
Schedule of Topics and Readings

Tort Law: Cases and Commentaries ([2021 CanLII Docs 1859](#))

Term 1 (Autumn)

Week I

§1: Introduction

§1.1: The rule of law

§1.1.1: Equality under ordinary law and the common law right of redress

§1.2: Overview of tort law

§1.2.1: Sources, reasoning and interpretation

§1.2.2: Basic features

§1.3: Pleading in tort

§1.3.1: The modern law of tort

§1.3.2: From forms of action to statements of claim

Week II (Sep 10 & 12)

§1.3.3: Letang v. Cooper [1964] EWCA Civ 5 (**+ how to read a case exercise**)

§1.3.4: Notice of claim form

§2: Trespass to the Person

§2.1: Foundational concepts: volition, directness, intention, capacity

§2.1.1: Smith v. Stone (1647) Style 65, 82 ER 533 (KB)

§2.1.2: Scott v. Shepherd [1773] All ER Rep 295 (KB)

§2.1.3: Non-Marine Underwriters, Lloyd's of London v. Scalera [2000] SCC 24

§2.1.4: Olsen v. Olsen [2006] BCSC 560

Week III (Sep 17 & 19)

§2.2: Battery

§2.2.1: Gokey v. Usher & Parsons [2023] BCSC 1312

§2.2.2: Kohli v. Manchanda [2008] INSC 42

§2.2.3: Walker v. Metropolitan Police Comm'r [2014] EWCA Civ 897

§2.2.4: Binsaris v. Northern Territory [2020] HCA 22

Week IV (Sep 24 & 26)

§2.3: Assault

§2.3.1: Tuberville v. Savage [1669] EWHC KB J25

§2.3.2: Stephens v. Myers [1830] EWHC KB J37 (CP)

§2.3.3: Gokey v. Usher & Parsons [2023] BCSC 1312

§2.3.4: Tam v. Chan [2014] HKCFI 1480

§2.3.5: Ahluwalia v. Ahluwalia [2023] ONCA 476

Week V (Oct 1 & 3)

§2.4: False imprisonment

§2.4.1: Bird v. Jones [1845] EWHC QB J64

§2.4.2: Robertson v. Balmain New Ferry Co. Ltd [1909] UKPC 1

§2.4.3: Jeeves v. Swanson [1995] CanLII 520 (BC SC)

§2.4.4: Walker v. Metropolitan Police Comm’r [2014] EWCA Civ 897
§2.4.5: R v. Le [2019] SCC 34

Week VI (Oct 8 & 10)

§3: Intentional Infliction of Mental Suffering

§3.1: The tort in *Wilkinson v. Downton*

§3.1.1: Wilkinson v. Downton [1897] EWHC 1 (QB)
§3.1.2: Wainwright v. Home Office [2003] UKHL 53

§3.2: The modern tort of intentional infliction of mental suffering

§3.2.1: Rhodes v. OPO [2015] UKSC 32
§3.2.2: Ahluwalia v. Ahluwalia [2023] ONCA 476
§3.2.3: Fitzpatrick v. Orwin, Squires & Squires [2012] ONSC 3492
§3.2.5: Lu v. Shen [2020] BCSC 490

Week VII (Oct 15 & 17)

§4: Invasion of Privacy

§4.1: Common law invasion of privacy torts

§4.1.1: Intrusion upon seclusion
§4.1.1.1: Wainwright v. Home Office [2003] UKHL 53
§4.1.1.2: Jones v. Tsige [2012] ONCA 32

Week VIII (Oct 22 & 24)

§4.2: Statutory invasion of privacy torts

§4.2.1: Privacy Act, RSBC 1996
§4.2.2: Milner v. Manufacturers Life Insurance Co. [2005] BCSC 1661
§4.2.3: Gokey v. Usher & Parsons [2023] BCSC 1312
§4.2.4: Lu v. Shen [2020] BCSC 490
§4.2.5: Insurance Corp. of British Columbia v. Ari [2023] BCCA 331
§4.2.6: Bracken v. Vancouver Police Board [2006] BCSC 189

Week IX (Oct 29 & 31)

§5.2: Harassment

§5.2.1: Tam v. Chan [2014] HKCFI 1480
§5.2.2: Merrifield v. Canada [2019] ONCA 205
§5.2.3: Lu v. Shen [2020] BCSC 490
§5.2.4: Caplan v. Atas [2021] ONSC 670
§5.2.5: Ahluwalia v. Ahluwalia [2023] ONCA 476
§5.2.6: Gokey v. Usher & Parsons [2023] BCSC 1312

Week X (Nov 5 & 7)

§6: Defences (I)

§6.1: Foundational concepts

§6.2: Non-defences (excuses)

§6.2.1: Duress
§6.2.1.1: Gilbert v. Stone (1648) Style 72, 82 E.R. 539 (KB)
§6.2.2: Provocation
§6.2.2.1: Lane v. Holloway [1967] EWCA Civ 1

§6.2.3: Mistake of fact

§6.2.3.1: *Wilson v. New Brighton Panelbeaters Ltd* [1989] 1 NZLR 74 (NZ HC)

§6.2.4: Mistake of law

§6.2.4.1: *R. v. Tim* [2022] SCC 12

§6.3: Consent

§6.3.1: Indicia of consent

§6.3.1.1: *Non-Marine Underwriters, Lloyd's of London v. Scalera* [2000] SCC 24

§6.3.1.3: *Toews v. Weisner* [2001] BCSC 15

§6.3.1.4: *Pile v. Chief Constable of Merseyside* [2020] EWHC 2472 (QB)

§6.3.2: Vitiating of apparent consent: mistake, fraud, duress, public policy

§6.3.2.1: *Norberg v. Wynrib* [1992] CanLII 65 (SCC)

Week XI (Nov 4)

Guest Zoom lecture on *Gokey v. Usher*

Week XII (Nov 19 & 21)

§6.6: Lawful authority

§6.6.1: *Crampton v. Walton* [2005] ABCA 81

§6.6.2: *R. v. Tim* [2022] SCC 12

§6.6.4: *Binsaris v. Northern Territory* [2020] HCA 22

§6.6.5: *R v. Le* [2019] SCC 34

§6.6.8: A comparison: United States public officer immunities

§6.6.8.1: *R. v. Tim* [2022] SCC 12

§6.6.8.2: *Baxter v. Bracey* (2020) 140 S Ct 1862 (Mem)

§7: Intentional Interference with Land

§7.1: Trespass to land

§7.1.1: *Entick v. Carrington* (1765) 19 State Tr 1029 (KB)

§7.1.2: *Gokey v. Usher & Parsons* [2023] BCSC 1312

§7.1.3: *Fitzpatrick v. Orwin, Squires & Squires* [2012] ONSC 3492

§7.1.6: *R v. Le* [2019] SCC 34

§7.2: Defence of real property

§7.2.1: *Bird v. Holbrook* (1825) 130 ER 911 (CP)

Week XIII (Nov 26 & 28)

§9: Remedies: Damages and Injunctions

§9.1: Nominal damages

§9.1.1: *Walker v. Metropolitan Police Comm'r* [2014] EWCA Civ 897

§9.1.3: *Fitzpatrick v. Orwin, Squires & Squires* [2012] ONSC 3492

§9.2: Compensatory damages—pecuniary (special)

§9.2.1: *Robertson v. Stang* [1997] CanLII 2122 (BC SC)

§9.2.3: *Fitzpatrick v. Orwin, Squires & Squires* [2012] ONSC 3492

§9.3: Compensatory damages—non-pecuniary (general)

§9.3.1: *McCliggot v. Elliott* [2022] BCCA 315

§9.3.4: *Gokey v. Usher & Parsons* [2023] BCSC 1312

§9.3.5: *Fitzpatrick v. Orwin, Squires & Squires* [2012] ONSC 3492

§9.3.6: *Jones v. Tsiges* [2012] ONCA 32

- §9.3.8: Lu v. Shen [2020] BCSC 490
- §9.3.11: Toews v. Weisner [2001] BCSC 15
- §9.4: Aggravated damages
 - §9.4.1: Norberg v. Wynrib [1992] CanLII 65 (SCC)
 - §9.4.3: Gokey v. Usher & Parsons [2023] BCSC 1312
 - §9.4.4: Ahluwalia v. Ahluwalia [2023] ONCA 476
- §9.5: Punitive (exemplary) damages
 - §9.5.1: Atlantic Lottery Corp. Inc. v. Babstock [2020] SCC 19
 - §9.5.2: Norberg v. Wynrib [1992] CanLII 65 (SCC)
 - §9.5.4: Gokey v. Usher & Parsons [2023] BCSC 1312
 - §9.5.5: Ahluwalia v. Ahluwalia [2023] ONCA 476
 - §9.5.6: Fitzpatrick v. Orwin, Squires & Squires [2012] ONSC 3492
 - §9.5.10: Toews v. Weisner [2001] BCSC 15
- §9.6: Restitutionary damages
- §9.7: Disgorgement damages
 - §9.7.1: Atlantic Lottery Corp. Inc. v. Babstock [2020] SCC 19
- §9.8: Injunctions
 - §9.8.1: Interim and interlocutory injunctions
 - §9.8.2: Permanent (perpetual) injunctions

§11: Tort Theory

§11.1: Instrumental theories

- §11.1.1: Professor Basil Markesinis
- §11.1.2: Judge Richard Posner

§11.2: Constructive theories

- §11.2.1: Professors Jules Coleman, Scott Hershovitz and Gabriel Mendlow
- §11.2.2: Professor Ernest Weinrib
- §11.2.3: Professor Robert Stevens
- §11.2.4: Professors John Goldberg and Benjamin Zipursky

§11.3: Critical theories

- §11.3.1: Professors Martha Chamallas and Jennifer Wriggins
- §11.3.2: Professor Kathleen Mahoney

§11.4: Reflexive theories

- §11.4.1: Professor Peter Cane
- §11.4.2: Professor Jane Stapleton

Week XIV (Dec 3 & 5)

Review and exam preparation

Term 2 (Spring)

Week I (Jan 7 & 9)

§12: No-fault Compensation Schemes

§12.1: New Zealand's no-fault accident compensation scheme

- §12.1.1: Overview of New Zealand's ACC scheme
- §12.1.2: Accident Compensation Act 2001 (NZ)
- §12.1.3: A v. Bottrill [2002] UKPC 44

§12.1.4: Taylor v. Roper & Attorney-General of New Zealand [2023] NZSC 49

§12.1.5: A Canadian tort lawyer's perspective on New Zealand's ACC scheme

§12.1.6: A New Zealand tort lawyer's perspective on New Zealand's ACC scheme

§12.2: No-fault workplace injury compensation schemes

§12.2.1: WorkSafe BC

§12.2.2: British Columbia workers' compensation scheme

§12.3: No-fault vehicular injury insurance schemes

§12.3.1: Insurance Corporation of British Columbia's Enhanced Care scheme

§12.3.2: Enhanced Care at a glance

§12.4: Victim compensation funds

§12.4.1: Brown v. Canada [2018] ONSC 3429

Week II (Jan 14 & 16)

§13: Negligence: (i) Duty of Care

§13.1: Development of the tort of negligence

§13.1.1: Donoghue v. Stevenson [1932] UKHL 100

§13.1.2: The neighbour principle

§13.1.3: Palsgraf v. Long Island Railroad Co. (1928) 248 N.Y. 339

§13.1.4: Grant v. Australian Knitting Mills Ltd [1935] UKPC 62

§13.1.5: Haley v. London Electricity Board [1964] UKHL 3

§13.1.6: Elements of the tort of negligence

+ Mid-year exam review

Week III (Jan 21 & 23)

§13.2: Misfeasance versus nonfeasance

§13.2.1: Yania v. Bigan (1959) 397 Pa. 316 (PA SC)

§13.2.2: Zelenko v. Gimbel Bros. Inc. (1935) 158 Misc. 904 (NY SC)

§13.2.3: Home Office v. Dorset Yacht Co. Ltd [1970] UKHL 2

§13.3: Affirmative duty to rescue

§13.3.1: Wagner v. International Railway Co. (1921) 232 NY 176 (NY CA)

§13.3.2: Horsley v. MacLaren [1971] CanLII 24 (SCC)

§13.3.3: Parable of the Good Samaritan

§13.3.4: Good Samaritan Act, RSBC 1996

§13.3.5: Québec's Good Samaritan laws

§13.4.1: The *Anns/Cooper* test for a novel duty of care

§13.4.1.1: Anns v. Merton London Borough Council [1977] UKHL 4

§13.4.1.2: Cooper v. Hobart [2001] SCC 79

Week IV (Jan 28 & 30)

§13.4.2: Applying the *Anns/Cooper* novel duty test

§13.4.2.1: Childs v. Desormeaux, Courier & Zimmerman [2006] SCC 18

§13.4.2.2: Hill v. Hamilton-Wentworth Police Services Board [2007] SCC 41

§13.4.2.3: Rankin's Garage & Sales v. J.J. [2018] SCC 19

§13.4.2.4: Der v. Zhao [2021] BCCA 82

Week V (Feb 4 & 6)

§14: Negligence: (ii) Breach of Duty of Care

§14.1: Ascertaining the standard of care

§14.1.1: Reasonable person standard

§14.1.1.1: Booth v. St Catharines (City) [1948] CanLII 10 (SCC)

§14.1.1.2: Nettleship v. Weston [1971] EWCA Civ 6

§14.1.1.3: United States v. Carrol Towing Co. (1947) 159 F.2d 169 (2d Cir)

§14.1.2: Relevance of statutory standards

§14.1.2.1: R v. Saskatchewan Wheat Pool [1983] CanLII 21 (SCC)

§14.1.2.2: Ryan v. Victoria (City) [1999] CanLII 706 (SCC)

§14.1.2.3: Nelson (City) v. Marchi [2021] SCC 41

§14.1.3: Special knowledge, skill and experience

§14.1.3.1: McCullough v. Riffert [2010] ONSC 3891

§14.1.3.2: Powell v. University Hospitals Sussex [2023] EWHC 736 (KB)

§14.1.3.3: Hill v. Hamilton-Wentworth Police Services Board [2007] SCC 41

§14.1.4: Extenuating personal characteristics

§14.1.4.1: McHale v. Watson [1966] HCA 13

§14.1.4.2: Fiala v. MacDonald [2001] ABCA 169

[Week VI \(Feb 11 & 13\)](#)

§14.2: Applying the standard of reasonableness

§14.2.1: Probability of harm

§14.2.1.1: Booth v. St Catharines (City) [1948] CanLII 10 (SCC)

§14.2.1.2: Bolton v. Stone [1951] UKHL 2

§14.2.1.3: Miller v. Jackson [1977] EWCA Civ 6

§14.2.1.4: Lewis v. Wandsworth London Borough Council [2020] EWHC 3205 (QB)

§14.2.2: Gravity of risk

§14.2.2.1: Paris v. Stepney Borough Council [1950] UKHL 3

§14.2.2.2: Overseas Tankship (UK) Ltd v. The Miller Steamship Co. Pty. Ltd (The Wagon Mound No. 2) [1966] UKPC 10

§14.2.3: Burden of precautionary measures

§14.2.3.1: Goldman v. Hargrave [1966] UKPC 12

§14.2.3.2: Miller v. Jackson [1977] EWCA Civ 6

§14.2.4: Social value of activity

§14.2.4.1: Watt v. Hertfordshire County Council [1954] EWCA Civ 6

§14.2.4.2: Miller v. Jackson [1977] EWCA Civ 6

§14.2.5: Custom and industry practice

§14.2.5.1: McCullough v. Riffert [2010] ONSC 3891

§14.2.5.2: Powell v. University Hospitals Sussex [2023] EWHC 736 (KB)

§14.2.5.3: Hill v. Hamilton-Wentworth Police Services Board [2007] SCC 41

+ Wrongful Conviction of Jason Hill (Canadian Registry of Wrongful Convictions)

§14.2.6: Statutory and regulatory background

§14.2.6.1: R v. Saskatchewan Wheat Pool [1983] CanLII 21 (SCC)

§14.2.6.2: Ryan v. Victoria (City) [1999] CanLII 706 (SCC)

§15: Negligence: (iii) Damage

§15.1: Damage an essential element

§15.1.1: Atlantic Lottery Corp. Inc. v. Babstock [2020] SCC 19

§15.2: Categories of compensable damage

§15.2.1: Hill v. Hamilton-Wentworth Police Services Board [2007] SCC 41

[Week VII \(Feb 17-21\)](#)

Reading week: no class

[Week VIII \(Feb 25 & 27\)](#)

§16: Negligence: (iv) Causation of Damage in Fact

§16.1: But-for cause of damage

§16.1.1: Hanke v. Resurfice Corp. [2007] SCC 7

§16.1.2: Clements v. Clements [2012] SCC 32

§16.1.3: Hill v. Hamilton-Wentworth Police Services Board [2007] SCC 41

§16.1.4: Powell v. University Hospitals Sussex [2023] EWHC 736 (KB)

§17: Negligence: (v) Remoteness of Damage in Law

§17.1: Reasonable foreseeability of loss

§17.1.1: Overseas Tankship (UK) Ltd v. Morts Dock & Engineering Co. Ltd (The Wagon Mound No. 1) [1961] UKPC 2

§17.1.2: Mustapha v. Culligan of Canada Ltd [2008] SCC 27

§17.1.3: Nelson (City) v. Marchi [2021] SCC 41

§17.1.4: Armstead v. Royal & Sun Alliance Insurance Co. Ltd [2024] UKSC 6

[Week IX \(Mar 4 & 6\)](#)

§17.3: Eggshell skull plaintiffs

§17.3.1: Jaipur Golden Gas Victims Ass'n v. Union of India [2009] INDLHC 4354

§17.3.2: Greenway-Brown v. MacKenzie [2019] BCCA 137

§17.4: Crumbling skull plaintiffs

§17.4.1: Athey v. Leonati [1996] CanLII 183 (SCC)

§17.5: Liability limited by or concurrent with contractual terms

§17.5.1: Driving Force Inc. v. I Spy-Eagle Eyes Safety Inc. [2022] ABCA 25

§17.5.2: Mustapha v. Culligan of Canada Ltd [2008] SCC 27

§18: Defences (II)

§18.1: Assumption of risk

§18.1.1: Informed consent

§18.1.1.1: Kohli v. Manchanda [2008] INSC 42

§18.1.1.2: Powell v. University Hospitals Sussex [2023] EWHC 736 (KB)

§18.1.2: Waiver of right to sue

§18.1.2.1: Nettleship v. Weston [1971] EWCA Civ 6

§18.2: Apportionment of liability

§18.2.1: Negligence Act, RSBC 1996

§18.2.2: Plaintiff's contributory fault

§18.2.2.2: Donahue v. Belitski [2015] SKQB 47

§18.2.3: Defendants' joint and several liability

§18.2.3.1: British Columbia v. Insurance Corp. of British Columbia [2008] SCC 3

[Week X \(Mar 11 & 13\)](#)

§19.9: Negligence in hosting patrons and guests (+ class exam problem question exercise)

§19.9.1: Stewart v. Pettie [1995] CanLII 147 (SCC)

§19.9.2: McCormick v. Plambeck [2020] BCSC 881, [2022] BCCA 219

§19.3.1: Negligent misrepresentation

§19.3.1.1: Ultramares Corp. v. Touche (1931) 255 NY 170 (NY CA)

§19.3.1.2: Hedley Byrne & Co. Ltd v. Heller & Partners Ltd [1963] UKHL 4

§19.3.1.3: Deloitte & Touche v. Livent Inc. [2017] SCC 63

Week XI (Mar 18 & 20)

§19.3.2: Negligent supply of shoddy goods or structures

§19.3.2.1: Winnipeg Condo. Corp. No. 36 v. Bird Constr. Co. [1995] CanLII 146 (SCC)

§19.3.2.2: 1688782 Ontario Inc. v. Maple Leaf Foods Inc. [2020] SCC 35

§19.5.1: Emergency services

§19.5.1.1: Jane Doe v. Toronto Police Comm'rs [1990] CanLII 6611 (ON Div Ct)

§19.5.1.2: Robinson v. Chief Constable of West Yorkshire [2018] UKSC 4

§19.5.1.3: Attorney General (British Virgin Islands) v. Hartwell [2004] UKPC 12

§19.5.1.4: Attorney General of Canada & Emil Anderson Maintenance Co. Ltd v. Taylor [2024] BCCA 156

Week XII (Mar 25 & 27)

§19.5.2: Government services

§19.5.2.1: R v. Imperial Tobacco Canada Ltd [2011] SCC 42

§19.5.2.2: Nelson (City) v. Marchi [2021] SCC 41

Guest debate on Tort vs No-fault Systems

Week XIII (Apr 1 & 3)

§20: Remedies and Procedure (+ class exam essay question exercise)

§20.1: Restitutio in integrum

§20.1.1: McCliggot v. Elliott [2022] BCCA 315

§20.2: Mitigation of loss

§20.2.1: Slater v. Pedigree Poultry Ltd [2022] SKCA 113

§20.3: Insurance

§20.3.1: Nettleship v. Weston [1971] EWCA Civ 6

§20.3.2: Insurance undermines tort system?

§20.3.3: Insurance facilitates tort system?

§23: Vicarious Liability

§23.1: Common law vicarious liability

§23.1.1: Insurance Corp. of British Columbia v. Ari [2023] BCCA 331

§23.1.2: CIG Investments Pty Ltd v. Schokman [2023] HCA 21

§23.1.3: Blackwater v. Plint [2005] SCC 58

§23.1.4: Attorney General (British Virgin Islands) v. Hartwell [2004] UKPC 12

§23.2: Statutory vicarious and direct liability

§23.2.1: Proceedings against the Crown in Victorian England

§23.2.2: Crown liability

§23.2.2.2: Francis v. Ontario [2021] ONCA 197

§23.2.3: Local government liability

§23.2.4: Police liability

§23.2.4.2: British Columbia v. Insurance Corp. of British Columbia [2008] SCC 3

§23.2.5: Motor vehicle owner liability

§23.2.6: Parental liability

§23.2.6.2: Nanaimo-Ladysmith School District No. 68 v. Dean [2015] BCSC 11

[Week XIV \(Apr 8\)](#)

Review and exam preparation