Administrative Matters

- www.law.uh.edu/faculty/mduncan
- Syllabus
- Reading Assignments
- Class slides
- Register for Poll Everywhere
  - https://www.polleverywhere.com/register?p=75amw-vrf6&u=OB01xUJ3

THE COMMON LAW

- Common law?
- Tort law vs. contract law?
- “business of tort law”? 
Weaver v. Ward

- Fault
- Burden of Proof?

Brown v. Kendall

- Unintentional, but at fault
  - “Ordinary care”
- Burden of Proof?
- Unintentional vs. Involuntary
Hypo 1-1

Spano v. Perini Corp.

- Intentional?
- Negligent?
- Absolute liability
Overview of Tort Law

- Justice Holmes – liability w/o regard to fault
- *Weaver v. Ward* – tort liability based upon fault
- *Brown v. Kendall*
  - voluntary act required for all torts
  - tort liability may be based upon either intentional or unintentional action(s)
  - BOP on plaintiff
- *Spano v. Perini* – strict tort liability

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Overview of Torts

1. Intentional Torts
2. Negligence Actions
3. Strict Liability
**Prima Facie elements**

1. Intent
2. Act
3. Causation
4. Technical Injury
**Garratt v. Dailey**

**Intent**

- **Specific**
  - Desiring to bring about the technical injury that the particular tort seeks to protect against

- **General**
  - Knowing to a substantial certainty that the technical injury that the particular tort seeks to protect against will result
Garratt v. Dailey

- Intent
  - Specific or
  - General

- Liability of Minors?

Garratt v. Dailey

- Intent
  - Specific or
  - General

- Liability of Minors?
- Insurance?
Culpability Continuum
(States of Mind)

Least culpable

- negligence
  • Should have realized the risk of technical injury resulting

- recklessness
  • Actually realized the risk of technical injury resulting

Most culpable

- General intent
  • Had knowledge to a substantial certainty that technical injury would result

- Specific intent
  • Desired for technical injury to result

Spivey v. Battaglia

- statute of limitations?
- line between negligence and intent?
- mutually exclusive theories of recovery?
- wrong result!
Intent

• Specific
  • Desiring to bring about the technical injury that the particular tort seeks to protect against

• General
  • Knowing to a substantial certainty that the technical injury that the particular tort seeks to protect against will result

Ranson v. Kitner

• Mistake does not negate intent
McGuire v. Almy

- Mental illness does not negate intent

Alteiri v. Colasso

- Transferred intent doctrine
  1. Battery
  2. Assault
  3. False imprisonment
  4. Trespass to chattel
  5. Trespass to land
Intentional Torts

1. Intent
2. Act
3. Causation
4. Technical Injury

Wallace v. Rosen
Fisher v. Carrousel Motor Hotel

- so connected as to be customarily regarded as part of one’s person

How To Brief a Case

- Case Name
- Legally Relevant Facts
- Procedural Posture
- Issue(s)
  - question before the court?
  - what am I supposed to learn about Torts from this case?
- Holding
- Legal Lesson(s)
- Reasoning
  - including concurrence(s)/dissent(s)