

PUBLICATION UPDATE

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California Forms of Jury Instruction

Publication 138

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HIGHLIGHTS

- **Conflict Between Statute and Instruction.** In *Applied Medical Distribution Corp. v. Jarrells* (2024) 100 Cal.App.5th 556, 570, 319 Cal.Rptr.3d 205, the court of appeal held that a CACI instruction is not itself authority for a legal proposition; if an instruction conflicts with a statute, the statute necessarily controls. See Ch. 1A, *Introduction to California Jury Instructions*, MB100A.02[3].
- **Agency—Health Care Decisions.** In *Harrod v. Country Oaks Partners, LLC* (2024) 15 Cal. 5th 939, the California Supreme Court examined the state’s law of agency, holding that a health care agent’s execution of a separate, optional contract for arbitration with a skilled nursing facility was not a “health care decision” within

the agent’s authority. See Ch. 3C, *Matthew Bender Contract Party Instructions*, § 300C.53[3][a].

- **Contracts—Disaffirmance by Minor.** In *J.R. v. Electronic Arts Inc.* (2024) 98 Cal.App.5th 1107, the court of appeal held the trial court did not err in denying a motion to compel arbitration of claims brought by a minor, who disaffirmed the contracts at issue under Fam. Code § 6710. See Ch. 3C, *Matthew Bender Contract Party Instructions*, § 300C.71.
- **Inverse Condemnation; “Substantial Causation.”** A master complaint that alleged that the defendant, a privately-owned public utility, knew its infrastructure was old and improperly maintained for safety, yet failed to properly assess and remediate these known risks, resulting in building and

wildfires, sufficiently alleged “substantial causation” [Simple Avo Paradise Ranch, LLC v. Southern California Edison Co. (2024) 102 Cal.App.5th 281, 306]. See Ch. 35A, *Matthew Bender Inverse Condemnation Instructions*, § 35A.31

- **Payment Bonds; Attorney’s Fees.** A court of appeals has held that general payment bond requirements in public works of improvement—including the attorney fee provision in Civ. Code § 9564—apply both to state projects that require a bond under Pub Contract Code § 7103 and other “public entity” projects that require a bond under Civ. Code § 9550 [K & S Staffing Solutions, Inc. v. The Western Surety Co. (2024) 98 Cal.App.5th 647, 658, 316 Cal.Rptr.3d 834]. See Ch. 45A, *Matthew Bender Construction Contract Instructions*, § 45A.09.
- **Implied Easements.** The California Supreme Court examined the law of implied easements. It held that the evidentiary standard for recognizing an implied easement is a high one, and that standard will naturally be more difficult to meet where the nature of the easement in question effectively precludes the property owners from making most practical uses of the easement area. But if there is clear evidence that the parties to a sale intended for a neighboring parcel’s preexisting use of the area to continue after separation of title, the law obligates courts to give effect to that intent [see *Romero v. Shih* (2024) 15 Cal.

5th 680, 687, 317 Cal. Rptr. 3d 478]. See Ch 77A, *Matthew Bender Easement Instructions*, § 77A.02.

CONTRACTS

372. Common Count: Open Book Account (*revised*)

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VF-301. Breach of Contract—Affirmative Defense—Unilateral Mistake of Fact (*revised*)

VF-302. Breach of Contract—Affirmative Defense—Duress (*revised*)

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VF-304. Breach of Implied Covenant of Good Faith and Fair Dealing (*revised*)

NEGLIGENCE

441. Negligent Use of Deadly Force by Peace Officer—Essential Factual Elements (*sources and authority*)

VF-400. Negligence—Single Defendant (*revised*)

VF-401. Negligence—Single Defendant—Plaintiff’s Negligence at Issue—Fault of Others Not at Issue (*revised*)

VF-402. Negligence—Fault of Plaintiff and Others at Issue (*revised*)

VF-403. Primary Assumption of Risk—Liability of Coparticipant (*revised*)

VF-404. Primary Assumption of Risk—Liability of Instructors, Trainers, or Coaches (*revised*)

VF-405. Primary Assumption of Risk—Liability of Facilities Owners and Operators and Event Sponsors (*revised*)

VF-406. Negligence—Providing Alcoholic Beverages to Obviously Intoxicated Minor (*revised*)

VF-407. Strict Liability—Ultrahazardous Activities (*revised*)

VF-408. Strict Liability for Domestic Animal With Dangerous Propensities (*revised*)

VF-409. Dog Bite Statute (Civ. Code, § 3342) (*revised*)

VF-410. Statute of Limitations—Delayed Discovery—Reasonable Investigation Would Not Have Disclosed Pertinent Facts (*revised*)

VF-411. Parental Liability (Non-statutory) (*revised*)

MEDICAL NEGLIGENCE

VF-500. Medical Negligence (*revised*)

VF-501. Medical Negligence—Informed Consent—Affirmative Defense—Plaintiff Would Have Consented Even If Informed (*revised*)

VF-502. Medical Negligence—Informed Consent—Affirmative Defense—Emergency (*revised*)

MOTOR VEHICLES AND HIGHWAY SAFETY

VF-700. Motor Vehicle Owner Liability—Permissive Use of Vehicle (*revised*)

VF-701. Motor Vehicle Owner Liability—Permissive Use of Vehicle—Affirmative Defense—Use

Beyond Scope of Permission (*revised*)

VF-702. Adult's Liability for Minor's Permissive Use of Motor Vehicle (*revised*)

VF-703. Liability of Cosigner of Minor's Application for Driver's License (*revised*)

VF-704. Negligent Entrustment of Motor Vehicle (*revised*)

PREMISES LIABILITY

1002. Extent of Control Over Premises Area (*sources and authorities*)

1009A. Liability to Employees of Independent Contractors for Unsafe Concealed Conditions (*revised*)

VF-1000. Premises Liability—Comparative Negligence of Others Not at Issue (*revised*)

VF-1001. Premises Liability—Affirmative Defense—Recreation Immunity—Exceptions (*revised*)

VF-1002. Premises Liability—Comparative Fault of Plaintiff at Issue (*revised*)

DANGEROUS CONDITION OF PUBLIC PROPERTY

VF-1100. Dangerous Condition of Public Property (*revised*)

VF-1101. Dangerous Condition of Public Property—Affirmative Defense—Reasonable Act or Omission (Gov. Code, § 835.4) (*revised*)

PRODUCTS LIABILITY

1204. Strict Liability—Design Defect—Risk-Benefit Test—Essential Factual Elements—Shifting

Burden of Proof (*sources and authority*)

VF-1200. Strict Products Liability—Manufacturing Defect—Comparative Fault at Issue (*revised*)

VF-1201. Strict Products Liability—Design Defect—Affirmative Defense—Misuse or Modification (*revised*)

VF-1203. Strict Products Liability—Failure to Warn (*revised*)

VF-1204. Products Liability—Negligence—Comparative Fault of Plaintiff at Issue (*revised*)

VF-1205. Products Liability—Negligent Failure to Warn (*revised*)

VF-1206. Products Liability—Express Warranty—Affirmative Defense—Not “Basis of Bargain” (*revised*)

VF-1207. Products Liability—Implied Warranty of Merchantability—Affirmative Defense—Exclusion of Implied Warranties (*revised*)

VF-1208. Products Liability—Implied Warranty of Fitness for a Particular Purpose (*revised*)

ASSAULT AND BATTERY

VF-1300. Battery (*revised*)

VF-1301. Battery—Self-Defense/Defense of Others at Issue (*revised*)

VF-1302. Assault (*revised*)

VF-1303A. Battery by Law Enforcement Officer (Nondeadly Force) (*revised*)

VF-1303B. Battery by Peace Officer (Deadly Force) (*revised*)

FALSE IMPRISONMENT

VF-1400. False Imprisonment—No Arrest Involved (*revised*)

VF-1401. False Arrest Involved—Affirmative Defense—Right to Detain for Investigation (*revised*)

VF-1402. False Arrest Without Warrant (*revised*)

VF-1403. False Arrest Without Warrant by Peace Officer—Affirmative Defense—Probable Cause to Arrest (*revised*)

VF-1404. False Arrest Without Warrant by Private Citizen—Affirmative Defense—Probable Cause to Arrest (*revised*)

VF-1405. False Arrest With Warrant (*revised*)

VF-1406. False Arrest With Warrant—Peace Officer—Affirmative Defense—“Good-Faith” Exception (*revised*)

VF-1407. False Imprisonment—Unnecessary Delay in Processing/Releasing (*revised*)

MALICIOUS PROSECUTION

VF-1500. Malicious Prosecution—Former Criminal Proceeding (*revised*)

VF-1501. Malicious Prosecution—Wrongful Use of Civil Proceedings (*revised*)

VF-1502. Malicious Prosecution—Wrongful Use of Civil Proceedings—Affirmative

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VF-1503. Malicious Prosecution—Wrongful Use of Administrative Proceedings (*revised*)

VF-1504. Abuse of Process (*revised*)

EMOTIONAL DISTRESS

VF-1600. Intentional Infliction of Emotional Distress (*revised*)

VF-1601. Intentional Infliction of Emotional Distress—Affirmative Defense—Privileged Conduct (*revised*)

VF-1602. Intentional Infliction of Emotional Distress—Fear of Cancer, HIV, or AIDS (*revised*)

VF-1603. Negligence—Recovery of Damages for Emotional Distress—No Physical Injury—Direct Victim (*revised*)

VF-1604. Negligence—Recovery of Damages for Emotional Distress—No Physical Injury—Bystander (*revised*)

VF-1605. Negligence—Recovery of Damages for Emotional Distress—No Physical Injury—Fear of Cancer, HIV, or AIDS (*revised*)

VF-1606. Negligence—Recovery of Damages for Emotional Distress—No Physical Injury—Fear of Cancer, HIV, or AIDS—Malicious, Oppressive, or Fraudulent Conduct (*revised*)

DEFAMATION

VF-1700. Defamation per se (Public Officer/Figure and Limited Public Figure) (*revised*)

VF-1701. Defamation per quod (Public Officer/Figure and Limited Public Figure) (*revised*)

VF-1702. Defamation per se (Private Figure—Matter of Public Concern) (*revised*)

VF-1703. Defamation per quod (Private Figure—Matter of Public Concern) (*revised*)

VF-1704. Defamation per se—Affirmative Defense—Truth (Private Figure—Matter of Private Concern) (*revised*)

VF-1705. Defamation per quod (Private Figure—Matter of Private Concern) (*revised*)

VF-1720. Slander of Title (*revised*)

VF-1721. Trade Libel (*revised*)

RIGHT OF PRIVACY

VF-1800. Privacy—Intrusion Into Private Affairs (*revised*)

VF-1801. Privacy—Public Disclosure of Private Facts (*revised*)

VF-1802. Privacy—False Light (*revised*)

VF-1803. Privacy—Appropriation of Name or Likeness (*revised*)

VF-1804. Privacy—Use of Name or Likeness (Civ. Code, § 3344) (*revised*)

VF-1807. Privacy—Recording of Confidential Information (Pen. Code, §§ 632, 637.2) (*revised*)

FRAUD OR DECEIT

VF-1900. Intentional Misrepresentation (*revised*)

VF-1901. Concealment (*revised*)

VF-1902. False Promise (*revised*)

VF-1903. Negligent Misrepresentation (*revised*)

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VF-2000. Trespass (*revised*)

VF-2001. Trespass—Affirmative Defense—Necessity (*revised*)

VF-2002. Trespass—Extrahazardous Activities (*revised*)

VF-2003. Trespass to Timber (Civ. Code, § 3346) (*revised*)

VF-2004. Trespass to Timber—Willful and Malicious Conduct (Civ. Code, § 3346; Code Civ. Proc., § 733) (*revised*)

VF-2005. Public Nuisance (*revised*)

VF-2006. Private Nuisance (*revised*)

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VF-2100. Conversion (*revised*)

ECONOMIC INTERFERENCE

VF-2200. Inducing Breach of Contract (*revised*)

VF-2201. Intentional Interference With Contractual Relations (*revised*)

VF-2202. Intentional Interference With Prospective Economic Relations (*revised*)

VF-2203. Negligent Interference With Prospective Economic Relations (*revised*)

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VF-2300. Breach of Contractual Duty to Pay a Covered Claim (*revised*)

VF-2301. Breach of the Implied

Obligation of Good Faith and Fair Dealing—Failure or Delay in Payment (*revised*)

VF-2303. Bad Faith (First Party)—Breach of Duty to Inform Insured of Rights (*revised*)

VF-2304. Bad Faith (Third Party)—Refusal to Accept Reasonable Settlement Demand Within Liability Policy Limits (*revised*)

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VF-2400. Breach of Employment Contract—Unspecified Term (*revised*)

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VF-2402. Breach of Employment Contract—Specified Term (*revised*)

VF-2403. Breach of Employment Contract—Specified Term—Good-Cause Defense (*revised*)

VF-2404. Employment—Breach of the Implied Covenant of Good Faith and Fair Dealing (*revised*)

VF-2405. Breach of the Implied Covenant of Good Faith and Fair Dealing—Affirmative Defense—Good Faith Mistaken Belief (*revised*)

VF-2406. Wrongful Discharge in Violation of Public Policy (*revised*)

VF-2407. Constructive Discharge in Violation of Public Policy—Plaintiff Required to Violate Public Policy (*revised*)

VF-2408. Constructive Discharge in Violation of Public Policy—Plaintiff Required to Endure Intolerable Conditions for Improper Pur-

pose That Violates Public Policy
(*revised*)

FAIR EMPLOYMENT AND HOUSING ACT

2500. Disparate Treatment—Essential Factual Elements (Gov. Code, § 12940(a)) (*revised*)

2501. Affirmative Defense—Bona fide Occupational Qualification (*revised*)

2502. Disparate Impact—Essential Factual Elements (Gov. Code, § 12940(a)) (*revised*)

2513. Business Judgment for “At-Will” Employment (*revised*)

VF-2500. Disparate Treatment (Gov. Code, § 12940(a)) (*revised*)

2521A. Work Environment Harassment—Conduct Directed at Plaintiff—Essential Factual Elements—Employer or Entity Defendant (Gov. Code, §§ 12923, 12940(j)) (*revised*)

2521B. Work Environment Harassment—Conduct Directed at Others—Essential Factual Elements—Employer or Entity Defendant (Gov. Code, §§ 12923, 12940(j)) (*revised*)

2521C. Work Environment Harassment—Sexual Favoritism—Essential Factual Elements—Employer or Entity Defendant (Gov. Code, §§ 12923, 12940(j)) (*revised*)

2540. Disability Discrimination—Disparate Treatment—Essential Factual Elements (*revised*)

2541. Disability Discrimination—Reasonable Accommodation—Essential Factual Elements (Gov.

Code, § 12940(m)) (*revised*)

2547. Disability-Based Associational Discrimination—Essential Factual Elements (*revised*)

2561. Religious Creed Discrimination—Reasonable Accommodation—Affirmative Defense—Undue Hardship (Gov. Code, §§ 12940(l)(1), 12926(u)) (*sources and authorities*)

2743. Equal Pay Act—Retaliation—Essential Factual Elements (Lab. Code, § 1197.5(k)) (*revised*)

VF-2500. Disparate Treatment (Gov. Code, § 12940(a)) (*revised*)

VF-2501. Disparate Treatment—Affirmative Defense—Bona fide Occupational Qualification (Gov. Code, § 12940(a)) (*revised*)

VF-2502. Disparate Impact (Gov. Code, § 12940(a)) (*revised*)

VF-2503. Disparate Impact (Gov. Code, § 12940(a))—Affirmative Defense—Business Necessity/Job Relatedness—Rebuttal to Business Necessity/Job Relatedness Defense (*revised*)

VF-2504. Retaliation (Gov. Code, § 12940(h)) (*revised*)

VF-2505. Quid pro quo Sexual Harassment (*revised*)

VF-2506A. Work Environment Harassment—Conduct Directed at Plaintiff—Employer or Entity

Defendant (Gov. Code, §§ 12923, 12940(j)) (*revised*)

VF-2506B. Work Environment Harassment—Conduct Directed at

Others—Employer or Entity Defendant (Gov. Code, §§ 12923, 12940(j)) (*revised*)

VF-2506C. Work Environment Harassment—Sexual Favoritism—Employer or Entity Defendant (Gov. Code, §§ 12923, 12940(j)) (*revised*)

VF-2507A. Work Environment Harassment—Conduct Directed at Plaintiff—Individual Defendant (Gov. Code, §§ 12923, 12940(j)) (*revised*)

VF-2507B. Work Environment Harassment—Conduct Directed at Others—Individual Defendant (Gov. Code, §§ 12923, 12940(j)) (*revised*)

VF-2507C. Work Environment Harassment—Sexual Favoritism—Individual Defendant (Gov. Code, §§ 12923, 12940(j)) (*revised*)

VF-2508. Disability Discrimination—Disparate Treatment (*revised*)

VF-2509. Disability Discrimination—Reasonable Accommodation (Gov. Code, § 12940(m)) (*revised*)

VF-2510. Disability Discrimination—Reasonable Accommodation—Affirmative Defense—Undue Hardship (Gov. Code, § 12940(m)) (*revised*)

VF-2511. Religious Creed Discrimination—Failure to Accommodate (Gov. Code, § 12940(l)) (*revised*)

VF-2512. Religious Creed Discrimination—Failure to Accommodate—Affirmative Defense—Undue Hardship (Gov.

Code, §§ 12926(u), 12940(l)) (*revised*)

VF-2513. Disability Discrimination—Reasonable Accommodation—Failure to Engage in Interactive Process (Gov. Code, § 12940(n)) (*revised*)

VF-2514. Failure to Prevent Harassment, Discrimination, or Retaliation (*revised*)

VF-2515. Limitation on Remedies—Same Decision (*revised*)

FAIR EMPLOYMENT AND HOUSING ACT

VF-2600. Violation of CFRA Rights (*revised*)

VF-2601. Violation of CFRA Rights—Affirmative Defense—Employment Would Have Ceased (*revised*)

VF-2602. CFRA Rights Retaliation (*revised*)

VF-2603. “Comparable Job” Explained (*sources and authority*)

LABOR CODE ACTIONS

VF-2700. Nonpayment of Wages (Lab. Code, §§ 201, 202, 218) (*revised*)

VF-2701. Nonpayment of Minimum Wage (Lab. Code, § 1194) (*revised*)

VF-2702. Nonpayment of Overtime Compensation (Lab. Code, § 1194) (*revised*)

VF-2703. Waiting-Time Penalty for Nonpayment of Wages (Lab. Code, §§ 203, 218) (*revised*)

VF-2704. Solicitation of Employee

by Misrepresentation (Lab. Code, § 970) (*revised*)

VF-2705. Preventing Subsequent Employment by Misrepresentation (Lab. Code, § 1050) (*revised*)

VF-2706. Rest Break Violations (Lab. Code, § 226.7) (*revised*)

VF-2707. Meal Break Violations (Lab. Code, §§ 226.7, 512) (*revised*)

VF-2708. Meal Break Violations—Employer Records Showing Noncompliance (Lab. Code, §§ 226.7, 512) (*revised*)

VF-2709. Meal Break Violations—Inaccurate or Missing Employer Records (Lab. Code, §§ 226.7, 512) (*revised*)

WORKERS' COMPENSATION

VF-2800. Employer's Willful Physical Assault (Lab. Code, § 3602(b)(1)) (*revised*)

VF-2801. Fraudulent Concealment of Injury (Lab. Code, § 3602(b)(2)) (*revised*)

VF-2802. Employer's Defective Product (Lab. Code, § 3602(b)(3)) (*revised*)

VF-2803. Removal or Noninstallation of Power Press Guards (Lab. Code, § 4558) (*revised*)

VF-2804. Co-Employee's Willful and Unprovoked Physical Act of Aggression (Lab. Code, § 3601(a)(1)) (*revised*)

VF-2805. Injury Caused by Co-Employee's Intoxication (Lab. Code, § 3601(a)(2)) (*revised*)

FEDERAL EMPLOYERS' LIABILITY ACT

VF-2900. FELA—Negligence—Plaintiff's Negligence at Issue (*revised*)

VF-2901. Federal Safety Appliance Act or Boiler Inspection Act (*revised*)

CIVIL RIGHTS

3060. Unruh Civil Rights Act—Essential Factual Elements (Civ. Code, §§ 51, 52) (*sources and authorities*)

3066. Bane Act—Essential Factual Elements (Civ. Code, § 52.1) (*revised*)

3071. Retaliation for Refusing to Authorize Disclosure of Medical Information—Essential Factual Elements (Civ. Code, § 56.20(b)) (*sources and authorities*)

VF-3000. Violation of Federal Civil Rights—In General (42 U.S.C. § 1983) (*revised*)

VF-3001. Public Entity Liability (42 U.S.C. § 1983) (*revised*)

VF-3002. Public Entity Liability—Failure to Train (42 U.S.C. § 1983) (*revised*)

VF-3010. Excessive Use of Force—Unreasonable Arrest or Other Seizure (42 U.S.C. § 1983) (*revised*)

VF-3011. Unreasonable Search—Search With a Warrant (42 U.S.C. § 1983) (*revised*)

VF-3012. Unreasonable Search or Seizure—Search or Seizure Without

a Warrant (42 U.S.C. § 1983) (*revised*)

VF-3013. Unreasonable Search—Search Without a Warrant—Affirmative Defense—Search Incident to Lawful Arrest (42 U.S.C. § 1983) (*revised*)

VF-3020. Violation of Prisoner's Federal Civil Rights—Eighth Amendment—Excessive Force (42 U.S.C. § 1983) (*revised*)

VF-3021. Violation of Prisoner's Federal Civil Rights—Eighth Amendment—Substantial Risk of Serious Harm (42 U.S.C. § 1983) (*revised*)

VF-3022. Violation of Prisoner's Federal Civil Rights—Eighth Amendment—Medical Care (42 U.S.C. § 1983) (*revised*)

VF-3023. Violation of Prisoner's Federal Civil Rights—Eighth Amendment—Deprivation of Necessities (*revised*)

VF-3030. Unruh Civil Rights Act (Civ. Code, §§ 51, 52(a)) (*revised*)

VF-3031. Discrimination in Business Dealings (Civ. Code, §§ 51.5, 52(a)) (*revised*)

VF-3032. Gender Price Discrimination (Civ. Code, § 51.6) (*revised*)

VF-3033. Ralph Act (Civ. Code, § 51.7) (*revised*)

VF-3034. Sexual Harassment in Defined Relationship (Civ. Code, § 51.9) (*revised*)

VF-3035. Bane Act (Civ. Code, § 52.1) (*revised*)

ELDER ABUSE AND DEPENDENT ADULT CIVIL PROTECTION ACT

VF-3100. Financial Abuse—Individual or Individual and Employer Defendants (Welf. & Inst. Code, §§ 15610.30, 15657.5(b)) (*revised*)

VF-3101. Financial Abuse—Employer Defendant Only (Welf. & Inst. Code, §§ 15610.30, 15657.5(b)) (*revised*)

VF-3102. Neglect—Individual or Individual and Employer Defendants (Welf. & Inst. Code, §§ 15610.57, 15657; Civ. Code, § 3294(b)) (*revised*)

VF-3103. Neglect—Employer Defendant Only (Welf. & Inst. Code, §§ 15610.57, 15657; Civ. Code, § 3294(b)) (*revised*)

VF-3104. Physical Abuse—Individual or Individual and Employer Defendants (Welf. & Inst. Code, §§ 15610.63, 15657; Civ. Code, § 3294(b)) (*revised*)

VF-3105. Physical Abuse—Employer Defendant Only (Welf. & Inst. Code, §§ 15610.63, 15657; Civ. Code, § 3294(b)) (*revised*)

VF-3106. Abduction—Individual or Individual and Employer Defendants (Welf. & Inst. Code, §§ 15610.06, 15657.05; Civ. Code, § 3294(b)) (*revised*)

VF-3107. Abduction—Employer Defendant Only (Welf. & Inst. Code, §§ 15610.06, 15657.05; Civ. Code, § 3294(b)) (*revised*)

SONG-BEVERLY CONSUMER WARRANTY ACT

VF-3200. Failure to Repurchase or Replace Consumer Good After Reasonable Number of Repair Opportunities (Civ. Code, § 1793.2(d)) (*revised*)

VF-3201. Consequential Damages (*revised*)

VF-3202. Failure to Repurchase or Replace Consumer Good After Reasonable Number of Repair Opportunities—Affirmative Defense—Unauthorized or Unreasonable Use (Civ. Code, § 1793.2(d)) (*revised*)

VF-3203. Breach of Express Warranty—New Motor Vehicle—Civil Penalty Sought (*revised*)

VF-3204. Breach of Implied Warranty of Merchantability (*revised*)

VF-3205. Breach of Implied Warranty of Merchantability—Affirmative Defense—Disclaimer of Implied Warranties (*revised*)

VF-3206. Breach of Disclosure Obligations (*revised*)

UNFAIR PRACTICES ACT

VF-3300. Locality Discrimination (*revised*)

VF-3301. Locality Discrimination Claim—Affirmative Defense—Cost Justification (*revised*)

VF-3302. Below Cost Sales (*revised*)

VF-3303. Below Cost Sales Claim—Affirmative Defense—Closed-out, Discontinued,

Damaged, or Perishable Items (*revised*)

VF-3304. Loss Leader Sales (*revised*)

VF-3305. Loss Leader Sales Claim—Affirmative Defense—Meeting Competition (*revised*)

VF-3306. Secret Rebates (*revised*)

VF-3307. Secret Rebates Claim—Affirmative Defense—Functional Classifications (*revised*)

CARTWRIGHT ACT

VF-3400. Horizontal and Vertical Restraints (Use for Direct Competitors)—Price Fixing (*revised*)

VF-3401. Horizontal Restraints (Use for Direct Competitors)—Allocation of Trade or Commerce (*revised*)

VF-3402. Horizontal Restraints (Use for Direct Competitors)—Allocation of Trade or Commerce—Affirmative Defense—*In Pari Delicto* (*revised*)

VF-3403. Horizontal Restraints—Dual Distributor Restraints (*revised*)

VF-3404. Horizontal Restraints (Use for Direct Competitors)—Group Boycott—Per Se Violation (*revised*)

VF-3405. Horizontal Restraints—Group Boycott—Rule of Reason (*revised*)

VF-3406. Horizontal and Vertical Restraints (Use for Direct Competitors or Supplier/Reseller Relations)—Other Unreasonable Restraint of Trade—Rule of Reason

VF-3407. Horizontal and Vertical

Restraints (Use for Direct Competitors or Supplier/Reseller Relations)—Other Unreasonable Restraint of Trade—Rule of Reason Affirmative Defense—“Noerr-Pennington” Doctrine (*revised*)

VF-3408. Tying—Real Estate, Products, or Services (Bus. & Prof. Code, § 16720) (*revised*)

VF-3409. Tying—Products or Services (Bus. & Prof. Code, § 16727) (*revised*)

EMINENT DOMAIN

VF-3500. Fair Market Value Plus Goodwill (*revised*)

VF-3501. Fair Market Value Plus Severance Damages (*revised*)

VF-3502. Fair Market Value Plus Loss of Inventory/Personal Property (*revised*)

VICARIOUS RESPONSIBILITY

3708. Peculiar-Risk Doctrine (*sources and authority*)

VF-3700. Negligence—Vicarious Liability (*revised*)

DAMAGES

VF-3900. Punitive Damages (*revised*)

VF-3901. Punitive Damages Against Employer or Principal for Conduct of a Specific Agent or Employee (*revised*)

VF-3902. Punitive Damages—Entity Defendant (*revised*)

VF-3903. Punitive Damages—Entity Defendant—Ratification (*revised*)

VF-3904. Punitive Damages—Entity Defendant—Authorization (*revised*)

VF-3905. Damages for Wrongful Death (Death of an Adult) (*revised*)

VF-3906. Damages for Wrongful Death (Parents’ Recovery for Death of a Minor Child) (*revised*)

VF-3907. Damages for Loss of Consortium (Noneconomic Damage) (*revised*)

VF-3920. Damages on Multiple Legal Theories (*revised*)

LANTERMAN-PETRIS-SHORT ACT

4000. Conservatorship—Essential Factual Elements (*revised*)

4001. “Mental Disorder” Explained (*revoked*)

4002. “Gravely Disabled” Explained (*revised*)

4004. Issues Not to Be Considered—Type of Treatment, Care, or Supervision (*revised*)

4005. Obligation to Prove—Reasonable Doubt (*revised*)

4006. Sufficiency of Indirect Circumstantial Evidence (*revised*)

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4007. Third Party Assistance (*revised*)

4008. Third Party Assistance to Minor (*revised*)

VF-4000. Conservatorship—Verdict Form (*revised*)

UNIFORM VOIDABLE TRANSACTIONS ACT

VF-4200. Actual Intent to Hinder,

Delay, or Defraud Creditor—Affirmative Defense—Good Faith (*revised*)

VF-4201. Constructive Fraudulent Transfer—No Reasonably Equivalent Value Received (*revised*)

VF-4202. Constructive Fraudulent Transfer—Insolvency (*revised*)

UNLAWFUL DETAINER

4328. Affirmative Defense—Tenant Was Victim of Domestic Violence, Sexual Assault, Stalking, Elder/Dependent Adult Abuse, or Human Trafficking Abuse or Violence (Code Civ. Proc., § 1161.3) (*revised*)

VF-4300. Termination Due to Failure to Pay Rent (*revised*)

VF-4301. Termination Due to Failure to Pay Rent—Affirmative Defense—Breach of Implied Warranty of Habitability (*revised*)

VF-4302. Termination Due to Violation of Terms of Lease/Agreement (*revised*)

TRADE SECRETS

VF-4400. Misappropriation of Trade Secrets (*revised*)

CONSTRUCTION LAW

VF-4500. Owner's Failure to Disclose Important Information Regarding Construction Project (*revised*)

VF-4510. Breach of Implied Covenant to Perform Work in a Good and Competent Manner—Affirmative Defense—Contractor Followed Plans

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5012. Introduction to Special Verdict Form (*revised*)

VF-5000. General Verdict Form—Single Plaintiff—Single Defendant—Single Cause of Action (*revised*)

VF-5001 General Verdict Form—Single Plaintiff—Single Defendant—Multiple Causes of Action (*revised*)

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Publication 138 Release 82

October 2024

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