

**TORTS SYLLABUS**  
**FALL 2007**  
**Professor Ronna Greff Schneider**

The required textbook for this course is Prosser, Wade & Schwartz's Torts, Cases and Materials (11<sup>th</sup> Edition, 2005) by Victor E. Schwartz, Kathryn Kelly, and David Partlett. All page references below are to this textbook. You may wish to read the cases or law reviews cited in the notes in the textbook. It is not required that you read all of these, although you may selectively choose to read some of them in order to enhance your understanding of the assigned material.

You may also choose to consult Prosser & Keeton on Torts (Hornbook Series). It is a respected authority and quite readable. The book is also organized similarly to our textbook, making it fairly easy to selectively read particular materials relating to the class textbook. The Prosser & Keeton book is not required reading, but may be helpful as an educational resource. It is available in the library, although you may want to purchase your own copy.

**I. Development of Liability Based Upon Fault**

pp. 1 - 16

**II. Intentional Interference with Person or Property**

1. Intent

Garratt v. Dailey	pp. 17 – 20
Spivey v. Battaglia	pp. 20 - 23
Ranson v. Kitner	pp. 24 - 25
McGuire v. Almy	pp. 25 - 28
Talmage v. Smith	pp. 28 - 29

2. Battery

Cole v. Turner	pp. 29-30
Wallace v. Rosen	pp. 30-33
Restatement	pp. 33-35
Fisher v. Carrousel Motor Hotel	pp. 35-37

3. Assault

I de S et ux. v. W de S	p. 37
Western Union Tel. Co. v. Hill	pp. 37-40

4.	False Imprisonment	
	Big Town Nursing Home, Inc. v. Newman	pp. 40 – 42
	Parvi v. City of Kingston	pp. 42-44
	Hardy v. LaBelle’s Distrib. Co.	pp. 44-46
	Enright v. Groves	pp. 46 – 48
	Whittaker v. Sandford	pp. 48-50
5.	Intentional Infliction of Emotional Distress	
	State Rubbish Collectors Ass’n v. Siliznoff	pp. 50 – 54
	Slocum v. Food Fair Stores of Florida	pp. 54-57
	Notes and Questions only	pp. 60 - 64
	Taylor v. Vallelunga	pp. 64 - 66
6.	Trespass to Land	
	Dougherty v. Stepp	pp. 66 - 68
	Herrin v. Sutherland	pp. 70 – 72
	Rogers v. Bd. Of Road Com’rs	pp. 72-75
7.	Trespass to Chattels	
	Compuserve Inc. v. Cyber Promotions	pp. 77 - 81
8.	Conversion	
	Pearson v. Dodd	pp. 81 - 84
	Notes and Questions	pp. 84 – 90

### **III. Privileges**

1.	Consent	
	O’Brien v. Cunard SS Co.	pp. 91 – 92
	Hackbart v. Cincinnati Bengals, Inc.	pp. 92-94
	Mohr v. Williams	pp. 94-99
	DeMay v. Roberts	pp. 99-103
2.	Self-Defense	
	Text	pp. 103 - 106
3.	Defense of Others	
	Text	pp. 106 - 107

4. Defense of Property
  - Katko v. Briney pp. 107 - 113
5. Recovery of Property
  - Hodgeden v. Hubbard pp. 113 – 115
  - Bonkowski v. Arlan’s Department Store pp. 115-118
6. Necessity
  - Surocco v. Geary pp. 118 – 121
  - Vincent v. Lake Erie Transp. Co. pp. 121-124
7. Justification
  - Sindle v. New York City Transit Authority pp. 128 - 130

#### **IV. Negligence**

1. History
  - Text pp. 131 - 132
2. Elements of a Cause of Action
  - Text pp. 132 - 133
3. A Negligence Formula
  - Lubitz v. Wells pp.133-134
  - Blyth v. Birmingham Waterworks Co. pp. 134-135
  - Chicago, B. & Q.R. Co. v. Krayenbuhl pp.138-139
  - U.S. v. Carroll Towing Co. pp. 141-145
4. The Standard of Care
  - Reasonable person
    - Vaughan v. Menlove pp. 145 -148
    - Delair v. McAdoo pp. 148- 150

	Custom	
	Trimarco v. Klein	pp.150-154
	Emergency	
	Cordas v. Peerless Transp. Co.	pp. 154 - 157
	Physical Disabilities	
	Roberts v. State of La.	pp. 157 - 161
	Mental Disabilities	
	Breunig v. American Family Ins. Co.	pp. 165-168
	Children	
	Robinson v. Lindsay	pp. 161-165
	Professional Malpractice	
	Notes and Questions	pp 170-173; 175 (starting at Note 2)-177
	Boyce v. Brown	pp. 177 – 181
	Morrison v. MacNamara	pp. 181-185
	Informed consent	
	Scott v. Bradford	pp. 185 – 191
	Moore v. The Regents of the Uof Cal.	pp. 191-194
	Notes and Questions	pp. 194 -197 (up to Aggravated Negligence)
5.	Rules of Law	
	Pokoro v. Wabash Ry. Co.	pp. 200 - 204
6.	Violation of Statute	
	Osborne v. McMasters	pp. 204 - 206
	Stachniewicz v. Mar-Cam Corp.	pp. 206 – 210
	Perry v. S.N. and S.N.	pp. 215-222
	Martin v. Herzog	pp. 222 – 224

7. Proof of Negligence

a. Court & Jury: Circumstantial Evidence

Goddard v. Boston & Maine R.R. Co.	pp. 229 – 230
Anjou v. Boston Elevated Railway Co.	pp. 230-231
Joye v. Great Atlantic and Pacific Tea Co.	p. 231
Ortega v. Kmart Corp.	pp. 231-233
Jasko v. F.W. Woolworth Co.	pp. 233-234
H.E. Butt Groc. Co. v. Resendez	pp. 234-237

b. Res Ipsa Loquitor

Byrne v. Boardle	pp. 237 -240
Notes(beginning with Note 2)	pp. 244-246
Larson v. St. Francis Hotel	pp. 246-250
Ybarra v. Spangard	pp. 250 – 254
Sullivan v. Crabtree	pp. 254-258

**V. Causation In Fact**

1. Sine Qua Non

Perkins v.. Texas and New Orleans Ry.Co.	pp. 259 - 262
--	---------------

2. Proof of Causation

Reynolds v. Texas & Pac. Ry.Co.	pp. 262 – 263
Gentry v. Douglas Hereford Ranch	pp. 263-267
Kramer Service, Inc. v. Wilkins	pp. 267-270

3. Concurrent Causes

Hill v. Edmonds	pp. 282 – 283
Anderson v. Minneapolis, St. P. & . st. R.R. Co.	pp. 283-285

4. Problems in Determining Which Party Caused the Harm

Summers v. Tice	pp. 285 – 287
Sindell v. Abbott Labs	pp. 287-292

## **VI. Legal Cause**

- Atlantic Coast Line R. Co. v. Daniels pp. 293 - 294
1. Unforeseeable Consequences
- Ryan v. NY Central R.R. Co. pp. 294 – 297  
Bartolone v. Jeckovich pp. 297-299
- In re Arbitration Between Polemis  
and Furness, Withy & Co., Ltd. pp. 300-302  
Wagon Mound No. I pp. 302 - 306  
Wagon Mound No. 2 pp. 306- 308  
Palsgraf v. Long Island R.R. Co. pp. 308 – 319
2. Intervening Causes
- Derdiarian v. Felix Contracting Corp. pp. 325- 329  
Watson v. Ky. & Indiana Bridge & R.R. Co. pp. 329-335  
Fuller v. Preis pp. 335-338  
Notes and Questions (beginning with Note 2) pp. 341-344
3. Public Policy
- Kelly v. Gwinnell pp. 344-349  
Enright v. Eli Lilly & Co. pp. 349-355
4. By Way of Synthesis pp. 355-360

## **VII. Joint Tortfeasors**

- Bierczynski v. Rogers pp. 361-364  
Coney v. J.L.G. Industries, Inc. pp. 364-366
- Contribution and Indemnity
- Knell v. Feltman pp.383 – 386  
Yellow Cab Co. of D.C., Inc. v. Dreslin pp. 386-388

## **VIII. Duty of Care**

1. Privity of Contract
- MacPherson v. Buick Motor co. pp. 409 – 412

2. Failure to Act
 

Hegel v. Langsam	pp. 417 - 420
L.S. Ayres & Co. v. Hicks	pp. 420 – 426
J.S. and M.S. v. R.T.H.	pp. 426-432
Tarasoff v. Regents of U of California	pp. 432 – 438
  
3. Pure Economic Loss
 

Text only	pp. 438-439
-----------	-------------
  
4. Emotional Distress
 

Daley v. LaCroix	pp. 450 - 456
Thing v. La Chusa	pp. 456 – 464

## **IX. Defenses**

1. Plaintiff's Conduct
  - a. Contributory Negligence
 

Butterfield v. Forester	pp. 586 – 590
Davies v. Mann	pp. 591 - 592
  
  - b. Comparative Negligence
 

McIntyre v. Balentine	pp. 592 - 601
-----------------------	---------------
  
  - c. Assumption of Risk
 

Seigneur v. National Fitness Institute, Inc.	pp. 601 – 607
Rush v. Commercial Realty Co.	pp. 607 - 610
Notes and Questions	pp. 613 – 614
  
2. Statutes of Limitations and Repose
 

Teeters v. Currey	pp. 614 - 621
-------------------	---------------
  
3. Immunities
 

Text	p. 621
------	--------

## **X. Vicarious Liability**

### 1. Respondent Superior

Text pp. 660 – 661  
Bussard v. Minimed, Inc. pp. 661 – 663  
O’Shea v. Welch pp. 663-667

### 2. Independent Contractors

Murrell v. Goertz pp.667-669

## **XI. Strict Liability**

### 1. Animals

Text pp. 686 - 691

### 2. Abnormally Dangerous Activities

Rylands v. Fletcher pp. 692 – 699  
Miller v. Civil Constructors, Inc. pp. 699 – 702  
Indiana Harbor Belt R.R. Co.  
v. Am. Cyanamid Co. pp. 702- 710

### 3. Limitations on Strict Liability

Foster v. Preston Mill Co. pp. 710 – 712  
Golden v. Amory pp. 712 – 714  
Sandy v. Bushey pp. 714 - 717