Index

Unless otherwise indicated, references are to sections.

A

Abatement of Actions

See Death of Party; Substitution of Parties

Administrative Proceedings

Condemnation proceedings, 6.56 Licensing proceedings, 6.55 Service of process, 6.48–.53 Subject-matter jurisdiction, 3.19 Worker's compensation, 6.54

Admissibility

See Evidence

Admissions

See also Answer Requests for, 10.27

Affidavits

Default judgment

- —affidavits in opposition to, 9.45
- —affidavits in support of, 9.36

Summary judgment

- —affidavits in opposition to, 9.77–
- —affidavits in support of, 9.63, 9.66–.75

Affirmative Defenses, 5.97

See also Defenses

Aliens

Country at war, effect on statutes of limitation, 2.86, 2.93

Alternative Dispute Resolution (ADR)

See also Settlement Generally, ch. 11

Actions affecting the family, 11.35–.38

Admissibility of ADR

communications, 11.41-.43

Before filing complaint, 5.32

Discovery, 11.34

Effect on pending litigation, 11.40

Medical mediation, 11.45–.64.

See also Medical Malpractice Claims

Neutral third person (facilitator), 11.28–.33

Settlement alternatives, 11.4-.27

- —binding arbitration, 11.7–.12, 11.37
- —direct negotiation, 11.13
- —early neutral evaluation, 11.14
- -focus group, 11.15
- -mediation, 11.16-.18
- -mini-trial, 11.19
- —moderated settlement conference, 11.20
- —nonbinding arbitration, 11.21
- —selection of, 11.25–.27
- -summary jury trial, 11.22-.24

Settlement offers, 11.66-.100.

See also Settlement Offers

Statutory ADR (Wis. Stat.

§ 802.12), 11.2–.44

Amended Pleadings

Service of, 5.122

Amendment of Pleadings

See also Pleadings Generally, 5.11, 5.112–.123 Amendment as matter of course, 5.113, 8.47

Amendment by leave of court, 5.114–.117, 8.51

—procedure for seeking, 5.115

-standard for, 5.117

—when allowed, 5.116

Amendment by written consent, 8.50

Amendment to conform to evidence, 5.118

Motion to amend pleadings, 8.45–.51

Relation back of amendments, 2.79, 5.119–.121

Response to amendments, 5.123 Service of amended pleadings, 5.122

Amount in Controversy, 3.45

See also Diversity Jurisdiction

Answer

See also Pleadings Generally, 5.5, 5.65–.97 Admissions, 5.91 Affirmative defenses. See Defenses, infra Appearance, 5.68 Contents, 5.87-.97 Counterclaim, answer to, 5.7, 5.102 Cross-claim, answer to, 5.7, 5.105 Default, 5.86, 9.27-.29. See also Default and Default Judgments Defenses, 5.78-.80, 5.94-.97. See also Defenses Denials, 5.92, 5.93 Drafting, 5.66-.80 -checklist, 5.67 Failure to answer, 5.86, 9.27-.29 Forum and venue, challenge to, 5.69 - .73

Insufficient defense as ground for motion to strike, 8.112
Interpleader, answer to complaint, 4.53
Motions, response to, 8.27–.31
Third-party complaint, answer to, 5.8
Time for filing, 5.81–.86
—extensions, 5.83–.85
Venue, challenge to. *See* Forum

and venue, supra

Appeal

Declaratory relief, 7.92–.96 Discovery orders, 10.70 Nonfinal orders, 7.28, 10.70 Preservation of issues for, 8.121 Substitution of judge on remand, 8.71, 8.80 Summary judgment, 9.84 Temporary injunction, 7.28

Appearance

Answer, 5.68 Motion hearings, 8.33 Special appearance abolished, 5.68

Arbitration, 11.7–.12, 11.21, 11.37

See also Alternative Dispute Resolution
Guidelines, app. 11A

Armed Forces

See Military Service

Assignment

Claims arising by
—joinder of parties, 4.15–.18

Attachment, 3.129

Attorney, Substitution of

See Substitution of Counsel

Attorney Fees

Generally, 1.35-.66

Advances on costs and expenses, 1.52

Advances on fees, 1.67

Allocation of attorney fee awards,

Class actions, 4.115

Contingent, 1.44–.47

Credit card payments, 1.67

Delinquency charges, 1.51

Electronic-funds payments, 1.67

Fixed or flat, 1.42

Fee agreements, 1.35–.53

Fee-splitting and referral fees,

1.60 - .66

Hourly, 1.44

Interest on, 1.51

Medical malpractice claims, 2.46

Reasonableness, 1.40, 1.66

Recovery opportunities, 1.54–.59

Reimbursement for advance disbursements, 1.53

Retainers, 1.43

Security for, 1.50

Voluntary dismissal of action, 1.56,

Attorney-Client Privilege

Generally, 10.45-.47, 10.61

Initial client conference, 1.25

Waiver, 10.61

Work-product protection, 10.48

Attorney-Client Relationship,

ch. 1

See also Client Conference

Authentication

Summons and complaint, 6.9

В

Bifurcation, 12.82

Bonds

Receiverships, 7.31

Temporary injunctions, 7.26

Borrowing Statute, 2.66, 2.75,

5.38

See also Statutes of Limitation

Breach of Contract

Accrual of cause of action, 2.73

 \mathbf{C}

Capacity to Sue and Be Sued

Ground for motion to dismiss, 9.15 Parties

- —corporations, 2.14
- —governmental units and officials, 2.18–.41
- —limited liability companies, 2.17
- —limited liability partnerships, 2.17
- —minors and mentally incompetent persons, 2.7–.9
- —municipalities, 2.33–.41
- —partnerships, 2.15
- -state, 2.20-.23
- -state agencies, 9.15
- —state officers or employees, 2.24–.32
- —unincorporated associations, 2.16 Pleading, 5.52

Caption, 5.17–.22

See also Pleadings

Case Classification and Code Numbers, 5.19

Case Management, ch. 12

Change of Venue

See Venue

Citizenship

Diversity. See Diversity Jurisdiction

Claim Joinder

See Joinder of Claims

Claim Preclusion (Res Judicata)

Compulsory counterclaim rule, 4.5, 5.101
Declaratory relief, 7.89
Ground for motion to dismiss, 9.21

Class Actions

Generally, 4.80–.116
Attorney fees, 4.115
Class certification, 4.107–.112
Consumer rights violations, 4.116
Discovery, 4.106
Joinder and, 4.24, 4.88
Judgment, 4.114
Prerequisites:
—Old Wis. Stat. § 803.08, 4.82–
.88
—New Wis. Stat. § 803.08, 4.89–
.103
Procedures, 4.104–.106

Settlement or compromise, 4.113

Client Conference

Generally, 1.14–.31 Checklist for, 1.15 Confidentiality, 1.25 Fee agreement, 1.28 Identification of client, 1.17 Notice to client not accepted, 1.32–.34

Client Trust Accounts, 1.67

Collateral Estoppel

See Issue Preclusion

Commencement of Actions

Service of process, 6.3

Standing to sue, 2.101 Tolling of statutes of limitation, 2.76–.80

Compensation

See Attorney Fees

Complaint

See also Pleadings Generally, 5.4, 5.30-.64 Contents, 5.40-.49 Defects —failure to state claim, 9.19 -insufficient cause of action, 9.51 Demand for judgment, 5.44-.48 Drafting, 5.31-.39 Filing, 5.63 Forum, 5.33 Interpleader, 4.53 Judge, assignment and substitution, 5.64 See also Substitution of Judge Jury demand, 5.49 Pleading special matters (e.g., capacity; fraud), 5.50-.61 Service, 5.62, ch. 6 Statutes of limitation, 5.35–.38 Third-party complaint, 4.43, 5.6 Venue, 5.34

Compromise

See also Settlement Class actions, 4.113

Concurrent Jurisdiction

See also Jurisdiction Generally, 3.51–.54 Personal, 3.119 Types of cases, 3.53

Condemnation

See Eminent Domain Actions

Confidentiality

See Attorney-Client Privilege

Conflicts of Interest

Generally, 1.2–.13
Attorneys in firm as witnesses, 1.13
Avoiding (checklist), 1.10
Checking for, 1.10
Current and former clients, 1.7, 1.12
Ethical rules, 1.4–.9
Imputed disqualification, 1.9
Prohibited transactions, 1.6

Consent

Amendment of pleadings, 8.50 Arbitration, 11.8 Fee-splitting, 1.60–.61 Personal jurisdiction, 3.114–.117 Substitution of counsel, 1.72–.73

Consolidation of Actions

Prospective clients, 1.5

Generally, 12.60-.79 Actions pending in different courts, 12.67, 12.73 Actions pending in same court, 12.66, 12.72 Checklist, 12.79 Discretionary consolidation, arguments for (checklist), 12.65 Effect of, 12.74-.78 Power to consolidate, 12.63-.68 -court's discretion, 12.65 —courts of equity, 12.68 Procedure, 12.71-.73 True consolidation distinguished from consolidation for trial, 12.62 When proper and improper

Constitutional Law

Basis of subject-matter jurisdiction,
3.13, 3.32

Due process
—grounds for disqualification of
judge, 8.93

(checklists), 12.69-.70

—personal jurisdiction, 3.56, 3.62, 3.66, 3.112
—service of process, 6.4

Construction Lien Actions

Lis pendens, 2.115

Contingent Fees, 1.37, 1.45–.47 *See also* Attorney Fees

Contract Actions

Accrual of cause of action, 2.73

Corporations

As parties, 2.14
Citizenship and diversity
jurisdiction, 3.43
Personal jurisdiction over, 3.66,
3.86–.88, 3.109–.113
—consent to, 3.115, 3.116
Service on, 6.16

Costs and Expenses

Advances by attorney, 1.52–.53 Consolidation of actions, 12.78 Declaratory relief, 7.90 Injunction, as result of, 7.27 Reimbursement, 1.53 Voluntary dismissal of action, 1.56, 9.8

Counterclaim

See also Pleadings
Generally, 5.6, 5.98–.102
Compulsory counterclaim rule, 4.5, 5.101
Content, 5.100
Impleader, 4.40
Interpleader, 4.54
Joinder of claims, 4.5
Joinder of parties, 4.29
Relation back to original pleading, 2.79
Reply to, 5.7, 5.102
Right to jury trial, 5.108

Credit and Creditors

Marital property considerations, 2.6 Receiverships, 7.30–.69

Cross-Claim

See also Pleadings Generally, 5.6, 5.103–.105 Answer to, 5.7, 5.105 Interpleader, 4.54 Joinder of claims, 4.6 Joinder of parties, 4.29

D

Damages

Advance payment to plaintiff and statute of limitation, 2.82
Demand for judgment, 5.44–.48
Limitation
—suits against health-care providers, 2.45

—suits against municipalities, 2.41 Offer of, 11.80–.84 Punitive damages, 2.122, 5.48 Slander of title, 2.122 Tort actions, 5.47 Wrongful injunction, 7.27

Death of Party

See also Substitution of Parties Effect on statute of limitation, 2.84, 2.92

Personal jurisdiction over personal representative, 3.97–.99

Public officials, 2.11, 4.78

Substitution of party, 2.12, 4.71–.76, 8.97

Suggestion of death on record,

2.12, 4.75

Survival of cause of action, 2.10–.12

Declaratory Relief

Generally, 7.70–.96 Appeal, 7.92–.96

Index-6

Burden of proof, 7.86 Claim preclusion, 7.89 Jury trial, 7.85 Parties, 7.83 Right to, 7.76 —limitations, 7.77–.82 Scope of relief, 7.87–.89 —costs, 7.90 —supplemental relief, 7.91 Statutory authority, 7.72–.73 —checklist, 7.73

Default and Default Judgments

Generally, 9.24-.47 Affidavit of default, 9.36 Entry of judgment, 9.38-.41 -action on contract for liquidated amount, 9.41 —time for, 9.40 Grounds for —failure to answer, 5.86, 9.27–.29 —failure to obey court order, 9.30 Relief from, 9.42-.47 -mistake or excusable neglect, 9.46 -motion for, 9.44 —opening of judgment, 9.47 —supporting affidavit, 9.45 Requirements, 9.31–.37 —notice, 9.32 —supporting documents, 9.33–.37 Vacating, 9.42-.46

Defenses

See also Answer

Affirmative defenses (checklist),
5.97

Defenses in specific pleadings
—answer, 5.78—.80, 5.94—.97
—answer to complaint in
interpleader, 4.53
—answer to third-party complaint,
4.43—.45

Insufficient defense
—ground for judgment on
pleadings, 9.51

© June 2024, State Bar of Wisconsin

-ground for motion to strike, 8.111 Relation back to original pleading, 2.79 Specific defenses See also Motion to Dismiss grounds for —defective service of process, 6.39-.46, 9.18 —failure to join party, 4.14, 9.20 —lack of personal jurisdiction, 3.118-.123, 9.17 —lack of subject-matter jurisdiction, 3.21-.28, 9.16 Waiver, 5.79-.80

Denials

See Answer

Deposit in Court

See Interpleader

Depositions

See also Discovery Generally, 10.7, 10.24-.25 Motion for summary judgment, 9.65 Oral, 10.24 Recording, 10.7 Rulings on objections, 12.56 Videotaping, 10.7 Written, 10.25

Derivative Claims

Joinder of parties, 4.15–.18

Disclosure

See Discovery

Discovery

Generally, ch. 10 Appellate review, 10.70 Compelling, 10.68 Depositions, 10.7, 10.24-.25 -oral, 10.24 -written, 10.25

Enforcement, 10.63-.70 Formal, 10.12-.36 Informal, 10.37-.41 Interrogatories, 10.22 Methods, 10.21-.27 Motions, 8.124 Municipal court, 10.15 Objectives, 10.2-.11 Order to compel, 10.68 —sanctions for failure to obey, 10.69 Physical, mental, and vocational

examinations, 10.26 Privileges, 10.44-.47

—list of, app. 10A

—waiver of, 10.50–.62

-waiver or forfeiture of, 10.50-.62

Proportionality, 10.31 Protective orders, 10.67 Relevance, 10.29-.31 Requests for admission, 10.27 Requests for inspection, 10.23 Right to access, 10.20 Sanctions for failure to provide, 10.69

Specific proceedings

-alternative dispute resolution, 11.34

-class action, 4.106

-medical mediation, 11.61

—summary judgment, 9.65

—temporary restraining order, 7.11

Specific types of information

-communication with employees, 10.41

expert opinions, 10.35

—insurance information, 10.33

-privileged information, 10.34

Statements, 10.39

Stipulations, 10.28, 10.62

Supplementation of responses,

10.36

Timing, 10.65, 12.31

Uses, 10.2-.11

Work-product protection, 10.48

Dismissal of Actions

Generally, 9.2-.23

Failure to prosecute, 9.48

Involuntary, 9.10

Motion to dismiss, 9.11–.23.

See also Motion to Dismiss

—treatment as motion for summary judgment, 9.19, 9.21, 9.22

Voluntary, 9.2-.9

- -attorney fees and costs, 1.56, 9.8
- -conditions, 9.9
- -court order, 9.6-.9
- -motion for, 9.7
- -stipulation, 9.5
- —unilateral, 9.4

Dispute Resolution

See also Alternative Dispute Resolution; Medical Malpractice Claims; Settlement Generally, ch. 11

Disqualification of Judge

Generally, 8.88–.94 Answer, 5.76 Change of venue, 8.57 Due process grounds, 8.93 Motion for, 8.94 Statutory grounds, 8.91–.92

Diversity Jurisdiction

Generally, 3.38-.45

Amount in controversy

- —jurisdictional requirement, 3.45
- —rules for calculating (checklist), 3.45

Complete diversity requirement, 3.40

Determination of citizenship, 3.41–.44

- -corporations, 3.43
- -individuals, 3.42

Jurisdictional amount requirement, 3.45

Divorce Actions

See Family Law Actions

Doctors

See Health-Care Providers

Domicile

See Residence and Domicile

Due Process

See Constitutional Law

 \mathbf{E}

Electronic Filing

Generally, 5.29, 8.10, 8.11, 8.18, 8.23 Summons, 6.10

Electronic Mail

Service by, 6.19, 8.14-.20

Eminent Domain Actions

In rem jurisdiction, 3.126 Jurisdiction, challenges to, 3.22 Lis pendens, 2.114

Employers and Employees

Discovery of communications, 10.41

Estoppel

See Issue Preclusion

Ethics

Attorney conflicts of interest, 1.4–.9

Attorney fees, 1.35-.53

- —contingent fees, 1.37, 1.45–.47
- —fee agreements, 1.35–.40
- —fee-splitting and referral fees, 1.60–.66
- —reasonableness of fees, 1.40, 1.66

Declining representation, 1.32–.34 Ex parte proceedings—temporary restraining orders, 7.8 Frivolous claims, 1.75, 5.27 Identification of client, 1.17 Withdrawal by attorney, 1.69

Evidence

See also Discovery Admissibility

- —communications in alternative dispute resolution, 11.41–.43
- -discovery, 10.31
- —objections to (motion for summary judgment), 9.76
- —pretrial conferences, 12.32, 12.42
- —ruling on (motion in limine), 8.116–.121

Amendment of pleadings to conform to, 5.118

Motion for summary judgment,

9.64, 9.71–.74 Preservation of, 1.26, 10.6

Ex Parte Proceedings

Motions, 8.26 Temporary restraining orders, 7.8

Exclusive Federal Jurisdiction, 3.49

Excusable Neglect

See Mistake, Inadvertence, Surprise, or Excusable Neglect

Expenses

See Costs and Expenses; Fees

Experts, 10.16, 10.35 See also Discovery

Extraordinary Writs

See Writs

F

Fax

Filing motions, 8.24 Service of pleadings and other documents, 6.30

Failure to Prosecute, 9.48

Family Law Actions

See also Marital Property Alternative dispute resolution, 11.35–.38 Joinder of parties, 4.31–.33 Lis pendens, 2.116 Personal jurisdiction, 3.91–.93 Substitution of judge, 8.67

Federal-Ouestion Jurisdiction

See also Subject-Matter Jurisdiction Generally, 3.34–.37 Pleading requirements, 5.61 Types of cases, 3.37

Fee Agreements

See also Attorney Fees Generally, 1.35–.53 Allocation of fee awards, 1.49

Fee Recovery

See also Attorney Fees Generally, 1.54–.59 Amount of award, 1.57 Under statute or contract, 1.56

Fee-Splitting and Referral Fees

See also Attorney Fees Generally, 1.60–.66 Ethical rules, 1.62 Reasonableness of fees, 1.66

Fees

See also Attorney Fees

Circuit court fee summary, 5.63, 5.110
Jury fee, 5.110
Neutral third person (alternative dispute resolution), 11.33
Venue, change of, 8.59–.60

Fictitiously Named Parties

Generally, 2.5, 5.22 Service on, 6.20

Fixed-Fee Arrangements, 1.42

See also Attorney Fees

Flat-Fee Arrangements, 1.42

See also Attorney Fees

Foreclosure

In rem or quasi in rem jurisdiction, 3.126 Lis pendens, 2.113 Meritless claims, 3.36 Personal jurisdiction over defendant, 3.83–.85 Pleading, 5.61

Foreign Corporations and Limited Liability Companies

See Corporations; Limited Liability Companies

Foreign States

Service in, 6.32 Statutes of limitation, 2.66, 2.80, 5.38 Stay of proceedings to permit trial in, 5.73

Forfeiture

Civil, voluntary dismissal of, 9.4 Privileges and immunities, 10.50–.62

Formal Discovery

See Discovery

Forum

See also Jurisdiction; Venue Choice of
—answer, 5.69–.73
—complaint, 5.33
—factors to consider (checklist),

Forum Non Conveniens, 2.61, 8.54, 8.56

Fraud and Misrepresentation

Effect on statutes of limitation, 2.98 Pleading, 5.53

Frivolous Claims and Defenses

Generally, 1.75–.82
Amount of fee award, 1.82
Lack of subject-matter jurisdiction and, 3.26
Motions for sanctions, 8.125–.136
Under Wis. Stat. § 802.05, 1.77–
.80, 5.27, 8.127–.131
—Fed. R. Civ. P. 11, 1.80
—safe harbor, 1.76
—sanctions, 1.79
Under former Wis. Stat. § 814.025, 1.80–.82, 5.27
—sanctions, 1.79–.82

G

Garnishment Actions

Generally, 3.129 Service of process, 6.58–.61

Governmental Units and Officials

As parties, 2.18–.41 Immunity from suit, 2.21, 2.25, 2.35–.38 Required notice, 2.26–.31, 2.39 Service on, 6.17–.18 Substitution of party on death of public official, 2.11, 4.78

Guarantee

Effect on statutes of repose, 2.97

Guardian ad Litem

Alternative dispute resolution in family law actions, 11.38 Minors and mentally incompetent persons as parties, 2.8

Guardianship

Proceedings and lis pendens, 2.119 Service on guardian of person under disability, 2.9

H

Hague Convention on Service Abroad, 6.33

Health-Care Providers

See also Medical Malpractice Claims As parties, 2.42–.46 Discovery and, 10.16, 10.26 Health-care provider–patient privilege, 10.40, 10.47 —waiver, 10.61

Hourly Attorney Fees, 1.44, 1.48 *See also* Attorney Fees

I

Immunity from Suit

See also Privileges and Immunities Indian tribal sovereignty, 3.46 Medical malpractice claims, 2.21 Municipalities and other governmental bodies, 2.35–.38 Schools, 2.37 State officers or employees, 2.25 State sovereign immunity, 2.21—independent-going-concern exception, 2.21

Impleader

Generally, 4.36–.46 Procedure, 4.41–.45 Uses, 4.38–.40

In Limine Motion

See Motion in Limine

In Personam Jurisdiction

See Personal Jurisdiction

In Rem Jurisdiction

See also Jurisdiction
Generally, 3.126
Minimum contacts requirement,
3.130
Quasi in rem jurisdiction and,
3.125

Incompetent Persons

Capacity to be sued, 2.7–.9
—motion to dismiss, 9.15
Guardians ad litem, 1.17, 2.8
Service on, 2.9
Statute of limitation, extension of, 2.85
Substitution of parties, 4.77, 8.98

Indian Tribal Sovereignty

Jurisdiction and, 3.46 Service of process and, 6.14

Informal Discovery

See Discovery

Initial Client Conference

See Client Conference

Injunctions

See also Temporary Restraining Order Generally, 7.12–.29 Jurisdiction, 3.94–3.96 Permanent, 7.29 Temporary, 7.12–.28. See also Temporary Injunction

Inspection of Documents, 10.23

See also Discovery

Interpleader

Generally, 4.47–.55 Attorney Fees and Costs, 4.55 Procedure, 4.51–.54 Purpose, 4.49 Requirements, 4.50 Use, 4.49

Interrogatories, 10.22

See also Discovery

Intervenor, 4.60–.62, 4.68

Intervention

Generally, 4.56–.68 Intervention of right, 4.58–.62 Permissive intervention, 4.63 Procedure, 4.65–.67 Special intervention statutes, 4.64

Involuntary Dismissal of Actions,

See also Dismissal of Actions

Issue Preclusion (Collateral Estoppel)

Challenge to subject-matter jurisdiction, 3.28 Compulsory counterclaim rule, 4.5, 5.101 J

Joinder of Claims

Generally, 4.2–.6 Counterclaims, 4.5 Cross-claims, 4.6 Personal jurisdiction and, 3.100

Joinder of Parties

See also Parties
Generally, ch. 4
Impracticability of, 4.88
Mandatory joinder, 4.12–.21
—claims arising by subrogation,
derivation and assignment,
4.15–.18
—exception for class actions, 4.21

Misjoinder, 4.35 Nonjoinder, 4.19, 4.20, 4.35 —motion to dismiss, 9.20

Permissive joinder, 4.22–.34

—common questions of law and fact, 4.27

—counterclaims and cross-claims, 4.29

—insurers, 4.30

—marital property considerations, 4.31–.33

—same transaction or occurrence, 4.26

—separate trials, 4.34

—several and alternative joinder, 4.25

Real party in interest, 4.9–.11

Judges

Assignment, 5.64 Disqualification, 5.76, 8.88–.94. See also Disqualification of Judge Substitution, 5.64, 5.77, 8.62–.87. See also Substitution of Judge

Judgment on the Pleadings, 9.49–.51

Jurisdiction

Concurrent, 3.51-.53 Concurrent personal, 3.119 Declaratory relief and, 7.79-.81 Distinguished from venue, 3.5 Exclusive, 3.50 In rem jurisdiction, 3.124–.133. See also In Rem Jurisdiction Jurisdictional amount, 3.45 Justiciability and, 7.79-.81 Personal jurisdiction, 3.55–.123. See also Personal Jurisdiction Quasi in rem jurisdiction, 3.124-.133. See also Quasi in Rem Jurisdiction Removal jurisdiction, 3.54 Subject-matter jurisdiction, 3.9-.54. See also Subject-Matter Jurisdiction

Supplemental jurisdiction, 3.50

Demand for, 5.49, 5.109

Jury Trial

Fee, 5.110
Issues addressed at pretrial conference, 12.46–.54
Jury instructions, 12.54
Right to, 5.108
—declaratory relief, 7.85
Size of jury, 5.111
Summary jury trial, 11.22–.24
Voir dire, 12.50–.52
Waiver, 5.49, 5.109
—cross-motions for summary judgment, 9.87
—declaratory relief, 7.85

Justiciability

Generally, 2.103 Declaratory relief, 7.79–.81, 7.94

 \mathbf{L}

Liens and Encumbrances

Attorney liens, 1.50

Construction liens
—lis pendens, 2.115

Limitation of Actions

See Statutes of Limitation

Limited Liability Companies

As parties, 2.17 Personal jurisdiction over, 3.66, 3.86–.88 Service on, 6.16, 6.30

Limited Liability Partnerships

As parties, 2.17 Personal jurisdiction over, 3.66 Service on, 6.16, 6.30

Lis Pendens Generally, 2.106-.130 Common-law rule, 2.109 Discharge of, 2.128-.130 Duration, 2.127 Effect, 2.111 Procedure, 2.123-.126 -checklist, 2.124 —filing or recording, 2.126 -notice, 2.125 Slander of title, liability for, 2.122 Specific proceedings, 2.112–.121 —construction lien actions, 2.115 —contract for purchase, actions for, 2.120 —divorce actions, 2.116 -eminent domain proceedings, 2.114 —guardianship proceedings, 2.119 -mortgage foreclosure actions, 2.113 -nuisance abatement actions, 2.117

—specific performance, actions

-tax certificates, actions relating

for, 2.120

to, 2.118

Local Court Rules

Motion practice, 8.7

Long-Arm Statutes

See Personal Jurisdiction

M

Mail

See Service of Process and Other Documents

Mandatory Joinder

See Joinder of Parties

Marital Property

Agreement, effect on statutes of limitation, 2.88, 2.95
Joinder of parties, 4.31–.33
Obligations of spouses, 2.6

Mediation

See Alternative Dispute Resolution; Medical Malpractice Claims

Medical Malpractice Claims

Generally, 11.45–.64
Determining beginning of statute-of-limitation period, 2.70
Limitation on damages and attorney fees, 2.44–.46
Mediation, 2.42, 11.33–.65

- —discovery, 11.62
- —effect on statutes of limitation, 11.54
- -mediation panel, 11.56
- -mediation period, 11.55
- —oral presentation, 11.63
- —patient health-care records, 11.60
- —preemption, 11.65
- -procedure, 11.57-.64
- -record of, 11.61
- -request for, 11.47-.54
- -settlement, 11.64

—timing, 11.50–.53 Notice of claim, 2.21, 2.39

Medical Professionals

See Health-Care Providers

Mental Examinations, 10.26

See also Discovery

Mentally Incompetent Persons

See Incompetent Persons

Military Service

Effect on statutes of limitation, 2.87, 2.94 Proof of non-military service, 9.34, 9.41

Minimum Contacts Requirement

See also Personal Jurisdiction Generally, 3.86–.88, 3.103 In rem jurisdiction, 3.130

Minors

Capacity to be sued, 2.7–.9
—motion to dismiss, 9.13
Guardians ad litem, 1.17, 2.8
Service on, 2.9
Statute of limitation, extension of, 2.85

Misjoinder of Parties, 4.35

See also Parties

Misrepresentation

See Fraud and Misrepresentation

Mistake, Inadvertence, Surprise, or Excusable Neglect

Pleading, 5.53 Relief from default judgment, 9.46

Mootness, 2.104

More Definite Statement, Motion for

See also Motions
Generally, 8.100–.105
Content, 8.104
Order, 8.105
Sanctions for noncompliance, 8.105
Standard for granting, 8.102
Time for bringing, 8.103

Motion for Default Judgment

See Default and Default Judgments

Motion for Summary Judgment

See Summary Judgment

Motion in Limine

See also Motions
Generally, 8.114–.123
Pretrial conference, 12.55
Sanctions for violating order, 8.123
Uses, 8.116–.122
—advance rulings on admissibility
of evidence, 8.116–.121

Motion Practice

Local court rules, 8.7

Motion to Dismiss

See also Motions Generally, 9.11–.23 Grounds for, 9.13–.23

- —another action pending between same parties, 9.23
- —claim preclusion, 9.21
- —failure to join party, 9.20
- —failure to state claim, 9.19
- -insufficiency of process, 9.18
- —lack of capacity to sue or be sued, 9.15
- —lack of personal jurisdiction, 9.17
- —lack of subject-matter jurisdiction, 9.16
- —statute of limitation, 9.22

—untimeliness or insufficiency of service of process, 9.18
 Notice requirements, 9.12
 Time for bringing, 9.12
 Treatment as motion for summary judgment, 9.19, 9.21, 9.22

Motions

Generally, ch. 8
Content, 8.11
Distinguished from pleadings, 5.10
Ex parte, 8.26
Filing, 8.21–.23
—electronic, 8.10, 8.11, 8.23
Form, 8.10
Function, 8.3
Hearings, 8.32–.35
—appearances, 8.33
—oral argument, 8.35
Law governing, 8.5–.7
Notice, 8.8–.25
Order, 8.36–.40
—contents, 8.39

- —entry and service, 8.40
- —signing, 8.38
- —signing, 8.38 Response to, 8.27–.31
- —grounds for opposition, 8.30
- —service and filing, 8.31

Service, 8.12-.17

Specific motions

- —amend pleadings, 8.45–.51. See also Amendment of Pleadings
- —amend scheduling order, 12.18
- —certify class, 4.108. *See also* Class Actions
- —change venue, 8.53–.61. *See also* Venue
- —default judgment, 9.24–.47. See also Default and Default Judgments
- —discovery motions, 8.124. *See also* Discovery
- —dismiss action, 2.12, 9.11–.23. *See also* Motion to Dismiss

- —disqualify judge, 8.88–.94.
 See also Disqualification of Judge
- —intervene in action, 4.65–.67. *See also* Intervention
- —more definite statement, 8.100–.105
- —motion in limine, 8.114—.123. *See also* Motion in Limine
- —rehearing or reconsideration, 8.42–.44
- ---sanctions, 8.125--.136
- —scheduling order, 12.3. *See also* Scheduling Order
- -strike, 8.106-.112
- —substitute judge, 8.62–.87. *See also* Substitution of Judge
- —substitute parties, 2.11, 4.69–.79, 8.95–.99. *See also* Substitution of Parties
- —summary judgment, 9.52–.87. *See also* Summary Judgment
- —supplement pleadings, 8.52. See also Supplementation of Pleadings
- —temporary injunction, 7.24. See also Temporary Injunction
- —temporary restraining order, 7.7. See also Temporary Restraining Order

Supporting documents, 8.35

Multiple Defendants

Settlement offer

- —multiple theories of liability, 11.96
- —single theory of liability, 11.97–.99

Municipal Courts

Subject-matter jurisdiction, 3.18

Municipalities

As parties, 2.33–.41 Claim procedure, 2.40 Damage limitations, 2.41 Immunity from suit, 2.35–.38

N

Names (Parties)

Generally, 5.20–.22 Fictitious, 2.5, 5.22 Partners', 5.22

Negative Pregnant, 5.92

Negligence Actions

Joinder of parties, 4.30

Nonfinal Orders, Appeal, 7.28, 10.70

Nonjoinder of Parties, 4.19, 4.20, 4.35

Nonresidents

Personal jurisdiction. *See* Personal Jurisdiction

Nonsuit, 9.3

See also Dismissal of Actions

Class actions, 4.110

Notice

Failure to prosecute, 9.48
Lis pendens, 2.106–.130. See also
Lis Pendens
Motions, 8.8–.25
—default judgment, 9.32
—dismiss, 9.12
—summary judgment, 9.59
Notice pleading, 5.13
Service of process, 6.4
Suit against municipality or other
governmental body, 2.39, 5.39
Suits affecting validity of state
statutes, 2.131
Temporary restraining order, 7.8

\mathbf{o}

Offer of Damages, 11.80-.84 See also Settlement Offers

Offer of Judgment, 11.73–.79 See also Settlement Offers

Offer of Settlement, 11.85–.100 See also Settlement Offers

P

Parties Generally, 2.2-.46 Consolidation of actions, 12.76 Corporations as, 2.14 Death of party, 2.10-.12, 2.84, 2.92 Defendants, considerations in selecting (checklist), 2.3 Governmental health-care providers, 2.21, 2.31, 2.39 Governmental units and officials as, 2.18-.41 -general, 2.19 -municipalities, 2.33-.41 -state, 2.20-.23 —state officers or employees, 2.24 - .32Health-care providers as, 2.42-.46 Immunity from suit, 2.21, 2.25, 2.35 - .38Individuals as, 2.4–.12 —deceased, 2.10-.12 -minors and mentally incompetent, 2.7-.9 Joinder, ch. 4. See also Joinder of

Partnerships as, 2.15 Real party in interest, 4.10 Substitution of, 2.12, 4.69–.79. See also Substitution of Parties Unincorporated associations as, 2.16

Partnerships

See also Limited Liability Partnerships As parties, 2.15 Partners' names in pleadings, 5.22 Service on, 6.15

Peremptory Challenges, 12.49

Permanent Injunctions, 7.29 See also Injunctions

Permissive Joinder

See Joinder of Parties

Personal Jurisdiction See also Jurisdiction Generally, 3.55-.123 Challenge to, 3.120-.123 Concurrent, 3.119 Consent to, 3.114-.117 —corporations and individuals, 3.115 -state, 3.117 Domicile, 3.65 Due process, 3.103 General vs. specific personal jurisdiction, 3.56 -general personal jurisdiction, bases for, 3.62-.67 -specific personal jurisdiction, bases for, 3.69-.100 Lack of personal jurisdiction (defense), 3.118-.123 -defect in service of process, 6.39-.46, 9.18 -motion to dismiss, 9.18

-waiver, 9.17

Notice to governmental bodies and employees, 1.31, 2.26-.31, 2.39

Limited liability companies as, 2.17

Limited liability partnerships as,

Parties

2.17

Marital property, 2.6

Names, 5.20-.22

Long-arm statute. See Wisconsin long-arm statute, infra Minimum contacts requirement, 3.103, 3.130

Over specific entities

- —corporations, 3.66
- —limited liability companies, 3.66
- —limited liability partnerships, 3.66

Principal place of business, 3.43 Service of process, 3.57-.59, 6.5 Special jurisdictional statutes, 3.68 Substantial business in state, 3.67, 3.77-.79

Waiver of defense, 3.118 Wisconsin long-arm statute, 3.60– .100

- —general personal jurisdiction, bases for, 3.62-.67
- -minimum contacts requirement,
- -restraining orders or injunctions, 3.94-3.96
- -specific personal jurisdiction, bases for, 3.69-.100

Personal Service

See Service of Process and Other Documents

Physical Examinations, 10.26 See also Discovery

Physicians See Health-Care Providers

Pleadings

See also specific pleadings, e.g., Answer; Complaint Generally, ch. 5 Alternative or inconsistent, 5.14 Amended, service of, 5.122 Amendment, 5.11, 5.112-.123 Answer, 5.65–.97 Caption, 5.17-.22 —classification type and code, 5.19 —parties' names, 5.20 Complaint, 5.30-.64 Consolidated actions, 12.77 Counterclaim, 5.98-.102 Cross-claim, 5.103-.105 Form, 5.29 General rules, 5.12-.15 Judgment on, 9.49-.51 Jury demand, 5.49, 5.106-.111 Motion for default judgment, 9.33-Motion to strike, 8.106–.112 Motions distinguished from pleadings, 5.10 Notice pleading, 5.115

Supplemental, 5.11, 5.124 Types, 5.3-.11

Verification, 5.28

Preemption

Generally, 3.49 Exclusive federal jurisdiction, 3.49 Indian sovereignty, 3.46 Medical malpractice claims, 11.65

Preliminary Injunctions

See Injunctions

Pretrial Conferences

Generally, 12.20-.59 Final pretrial conference, 12.37–.59 Matters covered, 12.26, 12.29-.33, 12.39-.56

- —discovery, 12.31
- -evidence, 12.32, 12.42
- -exhibits, 12.45
- —joinder of parties, 4.18
- —jury issues, 12.46–.54
- -motions in limine, 12.55
- -number of parties and disputed issues, 12.33
- —objections in deposition, 12.56
- —order of proof, 12.43–.45
- -settlement, 12.41
- —voir dire, 12.49—.52
- —witnesses, 12.44

Participants, 12.25
Pretrial orders, 12.57–.59
—sanctions for violating, 12.59
Status conference, 12.27–.36
Statutory authority, 12.22
Timing, 12.24
—scheduling order, 12.6

Principal Place of Business, 3.43

Privileges and Immunities

See also Discovery; Immunity from Suit Generally, 10.34, 10.40, 10.42–.49 List of, app. 10A Waiver, 10.50–.62 Waiver or forfeiture, 10.50–.62

Probate Actions

Substitution of judge, 8.66, 8.81

Process

See Service of Process and Other Documents

Protective Orders, 10.67

See also Discovery

Provisional Remedies, ch. 7 *See also* Injunctions; Receivers; Temporary Restraining Order

Public Entities and Employees

See Governmental Units and Officials

Publication

See Service of Process and Other Documents

Punitive Damages

See also Damages Demand for judgment, 5.48 Slander of title, 2.122

Q

Quantum Meruit, 1.73

Quasi in Rem Jurisdiction

See also Jurisdiction
Generally, 3.127–.129
Garnishment and attachment, 3.129
In rem jurisdiction and, 3.125,
3.126
Minimum contacts requirement,
3.130

Quiet Title Actions

In rem jurisdiction, 3.126

R

Real Party in Interest

See also Parties Generally, 4.8–.11 Challenging, 4.11 Representatives, 4.10

Real Property

Guarantee or warranty, 2.97 In rem jurisdiction, 3.124–.133 Location as basis for personal jurisdiction, 3.80–.82 Location as basis for venue, 2.54

Receivers

Generally, 7.30–.69
Appointment, 7.34–.39, 7.43, 7.48–.50
Powers and duties, 7.40, 7.44, 7.51–.57
Types
—general receivers, 7.32–.40
—receiver for defendant interested as heir, 7.69
—receiver for missing person, 7.66
—receiver over money due partner, 7.68

—receiver to liquidate corporation, 7.67

-state law bankruptcy, 7.46-.64

—supplementary receivers, 7.41–.45

Reconsideration, Motion for,

8.42-.44

See also Motions

Referral Fees

See Fee-Splitting and Referral Fees

Rehearing, Motion for, 8.42–.44

See also Motions

Relevance

See Discovery

Remand

Substitution of judge, 8.71, 8.80

Removal Jurisdiction, 3.54, 5.71

Requests for Admission, 10.27

See also Discovery

Requests to Inspect Documents, Things, and Places, 10.23

See also Discovery

Res Judicata

See Claim Preclusion

Residence and Domicile

Basis for personal jurisdiction, 3.64 Basis for venue, 2.55

Restraining Orders

Jurisdiction, 3.94-3.96

Retainers, 1.43

See also Attorney Fees

Ripeness Doctrine, 2.102

Index-20

S

Scheduling Conference, 12.9–.13

Scheduling Order

Generally, 8.7, 12.2–.19 Amendments and extensions,

12.15-.18

-by motion and order, 12.18

—by stipulation and order, 12.17

Court's consultation with attorneys, 12.7–.13

-scheduling conference, 12.9-.13

Form of order, 12.14

Matters covered, 12.4-.6

—discovery, 10.65, 12.6

—trial date, 12.5

Sanctions for violating, 12.19

Schools

Immunity

-recreational agreements, 2.37

-school boards, 2.37

-school officials, 2.37

-volunteers, 2.37

Separate Trials, 4.34

See also Bifurcation

Service of Amended Pleadings,

5.122

Service of Process and Other Documents

Generally, ch. 6

Challenge to, 6.39–.46

—hearing on, 6.42

—proof of service, 6.43–.45

Defective, 6.46

—amendment of summons, 2.78

—motion to dismiss, 9.18

Electronic, 6.19, 8.14-.20

Importance of, 3.59, 6.2–.5

Indian tribal sovereignty and, 6.14

Methods, 6.21-.30

-mail, 6.30

© June 2024, State Bar of Wisconsin

—personal service, 6.23 —publication, 6.27–.29 —substituted service, 6.24–.26 Motions, 8.12–.20 —response to motions, 8.31 Outside Wisconsin, 6.31–.33 Personal jurisdiction and, 3.59, 6.5 Persons and entities served, 6.13–.20 —persons under disability, 2.9 Persons who may serve, 6.12 Proof of, 6.35–.38

—affidavit of service, 6.37–.38

—motion for default judgment, 9.35

—upon challenge, 6.43–.45 Reasonable-diligence standard, 6.26, 6.29, 6.45

Specific proceedings

—administrative agency actions, 6.48–.53

-extraordinary writs, 6.56

—garnishment actions, 6.58–.61

-licensing, 6.55

-small claims actions, 6.62-.66

Summons, 6.6-.10

Temporary restraining orders, 7.9

Time for, 6.34

—motion to dismiss for untimeliness, 9.18

Waiver of personal service, 9.32

Settlement

See also Alternative Dispute
Resolution
Before filing complaint, 5.32
Class actions, 4.113
Medical malpractice claims, 11.63.
See also Medical Malpractice
Claims
Role of discovery, 10.10
Role of pretrial conferences, 12.41
Settlement alternatives, 11.4–.27.
See also Alternative Dispute

Settlement Offers, 11.65–.98. *See also* Settlement Offers

Settlement Offers

Generally, 11.66–.100
Acceptance of, 11.72, 11.75, 11.82, 11.87
Form, 11.70
Multiple defendants, 11.95–.99
Multiple parties, 11.77–.79, 11.84, 11.92–.99
Multiple theories of liability, with one defendant, 11.100
Nonacceptance, effect of, 11.76, 11.83, 11.88–.91
Purpose, 11.69
Single theory of liability, with multiple defendants, 11.97–.99
Time for service, 11.71

Types
—offers of damages, 11.80–.84

—offers of judgment, 11.73–.79

—offers of settlement, 11.85–.100

Severance

See also Bifurcation; Separate
Trials
Generally, 12.80–.88
Checklist, 12.88
Distinguished from bifurcation and
splitting causes of action, 12.82
Effect of, 12.87
Misjoinder of parties and, 4.35
Power to order, 12.83
Procedure, 12.86
When proper and improper, 12.84–.85

Show Cause Orders

Appearance at motion hearings, 8.3 Temporary restraining orders, 7.10

Signatures

See Frivolous Claims and Defenses

Slander of Title, 2.122

Index-21

Resolution

Small Claims

Motion to vacate default judgment, 9.44 Service of process, 6.62–.66

Subject-matter jurisdiction, 3.17

Sovereign Immunity

See also Immunity from Suit Generally, 2.21 Consent to personal jurisdiction by state, 3.117 Governmental immunity, comparison to, 2.25

Special Appearance

Abolished, 5.68

Splitting Cause of Action, 4.3, 12.82

Stakeholder

See Interpleader

Standing to Sue, 2.101

State

As party, 2.20–.23
Consent to personal jurisdiction, 3.117
Consent to suit, 2.21
Sovereign immunity, 2.21
State officers or employees

- —as parties, 2.24—.32
- —immunity, 2.25
- —limitations on damages, 2.32
- —notice required to sue, 2.26-.31
- —time limits for suit, 2.31

Wisconsin Claims Board procedure, 2.22

State Bar of Wisconsin

Attorney State Bar number (on pleadings), 5.26, 6.7, 8.10

State Statutes, Validity of

Notice in actions affecting, 2.131

Statements

See Discovery

Status Conference

See Pretrial Conferences

Statutes of Limitation

Generally, 2.62–.99 Accrual of cause of action, 2.71–

Advance payment of damages, effect on, 2.82

Advice to client, 1.27

Checklist for analyzing, 2.63

Commencement of action and, 2.76–.80, 5.35–.38

Computation of time, 2.69, 8.16

—enlarging time, 5.83–.85, 8.138–.139, 9.29

—shortening time, 8.138, 8.140

Death of party, effect on, 2.84, 2.92

Defendant's absence from state, effect on, 2.91

Disability, effect on, 2.85

Foreign, 2.66, 5.38

Fraudulent concealment, effect on, 2.98

Ground for motion to dismiss, 9.22 Marital property agreement, effect on, 2.88, 2.95

Military service, effect on, 2.87, 2.94

Nonsuit and, 9.3

Notice to client not accepted, 1.34

Specific statutes of limitation

- —default judgment, motion for, 9.40
- —default judgment, motion to vacate, 9.44
- —dismiss action, motion to, 9.12
- -lists of, Apps. 2B, 2C
- -medical mediation, 11.49-.53
- —motions generally, 8.12–.23
- —service of process, 6.34, 6.51
- —settlement offers, 11.70–.71

- —summary judgment, appeal from, 9 84
- —summary judgment, motion for, 9.59, 9.78
- —temporary injunction, motion for, 7.24

Statutes imposing (list), app. 2B Statutes tolling or extending (list), app. 2C

Subject-matter jurisdiction and, 3.20

Time, computation of.

See Computation of time, supra
Tolling or extending, 2.74–.99

- —action commenced in non-Wisconsin forum, 2.80
- —commencement of action, effect on, 2.76–.80
- —court conduct, effect on, 2.99
- —defendant's conduct or status, effect on, 2.89–.97
- —list of statutes, app. 2C
- —medical mediation, effect on, 11.54
- —plaintiff's conduct or status, effect on, 2.81–.88 Voluntary dismissal and, 9.3

Statutes of Repose, 2.63, 2.69, 2.97

Stay of Proceedings, 5.73

Stipulations

Admissibility of evidence, 12.42 Amendment of pleadings, 8.50 Amendment of scheduling order, 12.17 Appeal, reserving right to, 11.12 Change of venue, 2.49, 2.61, 5.72, 8.56 Discovery, 10.28, 10.38, 10.62 Physical examination, 10.26 Substitution of judge, 8.87 Supplementation of pleadings, 8.52 Voluntary dismissal, 9.5 Waiver of privilege, 10.62

Strike, Motion to

See also Motions Generally, 8.106–.113 Grounds for, 8.111–.113 Pleadings subject to, 8.108 Time for bringing, 8.109

Subject-Matter Jurisdiction

See also Jurisdiction Generally, 3.9–.54 Challenges to, 3.21–.28, 9.16 Constitutional bases of, 3.13, 3.32 Federal, 3.29–.45

- —concurrent jurisdiction, 3.51–.53
- —diversity jurisdiction, 3.38–.45. *See also* Diversity Jurisdiction
- —exclusive jurisdiction, 3.49
- —federal-question jurisdiction, 3.34–.35
- —legal basis, 3.31-.33
- —supplemental jurisdiction, 3.50 Indian tribe, 3.46

Lack of subject-matter jurisdiction (defense), 3.21–.28

- —basis for motion to dismiss, 9.16
- —time for raising, 3.24–.28, 9.16
- —waiver, 3.25

Legal basis

- —federal, 3.30-.32
- —Wisconsin, 3.12–.14

Relationship between state and federal, 3.47–.54

Removal of state actions to federal court, 3.54

Wisconsin, 3.11-.28

- —challenges to, 3.21–.28
- —concurrent jurisdiction, 3.51–.53
- —legal basis, 3.12–.14
- —Wisconsin circuit courts, limits on jurisdiction, 3.15–.20
- —Wisconsin Court of Appeals, 3.13–.14
- —Wisconsin Supreme Court, 3.13–.14

Subrogated Claims

Joinder of parties, 4.15–.18

Substantial Business in State

Basis for personal jurisdiction, 3.67, 3.77–.79 Basis for venue, 2.55

Substituted Service

See Service of Process and Other Documents

Substitution of Counsel

Generally, 1.68–.74 Fee disputes, 1.74 Procedure, 1.70–.73 Right to, 1.69

Substitution of Judge

Generally, 8.62-.87 Answer (raised in), 5.77 Complaint (raised in), 5.64 Divorce actions, 8.67 Filing procedure, 8.82 Judge's determination, 8.84 —Relief from, 8.85–.87 Opposition to, 8.82 Parties united in interest, 8.70 Preliminary contested matters, 8.77 Probate actions, substitution as to single issue, 8.66, 8.79 Remand after appeal, 8.71, 8.80 Time for filing, 8.73–.81 —new judge assigned to trial, 8.78 —original assigned judge, 8.74–.77

Substitution of Parties

See also Parties Generally, 4.69–.79 Events triggering

- —death of party, 4.71–.76. *See also* Death of Party
- —incompetency of party, 4.77, 8.98
- —transfer of interest by party, 4.78, 8.99

Motion for, 4.76, 8.95–.99 Public officials, 2.11, 4.79

Successor in Interest, 4.78

Suggestion of Death on Record, 2.12, 4.74

Summary Judgment

Generally, 9.52–.87 Affidavits in opposition to, 9.74, 9.77–.79 Affidavits in support of, 9.63, 9.66–.75

- —effect of failure to file, 9.75
- -evidentiary facts, 9.73
- —purpose, 9.67
- -requirements, 9.69-.74

Appeal, 9.84

Cross-motions for, 9.87

Evidence

- -documents, 9.64
- —evidentiary facts in affidavit, 9.71–.74
- —objections to admissibility, 9.76

Grounds for, 9.54-.57

- —absence of issue of fact, 9.55
- —entitlement to judgment as matter of law, 9.57
- —presence of question of law, 9.56 Interlocutory, 9.58 Motion for summary judgment,

9.59

- —motion for judgment on pleadings treated as, 9.50
- —motion to dismiss treated as, 9.19, 9.21, 9.22

Opposition to, 9.77–.79

—movant's reply, 9.80

Order for summary judgment, 9.83

—for opponent, 9.86

Partial summary judgment, 9.58

Relief from, motion for, 9.85

Statutes of limitation

- —appeal, 9.84
- -motion, 9.59

—opposition, 9.78

Supporting documents, 9.60–.65

- —affidavits, 9.63, 9.66–.75
- —discovery responses and depositions, 9.65
- —evidentiary documents, 9.64
- -memorandum of law, 9.62

Summons

See also Service of Process and Other Documents Generally, 6.6–.10 Authentication, 6.9 Contents, 6.7 Defects in, 9.18 Electronically filed cases, 6.10 Form, 6.8 Notice of assistance available to

Supplemental Jurisdiction, 3.50

elderly and disabled, 6.7

See also Subject-Matter Jurisdiction

Small claims, 6.64-.66

Supplementation of Discovery,

See also Discovery

Supplementation of Pleadings

See also Pleadings Generally, 5.11, 5.124 Motion for, 8.52

 \mathbf{T}

Temporary Injunction

Generally, 7.12–.28 Appeal rights, 7.28 Bond, 7.26 Hearing on, 7.25 Motion for, 7.23–.25 Procedure, 7.22–.26 Requirements, 7.14–.21 —checklist, 7.15 Wrongful, 7.27 **Temporary Restraining Order**

Generally, 7.4–.11 Duration, 7.10 Expedited discovery, 7.11 Notice, 7.8 Request for, 7.7 Service, 7.9

Third-Party Practice (Impleader)

Generally, 4.36–.46 Procedure, 4.41–.45 Uses, 4.38–.40

Time Limits

See Statutes of Limitation

Tort Actions

Accrual of cause of action, 2.72 Damages, 5.47 Tortious conduct as basis for personal jurisdiction, 3.74–.76

Trust Accounts, 1.67

U

Unincorporated Associations

As parties, 2.16

See also Forum

V

Venue

Generally, 2.47–.61
Change of, 2.58–.61, 5.72
—discretionary, 8.56
—judge disqualified by interest, 8.57
—motion, 8.53–.61
—proceedings after change of venue, 8.58–.61
Choice of
—complaint, 5.34

© June 2024, State Bar of Wisconsin

—factors to consider (checklist), 2.50 Distinguished from jurisdiction, 2.49 General venue statute, 2.51–.56 Improper, 2.61, 8.55 Proper, 2.61 Special venue statutes, 2.57, app. 2A Waiver, 2.48

Verification, 5.28

Vocational Examinations, 10.26 *See also* Discovery

Voir Dire, 12.50–.52 *See also* Jury Trial

Voluntary Dismissal of Actions, 9.2–.9

See also Dismissal of Actions

W

Waiver

Compulsory counterclaim rule, 4.5, 5.101

Defenses

- —another action pending between parties, 9.23
- -insufficiency of process, 9.18
- —lack of personal jurisdiction, 3.118, 9.17
- —lack of subject-matter jurisdiction, 3.25

Objection to admissibility of evidence (summary judgment), 9.76

Personal service of process, 9.32 Privileges and immunities, 10.50–.62

Statutory damage limits (suits against municipalities), 2.41 Venue, 2.48

Warranty

Effect on statutes of repose, 2.97

Wisconsin Claims Board, 2.22

Wisconsin Long-Arm Statute, 3.61, 3.63–.86 See also Personal Jurisdiction

Withdrawal of Attorney, 1.32–

.34, 1.69

See also Conflicts of Interest; Fee-Splitting and Referral Fees;
Substitution of Counsel

Witnesses

Attorney conflicts of interest, 1.13 Discovery, ch. 10 Statements, 10.39

Work-Product Protection, 10.48

See also Discovery

Writs

Prohibition, request for substitution of judge, 8.86–.87 Service of process and, 6.57