

PROSSER, WADE AND SCHWARTZ'S  
TORTS

*Cases and Materials*—NINTH EDITION

JOHN W. WADE

VICTOR E. SCHWARTZ

KATHRYN KELLY

DAVID F. PARTLETT

*University Casebook Series*

PROSSER, WADE AND SCHWARTZ'S  
CASES AND MATERIALS  
ON  
TORTS

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*To the law professors whose  
insightful comments and suggestions  
have helped enhance this book.*

## PREFACE

During the 42-year lifetime of this casebook, Tort law has continuously displayed much ferment and change. Both the courts and the legislatures are responding to demands for change, often at cross-purposes. A Torts casebook may need some updating the same year it is published. In four to six years a new edition is mandated. It has now been six years since we published the eighth edition. We have endeavored in this edition to demonstrate the significant developments of those six years, placing emphasis on the contemporary law of Torts and depicting incipient trends.

In this process we have esteemed the help given by many of our users, both Torts professors and students. Of particular assistance for this edition were the many suggestions we received from our survey of professors who used the eighth edition in the classroom. We received new cases and new avenues of thought to explore. We have also appreciated general suggestions for improvement of the book. These suggestions have helped to create and maintain a product that captures the new, while sustaining the tradition and stability needed in a work of this nature.

Principles established in the beginning continue to serve as guidelines for each new edition:

1. Select and carefully edit cases that are vivid, provocative and teachable.
2. Prepare full notes providing stimulating points for classroom discussion and giving the student an understanding of details that cannot be treated fully in class because of time limitations.
3. Include in the notes a generous supply of citations to significant cases and law review articles for further study. This means that the casebook can serve not only as a teaching tool, but also as a valuable reference or research book. Many people, both in law school and practice, have told us that they have found it very useful in quickly directing them to a more detailed discussion of a particular topic. In this connection we greatly appreciate receiving citations to cases suitable for setting out or citing in the next edition, and reprints or citations to useful articles.
4. Use an overall presentation that does not attempt to mold the course in accordance with any preconceived approaches or concepts of the editors but affords a full opportunity to present and explore various points of view and to utilize various teaching styles.
5. Provide appropriate treatment of all parts of Tort law, arranged so that the book can easily be adapted to a first-year course of variable length and to optional advanced courses or seminars.

## PREFACE

6. Afford proper attention to the growing significance of statutes in Tort law and the effects of new and controversial efforts to enact further statutory changes in the law.

*This edition*, in following these guidelines, is like the earlier ones in organization and size. Each chapter in the book has been carefully reviewed and re-edited to keep it up to date. The most extensive changes have been made in the chapters on Negligence, Proximate Cause, Joint and Several Liability, Products Liability, Defamation and Interference With Advantageous Relationships.

While the size of this casebook may give pause to some teachers, we believe that all students should be given an opportunity to become acquainted with all of the topics that the book covers. Our suggestion is that a first-year course of five or six hours be supplemented by an optional two-hour course for upper-class students. Experience has shown that this plan works well.

As in previous editions of this casebook, the deletion of a part of the text from a published opinion is indicated by the use of lacunae (\*\*\*). When only citations are omitted, the letter "c" is used for "citation." To indicate that several citations have been deleted, "cc" is used. The letter is capitalized or not, depending on whether the citation was placed in the middle of a sentence or started a new sentence.

The ninth edition welcomes two new editors to the Wade and Schwartz team, Professor Kathryn Kelly and Professor David Partlett. Each of them adds significant fresh perspectives to the casebook.

Professor Kelly brings together her experience as author of treatises on product liability and multistate litigation with over 12 years of private practice in "tort law in the courts" before joining the faculty at Catholic. She also has practiced and written in the areas of medical malpractice and AIDS.

Professor Partlett has extensive knowledge of the common law as it has been developed under the English system, having served nine years on the faculty of the Australian National University Law School, prior to his teaching torts at Vanderbilt. He has written extensively about tort law, including a text on professional negligence.

The two new authors each made substantial contributions to this edition and the order of their listing on the title page is alphabetical according to publishing custom.

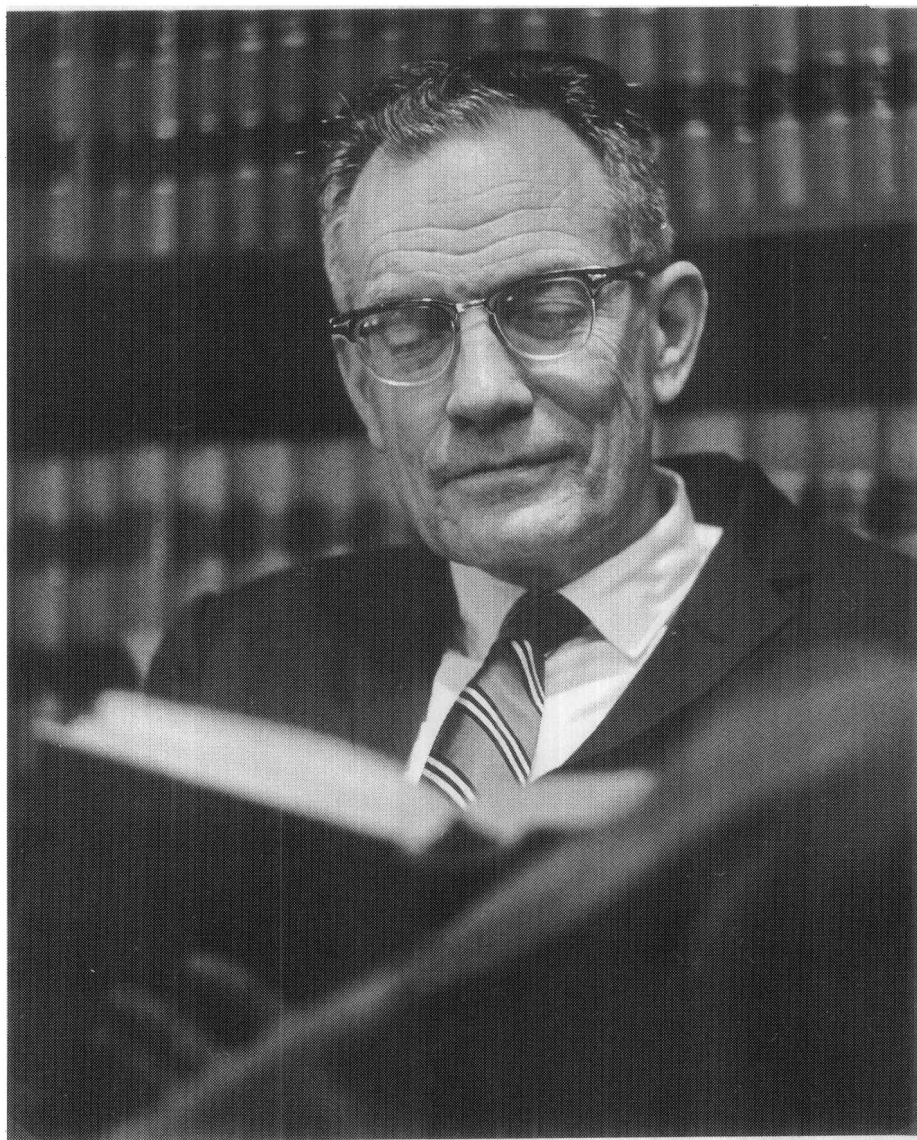
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March 1994



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