

# Index

## **ABSENCE OF POLICE REPORT**

In limine motion topic, **36:3**

## **ABSENCE OF SIGNIFICANT VEHICLE DAMAGE**

Increasing incidence of whiplash, **49:4**

## **ABSTRACTS**

Biomedical literature, abstracts versus full text, **49:13**

## **ABUSE OF PROCESS**

Bad faith, **47:4**

## **ACCELERATION-RELATED INJURIES, LITERATURE REGARDING**

Prognosis, acceleration-extension injuries, prospective study, **54:7, 61:1**

Refuting validity of whiplash injuries, acceleration perturbations, **59:10, 61:32**

## **ACCIDENT RECONSTRUCTION EXPERT**

**Biomechanics and Engineering**  
(this index)

Crash testing literature, use of, **49:9 to 49:11**

Decision to use, **6:5**

Plaintiff bar shares information, prior transcripts, and resources, **19:1, 24:1**

## **ACUPUNCTURE TREATMENT**

Physical therapy entry, **4:1**

## **ADJUSTER'S ROLE**

Deviating from Colossus, consequences, **5:1**

Duties and role of adjuster, **5:1, 29:1**

**Evaluation Consultant/Coordinator** (this index)

## **ADJUSTER'S ROLE—Cont'd**

Initial contact with claimant, data chart checklists, **11:2**

Medical examinations, **22:3, 29:1**

Negotiation of claim, **13:1, 29:1**

Prize awarded for claims referred to Special Investigations Unit, **6:6**

Training adjusters in use and preparation of Colossus evaluation, examples, **5:2**

Transformation of the Colossus/"MIST" adjuster, **5:1**

Unrepresented claimants, **5:3, 9:1, 16:4, 17:1**

## **ADMISSIONS, REQUEST FOR**

Generally, **18:1**

Damages

generally, **18:4**

form re special injuries, damages, and potential excess, **18:7 (Form)**

Drafting techniques, **18:1**

Forms re admissions requests

liability and general matters, **18:6 (Form)**

motion shortening time, deeming answers as admissions, and allowing service by other means, **16:9 (Form)**

special injuries, damages, and potential excess, **18:7 (Form)**

to insurer regarding identification and location of defendant, **16:8 (Form)**

Health care expenses, reasonableness and necessity, **18:4**

Identification and location of missing defendant for service of process. Service of process, *infra*

Insurance coverage

generally, **18:5**

forms, admission requests re liability and general matters, **18:6 (Form)**

**ADMISSIONS, REQUEST FOR**

—Cont'd

Insurance coverage—Cont'd  
forms, admission requests re  
—Cont'd  
special injuries, damages, and  
potential excess, **18:7**  
**(Form)**

Jurisdictional matters  
generally, **18:2**  
form re liability and general mat-  
ters, **18:6 (Form)**

Key issues, **18:1**

Liability  
generally, **18:3, 18:4**  
deposition, effect of admission on  
need to take, **19:1**  
form re liability and general mat-  
ters admissions request, **18:6**  
**(Form)**

Medical expenses, reasonable and  
necessary, **18:4**

Service of process problems, requests  
for admissions to insurer regard-  
ing

identification and location of  
defendant  
generally, **16:4**  
general form, **16:8 (Form)**  
motion shortening time, deem-  
ing answers as admissions,  
and allowing service by  
other means, **16:9 (Form)**  
jurisdictional matters, generally,  
**18:2**

Timeliness of requests for admis-  
sions, **18:1**

**ADMISSIONS TO HOSPITAL**Decline in, **22:1****ADVOCATES**

Health care providers as advocates  
for patients, **22:3**  
Trial attorney, aggressive advocacy,  
**41:2**

**AFFIRMATIVE DEFENSES**

Interrogatories and requests for pro-  
duction topic, **17:1**

**AGE DISCOUNT**Reporting system, **4:1****AIR BAGS**

Decline in hospital admissions, rea-  
son for, **22:1**

**ALL-INDUSTRY RESEARCH  
ADVISORY COUNCIL**Generally, **1:1****ALLSTATE INSURANCE**

Bad faith, **1:8 to 12**  
Colossus software program, **1:8, 1:13**  
McKinsey & Company, relationship  
with, **1:9**

**ALMANACS**Helpful websites, **51:2****AMENDMENT OF COMPLAINT**

Generally, **29:2, 30:3**  
Motion for leave to amend, **30:10**  
**(Form)**

**AMERICAN MEDICAL  
ASSOCIATION**

International Classification Of  
Diseases, establishment of, **13:2**

**ANSWER TO COMPLAINT**

**Defenses** (this index)  
Trial notebook section, **32:16**

**ANXIETY**Category entry, **4:1, 13:2****APPEARANCE AT TRIAL**

See also **Attendance** (this index)  
Notice of trial attendance, **40:3, 40:7**  
**(Form)**  
Sequencing trial witnesses, **40:2**  
Subpoena for trial attendance, **40:8**  
**(Form)**

**ARGUMENTS OF COUNSEL**

**Closing Argument** (this index)  
**Opening Statements** (this index)

**ART**Medical Legal Art Website, **52:8****ASYMPTOMATIC CONDITION**Assessment by Colossus, **13:2**

## INDEX

### ATTENDANCE

- See also **Appearance at Trial** (this index)
- Civil Rule 35 medical examination, attorney representative's presence, **23:3, 24:1**
- Notice of trial attendance, **40:3, 40:7 (Form)**
- Subpoena for trial attendance, **40:8 (Form)**

### ATTORNEY-CLIENT RELATIONSHIP

- Aggressive advocacy and civility concepts, **41:2**
- Change of attorneys, in limine motion topic, **36:3**
- Civil Rule 35 medical examination, attorney representative presence, **23:3, 24:1**
- Creating relationship with client
  - generally, **9:1, 9:2**
  - explaining MIST misnomer, **9:2**
  - formalizing the relationship.
    - Formalizing the relationship, *infra*
    - need for debriefing, **9:1, 9:2**
    - notifying insurer. Notifying insurer, *infra*
- Debriefing client, need for, **9:1, 9:2**
- Deciding whether litigation-related meeting with client is needed, **6:5**
- Deciding whether to take case, **8:1, 9:3**
- Duty to obtain all potential evidence and information regarding client and accident-related data, **11:3**
- Explaining MIST misnomer, **9:2**
- Fees. **Attorney's Fees** (this index)
- Fighting insurance industry's refusal to honor meritorious claims, duty and strategies of plaintiff's attorney, **7:1 to 7:3, 13:1, 27:1, 29:1**
- Formalizing the relationship
  - generally, **9:3**
  - contingency fee retainer agreement, **9:4 (Form)**

### ATTORNEY-CLIENT

#### RELATIONSHIP—Cont'd

- Formalizing the relationship—Cont'd
  - initial client letter, **9:5 (Form), 9:6 (Form)**
  - list of instructions and suggestions for client, **9:6 (Form)**
  - notifying insurer. Notifying insurer, *infra*

#### Forms

- formalizing the relationship
  - contingency fee retainer agreement, **9:4 (Form)**
  - enclosure to initial client letter, list of instructions and suggestions for client, **9:6 (Form)**
  - initial client letter, **9:5 (Form), 9:6 (Form)**
- initial contact
  - basic inquiry data form, **8:5 (Form)**
  - detailed inquiry data form, **8:6 (Form)**
  - prospective client letter regarding intake form, **8:7 (Form)**
  - telephone intake form, **8:4 (Form)**
- notifying insurer
  - initial letter to first party carrier (PIP/MedPay), **10:4 (Form)**
  - initial letter to first party carrier (UM/UIM), **10:5 (Form)**
  - initial letter to third party carrier (BI), **10:6 (Form)**
- Increasing profits by focusing on attorney-represented claimants, **1:3**
- Inflation in MIST settlements, **5:1**
- Initial client letter, **9:5 (Form)**
- Initial client letter enclosure, list of instructions and suggestions, **9:6 (Form)**
- Initial client meeting
  - explaining MIST misnomer, **9:2**
  - formalizing the relationship, **9:3**
  - need for debriefing, **9:1**

**ATTORNEY-CLIENT RELATIONSHIP—Cont'd**

Initial contact by client  
generally, **8:1, 8:2**  
basic inquiry data form, **8:5 (Form)**  
detailed inquiry data form, **8:6 (Form)**  
prospective client letter regarding intake form, **8:7 (Form)**  
telephone intake form, **8:4 (Form)**

Insurance industry focusing on attorney-represented claimants, **1:3**

Intake process of attorney  
generally, **8:1, 8:2**  
basic inquiry data checklist form, **8:5 (Form)**  
checklist forms  
basic inquiry data form, **8:5 (Form)**  
detailed inquiry data form, **8:6 (Form)**  
prospective client letter for intake form, **8:7 (Form)**  
telephone intake form, **8:4 (Form)**

detailed inquiry data checklist form, **8:6 (Form)**

initial contact. Initial contact, supra **Investigating the Claim** (this index)

prospective client letter regarding intake data checklist form, **8:7 (Form)**

telephone intake form, initial contact, **8:4 (Form)**

Internet, contact by, **8:2**

Notifying insurer  
generally, **10:3**  
initial letter to first party carrier (PIP/MedPay), **10:4 (Form)**  
initial letter to first party carrier (UM/UIM), **10:5 (Form)**  
initial letter to third party carrier (BI), **10:6 (Form)**

Obtaining records and data involving client  
generally, **11:3**

**ATTORNEY-CLIENT RELATIONSHIP—Cont'd**

Obtaining records and data involving client—Cont'd  
notifying insurer about relationship. Notifying insurer, supra

Paralegal assistance with voir dire, **32:6**

Prospective client letter regarding intake data checklist form, **8:7 (Form)**

Telephone intake checklist form, initial contact, **8:4 (Form)**

Unrepresented claimants, adjuster's handling of, **5:3, 9:1, 16:4, 17:1**

**ATTORNEYS' FEES**

Generally, **48:1 et seq.**

Contingency fee retainer agreement, **9:3, 9:4 (Form)**

Damages item, generally, **15:3**

Forms  
generally, **48:3 et seq. (Forms)**  
findings of fact, **48:4 (Form)**  
judgment, **48:5 (Form)**  
motion for fees and costs, **48:3 (Form)**

Frivolous or obstructionist conduct of insurer basis, **9:3**

Retained counsel, **6:5**

Sending retainer agreement to prospective client before initial meeting, **8:2**

**AUDIO TAPES**

Medical examination of plaintiff, comparing written report to audio tape, **24:2**

**AUTOMOBILE INJURIES AND THEIR COMPENSATION IN THE UNITED STATES**

1979 publication, **1:1**

**AUTOMOBILE REPAIRS**

**Vehicle Damage** (this index)

**BACK SPRAIN**

**Musculoligamentous Injury** (this index)

## INDEX

### BAD FAITH

- Generally, **47:1 et seq.**
- Abuse of process, **47:4**
- Campbell v. State Farm, **47:3**
- Colossus, **47:5, 47:6**
- Combination tortfeasor and sue us clause complaint, **47:22 (Form)**
- Crackel v. Allstate, **47:4**
- Forms, **47:10-47:30 (Forms)**
- MedPay, **47:2**
- Penberthy v. Caprett, **47:5**
- PIP, **47:2**
- Pleading, drafting, **47:8**
- Sue us clauses, **47:9 (Form)**
- Third party, **47:3**
- Wells v. Allstate class action, **47:6**

### BIAS OR PREJUDICE

- Acknowledging but discounting musculoligamentous injuries of the neck, **3:2**
- Against nondemonstrable injuries generally, **4:1, 11:1, 22:1**
  - acknowledging but discounting musculoligamentous injuries of the neck, **3:2**
  - burden on claimant, **3:4**
  - diagnosis difficulty, musculoligamentous injuries of the neck, **3:3**
  - independent medical examination, bias of forensic examiner re musculoligamentous injuries of the neck, **23:1, 24:4**
  - malingering, creating assumption of, **3:1**
- Biomechanics opinion testimony, **28:1 et seq.**
- Burden on claimant, bias against nondemonstrable injuries, **3:4**
- Diagnosis difficulty, musculoligamentous injuries of the neck, **3:3**
- Forensic medical examiner, **23:1, 24:4**
- Jury bias, defense reliance on, **18:4**
- Malingering, creating assumption of, **3:1**
- Medical records review, **22:1 to 22:3**

### BIAS OR PREJUDICE—Cont'd

- Paper reviews, **17:1**
- Utilization of Colossus against nondemonstrable injuries, **4:1**
- Witness availability bias concept, **40:2**

### BINDING

- Settlement of claim, **13:7**

### BIOCHEMIST

- Defenses, cross examination, **62:7**

### BIODYNAMICS RESEARCH CORPORATION (BRC)

- Giving defense biomechanics testimony in lower speed crashes, **49:6**
- Refuting validity of whiplash injury, literature regarding, **59:4**

### BIOMECHANICS AND ENGINEERING

- Generally, **27:1, 49:6, 64:1 et seq.**
- Accident reconstruction expert generally, **63:1, 63:2, 63:3 (Form)**
  - affidavit for motion to strike, **63:3 (Form)**
  - crash testing literature, use of, **49:9 to 49:11**
  - deciding whether to have, **6:5**
  - plaintiff bar shares information, prior transcripts, and resources, **19:1, 24:1**
- Car photographs in low impact cases, **64:3**
- Crash test studies and injury thresholds, generally, **64:1, 64:2**
- Defense medical examination inquiry, **23:2**
- Defense testimony, junk science basis, **49:7**
- Dummy crash testing, **49:6, 49:9**
- Epidemiology, use of, **49:8**
- Historical perspective, **49:6**
- Junk science, use of, **49:7**
- Juror bias, motion in limine to preclude biomechanical engineer, **66:2 (Form)**
- Jury instruction, speed, **37:12 (Form)**

**BIOMECHANICS AND ENGINEERING—Cont'd**  
**Literature Regarding Crash-Related Injuries, Forensic Application** (this index)  
 Motion by plaintiff to limit or exclude testimony, **63:4, 63:5**  
 Nomenclature of crash-related injuries  
   generally, **49:5**  
   whiplash, defined, **49:2**  
 Plaintiff bar shares information, prior transcripts, and resources, **19:1, 24:1**  
 Relationship between vehicle damage and injury  
   generally, **49:3**  
   increasing incidence of whiplash in absence of significant vehicle damage, **49:4**  
 Whiplash, generally, **49:1, 49:2**  
 Witness/expert  
   anti-biomechanic expert as trial witness for plaintiff, typically, **40:2**  
   cross examination of biomechanics witness  
     generally, **27:2**  
     outline listing inquiry topics, **27:4 (Form)**  
   deciding whether to have, **6:5, 29:1**  
   disclosure of, **17:1**  
   excluding biomechanic witness from testifying at trial  
     generally, **28:1 et seq.**  
     law memorandum supporting motion, **28:4 (Form)**  
     motion, **28:5 (Form)**  
   injury causation expert, biomechanist as, **49:6**  
   junk science, use of, **49:7**  
   outline for cross examination of biomechanics witness, **27:4 (Form)**  
   plaintiff bar shares information, prior transcripts, and resources, **19:1, 24:1**

**BIOMECHANICS AND ENGINEERING—Cont'd**  
 Witness/expert—Cont'd  
   report of biomechanic expert as letter to defense attorney, **27:2 (Form)**  
   testimony, junk science basis, **49:7**  
**BODILY INJURY POLICY**  
 Defined, **10:1**  
 Notifying third party insurer about attorney-client relationship, **10:6 (Form)**  
 Requests for admission regarding insurance coverage, **18:5, 18:6 (Form), 18:7 (Form)**  
**BODY SHOP ESTIMATORS**  
 Disclosure of, **17:1**  
**BRAIN SCANS**  
 Malingering, defenses, **25:4**  
**BRC**  
**Biodynamics Research Corporation (BRC)** (this index)  
**BRIEF, TRIAL**  
**Trial Brief** (this index)  
**BURDEN OF PROOF**  
 Causation  
   generally, **34:7**  
   proximate cause, **37:13, 43:3**  
   trial brief provision, **35:3**  
 Directed verdict motion, **43:1, 43:2**  
 Excluding evidence in limine, **36:1**  
 Judgment as matter of law, **43:3**  
 Jury instruction, **37:15, 37:15 (Form)**  
 Jury instruction (demonstrative), **44:8 (Form)**  
 Medical examination of plaintiff, **23:1**  
 Musculoligamentous injury, **3:4**  
 Prejudice of insured's failure to appear at trial, **40:3**  
 Proximate cause, **37:13, 43:3**  
 Summary judgment, **43:3**  
 Trial brief issue, **35:2**

## INDEX

### CADAVER CRASH TESTING

Generally, **49:6**

### CAMPBELL V. STATE FARM

Bad faith, **47:3**

### CARPAL TUNNEL SYNDROME

Generally, **4:1**

### CASUALTY DEVELOPMENT

#### SUMMARY PROCESS

#### COMPUTERIZATION

Generally, **11:2**

### CAUSATION

**Burden of Proof** (this index)

Directed verdict motion, **43:3, 43:5 (Form)**

Epidemiology, **49:8, 49:9**

Injury causation, determining, **49:6 to 49:9**

Proximate cause

jury instruction, **37:13 (Form)**

proving, **43:3**

Questionable, **1:5**

### CAUSE OF ACTION

**Complaint** (this index)

**Defenses** (this index)

Filing the lawsuit, generally, **15:1 et seq.**

Outlining the causes of action, **15:3**

Outlining the facts, **15:2**

**Service of Process** (this index)

Spoliation of evidence, **15:4**

### CENTRALIZING CLAIMS

#### OPERATIONS

Generally, **5:1**

### CERVICAL INJURIES

Acute injuries to cervical joints, prognosis, **54:1, 61:1**

Curvature of neck and hyperextension at lower levels; motion of cervical vertebrae, **57:1, 61:13**

Discogenic pain, correlation of magnetic resonance imaging and discography, **55:1, 61:8**

Soft-tissue injuries of the cervical spine, prognosis, **54:3, 61:3**

### CHARTS, CHECKLISTS, AND OUTLINES

Adjuster's initial contact with claimant, data chart checklists, **11:2**

Attorney-client relationship, intake process of attorney

basic inquiry data form, **8:5 (Form)**

detailed inquiry data form, **8:6 (Form)**

prospective client letter for intake form, **8:7 (Form)**

telephone intake form, **8:4 (Form)**

Cause of action

outlining the causes of action, **15:3**

outlining the facts, **15:2**

Closing argument outline, **44:7 (Form)**

Cross examination of biomechanics witness, outline, **27:4 (Form)**

Deposition testimony outline

defendant's deposition, **19:2 to 19:3, 19:8 (Form)**

defense medical examiner's deposition, **24:6 (Form)**

expert's deposition, **19:9 (Form)**

plaintiff and lay witnesses deponents, **19:6 to 19:7, 19:12 (Form)**

plaintiff's physical therapist, **19:13 (Form)**

Direct examination at trial, outline

defendant, **40:9 (Form)**

lay witness, **40:11 (Form)**

plaintiff, **40:10 (Form)**

treating health care provider, **40:12 (Form)**

Foundation evidence, charting, **32:5, 32:22 (Form), 32:23 (Form)**

Insurer's computer directed investigation, checklists, **11:2**

Jury voir dire

discussion topics outline, **38:8 (Form)**

trial notebook chart, **32:6, 32:24 (Form)**

Opening statement outline, **39:3**

Plaintiff witnesses chart, **32:18 (Form), 32:19 (Form)**

**CHARTS, CHECKLISTS, AND  
OUTLINES—Cont'd**

Service of process chart, vehicular accidents, **16:5 (Form)**  
 Trial flow chart, **32:20 (Form), 32:21 (Form)**

**CHILDREN'S MEDICAL  
CONDITION**

In limine motion topic, **36:3**

**CHIROPRACTIC SERVICES**

Assessment by Colossus, **4:1, 13:2**  
 CPT codes use, **12:9**  
 High percentage of injured persons using, **22:1**  
 ICD-9 use, **12:9**  
 Jury instruction, **37:18 (Form)**  
 Testimony of treating chiropractor as expert medical testimony, trial brief provision, **35:3**  
 Trial witness for plaintiff, typically, **40:2**

**CHRONIC PAIN**

Use of medical literature to support, **49:10**

**CIRCUMSTANTIAL EVIDENCE**

Jury instruction, **37:8 (Form)**

**CITATIONS**

Medical literature, **49:12, 49:13**

**CIVIL CONSPIRACY CLAIMS**

Colossus software program, **47:7**

**CIVIL RULE 35 MEDICAL  
EXAMINATION**

**Medical Examiners and Examinations, Defense** (this index)

**CLAIM CORE PROCESS  
REDESIGN**

Generally, **5:1, 6:3**  
 Casualty Development Summary Process Computerization, **11:2**  
 Manual, litigation protocol provisions, **6:5**  
 Unrepresented claimants, handling of, **9:1**

**CLAIM INVESTIGATION**

**Investigating the Claim** (this index)

**CLAIM PRECLUSION**

Requests for admission, failure to properly admit within allowed time, **18:1**

**CLAIM REPRESENTATIVE'S  
ROLE**

**Adjuster's Role** (this index)

**CLAIMS PAY OUTS**

Bodily injury liability coverage, handling pay out, **10:2, 17:1**  
 Low claims pay outs, historical perspective, **5:1**

**CLOSING ARGUMENT**

Generally, **44:1**  
 Burden of proof demonstrative instruction, **44:8 (Form)**  
 Golden Rule argument, **44:4**  
 Legal boundaries, **44:3 to 44:4**  
 Mission of plaintiff, **44:2**  
**PowerPoint** (this index)  
 Sample outline, **44:7 (Form)**  
 Trial notebook section, **32:13**

**CODEFENDANTS**

**Multiple Defendants** (this index)

**COLLUSION BETWEEN  
INSURERS**

Generally, **10:2**  
 Minimizing, **10:1**

**COLOSSUS OF RHODES**

Historical perspective, **1:2**

**COLOSSUS SOFTWARE  
PROGRAM**

As to particular matters, see more specific entries throughout this index  
 Generally, **1:2, 1:3, 30:1 to 30:3**  
 Accessing Colossus, **30:2**  
 Adjuster's role, **5:1 to 5:3**  
 Attorney's mission, **7:1 to 7:3**  
 Bad faith, **1:8 to 12, 47:5, 47:6**  
 Bias against nondemonstrable injuries, **3:1 to 3:4**

## INDEX

### COLOSSUS SOFTWARE

#### PROGRAM—Cont'd

Civil conspiracy claims, **47:7**  
Claim Core Process Redesign phase II, **5:1**  
Courts and, **1:7**  
Data categories, **30:1, 30:2**  
Deposition testimony, **1:8**  
Description of process, **4:1**  
Discovery process  
admissions, **18:1 to 18:7**  
depositions, conducting and defending, **19:2 to 19:7**  
interrogatories and requests for production, **17:1 to 17:6**  
Dissection of claim to feed Colossus, **4:2, 4:23, 13:2**  
Farmers' monitoring of, **1:6**  
Feeding data to Colossus, **4:1, 13:2**  
Filing the lawsuit, **15:1 et seq.**  
Fraudulent, characterization of soft tissue claims, generally, **1:4 to 1:6**  
Geographic region, tuning Colossus, **30:3**  
Guidelines for review of facts and consultative report, **30:1 to 30:3**  
Initial client meeting, **9:1 to 9:6**  
Intake criteria and process, **8:1 to 8:7**  
Investigating the claim, **11:1 to 11:3**  
Low claims pay outs, historical perspective, **5:1**  
Medical billing review system, generally, **4:3**  
Negotiation of claim, **13:1**  
Origins of Colossus, **1:2**  
Parameters of Colossus, **30:1**  
Permanent impairment as value driver, increasing assessments, **14:1**  
Preliminary insurance matters, **10:1 to 10:6**  
Reports generated, **4:3**  
Restructuring litigation management, **6:1 to 6:6**  
Review by evaluation consultant, **4:3**  
Service of process, **16:1 to 16:9**  
Settlement overtures, **13:1 to 13:12**  
Tastad vs. Allstate, **1:8**

### COLOSSUS SOFTWARE

#### PROGRAM—Cont'd

Tortious interference with contract, **47:7**  
Tuning Colossus, **30:3**

### COMMON SENSE DEFENSE

Defenses, **62:4**

### COMPARATIVE FAULT DEFENSE

Battling, generally, **42:1 et seq.**  
Five-step comp neg battle plan, instituting, **42:3**  
Squeezing claims to hurt the injured, **42:1**  
Torturing the facts to create defense, **42:2**

### COMPARATIVE NEGLIGENCE

Incentives for adjusters to find, **5:1**

### COMPETENCY

Sensory perceptions of plaintiff's pain and suffering, competency of lay witness testimony, **35:3**

### COMPLAINT

Generally, **1:14 (Form), 15:1**  
Amendment of complaint  
generally, **29:2, 30:3**  
motion for leave to amend, **30:10 (Form)**  
Answer to complaint, trial notebook section, **32:16**  
Defenses, this index  
Drafting considerations, **15:2 to 15:4**  
Facts section of complaint  
intersection collision, **15:10 (Form)**  
outlining the facts, **15:2**  
spoliation of evidence, **15:4**  
Filing the lawsuit  
generally, **15:1**  
complaint. Complaint, supra  
creative twists, **15:4**  
outlining the causes of action, **15:3**  
outlining the facts, **15:2**  
General allegations, **15:7**  
Intersection collision, complaint fact section, **15:10 (Form)**

**COMPLAINT—Cont'd**

Medical terminology, what to use, **15:3**

Outlining the causes of action, **15:3**

Outlining the facts, **15:2**

Rear-end collision

clear liability

agency-complaint, **15:8 (Form)**

simple complaint, **15:5 (Form)**

property damage, multiple

defendants, **15:9 (Form)**

Same direction, collision with vehicle

traveling in, **15:6**

**Service of Process** (this index)

Spoilation of evidence, **15:4**

Trial notebook section, **32:16**

**COMPREHENSIVE MEDICAL REVIEW**

Cost containment vendor, **22:2**

**COMPROMISE**

**Settlement and Compromise** (this index)

**COMPUTER SCIENCES CORPORATION**

Maker of Colossus software program, **1:2**

**CONJECTURE**

Witness testimony, **40:5**

**CONSENT**

Discovery requests, obtaining information by plaintiff's consent, **17:1**

**CONSISTENCY OF STATEMENTS**

Reporting system, **4:1**

**CONSULTANTS**

Insurer's evaluation consultant/coordinator, **4:3, 5:1**

Insurer's litigation consultant, role and duties, **6:2, 29:1**

Medical Consultants Network, cost containment vendor, **22:2**

**CONTESTING COVERAGE**

Effect on litigation tenor and scope, **17:1**

**CONTINUANCES**

Motions brought prematurely by defense, **29:2**

**CONTRACTS**

Insurance, generally, **5:1**

**CONTROLLED SUBSTANCES**

In limine motion topic, **36:3**

**CONTUSION**

Diagnosis, assessment by Colossus, **13:2**

**COOPERATION OF INSURED**

Failure to cooperate, effect on policy coverage, **16:2, 30:2, 40:3**

**COPIES OF INSURER'S FILE ON CLAIMANT, OBTAINING**

Generally, **10:3, 11:3**

Letters of notice and request, **10:4 to 10:6 (Forms)**

**CORPORATIONS**

Deposition of, **19:4**

**CORTICO-STEROID INJECTIONS**

Generally, **4:1**

**COST CONTAINMENT, MEDICAL PROVIDERS**

Generally, **22:1 to 22:3**

**COURTROOM**

Excluding nonparty witnesses from courtroom, **36:3**

**COURTROOM DEMEANOR**

Aggressive advocacy and civility concepts, **41:2**

**COVERAGE UNDER INSURANCE POLICY**

Admissions about insurance coverage generally, **18:5**

liability and general matters, admissions regarding, **18:6 (Form)**

special injuries, damages, and potential excess, admissions regarding, **18:7 (Form)**

Bodily injury liability coverage defined, **10:1**

## INDEX

### COVERAGE UNDER INSURANCE

#### POLICY—Cont'd

- Bodily injury liability coverage
  - Cont'd
  - handling pay out, **10:2, 17:1**
- Contesting coverage, effect on litigation tenor and scope, **17:1**
- Defense, coverage contested, **17:1**
- Definitions
  - bodily injury liability coverage, **10:1**
  - personal injury protection/medical pay coverage, **10:1**
  - types of insurance coverage, **10:1**
  - underinsured motorist coverage, **10:1**
  - uninsured motorist coverage, **10:1**
- Identification of insurance coverage, common types in tort cases, **10:1**
- Interrogatories and requests for production, **17:1**
- Noncooperation of insured, effect on policy coverage, **16:2**
- Personal injury protection/medical pay coverage
  - communications between carriers of tortfeasor and claimant, **17:1**
  - defined, **10:1**
  - lower settlement consequences, **10:2**
- Policy Limits** (this index)
- Settlement, effect of personal injury protection/medical pay coverage, **10:2**
- Types of insurance coverage, **10:1**

### CO-WORKERS AS WITNESSES

- Disclosure of, **17:1**

### CPT CODES

- Generally, **12:1, 12:7, 12:10**
- Chiropractor use of, **12:9**
- Insurance application of, **12:8**

### CRACKEL V. ALLSTATE

- Bad faith, **47:4**

### CRASH SEVERITY

- Correlation with injury risk, injury severity, and long-term symptoms

### CRASH TESTING

- Generally, **49:6 to 49:13**
- Biomechanics** (this index)

### CREDIBILITY OF CLIENT

- Generally, **31:1 et seq.**
- Activities and pastimes, **31:5**
- Client interview, **31:2**
- Complaint at scene, lack of, **31:8**
- Defenses used against defense lawyers, **31:7-31:15**
- Delay in starting treatment, **31:12**
- Emergency room treatment, lack of, **31:9**
- Establishing, **31:1 et seq.**
- Gaps in treatment, **31:13**
- Medical treatment, **31:6**
- Minor property damage, **31:10**
- Motion in limine to exclude photographs (Form), **31:17**
- Photos of property damage, **31:11**
- Pre-existing injuries, **31:15**
- Reporting system, **4:1**
- Time off from work, **31:4, 31:14**
- Work history, **31:3**

### CRIMINAL RECORDS

- Deciding whether to do obtain, **6:5**

### CROSS-EXAMINATION

- Biomechanics witness, **27:2, 27:4 (Form)**
- Defenses, **62:6, 62:7**
- Medical examiner, defenses, **24:4, 24:8 (Form)**

### CURRENT PROCEDURAL TERMINOLOGY CODES (CPT CODES)

- CPT Codes** (this index)

### CURVATURE OF NECK

- Motion of cervical vertebrae, curvature of neck and hyperextension at lower levels, **57:1, 61:13**

### DAMAGES

- Attorney's fees, **15:3**
- Deciding whether to depose damage witness, **6:5**

**DAMAGES—Cont'd**

- Diminution in value, **15:3, 17:1**
- Directed verdict, **43:3**
- Exceeding policy limits, requests for admission re special injuries and damages, **18:4, 18:7 (Form)**
- Failure to mitigate damages jury instruction, trial brief provision, **35:3**
- Household expenses, **15:3**
- Impairment damages, **15:3, 17:1**
- Insurance industry's refusal to honor meritorious claims, duty and strategies of plaintiff's attorney, **7:1 to 7:3**
- Interrogatories and discovery requests topic, **17:1**
- Jury instructions, **35:3, 37:19 (Form)**
- Loss of consortium, **15:3**
- Loss of enjoyment of life, **15:3**
- Loss of use of vehicle, **15:3**
- Lost wages, **15:3**
- Low claims pay outs, historical perspective, **5:1**
- Measure of damages, jury instruction, **37:19 (Form)**
- Measure of damages not subject to mathematical precision, trial brief provision, **35:3**
- Medical Expenses** (this index)
- Mileage expenses, **15:3**
- Pain, **15:3, 17:1**
- Parking expenses, **15:3**
- Prejudgment interest, **15:3**
- Punitive, **9:3**
- Requests for admission topic, **18:4, 18:7 (Form)**
- Types of damages, list of, **15:3**
- Vehicle Damage** (this index)

**DAMAGE TO VEHICLE**

- Vehicle Damage** (this index)

**DE-ACCELERATION INJURIES**

- Musculoligamentous Injury** (this index)

**DEATH**

- Statistics regarding motor vehicle crash deaths and injuries, **49:1**

**DECEIT**

- Fraud or Misrepresentation** (this index)

**DECLARATION OF HEALTH CARE PROVIDER**

- Form, **30:28 (Form)**

**DECLARATORY JUDGMENT ACTION**

- Medical examiners and examinations issue, **23:1**

**DEFAULT, ENTRY OF**

- Generally, **30:2**
- Motion for entry of default, **30:9 (Form)**

**DEFENSE MEDICAL EXAMINATION**

- Medical Examiners and Examinations, Defense** (this index)

**DEFENSES**

- Biochemist, cross examination, **62:7**
- Biomechanics and Engineering** (this index)
- Common sense defense, **62:4**
- Contesting coverage, **17:1**
- Cross examination, **62:6, 62:7**
- Defeating and exposing generally, **62:1 to 62:7**
- biochemist, cross examination, **62:7**
- common sense defense, **62:4**
- cross examination, **62:6, 62:7**
- expert defense, **62:2, 62:5-62:7**
- medical examiner, cross examination, **62:6**
- no-expert defense, **62:3**
- using defenses against defense attorneys, **31:7-31:15**
- Expert defense, **62:2, 62:5-62:7**
- Failure of insured to cooperate, **16:2**
- Interrogatories and requests for production topic, **17:1**
- Malingering, **25:1 et seq.**
- Medical examiner, cross examination, **62:6**
- Minor Impact Soft Tissue ("MIST") Cases and**

## INDEX

### DEFENSES—Cont'd

#### Programs (this index)

- No-expert defense, **62:3**
- Reservation of rights, defending under, **17:1**
- Sudden emergency doctrine, **43:2**
- Trial notebook section, **32:16**
- Using defenses against defense attorneys, **31:7-31:15**

### DEFINITIONS

- Acute sprain, **3:2**
- Biomechanic, **27:1**
- Bodily injury liability coverage, **10:1**
- Civility concept, **41:2**
- Clinical testimony, **49:7**
- Comprehensive medical review, **22:2**
- Direct injury or trauma, **49:2**
- Epidemiology, **49:8**
- Force of impact, **23:2**
- Independent medical examination, **22:2**
- Indirect injury or trauma, **49:2**
- Insurance, **5:1**
- Junk science, **49:7**
- Low damage crash, **49:5**
- Low impact soft tissue injury (LIST), **49:5**
- Low speed crash, **49:5**
- Malingering, **8:4, 25:10 et seq.**
- Mechanics of impact, **23:2**
- Minor impact soft tissue injury (MIST), **49:5**
- Negotiation, **13:1**
- Personal injury protection/medical pay coverage, **10:1**
- Soft tissue injury, **49:5**
- Spoilation of evidence, **15:4**
- Trend (evaluation consultant), **5:1**
- Types of insurance coverage, **10:1**
- Underinsured motorist coverage, **10:1**
- Uninsured motorist coverage, **10:1**
- Whiplash, **49:2**

### DELAY

- Credibility of client, establishing, **31:12**
- Discovery responses, **17:2**

### DELAY—Cont'd

- Inducing low settlements by delay of medical payments, **10:2, 17:1**
- Motion to strike, plaintiff's remedy for defense's unjust delays, **29:2**
- Service of process, consequences of delay, **16:4**

### DEMEANOR OF TRIAL ATTORNEY

- Generally, **41:2**

### DEMONSTRABLE NECK AND BACK INJURIES

- Evaluation by Colossus, generally, **3:1**
- Reporting system, **4:2**

### DEPOSITIONS

- Attorney's travel time, compensation, **6:5**
- Co-defendants, deciding whether to depose, **6:5**
- Colossus software program, **1:8**
- Corporation deponent, **19:4**
- CR 30(b)(6) deposition, notice pursuant to, **16:7 (Form), 19:10 (Form)**
- Deciding whether to depose, **6:5**
- Defendant and defense witnesses, taking the deposition of generally, **19:1**
  - claims adjuster, **19:5, 19:13 (Form)**
  - deciding whether to depose, **6:5**
  - deciding whom to depose, **19:1**
  - entities, deposition of, **19:4**
  - notice to defendant's insurance claims adjusters, **19:11 (Form)**
  - outline, **19:8 (Form)**
  - preparing for the deposition, **19:2**
  - reasons for deposition, identifying, **19:1**
  - using the outline to conduct the deposition, **19:3**
- Defendant's insurer, deposition following futile attempt at service on defendant. **Service of Process** (this index)

**DEPOSITIONS—Cont'd**

Demonstrative video doctor  
 generally, **20:1**  
 editing, **20:6**  
 model, **20:5**  
 needle, **20:5**  
 show, putting together, **20:3**  
 slides, **20:4**  
 streamlining, **20:2**  
 Doctor. Demonstrative video doctor, above  
 Entity deponent, **19:4**  
 Expert, deposition of  
   local plaintiff bar shares information, prior transcripts, and resources, **19:1, 24:1**  
   outline, **19:9 (Form)**  
   preparation for deposing defense experts, **19:2**  
 Family members, **19:7**  
 Forms  
   defendant deponent, outline, **19:8 (Form)**  
   defendant's insurer, CR 30(b)(6) notice of deposition following futile attempt at service on defendant, **16:7 (Form), 19:10 (Form)**  
   expert deponent, outline, **19:9 (Form)**  
   jury instruction, **37:21 (Form)**  
   plaintiff and lay witnesses deponents, outline for preparing, **19:12 (Form)**  
 Housekeepers, **19:7**  
 Jury instruction, **37:21 (Form)**  
 Liar deponent, **19:3**  
 Obstructionist deponent, **19:3**  
 Outline, preparing for deposition  
   defendant's deposition, **19:2 to 19:3, 19:8 (Form)**  
   defense medical examiner's deposition, **24:6 (Form)**  
   expert's deposition, **19:9 (Form)**  
   plaintiff and lay witnesses deponents, **19:6 to 19:7, 19:12 (Form)**

**DEPOSITIONS—Cont'd**

Plaintiff and plaintiff witnesses, defending the deposition of  
 generally, **19:6**  
 outline to prepare plaintiff and law witnesses, **19:12 (Form)**  
 strategy and preparation, **19:7**  
 Special Investigations Unit's protocol, **6:6, 19:7**  
 Treating doctor, deciding whether to depose, **6:5**  
 Videotapes  
   demonstrative video doctor, above  
   reviewing, **19:7**

**DEPRESSION**

Category entry, **4:1, 13:2**

**DESK LOCATION**

Reporting system, **4:1**

**DIAGNOSIS**

Generally, **13:2**  
 Bias against nondemonstrable injuries, diagnosis difficulty, musculoligamentous injuries of the neck, **3:3**  
 Cervical discogenic pain, correlation of magnetic resonance imaging and discography, **55:1, 61:8**  
 Contusion diagnosis, assessment by Colossus, **13:2**  
 Depression, category entry, **4:1, 13:2**  
 Disc pathology after whiplash, **55:5, 61:11**  
 Dizziness diagnosis, evaluation by Colossus, **13:2**  
 Findings and outcome in whiplash neck distortions, **55:6, 61:12**  
 Muscle spasm diagnosis, evaluation by Colossus, **13:2**  
 Nonorganic signs, reappraisal of interpretation, **55:3, 61:9**  
 Peripheral nerve entrapment, **55:4, 61:10**  
 Radiofrequency neurotomy treatment, resolution of distress following, **55:2**  
 Temporomandibular diagnosis, evaluation by Colossus, **13:2**

## INDEX

### **DIAGNOSIS—Cont'd**

- Using medical literature to support, **49:10 to 49:11**
- Vision disturbance diagnosis, evaluation by Colossus, **13:2**

### **DICTIONARIES**

- Helpful websites, **51:3**

### **DIMINUTION IN VALUE**

- Vehicular damages, **15:3, 17:1**

### **DIRECTED VERDICT**

- Generally, **43:1**
- Causation and damages, **43:3**
- Liability, **43:2**
- Procedure for making motion, **43:1, 43:4**
- Sample motion, **43:5 (Form)**
- Trial notebook section, **32:3**

### **DIRECT EXAMINATION AT TRIAL**

- Defendant's examination, **40:9 (Form)**
- Health care provider's examination, **40:12 (Form)**
- Lay witness's examination, **40:11 (Form)**
- Medical examiner, **27:3**
- Plaintiff's examination, **40:10 (Form)**

### **DISC BULGE/PROLAPSE INJURIES**

- Musculoligamentous Injury** (this index)

### **DISC HERNIATION OR RUPTURE**

- Evaluation by Colossus, generally, **3:1**

### **DISCLOSURE OF POLICY LIMITS**

- Generally, **13:3**

### **DISCOGENIC PAIN**

- Correlation of magnetic resonance imaging and discography, **55:1, 61:8**

### **DISCOVERY**

- Admissions, Requests For** (this index)

### **DISCOVERY—Cont'd**

- Compel discovery, motion to, **29:2, 30:4, 30:11 (Form)**
- Conference, request for, **30:4**
- Depositions** (this index)
- Forms
  - compel discovery, motion to, **1:16 to 1:18 (Forms), 29:2, 30:4, 30:11 (Form)**
  - obtaining copies of insurer's file on claimant via notice of attorney-client relationship with claimant, letters of notice and request, **10:4 to 10:6 (Forms)**
  - quash discovery, motion to, **30:5, 30:18 (Form)**
  - requests, **1:15 (Form)**
- Interrogatories and Requests for Production** (this index)
- Medical examination. **Medical Examiners and Examinations, Defense** (this index)
- Obtaining copies of insurer's file on claimant via notice of attorney-client relationship with claimant generally, **10:3, 11:3**
- letters of notice and request, **10:4 to 10:6 (Forms)**
- Quash discovery, motion to, **30:5, 30:18 (Form)**
- Release from plaintiff, obtaining, **17:1**
- Requests for production. **Interrogatories and Requests for Production** (this index)
- Review of discovery responses on arrival, **30:4**
- Social Media** (this index)
- Special Investigations Unit's protocol, **6:6**
- Subpoena** (this index)
- Teams used by insurers, **6:2**
- Timeliness of
  - requests, **17:1, 18:1**
  - responses, **17:2, 30:7**
- Witness Identification and Testimony** (this index)

**DIZZINESS**

Diagnosis, evaluation by Colossus,  
13:2

**DO I NEED AN ATTORNEY**

Form, 5:3, 9:1

**DRIVER EXPERIENCE**

Reporting system, 4:1

**DUMMY CRASH TESTING**

Generally, 49:6, 49:9

**DUTY**

Jury instruction  
generally, 37:9 (Form)  
following driver's duty, 37:11  
(Form)

**ELECTROMYOGRAPHY**

Refuting validity of whiplash  
injuries, human subject kinemat-  
ics and electromyographic activ-  
ity during rear-end impact  
literature, 59:8, 61:30

**EMAIL**

Attorney-client intake process, 8:2  
Using email list serves to discuss,  
develop, and exchange motions  
and strategies, 30:1

**EMERGENCY RESPONSE****ENTITIES**

Duty of claimant's attorney to obtain  
records, 11:3

**EMERGENCY ROOM****TREATMENT**

Generally, 4:1  
Lack of as defense argument, 31:9

**EMERGENCY STOP**

Sudden emergency doctrine, 43:2

**EMOTIONAL PLAINTIFF**

Trial testimony preparation, 34:2

**EMPLOYMENT RECORDS**

Deciding whether to do obtain, 6:5  
Duty of claimant's attorney to obtain,  
11:3

**ENCYCLOPEDIAS**

Helpful websites, 51:2

**ENGINEERING**

**Biomechanics and Engineering**  
(this index)

**ENTRY OF DEFAULT**

Generally, 30:2  
Motion for entry of default, 30:9  
(Form)

**EPIDEMIOLOGY, USE AND  
EVALUATION**

Generally, 49:8, 49:9

**EVALUATION CONSULTANT OR  
COORDINATOR**

Colossus review by, 4:3  
Duties and role, 5:1  
Exceeding authority of, 5:1  
Line adjuster. **Adjuster's Role** (this  
index)

**EVIDENCE**

Accurately reflect in jury instructions,  
trial brief provision, 35:3  
Exhibits at trial  
health care providers', 40:6  
objections to, 41:5  
**Expert Witness and Testimony**  
(this index)  
Foundation evidence  
charting, 32:5, 32:22 (Form),  
32:23 (Form)  
objection at trial, 41:5  
In limine motions. **Motions** (this  
index)  
Interrogatories and requests for pro-  
duction, evidence identification  
and data, 17:1  
Jury instruction, direct and  
circumstantial evidence, 37:8  
(Form)  
**Objections** (this index)  
Pain and suffering evidence, trial  
brief provision, 35:3  
Sensory perceptions of plaintiff's  
pain and suffering, competency  
of lay witness testimony, 35:3  
Spoliation of evidence, generally,  
15:4

## INDEX

### **EVIDENCE—Cont'd**

Trial notebook section on charting evidence, **32:5, 32:22 (Form), 32:23 (Form)**

**Witness Identification and Testimony** (this index)

### **EXHIBITS AT TRIAL**

Health care providers evidence, **40:6**

Objections to, **41:5**

### **EXISTING DEGENERATIVE CHANGES**

Musculoligamentous injury, effect on, **3:2**

### **EXPERT WITNESSES AND TESTIMONY**

Biochemist, **62:7**

**Biomechanics and Engineering** (this index)

Chiropractor's testimony as expert medical testimony, trial brief provision, **35:3**

Deciding whether to have, **6:5**

Defenses, **62:2, 62:5-62:7**

**Depositions** (this index)

Epidemiology, **49:8**

Interrogatories and requests for production, **17:1**

Junk science, **49:7**

Jury instruction, **37:17 (Form)**

Malingering, **25:6 et seq.**

Medical examiner, **62:6**

Motion to strike designated witness, **30:7, 30:29 (Form)**

Number of times hired by defense attorney's firm, **17:1, 19:1**

Plaintiff's bar shares information, prior transcripts, and resources, **19:1, 24:1**

Preparing trial expert witness, **34:7**

Techniques of questioning trial witnesses, **41:3, 41:4**

Unreliable and inaccurate testimony in automobile injury cases generally, **14B:1 et seq**  
false positives, **14B:4, 14B:5**  
forensic tests, **14B:8, 14B:9**  
pre-test probability, **14B:2, 14B:6**

### **EXPERT WITNESSES AND TESTIMONY—Cont'd**

Unreliable and inaccurate testimony in automobile injury cases

—Cont'd

true positives, **14B:3, 14B:5**

### **EYE WITNESSES TO COLLISION**

Disclosure of, **17:1**

Trial witness for plaintiff, typically, **40:2**

### **FAILURE TO COOPERATE, INSURED'S**

Generally, **16:2, 30:2, 40:3**

### **FAMILY MEMBERS**

Deposition of, **19:7**

Spouse or significant other as trial witness for plaintiff, typically, **40:2**

### **FARMERS INSURANCE**

Colossus software program, Farmers' monitoring of, **1:6**

### **FEDERAL SAFETY STANDARDS**

Generally, **49:6**

### **FILING THE LAWSUIT**

Generally, **15:1**

**Complaint** (this index)

Creative twists, **15:4**

Outlining the causes of action, **15:3**

Outlining the facts, **15:2**

**Service of process** (this index)

### **FLEXION/EXTENSION INJURIES**

**Musculoligamentous Injury** (this index)

### **FOCUS GROUPS**

Generally, **33:1**

Discussion questions, **33:7 (Form)**

Participant form, **33:4 (Form)**

Plaintiff evaluation form, **33:6 (Form)**

Post presentation form, **33:5 (Form)**

Predominant issues, **33:2**

Protocol, **33:3**

Verdict form, **33:8 (Form)**

**FORCE OF IMPACT****Biomechanics and Engineering**  
(this index)**FORENSIC APPLICATIONS**

Literature regarding crash-related injuries  
generally, **49:1**  
absence of significant vehicle damage and increasing incidence of whiplash in, **49:4**  
abstracts versus full text, **49:13**  
acceleration-related injuries  
prognosis, acceleration-extension injuries, prospective study, **54:7, 61:1**  
refuting validity of whiplash injuries, acceleration perturbations, **59:10, 61:32**  
affidavit, application of methods, **60:2**  
biomechanics/engineering literature  
clinical response to rear-end impact, **57:4, 61:17**  
curvature of neck and hyperextension at lower levels; motion of cervical vertebrae, **57:1, 61:13**  
defense's uses of literature, **49:11**  
head/neck kinematic response during low-speed rear-end impacts, **57:3, 61:14 to 61:16**  
head/neck response during low-speed rear-end impact, **57:2, 61:14, 61:15**  
head restraint, relationship to driver neck injury, **57:6, 61:19**  
plaintiff's uses of literature, **49:10**  
pre-existing spinal degeneration, relationship to whiplash symptoms, **57:7, 61:20**  
uses of forensic literature, generally, **49:9 to 49:11**  
vehicle damage, absence of significant vehicle damage and

**FORENSIC APPLICATIONS****—Cont'd**

Literature regarding crash-related injuries—Cont'd  
biomechanics/engineering literature—Cont'd  
increasing incidence of whiplash in, **49:4**  
vehicle damage and injury delta vs crash pulse, relationship between, **57:8, 61:21**  
vehicle damage bears no relationship to injury, **57:5, 61:18, 61:19**  
biomechanist as injury causation expert, **49:6**  
biomechanist testimony, prevalence of junk science, **49:7**  
biomedical literature, generally, **49:1, 49:9**  
categories of literature, **49:9**  
causation expert, biomechanist as, **49:6**  
citation methods, **49:10**  
defense fallacies, **58:4, 61:24**  
diagnosis  
generally, **13:2**  
cervical discogenic pain, correlation of magnetic resonance imaging and discography, **55:1, 61:8**  
defendant's uses of medical literature to support, **49:11**  
disc pathology after whiplash, **55:5, 61:11**  
findings and outcome in whiplash neck distortions, **55:6, 61:12**  
nonorganic signs, reappraisal of interpretation, **55:3, 61:9**  
peripheral nerve entrapment, **55:4, 61:10**  
plaintiff's uses of medical literature to support, **49:10**  
radiofrequency neurotomy treatment, resolution of distress following, **55:2**  
searching for appropriate literature, **55:1 to 55:6**

## INDEX

### FORENSIC APPLICATIONS

#### —Cont'd

- Literature regarding crash-related injuries—Cont'd
  - disorders, whiplash-associated, **58:3, 61:23**
  - engineering/biomechanical literature, generally, **49:9**
  - epidemiology's role in defense testimony, **49:8**
  - full text articles
    - abstracts versus full text, **49:13**
    - PubMed articles, ordering, **484**
  - how to search the biomedical/engineering literature, **481 to 485**
  - junk science, literature regarding
    - defense fallacies, **58:4, 61:24**
    - methodological critique of literature refuting whiplash syndrome, **58:2, 61:22**
    - papers addressing the problems of, **58:1 to 58:4**
    - prevalence of, **49:7**
    - whiplash-associated disorders, **58:3, 61:23**
  - MEDLINE, using, **482 to 484**
  - methodological critique of literature refuting whiplash syndrome, **58:2, 61:22**
  - methods applied, affidavit, **60:2**
  - methods of citing the literature, **49:10**
  - nomenclature of crash-related injuries
    - generally, **49:5**
    - whiplash, defined, **49:2**
  - prognosis
    - acceleration-extension injuries, prospective study, **54:7, 61:1**
    - acute injuries to cervical joints, **54:1, 61:1**
    - neck injuries from rear-end collisions, **54:2, 61:2**
    - presenting symptoms and signs after whiplash injury, **54:6, 61:6**

### FORENSIC APPLICATIONS

#### —Cont'd

- Literature regarding crash-related injuries—Cont'd
  - prognosis—Cont'd
    - rate of recovery following whiplash injury, **54:5, 61:5**
    - second whiplash injury, **54:4, 61:4**
    - soft-tissue injuries of the cervical spine, **54:3, 61:3**
    - using medical literature to support prognosis, **49:10 to 49:11**
  - PubMed, searching with, **481 to 485**
- Rear-End Collision** (this index)
  - refuting validity of whiplash injuries, literature regarding
    - acceleration perturbations, **59:10, 61:32**
    - Biodynamics Research Corporation (BRC), **59:4**
    - crash-test literature, **59:1**
    - human head and neck kinematic after low-velocity rear-end impact, understanding whiplash, **59:6, 61:28**
    - human subject kinematics and electromyographic activity during rear-end impact, **59:8, 61:30**
    - human subjects, low speed rear-end collision testing using, **59:9, 61:27, 61:31**
    - human test subject kinematic responses to low velocity rear-end impacts, analysis of, **59:5, 61:27**
  - junk science. Junk science, supra
  - kinematics and kinetics of the human neck, **59:2, 61:25**
  - methodological critique of literature refuting whiplash syndrome, **58:2, 61:22**
  - natural evolution of late whiplash syndrome, **59:11, 61:33**

**FORENSIC APPLICATIONS****—Cont'd**

- Literature regarding crash-related injuries—Cont'd
  - refuting validity of whiplash injuries, literature regarding—Cont'd
    - occupant kinematic response to low-velocity rear-end impact, **59:7, 61:29**
    - pain after whiplash, **59:12, 61:34**
    - pain compensation, effect of eliminating upon insurance claims for whiplash, **59:13, 61:35**
    - strength and response of the human neck, **59:3, 61:26**
  - relationship between vehicle damage and injury
    - generally, **49:3**
    - increasing incidence of whiplash in absence of significant vehicle damage, **49:4**
    - vehicle damage and injury delta vs crash pulse, relationship between, **57:8, 61:21**
    - vehicle damage bears no relationship to injury, **57:5, 61:18, 61:19**
  - searching for appropriate literature
    - generally, **52:1 to 52:8, 57:1 to 57:8, 481 to 485**
    - define the search, **52:3**
    - diagnosis, relating to, **55:1 to 55:6**
    - general information searching and search engines, **52:6, 52:7**
    - helpful websites, **51:1 to 51:7, 52:6 to 52:8**
    - how to search the biomedical/engineering literature, **52:1 to 52:8, 481 to 485**
    - important information sources, **52:8**
    - junk science, relating to, **58:1 to 58:4**
    - MEDLINE, using, **482 to 484**
    - performing the search, **52:4**

**FORENSIC APPLICATIONS****—Cont'd**

- Literature regarding crash-related injuries—Cont'd
  - searching for appropriate literature—Cont'd
    - prognosis, relating to, **54:1 to 54:7**
    - PubMed, using, **481 to 485**
    - refining the search, **52:1 to 52:8**
    - refuting validity of whiplash injuries, supra
    - websites, helpful, **51:1 to 51:7, 52:6 to 52:8**
    - where to search, **52:5**
  - uses of medical and engineering literature
    - generally, **49:9**
    - biomechanics testimony, prevalence of junk science, **49:7**
    - defense's uses, **49:11**
    - plaintiff's uses, **49:10**
    - websites, helpful, **51:1 to 51:7, 52:6 to 52:8**
  - Spotting unreliable and inaccurate expert testimony, **14B:1 et seq.**

**FRAUD OR MISREPRESENTATION**

- Investigating fraudulent claims, **17:1**
- Witness testimony, misquoting, **41:5**

**FRONT-END COLLISION**

- Description of Injury mechanism, **49:2**

**GAPS IN TREATMENT**

- Credibility of client, establishing, **31:13**

**GAS GRILL**

- Duty of insurer to preserve evidence, **15:4**

**GESTURES OR SIGNALING**

- Objecting to gestures or signals to witness or jury, **41:5**

**GLOBAL METRIC TIME**

- Website, **51:1**

## INDEX

### **GOLDEN RULE ARGUMENT (CLOSING ARGUMENT)**

Generally, **44:4**

### **GRAMMAR**

Helpful websites, **51:3**

### **GUARDED PROGNOSIS**

Medical documentation needed, **4:1**

### **HEADACHE**

Category entry, **4:1**

### **HEADREST**

Utilization of, **23:2**

### **HEAD RESTRAINT**

Biomechanics/engineering literature,  
relationship to driver neck  
injury, **57:6, 61:19**

### **HEALTH CARE EXPENSES**

**Medical Expenses** (this index)

### **HEALTHCARE MANAGEMENT COMPANY**

Cost containment vendor, **22:2**

### **HEALTH CARE PROVIDERS**

**Medical Providers** (this index)

### **HEALTH WEBSITES**

Generally, **52:5 to 52:8**

### **HELIOS**

Historical perspective, **1:2**

### **HISTORICAL PERSPECTIVE**

Agenda of insurance industry, gen-  
eral overview, **1:1**

Increasing profits by focusing on  
attorney-represented claimants,  
**1:3**

Origins of Colossus, **1:2**

### **HOSPITAL ADMISSIONS**

Decline, reasons for, **22:1**

### **HOUSEHOLD EXPENSES**

Damages item, generally, **15:3**

### **HOUSEHOLD SERVICES**

Deposition of housekeeper, **19:7**

Interrogatories and discovery  
requests topic, **17:1**

### **HYPEREXTENSION**

Curvature of neck and hyperexten-  
sion at lower levels; motion of  
cervical vertebrae, **57:1, 61:13**

### **HYPOTHETICAL MEDICAL CONDITIONS**

In limine motion topic, **36:3**

### **ICD**

**International Classification Of  
Diseases (ICD)** (this index)

### **IDENTIFICATION**

Duty of claimant's attorney to obtain  
witness identification, **11:3**

Insurance coverage, common types in  
tort cases, **10:1**

Reporting system, **4:1**

**Service of Process, Missing  
Defendants Problems** (this  
index)

**Witness Identification and  
Testimony** (this index)

### **IMPACT, FORCE OF**

**Biomechanics and Engineering**  
(this index)

### **IMPAIRMENT DAMAGES**

Generally, **15:3**

Interrogatories and discovery  
requests topic, **17:1**

### **INADEQUACY OF POLICY LIMITS**

Effect on litigation tenor and scope,  
**17:1, 18:5**

### **INDEPENDENT MEDICAL EXAMINATION**

**Medical Examiners And Examina-  
tions, Defense** (this index)

### **INDUCING SETTLEMENTS**

Lower settlements induced by delay  
of medical payments or biased  
paper reviews, **10:2, 17:1**

### **INDUSTRY OF INSURANCE**

As to particular matters, see more  
specific entries throughout this  
index

Generally, **1:1 to 1:3, 5:1**

**INDUSTRY OF INSURANCE****—Cont'd**

- Causation, questionable, **1:5**
- Collusion between insurers, **10:1, 10:2**
- Duty of insurer to preserve evidence, **15:4**
- Failure to cooperate, insured's, **16:2, 30:2, 40:3**
- Fraud, **1:4**
- Insurer's claim file, subpoenaing, **30:5**
- Interplay within divisions of insurer, handling payment of benefits, **10:2, 17:1**
- Investigating the Claim** (this index)
- Notice of claimant's attorney-client relationship
  - generally, **10:3**
  - letters to carrier, **10:4 to 10:6 (Forms)**
- Refusal to honor meritorious claims imposing sanction awarding claimant additional attorney's fees, **9:3**
  - policy and practice, **7:1 to 7:3, 13:1, 27:1, 29:1**
- Types of insurance coverage, **10:1**

**INFLATION**

- MIST settlements, inflation in, **5:1**

**INITIAL CONTACT**

- Adjuster's initial contact with claimant, **5:3**
- Attorney-Client Relationship** (this index)
- Insurer's initial contact with claimant, checklists, **11:2**

**IN LIMINE MOTIONS**

- Motions** (this index)

**INSULTS**

- Trial attorney's behavior, **41:2**

**INSURANCE RESEARCH COUNCIL**

- Analysis of auto injury claims, 1999 report, **1:3, 10:2, 22:1**
- Survey of auto injury claims, **1:1**

**INSURER'S FILE ON CLAIMANT, OBTAINING COPIES**

- Generally, **10:3, 11:3**
- Letters of notice and request, **10:4 to 10:6 (Forms)**

**INTEREST ON MONEY**

- Prejudgment interest damages, **15:3**

**INTERNATIONAL****CLASSIFICATION OF DISEASES (ICD)**

- Generally, **13:2**
- ICD-9 codes
  - Generally, **12:1, 12:2, 12:10**
  - chiropractor use, **12:9**
  - classifications, **12:4-12:6**
  - index, **12:5**
  - insurance application of, **12:8**
  - rubic and conventions, **12:3**
  - tabular list, **12:6**

**INTERNET**

- Attorney-client intake process, **8:2**
- Email** (this index)
- Medical literature searches
  - citation methods, **49:12, 49:13, 483**
  - how to search for and obtain appropriate literature, **481 to 485**
  - ordering full text copies of journal articles, **484**
  - refining the search, **52:1 to 52:8**
- MEDLINE, **52:5, 482 to 484**
- Power Searching 101, **52:6**
- PubMed, **481 to 485**
- Search engines, **51:7, 52:7**
- Web Sites** (this index)

**INTERROGATORIES AND REQUESTS FOR PRODUCTION**

- Affirmative defenses justification, **17:1**
- Answer
  - affirmative defense contentions, justifying, **17:1**
  - ensuring timeliness of, **17:2**
  - supplementation of, **17:3**

## INDEX

### INTERROGATORIES AND REQUESTS FOR PRODUCTION—Cont'd

- Categories of information sought, **17:1**
- Damage data, **17:1**
- Evidence identification and data, **17:1**
- First discovery requests of plaintiff generally, **17:1**  
forms, **17:4 (Form), 17:5 (Form)**
- Follow-up discovery requests of plaintiff generally, **17:3**  
form, mandated by court rules, **17:6 (Form)**
- Forms
  - plaintiff's first interrogatories and requests for production, **17:4 (Form)**
  - plaintiff's first interrogatories and requests for production (sample, court rules mandate), **17:5 (Form)**
  - plaintiff's second interrogatories and requests for production (sample, court rules mandate), **17:6 (Form)**
- Fraud investigation data, **17:1**
- Insurance coverage and policy limits information, **17:1**
- Items obtained directly from plaintiff, **17:1**
- Items obtained with necessary consent of plaintiff, **17:1**
- Liability data, **17:1**
- Number of discovery requests, **17:1**
- Special Investigations Unit's protocol, interrogatories, **6:6**
- Supplementation of discovery requests. Follow-up discovery requests of plaintiff, *supra*
- Supplementation of discovery responses, **17:3**
- Surveillance data, **17:1**
- Timeliness of service of discovery requests and answer, **17:1, 17:2**
- Witness identification and data, **17:1**

### INTERSECTION COLLISION

- Complaint's fact section, **15:10 (Form)**

### INVESTIGATING THE CLAIM

- Generally, **11:1**
- Adjuster's Role** (this index)
- Bias of insurer conducting investigation, **11:1**
- Biomechanics investigation, **27:1**
- Counter investigation by claimant's attorney, strategy for, **11:3**
- Forensic investigator's sample report on collision, **11:3**
- Fraudulent claims, **17:1**
- Insurer's computer directed investigation, checklists, **11:2**
- Insurer's evaluation consultant/coordinator, **5:1**
- Litigation Management** (this index)
- Special Investigations Units (SIU)
  - creation of, **1:1**
  - litigation tactics and protocol, **6:6**
- Statement of claimant to insurer, generally, **11:1**

### JOINDER OF PARTY

- Amendment of complaint, **30:3**

### JUDGMENT AS MATTER OF LAW

- Generally, **43:3**

### JUNK SCIENCE

- Definition and use of, **49:7**
- Papers addressing the problems of, **58:1 to 58:4**

### JURISDICTION

- Request for admissions, jurisdictional matters, **18:2, 18:6 (Form)**

### JURY

- Affidavit in support of motion to correct error, **66:4 (Form)**
- Bias
  - generally, **66:1**
  - affidavit in support of motion to correct error, **66:4 (Form)**
  - biomechanical engineer, motion in limine to preclude, **66:2 (Form)**
  - defense reliance on, **18:4**
  - motion in limine to preclude biomechanical engineer, **66:2 (Form)**

**JURY—Cont'd**

- Bias—Cont'd
  - motion to correct error, **66:3 (Form), 66:4 (Form)**
- Biomechanical engineer, motion in limine to preclude, **66:2 (Form)**
- Challenging the jury, **38:4 to 38:7 Directed Verdict** (this index)
- For cause challenges, **38:6, 38:10 (Form)**
- Gestures or signals to jury, **41:5**
- Instructions. **Jury Instructions** (this index)
- Lioce v. Cohen, **45:4**
- Motion in limine to preclude biomechanical engineer, **66:2 (Form)**
- Motion to correct error, **66:3 (Form), 66:4 (Form)**
- Nullification and other dirty trial tricks, **45:1 et seq.**
- Order granting new trial, jury nullification and other dirty tricks, **45:5 to 45:7 (Forms)**
- Peremptory challenges, **38:5**
- Retiring to jury room for deliberations, jury instruction, **37:22 (Form)**
- Selection. Voir dire, *infra*
- Trial notebook sections re jury matters
  - jury instructions, **32:12**
  - voir dire chart, **32:6, 32:24 (Form)**
- Voir dire
  - generally, **38:1, 38:2**
  - case study, **38:3**
  - challenging the jury, **38:4 to 38:7**
  - discussion point outline, **38:8 (Form)**
  - for cause challenges, **38:6, 38:10 (Form)**
  - peremptory challenges, **38:5**
  - plaintiff's general questions, **38:9 (Form)**
  - practical considerations, **38:2**
  - trial notebook chart, **32:6, 32:24 (Form)**
- Witness availability bias concept, **40:2**

**JURY INSTRUCTIONS**

- Generally, **32:12, 37:1**
- Appellate review of, **37:4**
- Arguing jury instructions to the court, **37:4**
- Burden of proof, **37:15 (Form)**
- Burden of proof (demonstrative instruction), **44:8 (Form)**
- Cause of action section of complaint, terminology used in, **15:3**
- Chiropractor, **37:18 (Form)**
- Court's cover page, **37:6 (Form)**
- Cover page, **37:5 (Form), 37:6 (Form)**
- Deposition, **37:21 (Form)**
- Direct and circumstantial evidence, **37:8 (Form)**
- Drafting considerations, **37:1, 37:3**
- Duty, **37:9 (Form)**
- Duty of following driver, **37:11 (Form)**
- Expert witness, **37:17 (Form)**
- Failure to mitigate damages, trial brief provision, **35:3**
- Introduction, **37:6 (Form), 37:7 (Form)**
- Measure of damages, **37:19 (Form)**
- Mortality table, **37:20 (Form)**
- Negligence, **37:10 (Form)**
- Plaintiff's requested or proposed instructions, **37:24, 37:25**
- Pre-existing condition, **37:16 (Form)**
- Proximate cause, **37:13 (Form)**
- Retiring to jury room for deliberations, **37:22 (Form)**
- Special verdict, **37:23 (Form)**
- Speed, **37:12 (Form)**
- Sudden emergency, **43:2**
- Summary of claims, **37:14 (Form)**
- Trial brief provision, **35:3**
- Trial notebook section, **32:12**
- Typical inclusions, **37:2**

**KINEMATICS, REAR-END COLLISION**

- Biomechanics/engineering literature
  - head/neck kinematic response during low-speed rear-end impacts, **57:3, 61:14 to 61:16**

## INDEX

### KINEMATICS, REAR-END

#### COLLISION—Cont'd

- Refuting validity of whiplash injuries, literature regarding human head and neck kinematic after low-velocity rear-end impact, understanding whiplash, **59:6, 61:28**
- human subject kinematics and electromyographic activity during rear-end impact, **59:8, 61:30**
- human test subject kinematic responses to low velocity rear-end impacts, analysis of, **59:5, 61:27**
- occupant kinematic response to low-velocity rear-end impact, **59:7, 61:29**

### LANGUAGE

- Helpful websites, **51:3, 52:4**

### LAW CLERKS

- Jury voir dire assistance, **32:6**

### LAW OF THE CASE

- Trial notebook section, **32:15**

### LIABILITY

- Admission of liability
  - generally, **18:3, 18:4**
  - deposition, effect on need to take, **19:1**
  - request for admission of liability and general matters, **18:6 (Form)**
- Bodily injury liability coverage
  - defined, **10:1**
  - handling pay out, **10:2, 17:1**
- Deciding whether to depose liability witness, **6:5**
- Directed verdict, **43:2**
- Interrogatories and discovery requests topic, **17:1**
- Summary judgment motion
  - appropriateness, **29:2**
  - form, **30:23**

### LIARS

- Deposition techniques, **19:3**

### LIBRARIES

- Catalogs, helpful websites, **51:6**
- National Library of Medicine, **52:5, 481, 482**

### LICENSES

- Colossus Software Program, list of insurance companies licensed to use, **1:2**

### LINE ADJUSTER

- Adjuster's Role** (this index)

### LITERATURE REGARDING

#### CRASH-RELATED INJURIES, FORENSIC APPLICATIONS

- Generally, **49:1**
- Absence of significant vehicle damage and increasing incidence of whiplash in, **49:4**
- Abstracts versus full text, **49:13**
- Acceleration-related injuries
  - prognosis, acceleration-extension injuries, prospective study, **54:7, 61:1**
  - refuting validity of whiplash injuries, acceleration perturbations, **59:10, 61:32**
- Affidavit, application of methods, **60:2**
- Biomechanics/engineering literature
  - clinical response to rear-end impact, **57:4, 61:17**
  - curvature of neck and hyperextension at lower levels; motion of cervical vertebrae, **57:1, 61:13**
  - defense's uses of literature, **49:11**
  - head/neck kinematic response during low-speed rear-end impacts, **57:3, 61:14 to 61:16**
  - head/neck response during low-speed rear-end impact, **57:2, 61:14, 61:15**
  - head restraint, relationship to driver neck injury, **57:6, 61:19**
  - plaintiff's uses of literature, **49:10**
  - pre-existing spinal degeneration, relationship to whiplash symptoms, **57:7, 61:20**

**LITERATURE REGARDING  
CRASH-RELATED INJURIES,  
FORENSIC APPLICATIONS  
—Cont'd**

- Biomechanics/engineering literature
  - Cont'd
  - uses of forensic literature, generally, **49:9 to 49:11**
  - vehicle damage, absence of significant vehicle damage and increasing incidence of whiplash in, **49:4**
  - vehicle damage and injury delta vs crash pulse, relationship between, **57:8, 61:21**
  - vehicle damage bears no relationship to injury, **57:5, 61:18, 61:19**
- Biomechanist as injury causation expert, **49:6**
- Biomechanist testimony, prevalence of junk science, **49:7**
- Biomedical literature, generally, **49:1, 49:9**
- Categories of literature, **49:9**
- Causation expert, biomechanist as, **49:6**
- Citation methods, **49:10**
- Defense fallacies, **58:4, 61:24**
- Diagnosis
  - generally, **13:2**
  - cervical discogenic pain, correlation of magnetic resonance imaging and discography, **55:1, 61:8**
  - defendant's uses of medical literature to support, **49:11**
  - disc pathology after whiplash, **55:5, 61:11**
  - findings and outcome in whiplash neck distortions, **55:6, 61:12**
  - nonorganic signs, reappraisal of interpretation, **55:3, 61:9**
  - peripheral nerve entrapment, **55:4, 61:10**
  - plaintiff's uses of medical literature to support, **49:10**
  - radiofrequency neurotomy treatment, resolution of distress following, **55:2**

**LITERATURE REGARDING  
CRASH-RELATED INJURIES,  
FORENSIC APPLICATIONS  
—Cont'd**

- Diagnosis—Cont'd
  - searching for appropriate literature, **55:1 to 55:6**
- Disorders, whiplash-associated, **58:3, 61:23**
- Engineering/biomechanical literature, generally, **49:9**
- Epidemiology's role in defense testimony, **49:8**
- Full text articles
  - abstracts versus full text, **49:13**
  - PubMed articles, ordering, **484**
- How to search the biomedical/engineering literature, **481 to 485**
- Junk science, literature regarding defense fallacies, **58:4, 61:24**
- methodological critique of literature refuting whiplash syndrome, **58:2, 61:22**
- papers addressing the problems of, **58:1 to 58:4**
- prevalence of, **49:7**
- whiplash-associated disorders, **58:3, 61:23**
- MEDLINE, using, **482 to 484**
- Methodological critique of literature refuting whiplash syndrome, **58:2, 61:22**
- Methods applied, affidavit, **60:2**
- Methods of citing the literature, **49:10**
- Nomenclature of crash-related injuries
  - generally, **49:5**
  - whiplash, defined, **49:2**
- Prognosis
  - acceleration-extension injuries, prospective study, **54:7, 61:1**
  - acute injuries to cervical joints, **54:1, 61:1**
  - neck injuries from rear-end collisions, **54:2, 61:2**
  - presenting symptoms and signs after whiplash injury, **54:6, 61:6**

## INDEX

### LITERATURE REGARDING CRASH-RELATED INJURIES, FORENSIC APPLICATIONS —Cont'd

- Prognosis—Cont'd
  - rate of recovery following whiplash injury, **54:5, 61:5**
  - second whiplash injury, **54:4, 61:4**
  - soft-tissue injuries of the cervical spine, **54:3, 61:3**
  - using medical literature to support prognosis, **49:10 to 49:11**
- PubMed, searching with, **481 to 485**
- Rear-End Collision** (this index)
- Refuting validity of whiplash injuries, literature regarding acceleration perturbations, **59:10, 61:32**
- Biodynamics Research Corporation (BRC), **59:4**
- crash-test literature, **59:1**
- human head and neck kinematic after low-velocity rear-end impact, understanding whiplash, **59:6, 61:28**
- human subject kinematics and electromyographic activity during rear-end impact, **59:8, 61:30**
- human subjects, low speed rear-end collision testing using, **59:9, 61:27, 61:31**
- human test subject kinematic responses to low velocity rear-end impacts, analysis of, **59:5, 61:27**
- junk science. Junk science, supra kinematics and kinetics of the human neck, **59:2, 61:25**
- methodological critique of literature refuting whiplash syndrome, **58:2, 61:22**
- natural evolution of late whiplash syndrome, **59:11, 61:33**
- occupant kinematic response to low-velocity rear-end impact, **59:7, 61:29**
- pain after whiplash, **59:12, 61:34**
- pain compensation, effect of eliminating upon insurance

### LITERATURE REGARDING CRASH-RELATED INJURIES, FORENSIC APPLICATIONS —Cont'd

- Refuting validity of whiplash injuries, literature regarding—Cont'd
  - claims for whiplash, **59:13, 61:35**
  - strength and response of the human neck, **59:3, 61:26**
- Relationship between vehicle damage and injury
  - generally, **49:3**
  - increasing incidence of whiplash in absence of significant vehicle damage, **49:4**
  - vehicle damage and injury delta vs crash pulse, relationship between, **57:8, 61:21**
  - vehicle damage bears no relationship to injury, **57:5, 61:18, 61:19**
- Searching for appropriate literature
  - generally, **52:1 to 52:8, 57:1 to 57:8, 481 to 485**
  - define the search, **52:3**
  - diagnosis, relating to, **55:1 to 55:6**
  - general information searching and search engines, **52:6, 52:7**
  - helpful websites, **51:1 to 51:7, 52:6 to 52:8**
  - how to search the biomedical/engineering literature, **52:1 to 52:8, 481 to 485**
  - important information sources, **52:8**
  - junk science, relating to, **58:1 to 58:4**
  - MEDLINE, using, **482 to 484**
  - performing the search, **52:4**
  - prognosis, relating to, **54:1 to 54:7**
  - PubMed, using, **481 to 485**
  - refining the search, **52:1 to 52:8**
  - refuting validity of whiplash injuries, supra
  - websites, helpful, **51:1 to 51:7, 52:6 to 52:8**
  - where to search, **52:5**

**LITERATURE REGARDING  
CRASH-RELATED INJURIES,  
FORENSIC APPLICATIONS**

**—Cont'd**

Uses of medical and engineering literature  
generally, **49:9**  
biomechanics testimony, prevalence of junk science, **49:7**  
defense's uses, **49:11**  
plaintiff's uses, **49:10**  
Websites, helpful, **51:1 to 51:7, 52:6 to 52:8**

**LITIGATION CONSULTANT**

Role and duties, **6:2**

**LITIGATION COSTS**

Damages item, generally, **15:3**

**LITIGATION MANAGEMENT**

Attorney for claimant, mission of, **7:1 to 7:3**

Consultants, **6:2, 29:1**

Discovery teams, use of, **6:2**

Duties of team leader, team attorney, and team support staff, **6:4**

House counsel

role and duties, generally, **6:2, 6:3**  
team work concept, **6:4**

Insurance company

consultants, **6:2**  
defense counsel, **6:3**  
legal maneuvers, **6:5**  
legal teams, **6:4**

MIST theory, **6:1**

special investigation unit tactics, **6:6**

Legal "teams," **6:4**

Maneuvers and tactics, **6:5**

Outside counsel

litigation consultant's evaluation before transmittal to, **6:2, 29:1**

retaining, **6:3**

Restructuring, **6:1**

Sample litigation plan discussion, **6:4**

**LOSS OF CONSORTIUM**

Damages item, generally, **15:3**

**LOSS OF CONSORTIUM—Cont'd**

Interrogatories and discovery requests topic, **17:1**

**LOSS OF ENJOYMENT OF LIFE**

Category entry, **4:1**

Damages item, generally, **15:3**

Interrogatories and discovery requests topic, **17:1**

**LOSS OF USE OF VEHICLE**

Damages item, generally, **15:3**

**LOST WAGES**

Adjuster's capture of wage loss information, **5:3, 17:1**

Damages item, generally, **15:3**

Interrogatories and discovery requests topic, **17:1**

**MAGNETIC RESONANCE**

**IMAGING (MRI)**

Discogenic pain, correlation of magnetic resonance imaging and discography, **55:1, 61:8**

**MALINGERING**

Defenses, **25:1 et seq.**

Definitions, **8:4, 25:10 et seq.**

Experts, **25:6 et seq.**

Insurer's Farm policy, **8:4**

Warning given by Colossus, **3:1**

**MANNERS**

Trial attorney's behavior, **41:2**

**MCKINSEY & COMPANY**

Agenda, **1:11**

Allstate Insurance, relationship with, **1:9**

Chasing the McKinsey documents, **1:12**

Zero sum game, **1:10**

**MEDICAL CARE PROVIDERS**

Acupuncture treatment, physical therapy entry, **4:1**

Advocates for patients, **22:3**

Chiropractic services

assessment by Colossus, **4:1, 13:2**

high percentage of injured persons using, **22:1**

## INDEX

### MEDICAL CARE PROVIDERS

#### —Cont'd

- Cost containment management, **22:1 to 22:3**
- Deciding whether to depose, **6:5**
- Declaration of health care provider, **30:28 (Form)**
- Defense medical examination. **Medical Examiners and Examinations, Defense** (this index)
- Exhibits at trial, **40:6**
- Forensic oriented, **22:3, 49:7**
- Hospital admissions decline, reasons for, **22:1**
- Medical Consultants Network, cost containment vendor, **22:2**
- Medical Examiners and Examinations, Defense** (this index)
- Physical therapy and therapists evaluation factor for Colossus, **13:2**
  - high percentage of injured persons using, **22:1**
- Physicians
  - advocates for patients, **22:3**
  - deciding whether to depose, **6:5**
  - declaration of health care provider, **30:28 (Form)**
  - forensic oriented, **22:3, 49:7**
  - what every adjuster should know about, **22:3**
- Trial witness
  - generally, **40:6**
  - preparing for trial, **34:7**
- What every adjuster should know about, **22:3**

### MEDICAL CONSULTANTS NETWORK

- Cost containment vendor, **22:2**

### MEDICAL EXAMINERS AND EXAMINATIONS, DEFENSE

- Arranging the exam, **23:1**
- Attending the exam, **23:3**
- Attorney representative, presence of, **23:3, 24:1**
- Audio taping examination, comparing written report to audio tape, **24:2**

### MEDICAL EXAMINERS AND EXAMINATIONS, DEFENSE

#### —Cont'd

- Background of examiner, acquiring knowledge about, **19:1, 24:1, 24:2, 24:6 (Form)**
- Bias against musculoligamentous neck and back injuries, **23:1, 24:4**
- Closing statement at trial, reference to forensic examination, **24:4**
- Comprehensive Medical Review, cost containment vendor, **22:2**
- Conditions and parameters of exam, **23:1, 23:5 (Form), 23:6 (Form)**
- Cost containment management
  - generally, **22:1**
  - propaganda, **22:3**
  - vendors, **22:2**
- Cost containment policy, **22:3**
- Cost containment vendor, **22:2**
- Course of care, referencing, **23:2**
- Cross examination, **62:6**
- Cross examination of medical examiner at trial
  - generally, **24:4**
  - outline for cross-examination, **24:8 (Form)**
- Deciding whether to do a medical exam, **6:5, 29:1**
- Deconstructing the examiner deposition, **24:2**
  - exam, **24:1**
  - trial, **24:4**
- Demand for exam
  - generally, **23:1**
  - letter to adjuster regarding conditions, **23:5 (Form), 23:6 (Form)**
- Deposition of examiner
  - generally, **24:2**
  - outline for taking examiner's deposition, **24:6 (Form)**
  - subpoena duces tecum, **24:5 (Form)**
- Direct examination of medical examiner at trial, **24:4**
- Disclosure of, **17:1**

**MEDICAL EXAMINERS AND EXAMINATIONS, DEFENSE****—Cont'd**

- Distinguishing between courtroom and clinical medicine, **22:3**
- Excluding medical examiner from testifying at trial, motion, **24:7 (Form)**
- Expenses. **Medical Expenses** (this index)
- Force of impact inquiries, **23:2**
- Forms re defense medical examination
  - letters. Letters, *infra*
  - letter to client, **23:10 (Form)**
  - motion to compel CR 35 exam objection to, **23:8 (Form)**
  - order re, **23:9 (Form)**
  - motion to exclude medical examiner from testifying at trial, **24:7 (Form)**
  - outline, medical examiner deponent, **24:6 (Form)**
  - outline, trial witness, cross examination of medical examiner, **24:8 (Form)**
  - protective order requiring videotaping, **23:10 (Form)**
  - subpoena duces tecum, medical examiner, **24:5 (Form)**
- Intent of examination, **23:2, 24:1**
- Letters to adjuster re exam demand/request
  - conditions of exam, **23:1**
  - defense medical exam request, **23:6 (Form)**
  - personal injury protection/medical pay (involuntary exam), **23:5 (Form)**
- Mechanics of injury inquiries, **23:2**
- Medical Consultants Network, cost containment vendor, **22:2**
- Motion to compel CR 35 exam
  - objection to, **23:8 (Form)**
  - order re, **23:9 (Form)**
- Motion to exclude medical examiner from testifying at trial, **24:7 (Form)**

**MEDICAL EXAMINERS AND EXAMINATIONS, DEFENSE****—Cont'd**

- National Healthcare Resources, cost containment vendor, **22:2**
- Nothing “independent” about it, **22:1 to 22:3, 24:1**
- Objection to motion to compel CR 35 exam, **23:8 (Form)**
- Opening statement at trial, reference to forensic examination, **24:4**
- Order re motion to compel CR 35 exam, **23:9 (Form)**
- Outlines
  - cross examination of medical examiner at trial, **24:8 (Form)**
  - deposition of medical examiner, **24:6 (Form)**
- Plaintiff bar shares information, prior transcripts, and resources about examiner, **19:1, 24:1**
- Pre-existing injuries, **23:2**
- Preparing plaintiff for the exam, **23:2**
- Present condition inquiries, **23:2**
- Pro Review Utilization Review Consultants, cost containment vendor, **22:2**
- Records. **Medical Records** (this index)
- Report of examiner, generally, **24:2**
- Strategies against, **26:1 et seq.**
- Subpoena duces tecum to examiner, **24:5 (Form)**
- Time line of symptoms, **23:2**
- Trial matters
  - generally, **24:4**
  - closing statement at trial, reference to forensic examination, **24:4**
  - cross examination of medical examiner, **24:4, 24:8 (Form)**
  - direct examination of medical examiner, **24:4**
  - motion to exclude medical examiner from testifying, **24:7 (Form)**
  - opening statement at trial, reference to forensic examination, **24:4**

## INDEX

### **MEDICAL EXAMINERS AND EXAMINATIONS, DEFENSE**

#### **—Cont'd**

- Trial matters—Cont'd
  - subpoena duces tecum to examiner, **24:5 (Form)**
- Type of exam, **23:1**
- Videotaping exam, **23:4, 23:10 (Form)**
- What every adjuster should know about medicine, **22:3**
- Who may request exam, **23:1**
- Worldwide Auditing Services, cost containment vendor, **22:2**

### **MEDICAL EXPENSES**

- Case value increase, effect of
  - Increased medical expenses, **22:1**
- Cost containment management, **22:1 to 22:3**
- Cost of having health care providers as trial witness, **40:6**
- Damages item, generally, **15:3**
- Directed verdict motion, **43:5 (Form)**
- Exhibit at trial, **40:6**
- Meticulous review by insurer, **13:2**
- Mileage and parking, **15:3, 17:1**
- Reasonable and necessary medical expenses
  - motion for summary judgment, **30:27 (Form)**
  - requests for admission, **18:4**
- Reporting system, expected medicals, **4:1, 13:2**
- Requests for admission, reasonable and necessary medical expenses, **18:4**
- Summary judgment motion on reasonableness and necessity of, **30:27 (Form)**

### **MEDICAL LEGAL ART WEBSITE**

- Generally, **52:8**

### **MEDICAL LITERATURE, USE IN BACK AND NECK CASE**

- Generally, **56:1 et seq.**
- Human tolerance levels, **56:5**
- Preexisting conditions, **56:2**

### **MEDICAL LITERATURE, USE IN BACK AND NECK CASE**

#### **—Cont'd**

- Review of literature refuting whip-lash syndrome, **56:4**
  - Subjectivity of pain, **56:3**
- ### **MEDICAL MATRIX WEBSITE**
- Generally, **52:5**
- ### **MEDICAL RECORDS**
- Bias when reviewing, **22:1 to 22:3**
  - Deciding whether to review, **6:5**
  - Exhibit at trial, **40:6**
  - Note taking, importance of, **13:2**

### **MEDICAL TERMINOLOGY**

- Use of in complaint, **15:3**

### **MEDICAL WORLD SEARCH WEBSITE**

- Generally, **52:5**

### **MEDICAL WORLD WEBSITE**

- Generally, **52:5**

### **MEDIS SEARCH WEBSITE**

- Generally, **52:5**

### **MEDLINE**

- Generally, **52:5, 482 to 484**

### **MEDPAY**

- Bad faith, **47:2**

### **MEDSCAPE WEBSITE**

- Generally, **52:5**

### **MEDSCOUT WEBSITE**

- Generally, **52:5**

### **METRIC TIME**

- Helpful websites, **51:1**

### **MILEAGE**

- Damages item, generally, **15:3**
- Interrogatories and discovery requests topic, **17:1**

### **MINOR IMPACT SOFT TISSUE (“MIST”) CASES AND PROGRAMS**

- Adjuster's role, **5:1**
- Biomechanics witness, **27:1**
- Colossus, evaluations by, **5:1**

**MINOR IMPACT SOFT TISSUE  
 (“MIST”) CASES AND  
 PROGRAMS—Cont’d**

Creation of, **1:1**  
 Initial attorney-client meeting,  
 explaining MIST, **9:2**  
 In limine motions, MIST  
 considerations, **36:2**  
 Negotiation of claim, **13:1**  
 Nomenclature, **49:5**  
 Nuisance-value figure, offer of settle-  
 ment, **5:1, 13:2**  
 Refusal to honor meritorious claims,  
 policy and practice of insurance  
 industry, **7:1 to 7:3, 13:1, 27:1,**  
**29:1**  
 Segmentation, **5:1, 29:1**  
 Special Investigations Unit, **1:1, 6:6**  
 Threshold and offsets, **5:1**  
 Trial brief, MIST considerations,  
**35:2**

**MISREPRESENTATION**

**Fraud or Misrepresentation** (this  
 index)

**MISSING DEFENDANTS**

**Service of Process** (this index)

**MIST**

**Minor Impact Soft Tissue  
 (“MIST”) Cases and  
 Programs** (this index)

**MODIFICATION**

**Amendment or Modification** (this  
 index)

**MORTALITY TABLE**

Jury instruction, **37:20 (Form)**

**MOTIONS**

Developing a database, **30:1, 30:8**  
 Affidavit for motion to strike  
 testimony of defense  
 biomechanist/accident  
 reconstructionist/engineer, **63:3**  
**(Form)**  
 Affidavit in support of motion to cor-  
 rect error, **66:4 (Form)**  
 Amend complaint, motion for leave  
 to, **29:2, 30:3, 30:10 (Form)**

**MOTIONS—Cont’d**

Attorneys’ fees and costs, **48:3**  
**(Form)**  
 Biomechanic witness, excluding from  
 testifying at trial, **28:1 et seq.**  
 Compel discovery, motion to, **29:2,**  
**30:4, 30:11 (Form)**  
 Controlling the tenor, **29:1 to 29:2**  
 Declaration of health care provider,  
**30:28 (Form)**  
 Default, motion for, **30:2, 30:9**  
**(Form)**  
 Directed verdict  
 generally, **43:1**  
 causation and damages, **43:3**  
 liability, **43:2**  
 procedure, **43:4**  
 sample motion, **43:5 (Form)**  
 trial notebook section, **32:3**  
**Discovery** (this index)  
 Discretionary review, **1:29 (Form)**  
 Emergency stay, **1:27 (Form)**  
 Exclude experts, motion to, **29:2**  
 In limine motions  
 generally, **36:1**  
 biomechanical engineer, preclusion  
 of, **66:2 (Form)**  
 closing argument referencing, **44:3**  
 juror bias, precluding biomechani-  
 cal engineer, **66:2 (Form)**  
 malingering accusations, **36:9**  
 memorandum to exclude prior  
 injury or medical treatment,  
**36:6**  
 MIST considerations, **36:2**  
 monetary gain accusations, **36:9**  
 order granting motion in limine,  
**36:4 (Form)**  
 sample, **36:3 (Form)**  
 statements prejudicial to MIST  
 cases, **36:10**  
 trial notebook section, **32:3**  
 Intent of motions, generally, **29:2**  
 Judgment as matter of law, **43:3**  
 Juror bias  
 affidavit in support of motion to  
 correct error, **66:4 (Form)**  
 correct error, motion to, **66:3**  
**(Form), 66:4 (Form)**

## INDEX

### MOTIONS—Cont'd

- Juror bias—Cont'd
  - in limine motion precluding biomechanical engineer, **66:2 (Form)**
- Late designation of expert, motion to strike, **30:29 (Form)**
- Medical examination of plaintiff motion to compel
  - objection to motion, **23:8 (Form)**
  - order re motion, **23:9 (Form)**
  - motion to exclude medical examiner from testifying at trial, **24:7 (Form)**
- Opposition to motion for discretionary review, **1:30 (Form)**
- Pretrial motion practice
  - developing a database, **30:1, 30:8**
  - amend complaint, motion for leave to, **29:2, 30:3, 30:10 (Form)**
  - compel discovery, motion to, **29:2, 30:4, 30:11 (Form)**
  - controlling the tenor, **29:1 to 29:2**
  - declaration of health care provider, **30:28 (Form)**
  - default, motion for, **30:2, 30:9 (Form)**
  - exclude experts, motion to, **29:2**
  - intent of motions, generally, **29:2**
  - late designation of expert, motion to strike, **30:7, 30:29 (Form)**
  - quash discovery, motion to, **30:5, 30:18 (Form)**
  - strike, motion to, **30:7, 30:29 (Form)**
  - summary judgment motion, **30:6, 30:23 (Form), 30:27 (Form)**
  - witness designation, motion to strike, **30:7, 30:29 (Form)**
- Quash discovery, motion to, **30:5, 30:18 (Form)**
- Reconsideration** (this index)
- Reply regarding discretionary review, **1:31 (Form)**
- Response to motion for emergency stay, **1:28 (Form)**
- Stay of enforcement, **1:26 (Form)**

### MOTIONS—Cont'd

- Strike, motion to, **30:7, 30:29 (Form), 63:3 (Form)**
- Summary judgment motion, **30:6, 30:23 (Form), 30:27 (Form)**
- Trial notebook section, **32:3**

### MOVEMENT, RESTRICTION OF

- Restriction of Movement** (this index)

### MULTIPLE DEFENDANTS

- Complaint involving rear-end collision, property damage, multiple defendants, **15:9 (Form)**
- Deposing co-defendants, deciding whether to depose, **6:5**

### MUSCLE SPASM

- Diagnosis, acceptance by Colossus, **13:2**

### MUSCULOLIGAMENTOUS INJURY

- Acknowledging but discounting the fact and mechanism of, **3:2**
- Acute sprain, defined, **3:2**
- Burden to prove injury on objective basis, **3:4**
- Common complaints and symptoms, **3:2**
- Diagnostic findings, **3:3**
- Difficulty in diagnosing, **3:2, 3:3**
- Disability resulting, **3:2**
- Evaluation by Colossus, generally, **3:1**
- Medical terminology used in complaint, **15:3**
- Muscle spasm diagnosis, acceptance by Colossus, **13:2**
- Prognosis, **3:2**
- Reporting system, **4:2**
- Rule out other possible causes for symptoms, **3:3**
- Willful faking of injury symptoms, **3:4**

### MYND CORPORATION

- Purchase by Computer Sciences Corp., **1:2**

**MYTHOLOGY**

Helios, **1:2**

**NATIONAL HEALTHCARE RESOURCES**

Cost containment vendor, **22:2**

**NATIONAL LIBRARY OF MEDICINE**

Generally, **481, 482**

Website, **52:5**

**NATURE OF DEFENSE TESTIMONY**

Generally, **49:7**

**NECESSITY AND REASONABLENESS OF MEDICAL EXPENSES**

Motion for summary judgment, **30:27 (Form)**

Requests for admission, **18:4**

**NECK**

Bias against nondemonstrable injuries

acknowledging but discounting musculoligamentous injuries of the neck, **3:2**

diagnosis difficulty, musculoligamentous injuries of the neck, **3:3**

independent medical examination, bias of forensic examiner re musculoligamentous injuries of the neck, **23:1, 24:4**

Biomechanics/engineering literature curvature of neck and hyperextension at lower levels; motion of cervical vertebrae, **57:1, 61:13**

head/neck kinematic response during low-speed rear-end impacts, **57:3, 61:14 to 61:16**

head/neck response during low-speed rear-end impact, **57:2, 61:14, 61:15**

head restraint, relationship to driver neck injury, **57:6, 61:19**

Colossus evaluation and reporting system, **3:1, 4:23**

**NECK—Cont'd**

Curvature of neck and hyperextension at lower levels; motion of cervical vertebrae, **57:1, 61:13**

Diagnosis literature, findings and outcome in whiplash neck distortions, **55:6, 61:12**

Findings and outcome in whiplash neck distortions, **55:6, 61:12**

Flexion/extension, Civil Rule 35 medical examination inquiry, **23:2**

Head restraint, relationship to driver neck injury, **57:6, 61:19**

Kinematics response after low-speed rear-end impacts, **59:6, 61:28**

Medical examinations by defense, bias against musculoligamentous neck and back injuries, **23:1, 23:2, 24:4**

Prognosis literature neck injuries from rear-end collisions, **54:2, 61:2**

Refuting validity of whiplash injuries, literature regarding human head and neck kinematic after low-velocity rear-end impact, understanding whiplash, **59:6, 61:28**

kinematics and kinetics of the human neck, **59:2, 61:25**

strength and response of the human neck, **59:3, 61:26**

Sprained neck or back. **Musculoligamentous Injury** (this index)

**NECK FLEXION/EXTENSION**

Civil Rule 35 medical examination inquiry, **23:2**

**NEGLIGENCE**

Comparative negligence, incentives for adjusters to find, **5:1**

Jury instruction, **37:10 (Form)**

**Proximate Cause** (this index)

**NEGOTIATION**

**Settlement and Compromise** (this index)

## INDEX

### NEIGHBORS AS WITNESSES

Disclosure of, **17:1**

### NEUROSIS

Category entry, **4:1, 13:2**

### NO-EXPERT DEFENSE

Defenses, **62:3**

### NOMENCLATURE OF INJURIES

Generally, **49:5, 49:9**

**Definitions** (this index)

### NONDEMONSTRABLE NECK AND BACK INJURIES

Evaluation by Colossus, generally,  
**3:1**

Reporting system, **4:2**

### NOTICE

Attorney-client relationship, notifying insurer

generally, **10:3**

initial letter to first party carrier  
(PIP/MedPay), **10:4 (Form)**

initial letter to first party carrier  
(UM/UIM), **10:5 (Form)**

initial letter to third party carrier  
(BI), **10:6 (Form)**

Deposition, notice of taking  
CR 30(b)(6) deponents, **16:7  
(Form), 19:10 (Form)**

defendant's insurance claims  
adjusters, notice to, **19:11  
(Form)**

entity deponent, **19:4**

Deposition of entity, notice of taking,  
**19:4**

**Service of Process** (this index)

Trial attendance, notice of  
generally, **40:3**  
form, **40:7 (Form)**

### NUISANCE-VALUE FIGURE

Generally, **5:1, 13:2**

### OBJECTIONS

Generally, **41:3**

Admissibility of evidence at trial,  
**36:1**

Closing arguments, **44:4**

Jury instructions, **37:4**

### OBJECTIONS—Cont'd

Medical examination of plaintiff,  
objection to motion to compel  
CR 35 exam, **23:8 (Form)**

Opening statement, **39:2**

Quick reference sheet, **41:5 (Form)**

Trial notebook section, **32:14**

Trial objections, generally, **41:3, 41:5  
(Form)**

Working knowledge of trial objections,  
**41:3**

### OCCUPANTS

Refuting validity of whiplash  
injuries, occupant kinematic  
response to low-velocity rear-  
end impact, **59:7, 61:29**

### OCCUPATIONS

Effect on auto accidents, **3:2**

### OFFSET

MIST threshold, **5:1**

### OPENING STATEMENTS

Generally, **39:1**

Cautionary rules, **39:2**

Delivery, **39:5**

Legal content, **39:2**

Objections, **39:2**

Outline, **39:3**

**PowerPoint** (this index)

Purpose, **39:1**

Reference to forensic examination,  
**24:4**

Sample, **39:6 (Form)**

Themes, **39:4**

Trial notebook section, **32:7**

### ORAL ARGUMENT

**Closing Argument** (this index)

Reasonable and necessary medical  
expenses, motion for summary  
judgment, **30:27 (Form)**

### ORDERS OF COURT

In limine motion, **36:1, 36:11, 37:4  
(Form)**

Medical examination of plaintiff,  
order on motion to compel, **23:9  
(Form)**

Trial notebook section, **32:3**

**ORGANIZATIONS**

Deposition of, **19:4**

**ORIGINS OF COLOSSUS**

Generally, **1:2**

**OUTLINES**

**Charts, Checklists, and Outlines**  
(this index)

**OUT-OF-POCKET DAMAGES**

Generally, **15:3**

**OUT-OF-POCKET EXPENSES**

Interrogatories and discovery  
requests topic, **17:1**

**PAIN**

Category entry, **4:1, 13:2**

Chronic pain, medical literature supporting, **49:10**

Competency of lay witness testimony  
about sensory perceptions of  
plaintiff's pain and suffering,  
**35:3**

Damages, **15:3, 17:1**

Diagnosing cervical discogenic pain,  
correlation of magnetic  
resonance imaging and  
discography, **55:1, 61:8**

Interrogatories and discovery  
requests topic, **17:1**

Jury instruction about admissibility  
of plaintiff's statements, trial  
brief provision, **35:3**

Musculoligamentous injury, **3:2, 15:3**

Radiating pain  
medical documentation and  
categorization, **4:1**  
settlement amount under Colossus,  
**4:1**

Refuting validity of whiplash  
injuries, literature regarding  
pain after whiplash, **59:12, 61:34**  
pain compensation, effect of  
eliminating upon insurance  
claims for whiplash, **59:13,**  
**61:35**

Terminology in complaint, **15:3**

Trial brief provision on pain evi-  
dence, **35:3**

**PAIN—Cont'd**

Using medical literature to support,  
**49:10**

**PAIN AND  
DISABILITY/SUFFERING  
DAMAGES**

Generally, **15:3**

Interrogatories and discovery  
requests topic, **17:1**

**PAIN IMPAIRMENT RATINGS**

Permanent impairment as value  
driver, **14:3**

**PARALEGAL**

Jury voir dire assistance, **32:6**

**PARKING EXPENSES**

Damages item, generally, **15:3**  
Interrogatories and discovery  
requests topic, **17:1**

**PARTNERSHIPS**

Deposition of, **19:4**

**PENALTY**

Disclosure of policy limits, failure to  
respond to request for, **13:3**

**PENBERTHY V. CAPRETT**

Bad faith, **47:5**

**PERCENTAGE OF FAULT**

Reporting system, **4:1**

**PERMANENT IMPAIRMENT AS  
VALUE DRIVER**

Generally, **14:1 to 14:3**  
Colossus assessments, increasing,  
**14:1**

Pain impairment ratings, **14:3**  
Spinal impairment ratings, **14:2**

**PERSONAL INJURY  
PROTECTION/MEDICAL PAY  
COVERAGE**

Defined, **10:1**

Delayed payments, lower settlement  
consequences, **10:2, 17:1**

Notifying insurer about attorney-  
client relationship, **10:4 (Form)**

Subpoenaing insurer's claim file,  
**30:5, 30:18 (Form)**

## INDEX

### PERSONAL INJURY

#### PROTECTION/MEDICAL PAY COVERAGE—Cont'd

Tortfeasor's carrier communicating  
with claimant's carrier, **17:1**

### PHOTOGRAPHS

Low impact cases, car photographs,  
**14A:3**

### PHYSICAL THERAPY AND THERAPISTS

Deposition testimony outline  
plaintiff's physical therapist, **19:13**  
(Form)

Evaluation factor for Colossus, **13:2**

High percentage of injured persons  
using, **22:1**

Trial witness for plaintiff, typically,  
**40:2**

### PHYSICIANS

Advocates for patients, **22:3**

Deciding whether to depose, **6:5**

Forensic oriented, **22:3**

Primary treating doctor as trial wit-  
ness for plaintiff, typically, **40:2**

What every adjuster should know  
about, **22:3**

### PIP

Bad faith, **47:2**

### PLEADINGS

Bad faith, drafting pleading, **47:8**

**Complaint** (this index)

Trial notebook section, **32:16**

### POLICE REPORT

Absence of report, in limine motion  
topic, **36:3**

### POLICY LIMITS

Disclosure, **13:3**

Effect on litigation tenor and scope,  
**17:1, 18:5**

Exceeding policy limits, requests for  
admission re special injuries and  
damages, **18:4, 18:7 (Form)**

### POWERPOINT

Advantages, **46:1**

### POWERPOINT—Cont'd

Closing argument

burden of proof, **46:7**

causation, **46:8**

content, basic, **46:6**

eggshell theory, **46:7**

medical examiner's opinions, **46:9**

Content, **46:2**

Depositions, demonstrative video

doctor, **20:4**

Opening statements

causation, **46:5**

happenings, showing, **46:4**

Templates

closing, **46:11**

opening, **46:10**

transparencies, **46:12**

Working with, **46:3**

### PRE-EXISTING CONDITION

Assessment by Colossus, **13:2**

Civil Rule 35 medical examination  
inquiries, **23:2**

Credibility of client, establishing,  
**31:15**

Jury instruction, **37:16 (Form)**

Trial brief provision, **35:3**

### PREJUDGMENT INTEREST

Damages item, generally, **15:3**

### PREJUDICE

**Bias or Prejudice** (this index)

### PRESENTING PLAINTIFF'S CASE IN CHIEF

**Trial** (this index)

### PRESERVATION OF EVIDENCE

Duty of insurer, **15:4**

### PRESUMPTIONS

See also **Burden of Proof** (this  
index)

Spoilation of evidence, **15:4**

### PRE-TEST PROBABILITIES

Generally, **65:1 et seq.**

### PRETRIAL MOTION PRACTICE

**Motions** (this index)

**PRIOR ACCIDENT/MEDICAL RECORDS**

Deciding whether to do obtain, **6:5**  
 In limine motion topic, **36:3**

**PRIOR DRUG USE**

In limine motion topic, **36:3**

**PRIOR TRANSCRIPTS**

Expert witnesses, plaintiff's bar shares information, prior transcripts, and resources, **19:1, 24:1**

**PROCESS AND SERVICE OF PROCESS**

**Service of Process** (this index)

**PROFITS**

Increasing profits by focusing on attorney-represented claimants, **1:3**  
 Policy and means for maintaining profitability, **5:1**

**PROGNOSIS, FORENSIC LITERATURE**

Acceleration-extension injuries, prospective study, **54:7, 61:1**  
 Acute injuries to cervical joints, **54:1, 61:1**  
 Neck injuries from rear-end collisions, **54:2, 61:2**  
 Presenting symptoms and signs after whiplash injury, **54:6, 61:6**  
 Rate of recovery following whiplash injury, **54:5, 61:5**  
 Second whiplash injury, **54:4, 61:4**  
 Soft-tissue injuries of the cervical spine, **54:3, 61:3**  
 Using medical literature to support prognosis, **49:10 to 49:11**

**PROPERTY DAMAGE UNDER ONE THOUSAND DOLLARS**

Reporting system, **4:1**

**PRO REVIEW UTILIZATION REVIEW CONSULTANTS**

Cost containment vendor, **22:2**

**PROXIMATE CAUSE**

Jury instruction, **37:13 (Form)**

**PROXIMATE CAUSE—Cont'd**

Proving, **43:3**

**PUBMED LITERATURE SEARCHES**

Generally, **481 to 485**

**PUNITIVE DAMAGES**

Frivolous or obstructionist conduct of insurer basis, **9:3**

**QUASH**

Discovery, motion to quash, **30:5, 30:18 (Form)**

**QUOTATIONS**

Helpful websites, **51:4**

**RADIATING PAIN**

Medical documentation and categorization, **4:1**  
 Settlement amount under Colossus, **13:2**

**REAR-END COLLISION**

Biomechanics/engineering literature  
 clinical response to rear-end impact, **57:4, 61:17**  
 head/neck kinematic response during low-speed rear-end impacts, **57:3, 61:14 to 61:16**  
 head/neck response during low-speed rear-end impact, **57:2, 61:14, 61:15**  
 Complaint (clear liability)  
 agency-complaint, **15:8 (Form)**  
 simple complaint, **15:5 (Form)**  
 Complaint (property damage, multiple defendants), **15:9 (Form)**  
 Description of Injury mechanism, **49:2**  
 Prognosis of injuries literature, neck injuries from rear-end collisions, **54:2, 61:2**  
 Refuting validity of whiplash injuries, literature regarding human head and neck kinematic after low-velocity rear-end impact, understanding whiplash, **59:6, 61:28**

## INDEX

### REAR-END COLLISION—Cont'd

- Refuting validity of whiplash injuries, literature regarding—Cont'd
  - human subject kinematics and electromyographic activity during rear-end impact, **59:8, 61:30**
  - human subjects, low speed rear-end collision testing using, **59:9, 61:27, 61:31**
  - human test subject kinematic responses to low velocity rear-end impacts, analysis of, **59:5, 61:27**
  - occupant kinematic response to low-velocity rear-end impact, **59:7, 61:29**
- Using medical literature to support injuries, **49:10, 49:11**
- Whiplash** (this index)

### REASONABLENESS AND NECESSITY OF MEDICAL EXPENSES

- Motion for summary judgment, **30:27 (Form)**
- Requests for admission, **18:4**

### RECONSIDERATION

- Motions, generally, **1:23 to 1:25 (Forms)**
- Opposition to motions, **1:24 (Form)**
- Order denying, **1:25 (Form)**

### RECORDS

- Criminal records, deciding whether to do obtain, **6:5**
- Deciding whether to do review, **6:5**
- Employment records
  - deciding whether to do obtain, **6:5**
  - duty of claimant's attorney to obtain, **11:3**
- Exhibit at trial, medical records, **40:6**
- In limine motion, prior accident/medical records, **36:3**
- Insurer's claim file, subpoenaing, **30:5**
- Medical records
  - bias or prejudice on review of records, **22:1 to 22:3**

### RECORDS—Cont'd

- Medical records—Cont'd
  - deciding whether to review, **6:5**
  - exhibit at trial, **40:6**
  - note taking, importance of, **13:2**
- Note taking in medical records, importance of, **13:2**
- Prior accident/medical records
  - deciding whether to do obtain, **6:5**
  - in limine motion topic, **36:3**
- School records, deciding whether to do review, **6:5**

### REFERENCE SEARCH ENGINES

- Helpful websites, **51:7**

### REFUSAL TO HONOR

#### MERITORIOUS CLAIMS

- Duties and strategies of plaintiff's attorney, **7:1 to 7:3**
- Imposing sanction awarding claimant additional attorney's fees, **9:3**
- Policy and practice, **7:1 to 7:3, 13:1, 27:1, 29:1**
- Trial appearance, defendant's refusal, **29:1**

### RELEASES

- Discovery requests, obtaining release from plaintiff, **17:1**

### REPORTS

- Automobile Injuries And Their Compensation In The United States, 1979 publication, generally, **1:1**
- Biomechanic expert, letter to defense attorney, **27:2 (Form)**
- Colossus evaluation system
  - reports generated, generally, **4:3**
  - consultative report produced by, **30:1, 30:2**
- Forensic investigator's sample report on collision, **11:3**
- Insurance Research Council analysis (1999) of auto injury claims, **1:3, 10:2, 22:1**
- Fourth National Survey of auto injury claims, **1:1**

**REPRESENTATION INDICATOR**Reporting system, **4:1****RESERVATION OF RIGHTS BY INSURER**Effect on discovery requests, **17:1**  
Effect on litigation tenor and scope, **17:1****RESTRICTION OF MOVEMENT**Settlement amount under Colossus, **13:2****SANCTIONS**Requests for admission, failure to properly admit within allowed time, **18:1****SCHOOL RECORDS**Deciding whether to do obtain, **6:5****SEAT BELT**Decline in hospital admissions, use as reason for, **22:1**  
Utilization of, **23:2****SECOND LEVEL ADJUSTER****Evaluation Consultant/  
Coordinator** (this index)**SECOND WHIPLASH INJURY DOCTRINE**Generally, **49:2, 54:4, 61:4****SEGMENTATION OF CLAIMS**MIST, **5:1, 29:1****SELECTION OF JURY****Jury** (this index)**SERVICE OF PROCESS**Generally, **16:1**  
According to statute, requirement, **16:3**  
Chart, **16:5 (Form)**  
Courteous copy to tortfeasor's insurer, **16:2, 30:2**  
Deposing insurer when defendant's whereabouts unknown generally, **16:4**  
motion to allow CR 30(b)(6), **16:6 (Form)**  
notice pursuant to CR 30(b)(6), **16:7 (Form), 19:10 (Form)****SERVICE OF PROCESS—Cont'd**

## Forms

chart, **16:5 (Form)**  
deposing insurer when defendant's whereabouts unknown  
motion to allow CR 30(b)(6), **16:6 (Form)**  
notice pursuant to CR 30(b)(6), **16:7 (Form), 19:10 (Form)**  
motion shortening time, deeming answers as admissions, and allowing service by other means, **16:9 (Form)**  
motion to allow CR 30(b)(6), deposing insurer when defendant's whereabouts unknown, **16:6 (Form)**  
motion to allow deposing insurer when defendant's whereabouts unknown, **16:6 (Form)**  
motion to allow service by other means, **16:9 (Form)**  
notice pursuant to CR 30(b)(6), deposing insurer when defendant's whereabouts unknown, **16:7 (Form), 19:10 (Form)**  
requests for admissions to insurer, identification and location of defendant, **16:8 (Form)**  
status log, **16:5 (Form)**  
vehicular accidents  
chart regarding service methods and requirements, **16:5 (Form)**  
status log on service efforts/attempts, **16:5 (Form)**  
Missing defendants problems  
generally, **16:4**  
deposing insurer, supra  
requests for admissions to insurer, infra  
Motion to allow service by other means, **16:9 (Form)**  
Requests for admissions to insurer, identification and location of defendant  
generally, **16:4**

## INDEX

### SERVICE OF PROCESS—Cont'd

- Requests for admissions to insurer, identification and location of defendant—Cont'd
  - form, **16:8 (Form)**
  - motion shortening time, deeming answers as admissions, and allowing service by other means, **16:9 (Form)**
- Status log, **16:5 (Form)**
- Statute of limitations problems, **16:4**

### SETTLEMENT AND COMPROMISE

- Adjuster's role, **5:1, 13:1 to 13:2, 29:1**
- Binding, making any settlement, **13:7**
- Colossus evaluation of claim
  - feeding data to Colossus, **13:2**
  - relationship to settlement, **5:1**
  - use of Colossus software, generally, **4:1, 30:3**
- Demand for settlement
  - generally, **13:3**
  - electronic, **13:4, 13:11 (Form)**
  - sample pre-suit settlement demand by claimant's attorney, **13:10 (Form)**
- Do's and don'ts of negotiation, **13:8**
- Educating claimant about fair claim settlement, sample letters, **5:3**
- Electronic settlement demands, **13:4**
- Evaluation consultant's role, **5:1**
- Feeding Colossus data to evaluate, **13:2**
- Forms
  - demand for settlement
    - electronic, **13:11 (Form)**
    - sample pre-suit settlement demand by claimant's attorney, **13:10 (Form)**
  - letters to tortfeasor's insurer
    - initial letter, **13:9 (Form)**
    - reminder letter, **13:12 (Form)**
- Incentives for adjuster maintaining less than 102% of Colossus amounts, **5:1**
- Inducing low settlements, denial or delay of medical payments or

### SETTLEMENT AND

#### COMPROMISE—Cont'd

- biased paper reviews, **10:2, 17:1**
  - Inflation in MIST settlements, **5:1**
  - Initial letter to tortfeasor's insurer, **13:9 (Form)**
  - Insurance companies, generally, **13:1, 29:1**
  - Letters to tortfeasor's insurer
    - initial letter, **13:9 (Form)**
    - reminder letter, **13:12 (Form)**
  - Litigation consultant, **6:2, 29:1**
  - Negotiation
    - generally, **29:1**
    - arrogance and methods of insurer, **13:1 to 13:2**
    - disclosure of policy limits prerequisite, **13:3**
    - do's and don'ts, **13:8**
    - feeding data to Colossus for evaluation, **13:2**
    - retraction of offer, **13:3, 13:5**
    - steps of, **13:6**
    - use of Colossus software, generally, **4:1, 30:3**
  - Offer to settle. Demand for settlement, *supra*
  - Personal injury protection/medical pay coverage, effect of, **10:2, 17:1**
  - Plaintiff's overtures, **13:3**
  - Relationship to Colossus evaluation amounts, **5:1**
  - Reminder letter, **13:12 (Form)**
  - Retraction of offer, **13:3, 13:5**
  - Steps, synopsis of settlement-related, **13:6**
  - Take it or leave it approach of insurer, **13:1, 13:3, 29:1**
  - Unrepresented claimants, adjuster's handling of, **5:3, 9:1, 16:4, 17:1**
  - Use of Colossus software, **4:1, 30:3**
- ### SEVEN WONDERS OF THE ANCIENT WORLD
- Generally, **1:2**
- ### SHOULDER BELT
- Description of injury mechanism, **49:2**

**SHOULDER HARNESS**

Utilization of, **23:2**

**SIDE IMPACT PROTECTION**

Decline in hospital admissions, reason for, **22:1**

**SKELETONS**

Exhibit at trial, **40:6**

**SLIDESHOWS**

**PowerPoint** (this index)

**SOCIAL MEDIA**

Generally, **21:1 et seq.**

Discovery, generally, **21:1 et seq.**

Document requests, **21:7**

Formal discovery, **21:5**

Forms

do's and don'ts (Form), **21:13**

memorandum in opposition (Form), **21:16**

motions to compel authorizations, **21:19, 21:20 (Forms)**

motion to compel supporting brief (Form), **21:15**

order adopting magistrate's report (Form), **21:12**

order determining no expectation of privacy (Form), **21:14**

order sanctioning plaintiff (Form), **21:11**

orders regarding requests for production (Forms), **21:17, 21:18**

Informal investigation, **21:2, 21:3**

Interrogatories, **21:7**

Methods of obtaining information, **21:6, 21:7**

Privacy, **21:8**

Relevance and scope of discovery, **21:9**

Spoilation issues, **21:4**

Subpoenas, **21:6**

Weight of evidence, **21:10**

**SPASM OF MUSCLE**

Diagnosis, acceptance by Colossus, **13:2**

**SPECIAL INVESTIGATIONS UNITS (SIU)**

Creation of, **1:1**

Litigation tactics and protocol, **6:6**

**SPECIALS UNUSUAL**

Reporting system, **4:1**

**SPECIAL VERDICT**

Jury instruction, **37:23 (Form)**

**SPECULATION**

Witness testimony, **40:5**

**SPEECHES**

Helpful websites, **51:1**

**SPEED/FORCE INJURY**

**Biomechanics and Engineering** (this index)

**SPINAL IMPAIRMENT RATINGS**

Permanent impairment as value driver, **14:2**

**SPINAL SOFT TISSUE INJURIES**

**Musculoligamentous Injury** (this index)

**SPINE**

Description of injury mechanism, **49:2**

Pre-existing spinal degeneration, forensic literature, **57:7, 61:20**

Soft-tissue injuries of the cervical spine, prognosis, **54:3, 61:3**

Spine Research Institute of San Diego, **52:8**

Whiplash

direct and indirect trauma injury descriptions, **49:2**

**SPINE RESEARCH INSTITUTE OF SAN DIEGO**

Generally, **52:8**

**SPOILIATION OF EVIDENCE**

Generally, **15:4**

**SPORTS**

Effect on auto accidents, **3:2**

## INDEX

### **SPRAINED NECK OR BACK**

**Musculoligamentous Injury** (this index)

### **STANDARD OF PROOF**

**Burden of Proof** (this index)

### **STATEMENT BY CLAIMANT TO INSURER**

Generally, **11:1**

Duty of claimant's attorney to obtain, **11:3**

### **STATE OF WASHINGTON TRIAL BAR**

Using email list serves to discuss, develop, and exchange motions and strategies, **30:1**

### **STATISTICS**

Epidemiology, evaluation of, **49:8**

Helpful websites, **51:5**

Motor vehicle crashes deaths and injuries, generally, **49:1, 49:3**

### **STEERING WHEEL**

Description of injury mechanism, **49:2**

Whiplash direct trauma injury description, **49:2**

### **STOIC PLAINTIFF**

Trial testimony preparation, **34:3**

### **SUBPOENA**

Deposition of entities, **19:4**

Discovery process

deposition of entities, **19:4**

forensic medical examiner, subpoena duces tecum to, **24:5 (Form)**

insurer's claim file, quashing subpoena for, **30:5, 30:18 (Form)**

Forensic medical examiner, subpoena duces tecum to, **24:5 (Form)**

Forms

discovery process

forensic medical examiner, subpoena duces tecum to, **24:5 (Form)**

### **SUBPOENA—Cont'd**

Forms—Cont'd

discovery process—Cont'd

insurer's claim file, quashing subpoena for, **30:5, 30:18 (Form)**

forensic medical examiner, subpoena duces tecum to, **24:5 (Form)**

insurer's claim file, quashing subpoena for, **30:5, 30:18 (Form)**

trial attendance, **40:8 (Form)**

Insurer's claim file, quashing subpoena for, **30:5, 30:18 (Form)**

Trial attendance, **40:8 (Form)**

### **SUBSEQUENT UNRELATED INJURIES OR MEDICAL TREATMENT**

In limine motion topic, **36:3**

### **SUDDEN EMERGENCY DOCTRINE**

Generally, **43:2**

### **SUMMARY JUDGMENT**

Burden of proof, **43:3**

Liability, motion grounds, **29:2, 30:23 (Form)**

Motion

liability grounds, **30:23 (Form)**

practice tips, **30:6**

reasonable and necessary medical expenses grounds, **30:27 (Form)**

trial notebook section, **32:4**

Reasonable and necessary medical expenses, motion grounds, **30:27 (Form)**

Trial notebook section, **32:4**

### **SUMMARY OF CLAIMS**

Jury instruction, **37:14 (Form)**

### **SURVEILLANCE**

Cautioning client about, **9:2**

Deciding whether to do, **6:5**

Interrogatories and requests for production, **18:1**

**SYMPTOMS' TIMELINE**

Civil Rule 35 medical examination inquiry, **23:2**

**TASTAD VS. ALLSTATE**

Colossus software program, **1:8**

**TAXATION**

In limine motion issue, **36:3**  
Tax returns, obtaining from client, **11:3**

**TAX RETURNS**

Obtaining from client, **11:3**

**TEMPORALMANDIBULAR**

Diagnosis, evaluation by Colossus, **13:2**

**THIRD PARTY**

Bad faith, **47:3**

**THRESHOLD OF INJURY, DETERMINING**

Generally, **49:6**

**TIME**

Attorney's travel time, compensation, **6:5**

Directed verdict motion, **43:1**

Discovery requests, timeliness of admission, requests for, **18:1**  
interrogatories and requests for production, **17:1**

Discovery responses, timeliness of, **17:2, 30:7**

Educating claimant about fair claim settlement, **5:3**

Global metric time services website, **51:1**

**Medical Examiners and Examinations, Defense** (this index)

Motion shortening time, deeming answers as admissions, and allowing service by other means, **16:9 (Form)**

Objections, asserting at trial, **41:3**

Policy limits, disclosure of, **13:3**

Requests for admissions, **16:9 (Form), 18:1**

Symptoms timeline inquiry, CR 35 medical exam, **23:2**

**TIME—Cont'd**

Witness disclosure time periods, **30:7**

**TIMELINE OF SYMPTOMS**

Civil Rule 35 medical examination inquiry, **23:2**

**TORTIOUS INTERFERENCE WITH CONTRACT**

Colossus software program, **47:7**

**TRANSCRIPTS**

Expert witnesses, plaintiff's bar shares information, prior transcripts, and resources, **19:1, 24:1**

**TREATING PHYSICIAN**

Deciding whether to depose, **6:5**

**TRIAL**

Aggressive advocacy and civility concepts, **41:2**

Appearance or attendance  
notice of trial attendance, **40:3, 40:7 (Form)**

sequencing trial witnesses, **40:2**  
subpoena for trial attendance, **40:8 (Form)**

Attorney's behavior, **41:2**

Brief. **Trial Brief** (this index)

Civility of trial attorney, **41:2**

**Closing Argument** (this index)

Countering the defense

generally, **41:1**

civility matters, **41:2**

common dilemmas, **41:4**

objections, quick reference sheet, **41:5 (Form)**

objections, working knowledge of, **41:3**

Courtroom demeanor, **41:2**

**Directed Verdict** (this index)

Exhibits

health care providers evidence, **40:6**

objections to, **41:5**

Flow chart, **32:20 (Form), 32:21 (Form)**

Judgment as matter of law, **43:3**

## INDEX

### TRIAL—Cont'd

- Notebook. **Trial Notebook** (this index)
- Notice of trial attendance, **40:7 (Form)**
- Objections** (this index)
- Opening Statements** (this index)
- Outline of closing argument, **44:7 (Form)**
- Outline of direct examination of
  - defendant, **40:9 (Form)**
  - lay witness, **40:11 (Form)**
  - plaintiff, **40:10 (Form)**
  - treating health care provider, **40:12 (Form)**
- Outline of opening statement, **39:3**
- Presenting plaintiff's case in chief
  - generally, **40:1**
  - defendant, interrogating the defendant
    - generally, **40:3**
    - outline direct examination, **40:9 (Form)**
  - health care providers
    - generally, **40:6**
    - outline direct examination, **40:12 (Form)**
  - lay witnesses
    - generally, **40:5**
    - outline direct examination, **40:11 (Form)**
  - notice of trial attendance, **40:7 (Form)**
  - outline of direct examination of
    - defendant, **40:9 (Form)**
    - lay witness, **40:11 (Form)**
    - plaintiff, **40:10 (Form)**
    - treating health care provider, **40:12 (Form)**
  - plaintiff, interrogating
    - generally, **40:4**
    - outline of direct examination of, **40:10 (Form)**
    - subpoena for trial, **40:8 (Form)**
    - usual plaintiff witnesses, list, **40:2**
- Sequencing trial witnesses, **40:2**
- Strategy. Presenting plaintiff's case in chief, *supra*

### TRIAL—Cont'd

- Subpoena for trial, **40:8 (Form)**
  - Witnesses, sequencing of, **40:2**
- ### TRIAL BAR OF STATE OF WASHINGTON
- State of Washington Trial Bar** (this index)
- ### TRIAL BRIEF
- Generally, **35:1**
  - MIST considerations, **35:2**
  - Sample, trial brief, **35:3 (Form), 35:4 (Form)**
  - Trial notebook section, **32:3**
  - Trial** (this index)
- ### TRIAL NOTEBOOK
- Generally, **32:1**
  - Briefs, **32:3**
  - Closing argument, **32:13**
  - Defendant
    - generally, **32:10**
    - witnesses of, **32:11**
  - Divider format, **32:1, 32:17 (Form)**
  - Evidence
    - generally, **32:5**
    - chart, **32:22 (Form), 32:23 (Form)**
  - Format, **32:1, 32:17 (Form)**
  - Jury
    - instructions, **32:12**
    - voir dire, generally, **32:6**
    - voir dire chart, **32:24 (Form)**
  - Law, **32:15**
  - Motions, **32:3**
  - Objections
    - generally, **32:14**
    - quick reference sheet, **41:5 (Form)**
  - Opening statement, **32:7**
  - Orders of court, **32:3**
  - Plaintiff
    - generally, **32:8**
    - witness chart, **32:18 (Form), 32:19 (Form)**
    - witnesses of plaintiff, generally, **32:9**
  - Pleadings, **32:16**
  - Summary judgment, **32:4**

**TRIAL NOTEBOOK—Cont'd**

- To do section
  - generally, **32:2**
  - trial flow chart, **32:20 (Form), 32:21 (Form)**
- Trial flow chart, **32:20 (Form), 32:21 (Form)**
- Trial orders, motions, and briefs, **32:3**
- Voir dire
  - generally, **32:6**
  - chart, **32:24 (Form)**
- Witnesses of defendant, **32:11**
- Witnesses of plaintiff
  - generally, **32:9**
  - chart, **32:18 (Form), 32:19 (Form)**

**TRIGGER POINT INJECTIONS**

- Generally, **4:1**

**TRUST RELATIONSHIPS**

- Unrepresented claimants, adjuster's objective regarding, **5:3, 9:1, 16:4, 17:1**

**UNAVOIDABLE ACCIDENT**

- In limine motion topic, **36:3**

**UNDERINSURED MOTORISTS**

- Attorney-client relationship, notifying first party carrier about, **10:5 (Form)**
- Definition of policy, **10:1**

**UNINSURED MOTORISTS**

- Attorney-client relationship, notifying first party carrier about, **10:5 (Form)**
- Definition of policy, **10:1**

**UNRELIABLE EXPERT TESTIMONY**

- Expert Witnesses and Testimony** (this index)

**UNREPRESENTED CLAIMANTS**

- Insurer's handling of, **5:3, 9:1, 16:4, 17:1**
- Service of process on insured, **16:4**

**VALUATION**

- Diminution in value, damaged vehicles, **15:3, 17:1**

**VEHICLE DAMAGE**

- Absence of significant damage but increasing incidence of whiplash, **49:4**
- Complaint (rear-end collision, property damage, multiple defendants), **15:9 (Form)**
- Diminution in value, **15:3, 17:1**
- Disclosure of body shop estimators, **17:1**
- Expenses recoverable, **15:3**
- Forensic literature, relationship between vehicle damage and injury
  - generally, **49:3**
  - increasing incidence of whiplash in absence of significant vehicle damage, **49:4**
  - vehicle damage and injury delta vs crash pulse, relationship between, **57:8, 61:21**
  - vehicle damage bears no relationship to injury, **57:5, 61:18, 61:19**
- Interrogatories and discovery requests topic, **17:1**
- Loss of use of vehicle, **15:3**
- Mechanic, typically trial witness for plaintiff, **40:2**
- Relationship between damage and injury. Forensic literature, supra
- Repairs
  - body shop estimators, disclosure of, **17:1**
  - mechanic, typically trial witness for plaintiff, **40:2**
- Reporting system, **4:1**
- Service of process
  - chart regarding service methods and requirements, **16:5 (Form)**
  - status log on service efforts/ attempts, **16:5 (Form)**
- Service of process chart, vehicular accidents, **16:5 (Form)**

## INDEX

### VERDICT, DIRECTED

Directed Verdict (this index)

### VIDEOTAPES

Depositions (this index)

Exhibit at trial, 40:6

Medical examinations, 25:4, 25:11  
(Form)

### VISION DISTURBANCE

Diagnosis, evaluation by Colossus,  
13:2

### VOCATIONAL EXAMINATION OF PLAINTIFF

Generally, 23:1

### VOID AND VOIDABLE CONDUCT

Failure of insured to cooperate, effect  
on policy coverage, 16:2

### VOIR DIRE

Generally, 38:1, 38:2

Case study, 38:3

Challenges for cause, 38:7

Challenging the jury, 38:4 to 38:7

Defendant's proposed questions,  
38:12

Discussion point outline, 38:8  
(Form)

For cause challenges, 38:6, 38:10  
(Form)

Peremptory challenges, 38:5

Plaintiff's general questions, 38:9  
(Form)

Plaintiff's memorandum of law  
regarding bias, 38:13 (Form)

Plaintiff's proposed questions, 38:11

Practical considerations, 38:2

Trial notebook chart, 32:6, 32:24  
(Form)

### WEB SITES

Achoo, 52:5

Almanacs, 51:2

Attorney's web site, placing client  
intake form on, 8:2

Boolean Searching, 52:4

Computer Sciences Corporation, 1:2

Encyclopedias, 51:2

HealthAtoZ, 52:5

### WEB SITES—Cont'd

Healthfinder, 52:5

Health Web, 52:5

Helpful web sites, generally, 51:1 to  
51:7, 52:5 to 52:8

Injury Forum, 52:8

Injury Resources, 52:8

Insurance Research Council, 1:1

Internet Grateful Med, 52:5

Language, 51:3, 52:4

Library catalogs, 51:6

Litigation support for attorneys, 52:8

Medical Legal Art, 52:8

Medical Matrix, 52:5

Medical World Search, 52:5

Medis Search, 52:5

Medscape, 52:5

MedScout, 52:5

National Library of Medicine, 52:5

Power Searching 101, 52:6

Quotations, 51:4

Reference search engines, 51:7, 52:7

Spine Research Institute of San  
Diego, 52:8

Statistics, 51:5

### WELLS V. ALLSTATE CLASS ACTION

Bad faith, 47:6

### WHIPLASH

Associated disorders, 58:3, 61:23

Definitions, 49:2

Description of injury mechanism,  
49:2

Disc pathology after whiplash, 55:5,  
61:11

Findings and outcome in whiplash  
neck distortions, 55:6, 61:12

**Musculoligamentous Injury** (this  
index)

Pre-existing spinal degeneration,  
relationship to whiplash  
symptoms, 57:7, 61:20

Rate of recovery following whiplash  
injury, 54:5, 61:5

Refuting validity of whiplash  
injuries, literature regarding  
acceleration perturbations, 59:10,  
61:32

**WHIPLASH—Cont'd**

- Refuting validity of whiplash injuries, literature regarding—Cont'd
  - Biodynamics Research Corporation (BRC), **59:4**
  - crash-test literature, **59:1**
  - human head and neck kinematic after low-velocity rear-end impact, understanding whiplash, **59:6, 61:28**
  - human subject kinematics and electromyographic activity during rear-end impact, **59:8, 61:30**
  - human subjects, low speed rear-end collision testing using, **59:9, 61:27, 61:31**
  - human test subject kinematic responses to low velocity rear-end impacts, analysis of, **59:5, 61:27**
  - junk science. Junk science, supra kinematics and kinetics of the human neck, **59:2, 61:25**
  - methodological critique of literature refuting whiplash syndrome, **58:2, 61:22**
  - natural evolution of late whiplash syndrome, **59:11, 61:33**
  - occupant kinematic response to low-velocity rear-end impact, **59:7, 61:29**
  - pain after whiplash, **59:12, 61:34**
  - pain compensation, effect of eliminating upon insurance claims for whiplash, **59:13, 61:35**
  - strength and response of the human neck, **59:3, 61:26**
- Relationship between vehicle damage and injury, **49:3, 49:4**
- Second whiplash injury, **49:2, 54:4, 61:4**
- Statistics, **49:1, 49:3**

**WITNESS IDENTIFICATION AND TESTIMONY**

- Abusive questioning at trial, **41:3**

**WITNESS IDENTIFICATION AND TESTIMONY—Cont'd**

- Argumentative questions, using at trial, **41:3, 41:5**
- Availability bias concept, **40:2**
- Biomechanics and Engineering** (this index)
- Coaching the witness at trial, **41:5**
- Conjecture, **40:5**
- Co-workers witnesses, disclosure of, **17:1**
- Cutting off witness answers, **41:5**
- Deciding whether to depose witness, **6:5**
- Defendant as trial witness for plaintiff
  - generally, **40:2**
  - interrogating defendant, **40:3**
  - refusal of defendant to appear, **40:3**
- Defense testimony
  - generally, **63:1, 63:2, 63:3 (Form)**
  - accident reconstruction testimony, **63:1, 63:2, 63:3 (Form)**
  - affidavit for motion to strike, **63:3 (Form)**
  - biomechanical testimony, **63:1, 63:2, 63:3 (Form)**
  - cross-examination of treating physician at discovery deposition, **63:2**
  - deposition, **63:2**
  - engineering testimony, **63:1, 63:2, 63:3 (Form)**
  - motion to strike, **63:3 (Form)**
  - nature of, **49:7**
- Direct examination testimony at trial
  - defendant's examination, **40:9 (Form)**
  - health care provider's examination, **40:12 (Form)**
  - lay witness's examination, **40:11 (Form)**
  - medical examiner, **27:3**
  - plaintiff's examination, **40:10 (Form)**
- Discovery or disclosure
  - deciding whether to depose witness, **6:5**

## INDEX

### WITNESS IDENTIFICATION AND TESTIMONY—Cont'd

- Discovery or disclosure—Cont'd
  - duty of claimant's attorney to obtain identification of witnesses, **11:3**
  - interrogatories and discovery requests topic, witness identification and date, **17:1**
  - motion to strike designated witness, **30:7, 30:29 (Form)**
  - work product doctrine, witness statements, **17:1**
- Duty of claimant's attorney to obtain identification of witnesses, **11:3**
- Excluding nonparty witnesses from courtroom, **36:3**
- Expert Witnesses and Testimony** (this index)
- Eye Witnesses to Collision** (this index)
- Failure to call witness, in limine motion topic, **36:3**
- Form of the question, Evidence Rule 611, **41:5**
- Gestures or signals to witness, **41:5**
- Harassing the witness at trial, **41:5**
- Health care providers as trial witness for plaintiff
  - generally, **40:6**
  - direct examination outline, **40:12 (Form)**
- Hostile trial witness, **40:3**
- Hypothetical, **40:5**
- Impeachment of witness, **40:3**
- Interrogatories and discovery requests topic, witness identification and date, **17:1**
- Lay witnesses
  - direct examination testimony, outline, **40:11 (Form)**
  - plaintiff's case in chief, generally, **40:5**
  - preparing for trial, **34:6**
  - sensory perceptions of plaintiff's pain and suffering, competency of lay witness testimony, **35:3**

### WITNESS IDENTIFICATION AND TESTIMONY—Cont'd

- Leading questions, using at trial, **40:3, 41:3, 41:5**
- Motion to strike designated witness, **30:7, 30:29 (Form)**
- Objections to testimony. Objections, this index
- Open questions, using at trial, **40:3**
- Pain and suffering of plaintiff, competency of lay witness testimony, **35:3**
- Plaintiff as trial witness
  - generally, **40:2**
  - preparing the plaintiff, **34:1 to 34:4**
  - questioning the plaintiff, **40:4**
- Plaintiff as trial witness, preparing
  - generally, **34:1**
  - additional preparation, **34:4**
  - emotional plaintiff, **34:2**
  - stoic plaintiff, **34:3**
- Plaintiff's usual trial witnesses, list, **40:2**
- Preparing trial witnesses
  - expert witnesses, **34:7**
  - health care providers, **34:7**
  - lay witnesses, **34:6**
  - plaintiff, **34:1 to 34:4**
- Presentation of trial witnesses, generally, **40:2**
- Rebuttal witness, **40:2**
- Reporting system, **4:1**
- Sensory perceptions of plaintiff's pain and suffering, competency of lay witness testimony, **35:3**
- Sequencing trial witnesses, **40:2**
- Speculation, **40:5**
- Techniques of questioning trial witnesses, **41:3, 41:4**
- Trial notebook sections
  - defendant as witness, **32:10**
  - defendant's witnesses, **32:11**
  - plaintiff as witness, **32:8**
  - plaintiff's witnesses
    - generally, **32:9**
    - chart, **32:18 (Form), 32:19 (Form)**

**WITNESS IDENTIFICATION AND TESTIMONY—Cont'd**

Trial witnesses, generally preparing. Preparing trial witnesses, supra  
 rebuttal, **40:2**  
 sequencing of, **40:2**  
 techniques of questioning, **41:3, 41:4**  
 trial notebook sections. Trial notebook sections, supra  
 Work product doctrine, witness statements, **17:1**

**WORDS AND PHRASES**

Acute sprain, **3:2**  
 Biomechanic, **27:1**  
 Bodily injury liability coverage, **10:1**  
 Civility concept, **41:2**  
 Clinical testimony, **49:7**  
 Comprehensive medical review, **22:2**  
 Direct injury or trauma, **49:2**  
 Epidemiology, **49:8**  
 Force of impact, **23:2**  
 Independent medical examination, **22:2**  
 Indirect injury or trauma, **49:2**  
 Insurance, **5:1**  
 Junk science, **49:7**  
 Low damage crash, **49:5**  
 Low impact soft tissue injury (LIST), **49:5**

**WORDS AND PHRASES—Cont'd**

Low speed crash, **49:5**  
 Malingering, insurer's manual provision, **8:4**  
 Mechanics of impact, **23:2**  
 Minor impact soft tissue injury (MIST), **49:5**  
 Negotiation, **13:1**  
 Personal injury protection/medical pay coverage, **10:1**  
 Soft tissue injury, **49:5**  
 Spoliation of evidence, **15:4**  
 Trend (evaluation consultant), **5:1**  
 Types of insurance coverage, **10:1**  
 Underinsured motorist coverage, **10:1**  
 Uninsured motorist coverage, **10:1**  
 Whiplash, **49:2**

**WORKER'S COMPENSATION CLAIM**

In limine motion topic, **36:3**

**WORK PRODUCT DOCTRINE**

Witness statements, **17:1**

**WORLDWIDE AUDITING SERVICES**

Cost containment vendor, **22:2**

**X-RAYS**

Exhibit at trial, **40:6**

## Index to Forms

### ADMISSIONS, REQUEST FOR

#### Damages

form re special injuries, damages, and potential excess, **18:7 (Form)**

#### Forms re admissions requests

liability and general matters, **18:6 (Form)**

motion shortening time, deeming answers as admissions, and allowing service by other means, **16:9 (Form)**

special injuries, damages, and potential excess, **18:7 (Form)**  
to insurer regarding identification and location of defendant, **16:8 (Form)**

#### Insurance coverage

forms, admission requests re liability and general matters, **18:6 (Form)**

special injuries, damages, and potential excess, **18:7 (Form)**

#### Jurisdictional matters

form re liability and general matters, **18:6 (Form)**

#### Liability

form re liability and general matters admissions request, **18:6 (Form)**

#### Service of process problems, requests for admissions to insurer regarding

identification and location of defendant

general form, **16:8 (Form)**

motion shortening time, deeming answers as admissions, and allowing service by other means, **16:9 (Form)**

### AMENDMENT OF COMPLAINT

Motion for leave to amend, **30:10 (Form)**

### APPEARANCE AT TRIAL

Notice of trial attendance, **40:7 (Form)**

Subpoena for trial attendance, **40:8 (Form)**

### ATTENDANCE

Notice of trial attendance, **40:7 (Form)**

Subpoena for trial attendance, **40:8 (Form)**

### ATTORNEY-CLIENT RELATIONSHIP

#### Formalizing the relationship

contingency fee retainer agreement, **9:4 (Form)**

initial client letter, **9:5 (Form), 9:6 (Form)**

list of instructions and suggestions for client, **9:6 (Form)**

#### Forms

##### formalizing the relationship

contingency fee retainer agreement, **9:4 (Form)**

enclosure to initial client letter, list of instructions and suggestions for client, **9:6 (Form)**

initial client letter, **9:5 (Form), 9:6 (Form)**

##### initial contact

basic inquiry data form, **8:5 (Form)**

detailed inquiry data form, **8:6 (Form)**

prospective client letter regarding intake form, **8:7 (Form)**

telephone intake form, **8:4 (Form)**

##### notifying insurer

initial letter to first party carrier (PIP/MedPay), **10:4 (Form)**

**ATTORNEY-CLIENT****RELATIONSHIP—Cont'd**

## Forms—Cont'd

## notifying insurer—Cont'd

initial letter to first party carrier  
(UM/UIM), **10:5 (Form)**initial letter to third party carrier  
(BI), **10:6 (Form)**Initial client letter, **9:5 (Form)**Initial client letter enclosure, list of  
instructions and suggestions, **9:6  
(Form)**

## Initial contact by client

basic inquiry data form, **8:5  
(Form)**detailed inquiry data form, **8:6  
(Form)**prospective client letter regarding  
intake form, **8:7 (Form)**telephone intake form, **8:4 (Form)**

## Intake process of attorney

basic inquiry data checklist form,  
**8:5 (Form)**

## checklist forms

basic inquiry data form, **8:5  
(Form)**detailed inquiry data form, **8:6  
(Form)**prospective client letter for  
intake form, **8:7 (Form)**telephone intake form, **8:4  
(Form)**detailed inquiry data checklist  
form, **8:6 (Form)**prospective client letter regarding  
intake data checklist form, **8:7  
(Form)**telephone intake form, initial  
contact, **8:4 (Form)**

## Notifying insurer

initial letter to first party carrier  
(PIP/MedPay), **10:4 (Form)**initial letter to first party carrier  
(UM/UIM), **10:5 (Form)**initial letter to third party carrier  
(BI), **10:6 (Form)**Prospective client letter regarding  
intake data checklist form, **8:7  
(Form)****ATTORNEY-CLIENT****RELATIONSHIP—Cont'd**Telephone intake checklist form,  
initial contact, **8:4 (Form)****ATTORNEYS' FEES**Contingency fee retainer agreement,  
**9:4 (Form)**

## Forms

generally, **48:3 et seq. (Forms)**findings of fact, **48:4 (Form)**judgment, **48:5 (Form)**motion for fees and costs, **48:3  
(Form)****BAD FAITH**Combination tortfeasor and sue us  
clause complaint, **47:22 (Form)**Forms, **47:10-47:30 (Forms)**Sue us clauses, **47:9 (Form)****BIOMECHANICS AND  
ENGINEERING**Accident reconstruction expert  
generally, **63:3 (Form)**affidavit for motion to strike, **63:3  
(Form)**Juror bias, motion in limine to  
preclude biomechanical  
engineer, **66:2 (Form)**Jury instruction, speed, **37:12 (Form)**

## Witness/expert

cross examination of biomechanics  
witnessoutline listing inquiry topics,  
**27:4 (Form)**excluding biomechanic witness  
from testifying at triallaw memorandum supporting  
motion, **28:4 (Form)**motion, **28:5 (Form)**outline for cross examination of  
biomechanics witness, **27:4  
(Form)**report of biomechanic expert as  
letter to defense attorney,  
**27:2 (Form)****BODILY INJURY POLICY**Notifying third party insurer about  
attorney-client relationship, **10:6  
(Form)**

## INDEX TO FORMS

### **BODILY INJURY POLICY—Cont'd**

Requests for admission regarding insurance coverage, **18:6 (Form)**, **18:7 (Form)**

### **BURDEN OF PROOF**

Jury instruction, **37:15 (Form)**  
Jury instruction (demonstrative), **44:8 (Form)**

### **CAUSATION**

Directed verdict motion, **43:5 (Form)**  
Proximate cause  
jury instruction, **37:13 (Form)**

### **CHARTS, CHECKLISTS, AND OUTLINES**

Attorney-client relationship, intake process of attorney  
basic inquiry data form, **8:5 (Form)**  
detailed inquiry data form, **8:6 (Form)**  
prospective client letter for intake form, **8:7 (Form)**  
telephone intake form, **8:4 (Form)**  
Closing argument outline, **44:7 (Form)**  
Cross examination of biomechanics witness, outline, **27:4 (Form)**  
Deposition testimony outline  
defendant's deposition, **19:8 (Form)**  
defense medical examiner's deposition, **24:6 (Form)**  
expert's deposition, **19:9 (Form)**  
plaintiff and lay witnesses deponents, **19:12 (Form)**  
plaintiff's physical therapist, **19:13 (Form)**  
Direct examination at trial, outline  
defendant, **40:9 (Form)**  
lay witness, **40:11 (Form)**  
plaintiff, **40:10 (Form)**  
treating health care provider, **40:12 (Form)**  
Foundation evidence, charting, **32:22 (Form)**, **32:23 (Form)**

### **CHARTS, CHECKLISTS, AND OUTLINES—Cont'd**

Jury voir dire  
discussion topics outline, **38:8 (Form)**  
trial notebook chart, **32:24 (Form)**  
Plaintiff witnesses chart, **32:18 (Form)**, **32:19 (Form)**  
Service of process chart, vehicular accidents, **16:5 (Form)**  
Trial flow chart, **32:20 (Form)**, **32:21 (Form)**

### **CHIROPRACTIC SERVICES**

Jury instruction, **37:18 (Form)**

### **CIRCUMSTANTIAL EVIDENCE**

Jury instruction, **37:8 (Form)**

### **CLOSING ARGUMENT**

Burden of proof demonstrative instruction, **44:8 (Form)**  
Sample outline, **44:7 (Form)**

### **COMPLAINT**

Generally, **1:14 (Form)**  
Amendment of complaint  
motion for leave to amend, **30:10 (Form)**  
Facts section of complaint  
intersection collision, **15:10 (Form)**  
Intersection collision, complaint fact section, **15:10 (Form)**  
Rear-end collision  
clear liability  
agency-complaint, **15:8 (Form)**  
simple complaint, **15:5 (Form)**  
property damage, multiple defendants, **15:9 (Form)**

### **COPIES OF INSURER'S FILE ON CLAIMANT, OBTAINING**

Letters of notice and request, **10:4 to 10:6 (Forms)**

### **COVERAGE UNDER INSURANCE POLICY**

Admissions about insurance coverage liability and general matters, admissions regarding, **18:6 (Form)**

**COVERAGE UNDER INSURANCE  
POLICY—Cont'd**

Admissions about insurance coverage  
—Cont'd  
special injuries, damages, and  
potential excess, admissions  
regarding, **18:7 (Form)**

**CROSS-EXAMINATION**

Biomechanics witness, **27:4 (Form)**  
Medical examiner, defenses, **24:8  
(Form)**

**DAMAGES**

Exceeding policy limits, requests for  
admission re special injuries and  
damages, **18:7 (Form)**  
Jury instructions, **37:19 (Form)**  
Measure of damages, jury instruction,  
**37:19 (Form)**  
Requests for admission topic, **18:7  
(Form)**

**DECLARATION OF HEALTH  
CARE PROVIDER**

Form, **30:28 (Form)**

**DEFAULT, ENTRY OF**

Motion for entry of default, **30:9  
(Form)**

**DEPOSITIONS**

CR 30(b)(6) deposition, notice pursu-  
ant to, **16:7 (Form), 19:10  
(Form)**  
Defendant and defense witnesses,  
taking the deposition of  
claims adjuster, **19:13 (Form)**  
notice to defendant's insurance  
claims adjusters, **19:11  
(Form)**  
outline, **19:8 (Form)**  
Expert, deposition of  
outline, **19:9 (Form)**  
Forms  
defendant deponent, outline, **19:8  
(Form)**  
defendant's insurer, CR 30(b)(6)  
notice of deposition following  
futile attempt at service on  
defendant, **16:7 (Form),  
19:10 (Form)**

**DEPOSITIONS—Cont'd**

Forms—Cont'd  
expert deponent, outline, **19:9  
(Form)**  
jury instruction, **37:21 (Form)**  
plaintiff and lay witnesses  
deponents, outline for prepar-  
ing, **19:12 (Form)**  
Jury instruction, **37:21 (Form)**  
Outline, preparing for deposition  
defendant's deposition, **19:8  
(Form)**  
defense medical examiner's depo-  
sition, **24:6 (Form)**  
expert's deposition, **19:9 (Form)**  
plaintiff and lay witnesses  
deponents, **19:12 (Form)**  
Plaintiff and plaintiff witnesses,  
defending the deposition of  
outline to prepare plaintiff and law  
witnesses, **19:12 (Form)**

**DIRECTED VERDICT**

Sample motion, **43:5 (Form)**

**DIRECT EXAMINATION AT  
TRIAL**

Defendant's examination, **40:9  
(Form)**  
Health care provider's examination,  
**40:12 (Form)**  
Lay witness's examination, **40:11  
(Form)**  
Plaintiff's examination, **40:10  
(Form)**

**DISCOVERY**

Compel discovery, motion to, **30:11  
(Form)**  
Forms  
compel discovery, motion to, **1:16  
to 1:18 (Forms), 30:11  
(Form)**  
obtaining copies of insurer's file on  
claimant via notice of  
attorney-client relationship  
with claimant, letters of notice  
and request, **10:4 to 10:6  
(Forms)**  
quash discovery, motion to, **30:18  
(Form)**

## INDEX TO FORMS

### **DISCOVERY—Cont'd**

- Forms—Cont'd
  - requests, **1:15 (Form)**
- Obtaining copies of insurer's file on claimant via notice of attorney-client relationship with claimant
  - letters of notice and request, **10:4 to 10:6 (Forms)**
- Quash discovery, motion to, **30:18 (Form)**
- Social Media** (this index)

### **DUTY**

- Jury instruction
  - generally, **37:9 (Form)**
  - following driver's duty, **37:11 (Form)**

### **ENTRY OF DEFAULT**

- Motion for entry of default, **30:9 (Form)**

### **EVIDENCE**

- Foundation evidence
  - charting, **32:22 (Form), 32:23 (Form)**
- Jury instruction, direct and circumstantial evidence, **37:8 (Form)**
- Trial notebook section on charting evidence, **32:22 (Form), 32:23 (Form)**

### **EXPERT WITNESSES AND TESTIMONY**

- Jury instruction, **37:17 (Form)**
- Motion to strike designated witness, **30:29 (Form)**

### **FOCUS GROUPS**

- Discussion questions, **33:7 (Form)**
- Participant form, **33:4 (Form)**
- Plaintiff evaluation form, **33:6 (Form)**
- Post presentation form, **33:5 (Form)**
- Verdict form, **33:8 (Form)**

### **INDUSTRY OF INSURANCE**

- Notice of claimant's attorney-client relationship
  - letters to carrier, **10:4 to 10:6 (Forms)**

### **INSURER'S FILE ON CLAIMANT, OBTAINING COPIES**

- Letters of notice and request, **10:4 to 10:6 (Forms)**

### **INTERROGATORIES AND REQUESTS FOR PRODUCTION**

- First discovery requests of plaintiff forms, **17:4 (Form), 17:5 (Form)**
- Follow-up discovery requests of plaintiff
  - form, mandated by court rules, **17:6 (Form)**
- Forms
  - plaintiff's first interrogatories and requests for production, **17:4 (Form)**
  - plaintiff's first interrogatories and requests for production (sample, court rules mandate), **17:5 (Form)**
  - plaintiff's second interrogatories and requests for production (sample, court rules mandate), **17:6 (Form)**

### **INTERSECTION COLLISION**

- Complaint's fact section, **15:10 (Form)**

### **JURISDICTION**

- Request for admissions, jurisdictional matters, **18:6 (Form)**

### **JURY**

- Affidavit in support of motion to correct error, **66:4 (Form)**
- Bias
  - affidavit in support of motion to correct error, **66:4 (Form)**
  - biomechanical engineer, motion in limine to preclude, **66:2 (Form)**
  - motion in limine to preclude biomechanical engineer, **66:2 (Form)**
  - motion to correct error, **66:3 (Form), 66:4 (Form)**
- Biomechanical engineer, motion in limine to preclude, **66:2 (Form)**

**JURY—Cont'd**

- For cause challenges, **38:10 (Form)**
- Motion in limine to preclude biomechanical engineer, **66:2 (Form)**
- Motion to correct error, **66:3 (Form), 66:4 (Form)**
- Order granting new trial, jury nullification and other dirty tricks, **45:5 to 45:7 (Forms)**
- Retiring to jury room for deliberations, jury instruction, **37:22 (Form)**
- Trial notebook sections re jury matters
  - voir dire chart, **32:24 (Form)**
- Voir dire
  - discussion point outline, **38:8 (Form)**
  - for cause challenges, **38:10 (Form)**
  - plaintiff's general questions, **38:9 (Form)**
  - trial notebook chart, **32:24 (Form)**

**JURY INSTRUCTIONS**

- Burden of proof, **37:15 (Form)**
- Burden of proof (demonstrative instruction), **44:8 (Form)**
- Chiropractor, **37:18 (Form)**
- Court's cover page, **37:6 (Form)**
- Cover page, **37:5 (Form), 37:6 (Form)**
- Deposition, **37:21 (Form)**
- Direct and circumstantial evidence, **37:8 (Form)**
- Duty, **37:9 (Form)**
- Duty of following driver, **37:11 (Form)**
- Expert witness, **37:17 (Form)**
- Introduction, **37:6 (Form), 37:7 (Form)**
- Measure of damages, **37:19 (Form)**
- Mortality table, **37:20 (Form)**
- Negligence, **37:10 (Form)**
- Plaintiff's requested or proposed instructions, **37:24, 37:25 (Forms)**
- Pre-existing condition, **37:16 (Form)**
- Proximate cause, **37:13 (Form)**

**JURY INSTRUCTIONS—Cont'd**

- Retiring to jury room for deliberations, **37:22 (Form)**
- Special verdict, **37:23 (Form)**
- Speed, **37:12 (Form)**
- Summary of claims, **37:14 (Form)**

**LIABILITY**

- Admission of liability
  - request for admission of liability and general matters, **18:6 (Form)**

**MEDICAL CARE PROVIDERS**

- Declaration of health care provider, **30:28 (Form)**
- Physicians
  - declaration of health care provider, **30:28 (Form)**

**MEDICAL EXAMINERS AND EXAMINATIONS, DEFENSE**

- Background of examiner, acquiring knowledge about, **24:6 (Form)**
- Conditions and parameters of exam, **23:4 (Form), 23:5 (Form)**
- Cross examination of medical examiner at trial
  - outline for cross-examination, **24:8 (Form)**
- Demand for exam
  - letter to adjuster regarding conditions, **23:4 (Form), 23:5 (Form)**
- Deposition of examiner
  - outline for taking examiner's deposition, **24:6 (Form)**
  - subpoena duces tecum, **24:5 (Form)**
- Excluding medical examiner from testifying at trial, motion, **24:7 (Form)**
- Forms re defense medical examination
  - letter to clinet, **23:10 (Form)**
  - motion to compel CR 35 exam objection to, **23:7 (Form)**
  - order re, **23:8 (Form)**
  - motion to exclude medical examiner from testifying at trial, **24:7 (Form)**

## INDEX TO FORMS

### MEDICAL EXAMINERS AND EXAMINATIONS, DEFENSE

#### —Cont'd

- Forms re defense medical examination—Cont'd
  - outline, medical examiner deponent, **24:6 (Form)**
  - outline, trial witness, cross examination of medical examiner, **24:8 (Form)**
  - subpoena duces tecum, medical examiner, **24:5 (Form)**
  - videotaping exam, **23:11 (Form)**
- Letters to adjuster re exam demand/request
  - defense medical exam request, **23:5 (Form)**
  - personal injury protection/medical pay (involuntary exam), **23:4 (Form)**
- Motion to compel CR 35 exam
  - objection to, **23:7 (Form)**
  - order re, **23:8 (Form)**
- Motion to exclude medical examiner from testifying at trial, **24:7 (Form)**
- Objection to motion to compel CR 35 exam, **23:7 (Form)**
- Order re motion to compel CR 35 exam, **23:8 (Form)**
- Outlines
  - cross examination of medical examiner at trial, **24:8 (Form)**
  - deposition of medical examiner, **24:6 (Form)**
- Subpoena duces tecum to examiner, **24:5 (Form)**
- Trial matters
  - cross examination of medical examiner, **24:8 (Form)**
  - motion to exclude medical examiner from testifying, **24:7 (Form)**
  - subpoena duces tecum to examiner, **24:5 (Form)**

### MEDICAL EXPENSES

- Directed verdict motion, **43:5 (Form)**

### MEDICAL EXPENSES—Cont'd

- Reasonable and necessary medical expenses
  - motion for summary judgment, **30:27 (Form)**
- Summary judgment motion on reasonableness and necessity of, **30:27 (Form)**

### MORTALITY TABLE

- Jury instruction, **37:20 (Form)**

### MOTIONS

- Affidavit for motion to strike testimony of defense biomechanist/accident reconstructionist/engineer, **63:3 (Form)**
- Affidavit in support of motion to correct error, **66:4 (Form)**
- Amend complaint, motion for leave to, **30:10 (Form)**
- Attorneys' fees and costs, **48:3 (Form)**
- Biomechanic witness, excluding from testifying at trial, **28:4 (Form)**, **28:5 (Form)**
- Compel discovery, motion to, **30:11 (Form)**
- Declaration of health care provider, **30:28 (Form)**
- Default, motion for, **30:9 (Form)**
- Directed verdict
  - sample motion, **43:5 (Form)**
- Discretionary review, **1:29 (Form)**
- Emergency stay, **1:27 (Form)**
- In limine motions
  - biomechanical engineer, preclusion of, **66:2 (Form)**
  - credibility of client, excluding use of photographs, **31:17 (Form)**
  - juror bias, precluding biomechanical engineer, **66:2 (Form)**
  - order granting motion in limine, **36:4 (Form)**
  - samples, **36:3 et seq. (Forms)**
- Juror bias
  - affidavit in support of motion to correct error, **66:4 (Form)**

**MOTIONS—Cont'd**

- Juror bias—Cont'd
  - correct error, motion to, **66:3 (Form), 66:4 (Form)**
  - in limine motion precluding biomechanical engineer, **66:2 (Form)**
- Late designation of expert, motion to strike, **30:29 (Form)**
- Medical examination of plaintiff
  - motion to compel
    - objection to motion, **23:7 (Form)**
    - order re motion, **23:8 (Form)**
    - motion to exclude medical examiner from testifying at trial, **24:7 (Form)**
- Opposition to motion for discretionary review, **1:30 (Form)**
- Pretrial motion practice
  - amend complaint, motion for leave to, **30:10 (Form)**
  - compel discovery, motion to, **30:11 (Form)**
  - declaration of health care provider, **30:28 (Form)**
  - default, motion for, **30:9 (Form)**
  - late designation of expert, motion to strike, **30:29 (Form)**
  - quash discovery, motion to, **30:18 (Form)**
  - strike, motion to, **30:29 (Form)**
  - summary judgment motion, **30:23 (Form), 30:27 (Form)**
  - witness designation, motion to strike, **30:29 (Form)**
- Quash discovery, motion to, **30:18 (Form)**
- Reply regarding discretionary review, **1:31 (Form)**
- Response to motion for emergency stay, **1:28 (Form)**
- Social Media** (this index)
- Stay of enforcement, **1:26 (Form)**
- Strike, motion to, **30:29 (Form), 63:3 (Form)**
- Summary judgment motion, **30:23 (Form), 30:27 (Form)**

**MULTIPLE DEFENDANTS**

- Complaint involving rear-end collision, property damage, multiple defendants, **15:9 (Form)**

**NECESSITY AND REASONABLENESS OF MEDICAL EXPENSES**

- Motion for summary judgment, **30:27 (Form)**

**NEGLIGENCE**

- Jury instruction, **37:10 (Form)**

**NOTICE**

- Attorney-client relationship, notifying insurer
  - initial letter to first party carrier (PIP/MedPay), **10:4 (Form)**
  - initial letter to first party carrier (UM/UIM), **10:5 (Form)**
  - initial letter to third party carrier (BI), **10:6 (Form)**
- Deposition, notice of taking
  - CR 30(b)(6) deponents, **16:7 (Form), 19:10 (Form)**
  - defendant's insurance claims adjusters, notice to, **19:11 (Form)**
- Trial attendance, notice of form, **40:7 (Form)**

**OBJECTIONS**

- Medical examination of plaintiff, objection to motion to compel CR 35 exam, **23:7 (Form)**
- Quick reference sheet, **41:5 (Form)**
- Trial objections, generally, **41:5 (Form)**

**OPENING STATEMENTS**

- Sample, **39:6 (Form)**

**ORAL ARGUMENT**

- Reasonable and necessary medical expenses, motion for summary judgment, **30:27 (Form)**

**ORDERS OF COURT**

- In limine motion, **37:4 (Form)**
- Medical examination of plaintiff, order on motion to compel, **23:8 (Form)**

## INDEX TO FORMS

### PERSONAL INJURY

#### PROTECTION/MEDICAL PAY COVERAGE

- Notifying insurer about attorney-client relationship, **10:4 (Form)**
- Subpoenaing insurer's claim file, **30:18 (Form)**

### PHYSICAL THERAPY AND THERAPISTS

- Deposition testimony outline plaintiff's physical therapist, **19:13 (Form)**

### POLICY LIMITS

- Exceeding policy limits, requests for admission re special injuries and damages, **18:7 (Form)**

### PRE-EXISTING CONDITION

- Jury instruction, **37:16 (Form)**

### PROXIMATE CAUSE

- Jury instruction, **37:13 (Form)**

### QUASH

- Discovery, motion to quash, **30:18 (Form)**

### REAR-END COLLISION

- Complaint (clear liability)
  - agency-complaint, **15:8 (Form)**
  - simple complaint, **15:5 (Form)**
- Complaint (property damage, multiple defendants), **15:9 (Form)**

### REASONABLENESS AND NECESSITY OF MEDICAL EXPENSES

- Motion for summary judgment, **30:27 (Form)**

### RECONSIDERATION

- Motions, generally, **1:23 to 1:25 (Forms)**
- Opposition to motions, **1:24 (Form)**
- Order denying, **1:25 (Form)**

### REPORTS

- Biomechanic expert, letter to defense attorney, **27:2 (Form)**

### SERVICE OF PROCESS

- Chart, **16:5 (Form)**
- Deposing insurer when defendant's whereabouts unknown
  - motion to allow CR 30(b)(6), **16:6 (Form)**
  - notice pursuant to CR 30(b)(6), **16:7 (Form), 19:10 (Form)**

#### Forms

- chart, **16:5 (Form)**
- deposing insurer when defendant's whereabouts unknown
  - motion to allow CR 30(b)(6), **16:6 (Form)**
  - notice pursuant to CR 30(b)(6), **16:7 (Form), 19:10 (Form)**
- motion shortening time, deeming answers as admissions, and allowing service by other means, **16:9 (Form)**
- motion to allow CR 30(b)(6), deposing insurer when defendant's whereabouts unknown, **16:6 (Form)**
- motion to allow deposing insurer when defendant's whereabouts unknown, **16:6 (Form)**
- motion to allow service by other means, **16:9 (Form)**
- notice pursuant to CR 30(b)(6), deposing insurer when defendant's whereabouts unknown, **16:7 (Form), 19:10 (Form)**
- requests for admissions to insurer, identification and location of defendant, **16:8 (Form)**
- status log, **16:5 (Form)**
- vehicular accidents
  - chart regarding service methods and requirements, **16:5 (Form)**
  - status log on service efforts/attempts, **16:5 (Form)**
- Motion to allow service by other means, **16:9 (Form)**

**SERVICE OF PROCESS—Cont'd**

- Requests for admissions to insurer, identification and location of defendant form, **16:8 (Form)**
- motion shortening time, deeming answers as admissions, and allowing service by other means, **16:9 (Form)**
- Status log, **16:5 (Form)**

**SETTLEMENT AND COMPROMISE**

- Demand for settlement electronic, **13:11 (Form)**
- sample pre-suit settlement demand by claimant's attorney, **13:10 (Form)**
- Forms
  - demand for settlement electronic, **13:11 (Form)**
  - sample pre-suit settlement demand by claimant's attorney, **13:10 (Form)**
  - letters to tortfeasor's insurer initial letter, **13:9 (Form)**
  - reminder letter, **13:12 (Form)**
- Initial letter to tortfeasor's insurer, **13:9 (Form)**
- Letters to tortfeasor's insurer initial letter, **13:9 (Form)**
- reminder letter, **13:12 (Form)**
- Reminder letter, **13:12 (Form)**

**SOCIAL MEDIA**

- Do's and don'ts (Form), **21:13**
- Memorandum in opposition (Form), **21:16**
- Motions to compel authorizations, **21:19, 21:20 (Forms)**
- Motion to compel supporting brief (Form), **21:15**
- Order adopting magistrate's report (Form), **21:12**
- Order determining no expectation of privacy (Form), **21:14**
- Order sanctioning plaintiff (Form), **21:11**
- Orders regarding requests for production (Forms), **21:17, 21:18**

**SPECIAL VERDICT**

- Jury instruction, **37:23 (Form)**

**SUBPOENA**

- Discovery process
  - forensic medical examiner, subpoena duces tecum to, **24:5 (Form)**
  - insurer's claim file, quashing subpoena for, **30:18 (Form)**
- Forensic medical examiner, subpoena duces tecum to, **24:5 (Form)**
- Forms
  - discovery process
    - forensic medical examiner, subpoena duces tecum to, **24:5 (Form)**
    - insurer's claim file, quashing subpoena for, **30:18 (Form)**
  - forensic medical examiner, subpoena duces tecum to, **24:5 (Form)**
  - insurer's claim file, quashing subpoena for, **30:18 (Form)**
  - trial attendance, **40:8 (Form)**
- Insurer's claim file, quashing subpoena for, **30:18 (Form)**
- Trial attendance, **40:8 (Form)**

**SUMMARY JUDGMENT**

- Liability, motion grounds, **30:23 (Form)**
- Motion
  - liability grounds, **30:23 (Form)**
  - reasonable and necessary medical expenses grounds, **30:27 (Form)**
- Reasonable and necessary medical expenses, motion grounds, **30:27 (Form)**

**SUMMARY OF CLAIMS**

- Jury instruction, **37:14 (Form)**

**TIME**

- Motion shortening time, deeming answers as admissions, and allowing service by other means, **16:9 (Form)**

## INDEX TO FORMS

### TIME—Cont'd

Requests for admissions, **16:9 (Form)**

### TRIAL

Appearance or attendance  
notice of trial attendance, **40:7 (Form)**  
subpoena for trial attendance, **40:8 (Form)**

Countering the defense  
objections, quick reference sheet, **41:5 (Form)**

Flow chart, **32:20 (Form), 32:21 (Form)**

Notice of trial attendance, **40:7 (Form)**

Outline of closing argument, **44:7 (Form)**

Outline of direct examination of defendant, **40:9 (Form)**  
lay witness, **40:11 (Form)**  
plaintiff, **40:10 (Form)**  
treating health care provider, **40:12 (Form)**

Presenting plaintiff's case in chief  
defendant, interrogating the defendant  
outline direct examination, **40:9 (Form)**

health care providers  
outline direct examination, **40:12 (Form)**

lay witnesses  
outline direct examination, **40:11 (Form)**  
notice of trial attendance, **40:7 (Form)**

outline of direct examination of defendant, **40:9 (Form)**  
lay witness, **40:11 (Form)**  
plaintiff, **40:10 (Form)**  
treating health care provider, **40:12 (Form)**  
plaintiff, interrogating  
outline of direct examination of, **40:10 (Form)**

subpoena for trial, **40:8 (Form)**  
Subpoena for trial, **40:8 (Form)**

### TRIAL BRIEF

Sample, trial brief, **35:3 (Form), 35:4 (Form)**

### TRIAL NOTEBOOK

Divider format, **32:17 (Form)**

Evidence  
chart, **32:22 (Form), 32:23 (Form)**

Format, **32:17 (Form)**

Jury  
voir dire chart, **32:24 (Form)**

Objections  
quick reference sheet, **41:5 (Form)**

Plaintiff  
witness chart, **32:18 (Form), 32:19 (Form)**

To do section  
trial flow chart, **32:20 (Form), 32:21 (Form)**

Trial flow chart, **32:20 (Form), 32:21 (Form)**

Voir dire  
chart, **32:24 (Form)**

Witnesses of plaintiff  
chart, **32:18 (Form), 32:19 (Form)**

### UNDERINSURED MOTORISTS

Attorney-client relationship, notifying first party carrier about, **10:5 (Form)**

### UNINSURED MOTORISTS

Attorney-client relationship, notifying first party carrier about, **10:5 (Form)**

### VEHICLE DAMAGE

Complaint (rear-end collision, property damage, multiple defendants), **15:9 (Form)**

Service of process  
chart regarding service methods and requirements, **16:5 (Form)**

status log on service efforts/attempts, **16:5 (Form)**

Service of process chart, vehicular accidents, **16:5 (Form)**

**VOIR DIRE**

- Discussion point outline, **38:8 (Form)**
- For cause challenges, **38:10 (Form)**
- Plaintiff's general questions, **38:9 (Form)**
- Plaintiff's memorandum of law regarding bias, **38:13 (Form)**
- Trial notebook chart, **32:24 (Form)**

**WITNESS IDENTIFICATION AND TESTIMONY**

- Defense testimony
  - generally, **63:3 (Form)**
  - accident reconstruction testimony, **63:3 (Form)**
  - affidavit for motion to strike, **63:3 (Form)**
  - biomechanical testimony, **63:3 (Form)**
  - engineering testimony, **63:3 (Form)**
  - motion to strike, **63:3 (Form)**
- Direct examination testimony at trial
  - defendant's examination, **40:9 (Form)**

**WITNESS IDENTIFICATION AND TESTIMONY—Cont'd**

- Direct examination testimony at trial
  - Cont'd
    - health care provider's examination, **40:12 (Form)**
    - lay witness's examination, **40:11 (Form)**
    - plaintiff's examination, **40:10 (Form)**
- Discovery or disclosure
  - motion to strike designated witness, **30:29 (Form)**
- Health care providers as trial witness for plaintiff
  - direct examination outline, **40:12 (Form)**
- Lay witnesses
  - direct examination testimony, outline, **40:11 (Form)**
- Motion to strike designated witness, **30:29 (Form)**
- Trial notebook sections
  - plaintiff's witnesses
    - chart, **32:18 (Form), 32:19 (Form)**