
Table of Contents

ACKNOWLEDGMENTS	v
TABLE OF CASES	XXIII
PREFACE	1
A. Text Boxes	1
B. Electronic Casebook with Hyperlinks	2
1. Case Names	2
2. Online Materials	2
3. Court Websites	2
4. Internal Cross-References	3
C. Case Excerpts	3
D. Discussion Points and Hypotheticals	3
E. Perspective and Analysis	3
BRIEFING A CASE	4
CHAPTER 1 <i>Introduction and Overview</i>	5
A. Introduction to Tort Law	5
1. Purpose and Sources of Tort Law	5
PERSPECTIVE AND ANALYSIS	7
2. Brief History of Tort Law	7
B. Overview of Tort Law	8
Lecture III: Torts— <i>Trespass and Negligence</i>	8
Points for Discussion	9
<i>Weaver v. Ward</i>	10
Points for Discussion	11
<i>Brown v. Kendall</i>	12
Points for Discussion	16
<i>Spano v. Perini Corp.</i>	18
Points for Discussion	21

CHAPTER 2	<i>Intentional Torts</i>	25
A.	Intent.....	25
	<i>Garratt v. Dailey</i>	25
	Points for Discussion.....	30
	<i>Spivey v. Battaglia</i>	32
	Points for Discussion.....	35
	<i>Ranson v. Kitner</i>	36
	Points for Discussion.....	36
	<i>McGuire v. Almy</i>	37
	Points for Discussion.....	41
	<i>Alteiri v. Colasso</i>	41
	Points for Discussion.....	43
B.	Battery	45
	<i>Wallace v. Rosen</i>	45
	Points for Discussion.....	51
	<i>Fisher v. Carrousel Motor Hotel, Inc.</i>	54
	Points for Discussion.....	57
C.	Assault	59
	<i>Western Union Telegraph Co. v. Hill</i>	59
	Points for Discussion.....	61
D.	False Imprisonment	63
	<i>Big Town Nursing Home, Inc. v. Newman</i>	63
	Point for Discussion	65
	<i>Parvi v. City of Kingston</i>	66
	Points for Discussion.....	71
	<i>Hardy v. LaBelle's Distributing Co.</i>	72
	Points for Discussion.....	73
	<i>Enright v. Groves</i>	75
	Points for Discussion.....	77
E.	Trespass to Land.....	78
	<i>Dougherty v. Stepp</i>	78
	Points for Discussion.....	78
	<i>Herrin v. Sutherland</i>	80
	Points for Discussion.....	82
	<i>Rogers v. Board of Road Comm'r's for Kent County</i>	82
	Points for Discussion.....	85
	<i>Bradley v. American Smelting and Refining Co.</i>	85
	Points for Discussion	93
F.	Trespass to Chattel and Conversion.....	95
	<i>Glidden v. Szybiak</i>	95

Points for Discussion	97
<i>CompuServe Inc. v. Cyber Promotions, Inc.</i>	99
Points for Discussion	109
<i>Pearson v. Dodd</i>	109
G. Intentional Infliction of Emotional Distress.....	112
<i>State Rubbish Collectors Ass'n v. Siliznoff</i>	112
Points for Discussion	116
<i>Slocum v. Food Fair Stores of Florida</i>	116
Points for Discussion	118
<i>Wilson v. Monarch Paper Co.</i>	119
Points for Discussion	128
<i>Taylor v. Valletlunga</i>	129
Points for Discussion	130
CHAPTER 3 <i>Defenses to Intentional Torts</i>	133
A. Consent	133
<i>Koffman v. Garnett</i>	134
Points for Discussion	138
<i>Mohr v. Williams</i>	140
Points for Discussion	144
<i>De May v. Roberts</i>	146
Points for Discussion	148
B. Defense of Self	150
<i>Poliak v. Adcock</i>	150
Points for Discussion	152
C. Defense of Others	155
Point for Discussion	155
D. Defense of Real Property	156
<i>Katko v. Briney</i>	157
Points for Discussion	162
E. Defense and Recovery of Personal Property.....	163
<i>Hodgden v. Hubbard</i>	163
<i>Bonkowski v. Arlan's Department Store</i>	166
Points for Discussion	168
F. Necessity	170
<i>Surocco v. Geary</i>	170
Points for Discussion	172
<i>Vincent v. Lake Erie Transp. Co.</i>	173
Points for Discussion	176
G. Justification	177

CHAPTER 4 Negligence.....	181
A. Elements of a Negligence Action.....	182
B. Negligence: Formulation and Factors.....	183
RESTATEMENT (SECOND) OF TORTS § 290 (1965)	183
RESTATEMENT (SECOND) OF TORTS § 291 (1965)	184
RESTATEMENT (SECOND) OF TORTS § 292 (1965)	184
RESTATEMENT (SECOND) OF TORTS § 293 (1965)	184
<i>Lubitz v. Wells</i>	185
Points for Discussion	186
<i>Chicago, B. & Q. R. Co. v. Krayenbuhl</i>	186
Points for Discussion	188
<i>United States v. Carroll Towing Co.</i>	189
<i>Conway v. O'Brien</i>	191
Points for Discussion	193
C. Determining a Standard of Care	194
1. Establishing the Standard of Care by Case Law	195
RESTATEMENT (SECOND) OF TORTS § 285(d) (1965)	195
a. The Reasonable Prudent Person.....	195
<i>Vaughan v. Menlove</i>	195
Points for Discussion	198
RESTATEMENT (SECOND) OF TORTS § 295A (1965)	198
RESTATEMENT (THIRD) OF TORTS: LIABILITY FOR PHYSICAL HARM § 13 (2010)	198
<i>Sears, Roebuck and Co. v. Midcap</i>	199
Points for Discussion	201
<i>Cordas v. Peerless Transportation Co.</i>	202
Points for Discussion	205
<i>Roberts v. State of Louisiana</i>	205
Points for Discussion	210
<i>Breunig v. American Family Insurance Company</i>	210
Points for Discussion	215
<i>Gould v. American Family Mutual Insurance Co.</i>	215
Points for Discussion	222
<i>Dellwo v. Pearson</i>	222
Points for Discussion	224
b. The Reasonable Prudent Professional.....	225
<i>Heath v. Swift Wings, Inc.</i>	225
Points for Discussion	228
<i>Wolski v. Wandel</i>	229
Points for Discussion	234

<i>Morrison v. MacNamara</i>	235
Points for Discussion	240
<i>Helling v. Carey</i>	241
Points for Discussion	244
<i>Scott v. Bradford</i>	245
Points for Discussion	249
<i>Ashe v. Radiation Oncology Associates</i>	250
Points for Discussion	255
<i>Moore v. The Regents of the University of California</i>	256
Points for Discussion	260
c. Aggravated Negligence	262
<i>Archibald v. Kemble</i>	262
<i>Parret v. UNICCO Serv. Co.</i>	268
Points for Discussion	270
PERSPECTIVE & ANALYSIS	270
2. Establishing a Standard of Care by Applying a Rule of Law	271
RESTATEMENT (SECOND) OF TORTS § 285(c) (1965)	271
<i>Baltimore & O. R. Co. v. Goodman</i>	271
Points for Discussion	272
<i>Pokora v. Wabash Railway Co.</i>	272
Points for Discussion	276
3. Establishing a Standard of Care by Using a Non-Tort Statute	277
RESTATEMENT (SECOND) OF TORTS § 285(b) (1965)	277
<i>Osborne v. McMasters</i>	277
Points for Discussion	278
a. When a Statute May Be Used to Establish the Standard of Care	278
<i>Sanchez v. Wal-Mart Stores, Inc.</i>	278
Points for Discussion	281
<i>Stachniewicz v. Mar-Cam Corp.</i>	282
Points for Discussion	285
<i>Perry v. S.N. and S.N.</i>	285
Points for Discussion	292
b. The Effect of Proof When a Statute Is Applied to Establish the Standard of Care	293
RESTATEMENT (SECOND) OF TORTS § 288A (1965)	293
<i>Zeni v. Anderson</i>	293
Points for Discussion	299
<i>Teply v. Lincoln</i>	300
Points for Discussion	303

4. Establishing a Standard of Care by Applying a Tort-Specific Statute.....	303
RESTATEMENT (SECOND) OF TORTS § 285(a) (1965)	303
D. Proving Negligence	304
1. Direct and Circumstantial Evidence.....	304
<i>Goddard v. Boston & Maine R.R. Co.</i>	304
<i>Anjou v. Boston Elevated Railway Co.</i>	304
Points for Discussion.....	305
<i>Wal-Mart Stores, Inc. v. Rosa</i>	306
<i>Wallace v. Wal-Mart Stores, Inc.</i>	309
Points for Discussion.....	313
2. <i>Res Ipsa Loquitur</i>	314
<i>Byrne v. Boadle</i>	314
Points for Discussion.....	316
RESTATEMENT (SECOND) OF TORTS § 328D (1965).....	316
RESTATEMENT (THIRD) OF TORTS: LIABILITY FOR PHYSICAL HARM § 17 (2010)	317
<i>Safeco Insur. Co. v. Mobile Power and Light Co., Inc.</i>	317
Points for Discussion	319
<i>Ybarra v. Spangard</i>	320
Points for Discussion	326
CHAPTER 5 Causation	327
A. Causation-in-Fact.....	328
1. <i>Sine Qua Non</i>	328
<i>Perkins v. Texas and New Orleans Ry. Co.</i>	328
Points for Discussion	331
<i>Riley v. Salley</i>	332
Points for Discussion	334
2. Proof of Causation-in-Fact	334
<i>Reynolds v. Texas & Pacific Ry. Co.</i>	334
Points for Discussion	336
<i>Kramer Service, Inc. v. Wilkins</i>	338
Points for Discussion	340
<i>Herskovits v. Group Health Cooperative of Puget Sound</i>	341
<i>Smith v. Parrott</i>	344
Points for Discussion	347
3. Problems in Proving Causation-in-Fact	349
RESTATEMENT (SECOND) OF TORTS § 432 (1965).....	349
RESTATEMENT (THIRD) OF TORTS: LIABILITY FOR PHYSICAL HARM § 27 (2010)	349

<i>Anderson v. Minneapolis, St. P. & S. St. M. Ry. Co.</i>	350
<i>Trevino v. Hirsch</i>	352
Points for Discussion.....	353
RESTATEMENT (SECOND) OF TORTS § 433B (1965)	353
RESTATEMENT (THIRD) OF TORTS: LIABILITY FOR PHYSICAL HARM § 28 (2010)	354
<i>Summers v. Tice</i>	354
Points for Discussion.....	357
<i>Hellums v. Raber</i>	358
Points for Discussion	359
<i>Sindell v. Abbott Laboratories</i>	360
Points for Discussion	373
B. Legal or Proximate Causation	374
<i>Atlantic Coast Line R. Co. v. Daniels</i>	374
Points for Discussion	376
RESTATEMENT (SECOND) OF TORTS § 431 (1965)	377
RESTATEMENT (THIRD) OF TORTS: LIABILITY FOR PHYSICAL HARM § 29 (2010)	377
1. Unforeseeable Consequences	377
<i>Ryan v. New York Central R.R. Co.</i>	377
Points for Discussion	380
<i>Atchison, T. & S.F.R. Co. v. Stanford</i>	381
Points for Discussion	383
<i>In re Arbitration Between Polemis and Furness, Withy & Co., Ltd.</i>	384
Points for Discussion	389
<i>Overseas Tankship (U.K.) Ltd. v. Morts Dock & Engineering Co. Ltd.</i> (Wagon Mound No. 1)	389
<i>Overseas Tankship (U.K.) Ltd. v. Miller Steamship Co.</i> (Wagon Mound No. 2)	395
Points for Discussion	400
<i>Palsgraf v. Long Island R.R. Co.</i>	401
Points for Discussion	411
<i>In re Kinsman Transit Co.</i>	412
Points for Discussion	424
<i>Wilke v. Woodhouse Ford, Inc.</i>	426
Points for Discussion	429
2. Intervening Causes.....	429
<i>Derdiarian v. Felix Contracting Corp.</i>	429
<i>Watson v. Kentucky & Indiana Bridge & R.R. Co.</i>	432
RESTATEMENT (THIRD) OF TORTS: LIABILITY FOR PHYSICAL HARM § 34 (2010)	435
Point for Discussion	436

<i>La Quinta Inns, Inc. v. Leech</i>	436
<i>Fuller v. Preis</i>	439
Points for Discussion	443
3. Public Policy.....	444
<i>Kelly v. Gwinnell</i>	444
Points for Discussion	453
<i>Grover v. Eli Lilly & Co.</i>	454
Points for Discussion	459
 CHAPTER 6 Defenses (and Partial Defenses) to Negligence Actions	461
A. Contributory Negligence.....	461
<i>Butterfield v. Forrester</i>	461
Points for Discussion	462
<i>Davies v. Mann</i>	462
Points for Discussion	464
<i>Burleson v. RSR Group Florida, Inc.</i>	464
Points for Discussion	470
B. Comparative Fault.....	470
<i>McIntyre v. Valentine</i>	470
Points for Discussion	480
<i>Hockema v. J.S.</i>	482
Points for Discussion	488
<i>Beal v. Kansas City Southern Railway Company</i>	488
Points for Discussion	492
<i>Coleman v. Soccer Association of Columbia</i>	492
Points for Discussion	500
C. Assumption of the Risk	502
1. Express Assumption of Risk.....	502
<i>McCune v. Myrtle Beach Indoor Shooting Range, Inc.</i>	502
Points for Discussion	508
<i>Jiminez v. 24 Hour Fitness USA, Inc.</i>	509
Points for Discussion	518
2. Implied Assumption of Risk.....	520
<i>Wirtz v. Gillogly</i>	520
Points for Discussion	523
<i>Turner v. Mandalay Sports Entertainment, LLC</i>	524
Points for Discussion	527
<i>Kerns v. Hoppe</i>	527
Points for Discussion	531

D.	Statutes of Limitation	532
	<i>Genrich v. OHIC Insurance Company</i>	532
	Points for Discussion	535
E.	Statutes of Repose.....	536
	<i>Orlak v. Loyola University Health System</i>	536
	Points for Discussion	545
 CHAPTER 7 <i>Advanced Topics in Negligence Actions</i>		547
A.	Priority of Contract.....	547
	<i>MacPherson v. Buick Motor Co.</i>	549
	Points for Discussion	556
	<i>Clagett v. Dacy</i>	556
	Points for Discussion	559
B.	Failure to Act.....	560
	<i>Hegel v. Langsam</i>	560
	<i>J.S. and M.S. v. R.T.H.</i>	561
	Points for Discussion	568
	<i>Tarasoff v. Regents of University of California</i>	570
	Points for Discussion	579
	<i>Thapar v. Zezulka</i>	580
	Points for Discussion	584
C.	Pure Economic Loss	586
	<i>Aikens v. Debow</i>	586
	Points for Discussion	599
D.	Negligent Infliction of Emotional Distress.....	599
	<i>Daley v. LaCroix</i>	599
	Points for Discussion	605
	<i>Hedgepeth v. Whitman Walker Clinic</i>	606
	<i>Thing v. La Chusa</i>	610
	Points for Discussion	617
	<i>Jaynes v. Strong-Thorne Mortuary, Inc.</i>	618
	Points for Discussion	619
E.	Wrongful Birth and Wrongful Life	620
	<i>Procanik by Procanik v. Cillo</i>	620
	<i>Smith v. Cote</i>	627
	Points for Discussion	636
	<i>Plowman v. Fort Madison Community Hospital</i>	637
	Points for Discussion	653

F. Owners and Occupiers of Land.....	654
1. Trespassers.....	654
<i>Sheehan v. St. Paul & Duluth Ry. Co.</i>	654
Points for Discussion	656
2. Licensees	656
<i>Barmore v. Elmore</i>	656
<i>Evans v. Hodge</i>	659
Points for Discussion	662
3. Invitees	662
<i>Campbell v. Weathers</i>	662
<i>Foss v. Kincade</i>	666
Points for Discussion	670
4. Other Categories	671
a. Children and Attractive Nuisances.....	671
<i>Pinegar v. Harris</i>	671
Points for Discussion	674
b. Public Employees or Officials	675
<i>Rivas v. Oxon Hill Joint Venture</i>	675
Points for Discussion	679
5. Merging or Rejecting the Categories	679
<i>Koenig v. Koenig</i>	679
Points for Discussion	686
6. Lessors and Lessees	687
<i>Kline v. 1500 Massachusetts Ave. Apartment Corp.</i>	687
Points for Discussion	691
<i>Batra v. Clark</i>	691
Points for Discussion	695
CHAPTER 8 Strict Liability	697
A. Animals	697
<i>Irvine v. Rare Feline Breeding Ctr</i>	697
Points for Discussion	703
B. Activities.....	707
<i>Rylands v. Fletcher</i>	707
Points for Discussion	710
<i>Indiana Harbor Belt R.R. Co. v. American Cyanamid Co.</i>	712
Points for Discussion	719
RESTATEMENT (THIRD) OF TORTS: LIABILITY FOR PHYSICAL HARM § 20 (2010)	720

CHAPTER 9	<i>Tort Damages</i>	723
A.	Compensatory Damages.....	725
	<i>McGee v. AC and S, Inc.</i>	725
	Points for Discussion	735
	<i>Richardson v. Chapman</i>	737
	Points for Discussion.....	744
	<i>In re September 11th Litigation</i>	746
	Points for Discussion	753
	<i>Montgomery Ward & Co., Inc. v. Anderson</i>	753
	Points for Discussion	756
	<i>Zimmerman v. Ausland</i>	757
	Points for Discussion	761
B.	Punitive Damages.....	762
	<i>BMW of North America, Inc. v. Gore</i>	762
	Points for Discussion	777
	<i>State Farm Mutual Automobile Ins. Co. v. Campbell</i>	780
	Points for Discussion	792
CHAPTER 10	<i>Wrongful Death and Survival</i>	795
A.	Wrongful Death Actions.....	795
	<i>Moragne v. States Marine Lines, Inc.</i>	795
	Points for Discussion	805
	<i>Selders v. Armentrout</i>	807
	Points for Discussion	814
B.	Survival Statutes.....	815
	<i>Murphy v. Martin Oil Co.</i>	815
	Points for Discussion	820
CHAPTER 11	<i>Joint Tortfeasors</i>	823
A.	Joinder and Liability of Defendants	823
	<i>Bierczynski v. Rogers</i>	823
	Points for Discussion	825
	<i>Coney v. J.L.G. Industries, Inc.</i>	826
	<i>Banks v. Elks Club Pride of Tennessee</i>	830
	Points for Discussion	834
B.	Satisfaction and Release	837
	<i>Bundt v. Embro</i>	837
	Points for Discussion	839

<i>Cox v. Pearl Investment Company</i>	840
Points for Discussion	842
<i>Maloney v. Valley Medical Facilities, Inc.</i>	843
Points for Discussion	845
<i>Elbaor v. Smith</i>	846
Points for Discussion	853
C. Contribution and Indemnity	854
RESTATEMENT (THIRD) OF TORTS: APPORTIONMENT OF LIABILITY § 22 (2000)	854
RESTATEMENT (THIRD) OF TORTS: APPORTIONMENT OF LIABILITY § 22 (2000)	855
<i>Yellow Cab Co. of D.C., Inc. v. Dreslin</i>	856
Points for Discussion	857
<i>Sakellariadis v. Campbell</i>	857
Points for Discussion	861
<i>Slocum v. Donahue</i>	861
Points for Discussion	864
D. Apportioning Damages Among Tortfeasors	865
<i>Dillon v. Twin State Gas & Electric Co.</i>	865
<i>Michie v. Great Lakes Steel Division, National Steel Corporation</i>	867
Points for Discussion	871
RESTATEMENT (THIRD) OF TORTS: APPORTIONMENT OF LIABILITY § 26 (2000)	872
<i>Bondy v. Allen</i>	872
Points for Discussion	875
 CHAPTER 12 Immunities	877
A. Families	877
<i>Heino v. Harper</i>	877
Points for Discussion	888
<i>Zellmer v. Zellmer</i>	888
Points for Discussion	900
B. Charities	901
<i>Picher v. Roman Catholic Bishop of Portland et al.</i>	901
Points for Discussion	914
C. Employers	915
<i>Eckis v. Sea World Corp.</i>	915
Points for Discussion	919
<i>Sisk v. Tar Heel Capital Corp.</i>	920
Points for Discussion	924
D. Local and State Government	925
<i>Ayala v. Philadelphia Board of Public Education</i>	925
Points for Discussion	932

RESTATEMENT (SECOND) OF TORTS § 895C (1979)	932
<i>Riss v. New York</i>	933
Points for Discussion	941
<i>DeLong v. Erie County</i>	943
Points for Discussion	949
E. United States Government	950
<i>Deuser v. Vecera</i>	950
Points for Discussion	957
 CHAPTER 13 Vicarious Liability	959
A. <i>Respondeat Superior</i>	959
<i>Papa John's International, Inc. v. McCoy</i>	959
Points for Discussion	967
B. Independent Contractors	969
<i>Bell v. VPSI, Inc.</i>	969
Points for Discussion	973
RESTATEMENT (SECOND) OF TORTS § 423 (1965)	974
C. Joint Enterprise	975
<i>Erickson v. Irving</i>	975
Points for Discussion	979
D. Bailments	979
<i>Ziva Jewelry, Inc. v. Car Wash Headquarters, Inc.</i>	979
Points for Discussion	982
E. Imputed Contributory Negligence	983
<i>Watson v. Regional Transportation District</i>	983
Points for Discussion	991
 CHAPTER 14 Nuisance	993
THE RESTATEMENT (SECOND) OF TORTS § 821B (1979)	993
THE RESTATEMENT (SECOND) OF TORTS § 821D (1979)	994
THE RESTATEMENT (SECOND) OF TORTS § 821F (1979)	994
THE RESTATEMENT (SECOND) OF TORTS § 822 (1979)	994
<i>Carpenter v. Double R Cattle Company, Inc.</i>	995
Points for Discussion	1000
<i>Mills v. Kimbley</i>	1001
<i>Hot Rod Hill Motor Park v. Triolo</i>	1004
<i>Philadelphia Electric Company v. Hercules, Inc.</i>	1008
Points for Discussion	1014
<i>Boomer v. Atlantic Cement Co.</i>	1015
Points for Discussion	1021

RESTATEMENT (SECOND) OF TORTS § 826 (1979)	1022
RESTATEMENT (SECOND) OF TORTS § 827 (1979)	1023
RESTATEMENT (SECOND) OF TORTS § 828 (1979)	1023
RESTATEMENT (SECOND) OF TORTS § 829 (1979)	1024
RESTATEMENT (SECOND) OF TORTS § 829A (1979)	1024
RESTATEMENT (SECOND) OF TORTS § 830 (1979)	1024
RESTATEMENT (SECOND) OF TORTS § 831 (1979)	1024
<i>Spur Industries, Inc. v. Del E. Webb Development Co.</i>	1025
Points for Discussion	1031
<i>City of Claremont v. Kruse</i>	1032
Points for Discussion	1036
 CHAPTER 15 Products Liability	1039
A. Development of Theories of Recovery	1039
1. Negligence	1040
<i>MacPherson v. Buick Motor Co.</i>	1040
Points for Discussion	1042
2. Warranty	1043
a. Express Warranties	1043
<i>Baxter v. Ford Motor Co.</i>	1043
Points for Discussion	1046
b. Implied Warranties	1047
<i>Henningsen v. Bloomfield Motors, Inc.</i>	1047
Points for Discussion	1058
3. Strict Liability	1059
<i>Greenman v. Yuba Power Products, Inc.</i>	1059
Points for Discussion	1062
RESTATEMENT (SECOND) OF TORTS § 402A (1964)	1063
RESTATEMENT (THIRD) OF TORTS: PRODUCTS LIABILITY § 1 (1997)	1064
B. Product Defects	1064
<i>Marie Pierre-Louis v. DeLonghi America, Inc., et al.</i>	1064
Points for Discussion	1066
1. Manufacturing Defect	1067
RESTATEMENT (THIRD) OF TORTS: PRODUCTS LIABILITY § 2(a) (1997)	1067
Points for Discussion	1067
2. Design Defect	1068
RESTATEMENT (THIRD) OF TORTS: PRODUCTS LIABILITY § 2(b) (1997)	1068
<i>Timpel Indus., Inc. v. Gish</i>	1068
Points for Discussion	1076
<i>Malcolm v. Evenflo Co., Inc.</i>	1077
Points for Discussion	1086

3.	Warnings Defect	1087
	<i>Anderson v. Owens-Corning Fiberglas Corp.</i>	1087
	RESTATEMENT (THIRD) OF TORTS: PRODUCTS LIABILITY § 2(c) (1997).....	1100
	Points for Discussion	1100
	Points for Discussion	1102
	<i>Friedman v. General Motors Corp.</i>	1103
	Points for Discussion	1108
	RESTATEMENT (THIRD) OF TORTS: PRODUCTS LIABILITY § 3 (1997)	1109
C.	Defenses	1109
1.	Plaintiff's Conduct.....	1109
	<i>Daly v. General Motors Corp.</i>	1109
	Points for Discussion	1125
2.	Preemption and Other Government Actions	1128
	<i>Medtronic, Inc. v. Lohr</i>	1128
	Points for Discussion	1151
CHAPTER 16 <i>Defamation</i>.....		1153
A.	Common Law	1153
1.	Libel and Slander.....	1153
	RESTATEMENT (SECOND) OF TORTS § 558 (1977).....	1153
	RESTATEMENT (SECOND) OF TORTS § 559 (1977).....	1154
	<i>Peck v. Tribune Co.</i>	1154
	Points for Discussion	1156
	RESTATEMENT (SECOND) OF TORTS § 568 (1977).....	1157
	<i>Belli v. Orlando Daily Newspapers, Inc.</i>	1157
	Points for Discussion	1163
	<i>Finkel v. Dauber</i>	1164
	Points for Discussion	1168
	<i>Carafano v. Metrosplash.Com, Inc.</i>	1170
	Points for Discussion	1175
2.	Publication	1176
	<i>Lewis v. Equitable Life Assurance Soc'y of the United States</i>	1176
	Points for Discussion	1184
B.	Constitutional Law	1185
1.	Public Officials	1185
	<i>New York Times Co. v. Sullivan</i>	1185
	Points for Discussion	1194
2.	Public Figures.....	1196
	<i>WFAA-TV, Inc. v. McLemore</i>	1196
	Points for Discussion	1202

3.	Private Individuals	1203
	<i>Gertz v. Robert Welch, Inc.</i>	1203
	Points for Discussion	1212
	<i>Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.</i>	1213
	Points for Discussion	1217
	<i>Time, Inc. v. Firestone</i>	1219
	Points for Discussion	1227
	<i>Philadelphia Newspapers, Inc. v. Hepps</i>	1228
	DEFAMATION PROBLEM SET	1236
	Defamation Table.....	1237
4.	Opinion	1237
	<i>Milkovich v. Lorain Journal Co.</i>	1237
	Points for Discussion	1245
	Opinion Defamation Worksheet	1246
 CHAPTER 17 Privacy		1251
A.	The Publication of Private Facts	1251
	RESTATEMENT (SECOND) OF TORTS § 652D (1977)	1252
	<i>Shulman v. Group W Productions, Inc.</i>	1253
	Points for Discussion	1261
	<i>G.D. v. Kenny</i>	1262
	Points for Discussion	1267
B.	Intrusion upon Seclusion	1268
	RESTATEMENT (SECOND) OF TORTS § 652B (1977)	1268
	<i>In re Marriage of Tigges</i>	1268
	Points for Discussion	1273
	<i>Snyder v. Phelps</i>	1274
	Points for Discussion	1278
C.	False Light	1280
	RESTATEMENT (SECOND) OF TORTS § 652E (1977)	1280
	<i>Boese v. Paramount Pictures Corporation</i>	1280
	Points for Discussion	1284
	<i>Aisenson v. American Broadcasting Company, Inc.</i>	1285
D.	Appropriation	1288
	RESTATEMENT (SECOND) OF TORTS § 652C (1977)	1288
	<i>Carson v. Here's Johnny Portable Toilets, Inc.</i>	1288
	<i>Brill v. Walt Disney Company</i>	1292
	Points for Discussion	1296
 INDEX		1301