

Torts
Fall 2020
Mr. Sanders

Course Outline
Christie, et al., 6th ed.

Week 1 pp. 1-40 Introduction & Intentional Torts

Introduction

The Aims of Tort Law
Adaptability to New Situations
Robertson v. Rochester Box
The History of Tort Law
The Forms of Action: *Scott v. Shepard*
What does it mean to be responsible?
The Modern Landscape

Intentional Torts

Intention: *Beauchamp v. Dow Chem.*; *Wagner v. State*

Week 2 pp. 40-88; 114-142 Intentional Torts, Continued

Battery: *Leichtman v. WLW Jacor Comms., Inc*
Assault: *Dickens v. Puryear*
Transferred Intent & Participation Liability: *Singer v. Marx*; *Halberstam v. Welsh* **MAYBE SKIP HALBERSTAM**
False Imprisonment: *McCann v. Wal-Mart Stores, Inc.*; *Fojtic v. Charter Medical Corp.*
Trespass to Land: *John Larkin, Inc. v. Marceau*
Trespass to Chattel & Conversion
NOTE: We are skipping the materials on Intentional Infliction of Emotional Distress.
Defenses
 Consent: *Hellriegel v. Tholl*; *Reavis v. Slominski*
 Self Defense: *Silas v. Bowen*

Week 3 pp. 142-206 Intentional Torts & Negligence (Breach)

Intentional Torts Continued

Defenses, Cont.
 Defense of Property: *Brown v. Martinez*
 Discipline
 Necessity: *Ploof v. Putnam*; *Vincent v. Lake Erie Transportation Co.*

Negligence

Historical Development: *Brown v. Kendall*
The Prima Facie Case of Negligence

The Standard of Care: *Vaughan v. Menlove*; *Delair v. McAdoo*;
Variations on the Standard of Care: *Goss v. Allen*; *Creasy v. Rusk*; *Haley v. London Elec.*
The Calculus of Risk: *Barker v. City of Philadelphia*

Week 4 pp. 206-277 Negligence (Breach)

The Calculus of Risk Continued: *U.S. v. Carroll Towing*; *Pitre v. Employers Liability Assurance Corp.*
Establishing the Standard of Care: the Function of Judge and Jury: *Baltimore & Ohio Railroad Co. v. Goodman*; *Pokora v. Wabash Railway Co.*
Establishing the Standard of Care by Deference to the Legislature – Negligence per se: *Martin v. Herzog*; *Tedla v. Ellman*; *Barnum v. Williams*; *Perry v. S.N.*
Proof of Negligence – Custom and Expert Testimony
Custom: *Dempsey v. Addison Crane*
Malpractice: *Shilkret v. Annapolis Emergency Hosp. Assn.*; *Helling v. Carey*

Week 5 pp. 278-349 Negligence (Breach) & Negligence (Duty)

Negligence (Breach)

Malpractice, continued: *Miller v. Kennedy*
Circumstantial Evidence – Res Ipsa Loquitor: *Byrne v. Boadle*; *Morejon v. Rais Construction Co.*; *Swiney v. Malone Freight Lines Inc.*; *Ybarra v. Spangard*

Negligence (Duty)

What is Duty and How Do Courts Decide?
Foundational Duty Rules: *Thompson v. Kaczinski*; *Brown v. Kerr*; *Palsgraf v. Long Island R.R. – Part 1*

Week 6 pp. 349-424 Negligence (Duty)

Affirmative Duties to Warn or Rescue: *Price v. E.I Dupont de Nemours & Co.*; *Grimes v. Kennedy Krieger Institute, Inc.*; *Farwell v. Keaton*; *Maldonado v. Southern Pacific*; *Thompson v. County of Alameda*; *Uhr v. East Greenbush Central School Dist.*
No Duty Based on Public Policy: *Strauss v. Belle Realty Co.*; *Graff v. Beard*

Week 7 pp. 424-463; 505-540; 560-577 Negligence (Duty)

Landowner Liability: *Cochran v. Burger King, Inc.*; *Nelson v. Freeland' Bennett v. Stanley*; *Posecai v. Wal-Mart*
Immunities (I will give a lecture on the various types of Immunities you should skim the material.) Special Duties Based on Type of Harm
Emotional Harm: *Falzone v. Busch*; *Portee v. Jaffee*; *Catsouras v. California Highway Patrol*; *Boyles v. Kerr*
Wrongful Life/Birth (We will skip over these materials. I will say a few words about these torts.)

Economic Harm: *Aiken v. Debow*

Week 8 pp. 579-653

Causation & Scope of Liability

Cause in Fact

General Principles

Establishing Causation -- Sufficiency of the Evidence: *Stubbs v. City of Rochester*, *Daly v. Bergstedt*; *General Electric v Joiner*; *Matsuyama v Birnbaum*

Multiple Causes and Defendants: *Kingston v. Chicago & Northwest Railway Co.*; *Summers v. Tice*; *Sindell v. Abbott Laboratories*

Scope of Liability

Introduction

Foundational Cases: *In Re Polemis*; *Palsgraf v. Long Island R.R. Part II*

Week 9 pp. 653-725

Scope of Liability & Plaintiff's Conduct

Scope of Liability Continued

Foundational Cases Continued: *Wagon Mound I*

Application in Newer Cases: *Hughes v. Lord Advocate*; *Doughty v. Turner Mfg.*; *In re Kinsman*; *Wagon Mound II*

Intervening Cause: *Latzel v. Bartek*; *Brauer v. N. Y. Central & Hutson River R.R.*

Plaintiff's Conduct

Contributory Negligence: *Butterfield v. Forrester*

Week 10 pp. 725-822

Plaintiffs Conduct, Apportionment & Strict Liability

Plaintiff's Conduct and Apportionment

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

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

Imputed Contributory Negligence

Apportionment, Joint & Several Liability and Contribution: *Walt Disney World Co. v. Wood*

Strict Liability

Animals: *Duren v. Kunkel*

Week 11 pp. 822-905

Strict Liability; Products Liability

Strict Liability Continued

Dangerous Activities (Origins): *Fletcher v. Rylands*; *Rylands v. Fletcher*

Abnormally Dangerous Activities: *Loose v. Buchanan*; *Klein v. Pyrodyne*; *Indiana Harbor Belt v. American Cyanamid*; *Foster v. Preston Mill*
The Coase Theorem

Products Liability

Negligence – Destroying the Privity Barrier: *MacPherson v. Buick Motor Co.*
Breach of Warranty
Strict Liability in Torts: *Greenman v. Yuba Power Products, Inc.*

Week 12 pp. 905-995 Products Liability Continued

The Concept of Defect in Products Liability today
 Manufacturing Defects: *Smoot v. Mazda Motors*
 Design Defects: *Branham v. Ford Motor Co.*; *Riley v. Becton Dickson*
 Warning Defects: *Lewis v. Sea Ray Boats, Inc.*; *Burke v. Spartanics Ltd.*; *Feldman v. Lederle Labs.*
Defendants and Interests Covered by Products Liability
Defenses
Plaintiff's Behavior

Week 13 pp. 996-1058 Products Liability Continued and Nuisance

Products Liability Continued

Pre-Emption: *Bates v. Dow Agrosciences LLC*
Compliance with Regulations
Products Liability in Other Countries

Nuisance

NOTE: We will do as much of the nuisance chapter as time permits. If we run short of time we will move on to the damages chapter.

Overview (also reread the *Larkin* case on page 79)
Private Nuisance: *Crosstex North Texas Pipeline v. Gardiner*; *Impellizzerri v. Jamesville Federated Church*
Remedies: *Boomer v. Atlantic Cement Co.*
Public Nuisance: *State v. Lead Industries Association*
Private Enforcement of a Public Nuisance: *Graceland Corp. v. Consolidated Laundries Corp.*

Week 14 pp. 1059-1149 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*
Attorney Fees and Contingency Fee.

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.

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