

TORTS

FALL, 2010

Syllabus I

Professor Wendy Parmet

The casebook (“cb.”) for this course is Franklin & Rabin, *Tort Law and Alternatives*, 8th ed., 2006. A set of course materials (“mat.1”) is posed on our TWEN site. A second set of materials (mat. 2”) will be posted later in the semester. The readings from Rabin & Sugarman, *Tort Stories* (“TS”) and the *Concise Restatement of Torts*, 2d ed., by the American Law Institute (“ALI”) are optional, but highly recommended. Review problems will be posted on our TWEN page several classes before they are due.

The readings below are for the first half of the course. A second syllabus will be available before the course is half over.

I. Negligence, The Fault Principle and Reasonable Care

	Page(s)
1. The Perspectives of Tort Law	
cb	1-17
mat. 1 Epilepsy and Driving	
Conventions in Legal Argument	
Preliminary Menu of Standard Legal Arguments	
<u>Bierman</u>	
<u>Bierman</u> Appeal	
2. The Fault Principle	
cb.	31-43
mat. 1 The Idea of the Holding of a Case	
Holding of <u>Adams</u>	
3. The Role of Judge and Jury	
cb.	60-69
mat. 1 Memo: Prima Facie Case	
Prima Facie Case of the Tort of Negligence	
ALI	75-77 (stop before § 9).

4. The Reasonable Person	
cb.	50-60
mat.1 <u>Cordas</u> <u>Hasseneyer</u> Bender	
ALI	77-88 (stop before § 13).
5. The Learned Hand Formula	
cb.	44-49
mat. 1 Allocation vs. Distribution Epidemiology and the Probability of Injury <u>Grimshaw</u> Posner	
ALI	62-69 (stop before ¶ K).
TS.	11-39
 <i>REVIEW PROBLEM I</i>	
6. Custom	
cb.	69-75 (stop at the end of n. 8).
.....	110-119 (stop at the end of n. 10).
ALI	88-91
7. Negligence Per Se	
cb.	75-86 (stop at the end of n. 10).
mat. 1 The Role of Statutes Negligence Per Se Legal Arguments in <u>Tedla</u>	
ALI	92-100
8. Res Ipsa Loquitur	
cb.	92-94 (through note 1).
.....	102-110 (stop before § E).
mat. 1 Evidence and Proof in Civil Actions Res Ipsa Loquitur Chart: The Evidentiary Effect of Proofs of Negligence	
ALI	103 (§ 17) – 111 (stop before § 18).

9. Respondeat Superior	
cb.	18-30

REVIEW PROBLEM II

II. Causation

1. But-for Causation & Causal Uncertainty	
cb.	339-359
mat.1 <u>Grimstad</u>	
<u>Stubbs</u> and the Conquest of Typhoid	
<u>Allen v. United States</u>	
Memo: Causation-In-Fact	
Epidemiology and Causation	
ALI	191-197 (stop at ¶ j).
2. Causal Uncertainty: Loss of Chance & Joint Causation	
cb.	360-379
mat. 1 Categories of Causal Uncertainty Problems	
Joint or Multiple Causation Analysis	
ALI	197 § j – 208 (stop before § 28).
.....	208 § 28 – 216 ¶ f
3. Mass Torts: Market Share	
cb.	379-400 (stop after note 4).
mat. 1 Malone	
Memo on DES	
<u>Brown v. Superior Court</u>	
ALI	216 ¶ f - 222
TS.	151-178
4. Scope of Liability: Unexpected Harm & Superseding Causes	
cb.	401-425
mat.1 <u>Larrimore</u>	
The “Eggshell Skull” or “Thin Skull” Rule	
ALI	223-236 (stop before ¶ n.).
.....	241 § 31-254 (stop before § 36).

REVIEW PROBLEM III

5. Scope of Liability: Unexpected Victims	
cb.	425-439
mat. 1 The Steps of Causation Analysis in Torts Problems	
ALI	236 ¶ n – 239 (stop before § 30).
TS.	129-156

III. Duty

1. General Concepts of Duty of Care	
cb.	550-554 (stop after note 1).
.....	132-148
mat. 1 Analyzing Duty Problems	
ALI	130-139 (stop after ¶ e).
.....	146 § 41 – 147 ¶ d.
.....	152-160
TS.	41-71
2. Physician's Duties	
cb.	123-130 (stop before n. 10)
.....	157-168
mat.1 <u>Hurley</u> <u>Childs</u>	
ALI.	148 ¶ g-151 (stop after ¶ i).
TS	99-128
3. Special Duty Issues	
cb.	148-157
.....	175-183
.....	230-246
mat. 1 Gipson v. Kasey	
4. Premises Liability: The Duties of Landowners and Occupiers	
cb.	195-218 (stop before § E).
mat: Premises Liability I	
Premises Liability II	

ALI 161-181 (stop before § 53).

TS. 73-97

REVIEW PROBLEM IV