaustion of administrative remedies
  - reservation of rights by insurer
    - intervention, as basis for, 4 Plead § 231*
    - service of process, see Process
    - stipulated judgment funded by, enforcement of, 6 PWT § 117
- subrogation
  - in general, see Subrogation
  - tolling of limitations period, 3 Actions § 757 et seq.
  - trial, misconduct of attorney by reference to, 7 Trial § 217 et seq.
- Unauthorized Insurers False Advertising Process Act, 3 Actions § 1024

Insurance—Cont’d

- Unauthorized Insurers Process Act, 3 Actions § 1024
- Uniform Liquidation Act, appointment of receiver under, 6 Prov Rem § 423

Insurer

- arbitration, waiver by, 6 PWT §§ 551, 552
- settlement
  - bad faith acceptance, 3 Actions § 649
- judgment funded by, enforcement, 6 PWT § 117

Integrated Waste Management Board

- in general, 9 Admin Proc § 167
- admitted surety insurer, listing in compliance with Federal Resource Conservation and Recovery Act, 6 Prov Rem § 26
- Department of Resources Recycling and Recovery, renaming as, 9 Admin Proc § 12*
- environmental protection, see Environmental protection functions of, 9 Admin Proc § 167*
- open meeting requirements exception for, 9 Admin Proc § 12
- renaming of, 9 Admin Proc § 12*

Intentional infliction of emotional distress

- nature of action, 5 Plead § 768
- pleading, 5 Plead § 768 et seq.
- Rosenthal Fair Debt Collection Practices Act, 8 Enf Judgm § 5*
- Uniform Liquidation Act, appointment of receiver under, 6 Prov Rem § 423
- venue, 3 Actions § 821

Intentional torts

- abuse of process, see Abuse of process
- accrual of actions, see Tort actions
- answer, raising defenses in, 5 Plead § 1078
- assault, see Assault and battery
- attorney malpractice, see Attorney malpractice
- attorneys’ fees, 7 Judgm § 229
- battery, see Assault and battery
- civil conspiracy, see Joint and contributing tortfeasors
- conspiracy, civil, see Joint and contributing tortfeasors

Index-208
Intentional torts—Cont’d
contracts, intentional torts violating, 3
Actions § 157 et seq.
conversion, see Conversion of personal property
defamation, see Defamation
emotional distress, see Intentional infliction of emotional distress
government tort claims, see Government tort claims
invasion of privacy, see Invasion of privacy
libel, see Libel; Trade libel
limitation and accrual of actions, see Tort actions
malicious prosecution, see Malicious prosecution
misappropriation, see Misappropriation
plagiarism, see Plagiarism
privacy, see Invasion of privacy
slander, see Libel
statute of limitations, see Tort actions

Interagency Intercept Collections Program, see State Bar

Interest
accrual
cessation of, 8 Enf Judgm § 44
commencement of, 8 Enf Judgm § 43
amount in controversy, effect on determining, 2 Jurisd § 25
attorneys’ fees
awards, see Attorneys’ fees
disputes, recovery in, see Attorneys’ fees
bond
deposit in lieu of, 6 Prov Rem § 44
payment of interest on, 6 Prov Rem § 44
child support
interest on arrearages, 8 Enf Judgm § 45
costs, interest on, 8 Enf Judgm § 42
damages
interest as, 7 Judgm § 324
decision, interest on, 7 Judgm § 325
installment money judgments, accrual on,
8 Enf Judgm § 43
judgment, interest on
in general, 7 Judgm § 324 et seq.

Interest—Cont’d
judgment, interest on—Cont’d
compounding of postjudgment interest,
7 Judgm § 329
consent judgment, applicability to, 7 Judgm § 331
date of entry rule, 7 Judgm § 326 et seq.
dissolution of marriage judgment, applicability to, 7 Judgm § 330
local public entities, rate applicable to,
7 Judgm § 328
modification on appeal, effect of, 7 Judgm § 333
money judgment, 8 Enf Judgm § 42
prejudgment interest award, applicability to, 7 Judgm § 332
public entities, local, rate applicable to,
7 Judgm § 328
rate of interest, 7 Judgm §§ 327, 328
renewed judgment, see Renewal of judgment
reversal on appeal, effect of, 7 Judgm § 333
state, judgment against, 7 Judgm § 332;
8 Enf Judgm § 429*
obligation, interest on, 7 Judgm § 324
offer to compromise, inclusion in, 6 PWT § 107
prejudgment interest
enforcement of judgments, effect on, 8 Enf Judgm § 42
memorandum of costs, inclusion in, 7 Judgm § 139
renewed judgment, interest on amount of,
see Renewal of judgment
small claims court, 2 Courts § 303
verdict, interest on, 7 Judgm § 325

Interference with business relations
breach of contract, see Inducing breach of contract
economic advantage, see Interference with prospective economic advantage
nature of action, 3 Actions § 146
title insurance, see Title insurance
trespass, see Trespass
venue for actions, 3 Actions § 822

Interference with prospective economic advantage
negligent
in general, 5 Plead § 774
Interference with prospective economic advantage—Cont’d
pleading
in general, 5 Plead § 774 et seq.
independently wrongful, element of, 5 Plead § 774
privilege as defense, 5 Plead § 1101

Interlocutory judgments and orders
in general, 7 Judgm § 12 et seq.
accounting, order for, 7 Judgm §§ 14, 15
appeal from, see Appealable judgments and orders
characteristics of, 7 Judgm § 13
condemnation action, 7 Judgm § 21
defined, 7 Judgm § 12
dissolution of organization, action for, 7 Judgm § 20
finality of, 7 Judgm §§ 13, 363
innocent improver of land action, 7 Judgm § 21
mechanics lien action, 7 Judgm § 20
mortgage foreclosure, 7 Judgm § 19
nature of, 7 Judgm § 12
new trial after, see New trial
partition, 7 Judgm § 21
plea in abatement, trial of, 7 Judgm § 21
quiet title, 7 Judgm § 18
reformation, 7 Judgm § 17
restraining order, 7 Judgm § 20
specific performance, 7 Judgm § 16
surety bond or insurance, see Sureties

Internet
administrative rulemaking, use in, see Administrative rulemaking
personal jurisdiction based on contact through, see Jurisdiction
public records, disclosure on, see California Public Records Act
state agency, open meeting requirements for, 9 Admin Proc § 13

Interpleader
in general, 4 Plead § 237 et seq.
answer
cross-defendant, 4 Plead § 253
defendant, 4 Plead § 249
attorneys’ fees, 4 Plead § 257

Interpleader—Cont’d
bail, title or possession of goods by, 4 Plead § 237
consolidation of actions, 4 Plead § 343
costs, 4 Plead § 257; 7 Judgm § 105
counties assessing taxpayer-owner’s real property, 4 Plead § 237
cross-complaint
interpleader by, 4 Plead § 253
verification of, 4 Plead § 466
declaratory relief compared, 5 Plead § 855
defendant’s application for substitution
in general, 4 Plead § 244 et seq.
affidavit, 4 Plead § 245
application, 4 Plead §§ 244, 245
discharge of defendant, 4 Plead § 246
order, 4 Plead § 246
defined, 4 Plead § 237

Discharge

defendant, 4 Plead § 246
plaintiff, 4 Plead § 252
equitable nature of action, 3 Actions § 129; 4 Plead § 256
federal rule, 4 Plead § 238
independent liability of stakeholder, effect of, 4 Plead §§ 242, 243
limitations, 4 Plead §§ 240, 241
limited civil action, 2 Courts § 246
nature, 4 Plead § 237
partial interpleader, 4 Plead § 254
plaintiff’s action
in general, 4 Plead § 247 et seq.
answer, 4 Plead § 249
complaint, 4 Plead § 248
conflicting claims, effect of, 4 Plead § 247
defendant’s pleadings, 4 Plead § 249
demurrer, 4 Plead § 249
discharge of plaintiff, 4 Plead § 252
hearing, 4 Plead § 251
interlocutory order, 4 Plead § 251
multiple liability, effect of, 4 Plead § 247
procedure, 4 Plead § 247
restraining order, 4 Plead § 250
third-party defendants, 4 Plead § 247
procedure, 4 Plead § 244 et seq.
restrictions, 4 Plead §§ 240, 241
Interpleader—Cont’d
substitution, see defendant’s application
for substitution (this group)
tort liability to named potential claimant,
4 Plead § 258
trial between conflicting claimants, 4
Plead §§ 255, 256
warehouseperson, title or possession of
goods by, 4 Plead § 237

Interpretation of Constitutions and
statutes
erroneous interpretation of statute,
jurisdictional effect, 2
Jurisd § 296

Interpreters and translators
in general, 2 Courts § 387
administrative adjudication, right to assist
in, 9 Admin Proc §§ 68, 77
costs, recovery of fees as, 7
Judgm § 136A*
in forma pauperis suit, 3
Actions § 422
Judicial Council forms, 2 Courts §§ 387,
421
small claims court, 2 Courts §§ 279, 300

Interrogatories
judgment debtor, written interrogatories
to, 8
Enf Judgm § 275
parties, interrogatories to, see Interrogato-
ries to parties
verdict, special interrogatories to test, see
Verdict

Interrogatories to parties
answers
general appearance, as, 2
Jurisd § 212
class actions, see Class actions
instructions to jury on, 7
Trial § 293
jury instructions on, 7
Trial § 293
objections to interrogatories
special appearance, as, 2
Jurisd § 233

Intervention
in general, 4
Plead § 212 et seq.
administrative adjudication, 9
Admin Proc § 91
amicus curiae, appearance as compared, 4
Plead § 215
appeal, see Appeal
application
in general, 4
Plead § 219
time for, 4
Plead § 223 et seq.

Intervention—Cont’d
attorney, by, 4
Plead § 234
California rule, 4
Plead § 214
complaint in
in general, 4
Plead § 218
order striking, 4
Plead § 222
corporate dissolution, 4
Plead § 214
creditor, by, 4
Plead § 234
cross-complaint compared, 4
Plead § 215
debtor’s spouse, by, 4
Plead § 234
denial of, appealability of, see
Appealable judgments and orders
designation of parties, 4
Plead § 67
direct interest lacking, effect of, 4
Plead §§ 234, 235
dismissal, effect of intervention on
service, delay in, 6
PWT §§ 321, 445
trial, delay in bringing, effect of com-
plaint, 6
PWT § 372
voluntary dismissal, effect of com-
plaint, 6
PWT § 290
eminent domain, 4
Plead § 214
enforcement of judgment, intervention by
third party, see Examination
proceedings
environmental action, 4
Plead § 214
equal protection, denial of, 4
Plead § 214
escheat, 4
Plead § 214
ex parte order, 4
Plead § 219
federal rule, 4
Plead § 213
hearing on notice, 4
Plead § 220
Indian Child Welfare Act, 4
Plead § 214
insurance, interest in as basis, see
Insurance
insurer, by, 4
Plead § 234
joinder by order of court compared, 4
Plead § 215
landowner, by, 4
Plead § 234
law enforcement agency, by, 4
Plead § 234
legal precedent, 4
Plead § 236
lien in action on behalf of creditor, 8
Enf Judgm § 297
mandamus with effect of, 4
Plead § 216
nature of right, 4
Plead § 212
party
designation of, 4
Plead § 67
intervenor as, 4
Plead § 226 et seq.
permissive intervention
in general, 4
Plead §§ 214, 229 et seq.

Index-211
Intervention—Cont’d
permissive intervention—Cont’d
attached property, action involving, 4 Plead § 232
condemnation action, 4 Plead § 232
corporate dissolution, voluntary action, 4 Plead § 232
independent interest, 4 Plead § 230 et seq.
insurance, interest in, 4 Plead § 231
mortgage foreclosure, 4 Plead § 232
party, interest in success of, 4 Plead § 229
property, interest in, 4 Plead § 232
quiet title action, 4 Plead § 232
trust, action to establish, 4 Plead § 232
private judge, intervention into case before, 6 PWT § 498
procedure, 4 Plead § 218 et seq.
referee, intervention into case pending before, 6 PWT § 72
review of order, 4 Plead § 221
right to intervene, 4 Plead § 214
shareholder liability, creditor action, 4 Plead § 214
subject matter, interest in, 4 Plead § 217
subrogee, prospective, intervention by, 4 Plead § 234
substitution of parties compared, 4 Plead § 215
test for, 4 Plead §§ 217, 236
third-party claim compared, 4 Plead § 215
validation of redevelopment plan compared, 4 Plead § 215
workers’ compensation, 4 Plead § 214

Intestate succession
appeal of orders, see Probate proceedings determination as special proceeding, 3 Actions § 65
proceeding to determine, 5 Plead § 856

Introduction of evidence at trial
in general, 7 Trial § 161

Invasion of privacy
in general, 7 Trial § 286*
accrual of actions, 3 Actions §§ 497, 553, 556
cause of action, 4 Plead §§ 52, 53
defamation retraction statute, applicability of, 5 Plead § 746

Invasion of privacy—Cont’d
discovery of facts, accrual of cause of action on, 3 Actions § 497
injunction against, 6 Prov Rem § 314
instructions to jury, 7 Trial § 286
limitation and accrual of actions, 3 Actions §§ 553, 556
pleading, 5 Plead § 746 et seq.

Inventions
patent
Patent Office, nonlawyers practicing before, 1 Attys § 402

Inventory
attachment, see Attachment
claim and delivery, see Claim and delivery
lien to enforce judgment, see Judgment liens
receiver, 6 Prov Rem § 454

Inverse condemnation
accrual of action for, 3 Actions § 605
action for, 3 Actions § 4
attorneys’ fees, 7 Judgm § 290
costs, see Costs
interlocutory orders, 7 Judgm § 21
intervention, 4 Plead § 232
judgment, form and content of, 7 Judgm § 35
jury trial right, 7 Trial § 97
limitation and accrual of actions, 3 Actions §§ 483, 605
nature of action, 5 Plead § 689
pleading
in general, 5 Plead § 689 et seq.
access, impairment of, 5 Plead § 690
allegations required, 5 Plead § 689
damage to property, 5 Plead § 689
description of property, 5 Plead § 689
impairment of access, 5 Plead § 690
improvement, injury from, 5 Plead § 691
ownership of property, 5 Plead § 689
taking of property, 5 Plead § 689
procedure
accrual of action for, 3 Actions § 605
limitation of actions, 3 Actions §§ 483, 605
Inverse condemnation—Cont’d
procedure—Cont’d
statute of limitations, 3 Actions §§ 483, 605
venue of actions, 3 Actions § 803
statute of limitations, 3 Actions §§ 483, 605
venue of actions, 3 Actions § 803
verification of pleadings, 4 Plead § 466

Invited error
amendment of complaint, effect on dismissal for delay, 5 Plead § 1188
extension of time for motion, 6 PWT § 441
extension of time to plead based on, 4 Plead § 10
instructions to jury, 7 Trial § 316
special appearance, motion as, 2 Jurisd § 228
special proceedings
applicability to, 6 PWT § 316
service, delay in, 6 PWT § 321
subject matter jurisdiction, effect on, 2 Jurisd § 91
verdict, 7 Trial § 377

Involuntary dismissal
in general, 6 PWT § 474 et seq.
amendment of complaint, failure of, 6 PWT §§ 474, 477, 478
appeal, see Appealable judgments and orders; Dismissal of appeal
appearance at trial, failure of, 6 PWT § 474 et seq.
delay, dismissal for, see Involuntary dismissal for delay
demurrer
hearing, failure to bring to, 6 PWT § 480
sustained, 6 PWT § 477
entry of judgment on, see Entry of judgment
grounds other than delay, 6 PWT §§ 474, 480
lack of prosecution, see Involuntary dismissal for delay
mootness, dismissal for, 7 Judgm § 379*
motion to strike granted, 6 PWT § 478
res judicata effect, see Res judicata
ripeness, dismissal for lack of, 7 Judgm § 379*

Involuntary dismissal—Cont’d
strike motion granted, 6 PWT § 478

Involuntary dismissal for delay
in general, 6 PWT § 315 et seq.
appeal from, see Appealable judgments and orders
child support proceedings, applicability to, 6 PWT §§ 317, 318
conflict of laws regarding, 3 Actions § 46 definitions, 6 PWT § 315
discretionary dismissal, 6 PWT § 438 et seq.
dissolution of marriage proceedings, applicability to, 6 PWT § 317
estoppel
in general, 6 PWT § 315
service, 6 PWT § 351 et seq.
exceptions
in general, 6 PWT §§ 329 et seq., 382 et seq., 401 et seq., 434 et seq., 441
futility exception, 6 PWT § 401 et seq.
impossibility exception, 6 PWT § 401 et seq.
impracticability exception, 6 PWT § 401 et seq.
excuses, 6 PWT §§ 329 et seq., 382 et seq., 401 et seq., 434 et seq., 441
extensions of time, 6 PWT §§ 329 et seq., 382 et seq., 434 et seq., 441
federal practice, 6 PWT § 315
legal separation proceedings, applicability to, 6 PWT § 317
marital dissolution proceedings, applicability to, 6 PWT § 317
new trial, bringing to trial after motion, 6 PWT §§ 430 et seq., 464
premature dismissal, 6 PWT § 440
return, see service and return, delay in (this group)
service and return, delay in
in general, 6 PWT § 319 et seq.
amended pleading, effect of filing, 6 PWT § 325 et seq.
corporate defendant, 6 PWT § 341
corporate dissolution proceedings, 6 PWT § 321
death of defendant, effect of, 6 PWT § 342
defendant, effect of addition of, 6 PWT §§ 327, 328
Involuntary dismissal for delay—Cont’d

service and return, delay in—Cont’d
defendant not amenable, effect of, 6
PWT § 339 et seq.
discretionary dismissal, 6 PWT §§ 438 et seq., 442 et seq.
dismissal, effect of, 6 PWT § 357
Doe defendant, effect on discretionary dismissal, 6 PWT § 444
estoppel, 6 PWT § 351 et seq.
exceptions, 6 PWT §§ 329 et seq., 441, 442
excuses, 6 PWT §§ 329 et seq., 441, 442, 446, 447
extensions of time for, 6 PWT §§ 329 et seq., 353, 441, 442
fast track rules, 6 PWT § 319
futility of, effect of, 6 PWT § 346 et seq.
general appearance, effect of, 6 PWT § 330 et seq.
imbpossibility of, effect of, 6 PWT § 346 et seq.
impracticality of, effect of, 6 PWT § 346 et seq.
incompetents, 6 PWT § 321
intervenors, 6 PWT §§ 321, 445
joinder of defendant, effect of, 6 PWT § 328
marriage of defendant, effect of, 6 PWT § 342
motion to dismiss, 6 PWT §§ 355, 356
prejudice, necessity for discretionary dismissal, 6 PWT § 448
procedure, 6 PWT § 355 et seq.
publication, amenability to service only by, 6 PWT § 343
review of discretionary dismissal, 6 PWT §§ 449, 450
special appearances, effect of, 6 PWT § 331 et seq.
special proceedings, 6 PWT § 321
state as plaintiff, 6 PWT § 321
stay affecting service, effect of, 6 PWT § 344
stipulation extending time for, 6 PWT § 338
supplemental pleading, effect of filing, 6 PWT § 325 et seq.
tax actions, 6 PWT § 319

Involuntary dismissal for delay—Cont’d

service and return, delay in—Cont’d
time for, 6 PWT §§ 322 et seq., 443 et seq.
trial court delay reduction rules, 6 PWT § 319
waiver, 6 PWT § 354
will contest, 6 PWT § 321
wrongful death action, 6 PWT § 321
special proceedings
applicability to, 6 PWT § 316
service, delay in, 6 PWT § 321
trial, delay in
in general, 6 PWT § 358 et seq.
absence of party in interest, effect of, 6 PWT § 406
admissions, conclusive, effect of, 6 PWT § 421
appeal of order, 6 PWT §§ 366, 367, 390, 471
arbitration, effect of, 6 PWT §§ 380, 412 et seq.
attorney, effect of death or illness of, 6 PWT § 403
bankruptcy, effect of filing, 6 PWT § 394
belated attempt to obtain trial date, 6 PWT § 424 et seq.
bifurcation, effect of, 6 PWT § 373
bringing to trial, time of, 6 PWT § 373 et seq.
change of venue, effect of, 6 PWT § 391
commencement of action, 6 PWT § 370 et seq.
compromise agreement, effect of, 6 PWT § 422
consolidation of actions, effect of, 6 PWT § 409
contractual arbitration, effect of, 6 PWT § 412
costs, effect of furnishing security for, 6 PWT § 409
court trial, effect of, 6 PWT § 373
courtroom, effect of lack of, 6 PWT § 402
cross-complaint, effect of, 6 PWT § 361
death of attorney, effect of, 6 PWT § 403
Involuntary dismissal for delay—Cont’d
trial, delay in—Cont’d
death of party, effect of, 6 PWT §§ 390, 403
default of defendant, effect of, 6 PWT § 404
demurrer, effect of, 6 PWT §§ 360, 379
denial of dismissal, review of, 6 PWT § 367
discretionary dismissal, 6 PWT §§ 358, 438 et seq., 451 et seq.
dissolution of marriage, applicability to, 6 PWT §§ 363, 373
estoppel, 6 PWT §§ 418, 419, 434, 437 exceptions, 6 PWT §§ 382 et seq., 434 et seq., 441, 451
excuses, 6 PWT §§ 382 et seq., 434 et seq., 441, 451
extensions of time, 6 PWT §§ 382 et seq., 423, 434 et seq., 441, 451
fast track rules, effect of, 6 PWT § 369
futility, effect of, 6 PWT §§ 395 et seq., 434 et seq.
government tort claims, effect of noncompliance with, 6 PWT § 391
grant of dismissal, review of, 6 PWT § 366
illness of party or attorney, effect of, 6 PWT § 403
impanelment of jury, effect of, 6 PWT § 376
impossibility, effect of, 6 PWT §§ 395 et seq., 417, 434 et seq.
impracticability, effect of, 6 PWT §§ 395 et seq., 417, 434 et seq.
 injunction of prosecution, effect of, 6 PWT §§ 393, 394, 434
interlocutory review, effect of, 6 PWT § 405
intervention, effect of filing complaint, 6 PWT § 372
invalid order preventing trial, effect of, 6 PWT § 408
judge, effect of lack of, 6 PWT § 402
judicial arbitration, effect of, 6 PWT §§ 413 et seq., 457
jurisdiction, effect of suspension of, 6 PWT §§ 389 et seq., 434
jurisdiction, lack of, 6 PWT § 389 et seq.
jury disagreement, delay in bringing to trial after, 6 PWT § 429

Involuntary dismissal for delay—Cont’d
trial, delay in—Cont’d
jury trial, effect of, 6 PWT §§ 376, 377
lack of jurisdiction, effect of, 6 PWT § 389 et seq.
legal separation, applicability to, 6 PWT § 363
mandamus review of orders, 6 PWT §§ 366, 367
mandatory dismissal, 6 PWT §§ 358, 428 et seq.
mistrial, delay in bringing to trial after, 6 PWT § 429
motion in limine, effect of, 6 PWT § 373
motion to dismiss, 6 PWT §§ 364, 365
neglect of attorney, effect of, 6 PWT § 455
new trial, delay in bringing to trial after motion, 6 PWT § 430 et seq.
preemptory challenge to judge, effect of, 6 PWT § 402
preferential setting for trial, 6 PWT §§ 425 et seq., 458
prejudice, necessity for discretionary dismissal, 6 PWT § 456
pretrial conference, effect of, 6 PWT § 373
pretrial disposition on merits, effect of, 6 PWT § 378 et seq.
procedure, 6 PWT § 376 et seq.
process, effect of defendant not being amenable to, 6 PWT § 407
prohibition, review of denial of motion by, 6 PWT § 367
related proceeding pending, effect of, 6 PWT § 411
relation back doctrine, effect of, 6 PWT § 369
renewal of motion after denial, 6 PWT § 367
review of orders, 6 PWT §§ 366, 367, 460 et seq.
security for costs, effect of furnishing, 6 PWT § 391
setting cause for trial, effect of, 6 PWT §§ 373, 459
settlement, effect of, 6 PWT § 422
severability of causes of action, effect of, 6 PWT § 410
state, applicability to, 6 PWT § 360

Index-215
Involuntary dismissal for delay—Cont’d
trial, delay in—Cont’d
stay of prosecution, effect of, 6 PWT §§ 393, 394, 434
stipulations extending time, 6 PWT §§ 382 et seq., 434
subject matter jurisdiction, effect of suspension of, 6 PWT §§ 389 et seq., 434
summary judgment or adjudication, effect of, 6 PWT § 379
tacking of tolling periods, 6 PWT § 389 et seq.
trial court delay reduction rules, effect of, 6 PWT § 369
venue change, effect of, 6 PWT § 391
voir dire, effect of, 6 PWT § 376
voluntary dismissal induced by fraud or mistake, effect of, 6 PWT § 390
trial, waiver of, see waiver (this group)

Joinder—Cont’d
collusive joinder, effect on federal jurisdiction, 2 Jurisd § 85
compulsory joinder
in general, 4 Plead § 180 et seq.,
charitable trust, action to modify, 4 Plead § 193
driving with permission laws, action based on, 4 Plead § 193
fixtures, innocent improver’s removal action, 4 Plead § 193
former law, 4 Plead § 176
indispensable parties, see indispensable party (this group)
joinder not possible, 4 Plead § 186 et seq.
joinder possible, 4 Plead § 185
order for joinder, see order for joinder (this group)
parents’ action for injury to child, 4 Plead § 193
paternity action, 4 Plead § 193
permissive use laws, action based on, 4 Plead § 193
review, standard of, 4 Plead § 189
sovereign immunity, effect of, 4 Plead § 188
statute of limitations, effect of, 4 Plead § 187
statutes requiring joinder, 4 Plead § 193
superior public officer, action against, 4 Plead § 193
tidelands, action involving title to, 4 Plead § 193
wrongful death action, 4 Plead § 193
creditor’s action, defendant joined, 6 Prov Rem § 201
cross-complaints, see Cross-complaint defendants
in general, 4 Plead § 198 et seq.,
alternative, relief sought in, 4 Plead § 204 et seq.,
contractual liabilities, actions involving, 4 Plead § 206
creditor’s action, 6 Prov Rem § 201
cross-defendants, 5 Plead § 1171
effect on time for service, 6 PWT § 328
employer and employee, actions involving, 4 Plead § 202
joint or several relief sought, 4 Plead § 199 et seq.
Index-217

Joinder—Cont’d

defendants—Cont’d
liability insurer, joinder of, 4 Plead § 203
respondeat superior, actions involving,
  4 Plead § 202
tort actions, 4 Plead §§ 207, 208
tortfeasors, joint, several, or concurrent,
  4 Plead § 200
wrongful death, 4 Plead § 201
demurrer, raising nonjoinder by, see Demurrer
federal jurisdiction denied based on, 2 Jurisd § 85
federal rules, 4 Plead § 174
former law, 4 Plead § 175 et seq.
indispensable party
  in general, 4 Plead § 182 et seq.
defendant, voluntary dismissal of, 6 PWT § 292
dismissal based on failure to join, 6 PWT § 474
former law, 4 Plead §§ 175, 182
joinder possible, 4 Plead § 185
subject matter jurisdiction, effect of absence of indispensable party on,
  2 Jurisd § 99
unborn remainderpersons, class action to join, 4 Plead § 272
waiver, 4 Plead § 184
joint tortfeasors, 4 Plead § 200
liability insurer, joinder of, 4 Plead § 203
nature of rules, 4 Plead § 173
necessary parties, see indispensable party (this group)
object of, 4 Plead § 173
order for joinder
  in general, 4 Plead § 190 et seq.
application, 4 Plead § 191
court’s own motion, 4 Plead § 192
former law, 4 Plead § 177
intervention compared, 4 Plead § 215
origin of rules, 4 Plead § 173
permissive joinder
  in general, 4 Plead § 194 et seq.
causes of action, see causes of action, joinder of (this group)
defendant, joinder of, see defendants (this group)
former law, 4 Plead § 178

Joinder—Cont’d

permissive joinder—Cont’d
plaintiff, joinder of, see plaintiff, joinder of (this group)
plaintiff, joinder of
  in general, 4 Plead § 194 et seq.
former law, 4 Plead § 178
interest in subject of action, 4 Plead § 197
same transaction, right arising from, 4 Plead §§ 195, 196
tort transaction, right arising from, 4 Plead § 196
unwilling party, 4 Plead § 209
plea in abatement, raising joinder problems by, see Plea in abatement
proper parties, former law, 4 Plead § 175
quasi in rem jurisdiction obtained by, 2 Jurisd § 249
quiet title action, 5 Plead § 659
review, standard for compulsory joinder, 4 Plead § 189
security for costs, effect of joining nonresident,
  3 Actions §§ 354
separate trials, 4 Plead § 211
statute of limitations, effect of, 4 Plead §§ 187, 209
unincorporated association, joinder of individual members, 4 Plead § 99
unwilling party, 4 Plead § 209
venue after, see Venue
wrongful death
  compulsory joinder, 4 Plead § 193
  permissive joinder, 4 Plead § 201

Joint and contributing tortfeasors
alternative actions against, 3 Actions § 177
appeal by joint tortfeasor, effect, 9 Appeal § 40
civil conspiracy
  accrual of actions, 3 Actions §§ 553, 557
limitations period, 3 Actions §§ 553, 557
personal jurisdiction, basis for, 2 Jurisd § 146
pleading, 5 Plead § 921 et seq.
tolling of limitations period, 3 Actions § 557
joinder, 4 Plead § 200

Index-217
Joint and contributing tortfeasors—Cont’d
offer to compromise, see Offer to compromise
pleading regarding, 5 Plead § 921 et seq.

Joint and several liability
default judgment, effect on, 6 PWT § 135
judgment, see Judgments
surety and principal, see Sureties

Joint debtor proceedings
in general, 8 Enf Judgm § 398 et seq.
acknowledgment of satisfaction
content of acknowledgment, 3 Actions § 390
creditor’s duty to acknowledge, 3 Actions § 388
demand for acknowledgment by debtor, 3 Actions § 389
execution of acknowledgment, 3 Actions § 390
affidavit, 8 Enf Judgm § 399
amendment of complaint, 8 Enf Judgm § 401
answer by defendant, 8 Enf Judgm § 400
appeal by joint debtor, 9 Appeal § 40
joinder, necessity of, 8 Enf Judgm § 398
nature of remedy, 8 Enf Judgm § 398
return of summons, 8 Enf Judgm § 399
summons, 8 Enf Judgm § 399
trial, 8 Enf Judgm § 402

Joint stock company, see Unincorporated associations

Joint tenancy
real property, see Cotenants

Judges
in general, 2 Courts § 1 et seq.
abandonment of office, 2 Courts § 14
administrative law judges, see Administrative law judges
appellate court justices, see Court of Appeal; Supreme Court
appointment, 2 Courts § 4
assignment
in general, 2 Courts §§ 11 et seq., 21
out of county, 2 Courts § 27
superior court, see Superior court
attorneys, communications with, 1 Attys § 462

Judges—Cont’d
blanket assignment, 2 Courts § 12
bonds, approval of in chambers, 2 Courts § 23
cause, challenge for, see Judicial misconduct or disability
challenge, see Judicial misconduct or disability; Peremptory challenge to judge
chambers, powers in, 2 Courts § 23 et seq.
Chief Justice, see Supreme Court
civil proceedings resulting from criminal proceedings involving, legal representation in, 1 Attys § 60
claims against, see Government tort claims
Commission on Judicial Performance, see Commission on Judicial Performance
communications with attorneys, 1 Attys § 462
compensation
in general, 2 Courts § 8 et seq.
de facto judge, 2 Courts § 17
conduct, see Judicial misconduct or disability
consent of parties
hearing in chambers, 2 Courts § 25
outside county proceeding, 2 Courts § 27
“court” distinguished, 2 Courts § 21
Court of Appeal justices, see Court of Appeal
court proceedings, see Courts
criminal proceedings
challenge of, see Appealable judgments and orders; Judicial misconduct or disability; Peremptory challenge to judge
invoking, legal representation in, 1 Attys § 60
legal representation in proceedings involving, 1 Attys § 60
de facto judge, 2 Courts §§ 16, 17
death of, effect of, 2 Courts § 14
defined, 2 Courts § 21
delay in deciding cases, effect on compensation, 2 Courts § 10
direction to clerk, performance in chambers, 2 Courts § 24
discipline of, see Judicial misconduct or disability
Judges—Cont’d

mandamus
- compelling acts of, 8 Writs § 99 et seq.
- impartial judge, enforcing right to, 8 Writs § 110
- misconduct, see Judicial misconduct or disability
- new trial motion, see New trial
- nominees, evaluation of, 2 Courts §§ 5, 6
- outside county, power, 2 Courts § 27
- peremptory challenge to, see Peremptory challenge to judge
- peremptory challenge to judge after ex parte hearing, 2 Courts § 156
- powers
  - in general, 2 Courts § 22 et seq., limitations on, 9 Admin Proc § 4
  - practice of law by, unlawful, see Attorneys
- presiding judge, see Superior court
- private judging, see Private judges
- private mediator, judge as, 6 PWT § 486
- probate matters, hearing in chambers, 2 Courts § 23
- qualification, 2 Courts § 1
- recall of, 2 Courts § 14
- representation of
  - conflict of interest in representation by county counsel, 1 Attys § 61
  - county counsel, representation by, 1 Attys § 60
  - private counsel, representation by, 1 Attys §§ 60, 61
- resignation, 2 Courts § 14
- retirement
  - age as reason for, 2 Courts §§ 14, 15, 79
  - assignment of retired judge, 2 Courts § 11
  - compensation of retired judge, 2 Courts § 9
  - disability as reason for, 2 Courts §§ 14, 15, 79
  - robe, 2 Courts § 28
- Rules of Court regarding, see Rules of Court
- sabbatical for, 2 Courts § 14
- selection
  - in general, 2 Courts § 4 et seq.
  - invalid, effect of, 2 Courts §§ 16, 17

Index-219
Judges—Cont’d
successor judge, authority of, 2 Courts §§ 18, 19
Supreme Court justices, see Supreme Court
survivor benefits, federal exemption for, see Exemptions from execution temporary judges
in general, 2 Courts §§ 21, 348 et seq.; 6 PWT § 497 arbitration, availability of order pending, 6 PWT § 529 attorney as, 2 Courts § 348 et seq. authority of attorney to stipulate to, 1 Attys § 254 certification of, 2 Courts § 350 commissioner as, 2 Courts §§ 344, 351 compensation, 2 Courts § 350 contempt during trial, power to punish, 7 Trial § 170 court, appointment by, 2 Courts § 349 death case, knowing participation in, 2 Courts § 353 default proceedings, 2 Courts § 354 et seq. disqualification, 2 Courts § 350 ethics, 1 Attys § 421; 2 Courts § 348 examination of judgment debtor, appointment for, see Examination proceedings governing rules, 2 Courts § 348 judgments of, 2 Courts § 348 knowing participation, 2 Courts §§ 352, 353 oath of, 2 Courts § 350 open hearings before, 6 PWT § 498* order designating, 2 Courts § 350 orders of, 2 Courts § 348 peremptory challenge, see Peremptory challenge to judge presiding judge’s responsibilities, 2 Courts § 237 Rules of Court, 2 Courts § 348 Rules of Professional Conduct, temporary court-appointed judge, 1 Attys § 465KK* stipulation to, 1 Attys § 254; 2 Courts §§ 350, 354, 357 term of office
in general, 2 Courts § 4 expiration, effect of, 2 Courts § 14
Judges—Cont’d
termination of service, 2 Courts §§ 14, 15 tort claims against, see Government tort claims trial, see Trial uncontested matters, hearing in chambers, 2 Courts § 23 undertakings, approval of in chambers, 2 Courts § 23 vacancies, filling, 2 Courts § 4 vacating judgment, see Vacating judgment voir dire by, 7 Trial § 136 et seq.
Judgment liens
in general, 8 Enf Judgm § 64 et seq. abstract of judgment, use to create lien, 7 Judgm § 64 accounts receivable as subject to personal property lien, 8 Enf Judgm § 84 amount of, 8 Enf Judgm § 66 bonds executable to state of California, judgment liens for, see Bond, undertaking, or deposit charging order proceeding, lien created in, 8 Enf Judgm § 98 chattel paper as subject to personal property lien, 8 Enf Judgm § 84 commercial coaches not subject to lien, 8 Enf Judgm § 84 creditor’s suit, lien created in, 8 Enf Judgm § 98 crops, effect of transfer of, 8 Enf Judgm § 97 duration of, 8 Enf Judgm § 67 encumbered property subject to, see Enforcement of judgment equipment as subject to personal property lien, 8 Enf Judgm § 84 examination proceeding, lien created in, 8 Enf Judgm § 98 execution liens
in general, 8 Enf Judgm § 92 et seq. creation, 8 Enf Judgm § 92 duration, 8 Enf Judgm § 92 employee benefit plan, payments from to enforce support order, duration of lien, 8 Enf Judgm § 92 encumbrance of personal property, effect of, 8 Enf Judgm § 95 et seq. encumbrance of real property, effect of, 8 Enf Judgm § 94 extent of lien, 8 Enf Judgm § 92
Index

Judgment liens—Cont’d

execution liens—Cont’d

levy on property, creation by, 8 Enf Judgm § 92
levying officer’s custody, effect on
transfer or encumbrance of property, 8 Enf Judgm §§ 95, 96
personal property in decedent’s estate,
duration of lien on, 8 Enf Judgm § 92
priorities, 8 Enf Judgm § 93
renewal by subsequent levy, 8 Enf Judgm § 92
transfer of personal property, effect of,
8 Enf Judgm § 95 et seq.
transfer of real property, effect of, 8 Enf Judgm § 94
extinguishment of, 8 Enf Judgm §§ 67,
156
farm products as subject to personal property lien, 8 Enf Judgm § 84
fixtures as not subject to personal property lien, 8 Enf Judgm § 84
health care, installment judgment for, see real property liens (this group)
homestead property as subject to real property lien, 8 Enf Judgm §§ 74,
235
installment judgments
personal property lien, amount of,
8 Enf Judgm § 85
real property lien, effect of, 8 Enf Judgm §§ 69, 70, 75, 77
inventory as subject to personal property lien, 8 Enf Judgm § 84
leasehold interest as subject to real property lien, 8 Enf Judgm § 74
lien created to enforce money judgment,
enforcement against interest in, 8 Enf Judgm § 55
minerals, effect of transfer of, 8 Enf Judgm § 97
mobilehomes not subject to personal property lien, 8 Enf Judgm § 84
negotiable documents of title as subject to personal property lien, 8 Enf Judgm § 84
personal property liens
in general, 8 Enf Judgm § 82 et seq.

Judgment liens—Cont’d

personal property liens—Cont’d

as-extracted collateral, as subject to, 8 Enf Judgm § 84*
creation, 8 Enf Judgm § 83
duration, 8 Enf Judgm § 83
erroneous release of, 8 Enf Judgm § 91
extinguishing of, 8 Enf Judgm § 89
filing of notice, 8 Enf Judgm § 86
form of notice, 8 Enf Judgm § 86
installment judgments, amount of lien,
8 Enf Judgm § 85
interests subject to, 8 Enf Judgm § 84
judgments supporting, 8 Enf Judgm § 83
notice of, 8 Enf Judgm § 86
other judgment liens, priority against, 8 Enf Judgm § 87
priority of liens, 8 Enf Judgm § 87
proceeds on disposition, subjection to lien, 8 Enf Judgm §§ 84, 88
purchase money security interests,
priority against, 8 Enf Judgm § 87
recording of satisfaction of judgment, effect of, 8 Enf Judgm § 89
release of, 8 Enf Judgm §§ 90, 91
security interests, priority against, 8 Enf Judgm § 87
service of notice of, 8 Enf Judgm § 86
subordination of, 8 Enf Judgm § 90
timber, as subject to, 8 Enf Judgm § 84*
transfer of property, effect of, 8 Enf Judgm § 88
priorities, 8 Enf Judgm § 68
real property liens
in general, 8 Enf Judgm § 69 et seq.
abstract of judgment, see Abstract of judgment
after-acquired property, priority of liens, 8 Enf Judgm § 77
amount of, 8 Enf Judgm § 75
creation, 8 Enf Judgm § 69
duration, 8 Enf Judgm § 69
encumbrance of interest, effect of, 8 Enf Judgm § 78
erroneous lien, release of, 8 Enf Judgm § 80
extinguishment through recording satisfaction of judgment, 8 Enf Judgm § 79

Index-221
Judgment liens—Cont’d
real property liens—Cont’d
  fraudulent transfer of interest, effect of,
    8 Enf Judgm § 78
  health care installment judgment, effect of,
    8 Enf Judgm § 71
  installment judgments, effect on,
    8 Enf Judgm §§ 69, 70, 75, 77
  interests not subject to,
    8 Enf Judgm § 74
  interests subject to,
    8 Enf Judgm § 74
  lis pendens, effect of expungement of,
    8 Enf Judgm § 78
  modification of judgment, effect on amount of,
    8 Enf Judgm § 75
  nature of,
    8 Enf Judgm § 69
  notice of lien,
    8 Enf Judgm § 76
  priority of liens,
    8 Enf Judgm § 77
  release of,
    8 Enf Judgm §§ 80, 81
  satisfaction of judgment, effect of recording of,
    8 Enf Judgm § 79
  sister state judgment, effect of,
    8 Enf Judgm § 73
  subordination of,
    8 Enf Judgm § 80
  support, effect of installment judgment for,
    8 Enf Judgm § 71
  transfer of interest, effect of,
    8 Enf Judgm § 78
  workers’ compensation award, effect of money judgment for,
    8 Enf Judgm § 72
  relation back,
    8 Enf Judgm §§ 68, 87
  sale of property, effect on liens,
    8 Enf Judgm § 156
  Secretary of State, forms for personal property liens,
    8 Enf Judgm §§ 86, 89, 90
  statutory basis for,
    8 Enf Judgm § 64
  stay of enforcement of judgment, effect of,
    8 Enf Judgm § 67
  third-party rights, effect on,
    8 Enf Judgm § 68
  timber, effect of transfer of,
    8 Enf Judgm § 97
  transferred property subject to,
    see Enforcement of judgment
  vacation of judgment, effect of,
    8 Enf Judgm § 67
  vehicles not subject to personal property lien,
    8 Enf Judgm § 84
  vessels not subject to personal property lien,
    8 Enf Judgm § 84

Judgment notwithstanding verdict
in general, 7 Trial § 436 et seq.
  appeal
    clerk’s transcript, inclusion in,
      9 Appeal § 646
    cross-appeal based on,
      9 Appeal § 599
    denial of JNOV, appealability of,
      9 Appeal § 193
    extension of time for notice of appeal,
      9 Appeal §§ 598, 1009*
    grant of JNOV, appealability of,
      9 Appeal §§ 159, 160
    jurisdiction, effect of appeal on,
      9 Appeal § 23
    limited civil case appeal, extension of time after denial of,
      9 Appeal § 1009*
    reversal on appeal,
      9 Appeal § 873
    appellate review,
      7 Trial § 444 et seq.
    court’s own motion,
      7 Trial § 442
    cross-appeal based on,
      9 Appeal § 599
    directed verdict motion, necessity of,
      7 Trial § 438
    entry of judgment, effect of motion on time for,
      7 Judgm § 55
    jurisdiction, effect of appeal on,
      9 Appeal § 23
  motion,
    7 Trial § 439
  nature of power,
    7 Trial § 436
  new trial motion, see New trial
  partial judgment,
    7 Trial § 443
  procedure,
    7 Trial § 439 et seq.
  reversal on appeal,
    9 Appeal § 873
  ruling on motion,
    7 Trial § 441
  weight of evidence, effect of,
    7 Trial § 437

Judgment on appeal
in general, 9 Appeal § 830 et seq.
  affirmance, see Appeal
correction of recall of remittitur, 9 Appeal § 850
  filing, 9 Appeal § 831

finality
in general, 9 Appeal § 832 et seq.
  Court of Appeal decision, see finality of Court of Appeal decision (this group)
  limited civil case appeal, 9 Appeal § 1019
  modification, effect of,
    9 Appeal § 832
**Judgment on appeal—Cont’d**

finality—Cont’d

Supreme Court decision, 9 Appeal § 839
United States Supreme Court, finality for, 9 Appeal § 840
finality of Court of Appeal decision
in general, 9 Appeal § 834 et seq.
all purposes, finality for, 9 Appeal § 838
certification for publication, effect of, 9 Appeal § 837
dismissal of appeal, 9 Appeal § 835
filing of opinion as beginning of period, 9 Appeal § 832
immediate finality, 9 Appeal § 835
modification, effect of, 9 Appeal § 833
transfer, denial of, 9 Appeal § 835
writs, decisions related to, 9 Appeal §§ 835, 836
forms of, 9 Appeal § 830
modification, see Appeal remittitur, see Remittitur
rendition of, 9 Appeal § 831
reversal, see Reversal of judgment on appeal
stare decisis, see Stare decisis
transmission of copies by clerk, 9 Appeal § 831

**Judgment on pleadings—Cont’d**

in general, 6 PWT § 185 et seq.
amendment, leave to make, 6 PWT §§ 197, 198
answer, use in opposition, 6 PWT §§ 187, 188
appeal from orders relating to, see Appellable judgments and orders
court’s own motion
in general, 6 PWT § 186
grounds for, 6 PWT § 189
declaratory relief, use of motion for, 6 PWT § 190
defendant, grounds for motion by, 6 PWT §§ 189, 190
demurrer
compared, 5 Plead § 1002; 6 PWT § 187
failure to file, effect of, 6 PWT § 194
overruling of previous demurrer, effect of, 6 PWT § 195
grounds, 6 PWT § 189 et seq.

**Judgments**

in general, 7 Judgm § 1 et seq.
abstract of judgment, see Abstract of judgment
action on, see Enforcement of judgment
action to set aside, see Equitable relief against judgment
acts after, as excess of jurisdiction, 2
Jurisd § 328 et seq.
administrative mandamus proceedings, see Administrative mandamus
administrative proceedings generally, see Administrative proceedings
affirmance on appeal, see Appeal
agreed statement of ultimate facts, new trial availability after judgment on, 8
Attack § 23
alternative judgment, 7 Judgm § 22
amendment of judgment, see correction of judgment (this group)
amendment of pleadings before, see Amendment of pleadings
appeal, see Appeal; Appellable judgments and orders; Judgment on appeal;
Record on appeal; Reversal of judgment on appeal
attachment, see Attachment
attack on, see Attack on judgment; Collateral attack
attorneys’ fees, settlement agreement, 7
Judgm § 167*
authority of attorney after, see Attorneys
Judgments—Cont’d
bar of judgment, see Res judicata
bond, judgment of liability on, 6 Prov Rem § 41
certainty requirement, 7 Judgm § 42
cessation of law practice, effect of, see Attorney-client relationship
chattel paper, lien on to enforce judgment, 8 Enf Judgm § 84
class action, effect of, 4 Plead § 270
classification of, 7 Judgm § 1
clerical error, correction of, see correction of judgment (this group)
clerk’s transcript, inclusion in, see Record on appeal
collateral attack on, see Collateral attack condemnation action, 7 Judgm § 35
conditional judgments, see Conditional judgments
conflict of laws regarding, 3 Actions § 46
consent judgment, see Consent judgment construction to uphold judgment, rule of, 7 Judgm § 43
Consumers Legal Remedies Act, content judgment under, 7 Judgm § 29
content of, 7 Judgm § 29 et seq.
contested case, judgment outside issue in, 2 Jurisd § 291; 7 Judgm § 29
contract nature of, 3 Actions § 141
correction of judgment in general, 7 Judgm § 65 et seq.
ambiguity, clarification of, 7 Judgm § 71
amount of judgment, mistakes in, 7 Judgm § 68
appeal, see Appeal; Appealable judgments and orders
attorney drafting judgment, mistake of, 7 Judgm § 70
clerical errors, 2 Jurisd §§ 328, 331; 7 Judgm § 67 et seq.
date of entry, omission from abstract, 7 Judgm § 68
description of property, mistake in, 7 Judgm § 68
extent of judgment, mistakes in, 7 Judgm § 68
invalid stipulation, judgment based on, 7 Judgm § 73
items of judgment, mistakes in, 7 Judgm § 68

Judgments—Cont’d

correction of judgment—Cont’d
judicial error, 7 Judgm §§ 65, 66, 69, 72
mistaken term or phrase, 7 Judgm § 68
motion, 7 Judgm § 74
name of party, errors regarding, 7 Judgm § 68
nature of power to correct, 7 Judgm § 67
notice of motion, 7 Judgm § 75
procedure, 7 Judgm § 74 et seq.
proof of error, 7 Judgm § 76 et seq.
time limit for motion, 7 Judgm § 74
costs, see Costs
dead person, judgment for or against, 2 Jurisd § 317
death of party, effect of, 2 Jurisd § 317; 7 Judgm § 3 et seq.
“decree,” use of, 7 Judgm § 1
default, see Default judgment; Relief from judgment
deficiency, see Deficiency judgment demurrer, dismissal after sustaining of, see Demurrer
direct attack on, see Attack on judgment discharge of, see Discharge of judgment disqualified judge, validity of judgment by, 2 Courts § 94 et seq.
dissolution of marriage, see Dissolution of marriage
economic litigation, limited civil cases, 2 Courts § 256
electronic signature, effect of, 7 Judgm §§ 9*, 47*
enforcement, see Enforcement of judgment; Stay pending appeal
entry of judgment, see Entry of judgment equitable relief against, see Equitable relief against judgment
error by judgment outside issue in contested case, 2 Jurisd § 291
excess of jurisdiction
judgment in, 2 Jurisd § 313 et seq.
execution of, see Execution and levy
extrinsic fraud, judgment obtained by, see Equitable relief against judgment
family law proceedings, see Family law proceedings
final judgment, see Res judicata
finality of, 2 Jurisd § 328 et seq.
Judgments—Cont’d

foreign, see Foreign judgments
form of, 7 Judgm § 29 et seq.
fraud, judgment obtained by, see Equitable relief against judgment
general appearance after, effect of, 2 Jurisd § 199
inadvertence as grounds for relief from, see Relief from judgment
injunction against act rendering judgment ineffective, see Injunctions
interlocutory, see Interlocutory judgments and orders
JNOV, see Judgment notwithstanding verdict
joint and several judgments
   in general, 7 Judgm § 38 et seq.
   contract actions, 7 Judgm § 39
tort actions, 7 Judgm §§ 40, 41
judgment liens, see Judgment liens
judgment notwithstanding verdict, see Judgment notwithstanding verdict
judgment on appeal
   in general, see Judgment on appeal distinguished, 7 Judgm § 11
judgment on pleadings, see Judgment on pleadings
judgment roll, see Record on appeal
Judicial Council forms, 2 Courts § 422; 7 Judgm § 29
law of the case, application of, see Law of the case
levy on, see Execution and levy liens, see Judgment liens
mandamus for orders relating to, 8 Writs § 112 et seq.
merger or bar of judgment, see Res judicata
mistake as grounds for relief from, see Relief from judgment
modification
   in general, 7 Judgm § 79 et seq.
appeal, modification on, see Appeal attorney misconduct or incompetence as ground for, reporting to State Bar, see State Bar
child custody, modifiability of, 7 Judgm § 79
child support, modifiability of, 7 Judgm § 79

Judgments—Cont’d

modification—Cont’d
court trial, after, see modification of judgment after court trial (this group)
express reservation of jurisdiction, 7 Judgm § 80
final judgment, modifiability of, 7 Judgm §§ 7, 79 et seq.
inherent power of court, 7 Judgm § 81 et seq.
note of appeal, effect on time for filing of, 9 Appeal § 583
prohibitory injunction, power to modify, 7 Judgm § 82
real property lien to enforcement judgment, effect of, see Judgment liens
spousal support, modifiability of, 7 Judgm § 79
statutory authority, 7 Judgm § 79
unlawful detainer, modifiability of, 7 Judgm § 79
modification of judgment after court trial
   in general, 8 Attack § 97 et seq.
federal practice, 8 Attack § 97
grant of new trial motion, effect of, 8 Attack § 100
new judge, motion heard by, 8 Attack § 103
new trial motion after, 8 Attack § 99
procedure, 8 Attack § 99
reopening of case, effect of order directing, 8 Attack § 101
vacation and entry of new judgment distinguished, 8 Attack § 102
money judgments
   in general, 7 Judgm § 30
enforcement of, see Enforcement of judgment
execution of, see Enforcement of judgment installment payments, 7 Judgm § 31
levy on, see Enforcement of judgment liens to enforce, see Judgment liens
stay of enforcement pending appeal, see Stay pending appeal
motion for judgment in court trial, see Motion for judgment in court trial nature of, 7 Judgm § 1
neglect as grounds for relief from, see Relief from judgment
Judgments—Cont’d

nonparty, effect of judgment on, 7 Judgm §§ 2, 3
notice of entry, see Entry of judgment notwithstanding verdict, see Judgment notwithstanding verdict
offer to compromise, judgment on, 6 PWT § 99
opinion of trial court distinguished, 7 Judgm § 10
order distinguished, 7 Judgm § 8
“order for judgment” defined, 7 Judgm § 9
peremptory writs, see Writs
person not party, judgment for or against, 2 Jurisd §§ 315, 316
personal property, judgment for specific recovery of, 7 Judgm § 32
pleading, see Judgment on pleadings; Pleading
probate proceedings, see Probate proceedings
proposed judgment, procedure for, 7 Judgm § 9
quiet title action, see Quiet title
real property lien to enforce judgment, see Judgment liens
receiver, appointment after, 6 Prov Rem § 424
record on appeal, inclusion in, see Record on appeal
relief from, see Relief from judgment
rendition of judgment
  in general, 7 Judgm § 44 et seq.
bifurcated trials, 7 Judgm § 47
defined, 7 Judgm § 44
dismissal, formal order of, 7 Judgm § 48
hearing, judgment after, 7 Judgm § 47
judge to render judgment, 7 Judgm § 45
minute order on motion as, 7 Judgm § 46
nonsuit, formal order of, 7 Judgm § 48
statement of decision, see Statement of decision
trial, judgment after, 7 Judgm § 47
res judicata, see Res judicata
reversal on appeal, see Reversal of judgment on appeal
review, see Appeal

Judgments—Cont’d

revival, limitation and accrual of action, 3 Actions §§ 678, 750
self-executing judgments
  stay pending appeal, see Stay pending appeal
supersedeas, use for, see Supersedeas
setting aside
  pleading, see Equitable relief against judgment
settlement agreement, attorneys’ fees, 7 Judgm §§ 9*, 47*
sister state judgments, see Sister state judgments
small claims court, see Small claims court
specification of for appeal, see Notice of appeal
state, interest on judgment against, see Interest
statement of decision, see Statement of decision
stay of enforcement, see Stay pending appeal
stipulations regarding, see Stipulations
summary judgment, see Summary judgment
tentative decision distinguished, 7 Judgm § 9
unauthorized postjudgment acts as excess of jurisdiction, 2 Jurisd § 328 et seq.
vacation of, see Vacating judgment
void judgment
  affirmance of, 9 Appeal § 853
  relief from, see Relief from judgment
wardship proceedings, 7 Judgm § 37

Judicial acts, see Judicial remedies

Judicial admissions, see Admissions

Judicial arbitration

  in general, 6 PWT § 579 et seq.
administration of system, 6 PWT § 581
amount in controversy
determination of, effect of, 6 PWT §§ 586, 587
effect on whether action is arbitrated, 6 PWT §§ 582, 583
appealability of award, 6 PWT § 611
arbitrators
  in general, 6 PWT § 588 et seq.
Judicial arbitration—Cont’d
arbitrators—Cont’d
attorney as, ethics of, 1 Attys § 421
cause, disqualification for, 6 PWT § 591
communication with, 6 PWT § 595
fees, 6 PWT §§ 592, 593
panels, 6 PWT § 589
peremptory disqualification, 6 PWT § 591
powers, 6 PWT § 595
selection, 6 PWT § 588 et seq.
award
in general, 6 PWT § 605 et seq.
appealability, 6 PWT § 611
content, 6 PWT § 605 et seq.
costs, inclusion of, 6 PWT § 607
damages, inclusion of, 6 PWT § 606
effect, 6 PWT § 610
filing, 6 PWT § 608
form, 6 PWT § 605 et seq.
plaintiff’s election to limit, 6 PWT § 585
service, 6 PWT § 609
trial de novo after, see trial de novo
(tri this group)
vacation, 6 PWT § 612
bad faith actions or tactics, sanctions for, see Sanctions
case management conference, determination of suitability for arbitration at, 7 Trial § 45
class actions as excluded from, 6 PWT § 583
collateral estoppel effect of award, 6 PWT § 613
continuance, 6 PWT § 597
contractual arbitration distinguished, 6 PWT §§ 499, 580
costs
award, inclusion in, 6 PWT § 607
offer to compromise, effect of rejection, 6 PWT § 628
trial de novo, 6 PWT § 626 et seq.
counsel, representation by, 6 PWT § 595
damages, inclusion in award, 6 PWT § 606
delay in trial, effect on dismissal for, see Involuntary dismissal for delay
depositions, admissibility, 6 PWT § 603

Judicial arbitration—Cont’d
discovery
hearing, for, 6 PWT § 594
trial de novo, for, 6 PWT § 623
early submission, 6 PWT § 586
elderly litigants with trial preference as excluded from, 6 PWT § 583
evidence, 6 PWT § 600 et seq.
exclusions from, 6 PWT § 583
Family Law proceedings as excluded from, 6 PWT § 583
fast track rules, 2 Courts § 262
governing law, 6 PWT § 579
hearing, 6 PWT § 595 et seq.
limited civil cases, when arbitration required, 6 PWT § 582
nature of system, 6 PWT § 579 et seq.
otice of hearing, 6 PWT § 598
offer to compromise, availability, 6 PWT § 83
panels, 6 PWT § 589
purpose, 6 PWT § 579
record of proceedings, 6 PWT § 595
records, admissibility of, 6 PWT § 601
relief from judgment remedy, availability, see Relief from judgment
reports, admissibility of, 6 PWT § 601
res judicata effect of award, 6 PWT § 579
sanctions for failure to participate, 6 PWT § 604
small claims actions as excluded from, 6 PWT § 583
stipulations
arbitrator, selection by, 6 PWT § 588
effect of stipulation to, 6 PWT § 582
submission on, 6 PWT § 584
submission to, 6 PWT § 584 et seq.
subpenas, 6 PWT § 596
time for, 6 PWT § 586
tolling of time periods by submission, 6 PWT § 587
trial court delay reduction rules, 2 Courts § 262
trial de novo
in general, 6 PWT § 614 et seq.
calendaring, 6 PWT § 622
costs, 6 PWT § 626 et seq.; 7 Judgm § 111
discovery, 6 PWT § 623
fees, 6 PWT § 626 et seq.
Judicial arbitration—Cont’d
 trial de novo—Cont’d
 preference in trial setting for, 7 Trial § 72
 request, 6 PWT § 616 et seq.
 right to, 6 PWT §§ 614, 615
 stay of costs award pending appeal, 9
 Appeal § 232
 trial setting for, 7 Trial § 72
 voluntary dismissal, effect of, 6 PWT § 620
 waiver, 6 PWT § 615
 unlawful detainer actions as excluded
 from, 6 PWT § 583
 unlimited civil cases, when arbitration
 required, 6 PWT § 582
 vacation of award, 6 PWT § 612
 witness statements, admissibility, 6 PWT
 § 602

Judicial commitments
 in general, 3 Actions § 91 et seq.
 developmentally disabled persons, see Commitment of mentally disordered
 persons
 juvenile court ward, 3 Actions § 95
 mentally retarded persons, see Commitment of mentally retarded persons
 narcotics addicts, see Commitment of narcotics addicts
 sexually violent predators, see Commitment of sexually violent predators

Judicial Council
 in general, 2 Courts § 390 et seq.
 Advisory Committee on Providing Access and Fairness, 2 Courts § 44*
 appellate rules, see Rules of Court
 Center for Judicial Education and Research, 2 Courts §§ 394, 397
 committees, 2 Courts § 391
 coordination of actions, see Coordination of actions
 electronic data systems, 2 Courts § 393
 forms
 abstract of judgment, 7 Judgm § 65
 adoption of, 2 Courts § 390
 alternative dispute resolution forms, 2
 Courts § 401
 answer, 5 Plead §§ 1047, 1049
 appeal, 2 Courts § 402; 9 Appeal §§ 13,
 625
 forms—Cont’d
 approval of, 2 Courts § 398 et seq.
 attachment, see Attachment
 birth, 2 Courts § 403A*
 bond, undertaking, or deposit, 6 Prov
 Rem § 16
 breach of contract, 4 Plead § 517
 California Law Enforcement Telecommunications System, see California
 Law Enforcement Telecommunications System
 case management, 2 Courts § 404
 civil case, 2 Courts § 405
 civil case information statement, 9
 Appeal § 625
 claim and delivery, see Claim and delivery
 colleges, enjoining violence and threats in, 2 Courts § 428A*; 6 Prov Rem
 § 330C*
 computer assistance for pro. per. litigants, 2 Courts § 398
 conservatorship, 2 Courts § 418
 contract, 4 Plead § 382
 court records, 2 Courts § 408
 criminal, 2 Courts § 409
 cross-complaint, 5 Plead § 1169
 death, 2 Courts § 403A*
 decedents’ estates, 2 Courts § 410
 declaration, 6 Prov Rem § 3
 default and default judgment, see Default judgment
 demurrer to, 2 Courts § 398
 discovery, 2 Courts § 411
 dog, menacing, 2 Courts § 423A*
 domestic violence prevention, 2 Courts
 § 412
 elder or dependent adult abuse, 2
 Courts § 413
 electronic filing and service, 2 Courts
 § 413A*; 6 PWT § 29*
 emergency protective order, 2 Courts
 § 414
 enforcement of judgment, 2 Courts
 § 415; 8 Enf Judgm § 25
 exemptions from execution, see Exemptions from execution
 expedited jury trial, see Jury trial
 facsimile transmission cover sheet, 4
 Plead § 20

Index-228
Index

Judicial Council—Cont’d
forms—Cont’d
family law, see Family law proceedings
fee waiver, 2 Courts § 417; 3 Actions § 426
foreign languages, forms in, 2 Courts § 398
format requirements, 2 Courts § 399
garnishee’s memorandum, see Garnishment
garnishment of wages, see Garnishment
general denial, 4 Plead § 382
guardianship, 2 Courts § 418
gun violence prevention, 6 Prov Rem § 330G*
Hague Convention on International Recovery of Child Support and Other Family Maintenance proceedings, 8 Enf Judgm § 428E*
harassment, 2 Courts §§ 406, 436; 6 Prov Rem §§ 320, 322
ignition interlock device, 2 Courts § 419
in forma pauperis, see In forma pauperis suit
Indian Child Welfare Act, 2 Courts § 420
interpreters, 2 Courts §§ 387, 421
judgment, 2 Courts § 422; 7 Judgm § 29
jury questionnaire, 7 Trial § 136
jury selection, 2 Courts § 422A*
jury trial, expedited, see Jury trial
juvenile court proceedings, 2 Courts § 423
limited scope representation, 1 Attys § 5
listing of, 2 Courts §§ 198, 398
mandatory, 2 Courts § 398
memorandum of costs, 7 Judgm § 139
menacing dog, 2 Courts § 423A*
military service, see Military
miscellaneous, 2 Courts § 424
motor vehicle, 4 Plead § 579
name change, 2 Courts § 425
negligence, 4 Plead § 579
notice of levy, 8 Enf Judgm § 113
optional, 2 Courts § 398
order to show cause, 6 PWT § 62
personal injury, 4 Plead §§ 382, 579
proof of service forms, 2 Courts §§ 398, 427
property damage, 4 Plead §§ 382, 579
receiver, appointment of, see Receivers
renewal of judgment, 8 Enf Judgm § 36
rules of court, list in, 2 Courts §§ 198, 398
school violence prevention, 6 Prov Rem § 330C*
service of process, see Process
small claims court, see Small claims court
statement of damages, 4 Plead §§ 382, 511
subpoena, 2 Courts § 430
summons, see Summons
traffic infractions, 2 Courts § 432
transfer of trial court records, 2 Courts § 377
transitional housing participant misconduct, 2 Courts § 433; 6 Prov Rem § 323
universities, enjoining violence and threats in, 2 Courts § 428A*; 6 Prov Rem § 330C*
unlawful detainer, 2 Courts § 434
verification of pleading, 4 Plead § 462
vexatious litigants, 2 Courts § 434A*
wage garnishment, see Garnishment
workplace harassment, 2 Courts §§ 406, 436; 6 Prov Rem § 328 et seq.
writ of execution, 8 Enf Judgm § 111
writ of possession of personal property, see Writ of possession of personal property
wrongful death, 4 Plead §§ 382, 579
Governance Policy, see Rules of Court
governing rules, 2 Courts § 392
government tort claims, see Government tort claims
interpreters and translators, supervision of, 2 Courts § 387
judicial education, 2 Courts § 394 et seq.
Judicial Council—Cont’d
jury instructions, adoption of, 2 Courts § 390
membership, 2 Courts § 391
memorandum opinions, standard for, 9
Appeal § 790
nature, 2 Courts § 390
officers, 2 Courts § 391
purpose, 2 Courts § 390
reports
  in general, 2 Courts § 390
citation in appellate opinions, 9
Appeal § 796
Rules of Court, see Rules of Court
staff, 2 Courts § 391
studies, 2 Courts § 390
surveys, 2 Courts § 390
Judicial estoppel
  in general, 7 Judgm § 334 et seq.,
collateral estoppel distinguished, 7 Judgm § 334
nature of doctrine, 7 Judgm § 334
Judicial ethics
administrative law judges, see Administrative law judges
attorney as candidate or judge, ethics of, 1
Attys § 421
Committee on Judicial Ethics Opinions, 2 Courts §§ 56*, 92A*
discipline of judges, see Judicial misconduct or disability
misconduct generally, see Judicial misconduct or disability
opinions on
  in general, 2 Courts §§ 92A*, 196*
  publication, 2 Courts §§ 57 et seq.*, 92A*, 121A*
standards of conduct, 7 Trial § 242
Judicial function, see Judicial remedies
Judicial misconduct or disability—Cont’d
Commission on Judicial Performance, see Commission on Judicial Performance
communications between judges, 2 Courts § 66
control of case, interfering with, 7 Trial § 247 et seq.
cure of misconduct, 7 Trial § 243
disciplinary proceedings
  in general, 2 Courts § 67 et seq.,
  admonishment, 2 Courts §§ 72, 83
  advisory letter procedure, 2 Courts § 82
  answer to notice of formal proceeding, 2 Courts § 84
  authorized discipline, 2 Courts § 70
  briefs, 2 Courts § 88
  censure, 2 Courts § 73 et seq.
Commission on Judicial Performance, see Commission on Judicial Performance
confidentiality of proceedings, 2 Courts §§ 68, 89, 90
consent, discipline by, 2 Courts § 85
conservator, appointment for judge, 2 Courts § 85
decisions of Commission on Judicial Performance, see Commission on Judicial Performance
delay in deciding cases, 2 Courts § 75
discovery, 2 Courts § 80
dismissal, 2 Courts § 85
disposition, notice of to judge, 2 Courts § 82
evidence, 2 Courts § 86
execution of orders, 2 Courts § 80
factors considered, 2 Courts § 88*
governing law, 2 Courts § 80
grounds, 2 Courts § 72 et seq.
hearing, 2 Courts §§ 85, 88
initiation of proceeding, 2 Courts § 82
judge’s participation, see Judicial ethics
jury trial right, 2 Courts § 85
legal error, effect of, 2 Courts § 82*
levels of misconduct, 2 Courts § 88*
masters’ report, 2 Courts § 87
medical examination, 2 Courts § 82
nature of system, 2 Courts § 69
notice of determination, 2 Courts § 88
notice of formal proceeding, 2 Courts § 84

Index-230
Judicial misconduct or disability—Cont’d
disciplinary proceedings—Cont’d
opinions regarding, publication of, 2
Courts §§ 55 et seq.*, 90A*
preliminary investigation, 2 Courts § 82
privilege, 2 Courts §§ 80, 86
process, service of, 2 Courts § 80
publication of opinions regarding, 2
Courts §§ 55 et seq.*, 90A*
publication of proceedings, 2 Courts
§ 68
record of proceedings, 2 Courts §§ 80,
88
removal, 2 Courts § 76 et seq.
report of proceeding, 2 Courts §§ 83,
87
representation by counsel, 2 Courts
§§ 82, 85
retaliation by judge based on cooperation in,
see Judicial ethics
retirement, 2 Courts § 79
review in Supreme Court, 2 Courts
§§ 91, 92
scope of system, 2 Courts § 69
witnesses, protection of, 2 Courts § 86
disqualification of judge
in general, 2 Courts §§ 70, 93 et seq.
answer by judge, 2 Courts § 124
appeal from order denying, 9 Appeal
§ 169
appellate justice, 2 Courts § 98 et seq.
appellate review, disqualification from,
2 Courts § 119
attorney disciplinary proceedings, see
Attorney discipline
bias as ground, 2 Courts § 114 et seq.
campaign contribution as grounds, 2
Courts § 121A*
cause, disqualification for, 2 Courts
§ 101 et seq.
consent of judge, 2 Courts § 124
contempt proceedings, effect of, 2
Courts § 97; 7 Trial § 194
continuing already commenced trial, 2
Courts § 127
criminal cases, 2 Courts § 93
determination by another judge, 2
Courts § 125
disability as ground, 2 Courts § 120
dispute resolution conflict, 2 Courts
§ 121
Judicial misconduct or disability—Cont’d
disqualification of judge—Cont’d
effect, 2 Courts §§ 93, 126, 127
financial interest in proceeding as
ground, 2 Courts § 105 et seq.
formal disciplinary proceedings, dur-
ing, 2 Courts §§ 88, 91
frivolous challenge to judge, sanctions
for, 7 Trial § 228
general appearance by motion for, 2
Juris § 210
governing law, 2 Courts § 93
grounds, 2 Courts § 101 et seq.
interest in proceeding as ground, 2
Courts § 105 et seq.
jurisdiction of disqualified judge, 2
Courts § 96
mandamus to challenge order, 8 Writs
§ 167
party to proceeding as ground, 2 Writs
§ 103
personal knowledge of facts as ground,
2 Courts § 104
physical disability as ground, 2 Courts
§ 120
postreview proceedings, disqualification
from, 2 Courts § 119
power to act after disqualification, 2
Courts §§ 126, 127
prejudice as ground, 2 Courts § 114 et seq.
previous representation or advice as
ground, 2 Courts §§ 112, 113
probate judge, 2 Courts § 106
procedure, 2 Courts § 122 et seq.
prosecution of previous case as ground,
2 Courts § 113
public defender, previous service as
ground, 2 Courts § 113
relationship to party or attorney as
ground, 2 Courts § 111
replacement judge after disqualification,
2 Courts § 125
responsibility of judge, 2 Courts §§ 57,
122
sanctions for frivolous challenge to
judge, 7 Trial § 228
securities, ownership as ground, 2
Courts § 110
statement of disqualification, 2 Courts
§ 123

Index-231
Judicial misconduct or disability—Cont’d
disqualification of judge—Cont’d
stock, ownership as ground, 2 Courts § 110
striking statement of disqualification, 2 Courts § 127
temporary judge, 2 Courts § 350
trial by judge after disqualification, effect of, 2 Jurisd § 303
validity of judgment by disqualified judge, 2 Courts § 94 et seq.
venue, effect on, see Change of venue
voluntary declaration by judge, 2 Courts § 122
waiver of disqualification, 2 Courts § 128
error, misconduct as, 9 Appeal §§ 432, 440
ethics generally, see Judicial ethics
examination of witnesses, impairment of,
7 Trial § 249
former judges, 2 Courts § 69
gender bias, 7 Trial § 246
gratuites for solemnizing marriages, 2 Courts § 64
holding other office, 2 Courts § 63
honoraria, 2 Courts § 65
impropriety, ethics opinions, 2 Courts § 56
intemperance, 7 Trial § 244
marriage, solemnization of
gratuity for, 2 Courts § 64
new trial, misconduct as ground, 8 Attack § 26
partiality, 7 Trial § 245
peremptory challenge to judge, see Peremptory challenge to judge, practice of law, 2 Courts § 62
prejudging, 7 Trial § 245
receiving evidence out of court, 7 Trial § 249
running for other office, 2 Courts § 63
settlement, coercion of, 7 Trial § 248
sex discrimination, 7 Trial § 246
standards of conduct, 7 Trial § 242
subordinate judicial officers, 2 Courts § 69
travel expenses, 2 Courts § 65
trial conduct, 7 Trial § 242 et seq.
waiver of misconduct, 7 Trial §§ 243, 376

Judicial misconduct or disability—Cont’d
waiver of right, coercion of, 7 Trial § 247
witness examination, impairment of, 7 Trial § 249

Judicial notice
administrative regulation, see Administrative rulemaking
appeal court, judicial notice in, 9 Appeal § 335
demurrer, see Demurrer
judgment on pleadings, 6 PWT § 189
motions, use in, see Motions
notice of motion, request in, see Motions pleading, see Pleading
regulations, 9 Admin Proc §§ 54, 55
reviewing court, judicial notice in, 9 Appeal § 335
summary judgment, use in, see Summary judgment

Judicial remedies
in general, 3 Actions § 1 et seq.
common law
availability of remedy at, 3 Actions § 3
preexisting remedy established by,
effect of, 3 Actions § 9
election of remedies, see Election of remedies
enforcement of obligation by, 3 Actions §§ 3, 4
equity, availability at, 3 Actions § 3
exhaustion of, see Exhaustion of judicial remedies
injunction, effect of remedies on, 6 Prov Rem § 338
judicial decision, creation by, 3 Actions § 3
jurisdiction, in aid of exercise of, 3 Actions §§ 3, 6, 7
legislative acts distinguished, 3 Actions § 1
nature of, 3 Actions § 2
procedure, power to devise, 3 Actions §§ 3, 6, 7
quia timet relief, 3 Actions § 11
“remedy” defined, 3 Actions § 2
remedy for every wrong, 3 Actions §§ 3, 5
special proceedings and, 3 Actions § 64
statutory remedies
in general, 3 Actions § 3 et seq.
Judicial remedies—Cont’d
statutory remedies—Cont’d
exclusivity of, 3 Actions § 8 et seq.
inadequacy of, effect of, 3 Actions § 10
preexisting right, effect of, 3 Actions § 9
quia timet relief, 3 Actions § 11

Jurisdiction
in general, 2 Jurisd § 1 et seq.
administrative tribunal, exclusive jurisdiction in, 2 Jurisd § 48
adoption proceedings, 2 Jurisd §§ 276, 440
agreements ousting court of jurisdiction, 2 Jurisd § 3
Agricultural Labor Relations Board, see Farm labor
Alcoholic Beverage Control Appeals Board, see Alcoholic Beverage Control Appeals Board
amount in controversy, see Amount in controversy
answer, prevention of erroneous assumption of jurisdiction by, 2 Jurisd § 398 et seq.
appeal, effect of taking
in general, 9 Appeal § 17 et seq.
appeal court, vesting in, 9 Appeal § 17 et seq.
attachment, jurisdiction over, 9 Appeal § 20
attorneys’ fees, jurisdiction over, 9 Appeal § 20
collateral matters, jurisdiction over, 9 Appeal § 20
consolidation of causes of action, jurisdiction over, 9 Appeal § 20*
contempt, jurisdiction over, 9 Appeal § 20
correction of judgment, jurisdiction over, 9 Appeal § 23
dependency case, effect of transfer after appeal taken, 9 Appeal § 18
expungement of lis pendens, jurisdiction over, 9 Appeal § 20
forcible entry and detainer, jurisdiction over, 9 Appeal § 21
judgment notwithstanding verdict, jurisdiction over, 9 Appeal § 23
merits, jurisdiction over, 9 Appeal §§ 21, 22

Jurisdiction—Cont’d
appeal, effect of taking—Cont’d
new trial motion, jurisdiction over, 9 Appeal § 23
probate, jurisdiction over, 9 Appeal § 21
remittitur, effect of issuance, 9 Appeal § 844
satisfaction of judgment, jurisdiction over, 9 Appeal § 20
spousal support, 9 Appeal § 22
trial court, retention in, 9 Appeal § 20 et seq.
unlawful detainer, jurisdiction over, 9 Appeal § 21
vacating judgment, jurisdiction over, 9 Appeal § 23
writ of prohibition, effect of, 9 Appeal § 19
appellate jurisdiction, see Appellate jurisdiction
attorneys’ fee arbitrations, see Attorneys’ fees
bases of personal jurisdiction
in general, 2 Jurisd § 122 et seq.
causing effect in state, 2 Jurisd § 150 et seq.
domicile, see domicile as basis of personal jurisdiction (this group)
presence, see presence as basis of personal jurisdiction (this group)
residence, 2 Jurisd §§ 129, 130
Buckeye Boiler case, 2 Jurisd §§ 141, 174
cessation of law practice, jurisdiction over, see Attorney-client relationship
change of venue, effect of, see Change of venue
child support proceedings, 2 Jurisd § 283
collateral attack on judgment based on, see Collateral attack
 concurrent and exclusive jurisdiction
in general, 2 Jurisd § 424 et seq.
appeal jurisdiction, 2 Jurisd § 425
child custody, exclusive continuing jurisdiction of, 2 Jurisd § 446 et seq.
child support proceedings, 2 Jurisd § 450
comity theory, 2 Jurisd § 427
conservatorship court and other court, 2 Jurisd § 445

Index-233
Jurisdiction—Cont’d

concurrent and exclusive jurisdiction—Cont’d
court and administrative agency, 2 Jurisd § 426
courts of primary and secondary jurisdiction, 2 Jurisd § 444 et seq.
enjoining proceedings in another state, 2 Jurisd § 427
exclusive continuing jurisdiction over child custody proceedings, 2 Jurisd § 446 et seq.
federal courts, see Federal courts
foreign country, first action in, 2 Jurisd § 427
guardianship court and other court, 2 Jurisd § 445
in rem actions, 2 Jurisd § 431 et seq.
jurisdictional theory, 2 Jurisd § 427
original jurisdiction of reviewing courts, 2 Jurisd § 425
personal jurisdiction, 2 Jurisd § 434 et seq.
policy theory, 2 Jurisd §§ 428, 429
priority of first court taking jurisdiction, 2 Jurisd § 427 et seq.
probate and other court, 2 Jurisd § 444
quasi in rem actions, 2 Jurisd § 431 et seq.
same court, actions in, 2 Jurisd § 430
tribunals of different exclusive jurisdiction, 2 Jurisd § 438 et seq.
consent judgment, retention of jurisdiction, 6 PWT § 125
consent to personal jurisdiction—Cont’d
acknowledgment of service as consent, 2 Jurisd § 186
appearance, 2 Jurisd §§ 198, 199
arbitration provision as consent, 2 Jurisd § 188
confession of judgment as consent, 2 Jurisd § 186
contractual provisions, consent by, 2 Jurisd § 187 et seq.
designation of agent for service of process as consent, 2 Jurisd § 186
extraterritorial service, contractual provision as consent, 2 Jurisd § 187
failure to comply with discovery orders as consent, 2 Jurisd § 191
consent to personal jurisdiction—Cont’d
filing related action as consent, 2 Jurisd § 186
general appearance as consent, see Appearance
service as trustee as consent, 2 Jurisd § 186
service of process on unknown agent, effect of consent to, 2 Jurisd § 190
venue, contractual provision for as consent, 2 Jurisd § 189
conservatorship, see Conservatorship and guardianship
continuing jurisdiction in general, 2 Jurisd § 415 et seq.
after final determination, 2 Jurisd § 420 et seq.
express reservation of jurisdiction, 2 Jurisd § 420
final determination, effect on, 2 Jurisd § 415 et seq.
party, jurisdiction over, 2 Jurisd § 416
subject matter, jurisdiction over, 2 Jurisd § 417
subsequent proceedings, jurisdiction over, 2 Jurisd §§ 418, 419
contractual forum selection in general, 2 Jurisd § 355 et seq.; 3 Actions § 785

Cruise line tickets, selection by, 2 Jurisd § 357
securities actions, 2 Jurisd § 358
statute, effect of, 2 Jurisd § 356
subcontractor’s contract, selection in, 2 Jurisd § 359
costs, award of, see Costs
declaratory relief, see Declaratory relief
defined, 2 Jurisd § 1 et seq.
demurrer, prevention of erroneous assumption of jurisdiction by, 2 Jurisd § 398 et seq.
direct attack on judgment based on, see Attack on judgment
dismissal based on lack of, 2 Jurisd § 398 et seq.; 6 PWT § 474
dissolution of marriage proceedings, see Jurisdiction to dissolve marriage
divestiture of jurisdiction, see refusal to assume jurisdiction (this group)

Index-234
Jurisdiction—Cont’d

doing act in state as basis of personal jurisdiction
  in general, 2 Jurisd § 144 et seq.
  act not constituting tort, 2 Jurisd § 149
  conspiracy, 2 Jurisd § 146
  corporate agent, tort of, 2 Jurisd § 148
  corporate officer or counsel, tort of, 2 Jurisd §§ 147, 156, 157
  partnership, 2 Jurisd § 157
  Probate Code rules, 2 Jurisd § 144
  tort, act constituting, 2 Jurisd § 145 et seq.

doing business in state as basis of personal jurisdiction
  in general, 2 Jurisd § 139 et seq.
  business done, causes arising from, 2 Jurisd § 139
  continuous and substantial business in state, 2 Jurisd § 140
  foreign corporations, see foreign corporations (this group)
  limited jurisdiction, exercise of, 2 Jurisd § 141 et seq.
  domicile as basis of personal jurisdiction
  in general, 2 Jurisd § 127 et seq.
  child custody, 2 Jurisd § 277
  citizenship, effect of, 2 Jurisd § 138
  conservatorship of person, 2 Jurisd § 280
  dissolution of marriage, 2 Jurisd § 271
  federal employees, 2 Jurisd § 135
  guardianship of person, 2 Jurisd §§ 280, 440
  incompetent person, 2 Jurisd § 137
  loss of, effect of, 2 Jurisd § 131
  military personnel, 2 Jurisd §§ 135, 136
  minimum contacts requirement, 2 Jurisd § 128
  minor child, 2 Jurisd §§ 132, 133
  nationality, effect of, 2 Jurisd § 138
  residence compared, 2 Jurisd §§ 129, 130
  wife, 2 Jurisd § 134
  duty to assume jurisdiction, see refusal to assume jurisdiction (this group)
electronic contacts as basis of personal jurisdiction
  in general, 2 Jurisd § 159
  website, information posted on, 2 Jurisd § 160

Jurisdiction—Cont’d

enforcement of judgment, see Contempt; Enforcement of judgment; Res judicata
equitable relief against judgment, see Equitable relief against judgment
equity jurisdiction
  in general, 2 Jurisd § 50 et seq.
  complaint, effect of, 2 Jurisd §§ 50, 51
  cross-complaint, effect of, 2 Jurisd §§ 54, 55
  declaratory relief action, see Declaratory relief defined, 2 Jurisd § 2
  superior court, 2 Courts § 210 et seq.
estoppel
  act in excess of jurisdiction, 2 Jurisd § 332 et seq.
  excess of jurisdiction
  in general, 2 Jurisd § 285 et seq.
  collateral attack, see Collateral attack
dead person, judgment for or against, 2 Jurisd § 317*
errors, see Errors
  estoppel, see Estoppel
  judgment in, 2 Jurisd § 313 et seq.
  nature of doctrine, 2 Jurisd § 313 et seq.
  nonjurisdictional errors, see Errors
  exclusive jurisdiction, see concurrent and exclusive jurisdiction (this group)
express reservation of jurisdiction, 2 Jurisd § 420
extraterritorial effect of personal jurisdiction
  in general, 2 Jurisd § 235 et seq.
  order to convey land, 2 Jurisd § 235 et seq.
  order to do act, 2 Jurisd § 242
  order to refrain from act, 2 Jurisd § 241
family law actions, transfer, 3 Actions § 916*
federal courts, see Federal courts
  fiduciary shield doctrine, 2 Jurisd §§ 147, 156, 157
foreign corporations
  in general, 2 Jurisd § 163 et seq.
  actions not connected with business in state, 2 Jurisd § 177
  agent, appointment of as basis for jurisdiction, 2 Jurisd § 165
Jurisdiction—Cont’d

foreign corporations—Cont’d
corporate reorganization, effect of, 2 Jurisd § 176A

doing business in state as basis for jurisdiction, 2 Jurisd § 166 et seq.

insurance business as basis for jurisdiction, 2 Jurisd § 168

mail purchases as basis for jurisdiction, 2 Jurisd § 170

merger, jurisdiction over corporation surviving, 2 Jurisd § 176

promotional activities as basis for jurisdiction, 2 Jurisd § 171

ships calling at California ports as basis for jurisdiction, 2 Jurisd § 172

solicitation of business as basis for jurisdiction, 2 Jurisd § 169

subsidiary, ownership and control as basis for jurisdiction, 2 Jurisd § 175

telephone purchases as basis for jurisdiction, 2 Jurisd § 170

withdrawal from state, effect of, 2 Jurisd §§ 178, 179

forum non conveniens, see Inconvenient forum

forum selection by contract, see contractual forum selection (this group)
guardianship, see Conservatorship and guardianship

in personam jurisdiction, see personal jurisdiction (this group)
in rem jurisdiction

in general, 2 Jurisd § 243 et seq.

concurrent jurisdiction over, 2 Jurisd § 431 et seq.
documents, jurisdiction over, 2 Jurisd § 257
due process, see Due process elements of jurisdiction, 2 Jurisd § 253 et seq.
escheat, jurisdiction over, 2 Jurisd § 261

intangibles, jurisdiction over, 2 Jurisd § 257 et seq.

land, jurisdiction over, 2 Jurisd §§ 255, 256

local contacts theory, 2 Jurisd §§ 259, 260

nature of, 2 Jurisd § 243 et seq.

Jurisdiction—Cont’d

in rem jurisdiction—Cont’d

notice and opportunity to be heard, see Notice

personal judgment against defendant, 2 Jurisd § 269

quasi in rem jurisdiction, see quasi in rem jurisdiction (this group)

sovereign immunity, effect of, 2 Jurisd § 253

subject matter within territorial jurisdiction, 2 Jurisd § 253

tangible personal property, jurisdiction over, 2 Jurisd § 257

inconvenient forum, see Inconvenient forum injunctions

in general, 6 Prov Rem §§ 276, 391

Internet, electronic contacts with state, 2 Jurisd § 160

involuntary dismissal based on lack of, 6 PWT § 474

judgment in excess of jurisdiction, see Judgments

judicial remedies in aid of exercise of, 3 Actions §§ 3, 6, 7

jurisdiction of the subject matter, see subject matter jurisdiction (this group)
jurisdiction statute, 2 Jurisd §§ 8, 9

jurisdiction to determine jurisdiction, see Jurisdiction to determine jurisdiction “jurisdictional” and “mandatory” distinguished, 2 Jurisd § 4

juvenile court, see Juvenile court

legal separation proceedings, 2 Jurisd §§ 275, 440

legislative jurisdiction distinguished, 2 Jurisd § 5

Legislature’s power over, 2 Courts § 167 et seq.

limited civil case, see Limited civil case mandamus, see Mandamus

moot case, see Moot case

municipal courts, 2 Jurisd § 6

National Labor Relations Board, exclusive jurisdiction of, 2 Jurisd § 48

nonjurisdiction, jurisdiction to determine collateral attack, 2 Jurisd § 361

direct attack, 2 Jurisd § 362
Jurisdiction—Cont’d
nonjurisdiction, jurisdiction to determine—Cont’d
res judicata, 2 Jurisd § 361
notice of appeal
effect on subject matter jurisdiction, 2 Jurisd § 19
order to show cause, 6 PWT § 62
original jurisdiction
in general, 2 Jurisd §§ 21, 22
current nature of, 2 Jurisd § 425
refusal of original jurisdiction, 2 Jurisd § 397
partnership, over, 2 Jurisd §§ 181, 182
paternity proceedings, 2 Jurisd § 284
personal jurisdiction
in general, 2 Jurisd § 106 et seq.
appearance as basis of jurisdiction, see Appearance
bases of, see bases of personal jurisdiction (this group)
California statute, 2 Jurisd § 107
causing effect in state, 2 Jurisd § 150 et seq.
child custody and support, 2 Jurisd §§ 151, 153, 440
class actions, 2 Jurisd § 183
concurrent and exclusive jurisdiction, 2 Jurisd § 434 et seq.
consent to, see consent to personal jurisdiction (this group)
continuing jurisdiction over, 2 Jurisd § 415
corporations, jurisdiction over, 2 Jurisd § 163 et seq.
debtors, joint, jurisdiction over, 2 Jurisd § 184
defunct corporation, jurisdiction over, 2 Jurisd § 180
doing act in state, see doing act in state as basis of personal jurisdiction (this group)
doing business in state, see doing business as basis of personal jurisdiction (this group)
domicile, see domicile as basis of personal jurisdiction (this group)
due process requirements, see Due process
electronic contacts, see electronic contacts as basis of personal jurisdiction (this group)

Jurisdiction—Cont’d
personal jurisdiction—Cont’d
elements of, 2 Jurisd § 106 et seq.
extraterritorial effect of, see extraterritorial effect of personal jurisdiction (this group)
foreign corporations, jurisdiction over, see foreign corporations (this group)
foreign representative, jurisdiction over, 2 Jurisd § 185
general appearance as basis of jurisdiction, see Appearance
injunctive relief, 6 Prov Rem §§ 276, 391
Internet, electronic contacts with state, 2 Jurisd § 160*
judgment void for lack of, relief from, see Relief from judgment
jurisdiction to determine jurisdiction, see Jurisdiction to determine jurisdiction
mandamus to compel, see Mandamus
nature of, 2 Jurisd § 106 et seq.
otice and opportunity for hearing, see Notice
order to show cause, 6 PWT § 62
ownership of property, 2 Jurisd § 158
partnerships, jurisdiction over, 2 Jurisd §§ 181, 182
plaintiff, jurisdiction over, 2 Jurisd §§ 161, 162
plaintiff’s residence, effect of, 2 Jurisd § 111A*
possession of property, 2 Jurisd § 158
presence, see presence as basis of personal jurisdiction (this group)
service of process, see Process
sovereign immunity, effect of, 2 Jurisd § 162
sovereignty limitations, 2 Jurisd § 109
subject matter jurisdiction distinguished, 2 Jurisd § 12
unincorporated associations, jurisdiction over, 2 Jurisd §§ 181, 182
use of property, 2 Jurisd § 158
writs regarding, see Writs
preliminary jurisdiction doctrine, 3 Actions § 330
preliminary jurisdiction doctrine, in general, 2 Jurisd § 122 et seq.
Jurisdiction—Cont’d
  presence as basis of personal jurisdiction—Cont’d
  child custody, 2 Jurisd § 277
  conservatorship of person, 2 Jurisd § 280
  dissolution of marriage, 2 Jurisd § 272
  force, bringing person in by, 2 Jurisd §§ 123, 124
  fraud, bringing person in by, 2 Jurisd § 125
  guardianship of person, 2 Jurisd § 280
  immunity from process, effect of, 2 Jurisd § 126
  presumption of proper jurisdiction, 8
  Attack §§ 5, 11 et seq.
prevention of erroneous assumption of jurisdiction—Cont’d
  in general, 2 Jurisd § 398 et seq.
  methods of preventing, 2 Jurisd § 398
  transfer of case, see Change of venue primary jurisdiction doctrine, 3 Actions § 330
  prior resort doctrine, 3 Actions § 330
  prohibition, see Prohibition
Public Employment Relations Board, see Public Employment Relations Board
Public Utilities Commission, see Public utilities
quasi in rem jurisdiction
  in general, 2 Jurisd § 246 et seq.
  attachment, use of to obtain jurisdiction, 2 Jurisd § 247
  concurrent jurisdiction over, 2 Jurisd § 431 et seq.
  creditor’s bill in equity, use to obtain jurisdiction, 2 Jurisd § 249
  determination of particular persons’ property interests, effect of, 2 Jurisd § 252
due process, see Due process
  elements of jurisdiction, see in rem jurisdiction (this group)
garnishment, use to obtain jurisdiction, 2 Jurisd § 248
insurer’s duty, attachment of, 2 Jurisd §§ 250, 251
joinder, use to obtain jurisdiction, 2 Jurisd § 249
minimum contacts requirements, 2 Jurisd § 254
Index

Jurisdiction—Cont’d
refusal to assume jurisdiction—Cont’d
mandamus to compel, see Mandamus
nonjurisdiction, jurisdiction to
determine, see nonjurisdiction,
jurisdiction to determine (this
jurisdiction to determine (this
nonjusticiable controversy, effect of, 2
Jurisd § 395
public policy of foreign forum opposed
to claim, 2 Jurisd § 370 et seq.
trespass to foreign land, 2 Jurisd § 368
relief, inability of court to provide, effect
of, 2 Jurisd § 96
remedies in aid of exercise of, 3
Restatement analysis, 2 Jurisd § 7
reviewing court jurisdiction
appeal, effect of failing to deny in,
5
Plead § 1052
appellate jurisdiction, see Appellate
jurisdiction
civil claim in criminal case, 2
Jurisd § 49
condition precedent, effect of, 2
Jurisd § 102
consent, conferring jurisdiction by, 2
Jurisd § 13 et seq.
continuing jurisdiction over, 2
Jurisd § 417
decedent’s estate administration,
requirements for, 2 Jurisd §§ 97,
102
default, effect of lack of jurisdiction, 6
PWT § 184
demurrer, raising lack of by, see
Demurrer
equity cases, see equity jurisdiction
jurisdiction to determine jurisdiction,
see Jurisdiction to determine juris-
diction
jurisdictional facts, failure to challenge,
2 Jurisd § 17
interpretation, jurisdiction created by,
2
Jurisd § 17 et seq.
jurisdictional time limit, effect of viola-
tion, 2 Jurisd § 91
limitations period, effect on, 2
Jurisd §§ 91, 103
mandamus to compel, see Mandamus
motion to quash, challenging by, 2
Jurisd § 226
nature of, 2 Jurisd § 11

Index-239
Jurisdiction—Cont’d

subject matter jurisdiction—Cont’d
original jurisdiction, 2 Jurisd §§ 21, 22
parties, effects of defects of, 2 Jurisd § 99
personal jurisdiction distinguished, 2 Jurisd § 12
pleading, effect of defects of, 2 Jurisd § 100
pleading as determining jurisdiction, 2 Jurisd § 14
priority of jurisdiction, effect of, 2 Jurisd § 15
process, effect of defects of, 2 Jurisd § 101
res judicata, effect of, 2 Jurisd §§ 104, 105
Restatement analysis, 2 Jurisd § 7
reviewing court jurisdiction, see reviewing court jurisdiction (this group)
SLAPP suits, 5 Plead § 1033*
sovereign immunity, effect of, 2 Jurisd § 90
statute of limitations, effect on, 2 Jurisd §§ 91, 103
statutory condition precedent, effect of, 2 Jurisd § 102
suspension of, effect on dismissal for delay of trial, 6 PWT §§ 389 et seq., 434
type of action, effect of, 2 Jurisd § 44 et seq.
unconstitutionality of statute, effect of, 2 Jurisd §§ 88, 89
unlimited civil case, see unlimited civil case (this group)
venue, effect of, 2 Jurisd § 97
voluntary dismissal, effect of, 2 Jurisd § 97
waiver, conferring jurisdiction by, 2 Jurisd § 13 et seq.
Supreme Court, see Appellate jurisdiction
territorial jurisdiction, Restatement analysis, 2 Jurisd § 7
transfer of case, see Change of venue
Uniform Interstate Family Support Act proceedings, see Uniform Interstate Family Support Act
unincorporated associations, jurisdiction over, 2 Jurisd §§ 181, 182

Jurisdiction—Cont’d

unlimited civil case

in general, 2 Jurisd § 45 et seq.
legality of tax, actions involving, 2 Jurisd §§ 46, 47
reclassification of or to, review of order, 9 Appeal § 167
venue
distinguished, 3 Actions § 779 et seq.
voluntary dismissal, jurisdiction after, 6 PWT § 307
websites, electronic contacts with state, 2 Jurisd § 160*
Workers’ Compensation Appeals Board, see Workers’ Compensation Appeals Board
writs regarding
in general, see Writs

Jurisdiction to determine jurisdiction

in general, 2 Jurisd § 339 et seq.
initial determination, 2 Jurisd § 339 et seq.
injunction, 2 Jurisd §§ 342, 343
jurisdiction to proceed distinguished, 2 Jurisd § 340
nonjurisdiction, jurisdiction to determine, see Jurisdiction
res judicata effect of determination
in general, 2 Jurisd § 344 et seq.
constitutionality of statute creating proceeding, challenge to, 2 Jurisd § 349
dissolution of marriage, determination of domicile, 2 Jurisd § 351
jurisdiction to do particular act, 2 Jurisd § 353
personal jurisdiction, 2 Jurisd §§ 344, 345
probate, jurisdictional facts in, 2 Jurisd § 350
subject matter jurisdiction, 2 Jurisd §§ 346 et seq.
title to land on state boundary, 2 Jurisd § 352
temporary restraining order, 2 Jurisd §§ 342, 343

Jurisdiction to dissolve marriage

in general, 2 Jurisd § 271 et seq.
abatement of proceedings on death, 3 Actions § 18

Index-240
Jurisdiction to dissolve marriage—Cont’d

concurrent and exclusive jurisdiction, 2
  Jurisd § 440
domicile as basis
  in general, 2 Jurisd § 271
  res judicata effect of determination, 2
  Jurisd § 351
judgment in excess of jurisdiction, 2
  Jurisd § 322
marital property
  jurisdiction over, 2 Jurisd § 271
notice requirements, 2
  Jurisd § 273
presence of parties as basis, 2 Jurisd § 272

Jury

in general, 7 Trial § 111 et seq.
  addressing particular juror as misconduct, 7
  Trial § 225
  alternate jurors
  selection of, 7 Trial § 145
  substitution after deliberations begin, 7
  Trial § 146
attorney contact with, 1 Attys §§ 464, 465PP*
attorneys’ fees, determination of, see Attorneys’ fees
  challenges
    in general, 7 Trial § 124 et seq.
    cause, for, see challenges for cause
      (this group)
    nature of, 7 Trial § 124
    panel, challenge to for cause, 7 Trial § 124
    peremptory, see peremptory challenges
      (this group)
  challenges for cause
    in general, 7 Trial § 130 et seq.
    affinity as ground, 7 Trial § 130
    appeal, 7 Trial § 134
    bias as ground, 7 Trial §§ 130, 132, 133
    business relationship as ground, 7 Trial § 130
    class prejudice as ground, 7 Trial § 132
    consanguinity as ground, 7 Trial § 130
    domestic relationship as ground, 7 Trial § 130
    exercise of, 7 Trial § 134
    fiduciary relationship as ground, 7 Trial § 130
    friendship with party as ground, 7 Trial § 132

Jury—Cont’d

challenges for cause—Cont’d
  grounds, 7 Trial § 130
  health plan defendant, membership in
    as ground, 7 Trial § 131
  incapacity as ground, 7 Trial § 130
  interest in proceedings as ground, 7
    Trial § 130
  opinion on merits as ground, 7 Trial § 130
  panel, challenge to for cause, 7 Trial § 124
  party to another action as ground, 7
    Trial § 130
  peremptory, see peremptory challenges
    (this group)
  prejudice as ground, 7 Trial §§ 130, 132, 133
  prior trial involving parties, service as
    juror as ground, 7 Trial § 130
  qualification, challenge for lack of, 7
    Trial § 130
  relationship to party or witness as
    ground, 7 Trial §§ 130, 132, 133
  religious belief as ground, 7 Trial § 132
  time for exercise of challenge, 7 Trial § 134
  waiver of, 7 Trial § 134
  commissioner, 2 Courts § 343; 7 Trial § 116
  communications with jury as contempt, 7
    Trial § 207
  consultant, use of, 7 Trial § 136
  contact by attorney, 1 Attys § 464
  conversing with jurors during trial as
    misconduct, 7 Trial § 225
  deferral of service, 7 Trial § 112
  deliberations, see Jury deliberations
  discharge of jury
    dismissal for delay, effect of discharge
      on, 6 PWT § 377
    holidays, discharging jury on, 2 Courts § 48
  discrimination prohibition in eligibility to
    be juror, 7 Trial § 111
  eligibility, 7 Trial § 111
  employer penalizing service, see
    Employer and employee
  exclusion from jury
    in general, 7 Trial § 127 et seq.
    equal protection, 7 Trial § 128
Jury—Cont’d
exclusion from jury—Cont’d
gender discrimination, 7 Trial § 129
racial discrimination, 7 Trial § 128
sex discrimination, 7 Trial § 129
Wheeler case, 7 Trial §§ 128, 129
excuses from jury duty
in general, 7 Trial §§ 112, 113
requests for, 7 Trial § 120
expenses, see fees (this group)
fees
amount of, 7 Trial § 99
cities, exemption from, 4 Plead § 27
costs, recovery as, 7 Judgm § 136
county, exemption from, 4 Plead § 27
deposit of, see Jury trial
in forma pauperis suit, see In forma pauperis suit
mileage reimbursement, amount of, 7 Trial § 99
public officers and employees, exemption from, 4 Plead § 27
state, exemption from, 4 Plead § 27
foreperson
selection of, 7 Trial § 321
holidays, discharging jury on, 2 Courts § 48
impanelment, effect on dismissal for
delay, 6 PWT § 376
instructions, see Instructions to jury
investigation of prospective jurors, 7 Trial § 116
irregularity in formation of, 7 Trial § 122
juror identifying information
disclosure of, 7 Trial § 120
jurors
alternate, see alternate jurors (this group)
cause, challenges for, see challenges for
cause (this group)
challenges to, see challenges (this group)
contempt by, 7 Trial § 171
disclosure of information regarding, see
juror identifying information (this group)
electronic research during trial by, 7
Trial § 171*
failure to attend when summoned, 7
Trial § 120
fees, see fees (this group)
Index

Jury—Cont’d
peremptory challenges
in general, 7 Trial § 125 et seq.
conservatorship of gravely disabled persons proceedings, 3 Actions § 104
exercise of, 7 Trial § 135
expedited jury trial, 7 Trial § 6C*
improper exclusion, see exclusion from jury (this group)
number of, 7 Trial § 126
passing, effect of, 7 Trial § 135
purpose, 7 Trial § 125
swearing of jury, effect of, 7 Trial § 135
physical impairment, effect on eligibility, 7 Trial § 111
polling of, 7 Trial § 350
qualifications
in general, 7 Trial § 111
challenge for cause based on lack of, 7 Trial § 130
recent service as juror, effect of, 7 Trial § 113
Rules of Court pertaining to service as juror, 7 Trial § 113
selection
in general, 7 Trial § 123 et seq.
cause, challenges for, see challenges for cause (this group)
challenges, see challenges (this group)
completion of, 7 Trial § 144
delay in trial, effect on dismissal for, 6 PWT § 377
drawing of names, 7 Trial § 123
Judicial Council forms, 2 Courts § 422A*
lists, see lists (this group)
methods, 7 Trial § 115 et seq.
panels, see panel (this group)
peremptory challenges, see peremptory challenges (this group)
“six-pack” method defined, 7 Trial § 123
Trial Jury Selection and Management Act, 7 Trial § 116
voir dire, see Voir dire
Wheeler case, 7 Trial §§ 128, 129

Jury deliberations
in general, 7 Trial § 318 et seq.
coercion by judge, see judge (this group)
evidence
jury room, in, 7 Trial § 323
expedited jury trial, 7 Trial §§ 6C*, 319*
foreperson
selection of, 7 Trial § 321
impasse, 7 Trial § 326
instructions
jury room, in, 7 Trial § 323
presence in room, 7 Trial § 323
regarding deliberations, 7 Trial §§ 281, 318
return of jury for, 7 Trial § 325
judge
coordination by, 7 Trial §§ 335, 336
length of, 7 Trial § 319
misconduct, see Jury trial
nature of, 7 Trial § 318
reading of testimony, return of jury for, 7 Trial § 324
secrecy of, 7 Trial § 320
separation during, 7 Trial § 333
temporary absence of juror, effect of, 7 Trial § 322
testimony, rereading of, 7 Trial § 324
unauthorized material in jury room, effect of, 7 Trial § 327

Jury instructions, see Instructions to jury

Jury trial
in general, 7 Trial § 79 et seq.
appeal
denial order, see denial (this group)
fact-finding by reviewing court, effect of jury trial on, 9 Appeal § 316
argument, 7 Trial § 162
attachment, see Attachment
close of argument, 7 Trial §§ 162, 164, 165
coercion by judge, see Jury deliberations
coercion of jury by court, 7 Trial §§ 335, 336

Index-243
Jury trial—Cont’d

commitment proceedings, see Commitment of mentally disordered persons; Commitment of mentally retarded persons; Commitment of narcotics addicts; Commitment of sexually violent predators

conflict of laws regarding, 3 Actions § 46

conservatorship proceedings, 3 Actions §§ 104, 105

demand for jury trial

in general, 7 Trial § 98

conservatorship of gravely disabled persons proceedings, 3 Actions § 104

denial

appealability of order, 9 Appeal § 159

erroneous, preservation of objection, 7 Trial § 101

jurisdictional nature of, 7 Trial § 82

reversible error, as, 9 Appeal §§ 454, 455

direct verdict, see Directed verdict

in general, 7 Trial § 106 et seq.

delay in trial, effect on dismissal, 6 PWT §§ 376, 377

deliberations of jury, see Jury deliberations

direct verdict, see Directed verdict

equitable relief against judgment, see Equitable relief against judgment evidence, see Evidence

Judicial Council forms, 2 Courts § 415A*; 7 Trial § 6A*

limited civil cases, in, 7 Trial § 6E et seq.*

mandatory, 7 Trial § 6E et seq.*

new trial, see New trial

relief from judgment, see Relief from judgment

vacating judgment, see Vacating judgment

verdict, 7 Trial §§ 6C*, 6D*, 6G*

voluntary, 7 Trial § 6A et seq.*

facts, determination of, 7 Trial § 81

federal courts

nature of right, 7 Trial § 79

judicial disciplinary proceedings, 2 Courts § 85

jury instructions, see Instructions to jury

jury law, trial of by court, 7 Trial § 81

legal actions triable by jury, 7 Trial § 84

limited civil cases, expedited jury trial in, see expedited jury trial (this group)

lists of jurors, see Jury

mandamus review of orders concerning, 8 Writs § 110

misconduct of jury

in general, 7 Trial § 327 et seq.

attorney, communication with, 7 Trial § 331
Jury trial—Cont’d
misconduct of jury—Cont’d
attorney, revelation of misconduct by, 1 Attys § 464
clapping hands, 7 Trial § 335A*
court officer, communication with, 7 Trial § 332
depositions in jury room, 7 Trial § 327	error, misconduct as, 9 Appeal §§ 432, 440
evidence obtained from outside source, 7 Trial § 328
experiments, performing of, 7 Trial § 329
expertise of juror, reference to own, 7 Trial § 335A*
exposure to media, 7 Trial § 328
improper communications, 7 Trial § 330 et seq.
inattentiveness at trial, 7 Trial § 334
intoxication, 7 Trial § 335
judge, communication with, 7 Trial § 332
law materials, use of, 7 Trial § 327
new trial, as ground for, see New trial party, communication with, 7 Trial § 331
pleadings in jury room, 7 Trial § 327
pressuring other jurors, 7 Trial § 335A*
private study of exhibit, 7 Trial § 328
separation during, 7 Trial § 333
television calls, 7 Trial § 330
unauthorized discussions during, 7 Trial § 333
unauthorized material in jury room, 7 Trial § 327
unauthorized reception of evidence, 7 Trial § 328
unauthorized view of scene, 7 Trial § 328
waiver of, 7 Trial § 376
witness, communication with, 7 Trial § 331
nature of guarantee
in general, 7 Trial § 79 et seq.
nature of right
in general, 7 Trial § 79 et seq.
denial as excess of jurisdiction, 7 Trial § 82
number of jurors, 7 Trial § 83
order of proof, 7 Trial § 149

Jury trial—Cont’d
panels of jurors, see Jury
polling of jury, see Verdict
procedure, 7 Trial §§ 98 et seq., 110, 147
quiet title action, see Quiet title
remittituir, effect of issuance, 9 Appeal § 844
right to jury trial
California constitutional right, 7 Trial § 80
civil commitment proceedings, 7 Trial §§ 89, 90
common law actions with equitable characteristics, 7 Trial § 85
conservatorship of gravely disabled persons, see Conservatorship of gravely disabled persons
contempt, 3 Actions § 69; 7 Trial §§ 90, 184 et seq.
creditor’s action against judgment debtor, see Creditor’s action
denial as excess of jurisdiction, 7 Trial § 82
discretion of court, see discretion of court (this group)
eminent domain proceedings, 7 Trial § 97
equitable doctrines, cases involving, 7 Trial § 93
equitable tolling of statute of limitations, 3 Actions § 739*
equity actions, 7 Trial § 91 et seq.
estoppel, actions involving, 1 Attys § 93
federal right, 7 Trial § 79
impairment of right, effect of, 2 Jurisd § 306; 9 Appeal §§ 454, 455
injunction violation, contempt proceedings for, 7 Trial §§ 186, 187
inverse condemnation proceedings, 7 Trial § 97
legal actions, 7 Trial § 84
legal issues not severable from equitable issues, 7 Trial § 88
legal issues severable from equitable issues, 7 Trial § 86
mandamus to enforce, 8 Writs § 110
mutually exclusive remedies, 7 Trial § 87
nature of action as determining, see Legal and equitable actions
Jury trial—Cont’d
right to jury trial—Cont’d
 nature of action as legal or equitable, see Legal and equitable actions
paternity proceedings, see Paternity
probate proceedings, 7 Trial §§ 90, 96
public officer removal proceedings, 7
 Trial § 90
quiet title action, see Quiet title
res judicata, trial of, see Res judicata
retaliatory termination, statutory right, 2 Jurisd § 306*
sanctions for bad faith, proceedings to
impose, 7 Trial § 234
small claims court, see Small claims court
special proceedings, 7 Trial § 94
state statutory right, 7
 Trial § 80
statute of limitations, equitable tolling of, 3 Actions § 739*
statutory right, 7 Trial § 90
tax collection cases, 7 Trial § 95
writ review prior to trial, 2 Jurisd
§ 306*
selection of jury, see Jury state courts
 in general, 7 Trial § 79 et seq.
California constitutional right, 7 Trial § 80
equity suits, 7 Trial § 91 et seq.
legal and equitable issues, 7 Trial § 86 et seq.
paternity suit, see Paternity
special proceedings, 7 Trial § 94
stipulation to fewer than 12 jurors, 7 Trial § 83
verdict, see expedited jury trial (this group)
voir dire, see Voir dire
voluntary expedited jury trial, see
expedited jury trial (this group)
waiver
 in general, 7 Trial § 101 et seq.
arbitration clause, effect of, 7 Trial § 103
commitment of mentally retarded persons, see Commitment of mentally retarded persons
court, consent by, 7 Trial § 102
consent, 7 Trial § 101 et seq.

Jury trial—Cont’d
waiver—Cont’d
conservatorship of gravely disabled
persons proceedings, 3 Actions § 105
contractual waiver, 7 Trial § 103
failure to appear at trial, 7 Trial § 101
failure to deposit fees and expenses, by,
 7 Trial § 99
implication, waiver by, 7 Trial § 101
improper consent, effect of, 7 Trial
§ 102
mentally disordered persons, commitment of, 3 Actions § 84
mentally retarded persons, commitment of, 3 Actions § 93
noncompliance with requirements, 7
 Trial §§ 101, 104
oral consent, 7 Trial § 102
predispute agreement, effect of, 7 Trial
§ 103
relief from waiver, 7 Trial § 106 et seq.
retrial after reversal, effect of waiver on, 7
 Trial § 105
statutory methods, 7 Trial § 101

Justice courts, see Courts

Justiciable controversy
 in general, 3 Actions § 21 et seq.
absence of, 3 Actions § 23 et seq.
act of state doctrine, 3 Actions § 38
administrative regulations, challenge to, 3
 Actions § 26
advisory opinions, 3 Actions §§ 21, 28
agreed case, see Agreed case
California doctrine
 in general, 3 Actions § 21
absence of controversy, 3 Actions § 24
concealment by party, effect of, 3 Actions
§ 31
declaratory relief, see Declaratory relief
dismissal based on lack of, 6 PWT § 474
ecclesiastical controversies
 in general, 3 Actions §§ 21, 39 et seq.
church policy, 3 Actions § 39
civil rights, 3 Actions § 41
First Amendment, effect of, 3 Actions
§ 41
property rights, 3 Actions § 41
torts, 3 Actions § 40
false issue, 3 Actions § 21

Index-246
INDEX

Justiciable controversy—Cont’d
    federal doctrine
      in general, 3 Actions § 22
    absence of controversy, 3 Actions §§ 25, 26
    friendly suit, 3 Actions § 27
    hardship to parties, 3 Actions § 30
    involuntary dismissal based on lack of, 6
      PWT § 474
    moot case, see Moot case
    political controversies
      in general, 3 Actions §§ 21, 37
      act of state doctrine, 3 Actions § 38
    public interest in question, 3 Actions § 29
    religious controversies, see ecclesiastical
      controversies (this group)
    ripeness, 3 Actions §§ 21, 23, 26
    standing, see Standing to bring action

Juvenile court
    in general, 2 Courts § 218
    appealability of postjudgment orders, 9
      Appeal § 191
    appellate records, electronic access to, see
      Record on appeal
    appointment of counsel, 1 Attys § 46
    bad faith certification of pleadings in, 7
      Trial § 237
    default judgment, availability of relief
      from, see Relief from judgment
    delinquency proceedings, see Juvenile
      delinquency
    dependency proceedings, see Juvenile
      dependency
    developmentally disabled juvenile, commit-
      ment of, 3 Actions § 93
    fast track rules, exclusion from, 2 Courts
      § 257
    Judicial Council forms
      in general, 2 Courts § 423
    judicial education on, 2 Courts § 396
    jurisdiction
      in general, 2 Courts §§ 218, 222, 225,
        231
      commitment of minor, jurisdiction dur-
        ing, 3 Actions § 95
      priority of, 2 Courts § 231
    mentally retarded juvenile, commitment
      of, 3 Actions § 93
    Miranda rights, 1 Attys § 46
    nature of proceedings, 3 Actions § 72

Juvenile court—Cont’d
    parental rights termination, see Termina-
      tion of parental rights
    peremptory challenge to judge in proceed-
      ings, 2 Courts § 154
    proceedings
      postjudgment, appealability of orders, 9
        Appeal § 191
    public nature of court proceedings, excep-
      tion to, 2 Courts § 34
    referees
      all purpose assignment of, 2 Courts
        § 146*
    Rules of Court
      in general, see Rules of Court
      sessions, 2 Courts § 219
    termination of parental rights, see
      Termination of parental rights
    trial court delay reduction rules, exclusion
      from, 2 Courts § 257

Juvenile delinquency
    appointment of counsel for minor and
      parent, 1 Attys § 46
    constitutional rights, see fundamental
      rights of minor (this group)
    fundamental rights of minor
      constitutional rights, 3 Actions § 72
    judgment in delinquency proceedings, 7
      Judgm § 37
    judicial commitment of ward, 3 Actions
      § 95
    rights of minor, fundamental, see
      fundamental rights of minor (this
        group)
    special proceeding, as, 3 Actions § 65

Juvenile dependency
    alternative dispute resolution for, 6 PWT
      § 482
    appeal
      aggrieved party for, 9 Appeal § 35
      placement order, 9 Appeal § 168
      writ petition, treatment as, 9 Appeal
        § 131
    appointment of counsel for minor
      in general, 1 Attys § 46
    appointment of counsel for parent
      in general, 1 Attys § 46
    collateral estoppel
      in general, 7 Judgm § 429

Index-247
Juvenile dependency—Cont’d
declaratory relief in proceedings, § 860+ judgment in dependency proceedings, § 37 jurisdiction transfer after appeal taken, effect of, Appeal § 18 placement of child appeal of order, Appeal § 168 certiorari review after termination of parental rights, Writs § 15 termination of parental rights, after, review by certiorari, Writs § 15 proceedings, collateral estoppel in, Judgm § 429 special proceeding, as, Actions § 65 transfer after appeal taken, effect on jurisdiction, Appeal § 18 workplace harassment proceedings, see Workplace harassment

Labor and Workforce Development Agency
in general, Admin Proc §§ 154, 177 et seq. Agricultural Labor Relations Board, see Farm labor California Unemployment Compensation, see Unemployment compensation Department of Industrial Relations, see Department of Industrial Relations Division of Occupational Safety and Health, see Occupational safety and health Workers’ Compensation Appeals Board, see Workers’ Compensation Appeals Board

Labor law
civil actions based on, exhaustion of remedies, see Exhaustion of administrative remedies collateral estoppel and, see Collateral estoppel collective bargaining agreements, see Collective bargaining agreements exhaustion of administrative remedies, see Exhaustion of administrative remedies injunctions availability of, Prov Rem § 313

Labor law—Cont’d
picketing collective bargaining agreement, effect on, Actions § 146 Labor unions, see Unions

Laches
declaratory relief, Plead § 876 demurrer, raising by, see Demurrer general demurrer, raising by, see Demurrer injunction, effect of, see Injunctions limitations distinguished, Actions § 445 mandamus, effect on, Writs § 152 et seq. remittitur, effect on recall of, Appeal § 852 statute of limitations distinguished, Actions § 445 writs, effect on, Writs § 151 et seq.

Land surveyors, see Surveyors

Landfills
limitation and accrual of action for negligent design, construction, or operation, Actions § 608

Landlord and tenant
attorneys’ fees actions, Judgm § 228 cause of action, effect of, Actions § 124 class action against landlord, Plead § 306 contracts, actions based on, see Contract actions damages effect of, Actions § 137 demand for relief, effect of, see Prayer designation, effect of, Actions § 123 distinction, Actions § 119 et seq. eviction, see Retaliatory eviction; Wrongful eviction historical basis of right test, Actions § 120 implied warranty of habitability, see Implied warranty of habitability incidental issue, effect of, Actions § 138 injunctions, see Injunctions label, effect of, Actions § 123 leases, see Leases of real property

Index-248
Landlord and tenant—Cont’d
limitation of actions, applicability, 3 Actions § 446
mortgages, actions based on, see Mortgages
nature of relief sought test, 3 Actions § 121
nuisances, actions to abate, see Nuisances ordinance, attorneys’ fees in action based on, 7 Judgm § 228*
pleadings, effect of, 3 Actions § 122
prayer for relief, effect of, see Prayer quiet title, see Quiet title
reformation of contract, see Reformation of contract
reletting, notice requirement, 3 Actions § 216
rent, see Cause of action retaliatory eviction, see Retaliatory eviction
statute of limitations, applicability, 3 Actions § 446
tenant’s remedies
class action, 4 Plead § 306
tests, 3 Actions § 120 et seq.
torts, actions based on, see Tort actions unlawful detainer, see Unlawful detainer wrongful eviction, see Wrongful eviction

Landscape architects
limitation and accrual of action against, 3 Actions §§ 483, 486
security for costs, 3 Actions § 358
statute of limitations for action against, 3 Actions §§ 483, 486

Lantermans Developmental Disabilities Services Act
civil rights under, 3 Actions § 92
judicial commitment under, 3 Actions § 92

Lantermans-Petris-Short Act—Cont’d
habeas corpus challenging commitment under, 3 Actions § 73
immunity
in general, 3 Actions § 80
gravely disabled person, conservatorship of, 3 Actions § 80
mentally disordered persons, commitment of, see Commitment of mentally disordered persons
proceedings under, nature of, 2 Courts § 33*

Law corporations
in general, 1 Attys §§ 24 et seq., 465ZZ et seq.*
annual report required from, 1 Attys § 28
certificate of registration
in general, 1 Attys § 27
cancellation of, 1 Attys § 30
fee for, 1 Attys § 28
revocation of, 1 Attys § 30
security for claims as condition for, 1 Attys § 29
suspension of, 1 Attys § 30
defined, 1 Attys § 24
directors
in general, 1 Attys § 26
changes to, fee for, 1 Attys § 28
disbarment, effect on name, 1 Attys § 25
dissolution of, 1 Attys § 30
execution of judgment, applicability of personal effects exemption, 1 Attys § 24
fees applicable to, 1 Attys § 28
investigation by State Bar, 1 Attys § 31
law governing, 1 Attys §§ 24, 25, 28
name
in general, 1 Attys §§ 25, 465MMM*
change of, fee for, 1 Attys § 28
Rules of Professional Conduct, 1 Attys § 465MMM*
officers
in general, 1 Attys § 26
changes to, fee for, 1 Attys § 28
operation of, 1 Attys § 28
organization of, 1 Attys § 25
practice of law by, 1 Attys § 386
proceedings against by State Bar, 1 Attys § 31
regulation of, 1 Attys § 28
Law corporations—Cont’d
reports required from, 1 Attys § 28
resignation of attorney
corporation, effect on, 1 Attys § 32
name, effect on, 1 Attys § 25
Rules of Professional Conduct,
employment of resigned lawyer, 1
Attys § 465CCC*
security for claims, 1 Attys § 29
shareholders
in general, 1 Attys § 26
changes to, fee for, 1 Attys § 28
death of, effect on certificate of
registration, 1 Attys § 30
defined, 1 Attys § 411
statutory authorization, 1 Attys § 24

Law of the case
in general, 9 Appeal § 459 et seq.
appellate court
applicability to, 9 Appeal §§ 460, 461
departure from rule by, 9 Appeal § 463
appellate jurisdiction, 9 Appeal § 469
application of doctrine, 9 Appeal § 459 et seq.
change in law, effect of, 9 Appeal § 478 et seq.
decision on point, 9 Appeal § 473 et seq.
dictum, effect of, 9 Appeal § 474
documents, validity or construction of, 9
Appeal § 466
earlier rule, 9 Appeal § 462
evidence
admissibility of, 9 Appeal § 468
retrial, effect on presentation at, 9
Appeal § 459*
sufficiency of, see Sufficiency of evidence
exceptions, 9 Appeal § 478 et seq.
federal questions, applicability to, 9
Appeal § 460
judgments, validity or construction of, 9
Appeal § 466
matter expressly decided, 9 Appeal
§§ 476, 477
matter necessarily involved, 9 Appeal
§§ 474, 475
modern rule of policy, 9 Appeal §§ 463,
464
nature of doctrine, 9 Appeal § 459 et seq.

Law of the case—Cont’d
orders, validity or construction of, 9
Appeal § 466
pleadings, sufficiency or nature of, 9
Appeal § 467
points of law as requisite, 9 Appeal § 465
et seq.
requisites for, 9 Appeal § 465 et seq.
trial court
applicability to, 9 Appeal § 460
departure from rule by, 9 Appeal § 464
unpublished appellate opinions, citation
of, 9 Appeal §§ 491, 824
writ proceedings, applicability to, 9
Appeal § 461

Law partnerships
in general, 1 Attys §§ 19 et seq., 465ZZ et seq.*
agreement of partnership, 1 Attys § 19
death of partner, effect on name, 1 Attys
§ 19
disbarment of partner, effect on name, 1
Attys § 19
dissolution
in general, 1 Attys §§ 21, 22
unfinished business, what constitutes, 1
Attys § 22
fees, withdrawing partner’s right to, 1
Attys § 23
layperson, partnership with, 1 Attys § 414
limited liability partnership, 1 Attys § 20
malpractice, liability for, see Attorney
malpractice
name of, 1 Attys § 19
nonattorney, partnership with, 1 Attys
§§ 19, 465BBB*, 465DDD*, 530
self-incrimination privilege, invocation
of, 1 Attys § 19

Law practice, see Attorneys; Law
corporations; Law partnerships

Law Revision Commission
appellate opinions, citation in, 9 Appeal
§ 796
judicial review of administrative agency
actions, study of, 8 Writs § 274 et seq.

Lawyer-client privilege, see Attorney work
product; Attorney-client privilege

Lawyer reference services, see Attorney
referral services

Index-250
Lawyers, see Attorneys

Leases
  real property, see Leases of real property

Leases of real property
  attorneys’ fees, see Attorneys’ fees
  breach of lease, election of remedies, 3 Actions § 181
  enforcement of judgment against judgment debtor’s interest in, see Enforcement of judgment
  habitability, see Implied warranty of habitability
  implied warranties, nature of actions based on, 3 Actions § 140
  limitations periods
    oral, 3 Actions § 482
    written, 3 Actions § 484
  real property lien to enforce judgment, subjection to, see Judgment liens
  statute of limitations, see limitations periods (this group)

Legal aid
  attorney advertising, use of term in, see Attorney conduct
  legal services programs, see Legal services programs

Legal and equitable actions
  in general, 3 Actions § 119 et seq.
  “cause of action in equity,” effect of, 3 Actions § 124
  contracts, actions based on, 3 Actions § 126
  damages, effect of phrase, 3 Actions § 137
  demand for relief, effect of, see Prayer designation
  distinction, 3 Actions § 119 et seq.
  equitable liens, actions based on, see Trusts
  expungement of public records, 3 Actions § 129*
  fraud, actions based on, see Fraud and deceit
  historical basis of right test, 3 Actions § 120
  incidental issue, effect of, 3 Actions § 138
  injunctions, see Injunctions
  label, effect of, 3 Actions § 123
  laches, effect of, 3 Actions § 446

Legal and equitable actions—Cont’d
  mortgages, actions based on, see Mortgages
  nature of relief sought test, 3 Actions § 121
  nuisances, actions to abate, see Nuisances
  pleadings, effect of, 3 Actions § 122
  prayer for relief, effect of, see Prayer
  quiet title, see Quiet title
  reformation of contract, see Reformation of contract
  specific performance, see Specific performance
  statute of limitations, applicability of, 3 Actions § 446
  tests, 3 Actions § 120 et seq.
  torts, actions based on, see Tort actions
  trade secrets, actions based on, see Trade secrets
  trusts, actions based on, see Trusts
  unfair competition actions, see Unfair competition
  waiver of jury trial, 3 Actions § 93*

Legal document assistants
  in general, 1 Attys § 382

Legal malpractice, see Attorney malpractice

Legal separation
  abatement of action, 3 Actions § 18
  answer, 5 Plead § 1049
  appearance, 5 Plead § 894
  attorneys’ fees, lien for, 1 Attys § 167
  change of venue, 3 Actions §§ 905, 915
  collateral estoppel, 7 Judgm § 425 et seq.
  costs, 7 Judgm § 104
  default judgment, see Default judgment
  delay, applicability of dismissal for
    in general, 6 PWT § 317
    trial, delay in, 6 PWT § 363
  domicile of child after, 2 Jurisd § 132
  entry of judgment, notice of, 7 Judgm § 59
  joinder of parties, 5 Plead § 887 et seq.
  judgment
    in general, 5 Plead § 897
    form and content of, 7 Judgm § 36
    Judicial Council forms, 7 Judgm § 36
    stipulation for, 7 Judgm § 36
  jurisdiction, 2 Jurisd § 275
Legal separation—Cont’d
motions, 5 Plead § 895
parties, 5 Plead § 887 et seq.
personal jurisdiction based on, 2 Jurisd § 154
petition, 5 Plead § 892
pleadings, 5 Plead § 891 et seq.
relief available, 5 Plead §§ 890, 891
Rules of Court, 5 Plead §§ 885, 886
sealing of records, 2 Courts § 41
stipulation for judgment, 5 Plead § 897
summons, 3 Actions § 992; 5 Plead § 894
temporary restraining order, 6 Prov Rem § 291
venue, 3 Actions §§ 812, 813

Legal Services Corporation, 1 Attys § 14

Legal services programs
in general, 1 Attys § 14 et seq.
American Bar Association Rules, 1 Attys § 14
attorneys’ trust fund program
in general, 1 Attys §§ 15, 16
accounts (IOLTA), establishment of, 1 Attys § 15
constitutionality of program, 1 Attys § 16
distribution of funds, 1 Attys § 15
civil legal representation pilot programs, 1 Attys § 14*
“legal aid” defined, 1 Attys § 14*
limited legal services programs, 1 Attys § 420A*
low-income parties, civil representation of, 1 Attys § 14*
out-of-state attorneys, use of, see Attorneys
Rules of Professional Conduct governing,
1 Attys §§ 420, 420A*, 465GGG*, 465HHH*, 535
unlicensed persons, relationship with, 1 Attys § 535
veterans, legal assistance to, 1 Attys § 14*
withdrawal of attorney, see Attorney-client relationship

Legislation Open Records Act, 5 Plead § 856

Legislative acts
judicial acts distinguished, 3 Actions § 1

Legislative committees
open meeting requirements, 9 Admin Proc § 9

Legislative Counsel
in general, 1 Attys § 57
digest, citation in appellate opinions, 9
Appeal § 796
Legislative Counsel Bureau as employer,
1 Attys § 56

Legislators
compensation of, announcement of, 9
Admin Proc § 26*
continuance of trial for, 7 Trial § 26 et seq.
extension of time to plead to, 4 Plead § 11
motions, extension of time for service on,
6 PWT § 17
process, immunity from, 3 Actions § 979

Legislature
committees, open meeting requirements, 9
Admin Proc § 9
legislators, see Legislators
open meeting requirements, 9 Admin Proc § 9

Letters of credit
garnishment of right to payment under,
see Garnishment

Levy
in general, see Execution and levy

Levying Officer Electronic Transactions Act, 8 Enf Judgm § 33A*

Lewd act with child or dependent adult
child, lewd act with
molestation, see Child molestation
limitation and accrual of civil actions based on sexual abuse of minor
in general, 3 Actions §§ 463 et seq.,
483, 487, 593 et seq.
award of costs or attorneys’ fees as sanction, 3 Actions § 593*
delayed accrual, 3 Actions § 595
public entity, claim against, 3 Actions § 593*
revival of action, 3 Actions § 467
settlement agreements, 3 Actions § 593*
molestation of child
in general, see Child molestation

Index-252
Lewd act with child or dependent adult
—Cont’d
public entity, notice of claim against, 3
Actions §§ 240*, 593*
statute of limitations for civil action based
on sexual abuse of minor, see limitation and accrual of civil actions
based on sexual abuse of minor (this group)

Libel
accrual of actions, 3 Actions §§ 550, 551
cause of action, 4 Plead §§ 52, 53
damages, 5 Plead § 942
instructions to jury, 7 Trial § 286
limitation and accrual of actions, 3
Actions §§ 481, 550, 551
malice, see Malice pleading
in general, 4 Plead §§ 52, 53; 5 Plead
§ 734 et seq.
ambiguity, effect of, 5 Plead § 741 et seq.
broadcast, defamation in, 5 Plead § 737
colloquium, 4 Plead § 391; 5 Plead
§ 744
elements of cause of action, 5 Plead
§ 735
false and defamatory matter, publication of, 5 Plead §§ 739, 740
falsity, necessity to plead, 5 Plead
§ 738
inducement, necessity of, 5 Plead § 741
innuendo, necessity of, 5 Plead § 741 et seq.
malice, 5 Plead § 745
meaning, circumstances affecting, 5
Plead § 741
newspaper, defamation in, 5 Plead
§ 737
third person, publication to, 5 Plead
§ 740
truth as defense, 5 Plead § 1101
statute of limitations, 3 Actions § 481
trade libel, see Trade libel
Uniform Single Publication Act, 3
Actions §§ 551; 4 Plead §§ 52, 53
venue, 3 Actions § 821

License
administrative mandamus, see
Administrative mandamus

License—Cont’d
alcoholic beverage license, see Alcohol
capacity of licensee to sue and be sued,
allegation, 5 Plead § 906
enforcement of judgment against, see
Enforcement of judgment
exhaustion of administrative remedies in
action involving, see Exhaustion of
administrative remedies
liquor license, see Alcohol
temporary restraining order, 6 Prov Rem
§ 291

Lien in pending action or proceeding
in general, 8 Enf Judgm §§ 297 et seq.,
305 et seq.
abstract of judgment in pending action,
statement of lien in, 8 Enf Judgm
§ 297
assignment, enforcement of lien by, 8 Enf
Judgm § 304
collection from public entity, enforcement of
lien by, 8 Enf Judgm § 304
compromise, availability of, 8 Enf Judgm
§ 301
dismissal, availability of, 8 Enf Judgm
§ 301
enforcement of judgment, availability of,
8 Enf Judgm § 300
enforcement of lien, 8 Enf Judgm §§ 303,
304
equitable offset, 8 Enf Judgm § 299
exemption, claim by debtor, 8 Enf Judgm
§ 302
intervention by creditor in pending action,
8 Enf Judgm § 297
judgment, indorsement on, 8 Enf Judgm
§ 297
Judicial Council form of notice, 8 Enf
Judgm § 300
levy, enforcement of lien by, 8 Enf Judgm
§ 304
nature of, 8 Enf Judgm § 305
notice, 8 Enf Judgm § 300
priorities, 8 Enf Judgm § 298
purpose of lien, 8 Enf Judgm § 297
receiver, enforcement of lien by appoint-
ment to collect judgment, 8 Enf
Judgm § 304
remedy, nature of, 8 Enf Judgm § 297
sale or collection of property levied,
enforcement of lien by, 8 Enf Judgm
§ 304

Index-253
Lien in pending action or proceeding
—Cont’d
satisfaction, availability of, 8 Enf Judgm § 301
settlement, availability of, 8 Enf Judgm § 301
tax liens, priorities, 8 Enf Judgm § 298

Liens
attachment liens, see Attachment
attorneys, see Attorneys’ fees
enforcement
special proceeding, as, 3 Actions § 65
venue of actions, 3 Actions § 799
equitable, see Equitable liens
execution liens, see Judgment liens
fees, attorney’s lien for, see Attorneys’ fees
foreclosure
equitable nature of proceeding, 3
Actions § 128
limitations periods, 3 Actions §§ 430, 482
limited civil case, 2 Courts § 245
statute of limitations, 3 Actions §§ 430, 482
government tort claims requirement
applicability, see Government tort claims
in forma pauperis suit fees, see In forma pauperis suit
levying officer, lien of, see Enforcement of judgment
pending action or proceeding, see Lien in pending action or proceeding
recordation
arbitration proceeding, in, 3 Actions § 375*
out of state, 3 Actions § 375*
renewal of judgment, effect on lien, see Renewal of judgment
workers’ compensation award, liens against, 1 Attys § 167

Life insurance
exemption of policies from execution, 8
Enf Judgm § 199

Limitation and accrual of actions
—Cont’d
in general, 3 Actions § 430 et seq.
1-year limitation, 3 Actions § 481
2-month limitation, 3 Actions § 476
2-year limitation, 3 Actions § 482

Limitation and accrual of actions
in general, 3 Actions § 430 et seq.
1-year limitation, 3 Actions § 481
3-year limitation, 3 Actions §§ 483, 595A*
4-month limitation, 3 Actions § 479
4-year limitation, 3 Actions § 484
5-year limitation, 3 Actions § 485
6-month limitation, 3 Actions § 480
6-year limitation, 3 Actions § 486
8-year limitation, 3 Actions § 487
10-year limitation, 3 Actions §§ 488, 595A*
30-day limitation, 3 Actions § 475
60-day limitation, 3 Actions § 476
90-day limitation, 3 Actions § 477
100-day limitation, 3 Actions § 478
120-day limitation, 3 Actions § 479
180-day limitation, 3 Actions § 480
abuse of process, 3 Actions § 553
accountant malpractice, 3 Actions § 651
accounts, 3 Actions §§ 484, 515 et seq., 540 et seq.
accrual of cause of action
in general, 3 Actions § 493 et seq.
alternative remedy with longer period,
3 Actions § 506
breach of contract, 3 Actions §§ 520 et seq., 650
computing time, 3 Actions § 507
contracts, see contracts (this group)
damage, accrual before, 3 Actions § 495
delayed accrual, see postponed accrual (this group)
hearing date, effect of, 3 Actions § 507*
ignorance of cause of action, 3 Actions § 494
postponed accrual, see postponed accrual (this group)
administrative proceedings
agency action periods distinguished, 3
Actions § 445
applicability to, 3 Actions § 430
judicial review of, 9 Admin Proc § 129
tolling by, 3 Actions § 730 et seq.
administrators, pleading by, 3 Actions §§ 481, 483
adoption, see Adoption
Limitation and accrual of actions
—Cont’d
adverse possession, see Personal property
age discrimination, 3 Actions § 564
amended cross-complaint, applicability
to, 3 Actions § 453
amendment to plead, 3 Actions § 434
amount in controversy, effect on, 3
Actions § 432
annullment of marriage, see Nullity of
marriage
anticipating defense in complaint, 5
Plead § 929 et seq.
appeal
time limitations distinguished, 3
Actions § 445
applicability, 3 Actions § 447 et seq.
arbitration award
confirmation, 3 Actions § 484
vacation or correction action, 3 Actions
§§ 478, 687
arbitration proceeding, tolling by, 3
Actions § 733
artwork, action to recover
duress, action based on, 3 Actions
§§ 486*, 620*, 622A*, 623*, 653*
fraud, action based on, see Fraud and
deceit
theft, action based on, 3 Actions
§§ 486*, 620*, 622A*, 623*, 653*
assault, 3 Actions §§ 482, 488*, 553, 554
assessment, proceeding challenging, 3
Actions § 475
attorneys, actions involving
fees, tolling of action for, 1 Attys § 226
malpractice, see Attorney malpractice
wrongful withholding of settlement
proceeds, 3 Actions § 653*
automobile license fees, 3 Actions § 483
banks and banking, see Banks and bank-
ing
battery, 3 Actions §§ 482, 488*, 553, 554
bond, enforcement by beneficiary, 3
Actions §§ 545 et seq., 608, 654,
670; 6 Prov Rem § 40
breach of contract, see contracts (this
group)
breach of fiduciary duty
real estate investment firm, action
against venture capital firm for, 3
Actions § 678*

Limitation and accrual of actions
—Cont’d
bulk sales, 3 Actions § 497
California, see state (this group)
California Environmental Quality Act
actions, see California
Environmental Quality Act
California Political Reform Act actions, 3
Actions § 484
cancellation of void instrument, 3 Actions
§ 491
Cartwright Act actions, see Cartwright
Act
CEQA, see California Environmental
Quality Act
cessation of law practice, effect of, 1
Attys § 89
change in case law, effect of, 3 Actions
§ 435 et seq.
changes in period
agreement, by, see contractual changes
(this group); shortening period by
agreement (this group)
contractual, see contractual changes
(this group)
legislative, 3 Actions § 458 et seq.
retroactive, see retroactive changes
(this group)
shortening period, see shortening
period by agreement (this group)
child support, 3 Actions § 492
classification, 3 Actions § 431
community property, actions involving,
see Community and separate prop-
erty
Community Redevelopment Law viola-
tions, 3 Actions § 673
conflict of laws
in general, 3 Actions §§ 53 et seq., 432
borrowing statute, 3 Actions § 56
contract, limitation shortened by, 3
Actions § 61
federal statutes, 3 Actions §§ 58, 59
limitation as substantive right, 3
Actions § 57
revived judgment, action on, 3 Actions
§ 60
constructive trust, see Constructive trusts
Consumer Warranty Act, 3 Actions § 579
contracts
in general, 3 Actions § 508 et seq.
Limitation and accrual of actions — Cont’d
contracts — Cont’d
collection of debt, restrictions on action for, 3 Actions § 508*
conditional obligations, effect of, 3 Actions § 531 et seq.
continued covenant, 3 Actions §§ 521, 522 et seq.
demand as condition, effect of, 3 Actions § 532 et seq.
discovery of breach, 3 Actions §§ 529, 530
election of remedies, effect on accrual, 3 Actions §§ 527, 528
implied, 3 Actions §§ 482, 509 et seq.
not founded on writing, 3 Actions §§ 512 et seq., 648 et seq.
oral, 3 Actions §§ 482, 512 et seq.
prepayment fee, effect of, 3 Actions § 536
prospective promise, 3 Actions §§ 521, 526
quasi-contract obligations, 3 Actions §§ 514, 546 et seq.
rescission, see Rescission of contract
sale, 3 Actions §§ 484, 512, 519
severable contracts, 3 Actions § 520
third-party beneficiary contracts, 3 Actions § 520
time of breach, 3 Actions §§ 520, 521
tort breach of contract action, 3 Actions § 565
warranty breach, see Breach of warranty
written, 3 Actions §§ 484, 508

Limitation and accrual of actions — Cont’d
contractual changes
in general, 3 Actions §§ 468 et seq., 694
shortening period, see shortening period by agreement (this group)
conversion action, 3 Actions § 477
in general, 3 Actions §§ 468 et seq.
shortening period by agreement (this group)
corporate directors, 3 Actions §§ 483, 497, 671
corporate securities, 3 Actions § 486
corporations, see Corporations
cotenant partition, 3 Actions § 492
creditor’s claim against estate, see Creditor’s claims against estate
cross-complaints, applicability to, 3 Actions § 448 et seq.; 5 Plead §§ 1163, 1164
damage, effect on accrual, 3 Actions §§ 495, 501 et seq.
dependent adults
financial abuse of, 3 Actions § 484*
disability of plaintiff, see tolling of period (this group)
discovery rule for accrual, 3 Actions §§ 495, 501 et seq.
defamation, 3 Actions §§ 550, 551, 721
deficiency judgment, action for, 3 Actions § 477
demurrer, raising defense of, 5 Plead § 962
disfavor defense, 3 Actions § 438
dismissal based on attorney’s noncompliance with statute of limitations, 8 Attack § 200
dismissal statutes distinguished, 3 Actions § 445
dissolution of marriage, see Dissolution of marriage
domestic violence, 3 Actions § 483

domestic violence, 3 Actions § 483
Limitation and accrual of actions
—Cont’d

elder adults

financial abuse of, 3 Actions § 484*

emotional distress, see Emotional distress

equal pay claims, 3 Actions §§ 482, 483

equitable actions, applicability to, 3

Actions § 446

equitable tolling, see tolling of period

(this group)

equity, actions in, 3 Actions §§ 677, 678

escheat, 3 Actions §§ 442, 485, 489

estates, pleading for, see Executors and

administrators

estoppel to plead

in general, 3 Actions §§ 694, 762 et seq.

breach of duty by nondisclosure, 3

Actions § 774

cause of action, concealment of, 3

Actions § 770 et seq.

death of party, 3 Actions § 719
duress, 3 Actions § 777

erroneous advice by government

agency, 3 Actions § 767

expiration of period, 3 Actions § 778

identity of defendant, concealment of, 3

Actions §§ 768, 769

inducement not to sue, 3 Actions § 763

et seq.

insurance, representations concerning,

3 Actions §§ 766, 767

pending litigation, promises concern-

ing, 3 Actions § 765

performance, promise of, 3 Actions

§ 763

pleading, 5 Plead § 932

settlement, promise of, 3 Actions § 764

evidence, spoliation of, 3 Actions § 651

executors, pleading by, see Executors and

administrators

Fair Employment and Housing Act, see

Fair Employment and Housing Act

false advertising, 3 Actions §§ 483, 497

false arrest, see False imprisonment

False Claims Act, see False Claims Act

family law actions

adoption, 3 Actions §§ 481, 483

annulment, 3 Actions §§ 484, 489

community and separate property, see

Community and separate property

Index-257
Limitation and accrual of actions
—Cont’d

incapacity of attorney, effect of, 1 Attys § 66
inducement not to sue, effect of, 3 Actions § 763 et seq.
insanity of plaintiff, see Insanity of plaintiff
international law, taking property in violation of, 3 Actions § 488*
invasion of privacy, 3 Actions §§ 497, 553, 556
judgment, action on, 3 Actions §§ 488, 675
laches distinguished, 3 Actions § 446
leases of real property, actions on, see Leases of real property
legal malpractice, see Attorney malpractice
legislative changes in period, 3 Actions §§ 458 et seq., 694
lewd act with minor, see Lewd act with child or dependent adult
libel, 3 Actions §§ 550, 551
lien foreclosure, 3 Actions §§ 430, 482
malicious prosecution
statute of limitations, 3 Actions § 553
tolling of limitations period, 3 Actions § 555
mandamus, 3 Actions § 684
marital dissolution, see Dissolution of marriage
mechanics lien, see Mechanics lien
medical malpractice, see Medical malpractice
meritorious defense, 3 Actions § 433 et seq.
military counsel, representation by, 1 Attys § 390
minority of plaintiff, see tolling of period (this group)
minors
accrual of claim, 3 Actions § 256*
money or property in financial institution, recovery, 3 Actions § 489
motels, actions involving, 3 Actions §§ 620, 621
motor vehicle license fees, 3 Actions § 483
nature of statute, 3 Actions § 430 et seq.

Limitation and accrual of actions
—Cont’d

negotiable instruments, see Negotiable instruments
no limitation of action, 3 Actions § 489 et seq.
Northridge earthquake insurance claim, 3 Actions § 466
notary public, actions against, see Notary public
notice periods distinguished, 3 Actions § 445
nullity of marriage, see Nullity of marriage
partition by cotenants, 3 Actions § 492
personal injury, see Personal injury actions
personal property, see Conversion of personal property; Personal property pleading, see Pleading
Political Reform Act, actions under, 3 Actions § 484
pollution control, 3 Actions § 483
postponed accrual
in general, 3 Actions § 496 et seq.
accrual not postponed, 3 Actions § 661*
condition precedent, 3 Actions § 504
damage results, 3 Actions § 501 et seq.
defendant’s negligence, discovery of, 3 Actions § 498 et seq.
discovery of facts, 3 Actions § 497 et seq.
fraud as cause, pleading, 5 Plead § 929
insurance cases, 3 Actions § 501
mistake as cause, pleading, 5 Plead § 929
pleading, 5 Plead §§ 929, 930
professional negligence cases, 3 Actions § 502
remedy uncertain or ineffective, 3 Actions § 503
teacher retirement benefits, action to correct errors in, 3 Actions § 497*
prisoners, tolling of period for, see tolling of period (this group)
privacy, 3 Actions §§ 497, 553, 556
products liability, see Strict products liability
property, taking in violation of international law, 3 Actions § 488*
Limitation and accrual of actions
—Cont’d
Proposition 62, effect of, 3 Actions § 437
public agency validation proceedings, 3
Actions §§ 475, 476, 480
public entity or employee
action against, 3 Actions §§ 480, 482, 688 et seq.
bond, 3 Actions §§ 483, 670
boundary change of entity, 3 Actions § 476*
formation of entity, 3 Actions § 476*
 fraudulent claim presented to, 3
Actions § 483
validity of entity, 3 Actions § 476*
public improvement projects, 3 Actions
§ 476*
real estate investment firm breach of fiduciary duty action against venture capital firm, see breach of fiduciary duty (this group)
real property, actions involving adverse possession, see Adverse possession
latent defects, see Real property
patent defects, 3 Actions §§ 606, 607
recovery of, 3 Actions § 658
sales, see Real estate sales
securities dealers, 3 Actions § 483
timberland, conversion of, 3 Actions § 483*
rescission, see Rescission of contract
restitution after rescission, 3 Actions § 686
retroactive changes
 in general, 3 Actions § 460 et seq.
application, 3 Actions § 432
legislative, 3 Actions § 460 et seq.
Servicemembers’ Civil Relief Act, 3
Actions § 721
sex discrimination claims, see Sex discrimination
sex offenses
 in general, 3 Actions § 595A*
Limitation and accrual of actions
—Cont’d

suspension of statute of limitations, see tolling of period (this group)
taking property in violation of international law, 3 Actions § 488*
tax refunds, actions involving, see Taxation
taxes, actions involving, see Taxation
technical defense, 3 Actions § 438
timber, 3 Actions § 485
title insurance, see Title insurance
tolling of period
in general, 3 Actions §§ 432, 694 et seq.
absence of defendant, 3 Actions §§ 694, 710 et seq.
administrative proceeding pending, 3 Actions § 730 et seq.
amendment of complaint, 3 Actions § 736
appeal in related action, 3 Actions § 734
Armenian Genocide victims’ claims, 3 Actions § 705
attorneys’ fees, tolling of action for, 1 Attys § 226
bankruptcy, 3 Actions § 721
bracero performing wartime labor, 3 Actions § 705
change in case law, effect of, 3 Actions § 435 et seq.
child labor claim, discrimination action based on, 3 Actions § 696*
commencement of action, 3 Actions §§ 694, 735 et seq.
compensation proceeding, effect of, 3 Actions § 744 et seq.
death of party, 3 Actions §§ 694, 717 et seq.
debt, revival by acknowledgment, 3 Actions §§ 694, 750 et seq.
decedent’s insurer, action against, 3 Actions § 719
disability of attorney, 3 Actions §§ 694, 709
disability of plaintiff, 3 Actions § 694 et seq.
equitable tolling, 3 Actions §§ 257, 739
federal action, effect on state action, 3 Actions § 741 et seq.

Limitation and accrual of actions
—Cont’d
tolling of period—Cont’d
government tort claims, see Government tort claims
guardian ad litem, effect of appointment, 3 Actions § 699
Holocaust victims’ claims, 3 Actions § 705
imprisonment of plaintiff, 3 Actions §§ 694, 702 et seq.
in personam action, 3 Actions § 714
in rem action, 3 Actions § 713
injunction, effect of, 3 Actions § 720
insanity of plaintiff, 3 Actions §§ 694, 698 et seq.
insurance cases, 3 Actions §§ 694, 757 et seq.
insured’s murderer, trial of, 3 Actions §§ 694, 749
insurer’s investigation, effect of, 3 Actions §§ 694, 757, 758
mass tort class actions, 3 Actions § 735
military service, 3 Actions § 721
minority of plaintiff, 3 Actions §§ 694, 696 et seq., 710
necessaries of life, action for, 3 Actions § 719
nonresidence of defendant, 3 Actions §§ 694, 710 et seq.
parole of prisoner-plaintiff, effect of, 3 Actions § 703
pleading, 5 Plead § 931
pretrial custody, no tolling during, 3 Actions § 703*
prevention of action, 3 Actions §§ 694, 720 et seq.
prior action, 3 Actions §§ 694, 738 et seq.
probation with order of restitution, 3 Actions §§ 694, 756
property sold by representative, 3 Actions § 708
repairing defects, 3 Actions §§ 694, 760, 761, 763
representative with right to sue, effect of, 3 Actions § 707
review proceeding in related action, 3 Actions § 734
revival by acknowledgment of debt, 3 Actions §§ 694, 750 et seq.
Limitation and accrual of actions—Cont’d
tolling of period—Cont’d
SerVICEmembers’ Civil Relief Act, 3
Actions § 721
settlement promise, effect of, 3 Actions § 764
stay, 3 Actions §§ 694, 720 et seq.
substantive right, statute creating, 3
Actions § 444
substituted service, effect of availability, 3 Actions § 713 et seq.
trustee with right to sue, effect of, 3
Actions § 707
unconsciousness of plaintiff, effect of, 3
Actions § 700
war, 3 Actions §§ 694, 704 et seq.
World War II forced labor victims, 3
Actions § 705
wrongful death, 3 Actions § 707
torts, see Tort actions
treasurer’s deed, action attacking validity, 3
Actions § 481
trespass, see Trespass
trial of, priority for, 7 Trial § 151
unborn child, action for injuries to, see Unborn child
unfair competition actions, 3 Actions § 484
Uniform Commercial Code, see Negotiable instruments; Uniform Commercial Code; Uniform Commercial Code Division 2
Uniform Foreign-Country Money Judgments Recognition Act, see Uniform Foreign-Country Money Judgments Recognition Act
Uniform Trade Secrets Act, 3 Actions § 483
unsured motorist actions, see Uninsured motorist proceeding
United States
plaintiff, as, 3 Actions § 455
Wartime Suspension of Limitations Act, 3 Actions § 721
Unruh Civil Rights Act, 3 Actions §§ 483, 558
vacation claims, see Vacation rights of employees
validation proceedings, 3 Actions §§ 475, 476, 480
vehicle license fees, see Vehicles

Limitation and accrual of actions—Cont’d
void instrument, cancellation of, 3
Actions § 491
waiver
in general, 3 Actions § 432
contractual, 3 Actions § 468
governmental agency, by, 3 Actions § 440
methods of, 3 Actions § 440
third party, by, 3 Actions § 440
war, effect of, see tolling of period (this group)
warranty breach, see Breach of warranty
Wartime breach, see Breach of warranty
Wrongful death, see Wrongful death
Wrongful termination of employment, see
Wrongful termination
zoning, see Zoning

Limited civil case
in general, 2 Courts § 241 et seq.
amount in controversy, 2 Courts §§ 242, 243
ancillary remedies, 2 Courts § 247
appeal
in general, 9 Appeal § 1002 et seq.
abandonment, 9 Appeal § 1016
appealable judgments or orders, see
Appealable judgments and orders
appellate division of superior court, appeal to, 9 Appeal § 1002 et seq.
brevs, 9 Appeal § 1015
calendar of, 9 Appeal § 1017
certification by Court of Appeal, see
Court of Appeal, hearing in (this group)
costs, 9 Appeal § 1018
Court of Appeal, hearing in, see Court of Appeal, hearing in (this group)
cross-appeal, 9 Appeal § 1010
decision, 9 Appeal § 1018
entry of judgment for, see Entry of judgment
filing of papers, 9 Appeal § 1002*
finality of judgment, 9 Appeal § 1019

Index-261
Limited civil case—Cont’d
 Court of Appeal, hearing in—Cont’d
 appeal to Court of Appeal distinguished, 9 Appeal § 1020
 briefs, 9 Appeal § 1030
certification by superior court, 9 Appeal § 1021 et seq.
court’s own motion, transfer on, 9 Appeal § 1025
decision, 9 Appeal § 1031
nature of power, 9 Appeal § 1020
notice of order granting or denying transfer, 9 Appeal § 1028
oral argument, 9 Appeal § 1030
petition of party, transfer on, 9 Appeal § 1026
record, 9 Appeal §§ 1029, 1030
refusal of certification or transfer, 9 Appeal § 1027
remittitur, 9 Appeal § 1031
scope of power, 9 Appeal § 1020
stay of proceedings, 9 Appeal §§ 1022, 1029
transmission of record, 9 Appeal §§ 1022, 1029
trial de novo, effect of right to, 9 Appeal § 1020
creditor’s action, 2 Courts § 247
declaratory relief, 2 Courts §§ 245, 249; 5 Plead § 850
economic litigation procedures
in general, 2 Courts § 250 et seq.
collateral estoppel, applicability of, see Collateral estoppel
pleadings, 2 Courts § 252; 4 Plead § 5
enforcement of judgment, 2 Courts § 247
equitable defenses, 2 Courts § 248
equitable relief against judgments, 2 Courts § 246; 8 Attack § 222
equity cases, 2 Courts § 245 et seq.
expedited jury trial in, see Jury trial
fast track provisions for, 2 Courts § 257
forcible entry, 2 Courts § 244
foreclosure of liens on personal property, 2 Courts § 246
indemnity action, 2 Courts § 249
injunctive relief, see Injunctions
interpleader, 2 Courts § 246
judicial arbitration, when required, 6 PWT § 582
jurisdictional classification, 2 Jurisd § 6

Limited civil case—Cont’d
 appeal—Cont’d
 frivolous appeals, sanctions for, 9 Appeal § 1018
hearing and determination, 9 Appeal §§ 1017, 1018
involuntary dismissal, 9 Appeal § 1016
motions, 9 Appeal § 1017
nonappealable judgments or orders, see Appealable judgments and orders
notice of appeal, see Notice of appeal opinion, 9 Appeal § 1018
oral argument, 9 Appeal § 1015*
party both appellant and respondent, briefs in, 9 Appeal § 1015*
prisoner, by, see Prisoners
record on appeal, see Record on appeal
rehearing, 9 Appeal § 1019
remititur, 9 Appeal § 1018
Rules of Court governing, 9 Appeal § 1002
sanctions, 9 Appeal § 1018
service of papers, 9 Appeal §§ 1002*, 1008*
signature on electronically filed documents, 9 Appeal §§ 1002*, 1015*
small claims court appeal distinguished, 9 Appeal § 1003
statutes governing, 9 Appeal § 1002
stay pending appeal, see Stay pending appeal
time for filing, see Notice of appeal
transfer to Court of Appeal, see Court of Appeal, hearing in (this group)
transmission of opinion, 9 Appeal § 1018
voluntary dismissal, 9 Appeal § 1016
arbitration-related petitions, 2 Courts § 243
attorneys’ fee dispute, 2 Courts § 249
cancellation of contract, 2 Courts § 246
case questionnaires in economic litigation, 2 Courts § 252
classification
jurisdictional, 2 Jurisd § 6
nature of, 2 Courts § 241
conditions for, 2 Courts § 242
costs, see Costs
Court of Appeal, hearing in
in general, 9 Appeal § 1020 et seq.

Index-262
Limited civil case—Cont’d
jury trial, expedited, in, see Jury trial
long-term health care facilities, actions
against, Courts § 243
mobilehome abandonment action, Courts § 244
money judgment, 7 Judgm § 31
nature of classification, Courts § 241
partnership dissolution, Courts § 246
pleadings
  in general, Plead § 5
  complaint, Plead § 472
  first page statement requirements, Plead §§ 16, 472
preservation of property or rights, Courts § 247
receiver, appointment of, Courts § 247
reclassification as limited civil case
  in general, Jurisd § 411 et seq.
  appealability of order, Appeal § 167
  fee for, Jurisd § 412; Plead § 26
  motion for, Jurisd § 210
review of order, Appeal § 167
transfer for lack of jurisdiction distinguished, Jurisd § 399
waiver of amount in excess of jurisdiction, Jurisd § 411
reformation of contract, Courts § 246
relief sought, Courts § 242
recession of contract, Courts § 246
scope of classification, Courts § 241
small claims case, Courts § 241
tax cases, exclusion from, Courts § 243
title to property, determination of, Courts § 245 et seq.
transfer to Court of Appeal, see Court of Appeal, hearing in (this group)
trial court delay reduction rules for, Courts § 257
unlawful detainer, Courts § 244
unlimited civil cases, Jurisd § 45 et seq.
venue, see Venue
writs, appeal of, Writs § 218

Limited conservatorship for
developmentally disabled adults
sterilization of conservatee
  appeal from judgment authorizing, Appeal § 151

Limited liability companies
complaint, naming in, Plead § 474
money judgment, effect of execution on, Enf Judgm § 116

Limited liability partnerships
law partnerships, see Law partnerships

Limited partnerships
class actions
  in general, Plead § 306
Liquidated damages
pleading, Plead § 945

Lis pendens
  in general, Actions § 371 et seq.
  actual notice
    in general, Actions § 387
expungement or withdrawal, Actions § 414
attorneys’ fees
expungement, Actions §§ 391, 410
undertaking, Actions §§ 407, 410
availability of procedure, Actions §§ 375, 381
Bond and Undertaking Law, applicability of, Actions § 406
burden of proof
expungement, Actions § 394
probable validity, Actions § 403
“claimant” defined, Actions § 374
condemnation action, Actions §§ 378, 381
constructive notice
  in general, Actions § 387
expungement or withdrawal, Actions § 414
constructive trust, action to impose, Actions § 398
costs
expungement, Actions §§ 391, 410
undertaking, Actions §§ 407, 410
cross-complaint, effect on, Actions § 387
decedents’ estates, Actions § 381
definitions, Actions § 374
easement claim, Actions § 401
effect of expungement or withdrawal
  in general, Actions § 413 et seq.
actual notice, Actions §§ 413, 414
constructive, Actions §§ 413, 414
second notice, court approval of, Actions § 415
Lis pendens—Cont’d

effect of expungement or withdrawal
—Cont’d
when expungement effective, 3 Actions § 413
eminent domain, 3 Actions §§ 378, 381
equitable lien, action to impose, 3 Actions § 399
escheat claim, 3 Actions § 381
expungement
in general, 3 Actions § 389 et seq.
attorneys’ fees, 3 Actions §§ 391, 410
burden of proof, 3 Actions §§ 394, 403
costs, 3 Actions §§ 391, 410
discovery, 3 Actions § 393
effect, see effect of expungement or withdrawal (this group)
evidence, 3 Actions § 393
former law, 3 Actions § 389
grounds, 3 Actions § 391
jurisdiction of trial court during pendency of appeal, 9 Appeal § 20
mandamus review, 3 Actions §§ 391, 411
procedure, 3 Actions § 391 et seq.
service of motion, 3 Actions § 391
showing required, see showing required for expungement (this group)
time for motion, 3 Actions § 392
undertaking, see undertaking (this group)
family law proceeding, 3 Actions § 379
fraudulent conveyance, action to set aside, 3 Actions § 400
government bonds, enforcement action, 3 Actions § 380
habitability claims, availability for, 3 Actions §§ 375, 381
harassment of public officer, recording for, 3 Actions § 371
housing program, action challenging, 3 Actions § 397
influence of public officer, recording for, 3 Actions § 371
judgment, action not prosecuted to, effect of, 3 Actions § 388
jurisdiction, effect on, 2 Jurisd § 102
juvenile dependency proceedings, application to, 3 Actions § 370*
mandamus, review by
in general, 3 Actions § 411

Lis pendens—Cont’d

mandamus, review by—Cont’d
attorneys’ fees, 3 Actions § 410
costs, 3 Actions § 410
expungement, 3 Actions §§ 391, 411
undertaking, expungement conditioned on, 3 Actions §§ 407, 411
undertaking, maintenance conditioned on, 3 Actions § 409
mandatory statutes, 3 Actions § 381
marital dissolution proceeding, 3 Actions § 379
mechanics lien foreclosure, 3 Actions § 380
motions
expungement, 3 Actions § 391
undertaking, 3 Actions § 407
undertaking, maintenance conditioned on, 3 Actions § 409
nature of, 3 Actions § 371
negotiable instrument, effect on, 3 Actions § 388
notice
actual, 3 Actions § 387
constructive, 3 Actions § 387
defined, 3 Actions § 374
filing, 3 Actions § 384
form of, 3 Actions § 382
ineffective, 3 Actions § 388
recordation, 3 Actions § 385
service, 3 Actions § 384
signature, 3 Actions § 383
withdrawal, 3 Actions § 412
“notice of pendency of action” defined, 3 Actions § 374
nuisance abatement action, 3 Actions § 381
permissive statutes, 3 Actions § 380
personal property, effect on, 3 Actions § 388
presumption of uniqueness, 3 Actions § 404
privilege afforded by recording, 3 Actions § 371
probable validity
defined, 3 Actions § 374
failure to establish, 3 Actions §§ 402, 403
undertaking, effect on, 3 Actions §§ 404
procedure, 3 Actions § 382 et seq.

Index-264
Lis pendens—Cont’d
prospective transferees, duty to notify, 3
Actions § 386
purpose, 3 Actions § 371
quiet title action, 3 Actions § 381; 5 Plead §§ 657, 658
real property claim
in general, 3 Actions §§ 375 et seq., 381
condemnation action, 3 Actions § 378
defined, 3 Actions §§ 374, 396
federal court action, 3 Actions § 377
lack of, effect of, 3 Actions § 396 et seq.
probable validity, see probable validity (this group)
recordation
in general, 3 Actions § 385
effect of, 3 Actions §§ 387, 388
prior, effect of, 3 Actions § 388
relation back, 3 Actions § 387
showing required for expungement
in general, 3 Actions §§ 395 et seq.
invalid lis pendens, 3 Actions §§ 395
lack of real property claim, 3 Actions § 396 et seq.
void lis pendens, 3 Actions § 395
undertaking
in general, 3 Actions § 404 et seq.
amount, 3 Actions § 405
attorneys’ fees, 3 Actions §§ 407, 410
Bond and Undertaking Law, applicability, 3 Actions § 406
costs, 3 Actions §§ 407, 410
deed of trust as alternative, 3 Actions § 406
enforcement of liability, 3 Actions § 407
exoneration, 3 Actions § 407
expungement conditioned on, 3 Actions §§ 396, 403
maintaining lis pendens on condition of, 3 Actions §§ 408, 409
mandamus review, 3 Actions §§ 407, 411
modification, 3 Actions § 407
motion, 3 Actions § 407
nature, 3 Actions § 405
order, 3 Actions § 407
probable validity, effect of, 3 Actions § 404

Lis pendens—Cont’d
undertaking—Cont’d
procedure, 3 Actions § 407
return date, 3 Actions § 407
uniqueness of property presumption, 3
Actions § 404
vendor, effect on, 3 Actions § 387
withdrawal of notice
in general, 3 Actions § 412
effect, see effect of expungement or withdrawal (this group)
zoning regulation enforcement, 3 Actions § 380

Literary infringement, see Copyright

Living trusts
venue of actions, 3 Actions § 806

Local rules, see Rules of Court

Loss of consortium
real party in interest, 4 Plead § 153

Lost or destroyed writing
proceeding to restore as special proceeding, 3 Actions § 65

Magistrates
courts generally, see Courts
holidays, proceeding on, 2 Courts § 48
inherent powers, 2 Courts § 174
judges
distinguished, 2 Courts § 21

Malice
answer, raising lack of in, 5 Plead § 1078
lack of, as defense, 5 Plead § 1078
pleading of
in general, 5 Plead § 914 et seq.
exemplary damages, 5 Plead §§ 917, 918
libel, 5 Plead § 915
malicious prosecution, 5 Plead § 916
punitive damages, 5 Plead §§ 917, 918

Malicious prosecution
accrual of actions, 3 Actions §§ 553, 555
administrative proceeding
basis for, 5 Plead § 754
appeal
basis for action, as, 9 Appeal § 1001
civil action, 5 Plead § 753
Malicious prosecution—Cont’d

cross-complaint
availability, 5 Plead § 753
false imprisonment distinguished, see False imprisonment
favorable termination of civil proceeding
allegation of, 5 Plead §§ 757, 758
favorable termination of criminal proceeding
allegation of, 5 Plead §§ 757, 758
final termination, necessity of, 5 Plead § 758
immunity, pleading termination based on, 5 Plead § 757
instructions to jury, 7 Trial § 286
jury instructions, 7 Trial § 286
lack of probable cause in civil proceeding
allegation of, 5 Plead §§ 755, 756
answer, raising in, 5 Plead § 1078
lack of probable cause in criminal proceeding
allegation of, 5 Plead §§ 755, 756
answer, raising in, 5 Plead § 1078
conviction, negating inference from, 5 Plead § 756
limitation and accrual of actions, 3 Actions §§ 553, 555
nature of action, 5 Plead § 750
pleading
in general, 5 Plead § 750 et seq.
allegations, 5 Plead § 753
conviction, negating inference from, 5 Plead § 756
elements of cause of action, 5 Plead § 751
favorable termination, see favorable termination of civil proceeding
(this group); favorable termination of criminal proceeding (this group)
lack of probable cause, see lack of probable cause in civil proceeding
(this group); lack of probable cause in criminal proceeding (this group)
privilege, effect of, 5 Plead § 752
small claims action, based on, 2 Courts § 272
statute of limitations, 3 Actions § 553
tolling of limitations period, 3 Actions § 555

Malicious prosecution—Cont’d

venue, 3 Actions § 821

Malpractice
architects, see Architect
attorneys, see Attorney malpractice
engineers, see Engineers
land surveyors, see Surveyors
legal, see Attorney malpractice
medical, see Medical malpractice
surveyors, see Surveyors

Managed Risk Medical Insurance Board
open meeting requirement exception for, 9 Admin Proc § 12

Mandamus
in general, 8 Writs §§ 1 et seq., 23 et seq., 74 et seq.
acquittal of action, 3 Actions § 684
acquiescence, effect of, 8 Writs §§ 83, 118
action, remedy by, effect of, 8 Writs § 122 et seq.
administrative mandamus, see Administrative mandamus
administrative rulemaking, review of, see Administrative rulemaking
alternative writ, effect of, 8 Writs § 119
amendment of pleadings, review of orders, 8 Writs § 107
annexation proceeding, applicability to, 8 Writs § 25
appeal
in general, 8 Writs § 217 et seq.
application for writ, appeal treated as, 9 Appeal § 132
compelling ministerial duties relating to, 8 Writs § 115
costs on appeal, see Costs on appeal
judge’s refusal to settle statement, 9 Appeal § 662
main case in different appellate jurisdiction, effect of, 8 Writs §§ 138, 139
nonappealable judgments and orders, review of, 9 Appeal § 91
orders granting or denying writ, 9 Appeal §§ 148, 149, 169
remedy by, effect of, 8 Writs § 127 et seq.
appeal division of superior court, 8 Writs §§ 189*, 201*, 211*

Index-266
Mandamus—Cont’d
association officers, acts of, 8 Writs § 98
attachment, review of orders, 6 Prov Rem § 223
Attorney General’s quo warranto proceeding, review of, 8 Writs § 25
beneficial interest requirement, 8 Writs §§ 76 et seq., 165
certiorari compared, 8 Writs § 9
limited civil case, review of order regarding mandamus, 8 Writs § 37
mandamatory, 8 Writs § 241
mandamus with effect of, see mandamus with effect of certiorari (this group)
“certiorarified mandamus,” see mandamus with effect of certiorari (this group)
change of venue
review of order, 3 Actions §§ 919, 920; 8 Writs § 105
certificate of proceeding, 8 Writs § 23
class actions, review of orders, 4 Plead § 314
compel arbitration, appeal of to, 9 Appeal § 128*
continuance
in general, 7 Trial § 31
preparation of record of proceedings, for, 8 Writs § 178
contractual obligation, enforcement of, 8 Writs § 80
coordination proceedings, review of orders in, 8 Writs § 110
corporate officers, acts of, 8 Writs § 96
costs, see Writs
counsel, enforcement of right to, 8 Writs § 110
courts and court officers, acts of, 8 Writs § 99 et seq.
damages, 8 Writs §§ 211, 212
declaratory relief compared, 8 Writs § 26
default, see Default judgment
delay in trial, review of grant of dismissal for, 6 PWT §§ 366, 367
demurrer, see Demurrer
denial of writ, see Writs
direct attack on judgment by, 8 Attack § 2
discretionary issuance or denial, 8 Writs § 31
duty of respondent as condition, 8 Writs §§ 74, 79 et seq.
enforcement or vacation of judgment, orders relating to, 8 Writs §§ 114, 129
dermativity, 8 Writs § 241
mandamus with effect of availability on, 6 Prov Rem § 24
mandamus, effect of availability on, 6 Prov Rem § 338
interest, recovery of, 8 Writs § 214
intervention, mandamus with effect of, 4 Plead § 217
issuance of writ, conditions for, 8 Writs § 74 et seq.
judgments, orders relating to, 8 Writs § 112 et seq.
jurisdiction
in general, 8 Writs § 164
compelling exercise of, 2 Jurisd § 360; 8 Writs §§ 101, 103, 104, 132
entry of judgment
enforcement of, 9 Appeal § 880
orders relating to, 8 Writs § 112
evidence
compelling production by, 8 Writs § 109
extra-record, consideration of, 8 Writs § 177*
exhaustion of judicial remedies involving, 3 Actions § 347 et seq.
expungement of lis pendens, review of, see Lis pendens
failure to raise objection below, effect of, 8 Writs § 141
First Amendment expressive conduct, expedited review of permit decisions on, 8 Writs § 162
forum non conveniens, review of orders, 8 Writs § 105
 Illegal act, compelling performance of, 8 Writs § 81
impartial judge, enforcement of right to, 8 Writs § 110
in personam jurisdiction, see personal jurisdiction (this group)
inconvenient forum, review of orders, 8 Writs § 105
injunctive relief
compared, 6 Prov Rem § 277; 8 Writs § 24
mandamus, effect of availability on, 6 Prov Rem § 338
interest, recovery of, 8 Writs § 214
intervention, mandamus with effect of, 4 Plead § 217
issuance of writ, conditions for, 8 Writs § 74 et seq.
judgments, orders relating to, 8 Writs § 112 et seq.
jurisdiction
in general, 8 Writs § 164
compelling exercise of, 2 Jurisd § 360; 8 Writs §§ 101, 103, 104, 132
Index-267
Mandamus—Cont’d

jury trial, enforcement of right to, 8 Writs § 110
labor unions
  beneficial interest of, 8 Writs § 78
  officers, acts of, 8 Writs § 97
laches, effect of, 8 Writs § 152 et seq.
lacking beneficial interest, 8 Writs § 76
limitation and accrual of action, 3 Actions § 684
lis pendens proceedings, review of, see Lis pendens
main case in different appellate jurisdiction, effect of, 8 Writs §§ 138, 139
“mandamatory” prohibition, 8 Writs § 242
mandamus with effect of certiorari 
in general, 8 Writs § 251 et seq.
administrative mandamus distinguished, 8 Writs § 251
discovery orders, annulling, 8 Writs §§ 254, 255
execution, annulling order preventing, 8 Writs § 253
statutory review by, 8 Writs § 257
mandatory injunction compared, 8 Writs § 24
ministerial acts and duties
  in general, 8 Writs §§ 80, 81
  administrative agencies, 8 Writs § 85 et seq.
courts and court officers, 8 Writs § 102
public interest standing, 8 Writs § 84*
voter approval of copy fees, 8 Writs § 80*
motion, remedy by, effect of, 8 Writs § 125
motion to quash, 2 Jurisd § 224; 3 Actions § 969
new trial, review of orders involving, 8 Attack §§ 92, 95
no other adequate remedy as condition, 8 Writs § 116 et seq.
nonappealable judgments and orders, review of, 9 Appeal § 91
order to show cause
  in general, 8 Writs § 189
  appellate division of superior court, 8 Writs § 189*
effect of, 8 Writs § 120
origin of writ, 8 Writs § 23

Mandamus—Cont’d

peremptory challenge to judge, review of, 2 Courts §§ 159, 160
personal jurisdiction
  compelling exercise of, 8 Writs § 104
  lacking, availability of writ, 8 Writs § 73
petitioner
  in general, 8 Writs § 165
  right of, as condition, 8 Writs §§ 74 et seq., 165
pleadings, review of orders, 8 Writs § 106 et seq.
present duty requirement, 8 Writs § 79 et seq.
prohibition
  alternative remedy to, as, 8 Writs § 249
  compared, 8 Writs § 19
  in personam jurisdiction lacking, availability of writ, 8 Writs § 73
  mandamatory prohibition, 8 Writs § 242
  personal jurisdiction lacking, availability of writ, 8 Writs § 73
  prohibitory mandamus, 8 Writs § 250
  remedy by mandamus, effect of, 8 Writs § 71
  remedy by prohibition, effect of, 8 Writs § 126
prohibitory mandamus, 8 Writs § 250
public interest
  exception to right and duty requirements, 8 Writs § 84
  prompt decision, effect of interest in, 8 Writs §§ 134, 135, 137
public office, dispute over, applicability to, 8 Writs § 25
quashing summons, review of order for, 8 Attack § 145
quo warranto
  compared, 8 Writs § 25
  remedy by, effect of, 8 Writs § 126
reasons for denying, see Writs record, 8 Writs § 177
relief from judgment, review of order, see Relief from judgment replication, 8 Writs § 198
respondent’s duty as condition, 8 Writs §§ 74, 79 et seq.
retroactive application of statute, review of order determining, see Statutes
Mandamus—Cont’d
right of petitioner as condition, 8 Writs § 74 et seq.
separate trial, enforcement of right to, 8 Writs § 110
small claims trial de novo, review of decision by, 2 Courts § 323
special proceeding, as, 3 Actions § 65
statute, retroactive application of, review of order determining, see Statutes
statute of limitations, 3 Actions § 684
statute prohibiting mandamus, 8 Writs § 124
stay of pending proceedings, 3 Actions § 191
subject matter jurisdiction, compelling assumption of, 8 Writs § 103
summary adjudication, review of, 6 PWT § 279
summary judgment, orders relating to, 6 PWT § 258; 8 Writs § 113
superior court, effect of appeal to, 8 Writs § 128
Supreme Court
direction, effect of, 8 Writs § 121
direction, effect of, 8 Writs § 121
jurisdiction, 2 Courts § 330
trial, orders relating to, 8 Writs §§ 110, 111
unincorporated association officers, acts of, 8 Writs § 98
venue, 8 Writs §§ 105, 164; 9 Appeal § 170
verification of petition, 4 Plead § 466
Mandate, writ of, see Mandamus
Mandatory settlement conference
in general, see Settlement conference
Marital dissolution, see Dissolution of marriage
Marital settlement agreements
attorneys’ authority over, 1 Attys § 242
Marriage
collateral estoppel effect of determination of validity, 7 Judgm § 426
declaration on validity of, 5 Plead § 856
dissolution
in general, see Dissolution of marriage
ex parte order establishing date of, res judicata effect of, 7 Judgm § 385
Marriage—Cont’d
gratuities for judges solemnizing, 2 Courts § 64
judges solemnizing, gratuities for, 2 Courts § 64
record of, proceeding to establish, 5 Plead § 856
same-sex marriage
dissolution of, see Dissolution of marriage
Marshals
attachment, levying offer in, 6 Prov Rem § 223
process, fees for service of, 6 Prov Rem § 4
provisional remedies, fees for, 6 Prov Rem § 4
service of process by, 3 Actions § 997
Marvin case, see Domestic partners
Maxims
remedy for every wrong, 3 Actions §§ 3, 5
Mechanics lien
attachment, effect of lien on right to, 6 Prov Rem § 69
consolidation of proceedings, see Consolidation of actions
constitutionality, 3 Actions § 221
enforcement, 3 Actions § 217 et seq.
government tort claims requirement applicability, 3 Actions §§ 240, 243
interlocutory order in action on lien, 7 Judgm § 20
jury trial right, 7 Trial § 86
limitation and accrual of actions
action on, 3 Actions § 481
enforcement, 3 Actions §§ 442, 477
recorded release bond, action on, 3 Actions § 480
lis pendens, 3 Actions § 380
new trial, availability in proceedings, 8 Attack § 22
notices, standardization of, 3 Actions § 221B*
preliminary notice
in general, 3 Actions § 218
private property, 3 Actions §§ 219, 221C*
Mechanics lien—Cont’d
preliminary notice—Cont’d
public property, 3 Actions §§ 220, 221E*
special proceeding, as, 3 Actions § 65
statute of limitations, see limitation and
accrual of actions (this group)
statutory revision, 3 Actions § 221A et
seq.*
stop notice
appeal of order refusing to vacate, 9
Appeal § 173
limitations period, 3 Actions § 477
private property, 3 Actions §§ 219, 221D*
public property, 3 Actions §§ 220, 221E*

Mediation
in general, 6 PWT § 486 et seq.
administrative adjudication, see
Administrative adjudication
agreement, 6 PWT § 486
attorney acting as mediator, malpractice
by, see Attorney malpractice
attorneys’ fees disputes, see Attorneys’
fees
complaints about court-program mediators, 6 PWT § 488*
confidentiality of proceedings
in general, 6 PWT § 487
costs, expenses recoverable as, 7 Judgm
§ 125
court-ordered mediation, 6 PWT § 489 et
seq.
defined, 6 PWT § 486
malpractice by attorney acting as mediator, see Attorney malpractice
mediator
judge as private mediator, 2 Courts
§ 58; 6 PWT § 486
regulation of, 6 PWT § 488
Rules of Court, 6 PWT § 488
settlement agreement made in, enforce-
ment, 6 PWT § 123

Medical Injury Compensation Reform
Act (MICRA)—Cont’d
attorneys’ contingent fees—Cont’d
constitutionality of limitation, 1 Attys
§ 183
definitions, 1 Attys § 182
hybrid action, 1 Attys § 185
maximum, 1 Attys § 182
medical-legal consulting fee, 1 Attys
§ 188
method of payment, 1 Attys § 187
periodic payments, see periodic pay-
ments (this group)
statutory provisions, 1 Attys § 182
waiver, 1 Attys § 184
contingency fee agreements, see
attorneys’ contingent fees (this
periodic payments
in general, 1 Attys §§ 182, 187

Medical malpractice
accrual of cause of action, see limitation
and accrual of actions (this group)
arbitration
in general, 6 PWT § 504
offer to compromise, availability, 6
PWT § 83
attorneys’ contingency fees, see Medical
Injury Compensation Reform Act
(MICRA)
certificate of merit requirement, 3 Actions
§ 209
contingency fee agreements, see Medical
Injury Compensation Reform Act
(MICRA)
damages, tolling limitations period by
payment of, 3 Actions § 585*
discovery of facts, accrual of cause of
action on, 3 Actions § 497
future damages, installment payments for,
7 Judgm § 31
imprisonment, effect on tolling of period,
3 Actions § 703
instructions to jury, 7 Trial § 285
intent to file action, notice of, see notice
of intent to file action (this group)
jury instructions, 7 Trial § 285
limitation and accrual of actions
in general, 3 Actions §§ 481, 577 et
seq.
Medical malpractice—Cont’d

limitation and accrual of actions—Cont’d
accrual on discovery of facts, 3 Actions § 497
applicability of statute, 3 Actions § 578
concealment, effect of, 3 Actions § 583
damages, tolling limitations period by payment of, 3 Actions § 585*
death of physician, effect of, 3 Actions § 577
discovery of facts, 3 Actions §§ 497, 579, 580
equitable indemnity action based on malpractice, 3 Actions § 724
foreign body, effect of presence, 3 Actions § 584
fraud, effect of, 3 Actions § 583
imprisonment, effect on tolling of period, 3 Actions § 503
injury, accrual on, 3 Actions § 581
insanity, effect on tolling, 3 Actions § 698
intentional torts, 3 Actions § 725
minor, action by, 3 Actions §§ 586 et seq., 590, 723, 728
negligent cause of injury, discovery of, 3 Actions § 580
notice of intent to file action, tolling by, see notice of intent to file action (this group)
physician out of state, tolling for, 3 Actions § 585*
prenatal injuries, 3 Actions § 589
suspicion of negligence, effect of, 3 Actions § 580
tolling of period, 3 Actions §§ 582 et seq., 587, 698, 722
trial of, 7 Trial § 151
wrongful death, 3 Actions § 590
Medical Injury Compensation Reform Act, see Medical Injury Compensation Reform Act (MICRA)
MICRA, see Medical Injury Compensation Reform Act (MICRA)
nature of action, 3 Actions §§ 165, 166
notice of intent to file action
in general, 3 Actions §§ 224, 722 et seq.
duration of tolling, 3 Actions § 728
form of notice, 3 Actions § 726
service of notice, 3 Actions § 727

Medical malpractice—Cont’d
notice of intent to file action—Cont’d
tolling effect of, 3 Actions § 722 et seq.
unknown defendant, 3 Actions § 722
pleading, 4 Plead §§ 600, 615
security for costs, see Security for costs state of limitations, see limitation and accrual of actions (this group)
taxpayer’s action involving, 4 Plead § 170

Medical records
administrative subpoena
investigation, in aid of, 9 Admin Proc § 103*
subpoena, 9 Admin Proc § 103*

Memorandum of authorities
ex parte proceedings, 6 PWT § 59
motions, 6 PWT §§ 6, 11
writ proceedings, see Writs

Memorandum of costs
in general, 7 Judgm § 139 et seq.
alternative procedures, agreement to, 7 Judgm § 139
amendment of, 7 Judgm § 139
appeal, costs on, see Costs on appeal attorneys’ fees, inclusion of, see Attorneys’ fees
enforcement of judgment, 7 Judgm § 143 filing of, 7 Judgm § 140 et seq.
Judicial Council forms
in general, 7 Judgm § 139
appeal, costs on, 9 Appeal § 13*
Judicial Council rules, 7 Judgm § 139
late filing, effect of, 7 Judgm § 141
prejudgment interest, request for, 7 Judgm § 139
premature service or filing, effect of, 7 Judgm § 142
prevailing party, filing by, 7 Judgm § 139
prima facie evidence, memorandum as, 7 Judgm § 139
Rules of Court, 7 Judgm § 139
service of, 7 Judgm §§ 140, 142
verification requirement, 7 Judgm § 139

Mentally ill persons
appellate records of proceedings involving, electronic access to, see Record on appeal
protection of, see Developmentally disabled persons
Mentally retarded persons, see Commitment of mentally retarded persons; Developmentally disabled persons

Merger or bar of judgment, see Res judicata

Military
attachment action against personnel, 6 Prov Rem § 210
continuance of trial based on military service, 7 Trial § 30
default judgment, availability against member, 6 PWT § 137
domicile of, 2 Jurisd §§ 135, 136
exemption from execution for benefits, 8 Enf Judgm § 214
federal Court of Appeals for, 2 Jurisd § 64
filing fees for family law proceedings involving servicemembers, see Family law proceedings
government tort claims, 3 Actions § 257
Judicial Council forms, 2 Courts §§ 423A*, 423B*
limitation and accrual of actions, see Limitation and accrual of actions
service of process, inquiry regarding service, 3 Actions § 1008
Servicemembers’ Civil Relief Act
Soldiers’ and Sailors’ Civil Relief Act, renaming as, 6 Prov Rem § 210*
stay of action, effect on, 3 Actions § 721
small claims court, appearance in excused, 2 Courts § 299
stay of execution of judgment, 8 Enf Judgm § 162

Miller-Ayala Athlete Agents Act
violation as ground for attorney discipline, 1 Attys § 480

Mini-trial, see Alternative dispute resolution; Trial

Minors, see Children and minors

Misappropriation
contract action based on, 3 Actions § 157
quasi-contract action based on, 3 Actions § 164

Misdemeanors
city attorney, prosecution by, 1 Attys § 62

Misrepresentation
attorney malpractice involving, 1 Attys § 304

Mistake
accrual of actions based on, see limitation and accrual of actions (this group)
affirmative defense, as, 5 Plead § 1090
answer raising as affirmative defense, 5 Plead § 1090
constructive trust based on limitation and accrual of actions, see limitation and accrual of actions (this group)
division of property on marital dissolution as ground for relief from judgment, 8 Attack § 2
election of remedies based on, 3 Actions § 192
exhaustion of remedies to challenge judgment obtained by, see Exhaustion of judicial remedies
extrinsic, equitable relief against judgment based on, see Equitable relief against judgment
factual mistakes, see Relief from judgment
government tort claims, late claims based on, see Government tort claims
limitation and accrual of actions in general, 3 Actions §§ 483, 653 et seq.
constructive trusts, 3 Actions § 680 et seq.
discovery of facts, accrual on, 3 Actions § 497
equitable actions, 3 Actions § 655
pleading mistake as cause of delayed accrual, 5 Plead § 929
quasi-contract, 3 Actions §§ 656, 657
Mistake—Cont’d
reformation of contract based on, see Reform-
relief, as grounds for, see Relief from judging-
statute of limitations, see limitation and accrual of actions (this group)

Mistrial
in general, 7 Trial § 167
appeal of orders related to, 9 Appeal § 159
delay in bringing to trial after, 6 PWT § 429
grounds, 7 Trial § 167
judge as witness, effect of, 7 Trial § 167
juror as witness, effect of, 7 Trial § 167
misconduct as grounds, 7 Trial §§ 167, 210
nature of, 7 Trial § 167
new trial motion distinguished, 7 Trial § 167; 8 Attack § 18
waiver, 7 Trial § 167

Mitigation of damages
defamation cases, 5 Plead § 1106

Mobilehomes
abandonment
in general, 2 Courts § 244
declaration of, action for, 5 Plead § 856
attachment, see Attachment
Mobilehome Residency Law
attorneys’ fees, see Attorneys’ fees
personal property lien to enforce judg-
ment, subjection to, see Judgment liens
recording as condition precedent to action to enforce sale, 3 Actions § 210

Money
duress, money paid under, 3 Actions § 657
fraud, money obtained by, see Fraud and deceit
had and received, see Money had and received
mistake, money obtained by, see Mistake

Money had and received
limitation and accrual of action, 3 Actions § 656
pleading, 4 Plead § 561

Money judgments
in general, 7 Judgm § 30
assignment order, see Assignment order charging orders, see Charging orders
collection of debt owed to judgment debtor by public entity, see Enforcement of judgment
creditor’s action, see Creditor’s action enforcement of, see Enforcement of judgment
execution of, see Execution and levy
exemptions from execution, see Exemptions from execution
garnishment, see Garnishment
homestead exemption, see Homestead
installment payments, 7 Judgm § 31
levy on, see Execution and levy
liens to enforce, see Judgment liens; Lien in pending action or proceeding
receiver, appointment of, see Receivers
wage garnishment, see Garnishment

Money lent or money paid, see Common counts

Moot case
administrative orders, effect of termination, 9 Appeal § 754
Administrative Procedure Act, review under, see Administrative Procedure Act
amendment of statute, effect of, 9 Appeal § 754
appeal, dismissal of, see dismissal of appeal (this group)
challenged act, effect of performance of, 9 Appeal § 752
compromise of action, effect of, 9 Appeal § 751
constitutional change, effect of, 9 Appeal § 754
costs, 7 Judgm § 107
death of party, effect of, 9 Appeal § 755
declaratory relief, see Declaratory relief determination of, 3 Actions § 32
dismissal of appeal
in general, 3 Actions § 35; 9 Appeal §§ 326, 749 et seq.
abstract question, 9 Appeal § 749
acts rendering case moot, 9 Appeal § 751 et seq.
Moot case—Cont’d
dismissal of appeal—Cont’d
denial of dismissal, 9 Appeal § 756 et seq.
events rendering case moot, 9 Appeal § 751 et seq.
examination of record, effect of need for, 9 Appeal § 749
stipulated judgment intended to facilitate appeal, 9 Appeal § 751*
emancipation of child, effect of, 9 Appeal § 755
injunction, effect of denial of, 9 Appeal § 752
involuntary dismissal, 7 Judgm § 379*
jurisdiction over, 3 Actions § 36
legislative change, effect of, 9 Appeal § 754
material issue remaining, effect of, 9 Appeal §§ 756, 757
other judgment, issues determined by, 9 Appeal § 753
preappeal compromise or settlement, effect of, 9 Appeal § 751*
preadjudication on merits, effect of, 9 Appeal § 751
premature bringing of action distinguished, 5 Plead § 1152
public interest in decision, effect of, 9 Appeal § 758 et seq.
public interest in question, 3 Actions § 34; 9 Appeal § 759 et seq.
repeal of statute, effect of, 9 Procedure Appeal § 754
settlement, effect of, 9 Appeal § 751
settlement, effect on, 3 Actions § 33*
substantial issue remaining, 3 Actions § 33
taxpayer’s action, see Real party in interest
United States Supreme Court, 9 Appeal § 750
writs, denial based on, 8 Writs § 148 et seq.

Moral turpitude
attorney discipline based on, see Attorney discipline

Mortgages
attorneys’ fees, see Attorneys’ fees
coinventor, appointment of receiver in specific performance action, 6 Prov Rem § 440

Mortgages—Cont’d
equitable nature of actions, 3 Actions § 128
foreclosure
equitable nature of proceeding, 3 Actions § 128; 5 Plead § 675
interlocutory order for, 7 Judgm § 19
intervention in, 4 Plead § 232
pleading in foreclosure action, see pleading in foreclosure action (this group)
receiver, appointment of, 6 Prov Rem §§ 429, 430
sale as consistent remedy, 3 Actions § 194
venue, 3 Actions § 793
mortgagor rights and obligations
Fair Debt Collection Practices Act, 8 Enf Judgm § 5*
mortgagor rights
Fair Debt Collection Practices Act, 8 Enf Judgm § 5*
pleading in foreclosure action in general, 5 Plead § 675 et seq.
attorneys’ fees, 5 Plead § 675
complaint allegations generally, 5 Plead § 675
date of recordation of security instrument, 5 Plead § 676
default, 5 Plead § 677
description of property, 5 Plead § 676
interests of defendant other than mortgagor, 5 Plead § 678
residential foreclosure files, access to, 2 Courts § 370*
security, 5 Plead § 676

Motels, see Innkeepers

Motion for judgment in court trial
in general, 7 Trial § 429 et seq.
adjudication on merits, 7 Trial § 434
appeal, 7 Trial § 435
duty of court to weigh evidence, 7 Trial § 431 et seq.
judgment, 7 Trial §§ 434, 435
new trial, 7 Trial § 435
nonsuit distinguished, 7 Trial § 408

Motion for new trial, see New trial

Motion in limine, see In limine motion
INDEX

Motion to quash

in general, 2 Jurisd § 217 et seq.; 3 Actions § 968 et seq.
answer simultaneous with, 2 Jurisd § 219
appeal
denial of motion, 3 Actions § 969; 9 Appeal § 171
grant of motion, 2 Jurisd § 223; 3 Actions § 969; 9 Appeal § 171
burden of proof, 2 Jurisd § 220
default, see Default judgment
demurrer simultaneous with, 2 Jurisd § 219
execution of judgment, quashing writ of, see Writ of execution
extension of time to plead based on, 2 Jurisd § 224; 4 Plead § 10
family law proceedings, 5 Plead § 894
going on, 2 Jurisd § 218
levy, quashing of, see Execution and levy
mandamus, review of denial by, 2 Jurisd § 224; 3 Actions § 969
motion to strike simultaneous with, 2 Jurisd § 219
pleading by defendant after denial, 2 Jurisd § 224
prohibition, review of denial by, 3 Actions § 969
review of denial
mandamus, by, 2 Jurisd § 224
prohibition, by, 3 Actions § 969
service of motion, time for, 6 PWT § 15
subject matter jurisdiction challenge by, 2 Jurisd § 226
successive motions on different grounds, 2 Jurisd § 221
time for, 2 Jurisd § 218
unlawful detainer action, 2 Jurisd § 226*

Motion to strike

in general, 5 Plead §§ 1008 et seq., 1057 et seq.
appeal
order granting, 5 Plead § 1016; 9 Appeal § 155
orders relating to, 9 Appeal § 155
architect malpractice, noncompliance with certificate of merit, 3 Actions § 209
costs, see Costs
default, effect of notice of motion on entry of, 6 PWT § 138

Motion to strike—Cont’d

defects not subject to demurrer, 5 Plead §§ 1011, 1012
demurrer, see Demurrer
dismissal after granting of, 5 Plead § 1014; 6 PWT § 478
engineer malpractice action, 3 Actions § 209
extension of time to plead based on, 4 Plead § 10
family law proceedings, 5 Plead § 894
filing, defects in, 5 Plead § 1011
form
defects in, 5 Plead § 1011
general appearance by, 2 Jurisd § 210
grounds, 5 Plead § 1010 et seq.
harassment, temporary restraining order or injunction against, 6 Prov Rem § 321
hearing, 5 Plead § 1014
involuntary dismissal after granting of, 6 PWT § 478
irrelevant matter, see sham or irrelevant pleading (this group)
mandamus
compel striking by, 8 Writs § 107
review of order granting, 5 Plead § 1016
meet and confer, 5 Plead § 1014*
motion to quash simultaneous with, 2 Jurisd § 219
nature of motion, 5 Plead § 1008
notice of motion, 5 Plead § 1014
procedure, 5 Plead § 1014 et seq.
redundant matter, 5 Plead § 1010
review of order granting, 5 Plead § 1016
service of motion, 5 Plead § 1014
sham or irrelevant pleading
in general, 5 Plead §§ 1010, 1013, 1057, 1058
answer, pleading in, 5 Plead §§ 1057, 1058
complaint, pleading in, 5 Plead §§ 1010, 1013
nature of power, 5 Plead § 1057
SLAPP suits, see SLAPP suits
statutory provisions, 5 Plead § 1009
surveyor malpractice action, 3 Actions § 209
verification, defects in, 5 Plead § 1011
Motions

in general, 6 PWT § 1 et seq.
affidavits, use of, 6 PWT § 41
anti-SLAPP, see SLAPP suits
appeal, motions on, see Appeal appearance
in general, 6 PWT §§ 38, 39
general appearance, motion as, 2 Jurisd § 210
service on party that has not appeared, 6 PWT § 12
special appearance, effect of, 6 PWT § 8
submission without, 6 PWT § 38
telephone, appearance by, 6 PWT § 39
waiver of notice by, 6 PWT § 8
application
order, for, 6 PWT § 1
reconsideration, for, 6 PWT § 46
attorney
affidavit by, 6 PWT § 41
appearance by, 6 PWT §§ 38, 39
proof of service by mail, 6 PWT § 23
service on, 6 PWT §§ 13, 14, 19
signature of on notice of motion, 6 PWT § 9
telephone appearance, 6 PWT § 39
bad-faith motion, 6 PWT § 55 et seq.
change of venue, see Change of venue class actions, see Class actions
consolidation of actions, see Consolidation of actions
constructive service, 6 PWT §§ 19, 20
content, 6 PWT § 6
continuance of trial, see Continuance coordination, see Coordination of actions
correction of judgment, see Judgments
counteraffidavits, use of, 6 PWT § 41
court in which to make, 6 PWT § 3
declarations, use of, 6 PWT § 41
default judgments, relief from, see Relief from judgment
dependent nature of, 6 PWT § 3
deposit in court, 6 Prov Rem § 463
directed verdict, see New trial
discovery, see Discovery dismissal
in general, see Dismissal
delay, for, see Involuntary dismissal for delay; Voluntary dismissal

Motions—Cont’d
dismissal—Cont’d
vexatious litigants, actions by, see Vexatious litigants
documentary evidence, 6 PWT § 42
economic litigation, limited civil cases, 2 Courts § 252
electronic filing, 6 PWT § 35
service, 6 PWT § 27 et seq.
equitable relief against judgment, see Equitable relief against judgment
ex parte proceedings, 6 PWT § 58 et seq.
examination of witnesses at hearing, restrictions on, 6 PWT § 40
expungement of lis pendens, see Lis pendens
family law proceedings, 5 Plead § 894
fax
filing by, 6 PWT § 34
service by, 6 PWT § 24 et seq.
fees, recovery as costs, 7 Judgm § 126
filing in general, 6 PWT § 33 et seq.
affidavits and counteraffidavits, 6 PWT § 41
declarations, 6 PWT § 41
electronic filing, 6 PWT § 35
fax, filing by, 6 PWT § 34
frivolous motion, 6 PWT § 55 et seq.
general appearance, motion as, 2 Jurisd § 210
grounds for, statement of, 6 PWT § 10
hearing
in general, 6 PWT § 36 et seq.
appearance at, 6 PWT §§ 38, 39
evidence, 6 PWT § 40 et seq.
place for, 6 PWT § 36
report of proceeding, 6 PWT § 36
telephone appearance, 6 PWT § 39
tentative ruling, 6 PWT § 37
time for, 6 PWT § 36
inconvenient forum, see Inconvenient forum
judgment in court trial, motion for, see Motion for judgment in court trial
judgment notwithstanding verdict, see New trial
judgments, motions related to
default judgments, relief from, see Relief from judgment

Index-276
Motions—Cont’d
judgments, motions related to—Cont’d
equitable relief against judgments, see Equitable relief against judgment
pleadings, judgment on, see Judgment on pleadings
relief from, see Relief from judgment
vacating and entering different judgment, see Vacating judgment
void judgment, relief from, see Relief from judgment
judicial notice
in general, 6 PWT § 43
request for, 6 PWT §§ 11, 43
late filing, effect of, 6 PWT § 33
legislators, extension of time for service on, 6 PWT § 17
lis pendens actions, see Lis pendens
mail, service by, 6 PWT § 21 et seq.
memorandum of authorities
in general, 6 PWT §§ 6, 11
appeal, motions on, 9 Appeal § 727
meritless motion, 6 PWT § 55 et seq.
mistrial, see Mistrial
new trial, see New trial
nonsuit, see New trial
notice of motion
in general, 6 PWT § 7 et seq.
defect in, waiver of, 6 PWT § 10
filing, see filing (this group)
format requirements, 6 PWT § 9
grounds, statement of, 6 PWT § 10
necessity of, 6 PWT § 7
service, see service (this group)
time for service, see time for service
(this group)
waiver, 6 PWT § 8
writing, requirement of, 6 PWT § 9
oral argument, 6 PWT § 36
orders, see Orders
papers supporting, 6 PWT §§ 6, 9, 11
party, requirement that motion be made by, 6 PWT § 4
personal service, 6 PWT §§ 19, 20
preliminary injunction, motion for, see Injunctions
proof of service
constructive service, 6 PWT § 20
electronic service, 6 PWT § 29
fax, service by, 6 PWT § 26
Motions—Cont’d
proof of service—Cont’d
mail, service by, 6 PWT § 23
personal service, 6 PWT § 20
proposed orders, see Orders
quash, see Motion to quash
receiver, appointment of, see Receivers
reconsideration of motion
in general, 6 PWT § 46 et seq.
appealability of order denying, 3
Actions § 918*; 6 PWT § 46*; 9
Appeal §§ 165, 169
application, 6 PWT § 46
clerk’s transcript, inclusion of notice of motion in, 9 Appeal § 646
contempt as punishment, 6 PWT § 54
court’s inherent authority, 6 PWT § 50
different judge, reconsideration by, 6
PWT § 53
grounds, 6 PWT §§ 47, 48
jurisdictional requirements, 6 PWT
§§ 49, 50
notice of appeal, effect on time for filing, 9 Appeal § 600 et seq.
postjudgment motion, effect on time for filing appeal, 9 Appeal § 601
sanctions, 6 PWT § 54
summary judgment, see Summary judgment
time limits, 6 PWT §§ 51, 52
record, use of, 6 PWT § 42
reference, see Referees
relief from judgment, see Relief from judgment
renewal of motion
in general, 6 PWT § 46 et seq.
application, 6 PWT § 46
contempt as punishment, 6 PWT § 54
court’s inherent authority, 6 PWT § 50
different judge, reconsideration by, 6
PWT § 53
grounds, 6 PWT §§ 47, 48
jurisdictional requirements, 6 PWT
§§ 49, 50
sanctions, 6 PWT § 54
summary judgment, see Summary judgment
time limits, 6 PWT §§ 51, 52
Rules of Court governing, 6 PWT § 2
sanctions
in general, 6 PWT § 55 et seq.
Motions—Cont’d
sanctions—Cont’d
reconsideration or renewal, 6 PWT § 54
security for costs, see Security for costs service
in general, 6 PWT § 12 et seq.
affidavits and counteraffidavits, 6 PWT § 41
attorney, service on, 6 PWT §§ 13, 14, 19
constructive service, 6 PWT §§ 19, 20
declarations, 6 PWT § 41
electronic service, 6 PWT §§ 19*, 27 et seq.
extension of time for, 6 PWT § 30 et seq.
fax, service by, 6 PWT § 24 et seq.
Judicial Council forms, 6 PWT § 23
mail, service by, 6 PWT § 21 et seq.
nonresident party without attorney, 6 PWT § 14
personal service, 6 PWT §§ 19, 20
proof of service, see proof of service (this group)
time for, see time for service (this group)
waiver of defect, 6 PWT § 12
settled statement on appeal, see Record on appeal
signature of attorney on notice of motion, 6 PWT § 9
special appearance, effect of, 6 PWT § 8
statement of decision on ruling on, 7 Trial § 392
statutes governing
in general, 6 PWT § 2
time for motion, 6 PWT § 5
stay, see Stay
stipulation, extension of time to serve based on, 6 PWT § 17
strike, motion to, see Motion to strike substitution of attorney, see Attorney-client relationship
summary adjudication, see Summary adjudication
summary judgment, see Summary judgment
supplemental pleadings, see Supplemental pleading
supporting papers for, 6 PWT §§ 6, 11

Motions—Cont’d
tentative ruling, 6 PWT § 37
testimony at hearing, restrictions on, 6 PWT § 40
time for motion, 6 PWT § 5
time for service
in general, 6 PWT § 15 et seq.
extending, 6 PWT §§ 17, 18
shortening, 6 PWT § 16
types of, 6 PWT § 2
undertaking in lis pendens action, see Lis pendens
vacating and entering different judgment, see Vacating judgment
void judgment, relief from, see Relief from judgment
waiver
defect in notice of motion, 6 PWT § 10
notice of motion, 6 PWT § 7
service, defect in, 6 PWT § 12
withdrawal by attorney, see Attorney-client relationship
witness examination at hearing, restrictions on, 6 PWT § 40

Motor vehicles
attachment, see Attachment
automobiles, see Automobiles
exemption from execution for, see Exemptions from execution
levy on, see Execution and levy
license fees, limitation periods for actions involving, 3 Actions § 483
licensing, injunction restraining violations, 6 Prov Rem § 291
limitation periods for actions involving, 3 Actions § 483
personal property lien to enforce judgment, subjection to, see Judgment liens
Vehicle License Fee Law
limitation period for actions involving, 3 Actions § 483

Municipalities
cities, see Cities
counties, see Counties
public entities, see Public entities

Name
change
Judicial Council forms, 2 Courts § 425
Name—Cont’d
change—Cont’d
special proceeding, as, 3 Actions § 65
venue for proceeding, as, 3 Actions § 816
law corporation, 1 Attys § 25
law partnership, 1 Attys § 19
National Guard
military, see Military
Native Americans, see Indians
Navy, see Military
Negligence
accrual of actions based on, see Tort actions
attorneys, by, see Attorney malpractice
cities, venue in negligence actions against, 3 Actions § 874
comparative negligence, see Comparative negligence
county, venue in negligence actions against, 3 Actions § 874
government tort claims, see Government tort claims
instructions to jury, 7 Trial § 285
jury instructions in general, 7 Trial § 285
limitation and accrual of actions, see Tort actions
pleading in general, 4 Plead § 576 et seq.
accountant, duty of, 4 Plead § 593
affirmative duty, breach of, 4 Plead § 603 et seq.
anticipating defenses, 4 Plead § 577
architect, duty of, 4 Plead § 593
attorney, duty of, 4 Plead § 593
attractive nuisance case, 4 Plead § 590
breach of duty, 4 Plead § 595 et seq.
broadest reference to act or omission, effect of, 4 Plead § 599
client, duty to, 4 Plead § 593
contractual duty to exercise due care, 4 Plead § 585 et seq.
defenses in actions based on, see Answer

Negligence—Cont’d
pleading—Cont’d
demurrer for uncertainty, sufficiency of pleading against, 4 Plead § 602
due care, duty to exercise, 4 Plead § 582 et seq.
election to sue in contract, 4 Plead § 587
elements of cause of action, 4 Plead § 576
endorsement of product, duty on, 4 Plead § 594
failure to refer to act or omission, effect of, 4 Plead § 598
foreseeability of risk, 4 Plead § 581
foreseeable intervening cause, 4 Plead §§ 613, 614
general allegations, 4 Plead § 598 et seq.
general terms, pleading in, 4 Plead §§ 596 et seq., 608
gratuitous undertaking, duty on, 4 Plead § 594
invitee, duty to, 4 Plead § 589
Judicial Council forms, 4 Plead § 579
landlord’s duty to residential tenant, 4 Plead § 591
legal duty of care, 4 Plead § 580 et seq.
legal malpractice actions, 4 Plead § 616
licensee, duty to, 4 Plead § 589
manufacturer or supplier of goods, duty of, 4 Plead § 592
medical malpractice actions, 4 Plead §§ 600, 615
negligent medical care cases, 4 Plead § 600
obvious danger disclosed in complaint, 4 Plead § 604
patient, duty to, 4 Plead § 593
physician, duty of, 4 Plead § 593
proximate cause, 4 Plead § 611 et seq.
res ipsa loquitur case, 4 Plead §§ 606, 607
Rowland v. Christian case, 4 Plead § 588
special relationship, duty arising from, 4 Plead § 588 et seq.
specific terms, pleading in, 4 Plead § 605 et seq.
third party, duty to, 4 Plead § 586
trespassing child, duty to, 4 Plead § 590

Index-279
Negligence—Cont’d
pleading—Cont’d
voluntary undertaking, duty on, 4 Plead § 594
wilful misconduct, 4 Plead § 610
statute of limitations, see Tort actions
title insurer, negligence of, see Title insurance

Negotiable instruments
conversion
statute of limitations, see enforcement
(drawer)
nature of actions against, 3 Actions § 140
enforcement
limitations period, 3 Actions §§ 483, 486, 488
limitation and accrual of actions
conversion action, 3 Actions § 483
enforcement action, 3 Actions §§ 483, 486, 488
lis pendens, see Lis pendens
notices
dishonor, 3 Actions § 207
personal property lien on to enforce judgment, see Judgment liens
real party in interest, 4 Plead § 151

Negotiation
in general, 6 PWT § 485
inequitable conduct in, effect on amendment of pleadings, 5 Plead § 1203

New matter constituting defense, see Answer

New trial
in general, 8 Attack § 18 et seq.
accident as ground, 8 Attack §§ 29, 30
additur
in general, 8 Attack §§ 111, 120 et seq.
procedure, 8 Attack § 123
specification requirement, 8 Attack § 113
administrative mandamus proceedings, availability in, 8 Attack § 22
adverse party
misconduct as ground, 8 Attack § 26
service on, 8 Attack § 51

New trial—Cont’d
affidavits
in general, 8 Attack §§ 48, 49, 64, 65*, 68
jury misconduct, motion based on, 7 Trial §§ 386, 387
appeal
becoming party to record after judgment by motion, 9 Appeal § 27
cross-appeal based on grant of, 9 Appeal § 592 et seq.
death or disability of reporter, effect of, 9 Appeal § 674
denial, see denial (this group)
discretion of trial court, review of, 9 Appeal § 363
extension of time to file notice of appeal based on, see Notice of appeal
grant of motion, see grant (this group)
late-filed motion, effect on time for appeal, 8 Attack § 54
limited civil case, 9 Appeal § 1004
order for new trial conditioned on acceptance of benefits, effect of on appeal, 9 Appeal § 76
reporter, death or disability of, effect of, 9 Appeal § 674
reversal of judgment, effect of, see Reversal of judgment on appeal
reversible error, review for, see Reversible or harmless error
review of orders by, see order granting (this group); review of orders (this group)
scope of review, 9 Appeal §§ 348, 349, 363
transcript unavailable, 9 Appeal § 674 et seq.
appearance of moving party, 8 Attack § 67
argument, 8 Attack § 68
attorney misconduct as ground, 8 Attack § 26
availability of, 8 Attack §§ 22 et seq., 127 bifurcated trial
judge before whom motion is heard, 8 Attack § 70
time for filing after, 8 Attack § 56
calamity, loss of papers in as grounds, 8 Attack § 45
chambers, hearing in, 2 Courts § 23
New trial—Cont’d
   chance verdict as ground, 8 Attack § 28
   continuance of hearing, 8 Attack § 67
   costs, grant of motion conditioned on pay-
   ment of, 8 Attack § 111
   counter-affidavits, 8 Attack § 64
   county, hearing outside of, 8 Attack § 68
   cross-appeal based on grant of, 9 Appeal
   § 592 et seq.
   damages
      excessive damages as ground, see
      excessive damages as ground (this
      group)
      inadequate damages as ground, see
      inadequate damages as ground
      (this group)
   torts, partial new trial on damages, 8
   Attack § 105*
   death or disability of as grounds, 9 Appeal
   § 674
   decision against law as ground
      in general, 8 Attack § 41 et seq.
      specification of ground and reasons in
      order granting, 8 Attack § 89
   declarations, 8 Attack § 64
   defined, 2 Courts § 151
   delay in bringing to trial after motion, 6
   PWT §§ 430 et seq., 464
   denial
      appeal, 9 Appeal § 164
      extension of time to file notice of
      appeal based on, see Notice of
      appeal
      specification in notice of appeal, 9
      Appeal § 570
      transcript unavailable for appeal, based
      on, 9 Appeal § 678
   determination of motion, time for, 8
   Attack §§ 72 et seq., 77
   directed verdict, distinguished, 7 Trial
   § 422
   dismissal
      availability of new trial motion after, 8
      Attack § 23
      delay in bringing to trial after motion,
      dismissal for, 6 PWT §§ 430 et
      seq., 464
   disqualification of judge, effect on time
   for determining motion, 8 Attack
   § 74
   electronic filing and service of documents,
   8 Attack § 58 et seq.*
New trial—Cont’d
   entry of judgment
      new trial motion, time for filing, effect
      on, 7 Trial § 435
      new trial order, entry on, 7 Judgm § 54
      time for filing motion after, 7 Judgm
      § 57; 8 Attack § 58 et seq.
   error in law as ground
      in general, 8 Attack § 44
      specification of ground and reasons in
      order granting, 8 Attack § 89
      verdict against law distinguished, 8
      Attack § 41
   estoppel, effect on court’s discretion to
   grant, 8 Attack § 136
   evidence
      erroneous rulings on as ground, 8
      Attack § 44
      evidentiary rights at new trial, 8 Attack
      § 126
      hearing on, 8 Attack § 68
      insufficiency as ground, see insufficient
      evidence as ground (this group)
      newly discovered, see newly
      discovered evidence as ground
      (this group)
   examination of witnesses, 8 Attack § 69
   excessive damages as ground
      in general, 8 Attack §§ 35, 36
      affirmance on appeal of order based on,
      8 Attack § 130
      review of order granting lacking
      specification, 8 Attack §§ 93, 94
      specification of ground and reasons in
      order granting, 8 Attack § 88
   expedited jury trial, 7 Trial § 6D*; 8
   Attack § 22*
   fact issues, effect of, 8 Attack § 23
   filing fee, 8 Attack § 52
   fire, loss of papers in as ground, 8 Attack
   § 45
   forcible detainer and entry proceedings,
   availability in, 8 Attack § 22
   grant
      appealability, 9 Appeal § 192
   grounds
      in general, 8 Attack § 25 et seq.
      accident, 8 Attack §§ 29, 30
      chance verdict, 8 Attack § 28
      decision against law, see decision
      against law as ground (this group)
New trial—Cont’d

grounds—Cont’d
denial of jury trial, 8 Attack § 44
error in law, see error in law as ground
(this group)
evidence, erroneous ruling on, see evi-
dence (this group)
evidence, insufficient, see insufficient
evidence as ground (this group)
evidence, newly discovered, see evi-
dence (this group)
excessive damages, see excessive dam-
ages as ground (this group)
exclusivity of statutory ground, 8
Attack §§ 19, 127
inadequate damages, see inadequate
damages as ground (this group)
jury application of law, 8 Attack § 44
jury misconduct, see jury misconduct
as ground (this group)
jury trial denial, 8 Attack § 44
loss of papers, 8 Attack § 45
misconduct, see misconduct as ground
(this group)
necessity for, 8 Attack § 131
newly discovered evidence, see newly
discovered evidence as ground
(this group)
oinmission in notice of motion, effect of,
8 Attack § 50
reporter’s disability or death, 9 Appeal
§ 674
specification of in order granting, 8
Attack § 78 et seq.
transcript, inability to obtain, 8 Attack
§ 45; 9 Appeal § 674
voir dire, irregularity in, 8 Attack § 27
hearing
in general, 8 Attack § 67 et seq.
chambers, hearing in, 8 Attack § 68
on merits, order following, 8 Attack
§ 198*
precedence of hearing, 8 Attack § 67*

New trial—Cont’d

in-chambers hearing, see hearing (this
in adequate damages as ground
in general, 8 Attack §§ 35, 36
affirmance on appeal of order based on,
8 Attack § 130
review of order granting lacking
specification, 8 Attack §§ 93, 94
specification of ground and reasons in
order granting, 8 Attack § 88
independent judgment rule, application of,
8 Writs § 325*
insufficient evidence as ground
in general, 8 Attack §§ 37 et seq., 140
affirmance on appeal of order based on,
8 Attack § 130
review of order granting lacking
specification, 8 Attack §§ 93, 94
specification of ground and reasons in
order granting, 8 Attack § 87
verdict against law distinguished, 8
Attack § 41
intended decision, time for filing after, 8
Attack § 56
interlocutory judgment, effect of notice
given after, 8 Attack § 56
invited error, effect of, 8 Attack § 26
irregularity in proceedings as ground
in general, 8 Attack § 25 et seq.
specification of ground and reasons in
order granting, 8 Attack § 89
judge
before whom motion is heard, 2 Courts
§ 18; 8 Attack §§ 70, 71
chambers, hearing in, 2 Courts § 23
disqualification of, effect of, 8 Attack
§ 74
new judge, motion heard by, 2 Courts
§ 18; 8 Attack § 103
peremptory challenge to after reversal,
2 Courts § 151
preparation of order granting by, 8
Attack §§ 77, 85
weighing evidence, 8 Attack § 38*
judgment notwithstanding verdict
distinguished, 8 Attack §§ 18, 39
motion with new trial motion, 7 Trial
§ 440
order granting new trial as de facto
grant of, 8 Attack § 135

Index-282
New trial—Cont’d
judgment on agreed statement of ultimate facts, effect of, 8 Attack § 23
judgment on pleadings
availability of new trial motion after, 8 Attack § 23
error in granting as ground, 8 Attack § 44
time for filing motion after, 8 Attack § 56
judicial misconduct as ground, 8 Attack § 26
jurisdiction
appeal, effect on, 9 Appeal § 23
order on, effect of, 8 Attack § 126
jury
erroneous application of law by, as ground, 8 Attack § 44
formation irregularities as grounds, 8 Attack § 27
jury trial denial as ground, 8 Attack § 44
misconduct as ground, see jury misconduct as ground (this group)
jury instructions, erroneous or misleading, as ground, 8 Attack § 44
jury misconduct as ground
in general, 7 Trial §§ 386, 387; 8 Attack §§ 28, 35
jurors’ affidavits, 7 Trial § 387
no knowledge affidavit of attorney and party, 7 Trial § 386
specification of ground and reasons in order granting, 8 Attack § 89
jury trial, expedited, 7 Trial § 6D*; 8 Attack § 22*
lack of notice, effect of, 8 Attack § 46
limited new trial, see partial new trial (this group)
mail, service by, effect of, 8 Attack §§ 54, 62, 74
mandamus to compel specification of reasons for order granting, 8 Attack §§ 92, 95
mandatory nature of statutory procedure, 8 Attack § 20
mechanics lien proceedings, availability in, 8 Attack § 22
membership in Legislature, effect on time for filing, 8 Attack § 62
memorandum supporting motion, 8 Attack § 65

New trial—Cont’d
minutes of court
effective date of order by, 8 Attack §§ 124, 125
motions on, 8 Attack §§ 48, 49
order granting new trial by entry in, 8 Attack § 77
uniformity, 8 Attack § 125*
misconduct as ground
attorney, 7 Trial § 210; 8 Attack § 26
jury, see jury misconduct as ground (this group)
party, 8 Attack § 26
misconduct of jury, see jury misconduct as ground (this group)
mistrial distinguished, 8 Attack § 18
modification of judgment after court trial, see Judgments
motion
judgment in court trial, new trial after, 7 Trial § 435
necessity of, 8 Attack §§ 46, 47
notice of, see notice of motion (this group)
reply brief, 4 Plead § 4*
nature of, 8 Attack § 18
new judgment, effect on time for filing, 8 Attack § 62
newly discovered evidence as ground
in general, 8 Attack § 31 et seq.
equitable bill of review, 8 Attack § 2
nonsuit
distinguished, 8 Attack §§ 18, 39
error in as ground, 8 Attack § 44
notice of entry of judgment
determining motion, effect on time for, 8 Attack § 73
filing motion, effect on time for, 8 Attack § 58 et seq.
nature of motion
in general, 8 Attack § 48 et seq.
command fee, 8 Attack § 52
form, 8 Attack § 48 et seq.
lack of, effect of, 8 Attack § 46
service on adverse party, 8 Attack § 51
time for filing and service, see time for filing and service (this group)
nunc pro tunc correction of order granting
grids, failure to specify, 8 Attack § 80

Index
New trial—Cont’d
nunc pro tunc correction of order granting
—Cont’d
reasons, failure to specify, 8 Attack § 91
nunc pro tunc minute order, 8 Attack § 124
object of motion, 8 Attack § 18
objection, necessity for, 8 Attack § 21
objection by motion for, 9 Appeal § 405
oral argument, 8 Attack § 68
order granting
in general, 8 Attack § 77 et seq.
abuse of discretion standard on review, 8 Attack §§ 133, 134
additur, see additur (this group)
affirmance, effect of, 9 Appeal § 853
affirmance on appeal, grounds for, 8 Attack § 129 et seq.
appeal of, 8 Attack § 128 et seq.
appealability of, 9 Appeal § 192
conditional orders, 8 Attack § 111 et seq.
correction of, see nunc pro tunc correction of order granting (this group)
cross-appeal based on, 8 Attack § 128 et seq.; 9 Appeal § 592 et seq.
de facto judgment notwithstanding verdict, review of, 8 Attack § 135
effect of, 8 Attack § 126
effective date, 8 Attack §§ 124, 125
estoppel, effect on court’s discretion, 8 Attack § 136
extension of time for filing motion, 8 Attack § 62
grounds, necessity for, 8 Attack § 131
invited error theory, application of on appeal, 9 Appeal § 389*
modification of judgment as alternative, 9 Appeal § 857
oral order, 8 Attack § 77
partial new trial, see partial new trial (this group)
prejudice, necessity of showing of, 8 Attack § 132
remittitur, see remittitur (this group)
review of, see review of orders (this group)
transcript unavailable for appeal, relief for, 9 Appeal § 677
void order, 8 Attack § 127

New trial—Cont’d
order granting—Cont’d
waiver, effect on court’s discretion, 8 Attack § 136
orders
granting new trial, see order granting (this group)
hearing on merits, order following, 8 Attack § 198*
jurisdiction, effect on, 8 Attack § 126
review of, see review of orders (this group)
partial new trial
in general, 8 Attack § 104 et seq.
compromise verdict, partial new trial for, 8 Attack § 106
relief available, 8 Attack §§ 108, 109
tort damages, partial new trial as to, 8 Attack §§ 105, 106
transcript unavailable on appeal, effect of, 9 Appeal § 675
party
misconduct as ground, 8 Attack § 26
new trial motion by, effect on time for filing, 8 Attack § 63
notice of entry of judgment by, effect on time for new trial motion, 8 Attack § 59
prejudice requirement, 8 Attack §§ 18, 132
premature notice, effect of, 8 Attack §§ 57, 127
probate proceedings, availability in, 8 Attack §§ 22, 24
reconsideration of motion, time limits for, 6 PWT § 51
referee
hearing before, 8 Attack § 70
review of general reference by new trial motion, 6 PWT § 75
remittitur
in general, 8 Attack §§ 111, 116 et seq.
acceptance of, time for, 8 Attack §§ 118*, 123*
consent of parties, 8 Attack § 116
failure to remit, effect of, 8 Attack § 119
form, 8 Attack § 118
proposed judgment, submission of, 8 Attack §§ 118*, 123*

Index-284
New trial—Cont’d
remittitur—Cont’d
reapportionment of liability by, 8
Attack § 117
rejection of, time for, 8 Attack §§ 118*, 123*
specification requirement, 8 Attack § 113
reporter, death or disability of as ground, 9 Appeal § 674
review of orders
in general, 8 Attack § 127 et seq.
appeal by, 9 Appeal §§ 164, 192
appellate order granting, 9 Appeal § 192
order denying, 8 Attack §§ 137, 138; 9
Appeal § 164
order granting, 8 Attack § 128 et seq.
order granting lacking specification of reasons, 8 Attack § 93 et seq.
service on adverse party, 8 Attack §§ 51, 62
small claims court, availability in, 8
Attack § 22
specification of reasons for order granting, 8 Attack § 83 et seq.
statement of decision
decision triggering time for filing motion, statement of decision as, 8
Attack § 56
defective, as ground, 8 Attack § 43
modification by new judge, 8 Attack § 103
statutory plan excluding new trial, 8
Attack § 24
stipulations
correction of order granting failing to state ground, 8
Attack § 81
extension of time for filing motion, effect of, 8 Attack § 62
subject matter jurisdiction, effect of untimely proceedings on, 2 Jurisd § 91
summary judgment
availability of new trial motion after, 6
PWT §§ 259; 8 Attack § 23
time for filing motion after, 8 Attack § 56
supporting memorandum, 8 Attack § 65
surprise as ground, 8 Attack §§ 29, 30
testimony, admissibility of, 8 Attack § 69
New trial—Cont’d
time for filing and service
in general, 6 PWT §§ 17, 31; 8 Attack § 53 et seq.
after entry of judgment, 8 Attack § 53
before entry of judgment, 8 Attack § 55 et seq.
commencement of, 8 Attack § 62
computation of, 8 Attack § 62
late filing, effect of, 8 Attack § 54
relief from judgment for late motion, availability of, 8 Attack § 147
transcript, inability to obtain as ground, 8
Attack § 45
transcript unavailable, 9 Appeal § 674 et seq.
trial judge, hearing before, 8 Attack § 70
unconstitutional order granting new trial, 8
Attack § 77 et seq.
unlawful detainer proceedings, availability in, 8
Attack § 22
vacation of judgment motion distinguished, 8 Attack § 140
verdict
advisory, filing after, 8 Attack § 56
chance verdict as ground, 8 Attack § 28
compromise verdict, partial new trial for, 8 Attack § 106
decision triggering time for filing motion, verdict as, 8 Attack § 56
limited as to issues, effect on time for filing, 8 Attack § 56
specification of ground and reasons in order granting, 8 Attack § 89
vacation of by order granting new trial, 8
Attack § 126
voir dire of jury, irregularities as ground, 8
Attack § 27
waiver
affidavits, 8 Attack § 64
grant of new trial, effect on, 8 Attack § 136
notice of entry of judgment, 8 Attack § 61
testimony, admission of, 8 Attack § 69
writ proceedings, motion in, 8 Attack § 22; 8 Writs § 216
Newly discovered evidence, effect of, see New trial
Newspapers and magazines
courtroom, presence in, see Public trial
Newspapers and magazines—Cont’d

defamation in, see Defamation

public trial, see Public trial

service of process by publication in, see Process

Nolo contendere plea

attorney discipline, effect on, 1 Attys § 581

Nonjudicial foreclosure

attorneys’ fees, see Attorneys’ fees

Nonsuit

in general, 7 Trial § 406 et seq.

appeal, 9 Appeal §§ 144, 159, 349, 437

conflicting evidence, effect of, 7 Trial § 409

curing of error in denial of, 9 Appeal § 437

directed verdict compared, 7 Trial § 420

dismissal distinguished, 7 Trial § 408

equity judgment on, see Entry of judgment

hearing, 7 Trial §§ 417, 418

judgment on pleadings distinguished, 7 Trial § 408

motion for judgment in court trial distinguished, 7 Trial § 408

nature of motion, 7 Trial § 406

necessity for motion, 7 Trial § 412

new trial, see New trial order, 7 Trial § 419

partial nonsuit, 7 Trial § 407

procedure, 7 Trial § 412 et seq.

rendition of judgment on, see Judgments

reopening plaintiff’s case, 7 Trial § 418

res judicata effect of order, 7 Trial § 419;

7 Judgm § 372

restrictions on granting, 7 Trial § 409 et seq.

scintilla of evidence rule, 7 Trial § 410

statement of grounds, 7 Trial §§ 415, 416

time for motion, 7 Trial §§ 413, 414

weight of evidence, effect of, 7 Trial §§ 410, 411

Northridge earthquake

limitations period on insurance claim, 3

Actions § 466

Notary public

limitation and accrual of actions against

in general, 3 Actions §§ 481, 483, 486, 670

discovery of facts, accrual of cause of action on, 3 Actions § 497

statute of limitations for actions against,

see limitation and accrual of actions against (this group)

Notice

appeal, see Notice of appeal

appearance, notice of, see Appearance

constructive notice

in general, 2 Jurisd § 263 et seq.

posting, 2 Jurisd § 267

publication alone, 2 Jurisd §§ 265, 266

publication and seizure, 2 Jurisd § 264

in rem and quasi in rem jurisdiction

in general, 2 Jurisd § 262 et seq.

constructive notice, see constructive notice (this group)

necessity of notice, 2 Jurisd § 262

statutory jurisdictional notice require-
ments, 2 Jurisd § 268

levy, notice of, see Writ of execution

motions, notice of, see Motions

personal jurisdiction

in general, 2 Jurisd § 112 et seq.

fraudulent service, effect of, 2 Jurisd § 113

mail, service by, sufficiency of notice, 2 Jurisd § 118

nature of requirement, 2 Jurisd § 112

personal service, sufficiency of notice, 2 Jurisd § 116

proceeding after judgment, require-
ments for, 2 Jurisd § 115

publication, service by, sufficiency of notice, 2 Jurisd § 119

special proceeding, requirements for, 2 Jurisd § 114

statutory requirements of service, 2 Jurisd § 120 et seq.

substituted service, sufficiency of notice, 2 Jurisd § 117 et seq.

settlement, 6 PWT § 127

trial, 7 Trial § 75 et seq.

Notice of appeal

in general, 9 Appeal § 555 et seq.

attorney, signature of, 9 Appeal § 573

Index-286
### Notice of appeal—Cont’d

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page References</th>
</tr>
</thead>
</table>
| Certificate of service                                               | 9 Appeal §§ 576, 577* |}

### Notice of appeal—Cont’d

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page References</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction of</td>
<td>9 Appeal § 560 et seq.</td>
</tr>
<tr>
<td>Appeal §§ 576, 577*</td>
<td>9 Appeal § 560 et seq.</td>
</tr>
</tbody>
</table>

### Notice of appeal—Cont’d

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page References</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appeal § 560 et seq.</td>
<td>9 Appeal § 560 et seq.</td>
</tr>
<tr>
<td>Cross-appeal, see Cross-appeal</td>
<td>9 Appeal § 560 et seq.</td>
</tr>
<tr>
<td>death of attorney, effect of</td>
<td>9 Appeal § 560 et seq.</td>
</tr>
<tr>
<td>Appellate § 565</td>
<td>9 Appeal § 560 et seq.</td>
</tr>
</tbody>
</table>

### Notice of appeal—Cont’d

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page References</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appellate § 564 et seq.</td>
<td>9 Appeal § 564 et seq.</td>
</tr>
<tr>
<td>Content of</td>
<td>9 Appeal § 560 et seq.</td>
</tr>
<tr>
<td>Cross-appeal, see Cross-appeal</td>
<td>9 Appeal § 560 et seq.</td>
</tr>
<tr>
<td>Decision, erroneous specification of</td>
<td>9 Appeal § 565</td>
</tr>
<tr>
<td>Demurrer, specification of order sustaining</td>
<td>9 Appeal § 569</td>
</tr>
<tr>
<td>Entry of judgment</td>
<td>9 Appeal § 565</td>
</tr>
<tr>
<td>Date of, see Entry of judgment</td>
<td>9 Appeal § 566</td>
</tr>
<tr>
<td>Erroneous specification of</td>
<td>9 Appeal § 566</td>
</tr>
<tr>
<td>No judgment entered, effect of</td>
<td>9 Appeal § 572</td>
</tr>
<tr>
<td>Reconsideration motion denied by</td>
<td>9 Appeal § 602</td>
</tr>
<tr>
<td>Time for filing after, see time for filing</td>
<td>9 Appeal § 602</td>
</tr>
<tr>
<td>(this group)</td>
<td>9 Appeal § 602</td>
</tr>
<tr>
<td>Expedited time limits, see 9 Appeal § 582*</td>
<td>9 Appeal § 582*</td>
</tr>
<tr>
<td>Extension of time for filing</td>
<td>9 Appeal § 582*</td>
</tr>
<tr>
<td>In general</td>
<td>9 Appeal § 586 et seq.</td>
</tr>
<tr>
<td>Date on which extension begins</td>
<td>9 Appeal § 586 et seq.</td>
</tr>
<tr>
<td>Estoppel, extension for, see 9 Appeal § 614</td>
<td>9 Appeal § 614</td>
</tr>
<tr>
<td>Judgment notwithstanding verdict motion, effect of, see 9 Appeal §§ 598, 1009*</td>
<td>9 Appeal § 598, 1009*</td>
</tr>
<tr>
<td>Late notice, see late notice (this group)</td>
<td>9 Appeal § 598, 1009*</td>
</tr>
<tr>
<td>Identification of judgment or order, see specification of judgment or order (this group)</td>
<td>9 Appeal § 598, 1009*</td>
</tr>
<tr>
<td>In forma pauperis appeal, see waiver of fees in indigent appeal (this group)</td>
<td>9 Appeal § 598, 1009*</td>
</tr>
<tr>
<td>Indigent appeal, see waiver of fees in indigent appeal (this group)</td>
<td>9 Appeal § 598, 1009*</td>
</tr>
<tr>
<td>Incapacity of attorney, effect of, 1 Attys § 66</td>
<td>9 Appeal § 598, 1009*</td>
</tr>
<tr>
<td>New trial motion, effect of</td>
<td>9 Appeal § 587 et seq.</td>
</tr>
<tr>
<td>Other party’s appeal, effect of, 9 Appeal §§ 604, 605</td>
<td>9 Appeal § 605</td>
</tr>
<tr>
<td>Public entity, judgment against, 9 Appeal § 606</td>
<td>9 Appeal § 606</td>
</tr>
<tr>
<td>Reconsideration, motion for see reconsideration, effect of motion for (this group)</td>
<td>9 Appeal § 606</td>
</tr>
<tr>
<td>Vacate judgment motion, effect of, 9 Appeal § 595 et seq.</td>
<td>9 Appeal § 595 et seq.</td>
</tr>
<tr>
<td>Waiver, extension for, 9 Appeal § 614</td>
<td>9 Appeal § 614</td>
</tr>
<tr>
<td>Federal courts, time for filing, 9 Appeal § 575</td>
<td>9 Appeal § 575</td>
</tr>
</tbody>
</table>

### Notice of appeal—Cont’d

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page References</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fees in general, 9 Appeal § 556</td>
<td>9 Appeal § 556</td>
</tr>
</tbody>
</table>

### Index

- I
- N
- D
- E
- X
- W
- S
- T
- R
- F
- P
- A
- U
- G
- O
- H
- L
- V
- Y
- Z

- Notice of appeal—Cont’d
- Certificate of service, 9 Appeal §§ 576, 577*
- Construction of
  - In general, 9 Appeal § 560 et seq.
  - Appeal saved by, 9 Appeal § 564 et seq.
- Content of, 9 Appeal § 560 et seq.
- Cross-appeal, see Cross-appeal
- Death of attorney, effect of, 1 Attys § 66
- Decision, erroneous specification of, 9 Appeal § 565
- Demurrer, specification of order sustaining, 9 Appeal § 569
- Entry of judgment
  - Date of, see Entry of judgment
  - Erroneous specification of, 9 Appeal § 566
  - No judgment entered, effect of, 9 Appeal § 572
- Reconsideration motion denied by, 9 Appeal § 602
- Time for filing after, see time for filing (this group)
- Expedited time limits, 9 Appeal § 582*
- Extension of time for filing
  - In general, 9 Appeal § 586 et seq.
  - Date on which extension begins, 9 Appeal § 586
- Estoppel, extension for, 9 Appeal § 614
- Judgment notwithstanding verdict motion, effect of, 9 Appeal §§ 598, 1009*
- Late notice, see late notice (this group)
- Identification of judgment or order, see specification of judgment or order (this group)
- In forma pauperis appeal, see waiver of fees in indigent appeal (this group)
- Indigent appeal, see waiver of fees in indigent appeal (this group)
- Incapacity of attorney, effect of, 1 Attys § 66
- New trial motion, effect of, 9 Appeal § 587 et seq.
- Other party’s appeal, effect of, 9 Appeal §§ 604, 605
- Public entity, judgment against, 9 Appeal § 606
- Reconsideration, motion for, see reconsideration, effect of motion for (this group)
- Vacate judgment motion, effect of, 9 Appeal § 595 et seq.
- Waiver, extension for, 9 Appeal § 614
- Federal courts, time for filing, 9 Appeal § 575
- Fees
  - In general, 9 Appeal § 556

Index-287
**Notice of appeal—Cont’d**

judgment notwithstanding verdict motion, effect of, 9
Appeal §§ 598, 599, 1009*

jurisdictional nature of time limits, 9
Appeal § 614

late notice
  in general, 9 Appeal § 614 et seq.
civil appeals, 9 Appeal §§ 614, 616 et seq.
criminal appeals, 9 Appeal § 615
writ review, applicability of, 9 Appeal §§ 618, 619

limited civil case appeals
  in general, 9 Appeal § 1006 et seq.
date of entry of judgment, see Entry of judgment
extension of time, 9 Appeal § 1009
fee, 9 Appeal § 1006
filing, 9 Appeal § 1006
form, 9 Appeal § 1006
judgment notwithstanding verdict motion, effect on time, 9 Appeal § 1009*
new trial motion, effect on time, 9
Appeal § 1009
notification by clerk, 9 Appeal § 1007
reconsideration motion, effect on time, 9
Appeal § 1009*
stipulation to waive notice of order being appealed, effect of, 9
Appeal § 1008*
time for filing, 9 Appeal §§ 574, 575, 581, 1008
vacate judgment motion, effect of, 9
Appeal § 595

new trial
denial of, effect on extension of time to file notice, 9
Appeal §§ 587 et seq., 1009
extension of time to file notice based on motion, 9 Appeal §§ 587 et seq., 1009
limited civil case appeals, 9 Appeal § 1009
specification of order denying, 9
Appeal § 570
notification by clerk
  in general, 9 Appeal § 559
limited civil case appeals, 9 Appeal § 1007

**Notice of appeal—Cont’d**

order, specification of, see specification of judgment or order (this group)
party
  erroneous designation of, 9 Appeal § 562
notice of entry of judgment given by, 9
Appeal § 576
signature of, 9 Appeal § 573
premature notice
  in general, 9 Appeal § 620 et seq.
discretionary relief, 9 Appeal § 621 et seq.
good cause requirement, 9 Appeal § 622
rendition of judgment, notice after, 9
Appeal § 620
reconsideration, effect of motion for
  in general, 9 Appeal § 600 et seq.
appealable order, denial of, 9 Appeal § 603
entry of judgment, motion denied by, 9
Appeal § 602
limited civil case appeals, 9 Appeal § 1009*
postjudgment motion, 9 Appeal § 601
record on appeal, inclusion in, see Record on appeal
service of, 9 Appeal §§ 555, 576, 577*
signature requirement, 9 Appeal § 573
specification of judgment or order
  in general, 9 Appeal § 561 et seq.
construction of notice, effect of, 9
Appeal § 564 et seq.
nonappealable decisions, 9 Appeal § 563 et seq.
parties, erroneous designation of, 9
Appeal § 562
statement of appeal, 9 Appeal § 560
subject matter jurisdiction, effect of late notice, 2 Jurisd § 91
substitution of attorneys, effect of, 1 Attys § 79
time for filing
  in general, 9 Appeal § 574 et seq.
60 days after entry of judgment, 9
Appeal § 575 et seq.
180 days after entry of judgment, 9
Appeal § 581
alternative time limits, 9 Appeal § 574

Index-288
Notice of appeal—Cont’d
  time for filing—Cont’d
    extension of time, see extension of time for filing (this group)
    federal rule, 9 Appeal § 575
    late notice, see late notice (this group)
    limited civil case, see limited civil case appeals (this group)
    modification of judgment, effect of, 9 Appeal § 583
    premature notice, see premature notice (this group)
    reinstatement of judgment after appeal, effect of, 9 Appeal §§ 583*, 585
    renewal of motion, effect of, 9 Appeal § 584
    special statutes, 9 Appeal § 582
    stipulation to waive notice of order being appealed, effect of, 9 Appeal §§ 574*, 1008*
    vacation and reinstatement of judgment, effect of, 9 Appeal § 583*
    transcript deposit, 9 Appeal § 556
    trial court, filing in, 9 Appeal § 555
    vacating judgment
      extension of time for filing notice based on, 9 Appeal § 595 et seq.
      specification of order denying, 9 Appeal § 571
    verdict, specification in, 9 Appeal § 565
    waiver of fees in indigent appeal
      in general, 9 Appeal § 558
      application for, 9 Appeal §§ 556, 558
      transmission to reviewing court, 9 Appeal § 559
    writ, erroneous specification of, 9 Appeal § 568
    wrong judgment, specification of, 9 Appeal § 567

Novation
  answer, as defense in, 5 Plead § 1094
  defense, raising in answer, 5 Plead § 1094

Nuisances
  abatement
    equitable nature of proceeding, 3 Actions § 127
    forfeiture proceedings, as, 3 Actions § 70
    in rem proceeding, as, 2 Jurisd § 245
    limitation of actions, 3 Actions § 489

Nuisances—Cont’d
  abatement—Cont’d
    lis pendens, see Lis pendens
taxpayer’s action, 4 Plead § 170
  accrual of actions, see limitation and accrual of actions (this group)
class actions, 4 Plead § 290
  continuing nuisance
    in general, 4 Plead §§ 58, 59
    accrual of action, 3 Actions § 601 et seq.
    airplane overflights, 3 Actions § 602
election by plaintiff, 4 Plead § 59
    environmental contamination, 3 Actions § 603
    landfill, as, 3 Actions § 608
    permanent, 4 Plead § 57
    real property actions, 3 Actions § 608*
government tort claims, see Governmental tort liability
  injunctions
    private nuisance, 6 Prov Rem § 304
    public nuisance, 5 Plead § 828; 6 Prov Rem § 335
  limitation and accrual of actions
    in general, 3 Actions §§ 489, 596 et seq.
    continuing nuisance, 3 Actions §§ 601 et seq.
    landfill, action based on, 3 Actions § 608
  private nuisances
    encroachment, 6 Prov Rem § 304*
    injunction, see injunctions (this group)
  public nuisances
    in rem nature of abatement proceeding,
      2 Jurisd § 245
    injunction, see injunctions (this group)
    statute of limitations, see limitation and accrual of actions (this group)
  stay pending appeal, 9 Appeal § 277

Nullity of marriage
  abatement of action, 3 Actions § 18
  annulment, 3 Actions §§ 812, 813; 7 Judgm § 104
  answer, 5 Plead § 1049
  appearance, 5 Plead § 894
  attorneys’ lien for fees, 1 Attys § 167
  bigamy
    limitations period, 3 Actions § 489
Nullity of marriage—Cont’d
children and minors
   real party in interest, 4 Plead § 150
costs, 7 Judgm § 104
default judgment, see Default judgment
entry of judgment, notice of, 7 Judgm
§ 59

in forma pauperis suit, see In forma pauperis suit
incompetent persons, real party in interest,
4 Plead § 150
joinder of parties, 5 Plead § 887 et seq.
judgment
   in general, 5 Plead § 897
domicile, presence without, 2 Jurisd
§ 274
form and content of, 7 Judgm § 36
   Judicial Council forms, 7 Judgm § 36
stipulation for, 7 Judgm § 36
jurisdiction
   proceedings, 2 Jurisd § 274
limitations period, see proceedings (this group)
motions, 5 Plead § 895
parties, see proceedings (this group)
petition, 5 Plead § 892
pleadings, 5 Plead § 891 et seq.
proceedings
   limitations, 3 Actions §§ 484, 489
   parties, 5 Plead § 887 et seq.
   relief available, 5 Plead §§ 890, 891
   Rules of Court, 5 Plead §§ 885, 886
statute of limitations, see proceedings (this group)
stipulation for judgment, 5 Plead § 897
summons, 3 Actions § 992; 5 Plead § 894
temporary restraining orders, see
   Temporary restraining orders
venue, 3 Actions §§ 812, 813

Nunc pro tunc
clerical error as ground, 7 Judgm § 63
death of party as ground, 7 Judgm § 62
dissolution of marriage proceedings, 7
Judgm § 63
entry of judgment, 7 Judgm § 60 et seq.
failure to enter as ground, 7 Judgm § 63
grounds, 7 Judgm §§ 62, 63
limitations on exercise of power, 7 Judgm
§ 61
nature of power, 7 Judgm § 60

Nunc pro tunc—Cont’d
new trial orders, correction of, see New trial

Nurses
malpractice, see Medical malpractice

Oath
administration of, 1 Attys § 225
arbitrators in attorneys’ fee dispute, see
administration by, 1 Attys § 225
attorneys, oath of administration, 1 Attys § 225
admission to practice, oath for, 1 Attys
§ 377
loyalty oath and test, 1 Attys §§ 357, 375, 376
violation as grounds for discipline, see
   Attorney discipline
clerk of court, administration by, 2 Courts
§ 366
jury, see Jury
receivers, 6 Prov Rem § 444

Objections to evidence
appeal
   invited error, as, 9 Appeal §§ 391, 392
   waiver of error by, 9 Appeal § 396 et seq.

Occupational safety and health
Division of Occupational Safety and Health
   in general, 9 Admin Proc § 180

Offer to compromise
   in general, 6 PWT § 81 et seq.
acceptance
   in general, 6 PWT §§ 82, 97, 98
   formal requirements, 6 PWT § 98
penalties for failure to accept, 6 PWT
§ 110 et seq.
time for, 6 PWT § 97
appeal
   compelling entry of judgment on, from,
   9 Appeal § 169
   judgment on, appeal from, 9 Appeal
§ 98
   stay of costs award pending appeal, 9
   Appeal § 231
arbitration, availability in, 6 PWT § 83
attorneys’ fees, see Attorneys’ fees
availability of, 6 PWT §§ 83, 84

Index-290
Offer to compromise—Cont’d
before action commenced, defendant’s offer, 6 PWT § 81
certainty of terms requirement for offer, 6 PWT § 86
costs, effect on
in general, 6 PWT §§ 82, 99; 7 Judgm § 112 et seq.
defendant’s offer, effect of, 7 Judgm § 112 et seq.
expert witness fees, 6 PWT § 112
joint offer by multiple defendants, effect of, 7 Judgm § 114
judgment between offers, effect of, 7 Judgm § 116
plaintiff’s offer, effect of, 7 Judgm § 115
counteroffer, effect of, 6 PWT § 94
deemed withdrawal of offer, 6 PWT § 82
dismissal, voluntary, effect of, 6 PWT § 110*
eminent domain proceedings, availability in, 6 PWT § 83
enforcement proceedings, availability in, 6 PWT § 83
expert witness fees, 6 PWT § 112
family law proceedings, availability in, 6 PWT § 83
filing of offer, 6 PWT § 85
formal requirements
acceptance, 6 PWT § 98
offer, 6 PWT § 85
good faith of offer
motion to determine, 6 PWT § 82
requirement, 6 PWT § 91
interest, 6 PWT § 107
inverse condemnation actions, availability in, 6 PWT § 83
judgment more favorable
in general, 6 PWT § 100 et seq.
attorneys’ fees, 6 PWT § 103
defendant, postoffer payment by, effect of, 6 PWT § 108
defendant’s postoffer cost, 6 PWT § 101
jury verdict, value of, 6 PWT § 109
liens against judgment, effect of, 6 PWT § 104
negotiated rate differential amount, 6 PWT § 109A*
offer, cost provision in, 6 PWT § 102

Offer to compromise—Cont’d
judgment more favorable—Cont’d
periodic payments, effect of, 6 PWT § 106
prejudgment interest, postoffer, 6 PWT § 107
settlement offset, 6 PWT § 105
judgment on compromise
in general, 6 PWT § 99
collateral estoppel, effect of, see Collateral estoppel
judicial arbitration, effect of rejection of offer, 6 PWT § 628
mail, service of offer by, 6 PWT § 85
misconduct at trial by reference to, 7 Trial § 221
multiple defendants
offers by, 6 PWT § 88
offers to, 6 PWT § 90
multiple plaintiffs
offers by, 6 PWT § 87
offers to, 6 PWT § 89
offer
in general, 6 PWT §§ 82, 85 et seq.
acceptance, see acceptance (this group)
before action commenced, defendant’s offer, 6 PWT § 81
cost provision in, 6 PWT § 102
counteroffer, effect of, 6 PWT § 94
good faith, see good faith of offer (this group)
multiple defendants, see multiple defendants (this group)
multiple plaintiffs, see multiple plaintiffs (this group)
penalties for failure to accept, 6 PWT § 110 et seq.
rejection, 6 PWT § 95
revocability, 6 PWT § 92
second offer, effect of, 6 PWT § 96
termination by death of offeree, 6 PWT § 93
withdrawal of, see withdrawal of offer (this group)
purpose, 6 PWT § 82
reference to statute in offer, 6 PWT § 85
rejection of offer, 6 PWT § 95
revocability of offer, 6 PWT § 92
services
acceptance, 6 PWT § 98
offer, 6 PWT § 85

Index-291
Offer to compromise—Cont’d
termination of offer by death of offeree, 6
PWT § 93
voluntary dismissal, effect of, 6 PWT
§ 110*
withdrawal of offer
in general, 6 PWT §§ 82, 95
deemed withdrawal, 6 PWT § 82
erlier offer, effect on, 6 PWT § 96A*;
7 Judgm § 112*
writing requirement
acceptance, 6 PWT § 98
offer, 6 PWT § 85

Office of Administrative Hearings, 9
Admin Proc §§ 58, 202

Office of Administrative Law, see
Administrative rulemaking

Office of Environmental Health Hazard
Assessment, 9 Admin Proc § 166

Office of Statewide Health Planning and
Development, 6 Prov Rem § 427

Oil and gas
attachment, 6 Prov Rem §§ 78, 103
trespass on well, limitation and accrual of
actions for
in general, 3 Actions § 480
underground well, 3 Actions §§ 620, 622

Omitted heirs
in general, see Wills

Open meeting requirements—Cont’d
in general, 9 Admin Proc § 6 et seq.
attorneys’ fees, see Attorneys’ fees
Bagley-Keane Open Meeting Act, see
state agencies (this group)
Brown Act, 9 Admin Proc §§ 7, 18 et seq.
constitutional provisions, 9 Admin Proc
§§ 6, 13, 18
governing law, 9 Admin Proc §§ 6, 7
labor negotiations, exception for
local agencies, see local agencies (this
group)
state agencies, see state agencies (this
group)
legislators, announcement of compensa-
tion of, 9 Admin Proc § 26*

Open meeting requirements
Legislature, requirements for, 9 Admin
Proc § 9
licensing matters, exception for
local agencies, see local agencies (this
group)
state agencies, see state agencies (this
group)
local agencies
in general, 9 Admin Proc § 18 et seq.
“action taken” defined, 9 Admin Proc
§ 23
adequacy of notice to public, 9 Admin
Proc § 26*
adjournment, 9 Admin Proc § 26
agendas, matters on, 9 Admin Proc
§ 26
Americans With Disabilities Act,
compliance with, 9 Admin Proc
§ 26
attendance by public, 9 Admin Proc
§ 26
broadcasting of proceedings, 9 Admin
Proc § 26
closed sessions, 9 Admin Proc § 28 et
seq.
conduct of meetings, 9 Admin Proc
§ 26 et seq.
confidential information acquired at
closed sessions, 9 Admin Proc
§ 30
constitutional requirements, 9 Admin
Proc § 18
continuance, 9 Admin Proc § 26
criminal penalty for violation, 9 Admin
Proc § 33
definitions, 9 Admin Proc § 20 et seq.
disclosures required for closed ses-
sions, 9 Admin Proc § 28
disrupted meetings, 9 Admin Proc § 24
emergency proceedings, 9 Admin Proc
§ 27
enforcement, 9 Admin Proc § 31 et seq.
extceptions, 9 Admin Proc §§ 24, 25
general tax or assessment meetings, 9
Admin Proc § 26
“legislative body” defined, 9 Admin
Proc § 21
“local agency” defined, 9 Admin Proc
§ 20
location, 9 Admin Proc § 26
“meeting” defined, 9 Admin Proc § 22

Index-292
Open meeting requirements—Cont’d
local agencies—Cont’d

nature of legislation, 9 Admin Proc § 18
notice of meetings, 9 Admin Proc § 26 et seq.
personnel matters, 9 Admin Proc § 25
public testimony, 9 Admin Proc § 26
Ralph M. Brown Act, 9 Admin Proc §§ 7, 18 et seq.
recording of proceedings, 9 Admin Proc § 26
regular meetings, 9 Admin Proc § 26
scope, 9 Admin Proc § 19
secret ballot prohibition, 9 Admin Proc § 26
special meetings, 9 Admin Proc § 26
teleconferencing, 9 Admin Proc § 26
validity of action, proceeding to determine, 9 Admin Proc § 32
violation, proceeding to prevent, 9 Admin Proc § 31
news coverage, 9 Admin Proc § 8
ordinances, 9 Admin Proc § 7
pending litigation, consideration of
local agencies, 9 Admin Proc § 24
state agencies, 9 Admin Proc §§ 12, 14
personnel matters, consideration of
local agencies, see local agencies (this group)
state agencies, see state agencies (this group)
Ralph M. Brown Act, 9 Admin Proc §§ 7, 18 et seq.
real property negotiations, exception for
local agencies, see local agencies (this group)
state agencies, see state agencies (this group)
state agencies
in general, 9 Admin Proc § 10 et seq.
adjournment, 9 Admin Proc § 13
Americans With Disabilities Act,
compliance with, 9 Admin Proc § 13
attendance by public, 9 Admin Proc § 13
Bagley-Keane Open Meeting Act, 9 Admin Proc §§ 7, 10 et seq.
closed sessions, 9 Admin Proc § 16
Open meeting requirements—Cont’d
state agencies—Cont’d

concurrency, prohibited methods to develop, 9 Admin Proc § 13
conorud of meetings, 9 Admin Proc § 13 et seq.
constitutional limitations, 9 Admin Proc § 10
continuance, 9 Admin Proc § 13
criminal penalties for violation, 9 Admin Proc § 17
declaration of violation, proceeding for,
5 Plead § 856
disrupted meetings, 9 Admin Proc § 12
emergency proceedings, 9 Admin Proc § 15
enforcement, 9 Admin Proc § 17
exceptions, 9 Admin Proc § 12
excluded entities, 9 Admin Proc § 11
Internet transmission, 9 Admin Proc § 13
location, 9 Admin Proc § 13
“meeting” defined, 9 Admin Proc § 10
notice of meetings, 9 Admin Proc § 13 et seq.
personnel matters, 9 Admin Proc §§ 12, 14
public report of action taken and vote, 9 Admin Proc § 13*
real property, consideration of, 9 Admin Proc §§ 12, 14
recording of proceedings, 9 Admin Proc § 13
report of action taken and vote, 9 Admin Proc § 13*
scope, 9 Admin Proc § 11
special meetings, 9 Admin Proc § 14
“state body” defined, 9 Admin Proc § 11
teleconferencing, 9 Admin Proc § 13
validity, proceeding to determine, 9 Admin Proc § 17
violation, proceeding to prevent, 9 Admin Proc § 17
website notice requirements, 9 Admin Proc § 13
state audit report, consideration of
local agencies, 9 Admin Proc § 24
state agencies, 9 Admin Proc §§ 12, 14
State Bar, see State Bar statutes, 9 Admin Proc § 7

Index-293
Open meeting requirements—Cont’d
taxation matters
local agencies, 9 Admin Proc § 26
state agencies, 9 Admin Proc § 12

Opinion of reviewing court
in general, 9 Appeal § 779 et seq.
administrative judge’s opinion, adoption of, 9 Appeal § 785
adoption of another opinion, 9 Appeal §§ 784, 785
affirmance of judgment, see Judgment on appeal
appellate division of superior court
in general, 9 Appeal § 1018
adoption of opinion of, 9 Appeal § 785
optional nature of opinion by, 9 Appeal § 781
precedential effect of unreported decisions, see Stare decisis
appendices, 9 Appeal § 798
Attorney General opinions, citation of, 9 Appeal § 796
attorneys, advice to, 9 Appeal § 804
authorities, citation of, 9 Appeal § 794 et seq.
“by the court” opinion, 9 Appeal § 783
case authority, citation of, 9 Appeal § 794
certification for publication
finality of decision, effect on, 9 Appeal § 836
standards, 9 Appeal § 815
citation to unpublished opinion
in general, 9 Appeal § 820 et seq.
closely connected proceeding, citation in, 9 Appeal § 824
collateral estoppel, citation for, 9 Appeal §§ 491, 824
computer-based source of decisional law, opinion only available in, 9 Appeal § 825
criminal action, citation in, 9 Appeal § 824
disciplinary action, citation in, 9 Appeal § 824
law of the case, citation for, 9 Appeal §§ 491, 824
reliance, citation without, 9 Appeal § 823
res judicata, citation for, 9 Appeal §§ 491, 824

Opinion of reviewing court—Cont’d
citation to unpublished opinion—Cont’d
review granted, effect of, 9 Appeal § 822
rule prohibiting, 9 Appeal § 820 et seq.
Code Commissioners’ notes, citation of, 9 Appeal § 796
concurring opinion, 9 Appeal § 807 et seq.
classical requirement of, 9 Appeal § 779
content, 9 Appeal § 792 et seq.
Court of Appeal opinion
adoption of by Supreme Court, 9 Appeal § 784
dismissal of review by Supreme Court, effect on, 9 Appeal § 943
grant of review, effect of, 9 Appeal §§ 951, 952
suggestions to Supreme Court in, 9 Appeal § 803
danger to public, warning of, 9 Appeal § 806
decision not on merits, effect of, 9 Appeal § 780
depublication, see publication or nonpublication (this group)
dismissal of appeal, 9 Appeal § 780
dissenting opinion
in general, 9 Appeal § 810 et seq.
format, 9 Appeal § 811
majority’s answer to, 9 Appeal § 812
purpose, 9 Appeal § 810
style, 9 Appeal § 811
editing by Reporter of Decisions, 9 Appeal § 831
elements of, 9 Appeal § 793
embarrassing facts, elimination of, 9 Appeal § 799
federal court opinion, adoption of, 9 Appeal § 785
filing of
in general, 9 Appeal § 831
finality of judgment, effect on, see Judgment on appeal
footnotes, 9 Appeal § 797
form, 9 Appeal §§ 781 et seq.
function of, 9 Appeal § 781
gender-specific terms, use of, 9 Appeal § 800
guidelines for, 9 Appeal § 792

Index-294
Opinion of reviewing court—Cont’d
Judicial Council reports, citation of, 9
Appeal § 796
law reviews, citation of, 9 Appeal § 795
Law Revision Commission reports, citation of, 9 Appeal § 796
legal ethics opinions, 9 Appeal § 796
legislative action, suggestions for, 9
Appeal § 802
Legislative Counsel’s digest, citation of, 9
Appeal § 796
legislative reports, citation of, 9 Appeal § 796
memorandum opinion
in general, 9 Appeal §§ 783, 788 et seq.
cases appropriate for, 9 Appeal § 790
constitutionality of, 9 Appeal § 788
Judicial Council standard for, 9 Appeal § 790
nature of, 9 Appeal § 788
types of, 9 Appeal § 788
models for, 9 Appeal § 792
modification of judgment, see Judgment on appeal
nonpublication, see publication or nonpublication (this group)
orientation statement in, 9 Appeal § 793
overruling of, see Stare decisis
partial publication
in general, 9 Appeal § 826 et seq.
guidelines, 9 Appeal § 827
nature of, 9 Appeal § 826
purpose, 9 Appeal § 826
rule governing, 9 Appeal § 828
parties
advice to, 9 Appeal § 804
name, elimination of, 9 Appeal § 799
per curiam opinion, 9 Appeal § 783
persuasive value of, see Stare decisis
precedential effect of, see Stare decisis
public danger, warning of, 9 Appeal § 806
publication or nonpublication
in general, 9 Appeal § 813 et seq.
certification, see certification for publication (this group)
depublication, order for, 9 Appeal § 816 et seq.
duplication request for, 9 Appeal § 819
grant of review, effect of, 9 Appeal §§ 951, 952
Opinion of reviewing court—Cont’d
publication or nonpublication—Cont’d
mistaken publication of superseded case, 9 Appeal § 814
partial publication, see partial publication (this group)
precedential effect of, see Stare decisis
publication, request for, 9 Appeal § 819
review by Supreme Court, effect of grant of, 9 Appeal § 814
rule governing, 9 Appeal § 814
unpublished opinion, see citation to unpublished opinion (this group);
unpublished opinion (this group)
unreported opinion, see Stare decisis
remittitur, use of opinion before issuance, 9 Appeal § 844*
rendition of, 9 Appeal § 831
Reporter of Decisions, editing by, 9
Appeal § 831
requirement of, 9 Appeal § 779 et seq.
res judicata, see Res judicata
Restatements, citation of, 9 Appeal § 795
selective publication, see publication or nonpublication (this group)
short opinions, 9 Appeal §§ 786, 787
stare decisis, see Stare decisis
statutes, citation of, 9 Appeal § 794
suggestions to others, 9 Appeal § 802 et seq.
transmission of copies by clerk, 9 Appeal §§ 831, 1018
treatises, citation of, 9 Appeal § 795
trial court
adoption of opinion, 9 Appeal § 785
advice to, 9 Appeal § 805
criticism of, 9 Appeal § 801
Uniform Laws, citation to Commissioners’ notes, 9 Appeal § 796
unpublished opinion
citation of, see citation to unpublished opinion (this group)
certification, see certification for publication (this group)
depublication, order for, 9 Appeal § 813 et seq.
duplication request for, 9 Appeal § 819
grant of review, effect of, 9 Appeal §§ 951, 952
Opticians
security for costs in malpractice actions, see Security for costs
Optometrists
security for costs in malpractice actions, see Security for costs
State Board of Optometry, 9 Admin Proc § 200

Oral argument, see Appeal

Order to show cause
in general, 3 Actions § 962; 6 PWT § 60 et seq.
application, 6 PWT § 62
certification of pleadings, sanctions proceeding, 7 Trial § 239
defined, 6 PWT § 60
definition, 6 PWT § 60
injunction, 3 PWT § 62
jurisdiction, 7 PWT § 62
mandamus, effect on, 8 Writs § 120
motion compared, 6 PWT § 60
preliminary injunction, 3 Prov Rem § 368
procedure, 6 PWT § 62
proceeding, 7 PWT § 57
process distinguished, 3 Actions § 962
service, 6 PWT § 62
supporting papers, 6 PWT § 62
temporary restraining order, for, 6 Prov Rem § 364
writ, 6 PWT § 61; 8 Writs § 188 et seq.

Orders
in general, 6 PWT §§ 44, 45
appeal, see Appeal; Appealable judgments and orders; Notice of appeal; Record on appeal
application for, 6 PWT § 1
attachment, see Attachment
class actions, see Class actions
court, notice by, 6 PWT § 45
defined, 6 PWT §§ 1, 44
demurrer, 5 Plead § 982 et seq.
deposit in court, order directing, 6 Prov Rem § 463
electronic means, submission by, 6 PWT § 44*
filing, 6 PWT § 44
formal requisites, 6 PWT § 44
injunctions, see Injunctions
interlocutory, see Interlocutory judgments and orders
judgment distinguished, 7 Judgm § 8

Orders—Cont’d
law of the case, application of, see Law of the case
minute order
in general, 6 PWT § 44
appeal from, see Appealable judgments and orders
motions, see Motions
new trial, see New trial
nonsuit, see Nonsuit
notification of parties, 6 PWT § 45
order to show cause, see Order to show cause
prevailing party, notice by, 6 PWT § 45
proposed order
ex parte proceedings, 6 PWT § 59
notice of motion, submission with, 6 PWT §§ 9, 44
time for preparing or responding to, 6 PWT § 31
reconsideration of order, see Motions
record on appeal, inclusion in, see Record on appeal
relief from judgment, see Relief from judgment
sealing order, nonparty seeking to vacate, 6 PWT § 46
show cause, see Order to show cause
signature, 6 PWT § 44
submission by electronic means, 6 PWT § 44*
summary judgment, see Summary judgment
vacation of, see Vacating judgment
waiver of error, seeking of order as, 9 Appeal § 397*
withdrawal by attorney, see Attorney-client relationship

Ordinance
declaratory relief, see Declaratory relief
enforcement of invalid ordinance, injunction against, 6 Prov Rem § 331
invalid, injunctions against, 6 Prov Rem §§ 331, 332
pleading, 4 Plead § 389
zoning ordinances, see Zoning

Osteopaths
security for costs in malpractice actions, see Security for costs
Overtime compensation
class action
recover, to, 4 Plead § 306

Paralegals
authorized activities of, 1 Attys § 381
conflicts of interest involving, 1 Attys § 150
c consumer cause of action against, 1 Attys § 381
educational requirements for, 1 Attys § 381
fees for services of, see Attorneys’ fees
legal document assistants, 1 Attys § 382
liability of attorney for harm caused by, 1 Attys § 381
offenses, 1 Attys § 381
unlawful practice of law by, 1 Attys § 381

Parens patriae, see Real party in interest

Parent and child
adoption, see Adoption
compulsory joinder in parents’ action for injury to child, 4 Plead § 193
illegitimate children
domicile of, 2 Jurisd § 132
joinder in parents’ action for injury to child, 4 Plead § 193
liability of parent
pleading, 5 Plead § 924
Rules of Court appendix on calculation of limits of, 2 Courts § 198
minor as parent, capacity to sue and be sued, see Capacity to sue and be sued
parental relation, determination of, 5 Plead § 856
parental rights termination, see Termination of parental rights
paternity, see Paternity
real party in interest, see Real party in interest
Rules of Court appendix on calculation of liability limits, 2 Courts § 198
termination of parental relationship and rights, see Termination of parental rights

Parks and recreation areas
Department of Parks and Recreation, 9 Admin Proc § 186

Parol evidence rule
conflict of laws, see Contracts conflict of laws
unenforceable contract, nature of action based on, 3 Actions § 167

Parole
tolling of limitations period, effect on, 3 Actions § 703

Parties
in general, 4 Plead § 67 et seq.
adминист rative agency as party, 4 Plead § 69
agency, pleading of, 5 Plead §§ 919, 920
appeal, parties to, see Appeal
appellate practice, designation of, 4 Plead § 67
capacity to sue and be sued, see Capacity to sue and be sued
class actions, see Class actions
complaint, naming in, see Complaint
conflict of laws regarding, 3 Actions § 46
corporation as party, 4 Plead § 69
creditor’s action against judgment debtor,
see Creditor’s action
cross actions, designation in, 4 Plead § 67
death of party
in general, 4 Plead § 259 et seq.
abatement of action after, see Survival and abatement of actions
limitations period, effect on, 3 Actions §§ 694, 717 et seq.
substitution after, see substitution (this group)
survival of action after, see Survival and abatement of actions
tolling of limitations period, 3 Actions §§ 694, 717 et seq.
defects in, 2 Jurisd §§ 208, 289
designation of, 4 Plead § 67
disability of party, 4 Plead § 259 et seq.
Doe defendants, see Fictitious defendants
entity, requirement to be party, 4 Plead § 69
estate as party, 4 Plead § 69
family law proceedings, designation in, 4 Plead § 67
fictitious defendants, see Fictitious defendants
incapacity of, equitable relief against judgment based on, 8 Attack § 231
Parties—Cont’d

instructions to jury, 7 Trial § 288
interpleader, see Interpleader
intervention, see Intervention
joinder, see Joinder
joint tortfeasors, see Joint and contribut-
ing tortfeasors
jury instructions, 7 Trial § 288
misconduct of as grounds for new trial, see New trial
new trial, party misconduct as ground, see New trial
notice of appeal, see Notice of appeal
partnership as party, 4 Plead § 69
petitioner on writ, see Writs
plaintiff and defendant, party appearing as, 4 Plead § 68
real party in interest, see Real party in interest
relief from judgment, entitlement to, see Relief from judgment
respondent on writ, see Writs
service of process on, see Process
small claims court, see Small claims court
special proceedings, designation in, 4 Plead § 67
substitution
in general, 4 Plead § 259 et seq.
amendment of pleadings, substitution by, see Amendment of pleadings
appeal, substitution on, see Appeal
continuation in name of original party after transfer of interest, 4 Plead § 262
death, unnecessary substitution after, 4 Plead § 261
debtor in bankruptcy, standing to continue, 4 Plead § 262
denial of, appealability of, see Appealable judgments and orders
ex parte proceedings, 4 Plead §§ 260, 265
intervention compared, 4 Plead § 215
motion, 4 Plead §§ 260, 265
necessity, 4 Plead § 259
nonresident party, 4 Plead § 260
orders relating to, appeal of, see Appealable judgments and orders
probate claim, 4 Plead § 260
procedure, 4 Plead §§ 260, 265

Parties—Cont’d

substitution—Cont’d
public officer, succession of, 4 Plead § 266
transfer of interest, effect of, 4 Plead § 262 et seq.
writs, see Writs
Partition
appeal, see Appealable judgments and orders
attorneys’ fees, 7 Judgm §§ 189A*, 219
costs, see Costs
cotenants, by, see Partition by cotenants
 equitable nature of action, 3 Actions § 129; 5 Plead § 679
injunction, 6 Prov Rem § 291
interlocutory order for, 7 Judgm § 21
pleading in partition action
in general, 5 Plead § 679 et seq.
answer, 5 Plead § 1115
complaint allegations generally, 5 Plead § 679
condominium project, allegations for, 5 Plead § 684
contribution, 5 Plead § 1115
interests in property, 5 Plead § 681 et seq.
lien of defendant, 5 Plead § 1115
oil or gas lease, property subject to, 5 Plead § 682
ownership of property, 5 Plead § 680
property subject to action, 5 Plead § 683
sale, justification for, 5 Plead § 684
title report, expense in procuring, 5 Plead § 684
receiver, appointment of, 6 Prov Rem § 440
reference, see Partition by cotenants
summons, 3 Actions § 987
temporary restraining order, 6 Prov Rem § 291
venue of actions, 3 Actions § 798
Partition by cotenants
limitations period for action, 3 Actions § 492
Partnerships
alternative dispute resolution for, 6 PWT § 482

Index-298
Index

Partnerships—Cont’d
attachment, availability against partner or partnership, 6 Prov Rem § 71
capacity
sue and be sued, see Capacity to sue and be sued
client of attorney, partnership as, see Attorney-client relationship
complaint, naming in, 4 Plead § 474
dissolution
law partnerships, see Law partnerships
limited civil case, 2 Courts § 246
diversity of citizenship jurisdiction, see Federal courts
execution of money judgment against partnership interest, see Execution and levy
foreign
jurisdiction over, see Jurisdiction
service of process on, see Process
instructions to jury, 7 Trial § 284
jurisdiction
diversity of citizenship jurisdiction in cases involving, see Federal courts
personal jurisdiction over, see Jurisdiction
jury instructions, 7 Trial § 284
law partnerships, see Law partnerships
legal representation of, see Attorney-client relationship
party to action, as, 4 Plead § 69
personal jurisdiction over, 2 Jurisd §§ 181, 182
receiver, appointment in action between partners, 6 Prov Rem § 428
service of process on, see Process
Passage of property to surviving spouse
appeal, see Probate proceedings
determination or confirmation of community property
appeal, see Probate proceedings
Patents
in general, see Inventions
Paternity—Cont’d
jurisdiction, 2 Jurisd § 284
jury trial, 7 Trial § 92
proceeding to determine, 5 Plead §§ 856, 898
res judicata, see Res judicata
separate trial of, 7 Trial § 157
venue for proceedings, see Change of venue; Venue
voluntary acknowledgment
Uniform Interstate Family Support Act
action, effect on, see Uniform Interstate Family Support Act
Pawbnokers
appeal by, 9 Appeal § 33*
Payment bond
action on, 3 Actions §§ 222, 222A*
Pedestrians
Pedestrian Mall Law claims, government tort claims requirement applicability, 3 Actions § 240
Pensions and retirement benefits
accrual of actions, 3 Actions §§ 653, 669
class actions, 4 Plead § 306
exemption from execution for, 8 Enf Judgm § 200 et seq.
garnishment of pension benefits, 8 Enf Judgm § 139
judges’ retirement benefits, 2 Courts § 9
limitation and accrual of actions, 3 Actions §§ 653, 669
public officers and employees
California Public Employees Retirement System, 9 Admin Proc § 191
federal court jurisdiction over government pension claims, 2 Jurisd § 85
government tort claims requirement applicability, see Government tort claims
judges, 2 Courts § 9
limitations periods for actions, 3 Actions § 653
quasi in rem jurisdiction over, 2 Jurisd § 260
PERB, see Public Employment Relations Board
Peremptory challenge to judge
in general, 2 Courts § 129 et seq.
Peremptory challenge to judge—Cont’d
actions to which applicable, 2 Courts § 132
affidavit, 2 Courts § 133
all purpose assignment, effect of, 2 Courts § 144 et seq.
assignment to department, effect of, 2 Courts § 143
automatic reassignment, 2 Courts § 134
chambers conference, challenge after, 2 Courts § 156
codefendant’s challenge, effect of, 2 Courts § 134*
Commission on Judicial Performance, see Commission on Judicial Performance
conservatorship proceedings, 2 Courts § 155
continuance, challenge after, 2 Courts § 156
continuation in proceeding, challenge in, 2 Courts § 152 et seq.
coordination judge, challenge to, see Coordination of actions
courts to which applicable, 2 Courts § 132
criminal proceedings in general, 2 Courts §§ 153, 156
cross-defendant, challenge by, 2 Courts § 136
delay of trial, effect on dismissal for, 6 PWT § 402
demurrer, challenge after overruling, 2 Courts § 156
disqualification of attorney as incompetent, challenge after, 2 Courts § 156
effect of, 2 Courts §§ 135, 136
ex parte hearing, after, 2 Courts § 156*
family law proceedings, 2 Courts § 154
fast track rules, see Trial court delay reduction
implied waiver, 2 Courts § 158
indictment, challenge after motion to set aside, 2 Courts § 156
information, challenge after motion to amend, 2 Courts § 156
judge known before trial, time for motion, 2 Courts §§ 142, 143
judgment on pleadings, challenge after, 2 Courts § 156
jurisdiction of challenged judge, 2 Courts § 135

Peremptory challenge to judge—Cont’d
juvenile law proceedings, 2 Courts § 154
mandamus, review by, 2 Courts §§ 159, 160
master calendar assignment, effect of, 2 Courts §§ 147, 148
motion
motion without notice, 2 Courts § 133
subsequent notice, 2 Courts § 133*
new judge, challenge to, 2 Courts § 157
new trial after reversal, effect of, 2 Courts § 151
number of challenges, 2 Courts §§ 137, 138
one-judge court, effect of, 2 Courts § 149
oral statement, 2 Courts § 133
plea bargaining conference, challenge after, 2 Courts § 156
preliminary hearing, challenge after, 2 Courts § 156
prior action not on merits, 2 Courts § 156
procedure, 2 Courts §§ 133, 134
punitive damages, challenge after motion for discovery for, 2 Courts § 156*
racial bias, challenge for, 2 Courts § 139
rescinding of challenge, 2 Courts § 135
scope, 2 Courts § 132
settlement conference, authority to conduct, 2 Courts § 135
special appearance, as, 2 Jurisd § 234
summary judgment motion, challenge after, 2 Courts § 156
temporary restraining order, after ex parte hearing on, 2 Courts § 156
time for, 2 Courts §§ 132, 133, 140 et seq.
transfer, challenge after, 2 Courts § 156
trial court delay reduction rules, see Trial court delay reduction
waiver, implied, 2 Courts § 158

Peremptory writs, see Writs

Perjury and subornation
attorney discipline based on, see Attorney discipline
Perjury and subornation—Cont’d
contempt
distinguished, 7 Trial § 174
division of property on dissolution of marriage, grounds for relief from judgment, 8 Attack § 2
spousal support award, as ground for setting aside, 8 Attack § 2
withdrawal of criminal defense attorney based on client’s intention to commit perjury, see Attorney-client relationship

Personal injury actions
accrual of actions, see limitation and accrual of actions (this group)
attorneys’ fees, see Attorneys’ fees
consolidation of actions, see Consolidation of actions
damages, statement of, see Complaint default judgment, service of statement of damages, 6 PWT § 154 et seq.
exemption from execution for damages, see Exemptions from execution
government tort claims, see Government tort claims
Judicial Council forms, see Judicial Council
jury trial, 7 Trial § 84
latent defects in real property, action based on, see Real property limitation and accrual of actions in general, 3 Actions §§ 482, 552 et seq.
latent defects in real property, action based on, 3 Actions §§ 488, 608 et seq., 721
public entity or employee, action against, 3 Actions § 690
prevailing party for costs when judgment could have been rendered in limited civil case or small claims court, 7 Judgm § 100
statement of damages, see Complaint statute of limitations, see limitation and accrual of actions (this group)
venue, 3 Actions § 832
wrongful death, see Wrongful death

Personal jurisdiction, see Jurisdiction

Personal property—Cont’d
attachment, see Attachment
in rem jurisdiction, see Jurisdiction injunction to protect interest in, 6 Prov Rem § 309
injury actions
accrual of actions, 3 Actions § 623 et seq.
instructions to jury, 7 Trial § 287
jury trial, 7 Trial § 84
limitations period, 3 Actions § 619 et seq.
special property, accrual of action, 3 Actions § 623
venue, 3 Actions §§ 822, 833
instructions to jury in actions involving, 7 Trial § 287
lis pendens, effect of, 3 Actions § 388
quasi in rem jurisdiction, see Jurisdiction recovery of defenses in action for, see Answer judgment for specific recovery of personal property, 7 Judgm § 32
jury trial, 7 Trial § 84
writ of possession, see Writ of possession of personal property

Personal representative, see Executors and administrators; Real party in interest

Personal sureties, see Sureties

Pest control
Department of Pesticide Regulation, 9 Admin Proc § 168

Pesticides
in general, see Pest control

Pharmacists
California State Board of Pharmacy, 9 Admin Proc § 201

Pharmaceuticals
security for costs, see Security for costs

Physical and mental examination
attorney disciplinary proceedings, see Attorney discipline

Physical therapists
security for costs, see Security for costs

Physicians
hospital staff privileges
administrative mandamus review, 8 Writs §§ 285, 295 et seq.

Index-301
Physicians—Cont’d
hospital staff privileges—Cont’d
denial, limitation and accrual of action, 3 Actions § 649
mandamus to compel, 8 Writs § 98
malpractice, see Medical malpractice
Medical Board of California, 9 Admin Proc § 199
security for costs, 3 Actions § 359

Picketing
labor law, see Labor law

Piercing corporate veil, see Disregard of corporate entity

Plagiarism
contract action based on, 3 Actions § 157
tort action based on, 3 Actions § 157

Plaintiffs
in general, see Parties
attachment, see Attachment
claim and delivery, see Claim and delivery
defined for involuntary dismissal for delay, 6 PWT § 315
fictitious plaintiff, see Complaint
joinder, see Joinder
relief from judgment for, see Relief from judgment

Plea bargaining
peremptory challenge to judge after conference, 2 Courts § 156

Plea in abatement
in general, 5 Plead § 1129 et seq.
action prematurely brought
in general, 5 Plead § 1151 et seq.
mootness distinguished, 5 Plead § 1152
arbitration clause, specific pleading of, 5 Plead § 1129
construction of, 5 Plead § 1130
cure of defect, effect of, 5 Plead § 1132
delay in raising, waiver by, 5 Plead § 1131
disfavored nature of, 5 Plead § 1130 et seq.
interlocutory order in trial of, 7 Judgm § 21
lack of capacity to sue
in general, 5 Plead § 1133 et seq.
corporation, 5 Plead § 1134

Plea in abatement—Cont’d
lack of capacity to sue—Cont’d
fictitious business name, effect of, 5 Plead § 1135
foreign corporation, 5 Plead § 1134
nature of plea, 5 Plead § 1129
objections to pleadings, raising by, 3 Actions § 12
other action pending
in general, 5 Plead § 1138 et seq.
causes of action abated, 5 Plead §§ 1142, 1145
condemnation proceedings, 5 Plead § 1143
final judgment, effect of, 5 Plead § 1139
manner of pleading, 5 Plead § 1148
other state, action pending in, effect of, 5 Plead § 1141
parties abated, 5 Plead §§ 1142, 1146
pendency of first action, 5 Plead § 1139 et seq.
probate proceedings, 5 Plead § 1144
rejection of plea, 5 Plead § 1150
remedies sought, effect of, 5 Plead § 1147
sustaining of plea, 5 Plead § 1149
voluntary dismissal, effect of, 5 Plead § 1139
parties, defects relating to
misjoinder, 5 Plead § 1137
nonjoinder, 5 Plead § 1136
premature action, 5 Plead § 1511 et seq.
waiver by delay in raising, 5 Plead § 1131 et seq.

Pleading
in general, 4 Plead § 1 et seq.; 5 Plead § 631 et seq.
abandonment of asset by trustee in bankruptcy, pleading of, 4 Plead § 387
administrative determination, pleading of, 4 Plead § 390
admissions, judicial, see Admissions affirmative defenses, see Answer agency, pleading of, 4 Plead § 387
alternative, pleading in, see inconsistent or alternative counts (this group)
amendment, see Amendment of pleadings answer, see Answer

Index-302
Pleading—Cont’d

anticipating defenses
  in general, 4 Plead § 420 et seq.
  effect of, 4 Plead § 421 et seq.
  failure to deny, effect of, 4 Plead § 422
  motion to strike, 4 Plead § 423
  negative averments as part of cause of
  action, 4 Plead § 426
  rule against, 4 Plead § 420
  statutory bar, pleading to escape, 4
  Plead § 425
waiver of objections, 4 Plead § 424
applications related to, 4 Plead § 6
“arbitrary,” pleading of, 4 Plead § 384
argumentative pleading, 4 Plead § 392 et
seq.
attorney discipline based on, see Attorney
discipline
authorized pleadings in civil action, 4
  Plead § 4 et seq.
bill of particulars, demand for, see Bill of
  particulars
binding requirements, 4 Plead § 14
capacity to sue and be sued, see Capacity
to sue and be sued
caption requirements
  in general, 4 Plead § 17
  consolidated cases, 4 Plead § 344
case cover sheet requirement, 4 Plead
  § 18
cause of action, see Cause of action
certification of
  in general, 4 Plead § 469
  bad faith, sanctions for, see Sanctions
  changes on face of, 4 Plead § 18
code pleading system, 4 Plead § 1 et seq.
colloquium, pleading of, see Defamation
  common counts, pleading of, 4 Plead
  § 391
compelling leave to file, mandamus
  review of order, 8 Writs § 107
complaint, see Complaint
conclusions of law, 4 Plead §§ 384 et seq.,
  388 et seq.
conditions precedent, pleading of, see
  Cause of action
conflict of laws regarding, 3 Actions § 46
conformed copies, 4 Plead § 18
consideration, pleading of, see Cause of
  action

Pleading—Cont’d

consolidation of actions, see Consolidation
  of actions
construction of pleadings
  in general, 4 Plead § 442 et seq.
  against pleader, 4 Plead §§ 448, 449
  amendment, failure to remove defect
  by, 4 Plead § 449
  compelling nature of case, effect of, 4
  Plead § 447
  failure to demur, effect of, 4 Plead
  § 445
  in favor of pleader, 4 Plead § 442 et
  seq.
  liberal construction, 4 Plead § 442 et
  seq.
  prayer, allegations as controlling, 4
  Plead § 451
  special proceedings, 4 Plead § 443
  specific allegations controlling over
  general, 4 Plead § 450
  title, allegations as controlling, 4 Plead
  § 451
  trial on merits, effect of, 4 Plead § 446
conversion, see Conversion of personal
  property
cross-complaint, see Cross-complaint
debt, allegations relating to, 4 Plead § 385
deceit, see Fraud and deceit
defects in, see Errors; Reversible or harm-
less error
defenses, see Answer
defined, 4 Plead § 4
demand for relief, see Prayer
demurrer, see Demurrer
discipline of attorney based on, see
  Attorney discipline
disregard of corporate entity, 5 Plead
  § 927
dissolution of marriage, 5 Plead § 891 et
  seq.
drop box filing, 4 Plead § 19
economic litigation, limited civil cases,
  see Limited civil case
electronic filing, 4 Plead §§ 13*, 14*, 21
  et seq.
eminent domain, see Eminent domain
evidentiary pleading, 4 Plead § 392 et seq.
events, 4 Plead § 18*
extension of time to plead
  in general, 4 Plead § 10 et seq.
Pleading—Cont’d
extension of time to plead—Cont’d
certiorari review of order, 8 Writs § 37
facts, required pleading of, 4 Plead § 378
family law proceedings, see Family law
fax filing, 4 Plead § 20
federal rules
in general, 4 Plead § 2
notice pleading, 4 Plead § 378
fees, see Filing fees
fiduciary, allegations relating to, 4 Plead § 386
filing, 4 Plead § 19 et seq.
first page format requirements, 4 Plead § 17
footer requirements, 4 Plead § 15
form of
in general, 4 Plead § 13 et seq.
defect of, 4 Plead § 395
forms, use of, 4 Plead §§ 4, 380 et seq.
fraud, see Fraud and deceit
hole punch requirements, 4 Plead § 384
illegality, pleading of, 4 Plead § 384
improper pleading, effect of, 4 Plead § 383
in forma pauperis suit, see In forma pauperis suit
inconsistent or alternative counts
in general, 4 Plead § 400 et seq.
admissions, effect of, 4 Plead § 410
contract actions, 4 Plead § 407
contradictions of fact in verified pleading,
4 Plead § 411
defendants joined in alternative,
4 Plead § 405
election, 4 Plead §§ 406, 409
facts, doubt as to, 4 Plead § 403
judgment, inconsistency of,
4 Plead § 410
right to plead, 4 Plead §§ 402, 409 et seq.
rights, doubt as to, 4 Plead § 404
rule against pleading in alternative, 4 Plead §§ 400, 401
tort actions, 4 Plead § 408
incorporation by reference, see Incorporation by reference
indirect allegations, 4 Plead §§ 394, 395
inferential pleading, 4 Plead § 392 et seq.
information and belief, allegations on,
4 Plead §§ 398, 399

Pleading—Cont’d
instrument, allegations relating to, 4 Plead § 385
intent, pleading of, 4 Plead § 387
interpleader, see Interpleader
intervention, see Intervention
invalidity, pleading of, 4 Plead § 384
invitee, pleading of, 4 Plead § 387
joinder, see Joinder
judgment, pleading of, 4 Plead § 390
judgment on, see Judgment on pleadings
judicial admissions, see Admissions
Judicial Council forms, see Judicial Council
judicially noticed facts, 4 Plead § 439 et seq.
jurisdiction, effect of defects in pleading
on, 2 Jurisd § 100
knowledge, pleading of, 4 Plead § 387
law of the case, application of, see Law of the case
leave to file, mandamus review of order
compelling, 8 Writs § 107
legal or equitable action, effect on determina-
tion, 3 Actions § 122
legislative intent, pleading of, 4 Plead § 387
limitation and accrual of actions
in general, 4 Plead § 391; 5 Plead § 1117 et seq.
facts, pleading, 5 Plead § 1119
form, 5 Plead § 1119 et seq.
personal representative, raising of defense by,
5 Plead § 1118
special pleading requirement, 5 Plead § 1117
statute, pleading, 5 Plead §§ 1120, 1121
substantive right, effect of statute limiting,
5 Plead § 1118
limited civil case, see Limited civil cases
line numbering requirements, 4 Plead § 16
local rules, preemption of
in general, 4 Plead § 4
forms of pleading, 4 Plead § 13
mandamus review of orders, 8 Writs § 106 et seq.
mandamus to compel, 8 Writs § 107
margin requirements, 4 Plead § 15
motion to strike, see Motion to strike
motions related to, 4 Plead § 6

Index-304
Pleading—Cont’d
multipage form requirements, 4 Plead § 15
negating defenses, see anticipating defenses (this group)
negligence, pleading of, 4 Plead § 387
nonpayment, 5 Plead § 913
notice pleading, 4 Plead § 379
numbering requirements, 4 Plead § 16
official capacity, allegations relating to, 4 Plead § 386
ordinance, pleading of, 4 Plead § 389
ownership, pleading of, 4 Plead § 387
page numbering requirements, 4 Plead § 16
paper requirements, 4 Plead § 14
parent liability for child, 5 Plead § 924
parties, see Parties
piercing corporate veil, 5 Plead § 927
plea in abatement, raising objections by, 3 Actions § 12
prayer, see Prayer
presumption, applicability of, 4 Plead § 438
printing requirements, 4 Plead § 15
private statute, pleading of, 4 Plead § 389
proposed, requirement for relief from judgment, see Relief from judgment
proximate cause, pleading of, 4 Plead § 387
purposes, 4 Plead § 1
real party in interest, see Real party in interest
recitals in document, reliance on, 4 Plead § 393
recycled paper requirements, 4 Plead § 14
rejection of papers by clerk, 4 Plead § 13
removal to federal court, effect on time to plead, 4 Plead § 7
replication, 4 Plead § 4
reply, 4 Plead § 4
respondeat superior, see Respondeat superior
right to plead, effect of impairment of, 2 Jurisd § 307
right to sue, see Real party in interest
scope of employment, pleading of, 4 Plead § 387
separate statement requirements, 4 Plead § 18
service, see Process

Pleading—Cont’d
severance of actions, see Severance of actions
small claims court, see Small claims court
spacing requirements, 4 Plead § 15
special proceedings, see Special proceedings
statute of limitations, see limitation and accrual of actions (this group)
stipulations regarding, see Stipulations
striking pleading, see Motion to strike
subject matter jurisdiction, see Jurisdiction
substitute for, 4 Plead § 394
substitution of parties, see Parties
summary judgment, role in, see Summary judgment
supplemental pleadings, see Supplemental pleading
time to plead in general, 4 Plead § 412 et seq.
alternative theories, effect of, 4 Plead § 418
contract, quasi-contract, and tort theories, 4 Plead § 415
equity and law theories, 4 Plead § 414
form of action, theory determining, 4 Plead § 419
indefinite theory, effect of, 4 Plead § 417
nature of problem, 4 Plead § 412
recovery contrary to theory of complaint, 4 Plead § 414 et seq.
repudiation of doctrine, 4 Plead § 413
time to plead in general, 4 Plead § 7 et seq.
extension of, see extension of time to plead (this group)
title, pleading of, 4 Plead § 387
truthful pleading, effect of, 4 Plead § 397
ultimate facts, 4 Plead § 387
unlawfulness, pleading of, 4 Plead § 384
variance from, see Errors
verification, see Verification of pleadings
will contest, pleading of standing in, 4 Plead § 387
without right, pleading of, 4 Plead § 384
wrongful, pleading of, 4 Plead § 384

Podiatrists
security for costs, see Security for costs

Index-305
Points and authorities, see Memorandum of authorities; New trial; Relief from judgment

Police and correctional activities
Highway Patrol, Department of, 9 Admin Proc § 158
interference with as excess of jurisdiction, 2 Jurisd § 325

Political controversies, see Justiciable controversy

Political Reform Act, see California Political Reform Act

Pollution control
air pollution, see Air pollution exhaustion of administrative remedies for actions involving, 3 Actions § 331
limitation and accrual of actions, 3 Actions § 483
Porter-Cologne Water Quality Control Act, see Porter-Cologne Water Quality Control Act
statute of limitations, 3 Actions § 483

Porter-Cologne Water Quality Control Act
limitation and accrual of actions, 3 Actions § 483
statute of limitations, 3 Actions § 483

Power of attorney
appeals, 9 Appeal § 220
practice of law based on, see Attorneys

Power of Attorney Law
venue for proceedings, 3 Actions § 808

Prayer
in general, 4 Plead § 49 et seq.
allegations as controlling over, 4 Plead § 451
amount in controversy, effect on determining, see Amount in controversy
answer, requirement of prayer in, 5 Plead § 1047
argument, reference to demand in, 7 Trial § 164
contested case, effect of insufficient prayer, 4 Plead § 497
damages, pleading of, 5 Plead § 933 et seq.

Prayer—Cont’d
default judgment based on, 4 Plead § 498;
6 PWT §§ 149, 150
defendant’s, effect on legal or equitable nature of proceedings, 3 Actions § 136
demurrer to, 5 Plead § 957
form, 4 Plead §§ 471, 496
increasing demand in presence of jury as misconduct, 7 Trial § 223
insufficient prayer, effect of, 4 Plead §§ 497, 498
jury instruction on amount of, 7 Trial § 276
legal or equitable nature of proceedings, effect on, 3 Actions §§ 125, 135, 136
nature of, 4 Plead § 495
petition for writ, see Writs
plaintiff’s, effect on legal or equitable nature of proceedings, 3 Actions §§ 125, 135
writ petition, see Writs

Preliminary examination
peremptory challenge to judge after, 2 Courts § 156

Preliminary hearing, see Preliminary examination

Preliminary injunctions, see Injunctions

Preponderance of evidence
conservatorship of gravely disabled persons proceedings, 3 Actions § 107

Presumptions
pleading
civil cases, 4 Plead § 438
uniqueness of real property, 3 Actions § 404

Prevailing party
appeal, 9 Appeal § 954 et seq.
attorneys’ fees recovery
in general, 7 Judgm § 194 et seq.
Civil Rights Attorneys’ Fees Awards Act, 7 Judgm § 244
discretion of judge, 7 Judgm § 197 et seq.
Fair Employment and Housing Act actions, 7 Judgm § 217
final disposition requirement, 7 Judgm § 196
Prevailing party—Cont’d

attorneys’ fees recovery—Cont’d
final judgment, necessity of, 7 Judgm § 195
multiple prevailing parties, effect of, 7 Judgm § 198
no prevailing party determination, 7 Judgm § 199
“prevailing party” defined, 7 Judgm § 194
tender and deposit, effect of proof of, 7 Judgm § 194
voluntary dismissal, see voluntary dismissal, effect on attorneys’ fees recovery (this group)
costs awarded as of right
in general, 7 Judgm § 88 et seq.
action for money in which defendant tenders full amount before trial, 7 Judgm § 95
Attorney General, civil enforcement actions by, 7 Judgm § 95
bad faith acts, 7 Judgm § 95
complaint in intervention, effect of, 7 Judgm § 90
cross-complaint, effect of, 7 Judgm §§ 90, 91, 93
default judgment, 7 Judgm § 95
defendant against whom plaintiff recovers nothing, 7 Judgm § 94
defendants united in interest, effect of, 7 Judgm § 94
defined, 7 Judgm § 88 et seq.
determination of, 7 Judgm § 89
dismissal, defendant who obtains, 7 Judgm § 92
eminent domain, 7 Judgm § 95
fire suppression costs, 7 Judgm § 95*
installment sales actions, 7 Judgm § 95
inverse condemnation, 7 Judgm § 95
neither party recovers, 7 Judgm § 93
net recovery, party who obtains as, 7 Judgm § 91
partition action, 7 Judgm § 95
settlement, effect on net recovery, 7 Judgm § 91
significance of, 7 Judgm § 88 et seq.
unlawful detainer action, 7 Judgm §§ 91, 95
costs awarded in court’s discretion, 7 Judgm § 97

Prevailing party—Cont’d

memorandum of costs, see Memorandum of costs
voluntary dismissal, effect on attorneys’ fees recovery
in general, 7 Judgm §§ 194, 200 et seq.
contractual arbitration, following commencement of, 7 Judgm § 202*
express reservation of costs and fees issued, effect of, 7 Judgm § 203
noncontract claims, fees incurred in defending, 7 Judgm § 201
other statute, right to fees arising under, 7 Judgm § 204
settlement after offer to compromise, effect of, 7 Judgm § 205
trial de novo following arbitration, dismissal of, 7 Judgm § 202

Principal and agent, see Agency

Priority and special setting for trial
civil cases, see Trial setting

Prisoners

appeal by, timeliness
in general, 9 Appeal § 12*
limited civil case, 9 Appeal § 1006*
appointment of counsel for indigent defendant in civil proceedings, 1 Attys § 49
attorneys
malpractice, tolling of limitations period for, 3 Actions § 646
capacity
sue and be sued, to, 4 Plead § 119
default judgment, entry against indigent, incarcerated, unrepresented individual, 6 PWT § 137
exhaustion of administrative remedies for actions by, see Exhaustion of administrative remedies
in forma pauperis suits by, see In forma pauperis suit
indigent defendant
appointment of counsel in civil proceedings for, 1 Attys § 49
malpractice, tolling of limitations period for, 3 Actions § 646
parole, see Parole
small claims court appearance excused for, 2 Courts § 299
Prisoners—Cont’d

tolling of limitations period during
imprisonment, see Limitation and
accrual of actions
transfers
investigative purposes, for, 2 Courts
§ 176*
trust account, exemption from execution
for, see Exemptions from execution

Privacy

injunctions concerning, see Injunctions
invasion of, see Invasion of privacy
medical records and information
administrative subpoenas for, 9 Admin
Proc § 103*

Private attorney general doctrine

—in general, 7 Judgm § 256 et seq.
abortion rights actions, 7 Judgm § 268
administrative proceeding, applicability
to, 7 Judgm § 293
amount of award
—in general, 7 Judgm § 316 et seq.
appeal, effect of greater success after, 7
Judgm § 319A*
budget act restrictions, effect of, 7
Judgm § 322
class action, 7 Judgm § 317
fees for fee litigation, 7 Judgm § 321
limited success, award after, 7 Judgm
§ 319
multiple defendants, effect of, 7 Judgm
§ 320
multiplier, 7 Judgm §§ 316, 321
public interest law firm, effect of represen-
tation by, 7 Judgm § 318
time spent obtaining award, effect of, 7
Judgm § 321
touchstone, 7 Judgm § 316
appellate court, determination by, 7
Judgm § 263
apportionment of fees, 7 Judgm § 261
attorney as recipient of fees, 7 Judgm
§§ 289, 290
business practices, actions challenging, 7
Judgm § 274
catalyst theory, 7 Judgm §§ 264, 265
causation requirement, 7 Judgm §§ 264, 265
civil rights, actions affecting, 7 Judgm
§ 271 et seq.

Private attorney general doctrine

—Cont’d
criminal defense, fees for, 7 Judgm § 278
criminal justice system, actions affecting,
7 Judgm § 267
criteria, 7 Judgm §§ 259, 261 et seq.
development actions, 7 Judgm § 266
dismissal statute, effect of, 7 Judgm § 259
electoral process, actions affecting, 7
Judgm § 270
employees, actions affecting civil rights
of, 7 Judgm § 271
environmental enforcement actions, 7
Judgm § 266
equal protection rights, actions involving,
7 Judgm § 273
equitable theory, 7 Judgm § 256 et seq.
financial burden of private enforcement, 7
Judgm §§ 262, 280
First Amendment defense to, 7 Judgm
§ 277
habeas corpus proceeding, applicability
to, 7 Judgm § 292
legal services attorney as recipient of fees,
7 Judgm § 287
lobbying efforts, fees for, 7 Judgm § 282
medical treatment, actions involving right
to refuse, 7 Judgm § 273
nature of statute, 7 Judgm § 259
no public interest vindicated, 7 Judgm
§ 279
nonprofit corporations, actions involving
members’ rights, 7 Judgm § 275
opposing party
determination of, 7 Judgm § 260
public interest, effect on, 7 Judgm
§ 278A*
other statutory grounds for fees, effect of,
7 Judgm § 283
petition, action for right to circulate, 7
Judgm § 269
pleading requirements, 7 Judgm § 259
private party cooperating with public
entity as recipient of fees, 7 Judgm
§ 286
pro. per. litigant as recipient of fees, 7
Judgm § 288
public entity as recipient of fees, 7 Judgm
§ 285
recipients of fees, 7 Judgm § 284 et seq.
scope of statute, 7 Judgm § 259

Index-308
Private attorney general doctrine
—Cont’d
settlement, award after, 7 Judgm § 294
students, actions affecting civil rights of, 7 Judgm § 272
success of party requirement, 7 Judgm § 281
timing of motion, 7 Judgm § 303
welfare benefits, actions involving, 7 Judgm § 266
writ proceeding in appellate court, applicability to, 7 Judgm § 291
zoning actions, 7 Judgm § 266

Private judges
in general, 6 PWT § 495 et seq.
procedure, rules governing, 6 PWT § 498
temporary judge, 6 PWT § 497
voluntary reference, 6 PWT § 496

Private schools
 colleges and universities, see Colleges and universities
 postsecondary, see Colleges and universities

Privilege
administrative proceedings, 9 Admin Proc § 30*
answer, raising defense by, see Answer children and minors, confidentiality of information about, 6 Prov Rem § 318*
demurrer, raising defense by, see Demurrer examination of judgment debtor proceedings, assertion at, see Examination proceedings judicial disciplinary proceedings, 2 Courts §§ 80, 86
tax returns, production in debtor examination proceedings, see Examination proceedings tort actions, raising defense by demurrer in, see Demurrer violation of, effect of, 2 Jurisd § 310

Privity
attorneys’ fees, see Attorneys’ fees collateral estoppel, see Collateral estoppel costs, see Costs
entry of judgment, see Entry of judgment finality of orders, see Res judicata

Privity—Cont’d
res judicata, see Res judicata
Secretary of State, costs award for, 3 Actions § 999; 7 Judgm § 127
service in general, 3 Actions §§ 965, 1002, 1032 et seq.
affidavit, 3 Actions § 1035 et seq.
amenability to service only by, effect on dismissal for delay, 6 PWT § 343
costs award for, 3 Actions § 999; 7 Judgm § 127
substituted service, costs award for, 3 Actions § 999; 7 Judgm § 127

Probate
appeal, see Probate proceedings
Coffey’s Probate Decisions, persuasive nature of, 9 Appeal § 486
specialist, certification of attorney as, 1 Atty § 10

Probate court
in general, 2 Courts § 218
equitable relief against judgment, see Equitable relief against judgment inherent powers of, 2 Courts § 174
jurisdiction in general, 2 Courts §§ 218, 222, 224, 230
priority of jurisdiction in, 2 Jurisd § 444

Probate jurisdiction
in general, 2 Jurisd § 2

Probate of will, see Probate proceedings

Probate proceedings
appeal in general, 9 Appeal § 202 et seq.
accounts, settlement of, 9 Appeal § 211
administration of estate, 9 Appeal § 215
admission of will, 9 Appeal § 212
appeal of, 9 Appeal § 212
automatic stay, 9 Appeal § 271
costs on, 9 Appeal § 967
debts, orders on payment and priority of, 9 Appeal §§ 209, 215
denial of appealable order, effect of, 9 Appeal § 204

Index-309
Probate proceedings—Cont’d
appeal—Cont’d
distribution, orders regarding, 9 Appeal § 217
expenses, appeal of orders regarding, 9 Appeal § 209
family protection, orders regarding, 9 Appeal § 216
fiduciaries, instructions to, 9 Appeal §§ 210, 271
heirship, orders regarding, 9 Appeal § 217
intestate succession, 9 Appeal § 217
judgment roll, appeal on, see Record on appeal jurisdiction, effect of appeal on, 9 Appeal § 21
letters of administration, orders regarding, 9 Appeal § 213
new trial motions, orders on, 9 Appeal § 206
nonappealable orders, 9 Appeal § 205
parties, 9 Appeal § 31
property transactions, orders on, 9 Appeal § 208
revocation of probate, 9 Appeal § 212
settlement of accounts, 9 Appeal § 211
small estates, orders regarding, 9 Appeal § 216
stay pending appeal, 9 Appeal § 271
surviving spouse, determination of passage of property to, 9 Appeal § 215
vacation of judgment motions, orders on, 9 Appeal § 207
will contest, orders regarding, 9 Appeal § 214
attorneys’ fees
in general, 1 Attys § 159
attorney’s lien for, 1 Attys § 167
claim for, 1 Attys § 208
certiorari review, 8 Writs § 36
chambers, hearing in, 2 Courts § 23
citation
in general, 3 Actions § 961
continuance, 7 Trial § 31
disqualification of judge based on interest in proceeding, 2 Courts § 106
-equitable relief against judgment, see Equitable relief against judgment
Probate proceedings—Cont’d
fast track rules, exclusion from, 2 Courts § 257
-federal jurisdiction over, 2 Jurisd § 85
fees
in general, 2 Courts § 180
-in forma pauperis suit, see In forma pauperis suit
in rem proceedings, as, 2 Jurisd § 245
inadvertence, availability of relief from judgment for, 8 Attack § 145
judgment in excess of jurisdiction, 2 Jurisd § 323
judgment roll
appeal on, see Record on appeal jurisdiction, see Jurisdiction
jury trial, 7 Trial §§ 90, 96
legal or equitable nature of, 3 Actions § 124
mistake, availability of relief from judgment for, 8 Attack § 145
motion to vacate judgment, appealability of orders on, 9 Appeal § 207
neglect, availability of relief from judgment for, 8 Attack § 145
new trial appealability of orders on motions for, 9 Appeal § 206
availability, 8 Attack §§ 22, 24
notice
in general, 3 Actions § 961
paralegal services, fees for, see Attorneys’ fees
special proceeding, probate of will as, 3 Actions § 65
stay pending appeal, 9 Appeal § 271
substitution of parties, 4 Plead § 260
summons, 3 Actions § 993
surprise, availability of relief from judgment for, 8 Attack § 145
trial court delay reduction rules, exclusion from, 2 Courts § 257
venue
in general, 3 Actions § 805 et seq.
verification
in general, 4 Plead § 466
voluntary dismissal of, 6 PWT § 292
Probation
attorney discipline, see Attorney discipline

Index-310
Probation—Cont’d
attorney malpractice action based on, see Attorney malpractice
restitution
tolling of limitations period during, 3 Actions § 756

Proceedings without trial
agreed case, see Agreed case
confession of judgment, see Confession of judgment
consent judgment, see Consent judgment
default judgment, see Default judgment
judgment on pleadings, see Judgment on pleadings
motions, see Motions
offer to compromise, see Offer to compromise
reference, see Referees
stipulated judgment, see Consent judgment
stipulations, see Stipulations
summary adjudication, see Summary adjudication
summary judgment, see Summary judgment

Process

in general, 3 Actions § 959 et seq.
abuse of, see Abuse of process
affidavits
posting, service by, 3 Actions §§ 1045, 1071
proof of service, 3 Actions § 1067
publication, service by, 3 Actions § 1035 et seq.
Secretary of State, appointment for service on corporations, 3 Actions §§ 1048, 1050
delay in service, involuntary dismissal for, see Involuntary dismissal for delay
Director of Department of Motor Vehicles, appointment for service on nonresident motorist, 3 Actions §§ 1026, 1027
dismissal for delay in service, see Involuntary dismissal for delay
electronic service
in general, 4 Plead § 24
court, on or by, 6 PWT § 28*
Judicial Council forms, 2 Courts § 413A*; 6 PWT § 29*
estate representative, nonresident, 3 Actions § 1025
federal procedure, 3 Actions § 965
foreign corporations, see corporations, service on (this group)
Foreign Sovereign Immunities Act, 3 Actions § 1006
guardian, ward of, service on, 3 Actions § 1061
Hague Service Convention, 3 Actions §§ 1004, 1005

Index-311
Process—Cont’d

immunity from process
  in general, 3 Actions § 971 et seq.
  diplomatic officer, 3 Actions § 980
  extradited criminal defendant, 3 Actions § 976
  legislator, 3 Actions § 979
  nonresident attorney, 3 Actions § 977
  nonresident party, 3 Actions § 973 et seq.
  nonresident performing public duty, 3 Actions § 978
  nonresident witness, 3 Actions §§ 971, 972
personal jurisdiction, effect on, 2 Jurisd § 126
involuntary dismissal for delay in service, see Involuntary dismissal for delay
joint stock company, service on, 3 Actions § 1053
Judicial Council forms
  notice of service by mail, 3 Actions § 1016
  proof of service, 3 Actions § 1068 et seq.
jurisdiction
  defects in process, effect on subject matter jurisdiction, 2 Jurisd § 101
  Jurisdiction and Process Statute, 2 Jurisd § 121
leaving copy, service by, see service by leaving copy (this group)
mail, service by, see service by mail (this group)
manner of service
  in general, 3 Actions §§ 965, 1000 et seq.
  leaving copy, service by, see service by leaving copy (this group)
  mail, service by, see service by mail (this group)
personal delivery outside state, see personal delivery outside state (this group)
personal service, see personal service (this group)
personal service inquiry, 3 Actions § 1008
outside state, see personal delivery outside state (this group)
outside United States, see service outside United States (this group)
proof of service, 3 Actions § 1068
sufficient attempted deliver, 3 Actions § 1009
physical delivery, attempted, 3 Actions § 1011*
pleadings, service of
  in general, 4 Plead § 29
acknowledgment of service as consent to jurisdiction, 2 Jurisd § 186
candidate for public office, service on, 3 Actions § 1062
consent to service of process on unknown agent as consent to jurisdiction, 2 Jurisd § 190
coordination of actions, see Coordination of actions
court order, under, 3 Actions § 1074
electronic service, 4 Plead § 24
extraterritorial service, 2 Jurisd § 187
fast track rules, 2 Courts § 262
foreign law, under, 3 Actions § 1073
holidays, service on, 2 Courts § 48
Process—Cont’d
pleadings, service of—Cont’d
Judicial Council forms, 2 Courts §§ 398, 427; 6 PWT § 20
Jurisdiction and Process Statute, 2 Jurisd § 121
small claims court, see Small claims court
statutory requirements for jurisdiction, 2 Jurisd §§ 120, 121
substituted service, see substituted service (this group)
trial court delay reduction rules, 2 Courts § 262
posting, service by, see service by posting (this group)
probate notice or citation, see Probate proceedings
proof of service
in general, 3 Actions § 1064 et seq.
affidavit, 3 Actions § 1067
amended proof, 3 Actions § 1075
certificate, 3 Actions § 1067
court order, under, 3 Actions § 1074
electronic service, see electronic service (this group)
foreign law, under, 3 Actions § 1073
Judicial Council forms, 6 PWT §§ 20, 29*
leaving copy, service by, 3 Actions § 1068
mail, service by, 3 Actions § 1069; 6 PWT § 23
motion, 6 PWT §§ 20, 29*
nonresident motorists, 3 Actions § 1027
personal delivery, 3 Actions § 1068
posting, service by, 3 Actions §§ 1070, 1071
process server, by, 6 PWT § 23
publication, service by, 3 Actions § 1070
return, 3 Actions § 1065 et seq.
service outside state, 3 Actions § 1071 et seq.
service within state, 3 Actions § 1068 et seq.
public entity, service on
in general, 3 Actions § 1056 et seq.
leaving copy, service by, 3 Actions § 1010
officers, service on, 3 Actions § 1057
Process—Cont’d
public entity, service on—Cont’d
Roster of Public Agencies, 3 Actions §§ 1056, 1058, 1059
publication, service by, see service by publication (this group)
quash, motion to, see Motion to quash registered process servers, 3 Actions § 998
Secretary of State
corporation, service on for, 3 Actions §§ 1048, 1050
costs award for service by, 3 Actions § 999; 7 Judgm § 127
foreign corporation, service on for, 3 Actions § 1050
nonresident probate estate personal representative, appointment for service for, 3 Actions § 1025
nonresident subdivider, designation as agent for, 3 Actions § 1023
service
in general, 3 Actions §§ 966 et seq., 997 et seq.
candidate for public office, service on, 3 Actions § 1062
conservatee, service on, 3 Actions § 1061
corporations, service on, see corporations, service on, (this group)
costs award for, 3 Actions § 999
defective service, see defective service (this group)
defined for involuntary dismissal for delay, 6 PWT § 315
delay, involuntary dismissal for, see Involuntary dismissal for delay
immunity from process, see service by mail (this group)
involuntary dismissal for delay, see Involuntary dismissal for delay
joint stock company, service on, 3 Actions § 1053
leaving copy, service by, see service by leaving copy (this group)
mail, service by, see service by mail (this group)
manner of, see manner of service (this group)
marshal, service by, 3 Actions § 997
marshal’s fee, 6 Prov Rem § 4
methods of, 3 Actions § 965
Index-313
Process—Cont’d

service—Cont’d

minor, service on, 3 Actions § 1060
necessity of, 3 Actions § 965
outside state, see service outside state
    (this group)
outside United States, see service
outside United States (this group)
personal delivery outside state, 3
    Actions §§ 965, 1003
personal service, see personal service
    (this group)
physical delivery, attempted, 3 Actions
    § 1011*
private person, service by, 3 Actions
    § 997
process servers, 3 Actions §§ 997, 998
proof of service, see proof of service
    (this group)
public entity, service on, see public
    entity, service on (this group)
presentation, service by, see service by
    presentation (this group)
quash, motion to, see Motion to quash
    registered process servers, 3 Actions
    § 998
scope of, 3 Actions § 965
Secretary of State, service on, see Sec-
    retary of State (this group)
sheriff, service by, 3 Actions § 997
sheriff’s fee, 6 Prov Rem § 4
substituted service, see substituted ser-
    vice (this group)
unincorporated associations, service on,
    see unincorporated associations,
    service on (this group)
United States, service outside of, see
    service outside United States (this
    group)
ward, service on, 3 Actions § 1061
service by leaving copy
    in general, 3 Actions §§ 1002, 1010 et
    seq.
association, 3 Actions § 1010
business organization of unknown
    form, 3 Actions § 1013
corporation, 3 Actions § 1010
gated communities, service at, 3
    Actions § 1014
natural person, 3 Actions §§ 1011, 1012

Process—Cont’d

service by leaving copy—Cont’d

physical delivery, attempted, 3 Actions
    § 1011*
proof of service, 3 Actions § 1068
public entity, 3 Actions § 1010
substituted service, commercial mail
    receiving agency, 3 Actions
    § 1012*
unincorporated association, 3 Actions
    § 1010
service by mail
    in general, 3 Actions §§ 965, 1002,
    1015 et seq.
acknowledgment of receipt, 3 Actions
    §§ 1015, 1017
corporation outside state, 3 Actions
    § 1019
extension of time, 3 Actions § 1020; 6
    PWT § 31
Hague Service Convention, 3 Actions
    § 1005
nonresident motorists, 3 Actions § 1026
    et seq.
nonresident probate estate personal
    representative, 3 Actions §§ 1025,
    1030
nonresident real estate licensee, 3
    Actions § 1023
nonresident subdivider, 3 Actions
    § 1023
notice, 3 Actions § 1016
out-of-state defendant, 3 Actions
    §§ 1018, 1019, 1071
proof of service, 3 Actions § 1069
special statutes, 3 Actions § 1021 et
    seq.
Unauthorized Insurers False Advertis-
    ing Process Act, 3 Actions § 1024
Unauthorized Insurers Process Act, 3
    Actions § 1024
unlawful detainer, 3 Actions § 1022
service by posting
    in general, 3 Actions § 1045
proof of service, 3 Actions §§ 1070,
    1071
service by publication
    in general, 3 Actions §§ 965, 1002,
    1032 et seq.
affidavit, 3 Actions § 1035 et seq.

Index-314
Index-315
Prohibition—Cont’d
appeal as remedy—Cont’d
undue hardship, effect of, 8 Writs § 61 et seq.
appeal of orders granting or denying writ, 9 Appeal §§ 148, 149, 169
appellate division of superior court, 8 Writs §§ 189*, 201*, 211*
arbitrators, availability of writ to restrain, 8 Writs § 48
attachment, review of orders, see Attachment
beneficial interest requirement, 8 Writs § 165
certiorari
“certiorarified” prohibition, 8 Writs § 243 et seq.
compared, 8 Writs § 8
limited civil case, review of order regarding prohibition, 8 Writs § 37
prohibitory certiorari, 8 Writs § 240
remedy by, effect of, 8 Writs § 71
“certiorarified” prohibition, 8 Writs § 243 et seq.
collateral attack on judgment by, 8 Attack § 10
consent to issuance of writ, 8 Writs § 55
contempt
invalid adjudication, challenge to, 8 Writs § 244
proceedings, enforceability of order, 8 Writs § 72
trial, contempt during, review of order, 7 Trial § 182
continuing act, 8 Writs § 51
costs, see Writs
damages, see Writs
default judgment, availability, 6 PWT § 137
delay in trial, review of denial of dismissal motion, 6 PWT § 367
denial of writ, reasons for, see Writs
direct attack on judgment by, 8 Attack § 2
discovery, see Discovery
discretionary issuance or denial, 8 Writs § 31
entry of judgment on directions, enforcement of, 9 Appeal § 880
excess of jurisdiction, see jurisdiction (this group)

Prohibition—Cont’d
exhaustion of judicial remedies involving, see Exhaustion of judicial remedies
failure to raise objection below, effect of, 8 Writs § 141
habeas corpus, see Habeas corpus
holidays, issuing writ on, 2 Courts § 48
in personam jurisdiction lacking, availability of writ, 8 Writs § 73
incomplete act requirement, 8 Writs §§ 50, 51
injunctive relief, see Injunctions
issue of general importance, 8 Writs §§ 69, 70
jurisdiction
in general, 8 Writs § 164
appellate court, effect of issuance of writ by, 9 Appeal § 19
excess of, 8 Writs §§ 52, 66
jurisdictional requisites, 8 Writs § 52
lack of, 8 Writs §§ 52, 65
personal jurisdiction lacking, availability of writ, 8 Writs § 73
prevention of erroneous assumption of jurisdiction by, 2 Jurisd § 398
Supreme Court jurisdiction, 2 Courts § 330
jurisdiction, lack of, see jurisdiction (this group)
jurisdictional requisites, 8 Writs § 52
legislative acts, 8 Writs § 48
mandamus
alternative remedy as, 8 Writs § 249
compared, 8 Writs § 19
in personam jurisdiction lacking, availability of writ, 8 Writs § 73
mandamatory prohibition, 8 Writs § 242
mandamus
personal jurisdiction lacking, availability of writ, 8 Writs § 73
prohibitory mandamus, 8 Writs § 250
remedy by mandamus, effect of, 8 Writs § 71
remedy by prohibition, effect of, 8 Writs § 126
ministerial acts, 8 Writs § 48
motion to quash, see Motion to quash
nonappealable judgments and orders, review of, 9 Appeal § 91
Index

Prohibition—Cont’d
order to show cause
  in general, 8 Writs § 189
  appellate division of superior court, 8 Writs § 189*
effect of, 8 Writs § 57
origin of writ, 8 Writs § 18
partially completed act, 8 Writs § 51
parties, see Writs
personal jurisdiction lacking, availability of writ, 8 Writs § 73
procedure, see Writs
prohibitory certiorari, 8 Writs § 240
prohibitory injunction compared, 8 Writs § 22
prohibitory mandamus, 8 Writs § 250
public interest in prompt decision, 8 Writs § 67 et seq.
reasons for denial of writ, see Writs
receiver, review of appointment by, 6 Prov Rem § 449
replication, 8 Writs § 198
special proceeding, as, 3 Actions § 65
  stay
direct appeal with, effect of, 8 Writs § 59
  pending proceedings, writ as stay of, 3 Actions § 191
supersedeas
  compared, 8 Writs § 20
remedy by, effect of, 8 Writs § 71
Supreme Court jurisdiction, 2 Courts § 330
threatened judicial act as prerequisite, 8 Writs § 48 et seq.
threatened public injury, 8 Writs § 68
venue, 8 Writs § 164
verification of petition, 4 Plead § 466

Promissory estoppel
legal or equitable nature of proceedings, 3 Actions § 124

Promissory notes
attorneys’ fees, see Attorneys’ fees
  pleading
  in general, 4 Plead § 571 et seq.
  acceleration of maturity, 4 Plead § 574
  acquisition, 4 Plead § 572
  attorneys’ fees, 4 Plead § 576
  breach, 4 Plead § 573
  execution, 4 Plead § 571

Promissory notes—Cont’d
pleading—Cont’d
  holder in due course, 4 Plead § 572
  notice of dishonor, 4 Plead § 576
  ownership, 4 Plead § 572
  presentment, 4 Plead § 575
  terms, 4 Plead § 571

Proof of service, see Process

Property
attachment, see Attachment
intervention based on interest in, 4 Plead § 232
personal property, see Personal property
real property, see Real property
taxes, see Property taxes
  writ of possession of personal property, see Writ of possession of personal property

Property damage
Judicial Council forms, see Judicial Council

Property taxes
assessment, proceeding by taxpayer to determine validity, 5 Plead § 856
collection actions, limitation and accrual, 3 Actions § 666 et seq.
  liens, see Tax liens
  limitation and accrual for collection actions by government, 3 Actions § 666 et seq.
  statute of limitations for collection actions by government, 3 Actions § 666 et seq.

Proposition 13
reimbursement action by local entity, limitation and accrual of action, 3 Actions § 678

Proposition 62
limitation of actions, effect on, 3 Actions § 437

Prosecutor
Brady violation by, report to State Bar, 1 Attys § 575*; 2 Courts § 51A*; 7 Trial § 210*
duty to disclose, violation of by, report to State Bar, 1 Attys § 575*; 2 Courts § 51A*; 7 Trial § 210*

Index-317
Prosecutor—Cont’d
exculpatory evidence, withholding of by,
report to State Bar, 1 Attys § 575*; 2
Courts § 51A*; 7 Trial § 210*

Proximate cause
direct causation
pleading of, 4 Plead § 572

Psychiatrists
administrative subpoena of patient records,
9 Admin Proc § 103*

Psychologists
security for costs, see Security for costs

Public accountants, see Accountants

Public aid or assistance, see Welfare

benefits

Public defender
appointment of
civil proceedings, appointment in, 1
Attys §§ 47, 48
conflict of interest, see Attorney-client
relationship
disqualification of judge based on previous service, 2 Courts § 113
malpractice liability of, see Attorney malpractice
private practice by, 1 Attys § 65

Public Employment Relations Board
certiorari review of decisions, 8 Writs
§ 17
exclusive jurisdiction of, 2 Jurisd § 48
limitations period for review of proceed-
ings, 9 Admin Proc § 129
review of decisions, 8 Writs §§ 17, 266; 9
Admin Proc § 121

Public entities
administrative agencies, see Administrative agencies
administrative mandamus, see Administrative mandamus
appeal by, extension of time for, 9 Appeal
§ 606
appellate briefs, service on agency, 9
Appeal §§ 698, 717
attachment, see Attachment
bond requirements, exemption from, 6
Prov Rem § 13
capacity to sue and be sued, allegation, 5
Plead § 905
claim and delivery, see Claim and delivery
claims against, see Government tort claims

Proper name

Protective order
arbitration, availability pending, 6 PWT
§ 529
attachment proceedings, see Attachment
attorney bad faith violation of, see Sanctions
dissolution of marriage, see Dissolution of marriage
emergency, Judicial Council forms, 2
Courts § 414
examination of judgment debtor proceed-
ings, see Examination proceedings
filing fees for enforcement proceedings, 4
Plead § 27
minor, appearance for, 4 Plead § 72
sanctions for attorney bad faith violation of, see Sanctions

Provisional remedies
in general, 6 Prov Rem § 1 et seq.
affidavit, use of, 6 Prov Rem §§ 1, 2, 21
arrest and bail, abolition of, 6 Prov Rem
§§ 1, 5
attachment, see Attachment
bond for, see Bond, undertaking, or deposit
civil arrest and bail, abolition of, 6 Prov Rem
§§ 1, 5
claim and delivery, see Claim and delivery
declaration, use of, 6 Prov Rem § 3
deposit, see Bond, undertaking, or deposit
deposit in court, see Deposit in court
fees, 6 Prov Rem § 4
injunctions, see Injunctions
marshal’s fees, 6 Prov Rem § 4
nature of, 6 Prov Rem § 1
preliminary injunction, see Injunctions
purpose of, 6 Prov Rem § 1
receivership, see Receivers
sheriff’s fees, 6 Prov Rem § 4
temporary restraining order, see
Temporary restraining orders
undertaking for, see Bond, undertaking, or deposit
Public entities—Cont’d
collection of debt owed to judgment
debtor by public entity, see Enforcement
do Goodman of judgment
complaint, naming in, 4 Plead § 475
costs on appeal, award against, 9 Appeal
§ 957
defenses in tort actions, see Answer
Doe defendant, as, 4 Plead § 486
enforcement of judgment against, see Enforce-
ment of judgment
execution of judgment against debt of or
franchise granted by, 8 Enf Judgm
§ 116
fictitious defendant, as, 4 Plead § 486
interest on judgments involving, see Interest
judgments against, see Enforcement of
judgment
limitation and accrual of action against, 3
Actions §§ 480, 482, 688 et seq.
mandamus, subject to, 8 Writs § 264
payment of judgment in installments, 8
Enf Judgm § 431*
roster of public agencies, 3 Actions
§§ 236, 1056, 1058, 1059
service of process on, see Process
statute of limitations for action against, 3
Actions §§ 480, 482, 688 et seq.
surety, duty to investigate sufficiency of, 6
Prov Rem § 26
tort claims against, see Government tort
claims
tort liability, see Governmental tort
liability
validation proceedings, see Validation
proceedings
venue, 3 Actions §§ 869, 870

Public officers and employees—Cont’d
collection of debt owed to judgment
debtor by public entity, see Enforcement
do Goodman of judgment
complaint, naming in, 4 Plead § 475
counties with interested public officers
attorneys, see Attorney-client relation-
ship
costs on appeal, award against, 9 Appeal
§ 957
county counsel, see County counsel
declaratory relief, availability against, 5
Plead § 851
defenses in tort actions, 5 Plead §§ 1077,
1078, 1101 et seq.
Department of Personnel Administration
review, 8 Writs § 266
district attorney, see District attorney
drug use, review of discipline of state
employees for, 8 Writs § 266
exhaustion of remedies by, see Exhaustion
of administrative remedies
federal employees
domicile of, 2 Jurisd § 135
government attorneys
in general, see Attorneys
Attorney General, see Attorney General
city attorney, see City attorney
conflict of interest, see Attorney-client
relationship
contingent fees in contracts with, see
Attorneys’ fees
county counsel, see County counsel
district attorney, see District attorney
Legislative Counsel, see Legislative
Counsel
public defender, see Public defender
jury fees and deposit, exemption from, 4
Plead § 27*
Legislative Counsel, see Legislative
Counsel
limitation and accrual of action against, 3
Actions §§ 480, 482, 688 et seq.
malpractice liability of, attorney, see
Attorney malpractice
mandamus, 8 Writs §§ 83 et seq., 285
public defender, see Public defender
Public Employment Relations Board, see
Public Employment Relations Board
removal from office
administrative mandamus for reinstate-
ment, 8 Writs § 89
jury trial, 7 Trial § 90
Public officers and employees—Cont’d
state employees and officers
State Personnel Board, 9 Admin Proc § 190
taxpayer’s action against, 4 Plead § 164
State Personnel Board, see State Personnel Board
statute of limitations for action against, 3 Actions §§ 440, 482, 688 et seq.
substitution as party after death or disability, 4 Plead § 266
superior officer, joinder in action against, 4 Plead § 193
tort actions against, pleading, 4 Plead § 624
undertaking for stay pending appeal, see Stay pending appeal
vacation credits exemption from execution, see Exemptions from execution
venue in actions against, 3 Actions §§ 869, 870
wage claims, government tort claims requirement applicability, see Government tort claims
wrongful termination
administrative mandamus for reinstatement, 8 Writs § 89

Public records
certiorari review of court-ordered disclosure, 8 Writs § 16
expungement of, action for, see Legal and equitable actions
public records, disclosure of, 9 Admin Proc § 5
state colleges and universities, disclosure of, see Colleges and universities

Public Records Act, 7 Judgm § 225

Public trial—Cont’d
juvenile court proceedings, exception for, 2 Courts § 34
press, rights of, 2 Courts § 36 et seq.
publicity
court control over, 2 Courts § 33
media in courtroom, 2 Courts § 36 et seq.
publication distinguished, 2 Courts § 35
Rules of Professional Conduct, 1 Attys § 465QQ*
radio in courtroom, 2 Courts § 36 et seq.
separation of witnesses as exception, 2 Courts § 33
television in courtroom, 2 Courts § 36 et seq.
view of the scene as exception, 2 Courts § 33

Public utilities
in general, see Utilities

Public Utilities Commission, see Utilities

Public works
mechanics lien, see Mechanics lien
payment bond, see Payment bond
prevailing wage
government tort claims requirement, applicability of, see Government tort claims

Punitive damages
amount in controversy, effect on determining, 2 Jurisd § 24
appeal, review of award on, 9 Appeal § 375
death of defendant, effect of, 3 Actions § 16
default judgment, service of notice of damages, 6 PWT §§ 158, 159
discovery
peremptory challenge to judge after motion for, 2 Courts § 156*
Judicial Council forms, 5 Plead § 917
malice, 5 Plead §§ 917, 918
peremptory challenge to judge after motion for discovery for, 2 Courts § 156*
pleading of, 5 Plead § 934
prior to trying other issues, 7 Trial § 154 et seq.
special verdict, 7 Trial § 345

Index-320
Punitive damages—Cont’d
sureties, actions against, see Sureties

Putative spouses, property rights of, see Community and separate property

Quantum meruit
attorneys’ fees, recovery of, 1 Attys § 197
pleading, 4 Plead § 566

Quantum valebant
pleading, 4 Plead § 567

Quash service of process, see Motion to quash

Quasi-contracts
accrual of actions, 3 Actions §§ 514, 546 et seq., 620
attachment in actions involving, 6 Prov Rem §§ 60, 61
attorneys’ fees, recovery of, 1 Attys § 197
bill of particulars, see Bill of particulars
demand required for, 3 Actions § 204
fraud
in general, 3 Actions § 164
limitation and accrual of actions, 3
Actions §§ 514, 546 et seq., 620
pleading, 5 Plead § 715
jury trial, 7 Trial § 84
limitation and accrual of actions, 3
Actions §§ 514, 546 et seq., 620
money had and received, see Money had and received
nature of actions based on, 3 Actions §§ 140, 174
nonpayment, pleading, 5 Plead § 913
pleading, see Pleading
restitution, see Restitution
statute of limitations, 3 Actions §§ 514, 546 et seq., 620
venue in action against corporation or association, 3 Actions § 860
waiver of tort, 3 Actions § 164

Quasi in rem jurisdiction, see Jurisdiction

Qui tam action
collateral estoppel, application in, 7
Judgm § 429*
real party in interest, 4 Plead § 157

Quia timet, see Judicial remedies

Quiet title
adverse claimants, necessity of naming, 5
Plead § 659
answer
defenses, raising in, see Answer
requirements for, 5 Plead § 661
antagonistic property interest, necessity of, 5 Plead § 654
appearance of defendant, 5 Plead § 661
bona fide purchaser, protection of, 5 Plead § 662
“claim” defined, 5 Plead § 657
court on title, action to remove distinguished, 5 Plead § 655
conditional judgment, 7 Judgm § 24
costs, see Costs
cross-complaint, 5 Plead § 661
cumulative nature of remedy, 5 Plead § 657
deceased claimant
necessity of including, 5 Plead § 659
declaratory relief action distinguished, 5
Plead §§ 655, 855
default judgment, availability, 5 Plead § 662; 6 PWT § 137
defendant
necessary known, 5 Plead § 659
unknown, 5 Plead § 660
defenses, raising in answer, see Answer
Destroyed Land Records Relief Law, action under distinguished, 5
Plead § 655
ejectment distinguished, 5 Plead § 655
guardian ad litem, appointment of, 5
Plead § 657
in rem proceeding, as, 2 Jurisd § 245
interlocutory order for, 7 Judgm § 18
intervention in action, 4 Plead § 232
joinder, 5 Plead § 659
judgment, 5 Plead § 662
jurisdiction, 5 Plead § 658
jury trial, 5 Plead § 662
limitations period for action, 3 Actions § 490
lis pendens, see Lis pendens
nature of action, 3 Actions §§ 133, 134, 136; 5 Plead § 654
necessary known defendants, 5 Plead § 659
Quiet title—Cont’d  
personal property, action to quiet title in, 5 Plead § 706
pleading cause of action  
in general, 5 Plead § 663 et seq.
adverse claim by defendant, 5 Plead §§ 668, 669
equitable interest, 5 Plead § 667
scope of action, 5 Plead § 664 et seq.
fee, title in, 5 Plead § 665
fraud, specific pleading of, 5 Plead § 669
interest of plaintiff, 5 Plead §§ 664 et seq.
legal interest less than fee, 5 Plead § 666
riparian water right, 5 Plead § 666
statutory requirements, 5 Plead § 663
title of plaintiff, 5 Plead § 664 et seq.
proof of service, 5 Plead § 658
“property” defined, 5 Plead § 657
publication, service of process by, 5 Plead § 658
reformation action distinguished, 5 Plead § 655
rights of defendant, 5 Plead § 661
scope of action, 5 Plead § 654
service of process, 5 Plead § 658
specific performance action distinguished, 5 Plead § 655
statutory action, 5 Plead § 657 et seq.
simmons  
in general, 3 Actions § 987; 5 Plead § 658
time to answer, 3 Actions § 985
tender of performance requirement, 3 Actions § 205
title report, necessity of, 5 Plead § 657
trial, 5 Plead § 662
trust action distinguished, 5 Plead § 655
unknown defendant or interest, 5 Plead § 660
venue, 3 Actions § 796; 5 Plead § 658
verification of complaint, 4 Plead § 466
will, admissibility of, 5 Plead § 662

Quo warranto—Cont’d  
Attorney General, proceeding by  
in general, 8 Writs § 28
mandamus review of, 8 Writs § 25
denial of writ, reasons for, see Writs
injunction, effect of remedies on, 6 Prov Rem § 338
local legislative body, action by, 8 Writs § 30
mandamus  
compared, 8 Writs § 25
remedy by quo warranto, effect of, 8 Writs § 126
private person, action on application by, 8 Writs § 29
procedure, see Writs
public office, dispute over, applicability to, 8 Writs § 25
real party in interest, 4 Plead § 25
reasons for denial of writ, see Writs
stay pending appeal, 9 Appeal § 277
Race  
peremptory challenge to judge motivated by, 2 Courts § 139

Race discrimination  
Fair Employment and Housing Act
employment discrimination
limitations period, 3 Actions § 564*
statute of limitations, 3 Actions § 564*
peremptory challenge to judge motivated by, 2 Courts § 139
Radio, see Television and radio

Ralph Civil Rights Act  
limitation and accrual of actions, 3 Actions § 483
statute of limitations, 3 Actions § 483

Ralph M. Brown Act, see Open meeting requirements

Ratification  
authority, attorney’s exercise of, by client, see Attorneys

Real estate agents  
Department of Real Estate, 9 Admin Proc § 163

Real estate brokers  
Department of Real Estate, 9 Admin Proc § 163

Index-322
INDEX

Real Estate Commissioner
special counsel, employment of, 1 Attys § 64

Real estate sales
arbitration, 6 WPT § 505
Department of Real Estate, see Department of Real Estate
disclosures required
limitations period for action against licensee based on, 3 Actions §§ 482, 653
inspection, limitations period for action against licensee based on, 3 Actions §§ 482, 653
recording, see Recording of instruments affecting real property

Real party in interest—in general, 4 Plead § 120 et seq.; 5 Plead § 908 et seq.; 8 Writs § 166 et seq.
agent, action by, 4 Plead § 141
annulment of marriage of minor or incompetent person, 4 Plead § 150
assignee of chose in action
in general, 4 Plead § 127 et seq.
assignee’s right to sue, 4 Plead § 127 et seq.; 5 Plead § 909
assignor’s right to sue, 4 Plead § 131
beneficial interest assignment, 4 Plead § 127
collateral security, assignment for, 4 Plead §§ 129, 131
collection, assignment for, 4 Plead §§ 128, 131
partial assignment, 4 Plead §§ 130, 131

Attorney General
in general, 4 Plead § 154
charitable trust enforcement, 4 Plead §§ 139, 155
environmental actions, 4 Plead § 159 et seq.
taxpayers’ actions, see taxpayers’ actions (this group)
ultra vires municipal ordinances and contracts, action to void, 4 Plead § 155*
bankruptcy, 4 Plead §§ 146, 147; 5 Plead § 910
child, parent’s rights for injury to, 4 Plead § 153

Real party in interest—Cont’d
common interest development association, 4 Plead § 152
demurrer, raising defense by, 5 Plead § 964
district attorney, actions by, 4 Plead § 154
employee, injury to, 4 Plead § 149
environmental actions, 4 Plead § 159 et seq.
estate administrators, see personal representative (this group)
executors, see personal representative (this group)
fully compensated party, 4 Plead § 125
general demurrer, raising defense by, 5 Plead § 964
husband and wife, 4 Plead § 153
loss of consortium, 4 Plead § 153
minor, parent’s rights for injury to, 4 Plead § 153
nature of rule, 4 Plead § 120
negotiable instruments, 4 Plead § 151
nullity of marriage of minor or incompetent person, 4 Plead § 150
owner of cause of action, 4 Plead § 122
pars pro tae, 4 Plead §§ 171, 172
personal representative
in general, 4 Plead § 134 et seq.
possessor or quiet title to estate property, 4 Plead § 136
wrongful action by, 4 Plead § 135
principal, action by, 4 Plead § 140
private rights, actions affecting, 4 Plead § 145 et seq.
promisee, action by, 4 Plead § 142
property interests, 4 Plead § 124
public interest, actions affecting, 4 Plead § 154 et seq.
public officer, actions by, 4 Plead §§ 154, 155
qui tam action, 4 Plead § 157
quo warranto action, 4 Plead § 157
receiver, 4 Plead § 148; 5 Plead § 910
relator, action by, 4 Plead § 157
spouses, 4 Plead § 153
state as representative of citizens, 4 Plead §§ 171, 172
statute, persons authorized by, 4 Plead § 144 et seq.
subrogation, 4 Plead §§ 132, 133; 5 Plead § 909

Index-323
Real party in interest—Cont’d
substantive right test, 4 Plead §§ 121, 122
taxpayers’ actions
in general, 4 Plead § 162 et seq.
agency discretion, action involving, 4
Plead § 168
Attorney General, 4 Plead § 155*
collector of sales tax, action by, 4 Plead
§ 167
construction of action, 4 Plead § 163
declaratory relief, action for, 4 Plead
§ 162
English as official language, action to enforce,
4 Plead § 170
judicial function, action involving, 4
Plead § 169
legal government conduct, effect of, 4
Plead § 162
medical malpractice, action involving,
4 Plead § 170
moot issues, 4 Plead § 166
nuisance abatement action, 4 Plead
§ 170
other persons directly affected, 4 Plead
§ 165
restraint of trade, injury by, 4 Plead
§ 170
specificity of pleading, 4 Plead § 162
state agency or officer, action against,
4 Plead § 164
water rights, action to protect, 4 Plead
§ 170
third party
beneficiary, action by, 4 Plead § 143
claim on behalf of, 4 Plead § 126
trusts, actions involving
in general, 4 Plead § 137 et seq.
beneficiary, action by, 4 Plead § 138
charitable trust, 4 Plead §§ 139, 155
trustee, 4 Plead § 137
validation action, 4 Plead § 158
violation of rule, effect of, 4 Plead § 123
writs, see Writs
wrongful death actions, 4 Plead § 145

Real property—Cont’d
amendment of pleadings to change legal
theory in actions involving, 5 Plead
§ 1232
attachment, see Attachment
attorneys’ fees in actions involving, 7
Judgm § 230
construction defects
limitation and accrual of action, see
limitation and accrual of actions
(this group)
residential property, limitation and
accrual period, 3 Actions § 617
continuing nuisance actions, 3 Actions
§ 608*
default judgment, availability in actions involving real property, 6 PWT § 137
defects in
latent defects, see latent defects (this
group)
patent defects, statute of limitations for
claims relating to, 3 Actions §§ 606, 607
Department of Real Estate, see Department of Real Estate
easement, see Easement
ejectment, see Ejectment
expungement of lis pendens, see Lis pendens
forests, see Forests and timber
implied warranty of habitability, see
Implied warranty of habitability
in rem jurisdiction, see Jurisdiction
injury to real property
accrual of action, 3 Actions § 596 et seq.
damages, 5 Plead § 939
instructions to jury, 7 Trial § 287
jury trial, 7 Trial § 84
limitation and accrual of actions, 3
Actions §§ 483, 596 et seq.
pleading, see pleading actions involving
trespass, see Trespass
instructions to jury in actions involving, 7
Trial § 287
jury instructions in actions involving, 7
Trial § 287
landlord and tenant, see Landlord and
tenant

Real property
adverse possession, see Adverse possession
alternative actions for use of, 3 Actions
§ 175
Real property—Cont’d

latent defects
accrual of action, 3 Actions § 608 et seq.
cross-complaint for indemnity, 3 Actions §§ 613, 614
delayed accrual of action, 3 Actions § 611
fraud, effect on accrual of action, 3 Actions § 612
indemnity, cross-complaint for, 3 Actions §§ 613, 614
limitation and accrual of actions, 3 Actions §§ 608, 608 et seq., 721
personal injury action based on, 3 Actions § 615
sureties, accrual of action against, 3 Actions § 608
tolling of action during repair, 3 Actions § 761
willful misconduct, effect on accrual of action, 3 Actions § 612
wrongful death action based on, 3 Actions § 615
leases, see Leases of real property
levy on, see Execution and levy
liens, see Liens
limination and accrual of actions
adverse possession, 3 Actions §§ 435, 442, 488, 489
construction defects, 3 Actions §§ 484, 488, 617
latent defects, see latent defects (this group)
mesne profits, 3 Actions § 485
patent defects, 3 Actions §§ 606, 607
quiet title, 3 Actions § 490
recovery of possession, see recovery of possession (this group)
residential property, defects in construction, 3 Actions § 617
securities dealers, actions against, 3 Actions § 483
trespass, see Trespass
use restriction violation, 3 Actions § 485
lis pendens, see Lis pendens
oil and gas, see Oil and gas
partition, see Partition; Partition by cotenants

Real property—Cont’d

patent defects, limitation and accrual of action, 3 Actions §§ 606, 607
pleading injury to real property
in general, 5 Plead § 631 et seq.
continuing acts causing irreparable injury, 5 Plead § 633
elements of cause of action, 5 Plead § 631
malice or oppression, 5 Plead § 633
possession, 5 Plead § 632
right to possession, 5 Plead § 632
presumptions
uniqueness, 3 Actions § 404
quasi in rem jurisdiction, see Jurisdiction
quiet title, 3 Actions § 490
recordation, see Lis pendens; Recordation of instruments affecting real property
recovery of possession
ejectment, see Ejectment
forcible entry and detainer, see Forcible entry and detainer
limitation and accrual of action, 3 Actions § 658
pleading, 5 Plead § 634 et seq.
quiet title, 3 Actions § 490
unlawful detainer, see Unlawful detainer
venue, 3 Actions § 793
residential property, defects, limitation and accrual period, 3 Actions § 617
sales, see Real estate sales
securities dealers
limitation and accrual of actions against, 3 Actions § 483
stay of judgment directing sale of, see Stay pending appeal
summons, 3 Actions § 987
timber, see Forests and timber
title insurance, see Title insurance
trespass, see Trespass
uniqueness presumption, 3 Actions § 404
unlawful detainer, see Unlawful detainer
venue, see Venue
wrongful occupation action, 3 Actions § 164

Reasonable doubt
conservatorship of gravely disabled persons proceedings, 3 Actions § 108

Index-325
Recall, see Initiative, referendum, and recall

Recall of remittitur, see Remittitur

Receivers

in general, 6 Prov Rem § 419 et seq.
abandoned household property, appointment for, 6 Prov Rem § 435
accounts
in general, 6 Prov Rem § 458
appeal, 9 Appeal § 178
affidavit, showing by, 6 Prov Rem § 442
agreement between party and receiver, 6 Prov Rem § 419
alcoholic beverage license, transfer to enforce judgment, 8 Enf Judgm § 311
appeal of appointment, 6 Prov Rem § 449; 9 Appeal §§ 177, 189
appealability of orders relating to, 9 Appeal §§ 101, 177, 178, 189
application for appointment, 6 Prov Rem §§ 441, 442
appointment
in general, 6 Prov Rem § 423 et seq.
appeal, 6 Prov Rem § 449; 9 Appeal §§ 177, 189
application for, 6 Prov Rem §§ 441, 442
collateral attack, 8 Attack § 450
discretion in, 6 Prov Rem § 420 et seq.
enforcement of judgment, appointment for, 8 Enf Judgm §§ 310, 311
ex parte proceedings, 6 Prov Rem § 445 et seq.
jurisdiction, 6 Prov Rem § 419
necessity as basis, 6 Prov Rem § 424
procedure, 6 Prov Rem § 441 et seq.
review, 6 Prov Rem §§ 449, 450
stay pending appeal, 9 Appeal § 247
vacate, motion to, 6 Prov Rem § 449
vacation, 9 Appeal § 177
written consent required, 6 Prov Rem § 443
arbitration, appointment for, 6 Prov Rem §§ 420, 440; 6 PWT § 529
assignment of rents
assignee, appointment in action by, 6 Prov Rem § 432
specific performance, appointment for, 6 Prov Rem § 431

Receivers—Cont’d

attachment of depreciating property, management of, 6 Prov Rem § 191
attorney, power to employ, 6 Prov Rem § 457
attorneys’ fees, see Attorneys’ fees
California Health Facility Construction Loan Insurance Law, appointment under, 6 Prov Rem § 427
capacity to sue and be sued, see Capacity to sue and be sued
collateral attack on appointment, 6 Prov Rem § 450
Commissioner of Financial Institutions, appointment in action by, see Commissioner of Financial Institutions compensation, 6 Prov Rem § 459
complaint, naming in, 4 Plead § 476
confirmation of ex parte appointment, 6 Prov Rem § 448
conflict of laws regarding, 3 Actions § 46
contract powers of, 6 Prov Rem § 457
corporations, appointment in action involving
in general, 6 Prov Rem §§ 423, 436 et seq.
dissolution, 6 Prov Rem §§ 423, 438
forfeiture, 6 Prov Rem §§ 423, 438
fraud, 6 Prov Rem § 437
insolvency, 6 Prov Rem § 436
mismanagement, 6 Prov Rem § 437
costs, recovery of receiver’s fees and expenses as, 7 Judgm §§ 128, 137
court appointed receiver to oversee compliance, 6 Prov Rem § 440*
deed of trust, appointment in foreclosure action, 6 Prov Rem §§ 429, 430
defined, 6 Prov Rem § 419
deposit of money by, 6 Prov Rem § 454
discharge
in general, 6 Prov Rem § 460
appeal, 9 Appeal § 178
stay pending appeal, 9 Appeal § 247
discretion in appointment, 6 Prov Rem § 420 et seq.; 9 Appeal § 363
dissolution of corporation, appointment in action involving, 6 Prov Rem §§ 423, 438
domestic relations cases, appointment in, 6 Prov Rem §§ 423, 439
duties, see powers and duties (this group)
INDEX

Receivers—Cont’d

escheat, appointment in action involving, 6 Prov Rem §§ 423, 440
ex parte order and confirmation, 6 Prov Rem § 445 et seq.
execution of judgment, appointment for, see Execution and levy
family law cases, appointment in, 6 Prov Rem §§ 423, 439
forfeiture, appointment in action involving corporation, 6 Prov Rem §§ 423, 438
fraud, appointment in actions involving corporations, 6 Prov Rem § 437
fraudulent conveyance, appointment in creditor’s attack on, 6 Prov Rem §§ 423, 425
household property, stored, appointment on abandonment, 6 Prov Rem § 435
independent action for, 6 Prov Rem § 419
insurers, appointment in delinquency actions involving, 6 Prov Rem § 423
inventory requirement, 6 Prov Rem § 454
joint owners, appointment in action between, 6 Prov Rem § 428
judgment, appointment after, 6 Prov Rem § 424
judgment creditors and debtors, appointment in actions involving, 6 Prov Rem §§ 423, 425
Judicial Council forms
appointment, 2 Courts § 428; 6 Prov Rem § 443
ex parte proceedings, 2 Courts § 428; 6 Prov Rem § 448
motion for appointment, 2 Courts § 428; 6 Prov Rem § 441
jurisdiction to appoint, 6 Prov Rem § 419
liability of receiver, 6 Prov Rem § 453
limited civil case, appointment in, 2 Courts § 247
liquor license, transfer to enforce judgment, 8 Enf Judgm § 311
long-term health care facility, appointment to manage, 6 Prov Rem § 440
mortgage
covenant, appointment in specific performance action, 6 Prov Rem § 440
foreclosure action, appointment in, 6 Prov Rem §§ 429, 430, 440

Receivers—Cont’d

mortal—Cont’d
rents and profits receiver, powers of, 6 Prov Rem § 456
motions
appointment, 6 Prov Rem §§ 441, 442
vacate appointment, 6 Prov Rem § 449
nomination, 6 Prov Rem § 443
oath, 6 Prov Rem § 444
Office of Statewide Health Planning and Development, appointment sought by, 6 Prov Rem § 427
order to show cause, use of, 6 PWT § 61
partition, appointment in action involving, 6 Prov Rem § 440
partners, appointment in action between, 6 Prov Rem § 428
possession and control of property by, 6 Prov Rem § 454
powers and duties
in general, 6 Prov Rem § 451 et seq.
specification of, 6 Prov Rem § 443
prohibition, review of appointment by, 6 Prov Rem § 449
Public Utility Commission, request by for appointment, 6 Prov Rem § 434
qualification, 6 Prov Rem § 444
quasi in rem jurisdiction, appointment to create, 2 Jurisd § 249; 6 Prov Rem § 424
real party in interest, as, 4 Plead § 148
remittitur, see Remittitur
rents
appointment regarding assignment, see assignment of rents (this group)
receiver in mortgage foreclosure, 6 Prov Rem § 456
restitution, appointment in actions involving, 6 Prov Rem § 440
sale of property by, 6 Prov Rem § 455
secured lender, appointment in action involving, 6 Prov Rem §§ 423, 426, 429, 430
sewer system, request for appointment for, 6 Prov Rem § 434
specific performance of assignment of rents, appointment for, see assignment of rents (this group)
stay of appointment pending appeal, 9 Appeal § 247

Index-327
Receivers—Cont’d
substandard buildings
appointment in rehabilitation action, 6 Prov Rem § 440
rental housing, duties regarding, 6 Prov Rem § 454
sue and be sued, power of receiver to, 6 Prov Rem § 452
unclaimed funds, disposal of, 6 Prov Rem § 454
undertaking
in general, 6 Prov Rem § 444
ex parte proceedings, 6 Prov Rem § 447
Uniform Liquidation Act, appointment in actions involving, 6 Prov Rem § 423
unlawful detainer
appointment for, 6 Prov Rem § 433
vacate appointment, motion to, 6 Prov Rem § 449
vendor, appointment in action by, 6 Prov Rem § 425
verified complaint, showing by, 6 Prov Rem § 442
water system, request for appointment for, 6 Prov Rem § 434

Reconsideration
appeal, effect of filing of notice of, see Notice of appeal
motion, see Motions
postjudgment motion, effect of filing of notice of appeal, see Notice of appeal
summary judgment, see Summary judgment

Record on appeal
in general, 9 Appeal § 626 et seq.
administrative proceedings
in general, 9 Appeal § 626
appendix, inclusion of record in, 9 Appeal § 652
clerk’s transcript, inclusion of record in, 9 Appeal § 647
designation of record for, 9 Appeal § 634
agreed statement
in general, 9 Appeal § 664 et seq.
augmentation of record by, 9 Appeal § 683
agreed statement—Cont’d
clerk’s transcript, inclusion of notice or stipulation in, 9 Appeal § 631
facts required for, 9 Appeal § 665
filing of, 9 Appeal § 666
form of, 9 Appeal § 631
limited civil case appeals, 9 Appeal § 1013
nature of record, 9 Appeal §§ 664, 665
papers required for, 9 Appeal § 665
requirements, 9 Appeal § 665
stipulation for, 9 Appeal § 666
transcript unavailable, 9 Appeal § 673
appealability of orders regarding, 9 Appeal § 191
appellant’s duty to furnish, 9 Appeal § 628
appendix
in general, 9 Appeal § 650 et seq.
arrangement of, 9 Appeal § 652
contents, 9 Appeal § 652
cover of, 9 Appeal § 652
election of, 9 Appeal § 651
exhibit held by other party, 9 Appeal § 653
filing of, 9 Appeal § 654
form of, 9 Appeal § 652
incorporation by reference into, 9 Appeal § 652
nature of, 9 Appeal § 650
purpose of, 9 Appeal § 650
sanctions for, 9 Appeal § 655
service of, 9 Appeal § 654
attorney-legislator, extension of time for, 9 Appeal § 632
augmentation
in general, 9 Appeal § 683 et seq.
agreed statement, by, 9 Appeal § 683
amendment of pleadings for, see Amendment of pleadings
appellate division of superior court, notice by, 9 Appeal § 1014*
certified transcript, by, 9 Appeal § 683
costs on appeal, as recoverable item of, see Costs on appeal
court order for, 9 Appeal § 686
diligence requirement, 9 Appeal § 685
limited civil case appeals, 9 Appeal § 1014
motion by party, 9 Appeal § 686

Index-328
Index

Record on appeal—Cont’d
augmentation—Cont’d
nature of remedy, 9 Appeal § 683
procedure, 9 Appeal § 686
proper part of record requirement, 9
Appeal § 684
settled statement, by, 9 Appeal § 683
binding of, 9 Appeal § 631
briefs, references in, 9 Appeal § 695
clerk of court, preparation by, 2 Courts § 366
clerk’s transcript
in general, 9 Appeal § 646 et seq.
appendix, election to use, see appendix (this group)
copies, 9 Appeal § 649
cost of, 9 Appeal § 649
designation of matters for, 9 Appeal § 647
format of, 9 Appeal § 631
indigent appeal, furnishing for, 9
Appeal § 629
judgment roll, see judgment roll, appeal on (this group)
limited civil case appeals, 9 Appeal § 1012
matters automatically included, 9
Appeal § 646
preparation, 9 Appeal § 649
superior court file in lieu of, 9 Appeal § 656
completion of, 9 Appeal § 691A*
conservatorship of gravely disabled persons, see Conservatorship of gravely disabled persons
consolidated cases or appeals, 9 Appeal § 672
content, 9 Appeal § 626
copy, preparation and use of, 9 Appeal § 633
correction
appellate division of superior court, by, 9 Appeal §§ 681, 681A*
limited civil case appeals, 9 Appeal § 1014
omissions, 9 Appeal § 681
record on appeal, 9 Appeal § 681
trial court record distinguished, 9
Appeal § 682
costs on appeal, as recoverable item of, see Costs on appeal

Record on appeal—Cont’d
court reporters, see Reporters of trial courts
cover of, 9 Appeal § 631
cross-appeals, 9 Appeal § 671
default
in general, 9 Appeal § 688 et seq.
dismissal of appeal based on, 9 Appeal § 688
notice of, 9 Appeal § 688
relief from, 9 Appeal § 689 et seq.
sanctions, 9 Appeal § 688
depositions, inclusion in clerk’s transcript, 9 Appeal § 647
designation of record
in general, 9 Appeal § 627
administrative proceedings, 9 Appeal § 634
cost of reporter’s transcript, 9 Appeal § 637
reporter’s transcript, 9 Appeal § 635
settled statement, motion for, 9 Appeal § 658
duty to furnish, 9 Appeal § 628
electronic
appellate court records, public access to, 2 Courts § 40H*
public access to appellate court records, 2 Courts § 40H*
trial proceedings, see electronic recordings of trial proceedings (this group)
electronic recordings of trial proceedings
in general, 9 Appeal § 645
limited civil case, 9 Appeal § 1014A*
emancipation of minor proceeding, waiver of costs for, 9 Appeal § 629
excessive record, penalty for, 9 Appeal § 687
exhibits
appendix, inclusion in, 9 Appeal § 653
clerk’s transcript, designation for, 9
Appeal § 647
designation of, 9 Appeal § 680
limited civil case, transmission to reviewing court, 9 Appeal § 1014B*
transmission to reviewing court, 9
Appeal §§ 680, 1014B*
extensions of time, 9 Appeal § 632

Index-329
Record on appeal—Cont’d

limited civil case

in general, 9 Appeal § 1011 et seq.
agreed statement, 9 Appeal § 1013
augmentation of record, 9 Appeal § 1014
clerk’s transcript, 9 Appeal § 1012
correction of record, 9 Appeal §§ 681, 1014
electronically recorded trial proceedings, 9 Appeal § 1014A*

exhibits, transmission to reviewing court, 9 Appeal § 1014B*

filing of record, 9 Appeal § 1014
filing requirements, 9 Appeal § 1011
form of record, 9 Appeal § 1011
original papers in, 9 Appeal §§ 648, 1012
recycled paper, use of, 9 Appeal § 1011
reporter’s transcript, 9 Appeal §§ 1011, 1012

settled statement, 9 Appeal § 1013
statement on appeal, 9 Appeal § 1013*

transcripts, 9 Appeal §§ 1011, 1012
transfer to Court of Appeal, record on, 9 Appeal § 1029
transmission to reviewing court, 9 Appeal §§ 1014, 1029

nature of, 9 Appeal § 626

new trial motion notice, inclusion in clerk’s transcript, 9 Appeal § 646

notice designating record, see designation of record (this group)

notice of appeal, inclusion in clerk’s transcript, 9 Appeal § 646
notice of motion to vacate judgment, inclusion in transcript, 9 Appeal § 646

omissions, correction of, 9 Appeal § 681

order appealed from, inclusion in clerk’s transcript, 9 Appeal § 646

orders regarding, 9 Appeal § 191

original papers

in general, 9 Appeal § 648
limited civil case appeals, 9 Appeal §§ 648, 1012

pagination in multi-reporter cases, 9 Appeal § 631

paper size, 9 Appeal § 631*

permissible types of, 9 Appeal § 626
Record on appeal—Cont’d
reconsideration of order motion notice, inclusion in clerk’s transcript, 9
Appeal § 646
recycled paper, use of
in general, 9 Appeal § 631
limited civil case appeals, 9 Appeal § 1011
register of actions, inclusion in clerk’s transcript, 9 Appeal § 646
reporter’s transcript
in general, 9 Appeal § 635 et seq.
abandonment of appeal, effect of, 9
Appeal § 642
clerk’s notification to reporter, 9
Appeal § 640
computer-readable format for, 9 Appeal § 642
contents, 9 Appeal § 641
cost of, 9 Appeal § 637
court reporters generally, see Reporters of trial courts
delinquent clerk or reporter, 9
Appeal § 643
deposit for, 9 Appeal §§ 556, 637 et seq.
dismissal of appeal, effect of, 9 Appeal § 642
electronic recordings, submission of, 9
Appeal § 645
filing of, 9 Appeal § 642
judge, remedies against, 9 Appeal § 644
limited civil case appeals, 9 Appeal §§ 1011, 1012
notice, 9 Appeal § 635
preparation, 9 Appeal §§ 642, 645
pretrial order, effect of, 9 Appeal § 636
request for, 9 Appeal § 645
Transcript Reimbursement Fund, 9
Appeal § 639
typewritten manuscript, inclusion in clerk’s transcript, 9 Appeal § 646
uncertified videotape, role of, 9 Appeal § 645
reversible error, review for, see Reversible or harmless error
sealed records, 9 Appeal § 631
separate appeals in same case, 9 Appeal § 672

Record on appeal—Cont’d
settled statement
in general, 9 Appeal § 657 et seq.
amendments to proposed statement, 9
Appeal § 660
augmentation of record by, 9 Appeal § 683
certification, 9 Appeal § 661
clerk’s transcript, inclusion of notice or stipulation in, 9 Appeal § 631
form of, 9 Appeal § 631
hearing, 9 Appeal § 661
judge’s refusal to settle, effect of, 9
Appeal §§ 662, 663
limited civil case appeals, 9 Appeal § 1013
mandamus for judge’s refusal to settle, 9 Appeal § 662
motion, 9 Appeal § 658
nature of record, 9 Appeal § 659
settlement, 9 Appeal § 661
stipulation by parties, 9 Appeal § 661
unavailable transcript, 9 Appeal § 673
sharing of copy, 9 Appeal § 633
small claims court, appeal from, 2 Courts § 316
statement on appeal, limited civil case appeal, 9 Appeal § 1013
successive appeals, 9 Appeal § 672
superior court file in lieu of clerk’s transcript, 9 Appeal § 656
time limitations, 9 Appeal § 632
Transcript Reimbursement Fund
in general, 9 Appeal § 639
preparation of reporter’s transcript, effect on, 9 Appeal § 642
transcripts
augmentation of record by, 9 Appeal § 683
binding of, 9 Appeal § 631
clerk’s transcript, see clerk’s transcript (this group)
court reporters generally, see Reporters of trial courts
deposit for, 9 Appeal § 556
disputes over costs, 9 Appeal § 642
format of, 9 Appeal § 631
indigent appellant, appeal of denial to, 9 Appeal § 169

Index-331
Record on appeal—Cont’d
transcripts—Cont’d
presiding judge’s duty to supervise preparation, 2 Courts § 237
recycled paper, use of, 9 Appeal § 631
reporter’s transcript, see reporter’s transcript (this group)
Transcript Reimbursement Fund, see Transcript Reimbursement Fund (this group)
unavailable transcript, see unavailable transcript (this group)
transmission to reviewing court
costs on appeal, recovery of cost as, see Costs on appeal
exhibits, 9 Appeal §§ 680, 1014B*
limited civil case appeals, 9 Appeal § 1014
record, 9 Appeal §§ 679, 1014A*
unavailable transcript
in general, 9 Appeal § 673
agreed statement, 9 Appeal § 673
new trial, 9 Appeal § 674 et seq.
settled statement, 9 Appeal § 673
unlimited civil case, original papers in, 9 Appeal § 648

Recordation
proving instrument for, proceeding for, 5 Plead § 856
real property, instruments affecting, see Recordation of instruments affecting real property

Recordation of instruments affecting real property
condition precedent to action to enforce sale, recordation as, 3 Actions § 210

Recycling
paper
use in courts, 2 Courts § 30; 4 Plead § 14; 9 Appeal §§ 631, 697, 1011, 1015

Rees-Levering Act, see Automobile sales

Referees
in general, 2 Courts § 346 et seq.; 6 PWT § 63 et seq.
appeal
appointment, appeal of, 9 Appeal § 169
discovery sanction order, 9 Appeal § 104*

Referees—Cont’d
appeal—Cont’d
frivolous appeals, award of sanctions for, 9 Appeal § 995
use of reference for, 9 Appeal § 767
appointment
in general, 2 Courts § 346; 6 PWT §§ 65, 69
appeal of, 9 Appeal § 169
attorney serving as, ethics of, 1 Attys § 421
complaints against, presiding judge’s responsibilities, 2 Courts § 237
compulsory reference
in general, 2 Courts § 346; 6 PWT § 65 et seq.
court facilities and personnel, use of, 6 PWT § 73
fees of referee, 6 PWT § 77
motion, 6 PWT § 68
new trial motion to review, 6 PWT § 75
report of referee, 6 PWT § 74
review of, 6 PWT § 75
cost of reference, 6 PWT §§ 77, 78
court commissioner as, 2 Courts § 347
court facilities and personnel, use of, 6 PWT § 73
definition of reference, 6 PWT § 63
disclosures required, 6 PWT § 70
discovery motions and disputes
in general, 6 PWT § 66
appeal, 9 Appeal § 104*
in forma pauperis suit, see In forma pauperis suit
objection to referee, 6 PWT § 70
discretion to grant reference, 6 PWT § 64*
disqualification, see Judicial misconduct or disability
ethics of attorney serving as, 1 Attys § 421
examination of judgment debtor, appointment for, see Examination proceedings
factual question, reference for, 6 PWT § 66
fees
in general, 6 PWT §§ 77, 78
costs, recovery as, 7 Judgm § 123
frivolous appeals, award of sanctions for, 9 Appeal § 995

Index-332
Referees—Cont’d
  garnishee, examination of, see Attachment
  general reference
  in general, 6 PWT §§ 64, 65, 496
  report of referee, 6 PWT § 74
  hearing before, 6 PWT § 73
  intervention into case pending before, 6
  PWT § 72
  involuntary inactive status of attorney,
  hearing regarding, see State Bar
  long account, reference for examination
  of, 6 PWT § 66
  mandatory reference, see compulsory ref-
  erence (this group)
  motion, 6 PWT § 68
  nature of reference, 6 PWT § 63
  new trial motion, see New trial
  objection to, 2 Courts § 346; 6 PWT § 70
  open hearings before, 6 PWT § 73
  peremptory challenge to, see Peremptory
  challenge to judge
  private judging by, 6 PWT § 496
  procedure, 6 PWT § 68 et seq.
  purpose of reference, 6 PWT § 63
  report of, 6 PWT § 74
  Rules of Court governing reference, 6
  PWT § 63
  sealing records of proceedings before, 6
  PWT § 73
  special proceeding, reference for, 6 PWT
  § 66
  special reference
  in general, 6 PWT §§ 64, 496
  objection to, 6 PWT § 76
  report of referee, 6 PWT § 74
  review of, 6 PWT § 76
  set aside, motion to, 6 PWT § 76
  statement of decision by, 6 PWT § 74
  statement of information regarding hear-
  ing, 6 PWT § 73
  statutes governing reference, 6 PWT § 63
  subordinate judicial officers, reference to
  as, 2 Courts § 237
  taking account, reference for, 6 PWT § 66
  undertaking by, 2 Courts § 346
  voluntary reference
  in general, 2 Courts § 346; 6 PWT
  §§ 64, 496
  court facilities and personnel, use of, 6
  PWT § 73
  fees of referee, 6 PWT § 77

Referees—Cont’d
  voluntary reference—Cont’d
  motion, 6 PWT § 68
  report of referee, 6 PWT § 74
  withdrawal of stipulation for, 6 PWT § 71
  Reference, see Referees
  Referendum, see Initiative, referendum,
  and recall
  Reformation of contract
  construction of writing, allegations
  regarding, 5 Plead § 818
  declaratory relief compared, 5 Plead
  § 855
  equitable nature of, 3 Actions § 126
  fraud
  in general, 3 Actions § 132
  limitation and accrual of actions, see
  Fraud and deceit
  pleading, 5 Plead § 812
  incomplete agreement, effect of, 5 Plead
  § 818
  interlocutory order for, 7 Judgm § 17
  limited civil case, 2 Courts § 246
  lis pendens, see Lis pendens
  mistake
  materiality of, pleading, 5 Plead § 816
  pleading, 5 Plead § 813 et seq.
  nature of remedy, 5 Plead § 806
  oral agreement not embodied in writing,
  effect of, 5 Plead § 818
  pleading
  in general, 5 Plead § 806 et seq.
  consideration, allegation of, 5 Plead
  § 808
  delay, allegation of excuse for, 5 Plead
  § 808
  elements of cause of action, 5 Plead
  § 807
  form of agreement in writing, 5 Plead
  § 811
  fraud, 5 Plead § 812
  grounds for reformation, 5 Plead § 812
  et seq.
  intended agreement, 5 Plead § 810
  interest of plaintiff, 5 Plead § 809
  mistake, 5 Plead § 813 et seq.
  negligence of plaintiff, effect of, 5
  Plead § 817

Index-333
Reformation of contract—Cont’d
pleading—Cont’d
prior demand, allegation of, 5 Plead § 808
reformation unavailable, 5 Plead § 818
unilateral, 5 Plead § 818
quiet title action distinguished, 5 Plead § 655
venue of action involving real property, 3 Actions § 797

Regulations
in general, see Administrative rulemaking

Rehearing, see Appeal

Related cases
coordination of, 4 Plead § 375

Release
answer, pleading release as defense in, 5 Plead §§ 1093, 1102
defense, pleading as, 5 Plead §§ 1093, 1102

Relief from default
relief from judgment, see Relief from judgment

Relief from judgment—Cont’d
in general, 8 Attack § 144 et seq.
attack, accident as ground for relief, 8 Attack § 156
affidavit
attorney’s affidavit of fault, see
attorney’s affidavit of fault (this group)
default judgment, relief from, 8 Attack § 213
merits, 8 Attack §§ 178, 181
party’s, 8 Attack §§ 178, 181
appearance, waiver of notice by, 8 Attack § 173
arbitration, availability for, 8 Attack § 145
assignee, entitlement to relief on default of assignor, 8 Attack § 149
attorneys
affidavit of fault, see attorney’s affidavit of fault (this group)
fees, see attorneys’ fees (this group)
mistake of fact, effect of, 8 Attack § 152
neglect as ground for relief, see neglect as ground for relief (this group)

attorney’s affidavit of fault
in general, 8 Attack §§ 144, 192 et seq.
absence of, effect of, 8 Attack § 170 et seq.
arbitration award, relief from, 8 Attack § 199
availability of relief, 8 Attack § 193 et seq.
conditional relief, 8 Attack § 204
default judgment requirement, 8 Attack § 196
diligence requirement, 8 Attack § 203
dismissal requirement, 8 Attack § 196
fault, requirements regarding, 8 Attack § 195
hearing on merits, relief from order following, 8 Attack § 198
inexcusable neglect, relief for, 8 Attack § 194
payment by attorney, 8 Attack § 205
requirements for relief, 8 Attack § 193 et seq.
settlement, relief from dismissal following, 8 Attack § 201
statute of limitations, relief from dismissal for noncompliance, 8 Attack § 200
summary judgment, relief from, 8 Attack § 197
time limit for motion, 8 Attack § 202
attorneys’ fees
mandatory relief, requirement of payment of, 8 Attack § 186
payment as condition for relief, 8 Attack § 183
availability of relief, 8 Attack § 145 et seq.
bankruptcy trustee, entitlement to relief, 8 Attack § 149
bond as condition for relief, 8 Attack § 183
claim and delivery, availability for, 8 Attack § 146
conditional relief
in general, 8 Attack § 183 et seq.
attorney’s affidavit of fault, relief based on, 8 Attack § 204
default judgment on constructive service, relief from, 8 Attack § 214
constructive service, default judgment on, see default judgment on constructive

Index-334
Relief from judgment—Cont’d

service, relief from (this group)
contractual arbitration, availability for, 8

Attack § 145
costs
mandatory relief, requirement of payment of, 8

Attack § 186
payment of as condition for relief, 8

Attack § 183
counteraffidavit by opposing party, 8

Attack § 178
criminal proceedings, availability for, 8

Attack § 146
deadlines, relief for failure to meet, 8

Attack § 147
default judgment on constructive service, relief from

in general, 8 Attack § 210 et seq.
actual notice, effect of, 8 Attack §§ 211, 212
affidavit negating avoidance of service and inexcusable neglect, 8

Attack § 213
conditions on order, 8 Attack § 214
filing of motion, 8 Attack § 213
juvenile court proceedings, availability of relief, 8

Attack § 210
monetary sanctions, 8 Attack § 214
nonresident motorist statute proceedings, availability of relief, 8

Attack § 210
notice of motion, 8 Attack § 213
order, 8 Attack § 214
proposed pleading requirement, 8

Attack § 213
relief from judgment based on mistake, inadvertence, neglect or surprise distinguished, 8

Attack § 210
Secretary of State, service on for corporation without agent, availability of relief, 8

Attack § 210
service of motion, 8 Attack § 213
State Bar proceedings, availability of relief, 8

Attack § 210
time limits for motion, 8 Attack § 213
default judgments
attorney’s affidavit of fault, relief on, see attorney’s affidavit of fault (this group)
availability of relief for, 8 Attack § 145
conditional relief, effect on, 8 Attack § 182

Relief from judgment—Cont’d
default judgments—Cont’d
default judgments—Cont’d
default service, relief from (this group)
contractual arbitration, availability for, 8

Attack § 145
costs
mandatory relief, requirement of payment of, 8

Attack § 186
payment of as condition for relief, 8

Attack § 183
counteraffidavit by opposing party, 8

Attack § 178
criminal proceedings, availability for, 8

Attack § 146
deadlines, relief for failure to meet, 8

Attack § 147
default judgment on constructive service, relief from

in general, 8 Attack § 210 et seq.
actual notice, effect of, 8 Attack §§ 211, 212
affidavit negating avoidance of service and inexcusable neglect, 8

Attack § 213
conditions on order, 8 Attack § 214
filing of motion, 8 Attack § 213
juvenile court proceedings, availability of relief, 8

Attack § 210
monetary sanctions, 8 Attack § 214
nonresident motorist statute proceedings, availability of relief, 8

Attack § 210
notice of motion, 8 Attack § 213
order, 8 Attack § 214
proposed pleading requirement, 8

Attack § 213
relief from judgment based on mistake, inadvertence, neglect or surprise distinguished, 8

Attack § 210
Secretary of State, service on for corporation without agent, availability of relief, 8

Attack § 210
service of motion, 8 Attack § 213
State Bar proceedings, availability of relief, 8

Attack § 210
time limits for motion, 8 Attack § 213
default judgments
attorney’s affidavit of fault, relief on, see attorney’s affidavit of fault (this group)
availability of relief for, 8 Attack § 145
conditional relief, effect on, 8 Attack § 182

INDEX

Relief from judgment—Cont’d
default judgments—Cont’d
default service, relief from (this group)
contractual arbitration, availability for, 8

Attack § 145
costs
mandatory relief, requirement of payment of, 8

Attack § 186
payment of as condition for relief, 8

Attack § 183
counteraffidavit by opposing party, 8

Attack § 178
criminal proceedings, availability for, 8

Attack § 146
deadlines, relief for failure to meet, 8

Attack § 147
default judgment on constructive service, relief from

in general, 8 Attack § 210 et seq.
actual notice, effect of, 8 Attack §§ 211, 212
affidavit negating avoidance of service and inexcusable neglect, 8

Attack § 213
conditions on order, 8 Attack § 214
filing of motion, 8 Attack § 213
juvenile court proceedings, availability of relief, 8

Attack § 210
monetary sanctions, 8 Attack § 214
nonresident motorist statute proceedings, availability of relief, 8

Attack § 210
notice of motion, 8 Attack § 213
order, 8 Attack § 214
proposed pleading requirement, 8

Attack § 213
relief from judgment based on mistake, inadvertence, neglect or surprise distinguished, 8

Attack § 210
Secretary of State, service on for corporation without agent, availability of relief, 8

Attack § 210
service of motion, 8 Attack § 213
State Bar proceedings, availability of relief, 8

Attack § 210
time limits for motion, 8 Attack § 213
default judgments
attorney’s affidavit of fault, relief on, see attorney’s affidavit of fault (this group)
availability of relief for, 8 Attack § 145
conditional relief, effect on, 8 Attack § 182

Relief from judgment—Cont’d
default judgments—Cont’d
default service, relief from (this group)
contractual arbitration, availability for, 8

Attack § 145
costs
mandatory relief, requirement of payment of, 8

Attack § 186
payment of as condition for relief, 8

Attack § 183
counteraffidavit by opposing party, 8

Attack § 178
criminal proceedings, availability for, 8

Attack § 146
deadlines, relief for failure to meet, 8

Attack § 147
default judgment on constructive service, relief from

in general, 8 Attack § 210 et seq.
actual notice, effect of, 8 Attack §§ 211, 212
affidavit negating avoidance of service and inexcusable neglect, 8

Attack § 213
conditions on order, 8 Attack § 214
filing of motion, 8 Attack § 213
juvenile court proceedings, availability of relief, 8

Attack § 210
monetary sanctions, 8 Attack § 214
nonresident motorist statute proceedings, availability of relief, 8

Attack § 210
notice of motion, 8 Attack § 213
order, 8 Attack § 214
proposed pleading requirement, 8

Attack § 213
relief from judgment based on mistake, inadvertence, neglect or surprise distinguished, 8

Attack § 210
Secretary of State, service on for corporation without agent, availability of relief, 8

Attack § 210
service of motion, 8 Attack § 213
State Bar proceedings, availability of relief, 8

Attack § 210
time limits for motion, 8 Attack § 213
default judgments
attorney’s affidavit of fault, relief on, see attorney’s affidavit of fault (this group)
availability of relief for, 8 Attack § 145
conditional relief, effect on, 8 Attack § 182

Relief from judgment—Cont’d
default judgments—Cont’d
default service, relief from (this group)
contractual arbitration, availability for, 8

Attack § 145
costs
mandatory relief, requirement of payment of, 8

Attack § 186
payment of as condition for relief, 8

Attack § 183
counteraffidavit by opposing party, 8

Attack § 178
criminal proceedings, availability for, 8

Attack § 146
deadlines, relief for failure to meet, 8

Attack § 147
default judgment on constructive service, relief from

in general, 8 Attack § 210 et seq.
actual notice, effect of, 8 Attack §§ 211, 212
affidavit negating avoidance of service and inexcusable neglect, 8

Attack § 213
conditions on order, 8 Attack § 214
filing of motion, 8 Attack § 213
juvenile court proceedings, availability of relief, 8

Attack § 210
monetary sanctions, 8 Attack § 214
nonresident motorist statute proceedings, availability of relief, 8

Attack § 210
notice of motion, 8 Attack § 213
order, 8 Attack § 214
proposed pleading requirement, 8

Attack § 213
relief from judgment based on mistake, inadvertence, neglect or surprise distinguished, 8

Attack § 210
Secretary of State, service on for corporation without agent, availability of relief, 8

Attack § 210
service of motion, 8 Attack § 213
State Bar proceedings, availability of relief, 8

Attack § 210
time limits for motion, 8 Attack § 213
default judgments
attorney’s affidavit of fault, relief on, see attorney’s affidavit of fault (this group)
availability of relief for, 8 Attack § 145
conditional relief, effect on, 8 Attack § 182

Relief from judgment—Cont’d
default judgments—Cont’d
default service, relief from (this group)
contractual arbitration, availability for, 8

Attack § 145
costs
mandatory relief, requirement of payment of, 8

Attack § 186
payment of as condition for relief, 8

Attack § 183
counteraffidavit by opposing party, 8

Attack § 178
criminal proceedings, availability for, 8

Attack § 146
deadlines, relief for failure to meet, 8

Attack § 147
default judgment on constructive service, relief from

in general, 8 Attack § 210 et seq.
actual notice, effect of, 8 Attack §§ 211, 212
affidavit negating avoidance of service and inexcusable neglect, 8

Attack § 213
conditions on order, 8 Attack § 214
filing of motion, 8 Attack § 213
juvenile court proceedings, availability of relief, 8

Attack § 210
monetary sanctions, 8 Attack § 214
nonresident motorist statute proceedings, availability of relief, 8

Attack § 210
notice of motion, 8 Attack § 213
order, 8 Attack § 214
proposed pleading requirement, 8

Attack § 213
relief from judgment based on mistake, inadvertence, neglect or surprise distinguished, 8

Attack § 210
Secretary of State, service on for corporation without agent, availability of relief, 8

Attack § 210
service of motion, 8 Attack § 213
State Bar proceedings, availability of relief, 8

Attack § 210
time limits for motion, 8 Attack § 213
default judgments
attorney’s affidavit of fault, relief on, see attorney’s affidavit of fault (this group)
availability of relief for, 8 Attack § 145
conditional relief, effect on, 8 Attack § 182

Index-335
Relief from judgment—Cont’d

grounds for relief—Cont’d
statement of in notice of motion, 8
   Attack § 174
ignorance of law, relief for, 8 Attack § 153
inadvertence as ground for relief, 8 Attack § 156
insurer, entitlement to relief on default of insured, 8 Attack § 149
involuntary dismissals, availability of relief for, 8 Attack § 145
judicial arbitration, availability for, 8 Attack § 145
judicial error distinguished, 8 Attack § 144
jurisdictional steps, relief from failure to take, 8 Attack § 147
jury trial, expedited, waiver of right, 8 Attack §§ 144*, 206*
mandatory relief
   in general, 8 Attack § 144
   attorney’s affidavit of fault, relief on, see attorney’s affidavit of fault (this group)
   attorneys’ fees to be ordered with, 8 Attack § 184
   conditions on, 8 Attack § 184
   costs to be ordered with, 8 Attack § 184
memorandum supporting notice of motion, 8 Attack § 174
mistake as ground for relief
   factual mistake, 8 Attack § 152
   law, mistake of, 8 Attack § 153 et seq.
   neglect of party distinguished, 8 Attack § 158
motion
   jurisdictional time for, 8 Attack § 175 et seq.
   necessity of, 8 Attack § 173 et seq.
   notice of motion, 8 Attack § 174
   renewal of, 8 Attack § 173
   time limitations for, 8 Attack § 175 et seq.
neglect as ground for relief
   attorney, 8 Attack § 160 et seq.
   excusable neglect of attorney, 8 Attack § 161 et seq.
   inexcusable neglect of attorney, 8 Attack §§ 167 et seq., 194
   party, 8 Attack §§ 158, 159

Relief from judgment—Cont’d

neglect as ground for relief—Cont’d
press of business, 8 Attack §§ 156, 161
new trial motion, relief for failure to timely make, 8 Attack § 147
notice of motion, 8 Attack § 174
order
   appeal of, 8 Attack § 187
   conditional, 8 Attack § 183 et seq.
   default judgment on constructive service, relief from, 8 Attack § 214
   effect of, 8 Attack § 182
   entry, 8 Attack § 182
mandamus review of, 8 Attack § 187
review of, 8 Attack § 187 et seq.
time in which to make, 8 Attack § 175
party
   entitlement to relief, 8 Attack §§ 149, 150
   neglect of as ground for relief, see neglect as ground for relief (this group)
penalty imposed with grant of relief, 8 Attack § 186
plaintiff, entitlement to relief, 8 Attack § 150
pleading, proposed, requirement for, 8 Attack § 180
press of business as ground for relief, 8 Attack §§ 156, 161
procedural steps, relief from failure to take, 8 Attack §§ 147, 148
property action, shortening time for motion in, 8 Attack § 177
proposed pleading requirement
   in general, 8 Attack § 180
default judgment on constructive service, relief from, 8 Attack § 213
public agency validation proceedings, availability for, 8 Attack § 146
renewal of motion, 8 Attack § 173
representative of party, entitlement to relief, 8 Attack § 149
reviewing courts, availability in, 8 Attack § 145
successor in interest, entitlement to relief, 8 Attack § 149
summary judgment, 6 PWT § 259
supporting memorandum, 8 Attack § 174
surprise as grounds for relief, 8 Attack § 157

Index-336
Relief from judgment—Cont’d
time for filing
attorney’s affidavit of fault, relief based on, 8 Attack § 202
notice of motion, 8 Attack § 175 et seq.
proposed pleading, 8 Attack § 180
trial courts, availability in, 8 Attack § 145
validation proceedings, availability for, 8 Attack § 146
void judgment, relief from
in general, 8 Attack § 206 et seq.
clerical error, correction of distinguished, 8 Attack § 206
erroneous or false return of summons, 8 Attack § 209*
expedited jury trial, waiver of right, 8 Attack § 206*
judgment void on its face, 8 Attack § 207
personal jurisdiction lacking, 8 Attack §§ 208, 209
timeliness of motion, 8 Attack § 209*
voluntary dismissals or agreements, availability of relief for, 6 PWT § 310; 8 Attack § 145
waiver of notice by appearance, 8 Attack § 173

Religious controversies, see Justiciable controversy

Remand
appeals, see Appeal
coordinated actions or claims, see Coordination of actions
United States Supreme Court, recall of remittitur as response to remand by, 9 Appeal § 851

Remedies
damages, see Damages; Damages for tort
election of, see Election of remedies
judicial, see Judicial remedies
reformation, see Reformation of contract
rescission, see Rescission of contract

Remittitur
in general, 9 Appeal § 841 et seq.
appellate division of superior court writ
proceedings, see Writs
correction of, 9 Appeal § 849
costs on appeal, entry of award, 9 Appeal § 974

Remittitur—Cont’d
defined, 9 Appeal § 841
issuance
effect of, 9 Appeal § 844
forthwith issuance, 9 Appeal § 845
proceedings in which remittitur issues, 9 Appeal § 843
stay of, 9 Appeal § 846
stipulation, issuance on, 9 Appeal § 845
Supreme Court, by, 9 Appeal § 941
time for, 9 Appeal § 845
limited civil case appeals, 9 Appeal §§ 1018, 1031
nature of, 9 Appeal § 841
new trial conditioned on, see New trial procedure, 9 Appeal § 842
recall
in general, 9 Appeal § 847 et seq.
correction of remittitur by, 9 Appeal § 849
denial of motion, reasons for, 9 Appeal § 852
fraud on court as ground, 9 Appeal § 850
grounds, 9 Appeal § 849 et seq.
improvident order as ground, 9 Appeal § 850
judgment, correction by, 9 Appeal § 850
judicial error, effect of, 9 Appeal § 852
laches, effect of, 9 Appeal § 852
mistake as ground, 9 Appeal §§ 850, 852
motion, 8 Writs § 7
nature of remedy, 9 Appeal § 847
opening brief, effect of failure to file, 9 Appeal § 852
petition for rehearing or review, effect of, 9 Appeal § 852
power of court, 9 Appeal § 847
procedure, 9 Appeal § 848
United States Supreme Court remand
response to by, 9 Appeal § 851
stay of issuance, 9 Appeal § 846
Supreme Court, issuance by, 9 Appeal § 941
writ proceedings in appellate division of superior court, see Writs

Removal to federal court, see Federal courts

Renewal of judgment
in general, 8 Enf Judgm § 35 et seq.
Renewal of judgment—Cont’d
action on judgment
alternative to renewal, as, |Enf Judgm § 35
|time for, |Enf Judgm § 40
amended judgment, |Enf Judgm § 35
amount of renewed judgment, |Enf Judgm § 37
application, |Enf Judgm § 36
clerk, entry of renewal by, |Enf Judgm § 37
defective service as ground for vacating renewal, |Enf Judgm § 38
deficiency judgment, renewal of, |Enf Judgm § 35
enforcement, effect of renewal on, |Enf Judgm § 40
entry of renewal, |Enf Judgm § 37
family law judgments, renewal of, |Enf Judgm §§ 36, 41
filing fee for application, |Enf Judgm § 36
hearing, |Enf Judgm § 38
interest on amount of renewed judgment, |Enf Judgm § 37*
Judicial Council forms, |Enf Judgm § 36
liens, effect of renewal on, |Enf Judgm § 39
modification of renewal, |Enf Judgm § 38
money judgment, amount of renewed judgment, |Enf Judgm § 37
notice of renewal, |Enf Judgm § 37
order, |Enf Judgm § 38
right to renew, |Enf Judgm § 35
stay of enforcement, renewal during, |Enf Judgm § 40
subsequent renewals, |Enf Judgm § 35
time for filing application, |Enf Judgm § 36
vacation of renewal, |Enf Judgm § 38
writ, effect of issuance, |Enf Judgm § 37

Renewal of motion
in general, see Motions

Rent—Cont’d
real property lien to enforce judgment, subjection to, see Judgment liens

Replevin, see Claim and delivery

Replication
in general, 4 Plead § 4
administrative mandamus, see
Administrative mandamus writs, see Writs

Reporters of trial courts
in general, 2 Courts §§ 379 et seq.
appeal, preparation of transcript for, see
Record on appeal
appointment, 2 Courts § 379
compensation, 2 Courts § 384 et seq.
delinquency of
in general, 9 Appeal § 643
presiding judge’s responsibilities, 2
Courts § 237
sanctions, 2 Courts § 382
discipline of, 9 Appeal § 643
duties, 2 Courts § 380 et seq.
electronic reporting, 2 Courts § 383
fees in civil cases
in general, 2 Courts §§ 180, 384; 4
Plead § 26
costs, recovery as, 7 Judgm § 135
notes of, 2 Courts § 380
qualifications, 2 Courts § 379
sanctions for failure to file transcript, 2
Courts § 382; 9 Appeal § 643
sequential records of, 2 Courts § 379
shorthand reporting of proceedings, 2
Courts § 380
transcript, preparation for appeal, see
Record on appeal
transcription, 2 Courts § 381

Request for admission
default on, effect on voluntary dismissal, 6 PWT § 298

Res ipsa loquitur
architect malpractice, certificate of merit exception, 3 Actions § 209
engineer malpractice, certificate of merit exception, 3 Actions § 209
pleading, 4 Plead §§ 606, 607
surveyor malpractice, certificate of merit exception, 3 Actions § 209

Index-338
Res judicata

in general, 7 Judgm § 334 et seq.
administrative decisions, effect of, 7 Judgm § 359 et seq.
answer, raising defense by, 5 Plead §§ 1127, 1128
applicability of, 7 Judgm § 343
arbitration award, effect of, 7 Judgm § 362
bar, judgment for defendant as, 7 Judgm § 407 et seq.
child custody proceedings, applicability to, 7 Judgm § 350 et seq.
collateral estoppel, see Collateral estoppel
courts in which doctrine applies, 7 Judgm §§ 350 et seq.
cross-complaint, effect of judgment on, 7 Judgm § 411
demurrer, raising defense by, 5 Plead § 965
direct estoppel distinguished, 7 Judgm § 342
discretionary rejection of doctrine, 7 Judgm §§ 344 et seq.
election of remedies and, 3 Actions § 185
equitable defense, effect of failure to plead, 7 Judgm § 412
estoppel to assert defense, 7 Judgm § 348
federal court judgment, effect of, 7 Judgm § 355
final judgment
in general, 2 Jurisd § 328 et seq.; 7 Judgm §§ 7 et seq., 363 et seq.
appeal, effect of judgment being subject to, 7 Judgm § 364
bankruptcy orders, finality of, 7 Judgm § 365
collateral estoppel, judgment final for, 7 Judgm § 369
final intermediate judgments, 7 Judgm § 365
first judgment in pending actions, 7 Judgm § 366
last judgment in successive actions, 7 Judgm §§ 367, 368
modification, effect of judgment being subject to, 7 Judgm § 364
one final judgment rule, 7 Judgm § 7
probate orders, finality of, 7 Judgm § 365

Res judicata—Cont’d

final judgment—Cont’d
requirement of, 7 Judgm §§ 343, 363 et seq.
res judicata effect of, 7 Judgm §§ 7, 363 et seq.
use of term, 7 Judgm § 7
when judgment is final, 7 Judgm § 356
foreign court judgment, effect of, 7 Judgm § 356
general demurrer, raising defense by, 5 Plead § 965
in rem judgments, 7 Judgm §§ 384, 470
judgment, proof by, 7 Judgm § 349
judgment not on merits, applicability to, 7 Judgm § 343
judgment on merits
in general, 7 Judgm § 370 et seq.
arbitration, judgment after, 7 Judgm § 372
consent judgment as, 7 Judgm § 372
declaratory judgment after, 7 Judgm § 373
default judgment as, 7 Judgm § 372
demurrer, judgment on, 7 Judgm §§ 372, 375 et seq.
dismissal, judgment after, 7 Judgm § 372
extraordinary writ, judgment on, 7 Judgm § 374
involuntary dismissal as, 7 Judgm §§ 379, 380
judgment on motion in court trial, 7 Judgm § 382
nonsuit, judgment after, 7 Judgm §§ 372, 381
recitals in judgment, effect of, 7 Judgm § 385
summary judgment, 7 Judgm § 372
trial on facts, judgment after, 7 Judgm § 371
voluntary dismissal, 7 Judgm § 378
judgment roll, proof by, 7 Judgm § 349
judicial arbitration, effect of award, 6 PWT § 613
judicial estoppel, see Judicial estoppel
judicial notice, proof by, 7 Judgm § 349
jurisdiction, effect on, 2 Jurisd §§ 104, 105
jurisdiction to determine jurisdiction, effect on determination, see Jurisdic-
Res judicata—Cont’d

sister state judgment, effect of, 7 Judgm § 353
small claims courts, applicability in, 7 Judgm § 352
state judgment in federal action, effect of, 7 Judgm § 354
status, applicability to judgment affecting, 7 Judgm § 385
statutory modification of doctrine, 7 Judgm § 347

strangers
in general, 7 Judgm § 468 et seq.
collateral estoppel asserted by, see Collateral estoppel
nonbinding nature of judgments, 7 Judgm § 468 et seq.
virtual representation doctrine, validity of, 7 Judgm § 469*
subject matter jurisdiction, effect on, 2 Jurisd §§ 104, 105
substantial identity of parties requirement in general, 7 Judgm § 452 et seq.
adversarial codefendants, 7 Judgm § 455
nonadversary parties, 7 Judgm § 453
privity, see persons in privity (this group)
representative capacity, parties in, 7 Judgm § 454
strangers, see strangers (this group)
successive criminal and civil proceedings, applicability to, 7 Judgm §§ 386 et seq., 395
successive judicial and administrative proceedings, applicability to, 7 Judgm § 396 et seq.
superior courts, applicability in, 7 Judgm § 351
trial of, priority for, 7 Trial § 151
tribunals in which doctrine applies, 7 Judgm § 350 et seq.
unpublished appellate opinions, citation of, 9 Appeal §§ 491, 824
void judgment, applicability to, 7 Judgm § 343
voluntary dismissal, effect of, 6 PWT § 308; 7 Judgm § 378
waiver, 7 Judgm § 348
Workers’ Compensation Appeals Board decisions, effect of, 7 Judgm § 358
Res judicata—Cont’d
writ petition denial, effect of, 8 Writs § 186

Rescission
stipulations, 1 Attys § 280 et seq.

Rescission of contract
answer, pleading as defense in, 5 Plead §§ 1072 et seq., 1088
arbitration agreement, grounds for rescission as defense to enforcement, 6 PWT § 531 et seq.

limitation and accrual of actions
in general, 3 Actions § 482
accrual on discovery of facts, 3 Actions § 497
discovery of facts, accrual on, 3 Actions § 497
limited civil case, 2 Courts § 246
notice requirement, 3 Actions § 206
procedure
notice, 3 Actions § 206
statute of limitations, 3 Actions § 482

Resources Agency
in general, 9 Admin Proc §§ 154, 183 et seq.
California Coastal Commission, see California Coastal Commission
Department of Conservation, see Department of Conservation
Department of Fish and Game, see Fish and game
Department of Parks and Recreation, see Parks and recreation areas
Department of Water Resources, see Water

Respondeat superior
alternative actions based on, 3 Actions § 177
joinder in actions involving, 4 Plead § 202
pleading on, 5 Plead §§ 919, 920
verdict on, 7 Trial §§ 359, 360

Restatements
appellate opinions, citation in, 9 Appeal § 795
attorneys, governing, 1 Attys § 2
conflict of laws, 3 Actions § 43
Restitution and Unjust Enrichment, 3 Actions §§ 2*, 180*

Restitution
attorney discipline, effect on, see Attorney discipline
contract nature of, 3 Actions § 156
cross-complaint, availability in summary proceeding, 5 Plead § 1162
false advertising, for, 6 Prov Rem § 310
fraud, based on, 3 Actions § 182
jury trial
cross-complaint, availability in summary proceeding, 5 Prov Rem § 1162

Rescission
accrual of action, 3 Actions § 686
collection of debt, restrictions on action for, 3 Actions § 686*
legal nature of action, 3 Actions §§ 130, 156
limitation and accrual of action, 3 Actions § 686
pleading, see pleading restitution after rescission (this group)
statute of limitations, 3 Actions § 686
tender of performance requirement, 3 Actions § 205
unilateral rescission, 3 Actions § 130
vendor’s fraud, 3 Actions § 182
venue, 3 Actions § 835
Restatement, 3 Actions §§ 2*, 180*
reversal of judgment on appeal, see Reversal of judgment on appeal
unilateral rescission, 3 Actions § 130
Restitution—Cont’d
venue
corporations and associations, actions against, 3 Actions § 859
restitution after rescission, 3 Actions § 835

Restraining orders
in general, see Temporary restraining orders

Restrain of trade
Cartwright Act, see Cartwright Act
conspiracy, limitation and accrual of actions, 3 Actions § 484
taxpayer’s action for injury by, 4 Plead § 170

Resulting trusts
action by beneficiary
partial payment allegation, 5 Plead § 838
payment of purchase price, allegation of, 5 Plead § 837
presumption of gift, negating, 5 Plead § 839
limitation and accrual of actions to establish, 3 Actions §§ 678, 679
pleading wrong trust, effect of constructive and resulting trusts confused, 5 Plead § 848
express and resulting trusts confused, 5 Plead § 846

Retail installment sale
change of venue, motion requirement, 3 Actions § 907
complaint, requirements for, 4 Plead § 472
venue
action on contract or account, 3 Actions § 845

Retaliatory eviction
attorneys’ fees, 7 Judgm § 228*
injunction against, 6 Prov Rem § 309
jury trial right, 7 Trial § 86
pleading, 5 Plead § 1113

Retirement benefits, see Pensions and retirement benefits

Return
administrative mandamus, see
Administrative mandamus

Return—Cont’d
writs, see Writs

Reversal
directions, with, see Reversal of judgment on appeal
judgment on appeal, see Reversal of judgment on appeal
restitution after, see Judgment on appeal

Reversal of judgment on appeal
in general, 9 Appeal § 869 et seq.
amendment of pleadings, directions for, 9 Appeal § 884
attorney misconduct or incompetence as ground, reporting to State Bar, see State Bar
cost award on, see Costs on appeal
directions
in general, 9 Appeal § 874 et seq.
amendment of pleadings, 9 Appeal § 884
entry of judgment, see directions to enter judgment (this group)
new trial, 9 Appeal § 883
proceedings in conformity with opinion, 9 Appeal § 885 et seq.
retrial of particular issue, 9 Appeal §§ 890, 891
Supreme Court, 9 Appeal § 941
directions to enter judgment
in general, 9 Appeal § 874 et seq.
conflict in evidence, effect of, 9 Appeal § 874
construction, directions requiring, 9 Appeal § 881
dismissal of action, 9 Appeal § 878
duty of trial court, 9 Appeal § 879 et seq.
error of law alone, effect of, 9 Appeal § 876
general reversal as, 9 Appeal § 875
insufficient evidence or pleadings, effect of, 9 Appeal § 877
mandamus to enforce duty of trial court, 9 Appeal § 880
nature of power, 9 Appeal § 874
prohibition to enforce duty of trial court, 9 Appeal § 880
review of judgment in conformity with, 9 Appeal § 882

Index-342
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page Refs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reversal of judgment on appeal—Cont’d</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>general reversal</td>
</tr>
<tr>
<td></td>
<td>in general, 9 Appeal § 869 et seq.</td>
</tr>
<tr>
<td></td>
<td>amendment of pleadings after, 9 Appeal § 872</td>
</tr>
<tr>
<td></td>
<td>“at large” status of case, 9 Appeal § 869</td>
</tr>
<tr>
<td></td>
<td>effect of, 9 Appeal § 869</td>
</tr>
<tr>
<td></td>
<td>judgment notwithstanding verdict, 9 Appeal § 873</td>
</tr>
<tr>
<td></td>
<td>new trial, right to, 9 Appeal §§ 870, 871</td>
</tr>
<tr>
<td></td>
<td>reinstatement of original judgment distinguished, 9 Appeal § 869</td>
</tr>
<tr>
<td></td>
<td>vacation of judgment as effect of, 9 Appeal § 869</td>
</tr>
<tr>
<td></td>
<td>directions for new trial, 9 Appeal § 883</td>
</tr>
<tr>
<td></td>
<td>general reversal, after, 9 Appeal §§ 870, 871</td>
</tr>
<tr>
<td>partial reversal</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>in general, 9 Appeal § 888 et seq.</td>
</tr>
<tr>
<td></td>
<td>directions to retry particular issue, 9 Appeal §§ 890, 891</td>
</tr>
<tr>
<td></td>
<td>whole judgment, appeal from, 9 Appeal § 889</td>
</tr>
<tr>
<td>restitution</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>in general, 9 Appeal § 900 et seq.</td>
</tr>
<tr>
<td></td>
<td>independent action, 9 Appeal § 902</td>
</tr>
<tr>
<td></td>
<td>nature of power to impose, 9 Appeal § 900</td>
</tr>
<tr>
<td></td>
<td>new trial impending, effect of, 9 Appeal § 903</td>
</tr>
<tr>
<td></td>
<td>scope of power to impose, 9 Appeal § 900</td>
</tr>
<tr>
<td></td>
<td>summary proceeding on motion, 9 Appeal § 901</td>
</tr>
<tr>
<td>stipulation to reverse</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>in general, 9 Appeal § 893 et seq.</td>
</tr>
<tr>
<td></td>
<td>abrogation of presumption favoring, 9 Appeal § 896</td>
</tr>
<tr>
<td></td>
<td>criminal case, 9 Appeal § 898</td>
</tr>
<tr>
<td></td>
<td>presumption favoring, 9 Appeal §§ 893, 895, 896</td>
</tr>
<tr>
<td></td>
<td>procedure, 9 Appeal § 897</td>
</tr>
<tr>
<td></td>
<td>refusal to apply presumption, 9 Appeal § 895</td>
</tr>
<tr>
<td></td>
<td>rejection of, 9 Appeal § 894</td>
</tr>
<tr>
<td>Reversal of judgment on appeal—Cont’d</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>stipulation to reverse—Cont’d</td>
</tr>
<tr>
<td></td>
<td>vacation of judgment, consent to, 9 Appeal § 899</td>
</tr>
<tr>
<td></td>
<td>summary reversal, 9 Appeal § 892</td>
</tr>
<tr>
<td></td>
<td>Supreme Court, reversal by, 9 Appeal § 941</td>
</tr>
<tr>
<td></td>
<td>unqualified reversal, see general reversal (this group)</td>
</tr>
<tr>
<td>Reversible or harmless error</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>in general, 9 Appeal § 416 et seq.</td>
</tr>
<tr>
<td></td>
<td>affirmanse of judgment, see Judgment on appeal</td>
</tr>
<tr>
<td></td>
<td>agreed statement, appeal on, 9 Appeal § 423</td>
</tr>
<tr>
<td></td>
<td>analysis to be used, 9 Appeal § 424</td>
</tr>
<tr>
<td></td>
<td>bad faith, error made in, 9 Appeal § 451</td>
</tr>
<tr>
<td></td>
<td>classification of error, 9 Appeal § 419</td>
</tr>
<tr>
<td></td>
<td>clerical error, 9 Appeal § 425</td>
</tr>
<tr>
<td></td>
<td>close case, 9 Appeal § 443 et seq.</td>
</tr>
<tr>
<td></td>
<td>confession of error, 9 Appeal § 458</td>
</tr>
<tr>
<td></td>
<td>constitutional provision regarding, 9 Appeal § 416 et seq.</td>
</tr>
<tr>
<td></td>
<td>counsel, misconduct of, 9 Appeal §§ 432, 440</td>
</tr>
<tr>
<td></td>
<td>court, misconduct of, 9 Appeal §§ 432, 440</td>
</tr>
<tr>
<td></td>
<td>cure of error</td>
</tr>
<tr>
<td></td>
<td>in general, 9 Appeal § 436 et seq.</td>
</tr>
<tr>
<td></td>
<td>evidence, cure of, 9 Appeal § 439</td>
</tr>
<tr>
<td></td>
<td>instructions, cure of, 9 Appeal §§ 441, 444</td>
</tr>
<tr>
<td></td>
<td>judge, cure by, 9 Appeal § 439 et seq.</td>
</tr>
<tr>
<td></td>
<td>misconduct, cure of, 9 Appeal § 440</td>
</tr>
<tr>
<td></td>
<td>nonsuit, cure of denial of, 9 Appeal § 437</td>
</tr>
<tr>
<td></td>
<td>party, cure by, 9 Appeal § 436 et seq.</td>
</tr>
<tr>
<td></td>
<td>summary judgment, cure of denial of, 9 Appeal § 438</td>
</tr>
<tr>
<td></td>
<td>damages, nominal, failure to award, 9 Appeal § 435</td>
</tr>
<tr>
<td></td>
<td>evidence</td>
</tr>
<tr>
<td></td>
<td>conflicting evidence, review of, 9 Appeal § 449</td>
</tr>
<tr>
<td></td>
<td>curing of error in, 9 Appeal § 439</td>
</tr>
<tr>
<td></td>
<td>erroneous admission, effect of, 9 Appeal § 430</td>
</tr>
<tr>
<td></td>
<td>erroneous exclusion, effect of, 9 Appeal § 431</td>
</tr>
<tr>
<td></td>
<td>trial, review of evidence in, 9 Appeal § 422</td>
</tr>
</tbody>
</table>

Index-343
Reversible or harmless error—Cont’d
federal constitutional error, 9 Appeal § 452
grammatical error, 9 Appeal § 425
harmless error, 9 Appeal § 428 et seq.
inadvertent misuse of terms, 9 Appeal § 426
injury, required showing of, 9 Appeal § 417
instructional error
in general, 9 Appeal § 433
instructions to jury, see Instructions to jury
insubstantial error, 9 Appeal § 425 et seq.
intentional error in bad faith, 9 Appeal § 451
invited error, 9 Appeal § 390
judge
curing of error by, 9 Appeal § 439 et seq.
misconduct of, 9 Appeal § 432
judgment clearly right, effect of, 9 Appeal § 442
judgment roll, appeal on, 9 Appeal § 423
jury
curing of error by, 9 Appeal § 439 et seq.
instructions to, see Instructions to jury
misconduct of, 9 Appeal §§ 432, 440
minor errors, 9 Appeal § 428 et seq.
nominal damages, failure to award, 9 Appeal § 435
nonsuit, curing of error in denial of, 9 Appeal § 437
numerous errors with cumulative effect, 9 Appeal § 450
partial transcript, appeal on, 9 Appeal § 423
parties
curing of error by, 9 Appeal § 436 et seq.
defects of, 9 Appeal § 428
per se reversible error
in general, 9 Appeal § 453 et seq.
fair hearing, denial of, 9 Appeal § 456
jury trial denial or impairment, 9 Appeal §§ 454, 455
statement of decision, sufficiency of, 9 Appeal § 456
structural error, 9 Appeal § 453
theory, 9 Appeal § 453

Reversible or harmless error—Cont’d
pleadings, see Errors
procedural irregularity, 9 Appeal § 427
record, review of, 9 Appeal §§ 418, 423
reversal of judgment, see Reversal of judgment on appeal
reversible error per se, see per se reversible error (this group)
settled statement, appeal on, 9 Appeal § 423
short record, appeal on, 9 Appeal § 423
statement of decision, 7 Trial § 405*; 9 Appeal §§ 434, 448, 457
structural error, see per se reversible error (this group)
substantial error
in general, 9 Appeal § 436 et seq.
bad faith, error in, 9 Appeal § 451
close case, 9 Appeal § 443 et seq.
conflicting evidence, 9 Appeal § 449
cure of error, see cure of error (this group)
evidence rulings, 9 Appeal § 446
failure to instruct jury, 9 Appeal § 447
federal constitutional error, 9 Appeal § 452
instructions to jury, 9 Appeal § 447
intentional error, 9 Appeal § 451
not reversible, 9 Appeal § 436 et seq.
numerous errors with cumulative effect, 9 Appeal § 450
prejudice test, 9 Appeal §§ 444, 445
reversible, 9 Appeal § 443 et seq.
statement of decision, defect in, 9 Appeal § 448
verdict, defect in, 9 Appeal § 448
summary judgment, curing error in denial of, 9 Appeal § 438
trial, curing of error in pleadings by, 9 Appeal § 436
trivial error or irregularity, 9 Appeal § 425 et seq.
unsubstantial error, 9 Appeal § 425 et seq.
verdicts, error in, see Verdict
waiver of error, see Errors

Reviewing courts
in general, 2 Courts § 325 et seq.
appeal generally, see Appeal
appellate division of superior court, see Superior court

Index-344
Index

Reviewing courts—Cont’d
Court of Appeal, see Court of Appeal courts generally, see Courts opinions of, see Opinion of reviewing court Supreme Court, see Supreme Court
Revival, see Survival and abatement of actions
Richard McKee Transparency Act, 9 Admin Proc § 5*
Right to appeal, see Appeal
Right to counsel
appointment of attorney, see Attorney-client relationship appointment of counsel based on unlawful practice, 1 Attys § 405 conservatorship of gravely disabled person, 3 Actions § 103 developmentally disabled persons, 3 Actions § 93 gravely disabled person, 3 Actions § 103 impairment of right to counsel, effect of, 2 Jurisd § 305 mandamus to enforce, 8 Writs § 110 mentally disordered persons, 3 Actions §§ 83, 84 mentally retarded persons, 3 Actions § 93
Ripeness of action
in general, 3 Actions §§ 21, 23, 26 involuntary dismissal for, 7 Judgm § 379*
Rosenthal Fair Debt Collection Practices Act, 8 Enf Judgm § 5*
Rulemaking, see Administrative rulemaking
Rules of Court
in general, 2 Courts § 181 et seq. adoption Judicial Council, by, 2 Courts § 390 local rules, 2 Courts § 200 statewide rules, 2 Courts § 187 alternative dispute resolution, 6 PWT § 483 annulment of marriage, 5 Plead §§ 885, 886 appellate division of superior court, 2 Courts § 339 appellate rules
in general, 9 Appeal §§ 1, 8 et seq.
Rules of Court—Cont’d
appellate rules—Cont’d adoption of, 9 Appeal § 8 amendment of, 9 Appeal § 8 construction of, 9 Appeal §§ 11, 12 definitions, 9 Appeal § 11 effective date, 2 Courts § 188 limited civil case appeals, 9 Appeal § 1002 scope of, 9 Appeal § 10 structure of, 2 Courts § 195; 9 Appeal § 9 appendices, 2 Courts §§ 187*, 198 arbitrators, ethics standards for, see Arbitration attorneys, rules on
in general, 1 Attys § 2; 2 Courts § 196 limited scope representation, see Attorneys “better practice,” 2 Courts § 184 civil rules, 2 Courts § 191 class actions, see Class actions complaint, see Complaint construction, 2 Courts § 187 continuance of trial, rules governing, see Continuance courts, rules applicable to, 2 Courts § 189 criminal proceedings
in general, 2 Courts § 192 deviation from, court’s power, 2 Courts § 207 dissolution of marriage, 5 Plead §§ 885, 886 effective date, 2 Courts § 188 electronic filing and service in Supreme Court and Courts of Appeal, 9 Appeal § 12A et seq.* Ethics Standards for Neutral Arbitrators in Contractual Arbitration, 2 Courts § 198; 6 PWT § 558 family law facilitator offices, operation of, 2 Courts § 198 family law information centers, operation of, 2 Courts § 198 family law rules, 2 Courts § 193; 5 Plead §§ 885, 886 filing of rules, 2 Courts § 188 guardian liability limits, calculation of, 2 Courts § 198
in forma pauperis suit, see In forma pauperis suit
Index-345
Rules of Court—Cont’d
judges, rules on, 2 Courts § 196
judicial administration rules, 2 Courts § 197
judicial arbitration, 6 PWT § 579
Judicial Council
governance policy, 2 Courts § 187*
legal forms list, 2 Courts § 198
parliamentary procedures for, 2 Courts § 187*
rules governing, 2 Courts §§ 197, 392
jurisdictional effect of, 2 Courts § 206
jury, rules governing, see Jury
jury trial, rules governing, see Jury trial
juvenile court rules, 2 Courts § 193
law practice, rules on, 2 Courts § 196
legal separation, 5 Plead §§ 885, 886
limited scope representation, see Attorneys
local rules
in general, 2 Courts § 199 et seq.; 7 Trial § 39
presiding judge, proposal by, 2 Courts § 237
mandatory effect of, 2 Courts § 206
mediation, 6 PWT § 488
motions, 6 PWT § 2
nature of rule-making power, 2 Courts § 181 et seq.
nullity of marriage, 5 Plead §§ 885, 886
organization of rules, 2 Courts § 187
parent liability limits, calculation of, 2 Courts § 198
particular case, procedure devised for, 2 Courts §§ 185, 186
priority in trial setting, 7 Trial § 66
probate, see Probate proceedings
publication
local rules, 2 Courts § 200
statewide rules, 2 Courts § 188
reference, see Referees
rule-making power, 2 Courts § 182
sanctions
rules governing, 7 Trial § 59
violation of rules, for, see sanctions for violation of rules (this group)
sanctions for violation of rules
in general, 2 Courts § 187; 7 Trial § 58
family law proceedings, 5 Plead § 885*
local rules, 2 Courts § 199

Rules of Court—Cont’d
sanctions for violation of rules—Cont’d
statewide rules, 2 Courts § 187
sealing records, 2 Courts § 41
small claims court, 2 Courts § 269
standards of judicial administration, see Standards of judicial administration
statement of decision, 7 Trial § 393
statewide rules, 2 Courts § 187 et seq.
statutes, consistency with, 2 Courts §§ 181, 203 et seq.
temporary judges, 2 Courts § 348
trial court rules, 2 Courts § 190
unwritten practice or usage, effect of, 2 Courts §§ 183, 184
writs, see Writs

Rules of Professional Conduct
in general, 1 Attys §§ 2, 407 et seq., 465A et seq.*
admission to practice, see Attorneys
adoption of, 1 Attys §§ 409, 465A*
adverse party, communication with, see Attorney discipline
advertising by attorneys, see Attorney conduct
agreements restricting law practice, see Attorneys
American Bar Association rules
adoption of, 1 Attys § 407
attorney referral services, see Attorney referral services
California rules and, 1 Attys § 409*
legal services programs, see Legal services programs
nature and scope of, 1 Attys § 407
organization, 1 Attys § 408
referral fees, see Attorneys’ fees
assistants, nonattorney, responsibilities regarding, 1 Attys § 465BBB*
“associate” defined, 1 Attys § 411
attorney-client relationship, see Attorney-client relationship
attorney discipline
authority, 1 Attys § 465SSS*
choice of law, 1 Attys § 465SSS*
compliance with conditions of discipline and agreements in lieu of discipline, 1 Attys § 465 et seq.*
sexual relations with client, 1 Attys § 465X*
INDEX

Rules of Professional Conduct—Cont’d
attorney discipline—Cont’d
  threat of criminal, administrative, or
disciplinary charges, 1 Attys
  § 465UU*
attorney malpractice, rules regarding, see
  Attorney malpractice
attorney referral services, see Attorney
  referral services
attorneys’ fees, see Attorneys’ fees
  breach of, 1 Attys § 558
business dealings with client, see
  Attorney-client relationship
communication with client, see Attorney
  conduct; Attorney-client relationship
Compendium on Professional
  Responsibility, 1 Attys § 409
compensation to induce employment, see
  Attorney-client relationship
conduct of attorney generally, see
  Attorney conduct
conflict of interest, see Attorney-client
  relationship
definitions, 1 Attys §§ 411, 465D*
delay of litigation, advocate, 1 Attys
  § 465MM*
diligence, 1 Attys § 465H*
disbarred lawyer, employment of, 1 Attys
  § 465CCC*
discipline, see Attorney discipline
discriminatory conduct by attorneys, 1
  Attys §§ 430, 465RRR*
division of attorneys’ fees, see Attorneys’
  fees
employees, see Attorney-client relation-
  ship
ethics hotline, 1 Attys § 409
fee division between attorneys, see
  Attorneys’ fees
financial arrangements, see Attorneys’
  fees
former clients, duties to, 1 Attys § 465Z*
  function of, 1 Attys § 411
funds of clients and other persons, safe-
  keeping, 1 Attys § 465EE*
gifts
  clients, gifts from, 1 Attys §§ 457,
  465R*
  employment, gift to induce, 1 Attys
  §§ 414, 427
  media, gift or compensation to, 1 Attys
  § 414

Rules of Professional Conduct—Cont’d
harassment prohibited, 1 Attys
  § 465RRR*
inadvertently transmitted writings, duties
  concerning, 1 Attys § 465YY*
inducements to recommend employment,
  see Attorney-client relationship
insurance, disclosure of professional
  liability insurance, 1 Attys § 465K*
intention of, 1 Attys § 409
judges
  conflicts of interest, former judges, 1
  Attys § 465CC*
  contact with, 1 Attys § 465PP*
“law firm” defined, 1 Attys § 411
law partnerships, see Law partnerships
“lawyer” defined, 1 Attys § 411
layperson
  fees, sharing with, see Attorneys’ fees
  partnership with, see Law partnerships
legal services programs, see Legal ser-
  vices programs
limitation of liability to client, 1 Attys
  § 465V*
malpractice, rules regarding, see Attorney
  malpractice
managerial and supervisory lawyers,
  responsibilities of, 1 Attys § 465ZZ*
mandatory withdrawal of attorney, see
  Attorney-client relationship
media, gift or compensation to, 1 Attys
  § 414
mediator, former, conflicts of interest, 1
  Attys § 465CC*
members of State Bar, proposal by, 1
  Attys § 410
multijurisdictional practice of law, 1 Attys
  § 465EEE*
nonadjudicative proceedings, advocate in,
  1 Attys § 465TT*
nonattorney, relationship with, see
  Attorney discipline; Law partnership
organization as client, see Attorney-client
  relationship
organization of revised rules, 1 Attys
  § 465B*
persons other than clients, transactions
  with, 1 Attys § 465VV et seq.*
professional integrity, rules governing, 1
  Attys §§ 411 et seq., 465NNN et
  seq.*
Rules of Professional Conduct—Cont’d

professional liability insurance, disclosure of, 1 Attys § 465K*
professional relationship with client, see Attorney-client relationship
property of clients and other persons, safekeeping, 1 Attys § 465EE*
proposed rules, 1 Attys § 409*
prospective clients, duties to, 1 Attys § 465HH*
purchasing property at foreclosure or sale subject to judicial review, 1 Attys § 465W*
purpose of, 1 Attys §§ 411, 465C*
referee, temporary, 1 Attys § 465KK*
referral fees, 1 Attys § 162
representation adverse to client, see Attorney-client relationship
represented party, communication with, see Attorney conduct
retaliation, 1 Attys § 465RRR*
sale of law practice, see Attorneys
scope of, 1 Attys §§ 409, 465F*
sexual relationship with client, see Attorney discipline; Attorney-client relationship
solicitation by attorneys, see Attorney conduct
special responsibilities of prosecutor, 1 Attys § 465SS*
statements to others, truthfulness in, 1 Attys § 465VV*
subordinate lawyer, responsibilities of, 1 Attys § 465AAA*
termination of attorney’s employment, see Attorney-client relationship
third-party neutrals
former, conflicts of interest, 1 Attys § 465CC*
lawyer as, 1 Attys § 465JJ*
threat of criminal, administrative, or disciplinary charges, 1 Attys § 465UU*
transactions with persons other than clients, 1 Attys § 465VV et seq.*
truthfulness in statements to others, 1 Attys § 465VV*
unauthorized practice of law, see Attorneys
violations, assisting, soliciting or inducing of, 1 Attys §§ 411, 465G*

Rules of Professional Conduct—Cont’d
voluntary withdrawal of attorney, see Attorney-client relationship
withdrawal of attorney, see Attorney-client relationship

Safe deposit boxes
attachment, see Attachment

Sales and use taxes
attachment in action to recover, 6 Prov Rem § 57
collection
limitation and accrual for actions by government, 3 Actions § 666 et seq.
taxpayer’s action by collector, 4 Plead § 167
liens, 3 Actions § 667
limitation and accrual for collection actions by government, 3 Actions § 666 et seq.
statute of limitations for collection actions by government, 3 Actions § 666 et seq.
taxpayer’s action by collector, 4 Plead § 167

Sales warranties
accrual of action for breach, see breach (this group)
breach
accrual of cause of action, 3 Actions § 537 et seq.
prospective warranty, 3 Actions §§ 538, 539
U.C.C. Division 2, see Uniform Commercial Code Division 2

Sanctions
administrative adjudication, 9 Admin Proc § 94
anti-SLAPP action, see SLAPP suits
appeal from, see Appealable judgments and orders
arbitration award, availability in, 6 PWT § 563
attorneys
absence of, effect of, 7 Trial § 231
bad faith by attorney, award against, 7 Trial § 229
bad faith by opposition, award to, 7 Trial § 228

Index-348
Sanctions—Cont’d

attorneys—Cont’d

certification of pleadings, see certification of pleadings (this group)
discipline based on, see Attorney discipline
failure to appear, effect of, 7 Trial § 231
failure to monitor case, effect of, 7 Trial § 231
fees, payment of as sanction, 7 Trial § 58
misconduct, imposition for, 7 Trial § 210
negligence, imposition for, 7 Trial § 61
pro hac vice, attorneys appearing in, 1 Attys § 389
remedies of when sanctioned, 7 Trial § 65
report to State Bar, see Attorney discipline
representation adverse to client, see Attorney-client relationship
stay of fee award pending appeal, 9 Appeal § 233
authority to impose, 7 Trial § 58
bad faith actions or tactics—Cont’d
in general, 7 Trial § 227 et seq.
“actions” defined, 7 Trial § 227
acts not warranting sanctions, 7 Trial § 232
acts warranting sanctions, 7 Trial § 231
amount, 7 Trial § 236
arbitration, applicability to, 7 Trial § 227
attorneys, see attorneys (this group)
contingent fee representation, effect on recovery, 7 Trial § 228
definitions, 7 Trial § 227
“frivolous” defined, 7 Trial § 227
hearing requirement, 7 Trial § 234
in forma pauperis suit, see In forma pauperis suit
judge challenged for cause, award to, 7 Trial § 228
jury trial right, 7 Trial § 234
notice requirement, 7 Trial § 233
order, 7 Trial § 235
parties, see parties to litigation (this group)
pro se litigants, award to, 7 Trial § 228

Sanctions—Cont’d

bad faith actions or tactics—Cont’d
procedure, 7 Trial § 233 et seq.
protective order, violation of, 7 Trial § 231
punitive damages award, 7 Trial § 227
“reasonable expenses” defined, 7 Trial § 227
review of order, 7 Trial § 235
scope, 7 Trial § 227
subjective bad faith requirement, 7 Trial § 230
“tactics” defined, 7 Trial § 227
basis for, necessity of specifying, 7 Trial § 59
certification of pleadings
in general, 7 Trial § 237 et seq.
appeal courts, applicability to, 7 Trial § 237
authorized sanctions, 7 Trial § 237
certification represented by signing of papers, 7 Trial § 238
diligence requirement for party seeking sanctions, 7 Trial § 239
discovery requests, applicability to, 7 Trial § 237
expenses, recovery by prevailing party, 7 Trial § 239
improper use of statute, 7 Trial § 241
law firm liability for, 7 Trial § 237
motion for sanctions, 7 Trial § 239
nature of, 7 Trial § 237
order to show cause, 7 Trial § 239
punitive damages, 7 Trial § 237
represented parties, liability for, 7 Trial § 237
safe harbor provision, 7 Trial § 240
scope of, 7 Trial § 237
self-represented attorney, liability for, 7 Trial § 237
signing of papers, 7 Trial § 238
change of venue motion, see Change of venue
continuing jurisdiction over, 2 Jurisd § 421
court order, violation of, 7 Trial § 226
court reporter’s failure to file transcript, 2 Courts § 382
dilatory appeals, see Frivolous appeals
discovery, see Discovery

Index-349
Sanctions—Cont’d
exclusion of evidence as sanction, 7 Trial § 58
fast track violations, 2 Courts § 264 et seq.
frivolous appeals, see Frivolous appeals
government entity, unwarranted tort action against, 7 Trial § 226
hearing right, 7 Trial § 64
improper tactics
  in general, 7 Trial § 226 et seq.
bad faith actions or tactics, see bad faith actions or tactics (this group)
  Baughness case, 7 Trial § 226
certification of pleadings, see certification of pleadings (this group)
judicial arbitration, failure to participate in, 6 PWT § 604
Judicial Council rules, 7 Trial § 59
local rules
  in general, 7 Trial § 60 et seq.
  attorney’s negligence, imposition for, 7 Trial § 61
  authority of, 7 Trial § 60
  instruction not amounting to rule, violation of, 7 Trial § 62
  violation of, 7 Trial § 226
motions, see Motions
negligence of attorney, imposition for, 7 Trial § 61
notice requirement, 7 Trial § 59
parties to litigation
  bad faith of opposition, award to, 7 Trial § 228
  bad faith of party, award against, 7 Trial § 229
certification of pleadings, liability for, 7 Trial § 237
reconsideration of motion, see Motions
record on appeal, see Record on appeal
Rules of Court, see Rules of Court
State Teachers’ Retirement System, 9 Admin Proc § 192
statement of decision, necessity for, 7 Trial § 392
striking answer and entering default as sanction, 7 Trial § 58
summary judgment, bad faith affidavit, 7 Trial § 226

Sanctions—Cont’d
terminating sanctions
  appeal of order, see Appealable judgments and orders
  imposition in first instance, 7 Trial § 63
  transcript, court reporter’s failure to file, 2 Courts § 382
  trial court delay reduction violations, 2 Courts § 264 et seq.
  trial sanctions
    civil actions, see bad faith actions or tactics (this group); certification of pleadings (this group); improper tactics (this group)
    criminal actions, see Trial
venue improper, see Change of venue
writs, 8 Writs § 215
Sanity, see Insanity

Satisfaction of judgment
in general, 8 Enf Judgm § 387 et seq.
acknowledgment of satisfaction
  content, 3 Actions § 390
creditor’s duty to acknowledge, 3 Actions § 388
demand by debtor, 3 Actions § 389
execution of, 3 Actions § 390
partial satisfaction, 8 Enf Judgm § 393
agreement to accept less than full amount, enforcement of, 8 Enf Judgm § 389*
amendment of satisfaction, 8 Enf Judgm § 392
appeal
  execution of satisfaction, effect on right to appeal, 9 Appeal § 78
  jurisdiction of trial court during pendency of, 9 Appeal § 20
  waiver of appeal by, 9 Appeal § 64
  attorneys’ fees, 8 Enf Judgm § 387
certificate of satisfaction, 8 Enf Judgm § 391
codebtors, crediting by acknowledgment of partial satisfaction, 8 Enf Judgm § 393*
entry by clerk, 8 Enf Judgm § 387
fewer than all joint debtors, acknowledgment of satisfaction by, 8 Enf Judgm § 397
mature installments, acknowledgment of satisfaction of, 8 Enf Judgm § 394 et seq.
Secured transactions in personal property
chattel mortgage
stay of foreclosure pending appeal, 9
Appeal § 240

Securities
attachment, see Attachment
real property securities dealers, see Real property

Security agreement, see Attachment

Security deposit
small claims court, recovery in, 2 Courts § 282

Security for costs
in general, 3 Actions § 350 et seq.
architects, actions against, 3 Actions § 358
construction project, action challenging, 3
Actions § 360
cross-complainant, nonresident as, 3
Actions § 355
delay of trial, effect of furnishing security on dismissal for, 6 PWT § 391
derivative suit, see shareholders’ derivative suit (this group)
design professionals, actions against, 3
Actions § 358
dismissal based on failure to give, 6 PWT § 474
engineers, actions against, 3 Actions § 358
foreign corporations, see nonresident plaintiff or foreign corporation (this group)
former law, 3 Actions §§ 350, 351
in forma pauperis suit, see In forma pauperis suit
involuntary dismissal based on failure to give, 6 PWT § 474
joinder of resident and nonresident, effect of, 3 Actions § 354
land surveyors, actions against, 3 Actions § 358
medical malpractice actions, 3 Actions § 359
nonresident plaintiff or foreign corporation
in general, 3 Actions § 353 et seq.
actual residence, 3 Actions § 354

Security for costs—Cont’d
nonresident plaintiff or foreign corporation—Cont’d
cross-complainant, nonresident as, 3
Actions § 355
determination, 3 Actions § 357
hearing, 3 Actions § 357
joinder of resident and nonresident, effect of, 3 Actions § 354
motion, 3 Actions § 356
stay, 3 Actions § 356
undertaking, 3 Actions § 357
revision of law, 3 Actions § 350 et seq.
shareholders’ derivative suit
in general, 3 Actions § 361 et seq.
motion, 3 Actions § 363
order, 3 Actions § 363
security, 3 Actions § 364
small claims court, availability in, 2
Courts § 289
surveyors, actions against, 3 Actions § 358
vexatious litigants
in general, 3 Actions § 365 et seq.
appeals, 3 Actions § 365
corporation as, 3 Actions § 367
defined, 3 Actions § 366
determination, 3 Actions § 369
dismissal for failure to post security, 3
Actions § 369
grounds, 3 Actions § 368
guardianship proceedings, 3 Actions § 365
hearing, 3 Actions § 369
in pro. per. litigant as, 3 Actions § 367
motion, 3 Actions § 368
new litigation, order precluding, 3
Actions § 370
prefiling order, 3 Actions §§ 368, 370
prefiling order, lifting of, 3 Actions § 370*
security, 3 Actions § 369
writ proceedings, 3 Actions § 365

Security transactions in real property
deeds of trust, see Deeds of trust
receiver, appointment of, 6 Prov Rem §§ 423, 426

Self-defense
battery
defense, pleading as, 5 Plead § 1101
index

Self-incrimination privilege
attorney disciplinary proceedings, applicability in, see Attorney discipline
law partnership, invocation by, 1 Attys § 19

Self-representation
in propria persona, see In propria persona right to counsel, see Right to counsel

Senior citizens
attorneys, sales of financial products by, 1 Attys § 100
der elder abuse, see Adult abuse

Sentence
judicial education on, 2 Courts § 396
suspended sentence, effect on attorney discipline, see Attorney discipline

Separation, marital, see Legal separation

Separation of powers
administrative agencies
limitations on, 9 Admin Proc § 4
judicial and legislative acts as related to, 3 Actions § 1

Service
appeal, see Appeal; Briefs; Costs on appeal; Notice of appeal
appellate division of superior court writ proceedings, see Writs
attorney disciplinary proceedings, see Attorney discipline
coordinated actions, see Coordination of actions
demurrer, see Demurrer
electronic, see Electronic filing and service
limited civil case appeals, see Limited civil case
motion, see Motions
notice of motion, see Motions
offer to compromise, see Offer to compromise
order to show cause, see Order to show cause
process, see Process
writ proceedings in appellate division of superior court, see Writs

Servicemembers’ Civil Relief Act, see Limitation and accrual of actions

Setoff
in general, 5 Plead § 1164 et seq.
child support obligations, effect on, 5 Plead § 1166
compulsory cross-complaint statute, effect of bar by, 5 Plead § 1166
condominium assessments, setoff against, 5 Plead § 1166
cross-complaint distinguished, 5 Plead § 1165
deficiency remaining after foreclosure, 5 Plead § 1166
former law, 5 Plead § 1164
general rule, 5 Plead § 1165
insurance, effect of, 5 Plead § 1166
limitation of action, effect of bar, 5 Plead § 1165
money judgment, effect of, 5 Plead § 1165
revised law, 5 Plead § 1165
spousal support obligations, effect on, 5 Plead § 1166
statute of limitations, effect of, 5 Plead § 1165
wages, setoff against, 5 Plead § 1166

Settled statement, see Record on appeal

Settlement
administrative adjudication, see Administrative adjudication
appeal, acceptance of settlement benefits on, 9 Appeal § 69
arbitration, waiver by deceptive tactics in settlement, 6 PWT § 550
attorney lien, effect on, see Attorneys’ fees
attorneys’ role, see Attorneys class actions, see Class actions
coection of by judge, 7 Trial § 248
conference, see Settlement conference
conflict of laws regarding, 3 Actions § 46
consent judgment, see Consent judgment
contingency fee agreement with provision preventing, effect of, see Attorneys’ fees
Court of Appeal, filing of notice of settlement in, 9 Appeal § 738
delay in trial, effect on dismissal for, 6 PWT § 422
Settlement—Cont’d
  dismissal request after, 7 Trial § 41
  enforcement of
    appealability of order granting motion
to enforce agreement, 9 Appeal § 185*
    summary judgment compared, 6 PWT § 211
  guardian ad litem, by, 4 Plead § 80 et seq.
  insurer’s bad faith refusal to settle, see Insurance
  misconduct at trial by reference to, 7 Trial § 221
  moot cases, effect on, 3 Actions § 33*
  mootness of case after, see Moot case
    notice of settlement
      Court of Appeal, filing in, 9 Appeal § 738
      trial court, filing in, 7 Trial § 41
      notification of court of, 7 Trial § 41
      promise of, effect on limitations period, 3
        Actions § 764
      refusal by insurer, see Insurance
    state, interest on settlement with, see Interest
      stipulated judgment, see Consent judgment
      suggestion by judge, 7 Trial § 252
      summary judgment compared to motion
        for enforcement, 6 PWT § 211
      tolling of limitations period by promise
        of, 3 Actions § 764
      voluntary dismissal following, relief from,
        6 PWT § 310; 8 Attack § 145

Settlement conference
  in general, 6 PWT § 492; 7 Trial § 53
  administrative adjudication, see Administrative adjudication
  challenged judge, authority to conduct, 2
    Courts § 135
  judge’s participation, see Judicial ethics
    local policy on attendance, 2 Courts § 201

Severance of actions
  administrative adjudication, see Administrative adjudication
  California statute, 4 Plead § 377
  change of venue, severance with, 3
    Actions § 915
  federal rules, 4 Plead § 376

Sex discrimination
  consent judgment, 6 PWT § 121B*
  continuing violations, 3 Actions § 564
  courts, avoidance in, 2 Courts § 31
  credit, see Credit
    equal pay
      limitation periods for actions based on,
        3 Actions §§ 482, 483
      judge, by, effect of, 7 Trial § 246
    limitation and accrual of actions
      in general, 3 Actions § 564
      equal pay claims, see equal pay (this group)
      statutes of limitation, see limitation and
        accrual of actions (this group)

Sex offenders
  attorney malpractice action by defendants, 1 Attys § 316*

Sex offenses and other crimes against decency
  attorney discipline based on, see Attorney discipline
    consent
      consent judgment, 6 PWT § 121A*
    violent sex crimes
      limitations periods applicable to, 3
        Actions §§ 483*, 488*, 595A*

Sexual abuse
  child, abuse of, see Lewd act with child or dependent adult

Sexual assault and battery
  consent judgment, 6 PWT § 121B*

Sexual harassment
  accrual of action, 3 Actions § 564
  arbitration of claims, 6 PWT § 520
  consent judgment, 6 PWT § 121B*
  continuing violations, 3 Actions § 564
  employment, sexual harassment in, 3
    Actions § 564
  instructions to jury, 7 Trial § 286
  jury instructions, 7 Trial § 286

Sexually violent predators
  civil commitment, see Commitment of sexually violent predators
  commitment of, see Commitment of sexually violent predators
    definitions, 3 Actions § 96
  judicial commitment of, 3 Actions § 96

Index-354
Sexually violent predators—Cont’d
jury trial, right to, 7 Trial § 90
summary judgment, availability of, 6
PWT § 206

Sham pleading
summary judgment compared, 6 PWT § 207

Shareholders, see Corporate shareholders

Sheriffs
attachment, see Attachment
attorney to assist, appointment of, 1 Attys § 64*
court security officer, 2 Courts § 388
duties, 2 Courts §§ 388, 389
fees for services performed in connection with provisional remedies, 6 Prov Rem § 4
legal counsel to assist, appointment of, 1 Attys § 64*
limitation and accrual of actions against, 3
Actions §§ 482, 668, 670
practice of law by, 1 Attys § 396
provisional remedies, fees for services performed in connection with, 6 Prov Rem § 4
service of process by, 3 Actions § 997
statute of limitations for actions against, 3
Actions §§ 482, 668, 670

Sherman Antitrust Act
attorneys’ fee schedules, effect on, 1 Attys § 158

Silicosis
tort actions, effect on accrual of, see Tort actions

Sister state judgments
action on, 8 Enf Judgm § 445 et seq.
appeal, effect of, 8 Enf Judgm § 446
collateral attack on, see Collateral attack
comity, role in action on judgment, 8 Enf Judgm § 446
controversy lacking, effect of, 8 Enf Judgm § 447
equitable relief in state of rendition, effect of availability of, 8 Enf Judgm § 447
excess of jurisdiction in rendering judgment, effect of, 8 Enf Judgm § 447
expiration of judgment, effect of, 8 Enf Judgm § 448

Sister state judgments—Cont’d
finality of judgment, necessity for, 8 Enf Judgm § 446
important interests of foreign state, effect of interference with, 8 Enf Judgm § 447
injunction, enforcement, 6 Prov Rem § 398
misconduct of plaintiff, effect of, 8 Enf Judgm § 447
penal judgment, enforceability of, 8 Enf Judgm § 447
real property liens, effect on, see Judgment liens
relief from default, applicability to, 8 Enf Judgm § 458*
res judicata, see Res judicata
revival of judgment, effect of, 8 Enf Judgm § 448

Sister State Money-Judgments Act
in general, 8 Enf Judgm § 449 et seq.
application for entry of judgment, 8 Enf Judgm § 453 et seq.
enforcement of judgment, 8 Enf Judgm § 460 et seq.
entry of judgment, 8 Enf Judgm §§ 451, 454 et seq.
judgment, effect of, 8 Enf Judgm § 452
jurisdiction, 8 Enf Judgm § 453
multiple money judgments, effect of, 8
Enf Judgm § 451
nature, 8 Enf Judgm § 449
notice of entry, 8 Enf Judgm § 457
purpose, 8 Enf Judgm § 449
scope, 8 Enf Judgm § 450
support orders, applicability to, 8 Enf Judgm § 450
vacation of judgment, 8 Enf Judgm §§ 458, 459
venue, 8 Enf Judgm § 453
unenforceability in state of rendition, effect of, 8 Enf Judgm § 447

Slander
accrual of actions, 3 Actions §§ 550, 551
cause of action, 4 Plead §§ 52, 53
damages, pleading, 5 Plead § 942
defamation, see Defamation
instructions to jury, 7 Trial § 286
jury instructions, 7 Trial § 286
libel, see Libel

Index-355
Slander—Cont’d
limitation and accrual of actions, 3
Actions §§ 481, 550, 551
malice, see Malice
pleading, see Defamation
statute of limitations, 3 Actions § 481
title, see Slander of title
Uniform Single Publication Act, 3
Actions § 551; 4 Plead §§ 52, 53
venue, 3 Actions § 821

Slander of title
alternative actions, 3 Actions § 176
limitation and accrual of actions
in general, 3 Actions §§ 483, 618
accrual on discovery of facts, 3 Actions § 497
pleading, 5 Plead § 749
statute of limitations, see limitation and
accrual of actions (this group)

SLAPP suits
in general, 5 Plead § 1017 et seq.
actions subject to, 5 Plead § 1019 et seq.
affidavit on information and belief, 5
Plead § 1035
amendment of pleadings before motion
filed, effect of, 5 Plead § 1033*
appeal
in general, 5 Plead § 1039
fees on appeal, 5 Plead § 1040
special motion to strike, order on, 9
Appeal § 172
arbitration claims, applicability to, 5
Plead § 1017
“arising from” requirement, 5 Plead
§ 1020
association meetings, 5 Plead § 1019*
attorneys’ fees
in general, 5 Plead § 1040 et seq.
SLAPPback action, 5 Plead § 1043
voluntary dismissal, effect on ruling on
motion for, 5 Plead § 1033*
burden of proof, 5 Plead § 1034 et seq.
commercial transactions, applicability to,
5 Plead § 1026
costs
in general, 5 Plead § 1040 et seq.
SLAPPback action, 5 Plead § 1043
definitions, 5 Plead § 1017
dismissal, allowance of fees after, 5 Plead
§ 1042

SLAPP suits—Cont’d
evidence, introduction of, 5 Plead § 1033*
free exercise of religion, applicability to
acts in furtherance of, 5 Plead § 1017
free speech right, 5 Plead §§ 1022, 1023
governmental entity, applicability to, 5
Plead § 1032
harassment
temporary restraining order or injunction,
availability of anti-SLAPP
motion, 6 Prov Rem § 321
workplace harassment, availability of
anti-SLAPP motion, 6 Prov Rem
§ 329
illegal speech, applicability to, 5 Plead
§ 1030
information and belief, affidavit on, 5
Plead § 1035
injunction relief, applicability to petition,
5 Plead § 1018
intent to chill, necessity of, 5 Plead
§ 1036
jurisdiction, lack of, 5 Plead § 1033*
litigation privilege, scope of, 5 Plead
§ 1018
motion, 5 Plead § 1033
nature of statute, 5 Plead § 1017
official proceeding, applicability to, 5
Plead § 1018
parties, 5 Plead § 1032
petition right, 5 Plead § 1021
preliminary injunction, effect of, 5 Plead
§ 1018
probability of plaintiff prevailing, effect
of, 5 Plead § 1025
procedure, 5 Plead § 1033
prosecutor, applicability to enforcement
action by, 5 Plead § 1025
protected activity, action not arising from,
5 Plead § 1029
public interest, applicability to actions in,
5 Plead § 1026
public significance
issue of, effect of, 5 Plead § 1024
requirement, 5 Plead § 1028
purpose of statute, 5 Plead § 1017
SLAPPback actions, 5 Plead §§ 1043, 1044
statutory exceptions to exemption provi-
sions, 5 Plead §§ 1026, 1027

Index-356
SLAPP suits—Cont’d
stay of discovery pending motion, 5 Plead § 1033
subject matter jurisdiction, lack of, 5 Plead § 1033*
workplace harassment, availability of anti-SLAPP motion, 6 Prov Rem § 329
Small claims court
in general, 2 Courts § 267 et seq.
acknowledgment of satisfaction of judgment, 2 Courts § 305
agent, appearance by, 2 Courts § 276 et seq.
amendment of judgment, 2 Courts § 303
appeal
in general, 2 Courts § 312 et seq.
abandonment of, 2 Courts § 313
county, action on behalf of, see Counties
defaulting defendant, by, 2 Courts §§ 312, 314
defendant’s insurer, by, 2 Courts § 312
dismissal of, 2 Courts § 313
failure to bring to trial, 6 PWT § 474
limited civil case appeal distinguished, 9 Appeal § 1003
notice of, 2 Courts § 315
plaintiff, by, 2 Courts § 309
time for, 2 Courts § 315
trial de novo in superior court, see trial de novo in superior court (this group)
appearances
in general, 2 Courts § 273 et seq.
personal appearance excused, 2 Courts § 299
assignee, action by, 2 Courts §§ 274, 275
assistants, use of, 2 Courts § 279
attachment, availability in, 2 Courts § 289; 6 Prov Rem § 93
attorney, appearance by, 2 Courts § 276 et seq.
atorneys’ fee arbitration award, jurisdiction over, 2 Courts § 282
bankruptcy trustee, action by, 2 Courts § 275
benchbook, 2 Courts § 270
cause of action, splitting of, 2 Courts § 286
certiorari review, 8 Writs § 34
Small claims court—Cont’d
child support enforcement jurisdiction, 2 Courts § 285
civil rights action, 2 Courts § 282
conclusiveness of judgment, 2 Courts § 309 et seq.
continuance
informal resolution, for, 2 Courts § 302
trial de novo in superior court, 2 Courts § 316
correction of judgment, 2 Courts § 302
costs
in general, 2 Courts § 302
enforcing judgment, 2 Courts § 303
county, action on behalf of, see Counties
declaration of agent, 2 Courts § 280
default judgment
appeal by defaulting defendant, 2 Courts §§ 312, 314
availability, 2 Courts § 298; 6 PWT § 137
motion to vacate, 2 Courts § 308
defendant, claim by, 2 Courts §§ 295, 296
defendant guarantor
action against, 2 Courts § 282
postponement on request of, 2 Courts § 297
Department of Corrections and Rehabilitation
action against, 2 Courts § 288
appearance of, 2 Courts § 279
discovery
in general, 2 Courts § 289
trial de novo in superior court, 2 Courts § 316
driver’s license suspension for unsatisfied judgment, 2 Courts § 307
enforcement of debt, requirements for action, 2 Courts § 292
enforcement of judgment, 2 Courts § 303
entry of judgment
notice of, 2 Courts § 302
satisfaction, entry of, 2 Courts § 305
equitable relief, 2 Courts §§ 287*, 302
escheat of unpaid judgment funds, 2 Courts § 306
evidence
admission and exclusion, 2 Courts § 301
extension of time for notice by mail, applicability, 2 Courts § 289

Index-357
Small claims court—Cont’d

extraordinary writ, review by, 2 Courts § 310
fictitious business name, use of, 2 Courts § 293
filing fees
  in general, 2 Courts §§ 180, 290
  trial de novo in superior court, 2 Courts § 316
forms
  in general, 2 Courts §§ 269, 429
  attorneys’ fee arbitration, 2 Courts § 287*
  default judgment, motion for vacation, 2 Courts §§ 308, 429
  information for plaintiff, 2 Courts §§ 292*, 429*
  plaintiff’s claim, 2 Courts §§ 292, 429
  postponement, 2 Courts §§ 297, 429
  service on defendant, 2 Courts §§ 294, 429
  writ proceedings, 2 Courts § 324A*
forum selection agreement, 2 Courts § 281
guardian ad litem, appearance by, 2 Courts § 273
hearing
  conduct of, 2 Courts § 298
  postponement of, 2 Courts § 297
  time for, 2 Courts § 297
hearsay, admission of, 2 Courts § 301
incarceration, appearance excused by, 2 Courts § 299
incompetent, appearance by guardian ad litem for, 2 Courts § 273
inherent powers, 2 Courts § 174
innkeeper’s lien, enforcement of, 2 Courts § 282
interest, 2 Courts § 303
intermediaries, use of, 2 Courts §§ 279, 300
investor, action by, 2 Courts § 275
judgment
  in general, 2 Courts § 302 et seq.
  trial de novo, 2 Courts § 320
judgment debtor’s statement of assets, 2 Courts § 302
judicial arbitration, exclusion from, 6 PWT § 583
Judicial Council
  forms, see forms (this group)
rules, 2 Courts § 269

Small claims court—Cont’d

judicial education on, 2 Courts § 396
jurisdiction
  in general, 2 Courts § 281 et seq.
  recovery of deposit, action for, 2 Courts § 282
jury trial right on trial de novo, 2 Courts § 318; 7 Trial § 84
legal advisors, 2 Courts § 271
limited civil case, 2 Courts § 281
location, 2 Courts § 291
malicious prosecution action based on small claims proceeding, 2 Courts § 272
manual on rules and procedures, 2 Courts § 270
mass claims, 2 Courts § 283
military service, appearance excused by, 2 Courts § 299
minor, appearance by guardian ad litem for, 2 Courts § 273
monetary limit, 2 Courts § 281
motion, time for service, 6 PWT § 31
motor vehicle license suspension for unsatisfied judgment, 2 Courts § 307
nature, 2 Courts § 267
new trial, availability, 8 Attack § 22
nonparty, judgment against, 2 Courts § 273
notice of entry of judgment, 2 Courts § 302
notice to appear, 2 Courts § 294
number of actions, limitation on, 2 Courts § 281
order to appear, 2 Courts § 294
organization, 2 Courts § 267
parties, 2 Courts § 273 et seq.
payment of judgment, 2 Courts § 304 et seq.
personal appearance excused, 2 Courts § 298
plaintiff’s claim, 2 Courts §§ 292, 293
pleadings, 4 Plead § 5
postponement, 2 Courts § 297
prisoners, appearance excused for, 2 Courts § 299
procedure, 2 Courts § 289 et seq.
representative, appearance by, 2 Courts § 276 et seq.
Rules of Court, 2 Courts § 269

Index-358
Small claims court—Cont’d
satisfaction of judgment, 2 Courts §§ 305, 306
Saturdays, conducting business on, 2 Courts § 48
security deposit, see Security deposit
security for costs, availability, 2 Courts § 289
service of claim on defendant
in general, 2 Courts § 294
postponement based on delay, 2 Courts § 297
sessions, 2 Courts § 291
sole proprietor, personal appearance by, 2 Courts § 299
splitting cause of action, 2 Courts § 286
spouse, appearance by, 2 Courts § 299
stay, 2 Courts § 303
taxes, delinquent, recovery of, 2 Courts § 282
temporary judge, hearing by, 2 Courts § 298
transfer, restrictions on, 2 Courts § 287
trial de novo in superior court
in general, 2 Courts §§ 316 et seq.
affirmative relief to losing defendant, 2 Courts § 317
appeal, 2 Courts §§ 321
attack on judgment, 2 Courts §§ 321
attorneys’ fees, 2 Courts § 320
certification to Court of Appeal, 2 Courts § 324
consolidation, 2 Courts § 319
continuances, 2 Courts § 316
dismissal, 2 Courts § 319
expenses, award of, 2 Courts § 320
fees, 2 Courts § 316
judgment, 2 Courts § 320
jury trial, right to, 2 Courts § 318
mandamus, review of decision by, 2 Courts § 323
record on appeal, 2 Courts § 316
rehearing, 2 Courts § 322
trial setting, 2 Courts § 316
witness examination, 2 Courts § 316
vacation of judgment
in general, 2 Courts § 302
default judgment, 2 Courts § 308
vehicle accident, judgment in case involving, 2 Courts § 302

Small claims court—Cont’d
venue, 2 Courts § 291
waiver of excess demand, 2 Courts § 281
workers’ compensation witness fees, see Workers’ compensation exclusive remedy
writ proceedings
procedure for small claims court, 8 Writs § 162*
review of judgment by, 2 Courts §§ 310, 324A*

Social Security number
State Bar, furnishing to, 1 Attys § 347

Soldiers’ and Sailors’ Civil Relief Act, see Military

Song-Beverly Consumer Warranty Act, see Consumer Warranty Act

Sovereign immunity
commercial activity by Indian tribe, 4 Plead § 117*
jurisdiction, see Capacity to sue and be sued
tribal employee sued in individual capacity, 4 Plead § 115*

Spanish language
Judicial Council forms, 2 Courts § 398
summons, warning in, 3 Actions § 986

Special appearance, see Appearance

Special damages, see Damages

Special proceedings
in general, 3 Actions § 64 et seq.
action distinguished, 3 Actions § 64
answer, effect of failure to deny allegations in, 5 Plead § 1052
appeal from judgment in, see Appealable judgments and orders
conspiracy action against attorney, order allowing, 3 Actions § 212
delay, applicability of involuntary dismissal for, 6 PWT § 316
involuntary dismissal for delay, applicability, 6 PWT § 316
parties, designation of, 4 Plead § 67
pleadings in, 4 Plead § 4
procedural differences, 3 Actions § 67
reference for, 6 PWT § 66
statutory classes, 3 Actions § 65
Special proceedings—Cont’d
trial, right to, 7 Trial § 94
uniformity policy, 3 Actions § 66

Specific performance
adequacy of legal remedy
personal property, contract concerning, 5 Plead § 804
pleading, 5 Plead § 803 et seq.
will, contract to make, 5 Plead § 805
consideration, inadequacy of
adequacy at all times, effect of allegation, 5 Plead § 799
consideration accepted, effect of, 5 Plead § 792
contract terms as sufficient, 5 Plead § 797
cure by trial and judgment, 5 Plead § 798
deviations of form, 5 Plead § 796
exercised option to purchase, 5 Plead § 791
facts, pleading, 5 Plead §§ 794, 795
general pleading, effect of, 5 Plead § 793
judgment, cure by, 5 Plead § 798
personal property sale, 5 Plead § 791
personal property without market value, effect of allegation, 5 Plead § 799
pleading, 5 Plead § 791 et seq.
price equals value allegation, 5 Plead § 794
real property vendor, action by, 5 Plead § 791
self-defeating allegations, 5 Plead § 799
surrounding circumstances, pleading, 5 Plead § 795
trial, cure by, 5 Plead § 798
damages in lieu of, 5 Plead § 784
deed or will, contract to make
in general, 5 Plead §§ 789, 805
equitable nature of, 3 Actions § 126; 5 Plead § 784
inadequacy of legal remedy, see adequacy of legal remedy (this group)
interim rentals, recovery of, 5 Plead § 786
land contract, alleging part performance, 5 Plead § 790
legal remedy, adequacy of, see adequacy of legal remedy (this group)

Specific performance—Cont’d
nature of action, 5 Plead § 784
pleading
in general, 5 Plead § 784 et seq.
adequacy of legal remedy, see adequacy of legal remedy (this group)
allegations, 5 Plead § 784
certainty requirement, 5 Plead § 787
consideration, see consideration, inadequacy of (this group)
counterperformance, certainty of, 5 Plead § 802
elements of cause of action, 5 Plead § 785
equity jurisdiction, effect of, 5 Plead § 784
excuse of plaintiff’s performance, 5 Plead § 800 et seq.
inadequacy of consideration, see consideration, inadequacy of (this group)
inadequacy of legal remedy, see adequacy of legal remedy (this group)
performance by plaintiff, 5 Plead § 800 et seq.
real property, contract for sale or transfer, 5 Plead § 787
specifically enforceable contract requirement, 5 Plead § 787 et seq.
statute of frauds, pleading to avoid, 5 Plead § 788 et seq.
tender of performance by plaintiff, 5 Plead § 800 et seq.
quiet title distinguished, 5 Plead § 655
tender of performance requirement, 3 Actions § 205; 5 Plead § 800 et seq.
will, see deed or will, contract to make (this group)

Spoliation of evidence
accrual of action based on, 3 Actions § 651
limitation and accrual of action based on, 3 Actions § 651
statute of limitations for action based on, 3 Actions § 651

Spousal support
appeals
final judgment rule, as exception to, 9 Appeal § 100
jurisdiction, effect on, 9 Appeal § 22
Spousal support—Cont’d
arrearage recovery in government enforcement proceeding
jury trial right, 7 Trial § 86*
attorney discipline based on noncompliance, 1 Attys § 499
collateral, estoppel effect of determination regarding, 7 Judgm § 426
confession of judgment, 6 PWT § 131
discipline of attorney based on noncompliance, 1 Attys § 499
enforcement of permanent support awards contempt to enforce orders, 8 Enf Judgm § 342
injunctive relief, 5 Plead § 890
jurisdiction
in general, 2 Jurisd § 282
appeal, effect on, 9 Appeal § 22
continuing, to modify permanent award, see modification of permanent support award (this group)
priority of jurisdiction, 2 Jurisd § 450
modification of decree, see Judgments modification of permanent support award
in general, 2 Jurisd § 421
permanent support
fraud as grounds for setting aside, 8 Attack § 2
notice, lack of, as grounds for setting aside, 8 Attack § 2
perjury as grounds for setting aside, 8 Attack § 2
setoff, 5 Plead § 1166
setting aside permanent support award
in general, 8 Attack § 2
temporary support
appeal of, 9 Appeal § 100*
Uniform Interstate Family Support Act
filing fees for proceedings under, 4 Plead § 27
jurisdiction, 2 Jurisd § 282*

Spouse
putative spouse, appeal of interlocutory order determining, 9 Appeal § 136*

Standards of Judicial Administration
in general, 2 Courts § 198
alternative dispute resolution, 6 PWT § 483
trial
in general, 7 Trial § 37

Standards of Judicial Administration—Cont’d
trial—Cont’d
court delay reduction, 2 Courts § 258
voir dire of jury, 7 Trial § 136

Standing to bring action
in general, 3 Actions §§ 21, 23
Administrative Procedure Act, standing to obtain review under, see Administrative Procedure Act
administrative rulemaking review proceedings, see Administrative rulemaking
disqualification of attorneys by nonclient, see Attorney-client relationship
federal law, 3 Actions § 22
preliminary injunction, 6 Prov Rem § 274

Stare decisis
in general, 9 Appeal § 481 et seq.
administrative tribunals, applicability to, 9 Appeal § 486
alternative reasons for decision, effect of, 9 Appeal § 512
appellate division decisions
in general, 9 Appeal § 503
unreported or unpublished opinions, 9 Appeal § 490
authority, decision contrary to
in general, 9 Appeal § 530 et seq.
authorities elsewhere, 9 Appeal §§ 530, 531
conflicts in authority, resolution of, 9 Appeal § 532 et seq.
California Supreme Court
Court of Appeal decisions, effect on Supreme Court, 9 Appeal § 500
decisions of, see California Supreme Court decisions (this group)
denial of review by, effect of, 9 Appeal §§ 501, 502
federal courts, see federal courts (this group)
California Supreme Court decisions
in general, 9 Appeal § 492 et seq.
California courts, effect on, 9 Appeal § 492
criticism by lower court, 9 Appeal §§ 495, 496
dicta, 9 Appeal § 492
Stare decisis—Cont’d
California Supreme Court decisions
—Cont’d
federal questions, decisions on, 9
Appeal § 492
minute orders, 9 Appeal § 492
subsequent declaration of legislative
intent, effect of, 9 Appeal § 494
common law as rule of decision
distinguished, 9 Appeal § 484
conflicts in authority, resolution of, 9
Appeal § 532 et seq.
consideration of case, effect of, see presentation and consideration of case
(this group)
Court of Appeal decisions
in general, 9 Appeal § 497 et seq.
denial of review, effect of, 9 Appeal §§ 501, 502
federal courts, see federal courts (this group)
lower courts, effect on, 9 Appeal § 497
other Courts of Appeal, effect on, 9
Appeal §§ 498, 499
Supreme Court, effect on, 9 Appeal § 500
unpublished opinions, effect of, 9
Appeal §§ 491, 820 et seq.
criminal cases wrong on principle or
policy, 9 Appeal § 528
departure from precedent, 9 Appeal §§ 482, 483
dicta
in general, 9 Appeal § 509 et seq.
California Supreme Court dicta, effect of, 9 Appeal § 492
persuasive effect of, 9 Appeal § 511
divided court, effect of decision by, 9
Appeal § 538
family law cases wrong on principle or
policy, 9 Appeal § 527
federal courts
in general, 9 Appeal § 505 et seq.
California courts, effect on federal
courts, 9 Appeal §§ 493, 497
federal questions, decisions on, 9
Appeal §§ 505, 506
nonfederal questions, decisions on, 9
Appeal § 507
state law questions, effect on, 9 Appeal § 507
Stare decisis—Cont’d
foreign country court decisions, 9 Appeal § 508
hearing, effect of failure to seek, 9 Appeal § 539
highest courts, power of, 9 Appeal § 482
jurisdictional nature of doctrine, 9 Appeal § 483
Legislature, failure to act, effect of, 9
Appeal §§ 516, 517
nature of doctrine, 9 Appeal § 481 et seq.
nonsuperseded cases, effect of, 9 Appeal § 488
overruling prior decisions
in general, 9 Appeal § 540 et seq.
express overruling, 9 Appeal § 540
indirect overruling, 9 Appeal § 541
prospective effect of, 9 Appeal § 551 et seq.
retroactivity of, see retroactive effect of
overruling prior decisions (this group)
presentation and consideration of case
good, effect of, 9 Appeal § 518
poor, effect of, 9 Appeal §§ 536, 537
principle or policy, decision wrong on
in general, 9 Appeal § 521 et seq.
practice and procedure cases, 9 Appeal §§ 523, 524
substantive law cases, 9 Appeal § 525
et seq.
prior appellate decision, authority of, 9
Appeal § 473*
property
decision wrong on principle or policy, 9
Appeal § 529
rule of, 9 Appeal §§ 513, 514
ratio decidendi, 9 Appeal § 509 et seq.
repudiation of prior decisions, see overruling prior decisions (this group)
retroactive effect of overruling prior decisions
in general, 9 Appeal § 542 et seq.
bad faith denial of contract cases, 9
Appeal § 547
covenant of good faith and fair dealing
cases, 9 Appeal § 546
intentional interference with prospective economic advantage cases, 9
Appeal § 545
landlord tenant cases, 9 Appeal § 550

Index-362
## Stare decisis—Cont’d

- Retroactive effect of overruling prior decisions—Cont’d  
  - Limited retroactivity, 9 Appeal § 554
  - Punitive damages cases, 9 Appeal §§ 543, 544
  - Settlement cases, 9 Appeal § 549
  - Tax cases, see tax cases (this group)
  - Rule long accepted, effect of, 9 Appeal § 515
  - Rule of decision, 9 Appeal § 509 et seq.
  - Sister-state court decisions, 9 Appeal § 504

- Statute  
  - As precedent, distinguished, 9 Appeal § 485
  - Decision contrary to, effect of, 9 Appeal §§ 519, 520
  - Overlooking of in decision, effect of, 9 Appeal § 519
  - Subsequent change in, effect of, 9 Appeal § 520

- Superseded cases, effect of, 9 Appeal § 487

- Supreme Court, see California Supreme Court (this group); California Supreme Court decisions (this group); federal courts (this group)

- Tax cases  
  - Prospective effect of overruling, 9 Appeal § 553
  - Retroactive effect of overruling, 9 Appeal § 548

- Torts cases wrong on principle or policy, 9 Appeal § 525

- Trial courts, applicability to, 9 Appeal § 486

- United States Supreme Court, see federal courts (this group)

- Unreported or unpublished opinions  
  - In general, 9 Admin Proc §§ 154, 188 et seq.
  - Appellate division opinions, 9 Appeal § 490
  - Court of Appeal cases, 9 Appeal §§ 491, 820 et seq.
  - Early cases, 9 Appeal § 489
  - Weakness in prior decision, effect of, 9 Appeal § 535 et seq.
  - Workers’ compensation cases wrong on principle or policy, 9 Appeal § 526

## State

- Administrative mandamus, see Administrative mandamus agencies, see Administrative agencies
- Attorney General, see Attorney General
- Bonds  
  - Executable to state of California, 6 Prov Rem §§ 14, 17, 43
  - Exemption from requirements for, 6 Prov Rem § 13
  - Limitation of action on, 3 Actions § 489*
- Capacity to be sued, see Capacity to sue and be sued
- Controller, see State Controller
- Coupons, limitation of action on, 3 Actions § 489*
- Department of Motor Vehicles, see Department of Motor Vehicles
- Involuntary dismissal for delay in service of action with state as plaintiff, 6 PWT § 321
- Jury fees and deposit, exemption from, 4 Plead § 27*
- Limitation of actions asserted against, see Limitation and accrual of actions
- Secretary of State, see Secretary of State
- Sovereign immunity, see Capacity to sue and be sued
- State Bar, see State Bar

- Statute of limitations for actions asserted against, see Limitation and accrual of actions
- Tort claims, see Government tort claims
- Tort liability, see Governmental tort liability
- Venue for actions involving, see Venue

## State and Consumer Services Agency

- In general, 9 Admin Proc §§ 154, 188 et seq.
- Board for Professional Engineers and Land Surveyors, 9 Admin Proc § 198
- California Architects Board, 9 Admin Proc § 195
- California Board of Accountancy, 9 Admin Proc § 194
- California Public Employees Retirement System, 9 Admin Proc § 191
- California State Board of Pharmacy, 9 Admin Proc § 201
State and Consumer Services Agency
—Cont’d
Contractors’ State License Board, 9 Admin Proc § 196
Dental Board of California, 9 Admin Proc § 197
Department of Consumer Affairs, 9 Admin Proc § 193
Department of Fair Employment and Housing, see Fair Employment and Housing Act
Department of Personnel Administration, 8 Writs § 266
Franchise Tax Board, 9 Admin Proc § 189
Medical Board of California, 9 Admin Proc § 199
State Board of Optometry, 9 Admin Proc § 200
State Personnel Board, 9 Admin Proc § 190

State audit report, see Open meeting requirements

State Bar—Cont’d
Board of Trustees—Cont’d
meetings of, 1 Attys § 344
members, selection of, 1 Attys § 343
renaming Board of Governors as, 1 Attys §§ 343*, 411*; 2 Courts § 5*
Client Security Fund
in general, 1 Attys §§ 17, 18
administration, 1 Attys § 17
funding, 1 Attys § 17
nature of, 1 Attys § 17
reimbursement procedure, 1 Attys § 18
scope of, 1 Attys § 17
subrogation rights of State Bar, 1 Attys § 18*
collateral estoppel, applicability to reimbursement actions, see Collateral estoppel
Committee of Bar Examiners, see Attorneys
complaint to State Bar, see Attorney discipline
compulsory dues, use of, 1 Attys § 355
criminal prosecution against attorney, notification of, see Attorney discipline
default judgment on constructive service, availability of relief, see Relief from judgment
disciplinary proceedings, see Attorney discipline
ethics, see Rules of Professional Conduct
examination for admission, see Attorneys
exclusive jurisdiction of, 2 Jurisd § 48
fee arbitrations, see Attorneys’ fees
fee disputes, see Attorneys’ fees
fees, 1 Attys § 378
fiduciary duty of attorney, reporting of breach to, 2 Courts § 51A*
foreign legal consultants, certification of, 1 Attys § 391
fraudulent conduct by attorney, reporting of, 2 Courts § 51A*
functions and activities of state bar sections, transfer of, 1 Attys § 342*
Governors, Board of, see Board of Trustees (this group)

California Procedure 5th 2019 Supplement
Index-364
Index

State Bar—Cont’d
gross negligence in professional capacity of attorney, reporting of, 2 Courts § 51A*
hearings, see Attorney discipline
illegal aliens, admission to, see Attorneys inactive members
in general, 1 Attys § 348 et seq.
fees, 1 Attys § 378
involuntary inactive status, see involuntary inactive status (this group)
retirement from practice, 1 Attys § 348
Indian child, report of civil penalty imposed on attorney related to adoption of, see Attorney discipline
integrated bar, nature of, 1 Attys § 342
Interagency Intercept Collections Program, participation in, 1 Attys § 378*
investigation of attorney misconduct, see Attorney discipline
involuntary inactive status
in general, 1 Attys §§ 349 et seq., 632 et seq.
active status, transfer to, 1 Attys §§ 640, 641
address of record, failure to maintain as ground, 1 Attys § 638
arbitration fee award as ground, see Attorneys’ fees
dervisional requirements, 1 Attys § 353
disciplinary proceeding, effect of enrollment on, 1 Attys §§ 349, 353
disciplinary requirements, noncompliance with as ground, 1 Attys § 352
employment of involuntarily inactive lawyer, 1 Attys § 465CCC*
evidence, presentation of, 1 Attys § 353
failure to perform duties competently as ground, 1 Attys §§ 351, 635
failure to respond to disciplinary proceeding as ground, 1 Attys § 639
fee arbitration as ground, see Attorneys’ fees
grounds for enrollment, 1 Attys §§ 349, 632
incarceration, sentence of, 1 Attys §§ 352*, 632*
incompetence as ground, 1 Attys §§ 350, 633, 640

State Bar—Cont’d
involuntary inactive status—Cont’d
insanity as ground, 1 Attys §§ 350, 633, 640
interim remedies, 1 Attys § 632
jurisdiction over law practice as ground, 1 Attys § 634
notice of enrollment, 1 Attys §§ 349, 353
probation violation as ground, 1 Attys § 352
referee, use of, 1 Attys § 353
reporting requirements, noncompliance with as ground, 1 Attys § 352
Rules of Professional Conduct, 1 Attys § 465CCC*
stipulation to inactive status, 1 Attys §§ 635, 636
stipulation to transfer to active status, 1 Attys §§ 640, 641
substantial threat of harm as ground, 1 Attys §§ 351, 636, 637, 641
Supreme Court review of enrollment, 1 Attys § 349
termination of enrollment, 1 Attys § 349
witnesses, use of, 1 Attys § 353
judgment, modification or reversal based on attorney misconduct or incompetence, reporting to, 2 Courts § 51A*
jurisdiction, 2 Courts § 211
Keller case, 1 Attys § 355
law corporations, see Law corporations
legal services programs, see Legal services programs
malpractice, see Attorney malpractice
mediation of attorneys’ fee disputes, see Attorneys’ fees
membership
in general, 1 Attys § 346 et seq.
admission to, see Attorneys defined, 1 Attys § 411
diversity and inclusion, 1 Attys § 342*
dues, 1 Attys § 378
fees, 1 Attys § 378
inactive members, see inactive members (this group); involuntary inactive status (this group)
information required from members, 1 Attys § 347

Index-365
State Bar—Cont’d
membership—Cont’d
online membership account, 1 Attys § 347*
practice of law by, 1 Attys § 379
resignation from, 1 Attys § 346
Rules of Professional Conduct, proposal by, 1 Attys § 410
misrepresentation by attorney, reporting of, 2 Courts § 51A*
nature of, 1 Attys § 342
open meeting requirements, 9 Admin Proc § 11*
organization of, 1 Attys § 342
professional liability, see Attorney malpractice
public corporation, status as, 1 Attys § 342
regulation of law practice by, see Attorneys
reimbursement actions, applicability of collateral estoppel to, see Collateral estoppel
reinstatement after disbarment, see Attorney discipline
report of misconduct to, 1 Attys §§ 556, 575; 2 Courts § 51A*
resignation from, 1 Attys § 346
Rules of Professional Conduct, see Rules of Professional Conduct
sanctions imposed on attorney, report of, see Attorney discipline
solicitation of business by attorneys, see Attorney conduct
State Bar Act
in general, 1 Attys § 2
constitutionality of, 1 Attys § 354
discipline under, see Attorney discipline
State Bar Court, see State Bar Court
State Bar Rules
in general, 1 Attys § 2
admission to practice, 1 Attys §§ 357*, 359 et seq.*
Client Security Fund, see Client Security Fund (this group)
continuing legal education, 1 Attys § 406*
involuntary inactive enrollment, rules governing, 1 Attys § 349
State Bar—Cont’d
notice of discipline, rules governing, see Attorney discipline
reimbursement from Client Security Fund, see Client Security Fund (this group)
reorganization of, 1 Attys § 2A*
subrogation rights of, 1 Attys § 18*
Trustees, Board of, see Board of Trustees (this group)
unlawful practice of law, action based on, see Attorneys
website in general, 1 Attys § 343
ethics information on, 1 Attys § 409
State Bar Court
review of decisions in general, 8 Writs §§ 11, 266
superior court, lack of jurisdiction, 2 Courts § 211
State Compensation Insurance Fund
counsel, employment of, 1 Attys § 56
open meeting requirements, exception for, 9 Admin Proc § 12*
State Controller
government tort claims, 3 Actions § 272
State Lands Commission
counsel, employment of, 1 Attys § 56
State of California
in general, see State
State Personnel Board
special counsel, employment of, 1 Attys § 64
State Treasurer
counsel, employment of, 1 Attys § 56
State Water Resources Control Board, see Water Resources Control Board
Statement of decision in general, 7 Trial § 389 et seq.
alter ego, requirement to impose liability on, 7 Trial § 391
amendment of statement, 7 Trial § 399
appeal from, see Appealable judgments and orders
appeal of error, 9 Appeal § 433*
Statement of decision—Cont’d

arbitration, see Arbitration
arbitration award confirming, see Arbitration
bifurcated trial, 7 Trial § 400
content, proposal of, 7 Trial § 395
damages, requirement for determination of, 7 Trial § 391
tree of judgment, 7 Trial § 399
error in, see Reversible or harmless error
extension of time, 7 Trial § 393
failure to issue, effect of, 7 Trial § 405
filing of statement, 7 Trial § 399
form of statement, 7 Trial § 396
harmless error, 9 Appeal § 434
insufficient statement, 7 Trial § 402
invited error, 7 Trial § 316; 9 Appeal § 390
issue of law, necessity for, 7 Trial § 392
modification by new judge, 8 Attack § 103
modification of judgment contrary to on appeal, 9 Appeal § 864
motion, necessity for on ruling on, 7 Trial § 392
nature of requirement, 7 Trial § 390
necessity for, 7 Trial §§ 391, 392
new trial based on, see New trial
objections to proposed statement, 7 Trial § 398
one-day trial, time for request by party, 7 Trial § 395
per se reversible error, 9 Appeal § 457
preliminary injunction, on application for, 7 Trial § 392
preparation of statement, 7 Trial § 396
procedure, 7 Trial § 393 et seq.
proposed judgment when statement not required, 7 Trial § 397
referee, by, 6 PWT § 74
reporter’s transcript distinguished, 7 Trial § 403
request for statement by party, 7 Trial § 395
reirement of judge after tentative decision, effect of, 7 Trial § 394
reversible error, failure to issue statement as, 7 Trial § 405
Rules of Court, 7 Trial § 393
sanctions proceedings, necessity for, 7 Trial § 392

Statute of limitations, see Limitation and accrual of actions

Statutes
administrative agencies, interpretation of statutes, 9 Admin Proc § 131*
declaratory relief, see Declaratory relief
enforcement of invalid statute, injunction against, 6 Prov Rem § 331
invalid, injunctions against, 6 Prov Rem §§ 331, 332
pleading, see Pleading
remedies provided by, see Judicial remedies
retroactive application, review by mandamus of order determining, 9
Appeal § 91*
revival of debt barred by limitations, 3
Actions &sec

Statutory remedies, see Judicial remedies

Stay
administrative adjudication, see
Administrative adjudication
appeal, stay by, see Stay pending appeal arbitration
fee disputes, 1 Attys § 226
stay of pending litigation for, 6 PWT § 528

Index-367
Stay—Cont’d
attorney disciplinary proceeding, see Attorney discipline
attorneys’ fee arbitration, stay of litigation pending, 1 Atts § 226
coordination of actions, see Coordination of actions
default, effect on entry of, see Default judgment
enforcement of judgment, stay of, see Stay pending appeal
execution of judgment, review of discretion of lower court, 9 Appeal § 363
forum non conveniens, see Inconvenient forum
injunction, stay pending appeal, 6 Prov Rem § 403
limitations period, tolling during, see Limitation and accrual of actions
notification of court of, 7 Trial § 41
prohibition, effect on, see Prohibition prosecution of civil action, effect of, 6
PWT §§ 393, 394, 434
remittitur, stay of issuance, 9 Appeal § 846
security for costs, see Security for costs service of motion, time for, 6 PWT § 15
service of process, effect of stay on, 6 PWT § 344
small claims court, 2 Courts § 303
supersedeas, stay by, see Supersedeas temporary, request in writ proceedings, see Writs
tolling of limitations period during, see Limitation and accrual of actions
writs, see Writs
Stay pending appeal—Cont’d
child custody and dwelling exclusion orders—Cont’d
automatic stay in removal cases, 9 Appeal § 225
discretionary stay by trial judge, 9 Appeal § 225
modification pending appeal, 9 Appeal § 229
supersedeas, stay by, 9 Appeal § 226 et seq.
conservatorship proceeding
in general, 9 Appeal § 234
undertaking, exemption from, 9 Appeal § 274
costs
attorneys’ fees as costs, 9 Appeal § 236
costs on appeal, recovery of, see Costs on appeal
judgment for alone, 9 Appeal § 235
offer to compromise, award on, 9 Appeal § 231
trial de novo after arbitration, award on, 9 Appeal § 232
undertaking, consideration of in amount of, 9 Appeal § 239
discretion of trial court, review of, 9 Appeal § 363
documents or personal property, judgments directing sale or delivery of, 9 Appeal § 240 et seq.
dwelling exclusion orders, see child custody and dwelling exclusion orders (this group)
effect of, 9 Appeal § 222
family allowance in probate proceedings, 9 Appeal § 249
forcible entry proceedings, 9 Appeal §§ 245, 246
foreclosure of mortgage, 9 Appeal § 240
governmental officers, exemption from undertaking, 9 Appeal § 275
guardianship proceeding
in general, 9 Appeal § 234
undertaking, exemption from, 9 Appeal § 274
jurisdiction of trial court, effect on, 9 Appeal § 222
limited civil case, see Limited civil case
money judgments, undertaking requirement for, 9 Appeal § 230 et seq.
nuisance, judgment of, 9 Appeal § 277

Index-368
Stay pending appeal—Cont’d
order after judgment, appeal from, 9
Appeal § 278
prohibitory injunction, 9 Appeal § 276
quo warranto, decree in, 9 Appeal § 277
real property, judgments directing sale or
delivery of, 9 Appeal § 243 et seq.
receiver, appointment of, 9 Appeal § 247
self-executing judgments
in general, 9 Appeal § 276
supersedeas, use for, see Supersedeas
supersedeas, see Supersedeas
trial judge, stay by, 9 Appeal §§ 223, 225
trustee, exemption from undertaking, 9
Appeal § 274
undertaking, stay by—Cont’d
in general, 9 Appeal § 230 et seq.
administrators of estates, exemption for, 9
Appeal § 274
amount of undertaking, 9 Appeal § 254
et seq.
appeal without undertaking, 9 Appeal
§ 269 et seq.
attachment order, 9 Appeal § 248
attorneys’ fees and costs award in fam-
ily law proceeding, 9 Appeal
§ 233A*
conservators, exemption for, 9 Appeal
§ 274
costs on appeal, recovery of, see Costs
on appeal
deficiencies in undertaking, effect of, 9
Appeal § 257 et seq.
deposit in lieu of bond, 9 Appeal § 250
discretion of court on undertaking, 9
Appeal §§ 272, 273
documents or personal property, judg-
ments directing sale or delivery of,
9 Appeal § 240 et seq.
execution of undertaking, 9 Appeal
§ 251
executors, exemption for, 9 Appeal
§ 274
exemptions from undertaking, 9 Appeal
§§ 273, 274
family allowance in probate proceed-
ings, 9 Appeal § 249
filing of undertaking, 9 Appeal § 251
form of undertaking, 9 Appeal § 251
governmental officers, exemption for, 9
Appeal § 275
Stay pending appeal—Cont’d
undertaking, stay by—Cont’d
guardians, exemption for, 9 Appeal
§ 274
insufficiency of undertaking, effect of,
9 Appeal §§ 257 et seq., 264, 287
money judgments, 9 Appeal § 230 et
seq.
objections to undertaking, 9 Appeal
§ 257
procedure, 9 Appeal § 250 et seq.
provisional stay, 9 Appeal § 252
real property, judgments directing sale
or delivery of, 9 Appeal § 243 et seq.
receiver, appointment of, 9 Appeal
§ 247
reduction of undertaking, 9 Appeal
§ 253
representatives, exemption for, 9
Appeal § 274
subrogation, surety’s right to, 9 Appeal
§ 266 et seq.
supersedeas, use of, see Supersedeas
surety, liability of, 9 Appeal § 263 et
seq.
thrustees, exemption for, 9 Appeal § 274
valid partial undertaking, effect of, 9
Appeal § 262
violation of stay, supersedeas for, 9
Appeal § 284
waiver of undertaking, 9 Appeal § 253
unlawful detainer proceedings, 9 Appeal
§§ 245, 246

Stipulated judgment, see Consent
judgment

Stipulations
in general, 1 Attys § 263 et seq.
agreed statement for record on appeal, see
Record on appeal
arbitration, see Arbitration
attorney discipline, see Attorney disci-
pline
binding nature of, 1 Attys §§ 264, 265
change of venue, see Change of venue
construction of, 1 Attys §§ 277, 278
continuance, 7 Trial § 36
contract rules, application to, 1 Attys
§ 277
Stipulations—Cont’d

damages, stipulations regarding, 1 Attys § 274
defined, 1 Attys § 263
effect of, 1 Attys §§ 264, 265
enforcement of judgments, stipulations regarding, 1 Attys § 276
entry of judgment, stipulations regarding, 1 Attys § 276
estoppel, use for enforcement of, 1 Attys §§ 264, 265
estoppel, use for enforcement of, 1 Attys § 269
evidence, stipulations regarding, 1 Attys § 273
facts, stipulation to in general, 1 Attys § 273
facts, stipulation to in general, 1 Attys § 253
facts, trial on, 6 PWT § 80
family law cases
attorney’s authority, 1 Attys § 261
facts, trial on, 6 PWT § 80
form in general, 1 Attys § 266 et seq.
informal stipulations, 1 Attys §§ 269, 270
oral stipulations, see oral stipulations (this group)
written stipulations, see written stipulations (this group)
involuntary inactive status, transfer of attorney to, see State Bar
issues, stipulations regarding, 1 Attys § 272
judgment, stipulations regarding, 1 Attys §§ 276, 277
judicial arbitration, see Judicial arbitration jurisdiction, see Jurisdiction
jurors, number of, see Jury trial law, stipulation to
attorney’s authority, 1 Attys § 261
effect of, 1 Attys § 265
liability, stipulations regarding, 1 Attys § 274
matters subject to, 1 Attys § 271 et seq.
motions, see Motions
nature of, 1 Attys § 263
new trial, see New trial
oral stipulations
chambers, in effect of, 1 Attys § 269
court, outside of, effect of, 1 Attys § 269

Stipulations—Cont’d

oral stipulations—Cont’d
minutes, stipulation entered in, 1 Attys § 268
open court, not entered in minutes, 1 Attys §§ 269, 270
relief from, see withdrawal or rescission (this group)
pleadings, remedying defects by, 1 Attys § 272
present proceeding, effect in, 1 Attys § 264
ratification of client, effect of, 1 Attys § 269
reclassification of limited civil case, see Limited civil case
record on appeal, see Record on appeal
relief from, see withdrawal or rescission (this group)
rescission of, see withdrawal or rescission (this group)
reversal of judgment on appeal, see Reversal of judgment on appeal
service of process, extending time for, 6 PWT § 338
settled statement for record on appeal, see Record on appeal
subject matter jurisdiction, attempt to confer by, 1 Attys § 260
subsequent proceeding, effect in, 1 Attys § 265
summary judgment, see Summary judgment
supplemental pleadings, see Supplemental pleading
temporary judge, see Judges
trial
extending time for, 6 PWT §§ 382 et seq., 434
setting, stipulations regarding, 1 Attys § 275
stipulations regarding procedure, 1 Attys § 275
venue
attempt to fix by, 1 Attys § 260
change of, 3 Actions § 913
withdrawal or rescission in general, 1 Attys § 280 et seq.
casual oral statements, relief from, 1 Attys § 283

Index-370
Stipulations—Cont’d
withdrawal or rescission—Cont’d
discretion of court, 1 Attys § 280
formal stipulations, 1 Attys § 284
grounds, 1 Attys § 280
inadvertent oral statements, relief from,
1 Attys § 283
interpretation, relief by, 1 Attys § 283
procedure, 1 Attys § 281
written stipulations
filed, 1 Attys § 267
relief from, see withdrawal or rescission (this group)
unfiled, 1 Attys § 269

Stock
corporate shares, see Corporate shares of stock

Strategic Lawsuits Against Public Participation, see SLAPP suits

Strict products liability
instructions to jury, see jury instructions
(jthis group)
jury instructions
in general, 7 Trial § 286
limitation and accrual of actions
in general, 3 Actions §§ 575, 576, 653
change in case law, effect of, 3 Actions § 436
latent defect in building, 3 Actions § 608
patent defect in building distinguished,
3 Actions § 607
suspicion of wrongdoing, effect of, 3 Actions § 576
manufacturer’s liability
nature of action, 3 Actions § 151
pleading
in general, 4 Plead § 627 et seq.
defective real property, 4 Plead § 629
elements, 4 Plead § 627
toxic materials, exposure to, 4 Plead § 629
retail dealer
nature of action, 3 Actions § 151
statute of limitations, see limitation and accrual of actions (this group)

Students
fees for participation in educational activities, claim for reimbursement,

Subpena

in general, 3 Actions § 964
administrative adjudication, see Administrative adjudication
arbitration proceedings
attorneys’ fee disputes, 1 Attys § 225
contractual, 6 PWT § 560
judicial, 6 PWT § 596
attorney disciplinary proceedings, 1 Attys § 584
attorneys’ fee arbitrations, 1 Attys § 225
Judicial Council forms, 2 Courts § 430

Subpena duces tecum
in general, 3 Actions § 964
Judicial Council forms
in general, 2 Courts § 430

Subrogation
accural of actions by insurers, 3 Actions § 596 et seq.
attorney malpractice claim, see Attorney malpractice
equitable, see Equitable subrogation
government tort claim, tolling of, 3 Actions § 259
intervention by potential subrogee, 4 Plead § 234
joinder, 4 Plead § 133
legal or equitable nature of proceedings, 3 Actions § 124
limitation and accrual of actions by insurers, 3 Actions § 596 et seq.
nature of, 4 Plead § 132
real party in interest, 4 Plead §§ 132, 133
splitting cause of action, 4 Plead § 133
State Bar, rights of, see State Bar statute of limitations for actions by insurers, 3 Actions § 596 et seq.
uninsured motorist proceeding, see Uninsured motorist proceeding

Students—Cont’d
see Government tort claims

Subdivisions
injunction restraining, 6 Prov Rem § 291

Subject matter jurisdiction, see Jurisdiction

I NDEX
Substituted service, see Process

Substitution
attorneys, see Attorney malpractice;
Attorney-client relationship
parties, appeal to make, see Appeal;
Appealable judgments and orders

Substitution of parties, see Parties

Sufficiency of evidence
appeal, review on
in general, 9 Appeal § 365 et seq.
administrative review, review of, 9
Appeal § 384 et seq.
clear and convincing evidence rule, 9
Appeal § 371
conflicting decisions, reconciliation of,
9 Appeal § 388
conflicting evidence rule, 9 Appeal
§§ 365 et seq., 385
conflicting inferences rule, 9 Appeal
§ 376 et seq.
inherent improbability of evidence,
attack based on, 9 Appeal § 372
judgment roll, appeal on, 9 Appeal
§ 360
punitive damages award, review of, 9
Appeal § 375
substantial evidence, 9 Appeal § 369 et seq.

writings, interpretation of, 9 Appeal
§ 380 et seq.
circumstantial evidence
inference from, see Circumstantial evi-
dence
law of the case
in general, 9 Appeal § 470 et seq.
credibility issue, 9 Appeal § 471
evidence substantially different, 9
Appeal § 472
evidence substantially same, 9 Appeal
§§ 470, 471

Suit, see Actions

Summary adjudication
in general, 6 PWT § 201 et seq.
admissions, use of, 6 PWT § 229
affidavits
in general, 6 PWT § 224 et seq.
construction of, 6 PWT § 244
amendment of judgment, 6 PWT § 258
appeal, 6 PWT § 260; 9 Appeal §§ 145,
159, 160, 348, 438

attorney’s fault, relief from, see Relief
from judgment
availability of, 6 PWT § 203 et seq.
bad faith, affidavits in, 6 PWT § 228
burden of proof, 6 PWT § 235 et seq.
complete disposition, 6 PWT § 271*
Consumers Legal Remedies Act, avail-
ability under, 6 PWT § 206
continuance of motion to procure evi-
dence, 6 PWT §§ 252, 253
cross-motions, effect of, 6 PWT § 213
declarations, 6 PWT § 224 et seq.
declaratory relief, availability for, 6 PWT
§ 205
defamation cases, 6 PWT § 248
defenses, trial on compared, 6 PWT § 210

Summary adjudication—Cont’d
declaratory relief claim, effect of, 6 PWT
§ 274
delay in trial, effect on dismissal for, 6
PWT § 379
disposition of matter adjudicated, 6 PWT
§ 271 et seq.
duty, adjudication of, 6 PWT § 272
grant of motion, effect of, 6 PWT § 277

legal issue, resolution of by, 6 PWT
§ 271A*
mandamus, review by, 6 PWT § 279
matters subject to, 6 PWT §§ 269, 270,
271A*
nature of, 6 PWT § 267
procedure, 6 PWT §§ 275, 276
ruling
effect of, 6 PWT § 277
review of, 6 PWT §§ 278, 279
summary judgment compared, 6 PWT
§§ 267, 275
voluntary dismissal, effect on, 6 PWT
§ 299

Index-372
Index

Summary judgment—Cont’d
delay in trial, effect on dismissal for, 6 PWT § 379
denial of motion
  in general, 6 PWT § 249 et seq.
  appealability of order, 9 Appeal § 159
curing of error in, 9 Appeal § 438
evidence, denial to procure, 6 PWT §§ 252, 253
mandamus for orders relating to, 8 Writs § 113
reconsideration, motion for, 6 PWT § 255
renewal, motion for, 6 PWT § 255
specification of reasons for, 6 PWT §§ 250, 251
discovery, evidence obtained by, 6 PWT § 229
election contest, availability for, 6 PWT § 206
enforcement of settlement, motion for
  compared, 6 PWT § 211
entry of judgment
  in general, 6 PWT § 256
  granting of motion, after, 6 PWT § 254
evidence
  in general, 6 PWT § 221 et seq.
  admissibility, 6 PWT § 226*
  affidavits or declarations, evidence in, 6 PWT §§ 226, 227
  affirmative evidence requirement, 6 PWT § 241
  continuance of motion to procure, 6 PWT §§ 252, 253
denial of motion to procure, 6 PWT §§ 252, 253
discovery, evidence obtained by, 6 PWT § 229
documentary, 6 PWT § 231
objections to, 6 PWT § 233
pleadings, see pleadings (this group)
  production to negate claim, 6 PWT § 239 et seq.
  testimony of witnesses, 6 PWT § 234
  uncontroverted, effect of, 6 PWT § 246
  exoneration of codefendant by judgment, effect of, 6 PWT § 257
expert deposition, use of, 6 PWT § 229
extrinsic fraud, motion to set aside for, 6 PWT § 259
federal practice, 6 PWT §§ 201, 239

Summary judgment—Cont’d
forcible entry, availability for, 6 PWT § 204
free speech cases, 6 PWT § 248
grant of motion
  in general, 6 PWT § 254
  appealability of order, 9 Appeal § 160
  reconsideration, motion for, 6 PWT § 255
reversal of, 6 PWT § 265
upholding of, 6 PWT § 266
grounds not raised by moving party, consideration of, 6 PWT § 247
hearing, 6 PWT § 234
inferences, drawing of, 6 PWT § 245
judgment
  in general, 6 PWT § 256 et seq.
  challenging in trial court, 6 PWT § 259
  entry of, see entry of judgment (this group)
  exoneration of codefendant by, effect of, 6 PWT § 257
  review of, see review (this group)
  judgment on pleadings motion compared, 6 PWT §§ 208, 209
judicial admissions distinguished, 4 Plead § 453*
judicial notice, 6 PWT § 232
jury, impanelment of jury, 6 PWT § 376*
mandamus for orders relating to, 6 PWT § 258; 8 Writs § 113
material fact
  statement of, see statement of material facts (this group)
  triable issue of, see triable issue of material fact (this group)
mistake, motion to set aside for, 6 PWT § 259
modification of judgment, 6 PWT § 258
motion, 6 PWT § 213 et seq.
nature of remedy, 6 PWT § 201
new trial, availability after, 6 PWT § 259;
  8 Attack § 23
notice of motion, 6 PWT § 215
opposition to motion
  in general, 6 PWT § 217 et seq.
  evidence, 6 PWT §§ 222, 223
order
  in general, 6 PWT § 249 et seq.
  challenging in trial court, 6 PWT § 255

Index-373
Summary judgment—Cont’d

denying motion, see denial of motion
(granding motion, see grant of motion
reconsideration, motion for, 6 PWT § 255
renewal, motion for, 6 PWT § 255
parental rights termination proceeding, availability for, 6 PWT § 206
partial summary judgment, mandamus for orders relating to, 8 Writs § 113

pleadings
adversary’s, reliance on, 6 PWT § 230
role of, 6 PWT §§ 212, 230
purpose, 6 PWT § 202
reconsideration, motion for, 6 PWT § 255
relief from, motion for, 6 PWT § 259
renewal, motion for, 6 PWT § 255
reply to opposition, 6 PWT § 220
review
in general, 6 PWT § 260 et seq.
appeal, 6 PWT § 260
grant of motion, see grant of motion
independent review standard, 6 PWT § 262
issue not raised below, 6 PWT § 263
mandamus, 6 PWT § 261
scope of, 6 PWT § 262 et seq.
supplemental briefing, 6 PWT § 264

service
motion, 6 PWT §§ 15, 31, 215
opposition, 6 PWT § 217
reply, 6 PWT § 220

Sexually Violent Predators Act proceedings, availability in, 6 PWT § 206

Summons
in general, 3 Actions § 981 et seq.
alias summons, 3 Actions § 996
amended complaint, effect of, 3 Actions § 995
annulment of marriage proceedings, 3 Actions § 992
associations, actions against, 3 Actions § 989
corporations, actions against, 3 Actions § 989
debtors, joint, proceedings against, 3 Actions § 990
default notice, 3 Actions § 986
delay in service, see Involuntary dismissal for delay
direction to plead, 3 Actions §§ 984, 985
dissolution of marriage proceedings, 3 Actions § 992
Doe defendants, 3 Actions § 991
electronic transmission of, 4 Plead § 23
failure to serve
in general, 3 Actions § 996
default based on, see Default judgment
family law proceedings, 3 Actions § 992
fictitious defendants, 3 Actions §§ 983, 991
foreign language, warning in, 3 Actions § 986
form, 3 Actions § 981 et seq.
formal requisites, 3 Actions § 981 et seq.
issuance, 3 Actions §§ 960, 994
joint debtors, proceedings against, 3 Actions § 989
INDEX

**Summons—Cont’d**
Judicial Council forms, 2 Courts § 431; 3 Actions § 982
legal advice notice, 3 Actions § 986
legal separation proceedings, 3 Actions § 992
loss of, 3 Actions § 996
names of parties, 3 Actions § 983
nullity of marriage proceedings, 3 Actions § 992
party names, 3 Actions § 983
probate proceedings, 3 Actions § 993
real property actions, 3 Actions § 987
return of, see Involuntary dismissal for delay
service of, see Involuntary dismissal for delay; Process Spanish, warning in, 2 Courts § 29; 3 Actions § 986
statutory requisites, 3 Actions § 981
substituted service, use in, 3 Actions § 960
supplemental complaint, effect of, 3 Actions § 995; 5 Plead § 1247
time to plead, 3 Actions §§ 984, 985
title of court, 3 Actions § 989
unincorporated associations, actions against, 3 Actions § 989
warning on, languages used for, 2 Courts § 29; 3 Actions § 986
will contest proceedings, 3 Actions § 993
revocation proceedings, 3 Actions § 993

**Superior court**
in general, 2 Courts § 208 et seq.
administrative
mandamus, see Administrative mandamus
officers, 2 Courts §§ 368, 369
records, custody and destruction of, 2 Courts §§ 372, 373
appellate division
in general, 2 Courts §§ 325 et seq., 339 et seq.
amicus curiae briefs, see Amicus curiae appellate jurisdiction, 2 Courts § 341
calendar, 9 Appeal § 1017
concurrence required for decision, 2 Courts § 340

**Superior court—Cont’d**
appellate division—Cont’d
correction of record on appeal by, see Record on appeal
extension of time, 2 Courts § 340
fees, 4 Plead § 26
indigent actions, see In forma pauperis suit
jurisdiction, 2 Courts § 341
limited civil case appeals, see Limited civil case
mandamus, see Mandamus
opinions, see Opinion of reviewing court; Stare decisis
organization, 2 Courts § 339
original jurisdiction, 2 Courts § 341; 2 Jurisd §§ 21, 22
precedential effect of opinions, see Stare decisis
presiding judge, 2 Courts § 340
prohibition, writ of, see Prohibition
Rules of Court, 2 Courts § 339
sessions, 2 Courts § 340; 9 Appeal §§ 763, 764, 1017
stare decisis effect of opinions, see Stare decisis
writ proceedings in, see Writs
appellate jurisdiction, see Appellate jurisdiction
assignment of judges, 2 Courts § 235
certiorari, see Certiorari
civil calendar, management of, 2 Courts § 238
clerks and deputy clerks
in general, 2 Courts § 360 et seq.
control by court, 2 Courts § 362
duties, 2 Courts § 361 et seq.
fees, duties regarding, 2 Courts § 367
ministerial functions, 2 Courts § 361
minutes and entries, 2 Courts §§ 364, 365
notices, issuance of, 2 Courts § 363
process, issuance of, 2 Courts § 363
records and papers, custody of, 2 Courts § 370
transfer of duties to executive officer, 2 Courts § 369
complex litigation, see Complex litigation
county, as court of, 2 Courts § 209
court reporters, see Reporters of trial courts

Index-375
Superior court—Cont’d
courts generally, see Courts
departments
in general, 2 Courts § 217 et seq.,
concurrent jurisdiction, 2 Courts § 226 et seq.,
jurisdictional problems involving
departments, 2 Courts § 222 et seq.,
pendency of similar actions, 2 Courts § 228
priority of jurisdiction between, 2
Courts § 229 et seq.,
subject matter jurisdiction, 2
Courts §§ 222, 223
successive inconsistent decisions, 2
Courts § 233
transfer of case, 2 Courts §§ 226, 227
depositions, custody and destruction, 2
Courts §§ 372, 373
deputy clerks, see clerks and deputy
clerks (this group)
discipline of attorneys, see Attorney dis-"ciple
equity jurisdiction, 2 Courts § 210 et seq.,
exeuctive officer, 2 Courts §§ 368, 369
exhibits, custody and destruction, 2
Courts §§ 372, 373
extraordinary writs, see Writs
Family Conciliation Court, see Family
Conciliation Court
fast track, see Trial court delay reduction
filing and service of petition, 3
Actions § 304*
general jurisdiction, as court of, 2 Courts § 208
indexes of actions, 2 Courts § 371
judges, see Judges
jurisdiction
in general, see Appellate jurisdiction;
Jurisdiction
appellate division, see appellate divi-
sion (this group)
departments, see departments (this
group)
juvenile court, see Juvenile court
law jurisdiction, 2 Courts § 213
limited civil case, see Limited civil case
local rules, see Rules of Court
management of court business, 2 Courts § 238 et seq.

Superior court—Cont’d
mandamus, see Mandamus
number of judges for, 2 Courts § 209
original jurisdiction, 2 Courts § 210 et seq.
policies and procedures
in general, 2 Courts § 238
presiding judge’s responsibilities of, 2
Courts § 237
presiding judge
in general, 2 Courts § 234 et seq.
acting presiding judge, 2 Courts § 234
assignments, 2 Courts § 235
distribution of business, 2 Courts § 235
duties of, 2 Courts § 235 et seq.
general responsibility of, 2 Courts § 234
monitoring of pending cases, 2 Courts § 236
removal, 2 Courts § 234
selection criteria, 2 Courts § 234
probate court, see Probate court
prohibition, writ of, see Prohibition
record, as court of, 2 Courts § 208
records and papers
in general, 2 Courts § 370 et seq.
electronic signature of, 2 Courts § 374*
management of, 2 Courts § 374 et seq.
residential foreclosure files, see Mort-
gages
register of actions, 2 Courts § 371
residential foreclosure files, see Mort-
gages
Rules of Court, see Rules of Court
sessions
in general, 2 Courts § 217 et seq.
county, outside of, 2 Courts § 219
courtroom, outside of, 2 Courts § 220
emergency, 2 Courts § 221
penal institutions, at or near, 2 Courts § 219
place of, 2 Courts § 219 et seq.
small claims court, see Small claims court
supersedes, see Supersedes
trial court delay reduction, see Trial court
delay reduction
trial court unification, see Trial court
unification
venue, see Venue
writs, see Writs
Supersedeas

in general, 9 Appeal § 279 et seq.
appeal stayed by undertaking, use for, 9
Appeal § 284
automotive stay, use for, 9 Appeal §§ 285, 286
bond
condition for writ, as, 9 Appeal § 305
cost as prohibitive as grounds, 9
Appeal § 289
certiorari, effect of availability of supersedeas on, 8 Writs § 47
child custody cases
in general, 9 Appeal § 226 et seq.
hearing, 9 Appeal § 303
conditions for writ, 9 Appeal § 305 et seq.
content of writ, 9 Appeal § 304
corrective effect, 9 Appeal §§ 282, 283
determination of petition, 9 Appeal § 303
discretion of court, 9 Appeal § 281
form of writ, 9 Appeal § 304
grounds for, 9 Appeal § 284 et seq.
insufficient sureties, use for, 9 Appeal § 287
judgment not stayed by appeal or undertaking, use for, 9 Appeal § 288
modification of writ, 9 Appeal § 308
nature of, 9 Appeal § 279
opposition to petition, 9 Appeal § 302
petition for, 9 Appeal § 300
power to issue, 9 Appeal § 279
procedure, 9 Appeal § 300 et seq.
prohibition
compared, 8 Writs § 20
remedy by supersedeas, effect of, 8 Writs § 71
prohibitory injunction, use for, 9 Appeal § 296 et seq.
prompt prosecution of appeal as condition, 9 Appeal § 307
purpose of, 9 Appeal § 279
recall of writ, 9 Appeal § 308
refusal of writ
in general, 9 Appeal § 290 et seq.
failure to exhaust other remedies, 9 Appeal § 293
meritless appeal, 9 Appeal § 291
no valid appeal, 9 Appeal § 290
self-executing judgments, 9 Appeal § 294 et seq.

Supersedeas—Cont’d
refusal of writ—Cont’d
statutory purpose defeated by writ, 9 Appeal § 292
retroactive effect, 9 Appeal §§ 282, 283
stay violated as grounds, 9 Appeal § 284 et seq.
temporary stay, 9 Appeal § 301
trial court, notification of, 9 Appeal § 303

Supplemental pleading

in general, 5 Plead § 1246 et seq.
answer, 5 Plead § 1254
attorney disciplinary proceedings, 1 Attys § 582
child support proceeding, 5 Plead §§ 891, 1246
complaint
in general, 5 Plead § 1248 et seq.
change in cause of action, 5 Plead § 1251 et seq.
premature action, effect on, 5 Plead § 1250
relation back, 5 Plead § 1253
delay in service, effect on dismissal for, 6 PWT § 325 et seq.
eminent domain proceeding, 5 Plead § 1246
family law pleadings, 5 Plead § 891
injunction, action for, 5 Plead § 1246
involuntary dismissal for delay in service, effect on, 6 PWT § 325 et seq.
limited civil case reclassification, effect on, see Limited civil case
motion, 5 Plead § 1247
nature of, 5 Plead § 1246
procedure, 5 Plead § 1247
reclassification of limited civil case, effect on, see Limited civil case
stipulation, 5 Plead § 1247
subsistence of pleadings, 5 Plead § 1247
summons, effect on, 3 Actions § 995; 5 Plead § 1247
transfer of case, effect on, see Change of venue

Support
attachment of property necessary for, see Attachment
child support, see Child support
enforcement action for, 3 Actions § 4
Support—Cont’d
palimony judgment, appeal, 9 Appeal § 242*
spousal support, see Spousal support

Supreme Court
in general, 2 Courts § 325 et seq.
adjournments, 2 Courts § 45
Administrator and administrative staff, 2 Courts § 358
admission to law practice, role in, see Attorneys
amicus curiae, see Amicus curiae
appeal—Cont’d
submission of cause, 9 Appeal § 940
transfer of cause, see transfer of cases (this group)
uniformity of decision as ground for review, 9 Appeal § 915
appellate jurisdiction, see Appellate jurisdiction
argument, see Appeal
attorney admission to practice and discipline, jurisdiction to review, 2 Courts § 330
briefs, see Briefs
calendar, 9 Appeal §§ 763, 764
certification of questions to, 9 Appeal §§ 14, 15
certiorari, see Certiorari
Chief Justice
in general, 2 Courts § 327
assignment of judges, 2 Courts § 11 et seq.
convening by, 2 Courts § 328
clemency to twice-convicted felon, grant of, 2 Courts § 330
clerk and clerical staff, 2 Courts § 358
concurrence necessary for judgment, 2 Courts § 327
conferences, 2 Courts § 328
convening of, 2 Courts §§ 45, 328
costs, award of, see Costs on appeal
death cases
jurisdiction, 2 Courts § 329
decision, see Appeal; Judgment on appeal
discipline of attorneys, see Attorney discipline
electronic filing and service in, see Rules of Court
Energy Commission decisions, review of, 2 Courts § 330
fees, 2 Courts § 180
holidays, see Courts
Internal Operating Procedures and Practices, 2 Courts § 328
involuntary inactive status enrollment of attorney, review of, see State Bar
judicial disciplinary proceedings, review of, 2 Courts §§ 91, 92
jurisdiction, see Appellate jurisdiction;

Index-378
Supreme Court—Cont’d
justices
   in general, 2 Courts § 327
   abandonment of office, 2 Courts § 14
   administrative powers of, 2 Courts § 326
   age as cause for retirement, 2 Courts §§ 14, 15, 79
   assignment of, 2 Courts § 11 et seq.
   chambers, powers in, 2 Courts § 326
   Chief Justice, see Chief Justice (this group)
   Commission on Judicial Appointments, approval by, 2 Courts § 2
   compensation, 2 Courts § 8 et seq.
   conduct, see Judicial misconduct or disability
   confirmation election, 2 Courts § 3
   death of, effect of, 2 Courts § 14
   delay in deciding cases, effect on compensation, 2 Courts § 10
   disability as cause for retirement, 2 Courts §§ 14, 15, 79
   disqualification, 2 Courts § 98 et seq.
   election of, 2 Courts §§ 2, 3
   ethics, see Judicial ethics
   holding over, effect of, 2 Courts §§ 16, 17
   impeachment, 2 Courts § 14
   invalid selection, effect of, 2 Courts §§ 16, 17
   listing of, locations, 2 Courts § 20
   misconduct, see Judicial misconduct or disability
   nominees, evaluation of, 2 Courts §§ 5, 6
   recall of, 2 Courts § 14
   resignation, 2 Courts § 14
   retired, compensation of, 2 Courts § 9
   sabbatical for, 2 Courts § 14
   selection of, 2 Courts §§ 2, 3
   supervisory powers of, 2 Courts § 326
   term of office, 2 Courts § 2
   termination of service, 2 Courts §§ 14, 15
   vacancies, filling, 2 Courts § 2
   law of the case, see Law of the case
   mandamus, see Mandamus
   nature of, as reviewing court, 2 Courts § 325

Supreme Court—Cont’d
   opinions, see Opinion of reviewing court; Stare decisis
   oral argument, see Appeal
   organization, 2 Courts § 327
   original jurisdiction, 2 Courts § 330; 2 Jurisd §§ 21, 22
   personal jurisdiction, 2 Jurisd § 152
   petition for review
      in general, 9 Appeal § 927 et seq.
      answer to petition, 9 Appeal § 928
      argument on, 9 Appeal § 770
      attachments, 9 Appeal § 929
      court conference, 9 Appeal § 932
      Court of Appeal order, inclusion of, 9 Appeal § 929*
      denial of, 9 Appeal § 932
      determination of, 9 Appeal §§ 932, 933
      extension of time for, 9 Appeal §§ 838, 927
      filing, 9 Appeal § 927
      form, 9 Appeal § 929
      grant of, 9 Appeal § 932
      incorporation by reference, 9 Appeal § 929
      length limitations, 9 Appeal § 929
      orders, 9 Appeal § 932
      premature service, effect of, 9 Appeal § 929
      recall of remittitur, effect on, 9 Appeal § 852
      record, transmission of, 9 Appeal § 931
      reply to answer to petition, 9 Appeal § 928
      service, 9 Appeal § 927
      statement of issues, 9 Appeal § 930
      time for, 9 Appeal §§ 838, 927
      precedent, see Stare decisis
      predecision transfers
         in general, 9 Appeal §§ 766, 922 et seq.
         grounds for, 9 Appeal § 922
         nature of Supreme Court’s power, 9 Appeal § 922
         procedure, 9 Appeal § 923
         pro hac vice, appearance in, 1 Attys § 389
         prohibition, writ of, see Prohibition
         Public Utilities Commission decisions, review of, 2 Courts § 330
         rehearing, see Appeal
         remittitur, see Remittitur
Supreme Court—Cont’d
Reporter of Decisions, 2 Courts § 358
request of other jurisdiction, decision on, 9 Appeal §§ 14, 15
research attorneys, 2 Courts § 358
retransfers
directions, with, 9 Appeal § 945 et seq.
discretion, exercise after, 9 Appeal § 946
dismissal, after, 9 Appeal § 943
partial decision and, 9 Appeal § 947
review, see appeal (this group)
rules, see Rules of Court
sealing records, see Sealing records
sessions, 2 Courts § 328; 9 Appeal §§ 763, 764
stare decisis, see Stare decisis
State Bar disciplinary decisions, review of, 2 Courts § 330; 9 Admin Proc § 121
state courts, determination of law on request of, 2 Courts § 330
submission of cause, 9 Appeal § 773
supersedeas, see Supersedeas
transfer of cases
Court of Appeal, to, 2 Courts § 338
Court of Appeal, within divisions, 9 Appeal § 924
directions to Court of Appeal, transfer to give, 9 Appeal § 918
predecision transfers, see predecision transfers (this group)
retransfers, see retransfers (this group)
United States Supreme Court, see Federal courts; Stare decisis
writs, see Writs

Sureties—Cont’d
admitted surety insurer—Cont’d
certificate of authority, 6 Prov Rem § 24
definitions, 6 Prov Rem § 12
Federal Resource Conservation and Recovery Act, compliance with, 6 Prov Rem § 26
objection to sufficiency of surety, 6 Prov Rem §§ 25, 26
personal surety, in lieu of, 6 Prov Rem § 22
public entity investigation of sufficiency, 6 Prov Rem § 26
appeal, undertaking on stay of enforcement pending, see Stay pending
appeal
attachment in action against in general, 6 Prov Rem § 72 et seq.
arbitration provision, effect of, 6 Prov Rem § 74
business requirement, 6 Prov Rem § 73
exhaustion of security, 6 Prov Rem § 72
proceedings after judgment, see proceedings after judgment (this group)
release of attachment by undertaking, 6 Prov Rem § 214
trade requirement, 6 Prov Rem § 73
undertaking, release of attachment by, 6 Prov Rem § 214
attorneys’ fees in postjudgment proceedings against, 6 Prov Rem § 228 et seq.
bond
undertaking, or deposit, see Bond, undertaking, or deposit
conservators, bonds of, see Conservatorship and guardianship
definitions, 6 Prov Rem § 12
exhaustion of security as condition of action, see security (this group)
guardians, bonds of, see Conservatorship and guardianship
injunctions, see Injunctions
joint and several liability with principal, 6 Prov Rem § 35
liability of principal and surety in general, 6 Prov Rem § 35 et seq.
beneficiary, enforcement by, 6 Prov Rem § 37 et seq.

Index-380
Sureties—Cont’d
liability of principal and surety—Cont’d
joint and several, 6 Prov Rem § 35
limitation, 6 Prov Rem § 36
statute of limitations for enforcement by beneficiary, 6 Prov Rem § 40
withdrawal, liability of surety after, 6 Prov Rem § 34
limitation and accrual of actions, 3
Actions §§ 543 et seq., 608, 654, 670
payment on bond after judgment of liability, 6 Prov Rem § 42
personal sureties
in general, 6 Prov Rem §§ 20, 21
admitted surety insurer in lieu of, 6 Prov Rem § 22
affidavit of, 6 Prov Rem § 21
qualification, 6 Prov Rem § 20
principal, liability with surety, see liability of principal and surety (this group)
proceedings after judgment
in general, 6 Prov Rem § 224 et seq.
amount of liability, 6 Prov Rem § 225
attorneys’ fees, 6 Prov Rem § 228 et seq.
damages, 6 Prov Rem §§ 226, 227
defenses, 6 Prov Rem § 224
punitive damages, 6 Prov Rem § 227
quia timet relief in cases involving, 3
Actions § 11
release of, 6 Prov Rem § 33
security
exhaustion of, as condition of action, 3
Actions § 208; 6 Prov Rem § 72
waiver of, 6 Prov Rem §§ 67, 72*
segregation of attorneys’ fees in postjudgment proceedings against, 6 Prov Rem §§ 229, 230
statute of limitations for actions against, 3
Actions §§ 543 et seq., 608, 654, 670
stay of enforcement pending appeal, undertaking on, see Stay pending appeal
substitution of, 6 Prov Rem § 33
“surety” defined, 6 Prov Rem § 12
temporary restraining orders, see Temporary restraining orders
undertakings
in general, see Bond, undertaking, or deposit

Sureties—Cont’d
undertakings—Cont’d
release of attachment by, 6 Prov Rem § 214
stay pending appeal, see Stay pending appeal
waiver of security, see security (this group)
withdrawal of, 6 Prov Rem § 34

Surgeons, see Physicians

Surprise
new trial, as ground for, see New trial
relief from judgment, as ground for, see Relief from judgment

Surrogate mothers
venue for parentage actions involving, 3
Actions § 815*

Surveyors
Board for Professional Engineers and Land Surveyors, 9 Admin Proc § 198
defects in real property, see Real property
malpractice action
in general, 3 Actions § 209
failure to file, demurrer based on, 5
Plead § 978
security for costs, 3 Actions § 358
Survival and abatement of actions
in general, 3 Actions § 12 et seq.
child support actions, abatement of, 3
Actions § 18
collision of laws regarding, 3 Actions § 52
damages, effect of, see Damages; Damages for personal injuries; Punitive damages
death of party, effect of, 3 Actions §§ 12 et seq., 717, 718
dissolution of marriage proceedings, abatement of, 3 Actions § 18
family law actions, abatement of, 3
Actions § 18
former law, 3 Actions §§ 13, 14
limitations period, see Limitation and accrual of actions
pain and suffering, effect on recovery for, see Damages for personal injuries
plea in abatement, see Plea in abatement
punitive damages, effect on recovery for, see Punitive damages
Survival and abatement of actions—Cont’d
recovery, limitations on, 3 Actions §§ 16, 17
“revival” defined, 3 Actions § 12
statutory repeal, abatement by cause of action, statute creating, 3 Actions § 20
dismissal based on, 6 PWT § 474
involuntary dismissal based on, 6 PWT § 474
jurisdictional statute, 3 Actions § 19
statutory rules
in general, 3 Actions §§ 12, 15
limitations on recovery, 3 Actions § 16
tort actions, survival of, 3 Actions § 139
tortfeasor, simultaneous death of, 3 Actions § 15

Tax liens
estate taxes
duration of, 3 Actions § 667

Tax proceedings
attorneys’ fees, see Attorneys’ fees
collateral estoppel, applicability to federal action, 7 Judgm § 429
delay in service, involuntary dismissal for, 6 PWT § 319
exhaustion of remedies, see Exhaustion of administrative remedies
federal interference with, 2 Jurisd § 86
foreign tax claims, jurisdiction over proceedings to enforce, 2 Jurisd § 369
involuntary dismissal for delay in service, 6 PWT § 319
legality of tax, jurisdiction over actions involving, 2 Jurisd §§ 46, 47
liens, see Tax liens
limited civil case, exclusion from, 2 Courts § 243
mandamus, tax law compliance, 8 Writs § 86
nonresident tax status, venue for declaratory relief proceeding to establish, 3 Actions § 816
preference in trial setting, 7 Trial § 72
refunds, see Taxation
small claims court, recovery of delinquent taxes in, 2 Courts § 282

Tax proceedings—Cont’d
subject matter jurisdiction, failure to notify taxpayer of time limit on, 2 Jurisd § 91
trial setting preference, 7 Trial § 72

Tax returns, see Examination proceedings

Taxation
accrual of actions, see limitation and accrual of actions (this group)
bank taxes, see Bank and corporation taxes
collection of
jury trial right, 7 Trial § 95
limitation and accrual for actions by government, 3 Actions § 666 et seq.
superior court writ jurisdiction over, 2 Courts § 211
earnings orders for, see Garnishment enforcement of liability for state tax, 8 Enf Judgm §§ 51, 52
estate taxes, see Estate taxes exemptions
government tort claims, 3 Actions § 240
garnishment for, see Garnishment income taxes, see Income taxes inheritance taxes, see Estate taxes liens, see Tax liens
limitation and accrual of actions
in general, 3 Actions §§ 480, 481
bank and corporation taxes, see Bank and corporation taxes
deeds, actions involving, 3 Actions § 481
government action to collect taxes, 3 Actions § 666 et seq.
income taxes, see Income taxes refund, actions for, 3 Actions §§ 467, 477
special tax levied by local agency, 3 Actions § 483
open meeting requirements, see Open meeting requirements
property taxes, see Property taxes refunds
appeal from orders related to, 9 Appeal § 179
class action seeking, 4 Plead § 306
Index

Taxation—Cont’d
refunds—Cont’d
government tort claims, 3 Actions § 240
limitations periods for actions for, see limitation and accrual of actions (this group)
sales taxes, see Sales and use taxes
special tax, limitations period for challenge to, 3 Actions § 483
specialist, certification of attorney as, 1 Attys § 10
statute of limitations, see limitation and accrual of actions (this group)
taxing statutes, injunctions against, 6 Prov Rem § 331

Taxpayer’s rights and remedies
actions by taxpayers, 4 Plead § 162 et seq.
administrative mandamus, see Administrative mandamus
class action, 4 Plead § 306
criminal violation, 4 Plead § 162*
government action, right to challenge, see Real party in interest
injunctions, 6 Prov Rem §§ 312, 338
limitation of actions, 3 Actions §§ 439, 486
property tax assessment, proceeding to determine validity, 5 Plead § 856
real party in interest, see Real party in interest
refund, effect on injunction, 6 Prov Rem § 338
statute of limitations, 3 Actions §§ 439, 486
tender of tax condition to taxpayer’s suit, 3 Actions § 205

Teachers, see Schoolteachers

Telephone
appearance by, 6 PWT § 39; 7 Trial § 57
appellate argument by, 9 Appeal § 770
public utilities, see Public utilities

Television and radio
courtroom, presence in, see Public trial defamation in, see Defamation

Temporary judges, see Judges

Temporary restraining orders
affidavit, use of, 6 Prov Rem § 363

Temporary restraining orders—Cont’d
annulment of marriage by, 6 Prov Rem § 291
appeal, 6 Prov Rem § 402 et seq.
child support action, 6 Prov Rem § 291
claim and delivery, see Claim and delivery
class actions, 6 Prov Rem § 291
colleges, enjoining violence and threats in, 6 Prov Rem § 330D*
defined, 6 Prov Rem § 284; 9 Appeal §§ 174, 1004
Domestic Violence Prevention Act proceedings, 6 Prov Rem §§ 291, 315
duration of order, 6 Prov Rem § 367
ex parte issuance, 6 Prov Rem § 363
family law proceedings
legal separation, 6 Prov Rem § 291
First Amendment freedoms, effect on, 6 Prov Rem § 363
gun violence, see Gun violence restraining orders
harassment, orders against, see Harassment
injunction compared, 6 Prov Rem § 284
irreparable harm, see Injunctions
labor disputes, 6 Prov Rem § 313
legal separation, see family law proceedings (this group)
licensee, restraint by, 6 Prov Rem § 291
limited civil case, availability in, 6 Prov Rem § 276
machinery, restraining use of, 6 Prov Rem § 291
marriage, nullity of, 6 Prov Rem § 291
notice to party, 6 Prov Rem § 363
order to show cause, 6 Prov Rem § 364
partition actions, 6 Prov Rem § 291
procedure, 6 Prov Rem § 363 et seq.
restraining order, 6 Prov Rem § 364
return date, 6 Prov Rem § 365
summary seizure of property, 6 Prov Rem § 363
transitional housing participant misconduct, 6 Prov Rem § 323 et seq.
Truth in Endorsements Law, restraining violations, 6 Prov Rem § 291
undertaking
in general, 6 Prov Rem § 366
Temporary restraining orders—Cont’d
undertaking—Cont’d
liability on, 6 Prov Rem § 414 et seq.
Uniform Parentage Act action, 6 Prov
Rem § 291
universities, enjoining violence and
threats in, 6 Prov Rem § 330D*
verified complaint, use of, 6 Prov Rem
§ 363
workplace harassment, see Workplace
harassment
Tender of performance, see Performance
Tentative decision, see Statement of
decision
Termination of parental rights
certiorari, review by, 8 Writs § 15
collection of judgment, 6 WPT § 132
extraordinary writ review requirement, 8
Writs § 185
special proceeding, as, 3 Actions § 65
summary judgment, availability of, 6
PWT § 206
Testamentary trusts
venue of actions, 3 Actions § 806
Testimony, see Examination of witnesses
Theft
conversion of personal property, see
Conversion of personal property
Third-party beneficiaries
accrual of cause of action, see limitation
and accrual of actions (this group)
limitation and accrual of actions
accrual, 3 Actions § 520
agreement to shorten period, 3 Actions
§ 469
Third-party tortfeasor, action against
accrual of action, 3 Actions § 562
action by employer and employee
cause of action by employee, 4 Plead
§ 149
attorneys’ representation of adverse
interests, 1 Atty § 118
consolidation, 4 Plead § 342
consolidation of employer and employee
actions, see Consolidation of actions
employee
injury caused by, 3 Actions § 562
Third-party tortfeasor, action against
—Cont’d
limitation and accrual of actions, 3
Actions § 562
notice
action of, 3 Actions § 227
Timber, see Forests and timber
Title
attachment, defined for, 6 Prov Rem § 56
cloud on, see Cloud on title, removal of
disparagement, see Slander of title
insurance, see Title insurance
limited civil case, determination in, 2
Courts §§ 245, 246
pleading, see Pleading
removal of cloud on, see Cloud on title,
removal of
slander of, see Slander of title
Title insurance
accrual of cause of action, see limitation
and accrual of actions (this group)
discovery of facts, accrual of cause of
action on, 3 Actions § 497
limitation and accrual of actions
in general, 3 Actions § 482
accrual of cause of action on discovery
of facts, 3 Actions §§ 497, 530
investigation, tolling during, 3 Actions
§ 758
negligence of insurer, nature of action, 3
Actions § 146
quiet title, see Quiet title
statute of limitations, 3 Actions § 482
Tolling statute of limitations, see
Government tort claims; Limitation and
accrual of actions
Tort actions
accrual of actions
in general, 3 Actions §§ 549 et seq.,
648 et seq.
postponed accrual, see postponed
accrual (this group)
amendment of pleadings
cause of action changed, 5 Plead
§ 1236 et seq.
legal theory changed, 5 Plead § 1233
answer, see Answer
artistic infringement, see Copyright

Index-384
Tort actions—Cont’d
attachment, wrongful, see Attachment
attorneys’ fees, see Attorneys’ fees
breach of contract, see Breach of contract
cause of action, see Cause of action
collateral estoppel, see Collateral estoppel
compensation proceeding, tolling effect, 3
  Actions §§ 744, 745
contract actions
  in general, see Contract actions
alternative actions, 3 Actions § 144 et seq.
breach of contract, see Breach of contract
distinctions, 3 Actions § 139
election allowed, 3 Actions § 145 et seq.
copyright infringement, see Copyright defenses, raising in answer, see Answer
“economic damages” defined, 7 Judgm § 41
election of remedies, see Election of remedies
equitable tort actions, 3 Actions § 127
imputed liability, limitation and accrual of actions based on, 3 Actions § 561
injuries based on, nature of action, 3
  Actions § 127
instructions to jury, 7 Trial §§ 285, 286
joint and several liability, see Joint and several liability
judgment, see Judgments
jury instructions, 7 Trial §§ 285, 286
limitation and accrual of actions
  in general, 3 Actions §§ 481, 482, 549 et seq., 648 et seq.
actions not founded upon instrument of writing, 3 Actions § 648 et seq.
literary infringement, see Copyright “noneconomic damages” defined, 7
  Judgm § 41
personal injury actions, see Personal injury actions
pleading, see Pleading
postponed accrual
  in general, 3 Actions § 567 et seq.
asbestosis, 3 Actions § 568 et seq.
dermatitis, 3 Actions § 567
distinct injuries from same cause, 3
  Actions §§ 591, 592
Tort actions—Cont’d
postponed accrual—Cont’d
hazardous material, exposure to, 3
  Actions § 573
medical malpractice, see Medical malpractice
progressive disease, 3 Actions § 567
silicosis, 3 Actions § 567
toxic substance, exposure to, 3
  Actions § 573
survival of actions, see Survival and abatement of actions
third-party tortfeasor in employee’s or employer’s claim, see Third-party tortfeasor, action against
venue
  in general, 3 Actions § 831
corporations and associations, actions against, 3 Actions § 859
Tort Claims Act, see Government tort claims

Torts
abuse of process, see Abuse of process
accrual of actions, see Tort actions
actions based on, see Tort actions
attachment, wrongful, see Attachment
attorney malpractice, see Attorney malpractice
breach of contract, see Breach of contract
  Inducing breach of contract
civil conspiracy, see Joint and contributing tortfeasors
conspiracy, civil, see Joint and contributing tortfeasors
contributing tortfeasors, see Joint and contributing tortfeasors
conversion, see Conversion of personal property
deceit, see Fraud and deceit
defamation, see Defamation
ecclesiastical controversies, 3 Actions § 40
emotional distress, see Emotional distress
fraud, see Fraud and deceit; Fraud in contracting
government tort claims, see Government tort claims
inducing breach of contract, see Inducing breach of contract
injunctions, see Injunctions

Index-385
Torts—Cont’d
insurance, torts based on, see Insurance
intentional torts, see Intentional torts
interference with business relations, see
Interference with business relations
invasion of privacy, see Invasion of
privacy
joint tortfeasors, see Joint and contribut-
ing tortfeasors
legal malpractice, see Attorney malprac-
tice
limitation and accrual of actions, see Tort
actions
malicious prosecution, see Malicious
prosecution
medical malpractice, see Medical mal-
practice
misappropriation, see Misappropriation
negligence, see Negligence
nuisance abatement, see Nuisances
personal injury, see Personal injury
actions
picketing, see Picketing
plagiarism, see Plagiarism
privacy, see Invasion of privacy
products liability, see Strict products
liability
public entities, tort claims against, see
Government tort claims
respondeat superior, see Respondeat
superior
slander, see Slander
statute of limitations, see Tort actions
title insurer’s negligence, see Title insur-
ance
Tort Claims Act, see Government tort
claims
trade secrets, see Trade secrets
trespass, see Trespass
unfair competition, see Unfair competi-
tion
union expulsion of members, see Unions
unlawful detainer, see Unlawful detainer
wrongful attachment, see Attachment
wrongful discharge or termination, see
Wrongful termination

Trade libel—Cont’d
accrual of actions, 3 Actions § 649
injunction against, 6 Prov Rem § 309
limitation and accrual of actions, 3
Actions § 649
statute of limitations, 3 Actions § 649
Trade names, see Trademarks and trade
names
Trade secrets
injunctions
equitable nature of proceedings, 3
Actions § 127
wrongful use, injunction against, 6
Prov Rem § 309
instructions to jury, 7 Trial § 287
misappropriation
pleading, 5 Plead § 778
Trademarks and trade names
infringement
nature of action, 5 Plead § 777
injunction to protect interest in, 6 Prov
Rem § 309
jurisdiction over, 2 Jurisd § 82
trade names
Rules of Professional Conduct, 1 Attys
§ 465MMM*

Transcripts
appeal, see Record on appeal
attorney disciplinary proceedings, see
Attorney discipline
new trial based on inability to obtain, see
New trial
statement of decision distinguished, 7
Trial § 403
Transfer of case, see Change of venue
Transfers to Minors Act, see Uniform
Transfers to Minors Act
Transportation
Business, Transportation, and Housing
Agency, see Business, Transportation,
and Housing Agency
Caltrans, 9 Admin Proc § 164
Department of Transportation
in general, 9 Admin Proc § 164
counsel, employment of, 1 Attys § 56
Treasure, State, see State Treasurer
Treasurer Department, see Department of
Treasury
Trespass
cause of action, see pleading (this group)
Trespass—Cont’d
  continuing trespass, accrual of action, 3
    Actions § 601 et seq.
  election of remedies, 3 Actions § 181
  foreign land, jurisdiction over action for
    trespass to, 2
    Jurisd § 368
  injunction based on repeated acts of, 6
    Prov Rem §§ 296, 302
  jury trial right, 7
    Trial § 86

limitation and accrual of actions
  in general, 3
    Actions §§ 483, 596 et seq.
  continuing trespass, 3
    Actions § 601 et seq.
  timber, actions involving injury to, 3
    Actions § 485
  oil or gas well, trespass on, see Oil and gas
pleading
  in general, 5
    Plead § 631 et seq.
  continuing acts causing irreparable injury, 5
    Plead § 633
  elements of cause of action, 5
    Plead § 631
  malice or oppression, 5
    Plead § 633
  possession, 5
    Plead § 632
  right to possession, 5
    Plead § 632
  statute of limitations, see limitation and
    accrual of actions (this group)
  timber, injury to while trespassing, see
    Forests and timber

Trial
  in general, 7
    Trial § 1 et seq.
  abandonment of case at, 6
    PWT § 474
  absence of judge
    approval of, 7
    Trial § 56
    continuance, as ground for, 7
    Trial § 21
    administrative mandamus proceeding, 8
    Writs § 323 et seq.
  amendment of pleadings during, see
    Amendment of pleadings
  appeal from orders related to, see
    Appealable judgments and orders
  appearance at, failure to appear, see
    Involuntary dismissal
  argument, see
    Closing arguments
  at-issue memorandum, 7
    Trial § 40
  attorney conduct at, 1
    Attys § 461
  attorney disciplinary charges, trial of, see
    Attorney discipline
  bifurcated, see
    Bifurcated trial

Trial—Cont’d
  bringing cause to trial, 7
    Trial § 37 et seq.
  case management, see
    Case management;
    Case management conference
  child custody, separate trial of, 7
    Trial § 157
  child support, separate trial of, 7
    Trial § 157
  commencement of
    in general, 7
      Trial § 1
    voluntary dismissal, for, 6
      PWT § 295 et seq.
  competency to stand trial, see
    Competency to stand trial
  complex litigation, see
    Complex litigation
  conclusion of
    in general, 7
      Trial § 1
    notice of, 7
      Trial § 56
  conflict of laws regarding, 3
  consolidation of actions for, see
    Consolidation of actions
  contempt, see
    Contempt
  continuance, see
    Continuance
  coordinated actions, see
    Coordination of actions
  counsel
    misconduct of, see
    misconduct of counsel during trial (this group)
  damages, when tried, 7
  default marital proceeding, presence of
    parties, 7
      Trial § 159
  defense special prior trial of, 7
    Trial § 150 et seq.
  defined, 7
    Trial § 1
  delay bringing action to trial, see
    Involuntary dismissal for delay
  demurrer, ruling on as trial, 7
    Trial § 3
  directed verdict, see
    Directed verdict
  discovery, completion of, 7
    Trial § 74
  dismissal, see
    Dismissal; Involuntary dismissal for delay
  errors at, see
    Errors
  evidence, see
    Evidence
  expedited jury trial, see
    Jury trial
  facts, trial of, 7
    Trial § 2
  family law issues, separate trial of, 7
    Trial § 157
  general appearance by participation in, 2
    Jurisd § 213 et seq.
  incompetent defendant, effect on trial, 7
    Trial § 158

Index-387
Trial—Cont’d
inebriated defendant, detention for observation of, 3 Actions § 88
instructions, see Instructions to jury interpleader, see Interpleader
involuntary dismissal for delay bringing action to trial, see Involuntary dismissal for delay
issues, when tried, 7 Trial § 154 et seq.
judge
absence of, see absence of judge (this group)
arbitration, see Judicial arbitration disqualified judge, effect of trial by, 2 Jurisd § 302
duties, 7 Trial § 56
evidence, commenting on, 7 Trial § 253
misconduct of, see Judicial misconduct or disability
partial judge, effect of trial by, 2 Jurisd § 302
powers, 7 Trial § 4
pro. per. parties, relationship to, 7 Trial §§ 254, 255
proper participation of, 7 Trial § 251 et seq.
suggestion of settlement, 7 Trial § 252
judgment, motion for, see Motion for judgment in court trial
jury instructions, see Instructions to jury jury trial, see Jury trial
law, trial on, 7 Trial §§ 3, 81
liability issues, when tried, 7 Trial § 154 et seq.
limitation defense, when tried, 7 Trial § 150 et seq.
mandamus for orders relating to, 8 Writs §§ 110, 111
mini-trial, 6 PWT § 494
misconduct of counsel during trial
in general, 7 Trial § 210 et seq.
acts constituting, 7 Trial § 214 et seq.
addressing particular juror, 7 Trial § 225
admonition and instruction to jury, 7 Trial §§ 210, 212
argument, during, 7 Trial § 164
attacking credibility of own witness, 7 Trial § 225
collateral sources of compensation, reference to, 7 Trial § 221

Trial—Cont’d
misconduct of counsel during trial
—Cont’d
contempt adjudication based on, 7 Trial § 210
conversing with jurors during trial, 7 Trial § 225∗
defined, 7 Trial § 210
derogatory remarks, 7 Trial § 214
directed verdict sought by adverse party, commenting on refusal to grant, 7 Trial § 225
disciplinary action based on, 7 Trial § 210
economic prejudice, appeals to, 7 Trial § 215
exhibits, inadmissible, use of, 7 Trial § 221
extrajudicial opinions, use of, 7 Trial § 221
inadmissible matters, reference to, 7 Trial § 221
increasing demand in jury’s presence, 7 Trial § 223
incurable misconduct, 7 Trial § 213
insurance, reference to, 7 Trial § 217 et seq.
leaving courtroom during proceedings, 7 Trial § 225
matters not in evidence, reference to, 7 Trial § 222
misleading jury in argument, 7 Trial § 224
mistrial, see Mistrial
new trial, see New trial
offer to compromise, reference to, 7 Trial § 221
prejudice, appeals to, 7 Trial § 215
privilege, comment on exercise by witness, 7 Trial § 225
rational or other group bias, appeals to, 7 Trial § 215
reading juror’s notes, 7 Trial § 225
reading law to jury, 7 Trial § 225
reversal on appeal based on, 7 Trial § 210
sanctions, see Sanctions
self-interest of jurors, appeals to, 7 Trial § 215
sympathy, appeals to, 7 Trial § 216

Index-388
## Index

### Trial—Cont’d

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>misconduct of counsel during trial</td>
<td>7</td>
</tr>
<tr>
<td>—Cont’d</td>
<td></td>
</tr>
<tr>
<td>vouching for credibility of witness</td>
<td>7</td>
</tr>
<tr>
<td>Trial § 225</td>
<td></td>
</tr>
<tr>
<td>waiver by failure to object</td>
<td>7</td>
</tr>
<tr>
<td>Trial §§ 211, 376</td>
<td></td>
</tr>
<tr>
<td>misconduct of judge, see Judicial</td>
<td></td>
</tr>
<tr>
<td>misconduct or disability</td>
<td>7</td>
</tr>
<tr>
<td>mistrial, see Mistrial</td>
<td></td>
</tr>
<tr>
<td>motion for judgment, see Motion for</td>
<td></td>
</tr>
<tr>
<td>judgment in court trial</td>
<td></td>
</tr>
<tr>
<td>nature of trial, 7 Trial § 1 et seq.</td>
<td></td>
</tr>
<tr>
<td>new trial, see New trial</td>
<td></td>
</tr>
<tr>
<td>notice of, 7 Trial § 75 et seq.</td>
<td></td>
</tr>
<tr>
<td>opening statements, 7 Trial § 160</td>
<td></td>
</tr>
<tr>
<td>order of proof, 7 Trial § 149</td>
<td></td>
</tr>
<tr>
<td>paternity, separate trial of, 7 Trial § 157</td>
<td></td>
</tr>
<tr>
<td>per diem argument on damages, 7 Trial § 164</td>
<td></td>
</tr>
<tr>
<td>prayer, reference to during argument, 7</td>
<td></td>
</tr>
<tr>
<td>Trial § 164</td>
<td></td>
</tr>
<tr>
<td>presence of parties, 7 Trial § 159</td>
<td></td>
</tr>
<tr>
<td>pretrial conference, effect on dismissal for delay</td>
<td>6</td>
</tr>
<tr>
<td>PWT § 373</td>
<td></td>
</tr>
<tr>
<td>principle steps, 7 Trial §§ 147, 148</td>
<td></td>
</tr>
<tr>
<td>priority in setting for trial, see Trial setting</td>
<td></td>
</tr>
<tr>
<td>procedure, 7 Trial § 147 et seq.</td>
<td></td>
</tr>
<tr>
<td>public trial, see Public trial</td>
<td></td>
</tr>
<tr>
<td>quiet title action, see Quiet title</td>
<td></td>
</tr>
<tr>
<td>reopening after submission, 7 Trial § 166</td>
<td></td>
</tr>
<tr>
<td>res judicata as bar defense, when tried, 7</td>
<td></td>
</tr>
<tr>
<td>Trial § 150 et seq.</td>
<td></td>
</tr>
<tr>
<td>right to participate in, denial of, 9 Appeal § 456*</td>
<td></td>
</tr>
<tr>
<td>rules governing, 2 Courts § 190</td>
<td></td>
</tr>
<tr>
<td>sanctions, see Sanctions</td>
<td></td>
</tr>
<tr>
<td>separate trial, mandamus to enforce right to, 8 Writs § 110</td>
<td></td>
</tr>
<tr>
<td>setting, see Trial setting</td>
<td></td>
</tr>
<tr>
<td>settlement, see Settlement; Settlement conference</td>
<td></td>
</tr>
<tr>
<td>Standards of Judicial Administration, 7</td>
<td>37</td>
</tr>
<tr>
<td>Trial § 37</td>
<td></td>
</tr>
<tr>
<td>statement of decision, see Statement of decision</td>
<td></td>
</tr>
<tr>
<td>statements of law during argument, 7</td>
<td>164</td>
</tr>
<tr>
<td>Trial § 164</td>
<td></td>
</tr>
<tr>
<td>statute of limitations defense, when tried, 7</td>
<td></td>
</tr>
<tr>
<td>Trial § 150 et seq.</td>
<td></td>
</tr>
</tbody>
</table>

### Trial—Cont’d

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>stay, see Stay</td>
<td></td>
</tr>
<tr>
<td>stipulated facts, trial on, 6 PWT § 80</td>
<td></td>
</tr>
<tr>
<td>stipulations regarding procedure, see Stipulations</td>
<td></td>
</tr>
<tr>
<td>telephonic appearances at conferences, 7 Trial § 57</td>
<td></td>
</tr>
<tr>
<td>theory of, see Errors</td>
<td></td>
</tr>
<tr>
<td>time for bringing action to trial, see Involuntary dismissal for delay</td>
<td></td>
</tr>
<tr>
<td>trial court delay reduction</td>
<td></td>
</tr>
<tr>
<td>trial court delay reduction in general, 2 Courts § 257 et seq.; 7 Trial § 38</td>
<td></td>
</tr>
<tr>
<td>case management, 2 Courts § 263</td>
<td></td>
</tr>
<tr>
<td>dismissal, effect on in general, 6 PWT § 281</td>
<td></td>
</tr>
<tr>
<td>delay, involuntary dismissal for, 6 PWT § 319</td>
<td></td>
</tr>
<tr>
<td>trial, delay in bringing, 6 PWT § 369</td>
<td></td>
</tr>
<tr>
<td>voluntary dismissal, 6 PWT § 284</td>
<td></td>
</tr>
<tr>
<td>domestic relations cases, exclusion from, 2 Courts § 257</td>
<td></td>
</tr>
<tr>
<td>duties of judge, 2 Courts § 258</td>
<td></td>
</tr>
<tr>
<td>elderly litigants, preference for, 2 Courts § 257</td>
<td></td>
</tr>
<tr>
<td>family law cases, exclusion from, 2</td>
<td></td>
</tr>
<tr>
<td>Courts § 257</td>
<td></td>
</tr>
<tr>
<td>juvenile court cases, exclusion from, 2</td>
<td></td>
</tr>
<tr>
<td>Courts § 257</td>
<td></td>
</tr>
<tr>
<td>limited civil cases, 2 Courts § 257</td>
<td></td>
</tr>
<tr>
<td>local standards and procedure, 2 Courts § 259</td>
<td></td>
</tr>
<tr>
<td>peremptory challenge to judge effect on, 2 Courts §§ 145, 146, 257</td>
<td></td>
</tr>
<tr>
<td>time for, 2 Courts § 262</td>
<td></td>
</tr>
<tr>
<td>powers of judge, 2 Courts § 258</td>
<td></td>
</tr>
<tr>
<td>probate cases, exclusion from, 2</td>
<td></td>
</tr>
<tr>
<td>Courts § 257</td>
<td></td>
</tr>
<tr>
<td>sanctions, 2 Courts § 264 et seq.</td>
<td></td>
</tr>
<tr>
<td>Standards of Judicial Administration, 2</td>
<td></td>
</tr>
<tr>
<td>Courts §§ 258, 261</td>
<td></td>
</tr>
<tr>
<td>time standards, 2 Courts § 260 et seq.</td>
<td></td>
</tr>
</tbody>
</table>
Trial court unification

in general, 2 Courts § 163 et seq.
Court of Appeal appellate jurisdiction, effect on, 2 Courts § 334
venue, effect on, 3 Actions §§ 782, 783
writs, effect on, 8 Writs § 4

Trial setting

in general, 7 Trial §§ 54, 55, 66 et seq.
advance, motion to, 7 Trial § 73
age, priority for continuance, limitations when preference given for age, 7 Trial § 31
party over 70, 2 Courts § 257; 7 Trial § 69
party under 14, 7 Trial § 70
air pollution penalty recovery action, 7 Trial § 72
children, actions involving, 7 Trial § 72
common interest development association action against builder, 7 Trial § 72
declaratory relief actions, see Declaratory relief
defamation action with likelihood of continuous publication, 7 Trial § 72
dismissal for delay, effect of trial setting on, 6 PWT § 373; 7 Trial § 73
election matters, 7 Trial § 72
eminent domain, 7 Trial § 72
judicial arbitration, trial de novo after, 7 Trial § 72
long causes, 7 Trial § 55
minors, actions involving, 7 Trial § 72
preference in setting for trial, 7 Trial § 66 et seq.
preliminary injunction, 7 Trial § 72
priority in setting for trial, 7 Trial § 66 et seq.
property development, actions involving, 7 Trial § 72
public bidding, actions involving, 7 Trial § 72
reset, motion to, 7 Trial § 73
Rules of Court, 7 Trial § 66
short causes, 7 Trial § 55
statutory basis for priority in setting for trial, 7 Trial § 66
stipulations regarding procedure, see Stipulations
survival of party in doubt, 7 Trial § 71

Trial setting—Cont’d
tax matters, 7 Trial § 72
trial de novo after judicial arbitration, 7 Trial § 72
unlawful detainer actions, 7 Trial § 68
victim of felony, action for damages by, 7 Trial § 72

Tribal Court Civil Money Judgments Act, 8 Enf Judgm § 478A*

Trover, see Claim and delivery

Trust beneficiaries

actions by

in general, 5 Plead § 833 et seq.
express trust, action on, 5 Plead § 833 et seq.
limitation and accrual of action against trustee, 3 Actions §§ 676, 679

Trust deeds, see Deeds of trust

Trustees

appeal

in general, 9 Appeal § 219
representative capacity, see Appeal
undertaking for, see Stay pending appeal

beneficiaries

limitation and accrual of action against trustee, 3 Actions §§ 676, 679
breach of trust
injunctive relief, 5 Plead § 832
constructive trust, see Constructive trusts
demand required before action against, 3 Actions § 204
express trust, action on by beneficiary, see Trust beneficiaries
jurisdiction over, see Jurisdiction
jury trial in action against to compel accounting, 7 Trial § 85
lien to enforce judgment, see Judgment liens
limitation and accrual of action by beneficiary against trustee, 3 Actions §§ 676, 679
real party in interest for actions involving, see Real party in interest
representation of trust in legal proceedings by, 1 Attys § 379
resulting trusts, see Resulting trusts
service as trustee as consent to jurisdiction, 2 Jurisd § 186

Index-390


Trusts
appeals, 9 Appeal § 219
attachment, availability against trust, 6 Prov Rem § 71
atorneys’ fees, see Attorneys’ fees
beneficiaries, see Trust beneficiaries
cause of action for breach, see Cause of action
charitable trusts, see Charitable trusts
constructive, see Constructive trusts
enforcement of judgment against judgment debtor’s interest in, see Enforcement of judgment
equitable nature of actions, 3 Actions § 128
execution of judgment against beneficial interest in, see Execution and levy
existence of, proceeding to determine, 5 Plead § 856
express trust, creation of
constructive trust confused with, in pleading, 5 Plead § 848
resulting trust confused with, in pleading, 5 Plead § 846
fraud, legal nature of actions, 3 Actions § 131
garnishment of beneficial interest in, 8 Enf Judgm § 139
injunction against violation of obligation arising from, 6 Prov Rem § 309
internal affairs of, proceeding relating to, 5 Plead § 856
intervention in action to establish, 4 Plead § 232
living trusts, see Living trusts
pleading wrong trust, see wrong trust, effect of pleading (this group)
real party in interest for actions involving, see Real party in interest
real property, venue in action to establish, 3 Actions § 797
Restatement
in general, 3 Actions § 131*
resulting, see Resulting trusts
specialist, certification of attorney as, 1 Attys § 10
testamentary trusts, see Testamentary trusts
Trust Law
venue for actions under, 3 Actions § 806

Trusts—Cont’d
trustees
in general, see Trustees
wrong trust, effect of pleading
in general, 5 Plead § 845 et seq.
express and resulting trusts confused, 5 Plead § 847
nature of problem, 5 Plead § 845
resulting and constructive trusts confused, 5 Plead § 848
resulting and express trusts confused, 5 Plead § 846

Truth in Endorsements Law
injunction to prevent violations, 6 Prov Rem § 291
temporary restraining order to prevent violations, 6 Prov Rem § 291

Truth in Lending Act
class action, 4 Plead § 306

Turnover order
attachment, 6 Prov Rem § 114
writ of possession of personal property, 6 Prov Rem § 263

Ultimate facts, see Pleading

Ultrahazardous activity
pleading in action based on, 4 Plead § 626

Unauthorized Insurers Process Act, see Process

Unborn child
limitation and accrual of actions for injuries to
in general, 3 Actions §§ 443, 459, 486, 695
medical malpractice, see Medical malpractice
medical malpractice cases, see Medical malpractice

Unclean hands
answer, raising in, 5 Plead § 1126
attorney malpractice, as defense to, see Attorney malpractice
declaratory relief, effect on, 5 Plead § 876
injunction, effect on, 6 Prov Rem § 341
writs, 8 Writs § 156

Index-391
Undertaking
in general, see Bond, undertaking, or deposit

Undocumented aliens, see Aliens

Undue influence
affirmative defense, as, 5 Plead § 1090
attorney, by, see Attorney-client relationship

Unemployment compensation
in general, 9 Admin Proc § 181
limitations period for review of proceedings, 9 Admin Proc § 129
precedent decision, proceeding to determine validity of, 5 Plead § 856
rights in administrative review, 8 Writs § 283
Unemployment Insurance Appeals Board decisions by as persuasive authority, 9 Appeal § 468

Unemployment Insurance Appeals Board, see Unemployment compensation

Unfair business practices
nature of action, 5 Plead § 779

Unfair competition
Barquis case
abuse of process, 5 Plead § 762
class actions
in general, 4 Plead § 306
defenses
limitations period, 3 Actions § 484
imitation, see Imitation of appearance or name
injunction against
in general, 6 Prov Rem §§ 309, 335
equitable nature of proceedings, 3 Actions § 127
limitations period, see defenses (this group)
nature of action, 5 Plead § 779
unfair trade practices, see Unfair business practices

Unfair Practices Act
injunction, 6 Prov Rem § 309

Unfair trade practices
unfair business practices, see Unfair business practices

Uniform Acts
Child Custody Jurisdiction Act, 2 Jurisd §§ 278, 422
Child Custody Jurisdiction and Enforcement Act, see Uniform Child Custody Jurisdiction and Enforcement Act
Class Actions Act, 4 Plead § 268
Foreign-Country Money Judgments Recognition Act, see Uniform Foreign-Country Money Judgments Recognition Act
Fraudulent Transfer Act, see Fraudulent transfers
Interstate Family Support Act, see Uniform Interstate Family Support Act
Liquidation Act, 6 Prov Rem § 423
Parentage Act, see Uniform Parentage Act
Reciprocal Enforcement of Support Act, see Uniform Interstate Family Support Act
Single Publication Act, 3 Actions § 551
Trade Secrets Act, see Uniform Trade Secrets Act
Transfers to Minors Act, see Uniform Transfers to Minors Act

Uniform Child Custody Jurisdiction Act, see Uniform Child Custody Jurisdiction and Enforcement Act

Uniform Child Custody Jurisdiction and Enforcement Act
in general, 2 Jurisd § 278
jurisdiction
in general, 2 Jurisd § 422

Uniform Class Actions Act, 4 Plead § 268

Uniform Commercial Code
attachment, U.C.C. definitions for, see Attachment
Division 2, see Uniform Commercial Code Division 2
limitation and accrual of actions, 3 Actions § 481
sale of goods, see Uniform Commercial Code Division 2
sales warranties, see Sales warranties
statute of limitations, 3 Actions § 473
Uniform Commercial Code Division 2

limitation and accrual of actions
breach of warranty, see Sales warranties
contract for sale, 3 Actions §§ 473, 484, 512, 513, 519
period shortened by agreement, 3 Actions § 473
sales warranties, see Sales warranties
statute of limitations, see limitation and accrual of actions (this group)

Uniform Foreign-Country Money
Judgments Recognition Act

Uniform Foreign-Money Claims Act

INDEX

Uniform Foreign-Country Money
Judgments Recognition Act—Cont’d

jurisdiction as mandatory grounds for denying recognition, 8 Enf Judgm § 465
limitations period, 8 Enf Judgm §§ 462, 466
mandatory grounds for denying recognition, 8 Enf Judgm § 465
notice as discretionary grounds for denying recognition, 8 Enf Judgm § 465
penalty, applicability of Act to judgment for, 8 Enf Judgm § 464
procedure for recognition, 8 Enf Judgm § 466
purpose of current law, 8 Enf Judgm § 463
reciprocity, 8 Enf Judgm § 465
scope of Act, 8 Enf Judgm § 464
standards for recognition, 8 Enf Judgm § 465
statute of limitations, 8 Enf Judgm § 466
stay pending appeal, 8 Enf Judgm § 466
taxes, applicability of Act to judgment for, 8 Enf Judgm § 464

Uniform Foreign-Money Claims Act

in general, 8 Enf Judgm § 468 et seq.
allegation and proof of money claim, 8 Enf Judgm § 472
amount owed on claim, determination of, 8 Enf Judgm § 471
construction of Act, 8 Enf Judgm § 468
conversion of money in distribution proceeding, 8 Enf Judgm § 474
country’s substitution of new money for old, effect of, 8 Enf Judgm § 478
definitions, 8 Enf Judgm § 468
dollar value of claim, determining for limited purposes, 8 Enf Judgm § 477
enforcement of judgment rendered in another jurisdiction, 8 Enf Judgm § 476
interest, 8 Enf Judgm § 475
judgment or award, 8 Enf Judgm § 473
nature of Act, 8 Enf Judgm § 469
proper money of claim, determination of, 8 Enf Judgm § 470
purpose of Act, 8 Enf Judgm § 469
scope of Act, 8 Enf Judgm § 468
supplementary principles of law, 8 Enf Judgm § 468
Uniform Foreign-Money Claims Act—Cont’d
variation of effect by agreement, 8 Enf Judgm § 468

Uniform Fraudulent Transfer Act, see Fraudulent transfers

Uniform Interstate Family Support Act
in general, 8 Enf Judgm § 407 et seq.
Attorney General, services provided by, 8 Enf Judgm § 416
confidentiality of identifying information, 8 Enf Judgm § 415
continuance, 7 Trial § 31
continuing exclusive jurisdiction, 8 Enf Judgm § 409
costs, 8 Enf Judgm § 417
definitions, 8 Enf Judgm § 408
discovery, 8 Enf Judgm § 414
emergency regulations, adoption of, 8 Enf Judgm § 407*
enforcement and information agencies, 8 Enf Judgm § 416
evidence, 8 Enf Judgm § 413
fees, 4 Plead § 27; 8 Enf Judgm § 417
filing fees for proceedings under, 4 Plead § 27
governing law, 8 Enf Judgm § 411
Hague Convention on International Recovery of Child Support and Other Forms of Family Maintenance, see Child support
interstate rendition, 8 Enf Judgm § 428
jurisdiction, 2 Jurisd §§ 282*, 283*; 8 Enf Judgm § 409
multiple orders, reconciliation of, 8 Enf Judgm § 418
nonparentage as defense, 8 Enf Judgm § 410
order to show cause, 8 Enf Judgm § 410
parentage determination, 8 Enf Judgm § 427
participation in proceeding, effect on jurisdiction, 8 Enf Judgm § 409
parties and representation, 8 Enf Judgm § 410
petition, 8 Enf Judgm § 410
proceedings under, 8 Enf Judgm § 410 et seq.
pending judgment, 8 Enf Judgm § 410
reciprocity under, 8 Enf Judgm § 407
registration
enforcement of order without, 8 Enf Judgm § 420
enforcement or modification of order after, 8 Enf Judgm § 421 et seq.
request for and registration of order, 8 Enf Judgm §§ 416*, 428D et seq.*
summons, 8 Enf Judgm § 410
support order, establishment of, 8 Enf Judgm § 419
tribunals, 8 Enf Judgm § 412
voluntary acknowledgement of paternity, effect of, 8 Enf Judgm § 413*

Uniform Liquidation Act, 6 Prov Rem § 423

Uniform Parentage Act
action to determine father and child relationship
pleading, 5 Plead § 856
action to determine mother and child relationship
in general, 5 Plead § 856
temporary restraining order, see Temporary restraining orders
venue, 3 Actions § 815

Uniform Reciprocal Enforcement of Support Act, see Uniform Interstate Family Support Act

Uniform Single Publication Act, 3 Actions § 551

Uniform Trade Secrets Act
misappropriation
limitation and accrual of actions, 3 Actions § 483

Uniform Transfers to Minors Act
venue for proceedings, 3 Actions § 809

Uniform Voidable Transactions Act
in general, see Fraudulent transfers

Unincorporated associations
administrative mandamus, 8 Writs §§ 265, 270
attachment against, see Attachment capacity
sue and be sued, to, see Capacity to sue and be sued
Unincorporated associations—Cont’d
client of attorney, as, see Attorney-client relationship
complaint, naming in, 4 Plead § 474
discipline of attorney based on practice by, 1 Attys § 532 et seq.
diversity of citizenship jurisdiction, see Federal courts
exhaustion of internal remedies in general, 3 Actions § 320 et seq.
counterclaim by employee to union action, effect of, 3 Actions § 320*
employee action against union, 3 Actions § 320
internal rules violations, effect of, 3 Actions § 322
lack of effective remedy, effect of, 3 Actions § 323
refusal to allow inspection of records, effect of, 3 Actions § 324
tort action for damages, 3 Actions § 321
injunction to protect membership in, 6 Prov Rem § 314
joint stock company service of process on, 3 Actions § 1053
jurisdiction diversity of citizenship jurisdiction in cases involving, see Federal courts personal jurisdiction over, see Jurisdiction
mandamus based on acts of officers, 8 Writs § 98
member injunction to protect membership, 6 Prov Rem § 314
officers, mandamus based on acts of, 8 Writs § 98
partnerships, see Partnerships representation by attorney, see Attorney-client relationship service of process on, see Process
SLAPP suits, 5 Plead § 1019*
summons in actions against, 3 Actions § 989
venue for actions against association, 3 Actions § 849 et seq.

Uninsured motorist proceeding—Cont’d
arbitration compromise, availability of offer to, 6 PWT § 83

Uninsured motorist proceeding—Cont’d
cross-complaint, limitations period applicability, 3 Actions § 451
limitation and accrual of actions in general, 3 Actions §§ 553, 566
action against uninsured motorist, 3 Actions § 482
cross-complaint by uninsured motorist, 3 Actions § 451
insurer’s subrogation, 3 Actions § 483
minority of party, effect on limitations period, 3 Actions § 697
minority of party, effect on limitations period, see limitation and accrual of actions (this group)
statute of limitations, see limitation and accrual of actions (this group)

Unions
collective bargaining agreements, see Collective bargaining agreements discipline of attorney based on practice by, see Attorney discipline expulsion of members limitation and accrual of action to compel reinstatement, 3 Actions § 678
wrongful, nature of action, 3 Actions § 159
mandamus beneficial interest of union, 8 Writs § 78
officers, mandamus based on acts of, 8 Writs § 97
remedies, exhaustion of internal, see Unincorporated associations unincorporated associations, as, see Unincorporated associations

United States
bond requirements, exemption from, 6 Prov Rem § 13
capacity to sue and be sued, see Capacity to sue and be sued
limitation and accrual of actions, see Limitation and accrual of actions
sovereign immunity, see Capacity to sue and be sued
statute of limitations, see Limitation and accrual of actions
United States—Cont’d
Supreme Court, see Federal courts; Stare decisis

Universities, see Colleges and universities

University of California, see Colleges and universities

Unlawful detainer—Cont’d
in general, 7 Judgm § 33
amount in controversy, see Amount in controversy
answer
defenses, see defenses (this group)
appeal
jurisdiction, effect on, 9 Appeal § 21
stay pending appeal, 9 Appeal §§ 245, 246
attachment in, see Attachment
attorneys’ fees
in general, 5 Plead § 645
stay pending appeal, 9 Appeal § 246
availability of remedy, 5 Plead § 640
complaint, 4 Plead § 472
continuance, 7 Trial § 31
contract action, as, 3 Actions § 142
cross-complaint, 5 Plead §§ 1160, 1161
damages
in general, 5 Plead § 645
default judgment, see Default judgment defenses
in general, 5 Plead § 1112 et seq.
agreement to lease, 5 Plead § 1113
fraud in acquisition of title, 5 Plead § 1113
habitability, see Implied warranty of habitability
retaliatory eviction, see Retaliatory eviction
employee, pleading in action against, 5
Plead § 647
expedited jury trial in, 7 Trial § 6E*
filing fees, 4 Plead § 26
forcible entry and detainer, see Forcible entry and detainer
inadvertence, relief from judgment for, availability of, 8 Attack § 145
judicial arbitration, exclusion from, 6
PWT § 583
Judicial Council forms
in general, 2 Courts § 434

Unlawful detainer—Cont’d
Judicial Council forms—Cont’d
answer, 5 Plead § 1112
jurisdiction
appeal, effect on, 9 Appeal § 21
jury trial
expedited, 7 Trial § 6E*
landlord’s action against tenant, see
pleading in landlord’s action against tenant (this group)
licensee, pleading in action against, 5
Plead § 647
limited civil case, 2 Courts § 244
mistake, relief from judgment for, availability of, 8 Attack § 145
motion to quash action, see Motion to quash
nature of, 5 Plead § 638
neglect, availability of relief from judgment for, 8 Attack § 145
new trial, availability in proceedings, 8
Attack § 22
notice
trial, time for service of, 6 PWT § 31
pleading
in general, 5 Plead § 638 et seq,
pleading in landlord’s action against tenant
in general, 5 Plead § 641 et seq,
breach of lease, 5 Plead § 644
conditions in lease, tenant’s failure to perform, 5 Plead § 644
damages, 5 Plead § 645
default, 5 Plead § 644
description of property, 5 Plead § 641
grounds for recovery of possession by landlord, 5 Plead § 642 et seq.
holding over, 5 Plead § 643
immediate possession, justification for, 5
Plead § 646
notice of termination, 5 Plead § 641
possession by tenant, 5 Plead § 641
relationship between parties, 5 Plead § 641
rent, default in, 5 Plead § 644
rent due as damages, 5 Plead § 645
rental agreement, 5 Plead § 641
preference in trial setting, 7 Trial § 68
procedure, 5 Plead § 640
purchaser
judicial sale, pleading by, 5 Plead § 648
Unlawful detainer—Cont’d
purchaser—Cont’d
title, litigation of in action by, 5 Plead § 1113
quashing of action, see Motion to quash
receiver, appointment for, 6 Prov Rem § 433
service of process
mail, by, 3 Actions § 1022
posting, by, 3 Actions § 1045
setoff of unrelated claim, availability, 5
Plead § 1113
setting for trial, 7 Trial § 68
special proceeding, as, 3 Actions § 65
stay pending appeal, 9 Appeal §§ 245, 246
successive actions, 5 Plead § 639
summary judgment, 6 PWT § 204
summons
in general, 3 Actions § 987
service by mail, 3 Actions § 1022
time to answer, 3 Actions § 985
surprise, relief from judgment for, avail-
ability of, 8 Attack § 145
three-day notice
in general, 3 Actions § 216
tort action, as, 3 Actions § 142
trial setting, 7 Trial § 68
venue
in general, 3 Actions § 795
change of venue, motion requirement, 3
Actions § 907
verification of complaint, 4 Plead § 466
writ of possession
in general, 8 Enf Judgm § 332
Unruh Act, see Retail installment sale

Unruh Civil Rights Act—Cont’d
vexatious litigants, see high-frequency litigants (this group)

Usury
accrual of cause for action for payment of interest, 3 Actions § 546
class actions, 4 Plead § 306
interest
accrual of cause of action for payment,
3 Actions § 546
treble interest penalty
class actions, 4 Plead § 306

Utilities
certiorari review of Commission proceed-
ings, 8 Writs § 17
injunctions against, 6 Prov Rem § 291
limitations periods for actions involving, 3 Actions § 483
mandamus to enforce judgments against,
8 Writs § 113
Public Utilities Commission
in general, 9 Admin Proc § 211
certiorari review of proceedings, 8
Writs § 17
counsel, employment of, 1 Atty § 56
decisions as persuasive authority, 9
Appeal § 468
exclusive jurisdiction of, 2 Jurisd § 48
jurisdiction, 2 Courts § 211
open meeting requirement exception for, 9 Admin Proc § 12
receiver, request for appointment of, 6
Prov Rem § 434
res judicata effect of decisions, see Res judicata
review of proceedings, 8 Writs §§ 17, 266; 9
Admin Proc § 121
superior court writ jurisdiction over, 2
Courts § 215
Supreme Court review of Energy Com-
mision decisions, 2 Courts § 330
review of Commission proceedings and
orders
in general, 8 Writs §§ 17, 266; 9
Admin Proc § 121
statute of limitations for actions involv-
ing, 3 Actions § 483

Vacating judgment
in general, 8 Attack § 139 et seq.
Vacating judgment—Cont’d
appeal
  in general, 8 Attack § 143
  consent to vacation of judgment, 9
  Appeal § 899
  cross-appeal based on grant of, 9
  Appeal § 597
  extension of time for notice of appeal
  based on, see Notice of appeal
  jurisdiction, effect on, 9 Appeal § 23
  nonparty, appeal right on motion to
  vacate by, 9 Appeal § 26
  notice of appeal, effect on, see Notice
  of appeal
  orders regarding, 9 Appeal § 194 et
  seq.
  probate proceedings, 9 Appeal § 207
  reversal as vacation of judgment, see
  Reversal of judgment on appeal
  attacking judgment generally, see Attack
  on judgment
  chambers, hearing in, 2 Courts § 23
  collateral attack, 8 Attack §§ 8, 9
  consent judgment, applicability to, 8
  Attack § 139
  consent to on appeal, 9 Appeal § 899
  cross-appeal based on grant of, 9 Appeal
  § 597
  determination of motion, 8 Attack § 142
  expedited jury trial, waiver of right, 8
  Attack § 139*
  grounds, 8 Attack § 139
  hearing, 8 Attack § 142
  judge hearing motion, 2 Courts § 18
  jury trial, expedited, waiver of right, 8
  Attack § 139*
  mandamus for orders relating to, 8 Writs
  § 113
  modification of judgment
    after court trial distinguished, 8 Attack
    § 102
    motion
      appeal of orders regarding, 9 Appeal
      § 194 et seq.
      collateral attack, subsequent motion as,
      see Collateral attack
      cross-appeal based on grant of, 9
      Appeal § 597
      deny, notice of appeal specifying order
      to, 9 Appeal § 571

Vacating judgment—Cont’d
motion—Cont’d
expiration of time for court to rule on
motion, 8 Attack § 142*
  nature of, 8 Attack § 139
  notice of appeal, effect on, see Notice
  of appeal
  ruling on, time for, 8 Attack §§ 139*,
  142*
  validity of for extending time to appeal,
  9 Appeal § 595*
  new trial motion
    distinguished, 8 Attack § 140
  notice of appeal, effect on, see Notice of
  appeal
  notice of motion, 8 Attack § 141
  order, form of, 8 Attack § 142
  review of order, 8 Attack § 143
  small claims court, 2 Courts § 302
  stipulated judgment, applicability to, 8
  Attack § 139
  time for motion, 6 PWT § 31; 8 Attack
  § 141
  violation, action to determine, 5 Plead
  § 856

Vacation rights of employees
  accrual of cause of action, 3 Actions
  § 520

Validation proceedings
  consolidation, see Consolidation of
  actions
  costs, 7 Judgm § 108A*
  in rem proceedings, as, 2 Jurisd § 245
  limitation and accrual of actions, 3
  Actions §§ 475, 476, 480
  real party in interest, 4 Plead § 158
  relief from judgment, availability of rem-
  edy, 8 Attack § 146
  summons
    in general, 3 Actions § 988
    time to answer, 3 Actions § 985

Variance
  in general, 5 Plead § 1209 et seq.
  amendment of pleadings
    in general, 5 Plead § 1211 et seq.
    answer, amendment of, 5 Plead § 1211
    court’s duty to order amendment, 5
    Plead § 1213
    liberal allowance, 5 Plead § 1211
Index

Variance—Cont’d
amendment of pleadings—Cont’d
mandatory amendment, 5 Plead § 1211
procedure, 5 Plead § 1212
doctrine, 5 Plead § 1209
immaterial variance, 5 Plead § 1210
noncurable failure of proof, effect of, 5 Plead § 1215
prejudice, effect of, 5 Plead § 1216
trial, substantial variance cured by, 5 Plead § 1214

Vehicles
attachment, see Attachment
automobiles, see Automobiles
license fees, limitation periods for actions involving, 3 Actions § 483
motor vehicles, see Motor vehicles
Vehicle License Fee Law
limitation periods for actions involving, 3 Actions § 483

Venue
in general, 3 Actions § 779 et seq.
abuse of process, 3 Actions § 821
accounting, 3 Actions § 824
administrative mandamus, 8 Writs §§ 105, 164
agreement fixing venue
in general, 3 Actions §§ 785, 786
consent to jurisdiction, as, 2 Jurisd § 189
annulment of marriage, see Nullity of marriage
appeal from orders regarding, see Appealable judgments and orders
arbitration agreement, petition to compel enforcement, 6 PWT § 524
attorney disciplinary proceedings, see Attorney discipline
attorney’s attempt to fix, see Attorneys’ fees
to dispuite arbitrations, venue for, see Attorneys’ fees
automobile sales financing, actions on, 3 Actions § 845
cancellation of instrument, 3 Actions § 828
certiorari, 8 Writs § 164
change of, see Change of venue
child support proceedings, 3 Actions §§ 815, 875

Venue—Cont’d
cities, actions involving
in general, 3 Actions § 871 et seq.
change of venue, 3 Actions §§ 905, 958
state, action against, 3 Actions § 867
complaint, determination by, 3 Actions § 789 et seq.
condemnation action, 3 Actions §§ 800, 879
conservatorship, 3 Actions § 807
constitutional limitations, 3 Actions § 784
consumer obligations actions, 3 Actions § 846
Consumers Legal Remedies Act, 3 Actions § 888
contract actions, 3 Actions §§ 831, 834 et seq.
contract fixing venue, 3 Actions §§ 785, 786
conversion of personal property, 3 Actions § 822
corporations
dissolution of, 3 Actions §§ 816, 887
individual, joinder with, effect of, 3 Actions §§ 902, 903
state, joinder with, effect of, 3 Actions § 904
venue of actions involving, 3 Actions §§ 849 et seq., 877
counties, actions involving
in general, 3 Actions § 871 et seq.
change of venue, 3 Actions §§ 905, 958
individual, joinder with, effect of, 3 Actions § 904
state, action against, 3 Actions § 867
creditor’s action against debtor, 3 Actions § 826
declaratory relief, 3 Actions § 827
deeds of trust, actions involving, 3 Actions § 797
defendant’s residence, actions triable at, 3 Actions § 817 et seq.
defined, 3 Actions § 779
determination of, based on complaint, 3 Actions § 789 et seq.
dismissal based on, 6 PWT § 480
dissolution of marriage
in general, 3 Actions §§ 810, 811
same-sex marriage, 3 Actions §§ 811*, 813*
ejection, 3 Actions § 795
Venue—Cont’d

equitable relief against judgment, 3
   Actions § 829
   equity, actions in, 3 Actions § 823 et seq.
   estate representative, action against, 3
   Actions § 805
executive of estate, action against, 3
   Actions § 805
Fair Employment and Housing Act
action, 3 Actions § 886
false imprisonment, 3 Actions § 821
family law proceedings
   in general, 3 Actions § 810 et seq.
change of venue, 3 Actions § 785
Federal Employers’ Liability Act, setting
under, 3 Actions § 785
fictitious defendant, effect of joinder, 3
   Actions § 900
forfeiture, recovery of, 3 Actions § 804
form of action, determination, 3 Actions
   § 787 et seq.
forum selection clauses, 3 Actions § 785
franchise agreement fixing venue, 3
   Actions § 785
fraud, 3 Actions § 830
growing crops, injuries to, 3 Actions
   § 801
guardianship, 3 Actions § 807
Health Care Decisions Law proceedings,
   see Health Care Decisions Law
imminent departure of defendant, effect
of, 3 Actions § 848
injunction, 3 Actions § 825
installment contracts, actions on, 3
   Actions § 845
intentional infliction of emotional distress,
   3 Actions § 821
interference with contract and business
relations, 3 Actions § 822
intracounty proceedings distinguished, 3
   Actions § 779
inverse condemnation, 3 Actions § 803
involuntary dismissal based on, 6 PWT
   § 480
joinder, effect on venue
   causes of action, 3 Actions § 882 et seq.
   defendants, 3 Actions § 889 et seq.
jurisdiction distinguished, 3 Actions § 779
   et seq.
jurisdictional venue, 3 Actions § 781

Venue—Cont’d

legal separation, see Legal separation
legislative control over, 3 Actions § 784
libel, 3 Actions § 821
lien enforcement, 3 Actions § 799
limited civil case
   in general, 3 Actions §§ 780, 783
   appeal from orders regarding, 9 Appeal
   § 170
change of venue, see Change of venue
local actions
   in general, 3 Actions § 792 et seq.
family law proceedings, 3 Actions
   § 810 et seq.
Probate Code proceedings, 3 Actions
   § 805 et seq.
real property actions, 3 Actions § 865
state, actions against, 3 Actions § 867
state agency, actions against, 3 Actions
   § 868
transitory action, joinder with, 3
   Actions § 884
local agencies, actions involving
   in general, 3 Actions §§ 880, 881
change of venue, see Change of venue
state, action against, 3 Actions § 867
main relief rule, 3 Actions §§ 788, 801,
   824
malicious prosecution, 3 Actions § 821
mandamus, 8 Writs §§ 105, 164; 9 Appeal
   § 170
mixed action, 3 Actions § 883
name change, 3 Actions § 816
nature of action, 3 Actions § 143
negligent design and construction of
building, 3 Actions § 801
nominal defendant, effect of joinder, 3
   Actions § 898
nonjurisdictional venue, 3 Actions
   §§ 779, 780
nonresident defendant, 3 Actions § 847
nullity of marriage, see Nullity of mar-
riage
partition, 3 Actions § 798
paternity proceedings, 3 Actions §§ 815,
   875
penalty, recovery of, 3 Actions § 804
personal injury, 3 Actions § 832
personal property injuries, 3 Actions
   §§ 822, 833

Index-400
Venue—Cont’d

Power of Attorney Law proceedings, 3 Acts § 808
Probate Code proceedings, 3 Acts § 805 et seq.
prohibition, writ of, 8 Writs § 164
public officers and employees, actions against, 3 Acts §§ 869, 870
quiet title action, 5 Plead § 658
real property actions
  in general, 3 Acts § 792 et seq.
damages for injuries, 3 Acts § 801 et seq.
  land in more than one county, 3 Acts § 794
  quiet title, 3 Acts § 796
recovery or determination of interest, 3 Acts §§ 792, 795 et seq.
reformation of contract, 3 Acts § 797
trusts, 3 Acts § 797
Rees-Levering Act actions, 3 Acts § 845
rescission, restitution after, 3 Acts § 835
slander, 3 Acts § 821
small claims court, 2 Courts § 291
stakeholder defendant, effect of joinder, 3 Acts § 899
state, actions involving
  in general, 3 Acts § 862 et seq.
agency or officer, action against, 3 Acts §§ 816, 868
change of venue, 3 Acts § 905
cities, actions by, against state, 3 Acts § 867
corporation, joinder with, effect of, 3 Acts § 904
counties, actions by, against state, 3 Acts § 867
local actions against state, 3 Acts § 865
local agencies, actions by, against state, 3 Acts § 867
transitory actions against state, 3 Acts § 866
surrogate mothers, parentage actions involving, see Surrogate mothers
tort actions, 3 Acts § 831 et seq.
transitory actions
  in general, 3 Acts § 817 et seq.

Venue—Cont’d
transitory actions—Cont’d
  joinder of causes of action, 3 Acts § 884 et seq.
  state, actions against, 3 Acts § 866
  state agency, actions against, 3 Acts § 868
  trial court unification, effect of, 3 Acts §§ 782, 783
Trust Law proceedings, see Trusts
Uniform Parentage Act, see Uniform Parentage Act
Uniform Transfers to Minors Act proceedings, 3 Acts § 809
unincorporated associations, actions against, 3 Acts § 850
unlawful detainer, see Unlawful detainer
waiver, 3 Acts § 780
writs, 8 Writs § 164
wrongful death, 3 Acts § 832

Verdict
  in general, 7 Trial § 338 et seq.
  all defendants, failure to include, 7 Trial § 358
appeal
  appealability of, see Appealable judgments and orders
  modification of judgment contrary to verdict, 9 Appeal § 864
  specification in notice of appeal, see Notice of appeal
apportionment of recovery, 7 Trial § 356
assent of jury requirement, 7 Trial § 350 et seq.
averaging, use of in jury discussion, 7
  Trial § 380
blank verdict forms, 7 Trial § 338
CACI verdict forms, 7 Trial § 273
chance verdict
  in general, 7 Trial § 380
  new trial, as grounds for, 8 Attack § 28
clerk of court, reception by, 2 Courts § 366
compromise verdict
  in general, 7 Trial § 355
partial new trial for, 8 Attack § 106
conflict of laws regarding, 3 Acts § 46
conformity to issues and evidence, 7 Trial § 354 et seq.
conservatorship of gravely disabled persons proceedings, 3 Acts § 104

Index-401
Verdict—Cont’d
construction of defective verdicts, see defective verdicts (this group)
correction of defective verdicts, see defective verdicts (this group)
damages, inconsistency on, 7 Trial § 363
defective verdicts
in general, 7 Trial § 366 et seq.
appellate court construction of, 7 Trial § 370
correction of to cure, 7 Trial § 371 et seq.
duty to order correction, 7 Trial § 372
erroneous verdict distinguished, 7 Trial § 374
evidence, construction by reference to, 7 Trial § 368
instructions, construction in light of, 7 Trial § 367
intention of jury, determination from verdict, 7 Trial § 369
law, construction in light of, 7 Trial § 367
pleadings, construction by reference to, 7 Trial § 368
power to order correction, 7 Trial § 371
retirement of jury, different verdict after curing, 7 Trial § 373
reversible error, as, 9 Appeal § 448
surplusage, disregard of, 7 Trial § 366
waiver of defect, 7 Trial § 376
defendant
verdict silent as to, 7 Trial § 362
deliberations of jury, see Jury deliberations
dependent liability, effect on verdict, 7 Trial §§ 359, 360
derivative liability, effect on verdict, 7 Trial §§ 359, 360
directed verdict, see Directed verdict
driver, verdict exonerating, 7 Trial § 359
employee, verdict exonerating, 7 Trial § 359
entry of verdict, 7 Trial § 340
error in verdicts
in general, 7 Trial § 375 et seq.
defective verdict distinguished, 7 Trial § 374
invited error, 7 Trial § 377

Verdict—Cont’d
error in verdicts—Cont’d
prejudicial error, 7 Trial § 375
reversible error, 9 Appeal § 448
waiver of error, 7 Trial § 376
expedited jury trial, see Jury trial
failure to find, effect of, 7 Trial § 358 et seq.
general verdict
in general, 7 Trial § 341
agreement on elements, 7 Trial § 351
interrogatories to test, see interrogatories to test general verdict (this group)
several counts, consistency of verdict, 7 Trial § 354
special findings inconsistent with, 7 Trial § 364
special findings to test, 7 Trial §§ 347 et seq., 353
holidays, receiving verdict on, 2 Courts § 48
impeachment by jurors
in general, 7 Trial § 378 et seq.
intention of juror, admissibility of, 7 Trial § 384
new trial motion based on, see New trial
overt acts, admissibility of, 7 Trial § 383
questioning jurors prior to verdict distinguished, 7 Trial § 385
inconsistent verdicts
in general, 7 Trial § 358 et seq.
instructions
conformity to, 7 Trial § 357
interrogatories to test general verdict
in general, 7 Trial § 347 et seq.
discretion of court, 7 Trial § 348
form of, 7 Trial § 349
nature of, 7 Trial § 347
procedure, 7 Trial § 348
joint liability, effect on verdict, 7 Trial § 358
judgment notwithstanding verdict, see Judgment notwithstanding verdict
jurors, by, see impeachment by jurors (this group)
jury, see Jury trial
new trial based on, see New trial
Index-403

Verdict—Cont’d
offer to compromise, effect of jury verdict, 6 PVT § 109
party, verdict silent as to, 7 Trial §§ 361, 362
plaintiffs, verdict silent as to, 7 Trial § 361
polling of jury, see Jury
procedure, 7 Trial § 338 et seq.
questioning jurors prior to verdict, 7 Trial § 385
quotient verdict, 7 Trial § 380
receipt of verdict, 7 Trial § 339
respondeat superior liability, effect on verdict, 7 Trial §§ 359, 360
reversible error, see error in verdicts (this group)
special findings
general verdict, to test, 7 Trial § 353
special verdict
in general, 7 Trial § 342 et seq.
agreement on elements, 7 Trial § 352
form of questions, 7 Trial § 346
future damages, 7 Trial § 344
nature of, 7 Trial § 342
partial acceptance of, 7 Trial § 343
punitive damages, 7 Trial § 345
surplusage, 7 Trial § 366
uncertainty, effect of, 7 Trial § 365

Verification
government tort claims, see Government tort claims
petition for writ, see Writs
pleadings, see Verification of pleadings
writ petitions, see Writs

Verification of pleadings—Cont’d
Judicial Council forms, 4 Plead § 462
limited civil case, 4 Plead § 472
motion to strike based on, see Motion to strike
nature of, 4 Plead § 459
oath requirement, 4 Plead § 459
party, by, 4 Plead §§ 459, 461
petition
when required, 4 Plead § 466
preliminary injunction, see Injunctions
public agency exemption, 4 Plead §§ 466, 467
statement of reasons, 4 Plead § 464
statutory form, use of, 4 Plead § 463
temporary restraining orders, see Temporary restraining orders

Vessels
attachment of vessels, see Attachment
levy on, 8 Enf Judgm § 128
personal property lien to enforce judgment, see Judgment
liens
service of process on nonresident owner, see Process
verification of complaint, 4 Plead § 466

Veterans
attorneys, legal assistance to, 1 Attys § 14*

Vexatious litigants
Americans With Disabilities Act, see Americans With Disabilities Act
defined, 3 Actions § 366
dismissal of litigation, motion for, 3 Actions §§ 365*, 368*, 369*
high-frequency litigants, see Americans With Disabilities Act; Unruh Civil Rights Act
Judicial council forms, 2 Courts § 434A*
juvenile dependency proceedings, 3 Actions § 370*
new litigation, order precluding, see Security for costs
prefiling order, see Security for costs
security for costs, see Security for costs
self-represented litigant’s appeal of judgment, 3 Actions § 356*
Unruh Civil Rights Act, disability access claims, see Unruh Civil Rights Act

Index-403
Void judgment

default judgment in excess of demand for damages, 6 PWT § 149
equitable relief against, see Equitable relief against judgment
relief from, see Relief from judgment

Voir dire—Cont’d

Standards of Judicial Administration governing, 7 Trial §§ 136, 139, 141
submission of questions, 7 Trial § 137
swearing of jury, effect of, 7 Trial § 137

Voir dire

in general, 7 Trial § 136 et seq.
attorneys, examination by
in general, 7 Trial § 141 et seq.
conferences with judge, 7 Trial § 141
condemnation case, questioning by judge, 7 Trial § 139
contempt by juror during, see Contempt
delay in trial, effect on dismissal for, 6 PWT § 376
expedited jury trial, 7 Trial § 6C*
expenses of prospective jurors during, payment of, 7 Trial § 99
federal procedure, 7 Trial § 137
indoctrinating questions, use of, 7 Trial § 143
insurance, reference to, 7 Trial § 218
judge, examination by, 7 Trial § 138 et seq.
judge, presence of at questioning, 7 Trial § 137*
juror’s refusal to answer as contempt, 7 Trial § 206
jury books, use of, 7 Trial § 136
jury consultant, use of, 7 Trial § 136
jury questionnaires
confidentiality, 7 Trial § 119
disrespectful response, 7 Trial § 116
Judicial Council forms, 7 Trial § 136
public inspection of, 7 Trial § 119
use of, 7 Trial § 136
jury trial, expedited, 7 Trial § 6C*
nature of, 7 Trial § 136
new trial, irregularities in voir dire as grounds, 8 Attack § 27
order of questioning, 7 Trial § 137
presence of judge, necessity for, 7 Trial § 137
procedure, 7 Trial § 137
purpose, 7 Trial § 136
questions, prior submission of, 7 Trial § 137*
scope of questioning, 7 Trial § 137

Voluntary dismissal

in general, 6 PWT § 283 et seq.
abandonment, dismissal on, 6 PWT § 312
admissions, effect of default on request for, 6 PWT § 298
after commencement of trial
abandonment, dismissal on, 6 PWT § 312
adverse party, consent of, 6 PWT § 313
contractual arbitration, effect of beginning, 6 PWT § 304A*
effect of, 6 PWT § 313
plaintiff’s request, 6 PWT § 311
appeal
appeal from, see Appealable judgments and orders
dischARGE of appeal, see Dismissal of appeal
attorney disciplinary proceedings, see Attorney discipline
before commencement of trial
in general, 6 PWT §§ 283 et seq., 293 et seq.
defined, 6 PWT § 295 et seq.
change of venue, effect of motion for, 6 PWT § 291
child custody proceeding, dismissal of, 6 PWT § 292
class action, dismissal of, 6 PWT § 292
clerk’s entry
in general, 6 PWT § 305
refusal by clerk to enter, 6 PWT § 306
collateral estoppel effect, 6 PWT § 308
complaint in intervention, effect of, 6 PWT § 290
complete dismissal before commencement of trial, 6 PWT § 283 et seq.
contractual arbitration, effect on, see after commencement of trial (this group)
costs, application for, 6 PWT § 305
cross-complaint, effect on, 6 PWT §§ 288, 289
delay of trial by, effect on dismissal for, 6 PWT § 390
demurrer, effect of sustaining
in general, 6 PWT §§ 296, 297

Index-404
Index

Voluntary dismissal—Cont’d

demurrer, effect of sustaining—Cont’d tentative ruling, 6 PWT § 300

discovery sanction, effect of pending motion, 6 PWT § 303

disregard of as excess of jurisdiction, 2 Jurisd § 326

effect, 6 PWT § 307 et seq.
entry by clerk, 6 PWT § 305
failure to prosecute, effect of tentative ruling on dismissal for, 6 PWT § 301
fast track rules, effect of, 6 PWT § 284

Voluntary dismissal—Cont’d

federal practice, 6 PWT § 285

guardian ad litem, powers of, 4 Plead § 78

guardianship proceeding, dismissal of, 6 PWT § 292

Wages garnishment, see Garnishment

indispensable party defendant, dismissal of, 6 PWT § 292

intervention complaint, effect of, 6 PWT § 290

judicial arbitration, effect of dismissal, 6 PWT § 620

jurisdiction after, 2 Jurisd §§ 97, 326; 6 PWT § 307

legal malpractice, effect of dismissal of action, 6 PWT § 309

Wages attachment, exemption from, see Attachment

mandatory dismissal, effect of tentative ruling for, 6 PWT § 301

notice of request, 6 PWT § 305

offer to compromise, effect on, see Offer to compromise

partial dismissal, 6 PWT §§ 286, 287

plaintiff not sole party in interest, 6 PWT § 292

plaintiff’s rights, 6 PWT § 283 et seq.

probate of will, dismissal of, 6 PWT § 292

procedure, 6 PWT §§ 305, 306

relief from, 6 PWT § 310

request for, 6 PWT § 305

requests for admissions, effect of default on, 6 PWT § 298

res judicata effect, see Res judicata retrial after reversal, dismissal before, 6 PWT § 304

review of, 6 PWT § 310

shareholder’s derivative suit, dismissal of, 6 PWT § 292

summary adjudication, effect of, 6 PWT § 299

summary judgment motion, dismissal after in general, 6 PWT § 294

tentative ruling, 6 PWT § 302

tentative rulings on dispositive matters, effect of, 6 PWT § 300 et seq.

time of request, 6 PWT § 293 et seq.

trial court delay reduction rules, effect of, 6 PWT § 284

Voluntary expedited jury trial, see Jury trial

Waiver appeal, arbitration agreement explicitly waives right to, 9 Appeal § 63*
election of remedies, 3 Actions § 202
government tort claims, defects in form, see Government tort claims

War tolling of limitations period during, 3 Actions §§ 694, 704, 705

Warehouseman interpleader, see Interpleader

notice of claim against, 3 Actions § 228

Warrant government tort claims notice requirements, see Government tort claims
### Warranties

*in general, see Breach of warranty; Implied warranty of habitability*

### Waste

- contamination by, injunction against, 6 Prov Rem § 291
- injunctions against, 6 Prov Rem §§ 291, 299

### Water

- class action involving service, 4 Plead § 306
- Department of Water Resources in general, 9 Admin Proc § 187
- counsel, employment of, 1 Attys § 56
- injunction against acts involving, 6 Prov Rem §§ 291, 301
- receiver, request for appointment for water system, 6 Prov Rem § 434
- reference of cases, see Referees

### Water Resources Control Board

*in general, 9 Admin Proc § 170*
- admitted surety insurer, compliance with federal Act, 6 Prov Rem § 26
- counsel, employment of, 1 Attys § 56

### Water rights

- injunction against interference with, 6 Prov Rem §§ 291, 301
- State Water Resources Control Board admitted surety insurer, listing in compliance with Federal Resource Conservation and Recovery Act, 6 Prov Rem § 26
- taxpayer’s action to protect, 4 Plead § 170

### Weapons

- firearms
  - *in general, see Firearms*
- guns
  - *in general, see Firearms*
- restraining orders
  - gun violence, see Gun violence restraining orders

### Welfare benefits

- administrative mandamus review, 8 Writs § 284
- class action by recipient, 4 Plead § 306
- government tort claims requirement applicability, see Government tort claims

### Wills

- omitted child appeal by, 9 Appeal § 34*
- omitted spouse appeal by, 9 Appeal § 34*
- probate of will, see Probate of will revocation
  - summons in proceedings involving, 3 Actions § 993
  - summons in proceedings involving, 3 Actions § 993
- transfer to drafter or related persons
  - *in general, 1 Attys § 96*
  - discipline of attorney based on, 1 Attys § 96
  - presumption of disqualification, 1 Attys § 96

### Witnesses

- appeal from orders related to, see Appealable judgments and orders
- attacking credibility of own witness as misconduct, 7 Trial § 225
- attorney conduct regarding, 1 Attys §§ 463, 465RR*
  - witness, as, 1 Attys §§ 462, 465RR*
  - change of venue for convenience of, see Change of venue
  - compensation of witnesses
    - attorney, by, 1 Attys § 463
  - concealed witness
    - attorney, concealed by, 1 Attys § 463
  - conflict of interest created by attorney sharing information with experts, 1 Attys § 151
  - conflict of laws regarding, 3 Actions § 46
  - contempt at trial, see Contempt
  - continuance based on, see Continuance
  - change of venue for, see Change of venue
  - expenses of, reimbursement of, 1 Attys § 463
  - experts, see Expert witnesses instructions to jury, see Instructions to jury
  - jury instructions, see Instructions to jury
  - nonresident, immunity from service of process, see Process
  - purchasing testimony of, 1 Attys § 463
  - separation of, 2 Courts § 33

**Index-406**
Witnesses—Cont’d
unavailability of
continuance of trial, see Continuance
vouching for credibility of, as
misconduct, 7 Trial § 225

Work and labor (services), see Common
counts

Workers’ compensation
Appeals Board, see Workers’ Compensation Appeals Board
award, see Workers’ compensation award
claims, see Government tort claims;
Workers’ compensation procedure
intervention by employer, 4 Plead § 214
small claims court jurisdiction, 2 Courts
§ 284
specialist, certification of attorney as, 1
Attys § 10
Workers’ Compensation Appeals Board,
see Workers’ Compensation Appeals Board

Workers’ Compensation Appeals Board
in general, 9 Admin Proc § 182
certiorari review of decisions, 8 Writs
§ 17
counsel, employment of, 1 Attys § 56
decisions, 9 Appeal § 468
exclusive jurisdiction, see jurisdiction
(this group)
jurisdiction
exclusive, 2 Courts § 211; 2 Jurisd § 48
superior court writ jurisdiction over, 2
Courts § 215
limitations period for review of proceed-
ings, 9 Admin Proc § 129
practice before by nonlawyers, 1 Attys
§ 402
res judicata effect of decisions, see Res
judicata
review of decisions, 8 Writs §§ 17, 266; 9
Admin Proc § 121

Workers’ compensation award
continuing jurisdiction over, 2 Jurisd
§ 421
exemption from execution for, 8 Enf
Judgm § 209

Workers’ compensation exclusive remedy
defense in tort action, pleading, 5 Plead
§ 1105

Workers’ compensation exclusive remedy—Cont’d
small claims court witness fees, 2 Courts
§ 284

Workers’ compensation procedure
Appeals Board, see Workers’ Compensation Appeals Board
attorneys
adverse interests, representation of, 1
Attys § 118
conflicts of interest, 1 Attys § 118
fees for employee’s attorney, see fees
for employee’s attorney (this group)
lien for fees, see lien against award
(this group)
claim requirement
in general, 3 Actions § 227
government tort claims, 3 Actions
§§ 240, 250
fees for employee’s attorney
lien against award, see lien against
award (this group)
statutory regulation of, 1 Attys § 159
workers’ compensation proceedings, 7
Judgm § 158
judgment and enforcement of award
lien on real property, 8 Enf Judgm § 72
lien against award
attorneys’ fees, 1 Attys § 167
attorney’s lien for fees, see fees for
employee’s attorney (this group)
suspension or tolling of limitations period
in general, 3 Actions §§ 744, 745
third-party tortfeasor, action against, see
Third-party tortfeasor, action against

Workplace harassment
anti-SLAPP motion, availability, 6 Prov
Rem § 329
appellate records, electronic access to, see
Record on appeal
“course of conduct” defined, 6 Prov Rem
§ 327
“credible threat of violence” defined, 6
Prov Rem § 327
duration of injunction, 6 Prov Rem § 330
“employee” defined, 6 Prov Rem § 327
“employer” defined, 6 Prov Rem § 327
enforcement of injunction, 6 Prov Rem
§ 330

Index-407
Workplace harassment—Cont’d
filing fee, 6 Prov Rem §§ 329*, 330
firearm restriction, 6 Prov Rem § 326
forms, 6 Prov Rem § 328 et seq.
hearing, 6 Prov Rem § 330
hearsay, use of, 6 Prov Rem § 330*
injunctions
in general, 6 Prov Rem § 326 et seq.
continuance, 6 Prov Rem § 330*
defined, 6 Prov Rem § 327*
modification sought by person other
than protected party, 6 Prov Rem
§ 330*
termination sought by person other than
protected party, 6 Prov Rem
§ 330*
Judicial Council forms, 2 Courts §§ 406,
436; 6 Prov Rem § 328 et seq.
juvenile dependency proceeding, 6 Prov
Rem § 326*
orders, 6 Prov Rem § 326*
petition
in general, 6 Prov Rem § 329
service of, 6 Prov Rem § 329
“petitioner” defined, 6 Prov Rem § 327*
“respondent” defined, 6 Prov Rem § 327*
service of order, 6 Prov Rem § 330*
temporary restraining orders, 6 Prov Rem
§ 326 et seq.
“unlawful violence” defined, 6 Prov Rem
§ 327
Workplace Violence Safety Act, 6 Prov
Rem § 326 et seq.*

Workplace Violence Safety Act, 6 Prov
Rem § 326 et seq.*

Writ of execution—Cont’d
Enforcement of Judgments Law,
applicability of procedure under, 8
Enf Judgm § 112
execution of writ, 8 Enf Judgm § 112
family law judgments, enforcement by,
see Enforcement of judgment
in forma pauperis suit, see In forma pau-
peris suit
issuance of writ, 8 Enf Judgm § 107 et
seq.
Judicial Council forms
notice of levy, 8 Enf Judgm § 113
writ, 8 Enf Judgm § 111
levy
electronic writ and, see Execution and
levy
service of writ with, 8 Enf Judgm § 117
time limitation for, 8 Enf Judgm § 112
ministerial nature of duty to issue, 8 Enf
Judgm § 107
motion to quash, 8 Enf Judgm § 163
motion to recall, 8 Enf Judgm § 163
notice of levy
in general, 8 Enf Judgm § 113
service of with levy, 8 Enf Judgm
§§ 117, 120, 123
return of writ, 8 Enf Judgm § 114
successive writs, issuance of, 8 Enf
Judgm § 108
support order, writ to enforce, 8 Enf
Judgm §§ 109, 112
time limitation for levy, 8 Enf Judgm
§ 112
Wage Garnishment Law, return of writ
under, 8 Enf Judgm § 114

Writ of possession of personal property
in general, 6 Prov Rem § 255 et seq.
affidavits, 6 Prov Rem §§ 253, 255
application
ex parte, 6 Prov Rem § 260
noticed motion, 6 Prov Rem §§ 255,
256
arbitration, availability pending, 6 PWT
§ 529
commercial property, effect of property
being, 6 Prov Rem § 259
credit card, effect of property being, 6
Prov Rem § 259
ex parte proceedings, 6 Prov Rem §§ 259,
260
Writ of possession of personal property
—Cont’d
felonious taking of property, 6 Prov Rem § 259
hearing, 6 Prov Rem §§ 257, 258
issuance of writ
in general, 6 Prov Rem § 261
ex parte, 6 Prov Rem § 260
Judicial Council forms
application, 6 Prov Rem § 255
notice, 6 Prov Rem § 257
writ, 6 Prov Rem §§ 261, 262
nonmoney judgment, enforcement by, see Enforcement of judgment
notice, 6 Prov Rem §§ 257, 258
quash, motion to, 6 Prov Rem § 260
return of writ, 6 Prov Rem § 272
service of papers on defendant
ex parte proceedings, 6 Prov Rem § 260
levy, motion to, 6 Prov Rem § 269
noticed motion, 6 Prov Rem § 257
temporary restraining order as alternative, 6 Prov Rem § 265
time for filing application, 6 Prov Rem § 255
turnover order, 6 Prov Rem § 263
undertaking for, 6 Prov Rem §§ 254, 264

Writ of possession or sale
in general, see Enforcement of judgment

Writs
in general, 3 Actions § 963; 8 Writs § 1 et seq.
administrative mandamus, see
Administrative mandamus
appeal
application for writ, appeal treated as, 9
Appeal § 128 et seq.
denial of writ, see denial of writ (this group)
discretion of trial court, review on appeal, 9
Appeal § 363
finality of decisions related to writs, 9
Appeal §§ 834, 835
late notice of, 9
Appeal §§ 618, 619
law of the case, see Law of the case
order granting or denying, appealability of, 9
Appeal §§ 148, 149
petitioner, appeal by, 8
Writs § 336*
rules governing, 8
Writs § 217 et seq.

Writs—Cont’d
appeal—Cont’d
specification in notice of appeal, see Notice of appeal
appellate division of superior court
attorney, petition by, 8
Writs § 164C*
costs award by, 8
Writs §§ 164E*, 211*, 212*
decision, 8
Writs § 164E*
demurrer, return by, 8
Writs §§ 164D*, 201*
effect of jurisdiction of, 8
Writs § 4
ex parte applications, 8
Writs §§ 164D*, 183*
finality of decision, 8
Writs §§ 164E*, 205*, 209*, 210*
grant of relief, 8
Writs §§ 164E*, 204*
Judicial Council forms for writ proceedings in, 8
Writs § 164A*
jurisdiction of, 8
Writs § 4
memorandum supporting petition, 8
Writs §§ 164C*, 180*
nonattorney, petition by, 8
Writs § 164B*
notice of decision, 8
Writs § 164E*
opposition to petition, 8
Writs §§ 164D*, 184*
remittitur, 8
Writs § 164E*
reply, 8
Writs §§ 164D*, 193*
return, 8
Writs §§ 164D*, 197*
rules governing, 8
Writs § 217 et seq.
service of petition, 8
Writs §§ 164D*, 183*
summary denial, 8
Writs §§ 164E*, 221
writ proceedings in, 8
Writs §§ 4, 162, 164A et seq.*
appellate jurisdiction, 8
Writs § 164
attachment, see Attachment
audita querela, 8
Writs § 2
beneficial interest requirement, 8
Writs § 165
certiorari, see Certiorari
common law writs, 8
Writs § 2
consolidation of trial court, effect of, 8
Writs § 4
coram nobis, see Coram nobis
costs
in general, 8
Writs §§ 211, 212
administrative mandamus record, 8
Writs §§ 314, 315
Writs—Cont’d

costs—Cont’d
appellate division of superior court, award by, 8 Writs §§ 164E*, 211, 212
Court of Appeal decision, review of, 8 Writs §§ 220, 221
damages, 8 Writs §§ 211, 212
demurrer
in general, 8 Writs §§ 193, 196
appellate division of superior court, 8 Writs §§ 164D*, 201
return by, 8 Writs §§ 193, 196
denial of writ
in general, 8 Writs § 136 et seq.
appeal of, 9 Appeal §§ 148, 149
discretion to deny, 8 Writs § 157 et seq.
failure to establish conditions, 8 Writs § 147
failure to raise objection below, 8 Writs § 140 et seq.
failure to seek writ in lower court, 8 Writs § 144 et seq.
finality of judgment on appeal, 9 Appeal § 835
moot case, 8 Writs § 148 et seq.
determination, 8 Writs § 199 et seq.
direct attack on judgment by, 8 Attack § 2
discretion of trial court, review on appeal, 9 Appeal § 363
discretionary denial doctrine
in general, 8 Writs § 159 et seq.
procedural rulings, use of writs to review, 8 Writs § 161
dual uses, 8 Writs § 232 et seq.
electronic, levying officer and, see Execution and levy
error coram nobis, see Coram nobis
“extraordinary” writs, 8 Writs § 1
frivolous action, sanctions for, 8 Writs § 215
grant of writ, appeal of, 9 Appeal §§ 148, 149
habeas corpus, see Habeas corpus
hearing on
in general, 8 Writs § 199 et seq.
compel, use of writ to, 8 Writs § 235
prevent, use of writ to, 8 Writs § 234
injunctive relief compared, 6 Prov Rem § 277

Writs—Cont’d

interest, mandamus proceeding, 8 Writs § 214
jurisdiction
challenging by writ, 8 Writs § 236
concurrent jurisdiction of superior and appellate courts, 2 Courts § 216
over proceedings, 8 Writs § 164
superior court jurisdiction, 2 Courts §§ 215, 216
laches, effect of, 8 Writs § 151 et seq.
law of the case, see Law of the case
limitations periods distinguished from review periods, 3 Actions § 445
limited civil case, appeal of writ, 8 Writs § 218
mandamus, see Mandamus
mistaken choice of writ, effect of, 8 Writs §§ 232, 233
moot case, effect of, 8 Writs § 148 et seq.
ne exeat, 8 Writs § 2
new trial motion, see New trial
nonappealable judgments and orders, review of, 9 Appeal § 91
notice of appeal, specification in, see Notice of appeal
obvious relief, 8 Writs § 227*
optional uses, 8 Writs § 232 et seq.
order to show cause, 6 PWT § 61; 8 Writs § 188 et seq.
“ordinary” writs, 8 Writs § 1
original jurisdiction, 8 Writs § 164
parties, 4 Plead § 67; 8 Writs § 165 et seq.
peremptory writ
alternative writ, without, see peremptory writ without alternative writ (this group)
mandamus, 8 Writs § 204 et seq.
prohibition, 8 Writs § 204 et seq.
peremptory writ without alternative writ
in general, 8 Writs § 223 et seq.
judgment, 8 Writs § 231
notice, 8 Writs § 229
oral argument, 8 Writs § 230
reviewing court, 8 Writs § 224 et seq.
trial court, 8 Writs § 223
writ, 8 Writs § 231
personal jurisdiction, see jurisdiction (this group)
personal property, see Writ of possession of personal property

Index-401
INDEX

Writs—Cont’d
petition
in general, 8 Writs § 169 et seq.
administrative mandamus, see
Administrative mandamus
allegations, 8 Writs § 170
appellate division of superior court, see
appellate division of superior court
(this group)
content, 8 Writs § 169 et seq.
denial, res judicata effect of, 8 Writs
§ 186
form, 8 Writs § 169 et seq.
grounds for relief, 8 Writs § 173
inadequacy of other remedy, 8 Writs
§ 174
memorandum supporting, 8 Writs
§ 180
opposing memorandum, 8 Writs § 184
pleading in alternative, 8 Writs § 232
prayer for relief, 8 Writs §§ 171, 232
proposed order and writ, 8 Writs § 181
record of proceedings, see record of
proceedings (this group)
res judicata effect of denial, 8 Writs
§ 186
return, see return (this group)
second petition, 8 Writs § 187
service, 8 Writs § 183
summary determination, 8 Writs § 185
supporting memorandum, 8 Writs
§ 180
supporting papers, 8 Writs § 175 et seq.
time for filing, 8 Writs § 182
verification, 8 Writs § 172
petitioner, 8 Writs §§ 165, 169
pleading in alternative, 8 Writs § 232
possession or sale, writ of, see Enforce-
ment of judgment; Writ of posses-
sion of personal property
“prerogative” writs, 8 Writs § 1
prior application pending in another court,
effect of, 8 Writs §§ 136, 137
procedure, 8 Writs § 162 et seq.
prohibition, see Prohibition
prompt decisions, public interest in, 8
Writs § 135*
public interest exceptions to denial of writ
failure to seek writ in lower court, 8
Writs §§ 145, 146
moot case, 8 Writs § 150

Writs—Cont’d
quo warranto, see Quo warranto
real party in interest, 8 Writs § 166 et seq.
record of proceedings
in general, 8 Writs § 175 et seq.
return, as, 8 Writs § 194
remittitur on certiorari, 8 Writs § 200
replication, 8 Writs § 198
res judicata effect
denial of writ, see res judicata effect of
denial (this group)
judgment on writ generally, 7 Judgm
§ 374
res judicata effect of denial
in general, 8 Writs § 186
mandamus or prohibition, as, 8 Writs
§ 209
respondent, 8 Writs §§ 166 et seq., 169
return
in general, 8 Writs § 192 et seq.
appellate division of superior court, 8
Writs §§ 164D*, 197*
demurrer, return by, 8 Writs §§ 193,
196
reviewing court, return in, 8 Writs
§ 197
review, writ of, see Certiorari
review jurisdiction, 8 Writs § 164
reviewing court policies as reason to deny
writ, 8 Writs § 136 et seq.
rules of court
in general, 8 Writs § 163
petition, 8 Writs § 169 et seq.
sanctions for frivolous action, 8 Writs
§ 215
scire facias, 8 Writs § 2
security for costs, 3 Actions § 365
service
appellate division of superior court, 8
Writs §§ 164D*, 183*
petition, 8 Writs § 183
writ, 8 Writs § 190
small claims court, proceedings involving,
see Small claims court
special proceeding, as, 3 Actions § 65
standing, petitioner’s, 8 Writs § 165*
statute of limitations periods distinguished
from review periods, 3 Actions § 445
stay
appeal of writ, stay on, 3 Actions § 219
Writs—Cont’d
stay—Cont’d
pending proceedings, stay of, 3 Actions § 191
temporary, request for, 8 Writs § 169*
supersedeas, see Supersedeas
Supreme Court jurisdiction, 2 Courts § 330; 8 Writs § 164
temporary stay, request for, 8 Writs § 169*
trial
compel, use of writ to, 8 Writs § 235
prevent, use of writ to, 8 Writs § 234
unclean hands, effect of, 8 Writs § 156
United States Supreme Court, review in, 8 Writs § 222
unverified legal brief, return in reviewing court, 8 Writs § 197*
venue, 8 Writs § 164
writ of execution, see Writ of execution
writ of review, see Certiorari

Wrongful death—Cont’d
limitation and accrual of actions
in general, 3 Actions §§ 482, 552 et seq.
l latent defects in real property, action based on, see Real property
medical malpractice, see Medical malpractice
special circumstances, as involving, 3 Actions § 488*
tolling of period, 3 Actions § 707
medical malpractice, see Medical malpractice
pleading, 5 Plead § 938
real party in interest, 4 Plead § 145
statement of damages, see Complaint
statute of limitations, see limitation and accrual of actions (this group)
venue
in general, 3 Actions § 832
subject matter jurisdiction determined by, 2 Jurisd § 14

Wrongful discharge, see Wrongful termination

Wrongful eviction
nature of action, 3 Actions § 158

Wrongful termination
accred of action, 3 Actions §§ 528, 563
attorney-employee, action by, 1 Attys § 219
constructive discharge
accrual of action, 3 Actions §§ 528, 563
limitation and accrual of action, 3 Actions §§ 528, 563
damages
mitigation by other income as defense, 5 Plead § 1076
defamation prompted by, 3 Actions § 176
election of remedies, see remedies (this group)
in-house counsel, action by, see Attorneys
instructions to jury, 7 Trial §§ 284, 286
jury instructions, 7 Trial §§ 284, 286
limitation and accrual of actions
in general, 3 Actions §§ 528, 563
mitigation of damages by other income as defense, 5 Plead § 1076
pleading, 5 Plead § 782
Wrongful termination—Cont’d
   remedies
      election of, 3 Actions §§ 149, 168

Youth Correctional Agency, 9 Admin Proc § 154*

Zoning
   exhaustion of remedies, 3 Actions §§ 331, 334
   injunction against violation of ordinance, 6 Prov Rem § 359
   limitation and accrual of actions in general, 3 Actions § 477

Zoning—Cont’d
   limitation and accrual of actions—Cont’d
      housing element challenge, 3 Actions § 476
      judicial review of proceedings, 9 Admin Proc § 129
      low or moderate income housing decision, 3 Actions § 481*
      lis pendens, 3 Actions § 380
      ordinances
         injunction against violation of, 6 Prov Rem § 359