

Torts

Torts

Cases, Problems, and Exercises

FIFTH EDITION

Russell L. Weaver

PROFESSOR OF LAW & DISTINGUISHED UNIVERSITY SCHOLAR
UNIVERSITY OF LOUISVILLE
LOUIS D. BRANDEIS SCHOOL OF LAW

John H. Bauman

PROFESSOR OF LAW
SOUTH TEXAS COLLEGE OF LAW HOUSTON

John T. Cross

GROSSCURTH PROFESSOR OF INTELLECTUAL PROPERTY LAW
UNIVERSITY OF LOUISVILLE
LOUIS D. BRANDEIS SCHOOL OF LAW

Andrew R. Klein

DEAN & PAUL E. BEAM PROFESSOR OF LAW
INDIANA UNIVERSITY ROBERT H. MCKINNEY SCHOOL OF LAW

Edward C. Martin

PROFESSOR OF LAW
SAMFORD UNIVERSITY
CUMBERLAND SCHOOL OF LAW

Paul J. Zwier, II

PROFESSOR OF LAW
EMORY SCHOOL OF LAW



CAROLINA ACADEMIC PRESS

Durham, North Carolina

Copyright © 2018
Carolina Academic Press, LLC
All Rights Reserved

ISBN 978-1-5310-0977-9
eISBN 978-1-53100-978-6
LCCN 2018945148

Carolina Academic Press, LLC
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

Dedications

To Laurence, Ben and Kate, with love. RLW

To Kathee, and to Mary, Hannah and Clare. JHB

To my Parents, who convinced me anything is possible. JTC

To Diane, Timothy & Jason. ARK

This book is dedicated to all of my former Torts students through the years who have made teaching this subject such a joy! Thank you. ECM

To my Torts Students. And to Marlene with Love. PJZ

Contents

Table of Cases	xxvii
Preface	xliv
Editing Note	xlvii
Chapter 1 · Introduction to the Study of Tort Law	3
A. What Is a Tort? An Introductory Problem	3
B. The Casebook/Problem Method of Studying Torts	4
C. Procedural Stages of a Typical Tort Case	5
D. The Development of Fault-Based Tort Liability	11
<i>Brown v. Kendall</i>	12
Notes	14
Chapter 2 · Intentional Torts	15
Roadmap	15
Introductory Problem	15
A. Battery	16
1. Intent	16
<i>Garratt v. Dailey</i>	16
Notes	18
Problems	19
<i>Shaw v. Brown & Williamson Tobacco Corp.</i>	20
Notes	21
Problems	22
2. Contact and Offensiveness	23
<i>Fisher v. Carrousel Motor Hotel, Inc.</i>	23
Notes	25
Problems	26
B. Assault	27
<i>Holloway v. Wachovia Bank & Trust Co.</i>	27
Note	30
Problems	31
C. False Imprisonment	32
<i>Teichmiller v. Rogers Memorial Hospital, Inc.</i>	32
Notes	35
Problems	37

D. Trespass To Land	38
<i>Amphitheaters, Inc. v. Portland Meadows</i>	39
Notes	41
<i>Bradley v. American Smelting and Refining Co.</i>	43
Notes	47
Problems	48
E. Trespass to Chattels	49
<i>Compuserve, Inc. v. Cyber Promotions, Inc.</i>	49
Notes	53
Problems	55
F. Conversion	55
<i>Bergeron v. Aero Sales, Inc.</i>	55
Notes	58
Problems	60
G. Intentional Infliction of Emotional Distress	61
<i>Figueiredo-Torres v. Nickel</i>	61
<i>Caldor, Inc. v. Bowden</i>	64
Notes	68
Problems	71
Points to Remember	71
Chapter 3 · Defenses to Intentional Torts	73
Roadmap	73
A. Introduction	73
Introductory Problem	73
B. Consent	74
<i>Smith v. Calvary Christian Church</i>	75
Notes	78
Problems	79
<i>Hackbart v. Cincinnati Bengals, Inc.</i>	81
Note	82
Problem	83
C. Self Defense	83
<i>Roberts v. American Employers Insurance Company</i>	83
Notes	85
Problems	86
D. Defense of Property	87
<i>Katko v. Briney</i>	87
Notes	90
Problems	91
E. Necessity	93
1. Private Necessity	93
<i>Ploof v. Putnam</i>	94
<i>Vincent v. Lake Erie Transp. Co.</i>	95

Notes	97
Problems	98
2. Public Necessity	99
<i>United States v. Caltex (Philippines), Inc.</i>	100
Notes	102
Problems	103
Points to Remember	103
Chapter 4 · Negligence	105
Roadmap	105
A. Introduction	105
Introductory Problem	106
B. The Duty Standard	107
1. The Reasonably Prudent Person Standard of Care	107
<i>Vaughan v. Menlove</i>	107
Notes	109
2. Minors	110
<i>Charbonneau v. MacRury</i>	111
Note	115
<i>Daniels v. Evans</i>	115
Problems	117
3. The Elderly	118
Problems	119
4. Mental Disabilities	119
<i>Breunig v. American Family Insurance Co.</i>	120
Notes	123
Problems	125
C. Breach of Duty: Calculus of Risk	127
<i>United States v. Carroll Towing Co.</i>	127
Notes	128
Problems	130
<i>Grimes v. Norfolk Railway Co.</i>	131
<i>Brotherhood Shipping Co. v. St. Paul Fire & Marine Insurance Co.</i>	132
Problems	136
D. The Role of Custom	137
1. Introduction	137
<i>Mayhew v. Sullivan Mining Co.</i>	138
<i>The T.J. Hooper</i>	139
<i>Doe v. Cutter Biological, Inc.</i>	141
Notes	143
Problems	144
2. Custom as Applied in Medical Malpractice	145
<i>Brune v. Belinkoff</i>	145

Problems	148
<i>Helling v. Cary</i>	149
Problems	153
<i>Canterbury v. Spence</i>	154
Notes	161
E. Criminal Statutes, Civil Statutes, and Negligence Per Se	162
1. Overview	162
<i>Osborne v. McMasters</i>	162
Problem	163
2. Is the Statute Designed to Protect This Particular Plaintiff from This Risk of Injury?	163
Problems	164
3. How Are Relevant Statutes Applied? What Is the Jury's Role?	165
<i>Martin v. Herzog</i>	166
Note	167
Problems	168
4. Negligence Per Se Applied	169
<i>Vesely v. Sager</i>	169
Notes	173
<i>Brown v. Shyne</i>	174
Problems	177
F. Proof of Negligence	177
1. Overview	177
<i>Baltimore & Ohio R.R. v. Goodman</i>	178
<i>Pokora v. Wabash Ry.</i>	179
<i>Wilkerson v. McCarthy</i>	182
2. <i>Res Ipsa Loquitur</i>	186
<i>Byrne v. Boadle</i>	186
Note	187
<i>Larson v. St. Francis Hotel</i>	188
Notes	191
<i>Brown v. Poway Unified School District</i>	191
Problem	195
3. <i>Res Ipsa</i> in Medical Malpractice	197
<i>Ybarra v. Spangard</i>	197
Problems	202
Points to Remember	203
Chapter 5 · Cause in Fact	205
Roadmap	205
Introductory Problem	205
A. "But-For" Causation	206
<i>Lyons v. Midnight Sun Transportation Services</i>	206
Note	208

Problems	208
B. Proving But-For Cause: The Slip and Fall Case	209
<i>Dapp v. Larson</i>	209
<i>Williams v. EMRO Marketing Company</i>	210
Notes	211
Problems	212
C. Multiple Causes and the “Substantial Factor” Test	215
<i>Anderson v. Minneapolis, St. Paul & Sault Ste. Marie</i> <i>Ry. Co.</i>	215
<i>Dillon v. Twin State Gas & Electric Co.</i>	217
Notes	218
Problems	219
D. Cause in Fact and Proof of Mathematical Probabilities	221
<i>Weymers v. Khera</i>	221
Notes	225
Problems	226
<i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i>	227
Questions	232
Problems	232
Exercise	233
Points to Remember	233
Chapter 6 · Proximate Cause	235
Roadmap	235
Introductory Problem	235
A. Jury Instructions on Proximate Cause	236
B. The Direct Cause Test	238
<i>In re an Arbitration Between Polemis and Furness,</i> <i>Withy & Co., Ltd.</i>	238
Notes	242
Problems	243
C. Foreseeability as a Duty Limitation	244
<i>Palsgraf v. Long Island R. Co.</i>	245
Notes	253
Problems	253
D. Foreseeability and the Risk Rule	256
<i>Overseas Tankship (U.K.), Ltd. v. Morts Dock &</i> <i>Engineering Co., Ltd. (The Wagon Mound)</i>	256
Notes	261
<i>Thompson v. Kaczinski</i>	263
Problems	271
E. Foreseeability and the Extent of Harm	274
<i>Stoleson v. United States</i>	274
Notes	279

Problems	279
F. Foreseeability and Intervening Causes	280
<i>Herman v. Markham Air Rifle Co.</i>	281
<i>Derdiarian v. Felix Contracting Corp.</i>	283
Notes and Questions	285
Problems	285
<i>Marshall v. Nugent</i>	287
Notes	290
Problems	291
<i>McLaughlin v. Mine Safety Appliances Company</i>	291
Notes	296
Problems	297
<i>Watson v. Kentucky & Indiana Bridge & R. Co.</i>	297
<i>Brauer v. New York Central & H. R.R. Co.</i>	299
Notes	300
Problems	300
Exercise	301
Problems	302
Points to Remember	302
Chapter 7 · Multiple Tortfeasors	305
Roadmap	305
Introductory Problem	305
A. Joint and Several Liability	306
<i>Carolina, C. & O. Ry. v. Hill</i>	306
Notes	308
Problems	309
B. Theories of Joint Liability	310
1. Concert of Action	310
<i>Bierczynski v. Rogers</i>	310
Notes	313
2. Enterprise Liability	313
<i>Hall v. E.I. du Pont de Nemours & Co.</i>	313
Notes	316
3. Alternative Liability	317
<i>Summers v. Tice</i>	317
Notes	320
4. Market Share Liability	321
<i>Sindell v. Abbott Laboratories</i>	321
Notes	326
Problems	329
<i>Hamilton v. Accu-Tek</i>	330
Notes	334
Problem	334

C. Indemnity and Contribution	335
<i>National Health Laboratories, Inc. v. Ahmadi</i>	336
<i>Bervoets v. Harde Ralls Pontiac-Olds, Inc.</i>	340
Notes	342
Problems	344
Points to Remember	344
Chapter 8 · Damages for Personal Injuries	347
Roadmap	347
Introductory Problem	348
A. Economic Losses Caused by Physical Injury	348
<i>Seffert v. Los Angeles Transit Lines</i>	349
Note	352
Problems: Lost Wages	352
Problems: Medical Expenses	352
B. Future Damages and Discounting to Present Value	353
<i>Jones & Laughlin Steel Corp. v. Pfeifer</i>	353
Notes	360
Problems: Future Lost Wages	360
Problems: Future Medical Expenses	360
Problems: Future Lost Wages And Medical Expenses	361
Note on Structured Settlements	361
C. Non-Economic Losses: Pain and Suffering	361
<i>McDougald v. Garber</i>	362
Notes	367
Problems	369
D. Mitigation	370
<i>Colton v. Benes</i>	370
Note	373
Problem	373
E. Loss of Consortium	374
F. Collateral Benefits	374
<i>Helfend v. Southern California Rapid Transit District</i>	375
Notes	377
G. Punitive Damages	378
<i>Sturm, Ruger & Co., Inc. v. Day</i>	378
Note	382
Problems	383
<i>State Farm Mutual Automobile Insurance Company v. Campbell</i>	384
Notes	394
Points to Remember	396
Chapter 9 · Limited Duty: Special Limitations on the Scope of Duty	397
Roadmap	397

A. Introduction	397
Introductory Problem	398
<i>Yania v. Bigan</i>	398
Notes	400
B. “Misfeasance” vs. “Non-Feasance”	401
<i>Weirum v. RKO General, Inc.</i>	401
Notes	405
Problem	406
C. Exceptions to the “No-Duty” Rule	406
1. Defendant’s Negligence Places the Plaintiff in a Position of Peril	407
<i>Day v. Waffle House, Inc.</i>	407
Notes	409
Problem	409
2. Voluntarily Assumed Duties	409
<i>Florence v. Goldberg</i>	409
Problems	413
3. Special Relationships	414
<i>Farwell v. Keaton</i>	414
Note	416
<i>Tarasoff v. Regents of the University of California</i>	416
Problems	420
D. Public Versus Private Duties	421
<i>Thompson v. County of Alameda</i>	422
Notes	432
Problem	432
E. Contractual Duties	433
Problem	434
<i>Soldano v. O’Daniels</i>	434
Note	441
Problem	441
F. Negligent Infliction of (Solely) Emotional Injuries	442
<i>Dziokonski v. Babineau</i>	443
Notes	450
<i>Thing v. La Chusa</i>	451
Notes	458
Problem	458
Points to Remember	459
Chapter 10 · Premises Liability: Duties of Owners and Occupiers of Land	461
Roadmap	461
Introductory Problem	462
A. Common Law “Status” Categories of Entrants	463
<i>Holzheimer v. Johannesen</i>	463

Notes	466
<i>Palmtag v. Gartner Construction Co.</i>	467
Notes	471
Problems	472
B. Special Categories of Entrants	473
1. Trespassing Children	473
<i>Mozier v. Parsons</i>	474
Notes	479
Problems	479
2. Firefighters, Police Officers, and Other Public Officials: The “Firefighter’s Rule”	480
<i>Chapman v. Craig</i>	481
Problems	484
3. Social Guests	484
<i>Hambright v. First Baptist Church-Eastwood</i>	485
Notes	488
C. Recreational Premises	488
<i>Reed v. Employers Mutual Casualty Co.</i>	488
Notes	491
Problem	492
D. Criminal Assailants	492
<i>McClung v. Delta Square Ltd. Partnership</i>	493
Note	500
Problem	500
E. Abolition/Modification of Common Law “Status” Categories	500
<i>Rowland v. Christian</i>	500
Notes	506
<i>Jones v. Hansen</i>	506
Notes	516
F. Lessors of Real Property	516
<i>Coggin v. Starke Brothers Realty Co., Inc.</i>	517
Notes	519
<i>Pagelsdorf v. Safeco Ins. Co. of America</i>	521
Note	525
Problem	525
Points to Remember	526
Chapter 11 · Wrongful Death	529
Roadmap	529
Introductory Problem	529
<i>Moragne v. States Marine Lines, Inc.</i>	530
Notes	532
California	534
<i>O’Grady v. Brown</i>	535

Notes	537
Problem	539
<i>Murphy v. Martin Oil Co.</i>	540
<i>Bullard v. Barnes</i>	542
Note	545
Problems	545
Points to Remember	548
Chapter 12 · Defenses	549
Roadmap	549
Introductory Problem	550
A. Defenses Based on the Plaintiff's Conduct	550
1. Contributory Negligence	550
<i>Butterfield v. Forrester</i>	550
Notes	551
Problems	553
2. Comparative Negligence	554
<i>Bradley v. Appalachian Power Company</i>	554
Notes and Questions	557
Problems	559
<i>Stehlik v. Rhoads</i>	561
Notes	563
Problems	564
3. Assumption of the Risk	564
a. Express Assumption of the Risk	565
<i>Wolf v. Ford</i>	565
Problems	569
b. Implied Assumption of the Risk	570
<i>Murphy v. Steeplechase Amusement Co., Inc.</i>	570
Notes	572
<i>Davenport v. Cotton Hope Plantation Horizontal</i> <i>Property Regime</i>	573
Notes	578
Problems	580
B. Other Defenses: Limitations and Immunities	581
1. Statutes of Limitation and Repose	581
<i>Garcia v. Texas Instruments, Inc.</i>	582
Problems	585
<i>Nelson v. Krusen</i>	585
Note	588
Problems	588
2. Immunities	589
a. Family Immunities	590
<i>Bonte v. Bonte</i>	591

Note	595
Problems	595
<i>Shoemake v. Fogel, Ltd., A.T.</i>	595
Problems	597
b. Charitable Immunity	598
c. Governmental Immunity	598
d. Municipal Immunity	599
<i>Cuffy v. City of New York</i>	600
Notes	604
Problems	604
<i>Aguehoude v. District of Columbia</i>	605
Problems	608
e. Federal Immunity	609
Federal Tort Claims Act	609
Note	611
<i>Berkovitz v. United States</i>	611
Notes	616
Points to Remember	617
Chapter 13 · Vicarious Liability	621
Roadmap	621
Introductory Problems	622
A. <i>Respondeat Superior</i>	623
<i>Fruit v. Schreiner</i>	624
<i>Wong-Leong v. Hawaiian Independent Refinery, Inc.</i>	628
Notes	632
Problem	634
B. Employer-Employee Relationship	634
Problem	634
1. Who Is an “Employee”?	635
<i>Buitrago v. Rohr</i>	635
<i>Ermert v. Hartford Insurance Co.</i>	637
Notes	641
Problems	642
2. Was the Employee Acting Within the “Scope of Employment”?	643
<i>Courtless v. Jolliffe</i>	643
Notes	645
Problems	646
3. “Frolics” and “Detours”	647
<i>Faragher v. City of Boca Raton</i>	647
Notes	655
Problem	656
4. Employer’s Vicarious Liability for Intentional Torts	656
Problem	656

<i>Sunseri v. Puccia</i>	657
Notes	658
<i>Plummer v. Center Psychiatrists, Ltd.</i>	659
Notes	661
Problems	661
5. Vicarious Liability for Punitive Damages	662
<i>Brueckner v. Norwich University</i>	662
Notes	667
Problem	667
C. Independent Contractors	668
<i>Bagley v. Insight Communications Co., L.P.</i>	668
Notes	671
Problems	672
D. Joint Enterprises, Joint Ventures, and Partnerships	673
<i>Cullip v. Domann</i>	673
<i>Esquivel v. Murray Guard, Inc.</i>	677
Notes	679
Problems	681
Points to Remember	681
Chapter 14 · Common Law Strict Liability	685
Roadmap	685
Introductory Problem	685
A. Animals	686
<i>Sinclair v. Okata</i>	686
Notes	688
Problems	689
B. Abnormally Dangerous Activities	691
<i>Fletcher v. Rylands</i>	691
<i>Rylands v. Fletcher</i>	692
Notes	693
<i>Toms v. Calvary Assembly of God, Inc.</i>	695
Notes	711
<i>Indiana Harbor Belt Railroad Co. v. American Cyanamid Co.</i>	713
Notes	717
Problems	718
<i>Cambridge Water Co. v. Eastern Counties Leather PLC.</i>	719
Notes	721
Problems	721
C. Defenses to Strict Liability	723
<i>Sanders v. Odilia's Express, Inc.</i>	723
Notes	726
Problems	726

Points to Remember	726
Chapter 15 · Nuisance	729
Roadmap	729
Introductory Problem	729
A. Private Nuisance	730
1. General Principles of Liability	730
<i>Clinic & Hospital, Inc. v. McConnell</i>	730
Note	732
Problems	733
<i>Winget v. Winn-Dixie Stores, Inc.</i>	734
Notes	735
Problems	736
2. Remedies	738
<i>Boomer v. Atlantic Cement Company</i>	738
Notes	743
<i>Spur Industries, Inc. v. Del E. Webb Development Co.</i>	743
Notes	748
Problem	749
B. Public Nuisance	749
<i>State v. H. Samuels Company, Inc.</i>	750
Notes	752
<i>Union Oil Co. v. Oppen</i>	754
Problem	758
Points to Remember	758
Chapter 16 · Products Liability	759
Roadmap	759
Introductory Problem	760
A. Historical Background: Negligence Assaults the Citadel of Privity	761
<i>Thomas v. Winchester</i>	761
Notes	764
Problem	766
<i>MacPherson v. Buick Motor Co.</i>	767
Notes	769
Problems	770
<i>Escola v. Coca Cola Bottling Co. of Fresno</i>	770
Notes	774
B. The Next Assault on the Citadel: Breach of Warranty	775
§ 2-313. Express Warranties by Affirmation, Promise, Description, Sample	775
§ 2-314. Implied Warranty: Merchantability; Usage of Trade	775
§ 2-315. Implied Warranty: Fitness for Particular Purpose	776

§ 2-316. Exclusion or Modification of Warranties	776
§ 2-719. Contractual Modification or Limitation of Remedy	777
<i>Henningsen v. Bloomfield Motors, Inc.</i>	777
Notes	782
C. Strict Liability in Tort	783
§ 402a. Special Liability of Seller of Product for Physical Harm to User or Consumer	784
Note	789
Problems	789
D. The Definition of “Defective”	789
1. Manufacturing Defects	791
<i>Ford Motor Company v. Gonzalez</i>	791
Notes	794
Problems	794
2. Design Defects	795
<i>Barker v. Lull Engineering Company, Inc.</i>	795
Notes	799
Problems	799
<i>Osorio v. One World Technologies, Inc.</i>	800
Notes	805
Problems	806
<i>Brown v. Superior Court</i>	807
Notes	811
Problems	812
3. Warning Defects	813
<i>Livingston v. Marie Callender’s, Inc.</i>	813
Notes	816
Problems	816
<i>Jackson v. Coast Paint and Lacquer Company</i>	817
Notes	819
Problems	820
E. The Definition of “One Who Sells”	821
<i>Allenberg v. Bentley Hedges Travel Serv., Inc.</i>	821
Notes	824
Problems	824
F. Sale of Products or Provision of Services?	825
<i>Royer v. Catholic Medical Center</i>	825
Notes	827
Problem	828
G. The Type of Harm: The Economic Loss Problem	828
<i>Moorman Manufacturing Company v. National Tank Company</i>	828

Note	831
Problem	831
H. The Issue of Plaintiff's Conduct	832
<i>Daly v. General Motors Corporation</i>	832
<i>General Motors Corporation v. Sanchez</i>	835
Notes	838
Problems	839
I. Preemption in Products Liability	840
Note	840
Points to Remember	843
Chapter 17 · Defamation	845
Roadmap	845
Introductory Problem	845
A. Defamation Defined	846
<i>Lega Siciliana Social Club v. St. Germaine</i>	846
Notes	849
Problems	849
<i>Neiman-Marcus v. Lait</i>	852
Note	855
Problems	855
<i>Lent v. Huntoon</i>	857
Notes	861
Problems	861
B. The Constitutionalization of Defamation	863
<i>New York Times Co. v. Sullivan</i>	864
Notes	871
Problems	875
C. "Public Figures" and "Private Plaintiffs"	876
<i>Gertz v. Robert Welch, Inc.</i>	877
Notes	883
Problems	886
D. Application of the "Actual Malice" Standard	887
<i>St. Amant v. Thompson</i>	887
Notes	890
Problem	891
<i>Krinsky v. Doe 6</i>	891
Notes	895
E. Fact vs. Opinion	896
<i>Milkovich v. Lorain Journal Co.</i>	896
Note	901
Problems	901
Points to Remember	902

Chapter 18 · Privacy	903
Roadmap	903
Introductory Problem	903
A. Overview of the “Right to Be Left Alone”	904
<i>Stien v. Marriot Ownership Resorts, Inc.</i>	905
Notes	905
B. The Four Branches of the Privacy Tort	906
1. Intrusion	906
<i>People for the Ethical Treatment of Animals v. Berosini</i>	907
Notes	911
Problems	913
2. Appropriation of Name or Likeness	913
<i>Ainsworth v. Century Supply Co.</i>	914
<i>People for the Ethical Treatment of Animals v. Berosini</i>	917
Notes	918
Problems	919
3. Publication of Private Facts	919
<i>Green v. Chicago Tribune Co.</i>	920
Notes	925
Problems	927
4. False Light	927
<i>Cain v. Hearst Corp.</i>	928
Notes	931
Problem	932
C. Revisiting the Right to Privacy	932
Points to Remember	933
Chapter 19 · Civil Rights	935
Roadmap	935
A. Section 1983	936
Introductory Problem	936
1. Section 1983 as a “Constitutional Tort”	936
<i>Monroe v. Pape</i>	936
Notes	940
2. Section 1983 and “Ordinary” Torts	941
B. <i>Bivens</i> Actions and Federal Officials	944
<i>Bivens v. Six Unknown Named Agents of Federal</i>	
<i>Bureau of Narcotics</i>	945
Notes	947
C. Limitations and Immunity	947
Introductory Problem	947
1. States and State Officials	948
2. Limits on Liability for Cities and Other Bodies	948
3. Judicial and Prosecutorial Immunity	949

4. Qualified “Good Faith” Immunity	949
<i>Anderson v. Creighton</i>	949
Notes	952
Problems	953
Points to Remember	954
Chapter 20 · Misuse of Legal Process	955
Roadmap	955
A. Introduction	955
Introductory Problem	956
B. Malicious Prosecution	956
1. Malicious Prosecution of a Criminal Action	957
<i>Banks v. Nordstrom</i>	957
Notes	965
Problems	968
2. Malicious Prosecution of a Civil Action	968
<i>Freundlich & Littman, LLC v. Feierstein</i>	969
Notes	976
Problems	976
C. Abuse of Process	977
<i>Vittands v. Sudduth</i>	977
Notes	981
Problems	983
Points to Remember	984
Chapter 21 · Misrepresentation	987
Roadmap	987
A. Introduction	987
Introductory Problem	988
<i>Massie v. Colvin</i>	989
Notes	991
B. The Misrepresentation	992
<i>Delta School of Commerce, Inc. v. Wood</i>	993
Notes	994
Problem	995
<i>Rohm and Haas Co. v. Continental Casualty Co.</i>	995
Notes	1000
Problem	1002
C. Defendant’s State of Mind	1002
1. Intentional Misrepresentations	1002
<i>Britt v. Britt</i>	1002
Notes	1004
Problems	1005
2. Negligent Misrepresentations	1006
<i>Sain v. Cedar Rapids Community School District</i>	1006

	Notes	1012
3. Scierter and Intent		1013
	<i>Myers & Chapman, Inc. v. Thomas G. Evans, Inc.</i>	1013
	Note	1014
D. Reliance	1014	
	<i>Francis v. Stinson</i>	1015
	Notes	1020
	Problems	1021
E. Damages	1021	
	<i>Burke v. Harman</i>	1021
	<i>Britt v. Britt</i>	1025
	Notes	1026
F. Third Party Statements		1027
	<i>Fisher v. Comer Plantation, Inc.</i>	1027
	Notes	1031
	Problem	1032
	Points to Remember	1032
Chapter 22 · Business Torts		1035
Roadmap		1035
A. Appropriation of Business Values		1036
Introductory Problem		1036
1. General Misappropriation		1037
	<i>Thousand Oaks Barrel Co., LLC v. Deep South Barrels LLC</i>	1037
	Notes	1038
2. Trade Secrets		1039
Introductory Problem		1039
	<i>Northern Electric Company, Inc. v. Torma</i>	1040
	Notes	1045
	Problems	1047
3. The Right of Publicity		1048
Introductory Problem		1048
	<i>Wendt v. Host International, Inc.</i>	1048
	Notes	1051
	Problems	1052
B. Interference with Business Expectations		1053
Introductory Problem		1053
1. Interference with Contract		1053
	<i>Museum Boutique Intercontinental, Ltd. v. Picasso</i>	1053
	Notes	1056
	Problems	1057
2. Interference with Prospective Relationships		1057

<i>Environmental Planning and Information</i>	
<i>Council v. Superior Court</i>	1058
Notes	1061
C. Using Competitors to Police Market Behavior	1064
1. Cheating and Stealing	1065
a. Cheating	1065
b. Stealing	1067
2. Lying: The Law of False Advertising	1068
Introductory Problem	1068
<i>Coca-Cola Co. v. Tropicana Prods., Inc.</i>	1069
<i>Upjohn Company v. Riahom Corporation</i>	1071
Notes	1076
Problem	1078
D. Reprise: The Wide Range of Competitive Torts	1079
Points to Remember	1079
Index	1083

Table of Cases

A

Abbott, State ex rel., v. House of Vision, 751
Abernathy v. Superior Hardwoods, Inc., 278
Adley Express Co. v. Corn Exch. Bank Trust Co., 962
Agis v. Howard Johnson Co., 445, 448
Aguehoude v. District of Columbia, 605
Ainsworth v. Century Supply Co., 914, 918
Allen v. Shiroma, 237
Allenberg v. Bentley Hedges Travel Serv., Inc., 821
Alley v. Siepman, 168
Allison Engine Co. v. United States ex rel. Sanders, 320
Amaya v. Home Ice, Fuel & Supply Co., 446, 447, 453
Ambrose v. Buhl Joint School Dist. # 412, 479
American Home Prods. Corp. v. Johnson & Johnson, 1076
American Motorcycle Association v. Superior Court, 343
American Shops, Inc. v. American Fashion Shops of Journal Square, Inc., 1065
American States Insurance Co. v. Guillermin, 686
Amoco Production Co. v. Laird, 1043
Amphitheaters, Inc. v. Portland Meadows, 39, 42, 737
Anderson v. Creighton, 949
Anderson v. Lale, 547

Anderson v. Minneapolis, St. Paul & Sault Ste. Marie Ry. Co., 215
Anderson v. Somberg, 202
Anderson v. Toombs, 664
Antoniewicz v. Reszcynski, 523
Archibald v. Braverman, 447, 457
Arlington Forest Assocs. v. Exxon Corp., 712
Armijo v. Wesselius, 537
Armory Park Neighborhood Ass'n v. Episcopal Community Services, 736, 752
Associated Press v. Walker, 876
Atchley v. Berlen, 480
Autry v. Roebuck Park Baptist Church, 487

B

B.N. v. K.K., 64
Back v. Wickes Corp., 801
Bagley v. Insight Communications Co., L.P., 668
Baldwin v. McClendon, 732
Ballard v. Uribe, 442
Baltimore & Ohio R.R. v. Goodman, 178, 179
Baltimore Gas & Elec. Co. v. Flippo, 467
Banks v. Nordstrom, 957
Barath v. Performance Trucking Co., Inc., 643
Barbara A. v. John G., 79
Barker v. Lull Eng'g Co., 795, 801, 808
Barnes v. Zappia, 1018
Barnier v. Szentmiklosi, 953
Barr v. Matteo, 869

- Barrett v. Lusk, 520
- Bartholomew County Beverage Co., Inc. v. Barco Beverage Corp., 1063
- Bartolone v. Jeckovich, 280
- Baum v. Coronado Condominium Ass'n, Inc., 733
- Beamish v. Beamish, 513
- Beauchene v. Synanon Foundation, Inc., 426
- Beauharnais v. Illinois, 863
- Beckman v. Marshall, 736
- Beddingfield v. Linam, 695, 718
- Bednar v. United States Lines, Inc., 546
- Belanger v. Village Pub I, Inc., 632, 665
- Belhumeur v. Zilm, 689
- Bell v. Hood, 945
- Belli v. Orlando Daily Newspapers, Inc., 886
- Bello v. Random House, Inc., 849
- Bender v. Seattle, 961, 962
- Benjamin T. Crump Co., Inc. v. J.L. Lindsay, Inc., 1038
- Benner v. Philadelphia & Reading R. Co., 181
- Bennett v. Hymers, 591
- Benton v. City of Houston, 753
- Bentzler v. Braun, 562
- Beresford v. Starkey, 488
- Berger v. Weber, 374
- Bergeron v. Aero Sales, Inc., 55, 59
- Berkos v. National Broadcasting Co., 915
- Berkovitz v. United States, 611
- Berthiaume, Estate of, 910
- Bervoets v. Harde Ralls Pontiac-Olds, Inc., 340
- Best v. Samuel Fox and Co. Ltd., 374
- Biddlecomb v. Haydon, 190
- Bierczynski v. Rogers, 310
- Bigby v. Hewitt, 240
- Binette v. Dyer Library Assoc., 1001
- Bird v. Holbrook, 87
- Birwood Paper Co. v. Damsky, 967
- Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 945, 948, 950, 952, 954
- Blackburn v. Dorta, 576, 578
- Blaser v. Krattiger, 856
- Blatty v. New York Times Co., 850
- Bloom v. City of New York, 412
- Blose v. Mactier, 686
- Blue v. Western R. of Alabama, 356
- Bly v. Rhoads, 161
- BMW of North America v. Gore, 26, 383, 385, 387, 394
- Board of Comm'rs of Wabash County v. Pearson, 669
- Bochetto v. Gibson, 970, 971
- Bonito Boats, Inc. v. Thunder Craft Boats, Inc., 1046
- Bonte v. Bonte, 591
- Boomer v. Atlantic Cement Company, 738
- Boose v. City of Rochester, 967
- Borer v. American Airlines, Inc., 374
- Borland v. Sanders Lead Co., 46
- Bott v. Pratt, 162
- Boucher v. Riner, 567, 568
- Bowers v. Ottenad, 507, 510, 512
- Bowling v. Heil Company, 838
- Boyd v. Garden Center, Inc., 212
- Boykin v. Arthur Andersen & Co., 1029
- Bradley v. American Smelting and Refining Co., 43
- Bradley v. Appalachian Power Company, 554
- Bradley v. Firestone, 330
- Brady v. White, 725
- Brauer v. New York Central & H. R.R. Co., 299
- Brennan v. Cockrell Invs., Inc., 525
- Breunig v. American Family Insurance Co., 120, 123
- Bridges v. Alaska Housing Authority, 380
- Briese v. Maechtle, 111
- Britt v. Allen County Community Jr. College, 509, 510
- Britt v. Britt, 1002, 1013, 1014, 1025

- Brodie v. Hawaii Automotive Retail Gasoline Dealers Ass'n, 966
- Brooks, United States v., 378
- Brotherhood Shipping Co. v. St. Paul Fire & Marine Insurance Co., 132
- Brown v. Arizona Pub. Serv. Co., 479
- Brown v. Delaware Valley Transplant Program, 973
- Brown v. French, 400
- Brown v. Kendall, 12, 14, 551
- Brown v. Poway Unified School District, 191
- Brown v. Shyne, 174
- Brown v. Superior Court, 807, 812, 814
- Brueckner v. Norwich University, 662
- Brune v. Belinkoff, 145
- Bryam v. Main, 689
- Bryant v. Morley, 487
- Buckland v. State Compensation Commissioner, 644
- Buckley v. Fitzsimmons, 949
- Buckley v. Littell, 901
- Buitrago v. Rohr, 635
- Bullard v. Barnes, 542
- Bullock v. Philip Morris USA, Inc., 395, 396
- Burgess, Estate of, v. Peterson, 118
- Burke v. Harman, 1021, 1027
- Burke v. United States, 378
- Burkett v. Freedom Arms, Inc., 712
- Burns v. Vaughan, 712
- Bush v. Lucas, 947
- Butterfield v. Forrester, 550
- Butz v. Economu, 952
- Byrne v. Boadle, 186, 192
- C**
- Cabtree Indus. Waste, Inc., Ex Parte, 197
- Cadena v. Chicago Fireworks Mfg. Co., 704, 709
- Cagle v. Johnson, 487
- Cain v. Hearst Corp., 928
- Caldor, Inc. v. Bowden, 64, 68
- Caltex (Philippines), Inc., United States v., 100
- Cambridge Water Co. v. Eastern Counties Leather PLC, 719
- Cameron v. New England Tel. & Tel. Co., 444
- Cameron v. Pepin, 458
- Campbell v. General Motors Corp., 799
- Campbell-Ewald v. Gomez, 617
- Cannaday v. Cossey, 994
- Canterbury v. Spence, 154
- Cantor v. Cochran, 636
- Carbone v. Warburton, 148
- Carlson v. Tucson Racquet and Swim Club, Inc., 478
- Carolina, C. & O. Ry. v. Hill, 306
- Carpenter v. Double R. Cattle Co., 733
- Carr v. Wm. C. Crowell Co., 651
- Carroll Towing Co., United States v., 127, 132
- Carson v. Allied News Co., 886
- Carter v. Innisfree Hotel, Inc., 912
- Carter v. U.S., 407
- Cavallaro v. Sharp, 147
- Cedar Falls, City of, v. Cedar Falls Cmty. Sch. Dist., 267
- Cement Division v. City of Milwaukee, 135
- Cerminara v. California Hotel and Casino, 667
- Chambers v. Buettner, 518
- Chapman v. Craig, 481
- Charbonneau v. MacRury, 111, 116
- Cheatham v. Paisano Publications, Inc., 919
- Chenault v. Huie, 595
- Chesapeake & Ohio R. Co. v. Kelly, 355
- Christensen v. Murphy, 482
- Cipollone v. Liggett Group, Inc., 840
- City of (See Name of City)
- Clarke v. Edging, 479
- Classic, United States v., 938, 939
- Clinic & Hospital, Inc. v. McConnell, 730

- Clodgo by Clodgo v. Bowman, 975
Coca-Cola Co. v. Tropicana Prods.,
Inc., 1069, 1077
Cockrum v. Baumgartner, 544
Coggin v. Starke Brothers Realty Co.,
Inc., 517
Coggs v. Bernard, 108
Cohen v. Hurley, 980
Cohn v. Brecher, 855
Cole v. Westinghouse Broadcasting
Co., Inc., 885
Collins v. Eli Lilly Co., 326
Collyer v. S.H. Kress Co., 91
Colonial Bank of Alabama v. Ridley &
Schweigert, 1030
Colton v. Benes, 370
Commercial Business Systems v.
BellSouth, 660
CompuServe, Inc. v. Cyber Promo-
tions, Inc., 49, 60
Connolly v. Nicollet Hotel, 191
Cook v. M., St. P. & S. S. M. Ry. Co.,
216
Copart Industries, Inc. v. Consolidated
Edison Co., 735
Copeland v. Larson, 522
Copeland v. Pike Liberal Arts School,
486
Coray v. Southern Pac. Co., 185
Cornpropst v. Sloan, 493, 494
Corrigan v. Janney, 525
Cort v. Ash, 165
Costa v. Able Distributors, Inc., 630
Cotton v. Buckeye Gas Products Co.,
820
Coty v. Ramsey Assocs., 665
Coughlin v. Westinghouse Broadcast-
ing and Cable, Inc., 875
Coulter v. Schwartz & Co. & Reynolds,
177
Countrywide Home Loans, Inc. v.
Thitchener, 668
Courtless v. Jolliffe, 643
Courvoisier v. Raymond, 85
Creel v. Lilly, 680
Cronin v. J. B. E. Olson Corp., 795, 796,
797, 798, 807
Crowley v. Rochester Fireworks Co.,
702
Cruz v. Princeton Insurance Company,
971
Cubby, Inc. v. CompuServe, Inc., 895
Cuffy v. City of New York, 600
Cullip v. Domann, 673
Curtis Publishing Co. v. Birdsong, 851,
871
Curtis Publishing Co. v. Butts, 876, 885
- D**
- D'Ambra v. United States, 447, 450
Daley v. County of Butte, 5
Daly v. General Motors Corp., 558, 832
Daniels v. Evans, 115
Daniels v. Williams, 943
Dapp v. Larson, 209
Datacomm Interface, Inc. v. Comput-
erworld, Inc., 980
Daubert v. Merrell Dow Pharmaceuti-
cals, Inc., 227
Daugert v. Pappas, 227
Davenport v. Cotton Hope Plantation
Horizontal Property Regime, 573
Davies v. Mann, 553
Davis Bros., Inc. v. Thornton Oil, 712
Davis v. White, 22
Davis v. Wyeth Laboratories, Inc., 819
Day v. Waffle House, Inc., 407
Delaney v. Cade, 225
Delgado v. Lohmar, 675
Dellwo v. Pearson, 116
DeLong v. County of Erie, 413
Delta School of Commerce, Inc. v.
Wood, 993
Dendrite International Inc. v. John Doe
No. 3, 893
Derdiarian v. Felix Contracting Corp.,
283
Desai v. Hersh, 890

- DeShaney v. Winnebago County Dep't of Social Services, 944
- Detrick v. Midwest Pipe & Steel, Inc., 669
- Devlin v. Smith, 767
- Dickens v. Puryear, 28, 29, 30
- Dickinson v. Edwards, 646
- Dill v. Excel Packing Company, 747
- Dillon v. Legg, 22, 447, 450, 451, 452, 453, 458, 756
- Dillon v. Twin State Gas & Electric Co., 217
- Distefano v. Bell, 79
- Doca v. Marina Mercante Nicaraguense, S.A., 358
- Doe v. Cahill, 895
- Doe v. Cutter Biological, Inc., 141
- Doe v. Johnson, 79
- Doe v. Manheimer, 492
- Doud v. Las Vegas Hilton Corp., 496
- Doughty v. Turner Manufacturing Co., Ltd., 273
- Dreisonstok v. Volkswagenwerk, A.G., 803
- Driscoll v. Gaffey, 444
- Dubreuil, In re, 80
- Duman v. Campbell, 1001
- Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc., 872, 875, 883
- Dupler v. Seubert, 35
- Dziokonski v. Babineau, 443
- E**
- E.I. du Pont de Nemours & Co. v. Christopher, 1048
- E.S. Robbins Corp. v. Eastman Chemical Co., 722
- Earnest v. Regent Pool, Inc., 478
- East Penn Mfg. Co. v. Pineda, 338, 342, 343
- Eastin v. Bank of Stockton, 968
- Edgat v. Kajet, 177
- Egan v. Mutual of Omaha Inc. Co., 382
- Eick v. Perk Dog Food Co., 915
- Electronic Laboratory Supply Co. v. Cullen, 975
- Ely v. Cabot Oil & Gas Corp., 722
- England v. Tasker, 483
- English, United States v., 357
- Environmental Planning and Information Council v. Superior Court, 1058, 1065
- Ermert v. Hartford Ins. Co., 490, 637
- Escola v. Coca Bottling Co., 201, 324
- Escola v. Coca Cola Bottling Co. of Fresno, 770
- Esquivel v. Murray Guard, Inc., 677
- Estate of (See Name of Deceased)
- Evans v. Park, 465
- Evra Corp. v. Swiss Bank Corp., 262
- Ex parte (See Name of Party)
- F**
- Faber v. Herman, 267
- Factor VIII or IX Concentrate Blood Products Litigation, In re, 329
- Falcon v. Memorial Hosp., 222, 224, 225
- Faragher v. City of Boca Raton, 647
- Farmer v. Brennan, 944
- Farwell v. Keaton, 414
- Faul v. Jelco, Inc., 645
- Fenner v. Lindsay, 962
- Feres v. United States, 617
- Ferguson v. Ray, 58
- Ferrell v. Cox, 1019
- Ferroggiaro v. Bowline, 254
- Figueiredo-Torres v. Nickel, 61, 67, 68
- Fisher v. Carrousel Motor Hotel, Inc., 23, 26
- Fisher v. Comer Plantation, Inc., 1027
- Fitter v. Iowa Tel. Co., 267
- Fitzgerald v. Meissner & Hicks, Inc., 525
- Flannelly v. Delaware & Hudson Co., 179
- Fleming v. Kings Ridge Recreation Park, Inc., 212

- Fletcher v. Rylands, 689, 720
 Flood v. Pabst Brewing Co., 523
 Florence v. Goldberg, 409, 604
 Flowers v. Rock Creek Terrace Ltd. Partnership, 483
 Fly v. Cannon, 270
 Ford Motor Co. v. Gonzalez, 791, 839
 Forrester v. White, 949
 Fortier v. Los Rios Community College Dist., 575
 Francis v. Pic, 520
 Francis v. Stinson, 1015
 Franklin, United States ex rel., v. Parke-Davis,
 Freedman v. Eastern Mass. St. Ry., 444
 Freundlich & Littman, LLC v. Feinstein, 969, 976
 Friedman v. Dozorc, 968
 Friedman v. Houston Sports Association, 579
 Fritz v. Parkison, 267
 Fruit v. Schreiner, 624, 632, 644
 Ft. Smith, City of, v. Western Hide & Fur Co., 747
 Fulton v. St. Louis-San Francisco Ry. Co., 407
- G**
- Gail v. Clark, 481, 482
 Galella v. Onassis, 912
 Gallagher v. H.V. Pierhomes, LLC, 699, 701, 702, 708
 Gannon v. New York, N.H. & H.R.R., 444
 Garcia v. Texas Instruments, Inc., 582
 Garratt v. Dailey, 16, 19, 45, 585
 Gary v. Schwartz, 547
 Geier v. American Honda Motor Co., Inc., 841
 Geisler v. Petrocelli, 856
 Gem Trading Co. v. Cudahy Corp., 962
 General Motors Corporation v. Sanchez, 835
 Gentzler v. Atlee, 975
 George v. Jordan Marsh Co., 445, 448
 Gerchberg v. Loney, 475, 476, 507, 509
 Gerhart v. Southern California Gas Co., 189
 Gerst v. Marshall, 267, 268, 269
 Gertz v. Robert Welch, Inc., 873, 875, 877, 897, 898
 Ghassemieh v. Schafer, 20
 Gibb v. Citicorp Mortgage, Inc., 1023
 Gibson v. Gibson, 591
 Gilbert v. Showerman, 747
 Gilliland v. City of Topeka, 477, 478
 Gilmore v. Garrett, 144
 Glanzer v. Shepard, 405
 Glona v. American Guarantee & Liability Insurance Co., 538
 Goldberg v. Kollsman Instrument Co., 795
 Golds v. Del Aguila, 519
 Gorris v. Scott, 163
 Gortarez v. Smitty's Super Valu, Inc., 37
 Gould v. American Mutual Family Insurance Co., 125
 Grable v. Varela, 482
 Graveman v. Wind Drift Owners' Ass'n, Inc., 487
 Graves v. United States Coast Guard, 520
 Great Atlantic & Pacific Tea Co., Inc. v. LaSalle National Bank, 738
 Green v. Chicago Tribune Co., 920
 Greenbelt Cooperative Publishing Ass'n, Inc. v. Bresler, 901
 Greenland v. Chaplin, 240
 Greenman v. Yuba Power Products, 783, 784, 798, 829
 Griffin v. West RS, Inc., 519
 Griffith v. George Transfer & Rigging, Inc., 643
 Grimes v. Norfolk Railway Co., 131
 Griswold v. Gardner, 185
 Guffy v. Guffy, 512
 Guille v. Swan, 714

Guinn v. Church of Christ, 77, 78

H

H. Samuels Company, Inc., State v., 750

H.R. Moch Co. v. Rensselaer Water Co., 406, 411, 412, 433, 434

Hackbart v. Cincinnati Bengals, Inc., 81

Haddon v. Lotito, 703

Hadley v. Baxendale, 259, 261

Haga v. Childress, 520

Hale v. O'Neill, 687

Hall v. E.I. du Pont de Nemours & Co., 313, 316, 323

Hamberger v. Eastman, 912

Hambright v. First Baptist Church-Eastwood, 485

Hamilton v. Accu-Tek, 330

Hamilton v. Beretta U.S.A. Corp. 334

Hamilton v. Ford Motor Credit Co., 62, 63, 67

Hansen v. Richey, 502, 505

Hardin, State ex rel., v. Sanders, 535

Harkey v. Abate, 911, 912

Harlan Water Co. v. Carter, 434

Harlow v. Fitzgerald, 950, 951

Harned v. E-Z Finance Co., 25

Harper v. Regency Development Co., 718

Harriman v. Maddocks, 1019

Harris v. Jones, 62, 67, 68

Harris v. State Workmen's Compensation Commissioner, 644

Harrisburg, The, 530

Hart v. Forchelli, 547

Haumersen v. Ford Motor Co., 547

Haynes v. Alfred A. Knopf, Inc., 926

Health Cent. v. Commissioner, 906

Helfend v. Southern California Rapid Transit District, 375

Hellar v. Bianco, 862

Helleckson v. Loiselle, 278

Helling v. Cary, 149

Helm v. 206 Massachusetts Ave., LLC, 725

Helms v. Pacific Gas & Electric Co., 189, 190

Henderson v. Professional Coatings Corp., 630, 631

Henderson v. Times Mirror Co., 901

Henningsen v. Bloomfield Motors, Inc., 777

Herbert v. Lando, 890

Herbst v. Wuennenberg, 34

Herman v. Markham Air Rifle Co., 281

Hernandez, Estate of, v. Flavio, 680

Herron v. State Farm Mutual Ins. Co., 1060

Hewlett v. George, 590

Hill v. Searle Laboratories, 812

Hilson v. Pacific Gas & Electric Co., 190

Hinman v. Westinghouse Electric Co., 645

Hitaffer v. Argonne Co., 374

Hixon v. Sherwin-Williams Co., 669

Hoeffner v. The Citadel, 575

Hoff v. Zimmer, Inc., 827

Hoffman v. United Iron and Metal Co., Inc., 736

Holloway v. Wachovia Bank & Trust Co., 22, 27

Holodook v. Spencer, 591

Holton v. Daly, 541

Holzheimer v. Johannesen, 463

Homans v. Boston Elevated Ry., 444, 448

Hoots v. Pryor, 467

Howard v. Lecher, 363

Hubbert v. Aztec Brewing Co., 190

Hudson v. Gaitan, 488

Hudson v. Palmer, 943

Huff v. White Motor Corp., 546

Hughes v. Lord Advocate, 273

Huizar v. Four Seasons Nursing Centers, 584

Hundley v. Martinez, 147

- Hundt v. LaCrosse Grain Co., 467
Hurtado v. California, 440
Huset v. J.I. Case Threshing Machine Co., 764, 766
Hustler Magazine v. Falwell, 70
Hutchinson v. Proxmire, 885
Hymowitz v. Eli Lilly & Co., 327, 328, 332, 334
- I**
- I. de S. & Wife v. W. de S., 27
Imbler v. Pachtman, 949
In re (See Name of Party)
In re an Arbitration Between (See Name of Party)
In re Guardianship of (See Name of Ward)
In the Matter of (See Name of Party)
Indiana Harbor Belt Railroad Co. v. American Cyanamid Co., 713
Ingerslew v. Bartholomew, 470
Ingraham v. Wright, 943
Insurance Co. of North America v. Kayser-Roth Corp., 998
Intel Corp. v. Hamidi, 54
International News Service v. Associated Press, 1038, 1039
Ira S. Bushey & Sons, Inc. v. United States, 650
Irvine v. Rare Feline Breeding Ctr., Inc., 686
Isaacs v. Huntington Memorial Hosp., 496
- J**
- J.A.H. ex rel. R.M.H. v. Wadle & Assocs., P.C., 265
J.I. Case Co. v. Borak, 165
Jackson v. Coast Paint and Lacquer Company, 817
Janelins v. Button, 20
Janklow v. Viking Press, 863
John Wright, Inc. v. Casper Corp., 1073, 1077
- Johnson v. Garnand, 169
Johnson v. Insurance Co., 1013, 1014
Johnson v. Lambotte, 121
Johnson v. State of California, 423, 429
Johnson, State v., 699
Jones & Laughlin Steel Corp. v. Pfeifer, 353
Jones v. Clinton, 69
Jones v. Halvorsen-Berg, 642
Jones v. Hansen, 478, 506
Judson v. Central Vermont R. Co., 181
- K**
- K.C. Rly. Co. v. Fitzsimmons, 476
Kaczkowski v. Bolubasz, 354, 359
Kaiser Foundation Health Plan, Inc. v. Pfizer, Inc. (In re Neurontin Mktg. & Sales Practices Litig.), 320
Karow v. Continental Ins. Co., 121
Kathryn B. Guinan, The, 128
Katko v. Briney, 87
Keen v. Ashot Ashkelon, Ltd., 837
Keller v. Schwegmann Giant Supermarkets, Inc., 966
Kelley v. Kokua Sales & Supply, Ltd., 458
Kelley v. Met. Ry. Co., 406
Kelley v. R.G. Indus., Inc., 700, 710
Kelley v. Stop & Shop Cos., 980
Kelly v. Sinclair Oil Corp., 267
Kennedy v. Parrott, 80
Kennedy v. Providence Hockey Club, Inc., 576
Kenny v. M & M Supermarket, 211
Kent v. Gulf States Utilities, 712
Kermarec v. Compagnie Generale Transatlantique, 463, 502, 509
Kermit Lumber & Pressure Treating Co., State v., 753
Kerns v. G.A.C., Inc., 478
Keystone Freight Corp. v. Stricker, 972
King v. Kayak Manufacturing Corp., 577
Kinsman Transit Co., Petition of, 274

- Kirby v. Hylton, 701, 702
Kirincich v. Standard Dredging Co.,
208
Kirkland v. General Motors Corp., 822
Klein v. Pyrodyne Corp., 703, 711
Klein v. Raysinger, 177
Kliewer v. Wall Constr. Co., 470
K-Mart Corp. v. Washington, 37
Knight v. Jewett, 579
Kotler v. Am. Tobacco Co., 804
Koutoufaris v. Dick, 725
Kramer v. Lewisville Mem. Hosp., 224
Krinsky v. Doe 6, 891
Kronos, Inc. v. AVX Corp., 1055
Krontorad v. Chicago, R.I. & P.R. Co.,
471
Kuhn v. Account Control Technology,
Inc., 926
Kurtz v. Pauly, 523
- L
- LaCava v. New Orleans, 119
Ladd v. Miles, 965
Ladd v. Polidoro, 980, 982
Lammers v. Pacific Electric Railway
Company, 171
Landers v. East Texas Salt Water
Disposal Co., 219
Lane v. Atlantic Works, 299
Larranaga v. Mile High Collection &
Recovery Bureau, Inc., 60
Larrimore v. American National
Insurance Co., 271
Larsen v. McDonald, 732
Larson v. St. Francis Hotel, 188
Lashley v. Bowman, 984
LaVine v. Clear Creek Skiing Corp., 110
Leasing, Inc. v. Discovery Ski Corp.,
982
LeBouef v. Goodyear Tire and Rubber
Co., 839
LeBranche v. Johnson, 488
Lee v. Baxter Healthcare Corp., 329
Lega Siciliana Social Club v. St. Ger-
maine, 846, 861
Leng v. Celotex Corp., 330
Lent v. Huntoon, 849, 857
Leonard v. State, 265
Leonbruno v. Champlain Silk Mills,
651
Leong v. Takasaki, 447
Lerman v. Flynt Distributing Co., Inc.,
885
Lerner v. Lerner, 971
Levy v. Louisiana, 537
Lewis v. Carpenter Company, 195, 196,
197
Lewis v. Equitable Life Assurance
Society, 862
Li v. Yellow Cab Co., 832
Lin v. Rohm & Haas Co., 973
Lindelov v. Peter Kiewit Sons', Inc.,
470
Lindquist v. Des Moines Union Ry., 267
Lindsey v. Miami Development Corp.,
421
Lindsey v. Normet, 395
Linegar v. Armour of America, Inc.,
804
Linker v. Quaker Oats Co., 407
Litera v. East Chicago Fire Dept., 220
Little v. McGraw, 712
Little v. Union Trust Co. of Maryland,
702
Litzmann v. Humboldt Cty., 704
Livingston v. Marie Callender's, Inc.,
813
LLMD of Michigan, Inc. v. Jackson-
Cross Co., 974
Lloyd v. Joseph, 486
Long, Estate of, ex rel. Smith v. Broad-
lawns Med. Ctr., 267
Longmeid v. Holliday, 763
Losee v. Buchanan, 693
Love v. Fort Dodge R. Co., 181
Lowe v. General Motors, 165
Lowe v. United States, 546

- Lucy Webb Haynes National Training School v. Perotti, 149, 174
- Lyons v. Midnight Sun Transportation Services, 206
- M**
- MacDonald v. Perry, 746
- MacLeod v. Tribune Publishing Co., 850
- MacPherson v. Buick Motor Co., 767, 771
- Madrazo v. Michaels, 488
- Maguire v. Yanke, 689
- Maki v. Murray Hospital, 199
- Malley v. Briggs, 950
- Malo v. Willis, 481
- Mansur v. Eubanks, 525
- Marchant v. Dayton Tire & Rubber Co., 803
- Mark v. KING Broadcasting, 911
- Marks v. Nambil Realty Co., Inc., 405
- Marsh v. Barry, 953
- Marsh v. Bliss Realty, Inc., 520
- Marshall v. Nugent, 287
- Martin v. Abbott Laboratories, 326
- Martin v. Herzog, 166, 167
- Martin v. Reynolds Metals Co., 43, 46, 735
- Martin v. Yeoham, 31
- Martinez v. California, 425
- Martinez v. Korea Shipping Corp., 142
- Massie v. Colvin, 989
- Masson v. New Yorker Magazine, Inc., 891
- Mathias v. Accor Economy Lodging, Inc., 395, 396
- Matter of (See Name of Party)
- Mayhew v. Sullivan Mining Co., 138
- McBride v. Merrell Dow and Pharmaceuticals, Inc., 851, 887
- McCall v. Wilder, 125
- McCarty v. Natural Carbonic Gas Co., 732
- McClung v. Delta Square Ltd. Partnership, 493
- McCormick v. Williams, 475, 477, 478
- McDaniel v. Business Investment Group, 671, 672
- McDougald v. Garber, 362
- McDougald v. Perry, 197
- McGuire v. Shubert, 974
- McHugh v. University of Vermont, 664
- McIntyre v. Balentine, 340, 341
- McIntyre v. Ohio Elections Com'n, 892
- McLain v. Boise Cascade Corp., 911
- McLaughlin v. Mine Safety Appliances Company, 291
- McNeil v. Jordan, 975
- McQuiggan v. Boy Scouts of America, 20
- Mediana, The, 367
- Medtronic, Inc. v. Lohr, 841
- Meiksin v. Howard Hanna Co., Inc., 975
- Mendoza v. Rast Produce Co., 59
- Merchants Nat. Bank & Trust Co. of Fargo v. United States, 418
- Meritor Savings Bank, FSB v. Vinson, 649
- Merritt v. Okla. Nat. Gas. Co., 408
- Meyer, In re Guardianship of, 121
- Michener v. Hutton, 190
- Microsoft Corporation v. John Does 1-8, 54
- Midcontinent Aircraft Corp. v. Curry County Spraying Service, Inc., 832
- Migra v. Warren City School District, 941
- Miles v. St. Regis Paper Co., 191
- Milkovich v. Lorain Journal Co., 896
- Miller v. Civil Constructors, Inc., 719
- Miller v. Metzinger, 589
- Miller v. Westcor Ltd. P'ship, 703
- Mi-Lor, Inc. v. DiPentino, 975
- Minoletti v. Sabini, 519
- Mintzer v. Wilson, 190
- Mitchell v. Akers, 545

- Mitchell v. Bearden, 733
 Mitchell v. Forsyth, 950
 Mitchell v. Harmony, 101
 Molien v. Kaiser Foundation Hospitals,
 452, 455
 Monell v. New York City Dept. of
 Social Services, 941, 948
 Moniodis v. Cook, 64
 Monitor Patriot Co. v. Roy, 872
 Monroe v. Pape, 936, 941, 942, 943
 Monsanto, United States v., 309
 Monteville v. Terrebonne Parish
 Consolidated Government, 489, 491
 Moore v. Regents of the University of
 California, 60
 Moorman Manufacturing Company v.
 National Tank Company, 828
 Moragne v. States Marine Lines, Inc.,
 530
 Morgan v. High Penn Oil Co., 738
 Morton Salt Co., United States v., 906
 Moser v. DeSetta, 997
 Moses v. McWilliams, 971, 974, 975
 Moss v. Polyco, 822
 Motschenbacher v. R.J. Reynolds
 Tobacco Co., 1049, 1050
 Motyka v. City of Amsterdam, 411
 Mounsey v. Ellard, 516
 Mozier v. Parsons, 474
 Mt. Healthy City School District v.
 Doyle, 940
 Mudd v. Gray, 517
 Munn v. Algee, 564
 Munsey v. Webb, 246
 Murphy v. Martin Oil Co., 533, 540
 Murphy v. Steeplechase Amusement
 Co., Inc., 570
 Museum Boutique Intercontinental,
 Ltd. v. Picasso, 1053, 1061
 Muskopf v. Corning Hospital Dist.,
 431, 599
 Mutterperl v. Lake Spofford Hotel,
 Inc., 119
 Mutual Pharmaceutical Co. v. Bartlett,
 843
 Myco v. Super Concrete, 339
 Myers & Chapman, Inc. v. Thomas G.
 Evans, Inc., 1013
 Myrtle Apartments, Inc. v. Lumber-
 men's Mut. Cas. Co., 1014

N
 N.A.A.C.P. v. Button, 867
 N.C. Farm Bureau Mut. Ins. Co. v.
 Stox, 28
 Nabozny v. Barnhill, 82
 Narell v. Sasso, 31
 Nash v. Port Authority of New York
 and New Jersey, 604
 National Health Laboratories, Inc. v.
 Ahmadi, 336, 343
 Nazaroff v. Superior Court, 457
 Near v. Minnesota, 872
 Neiman-Marcus v. Lait, 852
 Nelson v. Concrete Supply Company,
 574
 Nelson v. Krusen, 585
 Nemarnik v. Los Angeles Kings Hockey
 Club, L.P., 579
 New York Central R.R. Co. v. Grims-
 tad, 208
 New York Times Co. v. Sullivan, 864,
 872, 875, 878, 879, 880, 881, 888, 898,
 902, 925, 930
 Newark, City of, v. Eastern Airlines, 48
 Newing v. Cheatham, 195
 Norfolk & W. Ry. v. Holbrook, 180
 Norfolk & Western R. Co. v. Liepelt,
 355
 North Glenn, City of, v. Chevron
 U.S.A., Inc., 712
 Northern Electric Company, Inc. v.
 Torma, 1040

O
 O'Brien v. Cunard Steamship Co., 74

- O'Connor & Raque Co. v. Bill, 119
O'Grady v. Brown, 535
O'Toole v. Franklin, 968
Oates v. New York Hospital, 79
OBG Limited v. Allan, 1056, 1064
Ochoa v. Superior Court, 452, 453
Odom v. Little Rock & I-85 Corp.,
1013, 1014
Oettinger v. Stewart, 501
Ohio ex rel. Dewine v. Purdue Pharma,
321
Ollman v. Evans, 897
Osborne v. McMasters, 162
Osorio v. One World Technologies,
Inc., 800, 805
Otero v. Burgess, 694
Overseas Tankship (U.K.), Ltd. v.
Miller Steamship Co. (Wagon
Mound No. 2), 262, 272
Overseas Tankship (U.K.), Ltd. v.
Morts Dock & Engineering Co., Ltd.
(The Wagon Mound), 256
Owen v. City of Independence, 952
Owens v. Kroger Co., 966
- P**
- P.S. and R.S. v. Psychiatric Coverage,
Ltd., 661
Pace v. Brodie-National, Inc., 961
Pace v. Diversified Scientific Services,
Inc., 737
Pacific R. Co., United States v., 101
Pagelsdorf v. Safeco Ins. Co. of Amer-
ica, 521
Paine Webber Jackson & Curtis, Inc. v.
Winters, 633
Pallett v. Thompkins, 961
Palmer v. Tandem Mgmt. Servs., Inc.,
982
Palmquist v. Mercer, 501
Palntag v. Gartner Construction Co.,
467
Palsgraf v. Long Island R. Co., 245
Parham v. Hughes, 538
Parker v. Ashford, 737
Parratt v. Taylor, 943
Passon v. Spritzer, 974
Pawlowski v. Smorto, 970
Pearson v. Dodd, 60
Peasley v. Puget Sound Tug & Barge
Co., 959, 961, 962, 965
Pechan v. DynaPro, Inc., 21
Pederson v. Dumouchel, 147
Pegram v. Herdrich, 154
Pelletier v. Bilbiles, 633
Pembaur v. City of Cincinnati, 948
People for the Ethical Treatment of
Animals v. Berosini, 907, 912, 917, 919
People v. (See Name of Defendant)
Perez v. McConkey, 499, 576
Petition of (See Name of Petitioner)
Petrich v. McDonald, 962
Pharmaceutical Sales & Consulting
Corp. v. J.W.S. Delavau Co., 680
Philadelphia Newspapers, Inc. v.
Hepps, 891
Phillip Morris, USA, v. Williams, 394
Pierce, People v., 440
Pincock v. McCoy, 465
PLIVA, Inc. v. Mensing, 842
Ploof v. Putnam, 94, 96
Plummer v. Center Psychiatrists, Ltd.,
659
Pokora v. Wabash Ry., 179
Polemis and Furness, Withy & Co.,
Ltd., In re an Arbitration Between,
238, 258, 261
Polemis, Matter of, 238, 249, 253
Polomie v. Golub Corp., 495
Porter v. Nutter, 672
Portsmouth Harbor Land & Hotel Co.
v. United States, 41
Pottebaum v. Hinds, 481, 483, 484
Poulin v. Colby College, 516
Powell v. Seay, 967
Powers v. Leno, 981
Prather v. Lockwood, 547
Presho v. J.M. McDonald Co., 470

- Presson v. Mountain States Properties, 525
Price, United States v., 378
Priest v. Union Agency, 982
Pring v. Penthouse International, Ltd., 856
Pulaski Coal Co. v. Gibboney Sand Bar Co., 307
- Q**
Quin v. George Washington University, 202
- R**
Ramos v. Madera, 431
Ratlief v. Yokum, 559
Raymond v. Paradise Unified School Dist., 423
Reagan v. Rider, 64
Reed v. Employers Mutual Casualty Co., 488
Reicheneker v. Seward, 520
Reitz v. May, 496
Reynolds v. Texas & Pacific Ry., 212
Rhone-Poulenc Rorer Inc., In re, 329
Richards v. Dahl, 520
Richmond v. McHale, 970
Ridley v. Grifall Trucking Co., 404
Riegel v. Medtronic, Inc., 841
Ries v. City of Chicago, 704
Rigie v. Goldman, 79
Rinaldi v. Holt, Rinehart & Winston, Inc., 871
Riss v. City of New York, 412, 441, 604
Roberts v. American Employers Insurance Company, 83
Roberts v. English Mfg. Co., 862
Roberts v. Ring, 111
Robertson v. Bell, 961
Rodriguez v. Bethlehem Steel Corp., 440
Rodriguez v. State, 458
Roe v. Wade, 536, 537
Rogers v. Elliott, 737
Rogers v. Hill, 967
- Rohm and Haas Co. v. Continental Casualty Co., 995, 1001
Rosa v. Dunkin' Donuts of Passaic, 481
Rose v. Ford, 531
Rosen v. Tesoro Petroleum Corp., 972
Rosenau v. City of Esterville, 482
Rosenblatt v. Baer, 852, 875
Rosenblatt v. Exxon Co., U.S.A., 699, 701, 702
Rosenbloom v. Metromedia, Inc., 873, 879, 878
Ross v. Hartman, 173
Roth v. Zukowski, 520
Rowland v. Christian, 423, 438, 500
Royer v. Catholic Medical Center, 825
Rufino v. United States, 366
Russell, United States v., 101
Ryan v. Kanne, 1008
Rylands v. Fletcher, 685, 692, 699, 714, 719, 720, 721, 726, 727
- S**
S.S. Kresge Co. v. Ruby, 966
Sabella v. Estate of Milides, 971, 972
Sain v. Cedar Rapids Community School District, 1006
Saiz v. Belen School Dist., 711
Salinas v. Vierstra, 575
Salmeron v. Nava, 679
Salomone v. Macmillan Publishing Co., Inc., 855
Sampson v. Veenboer, 146
Sanders v. Daniel International Corp., 966
Sanders v. Odilia's Express, Inc., 723
Sankey v. Richenberger, 265
Santiago v. Sherwin-Williams Co., 330
Santor v. A & M Karagheusian, Inc., 829
Sargent v. Ross, 524
Saunders System Birmingham Co. v. Adams, 220
Sax v. Votteler, 586, 587
Scahill, In the Matter of, 1001

- Schild v. Schild, 470
Schmidt, United States ex rel., v.
Zimmer, Inc., 320
Schon, Admx. v. Scranton-Springbrook
Water Service Co., 400
Schrier v. Beltway Alarm Co., 568
Schuler v. McGraw-Hill Co., Inc., 926
Schwartz v. Selvage, 480
Schweiker v. Chilicky, 947
Scoggins v. Wal-Mart Stores, Inc., 270
Scorza v. Martinez, 686
Scott v. McGaugh, 675
Scott v. Pacific West Mountain Resort,
576
Scott v. Shepherd, 22
Screws v. United States, 939
Sebastian Int'l, Inc. v. Russolillo, 1056
Seely v. White Motor Co., 829, 830
Seffert v. Los Angeles Transit Lines,
349, 368
Seibert v. Vic Regnier Builder's Inc.,
496
Selders v. Armentrout, 547
Selleck v. Janesville, 377
Senn v. Sun Printing Co., 575
Shafer v. Keeley Ice Cream Co., 405
Shaffer v. Stewart, 971
Shamhart v. Morrison Cafeteria Co.,
737
Sharples v. State, 661
Shaw v. Brown & Williamson Tobacco
Corp., 20, 22
Shaw v. Soo Line R.R., 265
Shechter v. Shechter, 997
Sheehan v. City of New York, 286
Sheldon Appel Co. v. Albert & Olikier,
968
Sheldon Friedlich Mktg. Corp. v. Carol
Wright Sales, Inc., 1077
Sherman v. Suburban Trust Co., 481
Shipley v. Shipley, 489
Shoemake v. Fogel, Ltd., A.T., 595
Shoffner, State v., 123
Sidaway v. Bethlem Royal Hospital, 161
Siegert v. Gilley, 943
Siegler v. Kuhlman, 716, 719
Sierra Club Found. v. Graham, 966
Silver v. Mendel, 972
Silvia v. Zayre Corp., 37
Simmerman v. Felthouser, 372
Simon & Schuster, Inc. v. Members of
New York State Crime Victims Bd.,
895
Sinclair v. Okata, 686
Sindell v. Abbott Laboratories, 321, 807
Sizemore v. Smock, 374
Skinner v. Square D Co., 222
Skrzypezak v. Konieczka, 523
Sledge v. Carmichael, 518
Slusher v. Ospital, 385
Small v. Howard, 145, 148
Smith Food & Drug Centers, Inc. v.
Bellegarde, 667, 668
Smith v. Ariens Co., 803
Smith v. Calvary Christian Church, 75
Smith v. Cutter Biological, Inc., 328
Smith v. Eli Lilly & Co., 328
Smith v. Lockheed Propulsion Co., 712
Smith v. London and South Western
By. Co., 240
Smith v. New England Aircraft Co.,
735
Smith v. Postal Tel. Cable Co., 445
Smith v. The Texan, 208
Smith v. Walden, 1021
Snakenberg v. Hartford Cas. Ins. Co., 37
Soldano v. O'Daniels, 434
Southern Apartments, Inc. v. Emmett,
520
Southern Pacific Co. v. Berkshire, 179
Spade v. Lynn & B. R. Co., 249, 443,
450
Spano v. Perini Corp., 711
Sparrow v. Vermont Savings Bank, 665
Speakers of Sport, Inc. v. Proserv, Inc.,
1063

- Spencer v. Wal-Mart Stores E., LP, 725
 Spinosa v. Weinstein, 79
 Springer v. Viking Press, 856
 Spur Industries, Inc. v. Del E. Webb Development Co., 743
 St. Amant v. Thompson, 887
 Standley v. Johnson, 646
 Stang v. Hertz Corp., 546
 Stanley, United States v., 617
 State ex rel. (See Name of Party)
 State Farm Mutual Auto Insurance Co. v. Campbell, 26, 384
 State v. (See Name of Defendant)
 Statler v. Ray Mfg. Co., 767
 Stehlik v. Rhoads, 561
 Steinhäuser v. Hertz Corp., 280
 Steitz v. City of Beacon, 411
 Sterling v. Velsicol Chemical Corp., 711
 Stevens v. Rockport Granite Co., 747
 Stewart v. Wild, 267
 Stien v. Marriot Ownership Resorts, Inc., 905
 Stienbaugh v. Payless Drug Store, Inc., 91
 Stimpson v. Wellington, 164
 Stoleson v. United States, 274
 Stone Crushed Partnership v. Kassab Archbold Jackson & O'Brien, 971, 972, 975
 Stone v. Pinkerton Farms, Inc., 669
 Storjohn v. Fay, 124
 Stotts v. Eveleth, 265
 Stratton Oakmont, Inc. v. Prodigy Services Co., 896
 Sturm, Ruger & Co., Inc. v. Day, 378
 Suhr v. Sears, Roebuck & Co., 480
 Summers v. Tice, 316, 317, 322, 323, 327
 Summy v. City of Des Moines, 270
 Sumpter v. City of Moulton, 268
 Sunseri v. Puccia, 657
 Surocco v. Geary, 99
 Suvada v. White Motor Co., 828
 Swagger v. City of Crystal, 575
- T
- T.J. Hooper, The, 139, 151, 315
 Tacket v. General Motors Corp., 863
 Tarasoff v. Regents of the University of California, 416, 423, 424, 425, 429, 435, 438, 1001
 Tavoulareas v. Piro, 884
 Taylor v. Vallelunga, 70
 Taylor v. Williamson, 381
 Tedla v. Ellman, 167
 Teichmiller v. Rogers Memorial Hospital, Inc., 32
 Texas & Pacific Ry. Co. v. Behymer, 142
 Theisen v. Milwaukee Automobile Mut. Ins. Co., 121
 Theophanous v. The Herald & Weekly Times Ltd., 874
 Thing v. La Chusa, 451
 Thomas v. Winchester, 761, 765, 766, 767
 Thompson v. County of Alameda, 422
 Thompson v. Kaczinski, 263
 Thousand Oaks Barrel Co., LLC v. Deep South Barrels LLC, 1037
 Thurel v. Vargese, 597
 Thurman v. Ice Palace, 579
 Tice v. Tice, 518
 Tiller v. Atlantic Coast Linc R. Co., 185
 Tillman v. Vance Equipment Co., 823
 Time, Inc. v. Firestone, 885, 886
 Titus v. Bradford, B & K, R. Co., 137
 Tobin v. Grossman, 446, 450
 Tolbert v. Gulsby, 486
 Toms v. Calvary Assembly of God, Inc., 695
 Toms v. McConnell, 447
 Towers Tenant Ass'n, Inc. v. Towers Ltd. Partnership, 520
 Toy v. Atl. Gulf & Pac. Co., 699, 705, 711
 Tuberville v. Stamp, 108
 Tug Ocean Prince, Inc. v. United States, 142

- Tunkl v. Regents of the Univ. of Calif., 567
- Turner v. Mandalay Sports Entertainment, LLC, 579
- Turngren v. King Cy., 963
- Tvedt v. Haugen, 147
- U
- U.S. Sporting Products, Inc. v. Johnny Stewart Game Calls, Inc., 1039
- Ultramares Corp. v. Touche, 1032
- Union Bank v. Kutait, 982
- Union Oil Co. v. Oppen, 754
- United States Department of Justice v. Reporters Committee for Freedom of the Press, 926
- United States ex rel. (See Name of Party)
- United States v. (See Name of Defendant)
- Upjohn Company v. Riahom Corporation, 1071
- V
- Van Essen v. Farmers Coop. Exch., 265
- Van Houten v. Pritchard, 686
- Vance v. Universal Amusement Co., Inc., 753
- Varig Airlines, United States v., 612, 616
- Varnish v. Best Medium Publishing, 932
- Vaughan v. Menlove, 107, 136
- Ventricelli v. Kinney System Rent A Car, 285
- Vesely v. Sager, 169
- Vetter v. Morgan, 676
- Vibbert v. PAR, Inc., 59
- Vietnamese Fishermen's Ass'n v. Knights of K.K.K., 31
- Villareal v. Arizona, 374
- Vincent v. Lake Erie Transp. Co., 95
- Virginia Bankshares v. Sandberg, 165
- Vittands v. Sudduth, 977
- Volk v. Wisconsin Mortgage Assurance Co., 982
- Von Dollen v. Stulgies, 471
- Vosburg v. Putney, 276
- W
- W.K.T. Distributing Co. v. Sharp Electronics, 1025
- Wagner v. International Railway Co., 255, 408
- Wagner v. Shanks, 117
- Walker v. Van Laningham, 982
- Wallace v. Owens-Illinois, Inc., 577
- Wal-Mart Stores, Inc. v. Sturges, 1063, 1064
- Wal-Mart Stores, Inc. v. Wright, 130
- Walsh v. Eberlein, 960
- Walt Disney World Co. v. Wood, 310
- Walters v. Sloan, 482
- Ward v. Hermitage Ins. Co., 489
- Ward v. Zelikovsky, 902
- Waring v. Hudspeth, 965
- Warner-Lambert Co. v. Execuquest Corp., 906
- Wasylow v. Glock, Inc., 804
- Watson v. Detroit Journal Co., 856
- Watson v. Kentucky & Indiana Bridge & R. Co., 297
- Wauchop v. Domino's Pizza, 383
- Weber v. Madison, 267
- Weber v. Springville City, 479
- Wegner v. Milwaukee Mutual Ins. Co., 102, 103
- Weirum v. RKO General, Inc., 286, 401
- Weiss v. Fote, 609
- Weld-Blundell v. Stephens, 240
- Wendt v. Host International, Inc., 1048
- Werner v. Plater-Zyberk, 971, 972
- Weymers v. Khera, 221
- Wheatland Irrigation Dist. v. McGuire, 694
- Whetstine v. Moravec, 201
- Whitcombe v. County of Yolo, 428

- White v. Samsung Electronics America, Inc., 1051
Whitney v. California, 871
Whittaker v. Sandford, 36
Wiles v. Metzger, 470
Wilford v. Little, 478
Wilkerson v. McCarthy, 182
Wilkinson v. Downton, 61
Williams v. Bright, 373
Williams v. EMRO Marketing Company, 210
Williams v. Kuppenheimer Mfg. Co., 966
Williams v. Vincent, 953
Williamson v. Mazda Motor of America, Inc., 842
Wilson v. Bogert, 465
Wilson v. Hayes, 982
Wilson v. Lund, 447
Winget v. Winn-Dixie Stores, Inc., 734
Winterbottom v. Wright, 762, 764, 766
Winterstein v. Wilcom, 566
Wolf v. Ford, 565, 569
Wolston v. Reader's Digest Ass'n, Inc., 887
Wong v. Tabor, 968
Wong-Leong v. Hawaiian Independent Refinery, Inc., 628, 645
Wood v. Georgia, 871
Wright v. Arcade School Dist., 405
Wyeth v. Levine, 842
- Y**
- Yanase v. Automobile Club of Southern California, 442
Yania v. Bigan, 398, 406
Yazoo & M.V.R. Co. v. Leflar, 409
Ybarra v. Spangard, 197, 319
Yearsley v. W.A. Ross Constr. Co., 617
Yommer v. McKenzie, 694, 699, 700, 701, 709, 710, 712
York v. Lunkes, 330
Yost v. Torok, 983
Young v. Garwacki, 525
- Z**
- Zentz v. Coca Cola Bottling Co., 193, 194
Zeran v. America Online, Inc., 895
Zerangue v. TSP Newspapers, Inc., 852, 876
Zhadan v. Downtown L.A. Motors, 381
Zinermon v. Burch, 943

Preface

As we move to a fifth edition of this torts casebook, our goal remains the same: to create a “teacher’s book.”

We have updated this casebook in light of recent developments. In addition, we have added thought-provoking problems at the beginning of each chapter that are carried throughout the chapter (and, sometimes, referred to in later chapters). As with the previous editions, these problems are designed to stimulate thinking and produce interesting classroom discussion. They are constructed to help students learn doctrine, illuminate trends in the law, and, ultimately, produce better learning.

A secondary goal was to include a “skills” component. Some of the problems place students in practical situations that they are likely to encounter in practice, and therefore encourage students to think about how they might handle these situations.

In any book, trade-offs are necessary. We have chosen not to include encyclopedic notes and references like those found in other books. In the torts area, students have numerous high-quality secondary sources available to them, and students can consult these sources for expanded scholarly discussions of the law. Consistent with our goal of producing a “teacher’s book,” we opted to limit the scope of our notes and to substitute problems.

We are thankful to our research assistants and secretaries for their help in producing this book. In addition, we want to thank the many students who were subjected to early drafts and ultimately helped us produce a better product.

We welcome input from faculty and students who use this book. You can contact us at the following e-mail addresses: Professor Russell Weaver (russ.weaver@louisville.edu); Professor John Bauman (jbauman@stcl.edu); John Cross (john.cross@louisville.edu); Professor Andrew Klein (anrklein@iupui.edu); Professor Ed Martin (ecmartin@samford.edu); Professor Paul Zwier (zwier@law.emory.edu).

RLW, JHB, JTC, ARK, ECM, PJZ

June, 2018

Editing Note

Many torts cases are far longer than can be included in a book of reasonable length. In addition, many cases include multiple issues, some of which are irrelevant to the torts issues in this case. In creating this book, we have consistently tried to be faithful to the deciding court's language and the spirit of the opinion; however, although we have indicated some changes (usually by brackets or an ellipses), we generally do not note omissions from the edited opinions.

