ADVANCED TORT LAW: A PROBLEM APPROACH

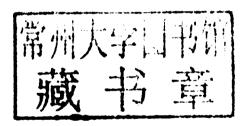
Vincent R. Johnson



ADVANCED TORT LAW: A PROBLEM APPROACH

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2010





ISBN 978-1-4224-2634-0

Library of Congress Cataloging-in-Publication Data

Johnson, Vincent R.

Advanced tort law: a problem approach / Vincent R. Johnson.

p. cm.

Includes index.

ISBN 978-1-4224-2634-0 (casebound)

1. Torts — United States. I. Title.

KF1250.J638 2010

346.7303 - dc22

2010004276

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Dedication

To
Tom and Nancy Shaffer
at Notre Dame,
good friends for more than thirty years

Preface

Advanced Tort Law: A Problem Approach is a new textbook, designed for use in upper-level law school courses. This book reflects the belief that the most effective teaching materials for students beyond the first year of law school are centered on problems of the kind that lawyers face in practice.

Clear Narrative Text. The chapters in Advanced Tort Law focus on five intriguing subjects which normally receive little attention in basic torts courses: misrepresentation, defamation, invasion of privacy, tortious interference, and injurious falsehood. In each chapter, the law is laid out in a clear narrative format, which quotes liberally from pertinent court opinions, statutes, and other sources. Because upper-level law students are already well acquainted with the American litigation process, each topic focuses primarily on operative rules and policies, and their application to particular fact situations. The text minimizes the procedural complexities of cases that have already been decided.

Fifty-Six Discussion Problems. The main instructional feature of Advanced Tort Law is the fifty-six discussion problems. Roughly every eight to ten pages, there is a problem for students to prepare in advance of class. A good answer requires a confident grasp of the rules, concepts, and principles addressed in the text or in basic law school courses. The problems, which test whether students have learned the assigned material, are designed to form the basis for classroom discussions. If a class meets twice a week over the course of a typical law school semester, each reading assignment is likely to include about fifteen to twenty pages of reading material and two discussion problems.

Preparation for Practicing Law in the 21st Century. Many of the problems in Advanced Tort Law are based on actual cases or stories in the news. With rare exceptions, the names have been changed. The facts in the problems often diverge from those which gave rise to the underlying disputes in order to raise questions important to the course.

The problems challenge students to explore how the law applies to the kinds of facts they will encounter in twenty-first century law practice. The hypothetical scenarios are designed to help users of the book develop the problem-solving skills that effective lawyers need.

Cutting-Edge Legal Issues. Although the torts discussed in this book are ancient in origin, they are often on the front lines of litigation in the Digital Age. There are abundant references to issues raised by recent communications technology developments, including blogging, texting, and social networking. The text addresses numerous practical questions that Americans confront in contemporary life, such as the liability issues that arise from anonymous postings on the Internet or from corporate press releases designed to mislead investors.

Advanced Tort Law: A Problem Approach is accompanied by a comprehensive teacher's manual. I will be happy to share with professors adopting this book a set of PowerPoint slides corresponding to the various chapters. Please contact me at: vjohnson@stmarytx.edu.

Preface

I hope that you enjoy using Advanced Tort Law: A Problem Approach.

Vincent R. Johnson San Antonio, Texas November 23, 2009

Acknowledgments

My work on this book benefitted significantly from the editorial efforts of several research assistants at St. Mary's University School of Law in San Antonio, Texas. That talented group of law students included William L. Calhoun III, Joshua P. Garza, Jonathan R. Geserick, Christopher L. Gordon, Trevor Andrew Hall, Christopher R. Konneker, Allen K. Lowe, Miguel Vela, and Sherri Wilson. Allen Lowe handled a large and challenging part of the work. Trevor Hall expertly performed an array of important tasks, including compilation of source material for the chapter on injurious falsehood.

I am deeply grateful to each of the persons mentioned above, and to Dean Charles E. Cantu and St. Mary's University School of Law for supporting this project. My St. Mary's University torts colleague Chenglin Liu regularly raises issues that enrich my understanding of tort law. The preparation of this book was aided by my opportunity to teach an early draft of the manuscript as a visiting professor at Notre Dame Law School.

My largest debt of gratitude is to my wife, Jill Torbert, a very able lawyer and community leader. Jill is a wonderful source of insight, perspective, and good companionship.

Some of the language and ideas in Advanced Tort Law: A Problem Approach and the related Teacher's Manual borrow from my earlier writings, including: Vincent R. Johnson & Alan Gunn, Studies in American Tort Law (Carolina Academic Press, 4th ed. 2009); Vincent R. Johnson, Mastering Torts: A Student's Guide to the Law of Torts (Carolina Academic Press, 4th ed. 2009); Susan Saab Fortney & Vincent R. Johnson, Legal Malpractice Law: Problems and Prevention (Thomson/West 2008); Vincent R. Johnson, "The Boundary-Line Function of the Economic Loss Rule," 66 Washington & Lee Law Review 523-85 (2009); Vincent R. Johnson, "The Unlawful Conduct Defense in Legal Malpractice Law," 77 UMKC Law Review 43-83 (2008); Vincent R. Johnson, "Standardized Tests, Erroneous Scores, and Tort Liability," 38 Rutgers Law Journal 655-717 (2007); Vincent R. Johnson, "Cybersecurity, Identity Theft, and the Limits of Tort Liability," 57 South Carolina Law Review 255-311 (2005); Vincent R. Johnson and Shawn Lovorn, "Misrepresentation by Lawyers about Credentials or Experience," 57 Oklahoma Law Review 529-77 (2004). In this book, substantial excerpts from these works are indicated by a specific citation, but brief passages have not been cited. Footnotes generally have been omitted from quoted material. The original sources contain citations to supporting authorities.

With regard to the editing in this book: An ellipsis at the end of a paragraph indicates the omission of words at the end of the paragraph and, in some cases, the omission of one or more following paragraphs. Similarly, an ellipsis at the beginning of a paragraph denotes the omission of words at the beginning of the paragraph and, in some cases, the omission of one or more preceding paragraphs.

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Acknowledgments

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