

Advanced Torts
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Office hours by appointment

Syllabus Spring 2008
Subject to change with advanced notice

Text: Franklin and Rabin
Tort Law and Alternatives 8th edition
You do not need to read the notes following the text cases.
Cases not in the text are posted on the law school website. To access the cases, go to the syllabus page, scroll down to advanced torts, and you will see “cases” listed under the syllabus. Clicking on that link will get you to the cases. There will probably 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)

Pavia v. State Farm Mutual Automobile Ins. Co, 82 NY2d 445, 626 N.E.2d 24 (1993) (**text p. 798**)

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

PUNITIVE DAMAGES

Can they be too high?

Taylor v. Superior Court, 598 P.2d 854 (1979)(**text p. 740**)

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

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

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

State Farm Mut. Auto Ins. Co. v. Campbell 123 S. Ct. 1513 (2003)
(text p. 749)—note—full dissent by Justice Ginsburg is on the web

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

Mathias v. Accor Economy Lodging Inc., 347 F.3d 672 (7th circuit 2003)

Philip Morris U.S.A. v. Williams, 127 S. Ct. 1057 (2006).

In Re Exxon Valdez, 490 F.3d 1066 (9th circuit 2007)

Class assignment-end of this segment

Find a post-Campbell punitive damages case that discusses the ratio—be prepared to discuss in class

TORT REFORM

Do we need it?

Arbino v. Johnson & Johnson, 2007-Ohio-6948

PRIVACY: IS THERE REALLY SUCH A THING?

Text pp1121-1123

A. Public Disclosure of Private facts

Text p.1123

Haynes v. Alfred A. Knopf, Inc., 8 Fed. 3d 1222 (1993) **(text p.1124)**

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

Constitutional Privilege

Text p. 1133-1135

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

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

The Florida Star v. B.J.F. 491 U.S. 524 (1989) **(text p.1135)**

Class assignment—find and discuss an article in any form of medium that you think is over the top in invading someone's privacy.

Breach of Confidence

Humphers v. First Interstate Bank of Oregon, 696 P.2d 527 (1985) **((text p.1149)**

B. Intrusion On Seclusion

Galella v. Onassis 487 F.2d 986 (1973)**(text p.1177)**

Desnick v. American Broadcasting Companies, Inc. 44 F.3d 1345 (1995)**(text p.1181)**

Schulman v. Group W Productions, Inc. 955 P.2d 469 (1998)**(text p.1188)**

Bartnicki v. Vopper, 532 U.S. 514 (2001) use the WEB version, not the text version

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

C. False Light Privacy

Text p. 1158-1159

Cantrell v. Forest City Publishing Co. 419 U.S. 245 (1974)
(text p.1141)

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

Godbehere v. Phoenix Newspapers, Inc. 162 Ariz. 335, 783 P.2d 781 (1989)

D. Appropriation

Text pp1186-1187

Zacchini v. Scripps-Howard Broadcasting Co., 433 U.S. 562 (1977) **(text p.1187)**

White v. Samsung Electronics America, Inc., 971 F.2d 1395 (9th Cir. 1992) WEB—also read Kozinski dissent from denial of rehearing, **text 1222-24**

White v. DC Comics (California Supreme Court) **text p. 1215**

NEW IDEAS FOR MEDICAL CLAIMS

A. Interference with Procreation and End of Life Decisions

Text p. 326

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

Emerson v. Magendantz **(text p. 326)**

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

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

Schirmer v. Mt. Auburn Obstetrics and Gynecologic Associates Inc.,
2006-Ohio-942

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

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

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

**At the end of this section—present a case that presents a new
idea or twist on a medical claim**

INTERSECTION OF TORTS AND CONTRACTS WRONGFUL DISCHARGE

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

Greeley v. Miami Valley Maintenance
49 Ohio St. 3d 228, 551 N.E.2d 981 (1990)

Reust v. Alaska Petroleum Contractors
2005 WL 2812745 CD-ROM

FRAUD AND MISREPRESENTATION

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

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

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

Ollerman v. O'Rourke Co. Inc. (Wisconsin Supreme Court) **(text p.1236)**

LAWYERS GIVING BAD ADVICE

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

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

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

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

Blair v. Ing, 95 Hawaii 247, 21 P.3d 452 (2001)

Economic torts Services

Insurance Company of North America v. Case Electric Inc.
(Wisconsin Supreme Court)

Pure economic loss

People Express Airlines, Inc. v. Consolidated Rail Corp.

532 Madison Avenue Gourmet Foods, Inc. v. Finlandia Center, 96 N.Y.2d 280, 750 N.E.2d 1097 (2001) Text **p. 317**

Interference with Contract

Imperial Ice Co. v. Rossier, 112 P.2d 631 (1941)**(text p.1253)**

Kenty v. Transamerica Premium Ins, Co. 72 Ohio St.3d 415, 650 N.E.2d 863

Interference with Prospective Economic Advantage

Della Penna v. Toyota Motor Sales, USA Inc., 11 CaL. 4TH 376 (1995)
(text p.1260)