

Torts
Fall 2013
Mr. Sanders

Course Outline
Christie, et al., 5th ed.

Week 1 pp. 1-33 Introduction

Robertson v. Rochester Box

The Forms of Action: *Scott v. Shepard*; *Thorns*; *Weaver v. Ward*

Emerging from the Forms: *Brown v. Kendall*

Week 2 pp. 34- 88 Intentional Torts

Intention: *Jackson v. Brantley*; *Beauchamp v. Dow Chem.*

Battery and Assault: *Masters v. Becker*; *Brzoska v. Olson*; *Dickens v. Puryear*

Transferred Intent: *Singer v. Marx*

Insanity: *White v. Muniz*

Trespass to Land & Chattels

Defenses

Consent: *Hellriegel v. Tholl*; *Mulloy v. Hop Sang*

Week 3 pp. 89- 148 Intentional Torts & Negligence

Defenses, con't.

Self Defense & Defense of Property: *Lane v. Holloway*; *Silas v. Bowen*;
Brown v. Martinez

Discipline & Necessity: *Ploof v. Putnam*; *Vincent v. Lake Erie Transp.*

Negligence

The Standard of Care: *Vaughan v. Menlove*; *Delair v. McAdoo*; O.W. Holmes;

Variations: *Charbonneau v. MacRury*; *Goss v. Allen*; *Haley v. London Elec.*

Week 4 pp. 149-203 Negligence

The Calculus of Risk: *Barker v. City of Philadelphia*; *U.S.v. Carroll Towing*; *Pitre v. Employers Liability Assurance Corp.*

Judge and Jury

Negligence per se: *Martin v. Herzog*; *Brown v. Shyne*; *Tedla v. Ellman*; *Barnum v. Williams*

Custom: *Dempsey v. Addison Crane*

Week 5 pp. 204-259 Negligence

Malpractice: *Shilkret v. Annapolis Emergency Hosp. Assn.*; *Helling v. Carey*; *Miller v. Kennedy*

Res Ipsa Loquitur: *Byrne v. Boadle*; *George Foltis Inc. v. City of New York*;

Swiney v. Malone Freight Lines Inc.; *Ybarra v. Spangard*

Week 6 pp. 359-420 Causation

Cause in Fact: *Kingston v. Chicago & Northwestern Railway Co.*; *Kramer Services v. Wilkins*;

Daly v. Bergstedt

Judge & Jury Revisited: *Daubert v. Merrell Dow Pharm*, 509 U.S. 579 (1993). (NOTE: This case is not in the casebook. Get it on line or in the library.)

Cause in Fact, con't: *Summers v. Tice*; *Matsuyama v. Birnbaum*

Proximate Cause: *In Re Polemis*; *Palsgraf v. Long Island R.R.*; *Wagon Mound I*

Week 7 pp. 420-468; 627-634 Causation & Plaintiff's Conduct

Proximate Cause, con't: *Hughes v. Lord Advocate*; *Doughty v. Turner Mfg.*; *In re Kinsman*;
Wagon Mound II

Intervening Cause: *Glasgow Realty v. Metcalfe*; *Brauer v. N. Y. Central & Hutson River R.R.*
Plaintiff's Conduct

Contributory Negligence: *Butterfield v. Forrester*; *Smithwick v. Hall & Upson Co.*

Week 8 pp. 633-709 Plaintiff's Conduct & Multiple Parties

Comparative Negligence: *Hoffman v. Jones*; *Bradley v. Appalachian Power Co.*
Last Clear Chance

Assumption of the Risk: *La Frenz v. Lake County Fair Board*; *Herod v. Grant*;
Jones v. Three Rivers Management Corp.; *Auckenthaler v. Grundmeyer*

Avoidable Consequences, Mitigation of Damages

Multiple Parties

Vicarious Liability: *Wong-Leong v. Hawaiian Independent Refinery, Inc.*; *Jones v. Healthsouth*
Treasure Valley Hospital

Week 9 pp. 709-761 Multiple Parties & Group Liability

Indemnity

Imputed Contributory/ Comparative Negligence

Joint and Several Liability: *Walt Disney World Co. v. Wood*

Contribution Among Joint Tortfeasors

Tying it Together: Problems (we will not do the problems in class)

Group Liability: *Sindell v. Abbott Laboratories*; *Shackil v. Lederle Laboratories*

Week 10 pp. 260-267; 287-358 469-478 Special Situations (Duty, Limited Duty, No Duty)

The Default Duty Rule: *Thompson v. Kaczinski*

Limitations on the Default Rule

Failure to Aid: *Price v. E.I. DuPont de Nemours & Co.*; *Grimes v. Kennedy Kreiger Institute, Inc.*; *Farwell v. Keaton*; *Maldonald v. Southern Pacific Transportation Co.*; *Thompson v. County of Alameda*; *Uhr v. East Greenbush Central School District*.

No Duty Based On Policy: *Strauss v. Belle Realty Co.*; *Graff v. Beard*

Week 11 pp. 469-506; 545-604 Special Situations

Owners and Occupiers: *Cochran v. Burger King Corp.*; *Nelson v. Freeland*; *Bennett v. Stanley*;
Posecai v. Wal-Mart Stores, Inc.

Immunities (NOTE: We will skip over this section (pp. 506- 545), but I will discuss the materials briefly in class)

Negligent Infliction of Emotional Harm: *Catsouras v. Dept. of the Calif. Highway Patrol*;

Falzone v. Busch; Molien v. Kaiser; Porte v. Jaffee; Boyles v. Kerr
Economic Harm *Aikens v. DeBow*.

Week 12 pp. 762-849 Strict Liability & Products Liability

Animals: *Duren v. Kunkel*

Rylands: *Fletcher v. Rylands; Rylands v. Fletcher*

Abnormally Dangerous Activities: *Loose v. Buchannan; Klein v. Pyrodyne;*
Indiana Harbor Belt v. American Cyanamid; Foster v. Preston Mill

The Coase Theorem

Products Liability

Negligence – Overcoming the Privity Barrier: *Thomas v. Winchester;*
MacPherson v. Buick Motor Co.

Contract Remedies – Warranty

The Development of Modern Products Liability: *Greenman v. Yuba Power Products, Inc.*

Week 13 pp. 849-985 Products Liability (Note: We probably will not have time to cover all the cases in this chapter. I have underlined the cases we will skip if we are short of time)

Plaintiffs and Defendants

The Third Restatement

Manufacturing Defects: *Smoot v. Mazda Motors of America, Inc.; Branham v. Ford;*
Riley v. Becton Dickson; Grundberg v. Upjohn Co.

Warning Defects: *Johnson v. Amer. Cyanamid; Burke v. Spartanics Ltd.; Feldman v. Lederle Labs.*

Admissibility of Expert Testimony: *Kuhmo Tire Co. v. Carmichael*

Defenses: *Bates v. Dow Agrosiences LLC.*

European Union, South American and Japanese Statutes

Week 14 pp. 986-1063 Damages

Damages

Categories of Compensatory Damages: *Seffert v. Los Angeles Transit Lines; Wainwright v. Fontenot; McDougald v. Garber*

Indirect Non-fatal Injury To Others (spousal and parent-child consortium): *Roberts v. Williamson*

Damages in Death-Related Tort Claims: *Green v. Bittner*

Attendance: Students are expected to attend all classes. The usual law school attendance rules apply.

Exam: The examination is open book. It will be part multiple choice and part essay in about equal proportion.

Objectives: The objectives of the course are: to provide an overview of the law of torts, to help students develop their analytical skills, and to understand the role of tort law in society.