

**SYLLABUS TORTS FALL 2007**  
**Section 5**

**PROFESSOR BETTMAN**  
**Room 408; 556-0958**  
**Email: marianna.bettman@uc.edu**  
**Office hours by appointment**

**TEXT: PROSSER, WADE AND SCHWARTZ TORTS**  
**CASES AND MATERIALS 11<sup>TH</sup> 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**

Pp 1-4 to end of text

*Brown v. Kendall p.6*

**STANDARD OF CARE**

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

Pp 131-132

Elements of Cause of Action p 132-133

**THE REASONABLE PERSON**

*Text pp. 144-145*

*Vaughan v. Menlove p. 145*

*Holmes on the Reasonable Person CD-ROM*  
*Delair v. McAdoo p. 148*

## **SPECIAL APPLICATIONS OF THE REASONABLE PERSON**

### **1. Emergencies**

*Cordass v. Peerless Transportation Co. p. 154*

### **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. 157*

### **4. Mental Illness**

*Breuning v. American Family Ins. Co. p. 165*

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

### **5. Children**

*Robinson v. Lindsay p. 161*

## **The Professional**

Notes pp 170-173; 175 (beginning at note 2)-177

*Boyce v. Brown p. 177*

*Morrison v. MacNamara p. 181*

## **Informed Consent**

*Scott v. Bradford p. 185*

*Moore v. The Regents of the University of California p. 191*

Notes up to Aggravated Negligence p. 197

## **PROOF OF DUTY AND BREACH OF DUTY**

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

*Osborne v. McMasters* p. 204

p. 208, beginning at note 2 through 210

*Martin v. Herzog* p. 222

*Perry v. S.N. and S.N.* p. 215

### **(B) By Custom and Usage**

*Trimarco v. Klein* p. 150

### **(C) By Circumstantial Evidence**

*Lipman v. Super-X Drug Corp.* CD-ROM

*Goddard v. Boston & Maine RR Co.* p.229

*Anjou v. Boston Elevated Railway Co.* p.230

*Joye v. Great Atlantic and Pacific Tea Co.* p. 231

*Ortega v. KMart Corp.* p. 231

*Jasko v. F.W. Woolworth Co.* p. 233

*Luc v. Wyndham Management Corp.*—CD-ROM

*Lanier v. Wal-Mart Stores*-CD-ROM

### **(D) By Res Ipsa Loquitur**

*Byrne v. Boadle* p. 237

*Larson v. St. Francis Hotel* p. 246

*Ybarra v. Spangard* p. 250

## **CAUSATION**

### **Cause in Fact**

*Perkins v. Texas and New Orleans RR* p. 259

## **Quantum of Proof Problems**

*Gentry v. Douglas Hereford Ranch, Inc.* p. 263

*Kramer Service, Inc. v. Wilkins* p. 267

*Shumaker v. Oliver B. Cannon & Sons* CD-ROM

## **Problems in Determining Which Party Caused Harm**

### **Concurrent Causes**

*Bierczbski v. Rogers* p. 361(skip notes)

*Hill v. Edmonds* p. 282

### **Inability to Tell**

*Summers v. Tice*. P. 285

*Sindell v. Abbott Laboratories* p. 287

### **Cause in Law (Proximate Cause)**

*Atlantic Coast Line R. Co. v. Daniels* p. 293

### **Unforeseeable consequences**

*Ryan.v. New York Central RR Co* p.294

*In Re Arbitration Between Polemis and Furness, Withy & Co.*  
p.300

*Wagon Mound I* p.302

*Palsgraf v. Long Island RR. Co.* p. 308

### **Intervening Causes**

*Derdiarian v. Felix Contracting Corp.* p. 325

*Watson v. Kentucky & Indiana Bridge & RR Co.* p. 329

*Arthur Wagner v. International Railway Company* CD-ROM

*McCoy v. American Suzuki Motor Corp.* p. 338

Notes, 355-359 up to note 3

## **DAMAGES (mostly lecture)**

*Text 519-520*

*Text 538-539*

*Punitive damages text p 550-551*

## **Aggravation of Pre-Existing Condition**

*Bartolone v. Jeckovich p. 297*

## **LIMITED DUTIES**

### **Public Policy Limitations**

*Kelly v. Gwinnell p. 344*

*Marcum v. Bowdum (CD-ROM)*

*Enright v. Eli Lilly & Co. p. 349*

Notes pp355-360

### **Failure to Act, Warn or Protect**

*Hegel v. Langsam p. 417*

*J.S. and M.S. v. R.T.H. p. 426*

*Tarasoff v. Regents of the University of California p. 432*

*Rhudy v. Bottlecaps, Inc. CD-ROM*

*Delgado v. Trax Bar & Grill CD-ROM*

### **Pure Economic Loss**

Brief lecture

### **Pure Emotional Harm**

*Daley v. LaCroix p. 450*

### **Bystanders**

*Thing v. LaChusa p. 456*

## **OWNERS AND OCCUPIERS OF LAND**

### **Outside the Premises**

*Taylor v. Olsen* p. 480

*Salevan v. Wilmington Park, Inc.* p. 482

### **On the Premises**

#### **(A) Trespassers**

*Sheehan v. St. Paul & Duluth Ry. Co.* p. 485

*Humphrey v. Glenn* CD-ROM

#### **(B) Licensees**

*Barmore v. Elmore* p. 489

#### **(C) Invitees**

*Campbell v. Weathers* p. 492

*Whelan v. Van Natta* p. 495

## **Persons Outside the Established Categories**

### **Children**

Text pp. 498-501

*Elliot v. Nagy* CD-ROM

*Bennett v. Stanley* CD-ROM

### **Firefighters Rule**

Pp 501-502

### **Lessor and Lessee**

*Borders v. Roseberry* p. 507

*Pagelsdorf v. Safeco Ins. Co. of America* p.511

*Thrash v. Hill* CD-ROM

*Shroades v. Rental Homes* CD-ROM

*Kline v. 1500 Massachusetts Ave. Apartment Corp.* p. 514

## **DEFENSES IN NEGLIGENCE ACTIONS**

## **Contributory Negligence**

*Butterfield v. Forrester p. 586*

*Skip notes*

## **Comparative Negligence**

*McIntyre v. Balentine p. 592*

## **The Open and Obvious Doctrine**

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

## **Assumption of Risk and Recreational Users**

*Seigneur v. National Fitness Institute Inc, p. 601*

*Thompson v. McNeill CD-ROM*

*Rees v. Cleveland Indians CD-ROM*

## **Statutes of Limitations and Repose**

*Teeters v. Curry p. 614*

## **Governmental Immunities**

Notes pp640-642

## **INTENTIONAL TORTS**

*Ranson v. Kittner p. 24*

### **Battery**

*Wallace v. Rosen p. 30*

*Leichtman v. WLW Jacor Communications, Inc CD-ROM*

*Manning v. Grimsley CD-ROM*

*McGuire v. Almy p. 25*

*White v. Muniz CD-ROM*

### **Assault**

*I de S et ux v. W de S p.37*

*Western Union Telegraph Co. v. Hill p. 37*

## **False Imprisonment**

*Big Town Nursing Home, Inc. v. Newman* p.40

*Hardy v. LaBelle's Distributing Co.* p.44

*Whittaker v. Sandford* p.48

## **Intentional Infliction of Emotional Distress**

*State Rubbish Collectors Ass'n v. Siliznoff* p.50

*Green v. Chicago Tribune Co.* CD-ROM

## **Trespass to Land**

*Daugherty v. Stepp* p. 66

## **Trespass to Chattels**

*CompuServe Inc. v. Cyber Promotions, Inc.* p. 77

## **Conversion**

Text and notes pp 84-90

*Parrish v. Machlan*, CD-ROM

## **Defenses to Intentional Torts**

### **Consent**

*O'Brien v. Cunard SS Co.* p.91

*Hackbart v. Cincinnati Bengals, Inc.* p.92

*Mohr v. Williams* p. 94

## **Self Defense and Defense of Others**

Text and notes Pp 103-107

## **Defense of Property**

*Katko v. Briney* p. 107

## **Recovery of Property**

*Bonkowski v. Arlan's Department Store* p. 115

## **STRICT LIABILITY**

Text p. 686

### **Animals**

Text Pp 686-691

### **Abnormally Dangerous Activities**

*Rylands v. Fletcher* p. 692

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

*Spano v. Perini Corp.* p. 13

*Miller v. Civil Constructors, Inc.* p. 699

*Indiana Harbor Belt R.R.Co. v. American Cyanamid Co.* p.  
702

### **Limitations on Strict Liability**

*Foster v. Preston Mill Co.,* p.710

*Golden v. Amory* p. 712

*Sandy v. Bushey* p. 714