# Business Law

## February 20, 2013

* **Vicarious Liability**
  + When can an employer be liable for conduct of his employee?
  + What does vicarious mean? Through someone else (employee)
  + Theory of secondary liability, the plaintiff didn’t do anything wrong but the liability arises because of the relationship with the employee
  + **Two parts of the rule**
    - Tortfeasor must technically be an employee
    - The employee must be acting within the scope of his employment
  + If you have both of the above, the employer is likely to be liable for the negligent conduct of the employee.
  + There must be more evidence than not, that the tortfeaser was acting in the scope of his employment.
    - Was the employees act authorized? If the employer authorized the conduct at issue, that’ll weigh in favor of the plaintiff.
    - When you have gone through all 8 factors, what weigh does the scale tip?
* **Ski Slope Incident**
  + **Was the act authorized?** 
    - Plaintiff: The ski pass was part of the employee’s compensation. Skiing was preferred method of getting to work.
    - Defendant: There was an explicit sign to not go off the jump
  + **Time, place, purpose**
    - Plaintiff: Place-premise, they said he’s on the clock
    - Defendant: None
    - What’s being brought up here is the detour, there’s no easy answer. Why did on this detour, had the tortfeaser abandoned the employers interest or was he generally still going about the employers interest?
* **Negligent Supervision**
  + Failure to use reasonable care and supervising employees
  + Negligent hiring or retention

Must answer 3 out of 4 questions

Maximum 5 points extra credit + Whatever points on pop quiz (max 107.5 points for me / 110 points for others)

**Methodology:**

I(ssue) = C range (may be more than 1 issue)

R(elevant Rule)= complete and accurate, around b range

A(nalayis) = moves you into the A range

Not grading writing style, spelling,

Do not worry about who wins or loses

Do not worry about writing it as an essay, but as long as you get the idea across (communicate effectively)

It will not tell us what they’re suing for

# Substitive Material

* **Conversion**
  + Conversion is an intention tort against property. More specifically against personal property. Not going to occur if the property is real property (personal property, truck in the trucking case).
  + 1) Tortious taking (wrongful taking)
  + 2) Misappropriation of use, prohibits the rightful owner from using it
  + 3) Refusal to return or to forward
* **Trespass to land**
  + Intention tort against property, real property (not personal)
  + Requires two things:
    - A physical entry
    - Without consent
    - Without justification
  + Protecting someone on the property, to protect the property, etc is with justification and not trespassing to land.
* Requisite intent – intent to do the act that has the violation
* Libel vs. Slander
  + Libel is permanent (news, )
  + Libel and slander are relevant to harm
  + If public figure, talk about malice (acting with intentional or reckless disregard of the truth)
* “XYZ sues for negligence, they’ll argue they’re not vicariously liable” – that’s all you need to write for the issue
* Harm is presumed, slander per se / libel
  + The plaintiff must show harm was presumed
  + Look at the four categorizes for slander per se