
TEACHING TORTS

FIFTH EDITION

A TEACHER'S GUIDE TO
STUDIES IN AMERICAN TORT LAW

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PREFACE

TO THE FIFTH EDITION

This book is part of a comprehensive, carefully integrated package of materials for teaching first-year torts courses. That package consists of Power Point slides and three books that I have authored for Carolina Academic Press:

- *Studies in American Tort Law* (5th ed., 2013);
- *Teaching Torts: A Teacher's Guide to Studies in American Tort Law* (5th ed., 2013); and
- *Mastering Torts: A Student's Guide to the Law of Torts* (5th ed. 2013).

These three books each follow the same organizational plan laid out in 23 chapters. Both the teacher's manual and the student study guide are cross-referenced to *Studies in American Tort Law* (SATL). Contact me by e-mail for the latest version of my Power Point slides (vjohnson@stmarytx.edu).

As a "guide" for torts professors, *Teaching Torts* has decidedly modest objectives. It is intended to provide neither an exhaustive discussion of prominent theories of tort liability, nor an encyclopedic compilation of references. Rather, *Teaching Torts* seeks to assist torts teachers — particularly new teachers, but experienced ones as well — by assembling a useful mix of information relevant to tasks of recurring importance, including:

- allocation of course time;
- stimulation of classroom discussion;
- clarification and application of existing tort rules;
- exploration of the role of public policy in advocacy, decision making, and legislative reform; and
- preparation of students for examinations.

In my view, these tasks are an indispensable part of being a good law teacher. To be sure, wisdom and proficiency in teaching torts comes not from any teacher's manual, but from plain hard work: re-reading cases before class; consulting treatises and articles; keeping abreast of judicial and legislative developments; thinking about how to teach well; and endeavoring to execute a sound plan each class period. I hope that this book helps to make some of that hard work easier for law professors.

The main part of *Teaching Torts* is Chapters 1 to 23, which correspond to the chapters in SATL. In each chapter of *Teaching Torts*, there is a set of introductory notes, followed by questions and comments relating to each of the principal cases. The notes suggest, in rough terms, how many class sessions may be needed to cover the material in SATL, and which portions of the text may be omitted if time is short. Some thoughts are also offered about which topics deserve the greatest attention (or at least should not be overlooked), and about strategies for efficiently teaching certain groups of cases. Occasionally, an excerpt from a particularly interesting case or article is quoted. Miscellaneous teaching tips, as well as selected references to collateral reading, are also provided. Some of the notes offer an economic analysis of legal questions.

For each principal case, there is a brief statement about the point of the case or the holding of the court, followed by questions about the decision or related notes. Some of the proffered questions are obvious and elementary, others are more complex. Some inquire into the holding of the case or the opinion's relation to other decisions; others explore issues of public policy; and still others vary the facts of the case or present related hypothetical queries. While many of these questions might be used verbatim in class, they are probably more valuable simply as a list that a professor can look over in advance of class to begin thinking about issues that might be explored in dialogue with students. That is precisely how I get ready for class. I read over

the lists and fill my head with questions in order to prepare for my part in the “Socratic dialogue.”

In some instances, “answers” to the listed questions are offered in *Teaching Torts*. In many cases, however, answers have been omitted. This is not because the questions are difficult, but because the lists of questions will often be used by experienced law teachers to whom the answers (or the ways to arrive at answers) will be readily apparent.

Law schools vary widely in how many credit hours they devote to the basic course(s) in torts (typically four, five, or six credit hours) and in how those credit hours are scheduled (such as fifty, sixty, or seventy-five minute class sessions). Mindful of these numerous variations, the teacher’s manual does not include a sample syllabus. However, the material in SATL is relatively even in its complexity throughout the book. It is generally safe to assume that a fifteen to twenty page assignment will be both manageable for students and sufficiently rich for classroom discussion. If you would like a copy of my own syllabus for a five-credit course, e-mail me at the address listed above.

The Exam Appendix contains several essay questions that I have used in past torts classes. The general scope of each essay question (e.g., “negligence and simple intentional torts” or “defamation and privacy”) has been noted. Professors are invited to use these questions in any way and for any purpose that seems desirable. One possibility is to distribute the questions to students, or place them on reserve, for use as practice problems. If you consider using one of these questions on a final exam, be sure to vary the facts substantially because these questions are in the public domain.

Alan Gunn, now an emeritus member of Notre Dame Law School faculty, was my excellent co-author on the first three editions of *Studies in American Tort Law* and *Teaching Torts*. Alan’s contributions to the text are still very much a part of this book, particularly the law and economics comments.

Valuable assistance for the fifth edition of *Teaching Torts* was provided by several law students at St. Mary’s University School of Law. I am grateful to Chad Christenson, Eric Campolo, Leo R. Morales, Brandon Clem, and Bruce A. Minor. The generous efforts of Leslie McCombs, James Alexander Smith, Taylor Jenkins, and Maggie Langley substantially eased the burdens of proof reading and editing. Amy Bresnen, Jennifer Bruning, Karen A. Oster, and Melinda Uriegas went far beyond the call of duty and were a pleasure to work with in every respect.

I am deeply grateful to St. Mary's University School of Law for supporting this project. Frequent discussions with my faculty colleague, Professor Chenglin Liu, have enriched the text of this book.

I hope that this book is useful to you. Please give me your suggestions for future editions of *Teaching Torts*.

Vincent R. Johnson
San Antonio, Texas
May 16, 2013

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