

I. <u>DEFINITIONS</u>	1
A. <u>Generally</u>	1
B. <u>De Novo</u>	2
1. <u>Questions of Law Reviewed De Novo</u>	2
2. <u>Mixed Questions of Law and Fact</u>	3
C. <u>Clearly Erroneous</u>	4
D. <u>Abuse of Discretion</u>	5
E. <u>Arbitrary and Capricious</u>	6
1. <u>Deference to Agency Interpretation of Statute or Regulation</u>	7
2. <u>Instances Where No Deference Warranted</u>	7
3. <u>Instances Where Less Deference May Be Warranted</u>	8
F. <u>Substantial Evidence</u>	8
1. <u>Agency Determinations</u>	9
2. <u>Jury Verdicts</u>	9
G. <u>Reasonableness</u>	10
II. <u>CRIMINAL PROCEEDINGS</u>	1
A. <u>Introduction</u>	1
1. <u>Findings of Fact and Conclusions of Law</u>	1
2. <u>Harmless Error</u>	2
3. <u>Plain Error</u>	3
4. <u>Structural Error</u>	4
B. <u>Pretrial Decisions in Criminal Cases</u>	4
1. <u>Appointment of Expert Witness</u>	4
2. <u>Bail</u>	5
3. <u>Bill of Particulars</u>	6
4. <u>Brady Violations</u>	6
5. <u>Competency to Stand Trial</u>	7
6. <u>Confessions</u>	7
7. <u>Confidential Informants</u>	8

<u>8.</u>	<u>Consolidation of Counts</u>	8
<u>9.</u>	<u>Continuances</u>	8
<u>10.</u>	<u>Defenses</u>	9
<u>11.</u>	<u>Discovery</u>	10
a.	<u>Depositions</u>	11
b.	<u>Jencks Act</u>	11
c.	<u>Sanctions</u>	11
<u>12.</u>	<u>Discriminatory (Selective) Prosecution</u>	12
<u>13.</u>	<u>Dismissals</u>	13
<u>14.</u>	<u>Evidentiary Hearings</u>	16
<u>15.</u>	<u>Ex Parte Hearings</u>	16
<u>16.</u>	<u>Ex Post Facto</u>	16
<u>17.</u>	<u>Extradition</u>	17
<u>18.</u>	<u>Farettta Requests (Waive Counsel)</u>	18
<u>19.</u>	<u>Franks Hearing</u>	18
<u>20.</u>	<u>Fugitive Status</u>	19
<u>21.</u>	<u>Grand Juries</u>	19
<u>22.</u>	<u>Guilty Pleas</u>	20
a.	<u>Rule 11</u>	20
b.	<u>Voluntariness</u>	20
c.	<u>Withdrawal</u>	20
<u>23.</u>	<u>Immunity Agreements</u>	21
<u>24.</u>	<u>In Camera Proceedings</u>	21
<u>25.</u>	<u>Indictments and Informations</u>	22
a.	<u>Constructive Amendments</u>	22
b.	<u>Dismissals</u>	22
c.	<u>Duplicitous/Multiplicitous</u>	22
d.	<u>Misjoinder</u>	23
e.	<u>Prosecutorial Misconduct</u>	23
f.	<u>Sufficiency</u>	24
g.	<u>Validity</u>	24
<u>26.</u>	<u>In Limine Orders</u>	25
<u>27.</u>	<u>Interpreters</u>	25
<u>28.</u>	<u>Investigators</u>	25
<u>29.</u>	<u>Judicial Estoppel</u>	25
<u>30.</u>	<u>Judicial Notice</u>	26
<u>31.</u>	<u>Jurisdiction</u>	26
<u>32.</u>	<u>Jury Demand</u>	26
<u>33.</u>	<u>Jury Waiver</u>	26
<u>34.</u>	<u>Juveniles</u>	27

<u>34. Lack of Prosecution</u>	28
<u>35. Law of the Case</u>	28
<u>36. Lineups</u>	28
<u>37. Magistrate Judges</u>	29
<u>38. Miranda Rights</u>	30
<u>39. Motion to Quash</u>	31
<u>40. Out-of-Court Identification</u>	32
<u>41. Plea Agreements</u>	33
a. Breaches/Enforcement	33
b. Interpretation	33
c. Negotiations	34
d. Waiver	34
<u>42. Preclusion of Proffered Defense</u>	34
<u>43. Pre-indictment Delay</u>	35
<u>44. Pretrial Detention and Release</u>	36
<u>45. Pretrial Hearings</u>	36
<u>46. Pretrial Identifications</u>	37
<u>47. Probable Cause</u>	37
<u>48. Recusal</u>	39
<u>49. Regulations</u>	39
<u>50. Representation</u>	40
a. Conflict-Free Representation	40
b. Disqualification of Counsel	40
c. Hybrid Representation	40
d. Ineffective Representation	40
e. Pro Se Representation	41
f. Right to Counsel	42
g. Substitution of Counsel	42
h. Waiver of Representation	43
i. Withdrawal of Counsel	43
<u>51. Sealed Materials</u>	43
<u>52. Search and Seizure</u>	44
a. Abandonment	45
b. Border Searches	45
c. Coast Guard Searches	45
d. Consent to Search	45
e. Exclusionary Rule	46
f. Exigent Circumstances	47
g. Expectation of Privacy	47
h. Governmental Conduct	47

i.	<u>Inevitable Discovery</u>	47
j.	<u>Investigatory Stops</u>	47
k.	<u>Issuance of a Search Warrant</u>	48
l.	<u>Knock and Announce</u>	49
m.	<u>Private Searches</u>	50
n.	<u>Probable Cause</u>	50
o.	<u>Probation/Parole Searches</u>	51
p.	<u>Protective Sweeps</u>	51
q.	<u>Reasonable Suspicion</u>	51
r.	<u>Rule 41(e) Motions</u>	52
s.	<u>Suppression Motions</u>	52
t.	<u>Terry Stops</u>	53
u.	<u>Warrantless Searches and Seizures</u>	54
53.	<u>Selective Prosecution</u>	55
54.	<u>Severance</u>	56
55.	<u>Sixth Amendment Rights</u>	56
56.	<u>Speedy Trial</u>	58
57.	<u>Statutes</u>	60
58.	<u>Statutes of Limitation</u>	61
59.	<u>Suppression</u>	62
60.	<u>Transfer of Trial</u>	62
61.	<u>Venue</u>	63
62.	<u>Vindictive Prosecution</u>	63
63.	<u>Voluntariness of a Confession</u>	63
64.	<u>Waiver of Rights</u>	63
65.	<u>Warrants</u>	64
66.	<u>Wiretaps</u>	65
C.	<u>Trial Decisions in Criminal Cases</u>	66
1.	<u>Acquittals</u>	66
2.	<u>Admission of Evidence</u>	67
3.	<u>Allen Charges</u>	69
4.	<u>Authenticity</u>	69
5.	<u>Batson Claims</u>	69
6.	<u>Best Evidence Rule</u>	70
7.	<u>Bruton Violations</u>	70
8.	<u>Burden of Proof</u>	70
9.	<u>Chain of Custody</u>	71
10.	<u>Character Evidence</u>	71
11.	<u>Closing Arguments</u>	71

<u>12.</u>	<u>Coconspirator Statements</u>	72
<u>13.</u>	<u>Comments on the Evidence</u>	73
<u>14.</u>	<u>Confrontation Clause</u>	74
<u>15.</u>	<u>Constitutionality of Regulations</u>	75
<u>16.</u>	<u>Constitutionality of Statutes</u>	75
<u>17.</u>	<u>Contempt</u>	76
<u>18.</u>	<u>Continuances</u>	76
<u>19.</u>	<u>Credibility Determinations</u>	77
<u>20.</u>	<u>Cross-Examination</u>	77
<u>21.</u>	<u>Documentary Evidence</u>	79
<u>22.</u>	<u>Double Jeopardy</u>	79
<u>23.</u>	<u>Entrapment</u>	80
<u>24.</u>	<u>Evidentiary Rulings</u>	80
<u>25.</u>	<u>Expert Testimony</u>	82
<u>26.</u>	<u>Extrinsic Evidence</u>	83
<u>27.</u>	<u>Federal Rules</u>	84
<u>28.</u>	<u>Fifth Amendment Rights</u>	84
<u>29.</u>	<u>Griffin Violations</u>	85
<u>30.</u>	<u>Hearsay</u>	85
<u>31.</u>	<u>Immunity from Prosecution</u>	86
<u>32.</u>	<u>Impeachment Evidence</u>	87
<u>33.</u>	<u>In Absentia Proceedings</u>	87
<u>34.</u>	<u>In-Court Identification</u>	87
<u>35.</u>	<u>Ineffective Assistance of Counsel</u>	88
<u>36.</u>	<u>Jewell Instruction</u>	89
<u>37.</u>	<u>Judge Conduct</u>	89
<u>38.</u>	<u>Juror Misconduct</u>	90
<u>39.</u>	<u>Jury Examination of Evidence</u>	92
<u>40.</u>	<u>Jury Inquiries</u>	93
a.	<u>District Court's Response</u>	93
b.	<u>Supplemental Instructions</u>	93
<u>41.</u>	<u>Jury Instructions</u>	94
a.	<u>Formulation of Instructions</u>	94
b.	<u>Adequacy of Instructions</u>	94
c.	<u>Denial of Requested Instruction</u>	95
d.	<u>Special Verdict Forms</u>	96
e.	<u>Due Process Challenges</u>	96
f.	<u>Procedure for Reviewing Instructions</u>	96
g.	<u>Harmless Error and Plain Error</u>	97
h.	<u>Invited Error</u>	98

i.	<u>Allen Charges</u>	98
j.	<u>Jewell Instructions</u>	98
42.	<u>Jury Selection</u>	99
a.	<u>Challenges for Cause</u>	99
i.	<u>Voir Dire/Peremptory Challenges</u>	99
ii.	<u>Jury Misconduct</u>	100
b.	<u>Jury Composition/Batson Claims</u>	101
c.	<u>Anonymous Jury</u>	102
43.	<u>Materiality of a False Statement</u>	103
44.	<u>Opening Statements</u>	104
45.	<u>Opinion Evidence</u>	104
a.	<u>Expert Opinion Evidence</u>	104
i.	<u>Admission or Exclusion of Evidence</u>	104
ii.	<u>Reliability</u>	105
iii.	<u>Qualifications</u>	105
iv.	<u>Funds/Expert Appointment Request</u>	105
b.	<u>Lay Opinion Testimony</u>	106
46.	<u>Photographs</u>	106
47.	<u>Prior Crimes, Wrongs or Acts</u>	107
a.	<u>Fed. R. Evid. 404(b)</u>	107
b.	<u>Fed. R. Evid. 608</u>	108
c.	<u>Fed. R. Evid. 609</u>	108
48.	<u>Privileges</u>	108
a.	<u>Attorney-Client, Doctor-Patient, Marital</u>	108
b.	<u>Fifth Amendment/Defendant's Silence</u>	110
49.	<u>Fed. R. Evid. 403 – Probative Value vs. Prejudicial Harm</u>	110
50.	<u>Prosecutorial Misconduct</u>	111
a.	<u>Generally</u>	111
b.	<u>Bolstering/Vouching</u>	112
c.	<u>Dismissal</u>	112
51.	<u>Rebuttal and Surrebuttal Evidence</u>	113
52.	<u>Recess</u>	114
53.	<u>Recusal and Disqualification of Judge</u>	114
54.	<u>Relevancy of Evidence</u>	114
55.	<u>Reopening</u>	115
56.	<u>Rule of Completeness</u>	115
57.	<u>Sanctions</u>	116
58.	<u>Shackling</u>	117
59.	<u>Side-Bar Conferences</u>	117
60.	<u>Witnesses</u>	117

a. District Court Decisions	117
b. Witness Immunity	119
D. Post-Trial Decisions in Criminal Cases	119
1. Allocution	119
2. Appeals	120
3. Apprendi Violations	121
4. Arrest of Judgment	121
5. Attorneys' Fees	122
6. Bail Pending Sentence and Appeal	122
7. Correcting/Amending/Reducing Sentences	123
8. Disciplinary Orders	124
9. Expungement	124
10. Fines	124
11. Forfeiture	124
12. Mistrial	125
13. New Trial	126
14. Parole	127
15. Probation	128
16. Resentencing	129
17. Restitution	129
18. Fed. R. Crim. P. 32	131
19. Sentencing	131
a. Applicability of the Sentencing Guidelines and pre-Guidelines Standards of Review	131
b. Application of the Guidelines to Specific Facts	132
c. Constitutionality	133
d. Continuances	134
e. Correcting/Amending/Reducing Sentences and Rule 35	134
f. Departures	135
g. Disparate Sentences	137
h. Factual Findings	138
i. Fines	138
j. Interpretation and Application of Sentencing Guidelines	139
i. Abuse of Trust Enhancement	140
ii. Prior Conviction	140
iii. Prison Credit Time	141
iv. Aggravated Felonies	141
v. Approximation of Drug Quantities	141
vi. Grouping of Offenses	141

<u>vii.</u>	<u>Reductions for Change in Guideline Range (§ 3582(c)(2))</u>	<u>142</u>
k.	<u>Legality</u>	<u>142</u>
l.	<u>Restitution</u>	<u>142</u>
m.	<u>Rule 32</u>	<u>143</u>
20.	<u>Sufficiency of the Evidence</u>	<u>144</u>
21.	<u>Supervised Release</u>	<u>145</u>
22.	<u>Transcripts</u>	<u>147</u>
23.	<u>Writ Ad Testificandum</u>	<u>148</u>
24.	<u>Writ of Audita Querela</u>	<u>148</u>
25.	<u>Writ of Coram Nobis</u>	<u>148</u>
 <u>E. Habeas Corpus Petitions</u>		<u>149</u>
1.	<u>§ 2241</u>	<u>149</u>
2.	<u>§ 2255</u>	<u>150</u>
3.	<u>§ 2254</u>	<u>151</u>
4.	<u>Certificates of Appealability</u>	<u>156</u>
5.	<u>Discovery</u>	<u>156</u>
6.	<u>Evidentiary Hearings</u>	<u>156</u>
7.	<u>Interstate Agreement on Detainers Act</u>	<u>158</u>
8.	<u>Juror Misconduct</u>	<u>158</u>
9.	<u>Reconsideration</u>	<u>158</u>
10.	<u>Statutes of Limitations</u>	<u>158</u>
11.	<u>Successive Petitions</u>	<u>159</u>
12.	<u>Writ of Ad Testificandum</u>	<u>159</u>
13.	<u>Writ of Coram Nobis</u>	<u>160</u>
 <u>III. CIVIL PROCEEDINGS</u>		<u>1</u>
 <u>A. Introduction</u>		<u>1</u>
1.	<u>Findings of Fact and Conclusions of Law</u>	<u>1</u>
2.	<u>Affirming on Alternative Grounds</u>	<u>1</u>
 <u>B. Pretrial Decisions in Civil Cases</u>		<u>2</u>
1.	<u>Absolute Immunity</u>	<u>2</u>
2.	<u>Abstention</u>	<u>2</u>
3.	<u>Affirmative Defenses</u>	<u>2</u>
4.	<u>Amended Complaints</u>	<u>3</u>
5.	<u>Answers</u>	<u>4</u>
6.	<u>Appointment of Counsel</u>	<u>5</u>

<u>7. Appointment of Guardian Ad Litem</u>	5
<u>8. Arbitration</u>	5
<u>9. Bifurcation</u>	8
<u>10. Burden of Proof</u>	8
<u>11. Case Management</u>	8
<u>12. Certification to State Court</u>	9
<u>13. Claim Preclusion</u>	9
<u>14. Class Actions</u>	9
<u>15. Collateral Estoppel</u>	11
<u>16. Complaints</u>	11
<u>17. Consolidation</u>	13
<u>18. Constitutionality of Regulations</u>	14
<u>19. Constitutionality of Statutes</u>	14
<u>20. Contempt</u>	15
<u>21. Continuances</u>	16
<u>22. Counterclaims</u>	17
<u>23. Declaratory Relief</u>	17
<u>24. Discovery</u>	18
a. <u>Discovery Sanctions</u>	20
b. <u>Protective Orders</u>	20
<u>25. Dismissals</u>	21
<u>26. Disqualifying Counsel</u>	26
<u>27. Disqualifying the Judge (Recusal)</u>	26
<u>28. Diversity Jurisdiction</u>	26
<u>29. Equitable Estoppel and Equitable Tolling</u>	27
<u>30. Evidentiary Hearings</u>	27
<u>31. Exhaustion</u>	28
<u>32. Failure to State a Claim</u>	29
<u>33. Forum Non Conveniens</u>	30
<u>34. Forum Selection Clauses</u>	31
<u>35. Frivolousness</u>	31
<u>36. Immunities</u>	32
<u>37. Impleader</u>	35
<u>38. In Forma Pauperis Status</u>	35
<u>39. Inherent Powers</u>	35
<u>40. Injunctions</u>	36
<u>41. Interlocutory Appeals</u>	39
<u>42. Intervention</u>	39
<u>43. Involuntary Dismissal</u>	40
<u>44. Issue Preclusion</u>	41

<u>45.</u>	<u>Joiner/Indispensable Party</u>	<u>41</u>
<u>46.</u>	<u>Judgment on the Pleadings</u>	<u>42</u>
<u>47.</u>	<u>Judicial Estoppel</u>	<u>42</u>
<u>48.</u>	<u>Judicial Notice</u>	<u>43</u>
<u>49.</u>	<u>Jurisdiction</u>	<u>43</u>
<u>50.</u>	<u>Jury Demand</u>	<u>43</u>
<u>51.</u>	<u>Laches</u>	<u>44</u>
<u>52.</u>	<u>Lack of Prosecution</u>	<u>44</u>
<u>53.</u>	<u>Law of the Case</u>	<u>44</u>
<u>54.</u>	<u>Leave to Amend</u>	<u>45</u>
<u>55.</u>	<u>Local Rules</u>	<u>46</u>
<u>56.</u>	<u>Magistrate Judges</u>	<u>47</u>
<u>57.</u>	<u>Mandamus</u>	<u>48</u>
<u>58.</u>	<u>Mootness</u>	<u>48</u>
<u>59.</u>	<u>Oral Argument</u>	<u>48</u>
<u>60.</u>	<u>Pendent Jurisdiction</u>	<u>49</u>
<u>61.</u>	<u>Personal Jurisdiction</u>	<u>49</u>
<u>62.</u>	<u>Preemption</u>	<u>49</u>
<u>63.</u>	<u>Preliminary Injunctions</u>	<u>50</u>
<u>64.</u>	<u>Pretrial Conferences</u>	<u>50</u>
<u>65.</u>	<u>Pretrial Orders</u>	<u>50</u>
<u>66.</u>	<u>Primary Jurisdiction</u>	<u>51</u>
<u>67.</u>	<u>Protective Orders</u>	<u>51</u>
<u>68.</u>	<u>Qualified Immunity</u>	<u>51</u>
<u>69.</u>	<u>Recusal</u>	<u>52</u>
<u>70.</u>	<u>Removal</u>	<u>53</u>
<u>71.</u>	<u>Res Judicata</u>	<u>54</u>
<u>72.</u>	<u>Ripeness</u>	<u>54</u>
<u>73.</u>	<u>Rooker-Feldman</u>	<u>55</u>
<u>74.</u>	<u>Sanctions</u>	<u>55</u>
a.	<u>Local Rules</u> <u>56</u>	
b.	<u>Supervision of Attorneys</u> <u>56</u>	
c.	<u>Inherent Powers</u> <u>56</u>	
d.	<u>Contempt</u> <u>57</u>	
e.	<u>28 U.S.C. § 1927</u> <u>57</u>	
f.	<u>Discovery Sanctions</u> <u>57</u>	
<u>75.</u>	<u>Service of Process</u>	<u>58</u>
<u>76.</u>	<u>Severance</u>	<u>58</u>
<u>77.</u>	<u>Sovereign Immunity</u>	<u>58</u>
<u>78.</u>	<u>Special Masters</u>	<u>59</u>

<u>79. Standing</u>	<u>60</u>
<u>80. Stare Decisis</u>	<u>60</u>
<u>81. Statutes of Limitation</u>	<u>60</u>
<u>82. Stays</u>	<u>61</u>
<u>83. Striking</u>	<u>62</u>
<u>84. Subject Matter Jurisdiction</u>	<u>62</u>
<u>85. Subpoenas</u>	<u>63</u>
<u>86. Substitution of Parties</u>	<u>64</u>
<u>87. Summary Judgment</u>	<u>64</u>
a. <u>Generally</u> <u>64</u>	
b. <u>Related Decisions</u> <u>66</u>	
c. <u>FOIA Cases</u> <u>67</u>	
<u>88. Summons</u>	<u>67</u>
<u>89. Supplemental Complaints</u>	<u>68</u>
<u>90. Supplemental Jurisdiction</u>	<u>68</u>
<u>91. Venue</u>	<u>69</u>
<u>92. Vexatious Litigants</u>	<u>69</u>
<u>93. Voir Dire</u>	<u>69</u>
<u>94. Voluntary Dismissals</u>	<u>70</u>
<u>C. Trial Decisions in Civil Cases</u>	<u>70</u>
<u>1. Alter Ego</u>	<u>70</u>
<u>2. Authentication</u>	<u>71</u>
<u>3. Bench Trials</u>	<u>71</u>
<u>4. Best Evidence Rule</u>	<u>72</u>
<u>5. Bifurcation</u>	<u>72</u>
<u>6. Choice of Laws</u>	<u>72</u>
<u>7. Closing Arguments</u>	<u>73</u>
<u>8. Credibility Findings</u>	<u>74</u>
<u>9. Cross-Examination</u>	<u>74</u>
<u>10. Directed Verdict</u>	<u>75</u>
<u>11. Evidentiary Rulings</u>	<u>75</u>
a. <u>Generally</u> <u>75</u>	
b. <u>Attorney testimony</u> <u>76</u>	
c. <u>Extra-record evidence</u> <u>76</u>	
d. <u>Fed. R. Evid. 702</u> <u>76</u>	
e. <u>Hearsay</u> <u>76</u>	
f. <u>Best Evidence Rule</u> <u>77</u>	
<u>12. Experts</u>	<u>77</u>
<u>13. Federal Rules of Civil Procedure</u>	<u>78</u>

<u>14. Foreign Law</u>	<u>78</u>
<u>15. Hearsay</u>	<u>79</u>
<u>16. Judgment as a Matter of Law</u>	<u>79</u>
<u>17. Juror Partiality, Bias and Misconduct</u>	<u>80</u>
<u>18. Jury Instructions</u>	<u>80</u>
<u>19. Jury Selection</u>	<u>82</u>
<u>20. Jury Verdicts</u>	<u>82</u>
<u>21. Opening Statements</u>	<u>85</u>
<u>22. Parol Evidence</u>	<u>85</u>
<u>23. Proximate Cause</u>	<u>85</u>
<u>24. Regulations</u>	<u>85</u>
<u>25. State Law</u>	<u>86</u>
<u>26. Statutes</u>	<u>88</u>
<u>27. Substantive Areas of Law</u>	<u>89</u>
a. <u>Admiralty</u> <u>89</u>	
b. <u>Americans with Disabilities Act (ADA)</u> <u>91</u>	
c. <u>Antitrust</u> <u>93</u>	
d. <u>Bankruptcy</u> <u>94</u>	
e. <u>Bivens Actions</u> <u>99</u>	
f. <u>Civil Rights</u> <u>100</u>	
g. <u>Constitutional Law</u> <u>102</u>	
h. <u>Contracts</u> <u>104</u>	
i. <u>Copyright</u> <u>106</u>	
j. <u>Declaratory Judgment Act</u> <u>108</u>	
k. <u>Defamation</u> <u>108</u>	
l. <u>Employment Discrimination</u> <u>109</u>	
i. <u>Jury Instructions</u> <u>111</u>	
ii. <u>Choice of Remedies</u> <u>111</u>	
iii. <u>Attorneys' Fees</u> <u>111</u>	
iv. <u>Equal Pay Act</u> <u>112</u>	
v. <u>Age Discrimination in Employment Act</u> <u>112</u>	
m. <u>Environmental Law</u> <u>113</u>	
i. <u>National Environmental Policy Act (NEPA)</u> <u>113</u>	
ii. <u>Endangered Species Act (ESA)</u> <u>115</u>	
iii. <u>Clean Air Act (CAA)</u> <u>115</u>	
iv. <u>Clean Water Act (CWA)</u> <u>116</u>	
v. <u>Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)</u> <u>117</u>	
vi. <u>Attorneys' Fees Generally</u> <u>118</u>	
n. <u>ERISA</u> <u>118</u>	

o.	Fair Debt Collection Practices Act	<u>121</u>
p.	Fair Labor Standards Act	<u>121</u>
q.	False Claims Act	<u>123</u>
r.	Federal Employers Liability Act (FELA)	<u>124</u>
s.	Federal Tort Claims Act	<u>124</u>
t.	Feres Doctrine	<u>126</u>
u.	Freedom of Information Act (FOIA)	<u>126</u>
v.	Immigration	<u>127</u>
i.	Board of Immigration Appeals (BIA)	<u>128</u>
ii.	District Court Appeals	<u>133</u>
w.	Individuals with Disabilities Education Act (IDEA)	<u>135</u>
x.	Labor Law	<u>136</u>
i.	Arbitration	<u>136</u>
ii.	Collective Bargaining Agreement	<u>137</u>
iii.	Labor Management Relations Act	<u>138</u>
iv.	National Labor Relations Board (NLRB)	<u>138</u>
v.	Federal Labor Relations Authority	<u>140</u>
vi.	Longshore and Harbor Workers' Compensation Act (LHWCA)	<u>140</u>
vii.	Jones Act	<u>142</u>
viii.	Railway Labor Act	<u>142</u>
ix.	Miscellaneous	<u>143</u>
y.	Negligence	<u>143</u>
z.	Securities	<u>144</u>
aa.	Social Security	<u>145</u>
bb.	Tariffs	<u>146</u>
cc.	Tax	<u>146</u>
dd.	Title VII	<u>149</u>
ee.	Trademark	<u>149</u>
ff.	Warsaw Convention	<u>151</u>
28.	Supervising Trials	<u>151</u>
29.	Supplemental Jury Instructions	<u>151</u>
30.	Territorial Laws	<u>152</u>
a.	Guam	<u>152</u>
b.	Northern Mariana Islands	<u>152</u>
31.	Treaties	<u>153</u>
32.	Tribal Courts	<u>154</u>
33.	Verdict Forms	<u>155</u>
D. Post-Trial Decisions in Civil Cases		<u>156</u>

<u>1.</u>	<u>Appeals</u>	.....	<u>156</u>
<u>2.</u>	<u>Attorneys' fees</u>	.....	<u>156</u>
a.	<u>Admiralty</u>	<u>157</u>	
b.	<u>Americans With Disabilities Act</u>	.....	<u>158</u>
c.	<u>Antitrust</u>	<u>158</u>	
d.	<u>Bankruptcy</u>	<u>158</u>	
e.	<u>Civil Rights</u>	<u>159</u>	
f.	<u>Class Actions</u>	.....	<u>160</u>
g.	<u>Contracts</u>	<u>160</u>	
h.	<u>Copyright</u>	<u>160</u>	
i.	<u>Environmental Laws</u>	.....	<u>161</u>
j.	<u>Equal Access to Justice Act (EAJA)</u>	.....	<u>161</u>
k.	<u>ERISA</u>	.....	<u>162</u>
l.	<u>FOIA</u>	<u>163</u>	
m.	<u>IDEA</u>	<u>163</u>	
n.	<u>Inherent Powers</u>	.....	<u>163</u>
o.	<u>Removal</u>	<u>164</u>	
p.	<u>Rule 68</u>	<u>164</u>	
q.	<u>Social Security</u>	.....	<u>164</u>
r.	<u>State Law</u>	<u>165</u>	
s.	<u>Tax</u>	<u>165</u>	
t.	<u>Title VII</u>	<u>165</u>	
u.	<u>Trademark</u>	<u>166</u>	
<u>3.</u>	<u>Bonds</u>	.....	<u>166</u>
<u>4.</u>	<u>Certified Appeals</u>	.....	<u>167</u>
<u>5.</u>	<u>Choice of Remedies</u>	.....	<u>168</u>
<u>6.</u>	<u>Consent Decrees</u>	.....	<u>168</u>
<u>7.</u>	<u>Costs</u>	.....	<u>169</u>
<u>8.</u>	<u>Damages</u>	.....	<u>169</u>
a.	<u>Liquidated</u>	<u>171</u>	
b.	<u>Punitive</u>	<u>171</u>	
c.	<u>Remittitur</u>	<u>171</u>	
<u>9.</u>	<u>Default</u>	.....	<u>172</u>
<u>10.</u>	<u>Equitable Relief</u>	.....	<u>174</u>
<u>11.</u>	<u>Excusable Neglect</u>	.....	<u>174</u>
<u>12.</u>	<u>Fines</u>	.....	<u>174</u>
<u>13.</u>	<u>Interest</u>	.....	<u>175</u>
<u>14.</u>	<u>Judgment Notwithstanding the Verdict (JNOV)</u>	.....	<u>175</u>
<u>15.</u>	<u>Judgments</u>	.....	<u>176</u>
<u>16.</u>	<u>Mandates</u>	.....	<u>177</u>

<u>17.</u>	<u>New Trials</u>	.....	<u>177</u>
<u>18.</u>	<u>Permanent Injunctions</u>	.....	<u>178</u>
<u>19.</u>	<u>Reconsideration</u>	.....	<u>179</u>
<u>20.</u>	<u>Renewed Motion for Judgment as a Matter of Law</u>	.....	<u>180</u>
<u>21.</u>	<u>Reopening or Supplementing Record</u>	.....	<u>181</u>
<u>22.</u>	<u>Sanctions</u>	.....	<u>181</u>
a.	<u>Generally</u>	<u>181</u>	
b.	<u>Rule 11</u>	<u>182</u>	
c.	<u>Local Rules</u>	<u>182</u>	
d.	<u>Supervision of Attorneys</u>	<u>183</u>	
e.	<u>Inherent Powers</u>	<u>183</u>	
f.	<u>Contempt</u>	<u>183</u>	
g.	<u>Discovery Sanctions</u>	<u>184</u>	
h.	<u>28 U.S.C. § 1927</u>	<u>184</u>	
<u>23.</u>	<u>Settlements</u>	.....	<u>184</u>
<u>24.</u>	<u>Supersedeas Bonds</u>	.....	<u>185</u>
<u>25.</u>	<u>Surety Bonds</u>	.....	<u>185</u>
<u>26.</u>	<u>Vacatur</u>	.....	<u>186</u>
<u>27.</u>	<u>Void Judgments</u>	.....	<u>186</u>
IV. REVIEW OF AGENCY DECISIONS		.....	1
A.	<u>Introduction</u>	.....	1
1.	<u>Arbitrary and Capricious</u>	.....	1
2.	<u>Constitutional Review</u>	.....	3
3.	<u>Regulatory Interpretations</u>	.....	3
4.	<u>Sanctions</u>	.....	4
5.	<u>Statutory Interpretations</u>	.....	4
6.	<u>Substantial Evidence</u>	.....	7
B.	<u>Specific Agency Review</u>	.....	8
1.	<u>Bonneville Power Administration (BPA)</u>	.....	8
2.	<u>Department of Energy</u>	.....	9
3.	<u>Environmental Protection Agency</u>	.....	10
4.	<u>Federal Communications Commission</u>	.....	10
5.	<u>Federal Energy Regulatory Commission</u>	.....	11
6.	<u>Federal Labor Relations Authority</u>	.....	11
7.	<u>Federal Trade Commission</u>	.....	12
8.	<u>Immigration and Naturalization Service</u>	.....	12
9.	<u>Interior Board of Land Appeals (IBLA)</u>	.....	12

<u>10.</u>	<u>Labor Benefits Review Board (BRB)</u>	.....	<u>13</u>
<u>11.</u>	<u>Federal Mine Safety and Health Review Commission</u>	.....	<u>13</u>
<u>12.</u>	<u>National Labor Relations Board (NLRB)</u>	.....	<u>13</u>
<u>13.</u>	<u>National Transportation Safety Board (NTSB)</u>	.....	<u>13</u>
<u>14.</u>	<u>Occupational Safety and Health Review Commission</u>	.....	<u>14</u>
<u>15.</u>	<u>Railroad Retirement Board</u>	.....	<u>15</u>
<u>16.</u>	<u>Railway Adjustment Board</u>	.....	<u>15</u>
<u>17.</u>	<u>Securities Exchange Commission</u>	.....	<u>15</u>
<u>18.</u>	<u>Social Security Administration</u>	.....	<u>16</u>