

SYLLABUS

TORTS

(LAWJ-008-53)

Georgetown University Law Center

Professor Joshua Teitelbaum

Fall 2011, Section 5

Tuesday & Thursday, 1:20 PM – 3:20 PM

Course Description: This course explores the basic principles governing private lawsuits for damages for wrongs that are noncontractual, including consideration of the concepts of strict liability, liability based on fault, intentional and negligent interference with personal and property interests and defenses thereto, recoverable damages, and related problems.

Professor Information:

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Office Hours: Wednesdays 10:00 AM – 11:45 AM or by appointment

Course Materials: The required text for the course is RICHARD A. EPSTEIN, CASES AND MATERIALS ON TORTS (9th ed. 2008). Further supplemental readings may be assigned from time to time.

Courseware Site: There will be a Courseware site for the course. The password for enrolling in the Courseware site is TEITELBAUM. This syllabus and any supplemental readings will be made available on the Courseware site. From time to time, I will send emails to the entire class via Courseware and post announcements on the site, so please enroll in the site as soon as possible and check the site routinely.

Attendance, Preparation, and Participation: Students are expected to attend all class meetings, to prepare thoroughly for each class meeting, and to participate in class discussions on a regular basis. Because regular attendance is required, I do not take formal attendance or formally excuse absences, so there is no need to inform me in advance that you will be absent. If, however, a personal emergency arises that will cause you to miss multiple classes, please inform either me or the Dean of Students so that we can make the arrangements necessary to minimize the adverse impact on your studies.

Grading: Grades will be based on class participation (10%) and a four-hour, open-book final examination (90%). Details regarding the final examination will be provided at the appropriate time.

Seating Chart: A seating chart will be distributed on Thursday, September 1. On that day, please sit where you would like to sit for the remainder of the semester. In addition, please bring your name tents to class for the first few weeks of the semester, to help me learn your names.

Topics and Assignments: The following is a schedule of topics and reading assignments for the course. The schedule is tentative and subject to changes announced in class or by email. The schedule does not include specific dates due to the inherently fluid nature of coverage in a first year class. At the end of each class, I will announce what reading material I anticipate that we will cover during the next class.

I. INTENTIONAL TORTS

- A. Battery (3-10)
 - 1. Vosburg v. Putney

- B. Consent (35-50) (skip Canterbury v. Spence)
 - 1. Mohr v. Williams (skip notes 6 & 7)
 - 2. Hudson v. Craft

- C. Insanity, Self-Defense (50-59, Supp.)
 - 1. McGuire v. Almy
 - 2. Anicet v. Gant (Supp.)
 - 3. Courvoisier v. Raymond

- D. Trespass to Land, Defense of Property (10-14, 59-65)
 - 1. Dougherty v. Stepp
 - 2. Bird v. Holbrook

- E. Necessity (68-79)
 - 1. Ploof v. Putnam
 - 2. Vincent v. Lake Erie Transportation Co.
 - 3. Thomson, The Trolley Problem

- F. Assault, Offensive Battery, and Emotional Distress (79-85, 93-100, Supp.)
 - 1. I. de S. and Wife v. W. de S.
 - 2. Tuberville v. Savage
 - 3. Alcorn v. Mitchell
 - 4. England v. S&M Foods, Inc. (Supp.)
 - 5. Wilkinson v. Downton
 - 6. Funeral Services by Gregory v. Bluefield Hosp. (Supp.)

II. STRICT LIABILITY AND NEGLIGENCE: HISTORIC AND ANALYTIC FOUNDATIONS

- A. Background and Early Cases (101-105, 123-146)
 - 1. The Thorns Case (Hull v. Orange) (note 1 only)
 - 2. Brown v. Kendall
 - 3. Rylands v. Fletcher (all three decisions)
 - 4. Brown v. Collins
 - 5. Powell v. Fall

- B. Modern Developments (146-168)
 - 1. Holmes, The Common Law
 - 2. Bolton v. Stone (both decisions)
 - 3. Hammtree v. Jenner (skip note 1)

III. NEGLIGENCE

- A. Reasonable Person (169-175, 177-185)
 - 1. Vaughan v. Menlove (note 1 only)
 - 2. Holmes, The Common Law
 - 3. Roberts v. Ring
 - 4. Daniels v. Evans

- B. "Extraordinary" Reasonable People (185-194)
 - 1. Breunig v. American Family Insurance Co.
 - 2. Fletcher v. City of Aberdeen
 - 3. Robinson v. Pioche, Bayerque & Co.
 - 4. Denver v. Rio Grande R.R. v. Peterson

- C. Calculus of Risk (194-201, 203-214, 217-220)
 - 1. Blyth v. Birmingham Water Works
 - 2. Eckert v. Long Island R.R.
 - 3. Terry, Negligence
 - 4. Seavey, Negligence—Subjective or Objective?
 - 5. Cooley v. Public Service Co.
 - 6. United States v. Carroll Towing Co.
 - 7. Andrews v. United Airlines

- D. Custom (221-243)
 - 1. Titus v. Bradford
 - 2. Mayhew v. Sullivan Mining Co.
 - 3. The T.J. Hooper (both cases)
 - 4. Lama v. Borrás (skip notes 6 & 8)

- E. Statutes and Regulations (261-280)
 - 1. Thayer, Public Wrong and Private Action
 - 2. Osborne v. McMasters
 - 3. Restatements; California statute
 - 4. Martin v. Herzog
 - 5. Brown v. Shyne

- F. Judge and Jury (285-298)
 - 1. Holmes, The Common Law
 - 2. Baltimore and Ohio R.R. v. Goodman
 - 3. Pokora v. Wabash Ry.

- G. Proof of Negligence (298-303, 307-312, 316-324)
 - 1. Byrne v. Boadle (notes 1 & 2 only)
 - 2. Colmenares Vivas v. Sun Alliance Insurance Co. (note 1 only)
 - 3. Ybarra v. Spangard (notes 1-3 only)

- H. Contributory Negligence (327-350)
 - 1. Butterfield v. Forrester
 - 2. Beems v. Chicago, Rock Island & Peoria R.R.
 - 3. Schwartz, Tort Law and the Economy in Nineteenth-Century America: A Reinterpretation
 - 4. Gyerman v. United States Lines Co.
 - 5. LeRoy Fibre Co. v. Chicago, Milwaukee & St. Paul R.R.
 - 6. Derheim v. N. Fiorito Co. (skim notes 2 & 3)

- I. Last Clear Chance (350-355)
 - 1. Fuller v. Illinois Central R.R.
 - 2. Restatement (skip note 2)

- J. Assumption of Risk (360-378)
 - 1. Lamson v. American Axe & Tool Co.
 - 2. Murphy v. Steeplechase Amusement Co.
 - 3. Dalury v. S-K-I Ltd. (note 1 only)

K. Comparative Negligence (382-401)

1. *Li v. Yellow Cab Co.*
2. Legislative reform

IV. CAUSATION

A. Cause in Fact (449-462, 470-482, 485-496)

1. *New York Central R.R. v. Grimstad*
2. *Zuchowicz v. United States* (skip note 1)
3. *Herskovits v. Group Health Cooperative*
4. *Kingston v. Chicago & N.W. Ry.* (skip note 4)
5. *Summers v. Tice*
6. *Skipworth v. Lead Industries Association*

B. Proximate Cause, I (497-519)

1. *Ryan v. New York Central R.R.*
2. *Berry v. Sugar Notch Borough*
3. *Brower v. New York Central & H.R.R.* (skip note 5)
4. *Wagner v. International Ry.*
5. *In re Polemis & Furness, Withy & Co.*

C. Proximate Cause, II (519-532, 536-544)

1. *Palsgraf v. Long Island R.R.*
2. *Wagon Mound (No. 1)* (skip note 2)

D. Emotional Distress (549-562)

1. *Mitchell v. Rochester Railway*
2. *Dillon v. Legg*

V. AFFIRMATIVE DUTIES

A. Duty to Rescue (563-569, 579-584)

1. *Buch v. Amory Manufacturing Co.*
2. *Hurley v. Eddingfield*
3. *Montgomery v. National Convoy & Trucking Co.* (skip note 2)

B. Duties of Owners and Occupiers (593-606)

1. *Rowland v. Christian*

- C. Gratuitous Undertakings (615-623)
 - 1. Moch v. Rensselear Water Co.

- D. Special Relationships (623, 634-644)
 - 1. Restatement (skip note)
 - 2. Tarasoff v. Regents of University of California

VI. TRADITIONAL STRICT LIABILITY

- A. Ultrahazardous Activities (660-675)
 - 1. Restatements
 - 2. Indiana Harbor Belt R.R. v. American Cyanamid Co.

VII. PRODUCTS LIABILITY

- A. Background (723-728, 731-736, 739-745, 747-754)
 - 1. MacPherson v. Buick Motor Co. (note 1 only)
 - 2. Escola v. Coca-Cola Bottling Co. of Fresno (skip notes 2 & 3)
 - 3. Restatements

- B. Design Defects (777-797, 803-806)
 - 1. Campo v. Scofield
 - 2. Volkswagen of America, Inc. v. Young
 - 3. Barker v. Lull Engineering Co.
 - 4. Halliday v. Sturn, Ruger & Co.

- C. Warning Defects (806-813, 816-832)
 - 1. MacDonald v. Ortho Pharmaceutical Corp. (notes 1 & 5 only)
 - 2. Vassallo v. Baxter Healthcare Corp.
 - 3. Hood v. Ryobi America Corp. (skip note 1)

- D. Defenses (832-847, 850-851)
 - 1. Daly v. General Motors Corp. (skip note 3)
 - 2. Geier v. American Honda Motor Co. (note 3 only)
 - 3. Wyeth v. Levine (Supp.)