

OUTLINE

PREFACE	III
TABLE OF CASES	XIII

PART I. INTRODUCTION

Chapter 1. Relational Interests.....	3
---	----------

PART II. FAMILY RELATIONS

Chapter 2. Injuries to Family Members	9
--	----------

A. Introduction	9
B. Spouses.....	10
C. Parents and Children.....	17
D. Other Relationships	20
E. Defenses	22

Chapter 3. Wrongful Death	27
--	-----------

A. Introduction	27
B. Liability Under Wrongful Death Statutes (Lord Campbell's Act).....	31
C. Defenses to Liability	37
D. Eligibility for Compensation.....	41
E. Assessment of Damages.....	43

Chapter 4. Interference with Family
--

Relationships	53
----------------------------	-----------

A. Introduction	53
B. Interference with Spousal Relationships.....	54
1. Enticement and Harboring	54
2. Alienation of Affections	56
3. Criminal Conversation	58

4. Actions by Wives.....	59
5. Injunctive Relief	60
C. Interference with Parent-Child Relationships	61
1. Introduction; Actions for Loss of Services	61
2. Seduction.....	62
3. Abduction, Enticement, Harboring	63
4. Interference with Child Custody and Visitation.....	66
5. Alienation of Child's Affections	68
6. Enticement of Parent and Alienation of Parental Affections	70
D. Abolition of Actions	71
1. Heart Balm Statutes	71
2. Judicial Abolition.....	72
3. Actions Barred by Statutory or Judicial Abolition	75
Chapter 5. Wrongful Birth.....	77
A. Introduction	77
B. Birth of Healthy Child	78
C. Birth of Disabled Child	82
D. Wrongful Life.....	86
E. Action Against Parent.....	88

PART III. ECONOMIC RELATIONS

Chapter 6. Introduction: Economic Torts	93
--	-----------

Chapter 7. Interference with Contract	95
A. Origins and Development	95
B. Inducing Breach of Contract.....	99
1. Traditional Law	99

2. Second and Third Restatements.....	107
C. Interference with Performance of Contract	109
D. Inducing Termination of Contract	112
Chapter 8. Interference with Prospective Economic Advantage—Commercial Expectations	117
A. Overview and History	117
B. Contemporary Law	123
C. Conspiracy; Prima Facie Tort.....	132
Chapter 9. Interference with Prospective Economic Advantage—Non-Commercial Expectations	137
A. Introduction	137
B. Interference with Inheritance or Gift	138
C. Interference with Competition for Prize	140
D. Interference with Recovery of Damages	142
1. Spoliation of Evidence	142
2. Interference with Enforcement of Judgment	146
Chapter 10. Negligence	149
A. Introduction	149
B. Injury to Employee	151
C. Attorney Liability to Non-Client	152
D. Spoliation of Evidence.....	155
E. False Statements.....	157
Chapter 11. Injurious Falsehood	163
A. Introduction	163
B. False Statement Calculated to Injure Economic Interest.....	166

C.	Malice	172
D.	Constitutional Law Limitations	173
E.	Special Damage	175
F.	Privileges (Defenses)	178
G.	Injunctions	179
H.	False Representations Concerning Defendant (False Advertising)	181
Chapter 12. Passing off (Unfair Competition)		185
A.	Introduction	185
B.	General Principles	187
C.	Products	195
D.	Business Names and Other Identifiers.....	201
E.	Parties in Different Lines of Business	206
Chapter 13. Trade Secrets and Confidential Information		213
A.	Introduction	213
B.	Definitions of Trade Secret	216
C.	Liability When Trade Secret Acquired by Improper Means	218
D.	Liability on Basis of Breach of Confidence.....	221
E.	Third-Party Recipients of Secrets	226
F.	Beyond Trade Secrets: Liability for Breach of Confidence.....	230
G.	Federal Preemption of State Trade Secret Law	233
H.	Remedies	236

Chapter 14. Literary, Artistic and Commercial Creations.....	241
A. Introduction	241
B. Common Law Copyright	241
1. Common Law Rights	241
2. Publication	244
3. Preemption by Federal Law.....	246
C. Misappropriation	248
1. International News Service v. Associated Press	248
2. Liability for Misappropriation	251
3. Preemption by Federal Law.....	256
D. Characters.....	259
E. Ideas	263
 PART IV. PRIVACY AND PUBLICITY	
Chapter 15. Invasion of Privacy: Introduction	271
Chapter 16. Appropriation of Name, Likeness or Identity	277
A. Appropriation as Invasion of Privacy.....	277
B. Appropriation as Infringement of Right of Publicity	282
Chapter 17. Intrusion	291
A. Introduction	291
B. Highly Offensive.....	294
C. Expectation of Privacy	296
D. Privileges	298

Chapter 18. Disclosure of Private Facts	301
A. Publication of Private Facts	301
1. Introduction	301
2. Publicity	302
3. Private Matters.....	305
4. Highly Offensive	306
5. Not of Legitimate Concern to Public	309
6. Constitutional Law Limitations	313
7. Viability of Tort	315
B. Breach of Confidence.....	317
1. Liability for Breach of Confidence.....	317
2. Liability of Third Parties	321
3. Constitutional Law Limitations	322
Chapter 19. False Light	325
A. Introduction	325
B. False Light	328
C. Highly Offensive	331
D. Reckless Disregard for Falsity;	
Negligence.....	333
E. Acceptance or Rejection	336

PART V. DEFAMATION

Chapter 20. Defamation: Introduction	341
Chapter 21. Defamatory Communication....	347
A. Defamatory Content.....	347
1. Defamatory Meanings	347
2. Defamation with Extrinsic Facts.....	356
B. Reference to Plaintiff.....	359
1. Defamation's Application to Plaintiff....	359
2. Group Defamation	363
3. Fiction, Satire, Docudramas	365

C.	Libel and Slander	368
1.	Introduction	368
2.	Whether Defamation Is Libel or Slander	369
3.	Per Se Categories.....	371
4.	Libel Per Quod	375
5.	Special Damage, Presumed Damage, Actual Damage	376
D.	Publication	378
1.	Publication Requirement	378
2.	Responsibility for Publication.....	383
Chapter 22. Common Law Defenses.....		391
A.	Truth	391
B.	Absolute Privileges	395
1.	Legislative and Executive Privilege	396
2.	Judicial Proceedings.....	398
3.	Other Liability Bars	401
C.	Qualified Privileges (Conditional Privileges)	404
1.	Privileges for Protection of Interests....	404
2.	Qualifications (“Abuses”) of Qualified Privilege	412
3.	Reports of Public Proceedings.....	416
4.	Fair Comment	419
Chapter 23. Constitutional Law		423
A.	Introduction	423
B.	The “Actual Malice” Requirement	428
C.	The “Fault” Requirement	430
D.	Public Officials.....	432
E.	Public Figures.....	435
F.	Truth and Falsity	438

G. Matters of Public Concern	443
H. Injunctions	446

PART VI. LEGAL PROCESS

Chapter 24. Malicious Prosecution	451
A. Introduction	451
B. Initiation of Criminal Proceeding.....	452
C. Responsibility of Defendant.....	453
D. Favorable Termination	455
E. Probable Cause	458
F. Malice (Improper Purpose)	462
Chapter 25. Wrongful Civil Proceedings (Malicious Prosecution of Civil Proceedings)	465
A. Introduction	465
B. Responsibility of Defendant.....	466
C. Favorable Termination	467
D. Probable Cause	469
E. Malice (Improper Purpose)	471
F. Special Injury (Special Damage)	474
Chapter 26. Abuse of Process.....	477
INDEX.....	483