

Schedule this week

Wednesday

Class - 8:00am - 9:40am - No Fault and Beyond

Office Hours - 12:00pm - 1:00pm

Thursday

Class - 10:10am - 11:50am - No Fault and Beyond / Review

Office Hours - 12:00pm - ???

Liability Insurance

- How does it affect what cases are litigated?
- How does it affect the consequences of liability?

Workers' Compensation

Lamson v. *American Axe & Tool Co.*

“The Axe that Fell on the Employee”

The “Unholy Trinity” of Common Law Defenses

1. Fellow servant rule
2. Contributory negligence
3. Assumption of risk

The Bargain of Workers' Compensation

No fault

and

Exclusive remedy

Workers' Compensation Requirements

Only compensates for work-related injuries

Benefits include:

- Medical coverage
- Percent of lost wages
- Vocational rehabilitation
- Survivor benefits

Employers must buy workers' comp insurance

When would an employee not file a workers' comp claim?

Injury wasn't work-related

Injury resulted from employer's intentional tort

Employee does not count as an employee

Revisiting *Lamson v. American Axe*

What does the plaintiff recover?

Tort Law

Workers Comp

Facts of actual case:

No assumption of
risk:

Revisiting *Lamson v. American Axe*

What does the plaintiff recover?

Tort Law

Workers Comp

Facts of actual case:	Nothing
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No assumption of risk:	Full recovery
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Revisiting *Lamson v. American Axe*

What does the plaintiff recover?

	Tort Law	Workers Comp
Facts of actual case:	Nothing	Partial recovery
No assumption of risk:	Full recovery	Partial recovery

Third-party claims

Rule: Employee can file a workers' compensation claim against their employer but workers compensation' does not cover third parties.

Hypothetical: Gladys Escola is a waitress. While serving a Coca-Cola beverage at work, the bottle explodes in her hand, injuring her hand. She needs surgery and will be unable to work for months.

What's your legal advice for her?

Big Picture: Workers' Comp vs. Tort Law

Deterrence

Compensation

Administrative Cost

Equity

Ideology

Does tort law have an ideology?

-	Negligence	Strict Liability	Intentional Torts
Type of Conduct	???	???	???
Causal Connection	???	???	???
Affirmative Defenses	???	???	???
Damages Available	???	???	???

-	Negligence	Strict Liability	Intentional Torts
Type of conduct	- Fault	- Dangerous activities - Products	- Intentional harm
Causal Connection	???	???	???
Affirmative Defenses	???	???	???
			???
Damages Available	???	???	???

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Type of conduct	- Fault	- Dangerous activities - Products	- Intentional harm
Causal connection	- Factual cause - Proximate cause	- Factual cause - Proximate cause	- Factual cause - Proximate cause
Affirmative Defenses	???	???	???
	???	???	???
			???
Damages Available	???	???	???

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Affirmative defenses	- Comparative fault - Assumption of risk	- Comparative fault - Assumption of risk	- Consent - Self defense - Necessity
Damages Available	???	???	???

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Damages available	- Past and future damages (economic, noneconomic, punitive) (lump sum payment)	- Past and future damages (economic, noneconomic, punitive) (lump sum payment)	- Past and future damages (economic, noneconomic, punitive) (lump sum payment)

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