



TORT LAW

§ 1: Introduction to Tort Law

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**PETER A. ALLARD
SCHOOL OF LAW**

THE UNIVERSITY OF BRITISH COLUMBIA

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OVERVIEW



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1. Course themes: What is tort law about? Why should we care about tort law?
2. Housekeeping
3. The rule of law and the idea of tort law
4. Brief history
5. The bases of tort liability
6. Key concepts
7. The sequence of tort litigation
8. Course topics
9. Common-lawyer skills



- Tort law is grounded in community standards and values.
 - *Robertson v. Balmain New Ferry Co Ltd* [1909] UKPC 1 (false imprisonment), [§ 2.4.2](#).
- Rights of action in private law afford plaintiffs the *right to sue*.
 - *Li v. Barber* [2022] CanLII 13686 (ON SC) (nuisance injunction), [§ 9.8.1.2](#).
 - *Cloud v. Canada* [2004] CanLII 45444 (ON CA) (battery and negligence), [§ 19.7.2](#).
- Our common law constitution assumes equality of all (including public officials) under law.
 - *R v. Le* [2019] SCC 34 (trespass, false imprisonment), [§ 2.4.4](#).
 - *R. v. Tim* [2022] SCC 12 (no mistake-of-law defence for police), [§ 6.6.4](#).
 - cf: *Baxter v. Bracey* (2020) 140 S Ct 1862 (US qualified immunity), [§ 6.6.9.2](#).
- The common law develops incrementally: precedent upon precedent.
 - *Hill v. Hamilton-Wentworth Police* [2007] SCC 41 (police investigation duty), [§ 13.4.2.2](#).
 - *Merrifield v. Canada* [2019] ONCA 205 (tort of harassment?), [§ 5.2.2](#).
- The common law is a dialogue taking place over time within and between jurisdictions.
 - *Jones v. Tsige* [2012] ONCA 32 (privacy), [§ 4.1.2](#).



Albert Venn Dicey,

Introduction to the Study of the Law of the Constitution (London, 1889) [[§ 1.1.1](#)].

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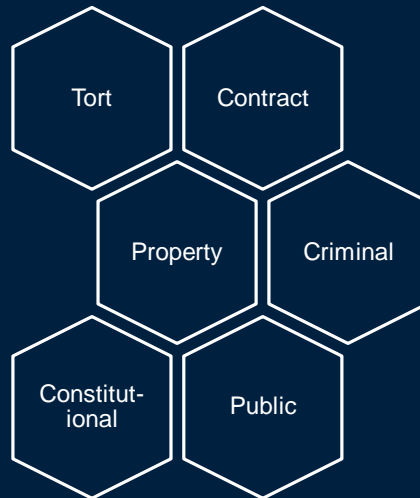
THE RULE OF LAW

It means, again, equality before the law, or the equal subjection of all classes to the ordinary law of the land administered by the ordinary Law Courts; the “rule of law” in this sense excludes the idea of any exemption of officials or others from the duty of obedience to the law which governs other citizens or from the jurisdiction of the ordinary tribunals;

THE IDEA OF TORT LAW



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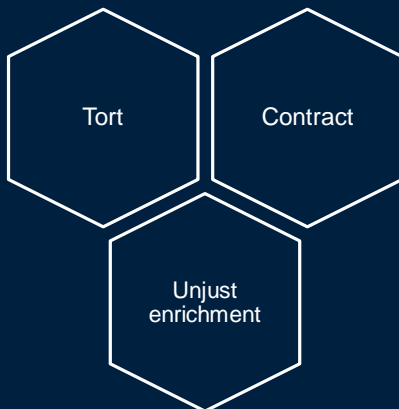
TORT LAW'S PLACE WITHIN PRIVATE LAW



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OUR RELATIONSHIPS WITH EACH OTHER

OUR RELATIONSHIPS WITH STUFF



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HISTORY: THE FORMS OF ACTION



NOTICE OF CLAIM

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA (SMALL CLAIMS COURT)

FROM:
Fill in the name, address and telephone number of the person(s) or business(es) making the claim.

TO:
Fill in the name, address and telephone number of the person(s) or business(es) the claim is against.

WHAT HAPPENED?
Tell what led to the claim.

WHERE?
Tell where the defendant happened.

HOW MUCH?
Tell what is being claimed from the defendant(s). If the claim is made up of several parts, separate them here and show the amount for each part. Add these amounts and fill in the total claimed.

CLAIMANT(S)

NAME _____

ADDRESS _____

CITY/TOWN, PROVINCE, TEL # _____

POSTAL CODE _____

DEFENDANT(S)

NAME _____

ADDRESS _____

CITY/TOWN, PROVINCE, TEL # _____

POSTAL CODE _____

NOTICE OF CLAIM

If you need more space to describe what happened, attach another page, mark it "Page 2 of the Notice of Claim" and attach the fee. A copy of the attached page must accompany each copy of the Notice of Claim.

WHEN?
Tell where this happened _____

HOW MUCH?

a		\$			
b		\$			
c		\$			
d		\$			
e		\$			
		TOTAL	0.00		
		+ FILINGS FEES			
		+ SERVICE FEES			
		= TOTAL CLAIMED	\$		
				<input type="checkbox"/> DEBIT	
				<input type="checkbox"/> OTHER THAN DEBIT	

court copy

REGISTRY FILE NUMBER _____

REGISTRY LOCATION _____

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TIME LIMIT FOR A DEFENDANT TO REPLY

The defendant must complete and file the attached reply within 14 days from being served with this notice, unless the defendant serves the claim directly with the claimant. If the defendant does not reply, a court order may be made against the defendant without any further notice to the defendant. Then the defendant will have to pay the amount claimed plus interest and further expenses.

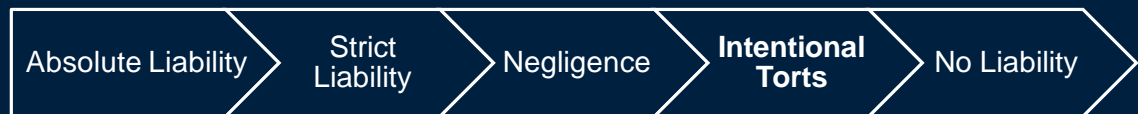
The Court Address for filing documents is _____

FORM 1
01-01 (REVISED)
2018

<https://www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-to-records/court-forms/small-claims-forms>

\$ 1.3.4

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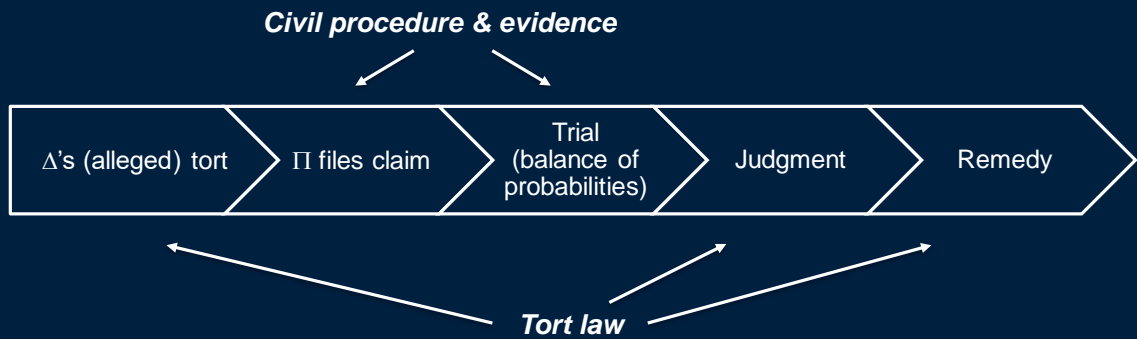


- § and [#]
- “Π” and “Δ”
- “right of action”, “cause of action”, “claim”
- “elements”
- “defences”
- “remedies”
- subjective vs objective

THE SEQUENCE OF TORT LITIGATION



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COURSE TOPICS



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"Tort is what is in the tort books, and the only thing holding it together is the binding." (Tony Weir, 2006)



Tort law is "a gallery of wrongs." (John Goldberg & Benjamin Zipursky, 2006)

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Bettel et al. v. Yim, (1978) 20 OR (2d) 617, 88 DLR (3d) 543 [§ 2.2.1]

- Background & parties
- Material facts
- Procedure & court
- Issue(s)
- Pleading
- Elements + analysis/rationale
- Result/holding – (*ratio* or *obiter*? any dissents?)
- Subsequent developments?

Check out the “highly recommended reading” on p. ii of the casebook!



- Issue-spotting exams are often a race against the clock—always more to say.
- Distil essence of briefed cases in outline.
- Make your own outline/CAN – don’t depend on others’.

Check out the “highly recommended reading” on p. ii of the casebook!



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