

SYLLABUS TORTS FALL 2010

Sections 1,2,3,4

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TEXT: PROSSER, WADE AND SCHWARTZ TORTS CASES AND MATERIALS 12TH EDITION

Supplemental materials will be added to casebook materials
Supplemental materials are available on CD-ROM. This will be distributed in the first class.

Syllabus subject to change with advance notice

Assignments begin with a case and end at end of notes following that case, unless otherwise indicated

FIRST CLASS ASSIGNMENT

The shaded material is the first assignment

NEGLIGENCE: what is it?

Introduction to Chapter One: Development of Liability Based on Fault

Pp 1-4 up to Hulle v. Orynge

Brown v. Kendall p.7

STANDARD OF CARE

WHAT IS IT? HOW IS IT ESTABLISHED? HOW IS IT PROVEN?

Pp 133-134

Elements of Cause of Action p 134-135

THE REASONABLE PERSON

Text pp. 148-150

Vaughan v. Menlove p. 150

Holmes on the Reasonable Person CD-ROM

Delair v. McAdoo p. 153

SPECIAL APPLICATIONS OF THE REASONABLE PERSON

1. Emergencies

Cordass v. Peerless Transportation Co. p. 159

2. Blackouts and Physical Illness

Cohen v. Pretty p. 10

Eleason v. Western Casualty & Surety Co. (CD-ROM)

3. Physical Disabilities

Roberts v. State of Louisiana p. 163

4. Mental Illness

Breuning v. American Family Ins. Co. p. 170

Gould v. American Family Insurance Co. CD-ROM

Recap of categories 1-4 Roman v. Estate of Gobbo, CD-ROM

5. Children

Robinson v. Lindsay p. 166

The Professional

Notes pp 176-179; 181 (beginning at note 2)-183

Boyce v. Brown p. 183

Morrison v. MacNamara p. 187

Informed Consent

Scott v. Bradford p. 191

Moore v. The Regents of the University of California p. 197

Optional reading. Taking the Least of You by Rebecca Skloot,
NY Times April 16. 2006

http://www.nytimes.com/2006/04/16/magazine/16tissue.html?_r=1&scp=7&sq=rebecca%20skloot&st=cse

Notes up to Aggravated Negligence p. 204

VICARIOUS LIABILITY

Notes, Respondeat Superior, pp 688-89

Bussard v. Minimed, Inc. p. 689

O'Shea v. Welch p. 691

Murrell v. Goetz p. 695

PROOF OF DUTY AND BREACH OF DUTY

(A) By Using Statutes to set the Standard of Care

Osborne v. McMasters p. 212

Martin v. Herzog p. 230

Notes p. 216, beginning at note 2 through 218

Perry v. S.N. and S.N. p. 224

(B) By Custom and Usage

Trimarco v. Klein p. 155

(C) By Circumstantial Evidence

Lipman v. Super-X Drug Corp. CD-ROM
Goddard v. Boston & Maine RR Co. p.238
Anjou v. Boston Elevated Railway Co. p.238
Joye v. Great Atlantic and Pacific Tea Co. p. 239
Jasko v. F.W. Woolworth Co. p. 242
Sheehan v. Roche Bros. Supermarkets Inc. CD-ROM
Lanier v. Wal-Mart Stores-CD-ROM
Notes pp 244-45

(D) By Res Ipsa Loquitur

Byrne v. Boadle p. 245
Larson v. St. Francis Hotel p. 255
Ybarra v. Spangard p. 258

CAUSATION

Cause in Fact

Perkins v. Texas and New Orleans RR p. 268

Quantum of Proof Problems

Gentry v. Douglas Hereford Ranch, Inc. p. 273
Kramer Service, Inc. v. Wilkins p. 276
Shumaker v. Oliver B. Cannon & Sons CD-ROM

Problems in Determining Which Party Caused Harm

Joint Tortfeasors

Bierczbski v. Rogers p. 374 (skip notes)
Hill v. Edmonds p. 291

Inability to Tell

Summers v. Tice. P. 295

Sindell v. Abbott Laboratories p. 297

Santiago v. Sherwin Williams Co., 3 F.3d 546 CD-ROM

Cause in Law (Proximate Cause)

Atlantic Coast Line R. Co. v. Daniels p. 303

Unforseeable consequences

Ryan.v. New York Central RR Co p.304

In Re Arbitration Between Polemis and Furness, Withy & Co. p.310

Wagon Mound I p.312

Palsgraf v. Long Island RR. Co. p. 319

Intervening Causes

Derdiarian v. Felix Contracting Corp. p. 336

Watson v. Kentucky & Indiana Bridge & RR Co. p. 341

Rescuers

Arthur Wagner v. International Railway Company CD-ROM

McCoy v. American Suzuki Motor Corp. p. 350

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DAMAGES (mostly lecture)

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Text 554-555

Punitive damages text p 566-567

Aggravation of Pre-Existing Condition

Bartolone v. Jeckovich p. 307

LIMITED DUTIES

Public Policy Limitations

Is there a duty owed?

Kelly v. Gwinnell p. 356

Phung Luc v. Wyndham Management Co, -CD-ROM

*Commerce Ins. Co. v. Ultimate Livery Service, Inc. **CD-ROM***

Enright v. Eli Lilly & Co.p. 362

Failure to Act, Warn or Protect

Hegel v. Langsam p. 431

J.S.and M.S. v. R.T.H. p. 434

Tarasoff v. Regents of the Univesrity of California p. 447

Pure Economic Loss

Brief lecture

Pure Emotional Harm

Daley v. LaCroix p. 464

Bystanders

Thing v. LaChusa p. 471

Asaro v. Cardinal Glennon Memorial Hospital CD-ROM

Easkin v. Bartee CD-ROM

OWNERS AND OCCUPIERS OF LAND

PREMISES LIABILITY

Outside the Premises

Taylor v. Olsen p. 494

Salevan v. Wilmington Park, Inc. p. 496

On the Premises

(A) Trespassers

Sheehan v. St. Paul & Duluth Ry. Co. p. 500

Humphrey v. Glenn **CD-ROM**

(B) Licensees

Barmore v. Elmore p. 503

(C) Invitees

Campbell v. Weathers p. 506

Whelan v. Van Natta p. 509

Changes in the Categories

Burrell v. Meads CD-ROM

(D) Protection of Patrons and Guests Against Criminal Conduct

Estate of Heck ex rel. Heck v. Stoffer CD-ROM

Rhudy v. Bottlecaps, Inc. CD-ROM

Morris v. De La Torre CD-ROM

Novak v. Capital Management & Development Corp. CD-ROM

Persons Outside the Established Categories

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Elliot v. Nagy CD-ROM

Bennett v. Stanley CD-ROM

Kopczynski v. Barger CD-ROM

Firefighters Rule

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Torchik v. Boyce, 2008-Ohio-399 CD-ROM

Lessor and Lessee

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Pagelsdorf v. Safeco Ins. Co. of America p.526

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Shroades v. Rental Homes CD-ROM

Kline v. 1500 Massachusetts Ave. Apartment Corp. p. 529

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Contributory Negligence

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Comparative Negligence

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The Open and Obvious Doctrine

Armstrong v. Best Buy Co. Inc. CD-ROM

Assumption of Risk and Recreational Users

Pearce v. Utah Athletic Foundation CD-ROM

Thompson v McNeill CD-ROM

Statutes of Limitations and Repose

Teeters v. Curry p. 639

Zellmer v. Zellmer—p 651

Governmental Immunities

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Battery

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State Rubbish Collectors Ass'n v. Siliznoff p.51

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Trespass to Chattels

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Mohr v. Williams p. 95

Self Defense and Defense of Others

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Defense of Property

Katko v. Briney p. 108

Recovery of Property

Bonkowski v. Arlan's Department Store p. 116

STRICT LIABILITY

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Animals

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Abnormally Dangerous Activities

Rylands v. Fletcher p.719

Spano v. Perini Corp. p. 13

Clark-Aiken Co. v. Cromwell-Wright Co. CD-ROM.

Miller v. Civil Constructors, Inc. p.726

Indiana Harbor Belt R.R.Co. v. American Cyanamid Co. p. 729

Limitations on Strict Liability

Foster v. Preston Mill Co., p.737

Golden v. Amory p. 739

Sandy v. Bushey p. 741