

Torts  
Fall 2022  
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*  
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 Loquitur: *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. Buchannan*; *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 Agrosiences 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: The usual law school attendance rules apply. Students are expected to attend all classes in person or through Zoom.

Exam: The examination is open book. If the exam is in a classroom, it will be part multiple choice and part essay weighted in favor of the essay. If, heaven forbid, we are still going remotely at exam time the exam will be two essay questions.

There are two teaching assistants for this class: Grace Binger and Chet Wynne.

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

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS ([www.uh.edu/caps](http://www.uh.edu/caps)) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus.  
[http://www.uh.edu/caps/outreach/lets\\_talk.html](http://www.uh.edu/caps/outreach/lets_talk.html)

The university has instructed me to add the following information to the syllabus:

If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to class. Please see Student Protocols for what to do if you experience symptoms and Potential Exposure to Coronavirus for what to do if you have potentially been exposed to COVID-19.

Students are encouraged to visit the University's COVID-19 website for important information including diagnosis and symptom protocols, on-campus testing, and vaccine information. Please check the website throughout the semester for updates.

#### Vaccinations

Data suggests that vaccination remains the best intervention for reliable protection against COVID-19. Students are asked to familiarize themselves with pertinent vaccine information and to consult with their health care provider. The University strongly encourages all students, faculty and staff to be vaccinated.

#### Reasonable Academic Adjustments/Auxiliary Aids

The University of Houston complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, pertaining to the provision of reasonable academic adjustments/auxiliary aids for disabled students. In accordance with Section 504 and ADA guidelines, UH strives to provide reasonable academic adjustments/auxiliary aids to students who request and require them. If you believe that you have a disability requiring an academic adjustments/auxiliary aid, please contact the Justin Dart Jr. Student Accessibility Center (formerly the Justin Dart, Jr. Center for Students with DisABILITIES).

#### Recording of Class

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart, Jr. Student Accessibility Center. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

#### Syllabus Changes

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes

will be announced as quickly as possible through (specify how students will be notified of changes).