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BASIC TORT LAW
Cases, Statutes, and Problems

*Fourth
Edition*



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BASIC TORT LAW

Cases, Statutes, and Problems

Fourth Edition

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PREFACE

This book takes a modern approach to teaching Torts. What makes its approach modern?

Without sacrificing the best of the classic cases, we frequently use *contemporary cases* with language, fact patterns, and issues that capture the interest of today's law school students. Our cases are edited to preserve and convey the language of the law, the factual context for judicial decisions, and the logic and precedents on which those decisions are based.

Although traditionally it has been thought that common law forms the foundation of tort law, increasingly we are coming to find that tort law is greatly influenced by legislative action, reflected in *statutory law*. Our book supplements judicial opinions with statutes, clearly delineated to support student understanding of salient topics.

Rather than inundating the student with a preponderance of undifferentiated exposition, we recognize that note material ought to be supplied judiciously with the aim of facilitating a deeper understanding of the cases and theory. We have gone one step further and organized our notes according to their function:

- *Introductory and transitional notes* promote close attention and deeper insight into doctrinal themes and issues
- "*Perspective Notes*" provide a window to seminal legal scholarship, critical analysis, and legal theory

Our students have responded with great enthusiasm to the *problem exercises* that we've created as a vehicle for analyzing the policy implications of doctrine. Increasingly, problem exercises are becoming a staple of pedagogy in newer course books. Ours are drawn for the greater part from actual cases, with citations provided. We have varied their difficulty, so students have the chance to work with both relatively easy and increasingly challenging examples.

When one looks at the interior of an older casebook, one often has difficulty discerning where a case ends and other material begins. We see no reason to add confusion to an amply challenging subject by obscuring the divisions between cases, notes, statutory material, and problem exercises. Generous use of heading levels and

consistently clear design elements make it a pleasure to navigate through *Basic Tort Law*.

We have modeled our writing style for this book on the clarity and directness that have always been the hallmarks of fine legal analysis and writing. As with the appearance of our pages, we hope that our readers will find that a straightforward writing style helps set the stage for effective learning.

This edition reflects the incorporation of suggestions from colleagues who have used earlier editions. It adds some contemporary cases on topics of significant interest, such as the range of duty associated with vehicular injuries caused by texting drivers, direct-to-consumer drug advertising and the learned intermediary doctrine, and whether abandoning distinctions between different kinds of legal land entrants should call into question doctrines such as the open and obvious danger rule. This edition also adds coverage of a number of important parts of the Restatement (Third), as courts begin the work of evaluating its provisions.

Arthur Best and David Barnes are happy to welcome Nicholas Kahn-Fogel to this edition. His perspective based on teaching with earlier editions has brought an important additional point of view to the book, and we have appreciated his insights.

We hope that colleagues will find these materials as stimulating to teach from as we have in our own classes. Even more important, we hope that students will enjoy our modern style of teaching, which uses clarity as a springboard for a deeper and more nuanced understanding of the law.

Arthur Best
David W. Barnes
Nicholas Kahn-Fogel

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BASIC TORT LAW



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