

Advanced Torts  
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Office hours by appointment

Syllabus Spring 2011  
Subject to change with advanced notice

In order to save money for students, there is no textbook this year. The cases we will use will either be on the Advanced Torts TWEN site, or you will need to download them yourselves. There may be additional postings during the semester—I'll give you advance notice when this occurs.

**Assignment for first class**

**Read the cases in the first segment, "Tort Duties of Insurers"**

Breach of Duty or Breach of Contract?

Introduction to Insurance

**TORT DUTIES OF INSURERS**

Gruenberg v. Aetna Ins. Co., 9 Cal.3d 566, 510 P.2d 1032, 108 Cal. Rptr. 480 (1973) (TWEN)

Pavia v. State Farm Mutual Automobile Ins. Co, 82 NY2d 445, 626 N.E.2d 24 (1993) (download)

Campbell v. State Farm Mut. Auto Ins. Co. 840 P.2d 130 (Utah court of appeals)(TWEN)

**PUNITIVE DAMAGES**

Can they be too high?

Taylor v. Superior Court, 598 P.2d 854 (1979) (download)

Pacific Mut. Life Ins. v. Haslip, 499 U.S. 1(1991) (TWEN)

BMW of North America v. Gore, 517 U.S. 559 (1996) (TWEN)

Dardinger v. Anthem Blue Cross & Blue Shield, 2002-Ohio-7113 (TWEN)

State Farm Mut. Auto Ins. Co. v. Campbell 538 U.S. 408 (2003)(download)

**Campbell v. State Farm Mut. Ins. Co. (on remand from the U.S. Supreme Court), 2004 UT 34 (TWEN)**

**Mathias v. Accor Economy Lodging Inc., 347 F.3d 672 (7<sup>th</sup> circuit 2003) (TWEN)**

**Philip Morris U.S.A. v. Williams, 549 U.S. 346 (2007) (TWEN)**

**Williams v. Philip Morris, 176 P.3d 1255 (2008) (on remand from the US Supreme Court) TWEN**

**Exxon Shipping Co. v. Baker, 554 U.S. \_\_\_\_ (2008) (TWEN)**

**Jurinko v. Medical Protective Co., 2008WL 5378011 (CA3 PA) (TWEN)**

## **PRIVACY: IS THERE REALLY SUCH A THING?**

### **A. Public Disclosure of Private facts**

**Haynes v. Alfred A. Knopf, Inc., 8 Fed. 3d 1222 (7<sup>th</sup> circuit 1993) (download)**

**Ozer v. Borquez, 940 P.2d 371 (1997) (TWEN)**

#### **Constitutional Privilege**

**Cox Broadcasting v. Cohn 420 U.S. 469 (1975) (TWEN)**

**Smith v. Daily Mail Publishing Co. 443 U.S. 97 (1979) (TWEN)**

**The Florida Star v. B.J.F. 491 U.S. 524 (1989) (download)**

#### **Breach of Confidence**

**Humphers v. First Interstate Bank of Oregon, 696 P.2d 527 (1985) (download)**

### **B. Intrusion On Seclusion**

**Galella v. Onassis 487 F.2d 986 (1973)(download)**

**Desnick v. American Broadcasting Companies, Inc. 44 F.3d 1345 (CA 7, 1995)(download)**

**Schulman v. Group W Productions, Inc. 955 P.2d 469 (1998)(download)**

**Bartnicki v. Vopper, 532 U.S. 514 (2001) (TWEN)**

**Boehner v. McDermott, 484 F.3d 573 (D.C. Circuit, en banc, 2007) (TWEN)**

**In re Marriage of Jeffrey Tigges and Cathy Tigges, 758 N.W.2d 824 (2008) Iowa Supreme Court (TWEN)**

**HERNANDEZ v. HILLSIDES, INC. 2009-CA-0804.096 Calif. Supreme Court (TWEN)**

### **C. False Light Privacy**

**Cantrell v. Forest City Publishing Co. 419 U.S. 245 (1974) (download)**

**Bueno v. Denver Publishing Co. 32 P.3d 491 (2001) (TWEN)**

**Jews for Jesus v. Rapp, 997 So.2d 1098 (2008) (TWEN)**

### **D. Appropriation**

**Zacchini v. Scripps-Howard Broadcasting Co., 433 U.S. 562 (1977) (download)**

**White v. Samsung Electronics America, Inc. 971 F.2d 1395 (9<sup>th</sup> cir. 1992) (TWEN)**

**Cardtoons v. Major League Baseball Players Ass'n 95 F.3d 959 (10<sup>th</sup> Cir. 1996) (download)**

## **NEW IDEAS FOR MEDICAL CLAIMS**

### **Interference with Procreation and End of Life Decisions**

**Johnson v. University Hospital, 44 Ohio St.3d 49, 540 N.E.2d 496 (1989) (TWEN)**

**Marciniak v. Lundborg, 153 Wisc.2d 59, 450 N.W.2d 243 (1990) (TWEN)**

**Emerson v. Magendantz , 689 A.2d 409 (download)**

**Simmerer v. Dabbas, 89 Ohio St.3d 586 (2000) (TWEN)**

**Hester v. Dwividi, 89 Ohio St.3d 575 (2000) (TWEN)**

**Harbeson v. Parke-Davis, Inc, 98 Wash.2d 460 (1983)  
(TWEN)**

**Schirmer v. Mt. Auburn Obstetrics and Gynecologic Associates Inc., 2006-Ohio-942  
(TWEN)**

**Miller v. HCA, Inc. 118 S.W.3d 758 (2003)(TWEN)**

**Stewart-Graves v. Vaughn, 162 Wash.2d 115 (2007)(TWEN)**

**Anderson v. St. Francis-St. George Hospital,  
1995 WL 109128 (Ohio App. 1 Dist.) (TWEN)**

**Anderson v. St. Francis-St. George Hospital, 77 Ohio St. 3d 82, 671 N.E.2d 225 (TWEN)**

## **FRAUD AND MISREPRESENTATION**

**Idress v. American University of the Caribbean, 546 F. Supp. 1342 (1982)  
(TWEN)**

**Burr v. Board of Commissioners of Stark County, 23 Ohio St.3d 69, 491 N.E.2d 1101  
(1986)  
(TWEN)**

**Hanks v. Hubbard Broadcasting Inc., 493 N.W.2d 302 (1992)  
(TWEN)**

**Ollerman v. O'Rourke Co. Inc., 94 Wis.2d 17, 288 N.W.2d 95 (download)**

**INTERSECTION OF TORTS AND CONTRACTS**

**WRONGFUL DISCHARGE**

**Tameny v. Atlantic Richfield Co., 610 P.2d 1330 (1980)(TWEN)**

**Reust v. Alaska Petroleum Contractors**

**2005 WL 2812745 (TWEN)**

**LAWYERS GIVING BAD ADVICE**

**Simon v. Zipperstein, 32 Ohio St.3d 74, 512 N.E.2d 636 (1987) (TWEN)**

**Elam v. Hyatt Legal Services, 44 Ohio St.3d 175, 541 N.E.2d 616 (1989)(TWEN)**

**Lewis v. Star Bank, N.A., 90 Ohio App.3d 709, 630 N.E.2d 418 (1993)  
(TWEN)**

**Orshoski v. Krieger, (Ct. of Apps. Ottawa Cty, Nov. 9, 2001) (TWEN)**

**Noble v. Bruce, 349 Md. 730, 709 A.2d 1264 (1997)(TWEN)**

**Guy v. Liederbach, 459 A.2d 744 (1983) (TWEN)**

**Blair v. Ing 21 P.3d 452 (2001) (TWEN)**

**PURE ECONOMIC LOSS**

**Nycal Corp. v. Peat Marwick LLP, 426 Mass. 491, 688 N.E.2d 1368 (download)**

**Crigger v. Fahnestock and Co. Inc., 443 F.3d 230 (C.A.2 2006)  
(TWEN)**

**Board of Trustees of the Worthington Public Library v. Hickson Corporation 1999WL  
1455661 (TWEN)**

**People Express Airlines, Inc. v. Consolidated Rail Corp.  
(TWEN)**

**532 Madison Avenue Gourmet Foods, Inc. v. Finlandia Center, 96 N.Y.2d 280, 750  
N.E.2d 1097 (2001) (download)**