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| Syllabus |
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**TORTS
JD 892 (A2)**

**Professor Kathy Zeiler
Boston University School of Law
Fall 2017**

Class sessions: T, Th 10:40-12:40 (10-minute break around 11:40)
Room 102

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Course Description

This four-credit course explores the basic principles governing private lawsuits for damages for wrongs that are noncontractual, including consideration of the concepts of negligence, strict liability, products liability, intentional wrongdoing and defenses thereto, recoverable damages, and related issues. Per American Bar Association guidelines and BU Law's Credit Hour Policy,¹ you should anticipate a workload of at least 42.5 hours per credit for the semester, which includes both in-class and out-of-class time.

¹ <http://www.bu.edu/law/current-students/jd-student-resources/curricular-requirements/jd-degree-requirements/#credit-requirements>

Course Materials

We will read from Franklin, Rabin and Green, *Tort Law and Alternatives* (10th ed. 2016). The reading list that follows is divided into 26 sets of readings that correspond to the 26 class sessions.

Announcements and course documents including class slides will be posted to our Blackboard site. Class slides are posted following class. As the exam period draws near, I will post previously administered exams and model student answers.

Reading assignments and homework problems are listed below. Note that the homework problems are intended to help you prepare for class. Do not turn in written answers to me. Simply come to class ready to discuss your well thought-out answers to the problems.

I strongly advise against using hornbooks, nutshells, commercial outlines, etc.

Course Objectives

Through reading and class discussion, this course will introduce you to the law of tort liability. We will focus on allocation among private parties of legal responsibility for losses not grounded in contract—in other words, the legal duties we owe to each other under the common law. In addition to developing knowledge and understanding of substantive tort law, this course will develop legal analysis and reasoning skills.

Specifically, upon successfully completing this course, you should be able to:

1. Display knowledge of basic tort law;
2. Deploy legal reasoning at the introductory level;
3. Analyze facts to identify legal issues presented by those facts;
4. Identify the strengths and weaknesses of a tort claim in a given factual context;
5. Analyze the relationship between substantive tort law and litigation procedures at an introductory level;
6. Identify the rationale for substantive tort law;
7. Recognize policy issues presented by tort law in a given factual context; and
8. Demonstrate introductory competency in oral and written communication in legal contexts.

Assessment

I will assess whether you've met the course objectives using two tools: a final examination and in class discussions.

Grades will be based primarily on a four-hour, open-book final examination (laptops permitted; no internet access). The exam questions will require you to employ your knowledge of basic tort law and analysis and reasoning skills to develop arguments for and against liability and related issues in the context of specific facts.

In addition, I expect students to be prepared to participate during class discussions. I've divided the class into four groups (see below). When your group is on call (see dates below), expect me to ask you a series of questions at some point during the discussion. Not all students in the on-call group will necessarily be called on during each session.

Lack of preparation may negatively impact course grades. For students on the border between grades (e.g., the lowest A- on the exam), a weak participation record will result in a shift down one grade. For example, if you earn the lowest A- on the exam and you have at least one strike against you in the participation record, you will be shifted down to a B+. If someone is shifted down, the student earning the next highest score will be shifted up (e.g., from a B+ to an A-) unless the student has at least one strike in the participation record. You get a strike if I call on you, and you are absent without notice, absent without a valid excuse (see below) or clearly unprepared. Answering questions incorrectly will not result in a strike unless lack of preparation is obvious.

If you know you will miss class on a day your group is on call, please email me to provide notice. If your absence is excused,² it will not negatively impact your grade and you may access a recording of the class session by emailing me. If your absence is of the unexcused variety, I will record the absence as unexcused and this will count as a strike with the same consequences as noted above.

Although not part of the formal assessment process, I expect every student to exercise proper professionalism in conversations with colleagues, conversations with faculty and staff, on-line communications such as email, etc.

² Valid excuses include (1) serious medical situation or family emergency; (2) religious observance; (3) official participation in a Law School approved moot court event held out of town; (4) rescheduled class; (5) other comparably urgent reasons, and not including vacation plans, minor illness, or work conflicts. Absences due to job interviews will be excused, but attempts should be made to schedule interviews at times other than when class is in session.

On-Call Groups

Bacchi through Hartman: 9/5, 9/19, 10/3, 10/20, 11/7, 11/16

Hinshaw through Mason: 9/7, 9/21, 10/5, 10/24 11/9, 11/21

Morton through Shields: 9/12, 9/26, 10/17, 10/31, 11/10, 11/28

Smith through Yan: 9/14, 9/28, 10/19, 11/2, 11/14, 12/5

No group will be on call 11/30 and 12/7.

Scheduling

The following classes are canceled: Thursday, October 12, and Thursday, October 26.

Make up classes will be held on Friday, October 20, 9:40-11:40 and Friday, November 10, 9:40-11:40. Location to be announced.

Seating Chart

The seat you choose on the first day of class will be your seat for the semester. The first two rows are an internet-free zone. If you choose to sit in one of the first two rows, you commit to use your laptop solely for class related activities (e.g., taking notes). Those sitting outside this zone are strongly urged to use laptops solely for class related activities.

Final Exam Preparation

After we complete Session 15 on Oct 31, a teaching assistant will be available to provide individual feedback on your (optional) write up of an answer to part of an exam question from a previous year. Your written answer will be due on November 7. More information will be provided as the time draws near. The write up will not be evaluated for purposes of determining your grade.

FAULT

1. SEPT 5 INTRODUCTION: THEORY OF TORT LIABILITY

Hammontree v. Jenner, 1-9 (skip n. 7³)
 The Litigation Process, 9-18 (skip n. 8)
Christensen v. Swenson, 19-27 (skip n. 1, 2, 6)

Homework: Consider *Christensen v. Swenson*. Assume the same facts, except Swenson got into the accident while running a personal errand after picking up her soup. Had she not been in the accident she would have made it back to her post before the end of her ten-to-fifteen minute break. Under these new facts, is Burns liable for damages caused by Swenson? Construct arguments on both sides.

NEGLIGENCE**2. SEPT 7 HISTORICAL DEVELOPMENT AND THE CENTRAL CONCEPT**

Brown v. Kendall, 40-43 (skip n. 3)
Adams v. Bullock, 44-47 (skip n. 3)
United States v. Carroll Towing Co., 47-52 (skip n. 2, 6-8)
Bethel v. New York City Transit Authority, 53-62 (skip n. 1, 5, 7, 8)

Homework: Prepare a response to the question posed at the end of n. 2, p. 46-47.

3. SEPT 12 THE ROLES OF JUDGE AND JURY, CUSTOM AND STATUTE

Baltimore & Ohio Railroad Co. v. Goodman, 62-64
Pokora v. Wabash Railway Co., 64-67
Andrews v. United Airlines, 68-71 (skip n. 5)
Trimarco v. Klein, 72-76
Martin v. Herzog, 76-79
Tedla v. Ellman, 79-86 (through n. 10)

Homework: p. 85, n. 9: Consider *Rushink v. Gerstheimer* in light of the language of the statute and an excerpt from the legislative history:

§ 1210. Unattended motor vehicle

(a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the vehicle, and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway, provided, however, the provision for

³ “n.” means note(s). Notes are found in the casebook after case excerpts. They are meant to provide additional information about the case or the law. Some merely provide food-for-thought related to interesting and related legal issues. Some questions posed have right answers. More often than not, though, no right answer exists. In those cases, you should take some time to consider how you might argue the point from both parties’ perspectives.

removing the key from the vehicle shall not require the removal of keys hidden from sight about the vehicle for convenience or emergency.

Legislative history: In recommending the enactment of what is now §1210(a) of the Vehicle and Traffic Law, the Joint Legislative Committee on Motor Vehicle Problems pointed to the lack of a statutory duty to lock the ignition and remove the ignition key when leaving a vehicle unattended. The proposed law included such a requirement, 'designed to obviate the risk of a vehicle moving from the place where it was left parked and possibly injuring the person and property of others as well as itself being damaged. It serves to lessen the likelihood of theft.' (N.Y. Leg.Doc. 1954 No. 36, pp. 106-107.)

Construct the plaintiff's best argument on the issue of whether the statute applies in this case. Construct the defendant's best argument.

4. SEPT 14 PROVING NEGLIGENCE, RES IPSA LOQUITUR

Negri v. Stop and Shop, Inc., 87-89

Gordon v. American Museum of Natural History, 89-91

Byrne v. Boadle, 91-93

McDougald v. Perry, 94-98 (through n. 6)

Ybarra v. Spangard, 101-108

Homework:

Ms. Malaney was in the checkout line with her fiancé when she remembered one last item she wanted to purchase. As she passed through the store's produce section to retrieve the item, she slipped on a grape and fell, dislocating her elbow. On the day she was injured, the store was crowded and grapes were on sale, resulting in customers handling hundreds of pounds of grapes. This was the third grape sale in the last three months, and no injuries occurred during the previous grape sales.

Plaintiff presented evidence indicating that one of Hannaford's safety bulletins emphasized the importance of using large runners in many areas of the produce department, particularly in front of grapes displays. Malaney presented evidence that no such runner was in place at the time she slipped near the grape display. She was unable to show, however, how long the grape she slipped on had been on the floor.

The store's sweep logs indicated that someone had swept near the floral section, close to where Malaney fell, approximately three hours before the accident. The sweep logs also confirmed the testimony of a store employee that he had conducted spot mops of the produce section approximately one and one-half hours and again five minutes before the accident. The employee testified, however, that although he visually checked the area around the grape display for debris, he was unable at all times to see the floor because of the large number of carts and people in the area.

Did Hannaford Bros. act negligently? Analogize to and distinguish from the cases on pp. 88-91 in your arguments. Assume that this is a case of first impression (i.e., the jurisdiction has not settled on a rule to apply in cases of this kind). No precedents exist, but the court might be persuaded by holdings of other jurisdictions.

5. SEPT 19 MEDICAL MALPRACTICE

Sheeley v. Memorial Hospital, 108-117

Matthies v. Mastromonaco, 117-125 (through n. 11)

Homework:

Tom had a family history of heart disease, suffered from hypertension and a high cholesterol count, smoked heavily and was overweight. In 1990, at age 37, he began to exhibit symptoms of coronary artery blockage. Specifically, he experienced chest pain extending into his arm and shortness of breath. Tom's primary care physician, Dr. Jones, hospitalized Tom from August 10 through August 13, 1990. During this hospitalization, Tom received several tests, including a thallium stress test and an electrocardiogram (EKG). Dr. Engel found the results of the tests to be normal and diagnosed Tom with hiatal hernia and/or esophagitis. Tom was then discharged.

After his hospitalization, Tom visited Dr. Jones on August 17, August 28 and September 24, 1990, at the Primary Care Family Center (Primary Care), complaining of continued chest pain radiating to his neck and arm. Relying on the results of the thallium stress test and EKG taken during Tom's hospitalization, Dr. Jones informed Tom that his chest pain was not cardiac related. In October 1990, Tom returned to Dr. Jones, this time complaining of stabbing chest pain. At the request of Dr. Jones, his associate, Dr. Huang, examined Tom. Dr. Huang recommended that he undergo an angiogram—a test that is more specific for diagnosing coronary artery disease than a thallium stress test. Dr. Huang was employed on a part-time basis at Primary Care and had no hospital privileges. Dr. Jones, as Tom's primary care physician, was responsible for ordering any necessary hospitalization or additional tests. Despite Dr. Huang's recommendation, Dr. Jones did not authorize an angiogram for Tom.

Tom again returned to Primary Care in June 1991, complaining of chest pain. Dr. Jones asked Dr. Schlager, another part-time physician at Primary Care, to examine Tom. After this examination, Dr. Schlager also recommended that Tom undergo an angiogram, but Dr. Jones, relying on the thallium stress test, did not authorize the angiogram and advised Dr. Schlager that Tom's chest pain was not cardiac related. Subsequently, on September 16, 1991, Tom suffered a massive myocardial infarction caused by coronary artery blockage. Nine days later, Tom died.

Dr. Jones is the president of Primary Care. He negotiates contracts with various insurance companies on behalf of himself and the clinic. Chicago HMO, of which Tom was a member, was one of the insurance companies with which Dr. Jones had contracted for the provision of services. Dr. Jones personally negotiated with Chicago HMO in 1990 and 1991 and agreed that Dr. Jones and his group would receive from Chicago HMO \$75,000

annually. The \$75,000 was to be used by Dr. Jones and his group to cover costs for patient referrals and outside medical tests prescribed for Chicago HMO members. This fund was termed the “Medical Incentive Fund.”

Pursuant to the contract between Dr. Jones, Primary Care and Chicago HMO, any portion of the Medical Incentive Fund that was not used for referrals or outside tests would be divided at the end of each year between Primary Care's full time physicians and Chicago HMO, with the physicians receiving 60% of the remaining money and Chicago HMO receiving 40%. If the Medical Incentive Fund was exhausted prior to the end of the year, Dr. Jones and his group would be required to fund any additional consultant fees and outside tests.

Dr. Jones negotiated with over 100 insurance companies, which pay for services in a variety of different ways. In fact, no two contracts are the same.

Tom was not informed of this arrangement between Dr. Jones, Primary Care and Chicago HMO.

The state legislature recently enacted the Managed Care Reform and Patient Rights Act, which states: “Upon written request, a health care plan shall provide to enrollees a description of the financial relationships between the health care plan and any health care provider.”

Did Dr. Jones obtain Tom's informed consent when diagnosing and recommending treatment (or lack thereof), or was he legally required to inform Tom of his financial arrangement with Tom's insurance company to get informed consent?

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| DUTY |
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PHYSICAL INJURIES

6. SEPT 21 AFFIRMATIVE OBLIGATIONS TO ACT

Introduction, 127-128

Harper v. Herman, 128-134 (skip n. 2e)

Farwell v. Keaton, 135-141 (skip n. 5)

Tarasoff v. Regents of U. of Calif., 150-159

Homework: What are the normative arguments for and against the general no-duty-to-affirmatively-act rule?

7. SEPT 26 POLICY BASES FOR INVOKING NO DUTY

Strauss v. Belle Realty Co., 166-175

Reynolds v. Hicks, 175-181

Vince v. Wilson, 181-186

Homework: Part of the Reynolds court's rationale resides in the difficulties of imposing a duty on social hosts for third party injures, as contrasted with commercial sellers of alcohol. What does the court see as the important distinctions between social hosts and commercial sellers? Do these distinctions justify refusing to impose a duty?

8. SEPT 28 DUTIES OF LANDOWNERS, OCCUPIERS AND FAMILY MEMBERS

Carter v. Kinney, 186-192 (skip n. 8, 9)

Heins v. Webster County, 192-202 (skip n. 8, 9)

Broadbent v. Broadbent, 217-227 (skip n. 6)

Homework: Notice that the Rowland court abolished the trespasser category in addition to the licensee category. Was the Heins court wrong for not going as far as the Rowland court? Why?

NON-PHYSICAL HARMS**9. Oct 3 EMOTIONAL HARM**

Falzone v. Busch, 261-268, (n. 1-3, 7)

Metro-North Commuter Railway Company v. Buckley, 268-276

Portee v. Jaffee, 285-293 (n. 1-7)

Homework: The requirement of impact has virtually disappeared today. *R.J. v. Humana of Florida, Inc.*, (652 So.2d 360 (Fla.1995)) is an example of the court's rare insistence that plaintiff demonstrate impact. In this case, plaintiff alleged that due to defendants' negligence he was diagnosed as HIV positive and remained under that impression until he was retested 18 months later. The court held that plaintiff would be able to state an actionable claim only if treatments or injections had harmed him: plaintiff's "emotional distress suffered must flow from physical injuries the plaintiff sustained in an impact."

Assume R.J. suffered physical manifestations of the emotional distress caused by the diagnosis. Construct the best arguments for the patient and for the doctor on the issue of duty. Assume you will present your arguments to the Falzone court.

10. OCT 5 STAND-ALONE ECONOMIC HARM / WRONGFUL BIRTH AND LIFE

Introduction to Economic Harm, 299

532 Madison Ave. v. Finlandia Center, 319-325 (skip n. 3)

Emerson v. Magendantz, 326-336

Homework: Before we jump into economic harm, we'll spend some time reviewing the emotional harm doctrine using the following fact pattern:

Sally took her mother to Good Samaritan Hospital for insertion of a catheter, an outpatient procedure expected to take about 20 minutes. The mother went into the operating room at about 1:45 p.m. After an hour, Sally heard a loudspeaker request for a surgeon to come immediately. Another hour and a half later, with no information up until that time, a physician told her they had trouble inserting the catheter, got a bubble in the vein, and that her mother might have had a stroke. After 4:30 p.m., Sally saw her mother being rushed to the critical care unit. Sally testified that “she was bright blue. Her feet were way up in the air, her head was almost touching the ground, there were all these doctors and nurses around there, and they were running up and down the hallway, down to that end of the hospital.” Another doctor checked to see what was happening and reported to Sally: “I think they nicked an artery or a vein, and it looks like all the blood went into her chest. They’re going to have to insert a drainage tube into her chest and drain out the fluid, and they’re pumping—they’re trying to pump as much fluids and blood into her to keep her alive until the vascular surgeon gets here.” Sally was aware that her mother was bleeding to death as she watched the staff scramble to try to save her. Her mother survived, although she sustained serious and permanent injuries as a result of the botched procedure. Sally claims that the emotional stress imposed the day of the procedure caused her to have recurring nightmares, insomnia and loss of appetite. She was diagnosed as mildly depressed by a psychologist, who is willing to testify.

Using the casebook’s main cases and note cases related to emotional harms as persuasive authority, construct the best arguments for both sides on the issue of whether the hospital had a duty of care to protect Sally from emotional harm. Analogize to and distinguish from the cases in the reading to build at least some of your arguments. Assume Sally lives in a jurisdiction that has yet to rule on this issue.

CAUSATION**CAUSE-IN-FACT****11. OCT 17 BASIC DOCTRINE**

Stubbs v. City of Rochester, 337-347

Zuchowicz v. United States, 347-360

Matsuyama v. Birnbaum, 360-371

Homework: Evaluate the persuasiveness of the following evidence presented in *Stubbs* on the issue of causation: (1) there were 50 cases more in the year the plaintiff contracted the disease than in the previous nine years, (2) 180 of the 223 cases occurred during the period of contamination, and (3) 58 residents of the district drank the water and got typhoid. What additional information would increase the usefulness of these facts in assessing whether the defendant's negligence caused the injury?

12. Oct 19 MULTIPLE DEFENDANTS: JOINT & SEVERAL AND PROPORTIONATE LIABILITY

Multiple Sufficient Causes, 346-347

Introduction to Joint and Several Liability, 370-371

Summers v. Tice, 371-374

Hymowitz v. Eli Lilly & Co., 375-386 (skip n. 6-7)

Homework: Gill owns a lake he stocks with fish. Apex, Inc. and Widgets Corp. are located on the shores of Gill's lake. Last year Gill discovered that pollutants negligently dumped into the lake by Apex and Widgets had killed all his fish. While he could not provide evidence regarding how much pollutant each firm dumped, he was able to convince the jury that had one of the firms not dumped, the fish would have been saved.

(a) Is the negligence of Apex a but-for cause of the loss? How about the negligence of Widgets?

(b) If liability is established for both defendants, what portion of the damages can be collected by Gill from the two firms? How much will each firm end up paying?

13. Oct 20 SCOPE OF LIABILITY (AKA PROXIMATE CAUSE)

Benn v. Thomas, 395-400

Polemis, 400-403

The Wagon Mound, 403-409 (skip n. 8-9)

Doe v. Manheimer, 410-421

Palsgraf v. Long Island Railroad Co., 421-433

No homework.

NEGLIGENCE DEFENSES**14. Oct 24 THE PLAINTIFF'S FAULT**

Contributory Negligence, 435-439
Comparative Negligence, 439-448 (through n. 8, skip n. 4)
Apportionment of Liability Among Multiple Defendants, 452-457
Apportionment on the Basis of Factual Causation, 457-458
Avoidable Consequences, 461-464

Homework: Questions a-e on p. 442. In all questions except e, assume A attempts collection in accordance with apportionment dictated by the statutes. Finally, for all questions determine the impact of the rules for each party involved (not just C).

15. Oct 31 ASSUMPTION OF RISK

Hanks v. Powder Ridge Restaurant Corp., 464-475
Murphy v. Steeplechase Amusement Co., 475-480
Davenport v. Cotton Hope Plantation, 480-487 (through n. 7)

Homework:

Chuck is a 10-year veteran of the Zeilerville police force. At approximately 11p.m., in response to a neighbor's complaint about a noisy party taking place at David's home. Chuck and another officer went to the residence, intending to end the party rather than to make arrests. When they arrived at the residence, they approached the house from different sides in order to observe the party. Chuck, watching from behind bushes and a tree, saw a group of young persons playing basketball, and heard music and noise. He then heard someone announce the arrival of the police, and saw cans of what he assumed was beer being discarded.

Chuck then saw Mike, one of David's guests, retrieve some items from a bag in the garage, walk down the driveway while peering over his shoulder, and then put some sandwich size plastic baggies in his pants. Chuck believed that the baggies contained marijuana. Chuck, who had changed his position to behind a car, then stepped out from behind the car, turned his flashlight on the defendant, and requested that he remove the baggies from his pants. Mike, in order to avoid being arrested, then began to run away toward some woods, and Chuck ordered him to stop. Mike continued to run, and Chuck pursued him into the woods. Just as Chuck was about to apprehend Mike, Chuck fell off a poorly maintained ledge and onto some rocks. As a result of the fall, Chuck suffered severe injuries to his hip and knee, including lacerations, dislocation of the hip, and a 20 percent permanent disability of his lower right leg. Zeilerville's workers' compensation insurer reimbursed Chuck for his medical costs and a portion of his lost wages. David knew about the rickety ledge.

Use the discussion of the professional rescuer rule (n. 7, p. 487) to analyze whether Chuck can recover his losses in a negligence suit against David. The note contains a typo.

The third ground for justification should read “professional rescuers on private land are licensees and only owed a duty to avoid wanton or willful injury.” Note that this sort of justification is used only in jurisdictions that impose on landowners a duty not to willfully and wantonly injure licensees. Assume a Zeilerville statute imposes on landowners a duty to licensees to protect them from known dangerous conditions. Assume also that David breached that duty in this case.

16. NOV 2 STRICT LIABILITY

Doctrinal Development, 509-518 (through n. 4), n. 5 on p. 523, n. 4 on p. 531
A Goals-Oriented Approach, 539-546
Economic Analysis of Law (and notes), 550-555

LIABILITY FOR DEFECTIVE PRODUCTS

17. Nov 7 CONTRACT VERSUS TORT FOR PRODUCT ACCIDENTS

MacPherson v. Buick Motor Co., 557-564
Escola v. Coca Cola Bottling Co. of Fresno, 564-577 (skip n. 6, 9)
Materials on Manufacturing Defects (below)

DEFECTS

MANUFACTURING DEFECTS (PART OF NOV 7 CLASS)

Introduction, 577-579

Homework: Note 1 (p. 561) indicates that privity is no longer required to recover for losses caused by defective products. In one sense, it seems fair to allow recovery in the absence of privity. Imagine, however, a world in which this rule persisted. How might markets have reacted to the privity requirement? More specifically, would the victim always be left with the losses in the absence of privity?

18. Nov 9 DESIGN DEFECTS

Cronin and Barker, 579-581
Soule v. General Motors Corp., 582-594
Camacho v. Honda Motor Co., Ltd., 594-608

Homework: In *Soule*, the court rejects GM’s argument that it should abolish the consumer expectations test. Was the court correct in deciding to continue to apply the consumer expectations test in cases in which consumers *do* have an idea of how safe the product could be made?

19. Nov 10 INFORMATION DEFECTS: SAFETY INSTRUCTIONS AND WARNINGS

Hood v. Ryobi American Corporation, 609-617

State v. Karl, 617-628

Vassallo v. Baxter Healthcare Corporation, 629-635

Homework: Consider *Hood v. Ryobi* (p. 609). What are the plaintiff's best arguments that the warnings provided with the saw were inadequate? What are the best counterarguments?

20. NOV 14 DEFENSES

General Motors Corporation v. Sanchez, 636-645 (skip n. 5 and 6)

Other affirmative defenses, 645-646

WORK-RELATED INJURIES AND MISUSE (PART OF NOV 14 CLASS)

Jones v. Ryobi, 647-652

Liriano v. Hobart Corp., 652-662 (skip n. 1, 6(a) and "Meshing Compensation and Tort")

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| INTENTIONAL HARM |
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21. NOV 16 BASIC DOCTRINE

Garrett v. Dailey, 899-907

ASSAULT AND BATTERY (PART OF NOV 16 CLASS)

Picard v. Barry Pontiac-Buick, Inc., 907-909

Wishnatsky v. Huey, 910-915

FALSE IMPRISONMENT (PART OF NOV 16 CLASS)

Lopez v. Winchell's Donut House, 915-922

22. NOV 21 INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Introduction, 922-924

Womack v. Eldridge, 924-931 (n. 3-5 only)

DEFENSES (PART OF NOV 21 CLASS)

Hart v. Geysel, 955-959

Courvoisier v. Raymond, 959-963

Katko v. Briney, 963-968

Vincent v. Law Erie Transportation Co., 969-975

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| DAMAGES AND INSURANCE |
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DAMAGES

23. NOV 28 COMPENSATORY DAMAGES

Seffert v. LA Transit Lines, 715-732 (skip n. 6, 9, 11, 12)

McDougald v. Garber, 732-740 (through n. 4)

Damages in the Event of Death, 742-746

24. NOV 30 GUEST LECTURE: JOHN BARYLICK ON THE STATION FIRE CASE

3:40 – 5:40, location TBD (attendance mandatory)

Reading assignment: <http://www.bu.edu/bostonia/winter-spring13/station-nightclub/>

Rescheduled office hours: 10:40-11:40

25. DEC 5 PUNITIVE DAMAGES

Mathias v. Accor Economy Lodging, 747-756 (skip n. 8, 10)

State Farm Mutual Automobile Ins. Co. v. Campbell, 757-770 (through n. 7)

26. DEC 7 INSURANCE

Kenney v. Liston, 773-783 (n. 1, 5)

Frost v. Porter Leasing Corp., 783-791 (n. 1, 2, 3, 6)

Pavia v. State Farm Mutual Auto Ins. Co., 809-814 (skip notes)